


**FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION**

**DIVISION OF LAW ENFORCEMENT
GENERAL ORDERS**

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TITLE SEARCHES, RAIDS, INSPECTIONS AND HIGHWAY CHECKPOINTS	EFFECTIVE DATE July 21, 2008
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**1
POLICY**

- A** It is the policy of the FWC Division of Law Enforcement that all searches and inspections are to be conducted within the provisions of the Fourth Amendment of the United States Constitution, Article I, Section 12 of the Constitution of the State of Florida, and Chapters 379 and 901, Florida Statutes.
- B** It is further the policy of the Division that raids or assisting other agencies with raids will only be conducted when it is within the scope of the Division's mission and when prior approval from the Division Director or designee has been obtained.

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RESPONSIBILITIES**

A Division

- (1)** It is the responsibility of the FWC Division of Law Enforcement to provide guidance and directions to sworn members when conducting searches, raids, inspections and highway checkpoints.

B Members

- (1)** The Fourth Amendment of the United States Constitution prohibits unreasonable searches. Sworn members of the Division have taken an oath to uphold the Constitution. If any sworn member has a question as to whether or not a search is lawful, the sworn member shall contact a supervisor. Any doubt should be resolved in favor of the individual's reasonable expectation of privacy.
- (2)** Sworn Members are responsible for being familiar with the local requirements and procedures

for Search Warrant affidavits based on their county and judicial circuit of assignment.

- (3) Sworn members shall not exercise police authority or enforcement profiling based solely upon an individual's race, ethnic origin, gender, age, sexual orientation or income status.

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PROCEDURES

A Obtaining Search Warrants

- (1) Any sworn member who intends to obtain a search warrant shall contact and advise a sworn supervisor of their intent.
- (2) The sworn member should provide the following information to the sworn supervisor:
 - (a) The name and address of the primary suspect and all known associates related to the investigation.
 - (b) The type of investigation.
 - (c) The location of the prospective search.
 - (d) The proposed date and time of execution of the search warrant.
 - (e) The assigned incident summary number.
- (3) If supervisory approval is granted, the sworn member shall complete the affidavit and all supporting documents. The Affidavits should be typed when feasible.
- (4) A sworn supervisor shall review the completed affidavit and supporting documents to ensure they contain the statement of facts and circumstance in accordance with Chapter 933, Florida Statutes, establishing:
 - (a) A specific description of the place to be searched so that there can be no questions as to its whereabouts.
 - (b) A statement that evidence of a felony, fruits of a crime, instrumentalities used in the commission of a crime, property held or possessed in violation of the fish and wildlife laws or that is involved in an investigation of the FWC Division of Law Enforcement, or contraband may be found at the place to be searched.
 - (c) A statement of the name of the person or persons who occupy or control the premises, if known.
 - (d) A list of the items or classes of items to be searched for and seized if found.
- (5) The sworn member shall present the affidavit to the designated Assistant State Attorney for review and approval.
- (6) An additional Search Warrant form may be required to be completed depending on the county.
- (7) Upon approval of the Assistant State Attorney, the warrant is ready to be signed.
- (8) The search warrant should be executed as soon as practicable following signature by a judge and, in all cases, must be executed and returned within the ten-day period specified in Section 933.05, Florida Statutes.

B Execution of Search Warrants

- (1) The party executing the Search Warrant must be a designated officer as directed in the warrant; however, other law enforcement personnel or persons necessary to aid in the execution of the warrant may assist the designated officer.
- (2) Sworn members serving a Search Warrant are required to knock and announce their authority and presence. Generally, a reasonable knock followed by "State Law Enforcement with a

Search Warrant” is sufficient. In most cases, this announcement must be made before sworn members cross the threshold. If sworn members are refused admittance to the house, they may break in any inner door, outer door, or any part of the house or thing therein in order to gain entry (Section 933.09, Florida Statutes).

