STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY

REPORT TO THE GOVERNOR BY THE ATTORNEY GENERAL'S MONEY LAUNDERING WORKING GROUP

CHRISTINE TODD WHITMAN
GOVERNOR

PETER VERNIERO
ATTORNEY GENERAL

SEPTEMBER 1998

The Attorney General wishes to thank the members of the Money Laundering Working Group for their time and effort, especially that of Deputy Attorney General John Peter Suarez, in preparing this Report.

State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 080
TRENTON, NJ 08625-0080
(609) 292-4925

CHRISTINE TODD WHITMAN
Governor

PETER VERNIERO
Attorney General

September 1998

Honorable Christine Todd Whitman
Governor
State House
CN 001
Trenton, New Jersey 08625

Re: Report on Money Laundering

Dear Governor Whitman:

I am pleased to forward to you this Report by the Attorney General's Money Laundering Working Group.

As you requested, the Report contains recommendations to improve the current system for investigating and prosecuting money laundering cases. Specifically, we outline a comprehensive plan, including legislative proposals, that can be implemented at the state and county level that would significantly enhance our ability to identify and prosecute money launderers in New Jersey. Although law enforcement continues to focus on this subject area as a statewide priority under current law, the proposals would assist with our efforts and should help further reduce the pernicious influence of criminal proceeds on our economy.

Thank you for the opportunity to present you with this Report.

Respectfully submitted,

Peter Verniero

Peter Verniero
Attorney General

Table of Contents

PREFACE

On May 31, 1998, Governor Whitman asked the Attorney General to review the current system of combating money laundering and to make recommendations for improvements where appropriate. Thereafter, the Attorney General formed a Money Laundering Working Group consisting of state, federal, and local law enforcement entities, and asked the Group to review existing laws to determine whether there are ways in which the statutory framework could be strengthened, and to consider whether it is feasible to establish "a system to allow New Jersey agencies to better share and obtain existing federal databases that record large cash transaction by banks and businesses in the state. . . ." See Exhibit A. The Attorney General also asked the Working Group to consider whether strengthened regulation of the state's check-cashing businesses would enhance law enforcement's ability to address this statewide and national problem.

In response, the Working Group reviewed a number of current legislative proposals, and discussed other initiatives to address the problem of money laundering. The following Report represents the findings of the Working Group, and offers a comprehensive plan for enhancing our statewide attack on money launderers. By this Report, the Attorney General approvingly forwards these recommendations to the Governor for her review.

EXECUTIVE SUMMARY

This Report by the Attorney General's Working Group on money laundering presents an overview of money laundering, and identifies a number of common methodologies used by money launderers in New Jersey and throughout the nation. The Report reviews the current statutory scheme in New Jersey designed to combat money laundering, and then provides a summary of the number of cases prosecuted under the money laundering act from its inception. Finally, the Report offers a comprehensive plan designed to aid law enforcement in its efforts to combat money laundering, and also identifies emerging trends in high technology and their possible effect on money laundering.

The specific proposals in the Report include the following:

1. Establishing a state financial investigations unit in the Division of Criminal Justice;

2. Encouraging counties to train financial crimes investigators to support money laundering investigations and prosecutions;

3. Improving access and review of suspicious activity reports so that financial transactions related to possible money laundering offenses are thoroughly investigated;

4. Improving access to federal information available to law enforcement, including improved access and dissemination of material from the Financial Crimes Enforcement Network;

5. Preparing and disseminating an assets seizure checklist for use by law

enforcement during the course of a financial crimes investigation;

6. Proposing legislative initiatives to enhance the money laundering act, which include: (a) amending the money laundering statute to provide for a first degree offense if the amount involved in the transaction is $500,000 or more; (b) requiring sentences for money laundering convictions to be served consecutive to a sentence for the underlying offense; (c) supporting legislative proposals for reporting requirements on money remitters; (d) supporting expansion of the Wiretap Act to include money laundering as an offense for which a wiretap can be ordered; (e) proposing an Anti-Money Laundering Profiteering Act that would provide for the disgorgement of proceeds and increased fines against defendants convicted of money laundering offenses; and (f) proposing legislation to curtail use of casinos by money launderers, including initiatives designed to prevent money launderers from engaging in cash for cash transactions, and to disqualify convicted money launderers from licensure and to require their exclusion from casinos;

7. Establishing liaison with banking community so that communication and coordination with law enforcement can be improved; and

8. Identifying emerging high-technology trends and considering their effect on money laundering, including a discussion of high-tech replacements for traditional techniques of money laundering and the use of cryptography by money launderers.

Together, these proposals represent a coordinated, comprehensive, and sophisticated response to the problem presented by money launderers. By addressing the problem now, New Jersey will be in a better position to take effective action against those criminals who seek to gain access to their ill-gotten gains.

I. INTRODUCTION

Most Americans work hard and enjoy the privileges of living in a free and democratic society. Our society provides all people with opportunities to achieve, and our Government strives to guard jealously the rights of its citizens who abide by the compact of an ordered society. Unfortunately, within our midst there are those who weaken the fabric of our society by virtue of their illegal activities. These criminal enterprises seek to obtain money and power through criminal conduct, and then attempt to infiltrate our legitimate society, thereby distorting the terms of the compact.

These criminal enterprises generate vast profits for themselves and often times seek to gain legitimacy and use their criminal proceeds to insulate their conduct from scrutiny. They generate millions upon millions of dollars for the members of the enterprise, and allow their associates to live lavish lifestyles that have been forged from the misery and despair that their criminal activity produces.

Moreover, vast sums of money in the hands of a corrupt few can have serious consequences for our nation's economic well-being. The infiltration of criminal proceeds into world markets can destabilize them, and can have a corrupting effect on those who work within the market system. The penetration of criminals into the legitimate markets can also shift the balance of economic power from responsible and responsive entities to rogue agents who have no political or social accountability. In short, when criminal enterprises are able to

enjoy the fruits of the criminal ventures, the world market can be destabilized, leaving some countries vulnerable to persuasion and interference by corrupt organizations.

In order to address the corrupting presence of criminal proceeds in our economic system, and to help rid our state and this country of criminal enterprises that reap huge profits from criminal activity, many states and the federal government have enacted laws designed to prevent the successful conversion of ill-gotten gains into untraceable funds. In 1994, New Jersey enacted the "Financial Facilitation of Criminal Activity" law, codified at N.J.S.A. 2C:21-25, which proscribes various types of laundering activity. These laws, intended to combat the spread of money laundering, have helped the effort to reduce the amount of infiltration into our financial system.

In most cases, money launderers are attempting to conceal or disguise the nature of their proceeds, which are usually generated by the illicit sale of drugs in the United States. Although the overwhelming amount of money laundered in this country is derived from drug distribution activity, the act of laundering is also utilized by other profit-minded criminals, such as weapons smugglers, fraud rings, auto theft rings, and other financially motivated criminals. Any effort by the criminal element to disguise, conceal, or convert the proceeds of unlawful activity into seemingly "legitimate" funds constitutes money laundering, and poses a threat to the welfare of our citizens.

Although New Jersey has a comprehensive criminal code, including a recently-enacted money laundering provision, it is vitally important that the law enforcement community keep pace with the ever-changing dynamics of the money launderer, whose methods are constantly evolving in an effort to stay beyond the reach of the law. With the introduction of high technology and other new electronic methods in which funds can be laundered, the problem continues to grow even as increased resources are directed at the problem. As law enforcement pressure increases, the criminal enterprises become more skilled at avoiding detection and dismantling by law enforcement. Meanwhile, law enforcement, in order to keep pace with these criminal enterprises, must maintain the highest levels of training and expertise for its members. If the flow of criminal proceeds is to be interrupted, the law enforcement response must be coordinated, comprehensive, sophisticated, and decisive.

The following Report summarizes the existing law and the current state of money laundering prosecutions by state and local law enforcement, and highlights some proposals which, if enacted, would make it increasingly difficult for launderers to find a safe-haven in New Jersey.

A. What is Money Laundering?

Although the term "money laundering" is common in the parlance of law enforcement communities, the words themselves do not accurately convey the extent and degree of sophistication associated with the crime that it purports to describe. In its simplest incarnation, money laundering is "an activity aimed at

concealing the unlawful source of sums of money. . . ."[1] In effect, money laundering serves as the manner in which criminals attempt to thwart law enforcement's ability to track the success of a criminal venture by disguising the proceeds of that venture to make the proceeds appear lawful or to make them unidentifiable. Money laundering serves to rid the currency of the criminal enterprise of its illegal taint and, once funds are laundered, allows for the proceeds to be used by the enterprise for its various activities, both lawful and unlawful.

Although the concept of money laundering is rather straightforward, the methods employed by criminals are varied and reflect the ingenuity of the criminal mind in attempting to thwart law enforcement. However, a number of preferred methods or schemes of money laundering have been identified and reflect the most common methods in which criminals transport and disguise their profits.

1. Currency Smuggling - Perhaps the most rudimentary method of money laundering, currency smuggling is the act of transporting large sums of proceeds generated through the criminal activity from within the United States to countries abroad. Currency smuggling allows criminals to obtain immediate access to their funds without the need to utilize a financial or other commercial institution, and avoids generating a paper trail so that once the transportation is complete, the sources of the proceeds are virtually undetectable. Often, the only

---

[1] *Responding to Money Laundering: International Perspectives* (Harwood Academic Publishers 1997, E. Savona, editor).

cost to the criminal enterprise in currency smuggling is the fee paid to the courier who physically transports the proceeds, which is usually calculated as a percentage of the funds transported. Depending on the arrangement between the enterprise and the courier, fees usually calculated as a percentage of the amount of funds smuggled are paid, making for a profitable venture for both the courier and enterprise.[2] The prime danger to the criminal enterprise in this type of laundering is the difficulty in concealing large sums of currency, which can be bulky, from customs inspectors at the borders or from law enforcement officers while in transit. If found, the currency is normally seized and the criminal enterprise loses its shipment.

Although the act of currency smuggling is straightforward, the methods employed are varied and creative. Criminal enterprises employ couriers who conceal currency in a number of ways, including within hidden compartments in suitcases or vehicles, and in parcels being transported. Couriers may also conceal illegal proceeds within merchandise or goods that are being shipped as export from the United States, making detection difficult. Given the size of our national border, at times couriers simply travel to an adjoining country (such as Mexico) carrying the proceeds in a satchel for immediate transfer to the waiting members of the enterprise. Couriers may also use private vessels or aircraft to transport

---

[2] See, generally, V. Tanzi, *Money Laundering and the International Financial System*, (May, 1996-- International Monetary Fund Working Paper) at p. 4.

bulk proceeds to the foreign destination. In short, although currency smuggling is a comparatively crude method utilized to move illegal proceeds from the United States, it is common because of the ease with which it can be accomplished and due to the virtually untraceable nature of the proceeds if the smuggling is successful.[3]

2. Structuring of Cash Transactions - In response to the explosion of money laundering activity, Congress passed a series of laws designed to prevent criminals from using banks and other commercial establishments in moving their ill-gotten proceeds from this country, including laws requiring certain financial institutions to report any currency transactions in amounts of $10,000 or more.[4] This law thwarts money laundering activity by virtue of the requirement that the financial institutions handling the transactions are required to report all such transactions to the United States Department of the Treasury, which can share the information with law enforcement. Criminal enterprises, desirous of secrecy, would thus avoid the ease of using these institutions as unwitting facilitators of their criminal activity.

In response to the regulatory scheme imposed, money launderers who used financial institutions began to divide their cash horde into amounts less than the reporting requirement in an effort to avoid the reporting requirement and the

---

[3] See, generally, *Responding to Money Laundering* at 24.

[4] See, e.g., 31 *U.S.C.* §§ 5313 et seq.; 31 *C.F.R.* §§ 103.11 et seq.

associated disclosure of their activity. In addition, criminal enterprises began using individuals who would take a small portion of the cash horde to several different financial institutions and either deposit the money in a pre-existing account or exchange the cash for a monetary instrument such as a cashier's check. "Smurfing," as this practice is called, thus allows for the enterprise to avoid disclosure by breaking down the proceeds into small, discrete transactions, making law enforcement's job that much more difficult. The drawbacks to smurfing are the time-consuming nature of the activity, the need to employ a number of individuals, the necessity of maintaining accounts at several institutions, and the necessity of repeated contacts with commercial or financial institutions. However, recruits to smurf proceeds are readily available, and considering the scope of economic activity in this state and this country, detecting smurfs who use legitimate commercial institutions remains a difficult task for law enforcement. Moreover, New Jersey is particularly susceptible to smurfing activity by virtue of the presence of our gambling industry. At casinos, smurfs often purchase a significant quantity of chips, engage in a minimum amount of gambling, and then exchange the chips for "clean" cash or a monetary instrument from the casino.

3. Asset Purchases for Re-sale - Another common method of laundering proceeds of criminal activity employed by more sophisticated criminal enterprises

is the purchase of tangible assets.[5] Through this method, a criminal enterprise can convert proceeds to large scale items such as homes or vehicles (although reporting requirements apply for cash transactions), or the proceeds can be converted by purchasing items for purported re-sale abroad. For example, a criminal enterprise can establish a business, such as a computer hardware business, and then purchase a large amount of inventory with the cash proceeds of the illegal activity. Although the purchase of the goods would likely generate a currency report, the front business is less likely to arouse the suspicion of law enforcement, and gives the outward appearance of legitimate commercial activity. Thereafter, the goods are legally shipped and then quickly re-sold in the host country, often at below market rates in order to obtain the proceeds immediately. The fact that the "business" is losing money is simply factored into the criminal enterprise as the cost of laundering the funds for subsequent use by the enterprise.[6]

4. Asset Purchases for Goods - Another common and highly visible method in which money launderers convert their illegal proceeds is through the purchase of luxury items for themselves or others associated with them so that they can enjoy a lavish lifestyle. These purchases, such as expensive jewelry, furs,

---

[5] See, generally, *Responding to Money Laundering* at 24.

[6] See generally, V. Tanzi, *Money Laundering and the International Financial System*, (May, 1996-- International Monetary Fund Working Paper) at p. 6.

clothing, vacations, and other costly items allow members of the enterprise to enjoy the fruits of their activity in a very public way. Although the assets themselves are used and enjoyed by the enterprise and its associates directly, these too can easily be converted back to cash should the enterprise require access to funds.

5. Conversion through Casinos - Casinos and gambling are one of the more significant economic activities for the state of New Jersey. The presence of casinos, however, makes New jersey particularly susceptible to money laundering, for the industry presents a convenient locale to exchange large sums of money without drawing undue attention to the person exchanging funds, and can allow criminals to convert proceeds undetected. Once funds are exchanged at the casino, the currency loses its illegal taint and is identified as gambling proceeds, giving the criminals the opportunity to use their ill-gotten gains with the appearance of legitimacy. The casino floor presents a target of opportunity for the criminal enterprise in need of a means to convert their funds from illegal to apparently legitimate income.

6. Other Methods - In addition to the methods outlined above, money launderers also use wire transfer agencies and other money remitters in order to launder their proceeds. Although these types of transactions leave a paper trail, it is often times easy to provide false identifying information to the businessperson operating the remitting agency, which leaves law enforcement with few investigative avenues to pursue. Criminal Enterprises also use securities brokers

and dealers and other businesses that engage in trading of securities to help launder their cash transactions. In short, virtually any business or institution, from banks to import-export houses, presents itself as a means through which a criminal enterprise can convert its ill-gotten proceeds into untainted and useable funds.

II. THE NEW JERSEY STATUTE AND LAW ENFORCEMENT RESPONSE

In 1994, Governor Whitman signed P.L. 1994, c. 121, which codified the crime of financial facilitation of criminal activity. See Exhibit B. Commonly referred to as the "Money Laundering Act," this law was designed to address the growing concern about criminals who profit from their illegal enterprises and who then use their proceeds in the operation of otherwise legitimate businesses or to enjoy a lavish lifestyle from the fruits of their ill-gotten gains. In enacting the law, the Governor and Legislature recognized the need to establish criminal as well as civil remedies so as to "deter individuals and business entities from assisting in the 'legitimizing' of proceeds of illegal activity. . . ." N.J.S.A. 2C:21-23e. In the Legislative findings and declarations associated with the law, the Legislature observed that those who profit financially from criminal schemes "continue to pose a serious and pervasive threat to the health, safety and welfare of the citizens of this State. . . . ." N.J.S.A. 2C:21-23d.

