

# The Protection Ranger

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The Newsletter of the U.S. Park Rangers Lodge, Fraternal Order of Police



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## Medical Standards Initiated WASO Begins Addressing Inequities

by George Durkee  
Lodge Vice President

The physical exams have begun, implementing the Medical Standards adopted last year. Mostly seasonals have been examined so far. The Lodge has been contacted by a number of seasonals who either have had their Commissions revoked or told that would happen as a result of not passing certain aspects of the testing. In almost all cases, individuals have not passed because of not meeting some small aspect of the hearing or vision standards adopted. Cases include: being rejected because of not meeting the depth perception vision standards; failing the hearing standards in certain frequencies; using soft contact lenses, though vision was corrected to 20/20. In the 20 to 30 cases brought to our attention, rangers have had between 2 and 30 years of service. In spite of not meeting certain of the standards, each ranger has clearly shown that he or she

has been able to carry out their duties without in any way endangering either their own safety or that of the visiting public. This would indicate that the Medical Standards as adopted are too stringent. In a September meeting held to discuss problems arising as a result of testing, WASO officials answered

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concerns from some of the rangers involved in designing and implementing the program. They also outlined what steps should be taken to appeal a ranger's adverse medical decision and what criteria might be used to obtain a waiver. In addition, they outlined certain areas that, as a result of high numbers of experienced rangers not meeting the standards, might need a closer examination and change of criteria.

The Lodge has never opposed the adoption of medical standards. Our position has consistently been that any standards adopted be clearly related to the job we do; and that experience and a safe work record is evidence for a strong presumption that any standards not met on a physical exam are probably not grounds for revoking a ranger's commission. We also insist that these or (we hope) much improved standards be

implemented consistently and fairly throughout the national park system, a state of affairs management at WASO has long been unable to achieve.

Following are excerpts from that September meeting. The full text of the minutes written can be seen at the Lodge Web Site: [www.rangerfop.com](http://www.rangerfop.com). You may also call or write the Lodge for a full copy, either e-mail or printed ([gdurkee@sonnet.com](mailto:gdurkee@sonnet.com)).

## Medical Qualifications Meeting 9/13/99 (verbatim excerpt of minutes):

### A. Issues Identified During Pre-meeting

A pre-meeting was held to brainstorm the major issues or questions we wished to have answered during the presentation by the WASO folks. A list was developed and all the issues or questions were addressed during the session and are documented below in the meeting notes. The folks from WASO who were present and provided us with the following information include Dave Davies, Dennis Burnett, Dr. Richard Miller and Donna Goldsmith.

10. **Question** Are the medical standards appropriate; were the standards brand new or did we select from a menu. **Response:** Yes they are appropriate based on the field study, etc. and have been approved by DOI and OPM. The environment that NPS law enforcement employees work in drove the new standards and not the

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fact that they did law enforcement. What we did initially was fail to consider that the existing workforce would be able to provide a work history that could demonstrate he/she had the ability to do the arduous and rigorous work that might enable the NPS to waive the medical qualification standards of anyone who can demonstrate that they can safely perform the work without being a danger to themselves or others... this is allowable per 5 CFR 339. We are in the process of modifying existing form to reflect the needs for NPS. Form will be specific to NPS and work situations. (Note See #13 below for clarification on "waiver" issue).

**11. Question** How do NPS medical standards relate to standards in other agencies. **Response** We are in the middle ... some have higher and some have lower (law enforcement specifically) standards. Park Ranger medical standards for vision are very high ... only the Secret Service has higher standards. Remember we have LE joined to environment where we work and that is why we have higher standards. Added to that is the fact that we often work by ourselves ... But only new hires have to meet all elements of the standards. Returning seasonals and permanent commissioned rangers can use work history to substantiate successful performance of law enforcement duties if they fail to strictly meet the standards. The agency will be considering each examination on a case by case basis and will consider work history in making decision.

**12. Standards apply rigidly to new employees** ... pass or fail with no other consideration. Thus, new people will have to meet standards head-on and may not be able to use non-NPS law enforcement experience as a part of their work history to support a request for a waiver.

**13. Standards are applied less rigidly to existing workforce** because the employee can provide, if a medical issue is found, a work history that may establish that the employee can successfully perform the duties of the position and work at any park. If the work history substantiates that the employee can do the work despite the medical issue, then the employee could request and receive a waiver for the specific part of the medical standard that was not passed.

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***Park Ranger medical standards for vision are very high ... only the Secret Service has higher standards.***

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This is also true, to a lesser degree, for seasonal employees who are returning or who have previous NPS law enforcement experience. They too can provide a work history that would indicate they can perform successfully and perhaps request and be granted a waiver for the specific part of the standard that is not passed. In this sense, the medical standards are more flexible for the existing workforce or a former employee with relatively current NPS law enforcement experience.

**Documentation needed to justify a waiver will include** (1) where the employee is working; (2) name of park; (3) description of activities performed; (4) certification by Chief Ranger verifying successful performance. Thus, the Chief Ranger will be required to review the work history of the employee and certify that the employee was able to perform successfully the arduous and rigorous duties.

*Comment from Terrie Fajardo:* The use of the word "waiver" in this context was not accurate. There is no provision in policy or procedure for the NPS to grant waivers on individual requests or to provide for blanket waivers on certain

issues. Instead, an employee or applicant who does not meet the medical standards can request reconsideration of a negative finding and can use his/her work history (certified by his/her supervisor) with the NPS or other similar law enforcement work to support the fact that he/she believes they can accomplish the work.

