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M E M O R A N D U M

TO: Ronald B. Lovaglio, Commissioner, Department of Conservation

FROM: Ranger Safety Review Committee

DATE: March 5, 1998

RE: Report of the Ranger Safety Review Committee

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PART I - INTRODUCTION

The Ranger Safety Review Committee has been charged by you with the task of making an "independent review of the legislative mandate, agency policies, training and equipment relating to the mission, safety and functional needs of the [Forest] Rangers in the field" and, "after hearing from all perspectives on these issues," to recommend to the Department of Conservation "any actions or changes" the Committee believes "necessary to ensure Ranger work place safety."

Since its appointment in September, the Ranger Safety Review Committee has conducted three day-long hearings (October 14th, 16th and 22nd), met thereafter informally with you, the Director of the Maine Forest Service, Charles J. Gadzik, and the State Supervisor, Forest Fire Operations, Tom Parent, and met informally as a Committee on November 4th and November 25th.

At the three formal hearings, the Committee was given the rare opportunity of both listening to and questioning Director Gadzik, State Supervisor Parent, their entire service staff, including Regional and District Supervisors, and each of the 72 Forest Rangers comprising the current three regional districts (Southern, Central and Northern) as well as the Aviation Unit. The Committee has additionally received written materials including, among other things, the following: L.D. 643 (118th Legis. 1997), Comm. Amend. A to L.D. 643, No. H-395 (118th Legis. 1997), House Amend. A to Comm. Amend. A to L.D. 643, No. H-485 (118th Legis. 1997) and House Amend. B to Comm. Amend. A to L.D. 643, No. H-489 (118th Legis. 1997); Legis. Rec. H-913 thru H-919 (May 19, 1997), H-1112 thru 1113 (May 23, 1997); S-1043

thru 1046 (May 20, 1997); 12 M.R.S.A. chs. 801 [§§ 8001-8003], 805 [§§8821-8888], 807 [§§ 8901-9602] and 809 [§§ 9701-9707], 12 M.R.S.A. § 7056(2), (3) and (4), 17 M.R.S.A. ch. 80 [§§ 2261-2276], 17-A M.R.S.A. chs. 15 and 33; 25 M.R.S.A. § 2801-B; Forest Fire Control Policies, namely, #s LE1 (Law Enforcement), LE2 (Use of [Physical] Force), LE3 (Oleoresin Capstun Spray), LE4 (Complaint and Investigation Report), LE5 (Assisting Other Law Enforcement Agencies), LE6 (Serving Warrants), LE7 (Crime Scenes and Emergencies), LE8 (Possession of Firearms), LE9 (Spark Arrester Enforcement Policy), LE10 (Personal Recognizance Bonds); S-1 (Safety Program) and ADM 16 (Code of Conduct); Forest Service Mission Statement and Organizational Chart; Forest Ranger II description and Forest Ranger II, III and IV task statements; Evaluation Consensus Report as to Forest Ranger II dated 12-04-96; State Law Enforcement Basic School Curriculum with Forest Ranger Curriculum (418 hours) and Forest Fire Control Field Training programs; 18 written reports of law enforcement incidents reported by Forest Rangers under paragraph 9, page 4 of Forest Fire Control Policy # LE1; and written testimony and materials provided by certain of the Forest Rangers during the formal hearings. The Committee has independently reviewed all these written materials. The Committee hereinafter will identify both its findings and recommendations.

PART II - LEGISLATIVE MANDATE

A. Duties and Powers; Enabling Legislation

Currently the Forest Fire Control Division of the Bureau of Forestry (Maine Forest Service) has specific, statutorily created, statewide responsibilities that relate to the following:

(1) Forest fire prevention,[1] forest fire suppression and post-forest fire investigation as to cause (human origin or otherwise) [12 M.R.S.A. § 8901(2)(A)-(C), (E)-(F)];

(2) Enforcement of "all laws relating to forests and forest preservation" [12 M.R.S.A. § 8901(2)(D)], including, but not limited to, illegal cutting or

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[1]A significant aspect of fire prevention includes enforcement of laws regulating open burning - i.e., laws relating to dumps, out-of-door fires, open burning, disposal of slash, public campsites and railroads - laws addressing certain fire prevention practices - namely, spark arresters and obstruction of discontinued woods roads - and enforcement of a Governor's proclamation in a fire emergency. 12 M.R.S.A. chs. 807 and 809. Thus, forest fire control by legislative design includes an important law enforcement component.

transportation of Christmas trees or evergreen boughs,[2] unlawful cutting of trees,[3] operating a motor vehicle on land of another,[4] theft of forest products (17-A M.R.S.A. ch. 15), arson, aggravated criminal mischief and other property destruction relating to forests and forest products (17-A M.R.S.A. ch. 33), criminal trespass (17-A M.R.S.A. § 402), forest practices[5] and forest landowners and wood processor reporting[6];

(3) Enforcement of laws relating to the Maine Land Use Regulation Commission [12 M.R.S.A. § 8901(2)(D)];[7]

