

# **HUNTING THE HUNTERS**

CAPACITY BUILDING PROGRAMME FOR LEGAL

TRAINING OF SENIOR FOREST STAFF

**Report on workshop conducted**

At

**Forest Training Institute**

**September**

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## **INTRODUCTION**

The Hunting the Hunter-II training program was organized by Tiger Trust on 25-26<sup>th</sup> Sept.2010 at Forest Training Institute, Jaipur (Rajasthan). The training was held under the ongoing project “Hunting the Hunter Capacity Building Program” funded by US Fish & Wildlife Services.

The PCCF Wildlife, Shri H.M. Bhatia appointed Mr. SomShekhar, CCF Wildlife as the nodal officer to conduct this training in coordination with Mr. Upadhyaya, Senior Officer at Forest Training Institute. The earlier training was conducted at Udaipur. These locations were selected due to the fact that the Forest Department has a transfer policy and all the range officers are rotationally sent to various divisions. In the instant training, the trainees were selected from Tiger Reserve Area e.g. Sariska, Ranthambhore, Keola Devi Sanctuary, Darrah Sanctuary, Kota Division and Udaipur division. Rajasthan is facing a serious crisis of active movement of the tigers outside the reserves and some of them have found habitat around these divisions. There is a spurt of poaching cases in the territorial divisions. Hence it has become imperative to train the staff of wildlife department and as well as territorial divisions. The forest department suggested the names of the trainees on the basis of their earlier exposure to the earlier programme which was concluded by Tiger Trust in April 2009 under the programme Training of Trainers with the Department.

## **BACKGROUND**

The earlier training conducted on 21<sup>st</sup> and 22<sup>nd</sup> August 2009 was essentially an introductory training. The wildlife crime in Indian Forests is largely believed to be committed by the local villagers/ habitual poachers for trading in the International Market. However, there is a change in the last 2-3 years in the situation because the core area of the Tiger reserves is getting highly disturbed due to intervention of human beings. The Government of India has come out with an Act called the Rights of Forest Developers Act 2006, which empowers the State Governments to permit certain activities and grant of land to tribals. In view of this, the tigers and other animals are not only disturbed but have started attacking the cattle and the villagers. The threat perception has increased due to this reason and they are being killed by villagers on rebound and revenge. The latest case happened in Ranthambhore National Park of two young cubs having been killed in the Tiger reserve by the villagers as they had killed their cattle.

The emphasis of first training was to acquaint the staff with basic provisions in relation to the following Acts:

1. Wildlife Protection Act, 1972
2. Criminal Procedure Code, 1973
3. Indian Evidence Act, 1872
4. Indian Penal Code
5. Indian Forest Act, 1927
6. Forest Conservation Act, 1980

# MODULE

## **MODULE AND AGENDA FOR TRAINING NO.II.**

- Brief background paper with regard to the series of legislation on conservation commencing the year 1912 upto 2006.
- Retrospective narration of the important provisions of Wildlife Protection Act, 1972, Criminal Procedure Code and Indian Evidence Act and the highlights of previous training.
- Introduction to the main Act i.e. Wildlife Protection Act 1972, and its main provisions under which the crimes are booked along with all the ancillary Acts like Criminal Procedure Code, Indian Evidence Act and Indian Penal Code.
- System of communication skills in detection, investigation and implementation of wildlife laws for prosecution. The importance of sampling of body parts, blood, collection of evidence, preparation of scene of crime and its importance in investigation before filing the complaint.
- Specific illustration based on the case studies and its failure due to defective detection and investigation pointed out by the Hon'ble Courts.
- Two specific case studies (under trial) narrated by two tiger reserve divisions, namely, Sariska and Ranthambhore by their Range officers.

## **RESOURCE MATERIAL**

Each trainee was given the following resource material:

- Legal Guide for successful prosecution of wildlife Crimes.
- Criminal Procedure Code, 1973.
- Wildlife Protection Act, 1972.
- Indian Evidence Act, 1872.
- Case studies.
- Stationary including Note Pad & Pens.



## **INTRODUCTION OF THE SESSIONS**

On 25th and 26th Sept., 2010 a two days workshop on Legal Training on Forest Offences under the project title "Hunting the Hunters" supported by USFWS was organized by the Tiger Trust of India, New Delhi with the help of Forest Department, Rajasthan, at Forest Training Institute, Jaipur.

Tiger Trust invited Shri R. N. Mehrotra, PCCF, Rajasthan, Shri H. M. Bhatia, PCCF – Wildlife, Mr U.M. Sahai, PCCF – Training, Mr. P.S. Somashekhar, CCF – Wildlife, Mr. Rahul Kumar, CCF – Territorial Division, Mr. Rajiv Tyagi, CCF – Kota and Mr. P.K. Upadhyia, CCF-Training for inaugural function, which was held at 9.30 a.m. on 25<sup>th</sup> September 2010.

However, due to pre-engagements, the workshop was inaugurated by Shri H.M. Bhatia – PCCF Wildlife and CCF Mr. P.S. Somashekhar, Mr. Rahul Kumar and Mr. P.K. Upadhyia.

The registration of the participants was done on 25.9.2010 at 9.00 a.m. and nearly 40 people registered themselves. They were given one bag containing legal guide, Wildlife Protection Act, 1972, Criminal Procedure Code, India Evidence Act, 1872, pad and pen along with badge.

### INAUGURAL SESSION:

The workshop was inaugurated by Shri H.M. Bhatia (PCCF – Wildlife). The workshop was introduced by Ms Anjana Gosain, who explained the reason and object for holding this workshop under the project. It was explained that in Rajasthan which has one of the highest population of tigers, the dismal status of poaching and low conviction was mainly due to poor prosecution. The prosecution is an aspect which combines the efforts of forest staff, prosecutors, witnesses and judiciary. The knowledge of the Acts is definitely important but how you implement it in practice is essential. It was felt that the knowledge is only attained with practice. In view of this situation, the participants were explained to pay attention not only to the provisions but also the practical aspect which were to be explained in the

remaining sessions. The module of the workshop was introduced and a request was made to Shri H.M. Bhatia to address the participants. Shri H.M. Bhatia welcomed the participants and thanked the Tiger Trust for taking the initiative for holding the training programme. He requested all the participants to participate effectively in the workshop.

