

The Protection Ranger



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

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President's Report

Tim W. Woosley

My Pledge for the Upcoming Year

I pledge to you, the membership of the National Park Rangers Lodge to: 1. Continue to lend any and all assistance to members in distress; 2. Continue to work towards forming a collective bargaining unit; 3. Increase membership and, 4. Increase our lobbying efforts and communications with our state and national representatives.

Collective Bargaining Update

Please disregard any published deadlines for the show of interest vote and continue to send in your cards. It is important that we get as many as possible this first go-round so we can gauge the next step—the 50% plus 1 election. Several parks have had a conspicuously lean turnout so far: Where are you Yellowstone, Coulee Dam, Yosemite, Ozarks? Lake Mead is in the lead so far for the larger parks—way to go! **LET'S GET THOSE CARDS IN!!**

The Lodge has received a list of everyone with a commission—which we had asked for about 4 months ago. There are FAR fewer commissions out there than we

have been led to believe over the past few years. There were a few mistakes on the list, but that notwithstanding, here are some numbers to consider. According to our best count there are about 1,910 TOTAL commissions out there. This includes permanent and seasonal rangers, CI's, and jailers. Of that number there are about 1,024 who are eligible to be in the bargaining unit right now. Only about 235 out of the almost 370 units in the system have a law enforcement presence. By

ship. The Grand Lodge has put a lot of time and effort into developing this plan and, naturally, wants it to succeed. This would be an excellent plan for us to utilize as a bargaining unit. The dues for this work out to about \$5.00 a pay period. This, combined with another \$2.00 to \$3.00 for continuing FOP Lodge membership, operating expenses, other lawyer fees etc. would allow us to stay within our proposed dues structure for the bargaining unit. It is possible that we could

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comparison, the Veterans Administration Police, who are trying to break out of AFGE and join the FOP National Labor Council, have about 4,000 total 083 series police officers! This is clear proof of what we have known for quite some time—we are seriously understaffed! Unfortunately, it's not going to get any better. We will continue to be asked to do more with less. However, it will NOT be at the expense of Rangers or their families. A strong bargaining unit and contract is our best insurance against a very uncertain future.

Grand Lodge Legal Defense Plan

The Grand Lodge-FOP has developed a legal plan. The details of the plan, available only to members, are as follows: Unlimited legal defense for any civil, criminal, or administrative action when using a plan approved attorney (plan attorneys are located across the country); no deductible when utilizing a plan attorney; your own attorney can petition to become part of the plan; and low dues of \$125.00 per person per year for a group member-

also negotiate the price down further IF we had the numbers to back it up.

Complete legal defense, a bargaining contract, and a strong voice in our profession can all become a reality through The U.S. Ranger Alliance. Contact the Lodge if you are interested in joining the plan right now. In order to get the group rate we must have at least 50 people sign up.

Call for Assistance from U.S. Fish and Wildlife

I have been contacted by an officer from the USF&W Service and asked if we could help them organize. The first most important step for them is finding out how much interest is out there within their organization. If you know any full or collateral duty commissioned refuge officers who would be interested in joining the Lodge have them call our 800 number. Initially we will have them join our Lodge so they can take advantage of our already established network and negotiating strength. Afterwards, if they wish, we will assist them with forming

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their own Lodge. We could potentially gain as much as 400 to 500 new members. There is no reason why Fish and Wildlife Officers should not be our equals in pay and benefits. Or, for that matter, BLM Rangers.

I receive the unofficial morning reports from each of these agencies. It is painfully clear that they are out there doing a heck of a lot of work with little or no support from their own agencies. We can help. I challenge each of you to recruit at least one new member from USF&W and BLM this coming year. When they send in their membership form have them identify which Lodge member recruited them. The member who brings in the most new members from these agencies will receive a special limited edition merchandise item with our Lodge logo on it. I also challenge our chapters out there with the same task. To make it fair to individuals each chapter will compete with only other chapters. Each member of the chapter will receive the special merchandise item and the chapter as a whole will receive a framed certificate of appreciation.

Legislative Update

Many of you may have heard that the Parks Closure Commission Bill was defeated by the House and then reinserted into the appropriations bill by its author, Joel Hefley, of Colorado. I am pleased that the bill has also been taken out of the appropriations bill. I wrote Rep. Hefley to voice our concerns over the bill. While I have not received a reply I will send a copy of my letter to anyone who wishes to see it. Just send me a SASE.

Rep. James Hansen of Utah has introduced legislation that would overhaul the way the NPS director is chosen. The executive committee asks that you allow us to show our support of this bill. The bill, H.R. 2465, would mandate that the Director be appointed by the President, confirmed by the Senate and serve a five year term. Currently he is chosen by the Secretary of Interior without Senate confirmation. Most notable in the bill is the requirement that any potential Director have substantial experience and demonstrated competence in federal park management and natural or cultural resource conservation. I am in the process of drafting a letter of support for the bill. I will send it in within the next two weeks unless the Lodge receives word from a significant number of members opposed to this stance.

