

SPECIAL REPORT: **5 THINGS YOU** **NEED TO KNOW** **ABOUT** **FWC OFFICERS**



**YOUR GUIDE TO THE
MOST POWERFUL
POLICE IN FLORIDA**



FLORIDIANS, Just like kings and queens of old, the state of Florida claims as its own all deer in the forest and fish in the streams. That is right, Florida law provides that all wild animals are under the protection and control of the state. This means that Florida law regulates when, who, and how animals may be “taken.” Whether hunting, trapping, or fishing, the Florida Fish and Wildlife Conservation Commission (FWC) control the rules and FWC officers are charged and empowered to enforce the rules. Here are 5 things every Florida hunter or angler needs to know about these very powerful men and women.



1

FWC OFFICERS ARE THE POLICE

Hunters and anglers, this is serious stuff. FWC officers are not like the police; they are the police. By statute, FWC officers are licensed Florida law enforcement. They are arguably some of the most powerful police in Florida. In addition, the feds, specifically the U.S. Department of the Interior and the U.S. Department of Commerce, commission FWC officers with power to enforce federal fisheries and wildlife laws in Florida.

FWC officers have full police power to inspect, search, seize, and/or arrest. Note, this police power is not simply for hunting or fishing violations. FWC officers possess the full power to arrest for any violations of the law, hunting-related or not. So understand, when you are dealing with an FWC officer, you are dealing with a police officer. If you are caught breaking the law, he or she will perform his or her duties to enforce the laws and appropriate restitutions.

FWC Officer Field Notes

A Brevard County FWC officer on land observed 2 men hunting ducks out of season on a boat. He called for back-up and went to the closest dock.

The officer who observed the men lost sight of them for 10 - 15 minutes.

When the men arrived at the dock, the back-up FWC officer searched them and the boat and found nothing. The back-up officer then left the men on the dock with a third officer and took their boat to search the area.

The third FWC officer found seven dead ducks hidden in some bushes nearby.

The two men were tried, the court ruled the warrantless searches and commandeering of the boat were legal, and the men were convicted.



2

FWC OFFICERS SUPER SEARCH POWERS?

Now, imagine the following scenario. Campers are sitting around a campfire when an FWC officer walks up.

CAMPER: “You want to search my what?”

FWC OFFICER: “Your cooler, tents, truck, trailer, toolbox, and while I’m at it, that Altoids container on your dashboard.”

CAMPER: “What about our right to privacy?!”

FWC OFFICER: “We received reports of someone shooting after dark, and it is my duty to investigate and ensure all of you are legal and safe.”

We are all familiar with our Constitutionally guaranteed rights contained in the Bill of Rights against unreasonable searches and seizures. Those hallowed words are memorialized in the 4th Amendment to the U.S. Constitution:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

However, what do these words mean when you are confronted by an FWC officer? What are their police powers to search you or your property? Does the 4th Amendment have any meaning anymore?



WARRANTLESS SEARCHES

Exceptions
No Warrant Required

General Rule
Must Have Warrant

EXCEPTIONS SWALLOWED THE RULE

For many lovers of liberty, the rights guaranteed by the 4th Amendment have been largely chipped away and provide little real protection in real-life scenarios. This has been done by courts creating legal exceptions to the 4th Amendment so broad as to allow a search on “reasonable, articulable suspicion” alone. *Terry v. Ohio*, 392 U.S. 1 (1968).

The legal standards for an FWC officer to search your property, including freezers, coolers, refrigerators and other areas in cabins, shacks, homes, trailers, or vehicles, are contained in Florida Statutes § 379.3311, which provides that an FWC officer may examine any “person, boat, conveyance, vehicle, game bag, game coat, or other receptacle for wild animal life, marine life, or freshwater aquatic life, or any camp, tent, cabin, or roster, in the presence of any person stopping at or belonging to such camp, tent, cabin, or roster, when such officer has reason to believe, and has exhibited her or his authority and stated to the suspected person in charge the officer’s reason for believing that any of the aforesaid laws have been violated at such camp.”

What is “reason to believe?” This issue has been left to the courts, and almost anything seems to pass for a legal justification.

Additionally, Florida Statute § 379.3313(2) states that an FWC officer “who has probable cause to believe that the vessel has been used for fishing prior to the inspection shall have full authority to open and inspect all containers or areas where saltwater products are normally kept aboard vessels while such vessels are on the water, such as refrigerated or iced locations, coolers, fish boxes, and bait wells.” Note that this even applies to law abiding anglers! The only requirement here is that the FWC officer has probable cause to believe you have been fishing. FWC officers also have the authority to stop and board vessels which are not being used for fishing. Just being on the water gives FWC officers a right to stop you without cause to conduct a safety inspection. Further, Florida Statutes § 379.334 gives the FWC officers the authority to board any vessel, boat, or vehicle or to enter any fishhouse or warehouse or other building, exclusive of residence, in which game, hides, fur-bearing animals, fish, or fish nets are kept. This section also permits officers to search for and seize any such game, hides, fur-bearing animals, fish, or fish nets had or held therein in violation of law WITHOUT a warrant if the officer has probable cause to believe that the fishing and hunting laws have been broken. The lesson is that FWC officers have extensive search powers, and they will use them whenever it is necessary to perform their duties.

3

SUPER JURISDICTION

Just as deer and other wild animals cross city and county lines, so does the jurisdiction of Florida FWC officers. Although FWC officers in Florida may have a home base, their jurisdiction is statewide. This means that an FWC officer's jurisdiction extends to every corner of the state, not only where wildlife and animals can be found. FWC officers have power like other police officers to make arrests anywhere in the state where violations of the law are committed in their presence. Unlike other officers of the state, they may also make arrests for violations of the law not committed in their presence if committed on lands under the supervision of the FWC Commission including state parks, coastal and aquatic managed areas, greenways, and trails.

