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April 2016

Matthew L. Ossenfort, County Executive  
Members of the Legislature  
Montgomery County  
20 Park Street  
Fonda, NY 12068-1500

James E. Conboy, District Attorney  
Montgomery County  
64 Broadway  
Fonda, NY 12068-1500

Report Number: S9-15-4

Dear Mr. Ossenfort, Mr. Conboy and Members of the Legislature:

A top priority of the Office of the State Comptroller is to help county officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support county operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals we conducted an audit of six counties throughout New York State. The objective of our audit was to determine if the applicable county departments were adequately monitoring the State's Ignition Interlock Program to ensure proper use and compliance. We included Montgomery County (County) in this audit. Within the scope of this audit, we examined the county departments' policies and procedures and reviewed the record of actions taken to comply with monitoring requirements of the Ignition Interlock Program for the period January 1, 2010 through March 10, 2015. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This report of examination letter contains our findings and recommendations specific to the County. We discussed the findings and recommendation with County officials and considered their comments, which appear in Appendix A, in preparing this report. Except as indicated in Appendix A, County officials generally agreed with our recommendation and indicated they planned to

initiate corrective action. Appendix B includes our comments on issues raised in the County's response. At the completion of our audit of the six counties, we prepared a global report that summarizes the significant issues we identified at all of the counties audited.

## **Summary of Findings**

Department officials and the County's District Attorney (DA) generally monitored the ignition interlock device (IID) installations and negative activities of offenders as required. However, of 14 installation orders for individuals who owned or operated a vehicle during the IID order period, five were installed on average 21 days late<sup>1</sup> and one was not installed at all. We also found that a vehicle was registered during the IID period to one of the 42 individuals who indicated that they did not own or operate a vehicle. The monitors did not report any of these installation violations and, in addition, did not report the four cases with negative IID activity<sup>2</sup> to the court.

## **Background and Methodology**

Montgomery County is governed by a nine-member County Legislature (Legislature) and has a population of approximately 50,000. The County's fiscal year 2015 budgeted appropriations totaled \$102 million. The County's Probation Department (Department) monitors the installation and activity of court-ordered ignition interlock devices (IIDs), for individuals on probation, using seven probation officers. The installation and activity of court-ordered IIDs for conditional discharge cases is monitored by the DA. As of March 5, 2015, the County was monitoring 92 open cases<sup>3</sup> that required an IID installation.

"Leandra's Law," a New York State law enacted November 18, 2009,<sup>4</sup> is intended to protect the safety of the public. It requires, among other things, that – as a condition of being sentenced for certain alcohol related offenses occurring on or after August 15, 2010 – a convicted individual install a breath alcohol IID on any vehicle owned or operated by that individual for a certain period of time.<sup>5</sup> An ignition interlock device installed in a vehicle requires the operator to provide a breath sample in order to start the car.

The New York State Division of Criminal Justice Services (DCJS) has regulations for, among others, counties in regard to establishing standards for the usage and monitoring of IIDs ordered

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<sup>1</sup> Two cases exceeded the 10-day period by one day, one case by two days, one case by six days, and one case by 96 days (excluding non-business days).

<sup>2</sup> For audit purposes, a negative event (activity) is the result of an individual's actions that are not in compliance with listed events in 9 NYCRR Section 358.7 (d) (1).

<sup>3</sup> Composed of 77 probation cases and 15 conditional discharge cases

<sup>4</sup> The Child Passenger Protection Act (Chapter 496 of the Laws of 2009) is commonly referred to as Leandra's Law, which amended provisions of the Vehicle and Traffic Law (VTL), Executive Law and Penal Law. Provisions addressing the ignition interlock device became effective August 15, 2010, and Chapter 169 of the Laws of 2013, which strengthens certain provisions of Leandra's Law, took effect on November 1, 2013 (see Appendix C for additional detail). After this audit began, the Penal law was further amended to provide that when a court sentence includes a condition that an IID be installed and maintained by a defendant, and the court later declares that individual to be delinquent, the condition to have the IID installed continues to be in effect during the period of delinquency. The court may also extend the period of the IID installation by the period of the delinquency (see Chapter 440 of the Laws of 2015, effective November 20, 2015).

