

Longitudinal Analysis of Cases, Violations, and Citations involving the MBTA Regulations from January 1, 2000 through April 20, 2005

This data was provided by the United States Fish and Wildlife Service (USF&WS) via a Freedom of Information Act request. It should be noted that although this is an analysis of the data, it cannot be stated that this is a *statistical* analysis. There are simply too few data points to genuinely state any statistical facts. What can be drawn are general conclusions.

The specific request that was fulfilled, as quoted in the USF&W response was for, “copies of all citations, violations, and confiscations USF&W...has identified from 1/1/2000 until 4/20/2005 regarding falconry and raptor propagation ...mostly interested in citations given to individuals holding a falconry permit or propagation license or permit, ...also ...citations for individuals who did not hold permits...” It is unknown which of the cases contained here were involving a licensed falconer or raptor propagator and which involved an unlicensed person otherwise violating a regulation. It should be noted that some of the data was incomplete. Best attempts have been made to call out unknown factors from the data.

The following is the analysis of all data received from the department fulfilling that request.

Introduction

Conflicting theories prompted this study. This analysis is an effort to identify which, if any, of these theories about illegal raptor activities is correct. One theory is that the falconry community makes extreme efforts to cooperate with law enforcement and remain legal, not just legal in the spirit of the law, but also the interpretation of the moment. Other groups have put forth a conflicting theory that there is large scale corruption and conspiracy exporting wild taken raptors for massive profits abroad. It is frequently cited by officials that the falconry community must be kept in check and under tight controls else illegal trafficking in raptors threaten the wild populations of raptors.

This analysis is intended to put forth the data so that reality can be viewed objectively. The intent is to have the data available for review before the new regulations are finalized so that the regulation interpretations and enforcement activities can be viewed based on their effect and for long-term purposes. We must understand what the current situations are in order to write effective regulations. If there is wide-spread illegal activity, then we must identify it and have it prosecuted. If there is no widespread corruption, then this also needs to be identified and recognized. We must note where there are legitimate practices that benefit the individual or wild populations, and ensure that these are protected under the new regulations. When there is opportunity to make allowances for the wishes of those being regulated, we must consider the impact to the wild resource. If there is no substantive negative impact to the wild population, then we should ensure the activity is protected and secured.

This study only covers federal cases between January 1, 2000 and April 20, 2005. No state cases are included in this analysis, although the cases include those from joint state/federal investigations. This also only covers cases that rise to the level of a formal investigation and were issued a case number and closed. This does not capture inspections, federal visits, or inquiries which did not generate a case number or open cases. There is no data on these, but will provide anecdotes separately as examples of what this analysis does not cover. Those likely constitute the vast majority of enforcement work, even though they are expensive, administratively taxing, and largely result in no actions. In other words, they are worthless only annoying department officials and legally licensed individuals.

Overview

There are an estimated 4,000 licensed falconers in the United States (in 1991 there were 3,738¹) holding an estimated 5,000 birds (in 1991 there were 4,988 raptors legally possessed by the 3,738 falconers¹). Each year an estimated 1,000 birds are taken from the wild for use in falconry with some substantial subset released back to the wild.² This study is an analysis of the federal cases, citations, and violation investigations over a 64 month period.

For the 64 month period, from January 1, 2000 until April 20, 2005 there were 19 cases under investigation by the US Fish and Wildlife Law Enforcement service.

For each case, one or more violations were identified specific to the actions of the individual. A total of 57 individual violations were investigated during this time period.

For each violation investigated, there may or may not have been a charge or citation issued depending on the outcome of the investigation.

There were a total of 35 citations issued by the department during this period of time. In total 61% of violation investigations that were issued a case number actually resulted in citations or charges against the individual, or 39% did not merit any charges or citations.

