

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Private Bag X540, PRETORIA, 0001

Reference	: 3/5/2/290
Enquiries	: Major General S Pienaar
Telephone	: 012 421 8371 : 012 421 8316
Email	: multerc@saps.gov.za : pillayienny@saps.gov.za

**DIVISIONAL COMMISSIONER
VISIBLE POLICING AND OPERATIONS
HEAD OFFICE**

All Provincial Commissioners
SOUTH AFRICAN POLICE SERVICE

**RURAL SAFETY: DIRECTIVE ON SAFEGUARDING OF DOGS USED AS
INSTRUMENTS IN ILLEGAL HUNTING**

1. The directive by the Divisional Commissioner: Visible Policing and Operations dated 2021-11-06 has bearing on the matter.

2. **Background**

2.1 The South African Police Service (SAPS) is tasked with various responsibilities, including responding to complaints, gathering evidence, conducting investigations, compiling case files for presentation to the National Prosecuting Authority (NPA), securing and managing seized exhibits.

2.2 One emerging challenge faced by farming communities and livestock owners is illegal hunting with dogs. Incidents involving illegal hunting can result in significant losses.

2.3 Despite the logistical constraints faced by police stations (such as inadequate facilities for kennelling and caring for seized dogs) it remains the responsibility of the SAPS to ensure the safety and preservation of these dogs if they are seized. These dogs serve as crucial evidence in cases of illegal hunting and must be properly safeguarded to maintain the chain of evidence and to support potential court proceedings. This obligation is reinforced by adherence to relevant legislation and directives, including National Instruction 8 of 2017, which outlines procedures for handling seized items.

3. **Legal Frameworks**

The following legislations is, *inter alia*, applicable to this directive:

- Animals Protection Act, 1962 (Act No. 71 of 1962);
- Criminal Procedure Act, 1977 (Act No. 51 of 1977): (Sections 30 to 36 in respect of disposal and section 232(1) and (2) regarding evidence by means of photographs);

RURAL SAFETY: DIRECTIVE ON SAFEGUARDING OF DOGS USED AS INSTRUMENTS IN ILLEGAL HUNTING

- Fencing Act, 1977 (Act No 31 of 1963);
- Game Theft Act, 1991 (Act No. 105 of 1991);
- National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004) (notably section 57(1) read with section 101 in respect of restricted activities);
- Societies for the Prevention of Cruelty to Animals Act, 1993 (Act No. 169 of 1993);
- Stock Theft Act, 1959 (Act No. 57 of 1959);
- Trespass Act, 1959 (Act No 6 of 1959);
- National Instruction 1 of 2015: Crime Scene Management;
- National Instruction 3 of 2011: Registration of case dockets; and
- National Instruction 8 of 2017: Property and Exhibit management.

4. General Principles

- 4.1 The South African Police Service (SAPS) has a legal obligation in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) to ensure that evidence which may be used during court proceedings, is safeguarded.

Section 232 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) (CPA) provides as follows:

(1) Any court may in respect of any article, other than a document, which any party to criminal proceedings may wish to produce to the court as admissible evidence at such proceedings, permit such party to produce as evidence, in lieu of such article, any photograph thereof, notwithstanding that such article is available and can be produced in evidence.

(2) The court may, notwithstanding the admission under Section (1) of the photograph of any article, on good cause requires the production of the article in question.

- 4.2 Dogs used during illegal hunting are exhibits in an investigation, SAPS is obligated to cover the expenses associated with the safekeeping of evidence. Therefore, SAPS must remunerate the local registered animal shelter for the safekeeping of dogs until the investigations conclude or for a duration specified by the prosecuting authority.

5. The following steps must be followed by members attending incidents involving illegal hunting with dogs:

5.1 Assessment of the Scene

Steps	Actions
1.	Assess for immediate safety threats, including potential danger from dogs or individuals involved in the illegal hunting.
2.	Interview the complainant/witnesses to obtain information such as location, description of dogs, and any injuries sustained by animals or people.

RURAL SAFETY: DIRECTIVE ON SAFEGUARDING OF DOGS USED AS INSTRUMENTS IN ILLEGAL HUNTING

3.	Activate relevant stakeholders such as EMS and Veterinarian (vet) to provide necessary medical attention to injured parties or sedate vicious dog.
4.	Secure the scene and gather evidence, such as weapons or animal carcasses or video recordings, while awaiting further instructions or assistance from appropriate stakeholders.

5.2 Registration of cases

Steps	Actions
1.	<p>When a crime or alleged crime is reported at a police station or to a member on patrol attending to complaints, irrespective of whether the crime was committed in the station area of that police station or the station area of another police station, the member receiving the report must –</p> <p>(a) interview the complainant (reporter) and, by using the Definitions of Crime Manual as a guideline (also see paragraph 5.3 below), ensure that what is alleged to have happened does indeed constitute a crime</p> <p>(b) if so, take down an affidavit depicting all the elements of the crime and describe in detail what happened by utilizing the "what", "when", "who", "where" "why" and "how" principles (if, in the opinion of the member, the conduct does not constitute a crime a comprehensive Occurrence Book entry must be made setting out why the complaint was accepted and a case not registered);</p> <p>(c) open a case docket (SAPS 3M) and complete it; and</p> <p>(d) hand over the completed case docket (SAPS 3M) to the Community Service Centre Commander for perusal and registration on CAS.</p>
2.	Complainant or reporters of crime must never be referred to another police station to report a crime, even if the crime was committed in another police station area.

