

# The Signpost

May-June, 2016



## Ranger to the Rescue

by Candi Hubert

Region 5 Director

Earlier this month I received a call from a park visitor who got himself stuck on a ledge in the Red Rock Canyon area of Whiting Ranch Wilderness Park. He said a couple of other park patrons were attempting to assist him getting down but with no success. I told him I would be on the way and just stay where he was. I grabbed my gear including a rope and drove to the trailhead. I hiked in to the location and pretty quickly assessed that it would take a helicopter to get him out. There was no safe alternative for him to get down without risking injury.

The victim explained he was worried about the cost of the helicopter. I told him there were no other safe options and the hikers who were assisting along with me were also at risk of injury if we proceeded any further. He understood and apologized for going deep in the canyon where visitors are not allowed. I told him that's why we have the sign at the end of the trail that says "No Rock Climbing." I called in for a remote rescue and gave Orange County Fire the exact location. They sent their helicopter to the site. They had to do a few fly overs before finding us. I learned the lesson of getting out before the helicopter is in position of extracting the victim. The power of the helicopter helped me get out of the canyon quickly and my hair was covered with red sand stone. I hiked out of the canyon with the other two hikers who had assisted and then met the victim at a nearby parking lot. He was thankful and embarrassed as I gave him his water bottle and backpack. I know he learned a valuable lesson and won't ever do this again.



# Under the Flat Hat

## by Matt Cerkel

At our recent general membership meeting at the 2016 Parks Training Conference in Santa Rosa it was discussed that PRAC was in the process of updating the Ranger Agency Directory and PRAC Ranger Training Standards and Certification Program. I wanted to take some time to remind everyone of what the Directory and Training Standards are and why both are important.

The PRAC Ranger Agency Directory goes back to at least the early 1990s, but it has been a number of years since it has been updated. The directory lists agencies that employ park ranger or ranger-type positions and covers many key aspects of those ranger positions. The key aspects include the following:

- Name and contact information for the agency
- Date the agency and its ranger program were created
- Positions/job classification titles
- Salaries
- Number and type of positions
- Typical Duties
- Required law enforcement training
- Enabling act (the state law that authorizes the creation of governmental agencies)
- Level of law enforcement authority (peace officer, public officer...)
- Authorized peace officer protective equipment
- Level of EMS training
- Authorized medical gear
- Level of firefighting training
- Type of fire apparatus
- Additional duties, skills and equipment
- Type of parks

The PRAC Ranger Agency Directory can be a valuable tool when researching for perspective employers, preparing for labor negotiations, seeing how agencies train and equip their rangers, and seeing the wide variety of duties rangers perform. I've also attached a completed sample questionnaire that will be used in the directory, in this case from my employer the Marin Municipal Water District.

The other exciting thing currently being worked on is a revision of the PRAC Ranger Training Standards and Certification Program. The purpose of the program is to provide guidelines for the standards and training of the professional park ranger. The standards were established by the PRAC Board of Directors in March 2001, and are the minimum skills and training needed for the professional park ranger. An agency may require more or less than the standards given. The skills describe basic training needed for interpretation, maintenance & operations, resource management, fire management, emergency medical services, and law enforcement. The public safety standards and training follow the guidelines of state law, directed by the State Fire Marshall, Peace Officers Standards & Training, and Cal/OSHA. The Park Rangers Association's recommended training is to provide adequately trained rangers and reduce liability by following state approved training.

The PRAC Ranger Training Standards and Certification Program (PRAC RTSCP) is overseen by the Standards and Training Committee. They review the standards for each of the following disciplines:

1. Interpretation
2. Resource Management
3. Maintenance & Operations (Park Stewardship)
4. Fire Management
5. Emergency Medical Services
6. Law Enforcement

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# Under the Flat Hat

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The committee oversees the certification process and maintains the training records. They are currently reviewing and updating the existing standards and certification process. As it stands now, a professional park ranger must have at least 215 hours of law enforcement training, 32 hours of biology education/training, 24 hours of geography education/training, 24 hours of resource management education/training, 40 hours of interpretation education/training, 44 hours of fire & rescue training, 40 hours of maintenance & operations training, and 22 hours of EMS training. The total minimum number of hours of training to receive PRAC certification is currently 441 hours.

