



MIKE FEUER
CITY ATTORNEY

REPORT NO. R 13 - 0209
JUL 26 2013

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTION 19.123 OF THE LOS ANGELES
ADMINISTRATIVE CODE TO AUTHORIZE REWARD OFFERS FOR INFORMATION
LEADING TO THE IDENTIFICATION AND APPREHENSION OF INDIVIDUALS WHO
MAKE FALSE 911 "SWATTING" CALLS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 13-0430

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance would amend Section 19.123 of the Los Angeles Administrative Code (LAAC) to provide for reward offers for information leading to the arrest and conviction of individuals who make false 911 "swatting" calls.

Background and Summary of Ordinance Provision

The City Attorney's Office was requested to prepare an ordinance that would allow the City to offer rewards for information leading to the arrest and conviction of individuals who make false 911 "swatting" calls and require the perpetrators of false 911 "swatting" incidents to pay full restitution to the Los Angeles Police Department (LAPD) for all costs incurred responding to these "false alarm" incidents. Your Honorable Body further requested that the restitution include rewards paid by the City of Los Angeles for

information leading to the arrest and conviction of perpetrators of false 911 "swatting" calls.

1. Offering of Rewards for False 911 "Swatting" Calls

Government Code Section 53069.5 and LAAC Sections 19.121 and 19.123 authorize the offering of a reward for information leading to the identification and apprehension of persons whose willful misconduct has resulted in injury or death to persons, or who have willfully damaged or destroyed any property. The LAAC reward provisions already provide the proper authority necessary to offer a reward for a false 911 "swatting" call because such willful misconduct results in economic injuries that are incurred by the local agency for the unnecessary emergency response. The draft ordinance would add Subpart C of Subdivision (5) of Subsection (b) of Section 19.123 to specifically provide that the City Council may offer a reward for information leading to the identification and apprehension of persons who make a false 911 "swatting" call or report as described in California Penal Code Sections 148.3 and 653x.

2. Recovery for Expenses Incurred by the Los Angeles Police Department in Responding to False 911 "Swatting" Calls

State law makes it a crime to: (1) report a false emergency (Penal Code § 148.3); and (2) use a 911 emergency line with intent to annoy or harass (Penal Code § 653x). Penal Code Section 148.3 makes it a misdemeanor to knowingly report a false emergency, but makes it a felony if the offense results in great bodily injury or death. Penal Code Section 653x makes it a misdemeanor to telephone the 911 emergency line with the intent to annoy or harass another person. The statute further states that the intent to annoy or harass is established by proof of repeated calls over a period of time, however short, that are unreasonable under the circumstances.

Government Code Section 53153.5(a) provides that "[a]ny person 18 years of age or older who is convicted of making a false police report, in violation of Section 148.3 of the Penal Code, and that false police report proximately causes an appropriate emergency response by a public agency, is liable for the expense of the emergency response made by the responding public agency to the incident." Additionally, Penal Code Section 653x(c) states that: "[u]pon conviction of a violation of this section, a person also shall be liable for all reasonable costs incurred by any unnecessary emergency response."

Consequently, existing State law already allows public agencies the ability to seek cost recovery for expenses incurred in responding to "swatting" calls when the perpetrator of the crime is convicted of Penal Code Sections 148.3 or 653x.

3. Recovery of Rewards Paid by the City of Los Angeles for Information Leading to the Identification and Apprehension of Perpetrators of False 911 "Swatting" Calls

Any reward paid by the City of Los Angeles for the information leading to the identification and apprehension of perpetrators of false 911 "swatting" calls would not be recoverable as an "expense for the emergency response made by the responding public agency to the incident," nor would such a reward be a reasonable cost "incurred by any unnecessary *emergency response*" as required by Government Code Sections 53153.5 and Penal Code Section 653x. (Italics added.)

Reward offers are made after a specific crime has occurred as an added inducement or incentive for persons to come forward with information that may assist law enforcement agencies in the identification and apprehension of such suspects. Therefore, reward offers are independent and separate expenses that would not be considered an emergency response cost that a public agency incurs as a result of a false 911 call, and are not recoverable absent an amendment to State law.

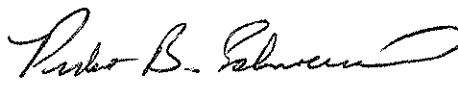
Council Rule 38

Pursuant to Council Rule 38, we sent a copy of this draft ordinance to the Los Angeles Police Commission and the Los Angeles Police Department and requested that any comments be presented directly to the City Council or its Committees when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Brian L. Sottile at (213) 978-8384. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:BS:pg
Transmittal

ORDINANCE NO. _____

An ordinance amending Section 19.123 of Article 1 of Chapter 12 of Division 19 the Los Angeles Administrative Code to provide for reward offers for information leading to the identification and apprehension of individuals who make false 911 "swatting" calls.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section. 1. Paragraph C of Subdivision 5 of Subsection (b) of Section 19.123 of the Los Angeles Administrative Code is added to read as follows:

C. A violation of either California Penal Code Section 148.3 or 653x by making a false 911 "swatting" call or report. For purposes of this section, the term "swatting" is a malicious prank that causes a law enforcement emergency response to a location where no crime is occurring.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By Brian L. Sottile (PBE)
BRIAN L. SOTTILE
Deputy City Attorney

Date July 26, 2013

File No. 13-0430