

U.S. Park Rangers Lodge, Fraternal Order Of Police
Comments on the 3rd OIG's Report on the Implementation of the Secretary's Directives for Law
Enforcement Reform
Subcommittee on National Parks, Forest, and Public Lands Hearing 03/19/09

Mr. Chairman, members of the Subcommittee, I would like to thank you for the opportunity to testify in front of you today. My name is John Waterman. I am President of the Ranger Lodge of the Fraternal Order of Police and have been a law enforcement ranger for 13 years. With me is Lodge Executive Director George Durkee, a seasonal law enforcement ranger for the National Park Service (NPS) for almost 40 years and Calvin Farmer, board member, a Ranger for 23 years. Our Lodge is the largest organization of U.S. Park Rangers in the country. We are composed almost entirely of front-line law enforcement rangers who are deeply committed to the mission of preserving and protecting National Parks to leave them unimpaired for the enjoyment of future generations. The Ranger Lodge seeks to ensure our National Parks are adequately staffed with the level of professional law enforcement ranger that visitors expect from National Park Service and that those rangers are trained and properly equipped for safely carrying out the increasingly dangerous duty of protecting park resources, visitors, and ourselves.

Perhaps the largest issue the Lodge faces with its members is our attempt to legislatively mandate and codify the U.S. Park Rangers 6c enhanced law enforcement retirement benefits. Hundreds of rangers have been denied coverage for service prior to 1994 and have spent large sums of money from their personal savings, retirement funds, personal loans, and second mortgages to fight for back time that they earned protecting our National Parks. Current rangers like me have heard time and again by the Department of the Interior's (DOI), Federal Law Enforcement Retirement Team (FLERT), that our enhanced retirement is in jeopardy and not guaranteed depending on how they wish to define our current position descriptions at any particular time. No other federal law enforcement officer in the DOI faces this arbitrary and capricious scrutiny, as do U.S. Park Rangers. The solution is to codify the enhanced retirement in legislation just as it is for our fellow United States Park Police Officers (USPP). The USPP is a separate LE organization from the US Park Rangers, also under the purview of the National Park Service. USPP and LE Rangers work alongside each other on a regular and recurring basis in the Washington DC area, San Francisco, and New York, along with joint assignments at many National Park units.

The second largest morale issue we face is the inconsistent application, enforcement, and adjudication of the medical standards. The NPS medical standards are some of the most rigorous in federal law enforcement (LE), and one medical doctor characterized the standards as tougher than a flight physical. The agency's failure to provide consistent guidance and fair adjudication is costing the government millions in lost cases and settlements as Rangers spend years fighting and eventually winning their case against the agency. This is a tremendous waste of money and personnel. The NPS now employs lawyers' at all medical hearings in an attempt to threaten and intimidate Ranger's while they present their case. In the twelve years of the existence of the medical program, six people were in charge of the medical program, with no medical certification. In addition to the lack of professional oversight, there have been numerous cases of inconsistency in the adjudication of these cases. For example, one person in charge of the program would issue a waiver of a medical condition for one case, while another person in charge would not issue a waiver for the same medical condition of another case..

The Lodge believes in a medical program that follows Office of Personnel Management (OPM) guidelines, is fair, and consistently applied, adjudicated and administered similar to programs already accepted by agencies such as FBI, DEA, Secret Service, U.S. Marshals Service, and NCIS. If a Ranger proves he/she is performing satisfactorily with a medical condition, then the Ranger should be allowed to continue working in that job. Instead of losing valuable employees, the Service in turn retains a good employee with whom it has invested considerable time and money through training and development. In contrast, the amount of time, money, effort, and energy poured into these cases by the rangers demonstrates how committed rangers are to remaining in their positions as stewards and protectors of the resources set aside by Congress for special guardianship.

The two issues (enhanced retirement and application of the medical standards program) discussed above speak clearly of the significant impacts and effects upon morale in a very personal way to rangers. We would like to take this opportunity to shift the focus from the individual rangers to the NPS law enforcement program as a whole.

We are grateful that the honorable Earl Devaney of the Office of Inspector General (OIG) has been steadfast in holding DOI accountable for the changes they agreed to make in response to the "Disquieting State of Disorder" OIG report. This third progress report on the OIG recommended reforms shows that even though the DOI has made some recommended changes at the Department level its management of the NPS Law Enforcement programs continues to undermine any positive bureau successes and thereby fails to contribute progressive measurable results at the field level. (Note: The NPS is responsible for managing both the United States Park Police (USPP) and the law enforcement ranger program.) DOI has spent in excess of four million dollars in recent years commissioning studies on the USPP and Law Enforcement Ranger (LER) programs. The International Association of Chiefs of Police (IACP), OIG, The National Parks and Conservation Association (NPCA) and The Partnership for Public Service (PPS) have all conducted studies. Each report has detailed similar issues with both programs, and groups that have conducted multiple studies on the programs express dismay that the same conditions still exist when they conduct a second study.

