

**FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION**

**DIVISION OF LAW ENFORCEMENT
GENERAL ORDERS**

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<p>TITLE</p> <p>COLLECTION, PRESERVATION AND DOCUMENTATION OF EVIDENCE AND PROPERTY</p>	<p>EFFECTIVE DATE</p> <p>August 21, 2009</p>
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<p>APPROVED</p> <p><i>Julie Jones</i></p>	<p>PAGES</p> <p>14</p>

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POLICY**

- A** The Division's resource protection mission often requires the seizure of perishable or live resource and equipment which necessitates unique storage and disposal requirements distinctive to conservation law enforcement. All such wildlife, fisheries, or equipment and property seizures will follow the guidelines established by Chapter 379, Florida Statutes.
- B** A seizure is any action by a sworn member taking control or possession away from any person of any fish, wildlife, or other property. A seizure may be actual or constructive.
- C** An item may be seized:
 - (1)** Pursuant to a warrant or other court order,
 - (2)** When the item is contraband,
 - (3)** When the item is stolen or otherwise the fruit of a crime, or when the item has been used as an instrument in the commission of a crime, or when the item has evidentiary value.
- D** In the interest of conservation, live species, the possession of which is unlawful, shall be properly documented and returned unharmed to the habitat.
- E** Captured exotics or tamed indigenous wildlife will not be released or returned to the wild, but will be maintained in safe facilities.
- F** If a court order exists permitting the pre-conviction disposal of perishable product, evidence which has been properly documented may be donated or destroyed prior to final disposition.
- G** Evidence and seized property will be stored only in a Division-approved storage facility.
- H** The personal use, loaning, or giving away of any item of evidence or property coming into a member's possession in the course of his or her official duties is prohibited.

- I The Division will adhere to Federal Law, Florida Statutes, Court Orders, Division General Orders and the Division's Evidence Manual when seizing, disposing, or donating all evidence, lost and abandoned property.
- J The Division will adhere to the Florida Department of Law Enforcement (FDLE) Crime Laboratory Evidence Submission Manual when collecting, protecting, preserving, and processing all evidence, lost and abandoned property.
- K Definitions**
 - (1) **Audit** – The examination of records and activities to ensure compliance with established controls, policies, and operational procedures.
 - (2) **Inventory** – Cataloging of and accounting for all items held as evidence in the Division's evidence facilities.
 - (3) **Contraband** – Those substances and property illegal to possess and transport as identified and defined in Chapter 379, Florida Statutes (fish and wildlife conservation laws), Chapters 561-569, Florida Statutes (alcoholic beverages and tobacco laws), Chapter 831, Florida Statutes (forgery and counterfeiting laws), Chapter 849, Florida Statutes (gambling laws), Chapter 893, Florida Statutes (Florida Comprehensive Drug Abuse Prevention and Control Act), Sections 932.701 – 932.706, Florida Statutes (Florida Contraband Forfeiture Act) and Title 68, Florida Administrative Code, as well as any applicable federal provisions.
 - (4) **Constructive Seizure** – The expression of a manifest intent to seize and take possession of another person's property by posting or otherwise lawfully giving notice that action will be undertaken seeking the property's forfeiture. A constructive seizure does not remove the property from the physical custody of the possessor.
 - (5) **Digital Storage Device** – Includes any digital storage device capable of holding digital media, including digital images, video and audio files. Digital storage devices include, but are not limited to, cameras, audio and/or video recorders, optical discs (CDs, DVDs, etc.), hard drives, and flash memory storage media including, but not limited to, CompactFlash Card, MultiMediaCard, SDCard, Memory Stick, and USB Flash Drives.

2 RESPONSIBILITIES

A The Division

- (1) Provides training to members on:
 - (a) Handling and processing evidence as established by the Florida Contraband Forfeiture Act Guidelines, section 932.704, Florida Statutes. The training will address search and seizure, the legal aspects of forfeiture, and constitutional requirements and considerations. The Division Training Section shall document and maintain records of this training.
 - (b) Chapter 379, Florida Statutes. The training will address search and seizure, the legal aspects of forfeiture, and statutory requirements and considerations. The Division training section shall document and maintain records of this training.
 - (c) The identification of hazardous materials.
 - (d) The FDLE Evidence Submission Manual.
 - (e) Handling and processing evidence as specified in the FWC Evidence Manual.
 - (f) The Cooperative Enforcement Agreement between the United States Department of Commerce National Oceanic and Atmospheric Administration (NOAA) and the Florida Fish and Wildlife Conservation Commission Division of Law Enforcement.
- (2) Provides secure storage facilities for evidence and seized property at locations throughout the

state.

- (3) Provides a system for tracking evidence and documentation for the chain of custody.
- (4) Provides for an unannounced annual inspection and/or audit of the evidence storage facilities conducted by a designee of the Division Director.
- (5) Provides for an annual inventory of evidence and seized property conducted by the Evidence Custodians and a designee of the Division Director.

