

# The Signpost

July-August, 2016



## 2017 PRAC Conference

Come join us in the desert for the **2017 PRAC Conference!** Next years conference will be at the Embassy Suites La Quinta February 27<sup>nd</sup>- March 1<sup>st</sup>. This is a very nice renovated hotel with beautiful views of the Santa Rosa mountains. The hotel rate is \$110 per night and this includes cooked to order breakfast buffet, two hour nightly managers reception with cocktails, beer, wine, soft drinks and snacks. The hotel is within the village of La Quinta at Santa Rosa Plaza across the street from Old Town La Quinta. Please mark your calendars as room space will be limited. A reservation code with the hotel phone number will be posted on [www.calranger.org](http://www.calranger.org) website shortly.

Some of you may remember going to the Embassy Suites in Monterey and South San Francisco a few years ago. Embassy Suites offers the biggest bang for your buck with free breakfast and happy hour each day. This desert location will offer many opportunities and sights nearby including beautiful wildflowers in the spring.

If anyone is interested in volunteering at next years conference please contact;

[region4@calranger.org](mailto:region4@calranger.org) or [region5@calranger.org](mailto:region5@calranger.org).

We welcome your help.



# Under the Flat Hat

by Matt Cerkel

When I attended the State Park Leadership School in West Virginia earlier this year one of the sessions was on managing law enforcement in state parks. It covered the typical subject matters like the Six P's (protect the: park from the people, the people from the park, and the people from the people), enabling legislation, enforcement authority, policies, liabilities etc. One "tool" was mentioned, the "authority of the resource technique" (ART), which was something I was not familiar with. I've tried to keep current with park law enforcement developments, but somehow I had never heard of ART. I was intrigued.

The "Authority of the Resource Technique" ART was developed by Dr. George Wallace in the early 1990s as a tool to deal with the more typical undesirable visitor behaviors in park or wildland settings that have negative impacts on park resources. For our purposes of ART, "the more typical types of undesirable behavior can be categorized as: a) uninformed, b) unintentional, c) unskilled, or d) careless." Instead of relying on the "Authority of the Agency" (the badge, uniform, body language, regulations, verbal or written warnings, and occasional citations) to change/prevent the undesirable visitor behavior, ART uses "Nature's Authority." Nature or a specific park resource has its own rules, operates in certain ways, and has certain laws; there are consequences when we violate that order. Protected areas and parks "are among the few places on earth where we have agreed to allow nature, for the most part, to operate on its own terms. Desirable behavior is more likely to occur if people understand how their actions affect the way nature operates." ART can help accomplish the goal of protecting park resources, and in certain scenarios and situations it may be more effective than traditional law enforcement techniques.

ART may help you change visitor behavior while creating a positive learning experience. You "win" the game if you get them to comply without ever mentioning that there is a rule or regulation about their behavior—just focus on the needs of the resource.

The upside of citing the needs of the resource:

- Visitors focus on the park resources and their protection, not the badge
  - Will often change behavior/outlook for long-term benefits
  - Creates positive experience/support of future park management needs
1. Give an Objective Description of the Situation. Don't use judgmental terms, give the benefit of the doubt, try not to mention regulations
  2. Explain the Implications of the Action/Situation Observed. Stand next to person as an advisor, rapport with the person, focus on the resource, and try not to mention regulations.
  3. Explain how you (or agency) feel about situation and how to correct it. Use personal mode, educate-Teach people the reason why their impacts affect

the environment, give options, mention regulations only as last resort

The downside of citing regulations:

- Visitor ends up thinking about laws, regulations, badges, and not the resource
- Often becomes defensive, has short term effects
- Makes park and park management experience negative
- Authority of the Resource Technique should not be used in situations that are dangerous, the impacts are significant or the undesirable visitor behavior is malicious and/or purposeful.

