

The Signpost

January–February, 2014



Heritage of Parks in California

The 2014 California Parks Training is March 3–5 at Yosemite Lodge in California. The conference rate rooms are sold out but if you really want to attend, see what you can get from the various on line sites. We still may have a few conference registrations available. Let Mike or Jeff know and we can put you on a waiting list. The conference is shaping up for lots of excitement. Opening day will be agency uniforms for a group photo.

Representatives of both the Clark and Olmsted family plan to attend. We expect a recognition ceremony Monday night. Activities are lining up for pre and post training activities like touring Hetch Hetchy Dam, snow show and geology walks, behind the scenes at Ahwanee's kitchen and the park's visitor center. We'll send out an email for signups for these activities in January.

There will be a wealth of session on Yosemite operations from nature notes, bear and fire management to public relations and ranger activities. There will be sessions on bats, ROP kids programs, Merced River plan, and high impact interpretation. Since we are celebrating the Heritage of Parks there will be session on the history of rangers, California parks, the state park system, and Galen Clark. Prominent authors Andrea Lankford and Butch Farabee will be in attendance. Two not to miss activities will be Shelton Johnson's Buffalo Soldiers and Lee Stetson's John Muir. Naturally we'll be trading patches and memorabilia, so bring some items from your agency to trade!

The closing night banquet will be dress up at the Ahwanee! Come one, come all to Yosemite!

Mike Lynch & Jeff Ohlfs,
co-chairs



From The Presidents Desk

By the time you read this it will 2014 and my replacement will have been elected. I wish the new president well and want to thank all of you for your support of this wonderful organization.

I was blessed to have an energetic and talented board of directors over the last 2 years. Working together we've been able to help PRAC grow, just a bit, but we did grow. Thanks to the generous support of our Office Manger Betsy Anderson and our webmaster Jeff Price we've been able stabilize the associations financial situation and should be closing out the year with a small positive cash flow.

We've also been very successful in meeting our associations' primary goal of education by offering a number of well attended and highly rated trainings in both Northern and Southern California and Nevada. We've got more trainings coming up with the new year that will touch on relevant topics such as search and rescue, zoonotic disease prevention, and dealing with the resource impacts of unlawful encampments. Our 2014 annual Park Conference and Training is also coming up in March. This year's event will be very special as we are celebrating the 150th anniversary of the Yosemite land grant and the founding of the park ranger profession in California. Our co-chairs, Jeff Ohlfs from PRAC and Mike Lynch from CSPRA have pulled out all the stops for this special celebration and we've already reached our registration capacity.

2014 is starting out with a positive forecast for PRAC and its members. But we can't keep growing and improving without the active support of our members. Please remember to return your membership renewal to Betsy and I hope to see some of you at the upcoming trainings.

Stay safe and never forget that you all have the greatest job on the planet.

Best wishes for a prosperous New Year!

Pam Helmke

Calendar of Upcoming Events for 2014

- January 9th Board Conference Call 7:30
- California Tree Failure Report Program Annual Workshop <http://tiny.cc/1syv7w>
- January 18th Wildlife Rescue Training <http://tiny.cc/3wyy7w>
- January 25th Wildlife Rescue Training <http://tiny.cc/3wyy7w>
- February 4th Tree Risk Assessment Qualification WCISA <http://tiny.cc/eazv7w>
- March 3rd-6th CSPRA / PRAC Parks Conference Yosemite <http://tiny.cc/2rzv7w>

California Legal Update

Robert C. Phillips, Deputy District Attorney (Retired)

Dirk or Dagger; The “Upon the Person” Element: *People v. Pellecer* (Apr. 17, 2013) 215 Cal.App.4th 508

Rule: A dirk or dagger inside a carried or adjacent container, even though in a person’s possession and under his control, is not carried “upon the person” for purposes of P.C. 12020(a)(4). “Upon the person” requires that the knife be on the body or in the clothing worn on the body.

