

Law Enforcement Authority & Jurisdiction for BLM Rangers, Special Agents, & Managers

Office of Law Enforcement & Security

May 2012

Overview

- Welcome to the online training module for Law Enforcement Authority and Jurisdiction for BLM Law Enforcement Rangers, Special Agents, and Managers. This course is designed to provide you with the foundation of BLM's law enforcement authority and the scope of our law enforcement jurisdiction.
- By the end of this session you will be able to....
 - list the sources of law enforcement authority in the BLM.
 - identify the type and scope of the BLM's jurisdiction.
 - recognize situations that fall under BLM authority and jurisdiction.
- In addition to establishing an initial base of knowledge, this course and the associated reference materials are designed to serve as a long term knowledge resource on the topic of BLM's law enforcement authority and jurisdiction.



Before you begin

- In order for you to successfully complete this course, you will need to print off or have an electronic copy of the *LE Authority & Jurisdiction Study Guide* available to you while you complete the course. The *Study Guide* is available at [LE Authority and Jurisdiction Study Guide.pdf](#)
- The *LE Authority & Jurisdiction Study Guide* is a series of questions and practical exercises designed to help you explore and learn the subject matter, and to help you apply your knowledge of BLM's authority and jurisdiction to a variety of scenarios.
- The information needed to answer the questions presented in the *Study Guide* can be found within the course material including the references. Links to the reference materials are included throughout the course or in the Reference Section at the end of the course.
- In order to receive credit for completion of this course, please bring your completed *Study Guide* to the first day of Introduction to Resource Protection or Law Enforcement for Manager's Training course.



Reference Materials

- As you complete this course you will be linked to various reference materials that will provide additional information on the subject matter and provide a source of information to assist you in completing the *Study Guide*.
- Links to several main references are listed below. A more comprehensive list of reference materials is included at the end of this course.
 - [Principle Criminal Laws and Regs Enforced by BLM 2005.pdf](#)
 - [The Enforcement Provisions of FLPMA - Searching for Meaning.pdf](#)
 - [Guide to Authority and Jurisdiction for BLM Rangers and Agents 2012.pdf](#)
 - [BLM Authority Jurisdiction Employment Quick Reference Chart 2012.pdf](#)



What is Law Enforcement Authority?

- In a general sense, law enforcement authority is the authority of an agency or organization to....
 - Exercise general police powers such as:
 - Carry Firearms
 - Make Arrests
 - Search Without Warrant
 - Seize Evidence
 - Make and Enforce Regulations
- The source of law enforcement authority for any agency or organization, - federal, state, or local originates with the Constitution and then is further established by laws.



Why is it important to know what your law enforcement authority is?

- As BLM Rangers, Agents, or Managers, knowing what your law enforcement authority is important for several reasons.
 - To stay within the scope of applicable laws.
 - Reduce the liability to the BLM.
 - Respond to various entities including the general population who challenge the authority of the BLM.



The longer you are with the BLM, the more likely you will encounter direct and indirect challenges to the general authority of the BLM to manage public lands and resources, including the authority of the BLM to develop rules and regulations and the authority of the law enforcement function to enforce those rules and regulations. This is especially true in more rural areas of the western United States where they are more likely to express a “states rights” view and only recognize the authority of the Sheriff. This picture illustrates the sentiments of one such organization. This billboard was sponsored by the Nevada Committee for Full Statehood. The picture of the Ranger was taken during a protest at Palamino Valley Wildhorse facility following an impound in Nevada. The picture would lead you to believe that the Ranger had drawn his gun on an unarmed individual when that is not the case. The individual has a firearm in his right hand, out of view of the photographer. It makes great fodder for the anti-federal folks.



Sources of Law Enforcement Authority

In the BLM, our authority to exercise general police powers and our authority to make and enforce regulations comes from several sources. We will look first at the source of our authority to exercise general police powers.

There are three primary laws that authorize BLM personnel to exercise general police powers. These laws are:

- Federal Land Policy & Management Act (FLPMA) of 1976
- Wild Free Roaming Horse & Burro Act of 1971
- Sikes Act of 1974

As you learned in the on-line “History of the BLM Law Enforcement Program’, law enforcement in land management has been around for while, even in the BLM and it’s predecessor agencies like the General Land Office. However, the BLM did not receive effective law enforcement authority until the passage of FLPMA in 1976. For more information concerning the legislative history leading up to the passage of the law enforcement authority section of FLPMA see [The Enforcement Provisions of FLPMA - Searching for Meaning.pdf](#).

