

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE No. 2004-4

Standardization of External Audits of County Prosecutor's Office Forfeiture Funds

WHEREAS, it is the policy of the Attorney General that all State, County and Municipal law enforcement agencies shall administer State and Federally forfeited funds and property in a uniform manner, consistent with established State and Federal law, regulations, directives, and standard operating procedures; and

WHEREAS, the Attorney General as the State's chief law enforcement officer, has authority to oversee the Forfeiture operations of the County Prosecutor's Offices and ensure compliance with the forfeiture-related provisions of N.J.S.A. 2C:64-1 et seq.; N.J.S.A. 2C:41-1 et seq.; N.J.S.A. 2C:21-25 et seq.; N.J.S.A. 40A:5-1 et seq.; and, the State of New Jersey Forfeiture Program Administration Standard Operating Procedures (SOP's 1-12); and

WHEREAS, SOP 12 requires County Prosecutors to have a registered municipal accountant (RMA)/certified public accountant (CPA) audit all accounts containing or related to forfeited and seized property, on an annual basis; and

WHEREAS, the Attorney General has surveyed the manner in which the annual RMA/CPA audits of County Forfeiture funds are conducted and has determined that utilization of a standardized format by external auditors would produce more accurate and timely audit results and would allow for more efficient and productive oversight of compliance with SOP's, statutes, regulations, guidelines and directives; and

WHEREAS, this determination was not made in response to any **serious** existing problem or emergent need, but rather was made in consultation with the County Prosecutors Association of New Jersey to enhance the administration of State and Federally forfeited funds and property;

NOW, THEREFORE, I, PETER C. HARVEY, Attorney General of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq., do hereby ORDER and DIRECT the following:

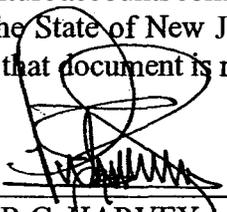
1. The Office of Government Integrity shall establish a "Manual for External Audits of County Forfeiture Accounts." This manual will contain instructions for the County Prosecutor, the engaged CPA firm, and the Division of Criminal Justice, to assist all parties in complying with applicable statutes, regulations, directives and SOP's.
2. Each County Prosecutor shall have all Forfeiture accounts audited on an annual basis by an external RMA/CPA. The engaged firm shall be provided with a copy of the "Manual for External Audits of County Forfeiture Accounts," and any internal documents necessary to complete the audit. The audit shall include the reports and procedures specified in the manual. The manual will also include formats, reports, and schedules which must be

followed.

3. In that N.J.S.A. 40A:5-4 requires the governing body of each County to have an RMA/CPA audit, on an annual basis, all books, accounts and transactions of County government agencies, the Prosecutor's responsibility for ensuring an annual audit of forfeiture-related accounts can be satisfied by the County audit conducted pursuant to N.J.S.A. 40A:5-4, provided that the County audit of the Prosecutor's forfeiture-related accounts is conducted, and the audit report is prepared, in conformity with the requirements of the "Manual for External Audits of County Forfeiture Accounts." Otherwise, the County Prosecutor shall arrange for an external audit independent of the County audit.

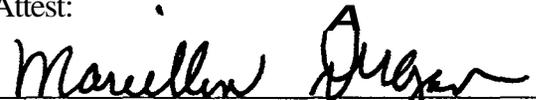
4. Each County Prosecutor shall be responsible for reviewing findings from the annual external audit to ensure compliance with applicable statutes, regulations, directives and SOP's, including this Attorney General Law Enforcement Directive. The Division of Criminal Justice will be responsible for conducting follow-up within 120 days of receipt of a copy of the audit to ensure all findings have been addressed.

This directive shall take effect immediately. However, it shall only apply to audits of Forfeiture accounts commenced after its effective date. In addition, the manual shall be incorporated into the State of New Jersey Forfeiture Program Administration Standard Operating Procedures when that document is next revised.



PETER C. HARVEY
ATTORNEY GENERAL

Attest:



Date: October 25, 2004

TAB NO. 2

New Jersey Permanent StatutesTITLE 2C THE NEW JERSEY CODE OF CRIMINAL JUSTICE2C:64-1. Property subject to forfeiture

2C:64-1. Property Subject to Forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances, firearms which are unlawfully possessed, carried, acquired or used, illegally possessed gambling devices, untaxed cigarettes and untaxed special fuel. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, **or** buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to section 2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or,

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

Amended 1979,c.344,s.1; 1981,c.290,s.46; 1992,c.23,s.70.

2C:64-2. Forfeiture procedures; prima facie contraband

Forfeiture Procedures; Prima Facie Contraband.

Except as provided in N.J.S. 2C:35-21, prima facie contraband shall be retained by the State until entry of judgment or dismissal of the criminal proceeding, if any, arising out of the seizure. Thereafter, prima facie contraband shall be forfeited to the entity funding the prosecuting agency involved, subject to the rights of owners and others holding interests pursuant to section 2C:64-5.

Amended by L. 1979, c. 344, s. 2; 1981, c. 290, s. 47; 1987, c. 106, s. 17.

2C:64-3. Forfeiture procedures

2C:64-3. Forfeiture procedures. a. Whenever any property other than prima facie contraband is subject to forfeiture under this chapter, such forfeiture may be enforced by a civil action, instituted within 90 days of the seizure and commenced by the State and against the property sought to be forfeited.

b. The complaint shall be verified on oath or affirmation. It shall describe with reasonable particularity the property that is the subject matter of the action and shall contain allegations setting forth the reason or reasons the article sought to be or which has been seized is contraband.

c. Notice of the action shall be given to any person known to have a property interest in the article. In addition, the notice requirements of the Rules of Court for an in rem action shall be followed.

d. The claimant of the property that is the subject of an action under this chapter shall file and serve his claim in the form of an answer in accordance with the Rules of Court. The answer shall be verified on oath or affirmation, and shall state the interest in the property by virtue of which the claimant demands its restitution and the right to defend the action. If the claim is made in behalf of the person entitled to possession by an agent, bailee or attorney, it shall state that he is duly authorized to make the claim.

e. If no answer is filed and served within the applicable time, the property seized shall be disposed of pursuant to N.J.S.2C:64-6.

f. If an answer is filed, the Superior or county district court shall set the matter down for a summary hearing as soon as practicable. Upon application of the State or claimant, if he be a defendant in a criminal proceeding arising out of the seizure, the Superior or county district court may stay proceedings in the forfeiture action until the criminal proceedings have been concluded by an entry of final judgment.

g. Any person with a property interest in the seized property, other than a defendant who is being prosecuted in connection with the seizure of property may secure its release pending the forfeiture action unless the article is dangerous to the public health, safety and welfare or the State can demonstrate that the property will probably be lost or destroyed if released or employed in subsequent criminal activity. Any person with such a property interest other than a defendant who is being prosecuted, prior to the release of said property shall post a bond with the court in the amount of the market value of the seized item.

h. The prosecuting agency with approval of the entity funding such agency, or any other entity, with the approval of the prosecuting agency, where the other entity's law enforcement agency participated in the surveillance, investigation or arrest which is the subject of the forfeiture action, may apply to the

Superior Court for an order permitting use of seized property, pending the disposition of the forfeiture action provided, however, that such property shall be used solely for law enforcement purposes. Approval shall be liberally granted but shall be conditioned upon the filing of a bond in an amount equal to the market value of the item seized or a written guarantee of payment for property which may be subject to return, replacement or compensation as to reasonable value in the event that the forfeiture is refused or only partial extinguishment of property rights is ordered by the court.

i. If the property is of such nature that substantial difficulty may result in preserving its value during the pendency of the forfeiture action, the Superior or county district court may appoint a trustee to protect the interests of all parties involved in the action.

j. Evidence of a conviction of a criminal offense in which seized property was either used or provided **an** integral part of the State's proofs in the prosecution shall be considered in the forfeiture proceeding as creating a rebuttable presumption that the property was utilized in furtherance of an unlawful activity.

Amended 1979,c.344,s.3; 1981,c.290,s.48; 1989,c.279,s.1.

2C:64-4. Seized property; evidentiary use



enforcement agency which contributed to the surveillance, investigation, arrest or prosecution resulting in the forfeiture.

The Attorney General is authorized to promulgate rules and regulations to implement and enforce the provisions of this act.

b. For a period of two years from the date of enactment of P.L. 1993, c.227 (C.26:4-100.13 et al.), 10% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L. 1993, c.227 (C.26:4-100.13).

c. Beginning two years from the date of enactment of P.L. 1993, c.227 (C.26:4-100.13 et al.) and in subsequent years, 5% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L. 1993, c.227 (C.26:4-100.13).

Amended 1979,c.344,s.6; 1985,c.110,s.1; 1986,c.135,s.1; 1993,c.227,s.1.

2C:64-7. Vesting of title in forfeited property



New Jersey Permanent Statutes**TITLE 2C THE NEW JERSEY CODE OF CRIMINAL JUSTICE****2C:64-7. Vesting of title in forfeited property**

Vesting of Title in Forfeited Property. Title to property forfeited under this chapter shall vest in the entity funding the prosecuting agency involved at the time the item was utilized illegally, or, in the case of proceeds, when received.

If another entity's law enforcement agency has participated in the surveillance, investigation, arrest or prosecution resulting in the forfeiture, then the prosecutor or the Attorney General, whichever is prosecuting the case, shall vest title to forfeited property, including motor vehicles, by dividing the forfeited property with the other entity in proportion to the other entity's contribution to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, as determined in the discretion of the prosecutor or the Attorney General. If the property, including motor vehicles, cannot be divided as required by this section, then the prosecutor or the Attorney General, whichever is prosecuting the case, shall sell the property, including motor vehicles, and the proceeds of the sale shall be divided with the other entity in proportion to the other entity's contribution to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, as determined in the discretion of the prosecutor or the Attorney General.

L. 1978, c. 95, s. 2C:64-7, eff. Sept. 1, 1979. Amended by L. 1979, c. 344, s. 7, eff. Jan. 23, 1980; L. 1985, c. 110, s. 2, eff. April 9, 1985; L. 1986, c. 135, s. 2, eff. Dec. 1, 1986.

2C:64-8. Seized property; statute of limitations on claims

Any person who could not with due diligence have discovered that property which he owns was seized as contraband may file a claim for its return or the value thereof at the time of seizure within 3 years of the seizure if he can demonstrate that he did not consent to, and had no knowledge of its unlawful use. If the property has been sold, the claimant receives a claim against proceeds.

L. 1978, c. 95, s. 2C:64-8, eff. Sept. 1, 1979. Amended by L. 1979, c. 344, s. 8, eff. Jan. 23, 1980.

2C:64-9. Forfeited weapons with military value; donation to National Guard Militia Museum

Any weapon with present or historical military value that has been forfeited pursuant to the provisions of chapter 64 of Title 2C of the New Jersey Statutes may be donated to the National Guard Militia Museum of New Jersey at Sea Girt by the law enforcement agency retaining it.

L. 1981, c. 112, s. 1, eff. April 2, 1981.

2C:65-1. Procedure to be followed by law enforcement agencies when stolen property is taken into custody

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**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



01

Title: ***Management of Funds and Property Received
from State and Federal Forfeitures***

Date Issued: **03/01/98**

Applicability: **All Forfeiture Program Administrators**

Supersedes:

1:1 Policy Statement

It is the policy of the Attorney General that all State, county and municipal law enforcement agencies shall administer State and Federally forfeited funds and property in a uniform manner, consistent with established State and Federal law, regulations, directives, guidelines and standard operating procedures.

1:2 Administration of Funds and Property Resulting from State Forfeiture Actions

Any law enforcement agency that receives funds and property resulting from forfeitures brought under the authority of N.J.S.A. 2C:64-1, et seq., (civil forfeiture), N.J.S.A. 2C:41-1, et seq. (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General, shall administer the expenditure of the funds or use of the property in accordance with the following laws, directives, guidelines and standard operating procedures:

- A. N.J.S.A. 2C:64-1, et seq., Civil Forfeiture;
- B. Attorney General's Forfeiture Guidelines - October 1992 and as amended;
- C. Attorney General's Executive Directive 1995-3;
- D. All State of New Jersey Forfeiture Program Administration Standard Operating Procedures;
- E. All other applicable federal and State laws and regulations.

1:3 Administration of Funds and Property Resulting from Federal Forfeiture Actions

Any law enforcement agency that receives funds and property resulting from forfeitures brought under the authority of the United States government shall administer the expenditure of the funds or use of the property in accordance with the following guidelines:

- A. A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies (March 1994 or current edition); U.S. Department of Justice;
- B. Guide to Equitable Sharing for Foreign countries and Federal. State Local Law Enforcement Agencies - (October 1996 or current edition); U.S. Department of the Treasury;
- C. All other applicable State and federal laws, regulations, directives, guidelines and standard operating procedures.

1:4 Separate Accounting for State and Federal Forfeitures

Any agency that receives both State and Federal distributions of forfeited funds or property shall establish accounts and records for any funds or property received under the authority of N.J.S.A. 2C:64-1, et seq., (civil forfeiture), N.J.S.A. 2C:41-1, et seq. (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General, as outlined further in these Standard Operating Procedures. A separate account and records shall be maintained for any funds or property received from the United States Department of Justice as a result of forfeiture actions brought by a Justice Department law enforcement agency. A separate account and records shall also be maintained for any funds or property received from the United States Department of the Treasury as a result of forfeiture actions brought by a Treasury Department law enforcement agency. At no time shall the funds from the three sources commingle since the standards on their acquisition and use are unique for each.

1:5 Designated Chief Executive of the Law Enforcement Agency

The Chief Executive of a participating law enforcement agency shall be responsible for administering funds and property received from either a State or federal forfeiture program, including: entering into equitable sharing agreements; filing and signing equitable sharing requests and annual certification reports; and, ensuring compliance with all applicable federal and state laws, regulations, directives, guidelines or standard operating procedures. The following persons shall be designated as the Chief Executive of a participating law enforcement agency:

- A. The Attorney General for any Division of the Department of Law and Public

Safety and all State law enforcement agencies unless otherwise designated in writing by the Attorney General;

- B. The county prosecutor for the State's twenty-one county prosecutor's offices;
- C. The public safety director, or if none exists, the chief of police for all other agencies.

