



**Offices of the
Inspector General**

LUCY LANG
Inspector General

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March 24, 2023

Anthony J. Annucci, Esq.
Acting Commissioner
New York State Department of
Corrections and Community Supervision
1220 Washington Avenue
Albany, New York 12226

Re: NYS IG 2228-316-2021

Dear Acting Commissioner Annucci:

In a September 28, 2021, article, the *Times Union* reported that the New York State Department of Corrections and Community Supervision (DOCCS) deployed tear gas at the decommissioned Mount McGregor Correctional Facility and exposed nearby residents to its effects. Considering the potential harm chemical agents could cause the community, the Offices of the New York State Inspector General investigated this matter. I write to advise you of the findings of my Office's investigation.

The investigation found that on September 27, 2021, instructors and participants in DOCCS's Advanced Community Emergency Response Team (CERT) training at Mount McGregor deployed a total of 205 canisters of the chemical agent CS¹ as part of its curriculum. The canisters were deployed between 12:00 and 1:00 p.m., and 5:00 and 6:30 p.m.

At least one resident in a nearby community reported smelling something burning and feeling stinging in their eyes, nose, and throat. That resident, who was aware of training at the facility and believed they had been exposed to tear gas, called 911 to report their symptoms after experiencing difficulty breathing. The South Glens Falls Fire Company and other emergency response personnel responded to this call.

The training prompted responses from State and local agencies. Later that evening, the New York State Police (NYSP), which was unaware of the chemical agent training, notified

¹ CS (Orthochlorobenzal malononitrile) is an irritant used to disperse rioters. It is more effective but less noxious than Tear Gas (Chloroacetophenone).

DOCCS that there were indications of a hazardous material situation at Mount McGregor. Next, the New York State Department of Homeland Security and Emergency Services (DHSES) sought from DOCCS a Safety Data Sheet for the chemical agents used in the training. The local fire department's fire chief incident commander activated HazMat resources to investigate the cause of the HazMat alert and the commissioner of the Saratoga County Office of Emergency Management (OEM) sent an alert to all residents via landlines, email, and text messages to shelter in place. A second alert was later issued advising residents that the matter had been resolved.

The DOCCS director of CERT supervision reviewed the matter and concluded that the weather conditions of high humidity, cloud coverage, wind speed, and wind direction on the date of the training had helped to carry the chemical agent to the surrounding community.

According to DOCCS, CERT exercises are a critical aspect of a correction officer's training. The chemical agent CS is used during this training to help correction officers gain experience and confidence to operate within a field concentration of chemical agents. DOCCS noted that CS is the only authorized chemical agent used in its correctional facilities because it is considered safe but still produces the desired debilitating effects when deployed in the appropriate setting. If the chemical agent comes into contact with the human body, the most common side effects include visual impairment, coughing, sneezing, burning of the eyes and throat, and extreme temporary pain, among other side effects. CS is non-lethal under normal use and its effects are short term.

DOCCS advised that after this incident, it has taken steps to reduce the risk of CS exposure to the community near Mount McGregor. First, DOCCS informs the New York State Department of Environmental Conservation, NYSP Wilton Barracks, and the nearby Ulysses S. Grant Cottage National Historic Landmark before any chemical agent training event. Second, DOCCS reduced the total number of CS munitions expended in such training to 108 canisters per day. During its 2022 CERT training, DOCCS supplemented CS with inert (smoke only) rounds so that the trainees could perform the same number of training evolutions without dispersing as much CS into the environment. Third, DOCCS reviews weather forecasts to ensure conditions are appropriate for the use of chemical agents and cancels training if weather conditions worsen. Finally, Albany CERT members were certified as first aid instructors to be better prepared to respond to situations requiring medical aid.

Thankfully, no serious, long-term health conditions were reported as a result of this training. I commend DOCCS on taking immediate corrective action. However, given potential exposure to nearby communities during these trainings, I recommend that DOCCS notify all applicable emergency response agencies including DHSES, Saratoga County OEM, and the Saratoga County Sheriff's Office at least one week prior to each training.

Because the accidental release of CS can cause a hazardous material incident according to Federal guidelines, I recommend that DOCCS review FEMA Hazardous Material Incidents Guide and consider notifying the surrounding public before taking any action that can release hazardous materials into the atmosphere. Furthermore, because CS gas has the potential to cause

damage, OSHA guidelines suggest conducting a risk assessment anytime employees may be exposed to chemical hazards. Therefore, I recommend that DOCCS consider risk management strategies for the general population in advance.

Please advise me of any action taken by DOCCS in response to these recommendations within 45 days of the date of this letter. If you require further information, please contact Attorney-in-Charge George Frany at [REDACTED].

Sincerely,

A large black rectangular redaction box covering the signature area.

Lucy Lang
Inspector General

cc: Cathy Sheehan, Esq.
Deputy Commissioner and Counsel