

IN THE CIRCUIT COURT OF THE 16<sup>th</sup> JUDICIAL CIRCUIT  
IN AND FOR MONROE COUNTY, FLORIDA

ADMINISTRATIVE ORDER 4.009/07-1  
**AMENDED**

**IN RE: Use of Photographs and/or  
Documentation of contraband  
Seized by Florida Fish and Wildlife  
Law Enforcement Officers as Evidence  
in the Prosecution of Offenders**

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**WHEREAS**, the law enforcement officers, (the "Officers"), of the Florida Fish and Wildlife Conservation Commission, ("FWC"),<sup>1</sup> are charged with enforcing all laws, rules, and regulations relating to wild animal life, marine life, and freshwater aquatic life, and

**WHEREAS**, in the course of carrying out their duties, from time to time the Officers must seize illegally taken animals and marine and aquatic life, (hereafter, collectively, the "contraband"), and

**WHEREAS**, it is more consistent with the Officers' mission if they are able to return contraband seized alive to its natural habitat, and

**WHEREAS**, it is more economical and practical to promptly dispose of dead contraband instead of storing it during the pendency of prosecutions, and

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<sup>1</sup> Although reference is made to FWC Officers because they are the law enforcement personnel most likely to be involved in seizures of living or dead wild animal life, marine life, and freshwater aquatic life, the provisions of this order are equally applicable to any certified law enforcement officer and law enforcement agency.

**WHEREAS**, § 90.91, Fla.Stat.,<sup>2</sup> permits a properly authenticated photograph to be substituted for any contraband seized by Officers and for the photographs to be admitted into evidence to the same extent that the contraband itself would be admissible,

**WHEREAS**, Officers frequently seize contraband at times when and locations where it is not practical for them to obtain a court order for the purpose of selling or otherwise disposing of contraband, although the prompt sale or other disposition of contraband is in the best interests of all

**THEREFORE, IT IS ORDERED THAT:**

**1. DEFINITIONS**

(a). "Authentication" means the writing by a law enforcement officer made under oath on the back of the photograph of contraband, which writing describes the contraband shown in a photograph, the location where the allegedly wrongful taking of the contraband occurred, the name of the investigating law enforcement officer making

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<sup>2</sup> Section 90.91. Photographs of property wrongfully taken; use in prosecution, procedure; return of property to owner.

In any prosecution for a crime involving the wrongful taking of property, a photograph of the property alleged to have been wrongfully taken may be deemed competent evidence of such property and may be admissible in the prosecution to the same extent as if such property were introduced as evidence. Such photograph shall bear a written description of the property alleged to have been wrongfully taken, the name of the owner of the property, the location where the alleged wrongful taking occurred, the name of the investigating law enforcement officer, the date the photograph was taken, and the name of the photographer. Such writing shall be made under oath by the investigating law enforcement officer, and the photograph shall be identified by the signature of the photographer. Upon the filing of such photograph and writing with the law enforcement authority or court holding such property as evidence, the property may be returned to the owner from whom the property was taken.

the writing, the date the photograph was taken, and the name of the photographer, who further shall be identified by his or her signature on the photograph.

Authenticated photographs shall be filed with the law enforcement agency or the court.

(b) "Contraband" means all wild animal life, marine life, or freshwater aquatic life that it is illegal to take and/or to possess and all wild animal life, marine life, or freshwater aquatic life that it is legal to take and/or to possess but that has been taken illegally.

(c) "Statutory authority" means the provisions of Chapters 370 and 372 of the Florida Statutes and the rules of the Florida Administrative Code made by the Fish and Wildlife Conservation Commission pursuant to those chapters.

## **2. APPLICATION**

(a) All photographs of contraband hereafter referred to must be authenticated when taken or as soon as possible thereafter in compliance with this Administrative Order and § 90.91, Florida Statutes, and, after authentication, the photographs shall be filed with the law enforcement agency or the court as soon as practicable.

(b) When an arrest is made pursuant to statutory authority and live contraband is confiscated, the law enforcement agency that seized the contraband is authorized to return it to its natural habitat immediately after photographing it.

(c) When an arrest is made pursuant to statutory authority and inedible dead contraband is confiscated, the law enforcement agency that seized the contraband is authorized to dispose of it immediately after photographing it.

(d) When an arrest is made pursuant to statutory authority and edible dead contraband is confiscated in a quantity that is insufficient to have commercial value, the law enforcement agency that seized the contraband is authorized to donate it to a charitable organization immediately after photographing it.

(e) When an arrest is made pursuant to statutory authority and edible saltwater contraband is confiscated in a quantity that is sufficiently large to have commercial value, the law enforcement agency that seized the contraband may dispose of it as provided for by law while documenting the type, quantity, value, and the date and manner in which the disposal of contraband was carried out. The documentation, which shall include at least one authenticated photograph, shall be filed in the same manner as are the photographs alone. Proceeds from the disposal of the contraband shall be remitted to the Fish and Wildlife Conservation Commission to be held in escrow pending the outcome of the criminal proceeding.

**DONE AND ORDERED** at Key West, Monroe County, Florida, this 23 day of March 2007.

s/ Sandra Taylor  
Sandra Taylor, Chief Judge