



# The Florida Legislature

## OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY



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SUNSET MEMORANDUM

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Report No. 07-S33

## Environmental Law Enforcement Options for Legislative Consideration

February 15, 2008

### *Summary*

To support the Sunset Review process, the Legislature directed OPPAGA to assess environmental law enforcement activities conducted by the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the Fish and Wildlife Conservation Commission.

This memo provides information about conservation law enforcement activities conducted by these agencies and presents four policy options for the Legislature to consider regarding state agency environmental law enforcement activities. These options include maintaining the current system of environmental law enforcement (Option 1); contracting with local government law enforcement agencies for some or all non-environmental law enforcement activities (Option 2); centralizing environmental law enforcement activities within one state agency that currently has environmental law responsibilities (Option 3); and centralizing all environmental law enforcement activities under the Florida Department of Law Enforcement (Option 4). The memo discusses the advantages and disadvantages of each option.

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Gary R. VanLandingham, Ph.D., Director

### *Purpose, Organization, and Responsibilities*

Three state agencies share responsibilities for providing environmental law enforcement services within Florida. These services seek to protect Florida's agricultural, environmental, and natural resources, which are affected by a wide variety of factors that can threaten the environment and public safety. The law enforcement services address problems including pest and disease intrusion, environmental misuse and contamination, harmful wildlife activities, and unsafe behavior on state lands such as public intoxication and operating unsafe boats and motor vehicles.

To address these concerns, the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the Fish and Wildlife Conservation Commission each provide environmental law enforcement services. However, the three agencies conduct somewhat different activities (see Exhibit 1).

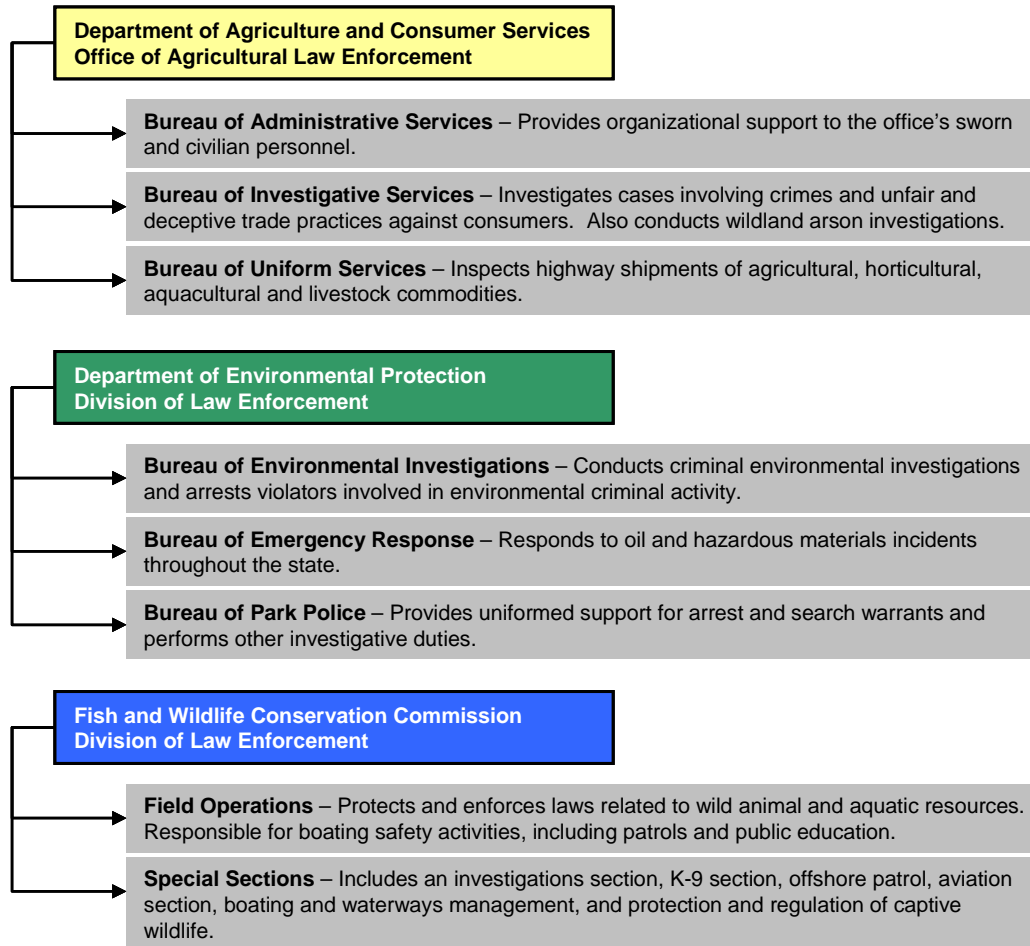
- **Department of Agriculture and Consumer Services.** The department's Office of Agricultural Law Enforcement seeks to protect the state's agricultural industry from contamination, pests and disease intrusion, and theft by inspecting the state's fruits and vegetables. In addition, the office seeks to protect consumers from unfair and deceptive trade practices by investigating consumer complaints and taking action when illegal activities are confirmed.
- **Department of Environmental Protection.** The department's Division of Law Enforcement provides law enforcement services in Florida State Parks and on other department-managed lands such as greenways, trails, and preserves. In this capacity, law enforcement personnel seek to prevent crimes against persons, property, and resources on state lands, and investigate environmental resource crimes such as the illegal dumping of waste products and illegal dredge and fill activities. Division law enforcement agents also respond to natural disasters, hazardous materials incidents, and oil spills that threaten the environment and endanger public health.
- **Fish and Wildlife Conservation Commission.** The commission's Division of Law Enforcement is responsible for enforcing state and federal fish and wildlife regulations and boating safety regulations.<sup>1</sup> The division also responds to domestic security incidents with their primary focus being on waterside critical infrastructure such as ports. Division officers investigate hunting violations on public and private lands within the state's three geographical hunting zones, daily use permits, harvest limits for game and fur-bearing animals, violations concerning non-game and imperiled species such as bear, manatee, and bald eagle, fishing violations such as the illegal harvest of freshwater or saltwater species, boating accidents and violations concerning captive wildlife. In addition, officers enforce commission rules that relate to protected areas such as restrictive hunting areas, critical wildlife areas, manatee zones, and bird sanctuaries.

