



STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES
80 Wolf Road
Albany, New York 12205
<http://criminaljustice.state.ny.us>

SEAN M. BYRNE
ACTING COMMISSIONER

ROBERT M. MACCARONE
DEPUTY COMMISSIONER
AND DIRECTOR
(518) 485-7692
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Honorable William R. Steinhaus
Dutchess County Executive
22 Market Street
Poughkeepsie, New York 12601

July 6, 2010

Dear County Executive Steinhaus:

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 and the extensive level of cooperation you received in the preparation of the plan. Your plan indicates that Dutchess 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, reading "Robert M. Maccarone". The signature is written in dark ink on a light-colored background.

Robert M. Maccarone
Deputy Commissioner and Director

c. Mary Ellen Still, Probation Director
Michael Hill, Drinking Driver Program



New York State
Division of Probation and Correctional Alternatives (DPCA)

IGNITION INTERLOCK PROGRAM PLAN

DAVID A. PATERSON
GOVERNOR



ROBERT MACCARONE
STATE DIRECTOR

DUTCHESS COUNTY IGNITION INTERLOCK PROGRAM PLAN

INSTRUCTIONS: In accordance with New York State Division of Probation and Correctional Alternatives (DPCA) Rules and Regulations 9 NYCRR Section 358.4, every county, and the City of New York, shall establish an ignition interlock program plan with respect to the usage of ignition interlock devices and monitoring compliance of any operator subject to the condition of an ignition interlock device as directed by a sentencing court. Such plan shall be approved, as applicable, by the county executive, county administrator, etc., and in cities with a population of one million or more, the mayor, and become effective on or before August 15, 2010. **The plan shall be filed with DPCA no later than June 15, 2010.** Where a plan has been amended by the county/city, it shall be promptly filed with DPCA in advance of its new effective date. Please complete all portions of the attached plan and return **no later than June 15, 2010** to:

**Walter Cogswell
Community Corrections Representative III
NYS Division of Probation and Correctional Alternatives
80 Wolf Road – Suite 501
Albany, New York 12205**

Or E-Mail
Applications2010@dpca.state.ny.us

NOTE: This plan form has been prepared so that you may check appropriate boxes and type responses into expanding text boxes.

Plan prepared by:

Name: Mary Ellen Still

Title: Director, Dutchess County Office of Probation and Community Corrections

Phone Number: 845-486-2600

E-Mail: mstill@co.dutchess.ny.us

Address: Street:50 Market Street
City: Poughkeepsie
Zip Code: 12601

Questions about plan should be directed to:

Same as above

Or

Name
Phone
E-Mail

1. Every county/city shall develop a plan in consultation with the county/city’s probation director, district attorney, and in New York City the district attorney from each of the five boroughs, sheriff or Police Commissioner where applicable, STOP–DWI Coordinator, a representative of its drinking driver program where applicable and where more than one program exists in the county, a representative designated by the county executive, a superior and local criminal court judge designated by the administrative judge for the county, and in New York City a superior and local criminal court judge designated by the deputy chief administrative judge, a representative of an agency providing legal services to those unable to afford counsel in criminal cases designated by the county executive. A county/city may consult with other persons or entities as the county executive deems appropriate with respect to development of its plan. Indicate those consulted in the preparation of this plan. Check all that apply:

- District Attorney and in NYC the District Attorney from each of the five boroughs
- Drinking Driver Program Representative
- Local Criminal Court Judge
- Police Commissioner (Specify Department Town of Poughkeepsie)
- Probation Director
- Representative of Legal Services for Indigent
- Sheriff
- STOP-DWI Coordinator
- Superior Court Judge
- Other (SpecifyCriminal Justice Council)
- Other (Specify)

2. Every plan shall specify monitoring by the probation department where the operator is subject to a period of probation supervision.

- The Probation Department is designated as the monitor where the operator is subject to a period of probation.

3. Every plan shall specify the persons or entities responsible for monitoring where an ignition interlock device has been imposed pursuant to a conditional discharge. The following are designated to monitor conditional discharge cases:

- District Attorney
- Drinking Driver Program
- Police Commissioner (Specify Department)
- Probation
- Sheriff
- STOP-DWI Coordinator
- TASC
- Traffic Safety Board Representative
- Other Agency or Organization* (Specify:)

*Must be similar individual, agency or organization; cannot be a qualified manufacturer and/or installation/service provider.