B Regional Commanders

- (1) Ensure that personnel under their supervision follow the proper evidence and seized property procedures.
- (2) Appoint, in writing, an Evidence Custodian and Alternate Evidence Custodian(s) for each evidence storage facility.
- (3) Ensure that training is provided to the Evidence Custodian(s) and their alternates on the procedures for collection, preservation, disposition, forfeiture(s), and destruction of evidence and seized property.
- (4) Schedule and arrange for an annual audit of evidence and seized property to be conducted by a supervisor who is not routinely or directly connected with each permanent evidence/property storage facility within the region. All audits shall be documented and retained on the Evidence Inspection & Audit Report (FWC/DLE-039A).
- (5) Conduct an Evidence and Seized Property Inventory when an Evidence Custodian is reassigned, transferred, promoted, or otherwise leaves the position. The inventory shall be conducted by the Regional Commander or designee with the outgoing and the newly appointed Evidence Custodian. Any discrepancies will be documented prior to assumption of property accountability by the new Custodian and logged on the Evidence Inspection & Audit Report (FWC/DLE-039A) and retained in the evidence log binder or file cabinet.
- (6) Designate the area to be served by each permanent evidence storage facility and ensure that all documentation associated with evidence and seized property goes to the assigned facility. Exemptions may be made with approval by the Regional Commander.
- (7) Ensure that regional staff provides familiarization training to personnel using digital equipment. Staff will use a Division-approved lesson plan outlining the collection, processing, and preservation of digital records to train members using cameras and/or digital recording mediums to document evidence and property.
- (8) Approve a list of institutions or entities, including scientific research facilities such as the FWRI and/or other scientific organizations, to which fish or wildlife donations may be made. This list will be maintained in the Evidence Tracking System
- (9) Approve a list of all non-FWC storage facilities that can be used to store evidence. This list will be maintained in the Evidence Tracking System.

C Evidence Custodians

- (1) Are responsible for all evidence and seized property delivered to agency facilities within their control.
- (2) Maintain the security of evidence facilities and limit access to secure areas to him/herself, the alternate custodian and individuals accompanied by the custodian or alternate and ensure that an accurate log (Evidence Room & Compound Entry Log FWC/DLE-336) of **all** personnel entering and exiting the Evidence Facility is maintained.
- (3) Ensure that all temporarily stored evidence is transferred to the permanent evidence/storage area in a timely manner.
- (4) Ensure evidence is collected, packaged, and labeled as prescribed in the FDLE Crime Laboratory Evidence Submission Manual prior to being submitted for laboratory analysis.

- (5) Ensure that items stored in Division Evidence Facilities are packaged and labeled in accordance with this General Order and/or the Division's Evidence Manual.
- (6) Ensure that property and evidence placed in permanent storage is logged in the Division's Evidence Tracking System (ETS) within 72 hours and that associated paper documents are properly filed and maintained.
- (7) Ensure that all evidence or evidence containers have an approved completed Evidence Chain of Custody Tag (FWC/DLE-074) or equivalent tracking tag.
 - (a) Reasonable efforts shall be made when storing seized items to prevent damage from the environment. Permanent exposure-resistant tags (including metal or plastic tags) with inventory and/or evidence numbers are required on items when the Chain of Custody tag is subject to damage from exposure.
 - (b) If permanent exposure-resistant tags (including metal or plastic tags) are used on items stored in an outside compound, or inside storage freezers, or refrigerators, the corresponding chain of custody tag shall be attached to the property receipt in the Evidence Custodian's log book.
- (8) All firearms will be secured with a device (e.g. zip-tie or gun-lock) that will not allow the action to close and allow a quick visual check that the firearm is rendered safe.
- (9) Ensure that an adequate supply of evidence packaging materials and forms is maintained and available for field law enforcement personnel.
- (10) Ensure that all reasonable efforts are made to maintain abandoned or lost, recovered, and evidentiary property within our custody in such a manner as to minimize loss of value and that a record is kept documenting any maintenance performed on seized evidence or property.
- (11) Ensure that when property is seized and the decision is made not to proceed with forfeiture or the item is not to be retained as evidence, the property shall be promptly released to the owner or representative in accordance with Florida Statutes.
- (12) Ensure that refrigerators and freezers are clean and kept in operating condition. Temperature alarms are recommended.
- (13) If applicable, maintain an easily accessible copy of standing court order(s).
- (14) Alternate Evidence Custodians shall be responsible for assisting the Evidence Custodians in the performance of their evidence and property responsibilities when absent or unavailable.

