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**ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE No. 2016-1
AUTOMATED DECONFLICTION OF PLANNED LAW
ENFORCEMENT OPERATIONS AND INVESTIGATIONS**

WHEREAS, the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq., declares it to be the public policy of this State “to encourage cooperation among law enforcement officers and to provide for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State, in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State,” N.J.S.A. 52:17B-98; and

WHEREAS, street gangs, drug trafficking networks, and many other criminal organizations and enterprises operate without regard to municipal or county borders; consequently, these persons and groups may be targeted for investigation by multiple law enforcement agencies, creating a potential for the investigative and enforcement activities of one agency to duplicate and conflict with investigations, enforcement operations, and intelligence-gathering activities that are being undertaken by one or more other law enforcement agencies; and

WHEREAS, the territorial jurisdiction of federal, state, county, and municipal law enforcement agencies overlap, creating a potential for uncoordinated enforcement operations of two or more agencies to occur at the same time and location; and

WHEREAS, conflicting law enforcement operations can unintentionally reveal ongoing covert investigations, not only undermining those investigations, but also exposing undercover officers, officers conducting surveillance, and confidential informants, thereby putting them at risk of retaliation by the criminals under investigation, while also endangering officers and cooperating informants/witnesses by exposing them to the risk of friendly fire; and

WHEREAS, law enforcement agencies at all levels maximize their ability to investigate and prosecute high-impact criminal cases when those agencies work cooperatively, combine resources, and share information; and

WHEREAS, coordination of planned law enforcement activities through a process known as “deconfliction” is needed to ensure the most effective and efficient use of law enforcement



resources to address New Jersey's crime problem, and to enhance officer safety; and

WHEREAS, an effective deconfliction process involves both "target deconfliction" (to ensure that agencies investigating a specific person, group, or business entity are made aware that another agency is also investigating that person, group, or business entity) and "event deconfliction" (to ensure that planned operations undertaken by two or more law enforcement agencies do not occur at the same time and location); and

WHEREAS, computer databases and secure information sharing/pointer index systems make it possible to alert agencies before they conduct a law enforcement operation that involves a person or premises in which another agency already has an interest, or when two or more agencies are planning to conduct an operation at the same time and in close proximity; and

WHEREAS, Attorney General Law Enforcement Directive No. 2002-2 requires law enforcement agencies to attempt to determine whether other agencies have an interest in a targeted suspect or premises before executing a search warrant, but does not require agencies to take deconfliction precautions before conducting any other type of planned law enforcement operation, and even with respect to the execution of search warrants does not require that deconfliction efforts be aided by the use of a computerized deconfliction system; and

WHEREAS, the technological capacity now exists to support implementation of a uniform statewide policy that requires state, county, and local law enforcement agencies to follow simple and effective protocols to achieve the benefits of target and event deconfliction efficiently, expeditiously, and at minimal or no cost to those agencies.

NOW, THEREFORE, I, JOHN J. HOFFMAN, Acting Attorney General of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 et seq., do hereby DIRECT that all law enforcement agencies and officers while operating under the authority of the laws of the State of New Jersey shall adhere to the policies and procedures set forth below:

1. Definitions.

For the purposes of this Directive:

"Automated Deconfliction System" means a computerized law enforcement database and information-sharing and/or pointer index system designated by the Director of the Division of Criminal Justice pursuant to Section 2 of this Directive.

"Conflict Alert" means a determination by an automated deconfliction system following a query made pursuant to this Directive that two or more agencies have a shared interest in a person,

group, vehicle, business entity, premises or location, or that two or more agencies are planning contemporaneous operations in close proximity to each other.

“Deconfliction query” means the process of using an automated deconfliction system in accordance with the procedures and protocols prescribed by the Director of the Division of Criminal Justice pursuant to this Directive to determine whether any other law enforcement agency has a shared interest in a person, group, vehicle, business entity, premises, or location that pertains to a planned operation or investigation, or whether any other agency is planning to conduct an operation contemporaneous with and in close proximity to an operation planned by the agency making the deconfliction query.