Best and Worst Case Scenario

It is worthwhile to view this data from a few different perspectives. There is the best case scenario and the worst case scenario. The best-case scenario is simple - no licensed falconers or raptor propagators received these citations. In other words, the licensees as a whole are all operating perfectly legal and the regulations are being interpreted in a way that is easily understood by all involved. All citations issued were to unlicensed individuals involving unlicensed activities or illegal harvest of raptors from the wild. Examples of this would include the 2005 investigation uncovered an illegal ring of Native Americans who had killed more than 500 Bald Eagles to sell the feet and feathers for use in ceremonies⁵. This is not falconry and has no relation to falconry, however it would appear in the same set of violations and citations as any falconry case since the laws are all under the same Migratory Bird Treaty Act umbrella.

The worst-case scenario assumes that all of these citations were issued to licensed falconers or propagators. Assuming that there was no growth in the number of falconers from 1991, we would only have 3,738 licensees in this pool. And assuming that there were no changes in this pool during the 64 months (the same unique individuals who were licensed in January of 1990 were the same 3,738 licensed in April of 2005). With all of these assumptions, and the additional assumption that each violation investigation involved a different falconer, then only 1.5% of the falconry population was ever involved in an investigation. However, the more likely assumption is that a single person was involved in a specific case number. This reduces the involvement to only 0.4% of the falconry population, or a maximum of 35 individuals violating a regulation, in more than 5 years.

Violations by Close Date

The violations, when mapped by date, show a growing number of violation investigations without a correspondingly high number of actual citations being issued. There were eight times the number of violations investigated in 2004 compared to 2000, while there were only 9 more citations actually issued. Similarly, the data with unknown dates shows that only 33% of the violations investigated resulted in citations or charges.

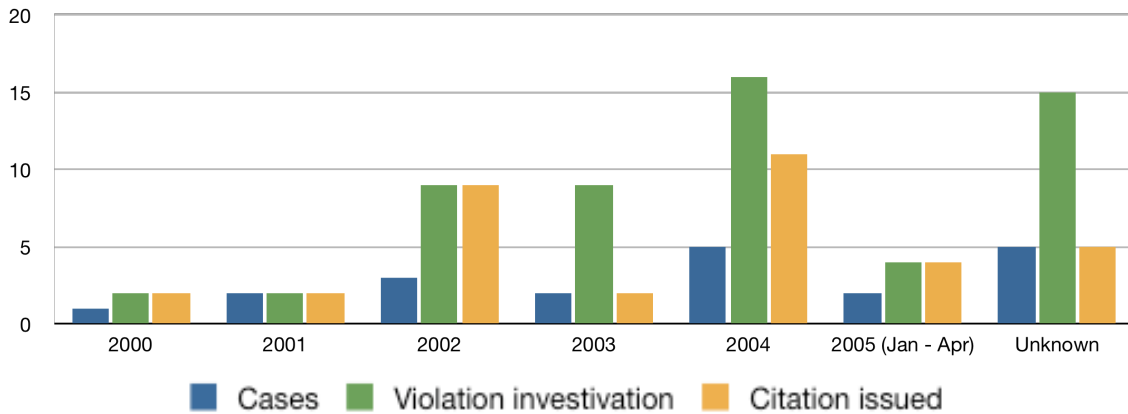


Figure 2.1 Cases, violation investigations, and charges displayed by date.

†Due to incomplete information for some of the line items, the number of cases does not add up to nineteen. This is because this only analyzes the data that was given and does not make assumptions to infer anything.

One explanation for this data pattern is that infractions have increased in recent years. This may be due to a few felonious individuals or a few significant instances. With the number of cases increasing by only one or two per year, this may be valid. This does not explain why the number of violations per case increased dramatically. Perhaps shifts in the interpretation of regulations lead to this change. Likewise there is an inverse relationship with the number of citations handed out. In 2000, 2001, and 2002 all violations identified lead to charges. In 2003 and 2004 far more violations were investigated than actually turned out to be occurring. What this means is that investigations were formally entered without actually bearing out. In 2003 only 22% of the violations investigated were sustainable as citations. This may have been from poorly written regulations, poorly understood regulation interpretations on either side of the law, or from overzealous agents.

