

TYC is sued over pepper-spray policy

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AUSTIN — A Texas Youth Commission decision to allow guards greater flexibility in using pepper spray has landed the agency in court.

A lawsuit Texas Appleseed and Advocacy Inc. announced Thursday marks the first time TYC has been sued over the Aug. 2 directive in which its leaders told guards to use pepper spray before physical restraints when they try to control unruly inmates.

Previously, employees had to try verbal techniques, mechanical restraints and physical restraints before using pepper spray. Now, they need only try verbal techniques and mechanical restraints.

TYC runs youth lockups all over Texas, including Evins Regional Juvenile Center in Edinburg and halfway houses in Brownsville and McAllen.

The agency was overhauled this year in the wake of physical and sexual abuse scandals, and a U.S. Department of Justice determination that conditions at Evins violate the U.S. Constitution.

Advocacy groups filed the lawsuit on behalf of several young people who they say suffered physical or psychological harm after they were hit with pepper spray or threatened with it. The plaintiffs are all mentally ill or have emotional problems, according to Texas Appleseed, based in Austin.

They want a judge to order TYC to stop the policy, and they want public input before such a policy is put in place, said Appleseed Legal Director Deborah Fowler.

“There was not a public forum or any announced opportunity, certainly no effort on the part of TYC to ask advocates for their inputs around this,” Fowler said.

TYC spokesman Jim Hurley said the revision was not a policy change, but rather an administrative directive while the agency continues overhauling its use-of-force policies, he said.

The directive that Dimitria Pope, TYC acting executive director, issued Aug. 2 was intended to reduce the number of youth and staff injuries that occur when employees use physical restraints, Hurley said.

“We’re not so much changing the policy as much as we’re emphasizing the pepper spray as opposed to physical restraints,” he said.

TYC agency was plagued with increasing rates of guard-on-youth physical abuse for the better part of a decade before a sexual abuse scandal broke in February and placed the agency under a statewide microscope.

Many cases of youth abuse are brought about when guards initiate physical restraints. The Legislature appropriated money to increase employee training in the hopes of decreasing injuries, but the money only became available Sept. 1 and most guards have not yet been trained.

TYC employees are more likely than those at any other agency, including the adult prison system, to file worker's compensation claims.

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