I have received several replies from Rep. Wolf of Virginia. He introduced legislation that would counter a Department of Justice decision declaring it a criminal offense for an employee to represent an em-

ployee organization before a government agency. Basically yours truly and the other members of the executive board could, as it stands now, be put in prison. Our concern over this decision is obvious. However, Rep. Wolf's legislation has passed the House and is awaiting the President's signature.

At the request of the Northeast Region's LE Specialist, I contacted Pennsylvania State Senator Salvatore. I was asked to try and resolve a problem with legislation that would designate Rangers in Pennsylvania as Conservators of the Peace. I was able to resolve this problem successfully, unfortunately the legislation was tabled due to other pressures and will be rewritten. Sen. Salvatore assured me that we would be consulted on the rewrite.

This brings up an important point. It is critical that we not only keep on top of the scene in Washington but also in our individual states. Please let me know if any legislation pops up in your state that could affect Rangers—either positively or negatively. I will make the appropriate contacts in order to get our voice heard.

SIG Update

To date I have forwarded over 40 orders to SIG for a total dollar amount of \$38,112.98! I hope this trend continues. A reminder that the program is now open to seasonals. I also want to reiterate one of the conditions of the program. As we have made clear from the beginning of the program the weapons are to be purchased by an individual for personal use only. Any resale or transfer of a weapon before 1 year violates the terms and conditions of the program as set forth by SIG. Violating the terms and conditions of the program, intentionally or otherwise, is a felony. An individual would be subject to possible prosecution by ATF as well as administrative actions by the Park Service. SIG would also have no choice but to cancel the program. You do not want to be the one who causes that to happen. There is no reason to cheat the program. Let's all act like professionals. It is also a 99.9% done deal that the P-230 (.380 caliber) will be authorized for concealed or off duty carry.

NPS-9 Update

The new NPS-9 has been completed and will be released for field comment in the very near future. I know we have been saying this for some time now but one look at it will prove that it has been well worth the wait. It is a document written by law enforcement professionals for law enforcement professionals—enough said!

Happy Holidays!!

Your Lodge At Work

Ed Clark, VP

Throughout the year your Lodge Officers receive numerous calls and letters from Rangers having problems. We try to help each in some way. Many times the help consists of simply giving moral support. Often it extends to providing advice from an officer experienced in the problem area, legal advice from the Lodge attorney or, in cases which affect us all, legal representation or initiatives from the Lodge.

Each member receives help to ensure due process is being followed, regardless of the merit of their case. Beyond that, we want to see our Service professionalize and, with that in mind, aggressively pursue cases that can benefit all rangers.

We can't give specifics on cases, but the following are some general problems where members have received help from their Lodge this year:

Transfers/Hardship: transfers, dual careers, Statue of Liberty takeover by USPP, 6(c)-Past Coverage FERS, Past Coverage CSRS, Misclassified Primary Rangers (which results in lapse of coverage).

LE Pay/6(c)

Secondary Coverage Supervisors not getting LE pay or 6(c) coverage. I'm getting calls and letters from Rangers in this predicament since the last *Protection Ranger*. Keep calling! I need a complete list so we can take action on your behalf.

FLSA

Many Rangers have contacted us complaining of not being paid for overtime and travel resulting from such things as LE related training, court, etc. See related article on our efforts to resolve this problem.

Individuals

Rangers call about individual problems in such areas as: Lapsed 6(c) coverage due to disability retirement; loss of LE Commission; Boards of Review; Discrimination; and work assignments outside of a PD.

Remember: we're here to help you with questions and problems. That's what your dues pay for. Call our 800 number with your concerns or if you want to offer to help out. Thanks!

Secretary's Report

Randall Kendrick

Fair Labor Standards Act & You

The odds are that you are now **exempt** from the Fair Labor Standards Act (FLSA). Were you consulted before this happened? Did you get to vote on it? Is it to your advantage to be exempt and management is helping you without worrying you? Who cares anyway?

The Lodge attorneys feel that it was wrong to exempt GS-9 rangers and probably first line supervisors from the FLSA. Because of this opinion from Passman & Kaplan, whose track record is second to none, the Lodge will take steps to correct this situation in 1996.

Under the FLSA:

- 1) You must be paid OT unless you request Comp. time in writing.
- 2) If you are exempt and make more than GS 10/10, you can be required to take Comp time. (The NPS has the authority to order this but have not done so.)
- 3) Under the FLSA computation, OT is based on the regular rate of pay times 1 1/2. Regular pay is found by totaling all includable payments for all hours for the week and dividing the result by the total hours in pay status. The NPS has not been doing this, will not do it without being ordered to do so, and has exempted GS-9 rangers to avoid so doing. **This is both costing you money and failing to comply with an important federal law.** Management has gotten away with it. The agency is supposed to factor in Sunday pay, night pay, holiday pay and hazard pay to determine the regular rate and then multiply that figure by 1 1/2.
- 4) Federal law says that whenever possible, travel should be scheduled within regularly scheduled working hours. Law does not require or permit payment for such travel. The official who requires you to travel in non-pay status is himself required to comply with 5 USC 610.123 and record the reasons for ordering the travel and he **must** furnish you with a copy of the reason.
- 5) Travel is paid work if it is incident to travel which includes performance of work. Examples: travel to pick up a vehicle and drive it back to the duty

station; driving your patrol car to your private residence; travel which involves more than one hour to the departure terminal. Also included is travel which results from an event that could not be scheduled or administratively controlled by the agency.

