

**CHAPTER 97. STATE INTERMEDIATE PUNISHMENT  
DRUG OFFENDER TREATMENT PROGRAM**

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**Authority**

The provisions of this Chapter 97 adopted by 42 Pa.C.S. § 9906, unless otherwise noted.

**Source**

The provisions of this Chapter 97 adopted May 20, 2005, effective May 21, 2005, 35 Pa.B. 3053; amended December 12, 2008, effective December 13, 2008, 38 Pa.B. 6733. Immediately preceding text appears at serial pages (311599) to (311610).

**§§ 97.1—97.17. [Reserved].**

**§ 97.101. Authority and purpose.**

(a) This chapter is published under the act and establishes the DOTP administered by the Department. This chapter is intended to inform judges, prosecutors, defense counsel, defendants and the general public about the DOTP.

(b) The DOTP is a form of State intermediate punishment that provides a sentencing alternative for a person who commits a drug-related offense as defined in the act. The DOTP offers a sentencing alternative that punishes a person who commits a drug-related offense, but also provides treatment that offers the opportunity for the person to address the drug or alcohol addiction or abuse issues related to their criminal behavior.

**§ 97.102. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—42 Pa.C.S. Chapter 99 (relating to State intermediate punishment) establishing the DOTP.

*Commission*—The Pennsylvania Commission on Sentencing.

*Community-based therapeutic community*—A long-term residential addiction treatment program licensed by the Department of Health to provide addiction treatment services using a therapeutic community model, determined by the Department to be qualified to provide addiction treatment to eligible offenders and accredited as a therapeutic community for the treatment of drug and alcohol abuse and addiction by the Commission on Accreditation of Rehabilitation Facilities or another Nationally-recognized accreditation organization for community-based therapeutic communities for drug and alcohol treatment.

*Community corrections center*—A residential program that is supervised and operated by the Department for inmates with prerelease status or who are on parole.

*Court*—The trial judge exercising sentencing jurisdiction over an eligible offender under this chapter or the president judge if the original trial judge is no longer serving as a judge of the sentencing court.

*Defendant*—An individual charged with a drug-related offense.

*Department*—The Department of Corrections of the Commonwealth.

*DOTP—Drug Offender Treatment Program*—An individualized treatment program established by the Department consisting primarily of drug and alcohol addiction treatment that satisfies the terms and conditions in section 9905 of the act (relating to drug offender treatment program).

*Drug-related offense*—A criminal offense for which the defendant is convicted and that the court determines was motivated by the defendant's consumption of or addiction to alcohol or a controlled substance, counterfeit, designer drug, drug, immediate precursor or marihuana, as those terms are defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-143).

*Eligible offender*—

(i) Under 42 Pa.C.S. § 9721(a.1) (relating to sentencing generally), a defendant designated by the sentencing court as a person convicted of a drug-related offense who:

(A) Has undergone an assessment performed by the Department which assessment has concluded that the defendant is in need of drug and alcohol addiction treatment and would benefit from commitment to a drug offender treatment program and that placement in a drug offender treatment program would be appropriate.

(B) Does not demonstrate a history of present or past violent behavior.

(C) Would be placed in the custody of the Department if not sentenced to State intermediate punishment.

(D) Provides written consent permitting the release of information pertaining to the defendant's participation in a drug offender treatment program.

(ii) The term does not include a defendant who is subject to a sentence the calculation of which includes an enhancement for the use of a deadly weapon, as defined under law or the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing, or a defendant who has been convicted of a personal injury crime as defined in section 103 of the Crime Victims Act (18 P. S. § 11.103), or an attempt or conspiracy to commit such a crime or who has been convicted of violating 18 Pa.C.S. §§ 4302, 5901, 6312, 6318 and 6320 or Chapter 76, Subchapter C (relating to Internet child pornography).

*Expulsion*—The permanent removal of a participant from a drug offender treatment program.

*Group home*—A residential program that is contracted out by the Department to a private service provider for inmates with prerelease status or who are on parole.

*Individualized drug offender treatment plan*—An individualized addiction treatment plan within the framework of the drug offender treatment program.

