

PUBLIC SAFETY COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE

A regular meeting of the Public Safety Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, Friday, December 2, 2010, 10:00 a.m.

Members Present:

Legislator Jack Eddington - Chair
Legislator DuWayne Gregory - Vice-Chair
Legislator Kate Browning
Legislator Tom Cilmi
Legislator John Kennedy

Also in Attendance:

Legislator Lou D'Amaro, Legislative District No. 17
Legislator Tom Muratore, Legislative District No. 4
George Nolan, Counsel to the Legislature
Sarah Simpson, Assistant Counsel to the Legislature
Renee Ortiz, Chief Deputy Clerk, Suffolk County Legislature
Marge Acevedo, Aide to Presiding Officer Lindsay
Robert Calarco, Legislative Aide to Legislator Eddington
Jason Richberg, Legislative Aide to Legislator Gregory
Justin Littell, Legislative Aide to Legislator D'Amaro
Paul Perillie, Legislative Aide to Legislator Cooper
John Ortiz, Budget Review Office
Jill Moss, Budget Review Office
Ben Zwirn, County Executive's Office
Ed Hennessey, County Executive's Office
Robert Moore, Chief of Department, SC Police Department
Joe Williams, Commissioner, Fire, Rescue and Emergency Services
John Desmond, Director, Suffolk County Department of Probation
Kerry Kneitel, Suffolk County Sheriff's Office
Michael Sharkey, Suffolk County Sheriff's Office
Anthony Papparatto, Suffolk County Sheriff's Office
Colleen Ansanelli, Criminal Justice Coordinating Council
Deputy Commissioner Robert Maccarone, NYS Office of Probation and Correctional Alternatives
Mike Shultis, National Interlock Services
Don Nebhan, Smart Start
Marc Bergman, 1A Smart Start, Inc.
Don Prudente, Drive Safe
Howard Block, Consumer Safety Technology, Inc. Intoxalock
John Ruocco, Interceptor Ignitions Interlock, Inc.
Falisha Hall, Draeger
Laura Ahearn, PFML/CVC
Tracy Pollak, SCPD - HQ
Dot Kerrigan, AME - 3rd VP
Noel DiGerolamo, PBA
Robin Kaplan, Commack Coalition of Care
Rhasheed Gavin, South Oaks Department, Chemical Dependency Division

Russ McCormick, SCPD
Rick Brand, Newsday

Minutes Taken By:

Lucia Braaten, Court Stenographer

Minutes Transcribed By:

Kim Castiglione, Legislative Secretary

(The meeting was called to order at 10:04 A.M.)

CHAIRMAN EDDINGTON:

If everybody could rise for the Pledge of Allegiance, Legislator Cilmi will lead us.

(Salutation)

If you would remain standing for a moment of silence for all those that serve our country, both abroad and at home.

(Moment of Silence)

Thank you very much. Okay. Good morning. Welcome to the Public Safety Committee. We're going to start with the public portion and the first person up is Laura Ahearn.

MS. AHEARN:

Good morning. My name is Laura Ahearn. I'm the Executive Director of Parents for Megan's Law and the Crime Victims Center. Currently there are more than 700,000 registered sex offenders in the United States; in Suffolk County approximately 1,000. Law enforcement has tremendous challenges they face when it comes to monitoring and tracking offenders. The bill we're here to support today is I.R. 1939, requiring homeless sex offenders to report their overnight locations.

As I said before, law enforcement faces many challenges when it comes to tracking sex offenders. This law would require sex offenders to contact the Megan's Law Unit before midnight each night to report their current location. It's a tremendous tool for law enforcement because those offenders that are reporting undomiciled locations, they don't know where they are. So that not only is there a challenge for law enforcement to try and locate them, but the guys that are actually violating corrections law and not reporting their current address, law enforcement will now have a tool for the arrest of those individuals that are not complying with address requirements.

Also, it will act as a really positive investigative tool so if there is a crime committed, the first place they're going to look is the registry, and if they don't have current addresses for those undomiciled offenders, they are clearly at a significant -- in a significant position where they don't have every investigative tool available to them to locate those offenders.

Also, the community is up in arms often about homeless sex offenders because we don't have their current locations, so this law would provide assurances to the community that law enforcement knows exactly where the locations are of all offenders.

CHAIRMAN EDDINGTON:

Was that the end?

MS. AHEARN:

That's the end, Jack.

CHAIRMAN EDDINGTON:

Okay. I didn't hear you. Thank you.

(Laughter)

I have a question for you.

MS. AHEARN:

Sure.

CHAIRMAN EDDINGTON:

I read in the paper, and I don't know if you've picked up on it yet, that there was a level one sex offender that recommitted on Long Island.

MS. AHEARN:

I know that law enforcement had worked very closely with the Department of Probation on that case. I don't have all the details, but I'm sure that Chief Moore would have that.

CHAIRMAN EDDINGTON:

Thank you very much. Any questions? Okay. Thank you. All right. Is Deputy Commissioner Maccarone here? He is, okay. Good morning.

MR. MACCARONE:

Good morning.

CHAIRMAN EDDINGTON:

Would you like to have a chair over here and sit and relax?

MR. MACCARONE:

I appreciate that. Good morning. I'm Robert Maccarone. I'm the State --

CHAIRMAN EDDINGTON:

Unfortunately you're going to have to hold down that speaker, probably get your thumbs sore.

MR. MACCARONE:

That's okay.

CHAIRMAN EDDINGTON:

No, not yet. The green light will come on.

MR. MACCARONE:

Okay, great. Yeah, good morning. I'm Robert Maccarone. I'm the State Director of Probation and I'm the Deputy Commissioner for the New York State Division of Criminal Justice Services. I brought with me some really helpful and informative brochures on ignition interlock devices, and those are for you. They're prepared by the Traffic Injury Research Foundation, a well respected group that knows something about ignition interlock devices. And also I've prepared a PowerPoint and copies of that are going around with you and that's floating now.

So I wanted just to come and spend a few moments with you briefly this morning to talk about the State's implementation of Leandra's Law. As you know, on November 18th -- if we can go to the next slide -- on November 18th, Governor David Paterson signed into law of 2009, Chapter 496 of the Laws of 2009, otherwise known as the Child Protection Passenger Act or Leandra's Law. And as you know, that came on the heels of a tragedy in October of 2009 where Leandra Rosado and five other young girls were in an automobile being driven on their way to a sleep over and the driver of that vehicle was intoxicated and a tragedy resulted. And that followed, by the way, a very dire tragedy that occurred on July 26th of 2009, and that was the case of Diane Schuler, where she got into a van and was speeding in the southbound direction on the Taconic Parkway in that fateful Sunday afternoon in July of 2009 and eight people died.

As a result of that, the Legislature in New York State acted and implemented what I think is

probably one of the toughest pieces of legislation in the country. It made New York State the 10th state to become what was known as the First Offender Mandatory Ignition Interlock State, a judicially sanctioned program, and that was an important landmark. It did two things. First and foremost, effective December 18th, 30 days after the signing of that legislation, it created a Class E felony offense for any adult driving while intoxicated with a child under 16 years of age.

And, you know, when that legislation was passed, and I've been in criminal justice some 35 years, I said how many cases are there? Certainly we know of the Diane Schuler case, but how many cases are there that we know of where an adult would get into an automobile intoxicated with a child? Well, I'm here to tell you today that since December 18th through midway November of 2010, there were nearly 600 arrests, 50 per month, of adults getting into automobiles intoxicated with children in their motor vehicle. That's a pretty shocking statistic.

Leandra's Law also increased significantly the penalties associated with persons convicted of aggravated vehicular assault and aggravated vehicular homicide, and increased those penalties to include state imprisonment of 15 and 25 years respectively. So that was the first leg of Leandra's Law.

The second leg of Leandra's Law was implemented 270 days post implementation or signing of the law and that became effective August 15th of 2010. That gave us at the Division of Probation and Correctional Alternatives just 270 days to draft and implement statewide regulations, ensure that a statewide system of manufacturers of ignition interlock devices were available to serve the courts, because clearly that's an important consideration, ensure that monitoring and supervision were in place. And when I looked across the country at other programs, monitoring and supervision were the touchstones or the keystones of effective drug control policies, alcohol control policies, to be effective.

So I wanted to share with you this morning how we implemented the law and why and to give you some insight and then make myself available to answer questions that you might have. First, in New York State we have about 65,000 arrests for DWI each year. And the interesting thing about that statistic is that while we have made measurable gains in reducing DWI related fatalities in New York State from some 1,000 in 1982 to over 325 last year, that's measurable progress, and, in fact, as a percent of fatalities, DWI's in New York State have been reduced from nearly 50% to about a third. And I might say that that follows the national trend. So New York State has made measured gains.

The Stop DWI legislation, I know you're aware of the Stop DWI legislation, that's landmark legislation that was put in place in New York State. There's no other state that has it. It's a self sustaining funding program and returns fine monies to counties to address DWI in communities. That was the beginning, that was the very beginning. But the interesting statistic here about arrests that I want to make is while we have made measurable gains in reducing DWI fatalities, we still continue with 65,000 arrests. That hasn't changed. And that has a lot to do with the alcohol problem in this country, and without going into great detail, how we think about alcohol and binge drinking and how the advertising industry in this country and the alcohol control industry, you know, encourage with young people and create dangers for young people. I'll leave it at that. But the arrest number, here's the interesting point I'm trying to make, is the arrest number has not gone down.

Now, out of those 65,000 arrests we have 25,000 convictions for DWI in New York State. And in 2008, 9,000 of those 25,000 convictions were sentenced to Probation supervision. The other 16,000 offenses paid a fine -- either received an unconditional discharge, paid a fine and exited the criminal justice system. My large concern in implementing the Leandra's Law is that not all 25,000 cases

each year find their way to Probation supervision. And thankfully the Legislature was very thoughtful in creating a conditional discharge path for the first time offenders because right now our Probation Departments in New York State supervise 26,000 DWI offenders. In fact, the DWI offenders comprise about 20% of our 125,000 adult offenders.

Probation has an enormous caseload and I know that you're very much aware of the work of the Suffolk County Probation Department and the excellent leadership provided by John Desmond. The Probation Officers here do an outstanding job and frankly this is one of our premier Probation Departments. It is also one of the Probation Departments faced with one of the largest challenges with respect to DWI offenses, and I think that's largely as a result of the beautiful location of this County and its proximity to the shoreline during the summer months. I think we're all aware of that. But that's an important point. So I'm concerned about not pushing all those cases into Probation. Next slide, please.

What you can see here is that while we reduced DWI fatalities, in the last five years we've hit a plateau. We haven't been able to get down under that 300, and the reason is now we're dealing with, in addition to that never ending phalanx of 65,000 arrests, we're dealing with some pretty hard-core DWI repeat offenders as well.

The interesting thing about Leandra's Law is that that is going to allow us to break through this plateau. In my research of what's occurred throughout the states and this country, the implementation of ignition interlock devices is an effective and an invasive, I will say invasive technology, that disrupts drinking and driving behaviors. That's the good thing about it; the technology works. I did a great deal of investigation on my own looking at the experiences of other states and I can tell you that in New Mexico DWI recidivism dropped 37% between 2002 and 2008 as a result of a very aggressive ignition interlock program that was paired with its legislation. Next slide, please.

Now, as I said on effective December 18th, 2009 when Governor Paterson signed the law, he implemented Leandra's Law and it had those various components to it which I addressed. Next slide, please. The important thing here is that on August 15th, 2010, any person arrested for a DWI crime on or after the effective date of November 18th, 2009 and sentenced on or after August 15th must be sentenced to a period of Probation supervision or conditional discharge, and as a condition of that sentence, must, must, install an ignition interlock device on any car they own or operate.

I want to add that the operative words there are own or operate. And I want to say a little bit more about that, because what we're beginning to see, not only in Suffolk County but counties throughout the State, is some evasive tactics on the part of DWI offenders where they're transferring their title to other family members and they're going into court and representing that they will no longer operate a motor vehicle. The condition is still on their license, and Leandra's Law includes a provision whereby one, you have that condition on your license if you are caught operating another motor vehicle that is not so equipped with an ignition interlock device, that that is a Class A misdemeanor punishable by up to a year in jail. So you would think that that would be enough to divert a person from engaging in that behavior. But we know that people with alcohol problems are compulsive in their behaviors and so this is a grave concern to me in terms of ensuring the effectiveness of the law. It does require a minimum of six months for the installation of the ignition interlock device. Next slide please.

Now, New York State joins nine other first offender states. Alcohol interlocks are a proven technology, there's no question about that. The research also indicates that behavior reverts with some offenders when the ignition interlock is taken off. So the suggestion that Probation is going to make to judges, particularly with repeat offenders, is that they continue to keep those on for longer periods of time, until we're sure that their alcohol problem has been addressed. Next slide, please.

The interesting thing about the legislation is that it granted the authority, empowered the authority in the Division of Probation and Correctional Alternatives, my agency, and now we've merged with the Division of Criminal Justice Services and I head up the Office of Probation and Correctional Alternatives, but the interesting there is that it not only empowered us to promulgate the relations, but it also left us with a rather overwhelming responsibility to figure out how we would implement the law and address this issue of unaffordability. The issue of unaffordability is a key issue, because it has bankrupted other states. New Mexico had to recall their legislation, their Legislature after several years, because in that state they were going to pay for the unaffordable or indigent units as they defined them there, and frankly they ran out of money and manufacturers were not getting paid and so they left the state. And so the program, while effective initially, had its challenges.

I did not want to repeat that experience. At the same time I was imminently aware of the impact on localities. I am a product of county government. I worked for Westchester County for 25 years before going to the State, and so I am very much aware of the burden placed on the localities. In New York State Leandra's Law was implemented so that drunk drivers pay for ignition interlock devices, not County taxpayers, not local taxpayers, not local governments. The real challenge was how to implement the unaffordability statute and also ensure that that would not impact localities. Next slide, please.

One of the things we did is, I won't go into too much detail, but we established a statewide work group, we conducted a manufacturers open roundtable. And I will say that in other states -- we did things differently in New York State. In other states they went out for competitive bid and came up with one single vendor, or in the case of Florida, two vendors, and thought that they were doing the best for their taxpayers, and I'm sure their intent was salutary. Same thing with the State of Virginia. But what happened is they became soon locked into a dated technology and a price structure that did not serve their residents well. And what they advised me was, "Robert, don't follow our mistake." And so we sought to implement Leandra's Law a little differently.

We said to the manufacturers you are our partners. We understand that you are in business to make a profit, but we have a mutual goal and that mutual goal is to save lives and to make our highways safer in New York State. So what we're going to do is we're going to set minimum standards, you're going to certify the operation of your ignition interlock devices with our State Department of Health, they are going to meet the National Highway Traffic Safety Administration standards, but all things being equal, if you do all that and enter into a three year agreement with us, and promise as a condition of that qualification to provide up to 10% of the units free of charge when a court orders the cost to be waived, then you can do business in New York State. And as a result, today we have six outstanding, qualified manufacturers of ignition interlock devices. Each one of them has indicated they will serve the entire state.

We broke our state into four regions. A manufacturer can select to do business in one, two, three or all four regions, but if they did so, they must serve every community in that region. So there is no cherry-picking going on here. You can't serve Syracuse but not serve Otsego, okay. You must serve every community and you must have an installation service provider within 50 miles of every operator who would be convicted. That ensures a quality of service and we're holding them to that standard.

The application to become a qualified manufacturer and delivery -- deliverer of ignition interlock services is open and continuous in New York State. And during the next month or so, I'm going to license a seventh manufacturer of ignition interlock devices provided they meet our standard. Next slide, please.

This just talks to the Working Group that we established. It included representatives from local governments, County Executives, Probation Departments, District Attorneys, Judges, OCA, Prosecutors, Probation, all of the state agencies. The Department of Health, which regulate and certify ignition interlock devices in addition to our own regulations, which control the manufacturers, the Departments of Budget, Parole, Corrections etcetera. It's a multi-agency effort that, frankly, we worked on day and night. Next slide, please.

The important implementation process here at the county level, I wanted to ensure that counties were prepared, and so we put in place a county planning process. Let me say that Suffolk County conducted an outstanding planning process and delivered what I thought was a quality plan in implementing the ignition interlock device. In those plans counties had to ensure that the stakeholders were all around the table, that the process was inclusive, that they had to designate an agency for CDs that would manage CDs, and in Suffolk County that designation was the Probation Department. And by the way, of the 60 counties out there, about half of them did designate their Probation Department. Others designated their Stop DWI Programs, Prosecutors, their Sheriffs, etc. They had to acknowledge agreement with the state regulations, monitoring agencies for CD cases determining the class of instrument. What do I mean by that?

What I wanted to do to ensure competition is I wanted to ensure that the CDs, remember that's the 16,000 of the 25,000 convictions, these are first time offenders. All of the literature tells us that 75% of first time offenders will change their behavior. They will get the message. That by merely inserting the ignition interlock device into their automobile they are going to get the message and change their behavior. And let me say something about that. There is no fooling the ignition interlock device. You cannot fool it and you will not be able to operate an automobile with your device once it's properly installed in your car. But in addition to that, there's a strong stigma associated with that. Picture the father who is picking up four or five children at the soccer field and his son gets into the front seat and his friends are in the back seat and he has to blow into the ignition interlock device. And they say, "Tommy, what's your dad doing there?" And he says well, "My dad's blowing into the ignition interlock device because he made a poor decision." Okay. Think about the two couples on their way out to dinner and getting into the automobile and so forth and so on.

