

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 Update

The National Park Service's RM-57 Medical Standards Program has rangers across the Service asking questions related to its ill-conceived and illegal implementation. Signed by the Director in April of 1999 this program is impacting the current workforce base of the 025 series law enforcement ranger as no other program has in the past.

Over the last 18 months rangers have had their privacy invaded; been removed from commissioned duties for up to a year while their individual case has been determined; been subjected to and required to pay for additional medical testing required by the NPS to make a final determination; and, to date, two rangers have received letters advising them that their appeal has been denied and they are formally being removed from commissioned status.

To add to these indignities, there is no career counseling, job retraining, or even a policy requiring job placement for removed rangers! But that is only the tip of the iceberg.

What is becoming apparent is that the implementation of RM-57 is not...being carried out in the best interests of the workforce.

It's important to understand that OPM requires that the National Park Service implement a medical standards program due to the 6(c) enhanced annuity retirement program granted to 025 law enforcement rangers in July of 1994. Rangers were granted 6(c) retirement and law enforcement pay because we were performing duties that required this coverage by law. Upon submission of proof by each ranger that they had been engaged in investigation of crimes against the United States and involved in the apprehension, detention, and arrest of criminals throughout their career, each was individually granted 6(c) retirement for the years that they had already served in their positions prior to July, 1994.

While OPM dictates that medical standards be put in place, the medical standards themselves and their implementation are up to the law enforcement agency that employs most of a series to be covered. And the

medical standards program of an agency must meet the regulations spelled out in 5 CFR 339. According to David Davies, WASO personnel office and a member of the NPS Medical Standards Review Committee, the Department of the Interior "owns the medical standards" for the 025 series because "we employ over 50% of the 025 series (law enforcement) rangers." In a meeting with rangers from Cuyahoga Valley in May of this year, Davies went on to advise that because the NPS "owns" the standards, the NPS "can review and modify them at anytime."

Since the implementation of the medical standards in April of 1999 rangers have been asking some very realistic and precise questions about how these standards will be implemented and how they will affect the workforce already employed as of April, 1999. We have, at best, received only vague responses to our specific questions. Concerns raised about the implementation of RM-57 in some parks, and the horror stories from around the service, have met with indifference from those charged with administering this program.

What is becoming apparent is that the implementation of RM-57 is not in accordance with 5 CFR 339, nor is it being carried out in the best interests of the existing workforce.

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Note that RM-57 omits a statute that protects rangers with a work history. 5 *CFR* 339.204 requires that agencies "waive a medical standard or physical requirement established under this part when there is sufficient evidence that an applicant or employee, with or without reasonable accommodation, can perform the essential duties of the job without endangering the health and safety of the individual or others."

The National Park Service Medical Standards Review Committee, appointed by WASO to review the problems with RM-57 implementation, met several times between May and November of 2000. The Medical Review Committee outlined their "concerns with the implementation of the medical standards program" in a memorandum dated August 2, 2000. *The concerns of the NPS are as follows:*

- ▶ Fairness and consistency in the application of medical standards
- ▶ Lack of full implementation across the National Park Service
- ▶ Lack of leadership; no central program manager overseeing the process
- ▶ Discrepancies between wild land fire and the new system
- ▶ Incorrect use of forms
- ▶ Lack of understanding of procedure.
- ▶ Clarification needed in RM-57
- ▶ Immediate, interim guidance/recommendations needed
- ▶ Lack of understanding of the evaluation/appeal process.

It's apparent that the National Park Service recognizes that the development and implementation of RM-57 is flawed, but continues to move ahead with implementation anyway.

***The Congressional
Committee concluded that
RM-57 is being implemented
with unfair and unequal
treatment of it's employees.***

In October, Brother Randall Kendrick contacted Passman and Kaplan for an overview of the legal ramifications of NPS-57. Ed Passman has been researching case law, but felt a more direct approach was warranted. Passman drafted a letter to OPM through Phil Spottswood, the Medical Advisor who has been working with the NPS on the development and implementation of the standards, advising that the FOP has serious concerns regarding the way that NPS-57 is being implemented (pg. 4).