The Lodge reviewed the Third Progress Report on the Implementation of the OIG's directives and would like to address several of the specific OIG Directives from the "Disquieting State of Disorder" report that are still outstanding.

Recommendation 4: DAS-LESEM should review and revise the policies and procedures, which guide the bureaus' interactions with OLESEM. This should be done in consultation with the Board of Advisors. It is imperative that the Office of Law Enforcement, Security, and Emergency Services (OLESEM) issue out standard policies to all the bureaus. Without this standard, each bureau continues to find ways to abuse its authority, leading to a lack of consistency, contradictory policies, and confusion for employees and managers. The revision and updating of Reference Manual 9 (RM-9) last updated in 2000, which covers the NPS LE Rangers has been held up for the past four years, waiting for the updated Department Manual 446 (DM446) to be issued as the

Subcommittee on National Parks, Forest, and Public Lands Hearing 03/19/09

NPS did not want to put its officers in the position of operating under contravening policies. Emphasis must be on completing, signing and issuing a final copy of DM 446 and requiring bureaus to follow it. The Lodge is in favor of one homogeneous set of law enforcement guidelines with strong law enforcement principles.

Recommendation 9: Develop line item budgeting for law enforcement activities. The Department is currently implementing Activity Based Costing.

With the current budgeting system, there is no accountability for the expenditure of funds specifically appropriated by Congress and through the Washington Office of the NPS (WASO) for law enforcement and homeland security initiatives. Recently Congress requested information on ONPS spending and accountability for specifically appropriated monies. When the Lodge reviewed the report, the Lodge found that often the additional monies were accepted by the parks, and then the park level LE division budget was reduced by the amount of money received from WASO. While there is nothing illegal about this re-direction of money, it clearly contravenes the intent of Congress and WASO to provide supplemental funds for law enforcement needs beyond the parks operating funds.

The Lodge understands and appreciates that the Superintendent of each park is ultimately responsible and accountable for the law enforcement program in each park and desires to allocate the park budget based on what they believe is the best use of funds without interference from someone in WASO who is not necessarily cognizant of the challenges on the ground. The crux of the issue is that the lack of transparency in the park level budget process combined with the decentralized structure of the NPS LE program does not allow NPS WASO to implement the changes called for by the OIG review (along with the many other studies on the LE programs in DOI/NPS). Without the ability to distribute or withhold funds based on needs and or compliance, it is likely that the issues before us today will continue into the future.

Recommendation 11: Bureaus should complete an analysis of staffing models and methodologies. The VRAP (Visitor Management-Resource Protection Assessment Program) program in conjunction with the Law Enforcement Needs Assessment (LENA) was to be the end all of assessment programs. Parks worked very hard at putting the information together and when they completed the assessment found that they were terribly understaffed. Together these assessments (LENA and VRAP) demonstrated the need for additional rangers to protect NPS resources based on parameters established by the NPS planners. Once the assessment was completed, the numbers of additional rangers needed was staggering to many people. The IACP agreed with the VRAP assessment of the need for additional staffing for accomplishing the mission of the NPS. In speaking with NPS folks who expressed their dismay at the number of rangers required to protect the resources as the planners envision, the IACP Team recommended that the NPS engage in a validation study of its own program assessment tool. The OIG's office recommended this in 2002. To date that validation study has not occurred, and the VRAP model would need modification to account for the new homeland security, incident management, and other requirements that were not in place when the program was developed for use in 2000.

WASO has reported that the number of rangers decreased less than 200 since 2003. Few parks have experienced a net gain in staff and most have experienced substantial loss of staff. For example, Valley Forge has lost 50% of its staff, Organ Pipe (down 9 rangers after the murder of Ranger Kris Eggle), Yellowstone National Park has lost approximately 40% of its staff, and Delaware Water Gap 35% of its staff, Glen Canyon lost approximately 35% of its staff. Straight numbers on gains or losses of rangers also fails to consider the number of sites added to the NPS system over the same period. As new sites are added, sites already in the system do not benefit from the new hires, as those new hires go to new park units, or the current parks have their folks transfer to the new park, resulting in a loss of personnel. Current ranger staffing levels are significantly below the recommendations of the IACP report and the NPS's own assessment.

