

FIFTH REPORT OF THE POST-RELEASE SUPERVISION BOARD

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Chairman's Remarks

The Post-Release Supervision Board has now been in operation for over seven years since its establishment on 30 November 1996. 3,042 prisoners have been discharged under the Post-Release Supervision Scheme by the end of June 2003. A total of 2,247 supervisees have successfully completed their supervision, representing 91.1% of the total number of 2,466 prisoners whose supervision orders have expired. More and more discharged prisoners have benefited from the professional guidance and assistance provided under the Scheme. Most of them are able to re-integrate into society and lead a law-abiding life. We also noted that in a judicial review heard in February 2003, the court has re-affirmed the legality of the application of the Scheme to prisoners who were sentenced before the commencement of the Post-Release Supervision of Prisoners Ordinance.

The Board has maintained its smooth operation over the years with the assistance of the Security Bureau, the Correctional Services Department, the Hong Kong Police Force, the Social Welfare Department, the Department of Justice and other relevant bodies as well as the dedicated support of every member of the Board. We like to record the Board's thanks to its outgoing secretary, Mr. Rudolf Cheung who left us for a new posting on 5 May 2003. He gave excellent support to the Board during his time of secretary. We are happy to welcome Miss Candy Ng as our new secretary on the same date.

We hope that you will have more understanding of Board's work in this Fifth Report which gives an account of its activities covering the period from 1 July 2001 to 30 June 2003. Any suggestions or opinions are most welcome, which can be sent to the Board Secretariat at Rooms 906-7, 9/F, Tower Two, Lippo Centre, 89 Queensway, Hong Kong.

(Neil Kaplan, C.B.E., S.C., J.P.)

Chairman

Post-Release Supervision Board

A. Establishment and Functions of the Board

The Post-Release Supervision Board (the Board) is an independent statutory board established on 30 November 1996 under the Post-Release Supervision of Prisoners Ordinance (the Ordinance) to administer the Post-Release Supervision Scheme (the Scheme). The main functions of the Board are to consider granting post-release supervision to eligible prisoners by making supervision orders and to consider applications for variation, suspension or discharge of these orders. In the discharge of its functions, the Board shall have regard to the desirability of securing prisoners' rehabilitation and re-integration into society and the need to protect the public from serious harm from offenders.

B. Background and Objective

2. Over the years Hong Kong has developed a penal system which places increasing emphasis on rehabilitating offenders. In addition to a statutory post-release supervision scheme for discharged young offenders under section 109AA of the Criminal Procedure Ordinance, which has been operating for some years, the Post-Release Supervision of Prisoners Ordinance was passed on 31 May 1995 for discharged adult prisoners, and it took effect on 30 November 1996 after the necessary subsidiary legislation was made.

3. After serving long period of detention, many prisoners are in need of special care and guidance to adapt to a law-abiding life upon their return to the community. The main objective of the Scheme is to provide discharged adult prisoners with guidance and assistance to help them reintegrate into society and lead a normal and useful life, thus reducing recidivism. The Scheme is therefore rehabilitative in nature rather than punitive.

4. Prisoners eligible for post-release supervision include adult prisoners serving sentences of six years' imprisonment or more and those sentenced to two years' imprisonment or more for specific types of offences, e.g. triad-related

offences, sexual offences and crimes of violence. Given the nature of their offences and the length of their imprisonment, these prisoners may need more attention and advice to help them re-adjust to normal life in society. By the end of June 2003, prisoners falling under these categories constitute approximately 26.2% of the existing adult penal population.

C. Membership of the Board

5. All members of the Board are appointed by the Chief Executive. Under the Ordinance, the Chairman and Deputy Chairman should hold or have held office as a judge of the High Court or as a District Judge. At present, Mr. Neil Kaplan, C.B.E., SC, JP, a former High Court Judge, is the Chairman of the Board. Mr. Patrick Rattigan, a former District Judge, serves as the Deputy Chairman. In addition, there are 11 non-official members with expertise or experience in such disciplines as psychiatry, psychology, criminal law, rehabilitation of offenders, social work, etc. and two official members from the Correctional Services Department and the Hong Kong Police Force. A list of members now serving on the Board is at Annex I.

D. Procedures for Making and Reviewing Supervision Order

6. The following documents as stipulated in the Ordinance will be collected and compiled in the form of Discussion Papers. A synopsis of each Discussion Paper will also be prepared. The Discussion Papers and synopses will be sent to Members four weeks prior to the meeting for their consideration of making of supervision orders of eligible prisoners:

- (a) A report and recommendation by the Commissioner of Correctional Services relating to the conduct of the prisoner in prison and a report on the prisoner's rehabilitation plan after release;
- (b) A report and recommendation by the Commissioner of Police;

- (c) Any report that was prepared for the court of trial to assist the trial judge or magistrate, as the case may be, in determining sentence;
- (d) Any recorded observations of the trial judge or magistrate, as the case may be, in passing sentence; and
- (e) Any medical, psychological or psychiatric reports on the prisoners that are available to the Board.