Comments: (Provide any additional comments, if any, regarding the monitoring of conditional discharge cases here)

Provide contact information for your designated monitors: (attach additional pages if necessary)

<p>Department/Agency: Dutchess County Office of Probation and Community Corrections Contact Name: Mary Ellen Still Phone Number: 845-486-2600 E-Mail: mstill@co.dutchess.ny.us Address: Street:50 Market St. City: Poughkeepsie Zip Code: 12601</p>	<p>Department/Agency: Drinking Driver Program at Dutchess Community College Contact Name: Michael Hill Phone Number: 845-431-8909 E-Mail: mhill@sunydutchess.edu Address: Street:53 Pendell Rd. City: Poughkeepsie Zip Code: 12601</p>
<p>Department/Agency: Contact Name: Phone Number: E-Mail: Address: Street: City: Zip Code:</p>	<p>Department/Agency: Contact Name: Phone Number: E-Mail: Address: Street: City: Zip Code:</p>

4. Every plan shall establish that where an operator is under probation supervision, the department selects the specific class and features of the interlock device from a qualified manufacturer in its region. The operator may 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.

This plan establishes that where an operator is under probation supervision, the department selects the specific class and features of the interlock device from a qualified manufacturer in its region. The operator may 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. Every plan shall establish that where an operator has received a sentence of conditional discharge, the monitor shall select the class of ignition interlock device available from a qualified manufacturer in its region for any such operator. The operator may select the model of the ignition interlock device from within the class designated by the monitor from a qualified manufacturer in the operator’s region of residence.

This plan establishes that where an operator has received a sentence of conditional discharge, the monitor shall select the class of ignition interlock device available from a qualified

manufacturer in its region for any such operator. The operator may select the model of the ignition interlock device from within the class designated by the monitor from a qualified manufacturer in the operator's region of residence.

6. In the event more than one qualified manufacturer does business within its region, the county/city shall establish an equitable procedure for manufacturers to provide ignition interlock devices without costs where an operator has been determined financially unable to afford the costs and has received a waiver (waiver cases) from the sentencing court. The equitable procedure should be based upon the proportion of ignition interlock devices paid to each qualified manufacturer by operators in the county/city.

Describe the procedure that the county/city will utilize to ensure the equitable distribution of waiver cases among manufacturers operating in the county/city. This will require coordination between the courts and monitors.

The Office of Probation and Community Corrections and the Drinking Driver Program will independently assign vendors on a rotating basis. When the court notifies either DDP or Probation of a case that has been granted a waiver, the designated agency will assign the vendor from the established list. DDP and Probation will begin with different vendors and move through the list so that the waivers are distributed equitably. Each agency will maintain records of the assignments.

7. Every plan shall establish a distribution formula for any available funding earmarked for probation supervision and/or monitoring purposes associated with 9 NYCRR Part 358 (Handling of Ignition Interlock Cases Involving Certain Criminal Offenders).

Describe the distribution formula that the county/city will utilize for any funding specifically provided for probation supervision and/or monitoring purposes associated with DPCA Rules and Regulations 9 NYCRR Part 358. Counties may choose to distribute funds according to the percentage of cases handled by each monitoring entity.

Any non-dedicated funds will be used to mitigate expenses incurred by either Probation or DDP for monitoring. Funds will be distributed through the county after examining documented costs related to implementing and maintaining the program. Such factors as percentage of cases, ability to leverage existing resources, time required to provide monitoring and overtime associated with enforcement will be considered in distribution of funds.

Provide contact information for fiscal officer:

Name: Pamela Barrack

Title: Commissioner of Finance

Phone Number: 845-486-2025

E-Mail: pbarrack@co.dutchess.ny.us

Address: Street: 22 Market St.

