



# Corrections and Community Supervision

## SEX OFFENDER COUNSELING AND TREATMENT PROGRAM GUIDELINES JULY 2024

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## **INTRODUCTION**

The New York State Department of Corrections and Community Supervision (DOCCS) operates a counseling and treatment program for individuals who have committed sexual offenses. The Sex Offender Counseling and Treatment Program (SOCTP) is offered at maximum and medium security facilities in the state prison system and provides comprehensive counseling and treatment for individuals convicted of committing a sexual offense(s), sexually motivated offenses, and individuals whose histories (including behavior while incarcerated), indicate they are likely to benefit from counseling and treatment.

Now more than ever, increased attention has been focused on individuals who commit sexual offenses and individuals convicted of certain designated offenses. Initiatives such as civil management and sex offender registration are just two examples of the policies that have been established to manage this segment of the population. With the limitations of these interventions in mind and the fact that only a small fraction of individuals who commit sexual offenses will be the subject of a civil management proceeding, the Department recognizes that most individuals who commit sexual offenses and other individuals with histories of sexual offending behavior will be released to live and work in our communities and be responsible for controlling their own behaviors. Based on this reality, SOCTP is designed to provide individuals convicted of sexual offenses, and other individuals with a history of sexual offending behavior, the knowledge and skill sets that they need to live pro-social, law-abiding, and productive lives. SOCTP is designed as a first step in the continuum of sex offender treatment.

As used in connection with SOCTP, the phrase “individuals who have committed sexual offenses” includes all individuals who are convicted of committing sexual offenses, those convicted of sexually motivated offenses, and other individuals who are likely to benefit from sex offender counseling and treatment. Individuals who have committed sexual offenses is not limited to participants who are required to register under the Sex Offender Registration Act (SORA) (Correction Law §168-a) and/or who are subject to civil management review under Mental Hygiene Law §10.03 (g), of the Sex Offender Management and Treatment Act (SOMTA).

These guidelines are meant to establish and maintain standardization of all Department SOCTPs.

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## MISSION STATEMENT

In keeping with the Department's vision, mission statement, goals, values, and policies, DOCCS is providing sex offender counseling and treatment to individuals who commit sexual offenses and other individuals with histories of sexual offending behavior. In accordance with SOMTA, the Department is committed to providing high quality comprehensive sex offender counseling and treatment. The primary purpose of the program is to reduce the likelihood of reoffending by assisting participants in the management of their thoughts and behaviors which lead to sexual offending.

## PHILOSOPHY

DOCCS conducts sex offender counseling and treatment under the premise that individuals who commit sexual offenses can change, and that sexual reoffending behavior can be reduced through treatment. The Department is dedicated to providing a comprehensive approach to assessment, evaluation, counseling, and treatment to adult individuals. This is accomplished through the application of individual meetings, group therapy, prosocial /strength-based activities, and psycho-educational sessions, provided with sufficient time to build strong therapeutic alliances and to identify and address underlying issues and concerns.

The Department's philosophy of counseling individuals who committed sexual offenses incorporates the following beliefs:

- Empirical evidence indicates and supports that sex offender counseling and treatment is effective.
- Assessment is vital and ongoing.
- Individuals who commit sexual offenses are completely responsible for their behaviors and understanding these behaviors is possible with counseling and treatment.
- Sexual abuse results from a series of decisions made by the individual.
- It is possible for individuals to learn to monitor and control thoughts and behaviors which may lead to sexual offending.
- Counseling and treatment services for individuals who commit sexual offenses must be delivered in a professional and ethical manner.
- It is the policy of DOCCS to provide full and fair participation in all of its programs and services to individuals without discrimination on the basis of age, race/color, sex, gender, ethnicity, national origin, sexual orientation, physical/mental ability, gender identity/expression, socioeconomic condition, religious beliefs, education, language, life experience, field of work, tenure, experience, management status, income, values, styles, perceptions, attitudes, preferences, and others.

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- Counseling and treatment are individualized through the targeting of dynamic risk factors within appropriate timeframes.
- Counseling and treatment goals and objectives are a collaborative effort between treatment staff and the individual.
- It is important to apply a positive and motivational approach to the counseling and treatment of individuals who commit sexual offenses. This serves to engage the individual, making the progress gratifying and beneficial, so the individual is provided with the greatest opportunity to gain positive, pro-social, personal insight and progress.
- Program participants are responsible for their participation and progress in the program.
- Monitoring participation and progress is necessary to provide warranted intervention.
- Individuals who commit sexual offenses that participate in treatment in a supportive environment are less likely to reoffend.
- Continued community-based counseling and treatment may be necessary for many individuals.

### PROGRAM OVERVIEW

SOCTP and the Office of Mental Health (OMH) Prison Based Sex Offender Treatment Program (PBSOTP) are the only DOCCS recognized programs designed to meet the counseling need for individuals who have committed sexual offenses as identified in the Earned Eligibility Plan or Program Plan.

PBSOTP runs separately and independently of SOCTP. OMH staff is responsible for the provision and oversight of the PBSOTP.

SOCTP is a 6 to 18-month program that is comprehensive in scope and utilizes an integrated approach including individual and group counseling, individualized treatment planning, prosocial /strength-based activities, and psycho-educational and cognitive behavioral groups. In accordance with Correction Law § 622, the length of participation for each individual to achieve successful completion shall be minimally dependent upon assessment of the individual's specific needs and the progress made by the individual.

SOCTP is provided in residential and modular (non-residential) settings.

**Residential:** A setting where general confinement SOCTP participants are housed together in a unit that employs Therapeutic Community (TC) concepts. The focus of the TC is to affect a positive change through the establishment of an emotionally and physically healthy environment (2024 Therapeutic Community Supplement). Individuals assume responsibility for the community through each member's involvement in the community's system. The sense of mutual responsibility to self and others encouraged in this system fosters the rehabilitative approach, mutual self-help, work as therapy, and staff and peers as role models. Individuals on these units participate in other programs when not engaged in counseling and treatment,

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including Alcohol and Substance Abuse Treatment (ASAT) for designated individuals with a recognized substance abuse treatment need. Most counseling activities occur within the residential unit. Participants may have access to general population activities depending on the rules and policies of the facility.

**Modular:** Participants assemble in a specific area where ongoing counseling and treatment is provided and do not reside together.

Several of the identified facilities are designed to provide SOCTP services for specialized populations including: the Intermediate Care Program (ICP), Protective Custody (PC), Regional Mental Health Unit (RMHU), Regional Medical Unit (RMU), Assessment and Program Preparation Unit (APPU), and Special Needs Unit (SNU).

Depending on the particular treatment needs of the individual, SOCTP is divided into three distinct treatment tracks, **Low-Risk, Moderate-Risk, and High-Risk.**

Both facility administration and SOCTP staff are responsible for providing an appropriate, confidential, and safe environment for the provision of the program. In addition to specific counseling and treatment, the participants are encouraged and expected to actively pursue other skill building and developmental programming activities such as academic, vocational training, aggression programming, substance use treatment, Transitional Services, healthy leisure activities, and any other recommended counseling programs as deemed appropriate for addressing an individual's criminogenic needs, the enhancement of wellness, and/or self-esteem. For ongoing support of the recovery process, participants who complete the program are encouraged and, in some cases, mandated to continue treatment in the community upon release.

### PROGRAM GOALS

The main goal of SOCTP is to reduce the likelihood of re-offending by assisting participants to control their chain of behaviors that lead to sexual offending. This is accomplished by helping participants increase their awareness and insight into their sexual offending behavior through education, counseling, and treatment. Participants in SOCTP should be able to demonstrate to SOCTP staff that they have developed their knowledge and skills to be applied to a viable release plan with relapse intervention and prevention strategies. Moreover, for participants to understand the cycle of behavior that may lead to them being accused of sexually offensive behavior.

### PROGRAM CURRICULUM

All SOCTPs will adhere to SOCTP curriculum. The curriculum has been designed in such a way that it allows participants who have had their program interrupted for a short time to potentially restart where they left off.

The curriculum is divided into three levels and covers the following major subject areas: cognitive distortions, core values and beliefs, sexual abuse, cycle of sexual offending behavior, relapse prevention skills, relationships, and discharge planning. No changes to the curriculum

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are allowed. Proposed supplements must be approved by SOCTP staff in Central Office Guidance and Counseling.

## **PROGRAM ADMINISTRATION, ORGANIZATION, AND STAFF**

### **PROGRAM ADMINISTRATION**

Central Office Guidance and Counseling supervises SOCTP under the direction and administration of the Deputy Commissioner and Assistant Commissioner for Program Services.