*Institutional therapeutic community*—A residential drug treatment program in a State correctional institution, accredited as a therapeutic community for treatment of drug and alcohol abuse and addiction by the American Correctional Association or other Nationally-recognized accreditation organization for therapeutic community drug and alcohol addiction treatment.

*Outpatient addiction treatment facility*—An addiction treatment facility licensed by the Department of Health and designated by the Department as qualified to provide addiction treatment to criminal justice offenders.

*Participant*—An eligible offender actually sentenced to State intermediate punishment under 42 Pa.C.S. § 9721(a)(7).

*Transitional residence*—A residence investigated and approved by the Department as appropriate for housing a participant in a DOTP.

**§ 97.103. Commitment for assessment.**

(a) Prior to imposing sentence, the court may, upon motion of the Commonwealth and agreement of the defendant, commit a defendant to the custody of the Department for the purpose of evaluating whether the defendant would benefit from a DOTP and whether placement in a DOTP is appropriate.

(b) The committing county shall deliver a defendant committed to the custody of the Department for purposes of an evaluation to the institution the Department has designated for reception of inmates from that county. The defendant shall be housed in a State correctional institution while undergoing the evalua-

tion. The following documents shall be delivered to the Department simultaneously with the defendant's arrival. The Department may refuse to accept for evaluation a defendant who is delivered to the Department by the county without all the documents listed as follows:

- (1) A certified copy of the order committing the defendant to the Department's custody for purposes of an evaluation.
  - (2) A summary of the offense for which the inmate has been convicted, including the criminal complaint and police report summarizing the facts of the crime, if available, or a copy of the affidavit of probable cause accompanying the arrest warrant.
  - (3) A record of the defendant's adjustment in the county correctional facility, including, misconducts and escape history.
  - (4) Any current medical or psychological condition requiring treatment, including, suicide attempts.
  - (5) Any medical admission testing performed by the county and the results of those tests, including, hepatitis, HIV/AIDS, tuberculosis or other infectious disease testing.
  - (6) A notice of current and previously administered medications. The notice must include the name and dosage of the medications provided to the inmate while incarcerated in the county as well as over-the-counter medications used by the inmate and known to the county. The notice must list medications provided or used during the preceding calendar year.
  - (7) A 48 hour supply of current medications.
- (c) Within 7 days of delivery of the defendant to the Department for an evaluation, the committing county shall provide the Department with the following:
- (1) A summary of the disposition of all arrests noted on the defendant's record of arrest and prosecution (RAP Sheet).
  - (2) Any available information regarding the defendant's history of drug or alcohol abuse, addiction or treatment, including any evaluation performed using Court Reporting Network instruments or other evaluation techniques deemed appropriate by the court under 75 Pa.C.S. § 3816 (relating to requirements for driving under the influence offenders) or any other provision of law.
  - (3) A presentence investigation when available or if a presentence investigation cannot be completed, the official version of the crime for which the offender was convicted or a copy of the guilty plea transcript or a copy of the preliminary hearing transcript.
  - (4) A copy of the guideline sentence form issued by the Commission.
  - (5) Other information the court deems relevant to assist the Department with its assessment of the defendant.

**§ 97.104. Assessment of addiction and other treatment needs.**

- (a) The Department will conduct a risk assessment and assess the addiction and other treatment needs of a defendant committed to its custody for purposes of an evaluation.

(1) The assessment of addiction shall be conducted using a Nationally-recognized assessment instrument or an instrument that has been normed and validated on the Department's inmate population by a recognized expert in these matters.

(2) For purposes of this section the term "recognized expert" means an individual who has earned the Doctor of Philosophy or the similar terminal degree in his field of study and who has published a number of peer reviewed validation studies.

(3) The Department currently uses the Texas Christian University Drug Screen II, an instrument that was developed under a Federal grant specifically for criminal offenders, is consistent with the DSM-IV criteria for substance abuse/dependence and is used by a number of criminal justice agencies. The Department's criteria for selecting an assessment instrument are that:

- (i) The instrument must be supported by strong academic research.
- (ii) The instrument correspond with the then current DSM criteria for substance abuse or addiction, or both.
- (iii) When possible, the instrument produces results that are statistically as reliable as results produced by the Texas Christian University Drug Screen II.

