

MARIAN BEAR PARK

ELIMINATING LEWD SEXUAL CONDUCT IN A PUBLIC PARK

SAN DIEGO POLICE DEPARTMENT, CALIFORNIA, 1994

- THE PROBLEM:** Marian Bear Natural Park, a park dedicated to the preservation of the natural flora and fauna, developed a reputation as a meeting place for illegal sexual activity. The Northern Division had received numerous complaints of lewd sexual activity in the park.
- ANALYSIS:** Observations of the park and undercover operations revealed that the park used predominantly as a meeting place for lewd sexual encounters due to its secluded bushes and restrooms. The park was also listed as “cruising spot” in national gay publications, which served to enhance its reputation. The park by and large was not being used for legitimate uses and few women or children were seen at the park.
- RESPONSE:** The officers began using a video camera in the park to eliminate the sense of anonymity the illegitimate users of the park enjoyed. At the request of the police officers, one of the gay publications quit listing the park as a “Cruising spot.” Several signs were also posted to discourage lewd sexual acts. Undercover operations were also used to affect arrests and discourage illegitimate activities.
- ASSESSMENT:** Lewd sexual conduct at the park was virtually eliminated. Crime and disorder have also been decreased as well. The park has been returned to its legitimate users. More women and children have been seen at the park.
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SCANNING

On October 1, 1992, Sergeant James O’Neill asked Cindy Brady and Tim Hall to open a POP project to address the complaints of illegal sexual activity in Marian Bear Natural Park. This request was in response to a citizen complaining to San Diego Police after he and his young son walked into the public restroom in the park and witnessed two men engaging in oral sex. This was only the latest in a 14-year history of complaints of illegal sexual activity in the park.

Brady and Hall had just joined the Northern Division Neighborhood Policing Team, and this was their first project. Sergeant O’Neill instructed Brady and Hall to be creative.

Marian Bear Natural Park, formerly known as San Clemente Canyon Park, is located in the canyon along I-52 between I-5 and I-15. The San Diego Park is dedicated to the preservation of the natural flora and fauna found there.

Except for the addition of unpaved parking lots and restrooms at the Regents Road and Genesee Avenue entrances to the park, there have been almost no changes to the park’s natural landscape. Because of the wish to keep the park as natural as possible, there are no lights in the park, not even in the restrooms. There is no electricity in the park and no phones.

The legitimate uses of the park include hiking, bicycling, picnicking, and walking dogs. The illegitimate uses of the park have included vandalism, off road driving, discharging of firearms,

car prowls, graffiti, drug sales and use, illegal sexual activity, and even the murder of a San Diego Police Officer.

In the past, the Northern Division has received numerous complaints about lewd sexual conduct in the park, and the Northern Division has attacked the problem on several occasions. All of the complaints have been about males soliciting for or engaging in sexual acts in public places within the park.

Most of the complaints cited the areas around the restrooms and shrubbery at the east end of the parking lot located on the east side of Regents Road. The last major attempt to address the problem took place in 1991, when several officers were involved in an undercover operation. Male officers dressed in plain clothes walked the paths in the park, waiting to be solicited and watching for violations between other individuals.

The operation resulted in over ninety arrests for such things as performing lewd acts in public, soliciting for lewd acts in public, and battery, where people walked up to the officers and grabbed their genitals. In many of the arrests, the suspects resisted arrest by trying to run away or by fighting with the officers. Because we did not have the City Jail at that time, most suspects were released on misdemeanor citations.

Nighttime activity was reduced at that time by posting "no parking signs" in the parking lots for the hours between 21:00 to 06:00. Illegal sexual activity and related complaints decreased significantly for a short time after that operation, as they had following other attempts to address the problem.

The major down side of the operation was that it was labor intensive and almost everyone involved in the operation had to take industrial leave because of exposure to the poison oak in the park. Marian Bear Park has one of the highest concentrations of poison oak of any park in the state.

ANALYSIS

Officers Brady and Hall went to the park in an unmarked car in plain clothes to assess the extent of

the problems in the park. When they pulled into the parking lot on the east side of Regents Road, they observed about twenty cars parked at the east end of the parking lot.

Almost all of the cars were backed into their parking spaces. Lone males occupied most of the vehicles. Several males were wandering in and around the bathrooms and shrubbery. Most of them were wearing business clothing or clothing not normally associated with walking the trails of the park. There were no females or children in the area.