City: Poughkeepsie

Zip Code: 12601

8. Every plan shall establish a procedure whereby the probation department and any other monitor will be notified no later than five (5) business days from the date an ignition interlock condition is imposed by the sentencing court, any waiver of the cost of the device granted by the sentencing court, and of any intrastate transfer of probation or interstate transfer of any case which either has responsibility to monitor. Such procedure shall also establish a mechanism for advance notification as to date of release where local or state imprisonment is imposed.

a. Describe the procedure the county/city will utilize to ensure the probation department and any other monitor will be notified of the ignition interlock condition no later than five (5) business days from the date an ignition interlock condition is imposed by the sentencing court.

Using a form developed by the Planning Committee (attached), the courts will direct individuals to contact the designated monitoring agency. A copy of this form will be faxed to the designated monitoring agency by the courts.

b. Describe the procedure the county/city will utilize to ensure the probation department and any other monitor will be notified no later than five (5) business days from the date an ignition interlock condition is imposed by the sentencing court of any waiver of the cost of the device granted by the sentencing court.

The same form will be used by the sentencing court and sent to the appropriate monitoring agency indicating that a waiver has been granted. The form allows the judge to indicate whether a waiver has been granted.

c. Describe the procedure the county/city will utilize to ensure the probation department and any other monitor will be notified no later than five (5) business days from the date an ignition interlock condition is imposed by the sentencing court of any intrastate transfer of probation or interstate transfer of any case which either has responsibility to monitor.

Using the same form, Probation will notify the receiving county of the interlock condition. Formal transfer of probation supervision will follow established Policy and Procedures. DDP will follow the same procedure, notifying whichever agency is designated to monitor Conditional Discharges in the receiving county.

d. Describe the procedure the county/city will utilize for advance notification as to date of release where local or state imprisonment is imposed. Jurisdictions may wish to utilize the VINE network.

The jail will receive the faxed notification form from the court indicating the interlock condition has been imposed. Prior to release, the jail will contact the appropriate monitoring agency. Individuals receiving sentences of state imprisonment will have the notification form included in their packet to the Dept. of Corrections. The Dept. of Corrections will then notify the Office of Probation and Community Corrections prior to release. Policies and Procedures are being developed that will specifically address how notification will occur as well as maintenance of records.

9. Every plan shall establish a procedure governing failure report recipients, including method and timeframe with respect to specific notification and circumstances. Failure report recipients are all persons or entities required to receive a report from the monitor of an operator's failed tasks or failed tests pursuant to a county/city's plan which may include, but is not limited to the sentencing court, district attorney, operator's alcohol treatment provider, and the drinking driver program, where applicable. At a minimum, the procedure shall be consistent with the provisions of DPCA Rules and Regulations Section 358.7(d) with respect to sentencing court and district attorney notification of specific failed tasks and failed tests reports.

Describe the county/city plan to report operator's failed tasks or failed tests to failure report recipients. Identify report recipients, method of reporting, events to be reported, and reporting time frames.

DDP will notify the District Attorney's Office of any failures; the District Attorney's Office will take appropriate action with the court. The Office of Probation and Community Corrections will use a Court Notification Form with a copy to the District Attorney's Office. Events to be reported include failure to install the ignition interlock device within the mandated time period, incidents of tampering and/or failed tests and failure to report for a scheduled service visit. A complete list of events to be reported are included on the Notification Form. The notification will occur within three days of receipt of such notification from the vendor or personal observation by the monitor via fax or hand delivery to the court.

Acknowledgement

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

County Executive Signature: _____

Title of County Executive: County Executive

Date

ADDENDUM

IGNITION INTERLOCK PROGRAM PLAN

DUTCHESS COUNTY

The following modifications/additions are applicable to the Plan:

8 (d) In addition to submitting the packet containing the notification of an Ignition Interlock order to the NYS Department of Correctional Services, the Office of Probation and Community Corrections will use the VINE system to determine when an inmate will be released. The Office of Probation will notify DDP as necessary.

9. DDP will notify BOTH the court and the District Attorney's Office, within three business days, if an individual receiving a Conditional Discharge has:

- a) failed to have the ignition interlock installed;
- b) failed to comply with a service visit requirement;
- c) engaged in alleged tampering or attempts to circumvent the device;
- d) report of a lock-out mode;
- e) failed test or re-test where the BAC is .05 or higher