

# Appleseed This Week

## Texas Appleseed Files Petition to Curtail Pepper Spray Use in Juvenile Detention Facilities

**September 20, 2007** - Texas Appleseed, along with the nonprofit group **Advocacy Inc.**, filed a petition last week in a Travis County district court in Austin seeking to set aside a recent directive expanding the use of pepper spray in Texas Youth Commission (TYC) facilities for juvenile offenders.

**Jim George**, board chair of Texas Appleseed and lead counsel in the case, said TYC's acting executive director circumvented rule-making requirements under the state's Administrative Procedures Act when she issued an executive directive last month instructing TYC employees to use pepper spray as a first response to restrain young people. The petition asks the court to invalidate the directive and instruct the agency to follow its own "use of force" rule specifying that pepper spray only be used as a last resort. "This new directive was adopted without the benefit of public input required under state law and promotes punishment and intimidation rather than rehabilitation and treatment," George said.

The petition seeks injunctive relief on behalf of three teens, each with a mental illness or severe emotional disability, who were subjected to or threatened with pepper spray in TYC facilities. One 15-year-old suffered burns to the skin after being sprayed three different times to prevent him from harming himself. A hearing before a district court judge is scheduled for Oct. 2.

**Deborah Fowler**, Texas Appleseed's legal director, said TYC's own rule on use of force further clarifies that "pepper spray is never to be used in situations involving incarcerated youth with mental and emotional disabilities." According to Fowler, the agency has said it issued the order because the use of physical restraint was resulting in widespread injury to staff and young people. "A U.S. Department of Justice investigation into one TYC facility cited staff-on-youth violence and improper use of physical restraints as a persistent problem. If assaulting children is a standard for physical restraint, then undoubtedly there will be injuries," Fowler said.

A press conference last week announcing the petition, which is part of a larger Texas Appleseed program on school discipline, foster care and juvenile justice, received widespread media coverage, including articles in the *Austin American Statesman*, *Dallas Morning News*, *Houston Chronicle*, *San Antonio Express News*, *Waco Tribune Herald*, *Brownsville Herald*, *McAllen Monitor*, *El Paso Times* and *Fort Worth Star Telegram*. It was also covered by several local television news programs, the **Associated Press**, **WashingtonPost.com** and other national media websites.

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