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To: Col. Joseph R. Fuentes, Superintendent, New Jersey State Police
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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

REVISED AMBER ALERT PLAN

The Section of the current AMBER Alert Plan entitled "When Is An Amber Alert Issued?" is hereby deleted and is replaced with the following text:

When Is An AMBER Alert Issued?

AMBER Alerts are intended to be issued when there is reason to believe that a child has been abducted and may be in danger of death or serious bodily injury. AMBER Alerts are not intended for all missing child incidents, runaways, or child custody situations, and it is the responsibility of all law enforcement agencies to make certain that the AMBER Alert system is not abused. The misuse of the AMBER Alert system would lead to a lack of confidence by members of the general public whose assistance is being sought. The activation of an AMBER Alert in any case where there is no objectively reasonable basis to believe that a child has been abducted and may be in danger of death or serious bodily injury would undermine the program's effectiveness by leading citizens to pay less attention to these alerts, which in turn would endanger abducted children who are genuinely at risk of death or serious bodily harm. Accordingly, it is the policy of the State of New Jersey that an AMBER Alert should only be activated by the State Police when the circumstances meet specific criteria that are set forth below.

The decision whether or not to issue an AMBER Alert is a judgment call that must be made very quickly based on the limited information available at that moment. For this reason, law enforcement officials who apply the following criteria in good faith and who document the reasons and factual basis for their decision should not be second-guessed based on subsequent events, or on information that was not reasonably available at the time that the decision to initiate or refrain from initiating an AMBER Alert had to be made.

Criteria for activation of the AMBER Alert system

The following criteria shall be met before an AMBER Alert is activated:

1. There is reason to believe that a child under the age of 18 has been abducted.
2. There is reason to believe that the abducted child may be in danger of death or serious bodily injury.
3. There is reason to believe that an AMBER Alert would assist in locating the child considering all relevant circumstances, including whether there is enough descriptive information available, and the amount of time that has elapsed since the child was last seen and was reported missing.

Applying the activation criteria in cases involving family abductions

When deciding whether to activate or request activation of an AMBER Alert, law enforcement officials should consider whether the reported abduction was done by a family member or someone acting on behalf of a family member. An AMBER Alert should not be activated unless the AMBER Alert criteria have been met.

When a stranger abducts a child, it may generally be assumed that the child is at great risk of physical harm. In the case of a family abduction, law enforcement officials must consider the complexity of the circumstances of the reported abduction (*i.e.*, *e.g.*, the manner in which it was committed and whether violence, threat of violence, a deadly weapon, or other dangerous behavior or circumstance was involved), as well as any available background information about the abductor and his or her relationship to the child and any history of prior abductions, custody disputes, domestic violence or child abuse. Furthermore, when assessing the totality of the known circumstances, law enforcement officials responding to a report of a family abduction may need to consider the possibility that the person reporting the abduction has a motive to overstate the risk of physical harm posed to the child in order, for example, to gain an advantage in ongoing or contemplated matrimonial or custody rights litigation.

This statewide policy should not be construed in any way to categorically prevent activation of an AMBER Alert in family abduction cases. The familial relationship between the suspected abductor and the abducted child is merely a factor that should be considered as part of the totality of the circumstances in determining whether there is reason to believe that the child may be in danger of death or serious bodily injury. In family abduction cases, the law enforcement officials should consider the following specific circumstances, when information about these circumstances is available:

1. Whether any threats of harm to the child were made by the abductor at any time before the abduction, or during the course of the abduction (including implied threats such as "if I can't have custody, then no one will");
2. Any past history of violence by the abductor directed against the child, or abuse or neglect of the child, or any other child;
3. Whether violence or threat of violence was used in committing the abduction, and whether force was used or directed against the child (*e.g.*, the child resisted or tried to escape), or put the child at immediate risk of harm, even if the force was directed against another (*e.g.*, the use or threatened use of a firearm or other weapon; assault by auto, motor vehicle eluding or reckless driving, etc.);
4. Whether there is a family history of domestic violence or child abuse, or a history of custody disputes or past abductions;

