

The Protection Ranger



The Newsletter of the U.S. Park Rangers Lodge, Fraternal Order of Police Vol. VIII • No. 2 & 3 • 1997

President's Report

by Tim Woosley

FLRA Hearings

The hearings to determine the status of our proposed bargaining unit, the US Ranger Alliance, began March 4th and lasted one week. The first half of the hearings consisted of testimony by witnesses brought in by the NPS. Among the witness were members of Ranger Activities, several superintendents and personnelists from locations across the country.

The testimony of the superintendents and Ranger Activities members was in rebuttal to our claim that commissioned Rangers comprise a separate and distinct 'community of interest' from other NPS employees. By this we mean that we are the only occupation having, as a primary duty, law enforcement and investigative work. Because of these primary duties there comes with it specific work related hazards, equipment needs, personnel regulations, and national policies and guidelines unique to our profession.

The superintendents and members of Ranger Activities argued that law

enforcement rangers are just like everyone else in the park and that everyone else has the same type of concerns and needs that we do. The personnelists and labor/management specialist argued that a nationwide bargaining unit would not promote the efficiency of, or promote effective dealings with the Agency (NPS). They argued that the ultimate power lies with the individual superintendents and that Ranger Activities personnel really have no control over how law enforcement was to be conducted park by park. In addition, they felt that because of the decentralization that has been occurring in the Park Service, as well as Government wide, that they really didn't have anyone at the Washington level to deal with a national bargaining unit.

I am optimistic about our chances for gaining recognition for the USRA. Our attorneys agree.

The second week of testimony did not begin until April 14th. The Lodge brought in, or called on the telephone, our witnesses. Our testimony was centered around two areas. One is the overall question of whether commissioned employees have a separate and distinct community of interest and whether a nation-wide bargaining unit would promote effective dealings with, and efficiency of operations, of the Agency.

The second area is whether or not circumstances exist to "carve out" commissioned Rangers where unions already exist: Delaware Water Gap, Gettysburg, New River Gorge, Valley

Forge, Olympic, Natchez Trace, Cuyahoga Valley, Mammoth Cave, and Great Smokies. As you will recall we were able to petition to include these parks because their individual contracts expired last year and we were able to gather a 30% show of interest from each park within the window period. Witnesses from each of these parks had to testify that they went to the union currently at the park and, for whatever reason, were told that the union couldn't, or wouldn't, help them with a problem they had.

All of our witnesses did an excellent job of accurately describing just what it is that rangers do that is separate and distinct from everyone else in the park. In addition, we introduced somewhere in the neighborhood of 20-25 exhibits as proof of our claims.

On Friday the 18th we ran into a bit of a snag. One of the other union involved in the hearings filed an unfair labor practice against the NPS which served to block any further testimony. This was unfortunate since we only had two more witnesses to call and our part would have been done. I cannot go into the details of the charge but suffice to say it does not involve the USRA directly and has only postponed the hearings. An investigation into the charge has already begun and we are hopeful that it will be resolved within the next 60 days. In the meantime, we will be planning the testimony of the last two witnesses, one of them being me, and organizing the last of the exhibits that we will be entering.

I am very pleased and optimistic about our chances for gaining recognition for the USRA. Our attorneys agree. Mr. John Mahoney who is lead counsel for the

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hearings is doing an excellent job of making sure that we are getting the appropriate information into the record and protecting our witnesses while they are on the stand. The entire firm of Passman and Kaplan have been most accommodating in allowing us to do as much of the work as we can in order to hold down costs. Believe me it has been a great learning experience for me. I firmly believe that we could not have picked a better team to assist us in this most important endeavor.

Again, we must ask you to dig deep into your pockets to assist us in defraying the costs of the hearings. Please indicate on your check or in your letter that the money is to be used for organizing purposes for the USRA. If you are a supervisor you CANNOT send in any donations for this purpose. As a member of management you are forbidden from promoting a labor union. Please help us out as much as you can. For those of you with computers, we are continuing to put updates on our organizing efforts on the web page. Feel free to call me or drop me a line at twosley@shentel.net if you want more details on the hearings. We will also accept show of interest cards from anyone who hasn't yet sent one in. Call the 800 number for a card or e-mail me at the above address.

FLSA

It appears that because of a case won by ranger Jeff Ohlfs of Joshua Tree as well as initial groundwork by your Lodge, that all GS-9 Rangers will be placed back where they belong--in a FLSA non-exempt status. Jeff took it upon himself to state his case before OPM and won. OPM then directed the NPS to place everyone who is in a similar position in the same classification. OPM ordered the NPS to submit a plan for doing this within 14 days of the final decision. Please contact the Lodge if this has not happened in your park. Everyone should thank Jeff for his efforts in this area. It will benefit all rangers. We will be keeping you informed of the status of this change and publish guidelines on applying for back pay. Stay tuned.

Seasonals

After a brief hiring freeze, the Department is now moving forward with hiring seasonals. Again this year the outlook doesn't look good. Most parks will be hiring seasonals at the same, or lower numbers, than last year. We have been getting word though that many parks have been hiring seasonals at the GS-7 level. Shenandoah and Redwood are two. It is perfectly acceptable for a park personnelist with the proper experience to take the benchmark seasonal position description which has been developed by WASO-RAD and classify it for use in a park. We see this as a big step towards gaining equal pay for equal work for seasonals. Unfortunately, right now this is only being done on a park by park basis. But it can be done!

