

SURVEILLANCE AND WILDLIFE LAW ENFORCEMENT

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Abstract: Do sophisticated electronic surveillance devices have a place in wildlife law enforcement? Some say yes and some say no. The Florida Game and Fresh Water Fish Commission has proven, through application of basic surveillance techniques and procedures in conjunction with electronic devices, that these devices are one of the most valuable tools in wildlife law enforcement today. These devices are available, easy to use, dependable and adequate units are inexpensive. With a few minutes of instruction and a little practical experience, investigators can become very proficient in the use of these devices. If a few basic legal guidelines concerning the use of this equipment are followed, violations can be recorded for evidentiary use. "A picture is worth a thousand words," and a video recording with audio is even better. Decide for yourself.

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"Officer Jones, tell me exactly what happened on May 28 in Okeechobee County." Has a request like this ever been made of you by a defense attorney? The attorney's next step is usually an attempt to destroy the validity of whatever statement is made by the officer. If more than 1 officer was involved in the arrest, your problems are compounded. A slight conflict in testimony can be blown out of proportion and eliminate the credibility of all officers testifying. The days are gone forever when the officer's word was considered to be the final authority. "It's your word against mine," is a common attitude that seems to rule the courtrooms today. Several defendants and only 1 witness for the State magnifies this problem as it becomes 2 or 3 or more against the 1 officer. The "sob" stories generated by defendants are sometimes so well planned and clever that it is hard not to believe them. Good cases are often lost in the courtroom. Conflicting testimony, doubtful credibility, lack of evidence or inability to communicate the facts can not justify even 1 guilty person being set free.

This space age we live in can offer answers to some of the problems of submitting evidence and testimony in court. Sophisticated electronic surveillance equipment has been in use for years, but the availability and cost have made it prohibitive for routine law enforcement use. In the past few years, aided by modern electronic technology and cost-saving production methods, electronic equipment in law enforcement has become commonplace. Wildlife law enforcement has not been excluded from the use of these modern electronic surveillance techniques and equipment. Many state agencies which are involved in wildlife law enforcement use these devices to monitor illegal activities and obtain evidence. Before entering the area of specialized surveillance equipment and its use, the basics of surveillance should be reviewed.

What is surveillance and what can it do in wildlife law enforcement? One can argue that surveillance is an exact scientific exercise based on strict planning and operational procedures with a definable and expected outcome. One can also

argue, with equal force, that it is an art based on one's ability to understand human nature and to anticipate human behavior. In the final analysis, of course, there is no argument . . . surveillance is both. It is the process of setting up, conducting and concluding an operation which depends as much on inventiveness and initiative as it does on tried and true procedures. The key to a successful surveillance operation is the officers who are expected to carry out set procedures with precision. They must also be flexible enough to implement spur-of-the-moment variations to accomplish the desired goal. Surveillance is an essential investigative tool. The implementation of surveillance should be given as much care and consideration as any other important law enforcement function. Surveillance is no longer a luxury but is as necessary as patrol and even equipment. With surveillance capabilities, a department gives itself a decided edge in fighting the battle against wildlife crime. Without surveillance, a wildlife law enforcement department can only hope to control illegal wildlife activities but seldom reach into them with any great success.

Ultimately, the purpose of surveillance is to obtain information which will help in stopping or curtailing illegal wildlife activities. The information gathered through surveillance can have several uses. Its primary use would be to act as direct evidence of illegal activities. This information gathering can mean anything from observing the sale of deer or alligators to catching up with a pet store operator who occasionally sells prohibited tropical fish. It can mean constant observation of a suspect until he commits a violation, or even the stakeout of a certain wooded area where suspected poaching might take place. An important point to make immediately at the beginning of any discussion about surveillance techniques is that the primary purpose of surveillance is *not* to make arrests or "busts." It could be that a surveillance detail ends with violators in custody, as is often the case, but it is more a result than a purpose. The distinction might seem a fine one, hardly worth making, until you consider it further. There are many times when the surveillance team will not even be involved in the actual arrest. Often, the operation is a part of a long-range plan or the arrest is handled by uniformed officers. Unless the investigators involved in surveillance recognize that the primary responsibility is to gather information, they can lose themselves in distracting activities that lead nowhere. There are also several secondary purposes for surveillance, each of these falling, to a greater or lesser degree, under the primary one. Surveillance can be used to locate persons by observing their usual hangouts or associates. It can be used to secure detailed information about a person's habits and activities. Surveillance is useful in finding probable cause for a search or seizure or in gathering admissible legal evidence. Surveillance can also be a good way of checking out the reliability of informants or of developing new leads in the investigation of suspected illegal wildlife activity. All this is to say that surveillance work is highly specialized. It has its own rules, its own procedures and its own objectives. As a specialized field within wildlife law enforcement, surveillance, its purpose and techniques must be understood to be effective.

