
REPORT TO THE CONGRESS

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES



Crime In Federal Recreation Areas-- A Serious Problem Needing Congressional And Agency Action

This report contains information on the
serious problem of crime in federal recreation areas.

The report is based on a study of the
problem of crime in federal recreation areas
conducted by the Comptroller General of the United States
in cooperation with the Department of the Interior.

The report is intended to provide information
to the Congress and the public on the
serious problem of crime in federal recreation
areas. It also provides information on the
steps that have been taken to date to
solve the problem and on the steps that
should be taken to solve the problem.

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JUNE 21, 1977



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report describes the shortcomings in the Government's efforts to provide visitor protection services at Federal recreation areas. The report shows that limited statutory authority and lack of applicable Federal criminal statutes are hampering visitor protection services. If visitor protection efforts are to be more effective, agency programs and authorizing law enforcement statutes must be made uniform and consistent. The report suggests ways in which the Congress, as well as the executive branch, can improve the Government's efforts.

We made this review to analyze the visitor protection conditions at Federal recreation areas and to determine the adequacy of law enforcement and visitor protection operations. Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of this report are being sent to the Director, Office of Management and Budget, and the heads of the departments and agencies discussed in this report.

A handwritten signature in cursive script, reading "Luther B. Stille".

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

CRIME IN FEDERAL RECREATION
AREAS--A SERIOUS PROBLEM
NEEDING CONGRESSIONAL AND
AGENCY ACTION

D I G E S T

More and more people are visiting Federal recreation areas. Unfortunately, the incidence of crime has grown correspondingly, exposing inadequacies in the protection of visitors.

The Federal Government owns and administers about one-third of the Nation's 2.2 billion acres of land. Most of it is administered by the Bureau of Land Management and the Forest Service; however, other agencies involved include the Fish and Wildlife Service, the National Park Service, the Army Corps of Engineers, and the Tennessee Valley Authority. Although the primary mission of these six agencies is managing natural resources, the lands they oversee also offer recreational opportunities.

THE PROBLEM

About 85 percent of the law enforcement employees surveyed at recreation areas said crime was a serious problem in their areas. Many cited vandalism, illicit possession of weapons, drug and alcohol abuse, destruction of natural and historical resources, larceny, burglary, and assault as frequent problems. Agency studies confirm the survey findings. (See ch. 2.)

THE LEGAL JUNGLE

Because of increasing crime, all agencies expanded their resource protection programs to include visitor protection. However, this work was handicapped by a network of limited and differing statutory authorizations, none of which authorized enforcement of all Federal laws governing the conduct of visitors.

As a result, at some recreation areas, agency employees overstepped their express statutory enforcement authority in order to provide visitors with police services including

- carrying firearms for law enforcement purposes,
- making arrests for all types of criminal offenses, and
- acting as deputy sheriffs.

At other recreation areas, the prevailing practice was to shy away from law enforcement activities concerning visitors.

Federal laws prohibiting misconduct against visitors or their property do not apply at many recreation areas. Such laws include the Federal statutes defining assault, maiming, murder, manslaughter, rape, robbery, and burglary. When the Federal criminal code has not defined a particular offense, such as breach of the peace, the Assimilative Crimes Act adopts as Federal law, for certain Federal lands, the criminal code of the State where the Federal land is situated.

Presently, neither the Federal laws which prohibit misconduct against visitors or their property nor the Assimilative Crimes Act applies to many of the Nation's recreation areas, even though Federal law enforcement officers may be present. For example, at the Grand Canyon misconduct against visitors or their property--including murder, rape, and robbery--is generally not a Federal offense. Visitors to such areas must rely on State and local officials for assistance. This assistance is affected by the local agencies' willingness and ability to respond to reported criminal activity occurring on Federal land.

Recently, legislation relating to the enforcement powers of the National Park Service and

~~the Bureau of Land Management was enacted.~~
Although these acts expand the law enforcement authority of the two agencies, they do little to improve the agencies' ability to protect visitors where no Federal visitor protection laws apply. (See ch. 3.)

UNIFORM VISITOR PROTECTION
PROGRAM NEEDED

If visitors are to receive adequate law enforcement service when on Federal land, the Government must:

- Upgrade program monitoring and evaluation so it can better assess visitor protection needs and allocate sufficient law enforcement resources to recreation areas.
- Make sure that personnel assigned law enforcement duties are properly trained.
- Establish standards and controls over non-Federal police agencies hired to provide law enforcement services.

To guide agencies in setting up visitor protection programs and to correct shortcomings, a Federal policy on visitor protection is needed. It should be Federal policy that visitors to recreation areas receive the same law enforcement services, without regard to the agency administering the land or responsible for law enforcement services. (See ch. 4.)

AGENCY COMMENTS

Most agencies involved in administering Federal recreational areas were not convinced that the problem was as serious as GAO portrays it. However, they acknowledged that law enforcement in such areas can be improved.

Agency reactions to GAO proposals for improving the situation were mixed. Most of the agencies did not embrace GAO's legislative proposal to extend the Federal criminal code to all Federal lands. They were concerned that it might reduce

law enforcement assistance from local agencies. GAO does not agree. It believes the cooperative efforts would be strengthened. (See ch. 5.)

RECOMMENDATIONS TO HEADS
OF FEDERAL AGENCIES

GAO recommends that the Director of the Office of Management and Budget, in conjunction with the Secretaries of the Army, Agriculture, and the Interior, the Attorney General, and the General Manager of the Tennessee Valley Authority, develop and implement a program for visitor protection which has as its objective the protection of visitors and their property. The Government's program should:

- Delineate acceptable levels of law enforcement service to be made available to visitors.
- Establish visitor protection guidelines and standards for all the agencies to follow. These guidelines and standards should include the philosophy, objectives, and procedures for providing visitor protection.
- Establish information systems so that there will be essential and reliable information available to top management on the seriousness and extent of crime at national recreation areas. Such a system could serve as the basis for a program of supervision and control over visitor protection efforts.
- Develop procedures to promote competent recruiting, provide for adequate training, and assure proper equipping of all rangers assigned law enforcement duties.
- Develop guidelines and procedures to be followed when contracting with State and local law enforcement agencies for law enforcement services.

RECOMMENDATION TO THE CONGRESS

The Congress should enact legislation to untangle the legal and policy problems associated with law enforcement on visitor-oriented Federal lands. (See ch. 3 and p. 45.) Draft legislation to implement GAO's recommendations and explanatory comments is in appendixes III and IV.

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ABBREVIATIONS

| | |
|------|---------------------------------|
| BLM | Bureau of Land Management |
| FBI | Federal Bureau of Investigation |
| FS | Forest Service |
| FWS | Fish and Wildlife Service |
| GAO | General Accounting Office. |
| NPS | National Park Service |
| PSS | Public Safety Service |
| RCMP | Royal Canadian Mounted Police |
| TVA | Tennessee Valley Authority |

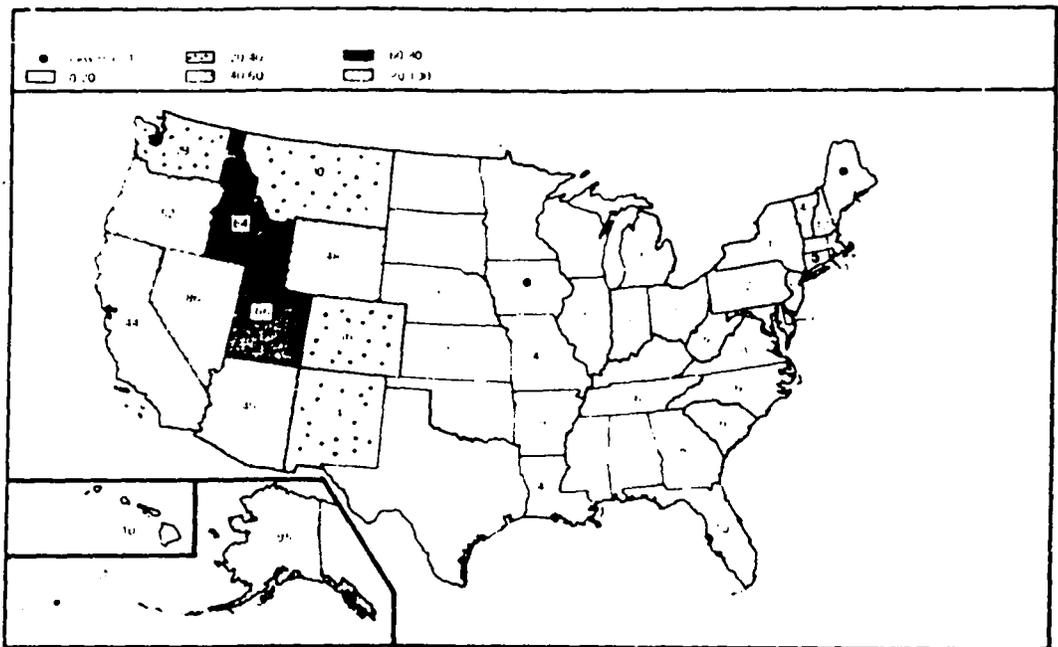
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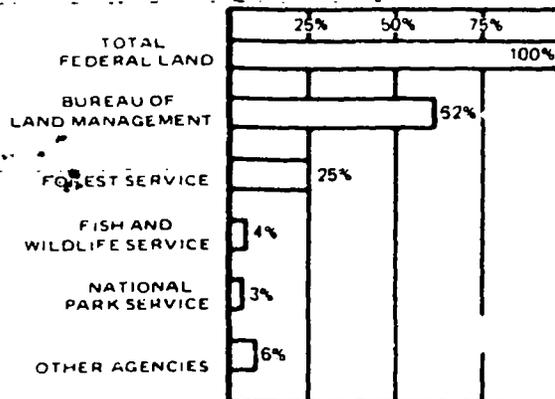
CHAPTER 1

INTRODUCTION

The Federal Government owns and administers over one-third of the Nation's 2.2 billion acres of land. The following map shows the distribution of federally owned lands as a percent of each State's acreage.



While the bulk of the Federal lands are administered by the Bureau of Land Management and the Forest Service, other agencies have similar administrative duties. The table at the top of the following page shows the amount of Federal lands administered by each agency.



In addition, although the primary mission of the National Park Service (NPS), Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), Forest Service (FS), Army Corps of Engineers, and Tennessee Valley Authority (TVA) is resource management, their lands also offer recreational opportunities. In 1975 over 958 million visits were made to Federal recreation areas administered by these six agencies. The following table shows the annual visitation rates between 1971 and 1975 for the six agencies which were included in our review.

| Agency | Calendar year | | | | |
|----------------------------|---------------------------|---------|---------|---------|---------|
| | 1971 | 1972 | 1973 | 1974 | 1975 |
| | ----- (000 omitted) ----- | | | | |
| National Park Service | 200,543 | 211,621 | 226,492 | 217,438 | 238,849 |
| Fish and Wildlife Service | 18,856 | 20,249 | 20,351 | 21,107 | (a) |
| Bureau of Land Management | 91,240 | 84,566 | 95,359 | 89,847 | 79,259 |
| Forest Service | 175,250 | 181,054 | 181,013 | 191,261 | 198,537 |
| Corps of Engineers | 310,000 | 330,593 | 344,000 | 352,000 | 376,000 |
| Tennessee Valley Authority | 57,628 | 60,294 | 61,262 | 61,859 | 65,612 |

a/FWS converted to fiscal year data collection in 1975. Therefore, calendar year visitation statistics were not available. Reported visitation for fiscal year 1975 was 24,121,000.

We reviewed law enforcement programs of the Federal agencies responsible for managing Federal recreation areas to determine how the agencies were protecting visitors. In addition, we sent questionnaires to 1,637 employees at 174 of the Nation's most frequently visited national forests, national parks, historical sites, lakes, refuges, etc. We also visited 24 recreation areas to observe how visitor protection services were provided and how law enforcement programs that had been established were being implemented. (Additional information on the scope of our review is included in ch. 6.)

CHAPTER 2

CRIMINAL ACTIVITY AT FEDERAL RECREATION AREAS

Most visitors to Federal recreation areas go there to have a relaxing experience, and do. Others, however, become victims of crimes such as burglary, assault, and sometimes even murder. With the number of visitors to Federal recreation areas continually increasing, the Federal agencies which administer these areas have a difficult situation to contend with. Various independent studies and agency studies verify that crime is a serious problem at national recreation areas. In addition, responses to our questionnaires surveying personnel performing law enforcement duties, statistics obtained from NPS, and information gathered from visits to recreation areas all confirm that criminal activity is a problem faced by employees.

INDEPENDENT AND AGENCY STUDIES

A 1970 study for NPS by the International Association of Chiefs of Police showed that some of the social unrest and antisocial behavior experienced in our larger urban centers had appeared in many of our national parks. The Association's report stated that an increased law enforcement burden had been placed on park rangers as a result of growth in public use of national parks and the growing tendency of many to disregard park regulations and the rights of others.

A 1971 BLM report on the California desert stated that valuable resource lands were being eroded by uncontrolled use, abuse, vandalism, and thefts and that visitor health and safety were being jeopardized.

In 1971 an FS report on its law enforcement organization discussed the law enforcement problems being experienced. The report stated that many visitors had been assaulted, had property stolen, or had otherwise been molested. The report further said that under Department of Agriculture regulations FS could prevent a visitor from playing his radio too loud but could take no action if one visitor harmed another or stole his property. In addition, the report concluded that more and more vandals, gangs of toughs, and careless visitors were destroying property, harassing others, and generally disregarding laws and regulations.

----- A 1974 study by Public Management Services, Inc., found that a significant level of criminal activity existed at many Corps of Engineers lakes. The cost of such crime was estimated at \$12 to \$17 million yearly.

A 1974 Department of the Interior task force found that drug abuse, robbery, assault, and vandalism were increasingly present on Interior-administered lands. The task force reported that law enforcement must be improved to meet the challenge created by the increasing crime.

In comments on a 1976 FWS report on law enforcement, the FWS Director recognized enforcement problems presented by his agency's land management activities. He pointed out that FWS personnel face problems similar to those experienced by such Federal personnel as park police and forest rangers.

CRIME AS PERCEIVED BY
SURVEY RESPONDENTS

To update information on unlawful activities occurring at Federal recreation areas, we sent questionnaires to 1,637 employees of the 6 agencies reviewed; 1,249 employees responded. For the purpose of our analysis, however, only responses from employees of five agencies were used. The questionnaires received from TVA were not used because TVA's Public Safety Service Branch provided its employees with supplemental instructions for completing the questionnaires. Since it appeared that these additional instructions affected the way TVA employees answered the questions, we eliminated their responses. ^{1/} This reduced the usable responses to 1,216.

^{1/}In commenting on the report, TVA stated that it has taken measures to insure that in the future our requests for information will be handled in strict accordance with the procedures we indicate. (See app. VI.)

According to 744 rangers (61 percent) crime was a moderate to very great problem at their recreation areas. On the other hand, 450 rangers (37 percent) stated that crime was little or no problem. 1/ Two percent of the rangers did not answer this question.

Observed and reported crime

Rangers were asked whether they had observed, been informed by visitors, and/or had cause to report crimes to law enforcement authorities. They were also asked to assess the extent to which certain crimes were a problem.

The following table shows the percent of respondents who had observed, been told about, and/or had reported crimes in the fall 1975 through summer 1976 season. For the purpose of this report, the following categories of offenses were used:

- Type I offenses include murder, rape, robbery, auto theft, larceny, burglary, and assault.
- Type II offenses include illicit possession of weapons, narcotic and drug violations, and gambling.
- Type III offenses are resource protection law violations.

| <u>Question</u> | <u>Percent of 1,216 respondents replying "yes"</u> | | |
|---|--|----------------|-----------------|
| | <u>Type I</u> | <u>Type II</u> | <u>Type III</u> |
| Have you observed these types of crimes being committed? | 21 | 53 | 75 |
| Have these types of crimes been reported to you? | 47 | 59 | 78 |
| Have you reported these types of crimes to law enforcement officials? | 45 | 51 | 55 |

1/When the term "ranger" is used, it is meant to include all recreation area employees surveyed by questionnaire: rangers, technicians, aides, agents, refuge managers, and assistant refuge managers.

The following table shows the number of instances in which the respondents said crimes were reported to them or by them during the same period.

| <u>Question</u> | <u>Estimated number of incidents reported by respondents</u> | | |
|---|--|----------------|-----------------|
| | <u>Type I</u> | <u>Type II</u> | <u>Type III</u> |
| Number of times these types of crimes were reported to you: | 7,538 | 16,295 | 34,501 |
| Number of crimes you reported to law enforcement officials | 6,255 | 12,596 | 20,018 |

These figures could be overstated to the extent that two or more rangers at the same location may have reported the same incident, or understated, because many crimes go unreported. Overall, however, we believe the figures show that any ranger assigned to law enforcement duty at any of the surveyed recreation areas could expect to be confronted with crime problems.

Respondents' assessment of crime problem

About 85 percent of the rangers we surveyed saw criminal activity as a problem.

We provided the rangers with a list of crimes which could occur at recreation areas and asked them to indicate how much of a problem each was at their particular areas. The following table shows, in order, the crimes which they reported most frequently as substantial to very great problems:

1. Vandalism of Government property
2. Destruction of natural and historic resources
3. Drunkenness and disorderly conduct
4. Game law violations
5. Drugs or narcotic violations
6. Vandalism of private property
7. Disturbing the peace
8. Unauthorized possession of weapons
9. Larceny
10. Boating violations

As shown below, Type I offenses were also considered a problem by some surveyed rangers.

Rangers Reporting Type I Crimes as
Moderate to Very Great Problems

| | <u>Number</u> | <u>Percent</u> |
|------------|---------------|----------------|
| Burglary | 458 | 38 |
| Larceny | 436 | 36 |
| Assault | 370 | 30 |
| Robbery | 298 | 25 |
| Auto theft | 216 | 18 |
| Rape | 76 | 6 |
| Murder | 48 | 4 |

NPS STATISTICS

Of the six agencies reviewed, only NPS accumulated nationwide statistics on criminal activity occurring on its lands. The schedule below shows NPS' reported statistics for Type I offenses between 1973 and 1975.

| | <u>Summary of offenses known</u> | | |
|------------|----------------------------------|-------------|-------------|
| | <u>1973</u> | <u>1974</u> | <u>1975</u> |
| Homicide | 6 | 4 | 8 |
| Rape | 15 | 28 | 22 |
| Robbery | 17 | 16 | 27 |
| Assault | 121 | 181 | 176 |
| Burglary | 718 | 927 | 893 |
| Larceny | 4,292 | 3,978 | 4,168 |
| Auto theft | 86 | 137 | 198 |

NPS also collects data on other types of offenses, such as fraud, narcotics violations, drunkenness, and vandalism. In 1975 over 24,000 of these other types of offenses were reported to NPS headquarters by the various parks.

VISITS TO NATIONAL
RECREATION AREAS

Since the other agencies did not compile statistics on serious criminal activity, we learned about criminal activity through our visits to their recreation areas. The following are examples of the types of criminal activity occurring on recreation lands we visited:

- Incident reports and discussions with BLM personnel in California revealed cases of murder and mutilation; illicit drugs dropped by aircraft for pickup; paramilitary activities; and property destruction. In addition, BLM reported 24 homicides, 18 drug overdoses, 7 deaths from unknown causes, and 9 suicides in the California desert alone during 1974.
- According to a Corps ranger at Allatoona Lake in Georgia, much of the crime problem, which includes theft, rape, and drug use, results from the nearby large urban center. Georgia State Crime Commission statistics showed a 110-percent increase in burglaries in Allatoona lakefront counties from 1972 to 1974.
- At Pisgah National Forest in North Carolina, most law enforcement incidents involved disturbances and larcenies. However, incidents of homicide and assault have occurred. In one case a State Wildlife Protector was killed while issuing a citation for possession of an undersized fish. An FS officer was also assaulted by four juveniles in a scuffle that was caused by their failure to obtain a permit to enter one of the Forest's Wilderness Areas.
- Increased criminal activity in the 1970s, according to Crab Orchard National Wildlife Refuge officials, has led to the establishment of an FWS police force at the refuge. In fiscal year 1975, Crab Orchard police reported 54 thefts, 1 rape, and 3 armed robbery cases to police agencies. Refuge personnel also investigated 75 other incidents.
- --Local law enforcement officers near TVA's Chickamauga Dam Reservation in Tennessee said that crime was a serious problem in that area. Public use areas and facilities around the lake attract many people, and crimes, including disorderly conduct, theft, and assault, have occurred.

CHAPTER 3

LIMITED STATUTORY ENFORCEMENT AUTHORITY AND INAPPLICABLE FEDERAL CRIMINAL STATUTES HINDER FEDERAL VISITOR PROTECTION SERVICES

Criminal activity is a problem which affects visitors and administering agencies alike. Because of increasing visitor misconduct, all agencies have expanded their resource protection programs to include visitor protection. However, agency efforts in this area are handicapped by a network of limited and differing statutory authorizations. None of the statutes authorized the administering agencies to enforce all Federal laws governing criminal activity. As a result, at some recreation areas agency employees exceeded their agencies' express statutory enforcement authority by providing visitors with police services. At other recreation areas agency employees did not become involved in law enforcement activities concerning the protection of visitors or their property.

Another problem at many recreation areas is that Federal laws prohibiting misconduct against visitors or their property do not apply. These laws include the Assimilative Crimes Act and the Federal statutes which define the crimes of arson, assault, destruction of property, maiming, murder, manslaughter, rape, receiving stolen property, robbery, and burglary. 1/ Such crimes fall under State law, and visitors must, therefore, rely on State and local law enforcement officials for assistance.

1/When the Federal criminal code has not specifically defined a particular crime, such as breach of the peace, the Assimilative Crimes Act adopts as Federal law for certain Federal lands the criminal code of the State where such land is situated. See 18 U.S.C. §§7, 81 (arson), 113 (assault), 114 (maiming), 661 (theft), 662 (receipt of stolen property), 1111 (murder), 1112 (manslaughter), 1113 (attempted murder or manslaughter), 1363 (destruction of property), 2031 (rape), 2032 (carnal knowledge of a female under 16), 2111 (robbery and burglary) (1970). See also Assimilative Crimes Act, 18 U.S.C. §§7, 13 (1970).

Recently, legislation relating to the enforcement powers of NPS and BLM was enacted. (See p. 25.) Although this legislation significantly expanded the authority of these agencies to furnish law enforcement services, it does little to improve their ability to provide visitor protection when no Federal visitor protection laws apply.

RECREATION AREA EMPLOYEES ENGAGED
IN LAW ENFORCEMENT ACTIVITIES NOT
EXPRESSLY AUTHORIZED BY FEDERAL
STATUTES

Many recreation area employees engaged in law enforcement activities not expressly authorized by their agencies' enforcement statute. 1/ These activities included carrying firearms for law enforcement purposes, making arrests for all types of criminal offenses, and conducting police operations as deputy sheriffs. These activities occurred because

- the agencies instructed employees to engage in them,
- the employees believed the powers could be implied from existing enforcement statutes, or
- action had to be taken against a growing crime problem.

Employees should be aware of several pitfalls when engaging in such activities.

- On much of the land administered by their agencies Federal laws prohibiting misconduct against visitors or their property do not apply.
- Many times when employees make arrests they do so as private citizens.
- When operating as deputy sheriffs, employees may run the risk of being found to have operated outside the

1/Appendix I contains a comparative statement of Federal enforcement statutes which were in force at the time of our review as well as those which were introduced in or enacted by the 94th Congress authorizing law enforcement operations on visitor-oriented Federal lands.

...scope of their employment should any suits arise or should they be injured.

ADMINISTERING AGENCY ENFORCEMENT
AUTHORITY IS LIMITED AND VARIED

We reviewed the enforcement statutes applicable during the 1976 summer season to NPS, FWS, BLM, FS, TVA, and the Corps of Engineers. Our basic finding was that the law enforcement tools (express statutory authority to arrest, investigate, obtain and execute warrants, and carry firearms) available to these agencies through the 1976 summer season were, without exception, inadequate to provide effective law enforcement services. 1/

The authorizing language of the agencies' statutes, unlike the enforcement statutes governing such agencies as the FBI, did not expressly permit agency personnel to carry firearms or make Federal felony and misdemeanor arrests for all Federal crimes. 2/ None had clear-cut statutory authority to enforce all Federal laws which prohibit misconduct against visitors or their property.

The statutory enforcement authority of the six administering agencies was not only limited in scope, but it also varied widely. For example, NPS and FS employees could enforce certain resource protection laws which relate to national parks and forests. Although the Congress has authorized these two agencies to arrest violators of these laws, it has not authorized the Corps of Engineers, even though the Corps has some of the same natural resources.

1/The Congress recently expanded the enforcement authority of NPS and BLM. These recent authorizations did not, however, govern NPS and BLM enforcement operations during the 1976 summer season. (See p. 25.)

2/Other Federal agencies which are also specifically authorized to carry firearms include the Defense Department, Bureau of Prisons, U.S. Marshals Service, Secret Service, Drug Enforcement Administration, State Department, Customs Service, Internal Revenue Service, General Services Administration, National Aeronautics and Space Administration, and Central Intelligence Agency.

The absence of express statutory authority has resulted in agency employees either enforcing only those laws and regulations clearly within their agency's enforcement jurisdiction or engaging in extensive enforcement activities not specifically authorized by their agencies' enforcement statutes.

Corps of Engineers

Corps rangers could issue citations for violations of regulations promulgated by the Secretary of the Army, arrest violators of regulations that relate to the collection of recreation fees, and arrest violators of certain laws pertaining to navigable waters. The Corps has strictly construed these enforcement authorizations and believes that general law enforcement is the responsibility of the FBI and State, county, and local enforcement agencies. Therefore, Corps policy does not permit rangers to carry firearms or engage in enforcement activities not expressly authorized by statute. However, some Corps rangers surveyed said they had made felony arrests for crimes against visitors or their property, and carried guns. In addition, some reported that they were deputy sheriffs.

BLM

BLM rangers were authorized to arrest violators of laws and regulations relating to the collection of recreation fees and the protection of wild horses and burros and certain natural resources. Like the Corps, BLM has strictly construed its enforcement authority and, as a general rule, did not permit its rangers to carry firearms (for law enforcement purposes) or engage in enforcement activities involving misconduct against visitors or their property. BLM's policy is to rely on other agencies to provide law enforcement services to visitors. However, we found that some BLM employees were carrying guns for law enforcement purposes and in some instances were deputy sheriffs.

TVA

TVA's employees lacked express statutory authority to carry firearms or conduct any law enforcement activity. However, TVA considers it the agency's responsibility to protect TVA resources and visitors to TVA land. Thus, TVA established an armed and uniformed force of Public Safety Service (PSS) officers to enforce both State and Federal criminal codes. Although PSS officers are considered employees of the United

States, many of these officers have also become city or county deputy sheriffs to conduct enforcement operations on Federal lands. The TVA Act, however, does not expressly authorize PSS officers to exercise the same powers as State sheriffs.

NPS

All NPS employees had statutory authority to enforce Federal laws and regulations relating to national forests and parks. Persons arrested for violating these laws and regulations had to be taken before a magistrate for trial. (A magistrate's trial jurisdiction is limited to misdemeanor cases.) Interior believes that a strict interpretation of this authorization would not permit NPS employees to make arrests for anything more than violations of misdemeanor laws and regulations that relate to the protection and management of the National Park System--much less permit the making of arrests for all Federal crimes. In this regard, the U.S. District Court for Wyoming recently ruled that arrest authority of NPS was limited to certain Federal misdemeanor offenses. According to the court, felony arrests made by NPS employees may be justified only on the basis of a private citizen's power to arrest for the crime involved. ^{1/}

Nevertheless, we found that many NPS rangers surveyed had made felony arrests for such crimes as murder, rape, larceny, and assault; carried guns for law enforcement purposes; and had procured at least one deputy sheriff's commission. These practices occurred because NPS, like TVA, considers visitor protection an NPS responsibility.

FWS

Except for enforcement activities directed toward enforcing FWS-issued regulations--which have some visitor protection aspects--Interior believes FWS relies on other law enforcement agencies for visitor protection. According to Interior, this policy evolved in part because the Congress has not authorized FWS to enforce "non-fish and wildlife resource protection-related crimes."

