

Written submission from RSPB Scotland

The Scottish Government Wildlife Crime Report 2015

Summary

RSPB Scotland welcomed the publishing, on 25th November 2016, of the Scottish Government's *Wildlife Crime in Scotland 2015 Annual Report*, and commends its ongoing commitment to tackle crimes that continue to impact on the populations of some of our rarest species, threatening both our natural heritage and our country's reputation.

However, there are a number of issues we are concerned about:

- That a number of incidents occurring during the review period have not been included,
- That the report fails to acknowledge that detected wildlife crimes inevitably represent an unknown proportion of offences actually taking place,
- And that a significant weight of peer-reviewed science continues to acknowledge the detrimental impact of criminality on the ranges and populations of a number of species.

The Wildlife Crime Report 2015

RSPB Scotland welcomes and acknowledges the high conviction rate (71%) achieved by prosecutors over a five year period, when wildlife crime cases proceed to court, but suggests it would be of interest if this could be related to the number of recorded wildlife crimes. It is clear that with over 850 crimes recorded by the police from 2012 to 2015 (listed in Table 1 of the report), that somewhat less than half of these cases (349) result in a report going to the procurator fiscal, and in less than a third of cases (260) does this result in either a prosecution or an alternative disposal.

In a written submission¹ to the Scottish Parliament Justice Committee, following its call for evidence on the role and purpose of the Crown Office and Procurator Fiscal Service, we suggested that the lack of debriefing following completed cases represents both a failure to implement recommendations made by the Scottish Government's own "Natural Justice" report², and a missed opportunity to improve the effectiveness of investigation and prosecution of wildlife criminals.

We have commended the custodial penalty given to an Aberdeenshire gamekeeper for raptor persecution offences, following a guilty verdict at Aberdeen Sheriff Court in December 2014. We understand that this was the first such disposal by a UK court. We have long been concerned that penalties handed down by the courts did not reflect the conservation impact of such crimes and did not pose any deterrent to those commissioning such offences. Therefore, we also welcomed our invitation to contribute to the Scottish Government's Wildlife Crime Penalties Review, and look forward to the implementation of the recommendations contained in the review panel's comprehensive report.

Investigating Crime

¹ http://www.parliament.scot/S5_JusticeCommittee/Inquiries/RSPB_Scotland.pdf

² <http://www.gov.scot/Resource/Doc/218661/0058716.pdf>

It remains clear, that investigation of wildlife crime is difficult, and particularly so with respect to raptor persecution. In giving evidence to the Justice Committee on 29th November 2016³, Ian Thomson, RSPB Scotland's Head of Investigations stated: "Raptor persecution is perhaps one of the most difficult wildlife crimes to investigate because, when the police ask for information or conduct interviews, they largely face a wall of silence.... ...raptor persecution is, by and large, carried out by local people, potentially as part of their employment, and there is a culture that people who are involved in the industry are afraid to put their head above the parapet or they will be completely ostracised. That makes it difficult to get even the tiniest bits of witness evidence that will facilitate a prosecution, so we are dependent on forensic evidence that is found on the ground, and that is easy for the perpetrator to conceal."

A good example of this was the destruction, in early 2013, of a white-tailed eagle nest located on an estate in the Angus Glens. The nest tree, located 5 miles from the nearest public vehicular access, was felled with a chainsaw, and brought to a premature end the first attempted breeding by this species in the east of Scotland for over one hundred years. Despite widespread public outrage, and public reassurances⁴ from land management organisations that the estate would give full cooperation to the subsequent investigation, every attempt made by the police to obtain information from employees of the estate in question was met with "no comment". The perpetrators of this incident have yet to be identified.

We note that a number of cases of confirmed raptor persecution have not been included in the Wildlife Crime Report. RSPB Scotland is concerned that increasingly, such data are being withheld from public scrutiny on the basis that cases remain under investigation and/or there is an anticipation that an individual will come forward, as a result of an appeal, with some specialist information that will identify a potential suspect. As far as we are aware, this has never happened, almost certainly due to the culture of silence outlined above.

The Scale of the Problem

The cases that are quantified in this Wildlife Crime Report are those victims, baits or traps that were uncovered, but it is impossible to say what the number of *actual* incidents is, or what proportion of these were found and documented.

