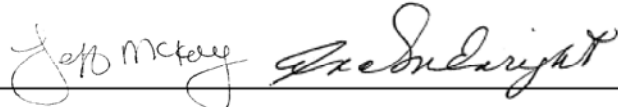
 <b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE  <b>Parole Board Imposed Special Condition Pertaining to Certain MHL Article 10 Cases</b>		NO. 8302  DATE 07/26/2019
	SUPERSEDES DIR# 8302 Dtd. 10/09/15	DISTRIBUTION A	PAGES PAGE 1 OF 4
REFERENCES (Include but are not limited to) Mental Hygiene Law Article 10		APPROVING AUTHORITY  	

I. **DESCRIPTION:** To provide instruction on the procedures associated with a Board of Parole imposed special condition pertaining to certain eligible cases being processed under Mental Hygiene Law (MHL) Article 10, "Sex Offender Management and Treatment Act."

II. **POLICY:** It is the policy of the Department of Corrections and Community Supervision (DOCCS) to identify and process offenders who are eligible for parole release, conditional release, or release to a period of post-release supervision who are the subject of a petition filed by the NYS Office of the Attorney General (OAG) under Article 10 of MHL for civil management and an Order To Show Cause (OTSC) has been issued authorizing their temporary retention pending a probable cause hearing, for consideration of a special condition to be imposed by the Board of Parole that requires their continued incarceration. DOCCS and the Board of Parole recognize that civil management proceedings pursuant to Article 10 of MHL are designed to determine whether an individual suffers from a mental abnormality warranting their civil management in a secure treatment facility or is pre-disposed to engage in repeated sex offenses so as to require management in the community through a regimen of Strict and Intensive Supervision and Treatment (SIST).

Given the importance of these considerations and the attendant determinations, DOCCS Sex Offender Management Unit (SOMU) will be responsible for identifying cases eligible for submission to the Board of Parole for review in accordance with this policy and a determination regarding the appropriateness of a special condition that stays the offender's release to supervision until such time as: (i) a court of competent jurisdiction directs that the offender be placed on a regimen of SIST; or (ii) the Article 10 petition is dismissed by the court or withdrawn by the OAG; or (iii) the offender reaches the Maximum Expiration (ME) date of his or her sentence; whichever occurs first.

The Board of Parole may impose an Article 10 special condition irrespective of whether the offender has a residence approved for release, or whether special conditions regarding the approval of their proposed residence or sex offender risk level have been imposed.

This condition will allow the individual to remain under DOCCS jurisdiction (although movement to other locations such as a NYS Office of Mental Health (OMH) secure treatment facility or a jail may occur with a detainer filed by DOCCS) until such time as any one of the following circumstances occurs:

- *Indeterminate Case:* From the Conditional Release (CR) date until the ME date, unless a community residence has been investigated and approved, and the individual is otherwise available to be released on parole to the community (i.e., there is no securing order on file); or

- *Determinate Case*: From the time of CR (if other than the incarcerative maximum expiration of sentence) to the incarcerative ME date, unless a community residence has been investigated and approved, and the offender is otherwise available to be released on post-release supervision to the community (i.e., there is no securing order on file), or the period of post-release supervision commences; or
- No mental abnormality is established in the case; or
- The court orders that the offender be placed on a regimen of SIST; or
- The OAG withdraws the MHL Article 10 petition or it is dismissed by the court.

The condition automatically expires when one of these circumstances occurs; therefore, it is not necessary to request that the Board of Parole remove the condition. If the individual was being held in the custody of OMH or at another location with a DOCCS detainer, that detainer must be removed when one of these circumstances occurs. If a period of supervision remains, the case must be processed for release and signed out by the Supervising Offender Rehabilitation Coordinator (SORC) or Offender Rehabilitation Coordinator (ORC) staff designated to a supervision status.

### III. PROCEDURE

#### A. SOMU Responsibilities

1. Upon SOMU's receipt of a copy of a petition for civil management and the OTSC authorizing the offender's temporary retention, SOMU will determine the appropriateness of submitting the case to the Board of Parole. Appropriate cases that are eligible for submission to the Board include persons with time remaining on the incarcerative portion of their sentence; they are:
  - a. Individuals serving an indeterminate sentence scheduled for but prior to the CR date;
  - b. Returned parole violators serving an indeterminate sentence or a mixed sentence (i.e., an indeterminate and determinate sentence); or
  - c. Individuals serving a determinate sentence scheduled for but prior to the CR date (until the incarcerative ME date is reached).

NOTE: Post-release supervision violators and Open Date cases are excluded from eligibility.