A. The Statute

The statute itself is fairly broad, and is modeled on the federal law, with some important distinctions. Section 2C:21-25 of the New Jersey Code provides, in pertinent part,

> [a] person is guilty of a crime if the person:
> a. transports or possesses property known to be derived from criminal activity; or
> b. engages in a transaction involving property known to be derived from criminal activity
> (1) with the intent to facilitate or promote the criminal activity; or
> (2) knowing that the transaction is designed in whole or in part

> (a) to conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity; or
> (b) to avoid a transaction reporting requirement under the laws of this State or any other state or of the United States . . . .

The statute further provides that "[f]or purposes of this act, property is known to be derived from criminal activity if the person knows that the property involved represents proceeds from some form, though not necessarily which form, of criminal activity. . . ." N.J.S.A. 2C:21-25d. This provision allows for a conviction in circumstances in which the State cannot prove exactly what type of criminal activity generated the proceeds that were the object of the laundering activity.

In addition, the statute expressly allows for knowledge of criminal activity to be inferred in circumstances in which "the property is transported or possessed in a fashion inconsistent with the ordinary or usual means of transportation or possession of such property and where the property is discovered in the absence of any documentation or other indicia of legitimate origin or right to such property. . . ." N.J.S.A. 2C:21-26.

Currently, a money laundering offense involving $75,000 or more in the aggregate is classified as a second degree offense, with a possible sentence of 5-10 years imprisonment and a $150,000 fine. For amounts less than $75,000, it is classified as a third degree offense, with a possible sentence of 3-5 years imprisonment and a $15,000 fine, with a presumption of non-incarceration for a first-time offender. The legislature also included a provision in the statute that precludes the merger of a conviction for a money laundering offense with a

conviction constituting the criminal activity involved or from which the illegal proceeds were generated. Id.

B. The Money Laundering Review Committee

In recognition of the powerful new law available to the State's law enforcement community, Attorney General Verniero in 1996 promulgated Guidelines regarding the prosecution of money laundering cases. These Guidelines were intended to provide a framework in which the law enforcement community could coordinate money laundering prosecutions and would ensure uniformity in the application of this new law.

Since the inception of the Money Laundering Act, and as part of the Guidelines, the Division of Criminal Justice was charged with the responsibility of coordinating money laundering prosecutions with the county prosecutors. As part of those Guidelines and in an effort to ensure that prosecutions were consistent with the purposes of the new law and that there was no statewide disparity in the various counties, the Guidelines called for the establishment of a Money Laundering Review Committee. See Exhibit C.

The Money Laundering Review Committee comprises senior attorneys from the Division of Criminal Justice. The Review Committee is "responsible for pre-charge consultation, tracking prosecutions and serving as a source of information and advice to the county prosecutors and their assistants. . . ." Id. In addition, the Guidelines called for county prosecutors to engage in pre-charge consultation with the Division of Criminal Justice prior to filing a charge alleging a violation of

the money laundering statute, and required the Division to maintain a tracking system of all cases that were filed under the money laundering act. Finally, the Review Committee and the Division are responsible for maintaining a database of dispositions for all cases charging a money laundering offense, and is also to be available to prosecutors to provide advice and assistance in handling money laundering cases.

Since its inception in October 1996, approximately 21 cases have been submitted to the Money Laundering Review Committee for review, analysis, and assistance. A quick comparison between the number of complaints and indictments filed charging money laundering and the number of matters reviewed by the Committee reveals that not every prosecution that charges a money laundering offense is being considered by the Committee as is required by the Guidelines. The reasons for this are unclear, but may be attributable to a somewhat time consuming and exhaustive preparation and review process that may inadvertently deter prosecutors from submitting matters for review.

In discussions with prosecutors and with members of the Review Committee, it is apparent that the process established in 1996 must be streamlined to allow for a more timely and efficient review of cases. In this regard, the Money Laundering Review Committee must reconsider the thresholds that it established to allow for money laundering cases to proceed, and must also consider ways in which coordination and communication with the county prosecutors can be improved so as to allow for more cases to be developed and to

encourage law enforcement officers to pursue investigative leads which may result in a money laundering charge. The Money Laundering Review Committee must also ensure that consistency and uniformity are maintained in money laundering prosecutions statewide.

It remains apparent that the investigation and prosecution of money laundering is a critical component of New Jersey's comprehensive crime and drug enforcement strategy. Criminals continue to engage in illegal activity and are reaping huge profits from their illicit trade. Much of this conduct revolves around the illegal drug trade and the staggering profits to be made by individuals who are dealing narcotics and peddling misery. Money continues to flow from the streets and communities in New Jersey to the drug lords in Colombia and Central and South America, and the cycle of despair continues.

C. The Law Enforcement Response

Recognizing the scope of the illegal money laundering activity in New Jersey, the law enforcement community has responded in a number of significant ways. The law enforcement response includes civil sanctions, which allows prosecutors to seize and forfeit illegal proceeds generated or assets used by an enterprise in their criminal activity, and criminal punishment. It is important to bear in mind that a significant part of the law enforcement response to money laundering is the prosecution of drug dealers at all levels, including street level prosecutions. Although in most cases, these "routine" prosecutions do not include a money laundering charge, the disruption of a drug distribution network through arrest

of its members serves to curtail the flow of illegal proceeds. Moreover, such drug prosecutions also impose significant costs on an organization, requiring the purchase of more contraband for subsequent sale, training of new members, and the attendant costs associated with attempting to keep an organization's activities clandestine. Although such drug prosecutions, most all of which are handled by the county prosecutors, are not ordinarily considered part of the money laundering equation, they are in reality an important aspect of the law enforcement response and represent a vital part of the effort to combat money laundering. The local law enforcement community engages the criminal element at this level, while at the same time taking responsibility for the front-line response to violent crimes and the criminal activity that confronts our communities on a daily basis.

Indeed, the level of criminal activity that must be addressed by local law enforcement can best be understood when the number of cases that are filed each year by the county prosecutors is considered. In 1997 alone, approximately 45,000 defendants were charged by county prosecutors, who are responsible for handling these cases. Of that number, approximately 17,000 individuals were charged with offenses related to narcotics activity. The raw data serve as a reminder that the prosecutors' offices are the agencies primarily responsible for enforcing the laws of this state and for pursuing cases against defendants for all types of criminal conduct. Their efforts in the quest against money laundering are

only one facet of the demands that are placed on prosecutors' offices on a daily basis.

In addition to the overall drug prosecutions by county prosecutors, the State Police has developed substantial expertise and experience in identifying smugglers who are using the interstate highways to transport currency as part of smuggling activity. The State Police has also been successful with interdiction efforts, and have produced a number of significant seizures from highway stops. In conjunction with the Statewide Narcotics Task Force[7], the State Police has seized over $5,800,000 which represented proceeds from illegal activity. In one such seizure, a suspect was found removing a duffle bag from his car and, when the bag was examined, was found to contain approximately $500,000. A search of this suspect's home revealed an additional $322,000 concealed within the house.

The continued efforts to identify couriers who are transporting illegal proceeds through New Jersey can be effective in deterring enterprises from using our roadways, although the sheer volume of activity and congestion in our state will prevent law enforcement from effectively thwarting the criminal element merely by interdiction of their couriers.

---

[7] The Statewide Narcotics Task Force was formed in 1987, and comprises members of the State Police, Division of Criminal Justice, members of the New Jersey National Guard and investigators from various county task forces that are assigned to the Statewide Narcotics Task Force. The mission of the Statewide Narcotics Task Force is, among other things, the identification, investigation, and prosecution of drug trafficking networks, pharmaceutical drug diversions, and narcotics related money laundering cases.

Another successful response can be seen in the efforts of the "Calico" Task Force, which is part of the Statewide Narcotics Task Force and is led by the State Police along with state and local law investigators who investigate and target Colombian cartels involved in drug distribution and money laundering activity. The Calico Task Force, established in 1990, has been actively involved in identifying and investigating large scale money laundering and drug distribution networks in the northern New Jersey area, and has been successful in seizing substantial amounts of drugs and currency. To date, Task Force members have seized more than 1,600 kilograms of cocaine and more than $19 million in proceeds of criminal activity. The Calico Task Force remains an effective weapon against criminal enterprises, and continues to perform its mission successfully.

In addition, the State Police and state and local law enforcement officers have combined their efforts in a new effort entitled the "Hotel/Motel Task Force," which is a coordinated effort designed to identify couriers who use hotels in the northern New Jersey area to receive and exchange drugs and currency. The Hotel/Motel Task Force has been successful at interdicting several individuals involved in money laundering and narcotics distribution, and their investigations to date have resulted in the seizure of approximately 160 kilograms of cocaine and over $2 million.

In addressing the unique concerns associated with the use of casinos for money laundering, a joint state-federal task force was recently formed entitled the Atlantic City Casino Task Force. This Task Force comprises agents from various

federal agencies, and members of the State Police, Division of Gaming Enforcement, Division of Criminal Justice and the Atlantic County Prosecutor's Office, and is designed to target those individuals who engage in money laundering through the casinos. Although a new effort, the Task Force has already successfully prosecuted several individuals, and it is anticipated that significant inroads will be made in detecting and prosecuting those who attempt to convert their ill-gotten proceeds through the legitimate gaming industry.

As can be seen, the state and local response to money laundering has been significant, and has been effective at identifying and prosecuting a number of individuals and organizations for their involvement in the money laundering trade. The response to money laundering must be considered as part of a statewide comprehensive response to criminal activity, in which local law enforcement is responsible for overall narcotics enforcement at the street level, and is also responsible for violent crimes and a host of other criminal behaviors. However, as is demonstrated in the following section, the scope of the problem continues to grow, and law enforcement must be prepared to respond.

III. SUMMARY OF CASES - 1994 THROUGH 1998

With the passage of the money laundering act in 1994, county prosecutors and deputy attorneys general from the Division of Criminal Justice were provided with a powerful new weapon to prosecute individuals who were involved in moving proceeds of criminal activity into the hands of the criminals. In 1994, the same year that the law became effective, 2 complaints and 1 indictment were filed charging money laundering. Over the course of the next four years, over 280 separate defendants were charged with a money laundering offense in a complaint. The yearly breakdown of the total number of complaints filed charging a violation of N.J.S.A. 2C:21-25 recorded for the corresponding calendar year is as follows:

1994- 2 complaints
1995- 83 complaints
1996- 74 complaints
1997- 79 complaints
1998- 48 complaints

Total- 286

See Exhibit D. For these same years, approximately 131 indictments were filed charging a violation of N.J.S.A. 2C:21-25. The following represents the number of indictments filed charging a violation of the money laundering act for the corresponding calendar year:

1994- 1 indictment
1995- 32 indictments
1996- 36 indictments

1997- 47 indictments
1998- 15 indictments

Total- 131

As is reflected in the number of cases filed charging a violation of the money laundering statute, prosecutors are using the current law on a regular basis, and appear to be proceeding with understandable caution when making charging decisions relating to money laundering. Given that the statute is relatively new, having been enacted in 1994, these numbers indicate a good-faith effort by prosecutors in bringing money laundering cases. But the extent of possible money laundering activity can perhaps be understood when the total number of cases charging a defendant with a first degree drug distribution offense or with being the leader of a narcotics trafficking network is compared to the total number of money laundering cases.[8]

For example, from 1994 to 1997, in approximately 2,777 cases, a defendant was charged with being the leader of a narcotics trafficking network or with a first degree drug distribution offense. See Exhibit E. Clearly, these crimes are

---

[8] By identifying the number of first degree drug distribution and leader of a narcotics trafficking network cases charged, a meaningful comparison can be made. As is obvious by the nature of those crimes, persons who engage in such large scale distribution activity are motivated by a desire for profits, and have likely been engaged in distribution activity for a substantial period of time. In such cases, there would appear to be opportunities to develop money laundering cases, as the criminals who profit from the distribution activity undoubtedly attempt to avoid detection of their cash profits from law enforcement and must necessarily dispose of the profits from such prolific drug distribution activities.

motivated by the promise of substantial financial reward, which is seen as overcoming the risk of being arrested, prosecuted, and imprisoned, or of being killed by other competitors. What is required is an exhaustive review and comprehensive proposals to combat a problem of this scale. These proposals follow.

IV. PROPOSALS

Considering the tremendous financial incentive to engage in money laundering activity, even the stringent laws in place do not provide a complete deterrent to the criminals who are willing to risk imprisonment for the rewards reaped by engaging in money laundering activity. In light of this incentive, it is apparent that law enforcement must continue to direct its resources and efforts at reducing the pernicious impact that money launderers have on our communities. More can also be done by coordinating efforts between state, federal, and local governmental entities and law enforcement agencies. The Legislature can also play a vital role in this effort by amending the money laundering act to provide for the imposition of stern penalties and sanctions that deter these offenses and cancel the profit motive.

The following proposals from the Money Laundering Working Group represent a unified, carefully designed approach to increasing the effectiveness of law enforcement's investigation and prosecution of money launderers. The proposals, both individually and collectively, can significantly improve our efforts at removing money launderers from our midst.

A. Establish a State Financial Investigations Unit in the Division of Criminal Justice

As was recommended in the "Financial Crimes 2000" Report prepared by the National Association of Attorneys General[9], a necessary component should be the designation within the Division of Criminal Justice of a Financial Investigations Unit. A Financial Investigations Unit, which may be established by Attorney General directive without the need for new legislation, will serve as a statewide resource, and will provide guidance, information, and assistance to investigators and prosecutors who are involved in the prosecution of money launderers. The Financial Investigations Unit would also be charged with maintaining information regarding trends in money laundering, and providing periodic updates to the county prosecutors so that the law enforcement community could keep pace with increasingly sophisticated criminal organizations.

The Division of Criminal Justice will also assist in the training of personnel at the county and state level on money laundering investigations, and will also be

---

[9] In June 1998, the National Association of Attorneys General published "Financial Crimes 2000: A Report to the State Attorneys General on State Strategies for Combating Money Laundering." The NAAG Report identified trends in money laundering, summarized the methods and technologies available to the state to pursue money laundering investigations, and recommended a number of proposals for states to follow in developing anti-money laundering strategies. These recommendations included suggesting that states establish Financial Intelligence Units, that coordination with state agencies be improved, that technology be used to allow for law enforcement to track money launderers, and encouraged legislative initiatives to address money laundering.

responsible for coordinating investigations and activities with the counties. The Division will also ensure that the 21 prosecutors offices have adequate access to the information available to the Financial Investigations Unit.

The Financial Investigations Unit should also have in place a sufficient number of experienced state investigators who are specially trained in money laundering cases. The Financial Investigations Unit would be responsible for investigating and prosecuting money laundering cases, and would also serve as a referral point for the State Police and county and local law enforcement which request assistance in an investigation into possible money laundering activity. The Financial Investigations Unit could provide support to a county investigation, or could assume the investigation if requested to do so by the county prosecutor.

In addition, the Financial Investigations Unit would provide for access to databases currently available to assist investigators and prosecutors in an investigation, and would also maintain an independent money laundering database identifying individuals, organizations, methods of operations, and other distinguishing aspects of money laundering enterprises so that a body of material could be maintained on those involved in the criminal trade of money laundering. The Financial Investigations Unit would also be responsible for disseminating information to the law enforcement community on known and suspected money launderers and attempt to identify their whereabouts and patterns of operation, so that law enforcement could be ever vigilant when confronting these groups of criminals. The Financial Investigations Unit would also instruct law enforcement

personnel on the various types of transaction reporting requirements that currently exist in our country and would help improve law enforcement's access to this information. Training, coordinated with federal and state agencies will also allow for the development of particularized expertise and will help cultivate inter-agency relationships and cooperation.