^{1/}United States v. Burns, Criminal No. CR-76-59B (D. Wyo., filed July 19, 1976) (NPS arrest authority under 16 U.S.C. 10 limited to misdemeanors). See p. 18 for a discussion of citizen's arrest powers.

We visited two FWS recreation areas. One had no employees involved in law enforcement and relied totally on other enforcement agencies for visitor protection services. The other FWS recreation area had four "police officers" who carried firearms and made arrests for felony and misdemeanor offenses involving misconduct against visitors and their property. Two of the "police officers" were also deputy sheriffs.

FS

Designated FS employees may "aid" States in the enforcement of their laws that relate to livestock, the prevention or detection of forest fires, and the protection of fish and game. Designated FS employees may also "aid" other Federal agencies, on request, in performing duties imposed on them by law. However, the statutes governing FS expressly authorize only the making of arrests for those violations of laws and regulations relating to the national forests which are triable by a U.S. magistrate (misdemeanor offenses).

The Department of Agriculture's position, however, is that certain FS employees "may conduct investigations, apprehend suspects, arrest persons in the act of [violating] Federal laws and regulations, and perform other enforcement activities." The Department also pointed out that FS employees carry weapons when necessary for self-protection and to protect others. Nevertheless, at five FS recreation areas visited, the prevailing practice was not to become involved in law enforcement activities concerning the protection of visitors and their property. Among the FS rangers surveyed, however, were some who said that they carried guns, were deputy sheriffs, and had made felony arrests involving misconduct against visitors or their property.

The following chart shows by agency the extent surveyed rangers carried guns, made arrests, or were deputy sheriffs during the fall 1975 through the summer 1976 recreation season.

| <u>Agency</u> | <u>Percent of rangers carrying guns</u> | <u>Percent who made arrests for</u> | | <u>Percent who were deputized</u> |
|---------------|---|---|---|---|
| | | <u>Type I offenses</u> | <u>Type II and III offenses</u> | |
| NPS | 81 | 20 | 39 | 23 |
| FWS | 80 | 6 | 15 | 24 |
| BLM | 8 | (a) | (a) | (a) |
| FS | 5 | 5 | 6 | 19 |
| Corps | 5 | (a) | (a) | (a) |

a/Less than 5 percent.

We surveyed over 1,600 rangers to ascertain what effect the presence of a gun had in confrontations and to determine their preferences for carrying a weapon. Of those responding

--534 said a gun's presence acted as a deterrent to crime;

--862 said a gun made it easier to handle serious situations such as making arrests;

--546 said having a gun made it easier to handle mild confrontations such as issuing warnings and citations;

--485 said they needed a gun to protect themselves from visitors; and

--438 said a gun was needed to protect visitors from other visitors.

Overall, 396 rangers (33 percent) responding to our questionnaire stated that they had guns available to them during their normal duty hours. Of these, 266 said they carried their guns at least half of the time when they went out on patrol, and 316 said they usually carried their guns when responding to calls for enforcement assistance.

Detrimental aspects of engaging in activities not expressly authorized by agency enforcement statutes

Merely issuing a firearm to a ranger or training him to perform law enforcement duties is not a sufficient basis for a ranger to assume that he can make arrests, use firearms, or become a deputy sheriff to enforce State laws.

Because the Congress may not have authorized him to make arrests for the crime involved, to carry or use weapons for law enforcement purposes, or to become a deputy sheriff,

- he may be acting outside the scope of his employment when he acts as a deputy sheriff;
- he may be acting as a private citizen when he makes felony arrests; and
- criminal activity for which he is making an arrest may not be a Federal offense.

Deputizations

Some Federal employees were using sheriff's deputizations to cope with criminal activity occurring on Federal land. The practice of Federal employees assuming the powers of a deputy sheriff presents a number of problems. For example, these employees wear uniforms identifying them as Federal--not State--employees, and in many States, these employees are subject to call by the sheriff, who may direct them to perform State policing functions beyond the geographical confines of Federal land.

In addition, the United States does not ordinarily enforce State laws. A limited express statutory exception to this general rule exists with respect to the enforcement authority of certain General Services Administration law enforcement officials and U.S. Marshals and their deputies. ^{1/} No similar express statutory authorizations exist for the

^{1/}While executing their Federal law enforcement responsibilities, these officials have express statutory authority to exercise the same powers as are exercised by sheriffs under State law.

administering agencies. This is not to imply, however, that arrests made by agency employees acting in their capacity as deputy sheriffs are invalid. The validity of such arrests is a matter appropriate for resolution under State and local laws governing the enforcement powers of deputy sheriffs.

When rangers take enforcement actions in a deputy sheriff's capacity, the question arises whether such employees would be found to be operating within the scope of their Federal employment, because no Federal statute specifically recognizes the propriety of Federal employees becoming deputy sheriffs. An unfavorable finding on this--whether the employee was within the scope of his/her Federal employment while acting as a deputy sheriff--would almost certainly mean that the employee involved would lack full entitlements under the Federal Employees Compensation Act in the event of injury or death and would lack protection under the Federal Tort Claims Act in the event of a false arrest suit.

In addition, Federal employees holding deputy sheriff's commissions can usually arrest for State crimes such as homicide, rape, and grand larceny, even though the Congress has not authorized them to arrest for similar offenses under the Federal criminal code. As a result, when employees obtain their enforcement powers from local sheriffs, these powers could be far greater than any expressly granted by the Congress.

Arrests and firearms

Generally, Federal law enforcement statutes conferring the power to arrest are narrowly construed. In interpreting enforcement statutes applicable to Federal employees, courts have required express statutory authority with respect to the Federal crimes for which the employees may make arrests. They have done so to guard against abuses of Federal police power and because of the Congress' role in distributing that power. The courts, therefore, have generally declined to create Federal police powers in the absence of specific statutory authority or to broaden an agency's statutory enforce-

ment authority by resorting to inference, implication, or by the presence of statutory obliqueness and ambiguity. 1/

When not expressly authorized to do so by statute, Federal officers usually have no greater power to make arrests than a private citizen. The right to make a citizen's arrest for a misdemeanor is generally confined to misdemeanors committed in the presence of the person making the arrest and is further restricted, in the absence of a State's citizen's arrest statute to the contrary, to misdemeanors involving a breach of the peace. However, if there exists express statutory authority, a Federal enforcement officer may arrest without warrant for any misdemeanor committed in his presence.

A Federal enforcement officer, if there exists appropriate statutory authority, may make a felony arrest without warrant when he has reasonable grounds to believe that a Federal felony has been committed. In the case of a citizen's arrest for a felony, however, the defense of an individual must ordinarily rest upon proof both of the actual commission of the felony and the existence of reasonable grounds for believing that the person arrested was the one who committed it. If no felony has been committed, a citizen's arrest without warrant may be invalid and may give rise to an action for damages, even though a police officer, acting under appropriate express statutory authority, might have been justified in making an arrest under similar circumstances. Moreover, the validity of a citizen's arrest is generally determined by the law of the State where the arrest took place.

1/See in this regard Alexander v. United States, 390 F. 2d 101 (5th Cir. 1968); United States v. Diamond, 471 F. 2d 771 (9th Cir. 1973); United States v. Bell, 294 F. Supp. 1314 (N.D. Ill. 1968); United States v. Moderacki, 280 F. Supp. 633 (D. Del. 1968); Garland v. Brown, 52 F. Supp. 401 (N.D. Tex. 1943); United States v. Jackson, 423 F. 2d 506 (9th Cir. 1970).

~~The enforcement statutes of the agencies administering~~ Federal lands were not modeled in the image of the statutes defining the powers of the FBI, U.S. Marshals Service, and Secret Service. 1/ Clearly, the statutes applicable to the FBI, U.S. Marshals Service, and Secret Service include the authority to carry firearms and enforce all Federal laws governing the conduct of visitors.

A comparison of the latter authorizations with the statutes which governed NPS, TVA, FWS, BLM, FS, and the Corps showed that the enforcement authorizations applicable to the administering agencies could not clearly be said to have included the right to carry firearms for law enforcement purposes or the authority to enforce all Federal laws governing the conduct of visitors.

Overall, the statutory enforcement authority of the administering agencies was limited, where it existed, to making arrests for the violation of Federal misdemeanor laws relating to national parks and forests and laws relating to fish, wildlife, and natural resources, plus enforcing certain agency regulations. 2/ To conclude otherwise implies that the Congress expressly limited and defined the enforcement powers of agencies such as the FBI, but inferentially gave the administering agencies "carte blanche" enforcement powers on the lands they administer.

Broad law enforcement authority, in our view, should not be inferred from the fact that an agency administers land or from the fact that an agency may be governed by

1/Certain officers of the FBI, U.S. Marshals Service, and Secret Service have express statutory authority to carry firearms and make arrests for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

2/Certain administering agency employees are authorized to enforce recreation area regulations. Each administering agency and, in some cases, each recreation area, has issued its own rules and regulations treating the same types of conduct differently.

an ambiguously worded enforcement statute. We believe case law narrowly construing enforcement statutes and the existence of other Federal law enforcement statutes which are far more explicit than those that applied to the administering agencies support this view. We were therefore unable to conclude that any of the administering agencies had a sufficient Federal statutory basis for enforcing all Federal laws governing the conduct of visitors.

AT MANY RECREATION AREAS CRIMINAL
ACTIVITY AGAINST VISITORS OR THEIR
PROPERTY IS NOT A FEDERAL CRIME

The tools of law enforcement (statutory authority to arrest, carry firearms, etc.) available to the administering agencies were inadequate to enforce all Federal laws governing the conduct of visitors. Even if the Congress made these tools available to the administering agencies, their effective use would hinge on applicable Federal visitor protection laws to enforce. As previously stated, visitor protection laws include Federal statutes defining certain crimes and the Assimilative Crimes Act. 1/

Presently, however, neither the Federal laws which prohibit misconduct against visitors or their property nor the Assimilative Crimes Act apply to many of the Government's recreation areas. For example, at places such as the Grand Canyon, misconduct against visitors or their property is not a Federal crime. Visitors must, therefore, rely on State and local officials since visitor misconduct on such lands falls only under State law. In addition, enforcement efforts are affected by the local enforcement agencies' willingness and ability to respond to reported criminal activity occurring on Federal land. Many rangers surveyed and local officials interviewed stated that local agencies were limited in their ability to become involved with enforcement needs at Federal recreation areas. The local agencies' limited involvement was due in part to a shortage of resources and the fact that their primary responsibility was to handle their own communities' law enforcement problems. Other rangers pointed out that often local agencies which could respond to requests for law enforcement assistance were located several hours away.

1/See footnote, p. 10.

The inapplicability of Federal visitor-protection laws is due in part to the three different jurisdictional statuses in which Federal land may be held: exclusive legislative jurisdiction, concurrent legislative jurisdiction, and proprietary interest only. In 1957, the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas within the States undertook to clarify the meaning of these terms. 1/ A summary of its effort follows.

The term "exclusive legislative jurisdiction" refers to situations in which the Federal Government has, with certain minor exceptions, received all of the State's authority over the land. This type of jurisdiction may result from a reservation of jurisdiction by the United States, a cession of jurisdiction by a State, or by operation of Article I, section 8, clause 17 of the U.S. Constitution. 2/

The term "concurrent legislative jurisdiction" refers to situations in which a State has received or retained the right to exercise, concurrently with the Federal Government, authority over the land involved. This type of jurisdiction may result from either a retrocession of exclusive jurisdiction or a reservation of jurisdiction by the United States, or a cession of jurisdiction by a State.

The term "proprietary interest only" refers to situations in which the Federal Government has acquired title to land within a State but has not received any measure of the State's authority over the area. This does not mean that the United States holds proprietary land in the same way as a private landholder. To the contrary, the Congress

1/Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States, Jurisdiction over Federal Areas Within the States, A Text of the Law of Legislative Jurisdiction, Part II at 10-13 (1957).

2/"The Congress shall have power * * * to exercise exclusive Legislation * * * over such District * * * as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-yards, and other needful Buildings."

possesses broad constitutional authority to make rules and regulations for all public lands regardless of whatever derivative legislative powers may have been granted the Federal Government when a State ceded title to the land. This is true regardless of the jurisdictional status in which the land is held. ^{1/}

Where do Federal visitor protection laws apply?

Areas over which the Federal Government has acquired exclusive jurisdiction are subject to the entire Federal criminal code. Generally, States can neither define crimes nor punish for crimes committed on such land because misconduct on such land falls only under the Federal criminal code. Since Federal, not State, offenses are involved, Federal law enforcement officers, acting under appropriate statutory authority, may make arrests for crimes committed on this land.

On Federal lands held in a concurrent status, the criminal codes of the Federal Government and the State apply and enforcement officers of each, acting under appropriate statutory authority, may make arrests for offenses falling under their respective criminal codes.

Therefore, when persons engage in misconduct on lands over which the United States has exclusive or concurrent jurisdiction, authorized Federal officers may enforce all Federal laws governing visitor conduct because the Federal

^{1/}The Property Clause of the Constitution provides that "Congress shall have Power to make all needful Rules and Regulations respecting the territory or other Property belonging to the United States." (U.S. Const. Art. IV §3, cl. 2.) And Article I, section 8, clause 18 of the Constitution provides that "The Congress shall have power * * * to make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officers thereof." See Kleppe v. New Mexico, 426 U.S. 529 (1976). (The presence or absence of exclusive or concurrent jurisdiction has nothing to do with the Congress' powers under the Property Clause.)

criminal code, including those Federal criminal statutes prohibiting misconduct against visitors or their property, is fully applicable.

Much of the Government's land, however, is held in a proprietary status and, under present law, the Federal statutes that directly criminalize misconduct against visitors or their property do not usually apply to proprietary lands. The Assimilative Crimes Act also does not currently apply to proprietary lands. On proprietary lands, misconduct against visitors and their property is generally not a Federal crime but, instead, is a crime only under the governing State criminal code. ^{1/}

On lands held proprietorially, therefore, the enforcement of laws prohibiting misconduct against visitors or their property is usually dependent upon State or local police forces and their willingness and ability to respond to criminal activity. Federal financial assistance might insure that States and localities would be better able to furnish law enforcement services on these lands. However, this is not an answer to the circumstance in which, in the absence of State or local police, immediate effective law enforcement measures are necessary to combat serious criminal activity against visitors.

A further complication is that the boundaries of jurisdictional areas may not be readily defined. This may, as shown below, confuse or even hamper law enforcement since an enforcement officer would have to be knowledgeable of both the jurisdictions and their boundaries in order to determine which laws were applicable and enforceable. Some recreation areas, like the Blue Ridge Parkway and Colonial National Historical Park, are composed of parcels of land held in each jurisdictional status. Comments from rangers surveyed at these two areas indicate how these mixed jurisdictions can affect law enforcement services. For example, one Blue Ridge Parkway ranger stated that the overlapping jurisdictions caused confusion for both NPS employees and visitors alike.

^{1/}In contrast, most Federal criminal laws regarding fish, wildlife, and resource protection apply to all Federal land without regard to the jurisdictional status in which the land is held, and certain acts or omissions may constitute a Federal offense if they occur anywhere in the United States (for example, mail fraud, sabotage).

The ranger went on to point out that conflicting jurisdictions cut down on the overall effectiveness of law enforcement services provided visitors since they had to rely on NPS rangers to enforce some regulations, such as traffic regulations, and the county police to handle criminal cases.

An NPS ranger at Colonial National Historical Park commented that the present system of jurisdictions is at best ridiculous. He said it practically requires being a lawyer to understand all of the ramifications of the various jurisdictions and their respective boundaries.

In our opinion, providing effective law enforcement services on visitor-oriented Federal land depends largely on the scope of the administering agency's statutory enforcement authority and upon the applicability of enforceable Federal laws. One way to insure the applicability of all Federal laws governing visitor conduct without divest the State of its authority to enforce the State's criminal code is to acquire concurrent jurisdiction where practical. All Federal criminal statutes and the Assimilative Crimes Act would then apply. ^{1/}

Where acquiring concurrent jurisdiction is impractical, these Federal laws using the property clause of the Constitution as a basis could be made applicable to lands held in a proprietorial status. This action would give Federal officials a Federal law to enforce when confronted with misconduct against visitors or their property. Since State criminal laws also apply to proprietorial lands, State and local enforcement officers could continue to enforce the State's criminal code. However, because Federal laws would prohibit visitor misconduct against other visitors, Federal officers would not have to become deputy sheriffs to combat visitor misconduct.

RECENT ENFORCEMENT AUTHORIZATIONS--
A STEP IN THE RIGHT DIRECTION

During our review, bills pertinent to the enforcement authority of NPS, FWS, BLM, and the Corps were introduced in the Congress. Each was referred to a different committee or subcommittee, each applied to a particular agency or bureau,

^{1/}See footnote p. 10.

and each advocated a different approach to providing law enforcement. We advised the committees considering the bills that the administration of law enforcement on Federal lands was not uniform. In addition, we suggested changes in the bills to improve the six agencies' ability to furnish law enforcement services to visitors.

Legislation relating to the enforcement powers of NPS and BLM was enacted. This legislation significantly expanded the agencies' authority to furnish enforcement services on Federal land. However, the two agencies received differing amounts of enforcement authority and adopted differing approaches to law enforcement on agency lands.

Public Law 94-458 authorizes the Secretary of the Interior to designate any Interior employee to carry firearms and make warrantless arrests for all Federal crimes committed on National Park System lands. These employees can, under certain circumstances, conduct criminal investigations and execute warrants anywhere in the United States. Moreover, the Secretary of the Interior is authorized to appoint State and local officials as "special policemen" with all the powers and immunities of Federal enforcement officers. On NPS lands held in an exclusive or concurrent status, these special policemen could enforce the entire Federal criminal code and make arrests thereunder.

Public Law 94-579 authorizes the Secretary of the Interior to appoint "Federal personnel or appropriate local officials" to carry firearms and enforce laws and regulations "relating to the public lands or their resources." To enforce these laws and regulations, the appointed local or Federal officials are authorized to make Federal misdemeanor and felony arrests. It is unclear, however, whether this act was intended to authorize arrests for such crimes as homicide and rape because the statutes which criminalize such conduct have no special reference to "public lands or their resources." In addition, the act contains no provision giving BLM any express investigative authority. This contrasts sharply with the authorization given NPS.

BLM's act also authorizes the Secretary to contract with local police departments to furnish law enforcement services on BLM-administered lands. In performing such contracts, "local officials and their agents" are authorized to enforce certain Federal laws--relating to public lands or their resources--and may be reimbursed for enforcement activities

"which assist in the administration and regulation of the use and occupancy of the BLM's public lands."

Neither act, however, specifically addresses what NPS and BLM could do if State and local police are not available when non-Federal felonious activity occurs, such as visitor misconduct against other visitors on proprietorial lands. We believe the Congress should correct this shortcoming because the new authorizations do little to improve the ability of NPS and BLM to provide visitor protection services where no Federal visitor protection laws are in force.

HOW THE CANADIAN GOVERNMENT
PROVIDES VISITOR PROTECTION
SERVICES AT ITS NATIONAL PARKS

In Canadian National Parks, Parks Canada wardens are the law enforcement officials. The wardens have all the powers of police constables, which obviates the need for wardens to try to obtain law enforcement authority from local sources.

Wardens are not armed, although by law they are authorized to carry weapons. Since the wardens' main role is to inform visitors about the rules and regulations relating to the park, they limit their law enforcement activities to issuing citations to visitors who repeatedly or willfully violate park regulations. As a result, wardens do not usually become involved in cases of visitor misconduct against the person or property of other visitors. Also, the Royal Canadian Mounted Police (RCMP) is normally readily available. ^{1/} The Government recognizes, however, that there will be occasions when park wardens should use their broad police power to take direct action when the RCMP is not available.

In addition to establishing recreation area rules and regulations, the Canadian Federal Criminal Code covers all types of criminal activity and applies to all recreation lands. This practice results in more uniform rules and regulations than those established for U.S. recreation areas. The specific rules and regulations governing national

^{1/}The RCMP is the sole police operation in the Canadian North. It is the police force in all provinces except Ontario and Quebec. RCMPs are responsible for enforcing all Federal legislation throughout Canada. (See app. II.)

recreation areas in Canada are not always identical; differences can exist because of an area's unique topography or resources.

By contrast, U.S. national recreation areas are administered by several agencies. Each perceives its enforcement duties differently, each approaches law enforcement administration differently, each has a different amount of enforcement authority and, during our review, each lacked statutory authority to enforce all laws governing the conduct of visitors. In addition, each administering agency issued its own rules and regulations. As a result, visitors to national recreation areas were subject to at least six sets of regulations which treated the same types of conduct differently. This situation was made even more perplexing by the fact that Federal laws criminalizing misconduct against visitors or their property apply to some national recreation areas but not to others.

CONCLUSIONS

Law enforcement on Federal lands is handicapped by a network of limited and differing statutory enforcement authorizations, none of which authorize the administering agencies to enforce all laws governing the conduct of visitors. In addition, Federal laws prohibiting misconduct against visitors or their property apply only to some Federal recreation areas.

Providing effective law enforcement services on visitor-oriented Federal land depends largely on the scope of the administering agency's statutory enforcement authority and upon the existence of applicable Federal laws to enforce. Further, the exercise of enforcement power by Federal employees, whether undertaken in connection with the enforcement of State or Federal laws, should be predicated on the existence of express Federal statutory authority.

Broad law enforcement authority, in our view, should not be inferred from the fact that an agency administers land or from the fact that an agency may be governed by an ambiguously worded enforcement statute. We believe case law narrowly construing enforcement statutes and the existence of other Federal law enforcement statutes which are far more explicit than those which applied to the administering agencies support this view. We were therefore unable to conclude that any of the administering agencies had a sufficient Federal statutory basis for enforcing all Federal laws governing the conduct of visitors.

One way to insure the applicability of Federal laws without divesting the State of its authority to enforce its own criminal code is to acquire concurrent jurisdiction where practical. All Federal criminal statutes and the Assimilative Crimes Act would then apply.

Where acquiring concurrent jurisdiction is impractical, the Congress may wish to consider making Federal laws applicable to lands held in a proprietorial status. This action would give Federal enforcement officials a Federal law to enforce when confronted with misconduct against visitors or their property. Since State penal laws also apply to proprietorial lands, State and local enforcement officers could continue to enforce the State's criminal code. But because Federal laws would prohibit visitor misconduct against other visitors, authorized Federal officers would be able to combat visitor misconduct without becoming deputy sheriffs.

RECOMMENDATION TO THE CONGRESS

To achieve a comprehensive and uniform approach to the legal and policy problems associated with law enforcement on visitor-oriented Federal lands, we recommend that the Congress enact legislation:

- Authorizing the Secretaries of the Interior, Agriculture, and the Army and the Board of Directors, Tennessee Valley Authority, to designate employees to maintain law and order and protect persons and property on Federal lands.
- Authorizing designated administering agency law enforcement officials to carry firearms.
- Authorizing designated administering agency law enforcement officials to secure any Federal order, warrant, subpoena, or other Federal process and to execute and serve such process on persons located on Federal land or on persons in contiguous areas in cases involving flight to avoid service.
- Authorizing designated administering agency law enforcement officials to conduct investigations of Federal offenses committed on Federal land in the absence of investigation by any other Federal law

enforcement agency having investigative jurisdiction over the offense or with the concurrence of such other agency. Unless the administering agency has primary investigative jurisdiction over the offense, administering agency investigations should be conducted only on Federal land and in cases related to arrests or serving process on contiguous areas.

--Authorizing designated administering agency law enforcement officials to make warrantless arrests for any Federal offense committed in their presence or for any Federal felony if the officials have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Unless otherwise expressly provided by statute, allowable geographical areas for administering agency employees to make arrests should be limited to Federal land and, in cases of hot pursuit, to contiguous areas.

--Applying the Federal criminal statutes that define the crimes of arson, assault, maiming, murder, manslaughter, rape, carnal knowledge, robbery, receipt of stolen property, destruction of property, theft, and burglary, and the Assimilative Crimes Act to all Federal land administered by the National Park Service, Bureau of Land Management, Fish and Wildlife Service of the Department of Interior, Forest Service of the Department of Agriculture, U.S. Army Corps of Engineers, and Tennessee Valley Authority.

--Authorizing the Secretaries and the Board of Directors of TVA, where practical, to make arrangements with States to place administering agency land in a concurrent jurisdictional status.

Draft legislation and explanatory comments are included in appendixes III and IV.

AGENCY COMMENTS AND OUR EVALUATION

Agency reactions to our legislative proposals for improving the situation were mixed. Most of the agencies did not embrace our legislative proposal to extend the Federal criminal code to all Federal lands. They were concerned that it might reduce law enforcement assistance from local agencies. We do not agree. We believe the cooperative efforts would be strengthened. (A detailed discussion of agency comments is in ch. 5.)

CHAPTER 4

IMPROVED PROGRAMS AND FEDERAL POLICY

NECESSARY FOR ADEQUATE AND CONSISTENT

VISITOR PROTECTION

The Federal Government needs to improve several aspects of its visitor protection programs if visitors are to receive adequate law enforcement service on Federal lands. The Government must:

- Upgrade its program monitoring and evaluation so it can better assess visitor protection needs and allocate law enforcement resources to recreation areas.
- Insure that personnel assigned law enforcement duties are properly trained.
- Insure that law enforcement activities of Federal, State, and local law enforcement agencies which share law enforcement responsibilities at Federal areas are coordinated.
- Establish standards and controls over non-Federal police agencies hired to provide law enforcement services.

To guide agencies in implementing visitor protection programs and to correct the above shortcomings, a Federal policy on visitor protection is needed. Such a policy would assure that visitors to all recreation areas receive the same quality of law enforcement service.

LACK OF MONITORING ENCOURAGES
PROGRAM INCONSISTENCIES

Accurate and timely data which could be used to monitor visitor protection programs or to allocate resources to law enforcement needs is generally unavailable. Only NPS and the Corps have established reporting systems. FWS, BLM, FS, and TVA do not centrally collect information on crime occurring at their recreation areas. The absence of this data has made it difficult for headquarters, district management, and law enforcement employees to determine (1) the level and seriousness of crime, (2) if recreation areas were implementing headquarters guidelines, and (3) the effectiveness of efforts to reduce criminal activity.

In 1973 NPS established a uniform crime reporting system designed to help management quantify law enforcement activity and assess the impact of enforcement policies. However, NPS headquarters officials believe that because of the system's design and reporting inconsistencies on the part of park officials, these objectives cannot be met.

According to NPS officials, reports of all incidents occurring in national park areas must be sent to NPS headquarters for tabulation. Some parks, however, do not report criminal acts, fearing such information might reflect negatively upon the park's operation. Other parks do not forward crime data on a timely and consistent basis, resulting in distorted monthly and quarterly outputs of crime information. For example, crimes occurring in any month, if not forwarded to headquarters by the 10th day of the following month, will not be recorded until the end-of-year tabulations. Additionally, NPS officials stated that available information is only raw data and can only minimally assist them in reviewing NPS law enforcement efforts.

The Corps of Engineers has two primary channels of information for law enforcement records--the Provost Marshal incident reporting system and the Recreation Resource Management System, an annual data collection system managed by the Recreation Resource Branch.

Although both systems purport to reflect the number of warnings and citations issued by Corps rangers, the reports prepared often vary significantly. In addition, overall Corps crime statistics understate the actual level of crime at Corps projects because:

- Visitors cannot easily report incidents to Corps rangers due to a lack of readily accessible communications equipment.
- No comprehensive crime reporting system exists, which includes incidents reported to State or local enforcement agencies.
- The Recreation Resource Management System compiles crime data only from projects with annual recreation attendance of over 5,000 recreation days.

Since both types of reports are of little help in correctly assessing the requirements of law enforcement programs, Corps officials make little use of them.

Because the agencies do not adequately monitor how their agency visitor protection policies are being implemented, many differing practices and procedures have been established at recreation areas. For example, Yosemite National Park established a law enforcement office which issues directives to rangers and has a definitive role in managing the park and its more than 2-million-plus visitors a year. In contrast, Lake Mead National Recreation Area, also administered by NPS, had no centralized law enforcement effort and rangers there relied to a great extent on their own discretion when engaged in visitor protection. In addition, we believe that many rangers involved in law enforcement activities may not be following agency guidelines. For example, 378 respondents (31 percent) stated that they were not provided written guidance concerning their law enforcement duties and responsibilities. Of those who received written guidance, 433 considered the guidance less than adequate. Thus, as many as two-thirds of the respondents may not have been providing the type of law enforcement service headquarters had intended.