There are a large number of investigations with very few charges associated and lacking a date of closure.

Violations by Region

Federal USF&WS regions are arranged as groups of states. There is great regional variance in the distribution of licensed falconers. Region 1 is by far the most numerous with an estimated 600 licensed falconers in California alone, and over 200 estimated in Washington.

Region 1 - California, Hawaii, Idaho, Nevada, Oregon, and Washington

Region 2 - Arizona, New Mexico, Oklahoma, and Texas

Region 3 - Illinois, Indiana, Iowa, Michigan, Missouri, Minnesota, Ohio, and Wisconsin
 Region 4 - Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico/Virgin Islands, South Carolina, and Tennessee
 Region 5 - Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia
 Region 6 - Colorado, Kansas, Montana, North Dakota, Nebraska, South Dakota, Utah, and Wyoming
 Region 7 - Alaska

The largest number of citations was given in Region 1. This may be due to a region’s more narrow interpretation of the regulations, substantial falconry population, substantial populations interested in other uses of raptors, or more active agents.

The two regions with the most active investigations are also the two regions with the most investigations that did not turn into citations. Region 1 had 21 violation investigations of which 13 resulted in a citation. This means that there was only a 62% rate at which violations investigations merited citations. Region 5 had 20 violation investigations, of which 6, or 30%, resulted in a citation. Again, one conclusion to be drawn here is that the regional interpretation was overly narrow causing more legitimate and well-intentioned people to fall outside the interpretation, yet through the course of the investigation the individual was not cited based on the lack of merits of the case. This may be an indication of over-burdening those who are regulated. If the cases which rose to the point of actually being given a case number did not have a high rate of validity, then there may be a group of individuals who are being over-scrutinized and over-regulated.

Without exact numbers of licensed falconers, it is difficult to determine if there is equity between the regions for percentage of their falconry population engaged in a case or investigation. The only data point that can be pulled out is that in the continental states, all regions are actively investigating and charging on the outcome of their investigations.

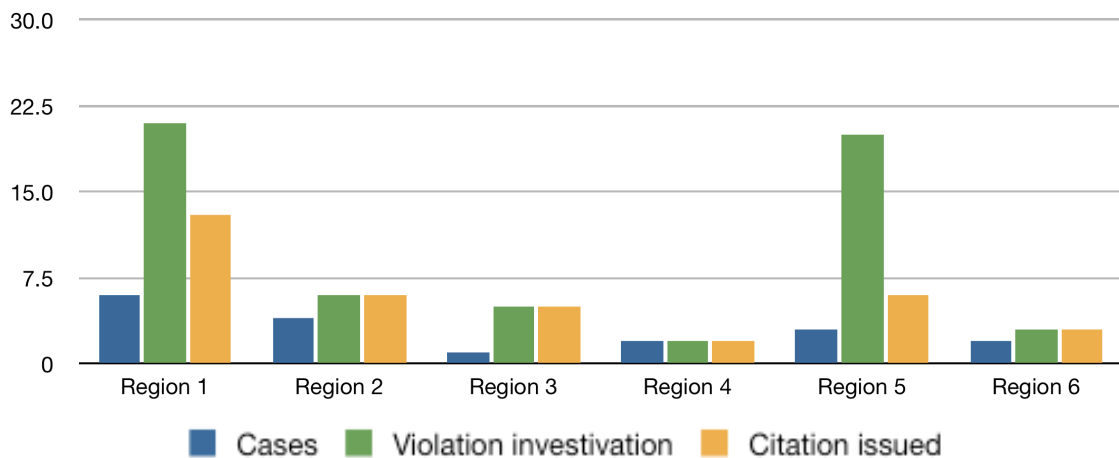


Figure 3.1 Cases, violation investigations, and citations issued organized by region and state.