In the following slides, we will take a closer look at each of these laws and the specific components of law enforcement authority they establish.



General Police Powers

FLPMA 43 USC 1733

- *43 USC 1733(c)(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.*
- *43 USC 1733 (c)(1) “..... 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...”*
- This section is where BLM Rangers and Agents draw their specific authority 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/she has reasonable grounds to believe is being committed in his/her presence or view, or for a felony if he/she 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;
 - seize without warrant or process any evidentiary item as provided by Federal law.



General Police Powers

Wild Free Roaming Horse and Burro Act - 16 USC 1338

- *(b) Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this chapter or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this chapter or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases*
- Key Law Enforcement Authorities.
 - Arrest without warrant
 - Execute warrant or other process



General Police Powers

Sikes Act - 16 USC 670(j)

- *(b)(1) For the purpose of enforcing subsection (a) of this section, the Secretary of the Interior and the Secretary of Agriculture may designate any employee of their respective departments, and any State officer or employee authorized under a cooperative agreement to enforce subsection (a) of this section, to (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view; (iv) search without warrant or process any person, place, or conveyance as provided by law; and (v) seize without warrant or process any evidentiary item as provided by law.*
- *(b)(2) Upon the sworn information by a competent person, any United States magistrate or court of competent jurisdiction may issue process for the arrest of any person charged with committing any offense under subsection (a) of this section.*
- Key Law Enforcement Authorities
 - Carry Firearms
 - Execute and Serve any Warrant or Process
 - Make Arrests without Warrant
 - Search and Seize without Warrant



Rulemaking Authority

- FLPMA is considered to be the organic act for the BLM. It changed the BLM's mandate from disposing of the public lands to conserving them. The authority to make and enforce regulations with criminal penalties was considered a key component of this conservation mandate.
- In addition to FLPMA, the BLM derives authority to make and enforce regulations from the following laws:
 - Taylor Grazing Act of 1934 (43 USC 315)
 - Wild Free Roaming Horse and Burro Act of 1971 (16 USC 1338)
 - Federal Land Recreation Enhancement Act of 2004 (16 USC 6811)
 - Executive Order 11644 – Management of Off-road Vehicles (1972)
- In the following slides, we will take a closer look at the rulemaking authority in each of these laws and the criminal penalties established for violation of the regulations.



Rulemaking Authority

FLPMA – 43 USC 1733(a)

43 USC 1733 (a) *Regulations for implementation of management, use, and protection requirements; violations; criminal penalties*

- *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 judge 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.*
- The key components of Subsection (a) are:
 - Requires the Secretary to issue regulations.
 - Establishes criminal penalties for violation of the regulations.
 - Establishes a “knowing and willful” threshold for implementing the criminal penalties.
- Review the following sections of [The Enforcement Provisions of FLPMA - Searching for Meaning.pdf](#) to learn more about two complexities created by this subsection.
 - Knowing and Willfully Threshold (pages 57 – 58)
 - Class A Misdemeanor Penalties (pgs. 62 – 64)



Rulemaking Authority

Taylor Grazing Act – 43 USC 315

43 USC 315(a) Protection, administration, regulation, and improvement of districts; rules and regulations; study of erosion and flood control; offenses

The Secretary of the Interior shall make provision for the protection, administration, regulation, and improvement of such grazing districts as may be created under the authority of section 315 of this title, and he shall make such rules and regulations and establish such service, enter into such cooperative agreements, and do any and all things necessary to accomplish the purposes of this subchapter and to insure the objects of such grazing districts, namely, to regulate their occupancy and use, to preserve the land and its resources from destruction or unnecessary injury, to provide for the orderly use, improvement, and development of the range; and the Secretary of the Interior is authorized to continue the study of erosion and flood control and to perform such work as may be necessary amply to protect and rehabilitate the areas subject to the provisions of this subchapter, through such funds as may be made available for that purpose, and any willful violation of the provisions of this subchapter or of such rules and regulations thereunder after actual notice thereof shall be punishable by a fine of not more than \$500.