All staff function as a team, inclusive of security staff in residential settings. The program is supervised by a Supervising Offender Rehabilitation Coordinator (SORC) and facilitated by SOCTP treatment staff. The low-risk SOCTP, levels one and three, may be facilitated by an Offender Rehabilitation Coordinator (ORC) or clinical staff. In the moderate and high-risk program, the Structural Support material can be facilitated by an ORC or clinical staff, however, the Core Groups must be facilitated by clinical staff. It is strongly recommended that all groups be co-facilitated whenever possible.

The size of a program and the needs of the individual population affect the staffing design of each program individually. SOCTP staffing that is typical of the various programs offered throughout the program is described below:

### **PROGRAM STAFF**

#### **Modular Low-Risk**

Supervising Offender Rehabilitation Coordinator  
Offender Rehabilitation Coordinator or Social Worker

#### **Modular Moderate and High-Risk**

Supervising Offender Rehabilitation Coordinator  
Social Worker  
Offender Rehabilitation Coordinator

#### **Residential**

Supervising Offender Rehabilitation Coordinator  
Psychologist  
Offender Rehabilitation Coordinator  
Social Worker  
Offender Rehabilitation Coordinator (ASAT)  
ASAT Program Assistant  
Security staff



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## OFFENDER REHABILITATION COORDINATOR CASELOADS

An ORC assigned to SOCTP will carry a reduced guidance caseload of fifty (50) individuals, which is to include their treatment caseload.

## SEX OFFENDER COUNSELING AND TREATMENT PROGRAM STAFF TRAINING

Staff will attend Department endorsed sex offender training as offered, and minimally annually. These opportunities will be forwarded to facility supervisory and treatment staff once they are approved. Sex offender training opportunities which come to the attention of facility staff must be forwarded to Central Office Guidance and Counseling for review, approval, and statewide distribution if appropriate.

## PROGRAM ELIGIBILITY

### ESTABLISHING THE SEX OFFENDER COUNSELING NEED

General confinement correctional facilities have the authority to establish the sex offender counseling need in the initial Earned Eligibility Plan or Program Plan of any individual meeting the following criteria:

- The individual is serving a sentence for a sex offense, attempted sex offense or conspiracy to commit a sex offense as defined by Section §10.03 (p) of the NYS Mental Hygiene Law, including a sentence for a specified offense as a sexually motivated felony under Penal Law Section §130.91 (**ATTACHMENT 1**).
- The individual is serving a sentence for a conviction of any crime deemed a registerable offense under SORA (**ATTACHMENT 2**). It should be noted that individuals serving a sentence for a SORA offense absent sufficient sexual motivation will be, barring any additional relevant factors, referred to Central Office Guidance and Counseling SOCTP staff for consideration of appropriate program assignment.

Once an Earned Eligibility Plan or Program Plan has been established, the sex offender counseling need can only be updated by staff in Central Office Guidance and Counseling.

Central Office SOCTP staff will review each individual case for potential establishment of the sex offender counseling need or the individual's suitability to readdress their sex offender counseling need based on the following criteria for those individuals not convicted of a qualifying sex offense as defined above, individuals that experienced a regression subsequent to the completion of SOCTP, or individuals returned to the Department's custody as returned parole violators:

1. The individual is serving an indeterminate or determinate sentence(s) of imprisonment for any non-sex crime which also satisfies a sentence for any sex offense (e.g., pursuant to Penal Law Section §70.35).
2. The individual's instant offense is a non-sex crime, but there is evidence in the pre-sentence investigation or other related documents that behavior of a sexual nature

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occurred in the commitment of the crime. All SOMTA ineligible and/or non-registerable prostitution convictions should have their case reviewed for the sex offender counseling need based on determining factors including but not limited to intimidation, violence, and coercion. Additionally, any individual who is currently serving a sentence for Criminal Contempt or was under supervision for a Criminal Contempt conviction immediately prior to entering the Department's custody, where the subject of the order of protection had been sexually victimized by the individual should be reviewed for the sex offender counseling need.

3. The individual is sentenced on a violation of probation for a sex offense, or the individual was serving a probationary supervision term for a sex offense or an offense that included behavior of a sexual nature and while under supervision was convicted of the instant offense.
4. At any time of incarceration for the instant offense, the individual has a commitment detainer lodged against them for a conviction for a sex offense or any other offense that included behavior of a sexual nature.
5. The individual's instant offense is Failure to Register as a Sex Offender 1<sup>st</sup> or 2<sup>nd</sup> offense (Correction Law § 168-t).
6. The individual receives a guilty Tier disposition per the *Incarcerated Individual Standards of Behavior* for a sex offense, threats to commit a sex offense, penal law offense of a sexual nature, or attempt thereof.

Based on the Department's zero tolerance policy for individual on individual sexual abuse as outlined in Directive 4027A "Sexual Victimization Prevention & Response," and in accordance with the Prison Rape Elimination Act (PREA), individuals who are found guilty of a Tier disposition per the *Incarcerated Individual Standards of Behavior* for a sex offense, threats to commit a sex offense, penal law offense of a sexual nature, or attempt thereof while incarcerated will be referred to Office of Guidance and Counseling SOCTP staff per criteria #6 and may be required to participate in the SOCTP. If the individual has an established sex offender counseling need which pre-dates the individual-on-individual sexual abuse, a non-sex offense referral will not be necessary.

7. The individual is a returned parole violator who had the assessed need for sex offender counseling prior to release, but never completed SOCTP.
8. The individual is a returned parole violator with no assessed sex offender counseling need prior to their release to supervision and failed to complete or comply with mandated sex offender counseling while supervised in the community as a discretionary sex offender.
9. The individual is a returned parole violator with a previously assessed and satisfied need for sex offender counseling and their supervision has been revoked for incurring one or more high-risk behaviors including but not limited to: non-compliance with

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supervision, violation of sex offender specific conditions, substance abuse, violence or aggression, a new arrest/conviction or contact with a police agency.

10. Documented evidence exists in the Parole Violation of Release Report that inappropriate sexual offending behavior occurred while under Parole supervision.
11. After completing SOCTP, the individual is found guilty per the *Incarcerated Individual Standards of Behavior* of committing a sex offense, threats to commit a sex offense, penal law offense of a sexual nature (or attempt thereof), disobeying a direct order for possessing, accessing/using pornography or unauthorized literature, or possession of contraband as defined in the Waiver of Access to Pornography, Photographs and Other Materials (**ATTACHMENT 3**) and the Amendment to Waiver of Access to Pornography, Photographs and Other Materials (**ATTACHMENT 3A**).
12. After completing SOCTP, the individual is found to be in violation of an Order of Protection or negative correspondence order involving the victim(s) of their sex offense(s).
13. An individual who completed the Department's previous Sex Offender Counseling Program (SOCP) prior to the enactment of Correction Law § 622 (effective April 13, 2007) shall be assessed by Central Office Guidance and Counseling to determine whether they require additional treatment in the moderate or high-risk SOCTP or OMH PBSOTP.

### PROGRAM REFERRALS

For cases meeting any of the criteria listed above, staff are to submit the Sex Offender Counseling and Treatment Program Referral (**ATTACHMENT 14**), along with separately attached supporting documentation to the Central Office Guidance and Counseling SOCTP shared email: [soctpc@dojccs.ny.gov](mailto:soctpc@dojccs.ny.gov), as indicated below.

#### Non-Sex Offense Referral

A Non-Sex Offense Referral will be used to refer cases which meet criteria #1 through #6 to Central Office Guidance and Counseling. Upon submitting the referral, the Pre-Sentence Investigation, or other pertinent documentation pertaining to the referral shall be submitted. Individuals not convicted of a qualifying sex offense should not have the sex offender counseling need reflected on their Earned Eligibility Plan or Program Plan until determined by Central Office Guidance and Counseling SOCTP staff.

#### Parole Revocation Referral

A Parole Revocation Referral will be used to refer cases which meet criteria #7 through #10 to Central Office Guidance and Counseling. Upon submitting the referral, the Violation of Release Report (Form CS4003) including all violation charges (both sustained and non-sustained), and any other pertinent documentation pertaining to the referral shall be submitted. Returned parole violators with a pre-

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established need for sex offender counseling meeting any of these criteria should have the status code Unclear (UNC) reflected for their sex offender counseling need on their Earned Eligibility Plan or Program Plan until a determination as to their program eligibility is received from Central Office Guidance and Counseling. If the individual is found to not have to readdress their sex offender counseling need, the status code Parole Violator-No Additional SOCTP Required (NSX) should be reflected on their Earned Eligibility Plan or Program Plan.

### **Regression Referral**

A Regression Referral will be used to refer cases which meet criteria #11 and #12. to Central Office Guidance and Counseling. Upon submitting the referral, all pertinent documentation pertaining to the referral shall be submitted. Individuals meeting any of these criteria should not have the Regression (REG) status code reflected on their Earned Eligibility or Program Plan unless determined by Central Office Guidance and Counseling SOCTP staff.

