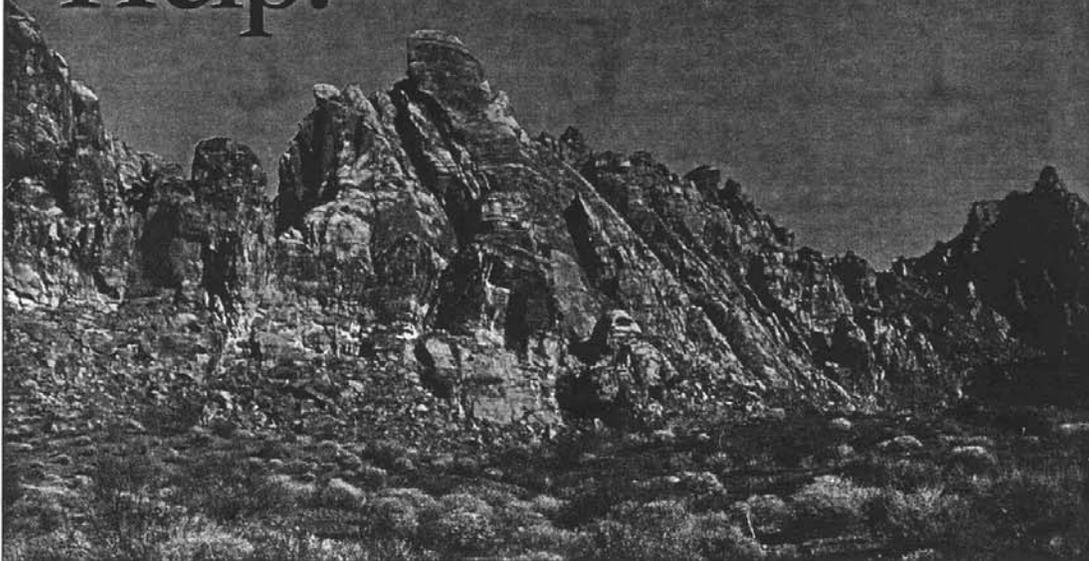


When Feds Need  
Help:



*Red Rock Canyon National Conservation Area*

# Making Sense of **Federal Jurisdiction**

*By Randy August, District Ranger, BLM*

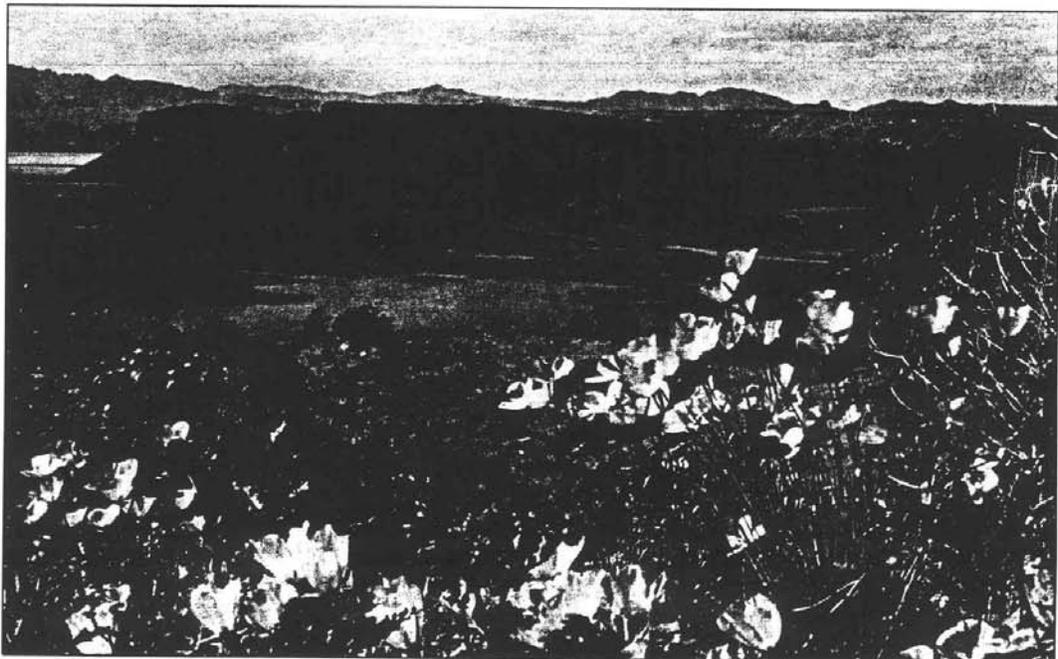
**Y**ou've just made a routine contact with an apparently disabled motor home in a roadside pullout at Red Rock Canyon. You called in the plate, of course...and it's good that you did, because now dispatch is asking if you're clear to copy 411 information. You secure both occupants, confirm that the vehicle is stolen, then find that one occupant is wanted on a no-bail felony home invasion warrant out of Las Vegas. Eventually, after trying to get a local police officer to respond, you impound the motor home and turn the crooks loose. Then you go back to patrol.

