

# The Protection Ranger

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



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## President's Message Greg Johnston

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2004 for the NPS was characterized by an election year status quo in which Law Enforcement Reform was put on the back burner and everyone smiling for the camera saying things are great. Further, an effort to end the ranger FLETC program and undo the 6(c) retirement program for rangers has surfaced recently. The Lodge is investigating and working hard to protect our previous victories.

As the end of the year approaches, it is time to begin to look forward to 2005 and what we plan to accomplish as an organization. My goal as president is to forge partnerships with organizations with similar interests and to work hard to utilize the Fraternal Order of Police channels to push our priorities.

As an organization we need to coordinate the efforts of the entire Grand Lodge membership to accomplish our goals. Our strength is in our collective membership. My goals for the Ranger Lodge are:

- Increase membership: This organization is only as strong as its members. As our membership increases, so does our strength. A broader representation of the ranger force within the membership also ensures that our

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priorities are on track. Each member needs to be a recruiter and discuss issues with their coworkers.

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## Move from the failed No Net Loss to a Gradual Gain Initiative

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- Membership participation: The Lodge is always looking for the future leaders of the NPS to step forward and become involved. We need members to become interested and serve in Executive Board positions and Advisory Board positions. Members are always welcome to write articles for the newsletters about your own experience, battles and/or victories. We depend on our members to pass on crucial information about what is happening in law enforcement.
- Solidify 6(c) retirement with legislation: The only way to finalize this victory is to have Congress secure our retirement through individual legislation or to pass HR 2442.
- Ensure that the FLETC program for park rangers remains strong and will be able to handle a centralized hiring system when it is instituted. We cannot afford to lose our quality FLETC basic academy that we spent years developing.
- Get LE Reforms back on track and push for a stovepiped LE program. NPS management has had the past few years to prove they could get the job done without stovepiping. They have failed.
- Move from the failed No Net Loss program to a Gradual Gain

Initiative. We need to stop the loss of rangers and aim for increasing our numbers gradually each year until we can initiate a large scale hiring program.

I welcome any member or potential member to contact me anytime to discuss the Lodge's agenda. I want to represent the priorities of the membership and welcome all input. I would ask each member to look at their vision for the NPS and begin working to make it happen.

Finally, I would like to thank Leigh Zahm, who is stepping down from the Executive Board after several years of hard work and dedication to improve the ranger profession.

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## 6(c): Are NPS Rangers Out of Options?

by R a n d a l l K e n d r i c k

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We all once thought that with the *Ferrier* Decision (which was brought about by the lonely and persistent struggle of Jim Ferrier and, at the final OPM appeal, our Ranger Lodge), 6(c) was bankable for park rangers. We won and it was only a matter of time before veteran rangers got their due credit for years of service prior to July, 1994. We were wrong. First there was the unconscionable and interminable delays by FLERT. Appeals for past 6(c) credit, which all should have been decided in favor of commissioned rangers in months, was allowed and permitted (planned?) to drag on for years. (We know of at least one case where a park ranger met the ORIGINAL deadline of 9/30/89 and did not get a decision (unfavorable) until 2004.)

Then, the federal courts stepped in with *Watson* of July 2000 and *Luke*, et

al, of 2002. The former threw out the *Ferrier* standard of “police officer” as entitling the incumbent for 6(c) retirement and returning the standard to “investigator”; the latter narrowed the “investigator” standard to only those investigators who were able to prove that they routinely struggled to arrest the objects of their investigations, thereby showing the need for a “youthful” investigator force. As federal court decisions, they are binding on the various federal agencies and the MSPB.

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*The best solution is for the NPS to offer and push for legislation putting all commissioned rangers in the 6(c) system.*

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Now, you say, you know of many investigators in other agencies who rarely, if ever, have to get physical with a subject. How come their 6(c) status is unquestioned and not under review? The answer to that is that in almost all of these cases their 6(c) status is based on federal law: Their agencies have gone to Congress to pass specific legislation to remove all doubt and challenge to their employees' retirement status.

In the NPS today, we have permanent commissioned rangers in the 6(c) retirement system working shoulder to shoulder with commissioned park rangers who have lost their pre-1994 6(c) status and will lose it altogether if they are forced to retire at age 57. The law is clear on this point: To retire under 6(c), you need to be 50 years old and have 20 years of coverage. Many rangers did not enter the commissioned ranks until they were over 37. This means the NPS will have dozens of rangers – the most dangerous law enforcement job in the federal sector remember – over the age of 60 in front line positions. This is not what the spirit of the law intends, in my opinion, but this is what FLERT and two federal court decisions have wrought.

The best solution is for the NPS, assisted by the DOI, to offer and push for legislation putting all commissioned rangers in the 6(c)

system and out of the reach of the judiciary and FLERT. This course of action is in the best interest of veteran commissioned rangers and the Agency. Will they come through for those who suffer the worst serious assault rate in the federal sector? We don't know. The only other avenue open is a challenge to the Supreme Court which has a low probability of success and an almost equally low chance of even being heard. It's a tough situation and the Ranger Lodge is looking for a solution. We welcome the input of any and all members in finding a way to achieve solid 6(c) coverage for commissioned rangers and to get past credit for pre-1994 work for our veteran members.