I think you can see what we're doing is we're trying to change a culture, much in the same way we did about drinking and driving in the last 25 years, and smoking. I mean, all of those behaviors we're trying to change a culture and change the thinking about this. So ignition interlocks are an effective device.

What we did in New York State is we left the decision -- first of all, we wanted to ensure that monitors were able to choose the class of the device. We divided classes into three -- all of our devices into three classes. The first one the basic unit; the second with a camera; and the third with many other technologies, facial recognition technology, you've heard of E-911 connectivity. You've heard of real time reporting. And the reason is because I had to ensure judges had available units in New York State. If I restricted that to the most stringent technology, we would never have the units or the manufacturers to supply the 1,200 judges across New York State.

Equally important, what we said to localities in our approval of your county plans was think about matching risk with the class and the offender with the device. I don't think every offender needs all Class 3 devices, frankly. But that's okay. CD monitors can select Class 3 devices. For Probation cases, the 9,000 of the 25,000, let's keep in mind that they're often the more serious cases. Those are the aggregated BAC's, at or above .18. Those are repeat offenders. Your Probation Department is supervising some pretty serious repeat DWI offenders, three, four offenses. They ought to be empowered to select not only the class, but the features of the instrument as well.

But all things being equal, what our plan does and our regulations do is they allow the operator to select the model and the manufacturer. And the reason is because consumers vote with their feet, right? And they're going to drive price. Price is going to be an important consideration in their deliberation, and that's important, because we want these devices to remain affordable so that they can be ordered and input. If they become too expensive judges will grant more waivers. As we grant more waivers, I have to call in the manufacturers and ask them to open up their agreements. They will raise their prices and it will become unaffordable. This will become a vicious circle and we will not have an effective statewide program. So all things being equal, allow operators to select devices.

Now, I know I have manufacturers in the room today. Let me tell you they are competing earnestly for business. In fact, two days before the law went into effect I met three of them at the Statewide Probation Officers Association and they said the following to me. "You know, Robert, the prices that we quoted in the contract are maximum or ceiling prices. How can we alert localities that, in fact, the prices we'll be charging will be somewhat less than that?" Another manufacturer came up to me and said, "You know, we learned that one manufacturer has eliminated their installation price." I said, "That is correct?" "Well, we're eliminating our installation price because we want to be competitive." And then lastly, one of the manufacturers, who does a lot of business in this area, came up to me and said, "You know what? We're going to come out with a Class 2 device because no one else has with a simple camera for about 55 or \$60 a month and knock the socks off the competition."

The system we have in New York State is working. In order for it to continue to work it has to be viable and we have to allow operators, given the protections that are in place, to make those selections of the model. Remember, we're driving the decision about which class and features are chosen. Next slide, please.

So the request for manufacturer's applications required them to meet our health regulations, I talked about this; to serve all one or two, three, four regions of the State; to classify the devices into three classifications; establish an initial fee structure; enter into multi three year agreements; and obligate the manufacturers to comply with that court order, again, I want to reiterate up to 10%. I had to limit their risk. If I said that you'll meet every court order and didn't place some boundary or parameter on that, they wouldn't have competed in New York State. They would have recalled the experience in New Mexico where judges were ordering up to 30, 40% of those units for free and they were making no money. So I had to limit their risk, but if, again, if that limit exceeds 10% I have to call them back and allow them to open that up. Please, the next slide.

I think we covered this as well. Next slide. This is the classification and I won't -- you've got PowerPoint copies in your hands of the presentation. But basically the instrument meets all New York State Department of Health regulations, the regulations of the National Highway Traffic Safety Administration. It utilizes fuel cell technology. It has reporting capabilities and anti-tampering and anti-circumvention features in place. Next slide, please.

Class 2 is the Class 1 with a camera. Class 3 includes all of the other technologies. Next slide, please.

We have the toughest regulations in the country. NHTSA regulations established a set point between .020 and .030. I'm a former prosecutor, I do not believe in choice. We established a .025 BAC level. I contemplated what it would be like addressing a jury and trying to explain a range. We have a .025. Let me say that the way our system works basically, and I can just summarize this very quickly, is that we -- a person gets into an automobile and attempts to start the vehicle. They're required and prompted to blow into the breathalyzer, the ignition interlock device. If they

have a BAC of .025, the equivalent of one drink of alcohol, one beer, one shot, one glass of wine, they will not be able to start the vehicle. They can wait; if they've washed their hands with Purell, an alcohol based product, and that's the reason that they're getting interference, and these devices are very sensitive, they have five to 15 minutes to do a retest. I'm in no rush because the automobile is not going anywhere, it's sitting in their driveway. So they are given five to 15 minutes to come back and take a retest. If they don't take that retest within five to 15 minutes or if they miss the test, then it's a violation and it's a reportable violation. If a person gets into an automobile and passes the test, within five to 15 minutes they'll be prompted for what's called a rolling retest.

You might say "Well, Bob, suppose they have an offender next to them, another individual, a friend, they've been drinking, who is sober and he breathes into that test and gets them going. What about that?" Well, a couple of things. One is there are various queues within the alcohol sensor that require a certain pattern of breathing that the offender's taught. Certainly that can be taught to others, I understand that. But within five to 15 minutes they're going to get, at random interval by the way, they are going to get a retest, a rolling retest. So the other person is not going to be in the car with them. If they fail that, within one to three minutes they're going to be prompted for what we call a rolling retest. If they fail that exam, then the horn is going to begin to blare controllably and the device is going to emit a high pitch squeal. They're going to be prompted to pull over to the side of the road and shut the car off. At that point they can attempt to restart the car, but if they're intoxicated the car will not start.

Any failed start up retest or any failed rolling retest goes into a lock out mode. That means when the person is finally able to start the automobile they have five days to bring that automobile into the service monitor and get a download of the data and get it reset. That report goes to Probation, goes to the DA, goes to the court. If they do not, the automobile will be dead in their driveway electronically until it's restarted with a certain code from the manufacturer. So there's a lot of accountability. Is the system perfect? No. But is it demanding, does it put in place a rigor, a regimen, a discipline, an accountability? Absolutely.

We require six circumstances in our regulations where a mandatory report to the District Attorney and the court is made. One, failure to install the device. Two, failure to show up for a service visit within the required 30 days. Any attempt at circumvention or tampering is a reportable offense. Let me say that it is also a Class A misdemeanor in New York State punishable by a year in jail. Any failed start up retest, any rolling missed or failed rolling retest or any lock out or any test where the BAC on that unit measures .05, the impairment level, or higher, is an automatic report to the District Attorney and the court. That doesn't mean necessarily that the court will violate the individual. Probation may go in on a case like that and say, "Your Honor, this individual needs an evaluation. He's been evaluated, he's been referred to drug treatment, we're going to continue to work with the individual". But I didn't want to chance that the District Attorney and the court wouldn't have that knowledge. Let's place that decision making ability with the court. Let's inform them. So that's what our regulations do. Next slide, please. We can move forward. I think I covered that as well. Next slide.

Unaffordability. Very, very important. It is important for us to distinguish indigency from unaffordability. The word the Legislature used in passing Leandra's Law was unaffordability. Indigency, as you know, and the right to counsel in this country is a constitutional right, you know. It talks about our liberty interest, something we hold dear in a democracy. If our right to counsel is compromised then we have an Appellate Court process to pursue that right. That's different from unaffordability. There is no constitutional right to drive an automobile in this country. For that, we seek a driver's license. And by the way, if we violate the terms of the use of that driver's license, then the Commissioner of Motor Vehicles, through the court, takes that license away from us. So that's an important distinction that I've continued to try to make with the judiciary.

And the importance is to drive that decision home what we did is we developed, and to give information, the best information I should add to the judiciary, we did something a little different from other states. We didn't define Federal entitlements as a requirement for unaffordability. We didn't say food stamps or 200% of poverty was an automatic -- you know, an automatic right to the price to be waived for an ignition interlock, because that doesn't get at undeclared income. So what we did is we established what's called the Financial Disclosure Report Form, a five page report. On page four of that form, what it does, the entire report seeks to capture the monthly income, expenditures, and assets of the individual coming before the court. I believe if we give the best information to judges, they will be able to make good decisions and they will make good decisions.

Included on page four of that report is whether the individual has cell phone service, you know. I wonder how we all got through life without cell phones five, ten years ago. Probably not -- no individual defendant probably comes before the court without having a cell phone attached to their waist. And the inquiry I say to judges should be "Well, you know, Mr. Maccarone, if you've got a cell phone, what's the price of that service?" "Well, it's about \$65 a month, Judge." Then you can afford an ignition interlock device. "Do you have cable service at home?" Because all of that information is captured on the financial disclosure report. I want to limit the number of unaffordability units. I must do that or else our program will fail. So there is a delicate balance here that is struck, and I think you see that dynamic and how we structured this law in implementing it. Very, very important.

We have trained judges, Judge Kluger and I, the administrative judge, strategic planning over the courts in New York State did a two hour webinar for 1,200 town and village justices, as well as a 90 minute program for judges. Next Tuesday I'm addressing 36 district and county court judges in Nassau County as well. I'd be willing to do that in Suffolk. Very important to keep the information up. What are we seeing. Next slide, please.

I just might add, if we can go back one slide. The law also provides for payment plans and what does that mean? Well, the average cost of an ignition interlock device is about 2.50 or \$3 a day. And what I say to judges, before you get to waiver the inquiry ought to be, you know, "Mr. Maccarone, if you can't afford 2.50, can you afford a \$1.50?" I mean, what is it that you can say you can afford because the cup of Dunkin' Donuts coffee that you have on the desk with you is about \$2.00. So, you know, that brings it down to it's most common denominator in terms of understanding. Next slide, please.

Monitoring an offender -- monitoring offenders and supervision, as I said, is the absolutely most essential part of the ignition interlock program. I understand that it has an impact on the localities. I'm the State Director of Probation. I fund and regulate county Probation Departments and I know how hard they work to protect the community safety throughout New York State. In response to that, I applied and made an application to the Governor's Traffic Safety Committee for a grant of three million dollars in Federal National Highway Traffic Safety Funds and I emplaced a note that we did receive that grant. I'm told that that grant should be coming in the next couple of weeks. As soon as we receive it at the Division of Criminal Justice Services, it's now the procurement package, is now with the Office of State Comptroller, that will be a few days to review, and then we'll be getting electronically agreements out to the localities throughout New York State.

Last week I was able to -- I was able to learn from our friends at the Department of Transportation and the Governor's Traffic Safety Committee that they would enable us to provide reimbursement to localities in every case where there was a DWI conviction and the ignition interlock device was ordered, but ultimately it wasn't implemented. And the reason that I want to make this distinction is because Probation Department Directors were coming to me and saying, "Bob, judges aren't ordering it." In about 25% of the cases it's being ordered because offenders are transferring title and they're going into court and representing that they are not going to operate a motor vehicle, but

there is still a quantum of identifiable labor and tasks associated with monitoring these offenders.

I had a conversation with John Desmond and he said, "Bob we've got them in our AIM Program and we're still checking VINs on them, we're talking to family members, we want to do everything in our power to ensure that they're not driving automobiles in the community and endangering the lives of others". And so that's a cost to Suffolk County. So we sought permission to grant reimbursement to counties on that basis and that was granted. We also got permission to reimburse counties for the arrests that occurred before November 18th, 2009, but were sentenced on or after August 15th. And then lastly, although the grant starts October 1st of 2010, we will be able to pay counties for every device that was ordered on or after August 15th, the effective date. Why is that? Why are all those factors considered? Because we want to give counties the resources to try to monitor these offenders. The goal is to make our community safer.

So I want you to know that we're pleased about that. I don't represent here today that that will do everything to offset the costs associated with the labors associated with implementation of Leandra's Law, but it will help counties. I know it will help counties. And I'm looking to try to continue that funding, because I recognize the important role that enforcement plays in this law. Next slide, please.

That kind of brings us to the conclusion of where we are. And I wanted to say a couple of things. One is I know that you're looking at a piece of legislation that would require or direct the Probation Director to choose features in every case and go beyond the class. And I would just urge you to think about giving a fair level of discretion to the State Probation Director in this. Within the realm of our regulations we tried to provide flexibility to counties, because we thought that was so important. And in my letters for the approval of your county plans, I noted that the notion of trying to match offenders with the technology, I think that's important. I think actually a Class 1 device on a first time offender in the 75% who are going to change their behaviors, I'm not talking about high BAC's, I'm talking about over the limit, they're going to change their behavior and having that device in it with a report every month going to Probation, the courts and the DA, is going to dramatically change their behavior. So I would say think about, you know, that before we move forward with a stricter regulation which absolutely requires it.

I will also say this, I believe we have excellent manufacturers in this state providing service, and I think they each play an important role. But I will also note that there is some cost associated with real time reporting. Real time reporting has a role with the repeat offender; he's a real threat to the community. In fact, the repeat DWI offender I will say is a loaded gun pointed at our community, that's how serious an offense that is. Now, I often say that each of us, we may think that we're pretty safe in our lives and probably may or may not, God willing, be the victim of -- hopefully will not be the victim of a violent crime, but the chances of us returning from the movies on a Saturday night with our wives and driving home from the movies running into a drunk driver is a reality. And so this is a serious offense and a serious threat to community safety. I recognize that. But when you look at the most sophisticated technologies, there's a cost associated with active monitoring. Here localities are saying, listen, you know, we're trying to make government more efficient, tighter, more cost effective, do we have the means to monitor every one of the convictions real time or does the device provide us the technology we really need?

The other thing I would add is on the E-911 it's a good technology, but you're also building an expectation and will we be able to honor that expectation if that's keyed into the police. I would just urge you to talk to your Police Commissioner, see what, you know, what level of offense, what offenders is appropriate for that type of response. These are the decisions. They are difficult decisions, discerning decisions, that I think you will make about what is the appropriate use of technology with risk to the community, because there's a cost associated with that as well.

So what we've tried to do and I'll end here, what we've tried to do is be very thoughtful about implementing a difficult piece of legislation. Let me say that when I go to the Governor's Highway Safety Administration Association meetings in Washington they say, "Oh, we had two years to implement the law. How much time did you have in New York State?" I said, "Two-hundred and seventy days." We think we did it well. NHTSA thinks New York State did it well. In fact, I think we're becoming the role model for the country because we have put together a planning structure and implemented the law in a thoughtful way that continues the whole element of competition. Competition will ensure that we not only have the very best device in service today, but that we will have it next year and the year afterward because competition is the best assurance that we'll end up with the best product for the best price.

So on that note, I will close and certainly I am available to answer any questions, but before I do I want to thank you for giving me the time before this honorable board and having just the opportunity to talk about what we've tried to accomplish throughout New York State. Thank you so very much.

CHAIRMAN EDDINGTON:

Thank you Commissioner. And I do have a couple of questions, I don't know if anybody else does. But I -- you did say that it would basically be no cost to our County, basically.

MR. MACCARONE:

Well, what I said was that, and you know, I want to be clear about this, because there's been a lot of attention in the media about the implementation and the impact on the localities. First and foremost the law is designed that people who break the law, drunk drivers, pay for the ignition interlock device. That's number one. Not local taxpayers and not counties. That cost is to be borne by the operator offender who is convicted.

There is a provision for unaffordability and what I have sought to do is to place that burden on manufacturers, and the reason that I did is because I said to the six manufacturers at the time, now seven, "Listen, New York State has 25,000 convictions. If you do the math and the average unit were on for a year, that's about \$1,000 a unit, that's a business enterprise of \$25 million." If people, the felony offenders, persons on probation are going to have this on for two years, three years, then the enterprise could become someplace between 25 and \$35 million. That's a substantial business enterprise. There is money to be made here and they know that because six of them made application and have contracts with us. But the cost of doing business in New York State is also understanding and supporting the issue of unaffordability because I am not going to place that burden on the localities. So they are bearing that burden up to a limit. And that's why that dynamic between making decisions on payment plans and on affordability and how we stretch that is very important. That's kind of a delicate balance that I'm trying to oversee carefully.

CHAIRMAN EDDINGTON:

Right, and I understand that, that's -- I think that's good, what we need to hear certainly in economic times like this and I appreciate you working it out that way.

The other thing is that I heard a regional choice or is it a local -- does each county get to decide or are you saying the region has to pick the vendor or vendors.

MR. MACCARONE:

Let me be clear about that. Let me just answer the part B, though, of the prior question, and that is I recognize that there's an impact on the localities for monitoring and supervision. I do not want to gloss over that important point. I know what our Probation Departments are doing. When I looked at this legislation, and I'm eminently aware of the fact that our Probation Departments are supervising 125,000 adult offenders, half of whom are felons, by the way. They have a pretty steep

climb to make every day, and 4,700 sex offenders I heard, you know, the discussion about sex offenders this morning.

Just as a sidenote, probation is the most frequently used disposition by courts throughout New York State with respect to sex offenders. I'm pleased about that because I think longer terms, active supervision, is a good way to go in ensuring community safety. Six years for misdemeanors and ten years for felonies. But there is an impact on Probation and today we are supervising 4,700 SORA eligible sex offenders throughout New York State. That's an important number. So I know how busy they are. And I know that this will further burden them.

And so to do that we applied for the three million dollars in Federal NHTSA funds. So I've done something, I may have done due diligence I would say, in trying to understand the impact on localities and getting resources to localities because I very much want to see this law succeed, as we all do, because this is going to save lives.