- 6) Under the FLSA, these are hours of work and compensable: driving to an assignment (but not riding); travel as passenger on a one day assignment to and from a temporary duty station outside the limits of the official duty station.
- 7) Under FLSA, these types of training are compensable for time spent outside of normal working hours: training to meet identified deficiencies in an employee's performance; training

deserving of it.

There are two main issues that the Lodge will be addressing: restoring **non-exempt** status to GS-9 rangers and first line supervisors, and ending the GS-10/1 cap on OT to those who are exempt and perform "production type" work outside of normal duty hours.

Our Lodge's strength has come from pooling our skills and experiences. Please donate your talents in this effort by writing to Brother Dan Kirschner with your opinions and strategies. Dan will be working with the attorneys in this matter. We need to hear from you. Write to: P.O. Box 101, Bushkill, PA 18324.

Resource Protection Fund

Supervisors: Remember that seasonal rangers are non-exempt. You cannot require them to take comp time in lieu of paid OT.

to provide an employee the knowledge or skills to perform new duties required in his current position.

It seems to most of us that management—not rangers—is benefitting from the denial of coverage to GS-9s and first line supervisors under the FLSA. I wasn't consulted, were you? Why should my OT be capped for emergency work I do on LE incidents, searches, and threats to public safety?

Seasonals are Non-exempt

Supervisors: remember that seasonal rangers are non-exempt. You cannot require them to take Comp. time in lieu of paid OT without them requesting it; you cannot "suffer or permit" them to do work without paying them; and you have the responsibility for telling them NOT to work if you "know or should have known" that work is being done. You must also be careful when changing a non-exempt ranger's tour of duty. You may do so in an emergency, but cannot, for instance, tell a ranger to go home early after an early call out to avoid paying OT (assuming the ranger is able and willing to work his/her regular TOD).

The act of exempting all, or most all, rangers from the FLSA was done in a stealthy and underhanded manner. It takes money which federal law says is due to those who perform work outside of normally scheduled hours from those

Brother Bob Martin has worked exceedingly hard in bringing to life the National Park Rangers Resource Protection Fund. This fund has raised money for NPS training and equipment and deserves your support. Bob has developed ties with environmental and conservation organizations across North America. In addition to gaining their support for protecting NPS resources, he has also gained respect for us Park Rangers which will aid us in our quest for pay and benefits in equal measure to our skills and dedication. Please send your \$20 to: NPRRPF, Rte. 1 Box 314, Shenandoah, VA 22849.

Correction

In our last issue, we recommended making sure you have a blood test to make sure your Hepatitis B immunization worked. The Grand Canyon Lodge has corrected us on this: **The CDC does not recommend the Titer test following immunization** because of the high number of false positives. We did a follow-up check with OSHA, and they follow the CDC recommendations. Our thanks to our Brothers & Sisters at Grand Canyon.

Chapter Corner

Ed Clark, VP

New Chapter

A new Chapter has been formed at Jefferson National Expansion. The officers are: President Bryan Piercy; VP William McKinney; Affairs Rep. Keith Temple; Secretary David Tyroler; and Treasurer Teresa Friday.

Delaware Water Gap

The Gap had a successful triathlon, followed by a picnic. The event was sponsored by the FOP Chapter in conjunction with the park's NPS-57 Health and Fitness Program. The event was a bike-canoe-run relay race. Teams consisted of up to 4 competitors. DEWA chapter has members from a number of parks, including Statue of Liberty, Steamtown, Upper Delaware, and Morristown. In an effort to reach out to their affiliate parks, they rotate meetings to sites in each park.

Natchez Trace MS Lodge 15 / VA Lodge 60 Chapter

The T-Shirt fund raiser netted \$1074. Northern VP Johnny Murphy attended the National FOP Convention as a delegate. The group is looking into a number of social service projects including Special Olympics. They also sponsored a "Local Law Enforcement Fish Fry" in an effort to better relations with local LE agencies. The Natchez Trace Rangers have formed their own Lodge in the State of Mississippi, but affiliate with the Ranger Lodge as well.

Valley Forge

The VAFO chapter recently hosted a "KidCare" event at the park. The event had the backing of the park and financial sponsorship from a local McDonalds. Polaroid pictures were taken of 132 children and placed in a "passport," along with ID info marketed by Polaroid.

During the event U.S. Congressman Jon Fox came by, helped out, and talked with Rangers, parents and the Park's Superintendent and Chief Ranger. An Officer from a neighboring Township assisted as

KidCare was so successful, we strongly recommend other chapters try this.

"Officer Friendly," loaning them a "McGruff" costume which was worn by Chapter members and volunteers. A local school has requested the project be done at their school. KidCare was so successful, we strongly recommend other chapters try this as a way to get local politicians to meet rangers, administrators and become familiar with park issues. It was also a big hit with the park's administration.