In-depth surveillance conducted by the Division of Law Enforcement of the Florida Game and Fresh Water Fish Commission is generally done by plainclothes wildlife investigators. The size of the team involved in surveillance is determined by the type of operation being considered. There is usually a team supervisor or leader who is charged with overseeing the planning and coordination of the detail.

He must make sure communication lines are always open and available and that each investigator involved performs all assigned duties. He must also take responsibility for the outcomes of the surveillance effort, compiling reports and passing on the findings to all concerned parties. Investigators are responsible for the actual gathering of information. They may do this from hidden positions or out in the open. In any case, they must always be aware of the operation and their place in it. From time to time, it may be necessary to include uniformed officers from your agency in a surveillance detail. Sometimes there is expertise in the uniformed ranks which can not be duplicated by investigators. The extent of this involvement must be determined by the surveillance team. There must always be a concern with internal security. One of the basic elements of a successful surveillance operation is secrecy. People outside the surveillance team, no matter how well meaning or expert in a particular area, can not be expected to understand surveillance work as the team members do. For this reason, it is a "common sense" practice to tell them only enough about the operation so they can do their job and help the team with its job. Surveillance calls for a quiet and low-key approach. It demands great attention to detail and the ability to discriminate between important and unimportant facts. It expects a great deal of independent action and initiative but always within a coordinated, strictly followed master plan.

The good surveillant is someone who is capable of blending in with any situation. This applies both to his appearance and his personality. He should look as inconspicuous as possible. There should be nothing about him that would set him out from the crowd. His personality has a great deal to do with his effectiveness. He has to be a person who is self-assured enough to live without a great deal of recognition. He must be able to forego the prestige, the public image, the sense of importance which comes from wearing a uniform, badge or carrying a weapon. He must be able to do without the comradery of his fellow officers. He will have to restrict his conversations with them and avoid sharing many of his experiences. In many cases, he will even have to keep his identity as a member of the law enforcement division hidden. In spite of all this, he must *not* be a loner, since he must be an active member of the team. In short, he must be able to take the loneliness that comes with most surveillance work while maintaining very strong ties with his fellow investigators. The good investigator must be patient. He must be able to last things out, waiting when he wants to go, quiet when he wants to take charge. He must be able to endure hours, even days of being alone waiting, always with no guarantee that anything is going to happen. He must be able to realize and accept the fact that all his efforts may come to nothing or that the results of his work will only surface long after his job is done. Together with these personality traits, the surveillant must also have specific skills. He must possess exceptional alertness. He must have a keen sense of observation. He must develop a good memory. He must have the flexibility to adjust to any situation in which he finds himself and the ability to act naturally at all times. He must show resourcefulness and imagination in doing his job.

What is surveillance? Who does surveillance? all of these questions have been answered. Now probably the most important aspect of all is how is it effectively done? A typical surveillance operation consists of a group of personnel and much equipment. Each has a different function, in various locations, under varying orders, and faced with a variety of situations. It is not the kind of thing that can be

