

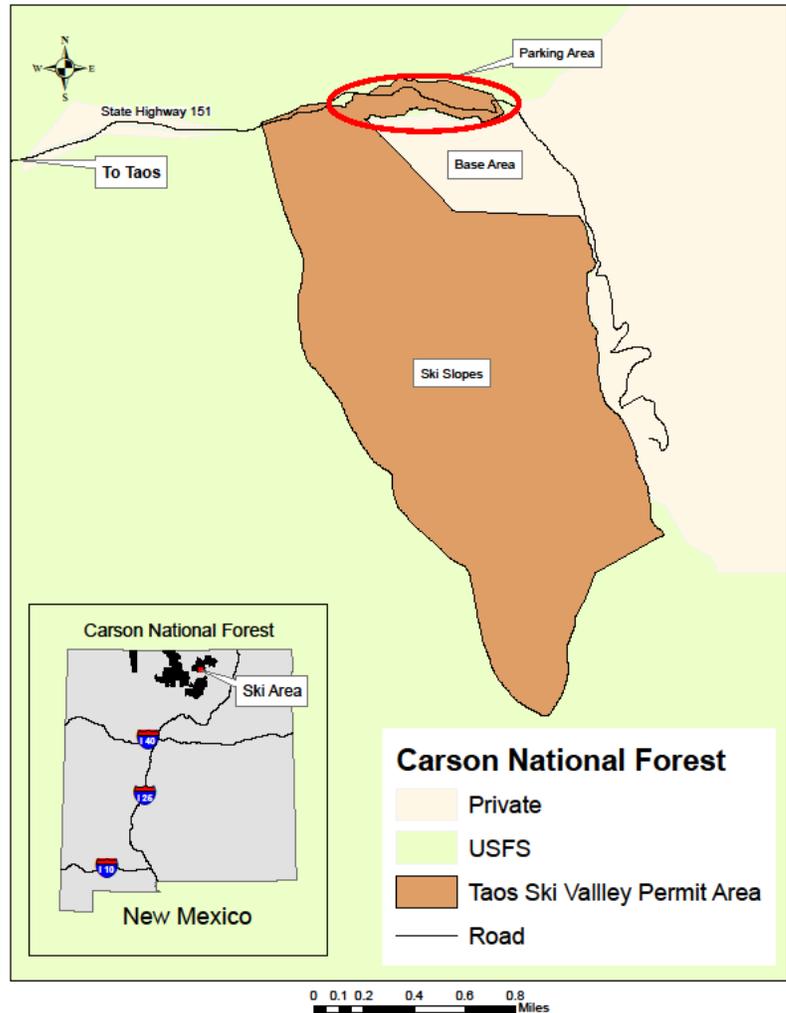
**U.S. Forest Service  
Law Enforcement and Investigations**



**After-Action Review  
Saturation Patrol February 22, 2014  
Taos Ski Valley, New Mexico**

## Executive Summary

Taos Ski Valley (TSV) is a community and a downhill ski area located in the Sangre de Cristo Mountains, about 20 miles NE of Taos, NM, at the terminus of New Mexico State Road 150 (SR150), on the Rio Hondo, in Taos County. The population of the community is approximately 69 residents. The ski resort operates on both private and federal land under the jurisdiction of the U.S. Forest Service. Currently, TSV operates under a Forest Service-issued special use permit (SUP) authorizing the use of National Forest System land for the purpose of constructing, operating, and maintaining a winter sports resort, including food services, rentals, retail sales, and other ancillary facilities. The SUP covers approximately 1,270 acres on the Questa Ranger District (RD) of the Carson National Forest. An additional 200 acres of private land encompass the remainder of the resort. Thousands of visitors from all over the world visit TSV each year, and the business employs approximately 600 employees for the winter season.



On February 22, 2014, Forest Service law enforcement officers (LEOs) conducted a saturation patrol in the TSV area during the hours of 9:00 a.m. to 5:00 p.m. After the saturation patrol, the Forest Service received numerous complaints from TSV employees, TSV management, the TSV Mayor's office, and the general public. In the following days there was a considerable amount of negative media coverage. In addition, two Congressional inquiries were received by the agency about the law enforcement operation.

