

November 21, 2007

Marcia Mayeda, Director
Los Angeles County Department of Animal Care and Control
5898 Cherry Avenue
Long Beach, California 90805

Re: *Changes to L.A. County Department of Animal Care and Control*

Dear Ms. Mayeda:

I am writing on behalf of our clients No Kill Advocacy Center, Cathy Nguyen, and Rebecca Arvizu. It has come to our attention that the Los Angeles County Department of Animal Care and Control ("DACC") has been violating and continues to violate the State of California's codified policy mandating that animal shelters move in the direction of saving rather than killing animals. In particular, DACC has been, and continues to, engage in the following egregious violations of law, among others:

1. Routinely killing healthy and adoptable animals before expiration of the minimum statutory holding period of at least four or six days, depending on shelter hours of operation, and not including the day of impoundment (Food & Agricultural Code sections 31108, 31752, 31753, and 31754);
2. Routinely classifying animals as "ill," or "injured," or other similar classifications, and killing the animals before expiration of the minimum statutory holding period on the basis of those classifications, when the animals are not irremediably suffering (Food & Agricultural Code sections 17006, 31108, 31752, 31753, and 31754);
3. Routinely killing animals before the minimum statutory holding period has expired, on the basis of impermissible criteria, such as, but not limited to, being "geriatric," "malnourished," or having a "skin condition" (Food & Agricultural Code sections 31108, 31752, 31753, and 31754);
4. Routinely misclassifying animals as "aggressive," including when the animals are not owner-relinquished dogs with a history of vicious or dangerous behavior that is documented by DACC, and killing the animals before expiration of the minimum statutory holding period, or refusing to release the animals to members of the public wishing to adopt them, on the basis of the "aggressive" classification (Food & Agricultural Code sections 31108, 31108.5, 31752, 31752.5, 31753, and 31754);
5. Routinely killing feral cats before expiration of the minimum statutory holding period of at least three days, not including the day of impoundment, and routinely

misclassifying as "feral" cats that are, in fact, tame but scared by the shelter environment (Food & Agricultural Code section 31752.5);

6. Holding animals in areas of the DACC shelters that are not readily accessible to the public (Food & Agricultural Code sections 31108, 31752, 31752.5, 31753, and 31754);
7. Killing animals without first engaging in reasonable efforts to identify the animals' owners, reunite the animals with the owners, or make the animals available for adoption to the public, including to rescue organizations (Food & Agricultural Code sections 31107, 31108, 31752, 32001, 32003 and Penal Code sections 597f, 597.1);
8. Refusing to release animals scheduled to be killed for any reason other than irremediable suffering to non-profit rescue organizations that have requested custody of the animals (Food & Agricultural Code sections 31108, 31752, 31752.5, 31753 and 31754);
9. Failing to provide adequate and appropriate veterinary attention to the animals in DACC's care (Civil Code sections 1815, 1834 and Penal Code sections 597f, 597.1);
10. Failing to provide adequate nutrition, shelter, exercise and water and to treat impounded animals kindly and humanely (Civil Code sections 1815, 1834 and 2080; Penal Code sections 597e, 597f, 597.1, and 599).

It is imperative that DACC take immediate steps to correct these blatant violations of law that are causing immeasurable suffering to the animals in its care. Accordingly, we request that DACC promptly take the following actions:

1. Cease and desist from killing any animal that is not irremediably suffering from a serious illness or severe injury, and any cat that is not truly feral, before expiration of the minimum statutory holding period of at least four or six days, depending on shelter hours of operation, and not including the day of impoundment;
2. Cease and desist from killing any animal on the ground of "aggression" before expiration of the minimum statutory holding period of at least four or six days, depending on shelter hours of operation, and not including the day of impoundment, unless the animal is an owner-relinquished dog with a history of vicious or dangerous behavior documented by DACC. The unsubstantiated say-so of the person relinquishing the animal does not amount to a history of vicious or dangerous behavior documented by DACC.
3. Cease and desist from killing any feral cat before expiration of the minimum statutory holding period of at least three days, not including the day of impoundment;

