

Are We Overregulating the Sportsman?

Steve K. Black, Department of Natural Resources, Law Enforcement Section, Atlanta, GA 30334

Abstract: The conservation officer's job should be to mold favorable public opinion while enforcing the conservation and boating laws. Those laws that are biologically sound ensure the public safety, and applied uniformly form the core of a sound enforcement program. Laws for the convenience of the officer or the administration have no place in the program. The power to invoke the criminal process carries with it the power for leniency. If the objective of all laws is voluntary compliance, then reasonable laws applied with the discretion of good common sense will accomplish that objective.

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We are living in a society at a time crime is increasing at an alarming rate. The government, in its attempt to control and deter criminal activities, has overreacted by legislating various activities with complex, technical laws that in many instances are making criminals out of law-abiding citizens.

In the conservation law enforcement profession, we have the responsibility of providing quality recreation for the people and at the same time protecting the resource from over-utilization. We must utilize the resource without creating a situation of complex requirements that discourage participation. Creating too many laws, too many contradictions and too many exceptions, can make it virtually impossible to go afield without violating some insignificant requirement that has little merit.

I propose to identify the basic responsibilities of the conservation law enforcement agency in regard to identifying proper applications of laws when dealing with the fallible human being. Many of my suggestions, some of which reflect the thoughts of others, certainly are not new.

Biological Soundness of Laws

Modern wildlife management is not purely a biological function, but is a complex system involving research, development, planning, political direc-

tion, public and community relations, administrative services, legislative preparation, administration and enforcement of legislation, and judicial application of these laws.

Conservation law enforcement is a function of game and fisheries management which enforces laws and regulations that allow for the legal harvest of certain species of animals and fish by the licensed public, and provide that this harvest should be distributed among the licensees in an equitably practical manner. This is opportunity as free of administrative supervision as is biologically sound. These laws should be concise and clear so that a quick reading will convey their intent and meaning. We must eliminate the need of a field manual, combination computer-watch, and legal counsel before a person squeezes the trigger.

Enforcement administrators should work closely with biologists to objectively analyze those laws that generally have no bearing on the biological welfare of wildlife species or that needlessly reduce harvest opportunities by the public. It will be difficult to discard some of the time-honored laws that exist, but some of them are nuisance laws that contribute little to the harvest or protection of wildlife.

Those laws made solely to ease the duties of administration, enforcement, or management should be examined with the idea that those not making a valid contribution to wildlife harvest probably should be discarded. Some of the laws governing such factors as gun caliber or number of shells held by a shotgun are generally useless. For example:

1. Until recently amended, Georgia law restricted the calibers legal for hunting wild hogs to those calibers legal for small game. This basically included those of .257 caliber or smaller. This restricted hunters to the extent that a man hunting hogs with a .243 rifle was legal; however, his son who might accompany him could not use a 20-gauge shotgun loaded with slugs or buckshot.

2. Biologists insist that the dove baiting laws have no detrimental effect on the resource. However, these laws are rigidly enforced. In my opinion, it only restricts the person without land and equipment to plant it, the opportunity to have a legal dove shoot. After all, I feel we all will agree that the majority of fields planted in late summer are for the sole purpose of shooting doves.

3. Georgia supports a deer tagging system. All deer must be tagged before removing the carcass from the place of kill. This encompasses filling in name, county of kill and punching out other information. The concept behind this requirement is good; however, it does not work. All concerned agree that we do not get reports on approximately 80% of the deer killed. But, we are still making cases and seizing deer not only because deer are not tagged, but in many instances because the tag is not punched or filled out properly.

Other examples could be cited. However, I hope I've made my point.

Enforcement of Public Safety Laws and Regulations

It is evident that activities such as hunting or boating require certain laws and regulations be enforced to insure public safety, such as not discharging a firearm from or across a public road, not hunting from a vehicle, wearing fluorescent orange while hunting deer, operating a boat with PFD's and hunter education requirements, etc., but administrators should take a close look at these laws to determine if they are actually successful in fulfilling their purpose of public safety.

One question which arises in particular is the mandated requirement of a hunter education course. This imposes a burden on the agency which oversees this program, and also on the public in meeting schedules so their youngsters meet requirements.

In Georgia, the mandatory hunter education law is very controversial from the standpoint of effectiveness. Statistics indicate that it has had no significant bearing on accidents resulting from self-inflicted wounds.

Please don't misconstrue my point. I am a strong advocate of hunter safety. Since its inception, I have been an avid supporter and believe that the materials presented and the contact with the public are invaluable. However, in Georgia, during Fiscal-year 1981, the 200-ranger force presented 850 programs, certified approximately 28,000 persons and spent 38,000 man-hours in doing so. In viewing accident results and the cost/benefit factors, I seriously question its significance on a mandated basis.

Another law I question in the public safety area is hunting from a vehicle. I agree that game should not be pursued and taken from a vehicle on a public road because of the public safety factor; however, Georgia law not only prohibits the hunting from a vehicle and on a public road, but prohibits a person from sitting in a parked vehicle on public or private lands with a gun in pursuit of game.