Mr. P.S. Somashekhar, thanked the Tiger Trust and appreciated the efforts made by the Tiger Trust in the initiative of the training programmes held since 2006 till now at various divisions mainly Sariska and Ranthambhore. He acknowledged the fact that because of constant exposure to the training programmes, several forests officers of the rank of Range Officer were invited by other training institutes as resource persons and also the fact that these trainings helped in fighting and contesting the cases in Sariska.

The workshop was opened officially and as per schedule after the tea, the first session commenced.

- **Introductory Session** – Ms Anjana Gosain introduced the two main provisions of Constitution of India, namely, Article 48 and 51A which castes duty upon the citizen of India to protect flora fauna and environment. The trainees were reminded of their oath while being inducted in the service to carry out their duties with complete sincerity.
- The object of Wildlife Protection Act, 1972 was to provide for protection of wild animals, birds, and plants and for matters connected therewith, with a view to ensuring ecological and environmental security of the country. It was explained that the every Act is divided into three parts, (i) **Provisions**; (ii) **Rules**; and (iii) **Schedule**. The purpose for drafting the provision is to lay down the law and its applicability on the offences. However, before the main provisions, there is a definition clause which defines all the relevant words used in the Act.
- **Provision**: there is always a provision to empower the State Government to frame the Rules which are the procedure for carrying out the provisions

of the Act in respect of matters which fall within the purview of the Act. The power of Rule is that it has to be consistent with the Act.

- **Schedule** – The schedule is an important aspect of the Act as it defines the list of animals as per its critical importance. The Act has five schedules and the combination of all this becomes important to know prior to undertaking the job of detection, investigations and implementation.
- The similar position was explained in relation to the other Acts. It is interesting to mention that the law of wildlife crime is so large that to best of the ability of a faculty member, one has to choose the main provisions in order to have the best combination of its applicability in the case of successful trials and appeals. The faculty has chosen the main provisions and were explained at length.
- **Definitions** – “*animal, animal article, captive animal, closed area, collector, dealer, forest officer, forest produce, government property, habitat, hunting, meat, reserve forest, sanctuary, vehicle, weapon, wild animal and wildlife*”. The other provisions which has a bearing to the trial are as follows:
  - Section 9
  - Section 11
  - Section 18
  - Section 18A
  - Section 18B
  - Section 20
  - Section 24
  - Section 27
  - Section 28
  - Section 29
  - Section 34
  - Section 34A
  - Section 35
  - Section 38(V)

- Section 39
- Section 50
- Section 51
- Section 51A
- Section 63
- Section 64
- 
- The list appears to be long but the trainees were well exposed earlier. Detailed discussions on Section 9, 11, 27, 28, 39, 50 (the most discussed provision), 34 and 38(V). All these sections were explained with the help of decided cases, the list of which is annexed as **Annexure-A**.
- The biggest challenge faced by the trainees are with regard to understanding the stages of detection and investigation. The query was mainly related to confiscation of any dead animal, vehicle, any other weapon used in the crime. The Act provides that once the confiscation is done by an officer, the same has to be produced before the Magistrate. However, the Magistrate has the power to release the same on surety bond. The staff has been under the impression that the Magistrate does not have the power of releasing the confiscated items since it becomes the government property. This doubt was put to rest by explaining that all the animals are the national property but vehicle can be released by the Magistrate and cannot become the government property till the accused is convicted.
- The other provision which require complete detail study was Section 50 as the doubt had arisen in relation to the powers of police Vs forest officer. It was duly explained that the powers of forest officer are different than the police officer in terms of investigations. The police officer in terms of Criminal Procedure Code cannot enter into any area for raiding unless he has a warrant but in terms of this Clause, any forest officer who has a reasonable ground can stop, require, and seize any such article from the suspicious person if he has a reasonable believe with regard to

commission of crime. The trainees were also explained the importance Indian Forest Act, 1927 being the master act and also followed in the Wildlife Protection Act and their comparative differences in terms of definitions.

- The powers of Centre and State were also explained in relation to the policies.
- Indian Evidence Act 1872 – The importance of this Act was explained in relation to the trial because after the detection and investigation, trial becomes the most important area. The relevant provisions of the Act explained were as follows:-
  - Section 45
  - Section 59
  - Section 62
  - Section 63
  - Section 64
  - Section 67
  - Section 67A
  - Section 79
  - Section 101
  - Entire chapter of Examination of Witnesses from Section 135 to 161
  - All these provisions were explained with the help of mock court exercises.
- **Sh. MANJIT AHLUWALIA** – Mr. Ahluwalia took over from the stage of investigation and inform them about the following forms – (i) seizure memo; (ii) recovery memo; (iii) recording the statement of driver and naturalist; (iv) site plan; (v) scene of crime; (vi) seizure of permit; and (vii) statement of tourists. The forms were filled by the trainees in terms of the Criminal Procedure Code. He informed them that the forms are in relation to the provisions of the Act and corrected the procedure followed at site. He suggested the following:-

- The patrolling party should make arrangements for tourists to be sent to hotel but after taking their personal details so that the statement can be recorded.
- The site plan should be prepared on the spot with the tire marks along with the number and vehicle make.
- The permit should be checked and photographs be taken of the site.
- The statement of the driver / owner and guide should be recorded on the spot.
- The vehicle should be seized immediately to be produced before the court and both the accused be arrested on the spot as the forest officer has the power.
- The seizure memo should be signed by the assigned investigating officer. The superior officers have to be informed on wireless about the crime.
- The statements recorded of the tourists should be annexed along with the driver and naturalist and the documents mentioned above.
- The trainees had defaulted in the procedure of investigation and had given various views.
- Mr. Ahluwalia also explained the communication skills to be used in conversation with the tourists and while recording the statements. They were asked to be polite but firm. However, they were given subtle hints to be tough in the event of accused being evasive in answering. The field director in such cases also has the power to debar the driver from driving other vehicle and enter the park. The case would be registered under Section 27 for illegally entry into an area for which no permit was granted.

- **Ms. VERONICA MOHAN** gave a power point presentation on the judgments of various High Courts and the Hon'ble Supreme Court on the aspects of confession, recording of statements of witnesses and other legal issues.
  
