



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

July 22, 2010

Honorable Michael R. Bloomberg
New York City Mayor
City Hall
New York, New York 14202

Dear Mayor Bloomberg:

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 inclusion of treatment providers and drinking driver programs in your failure notification procedures. Your plan indicates that New York City will be well-positioned to implement the new law on August 15, 2010.

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,



Robert M. Maccarone
Deputy Commissioner and Director

- c Shari Hyman, Deputy Criminal Justice Coordinator
Vincent Schiraldi, Probation Commissioner
Karen Rankin, Bureau Chief Narcotics Trial, Queens County District Attorney’s Office



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

IGNITION INTERLOCK PROGRAM PLAN

**DAVID A. PATERSON
GOVERNOR**



**ROBERT MACCARONE
STATE DIRECTOR**

NEW YORK CITY 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: Shari Hyman

Title: Deputy Criminal Justice Coordinator

Phone Number: 212-788-6825

E-Mail: shyman@cityhall.nyc.gov

Address: Street: 1 Centre Street, Room 1012N

City: New York, NY

Zip Code: 10007

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 NYPD)
- Probation Director
- Representative of Legal Services for Indigent
- Sheriff
- STOP-DWI Coordinator
- Superior Court Judge
- Other (Specify _____)
- Other (Specify DOT)

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)The agreement of the Queens County District Attorney's Office to serve as the monitor for cases in which an ignition interlock device has been imposed pursuant to a conditional discharge is conditioned on the receipt of funding from the New York City STOP-DWI program. After a period of six months, the City will review the plan for monitoring cases in which an ignition interlock is imposed pursuant to a conditional discharge and may revise the plan to designate a new monitor or an additional monitor or monitors. The City will also review available funding at this time.

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

Department/Agency: Queens County District Attorney's Office Contact Name: Karen Rankin, Bureau Chief Narcotics Trial Phone Number: 718-286-6207 E-Mail: KHRankin@queensda.org Address: Street:125-01 Queens Blvd City: Queens, NY Zip Code: 11415	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 conditional discharge monitor will maintain an alphabetical listing of qualified manufacturers in the region, as well as a listing of operators being serviced by each manufacturer. Upon receipt of an ignition interlock fee schedule or fee waiver, the monitor will direct that operator to the next manufacturer on the list in order. If one or more manufacturers installs a greater number of interlock devices than the other available manufacturers, the monitor will direct operators who have a fee waiver to manufacturers on a pro rata basis, up to 10% of the total number of devices sold by the manufacturer.

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 provided to the City by the State earmarked for probation supervision and/or monitoring purposes associated with 9 NYCRR Part 358 will be distributed pursuant to the following formula.

If the City receives less than \$200,000, the total amount of the funding will be distributed upon receipt. 50% of this funding will be distributed to the Department of Probation and the Queens District Attorney's Office for monitoring expenses. If either entity is in receipt of additional

funding for monitoring expenses, the amount of this State funding allocated to that entity shall be reduced by the amount of alternative funding. The remaining 50% of this funding will be distributed among the 5 District Attorneys' Offices and the Department of Probation based on the caseload of DWI and DWI-related cases during the previous 12 month period.

If the City receives between \$200,001 and \$300,000, half of the total amount of the funding will be distributed upon receipt. 45% of this funding will be distributed to the Department of Probation and the Queens District Attorney's Office for monitoring expenses. If either entity is in receipt of additional funding for monitoring expenses, the amount of this State funding allocated to that entity shall be reduced by the amount of alternative funding. Of the remaining 55% of this funding half will be distributed among the 5 District Attorneys' Offices and the Department of Probation based on caseload of DWI and DWI-related cases during the previous 12 month period. The second half of the total amount of the funding will be distributed using the same formula six months after the receipt of the funding from the State and will be distributed based on the caseload of DWI and DWI-related cases during the previous six month period.

If the City receives more than \$300,001, half of the total amount of the funding will be distributed upon receipt. 40% of this funding will be distributed to the Department of Probation and the Queens District Attorney's Office for monitoring expenses. If either entity is in receipt of additional funding for monitoring expenses, the amount of this State funding allocated to that entity shall be reduced by the amount of alternative funding. Of the remaining 60% of this funding half will be distributed among the 5 District Attorneys' Offices and the Department of Probation based on caseload of DWI and DWI-related cases during the previous 12 month period. The second half of the total amount of the funding will be distributed using the same formula six months after the receipt of the funding from the State and will be distributed based on the caseload of DWI and DWI-related cases during the previous six month period.

