



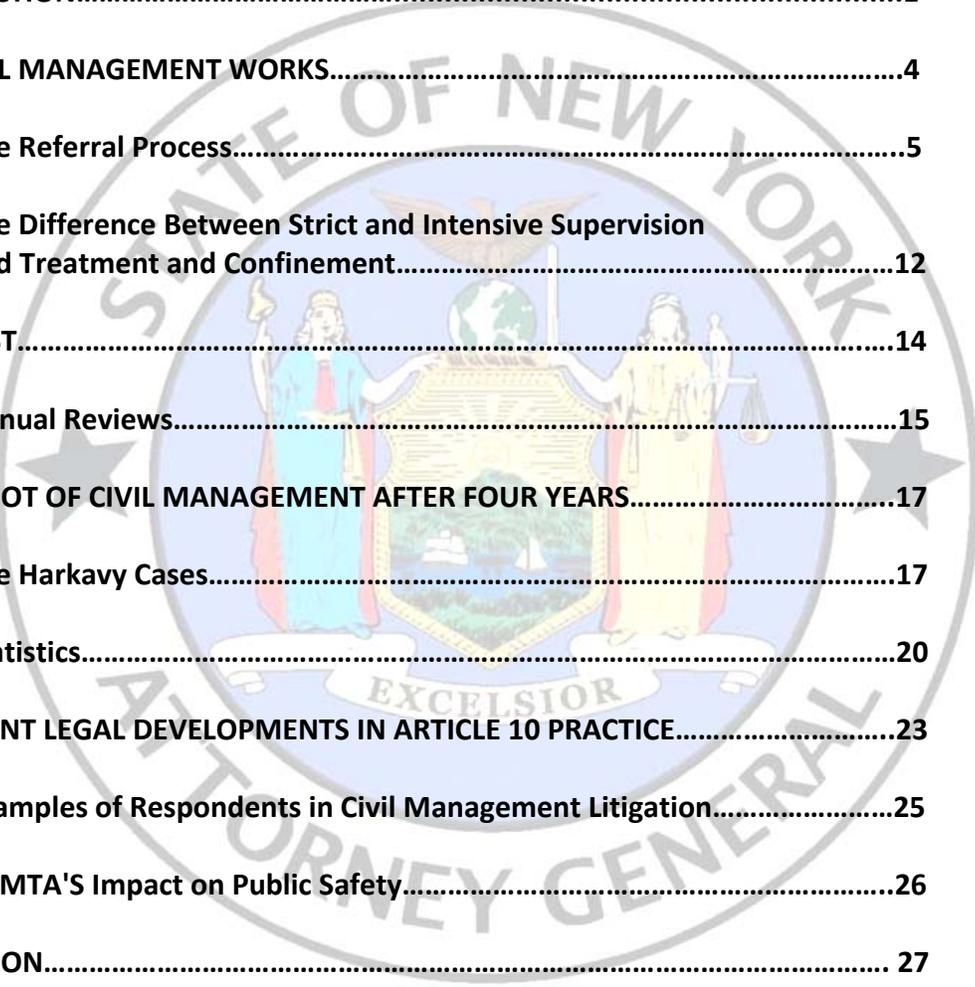
**NEW YORK STATE
OFFICE OF THE ATTORNEY GENERAL
SEX OFFENDER MANAGEMENT BUREAU**

**ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL**

A REPORT ON THE 2007 LAW THAT ESTABLISHED
CIVIL MANAGEMENT FOR SEX OFFENDERS IN NEW YORK STATE

APRIL 13, 2011

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The seal of the State of New York Attorney General is a large, faint watermark in the background. It features a central shield with a landscape scene, flanked by two female figures representing Liberty and Justice. Above the shield is an eagle with wings spread. The shield is topped with a crest. The words "STATE OF NEW YORK" are written in a circle around the top, and "ATTORNEY GENERAL" around the bottom. The word "EXCELSIOR" is on a banner below the shield. Two stars are positioned on either side of the shield.

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INTRODUCTION

In March 2007, the Legislature enacted the Sex Offender Management and Treatment Act ("SOMTA"). Act of March 14, 2007, ch. 7, 2007 N.Y. Laws 108 (McKinney's). SOMTA is designed both to protect society from sex offenders with mental abnormalities that predispose them to engage in repeated criminal sexual activity and to provide those offenders with specialized care and mental health treatment. *See* Mental Hygiene Law ("MHL") § 10.01. SOMTA became effective April 13, 2007.

The centerpiece of SOMTA is MHL Article 10, which established new standards and procedures for the civil management of certain sex offenders upon their release from prison or other state custody or supervision. SOMTA, ch. 7, § 2, 2007 N.Y. Laws 107, 107. To qualify as a "sex offender requiring civil management," a person must, among other things, suffer from a "mental abnormality," defined as:

[A] congenital or acquired condition, disease or disorder that affects the emotional, cognitive or volitional capacity of [the offender] in a manner that predisposes him or her to the commission of conduct constituting a sex offense and that results in [the offender] having serious difficulty in controlling such conduct.

MHL § 10.03(i).

When an eligible sex offender nears his release from state custody or supervision, the appropriate agency notifies the Office of Mental Health ("OMH") and the Office of the Attorney General ("OAG"). MHL § 10.05(b). Upon receiving that notice, OMH appoints a

multidisciplinary team of clinical and professional staff to review preliminarily whether the offender requires civil management. Offenders meeting the multidisciplinary team's screening criteria are referred to a case review team for further review, which may include a psychiatric evaluation. MHL § 10.05(d), (e).

If the case review team concludes that the offender is a sex offender requiring civil management, OMH gives notice of that conclusion, together with the report of any psychiatric evaluation conducted at the case review team's request, to the offender and to OAG. MHL § 10.05(g). Upon receiving such notice, OAG may file a sex offender civil management petition in Supreme Court or County Court. MHL § 10.06(a).

After a petition is filed, the court must hold a hearing "to determine whether there is probable cause to believe that the [offender] is a sex offender requiring civil management." MHL § 10.06(g). Once a petition has been filed, the offender, as a party to the action, becomes the respondent. At the probable cause hearing, and at any subsequent trial, the respondent has the right to counsel and "may, as a matter of right, testify in his or her own behalf, call and examine other witnesses, and produce other evidence in his or her behalf." MHL § 10.08(g); *see also* MHL §§ 10.06(i), 10.07(b). If the court determines that there is no probable cause, the petition is dismissed and the respondent is released to the extent consistent with other applicable law (for example, if he has completed his criminal sentence).

If, on the other hand, the court finds probable cause, it must set the matter for trial. MHL § 10.06(k). At the trial, if the jury, or the court in a non-jury trial, finds that the State has not proved its case, the petition is dismissed and the respondent is released to the extent consistent with other applicable law. MHL § 10.07(e). If, however, the jury unanimously finds that the State has proved its case, the court shall hear argument as to whether the respondent is a

dangerous sex offender requiring confinement or a sex offender requiring strict and intensive supervision and treatment. MHL § 10.07(f). After hearing argument as to that issue, the court must order that the respondent either be confined at a secure treatment facility or undergo a regimen of strict and intensive supervision and treatment ("SIST") in the community. MHL § 10.07(d), (f).

Upon the enactment of SOMTA, the Attorney General created a statewide bureau to handle the influx of civil management cases and armed the bureau with the resources necessary to make the program a success. In the first four years, the Attorney General filed 442 petitions, conducted 413 probable cause hearings, and tried 170 cases. As a result of that litigation, courts have confined 163 dangerous and mentally abnormal sex offenders to secure treatment facilities, while placing 88 mentally abnormal sex offenders on SIST programs of outpatient treatment and community supervision.