An after-action review<sup>1</sup> (AAR) team was requested by Forest Service Law Enforcement and Investigations (LEI) leadership in Region 3 to assess what happened during the saturation patrol and to capture lessons learned. The team analyzed the saturation patrol regarding four questions. 1) What did LEOs set out to accomplish, 2) What actually happened, 3) Was there a difference between 1 and 2, and if so, why, and 4) What should LEI continue to do in the future, and what should change regarding law enforcement in TSV.

## Key Recommendations from the AAR team

- Special operations planning should include consideration of the impact to cooperators and have thorough review by a supervisor.
- Frequent communication and positive relationships with SUP management, local businesses, organizations, and agencies must be accomplished for positive partnerships and community support.
- LEOs should communicate issues and concerns with forest and district line officers to ensure enforcement efforts are supported and coordinated prior to implementation, when appropriate.
- Prioritization and planning of enforcement efforts should include the justification for the operation, number of officers assigned to focus areas, what specific duties they will be assigned, and what equipment will be utilized.
- Forest Service line officers<sup>2</sup>, Forest Service LEI<sup>3</sup>, and TSV managers should work together to ensure that illegal activity associated with the ski area is identified and addressed. Priority should be given to reducing criminal activity that may compromise public safety.

## Overview

### Saturation Patrol Taos Ski Valley

The Forest Service law enforcement officer (LEO) assigned to the Questa RD planned a saturation patrol for February 22, 2014. Prior to the saturation patrol on February 22, the LEO said he had observed many violations in the area including reckless driving, speeding, driving under the influence (DUI) of alcohol, and possession of marijuana and other illegal drugs. Through coordination and intelligence sharing, the LEO gathered information from other local and state law enforcement agencies that work in the area and confirmed that they had also observed public safety issues such as DUI, speeding, and reckless driving, as well as personal use and possession of illegal drugs. Citing concern for public safety and the observed law violations, the LEO planned the saturation patrol

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<sup>1</sup> An after action review (AAR) is a structured review or de-brief process for analyzing what happened, why it happened, and how it can be done better by the participants and those responsible for the project or event.

<sup>2</sup> The Forest Service has more than 600 ranger districts. Each district has a staff of 10 to 100 people under the direction of a district ranger, a line officer who reports to a forest supervisor.

<sup>3</sup> Forest Service Law Enforcement and Investigations (LEI) is comprised of LEOs, special agents, and administrative personnel, that report directly to a law enforcement chain of command located throughout the nine regions and Washington D.C. The Director of LEI reports directly to the Chief of the Forest Service.

to focus on reducing those violations. Six LEOs were initially assigned to the February 22 saturation patrol along with one Forest Service police canine. The night before the operation, two LEOs notified the Questa RD LEO that they were not going to be able to participate due to higher priority assignments. Under the original planning by the Questa RD LEO, two LEOs were going to be patrolling the mountain on skis looking for violations of distribution, possession, and use of illegal drugs. With the reduction in officers for the saturation patrol due to other priority assignments, the Questa RD LEO decided not to assign any officers to ski patrol. One of the officers also had a “ride-along”. The Forest Service ride-along program introduces interested individuals to Forest Service law enforcement by allowing them to ride with an officer on patrol. During the operational period, the officers were directed by the Questa RD LEO to focus on the TSV parking areas and approximately eight miles of SR 150 leading to and from TSV. This stretch of SR 150 is a steep, curved road, with an average speed limit of 40 mph. Local, county, and state law enforcement agencies confirmed that each year there are numerous wrecks and violations for DUI, speeding and reckless driving (passing on a double yellow no passing zone) on that road. On the way up to TSV the morning of February 22, the LEOs wrote citations and issued warnings on SR 150 for speeding, reckless driving, and expired registration. The officers spent the rest of the day patrolling the parking areas at TSV. One of the officers parked his vehicle in the lower employee lot and began his patrol on foot. Two of the officers got out of their vehicles in the upper parking lot and deployed the Forest Service canine on all parked cars<sup>4</sup>. This canine is a certified drug detection dog and will alert to the presence of the odor of illegal drugs. During the deployment, the canine alerted on the presence of illegal drug odor in five vehicles. Since the location of the driver and/or passengers could not be determined, the officers documented the vehicle by type, make, model, and license plate number. The officers agreed that if they observed the vehicle at a later time, or if they saw the driver and/or passengers return to the vehicle, they would continue the investigation. Later that afternoon, officers observed the drivers and passengers return to two of those vehicles. Subsequent investigation found illegal drugs in one vehicle, and the driver of the second vehicle confirmed that passengers had previously smoked marijuana in the vehicle.