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### 2004 In Review

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The year past has been a difficult one for the ranger profession. WASO officially changed its “No Net Loss” policy to “No Net Loss, except for seasonals” which meant that half the workforce was on the chopping block: a too-easy source of money for managers who have no use for LE. In some parks, NNL was irrelevant anyway and could be ignored without consequences from regions or WASO. WASO never made an effort to verify compliance with the NNL policy, with predictable results.

Seasonals also took it in the back when FLERT decided that the seasonal PDs didn't qualify as law enforcement work and their enhanced LE pay was eliminated. Some in Human Resources had actually contemplated collecting past overpayments from seasonals.

Permanent rangers received unsettling news on their retirement when a permanent, commissioned ranger working under what he thought was 6(c) coverage had his 6(c) retirement stripped by MSPB. That's 20 years he was counting on, was led to believe he had earned, had done the work, but was FLERT-ed (a new verb form!) back to clerk status. Sadly, WASO made no statements of support to the workforce regarding this, so we are left without the particulars of the incident and we don't know WASO's intentions toward protecting our retirement. The fact of WASO being

unwilling or unable to comment is unsettling, to say the least.

In fact, WASO makes very few communications to the field on any matters regarding law enforcement. While WASO Ranger Activities used to publish a regular newsletter *Bullets*, rangers are now left in the dark as to the status of the law enforcement program. The Lodge met with Karen Taylor-Goodrich and her staff early in 2004. We had requested to review her workplan then, and subsequently, and have seen appreciable. We have been very disappointed in the lack of vision communicated to the field, the lack of goals communicated to the field, and the lack of results in implementing law enforcement reforms.

Atrocious skills in communications were also reflected in an incident regarding rangers at a park in California who had a use-of-force incident involving a group of teenagers. A subsequent investigation found the use of force to be legitimate. At the time, though, NPS spokespeople **shamelessly ducked for cover**. The park superintendent and chief ranger were unavailable for comment, leaving the chief of maintenance in charge to answer media questions on a law enforcement matter: “No comment.” Top NPS media guru David Barna used his years of training and experience to tell the media, “No comment.”

The local newspaper incited the community against the rangers and the lack of support by the NPS caused the involved rangers great anxiety. Only the Ranger Lodge stepped forward on behalf of our brother rangers. We quickly provided public education by way of letters to the editor that were printed in the two local papers. We also addressed this by complaining to WASO, urging them to ensure administrators received training in speaking to the press about LE incidents – something that most police departments came to grips with years ago. With such a blatant embarrassment on its hands, WASO had to respond and did. Training in media relations for superintendents and others in LE management has been scheduled for 2005. We hope that the law enforcement program will look at the fire program, with a network of trained fire information officers, as an example of what can be done.

In a similar situation, though, Yosemite administrators showed solid support for rangers. The *LA Times* recently published an article critical of an arrest situation in Yosemite. Administrators there were immediately supportive of their rangers. The *Times* wrote: "Yosemite Supt. Mike Tollefson vigorously defended his rangers." Deputy Chief Ranger Cam Sholly said: "If you let your guard down, we might lose a ranger here in Yosemite. I don't want that to happen." The Lodge wrote Superintendent Tollefson complimenting him for standing behind his people.

The Lodge also addressed several issues regarding the ranger training program. First were the cuts in the ranger training staff at FLETC. WASO countered that there were no cuts but a simple head count of program managers showed this to be wrong. WASO attempted to delay the field training program, but eventually relented to pressure. WASO is still struggling with FLETC's decision to eliminate the NPS training program there, and put rangers into Natural Resource Police Training. WASO-FLETC even floated the idea of putting rangers into "Mixed Basic" training, which would be a total disaster for park rangers. The mixed basic program is designed for non-6(c) building guards. Making this the core of ranger training would be a fiasco for our retirement and a potential tragedy for our safety.

From all of the above, we are forced to conclude that commissioned park rangers still lack a sufficiently assertive advocate at WASO.

To further promote ranger safety, the Lodge made several recommendations to the Department of the Interior in early December. These were posted on our website. A noteworthy proposal was to double the number of hours of law enforcement refresher training for the next few years and focus these hours on use-of-force skills, including threat perception and response. We've heard absolutely zero back from DOI on this no-brainer idea. NPS is carrying out a Lodge-recommended study of why rangers have such a high assault rate. The lodge has received reports that some parks are refusing to cooperate with this study. It is unconscionable that the NPS is paying

for a study of such great significance to the lives and well-being of commissioned rangers, but some Superintendents are refusing to assist this academic enterprise.

On the administrative side, the Lodge has welcomed a new Advisory Committee to assist the Board of Directors. The more input we receive, the better. There is still room for a couple of more members to this advisory Committee: your name will be held in strict confidence. The Lodge is more effective when we hear regularly from members in different parts of the country, with varying ages and backgrounds as well as in different stages of their careers. Please help! It's your Lodge: Write or call Randall to participate.