Violations by Species

For the nineteen cases and thirty-five citations, there were a number of species involved. The two most commonly cited species at the heart of shadowy conspiracies are Gyrfalcons and Goshawks. However, this shows that there were no live Gyrfalcons even involved in cases or charges, and there was only one case involving a Goshawk. It would seem obvious from this that there can be no large scale conspiracy with only a single Goshawk and some Gyrfalcon feathers involved. The most commonly cited species was the Red-Tail Hawk which was involved in four violation investigations resulting in six charges filed. What this does show is that one of the most numerous birds³, and most commonly held bird, is involved in the most cases.

	Cases	Charges
American Kestrel	1	1
Bald Eagle	2	2
Barn Owl	1	0
Barred Owl	1	0
Golden Eagle	1	1
Great Horned Owl	1	1
Grey Goshawk	1	6
Gyrfalcon†	1	1
Harris' Hawk	1	0
Peregrine Falcon	2	1
Prairie Falcon	1	1
Red-Tail Hawk	4	6
Short-Eared Owl	1	0
LEFU‡	1	0
Accipiter - Unknown	1	1
Falcon - Unknown	1	0
Owl - Unknown	1	1
No bird listed	22	13
TOTAL	N/A††	35

Table 4.1 Cases and charges organized by species.

† Text has abbreviation of FARV which is not a recognized abbreviation.
Assuming the intent was for FARU denoting a Gyrfalcon.

‡ Text has abbreviation of LEFU which is not a recognized abbreviation.
 No similar abbreviation was found.
 ††There may be multiple species involved in a single case, therefore
 totaling the cases does not make sense.

The bulk of citations have no bird associated with them. This may be a clerical error, or may be due to the fact that the violation did not have any birds actually involved and was a paperwork or methodology error on the part of the person being regulated.

Specific Violations

Each case may have multiple violations identified that are then investigated. A single illegal act may violate multiple regulations or laws. The specific violations identified are interesting, both for what is being investigated and for what actions are not occurring.

	Cases	Charges
Endangered Species Act - Importation of Wildlife	1	1
False Statements	1	0
Lacey Act - Possession of Wildlife	1	0
Permit/License Investigation	2	1
State Law Violation	1	0
MBTA - Commercial Facility - Records	1	1
MBTA - General Import	1	1
MBTA - General Possession	6	8
MBTA - General Take Violation	2	1
MBTA - Possession - Belonging to Another	1	0
MBTA - Possession - Illegally Taken	1	6
MBTA - Take - Illegal Device or Substance	1	2
MBTA - Unspecified	1	2
MBTA - Violation of Federal Law	3	12
TOTAL	N/A††	35

Table 5.1 Cases and charges organized by violation.

††There may be multiple violations involved in a single case; therefore
 totaling the cases does not make sense.

To narrate some of the above data, it appears that the **Endangered Species Act - Importation of Wildlife** violation and the **MBTA - General Import** violation were both citing the same individual. The citations were for improper importation of Gyrfalcon and Bald Eagle feathers from Canada. It should be noted that the Gyrfalcon feathers are a worst case scenario guess as the actual species code is not a valid one. The Gyrfalcon is

the worst case species that could apply to the code which is provided. These feathers may have been mistakenly transported across the border to Montana for imping purposes or without knowing it was not legal, or may have been more maliciously intended for sale or decoration.

The **MBTA - Commercial Facilities - Records** violation was regarding the body of a Prairie Falcon, perhaps an improper record of a death or incomplete documentation.

The **MBTA - Possession - Belonging to Another** was a violation of Title 50 CFR 20.37 which states *No person shall receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required by §20.36*. This was specifically regarding a Peregrine Falcon. One guess for this was an improper holding of the bird where another person, perhaps a licensed falconer but perhaps not, was watching a Peregrine Falcon for a licensed person.

The **MBTA - Take - Illegal Device or Substance** charges were regarding Title 50 CFR 20.21a which states *No persons shall take migratory game birds: (a) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machinegun, fish hook, poison, drug, explosive, or stupefying substance*. This appears to be an illegal trapping or shooting of an unknown hawk species and owl. Most likely this was not committed by a licensed falconer, but rather an unlicensed individual, perhaps not even aware that there were laws concerning this.