The attempt here is try to be very sensitive and caring about life changes in eyes and ears but only to a certain point. The NPS and the PHS doctors will attempt to accommodate a person's life changes with eyes and ears where they can determine that providing such an accommodation will still ensure the safety of the individual, coworkers and visitors. There will be instances where accommodation cannot be granted even with a work history statement supported by a supervisor because the goal of the medical qualification process is to ensure that the NPS law enforcement workforce is healthy both for the individual's sake as well as their coworkers and visitors. A few examples of health care issues that would probably not result in an accommodation even with a work history would be vision over 20/200, blindness, hearing loss, serious illness, hearing loss in one ear, etc. Of course, every case of reconsideration will be considered on it's own merits and decisions on accommodation will be specific to that case.

**14. Definition of a new person** is someone who has not worked for NPS in a law enforcement position before. A former seasonal of NPS who worked as LE ranger is not a "new" employee.

**17. Standards are in the process of being revised** to reflect the application philosophy as described above in #10 - 15 may be issued around beginning of the calendar year.



**21. Question on Medical standards**

Can we revisit them and make modifications after we have some experience with them. **Response** Yes. Recommendation is that the Agency should be looking at medical standards on a 2 year basis ... In this review, we should revalidate standards and if we want to recommend a change we need to be able to specifically state **Why** Department has to approve the change.

**22. Question** Situation: permanent employee; LE; commissioned; medical evaluation raises some medical issues; there are questions yet to be answered and a decision pending. Can the employee continue in job on a "business as usual" basis during the decision pending period? **Response** There are 3 possible categories for an employee to be in after a medical review:

1. no significant findings – acceptable
2. final decision cannot be made pending determination (lacking some additional information)
3. significant findings.

If the employee comes out in the second category, he/she can continue working in LE. If the employee comes out in the third category (i.e., there is a significant medical finding that is likely to be of a safety issue to self and others), then he/she if permanent should not perform LE duties or if a seasonal should not come on until situation has been resolved.

**27. Tip** If an employee is found to be in category 2 after examination, we should encourage the employee to take letter he gets from us to his/her treating physician and make sure all questions are answered. PHS is just doing a screening so we should encourage employee or applicant to bring any additional medical examination or recent medical exams to the medical

standards examination. In addition, if an employee or applicant had taken a recent eye examination or if he/she had an injury or broken bone in the last 3 years, he/she should take all medical records to examination.

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**29. Question** What if a person has a medical issue and work history shows that he/she can do the work but only in specific environments and what if the person only wants to stay in that environment and not move. Will the service grant a waiver of the standards even though the standard states employees, based on work history, must be able to work anywhere in the service? **Response** No decision on this issue at this point but leaning toward the position the NPS employees transfer around frequently and should meet all Servicewide standards.

**35.** Appeals go to Terrie Fajardo in WASO within 30 days of notification of decision. Appeals can take any form and the employee can ask for whatever they want. If decision to appeal says they are still NQ then employee can appeal to Medical Standard Board (Chief Ranger, MRO, Personnel, SME). The appeal can be oral or written - presentation must be made at the least cost to NPS. Decision made by Medical Standard Board is final. Not subject to review by the administrative grievance procedure but may be grievable under a negotiated procedure. May also file an EO complaint. If employee is found to be NQ, then the agency is required to consider reassignment in commuting

area if the employee is a qualified disabled individual. In addition, the agency has to consider the individual for lower grade job if qualified. Region needs to decide the policy and then consistently apply it.

**Question** When are we going to implement medical qualifications for permanent? It is mandatory now for the existing workforce. We delayed this summer as we wanted to run seasonals through the program first and did not want to bog down system. If park has not done so, they should get started with implementing medical qualification examinations for permanent staff. **Recommendation** Have examinations done on a scheduled basis using the birth date of the individual as the examination date.

**3. Reasonable accommodation:** one reasonable accommodation can be for management to assign an employee who failed standards to another position if it does not have a requirement for a law enforcement commission. **COMMENT** from Dennis Burnett: A secondary position requires a commission. Parks may place an employee with a medical condition in a secondary position which would not be an "arduous" position, if appropriate.

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### **VA and National FOP Presidents Supports Lodge On Workforce Cuts**

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Response to our article from the last *Protection Ranger* on the thirty percent RIF in protection rangers has been encouraging. Action on this issue by the Department of the Interior has been discouraging. On the positive side, both National FOP President Gil Gallegos and VA Lodge President James Gaudet have taken up our cause.



In his letter to Director Stanton, Gaudet wrote: "Fewer rangers to protect more people, combined with an increasing crime rate – there must be a change in the situation." The VA Lodge has enlisted the help of other key FOP officials from the FOP's Washington office to work on our behalf.

Some Lodge members had a question about the statistics used in the article, and whether the drop in the number of commissions had to do with the removal of commissions from part-time law enforcement. To clarify, there are no statistics available that can confirm or deny how many, if any, commissions were lost because of this. Nor are there statistics as to how many commissioned positions were lapsed because of the FTE crisis of a few years ago, or because of the related reshuffling of regional office personnel into the field. The numbers, though, do show a steady decline through the time frame of the last 10 years, and no major drop from one year to the next.

We figured that managers would try to dispute our claims by bringing up the commissioned interpreter issue. That's the reason we included the case studies of protection staffing in parks. The responding parties (including chief rangers, law enforcement specialists, district rangers and field staff) reported cuts of full-time protection staff that have directly damaged their programs.