(4) Enforcement of laws and rules relating to lands under the jurisdiction of the Bureau of Parks and Lands [12 M.R.S.A. § 8901(2)(D)];[8]

(5) Enforcement of snowmobile laws under 12 M.R.S.A. ch. 715, subchapter II [§§ 7821-7830] as authorized by 12 M.R.S.A. 7056(2);

(6) Enforcement of airmobile laws under 12 M.R.S.A. ch. 715, subchapter I [§§ 7791-7805] as authorized by 12 M.R.S.A. 7056(3);

(7) Enforcement of all-terrain vehicle laws under 12 M.R.S.A. ch. 715, subchapter IV [§§ 7851-7860] as authorized by 12 M.R.S.A. § 7056(4); and

(8) Enforcement of the Maine Litter Control Act under 17 M.R.S.A. ch. 80 [§§ 2261-2276] as authorized by 17 M.R.S.A. § 2268.

Enforcement of the above laws and rules include both civil violations and crimes.

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[2]See also 12 M.R.S.A. § 8847.

[3]See also 17 M.R.S.A. § 2510.

[4]See also 17 M.R.S.A. § 3853-D.

[5]See also 12 M.R.S.A. § 8869(10).

[6]See also 12 M.R.S.A. § 8888.

[7]See also 12 M.R.S.A. ch. 206-A [§§ 681-689].

[8]See also 12 M.R.S.A. chs. 202 [§§ 551-559], 202-B [581-590], 203 [§§ 601-610] and 206 [§§ 661-680].

Law enforcement powers "equivalent to a sheriff or sheriff's deputy"[9] are provided "for the purpose of enforcing forest and forest preservation laws, laws of the Maine Land Use Regulation Commission and laws and rules relating to the lands under the jurisdiction of the Bureau of Parks and Lands." 12 M.R.S.A. § 8901(3). Law enforcement powers equivalent to "a game warden" are provided for enforcing the snowmobile, airmobile and all-terrain vehicle laws. 12 M.R.S.A. § 7056(2),(3) and (4); see also 12 M.R.S.A. § 7053(2) and (3). Power to enforce the Maine Litter Control Act and the Forest Practices Act by forest rangers are specifically provided for in those Acts. 12 M.R.S.A. §§ 8869(10) and 8888; 17 M.R.S.A. § 2268.

B. Assessment of Current Duties and Powers

As was made evident to us both from our examination of the enabling legislation described in subpart A above and from additional information provided to the Committee during our review process, the Legislature has, by design, assigned to the Bureau of Forestry, Forest Fire Control Division, a mixed mission[10] involving both fire related and non-fire related activities. The core function of the Division has been in the past and remains today that of statewide forest fire control. (See again Subpart A(1) of this report at page 2) It is uniquely[11] charged with the responsibility for statewide planning, programming, training, education and direction relative to the control of forest fires. Further, to carry out its responsibility,

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[9]Such powers include "the right to arrest violators, prosecute violators, serve criminal process against offenders, require aid in executing forest ranger duties and deputize temporary aides." 12 M.R.S.A. § 8901(3). Post-arrest, forest rangers may, under certain circumstances, accept personal recognizance with deposit. 12 M.R.S.A. § 9707. Both initiation of a prosecution for a crime or for a civil violation in enforcing chapters 807 and 809 of Title 12 may be by way of a Maine Forest Service citation form or a Uniform Summons and Complaint. 12 M.R.S.A. § 8907; see also 17-A M.R.S.A. §§ 15-A and 17.

[10]The current mission statement of the Forest Fire Control Division recognizes this fact. That statement reads:

> The mission of the Division of Forest Fire Control is to protect Maine's forest resources from fire and to enhance the safe, sound, and responsible management of the forest for this and future generations.

[11]No other state agency has been assigned this same fire control responsibility by the Legislature.

the division must continue to provide to its own personnel the necessary specialized knowledge, training and equipment.

Based upon the weekly time reports submitted by all Forest Rangers II, III, IV and V's for 1996 and 1997, currently Forest Rangers spend approximately 80%[12] of their time engaged in fire control duties, about 12%[13] of which is fire prevention law enforcement.

Separate from its above-described unique fire control responsibility, the Forest Fire Control Division is additionally charged with enforcement of "all laws relating to forests and forest preservation" as well as enforcement of laws relating to LURC, lands under the jurisdiction of the Bureau of Parks and Lands, laws relating to snowmobiles, airmobiles and all-terrain vehicles and the Maine Litter Control Act. (See again Subpart A(2) thru (8) of this report at pages 2-3) As legislatively devised and, as currently performed by the Division, it serves as the primary enforcement agency respecting the laws relating to forests and forest preservation and serves as the secondary enforcement agency respecting all other laws.[14]

The Committee's own assessment of the current statutorily imposed duties of the Division is as follows. First, although as created, the Division is neither solely a fire fighting entity nor solely a law enforcement agency, we believe that the Legislature's desire to combine these functions in one agency is entirely appropriate and continues to be well within the demonstrated capabilities of those currently serving in the field as Forest Rangers. Second, we believe that the currently mandated responsibilities can continue to be met by the Division, while satisfying

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[12]During the 3 days of hearings held on October 14th, 16th and 22nd, it was not uncommon to hear from Forest Rangers a time allocation relative to forest fire control of from 20% to 30% rather than 80%. Although the Committee can only venture a guess as to the reason for this discrepancy, it may well be attributable to differences in work activities occasioned by the specific area to which a given Forest Ranger was assigned.