B. Encourage Counties to Train Financial Crimes Investigators

One of the most effective ways to combat money laundering is for law enforcement entities to have available in their own office individuals with particularized expertise in the area of money laundering. In training and recruiting investigators and prosecutors with specialized skill in investigating and prosecuting money laundering offenses, the county prosecutors will have a readily available resource in their respective offices to assist with these cases, and may have investigators assigned who can serve as a liaison with state and federal agencies. Moreover, by training investigators to operate as financial crimes investigators or as liaisons, investigators will be available to assist with on-going investigations initiated by local law enforcement. As investigators develop experience in this field, the practices and patterns of the money laundering enterprises will become more apparent, and the specially-trained investigators may be able to pursue suspects aggressively upon learning of suspected money laundering activity, and will be able to coordinate activity with the Division of Criminal Justice's Financial Investigations Unit. In addition, local investigators can cultivate sources, and can use their expertise to gain the assistance of the

community at large.

C. Improve Access and Review of Suspicious Activity Reports

Under the current regulatory framework, the federal government requires that all banks file with the government a "Suspicious Activity Report" in circumstances where the financial institution handling a transaction determines any one of the following have occurred: 1) the transaction involved insider abuse; 2) the transaction or series of transactions involved $5,000 or more and the financial institution detects any known or suspected federal criminal violation and a suspect can be identified; 3) the transaction or transactions involves $25,000 or more regardless of whether a suspect can be identified; or 4) the transaction or transactions involve $5,000 or more that may involve potential money laundering violations. See Exhibit F.

Many of the suspicious activity reports, especially those in which the bank has reason to suspect a potential money laundering violation, may lead to significant information or suspects involved in moving illegal proceeds. The federal regulations governing suspicious activity reports require that the financial institution submit the suspicious activity report to the U.S. Department of Treasury's Financial Crimes Enforcement Network ("FinCEN"), and also requires that the institutions keep supporting documentation relating to a suspicious activity report for a period of 5 years from the date of the report. Notably, the financial institutions are required to provide copies of suspicious activity reports and supporting documents to law enforcement authorities if requested to do so,

see 31 *C.F.R.* § 103.21, and are encouraged to voluntarily provide them.

In 1997, the total amount of money reported to FinCEN on suspicious activity reports filed by New Jersey financial institutions was approximately $652 million. See Exhibit G. Although all of this currency is not necessarily illegal proceeds, it is apparent that the financial institutions are being utilized by criminal enterprises to move substantial amounts of currency from New Jersey to other locations. In order to staunch the flow of illegal proceeds from New Jersey, it is necessary for law enforcement to scrutinize the information provided on the suspicious activity reports to determine if any particular transaction or series of transactions is involved in a possible money laundering offense.

In light of the huge volume of currency reported on the suspicious activity reports and considering the large number of reports filed, the Division's Financial Investigations Unit will utilize data analysts who will be able to access the information and will be able to assist the county prosecutors with compiling the reports and retrieving them for ongoing investigations. Such a responsibility should be centrally-located with the Division, so that there need not be unnecessary duplication of efforts at the county level. Under such a system, the county investigators will be able to gain access and assistance from the Financial Investigations Unit, and will also routinely review the suspicious activity reports and refer any significant activity to the county investigators.

D. Improve Access to Federal Information

The U.S. Department of Treasury has established a Financial Crimes Enforcement Network, identified as "FinCEN," an agency whose mission is "to support and strengthen domestic and international anti-money laundering efforts and to foster interagency and global cooperation to that end through information collection, analysis and sharing, technological assistance, and innovative and cost-effective implementation of Treasury authorities. . . ." See Exhibit H. In order to accomplish its mission, FinCEN uses the Bank Secrecy Act and other federal regulations to obtain access to financial records and reports that are required to be filed with the Internal Revenue Service, such as currency transaction reports. FinCEN also provides access to commercial databases and to law enforcement databases that contain information regarding ongoing or closed investigations. See Exhibit I.

As part of the mission of FinCEN, state and local law enforcement agencies are provided direct access to their databases through the FinCEN Gateway. Currently, New Jersey has 4 state investigators trained and authorized to access the Gateway database to provide support to investigations from the State Police, county prosecutors and the Division. In 1997, approximately 34 requests were made for Gateway database searches by state and local law enforcement. In 1998, the total number of Gateway database search requests was 40. As is apparent from the number of queries performed, this valuable resource can be utilized by more investigations, and can be used to help develop leads and evidence regarding

the patterns of conduct of money launderers in a wide variety of investigations.

In order to increase access and to allow for investigators to obtain the information from FinCEN on a more expedient basis, it will be essential to obtain authorization for and train more investigators and analysts in the proper use of the FinCEN Gateway database. It will also be necessary to continue to educate all state and county investigators on the type of information available through the Gateway database and the extent of support that this service can provide to investigations. This increased access will allow investigators to obtain information immediately, and will support active investigations with speed and accuracy. It is anticipated that with increased access, searching through the Gateway will become a common investigative technique, and will help increase our efforts at reducing the amount of money that is passed through the state.

E. Prepare and Disseminate an Assets Seizure Checklist

Although money laundering is often times a complex and sophisticated endeavor characterized by secrecy and sophisticated efforts to conceal the true nature of the activity, a significant number of cases are developed through the arrest of couriers and drug smugglers who are moving substantial sums of currency or narcotics through New Jersey. However, in light of the pressing demands placed upon an officer making a stop and seizure, at times there is not sufficient detailed questioning of suspects to elicit information that could be helpful in identifying the source of the illegal proceeds or the identities of the associates of an enterprise. Moreover, there are circumstances in which the facts

of the stop and seizure do not give rise immediately to sufficient probable cause to justify arresting the suspects, and they are released with no further investigative action taken at that time.

In order to assist law enforcement officers at the time of arrest, the Working Group prepared a list of suggested questions which, if posed to suspects, will be helpful to law enforcement in conducting subsequent investigation to identify the source and associates of the activity. For example, the proposed model questions suggest inquiring of suspects who are found to be in possession of substantial sums of currency questions regarding the source of the currency, ownership, destination, knowledge of account information, and other detailed questions regarding a seized cash horde. When answers are provided, law enforcement officers can later attempt to confirm this information to determine its accuracy and to develop evidence regarding the nature or source of the funds seized. Moreover, in conjunction with county financial investigators, the cases can then be examined to determine whether or not the smugglers are connected to a known organization or enterprise, and efforts can then be made to develop evidence regarding the criminal activity. This process will also allow for better coordination and cooperation between law enforcement agencies, who can share investigative leads and information developed as a result of detailed questioning. The role of cooperation can also be established at this time, with the possibility of infiltration of an enterprise by a cooperating individual.

In addition to a questionnaire, the passage of an illegal smuggling conveyance law should be added to the criminal code. Such an offense would prohibit the modification of a vehicle, or knowingly driving a vehicle that has been modified, to contain a hidden compartment or a compartment opened with controls intended by the vehicle manufacturer to operate other devices, when the purpose is to use the compartment to facilitate the transportation of a controlled dangerous substance or other contraband. This proposal was suggested in the December, 1996 "Report to the Governor by the Attorney General on the Need to Update the Comprehensive Drug Reform Act of 1987," and merits immediate consideration by the Legislature. See Exhibit J.

F. Legislative Initiatives to Enhance The Money Laundering Act

As discussed above, the current statutory scheme provides prosecutors with powerful weapons in the fight against money launderers. However, in order to enhance enforcement against individuals who engage in money laundering, a number of statutory changes can be made to improve law enforcement's efforts. These legislative recommendations include:

1. Amend Money Laundering Statute - First Degree Offense - Currently, money laundering is classified as a second degree offense if the amount of funds involved in the criminal activity was $75,000 or more. Although seizures of substantially more than this threshold amount are common, there is no increase in the degree of offense to reflect a higher amount laundered. On June 11, 1998, a bill was introduced in the legislature calling for a 1st degree offense of money

laundering if the amount involved was $500,000 or more. This bill is an appropriate upgrade to the crime of money laundering, and should be supported with the amendments to the bill suggested by the Division of Criminal Justice. An increased penalty would send the clear message that money launderers will find no quarter in this state to obtain easy access to their ill-gotten gains. See Exhibit K.

2. Require Consecutive Sentences for Money Laundering Convictions - One of the concerns reported by prosecutors in pursuing money laundering cases is the lack of an effective sentencing scheme that takes into consideration money laundering as a separate offense. Often times, prosecutors found that judges would impose sentences on convicted money launderers that were ordered to be served concurrently with sentences for the underlying offense. Although the money laundering statute prevents merger of offenses, the courts are free to impose concurrent sentences. The effect can be that money launderers do not receive an incremental increase in a sentence for a money laundering conviction that is handed down with a conviction for a related or underlying offense, giving prosecutors little incentive to pursue a money laundering charge.

In order to increase the sanction on money launderers, the Working Group has proposed that the money laundering statute be modified to include a mandatory consecutive sentence provision similar to that recently passed by the Legislature in N.J.S.A. 2C:39-4.1, colloquially referred to as the "guns and drugs" law. Such a provision would require that any money laundering sentence be

served consecutive to a sentence for the underlying criminal activity, thereby giving prosecutors the assurance that a conviction will result in a substantial sentence in addition to the term of imprisonment imposed for the underlying offense. See Exhibit L.

3. Support Legislative Proposals for Reporting Requirements on Check Cashing Agencies - In addition to using traditional financial institutions to move currency from within New Jersey to places outside, money launderers also utilize the services of check cashing agencies and money remitters. Although these businesses are currently regulated, there is no additional reporting requirement imposed upon them beyond the requirement of the filing of a currency transaction report for cash transactions of $10,000 or more.[10] However, evidence suggests that money remitters are a significant source of money laundering activity on behalf of cocaine traffickers. Nationwide, money remitters "are suspected of being used to launder as much as $800 million in profits from the Cali and Medellin drug cartels."[11] The United States Treasury Department has imposed a Geographic Targeting Order (GTO) on money remitters in New York and five

---

[10] See *1996-1997 Report on Money Laundering Typologie, Financial Action Task Force on Money Laundering*, (FATF); see also N.J.S.A. 17:15-1 et seq.; N.J.S.A. 17:15A-44 (enumerating the reporting requirements of a check cashing licensee).

[11] 7 NO. 6 Money Laundering L. Rep. 5. Th 7 NO. 8 Money Laundering L. Rep. 1.

counties in New Jersey, requiring them to report all transfers over $750.[12] The effect on some businesses targeted by the GTO was a decrease in business by as much as 75%. Obviously, the GTO hit its mark.

New Jersey has a large number of money remitters operating in the Northern part of the state, many of which are associated with the New York remitters and are being used, either wittingly or unwittingly, to launder large sums of money. It is essential that these money remitters be licensed and closely regulated in a manner similar to banks. Moreover, a strict currency transaction reporting (CTR) requirement should be considered, along with a regulation capping the size of a check that can be handled by check cashing businesses at $2,500. As these proposals are being further reviewed, representatives from the industry and affected constituencies should be consulted to provide additional information as to the practical effect of any new legislation.

There is currently proposed legislation that would require check cashing agencies to file certain currency transaction reports when the value of the checks cashed exceeds a threshold amount. This bill, if amended, would provide significant support to law enforcement in its efforts to combat the use of money remitters to wash their illegal proceeds. In addition, legislation has been proposed that would limit the size of checks that could legally be handled by the state's

---

[12] 7 NO. 6 Money Laundering L. Rep. 5.; 7 NO. 8 Money Laundering L. Rep. 1.; *1997-1998 Report on Money Laundering Typologie, Financial Action Task Force on Money Laundering*, (FATF) at 49.

check-cashing businesses. The proposal currently under consideration caps the be cashed at $2,500. These measures may be necessary to ensure that large sums of ill-gotten gains are not quickly moved through check cashing businesses. See Exhibit M.

4. Support Expansion of the Wiretap Act to Include Money Laundering- The New Jersey Wiretap Act permits law enforcement to seek a court order allowing the interception of oral or electronic communications of a suspect upon a showing, among other things, of probable cause to believe that the person whose communications are to be intercepted is or was engaged in specified criminal activity or is committing certain offenses. See N.J.S.A. 2A:156A-10. These specified offenses allowing the installation of a wiretap include murder, kidnaping, and a number of other offenses. See N.J.S.A. 2A:156A-8. Money laundering is not included as an offense that would permit a wiretap to issue. See id.

In order to facilitate law enforcement's efforts in detecting money laundering activity and to assist in gathering evidence of such activity, the Wiretap Act should be amended to include money laundering as a specific offense that, if probable cause exists, would authorize a court to issue an order allowing for the interception of wire communications. See Exhibit N. By allowing wiretaps in such investigations, law enforcement will be able to gather critical evidence relating to the scope of an enterprise, including identity of its members, the extent of its activities, the roles of individuals employed by the enterprise, and the means and methods utilized to move criminal proceeds. Such an amendment would allow law

enforcement to utilize all available means to infiltrate a criminal enterprise and would assist in gathering evidence against all individuals involved in a money laundering organization.

5. Propose an Anti-Money Laundering Profiteering Act - In addition to the legislative proposals identified in this Report, an initiative to create an anti-money laundering profiteering act should also be considered. Modeled after the current Anti-Drug Profiteering Act, an anti-money laundering profiteering act would have the same benefits of the anti-drug provisions by allowing for a lien against all assets of the wrongdoer. This would provide an effective means whereby courts could order the disgorgement of proceeds obtained through the criminal enterprise. See Exhibit O. Notably, funds recovered through an anti-money laundering profiteering act or through forfeiture could be re-directed back to the law enforcement agencies to support the costs associated with hiring and training state investigators in specialized areas such as forensic accounting necessary to support these types of investigations.

6. Propose Legislation to Curtail Use of Casinos by Money Launderers - As noted earlier, New Jersey is particularly susceptible to money laundering by virtue of the gambling industry in Atlantic City. In order to deter the unwitting use of casinos by criminal enterprises, a number of statutory and regulatory initiatives should be considered.

a. Cash for Cash Transactions - One of the methods employed by money launderers is a cash-for-cash transaction at a casino designed

to launder proceeds to make them appear to be gambling winnings. In such circumstances, a patron purchases chips with proceeds from illegal activity and then cashes out the chips, receiving either cash or a monetary instrument such as a check or wire transfer. This procedure allows for the appearance of gambling activity to mask the true source of the funds. One way to combat this activity is to prohibit cash-for-cash transactions in excess of $3,000. This provision, which is currently used by Nevada gaming officials, requires a casino to segregate cash in excess of $3,000 and identify the owner of the currency. When the owner cashes out any chips, the funds he receives are that portion of his segregated cash that was maintained by the casino. This procedure, which some New Jersey casinos voluntarily practice now, prevents a money launderer from obtaining "clean" funds through the casino. A regulatory scheme requiring this procedure should be considered.

b. Convicted Money Launderers Should be Disqualified From Licensure and Excluded from Casinos - Currently, a person convicted of money laundering is not subject to a mandatory casino license revocation, nor is a non-licensed person subject to mandatory exclusion from casinos. See N.J.S.A. 5:12-71; 5:12-129. See Exhibit P. In other words, a person convicted of money laundering is not automatically barred from wagering in New Jersey's casinos and is not excluded from holding a license in the industry. A legislative initiative should be endorsed that would require exclusion of convicted money launderers and drug dealers from casino floors and that would prevent convicted money

launderers and drug dealers from holding a casino license.

G. Establish Liaison with Banking Community

In conjunction with obtaining suspicious activity reports and documents relating to possible criminal activity, it is important for law enforcement to maintain regular contacts with the banking community in order to keep informed of trends and patterns that are observed by personnel at the financial institutions. Moreover, such regular contact will help the financial institutions to comply with all reporting requirements, in that they will have a resource to provide information and assistance should they so require. Accordingly, the county prosecutors and Division of Criminal Justice should designate investigators to act as liaison to the banking community, and provide regular contact with bank representatives so that both law enforcement and the financial institutions are coordinating their efforts and working together to insure compliance with the laws and to help prevent the spread of money laundering activity.

H. Identification of Emerging Trends and Their Effect on Money Laundering

Money Launderers, like other criminals, attempt to stay ahead of law enforcement's ability to identify and prosecute them by using the latest techniques and technologies available to them to conceal their activity. In order for the law enforcement community to keep pace with the ingenuity of the criminal mind, it will be necessary for all agencies to coordinate their efforts and to communicate with one another as the launderers are pursued. Perhaps the area that most

likely represents the next wave for money launderers is in the context of computers and high-technology. Money laundering, in its many iterations, can be facilitated by high-technology in a number of ways, from the simple use of accounting software on a personal computer, through the manipulation of electronic money and personal identification cards. In order to thwart the increased use of computers and high technology to facilitate money laundering by criminal enterprises, law enforcement must be aware of a number of areas that can hamper the ability to prosecute successfully money launderers.

