



TYC settles suit over use of pepper spray

Officials invite public comment on changes to agency's policy

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By **EMILY RAMSHAW** / The Dallas Morning News
eramshaw@dallasnews.com

AUSTIN – The Texas Youth Commission has settled a lawsuit over the use of pepper spray, officials announced Friday, agreeing to pull back an August directive that has dramatically increased reliance on chemical restraint in youth prisons.

TYC officials say they will revert to using pepper spray as the very last resort – the staff policy until this summer – and seek more extensive input from the public before attempting to change their use-of-force policy.

"We're pulling down the directive, and they're dropping their lawsuit," TYC spokesman Jim Hurley said. "The agency is trying to clean up the use-of-force policy, and we want to do it in a way that incorporates public comment."

Texas Appleseed and Advocacy Inc., organizations that filed suit against the youth justice agency this month, have argued that TYC administrators didn't follow proper procedures when they ordered guards to use pepper spray before attempting a physical restraint.

The groups "applaud the agency for coming to the table to settle this suit," said Jim George, board chairman and lead counsel for Texas Appleseed. "We are glad that no more young people will be physically or psychologically harmed by misuse or threatened use of pepper spray in TYC facilities,"

Over six weeks in August and early September, the TYC recorded 196 pepper-spray incidents, compared with 193 incidents in all of 2006.

TYC officials said they made the change to cut down on workers compensation claims and injuries to youth and staff, which they said were caused by the physical take-downs. They say the change is still on the table – it will just be discussed further.

"I believe that is what [the plaintiffs] want," Mr. Hurley said, "the opportunity to comment."

The advocacy groups filed suit this month on behalf of three youths in TYC custody who suffer from mental illness: two who were pepper-sprayed and a third who was threatened with the restraint. They announced their lawsuit the same day an expert panel commissioned by the agency released its own report – one that, among other issues, criticized the TYC's pepper spray policy for promoting "punishment and intimidation."

The TYC has not embraced that report. And until Friday's announcement, the agency had continued to stand behind its pepper spray orders, arguing that the chemical has no proven health risks and vowing to develop a "no-spray" list to ensure it wasn't used on mentally ill youths.

Will Harrell, the agency's youth ombudsman, called the TYC's change of heart gratifying.

"That's transparency right there," he said. "A lot of people, including myself, have grave concerns with regards to the use of [pepper] spray."