



# 2012-020

**STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL**

**LUTHER STRANGE  
ATTORNEY GENERAL**

December 14, 2011

501 WASHINGTON AVENUE  
P.O. BOX 300152  
MONTGOMERY, AL 36130-0152  
(334) 242-7300  
[WWW.AGO.STATE.AL.US](http://WWW.AGO.STATE.AL.US)

Honorable Jo Ann Flirt, Director  
Historic Blakely Authority  
Post Office Box 7279  
Spanish Fort, Alabama 36577

Historic Blakely Authority – State  
Departments and Agencies – Law  
Enforcement Officers – Arrests – Crimes  
and Offenses

A park ranger at the Blakely Historic State Park, who is duly commissioned by the Historic Blakely Authority, may make arrests for violations of park regulations.

If the Baldwin County District Court amends its schedule of fines, adopted by the Supreme Court of Alabama by order dated July 23, 2003, which includes the described regulation violations, and the amended schedule is approved by the Supreme Court, a park ranger may enforce the violations by issuing a Uniform Nontraffic Citation and Complaint (“UNTCC”).

A defendant should be released if the defendant signs the ticket. The defendant may plead guilty by appearing in court to pay the fine on the schedule of fines or mailing the fine to the court.

If the violation involves property damage rising to the level of pecuniary damages warranting restitution, the defendant should be arrested without using the UNTCC.

Fines are remitted to the State General Fund.

The district court may collect the fines through the District Attorney's Restitution Recovery Division or through a private entity by contract with the Administrative Director of Courts.

Dear Ms. Flirt:

This opinion of the Attorney General is issued in response to your request.

#### QUESTIONS

(1) May a park ranger at the Blakely Historic State Park arrest persons who violate park regulations?

(2) Does a ranger need arrest tickets to make arrests?

(3) How does the Historic Blakely Authority ("Authority") impose fines for violations?

(4) Does the park receive the fines? If not, where do they go?

(5) Can the Authority proceed in civil court, such as small claims court, to collect the fines?

#### FACTS AND ANALYSIS

Your request states as follows:

Among the various provisions establishing the Historic Blakely Authority is one that authorizes the Authority to impose fines of up to \$1000 on persons who violate park regulations. Our concern increases about major violations that put the safety of the public in danger, such as bringing firearms into the park,

burning in places other than the provided fire rings at campgrounds or burning when a ban is in effect, destroying trees and other vegetation and park property, and disturbing archaeological sites.

Interest in the Civil War Bicentennial, for example, seems to have led to increased incidents of illegal metal detecting and digging in the Civil War battlefield while the general behavior of the public has caused violations such as the recent destruction of a rare big leaf magnolia tree.

This Office understands that you are also concerned about violations of park regulations restricting noise and banning liquor.

Section 41-10-170, *et seq.*, of the Code of Alabama created the Historic Blakely Authority “[t]o establish, develop, operate, promote, protect, preserve, and maintain as a state historic park the lands in Baldwin County, Alabama listed on the National Register of Historic Places as the Blakely site. . . .” ALA. CODE § 41-10-170(1) (2000).

As to your first question, this Office has previously concluded that the Authority may commission park rangers with arrest powers. Opinion to Honorable James B. Johnson, Sheriff, Baldwin County, dated January 5, 1995, A.G. No. 95-00070. That opinion explained that “[t]he Legislature has granted the authority the power to designate any employee of the authority as a deputy police officer with arrest powers to arrest any person who violates any rule or regulation established by the authority. Code of Alabama 1975, § 41-10-181(c).” *Id.* at 3. Violation of a regulation of the Authority is a misdemeanor. ALA. CODE § 41-10-181(b) (2000).

As to your second and third questions, this Office has stated that enforcement officers for the Alabama Department of Revenue may use the Uniform Nontraffic Citation and Complaint for violations of the Mandatory Liability Insurance Act because the act is not a traffic law. Opinion to Honorable G. Thomas Surtees, Commissioner, Department of Revenue, dated December 14, 2006, A.G. No. 2007-024.

This Office has also opined that police may use the UNTCC to enforce municipal parking offenses. Opinion to Honorable Robert W. Ennis IV, City Attorney, City of Tuscaloosa, dated December 6, 2001, A.G. No. 2002-083. That opinion stated that, “[i]n order for a police officer to enforce section 22-81 of the Code of Tuscaloosa by issuing a . . . (UNTCC) served on the person who

parked the car, the city must add the offense to the municipal court schedule of fines. *See* ALA. R. JUD. ADMIN. 20(c).” *Id.* at 5. The *Ennis* opinion explained, in pertinent part, this procedure as follows:

[A] municipality may adopt a local schedule of fines for municipal ordinance violations for offenses or violations not included in the schedule of fines provided in Rule 20(a), and not included in the Supreme Court’s extended schedule of fines, to which a defendant may plead guilty before a magistrate. *See* ALA. R. JUD. ADMIN. 20 & app. A. The offenses provided in section 22-81 of the Code of Tuscaloosa are not included in the list of offenses for which no schedule of fines may be established for use by magistrates and are not included in the Supreme Court’s extended schedule of fines. *See* ALA. R. JUD. ADMIN. 20(a) & (d). The municipal court is not required to seek the *approval of the Supreme Court* for its municipal schedule of fines as the *district court* must. *See* ALA. R. JUD. ADMIN. 20 (c)-(d). . . .