Please encourage all seasonals in your park to join the Lodge. We will continue to promote your concerns. Remind them that they will all be included in the USRA. Many of the existing bargaining units exclude seasonals and terms. Seasonals need just as much protection as everyone else. In fact, new seasonals are oftentimes more abused by management and may not even know it because of a lack of knowledge of the system. Protect yourself, **join the Lodge!**

*Take the time to call for
backup, don't rush into a
hazardous situation.*

Legal Defense

As Sandra Knight's article in this issue makes clear, every commissioned member of the NPS needs to have legal defense insurance. I cannot stress this enough. The FOP legal defense plan affords you representation in all criminal, civil, and administrative actions taken against you. The annual price is a drop in the bucket compared to what you would have to pay a lawyer to defend you. In fact the \$150 annual fee would pay for about a half an hour worth of time with a good attorney. Contact the Lodge to receive a brochure that describes the benefits of the plan. I know of rangers who have used it and it

works. You can use the 1199 form to have the premium automatically deducted from your paycheck. If you are already taking advantage of the payroll deduction for Lodge dues you need only to resubmit another 1199 form and the amount for both will be deducted at once. There is no need to have two separate amounts deducted.

National Police Memorial Week

I will be in Washington D.C. the week of May 12th for Police Memorial Week. Ranger Michael Beaulieu who was tragically killed at Bryce Canyon in an MVA last year will be honored at this year's ceremony. Michael's name will be added to the wall in DC that memorializes all law enforcement officers killed in the line of duty. Even though Michael was not a member of the Lodge, we assisted the Chief of Bryce and the organization known as Concerns of Police Survivors to ensure that Michael was honored for making the supreme sacrifice. On Monday the 12th take a brief moment to remember Michael and the sacrifice he made in protecting our National Heritage.

As we begin a new season let's all ensure that we are conducting ourselves in a safe and professional manner at all times. Take the time to call for backup, don't rush into a hazardous situation just because your supervisor tells you to. The NPS has been severely criticized for its dismal safety record. From our beginnings as a Lodge, we have always supported and aggressively pursued all efforts to ensure that rangers have proper safety equipment including vests and police package vehicles.

We support all efforts in which supervisors and managers are trained to understand the risks involved with law enforcement so that they can make informed decisions in emergencies. We will continue to hold managers responsible for their unwillingness to purchase safety equipment for commissioned rangers, including police package vehicles, and will fight for rangers who are forced to watch while maintenance and Administration vehicles are replaced ahead of patrol cars. This practice is in direct violation of DM-446.

We will rely on you to bring these instances to the attention of the Lodge so that we can take appropriate action. Let's all have a safe year. Remember: Your Lodge is here for you.

Experience? Who Cares!

by Jeff Field

Sound familiar? In my 6 seasons as a seasonal LE Ranger, I've been in pursuit of that ever elusive "permanent ranger position." Like many others, I've submitted SF-171's, OF-612's, and a myriad of other forms trying to get status. I've searched the AVADS, OPM Announcements, OPM bulletin boards and everything else I could think of. "Finally, a chance at status," or so I thought when the staff at Apostle Islands National Lakeshore opened a vacant permanent position to open competition through OPM.

Who better qualified than someone with 6 seasons of experience doing the same work as that described in the announcement? So I submitted my OF-612, and Form C, which listed my answers to 160 vague questions that had little to do with a job as a ranger. Surely my OF-612 outweighs those irrelevant questions! On the contrary. A couple of weeks after submitting my forms, I received a letter from OPM stating: "Although qualified, you did not rate high enough for this position." Also, "The rating you received is based on specific job requirements of the position for which you applied."

What!? How could someone with the equivalent of over 3 years of experience not "rate high enough!?" After all, I've trained at least one new permanent ranger and many other seasonals in various aspects of the job. How could I not even be in the running? In fact, 2 other seasonals (each with 3 summers of experience at APIS) also did not make the list. I spoke with management and several permanent rangers, and no one could tell me how OPM "rates" the applications.

I called OPM. It seems that experience has little to do with the rating. If you have a 4 year degree, or 52 weeks of experience as

a ranger at the GS-4 level, then you are "qualified." If qualified, then your "rating" is based on those 160 questions. Although a few questions could apply to a ranger position, irrelevant questions include: "Have you made decisions that turned an unprofitable business into a profit-making operation?" and "Have you written a play, script, or novel that was sold, published, or produced?" Wait, I thought I applied for a RANGER job!

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OPM said the questions measure one's potential for learning "A" job. "What job?" I asked. Just any job in general was the reply. One must wonder, how can OPM effectively rate an individual in a law enforcement/search and rescue position based on ambiguous and irrelevant questions? Not once have I had a skipper of a vessel in distress or a bleeding patient ask, before I began the rescue, "Excuse me, but have you ever written a play?" I would think the Park Service would want an individual with credentials based on EXPERIENCE, rather than potentiality.

This is not just an OPM issue, it is a National Park Service problem. All too often experienced and excellent rangers are being passed over when applying for permanent positions. I always hear, "Well, that's just the way the system is." Maybe, but that doesn't mean the system is right! Seasonals are abused and deserve fair treatment in the hiring process.

Consider this:

◆ There is a greater expectation of seasonal ranger positions than is typical of other temporary government jobs. Bringing back a person year after year or in the same position misuses the temporary hiring authority. We do the work of permanent rangers; we should get rewarded for it. We accept it for a time, but the years add up. Where does it get your career?

◆ Economics/efficiency: The government would save a considerable amount of money by putting seasonals in permanent positions rather than hiring inexperienced and untrained individuals. Seasonals can begin work immediately, rather than having to go through a training period.

◆ Visitor Safety: Again, relates to training/experience. A brand new permanent employee that has no experience won't usually be effective until the next season. Visitor safety could suffer as a result. Hire a trained seasonal and that would not be a concern.

It bothers me that I've worked for the NPS for 6 seasons, was almost killed and suffered traumatic injuries (boating accident) while on duty last summer, and yet I can't get a job with the NPS.

There has to be a change!

CALL TO ACTION! What to do? Be heard. Don't accept the "system." Write your Senators and Congressmen; let the Lodge know your concerns. Support a bargaining unit. I am writing members of Congress, and I hope you do the same. Let's encourage the Lodge executive committee to take a stronger stand on seasonal hiring issues!

Anyone have more ideas? I would like to hear them and any similar experiences such as mine since I'm sure there are plenty! We can't make a difference if we don't make an effort.