Sometime around noon of February 22, all four officers, with the police canine, and the “ride-along” participant went to walk around the ski lodge area, which encompasses a restaurant, bar, deck area, and one of the lifts. Two of the officers had not been to the area before and were interested in what the buildings looked like. In addition, it is common for law enforcement to become familiar with an area that they are working to plan for all possible emergency or critical incident events. TSV management reported that they were getting questions and concerns from employees and visitors about why

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<sup>4</sup> Exposing a person’s property, which is located in a public place, to the sniff of a trained narcotics detecting dog is not a search under the Fourth Amendment, *United States v Place* (462 U.S. 696 (1983) U. S. Supreme Court. Detector dogs’ alert on a parked vehicle in a public place was reasonable suspicion of the presence of illegal drugs and was sufficient to justify a further dog sniff, *United States v Spetz* (721 F. 2d 1457 (1983) Ninth Circuit. A canine sniff of an automobile parked in a public parking lot is not a search, *United States v Brown* (24 F. 3d 1223 (1994) Tenth Circuit. Dog sniff is not a search. Officers do not need reasonable suspicion to conduct an exterior vehicle sniff, *United States v Seals* (987 F. 2d 1102 (1993) Fifth Circuit.

there was so much law enforcement presence. One of the management representatives spoke to two of the officers who were in the bar area and then all three of them went into an office to discuss jurisdictional issues that came up in conversation. After the discussion with management, the two officers returned to join the other officers near the deck area adjacent to one of the lifts, and then they departed back to their vehicles. All the officers then resumed patrol of the parking areas.

In total, the officers wrote 13 violation notices: two for speeding, one for reckless driving, five for possession of drugs, one for no proof of insurance, three for expired vehicle registration, and one for no seatbelt. In a few instances, more than one violation notice or warning was given to a single individual due to multiple infractions. The 13 violation notices were issued to a total of 11 individuals. In addition, the officers issued six warnings: one for reckless driving (driving the wrong way on a one-way), one for seatbelt violation, two for expired registration, and two for cracked windshields. These warnings resulted in no financial or other penalties but rather were intended as an educational tool.

### Complaints

The Forest Service received 33 complaints regarding the saturation patrol at TSV. Thirty-one complaints were received from TSV managers in response to an email they sent out to all their employees asking for information and if they witnessed or had contact with the Forest Service LEOs on February 22. Twenty-four of the respondents did not have any direct contact with the LEOs and were reporting on things they had heard about the patrol. Five of the complainants had received violation notices and/or warnings. The other two complaints were received through Congressional inquiry. Neither of the complainants on the Congressional inquiries had contact with LEOs on February 22. The vast majority of the complaints were from employees of the ski resort concerned about the amount of Forest Service LEO presence that day at TSV.

The complaints from all sources centered on three main concerns. TSV management, city officials, employees, residents, and concerned citizens expressed that the level of law enforcement did not match the criminal activity they believe exists in the area. Secondly, while almost all individuals acknowledged that the citations and warnings issued were for actions contrary to law, they questioned the priorities of Forest Service LEI. Many complainants felt that the local TSV police force could address the issues in the parking areas instead of Forest Service LEI. Thirdly, there were many comments that LEOs, during this saturation patrol and at other times, did not act professionally. The complainants claim their demeanor was aggressive and intimidating and that they spoke rudely to people they contacted. There were also concerns about how the officers were dressed with the word “militarized” being frequently mentioned. The canine was also a source of concern, as some considered him an intimidating presence.