The greatest threat to the public and our ranger's safety is inadequate staffing, where backup for a ranger working alone may be 30 minutes to several hours away. As both the Inspector General's report and subsequent studies make clear, U.S. Park Rangers have among the highest rates of assaults on officers of any federal agencies. Several studies have found this rate is as high as that of many urban police departments, yet there is a sense that parks are safe places. Reasons for staffing challenges range from budget considerations, to sending officers to mandatory training, wild land fire response, days off, and leave to the sheer vastness of the patrol area where a park may have one LEO for two million acres.

Responses to park incidents are becoming reactive instead of proactive due to staffing shortages. Preemptive law enforcement action was once the hallmark of Rangers, where they would often identify undesirable, dangerous activities or acts and respond with the appropriate measures to deter or halt the act before an incident occurred or was allowed to escalate. In many ways, rangers have continuously enhanced the law enforcement function of protecting the country's natural and cultural resources by the development of intelligence provided through good community relations and the exchange of information provided by visitors, neighbors, and stakeholders in addition to engaging in and conducting covert and drug interdiction operations. Preemptive law enforcement action allows the rangers to protect the resources rather than having to settle for the recording of their loss. For example destruction of gravesites through looting, theft of timber from scenic easements and the subsequent destruction of those vistas, or the greed of poacher leaving a carcass to rot, desiring only the trophy part of the animal. Marijuana is cultivated in environmentally sensitive areas leading to ecological damage through the rerouting of natural water sources, the dumping and soil contamination of fertilizer, garbage, plastic and other items left behind by illegal drug producers growing marijuana on public lands.

Numerous parks have cut the number and types of interdiction operations that once were conducted because it is just too dangerous to work alone. Park researchers and visitors have been threatened on more than one occasion by poachers and drug cultivators armed with semiautomatic rifles and other weapons. Some parks that now routinely assign a LEO to go with groups of resource management personnel for protection. While an

inquiry into the comparative number of rangers shows that the NPS has lost several hundred since 2003, those straight numbers do not tell the full story. Rangers are responsible for vastly different array of duties that were not conceived of when the staffing models were developed. In addition, there is an increase in the number of visitors demanding and needing services. Many visitors to National Parks have little to no experience in the wilderness. Their experience with nature is framed largely by relatively sanitized paved trails through the trees, deer in their backyard that seem more like pets than wildlife, and the ever present ability to call for help on their cell phone. The expectations of visitors have changed dramatically in the past two decades, and the staffing models do not account for the shift in attitudes and expectations of the visiting public.

In the 2002, OIG report "Disquieting State of Disorder" the OIG recommended an increase of 615 Rangers to meet the new homeland security requirements, visitor expectations, demands, and the desire of the NPS to continue to provide the level of visitor service that the agency prides itself on. Failing to update the staffing models in light of new expectations and demands hampers the ability of the Service to recruit, retain, and train new rangers. It also disregards the recommendations of the OIG and the Secretary's own study showing that a huge influx of Ranger's are needed to preserve and protect parks to leave them unimpaired for the next generation.

Recommendation 12: Each Bureau will assess the extent to which (correct) staffing shortages impact officer safety.

While the third progress report on the original OIG report shows that Directive 12 was implemented, the Lodge cautions that Rangers continue (as we have for five years) to top the Department of Justice list for the most assaulted federal law enforcement officers.

When working alone, particularly in remote areas, reliable, up to date radio systems and communications are imperative for officer safety. Many rangers lack modern upgraded equipment, reliable radio communications with a professional dispatch center that has access to the National Crime Information Center (NCIC), allowing an officer to check if a person is wanted on an outstanding warrant, dangerous to police, a registered sex offender, or in possession of a valid concealed carry permit.

Whiskeytown National Recreation Area (WHIS) is a prime example of where the Lodge has concerns of complacency regarding the "implemented" status with Directive 12. Faced with a budget shortfall WHIS initiated a voice over internet protocol (VOIP) radio system without ensuring that the computer hardware and phone lines could handle the high-speed data transfers necessary for the technology to work. In addition to not checking the hardware requirements, WHIS also took down the old radio system, leaving the rangers with no radio communications. WHIS rangers have resorted to utilizing their personal cell phones, which only provide intermittent coverage as a substitute. WHIS is a park experiencing increased gang activity and violence, and rangers do not have the most basic modern police tool, a working radio connected to a professional dispatch center, not someone who is sitting at the visitor center desk trying to answer visitor questions, or complete the payroll at headquarters.

Recommendation 13: "Bureaus will reduce dependence on collateral duty and seasonal law enforcement officers."