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Editor's Note: your kindly editor (28 years as a seasonal) couldn't agree more. Come on all you permanent managers out there, what have you done for the care & feeding of seasonals lately? A number of seasonals here at Lodge Central worked pretty hard to make 6(c) and Ranger Careers a reality. It's time to help out those still below decks!

Can You Afford an Attorney Right Now?

by Sandra Knight

I am still relatively new to the National Park Service so you may bestow whatever credibility to my opinions that you see fit. However, bear in mind that my callowness may give me an objectivity free from years of conditioned acceptance of substandard treatment some rangers seem so reluctant to part with. You can almost hear them saying, "Don't rock the boat, after all, it's in a nice harbor with a great view of the sunset."

It is true that we hold careers in an enviable occupation where many would line up to aspire to be park rangers; however, such fortune on our part should have never been used to devalue our professionalism, dedication, and service to the mission of the National Park Service. If not for the "boat rockers," all of us would enjoy far less benefit in the form of pay and protection for services rendered. Likewise, these "rebels" wisely considered that since we live in a society where careers and money can be lost on the liability battlefields of the civil courts, we should have protection.

The FOP Legal Defense Plan offers such protection by giving its members full access to legal representation in civil, criminal and administrative matters. I have a story to tell in which I benefitted from signing up for the Legal Defense Plan. A benefit for which I will be forever grateful to all the "rebels" who came before me, and especially those who helped make the Legal Defense Plan available to all of us.

On the morning of May 1, 1996, while attending the Federal Law Enforcement Training Center for land management law enforcement training, I was handed what was intended to be a one-way ticket out of the National Park Service. It came in the form of a letter ordering me to return immediately to my park to address "issues" outlined in my OPM background

report. With only 6 class days to graduation, I was stunned and found myself on the other side of FLETC's gates by 12:30 p.m. that day. The only hope I could cling to was the letter's promise of a chance to address the "issues," even though I had no idea what the "issues" were. When I arrived at my park, my hope was shattered by the declaration that I would soon be terminated and would have a matter of weeks to vacate my government residence. And "no" they were not at liberty to discuss the "issues."

I have a story to tell in which I benefitted from the Legal Defense Plan.

In a matter of days my life had careened off its charted course into an abyss that saw very little light for nine months. Returning to face the whispers and questioning eyes of my peers was the least of my worries. Management had clearly "written me off," and I desperately needed help, but had no idea where to find it. Nearly a week after my return, I received a phone call from the president of the First Federal Lodge in which he offered the support of the union. I wasn't even aware that I was covered under a union contract nor did I know what that might mean to me in my present situation or in the months to come.

As it would turn out, it would mean everything.

It was through the Lodge that we obtained the specifics of the "issues" and began the necessary steps of the grievance process. And it was through the Lodge that I would come to join the Legal Defense Plan when it was suggested that I do so immediately. Still in my dumbfounded state of mind I didn't understand it then, but the Legal Defense Plan would mean the difference between the loss of my career and reputation and the complete reversal of any such misfortune.

As the days stretched into weeks, the park proceeded with a termination proposal based on the denial of my law enforcement commission. With little choice but to fight the battle I had been catapulted into, I

retained legal counsel and we began working on our case. Suffice it to say, after fighting for and being granted proper forum in the form of an investigative interview, we were finally permitted to present evidence and testimony. Thus, I believe the evidence and testimony presented caused the "issues" to evaporate. The conclusions jumped to by those who would allow themselves to be prejudiced by the discovery of non-merit, and false(!), information contained in my background report were shown to have no merit. In the end, I received a favorable adjudication of my suitability to continue in a law enforcement position with the National Park Service.

What was the cost? Besides the unwavering dedication of an attorney, a union representative, supportive Lodge members, an EO counselor, many sleepless nights, and my own dogged determination, it cost MONEY. Money that I did not have. Because of the Legal Defense Plan, I was able to concentrate on saving my career and reputation instead of how I was going to pay the attorney's fees, which have amounted to thousands of dollars.

Right now, there are many rangers throughout the National Park Service who are in clear need of the Legal Defense Plan but they do not have it. This has been the puzzle of many working to protect the rights of our brothers and sisters. Is it because rangers have a deep, abiding and idealistic trust for our agency that we believe our managers will do the right thing without persuasion--when on many such occasions we can point to the contrary? Is it simply because there is a general lack of awareness about the availability of the Legal Defense Plan? Is there a prevailing attitude of "that'll never happen to me"?

Why would a law enforcement ranger risk life and limb everyday to protect the ideals of the National Park Service and the visitors to our National Parks, yet invest nothing in protecting himself or his family from ruin by leaving the possibilities to chance? It's nearly a proven fact that most rangers are

inherently optimistic and idealistic, almost to a fault. I am surely no different, but for my recent experience I am the wiser. I am inclined to believe that positive change is sometimes preceded by pain. I would offer the pain of my experience so that we might all make a positive change and move forward together, but with wisdom and peace of mind.

Hearing Conservation Program

by Randall Kendrick
Lodge Secretary

Permanent hearing loss is a possibility for each ranger each day spent on the job. The use of firearms is perhaps the biggest threat to our hearing but chainsaws, sirens, and fire pumper also exceed the level of noise which can cause permanent damage to our hearing.

A very early effort of the Lodge was to get hearing tests for LE Rangers. The National Park Service was required to promulgate a policy to prevent hearing loss in members of its work force and they have done so issuing regulations to be followed. Workers who specifically use firearms, chain saws, and loud fire fighting apparatus like pumper are in the mandatory Hearing Conservation Program. The question is: Have you been made aware of the program? Is the park doing its share? And, are you holding up your end of the bargain?

According to NPS-50, within six months after a ranger receives his/her first permanent assignment, an audiometric evaluation, administered by a professional is required. These tests are inexpensive--\$25 or so--and can be done in most hospitals and many doctor's offices. This will establish the baseline hearing for the employee. The employee will be given hearing protection to be used when working around loud noises and will be trained in the use of these protectors. It is the responsibility of the employee to use these devices in the proper manner. A short annual training session is required. In addition, the park, or work unit,

hearing conservation officer is supposed to conduct a noise survey of each employee's workplace every two years and/or when the noise level of the workplace changes due to introduction of new equipment and procedures.