- **The key components are:**

- Requires the Secretary to issue regulations.
- Regulations apply only to grazing districts.
- Establishes criminal penalties for violation of the regulations
- Establishes a “willful” threshold for implementing the criminal penalties.
- Violations of regulations established under the authority of the Taylor Grazing Act are infractions.



Rulemaking Authority

Wild Free Roaming Horse & Burro Act – 16 USC 1338

16 USC 1338 (a) Violations; penalties; trial

Any person who—

(6) willfully violates a regulation issued pursuant to this chapter, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18.

- **The key components are:**
 - Authorizes the Secretary to issue regulations.
 - Establishes criminal penalties for violation of the regulations
 - Violations of regulations are Class A Misdemeanors.



Rulemaking

Federal Land Recreation Enhancement Act – 16 USC 6811

16 USC 6802 (a). Recreation fee authority – Authority of the Secretary

Beginning in fiscal year 2005 and thereafter, the Secretary may establish, modify, charge, and collect recreation fees at Federal recreational lands and waters as provided for in this section.

16 USC 6811

(a) Enforcement Authority.—The Secretary concerned shall enforce payment of the recreation fees authorized by this Act.

(d) Limitation of Penalties.—The failure to pay a recreation fee established under this Act shall be punishable as a Class A or Class B misdemeanor, except that in the case of a first offense of nonpayment, the fine imposed may not exceed \$100, notwithstanding section 3571(e) of title 18, United States Code.

- **The key components are:**

- Authorizes the Secretary to collect fees. Rulemaking required to establish.
- Establishes criminal penalties for violation of the regulations
- Violation of fee regulations are either a Class A or Class B misdemeanor



Rulemaking

Executive Order 11644 – Off Road Vehicle Management

Section 3. Zones of Use.

(a) *Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands.*

Section 6. Enforcement.

The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.



Rulemaking

Executive Order 11644 – cont.

- Executive Order 11644 was issued by President Richard Nixon in 1972. It provides authority for the BLM to establish regulations to manage off road vehicle use however establishing criminal penalties for violation of the regulations is beyond the scope of authority of the Executive branch absent specific statutory authority provided by Congress. In 1972, the only rulemaking authority that BLM had that included criminal penalties was the Taylor Grazing Act and the Wild Free Roaming Horse and Burro Act, however the scope of both of these laws was not broad enough to cover management of off-road vehicles. The deterrent value of a regulation is limited by the ability to enforce the regulation and attach criminal penalties for failure to follow it. The rulemaking authority of Executive Order 11644 had limited effectiveness prior to FLPMA in 1976. However it did help define the scope of the off-road vehicle regulations promulgated under FLPMA in the late 1970s and early 1980s.
- Executive Order 11644 defines "public lands" as all lands under the custody and control of the Secretary of the Interior. This gives BLM authority over regulating the use of motorized vehicles on all FLPMA public lands depending upon how much "custody and control" may have been relinquished in various rights-of-way grants for State and local highways and roads. However, in the interest of cooperation with State and local regulatory and law enforcement officials, regulations related to motorized vehicles should not be enforced on controlled access interstates and highways where law enforcement jurisdiction is actively asserted by such State and local officials. Enforcement of motorized vehicle regulations should be limited to :
 - BLM maintained and operated highways, roads, and trails;
 - BLM designated scenic routes and back country byways;
 - designated national trails that are open to motorized vehicles;
 - designated off-road vehicle recreation areas;
 - other locations on the public lands where the BLM has the primary responsibility for resource protection and public safety.



What is Jurisdiction?

- In a general sense the term “jurisdiction” means where or over what authority (i.e. general police powers and rules) can be applied.
- BLM’s jurisdiction is proprietary and is limited to public lands and resources as defined in applicable laws (e.g. FLPMA).
- Under proprietary jurisdiction, the U.S. is the landowner but has not acquired any measure of the state’s authority over the land in the acquisition of the lands.
 - the U.S. has the same rights as any landowner.
 - State laws apply to the extent they apply to other areas within the State.
 - Federal laws and regulations enacted to cover these lands also apply.
- Please refer to [2012 FLETC Legal Division Handbook.pdf](#) for additional information on federal jurisdiction.



What is BLM's Jurisdiction?

