



WASHINGTON STATE  
DEPARTMENT OF FISH AND WILDLIFE  
**INCIDENT REPORT**

Officer C. Rosenberger (W-175)  
PO Box 1100  
La Conner WA 98257-9612  
Cell# 360-708-7254

SUBJECT: Brian CLADOOSBY

ADDRESS: [REDACTED] La Conner Wa 98257

DOB: [REDACTED]

PHYSICALS: Gender: M Ht: 5-09, Wt: 185, Eyes: Brn

PHONE:

**NARRATIVE**

On 07-01-12, at approximately 0917 hours, I was on boat patrol in Island County with WDFW Officers J. Koontz and Z. Gaston. I received a phone call from Washington State Patrol dispatch regarding a commercial fishing violation. Dispatch advised that they had just received a call from a reporting party with the first name of Carmel, (who can be reached at [REDACTED]). The reporting party stated that she had witnessed a commercial vessel catch salmon using a gillnet then sell approximately five salmon to a recreational vessel. Officer Gaston called the reporting party and obtained a description of the commercial fishing vessel and the recreational vessel, along with their locations I motored our patrol vessel toward their last known location, Yokeko Point. While in transit, I phoned Swinomish Fisheries Officer Kenneth R. Erps. I informed Officer Erps that I had received a report of a commercial gillnetting vessel selling fish to recreational boaters near Cornet Bay and that I would be responding to the area. (I was aware that the Swinomish Tribe had an open and ongoing commercial salmon season in the area at the time.)

At approximately 0945 hours, I observed a white commercial gillnetting vessel near Yokeko Point. The white gillnet vessel had a gillnet in the water and a man wearing orange rain gear was actively tending the net. The gillnet vessel was fishing on the Whidbey Island side of the channel. The vessel registration on the white gillnet vessel was WN175SWN.



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have purchased the salmon. As we approached the vessel, I observed two adult males, two adult females, and a small child aboard the vessel. I pulled our patrol vessel alongside the Trophy as Officer Gaston made contact with the subjects aboard. Officer Gaston identified himself and asked the subjects if they were crabbing or fishing. One of the male subjects (who was later identified as Eric G. LOOTENS DOB: [REDACTED]) stated that they were crabbing. Officer Gaston asked if they had any fish or shellfish aboard. The male subject stated yes, and showed us six sockeye that were kept in a fish well. (Officer Koontz photographed the fish within the well.) LOOTENS informed us that he had purchased the six sockeye from an "Indian" who was fishing nearby. LOOTENS then pointed at the white gillnet vessel on the Whidbey Island side of the channel and stated that he had purchased the fish from that vessel. LOOTENS asked us if that was alright to do. Officer Gaston asked LOOTENS if they had received a receipt or invoice from the fisherman for the fish. LOOTENS stated that they had not.



Six sockeye possessed aboard LOOTEN's vessel.

Officer Gaston read LOOTEN his Miranda rights from his department issued Miranda card. LOOTEN stated that he understood his rights, and that he wished



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to continue speaking with us. Officer Gaston informed the group that recreational salmon fishing was currently closed in this area, and that the group did not possess an invoice or statement for the fish that was purchased. The group stated that they understood. Officer Gaston asked how much they had purchased the salmon for. LOOTEN stated that he had paid \$15.00 per fish. I asked LOOTENS who had initiated the sale. LOOTENS stated that he had seen the commercial fishermen (who was later identified as Brian CLADOOSBY, by his Swinomish Tribal Identification.) fishing and had motored near CLADOOSBY and asked if he was selling fish. CLADOOSBY then offered to sell him some salmon. LOOTENS then asked us if the fisherman was in trouble as well. We explained that the fisherman had to follow his own tribal regulations, and it was our understanding that CLADOOSBY had to land his salmon and put them onto a fish ticket prior to selling them. As we were talking, I observed CLADOOSBY haul in his net and begin to motor away. I told Officer Gaston that I wished to contact the commercial fisherman before he departed the area. We informed the group that since they did not have a receipt or any paperwork for the salmon and that the area was closed to the recreational harvest of salmon we were seizing the six sockeye salmon. Utilizing our authority under RCW 77.15.085, we seized the six sockeye salmon from LOOTENS. We placed the six sockeye into our patrol vessel. Officer Gaston told the group that we would be contacting the tribal member who had sold them the salmon and then we would attempt to re-contact them at a later time.