The Occupational Safety and Health Administration apparently does not do inspections of the federal workplaces but OSHA regulations are used in the federal sector. OSHA can grant exceptions and waivers for special conditions encountered where we work as long as the new regulations do not increase the likelihood of hearing loss. NPS safety officers, and others who have received training, do the inspections, not OSHA officials.

Does your park test your hearing as they are supposed to do? Do you use the hearing protection when at the range? when dispatching injured wildlife? when cutting fallen trees out of the road? Does your park survey your work site with the proper equipment to measure the amount of noise you are subjected to? Do you inform your supervisor when you are routinely exposed to louder noise like through the acquisition of a more powerful siren or bigger pumper?

There is responsibility for the agency, the supervisor and the employee in this field. If you have not received a park-paid hearing test and you work around noise, particularly firearms, chainsaws and pumper, you need to insist on one. Your workplace needs to be screened by a trained person with the proper equipment also.

If your park is not doing these things, which as we read NPS-50 they are required to do, perhaps you or your FOP chapter can not only insist they be done but also volunteer to help set up the program and carry it out. It would seem to be a better course of action to help with this program than to complain that it's not being done for you.

As per usual, the Lodge would like to have a member volunteer to be the contact person for this program. If one of the Lodge members could become familiar with the rules and regulations governing

the Hearing Conservation Program s/he could be of great service to the members. Hearing loss is both permanent and preventable and the FOP would like to be a positive force in protecting ranger's hearing.

The "Final" Resource Protection Ranger

by Bob Martin, President, NPPRRPF

This will be the final contribution for The Resource Protection Ranger I will submit. It's been fun preparing articles about the National Park Ranger Resource Protection Fund and writing about resource protection issues over the last few years. I want to thank the FOP Ranger Lodge for their support in providing me space to blow off steam, preach to the choir and sometimes state the obvious. I'd like to particularly thank George Durkee for his encouragement and support, as well as Randall Kendrick and Tim Woosley.

With my new 10-month old son and a cute little lady who is now 8, I guess it's time to focus my energies and priorities onto the personal side of life. Maybe some other fired-up resource protection type will take over and crank out a few articles periodically.

NPPRRPF Update

At present the Ranger Resource Protection Fund exists only on paper. Should the U.S. Rangers Alliance succeed in their bid to become a collective bargaining unit for NPS Rangers, Tim Woosley and I have agreed that the Fund will become part of that organization. I'm confident the Fund will do well with the Alliance and will accomplish all the things I had hoped to pull off when I created the concept. In a way the Fund will be returning to it's origins and will be run by FOP Rangers.

Colorado Hosts NAWEOA Conference and Wildlife Investigators Training Seminar

The North American Wildlife Enforcement Officers Association's Annual Conference will be held in Colorado Springs this year, July 16 - 20.

Having attended two of these conferences, they are loaded with all sorts of timely educational topics for the serious resource protector, ranging from new techniques in resources enforcement to major resource criminal case reviews. This year's conference is sponsored by the Colorado Division of Wildlife Law Enforcement who are celebrating their 100th year of service.

Maybe some other fired-up resource protection type will take over and crank out a few articles periodically.

In addition to seminars, speeches and talks from a myriad of distinguished guests there are warden skills games, a banquet, and special activities including a golf tournament, tennis tourney, clay pigeon shoots, a raft trip on the Arkansas River, Tours of Pikes Peak and the Air Force Academy, baby sitting and loads of stuff for the family to do in the area.

Hanging out with over 400 game wardens, fisheries and boating officers and park wardens from all over North America is unlike anything you have ever experienced! Full registration is \$90 thorough June 1. Side trips and events are extra. Contact Lisa Martinez at 303-291-7223 for complete registration information.

The week prior to the NAWEOA Conference the Midwest, Southeast and Western Fish and Game LE Officers Associations will sponsor a four-day Wildlife Investigator's Training Seminar. Registration is \$75 and there will be a wildgame BBQ on Sunday night. Call Dave Croonquist, Assistant LE Chief at 303-291-7216 for more information on the seminar. Tell 'em Ranger Bob Martin said "Hi!"

Hopefully if all goes well I'll see some of you at the WLE Seminar and the NAWEOA Conference. Try talking your boss into letting you attend the WLE Seminar to meet your LE Refresher requirement, then ask for annual leave or administrative time to attend NAWEOA

Conference that follows. Knowing some of the Colorado Wardens, a great time is assured!!!

Well that's it from the North Coast of California. It's been a pleasure!

Editors Note: The Lodge would like to extend a special thanks to Bob Martin for his truly heroic efforts with the Resource Protection Fund and his frequent contributions to The Protection Ranger over the years. We hope someone out there will leap in to fill the huge gap left by Bob's "retirement" from these pages. Anyone interested in contributing resource related articles to the newsletter, please contact any Board Member or the editor.

Lodge Employee Assistance Committee

The Lodge has a committee in place to assist members in need.

What we can do for our members:

- ◆ Evaluate your problem and help you get the best information to solve it.
- ◆ Put you in touch with Lodge members who have faced similar situations.
- ◆ Provide you the fruits of our law firm's legal research .
- ◆ Pay for an hour of free consultation with Passman & Kaplan if your problem has not already been researched before.
- ◆ Provide a sympathetic ear for your problem and assure you that you will not have to face your situation alone.

We Cannot:

- ◆ Represent you: By law, your work unit has to have a negotiated contract in place for us - or anyone - to represent you.
- ◆ Provide a lawyer for you: the Lodge cannot afford to hire a lawyer for you.

What we can do is to answer your, and your lawyer's, pressing questions about procedures, etc. but you have to supply your own counsel.

It is interesting to note that Passman and Kaplan do NOT recommend that you hire a lawyer until it has been determined what the NPS is going to do to you. However, several of our members who *have* hired lawyers at the outset are pleased that they did so.