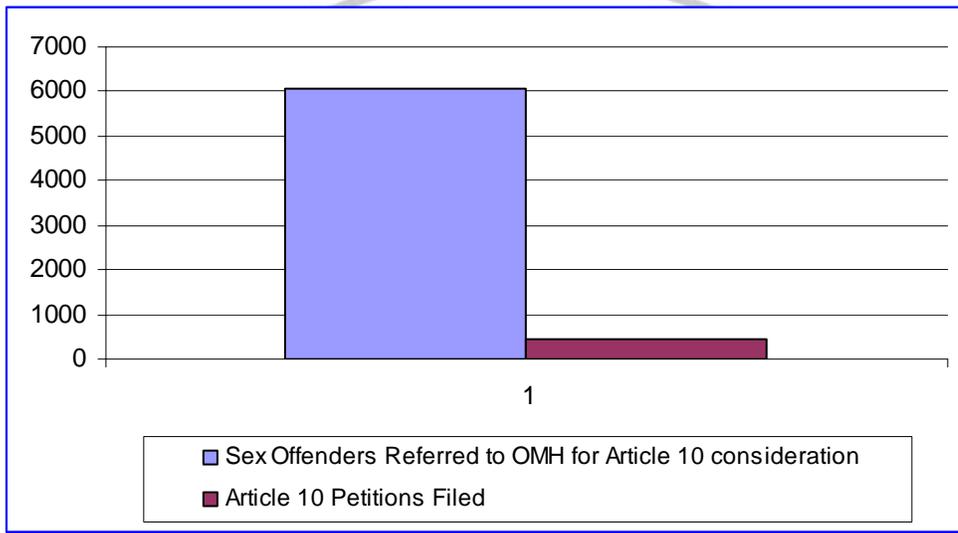
This report provides an overview of the implementation of SOMTA. The report is divided into two parts: (1) an explanation of the civil management process; and (2) a snapshot of the civil management system after four years, including recent updates. The statistics generated in this report are current as of April 1, 2011.

ACCOMPLISHMENTS IN FOUR YEARS

- Civil management of sex offenders is now operational in New York State.
- The Attorney General reviews cases, files petitions, and conducts litigation.
- The Attorney General filed 442 civil management petitions.
- Courts civilly confined 163 dangerous sex offenders.
- Courts placed 88 offenders into the community under strict and intensive supervision and treatment (SIST).

HOW CIVIL MANAGEMENT WORKS

There are three key elements necessary to understanding civil management in New York State. First, civil management does not apply to every sex offender. Instead, the legislation targets only those offenders who have been convicted of a qualifying felony offense and who suffer from a mental abnormality.



Second, New York State's sex offender civil management system is unique as compared to those systems in other states in that it offers two options for treating and supervising sex offenders suffering from a mental abnormality. Courts may choose between confining offenders to a secure treatment facility or releasing the offenders under SIST. SIST provides close supervision of mentally abnormal offenders who live in the community and ensures that they receive the treatment and support that they need.

Third, civil management enhances public safety by filling a void. Before SOMTA, mentally abnormal sex offenders were released from prison, and from parole, with no guarantee of future supervision or treatment. SOMTA permits the state to petition the courts to have mentally abnormal sex offenders treated and supervised on SIST or, for the most dangerous

individuals, confined to a secure treatment facility for treatment until they can be safely released to the community. Decisions regarding confinement or SIST are subject to review. Decisions for confinement are reviewable at any time upon the petition of the respondent and must be reviewed at least annually to determine whether confinement continues to be appropriate. MHL § 10.09. For those on SIST, they may petition the court every two years for a modification or termination of the SIST regimen. MHL § 10.11(f)

KEY FACTS

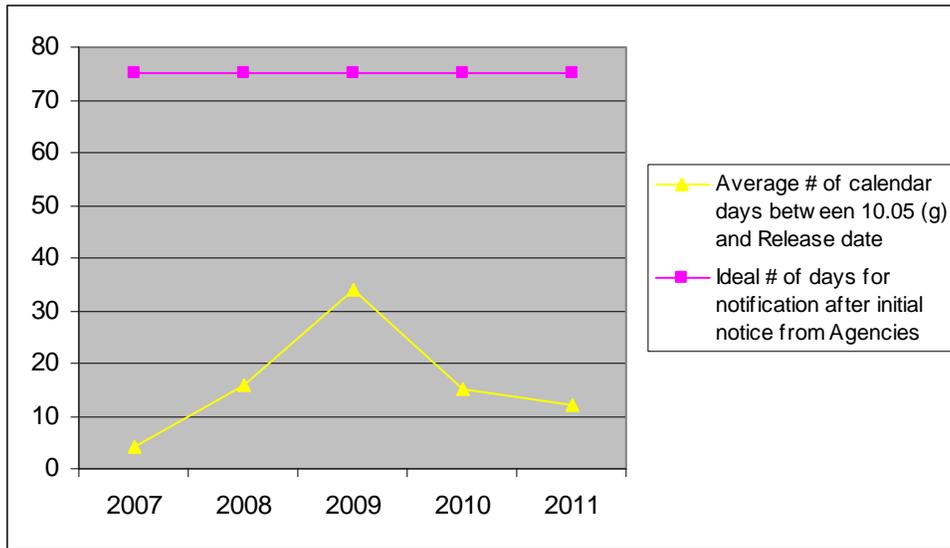
- At present, civil management is being applied to only 3% of all sex offenders with qualifying convictions.
- New York has two options: (1) outpatient strict and intensive supervision and treatment (“SIST”) or (2) inpatient confinement to a secure treatment facility.
- Public safety benefit: Before civil management, sex offenders were often released into the community with no supervision and no treatment. SOMTA allows the state to require inpatient treatment for the most dangerous offenders and to treat and supervise other offenders in the community.

The Referral Process

The first stage in civil management is the referral process, which begins when a sex offender is about to be released from prison, from parole, or from detention under the jurisdiction of OMH or of the Office for Persons with Developmental Disabilities (“OPWDD”). The appropriate agency notifies OAG and OMH of the potential release of an eligible offender, and OMH reviews every offender who is the subject of such a notice. OMH conducts a multi-tiered assessment and determines that the majority of the sex offenders do not

meet their criteria for referral. The offenders who meet OMH's stringent threshold for civil management are evaluated by a psychiatric examiner. If the psychiatric examiner and the OMH case review team ("CRT") determine that the offender suffers from a mental abnormality, the case is referred to the Attorney General for litigation.