UNTRAINED OR marginally
TRAINED RANGERS ENGAGING
IN LAW ENFORCEMENT ACTIVITIES

The seriousness of criminal activity which occurs at recreation areas underscores the need to train rangers to deal with a wide variety of law enforcement situations. No agency, however, requires that employees be trained before being assigned law enforcement duties, although one agency has established training standards. In addition, none of the agencies maintain records at the headquarters level relating to the type and amount of training employees receive. As a result, the amount of formal Federal law enforcement training which employees receive from their agencies varies greatly--from none to over 400 hours.

Our review revealed the following variances in agency training activities:

- NPS made available an average of 400 hours of training at the Federal Law Enforcement Training Center, Brunswick, Georgia. However, rangers assigned law enforcement duties were not required to attend.
- FWS required no training for refuge employees who performed law enforcement duties. The agency is now considering requiring all refuge employees assigned law enforcement duties to attend a 100-hour program to be held at the Brunswick Center.

--BLM did not require any type of law enforcement training for its field employees.

--TVA required its Public Safety Service officers to attend a 120-hour basic law enforcement course. However, enforcement personnel employed at the Land Between the Lakes recreation area were not required to attend.

--The Corps of Engineers required only that its rangers given citation authority attend an appropriate orientation/instruction course on citation procedures. On the average, this amounted to about 15 hours of classroom instruction.

--FS has established minimum training standards which its employees assigned law enforcement duties should meet. For example, all employees authorized to issue violation notices should receive 24 hours of training, and forest supervisors and selected regional office staff should receive a 24-hour course on their authorities, responsibilities, and enforcement obligations. However, FS had not established any uniform training programs. Instead, each regional office had been instructed to develop and implement its own programs.

In addition to permanent rangers, all agencies except TVA relied on seasonal and less-than-full-time employees to provide some law enforcement services. Of the NPS and FS rangers surveyed, 352 (40 percent) were less-than-full-time employees. Less than 10 percent of the FWS, BLM, and Corps rangers responded that they were seasonal or less-than-full-time employees. These "seasonals" were given the same law enforcement duties and responsibilities as permanent rangers, and in some cases were issued firearms.

The seasonals surveyed were just as likely to make arrests as were the permanent rangers but had not been trained to the same extent. Seasonals were more likely to have attended training programs, although the content and amount of training they received were less than that of permanent rangers. For example, most seasonals received only 1 to 2 weeks training each year in all aspects of their job, including law enforcement. The following examples best summarize the comments we received from surveyed rangers regarding the training that seasonals receive. One NPS ranger stated:

"Most seasonals only receive 40 hours of training and of that about one-half is related to law enforcement. This is grossly inadequate and puts both the ranger and park visitor in a dangerous situation."

An FS ranger commented:

"As a rule, during the summer the bulk of the law enforcement is done by college students with 24 hours of training. This training is not sufficient to properly prepare them for the bad situations they are likely to encounter. With the meager training sooner or later someone is going to be seriously injured or killed."

Overall, about 26 percent of the 1,216 rangers responding said they had not received any Federal law enforcement training. In addition, many of the rangers who said they had been trained indicated the training had not covered such activities as

--arrest procedures, even though many had made arrests,
or

--the use of firearms, even though many carried guns.

The following table shows the number of respondents who had not received Federal training in these as well as other basic law enforcement functions.

| <u>Training</u> | <u>Respondents who had no Federal training</u> | |
|--------------------------|--|----------------|
| | <u>Number</u> | <u>Percent</u> |
| Firearms | 837 | 69 |
| Crime prevention | 793 | 65 |
| Drug enforcement | 776 | 64 |
| Search and seizure | 639 | 53 |
| Arrest procedures | 621 | 51 |
| Investigative techniques | 552 | 45 |

In our opinion, personnel who use weapons or who attempt to make arrests without proper training run an excessive risk of injury or death, of having legal action brought against themselves and/or the Government, or of having the case jeopardized as a result of errors caused by a lack of training.

When we analyzed the questionnaires for the 396 rangers who said they had a gun available to them during their normal

duty hours, we found that 197 had reported that they had received little or no Federal training in the use of firearms. In addition, we analyzed the questionnaires for rangers who said they had drawn and/or fired their weapon and, as shown in the chart below, found that many of these individuals had received little or no training.

| | <u>Number of respondents</u> | <u>Percent of respondents who had little or no Federal training</u> |
|----------------------------|--------------------------------------|---|
| Drew--warning to stop | 23 | 48 |
| Fired--warning to stop | 4 | 50 |
| Drew--issuing citation | 7 | 43 |
| Fired--issuing citation | 2 | - |
| Drew--making arrest | 69 | 30 |
| Fired--making arrest | 4 | 25 |
| Drew--crime in progress | 66 | 27 |
| Fired--crime in progress | 6 | 33 |
| Drew--investigating crime | 97 | 31 |
| Fired--investigating crime | 6 | 50 |

As shown above, lack of training did not prevent the rangers in our survey from having access to a weapon, carrying it, or using it.

CONTRACTING FOR LAW ENFORCEMENT--
CONTROLS AND UNIFORMITY NEEDED

Four of the agencies--FS, NPS, BLM, and the Corps of Engineers--are authorized to contract with State and local enforcement agencies for visitor protection services. Three of the agencies had recently received this authority and therefore had not established any contracting guidelines at the time of our review. However, in 1971, FS was authorized to enter into cooperative agreements with State and local agencies for law enforcement services in national forests. The law authorizes FS to reimburse State and local agencies "for expenditures incurred in connection with activities on national forest system lands." During fiscal year 1976, FS had 365 cooperative agreements involving about \$3.7 million with law enforcement agencies.

FS policy is to use the cooperative agreement program to the fullest extent possible, but it has not established contracting procedures for FS personnel to use or controls over local law enforcement agencies with which it contracts. Instead FS has delegated to its forest supervisors full responsibility for initiating, negotiating, and monitoring all law enforcement contracts. This has been done, according to the headquarters official responsible for monitoring the FS law enforcement activities, because FS believes

- its people can be relied on to use good judgment when negotiating contracts,
- its people can be relied on to monitor contracts to insure compliance without headquarters supervision, and
- headquarters has no authority to establish national criteria which local sheriffs or their deputies must meet regarding their training or capabilities.

The Department of Agriculture has stated that it is generally pleased with its cooperative law enforcement program and believes that relatively few law enforcement problems have arisen since the program's inception. The Department's view is that the cooperative program has produced a more unified approach to law enforcement in the national forests. Further, it believes that its willingness to help local agencies finance their added law enforcement burden of protecting forest users has fostered a degree of cooperation comparatively greater than the amount of dollars spent.

These views are not shared by FS rangers. FS rangers surveyed pointed out many weaknesses in the cooperative program. We were told, for example, that:

- FS was being forced to pay for local law enforcement services which were previously provided free by local sheriffs.
- Holding local enforcement officers accountable to the terms of the contract was difficult.
- Not enough funds were available to allow FS to utilize local law enforcement agencies to the fullest extent possible.
- The level and quality of service varied as new sheriffs were elected or new police chiefs appointed.

--The need to make contractual arrangements with more than one agency in situations in which forests border several jurisdictions resulted in inconsistent levels of law enforcement within the forests.

In addition, we found that gaps in visitor protection occur when FS districts cannot get local agencies to participate. One national forest, for instance, has been unsuccessful in securing cooperative agreements with 4 of the 12 counties bordering the forest. As a result, when incidents such as shootings, knifings, rapes, or larcenies occur on forest land in these counties, the violators usually escape because forest employees have been instructed to rely on local agencies for enforcement actions.

Although the cooperative efforts of FS may be working as intended, we were unable to verify this fact due to administrative weaknesses at the forests visited, such as the lack of itemized bills and/or records on the type and amount of services to be provided.

The shortcomings faced by the FS recreation areas may be present elsewhere, since the Corps of Engineers, NPS, and BLM have also been authorized to use State and local agencies to provide law enforcement service.

An analysis of the recent authorizations revealed several shortcomings. For example:

- The Corps was given the authority to contract for increased law enforcement services, but which statutes or which Federal, State, or agency regulations the hired local officials could enforce are not clear. In addition, the act made no provision as to what degree of training local officials would be required to have.
- NPS is now allowed to use local officials appointed as special policemen by the Secretary of the Interior to enforce the Federal criminal code. When hired as special policemen, these local officials receive all the powers and immunities of NPS enforcement officers. The act makes no provision, however, for the type or amount of training the special policemen are to have or if they will be expected to enforce State criminal laws as well.

--BLM can now use local law enforcement officers appointed and paid by the Secretary of the Interior to enforce the Federal statutes and regulations which relate to the public lands and their resources. The act requires that appointed local officials be trained to the same degree as BLM special agents. However, at the time of our review no training programs had been designed for special agents.

The agencies' authorizations to contract with local officials differ as to the types and amounts of services which are reimbursable. In addition, the authorizations give contracted State and local agencies varying degrees of authority to enforce the Federal criminal statutes which prohibit misconduct against visitors or their property.

If State and local agencies are to be used to supplement law enforcement services at recreation areas, then uniform procedures should govern the contracting or reimbursement for those services. However, we question the desirability of burdening local law enforcement agencies with the additional responsibility of enforcing the entire Federal criminal code. Local law enforcement officials are hired, appointed, or elected to enforce State and local laws in their communities; their enforcement of Federal criminal laws at Federal recreation areas may degrade the services they provide their communities. Moreover, this additional responsibility may create increased police and staff and equipment needs which can only be met with substantial long-term Federal financial aid. Without such aid local agencies may be reluctant or unable to assume additional responsibilities. Local law enforcement agencies are reluctant to put themselves under the direction of the Federal Government and therefore might prefer to conduct Federal enforcement operations independent of any direction or oversight by the administering agency. Finally, the Government could be held liable for the conduct of local law enforcement officials when they are enforcing the Federal criminal code.

WHAT SURVEYED RANGERS
SAY ABOUT LAW ENFORCE-
MENT EFFORTS

We received numerous comments from surveyed rangers regarding the need for well-planned and well-managed law enforcement programs. The examples that follow best summarize the concerns voiced by rangers of all agencies except TVA. (Because the rangers had been assured that their responses would be kept confidential, we requested permission to quote from their questionnaire responses and again pledged

confidentiality regarding the rangers' names and work locations.)

From FS comes this comment:

"Thank you for the opportunity to express myself. This is the first time, to my knowledge, anyone has conducted a study which deals with the law enforcement problems of the field employees. The Forest Service is my life--but someday (I hope never) we may lose a good employee because he didn't have the training necessary to carry out the law enforcement function.

"Times have changed. The image of the ranger is changing. We're not the same people we once were, because the problems we encounter are radically different than 30 years ago. I'm an area director for 15 developed recreation sites with 400 campsites--about 2,000 persons not including any dispersed usage. I'm responsible for recreation operations on three major reservoirs in addition to three major restricted use areas.

"I could talk for hours on my law enforcement problems. But what we need is this:

1. Eliminate co-op agreements.
2. More training and appropriate equipment.
3. Full-time professional law enforcement personnel.
4. We need a streamlined professional law enforcement approach to the problems. Instead we have an approach based on 'other duties as assigned' in our job description.

Thank you for listening."

An NPS ranger writes:

"Until relatively recently, the National Parks were seldom visited and comparatively isolated attractions. The very nature of the Parks themselves dictated this. In recent years however

and particularly with the building of new or improvement of old roads, the Urban American has been visiting the Parks in increasing numbers. With this increased visitation has come the problems of Urbana. When I first entered the Park Service in 1962, Part I and Part II offenses were virtually unknown. Their increasing frequency speaks much more plainly than I can. Defensive equipment for the Park Ranger is an unfortunate outgrowth of this fact. No one seems to question the need for the city police or even the State Police officers to carry weapons, yet a hue and cry arises when this occurs with the Ranger. In an ever increasing number of Parks, this is becoming the case. The Ranger's job is multifaceted, only a part of which is law enforcement--and this only in certain areas. Not all areas have a need for a higher law enforcement profile but some definitely do. Those people, whether in or out of the Service, who refuse to acknowledge the fact are wishful thinkers or, worse yet, OSTRICH-like by ignoring the facts and hoping it will go away."

A Corps of Engineers ranger expresses this concern:

"It appears that the Corps of Engineers is afraid of law enforcement. I don't know why. When a ranger is placed in a marked vehicle with a badge and in a uniform, the general public has a right to expect him to protect them from harm or hardship both from other people and the resources. Because of the limited authority that I have (the public doesn't realize how limited) and the absence of agency backup many local and state officers have told me that they would not have my job under any circumstances. In my opinion the Corps attitude can be summed up in the attitude of one assistant district engineer who in 1972 told a training session that 'All you have heard here forget. I don't want you out there getting into trouble or getting yourself hurt. If you do, don't come running to me.'"

And an FWS ranger says:

"This is a large national wildlife refuge located in a heavily populated area. It is subject to

approximately a half-million public visits yearly. Since it represents some of the last remaining wild land of this locality it has become heavily used by narcotics addicts, bootleggers, drinking parties, those carrying on questionable practices of all types, etc. Visitors have been harassed and molested. The refuge maintains an adequate patrol from about November 1 through about March 1, but there should be regular patrol throughout all other months, including holiday and weekend patrol and some night patrol. Only by this will future visitors be assured of a safe and respectable experience."

Finally, a BLM employee writes:

"At this time the incumbent is the only official BLM law enforcement officer in the State. Since my primary duties are criminal investigation and presentation of cases to the U.S. Attorney for prosecution on resource crimes, an opportunity is not present for daily observation of crimes committed in the various resource areas. Needs for adequate law enforcement in BLM Recreation Areas include:

1. An act giving law enforcement authority is needed.
2. Promulgation of regulations providing criminal penalties for their violation to be handled in U.S. Magistrate court.
3. Uniformed law enforcement personnel highly trained and equipped to provide visitor protection, with sufficient authority to meet these responsibilities.
4. Additional Special Agents to adequately handle criminal investigations and to provide training and assistance to uniformed law enforcement personnel."

CONCLUSIONS

As crime in the parks and forests increases, the need for professionally trained personnel and more sophisticated techniques to handle crime has also increased. Although

each of the six agencies involved in recreation area management had established visitor protection policies, more must be done to assure visitors of a consistent level of protection at similar areas. Administering agencies can improve their law enforcement efforts by selectively assigning employees to law enforcement duties and providing them with professional training. Yet, employees without proper training are currently providing law enforcement services. The agencies should take action to give rangers who perform law enforcement duties proper training in this aspect of their job.

There should also be uniform circumstances under which the administering agencies could reimburse States and localities for services rendered in connection with enforcement of State and local laws on Federal land.

Improvements also are needed in the agencies' crime-monitoring systems, and those agencies which do not have such systems should establish them. Management would then be better informed on law enforcement problems and the success of efforts to overcome them. Good monitoring systems would also help the agencies insure that uniform law enforcement policies and procedures are being followed at their recreation areas.

Overall, if Federal visitor protection activities are to be uniform and visitors are to receive adequate law enforcement services, a national policy on visitor protection is needed. The Office of Management and Budget should coordinate the effort to develop this policy and the guidelines for Federal agencies to follow in implementing it.

RECOMMENDATIONS TO HEADS OF FEDERAL AGENCIES

We recommend that the Director of the Office of Management and Budget, in conjunction with the Secretaries of the Army, Agriculture, and the Interior, the Attorney General, and the General Manager of the Tennessee Valley Authority, develop and implement a program for visitor protection which should have as its objective the protection of visitors and their property. The Government's program should:

- Delineate acceptable levels of law enforcement service to be made available to visitors.

- Establish visitor protection guidelines and standards for all the agencies to follow. These guidelines and standards should include the philosophy, objectives, and procedures for providing visitor protection. The guidelines and standards should include, but not be limited to, the following areas: purpose of visitor protection, law enforcement principles, law enforcement code of ethics, defensive equipment policy, reports procedures, firearms training and safety rules, physical fitness, and controlled substances.
- Establish information systems so that there will be essential and reliable information available to top management on the seriousness and extent of crime at national recreation areas. Such a system could serve as the basis for a program of supervision and control over visitor protection efforts.
- Develop procedures to promote competent recruiting, provide for adequate training, and assure proper equipment for all rangers assigned law enforcement duties.
- Develop guidelines and procedures to be followed when contracting with State and local law enforcement agencies for law enforcement services.

We also recommend that the Directors of the National Park Service, Bureau of Land Management, and Fish and Wildlife Service; the Chiefs of the Forest Service and Corps of Engineers; and the General Manager of the Tennessee Valley Authority insure that rangers assigned law enforcement duties are adequately trained and equipped to provide law enforcement services.

RECOMMENDATION TO THE CONGRESS

In order to achieve a uniform approach to contract law enforcement, we recommend that the Congress enact legislation authorizing the Secretaries of Agriculture, the Army, and the Interior and the Board of Directors of TVA to cooperate with any State in the enforcement of State laws by providing reasonable reimbursement, where appropriate, to a State or its political subdivisions for expenditures connected with the enforcement of State laws and ordinances on Federal lands. (Draft legislation and explanatory comments are included in apps. III and IV.)

CHAPTER 5

AGENCY COMMENTS AND OUR EVALUATION

FOREST SERVICE

The Forest Service said that it was concerned over the impact that an expanded Federal law enforcement role would have on its law enforcement activities at recreation areas. (See app. V.) The policy of FS is to rely heavily on State and local law enforcement agencies to supply needed visitor-related law enforcement services. FS believes that adding Federal jurisdiction over, and applying existing Federal visitor protection laws to, FS lands would

- obligate FS to enforce the added laws;
- reduce the need for reimbursable programs; and
- relieve State law enforcement agencies of some of their jurisdiction, thereby lessening the need for them to enforce State laws protecting recreation visitors.

We believe the proposed legislation would greatly assist FS in achieving its objective of developing and maintaining a law enforcement program to insure compliance with laws and regulations and to protect the public and their property, and forest resources. While the draft legislation would specifically authorize FS to enforce Federal visitor protection laws, we are not advocating that FS create a Federal police force. Rather, the expanded authority would provide FS and other administering agencies with alternatives to present visitor protection.

In areas where only Federal laws and regulations apply, for example, designated FS personnel would be authorized to take enforcement measures in order to combat misconduct against visitors or their property. Where both Federal and State statutes cover an offense, FS could take action or defer to local authorities if it was expedient to do so. Most importantly, however, designated FS personnel would have the specific authority to take enforcement actions when confronted with a situation which demanded immediate action to protect a life, prevent serious damage to Government property, or prevent a violator from escaping. Thus, visitors to an FS recreation area could be assured that law enforcement services were readily available and that action could be taken if they became victims of crime.

In addition, as discussed on page 39, when either FS or local agencies decline to engage in cooperative law enforcement, a very serious law enforcement gap emerges. For example, there have been instances in which State and local enforcement agencies have chosen not to enter into cooperative law enforcement agreements. The reasons given by sheriffs were:

--They are elected by the people of their county; hence, their first and only commitment is to the local populace.

--Law enforcement in national forests is a Federal responsibility.

There have also been instances in which FS officials declined to enter into cooperative agreements with sheriff's departments because

--the sheriffs' staffing has been inadequate, causing unacceptable delays in assistance reaching the forests; and

--there was evidence of a lack of commitment on the part of the sheriffs to act on national forest lands.

FS suggested that an expanded Federal enforcement role would adversely affect the need for reimbursable programs. We do not believe that greater Federal involvement will necessarily lessen or eliminate the need for such programs. We believe, however, that the Federal Government should no longer rely exclusively on State and local enforcement agencies for visitor protection in national forests. As pointed out on pages 21 and 22, local agencies are limited in their ability to become involved with law enforcement at Federal recreation areas. Local enforcement agencies' primary responsibility is to their communities, and therefore they cannot be expected to furnish all visitor protection services at Federal recreation areas. This is especially true when recreation area visitation rates exceed the population of the local enforcement agency's community. In fairness to these communities, law enforcement at Federal recreation areas should be a cooperative Federal-State effort.

FS should, however, continue to utilize cooperative agreements when needed to maximize its law enforcement effort. Our position regarding cooperative agreements is in line with the congressional intent expressed when Public Law 92-82, the present contracting authorization for FS, was

enacted. We believe, therefore, that designated Federal recreation area employees assigned law enforcement duties must have enforcement authority and laws to enforce when confronted with visitor misconduct. We believe the cooperative agreements with State and local authorities can be used to supplement the Federal efforts.

FS believes that there has been satisfactory progress in implementing cooperative law enforcement programs, but concedes that there could be administrative problems. Further, FS stated that the report does not reflect the successes nor the long-term desirability of the cooperative effort with local law enforcement agencies. While cooperative arrangements may be working as intended, we were unable to verify this because of administrative weaknesses in the program such as the lack of itemized bills and/or records on the type and amount of services to be provided. (See p. 37.) Our report recognizes the value of cooperative efforts, as evidenced by our recommendation that all agencies have equivalent authority to enter into cooperative reimbursable agreements with local law enforcement agencies. (See p. 45.)

FS stated that acquiring concurrent jurisdiction and/or applying to proprietorial lands the Federal laws that prohibit misconduct against persons or their property could relieve the States of criminal jurisdiction and lessen their need to enforce laws protecting visitors. We disagree. The proposed legislation would neither deprive the States of criminal or civil jurisdiction nor affect the authority of State and local officials to make arrests under the applicable State criminal code.

FS further stated that, if enacted, the recommended statutory authority for enforcement officials would not be broad enough to enable FS to perform its total law enforcement function, which includes resource protection. In our view, the proposed legislation would not disturb existing FS resource protection authority. However, if FS believes that an expansion and clarification of its resource protection laws is needed, it should so advise the Congress.

Contracting procedures and controls have been established, FS stated. Further, it said that internal reviews and reports indicate that it does receive the services for which it contracts and that no overall control problems exist that cannot be administratively corrected.

The only contracting procedures and controls which FS identified were delegations of authority to forest supervisors to initiate, negotiate, and monitor all law enforcement contracts. Lacking adequate controls and proper internal reviews, the program has experienced problems. (See pp. 38 and 39.) For example, a deputy sheriff informed FS in late 1975 that many services for which it had reimbursed thousands of dollars to his sheriff were never performed and that the deputy had been instructed by the sheriff to prepare the false billings. Investigation of the allegations by the FBI, the Department of Agriculture's Office of Investigations, and FS verified his report.

In addition, Department of Agriculture internal audit reports issued in 1975 and 1976 disclosed that:

- Use of cooperative law enforcement funds is not adequately controlled. For example, participating agencies were reimbursed even though they did not submit itemized statements for their services. As a result, they were reimbursed more or less on a flat rate for their services.
- There were no regional guidelines established for review or audit of charges for services incurred under cooperative agreements.
- No reviews were made by the forest staff or regional office staff to determine if the services contracted for were received. One audit report concluded that this situation appeared to reflect the general attitude of the region and possibly FS as a whole.

FS said that our survey and field visits appear to miss most of the Agency administrator's viewpoints on the law enforcement problems and procedures, adding that it would have been valuable to obtain the perspective of administrators at each organizational level who are better informed on the full scope of the Agency's program.

Our report (see p. 41) reflects the views and opinions of FS rangers (identified by FS officials) who perform law enforcement duties at the most frequently visited forests, as well as those of headquarters officials (identified by FS officials) regarding the agency's law enforcement efforts

and programs. While we combined the views of regional foresters with those of other FS officials in our report, the views of most FS officials were consistent with the rangers' views on the problem.

Law enforcement plans for 1975-1976 submitted by regional foresters to the Chief of FS highlight the types of law enforcement problems occurring in national forests. For example, regional foresters at frequently visited forests described the most common violations in recreation areas, and the most common causes of visitor complaints, as vandalism, thefts, assaults, and drug use.

According to FS, our report fails to accurately describe FS law enforcement training activities. FS policy allows each forest to develop and implement, within broad headquarters guidelines, its own training program. At the time of our review, there were 123 national forests and conceivably as many different law enforcement training programs in effect.

FS policy also states that no employee is to engage in law enforcement activities as part of his normal duties without proper training. Our review showed that FS training policy is not being implemented uniformly, because many surveyed FS rangers assigned law enforcement duties had not received Federal training in basic law enforcement functions. The following table lists the types of training surveyed FS rangers had not received.

| <u>Training</u> | <u>FS respondents who had no Federal training</u> | |
|--------------------------|---|----------------|
| | <u>Number</u> | <u>Percent</u> |
| Drug enforcement | 403 | 83 |
| Crime prevention | 368 | 75 |
| Search and seizure | 297 | 61 |
| Arrest procedures | 252 | 52 |
| Investigative techniques | 187 | 38 |

In addition, some responding rangers were concerned about the quality, content, and amount of law enforcement training which they were receiving. For example, rangers mentioned the following:

--The last law enforcement training session given at one forest was at best poor. (The ranger stated that the instructor could not answer even basic questions concerning matters such as citation procedures.)

--Additional training is needed for all forest employees, especially in investigative techniques and how to recognize potentially dangerous situations.

--More law enforcement training is urgently needed in order to establish half-decent service to the public.

TENNESSEE VALLEY AUTHORITY

The Tennessee Valley Authority said it would be pleased to participate in any task force established to study the problems pointed out by our report. (See app. VI.) TVA also agrees that there is a need for uniformity of law enforcement throughout the Federal recreation system. It does not believe, however, that the system proposed in the report is the most suitable one.

TVA stated that it would prefer legislation providing Federal agencies which administer recreation areas with authority similar to that of the Administrator of the General Services Administration, who is authorized to appoint uniformed guards as special policemen with the authority of sheriffs and constables on Federal property for the purpose of protecting property and persons (40 U.S.C. 318).

We believe that such legislation would not solve the problem. The General Services Administration and the Congress have found the authority granted by 40 U.S.C. 318 to the General Services Administration's uniformed policemen both too limited and too vague to provide for an effective protective force. Deficiencies cited in the statute include these:

--It vests the General Services Administration's uniformed special policemen with the powers of sheriffs and constables. It is hard to say exactly what such powers include. There are no Federal sheriffs, for instance, and in many States there are no longer law enforcement positions which are identified under the terms sheriff or constable.

--The circumstances in which the General Services Administration's uniformed police may make arrests are unclear. The statute does not specify whether these officials may make an arrest if they have reasonable grounds to believe that an individual has committed a Federal felony or whether their arrest authority is limited to offenses committed in their presence.

--The statute does not contain a provision for arresting persons fleeing from Federal property.

In March 1974 a bill was introduced in the 93d Congress which would have corrected these deficiencies by expanding and clarifying the agency's protective responsibilities. While the bill was not enacted into law, the General Services Administration has tried every year since to amend its enforcement statute to correct the deficiencies noted above. Its current effort is a piece of draft legislation to be cited as the "Federal Protective Service Act of 1977."

According to TVA, one of the principal concerns of our report is the adequacy of the legal authority of the agencies reviewed to engage in law enforcement. It is TVA's opinion that it has adequate Federal statutory authority to provide law enforcement services at recreation areas it administers.

As discussed on page 13, we could not conclude that TVA has a sufficient Federal statutory basis which would allow its employees to make arrests for the violation of Federal laws governing visitor conduct. TVA employees lack express statutory authority to carry firearms or to exercise the same powers that are exercised by local law enforcement officials.

TVA pointed out that its law enforcement activities are carried out by Public Safety Service officers who are usually commissioned by local law enforcement agencies as deputies or city policemen. In addition, TVA stated that in limited instances in which the United States holds exclusive jurisdiction, its PSS officers act as private citizens to enforce Federal law.

The report discusses the detrimental aspects of employees (1) being encouraged to obtain their law enforcement powers from local law enforcement agencies or (2) relying on their citizen's power of arrest. (See pp. 17 to 21.) For example, when a Federal employee becomes a deputy sheriff without express Federal statutory authorization, he may run the risk of being found to have operated outside the scope of his employment.

TVA's own experiences show the drawbacks of relying on State and local law enforcement agencies for authority. For example, in its November 1975 PSS Situation Assessment, TVA

stated that it has been unable to solve the many problems which it experiences from having TVA officers deputized. These problems relate to some sheriffs who

- require bonds for deputized TVA employees,
- require policies insuring them against claims or malfeasance by deputized TVA employees, and
- refuse to deputize TVA employees.