D Members

- (1) Members shall follow the FDLE Crime Laboratory Evidence Submission Manual, Division General Orders and the Division's Evidence Manual for the proper collection, processing, marking, labeling, packaging, and delivery of all evidence or seized property.
- (2) Firearms, or other weapons, shall be rendered safe immediately after seizure and safe condition shall be confirmed again during storage. See the Division's Evidence Manual for additional details.
- (3) Members shall provide safe and secure storage until delivery or disposition of all evidence and property, including that which may be alive or commercial products which may be sold for public consumption.
- (4) Members shall notify Dispatch when fish, wildlife, or property is seized and request an offense number. The member's notification will include a brief description of items seized and intended disposition or storage location of seized items.
- (5) When seizing tangible property or commercial quantities of fish or wildlife, an accurate description including make, model, serial number, color, size and/or other identifying characteristics shall be documented on the Property Receipt (FWC/DLE-029). When seizing fish, wildlife, or other natural resources, an accurate description including species, size and

quantity and disposition shall be recorded on the Citation (FWC/DLE-025) or Official Warning (FWC/DLE-065).

- (6) Provide a Property Receipt (FWC/DLE-029) and a copy of the Citation (FWC/DLE-025), if issued, listing the items seized to the person from whom the evidence or property was taken. If the person refuses to sign the Property Receipt (FWC/DLE-029), the sworn member shall write "**REFUSED TO SIGN**" in the signature location.
- (7) Submit a signed copy of the Property Receipt (FWC/DLE-029) along with a copy of the Citation (FWC/DLE-025), as applicable, to the Evidence Custodian in accordance with regional procedures.
- (8) When placing items into temporary evidence storage, members will attach the Evidence Chain of Custody Tags (FWC/DLE-074), or other approved chain of custody tags/containers to each numbered item of evidence or container of seized property which is retained by the agency. Each separately packaged item seized must include a Chain of Custody Tag (FWC/DLE-074) or other approved chain of custody tags/containers.
- (9) Secure all collected evidence and seized property at a Division-approved storage facility prior to the end of a member's shift.
 - (a) Ensure the Evidence Custodian or alternate is notified by a pre-determined method when evidence is placed in temporary evidence/property storage facilities.
 - (b) Notify an Evidence Custodian if temporary storage is full or not available.
 - (c) If an Evidence Custodian is not available, contact a supervisor for guidance.
 - (d) If Evidence is placed at an approved non-FWC facility, a copy of the paperwork shall be turned in to the Area's Evidence Custodian as soon as possible but no later than 72 hours after placement.
- (10) Request an NCIC/FCIC check on all seized property and recovered items with identifying numbers as soon as practicable and document findings on the Incident Summary Report Narrative (FWC/DLE-045A).
- (11) Obtain approval from a supervisor prior to seizing a vessel, vehicle, outboard motor, trailer, or aircraft. Consult and follow Division General Order 09, *Vehicle and Vessel Towing and Impoundment* for impoundment procedures.
- (12) Deliver perishable items of evidence or seized property to a secure refrigerated storage facility in a timely manner to ensure the preservation of the evidence in accordance with the FDLE Crime Laboratory Evidence Submission Manual and/or the Division's Evidence Manual.
- (13) Suspected or known hazardous materials will not be packaged, transported or stored. Hazardous materials shall not be stored in a Commission storage facility. Hazardous material samples will be collected by a governmental hazardous materials team or their contractor(s).
 - (a) Hazardous materials are defined as any chemical or biological agent which, after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any person, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction), or physical deformations in such persons or their offspring.

E The Communications Center

- (1) Upon notification of a seizure, a Duty Officer will record the information into the Computer Aided Dispatch (CAD) System. The information will include:
 - (a) Brief description of the evidence seized
 - (b) Intended storage location

- (2) At the request of the Evidence Custodian the Duty Officer Supervisor or designee will provide the Evidence Custodian at each Facility with a CAD generated report of all seizures made since the last update.