“Interested agency” means a law enforcement agency identified by a conflict alert as having previously submitted information to the automated deconfliction system indicating a shared investigative interest in a specific person, vehicle, group, business entity, premises, or location targeted for investigation by an agency making a deconfliction query, or otherwise reasonably likely to be affected by a planned operation to be conducted by an agency making a deconfliction query.

“Negative match” means a determination by an automated deconfliction system following a query made pursuant to this Directive that no other agency has supplied information to the system indicating a shared interest in the person, group, vehicle, business entity, premises, or location that is the subject of the query, and that no other agency has supplied information to the system indicating a planned operation contemporaneous with and in close proximity to the operation to be conducted by the agency making the query.

“Planned operation” means an event or activity undertaken by a law enforcement officer or agency while operating under the authority of the laws of the State of New Jersey where: (1) the event or activity pertains to or is in furtherance of an investigation of criminal conduct constituting an indictable crime under New Jersey law, or an attempt or conspiracy to commit such crime; and (2) the agency or officer knows in advance that the event or investigative/enforcement activity will occur, so that there is a reasonable opportunity to conduct a deconfliction query of an automated deconfliction system before initiating the event or activity.

The term “planned operation” does not include investigative or enforcement activities that arise spontaneously and unexpectedly, such as in the course of conducting a motor vehicle stop where reasonable articulable suspicion of criminal activity was not known in advance of the stop.¹ Nor does the term include the spontaneous execution of an arrest warrant by an officer who learns of the existence of the outstanding warrant during an unplanned motor vehicle or pedestrian

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Although this Directive does not require that deconfliction procedures be followed during the course of an unplanned street encounter, nothing herein should be construed to discourage uniformed officers assigned to patrol duties, or their supervisors, from undertaking such efforts during an unplanned encounter when feasible.

encounter with the suspect, or during a call-for-service.² As a general matter, activities undertaken by uniformed police officers in the course of performing their normal patrol duties (e.g., general surveillance of persons, vehicles, and places), or when responding to calls for service pursuant to the instructions of a police dispatcher, do not constitute planned operations for purposes of this Directive.

The term “planned operation” includes the following investigative/criminal enforcement activities:

- a. an application for and/or execution of a search warrant or communications data warrant, other than an on-scene telephonic search warrant application and/or execution resulting from an unplanned stop or arrest;
- b. an initial or renewal application for electronic surveillance pursuant to N.J.S.A. 2A:156A-8;
- c. an application for an arrest warrant, other than as part of the routine booking procedures after an unplanned arrest (i.e., a post-arrest application for a complaint-warrant (CDR-2));
- d. execution of an arrest warrant at a suspect’s home, place of business, or other specific premises or location;
- e. execution of multiple arrests as part of a single operation (e.g., a sweep operation, a fugitive roundup, a buy-bust operation, or a raid);
- f. an undercover operation (i.e., an operation where a law enforcement officer poses as a person involved in some form of criminal activity) involving either (1) anticipated contact with a specific target/suspect whose identity is known before the operation, or (2) a planned meeting or other event arranged or otherwise expected to occur at a specific premises or location;
- g. a “controlled buy” or similar operation where a confidential informant or other civilian operating under instructions from a law enforcement officer engages in conduct that otherwise would constitute a crime and that involves either (1) anticipated contact with a specific target/suspect, or (2) a planned meeting or other event arranged or otherwise expected to occur at a specific premises or location;

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Note that the agency that applied for the arrest warrant may have been required to undertake deconfliction procedures pursuant to this Directive as part of the warrant application process.

