

KCSD Investigation Narrative

Date : 10-11-96

Incident# : 96-9299

Crime : Grand Theft Logs 18-2407(1)

Victim : State of Idaho Dept. of Lands

Suspect : S-Hart, Philip Lewis w/m 1-16-56
604 Lincoln Way CDA, Id 83814
667-2600

I/L-Engstrom, Colby D. w/m 11-22-76
I/L-Engstrom, Dale A. 4-16-49
I/L-Engstrom, Scott w/f 8-26-43
7148 Garfield Cuttoff Sagle, Id. 83860
(208) 263-0155

Supp By : Sgt. K.F. Sopher

Witness : Sullivan, Jeanne M. w/f 4-17-44
4655 E. Spirit Bend Ave. Spirit Lake, Id. 83869
623-2383

Mentioned : R/P-Johnson, Thomas Clifford Forester
State of Idaho Dept of Lands
Sandpoint, Idaho Office
263-5104

Lt. Valdez
Bonner Co. Sheriff's Dept.

Palmer, Kathy w/f
Kootenai Dept. of Building & Planning

Truax, Joel G. w/m
19701 S. Bing Rd. Lynnwood, Wa. 98036

Rickerd, James Forester
State of Idaho Dept of Lands
Mica Fire District Office CDA, Id.83814
769-1577

Shuester, Steve
Attorney General's Office
Boise, Id.
(208) 334-0200

On 6-17-96 at 1525 hrs. I contacted W-Jeanne Sullivan she said the area that the timber was stolen from is behind her property. She said she was walking in the area and heard a piece of equipment working and when she got near it shut down. She said

she did not see any persons in the area. She said the only things she saw was a red pick-up with Idaho plates 7B43872. This number is different than the one on the original report. She said she is certain of the number as she still has the paper she wrote it on. This number returns to the same I/L's as listed in the original report. It appears that the deputy in writing the original report left off the last number. She further stated that she also observed logs decked up and the logs were gone the following day.

On 6-17-96 at 1535 hrs. I contacted R/P-Thomas Johnson who stated that he had checked the Sandpoint and Mica district offices of the dept. of lands to see if any logging compliances had been taken out in the area of the thefts. He stated that no compliances had been taken in either office. He further stated that due to the species, size and length of trees taken he suspects that they were taken for log homes. He said he would check the log home builders in the Sandpoint area. He further stated that the tracks left at the crime scene by the equipment used to move the logs was not the tracks of a normal skidder. He stated that the tire tracks were of a tread like that used on farm tractors.

On 6-18-96 at 1045 hrs. R/P-Johnson stopped by KCSD to give me the sheets of computations by which the board footage was established. He also gave me a copy of an aerial photograph type map showing the location of the theft and an additional three areas that logs were taken from bringing the total stole board footage to 7937.20. He pointed out that the current price is \$275 a thousand board feet bring the total to \$2,182.73.

On 6-25-96 I checked the local log home builders and were advised of their sources of logs. There is nothing that would indicate that these sources were involved in the theft.

On 6-27-96 R/P- Johnson contacted me at KCSD and stated that all the log home builders in the Sandpoint area were reputable. He also gave me some photographs he took of the tire tracks at the crime scene. The tracks seem to be of a block type used on farm tractors. The front tires were of a flat configuration and had little or no tread. Johnson felt that the front tires were possibly old passenger car tires. As I had been unsuccessful in contacting the I/L-Engstrom family he stated he would attempt to do so.

On 8-2-96 at 1052 hrs. I contacted M-Lt. Valdez of the Bonner Co Sheriff's Office and asked his assistance in contacting the I/L-Engstrom family as they live in Bonner Co. He said he will have someone contact them and ask them to call me.

On 8-5-96 at 1025 hrs. I again called W-Sullivan and asked if she had seen the equipment used by the thieves. She said she did not see it, only heard it. She further stated that the last time we talked she forgot to mention that she had recovered a mud flap from the place the red pick-up had been parked. The mud flap which she still has, has the word ISUZU on it. I mentioned that the registration info for the license plate she had given comes back to a red Toyota pick-up. She said that she is very familiar with Toyota pick-ups and she is certain the pick-up was not a Toyota.