We caught up with CLADOOSBY's vessel as he was traveling on step between Hope and Kiket Island. There were a large number of recreational boats in the area sport crabbing. I pulled alongside and slightly behind CLADOOSBY's vessel as he was motoring on step through the bay. I briefly pressed my vessel air horn to get CLADOOSBY's attention, upon hearing the horn he looked at our vessel and slowed his vessel down to a stop.

Officer Gaston made contact with CLADOOSBY as we pulled alongside his vessel. Officer Gaston identified himself. CLADOOSBY asked us if we wanted to buy some fish. Officer Gaston politely said no. Officer Gaston asked how fishing had been. CLADOOSBY asked Officer Gaston if he wanted to see, and pointed toward the fish tote. Officer Gaston told CLADOOSBY that he would like to see his fish. CLADOOSBY invited Officer Gaston aboard to look at the fish. CLADOOSBY told me that he thought he had about 35 sockeye in the tote. He also added that he had forgotten that it was the opener of recreational crab

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fishing, and that he wasn't prepared for so many boats to be out on the water. Officer Gaston requested CLADOOSBY's tribal identification card, which he provided two copies of. Officer Gaston stepped aboard CLADOOSBY's vessel and looked in the fish tote. I observed that one of the pictures on his Swinomish tribal ID was worn out and of a poor quality I asked for CLADOOSBY's driver's license, which he provided. I handed the identification to Officer Koontz who photographed them and wrote down CLADOOSBY's information before returning CLADOOSBY's identification to him.

During this time Officer Gaston asked CLADOOSBY whom he sold his salmon to. CLADOOSBY informed us that he sold to the Tribe and to whoever came up to him on the water and wanted to buy fish for "The Fourth". Officer Gaston asked CLADOOSBY how much he was selling the salmon for. CLADOOSBY stated \$3 a pound or around \$15.00 a fish. Officer Gaston asked how many fish he had sold to each boat. CLADOOSBY stated "Oh, about half a dozen."

As Officer Gaston boarded our patrol vessel I asked CLADOOSBY if he had put the fish down on a fish ticket before he sold them. CLADOOSBY stated that he hadn't, but that he would record the fish under the "Take Home" category on the fish ticket when he landed the rest of his fish later in the day.

I informed CLADOOSBY that if this was a similar situation involving a non-tribal gillnetter selling fish to passing recreational vessels, and the fish were not landed on a fish ticket it would be a violation of state law. Though, I told CLADOOSBY that I was unsure of his own tribe's regulations pertaining to the landing and sale of salmon, but that I would be in contact with his tribes Fisheries Enforcement regarding the incident. I thanked CLADOOSBY for his time, we then cleared our contact with CLADOOSBY. I believe that the entire contact with CLADOOSBY lasted between 5 -10 minutes. (It should be noted that CLADOOSBY was polite and cooperative during the entire contact. He further never mentioned to me his elected position within the Swinomish Tribe.)

After clearing from CLADOOSBY we re-contacted LOOTENS and the other subjects aboard the Trophy who had purchased the six sockeye salmon from CLADOOSBY. I placed Officers Gaston and Koontz aboard the Trophy so that they could obtain a written statement from the subjects aboard. When they were done I retrieved the officers from the LOOTEN's vessel and we continued on our patrol.