PRAC RTSCP is comprehensive and covers the key aspects of the job that a professional park ranger needs to know. It helps truly define park rangers as “protectors, explainers, hosts, caretakers, people who are expected to be knowledgeable, helpful, courteous and professional: people who find you when you’re lost, help you when you’re hurt, rescue you when you’re stuck, and enforce the law when you or others can’t abide by it.” A multi-faceted park ranger is extremely valuable and offers the biggest bang for the buck for park agencies and PRAC’s certification program helps ensure that rangers are truly multi-faceted.

Currently, my employer is waiting for the revisions to the PRAC RTSCP and may look at it as a requirement to promote from the entry-level to journey-level park ranger. We currently exceed the standards in the law enforcement, fire and EMS levels, but require no certification for the non-public safety related duties. Adopting PRAC RTSCP would address this and help ensure that rangers are certified for all aspects of the job. I will also encourage agencies statewide to look at PRAC RTSCP as something to participate in. I also will be submitting my paperwork so I can be certified by PRAC as a professional park ranger.

Last year I introduced the idea of KASE (Knowledge, Authority, Skills and Equipment) to illustrate what professional park rangers need to meet the challenging and wide-ranging duties they face on a routine basis. The PRAC Ranger Agency Directory and Ranger Training Standards and Certification Program helps in this process by defining the knowledge and skills rangers must know and the authority and equipment used by park ranger agencies. As PRAC President I look forward to getting these important and valuable documents to you later this year.

## Getting to Know You by Richard Weiner, Director Region 4

I am interested in writing articles for the *Signpost* that will introduce us to parks and open spaces within Region 4. I have written previously about parks in Portland, Oregon (Region 7) when I visited there last summer. I have had positive feedback from that article and feel there is an interest in getting to know more about our own region.

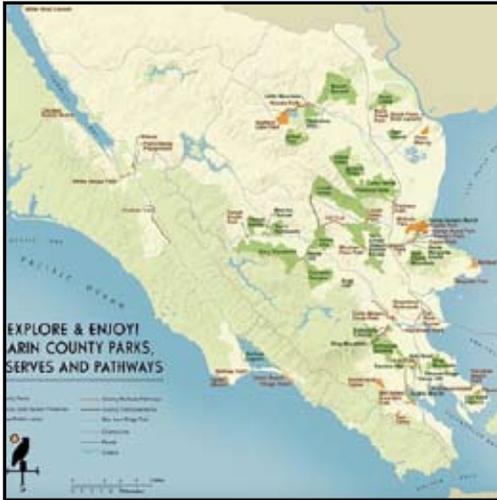
I am asking PRAC members in Region 4 to give me contact information so that I can make arrangements to visit and view their parks and open spaces for upcoming articles. Please contact me at [Region4@CalRanger.org](mailto:Region4@CalRanger.org) if you are able to assist me.

Thank you

# Region 1 Agency Spotlight

## Marin County Parks

by Michael Warner, PRAC Region 1 Director



Marin County Parks origins began in 1939 with the purchase of Stinson Beach on the Pacific coast. The beach was later transferred in 1950 to the California State Park System, and then eventually the National Park System. It would be another twenty years before Marin County would venture into owning parks or open space. During that twenty year period Marin County would grow from a very rural outlying area to a suburban cityscape with many settlements doubling or quadrupling in size. In the late 1960s several large developments including a city that was planned to be built along the west Marin County coast to include 125,000 people and to upgrade Highway 1 to a four lane freeway finally caused the public to take action. The public was asking "Can the last place last?"



After a series of elections that brought about a new set of county board of supervisors, Marin County adopted a new general plan in 1972. The plan limited development and provided for the creation of a parks department. The Marin County Open Space District was also formed that same year by public vote. The Marin County Open Space District would be managed by the Marin County Parks Department, but would retain its own separate budget funded by parcel taxes and its own staff.