On 8-9-96 at 1540 hrs. I received information M-Lt. Valdez that a Bonner Co Deputy had gone to the Engstrom property but the gate was locked. The deputy left a note on the gate requesting the Engstroms to call me.

As of 8-26-96 I had received no communication from the Engstroms. I thus drafted and mailed the attached letter requesting they contact me.

On 8-28-96 at 0850 hrs. I received a telephone call from I/L-Scott Engstrom (recorded). Mrs. Engstrom stated that they had been out of the country and are going to be moving to New Zealand. Mrs. Engstrom stated that the 90 Toyota that had been seen at the crime scene had been sold March 29, 1996. She further stated that it was sold to S-Philip Hart who owns Hart Engineering in CDA. She further stated that Hart looks like Trapper John in the Mash TV series. She further stated that the Engstrom's license plates were left on the vehicle at time of sale so that Hart could drive the truck home. He was to return the plates and never has. She further stated that several calls have been made to Hart to get him to return the plates but he has not done so. She further stated that the pick-up is red in color and had right front end damage at time of sale. She further stated that First Interstate Bank was the loan holder (loan #10800112628070001). She said that I could contact the bank at 1-800-559-3557 if I wished to confirm the date the bank signed the title off. She also told me that during the sale of the truck to Hart he mentioned that he was building a log home some were in the Carey Wood area she believed.

On 8-28 -96 at 0935 hrs. I called Kootenai Co. Building and Planning and spoke with M-Kathy Palmer the receptionist. I asked if S-Hart had taken out a building permit. She advised that he had on 10-31-95. She stated that the Permit number was 25503 and the address of the construction was 28845 N. Farah Loop Athol, Id. I then asked what type of construction was it and she advised that it was a log home. I asked if the home was completed and she advised that it was not. I asked at what stage was the construction and she advised that the last inspection was on May 13, 1996 and that was of the foundation

walls. She also told me that S-Hart had a business Hart Engineering located at 412 Sherman Ave #210 CDA, Id. I then asked for directions to the building site. They were Hwy 95 North to West on Brunner, North on Clagstone, West on Remington .8 miles, turn right on dirt road .2 miles, building site on right.

On 9-17-96 at 0830 hrs I went to the S-Hart's construction site accompanied by R/P-Thomas Johnson. We observed the site to be in a new subdivision and was the only building under construction. We further observed on the east side of the driveway to be a large pile of logs. Some of the logs had the bark removed and some still had the bark. R/P-Thomas Johnson checked the logs and stated that the species and sizes were consistent with those stolen. He also pointed out to me that the logs were green due to pitch droplets oozing out of the butt cuts.

Approximately forty feet east of the log pile was a pile of bark. The bark pile was approximately eight feet in diameter and five feet high. Approx. thirty feet to the west of the log pile and across the driveway was another pile. This pile was a scrap pile and consisted of building material and the butt ends of logs. This pile contained the ends of the logs that had been cut off to square the butt end. Approximately thirty feet south of the log pile I observed a tree on the west edge of the driveway. Nailed on the tree was a plastic bag which contained a copy of the building permit with the number 25503. We further observed that the house was of hand hewn green logs and the unattached garage was of wood frame construction. The log house had door and window openings cut and framed. To the south west of the house was a Masey Ferguson MF40 tractor. The tractor is yellow in color and has a front loader and a box scraper on the rear. The front tires were bald passenger car tires and the rear tires had a stagger block farm style tread. The rear tread was identified by R/P-Thompson as being the design he had seen at the crime scene. The left rear tire apparently had been repaired as evidenced by white chalk marks pointing to breaks in the tire and the name "Hart" was written on the side of the tire. The tractor bore a VIN number of 003759. I attempted to photograph the above but was unable to do so due to a dead camera battery. I returned at 1545 hrs. with a fresh camera battery and photographed the above logs, chip pile, scrap pile, building permit, house, garage, tractor, tractor tires and general area.

