

CHAPTER 77

ATTORNEY GENERAL'S STANDARDS FOR THE EQUITABLE DISTRIBUTION TO CONTRIBUTING LAW ENFORCEMENT AGENCIES OF FORFEITED PROPERTY

Authority

N.J.S.A. 2C:64-6.

Source and Effective Date

R.1993 d.90, effective January 22, 1993.
See: 24 N.J.R. 4492(a), 25 N.J.R. 710(b).

Executive Order No. 66(1978) Expiration Date

Chapter 77, Attorney General's Standards for the Equitable Distribution to Contributing Law Enforcement Agencies of Forfeited Property, expires on January 22, 1998.

Chapter Historical Note

Chapter 77, Attorney General's Standards for the Equitable Distribution to Contributing Law Enforcement Agencies of Forfeited Property, was adopted as R.1988 d.63, effective February 1, 1988. See: 19 N.J.R. 1534(b), 20 N.J.R. 296(a). Pursuant to Executive Order No. 66(1978), Chapter 77 was readopted as R.1993 d.90. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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SUBCHAPTER 1. GENERAL PROVISIONS

13:77-1.1 Purpose

(a) The standards in this chapter govern the division and distribution of property forfeited pursuant to N.J.S.A. 2C:64-1 et seq. The standards are promulgated to provide guidance and prior notice regarding the procedures governing the use of forfeited property and to ensure the equitable distribution of 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. The forfeited property shall be used solely for law enforcement purposes and shall be divided in a manner which will enhance law enforcement efforts and cooperation. It is recognized that standards for division of the property among agencies must be promulgated in order to foster a consistency of result through a balanced approach. It is further recognized that a too rigid method of apportionment of forfeited property would often not provide the best use of the property and thus not fully serve the law enforcement interests of New Jersey as a whole. The standards in this chapter are intended to further these general purposes and shall be interpreted accordingly.

(b) The prosecuting agency shall determine the contributive share to be apportioned to each participating law enforcement agency, including that of the prosecuting agency itself. 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 through its funding entity where the law enforcement agency participated in the surveillance, investigation, arrest or prosecution which resulted in the forfeiture. 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.

Case Notes

Six-month suspension for attorney who committed third-degree theft. Matter of Hoerst, 135 N.J. 98, 638 A.2d 801 (1994), reinstatement granted 138 N.J. 85, 648 A.2d 722.

13:77-1.2 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, is to 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 to establish rules and regulations governing the division and distribution of forfeited property under N.J.S.A. 2C:64-6.

13:77-1.3 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. Accordingly, the Director of the Division of Criminal Justice is directly responsible for the administration and execution of the standards governing forfeiture.

13:77-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"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.

"Entity" means the funding entity or entity having budgetary control over a participating law enforcement agency. In the case of a State law enforcement agency, that entity shall be the State Treasury.

"Forfeited property" means property, proceeds and monies seized and subject to a confirming final judgment pursuant to N.J.S.A. 2C:64-3.

"Investigative unit" means a State law enforcement investigative agency, bureau, division, section or other unit that engages in criminal investigations, surveillances or arrests and which is under the control, direction or supervision of a department of the State.

"Law enforcement purpose" means a purpose which is calculated to enhance a law enforcement agency's ability to conduct criminal investigations, surveillances, 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 of intelligence 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.

"Participating law enforcement agency" means a law enforcement agency, including a State investigative unit or a county multi-agency strike force or task force, which substantially contributes to the surveillance, investigation, arrest or prosecution which results in a forfeiture.

"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.

"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. The Department of Law and Public Safety shall be the State law enforcement agency for all investigative activity conducted by its investigative units.

SUBCHAPTER 2. DISPOSITION OF AUTHORITY**13:77-2.1 Contraband**

Property defined in N.J.S.A. 2C:64-1 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.