Board Meeting

Response to the idea of a Board of Directors meeting this January has been light. Chapter Presidents are encouraged to contact Ed Clark to express interest or provide alternatives. We want to have the input of all Chapters/Parks into the workings of the Lodge.

Peace Officer Status

Tony Macri, VAFO

Brothers and Sisters of the Lodge, I am writing this article in the hope of stirring up interest in an area of the job I feel has gone by the wayside: Peace Officer Status within your state.

The problem comes up in three areas: official business outside the park, assistance to local law enforcement agencies and serious crimes encountered while off-duty outside our jurisdiction. A recent case involving rangers at Big South Fork serves to point out how serious the problem is. Rangers were on duty, covered by a valid MOU, deputized by the local authorities, and acting at the request of the local authorities. During the incident a suspect was shot and killed. Now the Rangers are being sued, as individuals, for wrongful death. The NPS has supported the Rangers, citing the MOU etc. as evidence they were acting in the scope of employment, yet the Circuit Court ruled against the Rangers. The case is now being appealed.

This is an example of a best case scenario, one where all the legal bases were supposedly covered. How many of us have valid MOU's with the local agencies surrounding us? How many of us have gone to the local store, bank, or a residence outside the park in full uniform, defensive equipment, and possibly a marked patrol unit. What do you do when a local township calls for back-up outside the park? How about when you are off duty and you witness a serious crime occurring, one that is an immediate threat to life? We know these situations can happen to each and every one of us.

We need to be able to take appropriate action, including the use of force, based

on our training and experience. We can't be distracted by worries about management, being fired or sued while letting the bad guy get the drop on us. The public and our fellow LE agencies expect that of us. In fact, Congress expects that of us and said so in 16 USC. The NPS has cited this in the case of the Rangers at Big South Fork.

Let me give you some examples from my own experience. My first position in law enforcement for the NPS required me to work solo at night, going from one park site in the town to the other. The local police many times requested assistance from us, having the same problems with lack of personnel as we did. I was told it was a gray area as to how much help we could give the locals, since we did not have State Peace Officer status. I could not bear to pass up a local officer who was on a stop alone. Most times they were alright and just pulling up behind their unit with my overheads on was all that was needed. Before long the locals would send the cavalry whenever we needed them and treated us with respect, as fellow officers, instead of "those park guards."

While traveling from one site to another I became involved in two cases, out of our jurisdiction, where I ended up being first on scene. One was an armed subject shooting at a house and the other a DUI. In both cases I took initial action because I deemed it an emergency. The DUI went to the Grand Jury and the defense lawyer argued that it was a false arrest because I was not a state officer. The grand jury upheld the arrest, agreeing that under 16 USC, rendering emergency assistance, I was acting under my scope of employment and that being a trained officer, I could not just turn it off once I left the park.

Many of us rely on local support to complete our mission. This is true not only in urban parks but in the large remote parks too, where LE agencies are spread thin. Some might say, "I'm a ranger not a cop." If you say this, or even think it, you should not be doing the job. While Rangers are truly Public Service Officers, wearing many hats, law enforcement is our primary function.

I have seen many dedicated Rangers out there doing the job—and doing it well. Sometimes local agencies look down on us, other times we aren't there for them because of a lack of legal protection. The FOP Lodge has done an outstanding job bringing us up to the status of professional Law Enforcement Officers within our own agency. Being recognized as Peace Officers in the states we work in will further support our professional image and help us in accomplishing our mission.

Editor's Note: Several years ago, California State Park rangers successfully spearheaded legislation to get California NPS rangers peace officer status. Because NPS rangers were often asked on mutual aid, the State rangers wanted to clear any ambiguity about our status. FOP Chapters should pursue working with local LE agencies to ask their legislators for similar legislation.

Letter to The Editor

ED. NOTE: This letter was originally submitted to Ranger, the Journal of The ANPR, as well as to The Protection Ranger. It is reprinted here as submitted. The reference to the baby stems from a recent incident, where the ranger responded to the scene of a murder victim having been dumped in the park.

Dear Editor,

I read a recent letter sent to the editor and I must say, I was appalled! I believe the author of that letter has a very narrow perception of what Law Enforcement Rangers do. Sure, we write parking citations, citations for open fires and the like, but we also aid and assist visitors, respond to Emergency Medical situations, participate in the D.A.R.E. program. We educate more people about our laws than we cite for breaking them.

As Law Enforcement Officers, we have made the decision to do all that is necessary and required by law to keep the parks safe for our visitors. We do not have the luxury of picking and choosing the assignments. Do you think that any one of us would choose to enter a building at 2 a.m. to search it, to get in the middle of a domestic argument, to find a dead little girl rolled down the side of an embankment? Heck no! But this is what we have committed ourselves to in taking on the responsibilities of our job.

We also do not have the luxury of choosing when we will become involved in a confrontation that may require a law enforcement solution. Many of the assaults that have occurred against Park Rangers did so with little or no warning. The violators today do not have any respect for law enforcement. Paul Berkowitz' book, *The Use of Deadly Force*, sums up the necessity for all Law Enforcement Officers to be armed.