1:6 Noncompliance

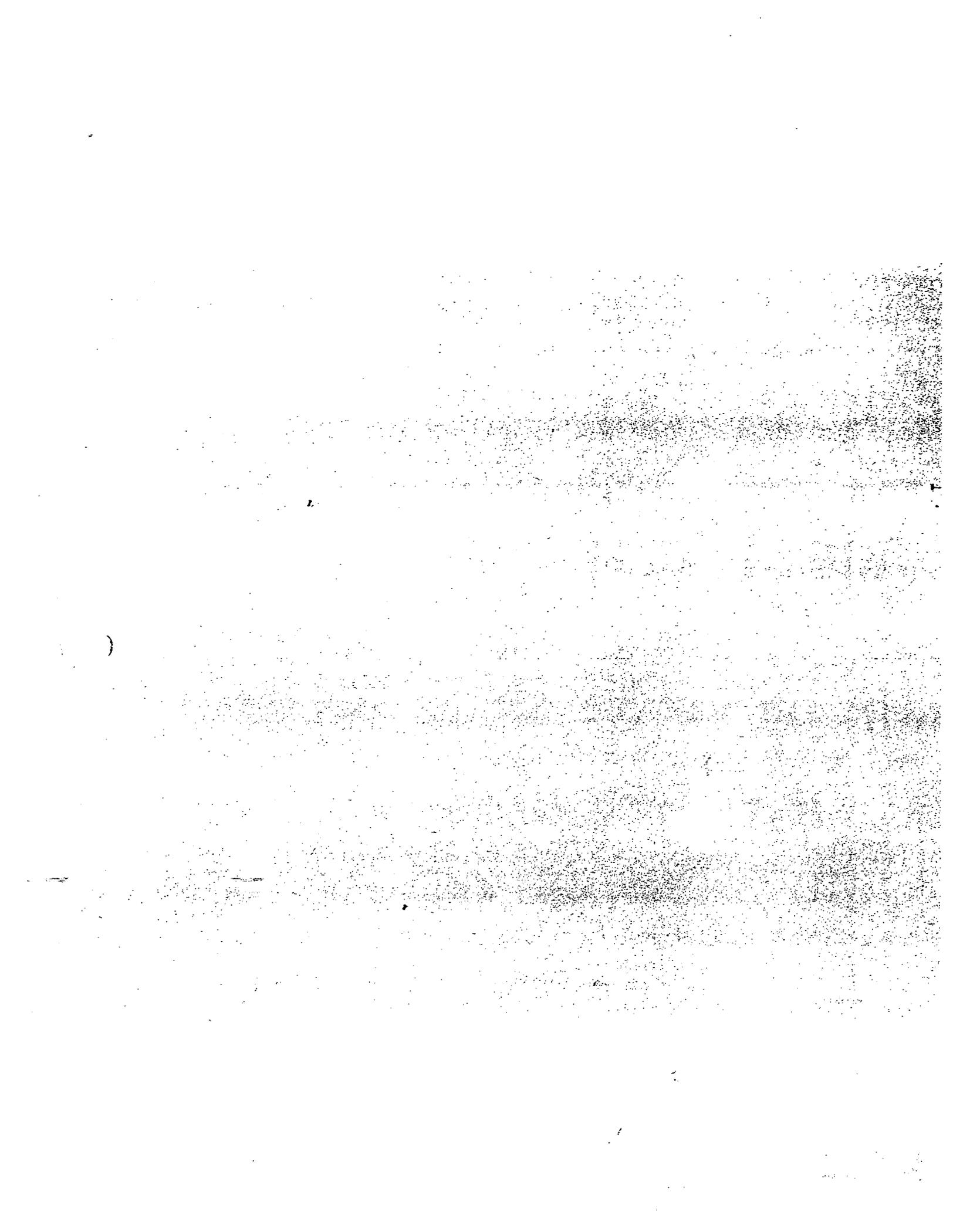
The Attorney General shall enforce compliance with all applicable laws, regulations, directives, guidelines and standard operating procedures. The Director, Division of Criminal Justice shall employ personnel to undertake all forfeiture related oversight activities and shall act as the enforcement mechanism for the Attorney General. Noncompliance by any law enforcement agency may subject that agency to one, or more, of the following sanctions:

- A. Being barred, temporarily or permanently, from further participation in the sharing program;
- B. Offsets from future sharing in an amount equal to impermissible uses;
- C. Civil enforcement actions;
- D. Where warranted, criminal prosecution for violations of applicable criminal laws; or
- E. Any other action deemed appropriate by the Attorney General.

AUTHORITY:

Peer review

PETER VERNIERO, ATTORNEY GENERAL



STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



02

Administration of State Forfeiture Program

Date Issued: 03101198

Applicability: State & County Programs

Supersedes: N/A

2:1 Policy Statement:

It is the policy of the Attorney General that the Office of the Attorney General (OAG) within the Department of Law and Public Safety (DLPS) shall administer proceeds and funds received by any Division or entity of the DLPS, or any other state law enforcement agency, as a result of forfeitures brought under the authority of N.J.S.A. 2C:64-1, et seq., (civil forfeiture), N.J.S.A. 2C:41-1, et seq. (racketeering); N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. Additionally, the Division of Criminal Justice (DCJ) within the DLPS shall administer proceeds and funds received by any such state law enforcement agency as a result of seizures subject to forfeiture actions under the above referenced statutory authority. The OAG shall administer separately federally forfeited property or proceeds distributed to any state law enforcement agency by the United States Departments of Justice or Treasury through a Federal Equitable Sharing Program Agreement, as outlined under Forfeiture Program Administration Standard Operating Procedure 01.

2:2 Establishment of the Attorney General's Law Enforcement Forfeiture Account, (AGLEFA)

- A. The OAG has established a trust fund to be used solely for law enforcement purposes which is funded by completed forfeiture actions commenced under N.J.S.A. 2C:64-1 et seq., (civil forfeiture) or N.J.S.A. 2C:41-1, et seq. (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. This dedicated fund is known as the Attorney General's Law Enforcement Forfeiture Account, (AGLEFA). AGLEFA shall be maintained by the Department of the Treasury and administered by the OAG. investigations performed by three DL&PS divisions: the Division of State Police, (DSP), the Division of Alcoholic Beverage Control and the DCJ are the primary source of funds received from forfeiture actions. All forfeited funds or proceeds from the sale of forfeited property received by the DL&PS, any division of the DL&PS or any state law enforcement agency, shall be deposited into AGLEFA. All interest generated by AGLEFA shall be credited to AGLEFA. Because AGLEFA is a dedicated account, the funds shall not revert to the State General Treasury at the end of a fiscal year, but carryover from year to year.

- B. The Attorney General shall authorize disbursement from AGLEFA Before funds are expended from AGLEFA the OAG shall provide, upon request by the Director of the Office of Management and Budget, an expenditure plan advising of the intended uses of the funds.

2:3 Establishment of a Seized Asset Dedicated Account

- A All funds seized by a state law enforcement agency, but **not** yet forfeited and not held for evidence in a criminal matter, shall be deposited into the **DL&PS** Cash Management Fund Seized Asset Dedicated Account (SADA) **or**, under circumstances as outlined in section 2:3B, the Seized Asset Trust Account (SATA) of the County Prosecutor handling the related forfeiture litigation.
- B. When a forfeiture action is litigated by the DCJ or, an individual seizure made by a state law enforcement agency is equal to or greater than **fifty** thousand Dollars, (**50,000.00**) and the related forfeiture **action** is litigated by a **county** prosecutor, all seized funds, except those held as physical evidence in a criminal matter, must be deposited into the **DL&PS** SADA. When an individual seizure made by a state law enforcement agency is less than fifty thousand Dollars, (**50,000.00**) and the related forfeiture action is litigated by a county prosecutor, the seized funds, except those held as physical evidence in a criminal matter, shall be deposited into the SATA of the county prosecutor's office handling the forfeiture litigation.
- C. The **DL&PS** SADA shall be a series of individual dedicated **sub-accounts** maintained by the Department of the Treasury and administered by the DCJ. Each seizure shall **be** deposited into a **DL&PS** SADA sub-account where they are individually identified but managed as one large group by the Department of the Treasury. Because the **DL&PS** SADA is a dedicated account, the funds shall not revert to the State General Treasury at the end of a fiscal year, but carryover from year to year.
- D. Disbursements **from** the **DL&PS** Seized Asset Dedicated Account shall be limited to the following:
1. Transfer of funds to AGLEFA of the State's share of a forfeiture distribution made after either the DCJ or a county prosecutor's office obtains either:
 - a. a final judgment by default;
 - b. a consent decree/stipulation of settlement/final judgment;
 - c. a final judgment confirming forfeiture; or
 - d. a consent to forfeiture placed on the record at guilty plea,

sentencing or similar **dispositional** proceeding-

2. Transfer of funds to a county or municipal Law Enforcement Trust Account or, an escrow account established for a specific municipal law enforcement agency as defined under Forfeiture Program Administration Standard Operating Procedures 04, as that governmental entity's share of a forfeiture distribution made after either the DCJ or a county prosecutor's office obtains one of the following:
 - a. a final judgment by default;
 - b. a consent decree/stipulation of **settlement/final** judgment;
 - c. final judgment confirming forfeiture; or
 - d. a consent to forfeiture placed on the record at guilty plea, sentencing or similar dispositional proceeding.
3. Return of all, or some portion of, a claimant's seized funds to either the claimant or the claimant's attorney of record in the forfeiture litigation if the claimant obtains either:
 - a. a final judgment by default;
 - b. a consent decree/stipulation of **settlement/final** judgment; or
 - c. a final judgment confirming the claimant's property right.
4. For seizures where the county prosecutor **or** the DCJ decline to file a forfeiture complaint or discontinue a forfeiture action, and the seized funds are not held as evidence in a criminal matter or covered under **the** terms of a settlement agreement, all of **the** seized funds will be returned to the person from whom the property was seized.
5. For seizures where:
 - a. an attempt to return seized funds as outlined in accordance with Section 2:3D.4 above has been unsuccessful; and
 - b. a claimant has not asserted a right over the seized funds or the owner cannot be found; and,
 - c. the seized funds were originally deposited in the DLPS SADA,

the funds shall remain in the SADA for a period of three years from

the date of the seizure. At the conclusion of the three year period, the funds shall be disposed of as unclaimed property by the DCJ Civil Remedies and Forfeiture Bureau, in accordance with applicable law.

- E. The interest generated from the DL&PS SADA shall be periodically transferred by the DCJ to the Asset Maintenance Account as outlined under Forfeiture Program Administration Standard Operating Procedures 02.

2:4 Establishment of an Asset Maintenance Account

- A All interest generated from the DL&PS SADA shall be placed into a dedicated fund maintained by the Department of the Treasury and administered by the DCJ. This dedicated fund shall be known as the Asset Maintenance Account (AMA).
- B. Expenditures from the AMA shall be made in accordance with Forfeiture Program Administration Standard Operating Procedures 12 only for forfeiture related purposes. Forfeiture related purposes are those costs directly related to the administration or operation of the Statewide forfeiture program and the seizure, acquisition, maintenance and preservation of seized property prior to a final judgment of forfeiture. Unless otherwise approved by the Attorney General in a specific case, forfeiture related purposes shall not include the cost of routine maintenance of forfeited property for the use of the agency. Forfeiture related purposes shall include the following:
 1. The cost of maintaining and safeguarding seized property;
 2. The cost of maintaining and safeguarding seized or forfeited real property;
 3. The cost of returning seized property to the rightful owner;
 4. The cost of placing seized property into service in the DL&PS where a use order for the property has been obtained;
 5. The costs incurred when preparing to place forfeited property into service with the DL&PS;
 6. The cost of maintaining an equity interest in the seized property pending a forfeiture disposition;
 7. The cost of disposing of property, whether by sale or destruction, either directly after forfeiture or after use of such property by the agency; or

8. The costs incurred in obtaining an appraisal or title insurance for real property or other costs of forfeiture prosecution or other action generating funds subject to administration under this Standard Operating Procedure, including filing and recording fees, inspection fees, costs charged for compliance with subpoenas or investigative interrogatories, and other administrative costs.

C. When the DL&PS decides to place forfeited property into active service, the AMA shall be charged the costs of bringing that piece of property up to applicable use standards, (e.g., the costs involved in making a forfeited vehicle roadworthy, or a forfeited boat seaworthy). However, once the property is placed into active service, all costs associated with the use and maintenance of the property shall be charged to the normal operating budget of the entity using the property. Any entity that uses forfeited property shall maintain a written form which documents the actual date that the property was placed into service.

Because this account is a dedicated account, the funds shall not revert to the State General Treasury at the end of a fiscal year, but carryover from year to year.

2:5 Division of Criminal Justice Asset Forfeiture/Property Management Office

The Property Management Office establishes and maintains cash management accounts for all State seized and forfeited monies. Attachment 1 to this standard operating procedure delineates the policies and procedures for opening, transferring and reporting on the status of these accounts as well as general file and information management.

2:6 Standards for the Holding Period and Tracking of Forfeiture Property

A. Property forfeited to a law enforcement agency, or purchased by a law enforcement agency with funds from AGLEFA, including the AMA, shall be held by the law enforcement agency for law enforcement purposes:

1. if real estate, for as long as the property exists in the form of real property;
2. if a motor vehicle, for at least two years from the date of forfeiture or purchase with funds from AGLEFA;
3. in the case of all other property with a fair market value of five hundred dollars or more, for at least one year from the date of forfeiture or purchase with funds from AGLEFA.

B. A law enforcement agency seeking to dispose or transfer property held for less than the periods stated above for the applicable property shall dispose of the property in accordance with all other applicable law and shall obtain

reimbursement for the property for full market value of the property on the date of transfer. The proceeds from such disposal or transfer shall be deposited in AGLEFA.

- C. A law enforcement agency disposing of or transferring property held beyond the periods stated above for the applicable property shall dispose or transfer the property in accordance with all other applicable law. The proceeds from such disposal or transfer shall be distributed in accordance with all other applicable law-

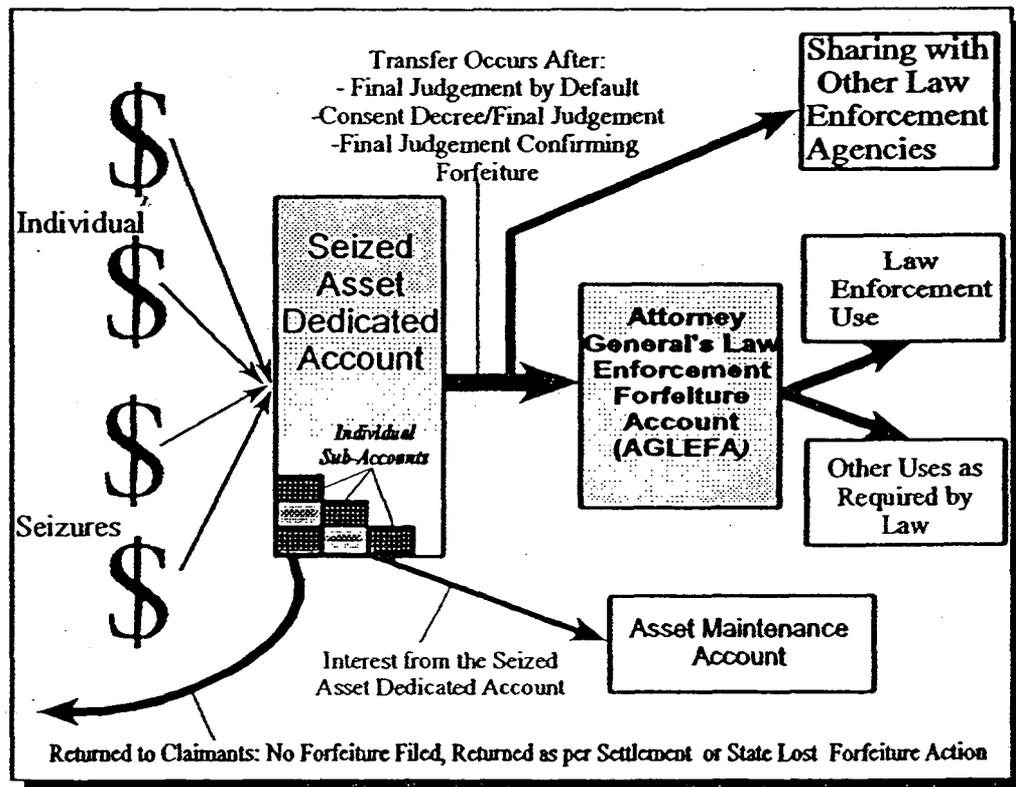


Figure 1 Flowchart of Accounts - Forfeiture Program - NJ / L&PS

2:7 Internal Audit and Compliance Review

In addition to regular audits by the OAG and other State agencies responsible for auditing, the Department's forfeiture program shall be reviewed on an annual **basis** by personnel assigned from the Divisions of State Police and Criminal Justice and managed by the OAG internal audit section, or private auditing firm hired for this purpose. The results of this review shall be forwarded to ~~the~~ Attorney General, ~~the~~ Superintendent of the DSP and the Director, DCJ.

