

STATE AND U.S. AGENCY COOPERATION YIELDS SUCCESSFUL COVERT INVESTIGATION

by

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As in most member states, North Carolina has for years harbored an unknown element of conservation law violators. These are people who, either on a large or a small scale, deal in the buying and selling of illegal fish and game. Because of the "black market" nature of these dealings, it is impossible to utilize regular law enforcement techniques to isolate the violator or to determine the magnitude of their operations. In fact, most of the information, up to this point, was vague and a matter of officer opinion and suspicion. As a result, seldom was an arrest made and only then for minor or technical violations. Except for short-term, cursory, and often amateurish undercover attempts, no efforts had been made of the "covert" approach. The first serious consideration given to a long-term, planned covert operation came when the U.S. Fish and Wildlife Service offered the N.C. Wildlife Resources Commission the opportunity to utilize one of their Special Agents in enforcing the State fish and game laws. Since this Special Agent happened to be female, a plan to attack the illegal marketing of game fish and animals came into focus. The plan in which the female Special Agent would work in conjunction with a N.C. Wildlife Officer, who was familiar with the area and the problem at hand, was quickly implemented.

Little information was readily available on the surreptitious dealing in wildlife. Therefore, it was determined that we would have to develop our own leads and plan of action. Our first meeting took place on August 14, 1975. At this time, we reviewed the available information and settled on a cover story: this was no simple task, as it was accomplished within a 24-hour notice and was to last ten months. We chose to appear as well-to-do outdoor enthusiasts who could travel more or less at their leisure and interested in local customs and traditions, particularly, how the remote locals lived off the land by handcrafts, hunting, trapping, and fishing. Though we never explained our personal relationship, we occasionally insinuated that we were connected with North Carolina State University in some vague manner.

One of our first projects was to convert a standard U.S. Government International Carryall van into an acceptable undercover vehicle. We located a seventeen-foot bright aluminum canoe at the North Carolina Wildlife Resources Commission warehouse and devised carrying racks to fit the van. To this, we added a full pack, two sleeping bags, a Coleman stove, and an array of other camping paraphernalia. We procured a license plate that could not be traced to any Wildlife person or law enforcement agency. Kennedy had lived in the heart of the suspect area for six years. Consequently, it was necessary to devise a personal disguise: a long-haired wig, sunglasses, and casual clothing was enough to alter his appearance sufficiently to pass a close examination.

We chose, as a means of testing our scheme and effectiveness, to contact a subject who was a primary suspect in dealing with game fish. Additionally, he had had personal contact with Kennedy on several occasions over the past five years. This subject was of added value because he dealt in hand-made wood articles and would afford us a natural reason to go and come freely in the community. We maintained this contact throughout the operation as it contributed to making many contacts with other dealers in the area.

In a new community farther down river, we made contact with a fish dealer at the end of a dirt road. Our objective was to purchase illegal fish from all of the ten suspected dealers

along the road. The first purchase was by chance at the end of the road. We then realized how important it was to always contact the suspect at the end of a road or street first, then gradually work your way out so as not to continually travel past those dealers from whom purchases had already been made. Although these people were competitors with each other, they still passed any suspicious information among themselves.

Our next target was at a large resort lake about four by seven miles in size. We operated on the basis of some vague information that at least three fish dealers resided somewhere around the lake. Gas station attendants and restaurant operators, with our innocent questioning, helped us isolate our suspects. In this setting, our approach was one of campers who were interested in a small quantity of game fish to fry over a campfire. As time went on, this approach enabled us to make larger purchases of fish for what we said were canoe club fish fries. In this area, we infiltrated a bait and tackle shop where the manager was involved in large-scale netting and selling of game fish. After making several purchases at the bait and tackle shop, an employee showed us how and where he and the manager netted, and also told us in detail how they evaded detection by the conservation officers. This information was later used to successfully convict the two on several counts of conspiring to net and market game fish. This was the first time in North Carolina that conspiracy has been implemented in a wildlife case.

On many occasions, we found it necessary to devise special schemes in order to gain the confidence of suspects. In one such incident, we rented a campsite from a man who operated a combination campground/fish camp along a river. We pitched a tent and used this as our base of operation from which we travelled making other contacts and buys along the same river.

After one visit to this area using this technique, we gained the complete confidence of the primary suspect as well as several others in the area from whom we eventually purchased illegal fish and game.

Due to our early success, we were requested to work in an area 150 miles from our ongoing investigation where a particular problem relating to deer marketing had been suspected for several years. Our information suggested that a gang of poachers was operating with its base being a beer joint/gambling house located near a larger city. A criminal records check on most of the suspects revealed past convictions in the areas of wildlife, liquor, gambling, assault, and firearms violations. With this in mind, we altered our cover to that of university archaeologists because the area where the illegal activity was being conducted was also rich in Indian artifacts. In preparation for our new role, we researched Indian culture in the area and obtained a supply of Indian artifacts and archaeological tools. This allowed our free movement in the field and forests and even into the residence of a suspect who was a hobby artifact collector.

We made our first trip to the "joint" without incident and felt confident that the suspects believed our story. The second trip, however, was a different matter. We purposely had not carried any official identification or firearms. During a seemingly innocent conversation, one of the suspects suddenly made a forceable quick frisk of Kennedy. To this day, we have not determined whether we were suspected as police officers or potential robbers. We do feel, however, that the incident gave us the credibility which led to arrests on eighteen counts including conspiracy against the four main members of the gang. The conspiracy charges related to taking deer during the closed season, taking deer by prohibited methods, taking deer between the hours of sunset and sunrise, taking swimming deer, buying and selling deer, possessing and transporting deer during closed season, and possession of deer for the purpose of sale.