- (3) The Florida Supreme Court has given law enforcement officers serving a Search Warrant four “no-knock” exceptions:
 - (a) The persons within already know of the officer’s presence, purpose, and authority; or
 - (b) The officer justifiably believes that persons within are in danger of immediate bodily harm; or
 - (c) Where the officer’s life would be greatly endangered by knock and announce procedures; or
 - (d) Where those within are made aware of the presence of someone outside and are then engaged in activities, which justify the officer’s belief that an escape or destruction of evidence is now being attempted.
- (4) There is no set time a sworn member must wait from the time of announcement until it is concluded that admission is being denied and forcibly enter. Some cases have said one minute to one minute fifteen seconds is not unreasonable. Any commotion inside the premises, which would lead sworn members to reasonably conclude occupants are attempting to destroy evidence, gives sworn members authority to immediately break in after announcing their presence and authority.
- (5) Sworn members must consider the type of evidence for which they are searching in determining how long they should wait before breaking in. For instance, sworn members searching for a stolen outboard motor would wait longer before breaking in than sworn members in search of evidence easily destroyed or disposed of.
- (6) The party executing the Search Warrant shall read the Search Warrant to the person being served and a duplicate copy of same shall be given to the person being served. In cases where the premises are unoccupied, the duplicate copy shall be conspicuously posted on the premises.
- (7) Execution of the Search Warrant shall be carefully planned out by the sworn supervisor in charge. The supervisor in charge shall also ensure a sufficient number of sworn members are available in the execution for proper service and safety. The premises shall be entered in a tactical manner that creates the least risk to the sworn members serving the Search Warrant.
- (8) Only sworn members wearing issued protective vests (body armor) and uniforms will execute Search Warrants.
- (9) The local sheriff’s office should be notified prior to the execution of a Search Warrant for possible assistance and to obtain additional criminal intelligence.
- (10) Sworn members are responsible for searching, pursuant to the Search Warrant.
- (11) Persons on the premises or persons who arrive during the search may be searched if the warrant so specifies.
- (12) Sworn members shall search only in the area wherein the property described in the warrant could be hidden (e.g., cannot search dresser drawers for stolen boat motors).
- (13) While searching, the sworn member should ensure that the place searched is left in a similar condition as it was prior to the execution of the warrant. Unnecessary disturbance of property is **not** permitted.
- (14) When the search is completed a copy of the Property Receipt (FWC/DLE-029) and the inventory section of the search warrant, listing all of the items seized shall be given to the person(s) named in the warrant or to a person in control of, or living on the premises. If no person is present at the premises when the warrant is served, a duplicate copy of the Property

Receipt and a copy of the Search Warrant shall be left in a conspicuous place on the premises (Section 933.11, Florida Statutes).

- (15) Another copy of the Property Receipt shall promptly be returned to the judge issuing the warrant.
- (16) The property seized under authority of a Search Warrant should be brought before the judge having competent jurisdiction. Generally, it is sufficient to make the return to the judge's office with the Search Warrant and Property Receipt (Section 933.12, Florida Statutes).

