ACTORS IN THE ENFORCEMENT OF WILDLIFE CRIME

- Investigation Authorities
- Prosecutors
- Judiciary
Inspectorates

- monitor compliance
- conduct inspections
- investigate wildlife crime

Police

- border security
- organized crime
- crime intelligence
- detective services
- canine units
- forensics
Investigation Authorities

Other authorities

Protected area management authorities

Revenue services, customs and excise

Asset forfeiture unit

Multi Agency Teams
Prosecutors

Role?

- prosecution
- consultation and guidance to investigators
- asset forfeiture
Prosecutors

dedicated environmental prosecutor?
specialization and expertise
prioritize wildlife crimes

Example: South Africa Environmental Court
dedicated prosecutors
24 hour helpline for investigators
systems to secure exhibits
recommendations for legislation
assistance in training of investigators
Judiciary

Role?

- ensure procedure is followed
- judgment and sentencing
- interpret wildlife legislation
- review executive decisions
Overview of this module

- Actors in the Enforcement of Wildlife Crime
- Decision to Prosecute
- Aspects of the Trial
- Sentencing, Forfeiture and other Orders
- Conclusion
THE DECISION TO PROSECUTE

Guiding factors

Alternatives to prosecution

Examples: when to prosecute
The Decision to Prosecute

General criteria
- Evidence for elements of offence
- Reasonable prospect of success
- Interest of community

Additional criteria
- Environmental harm
- Culpability
- Repeat offender
- Organized crime
- Commercial crime
The Decision to Prosecute

Alternatives to Prosecution

- Informal warnings
- Suspension or cancellation of permits
- Administrative notices
- Admission of guilt fines**

**still a prosecution ...
Examples: When to Prosecute?

- intentional or grossly negligent
- caused serious negative impact on wildlife
- involved organized crime
- fraud, corruption, tax evasion, money laundering
- persistent wrongdoing or prior offences
- investigator impersonated, assaulted or intimidated
- abuse of licensing system
- obstruction of justice or false information
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ASPECTS OF THE TRIAL

- Drafting charge sheets
- Preparing for trial
- Plea and sentence agreements
Drafting Charge Sheets

Basic Criteria

- accurate and comprehensive
- preamble to provide facts
- reference to relevant sections/regulations

Pro forma charge sheets
Preparing for Trial

- prepare and index documentation
- consult with witnesses
- ensure reliability of methodology used by experts
- prepare expert witnesses
- check laboratory analysis
- plan for site inspection
- research available or expected defence
Plea and sentence agreements

Process

- negotiation
- agreement
- writing
- confirmed by court
- conviction
- sentence
- counts
Plea and sentence agreements

Advantages

- ensure conviction
- avoid lengthy trial
- swift disposal of cases
- creative sentencing
- use to catch “big fish”
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SENTENCING, FORFEITURE AND OTHER ORDERS ON CONVICTION

- Sentencing
- Forfeiture orders
- Additional orders
Aims of sentencing

- deterrence
- prevention
- retribution
- rehabilitation
Sentencing

- General factors
- Personal circumstances of accused
- Seriousness of offence
- Interests of society
Sentencing

Evidence in aggravation

- Statistics on prevalence of wildlife crime
- Expert testimony as to effect on wildlife
- Expert testimony as to economic effect
- Testimony from affected individuals/communities
- Photographic evidence of effect
Forfeiture orders

Aims of forfeiture

- remove incentives to commit crime
- remove instrumentality of crime
- deter persons from committing crime
- advance justice
Additional or supplementary order

- forfeiture of proceeds of crime
- cancellation of licenses
- ban accused from applying for permits
- payment for damage, rehabilitation
- payment of costs of investigation/prosecution
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CONCLUSION

Why a criminal law approach?

What makes criminal law effective?
Why criminal law?

- Effective investigation/prosecution
- Criminal sanctions
- Deterrent value

- Liability for damages
- Loss of proceeds
- Removing the incentive to commit such crimes

- Powers of enforcement officers and investigators
- Successful prosecutions
- Break up organised syndicates
What makes criminal law effective?

**Strong legislation**
- Provides powers to enforce/investigate
- Creates offences covering all transgressions
- Provides for adequate penalties

**Effective detection, enforcement, investigation**

**Prosecutors have awareness, knowledge, expertise**

**Appropriate and public sentences**
Thank You!