3 PROCEDURES

A Photographs, Digital, and Electronic Media

- (1) Photographs, videos, and digital/electronic records seized as evidence shall be listed on a property receipt, assigned an evidence number, and handled as evidence.
- (2) All digital data taken/recorded by members shall be documented using the Incident number, time, location, photographers name and employee's identification number as the first image taken for each separate incident number.
- (a) Once digital data (video, photographic, or audio) of evidentiary value (i.e. pictures of evidence, crime scene photos, boating or hunting accident photos) are recorded on a digital storage device, the photographer shall maintain custody of the digital storage device until it is submitted to an Evidence Custodian. The Evidence Custodian will transfer the images to a non-rewriteable optical disc or other approved digital media storage device to preserve the digital evidence. The image transfers shall be completed using only properly licensed software. The Evidence Custodian will not alter or enhance any digital data transferred to an optical disc or other approved digital media storage device.
1. If the Evidence Custodian has a computer and hard drive permanently set up inside the evidence facility, the Evidence Custodian may store digital data of evidentiary value on that computer's hard drive instead of transferring the images to an optical disc. Under these circumstances, the Evidence Custodian is responsible for backing up the digital evidence library on the computer's hard drive to an optical disc or other portable digital storage device, which shall be stored securely inside the evidence facility. Back-up of the digital evidence library shall take place within 72 hours of adding digital data to the library, or on a quarterly basis if no additions to the library were made.
- (b) Members with assigned digital recording devices will be trained on their use.
- (c) No member will alter or enhance any digital data submitted for evidence.
- (d) Transferring or duplication of evidentiary digital data should be done by the seizing member, the Evidence Custodian, or their designee in accordance with the manufacturer's instructions.
- (e) Once the digital data has been transferred to an optical disc for evidentiary purposes, the digital storage device will be cleared and returned to the submitting officer.
- (3) Photographs of illegally taken wildlife, freshwater fish, or saltwater fish that have been documented in accordance with Section 3 (Procedures), subsection E *Seized Fish and Wildlife*, bullet (3) of this General Order as permitted by s. 379.3381, F.S., shall be attached to the Incident Summary Report Narrative (FWC/DLE-045A) to be filed as part of the incident documentation and are not required to be submitted to the Evidence Custodian for transfer to a CD-ROM.

B Diagram of a Crime Scene

- (1) If appropriate, or directed by a supervisor, a member will diagram the location of evidence found at the scene. The diagram should include all critical dimensions of the scene so that an accurate reconstruction of the incident can later be accomplished.

C Photos of Defendants

- (1) Photos may be taken only for court ID or other investigative or evidentiary purposes.
- (2) Pictures of defendants shall not be posted on public web sites, etc.

D Chain of Custody

- (1) Chain of Custody will be maintained on all seized items being held as property or evidence. Each separately packaged item will include a separate Chain of Custody Tag (FWC/DLE-074).
- (2) The Evidence Custodian and the member checking out an item will sign and date the Evidence Chain of Custody Tags (FWC/DLE-074) and the Property Receipt (FWC/DLE-029).
- (3) Any change of custody will be documented on the Property Receipt (FWC/DLE-029) and attached Chain of Custody Tag (FWC/DLE-074). The attached Chain of Custody Tag must stay with the item and be signed at each transfer with the receiver's name and signature, while a signed copy of the Property Receipt must be returned to the Evidence Custodian.
 - (a) The Chain of Custody Tag (FWC/DLE-074) will document the following:
 1. The receiver's name and signature,
 2. The date, time, method of transfer, and purpose of the new storage location;
 3. The reason for the transfer;
 4. When applicable, the name and location of the laboratory, synopsis of the original incident, and the examinations requested;
 5. Date and time of receipt in the laboratory; and
 6. The name and signature of the person in the laboratory receiving the evidence.
 - (b) The transporting member will then immediately return the Property Receipt (FWC/DLE-029) to the Evidence Custodian for inclusion in the evidence log documenting the transfer of storage.

E Seized Fish or Wildlife

- (1) Members shall seize all fish and wildlife which are necessary for the prosecution of an offense or if required by the court.
 - (a) Members shall document all live seized fish and wildlife which is released alive on the Citation (FWC/DLE-025) or the comment section of the Official Warning (FWC/DLE-065) Completion of a property receipt is not required in these situations.
 - (b) Sworn members dealing with fish and wildlife that are neither contraband nor evidence may exercise their discretion by taking "no action" in accordance with General Order 49, *Community-Oriented Policing Philosophy and Strategic Planning*, Section 2 (Responsibilities). The member may also issue an Official Warning (FWC/DLE-065) and not seize the wildlife or fish.
- (2) Members may destroy or donate dead fish and wildlife if there is a court order for destruction or donation. For purposes of this General Order, donation may also include the transfer to another unit of state or local government for official use in accordance with s. 379.338 (1), F.S.
- (3) Members shall properly document and photograph all fish and wildlife that is released live, donated or destroyed upon seizure or prior to disposition pursuant to a court order, if applicable. Photographs of fish and wildlife shall be attached to the Incident Summary Report Narrative (FWC/DLE-045A) and include the following information:
 - (a) A written description of the wildlife, freshwater fish, or saltwater fish alleged to have been illegally taken
 - (b) Name of the violator
 - (c) Date the photograph was taken