In December 1975, TVA's Chairman of the Board said that TVA's practice of obtaining deputy sheriff's commissions for law enforcement purposes was unsatisfactory. He pointed out that it was often extremely difficult for TVA employees to meet local requirements for deputization. For example, Kentucky requires that before a person can be appointed a deputy sheriff of any county he must have resided in that county at least two years. This provision, he pointed out, prevents TVA employees from being deputized in more than one county. The Chairman also said that dealing with a large number of sheriffs makes uniformity of administration by TVA difficult.

TVA stated that it opposes any legislation which would supersede the authority of the States and impose a body of Federal criminal law for all offenses on Federal land and a Federal system of enforcement and prosecution in an attempt to achieve a comprehensive and uniform approach to the problem. This, TVA believes, would destroy the basis for existing cooperation and, in the end, result in less, not more, protection for the public. Our proposed legislation would neither supersede the authority of the States to make arrests under their criminal codes nor interfere with or diminish the rights of States and local governments to exercise civil and criminal jurisdiction. (See app. III.)

TVA, while saying that it is not familiar with the situation at other agencies, does not believe there is a need for mandatory training standards for TVA personnel. TVA stated that all PSS officers and Land Between the Lakes patrolmen are full-time employees, qualified by training or prior law enforcement experience for the performance of their assigned duties. TVA added that it periodically conducts training programs for its officers which provide basic fundamentals of law enforcement.

We question this, because only 3 of the 7 officers assigned to the Chickamauga Dam location during our review had received any law enforcement training. The three who had received training had obtained it through TVA's Public Safety Service Schools. None of the seven officers, according to TVA records, had any law enforcement experience prior to their employment with TVA.

Further (as noted on p. 35), TVA does not require law enforcement personnel employed at Land Between the Lakes to attend TVA's 120-hour basic law enforcement course. It is at these types of training inconsistencies that our recommendations for training standards are aimed.

In TVA's view, the types of offenses which normally occur on TVA-managed property are well within the capability of TVA officers to handle, and they need not become police officers to investigate the more serious offenses which are immediately reported to State or Federal law enforcement agencies for action. Prior actions taken by TVA do not support this statement.

For example, since 1974, because of increasing law enforcement problems occurring at TVA-administered areas in the State of Tennessee, TVA has been requesting the State to commission TVA employees as State police officers. TVA said it needs these commissions because many of its facilities, which are used by the public, are located in areas where local sheriff resources are limited. These commissions, according to TVA, would enable its employees to handle all types of criminal activity and thus enable TVA to see that adequate law enforcement resources were available to assist and protect the visiting public.

As for becoming a "police force," TVA has already established an armed and uniformed force of about 300 PSS officers. (See p. 13.) These officers, according to TVA, are responsible for enforcing both Federal and State criminal codes.

TVA said that it has two basic law enforcement requirements:

- Its officers must be able to engage in hot pursuit and conduct investigations outside Government-owned property.

--It must be able to issue regulations relating to its property and to visitor protection and to set penalties for infraction of these regulations.

Section 201 of our bill contains a provision which would authorize designated TVA enforcement officials to engage in hot pursuit. (See app. III.) In addition, section 201 would authorize TVA enforcement officials to exercise full powers of arrest when confronted with a violation of Federal law. These powers, in cases involving hot pursuit, would extend to areas contiguous to TVA land. Where TVA has primary investigative authority for an offense, the bill would not limit TVA investigations only to TVA lands.

Since our review focused on visitor protection as it relates to serious criminal activity, we are not in a position to make recommendations relative to the adequacy of TVA's authority to (1) issue rules and regulations relating to property and resource protection or (2) set penalties for the infraction of any rules or regulations it may wish to establish. However, if TVA believes that an expansion and clarification of its resource and property protection statutes are needed, it should so advise the Congress.

DEPARTMENT OF THE INTERIOR

The Department of the Interior said it is not content with current crime levels at its recreation areas. (See app. VII.) It agrees with our findings that it needs to learn more about the crime situation occurring at its recreation areas, improve the quality and competence of its law enforcement personnel, and clarify their authority.

Interior agreed further that a law enforcement policy applicable to Federal recreation areas is desirable and should be developed. Interior concurred with our recommendations that this policy should delineate:

--Acceptable levels of law enforcement service in recreation areas.

--Guidelines and standards for (1) selection and training of law enforcement personnel assigned visitor protection duties, (2) collection and dissemination of criminal information, and (3) contracting with State and local law enforcement agencies for law enforcement services.

Interior also concurred that overall guidance to address the crime problem is necessary, and went on to point out that

if the Office of Management and Budget creates a task force to implement our recommendations, Interior would participate.

Interior is concerned, however, that the report does not fairly present the crime situation at Federal recreation areas. Interior believes that the information presented in the report is based on incomplete and apparently unreliable reporting systems, questionnaires, and oral communication. Therefore, there could be a danger that the public and the Congress could receive a false impression that crime is rampant and that it is unsafe for people to visit recreation areas. Also, Interior stated that the manner in which our questionnaire statistics are cited tends to make one question their validity. For example, the fact that 534 rangers believed a weapon's presence acted as a deterrent to crime causes Interior to wonder about the context of the question.

As discussed on pages 3 and 64, the scope of our work was directed towards an assessment of the current level of visitor protection at highly visited Federal recreation areas and the means available for providing adequate protection at these areas. The evidence collected and developed through our field visits and through our questionnaire shows that crime is a serious problem at highly visited recreation areas.

To obtain the necessary information and data to accomplish our objectives and to fully present the crime situation at highly visited Federal recreation areas, we used a multifaceted approach. Our approach included visits to 24 field locations to talk with law enforcement personnel, including regional office staff and recreation area superintendents and managers. While at these locations, we reviewed records and observed ongoing law enforcement operations. In addition, a questionnaire was used to assist in gathering information on the law enforcement operations at 174 additional recreation areas. The questionnaire was used to insure maximum uniformity of pertinent information collected. The sites surveyed by questionnaire within each of the six agencies were those which accounted for about 50 percent of all visitation. To assist us in distributing the questionnaire, each agency prepared a list of its employees who were most actively involved in law enforcement activities at the selected recreation areas.

The questionnaire was pretested on recreation area employees to observe any misinterpretation in the wording of the questions or any problems in obtaining the information requested. As a result of the pretest, the questionnaire

was adjusted. It was mailed out to the selected recreation area employees after it had been reviewed and approved by headquarters officials from each of Interior's bureaus reviewed. Since our findings and conclusions agree with the findings and conclusions of Interior's studies (see pp. 4 and 5), we believe that our report accurately reflects and addresses the law enforcement problems that face both visitors and employees alike.

Interior pointed out that it is important that the "crime problem" in the National Park System be put in its proper perspective. Interior contends an analysis of National Park Service statistics would hardly indicate the national parks are unsafe to visit.

We agree that the National Park System crime problem should be viewed in perspective. We also agree that NPS statistics show that not all parks are unsafe. The NPS crime data for 1975, shown on page 8, discloses, however, that the 23 NPS areas reviewed--about 8 percent of the 300 National Park System areas--accounted for 53 percent of all visitors and 41 percent of all reported Type I and Type II crimes. By 1976, these same 23 areas experienced a 35-percent increase in reported Type I and II crime which accounted for 58 percent of all reported Type I and II crimes. The greatest single increase occurred at Olympic National Park where crime rose 380 percent--from 829 reported crimes in 1975 to 3,987 reported crimes in 1976.

As Interior pointed out, total Type I offenses did decrease in 1976. The reason for the decrease, according to an NPS official, was Interior's elimination of its Washington, D.C., "Human Kindness Day" activities which in 1975 accounted for over 500 Type I offenses.

Interior stated that we made no attempt to compare the prevalence of crime in Federal recreation areas with that in other jurisdictions. That is correct. Such comparisons were not made because a recreation area's design, location, and types of inhabitants differ from those found in communities of comparable population. Therefore, national crime figures for urban and rural nonrecreation jurisdictions are not valid measures for crime at Federal recreation areas.

According to Interior, our recommendations seem to suggest that dissimilar problems should be addressed equally. Interior added that while it is possible to place an adequate number of law enforcement officers in limited areas

of high visitor concentration, it is unrealistic that recreation area visitors should expect, and be provided, uniform levels of service at all recreation areas. We agree. We believe that the agencies should see that adequate numbers of law enforcement personnel are placed at recreation areas which have high concentrations of visitors and overnight stays. These types of areas include urban park lands and all or parts of other recreation areas which many people visit, such as the Yosemite Valley.

We also agree with Interior that at some areas similar levels of service may not be geographically or economically feasible. For example, recreation activity on BLM land is not confined to areas established or delineated by BLM as recreation sites. We believe that BLM should channel its efforts primarily to its areas of concentrated recreation activity.

While we do not contemplate that each agency would assign the same number of law enforcement personnel to all recreation areas it administers, the quality of service available to visitors should be consistent. This is in line with recommendations made by Interior's Task Force on Law Enforcement in its 1974 report. The report stated that the absence of Departmental standards and policy on law enforcement was having a detrimental effect on the quality of service and/or protection provided visitors to Interior-administered lands. Our recommendations on pages 29, 30, and 31 aim to provide uniform visitor protection services at all Federal recreation areas regardless of the administering agency.

Interior stated that our proposal to the Congress to enact legislation is premature and that it would greatly expand the law enforcement responsibilities of the Secretary of Interior and impose on him and the affected Interior bureaus basic police functions which may far exceed their present law enforcement problems. Interior believes more thought and study must be given to the question.

We disagree that our legislative proposal is premature, since our report points out the need for such legislation. As discussed on page 25 and shown in appendix I, the Fish and Wildlife Service and NPS now have or are trying to obtain similar law enforcement authority.

We also disagree that our legislative proposal would greatly expand the law enforcement responsibilities of the

Secretary. Except for sections 301-303 of the draft legislation, which would apply Federal visitor protection laws to most of Interior's proprietorial land, our draft legislative proposal would not provide any law enforcement authority to NPS or FWS that they do not already have or that they are trying to obtain. Under the draft legislative proposal NPS, FWS, and BLM would have comprehensive and uniform enforcement authority to exercise on the lands which they administer. In the case of NPS, however, our draft legislation would cut back on some of the broad police powers that it was recently given. For example, the power to appoint local law enforcement officials as Federal police officers with all the powers and immunities of Federal law enforcement officials provided under Public Law 94-458 would be repealed. Under the existing enforcement statute for NPS, Interior could establish its own police force using non-Federal employees. When local police officials are appointed as special NPS policemen they have more enforcement authority than U.S. Marshals or FBI agents. Their power could include the authority to enforce all Federal, State, and local laws, conduct State and local criminal investigations, and under certain circumstances conduct Federal criminal investigations and serve Federal process anywhere in the United States.

According to Interior, the report is very one-sided regarding the total visitor protection situation, since State and local protection responsibilities and capabilities are not analyzed. In addition, it is Interior's view that our report does not recognize the great potential which exists in the area of cooperative agreements. We disagree. A discussion of State and local authorities, responsibilities, capabilities, and burdens is found on pages 21 to 25. In addition, we recognize the role that State and local enforcement agencies can play in providing visitor protection services. This is evidenced by the recommendation to the Congress on page 45 that legislation be enacted granting agencies the authority to reimburse State and local law enforcement agencies for services rendered on Federal lands in connection with the enforcement of State law.

Interior also stated that the report does not adequately address the success that its bureaus have had with cooperative agreements in the past. Cooperative agreements as they existed at Interior recreation areas we visited consisted of "gentlemen's agreements" between recreation area officials and local law enforcement agencies.

Presumably these informal agreements have been beneficial, but we believe a more formalized approach is better for all parties. The Federal agencies would be able to plan their law enforcement activities around a known commitment by local agencies, and local taxpayers would not have to "foot the bill" for law enforcement on Federal land.

OFFICE OF MANAGEMENT AND BUDGET

The Office of Management and Budget agreed that there may be value in a uniform national law enforcement policy on Federal recreation areas. (See app. VIII.) OMB stated, however, that while our report is helpful and provocative, it has significant data gaps and methodological problems which raise questions about whether the crime rate is of sufficient magnitude to warrant implementing the report's recommendations.

OMB said that our methodology is biased toward the conclusion that crime is a serious problem because the individuals we interviewed were field-level officials who were directly responsible for administering law enforcement activities. According to OMB, headquarters officials of the land management agencies reviewed are not convinced that crime is a serious problem on the lands they administer.

Our approach, described on pages 56, 57, and 64, was multifaceted. It included visits to 24 field locations to interview law enforcement personnel, review records, and observe ongoing law enforcement activities. We interviewed headquarters officials, regional office staff, and recreation area superintendents and managers. A questionnaire was used to gather information on the law enforcement activities at an additional 174 recreation areas. The recreation areas surveyed by questionnaire accounted for 50 percent or more of all visitation.

The questionnaire enabled us to obtain information from a much broader spectrum of geographical areas and law enforcement personnel than would have been possible if we had relied on personal interviews alone. With so many diverse sources of information, we are confident that the overall picture of the crime problem which they presented is an accurate one--not one biased towards a particular region or agency.

It is true that most of the personnel who responded to our questionnaire were field-level officials. We solicited information from them because of their intimate

involvement with day-to-day occurrences in Federal recreation areas. They are on the scene either witnessing crimes or getting first-hand information about them from the visitors. We readily acknowledge that the field-level officials' proximity to the crime problem may make them biased; but it would be foolish to discount the weight of their cumulative views because it is likely that they know the problem in their areas better than anyone else.

OMB stated that a comparison of available crime statistics on Type I crimes (referred to on p. 8) in the National Park System with such statistics nationwide indicates a crime rate one-fifth as high in the Park System. Thus, according to OMB, although statistics for all of the areas covered in the study are not available, those available for NPS suggest that crime on public lands is not nearly as serious a problem as our report asserts.

We agree that the crime rate in the parks is less than the nationwide rate. However, this is to be expected given the difference in the populations, environments, and opportunities for crime which are found on public recreation lands as opposed to typical residential or urban areas. We believe that the crime rate in the parks is nonetheless serious. In the face of evidence we have collected from visits, interviews, and questionnaires, it seems unwise to conclude differently when, as OMB states, statistics for all of the areas covered in our study are not available. Various independent and agency studies substantiated that crime was a serious problem at Federal recreation areas. (See pp. 4 and 5.) Studies in 1974 and 1976 by the Corps of Engineers and FWS, respectively, represent the views of their headquarters officials responsible for administering recreation lands. An Interior task force which issued a report in 1974 consisted of representatives who had decisionmaking authority from each bureau or office with law enforcement responsibilities.

Even if the crime problem in the parks is less serious than the national crime problem, it is still a nationwide problem demanding a national law enforcement policy and a uniform statutory enforcement authorization to combat it.

OMB stated that there may be sound reasons for the different managerial authorities, responsibilities, and jurisdictions held by each of the Federal land and water management agencies. OMB added that these reasons include the authorizing legislation of each administering agency,

the agency's purpose of management, and the territorial jurisdiction ceded by each State when the areas were established.

We agree that these are the reasons why the Federal Government has so many different approaches to handling visitor protection; however, it is precisely at this wide disparity that our recommendations for a consistent and uniform approach to visitor protection are aimed. We believe that if the legal and programmatic shortcomings disclosed are to be corrected, immediate congressional and agency action is needed.

OMB said that it does not believe that a task force, headed by it, should be established to develop a national law enforcement policy for Federal recreation lands. We disagree. If Federal visitor protection activities are to be uniform and visitors are to receive adequate law enforcement services, a national policy of visitor protection is needed. Since such a policy would cut across numerous Federal agencies, we believe that OMB is the logical agency to develop and coordinate a Government-wide policy for law enforcement on Federal recreation lands. This would insure that a consistent and uniform national policy is developed and implemented.

DEPARTMENT OF THE ARMY

The Department of the Army said it concurs with our recommendations to develop a standard law enforcement policy for providing uniform visitor protection on national recreation lands. (See app. IX.)

The Department pointed out that it is its policy to provide a safe and healthful environment for public use of lands and water at Civil Works water development projects. The Corps of Engineers has the authority to regulate conduct upon its land as it relates to project purposes and uses. According to the Department, however, the Corps does not exercise any traditional police powers, because Corps lands and water are held in a manner analogous to that of a private landowner. Present Federal laws prohibiting misconduct against persons or their property do not apply to most Corps recreation areas. The Corps believes that the responsibility for enforcing State criminal and civil laws which do apply to Corps recreation areas therefore belongs to the States and their political subdivisions.

The Department stated that the State and local law enforcement agencies have been unable to provide adequate visitor protection service on Corps projects for various reasons including limited staff and lack of funds. Therefore, the Congress enacted Public Law 94-587, which authorized the Secretary of the Army, acting through the Chief of Engineers, to contract with the States and their political subdivisions to obtain increased law enforcement services at Corps Civil Works projects. Because this legislation stated that funding was only for fiscal years 1978 and 1979, there has been no opportunity, according to the Department, to evaluate the effectiveness of law enforcement contracting.

The Department said legislation which would provide legal protection for Corps civilian employees, along with implementation of the existing legislative authority to contract for law enforcement, should materially enhance Corps efforts to improve visitor protection services at Corps Civil Works water resource development projects.

We agree that violence against agency law enforcement officers should be a Federal crime. Section 304 of our draft legislation (see app. III) would provide that assaulting, maiming, or killing any civilian of the Corps assigned to perform investigative, inspection, or law enforcement functions would be a Federal offense. We also agree that the Corps' ability to contract for law enforcement services will enhance its visitor protection services. We caution, however, that if the Corps is to make certain that it receives the services for which it is contracting, it will need a system of control and internal review.

DEPARTMENT OF JUSTICE

In February 1977 we submitted our report to the Department of Justice for its review and comment. Because we have received no response and because of congressional interest in the report, we are issuing it without Justice's comments.

CHAPTER 6

SCOPE OF REVIEW

We reviewed operations at six agencies which administer the majority of the federally owned lands. The agencies are: the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service of the Department of the Interior; the Forest Service of the Department of Agriculture; the Corps of Engineers of the Department of Defense; and the Tennessee Valley Authority. Our audit work was performed at agency headquarters where we reviewed agency records and held discussions with agency officials.

In addition, we visited the following field locations to talk with law enforcement personnel, review records, and observe the law enforcement activities at each location.

NPS

Everglades National Park, Florida
Grand Canyon National Park, Arizona
Great Smoky Mountains National Park, North Carolina and Tennessee
Gulf Islands National Seashore, Florida, Alabama, and Mississippi
Lake Mead National Recreation Area, Arizona and Nevada
Mt. McKinley National Park, Alaska
Rocky Mountain National Park, Colorado
Yellowstone National Park, Wyoming, Montana, and Idaho
Yosemite National Park, California

FS

Angeles National Forest, California
Coronado National Forest, Arizona
Ocala National Forest, Florida
Pisgah National Forest, North Carolina
Sierra National Forest, California

BLM

State Office, Sacramento, California
District Office, Riverside, California
Area Office, El Centro, California
State Office, Fairbanks, Alaska

FWS

Crab Orchard National Wildlife Refuge, Illinois
Upper Mississippi River Wild Life and Fish Refuge,
Minnesota, Wisconsin, Iowa, and Illinois

CORPS OF ENGINEERS

Allatoona Lake, Georgia
Lake Sidney Lanier, Georgia

TVA

Chickamauga Dam Reservation, Tennessee
Land Between the Lakes, Kentucky and Tennessee

We reviewed existing and proposed law enforcement legislation applicable to these agencies. We also sent a survey questionnaire to 1,637 employees at 174 selected recreation areas administered by these 6 agencies. For the purpose of our analysis, however, only five agencies were used. The questionnaires received from TVA were not used because its Public Safety Service Branch provided its employees with supplementary instructions for answering the questionnaires. Since it appeared that these additional instructions affected the way they answered the questions, we eliminated the responses. In commenting on the report, TVA stated that it has taken measures to insure that in the future our requests for information will be handled in strict accordance with the procedures we indicate. (See app. VI.)

The questionnaire was used to insure maximum uniformity of pertinent information collected. The sites surveyed by questionnaire were those which accounted for about 50 percent of all visitation. To assist us in distributing the questionnaire, each agency prepared a list of its employees who were most actively involved in law enforcement activities at the selected recreation areas.

The questionnaire was pretested on recreation area employees to observe any misinterpretation in the wording of the questions or any problems in obtaining the information requested. As a result of the pretest, the questionnaire was modified. It was mailed to the selected recreation area employees after it had been coordinated with headquarters officials from each agency.

APPENDIX I

Existing and Proposed
Enforcement

| <u>Agency</u> | <u>Statutory Enforcement Authority as of October 1, 1976</u> | <u>Legislative Status of Enforcement Authorization Proposed in 94th Congress</u> |
|---|--|---|
| National Park Service (NPS), Department of the Interior | Act of March 3, 1901, 33 Stat. 872 (16 U.S.C. 10 (1970) (repealed by Pub. L. No. 94-458, 90 Stat. 1939, 1941, approved October 7, 1976))--All NPS employees authorized to make arrests for the violation of laws and regulations relating to the National Forests and National Parks; all persons arrested must be taken before a magistrate for trial (misdemeanor trial jurisdiction). | S. 3430 (H.R. 11887)--Reported in Senate August 30, 1976. Interior and Insular Affairs Report 94-1190. Passed Senate September 17, 1976. Passed House, amended, September 21, 1976. Interior and Insular Affairs Report 94-1569. Senate agreed to House amendment September 1976. Approved by the President October 7, 1976--Pub. L. No. 94-458, 90 Stat. 1939. |

STATEMENTStates Expressly Authorizing Law
Enforcement on Recreation-Oriented Federal Landsof Proposed or Recently
Enacted Enforcement AuthorizationsComments on Proposed or Recently
Enacted Enforcement Authorizations

S. 94-458 (S. 3430):

Pub. L. No. 94-458 (S. 3430):

Proposed Interior Department
authorized to carry firearms;

--Most NPS recreation areas are held in a proprietorial interest status. On proprietorial lands, those sections of the Federal criminal code that prohibit misconduct against visitors or their property do not apply and, hence, are not enforceable. Pub. L. No. 94-458 does not apply these laws to Federal recreation areas held in a proprietorial status. While misconduct against visitors and their property is cognizable under a State's criminal code on proprietorial lands, Pub. L. No. 94-458 does not specifically authorize NPS enforcement officers to make arrests under a State's criminal code or offer immunities to those that do;

Proposed Interior Department
authorized to make warrant-
arrests for all Federal crimes
in the National Park System or
the person to be arrested
to avoid arrest;

--Under certain circumstances, NPS employees may execute warrants and conduct criminal investigations anywhere in the United States;

Proposed Interior Department
authorized to execute
warrants and other FederalProposed Interior Department
authorized to conduct
investigations;

--The Secretary of the Interior may appoint local sheriffs as "special policemen" with all the powers and immunities of a Federal NPS enforcement officer. No provision is made for the training of "special policemen;"

Proposed Interior may appoint
local officials as "spe-
cial policemen" with the authority
to enforce the entire Federal cri-
minal code. States and localities
reimbursed for expenditures
incurred by "special policemen" in
connection with such enforcement
activities;

--Although the Secretary of the Interior may reimburse localities for services rendered in connection with the enforcement of Federal laws, no specific provision is made for reimbursing States and localities for services rendered in connection with the enforcement of State laws.

Proposed Interior is author-
ized to consummate arrangements with
States to the end that the United
States may exercise concurrent jurisdic-
tion over NPS lands (State and Fed-
eral criminal codes apply on lands
in a concurrent status).

APPENDIX I

| Agency | Statutory Enforcement Authority as of October 1, 1976 | Legislative Status of Enforcement Authority as Proposed in H.R. 12504 |
|---|---|---|
| National Park Service (NPS), Department of the Interior (continued) | | S. 1, 94th Cong., 1st Sess. (1975) referred to Senate Committee on the Judiciary; H.R. 12504, 94th Cong., 2d Sess. (1976) referred to Subcommittee on Criminal Justice of the Committee on the Judiciary. S. 1 and H.R. 12504 failed enactment. |
| U.S. Park Police | D.C. Code Ann. 4-201-4-211 (1973), as amended (Supp. II, 1975)--while within the District of Columbia and contiguous environs, U.S. Park Police may carry firearms and take arrests for all crimes cognizable under the laws of the United States and, while within the District of Columbia proper, the U.S. Park Police have all the powers and duties as the District Metropolitan Police. | Pub. L. No. 94-458, 90 Stat. 1439, the recent NPS enforcement authorization, was not intended to enlarge or diminish the authority of the U.S. Park Police. H.R. Rep. No. 94-167, 94th Cong., 2d Sess. (1976). |

1951

Proposed or Recently Enacted Authorizations

Comments on Proposed or Recently Enacted Enforcement Authorizations

12504:

S.1; H.R. 12504:

1 NPS employees authorized to carry firearms;

--NPS' arrest, warrant and process serving authority is not geographically limited to lands within the National Park System;

1 NPS employees authorized warrantless arrests for crimes;

--S.1 and H.R. 12504 are silent on the scope of NPS' investigative authority;

1 NPS employees authorized to and serve Federal or other Federal process.

--Most NPS land is held in a proprietary interest status. On proprietary lands, those sections of the Federal criminal code that prohibit misconduct against visitors or their property do not apply and, hence, are not enforceable. S.1 and H.R. 12504 do not apply these laws to Federal recreation areas held in a proprietary status. While misconduct against visitors or their property is cognizable under a State's criminal code on proprietary lands, S.1 and H.R. 12504 do not authorize NPS enforcement officers to make arrests under a State's criminal code or offer immunities to those that do;

--S.1 and H.R. 12504 neither permit the Secretary to appoint local police to enforce the Federal criminal code nor authorize the Secretary to reimburse States and localities for services rendered on NPS land in connection with the enforcement of State and local laws.

ble.

Not applicable.

APPENDIX I

| Agency | Statutory Enforcement Authority as of October 1, 1976 | Legislative Status of Enforcement Authorizations Proposed in 44th Congress |
|---|--|--|
| Bureau of Land Management (BLM), Department of the Interior | 16 U.S.C. 4601-6a(e) (Supp. V. 1975)--Designated BLM employees authorized to make arrests for offenses involving the violation of regulations relating to the collection of recreation use fees. | S. 507 (H.R. 13777)--Reported in Senate December 19, 1975; Interior and Insular Affairs Report 94-583. Passed Senate February 25, 1976. In House, referred to Interior and Insular Affairs February 16, 1976. Reported in House May 1, 1976; Report 94-1163. Passed House and amended July 21, 1976. Senate asked for a conference July 30, 1976. Conference report filed in the House September 19, 1976; Report 94-1724. House agreed to conference report September 10, 1976. Senate agreed to conference report October 1, 1976. Approved by the President October 21, 1976--Pub. Law 94-579, 90 Stat. 2743. |
| | 16 U.S.C. 670j(b) (Supp. V. 1975)--Designated BLM employees authorized to arrest persons found hunting, trapping, or fishing without a valid public land management stamp. | |
| | 16 U.S.C. 1338(t) (Supp. V. 1975)--Designated BLM employees authorized to make arrests for offenses involving the violation of laws and regulations relating to the protection of roaming horses and burros. | |

APPENDIX I

E STATEMENT

Proposed or Recently
Enacted Authorizations

Comments on Proposed or Recently
Enacted Enforcement Authorizations

94-579 (S.507):

Pub. L. No. 94-579 (S.507):

d "Federal personnel"
to carry firearms:

--Designated "Federal personnel" may enforce Federal laws and regulations that relate to the "public lands or their resources." See, e.g., 18 U.S.C. §§1851-1863 (1970). It is unclear whether this authorization would permit enforcement officials to make arrests for the violation of Federal laws prohibiting misconduct against visitors or their property because the Federal criminal statutes which criminalize such conduct have no special reference to "public lands or their resources";

d "Federal personnel"
to execute and serve
warrants and other Federal

d "Federal personnel"
to enforce Federal laws
and regulations relating to the
public lands or resources. To
enforce these laws and regulations,
BLM officials may make
arrests for any and misdemeanor
violations. Pub. L. No. 94-579 requires
that Federal personnel performing
these duties on BLM land
be authorized;

--Most BLM land is held in a proprietary interest status. On proprietary lands, those sections of the Federal criminal code that prohibit misconduct against visitors or their property do not apply and, hence, are not enforceable. Pub. L. No. 94-579 does not apply these laws to Federal land held in a proprietary status. While misconduct against visitors and their property is cognizable under a State's criminal code on proprietary land, Pub. L. No. 94-579 does not specifically authorize BLM enforcement officers to make arrests under a State's criminal code or offer immunities to those that do;

The Secretary of Interior may contract
with local police to carry out his
law enforcement responsibilities. These
contracts have all the immunities
of Federal law enforcement
officers and may enforce Federal
regulations relating to
public lands and their resources.
Pub. L. No. 94-579 requires that local
police who contract with BLM receive

--Pub. L. No. 94-579 is silent on the scope, if any, of BLM's investigative authority;

--Pub. L. No. 94-579 directs the Secretary of the Interior to try to achieve "maximum feasible reliance" on local police in order to discharge Federal law enforcement responsibilities.