After reviewing the referral and all pertinent documentation, Central Office Guidance and Counseling SOCTP staff will make a determination concerning an individual's need for sex offender counseling and will email a decision to the requesting facility including the indicated treatment level if applicable. If the individual is found to be suitable for an assessed sex offender counseling need or suitable to readdress the sex offender counseling need, Central Office Guidance and Counseling SOCTP staff will update the individual's Earned Eligibility or Program Plan (when necessary). Facility staff will notify the individual of any change to their Earned Eligibility or Program Plan, place the completed referral into the Guidance folder, make a chronological entry, and will utilize KGNC and KIPY systems to add the individual to the appropriate shop code for sex offender counseling, and will generate and complete a UIR (Unscheduled Individual Review) for the Earned Eligibility or Program Plan to reflect the appropriate status code.

## **RISK ASSESSMENT AND PLACEMENT**

### **TREATMENT RISK ASSESSMENT**

During the reception process, individuals serving a sentence for a conviction for one or more offenses specified under Mental Hygiene Law (MHL) §10.03 (p) or an offense designated as a sexually motivated felony under Penal Law Section §130.91 may be assessed for initial treatment level placement by OMH using the Computerized Criminal History CCH-Based Risk Instrument (CBRI) and, possibly a staff performed Sex Offender Treatment Needs Assessment. Though initial placement is determined through the CBRI, facility SOCTP clinical staff should complete a Static-99R to support proper placement once the individual begins participation in SOCTP.

Individuals with a need for sex offender counseling who have not had their initial treatment risk assignment assessed at reception or have not been convicted of a qualifying offense under

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MHL §10.03 (p) or Penal Law Section §130.91 will be assessed by Central Office Guidance and Counseling SOCTP staff or facility SOCTP clinical staff using the Static-99R instrument prior to or during their admission to the program. Upon completion of an initial risk assessment, participants will be assigned a treatment need designation of low, moderate, or high-risk for sexual reoffending. Once an individual has been assigned a risk level, the assigned ORC will ensure that the individual has been placed on the proper RPL of 87C for low-risk individuals or 87H for moderate and high-risk individuals.

Some SOCTP participants may be subject to additional assessments consistent with best practices in the field of sex offender counseling including but not limited to: The Stable 2007, the Sex Offender Treatment Intervention and Progress Scales (SOTIPS), the Screening Scale for Pedophilic Interests, or the Texas Christian University (TCU) Criminal Thinking Scales. All risk assessments are to be completed in accordance with their intended use.

The completion of psychosexual evaluations for moderate and high-risk individuals is encouraged. Any questions regarding the utilization of the above assessments may be forwarded to SOCTP staff in Central Office Guidance and Counseling.

### **TREATMENT RISK ASSESSMENT OVERRIDES**

Empirical research indicates there are limitations to actuarial assessment tools in assessing an appropriate level of treatment for some individuals requiring sex offender counseling. In cases where it is believed a risk level assignment does not appropriately capture the treatment needs for an individual, any member of the treatment staff can submit a Risk Assessment Override (**ATTACHMENT 4**) to SOCTP staff in Central Office Guidance and Counseling for further assessment and a final risk level determination.

### **TRANSFER PROCEDURE**

It is very important to provide individuals who commit sexual offenses with statutorily mandated sex offender counseling in a timely fashion. Procedurally and according to best practices in the field of sex offending, individuals assessed with a sex offender counseling need will be placed in SOCTP in close proximity to their qualifying release date. Individuals with earlier qualifying release dates will take priority for placement over individuals with later dates. Per Section §622 of Correction Law, participation in SOCTP is coordinated to permit the completion of the program prior to civil management review for individuals convicted of SOMTA qualifying offenses.

All transfers of individuals into facilities for SOCTP are overseen by the Office of Classification and Movement in collaboration with Central Office Guidance and Counseling.

The Department's automated transfer system schedules moderate and high-risk general population individuals in male classified facilities for appropriate placement into SOCTP when they are within thirty-six (36) months of their Conditional Release Date and low-risk general population individuals in male classified facilities schedule for an automated transfer when they are within eighteen (18) months of their Earliest Release Date. When an individual is identified by the automated transfer system for SOCTP placement eligibility, a priority UTR is generated for transfer to a suitable facility offering SOCTP. For time eligible individuals already at

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correctional facilities with a suitable SOCTP, facility staff may be instructed via email to place the individual in their SOCTP providing available space exists.

Individuals in need of low, moderate, or high-risk sex offender counseling who reside in an ICP, SHU, PC, SNU, RMU, or RMHU, female classified individuals, and moderate and high-risk individuals serving indeterminate life terms will be manually reviewed for transfer into an SOCTP facility using management reports provided by the Office of Information Technology Systems (ITS) and/or the Office of Program Planning, Research, and Evaluation. Gender non-conforming individuals may require manual review for appropriate placement in a facility to best address their needs.

Individuals assessed as needing moderate or high-risk SOCTP placement and serving indeterminate life terms will be eligible for placement within thirty-six (36) months of their ERD. Low-risk individuals serving indeterminate life sentences will be scheduled for placement by the automated transfer system within eighteen (18) months of their ERD. Returned parole violators with no new term who require participation in SOCTP, will be placed into the program based on their ERD.

Though most transfers into SOCTP will be generated by Central Office Classification and Movement staff, some transfers may require submission of an Unscheduled Transfer Review (UTR). For these cases, Central Office staff will email the appropriate SORC with instructions to submit a **priority** UTR for the individual's participation in SOCTP at a designated facility (when possible). SOCTP staff from Central Office Guidance and Counseling and/or other pertinent Central Office staff must be notified via email if the transfer request cannot be submitted. The action taken by the facility will be documented in the chronological entry sheet of the individual's Guidance folder.

A transfer order will be issued by Central Office Classification and Movement and monitored by Central Office Guidance and Counseling SOCTP staff to ensure individuals are placed in accordance with qualifying release dates.

SOCTP staff in Central Office Guidance and Counseling should be notified if an eligible individual has not scheduled for participation in SOCTP within eighteen (18) months of their earliest release date for low-risk designation and within thirty-six (36) months for moderate/high-risk designation.

### ORIENTATION STATUS CODE

The Orientation status code (ORI) is to be used only in conjunction with SOCTP for all cases where the facility has been notified that an individual is to be enrolled in the program. Upon arrival via transfer or direction received from Central Office Classification and Movement, or Central Office Guidance and Counseling SOCTP, that an individual is to be placed in SOCTP, the SORC will ensure the completion of an Unscheduled Individual Review (UIR) and assign the status code of ORI to the individual for the sex offender counseling need. After completing facility orientation, it should be confirmed by the SORC that the status code has been updated to reflect Present Program Acceptable Level of Participation and Progress (PPA) once the individual begins participation in the program. If the individual refuses SOCTP during the facility orientation, the status code should be changed to REF.

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## INCARCERATED INDIVIDUAL PAYROLL SYSTEM CODES

The correct shop code must be used when admitting participants into SOCTP. If the wrong shop code is used, the participant's name will remain active on SOCTP RPL. Any questions concerning an individual's placement on the correct SOCTP RPL, or correct SOCTP shop code, should be directed to Central Office Guidance and Counseling SOCTP staff. Shop codes will be used as follows:

| PROGRAM                                   | RPL CODE | SHOP CODE - NAME                    | TITLE CODE - NAME              |
|---|----------|-------------------------------------|--------------------------------|
| Residential Moderate/High-Risk            | 87H      | 892 – Intensive Sex Off. Counseling | 11625 – SOP Participant        |
| Marcy OSOP Residential Moderate/High-Risk | 87H      | 892 – Intensive Sex Off. Counseling | 11621 – OMH SOP PARTICIPANT II |
| Modular Moderate/High-Risk                | 87H      | 894 – Intensive SOP Modular         | 11717 – Participant II         |
| Residential Low Risk                      | 87C      | 872 – Sex Offender Counseling       | 11625 – SOP Participant II     |
| Modular Low-Risk                          | 87C      | *872 - Sex Offender Counseling      | 11717 – Participant II         |
| Substance Use Treatment                   | 75D      | **893 - CD/SOP                      | 11718 – ASAT Participant       |

\* All female classified individuals recommended for participation in SOCTP will be placed on the 87C RPL and programmed using shop code 872 – Sex Offender Counseling.

\*\* When an individual who has a substance use treatment need is assigned to residential SOCTP programming employing the Therapeutic Community (TC) modality, the individual will also be placed in CD/SOP (shop code 893 – CD/SOP) 9 months prior to the individual's expected SOCTP completion date. CD/SOP will be only offered to those individuals with an unmet substance use need who are residing on a SOCTP residential unit (TC).

## PROGRAM RELATED POLICIES

### PROGRAM ORIENTATION

Before an individual starts SOCTP, an orientation is provided where program specific standards of behavior and expectations are explained, and participants are provided with a copy of the *SOCTP Orientation Handbook*. Individuals programmed in residential settings will receive a copy of the *2024 Therapeutic Community Supplement*. In addition to the articulation of program expectations, the following is a list of program specific requirements and tasks that are to be completed in the orientation phase of the program.

