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STATE DIRECTOR'S MEMORANDUM # 2011-9

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

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

DATE: June 14, 2011

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

- January 1, 2011 -March 31, 2011 Quarterly
- Implementation Date (August 15, 2010) to March 31, 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 January 1 - March 31, 2011, and August 15, 2010 - March 31, 2011, referred to as our Year-To-Date (YTD) Report.

These reports indicate that a total of 3,912 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 a substantial increase, nearly doubling 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 six months of program implementation. However, the number of IID's actually installed in the motor vehicles of sentenced offenders continues to average less than 50% of all convicted DWI offenders—44.5% or just 3,912 of 8,787 sentenced offenders. Alternatively, 4,875 of 8,787 offenders or 55.5% 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, monitoring agency or court advise the DMV otherwise. This was done to ensure that the condition will continue for persons serving consecutive sentences.

Also, 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. As law enforcement professionals, we know that sentenced operators who continue to drive motor vehicles that are not so equipped will pose a significant threat to highway and community safety.

The August 15, 2010-March 31, 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 3,562 operators or 90.2% of operators paid the full costs of installation and monthly lease charges. Sentencing Courts approved Payment Plans for 104 (2.6%) of operators ordered to install IID's, but 285 (7.2%) 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 (7.2% versus 2.6%) the number required to make even partial payment toward the installation and lease costs associated with the IID, which average \$70-\$100 per month or \$3 per day. During the six-month start-up period (August 15, 2010-March 31, 2011), 12 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 of IID's qualified to do business in New York State are required to provide up to 10% of the IID's free of charge to the operator, where Courts have waived the cost. However, if the statewide "waiver rate" exceeds 10%, DCJS-OPCA is obligated to review the manufacturer contracts and consider allowing manufacturers to submit new cost schedules for the IID's. This may well lead to higher costs associated with the installation and monthly lease costs of IID's in New York State for sentenced operators, and result in higher rates of waivers being granted.

To ensure that judges have the most accurate information available to them at sentencing, OPCA, worked collaboratively with the members of the statewide workgroup, including the Office of Court Administration to develop the detailed Financial Disclosure Report (FDR). The FDR records the monthly income, assets and expenditures of convicted operators as they report their financial information to the courts. 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 for distribution to the prosecutor and defense counsel.

We again recommend that counties reconvene their “Leandra’s Law” teams, bringing together the various parties that contributed to the development of their county plans, and carefully review the attached quarterly and YTD statistical reports and performance in view of their plans to ensure highway and community safety.

Lastly, as you are aware, the DCJS Office of Probation and Correctional Alternatives has worked with the NYS Governor’s Traffic Safety Committee (GTSC) during the past year and 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”. Localities have now all been notified of their awards and prompted to electronically execute their respective agreements through the electronic Grants Management System (GMS). It is vitally important that localities execute their agreements and promptly submit vouchers for payment reimbursement. Thus far, the State has paid out in excess of \$400,000 to localities, but it is essential that all localities submit payment vouchers in a timely fashion as the grant period terminates on September 30, 2011. OPCA has submitted a grant application to the GTSC for second year funding, but there is no guarantee for continued funding.

Localities should also 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.

Should you have any questions or need more information, please contact Community Correction Representative Mark Pisano at Mark.Pisano@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 1st Quarter Statistics
- 2) IID Year to Date Totals

cc: County Executives/Administrators
Supervising Judges