



# EXPLORER

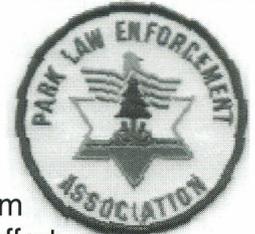
The Park Law Enforcement Association Newsletter

SUPPORTING THE THOUSANDS OF PEOPLE KEEPING OUR PARKS & WILDLIFE AREAS SAFE

Volume 5

Winter 2001

## President's Message



I don't know where the time has gone but 2000 is in the history books and 2001 is just starting. As I sit at my desk writing this, I'm still in overload from the food-laden parties of Christmas and New Years. It has been nine months since I hosted the PLEA Conference in Oakland and took office as the new president. Much has transpired and I'll try to get you up to date on the current news.

We held our midyear Board of Directors Meeting at the NRPA Conference on October 13, 2000 while at the NRPA Congress in Phoenix, Arizona. I briefed the elected officers and the Board Members present of my intended focus for my tenure as president. Here are the items I hope to accomplish in my term as president.

Our first order of business will be to get our membership list current and correct. Digital Graphiti is the company that is managing our membership services and they have spent hours reviewing old data base information from NRPA attempting to create a usable list. This newsletter will be mailed to individuals on the current list and will be our first test of its accuracy. If you are aware of anyone who is a member and does not receive the newsletter, contact Digital Graphiti at 1 877 - PARK LAW.

Second course of business will be to get the newsletter back on a regular schedule of publication. In a moment of weakness (or possible insanity) I advised the Board that I would attempt to be the editor of the newsletter for the next few years. Accordingly, I will be working with a new printer in California which will afford me the opportunity to interact with him regularly. The catch in this whole process is that it will not be an interesting newsletter if all the information contained within comes from my overactive and not-so creative imagination. Please take note that

I'm trying to create a standard format for the newsletter and provide opportunity for input from any and all members. In that effort, expect me to harass you for article information as much as it is legally possible over the phone, through the mail and over the Internet without rising to the threshold of a federal indictment for terrorist threats.

Thirdly will be to get our dues renewal forms mailed out to everyone in the first part of the year and have them formatted as an invoice. This should help all of you who have your respective Department's pay for your dues or ward off IRS auditors if you claim it at a business expense on your tax return. Obviously, having timely mailings for membership renewals will ultimately help us maintain our membership list and assist in our maintaining a revenue source that will support the printing of our newsletter.

Finally, I hope to create a simple budget for the Association that would project revenue, mainly from dues and conference fees, and accordingly be related back to Association expenses. In the past we have received some revenue from the sale of PLEA merchandise and we'll have to decide what merchandise we intend to be available in the future.

I know from experience that two years is not that long of a time to make changes in any organization. Therefore, I will be depending on other Board Members and individuals in the general membership for assistance. You can contact me via E-mail at [nlapera@ebparks.org](mailto:nlapera@ebparks.org), phone me at (510) 544-3005 or mail me information at East Bay Regional Park Police, 17930 Lake Chabot Road, Castro Valley, CA 94546.

### PLEA Officers

Norman Lapera  
President  
East Bay Regional Park Police

Stuart Foland  
Vice President  
Johnson County Park Police

Larry Brownlee  
Treasurer  
Maryland National Capital Park  
Police

Dale Reatherford  
Secretary  
Hamilton County Park District

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Steve Pokrywka  
Wyandotte County Parks

R. Daniel Crone  
U.S. Army Corps of Engineers

Dr. Bruce Wicks  
University of Illinois

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City of Albuquerque

Bill Jacobs  
Minneapolis Park Police

John R. Bryd, Sr.  
Durham Park Rangers

James Lindsey  
U.S. Park Police

Richard Greer  
Hamilton County Park District

Ralph Hays  
Johnson County Park Police

Tim Curtin  
Forest Preserve District of  
Dupage County

L. Nathaniel Pinkard  
Mill Creek Metro Park District

### State Affiliates

Pennsylvania PLEA  
Jay Browning  
Lancaster County Parks

Kansas PLEA  
Tim Nagle  
Johnson County Parks

Arizona PLEA  
Gary Nellis  
City of Mesa

Illinois PLEA  
Mark Johnson  
Fox Valley Park District

Ohio PLEA

## PLEA News Briefs

Invoices for membership dues will be mailed out in the first week of February. This year they will be formatted as an invoice for ease of payment. If you have an E-mail address, make sure you list it you your dues renewal form and we'll get you into our data base.