<sup>5</sup> See VTL Sections 1193, 1198; see also Executive Law Section 259-c.

by criminal courts for these alcohol-related sentences.<sup>6</sup> The County's Probation Department is responsible for monitoring court-ordered IIDs for individuals sentenced to probation, while those sentenced to conditional discharge are monitored by the County's DA.<sup>7</sup> Probation cases with an IID order requirement are generally assigned to one of seven probation officers. All conditional discharge cases are monitored by the DA.<sup>8</sup> Monitoring is a key component for ensuring that a vehicle operator is complying with a court order and for protecting the safety of the public.

Installation and activity requirements that must be monitored include the following:<sup>9</sup>

- The monitor shall receive court notification of an order for the IID within five business days from sentencing.
- The operator is required to have an IID installed within 10 business days of the court order or if sentenced to imprisonment, upon release from imprisonment, whichever is applicable.
- The operator shall submit to service visits at defined intervals (see Appendix C for details).
- The monitor shall notify the appropriate court and district attorney, within three business days, of the following:
  - Operator failure to install an ordered IID;
  - Operator non-compliance with a service visit requirement;
  - Any report of alleged tampering with or circumventing of the IID or an attempt thereof;
  - Any report of a lock-out mode, and/or any report of a failed test or retest when the BAC is 0.05 percent or higher.

Appendix C includes more details of monitoring requirements. The failure by an individual to comply with the Ignition Interlock Program may result in the conditional discharge or probation sentence being modified or revoked by the court.

To complete our audit objective, we conducted interviews with Department and DA personnel and reviewed policies/procedures. We also reviewed court orders, and information that the Department and DA maintained for the IID records we sampled. We examined communications to ensure that appropriate monitoring actions were taken and tested records to confirm compliance. We

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<sup>6</sup> See VTL Section 1193(1) (g) and 9 NYCRR Part 358 – Handling of Ignition Interlock Cases Involving Certain Criminal Offenders.

<sup>7</sup> As a general premise, probation is a sentencing option used by the court that permits the offender to remain in the community under conditions specified by the court, and involves some form of supervision or reporting requirement. A conditional discharge is a sentencing option which is generally used for minor violations that do not require a probation supervision. The regulations provide, in part, that the county's ignition interlock program plan "shall specify monitoring by the probation department where the operator is subject to a period of probation supervision and may designate one or more alternative persons or entities, in lieu of the probation department, responsible for monitoring where an ignition interlock device has been imposed pursuant to a conditional discharge" (see 9 NYCRR Section 358.4[c]).

<sup>8</sup> The DA's secretary is responsible for providing assistance with day-to-day monitoring activities, along with another staff member (an investigator) who provides license and vehicle registration search results, while the DA reviews and signs all correspondence.

<sup>9</sup> See 9 NYCRR Section 358.7.

conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix D of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

## **Audit Results**

The County's Probation Department and District Attorney are responsible for monitoring court-ordered IIDs for individuals sentenced to probation and those sentenced to conditional discharge, respectively.

Department officials and the DA generally monitored the IID installations and negative activities of offenders as required. However, six of 14 IIDs ordered for individuals who owned or operated a vehicle during the IID order period (43 percent) were installed after the required 10 business days or not at all. Five of the six were installed on average 21 days late and one not installed at all. We also found a vehicle registered during the IID period to one of the 42 individuals who indicated that they did not own or operate a vehicle. The monitors also did not report any of these installation violations. In addition, the monitor did not report the four cases with negative activity to the court.

IID Installations – We selected 56 court orders<sup>10</sup> requiring IID installation for offenders sentenced to probation and conditional discharge to determine if the Department and DA adequately monitored the installations and notified the court of violations as required. In 42 cases the individuals indicated that they did not own or operate a vehicle, and no IID was installed. While we confirmed that 41 of these individuals did not have a registered vehicle, one did have a registered vehicle during the period when an IID was required. During our fieldwork, the Department monitor identified this same situation during a probation investigation. Five of the remaining 14 IID orders for individuals who owned or operated a vehicle had installations that occurred after the required 10 business days, on average 21 days late,<sup>11</sup> and one was not installed at all. Further, the monitor did not report these installation violations to the court. The monitor attributed the lack of reporting to working with the individual to get the required installation.

Negative IID Activity – We reviewed the negative IID activity reported by the vendor for eight court orders<sup>12</sup> selected with installed devices and found that the monitor did not notify the court in the four cases in which all 35 negative events<sup>13</sup> occurred. The events included failed tests due to BAC levels and IID lockouts. The monitor attributed the lack of notification to being unaware of the requirement to notify the court of these events.

