The Protection Ranger

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Message from the VA Lodge President

On June 11 2003, one of the FOP's members forwarded an unauthorized message on the FOP'S e-mail address citing a recent decision by the United States Postal Service to issue a commemorative first class postage stamp honoring the Muslim holiday season. The message requested that all FOP members boycott the purchase or use of these stamps, citing as a reason a number of incidents over the past 20 years involving the loss of American lives at the hand of Muslims extremists.

The FOP condemns those, and all, terrorist acts in the strongest possible terms, and while the FOP and its members stand second to none in their patriotism and love of this country, it is not the position of the FOP to condemn a 1,500 year old world religion because of the act of a handful of misguided and evil terrorist who claimed to have acted in the name of that religion.

The FOP is not unmindful of the terrible loss of American life caused by these despicable terrorists. At the same time, the FOP is about fraternalism and brotherhood and helping one another, and it has never tolerated, and will not tolerate, bigotry against an entire class of people for the act of just a few of them.

Our country faces an uncertain time in its War on Terror. What makes America special, however, is the freedom we enjoy-even if it means the freedom to disagree on issues of great passion and meaning. That is our strength; and that is why America will prevail.

The Virginia State Lodge considers this matter closed. If you have any questions you may contact me at the State Lodge office.

Dan Blake
President
Virginia State Lodge
Fraternal Order of Police

Inside This Issue:

As we go to press, the Lodge has learned that FLETC has been ordered to reduce the length and scope of NPS park ranger training. We have sent a letter of protest to Secretary Norton. There will be more information next issue.

The Illusion of Change

THE STORY: As BUFF works on its LENA, it has identified its radio system as a major Ranger safety item and is listing it as needing to be updated and/or replaced.

THE REST OF THE STORY: In 1981 a Ranger attempting to make an arrest at Buffalo National Scenic River (BUFF) was attacked and physically over powered. As he was pushed back against a car and with his assailant yelling at his lady friend to get the Rangers gun, the Ranger dropped down, drew his weapon and shot his assailant thus ending the struggle. During this incident there were other Rangers nearby but not within sight. The Ranger under assault tried to use his radio to call for backup. The radio did not work as the radio system did not cover that part of the park.

A Board of Review concluded that the shooting was justifiable. The Board also concluded that the lack of radio coverage was a contributing factor in the shooting and recommended that it be fixed. The radio system used by Rangers at BUFF in 2003 is the SAME one used by the Ranger who could not get back-up in 1981. And, as in 1981, it still does not cover many parts of the park where active law enforcement actions occur.

FAST FORWARD - Today hundreds and hundreds of NPS Rangers and Special Agents work in law enforcement situations where they either don't have radio coverage or where they are not supported by a qualified dispatch service. Today, after the murder in the line of duty of 5 Rangers in the last 11 years and 4 in the last 5 years, little has changed in providing the field Ranger a radio life-line considered by many as an industry standard.

Late last fall, the Regional Chief Rangers presented a draft radio policy to WASO. That policy was developed by a select group of field LEOs and led by the NCR's Chief Ranger. That policy was then vetted at the filed level by most parks in the Service with hundreds of comments and suggestions being made. Many recommended changes were made and the final product was endorsed by all 7 Regional Chief Rangers. It was then presented to WASO. After thousands of hours of work, where is that policy today? Was all that work for naught?

In October we will celebrate the third anniversary of the IACP's report with

recommendations designed to offer our LEOs a safer working environment. With the exception of the FTO program, little if anything of substance has been done in carrying out those recommendations. We even blew the chance to place a highly qualified and experienced person as our leader at the Senior Executive Level. The Service chose instead to follow the tried and true Park Service management concept of placing inexperienced and poorly qualified managers in charge of law enforcement programs. The notion that a "good manager can mange anything" is getting Rangers killed and injured at a rate faster than any other Federal Agency.

In response to PL-105-391 (National Parks Omnibus Management Act, of 1998) the Service produced a study called the Law Enforcement Program Study. Thousands and thousands of hours of work went into this comprehensive study. Among other things, this study documented the need for 1200 more LEOs in the NPS. Mean while, our numbers go down not up - do you really believe "no-net-loss" is working?

The lesson learned form the work on the radio policy, from the IACP report and from the Law Enforcement Program Study is, don't confuse paper work exercises and a bushel basket of promises as "real" progress. And, recognize that in the NPS, to delay is to defeat.

Today we are engaged in a creative writing exercise called LENA. What will LENAs tell us that VRAP did not? What will LENA tell us that the IACP (a professional independent outside organization) did not? What will LENAs tell us that this 1998 Law Enforcement Study did not? Do you think that those Superintendents who are anti-law enforcement will really submit a "true" LENA?

For those LEOs in the Service who are excited about the fact that they can now wear a bigger target on their chest (the LE shield) I would offer this advice, set your bar higher. And, recognize that we are dealing with experts in delay.

Correction

In the last issue we identified Lodge member and author of that excellent article as a Special Agent. We were wrong: Brother Barry is a Patrol Captain for the US Forest Service.

Wrestling with the Devil

(Due to space constraints, this article will be published in two parts; the rest will appear in the next issue of the Protection Ranger.)

