

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
HORACE M. ALBRIGHT TRAINING CENTER
Grand Canyon, Arizona

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LAW ENFORCEMENT IN THE NATIONAL PARK SERVICE

I. Personnel responsible for law enforcement in the National Park Service.

The Act of February 6, 1905 (33 Stat. 700), an act for the protection of the public forest reserves and national parks, initially provided authority for persons of this Service to make arrests. Similar authorization is contained in the Act of March 3, 1905 (33 Stat. 873). The provisions of the latter act are now incorporated in Section 10, Title 16, United States Code, reading in part as follows:

"All persons employed in the National Park Service of the United States shall have authority to make arrests for the violations of the laws and regulations relating to the national forests and national parks . . ."

The Act of March 3, 1897 (28 Stat. 621), portions of which have been codified in Sec. 415, Title 16, United States Code, reads as follows:

"The superintendent or any guardian of such national military park is authorized to arrest forthwith any person engaged or who may have been engaged in committing any misdemeanor named in sections 413 and 414 of this title . . ."

The Act of March 2, 1933 (47 Stat. 1420) and codified as Sec. 10a, Title 16 of the United States Code reads as follows:

"The commissioners, superintendents, caretakers, officers, or guards of such national military parks, national parks, battlefield sites, national monuments and miscellaneous memorials, or any of them, are authorized to make arrests for violations of any of the regulations prescribed pursuant to section 9a of this title . . ."

Under section 405 of the Act of March 3, 1933 (47 Stat. 1518), the foregoing statutory authority with respect to areas transferred to

this Service from the War Department remains in effect. The areas in question are those which were transferred from the War Department to the Department of the Interior for administration by the National Park Service pursuant to Executive Orders Nos. 6166 and 6228, dated June 10 and July 28, 1933, respectively.

The acts mentioned above, relating to the authority to arrest for violation of the regulations covering military park areas, were necessary when such areas were under the administrative jurisdiction of the War Department or other agencies prior to their transfer to this Service. Such transferred areas are now administered by the National Park Service under the Act of August 25, 1916, creating the National Park Service. As the 1905 Act, supra, authorizes employees of the National Park Service to make arrests, such arresting authority appears to supplement the arresting power of military park personnel which is confined to certain types of cases and is somewhat more limited in scope than the 1905 Act. (Law Enforcement Handbook)

Generally speaking, the U.S. Park Police and the uniformed ranger organization represent the first line of law enforcement within the National Park Service. In the public's mind the uniform denotes the badge of authority and they reason that each man in uniform is a ranger. Consequently, in uniform every National Park Service employee has a law enforcement responsibility. Nevertheless, it should be recognized that this duty to a smaller degree evolves upon every Service employee.

II. The scope of law enforcement in the National Park Service.

The National Park Service is specifically charged with a dual role in the field of law enforcement. First, the Service has the responsibility for protecting the values and resources found in areas of the National Park System and the legislative acts cited previously, in addition to the Organic Act and the Antiquities Act, provide the necessary authority for this function. Typical examples of this phase of protection are forest fire prevention and control, forest insect and tree disease control, prevention of and protection from vandalism and other destructive practices, protection of wildlife, and protection of historic and scenic values.

The second, and less clearly defined responsibility, is that of protection of employees and the visiting public. This responsibility encompasses building fire prevention and control, protection from crimes against persons and property, highway patrols, accident prevention and investigation, search and rescue activities, and other similar measures taken to protect human life and private and public property.

III. The National Park Service's basic authority for protecting life and property.

In the early years of the National Park Service, and to some extent continuing to this day, there has been a lack of specific, well-defined legislative authority which empowers the National Park Service to enforce laws for the preservation of peace or the protection of life and property.

The primary authority which permits employees of the Service to engage in this law enforcement activity stems from the rules and regulations promulgated by the Secretary of the Interior. These fall within the Secretary's overall authority, stated in the Organic Act, to "make and publish such regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations." They consist of general rules and regulations applicable to all areas of the System, and special rules and regulations aimed at specific problems in individual areas. An example of the latter are the regulations affecting the operation of motor vehicles, or fishing limits and practices. Violations of park rules and regulations are classified as misdemeanors (petty offenses) and violators are tried before the U.S. Park Commissioner, the U.S. Commissioner, or other authorized judicial authority.