### Noteworthy Situations, Events, and Circumstances

On February 22, TSV had four special events that were scheduled. The four events were the JETA Free Ride Competition, involving competitors ages 12-18 and considered a major family event; Paint For Peaks, which is a fundraiser that is held in the Martini Tree Bar to raise funds for breast cancer awareness; K2 Bumps Challenge, which is also a

fundraiser for breast cancer awareness that takes place on the ski mountain; and Frankenrider, which is musical entertainment for the afternoon and evening in the Martini Tree Bar.

## Scope and Focus of the AAR

In order to answer the four key questions of the AAR (what did LEI set out to accomplish; what actually happened; was there a difference, and if so, why; and what should LEI continue doing, and what should change regarding law enforcement in TSV), the AAR team completed the following actions:

- Conducted roundtable discussions with individuals from TSV management, TSV city administration, and the Mayor's office.
- Interviewed former Governor Gary Johnson, who has been a critic of the saturation patrol in media stories.
- Interviewed individuals who were issued violation notices and warnings.
- Interviewed local residents.
- Interviewed employees of TSV.
- Interviewed all officers involved in the saturation patrol on February 22.
- Interviewed a former Forest Service LEO who worked the Ski Valley area 3 years ago.
- Interviewed concerned citizens.
- Interviewed local, county, and state law enforcement officials with jurisdiction in the TSV area.
- Interviewed an LEO from another state whose jurisdictional area includes a ski resort.
- Responded promptly to media and public requests concerning the saturation patrol.
- Reviewed police dispatch call logs related to the saturation patrol.

During discussions with the above individuals, the following questions were asked by AAR team. Many of the questions asked were prompted by information provided by complainants and from media stories following the saturation patrol.

- Who in LEI planned the saturation patrol and why?
- Did anything positive come out of the saturation patrol?
- Does LEI do these saturation patrols in other areas and do they focus on parking lots and ski areas?
- Is this type of saturation patrol going to happen again at TSV?
- Why wasn't there any coordination with TSV local police until the day of the saturation patrol?
- Why wasn't there any coordination with TSV management about increased LE presence at TSV on February 22?
- What were the goals of the LEOs that day?
- Did the officers target TSV employees during the saturation patrol?
- Were the majority of the citations and warnings written to employees of TSV or the general public?

- Were individuals made to stand out in the cold weather without coats while officers searched their vehicles?
- Were individuals who were not being questioned regarding potential violations made to wait for exceedingly long periods of time in the parking lot during searches of other vehicles?
- Did LEOs conduct a road block at the base of SR 150?
- Did LEOs act professionally during the saturation patrol?
- What could have been done differently to improve the outcome of this situation?
- Were LEOs dressed in appropriate uniform components and carrying appropriate equipment?
- Did the LEOs represent the Forest Service well?
- What steps need to be taken to improve relationships with the TSV?

## Findings

The law enforcement agencies with jurisdiction for the TSV area all confirmed that public safety along SR 150 is of concern due to the level of activity on that road. All agencies have documented wrecks and law violations including DUIs, speeding, reckless driving, driving without insurance, and drug possession and use. The relationships and partnerships between local, county, and state law enforcement agencies and Forest Service LEI in the TSV area are good. Each law enforcement agency and officer contacted spoke highly of Forest Service LEI in both work and demeanor. They had not witnessed any incidents of unprofessionalism by any Forest Service LEOs.

Saturation patrols are a common tool used by Forest Service LEI, as well as other law enforcement agencies, for the purposes of crime reduction and deterrence. Saturation patrols have been used at other ski resorts across the nation. However, saturation patrols are not frequent in the TSV area due to the lack of officers available for such an operation and the law enforcement needs and priorities in other parts of the Questa RD, Carson National Forest, and other areas of the state under Forest Service LEI jurisdiction. In addition, the TSV area had not had a full time Forest Service LEO since August 2011, due to budget and staffing issues. The current Questa RD LEO resides in the community of TSV, which has resulted in increased Forest Service LEI visibility and the perception by some in TSV that the community is being targeted for enforcement efforts.