left to a casual conversation. Surveillance, with so many uses, so many details, so many possible outcomes, has to begin with a master plan, a lot of homework and everyone and everything in place. Planning is important and everything should be laid out beforehand. There is enough that can go wrong without having to worry about the effects of inadequate planning or a misunderstanding of what is to be done. When planning a surveillance operation, the first thing that must be done is to make perfectly clear to the investigators involved the purpose of the operation. Investigators should know the suspected violation, where it will take place, the length of the operation, how large, who is involved, who is not involved, who will be assisting and the expected outcome of the operation. Research is a must when setting up an operation. It is important to know all you can about the subject; how he looks, dresses, is he cool or easily rattled, is he sharp or slow, what are his habits, weaknesses, his pleasures, does he have a criminal record, does he carry a weapon, who are his friends, where does he hang out, what does he drive? Knowing such things about a subject will help in anticipating his moves and behavior. The area in which a surveillance is to be conducted must be of particular concern. A good plan takes the area into consideration and uses it to an advantage. If a choice of area is available, choose the one that is least familiar to the subject. A determination must be made as to the type of surveillance to be used. Will it be mobile or fixed or a combination of both? Methods of communication must be established in order that all investigators involved will be kept informed. These methods vary from hand signals to multi-channel radio systems. The situation dictates what is feasible. There are many pieces of equipment which will make the investigator's job easier. The surveillance plan should include a determination of the equipment to be used and its availability. Investigators who will be using the equipment should be allowed time to become acquainted with the equipment. Video cameras and recorders are some of the most effective pieces of surveillance gear and the evidentiary value of the tapes is unsurpassed. Motor vehicles have a definite place in surveillance operations. Customized vans, rental trucks, four-wheel drive pickups and luxury sedans are very effective surveillance tools. Some are used to establish cover for the investigators and others are utilized as mobile video stations. License plates and safety inspection stickers should be altered to fit the situation. Electronic listening devices can be helpful in operations as incriminating statements can be recorded and used as evidence. However, the courts have carefully established the procedures and limitations for bugging, tapping and electronic snooping. It is important that investigators planning on using such devices seek legal advice before proceeding. The importance of planning and preparation for a surveillance operation can not be stressed enough. With so much invested in time, manpower and money, with so much at stake by way of personal safety and the successful curtailment of violations, the operation must rest solidly on adequate planning and preparation or certainly fail.

Occasionally, the operation produces results beyond expectation. However, often enough, the results are modest, sometimes even negligible, and it is then that the professional accepts what comes and sticks to procedures in finishing the job. For investigators participating in surveillance, the wrap-up is as integral a part as the preparation and operation, and the results — good, bad or indifference — can be assessed afterwards. Probably the most difficult type of surveillance is the one which is after long-range results. It is difficult, not because of complicated procedures but, because the team will very often see no direct or immediate results of

its work. There is a tendency to get a little careless at the end of this type of operation. Since no direct action is anticipated, it is easy to be lulled into a false sense of security. At this point, everything has been done that should have been. There has been either a successful surveillance or a failure. What is done now will determine the effectiveness of the team on future operations.

The wrap-up is no place for "show and tell." For reasons of personal safety and to protect long-range operations or future surveillance efforts, all operatives should maintain their cover until they leave the surveillance scene. Even after the team leaves the area, many of its sources must continue to live there. To expose these sources carelessly at the end of an operation not only endangers them personally but also compromises the effectiveness of the team. Whether the investigators have accomplished anything or not, the subject of surveillance should know nothing about the operation. This is critical for long-range efforts as well as for future operations which might involve the same subject. Investigators should take the same care in leaving an area as they used when entering it. Fixed-surveillance investigators should remove equipment (video, 35-mm camera, etc.) in the same way they brought it in, undercover! Never leave loose ends in an area where surveillance has been conducted. Unfilled commitments can blow your cover. As soon as investigators complete an operation, they should compile their notes for a report. All investigators involved should contribute to the report and have the opportunity to read it before it is submitted. All evidence obtained should be identified, marked and dated. All video or audio tapes should be marked and labeled with case number and subject.

If a surveillance effort results in an immediate "bust," which is a common goal, it is recommended that the surveillance team not be directly involved with this action. With sufficient manpower from the department, there is no need to expose the surveillance team. Also, uniformed officers, because they are instantly recognizable, can usually best discourage resistance by the suspects. Generally, the best place for surveillants during a "bust" is at their normal positions. They can then be on the alert for unexpected developments such as an escaping suspect. After the "bust," the surveillance unit has its own wrap-up to contend with. This includes moving out of the area, documenting the evidence and writing the final report, as discussed earlier. Once again, it must be mentioned that this phase of the operation is not the place to let down on procedures.