- (d) Location where the alleged illegal taking occurred
 - (e) Offense number and citation number
 - (f) Name of the investigating member
 - (g) Name of the photographer
- (4) Documentation pursuant to Section 3 (Responsibilities), subsection E, *Seized Fish or Wildlife*, bullet (3) (a) – (g) of this General Order shall be made under oath by the investigating member, and the photograph shall be identified by the signature of the photographer.
 - (5) All seized property or evidence not released, donated or destroyed shall be retained and stored in an evidence facility.
 - (6) Document all seized items turned over to an Evidence Custodian on a Property Receipt (FWC/DLE-029).
 - (a) Members are not required to document fish or wildlife returned alive on a property receipt.
 - (b) Non-commercial quantities of fish and wildlife shall be documented on the Citation (FWC/DLE-025) and an Incident Summary Report Narrative (FWC/DLE-045A).
 - (c) Commercial quantities of fish and wildlife shall be documented on a property receipt.
 - (7) Section 379.3381 Florida Statutes states that in the prosecution of a violation of chapter 379 F.S., any other chapter, or rules of the Florida Fish and Wildlife Conservation Commission, a photograph of illegally taken wildlife, freshwater fish, or saltwater fish may be deemed competent evidence of such property and may be admissible in the prosecution to the same extent as if such wildlife, freshwater fish, or saltwater fish were introduced as evidence.
 - (a) Photographs of illegally taken wildlife, freshwater fish, or saltwater fish shall be in accordance with Section 3 (Procedures), subsection E *Seized Fish and Wildlife*, bullet (3) of this General Order.
 - (b) Such photographs shall be attached to the Incident Summary Report Narrative (FWC/DLE-045A) to be filed as part of the incident documentation. A copy of the completed Incident Summary Report Narrative (FWC/DLE-045A) documenting the circumstances of the case and a copy of the photos shall be provided to the Court in a timely manner.
 - (8) If the State Attorney's Office in a particular jurisdiction does not require the seizure of all fish and wildlife in over-the-bag-limit cases, members making over-the-bag-limit cases will properly document and photograph all the fish and wildlife. Officers may then allow the violator to retain the legal limit.
 - (a) Members shall seize enough of the fish or wildlife to prove the over-the-bag-limit violation.
 - (b) If the State Attorney's Office in a particular jurisdiction does require the seizure of all fish and wildlife in over-the-bag-limit cases, the member will seize all fish and wildlife.
 - (9) In instances when the member is unable to photograph the evidence, all of the evidence shall be seized and retained.
 - (10) Members may seize as evidence fish and wildlife taken from a suspect in the course of committing other violations such as trespass.
 - (11) Destruction or Donation of Fish and Wildlife as permitted by court order.
 - (a) Members will complete the Evidence & Forfeited Property Disposition (FWC/DLE-028A) for any destruction, donation, or disposal of dead fish or wildlife, unless destruction has been documented on the Citation (FWC/DLE-025) and/ or Property Receipt (FWC/DLE-029).
 - (b) Fish or wildlife donated or sold for human consumption must be of a good quality.

- (c) Discretion should be used in the method of destruction for fish or wildlife. Seized dead fish or wildlife shall not be destroyed or disposed of in front of the defendant(s). They shall be returned to the food chain out of the view of the public or destroyed at an approved landfill.
- (d) If possession of a species of fish or wildlife is unlawful, it cannot be donated and must be disposed of as prescribed in Section 3 (Procedures), subsection E *Seized Fish or Wildlife*, bullet (11) (c) of this General Order.

(12) The sale of commercial product:

- 1. If a member seizes commercial saltwater product suitable for sale, the member shall immediately contact a supervisor to initiate the sales process.
- 2. For additional information regarding the sale of commercial saltwater product, refer to the Division's Evidence Manual.

F Storage of Seized Live Evidence or Property

- (1) The constructive seizure of live evidence or property requires prior supervisory approval.
- (2) The welfare of the resource being seized as well as the safety of others must be considered when determining the storage of live evidence or property. In some cases constructive seizure may be the best option available.
- (3) If the approved Division facility is not adequate, an off-site location approved by the Regional Commander will be selected and monitored by the Evidence Custodian or designee. All required documentation will be maintained in the Regional Evidence Log indicating the off-site location and reason for the off-site storage. The Evidence Chain of Custody Tags (FWC/DLE-074) will be maintained with the seized item(s), if feasible.
- (4) In all cases, photographs are to be taken of the seized live evidence or property unless approved by a supervisor due to equipment failure or special circumstances. The circumstances shall be documented on the Incident Summary Report (FWC/DLE-045).

G Federal (NOAA) Cases

- (1) Evidence shall be handled in accordance with the Cooperative Enforcement Agreement between the United States Department of Commerce National Oceanic and Atmospheric Administration (NOAA) and the Florida Fish and Wildlife Conservation Commission Division of Law Enforcement.
 - (a) Evidence associated with cooperative enforcement action shall be handled as per this General Order, except that the evidence may be turned over to a NOAA representative at any time. Written documentation of the transfer is required on a Property Receipt (FWC/DLE-029).
 - (b) Evidence associated with cooperative enforcement action may be destroyed with written authorization from a NOAA representative and documented on the Evidence & Forfeited Property Disposition form (FWC/DLE-028).