Provide contact information for fiscal officer:

Name: Tom Bonner

Title: Budget, Grants, and Facilities Director

Phone Number: 212-788-9865

E-Mail: tbonner@cityhall.nyc.gov

Address: Street: 1 Centre Street, Room 1012N

City: New York, NY

Zip Code: 10007

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. Court staff will annotate the ignition interlock condition on each sentence of probation where the operator is subject to a period of probation supervision and will forward this form to the Department of Probation along with a separate notification form to the monitor containing information on the sentence, ability of defendant to pay, and any orders relating to fee waivers or payment plans. Court staff will annotate the ignition interlock condition on the multipurpose conditional discharge form where an ignition interlock device has been imposed pursuant to a conditional discharge. Court staff will forward a separate notification form to the monitor containing information on the sentence, ability of defendant to pay, and any orders relating to fee waivers or payment plans. Court staff will also annotate the ignition interlock condition on any forms promulgated by the Department of Motor Vehicles that require this information.

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. Court staff will forward a separate notification form to the monitor containing information on the sentence, ability of defendant to pay, and any orders relating to fee waivers or payment plans.

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. Court staff will forward a notification to the monitor regarding any transfer ordered.

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. Upon receipt of the above notification containing a sentence of incarceration, the monitor will schedule periodic checks of the VINE Network and/or any other appropriate local prison notification network and begin the monitoring function upon an operator's 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/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.

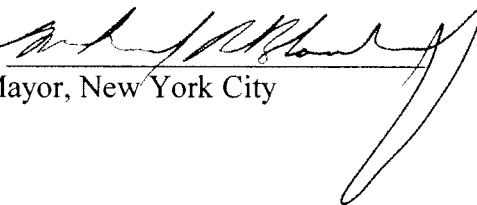
Describe the county/city plan to report operator's failed tasks or failed tests to failure report recipients. Identify report recipients, method of reporting, events to be reported, and reporting time frames. The designated monitor shall require all operators to install a class two or higher ignition interlock device unless specifically directed otherwise by the sentencing court. The monitor shall require all operators to appear in person for installation of the ignition interlock device. Upon installation, both the operator and the installation/service provider are required to notify the designated monitor of the date of the successful installation or any facts and circumstances of an unsuccessful installation. The monitor shall also require all operators to submit in person to a service visit with the interlock equipped vehicle visit every thirty days from initial installation to allow the installation/service provider to inspect, monitor, download, recalibrate, and maintain the ignition interlock device. Upon downloading the data from the ignition interlock device at this service visit, the installation/service provider will electronically forward all downloaded data from each device to the designated monitor. The data will contain a summary sheet listing any start-up test, start-up re-test, rolling test, or rolling re-test that detected a blood alcohol concentration above the instrument set point described in 9 NYCRR § 358.5(c)(2), missed rolling test, missed rolling re-test, and instances where the device entered lockout mode as described in 9 NYCRR § 358.5(c)(2). Additionally, the summary sheet will list any observed tampering or attempt at circumvention of the device and any other information known by the installer/service provider that would reasonably affect the operator's successful completion of the sentenced interlock period. Upon receiving this data from the installation/service provider, the Department of Probation shall act in accordance with 9 NYCRR Part 352. Upon receiving this data from the installation/service provider, the conditional discharge monitor shall notify the sentencing court and the District Attorney, as well as the operator's alcohol treatment provider and the drinking driver program where applicable, of the following events and circumstances: 1) failure to install an ignition interlock, unless from the relevant facts and circumstances the monitor believes the operator is attempting to complete installation and the circumstances would appear to allow installation to be completed within a reasonable time not to exceed 10 business days from sentence; 2) failure to attend a scheduled service visit, unless from the relevant facts and circumstances the monitor believes the operator is attempting to attend the service visit and the service visit is completed within a reasonable time not to exceed 5 days from the scheduled date; 3) three unsuccessful start-up tests, two unsuccessful rolling tests, or any instances where the device entered lockout mode; 4) any known observed tampering or attempt at circumvention of the device; and (5) and any other information related by the installation/service provider or otherwise known to the monitor that would seriously jeopardize the operator's successful completion of the sentenced interlock period. The conditional discharge monitor will electronically notify the above recipients within 3 business days of receipt of such information and maintain records of all notifications made. Upon successful completion of the operator's period of court-imposed ignition interlock, the monitor will provide a certificate of completion and transmit such certificate to the operator, the installation/service provider, the sentencing court and the District Attorney. Such certificate will

direct the installation/service provider to remove the ignition interlock device from the operator's vehicle.

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:

A handwritten signature in black ink, appearing to be Michael R. Bloomberg, written over a horizontal line. The signature is stylized and extends to the right of the line.