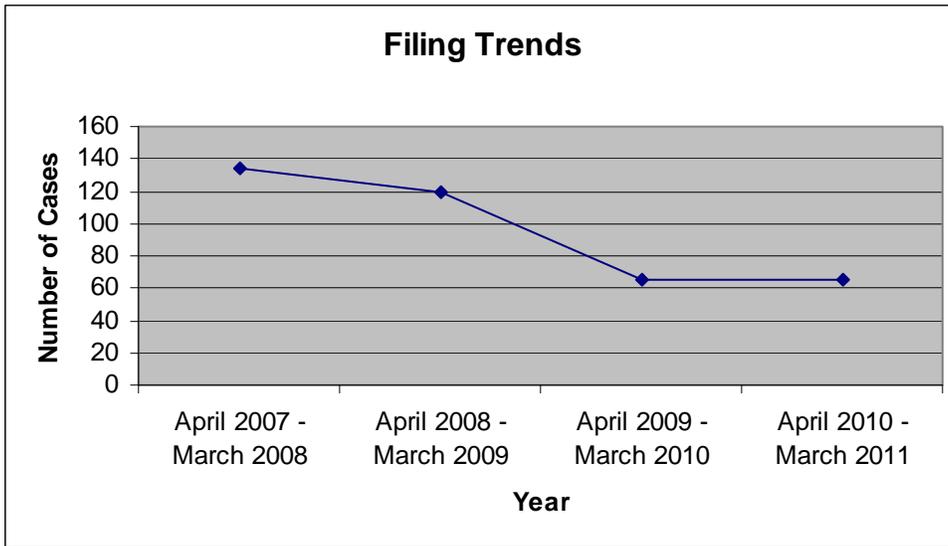
Pursuant to MHL 10.05(g) the case review team shall provide its written notice to the Attorney General's Office within 45 days of the OMH Commissioner receiving the notice of anticipated release. In 2007 the average number of days between the Attorney General's Office receiving such notification from the OMH and the individual's release date was 4; in 2008 it was 16; in 2009 it was 34; in 2010 it was 15 and to date in 2011, the average number of days between the Attorney General's Office receiving notification from the OMH that the CRT has determined that an individual suffers from a mental abnormality, and that individual's release date, is 12. The number of cases referred by the OMH has declined dramatically since the inception of SOMTA. In 2007 - 2008 the OMH referred 134 cases to the Attorney General's Office; in 2008 - 2009 it referred 119; in 2009 - 2010 it referred 65; and in 2010 - 2011 it referred 65.



Notification by OMH to OAG

Year

Year	Avg # of calendar days between 10.05 (g) and release date	Ideal # of days for notification after initial notice from Agencies
2007	4	75
2008	16	75
2009	34	75
2010	15	75
2011	12	75

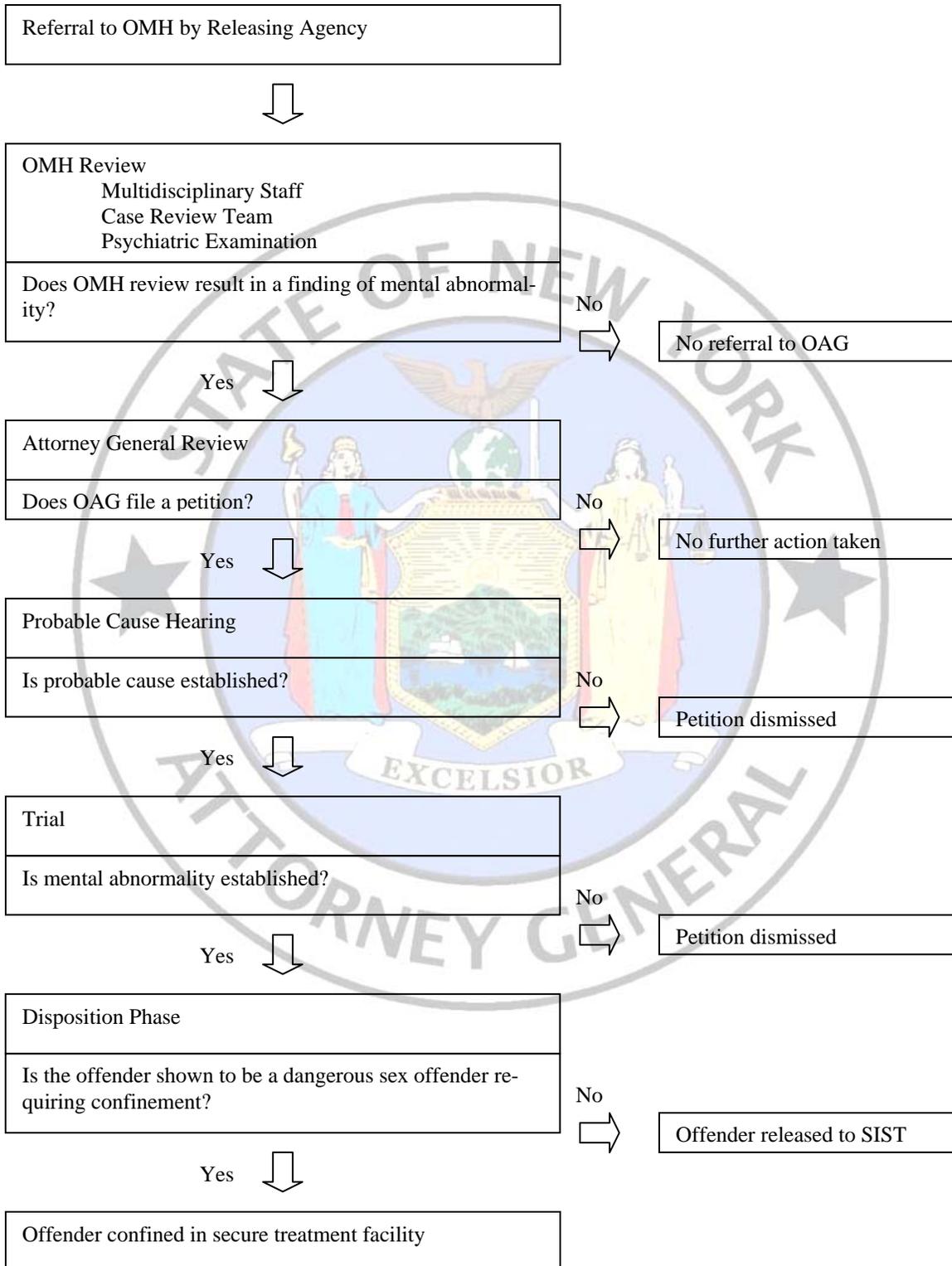


Trends Year	Total Cases
April 2007 - March 2008	134
April 2008 - March 2009	119
April 2009 - March 2010	65
April 2010 - March 2011	65

STAGES IN THE CIVIL MANAGEMENT PROCESS:

- 1. Initial Referral:** The case is referred to OMH (usually from the Department of Correctional Services or the Division of Parole).
- 2. Evaluation:** OMH evaluates each case, and refers to the Attorney General those few cases where OMH finds that the offender suffers from a mental abnormality.
- 3. Litigation:** The Attorney General files a petition in court. A trial ensues. If there is a unanimous verdict for civil management, or the court finds for civil management after a bench trial, the court decides between the inpatient and outpatient treatment options.
- 4. Supervision, Treatment and Review:** If an offender is placed in the community on SIST, he is closely monitored by the court and Parole. He must receive sex offender treatment. If the court orders confinement, the offender will be sent to a secure state psychiatric facility for treatment. All offenders continue to be represented by an attorney, and the court periodically reviews each case.

THE MHL ARTICLE 10 CIVIL MANAGEMENT PROCESS



If the Attorney General determines the offender is appropriate for civil management, he files a petition in court. As soon as the petition is filed, the respondent is entitled to legal representation, which continues throughout the litigation. The respondent has a right to have a twelve-person jury decide his case at trial, by a unanimous verdict. At trial, the state carries the burden of proving that the offender suffers from a mental abnormality by clear and convincing evidence, the most stringent standard applicable to civil proceedings.

The jury decides whether or not the respondent suffers from a mental abnormality. It does not decide whether the respondent will receive inpatient treatment at a secure treatment facility or outpatient treatment while supervised in the community under SIST. Instead, the court makes that decision only after the jury first determines that the offender suffers from a mental abnormality. The determination as to how a mentally abnormal sex offender will be treated is left exclusively to the court.

