



**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 Anthony J. Picente, Jr.  
Oneida County Executive  
Oneida County Office Building  
800 Park Avenue  
Utica, New York 13501

Dear County Executive Picente:

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 forms in the plan. Your plan indicates that Oneida County 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](mailto:Walter.Cogswell@dpc.state.ny.us).

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert M. Maccarone".

Robert M. Maccarone  
Deputy Commissioner and Director

c Stacey L. Paolozzi, Assistant District Attorney  
David Tomidy, Probation Director



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

# **IGNITION INTERLOCK PROGRAM PLAN**

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



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

**ONEIDA 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: Stacey L. Paolozzi  
Title: Assistant District Attorney  
Phone Number: 315-798-5573  
E-Mail: spaolozzi@ocgov.net  
Address: Street: 800 Park Ave, 9<sup>th</sup> Floor  
City: Utica NY  
Zip Code: 13501

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 Traffic Safety Board Chairman)
- 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)

The monitor will begin as a part-time position within the Oneida County Probation Department. The monitor position will be funded by the Oneida County STOP-DWI program. After six (6) months, the statistics will be reviewed to determine whether or not the monitor position would be able to continue as a part-time position. The Oneida County Probation Department is currently in the process of accepting and reviewing applications for this monitor position.

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

<p>Department/Agency: Oneida County Probation Department          Contact Name: David Tomidy, Director          Phone Number: 315-798-5914          E-Mail: dtomidy@ocgov.net          Address: Street:321 Main Street, Union Station          City: Utica, NY          Zip Code: 13501</p>	<p>Department/Agency: Oneida County District Attorney's Office          Contact Name: Stacey L. Paolozzi, ADA          Phone Number: 315-798-5573          E-Mail: spaolozzi@ocgov.net          Address: Street:800 Park Ave 9<sup>th</sup> Floor          City: Utica, NY          Zip Code: 13501</p>
<p>Department/Agency: Oneida County STOP-DWI          Contact Name: Michael S. Colangelo, STOP-DWI Coordinator          Phone Number: 315-736-8943          E-Mail: mcolangelo@ocgov.net          Address: Street:200 Base Road, Suite 3          City: Oriskany NY          Zip Code: 13424</p>	<p>Department/Agency:          Contact Name:          Phone Number:          E-Mail:          Address: Street:          City:          Zip Code:</p>

4. Every plan shall establish that where an operator is under probation supervision, the department selects the specific class and features of the interlock device from a qualified manufacturer in its region. The operator may select the model of the ignition interlock device, meeting the specific class and features selected by the probation department from a qualified manufacturer in the operator's region of residence.

This plan establishes that where an operator is under probation supervision, the department selects the specific class and features of the interlock device from a qualified manufacturer in its region. The operator may select the model of the ignition interlock device, meeting the specific class and features selected by the probation department from a qualified manufacturer in the operator's region of residence.

5. Every plan shall establish that where an operator has received a sentence of conditional discharge, the monitor shall select the class of ignition interlock device available from a qualified manufacturer in its region for any such operator. The operator may select the model of the ignition interlock device from within the class designated by the monitor from a qualified manufacturer in the operator's region of residence.

This plan establishes that where an operator has received a sentence of conditional discharge, the monitor shall select the class of ignition interlock device available from a qualified manufacturer in its region for any such operator. The operator may select the model of the ignition interlock device from within the class designated by the monitor from a qualified manufacturer in the operator's region of residence.

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

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

The monitor will maintain a list of the qualified manufacturers and will track the number of operators serviced by each manufacturer. The list will be maintained in alphabetical order. Upon receipt of an Ignition Interlock Fee Schedule or Fee Waiver case, operators who qualify will be assigned to the qualified manufacturers on a round robin basis. Beginning at the end of the first quarter, the total numbers assigned to each qualified manufacturer will be used to assign cases of indigent operators on a proportionate bases by the monitor.

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.

All funding will be allocated to the Oneida County STOP-DWI Program as that program will be providing funding to the Oneida County Probation Department for the associated monitoring costs.

Provide contact information for fiscal officer:

Name: Joseph Timpano

Title: Oneida County Comptroller

Phone Number: 315-798-5780

E-Mail: jtimpano@ocgov.net

Address: Street: 800 Park Ave., 9<sup>th</sup> Floor  
City: Utica, NY  
Zip Code: 13501

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.

The referral form listed below has an area for the sentencing court to indicate when an indigent waiver has been granted. New York State Ignition Interlock Device Program Financial Disclosure Report form will be supplied to the vendor at the time of installation of the device. The form indicating an indigent waiver will be faxed to the monitor within five (5) business days. (Form DPCA-510-IIN)

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 above notification will include any fee waiver and will include a copy of the application for fee waiver and the fee waiver (or payment reduction) given to the operator. Additionally the Court will instruct the operator to contact the designated monitor to implement the requirements. (Form DPCA-510-IIN)

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 above notification will include any transfer ordered. If such transfer is requested and ordered subsequent to the sentencing date, an additional notification will be sent to the monitor detailing the transfer to the appropriate monitor.

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 monitoring function upon an operator's release. The monitor will also coordinate with the local New York State Parole Office for those individuals who are being supervised by that department. (Form DPCA-510-IIN)

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 be required to review the general reports of each offender on a daily basis to monitor compliance. This shall be accomplished through logging onto the reporting website and reviewing the reports of the offenders. The monitor shall notify the sentencing court and the district attorney within five (5) business days of the following events:

1. Failure to install an ignition interlock device, unless from the facts and circumstances related, 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 (ten) business days from sentence;
2. Failure to exchange the device every thirty (30) days as provided for by the service provider, who will mail the replacement device directly to the offender every thirty

days. Said offender is responsible for returning the replaced device to the service provider within five (5) business days of such replacement.

3. Three (3) unsuccessful start-up tests.
4. Any start-up test or re-start test where the registered result is .05% or greater, unless the offender has a subsequent successful re-start within the prescribed time.
5. Two (2) unsuccessful rolling tests.
6. Any listed lock-out triggering occurrence, including, one failed start-up retest, one missed start-up re-test, one failed rolling re-test or missed rolling test.
7. Failure to complete any service visit required by the qualified vendor and/or the monitor.
8. Any observed tampering or attempt at circumventing the device and any other information related by the service provider or monitor, including but not limited to, any information regarding having someone other than the offender provide a breath sample for the purpose of a start-up or rolling test and any other attempt to tamper or circumvent the proper functioning of the device.

(Form DPCA-133CR-IID)

The monitor shall issue a verbal or written warning to the offender upon the following event:

1. Up to two (2) unsuccessful start-up tests with a registered result of .02% - .04%.

#### 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: Oneida County Executive

Date 06/14/2010