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

FROM: PROSECUTOR MARK MUSELLA

DATE: JULY 28, 2020

RE: BERGEN COUNTY PROSECUTOR'S OFFICE LAW ENFORCEMENT DIRECTIVE NO. 2020-9 AMENDMENTS TO CIVIL FORFEITURE STATUTES AND PROCEDURES

In January of this year the statutes pertaining to the civil forfeiture of assets seized during criminal investigations were amended to provide more public transparency and to require more extensive reporting on assets seized by law enforcement agencies. The newly amended statutes and procedures require the collection and reporting of the following information by each County Prosecutor's Office to the Office of the Attorney General:

SEIZURE INFORMATION

- A. Law enforcement agency seizing the property;
- B. Description of the property seized;
- C. The date of seizure;
- D. The exact location of the seizure;
- E. Whether the seizure was during a traffic stop on an interstate or state highway and if so, the direction of travel;
- F. The amount of funds seized or the estimated value of property seized;
- G. The alleged criminal offenses and whether those offenses are in violation of state or federal law.



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CRIMINAL ACTION INFORMATION

- A. The disposition of any criminal action related to the seizure:
 - 1. whether the defendant was charged with the offense;
 - 2. if the charges were dismissed, the defendant/claimant was acquitted, convicted or if a plea was entered.

FORFEITURE ACTION INFORMATION

- A. Whether the forfeiture involved prima facie contraband;
- B. Whether the forfeiture was enforced by a civil action under N.J.S.A. 2C:64-1;
- C. Whether the forfeiture was the result of racketeering activity under N.J.S.A. 2C:41-1;
- D. Whether the forfeited funds or property were the result of financial facilitation under N.J.S.A. 2C:21-23 or other crime;
- E. Whether the offense is in violation of federal or state law;
- F. The criminal case number;
- G. The court where the forfeiture was filed;
- H. Whether the claimant was represented by counsel in the forfeiture proceedings;
- I. If a claimant filed a claim or counterclaim.

FINAL DISPOSITION OF PROPERTY

- A. The date of disposition (date of forfeiture order);
- B. Whether the property was returned to owner, destroyed, sold, retained after the forfeiture;
- C. Estimated value of forfeited property, including:
 - 1. the gross amount received;
 - 2. any expenses deducted as part of the forfeiture action;
 - 3. the net amount received from the forfeiture.
- D. Whether the forfeiture resulted from:
 - 1. an adoptive seizure by a federal agency;

2. a joint task force seizure (defined as involving a municipal, state or federal law enforcement agency).
- E. Whether the forfeiture proceeding was criminal, civil judicial or civil administrative and;
1. the date of the forfeiture order;
 2. the purpose for which any property retained by a law enforcement agency is used.

LAW ENFORCEMENT AGENCY INFORMATION:

- A. Information concerning property or funds received by a law enforcement agency must include:
1. whether the funds received were the result of its own actions, an adoptive seizure, or a joint task force;
 2. the amount of funds received and the estimated value of the property received.
- B. The use of forfeited funds:
1. the total amount of funds expended which resulted from the property seized, forfeited and reported;
 2. the total value of seized and forfeited property held by a law enforcement agency at the end of a reporting period.

To aid in the collection and report of the required information, copies of the following forms will be available on the intranet:

- A. United States Currency Seizure Report;
- B. Property Seizure Report;
- C. Vehicle Seizure Report;
- D. Request for Distribution of Funds;
- E. Law Enforcement Asset Forfeiture Form (must be filed only if there was not any seizure/forfeiture in a particular quarter).

All required forfeiture forms must be filled out and electronically filed within 48 hours of seizure. The public will now have access to much of the information, except the identifications of claimants. Additionally, there is a provision that information may be withheld from the public with the approval of the Prosecutor's Office.

As set forth above, the revised reporting is much more detailed than historically required and agencies must be careful to complete all the necessary reporting fields. You will be alerted through the intranet if any fields are not completed. Failure to comply with the new statutes and

reporting procedures may have serious consequences for your agency, including the inability for the Bergen County Prosecutor's Office to file a forfeiture action or the disgorgement and return of all assets that a law enforcement agency has seized during a period of non-compliance.

Prosecutor's Offices must file their forfeiture reports to the Attorney General on the first day of the month following the end of each quarter. Quarter 1 extends from January 1 through March 31; Quarter 2, from April 1 through June 31; Quarter 3, from July 1 through September 30; and Quarter 4, from October 1 through December 31.

Since the statutory amendments become effective on August 1, 2020, each Bergen County law enforcement agency will be responsible to complete and file its Non-Prosecutor Forfeiture Program Report (Form N) for the month of July 2020. Thereafter, the Bergen County Prosecutor's Office will report on your behalf. The Attorney General has not yet decided whether agencies will be required to continue to file their Form N. We will advise of the decision on that issue.

If you have any questions on the newly amended forfeiture statutes or procedures, please contact Assistant Prosecutor, MaryAnn Salemi, the Chief of our Civil/Forfeiture Section at (201)226-5121 or email at MSalemi@bcpo.net.

As always, I thank you for your cooperation.



MARK MUSELLA
BERGEN COUNTY PROSECUTOR

MM/kk