Many parks are experiencing record visitation numbers and the need has never been greater for having an armed Park ranger around. Our parks are not immune from the influences that surround them. Visitors inevitably bring their problems with them when they come to the parks.

Almost every urban area has documented a rise in crimes committed by people, toward people. Weapons are "accessible" on the streets of our cities and towns for the right price. With the ever expanding encroachment of the cities towards our parks, some of that violence is spilling over into the parks.

To the author of the letter, please, stay away from Law Enforcement until you decide to take on ALL of the responsibilities of the job.

Susan Zoccola
Valley Forge NHP
cc: The Protection Ranger

6(c) Update

by Dan Kirschner

On 11/09/95 the Lodge talked with Ms. Ann Meroney (USDI 6(c) Program Administrator) about three items including: ANPR's "Blanket Claim" for members who are/were classified as CSRS law enforcement and fire control employees; CSRS 6(c) past coverage claims for employees who did not file a past coverage claims in 1989; and FERS 6(c) coverage for temporary and seasonal time prior to December 31, 1988.

ANPR 6(c) Claim

In the case of ANPR's 6(c) claim on behalf of its CSRS law enforcement and fire control members, the news is not good. According to Ms. Meroney, the ANPR claim only allowed employees an extra 180 days to submit supplemental information in support of their own claim. ANPR is still reviewing this information, if we hear more we will advise in the next issue of *The Protection Ranger*.

CSRS Past Coverage Claims

But, don't lose all hope because Ms. Meroney stated that USDI is holding all the CSRS 6(c) past coverage claims from employees who did not submit (file) claims in 1989. Ms. Meroney said USDI is having their lawyers look into this matter. As we advised in the last issue of *The Protection Ranger*, all CSRS law enforcement and fire control employees who have yet to file a 6(c) past coverage claim should do so immediately!

To date, we have received 11 letters from NPS CSRS employees who did not submit 6(c) past coverage claims in 1989. In these 11 letters, the authors state that there are an additional 14 employees they know personally who also did not file 6(c) past coverage claims.

We will keep these letters confidential, they will not be transmitted or submitted to any other entity. When reading these letters we found some of the reasons for not submitting a claim interesting and thought the membership might be interested as well. To protect the identities of the authors we are printing only some of the their reasons for not filing 6(c) past coverage claims. In addition, I will try to respond personally to each letter.

"The air of hostility displayed by the NPS and their laying the complete burden of documentation for a claim on the employee dissuaded me from wasting my time and effort." Another ranger wrote, "I bought into the NPS rhetoric that filing a claim was a fruitless exercise, that there was very little chance for most law enforcement rangers to receive 6(c) past coverage. With this in mind, I thought, why go through the time and expense?"

While we understand the frustration, OPM, not the NPS, was the agency that promulgated the regulations placing the burden of proof for filing an individual claim on the employee. This is not to say that the USDI and NPS are without fault. To the contrary, way back in the mid-1970s the NPS was asked by OPM if they had any 6(c) qualifying employees. As we all know the NPS said "no." In addition, there were no regulations prohibiting the USDI or NPS from providing more than cursory assistance in filing a claim. As the atmosphere was anti-6(c) (see how effective we've been over the years), the USDI and NPS published memos stating that law enforcement patrol work did not qualify for 6(c) coverage—ouch.

"I did not file a claim in 1988-89 because I had few records to support a claim." We definitely understand this problem as few parks maintained law enforcement records going back 20 years. However, the personal affidavit is your solution to this problem. Sure it takes time to obtain an affidavit, but we are talking about you and your family's welfare because of the enhanced pay and retirement associated with 6(c) coverage.

"The rangers who were my supervisors have either retired or died." "My former supervisors and employees have retired or transferred to other parks." While we are sure such an issue as death would be taken into account, we are also sure that everyone will have to file a claim. We lost the ANPR lawsuit because we tried to state that OPM's regulations were arbitrary and capricious. Do the best you can at obtaining personal affidavits!

"I felt the NPS would never accede to it [6(c) past coverage]." We expect that many rangers believed the same, but luckily for us, the NPS wasn't the only entity making this decision. Both the

MSPB and the US Courts became involved, often due to Lodge efforts.

"I was serving in an overseas assignment... without access to the few documents that I did have." And another ranger wrote, "I had just started a new job and didn't have time to put together a packet." These types of problems are very common. We hope that articulating this type of problem will help convince USDI/NPS to allow all qualifying employees to submit a past coverage claim.

"I am XX years old, I did not file a claim since I believed that I would be forced to retire on my fifty-seventh birthday with less than 20 years of covered service." It is our understanding that the mandatory retirement age is usually 57, but can be extended to 60 if three years, or less, are needed for the employee to attain 20 years of service.

"I feel strongly that the burden of proof of proving coverage should not have been placed on the individual ranger. It seemed to me that this was a Servicewide issue that required a Servicewide response." Well, we couldn't agree more with this opinion, but that is the problem. This is an opinion and we must deal with laws and regulations. The facts are that OPM promulgated regulations putting the burden on the employee. The ANPR law suit on this issue failed. Remember how we discussed that large bureaucracies have a difficult time keeping the individual employee's best interests at heart... This reason for not applying truly embodies why we need collective bargaining. The agency didn't protect our interests back in the late 1970's when they had a chance to obtain 6(c) coverage for law enforcement and fire control employees.

