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Teen inmates pepper-sprayed on videotape

Youth Commission officials say spray helps subdue unruly youths; opponents liken it to corporal punishment.

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AMERICAN-STATESMAN STAFF

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Banging on his steel cell door, the teenage boy was agitated. He shouted epithets through the missing Plexiglas window and then held the door shut, first with his hand and then with his muscled arm.

After a few minutes of exchanged shouts, a cluster of Texas Youth Commission guards outside his solitary cell appeared to grow impatient.

"We're gonna spray you," they yelled at the youth several times before wresting the door open and tackling him inside. Pinned on the concrete floor by several guards, he jerked once again.

They hit him with pepper spray.

That use of force, videotaped Oct. 2 as Youth Commission personnel removed incarcerated teens from the privately run Coke County Juvenile Justice Center, starkly demonstrates what has become increasingly routine inside Texas' troubled youth lockups: use of chemicals to control unruly inmates. It also highlights why the practice is so fiercely debated.

Commission officials say the tape shows why pepper spray is needed, to reduce injuries to youths and staffers in what can be a dangerously hostile environment. Opponents say the tape proves that pepper spray is being used for punishment, for convenience, to gain compliance when other methods would avoid increasing violence even more.

On Monday, at a public hearing to vet a new use-of-force policy that would allow pepper spray to be used before physical restraint in controlling incarcerated youths, state officials got mostly criticism. Several people argued that it could violate a federal court agreement, made more than 20 years ago, that chemicals should not be used in the state's youth lockups except to quell a riot.

After the state months ago pledged to adopt a best-practices model for reform, its proposal to liberalize the use of pepper spray has drawn scorn and derision from corrections experts across the country. Other juvenile justice systems are moving in the opposite direction: Pepper spray has been banned in juvenile lockups in Washington state, and its use has been restricted in California and other states.

Although the Youth Commission's increased use of pepper spray has been documented — court testimony two weeks ago revealed that more than 1,200 reports have been logged this year through October, compared with 200 all of last year — the videotape provides graphic details about how it is being used. The tape was made by employees of Geo Group Inc., which operated the Coke lockup until the Youth Commission abruptly canceled its contract and moved the youths to state-run lockups. A copy of the tape, which was not made public, was viewed by the American-Statesman.

Before the video started, youths had littered a dayroom with dirty wads of toilet paper to thwart their being moved. Most of the youths being removed from their cells by Youth Commission personnel complied, several amid loud protest, several after first refusing to leave their cells. The din of youths' shouts and banging on the steel doors makes some of the verbal exchanges inaudible. What is clear is that guards used pepper spray on two male teenagers after tackling and restraining them.

One of the youths had tried to hold his door shut, so the guards contemplated a second blast into his face after he resisted again while on the floor.

"It ain't working," one guard says.

"You got that arm?" asks another.

No injuries were apparent, though people doused with pepper spray in the face are quickly, though temporarily, hobbled by burning and watering eyes. The spray can also cause skin irritation and even respiratory irritation or other problems for those who are allergic. Opponents of the new policy said youths with mental disabilities can suffer severe emotional reactions, and they urged that its use be prohibited at mental health units.

Steve Martin, a nationally recognized corrections expert who lives in Austin and has reviewed recent Youth Commission reports on the use of pepper spray, said that instead of entering the cell, tackling the youth and then spraying him for failing to comply with an order, the guards should have tried to de-escalate the confrontation first with words and, if that proved unsuccessful, physical intervention.

"There are proven ways for properly trained staff to de-escalate confrontational situations without using chemicals ... and this is even more important in juvenile institutions, where their judgment is not as mature and where the courts have repeatedly held that its use is restricted," he said.

"It would be the same as hitting a youth with a baton for not following an order. No one would argue that would be wrong. This is the same thing, just with pepper spray, which also can cause injury.

"It can become de facto corporal punishment."

Agency officials again said Monday that the policy is designed to make the state-run youth lockups safer for youths and the staff. Three people, including a corrections officer, testified Monday that they favor the change.

"It has eliminated a lot of the violence on the units," said Rodney Rowch, 39, who works at the Giddings State School. "When you see someone sprayed, it's a deterrent. I've used it ... on someone who was actively aggressive. ... It prevented the situation from getting worse."

Youth Commission general counsel Steve Foster said agency officials plan to meet with opponents before enacting a final use-of-force policy. That could take six months, he said.

The story so far

Mid-1980s: State policy says mace can be used in juvenile lockups only to prevent or quell riots.

May 2007: A blue-ribbon panel recommends that the use of pepper spray not be expanded.

July: Youth Commission officials informally allow use of pepper spray before physical restraints for the first time.

August: Acting Executive Director Dimitria Pope issues a directive making that change official.

September: Texas Appleseed and Advocacy Inc. sue, alleging the change was approved illegally.

October: Youth Commission agrees to roll back the rule change, allow public input and provide statistics on pepper spray use to the two groups.

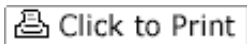
November: Groups ask an Austin judge to sanction the agency for letting the liberalized use of pepper spray continue and for not supplying the records.

Nov. 29: State agrees again to roll back the policy change until a new policy can be properly vetted.

Source: Youth Commission

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