H Firearms and Weapons

- (1) All firearms will be rendered safe upon seizure.
 - (a) Firearms will be secured with a device that prevents the action from closing and that allows for a quick visual inspection that the firearms is safe.
 - (b) Muzzle loaders will not be stored in an evidence facility unless unloaded, by removing the primer, powder, and projectile from the muzzle.
- (2) Firearms will be locked in a safe, gun locker, or other lockable compartment or storage device within an Evidence/Property Facility.
- (3) A Supervisor may direct that a firearm be delivered to the appropriate agency for relevant

testing.

I Seized Cash, Valuable Jewelry, Drugs

- (1) Members will immediately notify an Evidence Custodian when exceptional, valuable, or sensitive items of evidence or property, including but not limited to cash, valuable jewelry, and drugs, are seized or retained for safe keeping. If an Evidence Custodian or an alternate is not on duty, a supervisor shall be notified. These items, requiring additional security, will be locked in a safe, gun locker, or other lockable compartment within an Evidence/Property Facility.
- (2) For additional information regarding seized cash, valuable jewelry, or narcotics refer to the Division's Evidence Manual.

J Lost and Abandoned Property

- (1) When lost or abandoned property is found or turned over to a sworn member, a sworn supervisor will be contacted. If the supervisor believes the property has no intrinsic value, an Incident Summary Report (FWC/DLE-045) including photograph(s) and description of the property will be submitted to the appropriate Captain for review.
- (2) Lost or abandoned property shall be turned in to the appropriate field office having an evidence/property storage facility, or to a local law enforcement agency in accordance with Chapter 705, Florida Statutes. An offense number shall be assigned and Property Receipt (FWC/DLE-029) completed.
- (3) If the property is determined to be "abandoned property" and has no value, the Area Captain may authorize destruction of the property, following compliance with all procedures required under Chapter 705, Florida Statutes.
- (4) For towing and impoundment of abandoned vehicles, refer to General Order 09, *Vehicle and Vessel Towing and Impoundment*.

K Procedures for a Vessel, Vehicle, Outboard Motor, Trailer, Aircraft, or Cash Found on Public Property

- (1) When lost or abandoned property is turned over to or recovered by the Division, whether the property is actually taken into custody or is handled as a constructive seizure, an Initial Seizure Report (FWC/DLE-018) will be sent to the appropriate Deputy Director within 24 hours.
- (2) If the item is of such a nature that it cannot be easily removed or if the property is being stored by the finder, the Division shall constructively seize the property and handle per section 705.103(2), F.S. The member shall indicate the appropriate action on the Property Receipt (FWC/DLE-029). See the Division's Evidence Manual for additional information.

L Procedures for a Vessel, Vehicle, Outboard Motor, Trailer, Aircraft or Cash Found on Private Property

- (1) A person who wants to claim property found on private property or beyond the boundaries of the State of Florida may request an inspection of the property to determine that the property has not been reported stolen or found to be contraband. The finder should then be instructed that if they want to claim this property, they will have to do a public records request through DHSMV to acquire the owner's information. They should then file a claim in a court of competent jurisdiction in the county where the property was found. Section 705, Florida Statutes, cannot be used to perfect ownership of property found on private property or outside the boundaries of the State of Florida. Information obtained from FCIC/NCIC shall not be released to the public.
 - (a) For lost/abandoned vehicles/vessels, the claimant must notify the owner of the amount owed for removal/disposal and DHSMV if not reimbursed per 705.103(4), Florida Statutes.

M Recovered Stolen Property

If practicable, stolen property will be turned over to the law enforcement agency having jurisdiction.

Recovered stolen property should never be left unattended after being confirmed as stolen. In the event a member is unable to turn over the recovered stolen property to another law enforcement agency, they shall adhere to the following:

- (1) Immediately notify a supervisor and request that a Duty Officer notify the originating law enforcement agency by teletype. A copy of the teletype message shall be made part of the investigative file.
- (2) Within seven days of recovery, the seizing member will ensure notification of the owner or victim and the insurer. In addition, if the recovered property is a vessel, vehicle, outboard motor, trailer, or aircraft, the member shall notify the registered lien-holder. The initial notification may be made by telephone or in person, but those persons found to have a financial interest in the property must also be notified in writing. This notification may be delayed if the owner is a suspect in a continuing investigation. The notification shall be documented in the incident summary report.
- (3) If the stolen property is a vessel, vehicle, outboard motor, trailer, or aircraft and the person in possession or claiming ownership at the time of the recovery has a title that a reasonable person would believe identifies the property or proof of purchase to reflect a "good faith purchase," then the vessel, vehicle, outboard motor, trailer, or aircraft shall remain in the custody of the Division of Law Enforcement or under constructive seizure. If ownership of the stolen property cannot be determined, the member shall contact the Office of General Counsel for assistance.
- (4) A recovered stolen vessel, vehicle, outboard motor as outlined in s. 860.20 F.S., or trailer with the manufacturer's identification number altered or removed may not be released from the Division's custody until DHSMV has been notified and the correct or state-assigned number on the replacement decal has been placed on the property to be returned.