On 9-18-96 at 0830 hrs. I drove to the suspects residence at 604 Lincoln Way and observed a red Toyota pick-up with a ladder rack in the driveway of S-Hart's residence. I observed that the vehicle had body damage to the right front as described by M-Scott Engstrom. I noted that the license plate on the vehicle was K128501. I photographed the vehicle and then returned to

KCSD. At KCSD I ran license K128501 and it returned to a red 1990 Toyota pick-up VIN JT4VN13D5L5023132 registered to S-Hart at the Lincoln Way address. I then ran the vehicle by the VIN number for the titled owner and the return disclosed the titled owner as S-Hart. It also disclosed the previous titled owner as M-Scott Engstrom and the previous license plate as 7B43872.

On 9-24-96 at 0800 hrs. I met with R/P-Thomas Johnson of the Dept. of Lands near the S-Hart house under construction. We drove to the house and checked the scrap pile for butt cuts from the logs used in the construction of the house. In the pile were observed several butt cuts with distinctive markings. I photographed several of the butt cuts. I retrieved two of the butt cuts from the pile for evidence. We took the two butt cuts and went to the area where the logs had been stolen from. Using a list created by R/P-Johnson which showed the species and diameter of each stump we attempted to match the lighter of the two butt cuts to a stump. It should be noted that each stump was numbered by Dept of Lands employees and cataloged on the list R/P-Johnson and I used. We chose to use the thinner butt cut for weight reasons because we had to carry it through the woods. The logs were harvested from three areas within approximately a half mile radius. The last area checked was area two and at 1040 hrs. the butt cut taken from the S-Hart scrap pile was found to be an exact match to stump #22. The match was made by comparison with the irregular exterior contours of the tree, the cut and the tare fragments of wood remaining on both the butt cut and the stump. I photographed the butt cut in relation to the stump as well as the wedge of wood which had been cut from the tree and left laying on the ground at the base of the stump. I collected the wooden wedge for evidence. We did not have a chain saw and thus could not collect the stump top at the time.

When I returned to my car which was parked on the un-named gravel roadway I checked the area for other evidence. I observed on the south road edge next to where my car was parked that somebody had defecated. I further observed that pages of a spiral type note pad had been used to wipe. I further observed that one of pages contained printing and numbers. I further observed that the word "Ridge" was printed at the top. I collected it as evidence as it may relate to the building under construction by S-Hart. Directions to area 2 stump 22 are Hwy 54 mile post 1.8 take un-named dirt road with survey marker sign south .8 miles then west .2 miles on the old railroad grade. Then walk approx. 250 yds in a northeasterly direction along a skid mark created by dragging logs to the road.

While checking the three areas that the log had been stolen from I observed rear tire tracks. These tracks were consistent with the rear tire tread on the MF40 tractor on the S-Hart job site.

After leaving area I drove to the S-Hart construction site to determine the distance. The distance was 6.8 miles. I arrived at the S-Hart building site at 1131 hrs. and observed a 1969 Chevrolet pick-up bearing Washington license L93867 at the site. I contacted a white male in his 20's and asked him if he was the owner of the residence. He stated that he was not, but was waiting for the owner. He further stated that he is building a house in Bayview and that the owner of log house that we were at is the engineer for the house in Bayview. He stated that he was waiting there to get the plans from him. A check of Washington DMV records disclosed the Chev. Pick-up is registered to M-Joel Truax.

I then drove to KCSD and placed the two log butt cuts, wood wedge cut and note book page into KCSD evidence.

On 9-25-96 I returned to area 2 stump 22 with a chain saw. At 0645 hrs I cut the top off of stump number 22. I wrote 22 and my initials KS on top of the stump with blue builders chalk and left. I transported the top of stump 22 to KCSD where I placed it into evidence.

On 9-25-96 at 1109 hrs. I called S-Hart's business Hart Engineering Group at 412 Sherman #210 CDA, Id. Phone 667-2600. The phone was answered by a male who identified himself as "Tim".

He stated that S-Hart was out of the office for the day. I identified myself and asked him to have S-Hart call me. Tim took the information and stated that S-Hart would most likely return my call on 9-26-96.

On the morning of 9-27-96 I received a telephone call from S-Hart. He said that he would come into KCSD with I/L- Engstrom's license plates.