[13]See again footnote 1 of this report at page 2.

[14]The primary agency responsible for enforcement for these other laws is as follows:

laws relating to LURC -- LURC itself.
laws relating to laws of Bureau of Parks and Lands - Parks and Lands itself.
laws relating to snowmobile, airmobiles and all-terrain vehicles - Inland Fisheries and Wildlife.
Maine Litter Control Act - All other law enforcement agencies in the State.

the safety and functional needs of the Rangers. Third, although the core function of the Division has been and should remain that of statewide forest fire control, experience over the long term with the mixed mission teaches that the time spent on fire control activities continues to decrease slightly each year[15] while that related particularly to enforcing "all laws relating to forests and forest preservation" continues to increase in response to timber theft, criminal trespass, and a growing legislative concern over forest practice regulation and harvest reporting. As a consequence, we can anticipate a trend of increased time allocation to law enforcement duties. In this regard, the Division itself anticipates that non-fire control activities could in the future consume as much as 50% of the work time of Forest Rangers, given the increasing demand for enforcement of the laws relative to forests and forest preservation and the expectation that fire control activities can be further streamlined. Fourth, and finally, because of the anticipated demand for law enforcement relative to the forest and forest preservation laws (matters to which we believe Forest Rangers are particularly well suited to enforce) we urge that the Legislature not encumber the Division further with secondary law enforcement functions such as Title 29-A offenses or Title 12 fish and game violations.

Turning next to an assessment of the current statutory powers of the Division, the Committee is of the view that the current enabling legislation is adequate except in two particulars. We will discuss each particular in turn.

The first particular relates to enforcement of civil violations (17-A M.R.S.A. § 4-B) by Forest Rangers. Although it is evident that many of the laws that Rangers are called upon to enforce under 12 M.R.S.A. § 8901(2)(D) when violated constitute civil violations rather than crimes, subsection 3 of section 8901 does not specifically include law enforcement powers respecting these noncriminal violations.[16] We suggest that subsection 3 of section 8901 be amended to do so. In this regard, the following proposal illustrates one possible approach:

> **3. Law enforcement powers.** Forest rangers and the state supervisor, for the purpose of enforcing forest and forest preservation laws, laws of the Maine Land Use Regulation Commission and laws and rules relating to the lands under the jurisdiction of the Bureau of Parks and Lands, have the law enforcement powers equivalent

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[15]In a given future year, due to unusual natural or man-made conditions, the percentage of time allocation relating to fire control could, of course, increase.

[16]Although not addressed currently in subsection 3, the power to enforce such civil violations is nonetheless implicit in light of both 12 M.R.S.A. § 8902(2)(D) and 12 M.R.S.A. § 8907.

to a sheriff or sheriff's deputy, including the right to ~~arrest violators, prosecute violators, and serve criminal process against offenders,~~ serve criminal and civil violation processes against offenders, make arrests for crimes, prosecute offenders, require aid in executing forest ranger duties and deputize temporary aides.

The second particular relates to Division policy respecting permitted response by Forest Rangers to violations of statutes outside of their jurisdiction. Currently, Forest Fire Control Policy #LE1 (Law Enforcement) provides, in relevant part, as follows:

OTHER STATUTES

1) Violations of state or federal statutes outside of a ranger's authority to enforce shall be reported to the appropriate state or federal law enforcement agency as soon as possible.

2) The ranger may take the action necessary to enforce violations of other statutes only if empowered to do so by the officer contacted and only if properly trained and equipped to handle the situation. These situations should be handled only when absolutely necessary.

3) In extreme cases, there may be occasions when a Forest Ranger encounters serious criminal violations taking place which are a direct and immediate threat to the life and health of another individual (i.e., rape, physical abuse, etc.) If no other law enforcement agency is available to respond in a timely manner, the Forest Ranger is authorized to intercede to the level needed and may use any means necessary, including force, to ensure the safety of both the victim and the Forest Ranger.[17]

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[17]Note that the circumstances addressed in paragraph 3 are also addressed in Forest Fire Control Policy #LE7 (Crime Scenes and Emergencies). Paragraph C(2)(a) and (b) in the "Procedures" portion provides:

2. In the event that a Ranger is the first officer on the scene

Although the Committee believes numbered paragraphs 1, 2 and 3 quoted above reflect sound policy, we are concerned with what we believe to be the tenuous legal status of a Forest Ranger who uses physical force under circumstances covered in paragraph 3. Unlike the circumstances addressed in paragraph 2 in which a Forest Ranger would be using physical force while assisting at the direction of another law enforcement officer who has the actual authority to enforce the law being violated,[18] in the circumstances addressed in paragraph 3 a Forest Ranger would be justified in using physical force only as a private citizen under 17-A M.R.S.A. §§ 16, 107(4) and 108. We suggest that in order to properly protect the Forest Ranger, consideration should be given to expressly authorize the Ranger to make an arrest and thus obtain the added benefit of 17-A M.R.S.A. § 107(1) and (2). In this regard, the following proposal illustrates one possible approach:[19]

> **3. Law enforcement powers.** Forest rangers and the state supervisor, for the purpose of enforcing forest and forest preservation laws, laws of the Maine Land Use Regulation Commission and laws and rules relating to the lands under the jurisdiction of the Bureau of Parks and Lands, have the law enforcement powers equivalent to a sheriff or sheriff's deputy, including the right to arrest violators, prosecute violators, serve criminal process against offenders, require aid in executing forest ranger duties and deputize temporary aides. In addition, the Director of the Bureau of Forestry may authorize forest

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of a serious felony in progress, or where there is serious threat to life or public safety, the Ranger shall:

a. Call for assistance and report to the dispatcher all relevant information.

b. Provided that the Ranger is properly equipped and trained, take action considered reasonable and prudent to stop the crime, stop or reduce the threat to life or public safety, and arrest or detain the violator. Actions taken should not create an undue risk to the Ranger or others.

[18]Note that in the event the violation is a crime, although the Forest Ranger does not obtain the benefit of 17-A M.R.S.A. § 107(1) and (2), he or she is provided special protection under 17-A M.R.S.A. § 107(3).

[19]Note that this approach is modeled after 30-A M.R.S.A. § 2671(2-A)(A).

rangers and the state supervisor, while on duty, to arrest without a warrant a person who has committed in the ranger's or supervisor's presence or is committing in the ranger's or supervisor's presence any victim crime involving the use or threatened use of physical force.

PART III - AGENCY POLICIES

A. General Overview

As earlier noted in the introduction of this report, the Committee members received a number of Forest Fire Control Policies - namely, #s LE1 (Law Enforcement), LE2 (Use of [Physical] Force), LE3 (Oleoresin Capstun Spray), LE4 (Complaint and Investigation Report), LE5 (Assisting Other Law Enforcement Agencies), LE6 (Serving Warrants), LE7 (Crime Scenes and Emergencies), LE8 (Possession of Firearms), LE9 (Spark Arrester Enforcement Policy), LE10 (Personal Recognizance Bonds); S-1 (Safety Program) and ADM 16 (Code of Conduct). We have undertaken a review of each of these policies, keeping in mind the mission, safety and functional needs of the Forest Rangers in the field. Leaving aside consideration of current policies relative to firearms - a matter that necessitates separate attention - the Committee finds that the policies reflect a laudable enforcement philosophy, careful attention to the safety and needs of the Forest Ranger and public alike and reporting and accountability through the chain of command. The committee has only minor recommendations. The recommendations are as follows:

First, the "Statutory Authority" portion of #LE1 (Law Enforcement) at page 1 appears to be incomplete[20] and inaccurate.[21] (Compare with the description of the applicable enabling legislation found at pages 2-3 of this Report)

Second, the "Training" portion of #LE1 (Law Enforcement) at pages 2 and 3 needs to be updated to address the current State Law Enforcement Basic School with additional Forest Ranger Curriculum utilized by the Division at the Criminal Justice Academy.

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[20]For example, no mention is made of enforcement of laws and rules relating to lands under the jurisdiction of the Bureau of Parks and Lands. (12 M.R.S.A. § 8901(2)(D)).

[21]For example, chapter 80, § 2268 is identified as being in Title 17-A rather than Title 17.

Third, the "Purpose" portion of #LE2 (Use of [Physical] Force) and #LE3 (Oleoresin Capstun Spray) at page 1 can be read to focus exclusively upon circumstances arising out of the enforcement of criminal laws relating to "forest and forest preservation." (12 M.R.S.A. § 8901(2)(A)-(C), (E) & (F)). Yet each policy is without question intended to address circumstances arising out of the enforcement of all criminal laws over which Forest Rangers have jurisdiction.[22]

Fourth, in the "Physical Force in Law Enforcement" portion of #LE2 (Use of[Physical] Force) at page 2, the first sentence in numbered paragraph 5 reads: "Notwithstanding the provisions of 17-A M.R.S.A. § 107, Rangers shall use only that amount of force that is reasonable and necessary to accomplish the Rangers' lawful objective." (emphasis supplied) Section 107 of Title 17-A itself, in the Committee's view, demands nothing less.