5. Whether the abductor has a past history of violence or weapons offenses;
6. Whether the abductor is believed to be armed;
7. Whether the abductor is believed to be under the influence of alcohol or drugs;
8. Whether the abductor has a history of alcohol or other substance abuse;
9. Whether the abductor has a history of mental illness;
10. Whether the abductor was acting irrationally (*e.g.*, uncontrolled rage, desperation, or panic);
11. Whether the child and/or abductor have pre-existing medical and/or health conditions, which, if unmonitored and/or untreated, could impact on the welfare of the child;
12. Any other facts or circumstances that suggest that the abductor might intentionally or unintentionally harm the child, or expose the child to a dangerous situation.

AMBER Alerts are only one part of a comprehensive law enforcement response to reports of abducted/missing children

Even when the circumstances of an abduction or missing child case do not meet the criteria for activation of an AMBER Alert, the law enforcement agency responding to the incident should immediately contact the New Jersey State Police Missing Persons Unit for assistance, and must conduct the missing child investigation in accordance with guidelines, protocols, and/or best practices disseminated by the State Police pursuant to Attorney General Law Enforcement Directive No. 2008-4. The decision not to activate an AMBER Alert to interrupt radio and television programs with an emergency broadcast should in no way preclude a law enforcement agency from preparing and distributing flyers or using other means to enlist public assistance in locating the missing child. Nor does the statewide AMBER Alert Plan in any way preclude a law enforcement agency from entering into an agreement with local media to publicize missing persons reports. The AMBER Alert program is intended to supplement, not supplant, other techniques and methods for soliciting the public's assistance in locating missing persons.

NEW JERSEY STATE POLICE
AMBER Abducted Child Alert Reporting Form

INVESTIGATING AGENCY	AGENCY TELEPHONE
INVESTIGATING OFFICER	OFFICER'S CONTACT/CELL PHONE NUMBER

NJSP ROIC TELEPHONE: 609-963-6900

CHILD	NAME OF ABDUCTED CHILD			PHOTO? <input type="checkbox"/> YES <input type="checkbox"/> NO		CELL PHONE NUMBER	CELL PHONE CARRIER			
	AGE	DATE OF BIRTH	HEIGHT	WEIGHT	RACE	GENDER	EYE COLOR	HAIR COLOR		
	SCARS, MARKS, TATTOOS				DESCRIPTION OF CHILD'S CLOTHING					
	LOCATION WHERE CHILD WAS LAST SEEN						DATE LAST SEEN	TIME LAST SEEN		

SUSP./ABDUCTOR	SUSPECT NAME				ADDRESS						
	CELL PHONE NUMBER			CELL PHONE CARRIER		RELATIONSHIP TO CHILD		PHOTO? <input type="checkbox"/> YES <input type="checkbox"/> NO		CRIMINAL HISTORY? <input type="checkbox"/> YES <input type="checkbox"/> NO	
	AGE	DATE OF BIRTH	HEIGHT	WEIGHT	RACE	GENDER	EYE COLOR	HAIR COLOR			
	SCARS, MARKS, TATTOOS				DESCRIPTION OF SUSPECT'S CLOTHING						

VEHICLE	MAKE	MODEL	YEAR	COLOR	REGISTRATION	STATE
	ADDITIONAL IDENTIFIERS				DIRECTION OF TRAVEL	

Witness	PERSON REPORTING CRIME	ADDRESS	TELEPHONE

Threat of Serious Bodily Harm/Death	YES NO UNK YES NO UNK
	• Does Child know Abductor(s)? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK
	• Was Child taken by force? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK
	• Did Child resist abduction? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK
	• Did abduction result in physical harm? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK
	• Custody issue? (If yes, check one) <input type="checkbox"/> Joint <input type="checkbox"/> Mother <input type="checkbox"/> Father
	• Restraining Order in place? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK Explain: _____
	• Does Restraining Order indicate threat to Child's safety? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK Explain: _____
	• Does Child have health concerns? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK If Yes, explain: _____
	• Does Abductor have a history of Psychological/ Substance abuse? If Yes, explain: _____