

Program Evaluation

State Parks Division

Department of Fish, Wildlife, and Parks

ADDENDUM



ENVIRONMENTAL QUALITY COUNCIL

March 1, 2018
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Enforcement

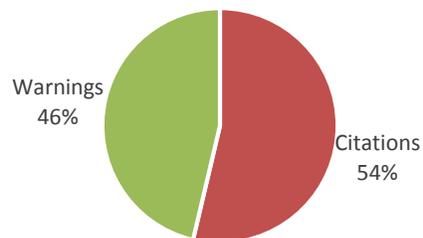
Enforcement in Montana's state parks is an all-hands-on-deck operation. Wardens are primarily responsible for enforcement actions, including conducting investigations and issuing citations and written warnings. However, park staff spend a significant amount of time engaging the public, including dealing with visitors who violate laws and regulations. Local law enforcement may also be called upon.

The Parks Division pays the Enforcement Division for 5.67 FTE of warden time in parks. Rather than assigning specific wardens to parks, the hours are spread across the seven fish and wildlife regions. Region 1 receives the largest portion and Region 6, which has only one park, the least. If extenuating circumstances require wardens to work in parks beyond those hours, budgetary adjustments are made at the end of the year to account for the additional time.

The Parks Division paid \$375,425 to the Enforcement Division in FY 2017. Of that \$311,434 was for personal services and \$63,991 was for operations.

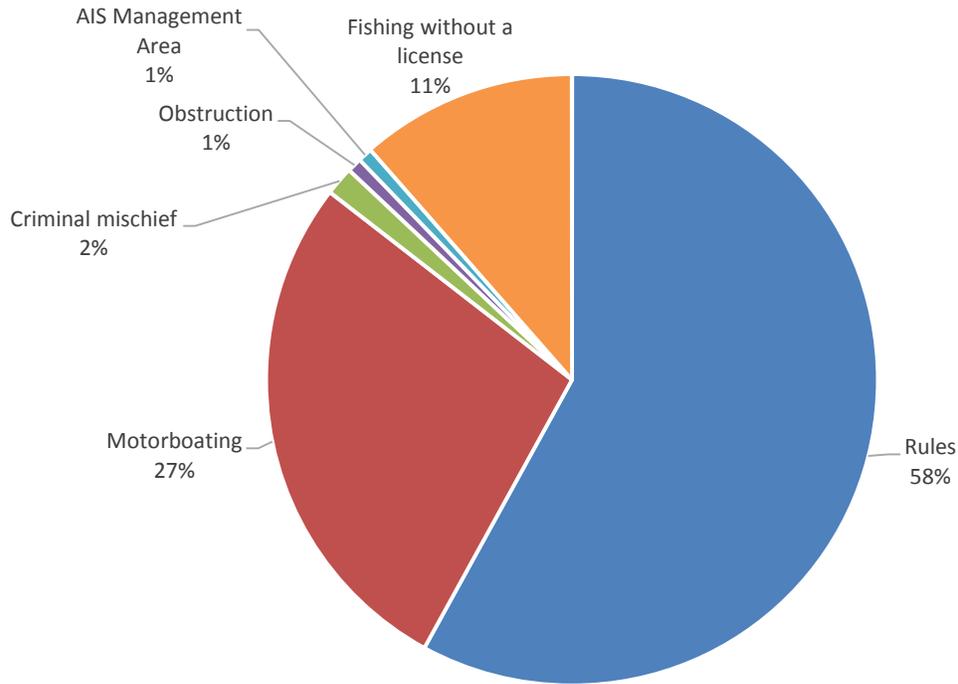
Wardens issued 131 citations and 113 written warnings in state parks in 2017. Not every incident ends with a formal action. Instances where wardens and parks staff prevent violations or provide verbal redirection are not documented.

Enforcement Outcomes in State Parks, 2017

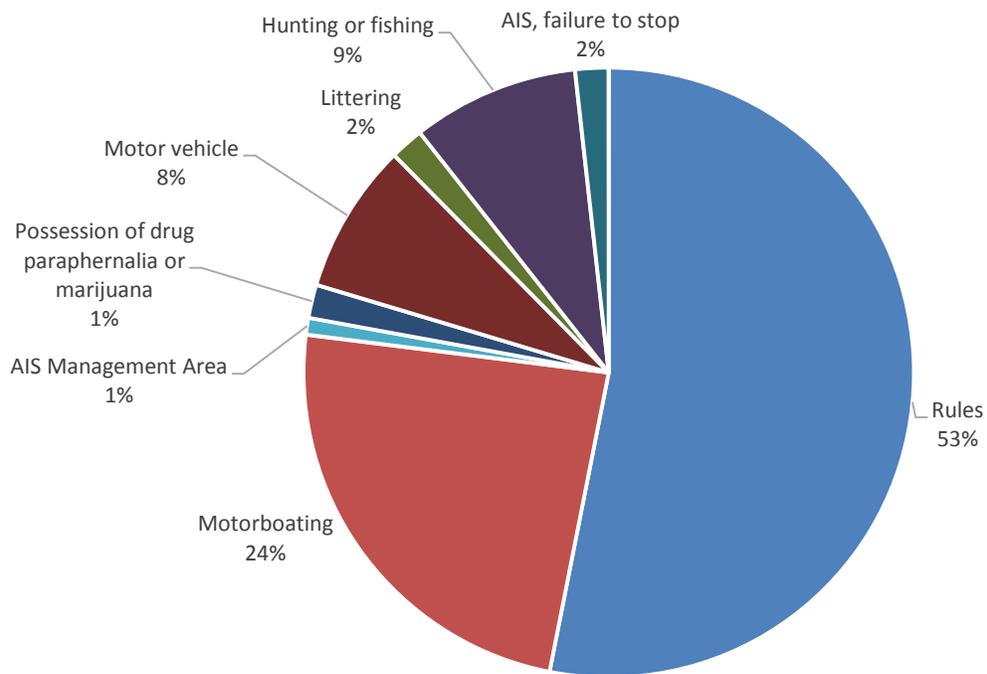


As shown in the next two charts, there are three main categories for citations and warnings issued in state parks in 2017: rules, motorboating, and fishing and hunting infractions.