Title of County Executive: Mayor, New York City

Date June 24, 2010

**New York City Ignition Interlock Program Plan Addendum
July 14, 2010**

6. *Describe the procedure that the county/city will utilize to ensure the equitable distribution of waiver cases among manufacturers operating in the county/city.*

The conditional discharge monitor will maintain an alphabetical listing of qualified manufacturers in the region, as well as a listing of operators being serviced by each manufacturer. Upon receipt of an ignition interlock fee schedule or fee waiver, the monitor will direct that operator to the next manufacturer on the list in order. If one or more manufacturers installs a greater number of interlock devices than the other available manufacturers, the monitor will direct operators who have a fee waiver to manufacturers on a pro rata basis. Where an operator is under probation supervision and receives a fee schedule or fee waiver, the Department of Probation will contact the conditional discharge monitor to learn which manufacturer should provide the device.

9. *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 designated monitor shall require all operators to install a class two or higher ignition interlock device unless specifically directed otherwise by the sentencing court. The monitor shall require all operators to appear in person for installation of the ignition interlock device. Upon installation, both the operator and the installation/service provider are required to notify the designated monitor of the date of the successful installation or any facts and circumstances of an unsuccessful installation. The monitor shall also require all operators to submit in person to a service visit with the interlock equipped vehicle every thirty days from initial installation to allow the installation/service provider to inspect, monitor, download, recalibrate, and maintain the ignition interlock device. Upon downloading the data from the ignition interlock device at this service visit, the installation/service provider will electronically forward all downloaded data from each device to the designated monitor. The data will contain a summary sheet listing any start-up test, start-up re-test, rolling test, or rolling re-test that detected a blood alcohol concentration above the instrument set point described in 9 NYCRR § 358.5(c)(2), missed rolling test, missed rolling re-test, and instances where the device entered lockout mode as described in 9 NYCRR § 358.5(c)(2). Additionally, the summary sheet will list any observed tampering or attempt at circumvention of the device and any other information known by the installation/service provider that would reasonably affect the operator's successful completion of the sentenced interlock period. Upon receiving this data from the installation/service provider, the monitor shall notify the sentencing court and the District Attorney, as well as the operator's alcohol treatment provider and the drinking driver program where applicable, of the following events and circumstances: 1) failure to install an ignition interlock, unless from the relevant facts and circumstances the monitor believes the operator is attempting to complete installation and the

circumstances would appear to allow installation to be completed within a reasonable time not to exceed 10 business days from sentence; 2) failure to attend a scheduled service visit, unless from the relevant facts and circumstances the monitor believes the operator is attempting to attend the service visit and the service visit is completed within a reasonable time not to exceed 5 days from the scheduled date; 3) three unsuccessful start-up tests, two unsuccessful rolling tests, or any instances where the device entered lockout mode; 4) any known observed tampering or attempt at circumvention of the device; and (5) and any other information related by the installation/service provider or otherwise known to the monitor that would seriously jeopardize the operator's successful completion of the sentenced interlock period. The monitor will electronically notify the above recipients within 3 business days of receipt of such information and maintain records of all notifications made. Upon receiving this data from the installation/service provider and notifying the above-referenced parties, the Department of Probation shall act in accordance with 9 NYCRR Part 352. Upon successful completion of the operator's period of court-imposed ignition interlock, the monitor will provide a certificate of completion and transmit such certificate to the operator, the installation/service provider, the sentencing court and the District Attorney. Such certificate will direct the installation/service provider to remove the ignition interlock device from the operator's vehicle.

**New York City Ignition Interlock Program Plan Addendum
July 14, 2010**

6. *Describe the procedure that the county/city will utilize to ensure the equitable distribution of waiver cases among manufacturers operating in the county/city.*

The conditional discharge monitor will maintain an alphabetical listing of qualified manufacturers in the region, as well as a listing of operators being serviced by each manufacturer. Upon receipt of an ignition interlock fee schedule or fee waiver, the monitor will direct that operator to the next manufacturer on the list in order. If one or more manufacturers installs a greater number of interlock devices than the other available manufacturers, the monitor will direct operators who have a fee waiver to manufacturers on a pro rata basis. Where an operator is under probation supervision and receives a fee schedule or fee waiver, the Department of Probation will contact the conditional discharge monitor to learn which manufacturer should provide the device.

9. *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 designated monitor shall require all operators to install a class two or higher ignition interlock device unless specifically directed otherwise by the sentencing court. The monitor shall require all operators to appear in person for installation of the ignition interlock device. Upon installation, both the operator and the installation/service provider are required to notify the designated monitor of the date of the successful installation or any facts and circumstances of an unsuccessful installation. The monitor shall also require all operators to submit in person to a service visit with the interlock equipped vehicle every thirty days from initial installation to allow the installation/service provider to inspect, monitor, download, recalibrate, and maintain the ignition interlock device. Upon downloading the data from the ignition interlock device at this service visit, the installation/service provider will electronically forward all downloaded data from each device to the designated monitor. The data will contain a summary sheet listing any start-up test, start-up re-test, rolling test, or rolling re-test that detected a blood alcohol concentration above the instrument set point described in 9 NYCRR § 358.5(c)(2), missed rolling test, missed rolling re-test, and instances where the device entered lockout mode as described in 9 NYCRR § 358.5(c)(2). Additionally, the summary sheet will list any observed tampering or attempt at circumvention of the device and any other information known by the installation/service provider that would reasonably affect the operator's successful completion of the sentenced interlock period. Upon receiving this data from the installation/service provider, the monitor shall notify the sentencing court and the District Attorney, as well as the operator's alcohol treatment provider and the drinking driver program where applicable, of the following events and circumstances: 1) failure to install an ignition interlock, unless from the relevant facts and circumstances the monitor believes the operator is attempting to complete installation and the