Randall Kendrick followed up with a letter and case studies. In late October the FOP was notified that OPM had assigned an investigator from their Oversight Office in Dallas to investigate the implementation of RM-57 as it relates to 5 *CFR* 339. The investigator contacted Randall and thoroughly reviewed the FOP's concerns, advising that she was heading up a team to investigate the abuses of RM-57.

In October of this year, Congressional Representative Ralph Regula, R-OH and George Nethercutt, R-WA reviewed individual case histories sent by rangers along with data submitted by the FOP collected through the Lodge's Medical Standards Results Feedback Survey. The Congressmen were very concerned over the apparent inequities and the lack of adherence to 5 *CFR* 339 which requires fair and uniform application of standards as well as a waiver of a medical or physical requirement if there is a positive work history. The Congressmen requested a meeting with NPS officials in order to obtain an agency briefing on RM-57.

According to Cathy LeBret, an aide for Congressman Nethercutt the briefing provided by the NPS officials was unsatisfactory. Ms. LeBret reported that the NPS officials seemed unaware that rangers are waiting for months, and in some cases up to a year, in light duty status for waivers; that certain rangers had received verbal waivers by phone; that rangers with corrected vision to within the standard are waiting months for a waiver while rangers with permanent disabilities preventing full performance of duties have already been granted a waiver.

The NPS advised the congressional committee that only one ranger has actually been removed from a position so far. When the congressional committee asked what would be done to assist the removed ranger and other rangers who had lost job career opportunities due to the medical exam process, NPS officials stated, "he may have a law suit against us...that is one of his options."

The Congressional Committee concluded that it is not satisfactory that RM-57 is being implemented with inconsistencies and unfair and unequal treatment of it's current employee base. They felt there was no clear plan of action by the NPS to clear up the situation and that the Congressional Committee must decide in the coming weeks what course of action to take. The most chilling information that came out of the meeting was the number of rangers actually affected by the Medical Standards Program in FY2000. These statistics cover permanents, seasonals, and applicants:

- ▶ 955 examinations were conducted on applicants and employees.
- ▶ 622 passed the examination.
- ▶ 122 required additional information and then passed.
- ▶ 130 applicants/employees had significant medical findings
- ▶ 109 employees/applicants

HAVE NOT APPEALED.

- ▶ 9 appeals are pending with the Medical Review Board.
 - ▶ 12 appeals have been reviewed.
- Of these appeals:*
- ▶ 2 rangers lost final appeal (one is being reconsidered at the ranger's request after being advised by OPM to request reconsideration).
 - ▶ 5 received limited waivers to continue in their *current position without restriction*.
 - ▶ 5 have pending decisions.

Based on the information received from affected rangers; from the assessment by Congressman Ralph Regula's committee after meeting with NPS Officials; from the National Park Service's own assessment of the problems with the current implementation of RM-57; and from OPM's willingness to investigate RM-57, it is clear there are very real problems with RM-57. Rangers and the FOP must ask Ralph Regula's Congressional Committee to recommend the following to the National Park Service:

- ▶ Immediately suspend RM-57 pending a full review.
- ▶ Place all affected rangers back in full duty status.
- ▶ Place rangers selected by the Congressional Committee on the Medical Standards Review Committee to assist in drafting a reasonable Medical Standards Program Implementation Plan.
- ▶ Grandfather the current base workforce employed in positions as of April, 1998 unless the ranger is unable to perform the essential duties of the position as demonstrated by job performance.
- ▶ Require the NPS to develop a nationwide education and implementation plan for RM-57 based on WASO and field concerns related to the program.
- ▶ Develop a policy of retraining,

grade and salary retention, and job placement for rangers displaced by the medical standards program.

