

## **PANEL — A TWO-SIDED LOOK AT FULL POLICE POWER FOR CONSERVATION OFFICERS**

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Florida's wildlife officer, like other conservation officers around the nation, has traditionally been the state's wilderness patrol. He possesses the ability through specialized equipment to reach remote areas and is often in places that other law enforcement officers find inaccessible.

With the arrival of so many people having the capability to penetrate the backwoods areas and the inevitable confrontations between the criminal element and wildlife officers, it became increasingly evident that for the orderly enforcement of the law and adequate protection of life and property, full police powers for the wilderness patrol officer were necessary. To put an officer, any officer, in the position of confronting criminals in remote areas committing crimes such as cattle rustling, smuggling narcotics, vandalism and even murder, without proper authority seemed to us an untenable situation. Can you imagine a family of campers deep in the forest who have just been assaulted by a hoodlum and a wildlife officer arrives on the scene with his badge and gun and having to say, "I'm sorry I don't have the authority to do anything because he hasn't violated a game law"?

All law enforcement officers in Florida must by law, receive 320 hours of basic training; thus when the Legislature established full police powers for wildlife officers in August of 1970, it provided authority commensurate with the training already being received. Since obtaining authority to enforce all laws in Florida, we have stressed to wildlife officers that their primary responsibility is to enforce game and fish laws. However, knowing they were armed with authority and training in any eventuality created a degree of satisfaction and proved to be very beneficial in many instances.

Many nongame related arrests have been made since 1970 and many more will be made. It has not diminished our zeal to protect fish and wildlife of our state nor has it sacrificed any privileges of the sportsman. Indeed, the full police power has been, in part, responsible for the opening up of over 728,000 acres of additional hunting lands to the public by large timber companies because of contractual agreements whereby the Game and Fresh Water Fish Commission agrees to "enforce other laws pertaining to human behavior" such as woods arson, trespassing, vandalism, etc.

There are other benefits derived from full police powers; lives saved, property recovered, a higher degree of respect from the public and other law enforcement agencies, a better image, recruitment advantages and better morale among officers by just knowing they are not part-time law enforcement officers.

Observing this situation as someone who has been associated with an organization, both with and without full police powers, it is inconceivable that the Florida Game and Fresh Water Fish Commission would ever be content to revert to pre-1970 times.

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The Texas Code of Criminal Procedure was amended in 1971 to include State Game Wardens. Previous to that time Game Wardens' arrest authority was limited to game and fish violations. Their previous authority was provided by a special game law that stated Game Wardens shall have the same authority as sheriffs for the enforcement of game and fish laws.

The Texas Game Wardens began experiencing several problems covering jurisdiction in the late 1960's. These problems included the inability to cope with certain violations that are occurring in their presence and the presence of the public. These violations included such acts as DWI, disorderly conduct, littering, and drug-related offenses. At this same time more and more people became recreational-oriented and the public could not understand why our officers refused to assist them in the aforementioned

violations. The enforcement of these statutes at that time were reserved to peace officers. Also during this period of time, late 60's and 70's if you will recall, there was a tremendous amount of civil unrest due to the Vietnam War. Texas along with other states began to have riots and demonstrations at our universities. The State Police (Texas Department of Public Safety) began to search for backup personnel to help control these situations. They immediately discovered that the Texas Game Wardens did not have full police powers. It was then that their leadership as well as ours became aware and agree that here was a well-trained, well-equipped group of officers that could act as a backup to the police force, but were unable to do so due to Texas law and the Texas State Constitution. The Constitution states no person can hold more than one commission simultaneously).

Another factor came into focus in the late 60's and early 70's. This was the increase in trafficking and use of illicit drugs. Texas Game Wardens then as well as now provide the only state rural patrol, an ideal area of drug trafficking. In an effort to control the movement of drugs, DPS narcotics and intelligence officers begin to see the value of the Game Warden. His knowledge and access to the rural areas (ranches, farms, etc.) could provide much assistance to DPS. An example of this assistance was locations of remote temporary air fields, as well as their day to day rural patrol activity on the back roads of the country. Other areas our officers were called on quite often to assist were man hunts. Throughout the years the Game Wardens had participated in this type of activity; however, with the ever increasing awareness of citizen's rights and arrest procedures the courts begin to throw out good cases because the Game Wardens had assisted in these arrests.