In addition to the parks cited in our last article, more comments have come in:

- **Death Valley National Park** A senior ranger there reports, "Since 1990, Death Valley has grown in size by 30%, in visitation by 70%, and has DECREASED in ranger staffing by 50%."
- **Ft. Laramie Rangers** also report that declining staffing levels have hampered their ability to protect the park.

No responders – zero – complained about cuts in commissioned interpreters that performed LE a few times a year.

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**James Gaudet**  
*VA Lodge President*

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But just about everyone had serious problems with cuts in permanent full-time commissions.

We would like to see the NPS keep better statistics on its law enforcement staffing levels. Right now, FTE's are not designated as LE FTE on a nationwide basis. Superintendents are allocated FTE, and can change them on their organization chart. Here is another excellent example where LE line authority from a chief ranger in WASO directly to the park chief ranger – by passing the non-commissioned superintendent – would be superior to the current arrangement

We believe that parks should be allocated, and required to maintain, an effective level of LE FTE's in each park. Failure to maintain this level should affect a Superintendent's evaluation.

#### **The Bad News**

Congress has inquired as to law enforcement staffing levels in the National Park Service. The NPS, through the Secretary, was supposed to reply to Congress by mid-November. This reply is being delayed by the Department of the Interior. In an election year, this is probably no surprise. If someone, like one of you members, sent this information to the Bradley or Bush campaigns, it certainly could cause embarrassment to the so-

called pro-park administration we have today, so no doubt it will be kept under wraps by DOI.

And, as of this writing, we have heard NOTHING back from Director Stanton in response to the National President or State President's letter.

#### **The Future**

The American public is largely unaware of the cuts in visitor safety staff in parks and the increased risk to families that comes with these cuts. Environmental groups may not be aware of the threats to park resources that come with cuts in protection rangers. Political candidates may not be aware of the administration's record on cuts in protection staff of National Parks. Expect the Lodge to inform these groups of the problem and ask for their help in correcting this critical situation.

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### **Accreditation: A New Trend in Law Enforcement Should We Seek it?**

**By Matt Stoffolano**

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**What Is Accreditation?** Accreditation is a process of measuring an agency against a set of professional standards. CALEA, the Commission on Accreditation for Law Enforcement Agencies, is the organization that oversees the accreditation process for law enforcement agencies. CALEA was formed in 1979 through combined efforts of four major organizations: the International Association of Chiefs of Police; National Organization of Black Law Enforcement Executives; National Sheriffs Association; and Police Executive Research Forum. The Commission was formed to develop a set of law enforcement standards and to establish and administer an accreditation process through which LE agencies could demonstrate that they meet



professionally recognized criteria for excellence in management and service delivery.

The process of accreditation is one of self-analysis; policy review; documentation of compliance with standards; public hearings, and a meeting with a team of professionals who come in to conduct an onsite assessment. Finally, a hearing is held before the accreditation commission and, upon successful completion of each step, the agency is accredited.

### **Should The Lodge Recommend that the NPS Seek Accreditation?**

CALEA accreditation helps an agency work on policy and standards issues. It addresses things in a manner that guide *what* should be in a policy and not *how* the agency does it. This helps the agency develop policy that is current with other modern professional law enforcement agencies. These policies are then much more court-defensible. Think of the potential a process such as *this* could have on our floundering NPS-9/DO-9. Consultation with a team of law enforcement professionals with access to hundreds of examples of policies and the most current and court defensible language could make a positive difference to every ranger. This process forces an agency to make sound policy based upon current case law and other contemporary standards.

The process of examination in comparison to our peers in law enforcement could only expand the horizon of many people in the NPS. It should be noted that this is mostly a process of self-analysis. Much of the work is internal and analytical conducted by the agency. Only after the self-analysis portion has been completed is a team of reviewers brought in to ensure compliance with policy and standards.

The National Park Service has rested on its laurels as the favorite agency long enough. We should seek to compare ourselves with other professional law enforcement agencies. If we are well organized and up to par with our peers, we should be recognized as professionals. If not, we should strive to achieve that level.

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***The biggest reason to achieve accreditation is to compare ourselves honestly to a basic level of professional law enforcement standards.***

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Some of the major benefits of accreditation are: liability reduction to both the agency and the individual officers; a heightened confidence in the agency by officers, command, and the public; improved service by the agency; strengthened crime prevention and control capabilities. And finally, self analysis reduces stagnation. Benefits are realized in better justification for increasing personnel and budgets.

### **Here Is What Others Are Doing About Accreditation**

First of all, let me point anyone interested to the excellent CALEA web site at [www.calea.org](http://www.calea.org). The web site is full of testimonials about the accreditation process and what benefits the agencies have derived – too much info to include here.

There are over 300 agencies that have been accredited by CALEA and that list is on their web site. Among them are: Florida Highway Patrol, Florida Dept of LE, Lakewood CO Police, and Missouri Highway Patrol.

There are only a few Federal agencies in the process of accreditation: NOAA, National Marine Fisheries, US Capitol Police, and US Marshals all are in the process, though none have actually been accredited yet. I believe that US

Marshals are very close to accreditation. The Tennessee Valley Authority is accredited. Others in the process are the Delaware Division of Fish and Wildlife Enforcement, Maryland National Capitol Park & Planning Commission, New York City Parks and Recreation.

If a fairly small agency like TVA can achieve accreditation, we can also. The US Marshals, I'm told, got between 5 and 7 million dollars from the Department of Justice to follow through with the accreditation process. If and when they complete this it will probably begin the trend for federal agencies – setting a new standard for federal law enforcement. We should get on the ball and begin the process now.