N Disposition – All items shall be disposed of only by one of the following methods

- (1) Delivered to a specific person, entity or otherwise disposed of, in compliance with a court order.
- (2) Returned to the Owner:
 - (a) A reasonable effort will be made to identify and notify the owner or guardian of property within the Division's custody, including but not limited to telephone, certified letter, or direct contact. Contact efforts should be documented on the Incident Summary Report (FWC/DLE-045).
 - (b) Any evidence or seized property returned to the owner or legal representative shall be documented on a Release for Return Property (FWC/DLE-028B).
 - (c) If the owner or legal representative refuses to sign the Release for Return Property (FWC/DLE-028B), the sworn member should write "**REFUSED TO SIGN**" in the signature location and the refusal should be witnessed by another sworn member. In the event another sworn member is unavailable, any member shall serve as witness.
- (3) Unclaimed Evidence:
 - (a) If the property is a vehicle, vessel, outboard motor, trailer, or aircraft and has a value of \$200 or more, an Unclaimed Evidence Action Notice (FWC/DLE-033) will be completed and submitted to the appropriate Deputy Director. The Deputy Director will determine if the property will be disposed of or assigned for use.
 1. For vehicles and vessels subject to Florida registration or titling requirements, documentation of the destruction including photographs and notification to DHSMV for title cancellation is required if the vehicle/vessel is destroyed.
 - (b) If the vehicle, vessel, outboard motor, trailer, or aircraft has a value less than \$200, the item may be destroyed the same as "abandoned property" with approval of the appropriate Regional Commander or designee.

(c) Other unclaimed evidence shall be handled pursuant to section 705.105, Florida Statutes.

O Forfeiture Policy for Seized Property Under Chapter 379, Florida Statutes and as they relate to wildlife and fisheries cases as established in sections 379.337 and 379.339, Florida Statutes

- (1) A notice of forfeiture shall NOT be served on the violator at the time of the offense, even if the property is seized at that time. A Property Receipt (FWC/DLE-029) is required to be completed with a copy being provided to the defendant. The officer and his/her supervisor are responsible for conducting an investigation (diligent inquiry) to determine the registered owner of all seized vessels and vehicles. The officer or supervisor, within five (5) working days of the seizure of the property, shall send, by certified mail, a notice of forfeiture to all registered owners and lien holders. (See the Notice of Seizure and Intent to Forfeit Form, FWC/DLE-114).
- (2) As soon as feasible after the wildlife or fisheries arrest, the officer or supervisor will request the Department of Highway Safety and Motor Vehicles at (850) 617-2000 to flag the vessel or vehicle in the DHSMV title computer as "Under Investigation" by electronically submitting an Initial Seizure Report (FWC/DLE-018), with a notification in the narrative indicating the vessel or vehicle is or will be seized upon conviction and completion of the forfeiture process. The regional office shall also fax a completed copy of the Initial Seizure Report (FWC/DLE-018), to the appropriate Deputy Director of Operations who shall notify the Division's Legal Counsel.
- (3) The arresting sworn member or their supervisor shall, within 14 calendar days of the date on which the property was seized, file a copy of the Notice of Seizure and Intent to Forfeiture form (FWC/DLE-114) and a Final Order of Forfeiture form (FWC/DLE-028) with the court and the State Attorney's Office handling the related criminal charges.
- (4) If the registered owner submits a request for a hearing, the officer or supervisor shall be responsible for providing a copy of the request to both the court and the State Attorney's Office.
- (5) The arresting sworn member or supervisor are responsible for ensuring that the State Attorney's Office provides notice to the registered owner, who has requested a hearing, of the date, time, and place of the hearing. If the State Attorney has failed to provide notice, then the arresting sworn member or supervisor shall provide notice to the registered owner.

P Forfeiture Procedures – Florida Contraband Forfeiture Act – 932.701 Florida Statutes

