



December 8, 2020

Dr. Gary Weitzman, CEO
San Diego Humane Society
5500 Gaines St.
San Diego, CA 92110

Via U.S. Mail and e-mail to GWeitzman@sdhumane.org

RE: Cruel and unlawful abandonment of domesticated cats by SD Humane

Dear Dr. Weitzman:

I am writing as legal counsel for Animal Protection and Rescue League, Inc., Paw Protectors Rescue, and several individual San Diego residents, who I represent along with G. David Tenenbaum, Esq. The purpose of this letter is to:

1. Serve as formal notice to the San Diego Humane Society (SDHS) to cease and desist from abandoning social, adoptable, domestic cats¹ onto the streets as prohibited by CA Penal Code 597.1 (a)² and 597(s)³, and to cancel plans to do so in the future.
2. Demand that the San Diego Humane Society offer or continue to offer TNR (Trap/Neuter/Release) services for all feral cats using the definitions of CA Food and Agriculture Code 3175.5 (5)(b)⁴ to define a feral cat.
3. Demand that the San Diego Humane Society fulfill its obligation as stated in CA Civil Code 1815(c)⁵ and 1816(c)⁶ and receive and hold for the required holding period all stray cats brought to them by the public, and to cease from advising citizens to leave stray cats where they are.

¹ CA Food and Agriculture 31752.5(1) Domestic cats' temperaments range from completely docile indoor pets to completely unsocialized outdoor cats that avoid all contact with humans.

² CA Penal 597.1. (a) (1) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner.

³ CA Penal 597s. (a) Every person who willfully abandons any animal is guilty of a misdemeanor.

⁴ CA Food and Agriculture 31752.5 (5)(b) For the purposes of this section, a "feral cat" is defined as a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is totally unsocialized to people.

⁵ CA Civil Code 1815 An involuntary deposit is made (c) By the delivery to, or picking up by, and the holding of, a stray live animal by any person or public or private entity.

⁶ CA Civil Code 1816 (c) A public agency or shelter with whom an abandoned animal is deposited in the manner described in Section 1815 is bound to take charge of it, as provided in Section 597.1 of the Penal Code.

Return to Field (RTF) / Shelter/Neuter/Return (SNR) / Return to Habitat / “Wild At Heart” programs release friendly, adoptable cats to the streets without a caregiver and therefore puts them in danger.

The San Diego Humane Society seems to use the terms “Return to Field” (RTF), “Return to Habitat”, “Shelter/Neuter/Return” (SNR) and “Wild at Heart” interchangeably. The difference between these programs and the traditional “Trap/Neuter/Return” (TNR) is that these new programs include any and all stray cats that are brought into the shelter even if they are friendly, domesticated cats that would qualify for the adoption program.

The traditional “Trap/Neuter/Return” model is for feral cats that are unsocialized and that would not be able to become a pet. It seems that the switching around of these titles and their similarity to the term “Trap/Neuter/Return” is intentional in order to confuse the public. SDHS plans to release friendly adoptable cats in the same way they would release a feral cat, and that is not only against the law, but not in the best interest of a social, adoptable cat.

Major national animal welfare organizations such as the ASPCA advise that “to be considered for an RTF program, the cat must be unowned, ineligible or unlikely to be successful in an adoption program (with very rare exceptions, social cats admitted to animal shelters should be routed into adoption programs that demonstrate a high placement rate rather than RTF programs)”⁷

In November, 2019, you were interviewed by KPBS regarding the release of friendly, adoptable cats onto the streets. When the reporter confronted you with the statement made by a resident who said “They don’t care if the cat’s friendly or not, they’re going to put it back,” you responded, “Oh, that we don’t do.” You continued, “If they come in and they’re actually friendly and adoptable cats, we will put them up for adoption rather than re-releasing them to the outdoors. We do not want to do that.”⁸

You did not tell the truth during the KPBS interview regarding the release of friendly, adoptable cats. According to records obtained from the San Diego Humane Society, 1574 cats were brought to SDHS as having a status of “stray” in the last two quarters of 2019 (July -December). In that same time period, 718 cats that came in with a “stray” status were listed as “Return to Habitat”. This means that 45.6% of all stray cats that were brought to the shelter were sterilized and then returned outside to the area where they were found, regardless of temperament.

We obtained 75 individual records of cats whose outcome was “Return to Habitat” between July and December 2019. Approximately 30% of those cats had been brought to the shelter in a cat carrier and/or had behavior notes indicating that they were friendly and able to be handled and petted. Therefore, the San Diego Humane Society cannot be relied upon to give the public

⁷ <https://www.aspc.org/about-us/aspc-policy-and-position-statements/position-statement-community-cats-and-community-cat#:~:text=Socialized%20community%20cats%20are%20best,into%20new%20homes%20whenever%20possible.&text=The%20ASPCA%20does%20not%20support,subjected%20to%20harm%20or%20abuse.>

⁸ <https://www.kpbs.org/news/2019/nov/18/san-diego-humane-society-has-released-1200-stray-c/>

accurate information about their practices and did in fact release cats that prior to this new program, would have been put up for adoption.