AUTHORITY: Peer review
PETER VERNIERO, ATTORNEY GENERAL

Attachment 1

A Cash Management Fund

All seized funds except that required as evidence or that which must be maintained as cash shall be deposited in the State of New Jersey Cash Management Fund in individual accounts. The Cash Management Fund is supervised by the New Jersey Division of Investment and the State Investment Council.

1. Deposit of Cash

Cash deposits shall be made into a bank account established by the DCJ for such purpose. Checks may be deposited at any time and without prior notice to the bank and should be deposited within one business day of receipt. Deposits should be made within one business day of seizure, or as soon as practical, but not later than four business days after seizure. In instances of large cash deposits, (e.g., a sum in excess of \$25,000 large sum or large amount of small bills) arrangements can be made to count and verify the deposit through the bank's contracted armored car company.

The NJSP Forfeiture Unit or the DCJ Civil Remedies and Forfeiture Section shall promptly notify the Property Management Office of a cash seizure. Upon notification, the Property Management Office will make an appointment with the bank. A representative of the Property Management Office will accompany NJSP or DCJ sworn personnel to the bank and witness the **counting** and verification process. All **cash** deposits will be counted by the bank and verified. Any differences in cash amounts shall be noted. Differences in counts **can occur if there** are counterfeit bills found by bank personnel. All counterfeit bills shall be turned over to the United States Secret Service and deducted from the actual seizure amount.

Every deposit ~~will be~~ accompanied with a deposit slip. Every deposit slip shall include the case name, account number and any other information required by ~~the~~ bank. The Property Management Office shall be provided by the seizing entity with sufficient information required to accurately record the seizure in its records.

2. Establishment of Accounts

The CMF is operated by individual account numbers. In order to establish an account, the following shall be provided to the Division of Investment:

- a. Case name,

- b. Case number (both CJ and State Police number if available),
- c. Department of Law And Public Safety, Civil Remedies and Forfeiture Bureau Address.

The original shall be mailed the Division of Investments with original signatures of the DCJ Deputy Director of Administration and the Property Management Officer, or other authorized designee,

In cases where the amount seized is less than \$2,000, no individual account need be established. Seizures involving less than \$2,000 can be deposited directly into the Seized Monies Account.

The Division of Investments will provide, in written form, the individual account numbers requested by the Property Management Office. If, after five business days, no account numbers have been received, the Property Management Office shall follow-up with the Division of Investment.

3. Transferring Funds

All funds are initially deposited into a commercial bank account. Once checks are cleared, money is wire transferred to the general CMF account. After individual accounts have been established through the Division of Investments, funds may be wire transferred to each individual account. The Property Management Office shall maintain records of all transfers indicating the date of the transfer, the account transferred from and the account transferred receiving the funds. The Property Management Office shall only have authority to transfer funds into the CMF accounts. External transfers shall only be conducted by the OAG.

The funds that have been deposited in individual accounts remain in the account until a final disposition (court order or settlement agreement) is received. Settlement agreements are given to the Property Management Office from either the county prosecutor or DCJ. Money that has been forfeited to the State is then removed from the individual accounts.

All money forfeited to the State, except those funds which are mandated by State law for other purposes, is deposited in the Attorney General's Law Enforcement Forfeiture Account, (AGLEFA).

The Property Management Office shall reconcile all bank and Division of Investment statements within two business days of receipt, and shall also review the statements to insure that the transfers and deposits are within the proper accounts. Any discrepancies shall be

immediately reported to the DCJ Deputy Director of Administration.

4. CMF Withdrawals

Withdrawals can be requested to return funds to claimants or their attorney-of-record, share forfeited funds with other law enforcement agencies, or for other categories as a particular case may warrant. Checks are requested from the Property Management Office and authorized by the OAG. The Property Management Office shall make all withdrawal requests in memo form, attaching appropriate documentation, and indicating the account number, amount, name and address of the recipient. All checks issued for an order to share forfeited funds with another law enforcement agency shall be sent under the signature of the Director, DCJ. All other checks shall be sent under the signature of designated personnel of the Property Management Office. The Property Management Office shall maintain a record of all checks that are requested.

B. Case Tracking

The seizing entity shall forward to the Property Management Office reports of all seizures on a timely basis. When sharing checks are received from a county, the Property Management Office shall close out the corresponding case report and notify the seizing entity of the received funds. Checks that are received without sufficient information, (e.g., case number, sharing number, etc.) to identify a specific seizure report, shall be referred to the seizing entity for proper identification.

1. Case Files

When a report of a seizure is received, a case file is established. At a minimum, the file shall contain the following information:

- a. Case name
- b. CMF account
- c. DCJ case number, and/or
- d. NJSP case number

The files shall be maintained numerically by CMF account number. All items related to a case shall be placed into its respective file.

2. Reports

Monthly summary reports shall be prepared by the Property

Management Office and distributed to the OLPS Administrator, Superintendent of the **NJSP** and Director, **DCJ**. Six **month** reports **shall** also be prepared by the Property Management Office. These reports are due in February for forfeiture activity from July-December and due in August for forfeiture activity from January-June of the fiscal year. The semi-annual reports **shall be** distributed in the same manner **as** the monthly reports.

STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



03

Title: ***County Prosecutor's Office Forfeiture Programs***

Date Issued: **03/01/98**

Applicability: **All Forfeiture Program Administrators**

Supersedes:

3:1 Policy Statement:

It is the policy of the Attorney General that each of the state's twenty-one county prosecutor's shall administer property and funds it receives as a result of seizures and forfeitures brought under the authority of N.J.S.A. 2C:64-1 et seq., (civil forfeiture), N.J.S.A. 2C:41-1 et seq., (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq., (financial facilitation of crime), or under any other statute as directed by the Attorney General. A county prosecutor shall administer separately federally forfeited property or proceeds distributed to it by the United States Department of Justice or Treasury through a Federal Equitable Sharing Program Agreement, as outlined under Forfeiture Program Administration Standard Operating Procedure 01.

3:2 Establishment of Forfeited and Seized Trust Funds

A. County Prosecutor's Law Enforcement Trust Account, (CLETA)

1. The county prosecutor through its designated funding entity shall establish a law enforcement trust fund, dedicated for law enforcement purposes and funded by its share of completed forfeiture actions commenced under N.J.S.A. 2C:64-1 et seq., (civil forfeiture), N.J.S.A. 2C:41-1 et seq. (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq., (financial facilitation of crime), or under any other statute as directed by the Attorney General. This trust fund shall be known as the (name of County) County Prosecutor's Law Enforcement Trust Account, (CLETA), which shall be an interest-bearing account. Investigations performed by the prosecutor's office, the State Police and the various municipalities within the county are the primary source of funds received from forfeiture actions. All forfeited funds, or proceeds from the sale of forfeited property received by the county prosecutor's office shall be deposited into CLETA. In addition, any interest generated by CLETA funds shall remain in CLETA for the use of the prosecutor's office. CLETA shall be maintained by the county prosecutor's designated funding entity but shall be administered by the county prosecutor.

Because CLETA is a trust account, the funds shall not revert to the county general treasury at the end of a fiscal year, but shall carryover from year to year and shall be used solely for law enforcement purposes at the discretion of the county prosecutor.

2. The county prosecutor shall authorize all disbursements from CLETA. Before funds can be disbursed, the county prosecutor shall notify its funding entity in writing of the intended expenditures. This notification shall include at a minimum: the date, amount of disbursement, description of requested property/funds, purpose/reason of disbursement, person/company/agency receiving the property/funds, an indication of the proposed law enforcement use and the signature of the county prosecutor. All disbursements in excess of \$10,000 shall require the signature of the county prosecutor and the chief administrative officer of the prosecutor's office.

B. Seized Asset Trust Account

1. The county prosecutor through its designated funding entity shall establish a Seized Asset Trust Account. All seized funds not yet forfeited, and not held for evidence in a criminal matter, shall be deposited into the county prosecutor's Seized Asset Trust Account (SATA), which shall be an interest-bearing account. SATA shall be maintained by the funding entity and administered by the county prosecutor. Individual cash seizures shall be placed into SATA where they are managed as one large group but individual records must be maintained on each case. Since this account is a trust account, in which the funds are held by the prosecuting agency pending their final disposition, the funds shall not revert to the county general treasury at the end of the fiscal year, but carryover from year to year.
2. Disbursements from ^{it}the county prosecutor's SATA shall be limited to the following:
 - a. Transfer of funds to the CLETA of the county's share of a forfeiture distribution after the county prosecutor's office obtains either:
 1. a final judgment by default;
 2. a consent decree/stipulation of settlement/final

judgment;

3. a final judgment confirming forfeiture; or
 4. a consent to forfeiture placed on the record at guilty plea, sentencing or similar dispositional proceeding.
- b. Transfer of funds to **AGLEFA**, a county or municipal Law Enforcement Trust Account, or an escrow account established for a specific municipal law enforcement agency as defined under Forfeiture Program Administration Standard Operating Procedure 04. These transfers can be made only after the county prosecutor's office obtains either:
1. a final judgment by default;
 2. a consent decree/stipulation of settlement/final judgment;
 3. a final judgment confirming forfeiture; or
 4. a consent to forfeiture placed on the record at guilty plea, sentencing or similar dispositional proceeding.
- c. Return of all, or some portion of, a claimant's seized funds to either the claimant or the claimant's attorney-of-record in the forfeiture litigation if the claimant obtains either:
1. a final judgment by default;
 2. a consent decree/final judgment;
 3. a final judgment confirming the claimant's property right.
- d. For seizures where the county prosecutor or the Division of Criminal Justice decline to file a forfeiture complaint or discontinue a forfeiture action and the seized funds are not held as evidence or covered under the terms of a settlement agreement between the prosecuting agency and the claimant, all seized funds shall be returned to the person from whom the property was seized.
- e. For seizures where: 1) an attempt to return seized funds as outlined in accordance with Section 3:2B.2.d above has been

unsuccessful and; 2) a claimant has not asserted a right over the seized funds and the owner cannot be found; and 3) the seized funds were originally deposited in a SATA the funds shall remain in the SATA for a period of three years from the date of the seizure. At the conclusion of the three year period, the funds shall be disposed of as unclaimed property pursuant to applicable law.

3. The interest from this account shall be transferred periodically by the funding entity to the Asset Maintenance Account (AMA) as outlined under section 3.2C.

C. Asset Maintenance Account

1. All interest or other income generated from SATA shall be transferred periodically into a trust fund maintained by the funding entity and administered by the county prosecutor. This trust fund shall be known as the Asset Maintenance Account (AMA).
2. Expenditures from the AMA shall be made in accordance with Forfeiture Program Administration Standard Operating Procedure 12 only for related forfeiture program administration purposes. Related forfeiture program administration purposes are those costs directly related to the administration or operation of the forfeiture process and the seizure, acquisition, maintenance and preservation of seized property prior to a final judgment of forfeiture. Unless otherwise approved by the Attorney General in a specific case, forfeiture related purposes shall not include the cost of routine maintenance of forfeited property for the use of the agency. Forfeiture related purposes shall include the following:
 - a. The cost of returning seized property to the rightful owner;
 - b. The cost of maintaining an equity interest in the seized property for disposal and;
 - c. The cost of disposing of the seized property whether by sale or destruction either directly after obtaining title through a forfeiture action or after the forfeited property was used by the agency.

Additionally, the AMA may be used by an agency for the cost of disposing of forfeited property or property purchased with forfeiture funds when the agency holds an equity interest in such property and the proceeds from the disposal of the property will be deposited into the agency's Law Enforcement Trust Fund.

Because this account is a trust account, the funds shall not revert to the county general treasury at the end of the fiscal year, but **carryover** from year to year.

D. Maintenance Expenditures

The funding entity is entitled to the reimbursement of expenses resulting from its administration of CLETA, SATA and AMA. These expenses shall be limited to those approved by the county prosecutor and which are normal, customary and comparable to those charged to other county departments by the funding entity in the performance of similar services.

3:3 Standards for the Holdina Period and Tracking of Forfeiture Property

- A. Property forfeited to a law enforcement agency, or purchased by a law enforcement agency with funds from CLETA including the AMA, shall be held by the law enforcement agency for law enforcement purposes:
1. if real estate, for as long as the property exists in the form of real property;
 2. if a motor vehicle, for at least two years from the date of forfeiture or purchase with funds from CLETA.
 3. in the case of all other property with a fair market value of five hundred dollars or more, for at least one year from the date of forfeiture or purchase with funds from CLETA.
- B. A law enforcement agency seeking to dispose or transfer property held for less than the periods stated above for the applicable property shall dispose of the property in accordance with all other applicable law and shall obtain reimbursement for the property for full market value of the property on the date of transfer. The proceeds from such disposal or transfer shall be deposited in CLETA.
- C. – A law enforcement agency disposing of or transferring property held beyond the periods stated above for the applicable property shall dispose or transfer the property in accordance with all other applicable law. The proceeds from such disposal or transfer shall be distributed in accordance with all other applicable law.

Peer review

AUTHORITY: _____
PETER VERNIERO, ATTORNEY GENERAL

STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



04

Title: ***Administration of a Municipal Forfeiture Program***

Date Issued: **03/01 /98**

Applicability: **All Forfeiture Program Administrators**

Supersedes:

4:1 Policy Statement

It is the policy of the Attorney General that either the county prosecutor or the municipal law enforcement agency's funding entity shall administer property and funds a municipal law enforcement agency receives as a result of seizures and forfeiture brought under the authority of N.J.S.A. 2C:64-1, et seq., (civil forfeiture) and N.J.S.A. 2C:41-1, et seq., (racketeering). Federally forfeited property and proceeds received by a municipal law enforcement agency as its equitable share of a forfeiture distribution from the United States Departments of Justice or Treasury shall be administered under the provisions of Forfeiture Program Administration Standard Operating Procedure 01.

