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# CONSERVATION LAW ENFORCEMENT IN MICHIGAN

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The automobile has brought Michigan's recreational areas, one of the state's principal natural resources, within the immediate reach not only of Michigan residents but residents of other states as well. Consequently, tourism and recreation associated with Michigan's out-of-doors are major factors in the economy of the state. The maintenance of natural resources and protection and propagation of flora and fauna, especially game animals, is of sufficient importance to the economic base of the state as a whole that this manifold responsibility has been assigned to the Michigan Department of Conservation.

Most people have contact only with the conservation officer, as an individual, and not the department itself. This occurs since the officer is uniformed and easily recognized and serves the public in each of Michigan's 83 counties. This article identifies this man, his parent organization, his powers, duties, and method; and describes the broad process of conservation law enforcement in Michigan.

## ORGANIZATION FOR CONSERVATION ENFORCEMENT

Prior to 1921, conservation law enforcement in Michigan was the province of several game and fish wardens who acted within the framework of legislation passed in 1887. Enforcement was highly decentralized in nature, uncoordinated, and resembled an assortment of loosely federated units working with little conscious design and totality of effort.

The modern concept of conservation implies intelligent use of resources so they can be utilized to the fullest without being depleted. As Michigan's resources began to be exhausted some years ago, the need for up-to-date regulations governing the consumption of natural resources became evident. The state embraced this modern concept in 1921 and created a revised body of law. At the same

time, the Michigan Department of Conservation, including an enforcement body designed and empowered to uphold such laws, was created. The present organization of the Michigan Department of Conservation is shown in Chart I.

The Michigan Department of Conservation was established by consolidating separate boards, bureaus, and surveys under the administrative direction of the Michigan Conservation Commission. The legislation directed the department, under the commission, to protect and conserve the state's natural resources, provide and develop facilities for outdoor recreation, prevent destruction of timber and other forest growth, promote reforestation of state forest lands, prevent and guard against pollution of lakes and streams, and to foster the protection and propagation of fish and game. Today, conservation in Michigan is a multi-million dollar business as evidenced by the department's 1961-62 budget which exceeds \$17,000,000. Financially, the department is supported mainly from three sources: 1) the state general fund; 2) the game and fish protection fund, which is derived from the sale of a variety of licenses; and 3) grants from federal fish and wildlife funds which are directed primarily to preventing and suppressing fire.

The department also was charged with enforcing conservation laws. This task was specifically assigned the department's field administration division in 1931 when two field organizations—forest fire control and law enforcement—were combined to increase efficiency. The present organization of the law enforcement portion of the field administration division is shown in Chart II.

For purposes of conservation law enforcement, the field administration division has divided the state into three separate regions. Each of the three regions, in turn, is subdivided into a number of districts, 12 in all. Each district is divided into

*PRESENT ORGANIZATION of the MICHIGAN DEPARTMENT of CONSERVATION*

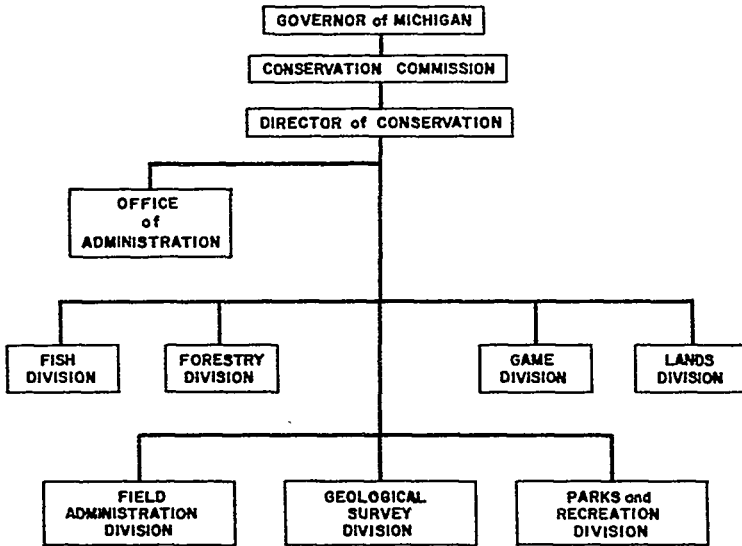


Chart I

*PRESENT ORGANIZATION of the LAW ENFORCEMENT SECTION of the FIELD ADMINISTRATION DIVISION, MICHIGAN DEPARTMENT of CONSERVATION*

