

# Integration of Florida's Environmental Law Enforcement Functions increases Efficiency and Enhances Patrol Capability and Response Time

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Recommendations for the Law Enforcement Consolidation Task Force

presented by

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October 11, 2011

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## **Overview**

In accordance with the guidelines set by Chapter 2011-66 establishing the Law Enforcement Consolidation Task Force, the Environmental Unit Sub-Team was formed to conduct a review of the conservation law enforcement activities and assets of the Department of Agriculture and Consumer Services (DACS), the Department of Environmental Protection (DEP), and the Florida Fish and Wildlife Conservation Commission (FWC), and to evaluate if any duplication of law enforcement functions exist between the agencies.

The Environmental Unit Sub-Team has determined that the patrol of state-owned and managed lands provided by the FWC, DEP, and DACS (in particular the Conservation and Recreational Land (CARL) Officer positions and Aquaculture position) have elements that are duplicative and, in turn, has exacerbated a manpower shortage for the agencies. The duplication of functions is most notable in the existence of three separate management and support structures for the sole purpose of providing law enforcement patrol to all state-owned/managed lands and is most apparent when comparing FWC and DEP. The identified DACS positions, on the other hand, do not necessarily have a duplicative structure, but rather DACS provides duplicative management/support services for its officers at the expense of attending to the agency's primary duties and responsibilities. The DACS management support staff provides something that is already provided by both FWC and DEP while diminishing to some degree the provision of those services to DACS core functions. Consolidation of these management structures and functions into the existing structure at FWC could eliminate this duplication.

The Environmental Unit Sub-Team has also identified inefficiency with the current dispersal of patrol responsibilities among the three agencies, which leads to the appearance or even public perception of duplication of services. The inefficiency arises from having three different agencies providing separate law enforcement services based on the pretense, for law enforcement purposes, of state-owned/managed lands being divided into different types of properties (i.e., wildlife management areas, wildlife and environmental management areas, state parks, greenways and trails, coastal and aquatic managed areas, and state forests). Due to this, there may be an FWC officer patrolling a management area adjacent to a state park that is being patrolled by a DEP officer that is also adjacent to a state forest being patrolled by a DACS CARL officer. While state lands are managed differently based on their designated use, conservation law enforcement strategies remain essentially the same, independent of the prevailing land management approach. Consolidation of these artificial distinctions between all state-owned/managed lands as it relates to law enforcement services would allow a more efficient use of rank and file officers and provide a welcome opportunity to establish law enforcement coverage in areas of the state that have historically received little or no patrol due to staffing issues. The responsibilities and activities of these three agencies are closely aligned and similar enough in scope so that significant efficiencies in the delivery of law enforcement services as well as cost savings can be realized by consolidating the functions as discussed below.

## Findings

1. All three agencies have responsibility to provide law enforcement patrol, investigative, and forensic services on state-managed lands, which are frequently located within close proximity to each other.
2. The enforcement functions for each entity are established by the Legislature.
3. Investigative activities of the three agencies are similar in scope and approach.
4. The three Bureaus within the DEP Division of Law Enforcement (Park Police, Environmental Investigations, and Emergency Response) are interdependent with each other resulting in value-added services that are not present when separated.
5. Integration of DEP officers and DACS' Conservation and Recreational Land (CARL) and Aquaculture officers in the FWC Division of Law Enforcement will improve response time, increase personnel available for patrol coverage across conservation lands and state waters, and decrease the burden on local law enforcement agencies.
6. Consolidation will result in a streamlined agency with approximately 10% of sworn supervisory positions being reassigned to field positions leading to increased response time.
7. In 2008, the Office of Program Policy Analysis and Government Accountability (OPPAGA) provided the Legislature with four policy options related to environmental law enforcement. The third option was the centralization of environmental law enforcement under one state agency that currently has this function. The joint agency recommendation is a variation of the third option, capturing all of the advantages while minimizing adverse impacts.

## Recommendations

The Environmental Unit Sub-Team recommends the following:

1. Integration of the DEP Division of Law Enforcement, in its entirety, into the FWC Division of Law Enforcement. (175.5 positions and additional support positions)
2. Integration of the DACS Office of Agricultural Law Enforcement officers assigned to CARL Patrol and the investigator responsible for commercial aquaculture violations into the FWC Division of Law Enforcement. (15 positions)
3. Enact statutory and administrative code changes where appropriate to integrate the functions.

## Conclusion

Consolidating the three agencies will result in a highly effective, more efficient state law enforcement division with complete jurisdiction over the natural and historic resources and publicly-owned and managed lands and waters of the state having enhanced patrol capability and response presence.