Over the next 40 years the parks department added four regional parks starting with McNears Beach in 1970, and soon followed by Paradise Beach, McInnis Park, and Stafford Lake Park. The parks department also manages 27 other outlying park facilities and two boat launches. The Marin County Open Space District on the other hand, through the use of matching bond funds and public assistance, has acquired 34 Open Space Preserves totaling approximately 20,000 acres throughout the county. There are over 200 miles of roads and trails that traverse a wide diversity of landscapes including oak-savannahs, bay laurel-madrone forests, conifer forests, chaparral, and open grasslands.

In 2012 the Marin County Parks Department merged with the Marin County Open Space District changing the face of the department completely. Also in Marin County, voters passed Measure A, a bond measure to improve County Park and open space facilities, and to expand staffing for both parks and open space.



Today the department is continuing to expand and improve its facilities. Recently (2014) the department completed its Vegetation and Biodiversity Management plan helping protect many of its rare native landscapes, for example Ring Mountain Open Space Preserve with its 12 endangered and endemic plant and insect species. Marin County Parks is also in the middle of its Road and Trail management plan process which is adopting many "Social Trails" into the system network and helping provide more trail use opportunities for all user groups.



# Legal Update

by Robert C. Phillips,

Deputy District Attorney (Retired), San Diego County

- *P.C.148(a)(1) and Exhorting Others Not to Cooperate with Police:*
- *P.C.148(a)(1) and Refusing to Cooperate with Police:*
- *P.C.148(a)(1) and a Detainee Refusing to Identify Himself:*

***In re Chase C.*** (Dec. 18, 2015)

243 Cal.App.4<sup>th</sup> 107

**Rule:** (1) Absent proof that encouraging others to refuse to cooperate with law enforcement actually results in physical interference, such “political speech” is protected by the First Amendment. (2) Being slow to cooperate with law enforcement is not a violation of P.C. 148(a)(1). (3) Refusing to identify oneself while being detained is not illegal, being a protected right under the Fifth Amendment right against self-incrimination.

**Facts:** San Diego Sheriff’s Deputy Scott Hill was in (partial) uniform, patrolling Turtle Park in the Forest Ranch area of San Diego, when a group of middle school children reported to him that two high school-aged minors had attempted to sell them drugs. With a full description of the culprits, Deputy Hill went looking for them. He found them several minutes later amongst a group of about eight other 16-year-olds. The deputy approached them and, while telling the others that they were free to go, ordered the two suspects to sit on the curb. One of the suspects, Jason (or Jacob) McBride, cooperated and remained cooperative throughout the contact. The other, Brandon Hewgley, refused to sit down, questioning Deputy Hill as to why he was being detained. At this point, defendant, who was among the other undetained minors, began telling Hewgley “not to listen to (the deputy) or obey, (and) not to do what (the deputy) was telling him to do.” As Deputy Hill placed his hand on Hewgley’s arm, telling him again to sit down, Hewgley protested by “throwing his arm up as if he was going to strike (the deputy).” This resulted in Deputy Hill pulling Hewgley back and holding him there as he called for assistance on his radio. Deputies Baquiran and Robins responded within two minutes. The still uncooperative Hewgley was handcuffed and placed into the backseat of a patrol car.

At that point, “another kid (in the crowd) was yelling something,” as the other non-suspect minors “were just kind of standing around.” For safety purposes, and to facilitate the collection of information and to insure that no one had any contraband on them (apparently, no one did), Deputy Baquiran handcuffed all the remaining minors. As this process was going on, and despite Deputy Baquiran’s request to “please be quite,” defendant continued to verbally protest, telling the others not to listen to the deputies or to tell them anything. Despite defendant’s interference, Deputy Baquiran later testified that securing all the other minors only “took ‘a few minutes,’ and was accomplished ‘in an efficient manner,’ (but) that there was ‘a little delay’ in getting the minors’ information.” Deputy Baquiran felt this delay was caused by defendant telling the other minors not to cooperate. However, once told that if they didn’t cooperate they’d be taken to the patrol station and their parents called, everyone (except defendant and Hewgley) began to comply. But then Hewgley, still handcuffed and in a patrol car, began banging his head inside the patrol car. Becoming concerned that Hewgley might hurt himself or damage the patrol car, Deputy Baquiran determined that they should get him out of the area and back to the station. Deputy Baquiran later testified, however, that he was delayed in dealing with Hewgley because of the need to detain the other minors and get their information. As for his part, Deputy Hill later testified that defendant, while using profanities, was telling Hewgley, as well as the other minors at the scene, not to listen to the deputies or to cooperate. However, Deputy Hill admitted that Hewgley was already refusing to comply with the deputy’s commands even before defendant chose to interfere, and that he (Deputy Hill) could not speculate as to whether or not defendant’s verbal advice affected Hewgley’s continued lack of cooperation. Deputy Hill further testified that although he believed defendant’s comments had prompted some of the other minors in the crowd to verbally question his actions, he admitted that “nobody (else) became violent (or) resistant physically.” As for defendant, while at the scene, he continued to refuse to give his name or any