- The jurisdiction or the scope of where the BLM's law enforcement authority applies is defined by same laws that established the authority. These include:
 - FLPMA
 - Wild Free Roaming Horse and Burro Act
 - Sikes Act
 - Taylor Grazing Act
 - Federal Land Recreation Enhancement Act
 - Executive Order 11644 – Management of Off Road Vehicles
- In the following slides, we will take a closer look at scope of the authority or jurisdiction provided by each of these laws.



FLPMA – “Public Lands”

- 43 USC 1733(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....”*
- The regulations established under the authority of this section of FLPMA apply to “public lands” and “property located thereon”.
- FLPMA in 43 USC 1702(e) defines “public lands” as *any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—*
 - (1) lands located on the Outer Continental Shelf; and*
 - (2) lands held for the benefit of Indians, Aleuts, and Eskimos.*
- In order for lands to meet the definition under FLPMA they must be Federally owned and administered by the Secretary of the Interior through the BLM (i.e. yellow on the land status map). Federally owned lands administered by another federal agency such as the National Park Service, U.S. Forest Service, or Department of Defense do not meet the definition of “public lands” under FLPMA and are therefore outside the scope of BLM’s authority and jurisdiction.
- “Interest in lands” must be acquired through a legal conveyance such as easements or rights-of-way, acquired by the BLM pursuant to Section 205 (acquisitions) or Section 206 (exchanges) of FLPMA.
- Privately owned lands leased by the BLM for office or other administrative purposes does not constitute “interest in lands”, therefore FLPMA does not apply. Because FLPMA does not apply, leased private lands are outside the scope of BLM’s law enforcement authority and jurisdiction.
- Memoranda of understanding and cooperative agreements are not considered a legal conveyance, and therefore do not constitute an “interest in lands”. Private lands, State lands, or other Federal lands where BLM management is asserted through a memoranda of understanding or cooperative agreements do not meet the definition of public lands in accordance with FLPMA and are therefore outside the scope of BLM’s law enforcement authority and jurisdiction.



FLPMA – “Property Located Thereon”

- *43 USC 1701(a)(8) The Congress declares that it is the policy of the United States that - the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.*
- This section of FLPMA directs the BLM to manage a broad array of resources and property located on Public Lands including:
 - Timber, woodlands, native desert plants, and other vegetation.
 - Rangelands
 - Minerals and mineral materials
 - Archaeological, Historical, Cave and Paleontological resources
 - Wilderness
 - Air, atmosphere, and water resources
 - Recreational resources
 - BLM and other federally owned property
 - Private property located on public lands through a BLM authorization for use, occupancy, and development such as livestock, range improvements, communication sites, utilities, and pipelines.
 - Private property owned by visitors to the Public Lands.



Jurisdiction outside of FLPMA

Other laws that define BLM's law enforcement jurisdiction include:

- 16 USC 1332 (b) -Wild Free-Roaming Horse and Burro Act defines a wild free-roaming horses and burros' as *"all unbranded and unclaimed horses and burros on public lands of the United States."* The Act further defines public lands as *"any lands administered by the Secretary of the Interior through the Bureau of Land Management or by the Secretary of Agriculture through the Forest Service."* The regulations promulgated under authority of the Wild Free Roaming Horse and Burro Act further define a wild horse and burro as *"all unbranded and unclaimed horses and burros that use public lands as all or part of their habitat, that have been removed from these lands by the authorized officer, or that have been born of wild horses or burros in authorized BLM facilities, but have not lost their status under section 3 of the Act."* All horses and burros that meet this definition fall within the jurisdiction of the BLM.
- 16 USC 6811 Federal Land Recreation Enhancement Act authorizes the establishment and collection of fees. Enforcement of any fee requirement under this Act and related regulations falls within the scope of BLM's law enforcement jurisdiction.
- Executive Order 11644 gives BLM authority over regulating the use of motorized vehicles on all FLPMA public lands depending upon how much "custody and control" may have been relinquished in various rights-of-way grants for State and local highways and roads.