- **MASTER TRAINER SHRI ARUN SHARMA** narrated his experiences to plug the loopholes in preparation of cases prior to filing the complaint in the court and informed the participants that a vigilant Forest Officer can go a long way for successful prosecution. He emphasized on the importance of the understanding the definition clauses under the Wildlife Protection Act and also how they have to be interpreted.
  
- **Sh. YADAV** - He made a presentation of the list of cases annexed with the report and the most famous being Sansar Chand who has been convicted even by the Supreme Court.

**MINUTES OF THE SESSIONS HELD ON**  
**25th – 26th Sept. 2010 at FTI Jaipur**

The first session of the Workshop commenced at 11.00 a.m. by Ms Anjana Gosain.

The number of participants present in the training were **40** and around 50% were old participants and the remaining were attending such workshop for the first time. Ms Gosain explained that whenever an Act has to be read, it has to begin from page 1 where the object and reasons have been given for introducing an Act. The Wildlife Protection Act, 1972 was introduced to provide for protection of wild animals, birds and plants and for matters connected with a view to ensuring the ecological and environmental security of the country. It was emphasized that after the object is understood, the definition clauses are important in order to understand what such words mean and how they are used legally. The main definitions were on **"animal"**, **"animal article"**, **"closed area"**, **"dealer"**, **"Forest Officer"**, **"Forest produce"**, **"government property"**, **"habitat"**, **"hunting"**, **"land"**, **"reserved forest"**, **"trophy"**, **"uncured trophy"**, **"vehicle"**, **"weapon"**, **"wild animal"** and **"wildlife"**.

All these definitions were explained at length with emphasis on Sections 9 and 11. It was explained that Section 9 is the basic section which talks of prohibition of hunting as per the schedules given in the Act. The importance of Section 27, 28, and 29 were explained together. The Wildlife crime is essentially based on apt, fact finding and investigation. If any wild animal is found to be killed, then the first thing is to be ascertained is where the location is and if there is any suspicious person around that area, one has to look at Section 27 which talks of the authorized entry in the park, which puts restrictions barring few exceptions. Hence, any person found to be in such situation would be violating the said Section and it would be important to investigate into the circumstances. The relevance of Section 39 was also explained as in all the trainings, this is a basic question being raised as to whether



any incriminating object, and vehicle seized during the investigation becomes the government property forthwith and should it be released. This question was addressed at length by explaining that under Section 39 vehicle for instance which is seized cannot become the government property unless it is proved by the competent court comes to a decision either way. It was explained that in view of the Hon'ble Supreme Court's judgement when the investigation is carried out by the competent officer, he has the power of release but can only be given on *superdari*. However, if the vehicle is produced before the Magistrate, he has the power to release it after giving opportunity to the IO to explain as how he has come to a prima facie view on commission of offence. However, his powers cannot be restricted in view of Section 39(b) since he has constitutional powers under the Criminal Procedure Code.

In this workshop, the emphasis was laid on chosen provisions to facilitate the trainees in understanding the combination of the three Acts. The provisions were combined to understand the preparation of detection, investigation, interrogation and implementation of filing the case in the competent authority. The next provision which was taken at length was Section 50 of The Wildlife Protection Act, 1972. In short, the following provisions were addressed:-

- i) **Section 2** Definition clause
- ii) **Section 9** Prohibition of Hunting
- iii) **Section 11** Hunting of wild animals to be permitted in certain areas
- iv) **Section 27** Restriction on entry in sanctuary
- v) **Section 28** Grant of permit
- vi) **Section 29** Destruction, etc., in a sanctuary prohibited without a permit
- vii) **Section 30** Causing fire prohibited
- viii) **Section 31** Prohibition of entry into sanctuary with weapon
- ix) **Section 32** Ban on use of injurious substances

- x) Section 34** Registration of certain persons in possession of arms
  - xi) Section 34A** Power to remove encroachment
  - xii) Section 35** Declaration of national parks
  - xiii) Section 39** Wild animals, etc. to be Government property
  - xiv) Section 40** Declarations
  - xv) Section 43** Regulation of transfer of animal, etc.
  - xvi) Section 48A** Restriction on transportation of wildlife
  - viii) Section 50** Power of entry, search, arrest and detention
  - viii) Section 55** Cognizance of offences
- ix)** Amended Chapter IV involving amended Section 38 in relation with the Tribal Act.

The provision of Section 50 as explained has the powers for the Forest Officer and has been divided into various segments:-

- (A) The officer has to be as notified by the Chief Wildlife Warden of the respective State. The said officer is empowered to seek production for any article as defined in the definition clause, if he has a reasonable ground to believe that person has committed an offence. It was explained that reasonable ground is dependent upon the circumstances and understanding by the officer. To certain people some circumstances can be normal and to others suspicious. The illustrations was given if a person is found to be walking around the National Park with some suspicious object, then the officer can stop him and interrogate about his movement and the object and he is equally competent to stop him if he is found to be in a vehicle or any other form of transport with the power to search. However, he also has the power to seize the said article which could be in any form as per the definition clause. In case, such object is seized which is like a vehicle, then it can be released by the competent officer but if it is meat or a body part, then it has

to be sent to the forensic lab after the same has been produced before the Magistrate.

It was also explained that in terms of Section 3 Sub-Clause (c) of the Act, the officer has to be satisfied that if after interrogation, the said person fails to give satisfactory answers, then he can detain him and if the need be arrest him. It was explained that there is vast difference between detention and arrest. The person can be detained for questioning but he fails the interrogation, then the competent officer has the power to arrest him and produced before the concerned Magistrate within 24 hours.

In terms of Section 3 read with Section 27, the officer is empowered to not only stop and interrogate but also required him to produce the licence or permit to justify his presence in an area which is not within the permitted limits of the Act. However, if such person fails to show such documents, he can be arrested without warrant or can be let off with an assurance for reaching the office the Forest Office whenever called. There were lot of confusion with regard to Section 1(C) & 3A of Section 50 in relation to execution of powers. It was explained that if the seized object is captive animal or any live animal, then the same can be released before it being considered by the Magistrate. It is important that any person who has been detained in Sub Clause 3A with an animal or seized shall be produced before the Magistrate since all the animals are government property. However, the release by the competent officer is optional. It is made clear that while exercising this power, due care has to be taken. It is also required that the said information be sent to the senior officer.