(4) The instrument will be administered by persons skilled in the treatment of drug and alcohol addiction and trained to conduct assessments. The assessment will be reviewed and approved by a supervisor with at least 3 years of experience providing drug and alcohol counseling services. An individual will be considered skilled in the treatment of drug and alcohol addiction if they have 1 year of experience as a Commonwealth Drug and Alcohol Treatment Specialist 1, or 2 years of professional experience providing drug and alcohol counseling services directly to clients in a social work setting and have earned a bachelor's degree that includes 18 credits in the behavioral sciences or 1 year of paraprofessional and 1 year of professional experience providing drug and alcohol counseling services directly to clients in a social work setting and are certified by the Pennsylvania Chemical Abuse Certification Board as a "Certified Addictions Counselor" or 1 year of professional experience providing drug and alcohol counseling services directly to clients in a social work setting and a master's degree with major coursework in addictions science, psychology or social work or an equivalent combination of experience and training which includes 18 college credits in the behavioral sciences. An individual will be considered trained to conduct assessments if the individual has completed the Department's internal training program in performing assessments or has equivalent experience and knowledge.

(b) The Department will provide a report of its assessment to the court, the defendant, the attorney for the Commonwealth and the Sentencing Commission within 60 days of the commitment of the defendant to the Department for purposes of evaluation. If the Department determines that the defendant will benefit

from a DOTP and placement in a DOTP is appropriate, the report will include a proposed DOTP detailing the type of treatment proposed for the defendant. If the Department determines that the defendant will not benefit from a DOTP or that placement in a DOTP is inappropriate, the report will set forth the reasons for the Department's determination.

(c) The Department encourages resolution of as many unresolved charges against the defendant as possible prior to commitment for an evaluation. Resolution of unresolved charges, including arrests that appear on a defendant's RAP sheet for which a disposition is not noted, assists the Department in completing an evaluation in a timely fashion. The Department will reconsider its report if the defendant has been deemed inappropriate for a DOTP because of unresolved charges or because the disposition of all arrests on the defendant's RAP sheet is not known and the committing county provides the Department with the resolution of the charges or disposition of the arrests.

(d) The act provides that the court may not modify or alter the terms of the Department's proposed DOTP without the agreement of the Department and attorney for the Commonwealth. See section 9904(f) of the act (relating to referral to State Intermediate Punishment Program). A request for modification of the terms of a proposed DOTP shall be sent to the Deputy Superintendent for the Diagnostic and Classification Center at the State Correctional Institution at Camp Hill for male inmates and the Deputy Superintendent for Centralized Services at the State Correctional Institution at Muncy for female inmates.

(e) The sheriff or an agent shall return to the committing county a defendant whom the Department determines will not benefit from a DOTP or is inappropriate for placement in a DOTP within 60 days of the Department's determination.

#### **§ 97.105. DOTP Selection Committee.**

(a) The Participant Selection Committee shall consist of the Diagnostic and Classification Center Director or a designee, the Deputy Superintendent responsible for the Diagnostic and Classification Center or a designee, and the Chief of the Department's Central Office Treatment Division or a designee.

(b) The Participant Selection Committee shall apply the participant selection criteria to determine whether a defendant will benefit from a DOTP and whether the participant's placement in a DOTP is appropriate.

#### **§ 97.106. Participant selection criteria.**

(a) An eligible offender, as that term is defined in the act, may be selected to be a participant in a DOTP. The Participant Selection Committee will consider all information relevant to determining which defendants are most likely to benefit from a DOTP by becoming productive, law-abiding members of society by addressing their abuse of or addiction to alcohol or other drugs. Selection criteria will include, but not necessarily be limited to, the following:

(1) Information furnished to the Department by the sentencing court.

(2) The results of the assessment of addiction and other treatment needs conducted by the Department.