Although most of our investigations dealt with violations of North Carolina State Law, we uncovered two subjects who were operating in violation of Federal Law. These persons were engaged in the interstate commerce of fish taken contrary to North Carolina State Law, a violation of the Black Bass Act. The elements of the Black Bass Act required that we first establish culpability on the part of the defendant and prove that the transported fish originated in the same state where the state law was violated. The violation was complete when the fish were transported into another state. To our knowledge, no Black Bass Act case had ever been made in North Carolina. This made it imperative that we work

closely with the United States Attorney's Office. The U.S. Attorney laid the ground rules that we: positively identify the suspects in the state of origin and maintain constant surveillance to their destination in the other state; make the arrangements in one state and the payoff in the other state; prove culpability on the part of the suspects; prove the fish were possessed in the state where they originated contrary to the laws of that state; and prove that these same fish were transported across state lines.

Coping with the culpability problem came first. We simply told the suspect dealers during our conversations that it was against the law to transfer illegal fish across the State line. Then, our plan was to convince them to ship us fish into another state without entrapment becoming an issue. After this, our plan was to make a visual identification of the suspects; maintain constant surveillance of the suspects into another state; and get in front of the shipment in order to be first to the rendezvous point. The payoff problem was the easiest. The complete plan was accomplished by using several different vehicles, taking several trial runs, including aerial scouting of all probable routes, and using aircraft as a backup during surveillance. We had a wet and dry plan, but in each occasion we were able to use the aircraft. This was quite a relief and gave us much confidence as the long trailing operation progressed.

At the rendezvous, we had stationed another agent in a position to photograph the final transactions including money exchange.

As a method of checking our effectiveness, near the end of the operation another North Carolina agent was introduced into the midst of the suspects. In addition to identifying a few new suspects, this agent was able to report direct comments from the suspects after they had been arrested on our charges. We were satisfied that our work had had a significant impact since none of the suspects sold fish to the third agent. This agent remains undercover and will continue for some time as a yardstick of our continuing effectiveness.

The field phase of the investigation was completed on June 1, 1976. On June 17, criminal summons were served on thirty-three individuals alleging 103 counts of illegal game and fish sales. At this time, we prepared press statements describing the charges and other permitted information as it pertained to special locations within the state, disseminating these statements according to local interest in specific news media. It was well-received by newspapers, radio, and television. This was no mean task as identity of the agents remained anonymous until trial.

Court proceedings were the beginning of perhaps the most difficult part of the operation. We had made extensive notes during the investigation and now had to catalog these in such a manner to be able to testify against a group or one individual, depending on the nature of the case.

We attacked the problem of a somewhat lackadaisical court system exactly as we were taught in recruit school: letters were sent to the District Attorney; appointments and conferences with Assistant District Attorneys; preliminary verbal testimony to the District Attorney; photos and maps, and above all, persistence. Because of the uniqueness of our investigation, we gave careful consideration to our courtroom image and demeanor. This was extremely important, and we received several favorable comments on this from district attorneys, defense attorneys and judges. We emphasize this point because we firmly believe that it worked to our distinct advantage in successful prosecutions. Our court appearances, however, were not without problems. On one occasion, we arrived for court only to find our case had been quashed some fifteen days prior. We were saved this time by two persistent Assistant District Attorneys. As a result of our pressing the issue, the presiding judge became interested and requested the judge who dismissed the case to appear and hear the State's evidence. At the same time, the defendant was being notified to appear. That afternoon, the original judge disqualified himself, admitting unofficially that he too had purchased fish from the defendant. The case was reopened and heard that afternoon with a guilty verdict and a substantial fine rendered. Our court appearances covered several of the North Carolina judicial districts and our impact remained constant in that essentially the same substantial sentences were rendered by several different judges. With the exception of one wife of a husband-wife co-defendant situation, each person charged was found guilty. In the conspiracy cases, fines of \$1,000, two-year

suspended prison terms, and probation conditions that prohibit possession of any deer meat for five years, were imposed. The other penalties ranged from \$50 to \$250 in fines and some very restrictive probation requirements. One strong factor in this high conviction rate was that we made *several* purchases from most of the defendants.

In the final analysis, we discovered there is a ready market for illegal fish and game and a good number of unscrupulous dealers who have gone to great lengths to satisfy this market. Well-planned and constructed live holding facilities for game fish, large freezing capacities, illegal weapons, specially designed boats, nets, weirs, traps, scales, marking, and packaging devices were all part of the general scheme to circumvent game laws. Our interstate commerce cases enlightened us to similar situations in another state. During this phase, we actually made a few purchases for an undercover team operating in the neighboring state. The fact that the investigation was joint; i.e., U.S. Fish and wildlife Service and the N.C. Wildlife Resources Commission, provided that the cases be conducted to the optimum advantage of both agencies. The number and types of activities identified and prosecuted could not have materialized without a genuine effort on the part of both agencies. We firmly believe another agency could have accomplished the same results alone. Credit here must be given to the Chief of the North Carolina Division of Enforcement and the Special Agent in Charge, District Ten of the U.S. Fish and Wildlife Service with headquarters in Nashville, Tennessee for realizing that we were in the best position to analyze a given situation and make judgements to fit the occasion, and also, for allowing the freedom of movement, expense, and judgement of both officers. Additionally, North Carolina has since implemented an organizational change to provide for covert assignments of certain officers as a part of their regular duties. Utilization of the team concept proved to be more effective than an individual officer. This effectiveness was compounded by including a female agent which created such a credible image the violators were totally unaware they were subjects of an extensive undercover investigation.

The overall success is a true reflection of the cooperation, in fact and spirit, between the United States Fish and Wildlife Service and the North Carolina Wildlife Resources Commission in a long-term effort to alleviate a problem common to both agencies.