C Raids

- (1) All raids must have prior approval from the Division Director or designee.
- (2) The Division Director or designee shall appoint a supervisor to act as the Raid Coordinator.
- (3) The Raid Coordinator must remain aware of the risks to the person(s) involved. The safety of all persons is a primary concern. The operation will be terminated or suspended when risks to any person(s) reach an unacceptable level.
- (4) Whenever members are assigned to assist with raids for whatever reason, they shall adhere to the following:
 - (a) A uniformed sworn member from the area where the raid is to be conducted shall, if at all possible, be assigned. This sworn member will stay with the detail from the time it starts until being released by the Raid Coordinator. The uniformed sworn member will not be released until the suspect(s) and the location are secured.
 - (b) All sworn members of the arrest or raid team shall wear a protective vest (body armor).
 - (c) Sworn members shall be in uniform or in approved clothing as determined by the Raid Coordinator that clearly identifies the member as law enforcement personnel.
 - (d) Entry is usually accomplished by a three or four member entry team, followed by members necessary to maintain safety and security.
 - (e) In the event of a high risk situation such as a hostage or barricaded subject, the law enforcement agency having jurisdiction shall be notified to provide negotiation assistance.
 - (f) At the point of entry, all inner perimeter personnel and the cover units will be assigned specific areas to provide maximum protection for the entry team.
 - (g) When it becomes necessary to physically make an arrest as a result of a raid, sworn members shall use only that force which is reasonable and necessary to defend themselves or others in order to affect the arrest.
 - (h) Sworn members need not retreat or desist from efforts to affect a lawful arrest because of resistance or threatened resistance.
- (5) The Raid Coordinator or designee shall be the Lead Sworn Member.
 - (a) The Raid Coordinator is responsible for communicating both internally and externally with the specialized support units involved.
 - (b) The Raid Coordinator shall solicit guidance from the State Attorney's Office if there is any doubt or questions related to possible legal issues.
 - (c) The Raid Coordinator may assign false identification to team members with approval of the appropriate Deputy Director. If false identification is assigned, member confidentiality shall be maintained.
 - (d) The Raid Coordinator shall confirm the target.
 - (e) As the raid team moves, the Raid Coordinator should constantly monitor and provide additional members as needed.

- (f) Once the decision is reached that the raid is completed, the Raid Coordinator shall make certain that the building, structure or vessel is properly secured before leaving it unattended.
 - (g) The Raid Coordinator shall make certain that necessary medical assistance is provided for the injured.
 - (h) The Raid Coordinator shall provide close supervision and ensure that an operational plan is used.
- (6) The operational plan should be documented on an Incident Summary Report (FWC/DLE-045) and include the following:
- (a) Describe the nature of the action
 - (b) Describe the location and confirm the target location
 - (c) Describe the surrounding area (gates, fences, etc.)
 - (d) Describe security (alarms, locks, dogs, etc.)
 - (e) Identification and physical description of suspect(s)
 - (f) Background information (FCIC/NCIC, military history, mental history, firearms check, etc.)
 - (g) Specific intelligence
 - (h) Names of personnel
 - (i) Equipment to be utilized including specialized equipment, expense funds, etc.
 - (j) Assignments and teams for relief, backup, and support services (individual, surveillance, entry, arrest, search, covering, misc teams)
 - (k) Strategies and tactics for approaching, entering, securing, and leaving the target area
 - (l) Briefing of each team
 - (m) Routine and emergency communications (frequencies, telephone numbers, signals, codes, etc.)
 - (n) Post-Raid communications and media releases
 - (o) Transportation (vehicle assignments and arrangements)
 - (p) Review of applicable policies and procedures (laws, etc.)
 - (q) Safety/Emergency/Medical procedures
 - (r) Methods and procedures of arrest (anticipated special considerations - female, juvenile, handicapped, medical, etc.)
 - (s) Post-raid activities (debriefing, media considerations and report writing assignments)

D Warrantless Searches

- (1) Search by Consent
 - (a) Sworn members may search a person or a person's property, including a vehicle or vessel, when that person gives that sworn member permission to do so. This consent can be oral or written, but must be freely given and voluntary. At any time the person can withdraw their consent to a search and the search shall cease. Any evidence or contraband found before the withdrawal of the search shall be retained. Specific consent to search the trunk of a vehicle or a locked container should be obtained.
 - (b) A Permission to Search Form (FWC/DLE-093) should be used when appropriate to add credence to subsequent testimony that consent was knowingly and voluntarily given.

(2) Stop and Frisk

(a) Florida's Stop and Frisk Law (Section 901.151, Florida Statutes) provides for the following procedures when questioning an individual prior to any arrest:

1. A sworn member having reasonable indications that a person has committed, is committing or is about to commit a violation of any state criminal law or any criminal municipal ordinance may temporarily detain the person to ascertain their identity, and the circumstances surrounding the person's presence abroad.
2. Upon such a detention, and probable cause to believe the person the sworn member has temporarily detained, is armed with a dangerous weapon and therefore offers a threat to the safety of the sworn member or any other person, the sworn member may make a "pat down" search of the person to determine if they are armed with such a weapon. The search of the person may be "only to the extent necessary to disclose, and for the purpose of disclosing, the presence of such weapon.
3. A person cannot be detained for any unreasonable amount of time or taken to any place other than the immediate area of where the stop and frisk takes place.

