

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

S.H., et al.,	:	Case No. 2:04-cv-1206
	:	
Plaintiffs,	:	JUDGE ALGENON L. MARBLEY
	:	
vs.	:	
	:	<u>PLAINTIFFS' MOTION FOR</u>
HARVEY REED,	:	<u>EMERGENCY INJUNCTION</u>
	:	<u>PROHIBITING USE OF</u>
Defendant.	:	<u>SPECIAL RESPONSE TEAMS</u>
	:	
	:	

Pursuant to par. 256 b of the Stipulation (Doc. 108), and for good cause, Plaintiffs hereby move the Court for an emergency injunction prohibiting deployment of any staff from the Ohio Department of Rehabilitation and Correction inside the ODYS facilities until a protocol has been developed and approved by this Court.

MEMORANDUM

At a status conference on October 5, 2011, this Court reviewed the use OC spray by adult corrections staff inside the DYS facilities. The Court warned counsel for Defendant Reed that it would not allow adult corrections staff to use OC spray in the DYS facilities until after the Court received a thorough report from the S.H. Monitoring Team. Since that conference DYS has nonetheless deployed the Special Tactics and Response Team (STAR) inside the DYS facilities and there is no indication that the STAR team has been trained on the DYS use of force policies and procedures. Plaintiffs therefore seek an injunction prohibiting deployment of adult corrections staff in the DYS facilities without approval from this Court.

This motion is made pursuant to ¶256 b. In that paragraph the parties agree that judicial relief may be appropriate “in the event of an emergency posing an immediate systemic threat to the health or safety of youth.” The use of the STAR team, including the authorization for use of OC spray, poses a threat to the safety of the youth in the DYS facilities. The parties have worked hard these past three years to shift the facilities away from the adult prison model to a youth centered model. This includes an SOP on use of force that prohibits use of OC Spray, abandonment of the “correctional officer” title in favor of “youth specialist;” and expansion of youth specialist duties to include support for treatment efforts.

Safety is important. But safety can be maintained without reverting back to tactical teams with chemical agents. Early this month the STAR teams from ODRC facilities were deployed at the Circleville and Scioto Juvenile facilities. The monitor advised the Court on October 5, 2011 that he would be investigating the matter promptly and issuing a report to the Court very soon. At that conference the Court warned DYS counsel not to permit ODRC staff to use OC spray in the juvenile facilities until that report was issued. The Court noted that if additional help is needed from outside agencies that additional staff must follow DYS policies on use of force. The use of special adult teams and chemical agents is excessive in the juvenile setting. These teams have no youth specific training and pose a great danger to the safety of the youth in the youth facilities. The ODRC STAR team must not be deployed in the youth facilities unless it is clear that they are following DYS policies and procedures.

Plaintiffs therefore request that this Court enjoin DYS from deploying any adult corrections staff in the juvenile institutions until the monitor has reported on this practice

and the Court has had a chance to determine whether such deployment should ever be permitted and, if so, under what circumstances and restrictions it should ever be permitted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2010, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Alphonse A. Gerhardstein
Attorney for Plaintiffs