7. To allow the prisoner concerned to appreciate the nature of his case being considered by the Board, he is provided, in his preferred official language and not less than 14 days before the Board's deliberation of his case, with a copy of all relevant materials to be considered by the Board in connection with the possible making of his supervision order. He is also informed of his right to make written representations which the Board would consider in addition to those materials mentioned in paragraph 6.

8. Each prisoner's case is perused at the meeting before the Board reaches a decision on the making of a supervision order. The supervision order made is signed by the Chairman of the Board and served on the Commissioner of Correctional Services who endorses and serves it on the prisoner.

9. The prisoner has the right to make not more than one request to the Board for varying or discharging his supervision order by applying in writing for review at any time upon or after the making of the order. In handling such an application, the Board peruses the prisoner's case again carefully and reconsiders its previous decision together with any valid grounds provided by the prisoner in his application.

E. Length and Conditions of Supervision Order

10. The Board considers each case on its own merits in determining the

length of supervision. According to section 7(1)(c) of the Ordinance, the supervision period will be no longer than the remitted part of the prisoner's sentence. Besides, in accordance with section 24 of the Ordinance, the supervision period imposed on prisoners sentenced before the commencement date of the Ordinance, i.e. 30 November 1996, will not exceed a period equal to half the period from the commencement date to the date of release, or six months, whichever is the greater. Depending on the circumstances of individual prisoners, the length of supervision will normally range from a minimum of six months to a maximum of two years, although where the Board considers necessary a longer period may be imposed. It is necessary to provide for a minimum supervision period of six months so that adequate time is provided for the supervising officers to guide and assist the supervisees to reintegrate into society as law-abiding citizens.

11. A prisoner who is subject to post-release supervision has to comply with the conditions set out in his supervision order, including the conditions that he shall be of good behaviour, reside at an address approved by his supervising officer, undertake only such employment as approved and meet with his supervising officer at least once a month. A sample of supervision order is at Annex II. Additionally, the Board may impose further conditions of supervision depending on individual circumstances, such as the requirement for attending psychiatric and/or psychological follow-up treatment.

F. Temporary Recall of Prisoner and Suspension of Supervision Order

12. The Board is empowered by the Ordinance to recall a supervisee to prison, if it appears that the supervisee has without lawful authority or reasonable excuse failed to comply with any term or condition of the supervision order or is likely to commit an arrestable offence. If this happens, the Chairman or Deputy Chairman of the Board may issue a temporary recall order to recall a supervisee to prison temporarily. Besides, if the Commissioner of Correctional Services

believes that there are grounds upon which the supervision order may be suspended under section 13 of the Ordinance and that he considers it to be in the public interest that a supervisee be detained in custody without delay, he may under section 17 of the Ordinance recall a supervisee to prison and detain him for a period not exceeding 72 hours pending the issue of a temporary recall order by the Board. In either case, while the supervisee is re-imprisoned in the first instance, the Board must convene, within 14 days from the detention of the supervisee, to decide whether the supervision order should be suspended, and if so, for how long. The Board is however not authorized to suspend the order for a period exceeding the unexpired term of the order.

13. The supervisee is provided, in his preferred official language, with a copy of all relevant materials to be considered by the Board, not less than seven days before the Board meets to decide on suspension of his order. The supervisee also has the right of attending a hearing of the Board in which he may be assisted by a person of his choice or submit any written representations to the Board for consideration.

G. Meetings and Case Load of the Board

14. The Board convenes quarterly, usually in the months of March, June, September and December, and holds ad hoc meetings to consider cases requiring suspension of supervision order. For the reporting period (i.e. 1 July 2001 to 30 June 2003), the Board has conducted a total of nine quarterly meetings and 25 ad hoc meetings. A total of 906 cases of prisoners were considered and the maximum length of supervision period imposed was 37 months. At two quarterly meetings and 17 ad hoc meetings, hearings were conducted in which 28 supervisees exercised their right to appear before the Board to give oral representations in connection with the proposed suspension of their supervision orders. During the same period, 19 applications for discharging/varying supervision orders and one application for varying suspension of supervision order were received. After careful consideration, the Board approved three applications for discharging/varying supervision order.

15. A breakdown of the offences of which these 906 prisoners were convicted is shown in the table below. The figures in the blankets are the cumulative figures from commencement of the Scheme up to 30 June 2003.