Alternatives in Resolving Workplace Conflicts in the National Park Service
by Randy Neal, Esq.*
Attorney and Counselor at Law

I have been told by employees at the Merit Systems Protection Board and the Department of the Interior Office of Hearings and Appeals, that no agency in Interior even comes close to the number of appeals and grievances generated by NPS workplace conflicts. I certainly don't intend in this article to explore the possible reasons that the NPS leads the way in this category, for I believe it sadly reflects on an institutional culture that is unlikely to change anytime soon, despite the best efforts of organizations like the FOP.

Like my previous article about Boards of Inquiry, the purpose of this article is not to discuss the technical procedures of various conflict resolution mechanisms, but rather to attempt to convey some real world practical insight on some pitfalls that may be encountered. By way of disclaimer, it represents my opinion, not professional legal advice.

As a matter of background, most American employment law is based on the idea of "at-will" employment. This developed from the earliest feudal relationships between master and servant. Because the master owned the property and compensated the servant, the servant had few rights. If a master decided to discharge a servant, even without cause, the law would not become involved, no matter how "unfair" the discharge might seem. But in the agrarian society of feudal times, it was perhaps easier to simply go work for someone else. There were few of the complex economic factors involved in our modern interdependent and credit driven economy. Today, since most employees make many financial decisions based on the assumption of continued employment with regular pay intervals, termination of an employee can have devastating and lasting consequences.

Under our Constitution, however, government employees enjoy unique protections. Years ago, the Supreme Court deviated from the "at-will" doctrine and interpreted the Fifth Amendment as ensuring "due process" protections to federal employees as long as the employee had a reasonable expectation of continued employment (it is the government's contention, for example, that seasonal employees do not have a reasonable expectation of continued employment, and are therefore "at-will" employees who may be discharged "without cause" at any time). Since the Constitution uniquely binds the federal government, this "due process" requirement does not apply to private employers. (There is conflict in the law concerning whether this is applicable to state and local governments through the 14th Amendment, which I need not address in this article). The modern trend however, is toward at least some form of justifiable reason for termination even in the private sector. But, for purposes of understanding why the federal government has developed such a significant number of complex safeguards for employees, one must understand simply that the Fifth Amendment Constitutional, which applies uniquely to the federal government, requires these systems as a matter of "due process."

When a ranger finds herself in conflict, she must first decide which mechanisms for resolution may be available. There are several major systems in place: the Equal Employment Opportunity (EEO) complaint system, the investigative systems (e.g., Office of Special Counsel, Federal Labor Relations Authority, Office of Personnel Management), the Merit Systems Protection Board system, the Conflict Resolution (CORE) program and the Grievance system, to name the major ones. I will try to offer some insight into a few of these systems, having experienced some of them personally on my own behalf, and others while representing co-workers.

Equal Employment Opportunity (EEO).

Although often this system can be the most appropriate and effective, EEO can arguably be the most misused of the conflict resolution systems. The EEO system was developed through a combination of statute, regulation and policy. Unique to this deviation from the "at-will" doctrine, is its application to private as well as government employers. Its roots are in the Civil Rights Act of 1964, sweeping legislation intended to address the widespread, often open discrimination against people who fell within "protected classes" (generally, gender, race, national origin, ethnicity and religion; age and disability are technically covered by different laws (ADA, ADEA) but afforded similar protection). Along with membership within one of these protected classes, one also has to prove a "protected activity" such as employment, education or public accommodation. The reason I say the EEO system is perhaps most misused is that often employees (both in the government and in the private sector) have sought to use this system because it is arguably the most "feared" by employers, even if the case involved only a tenuous or speculative connection to a protected class. It seems nearly everyone can fall into one or more of the protected classes, and charges of discrimination based on this protected class were sometimes raised, only so that an employee could have her complaint processed through the EEO system. This was often based on a perception by the employee that there was little other effective recourse in other complaint systems. As a result, many types of employment conflicts, with minimal actual connection to discriminatory practices, ended up in the complex system of informal and formal EEO investigation and resolution processes, which are replete with counselors, specialists and program managers. While some of these conflicts were not true examples of discrimination, employees relied on the effectiveness of this program to resolve issues. Don't misunderstand I am in no way suggesting that there are not many true, actual and sometimes latent examples of discrimination rampant in the government today.

I have often heard the term "disparate treatment" thrown about casually. This is a legal term of art in discrimination. Many are under the mistaken impression that individual employees cannot be treated differently by their employer. This is a common fallacy. Employers cannot treat you differently if they are motivated by discrimination against your protected class. In other words, an employer can treat me differently if she simply doesn't like me, or likes some one else better, and not violate EEO protections so long as the disparate treatment is not because of my race, gender, etc. This is not to say that I'm not able to use a different system to resolve unfair treatment, however simple personality clashes are generally not covered under EEO.

I have often seen employees who feel that they have been treated unfairly, who then have decided that it "must be" or perhaps is advantageous to believe that the disparate treatment was based on their membership of a protected class. In order to prevail in the EEO system, you must be able to show that the disparate treatment was based on discrimination against a protected class. This is where a vast number of EEO complaints fail.

