

San Onofre Clothing Optional Beach - Fact or Fiction

Recently, Department of Parks and Recreation officials have made statements to the press and sent letters and emails responding to people who have expressed opposition to DPR Director Ruth Coleman's revocation of the Cahill/Harrison policy at San Onofre Trail 6. Are these statements by DPR officials **Fact or Fiction?**

1. DPR acting District Superintendent Joseph M. Milligan states in his letter to those opposing the revocation of the Cahill/Harrison policy:

"Public nudity at the state parks is, and has been, illegal pursuant to California Code of Regulations, Title 14, Section 4322. The Department has not designated any portion of the State Park System as "clothing optional." **Fact or Fiction?**

Fiction. The DPR is choosing to ignore the Harrison letter sent to all Regional Directors dated June 14, 1988 which set DPR policy after the *People v. Bost* case. In adopting the court opinion as the policy of the state, Harrison stated: "So long as the [clothing optional] activity takes place in a traditionally recognized area it is legal unless and until a complaint from a member of the public is received. Upon such complaint a warning is to be issued and, if not heeded, a violation (of Title 14, California Code of Regulations Section 4322) has occurred."

2. Milligan goes on to state: "The Cahill Policy only proposed a practical approach to enforcement of Section 4322 in remote areas of the parks." He further states: "This change stems from the fact that the beach area can no longer be considered remote." DPR spokesman Roy Sterns stated: "It's no longer one of those remote beaches that is out of sight and out of mind, that few people go to." **Fact or Fiction?**

Fiction. The Cahill Memo of May 14, 1979 makes no mention of the policy's application only in "remote" or "secluded" areas. However, even if remoteness were a requirement of the Cahill policy, the Trail 6 area is just as remote as it has always been. However, it has always been the most occupied section of the entire stretch of the beach at San Onofre. Visitors to Trail 6 have consistently provided DPR with significant revenue in day use fees, annual pass sales and camping space fees.

Fact. The full text of the Cahill memo, the Court's decision in *People v. Bost*, and the Harrison letter may be seen at:

www.cspra.com/ccr4322, and www.bayareanaturists.org/cahill.html

3. Milligan also states that the change in policy stems from "...ongoing complaints and concerns regarding inappropriate and unlawful activity, such as nudity, lewd conduct and indecent exposure, requires the Department to enforce Section 4322." **Fact or Fiction?**

Fiction. As noted above, nudity was not illegal in the traditionally clothing optional area at Trail 6.

Fact. Lewd conduct in public is a violation of Penal Code section 647(a) and indecent exposure is a violation of Penal Code section 314.1. Friends of San Onofre Beach and the naturist community have always supported State Park law enforcement personnel in their efforts to enforce these laws. Our beach flyer has contained the following language for years.

“NO OVERT SEXUAL ACTIVITY. Nude is not lewd. However, SEXUAL AND/OR LEWD CONDUCT IN PUBLIC IS ILLEGAL, and will not be tolerated at San Onofre State Beach. A clothing optional beach is a public place, and the rules for good behavior are the same as for any other public place. If you wouldn't do it in front of a police officer, don't do it here!”

Reducing complaints about the **illegal** activities does not require revocation of the Cahill/Harrison policy. All DPR needs to do is to continue working with the naturists on the beach as they had in the past, and focus law enforcement efforts on the true cause of the complaints... the sex cruising in the parking lot.

4. The San Diego Union-Tribune report dated June 6, 2008: “Rich Haydon, acting Superintendent for San Onofre State Beach, contends the Cahill policy has been superseded by the federal Civil Rights Act.

Last updated in 1991, the act protects employees from being embarrassed or indirectly harassed due to a “sexually charged” workplace, Haydon said.” Are Haydon’s statements **Fact or Fiction?**

Fiction. Court decisions interpreting both the federal and state sexual harassment laws hold that a “sexually charged atmosphere” much less simple nudity cannot form the basis of a sexual harassment claim if the conduct complained of was a preexisting condition of the workplace environment and the complaining party can be assigned to work in other areas.

Fact. As to illegal behavior such as lewd conduct in public and indecent exposure, the DPR rangers have a duty to enforce the above-mentioned Penal Code sections for the protection of the public and DPR employees alike. The reasonable action to be taken by DPR to prevent a sexual harassment claim from a park employee is to enforce those laws.

5. In the same article, Haydon is quoted: “Maintenance workers complain about having to clean up condoms, sex toys and other paraphernalia, he said.” **Fact or Fiction?**

Fiction. In our conversations with park maintenance workers on the beach, we learned that maintenance workers do not scour the beach picking up trash. All they do on the beach is empty the trash cans. However, the items referred to by Haydon do occasionally turn up in brush next to the parking lot and in the restrooms due the “cruising” problem in the parking lot. This, of course is unrelated to the existence of the legal traditional clothing optional area of the beach.

6. Haydon continued “In the past five years, 82 citations have been issued for lewd behavior to people engaged in sexual acts at the state beach, Haydon said. During the same period, an additional 35 citations were issued for indecent exposure designed to attract the attention of strangers.” **Fact or Fiction?**

Fiction by Omission. Haydon fails to state in which portion of the park these citations were issued, or how many citations resulted in convictions. The south end of the parking lot is well known by those who cruise for anonymous sex in public. Areas such as road side rest stops and parks all around the country have become hot spots for illegal public sexual activity. To imply that the existence of the clothing optional beach is responsible for the sex cruising problem in the parking lot defies all logic.

As to illegal public sexual activity on the beach, the vast majority of those using to beach for illegal public sex, do so south of the fence marking the northern border of Camp Pendleton, not in the State Park. As noted above, those who attempt to engage in lewd activity on the clothing optional section of the beach are strongly discouraged by the naturist beach users, and are also subject to being arrested by State Park Rangers.

7. Again from the San Diego Union-Tribune: “Last summer, a 32-year-old man was arrested on suspicion of molesting a 12-year-old boy who was sitting on his lap in a vehicle at the Trails 6 parking lot, Haydon said.” **Fact or Fiction?**

Fiction by Omission. While reliable information regarding this incident is scarce, various news reports indicate that it was someone on the beach that saw the suspect and the boy on the beach and made the initial call to law enforcement.

8. Also in the San Diego Union-Tribune: Denny Stoufer, a retired state lifeguard from Carlsbad, said enforcing the ban will be tough.

“If you really want to make this change, it will take an enforcement effort costing hundreds of thousands of dollars,” Stoufer said. “It will have to be a multiyear, multiagency effort. Otherwise, they will never go away.” **Fact or Fiction?**

Fact. The DPR barely has enough rangers to deal with important problems at the various state parks and beaches as it is. Somehow, the local DPR management believes that making criminals of the people who have been most helpful to them and supported their efforts to enforce the law on the beach will improve matters and make their jobs easier. It will not.

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