



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
(518) 485-5140 FAX

Daniel Palmer
Essex County Manager
7551 Court Street
Elizabethtown, NY 12932

June 16, 2010

Dear Mr. Palmer,

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, DPCA prepared a simple plan document, which was largely prescriptive in format to ease preparation and submission. DPCA 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 willingness of Essex County officials to share important monitoring information with treatment providers. This approach can only increase public safety in Essex County. Your plan indicates that Essex County will be well-positioned to implement the new law on August 15th.

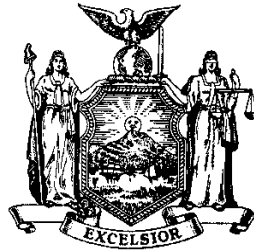
DPCA looks forward to our continued work together as we implement this new public safety measure. Should you have any questions please feel free to call or e-mail Walter Cogswell at 518-485-5168 or Walter.Cogswell@dca.state.ny.us.

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
State Director

c. Scott K. McDonald, Probation Director



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

IGNITION INTERLOCK PROGRAM PLAN

DAVID A. PATERSON
GOVERNOR



ROBERT MACCARONE
STATE DIRECTOR

ESSEX 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: **Scott K. McDonald**
Title: **Probation Director**
Phone Number: **518-873-3654**
E-Mail: **skm@co.essex.ny.us**
Address: Street: **7551 Court Street - PO Box 217**
City: **Elizabethtown, NY**
Zip Code: **12932**

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 (Hon. Kristy Sprague, Essex County DA)**
- Drinking Driver Program Representative (Angie MacAlpine, Prevention Team/DDP)**
- Local Criminal Court Judge (Hon. William Garrison, T/Elizabethtown)**
- Police Commissioner (Specify Department _____)
- Probation Director (Scott K. McDonald)**
- Representative of Legal Services for Indigent (Brandon Boutelle, Public Defender)**
- Sheriff (Henry Hommes, Sheriff)**
- STOP-DWI Coordinator (Hon. Jospeh Provoncha, County Clerk/STOP DWI Coordinator)**
- Superior Court Judge (Hon. Richard Meyer, JCC)**
- Other (Specify _____)
- 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) **No additional comments.**

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

Department/Agency: Essex County Probation Contact Name: Scott K. McDonald Phone Number: 518-873-3651 E-Mail: skm@co.essex.ny.us Address: Street: 7551 Court St City: Elizabethtown, NY Zip Code: 12932	Department/Agency: Contact Name: Phone Number: E-Mail: Address: Street: City: Zip Code:
Department/Agency: Contact Name: Phone Number: E-Mail: Address: Street: City: Zip Code:	Department/Agency: Contact Name: Phone Number: E-Mail: Address: Street: City: Zip Code:

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 Essex County Probation Department, the monitoring agency for both Probation and Conditional Discharge cases, will distribute those "waiver" cases among vendors based upon the proportional basis of "paid" cases as broken down by vendor. A log will be maintained listing each ignition interlock case, paid/waiver and manufacturer utilized. From that log, a monthly percentage of paid cases for each manufacturer will be determined for the month and the waiver cases for the following month will be assigned in the same proportion as the "paid" cases from the preceding month.

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 and all funding specifically provided for probation supervision and/or monitoring purposes under this section shall be distributed to the Essex County Probation Department as it is the monitoring agency for both probation and conditional discharge cases.

Provide contact information for fiscal officer:

Name: **Michael Diskin**

Title: **County Treasurer**

Phone Number: **518-873-3317**

E-Mail: **mdiskin@co.essex.ny.us**

Address: Street: **7551 Court Street - PO Box 217**

City: **Elizabethtown, NY**

Zip Code: **12932**

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 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.

Justice courts will be provided with FORM DPCA-510 (*Monitor Notification of Ignition Interlock Order*) for completion and forwarding via fax, email or regular mail to the Probation Department, with a request that it be forwarded immediately and in no case no more than two business days following sentence. Probation has a presence in Essex County Court for all sentencings and thus will be notified immediately of any probation or conditional discharge sentence including an ignition interlock condition.

b. Describe the procedure the county 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.

Form DPCA-510, completed by the sentencing Court and then forwarded to Probation within five (5) days includes the Court's finding on cases for which any waiver or payment plan is warranted.

c. Describe the procedure the county 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.

Form DPCA-510, completed by the sentencing Court and provided to Probation within five (5) business days via fax, email or mail, will include the address of the defendant which will alert Probation staff of the need for intra or interstate transfer of Probation cases where applicable.

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.

Essex County Probation will utilize the VINE network for advance notification of the date of release from local or state imprisonment for those individuals sentenced with an ignition interlock condition. Additionally, Essex County Probation has access to *Sallyport*, via the County network, the jail management system utilized by the Essex County Jail and can access jail release dates of any defendants sentenced to jail and a condition for ignition interlock upon release.

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 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 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.

Essex County Probation will utilize a modified version of Form DPCA-133CR to provide written notification within three (3) business days of failed operator tasks or failed tests (as enumerated on DPCA-133CR) for both Probation and Conditional Discharge cases to: the sentencing Court, the District Attorney's Office, the operator's treatment provider (where applicable) and the drinking driver program (where applicable). The Probation Department will complete DPCA-133CR in its entirety and forward to the Court and District Attorney's Office with a recommendation for action. The operator's treatment provider and the drinking driver program will be provided with DPCA-133CR for informational purposes.

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: _____
Daniel Palmer, Essex County Manager

Title of County Executive: **County Manager**

Date: **June _____, 2010**