**Powers under sub-clause 5 to 9 of Section 50** – these are the powers which are classified in a different forum. These are called violations and compliances. It was explained that if a person is interrogated and he refuses to answer the question or give correct answers, then he is guilty of committing an offence against the Act which means that he is not cooperating and hampering the investigation. A separate case can be filed against him.

Under Sub-clause 6, it is only the authorized officer who is competent to dispose of the dead animal or meat as the case may be.

In Sub-clause 7, it is clearly mentioned that any person who is required to be interrogated is bound to cooperate and it is his duty failing which the powers and consequences are given in Clause 8 and 9.

### **CASE STUDY**

The trainees were given a fictitious case and were asked to give their respective views.

The facts of the case which were stated to be the case study was as follows –  
(a) two foreign tourists entered the National Park in a Jeep with a naturalist and the driver. As per the Rules, they were given the entry ticket which had the names of all the occupants. They were assigned Route No.1 and as per the law, they could not enter the other route. The naturalists heard the sighting about the tiger in route No.2 and spoke in native language with the driver to take the vehicle near to route No.2. The patrolling forest authority intercepted them and charged them with flouting the conditions of the permit. They were asked to prepare, investigation and preparation of complaint along with the correct provisions with a question about the liability of the foreign tourists, driver and the guide.

- These facts were debated upon at length and the trainees made individual notes, and prepared investigation report.
- That finally the verdict was –
- The driver and the naturalists were found to be guilty of entering route No.2 without permission and the confiscation of the vehicle by the authorities was correct. However, foreign tourists were innocent as they testified in the preliminary report about not knowing the geographical location of the routes and they never asked the naturalist to violate the terms of permit.
- It was a full blown trial and well received by the trainees.

## **Important interpretation**

It was explained that if the investigating officer fails to get any cooperation in any of above sub-clauses, then it is the ACF (Assistant Conservator – Forest) who is competent to issue a search warrant, enforce the attendance of witnesses to compel the discovery and production documents and material objects AND to receive and record evidence.

It is made clear that ACF has the power to search even those areas where search warrants are required and also send the letter for seeking attendance of witnesses who otherwise refused to appear on the asking of the investigating officer. He has the most important power in Sub-Clause 9 to record the confessional statement of the accused and that is admissible in evidence in view of the fact that he is a special officer.

The trainees were given the requirements of recording the confession which is as follows:-

- i) the accused has to be explained that the said confession is voluntary and can be used against him in the case;
- ii) the language of confession has to be the one in which he is familiar and reads and writes;
- iii) it should also state that the confession is being given by him without any duress or coercion and is voluntary in nature;
- iv) the confession must be recorded as per the serial of events and address in person;
- v) it must contain the narration of facts pertaining to him directly and if there is anything to be averred, then the same has to be clear;

vi) It is also important that the confession is signed by him in the language he knows or he puts thumb impression;

vii) it must contain the signatures of witnesses who are independent otherwise the departmental witnesses can also do the same;

These are the basic requirements of confession which were further explained with the help of judgements by the other resource person Ms Veronica Mohan.

At last the provision of Section 55 of filing of complaint was explained as the one being competent under which the complaint can be filed.

Section 57 – was also explained that the onus is on the accused to prove the presumption.

Section 58 – was explained being used where the offences are committed by body corporate and a firm.

It was also explained that with these provisions, all the necessary forms have to be filled up and the practice was taken up by the trainees of all relevant forms given in the legal guide.

The Indian Evidence Act was also explained in brief emphasizing the relevant provisions for deposition. It was explained that what does a leading question mean while being examined by Prosecutor. The trainees were given demonstrations with regard to deposing as a witness and it was explained that what an examination-in-chief means which is followed by cross-examination and if there are certain doubts and the witness has not withstood his original statements due to some confusion then re-examination can be sought. The trainees were informed that they should try to be relaxed, listen to the questions carefully. It was re-emphasized that all the forms have to be filled up properly and if there is any lacuna they can be cross-examined by the defence counsel. Special mention was made with regard to the time, scene of crime, seizure memo and statements of the witnesses. If there is a

variation in any one of them, it can result in not believing the veracity of the statement. The basic purpose was to prepare them for proper cross-examination.

### **Ms Veronica Mohan**

Ms. Veronica Mohan gave a presentation on the judgements of Supreme Court and High Court on the relevant provisions and also explained the final decisions and interpretations of the said Sections. It was a power point presentation with the judgements being circulated to the trainees. There were several questions in relation to Sections 27 and 39 of Wildlife Protection Act, with regard to restriction in entry to the park and release of the vehicle. The final interpretation has since been given by the Hon'ble Supreme Court that the power to release the vehicle is with the forest officer on superdari. However, if the application is filed by the accused before the Magistrate, then forest department has a right to seek time to justify the refusal. However, the powers of Magistrate are under the mandate of constitution and cannot be overridden by the Act. In other words, it was also explained that the seized property like vehicle does not vest with the government until the conclusion of the case. In this manner, several other important interpretations like handing over of the investigation to special agency like CBI was also explained. The other important aspect was with regard to the confession of the accused. The judgements were cited in support of the decision that confession needs to be recorded properly and the forest officer being a special officer, any confession made before him is admissible under the Evidence Act. The relevant judgements were read out and explained.

The list of judgments are annexed with the report.

### **Mr. Manjit Singh Ahluwalia**

Mr. Manjit Ahluwalia started the session by explaining the essence of Criminal Procedure Code. Wildlife Protection Act, 1972 being a special Act has some of

the provisions overriding the other Acts. However, the Criminal Procedure Code is the Act which governs the Court Procedure in the matter of complaint case. He explained the difference between cognizable and non-cognizable offence. The basic difference between the two is, in the former arrest can be made without warrant and for the later, warrant is required. The difference between warrants and summon case is the former is filed with punishment less than two years and in summon case punishment has to be more than two years. The basic definitions were explained since the trainees were not cleared with regard to the status of offences under the Wildlife Protection Act. The said Act has made all the offences to be cognizable and it means wherever there is no punishment awarded in the provision of penalty, the same does not constitute a cognizable offence.