Forest Service LEI did not coordinate with the TSV local police or the management of TSV prior to the saturation patrol. TSV managers said they were not aware of public safety or issues of law violation sufficient to justify increased Forest Service LEI presence. TSV police first received notification of the saturation patrol when Forest Service LEOs arrived at TSV and started the operation. The LEOs visited the base of the ski mountain, the main lodge area, and the Martini Tree Bar. The Forest Service canine was present with the handler/officer in all of the locations except the bar. TSV management began receiving inquiries from employees and visitors about the increased law enforcement presence.

Complainants' concerns largely centered on what they perceived to be an unnecessary and unwanted focus by Forest Service LEI on TSV and on officer demeanor. Several people interviewed expressed surprise and discomfort with the Forest Service LEI uniforms and equipment. The word "militarized" was used frequently. All of the LEOs involved in the saturation patrol wore standard LEI uniforms and carried standard LEI equipment. The canine was muzzled as his handler led him around populated areas of the ski lodge. Some complainants expressed concern about and fear of the canine.

A total of five complaints were received from individuals receiving violation notices. Complainants who were interviewed acknowledged that the violation notices were issued to them for actions contrary to law. In total, the officers wrote 13 violation notices: two for speeding, one for reckless driving, five for possession of drugs, one for no proof of insurance, three for expired vehicle registration, and one for no seatbelt. The 13 violation notices were issued justifiably for actions contrary to law.

Three of the individuals who were cited for illegal drug possession complained that they were made to stand out in cold temperatures for about an hour and a half without coats while an officer searched their vehicle (the three individuals were travelling together in the same vehicle). All three claim they asked numerous times to put their coats on but were denied by the officers. The two officers on scene claim that the individuals never asked for coats, and that they offered the coats to them but that they refused. Three other individuals who were travelling together in a single vehicle made a complaint that one of the officer's vehicles was blocking theirs and that after 15 minutes they asked if the officer could move the vehicle so that they could depart the area. The individuals claim that the officer denied their request. They also claim that the officer was not polite in his response, but rather very rude and abrupt. They said the officer moved his car after they had waited about 30 minutes. They also said they approached an individual who they assumed to be an officer because he was in the passenger seat of the searching officer's vehicle. They said they asked him to move the vehicle, but that he "waved them off" and would not speak to them. This was found to be the "ride-along". The officers on scene claim that they politely said they would move the vehicle as quickly as possible and did so as soon as the search of the other vehicle was complete. A review of police dispatch call logs was completed in order to try to determine the duration of the events involving the complainants cited for possession of illegal drugs who claimed they were denied their coats, and for the complainants who claimed their vehicle was blocked during the search of another vehicle. (These incidents were interrelated because it was the search of the first vehicle that led to the alleged delay of the second vehicle). It was not clear from the police dispatch call logs how long either event lasted. The dispatch logs show LEOs confirming identification of the individuals involved in the drug possession case at 4:23 p.m. and 4:31 p.m. Violation notices were issued to them at 4:41 p.m. The LEO who searched the vehicle left at 4:40 p.m. to assist another LEO with a vehicle search in a different location.

One of the complaints from TSV employees and management was that LEOs were targeting employees. They thought this because the officers and canine started their deployment in the upper employee parking area. Officers on this saturation patrol claimed they were unfamiliar with the parking areas and had no knowledge that the upper

lot was reserved for employees. Public RV parking is also designated in the upper lot. None of the officers said they could tell who were employees and who were customers of TSV during their vehicle stops and contacts. Of the individuals receiving violation notices, 8 of them were TSV employees.

Many of the complainants reported that the Forest Service LEOs had conducted a road block in the afternoon of February 22 at the base of the mountain on SR 150. Forest Service LEI did not conduct a road block. The confusion may have arisen from state patrol officers conducting traffic stops in the area.

The SUP provisions in effect for TSV ski area include the responsibility for the permittee to comply with all rules, laws and ordinances. TSV managers stated they have a zero tolerance policy for drug use.