### **Are There Any Drawbacks?**

Yes, accreditation is a lengthy and fairly expensive process. Before accreditation takes place, the process must have the unwavering support of the chief executive officer of the agency. CALEA recommends an accreditation manager be appointed. The process takes approximately 30 months and would probably cost the NPS about \$25,000 in fees to CALEA just for the initial accreditation. The cost is approximately \$5,000 per year from then on to remain accredited.

So for about the price of one fully loaded law enforcement vehicle, we could have a yardstick to measure our entire program. We could develop court defensible modern professional law enforcement standards, or at least ensure that our standards are to the same level as other professionals. We could reduce liability for the service and rangers, provide better service, and recognize ourselves as the professionals we are through independent verification of our standards.

**How to Proceed** First the agency should decide if we want to seek



accreditation. Like all standards we should explore any negative implications. The age-old saying is to be careful of what you ask for, you may get it. Are we willing to accept this level of professionalism? We should be careful that we do not ask for something that later creates problems. Do we want to be modern law enforcement professionals or not? I personally am sick of people complaining about having to exercise, take fitness tests, physicals and do other things that were not part of the program back when they hired on. So we should collectively determine if we like the status quo or not and if not, are we willing to do the "extra" things that being a professional requires..

The next step on the way to begin the process would be a simple test. Since there is always opposition to new ideas and this will not be an easy process, we must determine if we need to change or not. I propose that the NPS conduct a review and determine if we meet one of the standards. Almost any of the standards would do. When NMFS did this, they used the standard for evidence as their test standard. They did not meet CALEA standards and so were motivated to begin the process towards accreditation.

If we currently meet the CALEA standards, we are in compliance with current professional standards and do not need to change, we should be commended at that point. However, if we do not meet the standard, we are deficient and are not doing the best job we could be doing. We should then proceed toward total accreditation. The biggest reason to achieve accreditation is to compare ourselves honestly to a basic level of professional law enforcement standards. We say we want to be law enforcement professionals – this is a good way to see where we are compared to others, and what we have to do to raise the bar.

Source info: CALEA web site [www.calea.org](http://www.calea.org), documents sent by CALEA and a phone conversation with Dave McKinney of NMF.

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### Secretary's Report

Randall Kendrick

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**Dues** The Lodge is holding dues at the \$52 level once again. As you all know, prices of almost everything have risen in the past five years including postage, phones, legal services, etc – things that your dues pay for. One way we can stretch Lodge dollars is to have members pay their dues before renewal notices are mailed. Please check your renewal dates on the Protection Ranger and send your dues before you get your notice: Your Lodge dues will go even farther.

**Retirement** The end of the year usually brings some retirements among the membership. The Lodge has complimentary gold retirement pins to send to those who retire in good standing. If you are retiring, or know of a fellow member who is, please let the Lodge know so we can send one. Also, it's a tribute to retired members that over 80% of retirees have stayed active in the Lodge, supporting current rangers with their time, skills and money. Members who retire in good standing retain all Lodge and National FOP privileges and benefits. Dues for retirees are \$35/year.

**Back 6(c) Claims** We are seeing a little movement in members getting their back pay for their successful 6(c) claims. Ten+ years: it's incredible that the NPS has taken this long to process some of the claims but at least they are granting the claims. Don't forget, most of you who are waiting for the settlement of your case deserve and should get interest on the money owed you. In some cases, particularly when you were a GS-5 or GS-7 before 1994, your back pay plus

interest will be substantial. If you get turned down, contact the Lodge and we will help you decide how to appeal the ruling.

**Sick and Injured Members** The Lodge has get-well and sympathy cards that we want to send out to members and members' families in unfortunate circumstances. We usually don't know to do this unless a coworker or friend informs us. Please take a minute and email or phone so we can let a member know that his brothers and sisters in the FOP are concerned and send wishes for better days: [randallfop@tcia.net](mailto:randallfop@tcia.net) or 800 407-8295.

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### Letter to The Editor

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Editor:

First off I would like to thank those that commented to me about the article I wrote, *Ruffling Feathers*. Comments even came from the Superintendent of another park!

Recently I read a synopsis from the "Protection Ranger Competencies Meeting" that was held in September 1999. For the most part it sat well with me. However there were a few disturbing inserts I would like to comment on.

There was a topic discussed titled "Why do we need park protection rangers." It seems that out of all the reasons given for "why" only a few seem to be focused on our daily operations. The others were swept by the wayside in priority. Has anyone asked the public that same question? I bet they would have a completely different list of reasons.

Also a comment was made regarding the meeting that more representation from the "field officers" should be made. That is an interesting concept.



The "field" is rarely, if ever, included in the planning phase. We are always told to change and accept it. We are always told to accept it and to change. We are rarely asked for our input as to how things that affect our capability to perform the jobs we were hired to do are implemented. And often when we are asked, it's only cosmetic because the decision has already been made for us.

The most effective way to accomplish an end is to get input from all involved and incorporate it into the decision making process. It only serves to alienate those most affected by not asking for their opinions while the decision making process is still active.

That to me reinforces the "denied" concept of "we are a necessary evil" mentality in our managers. We are not evil...and we are certainly necessary. I have not heard one visitor, or resident comment in a negative way about protection rangers and the duties that we perform. Violators complain all the time. But we are held accountable because they complained and "they are automatically right" at least that's the way it seems in my park service experience! So many times a visitor thanks me for simply giving them directions and providing them with a park map. Yet rarely if ever do they take the time to tell the park how much they appreciate us being there.