If you changed your address, make sure you make a note on the form so our staff at Digital Graphiti can be sure to update your information. If you change your address midyear, you can phone, E-mail or US Mail the information to Digital Graphiti. You can get all the information you need by calling (887) PARK LAW. (727-5529)

Don't forget the PLEA has a website at [www.parkranger.com](http://www.parkranger.com). You can post job announcements from your department on the site or order PLEA merchandise.

### **U.S. Army Corp of Engineers Boat Operator Training**

Looking for a source of training for ranger staff responsible for boat patrol? Perhaps the U.S. Army Corps of Engineers could be a solution to your problems.

The U.S. Army Corps of Engineers began a formal training program for its boat operators approximately 12 years ago. Designed to train staff in the operation of vessels less than 26 feet, the course contains both classroom and on-the-water modules. The basic three-day course covers equipment, safety, rules of the road, trailering, maintenance and other classroom topics on the first day. The second and third days of the training incorporate both land based and water-based training such as trailering, backing, docking, towing, and other operating skills. Several maneuvering courses are set up on the lake to teach both high speed operating skills and operating in restricted spaces.

Corps rangers can attend additional modules related to their enforcement and visitor assistance duties. Included in these modules are boat stops, boarding, night operation, search and rescue, and use of personal watercraft for enforcement.

Most Corps of Engineer lakes are within 50 miles of major metropolitan areas. If you have a need for boat operator training, odds are there is a Corps facility nearby that can provide assistance.

Steve Fairbanks is a Corps of Engineer instructor for the Motorboat License Examiner Course and Chief Ranger at Saylorville Lake in Johnston, Iowa. He also serves as the President of the National Water Safety Congress

Steve Fairbanks  
Chief Ranger  
Saylorville Lake  
PHONE: (515) 276-4656 X226  
FAX: (515) 276-2088

# News From Across the Nation

## A new column

This is a new newsletter column that will be appearing in each newsletter. It is the Board of Directors hope that each member will take an opportunity to post information regarding their individual agency. You may send information regarding, changes in personnel, new equipment, activity updates or just general information on how your department is doing. The simplest manner to submit information is to write approximately 50 to 75 words in either WordPerfect or Microsoft Word and attach it to an E-mail message. ([nlapera@ebparks.org](mailto:nlapera@ebparks.org))

Just send me your E-mail address and I'll put you on the distribution list for articles. You'll receive a reminder approximately one month before the publication date so you'll have time to submit your information. Don't worry if you don't have E-mail, mail it to Chief Norman Lapera, East Bay Regional Park Police, 17930 Lake Chabot Road, Castro Valley, CA 94546.

## Hamilton County Park District Cincinnati, Ohio

Recently, the Ohio Supreme Court ruled that "in administering field sobriety tests, the police must comply with established procedures". This ruling set in motion a volley of hearings to have DUI cases dismissed due to officers not complying with established procedures set forth by NHTSA. This prompted a joint effort between the Prosecutors office and all county police agencies, to put together a training course that would ensure all officers were in compliance with the Courts' ruling. A four-hour seminar was held for one to two members from every department. They were provided with a lesson plan and pocket sized cards with the proper instructions for field sobriety testing for every officer. They then in turn went back to their department and reviewed procedures with their officers. This cooperative effort now ensures that all officers and Prosecutors are on the "same page" and in compliance with the Courts' ruling and underscores the importance of everyone working together towards a common goal.

If you have any questions or comments, contact at the Hamilton County Park Rangers at (513)521-3980 or [CZIELINSKI@HAMILTONCOUNTYPARKS.ORG](mailto:CZIELINSKI@HAMILTONCOUNTYPARKS.ORG)

## Johnson County Park Police Department

### ■ Sergeant Tim Nagle

Thankfully 2000 started out slow. I know we were in full Y2K mode around here, and all was quiet.