(3) The length of the sentence that would be typically imposed under the standard range of the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing.

(4) The eligible offender's motivation to participate meaningfully in a DOTP.

(5) Whether the eligible offender has provided to the Department written consent permitting the release of information pertaining to the eligible offender's participation in a DOTP.

(6) The eligible offender's criminal history.

(7) The eligible offender's escape or parole absconder history.

(8) The eligible offender's institutional adjustment during current and prior incarcerations.

(9) The availability of the Department's programming resources.

(b) An eligible offender does not have a right to placement in a DOTP. A DOTP is intended to assist defendants to become productive, law-abiding members of society and is not intended to be a means for a defendant simply to serve a shorter sentence. The goal of the Participant Selection Committee will be to select those defendants it believes will most likely benefit from a DOTP by becoming productive, law-abiding members of society while allowing the Department to use its available programming resources efficiently and effectively. The number of participants selected for a DOTP will be the number that the Participant Selection Committee believes will neither under use nor overtax the available programming resources.

**§ 97.107. Drug offender treatment program.**

(a) A DOTP developed for a defendant shall be designed to address the defendant's individually assessed drug and alcohol abuse and addiction needs and other issues essential to the defendant's successful reintegration into the community, including, education and employment issues.

(b) A DOTP developed for a defendant shall be 24 months in duration and include the following:

(1) A period of confinement in a State correctional institution of at least 7 months, including the assessment period prior to the imposition of sentence and a period of at least 4 months during which the defendant shall be placed in an institutional therapeutic community.

(2) A period of treatment in a community-based therapeutic community of at least 2 months.

(3) A period of at least 6 months treatment through an outpatient addiction treatment facility.

(4) A period of supervised reintegration into the community for the balance of the DOTP.

**§ 97.108. Confinement in a State correctional institution.**

(a) The Department will accommodate requests to conduct sentencing proceedings for persons committed to its custody by means of videoconferencing or teleconferencing subject to equipment and staff availability. A defendant who is not sentenced by means of videoconferencing or teleconferencing, but is sentenced to a DOTP following an evaluation and recommendation by the Department, shall be delivered to the institution the Department has designated for reception of inmates from the committing county. The defendant will be considered to be a participant upon receipt by the Department.

(b) The participant will be required to begin his individual DOTP while housed in a State correctional institution and may be required to begin additional programming intended to address other treatment needs identified during the participant's incarceration.

**§ 97.109. Program advancement and regression.**

(a) An individual DOTP contemplates that a participant will advance through treatment provided in progressively less restrictive treatment settings. The Department anticipates that some participants who have progressed to a less restrictive treatment setting will benefit from an additional period of treatment or confinement in a more restrictive setting or location. Consistent with the minimum time requirements set forth in the act, the Department may transfer a participant to a State correctional institution, an institutional therapeutic community, a community-based therapeutic community, an outpatient addiction treatment program or an approved transitional residence. The Department may transfer a participant between less restrictive and more restrictive settings based upon the participant's progress or regression in treatment or for medical, disciplinary or other administrative reasons.

(b) The Chief of the Department's Central Office Treatment Division or a designee will determine whether a participant will be transferred to a different setting or location. The Department's goal will be to take the action that it believes will maximize the use of programming resources by continuing to treat those participants it believes will most likely complete and benefit from a DOTP by becoming productive, law-abiding members of society while allowing the Department to use its available programming resources efficiently and effectively.

**§ 97.110. Community-based therapeutic community.**

(a) A participant who successfully completes the institutional therapeutic community portion of his DOTP and any required additional programming will be placed in a community-based therapeutic community. Placement in a community-based therapeutic community will not necessarily be made immediately upon successful completion of the institutional therapeutic community and

any additional required programming, but will be made in sufficient time to permit the participant to complete the remaining portions of his DOTP.

(b) The participant will be required to continue engaging in his individual DOTP while housed in a community-based therapeutic community and may be required to participate in additional programming intended to address other treatment needs identified during his incarceration.