4:2 Establishment of Law Enforcement Trust Fund

A. Municipal Law Enforcement Trust Account, (MLETA)

1. At the discretion of the county prosecutor, a municipal law enforcement agency through its funding entity or the funding entity of the county prosecutor's office shall establish a law enforcement trust fund dedicated for law enforcement purposes, and funded by completed forfeiture actions commenced under N.J.S.A. 2C:64-1, et seq., (civil forfeiture) or N.J.S.A. 2C:41-1, et seq., (racketeering). Investigations performed by the municipal law enforcement agency, or in conjunction with the county prosecutor's office or a state law enforcement agency are the primary source of funds received from forfeiture actions.
 - a. An account which is established by a municipal law enforcement agency's funding entity shall be known as the (name of municipality) Law Enforcement Trust Account, (MLETA), and shall be an interest-bearing account. MLETA shall be maintained by the funding entity and shall be administered by the agency executive of the municipal law enforcement agency. All forfeited funds or proceeds from the sale of forfeited property received by the municipal law

enforcement agency shall be deposited into MLETA. In addition, any interest or other income generated by the deposited funds shall remain in MLETA. Because MLETA is a trust account, the funds shall not revert to the municipal treasury at the end of the fiscal year, but carryover from year to year. MLETA funds are to be used solely for law enforcement purposes which shall be documented in writing by the agency executive and approved prior to use by the county prosecutor.

- b. An account which is established on behalf of a **municipal** law enforcement agency by the funding entity of the county prosecutor (MEA) shall be maintained as an escrow **account** in the name of the specific municipal law enforcement agency. These **accounts** shall be interest-bearing. ~~All~~ forfeited funds or proceeds from the sale of forfeited property designated for a municipal law enforcement agency shall be deposited into that agency's escrow account. In addition, any interest or other income generated by the deposited funds shall remain in the agency's escrow account. Because these escrow accounts are trust accounts, the funds shall not revert to the county general treasury at the end of the fiscal year, but carryover from year to year. These funds shall be used solely for law enforcement purposes which shall be documented in writing by the agency executive and approved prior to use by the county prosecutor.

2. Disbursements from MLETA or MEA shall be as follows:

- a. The agency executive shall authorize disbursements from MLETA only after obtaining approval from the county prosecutor. Before funds are expended from MLETA the agency executive shall notify the county prosecutor of the intended expenditure. This notification shall include, at a minimum: ~~the~~ date, amount to be disbursed, description of ~~requested~~ property, ~~purpose/reason~~ of disbursement, ~~person/company/agency~~ receiving the funds, an indication of proposed law enforcement use and the signature of the agency executive. All disbursements in excess of \$5,000 shall require the signature of the agency executive and the municipal administrator.
- b. Disbursements from the MEA maintained by the funding entity of the county prosecutor shall be authorized by the county prosecutor, upon written request by the agency executive. This request shall include the information referred to in section 4:2 A. 2. a. above.

B. Seized Asset Trust Account

1. All seized funds not yet forfeited, and not held in evidence in a criminal matter shall be forwarded to the county prosecutor for deposit into the county prosecutor's Seized Asset Trust Account as outlined under Forfeiture Program Administration Standard Operating Procedure 03.
2. All seized currency not yet forfeited, and not held for evidence in a criminal matter, shall be turned over to the county prosecutor within forty-eight (48) hours of the seizure. A copy of a completed United States Currency Seizure Report prepared by the agency executive, or their designee, shall accompany all seized funds. Procedures for the completion of the United States Currency Seizure Report are detailed in Forfeiture Program Administration Standard Operating Procedure 05.
3. All other assets seized and not held for evidence in a criminal matter, shall be turned over to the county prosecutor within forty-eight (48) hours of the seizure. The agency executive, or their designee, shall complete a form documenting all other assets seized and turned over to the county prosecutor. This form shall include, at a minimum: claimant information (name, address, telephone number, etc.), the name of the agency seizing the asset, the name of the individual seizing the asset, a description of the asset, an indication whether the asset is owned by a third party or has outstanding liens, and shall be signed by the agency executive or their designee.

C. Maintenance Expenditures

The funding entity of the county prosecutor or the municipal law enforcement agency is entitled to charge expenses resulting from its administration of accounts maintained for municipal law enforcement agencies. These expenditures shall be limited to those which are normal, customary and comparable to those charged to other departments by the funding entity in the performance of similar services. Furthermore, reimbursement for expenses must be approved by the county prosecutor.

4:3 Standards for the Holding Period and Tracking of Forfeiture Property

- A.** Property forfeited to a law enforcement agency, or purchased by a law enforcement agency with funds from the MLETA or MEA shall be held by the law enforcement agency for law enforcement purposes:
1. if real estate, for as long as the property exists in the form of real property;

2. if a motor vehicle, for at least ~~two~~ years from the date of forfeiture or purchase with funds from the **MLETA** or MEA.
 3. in the case of all other property with a fair market value of five hundred dollars or more, for at least one year from the date of forfeiture or purchase with funds from the **MLETA** or **MEA**.
- B.** A law enforcement agency seeking to dispose or transfer property held for less than the periods stated above for ~~the~~ applicable property shall dispose of the property in accordance with all other applicable law and shall obtain reimbursement for the property for full market value of the property on the date of transfer. The proceeds from ~~such~~ disposal or transfer shall be deposited in the **MLETA** or MEA.
- C.** A law enforcement agency disposing of or transferring property held beyond the ~~periods~~ stated above for ~~the~~ applicable property shall dispose or transfer the property in accordance with all other applicable law. The proceeds from ~~such disposal~~ or transfer shall be distributed in accordance with all other applicable law.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL

STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



05

Title: *Accounting for Seized Currency*

Date Issued: 03/01/98

Applicability: All Sworn Law Enforcement Officers

Supersedes:

5:1 Policy Statement

It is the policy of the Attorney General that all state law enforcement agencies, each of the state's twenty-one county prosecutor's and agency executives for municipal law enforcement agencies administer proper internal controls over United States Currency they receive as a result of seizures brought under the authority of N.J.S.A. 2C:64-1 et seq., (civil forfeiture), N.J.S.A. 2C:41-1 et seq., (racketeering), or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. These are the minimum procedures that should be instituted by a law enforcement agency. However, nothing in this standard operating procedure prohibits an agency from adopting more comprehensive procedures. If such a procedure is adopted, it shall be in written form and distributed to every member of the law enforcement agency. The Division of State Police shall account for seized currency under its specific divisional operating procedure.

5:2 Seizure of United States Currency

A. Accounting for Seized Currency

1. United States Currency seized by any Sworn law enforcement officer shall be counted as soon as practical, but not later than the end of the seizing officer's tour of duty. The currency shall be counted by at least **two** officers, independent of one another, preferably at the location of the seizure. If it is impractical to count the currency at the location of the seizure, the currency should be transported, in a manner set forth in the agency's Standard Operating Procedures, to a secure location by at least **two** officers. Both officers must agree and certify the total **dollar** amount of the currency as well as assure the authenticity of the currency by randomly determining that the currency is not counterfeit. The officers shall record the seized currency on a form entitled United States Currency Seizure Report. This form shall include: claimant information (name, address, date of birth, social security number and home and work telephone numbers), name of seizing agency, seizing agency's **ORI #**, name and badge number of the seizing officer, date, time and location of seizure and

a breakdown by denomination of the currency and coins seized. The currency seized shall be **listed by** each denomination with a total for each denomination, a total of all coins and a grand total of **all** currency and coins seized. Upon completion, the **form** shall be signed by the officers conducting the count and the arrested party or their attorney. The original shall be maintained by the seizing officer, a copy shall be given to the arrested party or their attorney and two copies shall be maintained by each of the submitting officers.

2. A currency custodian shall **be** designated by the agency executive of each state law enforcement agency. Currency seized by a Division of the Department of Law and Public Safety shall be forwarded to **the** designated Division currency custodian, **who shall in turn, follow the** outlined in Forfeiture Program Administrative Standard Operating Procedure 02.
3. All currency seized by county or municipal law enforcement officers shall be forwarded to a custodian designated by the county prosecutor or agency executive of the municipal law enforcement agency. Seized currency shall **be** forwarded to the custodian, no later than forty-eight hours of seizure. The agency shall establish procedures for the security of currency and coins seized, prior to being forwarded to the designated custodian. Upon transfer of these funds, the submitting officers shall sign the United States Currency Seizure Report and include their badge number and date. **The** custodian of the funds shall also sign this form and return a copy to the officers.

Seized currency shall be deposited no later than the first business day after receipt by the designated custodian. The deposit slip shall be attached to the remaining copy and forwarded to the county treasurer or the individual designated by the agency executive of the municipal law enforcement agency. The seizing officer's copy shall be matched to the submitting officer's copy by the county treasurer or an individual designated by the agency executive and any discrepancies shall be immediately reported to the county prosecutor and the Division of Criminal Justice.

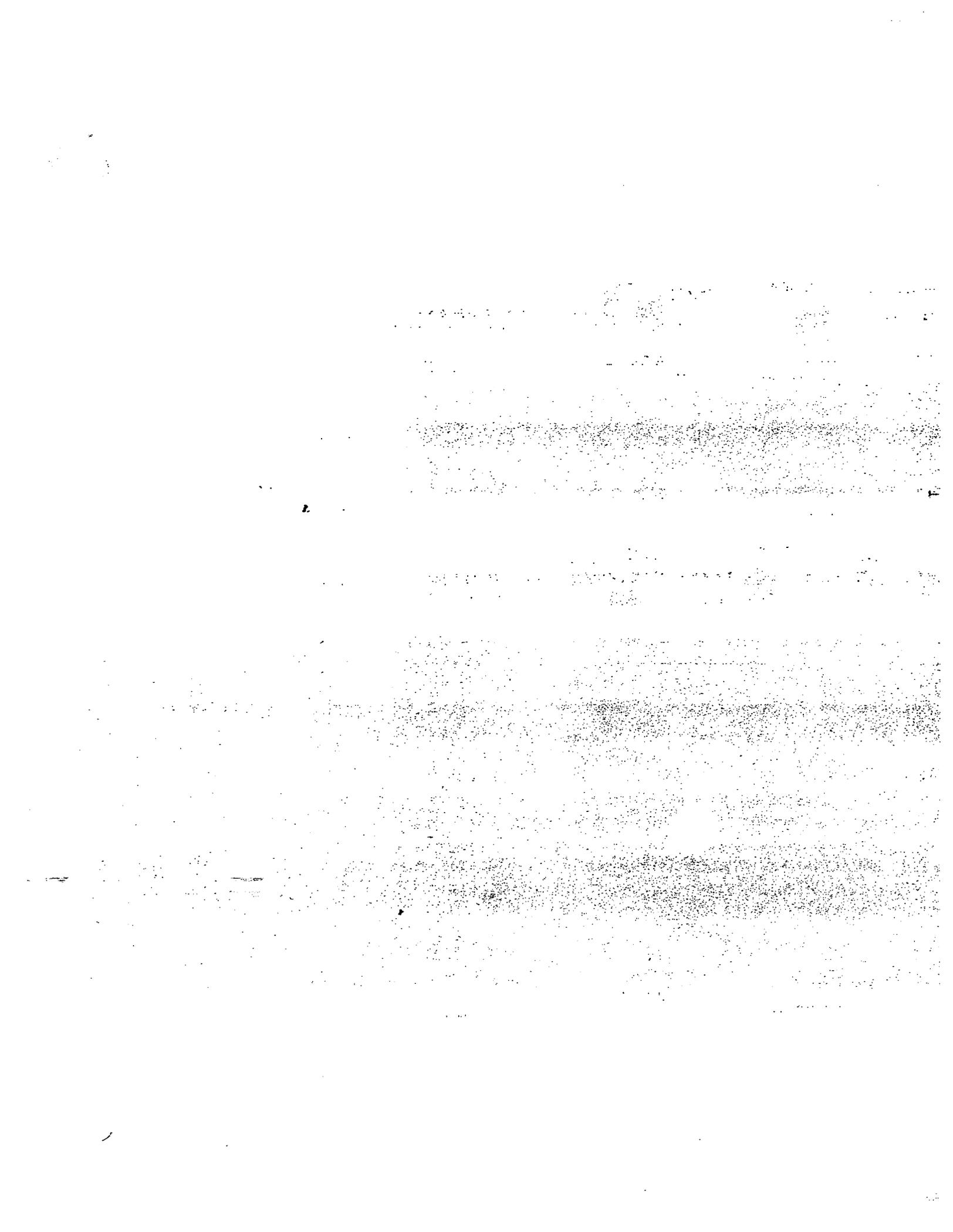
B. Security Procedures for Currency

Any officer that seized currency shall exercise due diligence in its handling, storage and security. Willful or gross negligence in currency security may subject a public employee to discipline or criminal charges.

5.3 Seizure of Foreign Currency

Any seizure of foreign currency shall be converted to United States currency on the first business day following the seizure at any banking institution.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL



STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



06

Title: ***Seized and Forfeited Property Management***

Date Issued: 03/01/98

Applicability: All Forfeiture Program Administrators

Supersedes:

6:1 Policy Statement

The Attorney General recognizes that in the course of investigations conducted by law enforcement agencies within the state, pursuant to N.J.S.A. 2C:64-1 et seq., (civil forfeiture), N.J.S.A. 2C:41-1 et seq., (racketeering), or under any other statute as directed by the Attorney General, property will be seized and at some point forfeited to said agency or returned to the owner of record ("owner"). This property may be used by the law enforcement agency, prior to forfeiture, upon obtaining a Use Order from the Superior Court, retained for future use, sale and distribution of proceeds or returned to the owner. Once property has been seized, the seizing agency must maintain the property in a manner to preserve its value and assure that any use will be solely for law enforcement purposes.

6:2 Maintenance and Use of Seized Property by County and Municipal Law Enforcement Agencies

A. Property seized by county prosecutors or municipal law enforcement agencies which is not retained for evidence pending a criminal prosecution, shall be maintained in a manner to preserve its value by the county prosecutor pending distribution, sale or return to the owner. The county prosecutor or agency executive of a municipal law enforcement agency shall determine the existence of other owners, lessors or a persons holding a perfected security interest in seized property.

1. Property held by a lessor in the ordinary course of business or held by a person holding a perfected security interest shall not be affected by seizure unless it shall appear that such person had knowledge of or consented to any act or omission upon which the right of forfeiture is based. The county treasurer, at the direction of the county prosecutor, may make payment from the County Law Enforcement Trust Account to lessors or persons holding a perfected security interest for their interest in seized property.

2. Property in which the owner establishes by a preponderance of the evidence that the owner was not involved in, or aware of the unlawful activity and that the owner had done all that could reasonably be expected to prevent proscribed use of the property by an agent, shall not be subject to forfeiture.
 3. Property in which the owner has entrusted to a person for repairs, restoration or other services to be performed on the property, and that person, without the owner's knowledge or consent, uses the property for unlawful purposes, shall not be subject to forfeiture.
- B. A county prosecutor upon the filing of a forfeiture complaint with the Superior Court and obtaining approval from the county treasurer, or an agency executive upon obtaining approval from the county prosecutor may apply to the Superior Court for an order permitting use of seized property ("Use Order"), pending the disposition of the forfeiture action provided, however, that such property shall be used solely for law enforcement purposes.¹
 - C. The Superior Court may appoint a trustee to protect the interest of all parties involved for property which is of such nature that substantial difficulty may result in preserving its value while awaiting forfeiture action.