These were some of the factors that caused the State Legislature to amend the Texas Code of Criminal Procedure in 1971 providing full peace officers authority to Game Wardens. Since that time we have experienced very few problems and have been very happy with this status. We immediately began to have our salaries adjusted accordingly and received funds for training and equipment, not just from Federal grants such as LEAA and LEEP, but the State Legislature saw the need for the Game Wardens to receive funding as they became aware of their very diversified role in law enforcement.

I cannot speak for all the states here, but only to what has occurred in Texas. Since 1919 when 6 men were hired as Game Wardens to patrol the entire State through the present, there has been an evolution in law enforcement in general as well as conservation law enforcement. In today's society a law enforcement officer is a professional and must be a well-trained, competent individual in order to comply with the Constitution of the United States and the various state arrest laws. In other words, law enforcement is now a separate and distinct profession or discipline. It is just as unfeasible in my way of thinking to send a plumber to do an electrician's job as it is to send a trained wildlife biologist to do a Game Warden's job or vice versa. Let there be no mistake, law enforcement in today's society must be considered a profession. It requires a unique well-trained individual, an individual capable of making a split second decision that might result in life or death. He must decide in a few minutes that he has enough evidence to make an arrest that an attorney will have 3 years to break apart. He must have an analytical mind in order to size up and handle a situation in a manner which will be accepted by the public. He must be an honest individual, and possess integrity; after all he is being watched by the public even more than he watches the public. He must have self-discipline, and foremost though, he must love the law enforcement profession — not for the sake of making an arrest, but for the sake of providing the public a service which will insure that every citizen of this country and state have equal protection under the law. If you will look at our history up to the present you will find it is not the true law enforcement officer, though often accused, who deprives the citizens of their civil rights, but the criminals. I think many times the public suffers from this misconception. I am not saying that in some cases officers have not violated the rights of some citizens, but if this is investigated properly you will often find that what really happened was criminals under the colors of a law enforcement officer deprived certain citizens of their rights.

In conclusion, it is not my purpose to tell other states here how to operate their wildlife law enforcement organization, but to bring to each of your attention certain aspects of enforcement that can be considered. I look at it this way. I will not send an officer out to enforce the law with a badge and gun without ammunition. Neither will I send him out with one hand tied to his belt. I think in today's society, a law

enforcement officer must have the authority to handle any situation he might come upon in his daily patrol be it conservation related or not. In Texas we use our full police powers only incidental to our regular patrol for game, fish, and water safety violations which must remain our first and foremost goal.

The official Texas policy on game warden duties and responsibilities is as follows:

1. The primary responsibility and duty of Game Wardens is the enforcement of laws and regulations authorized by statute prior to passage of H.B. 468, 62nd Legislature, which defines Game Wardens as Peace Officers.
  - a. A Game Warden is not authorized to turn aside from immediate investigation or pursuit of a known or suspected violator of the game laws to offer assistance in the enforcement of non-game violations, except under circumstances indicating an emergency or when it appears a felon or suspected felon will otherwise escape apprehension.
  - b. Game Wardens, when assigned to Civil Defense and Disaster Relief duties, will execute duties assigned by the official-in-charge.
  - c. Regional Law Enforcement Directors and District Law Enforcement Supervisors will insure all commissioned Game Wardens understand the Department's position relating to Peace Officer authority authorized by H.B. 468. Any questions of interpretation will be forwarded to the next in-line supervisor for clarification.
  - d. Game Wardens, who have not been certified by the Commission on Law Enforcement Standards and Education, will immediately make application and forward through channels to the Director of Law Enforcement, John H. Reagan Building, Austin, Texas, for certification.
2. Game Wardens, in addition to the rules specified above, will operate under Texas Law Enforcement Code of Ethics.