Officer Hall parked and walked toward the restroom. There was a man standing at the entrance to the restroom who appeared to be looking at something in the restroom. Hall walked into the restroom and found two men engaging in a sex act. He arrested both men. The parking lot immediately emptied out. Both men spoke freely with us about the problems in the park. Hall asked them how many of the people we saw parked in the lot were there to engage in sexual activity in the park. Both men answered, "Probably all of them!"

Brady and Hall were informed that such activity was actually quite common in the park. The park has a reputation as a "cruising spot" for illegal sexual activity for about 14 years. The park is listed as a "cruising spot" in national gay publications such as *Bob Damron's Address Book* and *Steam*.

One of the men said he learned about the park as a "cruising spot" from seeing a news report about the previous undercover arrests there. The other man said he had been arrested there before for the same thing and had learned about the park from *Bob Damron's Address Book*.

Brady and Hall inquired as to why the park such a popular place for illegal sexual activity. The men said the park was popular because its secluded bushes and restrooms provided a convenient place for anonymous sexual encounters. They also said it was because it was well advertised in gay publications and had a fourteen year reputation.

The officers asked the men what types of enforcement would have the greatest success in stopping illegal sexual activity in the park. Several

options were mentioned, including the open use of a police video camera. Both men agreed the video camera would have the greatest effect because it took away the anonymity the park provided.

Brady and Hall booked both men into City Jail for 647 (a) PC, engaging in lewd conduct in public. They were shocked that they were not going to be released on citations. Brady and Hall returned to the park after booking the suspects and watched the activity from our car and from the trails.

Brady and Hall observed a steady stream of lone males driving into the lot, making contact with other males, and disappearing into the restroom or shrubbery for short periods of time. The men appeared to be engaged in no other legitimate activity in the park.

The next day Brady and Hall returned to the park in uniform to conduct a survey of what the people in the park perceived as the major crime problems there. Upon their arrival, they saw about twenty cars in the lot. All of them left within a few minutes of their arrival.

Only one of the people surveyed in the park, a bicyclist, listed illegal sexual activity as a problem in the park. Brady and Hall anticipated these results, as they were surveying suspects rather than victims. Had the officers not completed the undercover assessment prior to the survey, they may have interpreted the data, as indicating there was no problem in the park.

Brady and Hall attended a meeting of the Marian Bear Natural Park Committee. They did not tell them that they were there to address any specific problem in the park. They asked them to fill out the same survey we had given to people in the park. The results were exactly opposite of those surveys taken in the park.

Virtually all the people attending the meeting listed illegal sexual activity as the number one problem in the park. They discussed the results of the survey at the meeting and explained what enforcement had been done before and why it was felt that type of enforcement would probably not be undertaken again.

One of the park committee members said she felt using a camera might be a viable solution. Brady and Hall had not mentioned their intention to use a video camera prior to this discussion. They also discussed the possibility of their department having to take political heat over such a controversial tactic.

The park committee members unanimously voted to support the department's use of the video camera, to send a letter to the captain stating their support, and to even answer some of the negative complaints the department may receive.

Brady and Hall informed the park committee that even if they stopped the illegal activity in the park, it would likely return when they left if they did not do something to promote the legitimate use of the park and bring back those who had become afraid to use the park. The park committee agreed to promote the park through articles, picnics, and nature walks.

Brady and Hall contacted an openly gay police officer in the department in order to discuss their project with him. The officer told them about similar problems he had been working on in Balboa Park. He said some of the problem had decreased when a local gay and lesbian newspaper published the descriptions of people using the park for illegal sexual activity.

The officers contacted the SDPD liaison to the gay and lesbian community and attended a meeting of the Gay and Lesbian Coalition and explained the problems they were having in the park.

Again, without mentioning their plan to use the video camera, a member of the coalition mentioned that using a camera might be a good idea. Brady and Hall discussed their idea to use the video camera and again received full support for the idea. Members of the coalition also told them that they do not condone illegal sexual activity in the parks.

The posting of signs in the park was also mentioned by a coalition member as a possible solution, which had worked in a park in San Francisco. The possibility of having the gay newspapers use the same tactic they had used in addressing the problem in Balboa Park was also discussed.