circumstances would appear to allow installation to be completed within a reasonable time not to exceed 10 business days from sentence; 2) failure to attend a scheduled service visit, unless from the relevant facts and circumstances the monitor believes the operator is attempting to attend the service visit and the service visit is completed within a reasonable time not to exceed 5 days from the scheduled date; 3) three unsuccessful start-up tests, two unsuccessful rolling tests, or any instances where the device entered lockout mode; 4) any known observed tampering or attempt at circumvention of the device; (5) any report of a lock-out mode, failed test, or failed re-test where the BAC is .05 percent or higher; and (6) any other information related by the installation/service provider or otherwise known to the monitor that would seriously jeopardize the operator's successful completion of the sentenced interlock period. The monitor will electronically notify the above recipients within 3 business days of receipt of such information and maintain records of all notifications made. Upon receiving this data from the installation/service provider and notifying the above-referenced parties, the Department of Probation shall act in accordance with 9 NYCRR Part 352. Upon successful completion of the operator's period of court-imposed ignition interlock, the monitor will provide a certificate of completion and transmit such certificate to the operator, the installation/service provider, the sentencing court and the District Attorney. Such certificate will direct the installation/service provider to remove the ignition interlock device from the operator's vehicle.

New York City Ignition Interlock Program Plan Addendum
August 11, 2010

9. *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 designated monitor shall require all operators to install a class two or higher ignition interlock device. The monitor shall require all operators to appear in person for installation of the ignition interlock device. Upon installation, both the operator and the installation/service provider are required to notify the designated monitor of the date of the successful installation or any facts and circumstances of an unsuccessful installation. The monitor shall also require all operators to submit in person to a service visit with the interlock equipped vehicle every thirty days from initial installation to allow the installation/service provider to inspect, monitor, download, recalibrate, and maintain the ignition interlock device. Upon downloading the data from the ignition interlock device at this service visit, the installation/service provider will electronically forward all downloaded data from each device to the designated monitor. The data will contain a summary sheet listing any start-up test, start-up re-test, rolling test, or rolling re-test that detected a blood alcohol concentration above the instrument set point described in 9 NYCRR § 358.5(c)(2), missed rolling test, missed rolling re-test, and instances where the device entered lockout mode as described in 9 NYCRR § 358.5(c)(2). Additionally, the summary sheet will list any observed tampering or attempt at circumvention of the device and any other information known by the installation/service provider that would reasonably affect the operator's successful completion of the sentenced interlock period. Upon receiving this data from the installation/service provider, the monitor shall notify the sentencing court and the District Attorney, as well as the operator's alcohol treatment provider and the drinking driver program where applicable, of the following events and circumstances: 1) failure to install an ignition interlock, unless from the relevant facts and circumstances the monitor believes the operator is attempting to complete installation and the circumstances would appear to allow installation to be completed within a reasonable time not to exceed 10 business days from sentence; 2) failure to attend a scheduled service visit, unless from the relevant facts and circumstances the monitor believes the operator is attempting to attend the service visit and the service visit is completed within a reasonable time not to exceed 5 days from the scheduled date; 3) three unsuccessful start-up tests, two unsuccessful rolling tests, or any instances where the device entered lockout mode; 4) any known observed tampering or attempt at circumvention of the device; (5) any report of a lock-out mode, failed test, or failed re-test where the BAC is .05 percent or higher; and (6) any other information related by the installation/service provider or otherwise known to the monitor that would seriously jeopardize the operator's successful completion of the sentenced interlock period. The monitor will electronically notify the above recipients within 3 business days of receipt of such information and maintain records of all notifications made. Upon receiving this data from the installation/service provider and notifying the above-referenced parties, the Department of Probation shall act in accordance with 9 NYCRR Part 352. Upon

successful completion of the operator's period of court-imposed ignition interlock, the monitor will provide a certificate of completion and transmit such certificate to the operator, the installation/service provider, the sentencing court and the District Attorney. Such certificate will direct the installation/service provider to remove the ignition interlock device from the operator's vehicle.