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AMBER Alert in Indian Country

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Amber Alert Technical & Training Assistance Program

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On May 2, 2016, Pamela Foster’s world “shattered in a million pieces.”¹ That was the day a predator took the promising life of her 11-year-old daughter, Ashlynnne Mike.

Ashlynnne’s abduction, rape, and murder on the Navajo reservation in northwest New Mexico is considered one of the worst crimes ever to hit the Navajo Nation. It also exposed a troubling truth. The nation’s largest Indian reservation—spanning three states (New Mexico, Arizona, and Utah) and 27,000 square miles—experienced challenges in Ashlynnne’s case with communication and jurisdictional complexities that cost precious time. And tribal communities across the country would collectively realize the need to enact their own child abduction recovery plans on Native lands.

On Ashlynnne’s last day, the budding artist and musician got off her afternoon school bus with her 9-year-old brother. Together, they were spotted playing with friends not far from their Lower Fruitland home. Unfortunately, a stranger, a 27-year-old perpetrator, was watching. He pulled up his van near the siblings and lured them inside with an offer to see a movie.

As the sun began to set hours later, an elderly couple traveling a remote stretch of desert road happened upon Ashlynnne’s brother, exhausted and in tears. He had escaped several miles back, but Ashlynnne was still with her kidnapper.

A frantic search for the girl got underway that evening as Ashlynnne’s relatives repeatedly called area law enforcement on the reservation as well as police stations in nearby Shiprock and Farmington. A number of factors resulted in an AMBER Alert that was not issued for Ashlynnne until 2:30 a.m. the next morning.

Nearly 12 hours after her abduction, Ashlynnne’s body was found south of Shiprock (Navajo: Tsé Bit’a’í), a towering volcanic rock

¹ BONNIE FERENBACH & PAUL MURPHY, I HAD TO BECOME A WARRIOR MOM, 4 AMBER ADVOCATE 3 (2019).

formation the Navajos deem sacred. There in its shadow, Ashlynnne was assaulted and murdered. On October 20, 2017, Tom Begaye, Jr., was sentenced to life imprisonment without the possibility of release for his conviction on murder, aggravated sexual abuse, and kidnapping charges.²

“No child deserves to die in this way,” said Russell Begaye, then president of the Navajo Nation.³ He promised to strengthen protections for Navajo children and tribal members.

The news was reassuring to Ashlynnne’s mother, but it did not go far enough. She wanted to ensure no Native child or family would ever have to experience such a frustrating, heartbreaking ordeal. “[T]here was nothing worse than finding out there were no AMBER Alert systems on the reservation at the time when we needed it most,” Foster said.⁴

The self-described “warrior mom” would set out on an 18-month campaign to “fix the loopholes and fight for AMBER Alert in Indian Country”⁵—to allow for a coordinated response and an alert that could have assisted in locating her daughter.

The AMBER Alert program was established in 1996 when Dallas–Fort Worth broadcasters teamed with local police to develop an early warning system to help find abducted children. The program was created as a legacy to nine-year-old Amber Hagerman, who was kidnapped while riding her bicycle in Arlington, Texas, and then murdered. Other states and communities soon set up their own AMBER Alert plans as the idea was adopted across the nation. These AMBER Alert plans, however, did not extend to tribal communities.

The late Arizona Senator John McCain and a bipartisan group in Congress were won over by Pamela’s unwavering spirit and sense of urgency, resulting in Bill S.772, which won widespread support from

² Press Release, U.S. Dep’t of Justice (D.N.M.), *Navajo Man Sentenced to Life Imprisonment for Kidnapping, Sexually Assaulting and Murdering 11-Year-Old Navajo Child* (Oct. 20, 2017).

³ Katherine Locke, *Navajo Man Sentenced to Life for Kidnapping, Assault of 11-Year-Old Ashlynnne Mike*, NAVAJO-HOPI OBSERVER (Oct. 24, 2017), <https://www.nhnews.com/news/2017/oct/24/navajo-man-sentenced-life-kidnapping-assault-11-ye/>.

⁴ Mary Hudetz, *Mom of Slain Navajo Girl Urges Tribes to Use AMBER Alerts*, ASSOCIATED PRESS (July 31, 2019), <https://apnews.com/31300928d7724f308f6b65e224dfe439>.

