



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

Mr. David H. Pendergast
Lewis County Manager
7660 N. State Street
Court House – Room 310
Lowville, New York 13367

July 6, 2010

Dear County Manager Pendergast:

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 cooperation you received in the preparation of the plan. Your plan indicates that Lewis 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.

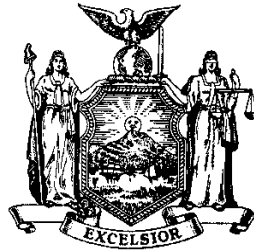
OPCA looks forward to our continued work together as we implement this new public safety measure. Should you have any questions please feel free to call or e-mail Walter Cogswell at 518-485-5168 or Walter.Cogswell@dpc.state.ny.us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert M. Maccarone". The signature is written in dark ink on a light-colored background.

Robert M. Maccarone
Deputy Commissioner and Director

c. Randall A. Schell, Probation Director
Honorable Leanne Moser, District Attorney



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

IGNITION INTERLOCK PROGRAM PLAN

DAVID A. PATERSON
GOVERNOR



ROBERT MACCARONE
STATE DIRECTOR

LEWIS 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@dpc.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: Randall A. Schell
Title: Director of Probation
Phone Number: 315 376-5358
E-Mail: rschell@lewiscountyny.org
Address: Street:7660 North State Street
City: Lowville, NY
Zip Code: 13367

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 _____)
- Probation Director
- Representative of Legal Services for Indigent
- Sheriff
- STOP-DWI Coordinator
- Superior Court Judge
- Other (Specify Lewis County Attorney)
- Other (Specify Lewis County Manager)

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:

- X 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)

Department/Agency: Lewis County District Attorney's Office Contact Name: Leanne Moser Phone Number: 315 376-5390 E-Mail: lmoser@lewiscountyny.org Address: Street: 7660 N. State St. City: Lowville Zip Code: 13367	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 District Attorney's Office and the Probation Department will monitor the use of each approved vendors' IIDs and assign the waiver cases proportionately to see that no one vendor bears the brunt of the waiver cases.

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 funding that is provided for the implementation of this Statute will be deposited equally into the appropriate revenue accounts in the District Attorney's Office and the Probation Department's budget.

Provide contact information for fiscal officer:

Name: Vicki Roy

Title: Lewis County Treasurer

Phone Number: 315 376-5322

E-Mail: vroy@lewiscountyny.org

Address: Street: 7660 N. State St.

City: Lowville

Zip Code: 13367

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.

Orders for the installation of IIDs and all other documents to be used in the implementation of the Law will be distributed to each sentencing Court in Lewis County by August 1, 2010. Directions for the completion and timely transmission of the orders to the District Attorney's Office and the Probation Department will be given in writing to each sentencing Court and the District Attorney's office.

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 Magistrates and the District Attorney's office will each transmit the sentencing order to the Probation Department within the 5 business days. The District Attorney's office is present at each misdemeanor and felony sentencing in Lewis County, and is physically located one floor above the Probation Department to aid in the timely distribution of the orders. The appropriate eligibility forms will be disseminated to the Courts by August 1, 2010.

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.

The Magistrates and the District Attorney's office will each transmit the sentencing order and the Probation Department within the 5 business days. The District Attorney's office is present at each misdemeanor and felony sentencing in Lewis County, and is physically located one floor above the Probation Department to aid in the timely distribution of the orders.

If an offender is sentenced to Probation, the rules of Interstate and Intrastate transfer will apply. The IID will be installed in the region where the sentence is imposed, unless prior arrangements are made to have the IID installed in the resident area of the offender. The IID must be from a vender that is approved by the Lewis County District Attorney's Office and the Probation Department.

If the offender is ordered to a Conditional Discharge, the IID will be installed in the region where the sentence is imposed, unless prior arrangements are made to have the IID

installed in the resident region of the offender. The IID must be from a vendor that is approved by the Lewis County District Attorney's Office and the Probation Department.

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 District Attorney's Office or the Probation Department assigned to monitor an offender who is sentenced to a period of local or State incarceration shall enter the offender's information into the VINE network so as to be apprised of the inmate's release date.

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.

In all cases that are granted a Conditional Discharge, all failed tasks (failure to have Ignition Interlock Device installed on required vehicle(s), and failure to comply with a service visit requirement) and failed tests (IID report of possible tampering with or circumvention of the IID or an attempt to do the same; IID report indicates that a lock-out mode was entered; IDD report indicates a failed test or re-test where the BAC was .05% or higher; or a violation of any other condition of sentence) shall be recorded on the IGNITION INTERLOCK COURT REPORT and forwarded to the sentencing court by the District Attorney within 3 business days. The Report shall detail the alleged violation, any action taken by the District Attorney's Office regarding the alleged violation, and a recommendation to the Court as to how to respond to the allegations.

In cases sentenced to Probation, the procedures in Part 352 of the Rules and Regulations will apply.

In either case, the use of graduated sanctions will be encouraged to get the offender into compliance.

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: Lewis County Manager

Date