Facts: Los Angeles Police Department officers responding to a call at 2:30 a.m. concerning a possible burglary suspect at Barnsdall Art Park in Los Angeles found defendant crouching in a corner of an enclosed patio in the park. Defendant was leaning on a closed backpack. In the backpack officers found a nylon pouch which in turn contained three identical knives. The knives were identified by one of the officers with martial arts experience as “shuriken throwing knives” that could be used for throwing or stabbing. Each knife was three to four inches long, with one sharp end and a ring on the opposite end. Each knife had an identical ribbon attached to its ring. Defendant was arrested and charged in state court for possessing a concealed dirk or dagger. The officer testified at trial that the ring could be used as a handle for stabbing, concealing the knife, or “flipping” it. Another officer with extensive martial arts experience testified that the knives were principally used for throwing but could also be used for stabbing. During defendant’s trial, the jury asked the court for a definition of “on the person.” Over defendant’s objection, the trial court instructed the jury that: “On his person” includes upon the body of a person, or the attire or clothing, or a bag or container carried by the person.” The jury convicted defendant of carrying a concealed dirk or dagger on his person in violation of P.C. 12020(a)(4) (Now P.C. 21310; effective 1/1/2-13) Defendant appealed.

Held: The Second District Court of Appeal (Div. 1) reversed. On appeal, defendant argued that he wasn’t carrying the weapons “on his person;” that with the knives in his backpack, the elements of section 12020(a)(4) were not met. P.C. 12020(a)(4) (now 21310) makes it illegal (a felony-wobbler) when “any person in this state . . . carries con-

cealed *upon the person* any dirk or dagger . . .” (Italics added) In determining the meaning of the word “carries” and the phrase “on the person,” the Court engaged in some statutory interpretation. To do this, it was necessary to take into account the ordinary and usual meaning of the words used in the statute, i.e., their “plain meaning,” using a construction that best comports with the apparent intent of the Legislature, and with a view to promoting the purpose of the statute and avoiding absurd consequences. Any ambiguity must be resolved by considering the legislative history, the statute’s purpose, and public policy. Under these guidelines, the Court determined here that a dirk or dagger inside a carried or adjacent container *is not* being carried “upon the person.” Most significantly, the ordinary meaning of “upon the person” is that the knife must be on the body or in the clothing worn on the body. The fact that the knives may have been at defendant’s fingertips and readily available is irrelevant. The Court noted that had the Legislature wanted to expand the scope of the statute to include knives in carried containers, it could have done so.

Note: The Court also discussed the conflicting decision of *People v. Dunn* (1976) 61 Cal.App.3rd Supp. 12, which reached a contrary conclusion in interpreting former P.C. 12025; possession of a concealable firearm. In that case, the appellate department of the superior court held that a concealable pistol found in a briefcase carried by the defendant was “sufficiently on the person” to be a violation of the statute. The Court here ruled that the *Dunn* Court was simply wrong. Also, if you’re interested enough to look up the statutes, the definition of a dirk or dagger, formerly described in P.C. 12020(c)(24), is now located at P.C. 16470: “A ‘dirk’ or ‘dagger’ means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.” It was not an issue in this case whether defendant’s “shuriken throwing knives” were in fact dirks or daggers.

California Legal Update
Robert C. Phillips, Deputy District Attorney (Retired)

GPS; Pinging A Cellphone:

People v. Barnes (June 11, 2013) 216 Cal.App.4th 1508

Rule: Use of a victim's cellphone GPS capabilities to track her phone after it is stolen is not a Fourth Amendment violation.

Facts: Defendant accosted Charles Parce and Carolyn Fey near Fort Mason in San Francisco. Brandishing a handgun, defendant demanded their belongings. Parce gave defendant his wallet. Fey, on the other hand, ran across the street and threw her turquoise Prada handbag under a parked car. Defendant retrieved her purse, however, and fled. In Fey's purse were her wallet and a "Palm Pre smart phone." The phone was equipped with GPS capabilities. San Francisco P.D. Officers Zeltzer and Hamilton responded, broadcasting a description of the suspect and the stolen items. Upon Fey telling Officer Zeltzer that her phone had GPS, the officer contacted Sprint corporate security. Sprint told Office Zeltzer that if Fey would sign a release of civil liability, they could "ping" the phone and provide a location accurate to within 15 yards (or 15 meters). This was done. Sprint, therefore, was able to tell Officer Zeltzer that the phone was currently at 16th and Mission Streets, and stationary. This was about 45 minutes after the robbery. Officers responded to that location looking for someone fitting defendant's description. Officers Clifford and Tannenbaum, upon arriving at 16th and Mission, observed defendant who fit the physical description of the robber. Defendant was seen getting into a car and driving down Mission Street when Sprint reported the phone to be at 15th and Mission. With the pings moving north, defendant was followed to 13th and Mission where a traffic stop was made. Officer Zeltser arrived just in time to help. Upon approaching the car defendant was driving, Officer Zeltzer saw the victim's distinctive purse on the back seat. A cell phone was on the seat next to defendant. This all occurred within an hour of the robbery. Fey was brought to the scene and identified defendant as the robber. Charged with two counts of armed robbery (and other offenses) in state court, defendant filed a motion to suppress. The trial court denied the motion. Defendant pled guilty and appealed.