(b) This law does not permit a search of the person in any way designed to disclose anything but a weapon, unless there is probable cause to prompt a search for any contraband such as narcotics.

(3) Search Incident to Arrest

(a) Searches of a person incidental to a lawful arrest are authorized under Section 901.21, Florida Statutes.

(b) All persons arrested shall be searched for the protection of the sworn member, the prevention of escape, and the discovery of evidence or contraband.

(c) Sworn members shall also search the immediately accessible areas of an arrested person's vehicle or vessel for weapons and evidence. This is not considered an inventory search and would be utilized when the vehicle is not towed.

(4) Plain View

(a) Any time a sworn member observes, in plain view, evidence of a crime or contraband, and the sworn member is lawfully present in that location, the evidence or contraband shall be seized.

(5) Exigent Circumstances Search

(a) Sworn members, with probable cause, may search a person or a person's property, including a vehicle or vessel, if conditions are such that time spent obtaining a search warrant could allow the destruction of evidence, the escape of a criminal, or endangerment to the public.

E Inventory Searches

(1) Every vessel, vehicle, outboard motor, trailer, aircraft or other conveyance which is towed as the result of an accident, abandonment, seizure, incident to an arrest, or otherwise detained for storage, and which is not left in the possession of the owner or the owner's representative becomes the responsibility of the impounding sworn member.

(2) As soon as practicable, the seizing sworn member shall conduct an inventory search of each vessel, vehicle, outboard motor, trailer, aircraft or other conveyance.

(3) Inventory searches shall be conducted based on the following parameters:

(a) All locked, closed or sealed containers, boxes, luggage, briefcases, or similar devices will be opened and the contents inventoried. If any of the items observed in these containers have an individual value of \$100 or more, they are to be listed on the Division of Law Enforcement Property Receipt (FWC/DLE-029).

- (b) All cash, coins, securities, bonds, or other forms of negotiable items shall be counted and listed on the property receipt. At least two members shall count and verify the amount of these items, before the amount is listed on the property receipt.
- (c) All computer floppy disks/diskettes and CD ROMs shall be inventoried and listed on the property receipt. They should later be inspected for content, and special care should be taken to avoid any type of magnetic devices when storing these items.
- (d) All electronic equipment, which is designed to be easily removed, shall be removed, listed on the property receipt, and secured in the evidence room. Electronic equipment which is built into consoles, cabinets, bulkheads, or is not designed to be easily removed, should be listed on the property receipt, but should not be disassembled to obtain serial or model numbers, except to identify recovered stolen property.
- (e) All jewelry items, regardless of apparent value, shall be listed on the property receipt.
- (f) All firearms shall be listed on the property receipt. Firearms may be kept temporarily at Division of Law Enforcement facilities, but should be turned over to the county sheriff's office as soon as possible.
- (g) Special types of propellers, such as cleavers and choppers, shall be listed on the property receipt and should be secured in the evidence room whenever possible.
- (h) Any other item not listed above may be listed on the property receipt at the discretion of the sworn member conducting the inventory search.
- (i) Items which appear to be missing at the time of the inventory search should be noted in the narrative section of the Incident Summary Report (FWC/DLE-045). An example of this would be an empty radio bracket or empty battery box. Any other unusual conditions or observations should also be noted in detail.