6:3 Maintenance and Use of Seized Property by State Law Enforcement Agencies

- A. Property seized by any state law enforcement agency which is not retained for evidence pending a criminal prosecution, shall be maintained in a manner to preserve its value pending distribution, sale or return to the owner. The state law enforcement agency shall determine the existence of other owners, lessors or a persons holding a perfected security interest in seized property.
 1. Property held by a lessor in the ordinary course of business or held by a person holding a perfected security interest shall not be affected by seizure unless it shall appear that such person had knowledge of or consented to any act or omission upon which the right of forfeiture is based. The Director, D.C.J., or his designee, may make payment from either the Asset Maintenance Account or AGLEFA to lessors or persons holding a perfected security interest for their interest in seized property.
 2. Property in which the owner establishes by a preponderance of the evidence that the owner was not involved in, or aware of the unlawful activity and that the owner had done all that could reasonably be expected to prevent proscribed use of the property by an agent, shall

¹ For a complete definition of Law Enforcement Purpose, see SOP 12

not be subject to forfeiture.

3. Property in which the owner has entrusted to a person for repairs, restoration or other services to be performed on the property, and that person, without the owner's knowledge or consent, uses the property for unlawful purposes, shall not be subject to forfeiture.
- B. A prosecuting agency upon the filing of a forfeiture complaint with the Superior Court and obtaining approval from its funding entity may apply to the Superior Court for an order permitting use of seized property ("Use Order"), pending the disposition of the forfeiture action provided, however, that such property shall be used solely for law enforcement purposes.²
- C. The Superior Court may appoint a trustee to protect the interest of all parties involved for property which is of such nature that substantial difficulty may result in preserving its value while awaiting forfeiture action,

6:4 Forfeited Property

A. Transfer of Ownership

1. Upon the completion of a forfeiture action, the Attorney General or the county prosecutor shall direct the state or county treasurer to vest title in property which has been previously seized. The vesting of title shall be performed within five business days of a completed forfeiture action by filing necessary documents with a state motor vehicle agency or county clerk.
2. At the discretion of the Attorney General or county prosecutor, a law enforcement agency that participated in an investigation which resulted in the forfeiture shall receive title in property which has been previously seized. The agency executive shall direct its designated funding entity to vest title in this property within five business days of receiving an acknowledgment of a completed forfeiture action by the prosecuting agency by filing necessary documents with a state motor vehicle agency or county clerk.
3. If property cannot be divided among agencies that have participated in an investigation which resulted in a forfeiture, the Attorney General or county prosecutor shall cause such property to be sold at public auction, unless otherwise directed by the Attorney General. The proceeds from these sales shall be distributed to any agency which participated in an investigation resulting in forfeiture, at the discretion of the Attorney General or the county prosecutor.

² For a complete definition of Law Enforcement Purpose, see SOP 12

4. No office-holder, employee or other agent of any law enforcement agency shall purchase forfeited property, nor shall their spouses or dependent children purchase or otherwise acquire through sale title to forfeited property.

6:5 Maintenance Expenditures

The funding agency is entitled to charge expenses resulting from its securing a perfected interest in or clear title to forfeited property. These expenses shall be **limited** to those which are normal, customary and comparable to those charged to other governmental departments which the funding entity performs similar services,

6:6 Statute of Limitations n aim

Any person who could not with due diligence have discovered that property which they own was seized as contraband may file a claim for its return or the value thereof at the time of seizure within three, (3) years of the seizure if they can demonstrate that they did not consent to, and no knowledge of its unlawful use. If the property has been sold, the claimant will receive a claim against proceeds.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL

STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



07

Title: ***Requests for Distribution of Forfeited Property***

Date Issued: 03/01/98

Applicability: All Law Enforcement Officers

Supersedes:

7:1 Policy Statement:

The Attorney General recognizes that requests will be made by law enforcement agencies within the state with each of the state's twenty-one county prosecutor's and the New Jersey Division of Criminal Justice ("Division") for distribution of forfeited property obtained pursuant to N.J.S.A. 2C:64-1 et seq., (Civil forfeitures), N.J.S.A. 2C:41-1 et seq., (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. The submission and review of all such requests shall be governed by Forfeiture Program Administration Standard Operating Procedure 12. However, procedures must be implemented to uniformly document these requests on a form entitled, "Request for Distribution of Forfeited Property."

7:2 Preparation of Form A

A. Each Form A shall be prepared by the agency executive of a requesting law enforcement agency ("agency executive") or their designee.

B. Information contained on this form shall include the following:

1. Prosecuting Agency Information

Indicate the number corresponding to the county prosecutor's office or Division of Criminal Justice, who has been designated to prosecute the civil forfeiture case. (Item #1)

2. Requesting Agency's Information

This section shall require the requesting agency to include the following information:

a. Case Name (Item #2)¹

¹

The Division of State Police will identify a case name by the *Confiscated Money/Property Case Management Report* Log Identification Number.

- b. Case Number (Item #3)
- c. Agency Name (Item #4)
- d. Agency Address (Item #5)
- e. Contact Person/Title (Item #6)
- f. Telephone Number (Item #7)
- g. Agency ORI Number (Item #8)

3. Description of Requested Property

- a. Indicate a description of the property which has been requested, either U. S. Currency (Item #9) or Other Property (Item #10). The description shall include the type of property requested including a Vehicle Identification Number ("VIN") or serial number and the estimated value.
- b. Based upon the agency's participation in the surveillance, investigation, arrest and/or prosecution, the requesting agency shall indicate a proportionate share (Item #11), in the form of a percentage, of the total contributive share distribution made by the prosecuting agency. The county prosecutor, or in the case of the Division of Criminal Justice, the Director shall determine all contributive share distributions in a manner consistent with applicable law and administrative code.
- c. The requesting agency shall also indicate whether or not it agrees to pay any fees or expenses necessary to effect transfer of title (Item #12). Should the requesting agency not agree to pay these expenses, the prosecuting agency may, at its discretion, refuse to honor the request for distribution of forfeited property.

4. Fiscal, Administrative and Property Officer Information

- a. The requesting agency shall include the Name/Title, Address and Telephone Number of the fiscal, administrative or property officer who will be the recipient of forfeited property. This individual may be either:
 - 1. The fiscal officer of the entity to whom the disbursement of money should be made (Item #13),
 - 2. The official to whom the property transfer documents should be delivered (Item #14), or
 - 3. The official to whom property should be delivered (Item #15).

5. Certification

Upon completion of this form, the requester shall sign the **form** including their title as well as typing or printing their **name/title** and including the current date. (Item #16) A signature on this form certifies that the request complies with all applicable provisions of law, administrative code and Forfeiture Program Administration Standard Operating Procedures and that the **information** contained is true and correct.

6. Maintenance of Form A

The county prosecutor's office or the Division shall maintain all completed Form A's, which it receives, whether or not a distribution has been approved. These forms shall be filed by corresponding case number and shall cross reference the requesting agency and be readily available for review. Any requests for distribution which have been denied shall have an explanation for such denial and the signature of the county prosecutor or Director of the Division of Criminal Justice, depending on who is prosecuting the civil forfeiture case.

7:3 Failure to Submit Form A to Prosecuting Agency

Any law enforcement agency that fails to submit a Form A within 90 days of the seizure shall be precluded from receiving a contributive share when distribution of the forfeited property is apportioned by the prosecuting agency.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL

REQUEST FOR DISTRIBUTION OF FORFEITED PROPERTY

PROSECUTING AGENCY'S INFORMATION

1) Agency Prosecuting Civil Forfeiture Case, (Number Only): _____

- 01- Atlantic County Prosecutor's Office
- 02- Bergen County Prosecutor's Office
- 03- Burlington County Prosecutor's Office
- 04- Camden County Prosecutor's Office
- 05- Cape May County Prosecutor's Office
- 06- Cumberland County Prosecutor's Office
- 07- Essex County Prosecutor's Office
- 08- Gloucester County Prosecutor's Office
- 09- Hudson County Prosecutor's Office
- 10- Hunterdon County Prosecutor's Office
- 11- Mercer County Prosecutor's Office

- 12- Middlesex County Prosecutor's Office
- 13- Monmouth County Prosecutor's Office
- 14- Morris County Prosecutor's Office
- 15- Ocean County Prosecutor's Office
- 16- Passaic County Prosecutor's Office
- 17- Salem County Prosecutor's Office
- 18- Somerset County Prosecutor's Office
- 19- Sussex County Prosecutor's Office
- 20- Union County Prosecutor's Office
- 21- Warren County Prosecutor's Office
- 22- New Jersey Division of Criminal Justice

REQUESTING AGENCY'S INFORMATION

2) Case Name: _____

3) Case Number: _____

4) Agency Name: _____

5) Agency Address: _____

6) Contact Person/Title: _____

7) Telephone Number: _____ 8) Agency ORI Number: _____

DESCRIPTION OF REQUESTED PROPERTY

	Estimated Value
9) United States Currency, (Total Seized)	_____
10) Other Property, (List and describe the property requested, including VIN or serial number, if known.)	_____
_____	_____
_____	_____
_____	_____
_____	_____

11) The requesting agency seeks _____ % of the total contributive share distribution. •

• The County Prosecutor, or in the case of the Division of Criminal Justice, the Director shall determine the percentage distributed to the entities involved in this matter consistent with applicable law and administrative code.

12) Requesting agency agrees to pay any fees or expenses necessary to effect transfer of title not later than the time of the transfer.

Yes: _____ No** : _____

** If the requesting agency does not agree to pay any fees or expenses necessary to effect the transfer of title, the prosecuting agency may, at its sole discretion, refuse to honor this request for distribution of forfeited property.

FISCAL, ADMINISTRATIVE AND PROPERTY OFFICER INFORMATION

13) Fiscal Officer of Entity to Whom Disbursement of Money Should be Made:

Name / Title: _____

Address: _____

Telephone Number: _____

14) Official to Whom Property Transfer Documents Should be Delivered:

Name / Title: _____

Address: _____

Telephone Number: _____

15) Official to Whom Property Should be Delivered:

Name / Title: _____

Address: _____

Telephone Number: _____

CERTIFICATION

16) The requester certifies that this request complies with all applicable provisions of law, administrative code and **Forfeiture Program Administration Standard Operating Procedures**, and that the information contained in this request is true and correct.

Date: _____

Signature / Title

Typed or Printed Name Title

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



08

Title: ***County Forfeiture Program Reports***

Date Issued: **03/0198**

Applicability: **All Forfeiture Program Administrators**

Supersedes:

8:1 Policy Statement:

The Attorney General requires that each of the state's twenty-one county prosecutors prepare a quarterly report detailing the distribution, receipt or expense of forfeited property or funds obtained pursuant to N.J.S.A. 2C:64-1 et seq., (civil forfeitures), N.J.S.A. 2C:41-1 et seq., (racketeering) or from actions brought under N.J.S.A. 2C:21-25 et seq. (financial facilitation of crime), or under any other statute as directed by the Attorney General. This information shall be recorded on forms promulgated by the Attorney General and known as NJL&PS Form B, entitled County Forfeiture Program Report. The completed forms are to be forwarded to the Division of Criminal Justice ("Division") within thirty days of the end of a previous calendar quarter.

8:2 Instructions For Completion of Form B Report

A. General

The report shall be mailed to:

State of New Jersey
Department of Law & Public Safety
- Division of Criminal Justice
Operations - Bureau
Forfeiture Program Review Unit
P.O. Box 085
Trenton, NJ 08625-0085

Any additional pages attached to the report shall include a reference to the particular part of the Form B report, (e.g., 10- Additional distributions of non-currency property).

The report shall include the full name of the County Prosecutor's Office, the beginning and ending dates of the reporting period, and its "ORI" number assigned by the Division of State Police for access to the National Crime information Center, (NCIC). The report shall indicate the quarter, by circling

the appropriate number, and calendar year of the reporting period.

B. Part I: Assets Seized and Forfeited

1. Record on line 1 all United States Currency seized during the reporting period by any law enforcement agency within the county and forwarded to the County Prosecutor's Office for review and action.
2. Record on line 2 all United States Currency in which a Final Judgement by Default, a Consent Decree/Final Judgement, a Final Judgement Confirming Forfeiture, or other action granting right to the currency to the County Prosecutor's Office has occurred-

All currency forfeited shall be categorized by the specific offense listed below-

Narcotics Offenses: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:35-1 et seq. And N.J.S.A. 2C:36-1 et seq.

Gambling Offenses: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:37-1 et seq.

Racketeering: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:41-1 et seq.

Public Indecency: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:34-1 et seq.

Official Corruption: Any forfeitures of currency as a result of an underlying offense in violation of, N.J.S.A. 2C:27-1 et seq., N.J.S.A. 2C:30-2, 30-3 and 30-4.

Theft Offenses: Any forfeitures of currency as a result of an underlying offense in violation of N.J.S.A. 2C:20-1 et seq., N.J.S.A. 2C:21-1 et seq.

Other Offenses: Any forfeitures of currency as a result of any other underlying offense.

3. Record on line 3 any other tangible or intangible property, other than United States Currency listed in line 1), that has been seized by any law enforcement agency within the county and on which a complaint or other forfeiture action has been taken by the County Prosecutor's Office. Provide individually; a description of the property, the underlying offense, the estimated value and the total estimated value of all property seized during the period.
4. Record on line 4 any use orders obtained during the reporting period. Provide individually; a description of use order property, the agency having use of the property and the agency's ORI number.¹
5. Record on line 5 all tangible and intangible property, except United States Currency reported in line 2), in which a Final Judgement by Default, a Consent Decree/Final Judgement Confirming Forfeiture, or other action granting title to the property to the County Prosecutor's Office has occurred. Provide individually; a description of the property, the underlying offense, the estimated value and the total estimated value of all property forfeited during the period.
6. Record on line 6 all forfeited tangible or intangible property, except United States Currency, that was sold, auctioned or otherwise disposed of, (e.g., scrapped) during the reporting period. Do not include property that was distributed to another law enforcement agency or Prima Facie contraband. Provide individually; a description of the property, the underlying offense, the actual value received from sale, auction or other disposition and a total of all property sold, auctioned or disposed of during the period.
7. Record on line 7 all forfeited tangible or intangible property, except United States Currency, that was placed into law enforcement use by the County Prosecutor's Office. Provide individually; a description of the property, a description of the law enforcement use, a justification for using the property versus selling, etc., the appraised value or estimated value of the property and the total appraised or estimated value of all property liquidated during the period. Do not include property that was distributed to another law enforcement agency or Prima Facie contraband.

C. Part II: Expenditures Relating to Forfeiture Program

Record on line 8 the amount of any expenditures relating to the forfeiture program, (e.g., for security interests, asset maintenance and forfeiture

¹ The ORI number is the number assigned by the Division of State Police for access to the National Crime Information Center, (NCIC).

prosecution costs. Examples of such expenditures include, but are not limited to: 1) the care custody expense and disposal of seized and forfeited property; 2) filing and recording fees; 3) brokerage fees; 4) advertising costs; 5) court appointed custodian fees. Provide individually; the property incurring expenditure, the reason for the expenditure, the amount and the total expenditures for the period-

D. Part III: Distribution of Forfeited Property to Other Law Enforcement Agencies

1. Record on line 9 the name and **ORI** number of any law enforcement agency receiving funds as a result of a contributing share or any other reason. Other agencies include, but are not limited to: the **N.J.** Department of Law and Public Safety, other County Prosecutor's Offices and local police departments. Provide individually; the agency name, the agency **ORI** number, the amount distributed and the total amount of all distributions for the period.
2. Record on line 10 the name and **ORI** number of any law enforcement agency receiving tangible and intangible property, except funds reported in line 9), as a result of a contributing share for any other reason- Other agencies include, but are not limited to: the **N.J.** Department of Law and Public Safety, other County Prosecutor's Offices and local police departments. Provide individually; the agency name, the agency **ORI** number, a description of the property, the estimated value and the total estimated value of all property distributed during the period.