CHAIRMAN EDDINGTON:

I guess I'm not really hearing the answer in --

MR. MACCARONE:

Let me get to the region cost.

CHAIRMAN EDDINGTON:

Oh, okay.

MR. MACCARONE:

The regions pertain to manufacturers. When we said to manufacturers you get to determine whether you want to serve one region -- we've divided the State into four regions. It is synonymous with the regions that the Council of Probation Directors have throughout the State, and the reason that we did that is we said if there's a problem the Directors are not a silent group. They will bring those manufacturers in monthly at their meetings and talk with them and talk out any problems.

So we divided the State into four regions, and the reason that I did that was because I wanted to encourage small, new groups, manufacturers, for coming into the State that couldn't handle the entire State but they could handle one region and then the next year they might bid on another one. You get to select one, two, three or four regions. If you select a region you must serve the entire region.

The decision, the regulations, the regulations, which have the force and effect of State Law when properly promulgated, and they have been properly promulgated, require that overseers, monitors of CD cases, in Suffolk County that's Probation, get to select the class of the instrument. They can select all class three instruments. Excuse me a moment for that. My sister is having surgery as we speak so I just want to open and close that so we won't be disturbed, but that's the reason for it.

I wanted to say that with respect to those decisions, the monitor gets to select the class of that device. They can select all class three devices. Probation gets to select class and features.

CHAIRMAN EDDINGTON:

But let me ask you a question then about that.

MR. MACCARONE:

Yes, sir.

CHAIRMAN EDDINGTON:

When you made your presentation you spoke about your background as a prosecutor.

MR. MACCARONE:

Absolutely.

CHAIRMAN EDDINGTON:

And you didn't want the range to be .01 or .03. You wanted it to be clear. And I think what we're trying to do right now in Suffolk is do the same thing with our interlock devices, pick the one that is -- pick the best technology right now --

MR. MACCARONE:

Right.

CHAIRMAN EDDINGTON:

-- that's available and then companies certainly will be working on advancing that. But not to have a range, because once you start doing exactly what you said, when you can decide well, this is -- we'll do Class 1 and we'll give them Class 2, if we just say Suffolk County is -- there is no tolerance for DWI, and that this is the device you're going to get, it's the top of the line, and that's going to be what you're going to have to deal with, maybe more than 75% will follow the lead that you're saying and not use the devices. That's the thinking I believe, in Suffolk, right now.

The other thing is where do we stand with the DWI's in New York? I thought we were like number one in Suffolk.

MR. MACCARONE:

You're very high. You are very high. Suffolk --

CHAIRMAN EDDINGTON:

Okay. So that's why I think we want to really come out with a no tolerance, no play around, no choices, this is what you're going to have to go through if you screw up.

MR. MACCARONE:

Yeah. Let me say this about the technology and that is all three classes work really effectively, they really do. I think that clearly the three device has more features on it. I think I said earlier and I think I would urge you to think about that there are costs associated with the response to every highest technology, you know. I think some --

CHAIRMAN EDDINGTON:

Yeah, let me ask you about that, because see that just follows with the logic that I'm having, it may not be sound, but it's going to cost the DWI person more money. So I don't really care if it costs them more money, because that -- it hurt them in the pocketbook and that might help be a prohibiting reason.

MR. MACCARONE:

Well, two things. One is it will certainly cost the DWI offender more money because the cost on some of these Class 3 devices goes over \$110. For the Class 1 it's about \$70, and say well, are we really concerned about how much the DWI offender pays. I think we may be concerned because if the only decision -- if the only option a sentencing judge has is \$110 versus 70, then that may impact their decision making about unaffordability. And if more people walk into that courtroom and they're making decisions where they begin to exceed that and we get to the point where judges are saying you know what, because we're only Class 3 devices, they're approving 30, 40% of those, then we're beginning to -- what's going to happen is I've got to bring in the vendors. That's going to

drive up that price. Once I open those agreements the price goes up, it won't be \$110, it might be \$120, \$140, now we've got more unaffordability -- it becomes a vicious circle. I think you see the logic there. You know, I'm not trying to go easy on the offender by any means, Mr. Chairman. What I'm saying is that in the larger sense it has impacts.

I would also say it can cost Suffolk County taxpayers as well in the sense that if you're going to have real time that implies that someone is going to be overseeing real time reporting and that 24/7 you're going to have a person who's going to respond to that report. So I would just say to you, and I know this isn't the forum for it, your subcommittee is a better forum for it, but I would ask you to look at that because you know about the cost associated with 24/7 monitoring of sex offenders. Is this the next group that you want to employ that level of scrutiny now?

And then I think with the 911 I think that in my own mind and perhaps we're building an expectation in the public's mind if we're saying we're going to really ensure 911 response, does that mean that if the person fails while they're driving down the Southern State Parkway and they fail a rolling retest and an alarm goes off to 911, that we're really going to have a Suffolk County Police Officer present to respond to each and every one of those offenses? So --

CHAIRMAN EDDINGTON:

Well, we're working on that issue, too.

MR. MACCARONE:

Yeah. I just think that that's part of your consideration and the cost associated with it. And again, I don't think this is the forum. I know you have a committee where you'll debate these things in detail.

CHAIRMAN EDDINGTON:

This is it. This is it, so.

MR. MACCARONE:

The purpose I came today was to impart with you kind of a framework of why we made the decisions that we did.

CHAIRMAN EDDINGTON:

Right. Okay, you know what? Let me -- I want to welcome Legislator D'Amaro, the sponsor of the bill, and he would like to ask you a question.

MR. MACCARONE:

Certainly.

LEG. D'AMARO:

Thank you. Good morning, Deputy Commissioner Maccarone. Thank you very much for being here. A very informative presentation, very enlightening. Your expertise is obvious and I appreciate you taking the time to do this this morning.

MR. MACCARONE:

Thank you very much.

LEG. D'AMARO:

I had some questions. I have reviewed the regulations and the standards. And we came up with three classes of device, if I'm accurate. The basic level, an intermediate level and then the bells and whistles, so to speak. What was the thinking on the State level as to why we would not -- why we would permit three levels as opposed to just reaching out, as the Chairman points out, for the best

technology available? I hear the issue about cost, I understand that. That's really not that much of a concern to me where defendants are being asked themselves to pay for the device as you mentioned, and I agree with you wholeheartedly. You know, if you can afford the cell phone and the cable T.V., well then you can afford a monitoring device to save lives, especially the lives of others.

It seems to me that if there's technology available that could provide all the bells and whistles and be more effective on our roadways where judges are ordering the use of the device anyway, you still have to go to a certified center, you still have to install it, what was the thinking on the State level as to not just reach for that and only that?

MR. MACCARONE:

That's a great question, and there's a good answer for it, and that is in 2005 when I became State Director of Probation I noticed that ignition interlock devices, we had about 300 in the State of New York and we had a pilot program in place in seven counties. That pilot program was 14 years old. I was convinced that it was a success and questioned why it wasn't statewide. We went to judges and we spoke to judges and we said to them why aren't you ordering ignition interlock devices, we've got these 26,000 DWI offenders, about a third of which are felony -- repeat offenders. They said, "They're not available." And we went to the manufacturers and said, "Well, why aren't they available? I mean, isn't it in your business interest to provide ignition interlock devices and make a profit?" They said, "Because the judges aren't ordering it". Well, okay. This sounds like the classic Hobb's choice or chicken and egg story. Judges weren't ordering it because the devices weren't available and the manufacturers were not providing it because the judges weren't ordering it. I said to the Governor at that time we need to expand the pilot statewide and we did so.

When we did so we created the incentive. At that time the law provided, as you recall, for repeat DWI offenders to be required to have an ignition interlock device installed. And they did so. So we went from 300 devices to 2,500 offenders. Now, 2009, we've got to implement a law in the -- on the horizon is the prospect of 25,000 convictions and 25,000 devices, and Legislator, I was convinced that no single vendor could provide that level of service to respond to 1,200 courts. So to ensure -- I did not want to repeat the experience of 2005. I never wanted to have a judge in a position where he says I've got a drunk driver but I don't have a device available, I don't have a manufacturer. The way to do that was to look upon the field and in looking at it, there was a whole array of devices.

Now, I can tell you where the technology's going. We're getting there. The manufacturers, we had a seventh manufacturer, he dropped out because he didn't have a camera on his. He's coming back this month with cameras and he's going to provide competition for level two devices. So I think -- we have two companies, by the way, in the State, maybe three, that are doing real time reporting and 911 technology. I will say that some of the counties are getting down to what's real time reporting. One goes over a cable wire, another goes over Verizon, one's a 30 second delay, and so what's the technology that we really want.

Here's my concern, here's my great concern. I don't want counties to become wed to one single vendor because I think while in the short-term you are trying to do your very to ensure the best product and the best price, in the long-term you may get locked into a technology and it will be difficult for new manufacturers to break into a market wherein effect there's a monopoly. And I've seen that in other states, which go nameless. One state did the most competitive bid. They had one manufacturer. They recognized soon thereafter they made a mistake, went out to bid, three manufacturers bid on that so they were going to have four in the arena. They couldn't make a dent into the market because those relationships were established.

Look, I have a lot of confidence in the manufacturers. I also know them to be honorable people. They have taught me a lot about this business. They are experts at their business, but at the same

time I know the thing that is going to serve New York State best is an open, fair playing field, one where the competition is ever present. I hope that provides you some information about the impetus for my decision making.

LEG. D'AMARO:

It certainly does. And I think the thinking of back in 2002 with the pilot program and availability there you had to strike a balance, you know, do we make more of these available even if it's not the best technology available or certainly the most maybe effective technology available, but we want to get more of them out there, we want the judges to get acclimated to using and ordering the device and things like that.

But we're now almost eight years beyond 2002, and what my bill is trying to do is set standards. And it sets them high, I admit that, and I agree with you about competition, but I want the competition to rise to the level of the standard and not the other way around. I want vendors competing with one another to go towards cost, to get the best technology. But I think we also have to then say if you're going to compete, here's the level playing field, everyone has the same standard to meet, so we're not giving any competitive advantage to anyone, but compete within the universe that we establish. So the policy behind the standards in the Chairman's bill and my bill is that I think those standards are best to protect and save lives on the roadways.

Some of the rationale I believe that you're citing back for availability probably doesn't hold true today. You have another vendor coming in, you said there were two or three that have the level three -- I'm sorry, grade three device available, so there is some competition. And I suspect that if we responsibly enact standards that we will force the competition but meeting the higher standard. And I think also where there was a time in 2002 to bring the judges along, okay, so you had -- you needed more devices available quickly, maybe it's time that the judges understand that the technology has come a long way and that they can order devices, different devices from different manufacturers, but within these much higher standards. I mean, let's take the next step.

MR. MACCARONE:

I understand and respect your motivation.

LEG. D'AMARO:

I also want to just mention that it's very impressive that the device is simply installed and it changes behavior in about 75% of those who are mandated by a court to install the device. But, you know, in my mind that leaves the 25%, and that's the folks that I'm concerned about. Because it only takes one tragedy, as you know, and I don't want to get into the whole emotional side of an issue like this, where if only we had ordered the best technology where it may have made a difference.

MR. MACCARONE:

Yeah. Let me just say in terms of the 75% and the 93% to be clear that with no ignition interlock device the first time offender is about 75% of them change their behavior after an arrest. With respect to ignition interlock devices, compliance is very high across all technologies. Ninety-three percent of people on ignition interlock devices comply. So there's only a seven or 8% violation rate. And the reason is, as you might well imagine, is that they're creating their own violation record. There is no fooling the technology. What they're doing by violating is creating a printed record of violation where the Probation Officer can bring that into the court, so there is great compliance.

I understand your motivation and certainly I respect, you know, your thinking there. I would say that what we're seeing across the State is actually far fewer units being ordered -- installed, actually installed. They're being ordered because the law requires it, but the practical application is they're not being installed because offenders are, as I said earlier, transferring ownership to other family members and then representing in court that they will not operate a motor vehicle. And, you know,

I'm looking at new legislation that may get around that, discussing that with various representatives and the Governor's Office, about how can we ensure that people get that ignition interlock device because, in fact, that will disrupt the behavior and save lives.

LEG. D'AMARO:

Yeah, that's a whole other issue and that's disheartening to hear that. Well, I guess there's always a way to game the system. Hopefully we can close the loopholes as we become aware of them and it's important that we do that quickly when lives are at stake.

But again, I don't want to belabor the points. Again, we'll talk about the bill I guess at a later point in the committee. I just, you know, it's obvious to me that your office and yourself have done a tremendous job in getting this --

MR. MACCARONE:

Thank you.

LEG. D'AMARO:

-- to accept the technology, to getting judges acclimated to using the technology, and certainly you are having a direct impact on highway safety and saving lives and that's extremely, extremely commendable. I would hope that you would look at legislation such as mine as helping you in your cause because I do believe that if we just continuously raise the bar as the technology becomes available, that we will have that competition on that level playing field with this available technology, and it will also add to your cause which is really just to protect the People of the State of New York. Thank you.

MR. MACCARONE:

Thank you.

CHAIRMAN EDDINGTON:

Legislator Kennedy would like to ask you a question.

LEG. KENNEDY:

Thank you, Mr. Chairman. And I want to thank you for inviting the Deputy Commissioner. It's been extremely informative. And quite frankly, I have to confess, I was unaware of the fact that we actually have a gradation of the units themselves. And in looking at the sponsor's legislation and the Chair, I was going to just ask some of the basic questions, because I hear some of the terminology being spoken about. So for my own purposes, I was going to ask you if you could differentiate for us the degree of monitoring that a monitoring device does. What's a basic, what's an immediate and I guess what's an enhanced. What's the range?

MR. MACCARONE:

Sure. The way the system has been built traditionally is with a system of monthly reports, and that is that, you know, monthly a person with an ignition interlock is required to go into an installation service provider, bring it in where the unit is downloaded, all the data creates a record. It's reset, it's inspected to ensure that there is no anti-tampering or circumvention going down around. And secondly, that all that information is sent off to a Probation Officer.

Now, keep in mind in New York State we actually connect that reporting process to a law enforcement professional with some accountability. That goes back to the District Attorney and the court. Excuse me. I think what you'll find in some states where it's an administrative program is ironically there's no one that report goes to. I mean, it's not nearly as tight as -- and we wouldn't -- I don't think we'd stand for that in New York State.

What we did with the lock out feature in building the reporting of five days, and frankly I'm considering cutting it down to three days, is absolutely require where there's a violation, and the offender knows there's a violation because the car, you know, didn't start or he gets the message to pull over to the side of the road and he must and shut off the vehicle. He knows where there's a violation within five days to go in and get that data, because now we're not waiting the 30 days, we're getting that report in five days.

And by the way, in 95% of the cases the offender goes to the installation service site the very next day. There's a lot of motivation when there's a violation to report that immediately. So that's not really an issue. These people are pretty conscientious about getting back for the report.

So we know within a couple of days that there's been a violation, and then that violation comes to the attention of the Probation Department, the District Attorney and the court. That's the classic Class 1, Class 2 device, and I could go into some of the technologies. One there's a removable head where on a monthly basis on the Class 1 device you take that head, you get a postpaid FedEx replacement, you take off the old unit -- the automobile will not operate with the unit off, by the way. You would put in the new unit and you send off the unit to the manufacturer. You say, gee, is that a great technology. Well, actually it has its advantages for several reasons. I still require that individual, by the way, to go into the installation service site for a visual inspection to ensure there's no circumvention or tampering attempts. But the benefit is you don't have any concern about that data with the installation service site. It's going to a central manufacturer so there's an advantage in that.

The Class 2 device is the same device with a camera, because prosecutors, law enforcement, want to assure that the person who violated that test was in fact the operator. But let me say this, that that may be somewhat overplayed because our Probation Officers in going into court don't solely rely on that violation test. Certainly they have the record, but that's just one indicia of violation.

LEG. KENNEDY:

Can I just stay on that for just a second?

MR. MACCARONE:

Certainly.

LEG. KENNEDY:

So in other words this device actually at a section two, similar to my cell phone, would be taking a shot of the facial profile of the subject.

MR. MACCARONE:

That's exactly right. There's a camera mounted in the car, in the automobile, which is confirming every test and connecting it to a test. So there's an event, a test and a picture that goes along with that test. And that's the Class 2 device and that's desirable, and by the way, a lot of Class 1's are moving to Class 2's very quickly.

LEG. KENNEDY:

But on that same point, and I don't want to stray into an area that may or may not be appropriate, but I'll call on your history as a prosecutor then. Does that meet an evidentiary test for the purposes of introduction to demonstrate violation and I guess subsequent conviction?

MR. MACCARONE:

Well, the photograph, yes. The technology, frankly, you may have to bring in an expert to testify until, you know, just like alcohol tests that are Police Department based required acceptance as an evidentiary device and technology. But the reason that that has not been an issue is because when

faced with the report, frankly, there's a lot of admissions going on. It's difficult to argue otherwise. Also, these cases are being monitored by Probation Officers. Probation Officers are working with their offenders. That event of a bad test is just one event in their behavior -- not attending treatment, not to go on an evaluation, so they're managing the individual and the technology is just one tool in getting them into court. So that's good because we don't have to necessarily rely on the instrument. We have the report.

The Class 3 gives you instantaneous results at least reported to you. You can get those reports, you know, on a cell phone, real times and they have -- several technologies have active GPS, or as I said real time reporting. But the question that I wanted to pose for the committee is, you know, with active GPS does that mean that you're going to have staff, here's the question, does that mean you are going to have staff assigned following these GPS signals around the County. You know, that's really the challenge.