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At approximately 1014 hours, I received a call from Officer Erps with the Swinomish Tribe. I informed Officer Erps of what we had observed. Officer Erps informed me that it was a violation of Swinomish Tribal regulations to sell salmon to a non-licensed buyer. I asked if Officer Erps was on the water, he stated that he was. At approximately 1040 hours, I contacted Officer Erps near Mariners Cove. I informed him in greater detail of our contact with CLADOOSBY. I also asked Officer Erps if he would be willing to take the six salmon that we had seized and donate them to the Swinomish Tribe. He stated that he would. Officer Erps signed a Donated Fish/Wildlife form, and I gave him the six sockeye salmon. We then continued on our patrol for the day.

In conclusion the incident will be referred to the Swinomish Tribe. See photo attachments A-C. Additional pictures of incident are available upon request to Officer Rosenberger.

I Certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge. I also certify under penalty of perjury that this report is signed by me, in Skagit County, on the date listed below.

*M. Rosenberger* W175  
Officer Christopher Rosenberger W175

7/17/12  
Date

Attachment A



Six Sockeye on LOOTEN's vessel.

Attachment B



Attachment C



Officer Gaston and CLADOOSBY looking at CLADOOSBY's catch aboard his vessel.





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Officer Zach Gaston (W-141)  
531 Bertrand Dr  
Lynden, WA 98264  
Cell# 360-305-6083

**WDFW CASE #: WA-12-006214**

SUSPECT: Eric G LOOTENS

ADDRESS: [REDACTED] Mt Vernon, WA

DOB: [REDACTED]

PHYSICALS: Gender: M, Ht: 6-03 , Wt: 210 , Eyes: BLU

**NARRATIVE**

On July 1, 2012, I was on routine boat patrol with WDFW Officers Kit Rosenberger (W-175) and Josh Koontz (W-77). We were patrolling an area near Kiket Island in Marine Area 8-1, Island County, Washington. We were all dressed in full uniform and operating a fully marked patrol vessel.

At approximately 0917 hours, Officer Rosenberger received a phone call from WSP radio. Officer Rosenberger told me that a caller had seen a subject buying fish from a commercial fishing vessel near Coronet Bay. Officer Rosenberger gave me the reporting party information, Carmel ([REDACTED]) and asked that I make contact while he operated our patrol vessel. I contacted Carmel at the number given to me by Officer Rosenberger. Carmel told me that she had seen a 24' Trophy with four persons aboard come up to a commercial fishing boat and exchange fish and money. Carmel described the Trophy as being approximately ten years old and having a green canvas top. She described two of the people on board. One was a female wearing a red sweatshirt and the other was a male wearing a blue sweatshirt.

On July 1, 2012, the Swinomish tribe had a commercial sockeye salmon gill net fishery open in the area of Coronet Bay.

At approximately 1030 hours, I saw a vessel matching the description of the Trophy the RP had given me. We approached the vessel and I immediately identified myself as a Fish and Wildlife Officer. The vessel, WA LIC #WN3435Np, is registered to Blade Chevrolet.

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I saw four persons on board the vessel. A male and female matched the description given to me by the RP. A small child was later seen aboard the vessel, in the forward berth. One of the subjects on board was later identified as Eric G LOOTENS DOB: [REDACTED].

Using my inspection authority granted under RCW 77.15.080, I asked LOOTENS if he was doing any fishing. LOOTENS told me that the group had taken the company boat out for the day to do some crabbing. I asked LOOTENS if he had any fish or shellfish on board. LOOTENS told me that he had six sockeye salmon in his fish hold. I asked LOOTENS where he had gotten the fish. LOOTENS told me that he had gotten the fish from an Indian fisherman. LOOTENS then pointed to a white gillnet vessel. LOOTENS asked if this was ok to do. I asked LOOTENS if he had a receipt or fish ticket for the fish. LOOTENS told me he did not.

Using my department issued Miranda Rights card I read LOOTENS his Miranda rights. LOOTENS told me that he understood his rights and that he was willing to talk to me. I asked LOOTENS where he had gotten the fish. LOOTENS told me that he had bought the fish from an Indian fisherman.

