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COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

February 15, 2013

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

IMMEDIATE CONSIDERATION REQUESTED

**RE: Authorization to receive Asset Forfeiture
Funds from the U.S. Department of Justice**

Dear Honorable Members:

Attached, please find a proposed resolution and an accompanying memorandum from the Erie County Probation Department requesting authorization to receive Asset Forfeiture Funds from the United States Department of Justice (USDOJ), by entering into an Equitable Sharing Agreement.

The County Legislature has previously approved resolution Int.# 23-3 adopted on December 1, 1994 governing the use of both Federal and State Forfeiture Funds for the Sheriff's Office. The Erie County Probation Department, as a participant in the FBI Safe Streets Task Force, is also engaged in the investigation, arrest, and/or prosecution of illicit drug trafficking in Erie County; and entitled to share in monies that are received by the FBI Safe Streets Task force when it seizes funds or assets in the course of an investigation.

The annual Equitable Sharing Agreement allows Probation to receive asset forfeiture funds and appropriate them through the Legislative process only for law enforcement purposes, as delineated as permissible uses in the Equitable Sharing guideline for State and Local Law Enforcement Agencies.

Should your honorable body require further information, I encourage you to contact the Erie County Probation Department. Thank you for your consideration on this matter.

Sincerely,


Mark C. Poloncarz
Erie County Executive

Enclosure

cc: Brian McLaughlin, Commissioner of Probation

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Erie County Probation Department
Re: Authorization to receive Asset Forfeiture Funds from U.S. Department of Justice
Date: January 25, 2013

SUMMARY

The attached resolution and accompanying memorandum request authorization to receive Asset Forfeiture funds from the USDOJ by entering into an Equitable Sharing Agreement.

FISCAL IMPLICATIONS

The County Legislature has previously approved resolution Int.# 23-3 adopted on December 1, 1994 governing the use of both Federal and State Forfeiture Funds for the Sheriff's Office. The Erie County Probation Department is now a participant in the Asset Forfeiture program through the FBI Safe Streets Task Force, and is engaged in the investigation, arrest, and/or prosecution of illicit drug trafficking in Erie County. The Probation Department is entitled to share in monies that are received by the FBI Safe Streets Task Force when it participates in the seizure of funds or assets in the course of an investigation.

REASONS FOR RECOMMENDATION

The Erie County Probation Department has received a letter of acceptance into the Equitable Sharing program as part of the FBI Safe Streets Task Force. Each participating agency must sign an annual Equitable Sharing Agreement and Certification to receive asset forfeiture funds.

BACKGROUND INFORMATION

The annual agreement allows the Probation Department to receive a share of asset forfeiture funds from the cases in which it has participated. Asset forfeiture funds are appropriated through the Legislative process and can only be used for law enforcement purposes, as delineated as permissible uses in the Equitable Sharing guideline for State and Local Law Enforcement Agencies. To date the Probation Department has used \$22,000 per resolution 15E-18 (2012), to fund the purchase of updated electronic monitoring equipment. Remaining funds, as well as any funds realized in 2013, cannot be utilized unless the annual Equitable Sharing Agreement and Certification is authorized and signed.

CONSEQUENCES OF NEGATIVE ACTION

The County will forfeit the seizure funds due from pending cases in which the Probation Department participated, and current asset forfeiture funds cannot be utilized unless the annual Equitable Sharing Agreement and Certification is authorized and signed.

STEPS FOLLOWING APPROVAL

Certified copies of this resolution will be forwarded to the Division of Budget & Management, the Office of the Comptroller, the Probation Department.

**A RESOLUTION SUBMITTED BY:
PROBATION DEPARTMENT**

**RE: Authorization to receive Asset Forfeiture
Funds from the U.S. Department of Justice**

WHEREAS, the U. S. Department of Justice has accepted the Probation Department into the Equitable Sharing program for state and local Law Enforcement Agencies to share federally forfeited property in accordance with Section 881(e)(3) of Title 21, United States Code; and

WHEREAS, the Erie County Department of Probation as a participant in the FBI Safe Streets Task Force is engaged in the investigation, arrest, and/or prosecution of illicit drug trafficking in Erie County, and thus entitled to share in monies that are received by the FBI Safe Streets Task force when funds or assets are seized in the course of an investigation; and

WHEREAS, the Erie County Probation Department must sign an annual Equitable Sharing Agreement and Certification in order to receive these funds; and

WHEREAS, the County Legislature has previously approved resolution Int.# 23-3 adopted on December 1, 1994 governing the use of both Federal and State Forfeiture Funds for the Sheriff's Office, this is the same program which the Probation department has been participating in through the FBI Safe Streets Task Force.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to enter into an Equitable Sharing Agreement and Certification for the Probation department to accept forfeiture funds from the U.S. Department of Justice (USDOJ); and be it further

RESOLVED, that with the Comptroller's Office that said asset forfeiture funds shall be deposited and held in Trust for the Probation Department; and be it further

RESOLVED, that said Asset Forfeiture funds shall be appropriated through the Legislative process for law enforcement purposes as delineated as permissible uses in the Equitable Sharing guideline for State and Local Law Enforcement Agencies; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive's Office, the Division of Budget and Management, the County Comptroller, the County Attorney and the Probation Department.