



STATE DIRECTOR'S MEMORANDUM #2005-10

To: All Probation Directors and Commissioners

From: Robert M. Maccarone, Acting State Director

Date: October 25, 2005

Subject: DPCA's Revised Electronic Monitoring Procedures

I am pleased to announce that the Division of Probation and Correctional Alternatives (DPCA) has revised our uniform electronic monitoring procedures, issued in 1996, in accordance with Section 65.10 (4) of the Penal Law in light of interest by several jurisdictions to use electronic monitoring as a condition of probation for lengthier periods of time with respect to sex offenders and other offenders than what our current procedures allow.

Attached is a copy of DPCA's newly revised Electronic Monitoring Procedures which take effect immediately, October 25, 2005, and apply to all existing and future probation cases. Specifically, a new sentence has been added to paragraph #3 to allow for longer periods in certain instances and a new paragraph #4 included to define what is meant by the term "offense".

This revision better promotes offender accountability and public/victim safety, addresses heightened sensitivity as to sex offender management, and reflects community concerns as to more effectively controlling the whereabouts of this population. DPCA believes that the initial period not to exceed one year with availability of one year extensions, ensures regular judicial review of the need of such devices and strikes a fair balance.

Att.

DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES

ELECTRONIC MONITORING PROCEDURES

EFFECTIVE OCTOBER 25, 2005

1. A probation department may recommend to a criminal court that a defendant who is otherwise eligible for probation or a probationer currently under supervision be required to submit to an electronic monitoring device when such a condition may be deemed necessary to advance public safety, probationer control or probationer surveillance.
2. In identifying suitable cases, the probation department shall also take into consideration the following:
 - (a) public and victim safety;
 - (b) the nature of the crime or violation of probation;
 - (c) the prior legal history of the individual; and
 - (d) the extent that the restriction may ameliorate the conduct which gave rise to the offense or may prevent incarceration.
3. The initial period of such monitoring condition shall not exceed 6 months in duration, however, an additional period of not greater than 6 months may be imposed upon modifying the conditions of probation in accordance with law. However, for a defendant convicted of or adjudicated with respect to an underlying sex offense or who has pled in satisfaction thereof and/or who is subject to sex offender registration in accordance with Article 6-C of the Correction Law, the initial period of such monitoring condition shall not exceed one year in duration; additional periods of one year may be imposed upon modifying the conditions of probation in accordance with law.
4. For purposes of these procedures, offense shall include the criminal offense for which convicted or adjudicated, as well as any other criminal offense that is part of the same criminal transaction or that is contained in any other accusatory instrument disposed of by a plea of guilty or admission of guilt in satisfaction thereof.