## Lessons Learned

- Prior coordination with TSV management and local TSV police would have likely improved the perceptions of and reactions to the increased Forest Service LEI presence during the saturation patrol. With prior notification and coordination, TSV management and police could have more effectively and efficiently dealt with employee and public concerns.
- Many of the complaints were focused on officer demeanor and officer appearance. Use of personal video recording devices by officers would have assisted the Forest Service in responding appropriately to complaints.
- Involvement by Forest Service LEI in community relations would help to build rapport and trust and provide insight to officers of social needs and expectations. Working collaboratively with TSV government, management, local law enforcement, businesses, and the community in identifying and discussing law enforcement issues would generate potential solutions to reducing criminal activity in the TSV area.
- Many of the complaints received were from individuals who had not had any direct contact with the Forest Service LEI. The Forest Service received the overwhelming majority of the complaints informally through verbal notification from TSV management. Some of the complainants were asked to submit formal written statements to the agency. No formal written complaints were received. Because of this, the Forest Service could not effectively review the facts of each situation involving individuals with direct experience of the events.
- While LEOs are not required to receive approval for enforcement actions by local Forest Service line officers, prior discussions may have better informed LEOs about areas of management concern and prioritization. Forest Service unit managers may have then been able to field calls and complaints had they known about the issues, concerns, and enforcement efforts.
- While it is legitimate for LEOs to walk around an area under a special use permit to familiarize themselves with the property and buildings, in this case it would have been advisable to notify TSV management and TSV local police of their presence to coordinate access.
- LEOs should have considered the impression that a muzzled police canine may have had in a heavily populated ski lodge area. Was it necessary to take the canine to the most populated area of the lodge?

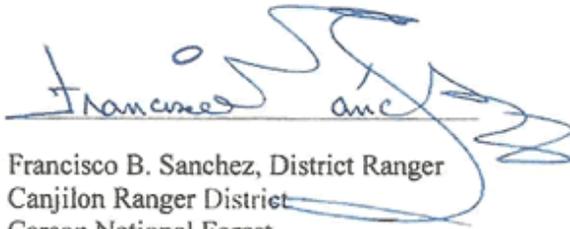
- While it is important to coordinate and collaborate with communities and Forest Service line officers, LEOs are responsible for upholding the law and should retain the discretion to determine areas of focus based on observation and experience.
- LEOs should have considered the appropriateness of taking a “ride-along” on this saturation patrol.
- Forest Service LEI chain of command should communicate with local unit LEOs on expectations for professionalism, local sensitivities, overarching regional priorities, and general law enforcement issues and areas of concern.
- LEOs should be cognizant of the impact their actions may have on scheduled events at public venues.
- Forest Service unit managers should remind permittees that their use of public land is not exclusive and that Forest Service, state, and local law enforcement agencies retain full authority to inspect, investigate, and enforce all regulations and laws upon public lands.

### Recommendations for Next Steps:

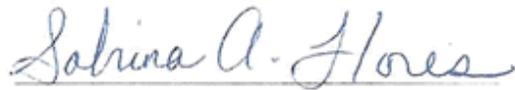
- Regional Forest Service LEI will communicate with local unit LEOs on the expectations for professionalism, communicating with our partners, local sensitivities, overarching regional priorities, and general law enforcement issues and areas of concern.
- Special operations planning, such as a saturation patrol, will be reviewed by a supervisor prior to implementation.
- LEI will coordinate with TSV management and police in the future to more effectively and efficiently work through employee and public concerns.
- Forest Service LEI will set up a meeting with TSV government, management, local law enforcement, businesses, and the community to identify and discuss law enforcement issues and work together on potential solutions to reduce criminal activity in the TSV area.
- Forest Service line officers will discuss with permittees that their use of public land is not exclusive and that Forest Service, state, and local law enforcement agencies retain full authority to inspect, investigate, and enforce all regulations and laws upon public lands.

Forest Service law enforcement is a learning organization that strives for continuous improvement. LEI is committed to carrying out the agency's mission, especially in upholding federal laws and regulations that protect natural resources, agency employees, and the public. LEI strive for quality and excellence and holds public trust high. LEI routinely conduct informal and formal AARs to assess performance and results.

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