How many times have you unlocked their cars for them so as to save them \$40? They are so grateful for us being there when they need us. How many people get the opportunity to see a park ranger anymore? It amazes me when I see the smile on a child's face when they get to shake our hands or say hello to a ranger, or have a picture taken with us. Simple things mean a lot to the visitor. The more we are taken away from that aspect of doing our jobs, the more the public suffers.

We are becoming more alienated from the public. Giving programs will not improve that interaction. Mandatory programs are not personal experiences. They are rote, and basically unpleasant for the ranger who can't wait until it is over in order to get back to the LE work we postponed to give the program.

Protection rangers did not join the service to give formal on and off-site programs, and the thought of having to give a program basically scares many of us. We can perform well in LE scenarios, but put one of us behind a podium and you have unmasked that "bastion of heraldry" that the public sees in us. We can handle any EMS call you send us on. We can handle any SAR you send us on. We can handle bomb threats and disturbed person incidents etc....but of course that is what we are best at!

When a visitor has a negative experience they call the protection rangers to rectify it for them. Be it their car broken into, camping gear stolen, graffiti in the restrooms, poached animals found, etc. We also deal with a myriad of complaints that never make it to the front office such as "Where can we park, all the lots are full?" "Why do you allow teenagers to drink in the park?" "The campsite next to us made noise all night, we couldn't get any sleep"; "There was a man who flashed us on the trail" and so on and so on.

Very few write letters of complaint when they have had a bad experience. Surveys are conducted targeting only visitors who have had a positive experience. Try giving that GPRA survey form to someone whose car was broken into and everything they brought with them across country was stolen. Give that same form to someone whose 5 year old child was flashed by some pervert. I bet the survey results would be significantly different. Give that form to someone trying to relax in the quiet splendor of a

park having to listen to an ATV riding around and creating permanent scars on the landscape. Give that form to someone trying to jog or bike ride along a quiet country lane that is locally nicknamed "the autobahn for the steel mills."

I have, however, heard the comment made that "it is a shame that rangers have to carry guns," both from other division employees and visitors. I even had a visitor tell me he couldn't believe that rangers wore bulletproof vests. He asked if crimes occur that involved guns!!!! That sets the tone of admitting that criminal activities and unsafe environments, both for employees and visitors, are commonplace. There are even a few places in my park when the fire team requests a protection ranger to provide security for them and their equipment because they feel it is a hostile work environment!

Another concern is the increasing pressure for the protection rangers to get involved in giving formal and informal public education programs. Think about this: we are already operating on a skeleton crew. The more rangers taken away from patrol-based activities will lessen the visible deterrent factor.

Have our visitors complained that there are not enough programs? It seems to me that the Interpretive division does a wonderful job in that aspect! Why are we trying to make the protection staff do their work? The Interpretive staff are not carrying guns and ticket books, and are not attending FLETC. Yet the Interpretive division also gets GS-9 pay. Will FLETC soon incorporate "Basic Interpretive Skills" as part of the curriculum? I think this is an across the board negative reaction on the part management because of the protection rangers got their long overdue upgrades and enhanced retirement.



I'm not picking on the Interpretive division. Quite the contrary! I admire them! They probably know more about individual parks than any other employee they work with. I also feel that they deserve the GS-9 upgrade as well. But let the qualified do their jobs. That is my point.

It has been informally bantered about having local jurisdictions doing calls inside parks. Local jurisdictions have enough of their own problems to deal with. Can you imagine Yellowstone converting to concurrent jurisdiction and a local police officer setting up a surveillance on a tree stand? Would the local police be motivated to apprehend someone snowmobiling in a closed area?

Can you imagine a local police officer or sheriff being dispatched to someone using a metal detector on a civil war battlefield? They would most likely give them a verbal warning. Can you imagine the same officer being dispatched to someone cutting down a tree for firewood in a campground? Can you imagine a state trooper being dispatched to someone collecting butterflies? Would that officer even recognize an endangered species, let alone know what to do with the case?

Of course, the fact is that parks by law cannot lessen their LE presence to the point where it becomes a burden on the adjacent state and local law enforcement agencies. State and local governments have long realized that elements within the management of the National Park Service would like to "save" money by cutting down on their LE staffs and shift the workload onto the adjoining jurisdictions and Congress has made it clear that the NPS is not to do this.

Protection rangers belong out in the field! We are dedicated to protecting the resources! No one has to create

volumes of position descriptions to figure that out. That is why we joined the Service in the first place!

Furthermore, I do not see discussions regarding rewriting the Interpretive and Resource Management position descriptions. Why all the focus on Protection? Who does not want us to be out doing our jobs? Who does not want protection rangers? We have had the need for a protection staff since the inception of the National Park Service! Why do field personnel keep getting more and more office administrative assignments to keep us from doing our jobs?

In reading GPRA we (parks) have been doing GPRA all along. What is not being understood is that we have separate divisions working independently, completing their own parts of it to complement the whole. It does NOT fall on any one division to accomplish the whole GPRA. It is up to the entire park to accomplish it.

Is there anything pending regarding Supervisor and Chief Ranger competencies? Seems they also have been upgraded!

Oh well...in the meantime I'll continue to upgrade our reservation of use and tract maps, and property inventory list, while trying to help my fellow rangers ensure that YCC employees have enough work to do on a rainy day, and try to console those having to sit through training that they can't figure out why they were attending, while at the same time covering patrol of the park as my turn as the only one on patrol because we can't afford to pay Sunday or night shift premiums, and trying to maintain a presence while scurrying about writing reactive criminal investigative reports on victimized visitors.

