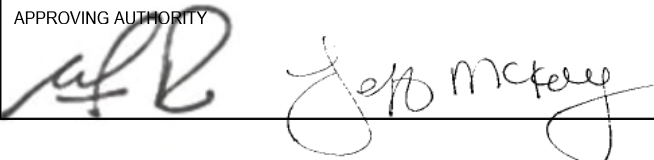
 Corrections and Community Supervision DIRECTIVE	TITLE		NO. 8304
	Mandatory and Discretionary Sex Offender Supervision Status Determinations		DATE 03/01/2024
SUPERSEDES DIR #8304 Dtd. 01/24/23	DISTRIBUTION A	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Sex Offender Registry Act	APPROVING AUTHORITY 		

- I. DESCRIPTION:** To establish guidelines and procedures for staff to identify Sex Offender Registry cases and other cases with histories of inappropriate sexual conduct for management under a comprehensive sex offender supervision “containment” strategy.
- II. POLICY:** It is the policy of the Department of Corrections and Community Supervision (DOCCS) to identify and provide intensive supervision strategies to individuals subject to the New York State (NYS) Sex Offender Registry and to individuals with a history of sexually inappropriate behaviors so that the interests of public safety and the supervision needs of the releasee are served.
- III. DEFINITIONS**
- A. Mandatory Sex Offender: All offenders subject to registration with the New York State Sex Offender Registry.
- B. Discretionary Sex Offender: An offender found upon case review and determination by the Bureau Chief to meet Department-established criteria for specialized supervision as a sex offender (see subsection IV-B).
- C. Containment Strategy: A specialized approach to supervision based on the development of external controls and supports that assist in offender monitoring and accountability for behaviors. The strategy relies on interdisciplinary collaboration and teamwork to ensure that criminal sexual behavior of offenders is managed and treated. A coordinated approach among the supervising Parole Officer, Polygraph Examiner, and treatment providers assists in the early detection of offender offense cycles, patterns, and risk factors.
- IV. PROCEDURE**
- A. Facility: Offender Rehabilitation Coordinators (ORC) or Supervising Offender Rehabilitation Coordinators (SORC) will review cases, prior to community preparation investigation issuance, to determine whether a particular case should be flagged as a mandatory or a potential discretionary sex offender for review and determination by assigned Area Office staff. Criteria for potential discretionary sex offender review include at least one of the following:
1. Current or prior crime of conviction/adjudication is a sexually motivated offense, but not a NYS Registry sex offense conviction, or the conviction pre-dates the Sex Offender Registry Act effective date of January 21, 1996. Examples of non-registry offenses which may qualify are: any youthful offender adjudication, promoting prostitution 2 subdivision 1, forcible touching without Registry-specific requirements, unlawful surveillance 2, where a trial court found registration to be unduly harsh or inappropriate.

2. Not currently on a Sex Offender Registry, but documented history of placement on a Sex Offender Registry.
3. Currently on an out-of-state Sex Offender Registry, but not on the NYS Sex Offender Registry.
4. History of documented **pattern** of sexual misbehaviors (i.e., crimes with a sexual component not incorporated into a final conviction, school records, jail or prison disciplinary records, or sexually inappropriate behaviors admitted to by the offender).
5. It appears that the offender and/or the community would benefit from intensive supervision practices that incorporate specialized sex offender “containment” strategies.

Where a case fits mandatory or discretionary sex offender criteria, the ORC or SORC will indicate such in the Case Management System (CMS) while entering the “Case Create,” no later than 90 days prior to the earliest possible release date. The ORC/SORC must indicate whether the case is a mandatory sex offender or if there is a potential for the case to be supervised as a discretionary sex offender while entering the Community Prep Interview (CPI) in CMS. Facility staff will review any community preparation investigation reports received from the Area Office, as well as the Parole Management Information System (PARMIS) Parole Supervision Inquiry Screen <F3> and CMS to determine whether a final discretionary sex offender determination has been made. Any information received regarding an incarcerated individual’s risk level designation, or discretionary sex offender status, will be made available to the Board of Parole and placed in the case folder.

Sex offender specific conditions will only be recommended in cases of mandatory sex offenders where the offender will be on the Sex Offender Registry.

B. Area Office

1. The assigned Parole Officer and/or Senior Parole Officer will ensure that any community preparation investigation request received with a “potential discretionary sex offender” or “mandatory sex offender” notation is promptly referred to the Bureau Chief (or designee) for review.
2. Utilizing the criteria specified in subsection IV-A, the Bureau Chief will determine whether the case will be designated a discretionary sex offender and assigned to a 25:1 caseload. The Bureau Chief will complete [Form #8304A](#), “Discretionary Sex Offender Case Review Worksheet,” which will reflect the reason for the recommendation to supervise the case as a discretionary sex offender. The assigned Parole Officer will document the decision in the CMS narrative.
3. The Bureau Chief may designate a case as a discretionary sex offender at any time throughout the supervision process. A Case Conference detailing the reasons for the designation must be entered into CMS, and the reasons detailing this designation must be included on [Form #8304B](#), “Designation Regarding Discretionary Sex Offender Status,” and sent to Quality Control (QC) by the Bureau Chief.
4. Bureau Chiefs are responsible to inform QC staff, during the community preparation process, of any case with a final designation as a discretionary sex offender supervision case by submitting [Form #8304B](#).

