



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
(518) 485-5140 FAX

July 22, 2010

Mr. Mark R. Alger
Steuben County Administrator
3 East Pulteney Square
Bath, New York 14810

Dear County Administrator Alger:

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 Steuben 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.

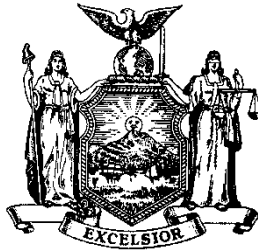
OPCA looks forward to our continued work together as we implement this new public safety measure. Should you have any questions please feel free to call or e-mail Walter Cogswell at 518-485-5168 or Walter.Cogswell@dpc.state.ny.us.

Sincerely,

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

Robert M. Maccarone
Deputy Commissioner and Director

- c Honorable Joel Ordway, Sheriff
Eugene A. Greeley, Probation Director



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

IGNITION INTERLOCK PROGRAM PLAN

DAVID A. PATERSON
GOVERNOR



ROBERT MACCARONE
STATE DIRECTOR

STEUBEN 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: Eugene A. Greeley
Title: Probation Director
Phone Number: 607-664-2339
E-Mail: andyG@co.steuben.ny.us
Address: Street: 3 East Pulteney Square
City: Bath, NY
Zip Code: 14810

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: Steuben County Sheriff Contact Name: Joel Ordway, Sheriff Phone Number: 607-776-7009 E-Mail: ordwayJR@co.steuben.ny.us Address: Street:7007 Rumsey Street City: Bath, NY Zip Code: 14810	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.

In the event more than one qualified manufacturer does business within its region, the procedure to assign manufacturers to provide ignition interlock devices without cost where an operator has been determined indigent and received a waiver from the sentencing will be to assign case sequentially. An indigent case will be assigned to the first vendor, a second indigent case to second vendor, etc., and then return to the first vendor if needed. The Sheriff's Department and Probation Department will share information as to which indigent cases have been assigned to what vendor. The list will be shared electronically.

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.

If at any time extraordinary funding becomes available to aid probation supervision and or monitoring work, it will be distributed by need as determined by the number of cases each has and weighed by responsibility assigned to those cases.

The agency who secures the funds will supervise disbursement.

Provide contact information for fiscal officer:

Name: Carol Whitehead

Title: County Treasurer

Phone Number: 607-664-2488

E-Mail: treasurer@steuben.ny.us

Address: Street: 3 East Pulteney Square

City: Bath, NY

Zip Code: 14810

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 shall notify the Steuben County Probation Department of any individuals sentenced to probation with an Interlock Condition within five (5) business days of sentencing. This will be done as established either through mail or electronically. As already established, the Court will submit the disposition and conditions of probation signed by the sentencing Judge. This same process will be applied when contacting the Sheriff's Department.

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.

In addition if there is an indigency waiver issued it shall be signed by the Judge and attached to the disposition.

This same procedure will be utilized for Conditional Discharges that are referred to the Sheriff's Department.

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.

Upon receipt of an ignition interlock case from a Court that appears to be a transfer case, the matter will be referred to the Transfer Designee who will notify the receiving County. The Sheriff's Department upon receipt of an ignition interlock case will call receiving County to notify the appropriate monitoring agency.

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 Sheriff's Department will be notified by the Jail Division when an operator is to be released with a Conditional Discharge and an Interlock Ignition condition.

In the case of the Probation Department, the Probation Officer assigned will maintain contact with Jail (Black Creek Software) and Probationer as to when he will be released. This is in accordance with established practice pertaining to all Probationers. In case of Probationers released from DOCS we will attempt to utilize the VINE SYSTEM.

9. Every plan shall establish a procedure governing failure report recipients, including method and timeframe with respect to specific notification and circumstances. Failure report recipients are all persons or entities required to receive a report from the monitor of an operator's failed tasks or failed tests pursuant to a county/city's plan which may include, but is not limited to the sentencing court, district attorney, operator's alcohol treatment provider, and the drinking driver program, where applicable. At a minimum, the procedure shall be consistent with the provisions of DPCA Rules and Regulations Section 358.7(d) with respect to sentencing court and district attorney notification of specific failed tasks and failed tests reports.

Describe the county/city plan to report operator's failed tasks or failed tests to failure report recipients. Identify report recipients, method of reporting, events to be reported, and reporting time frames.

In Conditional Discharge cases, the Sheriff's Department will report to the Court any failed task (test) or reports of tampering within two (2) business days.

In probation cases, the Probation Officer will report any failures or tampering to the Court along with the BAC recorded on the machine. This will be done through a Court Notification with a recommendation of whether a Probation Violation should be filed or not.

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: County Administrator
Date

**MODIFICATON OF IGNITION INTERLOCK PLAN
FOR STEUBEN COUNTY**

Section 6: New language to replace old language

In the event more than one qualified manufacturer does business within this region, the procedure to assign manufacturers to provide ignition interlock service without cost where an operator has been determined indigent and received a waiver from the sentencing court will be to keep a list of manufacturers and the number of paying operators they provide services to. The indigent operators will be assigned to the manufacturer proportionately to the number of paying operators he has. The example being that if the manufacturer has 25% of the paying operators he will serve 25% of the indigent.

The Sheriff's Department and Probation Department will share information as to which indigent cases have been assigned to what vendor.

The list will be shared electronically.

**MODIFICATON OF IGNITION INTERLOCK PLAN
FOR STEUBEN COUNTY**

Section 9: New language to replace old language

The procedure to report operators failed task or failed test to failure report recipients is to report to the sentencing Court within two business days of such failures. The nature of the report will be submitted by using the attached Grid.

Communication to the Court will be electronically or in a way that is appropriate to the Court's ability to receive information.

The procedure will be used by both the Sheriff's Department and the Probation Department.