Fifth, in view of paragraph 3 in the "Other Statutes" portion of Forest Fire Control Policy #LE1 (Law Enforcement), paragraph C(2)(b) in the "Procedures" portion of Forest Fire Control Policy #LE7 (Crime Scenes and Emergencies) and paragraph 4 in the "General" portion of Forest Fire Control Policy LE3 (Oleoresin Capstun Spray), the current statement contained in the third paragraph in the "Purpose" portion of Policy #LE3 purporting to limit the use of oleoresin capstun spray to "personal self-defense,"[23] rather than defense of self and defense of innocent 3rd persons, appears to cause unnecessary confusion.

Sixth, and finally, the reference to "Fire Control Policy on Emergency Operational Needs" in paragraph 1 of the "Procedures" portion of Forest Fire Control Policy #LE5 (Assisting Other Law Enforcement Agencies)[24] would appear to

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[22]For example, enforcement of laws relating to snowmobiles, airmobiles and all-terrain vehicles include criminal violations. See 12 M.R.S.A. ch. 715, subchapters I, II and IV.

[23]The sentence in full reads:

> This spray is issued for the sole purpose of personal self-defense and is not to be used as an offensive tool to apprehend violators. (emphasis supplied)

[24]Paragraph 1 reads:

> 1. Requests for assistance that are not of an emergency nature and do not meet the parameters established for emergency circumstances by Fire Control Policy on Emergency Operational Needs shall require prior

be an incorrect reference to current Forest Fire Control Policy #LE7 (Crime Scenes and Emergencies).

B. Firearms

1. Current status

Possession of firearms by Forest Rangers is currently controlled by Forest Fire Control Policy #LE8 (Possession of Firearms).[25] That policy, in critical part, provides as follows:

> . . . .
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> A. PURPOSE
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> To establish a policy for Forest Fire Control personnel concerning the carrying, transporting and using of firearms while in work status, or in a state vehicle, or while in uniform.
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> . . . .
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> C. BACKGROUND
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> . . . .
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> Although Forest Rangers are sworn law enforcement officers authorized to enforce Maine forest protection statutes, they are not issued firearms and are not agency certified to use firearms in the performance of their approval of the District or Regional Ranger. (Emphasis supplied)

[25]Note that Forest Fire Control Policy #LE1 (Law Enforcement) also briefly addresses firearm possession by Forest Rangers. Specifically, numbered paragraph 8 in the "Equipment and Safety" portion of that Policy reads:

> "8) Forest Rangers will not be issued firearms and will not be armed in performing law enforcement duties."

Paragaraph 8 does not appear to be wholly consistent with Forest Fire Control Policy #LE8 (Possession of Firearms).

duties. The ability to carry firearms in association with work time, use of state vehicles, and/or while in uniform is an agency decision and not a personal privilege. Additionally, Division employees are not afforded special privileges by Maine statute except as specified in T 25 Sec 2001 which authorizes the agency, as employer, to allow a law enforcement officer to carry a concealed weapon without a permit by giving written approval.

D. POLICY

All laws regarding the possession and use of firearms apply to Division personnel. Firearms will not be used in performing any part of an employee's regular duties except as specified below. Employees are not authorized to carry a firearm, concealed or otherwise, on their person or in a state vehicle and may not use a firearm while in work status or while in uniform except as follows:

1) Employees may transport a firearm in a state vehicle to and from a seasonal, state provided residence, if it is kept unloaded and within a case.

2) A firearm may be transported and used by Forest Rangers to resolve a problem with nuisance or injured animals with approval of the regional ranger or state supervisor.

3) A firearm may be transported, carried on one's person, and/or used in special situations by Forest Rangers as approved by the State Supervisor and/or the Bureau Director.

4) A firearm may be used in a life threatening situation for self defense or to defend a third party when a firearm has been introduced at the scene by circumstance, such as by another law enforcement officer.

Only Forest Rangers will be authorized work related uses as described in items 2 and 3 above. Firearms training shall be provided to Forest Rangers prior to authorizing any work related uses.

> Carrying a concealed firearm is prohibited under all circumstances except as may be authorized under exception 3 above.
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> Failure to comply with this policy will be cause for severe disciplinary action, up to and including immediate discharge.

In the last few years (1996 onward) graduates from the Criminal Justice Academy who have attended the State Law Enforcement Basic School have, unlike their pre-1996 counterparts, received basic firearms training. As a consequence, approximately 7 Forest Rangers are currently Academy-trained respecting firearms. No Forest Rangers, including these 7, have been given yearly in-service firearms training by the Bureau.