To continue to encourage an open dialogue on ranger issues, the Lodge has reopened our discussion board on our website to postings from all visitors. You no longer have to submit your name to us for approval to post. Although this allows anonymity again, it also increases your responsibility when writing comments. We have posted a Standards of Conduct that will be strictly enforced. We want a lively discussion of issues, but it must be civil and professional.

The website receives hundreds of visits a day from NPS, other agencies and the public. We will be ruthless in zapping posts that are personal attacks on other rangers or which reflect poorly on rangers and law enforcement. Always keep in mind that the website is open to the public who might not understand that a lively debate among ourselves is just that – it doesn't reflect our basic goal and duty to improve our professional standards and so serve the public better.

For the first time in a decade we have raised dues. Membership levels have been increasing, and we appreciate the continued loyalty and support from all of you. Ours is entirely a member driven organization and has been for 16 years. Those on the Executive Committee pay very close attention to comments and input from our fellow members. We have never failed to protect a source of information. As always, we hope you will continue to send us your thoughts and suggestions on continuing our efforts towards professionalization.

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## Chief Teresa Chambers Reflects on Law Enforcement and the Ranger Profession

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Finally, a moment to put my thoughts together before putting up the Christmas tree and, sometime after midnight, proofing the several hundred page appeal about to be filed at the next step in my case.

Most of you know that I have been a uniformed police officer for 28 years. It's what I know. It's how I've spent my adult life. I worked in two large urban police departments before competing for the job as the Chief of the United States Park Police. During my 21 years before retiring from the Prince George's County Police Department (just outside of Washington, D.C.) in December of 1997, I buried 13 comrades from that same agency who died in the line of duty. Tragically, as Chief of the United States Park Police, I buried one of our own, senselessly killed in the line of duty 12 hours after our beloved National Park Service Ranger Kris Eggle was gunned down. May it be our goal that we do our best to ensure that we bury no more.

It's my hope in the following paragraphs to react to some of what I have read on ranger topics in several ranger forums over the past week and to share some additional thoughts. Thanks for listening.

Cops *are* different than a generalist ranger – not better, not worse – just different. I and most USPP officers I know have tremendous admiration and respect for law enforcement rangers, who have to have the skills to survive armed confrontations, the tact to be seen as approachable in the traditional sense of a ranger, the physical abilities and know-how to perform daring rescues, and the vast knowledge of the resources in the particular park to which they are assigned.

Yet even police officers, including those assigned to the USPP, must be ambassadors of the organization for which they work and the people who visit there. That was no different than the expectation I and the City leaders

in Durham, North Carolina, had of our police officers.

*Every* contact was a potential positive contact and a curt brush-off of a citizen or visitor by one of our police officers was *not* acceptable under any circumstances. In other words, whether rangers see themselves as specialized law enforcement officers or whether USPP officers are assigned to police a particular park, each should understand that he or she is the most visible representative of United States Government who many people will see and, in some cases, will be the *only* interaction a person has with law enforcement or government during his or her visit to our country (if a foreign visitor) and park.

I understand the well known image of the National Park Service ranger that is talked about so often. Before becoming a part of the National Park Service just three years ago, I had *no* idea that *any* park ranger carried a gun or had law enforcement authority. The ranger, to me, was a beacon of information, help, and good will for the National Park Service.

I knew that in the urban parks in the Washington, D.C. area, United States Park Police officers conducted preventive patrol and handled law enforcement matters. I suppose I thought that in other parks and parts of the country the local sheriff or municipal police agency handled the law enforcement needs in the park. Frankly, I fear for the safety of all non law-enforcement employees who wear the green and gray, realizing that some people with whom we come in contact *are* familiar with protection rangers and might assume or expect another National Park Service employee to be able to take law enforcement action or to defend him/herself or someone else.

That's the traditional cop upbringing in me coming out. Most municipal governments would never think of having their non-sworn employees wear a uniform that was similar in any manner with that of their sworn police employees – it is just too dangerous for those who aren't armed.

In the perfect world, with all the money necessary to have all that is needed in our parks, I believe the National Park Service would benefit from a bifurcated system. It seems to work well in the National Capital

Region and, I would suggest, was working better as of one year ago in San Francisco and New York than perhaps at any time in the past.

In this split system, law enforcement would be handled by law enforcement rangers / officers (in a distinct law enforcement uniform, not just a different badge). They would still be expected to answer questions of visitors; to take time with a child who stands in awe looking at their uniform, horse, or the park's surroundings; and to be constantly aware of whatever in the park may need his or her attention or that of any park employee. They would be expected to care for every aspect of the park as we would expect of *every* employee regardless of his or her specialty. The generalist ranger would, then, be afforded the necessary time for interpretation and the many aspects that go hand-in-hand with caring for the park and protecting those valuable resources. Perhaps there would be specific enforcement authority for follow-up investigations into some of the more technical resource violations that us run-of-the-mill cops might be unprepared to handle. This is not unlike the limited authority zoning officers, building inspectors and others have in city governments.

