



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
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(518) 485-7692
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Mr. Timothy O'Hearn
Schuyler County Administrator
105 Ninth Street
Watkins Glen, New York 14891

July 12, 2010

Dear County Administrator O'Hearn:

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 level of cooperation you received in its preparation. Your plan indicates that Schuyler 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, reading "Robert M. Maccarone". The signature is written in dark ink on a light-colored background.

Robert M. Maccarone
Deputy Commissioner and Director

c Chris Rosno, Probation Director



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

SCHUYLER COUNTY IGNITION INTERLOCK PROGRAM PLAN

**DAVID A. PATERSON
GOVERNOR**



**ROBERT MACCARONE
STATE DIRECTOR**

SCHUYLER COUNTY IGNITION INTERLOCK PROGRAM PLAN

INSTRUCTIONS: In accordance with New York State Division of Probation and Correctional Alternatives (DPCA) Rules and Regulations 9 NYCRR Section 358.4, every county, and the City of New York, shall establish an ignition interlock program plan with respect to the usage of ignition interlock devices and monitoring compliance of any operator subject to the condition of an ignition interlock device as directed by a sentencing court. Such plan shall be approved, as applicable, by the county executive, county administrator, etc., and in cities with a population of one million or more, the mayor, and become effective on or before August 15, 2010. **The plan shall be filed with DPCA no later than June 15, 2010.** Where a plan has been amended by the county/city, it shall be promptly filed with DPCA in advance of its new effective date. Please complete all portions of the attached plan and return **no later than June 15, 2010** to:

**Walter Cogswell
Community Corrections Representative III
NYS Division of Probation and Correctional Alternatives
80 Wolf Road – Suite 501
Albany, New York 12205**

Or E-Mail
Applications2010@dpca.state.ny.us

NOTE: This plan form has been prepared so that you may check appropriate boxes and type responses into expanding text boxes.

Plan prepared by:

Name: Chris Rosno

Title: Director of Probation

Phone Number: 607-535-8165

E-Mail: crosno@co.schuyler.ny.us

Address: Street: 105 Ninth St.
City: Watkins Glen
Zip Code: 14891

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)

Schuyler County Probation will ensure the proper installation and regularly monitor the ignition interlock requirement for conditional discharge sentences within Schuyler County for the 6 month period of time prescribed by law. Any monitoring of an ignition interlock device for a conditional discharge sentence through Schuyler County Probation beyond the 6 month requirement will require an order from the sentencing court. Only the condition of the ignition interlock device will be regularly monitored through the probation office. Any other requirements of the conditional discharge will not be monitored on a regular basis. However, if any violations are learned of, they will be reported to the court.

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

Department/Agency: Schuyler County Probation Contact Name: Chris Rosno Phone Number: 607-535-8165 E-Mail: crosno@co.schuyler.ny.us Address: Street: 105 ninth St. City: Watkins Glen Zip Code: 14891	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.

An ignition interlock device appropriate for use by a probationer in Schuyler County shall be a class III device and have the following features, real time reporting capabilities via email, photo imaging of the operator using the device and GPS tracking capabilities. An operator sentenced to use an ignition interlock device and placed on probation supervision in Schuyler County may choose any model which meets the criteria for a class III device with approval through the Schuyler County Probation Department.

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.

An ignition interlock device appropriate for use by a defendant sentenced to a conditional discharge in Schuyler County shall be a class III device. An operator sentenced to a conditional discharge and to use an ignition interlock device in Schuyler County may choose any model which meets the criteria for a class III device with approval through the Schuyler County Probation Department.

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.

Defendants required to install an ignition interlock device on their vehicle that are granted a financial obligation waiver will be required to alternate between qualified manufactures to evenly distribute the financial burden to manufactures. Cases that are granted financial obligation waivers will be referred directly to Schuyler County Probation the next business day by the sentencing court so that they may be directed to the appropriate manufacturer. The monitoring agency will keep a record of what manufactures are being used for financial waivers so that the burden can be evenly distributed amongst each manufacturer per the systems that are in use. Manufacturers are required to provide for a 10% rate of waivers in their fees to cover cases granted financial obligation waivers by the sentencing courts. Schuyler County will not be held responsible for supporting any financial obligation waivers granted by sentencing courts. This will apply to any sentence requiring an ignition interlock device.

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.

Funding received by Schuyler County for the purposes of monitoring ignition interlock devices under DPCA rules and regulations 9 NYCRR part 358 will be directed into a Schuyler County Probation Department revenue account.

Provide contact information for fiscal officer:

Name: Margaret Starbuck

Title: Schuyler County Treasurer

Phone Number: 607-535-8181

E-Mail: mstarbuck@stny.rr.com

Address: Street: 105 Ninth St.

City: Watkins Glen

Zip Code: 14891

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 sentencing court or District Attorney's Office will notify the Schuyler County Probation Department via email, mail or fax of a sentence requiring an ignition interlock device within 5 business days after such a sentence.

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 sentencing court or District Attorneys Office will notify the Schuyler County Probation Department via email, mail or fax of a sentence requiring an ignition interlock device along with any waivers for financial obligations for said device within 5 business days after such a sentence.

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 sentencing court or District Attorneys Office will notify the Schuyler County Probation Department via email, mail or fax of any defendant requiring an ignition interlock device within 5 business days after such a sentence. All defendants required to install an ignition interlock device will have 10 business days to install such a device on their vehicle which meets the qualifications of Schuyler County. However, for intrastate probation transfer cases, the ignition interlock device may be approved by the receiving/monitoring department. Orders requiring an ignition interlock device for probation supervision cases will be transmitted to the receiving/monitoring county within 5 business days after their receipt by Schuyler County Probation. Legal jurisdiction over conditional discharge transfer cases will remain within the sending county. If a monitoring department requires a change of an ignition interlock device for a transfer case, then the defendant must be in compliance at the time their case is accepted in the receiving/monitoring county. Any cases transferring into Schuyler County that require an ignition interlock device will need to be in compliance with the required features of a class III device. Any probation or conditional discharge case that is appropriate for transfer out of state requiring an ignition interlock device will be required to comply with Schuyler County's ignition interlock plan and will be monitored by Schuyler County Probation. Interstate cases may utilize an ignition interlock manufacturer outside of New York State as long as the manufacture and the device are qualified and approved by Schuyler County Probation. All interstate probation supervision cases shall be in compliance with the interstate compact rules and regulations.

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.

If a defendant is incarcerated and will be required to install an ignition interlock device per a court order upon their release, the sentencing court or District Attorney's Office will need to notify Schuyler County Probation via email, mail or fax immediately following their sentence. The Schuyler County Probation Department can then determine the release date through the facility housing the defendant or through Victim Information and Notification Everyday (VINE) and require that a device be installed within 10 days after the release of the defendant.

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 Schuyler County Probation Department will investigate all violations related to any failed installation of an ignition interlock device, non-compliance with service visit requirements, any reports of alleged tampering or circumventing of a device or attempt thereof, any report of a failed or missed test, any report of a BAC over .05% and any report of a lockout associated with an ignition interlock device. Any valid violation of an ignition interlock device will be reported in writing to the sentencing court holding jurisdiction over the case and the District Attorney's Office with a recommendation within 3 business days of the violations discovery.

Acknowledgement

This Ignition Interlock Program Plan has been developed in accordance with NYS Division of Probation and Correctional Alternatives Rules and Regulations Part 358.

Approved by Timothy O'Hearn
Schuyler County Administrator

Date