Citations Issued in State Parks by Type, 2017



Warnings Issued in State Parks by Type, 2017



Wardens issued 76 rules-related citations and 60 rules-related warnings in 2017. Of those for which the root cause is specified in the DFWP's tracking system, destroying state property led the way for citations followed by motor vehicle and off road violations. For warnings, motor vehicle infractions were most referenced followed by dogs off leash, parks pass, and off road violations.

History

Enforcement in state parks evolved over the years. In 1991, the Legislature approved the creation of park rangers via Senate Bill 362 at the request of the DFWP. Then-director K.L. Cool said professionally trained peace officers were needed in the parks to counter social and domestic conflicts that arose from increased use of the campgrounds and picnic areas. Vandalism was also a problem. Cool said the park rangers' main emphasis would be on preventive and educational law enforcement and customer relations. As such, the rangers would not be armed.¹

Prior to the passage of SB 362, Cool said parks employees performed most of the functions of a park ranger without enforcement training, experience, or legal authority. Cool said park rangers would make the state park system safer for visitors and employees.²

The DFWP says Montana's park rangers are not the enforcers that Cool envisioned. Some park personnel served as "ex officio" wardens who could write misdemeanor citations. But none took a certified enforcement course. Today, park rangers enforce park rules and fee collections but focus on visitor and interpretive services, public safety, maintenance, and management of day-to-day operations, facilities, and grounds. Park staff may give visitors verbal warnings, but formal enforcement actions are handled by wardens and local law enforcement.

In 2010, the Parks Division created five state park warden positions to patrol specific locales including the Smith River, Flathead, Cooney, and Tongue River Reservoir.³ In April 2011, the union representing the department's wardens protested the new job classification saying the Parks Division had no authority to establish its own warden corps. Ultimately, the DFWP disbanded the park wardens with some leaving the agency altogether and some continuing to work under the Enforcement Division.

The way wardens do their jobs changed in FY 18 after the 2017 Legislature reallocated 31% of each individual's time to Pittman-Robertson funding-eligible tasks. The DFWP says this compounds the long-term issue of providing adequate warden coverage in state parks.

One example is in the case of ongoing timber theft at a park. It is difficult for area wardens to allocate time to patrol the park or follow up on leads. It is also difficult for wardens to allocate time to assist with public complaints about unleashed dogs causing threats to visitor safety. The agency says left unchecked, these type of issues become systemic and increasingly difficult to manage and correct.

¹ Minutes, Senate Fish and Game Committee, February 21, 1991, Exhibit 16.

² Minutes, House Fish and Game Committee, March 18, 1991, Exhibit 9.

³ <http://stateparks.mt.gov/your-safety/default.html>, February 28, 2018.

When a warden cannot immediately respond and the severity of the situation warrants, local law enforcement is called. For 9-1-1 calls, any first responder in the area will show up. In urban areas, local law enforcement is more likely to respond first. Remote areas rely more on wardens.

In some situations, wardens call local law enforcement because wardens lack statutory authority. In counties where the DFWP has memorandums of understanding (MOU's) that provide expanded authority, wardens may issue citations for DUI, drugs, and other crimes. These counties are Beaverhead, Big Horn, Broadwater, Flathead, Jefferson, Lake, Lewis and Clark, Lincoln, Madison, and Mineral.

Legislative efforts to expand wardens' enforcement capacity have failed. In 2005 and 2009, proposals gave wardens the ability to cite minors in possession (MIP) of intoxicating substances at state parks and fishing access sites (2005) and on land owned or operated by the DFWP, on certain other state lands, and on state waters (2009).⁴

Senator Jim Shockley pursued similar legislation in the 2007 and 2011 sessions.⁵ In addition to MIP, his bills expanded wardens' ability to enforce disorderly conduct and public nuisance laws and added authority to enforce laws related to possession of drugs and drug paraphernalia. The authority applied only to lands owned or operated by the DFWP, other public lands where an agreement with the land management agency was in place, and on public waters.

The DFWP's chief law enforcement officer, Dave Loewen, says wardens are fully trained but their limited authority makes enforcement awkward and can hurt morale. For example, he says, if a warden encounters drunken campers and there is no MOU with that county, the warden must wait, sometimes hours, for local authorities to arrive because the warden is unable to issue citations.

⁴ [House Bill 637](#), 2005, and [House Bill 217](#), 2009.

⁵ [Senate Bill 224](#), 2007, and [Senate Bill 39](#), 2011.

Acronyms Used in This Report

BBER	Bureau of Business and Economic Research, University of Montana
CCC	Civilian Conservation Corp
DFWP	Department of Fish, Wildlife, and Parks
FAS	Fishing Access Site
FTE	Full time equivalent
FY	Fiscal Year
HR	Human Resources
LWCF	Land and Water Conservation Fund
MIP	Minor in Possession
MOU	Memorandum of Understanding
O&M	Operations and Maintenance
OHV	Off-highway vehicle
P-R	Pittman-Robertson
RTP	Recreational Trails Program
SCORP	Statewide Comprehensive Outdoor Recreation Plan