Medical Standards are a part of the law enforcement package that comes with doing a job that falls under 6(c) retirement and law enforcement pay regulations. The Medical Standards Program should be one that screens new applicants to hire the fittest, healthiest employees possible. But the NPS must recognize that dedicated rangers in the current base workforce have already passed their initial and annual training requirements, have received successful performance appraisals, qualify with weapons as required, and receive commendations for a job well done. These employees deserve a well thought out, fair and uniformly applied program that removes a ranger only if the essential duties of the position cannot be performed. Anything less is unacceptable.

Fire at the Army Corp Lodge Presses for Standards

The Army Corps of Engineers has denied the Lodge's Freedom of Information Act request for a copy of the agency's Fire Management Task Force draft recommendations. The Lodge will appeal the denial to the Secretary of the Army.

Richard L. Frenette, Counsel for the Corps, cited Exemption 5 of the Act, which excludes from release records that disclose the agency's decision-making process. Frenette stated that:

Release of the draft document to the public at this time would be confusing and misleading since the substance of the documents may change considerably before it is completed. Release of the document could also chill the free

exchange of ideas and information among Government employees on this, and future, projects. Employees would be more hesitant to share their views and recommendations in writing for fear that they would be released to the public.

Chill the free exchange of ideas? Mr. Frenette, you miss the point. The FOP is alarmed over the Army's failure to provide proper training and personal protective equipment to personnel engaged in fire management. As a professional organization representing rangers of the COE and other land management agencies, we have a vital interest in ensuring that the Corps adopts generally accepted fire management standards.

The US Park Rangers Lodge is seeking cooperation and dialog. However, we are also prepared to offer expert witnesses against the agency in the event that Corps employees are injured by substandard fire management policies. The Lodge is also still interested in gathering examples of shoddy COE fire management practices, and in signing up volunteers with fire experience to review the Corp's Task Force recommendations whenever they are released.

Lodge Attorneys Ask OPM To Intervene on Medical Standards

Editor's Note: at the request of the Lodge, FOP attorney Ed Passman wrote the following letter to OPM regarding problems with implementation of Medical Standards.

October 24, 2000

By Facsimile and Regular Mail
Mary Ann Good
Personnel Management Specialist
Office of Merit Systems Oversight
and Effectiveness
Dallas Oversight Division
Office of Personnel Management
1100 Commerce Street, Suite 4C22
Dallas, Texas 75242
Fax (214) 767-0315

Re: National Park Service
Regulations re Medical Standards –
RM-57

Dear Ms. Good:

I am writing on behalf of the Fraternal Order of Police (FOP), National Park Service Rangers, Law Enforcement Officers (LEOs) who have been subject to the improper implementation of medical standards in RM-57 in violation of OPM Part 339. The Rangers contend that the program is being implemented in violation of 5 *CFR* 339.202(a) and (b) as the medical standards are not being uniformly applied and are not directly related to the actual requirements of the position. Furthermore, the agency is not making a serious effort to waive medical standards or reasonably accommodate LEOs, many of whom have served long periods of time prior to the implementation of the standards, who do not meet all of the physical requirements.

While it is my understanding that OPM has deferred to the National Park Service because of its lead role in employing Rangers who are LEOs, the agency must still comply with Part 339. Due to the systemic nature of the violations, my client has requested that your office commence an oversight review of the RM-57 program. It is both unfair and unreasonable to expect each NPS LEO to fight out his or her case on an individual basis when the agency has

failed to properly implement its medical standards.

I am enclosing correspondence from Randall Kendrick, Executive Director, setting forth an overview of the problems with specific examples. Mr. Kendrick can be reached at (800) 407-8295. I am looking forward to hearing from you at your earliest convenience as to your progress.

