



**New York State  
Division of Criminal Justice Services (DCJS)  
Office of Probation and Correctional Alternatives (OPCA)**

# **IGNITION INTERLOCK PROGRAM PLAN UPDATE**

**ANDREW M. CUOMO  
GOVERNOR**



**MICHAEL C. GREEN  
EXECUTIVE DEPUTY COMMISSIONER**

**ROBERT M. MACCARONE  
DEPUTY COMMISSIONER AND DIRECTOR**

*Please submit your county plan update by June 17, 2014*

## 2014 WARREN COUNTY IGNITION INTERLOCK PLAN

### INTRODUCTION:

In 2010, New York State Division of Criminal Justice Services (DCJS) promulgated an Ignition Interlock rule, specifically 9 NYCRR Part 358, Handling of Ignition Interlock Cases Involving Certain Criminal Offenders to promote successful implementation of Chapter 496 of the Laws of 2009 — commonly referred to as “Leandra’s Law”. Among these regulatory provisions, section 358.4 required every county<sup>1</sup> to 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. Original county plans, approved by the county executive<sup>2</sup>, were previously submitted to DCJS’ Office of Probation and Correctional Alternatives to become fully operational by August 15, 2010. On this date, the law required courts to order operators convicted and sentenced under Leandra’s Law to install ignition interlock devices (IIDs) in motor vehicles they “own or operate” and be sentenced to probation or conditional discharge with a mandatory ignition interlock conditions in addition to any other penalty imposed. On July 26, 2013, Governor Andrew Cuomo signed into law, legislation strengthening certain provisions of Leandra’s Law. Chapter 169 of the Laws of 2013, which took effect November 1, 2013, now clarifies that Youthful Offenders are subject to Leandra’s Law provisions and recognizes pre-sentence installation of IIDs. As to the latter, courts have begun ordering the installation of ignition interlock devices in advance of sentencing and requiring monitors to oversee compliance. Also, there have been recent changes in the State’s classification of IIDs. For example, cameras are now a mandatory feature regardless of classification of IIDs.

Accordingly, it is important that all jurisdictions review their original plans to determine if any changes are required. *As a reminder, 9 NYCRR section 358.4(a) requires that where a plan has been amended, “it shall be promptly filed with [DCJS] in advance of its effective date.”*

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<sup>1</sup> The term “county” is defined by Rule Section 358.3(d) to mean “every county outside of the city of New York, and the City of New York as a whole.”

<sup>2</sup> The term “county executive” is defined by Rule Section 358.3(e) to mean a “county administrator, county manager, county director or county president and in cities with a population of one million or more, the mayor.”

Please take necessary steps to ensure completion of all portions of the attached plan requirements and return **no later than June 17, 2014** to:

**Shaina D. Kern**  
**Community Corrections Representative II**  
**NYS Office of Probation and Correctional Alternatives**  
**Alfred E. Smith Office Building**  
**80 South Swan Street, 3<sup>rd</sup> Floor**  
**Albany, New York 12210**

**Or E-Mail**

[djcsopcaiidreports@dcjs.ny.gov](mailto:djcsopcaiidreports@dcjs.ny.gov)

NOTE/PLAN INSTRUCTIONS: 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: Robert F. Iusi, Jr.

Title: Director of Probation

Phone Number: (518)761-6444

E-Mail: iusir@warrencountyny.gov

Address: Street: 1340 State Route 9

City: Lake George

Zip Code: 12845

Questions about plan should be directed to:

Same as above

Or

Name

Phone

E-Mail

1. A county plan is to be developed in consultation with the 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 may consult with other persons or entities as the county executive deems appropriate with respect to development of its plan. Please 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 Chief William Valenza, Glens Falls Police Department)
- Probation Director
- Representative of Legal Services for Indigent
- Sheriff
- STOP-DWI Coordinator
- Superior Court Judge
- Treatment Agency or Provider
- 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.