Scope of BLM's Jurisdiction off Public Lands

- While the law enforcement authority conveyed to the BLM in 43 USC 1733 of FLPMA applies to public lands and property located thereon, BLM's law enforcement jurisdiction extends off of public lands when a nexus to the public lands and resources can be established. Examples include:
 - Hot pursuit of an individual known to have committed a violation of BLM laws and regulations on Public Lands but apprehended off of Public Lands.
 - Public land resources or property removed from public lands illegally or without authorization.
 - An untitled wild horse or burro located anywhere in the U.S.



Other Federal Laws that Affect Public Lands & Resources

- There are a number of laws that fall within BLM's law enforcement jurisdiction and are therefore enforceable by BLM Rangers and Agents when violations involve public lands or resources. These laws include:
 - Archaeological Resources Protection Act
 - Federal Cave Resources Act
 - Antiquities Act
 - National Trails System Act
 - Endangered Species Act
 - Federal Oil and Gas Management Act
 - Native American Graves Repatriation Act
- Refer to [General Order 03 Authority.pdf](#) for a complete list of laws and regulations that BLM Rangers and Agents are authorized to enforce.



Enforcement of State and Local Laws by BLM Rangers and Special Agents

- We know from our earlier discussion that BLM managed public lands fall under proprietary jurisdiction. Under proprietary jurisdiction the State has retained all authority, therefore the laws, regulations, and ordinances of the State and its municipalities apply on public lands.
- In some States, federal law enforcement officers may have some limited or complete state peace officer authority to enforce State laws.
- The application of any state peace officer authority by a BLM Ranger or Agent is limited by the Tenth Amendment to the U.S. Constitution. The 10th Amendment grants all powers to the States not delegated to the United States. It further prohibits a State from expanding the jurisdiction of the federal government beyond what Congress provided. Through FLPMA, Congress established the law enforcement jurisdiction of the BLM as the public lands and property located thereon.
- 43 USC 1733(d) of FLPMA provides that *“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.”*
- This cooperation includes accepting State Peace Officer authority however it must relate to the *“administration and regulation of the use and occupancy of the public lands”*. In other words, enforcement of State and Local laws and regulations by BLM LEOs under any State Peace Officer authority must be within the scope of the law enforcement jurisdiction established by FLPMA.



State Peace Officer Authority – cont.

- BLM policy requires that a written Memorandum of Understanding signed by the appropriate State Director, BLM Special Agent-in-Charge, and the authorized State or Local law enforcement official be in place prior to any BLM Ranger or Agent exercising any State Peace Officer authority. Being sworn in as a Special Deputy by the Sheriff is not enough.
- Please see the following policy references for additional information:
 - [General Order 03 Authority.pdf](#)
 - [General Order 23 LE Coordination.pdf](#)
 - [IM 2008-111 - MOUs for Law Enforcement Authority.pdf](#)
- The authority of a State to grant State Peace Officer authority differs from State to State and in some cases does not exist. In some cases where State law provides authority to convey State Peace Officer authority to BLM LEOs, the State or local entity may choose not to for various reasons at their discretion.
- Please see [Guide to Authority and Jurisdiction for BLM Rangers and Agents 2012.pdf](#) for a list of laws in the western States that may convey State Peace Officer authority to BLM Rangers and Agents.



Enforcement of state law through the Assimilative Crimes Act (18 USC 13)

- The Assimilative Crimes Act sometimes adopts and applies state law to violations occurring on federal lands. However the following three criteria must be met before a federal law enforcement officer can assimilate a state law under the Assimilative Crimes Act
 - The U.S. has exclusive or concurrent jurisdiction.
 - There is no federal law covering the conduct, and
 - There is an applicable state law.
- As we learned in our earlier discussion on jurisdiction, the vast majority of public lands fall under propriety jurisdiction. Therefore the Assimilative Crimes Act cannot be used to enforce state law on BLM managed public lands.



