



STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES
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SEAN M. BYRNE
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ROBERT M. MACCARONE
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(518) 485-7692
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Honorable Gregory Edwards
Chautauqua County Executive
3 North Erie Street
Mayville, New York 14757

July 12, 2010

Dear County Executive Edwards:

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, and the detailed notification procedure outlined in the plan. Your plan indicates that Chautauqua County will be well-positioned to implement the new law on August 15th.

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,

A handwritten signature in cursive script, appearing to read "Robert M. Maccarone".

Robert M. Maccarone
Deputy Commissioner and Director

- c Linda L. Shields, Probation Director
Honorable Joseph Gerace, Sheriff and STOP-DWI Coordinator

Chautauqua County Ignition Interlock Plan

The Chautauqua County Probation Department has developed the following County Plan to manage and implement the ignition interlock component of Leandra's Law effective August 15, 2010 pursuant to Part 358 of Title 9 NYCRR.

Prepared by:

Name: **Linda L. Shields**
Title: **Director of Probation**
Address: **110 East Fourth Street**
Jamestown, NY 14701
Phone Number: **(716)661-8008**
E-Mail: shieldsl@co.chautauqua.ny.us

Questions about plan should be directed to:

Same as above

1. Plan Development

This plan has been developed in consultation with the following:

County Executive:	Gregory Edwards
Probation Director:	Linda L. Shields
Sheriff & Stop-DWI Coordinator:	Joseph Gerace
District Attorney:	David Foley
Public Defender:	William Coughlin
Dunkirk & Jamestown City Court:	Robert Nieto, Law Clerk
Chautauqua County Court:	Paul Andrews, Law Clerk
Chautauqua County Court Clerk:	Kathleen Krauza

2. Probation Cases

The Chautauqua County Probation Department will monitor all operators upon whom an Ignition Interlock Device has been imposed and who are subject to a period of probation supervision and will communicate progress with the court and District Attorney.

3. Conditional Discharge Cases

The Chautauqua County Stop-DWI Program will be responsible for monitoring when an Ignition Interlock Device has been imposed pursuant to a Conditional Discharge and will communicate progress with the court and District Attorney.

4. Probation Cases: Class and Features of Device

When an operator is under probation supervision, the Chautauqua County Probation Department will select the specific class and features of the interlock device from a qualified manufacturer in its region. The default Class for Chautauqua County will be a Class III device with the infra-red/lowlight camera feature. The operator will select the model of the Ignition Interlock Device, meeting the specific class and features selected by the Probation Department from a qualified manufacturer in the operator's region of residence.

5. Conditional Discharge Cases: Class and Features of Device

When an operator has received a sentence of Conditional Discharge, the Stop DWI Program will select the specific class of the interlock device from a qualified manufacturer in its region. The default Class for Chautauqua County will be a Class III device. The operator will select the model of the Ignition Interlock Device, meeting the specific class from a qualified manufacturer in the operator's region of residence.

6. Distribution of Waiver Cases

There are six manufacturers that have been contracted by the New York State Division of Probation and Correctional Alternatives to do business within Region One (Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuylar, Seneca, Steuben, Wayne, Wyoming and Yates counties), even though not all provide services in Chautauqua County. The Chautauqua County Probation Department will maintain a list of those manufacturers who in fact do provide a vendor in Chautauqua County. The Probation Department will maintain written records pertaining to which manufacturers are providing Ignition Interlock Devices in Chautauqua County. Those operators, who have been determined to be financially unable to afford the costs and have received a waiver from the sentencing court, will be directed to a manufacturer according to the percentage of devices in use in the county from each manufacturer. The monitor will direct those operators who have been determined to be financially unable to afford the costs to the manufacturers in a way that will provide for an equitable distribution of waiver cases.

7. Distribution of Available Funding

Any available funding earmarked for probation supervision and/or monitoring purposes associated with DPCA Rules and Regulations 9 NYCRR Part 358, will be distributed to the Chautauqua County Probation Department and the Stop DWI Program according to the percentage of cases monitored by each agency for Chautauqua County.

8. Notification of Ignition Interlock Orders (NIIO)

1. The sentencing court will provide to the Chautauqua County Probation Department or the Stop DWI Program the ***Monitor Notification of Ignition Interlock Order*** along with ***Orders and Conditions of Adult Probation or Orders and Conditions of Conditional Discharge*** within 5 business days of sentence, submitting the order electronically as a scanned document (signature in blue ink) or by fax (hard copy to follow by mail).
2. The NIIO shall include the docket number, Criminal Justice Tracking Number (CJTN), conviction as a Misdemeanor or Felony and period of installation of the Ignition Interlock Device.
3. The ***Financial Disclosure Report*** will be submitted to the court within 5 business days following the guilty plea should a defendant believe they are unable to pay or there is a need for a payment plan to insure adequate time for the court to make a determination regarding the defendant's ability to pay fees for the installation and maintenance of the Ignition Interlock Device. Three copies of this form need to be submitted and the court shall distribute copies to the District Attorney and the Public Defender.
4. The NIIO shall include a determination by the court as to the defendant's ability to pay or the waiver of Ignition Interlock Device Fees.
5. The NIIO will also inform the Chautauqua County Probation Department of any intrastate or interstate transfer.
6. Upon receipt of the NIIO where a defendant has been placed in the custody of the NY State Department of Correctional Services, the Chautauqua County Probation Department will utilize Victim Information and Notification Everyday (VINE) to track those cases that will require the installation of an Ignition Interlock Device upon release from incarceration.
7. The Chautauqua County Probation Department or the Stop DWI Program will ensure that the operator has the ignition interlock installed within 10 days of the imposition of the order, or will report to the sentencing court the failure to comply with the court order.

9. Failure Reports

The ***Ignition Interlock Notification to Court and District Attorney*** form will be submitted if the Probation Department or the Stop DWI Program alleges that there is reasonable cause to believe that the defendant has violated a condition of sentence as follows:

1. Failure to have an ignition interlock device installed on a required vehicle
2. Failure to comply with a service visit requirement
3. A device report indicates possible tampering with or circumvention of the ignition interlock device or an attempt thereof
4. A device report indicates that lock-out mode was entered
5. A device report indicates a failed test or re-test where the b.a.c. was .05% or higher
6. Violated other conditions of sentence

Failure reports will be provided to the appropriate parties within 5 days of knowledge of a failure and a recommendation from the monitoring authority.

Acknowledgement

This Ignition Interlock Program Plan has been developed in accordance with NYS Division of Probation and Correctional Alternatives Rules and Regulations Part 358.

Date: _____

Gregory J. Edwards, County Executive

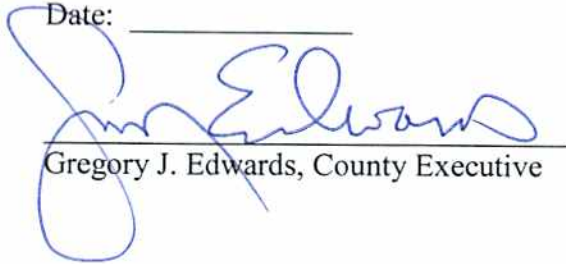
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Date: _____

A handwritten signature in blue ink, appearing to read "Gregory J. Edwards", is written over a horizontal line. The signature is stylized and cursive.

Gregory J. Edwards, County Executive