Our agency conducted another sobriety checklane this year. This is something that is new to us, but is very effective and more are planned. We were plagued with burglaries and criminal damage to our sports facilities this summer. Congratulations go to Ranger Richard Niemann and Ranger Chris Pennington for arresting three suspects as they were climbing out of a golf course pro shop roof vent at about 3 am. The arrest lead to charges for most of the previous burglaries and damage. Our Fourth of July display was cancelled due to rain, however 60to 70,000 spectators came to Shawnee Mission Park on the 5<sup>th</sup>. We got almost everyone a parking spot with the use of 46 officers including our Rangers and area city officers. We are now using Mobile Data Terminals in our Patrol cars, The Terminals allow our officers to run their own computer checks and instant message other officers and Sheriffs deputies in the county. They are also used to generate reports in the field. The fall was pretty uneventful; we made it through football and soccer season without getting on the news. Hope you all have a good year!

## Kansas Park Law Enforcement Association

### ■ Sergeant Tim Nagle Johnson County Park Police

The Kansas Park Law Enforcement Association enjoyed a great spring workshop in Wichita, Kansas in April. Topics included; Search and Seizure and Criminal Investigation Techniques. In January of 2001 KPLEA members will have the general membership meeting and luncheon at the Kansas Recreation and Parks Association annual conference in Overland Park, Kansas. At the conference, KPLEA will be hosting an all day workshop. The workshop will instruct members on the use of S.C.A.N Scientific Content Analysis. In short S.C.A.N is a technique used to detect deception in written statements from suspects. New KPLEA board members will also be elected at the general membership meeting.

# Legal Updates That Affect Your Agency

From the Law Offices of Jones and Mayer  
3777 N Harbor Boulevard  
Fullerton, CA 92835

## Case Updates

By: Martin J. Mayer and Mervin D. Feinstein

(Martin J. Mayer was a presenter at the 2000 PLEA Conference. He routinely publishes Case Updates and Client Alert Memorandums to his many police department clients throughout California. He has graciously granted permission to PLEA to publish excerpts from these documents in the PLEA Newsletter.)

## **UNITED STATES V. HANCOCK**

231 F.3D557 (2000)

Gary Hancock had been convicted of four state misdemeanors involving violence or threats of violence against his wife, Patricia, and they subsequently divorced. Patricia obtained a protection order in Flagstaff Municipal Court which specified that Hancock was not permitted to possess firearms. Hancock turned over 12 firearms to officers of the Flagstaff Police Department.

The government then filed a complaint charging Hancock with violating 18 U.S.C § 992(g)(9) and obtained a one-court indictment. Hancock pled not guilty and filed a Motion to Dismiss based on the statute being unconstitutional, arguing violation of guarantees of due process and equal protection. The district court denied the motion after a hearing. Hancock was found guilty after a two-day jury trial. The United States Court of Appeals Ninth Circuit affirmed.

Hancock argued that the statute violated the Due Process Clause of the Fifth Amendment, because he did not learn of the statute until he was charged with violating it. Hancock also argued that his case was an exception to "...the general rule that ignorance of the law or a mistake of law is no defense to criminal prosecution...."

Addressing Hancock's argument that the government had to prove that he knew that the statute prohibited him from possessing firearms the court noted that the Supreme Court has held that the requirement of "knowing" refers to knowledge of possession, rather than knowledge of the legal consequences of possession. The court noted that Congress is not required to inform citizens individually

of a change in the law.

To provide constitutionally adequate notice, "a legislature need do nothing more than enact and publish the law, and afford the citizenry a reasonable opportunity to familiarize itself with its terms and to comply. "To this end the court pointed out that this statute received extensive publicity in newspapers across the nation, including Hancock's state of Arizona, both before and after its passage.

## **How this affects your agency:**

The Federal Misdemeanor Domestic Violence Act has been in effect for some 4 years and it's constitutionality has been challenged by the Fraternal Order of Police (FOP). Here the Ninth Circuit directly addresses Due Process and Equal Protection upholding the statute's constitutionality. Academy Instructors, as well as Field Training Programs, must continue to impress on officers that the loss of one's ability to possess a firearm and retain employment as a peace officer can not be separated. It is an essential job element.

## **ADA REASONABLE ACCOMMODATION REQUIRES AN INTERACTIVE PROCESS BY EMPLOYER**

### **BARNETT V. U.S. AIR, INC.**

228 F .3d 1105 (2000)

Robert Barnett worked for ten years as a customer service agent and suffered a back injury while working in a cargo position. After returning from disability leave, Barnett found he could not perform all of the physical requirements of handling freight and used his seniority to transfer into the mail room. Barnett's doctor and chiropractor both recommended that he avoid heavy lifting and excessive bending, twisting, turning, pushing and pulling, and prolonged standing or sitting.

