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MEMORANDUM

TO: ALL COUNTY PROSECUTORS
SUPERINTENDENT, DIVISION OF STATE POLICE
ALL LAW ENFORCEMENT CHIEF EXECUTIVES

FROM: PETER C. HARVEY, ATTORNEY GENERAL

DATE: February 20, 2004

SUBJECT: **ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2004-1:
REPLACING ATTORNEY GENERAL LAW ENFORCEMENT
DIRECTIVE NO. 2001-5**
John's Law, P.L. 2001, c. 69, *N.J.S.A.* 39:4-50.22 & 39:4-50.23
POTENTIAL LIABILITY WARNING FORM - RELEASE OF DWI ARRESTEE
& 12 HOUR IMPOUNDMENT OF THE VEHICLE OF A DWI ARRESTEE

Please take notice that Attorney General Law Enforcement Directive No. 2001-5, is hereby replaced by Attorney General Law Enforcement Directive No. 2004-1, as more fully discussed below.

On July 31, 2001, Acting Attorney General Paul Zoubek issued Attorney General Law Enforcement Directive No. 2001-5. That Directive informed all law enforcement agencies and prosecutors of the implementation of P.L. 2001, c. 69, *N.J.S.A.* 39:4-50.22 & 39:4-50.23, "John's Law," requiring the use of a "Potential Liability Warning" Form for the release of a DWI Arrestee and a Minimum 12 Hour Impoundment of the Vehicle of a DWI Arrestee.

A recent amendment to *N.J.S.A.* 39:4-50, (Laws 2003, chapter 314, §1) established a new lower *per se* blood alcohol limit of 0.08% or more. That amendment has required the revision

and/or modification of various forms utilized in DWI enforcement.¹ The amendment to *N.J.S.A.* 39:4-50 was effective immediately upon its adoption, noon, Tuesday, January 20, 2004. Laws 2003, chapter 314, §4.

Following a review of the amendatory language of Laws 2003, chapter 314, it has been determined that a revision of the Potential Liability Warning - *N.J.S.A.* 39:4-50.22 Form used for the release of a DWI Arrestee is required. Correspondingly, Attorney General Law Enforcement Directive No. 2001-5 and the Appendices A & B to that Law Enforcement Directive are being replaced with Attorney General Law Enforcement Directive No. 2004-1.

THEREFORE, I, PETER C. HARVEY, Attorney General of the State of New Jersey, by virtue of the authority vested in me by the Constitution of the State of New Jersey and the Criminal Justice Act of 1970, *N.J.S.A.* 52:17B-97 *et seq.*, and pursuant to the provisions of P.L. 2001, c. 69, §1, hereby **DIRECT** that Attorney General Law Enforcement Directive No. 2001-5 and the Appendices A & B to that Law Enforcement Directive, are replaced as follows:

1. Under the provisions of P.L. 2001, c. 69, §1, *N.J.S.A.* 39:4-50.22, (John's Law) the content and form of the written statement and acknowledgment of receipt of the written statement of potential criminal and civil liability for permitting or facilitating the arrestee's operation of a motor vehicle while the arrestee remains intoxicated, [hereafter referred to as the POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22 (Rev. 2-20-2004) Form], is established pursuant to this DIRECTIVE.²
2. The POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22 (Rev. 2-20-2004) Form **shall** be used by all law enforcement agencies in, and of, this State, and replaces the form distributed under Attorney General Law Enforcement Directive No. 2001-5. The POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22 (Rev. 2-20-2004) Form is contained in Appendix A, attached to this DIRECTIVE.
3. **All previous versions of the POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22 Forms are to be discarded.**

¹ On January 22, 2004, under separate cover, a revised Standard Refusal Statement to be read to operators of a motor vehicle (*N.J.S.A.* 39:4-50.2(e)) was sent to the Superintendent of the State Police and All Law Enforcement Chief Executives.

² The original POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22 form was prepared in an American English version, and in an official Spanish translation from the American English version. Both versions have been modified under this DIRECTIVE.

4. Under the provisions of P.L. 2001, c. 69, §1, *N.J.S.A. 39:4-50.22*, (John's Law), Guidelines for the use of the POTENTIAL LIABILITY WARNING - *N.J.S.A. 39:4-50.22* (Rev. 2-20-2004) Form, are established pursuant to this DIRECTIVE. The Guidelines are contained in Appendix A, attached to this DIRECTIVE. These Guidelines **shall** be used by all law enforcement agencies in, and of, this State.
5. Under the provisions of P.L. 2001, c. 69, §1, *N.J.S.A. 39:4-50.22*, (John's Law), Guidelines for the implementation of *N.J.S.A. 39:4-50.23*, Requiring the Mandatory 12-hour Impoundment of the Motor Vehicle Operated by a Person Arrested for a Violation of *N.J.S.A. 39:4-50* (DWI) and/or *N.J.S.A. 39:4-50.2* (Refusal to submit to chemical breath testing), are established pursuant to this DIRECTIVE. The Guidelines are contained in Appendix B, attached to this DIRECTIVE. These Guidelines **shall** be used by all law enforcement agencies in, and of, this State.

This DIRECTIVE and the accompanying Guidelines are also available on the Division of Criminal Justice Internet website at www.njdcj.org, or www.state.nj.us/lps/dcj.

Forms & Guidelines attached

- c. Vaughn L. McKoy, Director, Division of Criminal Justice
Nancy Kaplan, Acting Director, Division of Law
Diane Legreide, Chief Administrator, N.J. Motor Vehicle Commission
Hon. Richard J. Williams, J.A.D., Administrative Director of the Courts
Peter J. Traum, Chief of Staff, Division of Criminal Justice
AAG Jessica S. Oppenheim, Chief, Prosecutors Supervision & Coordination Bureau,
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