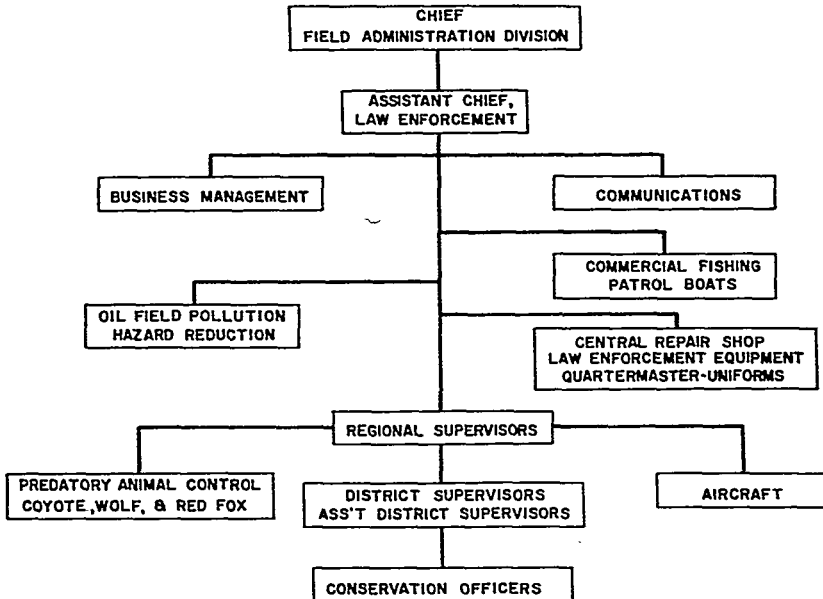


Chart II

patrol areas, one conservation officer residing and working in each. The three regional boundaries and limits of the 12 districts are depicted in Map.

#### THE MICHIGAN CONSERVATION OFFICER

The conservation officer has many images. Many citizens picture several small boys with cane poles, sitting on the river bank fishing, bare feet in the stream, near a sign which says "No Fishing". This stereo-type calls for the appearance from behind a tree of a grizzled conservation officer wearing faded overalls, a slouch hat, and a badge. This wilderness overlord spells doom to innocent fun. Fortunately, this image is erroneous, and in Michigan today the conservation officer is more than a negative symbol. To the tourist, hunter, or fisherman, he is a valuable source of information. To local, state, and federal law enforcement agencies his knowledge of the locality, the roads, lakes, rivers, woods, and residents, makes him a valued assistant. To school children he is the kindly man who comes around with "Smokey Bear." To his family, he is the man who is never home. To different people he is different things, but to the game law violator he is definitely a person to be avoided.

*The Conservation Officer's Authority.* The conservation officer's duties are more complex than the mere enforcement of fishing laws. Consequently, to be effective, today's officer in a progressive, conservation-minded state such as Michigan, is carefully selected, well-trained, fully equipped, and has authority commensurate with the responsibility of enforcing a multitude of complex laws.

The Michigan conservation officer's authority is derived from the legislation of 1921 which created the department and is supplemented by an act passed in 1929 which provides that: "... Said Director of Conservation and any special assistants or conservation officers appointed by him are hereby declared to be peace officers and are vested with all the powers, privileges, prerogatives and immunities conferred upon peace officers by the general laws of this State and shall have the same power to serve criminal process as sheriffs. . .".<sup>1</sup>

The conservation officer actually possesses authority which exceeds that of Michigan's city and state police officers. For example: "The Director of Conservation, or any officer appointed by him, may make complaint and cause proceed-

ings to be commenced against any person for a violation of any of the laws or statutes mentioned in section one of this act, without the sanction of the prosecuting attorney of the county in which proceedings are commenced<sup>2</sup>. . . Said Director or any of said officers may appear for the people in any court of competent jurisdiction in any cases for violation of any of said statutes or laws, and prosecute the same in the same manner and with the same authority as the prosecuting attorney of any county in which said proceedings are commenced. . .".<sup>3</sup> Working in close cooperation with the prosecutor, the conservation officer may bring many minor cases before the courts without burdening the already busy prosecutor. The extent to which this is done depends upon working agreements established between individual officers and prosecutors.