Held: The First District Court of Appeal (Div. 2) affirmed. While the appeal on this case was pending, the United State Supreme Court decided *United States v. Jones* (2012) 565 U.S. __ [132 S.Ct. 945]. *Jones* held that the placing of a tracking device on a suspect's vehicle and then monitoring its move-

ment for 28 days constituted a trespassory Fourth Amendment violation. The Court here discussed *Jones* at length, noting in particular several of the justices' concerns that new high-tech technology was creating unique privacy rights issues that the authors of the Fourth Amendment could never have foreseen. In this case, however, contrary to *Jones*, there was no trespass involved in the placement of the GPS (it already being in a phone that defendant stole), it was the victim's GPS phone that was being tracked, and it was for only limited time (one hour) as opposed to an extended period. *Jones*, therefore did not dictate the outcome of this case. Specifically, it was held that because the phone that was being tracked was stolen by defendant, belonging to the victim, defendant couldn't claim any reasonable expectation of privacy that was being violated. The Court further cited with approval a Sixth Circuit federal case (*United States v. Skinner* (6th Cir. 2012) 690 F.3rd 772.) which held that pinging a suspect's own cell phone as an aid to locating the suspect who was driving on the public thoroughfares did not violate the suspect's expectation of privacy. Here, the officers' use of Fey's GPS to track her cell phone was held to be in compliance with California's statutory restrictions on such use, as described in P.C. 637.7(a), where an exception is provided for law enforcement. (Subd. (c)) And lastly, the Court found that the use of the GPS, along with the physical description of suspect, constituted sufficient reasonable suspicion to justify stopping defendant. Use of the GPS under the circumstances of this case, therefore, was held *not* to be in violation of the Fourth Amendment.

Note: The Court also rejected, without any real analysis, a few other defense arguments, such as that some foundation should have been provided in testimony attesting to the accuracy of the use of a GPS. I can see this being a real issue in some future case where another court takes this argument seriously. Asked once about writing a search warrant affidavit for a house where pinging a stolen iPad indicated the device was located, my suggestion to the officer was that he should call the Apple corporation and get an expert opinion as to the accuracy of its location-finding features (e.g., within how many feet), and include that in the affidavit. I never heard back on how that turned out. But I can see the lack of such an expert opinion being a serious issue someday.

Looking for a Little Help

My agency is beginning to explore the possibility of changing our title from Park Caretaker to Park Ranger. We inched our way down this road about 13 years ago but lacked the political will and support from within our own department at the top levels. (And there it died a quiet death.) Those of us with our boots on the ground were pushing for this change as our jobs were expanding. Our interaction with the public was drastically changing from a maintenance based position to having to deal with the seedier side of parks more often. We lacked any authority other than the uniform and our wits.

This time around there is more public and political support for change. We are acquiring some new parkland that will be set aside for a community forest /open space designation. The surrounding neighbors want more of a law enforcement presence to deal with the potential issues they are worried about with the increased public activity around their property. It makes both fiscal and managerial sense to allow the people who work and understand parks to enforce the park rules. Since our last go around we have been able to write parking tickets and now carry pepper spray. (Inch by inch it's a since...yard by yard it is very hard.)