1. High-Tech replacements for traditional techniques of Money Laundering - Something as simple as the utilization of computerized accounting software can substantially change the nature of money laundering. Paper records, which are often times discovered in the course of a money laundering investigation, are replaced by computer generated spread sheets. This seemingly insignificant change fundamentally alters that type of evidence that will be encountered in the investigation of money laundering cases and facilitates other changes in the manner in which money laundering is perpetrated. When computers are linked through networks, such as the Internet, data can be instantaneously exchanged between and among members of the money laundering enterprise and with the criminal networks that generate the illicit proceeds that are laundered. Networked systems can also make detection and retrieval of evidence more difficult, as a local associate of an enterprise can remotely access records and data that can be stored on a computer outside of the United States.

Computers and other high-technology also fundamentally alter the manner in which the proceeds are handled. With computerized money transfers and other technological developments, it will become increasingly difficult for law enforcement to rely upon traditional investigative techniques to counter the flow of illegal proceeds. A key initiative to assist law enforcement in the investigation of money laundering is training in the areas of the use of computers and computer networks in the commission of crimes and computer forensics. In addition, it is imperative that law enforcement establish a research and development component to stay abreast of the rapid changes in technology and their impact on criminal investigations.

2. High-Tech Methods for Laundering Illegal Proceeds - Developments in high technology have created a whole new class of electronic financial instruments, collectively referred to as "e-cash." There are essentially three types of e-cash systems that are proceeding on parallel tracks. These are: (1) stored value cards; (2) network based systems; and (3) a hybrid of those two systems.[13] Although these e-cash systems have not yet become commonplace in the United States, their availability highlights a dangerous area in which the money launderers can extend their reach into our market system under cover of legitimate activity and with the unwitting assistance of high technology.

---

[13] 7 NO. 8 Money Laundering L. Rep. 1; see also *Financial Crimes 2000: Report to the State Attorneys General on State Strategies for Combating Money Laundering* (National Association of Attorneys General June, 1998).

Stored value cards, which are becoming common in Europe, involve electronic storage of value on the card itself that can be drawn down at the site of a transaction. The user adds value to the card and then that value is reduced as the card is used for purchases or other financial transactions. "[I]n addition, some of these stored value cards systems - the European Mondex system, for example - are beginning to employ devices to facilitate transfers of value from one card to another, creating a decentralized network of payment without the involvement of the card issuer."[14]

Network-based systems use networks, such as the Internet, as the means of funds transfers. Id. These systems work in a similar manner to traditional payment systems which require an account which is drawn on by a card user at the point of transaction through the use of a network. These transactions are secured through the use of cryptography. The third system is a hybrid of the stored value cards and the network-based systems where the two types of cards are compatible. Id.

The three e-cash systems each share certain characteristics in common. Each, to a greater or lesser extent, would facilitate the movement of large amounts of money without the traditional record keeping done by banks. Each of the systems, depending on how they are designed, could allow the transfer of money with the nature and content of the transaction hidden by the use of cryptography.

---

[14] 7 NO. 8 Money Laundering L. Rep. 1.

They would each virtually eliminate the need to transfer large quantities of cash, which is bulky and hard to move.

The characteristics associated with e-cash pose significant challenges to law enforcement in its efforts to combat money laundering and the underlying criminal activities which it supports. Anti-money laundering efforts by law enforcement have consistently targeted and examined paper-trails through which the money can be traced back to its illegitimate source. Id. Other techniques such as currency transaction reports (CTRs) have sought to have banks and other institutions report certain activities which could trigger follow-up investigation by law enforcement. E-cash systems could eliminate those paper-trails, which would significantly impact law enforcement's effort to investigate and successfully prosecute money laundering. "[C]ertain digital-cash schemes now being developed could make financial transactions untraceable, enabling money launderers and drug dealers to move cash freely over international computer systems while cops wring their hands."[15] The lack of a paper-trail, coupled with the wide spread use of cryptography in the E-cash systems, would make such transactions virtually anonymous and it would be impossible for law enforcement to determine the nature of the transaction or parties to the transaction. In addition, the sheer speed of the transaction will make the transaction harder to detect and track. When encrypted and placed in the electronic stream of commerce, the exchange

---

[15] Legal Times, *The Dark Side of Digital Cash*, Benjamin Wittes (Jan. 30, 1995).

of laundered proceeds will be all but impossible to separate from the thousands of legitimate transactions.[16]

The most effective means to combat the potential abuse of e-cash systems by money launderers is to impose record-keeping requirements on the card issuers in order to make it possible to trace the transactions. With the emergence of new technology and new means to transfer cash from within New Jersey to places abroad, it will be imperative for the law enforcement community to coordinate with federal and state legislators to ensure that record keeping requirements similar to those currently imposed on banks are in place so that investigations into money laundering are not hampered by a lack of necessary enforcement mechanisms. By coordinating with federal and state governmental agencies, it will be possible to keep abreast of the criminal enterprises' varied methods employed to dispose of their illegal cash proceeds.

3. Cryptography - Arguably the greatest threat to the ability of law enforcement to investigate and prosecute crimes in the digital age is encryption. Encryption is the conversion of readable "cleartext" or "plaintext" into an unintelligible text called "ciphertext" utilizing a mathematical formula. Encrypted documents cannot be read without the use of a key that deciphers the ciphertext back to into cleartext. From a law enforcement perspective, if digital evidence is encrypted and the key to its decryption is not produced or found, the evidence is

---

[16] Id.; see also, *1997-1998 Report on Money Laundering Typologie*, Financial Action Task Force on Money Laundering, (FATF), p. 48.

unavailable to law enforcement. Encryption is a powerful tool in the hands of criminals, such as money launderers, and could render the investigation of these crimes all but impossible.

In order to prevent the widespread use of encryption technology to thwart law enforcement, it is essential that federal, state, and local law enforcement agencies coordinate efforts to identify instances in which criminals are using encryption to evade prosecution so that appropriate legislation could be drafted to address a potentially serious problem. Such legislation should increase penalties on those defendants who use encryption technology during the course of committing another offense, and should also consider whether or not a separate substantive offense can be crafted in which a person who knowingly uses encryption during the course of committing a crime is subject to additional penalties.

V. CONCLUSION

The problem of money laundering remains of paramount importance to the citizens of New Jersey, who seek to rid this state of those criminal enterprises that utilize proceeds of criminal activity and undermine legitimate economic activity. To date, law enforcement has directed significant resources at the problem, and is making progress in dismantling criminal networks that operate within our borders. With the dawn of the 21st century, the law enforcement community must be well-positioned to combat the pervasive effect of money laundering. In offering this Report, the Attorney General's Money Laundering Working Group hopes to provide a blueprint that can be followed by state and federal agencies who are dedicated in their effort to combat this scourge of our times. It is a battle, however, that must be fought, on all fronts, by all of society, if we are to prevail against those that seek to undermine the American Dream.

State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 080
TRENTON, NJ 08625-0080
(609) 292-4925

CHRISTINE TODD WHITMAN
Governor

PETER VERNIERO
Attorney General

June 5, 1998

COPY OF LETTER SENT TO MEMBERS OF THE WORKING GROUP

[NAME]
[ADDRESS]

Dear :

You may have read recent news accounts concerning so-called money laundering. Although New Jersey took an important step in 1994 with the enactment of the money-laundering statute, law enforcement still lacks many of the tools necessary to stop money laundering. This is an area ripe for reform.

Governor Whitman has asked for recommendations to improve the current system. For that purpose, I invite your input. Specifically, I would like to review the possibility of strengthening existing laws to make it easier for law enforcement officers to obtain wire taps and search warrants solely as they relate to allegations of money laundering; establishing a system to allow New Jersey agencies to better share and obtain existing federal databases that record large cash transactions by banks and businesses in the state; and capping the size of checks that can be handled by the state's check-cashing businesses.

Paul Zoubek, Director of the Division of Criminal Justice, will be contacting you shortly to obtain your input on these and other proposals. My goal is to present a comprehensive set of recommendations to the Governor and Legislature as expeditiously as possible because this is a most urgent issue in New Jersey and nationally.

Thank you in advance for your assistance and courtesies.

Sincerely,

Peter Verniero
Attorney General

Exhibit A

2C:21-23. Findings, declarations. The Legislature hereby finds and declares to be the public policy of this State, the following:

a. By enactment of the "Criminal Justice Act of 1970," P.L.1970, c.74 (C.52:17B-97 et seq.), the legislature recognized that the existence of organized crime and organized crime type activities present a serious threat to the political, social and economic institutions of this State.

b. By enactment of P.L.1981, c.167 (C.2C:41-1 et seq.), the legislature recognized the need to impose strict civil and criminal sanctions upon those whose activity is inimical to the general health, welfare and prosperity of this State, including, but not limited to, those who drain money from the economy by illegal conduct and then undertake the operation of otherwise legitimate businesses with the proceeds of illegal conduct.

c. By enactment of the "Comprehensive Drug Reform Act of 1986," P.L.1987, c.106 (C.2C:35-1 et seq.), the legislature recognized the need to punish the more culpable drug offenders with strict, consistently imposed criminal sanctions. The legislature intended a greater culpability for those who profit from the illegal trafficking of drugs and expressed an intent that such individuals be dealt with swiftly and sternly.

d. Despite the impressive efforts and gains of our law enforcement agencies, individuals still profit financially from illegal organized criminal activities and illegal trafficking of drugs, and they continue to pose a serious and pervasive threat to the health, safety and welfare of the citizens of this State while, at the same time, converting their illegally obtained profits into "legitimate" funds with the assistance of other individuals.

e. The increased trafficking in drugs and other organized criminal activities have strengthened the money laundering industry which takes illegally acquired income and makes that money appear to be legitimate. In order to safeguard the public interest and stop the conversion of ill-gotten criminal profits, effective criminal and civil sanctions are needed to deter and punish those who are converting the illegal profits, those who are providing a method of hiding the true source of the funds, and those who facilitate such activities. It is in the public interest to make such conduct subject to strict criminal and civil penalties because of a need to deter individuals and business entities from assisting in the "legitimizing" of proceeds of illegal activity. To allow individuals or business entities to avoid responsibility for their criminal assistance in money laundering is clearly inimical to the public good.

Adopted. L. 1994, c. 121, §1, effective October 26, 1994.

Exhibit B

2C:21-24. Definitions. As used in this act:

"Attorney General" includes the Attorney General of the State of New Jersey and the Attorney General's assistants and deputies. The term also shall include a county prosecutor or the county prosecutor's designated assistant prosecutor if a county prosecutor is expressly authorized in writing by the Attorney General pursuant to this act.

"Derived from" means obtained directly or indirectly from, maintained by or realized through.

"Person" means any corporation, unincorporated association or any other entity or enterprise, as defined in subsection q. of N.J.S.2C:20-1, which is capable of holding a legal or beneficial interest in property.

"Property" means anything of value, as defined in subsection g. of N.J.S.2C:20-1, and includes any benefit or interest without reduction for expenses incurred for acquisition, maintenance or any other purpose.

Adopted. L. 1994, c. 121, §2, effective October 26, 1994.

2C:21-25. Financial facilitation of criminal activity, crime. A person is guilty of a crime if the person:

a. transports or possesses property known to be derived from criminal activity; or

b. engages in a transaction involving property known to be derived from criminal activity

(1) with the intent to facilitate or promote the criminal activity; or

(2) knowing that the transaction is designed in whole or in part

(a) to conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity; or

(b) to avoid a transaction reporting requirement under the laws of this State or any other state or of the United States; or

c. directs, organizes, finances, plans, manages, supervises, or controls the transportation of or transactions in property known to be derived from criminal activity.

d. For the purposes of this act, property is known to be derived from criminal activity if the person knows that the property involved represents proceeds from some form, though not necessarily which form, of criminal activity.

Adopted. L. 1994, c. 121, §3, effective October 26, 1994.

2C:21-26. Knowledge inferred. For the purposes of section 3 of this act, the requisite knowledge may be inferred where the property is transported or possessed in a fashion inconsistent with the ordinary or usual means of transportation or possession of such property and where the property is

discovered in the absence of any documentation or other indicia of legitimate origin or right to such property.

Adopted. L. 1994, c. 121, §4, effective October 26, 1994.

2C:21-27. Degrees of offense; penalties; nonmerger. a. Where the amount involved is $75,000 or more, the offense defined in section 3 of this act constitutes a crime of the second degree; otherwise, the offense constitutes a crime of the third degree. The amount involved in a prosecution for violation of this section shall be determined by the trier of fact. Amounts involved in transactions conducted pursuant to one scheme or course of conduct may be aggregated in determining the degree of the offense.

b. In addition to any other dispositions authorized by this Title, upon conviction of a violation of this section, the court may sentence the defendant to pay an amount as calculated pursuant to subsection a. of section 6 of this act.

c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a conviction of an offense defined in this section shall not merge with the conviction of any other offense constituting the criminal activity involved or from which the property was derived, and a conviction of any offense constituting the criminal activity involved or from which the property was derived shall not merge with a conviction of an offense defined in section 3 of this act. Nothing in this act shall be construed in any way to preclude or limit a prosecution or conviction for any other offense defined in this Title or any other criminal law of this State.

Adopted. L. 1994, c. 121, §5, effective October 26, 1994.

2C:21-28. Civil action for treble damages; allocation. a. The Attorney General may institute a civil action against any person who violates section 3 of this act, and may recover a judgment against all persons who violate this section, jointly and severally, for damages in an amount equal to three times the value of all property involved in the criminal activity, together with costs incurred for resources and personnel used in the investigation and litigation of both criminal and civil proceedings. The standard of proof in actions brought under this subsection is a preponderance of the evidence, and the fact that a prosecution for a violation of this act is not instituted or, where instituted, terminates without a conviction shall not preclude an action pursuant to this subsection. A final judgment rendered in favor of the State in any criminal proceedings shall estop the defendant from denying the same conduct in any civil action brought pursuant to this subsection.

b. The cause of action authorized by this section shall be in addition to and not in lieu of any forfeiture or any other action, injunctive relief or any other remedy available at law, except that where the defendant is convicted of a violation of this act, the court in the criminal action, upon the application of the Attorney General or the prosecutor, may in addition to any other disposition authorized by this Title, sentence the defendant to pay an amount equal to the damages calculated pursuant to the provisions of this subsection, whether or not a civil action has been instituted.

c. Notwithstanding any other provision of law, all monies collected pursuant to any judgment recovered or order issued pursuant to this section shall first be allocated to the payment of any State tax, penalty and interest due and owing to the State as a result of the conduct which is the basis for the

action. Monies collected shall be allocated next in accordance with the provisions of N.J.S.2C:64-6 as if collected pursuant to chapter 64 of Title 2C, in an amount equal to the amount of all property involved in the criminal activity plus the costs incurred for resources and personnel used in the investigation and litigation. The remainder of the monies collected shall be allocated to the General Fund of the State.

Adopted. L. 1994, c. 121, §6, effective October 26, 1994.

2C:21-29. Investigative interrogatories. a. Whenever the Attorney General, by the Attorney General's own inquiry or as the result of a complaint, determines that there exists reasonable suspicion that a violation of this act is occurring, has occurred or is about to occur, or, whenever the Attorney General believes it to be in the public interest that an investigation be made, the Attorney General may, prior to the institution of any criminal or civil action, issue in writing and cause to be served upon any person investigative interrogatories requiring the person to answer and produce material for examination.

b. Any investigative interrogatories issued pursuant to this subsection and all procedures related to such interrogatories shall comply with the provisions of N.J.S.2C:41-5.

Adopted. L. 1994, c. 121, §7, effective October 26, 1994.