The **MBTA - Possession - Illegally Taken** charges are regarding Title 50 CFR 20.31 which states *No person shall at any time, by any means, or in any manner, possess or have in custody any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part*. This was regarding one or more Grey Goshawks. Since this specifically states the violation of Subpart C, the extrapolation is that the bird(s) was taken either across state lines without the proper paperwork, during an emergency closure, or out of season.

The **MBTA - Violation of Federal Law** is a very general charge against Title 50 CFR 20.71 which states *No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any act of Congress or any regulation issued pursuant thereto*. This general charge applied to several species including an American Kestrel, a Peregrine Falcon, a Bald Eagle body, a Great Horned Owl, a Golden Eagle, and one or more Red-Tailed Hawks. This also appears that an unlicensed individual was attempting to possess raptors, not a licensed falconer.

The **Permit/License Investigations** were most likely for out of date paperwork which may have been falconry, taxidermy, or a number of other permits or licenses.

The **MBTA - General Possession** violations, which are by far the most numerous category, are most likely regarding unlicensed individuals attempting to practice falconry or possess raptors.

It is very interesting to note that there are no violations in over five years pertaining to smuggling, soliciting, forgery, false records, conspiracies, export violations, or any CITES violations. There were no cases involving selling raptors, and no cases involving Europe, Asia, or the Middle East. The one case that crossed an international boundary, across the Canadian border, may be plausibly explained as a mistake in importation protocol. Equally interesting is that the majority of these cases could be paperwork errors

and not necessarily crimes resulting in the wildlife resource being harmed or illegal financial gain for the perpetrator.

Time to Resolution

The time to resolution varies widely by case. A few cases are closed within days while others remain open for years. The average time span between the date of a case opening and a case closing is 273.5 days. As there are several outlying dates, dropping these and re-averaging gives an average of 238 days indicating that the outliers balance each other. Half of all cases were resolved within 90 days with the other half taking between 126 and 1,129 days to resolve. This in and of itself is not as interesting of a fact, other than tracking the time needed to resolve a case satisfactorily. Of the thirty-five citations given, four are missing data on their case resolution. Eighteen, or 58% of the cases with known dates, were given within the first half of cases resolved. This leaves thirteen citations given for the latter half of cases resolved, or 42%. The shortest cases (two one-day resolutions and one three day resolution) all resulted in citations. The inference here is that the violations were clear. The longest case (1,129 days to resolution) resulted in no citations or charges.

Case Number	Days to Resolution	Citations
2002203451	1	2
2004202251	1	1
2001605807	3	1
2004501655	16	4
2004200877	53	1
2005600256	82	2
2001105648	87	6
2001402503	90	1
2005100087	126	3
2002403500	129	1
2002205265	314	1
2002205995	318	1
2001105647	542	0
502000129	639	2
2002302673	846	5
2001501191	1129	0
All others	Unknown dates	4

TOTAL	N/A††	35
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Table 6.1 Cases and charges organized by time to resolution.

††There may be multiple violations involved in a single case; therefore totaling the cases does not make sense.

Fines

Fines are levied when appropriate for a variety of illegal actions. Over the 64 month period, there was a total of \$19,774 in criminal fines and \$5,500 in civil fines for the 35 citations given. The average in criminal fines was \$564.71, although when the three citations without fines are removed the average rises to \$617.94. Civil fines averaged \$157.14 across the 35 citations, however only six citations carried a civil fine. If the total is averaged over those six, then the average is \$916.67.

All civil fines were levied by Region 1. The largest criminal fines were levied by Regions 1 and 4.

Anecdotes

What this data analysis does not cover are the inspections and investigations which did not generate a case number, charges, or cases still open. Because so much effort and activity on the part of regulators and enforcers does not result in an investigation, let alone a citation, I am providing two samples of incidents that occurred during this time period to illustrate what is still to be quantified. Certainly, if Law Enforcement has time to follow up on these issues, a massive raptor export ring would be discovered.