Sound crazy? I was involved in something very similar to this at Red Rock Canyon a few years ago. It happened because I'm a federal law enforcement officer, a BLM Ranger, and possession of a stolen vehicle on public lands is not a federal crime (unless, of course, it traveled interstate after it was stolen). I have no authority to arrest people on warrants issued by state courts in Nevada, and my authority to enforce Nevada law is very limited. If I can't get a state peace officer to respond and take over the case, I have to turn the suspects loose.

I can cite other examples such as the time I arrested a felony drunk driver for the only federal charge that I could, misdemeanor reckless driving, when I couldn't get a state peace officer to respond, but the point is that federal jurisdiction can be confusing. If a federal officer tries to dump a drunk-driving case, a theft, or some other case on you, it's not because he's lazy. He may literally have no choice. If you won't take over the case, he may have to turn a felon loose.

We're all familiar with the federal agencies that have jurisdiction over certain classes or types of crimes. We all know that the FBI investigates bank robberies and kidnappings (and much more!); that the Secret Service investigates counterfeiting; that ATF investigates explosives and firearms violations; and so on. But there's another side to federal jurisdiction, and that's federal geographic or territorial jurisdiction, where the federal government owns and manages the land. These include public lands managed by the Bureau of Land Management, Wildlife Refuges managed by the U.S. Fish and Wildlife Service, National Forest lands

*Below: The blue waters of the Lake Mead National Recreation Area.*



January/February 1999



*Above: Red & yellow sandstone sculptures in Valley of Fire State Park, Nevada.*

managed by the U.S. Forest Service, and National Park lands managed by the National Park Service.

Federal territorial jurisdiction comes in three basic flavors, all of which are present within Clark County, and the authority and responsibility of the Sheriff and of the federal agency that manages the land are different depending upon the type of jurisdiction. Those jurisdictions are:

**Exclusive Jurisdiction:**

Within an area of exclusive federal jurisdiction, only federal agencies have authority and all criminal cases – from parking tickets to homicide – are handled in federal courts. According to the General Services Administration, which administers many federal office

buildings, the Old Post Office and Courthouse on Stewart Street in downtown Las Vegas is an area of exclusive federal jurisdiction.

In some cases, even under exclusive federal jurisdiction, there may be reservations preserving some state authority. An example of that comes from Yosemite National Park in California, where the state reserved the right to collect taxes, enforce tax laws, and serve state court process when it ceded all other jurisdiction over the land to the federal government early this century.

**Concurrent Jurisdiction:**

Under concurrent jurisdiction, both the state and the federal government have equal criminal justice authority and jurisdiction. The Sheriff (and state agencies) can enforce all

state laws; the federal agency can enforce all federal laws. As a practical matter, the Sheriff and the federal agency usually work out an agreement to avoid duplicating investigations and wasting resources. There's no point in each agency separately investigating and prosecuting a homicide, for example, when one successful prosecution is usually enough.

