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Handout-Wildlife Crime Investigation Procedure

- WPA is not a complete code in itself and for trial of offences, code of Criminal Procedure is required to be followed and for that there is no other specific provision to the contrary.**[Moti Lal vs CBI, 2002 Cri. L.J. SC 2060]**
- Therefore, the provisions of Search, Seizure and Arrest as given in various Sections of Cr.P.C have to be read harmoniously with Section 50 of WPA and it is essential for Forest Officers to know the investigation provisions of Cr.P.C as WPA does not provide for the same.
- Investigation includes all the proceedings under this code for the Collection of evidence. It can be conducted by a Police Officer or by any person, other than a Magistrate authorised by the Magistrate in this behalf.**[Section 2(h) of Cr. P.C.]**
- Every criminal case begins with information. POR or FIR as the case may be begins with information. Sections 124 and 125 of Indian Evidence Act, 1872 provides for protection to the identity of the informer even in a Judicial trial
- **What is an Arrest?** Confining the liberty of a person for violation of a law is an Arrest.
- **Raid, Search and Seizure Proceedings-**
- Efforts to join independent witnesses-Section 100 of Cr.P.C
- On apprehending the accused persons their identity should be ascertained.
- The Investigating officer should properly mark, seal and label the seized articles preferably in transparent polythene packets so that it is easier for the Court to see them at time of first production
- Prepare a site plan
- All the documentation with respect to the seizure proceedings should be completed on the spot
- Section 50 (1) (c) and section 50 (3) if the arresting officer is satisfied that accused person would duly answer any charge, summon or other proceedings which may be taken against him, he may not make any arrest
- The Investigating Officer should also produce the accused and the case property (animal articles & weapons etc.) before the Magistrate within 24 hrs.

- Investigating Officer should also submit to the Magistrate the seizure/recovery, arrest memo and Medical report
- An application under Section 50 (4) seeking directions for the disposal/ custody of the wildlife articles, weapons etc. should be moved.
- **Remand**-The purpose of producing an accused before a Magistrate is to ensure that the arrest and detention of such person is prima-facie justified in law.
- Remand/custody is of two types :-Police Remand/Custody and Judicial Remand/Custody
- Where the accused is in Judicial Custody and a complaint in Wildlife case is not filed within 60 days the accused can be released on bail by the Judicial Magistrate on this technical Ground alone under Section 167 (2) of Cr.PC which is also known as Compulsive Bail or Bail by default. Right to bail by default is absolute.
- **Confession**-A Statement given by a person which is admission of his role in the crime or that of another accused person is called a confession
- Statements or confessions made in the course of Investigation can be recorded only by an Officer under Section 50 (8) of WPA authorized by the State Government in this behalf.
- Confession should show that caution was administered.
- **Complaint**-Definition-Any allegation made orally or in writing to a Magistrate with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.**[Section 2(d) of Cr.P.C]**
- **There is no particular format of a complaint.**
- Even the Supreme Court in *Afaq Jahan's case* has held that there is no particular format of a Complaint.
- Wildlife (Protection) Act, 1972 provides in Section 55 that 'No Court shall take cognizance of any offence against the Act except on the basis of a Complaint'.
- **Cognizance literally means application of Judicial mind by the Court or becoming aware of the alleged commission of an offence.**
- **State of Bihar vs Murad Ali Khan, AIR 1989, SC,1** it was held that Cognizance of an offence under the Act can be taken by a Court only on the complaint of the officer mentioned in Section 55.
- **Launching of Prosecution and trial procedure**-Once a complaint is filed evidence of prosecution witnesses is recorded at pre-charge stage, followed by framing of Charge and post charge evidence, statement of accused, defence evidence, final arguments and judgment of acquittal or conviction as the case may be.