E. Part IV: Distribution of Forfeited Property to County Prosecutor's Office

- Record on line 11 the recipient or vendor, law enforcement purpose and amount for all distributions of forfeited funds for use by the County Prosecutor's Office during the period. This should not include distributions previously reported in 7), 8), 9) and 10). Provide individually; the payee, the law enforcement purpose, the amount and the total for all expenditures during the period. Expenditures made in accordance with Forfeiture Program Administration Standard Operating Procedure 10, Reallocation to the Department of Law & Public Safety of Property Purchased with Forfeited Funds by a Governmental Agency, shall be annotated with the ROP # of the approved and properly executed Form F.

F. Certification

The County Prosecutor or their designee will record their name and title, full address and telephone number/fax number. This individual will sign and date the form certifying that the information contained is true and correct based upon records maintained by the County Prosecutor's Office and its funding agency.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL



State of New Jersey
 Department of Law and Public Safety
 Division of Criminal Justice
County Forfeiture Program Report

Prosecuting Agency Name _____

Period: to - from _____

Agency ORI Number _____

1 2 3 4
 Circle Quarter

Calendar Year _____

Part I: Assets Seized and Forfeited

- 1) Total U.S. Currency *SEIZED* in Quarter: _____
- 2) Total U.S. Currency *FORFEITED* in Quarter: _____

**Categorize the U.S. Currency *FORFEITED* by underlying offense,
 (NOTE: total should equal total reported in Part I, 2).**

Narcotics Offenses: _____

Gambling Offenses: _____

Racketeering: _____

Public Indecency: _____

Official Corruption: \$ _____

Theft Offenses: _____

Other Offenses: \$ _____

County Forfeiture Program Report

- 3) List and describe **SEIZED** property, excluding U.S. Currency reported in Part I, line 1). Include the underlying offense and estimated value:

Property	Underlying Offense	Estimated Value
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❖❖❖❖❖❖❖❖❖❖❖❖❖❖❖❖	(3) Total Estimated Value	
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County Forfeiture Program Report

- 4) List any *USE ORDERS* obtained by description of the specific property. Include the agency having use of the property and that agency's ORI number.

Description of Use Order Property	Agency Having Use of the Property	Agency ORI Number
--	--	--------------------------

County Forfeiture Program Report

CERTIFICATION

- 12) On behalf of the County Prosecutor's Office, the undersigned certifies that the above information is true and correct based upon the records maintained by the County Prosecutor's Office and the responsible funding agency.

Printed Name and Title of Preparer

Address, City, State, Zip Code

Telephone Number / Fax Number

Signature of Preparer

Date

Signature of the County Prosecutor

Date

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



09

Title: ***Municipal Forfeiture Program Reports***

Date Issued: **03/01 198**

Applicability: **All Forfeiture Program Administrators**

Supersedes:

9:1 Policy Statement:

The Attorney General requires that a law enforcement agency **which** receives or expends forfeited property or funds obtained pursuant to **N.J.S.A. 2C:64-1, et seq.** (civil forfeitures) **N.J.S.A. 2C:41-1 et seq.**, (racketeering), or from actions brought under **N.J.S.A. 2C:21-25 et seq.** (financial facilitation of crime), or under any other statute as directed by the Attorney General, shall prepare a quarterly report detailing the distribution, receipt or expense of forfeited property or funds. This information shall be recorded on forms promulgated by the Attorney General and known as **NJL&PS Form C** entitled Municipal Forfeiture Program Report. The completed forms are to be forwarded to both the appropriate county prosecutor's office and the Division of Criminal Justice ("Division") within thirty days of the end of a previous calendar quarter.

9:2 Instructions For Completion of the Form C report

A. General

The report shall be mailed to:

- State of New Jersey
Department of Law & Public Safety
Division of Criminal Justice
Operations Bureau
Forfeiture Program Review Unit
P.O. Box 085
Trenton, NJ 08625-0085

Any additional pages attached to the report shall include a reference to the particular part of the Form C report, (e.g., 3 - Indivisible property received during the period).

The report shall include the full name of the police agency, the beginning and ending dates of the reporting period, and the police agency's "ORI" number assigned by the Division of State Police for access to the National

Crime Information Center, (NCIC). The report shall indicate the quarter, by **circling** the appropriate number, and calendar year of the reporting period.

B. Part I: Forfeited Assets Received

1. Record on line 1 the balance in the agency's law enforcement trust account (forfeiture fund account) at the beginning of ~~the~~ period.
2. Record on line 2 the total forfeited funds received during the quarter. Funds should be categorized by the specific underlying offenses and categories listed in the report:

Narcotics Offenses: Any forfeitures of currency as a result of **an** underlying offense in violation of **N.J.S.A. 2C:35-1 et seq.** And **N.J.S.A. 2C:36-1 et seq.**

2. Gambling Offenses: Any forfeitures of currency as a result of an underlying offense in violation of **N.J.S.A. 2C:37-1 et seq.**

Racketeering: Any forfeitures of currency as a result of an underlying offense in violation of **N.J.S.A. 2C:41-1 et seq.**

Public Indecency: Any forfeitures of currency as a result of an underlying offense in violation of **N.J.S.A. 2C:34-1 et seq.**

Official Corruption: Any forfeitures of currency as a result of an underlying offense in violation of **N.J.S.A. 2C:27-1 et seq.**, **N.J.S.A. 2C:30-2, 30-3 and 30-4.**

Theft Offenses: Any forfeitures of currency as a result of an underlying offense in violation of **N.J.S.A. 2C:20-1 et seq.**, **N.J.S.A. 2C:21-1 et seq.**

Other Offenses: Any forfeitures of currency as a result of any other underlying offense.

Income from Other Sources: Income derived from any source, other than contributive share distributions previously accounted for in other categories, shall be recorded. Examples include, but are not limited to: interest income; reimbursements of towing and storage fees; contributive share distributions of seized but not forfeited property that exceeds the statute of limitations specified by law; and, non-federal contributive share distributions received from another state.

3. Record and describe on line 3 any other forfeited tangible or intangible property, other than funds reported in line 2, that has been distributed to the police agency by any county prosecutor's office or the Division of Criminal Justice. Provide individually; a description of the property, the underlying offense, the intended law enforcement use, the estimated value and the total estimated value of all property received by the police agency during the period.

C. Part II: Use of Forfeited Funds for Law Enforcement Purposes

Record on line 4 the payee or recipient, (e.g., vendor, individual, DARE program, etc.) the law enforcement purpose of the expenditures, the amount of the expenditure made by the police agency or funding entity and the total of all expenditures made during the reporting period.

D. Part III: Disposition of Indivisible Property

Record on line 5 any forfeited property permanently removed from service and the amount of money received from its sale, auction or other disposition. Provide individually; a description of the property, the disposition (sale, auction or other), the actual value received and the total value received for all forfeited property disposed during the reporting period.

E. Certification

The agency executive or their designee will record their name and title, full address and telephone number/fax number. This individual will sign and date the form certifying that information contained is true and correct based upon records maintained by the police agency and its funding agency.

AUTHORITY: *Peter Verniero*
PETER VERNIERO, ATTORNEY GENERAL



State of New Jersey
 Department of Law and Public Safety
 Division of Criminal Justice
Municipal Forfeiture Program Report

Police Agency Name	Period. to from										
Agency ORI Number	<table style="width: 100%; border: none;"> <tr> <td style="text-align: center; width: 15%;">1</td> <td style="text-align: center; width: 15%;">2</td> <td style="text-align: center; width: 15%;">3</td> <td style="text-align: center; width: 15%;">4</td> <td style="width: 40%;"></td> </tr> <tr> <td colspan="4" style="text-align: center; font-size: small;">Circle Quarter</td> <td style="text-align: right; font-size: small;">Calendar Year</td> </tr> </table>	1	2	3	4		Circle Quarter				Calendar Year
1	2	3	4								
Circle Quarter				Calendar Year							

Part I: Forfeited Assets Received

- 1) Beginning balance of Agency LETA: _____

- 2) Total forfeited funds RECEIVED in Quarter: _____

**Categorize the funds RECEIVED by underlying offense,
 (NOTE: total should equal total reported in Part I, 2).**

Narcotics Offenses:	
Gambling Offenses:	
Racketeering:	\$ _____
Public Indecency:	\$ _____
Official Corruption:	\$ _____
Theft Offenses:	\$ _____
Other Offenses:	\$ _____
Income from Other Sources':	\$ _____

* Includes, but is not limited to, interest income, reimbursements of asset maintenance costs and miscellaneous contributiveshare distributions.

Municipal Forfeiture Program Report

Part III: Disposition of Indivisible Property.

5) List and describe any forfeited property permanently removed from service and the amount of money received from its **SALE, AUCTION OR OTHER DISPOSITION.**

Description of Property	Disposition	Actual Value Received
-------------------------	-------------	-----------------------

❖❖❖❖❖❖❖❖❖❖❖❖❖❖❖❖	(4) Total Value Received	
------------------	--------------------------	--

Municipal Forfeiture Program Report

CERTIFICATION

- 6) On behalf of the police agency and the responsible funding agency, the undersigned certifies that the above information is true and correct based upon the available records.

Printed Name and Title of Preparer

Address, City, State, Zip Code

Telephone Number / Fax Number

Signature of Preparer

Date

Signature of Police Agency Executive

Date

STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



10

Title: ***Reallocation to the Department of Law & Public Safety of Property Purchased with Forfeited Funds by a Governmental Agency***

Date issued: **7/8/96**

Applicability: **All Forfeiture Program Participating Agencies**

Supersedes:

10-1: Policy Statement

The Attorney General recognizes that the Department of Law and Public Safety, (hereafter referred to as the "Department") provides services to other law enforcement agencies and prosecutor's offices. From time-to-time, local and county law enforcement or prosecutorial agencies have offered to reallocate forfeiture funds which would be used to purchase equipment and which, when used by the Department, would serve a law enforcement need of the agency making the reallocation.

This reallocation process will improve the overall level of law enforcement services provided to the citizens of the State. The Attorney General recognizes that the procurement process is governed by State law and that all parties involved in the transaction need to be informed of the intended use, cost and source of the equipment or services. It is therefore the policy of the Attorney General that all such reallocations shall be memorialized in written form and that all parties involved agree to the terms of the reallocation as outlined in that document.

10-2: Source of Funding for Reallocations

The unit of government, (hereafter referred to as the "Agency") which desires to make a reallocation to the Department shall only use funds that are the Agency's share of funds forfeited under the authority of *N.J.S.A. 2C:64-1 et seq., (Civil Forfeiture)* and such funds shall be, at the time of the reallocation, available for use in the Agency's Law Enforcement Trust Account. Equipment or services can not be reallocated in-lieu of forfeiture funds that would be distributed to the Department as its share of a forfeiture action. All reallocations shall be for a law enforcement purpose consistent with the law and with administrative regulation.

10-3: Forms of Reallocations

Direct Purchase of Equipment by Agency - The Agency shall specify a listing of equipment to be reallocated to the Department. The Agency may then purchase the specified equipment, consistent with all applicable State laws, and provide it directly to the Department. The Department shall insure that **all** equipment received is marked with standard inventory markings and placed into the Department's inventory records.

10-4 Restrictions on Equipment or Services Use

The Agency donating the equipment may place restrictions **on** the equipment's use, (**e.g.**, Mobile Data Terminals purchased by the Bergen County Prosecutor's Office shall only be installed and used in Division of State Police vehicles assigned to barracks that patrol Bergen County). However, the restrictions cannot be inconsistent with State law. In addition, the Department must agree that the restrictions would not be detrimental to the efficient operation of the Department. If unacceptable restrictions are **imposed**, the Department shall not accept the reallocation.

10-5: Acceptance of Terms

The following parties shall be informed of, and consent to, any reallocation:

- a) the Agency Chief Executive Officer;
- b) the Department Administrator or designee;
- c) the applicable Department's Division Director or in the case of the Division of State Police, the Superintendent.

10-6: Reallocation of Property or Services - (Form F)

All reallocations shall be memorialized **in** written form and shall be agreed to and signed by persons specified in Standard Operating Procedure 10-5. In order to **implement** a reallocation, the agency shall complete a Reallocation of **Property, (Form F)** and submit it, signed by the Agency's Chief Executive Officer, to the Department, Division of Criminal Justice, Operations Bureau, (hereafter referred to as DCJ Operations). The DCJ Operations shall assign a unique identification number to the request, (referred to as a **ROP Control Number**), maintain a record of the **Form F** and insure that the persons specified in Standard Operating Procedure 10-5 review and agree to the conditions specified. When all signatures have been affixed, DCJ Operations shall maintain the original, provide photocopies to all parties involved and notify the agency, in writing, that it may proceed with the reallocation.

a) Record keeping Requirements for Agency Purchase

When the Agency purchases the equipment it shall maintain all relevant purchase orders, sales invoices and payment checks. All such documents shall be marked with the *Form F ROP Control Number* found in the upper right corner of the original completed document, (e.g., ROP 001-96).

b) Completion of Form F

The following are block by block instructions for the completion of *Form F*. The numbers correspond to the numbered blocks on the form.

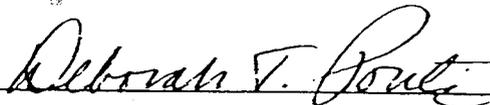
- 1) Enter the complete name of the governmental unit that has legal authority to expend the forfeiture funds that are the subject of the reallocation, (e.g., Union County Prosecutor's Office).
- 2) Enter the business mailing address of the Agency entered in block 1).
- 3) Enter the name of the person who is legally empowered to commit funds of the agency entered in block 1).
- 4) Enter the title of the person entered in block 3), (e.g., County Prosecutor).
- 5) Enter the National Crime Information Center, (NCIC) Origination Number, (ORI) of the Agency identified in block 1). If the Agency has more than one ORI, enter the one which designates the Agency's headquarters location.
- 6) Enter the Agency telephone number for the person specified in block 3).
- 7) Enter the Agency fax number for the person specified in block 3).
- 8) Enter a detailed listing of all the equipment that is the subject of the *Form F*. If separate pages are required, enter "See Attachment for Block 8)" in the space provided. Attach a separate sheet of paper with the header "Block 8) - List of Identified Equipment" centered at the top.