Some localities may be reimbursed for
expenditures incurred by
them in connection with activities
performed in the administration
and management of the use and occupancy
of public lands.

APPENDIX I

| <u>Agency</u> | <u>Statutory Enforcement Authority as of October 1, 1976</u> | <u>Legislative Status of Enforcement Authorizations Proposed in 94th Congress</u> |
|---|--|---|
| Bureau of Land Management (BLM), Department of the Interior (Continued) | | S.1. 94th Cong., 1st Sess. (1975) (referred to Senate Committee on the Judiciary); H.R. 12504, 94th Cong., 1st Sess. (1976) (referred to Subcommittee on Criminal Justice of the House Committee on the Judiciary). S.1 and H.R. 12504 failed to enactment. |

APPENDIX I

MEMO

of Proposed or Recently
Enforcement Authorizations

Comments on Proposed or Recently
Enacted Enforcement Authorizations

S. 12504:

S.1; H.R. 12504:

ated Interior Department
s authorized to carry fire-

--Arrest, warrant, and process serving authority is not
geographically limited to BLM land;

ated Interior Department
s authorized to make warrant-
ests for all Federal crimes;

--S.1 and H.R. 12504 are silent on the scope of BLM's inves-
tigative authority;

ated Interior Department
s authorized to execute and
deral warrants and other
process.

--Most BLM land is held in a proprietorial interest status.
On proprietorial lands, those sections of the Federal crim-
inal code that prohibit misconduct against visitors or
their property do not apply and, hence, are not enforceable.
S.1 and H.R. 12504 do not apply these laws to Federal land
held in a proprietorial status. While misconduct against
visitors or their property is cognizable under a State's
criminal code on proprietorial lands, S.1 and H.R. 12504 do
not authorize BLM enforcement officers to make arrests under
a State's criminal code or offer immunities to those that do;

--S.1 and H.R. 12504 neither permit the Secretary to appoint
local police to enforce the Federal criminal code nor author-
ize the Secretary to reimburse States and localities for
services rendered on BLM land in connection with the enforce-
ment of State and local laws.

APPENDIX I

| Agency | Statutory Enforcement Authority as of October 1, 1976 | Legislative Status of Enforcement Authorization Proposed in 95th Congress |
|--|---|---|
| U.S. Fish and Wildlife Service (FWS), Department of the Interior | <p>Bald and Golden Eagle Act, 16 U.S.C. 668-668c, the Endangered Species Act of 1973, 16 U.S.C. 1531-1543, the National Wildlife Refuge System Administration Act Amendments of 1974, 16 U.S.C. 668dd-668ee, Migratory Bird Treaty Act, 16 U.S.C. 703-711, the Migratory Bird Hunting Stamp Act of March 16, 1934, as amended, 16 U.S.C. 716-718e, the Airborne Hunting Act, 16 U.S.C. 724j-1, the Black Bass Act, 16 U.S.C. 851-856, the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407, and the Lacey Act, 18 U.S.C. 42-44, 3054, 3112.</p> <p>--Designated FWS employees are authorized to make arrests for the violation of substantially all Federal laws and regulations that relate to the protection of fish and wildlife.</p> | <p>H.R. 5523, 94th Cong., 1st Sess. (1975)--Reported from House Committee on Merchant Marine and Fisheries April 1, 1976; Report 94-143. Passed House May 3, 1976. In Senate referred to Senate Committee on Commerce May 4, 1976. Committee discharged. Amended and passed by Senate October 1976. H.R. 5523, as amended the Senate. Failed to enact in House.</p> |

EMENT

of Proposed or Recently
Enacted Authorizations

Comments on Proposed or Recently
Enacted Enforcement Authorizations

1:

ated FWS employees authorized
firearms;

ated FWS employees authorized
warrantless arrests for all
crimes;

ated FWS employees authorized
to take fish and wildlife
crimes;

ated FWS employees authorized
to make and serve Federal warrants
under the Federal process;

ry of the Interior author-
ize and designate local officials to
enforce the entire Federal criminal
code on FWS land. Local officials
designated would have all the
powers of Federal enforcement

23 would require the Secre-
tary of the Interior to establish
training programs in order to improve
the competency of local officials to
enforce Federal and State fish and
wildlife laws;

ry of the Interior author-
ize and reimburse State and local
officials for services rendered in
connection with the enforcement of
Federal laws on FWS land.

H.R. 5523:

--H.R. 5523 specifically does not authorize FWS enforcement
officials to investigate matters unrelated to fish and wild-
life. This restriction could be viewed as precluding the
investigation of complaints concerning offenses against the
persons of visitors or their property;

--Most FWS recreation areas are held in a proprietary inter-
est status. On proprietary lands, those sections of the
Federal criminal code that prohibit misconduct against
visitors or their property do not apply and, hence, are
not enforceable. H.R. 5523 does not apply these laws to
Federal recreation areas held in a proprietary status.
While misconduct against visitors and their property is
cognizable under a State's criminal code on proprietary
lands, H.R. 5523 does not specifically authorize FWS enforce-
ment officers to make arrests under a State's criminal code
or offer immunities to those that do;

--Although H.R. 5523 makes provision for the training of
local officials with regard to the enforcement of fish and
wildlife laws, no provision is made for the training of
local officials (who are authorized by the Secretary to
enforce all Federal laws) as regards the enforcement of
Federal laws prohibiting misconduct against the persons or
property of visitors;

--H.R. 5523 makes no provision for training FWS employees
who are assigned enforcement duties at FWS recreation areas.

APPENDIX I

| Agency | Statutory Enforcement Authority as of October 1, 1976 | Legislative Status of Enforcement Authorizations Proposed in 94th Congress |
|--|--|---|
| U.S. Fish and Wildlife Service (FWS), Department of the Interior (Continued) | | S. 1, 94th Cong., 1st Sess. (1975) (referred to Senate Com- mittee on the Judiciary; H.R. 12504, 94th Cong., 2d Sess. (1976) (referred to Subcommis- sion on Criminal Justice of the Committee on the Judiciary). <u>S. 1 and H. R. 12504 failed of enactment.</u> |

MENTProposed or Recently
Enacted Enforcement Authorizations

12504:

ed Interior Department
authorized to carry fire-

ed Interior Department
authorized to make warrant-
is for all Federal crimes;

ed Interior Department
authorized to execute and
al warrants and other Fed-
is.

Comments on Proposed or Recently
Enacted Enforcement Authorizations

S.1; H.R. 12504:

--S.1 and H.R. 12504 are silent whether FWS enforcement personnel may investigate offenses involving misconduct against visitors or their property if such conduct occurs at an FWS recreation area;

--Most FWS land is held in a proprietorial interest status. On proprietorial lands, those sections of the Federal criminal code that prohibit misconduct against visitors or their property do not apply and, hence, are not enforceable. S.1 and H.R. 12504 do not apply these laws to Federal recreation areas held in a proprietorial status. While misconduct against visitors or their property is cognizable under a State's criminal code on proprietorial lands, S.1 and H.R. 12504 do not authorize FWS enforcement officers to make arrests under a State's criminal code or offer immunities to those that do;

--S.1 and H.R. 12504 neither permit the Secretary to appoint local police to enforce the Federal criminal code nor authorize the Secretary to reimburse States and localities for services rendered on FWS land in connection with the enforcement of State and local laws.

APPENDIX I

| Agency | Statutory Enforcement Authority as of October 1, 1976 | Legislative Enforcement Authority Proposed in 1976 |
|--|---|---|
| Corps of Engineers (Corps), Department of the Army | 16 U.S.C. 460d (1970)-- Designated Corps employees may issue citations for the violation of regulations promulgated by the Secretary of the Army. | H.P. 9964, 94th Cong. Sess. (1975) referred Committee on the Judiciary. Bill failed of passage. |
| | 16 U.S.C. 4601-6a(e) (Supp. V. 1975)--Designated Corps employees may make warrantless arrests for the violation of rules and regulations that relate to the collection of recreation use fees. | S. 3820 (relevant part H.R. 15636 and H.R. 9 referred to House on Public Works)--Referred Senate by Senate on Public Works September 29, 1976. Agreed to a conference October 30, 1976. Conference report filed in the October 1, 1976; H.R. 1755. House conference report October 1, 1976. Senate agreed to conference report October 1, 1976 by the President Oct 1976--Pub. L. No. 94 Stat. 291. |
| | 33 U.S.C. 413 (Supp. V. 1975)--Designated Corps employees may make warrantless arrests for the violation of certain laws that relate to the protection of navigable waters (33 U.S.C. 401, 403, 404, 406, 407, 408, 409, 411, 549, 686, 687). | |

STATEMENTScope of Proposed or Recently Enacted Enforcement Authorizations

H.R. 9964--Amends section 1114 of title 18, U.S. Code (1970), to make criminal the killing of Corps law enforcement personnel.

Pub. L. No. 94-587 (S.3823)-- Authorizes the Secretary of the Army, acting through the Chief of Engineers, to contract with States and localities to obtain "increased law enforcement services" at Corps recreation areas during period of peak visitation.

Comments on Proposed or Recently Enacted Enforcement Authorizations

Pub. L. No. 94-587 (S.3823):

--Pub. L. No. 94-587 makes no reference to the authority of Corps personnel to engage in law enforcement and visitor protection operations at Corps-administered recreation areas. Nor does Pub. L. No. 94-587 authorize Corps enforcement officials to carry firearms.

--It is unclear whether the Secretary's authority to contract with States and their subdivisions for law enforcement services was intended to include the authority to contract for the enforcement of Federal as well as State laws.

--Pub. L. No. 94-587 is silent on the matter of whether local police under contract with the Corps are to receive training commensurate with their contractual responsibilities and whether, once those responsibilities are assumed, the State and local officials concerned are to have the immunities of Federal officers.

APPENDIX I

| AGENCY | Statutory Enforcement Authority as of October 1, 1976 | Legislative Enforcement Authority Proposed 10/76 |
|----------------------------------|--|---|
| Tennessee Valley Authority (TVA) | No express statutory law enforcement authority. | No proposed statutory authority. |

EMENT

Scope of Proposed or Recently
Enacted Enforcement Authorizations
Not applicable.

Comments on Proposed or Recently
Enacted Enforcement Authorizations
Not applicable.

APPENDIX I

| Agency | Statutory Enforcement Authority as of October 1, 1976 | Legislative State Enforcement Authority Proposed in 94th Cong. |
|--|---|--|
| U.S. Forest Service, Department of Agriculture | 16 U.S.C. 559 (1970)--All persons employed in Forest Service may make arrests for the violation of the laws and regulations that relate to the national forests. Any person arrested must be taken to a U.S. magistrate for trial (misdemeanor trial jurisdiction). | No proposed statutory enforcement authority. |
| | 16 U.S.C. 551a (Supp. V. 1975)--Authorized the Secretary of Agriculture to reimburse States and subdivisions thereof for expenditures incurred in connection with State and local enforcement "activities" on National Forest System lands. | |
| | 16 U.S.C. 553 (1970)--Designated employees shall "aid" in the enforcement of State laws that relate to stock, the prevention or detection of forest fires, and the protection of fish and game. Designated employees shall "aid" other Federal agencies, on request, in the performance of duties imposed on them by law. | |

L

EMENT

Scope of Proposed or Recently
Issued Enforcement Authorizations

Not applicable.

Comments on Proposed or Recently
Issued Enforcement Authorizations

Not applicable.

BLANK

THE CANADIAN NATIONAL PARK SYSTEM

About 50,000 square miles have been preserved in 28 national parks. By law, these parks are dedicated to the people for their benefit, education and enjoyment. Canada hopes eventually to have 55 national parks. In fiscal year 1976, 16.3 million people visited the parks which have been established.

Program functions concerning parks are carried out by Parks Canada and include:

1. The formulation, review and updating of policy within the intent and framework of the Canadian National Parks Act.
2. The initiation and implementation of programs to provide services designed to enhance public enjoyment of the parks.

Parks Canada has as its objectives to acquire and develop representative areas of the country for use by the public, and to restore and operate sites and structures of importance to Canadian history. This is to be done in a manner consistent with the preservation of such areas in their natural state. Main operational responsibility rests with five regional offices.

LAW ENFORCEMENT IN CANADIAN NATIONAL PARKS

Parks Canada park wardens are the law enforcement officers in the parks. The wardens have all the powers of police constables.

Wardens issue citations and warnings to visitors for misdemeanor type offenses. The wardens' main role is to inform visitors about the rules and regulations relating to the park. Citations are generally given only to visitors who repeatedly and willfully violate park regulations. The wardens' primary responsibilities include

- protecting the parks' natural resources;
- advising park visitors of the regulations established for their guidance, protection, and safety; and
- assisting and controlling park visitors in their use of the parks.

Although wardens have full powers of police constables, they are not equipped or sufficiently trained to do law enforcement work. Although wardens legally are authorized to carry weapons, sidearms are not normally issued. Canadians consider sidearms as inappropriate in a park context. Sidearms have been issued in only one park (for safety purposes). Park wardens are given broad police powers so that they may carry out their duties properly and effectively. Wardens receive 3 weeks of law enforcement training. The training consists of public relations, patrol tactics, officer-violator contact, crime scene protection, testifying in court, and Federal and provincial law. The officials pointed out that the diversity and extent of park wardens' regular duties preclude them from acting as full-time law enforcement officers. Except in matters of park protection, particularly enforcement of forest fire protection and game and fishing regulations, the park wardens are not encouraged to perform law enforcement work.

The Canadian Government believes that two basic means of crime prevention can be adapted to the park environment. First, mechanical devices such as locks, alarms, and lights as well as uniformed officers and marked cars are effective. Secondly, control devices can be used, including such things as curfews, regulations, and camper registration.

The Canadian Government believes using security devices makes it inconvenient for people to enter buildings and campgrounds illegally. The most effective means of preventing illegal acts, in the officials' opinion, is the presence of a uniformed law enforcement officer. The presence of such an officer, they believe, makes potential violators realize that their chances of successfully carrying out illegal acts are not good.

By controlling conditions, the Canadians believe that potential problems can be kept under control or eliminated through lessening the conditions that breed them. The Canadian Government has found that:

- A lack of privacy and overcrowding in living areas increase the likelihood of problems between groups and individuals.
- Boredom is a very definite breeder of trouble. Therefore, persons in the park should be informed of the park's attractions and activities and encouraged to take advantage of them.

--When enforcement action is required, it should be prompt, firm, and fair.

In addition, park wardens usually do not act as a police force in matters normally covered by the Royal Canadian Mounted Police unless absolutely necessary.

The Canadian Government's position is that involving park wardens too intimately in law enforcement matters normally associated with the RCMP results in confusion on the part of visitors.

In an attempt to make its parks law enforcement policy work, the Canadian Government has employed a number of methods. It has encouraged the RCMP to increase its manpower in recreation areas. In many parks, this has been successful; however, Parks Canada believes the RCMP efforts are still inadequate to maintain the type of control it considers desirable. Yet, RCMP officials have been reluctant to assume a role which they consider administrative in nature. The RCMP believes it should only be called in when a problem is beyond the park employees' capability and could result in some serious criminal offense. Parks Canada officials pointed out, however, that by the time this point is reached the situation can be virtually out of hand.

Under agreement with the RCMP, 12 of Canada's national parks have RCMP detachments assigned in the parks either on a seasonal or year-round basis. For example, at Banff National Park, there is a detachment of 27 men which is at full strength throughout the year.

The park wardens are also responsible for enforcing game regulations. However, they do not carry out routine searching of private vehicles. The authority provided by the game regulations is primarily intended as a means of obtaining convictions against persons suspected of poaching and is not to be used as an excuse for routine checking of vehicles in a park. Chief wardens are given clear instructions on this aspect of warden service duties and are responsible for insuring that wardens follow these instructions.

The park wardens' and the RCMP's law enforcement duties overlap to some extent, and it is possible to define a relationship between their respective duties. In most parks, control of highway traffic, stopping and checking vehicles on main highways and in townsites and other built-up areas, liquor violations, and most infractions of the criminal code are handled by the RCMP alone. Except in an emergency, all RCMP

requests for assistance of park wardens to carry out police duties are directed through the park superintendent. Similarly, the advice and assistance of the RCMP is sought, through the park superintendent, in matters involving enforcement of park regulations by the park wardens or other park authorities.

Parks Canada also employs security guards, either from the Corps of Commissionaires or private security agencies. The Corps of Commissionaires is made up of recently discharged service persons who are seeking permanent employment but have not yet found it. These individuals are viewed as semiprofessionals since they have very minimal law enforcement training. When these semiprofessional guards are used, park wardens are responsible for providing guidance to them.

Security guards are not authorized to make arrests or give citations. They wear uniforms but are unarmed. They perform basically a security or patrol function. Their purpose is to observe visitor activity and to report on visitor misconduct to the wardens who are to take corrective action.

The following table shows the security forces employed by Parks Canada.

| | <u>Staff-years</u> |
|--|--------------------|
| Park wardens | 200 |
| Maintenance men at parks who double in security duties | 12 |
| Corps of Commissionaires' staff and other security personnel | <u>151</u> |
| Total | <u><u>363</u></u> |

The Government recognizes that there will be occasions when a park warden should take direct action in matters normally handled by the RCMP. It is an intimate, continuing involvement in police duties that is to be avoided.

Park wardens have legal authority for law enforcement in connection with offenses committed outside the national parks. The Canadian Government, however, believes that it is neither desirable nor in the best interests of their parks that such authority be exercised.

None of the foregoing relieves a warden of his responsibility to report violations of the law, whether in or out of the park, and to be prepared to act as a witness in such matters. Most highway and liquor offenses and violations observed in townsites, major campgrounds, and on provincial lands can be handled satisfactorily in this manner, according to officials.

When involved in law enforcement activities, wardens are encouraged to be mindful of the following:

1. Be aware:

- Aware of the geographic layout of the park, giving special attention to potential problem areas.
- Aware of the people in the park, giving special attention to persons or groups liable to become problems, or those requiring special consideration or assistance.

2. Be alert:

- Alert to signs to impending problems, taking corrective action to remedy unpleasant or dangerous situations before they get out of hand.
- Alert when dealing with persons whose activities do not meet with the required standards of conduct.

3. Be firm but fair:

- Treat all people with the same consideration and respect, using force only when absolutely necessary, and then only the minimum force required. Laws are not designed to be discriminatory--neither should be their enforcement.

4. Be realistic:

- Do not turn minor incidents into major confrontations by being overzealous.
- Do not ignore violations and run the risk of letting the situation get out of hand.

5. Be informed:

- Informed of your duties, expectations, and capabilities. Do your job. Do it well, but do not attempt

more than you can handle. If you anticipate problems, get assistance before you attempt to act.

6. Be understanding:

--People are in your park to enjoy themselves. The large majority are decent people who may occasionally step out of line. The officer who solicits cooperation normally gets it. The officer who demands cooperation seldom fares as well.

7. Be efficient:

--If you encounter an offense beyond your experiences or the requirements of your position, employ the basic concepts of preliminary investigation. Seal off the area; exclude unauthorized persons; do not touch or handle anything; obtain names of victim, witnesses, and suspects; note time; and request assistance from the police agency with jurisdiction in the area.

--If you make an arrest or conduct an investigation, take sufficient notes; properly handle, tag, and protect exhibits; comply with laws of search, arrest, release, etc.; and report in detail to supervisors, police agencies concerned, Crown Prosecutor, etc.

According to the officials, there has been an increase in national park attendance which has been accompanied by a corresponding increase in the number of violations of the law. This situation, according to the officials, has resulted in pressure for park wardens to become more active in the law enforcement field.

The Canadian system of law enforcement at national parks centers around prevention and control. For instance,

--at major campgrounds all visitors are required to register, there are curfews established, and 24-hour security patrols are made;

--at midsize campgrounds there may be registration, there are curfews, and 24-hour security patrols are made;

--at small campgrounds there are 24-hour security patrols which are responsible for collecting fees from campers; and

--at primitive sites there is no charge for use or registration required. The user is required to purchase a fire permit.

The park superintendent is responsible for the safe operation of the park. However, superintendents are left pretty much alone. They are required to establish park policy within the guidelines which have been established by the Government. Regional directors are responsible for establishing benchmarks by which park operations can be reviewed for effectiveness.

Regional office officials visit each park periodically to evaluate its operations. The region's warden service coordinator is responsible for monitoring wardens' training and their law enforcement activities. For example, operational reviews are conducted every 2 years in one region. The reviewers evaluate every aspect of park operations. A checklist system is used to note shortcomings. At the end of the review, the review team prepares an overall report on its findings addressed to the park superintendent. The superintendent prepares a response in which he spells out his timetable for correcting the cited weaknesses. The regional office then monitors his progress in correcting the problem areas.

The Canadians do not maintain statistics on serious crime occurring at national parks. Only statistics on the number of citations issued to visitors are kept. The reason serious crime statistics are not kept separately is that they are usually investigated by the RCMP and incorporated into its overall crime figures.

In parks where there is a seasonal law enforcement problem, Canadian magistrates set up temporary court facilities. When violators are cited, they are brought before the magistrate for immediate disposition of the case.

In summary, the Canadians believe that law enforcement in a park environment consists of preventive law enforcement and investigative law enforcement. Preventive law enforcement is basically recognizing potential problems and taking corrective actions before an actual violation occurs. Investigative law enforcement is designed to bring perpetrators of unlawful acts before the courts to answer for their actions.

PROPOSED LEGISLATION

THE NATIONAL RECREATION AREA

LAW ENFORCEMENT ACT OF 1977

A BILL

To improve the administration of law enforcement at National recreation areas

1 Be it enacted by the Senate and House of Representatives
2 of the United States of America in Congress assembled, That
3 this Act may be cited as "The National Recreation Area Law
4 Enforcement Act of 1977."

5 TABLE OF CONTENTS

- 6 Title I -- Congressional Findings; Declaration of Policy and
- 7 Purpose; Definitions
- 8 Title II -- Agency Enforcement Authority; Cooperation with
- 9 State and Local Governments
- 10 Title III -- Applicability of State and Federal Laws;
- 11 Relinquishment of Exclusive Jurisdiction
- 12 Title IV -- Repeal and Amendment of Existing Enforcement
- 13 Statutes; Severability

14 TITLE I - CONGRESSIONAL FINDINGS; DECLARATION OF POLICY
15 AND PURPOSE; DEFINITIONS

16 Sec. 101. (a) The Congress finds that--

- 17 (1) substantial visitation increases to National recrea-
- 18 tion areas have been accompanied by alarming levels of mis-
- 19 conduct against visitors and their property;
- 20 (2) the administration of law enforcement at National
- 21 recreation areas has been handicapped by the limitations on

1 the administering agencies' statutory enforcement authority;

2 and

3 (3) the administration of law enforcement at National
4 recreation areas has been further handicapped by the fact that
5 Federal laws prohibiting misconduct against visitors or their
6 property apply at some National recreation areas but do not
7 apply at others.

8 (b. The Congress declares that it is the policy of the
9 United States that--

10 (1) the agencies responsible for administering the National
11 recreation areas actively promote law enforcement and protec-
12 tive services to visitors; and

13 (2) the agencies responsible for administering the National
14 recreation areas predicate their enforcement operations on
15 express Federal statutory authority.

16 (c) The purpose of this Act is to improve the administra-
17 tion of law enforcement at National recreation areas by--

18 (1) providing the agencies responsible for administering
19 the National recreation areas with the statutory authority
20 necessary to protect visitors and enforce Federal laws governing
21 their conduct; and

22 (2) applying the Federal laws that prohibit misconduct
23 against persons or property to certain federally-owned lands,
24 without regard to how the United States acquired ownership.

1 Sec. 102. As used in this Act--

2 (a) the term "Secretary," unless specifically designated
3 otherwise, means the Secretary of the Interior, the Secretary
4 of Agriculture, the Secretary of the Army, and the Board of
5 Directors of the Tennessee Valley Authority;

6 (b) the term "agency," unless specifically designated
7 otherwise, means the National Park Service (Department of
8 the Interior), the United States Fish and Wildlife Service
9 (Department of the Interior), the Bureau of Land Manage-
10 ment (Department of the Interior), the United States Forest
11 Service (Department of Agriculture), the Corps of Engineers
12 (Department of the Army), and the Tennessee Valley Authority;

13 (c) the term "enforcement official" means a designated
14 employee of an agency as defined in subsection (b) of this
15 section who is trained for and whose assigned duties include
16 law enforcement duties, including those employees who do
17 not perform law enforcement exclusively;

18 (d) the term "State" means the several States, except
19 in sections 203, 204, and 303 where the term means any State,
20 Commonwealth, territory or possession of the United States,
21 including any political subdivision of a State, Commonwealth,
22 territory or possession;

23 (e) the term "special maritime and territorial juris-
24 diction of the United States" shall have the same meaning

1 as it does in section 7 (section 7(a) as renumbered by this
2 Act) of title 18, United States Code;

3 (f) the term "concurrent jurisdiction" shall have the same
4 meaning as it does in subsection 3 of section 7 (section 7(a)
5 as renumbered by this Act) of title 18, United States Code; and

6 (g) the term "legislative day" means, with respect to
7 proposed relinquishment agreements submitted to a committee
8 of the Senate, any day on which the Senate is in session,
9 and, with respect to proposed relinquishment agreements
10 submitted to a committee of the House of Representatives,
11 any day on which the House of Representatives is in session.

12 TITLE II - AGENCY ENFORCEMENT

13 AUTHORITY; COOPERATION WITH STATE AND LOCAL GOVERNMENTS

14 Sec. 201. A Secretary may designate enforcement officials
15 of his agency who meet criteria and standards prescribed by him
16 by regulation to maintain law and order and protect persons
17 and property within areas administered by his agency. An
18 employee so designated may exercise such of the following
19 powers as the agency's Secretary deems appropriate:

20 (a) carry firearms on Federal areas administered by the
21 agency, and on areas immediately contiguous thereto when
22 the carrying of a firearm is incident to the exercise of the
23 powers provided by subsections (c), (d), and (e) of this
24 section; provided, that nothing herein shall be construed

1 as prohibiting an enforcement official from transporting
2 a firearm to another Federal area in connection with his
3 official duties or from transporting a firearm to a training
4 area and using such firearm during a training exercise;

5 (b) secure any Federal order, warrant, subpoena, or other
6 Federal process issued pursuant to law and arising out of
7 a Federal offense committed within an area administered by the
8 agency;

9 (c) execute and serve any Federal order, warrant, subpoena,
10 or other Federal process issued by a court or officer of competent
11 jurisdiction when--

12 (1) the person or object subject to the order,
13 warrant, subpoena, or process is within a Federal
14 area administered by the agency; or

15 (2) to avoid service, the person subject to
16 the order, warrant, subpoena, or process is fleeing
17 the Federal area administered by the agency and is
18 within an area immediately contiguous thereto;

19 (d) conduct investigations of offenses against the United
20 States believed or known to have been committed at a Federal
21 area administered by the agency in the absence of investigation
22 thereof by the Federal agency having primary investigative juris-
23 diction over the offense or with the concurrence of such agency.
24 When the agency does not have primary investigative jurisdiction

1 over an offense; investigations otherwise proper under this
2 subsection may be conducted within the geographical confines
3 of Federal areas managed by the agency, and on areas immediately
4 contiguous thereto when the investigation is incident to the
5 exercise of the powers provided by subsections (c) and (e) of
6 this section; and

7 (e) make arrests without warrant for any Federal offense
8 committed in his presence or for any Federal felony if he has
9 reasonable grounds to believe that the person to be arrested
10 has committed or is committing such felony, provided such arrests
11 occur within the Federal area managed by the agency, or on areas
12 immediately contiguous thereto if the person to be arrested is
13 fleeing the Federal area to avoid arrest.