I ask you—What purpose do laws of this type serve? Typical answers are that it is unsportsmanlike to take game in this manner. I agree. However, is it unsportsmanlike in states where it is legal, or are we making those judgments and forcing them on the public? If our rationale be such, should it be unlawful to shoot a duck on the water or a quail on the ground or a rabbit in its bed?

Enforcement Actions

Ted Trueblood (1982) gives an account of his fishing a stream for steelhead that was open for many years, but had been closed. Not until years later

did he realize, after meeting the game warden for that area, that he had been observed by the warden while fishing.

The warden advised, "I could have given you citations, but there were 3 reasons why I didn't. First, you obviously didn't know you were breaking the law. Second, you turned loose all the little trout you caught. Third, there are enough cleancut intentional violations to keep me busy."

Reading this gives me a sense of pride to think that a conservation officer initiated such logic in his handling of the situation. However, I wonder how Trueblood would have fared with the many hundreds of other officers; especially those who see nothing but pure black and white in the enforcement of wildlife laws.

George Reiger (1981) captured this theme of too much law, too little order:

If we continue to encourage State Game and Fish Agencies to promote wardens based on the number of tickets they hand out; if we continue to make entrapment and hefty fines the measure of our enforcement success rather than information, education, and friendly warnings, we will soon have only two kinds of people in the field: wardens and poachers.

Reiger (1981) gives an account of instances where complaints are registered about the heavy-handed performance of the conservation officer immersed in the how of their work, but seldom stopping to ask themselves why.

As indicated, many wardens are trained to know more about how to empty their revolvers into human silhouettes than they do about managing human relationships.

The disturbing reality of this report is that it is true in hundreds of situations each year. Many complaints are registered from the public involving citations that have been issued and people literally abused when there was not a good violation to warrant such action. In taking this position, I view there has been no harm to the resources and public safety was not an issue. They were cited simply because the law identified an infraction.

In Georgia, we support a pleasing conviction rate of about 70% (Fiscal-year 1981). This is due primarily to a cash bond system of paying fines. I feel this system is responsible for many citations being written because the officer knows in the majority of situations the person will not elect to go to court. This is simply because the fine is usually less than losing time from work and/or an attorney's fee. However, if this changed and all cases were judged, I would anticipate a significant decrease in the conviction rate due to frivolous citations.

If we are overregulating the sportsman, and I believe we are, it's not due totally to the existence of too many laws without biological reason and public safety, but the manner in which these laws are being enforced by our conservation officers.

I feel we all agree that the officer in the field should be allowed the discretion of weighing the facts and making a sound judgment as to what action to take. Only citations with merit should be made. The officer should not issue borderline citations in the belief that it is up to the court to decide the merits of the case. However, it's up to the administration to determine a clear direction on making these judgments.

Discretionary acts of officers, as they relate to actual enforcement of the law, must be controlled in order to protect constitutional rights and insure fair, uniform application of the statutes. This may be done in training and policy providing guidance to individual officers while exercising law enforcement authority.

Control of discretion is not easy, but it is essential if freedom and liberty are to be preserved and wildlife laws are to be applied in a uniform and fair fashion.

Officers must realize that wildlife laws are designed to govern human activity that have a direct effect on the resource. In others, the resource is not affected.

Again, let me reemphasize my message. I am strong on law enforcement and support prosecution in many situations. However, we must eliminate the concept of us and them or stereotyping all resource users into the role of the offender. Most officers assume the worst about anyone afield with a gun in his hand.

I do not feel any law enforcement officer enforces the laws to the extent as do conservation officers. Maybe this has been instilled to a large extent by management, either directly or indirectly by placing too much emphasis on case/warning production or by encouraging competition between officers.

It is apparent that administrators have an obligation to emphasize and stress, through whatever means available, the necessity of dealing with the public in a fair, just and impartial manner, and to initiate prosecution or penalty in those situations only when necessary to protect the resource and the public from undue harm.

Conclusion

We, in the conservation law enforcement profession, have an obligation to the general public to provide the most recreational advantages possible with a minimum amount of regulation that insures protection of the resources and safety to the public while engaged in those activities.

We must realize we are public servants working for those people who pay our salaries and sponsor our programs. We have no right to deny or abuse these consumptive users in any way.

Effective performance of wildlife law enforcement is influenced by the

willingness of citizens to cooperate by reporting violations, providing information about suspects, and cooperating in court.

Conservation officers are molding public opinion when they enforce conservation and boating laws. Laws that are biologically sound ensure public safety, and when applied uniformly and justly, make for a sound law enforcement program.

Constant review of existing laws and application of common sense enforcement techniques must be sought to insure the public support needed to adequately function.

The power to invoke criminal processes by arresting or issuing citations carries with it the concomitant discretionary power to be lenient. This power to be lenient, in those situations justified, can be an effective weapon to influence conduct. After all, voluntary compliance is our major objective. The citation is merely a tool at our disposal in attempting to gain compliance through duress. If the objective can be accomplished by more lenient means, why not encourage its use?

Literature Cited

- Reiger, G. 1981. Too much law, too little order. *Field and Stream* 86(1):36-38, 160.
- Trueblood, T. 1982. The other side of the game warden. *Field and Stream* 87(3): 20-25.