



NEWS Texas/Southwest

Texas Youth Commission shifts inmate pepper spray policy

Youth agency, advocacy groups agree to make spray a latter option

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Attorneys for two juvenile advocacy groups said Wednesday they have reached a court-directed compromise with the Texas Youth Commission in a dispute over the appropriate policy for using pepper spray to control unruly inmates.

Under the agreement, the youth agency clarified its longstanding "use of force" policy in ways that make pepper spray more of a last-resort option. That, advocates say, will eliminate a recent spike in its usage.

"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."

A memo of clarifying language was sent to TYC staff on Wednesday by Dimitria Pope, the agency's acting executive director. Ms. Pope provoked a firestorm in August when she issued an order expanding the use of pepper spray.

Jim Hurley, an agency spokesman, said the memo was the result of negotiation between the agency and the advocacy groups. He said he had no other comment.

Agency officials said the policy change would reduce the number of injuries to staff members and inmates in situations where physical restraint is typically used.

The policy change was made despite findings by several juvenile justice experts that described pepper spray as an ineffective and possibly illegal method of controlling disruptive behavior by young inmates.

The Texas Criminal Justice Coalition, in a report to be released Thursday, said a review of pepper spray research revealed significant health dangers to youths with respiratory problems or mental health disorders.

In August, Texas Appleseed and Advocacy Inc. sued TYC on behalf of three inmates for implementing the

policy change outside the administrative rule-making process. The two sides reached a settlement in late September to return to the status quo.

Earlier this month, the advocacy groups complained that TYC was ignoring the settlement and asked an Austin judge to enforce the agreement. The new agreement was reached after the judge ordered the two sides to work out their differences.

The policy shift could be a temporary one. After the lawsuit was filed, TYC began the process of expanding pepper spray use through a new rule. A public hearing on the new rule is scheduled for Monday in Austin.

The compromise announced Wednesday does not affect the new rule.

Both Ms. Fowler and Isela Gutierrez of the Texas Criminal Justice Coalition said they hope that TYC officials will revise the proposed new rule to maintain pepper spray usage as a last resort.

"I would like to see them do more to benefit from all of the existing juvenile justice expertise in the nation and the advice [from] the consultants they hired and paid," she said.