14 Sec. 202. The powers granted by section 201 shall be in
15 addition to any other Federal statutory enforcement authoriza-
16 tions applicable to the agency or the agency's officers and
17 employees.

18 Sec. 203. (a) In addition to any other power expressly
19 provided by law, a Secretary, in accordance with regulations
20 issued pursuant to subsection (b) of this section, may, by
21 agreement with a State or otherwise, provide reasonable reim-
22 bursement to the extent deemed necessary to a State for expen-
23 ditures incurred by it in connection with the enforcement of
24 State laws on Federal areas administered by his agency.

1 (b) The Secretaries of the agencies shall issue uniform
2 regulations specifying the circumstances and conditions under
3 which a State may be reimbursed for expenditures incurred by
4 it in connection with the enforcement of State laws on Federal
5 areas administered by an agency.

6 (c) Nothing in this section shall be construed to abrogate
7 any valid cooperative law enforcement agreement agreed to,
8 before the date of enactment of this Act, between an agency and
9 a State; provided, that this subsection shall not apply to renew-
10 als or extensions occurring after the date of enactment of this
11 Act of an agreement which was entered into before the date of
12 enactment of this Act.

13 Sec. 204. Nothing contained in Title II of this Act shall
14 be construed or applied to--

15 (a) limit or restrict the authority of any Federal law
16 enforcement agency other than an agency identified in section
17 102(b); or

18 (b) affect any right of a State to exercise civil or cri-
19 minal jurisdiction on Federal areas administered by an agency.

20 TITLE III - APPLICABILITY OF STATE AND FEDERAL LAWS;

21 RELINQUISHMENT OF EXCLUSIVE JURISDICTION

22 Sec. 301. Section 7 of title 18, United States Code
23 (Act of June 25, 1948, ch. 645, 62 Stat. 685; Act of July 12,
24 1952, ch. 695, 66 Stat. 589), is renumbered section "7(a)" and

1 amended by adding immediately after "State." in the fifth para-
2 graph thereof, a new section to read as follows:

3 "§7 (b) Federal areas not within the special maritime
4 and territorial jurisdiction of the United States.
5 "For the purposes of sections 13, 81, 113, 114, 661, 662,
6 1111, 1112, 1113, 1363, 2031, 2032, and 2111 of title 18,
7 United States Code, Federal areas that are not within the
8 special maritime and territorial jurisdiction of the United
9 States are those Federal areas not within the special maritime
10 or territorial jurisdiction of the United States that are
11 owned by the United States and principally administered by the
12 Secretary of the Interior through the National Park Service,
13 United States Fish and Wildlife Service, and the Bureau of
14 Land Management; by the Secretary of the Army through the
15 United States Army Corps of Engineers; by the Secretary of
16 Agriculture through the United States Forest Service; and by
17 the Board of Directors of the Tennessee Valley Authority
18 through the Tennessee Valley Authority."

19 Sec. 302. Sections 13, 81, 113, 114, 661, 662, 1111,
20 1112, 1113, 1363, 2031, 2032, and 2111 of title 18, United
21 States Code (Act of June 25, 1948, ch. 645, 62 Stat. 683-868),
22 are amended as follows:

1 (a) In section 13 of title 18, United States Code (62 Stat.
2 686), delete "areas within federal jurisdiction" from the sec-
3 tion heading and insert, in lieu thereof, "certain Federal
4 areas.";

5 (b) In section 13 of title 18, United States Code (62 Stat.
6 686), insert "(a)" immediately following "7" and immediately
7 following "of this title," insert "or within or upon a Federal
8 area identified in section 7(b) of this title,";

9 (c) In sections 81 and 662 of title 18, United States
10 Code (62 Stat. 688, 731), delete "within special maritime and
11 territorial jurisdiction" from the section heading;

12 (d) In sections 113 and 114 of title 18, United States
13 Code (62 Stat. 689), delete "within maritime and territorial
14 jurisdiction" from the section heading;

15 (e) In section 661 of title 18, United States Code (62
16 Stat. 731), delete "within special maritime and territorial
17 jurisdiction" from the section heading and insert, in lieu
18 thereof, "Theft of personal property.";

19 (f) In section 1363 of title 18, United States Code (62
20 Stat. 764), delete "Buildings or property within special mari-
21 time and territorial jurisdiction" from the section heading
22 and insert, in lieu thereof, "Destruction and injury to build-
23 ings or property.";

1 (g) In section 2111 of title 18, United States Code (62
2 Stat. 796), delete "Special maritime and territorial jurisdic-
3 tion" from the section heading and insert, in lieu thereof,
4 "Robbery and burglary.";

5 (h) In section 2031 of title 18, United States Code (62
6 Stat. 795), delete "Special maritime and territorial jurisdic-
7 tion" from the section heading and insert, in lieu thereof,
8 "Rape.";

9 (i) In sections 81, 113, 114, 661, 662, 1113, 1363, 2031,
10 2032, and 2111 of title 18, United States Code (62 Stat. 688,
11 689, 731, 756, 764, 795, 796), immediately following "Whoever,"
12 insert "within or upon a Federal area identified in section 7(b)
13 of this title or";

14 (j) Immediately following "United States" in paragraph (b)
15 of sections 1111 and 1112 of title 18, United States Code (62
16 Stat. 756), insert "or within or upon a Federal area identified
17 in section 7(b) of this title,".

18 Sec. 303. A State's authority to exercise criminal and
19 civil jurisdiction over persons on the Federal areas identified
20 in section 301 shall not be affected or changed by reason of
21 the applicability of sections 13, 81, 113, 114, 661, 662, 1111,
22 1112, 1113, 1363, 2031, 2032, 2111 of title 18, United States
23 Code, to such areas.

1 Sec. 304. - Section 1114 of title 18, United States Code,
2 entitled "Protection of officers and employees of the United
3 States", is amended by striking out "or any officer or employee
4 of the Department of Health, Education, and Welfare or of
5 the Department of Labor assigned to perform investigative,
6 inspection, or law enforcement functions," and inserting,
7 in lieu thereof, "or any officer or employee of the Department
8 of Health, Education, and Welfare or of the Department of Labor
9 or of the United States Fish and Wildlife Service or of the
10 Tennessee Valley Authority assigned to perform investigative,
11 inspection, or law enforcement functions, or any civilian
12 employee of the Corps of Engineers of the Department of the
13 Army assigned to perform investigative, inspection, or law
14 enforcement functions in connection with civil activities of
15 the Department of the Army,".

16 Sec. 305. (a) Notwithstanding any other provision of law,
17 a Secretary may relinquish to a State, Commonwealth, territory,
18 or possession of the United States, part of the legislative
19 jurisdiction of the United States over designated Federal lands
20 or interests therein in that State, Commonwealth, territory,
21 or possession if such land or interest therein is to be placed
22 in a concurrent jurisdictional status and is principally admini-
23 stered by the Bureau of Land Management, the National Park
24 Service, United States Fish and Wildlife Service, the Corps of

1 Engineers, the United States Forest Service, or the Tennessee
2 Valley Authority; Provided, That prior to consummating any such
3 relinquishment, the proposed agreement--

4 (1) in the case of lands principally administered by
5 the Bureau of Land Management or the National Park Service,
6 be submitted by the Secretary of the Interior to the House
7 Committee on Interior and Insular Affairs and the Senate
8 Committee on Energy and Natural Resources;

9 (2) in the case of lands principally administered by
10 the United States Fish and Wildlife Service, be submitted by
11 the Secretary of the Interior to the House Committee on Interior
12 and Insular Affairs, the Senate Committee on Energy and Natural
13 Resources, the Senate Committee on Commerce, Science, and
14 Transportation, and the House Committee on Merchant Marine
15 and Fisheries;

16 (3) in the case of lands principally administered by the
17 United States Army Corps of Engineers, be submitted by the
18 Secretary of the Army to the House Committee on Interior and
19 Insular Affairs, the Senate Committee on Energy and Natural
20 Resources, the Senate Committee on Environment and Public Works,
21 and the House Committee on Public Works and Transportation;

22 (4) in the case of lands principally administered by the
23 United States Forest Service, be submitted by the Secretary
24 of Agriculture to the House Committee on Interior and Insular
25 Affairs, the Senate Committee on Energy and Natural Resources,

1 the Senate Committee on Agriculture, Nutrition, and Forestry,
2 and the House Committee on Agriculture; and

3 (5) in the case of lands principally administered by
4 the Tennessee Valley Authority, be submitted by the Chair-
5 man of the Tennessee Valley Authority, acting through the
6 Authority's Board of Directors, to the House Committee on
7 Interior and Insular Affairs, the Senate Committee on Energy
8 and Natural Resources, the Senate Committee on Environment
9 and Public Works, and the House Committee on Public Works
10 and Transportation.

11 (b) A Secretary shall not finalize any relinquishment
12 agreement proposed pursuant to this section until sixty legis-
13 lative days elapse following submission of a proposed relin-
14 quishment agreement to the congressional committees designated
15 in subsections (1)-(5) of section 401(a).

16 (c) Relinquishment of legislative jurisdiction otherwise
17 proper under subsections (a) and (b) of this section may be
18 accomplished--

19 (1) by filing with the Governor (or, if none exists, with
20 the chief executive officer) of the State, Commonwealth, terri-
21 tory, or possession concerned, a notice of relinquishment to
22 take effect upon acceptance thereof; or

23 (2) as the laws of the State, Commonwealth, territory,
24 or possession may provide.

TITLE IV - REPEAL AND AMENDMENT OF EXISTING

ENFORCEMENT STATUTES; SEVERABILITY

Sec. 401. (a) Section 6 of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.), as added by the Act of October 7, 1976 (Pub. L. No. 94-458, §2, 90 Stat. 1939-1940), is amended by deleting the first and second sentences thereof.

(b) Subsections (b), (c), (d), and (e) of section 10 of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.), as added by the Act of October 7, 1976 (Pub. L. No. 94-458, §2, 90 Stat. 1939, 1941-1942), are hereby repealed.

Sec. 402. The first paragraph of that section designated "General Expenses, Forest Service" of the Act of March 3, 1905, as amended (33 Stat. 872; 16 U.S.C. 559), relating to the arrest authority of the United States Forest Service, is further amended by striking "and all persons employed in the forest service of the United States shall have authority to make arrests for the violation of the laws and regulations relating to the forest reserves, and any person so arrested shall be taken before the nearest United States magistrate, within whose jurisdiction the reservation is located, for trial: and upon sworn information by any competent person any United States magistrate in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of said laws and regulations: but nothing herein contained shall be construed as preventing the arrest by any officer of the

1 United States, without process, of any person taken in the
2 act of violating said laws and regulations".

3 Sec. 403. The Act of August 10, 1971 (Pub. L. No. 91-82,
4 85 Stat. 303; 16 U.S.C. 551a (Supp. V. 1975)), relating to the
5 authority of the United States Forest Service to reimburse
6 States for law enforcement services, is repealed.

7 Sec. 404. Subsections (a) and (b) of section 120 of the
8 Act of October 22, 1976 (Pub. L. No. 94-587, 90 Stat. 2917),
9 relating to the Army Corps of Engineers authority to contract
10 with States for law enforcement services, are repealed.

11 Sec. 405. Section 4 of the Act of December 22, 1944, as
12 amended (58 Stat. 887; 16 U.S.C. 460d), is further amended
13 by striking "All persons designated by the Chief of Engineers
14 for that purpose shall have the authority to issue a citation
15 for violation of the regulations adopted by the Secretary
16 of the Army, requiring the appearance of any person charged
17 with violation to appear before the United States magistrate,
18 within whose jurisdiction the water resource development project
19 is located, for trial; and upon sworn information of any com-
20 petent person any United States magistrate in the proper juris-
21 diction shall issue process for the arrest of any person charged
22 with the violation of said regulations, but nothing herein
23 contained shall be construed as preventing the arrest by any
24 officer of the United States, without process of any person
25 taken in the act of violating said regulations."

1 Sec. 406. Subsections (c), (d), and (e) of section 303
2 of the Federal Land Policy and Management Act of 1976 (Pub.
3 L. No. 94-579, 90 Stat. 2743), relating to the Bureau of Land
4 Management's enforcement authority, are hereby repealed and
5 the remaining subsections of section 303 relettered accord-
6 ingly.

7 Sec. 407. Subsection (e) of section 4 of the Land and
8 Water Conservation Fund Act of 1965, as amended (78 Stat. 697;
9 16 U.S.C. 4601-6a(e) (Supp. V, 1975)), is further amended by
10 striking "Persons authorized by the heads of such Federal
11 agencies to enforce any such rules or regulations issued under
12 this subsection may, within areas under the administration or
13 authority of such agency head and with or, if the offense is
14 committed in his presence, without a warrant, arrest any per-
15 son who violates such rules and regulations. Any person so
16 arrested", and inserting, in lieu thereof, "Persons arrested
17 for the violation of the rules and regulations issued under
18 this subsection".

19 Sec. 408. If any provision of this Act or the applica-
20 tion thereof is held invalid, the remainder of the Act and
21 the application thereof shall not be affected thereby.

SECTION-BY-SECTION ANALYSIS

Major Provisions —

The short title identifies the legislation as "The National Recreation Area Law Enforcement Act of 1977."

Title I - Congressional Findings; Declaration of policy and Purpose; Definitions

Section 101. Congressional findings; Declaration of policy and purpose.

Section 101(a) sets forth three congressional findings. The first finding concerns the level of criminal activity occurring at National recreation areas. The second and third findings note that law enforcement at National recreation areas has been handicapped by the inadequacies of the administering agency's statutory enforcement authority and the inapplicability of Federal visitor protection laws to many National recreation areas.

Section 101(b) states the congressional policy that the six agencies responsible for administering the National recreation areas promote law enforcement and protective services and predicate their enforcement operations on express Federal statutory authority.

Section 101(c) explains that the purpose of the legislation is to improve the administration of law enforcement at National recreation areas by providing the administering agencies with the enforcement authority necessary to enforce Federal laws governing the conduct of visitors and by applying the Federal laws that prohibit misconduct against persons or property to Federal lands managed by these agencies.

The title of the bill and section 101 should not be construed as limiting the bill's applicability to Federal areas formally designated a "National recreation area." Many of the Federal areas managed by the administering agencies are not formally designated a "National recreation area," but are nevertheless used for a wide variety of purposes including, but not limited to, such activities as hunting, fishing, and camping. These Federal areas may be formally classified as "refuges," "water projects," "dams," "desolate lands," "scenic areas" or have a similar designation. The bill applies to these areas as well as to areas

formally designated as a "National recreation area." In short, the enforcement authorizations contained in the bill apply to all Federal areas administered by the agencies listed in section 102(b), without regard to the level of visitation at such areas or the area's formal designation.

Section 102. Definitions.

This section defines seven terms used in the legislation: (1) "Secretary"; (2) "agency"; (3) "enforcement official"; (4) "State"; (5) "Special maritime and territorial jurisdiction of the United States"; (6) "Concurrent jurisdiction"; and (7) "legislative day".

The definition of "enforcement official" includes agency employees who perform law enforcement duties on an occasional or seasonal basis. The term "State" means only the 50 States, except in sections 203, 204, and 303 where, as the definition indicates, the term includes the 50 States, a Commonwealth, territory or possession of the United States, including any political subdivision of a State, Commonwealth, territory or possession.

Title II - Agency Enforcement Authority; Cooperation with State and Local Governments

Section 201. Agency enforcement authority.

Enactment of this section would substantively replace most of the existing enforcement authorizations applicable to the administering agencies, presently scattered throughout the statutes-at-large, with a single, uniform, and comprehensive enforcement authorization applicable to the National Park Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Corps of Engineers, and the Tennessee Valley Authority. The section 201 enforcement authorizations apply to Federal areas administered by these agencies, including Federal scenic or road easements.

Section 201 authorizes a Secretary to designate enforcement officials of his agency to maintain law and order and protect persons and property within areas administered by the agency. Before any designations may occur, section 201 requires a Secretary to issue regulations establishing the appropriate appointment standards. By definition, all agency

enforcement officials are persons who have received law enforcement training. The first paragraph of section 201 also gives an administering agency's Secretary discretion to designate which of the section 201 enforcement authorizations may be exercised by agency enforcement officers.

Section 201(a). Authority to carry firearms.

This subsection authorizes designated enforcement officers to carry firearms within statutorily prescribed geographical areas. Enactment of section 201(a) would obviate the application of State and local gun control and registration requirements to enforcement officials and would provide the express statutory authority necessary to carry firearms for law enforcement purposes. The carrying of firearms beyond the geographical confines of Federal land for law enforcement purposes is not authorized by the legislation, except when the carrying is incident to the exercise of the authorities provided by subsections (c), (d), and (e) of section 201. This limited exception is intended to cover cases that involve hot pursuit. Section 201(a) does not, however, prohibit an enforcement official from merely transporting a firearm to another Federal area in connection with his official duties (reassignment, etc.) or from transporting a firearm to a training area and using the firearm during a training exercise.

Section 201(b). Authority to secure Federal warrants and orders.

This subsection authorizes designated enforcement officials to secure any Federal warrant or order that is issued in connection with a Federal offense committed within an area managed by the administering agency.

Section 201(c). Authority to execute and serve Federal warrants and orders.

This subsection authorizes designated enforcement officials to execute and serve any Federal warrant, order or process within statutorily prescribed geographical areas. If the person subject to the order, process, or warrant is in an area beyond the geographical confines of a Federal area administered by the agency and is not fleeing the Federal area to avoid service, section 201(c) requires that service be effected by traditional process serving authorities such as the U.S. Marshals Service. In this way, the functions of

the U.S. Marshals Service will not be duplicated by the creation of a Federal ranger police force having essentially the same process-serving authority as U.S. Marshals and U.S. Deputy Marshals.

Section 202 qualifies the geographical limitations imposed by this subsection by providing, in effect, that the subsection 201(c) process serving provision is in addition to any other process serving authorization applicable to an agency identified in subsection 102(b). Where independent authority to serve process without geographical limitation does not exist, however, the administering agency is subject to the subsection 201(c) geographical constraints.

Section 201(d). Authority to investigate.

This subsection provides the administering agencies authority to investigate complaints of misconduct against visitors or their property. However, section 201(d) restricts the circumstances and defines the geographical areas wherein this investigatory power may be exercised.

In the absence of investigation by the Federal agency having primary investigative jurisdiction over an offense or with the concurrence (by advance agreement or otherwise) of such agency, designated enforcement officials may conduct investigations on Federal land of offenses against the United States. Unless the agency administering the Federal area has primary investigative jurisdiction over the offense, section 201(d) would require that administering agency investigations be conducted only on Federal land and, in the prescribed exigent circumstances that provide for cases involving hot pursuit, on areas immediately contiguous to Federal land. If the administering agency lacks primary investigative jurisdiction over the offense, the conduct of investigatory activities beyond the specified geographical areas is left by section 201(d) to agencies such as the Federal Bureau of Investigation whose primary mission, unlike that of the agencies who administer Federal land, is the investigatory aspect of law enforcement.

Section 201(e). Arrest authority.

Enactment of this subsection is necessary to ensure that an administering agency and its enforcement officers have an express, clear, and sufficient Federal statutory basis with which to provide an adequate level of enforcement services to visitors. Section 201(e) would authorize designated enforcement officials to enforce, within certain geographical areas, all Federal laws that govern the conduct of visitors.

The subsection authorizes designated enforcement officials to (A) arrest without warrant for any Federal offense committed in the arresting officer's presence and (B) arrest without warrant for any Federal felony if the arresting officer has reasonable grounds to believe that the person to be arrested has committed or is committing a Federal felony.

Unless the person to be arrested is fleeing a Federal area to avoid arrest, section 201(e) geographically restricts the exercise of an enforcement officer's warrantless arrest power to Federal areas managed by the administering agency. The circumstances in which enforcement officials may secure, execute, and serve arrest warrants are set forth in subsections (b) and (c) of section 201.

Section 202. Repeals by implication.

This section clarifies that the section 201 enforcement authorizations are in addition to any other Federal enforcement authorization applicable to an agency identified in section 102(b) that is not specifically repealed or amended by title IV of the legislation. For example, the U.S. Fish and Wildlife Service, independent of this legislation, has statutory resource protection enforcement responsibilities throughout the United States. Section 201 is not to be construed as imposing geographical limitations on the discharge of these responsibilities.

Section 203. Cooperation with State and local governments.

State criminal laws apply on Federal lands held by the United States in a proprietorial or concurrent jurisdictional status and it is to State enforcement operations on these lands that section 203 is addressed. Because Federal land is generally immune from State and local taxation, the object of section 203 is to provide, as prescribed by uniform regulations issued by the Secretaries, reasonable offsetting compensation not otherwise available to a State for expenditures it incurs while enforcing State laws on federally-owned land.

Section 203 does not apply to Federal lands held in an exclusive jurisdictional status where State criminal laws are generally inapplicable. Where section 203 does apply, it neither contemplates the delegation of Federal law enforcement responsibilities to State governments nor the procurement of deputy sheriff commissions by agency enforcement officials.

Enactment of this section would make uniform the circumstances in which the Secretaries could reimburse States for

services rendered in connection with the enforcement of State laws on Federal land. The responsibility for enforcing Federal visitor protection laws is left principally to Federal agencies. For this reason, section 203 does not consider the enforcement of the Federal criminal statutes that prohibit misconduct against persons or property a reimbursable service. The term "State," as used in section 203, is defined in section 102(d).

Section 204. Preemption.

This section clarifies that no provision of title II is intended to limit or restrict the authority of any Federal agency other than the agencies identified in section 102(b), nor to affect any preexisting right of a State to exercise civil or criminal jurisdiction on Federal land.

Title III - Applicability of State and Federal Laws; Relinquishment of Exclusive Jurisdiction

Sections 301-303. Applicability of Federal laws.

Most Federal criminal laws in the fish, wildlife, and resource protection area apply to all Federal land. However, the Federal criminal statutes that define the crimes of arson, assault, maiming, theft, robbery, burglary, receipt of stolen property, murder, manslaughter, destruction of property, rape and carnal knowledge do not, under present law, apply to all Federal land. A similar situation pertains with respect to the Assimilative Crimes Act which adopts, as Federal law, certain criminal statutes of the State where the Federal land is situated.

These criminal statutes do apply to Federal lands within the special maritime and territorial jurisdiction of the United States, notably Federal lands held in a concurrent or exclusive jurisdictional status. But the majority of Federal land is not held in a concurrent or exclusive jurisdictional status. Instead, it is held in a proprietorial interest status where the Federal laws, above, that prohibit misconduct against visitors or their property, usually do not apply. ^{1/}

^{1/} State criminal laws prohibiting the described types of criminal activity also apply to Federal lands held in a proprietorial or concurrent jurisdictional status, but usually do not apply to Federal lands held in an exclusive jurisdictional status.

Recently, the Supreme Court recognized that, irrespective of the jurisdictional status in which Federal land is held (exclusive, concurrent, or proprietary), the Congress may exercise its authority under the Property clause of the Constitution and enact legislation respecting Federal land "[i]f it be found necessary for the protection of the public * * *." Kleppe v. New Mexico, 426 U.S. 529 (1976); See also United States v. Brown, Criminal No. 5-76-10 (D. Minn., filed November 4, 1976).

Sections 301 and 302, using the Property clause of the Constitution as a basis, apply the Federal criminal statutes that prohibit misconduct against persons or property to proprietary lands owned by the United States and administered by the agencies identified in section 102(b). This would give agency enforcement officials, acting under the authority provided by section 201, a law to enforce when confronted with misconduct against visitors or property on proprietary lands. Enactment of sections 301 and 302 would obviate the need for Federal officers to become city and county deputy sheriffs and enforce State laws prohibiting the described types of criminal activity.

Section 303 clarifies that enactment of sections 301 and 302 would not affect the authority of State and local enforcement officials to make arrests under the applicable State criminal code on proprietary lands.

Section 304. Protection of enforcement officials.

This section amends section 1114 of title 18, United States Code, making criminal, under certain circumstances, the killing of enforcement officials who are officers or employees of the U.S. Fish and Wildlife Service, the Tennessee Valley Authority, or the Army Corps of Engineers. Officers and employees of the National Park Service, the Bureau of Land Management, and the U.S. Forest Service are omitted from the amendatory language by reason of their earlier inclusion in 18 U.S.C. §1114. By operation of section 111 of title 18, United States Code, it is also a Federal offense to assault officials designated in 18 U.S.C. §1114.

Section 305. Relinquishment of exclusive jurisdiction and applicability of State criminal laws.

At some National recreation areas exclusive jurisdiction rests with the United States, thereby precluding, as a general rule, the exercise of criminal jurisdiction by State enforcement officers. On exclusive lands, the opportunities for

cooperating with State and local enforcement agencies are therefore limited. Where Federal land is administered pursuant to concurrent jurisdiction, this problem does not arise inasmuch as jurisdiction is exercised jointly by the State where the land is situated and the Federal Government. More important, both State and Federal criminal codes apply to concurrent lands and enforcement officers of a State and of the United States, acting under appropriate statutory authority, may enforce their sovereign's criminal laws.

With respect to agency lands held by the United States in an exclusive jurisdictional status, section 305 would permit a Secretary to place such lands in a concurrent jurisdictional status. Where appropriate, a Secretary could relinquish, by agreement with a State or as otherwise provided by State law, part of the United States' jurisdiction over the land to the State where the land is situated. No proposed relinquishment may be finalized, however, until 60 legislative days elapse following transmittal of a proposed relinquishment agreement or plan to the congressional committees identified in section 305(a)(1)-(5). This review period is to allow the appropriate committees an opportunity to review the terms of the proposed relinquishment and, if necessary, to reject the proposal by legislation. If the proposal is not legislatively repudiated within the review period, the relinquishment plan or agreement may be consummated with the State concerned.

Title IV - Repeal and Amendment of Existing Enforcement Statutes; Severability

Sections 401-407. Repeal and amendment of existing enforcement statutes.

Sections 401-407 repeal or amend a number of existing enforcement authorizations applicable to the National Park Service, the U.S. Forest Service, the Bureau of Land Management and the Army Corps of Engineers. The enforcement authorizations proposed to be repealed are either unduly limited in scope, inconsistent with, or covered by the authorizations contained in titles II and III of this legislation. The complete text of the repealed authorizations and amendments proposed thereto are set forth in the attachment entitled "Changes in Existing Law".

Section 408. Severability.

This section provides the standard severability clause governing validity of the various provisions of the legislation.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate and with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in brackets; new matter is underlined; existing law in which no change is proposed is shown in roman):

Chapter 1, Section 7 of Title 18, United States Code

(Act of June 25, 1948, ch. 645, 62 Stat. 683, 685; Act of July 12, 1952, ch. 695, 66 Stat. 589)

§7(a). Special maritime and territorial jurisdiction of the United States defined.

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:

(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.

(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, District, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

§7(b). Federal areas not within the special maritime and territorial jurisdiction of the United States.

For the purposes of sections 13, 81, 113, 114, 661, 662, 1111, 1112, 1113, 1363, 2031, 2032, and 2111 of title 18, United States Code, Federal areas that are not within the special maritime and territorial jurisdiction of the United States are those Federal areas not within the special maritime or territorial jurisdiction of the United States that are owned by the United States and principally administered by the National Park Service, United States Fish and Wildlife Service, Bureau of Land Management, the United States Army Corps of Engineers, the United States Forest Service and the Tennessee Valley Authority.

Chapter 1, Section 13 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 686)

§13. Laws of States adopted for [areas within Federal jurisdiction] certain Federal areas.

Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7(a) of this title or within or upon a Federal area identified in section 7(b) of this title, is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

Chapter 5, Section 81 of Title 18, United States Code

(Act of June 25, 1948, ch. 645, 62
Stat. 683, 685)

§81. Arson [within special maritime and territorial jurisdiction].

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns, or attempts to set fire to or burn any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

Chapter 7, Section 113 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 689)

§113. Assaults [within maritime and territorial jurisdiction].

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

(a) Assault with intent to commit murder or rape, by imprisonment for not more than twenty years.