State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
OFFICE OF THE ATTORNEY GENERAL
CN 080
TRENTON, NJ 08625-0080

CHRISTINE TODD WHITMAN
Governor

PETER VERNIERO
Attorney General

JANICE MITCHELL M
First Asst. Attorney G

October 1, 1996

Honorable Jeffrey S. Blitz
Atlantic County Prosecutor
1470 19th Avenue
P.O. Box 2002
Mays Landing, New Jersey 08330

Re: GUIDELINES FOR PROSECUTION OF MONEY LAUNDERING CRIMES, N.J.S.A. 2C:21-23 et seq.

Dear Prosecutor Blitz:

The 1994 enactment of New Jersey's criminal money laundering statute, N.J.S.A. 2C:21-23 et. seq., (the "statute" or "act") provides a powerful tool in combating criminal behavior in which the possession, concealment and movement of money or other property play an important role. The statute applies to those involved in criminal activity, including the illegal drug trade, and targets the possession, concealment, or transport of money and other property derived from illegal activities. The range of conduct the statute prohibits is necessarily broad, and, for that reason, uniform enforcement is important. Further, experience suggests that it is important to coordinate prosecution under any new statutory scheme to ensure that the prosecutions are consistent with the purpose of the act and uniform to the extent possible.

Consistent with the mandates of the Criminal Justice Act of 1970 and to ensure uniform and efficient enforcement of this relatively new criminal law, and to provide a mechanism by which prosecutors may seek advice and assistance in bringing cases under the statute, the attached guidelines shall govern all prosecutions brought pursuant to the statute. See N.J.S.A. 52:17B-98, 52:17B-103.

In essence, these guidelines provide for the Division of Criminal Justice to coordinate money laundering prosecutions with the several county prosecutors. The Division of Criminal Justice and the county prosecutor will be required to

consult prior to any formal charge of violation of the statute. The Division of Criminal Justice will be responsible for tracking money laundering prosecutions and developments in the law, and the county prosecutors will be responsible for providing necessary information. Once there have been a sufficient number of cases under the statute to permit identification of the significant legal issues and types of money laundering cases that can be considered routine and the types of cases that should be considered sensitive or problematic, more detailed guidelines will be developed in consultation with the county prosecutors.

I appreciate your anticipated cooperation.

Sincerely yours,

Peter Verniero
Attorney General

Attachment
c: Terrence P. Farley, Director
Division of Criminal Justice

Michael Bozza, Deputy Director
Division of Criminal Justice

GUIDELINES FOR PROSECUTION OF MONEY LAUNDERING CRIMES N.J.S.A. 2C:21-23 et seq.

A. Introduction

The success of significant, sophisticated criminal activity depends on concealing, moving and legitimizing the profits of crime. New Jersey's money laundering statute gives prosecutors a new avenue of attack against organized crime and illegal drug-trade by criminalizing the conduct necessary to bring money and other property derived from crime into the stream of "legitimate" commerce where criminals can enjoy these "profits." The money laundering statute targets the varied and diverse conduct that allows criminals to utilize their ill-gotten gains, and the avenue the Legislature gave law enforcement in enacting this law is necessarily broad. Thus, these guidelines for money laundering prosecutions are provided to ensure that prosecutors throughout the State enforce the money laundering statute uniformly -- i.e., the guidelines are issued "to secure the benefits of a uniform and efficient enforcement of [this new] criminal law . . . throughout the State." See N.J.S.A. 52:17B-98; N.J.S.A. 52:17B-103. To that end, the Director of the Division of Criminal Justice and every county prosecutor shall follow the procedures set forth below.

B. Responsibilities of the Division of Criminal Justice

1. Money Laundering Review Committee. A Money Laundering Review Committee has been established in the Division of Criminal Justice. The Review Committee will be responsible for pre-charge consultation, tracking prosecutions and serving as a source of information and advice to the county prosecutors and their assistants.

2. Pre-Charge Consultation. To ensure uniform enforcement, the county prosecutor or assistant county prosecutor shall, prior to formal charge in any case in which a prosecutor anticipates a charge of violation of the money laundering statute, consult with the Division of Criminal Justice. The Division will in turn provide advice on legal and technical issues.

3. Tracking Prosecutions. The Division of Criminal Justice shall be responsible for tracking all prosecutions under the money-laundering statute. The Division shall keep records detailing the result of the prosecution, a description of money or property forfeited, the sentence imposed and legal or factual issues related to the money laundering charges.

4. Advice. The Division of Criminal Justice shall respond to inquiries from and provide advice to the county prosecutors and their assistants.

C. Responsibilities of the County Prosecutors

1. Pre-Charge Consultation. Prosecutors who anticipate charging a violation of the money laundering statute shall consult with the Division of Criminal Justice prior to indictment or accusation. Not later than three weeks prior to indictment or accusation, the prosecutor shall forward the following to the Division:

a. The proposed indictment or accusation;

b. A brief written summary of the following:

(1) The evidence the State will offer at trial on any money laundering charge;

(2) Legal or factual issues that may affect the State's ability to prove the elements beyond a reasonable doubt;

(3) The name and telephone number of the assistant or the supervisor of the assistant whom the Division may contact.

2. Post-Charge Consultation. In any case in which a charge of money laundering is filed or no-billed after the effective date of these guidelines, and in any case in which an indictment or accusation was filed before the effective date of these guidelines, the prosecutor shall provide the following to the Division as soon as is practical:

a. A copy of the indictment or accusation or notice of a no-bill; and,

b. If charges were filed prior to the effective date of these guidelines and the prosecution is pending on the effective date, a brief written summary of the following:

(1) The evidence the State will offer at trial on any money laundering charge;

(2) Legal or factual issues that may affect the State's ability to prove the elements beyond a reasonable doubt;

(3) The name and telephone number of the assistant or the supervisor of the assistant whom the Division may contact.

c. The prosecutor will notify and consult with the Division if any significant legal or factual issue involving a money laundering charge that was not addressed prior to trial arises during the course of the trial.

3. Post-Disposition Reporting. As soon as practical following final disposition at the trial level (or as soon as practical after the issuance of these guidelines for any case disposed of prior to issuance), the prosecutor shall provide a brief written

summary of the following:

(1) The disposition of the charges, including where applicable, the sentence and any forfeiture ordered; and

(2) Legal or factual issues that impacted upon the money laundering charge.

4. Contacts with the Division. All correspondence and communication with the Division required by these guidelines should, until further notice, be directed to:

John J. Smith, Supervising Deputy Attorney General
Division of Criminal Justice
25 Market Street
CN 085
Trenton, New Jersey 08625
Telephone: 609-984-4474
Fax: 609-633-7798

or, if SDAG Smith is unavailable,

Assistant Attorney General Neil Cooper
Telephone: 609-984-0822

Peter Verniero

PETER VERNIERO
ATTORNEY GENERAL

October 1, 1996

Money Laundering (2C:21-25) Complaints, Indictments and Convictions
by County and Year
1994 to present

County	Complaints					Indictments					Convictions				
	1994	1995	1996	1997	1998	1994	1995	1996	1997	1998	1994	1995	1996	1997	1998
Atlantic	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0
Bergen	0	10	17	30	16	0	0	8	4	1	0	0	1	4	1
Burlington	0	2	4	11	2	0	0	3	0	0	0	0	2	0	0
Camden	0	0	7	0	5	0	1	1	0	0	0	0	0	0	0
Cape May	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cumberland	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Essex	0	7	10	0	0	0	9	6	0	0	0	4	2	0	0
Gloucester	0	0	0	3	5	0	0	0	3	0	0	0	0	1	1
Hudson	2	0	1	4	6	0	1	0	0	1	0	1	0	0	0
Hunterdon	0	0	3	2	0	0	0	0	0	0	0	0	0	0	0
Mercer	0	9	3	0	2	0	0	0	11	0	0	0	0	7	0
Middlesex	0	0	2	3	0	0	0	1	8	3	0	0	0	2	1
Monmouth	0	0	1	1	0	0	0	2	7	0	0	0	0	0	4
Morris	0	30	8	11	2	0	13	7	6	2	0	1	3	0	1
Ocean	0	3	9	1	0	0	1	0	4	0	0	0	0	3	0
Passaic	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Salem	0	9	4	5	0	0	3	4	4	2	0	0	0	3	1
Somerset	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0
Sussex	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Union	0	0	0	2	6	0	0	0	0	0	0	0	0	0	0
Warren	0	12	3	6	2	1	4	4	0	6	1	3	2	0	0
Total	2	83	74	79	48	1	32	36	47	15	1	9	10	20	9

Exhibit D
A-11

Research and Evaluation Section 7/16/98

First Degree Drug Distribution[1] Complaints, Indictments and Convictions
by County and Year
1994 to present

County	Complaints					Indictments					Convictions				
	1994	1995	1996	1997	1998	1994	1995	1996	1997	1998	1994	1995	1996	1997	1998
Atlantic	17	64	77	60	107	3	1	4	2	0	0	1	0	0	0
Bergen	78	113	111	75	49	19	9	13	8	9	2	2	6	4	2
Burlington	0	1	2	0	5	2	0	0	1	0	0	0	0	1	0
Camden	46	5	7	13	28	32	63	18	19	13	10	20	19	11	7
Cape May	14	10	10	10	3	0	1	0	0	0	0	1	0	0	0
Cumberland	58	118	57	41	22	7	14	5	10	6	1	6	4	7	2
Essex	26	22	10	15	3	118	47	57	73	21	23	25	28	40	20
Gloucester	14	28	52	21	14	18	17	18	16	5	7	6	8	10	7
Hudson	10	4	5	3	2	43	29	42	22	18	16	18	21	21	10
Hunterdon	7	16	10	3	11	2	2	0	0	0	0	4	0	0	0
Mercer	8	8	10	5	3	6	8	12	4	1	10	6	4	3	2
Middlesex	189	84	68	89	49	12	9	11	16	20	7	0	2	9	4
Monmouth	36	88	50	31	18	19	23	30	10	12	4	3	13	9	7
Morris	13	31	33	15	15	11	38	23	15	13	13	8	19	6	9
Ocean	10	13	9	17	7	4	0	0	5	2	2	2	0	2	2
Passaic	8	27	43	24	27	10	11	13	4	4	6	10	3	5	4
Salem	6	11	14	20	9	14	9	26	29	1	0	4	8	19	1
Somerset	0	0	1	0	0	0	0	0	0	0	1	0	0	0	0
Sussex	2	4	2	4	3	0	0	1	1	0	0	0	0	1	0
Union	44	16	32	43	24	35	11	17	14	12	7	20	9	8	11
Warren	23	6	5	3	0	1	1	0	2	0	3	1	2	2	0
Total	609	669	608	492	399	356	293	290	251	137	112	137	146	158	88

Exhibit E
A-12

[1] Includes the following statutes: 2C:35-3, 2C:35-4, 2C:35-5b(1) and 2C:35-5b(6)

Research and Evaluation Section 8/11/98

Suspicious Activity Report

FRB:	FR 2230	OMB No. 7100-0212
FDIC:	6710/06	OMB No. 3064-0077
OCC:	8010-9,8010-1	OMB No. 1557-0180
OTS:	1601	OMB No. 1550-0003
NCUA:	2362	OMB No. 3133-0094
TREASURY:	TD F 90-22.47	OMB No. 1506-0001

Expires September 30, 1998

1

ALWAYS COMPLETE ENTIRE REPORT

1 Check appropriate box:
a ☐ Initial Report b ☐ Corrected Report c ☐ Supplemental Report

Part I Reporting Financial Institution Information

2 Name of Financial Institution

3 Primary Federal Regulator
a ☐ Federal Reserve d ☐ OCC
b ☐ FDIC e ☐ OTS
c ☐ NCUA

4 Address of Financial Institution

5 City | 6 State | 7 Zip Code

8 EIN or TIN

9 Address of Branch Office(s) where activity occurred

10 Asset size of financial institution
$ .00

11 City | 12 State | 13 Zip Code

14 If institution closed, date closed (MMDDYY) ___/___/___

15 Account number(s) affected, if any
a
b

16 Have any of the institution's accounts related to this matter been closed?
a ☐ Yes b ☐ No If yes, identify

Part II Suspect Information

17 Last Name or Name of Entity | 18 First Name | 19 Middle Initial

20 Address

21 SSN, EIN or TIN (as applicable)

22 City | 23 State | 24 Zip Code | 25 Country | 26 Date of Birth (MMDDYY) ___/___/___

27 Phone Number - Residence (include area code)
( )

28 Phone Number - Work (include area code)
( )

29 Occupation

30 Forms of Identification for Suspect:
a ☐ Driver's License b ☐ Passport c ☐ Alien Registration d ☐ Other
e Number f Issuing Authority

31 Relationship to Financial Institution:
a ☐ Accountant d ☐ Attorney g ☐ Customer j ☐ Officer
b ☐ Agent e ☐ Borrower h ☐ Director k ☐ Shareholder
c ☐ Appraiser f ☐ Broker i ☐ Employee l ☐ Other

32 Is insider suspect still affiliated with the financial institution?
a ☐ Yes
b ☐ No
If no, specify: c ☐ Suspended d ☐ Terminated e ☐ Resigned

33 Date of Suspension, Termination, Resignation (MMDDYY) ___/___/___

34 Admission/Confession
a ☐ Yes b ☐ No

Exhibit F

Part III Suspicious Activity Information

35 Date of suspicious activity (MMDDYY) ____ / ____ / ____

36 Dollar amount involved in known or suspicious activity
$ .00

37 Summary characterization of suspicious activity:

a ☐ Bank Secrecy Act/Structuring/ Money Laundering
b ☐ Bribery/Gratuity
c ☐ Check Fraud
d ☐ Check Kiting
e ☐ Commercial Loan Fraud
f ☐ Consumer Loan Fraud
g ☐ Counterfeit Check
h ☐ Counterfeit Credit/Debit Card
i ☐ Counterfeit Instrument (other)
j ☐ Credit Card Fraud
k ☐ Debit Card Fraud
l ☐ Defalcation/Embezzlement
m ☐ False Statement
n ☐ Misuse of Position or Self-Dealing
o ☐ Mortgage Loan Fraud
p ☐ Mysterious Disappearance
q ☐ Wire Transfer Fraud
r ☐ Other _____

38 Amount of loss prior to recovery (if applicable)
$ .00

39 Dollar amount of recovery (if applicable)
$ .00

40 Has the suspicious activity had a material impact on or otherwise affected the financial soundness of the institution?
a ☐ Yes b ☐ No

41 Has the institution's bonding company been notified?
a ☐ Yes b ☐ No

42 Has any law enforcement agency already been advised by telephone, written communication, or otherwise? If so, list the agency and local address.
Agency _____

43 Address

44 City

45 State

46 Zip Code

Part IV Witness Information

47 Last Name

48 First Name

49 Middle Initial

50 Address

51 SSN

52 City

53 State

54 Zip Code

55 Date of Birth (MMDDYY) ____ / ____ / ____

56 Title

57 Phone Number (include area code)
( )

58 Interviewed
a ☐ Yes b ☐ No

Part V Preparer Information

59 Last Name

60 First Name

61 Middle Initial

62 Title

63 Phone Number (include area code)
( )

64 Date (MMDDYY) ____ / ____ / ____

Part VI Contact for Assistance (If different than Preparer Information in Part V)

65 Last Name

66 First Name

67 Middle Initial

68 Title

69 Phone Number (include area code)
( )

70 Agency (If applicable)

Part VII Suspicious Activity Information—Explanation/Description 3

Explanation/description of known or suspected violation of law or suspicious activity. This section of the report is critical. The care with which it is written may make the difference in whether or not the described conduct and its possible criminal nature are clearly understood. Provide below a chronological and complete account of the possible violation of law, including what is unusual, irregular or suspicious about the transaction, using the following checklist as you prepare your account. If necessary, continue the narrative on a duplicate of this page.

a Describe supporting documentation and retain for 5 years.
b Explain who benefited, financially or otherwise, from the transaction, how much, and how.
c Retain any confession, admission, or explanation of the transaction provided by the suspect and indicate to whom and when it was given.
d Retain any confession, admission, or explanation of the transaction provided by any other person and indicate to whom and when it was given.
e Retain any evidence of cover-up or evidence of an attempt to deceive federal or state examiners or others.
f Indicate where the possible violation took place (e.g., main office, branch, other).
g Indicate whether the possible violation is an isolated incident or relates to other transactions.
h Indicate whether there is any related litigation; if so, specify.
i Recommend any further investigation that might assist law enforcement authorities.
j Indicate whether any information has been excluded from this report; if so, why?