The court's decision concerning the type of treatment a respondent receives turns on whether or not the court finds the respondent to be a "dangerous sex offender requiring confinement." Article 10 defines "dangerous sex offender requiring confinement" to be:

[A] detained sex offender suffering from a mental abnormality involving such a strong predisposition to commit sex offenses, and such an inability to control behavior, that the person is likely to be a danger to others and to commit sex offenses if not confined to a secure treatment facility.

MHL § 10.03(e). If the court finds that the respondent is not a dangerous sex offender requiring confinement he is placed on SIST under the supervision of the Division of Parole. He is allowed to live in the community as long as he complies with all of the conditions set by the court and Parole, including receiving the treatment he needs. On the other hand, should the court find that the offender is a "dangerous sex offender requiring confinement," he is civilly confined in a

secure treatment facility operated by OMH.

The court may revisit a civil confinement determination at any time and such confinement must be reviewed at least annually to ensure that the patient continues to suffer from a mental abnormality and continues to be a dangerous sex offender requiring confinement. Those safeguards are necessary to ensure that the respondent's legal rights are respected and that civil confinement decisions withstand legal scrutiny. To date, 15 respondents have been stepped down from confinement to SIST based on annual review determinations.

The Difference Between Strict and Intensive Supervision and Treatment and Civil Confinement

As mentioned above, New York provides two options for the treatment of mentally abnormal sex offenders: strict and intensive supervision and treatment or civil confinement. SIST is intended for those respondents who require close supervision and monitoring, but who are not believed to rise to the level of a dangerous sex offender requiring confinement. Before a respondent is placed on SIST, Parole conducts an investigation to determine whether the respondent's proposed living arrangements are lawful and appropriate. Parole's investigation is done with the input of OMH, which researches available outpatient treatment options. The court ultimately decides which patients are placed on SIST and receives quarterly progress reports regarding each respondents' progress under community supervision and treatment.

All offenders on SIST are supervised by specially trained parole officers who carry a greatly reduced caseload ratio of ten respondents to each parole officer. In contrast, a normal parolee to parole officer caseload ratio is 60 to one, and a normal sex-offender parolee to parole

officer caseload ratio is 25 to one. In addition, SIST respondents are required to have six face-to-face supervision contacts per month, twice as many as traditional parolees, allowing parole officers to closely monitor SIST respondents. Parole officers charged with monitoring SIST participants are also responsible for conducting three collateral contacts per month.

SIST respondents are also required to abide by a set of conditions that specifically relate to known risk factors and to the respondent's prior behavior. For example, those conditions may mandate that the offender cannot have contact with minors, must abide by a curfew, and cannot use a computer. Respondents are required to attend sex offender treatment and are subject to sex offender polygraph examinations and substance-abuse testing.

If an offender violates any SIST condition, his parole officer is authorized to take him into custody. The Attorney General then decides what further action to take, including bringing the case before the court for modification of SIST conditions or seeking confinement in a secure treatment facility. Again, the court is responsible for determining whether confinement is appropriate, modification of conditions is appropriate or a return to SIST with no changes is appropriate.

Confinement is intended for the most dangerous mentally abnormal sex offenders. For both the public's safety and the treatment needs of the respondent, these individuals must be confined in a secure treatment facility where they can receive treatment. There are currently two such facilities in New York: Central New York Psychiatric Center (CNYPC), near Utica, and St. Lawrence Psychiatric Center (SLPC), near Ogdensburg. Each confined respondent is subject to review annually to ensure that confinement is still appropriate. In addition, a confined individual may petition the court for release at any time. OMH can also petition the court at any time to

release a confined individual.

The number of those Respondents on SIST is expected to grow exponentially as time passes. As indicated above, those Respondents who are determined to be dangerous sex offenders requiring confinement are entitled to annual review hearings of said determinations. In every instance in which a confined Respondent has been released at annual review, they have been found to continue to suffer from a mental abnormality and have been released to SIST.

SIST

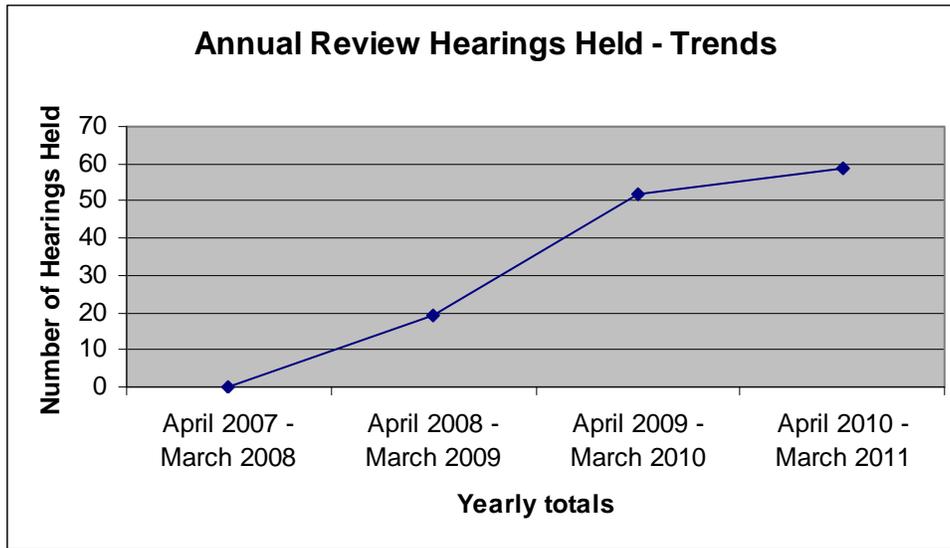
After the first year of SOMTA, there were 21 Respondents on SIST. Nine of those Respondents ultimately violated 1 or more conditions of SIST. By the end of the second year, that number jumped to 65 Respondents released to SIST. Four of those Respondents were confined after they violated conditions of SIST which resulted in the Attorney General's Office filing petitions for confinement in those cases, and the respective Courts finding them to be dangerous sex offenders requiring confinement. Nineteen of those Respondents were incarcerated due to parole and/or SIST violations, leaving 41 in the community. One of those Respondents was hospitalized. At the end of the second year the SIST violation rate was 45%, with 38% of those violations taking place in the first month on SIST. By the end of the third year the number jumped to 82 Respondents released to SIST. Fifteen of those Respondents were confined after SIST violations. Twenty-one were incarcerated due to parole and/or SIST violations and 46 remained in the community. By the end of the third year the SIST violation rate was up to 55%.

It should be noted that not all violations of SIST result in civil confinement. In each case, the Court determines whether the Respondent is a dangerous sex offender requiring confinement based on the proof offered by the Attorney General.

As of March 31, 2011 there are a total of 97 SIST cases, including some Respondents that began in confinement and were ultimately released to SIST at annual review. Fifty-seven of that 97 have been taken into custody as a result of a SIST and/or parole violations. Overall 54 Respondents have violated SIST, 45 of them - 79% - did so in the first year on SIST.

Annual Reviews

Pursuant to MHL § 10.09 each confined Respondent is entitled to an annual review of his status as a dangerous sex offender requiring confinement. The number of annual review hearings that are conducted is expected to grow dramatically with each passing year as Respondents continue to be confined as dangerous sex offenders requiring confinement, and Respondents on SIST engage in SIST violations resulting in some number of them being confined. In the second year of SOMTA, which is the first year that annual review hearings had to be conducted, 19 annual review hearings were held. In the third year of SOMTA 52 hearings were held. Finally, in the fourth year of SOMTA, 59 annual review hearings were held. These hearings consist of the confined Respondents obtaining independent expert witnesses to testify on their behalf, and the Attorney General calling witnesses from the Office of Mental Health. The past year of the Respondent's confinement, as well as any and all treatment records that are generated must be reviewed in addition to any other issues the Court deems relevant.



