

AP Texas News

Nov. 29, 2007, 2:30AM

TYC agrees to change pepper spray policy

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DALLAS — The Texas Youth Commission has agreed to make pepper spray one of the last measures for dealing with unruly inmates, according to lawyers for two juvenile advocacy groups.

Dimitria Pope, acting executive director of the state's juvenile prison system, sent a memo to staff members on Wednesday to clarify the agency's pepper spray policy.

An Austin judge had ordered the commission and the advocacy groups to forge an agreement over an appropriate policy for when to use the spray. Texas Appleseed and Advocacy Inc. claimed the commission was ignoring a September settlement to restrain the spray's use.

"We feel like they have essentially embraced much of our understanding of what the rule says now," said Deborah Fowler, legal director of Texas Appleseed. "We are comfortable that we see more eye-to-eye on the existing use-of-force rule."

Commission spokesman Jim Hurley wouldn't comment on the agreement other than to say that the memo was the result of negotiation between the agency and the groups.

The groups sued the commission in August over Pope's decision to expand pepper spray use.

Her directive allowed the use of pepper spray before physical restraints, rather than as a last resort. She argued that pepper spray limits injuries to inmates and staff members by reducing physical contact.

The advocacy groups argued that the commission implemented the policy change outside of the administrative rule-making process.

Critics of pepper spray say Wednesday's agreement will reverse a spike in its usage that followed Pope's directive. Incidents of pepper spray use had risen from 196 in 2006 to more than 1,220 so far this year.

The commission could revise its pepper spray policy again if it pushes forward with efforts to expand its use. After the lawsuit was filed, the commission began the process of expanding pepper spray use through a new rule. A public hearing on the new rule is scheduled for Monday.

Wednesday's compromise does not affect the new rule.

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