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STATE DIRECTOR'S MEMORANDUM # 2012-5

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: March 7, 2012

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

- October 1, 2011-December 31, 2011 Quarterly
- Implementation Date (August 15, 2010) to December 31, 2011 YTD
- Vendor Reports through December 31, 2011

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 October 1, 2011-December 31, 2011, and August 15, 2010 – December 31, 2011, referred to as our Year-To-Date (YTD) Report. The second report aggregates the data from program implementation (August 15, 2010) to December 31, 2011. The third report details the total number of devices installed, by county, from August 15, 2010-December 31, 2011.

The YTD report indicates that a total of 23,074 offenders have been sentenced and 7,126 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. However, the number of IID's actually installed in the motor vehicles of sentenced offenders continues to average approximately 30.9% or just 7,126 of 23,074 sentenced offenders. Alternatively, 69.1% 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-December 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 6,523 operators or 90.5% of operators paid the full costs of installation and monthly lease charges. Sentencing Courts approved Payment Plans for 185 (2.6%) of operators ordered to install IID's, but 500 (6.9%) of convicted operators were granted waivers by the sentencing court for all costs, requiring manufacturers to provide IID's without any compensation.

The number of operators granted full waivers is more than double (6.9% 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-December 31, 2011, 10 localities reported "waiver rates" exceeding 10% of their IID installations. While this number has come down from previous quarters it remains 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.

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.

Equally important is that localities continue to submit their Quarterly Reports within 30 days of the close of the quarter to dcjsopcaiidreports@dcjs.ny.gov 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. A revised set of instructions has also been crafted to further assist you. These have been attached to this memorandum for your convenience.

Within the coming weeks a Live Meeting will be conducted on the topic of Ignition Interlock Reports. The meeting will include instruction and clarification on completing the Quarterly Monitors Report, Quarterly Progress Reports in GMS, and all Financial Reporting Forms. We would encourage each of you to join in this meeting when you receive your notification. We will periodically conduct this type of meeting on various topics as the needs arise.

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

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

Attachments

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

cc: County Executives/Administrators
Supervising Judges