On being asked as to what is the difference between seizure memo and seizure mark it was explained that with regard to the seized goods, the document which is prepared is called seizure memo which contains the list of confiscated items and after sealing the seized goods, the brass seal pasted on the same is called seizure mark. On the listed confiscation and listed seizure papers also mark of the seal is pasted. After sealing the seized goods, the seal is kept with the higher officer and in case of need it is shown to the court. On sealing of the seized goods it is necessary to keep record of the seal pasted on it so that there is no lacuna left in the matter before the Court.

While giving information about primary and secondary evidence, it was told that primary evidence is original, whereas, secondary evidence is produced later on as annexures to the primary evidence on the orders of the Court, in which this could be in form of certified copies, revenue records, ownership, statement of the accused etc.



PRESENTATIONS BY SHRI ARUN SHARMA AND SHRI YADAV FROM RANTHAMBORE AND SARISKA

The relationship between filing of FIR and POR was explained as both are the same in terms of offence report. The presentations were made by two Range Officers – one from Sariska and other was from Ranthambore. The presentation of Sariska was on those cases in which conviction has been achieved for accused. These cases were presented by way of power point. In this case, the facts were proved on the basis of the provisions stated in the complaint. However, the procedure was adopted by Mr. Ahluwalia to rely on fewer provisions in order to contain the prosecution. The relevant provisions were 200, 201, 202, 203, and 207. The relevance of Section 210 was also explained where there is a complaint case and police investigation is there in respect of the same offence. In those circumstances, the trial court can stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation. It was explained that the Wildlife Protection Act grants the power to the police officer as well in addition to the forest officer. However, wherever there is silence of power in the provisions, reliance can be placed on Criminal Procedure Code because the entire trial is governed by these provisions. The power to arrest is under Section 41 of the Cr. P.C. with warrant and similar provision is given in Section 50, Sub-clause (C) and 3A in peculiar circumstances. However, the power to arrest is there for the forest officer after the information is received of an offence like the Police Officer.

At times the filing of complaint is delayed and then in terms of Section 468 bars the power to take cognizance after the lapse of period of limitation. The period of limitation in terms of Section 469 shall commence from the date of the offence or where the commission of offence was not known, than it is the date of knowledge of offence to the competent person. In Section 473, there is a provision for extension of period, if the Court is satisfied that delay has been properly explained, and it is necessary to do in the interest of justice.

The questions were raised with the powers of the police to investigate cognizable offences. It was explained that in terms of Section 156, any Officer-in-Charge of a Police Station without the order of Magistrate can investigate any cognizable matter. The procedure of search is quite similar to that of a Forest Officer but the basic difference is that for the police officer. The basic difference is that he has to record the reasons in writing, the thing for which search is to be made which falls within the limits of the station. However, in Wildlife Protection Act in Section 50, the search can be made without the Forest Officer without any search warrant, but if he is unable to search anything in person then he can seek the search through the search warrant to be issued by ACF.

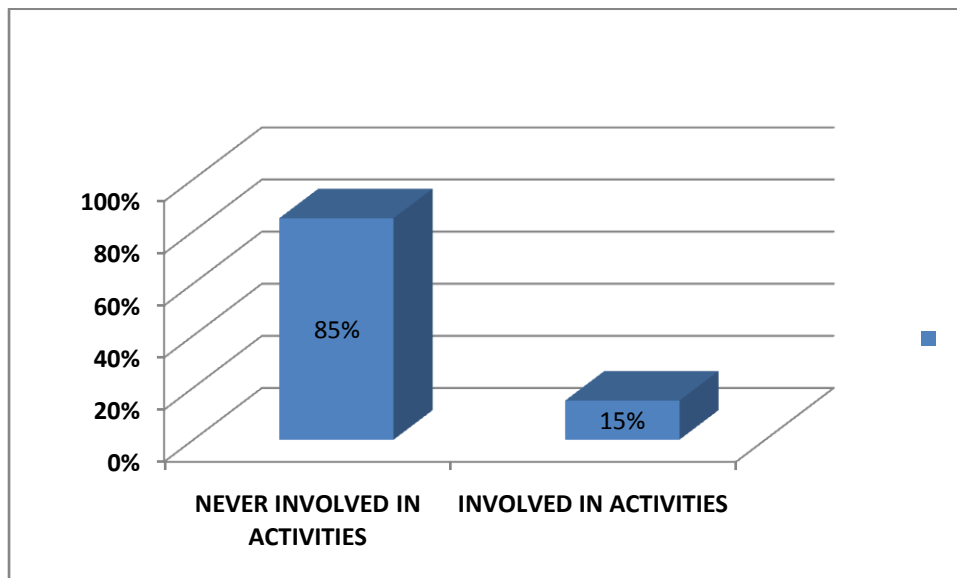
In both these case there was an extra judicial confession. The difference between extra judicial confession in terms of Section 164 of Cr.P.C. and Section 50 Sub-Clause 9 was explained, the difference being the admissibility in terms of Section 25 of the Evidence Act.

The session lasted for more than 90 minutes and there was primarily the discussions on the facts of these cases which resulted in inter-activity amongst the participants.

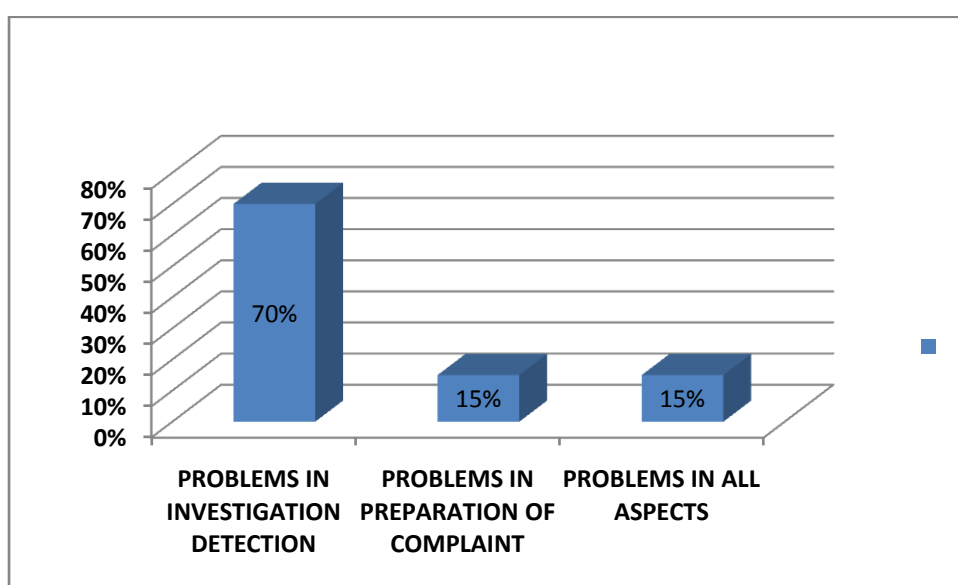
## FEEDBACK OF PARTICIPANTS

All the trainees were given a questionnaire based on the module of training and other related questions to arrive at a conclusion of their experience and exposure to such workshops and also to know whether the exposed trainees were better in their performance than their counter parts who have not received such trainings.

