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From: Paula T. Dow, Attorney General

Date: April 28, 2010

Subject: DIRECTIVE REVISING NEW JERSEY'S AMBER ALERT PLAN

Recent tragic events have prompted me to review the criteria that are used in New Jersey to activate an AMBER Alert following the abduction of a child. The AMBER Alert system is a voluntary, cooperative program that establishes a partnership between the law enforcement community and the broadcast media. The program is named for Amber Hagerman, a nine-year-old child from Arlington Texas who was abducted and brutally murdered. When an AMBER Alert is activated, law enforcement officials request the media to broadcast an emergency alert to the public asking for assistance in locating a child who was recently abducted and is believed to be in danger.

The key to a successful AMBER Plan is to have in place clearly defined criteria that law enforcement officials can use in exercising their discretion whether to request the media to interrupt regular television and radio broadcasts and issue an AMBER Alert through the emergency broadcast system. While the United States Department of Justice offers guidance and recommendations on the criteria to be used in issuing an AMBER Alert, there are no uniform national standards. Rather, each State is responsible for developing its own activation criteria.



In New Jersey, the AMBER Alert program has been established by statute and is codified at N.J.S.A. 52:17B-194.1 *et seq.* The New Jersey Legislature expressly found that the most critical moments in the search for an abducted child are the first few hours immediately following the abduction. The Legislative findings note in this regard that, “if a child is not found within two to four hours, it is unlikely that child will be found alive.” N.J.S.A. 52:17B-194.2(a). The Legislature thus concluded that the rapid dissemination of information to the citizens of the affected community and region is vital, and that, once alerted to an abduction, “the citizenry becomes an extensive network of eyes and ears serving to assist law enforcement in quickly locating and safely recovering the child.” Ibid.

_____The statute and Attorney General Law Enforcement Directive No. 2008-4 designate the State Police as the agency that is responsible for activating an AMBER Alert, and this is typically done after authenticating a request by another law enforcement agency to activate an alert. N.J.S.A. 52:17B-194.3 further requires the Attorney General to establish the State’s AMBER Plan, and authorizes the Attorney General to adopt guidelines to effectuate the purposes of the act. The following revisions to the State’s AMBER Plan are promulgated pursuant to that authority, and are intended to clarify when and under what circumstances it is appropriate to activate the AMBER Alert system.

The State’s current AMBER Plan, which can be found on the New Jersey State Police webpage, includes prefatory language that could be construed to limit AMBER Alerts to situations where a child has been abducted by a non-family member. Specifically, the current policy states that, “AMBER Alerts are intended for non-family cases of child abduction....” However, the current policy later notes that law enforcement authorities should consider “[p]ossible domestic or parental involvement,” which suggests that New Jersey’s AMBER Plan was not intended to categorically preclude activation of an AMBER Alert when a child had been abducted by a parent or other family member.

It is important to have clear, unambiguous criteria that law enforcement authorities can apply in deciding whether to enlist the public’s assistance in locating an abducted child by means of the AMBER Alert system. Accordingly, it is appropriate to issue a revised plan that makes clear that law enforcement authorities must focus principally on whether there is reason to believe that the child may be in danger of death or serious bodily injury. The relationship between the suspected abductor and the child is a relevant factor that should be considered in gauging the risk of physical harm to the child. It is important to revise the State’s AMBER Plan to make it absolutely clear to all law enforcement officials that an AMBER Alert may be activated by the State Police in a case

involving an abduction by a family member when there is reason to believe that the child may be in danger of death or serious bodily injury.

To aid and provide guidance to law enforcement authorities in applying the activation criteria in family abduction cases, the attached revised AMBER Plan includes a non-exhaustive list of circumstances that are relevant to the fact-sensitive question whether a child who was abducted by a family member may be in danger of death or serious bodily injury. In addition, I am attaching an AMBER Alert Activation Worksheet that was developed by the State Police to help to identify and document the facts used to determine whether it is appropriate to activate an alert. I have also asked the State Police to develop a training program for law enforcement personnel, including 9-1-1 operators, to identify the questions that should be posed to a person who is reporting a family abduction. The answers to those questions would provide law enforcement officials with case-specific information that would help them to decide whether it is appropriate to request activation of an AMBER Alert.

For the foregoing reasons, and pursuant to my authority under N.J.S.A. 52:17B-194.1 *et seq* and as the State's chief law enforcement officer, I hereby amend the State's AMBER Plan by replacing the section of the current plan entitled, "When is An AMBER Alert Issued?" and **Direct** the State Police to post the attached revised plan on their webpage and to distribute a copy of the revised plan and this Directive to all AMBER Alert partners. All law enforcement agencies are **Directed** to implement the revised plan, which takes effect immediately, and to provide the appended worksheet to all appropriate law enforcement personnel, including 9-1-1 operators and police dispatchers. It shall be the responsibility of the State Police and every law enforcement agency to take steps to make certain that appropriate sworn and civilian personnel operating under their authority or within their jurisdiction are provided training on these relevant questions.

This Directive pertains only to the criteria for activation of an AMBER Alert, and nothing herein shall be construed to supercede or amend Attorney General Law Enforcement Directive No. 2008-4, which establishes a statewide network of Child Abduction Response Teams, and which requires that missing child investigations be conducted in accordance with guidelines, protocols, and/or best practices disseminated and periodically re-issued by the State Police.

It should also be noted that while the AMBER Alert program established under N.J.S.A. 52:17B-194.1 *et seq.* focuses exclusively on *child* abductions, nothing in that law should be construed to prohibit law enforcement from requesting the media to interrupt radio and television programs with an emergency broadcast when such an alert

is deemed necessary to enlist the public's assistance in locating an adult abduction victim or other vulnerable adult who is in imminent danger of death or serious bodily injury. Any such public announcement involving a missing adult would not constitute an AMBER Alert. However, nothing in this Directive or the attached revised AMBER Plan should be construed to preclude a law enforcement agency from entering into an agreement with local or statewide media to publicize missing persons reports that do not meet the criteria for activation of an AMBER Alert.

Paula T. Dow, Attorney General

Dated: April 28, 2010

Attest:

Phillip H. Kwon
First Assistant Attorney General