- h. targeted video surveillance focused on a specific premises or location where preexisting reasonable suspicion or probable cause exists to believe that criminal activity is occurring at such premises/location;
- i. a “knock and talk” operation where a law enforcement officer goes to a specific premises for the purposes of speaking with either a known suspect or any person(s) present, and preexisting reasonable suspicion exists to believe that such person(s)/premises are involved in criminal activity, but probable cause to obtain an arrest warrant or a search warrant for the premises does not exist at the outset of the knock and talk operation;
- j. a “directed stop” where an agency has preexisting probable cause or reasonable suspicion with respect to a specific vehicle, and uses uniformed officers to simulate an unplanned motor vehicle stop;
- k. any other type of planned investigative activity or operation designated by the Director of the Division of Criminal Justice pursuant to section 4 of this Directive.

2. Designation of Automated Deconfliction System(s).

A. Criteria for Designation.

The Director of the Division of Criminal Justice, in consultation with the Superintendent of State Police and the County Prosecutors, shall designate one or more automated deconfliction systems that is/are capable of:

- 1) receiving deconfliction queries from law enforcement agencies made in accordance with this Directive on a 24/7 basis;
- 2) determining, based on information provided to the system by participating agencies, whether two or more agencies are investigating the same person, group, business entity, premises, or location, or whether two or more agencies are planning to conduct operations that will occur at the same time and in close proximity to each other (i.e., a “conflict alert”);
- 3) notifying the agency making the query when the query results in a negative conflict match;
- 4) notifying the agency making the query, and automatically and immediately notifying any other interested agency or agencies, in the event of a conflict alert;
- 5) providing 24/7 contact information to allow representatives from the notified agencies to communicate with each other to resolve conflicts in accordance with the procedures and

policies established in this Directive;

6) maintaining strict confidentiality of information provided to the system by participating law enforcement agencies so that neither those agencies, nor the staff assigned to administer the automated deconfliction system, can access information supplied to the system, or otherwise learn of operations undertaken by another agency, except by receiving notification of a conflict alert in response to a bona fide deconfliction query made in accordance with this Directive; and

7) conducting audits to ensure strict compliance with the requirements of this Directive. See Section 2(F), below.

B. Widest Possible Geographic Coverage.

The Director shall, if feasible, designate a single automated deconfliction system to service the needs of all law enforcement agencies operating under the authority of the laws of the State of New Jersey. If it is not feasible to designate a single system with statewide coverage, the Director shall designate two or more automated deconfliction systems to provide the widest possible territorial coverage within the State so as to identify, to the greatest extent practicable, conflict alerts involving planned operations undertaken by law enforcement agencies operating in different regions of the State.

C. Continuing Authority to Designate or Remove Automated Deconfliction Systems.

The Director, in consultation with the Superintendent of State Police and the County Prosecutors, may at any time add or remove an automated deconfliction system from the list of designated systems.

D. Assignment of Automated Deconfliction System For Use by Specific Agencies.

If more than one automated deconfliction system is designated, the Director shall, for every law enforcement agency operating under the authority of the laws of the State of New Jersey, specify the automated deconfliction system that the agency shall use to make deconfliction queries as required by this Directive.

E. Memorandum of Understanding.

The Director of the Division of Criminal Justice shall be authorized to negotiate and approve a Memorandum of Understanding between the law enforcement agency maintaining a designated automated deconfliction system and all State, county, and municipal law enforcement agencies using that system pursuant to this Directive.

F. Notice of Audit Findings.

The Memorandum of Understanding with the agency maintaining a designated automated deconfliction system (1) shall provide for periodic and random audits to ensure strict compliance with this Directive, and (2) shall provide that when such an audit reveals a possible violation of any provision of this Directive, the Director of the Division of Criminal Justice shall be notified of the audit results so that the Director may investigate the circumstances of the violation pursuant to Section 10 of this Directive, or assign a County Prosecutor to investigate the circumstances of the violation.

3. Designation of Types of Activities Constituting Planned Operations.

The Director of the Division of Criminal Justice may at any time add specific types of law enforcement activities to the list of activities constituting “planned operations” set forth in Section 1 of this Directive, or may remove specific types of law enforcement activities from the list, or otherwise clarify or provide guidance on when and under what circumstances law enforcement agencies are required to make deconfliction queries pursuant to this Directive.