Very truly yours,
Edward H. Passman
Enclosures

Legal Defense Insurance
Randall Kendrick
Lodge Secretary

If you do not have a legal defense policy to protect yourself, your career, and your resources, you are making a big mistake. We can't say it any more bluntly than that. There are several policies available, all with strong and weak points, and you need to look at them and pick the one that best serves your needs.

There are at least three good legal defense insurance plans available right now and all officers need some coverage. The plans are: the FOP designed policy from Hylant-Maclean; the 10-33 plan; and the plan from Wright and Co. of Washington DC. The Wright plan has been recently improved in that it now covers legal expenses for administrative hearings. For years they did not cover this threat to your job. The Lodge executive committee urges each member to buy a policy. None are perfect but ALL are better than not being covered at all.

For no more than \$100/year (counting the fact the agency will pay for one-half of your annual premium) you will

have most of your legal bills paid when management comes after you for an on-the-job incident or a medical issue. You can't even have a consultation with a decent lawyer for \$100 – and the consultation is where the lawyer says to you, “Yes I can help but I have to have \$2,500 up front.”

The Lodge is unfortunately not in a position to pay your legal bills. We have not raised dues for six years – they are staying the same once again – and we don't have the resources to bail you out. The Lodge will provide you with excellent information and put you in touch with members who have “been there and done that” but that's not the lawyer you need when you have to appeal an adverse decision. It is your career and livelihood at stake – and the cost is reasonable.

***If you do not have a legal
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If you have a medical issue, are faced with a loss of your commission, are sued civilly or have a criminal charge brought against you, you can expect to pay several thousands of dollars at minimum. The Lodge does not endorse any plan – all have strengths and weaknesses. You should get information about each and compare and see what's best for you: All are much better than not being covered.

2001 Dues to Remain Unchanged
For the sixth consecutive year, the Lodge is holding the line on dues. Dues will remain \$52 for permanent full time officers and \$35 for seasonals, retirees, and associates. Although costs have been rising, we

realized savings in the phone bill and the printing of *The Protection Ranger*. This enables us to do more for less.

Letters to the Editor

October 26, 2000

Editor, *Protection Ranger*:

After receiving and reading my latest issue of *The Protection Ranger*, I found myself with thoughts of frustration that I had not had in over three years – my retirement date. The article that I found so disturbing was that by Barbara Goodman, Superintendent of Tincuan E&H Preserve. To relieve some of this feeling, I have put together this letter to her that you may choose to use or not, your choice. It has made me feel better just writing it.

Ms Goodman,

Your letter-to-the-editor that recently appeared in *The Protection Ranger* rang several bells with this retired District Ranger. So that I do not appear to be coming from left field, let me state that I was one of the first "Criminal Investigators" hired by the NPS, Yosemite, Jan. 1969. Twenty-nine years later, I retired, having spent that time primarily in the field of visitor protection. Prior to 1969, I was a State Traffic Officer with the California Highway Patrol for seven years. My college degree proclaims Criminology as my major. My father was an Area Commander with the California Highway Patrol, and my son is now a city policeman within California. In other words, I am aware of the recognition that a law enforcement type might normally expect to receive from the agency they are employed by.

The point of this letter is that in the majority of my twenty-nine years with the NPS, it was very seldom that there existed any recognition and

support for the field ranger. The prevailing thought that if a mistake was made, there would be little or no support from above. As stated in the response which immediately followed your letter, our equipment was not always the best, in fact, quite often the equipment we needed to do the job was not even available. And, recognition of the field ranger and their responsibilities? Hardly!

...it was very seldom that there existed any recognition and support for the field ranger.

Those days, for the most part, are gone, but only through the efforts of, and if I may quote you, those you referred to: "where do these people work that their lives are so miserable?" It is only because of such people that the Protection Division Rangers are finally receiving the recognition that they are due. You may not wish to believe this, but for many years the field ranger was literally the "square peg in the round hole." Any complaints on our part regarding pay, equipment, administration, support, etc., were invariably met with the response, "if you don't like it, you can always quit." It was only through the efforts of a determined group of rangers and an affiliation with the Fraternal Order of Police, that any recognition of the field ranger occurred.