I just wish I could go back to the days when being a Park Ranger meant just

that. If you don't know what I mean, consult Webster's Dictionary and learn what society thinks a ranger is.

Bill Tadych  
Indiana Dunes National Lakeshore

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**DISTINGUISHING THE  
PLIGHT OF THE U.S. LAW  
ENFORCEMENT RANGER  
FROM OTHER POLICE AND  
FIRE PERSONNEL HELD TO  
McCARTHY'S MUNICIPAL  
RESIDENCY  
REQUIREMENTS**  
by Christopher H. Cessna

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*Editor's Note: For reasons of space, this article is being presented in two parts and without the footnotes submitted. You may also read it in its entirety, with citations, on the Lodge Web site: [www.rangerfop.com](http://www.rangerfop.com).*

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**Part 1 of 2  
Introduction**

The United States National Park Service (NPS) was created by Congress on August 25, 1916. The organic legislation and mandate for this agency was then, and is today, to conserve its natural, cultural and historic objects while providing for the enjoyment of the same in such a manner and by such means so as to will leave then unimpaired for future generations. To this end, the NPS through its own subsequent agency rules and regulations requires many of its law enforcement park rangers to live in agency owned housing within their



respective park jurisdictions. The agency's housing is not free. Those required to live in government quarters must also pay the government a rental rate that is comparable to local market rates.

Like their city counterparts such as city police and firefighters, NPS rangers are often required to live within their jurisdictions, in this case, their parks. However, as there are many similarities between these "emergency services cousins" who live in the city and those who live in the parks, there are also many distinctions. These distinctions weigh heavily on rangers. For that reason, rangers often petition their parks for release from government imposed housing required occupancy.

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Although some of the younger, single rangers tolerate required occupancy for the automatic tax-write-off, other older rangers desire to buy a home in a nearby community. However, the agency petitioning process often wears down the employee by requiring that he/she exhaust the administrative appeal process all the way to Washington, D.C., before relief is granted. This can take years. However, many just give up.

It is the author's contention that through such tactics and policies the agency effectively violates the ranger's equal protection rights. This paper intends to examine the traditional residency requirements established by the McCarthy strain of case law while shedding some light on the distinguishing characteristics between the plight of the ranger from that of the traditional McCarthy-like plaintiff.

Specifically, the argument intends to draw a critical distinction between the unique situation rangers face in their residence issues versus the established case law which has evolved over the years upon a nearly homogenous set of facts specific to urban police and fire personnel and because of these facts has continued to fail in the courts. The author feels the established case law can

be successfully distinguished to the ranger's benefit. In that light, the author attempts to present an argument which will allow future court review at the intermediate level instead of the historical rational review level used in past required residency litigation. Obviously, the ultimate goal is the elimination of government imposed rental rates coupled with required occupancy. Or, as an alternative, the adoption of a time and distance exception which allows a ranger's release from required occupancy.

## **II. Distinguishing the Plight of the U.S. National Park Ranger**

While sharing many similarities with their urban police and fire counterparts, the situation faced by the National Park Ranger is very different. This difference begins with the dynamics of a park environment versus that of a city or town. There are 370 NPS units nationwide. Many of these parks are geographically larger than major metropolitan areas, and are often larger than some New England states. However, only a fraction of these parks employ 24 hour shift operations with rangers on duty around the clock for law enforcement purposes. For a vast majority of parks, the government saves millions of dollars each year by having only one shift during business-hours. In other parks, two shifts may overlap, but these are the exceptions.

The result is that the majority of parks are not patrolled for hours on end, usually until the next day. In such circumstances, the agency requires one or more rangers to live in the park, so that he/she may respond to after hours emergencies. Such positions are designated by the agency as "required occupant positions." This designation comes when it has been determined that essential services cannot be rendered any other way or that property of the government cannot be protected otherwise without a timely response within the park to an emergency situation.

These law enforcement rangers, who are forced to live in government housing while paying exorbitant rent based on the local rental rate index. Rangers are also required to make other sacrifices which their urban counterparts are not subject to. As a result, the value of government housing is far outweighed by the restriction on the ranger's personal liberty and other hardships placed upon them and their families.

## **A. Police versus Rangers: Distinguishing the Disparity in Choices**

City police and fire employees, including their families enjoy anonymous, private homes tucked away in quiet neighborhoods. These are homes and neighborhoods which the police or fire employee can choose from literally thousands of possibilities within their city's jurisdiction. These employees and their families are rarely, if ever interrupted at their private residence by the public for directions, assistance or emergencies. Not so for the ranger or his family.

Rangers don't get to choose from thousands of homes. He or she will be assigned one particular dwelling by his supervisor or a co-worker. These government dwellings are located inside a public area and more often than not have directional arrows and signs alerting the visiting public to their location. For a ranger and his family living in required occupancy, it is fairly common to experience regular interruptions and visits from the public. Many times these unannounced public visits require that the ranger leave his residence and family to resolve a problem.

Additionally, an NPS ranger's supervisor or co-worker may have a key and access to the ranger's residence. Because the residence is government property, it must be accessed by NPS co-workers who perform maintenance and regular inspections. At smaller parks a ranger's immediate supervisor may hold a key to their residence, and at larger parks it may be the park's housing officer. This invasion of privacy can have many obvious repercussions in a competitive, or politically charged work environment.

In addition, while the typical American citizen and police officer can choose a home within their price range in light of what they can afford, the NPS ranger is not only told what dwelling he or she will reside in, but what the rental rate will be. This rate is set at the park level. Because many national parks comprise the "crown jewels" of this country's national scenery, affluent resort communities have flourished on their periphery. Each park computes its own housing rates from the comparable rates in these communities. More often than not, these computations reflect the exorbitant rental rates found in such exotic communities.

