JON S. CORZINE
Governor

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Attorney General

MEMORANDUM

TO: Deborah Gramiccioni
Director, Division of Criminal Justice

Colonel Joseph R. Fuentes
Superintendent, New Jersey State Police

Sharon Harrington
Chief Administrator, Motor Vehicle Commission

All County Prosecutors

All Municipal Prosecutors

All Chief Law Enforcement Executives

FROM: Anne Milgram
Attorney General

DATE: September 17, 2008

SUBJECT: *Attorney General Directive Prohibiting Municipal Court Plea Offers to "No Point" Violations for Graduated Drivers Licensees*

A recent report of the Teen Drivers Study Commission concluded that a key provision of New Jersey's Graduated Drivers License (GDL) system, which is designed to protect young drivers and other motorists, has been undermined by plea offers tendered in municipal court that allow probationary drivers to plead down to so-called "no point" offenses. GDL holders who accumulate three or more penalty points must complete a Motor Vehicle Commission driver improvement program. Failure to complete that program, or the continued accumulation of motor vehicle points, results in license suspension and postponement of the driver's eligibility to obtain a provisional license (if in the permit phase) or a basic license (if in the probationary phase) for a specified period of time.

The requirement to participate in the driver improvement program is triggered by the assessment of penalty points pursuant to N.J.S.A. 39:5-30.5. Until the Motor Vehicle Commission can establish an "event-based" computer tracking system that ensures that all GDL holders who break the law are appropriately sanctioned, prosecutors must take steps to ensure that the remedial, public safety provisions in the GDL system are not circumvented or undermined by plea offers that allow offenders to avoid the assessment of penalty points.

The Teen Driver Study Commission found that teens spoke openly to the Commission at public hearings about their willingness to flaunt the law because there are no consequences. To remedy that situation, it is necessary for prosecutors to differentiate GDL holders from regular licensees when determining an appropriate plea offer. GDL holders are, after all, probationary drivers, and it is entirely appropriate that they be held strictly accountable for all motor vehicle violations. Furthermore, a GDL holder who is charged with a motor vehicle violation does not have a sustained record of safe and lawful driving, which is an important factor that prosecutors routinely consider when determining an appropriate negotiated resolution of pending charges.

Accordingly, when a Graduated Drivers License holder is charged with a motor vehicle violation that carries penalty points assessed pursuant to N.J.S.A. 39:5-30.5, the prosecutor shall not offer or accept a plea agreement that results in conviction for violation of N.J.S.A. 39:4-97.2 (operating a motor vehicle in an unsafe manner), or any other motor vehicle offense that does not result in the assessment of penalty points.

Nothing in this Directive should be construed to limit the authority of the prosecutor to dismiss any charge(s) where the prosecutor represents to the court on the record, either in camera, or in open court, that there is insufficient evidence to warrant a conviction, or that the possibility of acquittal is so great that dismissal of the charge(s) is warranted in the interests of justice.

This Directive shall take effect immediately, and shall remain in full force and effect until rescinded or superceded by Order of the Attorney General. Within six months of the effective date of this Directive, the County Prosecutors shall consult with the municipal prosecutors within their respective jurisdictions and shall report to the Attorney General on the implementation and effects of this Directive. This Directive shall apply to all motor vehicle offenses committed by GDL holders on or after the effective date.