Like his comrades engaging in municipal public law enforcement during the routine of patrol and associated duties, a conservation officer must be familiar with and ready to enforce a quantity of laws. Michigan's conservation laws, codified in some 300 pages, are as numerous and complex as the ordinances of almost any city. Included are laws relating to hunting, fishing, trapping, trespass, forest fire prevention, pollution, oil and gas hazard reduction, motor boat regulation, and conservation commission orders that have the effect of law.<sup>4</sup>

#### CONSERVATION PATROL

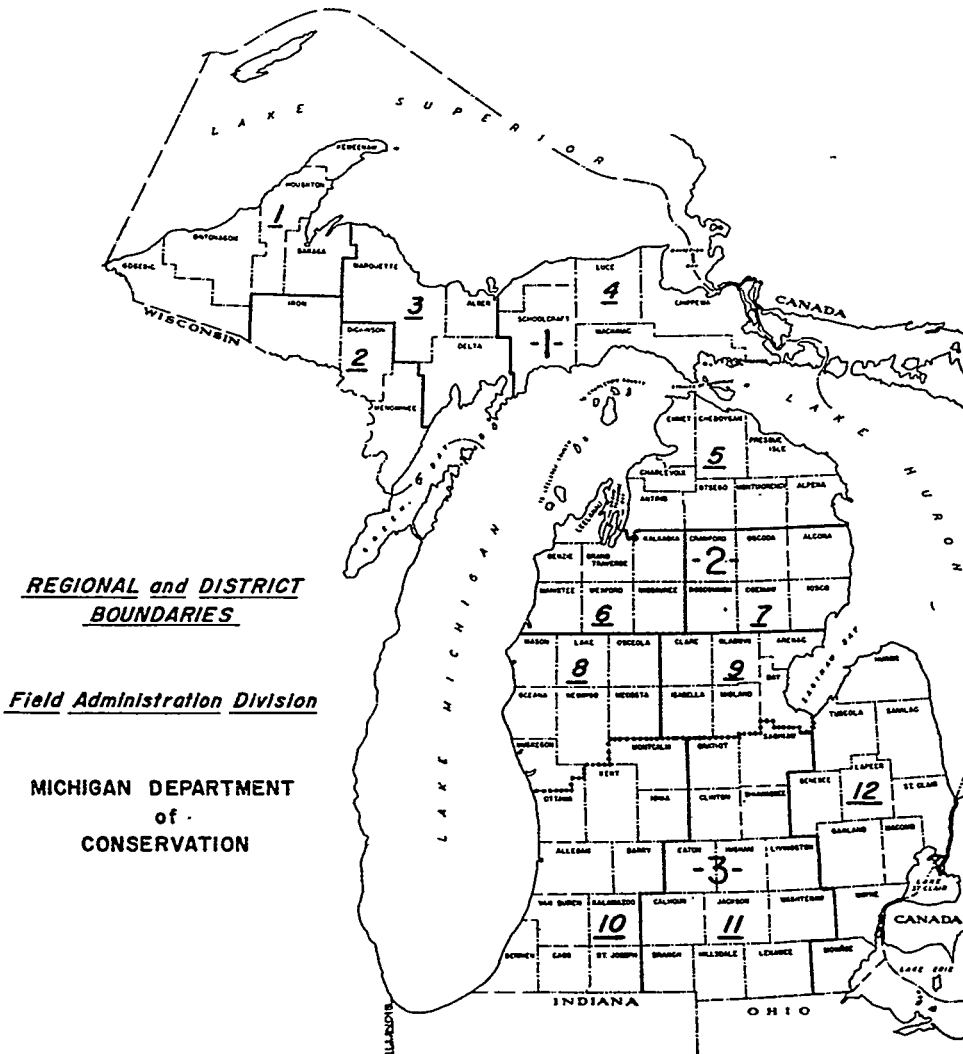
The primary function of the conservation officer is the protection of natural resources. This is accomplished through routine patrol in an assigned area. In addition to his primary function, the conservation officer frequently assists federal, state, and local agencies, as well as other divisions within the department of conservation. Furthermore, he gives first aid, participates in the recovery of drowned persons, aids in the search for lost persons, and takes part in public projects, particularly if they involve conservation.

<sup>2</sup> Section one of the Act of 1929 covers all laws relating to protection, propagation, or preservation of all wild birds, wild animals, and fish, now in force or hereafter enacted.

<sup>3</sup> Act 192, P.A. 1929 section six.

<sup>4</sup> Act 230, P.I.A. 1926, The Discretionary Powers Act, empowered the Conservation Commission to regulate the taking or killing of fish, game, and fur-bearing animals as to length of season, size, limits, and so forth. This is unique in the sense that it gives an organization charged with the enforcement of laws the right to make some of the laws. Thus, commission orders, through authority delegated by the legislature, have the effect of law.

<sup>1</sup> Act 192, P.A. 1929 section six.