- 9) Enter the total purchase price of the equipment specified in Block 8) in the space provided.
- 10) Enter the equipment's required use by the Department. This use must be consistent with the definition of "law enforcement purpose" as specified in *N.J.A.C. 13:77 et seq.* If separate pages are required, enter "See Attachment for Block 10)" in the space provided. Attach a separate sheet of paper with the header "Block 10) - Law Enforcement Purpose" centered at the top.
- 11) Enter any restrictions in the use of the equipment by the Department. If separate pages are required, enter "See Attachment for Block 11)" in the space provided. Attach a separate sheet of paper with the header "Block 11) - Restrictions Imposed by Agency" centered at the top.
- 12) Enter the Agency name from block 1) The *Form F* shall then be signed and dated by the person named in block 3).
- 13) Enter the title of the person who signed from the Agency. This should be the same as the title entered in block 4).

10-7: Removal of Reallocated Equipment From State Service

All equipment that is funded through the method described in Standard Operating Procedure 10 shall remain in State service until it is of no useful value to the Department. The equipment shall then be removed from use and disposed in a manner that is consistent with applicable laws and administrative regulations. Any funds received from the disposal of this property shall revert to the State of New Jersey General Treasury.

AUTHORITY: _____


DEBORAH T. PORITZ, ATTORNEY GENERAL

REALLOCATION OF PROPERTY

Division of Criminal Justice Use Only:

Date Stamp Received:

Control Number:

ROP

**AGREEMENT
BETWEEN
THE DEPARTMENT OF LAW AND PUBLIC SAFETY
AND**

- 1) Agency Name: _____
- 2) Agency Address: _____
- 3) Agency's Chief Executive Officer: _____
- 4) Agency CEO Title: _____
- 5) Agency ORI Number: _____
- 6) Agency Telephone Number: _____
- 7) Agency Fax Number: _____

- A) This document shall serve as an agreement between the Department of Law and Public Safety, (hereafter referred to as the "Department"), and the agency named in block "1", (hereafter referred to as the "Agency"), on the reallocation of equipment purchased by the Agency's forfeiture funds and given to the Department for its exclusive use;
- B) The Chief Executive Officer of the Agency certifies that the funds used in this reallocation are the Agency's share of funds forfeited under the authority of *N.J.S.A. 2C:64-1, et seq., (Civil Forfeiture)* and that such funds are currently deposited in the Agency's Law Enforcement Trust Account;
- C) The Chief Executive Officer of the Agency certifies that he/she has determined that a legitimate need for equipment exists within the Department and said equipment, when used by Department personnel, would enhance the overall law enforcement efforts of the Agency's jurisdiction;
- D) The Department has determined that the equipment would benefit the overall operation of the Department when used for the law enforcement purpose and within the restrictions, if any, specified by the Agency;
- E) The Department accepts the equipment identified by the Agency and such use would be consistent with the restrictions placed on its use by the Agency, as long as those restrictions do not conflict with existing laws;

The Agency and the Department have identified the following equipment that would benefit the operation of the Department and enhance the law enforcement efforts within the Agency's jurisdiction:

8) List the Identified Equipment:

G) That the Agency will purchase the equipment specified in block "8," consistent with all applicable State purchase laws and regulations, and provide it directly to the Department consistent with this document. The total cost of the equipment shall not exceed:

9) \$ _____

H) That the equipment identified in block "8" will be used by the Department for the following law enforcement purpose:

10) Specify the law enforcement purpose:

I) That the following restrictions have been imposed by the Agency on the use of the equipment and these restrictions are not inconsistent with the law or detrimental to the efficient operations of the Department:

1) Specify any restrictions imposed by the Agency:

This agreement has been executed below by authorized representatives of the parties.

2) AGENCY NAME: _____

BY: _____ DATE: _____

13) Title: _____

DEPARTMENT OF LAW AND PUBLIC SAFETY

BY: _____ DATE: _____

DEPARTMENT ADMINISTRATOR, OR DESIGNEE

DEPARTMENT'S DIVISION DIRECTOR OR IN THE CASE OF THE DIVISION OF STATE POLICE, THE SUPERINTENDENT

BY: _____ DATE: _____

DIRECTOR, OR DESIGNEE

STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE



11

Title: ***Fund Disbursement to a Non-Law Enforcement Agency***

Date Issued: 03/01/98

Applicability: **All Forfeiture Program Participating Agencies**

Supersedes:

11-1: Policy Statement

The Attorney General recognizes that the intent of the Legislature when it crafted N.J.S.A. 2C:64-1 et seq., was to designate that all funds derived from a forfeiture program be used for a 'law enforcement purpose.' As defined in Forfeiture Program Administration Standard Operating Procedure 12, the term allows the funding of a broad spectrum of programs that can enhance a law enforcement agency's ability to respond to the ever changing complexities of providing competent, efficient and fair law enforcement services to the citizen's of the State. Forfeiture funds are also used from time to time to support community based programs that may not have an obvious law enforcement purpose, but often provides a clear benefit to the citizen's quality-of-life. Strong arguments can be made that these programs benefit the law enforcement agency by providing a positive community atmosphere that tends to reduce the influence of criminal elements and ultimately crime in the community.

However, the funding of these programs without a uniform evaluation of the program's merits and overall benefits to law enforcement **can lead** to expressions of concern by the taxpayers of the State, and a questioning of the expenditure's merits. Therefore, it is the policy of the Attorney General that all planned forfeiture fund or property disbursement to a non-law enforcement agency, organization, program or group must first be reviewed and approved, in writing, by both the county prosecutor of jurisdiction and the Division of Criminal Justice. The evaluation will focus on reviewing the exact use of the funds; the law enforcement purpose that will be served in the use of these funds, and; the extent of law enforcement's involvement and participation in the project.

11-2: Determination of a Non-Law Enforcement Agency

Every year, numerous forfeiture fund expenditures are made by the State's law enforcement community. The vast majority of these expenditures are made to procure equipment, training or services for the law enforcement agency. Expenditures, such as

the funding of narcotics enforcement operations provide money to purchase evidence and information of criminal conduct. These types of expenditures have a clear and direct law enforcement purpose and are not the subject of this Standard Operating Procedure.

However, any expenditure to fund, in whole or in part, any program which is not under the direct, exclusive control and supervision of a law enforcement agency is considered a community based program, subject to all of the provisions of this Standard Operating Procedure.

11-3: Request for Forfeiture Fund Distribution to a Non-Law Enforcement Agency, (Form D)

A. Requesting Law Enforcement Agency Responsibilities

Any law enforcement agency that seeks approval to expend forfeiture funds on a community based program shall complete a Request for Forfeiture Fund Distribution to a Non-Law Enforcement Agency, (Form D). The completed form shall be reviewed, approved and certified as to accuracy by the administrator of the requesting law enforcement agency.

B. Completion of Form D

The following are block by block instructions for the completion of Form D. The numbers correspond to the numbered blocks on the form.

1. Enter the complete name of the governmental Agency that has legal authority to expend the forfeiture funds that are the subject of the proposed disbursement. (e.g., Union County Prosecutor's Office).
2. Enter the business mailing address of the Agency entered in block 1).
3. Enter the name and title of the person **who is** legally empowered to commit funds of **the** agency entered in block 1).
4. Enter the Agency telephone number of the person specified in block 3).
5. Enter the New Jersey Law Enforcement Telecommunication System, (**NJLETS**) Origination Number, (**ORI**) of the Agency identified in block 1). If the Agency has more than one **ORI**, enter the one **which** designates the Agency's headquarters location.
6. Enter the complete name of the person, group or organization that would receive the forfeiture funds which are the subject of the proposed disbursement.
7. Enter the business mailing address of the person, group or

organization entered in block 1).

8. Enter the name and title of the person who is legally empowered to receive funds on behalf of the person, group or organization entered in block 1).
9. Enter the telephone number of the person specified in block 3).
10. Enter a description of the person's group's or organization's mission, (e.g., mission statement, legal responsibilities, duties, organization structure, etc...). If separate pages are required, enter "See Attachment for Block 10)" in the space provided. Attach a separate sheet of paper with the header 'Block 10) -Organization's Mission' centered at the top.
11. Enter the proposed amount of forfeiture funds to be expended **by** the Agency on the program that is the subject of this request.
12. Enter a detailed description of the proposed program, including its expected duration. If separate pages are required, enter "See Attachment for Block 12)" in the space provided. Attach a separate sheet of paper with the header "Block 12) - Description of Program" centered at the top.
13. Enter a detailed listing of what the forfeiture funds would be used to purchase or otherwise compensate. If separate pages are required, enter "See Attachment for Block 13)" in the space provided. Attach a separate sheet of paper with the header "Block 13) - Specified Use of Forfeiture Funds" centered at the top.
14. Enter the law enforcement purpose that would be served by expending forfeiture funds in the proposed manner. This purpose must be consistent with the definition of "Law enforcement purpose" in Forfeiture Program Administration Standard Operating Procedure 12. If separate pages are required, enter "See Attachment for Block 14)" in the space provided. Attach a separate sheet of paper with the header 'Block 14) - Law Enforcement Purpose" centered at the top.
15. Enter a description of law enforcement personnel's involvement in the proposed program. **NOTE:** Attorney General's Directive 1995-3(9) states that: "Forfeited property or monies shall not **be** used to defray the costs of a community based program unless law enforcement personnel are substantially involved in the program." If separate pages are required, enter "See Attachment for Block 15)" in the space provided. Attach a separate sheet **of** paper with the header "Block 15) - Law Enforcement's Involvement" centered at the top.

16. The completed Form D shall then be reviewed for accuracy, signed and dated by the person named in block 3).

17. Enter the printed or typed name of the person who signed in block 16).

C. Review by County Prosecutor

The certified Form D shall be reviewed by the county prosecutor of jurisdiction. He/she shall determine if the expenditure of forfeiture funds is appropriate and consistent with the provisions of the applicable Statutes, Attorney General's Guidelines and the Forfeiture Program Administration Standard Operating Procedures. If the request is from the county prosecutor's office, the county prosecutor shall both certify and approve the request.

D. Review by Division of Criminal Justice

If approved, the completed Form D shall be forwarded to the Division of Criminal Justice, Operations Bureau for final review and approval. Upon making a determination, the Director, Division of Criminal Justice, or designee, shall sign and date the appropriate "Approved" or "Denied" block.

The Division of Criminal Justice may impose limitations on any aspect of the request. The original Form D shall then be maintained by DCJ - Operations and the person who signed in block 16) shall receive a photocopy along with written notification from the Division of Criminal Justice to proceed.

AUTHORITY: Peer review
PETER VERNIERO, ATTORNEY GENERAL

REQUEST FOR FORFEITURE FUND DISBURSEMENT TO A NON-LAW ENFORCEMENT AGENCY

For Division of Criminal Justice Use Only:

Stamp Received:

Control Number:

REQUESTING AGENCY'S INFORMATION

- 1) Agency Name: _____
- 2) Agency Address: _____
- 3) Contact Person/Title: _____
- 4) Telephone Number: _____
- 5) Agency ORI Number: _____

NON - LAW ENFORCEMENT ORGANIZATION'S INFORMATION

- 5) Organization Name: _____
- 7) Organization Address: _____
- Contact Person/Title: _____
- 3) Telephone Number: _____
- 10) Description of the Organization's Mission: (e.g., Mission Statement, Legal Responsibilities, Duties, Organizational Structure, etc...) _____
- 11) Proposed Amount of Forfeiture Funds to be Used in this Project: _____
- 12) Description and Length of Project: _____

13) Specified Use of Forfeiture Funds:

LAW ENFORCEMENT PURPOSE AND INVOLVEMENT IN PROJECT

14) Law Enforcement Purpose of This Use of Forfeiture Funds:

(Law Enforcement Purpose is defined in Forfeiture Project Administration Standard Operating Procedure 12.)

15) Description of the Substantial Involvement of Law Enforcement in This Project:

(NOTE: A non-law enforcement agency cannot receive forfeiture funds without direct and substantial involvement of law enforcement agency in the project.)

16) _____
Signature of Administrator for Requesting Agency

Date

17) _____
Typed or Printed Name of Administrator for Requesting Agency

CERTIFICATION: By signing in Block 16, I certify that the information provided in this *Request for Forfeiture Distribution to a Non-Law Enforcement Agency, (Form - D)* is true, I am aware that if any of information provided is willfully false, I am subject to punishment.

AUTHORIZATION FOR FORFEITURE FUND DISBURSEMENT TO A NON-LAW ENFORCEMENT AGENCY

REVIEW BY THE COUNTY PROSECUTOR

APPROVED

I have reviewed the attached *Request for Forfeiture Fund Distribution to a Non - Law Enforcement Agency, (Form - D)* and have determined that the expenditure of forfeiture funds is appropriate in the manner detailed in this request and is not inconsistent with the provisions of the New Jersey Constitution, applicable Statutes, Administrative Code or *Forfeiture Program Administration Standard Operating Procedures*.

DENIED

I have reviewed the attached *Request for Forfeiture Fund Distribution to a Non - Law Enforcement Agency, (Form - D)* and have determined that the expenditure of forfeiture funds is not appropriate as detailed in this request.

County Prosecutor

Date

County Prosecutor

Date

REVIEW BY THE DIVISION OF CRIMINAL JUSTICE

APPROVED

I have reviewed the attached *Request for Forfeiture Fund Distribution to a Non - Law Enforcement Agency, (Form - D)* and have determined that the expenditure of forfeiture funds is appropriate in the manner detailed in this request, with limitations imposed, if any, below, and is not inconsistent with the provisions of the New Jersey Constitution, applicable Statutes, Administrative Code or Attorney General's Guidelines.

Director, Division of Criminal Justice, or Designee

Date

LIMITATIONS IMPOSED BY THE DIVISION OF CRIMINAL JUSTICE:

I have reviewed the attached *Request for Forfeiture Fund Distribution to a Non - Law Enforcement Agency, (Form - D)* and have determined that the expenditure of forfeiture funds is not appropriate as detailed in this request.

Director, Division of Criminal Justice, or Designee

Date

**STATE OF NEW JERSEY -
FORFEITURE PROGRAM ADMINISTRATION
STANDARD OPERATING PROCEDURE**



12

Title: *Distribution of Forfeited Property to Participating Law Enforcement Agencies*

Date Issued: 03/01/98

Applicability: All Law Enforcement Personnel

Supersedes: N.J.A.C. 13:77.1 et. seq.

12:1 Policy Statement

This standard operating procedure governs the division and distribution of property forfeited pursuant to N.J.S.A. 2C:64-1 et seq. The standard is promulgated to provide guidance and prior notice regarding the procedures governing the equitable distribution, use and accountability of law enforcement agencies for such property in accordance with the statutory intent. When property is forfeited as a result of the combined efforts of more than one law enforcement agency, each law enforcement agency contributing to the forfeiture is to share proportionately in the forfeiture proceeds. Where property cannot be divided, the general policy is to sell the property and divide the proceeds among all participating law enforcement agencies in a manner which will enhance law enforcement efforts and cooperation. All forfeited property, and all funds derived from the sale, auction or other disposition of said property shall be used solely for law enforcement purposes. This standard is intended to further these general purposes and shall be interpreted accordingly.