For Bank Secrecy Act/Structuring/Money Laundering reports, include the following additional information:

k Indicate whether currency and/or monetary instruments were involved. If so, provide the amount and/or description.
l Indicate any account number that may be involved or affected.

Paperwork Reduction Act Notice: The purpose of this form is to provide an effective and consistent means for financial institutions to notify appropriate law enforcement agencies of known or suspected criminal conduct or suspicious activities that take place at or were perpetrated against financial institutions. This report is required by law, pursuant to authority contained in the following statutes. Board of Governors of the Federal Reserve System: 12 U.S.C. 324, 334, 611a, 1844(b) and (c), 3105(c) (2) and 3106(a). Federal Deposit Insurance Corporation: 12 U.S.C. 93a, 1818, 1881-84, 3401-22. Office of the Comptroller of the Currency: 12 U.S.C. 93a, 1818, 1881-84, 3401-22. Office of Thrift Supervision: 12 U.S.C. 1463 and 1464. National Credit Union Administration: 12 U.S.C. 1766(a), 1786(q). Financial Crimes Enforcement Network: 31 U.S.C. 5318(g). Information collected on this report is confidential (5 U.S.C. 552(b)(7) and 552a(k)(2), and 31 U.S.C. 5318(g)). The Federal financial institutions regulatory agencies and the U.S. Departments of Justice and Treasury may use and share the information. Public reporting and recordkeeping burden for this information collection is estimated to average 36 minutes per response, and includes time to gather and maintain data in the required report, review the instructions, and complete the information collection. Send comments regarding this burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503 and, depending on your primary Federal regulatory agency, to Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551; or Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429; or Legislative and Regulatory Analysis Division, Office of the Comptroller of the Currency, Washington, DC 20219; or Office of Thrift Supervision, Enforcement Office, Washington, DC 20552; or National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314; or Office of the Director, Financial Crimes Enforcement Network, Department of the Treasury, 2070 Chain Bridge Road, Vienna, VA 22182.

Safe Harbor Federal law (31 U.S.C. 5318(g)(3)) provides complete protection from civil liability for all reports of suspected or known criminal violations and suspicious activities to appropriate authorities, including supporting documentation, regardless of whether such reports are filed pursuant to this report's instructions or are filed on a voluntary basis. Specifically, the law provides that a financial institution, and its directors, officers, employees and agents, that make a disclosure of any possible violation of law or regulation, including in connection with the preparation of suspicious activity reports, "shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure."

Notification Prohibited Federal law (31 U.S.C. 5318(g)(2)) requires that a financial institution, and its directors, officers, employees and agents who, voluntarily or by means of a suspicious activity report, report suspected or known criminal violations or suspicious activities may not notify any person involved in the transaction that the transaction has been reported.

In situations involving violations requiring immediate attention, such as when a reportable violation is ongoing, the financial institution shall immediately notify, by telephone, appropriate law enforcement and financial institution supervisory authorities in addition to filing a timely suspicious activity report.

WHEN TO MAKE A REPORT:

1. All financial institutions operating in the United States, including insured banks, savings associations, savings association service corporations, credit unions, bank holding companies, nonbank subsidiaries of bank holding companies, Edge and Agreement corporations, and U.S. branches and agencies of foreign banks, are required to make this report following the discovery of:

   a. **Insider abuse involving any amount.** Whenever the financial institution detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the financial institution or involving a transaction or transactions conducted through the financial institution, where the financial institution believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the financial institution was used to facilitate a criminal transaction, and the financial institution has a substantial basis for identifying one of its directors, officers, employees, agents or other institution-affiliated parties as having committed or aided in the commission of a criminal act regardless of the amount involved in the violation.

   b. **Violations aggregating $5,000 or more where a suspect can be identified.** Whenever the financial institution detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the financial institution or involving a transaction or transactions conducted through the financial institution and involving or aggregating $5,000 or more in funds or other assets, where the financial institution believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the financial institution was used to facilitate a criminal transaction, and the financial institution has a substantial basis for identifying a possible suspect or group of suspects. If it is determined prior to filing this report that the identified suspect or group of suspects has used an "alias," then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' licenses or social security numbers, addresses and telephone numbers, must be reported.

   c. **Violations aggregating $25,000 or more regardless of a potential suspect.** Whenever the financial institution detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the financial institution or involving a transaction or transactions conducted through the financial institution and involving or aggregating $25,000 or more in funds or other assets, where the financial institution believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the financial institution was used to facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.

   d. **Transactions aggregating $5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act.** Any transaction (which for purposes of this subsection means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or

sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected) conducted or attempted by, at or through the financial institution and involving or aggregating $5,000 or more in funds or other assets, if the financial institution knows, suspects, or has reason to suspect that:

i. The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under Federal law;

ii. The transaction is designed to evade any regulations promulgated under the Bank Secrecy Act; or

iii. The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

The Bank Secrecy Act requires all financial institutions to file currency transaction reports (CTRs) in accordance with the Department of the Treasury's implementing regulations (31 CFR Part 103). These regulations require a financial institution to file a CTR whenever a currency transaction exceeds $10,000. If a currency transaction exceeds $10,000 and is suspicious, the institution must file both a CTR (reporting the currency transaction) and a suspicious activity report (reporting the suspicious or criminal aspects of the transaction). If a currency transaction equals or is below $10,000 and is suspicious, the institution should only file a suspicious activity report.

2. A financial institution is required to file a suspicious activity report no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a suspicious activity report. If no suspect was identified on the date of detection of the incident requiring the filing, a financial institution may delay filing a suspicious activity report for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction.

3. This suspicious activity report does not need to be filed for those robberies and burglaries that are reported to local authorities, or (except for savings associations and service corporations) for lost, missing, counterfeit or stolen securities that are reported pursuant to the requirements of 17 CFR 240.17f-1.

HOW TO MAKE A REPORT:

1. Send each completed suspicious activity report to:

   FinCEN, Detroit Computing Center, P.O. Box 33980, Detroit, MI 48232

2. For items that do not apply or for which information is not available, leave blank.

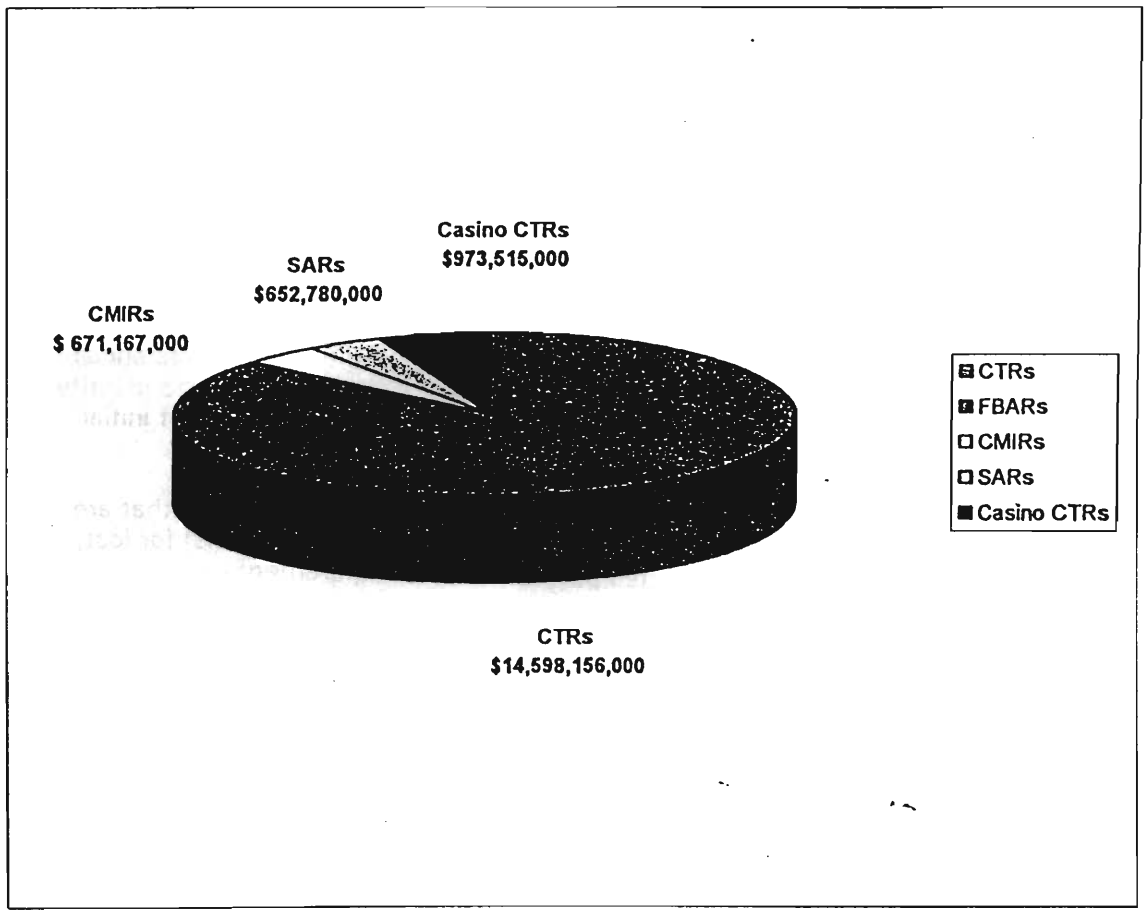
3. Complete each suspicious activity report in its entirety, even when the suspicious activity report is a corrected or supplemental report.

4. Do not include supporting documentation with the suspicious activity report. Identify and retain a copy of the suspicious activity report and all original supporting documentation or business record equivalent for 5 years from the date of the suspicious activity report. All supporting documentation must be made available to appropriate authorities upon request.

5. If more space is needed to complete an item (for example, to report an additional suspect or witness), a copy of the page containing the item should be used to provide the information.

6. Financial institutions are encouraged to provide copies of suspicious activity reports to state and local authorities, where appropriate.

Reported Money Movement in New Jersey 1997



Source: Financial Crimes Enforcement Network

Exhibit G

FINCEN

FINANCIAL CRIMES ENFORCEMENT NETWORK

Inside FinCEN

Following the Money

Bank and Beyond

Borderless World

Cybermayments

Our Mission

The mission of the Financial Crimes Enforcement Network is to support and strengthen domestic and international anti-money laundering efforts and to foster interagency and global cooperation to that end through information collection, analysis and sharing, technological assistance, and innovative and cost-effective implementation of Treasury authorities.

FinCEN Strategic Plan

What's New!

New
- FATF Annual Report/Annexes 1997-1998 (June 1998)
- Suspicious Activity Reporting & Casinos
- Suspicious Activity Reporting Regulations Extended to Casinos and Card Clubs
- [Latest News Release]
- [Comments to FinCEN]

Updated Wednesday, August 05, 1998

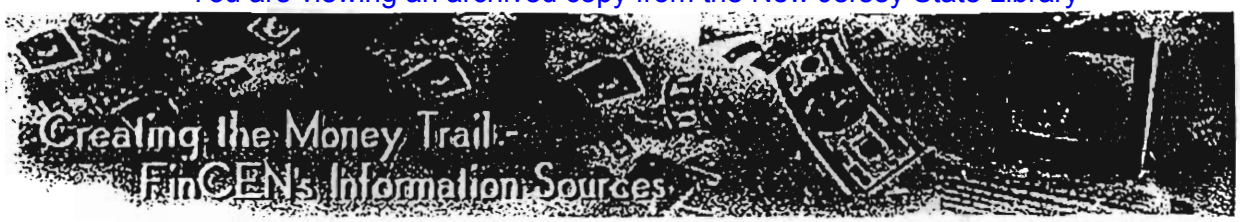
Search / Treasury Home Page / Browse

News Releases

BSA Forms

Publications

Exhibit H



FinCEN searches and analyzes information and other critical forms of intelligence to support financial investigations. Using advanced technology, specialized analysis, and a variety of data sources, FinCEN links together various elements of the crime, helping investigators find the missing pieces of the criminal puzzle. FinCEN accesses a variety of databases--one of the largest repositories of information available to law enforcement in the country. They are:

Financial Database

Working in partnership with the financial and regulatory communities, FinCEN uses counter money laundering laws -- the Bank Secrecy Act -- to require financial institutions to report and keep records of certain currency transactions. (It is the largest currency transaction reporting system in the world.)

The financial database consists of reports that are required to be filed under the Bank Secrecy Act (BSA). BSA records contain information on large currency transactions, casino transactions, international movements of currency, and foreign bank accounts. This information often provides invaluable assistance for investigators because it is not readily available from any other source and preserves a financial paper trail for investigators to track criminals and their assets.

Commercial Databases

Information from commercially available sources plays an increasingly vital role in criminal investigations. Commercial database products include information such as state corporations, property, people locator records, professional license, and vehicle registration.

Law Enforcement Databases

FinCEN is able to access law enforcement databases (through written agreements with each agency) from the Treasury bureaus, Drug Enforcement Administration, Department of Defense, and the Postal Inspection Service. These databases provide the status of current or closed investigations as well as information gathered form informants, surveillance and other sources.

[NEXT]

FinCEN Follow Banks World Cyber News BSA Forms Publications Main

Gateway:

FinCEN's network extends to state and local governments in order to ensure the widest possible anti-money laundering effort. Through Gateway, state and local law enforcement agencies have direct, on-line access to records filed under the Bank Secrecy Act (BSA) and the Suspicious Activity Reporting System (SARS).

Gateway allows state and local investigative agencies to conduct their own research and analysis of BSA and SAR data rather than submit cases for direct case support. Every state, as well as the District of Columbia and Puerto Rico, has authorized Gateway users. Each month, Gateway processes an average of 4,800 queries.

FinCEN has designed Gateway to collect information on the inquiries that are made and compare this information to subsequent and prior queries. Consequently, FinCEN can alert a state or local agency that another agency has made queries on the same subject. Hundreds of these "alerts" have been issued since Gateway began.

29. (new section)

2C:5-8. Smuggling conveyances.

a. Any person who, with the purpose of facilitating the transportation of a controlled dangerous substance or controlled substance analog, property which would be subject to forfeiture pursuant to chapter 64 of this title (N.J.S. 2C:64-1 et seq.), or any other contraband, alters, modifies or constructs a motor vehicle so that it contains a false compartment as defined in subsection c. of this section, is guilty of a crime of the third degree.

b. Any person who, with the purpose to store, conceal, smuggle or transport a

controlled substance or controlled substance analog, property which would be subject to forfeiture pursuant to chapter 64 of this title (N.J.S. 2C:64-1 et seq.), or any other contraband, knowingly operates, exercises control over, or rides in a motor vehicle which has been altered or modified or constructed to contain a false compartment as defined is subsection c. of this section, is guilty of a crime of the fourth degree. It shall not be necessary in any prosecution under this section for the State to prove that any controlled dangerous substance, controlled substance analog, property which would be subject to forfeiture pursuant to chapter 64 of this title (N.J.S. 2C:64-1 et seq.), or other contraband was actually concealed within the false compartment or the motor vehicle.

c. The term "false compartment" means any box, container, space, or enclosure that is intended for use or designed for use to conceal, hide, or otherwise prevent discovery of any controlled substance, controlled substance analog, property which would be subject to forfeiture pursuant to chapter 64 of this title (N.J.S. 2C:64-1 et seq.), or other contraband within or attached to a vehicle, including, but not limited to, any of the following:

(1) false, altered, or modified fuel tanks.

(2) original factory equipment of a vehicle that is modified, altered, or changed.

(3) a compartment, space, or box that is added to, or fabricated, made, or created from, existing compartments, spaces, or boxes within a vehicle.