On 9-27-96 at 1145 hrs. I interviewed S-Hart after he read and signed a Miranda waiver. S-Hart had with him the license plates 7B43872 which had been on the red '90 Toyota pick-up when he bought it from I/L-Engstrom. In the video taped interview S-Hart stated that he purchased the 90 red Toyota pick-up from I/L-Engstrom on 3-22-96. He further stated that he used it with the 7B43872 plates on it until he re-registered it on 6-17-96. He further stated that he was the sole user of the pick-up during that three month period. When asked if the pick-up had been at the crime scene on 4-19-96 where it had been seen by W-Sullivan he said that it had. When asked if he had done the logging at the crime scene he stated that he had. When I asked if the property was his he stated that it was not. When asked who's property it was he stated that it was state land. When asked why he was cutting logs off of land that he knew was not his, he

stated that there is an Idaho code which allows a person to cut logs from state lands to build ones personal residence. When asked code number he stated that he could not recall it, but he had it at home.

When asked if he was the only person to do the logging he stated that he had help from a person from Montana. He declined to disclose the name of that person stating, it was his idea and he would take sole responsibility. When asked where he had heard of this Idaho code he stated that he heard about it from a logger and then had researched the code. When asked for the name of the logger he stated that he could not recall the loggers name as he had talked to many people. He admitted that the logs taken from the state land was used to build the building I had photographed.

He stated that he would return to KCSD on 9-30-96 at 0900 hrs. with the Idaho code which he states gives the authority to take state owned logs.

After my interview with S-Hart I called M-James Rickerd the Idaho Dept. of Lands Forester at the Mica office and asked him if he was aware of any Idaho code that allows citizens to take logs off state lands to build their private residences. He stated that he was not aware of any such law. I then called R/P-Thomas Johnson and asked him the same question I had asked M-Rickerd. Johnson also stated that he was also unaware of any such law.

On 9-30-96 at 0855 hrs. I again met with S-Hart at KCSD. He again read and signed a Miranda waiver and in a video taped interview he supplied the following information. S-Hart started by saying that he initial started to buy logs to build his home but was not satisfied with the logs available. He said he contacted the U.S. Forest Service and was told that there was no program through which he could get logs for his home. He said that while on a business trip in the St. Maries, Id. area he stopped into the St. Maries office of the Dept. of Lands. He said that he spoke to a male about forty years old of medium height and build. He said that this person supplied him with a "Personal Use Products Permit" form and a "Direct Sales Contract" form for the purpose of obtaining logs to build his house. S-Hart stated that he then went to a library and researched the Idaho Codes. S-Hart had a large number of photo copied papers with him which appeared to be photo copies of the Idaho Code. S-Hart pointed out specific sections of the code to me as the interview progressed.

He pointed out that Idaho Code 38-1303(4) defines the word "Harvesting" as commercial cutting and does not apply to persons cutting trees for personal use. He then pointed out that Idaho Administrative Code 20 Title 02 Chapter 01 sect. 25 also defines "Harvesting" exactly as Idaho Code 38-1303(4).

He then refereed to Idaho Administrative Code IDAPA 20 Title 02 Chapter 01 Section 07 Types of Operation for which Notice will not be Required. Sub section b. Non-Commercial cutting by persons for his own use.

He then refereed to Idaho Administrative Code IDAPA 20 Title 02 Chapter 10 Section 015 Fire Wood Permits, Section 016 Personal Use Permits, & Section 020 Direct Sales. He stated that for obvious reasons the Fire Wood Permit does not apply. He further stated that as for the Personal Use Permit it does not apply because it is for dead and down forest products and brush. He ended by pointing out that Direct Sales Permits do not apply because of the use of the word "Harvest" which by definition exempts private persons taking the logs for personal use. I made copies of just the mentioned code sections and attached them to the report.

On 10-8-96 I spoke with M-Steve Shuester of the Attorney General's Office. He had been referred to me by the Dept. of Lands. I advised him of the code sections cited by S-Hart. After a brief discussion of the codes they work under which are civil and the codes under which we operate (criminal) it was decided that he should confer with the prosecutors office and he was supplied with that number.

Case submitted to the prosecutors office on 10-15-96 for prosecution.

Disposition: IP

Prev. Dispo: AC