- A. The prosecuting agency shall determine the contributive share to be apportioned to each participating law enforcement agency, including that of the prosecuting agency itself.
- B. The prosecuting agency shall divide the forfeited property or its proceeds equitably and fairly, and in accordance with these standards, with any law enforcement agency, for that agency's use, where the law enforcement agency participated in the surveillance, investigation, arrest or prosecution which resulted in the forfeiture.
- C. The funding entity shall fully credit the participating law enforcement agency with its contributive share of the forfeited property, which share is to be dedicated solely for law enforcement purposes in accordance with these standards.

12:2 Legal authority

- A. Under N.J.S.A. 2C:64-6 and N.J.S.A. 2C:64-7, the Attorney General ~~or~~ the county prosecutor, whichever is the prosecuting agency, shall divide the forfeited property ~~according~~ to each law enforcement agency's **contribution** to ~~the surveillance~~, investigation, arrest or prosecution which resulted in the forfeiture.
- B. These standards are promulgated pursuant to the authority of the Attorney General, as the State's Chief law enforcement **officer**, to provide for the general supervision of criminal justice throughout the State-

12:3 Delegation of authority of Attorney General in apportionment

Where the Attorney General is the prosecuting agency, the Director of the Division of Criminal Justice is designated to ~~act~~ on behalf of the Attorney General in determining the relative contributions of participating law enforcement agencies so that an equitable division of forfeited property can be made. Further, ~~the Director of the~~ Division of Criminal Justice shall be directly responsible for the general administration, execution and compliance of the standards governing forfeiture by all law enforcement agencies within the State.

12:4 Definitions

The following words and terms when used in ~~the~~ Forfeiture Program Administration Standard Operating Procedures, shall have the following meanings, unless the context clearly indicated otherwise:

- A. "Contributive share" means the proportionate share of forfeited property which is allocated by the prosecuting agency in the exercise of its discretion to any participating law enforcement agency based on the participating **law** enforcement agency's relative contribution to the surveillance, investigation, arrest or prosecution.
- B. "Entity" means the **funding entity** or entity having budgetary control over a participating law enforcement agency. In the case of the State law enforcement agency, that entity shall be the State Treasury.
- C. "Forfeited property" means property, proceeds **and** monies seized and subject to a confirming final judgment pursuant to N.J.S.A. 2C:64-3.
- D. "Forfeiture records" means the financial documentation and case files maintained in the regular course ~~of~~ business which relates to, and accounts for, the seizure, forfeiture and/or disposition of prima facie contraband and/or property under the authority of N.J.S.A. 2C:64-1 et seq.
- E. "Investigative unit" means a State law enforcement investigative agency,

bureau, division, section or other unit that engages in criminal investigation, surveillance or arrests and which is under the control, direction or supervision of the Attorney General in the Department of Law and Public Safety.

- F. "Law enforcement purpose" means a purpose which is calculated to enhance a law enforcement agency's ability to conduct criminal investigations, surveillance, arrests and prosecutions and to respond more fully to the effects of crime and, for purposes of these rules, shall be beyond that allocated by the law enforcement agency's annual budget. A law enforcement purpose shall include expenditures to defray the costs of protracted or complex investigations; to educate the public in crime prevention techniques; to provide additional technical assistance or expertise, which may, for example, include participation in funding the purchase of Statewide automated fingerprint identification equipment, an automated uniform offense and arrest report system, the purchase of surveillance and undercover transportation and investigation equipment, and computer hardware and software to enhance the coordination and sharing of information among the law enforcement agencies of a county and the State; to provide matching funds to obtain Federal law enforcement enhancement grants, or for such other purposes as the Attorney General may from time to time authorize.
- G. "Participating law enforcement agency" means a law enforcement agency, including, but not limited to, a New Jersey State investigative unit, a county multi-agency strike force or task force, county prosecutor's office, county or local police agency, law enforcement agencies of the United States Government and law enforcement agencies of State and local jurisdictions outside the State of New Jersey which substantially contributes to the surveillance, investigation, arrest or prosecution which results in a forfeiture.
- H. "Prosecuting agency" means either the Attorney General or the county prosecutor, whichever in a particular case bears the responsibilities for prosecuting the defendant or filing the forfeiture action.
- I. "State law enforcement agency" means any department of the State which by itself or through any subordinate investigative unit or other agency, which it controls, directs or supervises, engages in law enforcement activities through State personnel that are sworn police officers. The Department of Law and Public Safety shall be the State law enforcement agency for all investigative activity conducted by its investigative units.

12:5 Distribution of Contraband

Property defined in N.J.S.A. 2C:64-1 as Prima Facie Contraband, which has been forfeited shall be destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety or welfare.

- A. Before Prima Facie Contraband can be used **by a** law enforcement agency, a written request shall be made to, and approved **by**, the Division of Criminal Justice, Operations Bureau. The request shall state the law enforcement purpose, (as defined in SOP 12:4 (f)), duration of use and the law enforcement agency that shall maintain custody and control over the property. When the property is no longer useful **to** the **law** enforcement agency, it shall be destroyed.

12:6 Property forfeited that contains or displays any counterfeit copyright, trademark or registration

Property forfeited which contains or displays **any** counterfeit brand name, insignia, design feature or any other identifiable feature which is protected by United States copyright, trademark or registration shall be either: 1) destroyed, or; 2) returned to **the** owner of the copyright, trademark or registration. In lieu of receiving the forfeited property, **the owner of** the copyright, trademark **or** registration may provide written consent **to the** donation of **the** forfeited property to any charitable or non-profit organization operating within the State. The charitable or non-profit organization that receives forfeited property under this provision, shall use the property in order **to** fulfil the mission of the organization and shall not **sell** the forfeited property **to** any person or entity.

12:7 Law Enforcement Trust Fund for prosecuting agency

All forfeited property other than contraband, or any proceeds resulting from **the** forfeiture and all monies seized or forfeited, shall become the property of the entity funding the prosecuting agency effecting the forfeiture, and shall, if feasible, be placed in a dedicated Law Enforcement Trust Fund established by that entity, as outlined by the Forfeiture Program Administration Model Standard Operating Procedures.

12:8 Contributive Share

After deductions are made for security interests and asset maintenance and forfeiture prosecution costs, payments shall be made from the **SADA** or **SATA** **to** the participating **law** enforcement agency-State, county, local or other, where the **law enforcement** agency contributed to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, in Proportion **to** that agency's relative contribution as determined by the prosecuting agency. Payment shall be made to the **Law** Enforcement Trust Fund established for the participating law enforcement agency.

12:9 Use of Forfeiture Funds

- A. Moneys in AGLEFA, a CLETA, a **MLETA** or a MEA shall only be used for law enforcement purposes, as defined in this standard operating procedure. **All** expenditures are subject to certification of availability by the funding entity, which certification should not **be** unreasonably and ultimately withheld. Forfeiture funds shall not be a source of revenue to meet normal operating

needs of the law enforcement agency. No funding entity shall anticipate forfeitures or proceeds therefrom in the adoption and approval of the budget for its law enforcement agency.

- B. Forfeiture funds may not be used for payment of regular salaries or to create new personnel positions, to pay dues or fees in an organization that represents any interest other than a law enforcement interest, such as a bar association, or to pay any expense imposed as a condition of maintaining professional standing, such as the FAIR Act Attorney Fee. If approved by the Division of Criminal Justice, Deputy Director - Operations, forfeiture funds may be used to pay the salaries of temporary employees hired for a specific function, such as persons with a special expertise which is needed for a particular investigation. Funds may be expended from a **MLETA** or MEA only upon the request of the participating law enforcement agency, to the appropriate county prosecutor accompanied by a **written** certification that the request complies with the provisions of these standard operating procedures, and only upon appropriation to the participating law enforcement agency in accordance with the accepted budgetary provisions of its funding entity. No expenditure shall be made from either a **CLETA**, a **MLETA** or MEA without the approval of the appropriate county prosecutor. Any expenditure of forfeiture funds, like the expenditure of other public funds, shall be subject to the public bidding requirements imposed upon the funding entity.

12:10 Disposal of indivisible forfeited property

Where forfeited property, including motor vehicles, cannot be divided as required by **N.J.S.A. 2C-64-7**, the general policy of this State shall be to **sell** the property and divide the proceeds as set forth in this standard operating procedure rather than to retain the property for law enforcement use. Where, however, full value cannot be obtained for indivisible forfeited property and where the property is needed for a law enforcement purpose, the prosecuting agency effecting the forfeiture may determine to retain the forfeited property for official use.

12:11 Procedures for disposing **indivisible forfeited property**

If the prosecuting agency **decides** to distribute indivisible forfeited property to a participating law enforcement agency, the participating law enforcement agency must reimburse **the** entity funding the prosecuting agency for any moneys that were expended by that entity in furtherance of securing a perfected interest in or clear title to the forfeited property. If the participating law enforcement agency does not agree to such reimbursement, or if other agreement cannot be reached by all interests parties, **the** forfeited property shall be sold and the proceeds shall be distributed as set forth in this standard operating procedure.

12:12 Procedures for **apportioning forfeited property**

- A** Calculation of the contributive share of any participating law enforcement agency is to be determined in the discretion of the prosecuting agency. **The** distribution **decision** of the prosecuting agency shall generally reflect **the** relative contribution of any law enforcement agency **participating** in any of the acts which led to the seizure or forfeiture of the **property**.
- B.** A participating law enforcement agency shall submit a written request **for** distribution as detailed in Forfeiture Program Administration Standard Operating Procedure 07 within 90 days of the seizure and file **the** request with the prosecuting agency.

12:13 Criteria for apportioning forfeited property

- A** In determining the contributing share of any participating law enforcement agency, the prosecuting agency shall consider the following enumerated factors:
- 1.** The amount of money directly expended in pursuing the case: **These** funds, while "out-of-pocket" costs of the case itself, generally are not directly tied to an asset seized for forfeiture. Thus, these expenditures are not to be included with the asset maintenance and forfeiture prosecution costs which are to be deducted prior to calculation of law enforcement agency's contributive share. Payments for information **or** assistance relating to or in furtherance of a law enforcement investigation are costs associated with the underlying criminal investigation itself, independent of a forfeiture action. Nevertheless, because the expended money represents **an** identifiable out-of-pocket expense, the prosecuting agency money represents an identifiable out-of-pocket expense, the prosecuting agency shall generally reimburse such costs as fully as possible in determining a law enforcement agency's contributive share.
 - 2.** The agency which initiated the case: The initiating law enforcement agency may well have been able to proceed with a criminal investigation without the assistance of others. To the extent **that** agency **collaborated** with other law enforcement agencies to further an investigation and develop a more significant case, it **should** not "lose" the value of an asset which it may in the normal course, and without assistance from other law enforcement agencies, have obtained independently. In these circumstances, the contributive share of the initiating **law** enforcement agency may be calculated in a greater than pure percentage contribution fashion in order to encourage and foster future law enforcement cooperation. Furthermore, the agency which initiated the case may have made an insignificant manpower contribution to the forfeiture. For example, a stop by a State Trooper could result in a find of a large cache of drug money. The few moments expended by the trooper would be far less

than expended in the prosecution of the case itself, which **could**, indeed, result in a major prosecution if the investigation could ascend the drug distribution hierarchy. Nevertheless, the "but for" nature of the trooper's act may warrant a greater **contributive** share for his agency than would be calculated solely by **considering** manpower or costs expended.

3. The agency which identified the asset: An asset may, for example, be identified as subject to forfeiture by using evidence contained in financial records, just as inconsistencies between one's net worth or purchases and legitimate known sources of income can reveal illegal income. Investigative accounting techniques may show that **unlawfully** acquired income was used to infiltrate or purchase a business or indirectly to acquire other apparently legitimate property. Thus, demonstration of a connection between the proceeds of **crime** and property would enable the forfeiture of that asset. Under these circumstances, the law enforcement agency's identification of the assets or business as an ultimate product of criminal activity could significantly expand the value of forfeiture in a particular case and may be appropriately rewarded.
4. The manpower expended in pursuing the case, including overtime costs: Manpower expenditures provide a reasonable indication of a law enforcement agency's efforts in pursuing a case, and thus its contribution to the overall law enforcement effort. It will undoubtedly be difficult or impossible to be completely accurate, however, in evaluating this cost, since **officers** will rarely work on only one case.
5. The law enforcement agency actively participates in and contributes personnel or other resources to a multi-jurisdictional task force.
6. The relative needs of the law enforcement agencies involved: Generally, these needs are not to be a factor in calculating a contributive share. In an unusual case involving a particularly large forfeiture, **however**, this would become a consideration in order to assure that forfeited assets are in fact used to enhance **law** enforcement efforts. The **Attorney** General, as chief law enforcement officer of the State, or the prosecutor, as chief law enforcement officer of a county, should, in making a decision distributing forfeited property, **take** into account the needs of the law enforcement agencies within his jurisdiction. Thus, from a public policy perspective, the prosecuting agency may in its discretion determine that division of forfeited property be made other than in a purely mathematical allocation based in contribution.
7. Alternative availability of the asset to the agency in the near future from other seizures: if two participating law enforcement agencies

are equally entitled to forfeited property or proceeds and one of the agencies, but not the other, regularly obtains forfeited funds, it is proper to consider that fact in calculating a contributive share. In general, of course, contributive shares are to be calculated on each participating law enforcement agency's relative contribution: Nevertheless, as discussed above, a factor to consider in dividing forfeitures is the overall effect on law enforcement within the State. Where tangible and indivisible property is to be distributed, the prosecuting agency, in deciding which participating law enforcement agency is to have the use of the property, should consider whether either agency may be able to obtain similar property alternatively in the near future.

12:14 Monitoring, reporting and auditing procedures

- A .** A law enforcement agency distributing, receiving or expending forfeited property, proceeds or money shall maintain the full records documenting these distributions, receipts and expenditures. Every law enforcement agency distributing, receiving or expending such property or funds shall submit a quarterly report documenting those distributions, receipts and expenditures to both the Attorney General and the appropriate county prosecutor, as detailed in Forfeiture Program Administration Standard Operating Procedures 08 and 09.

- B.** The Attorney General and the county prosecutor shall institute a record keeping system that fully document the seizure, return, (if applicable) forfeiture, distribution and use of all property subject to forfeiture or proceeds derived from the disposition of said property. Any record keeping systems used by a county prosecutor to maintain forfeiture records shall be reviewed and approved by the Division of Criminal Justice, Operations Bureau prior to its implementation or use.

- C.** All county and municipal forfeiture records shall be audited as authorized in N.J.S.A. 40A:5-4 et seq. A copy of the final audit report for each forfeiture records audit shall be forwarded to the Division of Criminal Justice, Operations Bureau.

- D:** The Attorney General reserves the right to audit the forfeiture records of any law enforcement agency. This right shall not restrict or impede the Attorney General's supervisory power pursuant to the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq., or any other law, rule, regulation, directive, opinion or agreement. The Attorney General may assess the county prosecutors for the cost of conducting audits of forfeiture records. These administrative costs shall be within a maximum established by agreement from time to time between the Attorney General and a majority of the county prosecutors. The cost of the audit may be assessed against the audited agency's law enforcement trust fund.

- E The prosecutor of each county may audit the forfeiture records of any municipal law enforcement agency or any coalition of municipal law enforcement agencies within that county. The cost of the audit may be assessed against the audited agency's law enforcement trust fund.

AUTHORITY: Peer review
PETER VERNIERO, ATTORNEY GENERAL

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