(4) a compartment which can be opened only by the use of controls intended by the vehicle manufacturer to operate other equipment in the vehicle or by the use of hidden controls or devices.

d. In determining whether the defendant had the purpose required in subsection a. or b. of this section, the trier of fact, in addition to or as part of the proofs, may consider the following factors: whether the compartment has an identification number, as required by N.J.S. 10B-1 et seq.; statements by an owner or by anyone in control of or riding in the vehicle concerning the use of the compartment; whether of the compartment has, at any time, contained controlled dangerous substances, controlled substance analogs, property which would be subject to forfeiture pursuant to chapter 64 of this title (N.J.S. 2C:64-1 et seq.), or other contraband; the existence of any residue of controlled dangerous substances, controlled substance analogs or other contraband within the compartment; direct or circumstantial evidence of the intent of an owner, or of anyone in control of the vehicle, to deliver it to persons whom he knows intend to use the vehicle to facilitate a violation of the criminal laws; the existence and scope of legitimate uses for the compartment; and expert testimony concerning the use of the compartment. The fact that the compartment does not have an identification number, as required by N.J.S. 10B-1 et seq., shall constitute prima facie evidence that the defendant had the purpose to facilitate the transportation of, or to store, conceal, smuggle or transport, a controlled dangerous substance, controlled substance analog or any other contraband. The fact that an owner, or anyone in control of or riding in the vehicle has not been charged with or convicted of a violation of chapter 35 of this title or any other offense, shall not be relevant to a determination of whether a compartment is a false compartment.

30. N.J.S. 39:10B-1 is amended to read as follows:

39:10B-1. Definitions

As used in this act:

a. "Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

b. "Major motor vehicle component part" or "component part" means the following parts of any motor vehicle:

(1) engine;

(2) cowl;

(3) transmission;

(4) frame;

(5) each door;

(6) third member or rear end assembly;

(7) each front fender or each rear fender of a rear panel;

(8) front end assembly;

(9) rear clip; [and]

(10) a false compartment as defined in section 29 of P.L. , c. (now pending before the Legislature as this bill) (N.J.S. 2C:5-8c); and

(11) any other parts of a motor vehicle designated by the director.

c. "Manufacturer's part number" means the original manufacturer's number located on a major motor vehicle component part.

d. "Scrap processor" means a person who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or nonferrous metallic scrap,

v. 011a

which is or has been a motor vehicle or component part, into prepared grades for sale for remelting purposes, and who does not sell the materials as motor vehicles or major motor vehicle component parts.

ASSEMBLY, No. 2171

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JUNE 11, 1998

Sponsored by:
Assemblyman NEIL M. COHEN
District 20 (Union)

SYNOPSIS

Upgrades the crime of money laundering to a crime of the first degree; classifies conspiracy to commit money laundering as a crime of the first degree.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning money laundering and amending P.L.1994, c.121 and N.J.S.2C:5-4.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.1994, c.121 (C.2C:21-27) is amended to read as follows:

5. a.[Where the amount involved is $75,000 or more, the] The offense defined in section 3 of this act constitutes a crime of the first degree if the amount involved is $500,000.00 or more. If the amount involved is at least $75,000.00 but ✱[does not exceed] **less than**✱ $500,000.00✱. [then]✱ the offense constitutes a crime of the second degree; otherwise, the offense constitutes a crime of the third degree. Notwithstanding the provisions of N.J.S.2C:43-3, the court may also impose a fine ✱[not] **up**✱ to ✱[exceed]✱ $500,000.00. The amount involved in a prosecution for violation of this section shall be determined by the trier of fact. Amounts involved in transactions conducted pursuant to one scheme or course of conduct may be aggregated in determining the degree of the offense. Notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, a person convicted of a crime of the first degree pursuant to the provisions of this subsection shall be sentenced to a ✱**term of imprisonment that shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed** [that shall include mandatory minimum term of imprisonment of 15 years.]✱ during which time the defendant shall not be eligible for parole.

b. In addition to any other dispositions authorized by this Title, upon conviction of a violation of this section, the court may sentence the defendant to pay an amount as calculated pursuant to subsection a. of section 6 of this act.

c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a conviction of an offense defined in this section shall not merge with the conviction of any other offense constituting the criminal activity involved or from which the property was derived, and a conviction of any offense constituting the criminal activity involved or from which the property was derived shall not merge with a conviction of an offense defined in section 3 of this act. Nothing in this act shall be construed in any way to preclude or limit a prosecution or conviction for any other offense defined in this Title or any other criminal law of this State.

(cf: P.L.1994, c.121, s.5)

Exhibit K

2. N.J.S.2C:5-4 is amended to read as follows:

2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation in Cases of Lesser Danger. a. Grading. Except as provided in [subsection] subsections c. and d., an attempt or conspiracy to commit a crime of the first degree is a crime of the second degree; except that an attempt to commit murder is a crime of the first degree. Otherwise an attempt is a crime of the same degree as the most serious crime which is attempted, and conspiracy is a crime of the same degree as the most serious crime which is the object of the conspiracy; provided that, leader of organized crime is a crime of the second degree. An attempt or conspiracy to commit an offense defined by a statute outside the code shall be graded as a crime of the same degree as the offense is graded pursuant to sections 2C:1-4 and 2C:43-1.

b. Mitigation. The court may impose sentence for a crime of a lower grade or degree if neither the particular conduct charged nor the defendant presents a public danger warranting the grading provided for such crime under subsection a. because:

(1) The criminal attempt or conspiracy charged is so inherently unlikely to result or culminate in the commission of a crime; or

(2) The conspiracy, as to the particular defendant charged, is so peripherally related to the main unlawful enterprise.

c. Notwithstanding the provisions of subsection a. of this section, conspiracy to commit a crime set forth in subsection a., b., or d. of N.J.S.2C:17-1 where the structure which was the target of the crime was a church, synagogue, temple or other place of public worship is a crime of the first degree.

d. Notwithstanding the provisions of subsection a. of this section, conspiracy to commit a crime as set forth in P.L.1994, c.121 (C.2C:21-23 et seq.) is a crime of the *[first] **same** degree *[and a person convicted of under this section shall be sentenced to a term of imprisonment. Notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C: 43-6, the term of imprisonment shall include a mandatory minimum term of 10 years, during which the defendant shall not be eligible for parole. The court may not suspend or make any other noncustodial disposition of a person sentenced pursuant to the provisions of this subsection] **as the most serious crime that was conspired to be committed***.

(cf: P.L.1997, c.34, s. 1)

***3. N.J.S.2C:21-25 is amended to read as follows:**

2C:21-25. Money laundering; illegal investment, crime

3. A person is guilty of a crime if the person:

a. transports or possesses property known to be derived from criminal activity; or

b. engages in a transaction involving property known to be derived from criminal activity

(1) with the intent to facilitate or promote the criminal activity; or

(2) knowing that the transaction is designed in whole or in part

(a) to conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity; or

(b) to avoid a transaction reporting requirement under the laws of this State or any other state or of the United States; or

c. directs, organizes, finances, plans, manages, supervises, or controls the transportation of or transactions in property known to be derived from criminal activity.

d. For the purposes of this act, property is known to be derived from criminal activity if the person knows that the property involved represents proceeds from some form, though not necessarily which form, of criminal activity. **Among the factors that the finder of fact may consider in determining that a transaction has been designed to avoid a transaction reporting requirement shall be whether the person, acting alone or with others, conducted one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner. The phrase "in any manner" includes the breaking down of a single sum of currency exceeding the transaction reporting requirement into smaller sums, including sums at or below the transaction reporting requirement, or the conduct of a transaction, or series of currency transactions, including transactions at or below**

the transaction reporting requirement. The transaction or transactions need not exceed the transaction reporting threshold at any single financial institution on any single day in order to demonstrate a violation of subsection b(2)(b).

4. N.J.S.2C:20-2 is amended to read as follows:

2C:20-2. Consolidation of Theft Offenses; Grading; Provisions Applicable to Theft Generally.

a. Consolidation of Theft Offenses. Conduct denominated theft in this chapter constitutes a single offense, but each episode or transaction may be the subject of a separate prosecution and conviction. A charge of theft may be supported by evidence that it was committed in any manner that would be theft under this chapter, notwithstanding the specification of a different manner in the indictment or accusation, subject only to the power of the court to ensure fair trial by granting a bill of particulars, discovery, a continuance, or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

b. Grading of theft offenses. **Theft constitutes a crime of the first degree if the amount involved is $500,000 or more. Otherwise,**

(1) Theft constitutes a crime of the second degree if:

(a) The amount involved is $75,000.00 [or more] **but less than $500,000**;

(b) The property is taken by extortion;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the quantity is in excess of one kilogram; or

(d) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is $75,000 or more.

(2) Theft constitutes a crime of the third degree if:

(a) The amount involved exceeds $500.00 but is less than $75,000.00;

(b) The property stolen is a firearm, motor vehicle, vessel, boat, horse or airplane;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the amount involved is less than $75,000.00 or is undetermined and the quantity is one kilogram or less;

(d) It is from the person of the victim;

(e) It is in breach of an obligation by a person in his capacity as a fiduciary;

(f) It is by threat not amounting to extortion;

(g) It is of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant;

(h) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is less than $75,000;

(i) The property stolen is any real or personal property related to, necessary for, or derived from research, regardless of value, including, but not limited to, any sample, specimens and components thereof, research subject, including any warm-blooded or cold-blooded animals being used for research or intended for use in research, supplies, records, data or test results, prototypes or equipment, as well as any proprietary information or other type of information related to research;

(j) The property stolen is a New Jersey Prescription Blank as referred to in R.S.45:14-14; or

(k) The property stolen consists of an access device or a defaced access device.

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least $200.00 but does not exceed $500.00. If the amount involved was less than $200.00 the offense constitutes a disorderly persons offense.

(4) The amount involved in a theft shall be determined by the trier of fact. The amount shall include, but shall not be limited to, the amount of any State tax avoided, evaded or otherwise unpaid, improperly retained or disposed of. Amounts involved in thefts committed pursuant to one scheme or course

of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

c. Claim of right. It is an affirmative defense to prosecution for theft that the actor:

(1) Was unaware that the property or service was that of another;

(2) Acted under an honest claim of right to the property or service involved or that he had a right to acquire or dispose of it as he did; or

(3) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

d. Theft from spouse. It is no defense that theft was from the actor's spouse, except that misappropriation of household and personal effects, or other property normally accessible to both spouses, is theft only if it occurs after the parties have ceased living together.

[3]5*. This act shall take effect immediately .

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

2C:21-27. Degrees of offense; penalties; nonmerger

5. a. Where the amount involved is $75,000 or more, the offense defined in section 3 of this act constitutes a crime of the second degree; otherwise, the offense constitutes a crime of the third degree. The amount involved in a prosecution for violation of this section shall be determined by the trier of fact. Amounts involved in transactions conducted pursuant to one scheme or course of conduct may be aggregated in determining the degree of the offense.

b. In addition to any other dispositions authorized by this Title, upon conviction of a violation of this section, the court may sentence the defendant to pay an amount as calculated pursuant to subsection a. of section 6 of this act.

c. Notwithstanding N.J.S.2C:1-8 or any other provision of law, a conviction of an offense defined in [this] section **3 of this act** shall not merge with the conviction of any other offense constituting the criminal activity involved or from which the property was derived, and a conviction of any offense constituting the criminal activity involved or from which the property was derived shall not merge with a conviction of an offense defined in section 3 of this act**, and the sentence imposed upon a conviction of any offense defined in section 3 of this act shall be ordered to be served consecutively to that imposed for a conviction of any offense constituting the criminal activity involved or from which the property was derived.**. Nothing in this act shall be construed in any way to preclude or limit a prosecution or conviction for any other offense defined in this Title or any other criminal law of this State.

G:\SUAREZ\MONEYLAU\2C21-27A.INI

Exhibit L

SENATE, No. 1222

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JUNE 22, 1998

Sponsored by:
Senator GARRY J. FURNARI
District 36 (Bergen, Essex and Passaic)
Senator WAYNE R. BRYANT
District 5 (Camden and Gloucester)

SYNOPSIS

Makes it a crime of the fourth degree for a check cashing business to cash a check for consideration in the amount of $2,500.00 or more.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning check cashing businesses and amending P.L.1993, c.383.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 18 of P.L.1993, c.383 (C.17:15A-47) is amended to read as follows:

18. No licensee, or any person acting on behalf of a licensee, shall:

a. Cash a check which is made payable to a payee which is other than a natural person unless the licensee has on file a corporate resolution or other appropriate documentation indicating that the corporation, partnership or other entity has authorized the presentment of a check on its behalf and the federal taxpayer identification number of the corporation, partnership or other entity;

b. Cash a check for anyone other than the payee named on the face of the check, except that the commissioner may, by regulation, establish exceptions to this prohibition;

c. Cash or advance any money on a postdated check;

d. Fail to give each customer at the end of each transaction a receipt showing the amount of the check which was cashed, the amount which was charged for cashing the check, and the amount of cash which the customer was given;

e. Engage in the business of making loans of money, credit, goods or things or discounting or buying of notes, bills of exchange, checks or other evidences of debt, or conduct, or allow to be conducted, a loan business or the negotiation of loans or the discounting or buying of notes, bills of exchange, checks or other evidences of debt in the same premises where the licensee is cashing checks. For purposes of this subsection, a licensee shall be deemed to have made a loan if the licensee cashes a check deposited by a customer whose check cashing privileges were required to be suspended under subsection j. of section 15 of this act. Notwithstanding the provisions of this subsection, any person licensed as a pawnbroker in this State shall be eligible to qualify as a licensee under this act, and upon being so licensed, may conduct business as a check casher in the same premises in which that person conducts business as a pawnbroker;

f. Engage in business at an office or mobile office other than a business which primarily provides financial services, except as otherwise provided pursuant to subsection e. of this section;

g. Violate any provision of this act or regulations promulgated pursuant to this act; [or]

h. Fail to comply with any order of the commissioner; or

i. Cash a check *[for consideration]* in the amount of $2,500.00 or more *for consideration*.

(cf: P.L.1993, c.383, s.18)

2. Section 23 of P.L.1993, c.383 (C17:15A-52) is amended to read as follows:

23. [a.] The commissioner shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

[b. If the commissioner finds that reasonable grounds exist for requiring additional record keeping and reporting in order to carry out the purposes of this act, the commissioner may:

(1) issue an order requiring any group of licensees in a geographic area to provide information regarding transactions that involve a total dollar amount or denomination of $2,500 or more, including the names of the persons participating in those transactions; and

Exhibit M

(2) establish by regulation a reasonable fee for filing any report required by this subsection.]
(cf: P.L.1993, c.383, s.23)

3. (New section) Any person who *knowingly*cashes a check for consideration in violation of *[subsections] subsection* i. of Section 18 of P.L.1993, c.383 (C.17:15A-47) shall be guilty of a crime of the fourth degree. *Notwithstanding N.J.S. 2C:43-3b(2) and in addition to any any other disposition made pursuant to Title 2C of the New Jersey Statutes or any statute imposing sentences for crimes, any person convicted of the offense defined in the section also may be sentenced to pay a fine not to exceed $30,000.*

4. This act shall take effect immediately.

STATEMENT

This bill would amend "Check Cashers Regulatory Act", N.J.S.A.17:15A-30 et seq., to prohibit any licensee from cashing a check for consideration in the amount $2,500.00 or more. In addition, this bill would make it a crime of the fourth degree for any licensee to engage in this prohibited activitiy (cashing a check for consideration in the amount of $2,500.00 or more). A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to $10,000.00, or both.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

* Indicates Proposed DCJ Amendments
August 17, 1998

ASSEMBLY, No. 2173

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JUNE 11, 1998

Sponsored by:
Assemblyman NEIL M. COHEN
District 20 (Union)
Assemblyman PAUL DIGAETANO
District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Requires financial institutions and check cashing businesses to file certain transaction reports with the State; provides criminal penalties.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning certain reporting requirements of financial institutions and check cashing businesses and supplementing Title 2C of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. As used in section:

"Financial institution" means State or Federally chartered bank, savings bank, savings and loan association, credit union, or State chartered trust company or any company doing business under the laws of this State and supervised by the Commissioner of Banking and Insurance*, **including a person licensed to cash checks pursuant to P.L. 1993, c.383 (C.17:15A-30 et seq.).**

"Currency" means the coin and paper money of the United States or of any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes United States silver certificates, United States notes and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.