LEG. KENNEDY:

And, again, I'm glad you're bringing that to our attention because there were a couple of things when you were speaking that kind of, you know, went off in my head. Again, the presumption here is when an individual is convicted, and I believe we're in a category these are felony convictions, isn't the license generally a restricted license that's generally only for the purposes of traveling to and from work or something like that? It's very restricted in the first instance.

MR. MACCARONE:

It is and this includes misdemeanors as well. As you know, New York State now is one of ten first offender mandatory states, so even the first misdemeanor -- if it's held to a criminal offense. If it's reduced to an impaired then it would not be -- would not come under Leandra's Law.

LEG. KENNEDY:

But nevertheless still generally we're dealing with a restricted license.

MR. MACCARONE:

Yes, we are.

LEG. KENNEDY:

And so for the purposes of that individual being within the confines of the program in the automobile, it's usually just for a very specific trip, from residence to work or residence to treatment, not residence to the gin mill.

MR. MACCARONE:

Yes, that is correct. There's a conditional license and, in fact, I would just note as an aside that we also impose a requirement on employers. If a person is obligated under our regulations to advise their employer and the employer has to sign off, if that person is driving an employer's vehicle, to only operate that vehicle within the scope of their employment and within the hours of employment. If he's caught driving the employer's vehicle outside the scope of employment then he's essentially driving a vehicle that is not so equipped with an ignition interlock device and consequently he's guilty of committing a class A misdemeanor. Obviously if he's self-employed, self-employed electrician or plumber and has his own van, then he has to install an ignition interlock device on that vehicle. So I just wanted to talk about employment because that's an important issue in communities as well.

LEG. KENNEDY:

One other area, and then I'm going to turn it back, Mr. Chair. And, again, class of vehicle, that's the other thing that kind of occurred to me. Folks get vehicles in all different ways at this point, as you know. They purchase them, they lease them, any of those types of things. Not that I'm necessarily

concerned with the violator, but does this program -- can you put the interlock into let's say a leased vehicle or something like that without voiding or violating the terms and conditions associated with the leases or things along those lines?

MR. MACCARONE:

Not only can you, you're required to. Lease vehicle, rental vehicle, comes under an owned vehicle under the law so you're required to do so. You're also prevented from going to another state and renting a vehicle, while on vacation or otherwise, that is not equipped with an ignition interlock. The important thing to keep in mind here is that condition is a condition on your driver's license. That follows you wherever you go. So that condition is enforced. You are not allowed to drive an automobile that is not equipped without an ignition interlock device.

LEG. KENNEDY:

You spoke about that in itself being a misdemeanor with a year's penalty. So if an officer stops somebody immediately upon running their license that's going to pop and that is a violation along with a host of all the other stuff.

MR. MACCARONE:

That's exactly right.

LEG. KENNEDY:

Okay. Thank you. I appreciate it, Mr. Chair. Thank you, sir.

CHAIRMAN EDDINGTON:

Legislator Browning, you had a question?

LEG. BROWNING:

I think John got quite a few of the questions I had asked, because I was going to ask about the camera system. The camera would not necessarily be used on a first time offender?

MR. MACCARONE:

It may be. If the monitor -- let's keep mind that a monitor over the first time offender -- let's say that the first time offender gets a conditional discharge as a disposition because they are a first time offender. That offender, the monitor of that case, in this case it would be Probation in Suffolk County, has a choice. They can select a Class 1, Class 2, or a Class 3 device. And so, you know, it depends on the class they choose. Clearly the Class 2 and Class 3 require cameras or facial recognition technology to ensure identification of the person taking the exam.

LEG. BROWNING:

And, you know, curiosity, there was an incident happened a while ago that I remember reading in the paper about somebody who rented a car, because he was supposed to use the interlock. You know, you have I suppose maybe that, you know, the other spouse has a vehicle. I could possibly have two cars registered in my name. You know, how do they handle that situation? What happens if, you know, say, you know, the offender's car breaks down, has mechanical problems and now borrows the spouse's car to get to work, and, you know, maybe, you know, the kids have a soccer game. Comes home from work, parks that car and takes the other spouse's car to do the soccer games. I mean, what kind of penalties are on a person who gets caught doing that?

MR. MACCARONE:

The offender would be committing a new crime. It's a class A misdemeanor punishable by a year in jail. He cannot, she cannot, drive an automobile that is not equipped without an ignition interlock device. It must be equipped with an ignition interlock device. There is no circumstance, in fact,

leaving the courtroom once the sentence is imposed, in driving a vehicle that's not equipped with an ignition interlock device. Without one is a crime, committing a crime.

LEG. BROWNING:

So, you know, say I have two cars registered in my name and is it possible that it could be required to have both cars?

MR. MACCARONE:

That's correct, because -- and this is where, you know, I know we've really got to do some further study, because the law requires any automobile that they own or operate -- judges are faced with some really difficult decisions in court. Defendants are being advised by their counsel to have those cars registered in other family member's names so they no longer own them and transferring ownership, not only registration but ownership, to other family members. So they're going into court and representing that they no longer own the automobile and they're saying, "Judge, I will not be operating it. So I've transferred ownership and I'm not going to operate any of those vehicles".

Some judges, talking to Judge Coccoma, who supervises the courts outside of New York City, this week and he said, you know, judges are really coming down on both sides of this. Some judges are saying okay, he's not going to operate, I'm going to honor that's because that's what the law is. Some judges are saying, others including himself, are saying I believe that there's an automobile there that you are operating, please indicate which vehicle that is because I'm going to require you to install it on at least one of those vehicles, because I know you're going to be operating it.

Now, what I've said to D.A.'s, District Attorneys in training is, you know, one of the things that you should do is certainly request the court to instruct the individual. First of all, you ought to allocute the individual and question them about, you know, the fact that they're working in Nassau County, they've been working in Nassau County, and they live in Suffolk County. How do they expect to get to their place of employment. From a very practical standpoint, you have a job that you have to commute to, how do you expect to do it unless you're going to use public transportation. And so that would be one of the inquiries and then have the judge instruct the individual about the law that if he does operate another vehicle that is not so equipped he is committing a class A misdemeanor. Those are some of the things I think that judges are wrestling with clearly to try to get at that owner operate, but it's a very difficult thing.

One of the things we're doing is meeting with the Division of Motor Vehicles trying to get access for law enforcement, Probation and Police Officers to ownership files so law enforcement can know better about the number of vehicles located at an address. That's a powerful piece of information and you can bring that into the court. But in other cases judges are ordering it and defendants are showing up in Probation Departments and they're saying to the Probation Department, "We've transferred title, I no longer own the vehicles, I'm no longer operating". The Probation Departments are having the individual sign an affidavit that they're not going to operate that vehicle.

What I've encouraged our Probation Directors to do is to be sure to report that back to the court because the court's under the impression that they ordered it and it's occurring. So if there's any difference in the behavior of the offender the court and the District Attorney need to know that, and that's occurring in counties.

So we're doing our best, in response to your question, to get at that population. Frankly, I think one of the answers is that we've got to go back and revisit the law and require a period of mandatory ignition interlock, a successful operating -- with an ignition interlock, a proven track record of some minimal period, six months to a year, before you get your license back. So then that detracts from

any attempt to evade the intent of this law. And I think that's something we need to look at more carefully.

LEG. BROWNING:

You know, and going back to, you know, using the spouse's vehicle, you know, you have mechanical problems, your car is in the shop, whatever, we're sitting in the driveway, does the interlock system pick up that the vehicle's not being used? I mean that it would --

MR. MACCARONE:

Yes, it's a great question and yes, it does, because what we're doing is recording the mileage at every visit. The individual's coming into the installation service site, showing their license identification, ownership, and the mileage is being recorded. So if the next month he comes in and he's not driving the vehicle or there are not tests routinely being occurred, the absence of data is indicia for violation that's reported to Probation and the District Attorney and the court. So it's pretty difficult to evade, frankly.

LEG. BROWNING:

Good. Last question. Probation Officers, we have -- you know, I know our Probation Officers currently have a pretty high workload. The three million dollar grant, will that cover hiring additional officers to implement this?

MR. MACCARONE:

Well, I'll tell you what it will provide, and what it will provide is over a \$100 per conviction. So if you look up the number of convictions, and I think Nassau County if recollection serves me, 3,500 convictions in a year. If you had 3,500 convictions in a year, then you multiply, do the math, you'll get over \$350,000 to allocate and deem how you best want to spend that in terms of, you know, putting in place the resources to monitor and supervise these cases.

I think we're already beginning to see a fall off in arrest activity and convictions because I think the public's getting the message. That's our best hope, right, we want the law to work and to change behavior. So I think we will see a decline in arrest behavior and that's good. But based on the number of convictions that you have we'll be reimbursing at about 100 to \$110 per case.

LEG. BROWNING:

Okay. Thank you.

MR. MACCARONE:

You're welcome.

CHAIRMAN EDDINGTON:

Legislator Gregory, you had a question.

LEG. GREGORY:

Okay, thank you, Mr. Chair. I'll be very brief. Thank you, Deputy Commissioner, for coming here today. I found your presentation very informative. A lot of my questions were answered already. I just want to, just to my mind, can I reiterate what I think I heard from you and that is all the classes or the Class 1, 2 or 3, not one class is more efficient or effective, if you will, than the other, they just may have more bells and whistles. Is that an appropriate statement?

MR. MACCARONE:

I think the way to think about the technologies is, you know, they're on a continuum of features. I think the technology is changing and the reason that I think competition is so important, I'm going to try to answer this from coming from the outside of this, is the best way that -- the technology is changing so dramatically that six months from now they'll look very different. In fact, let me say

that I fully anticipated when we distributed the request for applications that we would have vendors coming up with proposals for all Class 3 devices. We didn't get it. What we got was Class 1 and Class 3. And the reason is by the time they had added a camera, they added GPS, real time reporting and all the other features, that's how quickly the technology is changing. In order to continue that change, competition is the thing that's spurring that. They have a vested interest in, frankly, out competing each other and that's a good thing.

I think on a continuum the devices offer different features, and what I have said continually is match the risk if you can with the offender. The first time, I'm not talking about a high BAC, I'm talking about about, you know, a BAC for a criminal action, a misdemeanor, first time offender, probably can benefit from a lower, more affordable -- lower class, more affordable device. I think that, you know, courts are looking at the cost. Judges are really concerned about the cost about this. You know, I know that we may sit here today and say well, are we concerned about the cost if the offender has to pay it because after all, that's part of the punishment and part of the rehabilitation in sustaining that cost. But judges are very sensitive about the economy out there and the cost to individuals, so, you know, they want to get the message across, they certainly want to and will comply with the law, but they're trying to do it in a thoughtful, you know, economic way as well.

And I think all the evidence is that the technologies are effective. All three classes of technology are effective. If they were not, nationally we wouldn't have a 93% compliance rate because there is an accountability factor and a record that goes with this. I think that's the strongest piece.

LEG. GREGORY:

Okay. Thank you.

CHAIRMAN EDDINGTON:

And lastly, Legislator Cilmi.

LEG. CILMI:

Thank you, Chairman. Thank you, Commissioner, for coming. I wonder if the Chair and the committee will, and the Commissioner, will beg some indulgence and go off on a bit of a tangent to try and take advantage of what's obviously a wealth and breadth of experience that you have, related issue and it goes to the broader issue of alcohol abuse and particularly teen alcohol abuse. We have three pieces of legislation that we're looking at now that attempt to strengthen our Social Host Law in Suffolk County. But one of the biggest challenges that we have with that law is the -- our law enforcement's ability to use it effectively. Can you speak in your experience as a prosecutor and in this, you know, within this realm, can you speak to that a little bit and sort of give us an idea of what other areas are doing to try and address that situation, that issue.

CHAIRMAN EDDINGTON:

I just want to interrupt. I'm going to have to ask you to be somewhat brief because we have six presentations after this.

LEG. CILMI:

We can have a conversation privately, then, at some point if you can't be brief about it.

MR. MACCARONE:

I'll be very brief. One is not only as a law enforcement professional but as a father of three children, I think each of us as parents encounter this. Very important law, very difficult sometimes to enforce because of the requirement of knowledge and knowing, but clearly an important law and having adults take responsibility for the welfare of the children and what goes on in their own homes. I think, you know, that is incumbent upon all of us in terms of giving the right message to our young people.

You know, alcohol and certainly automobiles do not mix, but clearly one of the concerns, and if you look at what's going -- New York City has just enacted in this past week, the Commissioner of Health, a very aggressive media campaign about some of the debilitating aspects of drinking and drinking to excess. My own children have experienced in college some other children being victims of alcohol poisoning and over intoxication. These are serious matters.

So, you know, when we look at the 65,000 arrests and what's driving those, it's the behaviors out there and that's something that we have to wrestle with. So I commend you in taking the initiative to try to address that issue of this problem.

I'll end there, and thank you so much for your time and attention this morning, and I hope I've been able to provide you some insight into what we've tried to accomplish in implementing Leandra's Law in New York State. It will save lives. Thank you very much.

CHAIRMAN EDDINGTON:

Thank you, you were very informative and we do appreciate you coming down. Thank you. Then we have a number of presentations, and I'm going to ask you, we've got basically an hour and 15 minutes to fit in five presentations until the next committee starts, so my Aide is going to be keeping the clock for 15 minutes per presentation so that everybody can at least say a few words. So, Mr. Shultis.

MR. SHULTIS:

A very informative presentation. I know every time I see Bob Maccarone -- Director Maccarone you always learn something new. While I set this -- I have a Class 3 unit here that I am going to demonstrate for you. While I do that I am just going to play a little video in the background to take up some of my time -- utilize my time best. What the video is, it's just a Class 1 video training device.

(Video Presentation)

Okay, so that's pretty much the simple part of the Class 1 device. We've all heard about class today. We've heard that there's a Class 2, but technically there is no Class 2 because the second that you put infrared on a camera, which you need for nighttime pictures, every device out there is either a Class 1 or Class 3 now.

This device that I have here with me today is a Class 3. It's just got the camera and the infrared. We have GPS and cell technology coming out the end of the year for this device.

What I've heard a lot about today is real time reporting and I'd like to get a definition of that from you, but first I want to do a demonstration on this device. Our Class 3 has a unique characteristic that's called target tracking where the camera runs the show. It has to actually detect the device before allowing a test to be taken. If they go out of view of the camera it won't allow the vehicle to start. So what this does is it actually gets the image of the person taking a test. They can't pass it to somebody in the passenger seat, they can't pass it out the window. It takes the picture of the person taking the test.

One minute after the vehicle is started it will take an engine on test to show who is sitting in the seat, and I'll just pull that report up so that you can look at that while I do the demonstration. So here you see on the first test this is the start up test. It gets a picture of the person taking the test and registers the BAC time and date stamp. And then one minute later it takes another snapshot of the engine on to show who's driving the vehicle after the test was passed. And then again it asks for the retest within five to 15 minutes on the first one and then every 20 to 30 minutes subsequent

tests. And I think I got a loud enough voice being a former town supervisor so I don't need a microphone all that often. On this device, again, like I said, it's got an identification --

CHAIRMAN EDDINGTON:

I'm sorry. It's for the stenographer, for the record.

MR. SHULTIS:

Oh, for the record, okay. Our device, again, you turn the key on for the device. The wait light comes on and you wait for the red light to come on on the unit. Once the red light comes on it's trying to detect the identification tag on the unit. So once that red light comes on we put the unit up in front of the device, in front of the camera, and then that will initiate a test. So we put it up, the camera detects it, it goes to blow. We pull the device back and we take the five second test.

(Demonstration)

About a five second test with the hum for the anti-circumvention and then it will tell you whether you pass one or fail. A fail is a .025 or above, a one is a .024 down to a .02. It will register anything below a .02 but it will not -- it will still give you a pass. Now the car is running. I'm going to leave that run for a bit so we can see what the retest is like.

Getting back to the technology end of it, I know I heard a lot about real time, about the cost to taxpayers and how the monitoring was going to be done. What my R and D Department has asked is to get a definition of what real time is and who gets what and when they want it. That's some of the most important things that as a manufacturer we need to know so that we can give the public safety the tools they need to create a safe environment in their communities. So I'd like to get some kind of feedback on exactly what you're looking for and where you want it to go and how you want it to get there. That's one instance.

The other is, as Director Maccarone stated, there is a cost to technology. Again, being a former supervisor and being in charge of budgets and property taxes, I'm always concerned. This is my personal belief is that I'm always concerned about budgets and property tax increases. I think that the more technology we get and the more that we want to monitor these things the more it's going to effect the bottom line and budgets. Personal shot on that, so.

Some of the other items that were brought up, again, we see about a 5% violation rate for the 16,000 people that are on interlock that are conditional discharge. They're very remorseful, very seldom do they violate. They're very compliant, they don't miss appointments, they don't have violations, they're respectful. The felons, the repeat offenders are the ones where we see most of the issues. I know in other counties they decided to go with all Class 1 except for which ones they feel are going to be problem issues and they go with the Class 3.

I know that Probation likes the idea of the camera because they're tired of the revolving door over the last several years with violations and then appearing before a judge and the judge says can you prove to me 100% that that was, you know, Joe Smith that was blowing into that unit and they say no and the violation goes to the wayside.