1. Participants must comply with all required treatment risk assessments.

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2. Participants must sign the Limits of Confidentiality, Partial Waiver of Confidentiality and Acknowledgement (**ATTACHMENT 5**). Confidentiality is paramount to the integrity of SOCTP, and the release of information is done in compliance with all governing protocols.

The Association for the Treatment and Prevention of Sexual Abuse's (ATSA) professional code of ethics requires its members to inform clients of the limits of confidentiality, exceptions to any agreed upon confidentiality, mandatory reporting requirements, and to address issues of confidentiality in a group setting. The Department's SOCTP is designed to be as consistent as possible with the ATSA standards and the Limits of Confidentiality, Partial Waiver of Confidentiality and Acknowledgment form (**ATTACHMENT 5**) is intended to assist in meeting this ethical standard of treatment.

The disclosures contemplated in the Acknowledgment form take into consideration statutory and other disclosure requirements most often associated with the treatment of incarcerated individuals who committed sexual offenses and other individuals with a sex offender counseling need in the Department's custody. These disclosure requirements may not be applicable in every case; however, as is with the law, facts and circumstances continue to change, thus, disclosure requirements may as well.

3. At the time of admission to SOCTP, the Waiver of Access to Pornography, Photographs, and Other Materials (**ATTACHMENT 3**) shall be explained to participants and must be completed upon an individual's entrance into SOCTP. The Amendment to Waiver of Access to Pornography and Other Materials (**ATTACHMENT 3A**) should be explained and signed by the individual once prohibited materials are added to it. Based upon the participant's sexual offense history, SOCTP treatment team will detail the specific categories of prohibited materials as they pertain to the Amendment to Waiver of Access to Pornography, Photographs, and Other Materials (**ATTACHMENT 3A**).

Use of pornographic materials is counterproductive to the sex offender counseling and treatment process. Pornographic materials can trigger deviant sexual fantasies and are often found to be a part of grooming and the sexual offense cycle. It promotes attitudes of objectification, degradation, and sexualization which reinforce deviant sexual interests and aggression.

The prohibition of pornography is intended for both current participants and those who have completed the program. This includes individuals whose participation is suspended while serving a disciplinary sanction. Access, possession, or use of pornography in SOCTP will result in the individual being discharged from the program by the Treatment Plan Review Committee (TPRC). If the behavior is detected after completing the program, a Regression Referral will be submitted to Central Office Guidance and Counseling SOCTP staff for a determination regarding whether the individual is to readdress their sex offender counseling need.

4. For all individuals participating in the program that are on an active mental health caseload, a Participation Notification form (**ATTACHMENT 6**) will be sent to the facility's OMH staff for their completion. If OMH staff indicates that an individual is unable to



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participate in the program for psychiatric reasons, the individual will not participate until such time that they are cleared for participation by OMH. While unable to participate, the Medically or Psychiatrically Unable to Participate (MPU) status code will be entered in the individual's Earned Eligibility or Program Plan along with a detailed chronological entry in SOCTP, Guidance, and Community Supervision folders.

Individuals who refuse to sign the above-mentioned waivers will not be permitted to participate in SOCTP. This will be considered a program refusal.

### **TREATMENT AMENABILITY**

Participants with low amenability to sex offender counseling and a high level of denial will not be excluded from participating in SOCTP. It is well-accepted that having the need for sex offender counseling does not necessarily translate into wanting or seeking treatment. Although individuals cannot be forced to accept treatment, they will be provided with the necessary information and support for making an informed decision about participating in SOCTP. While it is the Department's legal and ethical obligation to make tools available for individuals to be able to self-manage their sexual behavior, it is up to them to accept and utilize the tools.

Staff will explain the program, the role sex offender counseling has in lowering reoffending risk, and the importance of understanding and managing risk factors in the prevention of sexual reoffending to individuals placed into SOCTP. Participants will need to make the connection between participating in the program and a successful community reintegration. Although the focus of the interview and program orientation will be on how SOCTP will improve the participants' chances of remaining in the community, participants will be informed of the impact that refusing sex offender counseling or receiving an unsatisfactory discharge from SOCTP may have on their particular situation.

Reluctant participants who want to give counseling a try will be given the opportunity to participate in the program provided they sign all required waivers and comply with the assessment process. If given the opportunity, some participants will begin to recognize the maladaptive nature of their behavior and will become invested in the counseling process. If that does not occur, the individual can sign a Program Refusal Notification (form # 3617) and an unsatisfactory discharge from SOCTP will be made. If the individual chooses to remain in group, but fails to progress, they may be discharged unsatisfactorily via a TPRC determination after all counseling and treatment interventions have been exhausted and comprehensively documented.

Participants in SOCTP will gain and demonstrate their ability to:

- Recognize their defense mechanisms which impede counseling interventions
- Develop pro-social strategies which support achievement of their treatment plan goals
- Change or attempt to change maladaptive patterns, rather than to try to change others or their environment
- Accept constructive feedback from others and use that feedback to make positive changes in their lives
- Give feedback to others in a positive and constructive way
- Adequately control anger, aggression, and destructive behavior

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- Actively participate in group counseling, individual sessions, and all other activities of SOCTP
- Apply the principles learned in counseling to daily activities
- Understand and abide by all restrictions recommended by SOCTP

Central Office SOCTP will provide facility treatment staff and supervisors with annual training to distinguish, prior to an incarcerated individual's prospective enrollment in the SOCTP, between incarcerated individuals who decline to participate in some aspects of the SOCTP on the asserted grounds that such participation would violate their Fifth Amendment right, and incarcerated individuals who decline to participate in some aspects of the SOCTP due to unwillingness or another reason unrelated to Fifth Amendment concerns.

### LEGAL CONCERNS

An individual's legal concerns may serve as an impediment to effective treatment. In order for a participant to benefit from treatment, they must feel as comfortable as possible openly discussing their history of sexual offending behavior, whether that behavior resulted in the conviction for the instant offense, was behavior that occurred in connection with the conduct that resulted in the conviction or was unrelated to the instant offense.

Most often, an individual's legal concerns are expressed in the context of the Fifth Amendment right to be free from compelled self-incrimination. Accordingly, an individual is not required to admit the commission of a particular crime, whether it resulted in the present commitment or not. In order to permit open discussion for the most effective treatment, Department policy provides that no written or oral statement made by a program participant in conjunction with treatment services rendered in connection with SOCTP may be used against the individual in any subsequent criminal proceeding in accordance with the Limits of Confidentiality, Partial Waiver of Confidentiality and Acknowledgment form (**ATTACHMENT 5**). In addition, no program participant may reveal in any subsequent criminal proceeding any information disclosed by another individual in any group session or otherwise disclosed in conjunction with counseling and treatment services rendered as part of SOCTP.

For successful program participation, the individual may discuss their behavior in general terms without providing the full names of victims, without disclosing the exact dates, times, and places (e.g., the city, town, etc.) of various sexual offending behavior, and without admitting to any specific crime or the violation of any specific section of the Penal Law (e.g., rape in the first degree, criminal sexual act in the third degree, sexual abuse in the second degree, etc.). Nonetheless, the individual must openly and honestly discuss the behavior that resulted in their incarceration and/or referral to the program, demonstrate acceptance of responsibility for the conduct that resulted in their criminal conviction, and demonstrate an understanding of their sexual offending behavior and cycle of abuse.

The participant will be expected to openly discuss the behavior that resulted in the conviction and/or any other history of sexual offending behavior. This will include discussing prior incidents of sexual offending behavior, and the individual thoughts and feelings associated with that behavior, however, program participants are not required to admit to or discuss the factual predicates of any uncharged criminal activities.

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Although there is no prohibition against providing exact dates, ages of victims and other specific information, an individual is not required to provide the full names of victims, exact dates, times, and places of various sexual offending behavior in order to appropriately participate in treatment.

DOCCS adopted these policies to protect the participants Fifth Amendment rights through a now expired private settlement agreement in *Donhauser v. Goord*. The policies previously adopted remain consistent with the programmatic need to encourage participants to openly discuss their history of sexual offending behavior. No written or oral statement made by a program participant in conjunction with treatment services may be used against the individual in any subsequent criminal proceeding. Similarly, a claim that an individual cannot suffer adverse consequences for refusing to participate in sex offender counseling because the case is on appeal and there is a continuing Fifth Amendment right not to be compelled to self-incriminate is incorrect. The Second Circuit United States Court of Appeals ruled in *Johnson v. Baker*, 108 F.3d 10, "...that state officials are permitted to take adverse administrative action for failure to respond to inquiries, even where the answers might tend to incriminate, so long as the adverse consequence is imposed for failure to answer a relevant inquiry and not for refusal to give up a constitutional right." The court ruled "...no doubt that inquiries seeking an individual's admission to an alleged sexual offense are relevant to the proper functioning of a rehabilitative program." The court further stated, "...an individual who is unwilling to admit to a particular criminal activity is unlikely to benefit from a rehabilitative process aimed at helping those guilty of that activity."