In giving evidence to the Rural Affairs, Climate Change and Environment Committee on 13 January 2016⁵, Assistant Chief Constable Graham, then the wildlife crime portfolio holder for Police Scotland, was asked about levels of raptor persecution. In response, ACC Graham stated "the problem is not increasing; rather, it is more likely to be the case that we are hearing about a greater proportion of cases and probably less crime is happening."

³ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10666>

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http://www.scottishlandandestates.co.uk/index.php?option=com_content&view=article&id=2614:invermark-trial-by-media&catid=71:national&Itemid=107

⁵ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10314>

RSPB Scotland endorsed the subsequent Scottish Environment LINK letter⁶ to the convenor of the RACCE Committee which suggested that this response was “anecdotal at best” and “purely speculative”. Those criminals undertaking the illegal killing of birds of prey do not wish to be caught; hence these activities are carried out in remote areas where they are likely to remain undetected. The phrase “the tip of the iceberg” is used advisedly when it comes to the recording of wildlife crime in general, and raptor persecution incidents in particular. The search effort to uncover criminal activity related to raptor persecution is entirely *ad hoc*, with most victims found by members of the public simply accessing the countryside.

In many cases, perpetrators have been observed tidying up after their activities, or hidden evidence of offences has been uncovered, for example bodies of killed raptors buried or hidden. In a case in Moray a number of years ago, an individual was observed, and subsequently convicted for, killing two buzzards that had been caught in a crow trap, then concealing the bodies in an adjacent rabbit warren. A follow-up police search found the bodies of a further eleven buzzards similarly concealed close by.

A stark illustration of this is provided by an award-winning peer reviewed paper by Smart *et al* (2010)⁷ which highlighted this low probability of detection, by demonstrating the number of illegally-killed red kites in a sub-population in northern Scotland. Using population modelling techniques, the authors calculated that a total of 166 red kites had been illegally poisoned between 1999 and 2006, but only 41 poisoned carcasses were actually found. A recent SNH-commissioned review⁸ updating this study concluded that from 2006 to 2014, there was no evidence of a decline in persecution of the north of Scotland red kite population.

It is apparent that the activities of those undertaking the criminal persecution of birds of prey continue largely to go undetected. With this in mind, we welcomed the recent announcement by the Cabinet Secretary for Environment, Climate Change and Land Reform to commission a review of the disappearance of satellite-tagged birds of prey, to be published next year.

Conclusion

RSPB Scotland’s Investigations team has played a key role, over more than 30 years, in assisting the statutory agencies, notably the police and the Crown Office Procurator Fiscal Service, in the detection, investigation and prosecution of wildlife criminals.

The figures published in both this Wildlife Crime Report and RSPB Scotland’s report “The Illegal Killing of Birds of Prey in Scotland 1994-2014: A Review”⁹ again illustrate

⁶http://www.parliament.scot/S4_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/20160126_SE_Link_on_Wildlife_crime_session_WEB.pdf

⁷ Smart, J., Amar, A., Sim, I. M. W., Etheridge, B., Cameron, D., Christie, G. & Wilson, J. D. 2010. Illegal killing slows population recovery of a re-introduced raptor of high conservation concern - The red kite *Milvus milvus*. *Biological Conservation*, 143, 1278-1286.

⁸ http://www.snh.org.uk/pdfs/publications/commissioned_reports/904.pdf

⁹ https://www.rspb.org.uk/Images/illegal-killing_tcm9-411686.pdf

that criminals continue to target iconic species such as golden eagle, peregrine, hen harrier and red kite. However, we are concerned that too much emphasis is placed on the annual “body count” and on identifying trends that are statistically invalid. What is clear is that the distribution of crime victims, many population studies and repeated peer-reviewed scientific analyses of data clearly indicate that in those areas where intensive gamebird management takes place, criminal targeting of protected species remains a systemic problem. It is also apparent, that despite improved legislation, the lack of regulation of the more intensive parts of the gamebird shooting industry is failing to address this significant issue.

It is for this reason that we reiterate our support for the Scottish Raptor Study Group petition, recently referred by the Scottish Parliament’s Petitions Committee to the ECCLR Committee, calling on the Scottish Parliament to introduce a robust system of licensing for gamebird shooting, where the right to shoot is dependent on legal and sustainable management practices.

RSPB

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