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<sup>1</sup> Section 372.07, 2007, F.S.

**Exhibit 1**

**Florida's Environmental Law Enforcement Functions Are Decentralized Across Three State Agencies**



Source: OPPAGA analysis.

While not an environmental law enforcement agency, the Florida Department of Law Enforcement (FDLE) handles many aspects of law enforcement in the state. Specifically, FDLE collaborates with local, state, and federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida's citizens and visitors. The department provides investigative, forensic, and information services to the state's criminal justice community and encourages aggressive and comprehensive strategies to prevent and solve crimes. Department Fiscal Year 2007-08 resources include 2,017 full-time equivalent positions and \$292.2 million in funds (\$122.7 million in general revenue and \$169.5 million in trust funds); 525 of the FTEs are sworn law enforcement officers. FDLE's activities do not generally duplicate those of the state's environmental law enforcement agencies, but staff may conduct investigations that occur on property within these agencies' jurisdictions (e.g., state parks, state forests) depending on the type of criminal activity.

*Resources*

The Legislature appropriated over \$150 million in trust funds and general revenue to the Department of Agriculture and Consumer Services, Department of Environmental Protection, and Fish and Wildlife Conservation Commission for law enforcement services in Fiscal Year 2007-08. This appropriation includes \$62,103,751 in general revenue and \$87,968,812 in trust funds. Trust fund revenues are from a variety of sources, including the Inland Protection Trust Fund, Coastal Protection Trust Fund, Land Acquisition Trust Fund, Citrus Inspection Trust Fund, State Game Trust Fund, and Marine Resources Conservation Trust Fund. In addition, the Legislature appropriated 1,368.5 positions for the three agencies' environmental law enforcement functions (see Exhibit 2).

**Exhibit 2**

**The Legislature Appropriated Over \$150 Million and 1,368 FTEs for Environmental Law Enforcement Functions in Fiscal Year 2007-08**

Agency	General Revenue	Trust Funds	Total	FTE
Department of Agriculture and Consumer Services	\$ 18,550,139	\$ 1,014,055	\$ 19,564,694	282.5
Department of Environmental Protection	2,892,631	29,737,595	32,630,226 <sup>1</sup>	187.5
Fish and Wildlife Conservation Commission	40,660,981	57,217,162	97,878,143	898.5
<b>Total Funds</b>	<b>\$62,103,751</b>	<b>\$87,968,812</b>	<b>\$150,073,063</b>	<b>1,368.5</b>

<sup>1</sup> The Department of Environmental Protection Division of Law Enforcement's budget includes \$11,697,242 that is a direct pass-through to the Fish and Wildlife Conservation Commission to fund its law enforcement operations.

Source: 2007 General Appropriations Act.