So I would just like to take any questions that you have on -- and again, I'd like to get a definition of what, where and how you want this information disseminated and who it goes to on the real time aspect. If it's a real time report that you're looking for or -- I know Suffolk County is developing a database for all the vendors to put their information into so that your monitors in the County can get information from one locality throughout the County, which I think is a great idea. I proposed that at the State level so that all vendors could go into a State database and people could have one sign

on password to get all the data they need instead of having six sign on passwords. Do you have any questions?

CHAIRMAN EDDINGTON:

Legislator Browning had a question. You've got five more minutes.

LEG. BROWNING:

Just one for you and I guess everyone else can answer the same. You know, technology changes all the time and when I mentioned about, you know, the spouse's vehicle, is it possible that somewhere down the road that you would have interchangeable where the device could be taken from one vehicle and moved over to another?

MR. SCHULTIS:

I think the technology is moving rapidly and I think you're going to see a lot of different technology come out in the near future. And yes, I think that's very possible the way that the cars are going now with the computers and the program, the smart relays, etcetera.

One of the things I wanted to bring to the forefront when you're talking about protecting lives and public safety, the one thing you have to remember with ignition interlock is there's a lot of exceptions. Not all these people that are driving vehicles with ignition interlocks were convicted of any crime. Example, you have a husband that gets a DWI. The wife's got to drive that car, it's a single car family. She goes out to a luncheon with some girlfriends, has a glass and a half of wine, leaves that little get together, passes her initial start up test with a .022, and it's about a 20 minute ride home. By the time she almost reaches home she's got to take a retest and she blows a .032. Now that unit goes into a violation. So there's a lot of different exceptions that you have to think about with technology. So just something to bring to your forefront.

LEG. BROWNING:

So you have the camera that's going to show --

MR. SHULTIS:

Right, but it's still -- if you're doing real time that's not going to -- you know, you're going to have to sit there and are you still going to call and, you know, you have a lot of laws that relegate what goes into a 911 call center. So we need to know exactly what you want, how you want it delivered. Those are some of the questions that we need answered so that we can give you what you need to provide the best services for the County.

CHAIRMAN EDDINGTON:

Legislator D'Amaro.

LEG. D'AMARO:

I appreciate that you're looking for more information, because I appreciate that you'd want to take a look at what are the standards and how do we meet them. Here's my standard, anyone getting behind the wheel of vehicle that is legally intoxicated should not be able to start that vehicle, that's the standard.

MR. SHULTIS:

Right now the set point is .025 so nobody's going to start a vehicle. The biggest issue that you have with ignition interlocks is your running retests. They call them rolling retests. In the regs we like to call them running retests. That's the one where the vehicle is started, the vehicle is running. They can fail that test. It's not going to shut the vehicle off. That's the most important violation that we have to deal with is the running retest and those are the ones where we need to know how you want to handle it and what you want us to do for your -- for your County.

LEG. D'AMARO:

Yeah, I appreciate that also. What -- the retest, what -- how does the interlock deal with a situation where someone acts irresponsibly and doesn't care whether they violate parole or their probation rather, probation. In other words, if they drink, they get in the car, someone else starts the car for them, takes a photo of another person blowing the test, and they decide to drive. How do we deal with that?

MR. SHULTIS:

One, the person on the passenger side taking that test is --

LEG. D'AMARO:

Just to finish up on my thought. After all, the whole concept here is that you'll get caught either immediately or you'll get caught 30 days later or 20 days later, whenever the record is reviewed.

MR. SHULTIS:

Most of the violations are going to be caught within the five day period, most sooner.

LEG. D'AMARO:

Okay. Well, that's good.

MR. SHULTIS:

But in a situation like that I don't know how you deal with that. If you get somebody that's going to sit there and take a test for somebody else knowing that they're drunk, intoxicated behind the wheel.

LEG. D'AMARO:

Right.

MR. SHULTIS:

That's a major problem. I have a problem with that.

LEG. D'AMARO:

It is a major problem and that's why I'm talking about technology here. I appreciate that you're asking about what the standards are because if there's technology available where someone is crazy enough to do something like that, if there's technology available that can immediately -- someone can be immediately notified that that's happening and the Police Department is also immediately notified, that would be helpful information.

MR. SHULTIS:

I don't have an answer for you on that one right now. That's a tough one there. For somebody that's going to sit in a passenger seat and take a test in front of a camera for somebody's that's intoxicated behind the wheel and stay in that vehicle and continue to take tests for that person, I don't know how you combat that. Unless you go with biometrics or some other form of identification.

LEG. D'AMARO:

Well, I think, you know, I'm one of the prime sponsors of the bill that the committee is considering today, and one of the ways you can combat that is to get that information immediately to the law enforcement agency that can perhaps intercept that vehicle.

MR. SHULTIS:

Right, but if you have somebody that's passing a test, how are you going to get information to a Police Department if there's somebody in that vehicle that's actually passing a test as a passenger in the vehicle.

LEG. D'AMARO:

I'm talking about starting the vehicle. In other words, once you get the car started, okay, then there's the potential for someone to be driving that car while intoxicated.

MR. SHULTIS:

And again, that goes back to the running retest. That's correct. That one you can do, but I thought you were talking --

LEG. D'AMARO:

But a running retest, though, is only as good as when you view it.

MR. SHULTIS:

Right. What I thought you were saying is that you have somebody sitting in the passenger side that's going to do a start up test for the person and then stay in that vehicle and take the running retest for that person.

LEG. D'AMARO:

Well, in that situation it would be monitored. You'd see the photo.

MR. SHULTIS:

Right, but you're not going to find that out until the monitoring period -- that's going to be a hard one to detect. Now, if you have somebody that's going to --

LEG. D'AMARO:

Well, that I'm not necessarily going to agree with you. I don't know enough about how the monitoring is done nuts and bolts, but --

MR. SHULTIS:

Unless you have somebody monitoring every picture.

LEG. D'AMARO:

I would think that computer technology could probably do it without anyone monitoring it.

MR. SHULTIS:

I'd be hard-pressed, but I'll hear some more answers I'm sure on that later in the --

LEG. D'AMARO:

I mean, again, I'm not saying I know that for sure, but I do know that, you know, coming up with a match on a photo I could probably buy commercial software that could do that, so.

MR. SHULTIS:

Okay. Any questions?

CHAIRMAN EDDINGTON:

No. Thank you very much. It was very informative.

MR. SHULTIS:

Okay. Thank you.

CHAIRMAN EDDINGTON:

Mr. Bergman is next.

MR. NEBHAN:

Good morning. Thank you. First of all, my name is Don Nebhan. I'm Vice President of Operations from Smart Start. Marc Bergman is our General Manager for the four state area of New York, New Jersey, Rhode Island and Connecticut. We thank you all for inviting us in to speak and address the group today. Obviously the implementation of Leandra's Law has been a very serious and fast paced undertaking for all parties involved.

I want to start my comments, I don't have a PowerPoint presentation or anything like that, but I want to just hopefully spur some thought processes during the dialogue. And I'm going to start off with a little bit about who we are as an interlock company and then move into some pretty, I guess, thought provoking questions that I'm going to ask about interlock and some things that we see that should be thought about when implementing a program.

As a company, we're pretty young. We were born in 1993, highly entrepreneurial. We're Texas based. Today we're an industry leader with over 800 locations domestically, 60 of which have been established since June in the State of New York, and we have several, obviously, in Suffolk County as well. So we've made a significant financial commitment overall through our growth. We also have a global presence in Europe, France, Norway, Sweden, Denmark, Australia and Russia. Our three core focus areas for our organization, our strengths that we hold high, number one is technology, number two is customer service, and the third point we feel is probably one of the most important, so much so that we've included it in our mission statement, is built around saving lives and service to the community.

Some firsts that we've achieved as an organization, we were the first to introduce camera. We provide a 24/7 customer support service that is broken out into three categories. We've provided technologies around unlocking codes and integrated tracking and reporting systems. We provide court testimony as needed to help with prosecution. Our customer service is something that we feel sets us apart, and that's part of a very integrated interlock program overall. Twenty-four seven customer care, bilingual, soon to be multilingual. I refer to the three routes that calls come to, one is to the monitoring authority and judiciary, others are to the offenders, and the third part goes to our shops to help them with any training or technical questions that they may have during the process.

Now I'd like to talk a little bit about why we're here today. You know, we've worked with the State on reporting needs and monitoring needs and on addressing county needs as well. SSI, or Smart Start as we call ourselves, SSI, we consider ourselves to be a technology company, as are all the interlock providers that you will be speaking with today. As such we are all about technology and the advancement of technology, however that happens.

I'd like to speak about a phenomena called leapfrogging, and I think it was referred to in a couple of the other comments earlier, where competition forces technology companies to compete and get better and move forward and come up with new technologies that are even more applicable to a successful interlock program. Any technology that is put out there needs to be tested, proven and deliverable as soon as possible when an offender is convicted. It's not uncommon for us to have a judge call us and say, "We want this person on today. Not five days or three days but today", and we make that happen, typically.

Technological features, however, should not be the sole decision making factor for a great interlock program. A complete package of services determines the true value of an interlock program to the monitoring authorities, to the offenders, and to the public at large. This is why the State of New

York, we believe, has established classes of providers, because all situations are not identical and are not equal. As an example, you wouldn't take the space shuttle to get from New York to Boston, but there are some cases that you would employ a technology that is more robust. You use your resources wisely.

As a company, we would suggest the consideration of several of the elements that are considered necessary. Number one is cost. There are costs associated with additional features. So I would ask the question will all offenders be able to pay for the higher cost high tech option or will they need to be supplemented in some way? Will more offenders be noncompliant based on cost associated with a single provider, thereby endangering more lives. We already know many continue to drive when they say they don't have a vehicle or their license is revoked. Will all higher cost features be used 100% of the time and in all cases? Will the County services required to backup these features be available and at what additional cost to the County? Are some technologies less -- are some technologies less important than some other non-technological attributes.

As an example, is voice or are voice prompts more important than having adequate inventory to service clients within a 72 two hour period? Should a provider have a demonstrated track record of performance before it's chosen as a sole provider. If a provider meets the standards or offers features that set it apart, what is the review process to ensure that it can deliver the products and services on time? If a provider fails to deliver or has a widespread technical problem and no other providers have been allowed to do business within Suffolk County, what other options are immediately available to Suffolk County to ensure the safety of its citizens?

The bottle line is it's all about options. Options deliver value to interlock programs through competition, options lower program costs, options encourage constant improvement in technologies among all providers. Options provide monitoring authorities with solutions to fit individual situations. Options ensure that if there's a problem with one provider, other providers who are already in place will maintain the integrity of the program within the County. Options deliver a higher level of safety for the citizens of Suffolk County.

In closing, we welcome all qualified providers to join us in helping to save lives throughout the State of New York. As competitors, we will make each other stronger and deliver a higher level of service to the community. You have our commitment to make the implementation of Leandra's Law a success in Suffolk County and throughout the State. After all, what it's all about here is getting units in cars and saving lives.

LEG. CILMI:

Questions?

CHAIRMAN EDDINGTON:

Legislator Cilmi.

LEG. CILMI:

Just real quickly about technology. Is there a device that would fit on a steering wheel, for example, that would detect either fingerprints or enzymes from your fingers that would be unique to the individual who's driving that's available?

MR. NEBHAN:

Not today. There are technologies out there that are being, shall I say, evaluated in that direction. As an organization, and I think I can speak for any of the manufacturers that are here, all technologies are being evaluated daily, they change daily. I mean, if you think about it, you go back to your cell phone that you bought three months ago and it's already out of date. Same thing with

interlocks and the technologies that are out there. But when you're in the technology business, although some of it sounds pretty hot, there's also a practicality aspect of it. In other words, is it marketable from the standpoint of is it affordable? Is it really -- does it really address the need, that sort of thing?

So to answer your question, that is I would guess coming down the pike at some point, but it has not been polished and perfected to where we're ready to integrate it.

LEG. CILMI:

And just lastly, to reflect a little more on Legislator D'Amaro's comments with the previous presenter. Any comments from you on facial recognition software that would allow us not to wait until that device gets brought to some sort of center, that could immediately shut a vehicle off if the face that's driving the vehicle is not the same face that's blowing into or --

MR. NEBHAN:

Facial recognition software is out there today. The answer is yes, the technology is there, but there again it goes back to affordability, accuracy and has it been fully tested. And has the technology itself been vetted to the point that it's 110% dependable? And that's kind of the approach that we take. So the answer is yes it's there, we are moving towards that. I would guess every manufacturer is probably moving towards that. In our case we have gone with camera in the shorter-term and infrared so that we can get high quality resolution photographs to provide to the monitoring authorities.

CHAIRMAN EDDINGTON:

Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. I -- my questions were going to be similar to Legislator Cilmi's. I do know that there are have been pilot programs for the Department of Social Services with thumbprint recognition, as a matter of fact, for basic simple receipt of food stamps or TANF funds or things like that. And I am the least technologically savvy individual in the world. I still want a Star Tack phone, that's how far I go to the other side.

Having said that, it seems that, I guess, from a return on investment perspective, you need to make a business decision as you look at each one of these technological enhancements that pops, emerges or leapfrogs and what the municipality's buy in is going to be to that technology set over the life of the unit. How long does a unit -- what's the shelf life on a unit?

MR. NEBHAN:

We have technologies that are two years old that are doing very well. We have new technologies that are under development. I mean, right now if you think about it, the knowledge base just in general is increasing exponentially across whatever product you're making.

LEG. KENNEDY:

No doubt.

MR. NEBHAN:

Right, so that goes unsaid. So the product that we made ten years ago that would be considered a Class 1 here in the State --

LEG. KENNEDY:

Is like a Model A; it's antique.

MR. NEBHAN:

Still is fuel cell based, which is alcohol specific, and it's still quite viable. I mean, it still measures breath alcohol very accurately. What we're looking for is additional technologies to combat circumvention and that are probably less intrusive and more built in to the aesthetics to a degree as well.

LEG. KENNEDY:

I'm curious on the other side, because you are, I guess, as you said, a nationwide, actually a global entity now, and you spoke about 60 installation centers, I think, or service centers here in Suffolk County?

MR. NEBHAN:

No, no, in the State of New York.

LEG. KENNEDY:

In the State of New York. Do you establish a business relationship with a regular automotive vehicle place? I mean, are these put in at Sears or Pep Boys or do you have your own stand alone entities?

MR. NEBHAN:

Here in New York we establish contractual relationships with typically automotive installation shops, you know, stereo repair shops, garages, places like that, that offer -- that have in-house certified electronic technicians that meet the standards.

LEG. KENNEDY:

Okay.

MR. NEBHAN:

And we try to select the locations based, first of all, on the quality of the shop, but also on the accessibility to the offender so that I think it's, what, 50 miles or -- so that no offender will have to travel more than 50 miles regardless of where they live in the state.

LEG. KENNEDY:

For installation or also for this monthly data dump, too.

MR. NEBHAN:

Both.

LEG. KENNEDY:

Okay. And they come back to the installation site, that's where they give the unit, that's where the data gets dumped, and then your agent uploads to you? How does that part go?

MR. NEBHAN:

Actually, the individual, once the unit is installed, it's configured for the requirements for the State of New York. So if the individual, as an example, has to go to Connecticut or happens to be in Connecticut, they could actually go to a shop in Connecticut or out of -- out of the state and the unit would still be calibrated to the New York specifications and the data would be downloaded from that shop instead of from the one here in Suffolk County. So I don't know, does that answer the question? The data is downloaded. We do not -- our data is downloaded electronically and it's maintained permanently as record and protected and, you know, we have all these privacy constraints around all the data. Example, if a -- if an offender's spouse were to call wanting the results, we would not be able to discuss it even with a spouse, we deal strictly as a service to the courts.

LEG. KENNEDY:

One last technology question and I'll let it go. I think if I had a pacemaker and I was being monitored by, let's say, St. Francis in Roslyn and they had to do periodic testing on whether or not that was functioning, there's an ability to actually do a telephone hookup so I wouldn't have to drive to Roslyn. I could actually be monitored in my home in Nesconset. Is there a way for these units to have cell phone transmission or fixed line secured transmission without necessarily having to go to the center? Not that I'm saying it's good or not, I'm just asking is that a possibility.

MR. NEBHAN:

Yes. Certainly there -- cellular is pretty much here and I would think most companies are moving in that direction in one way or another. Part of the question that you -- you know, getting it there and back is, you know, relatively simple. Retaining the integrity of the data that's transmitted and the privacy, etcetera.

LEG. KENNEDY:

Right.

MR. NEBHAN:

That is a little different can of worms that we --

LEG. KENNEDY:

It may have to be encrypted, there might be different things that have to be done.

MR. NEBHAN:

Right.

LEG. KENNEDY:

And then the last question would be your unit doesn't have that now. If your unit was to gain that capability, how would that impact the cost? Would it drive it significantly, would it be incidentally? What would that do to the cost for acquisition and then charge?

MR. NEBHAN:

Obviously it would increase our cost. Certainly there would be cell phone -- there would be a cell connection, etcetera. I can't tell you exactly if it's going to be 20% higher or 50% higher, but it would be higher. You know, just the raw cost for adding that feature would be higher.

LEG. KENNEDY:

Okay. All right. Thank you.

CHAIRMAN EDDINGTON:

Well, thank you very much. You added a great deal to our knowledge base, and I want to thank you, Don, and Marc, and I guess that's Victoria. Okay. Nice hearing from you.

MR. NEBHAN:

Thank you.