Here are some examples of how to explain park rules and regulations though "Authority of the Resource Technique:"

- Dog Off-Leash. Impacts on wildlife (deer fawns, migrating ducks, general stress)
- Safety of park visitors (bites, fear of dogs, running in front of bikes, etc )
- Safety and well-being of the dog (predators, skunks, fighting other dogs)
- Collecting Impacts to park resources (what if everyone did)
- Human browse line, loss of habitat, decrease in animal populations, some resources a finite or limited
- No Camping Quality of experience, vegetation impacts, night safety
- No Alcohol Public safety--stats of incidents involving alcohol; escalated encounters
- Going off trail Vegetation impacts, soil compaction and ruts, spectrum of experiences
- Bag Limits on Fish Limited water resources in California, recreation and sport, not a food source, catch and release ethics
- No Fires Impacts to habitat/cleanliness the park fire safety, ignition hazard

Here are some links for more info of the Authority of the Resource:

[http://wilderness.nps.gov/RM41/7\\_WildernessUseManagement/AuthorityoftheResource.pdf](http://wilderness.nps.gov/RM41/7_WildernessUseManagement/AuthorityoftheResource.pdf)

<https://Int.org/blog/authority-resource>

<https://Int.org/blog/authority-resource-technique-action>

<https://www.interpnet.com/docs/JIR-v7n1.pdf>

<https://www.interpnet.com/docs/CIT/Authority-of-the-Resource.pdf>

# EBRPD Donates to Cycles for Change

by Kenneth Wong, Police Sergeant  
East Bay Regional Park District

June 14, 20—The East Bay Regional Park District police department on Tuesday donated 35 bicycles to an East Oakland non-profit that recently lost several dozen bikes to theft. The Park District bikes are former evidence from criminal cases or unclaimed property from the lost-and-found. The District ordinarily keeps such bikes in storage until they're auctioned, destroyed or in some cases, donated.

“Our job is to serve the community, and this is the least we can do,” said Park District Police Officer Ryland Macfadyen. “This group was a victim of crime, and we really felt it was important to help them out any way we could, especially since they serve young people.”

Cycles of Change is a non-profit organization that started in Oakland’s San Antonio neighborhood in 1998, taking young people on after school bicycle adventures. The group also provides

after-school Bike Clubs, as well as programs for youth and adults across the East Bay in bike repair, bike safety, and environmental projects like creek restoration and community gardening. Cycles of Change also has a community bike shop, called The Bikery, located in the San Antonio neighborhood, working to make biking more accessible, especially for low income communities of color.

On Jan. 7, 2016, a rented U-Haul parked in front of the group’s headquarters was stolen. It contained 52 bicycles and 350 helmets intended to teach bike safety to Oakland middle- and high-school students as part of the Alameda County Safe Routes to Schools program. Macfadyen, who oversees evidence for the Park District police department, read about the theft in the newspaper and wanted to help. He contacted Cycles of Change and arranged the donation.



# California Legal Update, May 26, 2016

Robert C. Phillips, Deputy District Attorney (Retired)

## Firearms; Carrying in a Backpack on the Person:

**Cases:** People v. Wade (May 9, 2016) Cal.4<sup>th</sup> [2016 Cal. LEXIS 2563]

**Rule:** Carrying a backpack which is found to contain a loaded firearm constitutes the carrying of that firearm “on the person” of the suspect, in violation of P.C. 25850(a).

**Facts:** Defendant was found to be wearing a backpack containing a loaded revolver while being pursued by a police officer under circumstances not described in the decision. Being arrested and charged in state court with a felony violation of P.C. 25850(a) (formerly, P.C. 12031(a)), defendant was held to answer to the charge after a preliminary examination. Defendant subsequently filed a P.C. 995 motion to dismiss in the Superior Court (i.e., the trial court). The motion was granted on the theory that a firearm in defendant’s backpack, despite the fact that he was wearing the backpack, did not qualify as carrying that firearm “on the person.” The People appealed. The Second District Court of Appeal (Div.5) reversed the trial court’s decision and reinstated the charges. (See People v. Wade (2015) 234 Cal.App.4th 265; petition granted.) The defendant’s petition to the California Supreme Court was granted.

**Held:** The California Supreme Court affirmed. The issue on appeal was whether a person wearing a backpack that contains a loaded revolver is “carrying a loaded firearm on his person” for purposes of P.C. 25850(a). Section 25850(a) provides: “A person is guilty of carrying a loaded firearm when the person carries a loaded firearm on the person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.” (Italics added) Defendant admitted that he carried the loaded firearm, but argues that, because it was in his backpack, and even though he was carrying the backpack, the gun was not “on his person.” The Court disagreed. The authority cited by defendant is People v. Pellecer (2013) 215 Cal. App.4th 508. In Pellecer, it was held that a knife contained in a suspect’s backpack is not carried on the person. However, another case, People v. Dunn (1976) 61 Cal.App.3rd Supp. 12, found that where a person has a concealed firearm in a suitcase that he is carrying at an airport is carrying that firearm “upon his person” under former P.C. 12025(b); now P.C. 25400(a)(2). This being the only California authority on the issue, the Court turned to a half dozen cases from other states, as well as considered