F Vessel Inspections

- (1) Vessel Inspections pursuant to Section 379.3313, Florida Statutes.
 - (a) Sworn members shall have probable cause to believe the vessel was engaged in fishing "prior" to the inspection. The term "prior" shall be construed to mean:
 - 1. Actually engaged in a fishing operation;
 - 2. Returning from fishing; or
 - 3. Transporting fishery products.
 - (b) Under no circumstances shall this section be used to inspect vessels not engaging in fishing activities or transporting fishery products.
 - (c) The living or sleeping areas of a vessel and any containers stored therein shall not be subject to inspection pursuant to this section. The living or sleeping area of a vessel shall include all enclosed cabin areas such as galleys, bunk or staterooms, head or other such enclosed areas. This section does not restrict searches that are authorized elsewhere in this policy or law.
 - (d) When a sworn member inspects a vessel pursuant to this section and no violation is found, the vessel and all containers, as well as the fishery product, shall be left in the same condition as immediately prior to the inspection or as close to the same condition as possible. If necessary, sworn members may purchase ice to replace any lost during the inspection.
- (2) Vessel Inspections pursuant to Section 327.56, Florida Statutes.
 - (a) No sworn member shall board any vessel to make a safety or marine sanitation equipment inspection if the owner or operator is not aboard.
 - (b) When the owner or operator is aboard, a sworn member may board a vessel with consent

or when the sworn member has probable cause or knowledge to believe that a safety or marine sanitation equipment violation has occurred or is occurring.

- (c) A sworn member may board a vessel when the operator refuses or is unable to display the safety or marine sanitation equipment required by law, if requested to do so by the sworn member, or when the safety or marine sanitation equipment to be inspected is permanently installed and is not visible for inspection unless the sworn member boards the vessel.

G Highway Checkpoints

- (1) An operational plan shall be documented on an Incident Summary Report (FWC/DLE-045) and approved by a Regional Commander or higher in rank, prior to all vehicle highway resource checkpoint details. The operational plan shall include the scheduled dates, time frame, location of the specific checkpoint, specific purpose of the checkpoint, and be reviewed by the appropriate State Attorney having jurisdiction, prior to it being submitted to the Regional Commander.
- (2) A sufficient warning sign or notice on the highway in advance of the stop is required.
- (3) A supervisor shall be present during the vehicle highway resource checkpoint operation. The supervisor shall determine if a vehicle highway resource checkpoint shall be conducted, taking into consideration the traffic present and resulting delay to the motorist, which would result from the checkpoint. The supervisor shall also determine the vehicle selection procedure. In most cases, all vehicles should be checked for possible resource violations.
- (4) All vehicle highway resource checkpoints should be conducted during daylight hours, and during weather conditions that will not obstruct the visibility of the sworn members or present a hazard to either the sworn member or the motorist. Nighttime vehicle highway resource checkpoints may be approved, if information and intelligence indicates resource violations are taking place. If a nighttime vehicle highway resource checkpoint is performed, it must be in a well-lighted area with sufficient warning on the roadway in advance of the stop so as to reduce the threat of startling the driver.
- (5) Sworn members shall advise each driver who is detained (initially stopped) at the vehicle highway resource checkpoint of the purpose for the stop. All vehicle stops shall involve only the minimum detention necessary to accomplish the checkpoint.
- (6) All sworn members shall be in uniform during a vehicle highway resource checkpoint operation, unless otherwise authorized by a Deputy Director.
- (7) The purpose and procedures for the specific vehicle highway resource checkpoint must be consistently applied to all vehicles.
- (8) if a supervisor determines that traffic is backing up and motorists are experiencing delay, the supervisor shall direct that the vehicles be waved through the vehicle highway resource checkpoint until all traffic is cleared. The vehicle highway resource checkpoint may then be resumed.
- (9) Sworn members who have reason to believe that individuals are, or have been, fishing, hunting, or are in possession of fish or wildlife, may inspect those individuals to ensure compliance with resource protection laws and regulations. Such inspections, occurring in places where these activities normally occur, are not considered highway checkpoints.

4
FORMS

FWC/DLE-029

Property Receipt

FWCDLE-045

Incident Summary Report

FWC/DLE-093

Permission to Search

Counties/ Judicial Circuits may require different and multiple forms to apply for a Search Warrant. Members shall be familiar with local requirements.