CHAIRMAN EDDINGTON:

Thank you very much. Mr. Prudente?

MR. PRUDENTE:

Thank you for having me here.

CHAIRMAN EDDINGTON:

You've got to press and hold that button every time you speak.

MR. PRUDENTE:

Thank you for having me here. My name is Don Prudente. This is Falisha Hall. I'm the President of Drive Safe Ignition Interlock New York, and if you give me a moment I'll open up a case. Okay, thank you. I have been doing ignition interlocks in Suffolk County for 16 years. I started in Brentwood with the Life Saver interlock device and I've been working with Probation ever since to increase monitoring the offenders. Excuse me, I'm a little nervous.

I have used a number of different devices and I come to find that the perfect marriage is a simple interlock with a camera. Anything else that increases the cost is going to make people turn in their license and drive illegally. This is the way it's been for 16 years on Long Island. If they can't afford it, they will turn in their license and most of them are going to drive illegally. A simple interlock with a camera, right mounted by the inspection sticker, a picture of who's blowing, is the perfect marriage and affordable for these people.

The reports, I have copies of reports if you'd like to see them. I have pictures here if you'd like to see what they look like at night. What we do we is we do door to door service on Long Island. We go to your home or business to install it. We go to you every month to do the monthly service or you have an option to come to one of my three locations. That's how I do it on Long Island. The client comes to us or we go to them, we install it, we train them on how to use it. We make them sign a lease, we tell them what not to use, mouthwash, alcohol, Binaca spray, cough syrup. Any of those things would constitute a violation of probation.

Every month we'll go to them. We'll check the device for tampering. Really you don't have to, the computer programs tell us if there's been tampering. If you disconnect, hot wire, push start your vehicle, it will show in your report. Even if most of the interlocks are disconnected they still have batteries. They will still tell us if the vehicle's been moving.

We download the system from each client door to door, and that night we download the information to, Draeger, which Felisha represents the manufacturer of the device I use. Her reporting department gets the reports and they'll e-mail them to the Probation Department or in Suffolk County in my case, we fax them to Probation right from Hicksville, from my head office. The easiest, cost efficient way to have been doing this, and I've been doing this for years, the cheapest way is send a report on somebody who has violations only with the pictures and that cuts down on work at the Probation Department's end. The more technology, the more looking into reports on-line is going to cost the County money, the Probation is going to need more help to monitor these people.

We download the system, they get the report. If the client has three or more strikes, just like baseball, three violations you're out. The device is going to tell them they've got three days to come back for service. The device counts down backwards. They'll tell them when their service appointment is due when we're coming a week in advance. If they have a failed, disconnected device, hot wire, push start their car or refuse to take the random test the device will go into device lockout in three days, two days, one day. And on day one at midnight, if you don't come back for service so we can send that extra report to your Probation Officer, you're stuck. And once you get stuck you're either paying a very expensive road call or you're towing it to us. All right. In any case, the highest crime here in Long Island to me in my company, and I enforce this highly, is if you tamper with the device you're done. That car doesn't move from my location and I call Probation. That's the highest crime. Anything else you do, that's up to Probation as far as what they want to do for violations. Any questions?

CHAIRMAN EDDINGTON:

Okay. Any questions of anybody?

LEG. BROWNING:

Yep.

CHAIRMAN EDDINGTON:

Yes, Legislator Browning.

LEG. BROWNING:

Yeah, real quick. The previous vendor has bilingual instructions and I just wanted to know, do you guys, do you all have the same thing?

MR. PRUDENTE:

The same what, ma'am?

LEG. BROWNING:

Bilingual instructions.

MR. PRUDENTE:

Yes, sure we do. We have to. Yes, absolutely.

LEG. BROWNING:

Okay, thank you.

MR. PRUDENTE:

Even the devices that I have -- the interlock I have has a display. I can set it to Spanish, English, French, German; whatever your flavor is.

LEG. BROWNING:

Okay, thank you.

CHAIRMAN EDDINGTON:

Okay, thank you very much. That was very informative. I appreciate your brevity.

MR. PRUDENTE:

Thank you.

CHAIRMAN EDDINGTON:

Mr. Howard Block.

MR. BLOCK:

Mr. Chairman and Legislators --

CHAIRMAN EDDINGTON:

Yes, you're going to have to use the microphone. Did you tell me that you're glad to be here and not in Buffalo? Was it you that told me that?

MR. BLOCK:

I'm very glad to be here. Also, by the way, thankful for technology. Without GPS I may not be here. Thank you very much for the opportunity. Is this close enough?

CHAIRMAN EDDINGTON:

Yeah, you're going -- if you are not sure if you are being heard, if you look over to the young lady over here typing she'll have a frown on her face and you'll have to go louder.

MR. BLOCK:

All right, very good. Thank you again for the opportunity to address the committee or this public safety group. Could I see a show of hands? Did everyone get a copy of this PowerPoint?

(Affirmative response)

MR. BLOCK:

I don't want you to be alarmed by the volume. There are 18 pages here. My intention is to spend about five minutes and we are going to zip through this material. And then I would like to spend about ten minutes giving you a live demonstration of our real time technology. So, give me a minute to bring this up and then buckle your seatbelts because we're going to move.

I'm not going to read this PowerPoint because it's intended to be information that you can refer to after this session if you choose. But there are a couple of slides that I want to give you some key information, especially based on the questions that were asked this morning.

In the first case we were established in 1988. We've been around for a while. We were the first company to introduce the fuel cell into the market. We were the first to be certified in this past year, as a matter of fact, for 180 day recalibration. In other words, we submitted our equipment to an independent laboratory and they tested it for a period of six months with no degradation, and I'll come back to that point later, but it is a key thing to understand. We're certified in 34 states with 20,000 units, roughly, across the country. We do have patents that go back to 1995 that we don't necessarily use for -- to prevent others from operating equipment. We've never enforced it, we use it instead as a defensive mechanism for those that might come to us and say that we're not doing what we should or that we can't deliver a certain piece of technology. We have patents that are pending on our new real time technology as well. Okay.

In the world today we have got cell phone photos, text, GPS, all of those things are out there. Occasionally I hear the comment, "Well, you know, you've gone too far, that's big brother. You're infringing on my right to privacy" and so forth. But I wonder if that's really the case. Our position is that it's really freedom of choice. You carry a cell phone, you know that it takes photos, you know that if you were to call 911 they can do a triangulation and find your location. So none of those -- but yet you make the choice to carry that piece of equipment because you want the technology. Well, that's really the situation that we're in here. You can't blame the technology as being invasive if you have the right to choose. You have the right to choose to drink and then drive a vehicle. You have a right to make lots of choices in this life.

I wanted to, this next slide, briefly tell you that we offer two pieces of equipment. A Class 1 device, which we'll call our Legacy. And if you're asking about the feature, if you look at those checkmarks, there are four, and you can read those later if you choose. The second line is what we call our Cloud device, and I would explain that features that are in the blue to the left are all those that have been identified by the State of New York as being -- as specifying as those features that they would like to have included in the new technology. Those to the right are the new features that we are currently working on. This includes geofencing. I heard some people ask a question about can I monitor a path or a traveling path of a user and the answer is yes. We could identify speeding violations as part of this technology if you choose. Eye movements, image, voice recognition. At some point we believe that there will be technology that will identify meth users because you can smell it. If you can smell it, you can detect it. Same is true of pot, and so why wouldn't we embrace those sensing mechanism at some point. Again, lots of new technology that's coming.

There are a number of people that have experience, I'm not listing these names as an endorsement, but if you would like to get some independent information from people within your own State of New

York you can feel free to contact these people. We have -- they have experience with users and our equipment throughout the State. These are new features. You can view those at your leisure.

What I want to point out is that we do imaging technology. We provide three photos with each event, not only on the start up, but also on the rolling retest. Then we provide that information, we capture that information and immediately bring it back to our central servers and we push it up and make it available through log reporter. That information includes specific details about the events, but also the GPS and the three photos that go along with it. Those can be enlarged and I have to tell you that this comes back to one of the other earlier questions. We can do facial recognition, because that image, that picture, is coming back to us. It's very difficult to do this with the technology that's in the vehicle. You don't have the processing or the memory or the horsepower to get that done, but when I bring it back to our central file server we can process that with the maximum amount of technology that's available and make those decisions in a second. It's really where you deliver that data and how you manipulate it and how you use it. That's really the challenge. And we do a very good job of all that.

(The following was taken by Alison Mahoney, Court Stenographer and transcribed by Kim Castiglione, Legislative Secretary)

GPS tracking, for example. We can log those events and identify those routes if you choose, and so forth. Here's a map. Now with enhanced capabilities, Hybrid, it is not only a GPS location but you can see the building, and then if you go out to Google Maps you can actually get a street view of this location. So lots of information that's available.

What I want to emphasize is that this is a comprehensive system. Imagine this being a chain and each one of these links are absolutely critical. If you don't have state-of-the-art equipment in the vehicle, game over. There's no chance. So you have to have that, but then you need a reliable access and we have full certification with Verizon Wireless, unlimited full certification for unlimited number of units across their worldwide network. That was just in the last six months.

Real time data is fast. We actually went through a redesign of our equipment because -- you all heard about 3G and 4G and the levels of communication. We started out with what was a 1G level and then decided to redesign our equipment because it just wasn't fast enough. We couldn't -- it was -- we knew that people were going to be too frustrated with trying to use it. So we backed up, actually delayed the introduction of our equipment for about six months and then brought in the higher speed communications.

That central server is critical. You have to bring the data into a central point, manipulate it, and then deliver it, not in the bulk, but you need to scan it for violations and then provide information by exception, not the bulk. You people are far too busy to deal with reams of information. It has to be delivered in such a way that they need it and use it for a specific purpose. We can automate those notification with reports and e-mail. There are optional links that would take it to cell phone, text messaging to a specific cell phone, or even a 911 center for immediate follow up. And then that information, if a Probation Officer wants the detail, they can go to our CST log reporter and log in and I would like to demonstrate that for you. How am I doing on time? Do I still have about ten minutes?

CHAIRMAN EDDINGTON:

Yes.

MR. BLOCK:

Okay. All right. I told you we were going to skip through these. What I want to do now is actually go out to -- and this is your computer, by the way, so it's not something I've -- where am I. If you

were -- if you work in the Probation Department in the State of New York you have this tool available to you and you can log in just as I did on your computer. And when I get -- when I go to this log in screen I'm going to put -- and it's very sensitive as it should be. And I'm going to go to this proxy account I have logged in as the administrator because I have certain rights that others do not. But if you look at this drop down window you can see that we provide this service not only to the State of New York, but to the States of Illinois, Minnesota, and we have it broken down by county and so forth.

What I'm going to go is go down to the State of Texas because I have made arrangements for one of our CST employees, this is the public arena, and so I didn't really want to go to bring up information that might be specific to a user that could be in conflict with any sort of confidentiality. So I made an arrangement to go to one of our gentlemen, the CST employee in Texas, his name is Gary Gutierrez and I'm going to bring up his record and I'm going to look at is his log file. Now, I've asked him, in fact, I need to turn on my cell phone. Oh, that's the wrong one. Oh, I selected the wrong -- I'm sorry. You run this risk of giving a live demonstration, but what I'm really looking at is Ruben Gutierrez. That's not the person that I want; I want Gary. I'm going to go back to -- this time I'll select Gary, which I thought I did before, and I'm going to bring up a log file that should say that he's been out driving around this morning and giving us some live data to look at.

There's over 2,000 entries in this log so it takes just a minute to pull up, but when we do we get the most recent events and you can see that entry is on December second, which is today. In fact, it was done at 11:11, which is, by the way, central time, so that would have been 12:11 our time or about ten minutes ago is. Is that correct? And what we get from those details is an illustration or a photo of Gary, and I've asked him to go to a certain location just to illustrate this -- for this demonstration purposes. You can see that his location is on Burnet Road in Austin, Texas. We've got his picture delivering the sample.

CHAIRMAN EDDINGTON:

You can tell it's in Texas from the hat, right?

MR. BLOCK:

Yes, he is a cowboy. I've actually -- I asked him to hold up a sign I Love New York, which is a stretch for a Texas cowboy I would say, but I see that he did not do that here, but it was just a request.

(Laughter)

The other thing I'm going to do is I happen to know that that location is at 7113 Burnet Road and so what I want to do -- how am I doing on time? Do I still have a few minutes?

CHAIRMAN EDDINGTON:

Five more minutes.

MR. BLOCK:

Okay. All right. What I want to do is go back to this file. I want to open up a new window and I want to go to this address, 7113 Burnet Road. And this, again, is just a Google Maps. Anyone can go to this file. And I want to go to what is the street view of that location. Okay. And if I turn -- oops, it's the other way. If I turn you will see that there is a building right there, it's called the Dallas Star. It happens to be -- come on, little guy. Shoot. My little guy didn't go where he was supposed to. So I'm willing to try that once more. This time I'm just going to zoom in. And you'll see that this is the Dallas Star and there's actually a sign there, and if I go back to the earlier -- where's my other tab? Where's my tech guy?

LEG. D'AMARO:

I don't think you have any tab. You might have to just back to browse.

MR. BLOCK:

Okay. Well, I can do that. I'll bring it back up. I didn't get a new window apparently.

LEG. BROWNING:

You have our IT guy next to you.

MR. BLOCK:

Okay, there he is. I did have it. Thank you, Mr. Technical Person, I appreciate that. But you can see from Gary's photo, which was taken about ten minutes ago, when we enlarge that you can see that it is the Dallas Star. In fact, those same two signs and so forth. So I'm just trying to demonstrate to you that this is information that's about ten minutes old and it's very specific. You have huge amounts of horsepower that can be implemented to deliver just about every piece of information that you'd like to have.

So if you're considering -- can I make a few comments about some opinions I have of some of your choices? Do you have any objection to that? Could I speak freely, so to speak?

CHAIRMAN EDDINGTON:

Well, I would say you blew me away. I mean, that's unbelievable the technology that you just showed us. That's the kind of thing that I'm looking for for the people that abuse the system. Any questions, comments? Legislator D'Amaro.

LEG. D'AMARO:

Yeah, I just want to agree with the Chair. It's very sophisticated but yet it's user friendly if you are properly trained.

MR. BLOCK:

Right.

LEG. D'AMARO:

You can get life saving information into hands of people very, very quickly. And, you know, again one of the things this committee is doing today is considering a bill that's going to try and set a standard that we get the best available technology out there, such as this, that's user friendly to help the safety on our roadways. So that's an awesome demonstration. It's very well done. But what opinions did you have, I'm just curious.

MR. BLOCK:

I've heard that -- several questions come up, but what about the cost and the cost of this technology. I will have to tell you that there is expense involved. We have invested millions of dollars in research and development over a period of five years. We didn't bring it out until we were ready and able to deliver this kind of presentation. I mentioned earlier that we'd gone into a redesign because we weren't satisfied with speeds. We've done that in different categories, and each one of those links of the chain, I can tell you that we didn't fall into Verizon's lap by mistake. We went there a whole -- we spent about two years on just that link alone, deciding that Verizon was our vendor of choice.

I'm trying to make sure I answer your question. The -- the points that I want to make is that the cost is significant, but we're here, we've already invested it. And I can tell you that the

arrangements that we have with Verizon -- unlimited data. I'm talking about as many of these photos and events -- we upload every single event that occurs, whether it being -- there's a vehicle stop -- let me go back to this.

The log file should show us that you get pictures in detail on a trip and on a car stop, because we think it's important to know where that vehicle is and who was in it when the vehicle was stopped. There's nothing in your regulations that ask for that, but we understand because we have doing this since 1988 that that's a valuable piece of information. Then we deliver three photos on the initial pass, but also on the rolling retest as well.

My point is the arrangements that we've made with Verizon will allow us to accept and process unlimited amounts of information for under \$10 a month, okay. That's our cost for bringing this technology -- processing this technology, grabbing it from the vehicle and bringing it into our service.

CHAIRMAN EDDINGTON:

Well, I guess the bottom line is would the cost be within the range of some of the other vendors or near to it.

MR. BLOCK:

Done correctly the cost can be controlled and minimized. I would ask you, you have a tremendous opportunity here. The best way for us to reduce our cost is to eliminate unnecessary processing. For example, I've heard about the rules that exist in your state require that people go in for a 30 day inspection. There's absolutely no need for a 30 day inspection with this technology. The way to reduce cost is to embrace the technology and use it. We can detect when that -- if anyone cuts a wire we know it. If anyone unplugs that camera, we know it. If anyone tries to bypass the vehicle in any way, we know it. There's no way you are going to bypass without us having information about that remotely. So there's no need -- that eliminates the need for the 30 day inspection.

CHAIRMAN EDDINGTON:

I'm sorry, but I'm going to have to stop you right now. But I appreciate the information and I think we can look into this further. So thank you very much.

MR. BLOCK:

I would be happy to visit with anyone that has more questions.

CHAIRMAN EDDINGTON:

Mr. John Ruocco.

MR. RUOCCO:

Good afternoon. I would like to thank you for inviting us to this most important meeting.

CHAIRMAN EDDINGTON:

You can't talk without the microphone. You have to speak into that. Press the button and you'll be on.

MR. RUOCCO:

It's on? Just go? Am I better? I would like to thank everyone for having us at this meeting and allowing us to demonstrate our technology. There is a lot of great technology on the table. I just would like to say that Interceptor pioneered all of it. We were the very first company to patent and receive a U.S. patent on real time transmission of data, photographic positive identification, GPS location and automatic downloading in one unit. We did that in 2006. We debuted the technology with the Westchester County Probation Department, and we are the only company that has now at this time five years experience on how to handle real time data.