Other legal authorities for the protection of life and property stem from various State and Federal sources, and differ with the type of jurisdiction in effect within a given area of the System. In an area of exclusive or concurrent Federal jurisdiction, Section 13 of Title 18, U.S. Code, Laws of States adopted for areas within Federal jurisdiction (commonly referred to as the Assimilative Crimes Act) provides that an offense not made punishable by the laws of Congress, but which is made punishable under the laws of the State in which the area is located, can therefore be prosecuted in Federal Court under the applicable State statute. The provision of the Criminal Code confers this authority upon duly appointed Federal law enforcement officers and provides for the Federal prosecution of felonies such as larceny, burglary, robbery, assault, etc.

Unfortunately, under the provisions of the Criminal Code, the park ranger, as such, is not vested with broad powers of arrest such as those given U.S. Marshals and Special Agents of the Federal Bureau of Investigation. Park rangers, per se, do not have the power to serve warrants. Accordingly, and to carry out the intent of Section 13, Title 18, U.S. Code, at least one ranger in almost all areas of exclusive or concurrent jurisdiction should be appointed as a Deputy U.S. Marshal. Acting under this authority, such an individual can

execute, and cause to be executed, Federal search warrants, Federal warrants for arrest, and other necessary Federal law enforcement procedures.

In areas of concurrent and proprietary jurisdiction the Secretary of the Interior is authorized to permit park employees to be appointed Deputy State Fish and Game Wardens and Deputy Sheriffs. These men are empowered to enforce State statutes, laws, rules and regulations which are applicable to the specific area. Under this vested authority the park employee has authority to enforce laws of the state in addition to the rules and regulations of the National Park Service. It must be borne in mind, however, that enforcing a state law by virtue of a deputy's appointment--either fish and game or sheriff--that all action must carry through in the same jurisdiction; i.e., violation of a state law is arrested by virtue of the deputy appointment and must be processed in the courts of the state's jurisdiction. Violations of park rules and regulations, per se, may not be processed in anything other than the Federal Courts (including U.S. or Park Commissioners who have authority to try cases from a NPS area).

In addition to those vested authorities previously mentioned, each park employee (or for that matter any citizen) has the power of citizen's arrest. The authority vested in citizen's arrest is not to be taken lightly, nor thought to be a quasi-legal procedure. Any citizen has the right and duty to make an arrest with a warrant, just as a law enforcement officer has, in the following situations:

1. When the offender is committing, or is attempting to commit, a felony in his presence.
2. A fresh pursuit, when he knows the offender committed a felony.
3. To prevent the commission of a felony.
4. When acting in good faith, in cases where an offender has committed a treason or felony on an occasion already past.
5. When an offender commits a breach of the peace, or threatens to commit a breach of the peace, in his presence.

For example, if a sheriff from a distant State requests the apprehension of a fugitive from that State, or of a person who has stolen a motor vehicle from that State (both cases being felonies), the park ranger (after he assures himself that there is a warrant outstanding for the offense) may make the apprehension and hold the suspect for

for the sheriff's arrival. The sheriff would make the apprehension on the same authority of a citizen's arrest if the ranger were the one who initiated the request for assistance. It must be noted that a misdemeanor can be handled through citizen's arrest only if a breach of the peace is committed in the presence of the citizen who may make the arrest.

IV. The National Park Service attitude toward law enforcement.

A. The National Park Service law enforcement program is to be carried out in consonance with the basic objectives and purposes of the Service, namely, ". . . to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for future generations." In order to do this the following Law Enforcement Policy has been approved by the Director.

"It is the policy of the National Park Service to enforce all laws, rules and regulations that lie within the scope of its legal jurisdiction. All law enforcement actions must be handled with judgment, dignity, and intelligence, and applied uniformly as practicable with regard for the particular circumstances involved in each violation."

This program must not only give consideration to protecting the parks and the visitors who use them, but also must be brought into accord with, and be tempered by, the Service's responsibility to provide visitors with an enjoyable park experience. Consideration also must be given to the fact that most park visitors are on vacation and find themselves in unfamiliar and often strange surroundings. They are away from home and are not following the usual routine of their daily lives. It is for these reasons that the Service law enforcement program, as it relates to visitors, may differ from that of other law enforcement agencies.