Other Federal Authority

- Each of the following federal land management agencies has authority to cross designate other federal land management agencies to enforce their laws and regulations within the context of their law enforcement authority
 - Bureau of Land Management
 - National Park Service
 - U.S. Fish and Wildlife Service
 - Bureau of Indian Affairs
 - Bureau of Reclamation
 - U.S. Forest Service
- Cross designation of authority between agencies requires a written agreement. Agreements currently exist between the departments of Interior and Agriculture, and between the various DOI bureaus. These national agreements provide for immediate cross designation of authorities for emergency or urgent requests for assistance. Regular or routine exercise of cross designation authority requires a local operating memorandum of understanding.
- Please see the following policy references for additional information:
 - [General Order 03 Authority.pdf](#)
 - [General Order 23 LE Coordination.pdf](#)
 - [IM 2008-111 - MOUs for Law Enforcement Authority.pdf](#)
 - [DOI Interagency Agreement 2004.pdf](#)
 - [Guide to Authority and Jurisdiction for BLM Rangers and Agents 2012.pdf](#)



Scope of Employment

- Due to the nature of the duties of BLM Rangers and Agents, they may find themselves in situations where they observe a crime in progress that is outside of the scope of their law enforcement authority and jurisdiction. For crimes outside of a law enforcement officer's authority and jurisdiction, in this case criminal offenses that are not related to the public lands and resources, there is no affirmative duty to intervene. However, in situations where a Ranger or Agent chooses to intervene their actions may fall within the scope of employment if covered by 5 USC 8401- Federal Good Samaritan Act.
- The Good Samaritan Act provides that a Federal law enforcement officer is deemed to be acting within the scope of his or her employment if they take a reasonable action including use of force to
 - protect an individual in the presence of the officer from a crime of violence; or
 - to provide immediate assistance to individuals who have suffered or who are threatened with bodily harm; or
 - to prevent the escape of any individual whom the officer reasonably believes to have committed a crime of violence in the presence of the officer.
- A crime of violence under the Good Samaritan Act is defined as:
 - an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
 - any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.
- The Good Samaritan Act conveys NO authority to BLM Law Enforcement Officer's to enforce state or local laws.



Citizen's Arrest

- Some states have laws giving a citizen authority to arrest or detain a fellow citizen suspected of violating certain laws of the state. The scope of these laws varies widely from state to state.
- Use of citizen's arrest authority is a high risk procedure and should not be used for the following reasons:
 - BLM Rangers and Agents are not considered a “citizen” while on duty with the BLM.
 - Citizen's arrest authority is outside the scope of BLM authority and jurisdiction.
 - Citizen's arrest authority is beyond the scope of federal employment
- Acting outside the scope of authority, jurisdiction, and employment will expose a Ranger or Agent to personal civil liability if any enforcement actions taken were executed improperly.



Other Constitutional Principles Affecting BLM Authority to Make and Enforce Regulations

- Two common challenges to the BLM's authority to make and enforce criminal regulations related to the public lands and resources include:
 - The 10th Amendment of the Constitution grants all law enforcement power to the States, therefore BLM regulations are unlawful and cannot be enforced by BLM.
 - Only Congress can make an action unlawful therefore BLM's regulations are unlawful. Only State law applies.
- These challenges are addressed by two key Constitutional Principles
 - Property Clause - Gives Congress the “power to...make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States”. Congress passed this authority on to BLM primarily through FLPMA.
 - Supremacy Clause – State law is void to the extent it conflicts with a valid federal statute.



No Inherent Duty to Rescue

- The 10th Amendment of the U.S. Constitution grants all powers to the States not delegated to the United States. Federal law enforcement officers have limited derivative powers provided by Congress through federal statutes. The authority for protection of lives, health and welfare, and preservation of the peace is generally granted to the States.
- Absent authority to act there is no duty to act and therefore no liability for failure to act.
- See [Inherent Duty to Rescue - FLEOA May 2005.pdf](#) for additional information.



Study Guide Scenarios

- At this point, you should've have completed all of the questions in the *Authority and Jurisdiction Study Guide*. You are now ready to apply the knowledge you've gained in this course by completing the scenarios at the end of *Study Guide*.
- To complete a scenario, please answer the questions listed with each.
- It is recommended that you not try to over think the scenario but take it at face value as described. If you find that you have to apply some assumptions in order to develop your answers for a given scenario, please describe those assumptions with your answer.



Additional Reference Materials

- [AZ Law Review on LE Authority.pdf](#)
- [Boston College Law Review - LE Auth off PL.pdf](#)
- [Federal Land Ownership Report for Congress.pdf](#)
- [Making Sense of Federal Jurisdiction - RAugust Feb 1999.pdf](#)
- [The Good Samaritan Act - FLEOA Jan 1999.pdf](#)

Questions regarding this course and any associated materials may be sent to Felicia Probert at fprobert@blm.gov