4. Requirement to Make Deconfliction Queries Before Initiating Planned Operations.

A. General Deconfliction Rule.

Prior to initiating any planned operation, a law enforcement agency while operating under the authority of the laws of the State of New Jersey shall make a deconfliction query in accordance with the procedures specified in Section 6 of this Directive, unless it is not feasible to make a deconfliction query before initiating the planned operation, or unless the County Prosecutor or First Assistant Prosecutor, or the Director of the Division of Criminal Justice or Deputy Director, expressly exempts the planned operation from the deconfliction requirements of this Directive pursuant to subsection C of this Section.

B. Special Requirements When Deconfliction is Not Conducted.

1. *Failure to Make a Deconfliction Query.*

If an agency determines pursuant to subsection A of this Section that it is not feasible to make a deconfliction query before initiating a planned operation, or the agency otherwise fails to make a query as required by this Directive, the agency shall:

- a) make the deconfliction query as soon as practicable after initiating the planned operation; and

- b) document in writing the reasons for not making a deconfliction query before initiating the planned operation. The agency shall maintain the written explanation of reasons in a file that shall be subject to audit and review in the discretion of the Director of the Division of Criminal Justice or appropriate County Prosecutor.

2. *Failure to Contact Other Interested Agency or Agencies After a Conflict Alert.*

A designated Automated Deconfliction System will automatically and immediately notify an interested agency when another agency has made a deconfliction query concerning any person, group, business entity, vehicle, or premises about which the interested agency has previously provided information suggesting an investigative interest. Notwithstanding this automated notification, in the event of a conflict alert, it shall be the affirmative responsibility of the agency making the query to reach out to the other interested agency to determine how best to resolve the conflict alert in accordance with Section 7 of this Directive. In the event that a deconfliction query results in a conflict alert but the agency that made the query for any reason does not communicate with the other interested agency or agencies before initiating the planned operation, the agency that made the query shall:

- a) contact a representative of the other interested agency or agencies as soon as practicable after initiating the planned operation; and
- b) document in writing the reasons for not contacting the other interested agency or agencies before initiating the planned operation. The agency shall maintain the written explanation of reasons in a file that shall be subject to audit and review in the discretion of the Director of the Division of Criminal Justice or appropriate County Prosecutor.

C. Authority to Grant Exemptions.

Notwithstanding any other provision of this Directive, a County Prosecutor or First Assistant Prosecutor, the Director or Deputy Director of the Division of Criminal Justice, or the Insurance Fraud Prosecutor or Deputy Insurance Fraud Prosecutor may authorize an exemption from any requirement or provision of this Directive upon a finding of good and sufficient cause to conduct a planned operation without performing all of the deconfliction procedures otherwise required by this Directive. Such exemption may be granted orally, but the circumstances justifying the exemption shall be documented in writing. The authority to grant an exemption shall be used sparingly, and only when reasonably necessary to protect the integrity of a criminal investigation or intelligence-gathering operation.

D. Circumstances When Deconfliction Efforts Must be Approved by a Designated Assistant Prosecutor or Assistant/Deputy Attorney General.

When, in accordance with law or Attorney General Law Enforcement Directive No. 2002-2, a planned operation requires the prior approval of the County Prosecutor or designee or Division of Criminal Justice Director or designee (e.g., applications for search warrants or communication data warrants, electronic surveillance pursuant to N.J.S.A. 2C:156A-8), the agency shall advise the assistant prosecutor or deputy/assistant attorney general from whom approval is sought of the results of the deconfliction query made pursuant to this Directive, and, in the event of a conflict alert, the steps that have been taken to resolve the conflict. Unless an exemption has been granted pursuant to subsection C of this Section, or unless exigent circumstances exist requiring immediate approval of the planned operation, an assistant prosecutor or deputy/assistant attorney general shall not approve the planned operation unless a deconfliction query has been made and any conflict alert has been resolved.