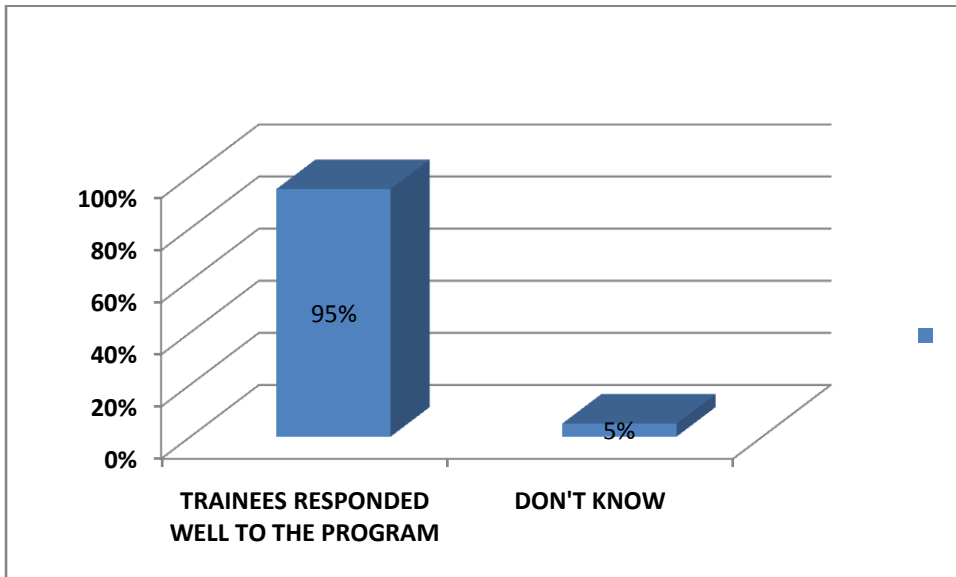
**Have you ever assisted in prosecution?** When we asked the participants about their involvement in prosecution, or ever appeared as a witness or investigated any wildlife crime most of them (85%) said that they were never been a part of such activities, i.e. detection investigation of wild life crimes while 15% were found to be part of such activities earlier.



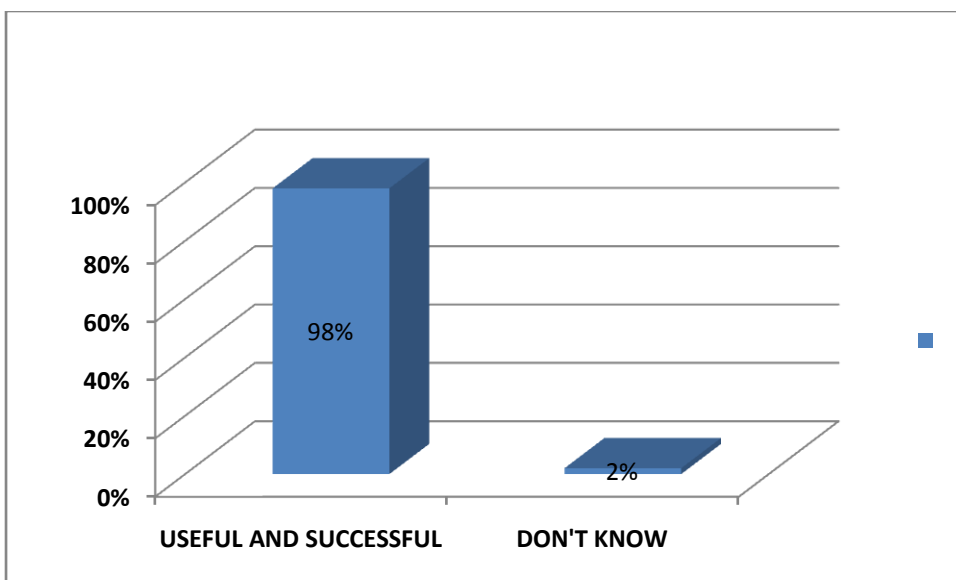
**In which area of prosecution did you feel difficulties?** It was found that 70% of the front line forest staff faced problems in understanding the process of investigation, detections and court procedures, whereas 15% (the active lot) found the problem in preparation of complaint and in other forms whereas 15% being in experienced in all these aspects understood the concept of prosecution of wildlife crime for the first time and were satisfied



**Whether these difficulties were sufficiently addressed by the trainers?** It was heartening to know that more than 95% of the trainees responded well to the programme and the workshop. They were very curious and interested in the subject. 5% of the participants did not answer the question.