⁵ FERENBACH & MURPHY, *supra* note 1, at 3.

the National Congress of American Indians, the Inter-Tribal Council of Arizona, the Navajo Nation, and tribes across the country. The next spring, President Donald Trump signed the Ashlynnne Mike AMBER Alert in Indian Country Act of 2018 into law.⁶

Shortly before the AMBER Alert Act of 2018 became law, the Navajo Nation also fulfilled its promise by creating an emergency alert system capable of issuing AMBER Alerts and other urgent notifications to the 11 counties within its tribal boundaries. Now, all tribes across the United States are working to ensure they have access to AMBER Alert plans, and as of July 24, 2020, have saved 1,000 missing or abducted children.

“There is no greater strength than a parent who has been through a tragedy,” said Jim Walters, an internationally recognized expert on law enforcement training/child protection and recovery strategies.⁷

I. Navajo Nation overcomes challenges, inspires others

Challenges are all too common for the nation’s tribes, which often lack staffing; the training to investigate child abductions; access to the criminal justice information systems where they can enter details about the missing child and suspect; infrastructure, such as road signs; and broadcasting capability, software, and computers. Additionally, tribal citizens often lack quick access to communication channels because of the vast expanses of difficult terrain in which they live and economic disparities.

The greatest obstacles are often jurisdictional ones stemming from Native tribes’ historic relationship with the federal government—and in turn, issues of tribal sovereignty. This has impacted the need to build relationships and collectively solve crimes.

“Jurisdiction can pretty much get in the way for the well-being of our people, especially in Indian Country,” Navajo Nation Vice President Jonathan Nez said.⁸ For instance, the Navajo Nation comprises 110 chapters of semi-autonomous local governments that need to be communicated with and respected. This scenario often

⁶ Ashlynnne Mike AMBER Alert in Indian Country Act, Pub. L. No. 115-166, 132 Stat. 1274.

⁷ FERENBACH & MURPHY, *supra* note 1, at 4.

⁸ Denise Gee, *Sharing a Vision*, AMBER ADVOCATE (Jan. 2, 2019), <https://amber-ic.org/news/sharing-a-vision/>.

impedes efforts undertaken by law enforcement agencies outside the reservation.

“The laws in our criminal justice system on the reservation need to change,” Foster said of the traditional way Navajos resolve disputes. “We need to step away from *hozhooji naat’aanii* (‘talking things out in a good way’) and let the Justice System take action in prosecuting criminals to the fullest extent.”⁹

Tribes’ societal norms of dealing with crimes are deeply ingrained.

“In our society, a lot of people believe that if you ignore something it will just go away. But it won’t. In fact, it probably will increase,” said David Antone, a previous council member with the Salt River Pima Maricopa Indian Community.¹⁰

Antone knows this firsthand. During his career in law enforcement, he sometimes felt caught between his role as a cop and what he learned from his grandmother—that talking about evil invites it into your community.

“They don’t wish [abductions] to happen, which is why they don’t want you to have these [training] exercises,” Kevin Mariano, former Pueblo of Isleta Chief of Police said.¹¹

It also leads to families and communities protecting people who are likely to repeat crimes, especially those involving children.

Statistics show more children are abducted by a person known to the child or the family than by a stranger. In Ashlynn’s case, her killer lived only a few miles away.

In December 2017, Navajo Nation President Russell Begaye signed a contract to purchase a mass notification system for emergency alerts (from AMBER Alerts to fire notifications).

The Navajo Nation had previously negotiated access to the AMBER Alert systems of New Mexico, Arizona, and Utah, but the added steps needed to send alerts in all three states created a dangerous delay.

“In an emergency situation, time is of the essence to get information out to community members,” said Harlan Cleveland, director of the

⁹ Rachel Monroe, *The Delay*, ESQUIRE (April 18, 2018), <https://www.esquire.com/news-politics/a19561163/ashlynn-mike-amber-alert-navajo-reservation/>.

¹⁰ Gee, *Sharing a Vision*, AMBER ALERT IN INDIAN COUNTRY, <https://amberic.org/news/sharing-a-vision/> (last visited Dec. 9, 2020).

¹¹ Rachel Monroe, *The Delay*, ESQUIRE (Apr. 18, 2018), <https://www.esquire.com/news-politics/a19561163/ashlynn-mike-amber-alert-navajo-reservation/>.