The rangers required to live in such park housing are generally the lowest level



government field employees. Unless independently wealthy, these employees can barely afford such rental rates. Therefore, they sacrifice dearly to pay their landlord, the federal government, to live where they're required, in often sub-standard housing.

Not too long ago, park housing consisted of a shipping crate at Channel Islands National Park. Much of the NPS's 5,200 housing units located in many of the agency's 370 parks have been rated fair to poor. A General Accounting Office survey found that of the employee housing owned by the National Park Service, 45% was rated fair, and 15% was rated in poor condition. In 1996, the Director of the National Park Service testified before a Congressional House Subcommittee on the living conditions of his employees. Director Kennedy stated, "[A]lthough the conditions for a number of employees have improved over the past few years, many park service employees still live in deplorable conditions."

Recently, one NPS ranger left the following message on an Internet "ranger bulletin board" concerning the payment of rent for required park housing:

I wouldn't mind paying the rent if they gave me decent housing. I live in a very small house with my wife, also a ranger, and two dogs. The house was built in 1924 and has had little rehab done to it. It has lead pipes and asbestos in the ceiling. Meanwhile, I live next door to the park superintendent. Before he would move into his house he spent \$70,000 of park money to have bathrooms put in for each bedroom, new Berber carpeting to replace the two year old carpeting already there, an electric garage door opener, and (here's the good one) a remote controlled gas fireplace. It took me three months to get a doorknob for our bedroom. Several new \$500,000 homes were built just outside the park just before I moved here . . . I could go on and on.

Despite NPS directives which require that all rental rates paid by NPS employees go back into the maintenance of agency housing, a significant number of government dwellings which the NPS requires its employees to live in are sub-standard, and would not be selected by the employee if the ranger were given a choice, similar to prospective renters in the private sector.

Rangers are some of the lowest paid public servants. A 1989 study conducted by the Association of National Park Rangers (ANPR) revealed that a segment of field rangers, not required to pay for required housing, were living in automobiles and sharing substandard housing with several others just to have a roof over their head. Other rangers reported spending over 60% of their meager salary for housing. The report further found that a significant number of rangers were leaving the NPS rather than endure marginal living conditions or exhaust their savings in an effort to survive.

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***What this combination of factors does, is effectively prohibits the NPS ranger from acquiring and building equity in a home.***

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This low pay compounds the problem faced by rangers who must reside in required occupancy while paying high rental rates. Such low pay has not gone unnoticed. While introducing his Senate Bill, S. 1704, known as the Ranger Fair Housing Act, Senator Malcolm Wallop made the following observations:

The National Park Service recently completed a rental rate survey comparability study for the North Atlantic rental survey area. This Survey proposed increases of employee rents up to 46 percent of the employee's base salary. The most recent Census Bureau American Housing Survey reveals that the average cost of rental housing nationwide is 27 percent of gross family income, including the cost of utilities, yet the Federal Government is requiring an employee to live in Government housing as a condition of their employment and then charging almost twice the national average for that privilege.

This inequity is particularly onerous when you consider that the gross monthly salary for many of these employees is between \$1,300 and \$1,600. In one case, a GS-5 ranger making \$1,300 a month would pay the Government \$599 a month to rent a house in which he is required to live. This leaves \$701 a month for taxes, utilities, food, and perhaps, if the employee is frugal, a candy bar."

What this combination of factors does, is effectively prohibits the NPS ranger from acquiring and building equity in a home; something every American, including city police and fire personnel have the right to do. Many rangers may spend most, if not all of their career required to live in park housing. With such prohibitions in place, most rangers will never be able to build equity in a home or share in the "American Dream."

In addition, police and fire employees can buy a home in a neighborhood or area of town where they would like to send their kids to school. NPS rangers are many times forced to home school their children or make other sacrifices which negatively impact their children. Living in park required housing can include such sacrifices as foregoing all television reception, living in isolation without neighbors or playmates for the children, and limited choices for a child's school. Because many rangers are required to live in park housing for the duration of their career, they do not have the opportunity to purchase their own home they do not have an opportunity to live the "American Dream" as do most Americans. Despite their low pay, the money they would use to invest in a home must be used for rent on government housing.

In his 1996 statement before a Congressional Sub-committee reviewing the Housing Improvement Act for Land Management Agencies, NPS ranger, Michael Hill testified to the following:

I have been a park ranger for almost 23 years now, and have been required to rent my home from the government for 18 of those years in 6 different parks. . . . in previous hearings on this issue a great fuss was made about the ranger living in a shipping container on San Miguel Island in Channel Islands National Park. Well, I lived on San Miguel Island in the days before the "ranger in a box." Then it was a tent. Only three years ago, after 20 years of public service, my family and I finally began to purchase our first home and live the American Dream. I'll have the mortgage paid off when I'm 75. My personal situation is actually rather typical. Some of the factual information pertinent to this issue is startling. Bathtubs and toilets [in NPS housing] suddenly disappearing through the floor . . . . Employee-paid utility bills consuming



two-thirds of a family's total housing budget. Rent paid to the government eating over half a family's monthly income. Rats climbing in bed with babies. These occurrences are facts.

In summary, unlike the urban police and fire personnel the ranger is effectively prohibited from acquiring the most important piece of property known to Americans. This property is so important that the phrase, "American Dream," is a household word. In fact, the NPS may effectively deny their employees what may be a fundamental right to acquire and own a home.