The EEO system allows for either professional (lawyer) or lay (co-worker) representation. This is a vital protection for those who feel less articulate or become easily intimidated by such a process. One of my concerns about today's legal profession is that the middle class have limited access to professional legal advice. The rich can afford it, and the poor can take advantage of special programs. However, most employees fall largely in between. Many are taking advantage of "pre-paid" plans, where for a low annual fee, lawyers advertize that they will provide a vast array of legal services. My emphasis in on "advertize," as of course not all plans are created equal. This type of insurance is seen as "free money" by some lawyers, and sometimes they don't live up to their promises. Be sure to do your research before signing up for such a program. There are provisions in the EEO statutes however for "fee shifting" allowing a lawyer sometimes to recover reasonable costs and fees from the government if you prevail. Many employment lawyers will work on a contingency fee basis. Fees are something that need to be nailed down with each individual lawyer. Because it may be impossible to afford a lawyer, lay representation is an important right. For those who choose to use lay representation, be aware that there are unscrupulous ways that management may try to intimidate or retaliate against your representative. I cannot say how frequently this might happen, but I personally experienced it first hand. The response is simple - don't be intimidated, and fight back. Take it to the next level. My attitude was always "We'll see who intimidates whom in the long run." The possibility of such pressure on your representative requires that you be very careful in who you choose to represent you. Anyone afraid of limiting her career opportunities if she were to upset management is probably vulnerable to this type of pressure.

One major advantage for the employee, recently created in the Department, is the employee's right to ask for alternative dispute resolution (ADR) at any time during the complaint process. Many EEO professionals may not even be aware of this, but the memo is available on the main Interior Office for Equal Opportunity website. In essence, an employee may demand mediation or arbitration at any time. The agency's participation is mandatory, but the employee can choose whether or not to participate. The advantage of arbitration is cutting to the chase, which can save time if you have a good, solid case. It can force a decision in a very short time period, and the decision is binding. However, mediation's advantage is that you do not have to risk a totally negative decision. Since the government is required to participate, the employee is not bound to accept a particular proposal to resolve the matter, and can require the government to continue to work toward an acceptable solution. Obviously, there is a good faith requirement, but I have seen basically the "threat" of continuing mediation be a powerful tool to motivate the agency toward resolution. Always demand an objective, outside mediator. I'd be glad to discuss this subject further with anyone that is interested.

Many do not realize that the discrimination statute upon which EEO is based (Title VII) does not specifically address "sexual harassment" (or other forms of "harassment"). Sexual harassment is

judge-created case law, and based on the idea that some behavior could be so extreme as to amount to constructive discrimination, such as a "hostile work environment". This is another legal term of art I have heard being often misused. If an employer dislikes you and makes your work environment "hostile," you might have a grievance, but you don't yet have an EEO complaint. The hostility must again be based on discrimination against a protected class, and it must be "severe" or "pervasive."

Don't misunderstand Judge-created law can still create enforceable rights, but it can be more fluid, inconsistent and unpredictable. The case law is changing now, and as the courts recognize abuses of this cause of action, the pendulum seems to be swinging back the other way. On the way out are broad definitions of "offended." The Supreme Court recently threw out a case based largely on an "off-handed" comment, because it appeared to be an isolated incident. This is important when you have found yourself accused of a complaint. For example, I recently heard of a "sexual harassment" complaint by a female employee who stated that she was offended when she happened upon a female co-worker showing some male colleagues a tattoo on her waist. I think that even though the first employee may have been justifiably "offended," it is unlikely that a court would find this to be a "severe or pervasive hostile work environment" which discriminated against her gender. This is not to say, however, that the employer may not have other valid reasons to discourage such activity. It simply does not fit in the limited category of "sexual harassment" which, often out of an abundance of caution has been interpreted broadly by many government agencies and as well as other workplaces. The Supreme Court recently commented that the prohibitions against sexual harassment were never intended to be a way to enforce a "general civility code." On another note, an employer enjoys limited immunity if you don't at least initially try and utilize the in-house EEO grievance system, so you must try and use the EEO system first if you are the victim of harassment.

If you sincerely believe that you are truly the victim of discrimination, it is my belief that your first call should be to a lawyer, not just an EEO counselor. EEO is a complex subject and a complex system. I mean no disrespect to the many dedicated "in house" EEO counselors, but technically they don't work for you. They are objective counselors, there to assist you to understand a complex system. On the other hand, a lawyer works for you. She is there to advocate specifically for you. Personnel System Investigative Agencies. Perhaps recognizing that many do not have the resources to fight the government, Congress has developed several investigative systems which specialize in protecting the rights of employees. Normally, they are specific to some kind of specialized statutory right. For example, the Fair Labor Standards Act (FLSA) protects minimum wages, overtime, and other pay issues. Be careful, as most legislation is enforced differently within the federal government, as opposed to the private sector. For example, FLSA standards are enforced by the Department of Labor in the private sector, but by OPM in the federal government. The National Labor Relations Board governs private sector labor unions, but the Federal Labor Relations Authority governs federal government employee unions.