## Detailed Findings

### 1. Consolidation of environmental law enforcement agencies may require some statutory and administrative code changes, but the enforcement functions are already established by the Legislature

While the enforcement entity of the Fish and Wildlife Conservation Commission is established in the Constitution of the State of Florida, the Commission's Division of Law Enforcement is legislatively established in s. 20.331 (4)(a), Florida Statutes. Additionally, s. 20.331 (7)(e), Florida Statutes, grants the FWC Division of Law Enforcement "...such powers, duties, responsibilities, and functions as are necessary to ensure enforcement of laws and rules governing the management, protection, conservation, improvement, and expansion of wild animal life, freshwater aquatic life, and marine life resources. In performance of their duties as sworn law enforcement officers for the State of Florida, the division's officers also shall enforce all laws relating to boating, provide public safety services for citizens on lands and waters of the state particularly in remote areas, provide search-and-rescue and disaster response services when necessary, assist in the enforcement of all general laws, and coordinate with local, state, and federal entities on law enforcement issues." Furthermore, the Florida Legislature established the powers of FWC law enforcement officers statutorily in s. 379.3313 (1), Florida Statutes, which states that "...law enforcement officers of the commission are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state and the rules of the commission under their jurisdiction. The general laws applicable to arrests by peace officers of this state shall also be applicable to law enforcement officers of the commission. Such law enforcement officers may enter upon any land or waters of the state for performance of their lawful duties..."

Similarly, the Florida Legislature established the Department of Environmental Protection's Division of Law Enforcement in s. 20.255 (3)(d), Florida Statutes. In s. 20.255 (4), Florida Statutes the Legislature grants that "...law enforcement officers of the Department of Environmental Protection who meet the provisions of s. 943.13 are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state, and the rules of the department and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of this state apply to such law enforcement officers." Other statutory provisions that may be affected by a consolidation accomplished by a Type II transfer include: Chapter 253, Florida Statutes (State Lands and Property); Chapter 258, Florida Statutes (State Parks and Preserves); Chapter 376, Florida Statutes (Pollutant Discharge Prevention and Removal); and Chapter 403, Florida Statutes (Environmental Control). Additionally, the rules found in Chapter 62N-16, Florida Administrative Code, associated with the Bureau of Emergency Response require transfer to the FWC.

The Florida Legislature also granted the Commissioner of Agriculture and Consumer Services the authority to create an Office of Agricultural Law Enforcement in s. 570.073 (1), Florida Statutes. Law enforcement officers thus appointed by the commissioner are statutorily authorized to enforce any criminal law or conduct any criminal investigation or to enforce the provisions of any statute or any other laws of this state. S. 570.073 (2), Florida Statutes states that "...each law enforcement officer is subject to and shall have the same arrest and other authority provided for law enforcement officers generally in chapter 901 and shall have statewide jurisdiction. Each officer shall also have arrest authority as provided for state law enforcement officers in s. 901.15. Such officers have full law enforcement powers granted to other peace officers of this state, including the authority to make arrests, carry firearms, serve court process, and seize contraband and the proceeds of illegal activities."

**2. Conservation law enforcement services provided by the three agencies are similar in scope and approach and do not change based on the type of public land under patrol.**

The DEP Division of Law Enforcement's Bureau of Park Police (BPP) provides law enforcement patrol services and related investigative services on sovereignty submerged lands, state parks, greenways and trails, and coastal and aquatic managed areas. The DACS Office of Agricultural Law Enforcement provides law enforcement patrol services on certain CARL-designated state forests, and the FWC Division of Law Enforcement provides law enforcement patrol services on Wildlife Management Areas (WMAs), Wildlife and Environmental Areas (WEAs), as well as natural resource law enforcement in state parks, state forests, greenways and trails, preserves, water management districts, and other publicly-owned and managed lands. In many instances, state parks, state forests and wildlife management areas are adjacent to or even overlap each other, and officers from these agencies are already working side by side to complete their respective agency's mission.

**3. Investigative activities of the agencies are similar in scope and approach.**

The DEP Division of Law Enforcement's Criminal Investigations Bureau initiates environmental investigations for the protection of Florida's lands, waters, air, and historic and natural resources. Its special agents investigate violations related to criminal activity such as knowingly causing pollution, dumping of solid waste, discharges of pollutants, illegal transportation, storage, and disposal of hazardous waste, and illegal dredge and fill operations. The bureau also conducts long-term investigations in support of the BPP.