(b) Assault with intent to commit any felony, except murder or rape, by fine of not more than \$3,000 or imprisonment for not more than ten years, or both.

(c) Assault with a dangerous weapon, with intent to do bodily harm, and without just cause or excuse, by fine of not more than \$1,000 or imprisonment for not more than five years, or both.

(d) Assault by striking, beating, or wounding, by fine of not more than \$500 or imprisonment for not more than six months, or both.

(e) Simple assault, by fine of not more than \$300 or imprisonment for not more than three months, or both.

Chapter 7, Section 114 of Title 18, United States Code

(Act of June 25, 1948; ch. 645, 62 Stat.
683, 689; Act of May 24, 1949, ch. 139,
§3, 63 Stat. 90)

§114. Maiming [within maritime and territorial jurisdiction].

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime

and territorial jurisdiction of the United States, and with intent to maim or disfigure, cuts, bites, or slits the nose, ear, or lip, or cuts out or disables the tongue, or puts out or destroys an eye, or cuts off or disables a limb or any member of another person; or

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, and with like intent, throws or pours upon another person, any scalding water, corrosive acid, or caustic substance--

Shall be fined not more than \$1,000 or imprisoned not more than seven years, or both.

Chapter 31, Section 661 of Title 18, United States Code

(Act of June 25, 1948; ch. 645,
62 Stat. 683, 731)

§661. Theft of personal property [Within special maritime and territorial jurisdiction].

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, takes and carries away, with intent to steal or purloin, any personal property of another shall be punished as follows:

If the property taken is of a value exceeding \$100, or is taken from the person of another, by a fine of not more than \$5,000, or imprisonment for not more than five years, or both; in all other cases, by a fine of not more than \$1,000 or by imprisonment not more than one year, or both.

If the property stolen consists of any evidence of debt, or other written instrument, the amount of money due thereon, or secured to be paid thereby and remaining unsatisfied, or which in any contingency might be collected thereon, or the value of the property the title to which is shown thereby, or the sum which might be recovered in the absence thereof, shall be the value of the property stolen.

Chapter 31, Section 662 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 731)

§662. Receiving stolen property [within special maritime and territorial jurisdiction].

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, buys, receives, or conceals any money, goods, bank notes, or other thing which may be the subject of larceny, which has been feloniously taken, stolen, or embezzled, from any other person, knowing the same to have been so taken, stolen, or embezzled, shall be fined not more than \$1,000 or imprisoned not more than three years, or both; but if the amount or value of thing so taken, stolen or embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Chapter 51, Section 1111 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 756)

§1111. Murder.

(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, rape, burglary, or robbery; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

(b) Within the special maritime and territorial jurisdiction of the United States or within or upon a Federal area identified in section 7(b) of this title,

Whoever is guilty of murder in the first degree, shall suffer death unless the jury qualifies its verdict by adding thereto "without capital punishment", in which event he shall be sentenced to imprisonment for life;

Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life.

Chapter 51, Section 1112 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 756)

§1112. Manslaughter.

(a) Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

Voluntary--Upon a sudden quarrel or heat of passion.

Involuntary--In the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.

(b) Within the special maritime and territorial jurisdiction of the United States or within or upon a Federal area identified in section 7(b) of this title,

Whoever is guilty of voluntary manslaughter, shall be imprisoned not more than ten years;

Whoever is guilty of involuntary manslaughter, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

Chapter 51, Section 1113 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 756)

§1113. Attempt to commit murder or manslaughter.

Except as provided in section 113 of this title, whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, attempts to commit murder or manslaughter, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

Chapter 51, Section 1114 of Title 18, United States Code
(Supp. V. 1975)

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 756, as amended)

§1114. Protection of officers and employees of the United States.

Whoever kills any judge of the United States, any United States Attorney, any Assistant United States Attorney, or any United States marshal or deputy marshal or person employed to assist such marshal or deputy marshal, any officer or employee of the Federal Bureau of Investigation of the Department of Justice, any officer or employee of the Postal Service, any officer or employee of the secret service or of the Drug Enforcement Administration, any officer or enlisted man of the Coast Guard, any officer or employee of any United States penal or correctional institution, any officer, employee or agent of the customs or of the internal revenue or any person assisting him in the execution of his duties, any immigration officer, any officer or employee of the Department of Agriculture or of the Department of the Interior designated by the Secretary of Agriculture or the Secretary of the Interior to enforce any Act of Congress for the protection, preservation, or restoration of game and other wild birds and animals, any employee of the Department of Agriculture designated by the Secretary of Agriculture to carry out any law or regulation, or to perform any function in connection with any

Federal or State program or any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia, for the control or eradication or prevention of the introduction or dissemination of animal diseases, any officer or employee of the National Park Service, any officer or employee of, or assigned to duty in, the field service of the Bureau of Land Management, any employee of the Bureau of Animal Industry of the Department of Agriculture, or any officer or employee of the Indian field service of the United States, or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration, any security officer of the Department of State or the Foreign Service, or any officer or employee of the Department of Health, Education, and Welfare or of the Department of Labor or of the United States Fish and Wildlife Service or of the Tennessee Valley Authority assigned to perform investigative, inspection, or law enforcement functions, or any civilian employee of the Corps of Engineers of the Department of the Army assigned to perform investigative, inspection, or law enforcement functions in connection with civil activities of the Department of the Army, [or any officer or employee of the Department of Health, Education, and Welfare or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions,] while engaged in the performance of his official duties, or on account of the performance of his official duties, shall be punished as provided under sections 1111 and 1112 of this title.

Chapter 65, Section 1363 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 764)

§1363. Destruction and injury to buildings and property
[Buildings or property within special maritime
or territorial jurisdiction].

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, willfully and maliciously destroys or injures or attempts to destroy or injure any building, structure or vessel, any machinery or

building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping, shall be fined not more than \$1,000 or imprisoned not more than five years, or both, and if the building be a dwelling, or the life of any person be placed in jeopardy, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

Chapter 99, Section 2031 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 795)

§2031. Rape [Special maritime and territorial jurisdiction].

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, commits rape shall suffer death, or imprisonment for any term of years or for life.

Chapter 99, Section 2032 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 795)

§2032. Carnal knowledge of female under 16.

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, carnally knows any female, not his wife, who has not attained the age of sixteen years, shall, for a first offense, be imprisoned not more than fifteen years, and for a subsequent offense, be imprisoned not more than thirty years.

Chapter 103, Section 2111 of Title 18, United States Code

(Act of June 25, 1948, ch. 645,
62 Stat. 683, 796)

§2122. Robbery and burglary [special maritime and territorial jurisdiction].

Whoever, within or upon a Federal area identified in section 7(b) of this title or within the special maritime and territorial jurisdiction of the United States, by force and violence, or by intimidation, takes from the person or presence of another anything of value, shall be imprisoned not more than fifteen years.

Act of March 3, 1905
(33 Stat. 872; 16 U.S.C. §559), as amended

* * * * *

General Expenses, Forest Service: To enable the Secretary of Agriculture to experiment and to make and continue investigations and report on forestry, forest reserves, forest fires, and lumbering; to advise the owners of woodlands as to the proper care of the same; to investigate and test American timber and timber trees; to seek, through investigations and the planting of native and foreign species, suitable trees for the treeless regions; to erect necessary buildings: Provided, That the cost of any building erected shall not exceed five hundred dollars; for all expenses necessary to protect, administer, improve, and extend the National forest reserves, and officials of the Forest Service designated by the Secretary of Agriculture shall, in all ways that are practicable, aid in the enforcement of the laws of the States or Territories in the prevention and extinguishment of forest fires and the protection of fish and game [, and all persons employed in the forest service of the United States shall have authority to make arrests for the violation of the laws and regulations relating to the forest reserves, and any person so arrested shall be taken before the nearest United States magistrate, within whose jurisdiction the reservation is located, for trial; and upon sworn information by any competent person any United States magistrate in the proper jurisdiction shall issue process for the arrest of any person

charged with the violation of said laws and regulations; but nothing herein contained shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating said laws and regulations].

Act of December 22, 1944
(58 Stat. 887; 16 U.S.C. §460d), as amended

* * * * *

Sec. 4.

The Chief of Engineers, under the supervision of the Secretary of the Army, is authorized to construct, maintain, and operate public park and recreational facilities at water resource development projects under the control of the Department of the Army, to permit the construction of such facilities by local interests (particularly those to be operated and maintained by such interests), and to permit the maintenance and operation of such facilities by local interests. The Secretary of the Army is also authorized to grant leases of lands, including structures or facilities thereon, at water resource development projects for such periods, and upon such terms and for such purposes as he may deem reasonable in the public interest: Provided, That leases to non-profit organizations for park or recreational purposes may be granted at reduced or nominal considerations in recognition of the public service to be rendered in utilizing the leased premises: Provided further, That preference shall be given to Federal, State, or local governmental agencies, and licenses or leases where appropriate, may be granted without monetary considerations, to such agencies for the use of all or any portion of a project area for any public purpose, when the Secretary of the Army determines such action to be in the public interest, and for such periods of time and upon such conditions as he may find advisable: And provided further, That in any such lease or license to a Federal, State, or local governmental agency which involves lands to be utilized for the development and conservation of fish and wildlife, forests, and other natural resources, the licensee or lessee may be authorized to cut timber and harvest crops as may be necessary to further such beneficial uses and to collect and

utilize the proceeds of any sales of timber and crops in the development, conservation, maintenance, and utilization of such lands. Any balance of proceeds not so utilized shall be paid to the United States at such time or times as the Secretary of the Army may determine appropriate. The water areas of all such projects shall be open to public use generally for boating, swimming, bathing, fishing, and other recreational purposes, and ready access to and exit from such areas along the shores of such projects shall be maintained for general public use, when such use is determined by the Secretary of the Army not to be contrary to the public interest, all under such rules and regulations as the Secretary of the Army may deem necessary including but not limited to prohibitions of dumping and unauthorized disposal in any manner of refuse, garbage, rubbish, trash, debris, or litter of any kind at such water resource development projects, either into the waters of such projects or onto any land federally owned and administered by the Chief of Engineers. Any violation of such rules and regulations shall be punished by a fine of not more than \$500 or imprisonment for not more than six months, or both. Any persons charged with the violation of such rules and regulations may be tried and sentenced in accordance with the provisions of section 3401 of Title 18. [All persons designated by the Chief of Engineers for that purpose shall have the authority to issue a citation for violation of the regulations adopted by the Secretary of the Army, requiring the appearance of any person charged with violation to appear before the United States magistrate, within whose jurisdiction the water resource development project is located, for trial; and upon sworn information of any competent person any United States magistrate in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of said regulations; but nothing herein contained shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating said regulations.] No use of any area to which this section applies shall be permitted which is inconsistent with the laws for the protection of fish and game of the State in which such area is situated. All moneys received by the United States for leases or privileges shall be deposited in the Treasury of the United States as miscellaneous receipts.

Land and Water Conservation Fund Act of 1965

(78 Stat. 897; 16 U.S.C. §4601-6a(e) (Supp. V, 1975)),
as amended

* * * * *

Sec. 4(e).

In accordance with the provisions of this section, the heads of appropriate departments and agencies may prescribe rules and regulations for areas under their administration for the collection of any fee established pursuant to this section. [Persons authorized by the heads of such Federal agencies to enforce any such rules or regulations issued under this subsection may, within areas under the administration or authority of such agency head and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested] Persons arrested for the violation of the rules and regulations issued under this subsection may be tried and sentenced by the United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in subsections (b), (c), (d), and (e) of section 3401 of Title 18. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than \$100.

Act of August 18, 1970

(84 Stat. 825), as added by the Act of October 7,
1976, (Pub. L. No. 94-458, 90 Stat. 1939)

* * * * *

Sec. 6.

[Notwithstanding any other provision of law, the Secretary of the Interior may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, part of the legislative jurisdiction of the United States over National Park System lands or interests therein in that State, Commonwealth, territory, or possession: Provided, That prior to

consummating any such relinquishment, the Secretary shall submit the proposed agreement to the Committees on Interior and Insular Affairs of the United States Congress, and shall not finalize such agreement until sixty calendar days after such submission shall have elapsed. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide.] The Secretary shall diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the National Park System is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the National Park System.

* * * * *

Sec. 10. (a)

The arrest authority relating to the National Park Service is hereby amended in the following respects:

(1) Section 3 of the Act of March 3, 1897 (29 Stat. 621; 16 U.S.C. 415), as supplemented; relating to certain arrest authority relative to national military parks, is hereby repealed;

(2) The first paragraph of that portion designated 'GENERAL EXPENSES--FOREST SERVICE' of the Act of March 3, 1905 (33 Stat. 872; 16 U.S.C. 10, 559), as amended, relating in part to arrest authority relative to laws and regulations applicable to forest reserves and national parks, is amended by deleting the words 'and national park service', 'and national parks', and 'or national parks';

(3) Section 2 of the Act of March 2, 1933 (47 Stat. 1420; 16 U.S.C. 10a), as amended, relating to certain arrest authority for certain employees of the National Park Service, is hereby repealed; and

(4) The second paragraph of section 6 of the Act of October 8, 1964 (78 Stat. 1041; 16 U.S.C. 460n-5), as amended, relating to certain arrest authority relative to the Lake Mead National Recreation Area, is hereby repealed.

[(b) In addition to any other authority conferred by law, the Secretary of the Interior is authorized to designate, pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may--]

[(1) carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;]

[(2) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system, in connection with any Federal offense; and]

[(3) conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.]

[(c) The Secretary of the Interior is hereby authorized to--]

[(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical

and in the public interest and with the concurrence of that agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemental law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (b) of this section;]

[(2) cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement or supervision of the laws or ordinances of that State or subdivision; and]

[(3) provide limited reimbursement, to a State or its political subdivisions, in accordance with such regulations as he may prescribe, where the State has ceded concurrent legislative jurisdiction over the affected area of the system, for expenditures incurred in connection with its activities within that system which were rendered pursuant to paragraph (1) of this subsection.]

[(4) the authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.]

[(d)(1) Except as otherwise provided in this subsection, a law enforcement officer of any State or political subdivision thereof designated to act as a special policeman under subsection (c) of this section shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including, but not limited to, those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal benefits.]

[(2) For purposes of the tort claim provisions of title 28, United States Code, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be considered a Federal employee.]

[(3) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or political subdivision thereof shall, when acting

as a special policeman under subsection (c) of this section be deemed a civil service employee of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.]

[(e) Nothing contained in this Act shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the National Park Service, and nothing shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction within the National Park System.]

Act of August 10, 1971

(85 Stat. 303; 16 U.S.C. §551a (Supp. V, 1975))

[To authorize the Secretary of Agriculture to cooperate with the States and subdivisions thereof in the enforcement of State and local laws, rules, and regulations within the national forest system.]

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture, in connection with the administration and regulation of the use and occupancy of the national forests and national grasslands, is authorized to cooperate with any State or political subdivision thereof, on lands which are within or part of any unit of the national forest system, in the enforcement or supervision of the laws or ordinances of a State or subdivision thereof. Such cooperation may include the reimbursement of a State or its subdivision for expenditures incurred in connection with activities on national forest system lands. This Act shall not deprive any State or political subdivision thereof of its right to exercise civil and criminal jurisdiction, within or on lands which are a part of the national forest system.]

Act of October 21, 1976. Pub. L. No. 94-579

(90 Stat. 2743)

* * * * *
ENFORCEMENT AUTHORITY

SEC. 303. (a) The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than \$1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act

[(c)(1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for

~~a felony if he has reasonable grounds to believe that the~~ person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.]

[(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.]

[(d) In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.]

[(e) Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 601 of this Act for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of subsection (c) of this section.]

[(f)](c) Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

EXPLANATORY COMMENTS
REGARDING RECOMMENDATIONS
TO THE CONGRESS

The following provides additional comments concerning our congressional recommendations for enacting legislation contained on pages 29 and 45 of this report.

Recommendation for legislation:

- Authorizing the Secretaries of the Interior (Bureau of Land Management, U.S. Fish and Wildlife Service, National Park Service), Agriculture (U.S. Forest Service), and the Army (Corps of Engineers), and the Board of Directors, Tennessee Valley Authority, to designate, pursuant to standards prescribed by regulation, employees to maintain law and order and protect persons and property on Federal land.
- Authorizing designated administering agency law enforcement officials to carry firearms.
- Authorizing designated administering agency law enforcement officials to secure any Federal order, warrant, subpoena, or other Federal process and to execute and serve such process on persons located on Federal land or on persons in contiguous areas in cases involving flight to avoid service.

Explanatory note

Under the provisions of the recently enacted NPS enforcement bill, Public Law No. 94-458, 90 Stat. 1939, the process-serving power of NPS is not geographically limited. Enactment of this recommendation would impose geographical limitations on the exercise of the process-serving authority of NPS. If it is necessary to serve process in areas beyond the geographical confines of NPS land or areas contiguous thereto, we believe NPS should seek the assistance of process-serving authorities such as the U.S. Marshals Service.

This recommendation should not be construed as suggesting geographical limitations on the process-serving authority of agencies having resource protection responsibilities on State and private land.

Recommendation for legislation:

--Authorizing designated administering agency law enforcement officials to conduct investigations of Federal offenses committed on Federal land in the absence of investigation by any other Federal law enforcement agency having investigative jurisdiction over the offense or with the concurrence of such other agency. Unless the administering agency has primary investigative jurisdiction over the offense, administering agency investigations should be conducted only on Federal land and in cases related to arrests or serving process on contiguous areas.

Explanatory note

Recently, NPS received a statutory investigative authorization different from that recommended here. The present investigative authority of NPS is not geographically limited and, under certain circumstances, extends to the investigation of all Federal offenses anywhere in the United States, provided the offense occurred on NPS land. In the absence of investigation by another Federal agency having primary investigative jurisdiction over the offense or with the concurrence of such other agency, the administering agencies should not be precluded from investigating on Federal land complaints of misconduct against visitors or their property. However, as the recommendation suggests, an administering agency's investigative authority should be subject to geographical limitations. If the administering agency lacks primary investigative jurisdiction over an offense, investigative activities beyond the specified geographical areas should be coordinated with agencies such as the FBI whose primary mission, unlike that of the administering agencies, is law enforcement.

Recommendation for legislation:

--Authorizing designated administering agency law enforcement officials to make warrantless arrests for any Federal offense committed in their presence or for any Federal felony if the officials have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Unless otherwise expressly provided by statute, allowable geographical areas for administering agency employees to make arrests should be limited to Federal land and, in cases of hot pursuit, to contiguous areas.

Explanatory note

The limitations of existing Federal enforcement authorizations have led many administering agency employees to make arrests as private citizens or as deputy sheriffs. Occasionally, the administering agency itself instructs employees to engage in these practices. In other cases, the administering agency, recognizing the limitations of its statutory enforcement authority, prohibits enforcement activities not expressly authorized by Federal statute. Under this latter approach, agency employees do little in the way of providing visitor protection services. On the basis of our review of administering agency enforcement practices, we believe congressional action is necessary to insure that an administering agency and its enforcement officers have a clear and sufficient Federal statutory basis with which to provide an adequate level of enforcement services to visitors.

Enactment of this recommendation would authorize designated administering agency officials to enforce, within certain geographical limitations, all Federal laws governing the conduct of visitors. This recommendation reflects our view that Federal agencies desiring to conduct enforcement operations in the name of the Federal Government look to the Congress for the necessary authority.

Recommendation for legislation:

--Applying the Federal criminal statutes that define the crimes of arson, assault, maiming, murder, manslaughter, rape, carnal knowledge, receipt of stolen property, destruction of property, theft, robbery, and burglary and the Assimilative Crimes Act (which adopts, as Federal law, the criminal code of the State where the Federal land is situated) to all Federal lands administered by the National Park Service, Bureau of Land Management, Fish and Wildlife Service of the Department of Interior, Forest Service of the Department of Agriculture, U.S. Army Corps of Engineers and Tennessee Valley Authority.

Explanatory note

The above Federal criminal statutes that criminalize misconduct against the persons or property of visitors do not, under present law, apply to all Federal land. Although these laws do apply to Federal lands held in a concurrent or exclusive jurisdictional status, the majority of Federal

land is held in a proprietorial interest status where Federal laws proscribing misconduct against the persons or property of visitors usually do not apply and, hence, are unenforceable.

Recently, the Supreme Court recognized that, irrespective of the jurisdictional status in which Federal land is held (exclusive, concurrent or proprietorial), the Congress may exercise its authority under the Property Clause of the Constitution and enact legislation respecting Federal land "* * * [i]f it be found necessary for the protection of the public * * *." Kleppe v. New Mexico, 426 U.S. 529 (1976); See also U.S. v. Brown, Criminal No. 5-76-10 (D. Minn., filed Nov. 4, 1976).

Enactment of this recommendation would give Federal officials, acting under appropriate statutory authority, a Federal law to enforce when confronted with misconduct against visitors or their property on proprietorial lands. This would obviate the need for administering agency enforcement officers to become deputy sheriffs and enforce similar State laws prohibiting the described types of criminal activity. The recommendation would not affect the authority of State and local law enforcement agencies to make arrests under the applicable State criminal code on proprietorial lands.

Recommendation for legislation:

--Authorizing the Secretaries, and the Board of Directors, Tennessee Valley Authority, where practical, to make arrangements with States to place administering agency land in a concurrent jurisdictional status.

Explanatory note

When Federal land is held in a concurrent jurisdictional status, both Federal and State criminal codes apply and law enforcement officers of each, acting under appropriate statutory authority, may enforce their sovereign's criminal laws. On lands held in an exclusive jurisdictional status, Federal, not State, criminal laws apply. And on lands held in a proprietorial status, State criminal laws apply. Many Federal criminal statutes, especially those proscribing misconduct against the persons or property of visitors, do not, under present law, apply to proprietorial lands.

Recommendation for legislation:

--Authorizing the Secretaries of Agriculture, the Army, the Interior, and the Board of Directors, Tennessee Valley Authority, to cooperate with any State in the enforcement of State laws by providing reasonable reimbursement, where appropriate, to a State or its political subdivisions for expenditures connected with the provision of enforcement services on Federal lands.

Explanatory note

State criminal laws only apply on Federal lands held in a proprietorial or concurrent jurisdictional status, and it is to State enforcement operations on these lands that the recommendation is addressed. Because Federal land is not ordinarily included on State and local property tax rolls, the object of the recommendation is to provide reasonable offsetting compensation not otherwise available to a State or locality for expenditures they incur while enforcing State laws on federally owned property. The recommendation does not apply to Federal lands held in an exclusive jurisdictional status where State criminal laws are generally inapplicable. Where the recommendation does apply, it neither contemplates the delegation of Federal law enforcement responsibilities to State and local governments nor the procurement of deputy sheriff commissions by administering agency enforcement officials.

We point out that FS, NPS, the Corps, and BLM are already authorized to reimburse States and localities for certain enforcement services rendered on Federal land. However, the authorizations applicable to these agencies are dissimilar and contemplate reimbursement for differing types of State and local enforcement services.

For example, FS is authorized to reimburse States and localities for unspecified services rendered in connection with the enforcement of State laws on Federal land. According to FS, reimbursement is provided for "extraordinary" State and local services rather than for "normal" services.

NPS, on the other hand, may appoint local officials as special policemen with the authority to enforce the entire Federal criminal code. States and localities may be reimbursed for services rendered by these special policemen. However, the NPS authorization contains no specific provision authorizing reimbursement to States and localities for

expenditures they incur in connection with the enforcement of State laws on Federal land.

The Corps authorization permits the Secretary of the Army, acting through the Corps Chief of Engineers, to contract with local officials for the provision of unspecified "increased law enforcement services." This authorization is silent whether local officials under contract with the Army may enforce the Federal as well as the applicable State criminal code.

BLM's authorization requires the Secretary of the Interior to try to achieve "maximum feasible reliance" on local officials to enforce Federal laws relating to the "public lands or their resources." To this end, the Secretary of the Interior may contract with localities to obtain the necessary enforcement services. In addition, States and localities may be reimbursed for expenditures they incur in connection with activities that assist in the use and occupancy of BLM land.

Enactment of this recommendation would make uniform the circumstances in which the Secretaries of the administering agencies could reimburse States and localities for services rendered in connection with enforcement of State and local laws on Federal land. The responsibility for enforcing Federal visitor protection laws is left principally to Federal agencies. For this reason, the recommendation does not consider the enforcement of the Federal criminal statutes that prohibit misconduct against visitors or their property a contractually reimbursable service.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P. O. Box 2417
Washington, D. C. 20013

1420

March 4, 1977

Mr. Henry Eschwege, Director
Community and Economic Development Division
U. S. General Accounting Office
441 G Street, N. W.
Room 6146
Washington, D. C. 20548



Dear Mr. Eschwege:

This is a response to your letter of February 4 transmitting draft copies and soliciting our comments on the draft report, "Crime is a Serious Problem in Federal Recreation Areas -- There is a Need for New Legislation and Improved Policies and Procedures."

The report focuses on the matter of providing protection for recreation visitors from harmful acts on Federally-owned lands. The concern is that crime is not adequately dealt with. The solution proposed is to increase visitor protection by additional Federal criminal statutes and placing all Federal land in a mutual protection status with State and Federal authorities having equal law enforcement responsibilities. Almost all lands under Forest Service administration are in the category of proprietorial jurisdiction where State's rights and responsibilities fully apply and the United States is primarily a landowner. This is the very foundation upon which our policies and procedures on law enforcement are based.

We believe that the impact of acquiring concurrent jurisdiction and/or applying additional Federal laws governing the conduct of recreation visitors on those Federal lands now held in proprietorial-interest status has not been fully recognized. Added Federal jurisdiction over or extending existing Federal laws to those lands obligates the Federal administering agencies to enforce those added laws. This will relieve the States from some of their jurisdiction and lessen the need to enforce the laws protecting recreation visitors on these lands. It could ultimately exclude, in a practical way, any State enforcement in many Federal areas. Traditionally, the States have resisted efforts to develop duplicative laws in this area and, under the United States Constitution, the States have original police power. The report fails to note that the lack of applicable Federal law for some offenses against recreation visitors occurs because our present system of laws have been developed on the basis that the general

~~police power of the State is the proper source of controlling certain types of crime. Federal constitutional authority has been generally limited to the protection of property, Federal employees, or interstate crime.~~

Public Law 92-82 authorizes the Forest Service to assist State and local law enforcement agencies through reimbursement for extraordinary expenditures incurred by them for protection of Forest visitors and their property. Although this is a relatively new program and the level of funding has been rather modest, we believe there has been significant success in providing increased protection of Forest visitors. Our major problem, from a management standpoint, is developing sufficient interest by some local law enforcement agencies to participate in the program. We feel that the newness of the program and general lack of experience with Federal programs has resulted in a conservative approach by local agencies. However, we believe that there is satisfactory progress in implementing this assistance program and expanded funding is planned for the future. We feel the report does not reflect the successes nor the long-term desirability of the cooperative effort with local law enforcement agencies.

This report appears to recognize the value of providing assistance to State and local law enforcement agencies with the proposal that all agencies have an equivalent authority. However, the report fails to note the impact of the additional proposal of an expanded Federal enforcement role on the need for a reimbursable program. The obvious purpose of such a reimbursement program is to obtain additional needed enforcement in the traditional way by the States of their respective laws dealing with recreation visitor protection for those areas where the Federal agency does not have either the jurisdiction or laws to provide such protection. Once the Federal agencies have the jurisdiction and/or laws, there will be little or no need for such reimbursement authority and programs. Thus, the States could lose the assistance funding over the long term and the related benefits in local law enforcement that such support would develop in additional capability.

The objective of uniform protection of visitors on Federal lands is appropriate if tied to a prescribed minimum. However, a considerable amount of Federal enforcement would be based on the Assimilative Crimes Act. Since criminal laws of the States differ, there would be no greater uniformity than is now applicable under proprietorial status.

The recommended new statutory authority for agency enforcement officials is not broad enough to enable such officials to perform the total law enforcement function of the administering agency. The report focuses

on recreation visitor protection on the Federal lands involved and makes many recommendations within that scope. However, for some of the administering agencies, including the Forest Service, this is only a part of their overall law enforcement responsibility. The Forest Service, a land management agency, must also be involved in the enforcement of those Federal laws and regulations which protect Federal property and natural resources and govern the occupancy and use of the administered lands.

