



STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES
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July 22, 2010

Honorable Barbara J. Fiala
Broome County Executive
Broome County Office Building
60 Hawley Street
P.O. Box 1766
Binghamton, New York 13902

Dear County Executive Fiala:

On November 18, 2009, Governor David A. Paterson signed into law the Child Passenger Protection Act or Chapter 496 of the Laws of 2009, referred to as "Leandra's Law". As you are aware, this important new law will help reduce drunken driving in New York State and promote traffic and community safety. "Leandra's Law" charged the NYS Division of Probation and Correctional Alternatives with the responsibility to promulgate regulations governing the monitoring of compliance by persons ordered to install and maintain ignition interlock devices on vehicles they own or operate. These regulations were promulgated as emergency regulations on April 23, 2010. Section 358.4 of these regulations requires that every County establish an ignition interlock program plan with respect to usage of ignition interlock devices and monitoring the compliance of an operator subject to installation of an ignition interlock device as directed by the sentencing court.

In order to facilitate this process, the Office of Probation and Correctional Alternatives (OPCA) prepared a simple plan document, which was largely prescriptive in format to ease preparation and submission. OPCA has received your plan and very much appreciates its timely submission. We have carefully reviewed and hereby approve your plan. I would like to take this opportunity to compliment you on its thoroughness, the extensive level of cooperation you received in its preparation, the inclusion of forms in the plan and the matching of offender risk with the level of interlock device to be utilized. Your plan indicates that Broome County will be well-positioned to implement the new law on August 15, 2010.

I would like to take this opportunity to make a few observations regarding the new statewide ignition interlock initiative and the newly promulgated regulations. In the process of crafting the new regulations the workgroup learned that first time offenders have a relatively low recidivism

rate and are not likely to need the higher levels of technology and scrutiny offered by Class III devices. Additionally, there was a lot of feedback from counties concerning the cost of the devices and what they perceived would be high rates of “unaffordability”. Given these factors the workgroup crafted regulations that allow for different levels of devices with different levels of costs so that monitors can match risk with appropriate devices. Higher risk cases can receive higher Class devices and lower risk cases can receive lower Class devices. The selection of all Class III devices for both probation and conditional discharge cases could inflate the cost to operators and increase the number of waivers granted by the court due to the increased cost of the devices, without providing the commensurate increase in public safety. As counties move forward with the implementation of the interlock initiative, OPCA recommends that the monitors of both the probation and conditional discharge cases be allowed the flexibility to choose the Class of device for each operator so they can align the risk of the operator with the appropriate level of device.

OPCA looks forward to our continued work together as we implement this new public safety measure. Should you have any questions please feel free to call or e-mail Walter Cogswell at 518-485-5168 or Walter.Cogswell@dpc.state.ny.us.

Sincerely,



Robert M. Maccarone
Deputy Commissioner and Director

c Lorraine Wilmot, Probation Director
Honorable Gerald F. Mollen, District Attorney

New York State Division of Criminal Justice Services

Office of Probation and Correctional Alternatives

Ignition Interlock Program Plan Amendment

County: Broome

Date Last Full Plan Submitted: June 15, 2010

Date Amended / Modified: July 19, 2010

Amended / Modified as Follows:

Section 9 was significantly and satisfactorily modified as per this e-mail exchange:

From: Cogswell, Walter (DPCA)

Sent: Tuesday, July 06, 2010 11:47 AM

To: 'BCStopDWI'

Cc: gmollen@co.broome.ny.us; lwilmot@co.broome.ny.us; pbrennan@co.broome.ny.us

Subject: RE: Broome County Ignition Interlock Plan

Mr. May,

I apologize for taking so long to get back to you on your response to our initial review of the County Plan.

My responses in green:

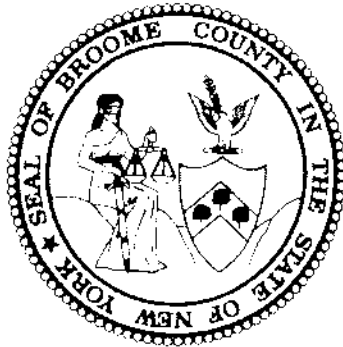
However, we have 3 concerns as to the responses in Section 9:

- 1) There is no provision for probation to report to the District Attorney and the Court when the probationer fails to appear for a service visit; This information will be reported to probation and would be acted upon in the appropriate manner by Broome County Probation. Regulations [358.7(d)(1) require the monitor, in this case probation, to notify the court and District Attorney within 3 business days when the operator has not complied with a service visit requirement.