The FWC Division of Law Enforcement conducts overt (uniform) and covert (plainclothes) investigations targeting hard-core commercial fish, wildlife and game violators as well as serious and fatal boating and hunting accidents. FWC investigators are also responsible for the regulation of Florida's multi-million dollar captive wildlife enterprises. They monitor zoos, game farms, wildlife importers, alligator farms, venomous reptile dealers, personal wildlife owners, pet shops, hunting preserves, and wildlife rehabilitation centers, to

ensure compliance with state and federal laws. While DACS also has a Bureau of Investigative Services, its primary enforcement mission focuses on agricultural, consumer protection and food safety related issues rather than environmental or resource protection. This bureau does, however, maintain one sworn investigator who is responsible for inspecting certain commercial aquaculture activities (farm-raised shellfish) and for investigating associated violations. The Environmental Unit Sub-Team believes this to be an obvious overlap with investigative activity delivered by FWC investigators on commercial fisheries.

**4. DEP Division of Law Enforcement Bureaus are interdependent with each other resulting in value added services that are not present when separated.**

The recommendation of the Environmental Unit Sub-Team is to transfer the entire DEP Division of Law Enforcement and integrate it into the FWC Division of Law Enforcement, as a whole based on the following considerations.

The FWC Division of Law Enforcement offers a more natural fit of fundamental duties and responsibilities because of the similarity of investigative activities engaged in by the DEP and FWC, matching training and educational requirements for investigators, and the potential impact of investigated crimes on the state's historic and natural resources and public health.

The DEP Division of Law Enforcement currently houses the Bureau of Emergency Response (BER), a specialized entity that responds to environmental pollution threats in a multitude of forms. Responding to incidents from pollutant spills to chemical plant explosions, BER provides technical and on-site assistance to ensure threats to the environment and human safety are quickly and effectively neutralized. Integration of the BER's 28 non-sworn positions into the FWC will allow for closer collaboration when responding to coastal pollutant discharges and hazardous materials spills. In addition, it will allow for better information exchange and improved science-based responses to threats that challenge Florida's environment and natural resources.

The DEP and the FWC Divisions of Law Enforcement both have first responder roles and provide critical support functions in the state's emergency response and mutual aid framework. The expertise provided by BER personnel proved invaluable to law enforcement personnel responding to the Deepwater Horizon oil spill incident in 2010. Furthermore, the bureau's emergency responders are cross-trained to provide forensic expertise to the division's criminal investigators when needed and provide hot-zone entry capability for hazardous materials incident response. The ability to access the expertise offered by the bureau's personnel during emergency response and non-emergency criminal investigations would decrease if the bureau was not transferred with the remainder of the DEP Division of Law Enforcement.

**5. DEP and DACS have fewer sworn members than FWC to provide coverage for such a large geographic region.**

The Environmental Unit Sub-Team evaluated whether a consolidation of environmental law enforcement activities under either the DACS or the DEP would be valid alternatives to integration with the FWC Division of Law Enforcement. A review of the relevant facts determined that consolidation under the FWC's umbrella seems to represent the greatest economic benefit to the State, as FWC already provides administrative support for 902 members, 720 of which are sworn, and can more readily accommodate the transfer of 175.5 positions from DEP and the 15 positions from DACS. In order to consolidate the FWC Division of Law Enforcement into one of the other agencies, those agencies would have to create the administrative and organizational infrastructure to accommodate over 1,000 positions, which already exists at FWC.

In addition to size constraints, consolidation under the DACS would result in a significant change of the Commission's law enforcement mission, which focuses primarily on consumer services and agricultural products. Consolidation under the DEP would similarly expand the Department's law enforcement mission beyond its current scope, which focuses on the provision of law enforcement patrol services in state parks and the investigation of environmental crimes. Moving the responsibility to provide law enforcement patrol services in state parks and state forests to the FWC Division of Law Enforcement is a natural extension to the Division's existing statutory mission.