Incident #1

This event occurred in Region 1. A falconer with 40 years of legal falconry, raptor rehabilitation, education, research, and authorship behind him was contacted by established raptor researchers. The falconer has a degree in zoology, currently serves as an adjunct instructor to a university wildlife center, has been hired as a researcher for numerous raptor research projects for government and academic institutes, is regularly consulted by some of the foremost researchers in the country, is a former president of an Audubon chapter, is establishing the Whidbey Island Red-Tail and Hedgerow Society for land stewardship and conservation, and has never been cited, charged, or fined. The researchers have a theory that Goshawks produce feather patterns that are individually identifiable, similar to a fingerprint. The researchers had feathers which had been collected at nest sites over various years, but they could not test their hypothesis without several sets of feathers from known individuals. This falconer was contacted to donate feathers to the project.

Falconers are allowed to legally keep feathers for imping purposes. Since raptors drop a set of feathers each year, a legal falconer may have many sets of feathers. When a bird passes away, the entirety may be kept to benefit another bird. This particular falconer had kept many sets of feathers over the years and was willing to donate them to science. He required that USF&WS be involved to make sure that the transfer was done legally.

The falconer contacted USF&WS relaying the issue and was told he could transfer a whole Goshawk carcass and sets of feathers to the researchers. The carcass was sent to the researchers on the word of the regional official. The researchers followed-up with the same official and were told that the falconer had held, and transferred, the carcass illegally and continued to hold the feathers illegally. The researchers passed this information to the falconer. The falconer expected USF&WS to alert him that he was not following their interpretation of the feather clause; however he heard nothing from them. Fearing that there would be an inspection to catch him in this, he contacted USF&WS again. After a long phone conversation the falconer noted that the official never mentioned the falconer was running afoul of the regional interpretation. As the conversation closed, the falconer asked directly if he was in compliance and was told that he was not legal. The falconer later found out that Law Enforcement had already been notified that this was a matter to be cited and charged - a charge would be levied for each individual feather in the falconer's possession beyond what one person considered to be an "acceptable number".

The interpretation was a change from any known interpretations regarding feathers possessed by falconers. There have been no known cases where an individual has been charged with holding "too many" feathers. The falconer was told that he must burn these 40 years worth of feathers, and all other feathers he possessed except one set, else he would be charged. The falconer complied to remain legal of the interpretation, and the researchers were denied the benefit of data for their research.

This case had a legal falconer with birds being well cared for who happened to save what amounted to toenail clippings. It happened that researchers were interested in this to gain insight and further study the wild Goshawk populations. Unfortunately, that research cannot take place. This case was followed-up by the falconer requesting clarification from USF&WS on their interpretation of the feather clause in the federal falconry regulations. The interest of the falconer is to make sure he is legal, both with the spirit of the law and the current interpretation of the regional officials. There was no negative impact to the wild population of raptors or additional birds removed from the wild even temporarily, and there was a large potential benefit from the research. There was no financial interest on the part of the researchers or the falconer. The ultimate result was an official apology issued to the falconer from the USFWS headquarters in Washington, D.C., and an admonishment to the regional officials regarding their unreasonable behavior handling the permittee, and their focus on trying to single him out for punishment for something that was not even an infraction.

Incident #2

This particular event occurred in Region 6. The case involves a husband who is a long time falconer and his wife. The wife is also falconer and a wildlife rehabilitator for over 16 years. Neither one has ever been investigated for potential wrong doing. The husband worked for the USF&WS; however it is the wife's bird which is in question.

It is a very common practice, and legally protected activity, to take a bird from the wild for falconry purposes. A wild taken bird must be reported through state and federal

forms. Sometimes a bird is fully flighted and it is trapped. Sometimes the bird is a chick in a nest, in which case a person must climb a tree or cliff to access the nest. It is also common practice, and recognized as legal, to have another person actually access the nest. This may be because a falconer is disabled and unable to climb on their own, or to reduce the stress on the nesting pair by reducing the number of people entering the nest area to just a single expert climber.