In addition to a permanent law enforcement staff of about 1,400 Commissioned rangers, the Park Service has perhaps 500 seasonal law enforcement rangers during peak visitation at various parks. There is an unquestionable need for an expanded workforce in the NPS during certain times, as many parks have a higher concentration of visitation during the summer months. These needs are not a one-time need; the necessity for more staff during a park's busy season is a recurring need. The STF position allows the NPS to ensure that there is an available cadre of trained, experienced, law enforcement officers to staff a park based on their needs. Unlike a 1039 hour seasonal appointment, an STF position allows the park flexibility to bring their summer workforce in before the busy summer season and ensure that they have all of their required in-service hours, medical exams, updated legal information etc., and to develop a sense of camaraderie, common purpose and teamwork amongst folks who will rely on each other for back up – and life saving action.

The Lodge is also very concerned with the level and type of training seasonal employees receive. There is little to no oversight of the seasonal law enforcement academies, the quality of the training and the curricula beyond basic mandates by FLETC staff. Having a person who completed 360 hours of training, and the only traffic stop training they received was stopping tables (simulating vehicles) before turning an employee loose with their badge, gun, and a police car with no other training or supervision creates conditions that are ripe for poor decision-making and improper use of force. More structured oversight by FLETC of the seasonal academies would allow parks to receive a level of consistency in skills and abilities from the various seasonal academy candidates. This would free parks from teaching basic fundamental law enforcement and allow each park to tailor their field-training program for seasonals to the specific needs of each park.

Some years ago – and after a long-time seasonal NPS maintenance employee died on duty without even death benefits for his widow – Congress recognized the abuse of the temporary hiring system by Federal agencies and passed the Hudson Amendment. As a result, NPS did position evaluations in most parks and replaced some seasonal positions with Subject to Furlough (STF) positions, thus creating ranger jobs with full benefits. In an effort to cut costs and meet the mandate to utilize Centennial Challenge money, parks are now eliminating many STF positions and filling them, once again, with seasonal employees. Glen Canyon National Recreation Area, for example, recently eliminated 10 STF positions and filled those positions with seasonal rangers.

As the third progress report points out, as part of the Centennial Initiative, the NPS was tasked by the Secretary of Interior to hire an additional 1,000 seasonal LEO's, directly conflicting with the 2002 directive. As demonstrated above, many full time permanent positions are lapsed to meet an artificial hiring quota that was and is not fully funded. The preliminary numbers from 2008 reflect a decrease in full time rangers and an increase in seasonal rangers. With the decline of the permanent staff, there is a greater likelihood that a ranger with less training and experience will not have an experienced officer to provide

Subcommittee on National Parks, Forest, and Public Lands Hearing 03/19/09

guidance before, during, and after the contact or incident. These conditions lead to a continued increase in the assault rate of rangers, and inappropriate uses of force (too little or too much) as shown in the Northern Arizona University study which looked at assaults against U.S. Park Rangers.

Recommendation 23: OLESEM should develop a consistent Department-wide centralized records system.

The lack of a records management system is unconscionable in the modern age. Modern policing and investigations require hard data to measure performance, track trends, analyze crime patterns, suspicious activities and provide data for chief rangers and managers to justify the need for more staffing, or different staffing models based on data. Currently the "Case Incident Reporting System (CIRS)" is a DOS based system (not compatible with Windows) with very limited capabilities for data analysis – resulting in hand counting of incidents and or a reading of each individual narrative in order for the chief ranger to complete the annual law enforcement report.

The NPS spent \$2.8 million on a lotus notes version of CIRS that failed due to out of date software, and lack of hardware capable of running the new version (some computers were still running Windows 98 as recently as 2004). The next incarnation of the records management system is the Incident Management and Record System (IMARS), which to date has cost in excess of \$5 million, prompting a separate IG investigation on IMARS. DOI-NPS is no closer to a legitimate records management program now than it was five years ago. In the digital age, with increasing demands for transparency the lack of a records management system for data analysis, trend analysis, and investigation is stunning.

The National Park Service is the steward of our nation's heritage. National Park Rangers are the instruments by which the American heritage is preserved and the vast open spaces are protected, and the resources therein to leave them unimpaired for the enjoyment of future generations. We are dedicated to that mission from the 1906 Organic Act, understand, and believe in the importance of the resources we protect.

We are grateful to the Honorable Earl Devaney and his staff, Congress and this subcommittee for the attention all of you are giving to park service inadequacies in the critical task of protecting our nation's heritage, as embodied by our parks. The Lodge and its members will continue to work with the NPS, Congress, and the American people to protect that which Congress set aside for the enjoyment of all people. Thank you.

Sincerely,

John T. Waterman
President
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Fraternal Order of Police

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