Year	Number of Annual Review Hearings Held
April 2007 - March 2008	0
April 2008 - March 2009	19
April 2009 - March 2010	52
April 2010 - March 2011	59

A SNAPSHOT OF CIVIL MANAGEMENT AFTER FOUR YEARS

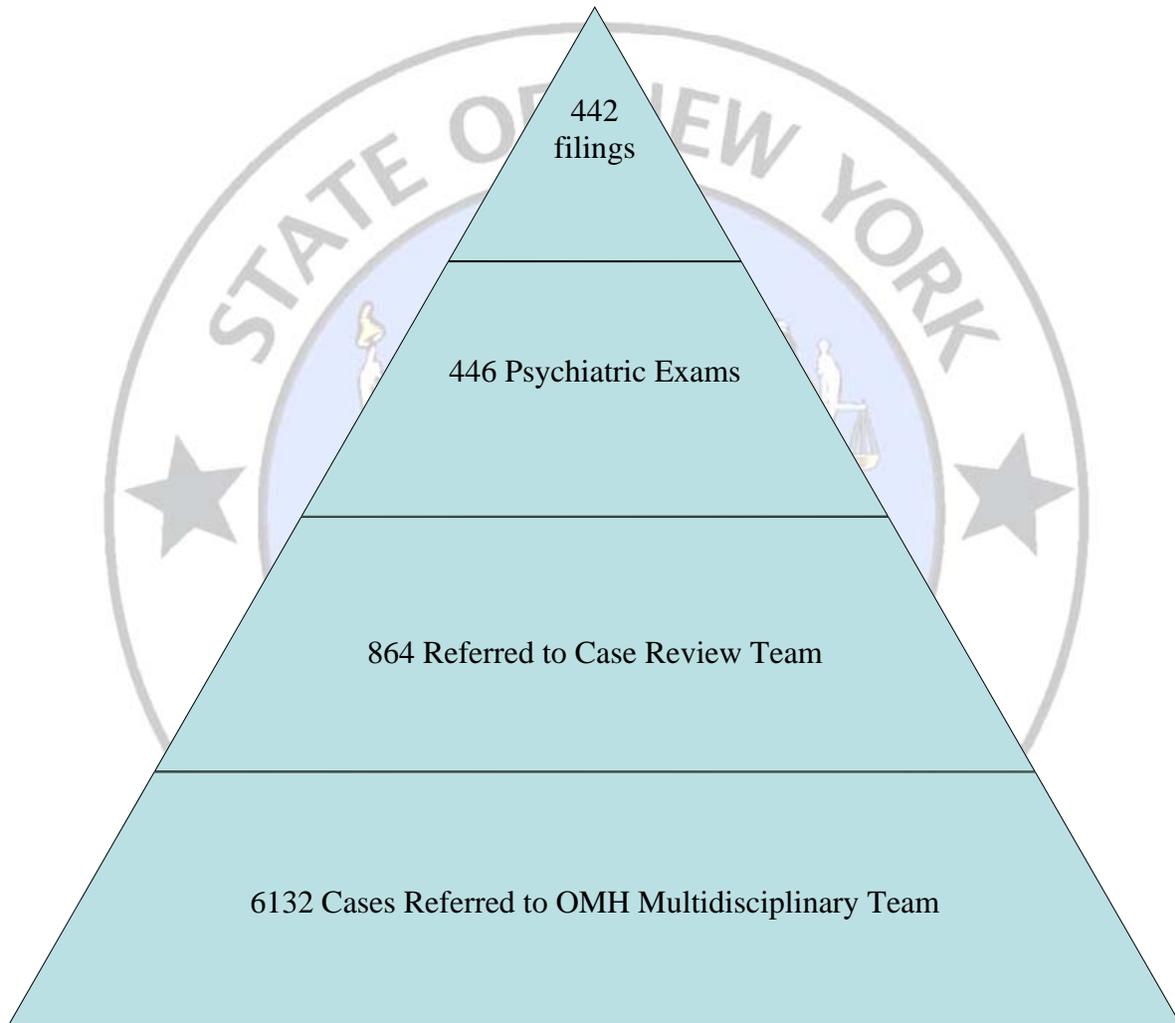
As noted, civil management applies only to a small percentage of sex offenders. During the first four years under SOMTA, OMH screened 6132 offenders who had been convicted of SOMTA-qualifying offenses. Only 447 of those offenders were referred to OAG for litigation, resulting in a 7% referral rate. That figure is deceiving, since almost 50% of the original backlogged Harkavy cases were referred, making the overall percentage seem larger than it really is. The current referral rate has declined to 3%. The pyramid on the following page represents cases evaluated during the first four years of SOMTA.

The Harkavy Cases

In addition to cases concerning individuals who were about to be released from prison or whose parole term was ending, OMH evaluated 121 sex offenders that had been hospitalized at OMH facilities prior to SOMTA's enactment. Those patients, referred to as the Harkavy patients, consisted of individuals who were civilly confined before SOMTA was enacted, under the direction of former Governor Pataki, using the provisions of Mental Hygiene Law Article 9. In *State ex rel. Harkavy v. Consilvio*, 7 N.Y.3d 607 (2006) ("*Harkavy I*"), the Court of Appeals held that MHL Article 9 had been improperly used to confine these offenders. Then, on April 13, 2007, SOMTA became effective, establishing the current civil management process.

