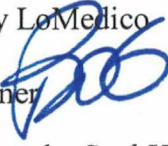




MEMORANDUM

DATE: May 14, 2013

TO: Chief William Lansdowne
Chief Javier Mainar
Director Stacey LoMedico

FROM: Mayor Bob Filner 

SUBJECT: Approved Protocols, *Seal Harassment at Children's Pool Beach, La Jolla*

The San Diego Police Department, the San Diego Lifeguards, and the Park & Recreation Rangers (the "Departments") respect the fundamental right of all people to peacefully express their views regarding the past, present and future use of the Children's Pool. The Departments have a written protocol in place to respond to disturbances and allegations of criminal conduct at the Children's Pool.

The goal of the Departments is to minimize the potential for confrontational behavior by maintaining peace and order during human-to-human and human-to-animal contact on and around the beach and to enforce existing City ordinances as they pertain to the placement of signs and the mistreatment of animals.

To this end, the Departments:

- Place no greater value than on the protection of human life;
- Will not tolerate acts of violence perpetrated against human beings or animals;
- Will respond to all requests for police assistance;
- Consider water safety the primary role of lifeguard personnel;
- Consider crimes perpetrated against any marine mammal to be subject to the City's Municipal Code regarding mistreatment of animals and to the Marine Mammal

Protection Act (“MMPA”), which is enforced by the National Oceanographic and Atmospheric Administration (“NOAA”);

- Will enforce Municipal Code §63.0102(b)(10), which makes it illegal to disturb any animal on a City beach and which does not require an intentional act; and §142.1206, regulating signs, including the issuance of citations, when appropriate; and
- Encourage all people to respect and to not inhibit in any way the right and freedom for all to legally and peacefully occupy the Children’s Pool and adjacent lands and to speak freely, openly and without intimidation.

IMPLEMENTATION OF MUNICIPAL CODE §63.0102(b)(10)

- Municipal Code §63.0102(b)(10) does *not* require that the unlawful action constitute “harm,” only that the animal be “disturbed.”
- “Disturb” is defined in the Merriam-Webster Dictionary as:
 - “to destroy the tranquility or composure of;”
 - “to throw into disorder;” or
 - “to cause disturbance.”
- If there is a complaint filed by a citizen regarding disturbance of an animal at Children’s Pool Beach and the officer is not certain regarding the applicability of §63.0101(b)(10), the officer should obtain ID information of all who are alleged to have disturbed the animal so that a determination can be made as to the nature of the disturbance with a full review of all evidence to follow promptly.
- If someone is engaged in “normal beach activity” – including activities in the water -- and that activity results in a disturbance (*e.g.*, flushing, of the seals), then the disturbance is unlawful.
- The first and best course of action is to warn people that, if they cross the rope or go into the water (which is their right) and that action results in disturbance, then they can be cited.
- If, after the warning humans cross the rope or go into the water and disturb the mammals, then issue a citation.
- If the people disregard the citation, interfere with its issuance, or continue to disturb the mammals, you are authorized and directed to arrest them.