If you don't have a personnel specialist you trust (and many are sincere but simply uninformed), I recommend starting with the OPM website or their help lines. I was pleasantly surprised to find them very responsive to my questions. Although OPM used to be largely involved in actual personnel hiring and processing, they have largely delegated the day-to-day functions out to the individual agencies, and now maintain a largely oversight role. I mention this because many employees discount or misunderstand their modern role in personnel management. OPM is a decision maker, and they are often eager to ensure that their policies are being enforced. They are an important ally if you question hiring procedures, are involved in hour and wage disputes, etc. Remember, NPS personnelists differ greatly from individual to individual, but ultimately they do not work for you. OPM can often offer a more objective viewpoint, and have the resources to dedicate to a proper investigation of your claim.

If personnel procedures are the question, you might also consider the Office of Special Counsel. They were developed out of a concern that there were many abuses of the personnel system within the federal government. Again, they are independent, and they have the resources and clout to get answers.

The Inspector General is charged with the duty to detect fraud, abuse and waste. However, their mission has been more broadly interpreted to concentrate on overall agency efficiency. Occasionally, employees may face retaliation because they observe and report such inefficiency. Understand, however, that you are not protected against retaliation simply because you knew about inefficiencies, and could have reported it. Don't expect whistle blower protection unless you actually blow the whistle. It is important to carefully document any communications with your management or supervisors concerning fraud, abuse and waste, and if necessary, pass this on to the Inspector General and Office of Special Counsel.

Perhaps the only drawback to both the OPM, Inspector General and Office of Special Counsel complaint systems is that these offices are often involved in very complex investigations of very serious violations of personnel procedures. Flagrant, pervasive and outrageous abuses of the personnel system exist in may agencies of the federal government, so you may not have as timely or as sufficient an investigation as you would like. I heard one attorney from the Office of Special Counsel describe his overwhelming caseload and give some very extreme examples of abuse by government agencies. Unfortunately this means that some investigators may try to dispose of minor cases quickly, so that more time and resources can be devoted to major investigations. They may feel the violation involved in your case is not significant, or related to issues outside their authority. I have also seen some skepticism in these kind of investigations, as these agencies must always be wary of problem employees who are simply calling them in, attempting to intimidate or gain some leverage against their employer. I say this merely to encourage you to be well-documented and to have your case well-developed so that

you can overcome their skepticism.

One last note, don't be surprised if the investigative entity doesn't show great indignation at the suggestion of impropriety. For example, I was involved with an attempt to organize a union for protection rangers. After a hearing on our union petition, and I'm sure purely coincidentally, all three rangers who had actively assisted or testified found themselves facing some sort of disciplinary sanction. One employee was reprimanded, for example, for misuse of a government vehicle because he drove a government vehicle to a government building to attend the hearing (a government purpose). Although I thought the FLRA would be outraged at such "blatant" retaliation, their reaction was quite subdued. Nevertheless, after an Unfair Labor Practice complaint was filed, the letter of reprimand was quickly withdrawn, and management moved quickly to resolve the matter in order to ensure a quick withdrawal of the complaint. Indignation and outrage are not always necessary, and these investigative agencies, or even threats of investigation, can be very influential even in quieter, more subtle ways.

The Merit Systems Protections Board, Grievance Systems and CORE. For some reason, employers fear the MSPB like the plague. In reality, the MSPB upholds management actions in a vast majority of its cases. It is clearly, however, a time consuming, complex system which can entangle management for months and even years. Even the most inexperienced supervisor is aware of the threshold where the MSPB becomes involved (currently, a minimum of a 14 day suspension of pay). The MSPB is perhaps the system with greatest procedural protections, including active legal representation, formal discovery, formal hearings before administrative law judges, etc. Without a doubt, you should not attempt to go it alone if your situation falls within MSPB jurisdiction. If you have a rainy day fund, use it to hire a lawyer. If you're facing this kind of discipline, you're definitely in the middle of a major storm.

On the other hand, the grievance system is used with much greater regularity. Grievance procedures are perhaps utilized so routinely, because it is the fallback system for resolving workplace conflicts. In other words, the grievance system has general jurisdiction, and can entertain any complaint not covered by one of the other systems. If you are going to file a grievance, educate yourself. Do not simply trust personnelists to guide you through the process. Get your own copy of the procedures (370 DM 771). If you are fortunate enough to be a member of a union, you are likely part of a negotiated grievance system. Normally these negotiated grievance systems offer more objectivity and greater procedural protections for the employee. You normally cannot use the general Grievance system if you have a negotiated system. Talk to your union representatives.

Perhaps my biggest criticism of the current grievance system is its reliance on review of decisions by the same chain of command that approved of the decision in the first place. The first stages of review can as a result be a waste of time. Many smaller parks however despise grievances which go beyond the park level, because the regional office normally assesses a fee for every grievance it has to process. This can motivate those parks that have very tight budgets to resolve grievances at the park level. In addition, many park managers simply don't want their dirty laundry being aired at the regional level.