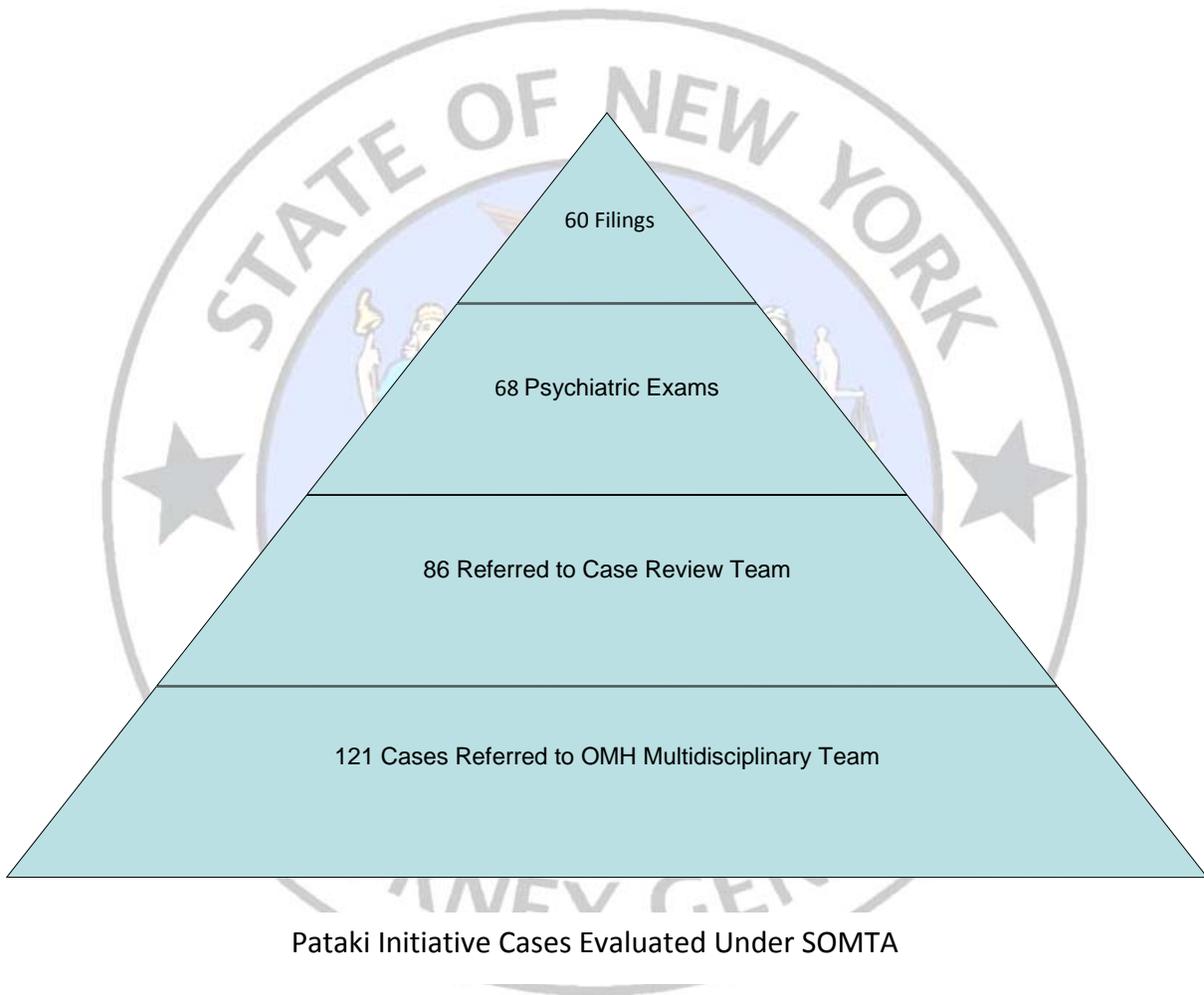
Subsequently, on June 5, 2007, the Court of Appeals decided *State ex rel. Harkavy v. Consilvio*, 8 N.Y.3d 645 (2007) ("*Harkavy II*"), holding that all sex offenders still being held in OMH facilities under the Pataki Initiative should not be released, but rather should be re-evaluated

under SOMTA. As a result, OMH re-evaluated 121 Harkavy patients for civil management under SOMTA. OMH found that about half of those offenders met criteria for civil management under MHL Article 10 and referred those cases to the Attorney General.



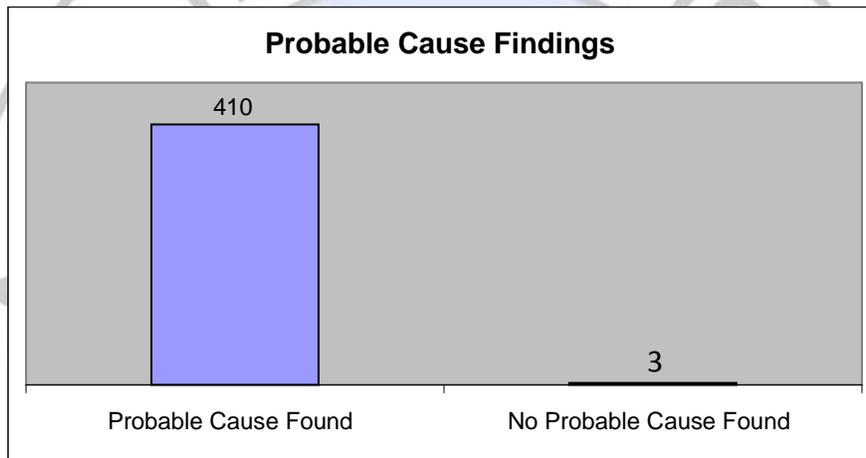
Cases Evaluated Under SOMTA, April 2007- March 2011

The pyramid below represents Pataki Initiative cases evaluated under SOMTA.

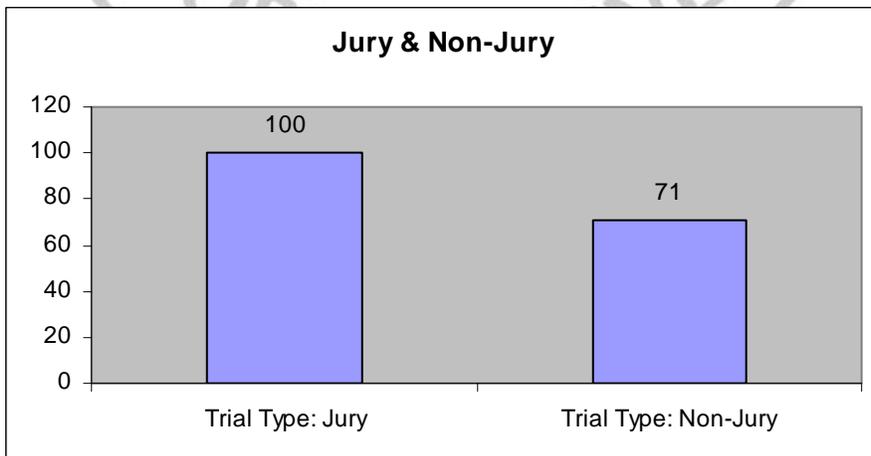
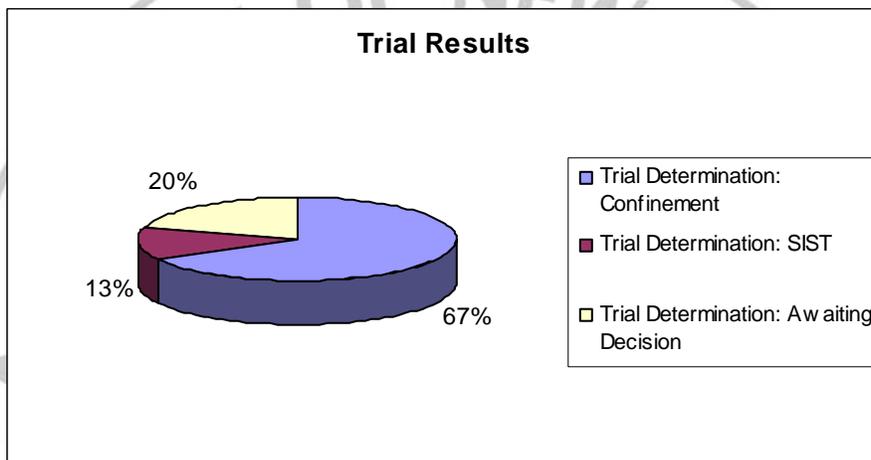
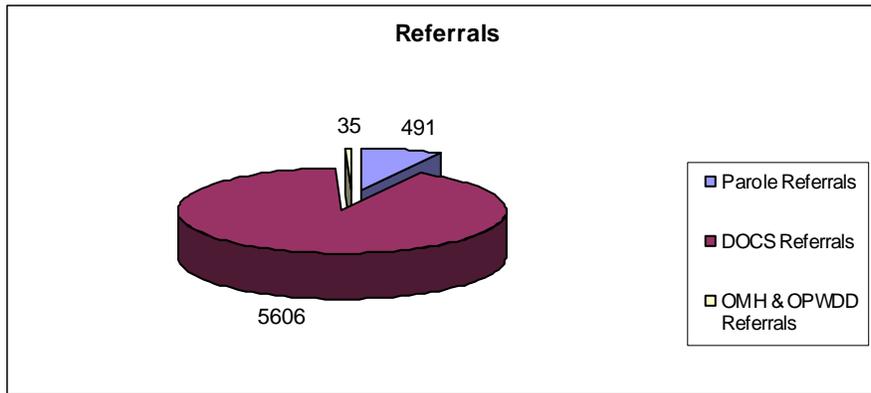