"These folks (NPS law enforcement rangers) might apply (for 6(c) past coverage) if there is some sort of agency sponsored and sanctioned initiative." We don't recommend waiting. USDI will be convening a panel to review all the FERS 6(c) past coverage claims. We can think of no reason to wait, and we believe that in order to file any type of class action claim we will have to prove there is a "class" of people who should be covered by such a lawsuit. Of course we hope a lawsuit won't be necessary but, as we stated before, there will come a time, even with an agency sponsored initiative, where each employee will have to prepare an individual claim. Do It Now!

I know I'm beating a dead horse here, but hopefully we are "clearing the picture"

for all the non-believers. **If you don't file a claim, you will most likely be denied coverage.** We agree the process wasn't correct, but that is water under the dam [or bridge—ed.]. We hope that collective bargaining will prevent, or at least minimize, this type of incident in the future. But can we really be surprised? It is 1995 and the USA just shut down the U. S. Government! We can't expect fair treat-

****** NOTICE TO ALL CSRS LAW ENFORCEMENT RANGERS WHO FAILED TO FILE 6(C) PAST COVERAGE CLAIMS******

Part of securing past coverage involves determining the exact number of CSRS law enforcement rangers that have yet to file a 6(c) past coverage claim. We also need to know why you did not file a claim. Please send us a letter BEFORE December 31, 1995, with the following information: YOUR NAME, ADDRESS, PHONE NUMBER, CURRENT DUTY STATION, REASON OR CIRCUMSTANCES FOR NOT FILING OR BEING UNABLE TO FILE A CLAIM. Send your letter to: Dan Kirschner, POB 101, Bushkill, PA 18324.

ment, we have to take personal action to make fair treatment possible—collective bargaining.

Remember, we plan to have our attorneys contact the USDI/NPS on your behalf. Thus, we need to know, as closely as possible, just how many of you have yet to file a CSRS 6(c) past coverage claim.

FERS Seasonal-Temporary 6(c) Coverage Post 1989 & Beyond

With respect to FERS 6(c) seasonal and temporary time worked after December 31, 1988. Ms. Meroney advised that the prohibition from counting this service towards 6(c) time is spelled out in the FERS law. We will have to get a copy of the law to verify this statement (look for next issue). Ms. Meroney did advise that the FERS employees should note this time in their claim for two other reasons. One, the time can be credited towards meeting the maximum entry age requirement and two, the time can be credited for meeting the FERS requirement for having three years of 6(c) primary coverage in order to qualify for FERS 6(c) secondary coverage.

First Line Supervisory 6(c) Designation

It has come to the Lodge's attention that several parks are designating first line supervisors as SECONDARY (supervisor or managerial) 6(c) coverage positions instead of PRIMARY 6(c) coverage positions. This is an error if you are a first line supervisor and perform over 20% production work! Contact you servicing personnel office and find out how you are being designated for 6(c) coverage.

The reason for our concern is that first line supervisors (people who directly lead

and supervise GS-9 rangers) in the NPS usually perform more field work than managerial/supervisory work. It is our experience that most first line supervisors perform more of a lead function. As an example, first line supervisors must first obtain approval from their supervisor before giving a performance appraisal. Another example, first line supervisors can only recommend training and detail assignments, someone "higher" make the decision about who goes to what training. Another example, how many first line supervisors have control of a budget?

Our point is simple, NPS first line supervisors usually perform more lead duties than supervisory duties.

Why is the designation important? It is important because of the exempt vs. non-exempt FLSA designation for your position. Want to know more? Read the FLSA articles in this issue.

FLSA and First Line Supervisors

by Dan Kirschner

As you have read in the other FLSA articles in this issue, the FLSA is an issue of paramount importance to field rangers. The FLSA was designed to protect the production worker.

Recently, the Lodge received a letter from a member who stated he didn't care about the FLSA. Before going any further, let me say that I appreciate that this ranger took the time to write. Let me also say that my next comments should not be taken as an attack, but simply as an attempt to explain the Board's position on the FLSA.

This ranger writes: "I don't care if there is some obscure rules that says we will be paid overtime based upon the combined total of our wages for the week divided by forty hours times 1.5. The way we currently calculate overtime is the time honored way that is the standard throughout the business and governmental agencies." This ranger went on to express an opinion that rangers should not start specializing in law enforcement or rangers may find themselves out of a job. The ranger further stated that rangers have to be remain generalists and maintain the ranger image.

We agree with most everything he says—except for the reference to the FLSA be-

ing an obscure rule. The FLSA is a law. The FLSA is how most other agencies do their business. There are lawyers in Washington DC making a fortune on FLSA back-pay claims of federal employees. One law firm even has an 800 number which one can call to join in on a FLSA class action law suit involving federal law enforcement officers.

The Board believes that in order to attract quality people into the ranger profession, we (the NPS) have to be able to offer competitive salaries and benefits.