5.3 The following crimes may, *inter alia* related to a complaint of illegal hunting with dogs:

- Trespassing (contravention of the Trespass Act, 1959 (Act No 6 of 1959);
- Malicious damage to property;
- Cruelty to animals;
- Contravention of the Stock Theft Act, 1959 (Act No. 57 of 1959);
- Contravention of the Game Theft Act, 1991 (Act No. 105 of 1991);
- Contravention of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004);
- Contravention of the Fencing Act, 1977 (Act No 31 of 1963); and
- Contravention of the Animals Protection Act, 1962 (Act No. 71 of 1962).

5.4 Photographing of the dogs

Steps	Actions
1.	Upon arriving of LCRC at the scene or encountering suspects engaged in alleged unlawful hunting, promptly take clear photographs of all angles of each dog involved for later identification.

RURAL SAFETY: DIRECTIVE ON SAFEGUARDING OF DOGS USED AS INSTRUMENTS IN ILLEGAL HUNTING

2.	Ensure the photographs are captured clearly depicting the dogs and their surroundings as evidence supporting the case. (Photo album filed under A-clip of the docket).
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5.5 Seized dogs as an exhibit

Steps	Actions
1.	Seize the dogs involved in the alleged illegal hunting, ensuring a proper and careful handling procedure.
2.	Maintain meticulous records for each seized dog, including unique identifiers, such as breed, colour, markings, and any identifiable characteristics.
3.	The member must also submit an affidavit (seizure statement) setting out the circumstances surrounding the seizure of the article (when it was seized, from whom, where and a description of what was seized).
4.	Ensure that the representative from the animal shelter transports the dog to the shelter for safekeeping.

5.6 Recording of Exhibits

Steps	Action
1.	Whenever a member seizes an exhibit in terms of paragraphs 6(1)(c) and 15(2)(b) of NI 8 of 2017 or any other legal provision, he or she must— (a) enter all exhibits seized, in the SAPS 13 Property Register; (b) enter the particulars thereof in his or her pocket book; and (c) book the exhibits out in last column of the SAPS 13 against the signature of a member who takes the animal to pound. Mostly the animals are not presented to the SAPS 13 clerk, due to practical reasons. In some instances, the SAPS 13 clerk demands to see the animals before they sign for receipt of the exhibits and in these instances the animals are transported in a trailer (if available) and then booked in and out of the SAPS 13 before transported to the pound.
2.	All exhibits that have been seized, must be entered into the SAPS 13 Property Register. The member who records the exhibit in the SAPS 13 Property Register, must record the reference number of the SAPS 13 concerned in the applicable space on page 1 of the docket and the relevant part of page 6 of the docket.
3.	The relevant details of the seized dogs must be documented accurately.
4.	Specific information regarding each dog must be recorded, ensuring precision in breed, colour, markings, and any distinguishing features.
5.	These details must be filled in the case docket for future reference and legal proceedings.

5.7 Safeguarding and disposal of dogs as an exhibit

Steps	Action
1.	The services of a suitable service provider must be procured, using the SAPS procurement procedures. Financial authority must be obtained. The estimated amount involved will determine the procedure to be followed in this regard.

RURAL SAFETY: DIRECTIVE ON SAFEGUARDING OF DOGS USED AS INSTRUMENTS IN ILLEGAL HUNTING

2.	<p>All seized dogs must be kennelled and SAPS is responsible for the financial implications.</p> <p>Obtain verbal financial authority according to the procurement prescripts to kennel dogs involved in illegal hunting at the local SPCA or another animal shelter.</p> <p>Verbal authority can be obtained by sending a WhatsApp, SMS, telephone call or sending an email to the Financial Commander and the Supply Chain Commander. The approval must be obtained from the relevant province and a written authorisation must be issued within 72 hours after the initial verbal authorisation.</p> <p>The supporting evidence (WhatsApp, SMS or email) must be printed and attached to the written application.</p>
3.	<p>The investigating officer must where reasonably possible within ten working days of seizing the dog(s) obtain written confirmation from the senior public prosecutor that the photos referred to in above is sufficient evidence for trial and court purposes as provided for in section 232 of CPA and that the dog(s) will not be required at the trial for purpose of evidence and an order of court.</p>
4.	<p>Upon the outcome of the court proceedings or in the event that the accused pays an admission of guilt fine, the dog must be handed back to the lawful owner by using form SAPS 136. If the accused pays an admission of guilt in court and the dogs are not forfeited to the state, Loss Management must be notified to recover the kennel costs from such accused.</p>
5.	<p>The costs for the safe keeping of the dog(s) as exhibits are payable from the budget of the SAPS from the date on which the dog(s) was seized until five working days after form SAPS 290(a) has been received by the owner of the dog. After the said five working days, the owner is responsible for the safekeeping costs.</p>
6.	<p>If the investigating officer reasonably does not know of any person who may lawfully possess the dogs, the dogs must be forfeited to the State and be disposed of according to SAPS prescripts. Keep in mind that the animal shelters have certain powers in respect of disposal.</p>

6. Every Station Commander must keep an updated list of veterinarians and animal shelters in the Client Service Centres so that it is readily available to members attending to cases of illegal hunting with dogs.
7. The Provincial Commissioners are requested to disseminate the directive to all districts and stations resorting under their command.
8. Your cooperation in this regard is highly appreciated.


DIVISIONAL COMMISSIONER: VISIBLE POLICING AND OPERATIONS
MJ MAMOTHETI

LIEUTENANT GENERAL

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