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TYC urged to limit pepper spray

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AUSTIN — Advocates for juvenile inmates on Monday urged the Texas Youth Commission to reject a proposal they say would boost the use of pepper spray against inmates, arguing that it should be used only as a last resort if at all.

Several advocacy groups argued against the proposed rule at a public hearing. A decision whether to adopt the rule could be weeks away, TYC spokesman Jim Hurley said.

The pepper spray issue has been the latest point of contention for a juvenile prison system racked by scandal over the past year. State lawmakers voted earlier this year to revamp the agency after allegations of sexual and physical abuse of inmates by staff.

The agency recently settled a lawsuit filed by advocacy groups as use of pepper spray spiked at more than 1,220 so far this year compared to 196 in 2006. Under that settlement, use of pepper spray was clarified to be one of the last options available to staff.

But the proposed rule change would alter protocols for handling troublesome or unruly inmates, allowing guards greater latitude to use it if staff or property is endangered. The agency said its goal is to reduce physical restraint-related injuries to inmates and staff.

Juvenile justice advocates believe the likely result is that pepper spray will be a first, rather than last resort, said Isela Gutierrez of the Texas Criminal Justice Coalition.

Pepper spray has a painful and violent impact on inmates who are sprayed, she said, and its long-term effects on mentally ill inmates is unclear.

Its use also could be considered physical abuse against young offenders. That would be the wrong impression for an agency still struggling under the previous scandals, she said.

"It's the high-tech equivalent of an old-fashioned butt kicking," Gutierrez said. "TYC is still reeling from revelations of abuse and neglect and the wholesale reform initiated by lawmakers."

The American Civil Liberties Union of Texas also encouraged the agency to recraft the rule on pepper spray as did Texas Appleseed and Advocacy, Inc., two groups that previously sued the agency.

The hearing drew several advocates of using pepper spray, who call it a legitimate tool in juvenile facilities where some inmates can be extremely violent.

Rodney Rowch, 39, a staff member at the TYC facility in Giddings, said he's used pepper spray to subdue an inmate in a potentially violent confrontation, although he declined to elaborate.

"I feared for my safety," Rowch said. "I used it because it was necessary."

Hurley said the proposed rule would allow TYC staff to use pepper spray before attempting to physically restrain an inmate if there was a fear of injury to staff, inmate or property.

Pepper spray at TYC facilities would be closely monitored. Any use would be reviewed to determine if it was appropriate. Staff would also be trained on when and how to use it, he said.

"There are a number of checks that will ensure it is not used inappropriately," Hurley said.

Staff would be expected to use common sense.

"It seems incomprehensible someone would spray a 4-foot-tall 12-year-old," Hurley said. "Some common sense will have to be involved but that's where training is involved."

Acting TYC executive director Dimitria Pope did not attend the meeting. Hurley said she would take all of the testimony into account.

TYC General Counsel Steve Foster said officials would review Monday's testimony as they decide how to proceed with the rule change.

"There is such a fine line trying to ensure you have an orderly facility versus the safety of youth and staff," he said.

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