Further, if a participant declines to admit to, accept responsibility for, or discuss any sexually offending behavior that may result in self-incrimination because the participant:

- a. With respect to the SORA qualifying conviction, pled not guilty, testified on their own behalf under oath in their criminal case within the past five years, and was found guilty after trial; or
- b. Has filed a notice of appeal from their SORA qualifying guilty verdict, their appellate remedies have not been exhausted, and they are pursuing appellate remedies by:
  - i. Having perfected their appeal; or
  - ii. Having ordered, or received, a transcript of the proceedings that led to their SORA qualifying guilty verdict; or
  - iii. Having filed a motion to proceed as a poor person after filing a notice of appeal from their SORA qualifying guilty verdict; or
  - iv. Having filed a motion seeking an extension of their time to perfect their appeal to challenge their SORA qualifying guilty verdict in the appropriate appellate court and had that motion granted; or
  - v. Having retained, or assigned, counsel to challenge their SORA qualifying guilty verdict

then that participant will not be removed from the SOCTP unless a determination is made by members of the TPRC based on all facts and circumstances pertaining to treating participants in the SOCTP, that the person's continued participation will negatively impact the group dynamic. In the applicable form noting a participant's discharge from SOCTP, the therapeutic

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team will describe, in narrative form, the reasons why it believes that the participant's continued participation will negatively impact the group dynamic, including the underlying facts and circumstances that led to the therapeutic team's decision.

SOCTP treatment staff will provide incarcerated individuals sufficient time to provide documentation that they meet the above criteria if they are at risk of being unsatisfactorily discharged from SOCTP because they will not discuss certain behaviors or offenses based on Fifth Amendment concerns. An individual not meeting the above criteria who is unwilling to participate in SOCTP based upon a claim that participation violates the individual's Fifth Amendment rights will be construed as a refusal.

In addition, the Limits of Confidentiality, Partial Waiver of Confidentiality and Acknowledgement (**ATTACHMENT 5**), will place individuals on notice prior to that individual's prospective enrollment in the SOCTP, that they may be providing documentation to the Board of Examiners of Sex Offenders (BESO) to show that they fulfill the above criteria. The language makes clear that the onus is on the individual to gather the supporting documentation and forward these materials to BESO and may do so in accordance with Directive #4421, "Privileged Correspondence."

Central Office SOCTP will promptly notify BESO within 150 days of when it becomes known that an individual will not complete the program, noting that the individual has refused to participate in the program, or has been removed from the program.

### PROGRAM REFUSAL

During the orientation process of SOCTP, the TPRC will conduct interviews with any individual who refuses to participate in the program. When individuals refuse participation in SOCTP prior to being placed in the program, the assigned ORC will discuss the refusal with the individual. At this time, the Program Refusal Notification (Form # 3617) will be explained to the individual by the particular staff member(s). Staff should detail the potential consequences to any Departmental program refusal such as the denial of Parole, the loss of Good Time, denial of Limited Credit Time Allowance (LCTA), denial of Merit Time, Presumptive Release, and/or Earned Eligibility Program certificate, and ineligibility for an area of preference transfer, or continued placement in Proximity to Minor Child. In addition, refusal to participate may affect placement in a program and/or honor housing, participation in the Family Reunion Program, and/or a reduction in pay/grade assignment. Additionally, for individuals facing Civil Management review under Article 10 of MHL §10.03 and/or the requirement to register as a sex offender under SORA, the staff member(s) should take great care in explaining that a refusal to participate in SOCTP may be viewed unfavorably by OMH Civil Management review staff and/or the NYS BESO. If the individual refuses to sign the refusal form, a notation to that effect must be entered on the form, and an additional staff witness signature must be procured. The refusal will be properly documented on a chronological entry form in the Guidance, Community Supervision, and SOCTP (if applicable) folders. Additionally, the refusal shall be noted in the Earned Eligibility Plan or Program Plan and Section I of the custom fields in the individual's Case Plan. Copies of the documented refusal will also be filed in the Guidance, Community Supervision, and SOCTP (if applicable) folders.

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A signed refusal form will remain valid until such time that an individual decides that they would like to participate in the program. Any individual who initially refused to participate in SOCTP may subsequently, at any time, request to participate in SOCTP. The individual should notify their assigned ORC of the decision to rescind the refusal. For these cases, the ORC will change the status code from REF to RPL and activate the individual on the appropriate SOCTP RPL. Once the RPL status code is established, the automated transfer system (or Central Office Classification and Movement staff for specialized populations) will schedule the individual for transfer. Central Office Classification and Movement staff will arrange for the individual to be placed into a suitable SOCTP for participation according to the individual's SOCTP need and applicable release date as time and space permit.

Additionally refer to *Legal Concerns* section above.

### TREATMENT DURATION

Current research and best practices in the field of sex offender treatment support the recommended treatment durations associated with the following treatment risk assignments:

|  |                 |
|--|-----------------|
| Low-Risk (Static-99R/CBRI score of 3 or less)  | 6 months        |
| Moderate-Risk (Static-99R/CBRI score of 4-5)   | 9 to 12 months  |
| High-Risk (Static-99R/CBRI score of 6 or more) | 15 to 18 months |

Participants in SOCTP should not have their treatment plans extended beyond these time frames absent documentation supporting the extension and approval from Central Office Guidance and Counseling SOCTP staff. Extensions should rarely be granted with respect to a low-risk participant.

Requests for treatment extensions should be submitted using SOCTP Treatment Extension Request (**ATTACHMENT 7**) and submitted in accordance with the following procedure:

A request for an extension must be submitted to the facility Deputy Superintendent of Programs (DSP) with the specific reasons for the requested extension (e.g., the participant has regressed in behavior or participation and is required to repeat two modules). The request must include a plan outlining the needs to be addressed and the projected date of completion. If approved by the DSP, the request will be forwarded to SOCTP Coordinator in Central Office Guidance and Counseling.

In the low-risk SOCTP, treatment staff may request an extension as deemed appropriate upon review of the individual's progress. For participants in the moderate and high-risk programs, the TPRC may request an extension be considered in order to promote the achievement of treatment plan goals.

It is the policy of this Department that female classified individuals assessed for participation in the SOCTP will have treatment duration of 6 to 9 months. Staff may request an extension as deemed appropriate upon review of the individual's progress.

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Finally, to ensure that SOCTP is made available to all individuals with the sex offender counseling need, SOCTP treatment staff must initiate the submission of an Unscheduled Transfer Review (UTR) two weeks prior to each individual's estimated date of completion.

### **TREATMENT PLANNING**

Upon admission to SOCTP, an individualized treatment plan will be developed for each participant and updated every 90 days thereafter. During the treatment planning process, individuals will always be afforded the opportunity to provide input regarding their treatment plan goals, objectives, needs, strengths, and weaknesses. The treatment plan is to be reflective of the individual's needs as they relate to treatment as well as other empirically supported risk factors associated with sexual offending addressed in the material covered during the particular 90-day period (may be less for certain circumstances) in SOCTP. These individual goals will be articulated on the treatment plan in the section provided for that purpose. They will be developed in addition to the pre-determined goals and objectives outlined in SOCTP curriculum. Individuals participating in CD/SOP must have this noted as a treatment plan goal; similarly, SOCTP participation should be identified on their ASAT (CD/SOP) treatment plan. A copy of the signed treatment plan will be provided to the individual.

If a participant categorically denies involvement with the underlying offense and invokes the Fifth Amendment as an objection to participation in SOCTP, an individualized treatment plan to improve their behavior and decision-making skills shall be created. The plan shall be geared towards the participant avoiding themselves being accused of sexual offenses in addition to any other treatment goals. If the individual continues to decline, such act will be construed a refusal (refer to *Legal Concerns* section).

### **CHRONOLOGICAL ENTRIES**

A chronological record within the SOCTP folder should be maintained for each individual participating in SOCTP. This record should reflect all pertinent documents added to an individual's treatment record along with any notations or statements that would not normally be captured in a progress note or detailed on any SOCTP related forms or documents.

### **PROGRESS NOTES**

At a minimum, bi-weekly progress notes should be maintained on each individual participating in SOCTP. Progress notes should not only include the level, section, and modules of the curriculum covered for the particular two-week period, but also give an accurate account of the individual's participation for that time, including the individual's ability to grasp the material presented, their ability to relate the material to their own situation, and their ability to relate to the group. It is also encouraged that whenever possible, staff observe and document SOCTP participant's behavior outside of the SOCTP treatment setting to provide support and verify that participants are applying treatment concepts.