4. Adopt, implement, enforce, and make publicly available policies and protocols for determining whether an impounded animal is truly (i) irremediably suffering from a serious illness or severe injury, (ii) feral, or (iii) aggressive. Any such policies and protocols must take into account that tame cats may exhibit fearful behaviors due to the stress of confinement and poor handling which may be misinterpreted as "feral" behaviors, and typically friendly dogs may exhibit fearful behaviors due to the stress of confinement and poor handling which may be misinterpreted as aggression;
5. Adopt, implement, enforce, and make publicly available a policy and protocol requiring staff to accurately classify animals upon intake and then again before any determination is made that the animals will be killed (and ensuring that staff will follow the policy and protocol);
6. Ensure that all animals except dogs being held pending resolution of a court or administrative proceeding pursuant to Food & Agricultural Code sections 31601, et seq. (pertaining to potentially dangerous and vicious dog determinations) are kept in areas of DACC shelters where they are readily accessible to the public;
7. Engage in reasonable measures to reunite animals with their owners or to make animals available for adoption prior to killing them, including, but not limited to, (i) keeping complete and accurate records on each impounded animal, including a description of the animal, his/her health condition, the veterinary care provided, and the location of the animal within the DACC shelter system, (ii) scanning animals for microchips; (iii) contacting owners of microchipped animals or of animals wearing identification tags, (iv) maintaining updated information on all impounded animals on the DACC website, (v) contacting rescue organizations which have expressed an interest in adopting particular types of animals when those animals are at the shelters, and (vi) providing prompt assistance to members of the public, including rescue organizations, inquiring about reclaiming or adopting animals, whether in person or by phone;
8. Release any animal scheduled to be killed for any reason other than irremediable suffering to any non-profit rescue organization that is willing to take the animal;
9. Adopt, implement, enforce, and make publicly available policies and protocols for ensuring that all animals in DACC's care are treated kindly and humanely, provided with prompt and appropriate veterinary care, and receive adequate nutrition, shelter, exercise (including exercise outside of their cages or kennels) and water;
10. Implement a meaningful and mutually agreed upon system of monitoring, including but not limited to, the conduct of audits, the review of DACC employee training, and regular public access to DACC's chameleon database, to ensure that DACC complies with the foregoing requests.

As you are well aware, Ms. Nguyen has repeatedly attempted to address these issues with you. She has been in contact with you and other members of your staff on a frequent basis since at least August 2007, including attending a meeting with you and David Nelson on or about August 30, 2007. In addition, Ms. Nguyen has expressed her concerns to the Los Angeles County Board of Supervisors on a number of occasions. Despite these repeated efforts, DACC has refused to change its practices and continues to engage in well-documented violations of law resulting in the unacceptable suffering and killing of animals.

Unless DACC, No Kill Advocacy Center, Ms. Nguyen, and Ms. Arvizu are able to reach a meaningful agreement on the matters outlined above on or before December 21, 2007, we will have no choice but to commence litigation to guarantee that DACC complies with State law.

In anticipation of the possible litigation, DACC must take all appropriate measures necessary to ensure that it does not destroy any potential evidence, including but not limited to documents, emails, videotapes, photographs, and computer data. This includes modifying any standard protocols that may lead to the routine deletion of email or other materials on DACC servers in order to preserve evidence. This request is of particular importance in light of our knowledge that DACC has, on at least one prior recent occasion, directed its employees to destroy evidence relevant to an ongoing investigation.

Very truly yours,

EISENBERG RAIZMAN THURSTON & WONG LLP

Sheldon Eisenberg

Orly Degani

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By

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OD:fmc

cc: Raymond G. Fortner, Jr., Esq., Los Angeles County Counsel