2. Appropriate and eligible cases will be entered into a log maintained by SOMU and a memorandum will be prepared and sent to the Secretary to the Board of Parole requesting imposition of the following special condition:

*"I shall not be released until such time as any residence that has been or may be approved on my behalf can be evaluated by DOCCS to determine its appropriateness in light of any determinations made by a court of competent jurisdiction pursuant to Article 10 of the Mental Hygiene Law."*

This special condition shall be referred to and identified as an "Article 10 special condition."

3. SOMU will record case outcomes and any signed conditions received from the Board of Parole. The Secretary to the Board of Parole will notify assigned DOCCS Community Supervision employees, SORC/ORC staff, SOMU, and Quality Control staff that the special condition has been imposed through fax and/or email.
4. SOMU will provide a copy of the aforementioned Board imposed special condition to designated DOCCS, OMH, and OAG employees.
5. SOMU will provide notification to DOCCS employees, OAG, and OMH staff on Post-Release Supervision (PRS) cases reaching expiration of their incarcerative term to assist in community preparation activities, as required.
6. SOMU will provide notification to DOCCS employees and OMH staff that an offender has been ordered to SIST, the Article 10 petition has been dismissed/withdrawn (if known to DOCCS), or the offender has reached ME.

**B. SORC/ORC Staff Responsibility**

1. Upon receipt of an Article 10 special condition from the Board of Parole, SORC/ORC staff will:
  - a. Ensure the condition is reviewed with the offender and that the offender is provided with a copy of the special condition;  
NOTE: If there is likelihood that the Article 10 condition will be imposed, the offender should not sign his or her Certificate of Release ([Form #CS3010](#), "Certificate of Release to Parole Supervision"). However, if the Certificate of Release has already been signed and the special condition is imposed, it should be kept in the Community Supervision folder and not distributed.
  - b. Advise the offender that his or her proposed residence, even if previously approved, has to be re-investigated before any potential release to supervision;
  - c. Enter the condition into the Guidelines Entry System (GES) using Special Condition (SC) #36 and distribute GES Form #9026, "Parole Board Decision Notice," to all appropriate parties, including the Inmate Records Coordinator (IRC); and
  - d. Notify the assigned Community Supervision area office that the individual is not being released if a release was previously approved. Notification to assigned Community Supervision staff will be made via telephone call and email confirmation to the Bureau Chief (BC), Senior Parole Officer (SPO), and Parole Officer (PO). Staff will document notification efforts in the Case Management System (CMS) record.

NOTE: Any community preparation assignment is to remain open.

**C. SORC/ORC and Community Supervision Staff Responsibilities**

1. If the Article 10 process terminates (i.e., the court orders SIST; no mental abnormality is found; or the petition is withdrawn or dismissed) and there is a remaining term of incarceration or period of supervision, and no other holds or securing orders exist, further case processing would occur as circumstances dictate:

- a. *Indeterminate or determinate case in DOCCS custody, past CR but prior to ME:* SORC/ORC re-interviews the offender and updates the community prep as required;
  - b. *Indeterminate or determinate case in DOCCS custody prior to CR:* SORC/ORC interviews and issues, or re-interviews and updates, the community prep as required and as appropriate to the CR date (or earliest release date);
  - c. *Indeterminate or determinate case in custody at a non-DOCCS location, past CR but prior to ME:* Upon case return to DOCCS, SORC/ORC re-interviews and updates the community prep as required; or
  - d. *Indeterminate or determinate case in custody at a non-DOCCS location, prior to CR:* Upon case return to DOCCS, SORC/ORC interviews and issues, or re-interviews and updates, the community prep as required and as appropriate to the CR date (or earliest release date).
2. Updated community preparation investigations (including transfer investigations) must be completed under emergency release procedures and arrangements must be made for release as soon as a residence can be approved.

STATE OF NEW YORK

DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION (DOCCS)

CERTIFICATE OF RELEASE TO COMMUNITY SUPERVISION

SENTENCE:

Choose an item

RELEASE TYPE:

Choose an item

INMATE RELEASE FUNDS:

Enter Balance.

RESTITUTION/SURCHARGES:

Click or tap here to enter text.

NYSID:

Click or tap here to enter text

DIN:

Click or tap here to enter text

Click or tap here to enter text, now confined in

Click or tap here to enter text

Facility who was convicted and/or adjudicated of:

CRIME/COUNTS	SENTENCE	COUNTY	COURT	SENTENCING DATE	JUDGE

has agreed to abide by the conditions to which they have signed their name below, and is hereby granted release, by virtue of the authority conferred by New York State Law.