The procedures in 370 DM 771 are fairly simple. The most important thing to understand are your deadlines. If you miss your required deadline, the Agency can dismiss your grievance. In my experience, many personnel offices processing grievances often hold the grievant to tight compliance with the procedures. I think that this is foolish, since the judicial system, which might eventually review an agency decision, hates to see complaints dismissed for highly technical, procedural violations by a grievant who is unfamiliar with the system. Such a dismissal constitutes a "final agency decision" which allows the matter to quickly move outside the agency to the judicial system. My sense is that the agency can deal with it now, or deal with it later, but I have seen some parks try to get a grievant to simply give up, by pointing out a grievant's violation of a procedural requirement. I have also seen management delay processing in hopes that the stress a grievance generates will eventually wear the employee out, and again make the grievant simply give up. If you are thinking about filing a grievance, you should commit yourself to the long haul. The most unfair defeats in the grievance system usually occur when the grievant simply runs out of energy to keep fighting. Don't fool yourself, there is a significant emotional toll to filing and prosecuting even the simplest of grievances. Be prepared to prove your staying power and determination.

If you are not receiving timely consideration of your grievance, your remedy is to have the matter bumped up the chain quickly. Regional offices tend to take grievances fairly seriously, but often fail to meet the tight deadlines for processing. By holding them to their own deadlines, a grievant can get a grievance either quickly resolved or referred to the Office of Hearings and Appeals in a fairly short time frame. Although the time frame for processing grievances at the agency level is fairly tight, no such deadlines exist at the OHA level. My experience is be prepared to wait once a grievance reaches OHA.

I have had a very mixed experience with the Office of Hearings and Appeals. Although they have administrative law judges, who are often very fair, I have had some bad experiences with other components of the office. The Office handles an incredibly diverse array of appeals, and my sense is that they dislike personnel appeals the most, seeing them as trivial and a waste of time. Don't let this attitude dissuade you, but be careful to follow procedures carefully so that they don't have an excuse to dismiss your grievance without full consideration of its merits.

As with most conflict resolution systems, there has been a general trend toward the incorporation of ADR (Alternative Dispute Resolution - normally mediation and arbitration) into grievance systems. Because hiring professional, objective mediators is fairly expensive, the Department has trained a cadre of "in house" mediators as part of the CORE (COnflict REsolution) program. This has

truly been a mixed bag. Most mediators I have seen are very good and sincerely fair, but this program unfortunately has no way to enforce good faith on behalf of the parties. If management or supervisors simply don't want to compromise, then you're wasting your time. I have seen a couple of cases where managers have abused this time to berate and try and wear down a grievant emotionally, in an attempt to force a bad resolution on the employee. Poor managers may try and abuse the "immunity" they enjoy in these programs under a "confidentiality clause" which is contained in the standard agreement to mediate signed by both parties prior to mediation. In other words an ill-advised manager or supervisor may feel that they cannot be held accountable for anything they say. I say ill-advised because such behavior is not protected by a confidentiality clause if necessary to show bad faith non-compliance with the contract. The mediators have to be willing to try and control that part of the process, and the employee has to be prepared to persevere and simply stick up for themselves. CORE mediation is only as effective as the good faith which both parties bring to the process.

The most common trick I have seen in mediation, is for management to either "gang up" on the employee with overwhelming numbers, or intimidate the employee by using members of the employee's chain of command. For example, the employee might be sitting across the table from three or more supervisors or managers. Or the management might be represented by high ranking management representatives, such as the chief ranger or superintendent. The employee's perception might be that even if they win concessions from such "big shots," their career or work environment might otherwise be adversely impacted. I have seen such situations go both ways, with permanent damage to working relationships, or conversely with a professional sense that the employee was sticking up for themselves, and no lasting hard feelings persist. This kind of issue must be considered prior to participating in CORE mediation. I have successfully demanded a one-on-one mediation to prevent this feeling of being out-numbered.

Conclusion. All of these systems are only as good as the quality of people involved. Whether that be your lawyer, the administrative law judge, the mediators, the management representatives and even the employee herself, these systems require sincerity and patience in order to work properly. These two elements can often be in short supply. If I might be candid, I am sad that such an article as this has become perhaps necessary for modern day rangers. I now work for a different Department of the government, and my new experience has proved that there's no valid reason for the National Park Service to be so egotistically and antagonistically managed. And I say this even though I am now surrounded by lawyers, who as a profession are generally known for big egos and arrogance.

If I could change one thing about my former agency, it would be to disabuse management and supervisors of their apparent belief that they always need to be right. Compromise and concession are not signs of weakness, they are hallmarks of sound judgment and true leadership. In many cases, I witnessed minor incidents balloon into extended ego trips, which cost the agency an unnecessary and inordinate amount of its strained resources. It was often ironic to hear management complain that they spent too much time "dealing with personnel matters," which they so routinely, if unwittingly exacerbated. So many times, minor eruptions which could have been so quickly and easily extinguished, were fueled for months on pure unadulterated ego and personality clashes of titan proportion.

Lodge Issues 3rd Annual Top 10 Most Dangerous Parks List

"We are including some of the comments from newspapers that based stories on our news release. The reporters thoroughly researched our news release and conducted in-the-parks interviews with rangers and managers alike. The unanimous opinion of the professional journalists: What the Lodge said was spot-on.

Greg Stiles, retired assistant chief ranger of Shenandoah National, has read Kendrick's list and agreed with the assertion that understaffing and an outdated communications system makes SNP one of the nation's most-dangerous parks to visit. A national men's magazine ranks Shenandoah as the country's second-most dangerous federal park. "It's probably pretty accurate," he said.