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<sup>10</sup> See Appendix D for methodology.

<sup>11</sup> Two cases exceeded the 10-day period by one day, one case by two days, one case by six days, and one case by 96 days (excluding non-business days).

<sup>12</sup> Six of the 14 court cases selected with an IID installed were closed at the time of our testing, which limited the County's ability to access the IID vendor records on those cases. Therefore, an additional six cases were selected as replacements.

<sup>13</sup> A "negative event" is counted each time an individual's actions are not in compliance with listed events in 9 NYCRR Section 358.7 (d) (1). For example, each of the following is counted as a separate "event" for a total of three negative events, even though the three events occur in one attempt to start a vehicle: a breath sample is given at a BAC of 0.05 percent, a sample is not given for a re-test, and a lock-out results.

While the IIDs potentially stop individuals from starting and driving their vehicle with a BAC higher than 0.025 percent,<sup>14</sup> courts rely on county monitoring to ensure an individual is following sentencing conditions and to protect the public. A failure to adequately monitor the IID Program and report violations could prevent a court from knowing about noncompliance and from deciding whether an individual's sentence needs to be modified or revoked to keep the county roadways safe.

### **Recommendation**

1. Department officials and the DA should address the causes of monitors' late or missed reporting of IID Program violations to the court and district attorney, and institute procedures, as necessary, to help ensure that all violations are reported in a timely manner.

The County Legislature has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Legislature to make this plan available for public review in the Clerk of the Legislature's office.

We thank the officials and staff of the Montgomery County Probation Department and District Attorney's Office for the courtesies and cooperation extended to our auditors during this audit.

Our office is available to assist you upon request. If you have any further questions, please contact Ann Singer, Chief Examiner of the Statewide and Regional Projects Unit, at (607) 721-8306.

Sincerely,

Gabriel F. Deyo  
Deputy Comptroller

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<sup>14</sup> See 9 NYCRR Section 358.5 (c) (2).

## **APPENDIX A**

### **RESPONSE FROM COUNTY OFFICIALS**

The County officials' response to this audit can be found on the following pages.



OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF MONTGOMERY  
STATE OF NEW YORK

JAMES E. CONBOY  
District Attorney  
Montgomery County  
County Office Building  
P.O. Box 1500  
Fonda, NY 12068  
Phone: (518) 853-8250  
Fax: (518) 853-8212

October 13, 2015

(Sent via fax and regular mail 10/13/15)  
Gabriel F. Deyo, Deputy Comptroller  
New York State Comptroller's Office  
110 State Street  
Albany, New York 12236

RE: NYS COMPTROLLER IGNITION INTERLOCK MONITOR AUDIT FOR  
MONTGOMERY COUNTY  
Audit Report Number: S9-15-4

Dear Sir or Madam:

In connection with the above-styled matter, we provide the following information:

We agree that the audit findings are accurate.

Our audit response is also serving as the CAP (Corrective Action Plan).

Corrections planned:

- Notify all courts, in writing, of monitoring requirement that the monitor is to receive written notification from the court within five business days of the sentencing court's order for an interlock device.
- Notify the appropriate court, in writing, of a defendant's failure to install a required interlock device if said device is not installed within the required 10 business days from sentencing date.
- Notify the appropriate court, in writing, of a defendant's violation of any other provisions of the interlock requirements such as failure to meet service requirements, tampering attempts, missed start up re-test, report of lockout mode, reports of failed test or re-test, or BAC of .05 percent or higher. These reports will be made within the required three business days whenever possible.

These requirements will be implemented by District Attorney's Office staff, including the confidential secretary and investigator. The above corrections will be fully implemented effective October 15, 2015.

There are no recommendations that have not been implemented.

NOTE: The report, while technically accurate, fails to address several issues noted below which are not within control of the monitoring authority:

- Notification from the courts is almost never received by this office within the required 5 business days.
- The defendant rarely, if ever, contacts the monitoring authority for any information regarding authorized installation facilities resulting in a delay in getting installation completed within the required 10 business days.
- The courts, with the exception of Amsterdam City Court and Montgomery County Court, are operated by lay people, lacking adequate legal training to understand and implement this program efficiently along with all of the other requirements they have to fulfill.