The Lodge has this committee in place so that each member is treated equally with all other members. We have opinions and results from other cases and from Findings of Law that we have paid to be

The Lodge wants to help you defend yourself and provide you with the most accurate information available.

researched for us. Perhaps your case has already been dealt with in another park and we can let you know right away what to expect or what the rules governing the situation are. You have a right to be treated the same in your park as another ranger is treated in a park across the country.

The Lodge wants to help you defend yourself and we will work with you to provide you with the most accurate information available. The Grand Lodge of the FOP has developed a good insurance plan to help an officer cope with an action against him or her; you may want to consider purchasing it. Sandra Knight's article shows the importance of signing up for that plan.



Discrimination In the Workplace? Lodge Board

During the nine years the Ranger Lodge has been in existence, we have worked hard to help members in need. Our Lodge has worked to provide our members with the best available information, from our attorneys and from the membership, so that the member can make an informed decision to assist his or her case. We have provided assistance to Lodge members who have gone through similar experiences both in order to help the member in need and to help the member realize that she or he is not alone.

Assistance has to gone members in adverse actions, background investigation irregularities and victims of discrimination and harassment, among other problems. The Lodge has always aggressively acted to eliminate discrimination from the ranger workplace.

In light of this, we have come to believe that the main area with a pronounced pattern of discrimination is in the field of promotions and transfers when a white male is an applicant. We have seen, and have been presented with credible evidence, that white males with superior training, experience and education are being passed over so that management can hire lesser qualified minorities.

This FOP Lodge, with an excellent record of fighting and resisting discrimination and harassment, recognizes that the National Park Service must hire and promote the best qualified applicants for ranger and ranger supervisor jobs. The NPS should not settle for less than this; and, by law, cannot circumvent Merit System protections and procedures.

It has been reliably reported that a regional manager at a recent meeting of SE managers--and in a public address to these officials--called upon this group to go outside of the merit systems promotion procedures to hire and promote minorities

even if they were less qualified than competing applicants. He said that hiring outside of merit system procedures had occurred in the past and now it was time to do so to hire minorities.

If this is true, and we know it to be true, we call upon the manager to publicly retract this message and apologize for it. We also call upon him to publicly affirm his support for merit system procedures and safeguards and to proclaim the Southeast Region's support for them. We also call upon him to pledge that all ranger vacancies and promotions be filled strictly through the Merit System.

The National Park system, faced with profit-driven poaching rings, trophy hunting within parks, international plant smuggling operations, and other threats to our national treasures, needs to be extra vigilant so that the best qualified candidates are selected for vacancies, transfers, and promotions. Make no mistake: the Lodge strongly supports the recruitment, training, and promotion of QUALIFIED minority persons, but the exploitation of temporary workers and the circumvention of the intent of the Hudson Law must stop.

"Seasonal" rangers must be given credit for their selfless service to the NPS so that they can compete for vacancies and term employees must be converted to career ranger jobs. The best qualified for each job; doesn't the United States deserve this? We feel the citizens deserve and expect this. Our members deserve this, and we will insist upon it.

Secretary's Report by Randall Kendrick

Leave Sharing Request

Brother Terry Morris wishes to thank all those who so generously donated leave to his wife Karen during her illness. "You never know how many friends you have until there is an emergency."

Annual leave can still be donated in the name of Karen Morris, Blue Ridge

Parkway. Leave is still needed and anything you can share will be greatly appreciated. Your personnel office can provide you with the needed form to donate to Brother Morris and his family. Thanks again.

NPS-57

It has been reliably reported that all rangers who were on the job July 14, 1994, when Ranger Careers promotions went into effect will be "grandfathered" or "grandmothered" into the proposed medical and fitness standards. This make sense and the Lodge supports it.

I cannot help but note that the outcry from many in the ranger force--veterans of protecting the nation's most valuable and cherished resources, with their voice amplified and given national distribution by the FOP Ranger Lodge--had their concerns addressed and accepted. Was this a victory? Was WASO going to do this anyway (even though it was said they could not due to "law")? Frankly we don't know and don't care. It is part of the negotiation process and part of rangers coming together to speak with one voice that can "solve" a problem before it officially becomes a problem.

The important point is to stick together: One concern of one ranger is a concern of all rangers and that we resolve to work together to solve problems of mutual professional concern throughout the Ranger Lodge. Remember, the more members the Lodge has, the greater our clout. **Won't you promise yourself to recruit one new member to the Lodge this month? You will be helping yourself, the new member and the ranger profession.**

Background Checks

Joe Kaplan says that if you are given an affidavit to fill out asking whether you've been convicted of domestic violence, you are advised to answer it fully and truthfully and return it on time. There is no privacy concern because a court conviction is public record. If you don't answer the question, then the penalty for insubordination is as severe as being convicted of domestic violence; ditto for making a false or misleading statement on the affidavit.

Editorial Policy of *The Protection Ranger*

George Durkee, Editor

*Note: first, an apology to our members for the delay in getting this issue of **The Protection Ranger** to you. I had a family emergency which made it difficult to get the newsletter out on time. My thanks and appreciation to the Board and our membership for their understanding.*

In the last issue of the newsletter we published a Letter to the Editor and allowed it to be signed "anonymous," though the writer was known to me. I was uncomfortable doing that at the time, but take full responsibility for doing so. The letter made a thinly veiled personal attack on another member and that should not have been allowed. In the past we've allowed "anonymous" letters because many members fear retaliation from supervisors or colleagues for their views and even association with the Lodge. Although this is less true today than when we started, we've continued to do this at the request of a writer.

Occasionally, readers confuse independent articles with the official policies of the Lodge.

It's time we formalized our editorial policy. We still recognize the need for the occasional anonymous contribution but with the following guidelines:

- ◆ An author of a Letter to the Editor or article may request that his or her name be withheld. Such requests will be considered on a case by case basis.
- ◆ All letters and articles submitted for print must include the author's name, address, and phone number.
- ◆ There should be a reasonable fear of some action or discrimination by a supervisor or NPS against the author.