Now, there will be, I am sure, plenty of protection rangers (and USPP officers) who think this idea is not a good one. It certainly is “easier said than done,” and it wouldn't necessarily be without its difficulties. For one, it's an expensive proposition. Maybe it's only for the larger parks. Maybe municipal policing must be relied on in some rural settings. The benefits to the concept, though, from a law enforcement perspective are, I believe, worth considering. Please read on . . .

There has been lots of discussion of the written comments some protection rangers have made on the FOP website. A few observations about that: Sometimes when frustration is high and the opportunity to be heard is low or nonexistent, employees will find a way to “sound off.” In my day, we used the FOP Lodge when email was not yet around. Savvy officers did their best to make certain that the “public face” was always a positive one; but, when we gathered together, we somehow forgot that others were watching and listening – or, in the case

of an Internet discussion board, reading. An example from my era were those occasional photographs in newspapers or television news film showing officers smiling (about something completely unrelated) at the scene of a gruesome traffic accident or heinous crime. When among our own, we tend to forget and get comfortable being ourselves. This doesn't excuse the behavior, but it may explain it.

In the case of the FOP discussion board there is, I believe, another issue that impacts the rangers' frustration and willingness to lash out via the written word. I only need to think back to one particular National Leadership Council (NLC) Meeting during my tenure with the NPS. I don't recall the exact law enforcement topic that was being discussed, but Director Mainella had urged me in the past to share my thoughts and opinions (which in hindsight seems a little strange considering the penalty for doing so). Somehow the issue of employee support came up. I volunteered that, within the USPP, we brought the FOP Chairman in on discussions of major issues, such as policy changes. I said that it seemed clear that, at least by having his opinion considered on the front end, there was a greater chance of successful implementation and acceptance by the rank and file.

My opinion was quickly dismissed, and the disdain for the opinion of rank and file employees and of the Ranger FOP became clear. There was little chance the Ranger FOP leadership was going to be brought to the table for any discussion before decisions were made. It was also clear that I was an outcast for having even mentioned it.

Let's examine the stovepiping issue one more time. Again, in the perfect world, you could have specialized law enforcement rangers and officers and not impact the effective operation of our parks. One of our forum's recent discussions on this matter mentioned that other functions in the park had risks “except the risk of life.” We can't “except” that away as an excuse not to stovepipe law enforcement.

What price should we put on the life of a visitor or any park employee, including the law enforcement ranger/officer? Cities and states *do* stovepipe law enforcement. I have yet to see one that does not. Perhaps our

definition is different. Perhaps that is where the fear emanates. A chief of police in a state or municipal government has *all* hiring, firing, and disciplinary discretion. He or she competes with other department heads for the police department's budget. Once the budget comes his/her way, though, it is within the Chief's full discretion within established legal guidelines how to spend that money. It is true that the Chief answers to a non law enforcement official, but *all* law enforcement decisions – *all* – are made by law enforcement officials within the *police* organization.

Now, are there things that police employees do or functions it takes on that go beyond traditional law enforcement? You bet; and, in those cases, the mayor, city manager, county commissioners, or what-have-you might be the person giving direction (although direction is still likely to be funneled through the chief of police). In all three law enforcement agencies in which I have worked, civilian managers/directors were scattered throughout the organization based upon the need of the organization and expertise of the civilian employee.

A good example, and one that is ongoing, is the Civilian Director of the USPP Personnel Section. Among her staff are sworn members of the Recruiting Unit. The Civilian Director gives full supervision to a sergeant and police officers within the unit regarding the work of that unit. If, however, one of those members had an arrest situation that the Civilian Director witnessed, the non-sworn manager would not give direction and would not have review authority regarding law enforcement aspects of that arrest after the fact, i.e., the use of force, the application of handcuffs, the appropriateness of the criminal charge, etc.

Yes, those of you who said that some managers would be good at managing any group of people regardless of the profession are absolutely correct. So much is lost, though, without regular coordination and the sharing of intelligence, technology, law enforcement street survival training, and the like. The consistency of information, technology, safety equipment, and the latest tactics is best ensured through one clear chain of command. And those of you who said

that the wrong attitude causes safety concerns are also correct. I couldn't agree more.

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***What price should we put on the life of a visitor or any park employee, including the law enforcement ranger / officer? Cities and states do stovepipe law enforcement. I have yet to see one that does not.***

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The problem is that each law enforcement ranger is currently left to his or her own devices now to determine what the appropriate "law enforcement attitude," as it's been described, should be. As the chief of all USPP officers, my expectations of their appropriate attitude – one that would better ensure their safety and provide the highest customer service possible – were drilled in to each officer from the first day he or she was hired.

I met with each officer before he or she left for FLETC. I met with each upon his/her return. I visited them in their work place. Although we had only scratched the surface of the work that needed to be accomplished, these new officers understood that they had been hired "in the spirit of service" and not "in the spirit of law enforcement adventure." There is a huge difference and one I believe you are doing your best to ensure is carried on by each ranger, regardless of his or her assignment, specialty, or law enforcement designation.