The final disposition of the surveillance action can vary. What will not vary is the primary purpose of the operation — to gather information. Investigators must always be aware of this as they go through planning, operational and wrap-up phases. They must also take special care in adhering to procedures. It may not be the most exciting approach to a surveillance operation, but it is the only one that will work.

As mentioned earlier, video cameras and recorders are very effective surveillance tools. On several occasions, investigators with the Florida Game and Fresh Water Fish Commission have successfully used video, in conjunction with an audio listening device, to obtain evidence of commercialization of wildlife. Up until last year, the use of video was restricted due to the primitive equipment available for use. A new beta-max cassette-type portable recorder was purchased last year. This unit is powered by nickel-cadmium rechargeable batteries and can also be operated by 110 volts. It is very versatile and completely portable. The standard lens on the

video camera currently in use is a 75 mm. Recently, a special adapter was acquired that now enables the use of a 100 to 300 mm zoom lens. This lens increased the effective range of the camera almost 4 times. The video system has been used, positioned on a tripod from a van, and most recently was situated in a palmetto patch in a wooded area. The use of video is only limited to your imagination and the quality of your tapes is determined by meticulous planning and preparation.

The most recent use of video was on a "bust" in Okeechobee County in south Florida. Three individuals were involved in the killing of alligators, skinning them and selling the hides and meat. Investigators, over a period of months, had gained the confidence of these wildlife profiteers and arranged for an out-of-state buyer to purchase some of the hides and meat. The buyer was another investigator. Arrangements were made for the sellers and buyer to meet in a roadside park for the 1st transaction. Investigators and the Investigations Supervisor met the day before the planned meeting to determine what type of surveillance was to be used. The roadside park was visited and studied from every angle, and they decided to use the video system from the surveillance van. The van was positioned along the road about 70 ft from where the buy was to take place. The van was jacked up, a tire removed, and also the hood was left open to give the appearance that the van had been left temporarily, for mechanical reasons. The camera was positioned in a stack of boxes in the van and the tape was to be made through the rear window of the van. The buyer's truck was placed at the pre-determined spot and the transmitter for the audio listening device was placed under the bumper of the buyer's truck. Test tapes were made and all systems were double-checked. When the suspect's vehicle, which had been determined earlier, pulled into the roadside park, the camera and tapes started rolling. The transaction lasted about 17 min and 99 alligator hides were purchased by the investigator for \$4,400. Every phase of the buy was recorded for evidence. Arrangements were made to meet again in 2 weeks to purchase the balance of the hides and also some meat. The team decided that a less public place would be more suitable for the 2nd meeting. A wooded area in an isolated area was selected and the suspects agreed to meet there to deliver the hides and meat. Investigators and the Investigations Supervisor arrived in the area 2 days early to start planning. It was determined that if all went well, the "bust" would take place at the transaction site. The site was surveyed and hidden spots were selected for the video system and, this time, a back-up 35-mm camera with telephoto lens. Hiding places in the surrounding woods were selected for the uniformed officers who would make the arrests. Many test tapes were made anticipating the light and weather conditions for the purchase day. Video and audio systems were checked and rechecked. Camera sites were viewed from every angle to ensure maximum security. Investigators arose early on the target day and went to the site for final setup. Everything was put in place including the buyer's truck. Test tapes were again made; everything was ready. Officers were positioned. All that was left to be done was the illicit transaction. The suspects arrived and the cameras and tapes started. This transaction took 35 min and many admissions of guilt were made in the form of casual conversation. On a pre-determined signal, the officers moved from the hiding and the arrests were made. Evidence acquired at the site included 246 alligator hides, 100 lbs of alligator meat and a 4-wheel drive pickup and, of course, 35 min of top quality video tapes, audio tapes and many 35-mm photographs. All equipment used in the "bust" remained hidden

until the suspects had been transported to jail. The suspects are now awaiting trial in 2 counties and at this time have no knowledge of the tapes which will later be entered as evidence.

Currently, no wildlife violations in Florida, which have been video recorded, have gone to trial. When the defense attorney files for disclosure and the tapes are viewed, he immediately recommends that this client plea guilty. The defense that "it's your word against mine" is no longer valid.

"Smile, you're on candid camera."