We also are the very first company that has successfully demonstrated a true 911 emergency response program. I have heard a lot of people say you don't really need that for a first time offender. Just remember this, every second time offender was also a first time offender. If he had been stopped that first time he would never have made it to the second offense.

The real time data was the ultimate goal of Interceptor. It didn't want to know anything else. Interlocks are basically the same. They're a wonderful tool. They have been proven all across the country to reduce recidivism dramatically and stop people from operating a vehicle while they are under the influence.

In Nassau County just a few months ago we demonstrated the 911 system live and just blew everybody away. They embraced the technology and ran with it. Since then almost every county in the state is adopting the same technology.

We are also the first company that was recognized by a major corporation. In April AT&T made a public announcement and press release that they partnered with us in technology in order to make the road safer for everyone. You can find that on our website. They support us from what we call an end to end solution. Our patent covers the real time transmission of data without otherwise affecting the normal operation of the vehicle. The sad part about this is that way back in '06 we offered this technology to everyone. We said, "Look we're not pigs, we're not looking to put anybody out of business. Why don't you guys supply the interlock, we'll supply the other end, which is the communications. We'll split the profit, and we'll split the revenue." I guess nobody was willing to give that up, so everybody is going out and trying to develop their own. We spent several million dollars and five years developing the technology and we owe it to our shareholders and people that support us to rigorously defend that technology.

If you look at the brochures that I have distributed out you'll see that on the front cover there's a picture of myself and there's also a picture of a young lady, who happens to be my granddaughter, blowing into the device so that I can, in fact, drive drunk. We stopped that a long time ago. If anybody is trying to circumvent that, they're going to get a picture. They're going to know what's happening.

Let me discuss what happens on a failure because this is very important. The minute someone fails, regardless of the level that they fail at, we send an emergency e-mail right to local -- the Probation Officer or the monitoring agency, whoever is monitoring that person. Same thing on a rolling retest, except we take the rolling retest a step further. First of all, a picture accommodates every single action that's happened in that vehicle. However, we are all voice control. There are no lights to watch. You don't have to take your eyes off the road to operate our system. When you get a voice prompt to provide a rolling retest sample, if you do that and blow a level that's at .06 or higher, immediately our server calls the local 911 center. That 911 center has our site minimized on their screen. They maximize that, they get a call, and it says, "Interceptor Alert" and they get a random number, let's 123. That message is continuously repeated until that dispatcher terminates the call. The reason we do that is so that while they're bringing up the site and typing in the code number they don't lose transmission or lose the code that they're supposed to put in.

As soon as they do that, up comes the link with the live GPS dynamic location, which means as the vehicle moves down the road, whether it be a street map or whether it be a satellite map, the blue marker follows the vehicle and allows the dispatcher to have a sector car intercept that vehicle at a location of their choice. This is an instantaneous response, true real time data. The only way you're going to be able to stop someone from driving drunk is if you can stop them while it's happening. The other way to stop them is to educate them enough so that they know that at the time that

happens if they do not stop the vehicle, they're going to have a police interceptor cruiser pick them up and stop them.

The great part about this is that we educate all of our probationers from start to finish. We give them, as you see also in front of you, a do's and don'ts and it tells them what's extremely important to them, what they should do and what they shouldn't do. And we emphasize if you are asked to pull the vehicle over on a failed rolling retest and you don't do it and you allow the protective mode to engage, which is blowing the horns and flashing the lights, that we are going to have the police run that car down in a matter of seconds hopefully, it depends on where the cruiser is in relationship to the car. Just knowing that that's going to happen has deterred people from doing that.

Now, I can tell you that we maintain our own data. We write all of our own software. Nothing goes outside. All of our engineering is done in-house, internally, by us. So there's nobody that can put any drop dead dates in our codes and compromise our software in any way, shape or form. That was very important to us.

Have there been people that have failed? Sure there have been. We collect all the data, we know it. But one thing they haven't done is let those lights and horns go off because they know unequivocally they're going to get run down by a police cruiser and that's what has prevented them from doing that.

Our ultimate goal, bottom line, is we want that car stopped. If you're driving it and you are under the influence of alcohol, we want that car stopped as quickly as possible and real time data transmission is the only way to do it with the live 911 system.

I have a video I can play if we have time, but if there are any questions.

CHAIRMAN EDDINGTON:

Sure. Legislator D'Amaro.

LEG. D'AMARO:

Thank you for your presentation. I agree with you, we want the car stopped, but that means someone started the car. So how do we get into a situation where there's someone driving under the influence, but yet the interlock device is supposed to prevent you from starting the vehicle. Have you experienced that?

MR. RUOCCO:

Well, no. Actually if you're the operator of the vehicle then you are blowing into the device and you are over that .025 setpoint, you're not starting it. We're saying if someone got the vehicle started for you and you started driving the random rolling retest comes up and you are under the influence.

LEG. D'AMARO:

Or if you decide to drink --

MR. RUOCCO:

While you are driving. That's exactly right.

LEG. D'AMARO:

-- while you are driving, and I know one of the high profile tragic fatalities recently --

MR. RUOCCO:

Exactly.

LEG. D'AMARO:

And others there's often open alcohol bottles found in the vehicle as well.

MR. RUOCCO:

That's correct.

LEG. D'AMARO:

So that's a possibility.

MR. RUOCCO:

Yup.

LEG. D'AMARO:

Okay, thanks.

CHAIRMAN EDDINGTON:

Legislator Gregory.

LEG. GREGORY:

Okay, thank you. In your materials it says that do not use air fresheners, aroma sprays, carpet cleaners or interior cleaners of any kind if they contain alcohol, petroleum products in any amount. If you are not sure the safest rule of thumb is to not use it. Is that typical standard of sensitivity for all the equipment?

MR. RUOCCO:

Yes. We all -- all interlocks made by the manufacturers are very compatible. They're all wonderful equipment. Nobody really has an advantage over anyone until we came out with our real time data reporting and our positive ID and GPS. That is what separated us from everyone else. But the device itself, they all work basically the same way where they have a fuel cell, they have a pump. Various pumps are used but they still -- take a measured amount of alcohol and put it into the fuel cell. It recognizes the alcohol level and let's them start the vehicle or not. They all work basically the same.

So if we have someone in our system that has a ton of perfume on or washed their hands with Purell and it's still fresh and they blow into the device, we're going to pick it up the same way as every other manufacturer is. The devices are basically all the same.

LEG. GREGORY:

Okay. And one last question is the instructions, are they in multiple languages?

MR. RUOCCO:

Yes. Our voice instructions can be done in any language whatsoever. We haven't had a request for anything yet, but the answer is yes, any language.

LEG. KENNEDY:

Jack, can I ask one question?

CHAIRMAN EDDINGTON:

Legislator Kennedy.

LEG. KENNEDY:

Sir, thank you for being here and you spoke before about the illustration where somebody I guess fails the rolling retest. You have the lights and the horns, the real time data transmission and the 911 connection?

MR. RUOCCO:

Correct.

LEG. KENNEDY:

That's a system that you have in place now?

MR. RUOCCO:

We've had it for a very long time. We demonstrated it this year to Nassau County successfully. They loved it, saw it -- yes, we do have it.

LEG. KENNEDY:

Okay, and I thought I heard you mention before Westchester County as well?

MR. RUOCCO:

Westchester County was the first county we demonstrated positive identification, GPS and the entire system exclusive of the 911 system. That's new this year.

LEG. KENNEDY:

Oh, the 911 connect is new this year?

MR. RUOCCO:

Yes, but right now every county in New York can be added to the 911 system. We're up and live and ready to go.

LEG. KENNEDY:

So we're still talking theoretical here. We have no actual evidence of data yet of having somebody who has failed the rolling and then an automatic disposition of a police cruiser?

MR. RUOCCO:

They haven't -- they shut the car off before the lights and horns go off, that's correct.

LEG. KENNEDY:

Well, how do they shut the car off? What do they do?

MR. RUOCCO:

They are told to pull the vehicle --

LEG. KENNEDY:

They rip the ignition apart.

MR. RUOCCO:

No, they just shut the key and that's it. Once that key is off and the motor is not running, that car is not running, they can still send a police cruiser over, but they don't have to send them in an emergency mode. That's up to the police how they handle that.

LEG. KENNEDY:

Okay. So the lights and horns go only if the motor remains engaged.

MR. RUOCCO:

Only if the car is not shut off on the third request, yes.

LEG. KENNEDY:

Okay. All right. Thank you.

CHAIRMAN EDDINGTON:

Okay, John. Thank you very much for your presentation. I think we've gotten everything there is to know about interlock systems and there's a lot of good stuff out there. I appreciate what you told us today.

MR. RUOCCO:

Thank you, Chairman. Thank you.

CHAIRMAN EDDINGTON:

Okay, we've got four and a half minutes left. I think we can do the agenda.

(Laughter)

Okay, let's start with Tabled Resolutions.

Tabled Resolutions

IR 1782, A Local law to register prepaid cell phones purchased in Suffolk County. (Browning)

LEG. BROWNING:

Table for a public hearing.

CHAIRMAN EDDINGTON:

Motion to table for public hearing. I'll second that. All those in favor? Opposed? Abstentions?

(Vote: 5-0-0-0)

IR 1863, A Local Law to reduce minors' access to spray paint. (Browning)

LEG. BROWNING:

Motion to approve.

CHAIRMAN EDDINGTON:

Okay, now I have motion to table for a public hearing here.

MR. NOLAN:

It's closed.

LEG. BROWNING:

The public hearing is closed.

CHAIRMAN EDDINGTON:

It's closed? Okay. So you said motion to approve?

LEG. BROWNING:

Yes.

CHAIRMAN EDDINGTON:

All right, I'll second that. All those in favor? Opposed? Abstentions? *(Vote: 5-0-0-0)*

IR 1916, A Local Law to ensure the safe use of air guns in Suffolk County. (Eddington)

I'll make a motion to table for public hearing.

LEG. GREGORY:

Second.

LEG. KENNEDY:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Gregory. All those in favor? Opposed? Abstentions? *(Vote: 5-0-0-0)*

IR 1939, A Local Law to require Homeless Sex Offenders to report their overnight locations. (Eddington)

I'll make a motion to approve.

LEG. GREGORY:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Gregory. All those in favor? Opposed? Abstentions? *(Vote: 5-0-0-0)*

LEG. BROWNING:

Cosponsor on that, please.

MS. ORTIZ:

Sure.

CHAIRMAN EDDINGTON:

IR 1952, A Local Law to protect animals in Suffolk County from abuse. (Cooper). I'll make a motion to approve.

LEG. GREGORY:

No, you have to table. Public hearing.

CHAIRMAN EDDINGTON:

Oh, okay. A motion to table for public hearing and a second by Legislator Gregory. All those in favor? Opposed? Abstentions? *(Vote: 5-0-0-0)*

IR 2010, A Local Law to strengthen the Social Host Law in Suffolk County. (Cilmi)

LEG. CILMI:

Motion to approve.

CHAIRMAN EDDINGTON:

I'm going to make a motion to table.

LEG. KENNEDY:

I'll second on the motion to approve.

LEG. GREGORY:

Second on the motion to table.

CHAIRMAN EDDINGTON:

Okay, and on the motion to table, my understanding -- I really need some more information on this. I don't know what has necessitated the -- I believe it's an increase in -- to the attorney, Mr. Nolan. Is this an increase in the penalty?

MR. NOLAN:

Right. The only change to the Social Host Law is it does change the penalty section. Right now the first offense is a violation, \$250 fine. The second offense is a fine up to \$500, and then the third offense is a misdemeanor with a \$1,000 penalty and up to a year in jail. Under this law the fine for the first offense would go to \$500, and then all subsequent offenses would be the misdemeanor and you would have the \$1,000 fine and be subject to jail time.

CHAIRMAN EDDINGTON:

Okay. My questions are, you know, what has necessitated this increase, how many convictions have there been, have there been people -- I really would like to table this until I can get those answers. So I've got a motion to table and a second.

LEG. CILMI:

On the motion.

CHAIRMAN EDDINGTON:

On the motion, Legislator Cilmi.

LEG. CILMI:

Mr. Chair, respectfully, what the members of this committee really need to know is that more than 75% of high school kids are drinking on a regular basis. This is a problem that has reached epidemic proportions and we need to avail ourselves of every possible tool, not only to publicize that fact, but to make the laws in Suffolk County as strong as possible to try and address that problem. Because people respond to consequences, and \$250 and three bites at the apple to me is not a strong enough consequence to address this problem which is so significant in our County.

The problem is not only a problem that affects the health of our kids, but it's a problem that affects the health of innocent folks who are driving on the roads who may come in contact with an underage drunk driver. And it's a problem that has really, quite frankly, very broad national implications because it affects our competitiveness as a nation. You have countries like India and China who are literally blowing our kids away in terms of their education, while our kids are worried about where they're going to hang out tomorrow night to get drunk.

So everything that we can do to try and stem the tide of underage drinking in this County we should be doing. I would support this law, I would support Legislator Montano's law and I would support the County Executive's law as well and any other law that we can come up with to try and address this problem. Thank you.

CHAIRMAN EDDINGTON:

Yeah, and I appreciate that, Legislator Cilmi, and I -- you brought up a couple of issues, the social issues and educational issues, and I agree with all of those. And I agree with your statement about

publicity and publicizing the problem. I don't think passing more laws is necessarily the best way to publicize things, but my question is, the \$250 present fine not working. That's what -- I believe in passing laws, but not if the one that we have is adequate. So that's basically why I have asked to table it so I can get more information on the conviction rate and the fines and any other problems that we have been having.

Is there anybody else who would like to speak on the issue? Okay. There's a motion to table and a second. All those in favor? Opposed?

LEG. CILMI:

Opposed.

LEG. KENNEDY:

On the tabling opposed.

CHAIRMAN EDDINGTON:

Okay. Abstention? Okay, then it's three-two. It's tabled. *(Vote: 5-2-0-0 Opposed: Legislators Cilmi and Kennedy - Vote reconsidered and amended)*

IR 2013, A Local Law to establish minimum standards for Breath Alcohol Ignition Interlock Devices. (D'Amaro)

I make a motion to approve.

LEG. GREGORY:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Gregory.

LEG. KENNEDY:

Mr. Chair, I'm going to make a motion to table on this.

CHAIRMAN EDDINGTON:

Okay. Motion to table by Legislator Kennedy.

LEG. KENNEDY:

Yeah, I think --

CHAIRMAN EDDINGTON:

Let's get a second and then we can discuss it. Is there a second?

LEG. CILMI:

I'll second it.

CHAIRMAN EDDINGTON:

Second by Legislator Cilmi. Okay, Legislator Kennedy.

LEG. KENNEDY:

Yeah, my only reason to ask for a tabling is just merely to try to absorb some of the three plus hours of information that we just had presented to us, Mr. Chair. The bill seems like it has inherent value and merit to it about the standards but, you know, we did hear from the Deputy Director, the Deputy State Director, about some of the concerns that -- I don't know if it was necessarily

concerns, but some of what the thought process was in how they made this range of devices available in the first instance.

I also wonder whether or not -- look, it's our province to ensure safety, there's no doubt about it, and if the range of devices here undermine safety, then I'm more than willing to embrace what seems to be this highest standard in the range. I just -- I would like the opportunity to have some dialogue with our -- with Mr. Desmond and, quite frankly, just to try to absorb some of this material.

I will confess before I heard this today I had no idea that there was this range of capabilities within the devices and, you know, I commend both yourself and Legislator D'Amaro for bringing this issue to the forefront here. But also, I mean, this last gentleman who spoke to us just indicated that while there may be that 911 capacity, that's theoretical at this point, no place has it. I don't know -- we have nobody here from the PD who could even speak to us about what that may or may not mean. Quite frankly, I don't know how many people we have in Suffolk County that have a device right now.

CHAIRMAN EDDINGTON:

Okay. And I hear what you are saying. This bill, though, is just setting the standards that we want to look at. And certainly you'll have over the weekend and stuff to look at all the information you got, but the reason I asked to approve this is I think what we want to do is establish the bar. And the capabilities today we're told that a number of companies have the capability to do all of those things; whether we choose to do them all is another thing, but at least have -- let's set a standard that this is what we're aiming for, the center of the target not somewhere around it. And again, it would also have to be voted on Tuesday.

LEG. KENNEDY:

Well, then I guess if nothing else, since we have him in the audience, then can I ask the question to Mr. Desmond. Is this something that we can even do at this point in conjunction with the State program? That relationship at this point is somewhat unclear to me based on what the dialogue this morning was.

CHAIRMAN EDDINGTON:

As Mr. Desmond is coming forward I will let Legislator D'Amaro speak.

LEG. D'AMARO:

Mr. Chairman, it's not a question, it was in response to Legislator Kennedy, so whatever your pleasure is.

CHAIRMAN EDDINGTON:

Why don't you respond to Legislator Kennedy and we'll have --

LEG. D'AMARO:

Thank you. The law here -- New York State set a very low minimum threshold and the Director this morning said the primary purpose for the low threshold was that it was several years ago there was a pilot program that seemed to indicate that this could work statewide, so let's bring it to the forefront. The problem was you didn't have enough companies making the devices. The availability wasn't there and the judges weren't requiring their use.

