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Advocacy groups claim Youth Commission isn't following court order on pepper spray use

Agency agreed in September to rescind order widening use of pepper spray against incarcerated youths

By [Mike Ward](#)

AMERICAN-STATESMAN STAFF

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Less than a month after agreeing to follow a court order regulating the use of pepper spray against incarcerated youths, officials at the Texas Youth Commission have failed to comply with it, two advocacy groups claimed in a court filing Monday.

Advocacy Inc. and Texas Appleseed, which sued the troubled youth corrections agency Sept. 13 over its increased use of pepper spray, are asking a Travis County state court to force the agency to comply with the Sept. 28 court order.

Under that order, Youth Commission officials had agreed to give the advocacy groups a copy of a commission letter advising employees that previous restrictions on pepper spray were once again in effect, as well as details of all incidents in which pepper spray had been used since Jan. 1.

Jim Hurley, a commission spokesman, said that he had not seen the filing and could not comment in detail but that "it was my understanding we were providing them with those reports ... and the memo we sent out (reinstating earlier restrictions on the use of pepper spray) has been pretty widely circulated."

Jim George, an Austin attorney who chairs the Texas Appleseed board, said: "We had an agreed order signed by a judge, and they have not complied with it. It's unusual for people to say to a district judge, 'I will do something' and then just not do it."

In the court filing, the two groups claim that Youth Commission staff have used pepper spray in violation of both the court order and agency policy. They also claim that Billy Humphrey, the agency's deputy director of juvenile corrections, has instructed administrators at Youth Commission facilities to use pepper spray on youth, in violation of the Sept. 28 court order.

No hearing date has been set.

In their original lawsuit, the groups claimed that Dimitria Pope, the agency's acting executive director, illegally widened the use of pepper spray as a first response to control youths. Under state law, such a change should have been made only after giving the public a chance to comment on the change, the lawsuit stated.

Pope argued that using pepper spray was preferable to physical restraints, which she said caused too many injuries to youths and staff members.


That suit was filed on behalf of three incarcerated teenagers with mental illness or emotional disabilities who the suit says were either pepper sprayed or threatened with pepper spray by Youth Commission staff.

Pope and Humphrey could not be reached for comment.

At a legislative hearing last week, Pope was quizzed about the agency's current policy regarding pepper spray. Asked about persistent reports that staff were not complying with the court order, she said they had been told to comply with the order.

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