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

FROM: PROSECUTOR MARK MUSELLA

DATE: APRIL 26, 2022

**SUBJECT: BERGEN COUNTY PROSECUTOR'S OFFICE LAW ENFORCEMENT
DIRECTIVE NO. 2022-1 PRESERVATION OF DOMESTIC VIOLENCE
TELEPHONIC SEARCH WARRANT EVIDENCE**

Recently, in the case of State v. M.B., the Appellate Division of our Superior Court suppressed evidence seized pursuant to a temporary restraining order issued under the Prevention of Domestic Violence Act. In that case, the administrative search warrant contained therein was issued based on the domestic violence victim's sworn statement to the issuing municipal court judge. Although the victim's statement and the court's order were recorded, that recording was destroyed under the police department's regular recording destruction policy. The execution of the warrant revealed contraband that became the subject of a criminal prosecution. However, because there was no recording of the basis of the search warrant, or other evidence to sustain the warrant, the Appellate Division ruled that the seized evidence must be suppressed.

This decision highlights the need for law enforcement to preserve the recordings of all applications for a temporary restraining order in which administrative search warrants are issued. In cases where the execution of a warrant results in the seizure of evidence that gives rise to criminal charges, the audio recordings of those applications should be preserved, made part of the case files, and ultimately delivered to the Prosecutor's Office.

As always, I thank you for your cooperation.

MARK MUSELLA
Bergen County Prosecutor

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