I asked LOOTENS if they had a receipt or a fish ticket for the fish. LOOTENS again told me that they did not. I asked LOOTENS how much he had paid for the fish. He told me seventy five dollars. I told LOOTENS that under RCW 77.15.380.1B, that they were in unlawful possession of the six sockeye salmon. Using my seizure authority under RCW 77.15.085, I seized the six sockeye salmon from LOOTENS.

I again asked LOOTENS where the boat was. LOOTENS pointed towards a white boat that was leaving the area. I asked LOOTENS if they were going to be in the area for a while and LOOTENS told me that he was. I told LOOTENS that he was free to leave but that I would attempt to contact him after we spoke to the fisherman.

We cleared the contact with LOOTENS and headed in the direction of the tribal vessel. We came alongside the vessel and I signaled for it to slow down. There was one subject aboard. This subject was later identified as Brian CLADOOSBY. I signaled for CLADOOSBY to slow down his vessel. CLASDOOSBY immediately did so. As CLADOOSBY stopped his vessel we came alongside.

I identified myself as a Fish and Wildlife Officer. CLADOOSBY immediately asked if we wanted to buy some fish. I respectfully told CLADOOSBY no. I asked CLADOOSBY

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how fishing had been and he pointed towards his fish tote and said, "Want to see." CLADOOSBY then invited me on board his boat to look at his fish. I asked CLADOOSBY for his tribal identification. CLADOOSBY gave me his tribal identification. I handed the identification to Officer Rosenberger. I then boarded the CLADOOSBY's vessel and looked at the fish in his tote.

I made friendly small talk with CLADOOSBY while Officers Koontz and Rosenberger talked on board our patrol vessel. I asked CLADOOSBY who he sold his fish to. CLADOOSBY told me that he sold fish to the tribe as well as people who come up to him on the water and want fish. I asked CLADOOSBY how much he sold the fish to recreational boats for. CLADOOSBY told me, "I sell the fish for three dollars a pound, about fifteen dollars a fish." I asked CLADOOSBY if he had sold any fish to recreational boats that day. CLADOOSBY told me that he had sold fish to about six boats. I asked him how many fish he sold to each boat. CLADOOSBY said, "About a half dozen."

I asked CLADOOSBY if he had sold fish to a Trophy with several people aboard it earlier on the day. CLADOOSBY told me that he had sold them six sockeye and was given a one hundred dollar bill.

I shook hands with CLADOOSBY and returned to my patrol vessel. Officer Rosenberger spoke with CLADOOSBY while I was boarding our vessel. As we were leaving, CLADOOSBY again asked us if we wanted to buy any fish. I thanked CLADOOSBY for his offer and told him that I didn't think it was such a good idea. The contact with CLADOOSBY was pleasant and friendly in nature. CLADOOSBY never mentioned his elected position or status within the Swinomish Tribe.

After clearing our contact with CLADOOSBY, we returned and contacted the Trophy with LOOTENS aboard. I explained the violation of the closed season possession of fish to LOOTENS. I asked LOOTENS exactly how they had purchased fish from CLADOOSBY. LOOTENS told me that he had gone up to CLADOOSBY's boat and asked if he could buy some fish for the 4<sup>th</sup> of July holiday. CLADOOSBY agreed and sold LOOTENS six fish. This time, LOOTENS told me that he had given CLADOOSBY a one hundred dollar bill for the fish.

I asked LOOTENS if he would be willing to give me a written statement. LOOTENS agreed. I took the following written statement from LOOTENS (See attached original):



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“We went up to a commercial fisherman and asked if he had any fish to sell. He said yes. We asked how much. He said fifteen bucks a fish. I said we’ll give you one hundred dollars for six fish. He put six fish in our boat and I gave him a hundred dollar bill. Then we left.”

LOOTENS agreed that the statement was accurate and signed the WDFW Written Statement form. I gave LOOTENS my business card and told him to call me if he had any questions. Officer Rosenberger, Koontz and I then cleared the contact.