"Structuring" means that a person, acting alone or in conjunction with or on behalf of other persons, conducts or attempts to conduct one or more transactions in currency, in any amount at one or more financial institutions, on one or more days, in any manner, for the purpose of evading the currency transaction reporting requirements under the laws and regulations of this State or the United States. Structuring includes but is not limited to the breaking down of a single sum of currency exceeding $10,000 into smaller sums, including sums at or below $10,000, or the conduct of a transaction, or series of transactions at or below $10,000. The transaction or transactions need not exceed $10,000 at any single financial institution on any single day to constitute structuring within the meaning of this section.*

a. A financial institution *[or a person licensed to cash checks pursuant to the provisions of P.L.1993, c.383 (C.17:15A-30 et seq.)]* that conducts one or more transactions, *[involving] **in*** United

States *[coin or]* currency *, **required by federal law to be reported to the federal government, pursuant to 31 U.S.C.s.5311 et seq. and any regulations promulgated thereunder***shall make a report of the transactions to the Commissioner of Banking and Insurance which meets all the requirements set out in *[31 U.S.C.s.5311 et seq. and 31 C.F.R.s.103.11 et seq] **federal law or regulations**.*

b. *[The financial institution or the person who is licensed to cash checks pursuant to the provisions of P.L. 1993, c. 383 shall file a duplicate copy of the report with the Attorney General.] **A financial institution shall make a report of any transaction in currency conducted or attempted, that involves or aggregates at least $5,000, if the financial institution, or its agent or employee, knows, suspects or has reason to suspect that:**

(i) the transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities;

(ii) the transaction is a part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under the law or regulations of this State or the United States, including a plan to structure a series of transactions to avoid any transaction reporting requirement under the laws or regulations of this State or the United States; and

(iii) the transaction has no business or other apparent lawful purpose or is not the sort of transaction in which the particular customer would normally be expected to engage and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.*

c. *[Any person who fails to report a currency transaction as provided in this section shall be guilty of a crime of the fourth degree] **A person who causes or attempts to cause a financial institution to fail to file a currency transaction report required by the laws or regulations of this State, or who causes or attempts to cause a financial institution to file a currency transaction report required under the laws or regulations of this State that contains a material omission or misstatement, or who structures or assists in structuring or attempts to structure or assist in structuring any transaction with one or more financial institutions shall be guilty of a third degree crime**.

d. The Department of Banking and Insurance shall maintain a record of all reports made pursuant to this section for a period of at least five years. The Department shall produce such records to any law enforcement agency or civil investigatory agency of this State upon written request and without the necessity of a supboena. The Commissioner of Banking and Insurance shall promulgate rules and regulations regarding the reporting requirements set forth in this act.*

2. This act shall take effect immediately.

N.J.S. 2A:156A-8 is amended to read as follows:

2A:156A-8. Authorization for application for order to intercept communications

The Attorney General, county prosecutor or a person designated to act for such an official and to perform his duties in and during his actual absence or disability, may authorize, in writing, an ex parte application to a judge designated to receive the same for an order authorizing the interception of a wire, or electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation when such interception may provide evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, a violation of paragraph (1) or (2) of subsection b. of N.J.S. 2C:12-1, a violation of N.J.S. 2C:21-19 punishable by imprisonment for more than one year, a violation of N.J.S.2C:21-25, terroristic threats, violations of N.J.S. 2C:35-3, N.J.S. 2C:35-4 and N.J.S. 2C:35-5, violations of sections 112 through 116, inclusive, of the "Casino Control Act," P.L.1977, c. 110 (C. 5:12-112 through 5:12-116), arson, burglary, theft and related offenses punishable by imprisonment for more than one year, endangering the welfare of a child pursuant to N.J.S. 2C:24-4, escape, forgery, alteration of motor vehicle identification numbers, unlawful manufacture, purchase, use, or transfer of firearms, unlawful possession or use of destructive devices or explosives, racketeering or a violation of subsection g. of N.J.S. 2C:5-2, leader of organized crime, organized criminal activity directed toward the unlawful transportation, storage, disposal, discharge, release, abandonment or disposition of any harmful, hazardous, toxic, destructive, or polluting substance, or any conspiracy to commit any of the foregoing offenses or which may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the foregoing offenses.

DCJ

STATE OF NEW JERSEY

AN ACT concerning money laundering and amending section 2 of P.L.1997, c.187.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.2C:35A-3 is amended to read as follows:

2C:35A-3. Criteria for imposition of anti-drug profiteering penalty.

a. In addition to any other disposition authorized by this title, including but not limited to any fines which may be imposed pursuant to the provisions of N.J.S.2C:43-3 and except as may be provided by section 5 of this chapter, where a person has been convicted of a crime defined in chapter 35 or 36 of this Title or in N.J.S.2C:21-25 (money laundering), or an attempt or conspiracy to commit such a crime, the court shall, upon the application of the prosecutor, sentence the person to pay a monetary penalty in an amount determined pursuant to section 4 of this chapter, provided the court finds at a hearing, which may occur at the time of sentencing, that the prosecutor has established by a preponderance of the evidence one or more of the grounds specified in this section. The findings of the court shall be incorporated in the record, and in making its findings, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing or other court proceedings and shall also consider the presentence report and any other relevant information.

b. Any of the following shall constitute grounds for imposing an Anti-Drug Profiteering Penalty:

(1) The defendant was convicted of: (a) a violation of N.J.S.2C:35-3 (leader of narcotics trafficking network), or (b) a violation of subsection g. of N.J.S.2C:5-2 (leader of organized crime), or (c) an offense defined in chapter 41 of this Title (racketeering) which involved the manufacture, distribution, possession with intent to distribute or transportation of any controlled dangerous substance or controlled substance analog or (d) a violation of N.J.S.2C:21-25 (money laundering).

(2) The defendant is a drug profiteer. A defendant is a drug profiteer when the conduct constituting the crime shows that the person has knowingly engaged in the illegal manufacture, distribution or transportation of any controlled dangerous substance, controlled substance analog or drug paraphernalia as a substantial source of livelihood. In making its determination, the court may consider all of the attending circumstances, including but not limited to the defendant's role in the criminal activity, the nature, amount and purity of the substance involved, the amount of cash or currency involved, the extent

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Exhibit O

and accumulation of the defendant's assets during the course of the criminal activity and the defendant's net worth and his expenditures in relation to his legitimate sources of income.

(3) The defendant is a wholesale drug distributor. (a) A defendant is a wholesale drug distributor when the conduct constituting the crime involves the manufacture, distribution or intended or attempted distribution of a controlled dangerous substance or controlled substance analog to any other person for pecuniary gain, knowing, believing, or under circumstances where it reasonably could be assumed that such other person would in turn distribute the substance to another or others for pecuniary gain. It shall not be necessary for the prosecution to establish to whom the substance was distributed or intended or attempted to be distributed, and the court may draw all reasonable inferences from the nature of the defendant's conduct and the substance involved that such other person, while not specifically identified, would in turn distribute the substance to another or others for pecuniary gain. In making its determination, the court shall consider all of the attending circumstances, including but not limited to the defendant's role in the criminal activity, the nature, amount and purity of the substance involved, and the likelihood that a substance of such purity would be intended to be distributed directly to the ultimate consumer of the substance.

(b) Notwithstanding that the prosecutor has established that the defendant is a wholesale drug distributor within the meaning of this paragraph, the court shall not impose an anti-drug profiteering penalty on that ground if the defendant establishes by a preponderance of the evidence at the hearing that his participation in the conduct constituting the crime was limited solely to operating a conveyance used to transport a controlled dangerous substance or controlled substance analog, or loading or unloading the substance into such a conveyance or storage facility. Nothing in this paragraph shall be construed to establish a basis for not imposing a penalty where the prosecutor has established any other ground or grounds specified in this section for the imposition of an anti-drug profiteering penalty.

(4) The defendant is a professional drug distributor. A professional drug distributor is a person who has at any time, for pecuniary gain, unlawfully distributed a controlled dangerous substance, controlled substance analog or drug paraphernalia to three or more different persons, or on five or more separate occasions regardless of the number of persons to whom the substance or paraphernalia was distributed.

c. In making its determination, the court may rely upon expert opinion in the form of live testimony or by affidavit, or by such other means as the court deems appropriate.

d. For the purposes of this chapter, an act is undertaken for pecuniary gain if it involves or contemplates the transfer of anything of value in exchange for a controlled dangerous substance, controlled substance analog or drug paraphernalia, provided that the thing of value received or intended to be received in exchange for the substance or paraphernalia is or was reasonably believed to be of a higher value than that expended by

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

the defendant or by any other person with whom the actor is acting in concert, to acquire or manufacture the substance or paraphernalia. It shall also include any act which would constitute a violation of subsection a. of N.J.S.2C:35-5, N.J.S.2C:35-11, [or] N.J.S.2C:36-3, or N.J.S.2C:21-25 for which the actor was paid or expected to be paid in return for performing such act. There shall be a rebuttable presumption at the hearing that any manufacturing, distribution or possession with intent to distribute which contemplates or involves the payment or exchange of anything of value constitutes an act undertaken for pecuniary gain. It shall not be necessary for the prosecution to establish that any intended profit or payment was actually received; nor shall it be relevant that the act, payment in return for such act or the transfer of anything of value in exchange for the substance or paraphernalia, occurred or was intended to occur in another jurisdiction.

2. N.J.S.2C:35A-4 is amended to read as follows:

2C:35A-4. Calculation of anti-drug profiteering penalty.

a. Where the prosecutor has established one or more grounds for imposing an Anti-Drug Profiteering Penalty pursuant to section 3 of this chapter, the court shall assess a monetary penalty as follows:

(1) $200,000.00 in the case of a crime of the first degree; $100,000.00 in the case of a crime of the second degree; $50,000.00 in the case of a crime of the third degree; $25,000.00 in the case of a crime of the fourth degree; or

(2) an amount equal to three times the street value of all controlled dangerous substances or controlled substance analogs involved, or three times the market value of all drug paraphernalia involved, if this amount is greater than that provided in paragraph (1) of this subsection;

(3) an amount equal to three times the value of any transactions in violation of N.J.S.2C:21-25.

b. When the court is for any reason unable to determine the amount of the penalty pursuant to paragraph (2) of subsection a., the court shall assess a penalty in the amount appropriate to the degree of the offense as provided in paragraph (1) of subsection a.

c. In determining the street value of the substance involved or the market value of drug paraphernalia involved, the court shall take into account all amounts of the substance or paraphernalia reasonably believed to have been involved in the course of the criminal activity in which the defendant knowingly participated, and it shall not be relevant for the purposes of this section that some of those amounts or paraphernalia were involved in acts or transactions which occurred, or which were intended to occur, in another jurisdiction.

d. Where the prosecution requests that the court assess a penalty in an amount calculated pursuant to paragraph (2) or (3) of subsection a., the prosecutor shall have the burden of establishing by a preponderance of the evidence the appropriate amount of the penalty to be assessed pursuant to that paragraph. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at trial, plea hearing

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

or other court proceedings and shall also consider the presentence report and other relevant information, including expert opinion in the form of live testimony or by affidavit. The court's findings shall be incorporated in the record, and such findings shall not be subject to modification by an appellate court except upon a showing that the finding was totally lacking support in the record or was arbitrary and capricious.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

5:12-71. Regulation requiring exclusion of certain persons

a. The commission shall, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any licensed casino establishment. Such provisions shall define the standards for exclusion, and shall include standards relating to persons:

(1) Who are career or professional offenders as defined by regulations of the commission;

(2) Who have been convicted of a criminal offense under the laws of any state or of the United States, which is punishable by more than six months in prison, or any crime or offense involving moral turpitude; or

(3) Whose presence in a licensed casino hotel would, in the opinion of the commission, be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both.

The commission shall promulgate definitions establishing those categories of persons who shall be excluded pursuant to this section, including cheats and persons whose privileges for licensure or registration have been revoked.

b. Race, color, creed, national origin or ancestry, or sex shall not be a reason for placing the name of any person upon such list.

c. The commission may impose sanctions upon a licensed casino or individual licensee or registrant in accordance with the provisions of this act if such casino or individual licensee or registrant knowingly fails to exclude or eject from the premises of any licensed casino any person placed by the commission on the list of persons to be excluded or ejected.

d. Any list compiled by the commission of persons to be excluded or ejected shall not be deemed an all-inclusive list, and licensed casino establishments shall have a duty to keep from their premises persons known to them to be within the classifications declared in paragraphs (1) and (2) of subsection a. of this section and the regulations promulgated thereunder, or known to them to be persons whose presence in a licensed casino hotel would be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both, as defined in standards established by the commission.

e. Whenever the division petitions the commission to place the name of any person on a list pursuant to this section, the commission shall serve notice of such fact to such person by personal service, by

certified mail at the last known address of such person, or by publication daily for one week in a newspaper of general circulation in Atlantic City.

f. Within 30 days after service of the petition in accordance with subsection e. of this section, the person named for exclusion or ejection may demand a hearing before the commission, at which hearing the division shall have the affirmative obligation to demonstrate by a preponderance of the evidence that the person named for exclusion or ejection satisfies the criteria for exclusion established by this section and the commission's regulations. Failure to demand such a hearing within 30 days after service shall be deemed an admission of all matters and facts alleged in the division's petition and shall preclude a person from having an administrative hearing, but shall in no way affect his or her right to judicial review as provided herein.

g. The division may file an application with the commission requesting preliminary placement on the list of a person named in a petition for exclusion or ejection pending completion of a hearing on the petition. The hearing on the application for preliminary placement shall be a limited proceeding at which the division shall have the affirmative obligation to demonstrate that there is a reasonable possibility that the person satisfies the criteria for exclusion established by this section and the commission's regulations. If a person has been placed on the list as a result of an application for preliminary placement, unless otherwise agreed by the commission and the named person, a hearing on the petition for exclusion or ejection shall be initiated within 30 days after the receipt of a demand for such hearing or the date of preliminary placement on the list, whichever is later.

h. If, upon completion of the hearing on the petition for exclusion or ejection, the commission determines that the person named therein does not satisfy the criteria for exclusion established by this section and the commission's regulations, the commission shall issue an order denying the petition. If the person named in the petition for exclusion or ejection had been placed on the list as a result of an application for preliminary placement, the commission shall notify all casino licensees of his or her removal from the list.

i. If, upon completion of a hearing on the petition for exclusion or ejection, the commission determines that placement of the name of the person on the exclusion list is appropriate, the commission shall make and enter an order to that effect, which order shall be served on all casino licensees. Such order shall be subject to review by the Superior Court in accordance with the rules of court.

L.1977, c. 110, § 71, eff. June 2, 1977. Amended by L.1979, c. 282, § 15, eff. Jan. 9, 1980; L.1981, c. 503, § 6, eff. Feb. 15, 1982; L.1991, c. 182, § 17, eff. June 29, 1991; L.1993, c. 292, § 9, eff. Dec. 21, 1993.

WESTLAW Research

5:12–129. Supplemental sanctions

In addition to any penalty, fine or term of imprisonment authorized by law, the commission shall, after appropriate hearings and factual determinations, have the authority to impose the following sanctions upon any person licensed or registered pursuant to this act:

(1) Revoke the license or registration of any person for the conviction of any criminal offense under this act or for the commission of any other offense or violation of this act which would disqualify such person from holding his license or registration;

(2) Revoke the license or registration of any person for willfully and knowingly violating an order of the commission directed to such person;

(3) Suspend the license or registration of any person pending hearing and determination, in any case in which license or registration revocation could result;

(4) Suspend the operation certificate of any casino licensee for violation of any provisions of this act or regulations promulgated hereunder relating to the operation of its casino or, if applicable, its simulcasting facility, or both, including games, internal and accountancy controls and security;

(5) Assess such civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed $10,000.00 in the case of any individual licensee or registrant, except that in the case of a casino licensee the penalty may not exceed $50,000.00;

(6) Order restitution of any moneys or property unlawfully obtained or retained by a licensee or registrant;

(7) Enter a cease and desist order which specifies the conduct which is to be discontinued, altered or implemented by the licensee or registrant;

(8) Issue letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee or registrant so sanctioned; or

(9) Impose any or all of the foregoing sanctions in combination with each other.

L.1977, c. 110, § 129, eff. June 2, 1977. Amended by L.1981, c. 503, § 20, eff. Feb. 15, 1982; L.1993, c. 292, § 32, eff. Dec. 21, 1993.