Note: Please check all boxes which may apply and provide any additional relevant information, if any, regarding monitoring of conditional discharge cases should there be more than one monitor so it is clear as to the cases handled by such monitors

4. Pursuant to Chapter 169 of the Laws of 2013, Leandra’s Law recognizes Ignition Interlock Devices can be installed in advance of sentencing. **Counties are encouraged to select either their Probation Monitor or Conditional Discharge Monitor as the person/entity which will monitor operators where a court has ordered imposition of an ignition interlock device in advance of sentencing with respect to Leandra’s Law cases.** Please specify the persons or entities who will be responsible for monitoring where courts have ordered such pre-sentence IID installation and maintenance:

- District Attorney
- Drinking Driver Program
- Police Commissioner (Specify Department \_\_\_\_\_ )
- Probation
- Sheriff
- STOP-DWI Coordinator
- TASC
- Traffic Safety Board Representative  
Pretrial Services Agency
- Other Agency or Organization\* (Specify: \_\_\_\_\_ )

\*Must be similar individual, agency or organization; cannot be a qualified manufacturer and/or installation/service provider.

Please check all boxes which may apply and provide any additional relevant information, if any, regarding monitoring of pre-sentence court-ordered IID Leandra’s Law cases should there be more than one monitor so it is clear as to the cases handled by such monitors The Warren County Probation Department will monitor Interim Probation Supervision cases and the District Attorney's Office will monitor pre-sentence cases where a Conditional Discharge disposition appears appropriate.

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

Department/Agency: Warren County Probation Contact Name: Robert F. Iusi, Jr. Phone Number: (518)761-6444 E-Mail: iusir@warrencountyny.gov Address: Street: 1340 State Route 9 City: Lake George Zip Code: 12845	Department/Agency: Warren County District Attorney Contact Name: Kate Hogan Phone Number: (518)761-6405 E-Mail: hogank@warrencountyny.gov Address: Street: 1340 State Route 9 City: Lake George Zip Code: 12845
Department/Agency: Contact Name:	Department/Agency: Contact Name:

Phone Number: E-Mail: Address:      Street: City: Zip Code:	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:

5. 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 [9 NYCRR Section 358.4(d)(1)].

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.

6. 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 [9 NYCRR Section 358.4(d)(2)].

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.

7. Every plan shall establish that where an operator has had an ignition interlock device imposed in advance of sentencing pursuant to a court order requiring a monitor to oversee installation, maintenance, and compliance, the monitor shall select the class and features 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 had an ignition interlock device imposed in advance of sentencing pursuant to a court order requiring a monitor to oversee installation, maintenance, and compliance, the monitor shall select the class and features 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.

8. In the event more than one qualified manufacturer does business within its region, the county plan 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 your jurisdiction [9 NYCRR Section 358.4(d)(3)].

Describe the procedure that the county 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 Warren County Probation Department and Warren County District Attorney's Office will develop a spread sheet to record all defendants that are placed under probation supervision or who receive a conditional discharge. The spread sheet will also include the level of DWI (Misdemeanor or Felony), the manufacturer that is providing service to the defendant and the payment status. This procedure will allow Warren County to document all offenders subject to this legislation, record the manufacturer that is serving the offender and to have a list of the number of interlocks provided by a given manufacturer.

The aforementioned spread sheet will be provided to the Courts in Warren County and the manufacturers on a monthly basis as well as being provided to the Assistant District Attorney who covers the respective courts. When a court determines that an offender is financially unable to afford the costs and receives a waiver, the District Attorney's Office and/or the Probation Department will check the spread sheet to see what manufacturer should provide the interlock based on the number of paid devices to each manufacturer.

9. Every plan shall establish a distribution formula for any available funding earmarked for probation supervision and/or other court-ordered monitoring purposes associated with Leandra's Law cases.

Describe the distribution formula that the county will utilize for any funding specifically provided for probation supervision and/or other court-ordered monitoring purposes associated Leandra's Law cases. Jurisdictions may choose to distribute funds according to the percentage of cases handled by each monitoring entity. Warren County distribution formula is the following; 50% Warren County Probation Department and 50% Warren County District Attorney's Office.