- (1) Settlement of any forfeiture shall be consistent with the mandates of Florida Statutes, Division General Orders, and Commission policies and procedures. Agreements to forfeit seized property shall not be requested as a plea negotiation in lieu of criminal charges.
- (2) Procedures for Sworn Members:
 - (a) After seizure of property subject to forfeiture under the Florida Contraband Forfeiture Act (Sections 932.701 – 932.704, Florida Statutes) a sworn member has a maximum of three calendar days to submit case-file information to the appropriate Deputy Director to determine whether to proceed with forfeiture action.
 - (b) The seizing sworn member shall notify all interested parties that the property is being considered for forfeiture by using the Notice of Seizure and Intent to Forfeit (FWC/DLE-114) immediately after the seizure. This form shall only be used to notify interested parties on or about the seized property at the time of the seizure. A certified letter shall be utilized to notify any other interested parties or for any subsequent notification.
- (3) Procedures for Sworn Supervisors and Members
 - (a) Within five working days, a notice of intent to forfeit shall be published once a week for two consecutive weeks in a newspaper of general circulation, according to section 50.011, Florida Statutes, in the county where the seizure occurred, unless directed otherwise by the Attorney General's office.
 - (b) Within five working days, a notification of intent to forfeit by certified mail (return receipt) Notice of Seizure and Intent to Forfeit (FWC/DLE-114) shall be sent to all interested

parties informing of the right to a "post seizure adversarial hearing," including those parties previously notified by the On-Site Seizure & Forfeiture Notification (FWC/DLE-115).

- (c) Within seven days after the seizure, a draft of the forfeiture affidavit along with supporting documents that have been reviewed and approved by the appropriate Captain shall be faxed to the Office of the Attorney General.
 - (d) Within 20 days after the seizure, a Request for Forfeiture (FWC/DLE-151) with the supporting documents, as listed on the reverse side of the request form shall be submitted via overnight mail to the attention of the Office of the Attorney General with a copy to the appropriate Deputy Director.
- (4) For information regarding Property forfeited to the Florida Fish and Wildlife Conservation Commission, refer to the Evidence Manual.

Q Forfeiture Proceedings for Vehicles, Vessels, Outboard Motors and Trailers with altered or removed Identification Numbers

- (1) Forfeiture proceedings for vehicles, vessels, outboard motors, and trailers with altered or removed identification numbers seized as evidence shall not be initiated until:
- (a) All criminal proceedings are concluded, and
 - (b) The member has exhausted all reasonable efforts and remains unable to locate the rightful owner.

R Federal Asset Sharing

- (1) For information regarding federal asset sharing procedures, refer to the Evidence Manual.

S For information regarding Storage of a Seized Vehicle, Vessel, Outboard Motor, Trailer, or Aircraft, refer to the Evidence Manual

T Division Evidence/Property Storage Rooms

- (1) All persons are restricted from access into the evidence and seized property storage areas unless escorted by the Evidence Custodian or Alternate Evidence Custodian.
- (2) Access into the evidence and seized property storage areas shall be documented on the Evidence Room & Compound Entry Log (FWC/DLE-336) that is to be maintained within the evidence room.
- (3) With approval from the Regional Commander, evidence may be stored at other law enforcement storage sites that meet accreditation standards.
- (4) For additional information regarding Division Evidence/Property Storage Rooms, refer to the Evidence Manual.

U Temporary Storage Areas for Evidence and Seized Property

- (1) The temporary storage areas (lockers, freezers, refrigerators) will be located in an area that is not accessible to the general public.
- (2) Temporary storage areas (lockers, freezers, refrigerators) are for temporary storage of seized items until an Evidence Custodian can move the items into the permanent storage area. There must be a separate locking system for each seizure held in the temporary storage area.
- (3) Evidence lockers, freezers, refrigerators in the temporary storage area shall be permanently secured to prevent removal.
- (4) All Division offshore boats, as defined by General Order 30, are designated as temporary storage areas.
- (5) Temporary storage areas not in a Division facility must be approved by the Regional Commander prior to use.

V Permanent and Temporary Evidence and Seized Property Compounds

- (1) Evidence and property compounds are restricted areas. The Evidence Custodian or Alternate Evidence Custodian shall escort persons entering the evidence and seized property compound. Access shall be documented in the Evidence Room & Compound Entry Log (FWC/DLE-336). All evidence and seized Property Compounds are to remain locked and secured.
- (2) The Temporary Storage Compound may be part of the Division's evidence and seized property compound if additional fencing separates it.

4 FORMS

FWC/DLE-003	Lost or Abandoned Property Certificate
FWC/DLE-018	Initial Seizure Report
FWC/DLE-025	Citation
FWC/DLE-028	Final Order of Forfeiture
FWC/DLE-028A	Evidence & Forfeited Property Disposition
FWC/DLE-028B	Release for Return Property
FWC/DLE-029	Property Receipt
FWC/DLE-033	Unclaimed Evidence Action Notice
FWC/DLE-039A	Evidence Inspection & Audit Report
FWC/DLE-045	Incident Summary Report
FWC/DLE-045A	Incident Summary Report Narrative
FWC/DLE-065	Official Warning
FWC/DLE-074	Evidence Chain of Custody Tags
FWC/DLE-114	Notice of Seizure & Intent to Forfeit
FWC/DLE-115	On-Site Seizure & Forfeiture Notification
FWC/DLE-151	Request for Forfeiture Proceeding
FWC/DLE-336	Evidence Room & Compound Entry Log