This particular case had a falconer of 30 years offer to climb a tree in a remote nest site and remove a chick if there were a sustainable number of chicks left. The falconer who was climbing had never had a citation or investigation involving him and was being sensitive to the nest site when determining to climb alone. In July of 2003 the falconer climbed, safely secured a single chick, and handed this to the wife within an hour of the chick being removed. The wife completed all required paperwork and sent it to the federal and state authorities who processed and accepted it. State officials had visited, as per state regulations, and banded the bird. The bird was raised and trained and was hunting when it developed West Nile Virus. The couple was successfully nursing the bird through the course of the disease.

In February of 2004, more than 50 falconers across Colorado were inspected by state and federal officials. This couple was one of the inspections which lasted in excess of 8 hours in the company of four officials. During the course of questioning, it was mentioned that the wife did not climb the tree herself and that the bird was delivered to her. Some officials accepted that as a legal activity while others did not indicating several different interpretations of the regulation even among the officials present. State officials acknowledged the take as legal and acceptable; however federal officials disagreed on the interpretation of allowing another individual to take a bird. Even though the bird in question was in need of constant medical attention, it was confiscated along with equipment to transport the bird.

In this case, one Goshawk was to be removed from the wild legally. The only difference was where the recipient was standing – next to the tree or at her home. There is no net difference in the impact to the wild population through the act, only a difference in the amount of paperwork required by the authorities. Although charges were not filed even 7 years later, the bird remained in custody of federal officials and the falconer was asked to relinquish her permit. Although paperwork was being filed to prevent disposal of the bird, the bird died in the care of the authorities. The falconers eventually were able to resolve the case. No citations were issued and it was determined that there were no violations, citations, or further investigations. Only a dead bird, much effort, and significant financial and emotion costs to the individuals.

Other cases could be cited but these are two very recent examples that show what is on the line. Our federal resources are valuable and we need to ensure that they are focused on the activities that actually impact the wild populations negatively, such as illegal shootings, poisonings, or export schemes.

Conclusions

From the data available, one conclusion that can be drawn is that there is very little, if any, illegal trafficking in birds of prey. What illegal trafficking there may be appears to primarily be unintentional and only lacking in fully understanding all the permits, papers, and licenses that must be procured. There is also not the conspiracy that many have demanded be examined. In fact, there is no evidence of any export violation in more than 5 years and even the federal government's own CITES proposal¹ makes mention that in the 7 years studied leading up to the proposal there were negligible regulation infractions.

Another conclusion that might be drawn is that with additional law enforcement staff there would be more violations uncovered. This would be a false conclusion for several reasons. First, all raptor populations commonly used in falconry have their populations on the rise.³ If there is a large underground ring of raptor smugglers or extensive illegal raptor activity, the wild populations themselves would reflect this. Second, there would be a much higher rate of violation investigations resulting in actual charges or citations. If there was not enough law enforcement to actually catch all the wrong doing, then the wrong doing that law enforcement managed to find time to address would be more likely to be obvious and result in citations. There are both state and federal resources monitoring falconry related issues and receiving tips or leads. If a federal official had information they believed indicated illegal activity, certainly state officials are involved. Likewise, if state officials have information, the federal authorities are involved. However, even with dedicated individuals, there are not a lot of issues to be identified and cited. Third, the violations themselves would reflect export or solicitation violations and not the types of violations that are seen here. Instead, the proper conclusion is that the falconry community works hard to understand the letter, spirit, and interpretation of the law and there is minimal illegal activity, perhaps only well-intended individuals misinterpreting regulations, to catch.