This program has been going on for at least since the Spring of 2019, with perhaps the exception of a pause due to the Covid pandemic. As stated in several emails to rescue groups and volunteers that have been obtained, SDHS has every intention of reimplementing the practice of taking any stray cat, regardless of temperament, and returning it to fend for itself and plans to start this again in January, 2021.⁹ We demand that this plan be terminated so that no healthy adoptable domestic cat is forced to fend for itself out on the street.

Return to Field (RTF) i.e. Shelter/Neuter/Return (SNR) i.e. Return to Habitat i.e. Wild At Heart programs violate California Penal Code 597(s) and 597.1.

The San Diego Humane Society is facilitating and directing actions which are violations of the California Penal Code. It is illegal in California to purposefully abandon an animal. (Penal Code § 597(s).) It is also illegal to leave an animal in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention. (Penal Code § 597.1).

San Diego Humane Society claims that because the friendly, domestic cats that they dump back onto the street are healthy and look well cared for on the day that they are brought in, the cat is therefore “thriving” living on its own and should return to where it was found. This claim is an attempt to dismiss any responsibility that SDHS has to abandoned and homeless animals who are brought to them. They are denying their primary duty to animals they are supposed to be protecting. Just because a cat looks healthy on the day it was brought in does not mean that it will not be attacked by a predator or hit by a car the next day, or starve in a month because no one is caring for it because it has been abandoned.

Genuine “Trap/Neuter/Release” (TNR) programs should be continued and enhanced in order to curb feral cat population.

A “feral” cat is defined in CA Food and Agriculture Code § 31752.5. “Feral cats” are cats with temperaments that are completely unsocialized, although frightened or injured tame pet cats may appear to be feral. For the purposes of this section, a “feral cat” is defined as a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is totally unsocialized to people.

There are many rescue groups in San Diego County that “manage” colonies of feral cats. Each colony has a caregiver who traps each cat and gets it sterilized, provides food for, and traps any

⁹ Paragraph in email sent to all SDHS volunteers from Gary Weitzman on 9/26/20: “We took the first step of soft-launching the Wild at Heart program on Sept. 8. That soft launch proved invaluable in showing us what changes need to be made to fully implement the program. With that knowledge in hand, we’ve made the decision to suspend the soft launch, revert to the processes that were in place prior to September, and use what we’ve learned to fine-tune our protocols in order to fully launch the program in January 2021. We will use the coming months to ensure that our staff, volunteers and community are informed of the changes we’ve made so that the program can make the most positive impact possible for community cats and the public who depend on us.”

cat who appears to be sick or injured and gets it medical attention. We believe that these programs, for truly unadoptable cats, are beneficial and should not only be continued, but should be the focus of the San Diego Humane Society's program for sterilizing and releasing cats as long as the cat has a caregiver.

The San Diego Humane Society violates Civil Code §§ 1815(c)¹⁰ and 1816(c)¹¹ when it refuses to accept any stray cat found by any person or public or private entity.

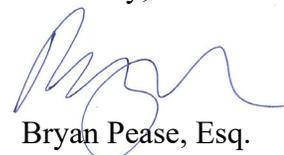
The San Diego Humane Society currently accepts only cats who are "sick, injured, or in immediate danger" and advise the public that cats have a better chance of returning home if they are left in the area in which they were found.¹²

We have heard numerous reports of citizens who call the San Diego Humane Society asking to bring in a stray cat who have been told over the phone that they should just leave the cat where it is and not bring it in. We believe that the San Diego Humane Society has a duty, as described in the California Civil Code, to accept and hold all stray cats brought to them and we demand that acceptance and consequent adherence to the legal holding period of all cats brought in by the public commence immediately.

In summary, we demand that the San Diego Humane Society immediately cease from releasing friendly, adoptable cats back to the street and that any and all plans to start releasing friendly, adoptable cats be canceled. More resources should be put into a Trap/Neuter/Release program for feral, unsocialized, unadoptable cats who have a caregiver, and the San Diego Humane Society must fulfill its obligation as stated in Civil Code §§ 1815(c) and 1816(c) and receive all stray cats brought to them by the public, and to cease from advising citizens to leave stray cats where they are and refusing admission of stray or lost cats brought in by the public.

Because you have stated an intention to resume this cruel and illegal program in January 2021, please confirm no later than December 22, 2020 that you will cancel such plans and follow all applicable laws outlined in this letter, in order to avoid the necessity of legal action against SD Humane. Thank you for your cooperation.

Sincerely,



Bryan Pease, Esq.

cc: G. David Tenenbaum, Esq.

¹⁰ Civil Code § 1815: An involuntary deposit is made (c) By the delivery to, or picking up by, and the holding of, a stray live animal by any person or public or private entity.

¹¹ Civil Code § 1816 (c): A public agency or shelter with whom an abandoned animal is deposited in the manner described in Section 1815 is bound to take charge of it, as provided in Section 597.1 of the Penal Code.

¹² <https://www.sdhumane.org/services/lost-and-found/found-a-cat.html>