We hope that after reading the FLSA articles, the ranger who wrote to us will reconsider his position.

To understand the FLSA, we must first understand some of the terms. The first question seems to be, what do the terms "exempt" and "non-exempt" mean? The terms don't have the obvious meaning one would think. Non-exempt means that a person IS covered by the FLSA. Exempt means a person IS NOT covered by the FLSA. Thus, a non-exempt person is subject to the provisions of the FLSA and an exempt person is not subject to the provisions of the FLSA.

The second question is: what are the criteria for making a determination that a certain position is exempt (not covered) from the FLSA? Exemption can be made for several reasons, but the NPS has chosen the Professional Exemption for the GS-9s and Administrative Exemption for first line supervisors.

The next area of concern is that there isn't one central place for finding FLSA regulations. Some are written in 5 CFR and some are written in 29 CFR. The 29 CFR regulations come from the Labor Department. Some of the 29 CFR FLSA regulations are in conflict with the 5 CFR FLSA regulations. Which ones are correct? Our lawyers have provided us with a written memorandum of law which details which regulations they think are correct and should be followed. Obviously the NPS is, so far, not in agreement with our lawyer's findings.

The memorandum of law is very detailed and we don't have space to reprint it here. In short, though, the memorandum agrees with us that both non-supervisory and first line supervisors should usually be covered (non-exempt) by the provisions of the FLSA. We will continue to work to bring NPS into compliance with the FLSA.



First Line Supervisor Retirement Provisions

by Dan Kirschner

We received a few calls asking us to print the proper wording for designating a first line supervisor as a 6(c) primary coverage employee. Here you go:

"This is a designated PRIMARY COVERAGE Law Enforcement position as described in the applicable provisions (Title 5 USC) governing the Enhanced Annuity and Early Retirement program for federal law enforcement officers. The performance and supervision of law enforcement comprises over 50% of the assigned duties of the incumbent. Prior to employment, the incumbent must successfully pass both a drug screen test and a Single Scope Background Investigation. During employment, the incumbent must participate in a mandatory physical fitness program as required by NPS physical fitness guidelines. This is a required occupancy position. This position is classified CRITICAL SENSITIVE."

Mojave in Jeopardy!

by Tim Woosley and Dan Kirschner

Mojave National Preserve encompasses almost 1.5 million acres of land and contains unique desert ecosystems, flora, and fauna. Mojave was recently authorized—after many years of scientific studies and political maneuvering—as a National Park System area and is staffed by 25 NPS employees. But all is not well at Mojave, as a political tug of war, which began earlier this year in California, may result in the transfer of Mojave National Preserve from the National Park System to the Bureau of Land Management. If this happens, the detrimental impacts will be felt across America and will especially hurt the NPS employees now stationed at Mojave. How did this happen?"

Politics. Politics is REALITY when it comes to administering the National Parks. At the core of this fight is the "wise use" movement which has been gaining momentum in the West. Proponents of this movement believe that the Federal Government should turn much, if not all, of the public land in the West over to private organizations, the states or to those agencies who have more of a multiple use philosophy rather than a protection one. This would effectively enable them to open up vast tracts of now protected lands to mining, grazing, timber and general development. The folks

who now control Congress are very receptive to the special interest groups now touting the concept of "wise use" of our country's resources.

If you have been following the budget battle you already know that the Park Closure Committee Bill was defeated by the full House. Unfortunately, the Park Closure Bill is continually being resurrected by its author, Representative Joel Henley of Colorado. Mr. Henley has managed to attach the Park Closure Bill to the general appropriations bill. The strategy is to keep reinserting the Park Closure Bill into the general appropriations bill after each time it has been vetoed by the President. Because there is no line item veto, there could come a point where the President would have to sign off on the entire appropriations bill, with the Park Closure Bill still attached, to avoid looking like he's not "playing ball" with Congress.

The Park Closure Bill would require the Secretary of Interior to: "Give Congress criteria to determine which natural and cultural areas actually should be national parks. The NPS would list parks, or parts of parks, that should be managed by other federal agencies, states, local governments, or the private sector." As an example, South Dakota has already expressed an interest in managing all the NPS sites in that state. Similar proposals have been advanced in Minnesota (Voyagers). Mojave is the implementation of the "wise use" idea.

The removal of Mojave from the NPS will result in several immediate impacts, including changing the management approach of the Mojave's resources from protection to multiple use and possibly forcing the entire staff at Mojave into the unemployment line.

We are not here to criticize the BLM—they have a mission and, like us, try to do the best they can with limited money and personnel. What we are criticizing is a political decision which may result in changing the type of resource management of the Mojave from the NPS protection approach to the BLM multiple use approach. We have a glitch in the system: logic tells us that going from one approach to another will surely result in poor management. As we know, logic doesn't always factor well into politics. The current political atmosphere appears to be favoring the multiple use approach—or no government involvement at all. Considering the current political climate, one can reasonably expect that the resources of the Mojave will be "wisely used" once these resources are under BLM management or private control.