Thank you for taking the time to read my thoughts and for allowing me to weigh in. God bless you for all you have accomplished in your careers, for what you are attempting to accomplish now, and for the passion which continues to guide you.

Happy Holidays.  
Teresa Chambers

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## **Pay Cut for Seasonal LE**

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Last June, the Fire and Law Enforcement Retirement Team (FLERT) published a ruling the seasonal law enforcement position description did not meet the "primary/vigorous duty" standard for coverage under 6(c). For various murky reasons, Human Resources then decided to eliminate the LE enhanced rate to seasonals. Effective in December that was stopped. For a GS-7 LE, that's a cut of \$2.11 per hour.

In a letter sent to WASO LE Program Administrator Dennis Burnett, FLERT detailed their reasoning (*excerpt*):

The primary purpose of these positions is to serve as non-supervisory Park Rangers (Seasonal, performing a variety of tasks associated with the use and management of park resources. The positions supplement the permanent park ranger workforce by performing duties designed to (1) facilitate visitor understanding of park resources; (2) facilitate visitor enjoyment of the park and its resources; (3) *facilitate and induce visitor behavior consistent with resource protection and to gain friendly compliance with the laws and rules for safe use of the park;* [emphasis added] and (4) encourage visitors to develop a sense of stewardship for park resources. The incumbents serve as NPS law enforcement commissioned park rangers, primarily responsible for performing duties including detection and investigation of violations of the Federal criminal laws, apprehension and detention of violators, the protection of life and property, and enforcement of all applicable laws, rules, and regulations protecting and insuring the safe use of National Park resources.

These position descriptions do not meet the definition of primary/rigorous or secondary law enforcement officer for the following reasons. They do not identify the type of law enforcement commission required; the Physical Requirements Factor

does not state that these positions have rigorous duties nor that the incumbent is required to meet the physical fitness/qualification requirements to maintain a law enforcement commission; and there are no criminal or criminal suspects or other law enforcement contacts identified in the Personal/Purpose of Contacts Factors.

Based on our review of these position descriptions, the definition of a law enforcement officer in 5 C.F.R. § 831 .902, 5 C.F.R. § 842.802 and NPS DO #9, these positions do not meet the definition of primary/rigorous or secondary law enforcement officer. Therefore, coverage of these positions ends effective upon the date of the Deputy Assistant Secretary's signature.

Now, the good news is that WASO is very much opposed to the FLERT decision. Associate Director for Visitor and Resource Protection, Karen Taylor-Goodrich has assigned LE Chief Don Coehlo and Dennis Burnett to move quickly to rewrite the seasonal PD to not only properly reflect our duties, but restore the enhanced pay rate and have it meet the requirements for 6(c) designation. All have been keeping the Lodge updated on their progress. Dennis will be attending a meeting in Boise in late January with FLERT and Human Resources people to get a new PD written and approved. It is hoped that this problem will be solved shortly after that meeting.

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## **Enhanced Annuity Retirement For Rangers in Today's World**

Bill Blake  
Chief Ranger, Midwest Region

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National Park rangers will be wise to maintain vigilant awareness regarding career issues. The primary focus of this paper is career programs related to park ranger 6(c) retirement. However on a broader scale, there continue to be some lingering concerns regarding the professionalization of the park ranger occupation under Ranger Careers,

including the GS-9 Journey level program. Given the history of the park ranger occupation, with such difficult programs as the old Park Technician series, it seems particularly prudent for park rangers to be very vigilant regarding their career professional matters. While this paper addresses part of the subject of Protection Park Ranger careers, it is equally important for interpretive park rangers to maintain awareness of career subjects.

The 6(c) matter is a Protection Park Ranger career issue, under the umbrella of Ranger Careers. Regarding 6(c), park Rangers need to be aware that the recent Directors have consistently supported 6(c) coverage for NPS law enforcement park rangers (also for firefighters). This support goes back to 1993. On the other hand, coverage for park rangers under the 6(c) program has not had enthusiastic support from some elements both inside and outside of NPS. As a documented matter the Office of Personnel Management (OPM) expressed open opposition to 6(c) coverage for park rangers until the Director's support was confirmed in 1993.

Currently, concerns have been expressed that at least one human resource program is openly questioning whether park rangers should have coverage under 6(c). 6(c) for rangers is not well understood nor accepted in all parts of the Department's law enforcement office. Further, recent concerns and comments made by managers of the Department's Fire and Law Enforcement Retirement Team suggest that they may not be supportive of 6(c) for park rangers. Whether the concerns are fact or fiction is not the point. The point is that park rangers need to be vigilant regarding career issues.

park rangers would be wise to consult two basic NPS documents when it comes to 6(c). One is the affirmative formal position that NPS "...employees permanently assigned to positions with primary duties in either law enforcement or firefighting are entitled to enhanced annuity retirement benefits as provided under 5 U.S.C. 8336(c)..." Further, "The National Park Service will actively pursue efforts to ensure that all such law enforcement and fire fighting positions are designated for coverage

under enhanced annuity retirement..." Signed by the Director on April 4, 1993.

