



**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 4, 2010

Honorable Robert P. Astorino  
Westchester County Executive  
The Michaelian Office Building  
148 Martine Avenue  
White Plains, New York 10601

Dear County Executive Astorino:

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 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 incorporation of new forms into the plan. Your plan indicates that Westchester 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 black ink, appearing to read "Robert M. Maccarone", is centered on the page. The signature is written in a cursive style.

Robert M. Maccarone  
Deputy Commissioner and Director

c Rocco A. Pozzi, Probation Commissioner



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

# **IGNITION INTERLOCK PROGRAM PLAN**

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



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



**WESTCHESTER 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.

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Plan prepared by:  
Name: Rocco A. Pozzi  
Title: Commissioner  
Phone Number: 914-995-3502  
E-Mail: rap4@westchestergov.com  
Address: Street: 111 Dr. Martin Luther King Jr., Blvd.  
City: White Plains  
Zip Code: 10601

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 Westchester County Department of Public Safety)
- 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) Effective 8/15/10, defendants receiving a sentence of Conditional Discharge, in which the use of an ignition interlock system has been imposed by the sentencing court, will be monitored by the Probation Department.

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

Department/Agency: Westchester Couty Probation Contact Name: Rocco A. Pozzi Phone Number: 914-995-3502 E-Mail: rap4@westchestergov.com Address: Street:111 Dr. Martin Luther King, Jr. Blvd. City: White Plains Zip Code: 10601	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.

An Assistant Commissioner will collect reports from vendors providing Ignition Interlock services and compare the reports to Department data from Central Intake to insure that unaffordability cases are proportionally dispersed to service providers.

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 come to Westchester County Department of Probation either directly from the State or through the Westchester County Office of Stop DWI.

Provide contact information for fiscal officer:

Name: Jaqueline Mylie

Title: Accountant III

Phone Number: 914-995-3173

E-Mail: [jjml@westchestergov.com](mailto:jjml@westchestergov.com)

Address: Street: 111 Dr. Martin Luther King, Jr. Blvd.

City: White Plains

Zip Code: 10601

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.

Effective 8/15/10, the Department will receive an Ignition Interlock Conditional Discharge Sentence Referral from the Court within three days of plea. Upon the receipt of the notification, defendants who are to receive a sentence of Conditional Discharge or Probation, will be directed to appear at Probation Central Intake where arrangements will be made to connect them to a vendor. Proof of this connection will then be forwarded to the Court by the Department of Probation so that sentencing to a Conditional Discharge or Probation can commence promptly (no more than 30 days).

Should a probation sentence not be referred prior to sentence, Central Intake will identify the case and promptly notify the appropriate DWI Supervising Probation Officer to immediately refer the case to a vendor for ignition interlock within the time frame specified by DPCA regulations.

Upon the issuance of an order for installation of the system, the assigned probation officer will provide DMV with the necessary information to assist in determining the type of license, if any, to be issued.

The Westchester County Department of Probation Central Intake Unit will receive notification of sentences of probation and conditional discharge involving the use of interlock ignition via the Court Notification form and Probation/ Conditional Discharge Sentence form.

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.

Probation Officer conducting DWI Pre-Sentence Investigations assesses defendant's ability to pay for Ignition Interlock within the employment section of the PSI.

Please note, attached new form for Probation Sentences with payment plan option.

The Westchester County Department of Probation Central Intake Unit will receive notification of sentences of probation and conditional discharge involving the use of interlock ignition via the Court Notification form and Probation/ Conditional Discharge Sentence form.

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.

Probation Officer Central Intake identifies all Inter/Intra-State transferred probationers and offenders receiving ignition interlock and refers such cases to the DWI Program Supervising Probation Officers.

Probation Staff will identify those conditional discharge cases requiring transfer to other jurisdictions and commence the transfer process.

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.

Probation Officer Central Intake verifies the release dates of all incarcerated probationers and offenders using the VINE network or local Correctional information. Those receiving ignition interlock will be referred to the DWI Program Supervising Probation Officers.

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 responsibility of operating a vehicle that is equipped with the interlock device rests with the probationer or the offender receiving a Conditional Discharge. Failure to comply with any interlock system guidelines (i.e. BAC violations, circumventing or tampering with the device, etc.) could result in new charges being filed, a violation of probation submitted, revocation of the Conditional Discharge, temporary loss of his/her license or permanent surrender and/or revocation of driving privileges while on probation. Upon receipt, the Probation Department will forward non-compliance reports to the court. Please see the attached form, Ignition Interlock Court Report. This report was drafted by DPCA and modified by Westchester County Department of Probation and the District Attorney; and approved by the presiding Criminal Court judge of the 9<sup>th</sup> Judicial District.

Violations of Interlock Ignition that constitute a violation of probation shall be handled as a violation of probation and are addressed by standing policy incorporating the use of the "Conditional Discharge/ Probation Ignition Interlock Notification to Court and District Attorney" form.

### 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 Executive

Date