Statistics

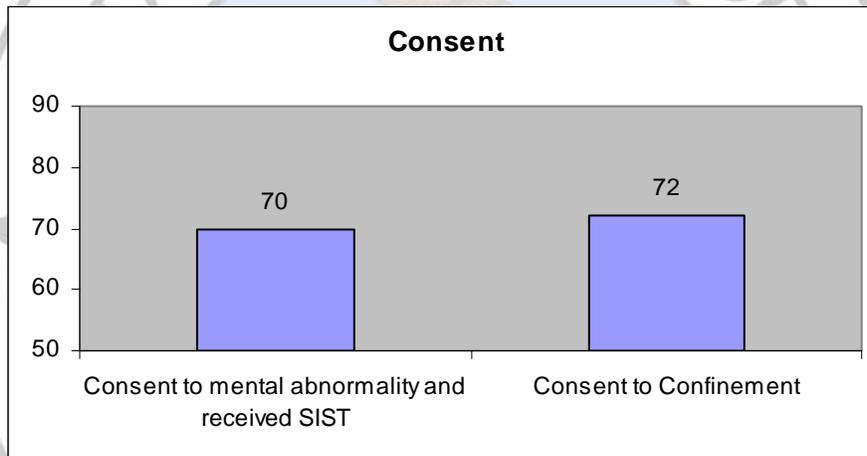
In SOMTA's first four years, OMH referred a total of 482 individuals, including the Pataki Initiative offenders, to OAG for civil management. The Attorney General has filed 442 petitions and conducted 413 probable cause hearings. The courts found probable cause to believe the respondent was mentally abnormal and in need of management in 410 of the hearings held to date. So far, the Attorney General has petitioned courts for civil management of people in the custody of DOCS, OMH, and OPWDD, and under the supervision of the Division of Parole.



New York courts have held 171 civil management trials, 100 of those trials before a jury, 71 before the court alone after the offender waived his right to a jury. In 141 trials, the jury or the judge found that the patient warranted civil management. In 26 trials, the offender was found to not warrant management. Five cases resulted in either a hung jury, mistrial or a vacated verdict, and are pending.



In addition to the cases decided at trial, there have been a number of cases that were disposed of without a trial. In 72 cases, the offender, represented by counsel, consented to inpatient treatment in a secure treatment facility. In each of those cases, the patient admitted he suffered from a mental abnormality and that he was likely to commit a sex offense if not confined in a secure treatment facility. In another 70 cases, the patient admitted his mental abnormality and successfully persuaded the court to impose SIST.



In total, the courts have confined 163 civil management respondents to secure treatment facilities. That figure includes 91 post-trial confinements and 72 confinements consented to by respondent. In another 88 cases, the courts imposed an outpatient SIST regimen. Litigation is ongoing in the remaining cases.

SIGNIFICANT LEGAL DEVELOPMENTS IN ARTICLE 10 PRACTICE

Between April 1, 2010 and March 31, 2011, New York state and federal courts decided a number of cases that have an impact on the litigation of Article 10 proceedings.

1. In People ex rel. Joseph II v. Superintendent of Southport Correctional Facility, 15 N.Y.3d 126 (2010) ("Joseph II"), the Court of Appeals reconciled Article 10 with a recurring problem arising from the failure of criminal trial courts to impose at the time of sentencing the required period of post-release supervision ("PRS"). The respondents in the two Joseph II companion cases were both returned to prison after violating PRS that the Department of Correctional Services ("DOCS") had administratively imposed, after the sentencing court had failed to impose PRS at the time of sentencing. The Court of Appeals later ruled that administratively imposed PRS terms are invalid. Matter of Garner v. New York State Department of Correctional Services, 10 N.Y.3d 358 (2008); People v. Sparber, 10 N.Y.3d 457 (2008).

The state filed Article 10 petitions against both respondents as they neared the end of those new prison terms. Both respondents challenged the state's jurisdiction to proceed against them under Article 10, claiming that in the absence of the invalidly imposed PRS terms, they would not have been in prison and subject to Article 10 scrutiny. The Joseph II Court disagreed, ruling that Article 10 jurisdiction may be sustained against an eligible offender who is in custody, even if that custody is unlawful.

2. In State v. Rashid, 16 N.Y.3d 1 (2010), the Court of Appeals made two rulings regarding the definition of "detained sex offender" set forth in Mental Hygiene Law Section 10.03(g). First, the Court held that a respondent's status as a "detained sex offender" is to be judged as of the

date the state files the Article 10 petition against him. Second, with respect to respondents whom the Division of Parole refers for Article 10 consideration, in determining whether a respondent is still on parole for a sex offense, and is therefore a "detained sex offender", the state may not rely on multiple consecutive sentences, but may only do so for inmates that DOCS refers.

3. In Mental Hygiene Legal Service v. Cuomo, slip op., 2011 WL 1344522 (S.D.N.Y. March 29, 2011) (Batts, J.) ("MHLS v. Cuomo"), the District court granted summary judgment in federal litigation that has been pending since the inception of Article 10. The court granted summary judgment in favor of plaintiff Mental Hygiene Legal Service on three causes of action: (a) The court, following an earlier decision by a different judge in the same litigation, permanently enjoined the state from detaining a respondent pretrial, in the absence of a judicial finding that the respondent is dangerous and that there is no less-restrictive alternative that would suffice to protect the public pending trial. (b) The court permanently enjoined the state from civilly managing offenders who, pursuant to Criminal Procedure Law Article 730, have been determined to be incompetent to stand trial in their criminal cases, unless those offenders' underlying crimes are proven beyond a reasonable doubt, rather than by the clear and convincing evidence standard that Article 10 establishes. (c) The court permanently enjoined the state from civilly managing offenders who are alleged to have committed "sexually motivated" felonies, unless that sexual motivation is proven beyond a reasonable doubt, rather than by the clear and convincing evidence standard that Article 10 establishes. This last ruling is directly contrary to New York State appellate authority, also decided last year. See State v. Farnsworth, 75 A.D.3d 14 (4th Dept. 2010).

The MHLS v. Cuomo court also granted summary judgment in favor of the state on two causes of action. (a) The court upheld the "securing petition" provision of Mental Hygiene Law

Section 10.06 (f), which permits the Attorney General to seek an order to detain an offender past his scheduled release date so that an OMH case review team may complete its evaluation of the offender. (b) The court rejected MHLS's claim that Article 10 offenders are entitled to representation by counsel when they are interviewed by OMH psychiatric examiners during the initial screening of their cases, but before the filing of an Article 10 petition against them. OAG has filed a notice of appeal to the Second Circuit in the MHLS v. Cuomo litigation.

4. In several decisions, two of New York's appellate divisions have approved the introduction at Article 10 trials of hearsay information that the state's psychiatric experts relied on in forming their opinions about the respondent's mental condition. See, e.g., State v. Wilkes, 77 A.D.3d 1451 (4th Dept. 2010); Matter of New York v. Anonymous, slip op., 2011 WL 1206047 (2d Dept. March 29, 2011). In State v. Wilkes, supra, in determining the reliability of the underlying hearsay information which the state's expert considered, the Fourth Department incorporated the factors that the Court of Appeals used in People v. Mingo, 12 N.Y.3d 563 (2009), with regard to the reliability of hearsay information in Sex Offender Registration Act hearings.

Examples of Respondents in Civil Management Litigation

The following are examples of cases that OAG litigated under SOMTA during the past year. Names of respondents have been redacted.