Navajo Nation Department of Emergency Management.¹² “Especially, in the instance of a child abduction, the public is our eyes and ears.”¹³

The emergency alert system is overseen by the Navajo Division of Public Safety (NDPS) and managed by the Navajo Department of Emergency Management (NDEM). It has the capability to push alerts over radio or television and text messaging to the Nation’s 11 counties. It began operation in January 2018.

“We’re so proud [that] never before has an independent tribe had this system to themselves,” said NDPS Director Jesse Delmar.¹⁴

A year earlier, the Navajo Nation signed a memorandum of understanding (MOU) with the Federal Emergency Management Agency to give Navajo public safety officials the ability to access the Integrated Public Alert and Warning System (IPAWS).

After completing the necessary IPAWS training and certification process, the next step was purchasing and fine-tuning the software, developed by Everbridge, a global company specializing in critical events software.

Future goals are to add capabilities for issuing a Blue Alert (pertaining to missing, injured, or endangered law enforcement officers) and a Silver Alert (related to impaired senior citizens).

Cleveland recounted how the tribe resolved a case that didn’t meet the AMBER Alert criteria. They issued an Endangered Person Advisory, “which is a powerful tool,” he said. “The suspect called in and said, ‘Take my photo down.’ Getting the child back is your reward when you are done.”¹⁵

¹² Bonnie Ferenbach, *Navajo Nation Gets AMBER Alert*, AMBER ADVOC. (Dec. 2017), <https://www.amberadvocate.org/indian-country/navajo-nation-gets-amber-alert/>.

¹³ *Id.*

¹⁴ M. Perez, *AMBER Alert Secured for Navajo Nation*, ARIZ. DAILY IND. NEWS NETWORK (Dec. 13, 2017), <https://arizonadailyindependent.com/2017/12/13/amber-alert-secured-for-navajo-nation/>.

¹⁵ FERENBACH & MURPHY, *supra* note 1, at 3.

II. AMBER Alert Training and Technical Assistance Program

As those involved in Ashlynnne Mike's case are acutely aware, the need to act quickly and effectively is essential in responding to a child abduction case. In fact, it can mean the difference between life and death. Accordingly, tribes are now seeking guidance on how to best implement the AMBER Alert Act of 2018.

The primary mission of the AMBER Alert Act of 2018 is to design, develop, and implement AMBER Alert programs in Indian country. The new law amends the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act, better known as the PROTECT Act, to allow for grants to states and federally recognized Indian tribes to:

- develop or enhance programs and activities for the support of AMBER Alert communications plans;
- integrate tribal AMBER Alert systems into state AMBER Alert systems;
- integrate state or regional AMBER Alert communication plans with Indian tribes; and
- allow the waiver of the matching funds requirement for grants awarded to Indian tribes that do not have sufficient funds to comply with the matching requirement.¹⁶

The AMBER Alert Training and Technical Assistance Program (AATTAP) was established in 2003 under the direction of the Department of Justice (Department), Office of Juvenile Justice and Delinquency Prevention (OJJDP), to help implement the PROTECT Act by training law enforcement to obtain the specialized skills and training needed to successfully locate and safely recover missing and abducted children. In 2004, Jim Walters joined the AATTAP team and, in 2006, became its first liaison to Indian country. At this time, Mr. Walters helped build the AMBER Alert in Indian Country (AIIC) initiative within the AATTAP to assist tribes in developing programs to safely recover endangered, missing, or abducted children.

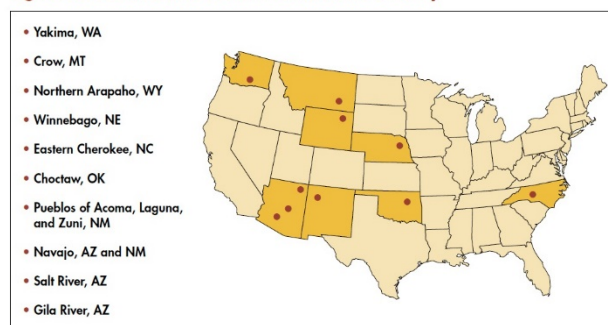
¹⁶ Ashlynnne Mike AMBER Alert in Indian Country Act of 2018, Pub. L. No. 115-166, 132 Stat. 1274.