**6. The Office of Program Policy Analysis and Government Accountability (OPPAGA) has previously identified an option for legislative consideration to create a single state entity responsible for environmental law enforcement activities.**

In the Sunset Memorandum, *Environmental Law Enforcement Options for Legislative Consideration* (OPPAGA 07-S33), submitted in February 2008, the third option called for a centralization of environmental law enforcement activities under one state agency. Option 3 from OPPAGA 07-S33 is provided below:

**Option 3 – Centralize law enforcement (environmental) activities under one state agency**

Environmental law enforcement personnel, equipment, funding, and responsibilities would be transferred to one lead agency (Fish and Wildlife Conservation Commission). Placement of environmental law enforcement activities with any of the three agencies has advantages and disadvantages. Criteria for Legislative consideration in centralizing environmental law enforcement activities could include:

- Cost efficiencies and reductions in administrative and operating costs
- Improved coordination of staff and equipment
- Centralized policy-making

- Reduction in duplication
- Centralization of accountability and oversight of law enforcement activities

### **Advantages**

- Would reduce costs for administrative and support functions such as budgeting, personnel, general counsel, and inspector general activities
- Would result in cost savings from eliminating duplicative management positions (e.g., division directors) and support staff
- Would eliminate duplication of law enforcement activities currently conducted by multiple agencies
- Would consolidate policy and decision making
- Would centralize accountability and oversight of law enforcement activities

### **Disadvantages**

- Upfront costs may be incurred associated with transferring staff, equipment, vehicles, etc.
- The Department of Agriculture and Consumer Services' primary mission is not environmental preservation and includes many consumer protection activities
- May be objections from existing agencies
- Transition from decentralized to centralized system may be difficult
- Could be conflicts from integrating staff from agencies with differing missions and goals

The disadvantage identified in the report relating to DACS not having environmental preservation as a primary mission is alleviated in the Environmental Unit Sub-Team's recommendations, because, only the DACS sworn members with environmental law enforcement duties will be integrated into FWC's Division of Law Enforcement. The Sub-Team's recommendations would allow the DACS to focus on the primary aspects of its law enforcement mission, while environmental law enforcement activities are centralized in one division as originally identified as a policy option by OPPAGA.

### **Factors Leading to Recommendations**

- 1. Integration of the DEP Division of Law Enforcement into the FWC Division of Law Enforcement will result in a streamlined and leaner agency with approximately 10 percent of sworn supervisory positions being reassigned to patrol and field operations positions, leading to increased response time and decreased burden on local law enforcement agencies.**

The DEP Division of Law Enforcement maintains an administrative and organizational infrastructure that supports the Division's statewide delivery of law enforcement services. This infrastructure includes

accreditation, training, finance and budget, policy and planning, telecommunications, and administrative support within the Division. This same support system is already in place within the FWC. Integration of the DEP Division of Law Enforcement into the FWC Division of Law Enforcement, would allow the FWC's administrative and organizational infrastructure to seamlessly support the delivery of law enforcement services under the expanded mission without an increase in personnel. To further streamline the organization, some sworn positions, now assigned to management and supervision roles at DEP, would be reclassified for field-level functions such as patrol, investigations, and environmental response. Initial estimates indicate that approximately 10 percent of sworn supervisory positions in the DEP Division of Law Enforcement could be released to patrol and field assignments by redistributing subordinate positions. In addition to reductions in recurring salary and benefits costs, consolidation would reduce the amount of office space needed leading to cost reductions in lease agreements.

The recommendations in this document lead to a single entity capable of responding to incidents more quickly than what the individual entities can provide alone due to the increased number of sworn members and their geographical distribution. FWC officers assigned to counties in which state parks and forests are located will be able to respond to calls for service to support resident park police or CARL officers. Ultimately, this will decrease demands on local law enforcement to respond to calls for service in state parks and state forests because there will be a stronger state officer presence available to meet the needs of the public.

The recommendations provided in this report do not change the FWC's previously identified streamlining goals or affect the division's organizational targets concerning supervisory span of control. The resulting consolidated entity will allow for a supervisor-to-employee ratio that more closely aligns with the span-of-control target recommended by the Florida Senate.

## **2. Integration of DEP Division of Law Enforcement and DACS CARL Officers in the FWC Division of Law Enforcement will improve stakeholder and user interaction.**

Integrating the three entities into one Division of Law Enforcement will improve user and stakeholder interaction and increase accountability and transparency. The majority of state lands users and visitors generally do not differentiate between state managed lands such as parks, forests, or management areas, nor do they differentiate between the associated agencies providing law enforcement services on these lands. Anecdotal evidence suggests that users are often confused by encountering a Fish and Wildlife Officer conducting a boating safety inspection at a boat ramp in a state park, or by a Park Police Officer asking for a fishing license and verifying compliance with bag limits. Having just one entity providing patrol and law enforcement services on all state lands is likely to increase "brand recognition" and increase accountability to the public. In addition, one uniformed presence on state lands versus three, demonstrates

a commitment to a judicious use of tax dollars and an end to organizational barriers in service to the public, further adding to agency accountability and transparency.