Barnett learned that two employees with greater seniority planned to exercise their seniority right to transfer to the mail room thereby limiting him to transferring to a job in the cargo area. Barnett wrote his station manager, Robert Benson, requesting he be allowed to stay in the mail room as a reasonable accommodation under the ADA. U.S. Air did not respond for five months but allowed him to remain in the mail room while the company was

evaluating his claim. Subsequently Benson, acting on behalf of U.S. Air, notified Barnett that he would be removed from the mail room and placed on job injury leave.

Barnett sent Benson a second letter suggesting two alternative means of accommodating his disability. Barnett proposed either that U.S. Air provide him with special lifting equipment in the cargo facility or that the cargo job be restructured so that he would do only warehouse office work. U.S. Air's Vice President of Human Resources denied Barnett's alternative requests for accommodation and informed him that he could bid for any job within his restrictions. Barnett made no subsequent bids for any other position.

Barnett filed suit and the district court granted U.S. Air's motion for summary judgment on all claims, including Barnett's claim that U.S. Air discriminated by not participating in an interactive process. The United States Court of Appeal Ninth Circuit reversed the district court's summary judgment dismissal of Barnett's ADA discrimination claims finding that U.S. Air had failed to engage in good faith in the interactive process required by ADA.

The court pointed out that the ADA makes clear that employers are required to engage in an interactive process with employees in order to identify and implement appropriate reasonable accommodation. The interactive process is triggered either by a request for accommodation by a disabled employee or by the employer's recognition of the need for such an accommodation.

An employee requesting a reasonable accommodation should inform the employer of the need for an adjustment due to a medical condition using "plain English" and need not mention the ADA or use the phrase reasonable accommodation.

In some circumstances, according to the EEOC, the employee need not even request the accommodation: "An employer should initiate the reasonable accommodation interactive process without being asked if the employer (1) knows that the employee has a disability, (2) knows or has reason to know, that the employee is experiencing workplace problems because of the disability, and (3) knows, or has reason to know, that the disability prevents the employee from requesting a reasonable accommodation."

The Court held that reassignment is a reasonable accommodation and that a seniority system is not a per se bar to reassignment. However, a seniority system is a factor in the undue hardship analysis. If there is no undue hardship, a disabled employee who seeks reassignment as a reasonable accommodation, if otherwise qualified for a position, should receive the position rather than merely have an opportunity to compete with non-disabled employees. Mere speculation is insufficient to support summary judgment that the requested accommodation could impose undue hardship.

### **How this affects your agency:**

Several cases have now interpreted provisions of the ADA to place the burden on the employer to inform the disabled employee of available positions which he/she is otherwise qualified. This case enforces those interpretations as well as reminding employers of their obligation to engage in the interactive process. Agencies that have not conducted comprehensive research into all available vacancies and/or positions that could be utilized as reasonable accommodations are encouraged to do so, as well as spelling out minimally, in their policy manual, how the process will be carried out.

As always, before taking any legal actions be certain to seek appropriate legal advice, whether it is from a city attorney, county counsel, or your police legal advisor.



american  
eurocopter

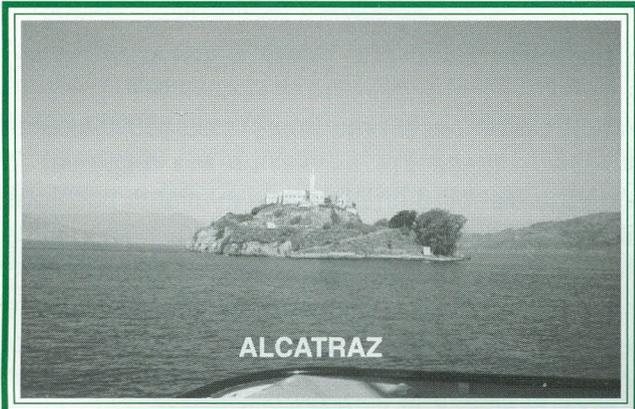
American Eurocopter Corp.  
2701 Forum Drive  
Grand Prairie, TX 75052-7099  
Tel: 972-641-0000  
Website: eurocopterusa.com



