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NEW YORK STATE “LEANDRA’S LAW” ADVISORY # 2013-1

**TO: Probation Directors and Commissioners
Ignition Interlock Monitors**

**FROM: Shaina D. Kern, Community Corrections Representative II
Ignition Interlock Unit, Office of Probation and Correctional Alternatives**

DATE: March 19, 2013

**RE: Probation and Monitors of Ignition Interlock Devices –Reporting back to the
Court and District Attorney**

As you are aware, more than 12,000 Ignition Interlock Devices (IID’s) have been installed in motor vehicles “owned or operated” by operators convicted under the Child Passenger Protection Act of 2009 or “Leandra’s Law”. Since August 15, 2010, the Courts have ordered the installation of the IID’s in 41,158 cases; 12,055 (29.3%) IID’s were actually installed. While New York is one of very few states with more than 9,000 currently-installed interlock devices, more work is needed to increase the installation rate of Ignition Interlock Devices in New York State and reduce the number of alcohol related fatalities on our roadways.

DCJS/OPCA has promulgated strong regulations that call for strict offender accountability through 9 NYCRR Part 358 regarding the responsibilities of operators, IID manufacturers, installers, and monitors including probation departments. Operators are required to provide proof of installation within three (3) business days of installation to the court, county probation department, and any other designated monitor. A number of operators convicted under VTL §1192 are now selling their motor vehicles, and submitting documentation to the Court and Probation Department/Monitor that they will no longer “own or operate” motor vehicles and consequently, they will not be installing the IID. Of course, the condition for the IID is still legally required, and it appears on the operator’s New York State Drivers License (A4 Restricted Driver) and on the Driver’s License File, for a minimum of six months. OPCA and Probation Departments/Monitors continue to advocate that sentencing Courts order the condition to run for a period of time concurrent with the Conditional Discharge or sentence of Probation Supervision. Deputy Commissioner and Director Robert Maccarone has incorporated these comments into his training with Judiciary throughout the State.

In cases where the operator does not install the IID, OPCA has recommended that the Court, District Attorney or Probation obtain signed affidavits, in addition to any other documentary evidence, from the operator attesting to the fact that he/she has sold the motor vehicle and will not be operating any other motor vehicle during the pendency of the condition.

In recent weeks, OPCA has conducted extensive training with the Association of Towns Advanced Judicial Training Program, and we have learned that Judges are not always made aware of the fact that the operator has failed to install the IID, and instead has provided proof to the supervising probation department/monitor of the sale of the motor vehicle.

The purpose of this memorandum is to emphasize the importance that supervising probation departments and monitors formally advise the District Attorney's Office and the Court of this information, and provide copies of any documentary evidence, including affidavits signed by the operator to ensure that all parties are aware that the operator has failed to install the IID.

Should you have any questions regarding probation and/or conditional discharge ignition interlock cases, please contact me at (518) 485-8855, or via e-mail at shaina.kern@dcjs.ny.gov. Thank you for your continued support of these important public safety initiatives and working to make our communities and roadways safer in New York State.