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TO: ALL BERGEN COUNTY CHIEFS OF POLICE, POLICE DIRECTORS, OFFICERS-IN-CHARGE, AND SHERIFF

FROM: ACTING PROSECUTOR DENNIS CALO

DATE: FEBRUARY 5, 2019

SUBJECT: BERGEN COUNTY PROSECUTOR'S OFFICE LAW ENFORCEMENT DIRECTIVE NO. 2019-2 REGARDING FIREARMS PROCEDURE AFTER LAW ENFORCEMENT RESPONSE TO MENTAL HEALTH ISSUE – SUPPLEMENT TO BERGEN COUNTY PROSECUTOR'S LAW ENFORCEMENT DIRECTIVE 2018-5 REGARDING DUTY TO WARN UNDER THE MENTAL HEALTH PROFESSIONALS' DUTY TO WARN ACT N.J.S.A. 2A:62-16

On November 27, 2018, the Bergen County Prosecutor's Office ("BCPO") issued Directive No. 2018-5 regarding procedures related to the Mental Health Professionals' Duty to Warn Act, N.J.S.A. 2A:62A-16. That Directive outlined the procedures to be followed when a mental health practitioner notifies law enforcement that a particular patient/client has communicated a threat of imminent, serious physical violence against an individual or the patient/client himself/herself or whenever a mental health practitioner believes that a patient/client intends to carry out an act of serious physical violence. This Directive is meant to supplement BCPO Directive 2018-5.

Under this Directive, whenever a Bergen County law enforcement agency receives information or a warning related to a threat of imminent, serious physical violence to self or others made by an individual suspected of suffering from a mental illness, *whether that information comes from a mental health provider or any other source*, the respective police department **must** ascertain whether the individual has been issued a firearms purchaser identification card ("FPIC"), any permit to purchase or possess a firearm, or whether the patient may possess or have access to any firearm. This includes law enforcement responses to emotionally disturbed persons, instances



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when 201-262-HELP is called, and instances when individuals are transported to a hospital for psychiatric evaluation.

Additionally, if the respective law enforcement agency determines that the individual possesses a FPIC or a permit to purchase or possess a firearm, or possesses or has access to a firearm, the law enforcement agency must attempt to secure the identification card, permit, and/or firearms either consensually or with a warrant if consent is denied, on the basis of the imminent threat of serious harm.

Upon confirmation that any such individual possesses or has access to a firearm or FPIC, that agency must immediately contact the Bergen County Public Safety Operations Center ("PSOC") at 201-753-PSOC (7762) and request that a detective from the BCPO's Threat Management Unit contact that agency. Upon that contact, the agency shall communicate the details of the situation to the BCPO detective.

At that time, the BCPO will determine if the situation falls under the purview of the Mental Health Professionals' Duty to Warn Act. If the situation does fall under the Mental Health Professionals' Duty to Warn Act, any identification cards, permits, and firearms seized must be turned over to the BCPO for further proceedings, pursuant to BCPO Directive No. 2018-5. If the situation does not fall under the Mental Health Professionals' Duty to Warn Act, the identification cards, permits, and firearms seized shall remain in the possession of the respective law enforcement agency for safekeeping. **As per existing protocol, no identification cards, permits, or firearms may be returned to the individual until expressly authorized by the BCPO Chief of Detectives.**



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