Officer Rosenberger contacted Swinomish Fisheries Officer Ray Erps. Officer Erps was in the area and agreed to meet us. At approximately 1040 hours, we contacted Officer Erps and told him about the contact. Officer Rosenberger asked Officer Erps if we could donate the fish to the tribe. Officer Erps agreed to take the fish from us. I completed a WDFW Receipt for donated Fish and Wildlife form. (See Attached) Officer Erps signed the form and we gave him the six sockeye we seized from LOOTENS.

We then cleared the contact with Officer Erps.

I Certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge. I also certify under penalty of perjury that this report is signed by me, in Whatcom County, on the date listed below.

  
Officer Zach Gaston W-141

7-17-2012  
Date

**Pertinent RCW/WAC**

WASHINGTON DEPARTMENT  
OF FISH AND WILDLIFE  
- ENFORCEMENT -  
HANDWRITTEN STATEMENT FORM

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Incident Number \_\_\_\_\_

Date: 7.1.2012 Time: 16:30.

My name is: ERIC GUS LOOTENS I am [REDACTED] years of age.

I reside at [REDACTED] MT VERMONT WA.

I am employed at BLADE CHW POLET

I have been informed of my constitutional rights. YES.

*2.6. 2012*  
Narrative of facts: WE WENT UP TO A COMMERCIAL FISHERMAN AND ASKED  
IF HE HAD ANY FISH TO SELL. HE SAID YES. WE ASKED HOW MUCH. HE  
SAID 15 BUCKS A FISH. I SAID WE'LL GIVE YOU ONE HUNDRED DOLLARS FOR  
6 FISH. HE PUT SIX FISH IN MY BOAT AND I GAVE HIM A HUNDRED DOLLAR  
BILL. THEN WE LEFT. *2.6. 2012*

The above is a true and correct statement to the best of my knowledge. No threats or promises have been made to me nor any duress used against me.

Signature: *Eric Lootens* 7-1-2012

Witnesses: *[Signature]* W-141

—If you need additional space use other side—



Washington  
Department of  
**FISH and  
WILDLIFE**

# Receipt for donated fish and wildlife



Fish or Wildlife received from the Department of Fish and Wildlife (The Department) may not be sold, traded, or used for any commercial purpose. The receiving person, company, or institution, agrees that fish or wildlife received from the Department will be provided without charge to those eligible to receive them in compliance with operating rules or bylaws of the company or institution.

Acceptance of Fish or Wildlife, its use, distribution and consumption, whether processed or not, is done so at the sole risk of the person, company, or institution receiving the fish or wildlife. The State of Washington, The Department of Fish and Wildlife, its agents or employees make no warranty of any kind concerning the fitness of the fish or wildlife for any purpose whatsoever. The person, company or institution receiving fish or wildlife from the Department is solely responsible for determining its suitability for any intended use and any subsequent results from that use.

The person, company, or institution receiving fish or wildlife, to the extent permitted by law, will defend, indemnify and hold harmless the State of Washington, The Department of Fish and Wildlife, its officials employees, and agents ("the indemnified parties") from all claims, damages (including attorney's fees) and liability arising in whole or in part by, or related in any way to the indemnified parties. Further, the duty described herein applies to any claim made or lawsuit brought by any person, company, or institution or by their representative, heir(s) and/or estate.

Species of fish/wildlife received SOCKEYE Number of each 6  
 Estimated age — Estimated pounds 20 Sex (wildlife) —  
 Cause of death GILL NET Date of death 7-1-2012  
 Name of WDFW employee authorizing donation ZACH GASTON Pers.# W-141  
 Agency authorizing pickup of wildlife killed on roadway —  
 Special instructions (evidence retention, biological samples etc.) DONATE TO SWINOMISH  
TRIBE  
 Name of receiving institution or organization RAY ERPS SWINOMISH FISHERIES OFFICER

I understand and agree to comply with the conditions stated above concerning acceptance and use of donated fish and wildlife.

Signature of person receiving fish/wildlife Kenneth R. Erps Date 7-1-2012  
Swinomish Fisheries

Original - Captain

First Copy - Person Accepting Donation

Second Copy - Officer