*Environmental law enforcement performance measures demonstrate generally positive results*

Legislative performance measures for environmental law enforcement functions demonstrate generally positive results for the Department of Agriculture and Consumer Services, Department of Environmental Protection, and Fish and Wildlife Conservation Commission for Fiscal Year 2006-07. Specifically, while the Department of Agriculture and Consumer Services and the Fish and Wildlife Conservation Commission achieved their legislatively approved standards for all performance measures, the Department of Environmental Protection did not meet its standards for the period. The measures that were met by each agency are highlighted in Exhibit 3.

For Fiscal Year 2006-07, the Department of Agriculture and Consumer Services met its standard for criminal investigation closure rate, achieving a 99.0% completion rate, which was significantly above the approved standard of 80.0%. Similarly, the department achieved its standard for number of law enforcement investigations initiated, performing 2,548 investigations, while the approved standard was 1,995. Moreover, the department also met its standard for percent of vehicles carrying agricultural-related products found to be free of pests and diseases. The approved standard for this measure was 99.40%, and actual performance was 99.90%.

Similarly, the Fish and Wildlife Conservation Commission exceeded all five of its approved performance standards for Fiscal Year 2006-07. For example, the commission spent 1,064,082 hours in preventive patrol and investigations, which was above the standard of 930,391 hours. The commission also exceeded its standard for the number of warnings, arrests, and convictions. The

approved standard for this measure was 127,692, and actual performance was 138,030. Additionally, citizen compliance with specified fish and wildlife-related rules and state laws was 86.0%, which exceeded the legislatively approved standard of 81.4%.

However, the Department of Environmental Protection did not meet its law enforcement-related performance standards during the same period. Specifically, for ratio of incidences of environmental law violations to 100,000 Florida population, the department's actual performance was 3.66 violations per 100,000 rather than the standard of 2.18. According to the department, the reason for this result was an expanded focus on the investigation of environmental crimes, which increased the detection of violations and the initiation of new criminal cases, thus resulting in a ratio that was higher than the approved standard. In addition, department officials report that current performance standards should be modified to reflect current conditions.

### Exhibit 3

#### Legislative Performance Measures for Environmental Law Enforcement Functions Demonstrate Varying Results for Fiscal Year 2006-07

Performance Measures		Approved Standards Fiscal Year 2006-07	Actual Performance Fiscal Year 2006-07
Department of Agriculture and Consumer Services	Number of law enforcement investigations initiated	1,995	2,548
	Criminal investigations closure rate	80.0%	99.0%
	Percentage of vehicles carrying agricultural related products that are inspected and found to be free of devastating plant and animal pests and diseases	99.40%	99.90%
Department of Environmental Protection	Ratio of incidences of environmental law violations to 100,000 Florida population	2.18:100,000	3.66:100,000
	Ratio of criminal incidences within the parks to 100,000 Florida park visitors	30:100,000	31:100,000
Fish and Wildlife Conservation Commission	Compliance with specified rules and state law	81.4%	86.0%
	Total number of hours spent in preventive patrol and investigations	930,391	1,064,082
	Total number of boating accidents investigated	1,292	666
	Number of recreational boating injuries	450	366
	Number of warnings, arrests, and convictions	127,692	138,030

Source: The Florida Department of Agriculture and Consumer Services, Florida Department of Environmental Protection, and Florida Fish and Wildlife Conservation Commission.

*Environmental law enforcement agencies coordinate for some activities, but additional opportunities for collaboration may exist*

Law enforcement personnel of the three agencies coordinate their activities with various city, state, and federal entities. These include local police and fire departments, state attorney offices, the Florida Department of Law Enforcement, and federal agencies such as the U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency and the Coast Guard. For example, the Department of Agriculture and Consumer Services coordinates with Florida sheriff departments and the Florida Department of Law Enforcement for domestic marijuana eradication and with local police departments to respond to reports of animal abuse and cruelty. Similarly, the Fish and Wildlife Conservation Commission coordinates with local law enforcement to provide security at public events such as local parades and holiday celebrations when these events occur adjacent to water bodies.

In addition, the three agencies work together during emergency response situations. Specifically, the Florida Mutual Aid law requires state agencies to work together in response to natural and manmade disaster situations (e.g., hurricanes and wildfires). Moreover, the Fish and Wildlife Conservation Commission and Department of Environmental Protection are represented on the Joint Task Force on State Agency Law Enforcement Communications.<sup>2</sup> This task force was created to study the possibility of acquiring and implementing a statewide radio communications system to serve law enforcement units of state agencies and to serve local law enforcement agencies through a mutual aid channel.