### **EVALUATING PROGRESS**

Progress is measured using a variety of tools and methods including but not limited to the following: staff observation, the Texas Christian University (TCU) Criminal Thinking Scale,

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Sexual History Measuring Scale, Pretend to be Normal Phase Measuring Scale, Build Up Phase Measuring Scale, Fantasy/Planning/Grooming Measuring Scale, Act Out Phase Measuring Scale, Justification/Reintegration Phase Measuring Scale, Sexual Offense Clarification (Pre-Abuse) Outline Measuring Scale, Sexual Offense Clarification (Victim) Outline Measuring Scale, Offending Behaviors Measuring Scale, and Responsibility Measuring Scale. All measuring scales may be found in the SOCTP curriculum.

### TREATMENT PLAN REVIEW COMMITTEE (TPRC)

The TPRC is responsible for multi-disciplinary case conferencing and regular review and/or updating of treatment plans. It also is expected to provide an established forum for the treatment staff to formally address issues impacting an individual's program participation, acknowledge positive programming, or refusal of continued participation requests.

The TPRC must have a minimum of three members to convene and no more than five members, total. The committee is comprised of SOCTP treatment staff along with the program SORC and may also include a combination of the following staff: the individual's primary ORC, ORC (ASAT), ASAT Program Assistant, and when applicable, security staff (preferably the area Sergeant). The committee is normally chaired by the program SORC but may be chaired by a clinical staff member. Additional staff input is encouraged. In such cases where a staff member is unable to attend and desires to share a concern or provide relevant documentation, contact should be made with the TPRC Chairperson. All meetings of the TPRC, regardless of their nature, will be documented as a chronological entry, an individual progress note, and if applicable, on the TPRC Referral and Recommendation (**ATTACHMENT 8**).

The goals and protocols for each function of the TPRC are specific to the particular reason for the committee's convening as illustrated below:

**Case Conferencing:** To be done on a weekly basis (with greater attention paid to acute cases). Case conferencing provides an opportunity for members of SOCTP treatment staff and other staff directly involved with an individual's treatment to discuss an individual's participation and progress and any other issues impacting treatment including but not limited to physical or mental health concerns and cognitive deficiencies.

**Treatment Planning, Reviews, and Updates:** Based on the knowledge that the treatment needs of individuals are dynamic in nature, treatment plan updates and/or reviews provide an opportunity for the TPRC to continually monitor and tailor treatment to the participant's individual needs and are to be conducted at a minimum of every ninety (90) days. The individual should either be present for the treatment planning, review, and update process or provided an avenue by which their input is considered during the process and incorporated into any alterations in their treatment plan. A copy of any treatment plan updates, or alterations will be provided to the individual.

**Retention Review:** The TPRC also functions to assess program status. For this function, the individual may be referred to the TPRC based on issues such as poor program performance, disciplinary problems, continued non-compliance with program objectives, and the refusal of further participation in the program as outlined in the *Standards of Individual Behavior*, the *Therapeutic Community Supplement*, or other SOCTP guidelines or contracts. The referral

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source must provide documentation for consideration by the TPRC including, but not limited to assignments, counseling notifications, and monthly evaluations (**ATTACHMENTS 11 and 12**) (learning experiences and behavioral contracts may also be considered). Individuals referred to the TPRC for the function of retention review are required to be present when the committee meets so the reasons for the referral can be explained, and the individual can be afforded the opportunity to discuss the referral briefly. It is important to note that no witnesses from the individual will be permitted. The TPRC attempts to educate the individual in reference to the seriousness of poor program performance or disciplinary problems. The goal of the TPRC is to communicate a positive message which will impact the individual's personal decision making, translating into productive programming and satisfactory adjustment. The course of action or sanctions will be discussed, and expectations will be made clear. The TPRC may recommend immediate unsatisfactory discharge from the program, program probation, retention at current level in the program, regression to a prior level in the program, or assign interventions such as behavioral contracts, learning experiences, or other tasks in relationship to treatment issues to promote both compliance and understanding of specific treatment objectives. At times, an individual will refuse positive reinforcement and dismiss any direction. In this case, the TPRC shall recommend a program removal and all appropriate procedures regarding program removals will be followed. Within 72 hours, the TPRC will notify the individual in writing of their decision using the TPRC Referral and Recommendation form (**ATTACHMENT 8**). If the recommendation is an unsatisfactory removal, they will additionally be provided a copy of the Discharge Summary and Readmission Request for the Sex Offender Counseling and Treatment Program (**ATTACHMENT 13**).

Individuals who are removed following a guilty misbehavior disposition which results in disciplinary confinement totaling 15 days or more do not have to be seen by the TPRC. The extended confinement constitutes an automatic disciplinary removal from the program. In such cases, individuals should be notified via the TPRC Referral and Recommendation form (**ATTACHMENT 8**) of the committee's decision to remove them from the program along with being provided a copy of the Discharge Summary and Readmission Request for the Sex Offender Counseling and Treatment Program (**ATTACHMENT 13**). In instances where an individual will be disciplinarily transferred, every effort should be made to hand deliver these documents prior to transfer. If the individual is transferred prior to receiving these documents, they should be sent to the Guidance Unit at their current facility to be hand delivered to the individual, with a chronological entry made confirming this.

### SUBSTANCE USE TREATMENT AND AGGRESSION PROGRAM NEEDS

Individuals participating in a moderate or high-risk SOCTP may have the opportunity to satisfy other identified Departmental program needs as follows:

Residential SOCTP participants who have an identified need for substance use treatment may have the opportunity to participate in ASAT in a CD/SOP group. Eligible individuals should remain on the ASAT required program list until they are approximately 9 months to their expected SOCTP completion date before beginning ASAT participation, with the understanding that satisfactory completion of ASAT requires minimally 6 months of direct services and satisfaction of their individualized substance use treatment plan goals. Once a SOCTP participant is enrolled in ASAT (shop code 893 - CD/SOP; refer to section *Incarcerated Individual Payroll System Codes*), the status code will be updated to reflect PPA. Individuals



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with an identified substance use treatment need not participating in a residential (TC) SOCTP, will have that need addressed outside of SOCTP according to established substance use treatment protocol.

Individuals with an identified need for aggression programming will have the need satisfied by successfully completing the moderate or high-risk SOCTP regardless of their automated risk score for aggression programming. Moderate or High-risk SOCTP participants will have their KGNC review status code for the aggression need updated to reflect PPA immediately upon enrollment in SOCTP by manually completing an Unscheduled Individual Review (UIR), if one was not automatically entered through the KIPY-KGNC interface.

Low-risk SOCTP participants will address their aggression need outside of SOCTP by participating in moderate aggression in general population. Moderate aggression will be the default aggression program for individuals with an identified sex offender counseling need, regardless of their automated risk score.

The Successful Completion/Satisfied Need status code (SAT) for substance use treatment and/or aggression programming is to be entered on the individual's Earned Eligibility or Program Plan by manually completing a UIR, if one was not automatically entered, simultaneously with the SAT for completion of SOCTP. In exceptional circumstances, satisfaction of the substance use treatment need prior to SOCTP completion may be reviewed with SOCTP staff in Central Office Guidance and Counseling and Central Office Substance Abuse Treatment staff.

### **CONTACT WITH VICTIMS**

Per Directives #4422, "Incarcerated Individual Correspondence Program", and Directive #4423, "Incarcerated Individual Telephone Calls," individuals are prohibited from communicating in writing or by telephone with any victim of a crime for which the incarcerated individual has been convicted or is presently under indictment. If available, the names of their victims must be placed on their negative telephone and correspondence lists. Per Directive #4423, an individual shall not place a telephone call to the residence of a victim of the crime(s) for which the individual has been convicted or is currently under indictment, regardless of whether immediate family members maintain the same residence, unless prior written authorization has been received from the Superintendent.

All orders of protection will be complied with. If an order of protection prohibits physical contact or telephone and written communication, the name(s) of the protected person(s) must be placed on the negative telephone, correspondence, and visiting lists. If a protected person changes their mind and wishes to resume contact with the individual, it is that person's responsibility to contact the court and ensure that the order of protection is rescinded or amended as applicable. However, per Directive #4423, written and telephone contact with formerly protected persons who are victims of crimes for which an individual has been convicted or is under indictment for, is still prohibited and their names will remain on the negative correspondence and telephone lists unless prior written authorization has been received from the Superintendent.

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The TPRC, with the authorization of Central Office Guidance and Counseling SOCTP staff, may unsatisfactorily discharge any program participant who writes or calls the victim(s) of their sex offenses. This includes victims who are family members. As stipulated in the above Directives, they, as well as those who have completed the program, may also be subject to disciplinary action. All unauthorized contact between the individual and their victim(s) shall be documented on a chronological entry form in the Guidance, and if applicable, SOCTP folders.