State v. D.S.: DS is a 60 year old male diagnosed with pedophilia and antisocial personality disorder. DS raped and sexually assaulted a 9 year old girl over a 14 month period. DS also sexually abused a 7 year old female, was previously convicted for the rape of an 8 year old girl, and four other female children have orders of protection against him. DS has indicated his belief that children can invite sexual activity from adults.

State v. R.R.: RR is a 44 year old male diagnosed with pedophilia with a criminal history consisting solely of sex offenses against children. RR sexually molested male children with

whom he had a stepfather type relationship with the sexual contact going on for over one year. RR attempted to blame his sexual molestation of male children on his homosexuality.

State v. J.F.: JF is a 54 year old male diagnosed with paraphilia NOS and personality disorder NOS. JF raped an adult female at knifepoint. Prior to that JF raped his own 8 year old daughter, sodomized her and forced her to sodomize him. He did the same to his daughter's 7 year old girlfriend. JF tied both victims hands and feet during the assaults, and shoved tissue in their mouths. JF violated parole three times, twice due to the commission of sex offenses.

State v. S.M.: SM is a 58 year old male diagnosed with pedophilia. He was convicted of his first sex offense when he was 18 years old involving him anally sodomizing a 14 year old boy under threat of violence. SM has 8 known male victims ranging in age from 8 - 14 years old. SM uses force on his victims and gave one of his victims gonorrhea.

State v. D.K.: DK was first convicted in New York City in connection with a series of forcible rapes against women at the Port Authority Bus Terminal, a subway station and other public places. After serving ten years for those crimes, he was released to parole in the Spring of 1987. Within sixteen days of his release, DK committed violent assaults and rapes against several women in Buffalo over a twelve-hour period.

State v. R.B.: RB pled guilty in both Bronx County and Westchester County in connection with a series of eight sexual assaults committed against women over an approximately two-year period. All of the sexual assaults were committed at gunpoint and in a sexually sadistic manner that included infliction of physical injury or acts of terrorism and humiliation (such as anal penetration, urination into the victim's mouth, ejaculation onto the victim's face).

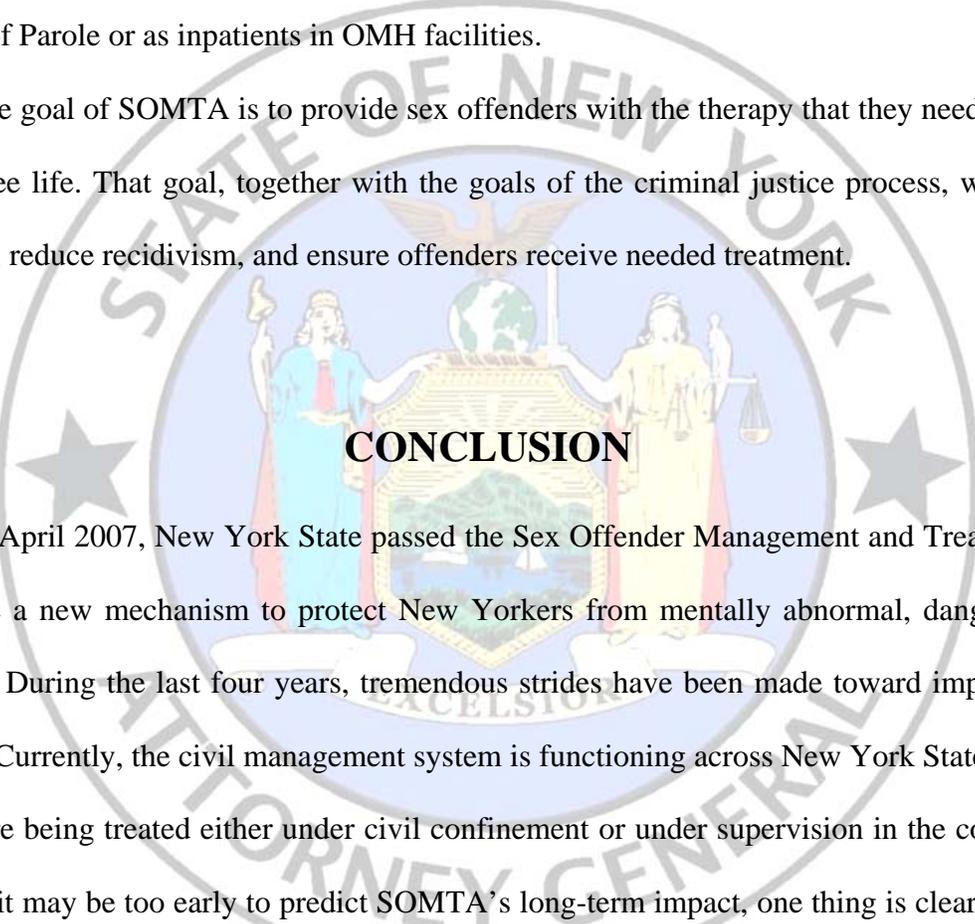
State v. B.H.: BH committed two prior sexual assaults, sustaining a conviction and a youthful offender adjudication for felony sex offenses. During a five-week period in the summer of 1989, BH physically and sexually assaulted and robbed five women in a series of attacks in Rochester. First, BH physically assaulted a woman. Two weeks later he attempted to forcibly rape another woman, and stole her bicycle. A little over a week after that, BH attempted to forcibly rape a third woman, robbed her, and caused serious physical injury to her by attempting to strangle her. Less than a week after that, BH attempted to sexually assault a fourth woman, and robbed her, as well. Finally, two days after that, BH attempted to forcibly rape a fifth woman.

SOMTA'S Impact on Public Safety

SOMTA has only been in effect for four years. It is therefore difficult to gauge its long-term impact. Civil management is intended to apply to a small number of offenders, and New York's civil management system, like any system, has its limitations. However, it appears that civil management is making a difference and helping to protect communities from the most

dangerous sex offenders. Accepted research shows that sex offender treatment can successfully reduce recidivism. After four years, 251 men are currently being civilly managed. Had the Attorney General not brought those cases, those recidivistic, mentally abnormal sex offenders would have been released into the community, possibly without treatment or supervision. Now, those offenders are receiving treatment for their mental disorders under supervision of the Division of Parole or as inpatients in OMH facilities.

The goal of SOMTA is to provide sex offenders with the therapy that they need to live an offense-free life. That goal, together with the goals of the criminal justice process, will protect the public, reduce recidivism, and ensure offenders receive needed treatment.

The seal of the State of New York Attorney General is a large, faint watermark in the background of the page. It features a central shield with a sun, a globe, and a scale of justice, flanked by two female figures representing Liberty and Justice. The shield is topped by an eagle with wings spread. The words "STATE OF NEW YORK" are written in a circle around the top, and "ATTORNEY GENERAL" around the bottom. Two stars are positioned on either side of the shield.

CONCLUSION

In April 2007, New York State passed the Sex Offender Management and Treatment Act to provide a new mechanism to protect New Yorkers from mentally abnormal, dangerous sex offenders. During the last four years, tremendous strides have been made toward implementing that goal. Currently, the civil management system is functioning across New York State and patients are being treated either under civil confinement or under supervision in the community. Although it may be too early to predict SOMTA's long-term impact, one thing is clear: if not for SOMTA, mentally abnormal and recidivistic sex offenders would be released into the community with little or no oversight or treatment. Because SOMTA gives New York more tools and more resources to treat the state's mentally abnormal and most dangerous sex offenders, New York's communities can only be safer.