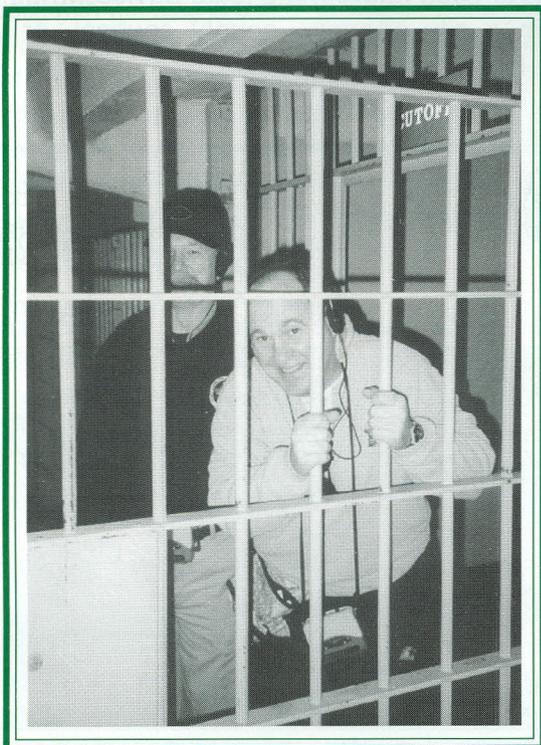
Eagle 6 - East Bay Regional Park District

# Report from PLEA 2000 Conference

The March, 2000 conference was held in Oakland, California and hosted by East Bay Regional Park Police. The schedule started with a Board of Director Meeting on Wednesday morning, followed by a golf tournament for so those inclined or helicopter tour of East Bay Regional Park District. The weather was a little rainy the days leading up to the conference, but it cleared up nicely for the scheduled tours.



The registration was held on Wednesday evening in the hotel lobby, complete with displays of police equipment by one of the local vendors. Conference attendees were able to socialize all evening in the hospitality suite, hosted by members of the East Bay Regional Park District Police Officers Association.



Rick Greer and Tim Curtin finally where they belong!



Tim Curtin, Rick Greer, Maryanne Camaparo and Tracy Pokrywka on their way to Alcatraz.



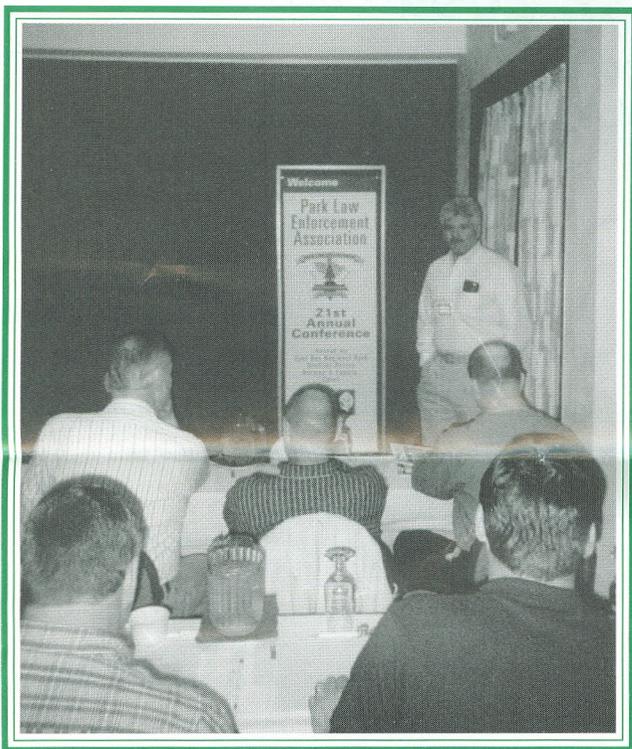
The group on the pier.

Thursday, the first full day for the general members, the morning training class concerned the use of DNA evidence in the solving of current and past crimes. Rockne Harmon presented information concerning state and nationally available data bases on suspect DNA profiles. Rock is a Deputy District Attorney for the County of Alameda and a nationally recognized expert on the use of DNA Evidence.

The afternoon training session was presented by Robert Hole, a Deputy District Attorney for Contra Cost County. The training subject matter was Investigating Officer-Involved Fatal Incidents. Bob has lectured extensively on this subject throughout the country, as well as, written protocols for many counties within California, Utah, New Mexico, Washington and Idaho.

Thursday evening found all the attendees and their significant others at the PLEA banquet. The food consisted of locally caught salmon and prime rib for the meat eaters of the group. The evening was capped off by a few words from out-going president Steve Pokrywka and a Lifetime Achievement Award presented to Ralph Hays.

