

PANEL: "THE ROLE OF ENFORCEMENT IN MODERN FISH AND WILDLIFE MANAGEMENT "

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Your joint-program chairmen indicated that one of the aspects they wished covered on this panel was the question of using other units of State government for enforcement. Accordingly, I elected to address myself to this specific question. The Oregon system has been the arrangement with which I've had the most direct administrative experience and it is the only western State which conducts its enforcement in this manner.

In commenting on this aspect of law enforcement, I wish to make abundantly clear that I'm talking about a system and a concept and not about the competence and dedication of the agencies involved. The agencies are outstanding and the personnel, many of whom are personal friends and associates of many years, are able and dedicated public employees.

The functional management of all natural resources, including fish and wildlife, employs enforcement as one of the several essential tools of management. This is as true today as in the past. While the ebb and flow of emphasis in the evolution of Fish and Wildlife Management has progressively shifted from enforcement to predator control to protectionism to artificial propagation to environmental controls, it has always been necessary to maintain a strong thread of enforcement in the successful discharge of resource custodianship. Indeed, enforcement was the first specific tool employed in the long and painful process of developing the current balanced program of managing the nation's fish and wildlife resources. It will continue in the future as an essential ingredient in any management program.

Enforcement, like biology, engineering, accounting and other necessary disciplines employed by management agencies is in some respects a specialized field. However, unilaterally, it cannot accomplish the total job of management any more than any other of the primary efforts of a management agency.

Management of any resource requires, among other things, control of its use. Control of use requires coordination between data factually arrived at, from policies which are from time to time developed or modified and followed and the enforcement of the regulations which arise therefrom. It is patently clear therefore that a fundamental interrelationship must exist between all functions of an agency if a viable and effective program is to be executed. In order to assure this coordination in the most effective way the administrative arrangement which most ideally lends itself to coordination is a desirable goal.

The foregoing premise logically leads us to the proposition of organization and administration.

My limited experience in the enforcement phase of management has been confined to one agency, the Oregon State Game Commission, whose statutory cloak provides for enforcement of the fish and wildlife program to be executed by a separate agency, the Department of State Police.

The arrangement in Oregon arises from a law passed by that State's legislature in 1931. It is purported to reflect the best features of the laws then existing under which the Canadian Royal Mounted Police, the Texas Rangers and the State Police of New Jersey and Pennsylvania then operated. Apparently these enforcement bodies were regarded at the time as outstanding examples of superior enforcement agencies. I assume also that there was dissatisfaction with traditional methods of law enforcement and particularly with those dealing with fish and wildlife regulations and laws. There was reported to be concern with the costly duplication of effort and with the old Game Warden System where political appointments and patronage allegedly constituted one of the bases upon which warden appointments were made.

Although I have never studied the record of hearings, it is reported that the passage of this law was not without controversy.

The new law provided for creating the Department of State Police which would assume the enforcement duties of the traffic division, prohibition department, fire marshall's office, the fish and wildlife and commercial fish enforcement. The organization which was authorized by the new statute was designed by a special committee consisting of the adjutant general, a criminologist, the dean of a law school, and an attorney. In addition, a Marine Corps commandant served as an advisor to the committee. Apparently there was no input from resource oriented expertise.

The ensuing department was and continues to be charged with the enforcement of all criminal laws. They possess the power granted to peace officers of the State, county and municipalities. The department is charged with the administration of the State Identification Bureau and the Crime Detection Laboratory.

Organizationally, fish and wildlife regulations and commercial fishing regulations are enforced by a game division headed by a captain who serves as a staff member headquartered in the central office and subordinate to the superintendent and deputy superintendent. Non-commissioned game division members supervise the field operation in fish and game. They are assigned to one of four districts or sub-districts. The districts are commanded by a captain and the sub-districts by a second lieutenant, sergeant or corporal.

Employees are selected through written examination with minimum academic qualifications of a high school education. Many are college graduates. The involved resource agencies can and do recommend potential employees to the department and many of these are employed. The enforcement personnel are, however, under the direct supervision of the State Police Department.

Financing of the game law division, except for commercial fishing, is accomplished by a transfer of funds by legislative action from hunting and angling license revenues. Currently this appropriation exceeds twenty-five percent of total license revenues accruing to the Game Commission.

There are, of course, a number of "pros" and "cons" to the foregoing arrangement. I'd like to discuss some of both and to reaffirm a viewpoint I have long held and expressed. First, some of the advantages.