V. SUPERVISION IMPACT

- A. Both mandatory sex offender supervision cases and discretionary sex offender supervision cases are assigned to and supervised on a 25:1 caseload status. Discretionary sex offender supervision cases are precluded from moving to any other supervision status absent extraordinary circumstances.
- B. Any recommendation by assigned staff for relief of a case from discretionary sex offender supervision must be requested in writing through the regional chain of command. Any relief granted must be approved by the Bureau Chief and documented with reasons in the case file and notification provided to QC staff (see [Form #8304B](#)). Supervision status will be determined in accord with current procedures for supervision status movement.
- C. A designation of “discretionary sex offender” is not a basis to preclude an offender from being considered for possible early discharge, if otherwise appropriate to the case.

VI. MAINFRAME REPORTING

- A. The DOCCS QC unit will enter all discretionary sex offender supervision requests received from a Bureau Chief in the DOCCS mainframe system. Likewise, they will remove any requests to remove the discretionary status received from the Bureau Chief. The discretionary sex offender status can be seen on the PARMIS <F3> screen as well as the CMS F6 (supervision status) screen.
- B. Incarcerated individuals who have been designated with a sex offender risk level of 1, 2, or 3 will have their level displayed in the DOCCS mainframe systems of FPMS (01 screen), CMS <F6>, and PARMIS <F3>, only after the incarcerated individual has been released. If the case is subject to the registry but no level has yet been designated, the case will show as a “P” for pending.

NOTE: For incarcerated individuals who received a risk level designation but are not yet released, the risk level will be displayed on the FPMS (02 screen). Staff may also check with the facility Inmate Records Coordinator or Guidance to see if an offender received their level designation.

- C. DOCCS mainframe systems will be updated whenever an offender’s risk level changes. If an offender’s risk level expires or is otherwise removed, DOCCS mainframe systems will be updated accordingly to no longer show the risk level. In addition, an online print report will be produced to alert assigned staff that the offender’s risk level has changed (SORLEV), if it has expired (SOREXP), or if it was deleted (SORDEL).

**NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
DISCRETIONARY SEX OFFENDER CASE REVIEW WORKSHEET**

Case Name: _____ **NYSID:** _____

SECTION I – Parole Officer: Based on case review, please provide an answer to each question below, and then provide the completed form to the Bureau Chief:

1. Is the current or prior crime of conviction/adjudication a sexually motivated offense, but not a NYS **Registry** sex offense conviction, or does the conviction pre-date the Sex Offender Registry Act effective date January 21, 1996? Examples of non-registry offenses which may qualify are any youthful offender adjudication for a sex offense or sexually-motivated offense; promoting prostitution 2 sub. 1; forcible touching without Registry-specific requirements; unlawful surveillance 2, where a trial court found registration to be unduly harsh or inappropriate.

Yes____ No____

2. Is the individual not currently on a Sex Offender Registry, but has a documented history of placement on a Sex Offender Registry? (Example: a Level 1 whose 20-year term expired.)

Yes____ No____

3. Is the individual currently on an out-of-state Sex Offender Registry, but not on the NYS Sex Offender Registry?

Yes____ No____

4. Is there a history of documented **pattern** of sexual misbehaviors (i.e., crimes with a sexual component not incorporated into final conviction, school records, jail or prison disciplinary records, or sexually inappropriate behaviors admitted to by the offender)?

Yes____ No____

5. For any case with a “Yes” checked above, does it appear that the offender and/or the community would benefit from intensive supervision practices that incorporate specialized sex offender “containment” strategies?

Yes____ No____ N/A____

SECTION II – Bureau Chief: Based on case review, please note your determination:

Supervise as a Discretionary Sex Offender/Assign to 25:1 caseload? Yes____ No____
(Note: if yes, send completed form to QC)

Reason: _____

Bureau Chief Signature

Date

NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
DESIGNATION REGARDING DISCRETIONARY SEX OFFENDER STATUS

To: Quality Control

From: Bureau Chief _____, _____ Area Office

Re: Case Name _____ NYSID _____

Date: _____

Please be advised of the following information:

_____ Based on case review, the above-referenced individual was determined to be a discretionary sex offender. Please take necessary steps to ensure that the case remains in 25:1 sex offender supervision status until maximum expiration and set the "Supervised as a Sex Offender" indicator to: "*yes, discretionary.*"

or

_____ Please remove the previously imposed discretionary sex offender status and modify the "Supervised as a Sex Offender" indicator to: "*no.*"

Thank you.

Bureau Chief Signature

Date

cc: Case File