2. Assessment of current firearms policy

In making our independent review of the above-quoted Forest Fire Control Policy #LE8 (Posession of Firearms), the Committee has paid particular attention to the oral presentations and written submissions at the three formal day-long hearings (October 14th, 16th and 22nd), our informal meeting with you, Director Gadzik and Supervisor Parent, the 18 written reports of law enforcement incidents reported by Forest Rangers under paragraph 9 of Forest Fire Control Policy #LE1 (Law Enforcement), the Forest Fire Control Policies relevant to the use of physical force, and the 1997 legislative proposal voted out under a divided report by the Joint Standing Committee on Agriculture, Conservation and Forestry, passed as ultimately amended by both the House and the Senate, but ultimately indefinitely postponed by each - namely, L.D. 643 (118th Legis. 1997), Comm. Amend. A to L.D. 643, No. H-395 (118th Legis. 1997), House Amend. A to Comm. Amend. A to L.D. 643, No. H-485 (118th Legis. 1997) and House Amend. B to Comm. Amend. A to L.D. 643, No. H-489 (118th Legis. 1997). See also Legis. Rec. H-913 thru H-919 (May 19, 1997), H-1112 thru 1113 (May 23, 1997); S-1043 thru 1046 (May 20, 1997).

As more fully developed below, the Committee is not in favor of a change to current Forest Fire Control Policy #LE8 (Possession of Firearms) that would blanketly authorize all Forest Rangers to carry a firearm on their person while in the performance of their duties. Instead, we are in favor of a change to current policy that would provide for the issuance of firearms by the Department[26] to qualifying

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[26]The Committee is of the view that the Department should purchase and retain ownership of all firearms issued, purchase and supply the needed ammunition, lockboxes and any other necessary equipment, and be responsible for

Rangers who, except as otherwise authorized or directed, would keep their firearms in a lockbox in their duty vehicle. As used here "qualifying Ranger" refers to two distinct Ranger categories. The first category includes those who are to be hired as Forest Rangers in the future. As to them, we suggest that as a condition of employment they should be required to successfully undergo psychological testing for firearm suitability, successfully complete the Basic Law Enforcement Training Program at the Academy, including firearms training and qualification, and remain certified by successfully completing mandatory annual refresher training. The second category includes those who are current Forest Rangers. As to them we suggest that, although not as a condition of continued employment, Forest Rangers should be required to successfully undergo psychological testing for firearm suitability, successfully complete a firearms training and qualification course designed for this purpose,[27] and remain certified by successfully completing mandatory annual refresher training. We recognize the possibility that not every currently-employed Forest Ranger will be able to meet the preconditions. If such does occur, the nonqualifying Ranger will simply not be issued a firearm

We have one additional suggestion relative to currently employed Forest Rangers. Although at the three formal day-long hearings, the vast majority of Forest Rangers favored being issued firearms, a small minority were strongly opposed. We think that consideration should be given to allowing, in view of the transition, for individual qualifying Rangers to opt for not being issued a firearm.

The Committee's above-described proposal is at odds with a contention commonly voiced to us that, as a matter of pure risk assessment, Rangers should carry a firearm on their person while in performance of their duties. Based upon both the information provided during our review and our own experience, we believe that overall the current risk of serious bodily injury or death posed by citizens to unarmed Forest Rangers while performing their mission would essentially remain the same if Rangers were to carry a firearm, because carrying itself presents its own added risk to the Ranger and, if armed, Rangers are more likely to be called into dangerous emergency situations to aid other law enforcement agencies. That having been said, our proposal does not in any manner disregard the actual work-related risk posed to Rangers of injury or death. In this regard, although it rejects the notion that the overall risk posed to Rangers mandates blanketly arming them, it recognizes that there are specific circumstances that pose sufficient

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all training costs.

[27]Those 7 or so Rangers who are recent graduates (1996 onward) of the Criminal Justice Academy's State Law Enforcement Basic School in which basic firearms training was included, presumably do not need to undergo this course.

heightened risk to warrant the qualifying Ranger[28] being armed. The proposal thus anticipates these occasions and provides for the needed capability.[29]

The Committee is, of course, mindful of the fact that our proposal would generate significant costs for the Department. We have made inquiry of the Maine State Police as to what those costs might be if training were provided by them.[30] The estimate provided below by the Maine State Police assumes 84 Ranger positions.

* Cost of 9MM Beretta firearm (new): $425.00/per X 84 = $35,700.00

* Cost of 9MM ammo (duty rounds): $8.00/50 rds. X 84 = $ 672.00

* Cost of new soft body armor:[31] $526.00/per X 84 = $44,184.00

* Cost for training all Rangers from basic through qualifications:

FIXED COSTS:	Range rental:	$250/wk @ 4 weeks	= $ 1,000.00
	Practice ammo:	1,500 rds. @ 84	= $14,532.00
	Targets:	2,000 @ .22	= $ 440.00
Total fixed costs (range,ammo,targets,etc.):			$ 15,972.00

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[28]Although the specific circumstances warranting a Ranger being armed are for the Department to determine, occasions such as executing an arrest warrant on a known violent felon (see State Forest Fire Control Policy #LE6 (Serving Warrants)) or entering the land of a landowner who has in the past threatened a Ranger with serious bodily injury or death is, in our view, properly illustrative.

[29]We are troubled by current Forest Fire Control Policy #LE8 (Possession of Firearms) - not because it recognizes (correctly in our view) that occasions arise in which firearms should be made available to Rangers (see again the 4 exceptions in the "Policy" portion of #LE8) - but because it allows for firearms in the hands of Rangers who are not currently properly trained and equipped.