Additionally, there is the Ranger Careers memo of June 14, 1994 signed by the Director. On page 6 under the heading: "Appropriate use of enhanced annuity retirement," it says, "Servicewide use of enhanced annuity retirement of all NPS-commissioned law enforcement rangers...will be provided, when duties required by the agency fall within definitions established for this work by Congress."

Coverage under the 6(c) law is in fact quite well justified for park rangers within the Ranger Careers professionalization program. The following points need to be remembered:

1. The law that is the basis for 6(c) coverage is not very specific about what law enforcement positions will be covered. However, OPM (then the USCSC) issued "clarifying" regulations (Title 5 CFR) defining terms used in the law. Not every law enforcement position in the Federal system meets OPM's definition of "law enforcement for retirement purposes"... To be covered, the "primary duties" of a law enforcement position must be the investigation, apprehension or detention of persons suspected or convicted of committing crimes against the United States. (Under FERS regulations, the position must also be a physically "rigorous" position limited through entry age and physical qualifications to "young and vigorous" individuals.) This specifically does not cover such traditional law enforcement functions as the protection of life and property, or keeping of the peace, or "police" work, or guard duty, or security. Unless one is doing law enforcement within the meaning of 5 CFR (6(c)), which is investigating, apprehending and/or detaining persons suspected of crimes against the United States, one is not covered.
2. Law enforcement rangers, in theory, should have no trouble meeting the primary duties given the NPS General Authorities Act if

they are working within the scope of properly classified position descriptions. Under that act, as every law enforcement ranger should know, properly trained park rangers are authorized (commissioned) to conduct investigations, make arrests, carry firearms and serve warrants.

3. The most straightforward and understandable way to demonstrate that one's position has the above elements, and thus qualifies for 6(c), is if the basic reason for the existence of the position is to perform investigations and/or make apprehensions (by definition, "detention" duties are limited to prison facilities). Investigations and apprehensions must occupy a substantial portion of the individual's working time over a typical work cycle (not emergency, incidental or temporary duties). A shortcut method is to establish that investigations and apprehension duties consume at least 51% of the employee's work time during a "typical" work cycle. However 51% is a difficult quantification to demonstrate. Rather these duties should be assigned on a regular and recurring basis so that there is no question but that investigations and apprehensions are the "primary duties" of the position. If one must use some percentage, then a higher percentage than 51% is more credible because it eliminates the hair splitting arguments that some might bring up. If a person can demonstrate this primary purpose, then those who may oppose 6(c) for rangers have no argument. Being able to prove the primary duties of the position occupy, say, 60% or better of the position's work time (duties meeting the OPM definition of law enforcement functions for retirement purposes) is a key to successfully meeting the 6(c) standard.

4. The percentage doesn't have to be everyday, or even every week. But it does have to apply over time. In any several month's time period, and certainly within any given year, a park ranger should be able to prove that he/she spent >60% of the time doing what is the "basic reason for the existence of the

position"; in this case the investigating of and/or apprehending of suspects. Outside of the 60% there is adequate time to do other traditional park ranger work.

5. Investigative work includes some functions that we in NPS sometimes think of as "other work." Investigations and apprehensions include building probable cause, applying for search or arrest warrants, preparing for court, writing case reports, planning, installing and monitoring remote detection devices, observing (surveillance) for criminal behavior, training, interviewing suspects and witnesses, planning investigations and apprehensions, travel to incidents and crime scenes, preparing cases for court, documenting and caring for evidence, etc.
6. Investigations do not have to meet some arbitrary definition of "serious." The crimes investigated do not have to be felonies. They do have to be crimes against the United States. This includes the usual Federal crimes, 36 CFR crimes, any State or local laws that we enforce through assimilation.
7. Investigations can involve a crime that we might consider somewhat minor, such as a vandalism of a sign case. Of course, in reality such a crime might well rise to the level of a felony if the cost to repair and replace it meets the felony standard. Furthermore, a pattern of sign destruction can be very expensive to a park and can involve long term investigative techniques. But even if it remains at the level of a misdemeanor, as long as normal investigative techniques are used, the process qualifies as an investigation under 6(c). Most crimes where a ranger writes up an incident report would qualify under 6(c).

If a ranger writes an investigative report, gathers evidence, takes pictures, does any interviewing, searches for or identifies suspects, coordinated with other rangers or agencies, etc. it is an investigation. Keep in mind that OPM has informally defined investigation as

being long-range, complex, long-term investigations typically performed by criminal investigators, not the work typical of police detectives. It would seem to me that many investigation that park rangers perform, other than maybe something very quick and simple, none of which I can remember from my ranger years, would qualify as "long-range and complex."