<i>Offences convicted *</i>	<i>No. of Prisoners</i>		
	1-7-2001 to 30-6-2002	1-7-2002 to 30-6-2003	
(a) Offences against property, such as robbery on streets and communal premises, lift robbery, robbery on residential premises etc. (further breakdown of these offences is at <u>Annex III</u>)	131	119	(1,268)
(b) Possession of, or trafficking in, dangerous drugs	180	168	(900)
(c) Offences against the person, such as murder, manslaughter, wounding and assault, etc.	75	70	(451)
(d) Triad-related offences such as triad membership, blackmail, criminal intimidation, keeping a vice establishment, etc.	30	44	(276)
(e) Sexual offences	24	30	(169)
(f) Offences involving the use of firearms or explosives	8	11	(93)
(g) Other offences, such as deception, criminal damage, arson, etc.	6	10	(64)
Total	454	452	(3,221)

* In cases where a prisoner was convicted of more than one count of offence, only the offence receiving the heaviest sentence will be included in the statistics.

16. During the reporting period, the Chairman or Deputy Chairman issued 39 temporary recall orders on application from the Commissioner of Correctional Services on the grounds that the supervisees concerned either have failed to comply with the condition(s) of their supervision orders or are likely to commit an arrestable offence. As a result, 30 supervisees were successfully recalled. Six supervisees could not be arrested before the expiration of their supervision orders as their whereabouts were unknown. One supervisee was convicted of a new offence and awarded a new sentence longer than the unexpired portion of his supervision order. The whereabouts of the remaining two supervisees were unknown. Among the 30 recalled supervisees, 21 were imprisoned after the Board ordered suspension of their supervision orders and nine were released.

17. Since its operation and up to 30 June 2003, the Board has considered 3,221 cases of prisoners for imposition of supervision orders. The related statistics are shown at the Annexes below -

Annex IV - Breakdown of sex, age and education level in respect of 3,221 prisoners considered by the Board

Annex V - Breakdown of the convicted offences in respect of 3,221 prisoners considered by the Board

Annex VI - Breakdown of the number of cases of prisoners considered and the number of supervision orders, temporary recall orders and suspension of supervision orders made by the Board

H. After-care Services

18. Each supervisee is assigned to a supervising team comprising two officers from the Correctional Services Department and a social work officer from the Social Welfare Department. Before a prisoner is released from prison, the supervising officers will discuss with him and assist him to better prepare himself for return to the community. They also visit the supervisee regularly at his home, workplace or any other places as designated to help him deal with any adjustment problems encountered after release. Assistance such as provision of temporary

hostel accommodation, employment referral, application for the Comprehensive Social Security Assistance and arrangement of medical or psychological services will be provided to supervisees where required. A breakdown of the after-care services provided by the supervising teams during the period from 1 July 1999 to 30 June 2003 is at Annex VII.

19. As at 30 June 2003, 534 supervisees were still undergoing supervision. Among them, 394 supervisees, or about 74 %, were in employment while 95 supervisees, or about 18%, were living on Comprehensive Social Security Assistance.

I. Success Rate and Re-conviction

20. By the end of June 2003, 3,042 prisoners have been discharged under the Scheme, of whom 2,466 supervisees' supervision period have expired. 2,247 out of these 2,466 supervisees successfully completed their supervision without re-conviction during the supervision period, representing an overall success rate of 91.1 %. On the other hand, 219 supervisees were re-convicted during their supervision periods. The high success rate is encouraging. The Board considers that the Scheme has contributed to the reduction of recidivism and has been beneficial to the supervisees and the community as a whole.

J. Judicial Reviews of Supervision Order

21. In December 2002, a supervisee applied for a judicial review against the Board for making a supervision order on him. He alleged that he was sentenced before the enactment of the Ordinance; however he was subject to a supervision order under the Ordinance which imposed a heavier penalty on him than the one applicable to him at the time when he committed the offence. He therefore claimed that the Ordinance contravened Article 15(1) of the International Covenant on Civil and Political Rights (ICCPR) or the corresponding Article

12(1) of the Hong Kong Bill of Rights (HKBR) Ordinance. Moreover, he alleged that some supervision conditions had violated Article 12 of the ICCPR or the corresponding Article 8 of the HKBR Ordinance.

22. The application for the judicial review was heard in February 2003. Again, the court reiterated that the making of a supervision order was essentially a rehabilitative measure and did not constitute a heavier penalty within the meaning of Article 15(1) of the ICCPR or the corresponding Article 12(1) of the HKBR Ordinance. The legality of the application of the Post-Release Supervision Scheme to prisoners who were sentenced before the commencement of the Ordinance was re-affirmed.