Maximum Expiration Date:

Click here to enter a date

PRS Maximum Expiration Date:

Click here to enter a date

Post-Release Supervision Period (years/months/days):

Click or tap here to enter text

It is hereby directed that 

Click or tap here to enter text

 be released and placed under legal jurisdiction of the Department of Corrections and Community Supervision until the Community Supervision End Date of 

Click here to enter a date

.

Date of Release:

Click here to enter a date

Parole Eligibility Date:

Click here to enter a date

Board of Parole:

Click or tap here to enter text.

Board Decision Date:

Click here to enter a date

Approved Residence Address:

Click or tap here to enter text.

City/State/Zip:

Click or tap here to enter text.

I, 

Click or tap here to enter text.

, understand I will be subject to Community Supervision. I fully understand that my person, residence and property are subject to search and inspection. I understand that Community Supervision is defined by these Conditions of Release and all other conditions that may be imposed upon me by the Board of Parole or an authorized representative of the Department of Corrections and Community Supervision. I understand that my violation of these conditions may result in the revocation of my release.

CONDITIONS OF RELEASE

1.
- I will proceed directly to the area to which I have been released, and, within twenty-four hours of my release, make my arrival report to the Community Supervision Office indicated below, unless other instructions are designated on my release agreement.

Assigned Bureau:

Click or tap here to enter text.

Assigned Bureau Address:

Click or tap here to enter text.

City/State/Zip:

Click or tap here to enter text.

Bureau Phone Number:

Click or tap here to enter text.

Assigned Parole Officer:

Click or tap here to enter text.

Assigned Senior Parole Officer:

Click or tap here to enter text.

Emergency/After Office Hours & Weekends, contact the Community Supervision Operations Center (CSOC) (212) 239-6159

Click or tap here to enter text.

2.
- I will make office and/or written reports as directed.
3.
- I will not leave the State of New York or any other state to which I am released or transferred, or any area defined in writing by my Parole Officer without permission.

☐ ORIGINAL TO CENTRAL FILES

☐ INMATE COPY

☐ COMMUNITY SUPERVISION FOLDER (GREY FOLDER)

☐ COPY TO FACILITY IRC

4.

I will permit my Parole Officer to visit me at my residence and/or place of employment and I will permit the search and inspection of my person, residence and property. I will discuss any proposed changes in my residence, employment or program status with my Parole Officer. I understand that I have an immediate and continuing duty to notify my Parole Officer of any changes in my residence, employment or program status when circumstances beyond my control make prior discussion impossible.
5.

I will reply promptly, fully and truthfully to any inquiry of or communication by my Parole Officer or other representative of the Department of Corrections and Community Supervision.
6.

I will notify my Parole Officer immediately any time I am in contact with or arrested by any law enforcement agency. I understand that I have a continuing duty to notify my Parole Officer of such contact or arrest.
7.

I will not be in the company of or fraternize with any person I know to have a criminal record or whom I know to have been adjudicated a Youthful Offender except for accidental encounters in public places, work, school or in any other instance with the permission of my Parole Officer.
8.

I will not behave in such a manner as to violate the provisions of any law to which I am subject which provide for a penalty of imprisonment, nor will my behavior threaten the safety or well-being of myself or others.
9.

I will not own, possess, or purchase any shotgun, rifle or firearm of any type without the written permission of my Parole Officer. I will not own, possess or purchase any deadly weapon as defined in the Penal Law or any dangerous knife, dirk, razor, stiletto, or imitation pistol. In addition, I will not own, possess or purchase any instrument readily capable of causing physical injury without a satisfactory explanation for ownership, possession or purchase.
10.

In the event that I leave the jurisdiction of the State of New York, I hereby waive my right to resist extradition to the State of New York from any state in the Union and from any territory or country outside the United States. This waiver shall be in full force and effect until I am discharged from Community Supervision. I fully understand that I have the right under the Constitution of the United States and under law to contest an effort to extradite me from another state and return me to New York, and I freely and knowingly waive this right as a condition of my Community Supervision.
11.

I will not use or possess any drug paraphernalia or use or possess any controlled substance without proper medical authorization.

12. Special Conditions:

13.

I will fully comply with the instructions of my Parole Officer and obey such special additional written conditions as he or she, a Member of the Board of Parole or an authorized representative of the Department of Corrections and Community Supervision, may impose.

I hereby certify that I have read and that I understand the foregoing conditions of my release and that I have received a copy of the Certificate of Release.

Signed the\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Releasee: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Witness Title: \_\_\_\_\_

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☐ COMMUNITY SUPERVISION FOLDER (GREY FOLDER) ☐ COPY TO FACILITY IRC