



**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

August 9, 2010

Honorable James Hoffman, Chairman  
Wayne County Board of Supervisors  
26 Church Street  
Lyons, New York 14489

Re: Wayne County Plan—Leandra's Law

Dear Chairman Hoffman:

As you know, Governor David A. Paterson signed the Child Passenger Protection Act into law on November 18, 2009, often referred to as "Leandra's Law". This important new law will help reduce drunken driving in New York State and save lives. The provisions of law requiring the installation of ignition interlock devices on the vehicles of persons sentenced for DWI misdemeanor or felony crimes will go into effect on August 15, 2010. The mandated use of ignition interlock devices has effectively reduced DWI recidivism and arrests in other "first offender" states and we expect to achieve the same or better outcomes in New York State.

The NYS Division of Probation and Correctional Alternatives, now DCJS Office of Probation and Correctional Alternatives, was charged with the responsibility of promulgating 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 and can found on our website at [www.dpca.state.ny.us](http://www.dpca.state.ny.us). Section 358.4 of these regulations requires that every County establish an ignition interlock program plan with respect to the usage of ignition interlock devices and monitoring the compliance of operators subject to installation of ignition interlock devices as directed by the sentencing court.

OPCA has received your county plan and very much appreciates its submission. I am very pleased to advise you that OPCA has approved your county plan, and I would like to take this opportunity to compliment you on its thoroughness and the extensive level of cooperation you received in its preparation. However, we note that Wayne County designated the New York State Police as the monitoring agency in conditional discharge cases. Your county plan does not indicate this agency was involved in the planning process and the New York State Police has

informed us that they will not be performing this monitoring function. While providing flexibility to counties, Chapter 496 of the Laws of 2009 essentially requires that the county probation department monitor conditional discharge cases unless an acceptable alternative is selected by the County.

Accordingly, I hereby approve your plan with the designation of the Wayne County Probation Department as the monitor in all DWI conditional discharge cases, by operation of law, as no acceptable alternative was presented in the county plan. Notwithstanding this provision, your plan indicates that Wayne County is well-positioned to fully implement the ignition interlock provisions of Leandra's Law, effective August 15, 2010.

Further, I would like to make a few observations regarding the statewide ignition interlock initiative and the newly promulgated regulations. In the process of crafting the state 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 considerable 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 and costs so that monitors can match risk with appropriate devices. Higher risk cases can receive higher Class devices and lower risk cases lower Class devices. The selection of all Class III devices for both probation and conditional discharge cases may 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 and our regulations provide for monitors of both the probation and conditional discharge cases to choose the Class of device, and for Probation to also select the features for each operator so they can align the risk of the operator with the appropriate level of device. The operator selects the model and manufacturer of the device, except when the cost is waived.

OPCA looks forward to our collaboration with localities as we work to implement this new public safety measure and improve highway safety in New York State. Please feel free to contact OPCA Community Correction Representative Cogswell at 518-485-5168 or [Walter.Cogswell@dpc.state.ny.us](mailto:Walter.Cogswell@dpc.state.ny.us) if you have any questions.

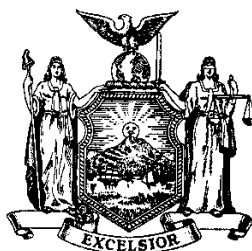
Sincerely,



Robert M. Maccarone  
Deputy Commissioner and Director

cc: James Marquette, County Administrator  
Richard O. Stevens, Probation Director  
Acting Commissioner Sean Byrne





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

# **IGNITION INTERLOCK PROGRAM PLAN**

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



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



**WAYNE 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@dpc.state.ny.us](mailto:Applications2010@dpc.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: Richard O. Stevens  
Title: Director of Probation  
Phone Number: 315 946-7448  
E-Mail: rstevens@co.wayne.ny.us  
Address: Street: 16 William Street  
City: Lyons, NY  
Zip Code: 14489

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 (County Legislator)
- 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: New York State Police)

\*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) In as much as the legislation for IID indicates that there is no fiscal impact and whereas Wayne County can not perform the monitoring of Conditional Discharges without fiscal impact the Board of Supervisors has directed that the monitoring of conditional discharges be done by the New York State Police.

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

Department/Agency: Wayne County Probation Contact Name: Richard O. Stevens Phone Number: 315 946-7448 E-Mail: rstevens@co.wayne.ny.us Address:       Street: 16 William Street City: Lyons, NY Zip Code: 14489	Department/Agency: New York State Police Contact Name: John P. Melville, Acting Supt. Phone Number: 518 457-6721 E-Mail: Address:       Street: 1220 Washington Ave City: Albany, NY Zip Code: 1226-2252
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.

Probation Cases - Per existing rules and regulations, the operator may choose which vendor to use. If rules are amended so that operators who can not afford IID are required to use a specific vendor, the distribution will be determined proportionately based on the number of paying operators each vendor receives.

Conditional Discharge Cases- A procedure for equitable distribution of these cases will need to be developed by the State Police in conformance with existing rules.

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.

No funds are currently available. In the event funds become available, these funds will be distributed based on the number of cases that each monitoring agency supervises.

Provide contact information for fiscal officer:

Name: Thomas Warnick

Title: County Treasurer

Phone Number: 315 946-5946

E-Mail: [twarnick@co.wayne.ny.us](mailto:twarnick@co.wayne.ny.us)

Address: Street: 16 William Street

City: Lyons, NY

Zip Code: 14489

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 County will request that the sentencing Courts fax or email a copy of all information/documentation, including the order imposing ignition interlock, within one (1) business day from the date of sentence in all cases where the sentence imposed includes a period of Probation Supervision to the Wayne County Department of Probation and Correctional Alternatives. It will be requested that when the sentence is a Conditional Discharge, that the sentencing Courts forward the order to the New York State Police. Additionally, the County will request that the Courts send an original copy of all relative documents to the appropriate monitoring agency within 5 business days.

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 County will request that waivers be included in the documents supplied as indicated in section 8(a).

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 County will request that any case involving interstate or intrastate transfers comply with protocols outlined in 8(a). The County, however, is not aware of any statutory authority to transfer cases involving Conditional Discharges.

d. Describe the procedure the county/city will utilize for advance notification as to date of release where local or state imprisonment is imposed. Jurisdictions may wish to utilize the VINE network.

The Probation Department is to be notified by the sentencing Courts, in accordance with 8(a), when disposition includes a period of local or state imprisonment. The Probation Department,

using the Wayne County Jail Management System (JMSU) or the VINE system, will track the incarceration of the inmate and secure the release date. After release the participant will be required to have appropriate ignition interlock device installed within ten (10) business days.

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.

When the monitoring agency receives notification that an operator has failed to have the IID installed within 10 days, the operator has not complied with service visits, any tampering of the IID, a report of lock out mode, and/or any report of a failed test or re-test where the BAC is .05 percent or higher, the monitor shall at a minimum notify the appropriate Court and District Attorney within 3 business days, using DPCA-133.

Any Probation Supervision case shall adhere to Part 352 (Violation of Probation).

The monitor may recommend modifications of the operator's conditions to the Court up to and including revocation of the defendant's sentence.

### Acknowledgement

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

County Executive Signature: \_\_\_\_\_  
Title of County Executive: Chairperson, Board of Supervisors  
Date