23. The court also pointed out that even though some of the supervision conditions imposed limitations on the lifestyle and habits of the released prisoners, they were necessary to ensure the effectiveness of the Scheme in assisting released prisoners to reintegrate into society. According to section 5(2) of the Ordinance, in considering the imposition of supervision orders, the Board shall have regard to the desirability of securing prisoners' rehabilitation and their re-integration into society as well as the need to protect the public from serious harm from offenders. These factors are in conformity with the considerations of public order stipulated under Article 12(3) of the ICCPR and Article 8(3) of the HKBR Ordinance. Therefore the supervision conditions do not contravene the requirements set out in Article 12 of the ICCPR and Article 8 of the HKBR Ordinance. Consequently, the application for judicial review was dismissed.

K. Official Visit to Sydney, Australia

24. The Board conducted its first official overseas visit to Sydney, Australia from 10 to 14 March 2002. The delegation was headed by Mr. Neil Kaplan, Chairman and comprised 10 Board members, a representative from the Correctional Services Department and the Board Secretary. The Board paid visits to the Supreme Court and various correctional and rehabilitative institutions in

New South Wales, including the Department of Corrective Services, Parole Board and Silverwater Correctional Centre, Malabar Special Programs Centre, Parramatta Transitional Centre and Long Bay Parole Unit. The visit has not only enhanced the Board's understanding of the correction and rehabilitation of prisoners in Australia where the same common law system is practised and a similar post-release supervision scheme is operating, it has also facilitated members in sharing experience with their counterparts in Australia on matters of mutual interest.

L. Assistance from Government Departments/ Independent Bodies

25. The Board is grateful to the following government departments/independent bodies for their continued support and assistance at all times without which the Board would not have been able to perform its duties effectively:

Correctional Services Department
Customs and Excise Department
Department of Justice
Hong Kong Police Force
Immigration Department
Independent Commission Against Corruption
Judiciary (for providing court records)
Security Bureau
Social Welfare Department

Note: Wherever reference is made to male prisoners or supervisees, the reference applies equally to female prisoners or supervisees.

30 June 2003

Membership List of Post-Release Supervision Board

<u>Chairman</u>	Mr. Neil Kaplan, C.B.E., S.C., J.P. A former Judge of the High Court (First appointed on 30 November 1996)
<u>Deputy Chairman</u>	Mr. Patrick Rattigan A former District Judge (First appointed on 15 November 1997)

Non-Official Members

- ▶ Dr. Chen Char-nie, O.B.E., J.P.
(First appointed on 30 November 1996)
(Psychiatry)
- ▶ Mr. Yung Hin-kwong, Raymond, J.P.
(First appointed on 30 November 1996)
(Rehabilitation of Offenders)
- ▶ Prof. Lee Wing-ho, Peter, J.P.
(First appointed on 30 November 1996)
(Psychology)
- ▶ Dr. Sammy Poone, M.B.E., J.P.
(also known as Poon Kam-kwong)
(First appointed on 30 November 1999)
(Commerce)
- ▶ Mr. Cheng Po-hong, Stephen, J.P.
(First appointed on 30 November 1999)
(Vocational Training)
- ▶ Mrs. Lui Fung Mei-yee, Mabel
(First appointed on 30 November 1999)
(Legal)
- ▶ Dr. Lo Tit-wing
(First appointed on 30 November 1999)
(Academic)

- ▶ Dr. Chung Wai-sau
(First appointed on 30 November 1999)
(Psychiatry)
- ▶ The Right Reverend Soo Yee-po, Thomas
(First appointed on 30 November 2002)
(Rehabilitation of Offenders)
- ▶ Mr. Yau How-boa, Stephen, MH, J.P.
(First appointed on 30 November 2002)
(Social Work)
- ▶ Mr. Chan Ka-shun, Wilson
(First appointed on 30 November 2002)
(Legal)

Official Members

- ▶ A representative of the Commissioner of Correctional Services
- ▶ A representative of the Commissioner of Police

Secretary

Miss Candy Ng, Executive Officer of Security Bureau

Sample of Supervision Order

POST-RELEASE SUPERVISION OF PRISONERS ORDINANCE

監 管 釋 囚 條 例

(CHAPTER 475)

(第 475 章)

SUPERVISION ORDER

監 管 令

To (1)
致

I HEREBY ORDER that you be subject to supervision upon your release from imprisonment with the following requirements :

現命令你從監獄獲釋後,須按照下列規定接受監管:

(a) The remitted part of your sentence shall be
你的刑期獲減免部分是

(b) The period for which this supervision order shall remain in force:
監管令的有效期為

(c) The conditions which you shall comply with :
你須遵守的條件是

- (1) You shall place yourself under the supervision of a supervising officer nominated for this purpose and any other officer replacing him from time to time.
你須接受為此而指派的監管人員或其他不時替代後者的人員的監管。
- (2) You shall meet with your supervising officer in accordance with that officer's instructions.
你須依照監管人員的指示與該人員會面。
- (3) You shall inform your supervising officer at once of any changes in your home and office address or any employment particulars including dismissals.
你的家居及辦事處地址或就業情況如有改變,包括遭解僱,須即通知監管人員。
- (4) You shall be of good behaviour and keep the peace.
你須行為良好,奉公守法。
- (5) You shall inform your supervising officer of the intention to leave Hong Kong for a specified period or of the intention to take up residence abroad.
如果你打算離開香港一段指定時間或在外國定居,須通知監管人員。
- (6) You shall reside at an address approved by your supervising officer.
你須居住在監管人員認可的地址。
- (7) You shall undertake only such employment as approved by your supervising officer.
你只准從事監管人員認可的工作。
- (8) You must meet with your supervising officer at least once a month.
你必須每月至少會見監管人員一次。
- (9) You shall not, without reasonable excuse, fail to engage yourself in gainful employment in accordance with the instructions of your supervising officer.
除非你有合理辯解,否則你須依照監管人員的指示,從事正當的工作。
- (10) You shall not commit any offence against the laws of Hong Kong.
你不得觸犯香港法例內的任何罪行。

Dated this day of
日期:

.....
Chairman
Post-Release Supervision Board
監管釋囚委員會主席

To (1)
致

I HEREBY ORDER that upon your release on the day of from
現命令你於(日期) 從
..... you be subject to supervision by Officers on aftercare duties of the
獲釋後,須接受香港法例第 475 章第 8 條監管

Post-Release Supervision of Prisoners Scheme, Section 8 of Cap. 475 refers, until the day of
釋囚計劃內所指執行善後輔導職務的人員的監管,直至(日期)

..... During such period, you shall comply with the conditions stipulated on the overleaf of this order.
在監管期間,你須遵守本命令背頁指明的條件。

Dated this day of
日期:

.....
for Commissioner of Correctional Services
懲教署署長
(..... 代行)

I, hereby certify that this supervision order was served by me on
本人 現證明監管令經由本人送達

(1) and the conditions fully explained to *him/her byme.....
....., 而令內的條件亦經由 本人

in Puntí dialect.
以 本地話向後者全部解釋清楚。

.....
Superintendent
懲教事務監督

.....
Witness
見證人

Date :
日期:

I fully understand the conditions with which I should comply during the supervision period, and I hereby
acknowledge receipt of a copy of this supervision order.

本人完全明白本人於監管期間應遵守的條件,並承認收到上述監管令乙份。

I certify that my place of residence on discharge is :
本人證明本人於釋放後的居住地址為

Signature
簽署

Prisoner's Name :
犯人姓名:

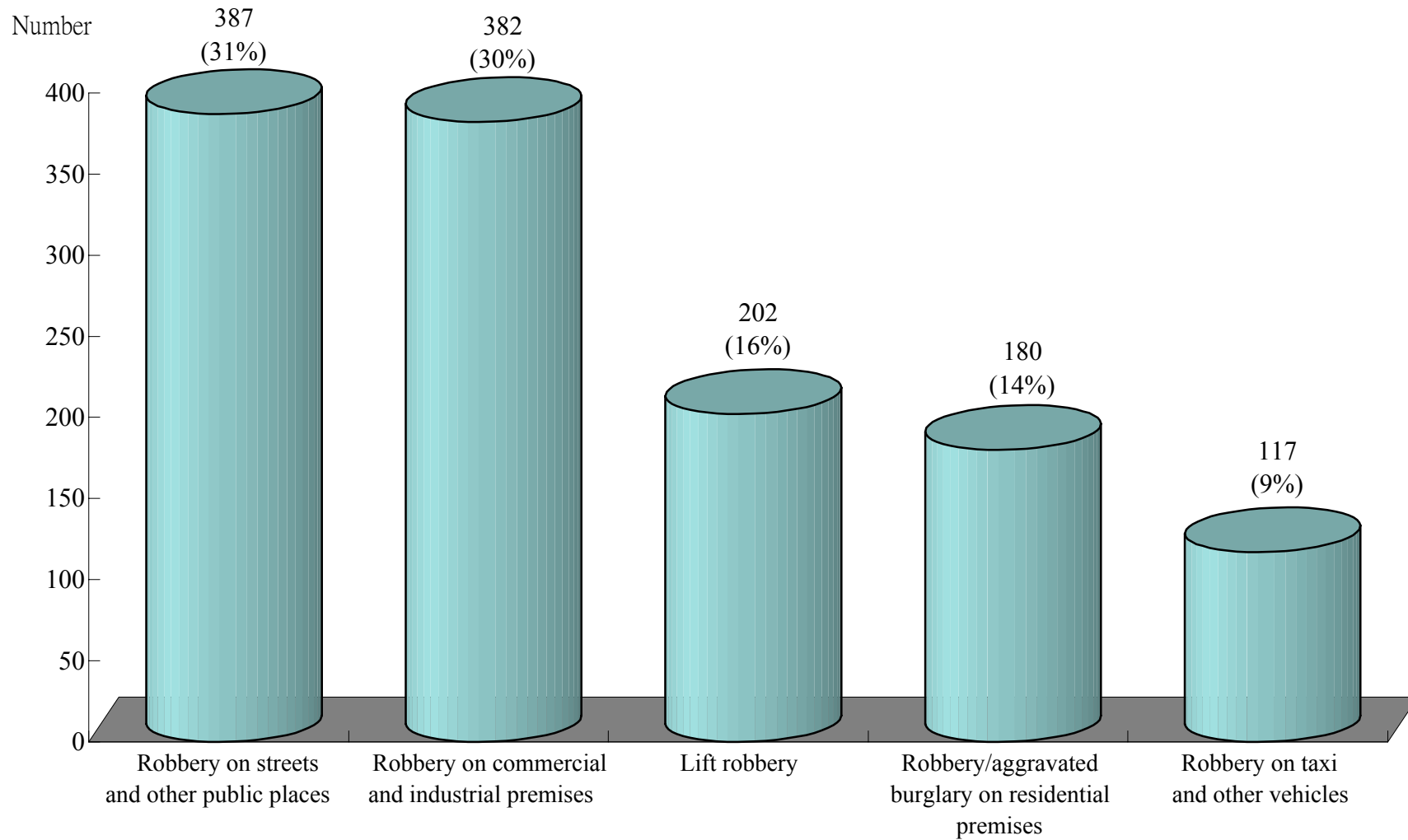
Registered No. :
登記編號:

Date :
日期:

Note: (1) Name of person placed under supervision
註: (1) 受監管人姓名

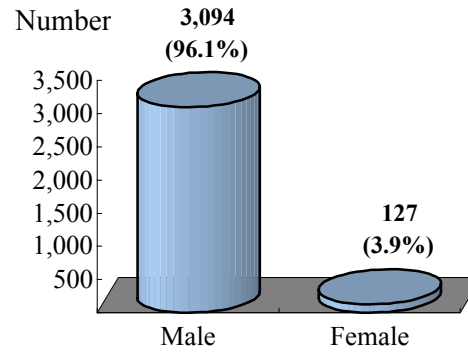
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Breakdown of Cases of Offences against Property considered by the Post-Release Supervision Board during the period from 30 November 1996 to 30 June 2003

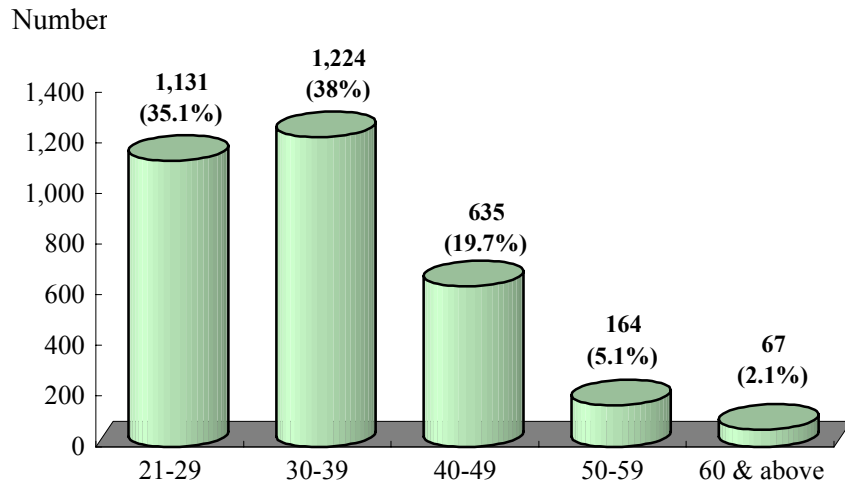


Breakdown of Sex, Age and Education Level in respect of 3,221 Prisoners considered by the Post-Release Supervision Board during the period from 30 November 1996 to 30 June 2003

