

## Suit seeks to ban pepper spray at Texas juvenile prisons

Sept. 13, 2007, 6:14PM

Associated Press

AUSTIN — Two advocacy groups on Thursday asked a court to stop the Texas Youth Commission from allowing the use of pepper spray to subdue unruly juvenile prisoners before other forms of restraint.

The lawsuit was filed on behalf of three 15-year-old incarcerated youths with mental disabilities.

One is a boy who has been sprayed three times and suffered skin burns for "self-injurious behavior," the lawsuit claims. The other two are a boy who has been sprayed and a girl who has been threatened with pepper spray.

TYC officials last month issued a directive allowing the use of pepper spray before other forceful restraints, arguing that it would reduce injuries to staff and inmates and lower workers' compensation claims.

Previously, pepper spray could be used only as a last resort, after physical restraints, and could not be used on children with mental and emotional impairments or others with medical issues.

But critics say use of pepper spray has since skyrocketed in Youth Commission lockups. They said the policy unfairly targets youths with disabilities and those with mental and emotional disabilities — who are more likely to act out with staff.

"These kids are trapped," said Jim George, an Austin attorney who heads the Appleseed board, an activist group that promotes legal and social equality. "This new policy promotes punishment and intimidation ... rather than rehabilitation and treatment."

TYC spokesman Jim Hurley said the agency is working with case workers and psychologists to develop "no-spray lists" of certain youths — those with disabilities or breathing problems, for example.

"Every time pepper spray is used anywhere in TYC there will be a third party reviewer... to determine if the use of pepper spray was justified," Hurley said. Unjustified use of pepper spray could lead to termination or federal or criminal penalties, he said.

The suit alleges that Dimitria Pope, acting executive director of the scandal-racked agency, changed the pepper spray policy in violation of a state law that requires public notice of such changes. George said the agency "went behind closed doors and enacted a policy that is detrimental to the kids."

George said a hearing on the lawsuit is set for Oct. 2.

"Just as the children in TYC need to learn how to follow the rules, the administrators of that agency also need to follow the law," he said.

The report, "Transforming Juvenile Justice in Texas: A Framework for Action," has not yet been officially released by TYC.

The lawsuit comes as a 21-member task force, formed by the Texas Youth Commission, criticized the expanded use of pepper spray, as first reported Thursday by the Austin American-Statesman.

"The ease with which pepper spray can be employed is exceptionally troubling," said the report by TYC's Blue Ribbon Task Force. "This is especially true in an environment that has not yet seen a shift in culture away from punishment and towards a treatment approach."

The panel of national juvenile justice experts produced a report that calls for a shift to small, regional treatment centers as a better alternative to large state-run lockups and recommends an increased emphasis on treatment and rehabilitation programs instead of punishment.

<http://www.chron.com/disp/story.mpl/metropolitan/5133406.html>