Provide contact information for fiscal officer:

Name: Michael Swan

Title: County Treasurer

Phone Number: (518)761-6379

E-Mail: swanm@warrencountyny.gov

Address: Street: 1340 State Route 9  
City: Lake George  
Zip Code: 12845

10. 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 [9 NYCRR Section 358.4(d)(5)].

- a. Describe the procedure the county 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 presiding court. Historically, the Probation Department has received Order and Conditions of Probation from the courts within five (5) business days. The Probation Department further is present in Warren County Court and has Probation Officers that take office reports in several of our local court buildings. Consequently, Order and Conditions of Probation are delivered from the courts to the Probation Department the same day an offender is sentenced to Probation supervision. With respect to Conditional Discharges, the District Attorney's Office has support personnel in Warren County Court and two of the county's larger local courts, Glens Falls City Court and Queensbury Town Court. This presence by the District Attorney's Office will ensure that Conditional Discharge cases from our two largest local courts will be received at the time of sentencing.

Regarding the other local courts, we have confidence that these courts will transmit Conditional Discharge notifications in the same manner that Order and Conditions are sent to the Probation Department. At the very least, courts will be instructed to fax notification to either the Probation Department or District Attorney's office that an offender has been ordered to have an ignition interlock device installed on their vehicle(s) immediately after the Court session has been completed.

- b. Describe the procedure the county will utilize to ensure the probation department and any other monitor will be notified no later than five (5) business days from the date of any waiver of the cost of the device granted by the presiding court. We believe the procedure described above will be sufficient for this requirement.

- c. Describe the procedure the county 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 presiding court of any intrastate transfer of probation or interstate transfer of any case which either has responsibility to monitor. Please see the information detailed in Question 8(a). Further an Order of Interstate Transfer of Probation Supervision is submitted to the courts by this department along with the Order and Conditions of Probation at the time we submit our Pre-Sentence Investigation to the Court. The Probation Department further complies with the Interstate Compact with respect to the out of state transfer

of probationers and makes this information known in our Pre-Sentence Investigations along with the requirements of interstate transfer.

d. Describe the procedure the county 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 Warren County Probation Department currently utilizes the VINE network in connection to defendants that are sentenced to State Prison and required to pay restitution. This system has worked well for our state prison restitution cases and we plan to utilize the VINE network with respect to the local or state prison DWI cases. It should be noted that Warren County feels this is a poor component of this piece of legislation.

11. Every plan shall establish a procedure governing failure report recipients<sup>3</sup>, including method and timeframe with respect to specific notification and circumstances. At a minimum, the procedure shall be consistent with provisions with respect to sentencing court and district attorney notification of specific failed tasks and failed tests reports delineated in 9 NYCRR Section 358.7(d).

Describe the county 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. Both the Warren County Probation Department and the Warren County District Attorney's Office response to reported operator's failed tasks or failed tests will be consistent with public safety.

The Warren County Probation Department will adhere to DPCA Part 352 Graduated Sanctions and Violations of Probation Rules and Regulations for any offender under Probation Supervision.

As the Warren County District Attorney's Office will be the monitor of the Conditional Discharge cases, they will be notified by the manufacturer that an operator has failed to have installed the ignition interlock device on his/her vehicle, failed to comply with a service visit requirement, tampered with or circumvented an ignition interlock device, any report of a lockout mode, and/or any report of failed test or retest where the BAC is .05 percent or higher. The DA Investigator assigned to monitor the Conditional Discharge case will investigate the allegations of misconduct promptly and then report the findings of the investigation in writing to the Court within five (5) business days.

#### Acknowledgement

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<sup>3</sup> The term failure report recipients" is defined by Rule Section 358.3(j) to mean "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 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."

I acknowledge that this Ignition Interlock Program Plan has been updated and that I will promptly file any amendments to this plan with the Division of Criminal Justice Services' Office of Probation and Correctional Alternatives in advance of its effective date.

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