However, prior reviews have identified concerns about the most efficient method for conducting environmental law enforcement activities and coordinating services. For example, in 2003, OPPAGA found that the Department of Environmental Protection's law enforcement officers were making arrests for crimes that did not involve violations of environmental laws and rules.<sup>3</sup> Moreover, we reported that most of the department's law enforcement activities performed by park patrol officers were routine in nature and could be performed by law enforcement personnel without extensive, specialized knowledge of state environmental laws and regulations. For example, our report noted that park patrol officers spent 71% of their total hours performing routine patrol activities, 24% providing support services, and less than 1% investigating environmental crimes. To address these concerns, we recommended that the department outsource some of its patrol services, which would provide law enforcement and security services in state parks without having to hire costly additional full-time state law enforcement employees. As an alternative to outsourcing, we suggested that the department consider contracting with local law enforcement agencies to provide park patrol services in selected state parks on a pilot basis; if successful, these contracts could be expanded to other state parks. Although Division of Law Enforcement managers concluded that this recommendation would not improve patrol coverage or reduce costs, we continue to consider this an option for improving the efficiency of all three agencies' law enforcement activities.

*Environmental law enforcement activities have been merged in the past, which increased efficiency and reduced duplication*

The Fish and Wildlife Conservation Commission was established by a 1998 constitutional amendment that consolidated the responsibility for conserving the state's fresh and salt water aquatic life, and wildlife into a single agency.<sup>4</sup> In 1999, House Bill 2145 abolished the Florida Game and Fresh Water Fish Commission and the Marine Fisheries Commission and transferred their responsibilities to the newly created Fish and Wildlife Conservation Commission. The commission's law enforcement division was created with the merger of law enforcement units and personnel from the Game and Fresh Water Fish Commission, who primarily performed inland activities and the Department of Environmental Protection's former Florida Marine Patrol, who primarily performed marine activities. These units had different policies and procedures, training requirements, data collection systems, and communication systems. The consolidation allowed the commission to shift 34 positions from administrative to field duties.

A 2003 OPPAGA review of the Fish and Wildlife Conservation Commission showed that since the merger, the commission's law enforcement division had made progress in integrating its law enforcement functions.<sup>5</sup> This progress included consolidating procedures and support services and

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<sup>2</sup> Section 282.1095, 2007 Florida Statutes.

<sup>3</sup> Justification Review: Law Enforcement Program Should Pursue Outsourcing, Track Case Outcomes, Integrate Information Systems, [Report No. 03-01](#), January 2003.

<sup>4</sup> Article IV, Section 9, Constitution of the State of Florida.

<sup>5</sup> Justification Review of the Fish and Wildlife Conservation Commission, [Report No. 01-48](#), October 2001.

improving data collection systems. The division reorganized its staff by shifting administrative positions and consolidating its personnel under a single chain of command. The division also implemented cross-training activities that allow both inland and marine officers to work together on law enforcement activities.

### *Options for Legislative Consideration*

The law enforcement activities of the Department of Agriculture and Consumer Services, Department of Environmental Protection, and Fish and Wildlife Conservation Commission cost over \$150 million annually. As Florida acquires additional conservation land (e.g., state parks, state forests) over time and the state’s population grows, these law enforcement functions and costs will increase. Although the agencies’ activities require some specialized training of law enforcement officers, they have identified areas where coordination has been effective. In addition, environmental law enforcement activities have been consolidated in the past, with the merger of Florida Game and Freshwater Fish Commission and Department of Environmental Protection law enforcement units. However, there are additional opportunities for increased coordination.

Exhibit 4 below identifies four policy options for the Legislature to consider. These options include maintaining the current system of environmental law enforcement by state agencies (Option 1); contracting with local government law enforcement agencies for some or all non-environmental law enforcement activities (Option 2); centralizing environmental law enforcement activities under one state agency that currently has this function (Option 3); and centralizing all environmental law enforcement activities under the Florida Department of Law Enforcement (Option 4). The exhibit outlines the policy options and describes the advantages and disadvantages associated with each option.