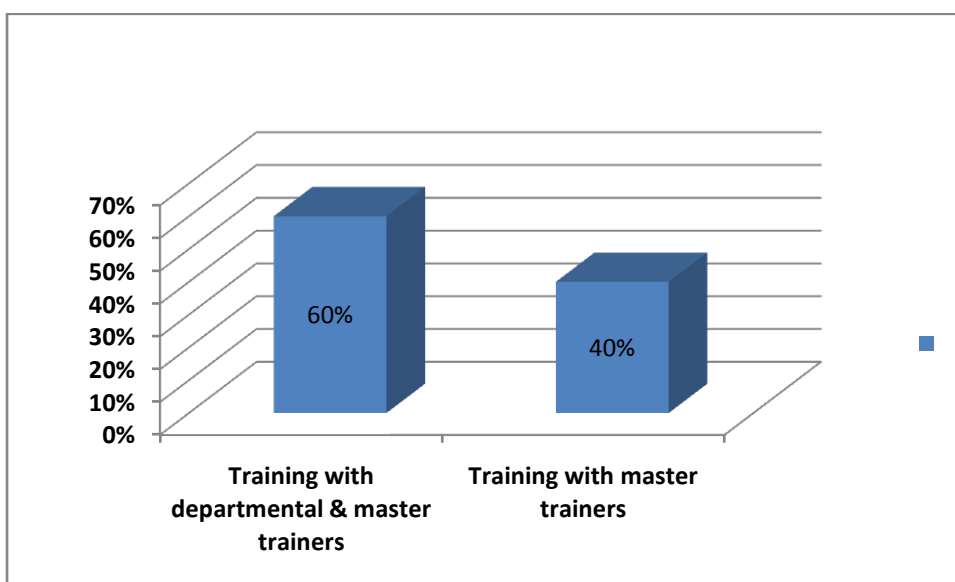


**Whether this training programme is useful and beneficial towards better law implementation to combat illegal wildlife crime?** When we asked the forest officials whether this training is useful and beneficial towards better law implementation to combat illegal wildlife crime, most (98%) of them were very positive about the training and said that this training will help them to control wildlife crime in better way. 2% of the participants chose not to answer.

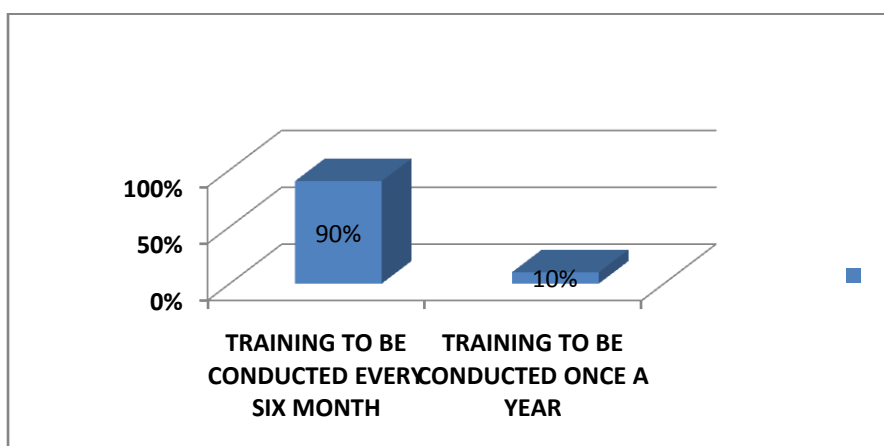


**Whether you would like to have departmental trainers along with outside faculty?**

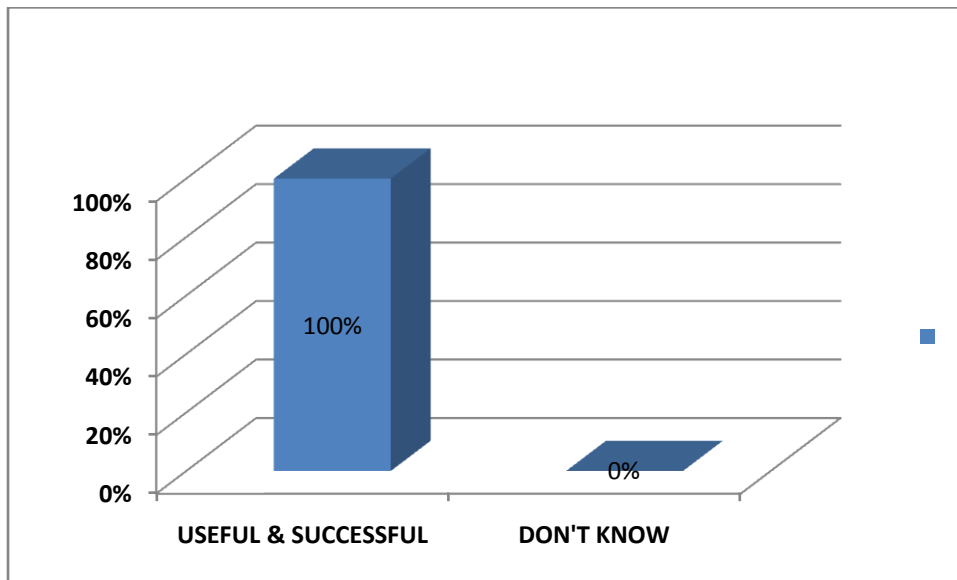
It was found that most (60%) of the participants wanted to have such trainings with master trainers and departmental trainers together. Under the current project Tiger Trust would be selecting master trainers for in-house training of the staff. However 40% wanted to have only master trainers and outside faculty but some senior officer to apprise them of the latest updates and they wanted interaction with judicial members as well.



**How often such trainings should be held?** Most (90%) of the participants said that these training should be done at every six month or four months followed by 10% who said that these training session should be done at least once in a year.



**Have you found this programme useful?** During the interaction Tiger Trust have received positive response from the forest officials about the training program. 100% participants said that they found this workshop very useful and satisfactory for the successful prosecution of wildlife crime.



**Whether the module was adequate in addressing the issue?** The participants were satisfied and were appreciated the module prepared by the faculty. The module laid emphasis on filing complaints before the trial court, appearing as witnesses and cross-examining the accused during interrogation.

**Which location do you prefer for the training programme?** When asked from the participants, as to the location they would prefer for future training programme 3 % of participants expressed that they would like to have the training programme in field whereas 92 % of the participants desired to have the training programme in field as well as in the academic institutions. The rest 5% of the participants desired to have the training programme exclusively in the academic institution.

## **SUGGESTIONS FROM PARTICIPANTS**

- Training programmes should be held regularly
- All the divisions should be invited once a year at Jaipur for such workshops to exchange view and handling of cases.
- Local case studies should be given to the trainers in advance so that they could be discussed.
- Case laws should be distributed to update the staff.
- Local lawyers and judiciary should also be invited in workshops.
- Police official should also be involved for such training programmes.
- Mock trials should be one of the themes in presence of a judicial member.
- Duration of workshop should be more than 2 days and at divisional heads.