In addition, no ranger I know has ever wanted to vilify the NPS. As I am sure you do, they all fervently believe in the NPS and what it stands for. But working for resolution through management has historically been a dead-end. Regardless of any effort, the results were always disheartening.

Are the field rangers blaming administration and thus hindering

resolution? Holding administration at fault for not working for a resolution, perhaps. But hindering, I think not. All the field rangers have ever asked for has been recognition and the capability to do their job – as stated in their position descriptions. Please place yourself in their shoes, and wonder why, after all these years and all the effort, rangers in many parks are still not allowed to do the job they were hired for and why they must still struggle for recognition and support for the on-site administration. It is nice that your career with the NPS has led to a Superintendentcy. If that was a career goal, my congratulations. But, as the saying goes, unless you have walked a mile in someone else's shoes, then.....!

J. S. Wolfe

Doing the Most With Less

A long-time, but anonymous, ranger writes:

I remember many times where I put in hours of my own time so I could finish a case, or other work. Bringing home patrol cars on my off time to wash, clean and repair them. In my last Park I was a CI but they needed people on patrol, so I spent a majority of my shift on the road handling calls, then after my shift working on clearing cases. Never did any one of my bosses say, "Hey, we will give you OT." In fact, they refused to pay OT. Explain that to a wife with 3 kids, that you are working rotating shifts, then additional hours, unpaid to get the job done. Still, to this day I spend days off working on cases to get them done. This is because I take pride in my work and enjoy it.

I am not looking for sympathy. I know most of you do the same or

have faced the same problems – that’s why we’re in the FOP.

My major problem with this, though, is that the NPS does not appreciate any of this. We give them and the public the most public safety services per officer then any other agency in the country. And we’re underpaid in most parts of the country. In our area, we are paid approximately 20 grand less than the local township police. Now, I didn't join this agency or get into LE to become rich. If you think about it, NPS Rangers are some of the most dedicated, uncorrupted civil servants in the country. We work in some of the most hazardous conditions, and are paid shit. But we show up and give 110% each time. With all that being said, our agency is willing to spend lots of money, and exert hours upon hours fighting us for the very basic benefits we deserve and are entitled to.

Even with benefits we are already *entitled* to, they fight to take them away! Six years later we are still fighting to keep our 6(c) and LE pay.

To me, that says how much we are appreciated and wanted. I see and have seen for a long time low morale in this job. But the NPS answer is always: “there are ten people behind you willing to take your spot.” That’s great: train me, spend money on me, abuse my dedication and desire to do a great job, then tell me I can be replaced by some kid walking off the street.

I remember when I was a seasonal, the Chief Ranger used to tell us that he could fire us at any time for any reason. He would chuckle at that when he told us. The freak actually got enjoyment out of scaring us regarding our job stability.

It’s funny, I thought that once I became permanent, I would never have to worry again. Well, ten years as a permanent and I still worry about job security. How’s that for appreciation!

Any other agency commends their officers on a job well done with citations and medals, this agency won’t even pay you for OT half the

I spend days off working on cases to get them done. This is because I take pride in my work and enjoy it.

time. Recently a ranger awarded several Valor Awards was told he’d only be given one medal because “the medals were too expensive.” Of course, hiring that GS-12 planner is more important.

Even our basic uniform shows how little pride they want you to have. We look like maintenance half the time, and management likes that: less threatening! That’s another great one: “less threatening.” When I was growing up, I respected the police and feared getting in trouble. When did the NPS decide that being a professional LE agency is threatening, and is considered bad? Look at how much this agency fights the police/LE image. Usually it’s only offensive to the bad guys. But I almost forgot, once the criminal enters the golden gates of the Park, they are visitors.