[30]In this regard, the Maine State Police have not been asked to seriously consider whether or not they could do the unitial training or provide additional training on an annual basis, if asked.

[31]We asked that the cost of protective vests be included because the Committee believes that Forest Rangers should have the capability of utilizing them.

VARIABLE COSTS: Instructors:	11 @ 368 hrs/week =	$	5,965.00
	@ 4 weeks =	$	23,861.00

TOTAL COSTS FOR MSP TO TRAIN ALL PERSONNEL THROUGH BASIC COURSE AND QUALIFICATION: $ 39,833.00

* Cost for training Rangers as instructors: $361.00/per instructor + 10 working days

This includes attending Firearms I and II, 1,000 rds of practice ammo. per student, 10 days lodging, 13 meals.

Can train maximum of five (5) Rangers at a time by this method and allow them to assist on firing range with their own people to count as part of course requirements.

VARIABLE COSTS:

Costs for Ranger instructors:	$361.00 X 5	=	$ 1,805.00
Costs for MSP instructors:	8 @ 320 hrs/week X 4 weeks	=	$20,749.00
	Total variable cost	=	$22,554.00

FIXED COSTS:

Remain the same: $15,972.00

TOTAL COSTS TO TRAIN 5 RANGER INSTRUCTORS: $38,526.00

<u>SUMMARY</u>

Total Costs for MSP to train:	$39,833.00
Total Costs for MSP to train + 5 Ranger instructors:	$38,526.00
	$ 1,307.00

The difference comes as a result of using fewer State Police instructors and allowing the Ranger instructors to actually participate in the training of their own people at the same time they are technically completing their own Firearms II course. This would require the five (5) Ranger instructors to be available for the full four (4) weeks.

By training Rangers as instructors, Conservation would save about $1,300.00. Also on the plus side, they would have five (5) certified instructors to maintain the firearms program for their agency.

On the down side, Conservation would have to make five (5) people available for ten (10) days of training to complete the Firearms I and II courses. Additionally, training would have to revolve around the Academy's class schedule (i.e., when next Firearms I and II courses offered).

PART IV - EQUIPMENT

A. General Overview

From all that the Committee has heard and seen, we are satisfied first that equipment relating to forest fire control is not only satisfactory, it is apparently the best in the Northeast Regional Compact. Second, leaving aside the issue of firearms and accoutrements, we are satisfied that Forest Rangers are currently well equipped to perform their law enforcement functions, as well. We nonetheless have certain recommendations, each of which is addressed below.

B. Ranger Uniform

The current forest ranger uniform is, as we understand it, designed in response to a concern that its predecessor was too informal in appearance, failing to project to the public a proper aura of authority. Our impression of the current uniform is that it projects a negative public image because it is unnecessarily paramilitary in appearance. Further, even with the shoulder patch, it is not sufficiently distinguishable (unique) from uniforms worn by unrelated law enforcement personnel, such as deputy sheriffs and game wardens, so that significant confusion is created as to what agency the wearer belongs. Such potential for citizen misidentification carries with it a potentially heightened risk of personal danger to the Ranger. Possibly this problem might be reduced by placing immediately above a front pocket on the shirt and on the front of the jacket an easily readable logo identifying the wearer as a forest ranger.

C. Ranger Vehicle

The current truck utilized by Forest Rangers, in our view, properly reflects that the core mission is still that of forest fire control rather than law enforcement. It is thus quite properly equipped functionally primarily as a "fire truck" rather than as a police vehicle and should continue to utilize red rather than blue emergency lights. Our impression is that the truck is satisfactorily outfitted to serve the current mixed mission except in one regard - to wit, the rear compartment is not provided with sufficient illumination for night access.

D. Global Positioning Systems (GPS)

It is our understanding that, although global positioning systems (GPS) are currently in use, more are needed for each of the three regional districts. We have been assured that an effort is currently being made to meet this need. The Committee believes that such effort should continue.

E. Communication Equipment

The current radio communications network for the Department of Conservation utilizes 15 high band repeaters and is described as very serviceable and in good condition. The system provides good coverage to approximately 95% of the State utilizing the ranger-to-ranger and ranger-to-dispatch capabilities of the system. Dispatch centers are in Ashland, Old Town and Augusta and function 8 hours a day with increased hours during the summer fire season.

During those periods of time when Conservation dispatch is unavailable, Rangers have the capability to communicate with either the State or County Regional Communications Centers which operate 24 hours each day. In addition, the Department of Inland Fisheries and Wildlife system is also available to Rangers.

Rangers in remote areas such as St. Pamphile and Patten complain of lack of repeater access. Further, as pointed out above, it is our understanding that outside of normal duty hours, radio operators at regional headquarters are not available. As a consequence, Forest Rangers in need of after-hours help must resort to utilizing other agencies. Patching in with other law enforcement agencies possessing a 24-hour capability is, under such circumstances, of high importance. We are unsure from our review as to whether such coordination has been fully implemented. Finally, we are concerned that relevant intelligence and investigative information available generally to law enforcement agencies through teletype and the National Criminal Information Center (NCIC) is not regularly getting into the hands of the Forest Rangers in the field.