LEG. KENNEDY:

Uh-huh.

LEG. D'AMARO:

So that's why you had these minimum standards, all right, but that was several years back. What's happened is the State has never revised their standards and we certainly as a County have an opportunity to be resetting the standards as the technology evolves. The Commissioner or Deputy Commissioner who's here this morning, Mr. Maccarone, in an hour of testimony never said you as a County don't have a right to do this or you can't do this. In fact, I think his testimony acknowledges implicitly certainly that we, you know, we certainly have the authority and the jurisdiction to do this. So I think that's one of your concerns, but I don't see that as a concern. I think it's almost an obligation for us to look at the technology, look at the availability, weigh all the factors and say what are the reasonable standards, should we live with what the State set or should we live with something that's perhaps higher given the technology.

LEG. KENNEDY:

Uh-huh.

LEG. D'AMARO:

So my conclusion in looking at all of that was, you know, there is some great technology out there. We saw some of that demonstrated here today and I think we need to get that technology implemented as soon as possible. There are companies that -- more than one company that meets these standards, and to the extent that other companies don't meet them, I want to encourage them to meet these standards. That's the way this whole industry has been going over the last ten years. They are meeting these higher and higher standards. I suspect if you enact a bill like this probably within the next six months you'll have five -- all five or six or seven companies meeting this standard because they're going to find a way. I mean, the bottom line, what's driving them is that now it's a Statewide program, and as more and more counties -- I think there was testimony here today that Nassau County has adopted the higher standards as well -- as more and more counties do this, we are going to force that competition within those standards. I think that's the right policy direction that we should be taking. There's an opportunity here. I agree with some of the speakers, there's definitely an opportunity here to bring the industry along and at the same time get the best protection for Suffolk residents.

What I find interesting is that -- and I didn't want to get into a debate with the Commissioner, and it wouldn't be appropriate, I don't think, either, but what I find interesting is I think the State should go back and revisit the minimum standards to tell you the truth. I think the time has arrived; the technology is there. And you're telling me if someone gets behind a wheel of a car under the influence of alcohol you can have an immediate call placed to a 911 service where perhaps a patrol car can intercept that vehicle? I can't imagine not even making that a minimum at this point given the amount of -- the high rate of driving while intoxicated we have in Suffolk County especially, and also all of the high profile tragic accidents that we've seen lately.

I appreciate, Legislator Kennedy, that you want to absorb this. I think -- I had an opportunity to do that because I drafted the bill and I worked on the bill and I appreciate that, but I can assure you, I can assure you, that the law that you are looking and considering today is, again, really minimum standards. I think the technology is going to go even beyond this and pretty, you know, relatively soon. And I don't really see a need to have to delay getting that technology into the hands of law enforcement or having convicted DWI defendants placing this type of technology in their car. I think we need to do that as soon as possible.

CHAIRMAN EDDINGTON:

You know what, let me get Legislator Cilmi. He wanted to --

LEG. KENNEDY:

We also have Mr. Desmond, Mr. Chair, who --

CHAIRMAN EDDINGTON:

And he'll be there.

LEG. KENNEDY:

Okay.

CHAIRMAN EDDINGTON:

I want to give the Legislators their opportunity first and then I'll have the Director.

LEG. CILMI:

Just very quickly. Not as a reflection on my feelings about this bill, but rather it's interesting to me. I could have taken the Chairman's comments and some of the other comments that were made and applied them to my previous -- the bill that we dealt with previously and they would have applied very well. So I just find those arguments interesting, that's all I really have to say.

CHAIRMAN EDDINGTON:

Legislator Gregory.

LEG. GREGORY:

I was very impressed with some of the technologies, actually with all the technologies that we saw in the presentations today. I have some real concerns with the real time aspect of it and only in the sense, or the 911 aspect of it, only in the sense that, you know, it's great to have the capability as far as technology, but we really have to have the bodies to enforce the technology. And, you know, this is an issue that comes close to home. I just had a teenage girl in my district that was run over by a drunk driver last night. Someone in my office was neighbors with the New York City policeman that got hit on Northern State Parkway two weeks ago. I mean, we all have stories like that.

(The following was taken by Lucia Braaten, Court Stenographer, and transcribed by Kim Castiglione, Legislative Secretary)

This is an important issue, but I don't want to give a false sense of security to the public that they think oh, great, if there's a drunk driver that there's going to be a policeman right on his tail, his or her tail, within minutes, and that not be the case. So I think we really need to --

LEG. KENNEDY:

Mr. Chair, that's part of what my concern is here, and to the sponsor, to Legislator D'Amaro, I don't for a moment want to advocate that we should be using outdated technology or somehow doing less than anything that we can to protect the public from individuals that engage in aberrant behavior, because that's what we're talking about in the first instance, criminal conduct. I understand that and I understand the fact that, you know, it's our job to go ahead and not rely on other levels of government who may or may not be willing to embrace that same highest responsibility that we have as elected officials.

But I also have to say I think, you know, Legislator Gregory is bringing up a good point. I can speak specifically to 911 calls in my district that have taken two-and-a-half hours to respond to, so if there's -- if part of this technology will be something that comes into a 911 center that differentiates or distinguishes that there's an active inebriated individual behind the motor vehicle and that's going to compel a more, you know, vigorous response, I'm inclined to want to support that even if we don't get to that level.

I don't have anybody here who's talking to me about any of that. I see legislation that's going to compel that, but the people charged with doing it, I'm still waiting to hear from, you know, the

Probation Commissioner, but I don't see anybody from the PD who can speak to us at all about that, so.

CHAIRMAN EDDINGTON:

Yeah, you know what, I guess that's my fault. I told the Commissioner, he asked if he could get back to his office, he had other work, and I told him to go. Not the Commissioner, the Chief of Police, so.

LEG. KENNEDY:

I mean, I'll pick up the phone as soon as I get out of here, whenever we get out of here. And so, you know, if I abstain on it it's not because I don't support the concept, but I am concerned about the ability to actually implement. That's my degree of concern. What can the Commissioner tell us?

CHAIRMAN EDDINGTON:

You know what, hold it -- you're good? All right. Commissioner Desmond, or Director, I'm sorry.

DIRECTOR DESMOND:

Good afternoon. John Desmond, Probation Director of Suffolk County. I only have limited information on this. Suffolk County in the work group chose to mandate Level 3 devices for all individuals, both CD's and on probation. The question of the 911 was looked at, but as has been discussed, this was a brand new technology. I've spoken to Nassau County. As of yet they have not had that technology activated, they haven't had a single situation. In order to utilize this technology, there are modifications that have to be done, I believe both software and hardware, to each 911 location. I don't have any idea about the costs. I've made requests from Nassau County, but they haven't gotten back to me on that information yet.

LEG. KENNEDY:

Through the Chair. Let's start with the basics. How many people in Suffolk County do we have right now who have one of these devices in their car that are -- have been sentenced to this?

DIRECTOR DESMOND:

We currently have between four and five hundred. Three hundred of those were already on prior to the enactment of the new law since we've maintained ignition interlock for felony DWI's for many, many years.

LEG. KENNEDY:

Okay. Are all 500 of them with Level 3 devices at this point?

DIRECTOR DESMOND:

No, because the Level 3 devices were mandated only starting August 15th. Before that, we were using devices that were generally available to us for the last "X" number of years.

LEG. KENNEDY:

Can you administratively make the other individuals with one or two's have to go to three's?

DIRECTOR DESMOND:

No, I don't have the legal ability to do that.

LEG. KENNEDY:

Going forward, if somebody's convicted tomorrow down in Cohalan and is sentenced to this, what kind of device will they get?

DIRECTOR DESMOND:

If they were arrested for the offense after November 15th of last year and were convicted of the offense on or after August 15th of this year, we can mandate a Level 3 equipment for that individual.

LEG. KENNEDY:

Hold on a second. You said we can. That infers it's permissive. What does that mean?

DIRECTOR DESMOND:

I'm sorry. We will mandate Level 3. But let me just add that the different --

LEG. KENNEDY:

But wait a minute. One more time. I've got to understand the process. We will, that means your Probation report to the judge will say for the judge make sure -- judge, you must issue the order that this individual must have a Level 3 device. Is that correct?

DIRECTOR DESMOND:

By State Law, the judge is required to implement the level of device chosen by the County, and the County has chosen the Level 3 device for both Probation and for CD's.

CHAIRMAN EDDINGTON:

I guess what --

LEG. KENNEDY:

One more. I'll let it go one more. So what does a Level 3 have in it now?

DIRECTOR DESMOND:

The Level 3 devices have a number of different bells and whistles. All of them have the camera or infrared identification device. Some of them have the GPS. One of them has the capability for the 911. As the vendors were indicating to you today, they're all developing different additions.

CHAIRMAN EDDINGTON:

I guess -- you inquired again, so I thought you stopped, you were quiet.

LEG. KENNEDY:

That's okay.

CHAIRMAN EDDINGTON:

Let me just --

LEG. KENNEDY:

The last question I'd ask is, is how does this bill differ from what he's telling us?

CHAIRMAN EDDINGTON:

Go ahead, Legislator D'Amaro.

LEG. D'AMARO:

This bill sets a policy, so we're going to establish the policy and make it law as opposed to having discretion. We're saying here are the minimum standards, that's the policy of the County. As a matter of fact, I think the Director's testimony kind of backs up and supports the bill. It seems to me that the County is acknowledging from an administrative side at least, an enforcement side, that we should be meeting these higher standards.

LEG. KENNEDY:

He indicated that with the Working Group -- I'm fine to support this if what he's saying is, is in essence this is what we're doing anyhow, but it may have only been an administrative determination. We're now going to say yes, in fact, we have no variation. I was a little concerned when he said --

LEG. D'AMARO:

Well, no, it's not that we don't want variation. We want -- we want -- there's variation, but as long as you meet the minimum standard, and you'll still have several companies that are going to meet that standard. Okay? But we're going to set a policy that we're never going to recommend the imposition of a device that doesn't meet a minimum standard, and we're setting a standard that's higher than what's in State Law, which the County seems to be accepting in -- from based on what I'm hearing.

LEG. KENNEDY:

You know what, I don't want to the keep beating this -- not a dead horse, but maybe I'm just not grasping. The Working Group that Director Desmond refers to is the Working Group that the State convened to make a decision about what device would be utilized and that your Working Group has said it will be a Level 3. Will Level 3 continue to evolve with technological capabilities?

DIRECTOR DESMOND:

That was the expectation, that it would. That the vendors, when the Working Group was meeting, had told us that various of them were working toward additional bells and whistles such as the 911, various identification devices. The expectation that we had was that over time there would be additions to these devices. The determination was made that at that point all the Level 3 devices endorsed by the State of New York were appropriate since we needed to get the devices on the ground, the boots on the ground to make sure there were enough vendors, manufacturers, distributors and installers to serve all of Suffolk County.

LEG. KENNEDY:

All right. John, I'm going to try one different way and then I'll let this one go. You have four to five hundred people out there with the device. You have how many Probation Officers that are monitoring those people?

DIRECTOR DESMOND:

Virtually all of our Supervision Probation Officers have at least one or two of these individuals on their caseloads. In some cases you have many individuals, such as our PAT, our DWI enforcement, which is for the felons, so they may have a large number of those devices that they are monitoring.

LEG. KENNEDY:

What are --

DIRECTOR DESMOND:

Say 20 or so.

LEG. KENNEDY:

Okay.

DIRECTOR DESMOND:

Then we also have the CD's which we're beginning to monitor, and those we'll eventually be looking at 150 to 200 per officer.

LEG. KENNEDY:

If one of these people goes out right now and gets behind a wheel and has been drinking and they blow and they pop, can one of your officers get an e-mail alert or something real time right now on a device? How quickly can one of your officers find out that one of those probationers is juiced behind the wheel?

DIRECTOR DESMOND:

The reporting done by the different vendors varies from almost real time to every 28 days.

LEG. KENNEDY:

Okay. Will your bill narrow that to the real time?

LEG. D'AMARO:

(Nodded in the affirmative)

LEG. KENNEDY:

Fine. Okay. Thank you.

CHAIRMAN EDDINGTON:

Last comment, Legislator Gregory.

LEG. GREGORY:

Okay. This Working Group, I'm thinking now is this bill even necessary if the judge has to abide by the decision or the recommendation of the Working Group? Is that --

DIRECTOR DESMOND:

The court has no control over the decision to implement a particular level of device. That's up to each county to set.

LEG. GREGORY:

Okay. All right.

LEG. KENNEDY:

I'll withdraw my motion to table.

CHAIRMAN EDDINGTON:

Okay. Then I have a motion and a second to approve. All those in favor? Opposed? Abstentions? **(Vote: 5-0-0-0)**

LEG. D'AMARO:

Mr. Chairman, thank you.

CHAIRMAN EDDINGTON:

I.R. 2036, Establishing a Suffolk County Surveillance System Task Force. (Cooper)

I'm going to put a motion to table based on a request from the sponsor. Motion to table.

LEG. BROWNING:

Second.

CHAIRMAN EDDINGTON:

Thank you. A second from Legislator Browning. All those in favor? Opposed? Abstentions? **(Vote: 5-0-0-0)**

I.R. 2037, A Local Law to expand the scope of the County's Social Host Law. (Montano)

LEG. CILMI:

Motion to approve.

CHAIRMAN EDDINGTON:

Motion to approve.

LEG. KENNEDY:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Kennedy. All those in favor?

LEG. CILMI:

On the motion.

LEG. GREGORY:

Motion to table.

CHAIRMAN EDDINGTON:

Okay. A motion to table by Legislator Gregory. Okay. On the motion, Legislator Cilmi.

LEG. CILMI:

Yeah. I made a motion to approve this resolution because once again we need every tool in our arsenal to combat this problem of underage drinking. We talked about setting standards. Well, if the standard that this body wants to accept when we have adults allowing and serving alcohol to minors is a \$250 penalty and a three strikes you're out policy, then that's sad. I would argue that the -- that what we should be looking toward is a more restrictive policy that involve -- or a more restrictive standard that involves a \$500 minimum fine and a two strikes you're out policy. But again, this is not about politics and that's why I've made a motion to approve this resolution and I hope that my colleagues support it. Thank you.

CHAIRMAN EDDINGTON:

Okay. We have a motion and a second. And on the motion, I just want to expand that I agree with Legislator Cilmi, this does expand the law and there was a gaping hole that if you're on campgrounds and hotels, and I think this does plug that hole and I'm going to support this also. So I have a motion and a second, and a tabling motion but no second. I have no second for the tabling motion, so I just have a motion to approve and a second. All those in favor? Opposed? Abstentions? Okay, approved. **(Vote: 5-0-0-0)**

Introductory Resolutions

I.R. 2047, Amending Resolution No. 202-2010, accepting and appropriating \$50,000 for "Creation of Explosive Detection Canine Team". (Barraga)

LEG. KENNEDY:

I make a motion to table.

CHAIRMAN EDDINGTON:

Motion to table by Legislator Kennedy.

LEG. GREGORY:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Gregory. All those in favor? Opposed? Abstentions? Tabled. **(Vote: 5-0-0-0)**

I.R. 2074, Accepting and appropriating a grant in the amount of \$105,570 from the State of New York Governor's Traffic Safety Committee, to target speeding, aggressive, and distracted driving, with 83.79% support. (Co. Exec) I make a motion to approve.

LEG. KENNEDY:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Kennedy. All those in favor? Opposed? Abstentions? **(Vote: 5-0-0-0)**

I.R. 2075, Accepting and appropriating Federal Funding in the amount of \$90,000 from the United States Department of the Treasury, Internal Revenue Service, for the Suffolk County Police Department's participation in operation STEPP (Suffolk-Treasury Enhanced Prosecution Program) with 84.94% support. (Co. Exec.)

I make a motion to approve.

LEG. GREGORY:

Second.

LEG. KENNEDY:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Gregory. All those in favor? Opposed? Abstentions? **(Vote: 5-0-0-0)**

I.R. 2076, Accepting and appropriating a grant in the amount of \$100,000 from the United States Department of Justice, Office of Justice Programs, Office for Civil Rights, for the Suffolk County Police Department to participate in a Human Trafficking Task Force with 66.22% support. (Co. Exec.)

I'll make a motion to approve.

LEG. KENNEDY:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Kennedy. All those in favor? Opposed? Abstentions? **(Vote: 5-0-0-0)**

Seeing no other --

LEG. BROWNING:

Mr. Chair.

CHAIRMAN EDDINGTON:

Yes, Legislator Browning.

LEG. BROWNING:

We have all those social host laws and I swear it's getting to be it's become confusing because I know we have three of them. I would like us to reconsider 2010, so I -- is there a possibility we could make a make motion to reconsider 2010?

LEG. GREGORY:

I'll second.

CHAIRMAN EDDINGTON:

I have a motion to reconsider and a second. All those in favor? Opposed? Abstentions? Okay. Reconsider 2010, I have ***I.R. 2010, A Local Law to strengthen the Social Host Law In Suffolk County. (Cilmi)***

LEG. KENNEDY:

I'll make a motion.

CHAIRMAN EDDINGTON:

Motion to approve by Legislator Kennedy.

LEG. CILMI:

Second.

CHAIRMAN EDDINGTON:

Second by Legislator Cilmi. All those in favor? Opposed? I oppose. Abstention? Okay. It's approved. ***(Vote: 4-1-0-0 Opposed: Legislator Eddington)***. We're adjourned.

(The meeting was adjourned at 1:29 P.M.)