#### **Exhibit 4**

#### **The Legislature Could Consider Four Options Regarding State Agency Environmental Law Enforcement Activities**

Option	Advantages	Disadvantages
<b>Option 1 – Maintain the current system of environmental law enforcement by state agencies</b>		
Maintain the current system of environmental law enforcement by state agencies, with the Department of Agriculture and Consumer Services, Department of Environmental Protection, and Fish and Wildlife Conservation Commission each continuing to perform their current functions.	<ul style="list-style-type: none"> <li>▪ Agencies would retain the ability to focus on specialized law enforcement activities related to individual missions and goals</li> <li>▪ Would preserve the established funding mechanism</li> </ul>	<ul style="list-style-type: none"> <li>▪ The current structure may not provide adequate mechanisms for coordinating activities across agencies</li> </ul>
<b>Option 2 – Contract with local government law enforcement agencies for some or all non-environmental law enforcement activities</b>		
Agencies would contract with local governments for non-environmental law enforcement activities such as routine park patrol and traffic law enforcement. The agencies would retain smaller units to perform specialized law enforcement functions such as investigating environmental and agricultural crimes.	<ul style="list-style-type: none"> <li>▪ State agencies could reduce costly full-time law enforcement personnel</li> <li>▪ Local governments that operate law enforcement units in areas that include state conservation land may be able to achieve economies of scale and provide less expensive law enforcement services</li> </ul>	<ul style="list-style-type: none"> <li>▪ The state would have diminished law enforcement personnel, which could adversely affect emergency responses</li> <li>▪ Law enforcement costs may not be decreased, as local law enforcement agencies frequently pay higher salaries than state agencies</li> <li>▪ Law enforcement response time could be adversely affected if local law enforcement agencies do not station officers in state parks and lands, as is currently done</li> </ul>

Option	Advantages	Disadvantages
<b>Option 3 – Centralize law enforcement activities under one state agency</b>		
<p>Environmental law enforcement personnel, equipment, funding, and responsibilities would be transferred to one lead agency – the Department of Agriculture and Consumer Services, the Department of Environmental Protection, or the Fish and Wildlife Conservation Commission.</p> <p>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</p> <ul style="list-style-type: none"> <li>▪ Cost efficiencies and reductions in administrative and operating costs</li> <li>▪ Improved coordination of staff and equipment</li> <li>▪ Centralized policy-making</li> <li>▪ Reduction in duplication</li> <li>▪ Centralization of accountability and oversight of law enforcement activities</li> </ul>	<ul style="list-style-type: none"> <li>▪ Would reduce costs for administrative and support functions such as budgeting, personnel, general counsel, and inspector general activities</li> <li>▪ Would result in cost savings from eliminating duplicative management positions (e.g., division directors) and support staff</li> <li>▪ Would eliminate duplication of law enforcement activities currently conducted by multiple agencies</li> <li>▪ Would consolidate policy and decision making</li> <li>▪ Would centralize accountability and oversight of law enforcement activities</li> </ul>	<ul style="list-style-type: none"> <li>▪ Upfront costs may be incurred associated with transferring staff, equipment, vehicles, etc.</li> <li>▪ The Department of Agriculture and Consumer Services’ primary mission is not environmental preservation and includes many consumer protection activities</li> <li>▪ May be objections from existing agencies</li> <li>▪ Transition from decentralized to centralized system may be difficult</li> <li>▪ Could be conflicts from integrating staff from agencies with differing missions and goals</li> </ul>
<b>Option 4 – Centralize all law enforcement activities under FDLE</b>		
<p>Responsibility for environmental law enforcement activities would be transferred to the Florida Department of Law Enforcement, as would environmental law enforcement functions, activities, staff, funding, and equipment of the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the Fish and Wildlife Conservation Commission.</p>	<ul style="list-style-type: none"> <li>▪ Department is the primary state law enforcement agency</li> <li>▪ Department currently works with the other agencies to support some of their law enforcement activities</li> <li>▪ Would reduce costs for administrative and support functions such as budgeting, personnel, general counsel, and inspector general activities</li> <li>▪ Would result in cost savings from eliminating duplicative management positions (e.g., division directors) and support staff</li> <li>▪ Would eliminate duplication of law enforcement activities currently conducted by multiple agencies</li> <li>▪ Would consolidate policy and decision making</li> <li>▪ Would centralize accountability and oversight of law enforcement activities</li> </ul>	<ul style="list-style-type: none"> <li>▪ Department’s primary mission is to promote public safety and strengthen domestic security by providing prevention and investigation services, rather than environmental preservation, which could receive lower priority within a centralized agency</li> <li>▪ May incur additional cost for specialized training of officers for specific agricultural, state park, and fish and wildlife activities; current officers do not have such expertise</li> <li>▪ May be upfront costs associated with transferring staff, equipment, vehicles, etc.</li> <li>▪ May be objections from existing agencies</li> <li>▪ Transition from decentralized to centralized system may be difficult</li> <li>▪ Could be conflicts from integrating staff from agencies with various missions and goals</li> </ul>

Source: OPPAGA analysis.