The Ranger Lodge can lobby for proper park designation and management, but

there are no low cost legal actions we can take to prevent removals and de-authorizations. When it come to national politics, we have to behave like the special interest groups. We have to organize (fund raise & lobby) and get out the vote.

The Mojave battle has nothing to do with whether or not the unit can be effectively protected by NPS Rangers. Despite the fact that the current protection force is grossly understaffed and has had to beg for basic equipment, they have managed to uncover several major incidents of illegal drug manufacturing, massive hazardous waste dumping and a multitude of other criminal offenses. Given the fact that BLM normally receives less money for resource protection than the NPS, this type of high quality resource protection would be severely reduced.

Losing a National Park is a matter of great concern for all citizens of the United States. NPS Director Roger Kennedy has stated that no parks will be transferred "during his watch." However, given the current political climate the time could come when he, or any future Director, may not have a choice. These situations, as well as the events that have taken place at the Statue of Liberty, show a disturbing trend. Our parks and our careers are being attacked from inside, as well as outside, our own agency.

How about the impact on the individual employees at Mojave? If the BLM is granted control of the Mojave, there will be an effort to have these employees transferred to other NPS areas and/or into the BLM. Once again, the fates of hard working and dedicated Rangers are in the hands of self-serving and uncaring bureaucrats. We are hoping for the best for all of the Mojave staff. We have told WASO that we will help in any area where we can be useful. We salute the Mojave staff for their excellent work to date and for continuing to perform their jobs under such extreme adversity.

As noted above, we can lobby for proper park designation and management, but there is something MORE we can do for the employees. The only effective way to pro-actively counter these onslaughts is with a collective bargaining agreement. A bargaining agreement would ensure that we would have to be consulted BEFORE the fact, rather than having to play catch-up after an action has taken place. If the members of the bargaining unit do not agree with a management personnel action proposal, we could effectively block the proposal until the Federal Labor Relations Board is able to conduct hearings. These hearings would assess whether or not the proposal would adversely impact the members of the bargaining unit. These hearings operate just like a trial. We state our case and, more importantly,

the Government must adequately, justify why the change should take effect. The bargaining agreement is in place to ensure that the agency works with us to take care of the needs, and consider the concerns, of the employees. We would not be forced to settle for the "best of the worst" options.

If the Park Closure Committee Bill is passed the agency would be forced to have a representative of the bargaining unit on the committee. The representative would ensure that Rangers are not left out in the cold. Do not let the "it can't happen to me" attitude lull you into a false sense of security. It can, and IS happening everywhere. A collective bargaining unit will ensure that you have control over your career, not someone else. SEND IN THE SHOW OF INTEREST CARD TODAY!

Nominations Sought for Lodge Trustee

Our next issue will publish the names of candidates for the office of Lodge Trustee. This is an important job within the Lodge and there is no incumbent.

The duties are to conduct Lodge elections and to audit the Lodge finances. The term is for two years. The Trustee stands for election in the year when the other officers don't.

Please send your self-nomination with a paragraph supporting your candidacy to the Lodge address.

The Protection Ranger

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TIME TO RENEW? Many memberships expire on 12/31. Please check the date on your address label and renew. You can also take the hassle out of annual dues payment by having on \$2 per pay period automatically deducted from your paycheck. Call the Lodge for details. Thanks for renewing!

Capped Overtime Appeal

Randall Kendrick

To recap: On June 1, 1995, I filed an appeal to receive full one-and-a-half base pay for the overtime work I have performed for the past six years which was paid at a rate less than one-and-a-half. On July 28, 1995, after making several phone calls trying to determine the location and deciding official, I wrote to George Morris at WASO. After receiving *no answer*, I called the administrative assistant for Sen. John Warner (VA) who was glad to help. After numerous phone calls—and some NPS unresponsiveness—she was told that my appeal was sent back to the Southeast Field Office for initial decision. Although Sen. Warner was promised an approximate date for action, two weeks has gone by with *no word*.

Where is the good faith on the part of NPS management? Why can they disregard time limits when a ranger would automatically lose an appeal for a missed deadline?

I filed this appeal for myself and to try and establish a precedent for the brothers and sisters in my position: up to 25% of the Lodge and those whose OT will soon be capped—the rest of the permanent ranger force. I strongly feel that we should receive time-and-a-half for all "production-type" work, which includes LE incidents, searches and rescues, fires, and the like. Secondly, I feel the NPS should pay us OT in the manner they say they will, but do not. That is, calculate basic pay as regular pay plus the Sunday pay, night pay, and holiday pay. The Fraternal Order of Police did not come up with this method of calculating OT, the NPS in their policy says this is the formula for OT but they have thus far refused to implement that policy.

The Lodge officers and attorneys are 100% behind this appeal and we are pursuing it for the benefit of the Lodge members. We will continue to advise you on our progress.

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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 (required): _____

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

Seasonals: \$35/year

Both seasonal and permanent members are entitled to coverage from our Legal Assistance Fund for Service-related problems

Associate (non-Commissioned) Membership (newsletter only): \$35

Enclose a copy of your commission (new members only).

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Mail to: FOP Lodge, P.O. Box 151, Fancy Gap, VA 24328.

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