See  
Note 1  
Page 10

In addition, the report, while accurate, tends to be misleading

Of the 56 cases reviewed by the Comptroller's office, 42 defendants did not have vehicle. Of the remaining, 8 met the monitoring requirements and 6 did not.

One defendant failed to have an interlock device installed. He was sentenced on August 18, 2014. He was required to have installation completed by September 1, 2014. During this period, the defendant was trying to sell his vehicle. On November 3, 2014 a warning letter was issued that a violation of conditional discharge would be filed. He finally sold the vehicle on December 5, 2014.

See  
Note 2  
Page 10

In five cases, the required installation date was over the 10 business day requirement. As noted by the Comptroller's report, an average of 21 days late. In four of the cases, 1 was over 4 days, 2 were over 3 days and 1 was over 9 days, resulting in an average of 4 business days. The remaining case was over 101 days which resulted in the 21 day average. In this case the defendant kept reporting to the monitor that she was unable to get her vehicle to the installer due to financial issues.

See  
Note 3  
Page 10

The remaining issue\*\* from the Comptroller's report discusses negative activity on four defendants:

- 3 defendants had BAC over the threshold on 2 occasions.
- 1 defendant had a BAC over threshold on 4 occasions.

See  
Note 4  
Page 10

\*\* We could not verify these issues since the vendor purges defendant information once the case is closed.

See  
Note 5  
Page 10

The position of the Montgomery County District Attorneys' Office is that the program was effective because it prevented the defendant from driving a vehicle when the defendant's BAC registered a certain level.

In addition, the resources required to implement this program are insufficient. There was no training provided by the State to the monitors prior to the audit or upon instituting the program.

MONTGOMERY COUNTY PROBATION DEPARTMENT  
RESPONSE BY LUCILLE SITTERLY, DIRECTOR  
SUBJECT: IGNITION INTERLOCK AUDIT (REPORT NUMBER S9-15-4U)

Per the September 11, 2015 draft report submitted under the above-named title, the Probation Department was cited in one case where a defendant was ordered to have an ignition interlock device installed on a vehicle he owned or operated and failed to do so.

In the pre-sentence report submitted to the Court, the Probation Department spoke to this issue and included in the report to the Court that the defendant did own a vehicle that should have been subject to ignition interlock. The Court then ordered at sentencing that an ignition interlock be installed on the defendant's vehicle. Through subsequent contacts with the defendant both in office and during home visits, the vehicle in question was determined to have no license plates and be inoperable due to a dead battery. An ignition interlock was never installed on this vehicle. However, the Court of jurisdiction and the District Attorney were never apprised of this fact in any formal communication. Subsequent to the pre-sentence investigation, the registration expired and has not been renewed.

In essence, the Probation Department agrees with the finding of the audit in this instance.

Should you have any questions or comments, please do not hesitate to contact us.

Very truly yours,

~~JAMES E. CONBOY~~  
DISTRICT ATTORNEY

~~MATTHEW L. OSSENFORT~~  
COUNTY EXECUTIVE

JEC/ngh

## **APPENDIX B**

### **OSC COMMENTS ON THE COUNTY'S RESPONSE**

#### Note 1

Of the 56 cases tested at Montgomery County, court paperwork was received within five days of sentencing 84 percent of the time.

The County's own IID plan addresses the timeliness of the sentencing court's actions: "All Courts in Montgomery County will be apprised by the District Attorney of their obligation to contact either the Probation Dept. if the defendant is sentenced to a term of supervision or the District Attorney's office in the case of a CD. The Courts will be afforded an appropriate form in this regard for notification purposes developed and provided by the monitoring agents. Instructions will be provided to the local Courts regarding their obligation to notify the monitoring agent within 5 business days of disposition and appropriate forms will be provided for this purpose. Courts will be encouraged to fax the information to either the District Attorney or the Probation Department to expedite the process."

#### Note 2

An individual was sentenced on August 18, 2014 with an order to install an IID. While the operator notified the monitor that the vehicle was eventually sold in December 2014, according to regulations the monitor is required to notify the appropriate court and district attorney, within three business days, of the operator's failure to install an ordered IID. The monitor still had not reported this violation to the court as of March 10, 2015.

#### Note 3

We amended the report with a footnote to clarify the calculation.

#### Note 4

During the audit, we were provided with records of reportable negative activities in hardcopy format and subsequently returned them to the County, as required by the OSC chain-of-custody procedure. We offered to provide the investigator in the District Attorney's office with redacted copies of the referenced documents, but he told us they were not needed.

