



**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

Honorable Vito L. Greco  
Chairman, Montgomery County Board of Supervisors  
County Annex Building  
P.O. Box 1500  
Fonda, New York 12068

July 6, 2010

Dear Chairman Greco:

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 cooperation you received in the preparation of the plan. Your plan indicates that Montgomery County will be well-positioned to implement the new law on August 15<sup>th</sup>.

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](mailto: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. Lucille Sitterly, Probation Director  
Honorable James E. Conboy, District Attorney



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

# **IGNITION INTERLOCK PROGRAM PLAN**

**DAVID A. PATERSON**  
**GOVERNOR**



**ROBERT MACCARONE**  
**STATE DIRECTOR**



**Montgomery 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](mailto: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: Lucille Sitterly  
Title: Director of Probation  
Phone Number: 518/853-8380  
E-Mail: lsitterly@co.montgomery.ny.us  
Address: Street:County Office Bldg. 64 Broadway  
City: Fonda, N.Y.  
Zip Code: 12068

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 \_\_\_\_\_ )
- 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)

Department/Agency: District Attorney Contact Name: James Conboy Phone Number: 518/853-8250 E-Mail: jconboy@co.montgomery.ny.us Address:       Street: Broadway City: Fonda, N.Y. Zip Code: 12068	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 Montgomery County Probation Department in conjunction with the District Attorney's office will oversee the total quantity of ignition interlock devices in use by the county and will apportion to the various vendors equitably. This will require coordination with the various local Courts who will make the final determination of the indigent status of the defendants. Notification forms will be developed with respect to the Courts relay of this information to the District Attorney or the Probation Dept.*

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 funds available to the localities will be shared between the Probation Dept. and the District Attorney's Office. The amount allocated to each Dept. will be determined according to the percentage of cases handled.*

Provide contact information for fiscal officer:

Name: Shawn Bowerman

Title: County Treasurer

Phone Number: 518/853-8175

E-Mail: sbowerman@co.montgomery.ny.us

Address: Street: 20 Park St.

City: Fonda, N.Y.

Zip Code: 12068

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.

*All Courts in Montgomery County will be apprised by the District Attorney of their obligation to contact either the Probation Dept. if the defendant is sentenced to a term of supervision or the District Attorney's office in the case of a CD. The Courts will be afforded an appropriate form in this regard for notification purposes developed and provided by the monitoring agents. Instructions will be provided to the local Courts regarding their obligation to notify the monitoring agent within 5 business days of disposition and appropriate forms will be provided for this purpose. Courts will be encouraged to fax the information to either the District Attorney or the Probation Dept. to expedite the process.*

- 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 form used in (a) will also contain a section to report waiver information.*

- 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 same form used in (a) and (b) will contain a section to report intrastate transfer information.*

- 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 Probation Dept. receives daily fax notification of confinement status from the Montgomery County Jail and this information can be made available to the District Attorney's office as well. Notification of those to be released from State Prison will be obtained via local Parole Officers who will provide this information on a weekly basis to the Probation Dept.*

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.

*The Probation Dept. will receive regular daily reports from vendors monitoring Ignition Interlock for those on Probation supervision. These reports will be transmitted via email to the supervising Probation Officer but will also be monitored by supervisory personnel in the Department in the event of the absence of the Probation Officer for any period of time. Failure notices will be immediately (within that business day) discussed with supervisory personnel in the Dept. and notification in the form of a misconduct report or Violation petition will be prepared and sent to the Court of jurisdiction within one business day of the receipt of the failure notice from the vendor. The District Attorney will be the recipient of monitoring information on the Conditional Discharge cases. His office will make appropriate contacts with the court of jurisdiction within 48 hours of receipt of failed test information.*

*Issues relating to the failure to install an ignition interlock device, non-compliance with a service visit requirement, reports of tampering with or circumventing an ignition interlock device, report of a lock-out mode and/or any report of a failed test or re-test where the BAC is .05 % or higher will be dealt with by a formal notification to the District Attorney and the Court where the Probation Dept. is the monitor, and by the District Attorney to the Court where that office is the monitor (CD cases) within three business days. Appropriate forms will be developed by the Probation Dept. to be used by each agency (Probation and the District Attorney) for this purpose.*

#### 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: Chairperson, Board of Legislators

Date