In 2007, in recognition of the needs and gaps in Indian country, OJJDP launched the AMBER Alert in Indian Country Pilot Project, which provided an unprecedented opportunity for tribal communities to develop capabilities and capacity to respond to endangered, missing, and abducted children.

The goal of the pilot project was to support the recovery of missing and abducted children by providing interoperability, infrastructure, and resources to meet the specific needs of tribal communities. The 10 pilot sites identified across the country (see figure 1) underwent in-depth assessments of their preparedness, infrastructure, and capabilities to respond to endangered, missing, and abducted children.

The assessments found most tribes did not have adequate call intake and case management systems. Additionally, many faced infrastructure limitations that made it impossible to create their own plans or collaborate with their state's AMBER Alert plan.

Figure 1. Ten Pilot Sites Identified Across the Country



The pilot project also revealed that, with the right training, resources, and protocols, tribal agencies were able to provide a response to reports of missing and abducted children that was as effective as the state or local agencies serving their neighboring communities. Furthermore, it demonstrated that the investigation of child abductions requires specialized training and ongoing preparation to keep procedures, equipment, and skills current.

The AIIC initiative offers training and technical assistance opportunities to tribal communities. AIIC training is delivered via classrooms; conferences; self-paced online courses; live, online, instructor-led courses; and through live and recorded webinars. The AIIC program offers an array of training topics specific to Indian country, including but not limited to:

- Missing Child Investigations in Indian Country;
- Cold Case Investigations in Indian Country;
- Recognition and Response to Missing and Exploited Children at Tribal Casinos;
- Community Response to Missing and Exploited Children in Indian Country; and
- How to Build AMBER Alert in Indian Country.

Additionally, the AIIC program provides multidisciplinary Child Abduction Response Team (CART) training and certification. The goal is to ensure a rapid and comprehensive community response to a child abduction via communications, equipment training, and an understanding of nontraditional community resources available during an investigation.

“I’m a huge proponent of this training because it brings together multiple disciplines—law enforcement, schools, social services, fire, EMS, community members—and allows them to train together before an emergency and develop a set of protocols,” Walters said. “That means when a child goes missing, they can pull out the entire community and everybody has a role and knows what to do.”¹⁷

As part of the AMBER Alert Act of 2018, the AIIC initiative is also responsible for hosting a series of state tribal meetings with stakeholders from the state and regional AMBER Alert programs and representatives from federally recognized tribes. The purpose of the meetings are to assist tribes in bringing AMBER Alert plans to their communities by reviewing best practices for collaborating with the state or regional AMBER Alert program. This includes examining the specific requirements for requesting issuance of an AMBER Alert and the steps tribal communities would take to request an AMBER Alert for an abduction occurring on tribal lands. Furthermore, participants are given the opportunity to assess various case studies to assist in developing an action plan for implementing the AMBER Alert program in their community. At the conclusion of the meetings, additional resources to assist tribes with the implementation of their AMBER Alert plans are shared and made available.

¹⁷ *Webinar, AMBER Alert in Indian Country*, NAT’L CRIM. JUST. TRAINING CTR., <https://ncjtc.fvtc.edu/trainings/TR00009168/TRI0009169/amber-alert-in-indian-country> (last visited Dec. 9, 2020).

To assist tribal partners in accessing all of the available AIIC training and technical assistance opportunities, the AIIC Website (www.amber-ic.org), which was originally created in 2015 and upgraded in 2017, was created to assist in connecting all partners on issues related to AMBER Alert in Indian Country. This online platform provides an interactive, multi-dimensional website offering information, resources, video content, and the latest developments for the tribal child protection work of AATTAP-AIIC and its partners. Information and resources address a wide array of protection and prevention topics, including issues related to investigation, intervention, and prevention of victimization, exploitation, and trafficking in tribal communities.

The AIIC website also connects tribal AMBER Alert partners to every state and regional AMBER Alert coordinator and clearinghouse manager by giving them access to the secure partners portal on its AMBER Advocate website. The Portal contains a partner contact information listing, resource library, discussion boards, special training content, and more. The website gives much needed access to Native American and Alaska Native communities who suffer rates of violence that far exceed the national average.