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#### **B. Difficulty of Release from Park Housing**

To date, the NPS manages approximately 5,000 housing units, which include single-family dwellings, apartments, cabins, trailers, and RV sites.

The individual parks set their own rental rates for each of these dwellings with guidelines provided from the Office of Management and Budget (OMB) and based upon the local consumer price index for comparable units. Income derived from the rental rates is supposed to be dedicated solely to the maintenance, operation, rehabilitation, or replacement of employee housing.

Many rangers dislike the required occupancy for numerous reasons. Furthermore, required occupancy has historically spawned numerous petitions by rangers to be released from such housing. In fact, the NPS, through its agency rules and regulations has laid out a detailed petition and appeals process for rangers to follow if they choose to seek release from required occupancy. These procedures are found in the NPS Housing Management Handbook. Parks must comply with these guidelines which receive their authority from the United States Code, various public laws, the Code of Federal Regulations, and the OMB.

Because required occupancy is a condition of employment, it is an exception to the agency grievance procedures. Therefore, when a ranger intends to petition for release from park housing, he/she must first request the release from the park's on-site superintendent. The superintendent may or may not approve the request. If the superintendent agrees to the release, the decision is then reviewed by the regional director. If the ranger is dissatisfied with the superintendent's initial decision, he may appeal the decision to the regional director. According to the NPS Housing guidelines, the regional director's decision is then final. However, in reality, the employee has an appeal right to the agency's Washington headquarters. In fact one ongoing appeal is currently being adjudicated at the Headquarters level.

According to Randall Kendrick, the past president of the U.S. National Park Ranger's Chapter of the Fraternal Order of Police (FOP), the FOP frequently assists rangers in their appeals for release from required housing. *Kendrick states that the FOP has never lost an appeal.* [Emphasis added. -ed.]

Kendrick claims this is due to a hardball policy adopted by the NPS. This policy attempts to keep rangers locked into required housing. According to Kendrick, employees are required to exhaust their administrative appeals before the NPS will finally cave in to the release, even if the initial request for release is justified. The appeals process begins with the park frequently denying a ranger's request for release from required housing in the hopes they will not appeal the decision from the park level. However, if appealed to the regional level it will systematically be denied again. If appealed again to the headquarters level the agency will often cave in before allowing for the possibility of losing an appeal outside of the administrative process, and thus setting adverse precedent in courts of law.

In essence, the NPS may be taking advantage of the fact that it is the employee's duty to exhaust all administrative remedies before seeking judicial review outside the agency. According to Kendrick, while exhausting these remedies, employees face an ironic deluge of due process rights, possibly intended to deter and discourage what may be very justified requests for release, in the hopes that the employee will give in first. This is unfortunate, when in fact the required occupancy requirements may be uncon-

stitutional and subject to successful challenges despite previous failures by police and fire employees.

*Part 2 will appear in the next issue of The Protection Ranger. -ed.*

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### **Training Opportunity**

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**Santa Rosa Ranger Academy**  
**7 week law enforcement training program, approved by the Federal Government to qualify graduates for employment in National Parks.**

1/10/2000 to 2/23/2000  
3/20/2000 to 5/3/2000  
11/6/2000 to 12/20/2000

*Interested persons please contact:*  
Santa Rosa Training Center  
609 Tomales Road  
Petaluma, CA 94952  
Phone: 707-776-0721

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### **New Lodge Discussion**

#### **Forum At:**

***www.rangerfop.com***

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The Lodge is increasingly making use of our web site, administered by Duane Buck, to post messages and articles of immediate interest. Duane started a Ranger Forum for ongoing discussion of anything that interests you. Right now we're looking for comments on whether your park has experienced reductions in LE rangers over the past few years and how that's affected public safety and park operations. And Matt Stoffolano & the Lodge would like to know if any parks have started paying for 1/2 of liability insurance. Feel free to start discussions on anything else that appeals to you.

Check out the Lodge's new web address and Forum:

*www.rangerfop.com* As always, if you don't have access to the Internet, the Lodge is happy to mail you any articles posted there that is mentioned in the *Protection Ranger*.



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

FIRST CLASS  
U.S. POSTAGE  
**PAID**  
WYTHEVILLE, VA  
24382  
PERMIT #172

**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](mailto:RandallFOP@tcia.net)

## Lodge Website:

Brother Duane Buck has built and maintains the Lodge website. We keep it updated with notices, news, and links to other sites that we think are interesting and/or helpful to resource based law enforcement officers. Visit it often between issues of the Protection Ranger to keep current on things that affect you and your job. The address is:

<http://home.earthlink.net/~bikeranger>

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

NPS Area:

Enclose a copy of your Commission (new members only).  
Renewals: You do not need to send in this form to renew.

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

☐ 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.

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

DOB:

State:

City:

Address:

Signature:

Name:

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.

## Application for Membership

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.

Routing Number  
0514-0547-6

Bassett, VA 24055

POB 1776  
Patrick Henry National Bank

Section 3:  
Name and address of Financial Institution:

Agency Name: USDI-National Park Service  
Agency Address: Your Park's HQ Address

Section 2:

Block G: Type: New Amount: \$2.00

Block F: Check Other FOP Dues

Block E: 090220704401

Block D: Check the Checking box.

Block C: Write in your Social Security Number.

Section 1:

out the Form 1199 as follows:

You are only allowed two 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 the Direct Deposit Sign-Up Form, available from your park's fiscal office.

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:

## Lodge Dues and E-Z Pay Plan