



STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
4 Tower Place
Albany, New York 12203
<http://criminaljustice.state.ny.us>

SEAN M. BYRNE
ACTING COMMISSIONER

ROBERT M. MACCARONE
DEPUTY COMMISSIONER
AND DIRECTOR
(518) 485-7692
(518) 485-5140 FAX

STATE DIRECTOR'S MEMORANDUM # 2011-23

TO: All Probation Directors and Commissioners
Ignition Interlock Monitors
District Attorneys

FROM: Robert M. Maccarone, Deputy Commissioner and *R.M.M.*
Director, Office of Probation and Correctional Alternatives

DATE: December 14, 2011

RE: "Leandra's Law"—Status Report on Implementation

- July 1, 2011-September 30, 2011 Quarterly
- Implementation Date (August 15, 2010) to September 30, 2011 YTD

Please see the attached statistical reports relating to the installation of Ignition Interlock Devices (IID's) in New York State as reported by county probation departments and monitoring agencies for the periods July 1, 2011- September 30, 2011, and August 15, 2010 – September 30, 2011, referred to as our Year-To-Date (YTD) Report. The second report aggregates the data from program implementation (August 15, 2010) to September 30, 2011, and serves as our first annual report though it represents a 13 month period.

The YTD report indicates that a total of 5,775 IID's have now been installed in motor vehicles "owned or operated" by persons convicted and sentenced for misdemeanor or felony DWI crimes in New York State since the implementation of "Leandra's Law" on August 15, 2010. This reflects nearly triple the number of IID's in operation in New York State prior to the implementation of the new law. Indeed, much has been accomplished during the first year of the program. However, the number of IID's actually installed in the motor vehicles of sentenced offenders continues to average approximately 31.2% or just 5,775 of 18,514 sentenced offenders. Alternatively, 68.7% of sentenced offenders continue to transfer ownership or represent that they no longer have a motor vehicle to operate. Unfortunately, numerous studies indicate that many of these operators will continue to drive, despite the penalties associated with doing so in New York State.

Importantly, upon conviction and sentencing, the Division of Motor Vehicles (DMV) marks the NYS Drivers License and Driver's License File of sentenced operators, regardless of whether the IID is actually installed. This is a mandatory condition of the conviction and sentence. The IID condition (restriction) on both the license and drivers license file continue for the entire period of the conditional discharge or probation sentence, or until the probation department or monitoring agency advise the DMV otherwise. This protocol was implemented to ensure that the condition will continue for persons serving consecutive sentences. In addition, Probation Departments and monitoring agencies continue to check-up on sentenced operators to ensure that they are not operating motor vehicles without installed IID's, as well as checking vehicle ownership files based on Drivers License Identification Numbers and Vehicle Identification Numbers.

The August 15, 2010-September 30, 2011 (Year-to-Date) report also indicates that the installation and lease costs associated with IID's were largely paid for by convicted and sentenced operators. A total of 5,255 operators or 90% of operators paid the full costs of installation and monthly lease charges. Sentencing Courts approved Payment Plans for 152 (2.6%) of operators ordered to install IID's, but 429 (7.4%) of convicted operators were granted waivers by the sentencing court for all costs, requiring manufacturers to provide IID's without any compensation.

Curiously, the number of operators granted full waivers was nearly triple (7.4% versus 2.6%) the number required to make partial payment (Payment Plans) toward the installation and lease costs associated with the IID, which average \$70-\$100 per month or \$3 per day. From August 15, 2010-September 30, 2011), 20 localities reported "waiver rates" exceeding 10% of their IID installations. This is a matter of some concern because the state's contractual agreement with the seven manufacturers/vendors qualified to do business in New York State limits their risk to a statewide 10% waiver rate; if exceeded OPCA must consider re-opening the manufacturer agreements whereupon it is expected costs will increase.

During the past year, OPCA presented judicial training in Suffolk and Nassau Counties and participated in a statewide webcast entitled, "Probation Transfers and Ignition Interlock Devices: An Update", in cooperation with the NYS Office Court Administration and the NYS Magistrates and Clerks Associations. You may recall that the Financial Disclosure Report (FDR) was created in cooperation with members of the statewide workgroup, including the Office of Court Administration. A copy of the FDR is available in English or Spanish at <http://www.dpca.state.ny.us.ignition.htm> or <http://www.nycourts.gov/forms/index.shtml>. We continue to encourage courts and localities to have convicted operators, who are requesting consideration for payment plans (reduced payments) or waivers to complete the FDR and submit three copies to the Court.

We again recommend that counties reconvene their "Leandra's Law" teams and carefully review the attached quarterly and YTD statistical reports and performance in view of their plans to ensure highway and community safety.

As you are aware, the DCJS Office of Probation and Correctional Alternatives has worked with the NYS Governor's Traffic Safety Committee (GTSC) and for the second year (October 1, 2011-September 30, 2012), obtained \$3 million in grant funds from the federal National

Highway Traffic Safety Administration (NHTSA) to assist localities with the implementation of “Leandra’s Law”. DCJS Acting Commissioner Sean Byrne has now notified localities of their respective awards. Localities should execute agreements when prompted by the DCJS Grants Management System (GMS) and promptly submit vouchers for payment reimbursement at the close of each quarter.

Equally important is that localities continue to submit their Quarterly Reports within 30 days of the close of the quarter to iidreports@dcjs.state.ny.us. We appreciate the assistance of localities in sending quarterly report information as this information is vital to tracking the impact of this important public safety measure. Please note that a new reporting form and instructions were originally distributed to each monitor on September 7, 2011 through State Director’s Memorandum 2011-15. These have been attached to this memorandum for your convenience.

Should you have any questions need more information, please contact Community Correction Representative II Patricia Hogan at Patricia.Hogan@dcjs.state.ny.us.

Thank you for your continued cooperation in the implementation of “Leandra’s Law” and the extensive work undertaken in your county.

Attachments

- 1) IID 3rd Quarter Statistics
- 2) IID Year to Date Totals
- 3) IID Quarterly Report Form 5
- 4) Revised Instructions

cc: County Executives/Administrators
Supervising Judges