This obviously applies to public property, but even private property falls within an FWC officer's jurisdiction. Florida law authorizes FWC officers to enforce laws relating to fishing, hunting, game, and wildlife on privately held property.

Further, an FWC officer's subject-matter jurisdiction is just as wide as their geographical jurisdiction. Not only do they have jurisdiction over all criminal activity related to wildlife, they are also one of the primary enforcement officers for all Florida boating laws. FWC officers may inspect, search, or seize boats used for fishing, and any watercraft—from kayaks to party boats. Florida Statutes §§ 327.70 and 327.50 combine to allow FWC officers to “stop any vessel without a safety inspection decal and require the owner or operator to produce the required safety equipment.” They may not board without the owner or operator's consent unless they have reason to believe that a violation of the vessel laws has occurred or if equipment to be inspected is permanently installed and not visible for inspection without boarding.



4

HUNTING & FISHING LAWS

ARE NUMEROUS & COMPLICATED

Hunting and fishing regulations are not rocket science, but they are close—and far more arbitrary. The laws are written and passed to serve environmental, political, conservation, and/or financial interests of different groups. Even if laws are difficult for the sportsman to understand and follow, ignorance of the law is no legal excuse. Thus, even the pure of heart may unwittingly violate the law, and FWC officers are there to enforce the rules.

Here are just a few of the hundreds of hunting and fishing regulations under Florida law, all of which may result in criminal charges if violated:

- It is illegal to harass hunters or try to scare game away from hunters in Florida.
- It is illegal to hunt deer or turkey at night with a light.
- It is illegal to kill or harvest any wild panther in Florida.
- It is illegal to possess any wildlife in Florida, unless you have first obtained a permit.
- Possessing an alligator or alligator eggs is illegal without a license.
- Any equipment including weapons, boats, or vehicles used to illegally kill, possess or capture alligators can be confiscated.
- Electronic bird calls may not be used to hunt migratory game.
- It is illegal to hunt deer without wearing the required clothing.
- Felons may not legally possess modern firearms for hunting and may only use:
 - Antique firearms manufactured in or before 1918 or replica thereof (this is an affirmative defense that the defendant has the burden to prove.); or
 - A bow or crossbow during hunting seasons where allowed.
- It is illegal to hunt migratory game birds with a shotgun holding more than 3 shells.
- The display or use of a light in a place where deer might be, together with the possession of a firearm is evidence of intent to hunt with a light.

5

FWC OFFICERS ACTIVELY SEEK OUT POACHERS



THEY ARE WATCHING

The FWC and FWC officers actively look for and try to ensnare poachers. The Department goes to great lengths to catch unlawful hunters and anglers in the act, and FWC officers commonly use a modified deer decoy with realistic movements to lure poachers. When hunters take a shot at the decoy, they are arrested, and are charged with violations, including hunting deer in closed season, hunting deer at night, and discharging a firearm from a public road, so stay legal.



Florida FWC Officer Field Notes,
February 5, 2016 through February 11, 2016

"Wakulla County:

FWC officers were working a night hunting detail in the Apalachicola National Forest. While working the deer decoy, they observed a pickup truck pass their location and shine a spotlight towards the location of the deer decoy on several occasions. A vehicle stop was conducted and the occupants were found to be in possession of a loaded .308 caliber rifle and a .22 caliber rifle. They were also in possession of several spotlights, which the subjects were using to shine for deer. The subjects were interviewed and admitted to looking for deer. Both subjects were charged with night hunting."

According to field reports, many of the violations for which they write citations, notices to appear, and warnings are a direct result of tips received through FWC's Wildlife Alert Program. Florida takes a serious stance on wildlife violations, and the anonymous program offers cash incentives up to \$1,000 for information that ultimately leads to the arrest and conviction of poachers. So, even when an FWC officer is not directly watching violators, their eyes are everywhere with the help of public citizens. When a violation occurs that they don't witness personally, they may still gain the necessary information to locate and cite hunters and anglers.

THE BOTTOM LINE

So, what does U.S. LawShield of Florida Legal Expense Insurance hope you take from this information? The State of Florida loves its wildlife and will not tolerate violations. As such, FWC officers are granted the power deemed necessary to enforce wildlife and fishery laws.

When FWC officers put their efforts into catching poachers, well-intentioned hunters and anglers may get caught in the crosshairs. That is why it is so important that you educate yourself *before* you hit the woods or the water. It is your responsibility to learn the laws, and to follow them. Remember—not knowing the law is not a legal excuse.



PROTECTING GUN OWNERS AND SPORTSMEN

PRESERVING 2ND AMENDMENT TRADITIONS



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LEGAL DEFENSE - FOR - SELF DEFENSE

U.S. LawShield of Florida Legal Expense Insurance wants to help. We are pleased to offer HunterShield, a new program dedicated to educating, serving, and protecting sportsmen. By providing legal education to hunters and anglers, we offer opportunities for every sportsman to become educated before the hunt. And if you make an honest mistake in the woods or on the water, we will guide you through the legal system.

Add HunterShield to your membership and get peace-of-mind at home and on the hunt. Get covered NOW!

A U.S. LawShield of Florida Legal Expense Insurance membership with HunterShield protection includes the following:



- 24/7/365 Emergency access to independent program attorneys experienced in wildlife law
- Criminal and civil legal defense for all unintended Florida Fish and Wildlife Conservation Commission violations.
- Coverage for any self-defense incidents: criminal or civil
- Non-emergency access to attorneys experienced in wildlife law to answer your questions
- Educational materials and events designed to keep hunters and anglers legal
- A legal defense program you can depend on

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