B. An objective of any law enforcement program is to obtain compliance with that which has been determined to be an acceptable standard of conduct and behavior. Park rules and regulations have been promulgated not only to serve as a guide to help determine what is considered an acceptable standard of conduct, but to provide, when necessary, legal rules for the enforcement of such standards.

C. Except in cases that are clearly malicious, willful, or deliberate acts, violations of regulations by visitors may be initially assumed to have occurred because of inadvertence, lack of understanding or misinformation. Initial action should, to the fullest extent possible, be handled through warnings applied in a firm, but tactful, friendly, but dignified manner without undue officiousness. The regulation that has been violated should be clearly identified to the visitor and he should be given an explanation of the purpose it serves. Enforcement action should have as its objective corrective action and voluntary compliance obtained through understanding and appreciation. The visitor should leave with a better understanding of park conservation regulations and the opinion that the National Park Service is not only fair in its treatment of visitors, but desires to promote their enjoyment of the park.

It must be remembered that what a single individual may do without serious consequences becomes increasingly harmful when repeated by others. It may be necessary to caution visitors for even minor infractions to avoid their repetition.

D. When a visitor or other individual persists in violating a park regulation after having been warned or when found deliberately, maliciously or criminally violating the law, or when he has placed the safety of others in jeopardy he will be treated fairly, but a course of enforcement action will be taken commensurate with the violation.

E. All employers within a park, such as the Government, concessioner, contractor, and permittee, are responsible for providing an opportunity for their employees to become acquainted with park rules and regulations. It will also be the employees' responsibility to know park rules and regulations and to see that members of their families know them. A somewhat similar situation exists as it relates to those who live within parks on privately owned lands or those who live on lands immediately outside park boundaries. It is reasonable to assume that all such people have had an opportunity to become acquainted with park rules and regulations. Violations by any of them should be treated fairly and a course of action may be taken commensurate with the offense committed.

F. It is the policy of the Service that rangers and other uniformed employees should not wear or display firearms except when there exist good reasons for doing so. Each superintendent should outline in writing the situations in his park when

the wearing of firearms is permissible.

G. Employees of the National Park Service will maintain close and friendly relations and work cooperatively with local, State, and Federal law enforcement agencies. Assistance to such agencies will be provided by Service employees when not in conflict with Service interests, authority and objectives.

H. All Service employees should be alert to the need for new general or special rules and regulations or for additions to or changes in existing rules and regulations. Matters of this nature should be brought to the attention of proper authority.

I. It is the Service practice to utilize the assistance and advice of the nearest Department of the Interior Field or Regional Solicitor to facilitate law enforcement, including any situation that may develop between Service employees and State or Federal prosecutors, commissioners or judges.

J. The prevention of violations and the enforcement of rules and regulations are primary responsibilities of park rangers. They are also important responsibilities of all uniformed employees. All of these employees will be given instruction and training in the prevention of violations and in law enforcement procedures and practices to the extent necessary to protect themselves and to exercise enforcement authority in accord with Service policy.

K. The exercise of enforcement authority by nonuniformed Service employees should be avoided unless such action is required by a very unusual or critical circumstance. The exercise of such authority by an employee without external evidence of his official capacity, such as an appropriate uniform and badge, may be misunderstood by many persons and can result in complicating an otherwise simple situation. However, a nonuniformed employee may, when appropriate, and after he has identified himself as a Service employee, courteously inform or caution a visitor or other person that he is violating a park regulation. Should the individual persist in the violation, the nonuniformed employee should immediately report the matter to the nearest park ranger or other uniformed employee for further handling.

L. The adequacy of a park law enforcement program is the responsibility of the Superintendent. This program will include a well developed plan of action to be taken in the event of the commission of a major crime in the park. Such a plan should

include written instructions for contacting the Federal Bureau of Investigation, the nearest Department of the Interior Solicitor, and other local and State law enforcement officials.

M. It will be the responsibility of Regional Directors to determine that the Service's law enforcement policies and procedures are being uniformly applied, and that training opportunities in this activity are being provided in parks under their jurisdictions.

Points A through M are the policy guidelines for implementing the NPS Law Enforcement Policy and were contained in FO 19-59 dated August 31, 1959 from Acting Director Tolson.