Subsequent action (after the requisite notifications) can be pursuant to a course determined by the Probation Department. The Plan, however, needs to affirm that the regulations will be followed as to notifications and events requiring such. This information will be reported to probation and would be acted upon in the appropriate manner as required by Regulation 358.7(d)(1) by Broome County Probation.

2) The monitoring entities, not the vendor/manufacture, must report violations as reported by the manufacturer to the court and District Attorney / Probation; and As stated in our plan, the vendors will report to the DA's Office which serves as the agency for monitoring CD cases. The same will occur for probation cases--Broome County Probation will oversee all probation/IID cases. Our confusion – we incorrectly read it that the vendors would also be directly notifying the courts and our contracts do not require the manufacturers to notify the courts.

3) The list of negative events reportable to the courts (and the District Attorney for probationers) does not include lock-outs. For purposes of probation, a lockout will be recorded only if the offender has as a condition of probation that he/she must abstain from the use of alcohol. For CD cases, lacking a condition of no alcohol use, the lockout is evidence that the instrument is simply working therefore preventing the person from driving after they have been drinking. Our regulations [358.5(c)(6)]as well as the contracts with the manufacturers require them to report to the monitor on any lockout regardless of the sentence. The County Plan should not contradict the Regulations. For purposes of probation, a lockout will be reported, and appropriate action taken if the offender has as a condition of probation that he/she must abstain from the use of alcohol. For CD cases, a lock out will be reported, but lacking a condition of no alcohol use, the lockout is merely evidence that the instrument is simply working therefore preventing the person from driving after they have been drinking.



BROOME COUNTY IGNITION INTERLOCK PROGRAM PLAN

June 14, 2010

**BARBARA J. FIALA
BROOME COUNTY EXECUTIVE**

Section 1.

Broome County Ignition Interlock Work Group

Patrick Brennan	Deputy County Executive
Gerald Mollen	District Attorney
Joseph Cawley	Judge, Broome County Court
William Pelella	Judge, City of Binghamton Court
Deborah Jo Harter	Special Counsel to the Administrative Judge
James Sheerin	Director, Drinking Driver Program
Lorraine Wilmot	Probation Director
Jay Wilber	Public Defender
Lisa Winters	Deputy Director of Probation
Sharon Richards	Supervisor, Probation
Terry Carey	Supervisor, Probation
Thomas Jackson	Senior Assistant District Attorney
Chris Grace	STOP-DWI Assistant District Attorney
James May	Broome County STOP-DWI Program and IID Work Group Coordinator

Section 2.

Probation IID Cases

The Broome County Probation Department will supervise offenders placed on Probation with IID requirements.

Section 3.

Conditional Discharge IID Cases

The Broome County District Attorney's Office will serve as the monitor for offenders sentenced to a conditional discharge with IID requirements.

The contact information for Broome County's designated CD monitor is as follows:

Agency:	Broome County District Attorney's Office
Contact:	Gerald Mollen
Phone:	(607) 778-2423
E-Mail:	Gmollen@co.broome.ny.us
Address:	P.O. Box 1766, Binghamton, NY 13902-1766

Section 4.

Class and Features for Probation IID Cases

The Broome County Probation Department will, at its discretion, determine the class and features of IID for each offender (operator) serving a sentence of Probation. The operator can select the model of the IID meeting the class and features selected by Probation.

Section 5.

Class and Features for Conditional Discharge IID Cases

The Broome County IID Work Group and District Attorney will require CD cases to have a Class I IID installed from a qualified manufacturer serving the region. The operator can select the model of IID within Class I.

Section 6.

Procedure for manufacturers to provide IID's to operators where the courts have determined the offender is financially unable to afford the cost.

Broome County's system to ensure that the IID Financial Waiver cases are equitably distributed across all qualified manufacturers in Broome County is based on NYS DPCA's advisory that counties can expect approximately 10% of IID cases to be indigent. Therefore, Broome County's system will entail grouping the courts together into seven (7) groups based on caseloads, then assigning an IID manufacturer to be the designated provider for a particular court group. If an IID vendor exceeds the indigent quota for their court group (10% of the total cases of the court group) they will reject the installation and send the offender (operator) back to the court for reassignment to another vendor. Broome County believes this will be the most equitable way to begin the distribution process absence historical experience.

Section 7.