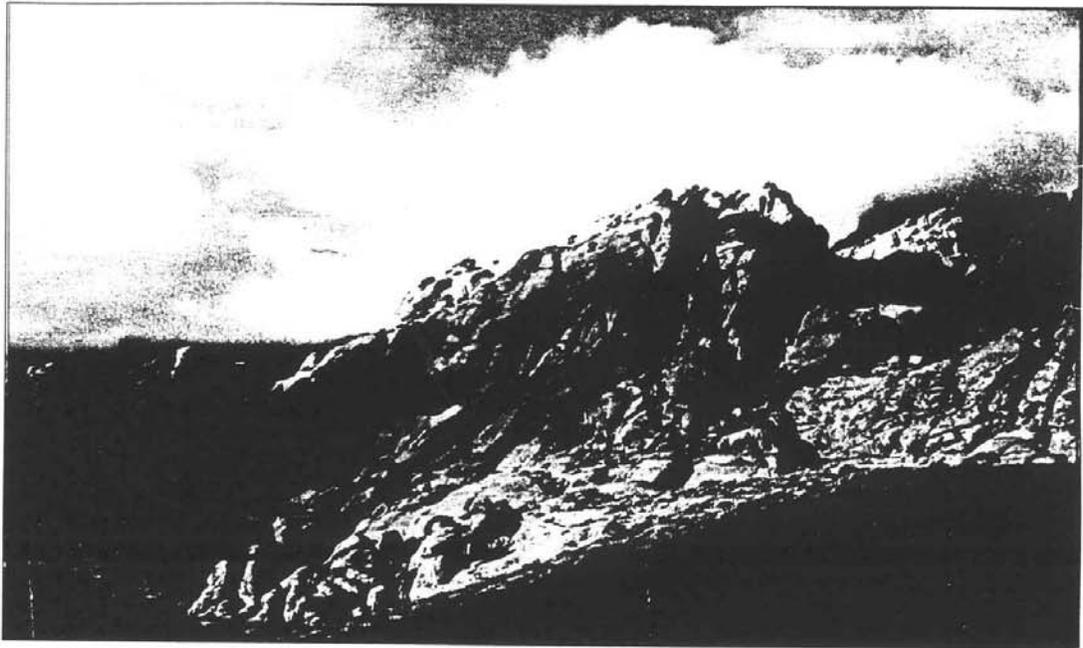
A good example of how concurrent jurisdiction works was discussed at my basic academy class many years ago. It was presented as a true story, but even if it's not true, it illustrates the issue: A male federal employee brought a fifteen-year-old girl onto a federal enclave in Georgia, and had sex with her there. The girl's parents pressured both the Sheriff and federal authorities to arrest the man involved. Because the age of consent under state law at that time was fourteen, the male had not broken any state laws. However, the federal age of consent was sixteen years of age, and because the enclave was under concurrent federal jurisdiction, the federal rape law applied. The male was prosecuted in federal court and sent to federal prison for statutory rape.

Within Clark County, the Lake Mead National Recreation Area is under concurrent federal jurisdiction.

### **Proprietary Jurisdiction:**

This is the lowest level of federal jurisdiction, and the name of it gives it away. The federal government, as the "proprietor" of the land, has only the jurisdiction and authority that any proprietor has over his own land. Of course, the situation isn't really comparable to the authority you have as the proprietor of your own home since the federal government has laws passed by Congress and a court system in which to enforce them.

All of the public lands managed by the Bureau of Land Management within Clark County, are under proprietary jurisdiction. For most crimes, the Sheriff and state authorities have overriding criminal jurisdiction. BLM law enforcement officers can take initial action on many crimes they come across, but the Sheriff has overriding authority to enforce state law in most cases. The major exceptions occur when state and local laws conflict with what Congress has already



decided. For example, because Congress has determined that BLM lands will be open to mining, a Clark County zoning ordinance prohibiting mining in residential neighborhoods can't be enforced even on public land surrounded on all sides by \$200,000 homes. Congress has the final say on how federal lands will be used, and Congress has spoken on the subject. When there is a conflict between state (or local) and federal law, under the Supremacy Clause of the Constitution federal law prevails.

If you look at the federal criminal code, you'll see many – but not all – of the same laws that you find in the Nevada Revised Statutes. (For example, there is no general federal burglary law.) What you may not have understood is that many of those laws can be enforced only on federal lands under exclusive and concurrent federal jurisdiction. The federal murder law, for example, doesn't apply on any federal lands under proprietary jurisdiction; neither does the federal law prohibiting simple assault nor the federal rape law nor the federal law prohibiting the possession of stolen property. And the list goes on and on.

Some federal agencies have filled in the gap with misdemeanor regulations, and some haven't. On National Park lands, even under proprietary jurisdiction, the park service has established a body of misdemeanor criminal regulations that it enforces. Most crimes are addressed somewhere within those regulations. On BLM public lands, on the other hand, criminal regulations are much more limited. BLM's approach is that most crimes against persons, and most crimes against property, belong in state court. Therefore, BLM's body of regulations emphasizes prosecutions for crimes that damage federal lands or property.

I haven't touched on Indian Country or Indian jurisdiction. Sorry, but even after 17 years as a federal officer, it still confuses me; someone else will have to tackle that subject. And I've left out some of the more exotic cases, such as "partial" federal jurisdiction, to avoid confusing everyone. I just want to give you an overview and an understanding of why, someday, some fed may try to get you to take over a case when you'd rather not get involved. He may really need your help; without it, he may have to turn the bad guys loose.

If I can help you grapple with these issues, please give me a call at 702-647-5071, or send an e-mail to: [raugust@nv.blm.gov](mailto:raugust@nv.blm.gov). Even though I'm from the government, I really am here to help...and someday, I may need help from you. \*