F. Computers

Although it may not be currently feasible to provide Forest Rangers with a computer capability, it seems to us that a laptop or similar device could be a valuable addition to help satisfy the functional needs of the Rangers in the field.

PART IV - TRAINING

A. General Overview

Although technically the training standards and requirements of the Maine Criminal Justice Academy do not apply to Forest Rangers by virtue of 25 M.R.S.A. § 2801-B,[32] The Division nonetheless utilizes the Academy and requires successful completion of the full[33] 320-hour [344 actual hours] Basic Law Enforcement Training Program curriculum accompanied by an additional special Forest Ranger program curriculum (for a total of 418 hours).[34] Forest Rangers, following successful completion of this course, are certified by the Academy. (See 25 M.R.S.A. § 2804-C(3))

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[32]25 M.R.S.A. § 2801-B provides:

> **§ 2801-B. Application of chapter; exemption**
>
> **1. Exemption.** The training standards and requirements of this chapter do not apply to the persons defined by this chapter as law enforcement officers who are:
>
> . . . .
>
> C. Agents or representatives of the Department of Conservation, Bureau of Forestry, whose law enforcement powers are limited to those specified by Title 12, section 8901, subsection 3.
>
> . . . .
>
> **2. Education and training required.** The directors of the state agencies listed in subsection 1 shall provide adequate education and training for all law enforcement officers within their jurisdiction. The board shall advise the directors concerning appropriate and adequate training.

[33]Prior to 1996, Forest Rangers did not participate in the firearms training portion of the Basic Course. Since 1996 firearms training also has been mandated.

[34]It is our understanding that new recruits are required to successfully complete the 100-hour pre-service training course (25 M.R.S.A. § 2804-B) offered by the Academy if the Basic Program is not immediately available. The recruit then attends the Basic Course when available.

In addition, Rangers, during their probationary period, must successfully complete the mandatory Forest Fire Control Field Training Program. We have reviewed these curriculums and we are satisfied that these basic programs provide each Ranger with the needed training to carry out professionally and safely their mixed mission.

Independent of the above, the Division also provides the equivalent of in-service law enforcement training under 25 M.R.S.A. § 2804-E. Currently the Division provides a 40-hour block (1 week period) of yearly training that is provided separately in each of the three regional districts. One day is devoted to defensive tactics training (hand-to-hand, oleoresin capstun spray, situations). The remainder of the training block is made up of special programs that vary in content from year-to-year.

Although we are impressed with the quality of the above-described training, the Committee has a number of recommendations. The recommendations are as follows:

First, we urge that Tom Parent, State Supervisor of Forest Fire Operations, attend the next available Basic Law Enforcement Training Program offered at the Academy. It is, in our view, important that he be certified as a law enforcement officer by the Criminal Justice Academy given his key supervisory role over all Forest Rangers, each one of which has successfully completed the required Academy training.

Second, in listening to Forest Rangers during the three formal day-long hearings (October 14th, 16th, and 22nd), numerous Rangers mentioned the following areas as needing special attention as part of their ongoing in-service training:

(a) situation awareness and conflict resolution (communication skills) training;

(b) additional defensive tactics, including the use of realistic, live situational training;

(c) forest marihuana growing danger-awareness training;

(d) rural psychology training; and,

(e) training to better accomplish both assistance from and compliance by private landowners and woods contractors. Such training should, among other things, address the owner or contractor who is unable to read or write.

Third, we urge that those Forest Rangers who since 1996 are Academy trained relative to firearms receive annual firearms training as well.

Fourth, independent of ongoing training for the Forest Ranger, we suggest that the Division address the following:

(a) Radio dispatchers currently do not appear to understand sufficiently the functional needs of the Forest Rangers in the field, including keeping in contact with them;

(b) The public needs to be better educated as to the Rangers' right of access to private lands under 12 M.R.S.A. § 8901(2)(G) to foster acceptance and increase Ranger safety;

(c) More effort needs to be made in educating the public as to the current Forest Ranger statutory mission in today's forests; and,

(d) Communication by the Division with other law enforcement agencies at the highest levels needs to occur in order to foster better understanding as to the statutory and policy[35] parameters of Forest Ranger law enforcement activities, including any existing limitations respecting the backup capability of the Rangers in dangerous situations when help is sought by other agencies.

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[35]E.G., Forest Fire Control Policy #LE7 (Crime Scenes and Emergencies) and Forest Fire Control Policy #LE8 (Possession of Firearms).

PART V - CONCLUSION

With the completion of Parts II through IV above, the Committee has provided to you its findings and recommendations. We stand ready to provide whatever further assistance you may request of us.

Respectfully submitted,

CHARLES K. LEADBETTER,
For the Committee

Ranger Safety Review Committee Members

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