(c) The treatment staff of the community-based therapeutic community shall provide the Department with an informational report concerning the participant's progress toward completion of the community-based treatment portion of the participant's DOTP at the conclusion of the participant's first 2 months in the community-based therapeutic community. The report must include a recommendation whether the participant has progressed sufficiently to begin the outpatient addiction treatment portion of his DOTP, if the participant should continue in the community-based treatment community, be returned to the institutional therapeutic community or to a State correctional institution or be expelled from the DOTP. The report must include specific reasons supporting the recommendation and a suggested plan for addressing any treatment deficiencies noted. The report shall be transmitted to the Chief of the Department's Central Office Treatment Division or a designee.

(d) The Department will not be limited to approving or disapproving the recommendation of the community-based therapeutic community treatment staff and may select alternatives not recommended by the treatment staff.

(e) The Department may require the treatment staff of the community-based therapeutic community to submit reports in addition to the report required by subsection (c).

**§ 97.111. Outpatient addiction treatment facility.**

(a) A participant who successfully completes the community-based therapeutic community and any additional required programming will be assigned to an outpatient addiction treatment facility. Assignment to an outpatient addiction treatment facility will not necessarily be made immediately upon successful completion of the community-based therapeutic community and any additional required programming, but will be made in sufficient time to permit the participant to complete the remaining portions of the participant's DOTP. A participant may reside in a community corrections center, group home or an approved transitional residence while assigned to an outpatient addiction treatment facility program, but will not be permitted to begin residing in a group home or an approved transitional residence until the Department has completed its investigation, review and approval of the residence.

(b) A participant will be required to continue his individual DOTP while assigned to an outpatient addiction treatment facility program and may be required to participate in additional programming intended to address other treatment needs identified during his incarceration.

(c) The treatment staff of the outpatient addiction treatment facility shall provide the Department with an informational report concerning the participant's progress toward completion of the outpatient addiction treatment portion of his DOTP at the conclusion of the participant's first 6 months of treatment with the outpatient addiction treatment facility. The report must include a recommendation whether the participant has progressed sufficiently to begin his supervised reintegration into the community, if the participant should continue treatment with the outpatient addiction treatment facility, be returned to a community-based treatment community, institutional therapeutic community or to a State correctional institution or be expelled from the DOTP. The report must include specific reasons supporting the recommendation and a suggested plan for addressing any treatment deficiencies noted. The report shall be transmitted to the Chief of the Department's Central Office Treatment Division or a designee.

(d) The Department will not be limited to approving or disapproving the recommendation of the outpatient addiction treatment facility treatment staff and may select alternatives not recommended by the treatment staff.

(e) The Department may require the treatment staff of the outpatient addiction treatment program to submit reports in addition to the report required by subsection (c).

**§ 97.112. Supervised reintegration into the community.**

(a) A participant who successfully completes treatment through an outpatient addiction treatment facility and any additional required programming will begin supervised reintegration into the community for the remaining portion of his DOTP. The participant may continue or be permitted to begin to reside in a community corrections center, group home or an approved transitional residence during the period of supervised reintegration into the community, but will not be permitted to begin residing in an approved transitional residence until the Department has completed its investigation, review and approval of the residence.

(b) A participant residing in an approved transitional residence will be supervised by the Department during the remainder of his DOTP. The participant will be required to comply with any conditions imposed by the Department while residing in an approved transitional residence including abstaining from the use of alcohol or other drugs, submitting urine, hair or other samples the Department requests to monitor the participant's use of alcohol or other drugs and engaging in additional treatment or programming required by the Department.

(c) A participant will continue to be subject to the treatment and disciplinary sanctions in §§ 97.113 and 97.114 (relating to treatment sanctions; and disciplinary sanctions) while residing in an approved transitional residence.

(d) The Department will notify the sentencing court, the attorney for the Commonwealth and the Commission when the participant successfully completes the DOTP.

**§ 97.113. Treatment sanctions.**

(a) A participant who tests positive for the use of alcohol or other drugs shall receive a hearing according to the procedures in the Department's inmate disciplinary policy. If the hearing examiner or community corrections hearing committee, as applicable, determines that the participant used alcohol or other drugs, the participant shall be subject to the following sanctions:

(1) A participant housed in a State correctional institution or institutional therapeutic community shall be expelled from the DOTP and housed as the Department deems appropriate pending further action by the sentencing court.