8. Some work that we might operationally call "patrol" is actually investigative. Patrol work in the highway patrol sense does not qualify for 6(c) coverage. If a ranger is monitoring park visitors for criminal behavior, that is surveillance – which is a form of investigation. In any reports this type of work should be referred to by what it actually is which is "surveillance." This is not "patrol." The key difference is that patrol is non-focused and reactive while investigations are focused and proactive based upon known or suspected patterns and indicators of criminal behavior, techniques and probabilities. To a trained ranger, footprints in the sand or snow, when combined with experience and knowledge of the park resources, can be indications that criminal activities might be occurring that should be further investigated. Likewise a history of resource crimes, say poaching, in a particular area may be the reason for scheduling investigative activities in that area.
9. Apprehension work includes such functions as physical custody arrests and also the issuance of citations as a legal alternative to full custody arrest.. It includes the time that a ranger is trying to decide whether probable cause exists and whether to make a custodial arrest, to write a citation or issue a verbal or written warning. It includes the time to observe for the transgression (reasonable suspicion of probable cause). It includes the interviewing of witnesses and/or interrogating of suspects. It includes the time to prepare paperwork to submit citations to the court system.

10. There are legal opinions by the Solicitor's Office (January 4, 1980; January 9, 1989) that indicate that the issuance of a citation is the legal equivalent of a physical arrest. In reports, the act of issuing a citation should be referred to as what it actually is which is "apprehension" of suspects.

11. Detention work for 6(c) purposes is generally performed within prisons or other detention facilities (OPM informal determination) and almost always by correctional officers. Correctional officer work is significantly different from that of park rangers. Accordingly, park ranger work does not fall under the detention definition for 6(c) coverage. When a park ranger "detains" a suspect for questioning, this is actually interviewing or interrogating as part of an investigative process. This falls under the 6(c) definition as part of an investigation.

12. Regarding the concern that performing Homeland Security duty may not be 6(c) eligible, it is apparent that if the person is doing any investigative or apprehension duties that it applies. On the other hand if a person is performing guard-type duty with many hours working fixed stations, then it is not 6(c) work. (Remember that guard-type work is not the reason for the existence of the ranger position, even if it occupies 100% of the work time on an emergency, temporary, or irregular basis.) In the case of security work ordered by the Secretary of Interior during certain nationwide alerts this is not park ranger work, but rather is "emergency" work ordered by the Secretary for short duration. Work of short duration, of an urgent or emergency character should not have an effect on 6(c) coverage, especially if qualifying law enforcement work is assigned on a regular and recurring basis.

13. As was mentioned before, the 51% situation is not a readily quantified standard. Percentages are estimates at best. If percentages are used, it is more demonstrable to use a percentage of 60% or higher. Getting beyond the percentages, a park should be able to document that a law enforcement position

performs investigations or apprehensions on a regular and recurring basis and they are the basic duties of the position. If a park has positions that do not perform these duties during a substantial portion of a work cycle, then they do not have a 6(c) position and they do not have a NPS law enforcement Park Ranger position.

Under Ranger Careers all law enforcement park rangers are covered by 6(c) and law enforcement must be assigned on a regular and recurring basis. If supervisors do not assign law enforcement duties on a regular and recurring basis, then the park has some other type of non-ranger position such as an inspector, police officer, guide or guard or something else.

14. Within the other portions of their work time, park rangers have significant amounts of duty time for other traditional ranger work such as resource management, education, EMS, SAR, guard duty, fire work, etc. These traditional, professional Park Ranger functions (including law enforcement) must constitute at least 80% of the work of the position in order to be considered park ranger work as described in Ranger Careers. Otherwise the position does not qualify at the professional GS-9 journey level. So to maintain 6(c) rangers must perform investigations and apprehensions a substantial portion of the time. To maintain the GS-9 journey level they must do at least 80% of Ranger Careers work. It's a little complicated but nothing a professional park ranger shouldn't be able to understand and resolve appropriately.

15. If some Human Resource office in NPS is describing certain positions as Park Ranger, but the position is not under Ranger Careers, then a mistake has been made and it needs to be corrected. Under NPS policy all Park Ranger jobs, up to the GS-9 level must be under the bench-mark position descriptions in Ranger Careers.

A park ranger today who is interested in keeping 6(c) coverage would be well advised to be diligent about documenting 6(c) activities everyday. This would include documenting in a diary or a record sheet that the ranger did in fact perform investigations and apprehensions. The ranger should note that the scheduled duty time and duty locations were to coincide with known illegal activity. The ranger should record that there were visitors under surveillance for potential criminal activity; that arrests were made, either physical or citations; and that he/she investigated crimes and apprehended, transported and incarcerated suspects. The ranger should be sure that over a period of a few months that the record indicated that this type of work was done a minimum of about 60% of the time. An informal record should be kept of every investigative or incident report that done. The ranger should keep an informal log of arrests including citations.

Regarding individual 6(c) prior service coverage cases: some individuals who are claiming they deserve 6(c) benefits for former service have not been successful in their claims. On the other hand there have been many individuals who have been successful in their claims. It has been firmly determined that a well documented and factually compelling claim is not difficult to win. Claims that WASO-RAD assisted on in the early half of the '90s were almost always successful. Individuals applying for prior service coverage need to understand that the burden of proof rests with them to prove their claim. These are civil cases requiring the claimant to provide the preponderance of the evidence. Because the employing agency did not consider their position to be 6(c) covered at the time the work was performed (presumption), the government is not going to give anyone 6(c) benefits for previous service unless they can convince DOI and possibly MSPB that they did 6(c) work as a primary duty of the position and they did investigations and apprehensions a substantial portion of the time.