"Shenandoah National Park has roughly the same numbers — 30 rangers — it had when it opened in the 1930s, officials said. Stiles estimated park staffing should nearly double, to 54 rangers..."

Rick Childs, a South District ranger in the SNP, acknowledged that the communication system was in desperate need of replacement. He hopes that the park will soon move to a new digital radio system. But everything hinges on the funding, which currently isn't available.

Amistad National Recreation Area (ANRA) officials this week admitted to a lack of radio equipment and a ranger shortage, but said a recent report calling the ANRA "a smuggler's paradise" and ranking it the second-most dangerous national park in the nation overstated the problem.

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We're not sticking our heads in the sand and ignoring the problems. We have a lot of illicit activities that go on, but most of these occur in areas where park visitors seldom go,"[park superintendent] Cox said.

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He said ANRA's radio system is indeed so old that replacement parts for it are no longer made. Cox said the radio system dates back to the creation of the park in the early 1970s.

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Commenting on the FOP's description of Amistad as "a smugglers' paradise," Cox said, "Amistad lends itself to that type of activity because of the ease with which they can cross and access a major transportation corridor."

These quotes are from the papers in Waynesboro, VA and Del Rio, TX.:
ABC's news magazine, 20/20, will air a segment on the dangers visitors face in the national parks. The segment's producer, John Bilotta, has worked closely with Lodge officers, phoning often and following up on our leads and tips. Mr Bilotta has shown an early uncut version

of the segment to ABC's affiliates and stated that the showing has generated a lot of interest in these TV stations researching and airing their own news items based on visits to parks that are near them. Any assistance that you as a Lodge member can render the media will ultimately help our cause.

The Lodge has proven its credibility over and over again and because of this we are sought out as a primary source on articles about how national parks are managed. We are still fighting for line authority with a separate law enforcement budget but so far the resistence of managers of the NPS and the subsequent backing of the Secretary of Interior has blocked our efforts. There are many in Congress and at Interior who support bringing Interior's law enforcement agencies under the standard law enforcement model and we need to continue to state and restate our case.

FBI Study Links Character Traits with Likelihood of Being Assaulted

By Randall Kendrick
Executive Director

The Lodge has printed studies by the FBI and other agencies from time to time on the topic of officer safety. There has been a recent, and entirely welcome, trend in recent years to include officer safety tactics in annual refresher training. Some of the information bears repeating so that we can all go home after the next shift in one piece and rest up for the next shift's challenges.

Studies have been done on the police styles and personalities of those officers most likely to be assaulted and killed on the job. Unfortunately, this profile conforms to what the NPS has traditionally wanted its commissioned rangers to copy rather than what's safest for the officer. This attitude on the park of management was most recently given nationalwide coverage in the Los Angeles Times quoting the superintendent of Organ Pipe who [paraphrasing] said the public did not want rangers to be hard-edged cops like the FBI Special Agents and wanted instead rangers to be cut from the same cloth as boy scouts. This statement was made after ranger Kris Eggle was murdered and reflects a deeply held view of NPS management.

According to the study published in the February 1998 FBI LE Bulletin, officers killed in the line of duty shared many traits and characteristics. One trait was that the killed officers were usually described as "hard working" and that they would take risks to complete a case or end an incident. Examples of the risks these officers took were: failing to call for backup; failing to inform the dispatcher of his/her whereabouts at all times; serving warrants alone; and never expecting the servee to assault the officer. The victim officers also had a preconceived notion of the type of person most likely to assault them but in fact no study has unearthed a profile of such an assailant. In the cases studied, the assailant took the first aggressive action and followup interviews with the perpetrators revealed their belief that the officer reacted as if off guard and surprised. Those officers who survived usually recounted that they remembered their training of when NOT to use force but did not usually recall the training when use of force, including deadly force, was proper and fitting.

Two of the dangerous situations that officers of land management agencies often find themselves in are vehicle stops and searches. These two, along with responding to domestic disputes and calls for robberies in progress, are situations where the majority of officers die.

Here are some of the character traits of officers slain on the job:

- Friendly to everyone
- Well liked by community and the agency
- Tend to use less force than other officers would in a similar situation
- Tend to view duties as more public relations [educational] than law enforcement
- Do not follow all the agency rules especially as regards arrests, traffic stops and waiting for, or calling for, backup officers.
- Tend to look for the good in others
- Laid back and easy going

The above list would seem to be good behavior for off-duty or non law enforcement positions. But, according to the FBI, these traits are more likely to get you killed than those officers to take control of all situations and project an image of authority and the means and ability to succeed through physical force if need be.

Unlike management, police science has published studies on officer safety and survival and has made recommendations based on these academic studies. If the NPS, or other land management agencies, have a study or studies that indicate visitors to national parks and forests and wildlife management areas want boy scouts in the guise of peace officers, they have not made them available to us. I suspect this attitude is a management conceit not based on credible evidence and published in a peer reviewed journal. We are confident in these studies and we are aware that rangers are often ordered to behave in a manner described as characteristic of an officer in greater danger of dying as the result of an assault on the job.