(2) A participant receiving treatment through a community-based therapeutic community, outpatient addiction treatment facility or during supervised reintegration to society shall be evaluated by the Department. The participant shall be housed as the Department deems appropriate pending completion of the evaluation. Following the evaluation, the participant may be placed in the treatment setting deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee or suspended or expelled from the DOTP.

(b) Subject to the time limitations set forth in the act, a participant who requests assistance because he believes he is in danger of relapsing will be given the opportunity to receive treatment in a more restrictive treatment setting as deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee.

(c) For purposes of this section, the term "other drugs" means a controlled substance, counterfeit, designer drug, drug, immediate precursor or marijuana as those terms are defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-143) or any prescription drug that has not been prescribed for the individual using the prescription drug.

**Cross References**

This section cited in 37 Pa. Code § 97.112 (relating to supervised reintegration into the community); and 37 Pa. Code § 97.116 (relating to expulsion from a DOTP).

**§ 97.114. Disciplinary sanctions.**

(a) A participant who is alleged to have violated the Department's disciplinary rules, shall receive a hearing according to the procedures in the Department's inmate disciplinary policy.

(b) If the hearing examiner or community corrections hearing committee, as applicable, determines that the participant committed a Class 1 or Class 2 misconduct, the Chief of the Department's Central Office Treatment Division or a designee will determine whether the participant will be suspended or expelled from the DOTP, sanctioned according to the Department's inmate disciplinary policy or be subject to other sanctions deemed appropriate.

**Cross References**

This section cited in 37 Pa. Code § 97.112 (relating to supervised reintegration into the community); and 37 Pa. Code § 97.116 (relating to expulsion from a DOTP).

**§ 97.115. Suspension from a DOTP.**

(a) A participant who violates the conditions of his DOTP, other than by testing positive for the use of alcohol or other drugs or by committing a violation of the Department's disciplinary rules, may be suspended from participation in a DOTP.

(b) The Department's goal in determining whether to suspend a participant from a DOTP will be to take the action it believes will maximize the efficient and effective use of programming resources by continuing to treat those participants it believes will most likely complete and benefit from a DOTP by becoming productive, law-abiding members of society if permitted to participate in continued treatment after a period of suspension.

(c) The Chief of the Department's Central Office Treatment Division or a designee will be responsible for determining whether to suspend a participant from a DOTP. The determination whether to suspend a participant from a DOTP may be based upon any information deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee.

(d) A participant who is suspended from participation in a DOTP will be housed in the setting deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee and shall comply with the Department's rules and any conditions imposed during the period of suspension. The Chief of the Department's Central Office Treatment Division or a designee will determine the participant's program status upon completion of the suspension.

**§ 97.116. Expulsion from a DOTP.**

(a) In addition to the provisions of §§ 97.113 and 97.114 (relating to treatment sanctions; and disciplinary sanctions), a participant who violates the conditions of his DOTP or who is not constructively participating in his DOTP or who will be unable to complete his DOTP within the period remaining on his 24 months sentence may be expelled from participation in a DOTP.

(b) The Department's goal in determining whether to expel a participant from a DOTP will be to take the action it believes will maximize the efficient and effective use of programming resources by continuing to treat those participants it believes will most likely complete and benefit from a DOTP by becoming productive, law-abiding members of society if permitted to participate in continued treatment after being subject to sanctions or a period of suspension, or both.

(c) The Chief of the Department's Central Office Treatment Division or a designee will be responsible for determining whether to expel a participant from a DOTP. The determination whether to expel a participant from a DOTP may be

based upon any information deemed appropriate by the Chief of the Department's Central Office Treatment Division or a designee.

(d) A participant who has been expelled from a DOTP may file a grievance with the Deputy Secretary for Reentry and Specialized Programs within 10 calendar days of the date of the expulsion.