The recommended statutory enforcement authority which limits such authority to the Federal ". . . areas administered by the agency and/or an area immediately contiguous thereto" is similarly too narrow. While it is undoubtedly desirable to place some specified boundaries on an enforcement official's authority, it is not very practical. Forest Service enforcement officials, because of the generally remote character of National Forest System lands, must frequently extend investigations a considerable distance away from the administered area. Distances of up to 100 miles are not unusual. These investigations often involve the execution and serving of a Federal order or warrant and may result in an arrest.

The limits of the policy-making role of the task force to be chaired by the Director of Office of Management and Budget is not clear. It would appear that such a task force should develop only very general, broad guides for providing law enforcement services to visitors and guidelines and standards for the agency's law enforcement programs. The majority of the enforcement policy should be left to the administering agencies to enable them to develop a coordinated overall land management policy applicable to their lands.

In addition, we observed the following weaknesses in the report:

1. The report failed to accurately state the Forest Service law enforcement training activities.
2. The report is in error by stating the Forest Service has not established contracting procedures or controls over contracted services of the local law enforcement agencies. We do have procedures and controls established. We acknowledge that there could be administration problems which are to be expected on implementation of any new program. However, our internal reviews and reports indicate that we do receive the services for which we contract and that no overall control problem exists that cannot be administratively corrected.
3. The survey and field visits appeared to miss most of the agency administrator's viewpoints on the law enforcement problems and

procedures. It appears it would have been valuable to obtain the perspective of administrators at each organizational level who are better informed on the full scope of the agency's program.

4. The proposed law in the report does not define "within a Federal area." Therefore, it is not clear whether the law would provide authority for only lands owned within the exterior forest boundary or for crimes committed on scenic or road easements or similar interests on land outside the boundaries of a National Forest.

5. The report should not prescribe a solution. We acknowledge the level of protection must be improved in some areas. There are a number of alternative means, some of which can be used in combination: (1) cooperative funding; (2) better design of facilities; (3) adherence to optimum capacities; and (4) instituting administrative controls at recreation sites. We should agree to the desired level and utilize observed deviations in designing a law enforcement program capable of reaching the level.

We thank you for the opportunity to review and comment on this report prior to its final drafting and publication.

Sincerely,



Acting Chief

TENNESSEE VALLEY AUTHORITY

KNOXVILLE, TENNESSEE 37902

March 11, 1977

Mr. Monte Canfield, Jr., Director
Energy and Minerals Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Canfield:

This is in response to your letter of February 3 requesting our review of the General Accounting Office draft report regarding law enforcement activities at national recreation areas and forests, including federally owned property managed by TVA. We have several specific comments on the report relating to coverage of TVA activities.

First, we believe the discussion in the draft report concerning the questionnaire sent by the GAO auditor to TVA public safety officers needs to be placed in perspective. It has always been TVA's policy to cooperate to the fullest with GAO auditors and, as you know, give them unlimited access to our files, property, and personnel. We regret very much that the questionnaires to our public safety officers were not handled in accordance with the way that GAO desired--namely, as a communication directly between GAO and the individual employees without the involvement of any other TVA personnel. We have taken measures to insure that in the future your requests for information will be handled in strict accordance with the procedure you indicate.

One of the principal concerns of the draft report is the adequacy of the legal authority of the agencies reviewed to engage in law enforcement programs on federally owned lands. As indicated in the November 2, 1976, letter from our General Counsel, Mr. Sanger, (See GAO note, p. 162.) it is our opinion that TVA presently has adequate statutory authority to provide law enforcement services at federally owned land administered by TVA. Without going into detail, we believe the TVA Act authorizes our enforcement and property protection activities. The Act provides that the Board of Directors has authority to "appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business." The Act further grants TVA "such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred." TVA is also specifically authorized

to acquire land in the name of the United States for the construction and operation of a system of dams, reservoirs, and power structures in the Tennessee River drainage basin and adjoining region. Many of these facilities are open to the public for various purposes, including recreation, and all require some degree of protection. It would be inconsistent with this broad authority granted by the Act to acquire and manage land in the name of the United States to conclude that TVA does not have the authority to provide appropriate law enforcement for such land.

TVA's protection activities are carried out by public safety officers who, with few exceptions, are commissioned by local law enforcement officials as deputy sheriffs or city policemen pursuant to the provisions of applicable state law. These employees are thereby afforded the status of peace officers with the authority to enforce both state and Federal law where there is concurrent jurisdiction or where the United States merely has a proprietary interest in the land. In the limited instances where the United States holds exclusive jurisdiction over property, we believe the public safety officers have adequate authority to act as private citizens in the enforcement of Federal law.

TVA has, through its budget requests, fully informed Congress that it provides protection to property and visitors. For example, in TVA's budget request for the fiscal year ending September 30, 1977, the fact that TVA provides such protection to its multipurpose projects and Land Between The Lakes was specifically mentioned. Our budget requests have been approved by Congress with full knowledge that TVA engages in such activities.

While we are not familiar with the situation at other agencies, we do not believe there is a need for mandatory training standards for TVA personnel. All public safety officers and LBL patrolmen are full-time employees, qualified by training or prior law enforcement experience for the performance of their assigned duties. TVA periodically conducts training programs for its officers that provide the basic fundamentals of law enforcement. The public safety service holds periodic training courses required for all officers. LBL patrolmen are required to have previous law enforcement experience. They have also recently completed a 40-hour course especially designed for their requirements. Neither public safety officers nor LBL patrolmen are permitted to carry weapons until it is determined that they are fully qualified to do so. Training programs for

public safety officers and LBL patrolmen are conducted separately primarily because of the difference in their functions. While both are concerned with protection of property and visitors, LBL patrolmen are also involved in the enforcement of laws relating to the management of wildlife which requires different training. Both are responsible for the reception of visitors and for providing them with assistance and information. This is a primary function inasmuch as these officers are often the only direct contact visitors have with the agency. For this reason also, TVA requires officers to be full-time employees, and does not contract with outside organizations for these services.

Our experience indicates that offenses such as those included in the Type I and II categories used for the purpose of the review and draft report are not a serious problem to TVA programs, property, or visitors. For both LBL and other properties managed by TVA, the majority of offenses are traffic related. For example, of 110 offenses at LBL in 1976, 50 were related to traffic control and none involved assault against visitors. There were 22 offenses relating to the unauthorized use of weapons, which is to be expected in a conservation area with abundant wildlife; 17 were drug related; and 21 were miscellaneous. LBL had about 2 million visitors during this period. The situation is similar at other TVA facilities protected by public safety officers. In 1976 nearly 8,000 offenses, both warnings and citations, involved traffic control. Thefts accounted for 634 offenses and vandalism of TVA and non-TVA property accounted for 285 incidents. These statistics compare with our estimate of more than 16 million visitors to these facilities.

The types of offenses that normally occur on TVA-managed property are well within the capability of TVA officers to handle, and we need not become a police force to investigate the more serious offenses which are immediately reported to the appropriate state or Federal law enforcement agencies for action. In our experience those agencies have responded promptly and conducted their investigations efficiently. Our officers are available for any needed assistance, but we see no need to undertake this type of work.

We agree with the draft report that there may be a need for uniformity of law enforcement throughout the Federal system of recreation and other lands, but we do not believe the system proposed in the draft report is the most suitable one. TVA has two basic law enforcement requirements: First, we want to ensure that our officers have the

required authority to perform their assigned duties of property and visitor protection. This should include the authority to engage in hot pursuit and conduct investigations outside Government-owned property. As we previously indicated, we are of the opinion that we now have that authority. Secondly, TVA should have authority to issue regulations reasonably related to property and visitor protection, including the setting of penalties which, as a Federal offense if occurring on property held either in concurrent or exclusive jurisdiction, would be enforceable in the U.S. Magistrate's Court. If an offense occurs on property in which the United States holds a proprietary interest, the officers should have authority to enforce local law, in cooperation with local officials, in local courts as they now do.

A key factor in the success of the TVA protection program has been the excellent cooperation from local law enforcement officials. This occurs because TVA officers are able to work directly and cooperatively with those officials in furtherance of a common goal—protection of the public. Any legislation that would supersede the authority of the state and impose a body of Federal criminal law for all offenses on Federal land and a Federal system of enforcement and prosecution in an attempt to achieve a comprehensive and uniform approach to the problem would destroy the basis for existing cooperation and, in the end, result in less, not more, protection for the public. We would, however, recommend legislation providing Federal agencies with authority similar to that of the Administrator of the General Services Administration, who is authorized to appoint uniformed guards as special policemen with the authority of sheriffs and constables on Federal property for the purpose of protecting property and persons (40 U.S.C. § 318 (1970)). As we have indicated, the legislation should also permit their appointment as peace officers by local officials. This would preserve the working relationship which, in our experience, is so important. Also, as previously indicated, such legislation should permit the agency head to issue appropriate and reasonable regulations to protect property and persons.

TVA would be pleased to participate in any task force established to study the problems pointed out by the review. We have over 40 years of experience in this field and would be willing to share our experience and expertise in seeking answers to any law enforcement problems facing Federal agencies.

APPENDIX VI

APPENDIX VI

We appreciate the opportunity to comment on the draft report.

Sincerely yours,

A handwritten signature in cursive script that reads "Lynn Seeber".

Lynn Seeber
General Manager



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAR 15 1977

Mr. Henry Eschwege, Director
Community and Economic Development Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

We have reviewed the GAO draft report, "Crime is a Serious Problem in Federal Recreation Areas—There is a Need for New Legislation and Improved Policies and Procedures".

Obviously, we are not content with current crime levels in units of the Federal recreation areas under the jurisdiction of this Department. Yet, we are not convinced that the GAO recommendations will materially change the situation. The report implies that crime will be reduced through new legislative authority, policy development, allocation of sufficient resources, improvement in training of law enforcement officials and other actions to upgrade visitor protection. We question the assumption that such actions have a material effect on the frequency of crime, particularly given the realistic limitations of resources which possibly could be obtained to police 3/4 billion acres of Federal land.

Also, the report states the belief that Federal recreation area visitors should expect a uniform level of service, no matter where they are. We think this is unrealistic. The placement of adequate numbers of law enforcement officers in limited areas of high concentrations of visitors is possible. These include many urban park lands and all or part of other recreation areas where there are large groups of visitors, such as Yosemite Valley. However, in the vast land areas, including designated wilderness areas, a similar level of services is not geographically or economically feasible. Thus the recommendations would seem to suggest an equal address to dissimilar problems.

For example, while the GAO report concentrates on the problem of crime in Federal recreation areas, the situation for the Bureau of Land Management is not so well bounded. Although there are developed recreation sites and areas of concentrated recreation activity on the public lands, potentially, much of BLM's 175 million acres of land outside of Alaska, and its current 272 million acres in Alaska are used for recreational

activities by the public. These include activities such as ORV use, hunting, fishing, camping, sightseeing, etc. Such use is not confined to established or delineated recreation sites or areas, but can occur on almost any land under BLM jurisdiction. These lands cover vast areas and are, in many cases, desolate. If a crime occurred, a BLM Law Enforcement Officer might arrive at the scene in several minutes or after many hours.

Further, we are concerned as to whether the draft report fairly presents the crime situation in Federal recreation areas. Information presented in the report is based on incomplete and apparently unreliable reporting systems, questionnaires, and oral communication. Thus, there is a serious problem with the quality of evidentiary matter to support GAO's conclusions that crime is a serious problem in Federal recreation areas. One of the dangers of the conclusion is that the public and the Congress may receive a false impression that crime is rampant and that it is unsafe for people to visit recreation areas. Since the only statistics presented from an existing information gathering system relate to the National Park Service, the report conclusion may be particularly damaging in creating the impression that it is unsafe to visit our National Parks. We believe such an impression would be contrary to the available evidence.

Of course, the incidence of crime has grown along with increased visitations. However, an analysis of the visitation and crime statistics for NPS areas does not indicate the seriousness which the report title connotes. During the calendar year 1976, NPS reported 7,521 actual Type I offenses, of which 1,878 occurred in the parks of the metropolitan Washington, D. C. area, Gateway National Recreation Area in New York City, and Golden Gate National Recreation Area in San Francisco. Type I offenses are the crimes of homicide, rape, robbery, assault, burglary, larceny, and motor vehicle theft. These three urban park areas, which accounted for 25 percent of the total Servicewide Type I offenses, are policed by the United States Park Police, a professional police organization. The GAO investigation did not include these three urban areas nor were the GAO questionnaires apparently directed to these police officers. Rather, the inquiry was concerned only with park areas where Park Rangers perform the law enforcement duties. In these areas, the incident of crime was 5,643 Type I offenses to 263 million visits to 300 different park areas which encompass approximately 31 million acres. Of these 5,643 Type I offenses, only 291 were crimes or attempted crimes against the person. The rest were crimes against property. Of the 291 crimes against the person, 179 of these involved negligence, attempts to commit crimes, and assaults and robberies which did not involve the use of weapons. We believe it is important to put this "crime problem" in the National Park System in its proper perspective and consider the total number of areas administered and the amount

of visitation. Analysis of these statistics would hardly indicate that National Parks are unsafe to visit.

No basis is given to measure the frequency of crime in recreation areas with comparable urban and rural area locations. There are no data to indicate whether crime rates are greater or lesser in recreation areas than in similar jurisdictions or even if they have increased in direct proportion to visitation. Although NPS statistics tend to confirm that crime generally increases in proportion with visitation, 1976 was an exception to this. When compared with 1975, NPS visitation increased in 1976 by approximately 29 million while the number of Type I offenses decreased slightly.

We realize that the absence of crime statistics from other bureaus and the unevenness of the NPS statistics make it difficult to assess crime trends. However, this absence has led to a rather subjective, and possibly unbalanced, summary of comments from field personnel. There was no attempt made to quantify or make comparisons in several subject areas:

1. The prevalence of crime in Federal recreation areas as opposed to other jurisdictions, both recreational and nonrecreational; urban and rural.
2. The problems as perceived by superintendents and managers of recreation facilities and by visitors to Federal recreation areas.
3. Correlations between total visitation and crime statistics.
4. The relative impact of different visitor groups.
5. Impact due to geographic location, character of visitation or other factors; the effect on overall statistics by a relatively few field units.

The manner in which questionnaire statistics are cited tends to make one question their validity. For example, the fact that 534 Rangers believed that a weapon's presence per se, acted as a deterrent to crime causes us to wonder about either the context of the question or the experience and understanding of the respondents. It is also difficult to believe that one of every five respondents actually witnessed the commission of Type I offenses during the course of the survey year. Unfortunately, most of these statistics will be accepted as fact because of their presentation in an audit report.

Most of the crimes GAO refers to as inadequately addressed are crimes against persons (robbery, rape, murder, etc.), which are generally and traditionally the concern of State law, enforced by State and local

law enforcement officials. While GAO goes into the Federal inadequacies, it does not delve to any extent into the State and local capabilities. State and local protection responsibilities are not analyzed. The study is very one-sided regarding the total visitor protection situation. The total Federal, State, and local authorities, responsibilities, capabilities, and burdens should be examined to arrive at a proper understanding of the situation.

Notwithstanding the foregoing, GAO does make a valid case that we need to learn more about the situation and we need to improve the quality, and competence of law enforcement personnel and to clarify their authorities.

We agree that a National law enforcement policy applicable for Federal recreation lands is desirable. It needs to be developed to recognize individual needs and requirements of the various agencies. For instance, United States Park Police could require a different level of training than a refuge manager working out of a small town in a remote location in recognition that the two jobs are vastly different. This difference can and should be accommodated in establishing policy. With this qualification, we concur with GAO recommendations that a National policy be developed which delineates:

- acceptable levels of law enforcement service on recreation areas.
- guidelines and standards for (1) the selection and training of the law enforcement personnel assigned to visitor protection duties, (2) the collection and dissemination of criminal information, and (3) the contracting with State and local law enforcement agencies for law enforcement services.

Overall guidance to address these problems is necessary. However, a centralized, interagency task force effort may not be the best way to carry out the actual study and analysis. The problems seem more localized than this and require separate address for the various geographic areas and types of facilities. Particular attention should be addressed to the role of State and local law enforcement agencies and this in itself requires a localized address to the problems. Also, localized interagency task force efforts may be appropriate where contiguous recreation sites have common problems. However, if OMB does decide to create a task force - Interior would, of course, participate.

Further, we agree that the issues raised by the GAO warrant a study by the Federal agencies as recommended. However, the proposal to the Congress to enact legislation would appear to be premature at this time, and pre-judges the nature of the results of the agency studies

also recommended by GAO.--The GAO legislative proposal would greatly expand the law enforcement responsibilities of the Secretary of the Interior and impose on him and the affected Interior bureaus basic police functions which may far exceed their present law enforcement problems. Before endorsing the concept of the GAO legislation, we believe more careful thought and study must be given to the question of whether Federal land management agencies should properly assume this greatly expanded authority and responsibility, and consequently, all but establish a true Federal police force. The implementation of such legislation would radically change the character and/or public perception of the mission of the Federal land management agencies, and the overall duties and functions of their employees.

The Fish and Wildlife Service, the Bureau of Land Management and National Park Service now have or are about to have in the case of the Fish and Wildlife Service new law enforcement authority. Legislation was enacted in the 94th Congress that dealt with the specific law enforcement problems of the National Park Service and the Bureau of Land Management. This is the first time the Congress has addressed the law enforcement needs of these two bureaus by enacting a comprehensive law enforcement authority. Both the Senate and the House passed comprehensive law enforcement provisions for the Fish and Wildlife Service in the last Congress, but the bill was not enacted due to procedural difficulties in the closing hours of the legislative session. Hearings have already been held in the House on the Fish and Wildlife law enforcement bill in this Congress, and the House Committee has already reported the bill favorably to the floor of the House. We expect the bill to be enacted early in the first session of this Congress.

Except for the Assimilative Crimes Act provision, the GAO legislative proposal does not provide any law enforcement authority to the Fish and Wildlife Service and National Park Service that they will or do not have under their new law enforcement bills. The Fish and Wildlife Service, National Park Service and the Bureau of Land Management bills give the bureaus the same authority to carry firearms, make arrests and make searches and seizures, etc., that the GAO bill would provide.

Depending upon their different management mandates and problems, the Fish and Wildlife Service, the National Park Service and the Bureau of Land Management have basically relied on cooperative agreements with State and local law enforcement agencies to accomplish many of their law enforcement needs. The GAO Study Report does not adequately address the success that these Interior bureaus have had with cooperative agreements in the past. Moreover, the GAO report does not recognize the great potential which exists in the area of cooperative agreements which can now be based on the new law enforcement provisions of the Fish and Wildlife Service, National Park Service and the Bureau of

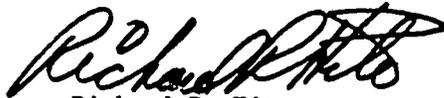
Land Management. These agencies must be given an adequate amount of time to see how their new law enforcement programs work under their new authority so that they can see if this solves some of their law enforcement problems.

(See GAO note, p. 162.)

We appreciate the opportunity to comment on GAO's draft report.

(See GAO note, p. 162.)

Sincerely,



Richard R. Hite
Acting Assistant Secretary -
Administration and Management



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

APR 4 1977

Mr. Victor L. Lowe
Director
General Government Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Lowe:

Thank you for providing the opportunity for the Office of Management and Budget to review and comment upon the draft General Accounting Office report entitled, "Crime is a Serious Problem in Federal Recreation Areas--There is a Need for New Legislation and Improved Policies and Procedures."

The study recommends that an Office of Management and Budget-led task force be established to develop a national law enforcement policy for the Federal recreation lands. For reasons stated in the enclosed staff comments on the study, I do not believe that this recommendation should be implemented.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bert Lance".

Bert Lance
Director

Enclosure

Office of Management and Budget staff comments on the
General Accounting Office draft study,
"Crime is a Serious Problem in
Federal Recreation Areas--There is a Need for
New Legislation and Improved Policies and Procedures".

This study addresses issues of law enforcement on the Federal recreation estate (including the Park, Forest, Fish and Wildlife Services, Corps of Engineers, Bureau of Land Management, and the Tennessee Valley Authority). Since each agency has specific managerial authority over each type of recreation area, there has not been a national law enforcement policy on the Federal recreation lands. Thus, a number of self-evident problems appear when a search for a unified national policy is made; to wit:

- the applicable criminal laws vary from agency to agency;
- training of law enforcement agents varies from agency to agency;
- authority to enforce laws varies from agency to agency;
- Federal-State-local law enforcement coordination varies from agency to agency;
- standards and controls over non-Federal police groups contracted to enforce criminal laws vary from agency to agency;
- there is no uniform data-gathering system to assess the extent of crime on the recreation estate and to help guide future policy in this area.

The General Accounting Office study concludes that crime is a problem and that a uniform policy of visitor protection is needed on all Federal recreation areas. Two sets of recommendations are made:

1. Congress should enact a uniform criminal statute applicable to all of the Federal recreation lands; and
2. Office of Management and Budget should establish a Task Force composed of the relevant agencies and the Justice Department to develop a national law enforcement policy for the Federal recreation estate.

The remainder of this paper concerns itself with the second recommendation, made on page 67 of the draft report, that:

"...the Director of the Office of Management Budget create a task force consisting of representatives from the Office of Management Budget, the Departments of the Interior, Agriculture, Justice, and Army, and the Tennessee Valley Authority to develop a national law enforcement policy for national recreation lands."

While the study is helpful and provocative, there are significant data gaps and methodological problems in the study which raise questions about whether the problem is of sufficient magnitude to warrant implementing the recommendations of the study.

(See GAO note, p. 162.)

the study asserts that crime is a serious problem. While the authors of the study did interview Federal personnel to discern whether or not crime is a serious problem, it appears that those asked to respond were field level officials directly responsible for administering law enforcement authorities. The information elicited from the respondents was almost entirely anecdotal and non-quantitative. Such a methodology has a built-in bias toward the conclusion that crime is a serious problem on the public lands. For example, it is our understanding that the headquarters' officials of the land management agencies concerned (who admittedly may also have biases) are not convinced that crime is a serious problem on lands they administer. Further, a comparison of available crime statistics of Type I crimes (referred to on page 8 of the draft study) in the National Park System with Type I crimes

committed nationwide indicates that the crime rate in the Parks is one-fifth of the nationwide rate*. Thus, although statistics for all of the areas covered in the study are not available, those that are available suggest that public lands crime is not nearly as serious a problem as the draft study asserts.

Finally, while there may be value in a uniform national law enforcement policy on the Federal recreation estate, there may also be sound reasons for the different managerial authorities, responsibilities, and jurisdictions held by each of the Federal land and water management agencies. These vary according to the authorizing legislation of each administering agency, the agency's purpose of management, and the territorial jurisdiction ceded by each State when the areas were established.

In the absence of a more definitive demonstration that a significant law enforcement problem does exist on the public lands, the limited Office of Management and Budget staff should focus on issues which are more immediate and more pressing. However, the Federal land and water agencies should be encouraged to study the issues raised in the report and to resolve those issues.

* In 1973, 5,200 Type I offenses were reported in the National Parks while 226 million visits occurred. This translates into a rate of 2.3×10^{-5} Type I offenses per person-day. Nationwide in 1973, 4,116 Type I offenses occurred per 100,000 people, which indicates a rate of 1.1×10^{-4} offenses per person-day. One might thus conclude that the rate of commission of Type I offenses in National Parks is roughly 1/5 the rate in society at large.



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY

WASHINGTON, D.C. 20310

18 APR 1977

Mr. Henry Eschwege
Director, Community and Economic
Development Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

This is in reply to your letter to the Secretary of Defense regarding your draft report dated 4 February 1977 on "Crime is a Serious Problem in Federal Recreation Areas--There is a Need for New Legislation and Improved Policies and Procedures," OSD Case #4542.

The Department of the Army concurs with the GAO recommendations to agency heads for the need to develop a standard law enforcement policy for providing uniform visitor protection on national recreation lands.

In that the report also makes recommendations to the Congress regarding legislation, I believe it appropriate to discuss the legislation the Corps is currently working under.

It is our policy to provide a safe and healthful environment for public use of lands and water at Civil Works water development projects. The Corps of Engineers has the authority to regulate conduct upon its lands as it relates to project purposes and uses. However, the Corps does not exercise any traditional police powers as Corps lands and water are held in a manner analogous to that of a private landowner. Enforcement of state criminal and civil laws are therefore the responsibility of the States and their political subdivisions.

For various reasons, primarily limited manpower and lack of funding, the State and local law enforcement agencies have been unable to provide adequate visitor protection service on Corps projects. Therefore, Congress enacted Section 120 of the Water Resources Development Act of 1976 (PL 94-587) 90 Stat. 2917 authorizing the Secretary of the Army, acting through the Chief of Engineers, to contract with the States and their political subdivisions to obtain increased law enforcement services

at Corps Civil Works projects. Since this legislation indicated that funding was only for the 1978 and 1979 fiscal years, there has been no opportunity to evaluate the effectiveness of law enforcement contracting on Corps projects.

The Department of the Army, however, still favors the need for supplemental legislation to make it a Federal offense to assault or intimidate Corps civilian employees in the performance of their official duties.

In summary, legislation which would provide legal protection for Corps civilian employees, along with implementation of the existing legislative authority to contract for law enforcement should materially enhance Corps efforts to improve visitor protection services at Corps Civil Works water resource development projects.

Sincerely,



Charles R. Ford
Acting Assistant Secretary of the Army
(Civil Works)

GAO note: Deleted comments refer to material contained in our draft report which has been revised or which has not been included in the final report. Page references in appendixes V-IX refer to our draft report and may not correspond to this final report.

PRINCIPAL OFFICIALS RESPONSIBLE FOR
ADMINISTERING ACTIVITIES DISCUSSED IN
THIS REPORT

Tenure of office
From To

DEPARTMENT OF THE INTERIOR

| | | |
|--------------------------------------|-----------|------------|
| Secretary of the Interior: | | |
| Cecil Andrus | Jan. 1977 | Present |
| Thomas S. Kleppe | Oct. 1975 | Jan. 1977 |
| Kent Frizzell (acting) | July 1975 | Oct. 1975 |
| Stanley K. Hathaway | June 1975 | July 1975 |
| Kent Frizzell (acting) | May 1975 | June 1975 |
| Rogers C. B. Morton | Jan. 1971 | May 1975 |
| Director, National Park Service: | | |
| Gary Everhardt | Jan. 1975 | Present |
| Ronald H. Walker | Jan. 1973 | Jan. 1975 |
| Director, Bureau of Land Management: | | |
| Curt Berklund | July 1973 | Present |
| Director, Fish and Wildlife Service: | | |
| Lynn A. Greenwalt | Sept 1973 | Present |
| Victor M. Schmidt (acting) | Aug. 1973 | Sept. 1973 |

DEPARTMENT OF AGRICULTURE

| | | |
|-----------------------------|------------|------------|
| Secretary of Agriculture: | | |
| Bob Bergland | Jan. 1977 | Present |
| John A. Knebel (acting) | Oct. 1976 | Jan. 1977 |
| Earl L. Butz | Dec. 1971 | Oct. 1976 |
| Chief, U.S. Forest Service: | | |
| John R. McGuire | April 1972 | Present |
| Edward P. Cliff | March 1962 | April 1972 |

DEPARTMENT OF DEFENSE

| | | |
|----------------------------|-----------|-----------|
| Secretary of Defense: | | |
| Harold Brown | Jan. 1977 | Present |
| Donald H. Rumsfeld | Nov. 1975 | Jan. 1977 |
| James Schlesinger | June 1973 | Nov. 1975 |
| Secretary of the Army: | | |
| Clifford L. Alexander, Jr. | Jan. 1977 | Present |
| Martin R. Hoffmann | Aug. 1975 | Jan. 1977 |
| Howard H. Calloway | May 1973 | July 1975 |

| | <u>Tenure of office</u> | |
|----------------------------------|-------------------------|-----------|
| | <u>From</u> | <u>To</u> |
| Chief of Engineers: | | |
| Lt. Gen. J. W. Morris | July 1976 | Present |
| Lt. Gen. William C. Gribble, Jr. | Aug. 1973 | June 1976 |

TENNESSEE VALLEY AUTHORITY

| | | |
|-------------------------------|------------|---------|
| Chairman, Board of Directors: | | |
| Aubrey J. Wagner | June 1962 | Present |
| General Manager: | | |
| Lynn Seeber | March 1970 | Present |