FOP Legal Defense Plan: Important Changes

Effective January 1, 2003, the premium for the FOP Legal Defense Plan will go up to $197 for Lodge members. ***For those who have money deducted from your payroll and sent to the lodge we urge you to cancel this deduction and pay for the policy yourself.*** It has been a big hassle to have Hylant McLean notifying us when your premium is due. Now, with a new premium structure, it'll be impossible to keep the money straight. The Lodge will no longer be able to advance you your premium as we have in the past and catch up with the outlay, pay period by pay period. In essence, you are responsible for your insurance. Sorry, but Hylant Maclean has forced this on the Lodge. Make sure you tell the FOP Legal Defense Plan you are a member of VA60; that way you pay $197 not $215. Questions? contact the Lodge at **randallfop@LS.net**

Audit at Bandelier

By Randall Kendrick

The Lodge wanted to assess the state of management within the Protection Division of a typical national park. When we heard that an in-house evaluation had recently been completed at Bandelier by regional officials, we filed a Freedom of Information Act request to obtain the findings. The Lodge would like to hear from the membership if these findings are representative of most parks or is Bandelier an exception?

Due to space limitation, here's a flavor of the findings:

- Jurisdictional Compendium: "No park jurisdictional compendium exists".
- "Both the VRAP and LENA need to be updated and or developed"
- "The superintendent's compendium needs to be revised. The park needs to develop a current set of park regulations with input from all divisional entities and approved by the park superintendent".
- "Dedicated dispatch support for law enforcement and other emergency services are an immediate need for park ranger operations. All field rangers interviewed agreed that communications within the current dispatch operation was minimal at best".
- "Current staffing needs initially indicate filling the current vacant ranger position". It is the Lodge's understanding that six months went by without Bandelier issuing a vacancy announcement for this ranger job.
- "Backcountry operations to include patrol and mitigation responsibilities continue to decrease each year. Backcountry resource and visitor protection can be directly related to the presidential proclamation issued for Bandelier National Monument. Presence in the backcountry would continue to protect these very same resources identified in 1916".
- "Employee communications within ranger division requires a determined effort from the chief ranger".
- "Current Performance Standards and Employee Evaluations are nonexistent"
- "The Chief Ranger has not completed the medical requirements set forth by RM-9"
- "The Chief Ranger does not currently participate in fitness program".
- "The Chief Ranger's background investigation is currently expired".

There also in a lengthy section on the failings within the fee collection program. Frankly, Lodge Board members were surprised that the ranger division seemed to be neither effective nor safe for the rangers. The study team's report indicated to us that the Chief Ranger was not exercising the leadership for which he is being paid and it's putting both the rangers and the park mission at risk. Is our observation based on the regional study team correct? Are other ranger divisions in other parks in similar or worse shape?

Lodge Recognizes Brother Gil Goodrich

Gil rode his bicycle in the Police Unity Tour this past May. There were 350 officers from many departments that participated. Gil, himself, rode the 250 miles [in two days] from Virginia Beach, VA to Washington, DC. The Lodge offered financial sponsorship for Gil and other organizations, departments, and individuals similarly sponsored other riders.. As a result of all this collective effort, a check for $350,000 was presented to the director of the National Law Enforcement Officers Memorial in the nation's capitol. Great work Gil; we're proud of you!

Letter from Lodge Member

We are grateful to Brother Van Inwagen for filling the membership in on conditions at Big Bend. One controversy that arises is that some of the Lodge's information is incorrect. The Board received comments, specific comments, from active Lodge members stationed at Big Bend that the "no net loss" order was being ignored and that in the past 12 months or less, the superintendent told a commissioned ranger to come away from the border if danger was thought to be immanent. The Lodge relies on the honor of it's members and receives reports in good faith; as we've done with Bro Van Inwagen's letter, we publish all relevant information from Lodge members too. When the executive committee made its calls for information in order to come up with 2003's 10 Most Dangerous Parks list, we got a lot of feedback; it's obvious that there was more out there that we did not receive. Randall Kendrick

June 29th, 2003
U.S. Park Rangers Lodge
Fraternal Order of Police
Fancy Gap, VA 24328

Dear Ranger Lodge,
As a member in good standing with the lodge I would like to give you an updated version of life at Big Bend NP. Your reporting in the "2003 Top 10 Most Dangerous Parks List" missed the mark. I am the Boquillas District Ranger at Big Bend National Park and I have been here since December of 2001. The Boquillas District (previously the East District) is approximately 300,000 acres on the southeastern side of Big Bend. This District encompasses approximately 45 miles of International Border, and has two International Crossings. Both of these crossings have been closed since May of 2002. In my 18 months at Big Bend I have never been ordered nor have I heard of anyone being ordered to allow illegal aliens into the park or to avoid the border if they suspected criminal activity was occurring. Since I have been here, this district has run over 20 special operations that focused specifically on illegal drug, alien, commercial hauling, and commercial sales. Border Patrol, Customs, US Marshall Service, and the FBI have also run operations in this District. In 2002 we added a K-9 to our operation at Big Bend which was responsible for 17 drug seizures over the Spring Break of 2003. During this same time period I brought in a detail ranger for two weeks to assist our K-9 handler and participate in several special operations.