(1) The grievance must be legible and the statement of facts may not exceed two pages.

(2) A participant is responsible for including all required documentation with the grievance. Failure to provide relevant documentation may result in the grievance being dismissed.

(3) A participant who is indigent as defined in Department policy DC-ADM 803, "Inmate Mail and Incoming Publications," will be afforded copy service and legal postage up to a maximum of \$10 per month and all moneys received in the inmate's account shall be used to pay for the cost of the copies and legal postage. A nonindigent inmate will incur copying charges in accordance with Department policy 3.1.1, "Fiscal Administration."

(4) Documents submitted in support of a grievance will not be returned. The participant should make copies of supporting documents for submission to final review.

(5) The Deputy Secretary for Reentry and Specialized Programs may decide the grievance based upon the documentation presented as well as other information contained within the Department's files and may interview the inmate and any involved staff member or contractor employee by means of videoconferencing if the Deputy Secretary for Reentry and Specialized Programs, in his sole discretion, believes an interview will assist him in understanding and evaluating the grievance.

(6) In reviewing a grievance, the Deputy Secretary for Reentry and Specialized Programs shall determine whether the participant violated the conditions of his DOTP or was meaningfully participating in the DOTP. The Deputy Secretary for Reentry and Specialized Programs may uphold or reverse the expulsion or take any other action that could have been taken by the Chief of the Department's Central Office Treatment Division with respect to the alleged conduct at issue.

(e) The Department will promptly notify the sentencing court, the participant, the attorney for the Commonwealth and the Commission of the expulsion of a participant from a DOTP and of the reason for the expulsion. The inmate will be housed in a State correctional institution or county prison pending action by the court.

**§ 97.117. Consent to disclosure of information.**

The consent to disclosure of information must be in the following form:

**CONSENT**

I, the undersigned, hereby give my consent for the Commonwealth of Pennsylvania Department of Corrections, its officers, employees, volunteers, contractors and agents to release and disclose to any court, attorney for the Commonwealth, the Pennsylvania Commission on Sentencing and to my attorney information pertaining to my evaluation for and participation in a drug offender treatment program. This consent to release and disclosure includes medical and dental information, mental health treatment information, drug and alcohol treatment information, criminal history records information and any other information contained in records maintained by the Department of Corrections, its officers, employees, volunteers, contractors and agents. This consent to release and disclosure extends to records pertaining to any period during which I am or was committed to the custody of the Department of Corrections and shall not expire.

Disclosure of medical/dental information may pertain to all aspects of my treatment and hospitalization, including psychological and psychiatric information and drug and/or alcohol information.

Disclosure of mental health records pertains to treatment, hospitalization, and/or outpatient care provided to me for the period listed above. I understand that my record may contain information regarding all aspects of my mental health treatment and hospitalization, including psychological and psychiatric information, drug and/or alcohol information.

In authorizing this disclosure, I expressly waive any and all rights I may have to the confidential maintenance of these records, including any such rights that exist under local, state, and federal statutory and/or constitutional law, rule or order, including those contained in the Pennsylvania Mental Health Procedures Act of 1976 and the Pennsylvania Drug and Alcohol Abuse Control Act of 1972.

I understand that I have no obligation to authorize disclosure of any information from my record and that I may revoke this consent, except to the extent that action has already been taken, at any time by notifying in writing the Medical Records Technician, Health Care Administrator, or Facility Manager. I also understand that revocation of this consent will result in my being expelled from the drug offender treatment program and that I will be resentenced by the court.

I understand that these records are the property of the Department of Corrections and that my authorization for their release does not require the Department of Corrections to release these records.

Furthermore, I will indemnify and hold harmless the Pennsylvania Department of Corrections, and its officers, employees, volunteers, contractors and agents, for any losses, costs, damages, or expenses incurred because of releasing information in accordance with this authorization.

_____ Signature	_____ Date
_____ Witness Signature	_____ Date

**§ 97.118. Applicability.**

This chapter applies to any defendant sentenced to State intermediate punishment on or after December 13, 2008.

[Next page is 111-1.]

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