III. AMBER Alert coordinators prove invaluable

Thankfully, child abductions are not high-frequency occurrences. A law enforcement team might handle a predator—stranger abduction case once in every 10 years, Walters said.

“But our partners at the state, see this much more often, unfortunately. They have the experience, and they have those resources, and they understand what it is that they’re doing,” Walters said. “They bring that knowledge to assist us.”¹⁸

Also, in the immediate aftermath of a child abduction, we very often see that the abductor is going to move the child. In many cases, it will be off tribal lands. So, if our alert stops at the tribal boundary, what happens when that person takes our child into the state or the neighboring state?”¹⁹

AMBER Alert coordinators (AAC) have the skills and experience, gleaned from multiple AMBER Alert activations, to provide swift and

¹⁸ *Id.*

¹⁹ *Id.*

decisive public alerting in the case of a child abduction. They can also enlist tools, technology, and external contacts to strengthen searches.

In many states, the AAC makes the final determination on the issuance of an AMBER Alert; in other jurisdictions, the investigating law enforcement agency may issue an AMBER Alert. Regardless of who has final activation authority, all cases must meet the criteria outlined in their state or regional AMBER Alert plans. If met, the AAC or person with activation authority issues an AMBER Alert. “Either way, we’re always cognizant of protecting tribal sovereignty,” Walters said.²⁰

As a result, a broadcast of an AMBER Alert is sent to cell phones, radios, televisions, roadway signs, and a network of secondary distributions operated by the National Center for Missing & Exploited Children (NCMEC). Secondary distribution includes digital signage, hotel chains, Internet service providers, apps, and other technologies.

Each AMBER Alert is a catalyst that sets in action a series of notifications that connect tribes with experienced investigators—with no fees involved.

The Federal Bureau of Investigation, which is immediately notified, offers investigative resources throughout the country. And NCMEC has analytical and case management capabilities that most tribes do not have.

Government involvement rankles some in Native communities, but “they’re not going to take anything away from the community. They’re bringing support,” Walters said. “I always ask them, if your child was missing, wouldn’t you want every single resource available in the effort to recover your child? I would.”²¹

IV. Success stories

On April 10, 2020, the national AMBER Alert program met a milestone of 1,000 successfully recovered children thanks to a collaboration between the Wyoming Highway Patrol (WHP), the Northern Arapaho Tribe, and a crucial third partner—the public.²² It would amount to a 10-hour, two-state child recovery odyssey.

²⁰ *Id.*

²¹ *Id.*

²² Patricia Davis, *An Enduring Legacy for Amber: 1,000 Success Stories*, NAT’L CTR. FOR MISSING & EXPLOITED CHILD. (July 23, 2020), <https://www.missingkids.org/blog/2020/1000-success-stories>.

Chris McGuire, WHP's AMBER Alert Coordinator, first confirmed that the children were in imminent danger. Their non-custodial mother took them from a home outside the reservation where they were placed by the tribe for protection.²³

McGuire also had sufficient descriptions of the vehicle, suspect, and children for the public to help find them. With that, she issued an AMBER Alert at 11:26 a.m.²⁴

According to McGuire, the alert generated a lead after the mother, Stacia Potter-Norris, 30, stopped at a glass company to have her vehicle's rear window replaced. With no money, she offered to sell some guns in exchange for the work. The mom left her phone number with the clerk, who then provided it to the WHP.²⁵

Within hours, another tip came from a homeless man who reported seeing the vehicle described in the alert at a truck stop. He saw the driver swap the vehicle with another one belonging to someone she knew. He gave the WHP a description of it. Meanwhile, the cell phone number the mother gave to the glass store clerk revealed that she was in the Denver area.²⁶

McGuire quickly contacted her counterpart in Colorado with the updated information, and an AMBER Alert was sent out there. Shortly afterward, a call came in from someone who saw a vehicle matching that description parked at a Motel 6.²⁷

The motel's security footage revealed the children were in Room 222. Investigators found them there safe at 9:20 p.m., but the mother was missing. She was later found, arrested on felony charges, and extradited back to Wyoming.²⁸

"This is a success story that could have gone really bad, really quick," said McGuire, WHP Communications Supervisor and 30-year veteran. "It really does show how the AMBER Alert works."²⁹

McGuire also credits her solid relationship with the Wind River Indian Reservation in the central-western area of Wyoming, where the Eastern Shoshone and Northern Arapaho tribes call home. The

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

region comprises 2.2 million acres, stretching about 60 miles east to west and 50 miles north to south.