Convincing DOI and MSPB requires evidence in the form of old position descriptions, classification determinations, case reports, affidavits from coworkers and supervisors, possibly testimony from peers or

supervisor. A person needs to be able to present a compelling case that he/she did investigations and apprehensions as a primary purpose of the job, if they are claiming a "primary" position. For a secondary position, they need to make the same argument from a supervisory standpoint. They need documentation to prove their case. They may need a good lawyer to help them to prepare their case and to argue it, if necessary. In most civil matters, including this subject, persistence is a trait that is of benefit.

Some individual cases for back coverage where the claimant is not prevailing may or may not indicate a trend. It would be wise to get copies of all the rulings and see what the patterns are. What's winning and what's losing? If there is a loss, what is the basis for the loss? If there are wins, why did one win while another lost? Remember that in these cases the person must prove by a preponderance of the evidence that one did 6(c) work without a break in service. One should ask, are these rangers making appropriate arguments? Are they getting good representation and advice? Are they making an articulate and compelling case on their own behalf?

During the first half of the '90s in WASO-RAD the leadership started a large file of all the 6(c) back cases that were available. Hopefully that file still exists somewhere in WASO. The files filled almost an entire file drawer. They began from the '80s and ran up until early '95. The information included all the claims available where rangers had prevailed in 6(c) claims before OPM or MSPB. It is important to get the files, bring them up to date and continue the research on what's prevailing and what's not.

Hopefully this information is useful in today's 6(c) world. Once again the lesson is clear: park rangers must be continually vigilant regarding career and occupation issues.

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## **15 1/2 years for role in ranger's killing Mexican man in crime spree along border**

By Michael Marizco  
ARIZONA DAILY STAR

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December 14, 2004

The only man to be charged in the killing of park ranger Kris Eggle was sentenced Monday in U.S. District Court to 15 1/2 years in prison. Dionicio Ramírez López appeared before Judge Frank R. Zapata to be sentenced for aiding and abetting the transportation of a stolen vehicle, aiding and abetting assault with a dangerous weapon and firing a weapon during a violent crime. The courtroom was packed with uniformed National Park Service rangers, Immigration and Customs Enforcement agents and members of the Sonora State Judicial Police, whose commander came to recount the Aug. 9, 2002, chain of events that led to Eggle's killing at Organ Pipe Cactus National Monument.

Some in the group cried quietly when Eggle's mother, Bonnie Eggle, addressed the judge.

Federal investigators have been reluctant to discuss details of the case, but Ramírez López's pre-sentence report sheds some light on what happened. It shows that Ramírez López served as a lookout when Eggle's killer, Panfilo Murillo Aguila, and one or two other men carjacked a Scottsdale man who was driving in his GMC Blazer to Puerto Peñasco, Sonora, also known as Rocky Point.

The carjackers went to a federal prosecutor's office in Sonoyta, Sonora, where a suspect arrested in a recent quadruple murder was being held. One of the men, known only as Chuy, wanted to know if his brother was one of the shooting victims. Officials, worried the men were there to try to free the suspect, summoned Sonoran state police. The police recognized the Blazer as the carjacked vehicle and spotted an AK-47 rifle inside. Murillo Aguila sped away toward the border, with state police following. The Blazer entered Organ Pipe Monument, and 10

minutes later, the Sonoran officers were fired upon. One officer was struck in the nose by rock fragments or shrapnel.

Ramírez López said he only fired three shots into the ground, trying to scare the officers away.

A U.S. Border Patrol helicopter dropped on top of Ramírez López, now on foot after the Blazer had been parked, its wake pushing the running man down, and he surrendered. Federal prosecutor Serra Tsethlikai said Ramírez López had dropped his gun to run away faster. Ammunition for a .38-caliber pistol was found on him; more ammunition was found in the Blazer.

The pilot then directed Eggle to where Murillo Aguila was hiding. Eggle approached, his rifle held to his shoulder, and he appeared to be yelling orders to the crouching man.

The pilot heard two shots, and Eggle fell to the ground. Mexican agents saw this and fired on Murillo Aguila. Ranger Jon Young tried unsuccessfully to stabilize Murillo Aguila for a flight to a hospital, but he was dead. Eggle, 28, had been fatally shot in the lower abdomen.

Eggle's father, Robert, told Judge Zapata about his son before the sentencing.

"He was a man of character who, when he heard the radio traffic, ran to the port of entry to volunteer," he said.

"My beautiful, precious son was ambushed and murdered by a cold-blooded killer from Mexico," said Bonnie Eggle, crying but keeping her voice steady as she addressed the judge. "He was robbed from all of us."

### 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](http://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@s.net](mailto:randallfop@s.net)



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