You make a reference to rangers being ordered to allow illegal aliens to enter the country. I believe you are referring to pre May of 2002 when the residents of Boquillas, Mexico were allowed to purchase groceries and gas from the Rio

Grande Village Store. This store is approximately .2 tenths of a mile from the Mexican Border. This activity was an agreement worked out with the Border Patrol and other agencies. The other pre-closure activity involved U.S. Tourist crossing into Mexico to visit the Town of Boquillas. In Boquillas, U.S. Tourists could: ride a donkey, get some lunch and a beer, play pool, buy souvenirs and yes, they could also purchase narcotics. They then returned at the same established crossing. A nice pinch point sure does make it easier to detect crime and enforce laws. Since the closure illegal activity has sprung up at numerous locations along the border. We now spend countless hours chasing Mexican Citizens running these illegal commercial operations at locations that are difficult to patrol or run counter operations at since the transactions take place on the border and the individuals can easily slip back into Mexico. We also spend time patrolling newly closed areas and attempting to prevent Mexican Citizens from purchasing groceries and gas at the local store. Another time waster is attempting to prevent Mexican Citizens from illegally crossing to meet relatives from the U.S. that are bringing them money and supplies. All of these illegal activities have caused an increase in resource damage and we have seen a 1,200 percent increase in property crimes. The May 2002 closure of the border did stop all those "illegal aliens" from going to the store but its biggest success was in making my district reactive instead of proactive.

Communications, housing and staffing are some of the clear and present problems facing Big Bend National Park.

There are numerous areas in the park where radio communication is unreliable or nonexistent. The park has purchased Satellite phones but a satellite phone can take over two minutes to boot up and dial a number. There is no cellular service available at Big Bend. We are currently working on new radio repeaters for improved coverage but the NEPA process is slowing this work down.

As for housing, you can give me all the rangers you want but where do I put them? The nearest private source for housing is in Terlingua, TX which is over 50 miles from the Boquillas District. The availability of rental housing in Terlingua is scarce to nonexistent. Let's start beating the congressional drum to build some housing at Rio Grande Village and Castolon which are both a stones throw from the International Border.

There are three rangers in the Boquillas District including myself. Two of these positions recently went vacant within a month of each other. One ranger moved to a supervisory position in Alaska and the other ranger, our K-9 handler, is moving in-park to Panther Junction so the K-9 is centralized which will improve response times. I was allowed to immediately fill both vacant positions. Given days off, vacation and sick leave the actual number of rangers on duty at any one time is one or two. Clearly this is not enough staff for safe and effective patrol the Boquillas District. Big Bend also suffers from a shortage of other law enforcement agencies either in the park or nearby. There are only two Border Patrol agents living in the park. Any additional law enforcement resources have to come from over 100 miles away.
All of these issues need immediate attention and will require money and time to be solved. Honest and factual reporting of these problems has and will continue to help rangers at Big Bend garner and retain much needed management and congressional support. I am a long time member of the FOP and I am grateful for all you have done for the ranger cause. I would appreciate your continued help and assistance in tackling these current issues here at Big Bend and other Park Service Areas.

Sincerely,
David M. Van Inwagen
Boquillas District Ranger
Big Bend National Park

COE Commander Opposes Ranger Outsourcing

Think your job is immune to dramatization? In a recent policy reversal, park rangers of the Army Corps of Engineers were reclassified as performing "commercial" rather than "inherently governmental" tasks, a first step in contracting out their jobs.

Fortunately for these rangers, the Corps' top military official has gone on the record as opposing this move. In a memorandum to the Assistant Secretary of the Army for Manpower and Reserve Affairs, Lieutenant General Robert B. Flowers requested "reclassifying Corps park rangers functions as inherently governmental functions, or in the alternative, explaining why park rangers functions are now commercial under the unchanged standard."

In addition to other points, the Chief of Engineers argued that "Corps park rangers protect the property of the Federal Government by issuing citations and levying fines on persons who violate Corps regulations under Title 36 of the Code of Federal Regulations. . . . If the violation requires a mandatory appearance, or if the violator requests an appearance, a park ranger appears in Federal Court as the sole representative of the United States (emphasis in original)...

"Protecting the Federal lands for which the Corps ants as steward lays at the heart of a park ranger's duties. Park rangers enforce regulations under title 36 of the Code of Federal Regulations designed to protect and advance the nation's natural resources and the public's recreational experience."

(Interestingly enough, the general also noted that "Congress empowered Corps park rangers with arrest powers and the power to carry firearms, but Corps policy has not implemented these powers. See 82 Stat.1115.")

General Flowers further argued that "Park rangers enforce Federal laws and regulations at Corps recreational facilities to protect private persons....By keeping order and enforcing regulations at Corps facilities, park rangers safeguard the life, liberty, and property of its visitors."

As an example, Gen. Flowers cited how the Coast Guard relies on COE rangers to enforce Coast guard regulations on COE waters. The Lodge has thanked Gen. Flowers for his stand, and offered its support in debates over the future of Corps ranters. Members, this may be a very good time to let your elected representatives know how you feel about privatization!

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 and Work Unit:_____

Mail to: FOP Lodge, POB 151, Fancy Gap, VA 24328
Phone: 1-800-407-8295 10am-10pm Eastern Time or email randallfop@ls.net

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

UNITED STATES PARK RANGERS FOP LODGE VA 60