5. Authority to Make Target/Suspect Queries Not Required By This Directive.

Nothing in this Directive shall be construed to prevent or discourage an agency from making a deconfliction query not associated with a planned operation when the agency has identified a target/suspect for investigation and the agency has reasonable and articulable suspicion to believe that such person has committed or is committing an indictable crime under New Jersey law, or an attempt or conspiracy to commit such crime. See also Section 7(D) (agencies encouraged to submit deconfliction information as early as possible; the timing of submission of target/suspect data to the system is a relevant consideration in resolving conflicts equitably).

6. Deconfliction Procedures.

A. Method for Making Queries.

Deconfliction queries shall be made in a manner as shall be prescribed by the Director of the Division of Criminal Justice, and in accordance with the approved procedures for using the assigned Automated Deconfliction System. The Director may as appropriate make available forms in an electronic format to facilitate queries. A query by means of email must use a government account, and not a private account.

B. Required Information.

1. *Agency Information.*

The agency making a deconfliction query shall provide information specifying the name of the agency, case number, officer's name, 24/7 contact information, and type of investigation.

2. Event Information.

A deconfliction query regarding a planned operation shall include the start date/time and end date/time of the operation, the address/location of the operation, and the type of event or activity (e.g., surveillance, search warrant execution, undercover buy, etc.).

3. Target/Suspect Information.

When a query pertains to a specific target/suspect, the query shall include, when known, the person's name, aliases, date of birth, social security number, FBI number, State BCI number, physical description, address, gang/group affiliation, phone numbers associated with the person, and vehicles associated with the person (brand/model/year, color, and VIN number).

7. Conflict Resolution.

A. Contact and Discussion.

In the event of a conflict alert, it shall be the affirmative responsibility of the agency making the query that resulted in the alert to contact the other interested agency or agencies. Nothing herein shall be construed in any way to preclude such other agency from contacting the agency that made the query resulting in the conflict alert.

B. Documentation.

All efforts to contact another interested agency and to resolve the conflict alert shall be documented and maintained in each agency's case file. Such documentation shall be subject to audit by the County Prosecutor or the Director of the Division of Criminal Justice.

C. Conflict Alert Resolution Options.

The agency that made the deconfliction query resulting in the conflict alert and the other interested agency or agencies are expected to confer and agree upon one of the following options to resolve the conflict alert:

1. the planned operation(s) will proceed as scheduled; or
2. the planned operation(s) will be conducted as a joint operation; or
3. the planned operation(s) will be delayed until it/they can be conducted without jeopardizing another operation and/or officer safety; or

4. the planned operation(s) will be cancelled; or
5. whatever other options may be necessary and appropriate under the circumstances.

D. General Principles for Resolving Conflict Alerts.

Disputes between agencies with a shared interest in a target/suspect should be resolved amicably by the parties within their respective chains of command. The resolution should be based on all equitable considerations, including in particular the amount of resources that already have been expended in their respective investigations and the potential for the most significant charges and sentencing outcomes that would have the greatest impact on public safety. The agency that submits target/suspect or event location information to the system first does not automatically have primary or superior rights to investigate that target/suspect, or to conduct a planned operation at that location. However, to encourage agencies to submit deconfliction information pursuant to this Directive as early as possible, the timing of data submission to the system is a relevant consideration.

E. Resolution of Disputes by County Prosecutor or Director.

In the event that a dispute between agencies operating under the authority of the laws of the State of New Jersey cannot be resolved by the management /executive leadership of those agencies, if all the agencies are subject to the jurisdictional authority of a single County Prosecutor, the matter shall be referred to that County Prosecutor for resolution. If one of the agencies operates outside the jurisdictional authority of the County Prosecutor, or is a State agency, the dispute shall be referred to the Director of the Division of Criminal Justice for resolution. The County Prosecutor or Director is hereby authorized to resolve the dispute, and that resolution shall be final and binding on any agency operating under the authority of the laws of the State of New Jersey.