*Id.* at 5.

A district court schedule of fines applicable to misdemeanors, including state agency regulation violations, is also provided for in Rule 20(B) of the Rules of Judicial Administration. ALA. R. JUD. ADMIN. 20(B). The provisions governing both the district and municipal court schedules are substantially the same except for Supreme Court approval of the district court schedule. The park regulations in question are not included in the list of offenses for which no schedule may be established and are not included in the Supreme Court’s extended schedule of fines. Accordingly, if the Baldwin County District Court amends its schedule of fines, adopted by the Supreme Court of Alabama by order dated July 23, 2003, which includes those regulations, and the amended schedule is approved by the Supreme Court, a park ranger may enforce the regulation violations by issuing a UNTCC.

The UNTCC was developed to permit a law enforcement officer to issue a citation to a defendant and release him or her once the ticket is signed by the defendant promising to appear in court. ALA. R. JUD. ADMIN. Rule 20, cmt. Rule 20(E) provides for a procedure giving the defendant the option of pleading guilty by either appearing in court to pay the fine on the schedule of fines or mailing the fine to the court.

It is noted, however, that some of the regulations you describe involve damage to park property. Rule 20(I) contains the following restriction on the use of the UNTCC:

***[I]n no event shall the UNTCC be used in regard to an offense listed in section (D) or in regard to a violation or a misdemeanor that is based on the use or consumption of alcoholic beverages or any controlled substance; that is connected with a violent act; or that requires restitution to a victim of crime.***

ALA. R. JUD. ADMIN. 20(I) (emphasis added).

“The Legislature has determined that all perpetrators of criminal activity or conduct should be required to fully compensate the victims of that crime for any pecuniary loss they sustained as a result of that crime. Code of Alabama 1975 § 15-18-65.” Opinion to Honorable Perry A. Hand, Director, Highway Department, dated May 30, 1991, A.G. No. 91-00284. Therefore, even if a regulation is listed on the district court schedule of fines, certain violations involving property damage may not be charged on the UNTCC. If the damage rises to the level of pecuniary damages warranting restitution, the defendant should be arrested without using the UNTCC.

As to your fourth and fifth questions, fines collected in misdemeanor cases are remitted to the State General Fund. ALA. CODE § 12-19-152 (2006). This Office has addressed the entity responsible for the collection of fines in district court. Opinion to Honorable Michael A. Nix, District Judge, 37<sup>th</sup> Judicial Circuit, dated September 3, 1999, A.G. No. 99-00279. That opinion was based on the restitution recovery division statutes found in section 12-17-225, *et seq.*, of the Code of Alabama. ALA. CODE § 12-17-225 to 12-17-225.9 (2006).

The *Nix* opinion additionally relied on Rule 38 of the Alabama Rules of Judicial Administration. ALA. R. JUD. ADMIN. Rule 38. Therefore, *Nix* concluded that, “[s]ince the district court is responsible for the enforcement of its orders and ultimately the collection of any court-ordered sums, the district court may collect those funds through the District Attorney’s Restitution Recovery Division or through a private entity by contract with the [Administrative Director of Courts].” *Nix*, at 4.

CONCLUSION

A park ranger at the Blakely Historic State Park, who is duly commissioned by the Historic Blakely Authority, may make arrests for violations of park regulations.

If the Baldwin County District Court amends its schedule of fines, adopted by the Supreme Court of Alabama by order dated July 23, 2003, which includes the described regulation violations, and the amended schedule is approved by the Supreme Court, a park ranger may enforce the violations by issuing a Uniform Nontraffic Citation and Complaint.

A defendant should be released if the defendant signs the ticket. The defendant may plead guilty by appearing in court to pay the fine on the schedule of fines or mailing the fine to the court.

If the violation involves property damage rising to the level of pecuniary damages warranting restitution, the defendant should be arrested without using the UNTCC.

Fines are remitted to the State General Fund.

The district court may collect the fines through the District Attorney's Restitution Recovery Division or through a private entity by contract with the Administrative Director of Courts.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

LUTHER STRANGE  
Attorney General

By:



BRENDA F. SMITH  
Chief, Opinions Division

LS/GWB

1224173/153197