A statement made by Paul Berkowitz in a 1985 video of Yosemite, “there is no such thing as NPS law enforcement, there’s only professional LE, and non-professional LE” is even more relevant today.

What I am getting at through all this, is that we cannot accept paying our

own money, putting in own time, and hiding our shortcomings. We provide a professional service and we deserve better.

My father told me something in high school that I live by to this day. He said you may have to shovel coal for 12 hours a day to support your family, but do it to the best of your ability and dedication. But you should also be compensated for your work. In the last issue of *The Protection Ranger*, retired ranger Walt Hoffman said: “I go by an old-fashioned blue collar philosophy: I work, you pay.”

Let’s not lose sight of how the NPS is trying to make the FOP out to be bad guys because we want the basics we deserve. There are also a number of rangers in our ranks who also believe the FOP is bad. They have accepted this brainwashing.

Two rangers have died due to outdated procedures, no backup, or bad equipment. It sometimes seems as if no one cares. Let’s make the public care and involve other LE agencies who are willing to help. Let’s not forget why we signed on for this job. It wasn’t to come in every shift and have to recreate the wheel because the NPS refuses to recognize us.

Everyone be safe, and don’t be heroes for this job, it’s not worth dying over. Because even in your death, the NPS will praise your great rangering abilities, but will mock you in the same breath by not implementing basic safety measures.

We need to make a difference.

Another Chip Taken from Medical Standards Armor

Brother Randall:

I said I would let you know when something has been decided with our case against Terri F. and the NPS. Here is what has taken place:

I filed with the regional EEO office in Philadelphia in February. No one ever contacted me from ANY EEO office till the end of June. Yes, June. My lawyer filed a letter of intent to file a law suit with EEOC in Washington and they did nothing so we, there are four of us, filed in district court in DC. We filed suit against Janet Reno, Robert Stanton, Bruce Babbitt, Terri Fajardo, and Susan Masica.

To make a long story short, Terri wanted to fight us in court but the NPS lawyer was able to finally convince her that the Park Service would lose and it would cost the government a lot of money. They finally conceded and we never had to go to court.

All of the papers have finally been signed by the judge and there is now a permanent injunction that prohibits the park service from preventing anyone from fighting fire based on age (collateral duty persons only).

You said that the FOP was following Terri F. closely about something and that you were interested in our case. You now have the up to date info. We got all that we asked for.

If you need our lawyer's name for any reason just let me know. Good luck in your dealings with her.

Joel Schwartz
Delaware Water Gap NRA

A Medical Standards Survival Guide

Editor's Note: this was written by a ranger who has prepared and carried his case through all of the appeals stages. If you find yourself in the position of needing to prepare an appeal, be sure to contact the Lodge. We have a number of rangers who have been through the process and are very willing to help their colleagues with their invaluable – and hard won – experience.

Happy Birthday!

Please find attached your birthday gift! That's right, here is your RM-57 package!

I am one of those who has been wrestling with a negative finding on my medical exam. Here are some critical lessons I learned along the way. The Park Service has provided no guidance for emerging from this maze with your job intact. I hope these suggestions can help others in what is becoming too common a situation:

1. **Read and understand the standard.** You can only play this game if you know the rules, and how they apply to you.
2. **Fill out the forms.** RM-57 has many very, very interesting forms. Please be honest about your physical condition. If you miss something, it may return to pinch you later.
3. **Go see your personal physician!** Make sure you show your personal healer the forms, along with your PD and the RM-57 standard. Make sure you explain the process as you see fit, or provide the physician with the

FOP contact number for clarification. Get the Doctor's evaluation in light of RM-57 and have it in writing, ready to submit with your paperwork to the Public Health Service in Atlanta. If any issues arise, make sure you discuss them honestly with your doctor and your family.