The writer for the gay paper, who had done the Balboa Park articles, told informed Brady and Hall that he did not feel using the gay newspapers would have much of an effect. He said for the most part, people engaging in illegal sexual activity in the park do so because they are not “out of the closet” and want to remain anonymous. They do not accept the fact that they are homosexual or bisexual and do not read gay newspapers.

The possibility of posting articles in the park bulletin boards was discussed. That idea was later rejected by the park committee because they felt the bulletin boards would be vandalized because of the articles. It was further suggested, by a coalition member, that the officers could request the city attorney make treatment at a treatment center for compulsive sexual behavior part of the sentence for anyone arrested in the park.

RESPONSE

The goal was to address the problem in such a way that it would reduce all types of criminal activity in the park, as well as return the park to its legitimate users. The officers wanted to use a combination of traditional and nontraditional responses to the problems.

An obvious solution of trimming back the shrubbery to eliminate hiding places was unacceptable to the park committee because of the park's status as a natural preserve. The officers were told an undercover operation such as the last one would be impractical because of the lack of staffing and the complications resulting from exposure to poison oak.

The park is a public place where anyone can legally photograph or videotape anyone else. The officers felt most legitimate users of the park would probably not mind being video taped, and those entering the park to engage in illegal activities would either not engage in the illegal activity in the park or would go elsewhere.

The videotape would also serve as a record of people using the park and the types of activities the park was being used for. It could also serve as evidence

against individuals who had been arrested in the earlier undercover operation and had been ordered to stay out of the park as a part of their probation.

Armed with the support of the community, the officers began using the video camera in the park. (After all, they thought it was their idea.) A marked police car was parked at the entrance to the park. Uniformed officers openly videotaped everyone entering and leaving the park.

At first, the officers used the camera in the parking lot east of Regents Road. As activity in that lot decreased, the camera was moved to the other lots, where they found some of the people we had seen cruising the first lot. The schedule was varied so there was not have a predictable pattern of enforcement.

The officers sent letters to the publishers of *Bob Damron's Address Book* and *Steam* requesting they no longer list San Diego City Parks as “cruising spots” in their publications.

The officers designed signs for the park and had the signs evaluated by the SDPD legal advisor and the Marian Bear Natural Park Committee. The park committee voted to pay for the signs with their own funds. The signs were posted at the perimeter of the parking lots. The signs state:

LEWD CONDUCT LAWS STRICTLY ENFORCED
LEWD ACTS IN PUBLIC ARE A VIOLATION OF 647 (A) PC
ALL AREAS WITHIN THIS PARK ARE PUBLIC PLACES
VIOLATORS WILL BE ARRESTED

One of the considerations the officers had to take into account when designing the signs was that they had to be explicit enough for those we wanted to reach while not being too shocking to the legitimate users of the park, especially the children.

The officers obtained an agreement with the City Attorney to make geographical probation a condition of all future arrests in the park.

FIRST ASSESSMENT

Brady and Hall periodically returned to the park in plain clothes to assess our impact on the park problems. Even with limited use of the video

camera, there was a dramatic decrease in the amount of obvious cruising in the park. They did, however, observe a few die-hard cruisers who drove from lot to lot, but they did not appear to be finding what they were looking for.

Records checks of license plates on the videos provided the officers with some interesting and useful information. By checking vehicle ownership, they found that three of the persons seen in the park had previously been arrested there for lewd acts in public. Only one of those persons had geographical probation as a stipulation of his probation. The officers contacted his probation officer to have his probation revoked.

When Brady and Hall first started doing records checks on the license plates from the park, they found the majority of the people using the park did not live anywhere near the park. Many were from other cities. The records checks conducted later in the project reflected a higher percentage of people visiting the park from local areas such as Clairemont.

The videotapes also showed an increase in the percentage of women and children using the park as our project proceeded. They often waved at the camera and informed the officers of how happy they were to see them there.

When the officers first started using the video camera in the park, Brady and Hall anticipated being shut down by complaints of "big brother" by some members of the public. They only had two inquiries about the use of the video camera in the park, one from a former FBI agent who recently gained national attention by bringing suit against the FBI for firing him because of his homosexuality.

The other inquiry came from a man who claimed to be a retired chief of police. The officers discovered the man soliciting a lewd act from another man in the park. Their supervisors backed Brady and Hall one hundred percent.