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The most successful people and companies in this country have goals which govern the direction of progress. Life doesn't just happen: it happens because it is made to happen. It does not direct but is given direction by specific goals.

In the 66 years of his existence the Virginia Game Warden has had the characteristics of a chameleon. His duties under the law have gone through significant changes and we must determine how much change is beneficial to his specific goal. In modern law enforcement does his goal need to be reevaluated?

The goal of the Virginia Game Commission was established in 1916 in a cloak room at the State Capitol, when the Commission itself was born.

"Few people have taken time to consider the great value of birds and other game to mankind. Many consider them valuable only as furnishing a food supply. While this value is not inconsiderable, it is but one of many reasons for conserving them and perhaps the least compelling reason."<sup>a</sup>

Conservation of wildlife for the sheer value they represent . . . That is the goal. The first officers were given a badge and summons book and told to enforce the wildlife law in the light of the above goal.

For 4 years he was held to that singular goal and then by an act of the General Assembly 1920, the game warden was divorced from a singular goal and was distinctly diluted.

Dogs were looked upon as a tax source and an act was established to require tags for each dog above 6 months of age. Who was going to be the enforcing agency to ensure the conformity of the public to the new law? Of course, it was given to the State Department of Game and Fish. Game Wardens were to receive a portion of their salary from the state and the rest from the county, as the dog warden. During this period he built a reputation which has clung to him over the years. Long since these duties passed from him, the game warden has continued to receive dog calls. It was in the early 1970's

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<sup>a</sup>First annual report of the Department of Game and Inland Fisheries 19616.

that the last county, Essex, took on the enforcement of dog laws, thus relieving the game warden of the task.

During the period when the dog law enforcement was declining to a thing of the past another area of enforcement was established for the game warden. Week-ends found the waterways of this state jammed to capacity. They were not only places of pleasure but thoroughfares of tragedy. Boats that were improperly equipped for safety and guided by spirit dampened computers, became projectiles of heartache. Even when no accident occurred that potential was ever present.

Someone must enforce the boating code to control the element that endangered our waterways. Who? Who was already on the water with enforcement powers? The game warden!

Enforcing boating laws did not come without "growing pains". This was a totally new experience for the Commission and the officer had to experience further training to perform this duty. He was responsible to inspect for violations of safety equipment and registration laws. Since boats could be operated carelessly, laws governing operation were to be enforced. Over 17,000 hours during the last fiscal year were given to boat enforcement.

While he often is thought of as a whisker faced dog cather with tobacco juice marking a clear path from the lower button of his shirt to his chin, the truth of the matter is quite different. He is a well trained professional, dedicated to the promotion of wildlife and protection of those sports related to the outdoors.

The question thus comes to mind, "Does the game warden need more police authority, or even more to the point, is it wise to give him more responsibility in the light of the goal or purpose of his job?"

In Virginia we felt that certain areas of increased authority were vital. Circumstances arrive in law enforcement where the lack of authority could do great damage to the officers image, or even result in bodily injury.

It would be unthinkable for a game warden, for example, to be in uniform in an area of his patrol in which a drunk was causing a disturbance and not be able to make an arrest. The public would not stand for this. Should a game warden be required, by lack of police power, to take verbal abuse? Of course not. In both of these areas our officers now have authority.

Litter laws previously enforced by state and local police agencies are also enforced by game wardens upon the highways of the state

Another area recently opened to enforcement by game wardens is that of boats being taken without the consent of the owner. However, as in the case of the litter laws, there is a certain correlation maintained between boat laws and wildlife law enforcement.

On Commission owned lands, he has full police authority. This means that on our boat landings, management areas and lands that we control, the Game Commission is the policing agency.

In considering how much more power game wardens should have, a fact of life comes to mind, "The more water put to the soup the thinner it gets." His goal or purpose vocationally is to promote and protect wildlife. If that goal is the soup, how much water will it take before it loses it savor?