The species list is interesting in and of itself. Consistently there are comments made regarding the Gyrfalcon and the Goshawk as the species most trafficked illegally. However, out of the total number of violations over a 64 month period, the only violation regarding a Gyrfalcon was for an improper importation of feathers from Canada. Additionally, there was only one case involving a Goshawk. The total number of investigations involving any Accipiter over this period of time was two. The inference here is that there simply is no data to support assertions of large illegal Goshawk or Gyrfalcon activities. There is a healthy captive breeding population providing falconers legally obtainable birds at affordable prices. Illegally acquired birds are not worth the risk due to the market pressures. Illegally acquired birds are also of unknown quality to buyers whereas captive bred birds are from known breeding projects, known hunting bloodlines, or known trainers.

USF&WS, like all governmental services, has limited funding and manpower. They are forced to triage which investigations they undertake based on the prevalence and impact of the crimes. If there were massive underground raptor dealings, this would be prioritized higher by the service and dutifully investigated. We do know that when there

are reports or data is uncovered pointing to an illegal action, large or small, that Law Enforcement does follow these up, no matter how small.

To repeat from the above text *It is very interesting to note that there are no violations in over 5 years pertaining to smuggling, selling, soliciting, forgery, false records, conspiracies, export violations, or any CITES violations.* There is no evidence of coordinated illegal activity on either an international scale or the level that would concern environmental or governmental oversight bodies. The violations appear small, scattered, and unthreatening to the wild population. The proposed Region 1 removal of 20 Barred Owls⁴ involves almost as many individual birds as the entire 5 years of MBTA regulation violations. This is not to argue that USF&WS should not be removing these birds, but that the total number of violations and the impact on the wild populations must be put into perspective.

What should be drawn out of this is not just the empirical data, but also an understanding of the undercurrent of the culture. The culture of falconers is conservation and stewardship. This is a natural history sport about bird watching up close and interacting with these birds. These are avid conservationists that are emotionally attached to the birds they themselves possess, as well as the wild populations. Many of the authorities do not recognize this as demonstrated by their lack of respect for the falconry community. The federal authorities and regional agents do not recognize falconers as a group of passionate conservationists. After all the operations, surprise inspections, and coordinated efforts there remains this image of the falconry community as eager to damage the resource. However since these beliefs cannot be supported by the facts and examples from the investigations, there is only harassment left, that is the intimidation and harassment of falconers to tease out any activity that crosses a personal interpretation of a regulation. People's reputations are sullied and felonies are threatened consuming people's time, affecting their lives, jobs, and even their health. Through this individual birds are stressed, or forced to suffer, some have even died, in an attempt to force personal philosophies and interpretations onto a very small group of people. Among other things, the falconers have no recourse to challenge or speed the proceedings.

Those in administration need to make sure that the bias of agents and offices is not resulting in a culture of harassment through any means possible - slowing down of paperwork, unnecessary inspections, withholding of information, consumption of people's time and money, and an intent to entrap rather than guide well-meaning falconers when they may cross an unwritten line. There is currently an attempt to harm, embarrass, and ruin falconers simply because they *are* falconers. Falconers are not seen as a legitimate, contributing part of the conservation community - they are an asset to be included, not a group to be fought.

USF&WS needs to communicate their current interpretations to be backed with black letter regulations so that there is no mistaking their activities for harassment or intimidation. USF&WS needs to proactively engage the falconry community to help them stay in the clear. Any attempts to entrap rather than proactively prevent foreseeable incidents only lead to suspicions that the welfare of the wildlife and those being regulated

are not the motivating factors; rather the motivating factor is to entrap, entangle, intimidate, and ultimately only to cite rather than protect the resource and those being regulated.

When given the opportunity, and when it does not overly impact the wild resource or the health of an individual, make the largest allowance to those being regulated, both when writing and when interpreting the regulations. Allow the falconers, rehabilitators, and raptor propagators the maximum leeway to make the best decisions for the individual bird in front of them, for they are the only ones with all the circumstantial knowledge and they are therefore the only ones who can make the best decisions.

Works Cited

¹ "Convention on International Trade in Endangered Species of Wild Fauna and Flora." Eleventh Meeting of the Conference of Parties. 10-20 April 2000.

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