Their use of the video was the subject of radio talk shows and articles in newspapers. No great public outcry to stop the video taping materialized, but its controversial nature helped to advertise the attempts

to stop crime in the park, making the efforts seem even larger than they actually were.

Along with a reduction in the illegal sexual activity, the officers also noticed a reduction in the amount of all types of criminal activity in the park.

The officers received a positive reply to our letter to the publishers of *Bob Damron's Address Book*. *Damron's* sent us a new copy of their annual publication. The references to Marian Bear Park and all other San Diego city parks had been deleted in the new issue. *Damron's* also sent us a letter thanking us for informing them of problems in the park. The publishers of *Steam* responded negatively to our letter.

The officers informed the Gay and Lesbian Coalition of *Steam's* refusal to stop referring people to city parks for illegal purposes. Their reaction was to request local businesses to stop advertising in *Steam* magazine.

The officers also continued to attend meetings of the Marian Bear Natural Park Committee, the Gay and Lesbian Coalition, and the University City Town Council to give them updates on enforcement and to seek input from them on possible long-term solutions to the problems in the park.

The use of video, posting of signs, and letters sent to the gay publications reduced the illegal sexual activity in the park by about eighty percent.

SECOND RESPONSE

To impact the remaining twenty percent, Brady and Hall initiated an undercover operation in the park. The difference between the current operation and previous ones was where they affected the arrests.

The officers did not attempt to arrest suspects near the poison oak. They simply observed the illegal activity in the secluded areas, then went back to the parking lot and arrested them when they returned to their cars. If they chose to flee, the police officers would have their license plate numbers.

SECOND ASSESSMENT

The undercover operation was successful in significantly reducing the remaining illegal sexual activity, with no injury or exposure to poison oak for officers. All of those arrested pled guilty at arraignment.

Unfortunately, the undercover operation was labor intensive, taking time away from the numerous other POP projects the officers had started since the beginning of this project. They wanted to utilize the victims to impact the problems in the park. Members of the Marian Bear Natural Park Committee wanted to be involved, but they were fearful of confrontations with suspects.

THIRD RESPONSE

While attending the International Problem-Oriented Policing Conference, Brady and Hall learned of a program used by the Los Angeles Police Department. It is called Citizens Against Rock Sales (CARS). Neighborhood Watch members were trained to recognize and watch drug houses.

They would record the license numbers of vehicles seen frequenting the drug houses. The license numbers were turned over to police, who determined the vehicle's owners by computer. The vehicle owners were sent a letter by the chief of police informing them their vehicle was seen frequenting a drug house. Vehicle owners who were using their vehicles to buy drugs got the message, "You are being watched!" Vehicle owners who were unknowingly loaning their vehicles out to drug users realized the borrowers were using their vehicles for illegal purposes.

The officers adapted the CARS concept to meet the needs of their project. They contacted several agencies throughout the United States to obtain information on citizen assisted mailing programs. They received replies from several agencies using similar programs to fight littering, excessive vehicle exhaust, illegal use of high occupancy vehicle lanes, unregistered vehicles, and drug sales.

After obtaining approval from our department and the citizens groups we had been working with, we put together a training program, enforcement guide, and reporting forms for members of the Marian Bear Natural Park Committee. We called the program CAMP (Citizen's Assisted Mailing Program).

THIRD ASSESSMENT

The effectiveness of the CAMP program was swift and positive. It also required very little time. The few negative comments received were mostly anonymous expletives left on our voice mail by obviously upset former illegitimate users of the park. The most vocal complaint we received during this project was from a woman who objected to being reported for collecting wildlife with her children in the park.

There has not been a single complaint of observed illegal sexual activity in the park since the inception of the project.

CONCLUSION

The original goal was to decrease crime in the park and return it to the legitimate users. But success is sometimes difficult to measure in non-traditional law enforcement. While attending a seminar on the subject of evaluating the success of POP projects at the International Problem-Oriented Policing Conference, the speaker provided an example of an officer who used the increase in the number of baby carriages in his project park to measure the success of his project.

One of the first things Hall and Brady observed when they originally assessed activity in the park was the absence of women and children. Accordingly, they chose to use the increased percentage of women and children using the park as one measure of the project's success. At the conclusion of the project, the officers observed a dramatic increase in the numbers of women, children, families, and youth groups using the park.