## **IMPACT ASSESSMENT**

The programme in Rajasthan has been based on vertical basis. The Forest Department decided to invite trainees from all the important divisions living aside Jodhpur, Bikaner, and certain divisions of Udaipur. The trainees ranged from Foresters, Rangers and ACF. The vertical group reacted differently to the module. Hence, the faculty was careful in targeting the trainees. There were several participants who attended the training for the first time and special emphasis was made on basic provision of the Act. The freshers were from Kota and Udaipur division who never had any opportunity to attend such workshop. It was apparent that the earlier trainees were fore-ahead then the others. However, the faculty was happy to see the sense of competition among them as the remaining aspired to achieve the same confidence and knowledge. They were very happy to hear Mr. Arun Sharma, the trainer from Swai Madhopur, selected as a resource person and expressed their desire to have such trainings across the State. The impact was tremendous and last training was planned as a combination of field training and class room.

## **FUTURE TRAINING**

The 3<sup>rd</sup> and the last training would be conducted in the month of January. This training would have field study and academic classes. The team would be lead by forensic scientist, vet nary doctors. Emphasis would be given to identify the body parts, drawing scene of crime and collection of blood samples and other evidences. In addition to this attempt would be made to have other non-legal experts like police to contribute their views. There would be a retrospect of all the trainings and redressal of their difficulties. The location of training is likely to be Sariska National Park.

## LIST OF PARTICIPANTS

S.No.	Name and post/ designation
1	Mr. Jodhraj Singh Hada, Range Forest Officer
2	Mr. Prabhu Dayal Gwayar, Sawami Madhopur
3	Mr. Mohan Lal Garg, Forester, Tiger Project Sariska
4	Mr. Achal Singh, Forest Guard, Sariska
5	Mr. Sudharshan Sharma, ACF, Sariska
6	Mr. Ram Sharan Jatav, ACF, Sariska
7	Mr. Om Prakash, Forester, Tiger Project, Ranthambhore
8	Mr. Jagdish Prasad, Range Officer, Sariska
9	Mr. Kailash Chand Yadav, Forester Sariska
10	Mr. Ram Prasad Saini, Forest Guard, Sariska
11	Mr. Mahesh Chandra Gupta, Udaipur
12	Mr. Rajinder Kumar, DCF, Kota
13	Mr. Deepak Jaso, Forester, Kota
14	Mr. Bhagwat Singh Chandawat, Udaipur
15	Mr. Bhuri Singh, Forester, Wildlife, Kota
16	Mr. Ram Naresh, Forest Guard, Sariska
17	Mr. Bhawar Singh, Forest Guard, Sariska
18	Mr. Jathu Singh Rathore, Forester, Nahargarh Biological Park, Jaipur
19	Mr. Naresh Chaturvedi, Range Officer, Udaipur
20	Mr. Bansi Dhar Yadav, ACF, Jaipur

21	Mr. Anand Verma, Range Officer, Kaurali
22	Mr. B.S. Rana, Kumbhalgarh
23	Mr. Vijay Pal Singh, Range Officer, Udaipur
24	Mr. Om Prakash Sharma, Sawai Madhupur
25	Mr. Jatan Singh, Forester, Kailadevi National Park
26	Mr. Geeg Raj Kumar, Forester, Jaipur
27	Mr. Arun Sharma, Ranger, Grade-I, Sawaimadhupur
28	Mr. M.N. Meena, Range Officer, Sapara
29	Mr. V.P. Jagawat, ACF Sariska
30	Mr. R ajesh Sharma, FTI
31	Ms. Veranica Mohan, Resource Person
32	Mr. Prabhakar Singh, Ranger, Udaipur
33	Mr. Matadeen, ACF, Doongarpur
34	Mr. P.S. Somaskherkar, CCF
35	Mr. S.K. Gupta, Range Officer, Kailadevi
36	Mr. Manjit Ahluwalia, Resource Person
37	Mr. Mankul Verma, Range Officer, Udaipur
38	Mr. O.P. Chaudhary, FTI, Jaipur
39	Mr. A.K. Saxena, ACF, Udaipur
40	Mr. Mahender Singh Yadav, Range Officer, Sariska
41	Mr. T.B. Thaba, FTI Jaipur
42	Ms. Anjana Gosain, Resource Person
43	Mr. Mandeep, Guest
44	Mr. Raghu Raj Singh, FTI
45	Mrs. Sooraj Sankhla wife of late Shri Kailash Sankhla

## **LIST OF JUDGMENTS**

1. JT 2008 (1) SC 364  
STATE OF MP & ORS. Vs. MADHUKAR RAO
2. 2007 (7) SCC 334  
STATE OF UP & ANR. Vs. LALLOO SINGH
3. 2004 (Cr1.) 2104  
STATE OF ORISSA Thr. KUMAR RAGHVENDRA &  
ORS. Vs. GANESH CHANDRA JEW
4. JT 2002 (4) SC 31  
MOTI LAL Vs. CBI & Anr.
5. 158 (2009) DLT 549 (DB)  
MOHD. AFZAL KUMHAR & Ors Vs. STATE
6. 2009 (2) JCC 991  
MOHD. ISHAQ BAIG Vs. STATE
7. 148 (2008) DLT 170  
KAMALJEET SINGH Vs. STATE
8. 2007 (4) JCC 2797  
COTTAGE INDUSTRIES EXPOSITION Ltd. & Anr.  
Vs. UOI & Ors.
9. AIR 2002 SUPREME COURT 1661  
DEVENDER PAL SINGH VS. STATE, GOVT. OF DELHI & Anr.
10. AIR 2002 Raj 214  
FOREST FRIENDLY CAMPS Pvt. Ltd. Vs. STATE OF  
RAJASTHAN & Ors.
11. AIR 2000 HIMACHAL PRADESH 113  
STATE OF HIMACHAL PRADESH & Ors. Vs. Smt. HALLI DEVI
12. AIR 2000 MADRAS 163  
BOMBAY BURMAH TRADING Corp. Vs. FEILD DIRECTOR &  
CONSERVATION OF FOREST
13. 1981 (20) DLT 354  
BABU LAL & Anr. Vs. STATE
14. ILR (1974) 11 DELHI 706  
HARI CHAND etc. Vs. STATE