Finally, like his counterparts in municipal, state, and federal law enforcement, the conservation officer frequently receives requests for information which he must answer promptly. However, when the question is of such a nature that he cannot answer, he must be sufficiently familiar with the function and scope of other conservation departmental divisions and all state, county, and local agencies to enable him to refer inquiries to the proper place.

The conservation officer's responsibility for an assigned area differs from that of city policemen in that normally he is the only officer who patrols his area, unless he is assisted by departmental forest fire fighting personnel. When this is the

case, fire fighters serve, under the leadership of the conservation officer, as subordinate patrol personnel. Forest fire personnel ordinarily work under the supervision of a fire officer at a fire station, but they have law enforcement commissions and training and assist conservation officers as season and work load so demand. In turn, conservation officers devote considerable effort to fire prevention and suppression as climate and conditions warrant.

Each conservation officer is solely responsible for providing adequate protection and preventive patrol for his portion of the district. Consequently, each officer arranges his own working schedule with two objectives in view: (1) to place himself

at critical locations at the proper time of day; and (2) to create the impression of continual patrol pressure. When an officer is off duty, his area is without actual conservation-oriented patrol. However, off-duty conservation officers are invariably available by telephone and respond to emergencies and take action on any complaints of an urgent nature brought to their attention by citizens or forest fire personnel, even though they may have already completed a full day's work. While the normal work schedule calls for an eight-hour day, five days a week, officers devote many additional hours to their work for which they receive no further compensation.

Routine conservation patrol involves considerable contact with the public, a feature similar to any uniformed policing operation. Although the Michigan Department of Conservation consists of the office of administration and seven separate divisions (shown in Chart I), the conservation officer is uniformed and thus easily distinguished from personnel of other state and local agencies. He is the department's first line representative, the representative most often seen and contacted by the public. Consequently, the image created by the officer is important to the impression the public forms of the department as a whole. The officer's appearance, conduct, and manner of dealing with the public are essential to the success of the entire department.

Conservation patrol is as varied as the seasons. Essentially, each district's land area can be most effectively covered by automobile. Hence the automobile is the most commonly used means of transportation. During the summer, however, Michigan's famous lakes attract fishermen from many states necessitating a boat patrol. Officers in power-driven boats check licenses and bag limits and, presuming fisherman's luck, fish size. License and bag limit checks during the winter fishing season are done either by car, jeep, or on foot on the frozen surface of lakes.

The conservation department operates four steel-hulled boats, each about 40 feet long and manned by two officers, which patrol the Michigan waters of the Great Lakes. These crews deal largely with the enforcement of state commercial and sport fishing regulations and also participate in missions of mercy and rescue operations. The dimension of the great lakes patrol is international as the crews frequently work in conjunction with Canadian and provincial personnel as well as

with representatives of other states engaged in great lakes patrol.

Conservation officers often go long distances on foot to check fishermen or trappers on streams, timber cutting, or any activity carried on in rural areas that are inaccessible by car. In the winter such patrol requires that the officer be proficient in the use of snow shoes. Airplane patrol in Michigan is largely confined to the detection and location of forest fires but on occasion lends itself well to law enforcement where a large area must be scouted. Airplanes can be used in some instances to coordinate the movements of ground units and search parties. The conservation department owns seven airplanes, and seven conservation officers are qualified pilots. Planes frequently operate from airports in Newberry, Roscommon, Marquette, and Gladwin.

The need for and type of patrol varies markedly with the season and geography of the state. For example, shortly prior and during deer season Michigan's northern counties must be heavily patrolled, and the state's southern counties, with large pheasant populations, require especially concerted patrol during bird season. In order to meet peak patrol requirements, patrol officers from then "quiet" districts are temporarily assigned to serve in districts experiencing peak work loads. When less predictable needs for short-term saturation patrol or surveillance arise, such as when a large scale poaching operation is detected, officers from adjoining districts may be assigned to assist in the investigation until the matter is cleared. Joint enforcement efforts between officers of adjoining patrol areas is normally arranged at the level of execution by the officers concerned, who in turn appraise district staff of problems and plans for combatting them.

Most of the patrol equipment used by a conservation officer is standard in nature, similar to that used by uniformed patrol personnel in cities. Such items include a uniform, badge, .38 caliber police special revolver, flashlight, and an automobile equipped with a three-way radio, red light, and siren.

A three-way radio enables an officer to request assistance, work with conservation aircraft or work in the field far from headquarters in conjunction with other motorized officers or with officers equipped with portable transmitting and receiving equipment. Radio equipment offers conservation enforcement the advantage of unusual

flexibility and potential for broadly coordinated field operations.