the legislative intent in enacting P.C. 12031, later renumbered as 25850. In so doing, the Court noted that other jurisdictions have consistently found that carrying a weapon, whether a gun or a knife, in containers such as suitcases, briefcases, bags, purses, and handbags, when that container is held by the suspect, is necessarily “upon the person” of the defendant. Looking at the legislative history, the Court found that it was the intent of the Legislature to make illegal a suspect’s immediate access to a firearm. Having a firearm (or a knife) in a backpack (or other container) which is carried by the defendant gives him that immediate access. In so ruling, the Court found as “untenable,” and rejected, defendant’s argument that there should be a distinction between carrying a firearm in one’s clothing and carrying it in a container held by the suspect. As for the decision in Pellecer, it was noted that there was some discussion in that case that the particular legislative intent in enacting P.C. 12020(a)(4), referencing dirks or daggers, made for a different result than we have in Dunn, where the illegal weapon was a gun. The Court here did not agree or disagree with that conclusion. Pellecer, however, can also be distinguished on its facts from both Dunn and the instant case. In Pellecer, defendant was observed “leaning on a closed backpack” (as opposed to carrying it) that was later found to contain an illegal dirk or dagger. This difference, per the Court, “arguably,” gave the defendant “less immediate control over its contents than defendant had in this case, where he was actually wearing the backpack.” Therefore, the Court “disapprove(d)” Pellecer “to the extent its analysis is inconsistent with this opinion, although not necessarily its holding.” By having a loaded firearm in a backpack he was carrying, defendant was held to have violated P.C. 25850(a).

**Note:** So Pellecer is still potentially good law, at least when the issue is having an illegal knife in some container possessed, but not actually carried, by the suspect. I say “potentially” in that the Supreme Court only said that they were not “necessarily” disapproving the ultimate holding in Pellecer. Too bad: It would have been nice to get rid of that case altogether. But as for carrying backpacks, suitcases, briefcases, purses, etc., in which a loaded or otherwise concealed firearm is found, it is clear that doing so is a violation of P.C. 25850(a) (formerly P.C. 12031(a)) and/or P.C. 25400(a)(2) (formerly P.C. 12025(b)). That much is clear.

**Park Rangers Association Of California  
Professional Training**

# **Low Angle Rope Rescue Operations (LARRO)**

LARRO is a 24-hour CA State Fire Marshal certified course taught in a three-day format. Designed to equip PRAC member with the techniques and methods for rope rescue in low angle rescue situations. Areas covered include knots, anchor systems, stretcher lashing and rigging, single rescuer pick-offs, mechanical advantage systems, and belay systems.

The course will be taught by Kim Aufhauser and Alex Leman, State Fire Marshall approved instructors, through the West Valley College Park Management Program. All equipment will be provided agency harnesses and helmets may be used following a safety inspection by the staff.

**Duration:** 3 days, 8 hours per day

**Location:** Santa Clara County

**Minimum Class Size:** 12

**Maximum Class Size:** 24

**Estimated Cost:** \$275.00 per student.



If there is sufficient interest class will be scheduled for the fall (August/September/October).

If you would be interested in attending this training or need more information please contact me by July 1, 2016:

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Submissions can be mailed to David Brooks, 560 Hillcrest Dr., Ben Lomond, CA, 95005. INFORMATION CAN ALSO BE SUBMITTED BY TELEPHONE AT (831) 336-2948.

**Submission deadlines ARE THE 15<sup>th</sup> of FEBRUARY, April, JUNE, AUGUST, OCTOBER, AND DECEMBER.**

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RETIRED.....\$35 \_\_\_\_\_

**Non-voting Membership**

AGENCY:

(1-24 PERSONS—6 MAILINGS)..... \$100 \_\_\_\_\_

25 PERSONS—12 MAILINGS)..... \$150 \_\_\_\_\_

STUDENT.....\$20 \_\_\_\_\_

ASSOCIATE.....\$35 \_\_\_\_\_

SUPPORTING.....\$100 \_\_\_\_\_

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