8. Implementation of Directive by State, County, and Municipal Agencies.

Every law enforcement agency operating under the authority of the laws of the State of New Jersey shall, within 120 days of the issuance of this Directive, promulgate and enforce a deconfliction rule, regulation, standard operating procedure, directive, or order, in a form as may be appropriate given the customs and practices of the agency, which shall comply with and implement the provisions of this Directive, and which shall provide that any sworn officer or civilian employee of the agency who knowingly violates the agency's deconfliction rule, regulation, standard operating procedure, directive, or order shall be subject to discipline. The agency shall provide a copy of its deconfliction rule, regulation, standard operating procedure, directive, or order, and any subsequent amendments or revisions thereto, to the County Prosecutor, or, in the case of a State agency, to the Director of the Division of Criminal Justice.

9. Authority of County Prosecutors to Impose Supplemental Requirements.

Nothing in this Directive shall be construed in any way to limit the authority of a County Prosecutor to issue directives or guidelines to the law enforcement agencies subject to his or her jurisdictional authority, setting forth additional procedural or substantive rules concerning event or target deconfliction, provided that any such directives or guidelines are not inconsistent with the policies or principles set forth in this Directive. By way of example, nothing in this Directive limits the authority of a County Prosecutor to specify additional circumstances when agencies/officers subject to the prosecutor's jurisdictional authority must undertake deconfliction efforts, whether by using the automated deconfliction system, as may be permitted by the agency administering the system, or by such other means as the prosecutor may require.

10. Violations and Remedial Action.

The Director of the Division of Criminal Justice, and a County Prosecutor, shall be authorized to investigate a violation of this Directive, and to take such remedial or disciplinary actions as may be necessary to ensure compliance with this Directive. Wilful or repetitive violations of this Directive shall be reported to the Attorney General or his or her designee.

11. Continued Implementation of Earlier Deconfliction Directive.

Provisions of Attorney General Law Enforcement Directive No. 2002-2 that are not inconsistent with the provisions of this Directive shall remain in force and effect. Compliance with the deconfliction procedures set forth in this Directive shall be deemed to satisfy the deconfliction requirements set forth in Sections 17-20 of Attorney General Law Enforcement Directive No. 2002-2, provided, however, that nothing herein shall limit the authority of a County Prosecutor to require additional deconfliction efforts before a search warrant application is approved (e.g., requiring the agency seeking the search warrant to consult with the county guns, gang, and drug task force commander or designee). The Division of Criminal Justice shall revise as appropriate the search warrant application approval form required by Section 11 of Attorney General Law Enforcement Directive No. 2002-2 to account for the applicable provisions of this Directive, and shall make the revised form available to all County Prosecutors and law enforcement agencies in an electronic format (e.g., fillable PDF document).

12. Enforcement by Third Parties.

Nothing in this Directive shall be construed in any way to create any rights or promises. Nor does this Directive vest enforcement rights in any person claiming noncompliance or deviation from the policies, practices, and procedures described in this Directive.

13. Questions.

Any questions concerning the meaning or implementation of this Directive shall be addressed to the Director of the Division of Criminal Justice, or his designee.

14. Report to Attorney General on Implementation and Effectiveness.

Within 12 months of the date on which the deconfliction requirements of this Directive become mandatory, the Director of the Division of Criminal Justice, in consultation with the Superintendent of State Police and the County Prosecutors, shall report to the Attorney General on the implementation and effectiveness of, and compliance with, the deconfliction procedures set forth in this Directive.

15. Effective Date.

The deconfliction requirements set forth in this Directive shall become mandatory 120 days after the issuance of this Directive. All law enforcement agencies operating under the authority of the laws of the State of New Jersey shall take such actions as are necessary and appropriate to ensure that this Directive is fully implemented and operational on or before the date on which the deconfliction procedures become mandatory. This Directive shall remain in force and effect unless and until amended, superseded, or repealed by order of the Attorney General.

Dated: February 17, 2016

Attest:


Elie Honig

Director, Division of Criminal Justice


John J. Hoffman

Acting Attorney General