In 2017, McGuire began helping officials with the Wind River Inter-Tribal Council adopt an AMBER Alert plan. After connecting with the AMBER Alert in Indian Country Program, McGuire invited the Wind River group to participate in a training that was hosted by the AATTAPP-AIIC program.

“The turnout was impressive,” McGuire said. “We had members of the Wind River Tribal council and law enforcement, social workers, members of the FBI, BIA—even tribal game and fisheries officers. They were all excited about the opportunity, which opened the door to lines of communication.”³⁰

McGuire recalls there being a lot of questions during the training, especially relating AMBER Alert issuance criteria.

“It’s never an easy call, but we have to make it based on the information we have—and instinct,” McGuire said.³¹

The Wind River representatives contributed ideas of what would work best for them, and in January 2019, the WHP and Wind River issued their first two alerts—one an AMBER Alert for a missing non-verbal child (later found safe) and the other an endangered person advisory.

As a follow-up to this ongoing commitment to an AMBER Alert partnership, in March 2020, in collaboration with the AIIC program, the WHP and Wind River Indian Reservation participated in a State–Tribe implementation meeting to solidify this commitment and worked together to develop an AMBER Alert plan in the event of a missing or abducted child incident.

“Having the federal grant money for training and technical assistance allowed them to jump right in,” McGuire said.³²

On March 9, 2020, Wyoming Governor Mark Gordon also signed a bill allowing Wind River tribes to implement their own AMBER Alert systems. As part of that process, data on missing or murdered indigenous people, which is sorely lacking, will be collected. Representatives from 22 tribes across 34 states attended the OJJDP sponsored National AMBER Alert in Indian Country Symposium in

³⁰ Interview by Denise Gee with Chris McGuire, WHP AMBER Alert Coordinator (Aug. 10, 2020).

³¹ *Id.*

³² *Id.*

Albuquerque for three days in July 2019. The event brought together AMBER Alert coordinators, Missing Persons Clearinghouse managers, and CART members from across the United States to exchange ideas about bringing AMBER Alert to Indian country.

At the conference, data from 100 tribes in 26 states, collected in the “Implementation the Ashlynnne Mike AMBER Alert in Indian Country Act of 2018—A Report to Congress,” was shared, revealing the following:

- 86 tribes are authorized for state AMBER Alert participation;
- 76 tribes have an emergency plan for a child abduction;
- 25 tribes use their own systems to disseminate an alert; and
- 50 tribes say more AMBER Alert training is needed.³³

Looking ahead, NDEM Director Harlan Cleveland recommends other tribes work with state AMBER Alert coordinators and others to “piggyback” on existing AMBER Alert programs. “Take a proactive approach,” he said. “Be committed when you get that call. It *is* going to happen.”³⁴

About the Authors

Jim Walters is the program administrator for the AMBER Alert Training and Technical Assistance Program, a U.S. Department of Justice initiative. Mr. Walters has more than 35 years of experience as a peace officer and military professional and more than 15 years of experience as a consultant to the AMBER Alert Training and Technical Assistance Program, where he has acted as the liaison for training and technical assistance to the AMBER Alert Initiative for Indian Country and the U.S. Southern Border Initiative. He was also part of the original AMBER Alert in Indian Country Pilot Project.

Melissa Blasing is a Program Manager for the AMBER Alert Training and Technical Assistance Program and is responsible for the AMBER Alert in Indian Country Initiative. She has over 10 years of experience managing and facilitating the design and delivery of training and technical assistance for state, local, and tribal law

³³ OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, IMPLEMENTATION OF THE ASHLYNNE MIKE IN INDIAN COUNTRY ACT OF 2018: A REPORT TO CONGRESS (June 2019).

³⁴ FERENBACH & MURPHY, *supra* note 1, at 5.

enforcement; nonprofit organizations; and other criminal justice practitioners. Previously, Ms. Blasing managed the National AMBER Alert Symposium for State AMBER Alert Coordinators and Clearinghouse Managers, the National Symposium on Tribal Child Protection, the AMBER Alert webinar series, the AATTAP Family and Survivor Roundtables, and product development for AMBER Alert course offerings.

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