Being a State police organization, it is pointed out that such a department must create first of all a police officer. This employee must be one capable of conducting investigations from that of a misdemeanor to a felony and not one merely qualified to investigate fish and game or motor vehicle violations. This involves the maintenance and conduct of intensive training programs. Such programs embrace training in fish and game enforcement as well. Thus, from a police standpoint one is assured of excellence in police work and in that context it is outstanding. The U.S. Fish and Wildlife Service have recruited a number of their enforcement employees from the Oregon State Police.

The common exposure of all employees to the same training provides a system where lateral participation in specialized enforcement missions can be carried out by the total complement of department personnel. For example, those assigned to traffic can take appropriate action on fish and game cases when confronted with them. During peak hunting and angling activities personnel from other divisions can be assigned to game enforcement work. Being in the same organization mutual assistance can be rendered when appropriate.

Having training and authority to respond to any type of enforcement problem, fish and game officers render valuable services to remote communities where normally no traffic personnel are present. This generates a good bridge of communication with local residents concerning fish and wildlife affairs.

Since a Crime Detection Laboratory and Identification Bureau is part of the facilities of the State Police they serve as a valuable adjunct to the enforcement of the fish and game laws.

A uniform game and commercial fish citation and complaint form is used which is consistent with the uniform traffic citation successfully used and accepted by local courts and district attorneys.

The release of the responsible fish and wildlife management agency of enforcement responsibilities affords them the opportunity to concentrate on other management and research functions in a more effective way. Through close coordination and a spirit of cooperation a superior program of enforcement is the result.

The use of an existing enforcement agency avoids duplication of effort and saves money.

The foregoing and others are reasons often put forth in support of the separate fish and wildlife enforcement function.

Now to some of the views often expressed to the contrary.

Duplication is not avoided because field personnel, regardless of their primary assignment, must handle enforcement matters if confronted with them in the field. Furthermore, multiple use of personnel is more difficult and perhaps impossible to maximize to the degree possible when an important body of employees are under the direct administration of a separate agency.

Enforcement is not so complicated and technical a function that it should be handled by a separate and police-oriented body.

A separate enforcement agency, oriented strongly to police concepts tends to minimize the many other but related functions which such personnel can carry out consistent with their primary duty. Thus, in the aggregate it costs as much or more to achieve the same program.

The financing of a separate agency for the purpose of executing one of the primary arms of management is in fact a diversion of funds and will ultimately jeopardize Federal revenues constituting an important source of the financial resources of existing Fish and Wildlife Agencies.

The foregoing "pros" and "cons" and others can be recited ad infinitum. Suffice it to say there are many on both sides of the coin with varying degrees of validity.

Following some 30 years of experience under this system and with an opportunity to compare it with the system most commonly employed by most States, I long ago formed some opinions. In balance, and recognizing many points often made, I do not favor a separate fish and wildlife enforcement agency.

First, from an administrative standpoint it is a fundamental frailty in the day-to-day operating area to divorce one of the primary arms of management from the agency charged by law to manage a given resource. This, in my opinion is not sound administration.

Second, it is not sound government to charge a given entity of government with the accountability of stewardship for a given resource without giving them direct control over the tools necessary to discharge that responsibility.

Third, fish and wildlife enforcement transcends the necessary but narrow area of police work per se. Emphasis needs to be on prevention rather than after-the-fact apprehension. Implicit in such a policy is requirement that front-line field employees must deal with a broad spectrum of skills and knowledge which in addition to expertness in police work entails many other factors.

Fourth, although a system designed to move away from the old and politically oriented warden type of enforcement was well founded a third of a century ago, contemporary conservation officers and their agencies represent a vastly different creature than those of old.

Fifth, all of those advantages and facilities inherent in a separate agency are equally applicable and available in an integrated organization.

Sixth, the concept of fragmenting functional activities dilutes the cohesiveness of an agency and it is through coordination that an agency can bring to bear most effectively the varied skills and efforts to do the most effective job.

Finally, if duplication of effort in fact is a valid basis for such an arrangement, I would suggest this be assessed by viewing the full spectrum of fragmented enforcement entities extant in our society today. If it is valid for fish and wildlife it follows that there are many other areas in which it is equally valid. The myriad of separate entities of enforcement in today's society is a phenomenon interesting to behold. Ranging from municipal, county, State, Federal, international and private, the field of enforcement is an enormous and complicated array of human effort. Perhaps it is in this context that the best judgment can be made.