What I would like to do is get a discussion going on the pros and cons of this title change. For an agency like mine this is a huge step and requires a lot of patience and solid information to keep the discussion moving forward. Anyone willing to share their handbooks, SOP's, ordinances, as well as the benefits and some of the pitfalls they faced in attempting to change their title would be most helpful. If anyone has gone through a title change in the past 10 years let me know, I would love to bend your ear for a while. I know that many agencies went through a loss of title and authority a few years back and I do not want to bring up old wounds but would like to hear from folks out there on both sides of the issue. There just is not a better title than Park Ranger for all the diverse activities we do in all the different parks we operate throughout the state.

I will also get this on to the PRAC Net for more discussion. Thanks for all your help and support!

Patrick Boyle

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*"Nature demands that we pay attention.
Even so, every day, someone enters a wilderness unprepared."*

Lee Whittlesey Yellowstone Historian

Old Dog and Some Old (New) Tricks

Graffiti Removal

Patrick Boyle Region 1

For years we have spent countless hours with wire brushes, angle grinders, and chemicals removing graffiti from the 1 and 2 ton rocks surrounding our parking areas and in our parks. We often thought of sandblasting but the only machine we had available was the one the roads crew used for bridge work. This is an industrial sand blaster that we could not easily maneuver around the parks. Then last month the bridge crew was doing some spring cleaning and came across a small portable pneumatic sand blaster and offered it to our department. This unit is about as old as I am, so after working out a few kinks and ordering a new seal we were in business. 4 hours later we completed a job that would have taken at least 2 or 3 full days with the grinder.



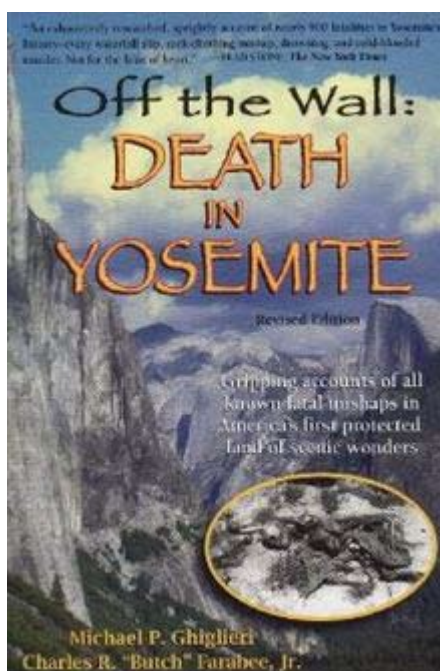
Clean up and prep were a breeze, without any chemicals or chemical laden rags to dispose of. It is easy to lay down tarps to capture sand and paint flecks if working in sensitive areas and you can just bring along the shop vac.

Now I am sure many of you are already aware of this technique. But for those who have not tried it, these small portable sand blasters can be rented from your local rental company. We used a large industrial air compressor on a trailer but it worked fine at the shop off the 10 gallon compressor. It just goes to show that after 20 years on the job we can work smarter and not harder. Now if I could only figure out how to use that thing they call a cell phone.

From the Bedside Table

Off the Wall: Death in Yosemite

By [Michael P. Ghiglieri](#) and [Charles R. Farabee](#)



For those of you who will be traipsing off to Yosemite this spring for the conference, this one is for you. Don't let the title fool you. It reads exactly as it sounds. This book is part history, part study in the human condition, and just plain part stupidity at times. Join Butch Farabee, former superintendent of Yosemite, in a romp on the wild side of the park. This book sets Yosemite as the main character in over a thousand different deaths. Her majesty and beauty are often the cause of that last fatal step that attempt to see what is over the next rise, and that one final momentary lapse in judgment. It will definitely keep you on the edge of your seat and away from the edge of the falls or cliffs. This book does not glorify or goryfy the accidents in the park. Rather it is a look at the sometimes poor decisions people make along with some of the mistakes so that hopefully we can learn from history and not repeat it. Hope you get to enjoy some time by the fire with a good book this winter.

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Board Officers 2017**

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Submission deadlines ARE THE LAST day of JANUARY, MARCH, MAY, JULY, SEPTEMBER, AND NOVEMBER.

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Voting Membership

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 STUDENT.....\$20 _____
 ASSOCIATE..... \$35 _____
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