Distribution Formula for Funding Earmarked for Probation and/or Monitoring Purposes

Broome County's IID plan assumes that there will be no funding available to implement the requirements of Leandra's Law. In passing Leandra's Law, the New York State Legislature did not provide any funding to counties. And, the Governor's Office did not address the funding issue when writing the regulations. Further, DPCA has not formally advised counties of any state grants for these

purposes. Broome County's plan is developed within the current staff levels of the Courts, District Attorney's Office and Probation.

If funding were to be available, Broome County would need to assess the impact Leandra's Law has on the District Attorney's Office and Probation Department. It's important to note that while 21 Courts and 37 Judges handle all of Broome County's DWI cases virtually all of these cases funnel through just two offices: the District Attorney's Office and Probation.

Section 8.

Notification of Probation and CD Monitor

Broome County Judges/Justices will notify the Probation Department and the District Attorney's Office regarding IID conditions for Probation and CD cases. Current notification practices will be used for those sentenced to probation. Regarding CD cases, the District Attorney's Office will receive a copy of the offenders Order Notice. The IID installer will report to Probation (for probation cases) and to the Court and District Attorney's Office (for CD cases) that the IID was installed in the time frame required by the regulations.

The District Attorney's Office will handle transfer cases and Probation will perform VINE notifications.

Section 9.

Failure to Report and Other Violations

IID vendors will notify, as per Section 8 above, the Courts, Probation and District Attorney's Office concerning the installation of an IID or failure to report. The Probation Department will establish a policy on responding to non-compliance as well as what information they want IID manufacturers to report. The District Attorney's Office, serving as CD monitor, will require IID vendors to notify their office only about compliance (installation), failed to perform a rolling re-test, failed a rolling re-test, tampering and non-compliance of the service agreement.

**New York State
Ignition Interlock Device Requirement**

***** Order Notice *****

As a condition of your conditional discharge for your DWI conviction the court orders you to have an ignition interlock device installed on any vehicle you own or operate.

You are hereby required to contact an ignition interlock provider within 10 business days to have a unit installed on any vehicle you own or operate. Upon being contacted by you the Ignition Interlock Vendor has 7 business days to install a Class I Device on your vehicle(s) and 3 business days from the time of installation(s) to notify the court of the installation(s).

A list of local Ignition Interlock vendors and fee schedules is attached to this order.

TO BE COMPLETED BY THE COURT:

OFFENDER'S NAME: _____

OFFENDER'S ADDRESS: _____

OFFENDER'S EMAIL: _____

OFFENDER'S DAY/NIGHT PHONE NUMBERS: _____

DATE OF SENTENCE: ____/____/____
Mo. Day Year

THE DEVICE(S) SHALL BE INSTALLED FOR A MINIMUM OF _____ MONTHS FROM THE DATE OF SENTENCE.

COURT OF JURISDICTION: _____

COURT ADDRESS: _____

COURT EMAIL: _____

SIGNATURE OF JUDGE/JUSTICE

I have delivered the above notice to the defendant listed above.

SIGNATURE OF OFFENDER

I acknowledge receipt of this notice and agree to comply with this order.

Upon examination of the offender's financial disclosure application, I have determined that the interlock fee should be waived.

Signature of Judge/Justice

Date

FOR IGNITION INTERLOCK DEVICE VENDOR USE ONLY:

CONFIRMATION OF INSTALLATION:

Name of Vendor: _____ Key Contact: _____ Phone: _____

Offender contacted IID Provider on: _____ IID Unit Installed on: _____

Guidelines and instructions provided to offender on: _____

Original and second sheet to be provided to DWI offender

Second sheet will be vendor's copy that will be returned to the Court to verify installation

Third sheet to District Attorney

Fourth sheet to Court

NEW YORK STATE DIVISION OF PROBATION AND CORRECTIONS ALTERNATIVES
 PRELIMINARY QUALIFIED MANUFACTURER LISTING
 May 21, 2010