### **MANAGEMENT OF RECORDS**

#### **SOCTP FOLDERS**

SOCTP folders containing segmented and labeled sections are provided for the filing of all SOCTP records. Each section is labeled to indicate the documents to be filed in that section. Original documents generated by or sent to the SOCTP from other offices are to be filed in the SOCTP folders. If questions arise as to where a document should be placed in the SOCTP record, Central Office SOCTP staff should be consulted.

#### **RECORDS DEPOSITORY**

When participants are discharged from the program, regardless of the reason for the discharge, their SOCTP records are to be maintained by the discharging facility unless they are requested for future SOCTP participation purposes.

#### **PROCESSING INCARCERATED INDIVIDUAL RECORDS FOR TRANSFER**

Ordinarily, when participants in the SOCTP are transferred, their SOCTP records are not to be transferred with them. The only reason to transfer SOCTP records to another facility is if the individual is going to continue SOCTP participation at the next facility. If that is the case, the SOCTP folder will be forwarded to the receiving facility as per Directive #4011, Processing Incarcerated Individual Records for Transfer. The SOCTP staff should ensure records are complete and the chronological entry sheet indicates the date of the transfer and any pertinent instructions for the continuation of services. If no continuation of SOCTP is possible or it is not clear that the individual will be placed in the SOCTP of the receiving facility, the SOCTP record is not to be sent to the facility unless the record is requested by staff at the receiving facility after it has been verified that the individual is willing to participate and is being enrolled into the SOCTP.

#### **RECORDS SECURITY**

SOCTP records are confidential and unauthorized access to the records will be prevented. Correctional facilities providing the SOCTP will make certain SOCTP records are properly and securely stored. Disclosure of the SOCTP records will only be made pursuant to the Limits of Confidentiality, Partial Waiver of Confidentiality and Acknowledgement form (**ATTACHMENT 5**) and as set forth below.

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## SOCTP RECORD

The SOCTP record is comprised of two components: the Programmatic Record and the Clinical Record.

Under Correction Law §622, the established SOCTP utilizes Psychologists, Licensed Clinical Social Workers, and other mental health professionals in the provision of treatment to program participants. Accordingly, the SOCTP record is, in part, subject to the confidentiality and right of access provisions of Public Health Law §18 and the Health Insurance Portability and Accountability Act (HIPAA). With this said, there are specific rules for record access and confidentiality applicable to this portion of the record. Note: DOCCS records are not subject to the provisions of MHL §33.13, *et seq.* However, the confidentiality provisions under HIPAA closely parallel State law with respect to the confidentiality of mental health records.

The SOCTP record is subject to disclosure in accordance with State law and the Limits of Confidentiality, Partial Waiver of Confidentiality and Acknowledgement form (**ATTACHMENT 5**). The SOCTP record is subject to disclosure to the Board of Examiners of Sex Offenders if the individual is subject to SORA and disclosure to the Office of Mental Health if the individual is subject to evaluation in accordance with the Civil Management procedures set forth in Mental Hygiene Law Article 10 or otherwise under the care of OMH. The record is also subject to disclosure to any state agency, community organization, or individual who subsequently engages the individual in sex offender treatment following release from the NYS Department of Corrections and Community Supervision. It is also recognized that changes in State law may otherwise require or permit disclosure.

All requests for the SOCTP record not specifically addressed by the Limits of Confidentiality, Partial Waiver of Confidentiality and Acknowledgement form (**ATTACHMENT 5**) are governed by New York State Freedom of Information Law (FOIL) for the Programmatic Record, and Public Health Law §18 and HIPAA for the Clinical Record.

As individuals complete or are removed from the SOCTP, closed SOCTP folders at the DOCCS treatment facilities will be scanned into a Public Safety Document Repository (PSDR).

## ACCESS TO PROGRAMMATIC RECORD

The Programmatic Record may be released to the individual upon written request. The individual may either review the Programmatic Record or obtain copies pursuant to and subject to the limitations set forth in FOIL. Persons authorized by the individual may also obtain the same records. No specific type of authorization form is required for an individual to grant permission to another person to access their Programmatic Record. Any release of all or part of the Programmatic Record must be documented in the SOCTP chronological notes.

## ACCESS TO CLINICAL RECORD

The Clinical Record may be requested pursuant to the procedure in Health Services Policy Manual (HSPM) 4.10, with the following modifications:

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## II. DESCRIPTION

II. A. Definition – The SOCTP Clinical Record is a health record.

## III. TYPES OF REQUESTS

III. A. 2. Individual Requests

Requests by an individual to view and/or obtain a copy of their Clinical Record must be made in writing, to the senior treatment provider (Psychologist or Social Worker for moderate or high-risk programs and the SORC for low-risk programs that do not employ clinical staff) at the treatment site. Following discharge from the program, requests for access must be directed to the SOCTP program supervisor at the most recent treatment facility.

III. A. 3. Any disclosure of the Clinical Record provided as a result of authorization or request by the individual is to be documented in the SOCTP progress and chronological entry sheets.

III. B. Third party requests for patient information.

Requests for the Clinical Record **MUST** be accompanied by a HIPAA compliant authorization form or court ordered subpoena. A copy of the authorization is acceptable. The authorization form **MUST** specifically identify that release of the SOCTP record has been authorized by the individual (e.g., “SOCTP record,” “sex offender counseling file,” “SOP treatment file,” etc.). Because DOCCS has not traditionally provided mental health treatment or been the holder of mental health records, a general HIPAA release for the “entire record” is **NOT** sufficient. The **Authorization for Use or Disclosure of Protected Health Information including Confidential HIV Related Information (ATTACHMENT 9) is the appropriate form.**

III. B. 3. Third party requests for copies of the clinical record must be directed to the SOCTP Coordinator in Central Office of Guidance and Counseling.

## IV. PROCEDURE

IV. A. 2. Authorizations for release of records shall be filed in the SOCTP file under Section 8 (homework, correspondence, and miscellaneous records).

IV. A. 3. Release of all or part of the Clinical Record must be entered into the SOCTP chronological notes.

IV. E.1 Denial of Access or Denial of Health Record Copies: Unreviewable reason for denial.

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(Bullet 2) In any circumstance where the health provider believes that providing a copy of protected health information (i.e., all or part of the Clinical Record) to the individual may pose a danger to the health, safety, security, custody, or rehabilitation of the individual or other individuals, or the safety of any officer, employee, or other person at the correctional facility, or any person responsible for transporting the individual, the health care provider must discuss the issue with the Director of Central Office Guidance and Counseling, the SOCTP Coordinator, the facility Superintendent, and the Department's HIPAA Privacy Officer.

Per HIPAA: Psychotherapy notes or personal notes and observations of a health care provider are not subject to review.

- IV. F. Review Rights. Section IV. F. 1-3. is not applicable to requests for the SOCTP Clinical Record. A decision denying access may be appealed by writing to the HIPAA Officer.
  
- IV. H. Complaint Process. If an individual has a complaint concerning access, release or disclosure under this policy and HSPM 4.10, they should attempt to resolve the problem through contact with the senior treatment provider (Psychologist or Social Worker for moderate or high-risk programs, and the SORC for low-risk programs that do not employ clinical staff). If this is unsuccessful, the individual should address the issue, concern, or complaint to the SOCTP Coordinator in Central Office Guidance and Counseling.

### SEX OFFENDER REGISTRATION ACT (SORA) PROCEEDINGS

The SOCTP record is often sought in connection with a SORA risk level assessment hearing. A written request from a District Attorney's Office, Public Defender's Office or other attorney specifically seeking the record in connection with a SORA proceeding is sufficient for production of the programmatic record. However, a HIPAA compliant authorization or a court ordered subpoena signed by a judge and requiring production to the court is required before the clinical record may be released.

### SUBSTANCE USE TREATMENT RECORDS

For some participants, participation in the residential (TC) SOCTP may include participation in ASAT (shop code 893 - CD/SOP; refer to section *Incarcerated Individual Payroll System Codes*). In these circumstances, records pertaining to ASAT may be maintained in a separate file within the SOCTP record. However, ASAT records are not considered a part of the SOCTP record for disclosure purposes and are to be maintained according to the ASAT Operations Manual as directed by Central Office Substance Abuse Treatment Services.

To the extent that an individual's SOCTP record includes a separate ASAT record, those records are confidential in accordance with the provisions of 42 U.S.C. §290dd-2. Disclosure is only permitted pursuant to the provisions of 42 C.F.R. Part 2 (Directive #2010, "Departmental Records" section VII.E). Any request for an individual's SOCTP record that includes an ASAT

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component but is not accompanied by a Release of Drug and Alcohol Abuse Records must be answered in a way that will not affirmatively reveal that the individual has been or is being diagnosed or treated for alcohol or substance use, to include redaction of the CD/SOP participation goal in the SOCTP treatment plan.