#### Note 5

While the objective of the established regulations is to promote public/traffic safety, it also promotes offender accountability and quality assurance through minimum standards for usage and monitoring of IIDs following a conviction of certain alcohol-related laws. A failure to adequately monitor the IID Program and report violations could prevent a court from deciding whether an individual's sentence needs to be modified or revoked.

## APPENDIX C

### CERTAIN DEFINITIONS AND MONITORING REQUIREMENTS<sup>15</sup>

#### **Definitions**

*“Ignition Interlock Device”* – any blood alcohol concentration equivalence measuring device which connects to a motor vehicle ignition system and prevents a motor vehicle from being started without first determining through a deep lung breath sample that the operator’s equivalent blood alcohol level does not exceed the calibrated setting on the device as required by standards of the department of health.

*“Monitor”* – the local probation department where the operator is under the probation supervision or any person(s) or entity(ies) designated in the county’s ignition interlock program plan for any operator granted conditional discharge.

#### **Monitoring Requirements**

Minimum standards for the usage and monitoring of ignition interlock devices imposed by a criminal court for a felony or misdemeanor under the Vehicle and Traffic Law or Penal Law are provided, in part, as follows.

- Any monitor shall receive notification pursuant to its county plan of all operators which it has responsibility to monitor within five business days of the sentencing court’s order imposing the condition of an ignition interlock device and of an operator’s release from imprisonment. Such monitor shall obtain proof of installation by the operator and installation/service provider.
- Every operator shall have installed and maintain a functioning ignition interlock device in any vehicle(s) he owns or operates within 10 business days of the condition being imposed by the court or if sentenced to imprisonment upon release from imprisonment, whichever is applicable; within three business days of installation, submit proof of installation to the court, county probation department, and any other designated monitor.
- Qualified manufacturers notify the monitor and county probation department when an ignition interlock device has been installed on an operator’s vehicle(s) within three business days of installation. Where a monitor learns that the operator no longer owns or operates a motor vehicle in which an IID has been installed, the monitor may issue letter of de-installation directly to the installation/service

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<sup>15</sup> See Title 9 NYCRR Part 358, Handling of Ignition Interlock Cases Involving Certain Criminal Offenders, available on the DCJS website: <http://www.criminaljustice.ny.gov/opca/ignition.htm>.

provider which authorizes removal of the device. The monitor selects the class of IID and features to be used in the county.

- Upon learning of the following events: (i) that the operator has failed to have installed the ignition interlock device on his/her own vehicle(s) or vehicle(s) which he/she operates; (ii) that the operator has not complied with service visits requirements; (iii) a report of alleged tampering with or circumventing an ignition interlock device or an attempt thereof; (iv) a report of a failed start-up re-test; (v) a report of a missed start-up re-test; (vi) a report of a failed rolling re-test; (vii) a report of a missed rolling re-test; and/or (viii) a report of a lockout mode; the applicable monitor shall take appropriate action consistent with public safety. Where under probation supervision, the county probation department shall adhere to Part 352. With respect to any operator sentenced to conditional discharge, the monitor shall take action in accordance with the provisions of its county ignition interlock program plan. At a minimum, any monitor shall notify the appropriate court and district attorney, within three (3) business days, where an operator has failed to have installed the ignition interlock device on his/her own vehicle(s) or vehicle(s) which he/she operates, where the operator has not complied with a service visit requirement, any report of alleged tampering with or circumventing an ignition interlock device or an attempt thereof, any report of a lock-out mode, and/or any report of a failed test or re-test where the BAC is 0.05 percent or higher. The monitor may recommend a modification to the operator's condition of his or her sentence or release whichever is applicable as otherwise authorized by law, including an extension to the IID period, a requirement that the operator attend alcohol and substance abuse treatment and/or drinking driver program, referral to the Department of Motor Vehicles to determine whether the department may suspend or revoke the operator's license, or recommend revocation of sentence or release. Where the operator is under the supervision by the Division of Parole, the monitor shall coordinate monitoring with the Division and promptly provide the parole agency with reports of any failed tasks or failed tests.
- Any monitor may disseminate relevant case records, including failed tasks or failed reports no otherwise sealed or specifically restricted in terms of access by state or federal law to, among others, appropriate law enforcement authorities. In all such instances, those to whom access has been granted shall not secondarily disclose such information without the express written permission of the monitor that authorized access.
- Every operator shall submit to service visits within thirty (30) calendar days of prior installation or service visits for the collection of data from the ignition interlock device and/or for inspection, maintenance, and recalibration purposes where the device does not automatically transmit data directly to the monitor; and submit to

an initial service visit within thirty (30) calendar days of installation and service visits within sixty (60) calendar days of prior service visits where the device either automatically transmits data directly to the monitor for inspection, maintenance, or recalibration purposes or the device head is sent to the qualified manufacturer every thirty (30) calendar days for such purposes, including data download. However, an operator shall only remove the device head upon receipt of a new device head.