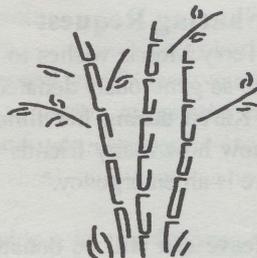
- ◆ There can be no hint of a personal attack against a named person.

It has always been the philosophy of *The Protection Ranger* to publish the concerns of field law enforcement rangers; to represent the policies of the Ranger Lodge; and to provide information on all aspects of 'rangering' (safety, resource management news, FLSA regulations) and, not incidentally, to fire occasional warning shots over WASO's bow. *The Protection Ranger* is the only way our members have to know what the Lodge is doing on their behalf; it is often the only news they get on policy proposals from WASO and the only way rangers can stay in touch with and learn from each other. As important, it is the only way an average field ranger can create a forum for an idea with his or her colleagues scattered across the country.

Occasionally, readers confuse independent articles with the official views and policies of the Lodge Board. For the record:

- ◆ Articles submitted and signed by a Board member or "The Lodge Board" will be considered Lodge policy or proposed policy unless clearly specified otherwise.
- ◆ Articles not by a Board member are the opinion of the author(s) only and do not necessarily reflect the opinions of the Lodge.
- ◆ Letters to the Editor are the opinion of the author only. This is true of letters from Board members as well.

If you don't like something you see here pick up a pen and paper and write us a letter or article! Short of a personal attack or libel, I can almost guarantee it'll get published.



The EO Process: Why Filing Repeated Complaints May Be a Necessary Route

Women's Issues Committee

You may know of someone – or be, or have been there yourself – who has filed numerous EO complaints. Looking on from the outside, it's quick and easy to come to the conclusion that such a person is a whiner or a complainer. Unless you've had reason to learn the EO process intimately, you probably aren't aware that the process itself steers people toward that route.

First, a disclaimer. The following is not legal advice. For legal advice, see a lawyer. It is also not advice on the requirements of the EO process, which will be explained to you by an EO counselor.

By the time a person has reached adulthood, most figure out that discrimination occurs in patterns. In fact, it's the pattern--the repeated disrespect, the repeated differential treatment--that usually establishes discrimination. A single instance might in fact emanate from the heart of the perpetrator but most people would explain it away as something other than discrimination, unless it were explicit or blatant.

Since the point of the EO process is to address discriminatory situations, one would expect it to be set up to allow a complainant to prove the patterns of discriminatory behavior. Surprisingly, that is not how it works. That is, typically when filing an EO complaint the complainant can only file for one incident. This is what often happens: the complainant has been contemplating filing for quite a while due to an ongoing series of discriminatory actions. S/he has been hoping the behavior would just stop or that it might be resolved in some other way. Finally, a particularly blatant instance occurs, or perhaps s/he has finally just had enough. S/he goes into the EO interview with a detailed list of past instances – times, places, names,

what happened – only to learn that only this most recent instance can be included.

Should a further instance occur, that, too, will most likely be handled as an isolated instance. So would any further instances. The Informal Resolution Agreement states this clearly, once one fully comprehends what the paragraph detailing it means.

Suppose that retaliation leaks into the picture. An EO complaint can be lodged for retaliation, as well as discrimination. When filing a retaliation claim, the complainant will be allowed to assert only that a prior EO claim of discrimination was filed: the crucial facts of the prior discrimination, the pattern that fed into the retaliation, most likely will not be considered.

Thus, each incident of discrimination or retaliation is separated from the others, and viewed in isolation. It's like trying to sing a song when you're only allowed to sing one word. Filing a series of many complaints is an alternative that may allow the complainant to establish the pattern.

The Women's Issues Committee is working toward making the EO process more effective for those who file complaints, whether male or female and whether you consider the discrimination based on gender, age, race, nationality, or other. We are looking for success stories. If you have filed an EO complaint and believe the outcome was successful, we urge you to contact the FOP by letter, e-mail (RandallFOP@tcia.net) or phone (800 407 8295) and share your experience so that others may benefit.

Letter to the Editor

Editor:

This letter is in response to the "Been There?" letter published in the last Protection Ranger. In response to the request for anecdotes, situations and solutions I am writing to tell you of similar situations I have been involved in and seen my Brother Rangers faced with.

Dealing with a huge amount of visitors in a relatively small park in the Northeast, many of us have faced this on a weekly if not daily basis. More than once when a violation notice had been issued a call would come down from management inquiring about the situation and how could we "satisfy this unpleasant experience for the visitor?" This without any regard to our interpretation of how the situation occurred. Once I even remember a ranger being told to return a confiscated knife because of a written complaint to the Superintendent. Not only was the knife returned, it was accompanied by an apology letter from the park. (I believe that if a violation notice had been issued, this letter would never have been even considered.)

(At this point, let me say that we now have a new Superintendent.)

As LE Rangers, most of us are under the scrutiny of management who are not commissioned and often view us as a "necessary evil." I have learned from witnessing other rangers and from my own experience that:

1) "Officer Discretion" is not an excuse to use for your actions as it leaves far too much interpretation for your non-commissioned superiors. Tell them exactly WHY you took the actions, exactly what justifies those actions, and whether the visitor was cooperative or disrespectful.

2) Your strongest asset is YOUR demeanor and professionalism. If you are in the midst of an enforcement contact, treat it as such no matter what the severity. (Obviously a felony will require a much "harsher stance" than a leash violation, but don't leave either one a question in their mind of who the authority figure is.)

Although we are trained, as rangers, to take the lowest enforcement level, we are still required to take enforcement action. Who's to say that during your dog leash violation another visitor who was watching wouldn't write a complaint letter about it if you took no action. Which leads me to:

3) Don't ever be afraid to take or not take action on a small infraction because of a

fear of a complaint letter. When a manager gets a letter from a visitor about a negative contact, initially they WILL get upset, which is natural, but they should also realize that you ARE out there making contacts. A letter from a visitor where there was no enforcement action taken could picture you as a ranger who is harassing visitors who are bothering no one.