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# Legal Update

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information as to his parents, stating that he was “pleading the Fifth Amendment.” Upon handcuffing him, defendant questioned (in loud profanities) why he was being arrested. Told to calm down, defendant continued to tell the other minors not to cooperate and not to tell the deputies anything. He did not, however, attempt to physically resist, flee, or use any force. Once defendant was placed into a patrol car, his attitude did a 180, suddenly becoming “extremely” cooperative. Transported to the sheriff’s station, defendant remained cooperative for the rest of the contact. Asked in court why defendant had been arrested, Deputy Baquiran testified that: “He delayed what we were trying to do, trying to accomplish, by him not providing just simple information: What is your name, who can we contact so they can come and take care of you, take custody of you here. That’s all we needed to do. It’s very simple. Just, what is your name? Who is your mom? Where is your dad? What’s your phone number? But (he) refused to provide that information to us.” A Juvenile Court magistrate found defendant to be a ward of the court under W&I 602, for having violated P.C. 148(a)(1); delaying or obstructing a peace officer in the performance of his duties. Defendant appealed.

**Held:** The Fourth District Court of Appeal (Div. 1) reversed. The issues on appeal were whether either or both the following two acts constitute a violation of P.C. 148(a)(1): *First*; exhorting others not to cooperate with a police investigation, and *Second*; a detainee refusing to cooperate or identify himself. Defendant argued here that what he did constituted protected political speech which did not result in any physical interference with the officer’s investigation. He also argued that neither he nor the non-suspect minors were lawfully detained and that he was therefore within his rights when he told the others not to cooperate and by refusing identify himself. In order for there to be a violation of P.C. 148(a)(1), the People must prove that; (1) the defendant willfully resisted, delayed, or obstructed a peace officer, (2) while the officer was engaged in the performance of his or her duties, and (3) the defendant knew or reasonably should have known that the other person was a peace officer engaged in the performance of his or her duties.

Only the first two elements were at issue here. In analyzing the applicability P.C. 148(a)(1) to this case, the Court broke the incident down into three parts. (1) *Telling Hewgley not to cooperate*: The Court found that defendant’s verbal exhortations to Hewgley did not support a charge of delaying or obstructing an officer in the performance of his duties. Defendant’s encouragement to Hewgley had no effect on what Hewgley did or did not do. Hewgley was already uncooperative before defendant said anything, and continued to be uncooperative after he was separated from defendant. It is not illegal, on its face, to verbally protest and challenge law enforcement’s actions so long as such protestations do not cause physical interference. Absent some proof that defendant’s encouragement to Hewgley to refuse to cooperate actually resulted in Hewgley’s physical interference with the deputies, his speech is protected by the First Amendment as “political speech.” “[S]peech is generally protected by the First Amendment, even if it is intended to interfere with the performance of an officer’s duty, provided no physical interference results.” There being no evidence here that defendant’s actions were the cause of Hewgley’s resistance, defendant did not violate P.C. 148(a)(1).

(2) *Telling the non-suspect minors not to cooperate*: It is an essential element of P.C. 148(a)(1) that an officer be acting in the performance of his duties. Detaining a person without at least a reasonable suspicion that that person is involved in criminal activity is illegal. An officer is not acting in the performance of his or her duties when he or she conducts an illegal detention. Other than McBride and Hewgley, the two suspected dope dealers, the officers in this case had no legal cause to detain any of the non-suspect minors and were therefore not acting in the performance of their duties when they did so. Under these circumstances, defendant’s conduct in protesting the deputies’ illegal act of detaining the non-suspect minors constituted protected free speech.