#### Chapter 169 of the Laws of 2013:

On July 26, 2013, Chapter 169 of the Laws of 2013 was signed into law, to strengthen Leandra's Law and establish new safeguards to help keep impaired drivers off the streets. This Chapter law took effect November 1, 2013 and applies to those violations committed on and after such date. Among its provisions are as follows:<sup>16</sup>

- Extending the period of interlock restriction to a minimum of 12 months (from 6 months) for individuals convicted of certain alcohol-related offenses.<sup>17</sup>
- Authorizes imposition of IIDs to be installed prior to sentencing as a preventive measure. The period of IID restriction will commence from the earlier of the sentencing date, or installation date in advance of sentencing.
- Establishing that a court can waive the installation of an IID only where the defendant asserts under oath that he/she is not the owner of any motor vehicle and that he/she will not operate any motor vehicle during the period of interlock restrictions, except as may be otherwise authorized pursuant to law.
- Ensuring that youth adjudicated as Youthful Offenders of DWI and/or other alcohol related offenses will be subject to Leandra's Law provisions, including the IID requirement.
- Expanding upon the Class E felony, Aggravated Unlicensed Operation 1st Degree to capture operators who were given the benefit of a conditional license after a DWI and/or alcohol-related offense and then drive impaired again.
- Clarifies that operators provide proof of installation compliance with the IID requirement to the court and the probation department or other monitor where such person is under probation or conditional discharge supervision.

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<sup>16</sup> See Leandra's Law – Reform and Ignition Interlock Program Plan Updates, State of New York Division of Criminal Justice Services, Office of Probation and Correctional Alternatives, dated April 14, 2014.

<sup>17</sup> VTL Section 1193(1) also provides that “such period of interlock restriction shall terminate upon submission of proof that such person installed and maintained an ignition interlock device for at least six months, unless the court ordered such person to install and maintain an ignition interlock device for a longer period as authorized...and specified in such order.”

## APPENDIX D

### AUDIT METHODOLOGY AND STANDARDS

We interviewed the County staff involved in the IID Program for general background information and policies/procedures in place with respect to usage of ignition interlock devices and monitoring the compliance of an individual subject to installation of an ignition interlock device.

To determine if the Department and DA are monitoring the IID Program for both conditional discharge and probation cases, we obtained the list of individuals with a court sentence to install an IID. To verify reliability, we compared this list, which was pulled from the County Probation Department's quarterly reports,<sup>18</sup> to the New York State Office of Court Administration (Unified Court System) records showing required IIDs.

We first sampled 50 of 121 cases reported by the County from 2013 through February 23, 2015 for conditional discharge and probation cases to focus on current impact to the public. We sorted the list for the sample by separating conditional discharge from probation cases, selecting every third case for conditional discharge cases until reaching the count of 25 and every third case for probation cases until reaching the count of 25. Six of the court cases selected were closed at the time of our testing, which limited the County's ability to access the IID vendor records on those cases. Therefore, six more cases were selected from 2014-15 for a total of 56 cases. We sampled cases based the most recent sentencing dates in 2015 to reach the quantity needed of currently active cases. We reviewed documentation in each individual file (hardcopy and electronic formats when available) to determine timing of installation of an IID and communications between the monitor and the courts/DA. Further, we met with County staff to understand the actions taken for negative activity related to a case.

For the same cases sampled that were identified by court documentation as not having a vehicle and where no IID was installed, we used software tools to determine if the individual had any vehicle registered.<sup>19</sup>

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>18</sup> County reports: "Monitors' Report of Ignition Interlock Sentences Received" and "County Monitors' Report of Ignition Interlock Device Sentencing Orders Received and Installation Status"

<sup>19</sup> The software accesses only public records reported in electronic format.