Routinely you will run into people who want to do their own thing, and feel it is their right "because I'm not affecting anyone else." That's their attempt to put YOU on the defensive, trying to make YOU account for your actions. People using drugs will say "it's my body, it doesn't affect anyone but me." Or someone nude sunbathing will say "It's only natural, I'm not hurting anyone, if they don't like it tell them to go to another part of the beach." Neither response is legitimate. They are affecting the other visitors there as well as future visitors.

Remind them 1) of what's at issue here, 2) if it was an acceptable behavior, there wouldn't be rules, regulations and laws against such things, and finally 3) they have the right to appear before a magistrate, who will help to interpret these decisions.

Often you can remind them that their level of compliance directly effects your level of enforcement (i.e. verbal warning, ticket, arrest).

I am not advocating writing violation notices for every infraction. If it is a simple misunderstanding, misinterpretation or ignorance that is a "genuine mistake" and the person is compliant, then chalk it up to an educational contact where use of "discretion" is probably more appropriate.

Please remember, your professionalism and demeanor directly reflect upon everyone in the green and gray uniform.

Fraternally,

Robert E. Irish
Cape Cod NS

THE RIGHTS OF EMPLOYEES

Excerpted from an article by
The American Civil Liberties Union
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Liberties Union

Today, most Americans are more vulnerable to having their rights violated by their employers than the early Americans were to having their rights violated by the government. Yet because the Constitution does not limit their authority, private employers are free to violate the civil liberties of their employees. Nationwide, the ACLU receives more complaints about abuses by employers than about abuses by the government:

The American Civil Liberties Union believes that such abuses can only be prevented by extending into the private workplace, the protections guaranteed in the Bill of Rights. Certainly, we recognize that employers have every right to expect workers to do their jobs. But employees are also entitled to the same freedoms on the job that they enjoy off the job.

Here are the ACLU's answers to some questions frequently asked by the public about the rights of American employees.

Q: If the Constitution doesn't apply to the private workplace, what does?

A: The vast majority of American employees, of whom there are 60 million in all, are governed by a doctrine called "employment at will." This doctrine, a relic of 19th century anti-labor laws, gives employers the unfettered right to fire workers at any time, for any reason, whether grave or frivolous. Indeed, one can be fired for no reason at all. An estimated 200,000 employees, at least, are unjustly fired in the United States each year.

It is the prevalence of the employment-at-will doctrine that empowers employers to impose unwarranted urine tests and intrusive "personality" and "integrity" tests on their

employees. The power to fire at will permits employers to suppress their employees' right to free speech.

Q: Are there any laws that protect employees' rights?

A: There are federal and state laws that prohibit discrimination against individuals on the bases of race, religion, sex, national origin, age and disability. However, these laws require only that employees be treated equally. Employers are, therefore, free to do whatever they wish to their employees as long as they do so in a non-discriminatory manner.

A few other federal and state laws provide some protection against specific abuses, such as urine testing, polygraph testing and retaliation against whistle blowers. But these laws are extremely limited. The fundamental human rights of free expression, privacy and due process are still largely unprotected in the American workplace.

Q: Does the employment-at-will doctrine apply to all employees?

A: No. There are three broad categories of employees who are not governed by employment-at-will:

•Government employees: Federal, state and local government workers are protected by the Fifth and Fourteenth Amendments, which prohibit the government from depriving any person of "life, liberty or property" without due process of law. These employees are considered to have a property interest in their jobs, and the right to due process places significant restrictions on arbitrary dismissals unrelated to job performance. Some additional protection is provided by federal, state and local civil service laws.

•Union members: Virtually all collective bargaining agreements between labor unions and employers stipulate that unionized employees can be fired only for just cause, and only after a hearing before a neutral arbitrator. However, less than 20 percent of American workers belong to unions today, since union membership has been declining for years. (emphasis added)

Q: Can employers legally search their employees' lockers, desks and urine looking for contraband?

A: The Fourth Amendment, which protects the privacy of citizens from "unreasonable searches and seizures," gives some protection to public sector employees against their employers' prying eyes. In general, a government employer cannot search the person or belongings of an employee in the absence of any suspicion that the particular employee has done something illegal. With respect to urine testing for drugs, however: The U.S. Supreme Court has ruled that government employees can be required to take such tests, even if the employer does not suspect drug use, if the person's job is "safety sensitive," or involves carrying a weapon or having access to classified information. (See ACLU Briefing Paper #5, "Drug Testing in the Workplace.")

Private sector employees, on the other hand, have virtually no protection against even the most intrusive practices. In all but a handful of states, an employee can be required to submit to a urine test even where nothing about the employee's job performance or history suggests illegal drug use. If the employee refuses, he or she can be terminated without legal recourse. Employees can be subjected to "sniff" searches by dogs and searches of their lockers, desks, purses, and even their cars if they park in the company parking lot. Both job applicants and employees can be required to answer extremely intrusive questions about their private lives and personal beliefs on "psychological," "personality" and "integrity" tests.

The advent of computer technology has made possible even more sophisticated forms of spying in the workplace. More and more employees are being subjected to electronic surveillance through video display terminals, observation by hidden cameras installed in work areas and locker rooms, and monitored telephone calls. With few exceptions, these increasingly widespread practices are legal.

Q: Can employers discriminate on the basis of employees' lifestyles?

A: One of the emerging issues in the American workplace is the attempt by employers to control certain private habits and proclivities of their employees that have no relationship to job performance. Fat people are victims of lifestyle discrimination, and a growing number of companies are refusing to hire smokers -- even those who smoke only in their homes. A few employers exclude people with high cholesterol levels, or high blood pressure, and those who engage in such risky hobbies as scuba diving and hang gliding. Others impose lifestyle restrictions: One Oregon company bars workers who fail to participate in the company's exercise program from attending company picnics; a Pennsylvania company prohibits its managers from riding motorcycles!