The 12 district offices house base radio stations. District office personnel handle most of the routine telephone and radio traffic. The 50 radio-equipped field stations serve as local offices and house fire-fighting equipment. Consequently, forest fire fighting personnel, who man the field stations, may inform the area conservation officer of citizen complaints or other matters requiring his attention should he be patrolling.

Automobiles for patrol may be obtained from the state motor pool or officers may drive their personal vehicles, for which the state provides an automobile allowance and installs and maintains necessary special equipment.

Conservation patrol cars are unmarked as police cars. Such a practice contrasts to that generally found in the municipal and state police service. Conservation enforcement administrators contend that Michigan's limited number of conservation officers must patrol and protect geographical patrol districts of immense area and that it would be difficult for each officer to be seen often enough in a marked car in his district. Consequently, any attempt to create the impression of omnipresence by virtue of using marked cars would surely fail. Therefore, department enforcement administrators rely on the potential for surprise, the undercover concept of patrol, as key to the preventive effect which patrol officers strive to project. The success of the surprise concept often asserts itself when a community's residents, who are usually familiar with the make and model of the assigned officer's unmarked car, report having seen that car in many different places at the same time.

Officers spend considerable time both day and night, before and during the various seasons, sitting parked in their cars in sensitive areas seeking to observe those who unlawfully use artificial lights or commit a variety of hunting violations. Such tactics necessitate officers entering areas unobserved, a feat almost impossible with conspicuously marked vehicles. In wooded, sparsely populated, rural areas, either in the daytime or at night, conservation officers rarely have the screening advantage offered by normal traffic congestion so they may approach a suspected person or an area susceptible to violation unnoticed. In conservation enforcement it is not unusual that the mere approach of *any* car will prompt a wrongdoer to

be on guard and discard evidence such as a gun, illegal game, or undersize or too many fish and take evasive action. If a violator flees on foot, pursuit in the woods, particularly at night, is very difficult. Once an offender is apprehended, after discarding evidence and fleeing in a car, the officer has little on which to base an arrest and less with which to obtain a conviction. These are some of the most difficult, if not frustrating, problems facing the conservation enforcement enterprise.

In addition to long periods of intensive observation, boats and motors, hip boots and snow shoes are implements often used in conservation law enforcement. Binoculars frequently save the officer many miles of walking and facilitate the preliminary observation of areas that might be hard to approach for reason of terrain, cover, lake or roads, and so forth. Binoculars also permit an officer, once he has located a suspect and observed a violation, to establish the elements of an offense prior to making an approach, personal contact, search, and arrest. Michigan's courts have upheld the use of binoculars in such a fashion.

#### THE CONSERVATION LAW VIOLATOR

Conservation violations are misdemeanors, criminal offenses prosecuted in the name of the people of the state of Michigan. However, because of existing values in contemporary American society, conservation violations are not regarded with the contempt or stigma associated with the more common criminal violations, even though conservation offense violations may carry as severe a penalty. This, coupled with the temptation factor, which likely leads many to violate fish and game laws, is probably the major reason why conservation law violators represent all strata of the American social class structure, including an unusually high percentage of professional persons in contrast to arrests for offenses of a more degrading and less socially tolerated nature. One commentator has described Michigan's game law violator as a multi-imaged person:

"Who is the game violator? The butcher? The baker? The candle stick maker? Doctor? Lawyer? Merchant? Chief? Rich man? Poor man? Begger man? Thief? He is no particular individual. He is neither young nor old, fat nor thin, short nor tall. He comes from all walks of life and leaves his mark on the great outdoors and goes his way, in most instances never to be seen again, (at least not as a violator). Only a

small percentage are repeaters. Some of his unlawful acts are calculated and deliberate, some are caused by carelessness or indifference, some we think by just plain cussedness, others probably are inadvertent.”<sup>5</sup>

#### SUMMARY

The range of activity, the variety of methods, and kinds of equipment applied to conservation

<sup>5</sup> EVERETT E. TUCKER, “Who is the Violator?” MICHIGAN CONSERVATION, (March-April, 1954), p. 15

law enforcement make this enterprise an interesting and challenging occupation. While the hours are long, the duties arduous, and the pay is low, the physical and professional requirements are high. Conservation officers regularly perform duty at all hours of the day and night, regardless of the season or weather. Like police work anywhere, conservation law enforcement is sometimes a thankless job. Yet it is rewarding for the individual who is sincerely interested in and enjoys work outdoors protecting Michigan’s natural resources.