4. **Put together your work history.** Include previous parks, a brief description of your duties and commendations from your supervisors, peers and any relevant citizen comments.
5. **Go see the Public Health Service.** It has been admitted by WASO that "some health service offices are better than others..." so make sure you ask every question you want answered! If the answers aren't satisfactory, demand satisfaction from a PHS supervisor! Get all the doctor's comments in writing. Find out from the PHS personnel how long until a recommendation is made. Hold them to it!
6. **Follow up after a reasonable time,** according to the turn-around time stated by the PHS. If you aren't satisfied by the performance of the WASO HR or the Atlanta PHS people, use whatever avenues you have available to demand customer service. The turn-around time stated by WASO is ~60 days. If it takes longer there may be a problem.
7. **If a problem does arise, make sure you appeal within 30 days.** If you have all the above information already, the appeal should be almost pre-written. Focus on your performance in spite of the stated medical conflict, and show the steps you

and the park took toward a reasonable accommodation. Keep the burden on the NPS to prove you unfit. According to the statistics, most of the rangers affected to date have been accommodated.

8. **After initial appeals, prepare your case for presentation to the Medical Review Board (MRB).** The Board will consist of the Atlanta rep, the WASO chief of HR, the WASO Risk Manager, the WASO Chief Ranger and a field chief. Others may participate as well. You will get about one hour to justify your entire career. Make sure you are prepared. If you succeed, then prepare for the next time. If you don't succeed, there is room on the Group W bench for you here.
9. **Prepare for the years to come.** These standards are very fluid and no one can predict future implementation practices. You must repeat the process every two years and every year after your fortieth birthday. Previous conditions that had no bearing may be checked later, and the previous issues may be eliminated.

Overall, make sure you have all the answers before the NPS asks the questions. If an issue arises, be sure to be comfortable enough with it to withstand the discriminating treatment from the NPS. If not, you may be forced to re-evaluate your career. Make sure you keep your family in the loop. Many rangers stationed in remote areas can be devastated if they do not get good information. Help them out by getting this info to them.

The Group W Bench is getting more crowded. Not familiar with the bench? Remember Alice? And her

restaurant? (Arlo Guthrie...). Those of us on the bench are preparing for a fight. Contact Randall Kendrick for more information on who to contact to help prepare your case.

Briefing Sheet
NPS Medical Surveillance
Program
Cuyahoga Valley Chapter
Fraternal Order of Police
7255 Waterloo Road
Atwater, Ohio 44201

In April of 1999 the National Park Service (NPS) implemented the Director's Order 57, Medical Standards for law enforcement rangers. The program is in direct conflict with the Title 5, Section 339 of the Code of Federal Regulations.

5 CFR 339.204 "agencies must waive a medical standard or physical requirement established under this part when there is sufficient evidence that an applicant or employee, with or without reasonable accommodation, can perform the essential duties of the position without endangering the health and safety of the individual or others." (This section is not cited in DO-57 as the other sections of *5 CFR 339* are.)

- ▶ Full time law enforcement rangers employed prior to April, 1999 are being subject to initial and annual physical exams. These rangers have *already proven* they are able to carry out rigorous law enforcement duties through successful performance, completion of initial and annual training, and ability to qualify with designated firearms. All rangers, regardless of when they were hired must submit to an annual or bi-annual physical exam.
- ▶ **DO-57, II, C11** states: "reasonable accommodation may be considered..." However, NPS

representatives David Davies and Dennis Burnett met with rangers at Cuyahoga Valley National Recreation Area in May, 2000 and stated that, based on a thesis written by Dr. Goldman, Atlanta, there can be no accommodation for law enforcement. Davies stated that, "if you are color blind I would argue that you've never been doing it (law enforcement) safely."

5 CFR 339.202 (a) states that health standards must be "...established by written directive and uniformly applied..." **DO-57, II, C4** states, "Servicewide consistency in the implementation and operation of the program is vital and required."

DO-57 indicates that all primary, secondary, and collateral duty law enforcement positions fall under the standards.