The driving force behind this trend is economics: Employers concerned about the escalating costs of employee health insurance are attempting to cut costs by firing and/or refusing to hire people whose lifestyles appear to place them at risk of illness or injury. But if reducing health care costs is accepted as a legitimate reason for employers to regulate the off-the-job conduct of their employees, then virtually every aspect of our private lives could be subject to employer control. This would be Big Brotherism at its worst.

Q: What can be done to prevent lifestyle discrimination?

A: The ACLU believes that, just as legislation has been needed to prevent other violations of civil liberties in the workplace, legislation is also necessary to prevent lifestyle discrimination. Just as federal, state and local laws exist to prohibit employment discrimination based on race, gender, ethnicity, religion and, in some places, sexual preference, new laws are needed to protect against discriminatory practices based on employees' private lifestyle preferences and habits.

Fourteen states have recently enacted laws that restrain employers from prohibiting legal activities as a condition of employment. For example, Colorado law makes it "a discriminatory or unfair employment practice for an employer to terminate the employment of any employee due to that employee's engaging in any lawful activity off the premises of the employer during nonworking hours...." Other states are considering bills that prohibit employment discrimination based on off-duty smoking. The ACLU supports these efforts.

Q: Should employers ever have the right to discipline their employees?

A: Absolutely. Employers have the right to expect an honest day's work for a day's pay. They have the right to expect that their workers will not be drunk, drugged, or too fatigued to perform their jobs. They have the right to set performance standards and expect those standards to be met. They also have the right to discipline and dismiss employees for just cause.

Even if all the protective laws described in this briefing paper were passed in every state, employers would still retain the right to discipline and dismiss any employee whose job performance was lacking.

Q: But wouldn't recognition of civil liberties in the workplace damage the American economy?

A: There is no conflict between free enterprise and civil liberties in the workplace. Free enterprise should not be taken to mean that every corporation is a sovereign republic unto itself, whose only law is the whim of the current CEO. Employers must be free to decide what products to make (or stop making), what factories to operate and where to locate those factories, what prices to charge, and how many workers to hire. But they can make such decisions without trampling on their employees' rights to free speech, privacy and due process.

The fact is that employers in most other Western industrialized nations, as well as in Japan, are required by law to respect the rights of their employees. Nonetheless,

those employers' businesses survive and prosper. Moreover, several American employers, including some of the nation's most successful corporations, already guarantee their employees' civil liberties without affecting the bottom line of profits. Those employers believe that respecting employees' rights boosts morale and, thus, raises corporate performance.

It is ironic that the United States, with its long professed respect for individual rights, has not yet extended Bill of Rights protections to the largest remaining group of forgotten citizens--American workers. It is time to right that wrong.

American Civil Liberties Union, 132 West 43rd Street, New York, N.Y. 10036

Members: Due to a printer's error in the last issue, your membership anniversary date didn't get printed on your address sticker. Please note the Exsanguination Date of your membership and renew if necessary! Thank you.



Lodge Dues and E-Z Pay Plan

Lodge dues are \$52/year (just \$2/pay period using Direct Deposit). To make it easier for you to pay and the Lodge to collect, we hope you'll fill out a Form 1199: the **Direct Deposit Sign-Up Form**, available from your park's fiscal office.

You are only allowed 2 such allotments from your paycheck, so if you have that many already, you'll have to send us a check for the full amount. Otherwise fill out the Form 1199 as follows:

Section 1:

Block C: Write in your Social Security number.

Block D: Check the **Checking** box.

Block E: 090220704401

Block F: Check **Other** FOP Dues

Block G: Type: New Amount: \$2.00

Section 2:

Agency Name USDI-National Park Service

Agency Address Your Park's HQ Address

Section 3:

Name and Address of Financial Institution:

Patrick Henry National Bank

POB 1776

Bassett, VA 24055

Routing Number

0514-0547-6

Sign with your name and Date (Section 1) then send to the Lodge at POB 151, Fancy Gap, VA 24328. We'll have our bank sign it and then we will send it to NPS payroll. We realize this is, initially, a little more complicated. Ultimately though, it makes your dues paying a little more painless and our cash flow a lot steadier. We hope you'll choose this option.

Your dues cover a legal assistance fund available to all members. Members of the Lodge will automatically be entitled to initial and free legal advice from Passman and Kaplan for Service related problems. The Lodge may cover additional legal services for a member. Your dues are used extensively to cover legal expenses involved in questions or challenges to LE retirement cases of national importance, LE Backpay claims, FLSA coverage and overtime disputes, as well as individual assistance to members in need. Thank you for maintaining your membership in the US Park Rangers Lodge.

U.S. Park Rangers Lodge
Fraternal Order of Police
POB 151
Fancy Gap, VA 24328

Lodge Members: Please check the Renewal Date on your address sticker and renew if necessary. Get Form 1199, Direct Deposit, from your Fiscal Office and pay your dues in easy installments of only \$2/pay period. Thank You!

Lodge Phone: 800-407-8295
10 AM to 10 PM Eastern Time
Or use our e-mail address:
RandallFOP@tcia.net

Application for Membership

I, the undersigned, a full-time regularly employed law enforcement officer, do hereby make application for active membership in the U.S. Park Rangers Lodge, FOP. If my membership should be revoked or discontinued for any cause other than retirement while in good standing, I do hereby agree to return to the Lodge my membership card and other material bearing the FOP emblem.

Name: _____

Signature: _____

Address: _____

City: _____

State: _____ ZIP: _____

DOB (required): _____

Permanent Rangers: \$52/year (or \$2/pay period using Form 1199 Payroll Deduction).

Seasonals and Retired Active Members: \$35/year.

Both seasonal and permanent members are entitled to coverage from our Legal Assistance Fund for Service related problems.

Associate (non-Commissioned) Membership (newsletter only): \$35/year.

Renewals: You do not need to send in this form to renew.

Enclose a copy of your Commission (new members only).

NPS Area: _____

Mail To: FOP Lodge, POB 151, Fancy Gap, VA 24328.