(3) *Defendant’s lack of cooperation and his refusal to identify himself*: Deputy Baquiran testified that his reasons for arresting defendant was due to his refusal to provide identification information and his telling the other minors not to cooperate.

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**THE SIGNPOST**

# Legal Update

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Per the above, defendant's encouragement to the others not to cooperate was not illegal. Also, relative to his own lack of cooperation, prior case law has held that an individual who protests repeatedly before complying with an officer's orders cannot be prosecuted under P.C. 148 because verbal (as opposed to physical) challenges to police action are protected by the First Amendment freedom of expression. (*People v. Quiroga* (1993) 16 Cal.App.4<sup>th</sup> 961.) "(T)he fact that someone verbally challenges a police officer's authority or is slow to comply with an officer's orders does not mean that he or she has delayed an investigation." (*Quiroga, supra*, at p. 966.) It is not until a person's words or actions go "beyond verbal criticism, into the realm of interference with [an officer's performance of his or her] duty," that the First Amendment no longer protects him from criminal punishment. Providing examples, the Court held that this line is not crossed until the suspect's actions extend beyond merely responding slowly and challenging an officer's authority. "(S)ection 148 does not 'criminalize a person's failure to respond with alacrity (i.e., 'promptness') to police orders.' (T)he First Amendment protects the right to dispute an officer's actions." Also, at least until a stationhouse booking interview, one's Fifth Amendment right against self-incrimination renders a suspect "free to refuse to identify himself or to answer questions' without violating section 148." Per the Court, "(Defendant's) refusal to identify himself, not just preceding booking but before even being placed in a patrol car, was protected conduct under the Fifth Amendment." Here, defendant's pre-booking uncooperative conduct and his refusal to identify himself constituted no more than a "simple delay" in responding to a directive from a sheriff's deputy while engaging in protected speech. (He did, once taken to the station, become cooperative, identifying himself as required.) Neither such a "simple delay," nor a pre-booking refusal to identify oneself, per the Court, constitutes a violation of P.C. 148(a)(1).

**Note:** I'm sorry, but unless you were there, a judge in the quiet comfort of his or her chambers cannot possibly understand how one loudmouth in the midst of a crowd can "obstruct or delay" an officer who is attempting to gain the cooperation

of a unruly detainee, even if it's later difficult in testimony to quantify the degree to which that loudmouth interfered. I have all the respect in the world for Justice Dick Huffman, the author of this decision (after all, as the then #2 man [Assist. DA] in the San Diego DA's Office some 37 years ago, he had the foresight to hire me), but his discussion of the issues here totally ignores a common sense recognition of the difficulties inherent in working on the streets and dealing with a crowd. Next, I've always made the argument that a detainee refusing to identify himself can be charged with P.C. 148(a)(1). This case, however, says that a detainee has a Fifth Amendment self-incrimination constitutional right not to ID himself, at least until (and if) he is arrested and booked. The Court here does not even mention *Hiibel v. Sixth Judicial District Court of Nevada* (2004) 542 U.S. 177, where the Supreme Court specifically ruled that requiring a detainee to identify himself is *not*, as a general rule, a constitutional violation. And I fail to see how defendant here, by simply providing his name, could have possibly incriminated himself. *Hiibel*, however, was based upon a Nevada statute requiring a detainee to ID himself when asked. California has no such statute, and it remains an issue (at least in my mind) whether P.C. 148(a)(1) can be used instead. Probably not, based upon this case and what little other case law there is on this issue, at least without an actual, measurable, and articulable delay (something beyond a "simple delay," whatever that is) caused by the refusal. But the argument is still there.

Also, I've always wondered in cases like this, when the purpose of juvenile jurisprudence is supposed to be rehabilitation as opposed to merely punishment, why the same search and seizure balancing tests applicable to adult offenders is also used with minors. For instance, although juveniles, just as with adults, may enjoy the same First Amendment freedom to voice what the court here refers to as "political speech," I have to ask whether it's really wise to give this right so much weight in a juvenile case when it only serves to teach the youth that the courts will back up his disrespect for, and lack of cooperation with, law enforcement? Where's the rehabilitative effect there?

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