Friday started with a early-morning ferry ride to San Francisco. From Pier 40 in San Francisco, the group boarded another ferry for a self-guided audio tour of Alcatraz, a National Park. It was then back on the boat for a ride to another park in the bay, this time a California State Park, Angel Island. The group had lunch on the island and then tour the historical Emigration Station located on the island. The tour group was returned to San Francisco for enjoyment of the nightlife. Special thanks has to be given to Maryanne Canaparo, Resource Analyst for East Bay Regional Park District. Maryanne scheduled all of the ferry rides, the tours of each island and was able to have the lunch donated by the local concession on Angel Island.



Norm Lapera provides an overview of the conference.

On Saturday the PLEA Business Meeting was held in the early morning. The meeting was followed by a presentation on Civil Liability by Martin Mayer. Marty is an attorney who's office exclusively represents police departments in California. The presentation was well received by all participants and the evaluations for the course rated it as outstanding. Marty will be contributing legal update articles for publication in the PLEA Newsletter .

The conference was concluded at noon on Saturday and members began their extended stay in California or headed home that night or the next day. Special thanks has to be given to Ms. Pamela Flax, secretary to Norman Lapera, who handled all the pre-conference materials, the binders, registration and general coordination of all the functions of the conference

## OCEAN COUNTY SECURITY DEPARTMENT BICYCLE PATROL TEAM

Since 1992, the Security Department of Ocean County, located in Southern New Jersey, has successfully operated a Bicycle



Patrol Team at four different areas throughout the spring and summer months. Park patrons in Lakewood's Ocean County Park, Berkeley Island Park and Tip Seaman Park in Tuckerton are very pleased with the accessibility they have to our Guards. The public can relate better to someone on a bike than from a closed vehicle, and our employees are more observant and are able to react quicker to a situation.

The Atlantis Golf Course, located in Little Egg Harbor Township, reaps the benefits of our bike patrol as well. Obviously, a bicycle can go places where a car or truck isn't able which is really helpful in deterring vandalism on the greens and fairways.

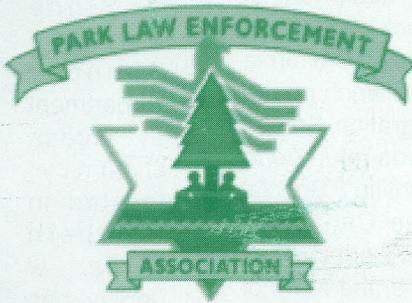
In 1997, the Bicycle Patrol Team began a Bicycle Safety Program at the elementary schools in Ocean County. Members of our team are invited to the schools to talk about such subjects as the importance of wearing helmets, hand signals, traffic safety, and proper fitting of a bike. In the spring of 2000, we reached over 13,000 students in our area! With the popularity of scooters among youngsters now, our Guards have added a segment into the program emphasizing the importance of wearing the proper safety equipment.

We're very proud of all of our Security Guards, but the members of our Bicycle Patrol Team deserve special recognition for the outstanding job they are doing in promoting good public relations and for helping to keep the children of Ocean County safe on the roads and playgrounds.

Most importantly, however, this group of individuals have been most effective in the area of law enforcement. Siting illegal parking and dumping, assuring that the general public do not abuse our natural resources and wildlife, and making sure the rules and regulations of our County facilities are being followed are all in the line of duty for our Bicycle Patrol Team members.

Laurence Marcus  
 Director of Security  
 County of Ocean  
 Toms River, New Jersey 08753

# 2001 CONFERENCE



## MARCH 1 - 3, 2001

Conference Subjects:  
"Police Ethics"  
"Trends in Law Enforcement"  
"Shocking Behavior in the Bathrooms:  
Interdicting Deviant Sexual Behavior"  
Crime Mapping "Where Done It?"  
"Security Issues at Special Events"

**"A Partnership/Cooperation Among  
Law Enforcement Agencies"**

Hosted by:  
*Johnson County Park  
Police Department*  
At the:  
*Double Tree Hotel  
Corporate Woods  
Overland Park, Kansas*

Conference registration brochures have been mailed. If you have not received a brochure, contact Stuart Foland, Ranger Captain at 913-438-7275 ext. 1360 or email [Stuart.Foland@jocoks.com](mailto:Stuart.Foland@jocoks.com)

1-877-PARK LAW

Or call us at

[www.parkranger.com](http://www.parkranger.com)

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P.L.E.A. NEWSLETTER