- ▶ Davies and Burnett advised, "...rangers in secondary positions have more flexibility than the front line..." in how medical conditions are viewed during medical review.
- ▶ Davies and Burnett could not give specific information on how current employees would be handled if removed from their positions. They did indicate that the NPS did not want to have a national policy on this, that it would be up to the regions. They also indicated that some parks had "secondary" law enforcement positions that rangers could be moved to until they had their 20 years in.
- ▶ Fitness for duty decisions are taking up to a year creating immeasurable stress and anxiety.
- ▶ David Davies advised that, "some public health facilities are better than others" and "some (public health facilities) are not particularly good." This is requiring additional testing and

examinations to determine fitness for duty.

- ▶ Davies stated that contract physicians make recommendations on fitness for duty, but the NPS medical review board makes the final decision because "the NPS knows who they want working for it."

The United States Forest Service implemented a reasonable medical standards program in July, 2000:

- ▶ Rangers in full time law enforcement positions as of that date are exempt from initial exam.
- ▶ All new hires are required to take and pass an initial exam.
- ▶ All employees may be subject to exam when "...law enforcement personnel are unable to successfully carry out their assigned duties as a result of a physical impairment or medical condition" (Forest Service Manual, Title 5300-Law Enforcement, section 5374.11).

Rangers are experiencing inequities in how the medical program is carried out:

- ▶ Rangers have had transfers and promotions withdrawn while waiting for a final decision by WASO.
- ▶ Rangers are being placed in a light duty status for months and up to one year pending a final decision.
- ▶ Full time rangers with a work history have commission suspended based on medical history contrary to 5 CFR 339.204.
- ▶ Commissioned rangers are bearing a heavy workload and increased officer safety issues due to fellow rangers being placed in light duty status for months.

- ▶ Rangers with the same medical condition are being treated differently at different parks.
- ▶ Seasonal rangers are not allowed to work in law enforcement due to medical finding even with a positive work history, contrary to 5 CFR 339.204.

Rangers are requesting that the NPS develop a reasonable program that is in compliance with 5 CFR :

- ▶ Full time law enforcement rangers employed in their positions as of April, 1999 will not be subjected to an initial medical exam.
- ▶ Full time law enforcement rangers employed in their positions as of April, 1999 will be subject to medical exam only if they are unable to carry out their duties due to a physical impairment or medical condition.
- ▶ The NPS medical program should be reviewed for reasonableness in its cost to the American public and benefit to the agency and employee.
- ▶ Seasonal law enforcement rangers should be protected by 5 CFR 339.204 if they can prove a work history.

Contact:

Randall Kendrick,
Secretary, US Park Rangers Lodge,
Fraternal Order of Police
1-800-407-8295

Representative George C. Nethercutt,
R-Washington
1527 Longworth Building
Washington, D.C. 20515

Representative Ralph Regula, D-OH
4150 Belden Village St, Suite 408
Canton, Ohio 44718-2553.

Send Us Your Experience with Medical Standards Implementation

As you know, the Lodge is aggressively involved in making sure the implementation of the Medical Standards are fair and consistent and that ranger's careers are not capriciously ended as a result of these standards. We also want to ensure that if a ranger does ultimately have to leave law enforcement, that there is job counseling, re-training if necessary, and that the National Park Service makes every effort to assist that ranger in a new career.

WASO has often misrepresented the impact of these standards on rangers by seriously under reporting the number of rangers affected. To further the Lodge's effort, we need to present Congress, OPM and NPS with the details of your case. Please contact Randall Kendrick if you've had problems with the Medical Standards process.

Lodge Website

Brother Duane Buck has built and maintains the Lodge website. We keep it updated with notices 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: www.rangerfop.com

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: _____

Permanent Rangers: \$52/year

Seasonals and Retired Active Members: \$35/year

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).

Agency & Work Unit: _____

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

Phone: 1-800-407-8195 10am-10pm Eastern Time, or email

randallfop@ls.net



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