### **PROGRAM DISCHARGE AND READMISSION**

#### **PROGRAM DISCHARGE**

There are three (3) categories of discharges from SOCTP: administrative, satisfactory, or unsatisfactory. Each category is explained below. Staff must ensure the KIPY end code removal reason corresponds with the KGNC review status code. A Discharge Summary is prepared for all individuals discharged from the program except in situations where an individual is being transferred to another SOCTP for immediate participation in the program. This document is to be provided to the individual and filed in SOCTP, Guidance, and Community Supervision folder.

#### **ADMINISTRATIVE PROGRAM DISCHARGE**

An administrative discharge occurs when a program participant is removed from the program through no personal fault, such as in the case of transfers, medical or mental health concerns, protective custody status, release, etc. For these cases, the appropriate status code Removed Through No Fault (RNF) should be used. Once the RNF code has been entered, the proper status code should be updated to accurately reflect the individual's present status.

For example, an individual placed in protective custody should have their status code updated to Protective Custody Status (PCS). An individual with medical or mental health concerns prohibiting their participation in SOCTP should have their status code updated to reflect Medically or Psychiatrically Unable to Participate (MPU).

Appropriate status codes must be entered for the sex offender counseling need in the individual's Earned Eligibility Plan or Program Plan and the documentation justifying the administrative discharge needs to be filed in the individual's SOCTP, Guidance, and Community Supervision folders.

If administrative discharges are requested for Protective Custody, medical, or mental health reasons, it is the responsibility of the assigned ORC to monitor the individual's suitability for participating in SOCTP on a quarterly basis. When notice is received by the appropriate medical, mental health, or security staff that the individual is, once again, eligible to participate in SOCTP, the ORC will reactivate the individual on the proper SOCTP RPL and perform a UIR to update the individual's status code for their sex offender counseling need from MPU, RNF or PCS to RPL.

Transfer of active program participants is to be avoided. Only necessary transfers are to be allowed including but not limited to transfers for medical, mental health, or the safety and security of the facility, etc. Transfer holds for program purposes will be submitted to Central Office Classification and Movement for cases where transfer of the individual can be delayed.

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If a transfer cannot be avoided, efforts need to be made to transfer the individual to a correctional facility where continuation of SOCTP is possible.

### SATISFACTORY PROGRAM DISCHARGE

Participants will receive a satisfactory discharge from SOCTP upon successful achievement of their individualized treatment plan goals and objectives. Once successful completion occurs, they will be given the SAT status code on their Earned Eligibility Plan or Program Plan. As stated previously in these guidelines, moderate and high-risk individuals with an identified aggression need, will also receive a SAT status code for the aggression need when they satisfactorily complete SOCTP.

### UNSATISFACTORY PROGRAM DISCHARGE

Participants will be expected to follow the *Standards of Incarcerated Individual Behavior*, and all other standards specified in Departmental Directives.

Participants will also be expected to strictly adhere to Treatment Termination Standards, which are:

1. No physical violence/threat thereof.
2. No sexual activity or pornography.
3. No use or possession of drugs or alcohol or failure to comply with a urinalysis test.

Any violation of a "Treatment Termination Standard," whether through investigation, documentation, or a guilty Tier disposition, will result in an automatic unsatisfactory discharge. This applies to participants in residential and modular program settings.

In addition to being automatically discharged from the program due to violation of a treatment termination standard, individuals may also be discharged from SOCTP for the following reasons including, but not limited to:

1. The program participant contacts their victim(s) directly or indirectly.
2. The program participant fails to comply with the rules, policies, and procedures of the program.
3. The program participant fails to demonstrate positive progress toward their treatment plan goals and/or fails to positively participate in the program.
4. The program participant receives disciplinary confinement of 15 days or more for any infraction.
5. While participating in SOCTP, the individual chooses to refuse further participation in the program.

The TPRC is to meet with an individual before making an unsatisfactory discharge from SOCTP (excluding situations where an individual is serving extended disciplinary sanctions).

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The TPRC Referral and Recommendation (**ATTACHMENT 8**) will be completed and provided to the individual along with filing a copy in SOCTP and Guidance folder. If an individual is removed from SOCTP as a result of unacceptable attendance, participation, or progress, the REU status code will be reflected for the sex offender counseling need in the Earned Eligibility Plan or Program Plan. In situations where the individual refuses further participation in SOCTP, the REF status code will be reflected for the sex offender counseling need in the Earned Eligibility Plan or Program Plan. For cases in which an individual is removed from SOCTP due to a disciplinary sanction, the RED status code will be reflected for the sex offender counseling need in the Earned Eligibility Plan or Program Plan.

In residential settings, when an individual is either removed from ASAT (shop code 893 – CD/SOP) or SOCTP (refer to section *Incarcerated Individual Payroll System Codes*), that individual is to be discharged from *both* programs for failure to meet treatment plan goals (refer to section *Treatment Planning*).

When an individual is unsatisfactorily removed from SOCTP, the TPRC will provide them with a “Readmission Request for the Sex Offender Counseling and Treatment Program” (**ATTACHMENT 13**).

### TREATMENT SUSPENDED STATUS

When an individual is taken out of SOCTP pending a misbehavior hearing, the treatment suspended end code will be used pending the outcome of the hearing. If the individual receives 15 days or more of a disciplinary confinement sanction(s), they will be removed from SOCTP for disciplinary reasons (an End Code Change request should be submitted to Central Office Guidance and Counseling to denote the disciplinary removal). If they receive 14 days or less in a disciplinary sanction(s), they will remain in the treatment suspended mode for the duration of their sanction(s). Upon the completion of the sanction(s), the individual will be seen by the TPRC for intervention, retention, or removal purposes before continuing in the program. The individual will be notified of the committee’s decision utilizing the TPRC Referral and Recommendation (**ATTACHMENT 8**).

### READMISSION

Individuals negatively removed from the SOCTP may apply for readmission to the program 30 days from the discharge date noted in the KIPY record, and as reflected on the FPMS 12 screen. Thirty-days provides an opportunity for the individual to reflect on their recent unsatisfactory discharge. It is a therapeutic intervention designed to promote satisfactory participation upon their readmission. The applicable program status code for a negative removal REU, RED, or REF will remain in effect for 30 days post-discharge, and until the individual applies for readmission.

When possible, individuals will be provided the *Readmission Request for SOCTP* (**ATTACHMENT 13**) at time of SOCTP discharge. After 30 days, and upon request to be readmitted, the assigned Offender Rehabilitation Coordinator (ORC) will add the individual to the corresponding Required Program List (RPL) in KIPY and update the status code to RPL.

If a readmission request has not been received by the ORC at the next point of contact (i.e., Quarterly Review), they will be provided the *Readmission Request for SOCTP*



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**(ATTACHMENT 13)** and encouraged to complete it. Individuals who choose not to apply for readmission at that time must have Form #3617 Program Refusal Notification completed and their program status code updated by the assigned ORC to reflect the refusal (REF).

### **REGRESSION**

After completing SOCTP, individuals determined to have had a regression by Central Office Guidance and Counseling SOCTP staff via the Sex Offender Counseling and Treatment Program Referral (**ATTACHMENT 14**) will have the status code of REG reflected in their Earned Eligibility Plan or Program Plan. At the next review, the individual should be reactivated on the appropriate SOCTP RPL, and the status code should reflect RPL.

### **ASSESSMENT OF PRIOR PROGRAM PARTICIPATION**

Within one month of readmission to SOCTP, the TPRC will assess an individual's previous SOCTP participation in consideration of its application toward current participation using the Assessment of Prior Participation (**ATTACHMENT 10**). Any applicable participation will be based upon positive progress made previously. Participation in other sex offender programs will not be considered.

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## ATTACHMENTS

- ATTACHMENT 1**      SOMTA – Article 10 – Sexual Offenses
- ATTACHMENT 2**      NYS Sex Offender Registry – Registerable Offenses
- ATTACHMENT 3**      Waiver of Access to Pornography, Photographs, and Other Materials
- ATTACHMENT 3A**     Amendment to the Waiver of Access to Pornography, Photographs, and Other Materials
- ATTACHMENT 4**      Risk Assessment Override
- ATTACHMENT 5**      Limits of Confidentiality, Partial Waiver of Confidentiality and Acknowledgment
- ATTACHMENT 6**      Participation Notification
- ATTACHMENT 7**      Treatment Extension Request
- ATTACHMENT 8**      Treatment Plan Review Committee Referral and Recommendation
- ATTACHMENT 9**      Authorization for Use or Disclosure of Protected Health Information
- ATTACHMENT 10**     Assessment of Prior Participation
- ATTACHMENT 11**     Monthly Evaluation (Low-Risk)
- ATTACHMENT 12**     Monthly Evaluation (Moderate/High-Risk)
- ATTACHMENT 13**     Readmission Request for Sex Offender Counseling and Treatment Program
- ATTACHMENT 14**     Program Referral