Qualified Manufacturer	Regions of Operation	Device Models and Classifications
iV Smart Start, Inc. CEO: James Ball 4856 Plaza Drive Irving, TX 75063 JamesBall@ivstart.com (800)-880-3394	1, 2, 3 & 4	-Smart Start 850-L (90) - CLASS I -Smart Start 2000 - CLASS III
Alcohol Countermeasure Systems Corp. CEO: Felix J. E. Connean 63 International Boulevard Toronto, Ontario CANADA M9W 6J2 fconnean@alcs-corp.com (416)-619-3500	4	-Alcoholics WB1 - CLASS I -Alcoholics WB3 - CLASS I
Consumer Safety Technology, Inc. CEO: David Arringdale 10520 Hickman Rd., Suite F Des Moines, IA 50325 David.Arringdale@csutec.com (515)-331-7643	1, 2, 3 & 4	-InteLock 1000A - CLASS I -InteLock 1000A with Licensee Technical Upgrade - CLASS III -InteLock 1000A with Licensee Technical Upgrade GPS & Real-time Data - CLASS III
Draeger Safety Diagnostics, Inc. CEO: George W. Billance 4040 W. Royal Lane, Suite 130 Irving, TX 75063 George.Billance@draeger.com (714)-929-1100	1, 2, 3 & 4	-Draeger X1 - CLASS III
Intercept Ignition Interlocks, Inc. CEO: John Russo 45 Ramsey Rd. Unit 23 Shirley, New York 11967 john@interceptllcs.com (716)-265-0792	1, 2, 3 & 4	-Intercept M1 - CLASS III
National Interlock Service (NY) Ltd. CEO: Michael R. Bulford 660 Anson Court Kingston, NY 12401 mrbulford@nisltd.com (800)-871-5462	1, 2, 3 & 4	-Interlock 1000 (90) - CLASS I -Interlock 1000 (90) - CLASS III
Sens-O-Lock of America, LLC CEO: F. Greg Lou 12544 SE 99th Terrace Stuartfield, FL 34996 greg@sensolockamerica.com (404)-748-4484	1, 2, 3 & 4	-BSI 17000 - CLASS I -BSI 17000 (6) - CLASS III -BSI 17000 GPS - CLASS III

NEW YORK STATE IGNITION INTERLOCK CLASSIFICATION SYSTEM EFFECTIVE May 19, 2019

The New York State Division of Probation and Correctional Alternatives classifies all certified ignition interlock devices into categories based upon features of the devices. This classification system and subsequent device classification is subject to change by the Division as new information becomes available. The Division will classify ignition interlock devices utilizing the following system.

CLASS I: This CLASS contains the following features:

- Meets all New York State Department of Health and National Highway Traffic Safety Administration Regulations and Standards.
- Utilizes fuel cell technology.
- Reporting capabilities.
- Capabilities for storage of data.
- Programmable Re-Test Sequences.
- Data download, inspection and re-calibration service, and
- Anti-tampering and anti-circumvention features.

CLASS II: This CLASS has all the features of CLASS I and contains the following additional features:

- Photographic positive identification capability (camera or biometric facial recognition)

CLASS III: This CLASS has all the features of CLASSES I and II and contains one or more of the following additional features:

- GPS location of vehicle capability.
- Real time data reporting.
- Infra-red or other low-light camera capability for night use.
- Hum Tone Detection.
- Infra-red sensor that detects heat and proximity to verify human breath.
- Keys enabling service codes to be entered.
- Early recall system if a fuel cell fails-uses split cell technology.
- Restricted drive time capabilities.
- Unlock code to minimize towing due to lockouts.
- Voice instruction.
- Probation Judicial Internet Access for Real-Time Monitoring 24/7.
- 911 Emergency Response Program for Interception of a Targeted Vehicle During a Rolling Re-test Failure, and
- Target Tracking, subject must be in photo to take test.

Ignition Interlock Vendor Located in Broome County

1. Draeger Safety Diagnostics, Inc. Class III
Draeger XI
Drivesafe Ignition Interlock of NY
339 Front Street, Binghamton, NY

2. Sens-O-Lock of America Class I,
Class III available 12/2010
Best FR9000
Audio Man, Inc.
79 Glenwood Avenue, Binghamton, NY

3. Consumer Safety Tech., Inc. Class I and III
Intoxalock
Ray's Auto Service
17 E. Clinton Street, Binghamton, NY

4. Interceptor Ignition Interlock Class III
Interceptor M-I
Audio Man, Inc.
79 Glenwood Avenue, Binghamton, NY

J & R Upholstery
20 Emma Street, Binghamton, NY

5. National Interlock Service Class I and III
Lifesaver
No location as of 6/8/10 but advises that they will have one in Binghamton by
8/15/10

Vendors not responding to Jim May's email inquiry to confirm a Broome County presence:

* I A Smart Start – Smartstart

* Alcohol Countermeasures Systems Corp. – Alcolock (Only manufacturer that does not operate in Region 2.)