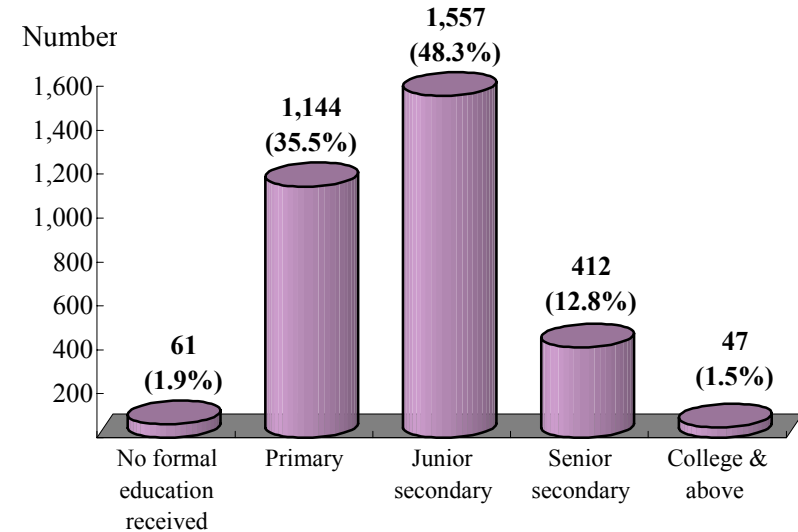
Sex



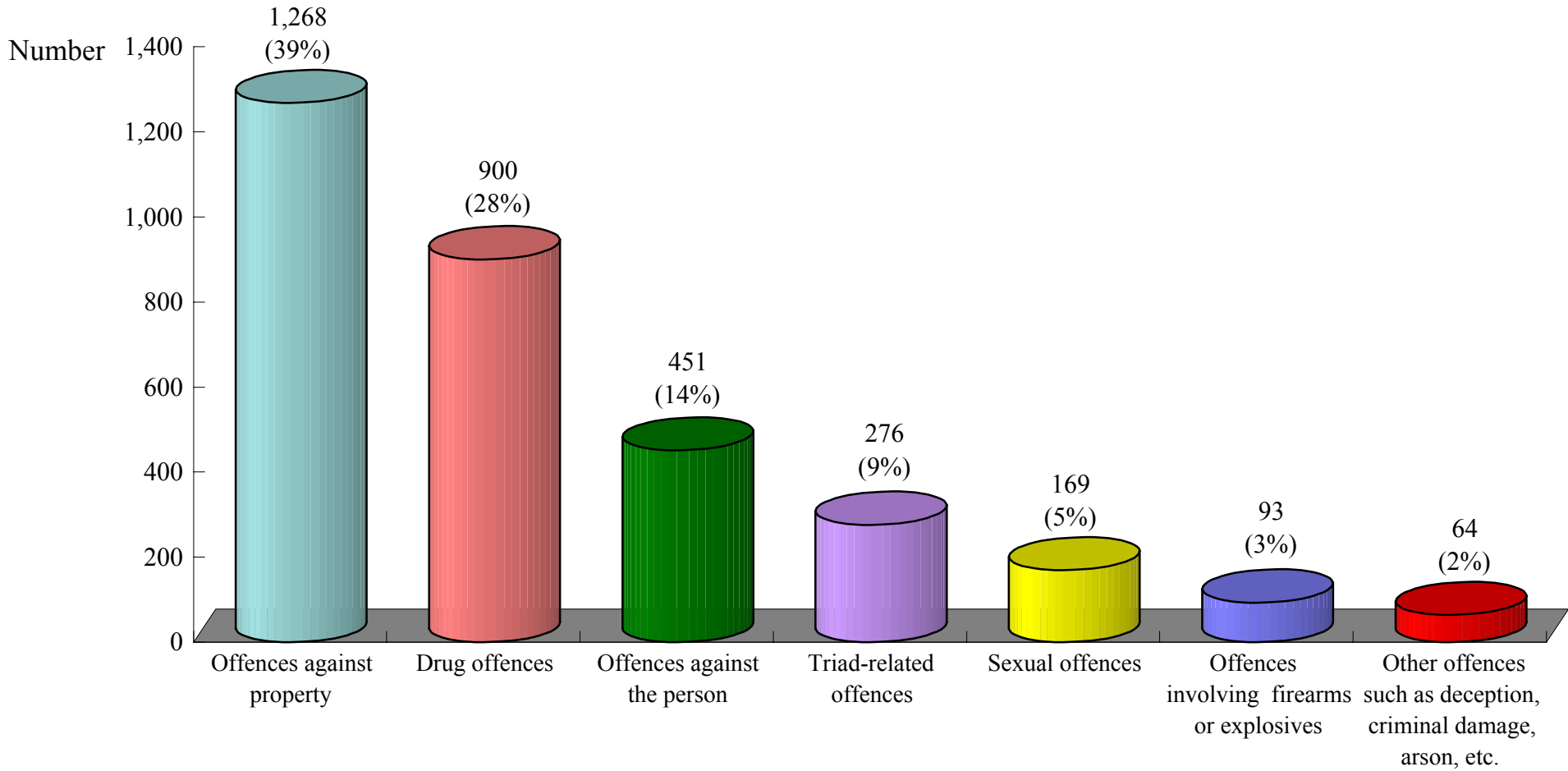
Age



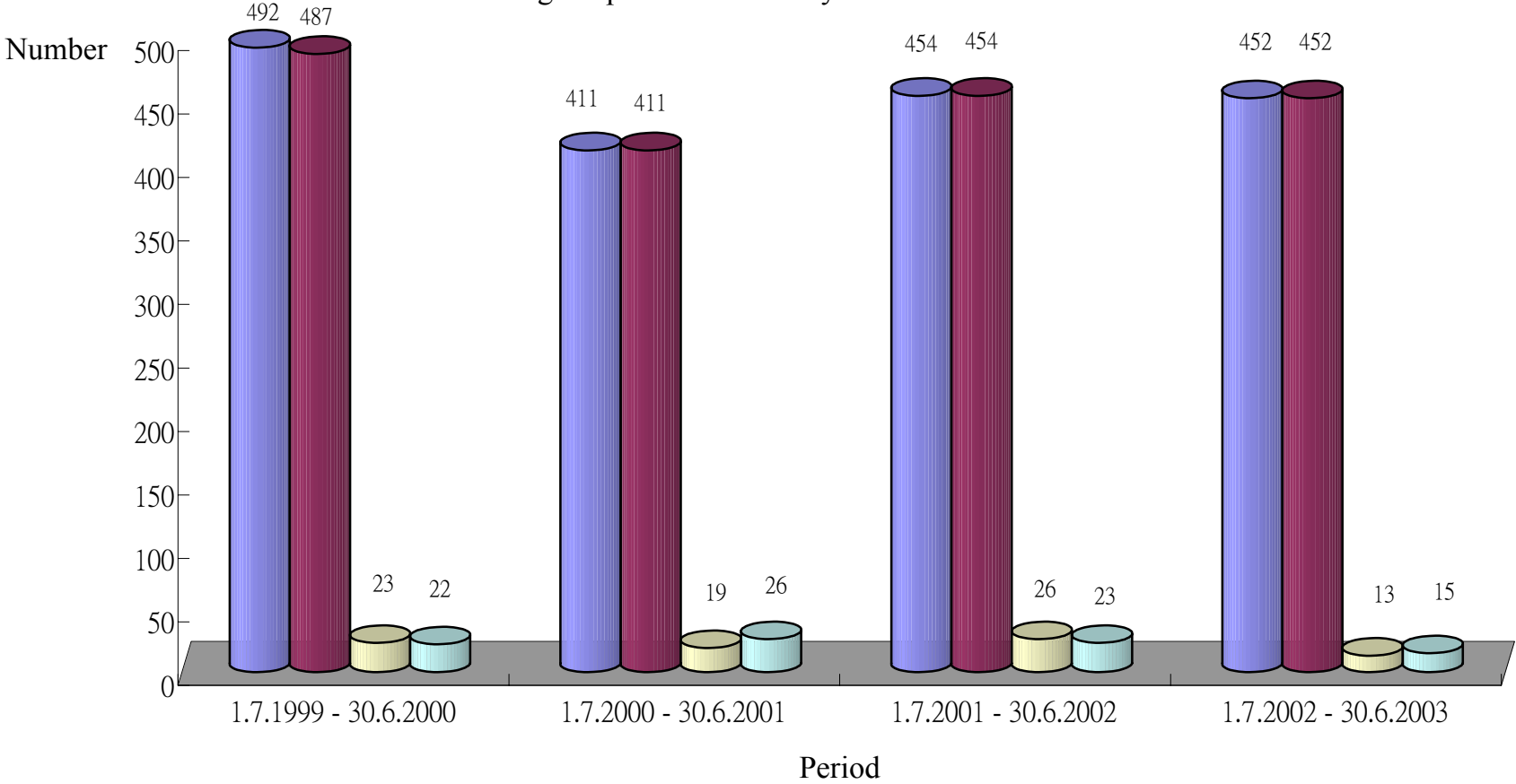
Education Level



Breakdown of the Convicted Offences in respect of 3 221 Prisoners considered by the Post-Release Supervision Board during the period from 30 November 1996 to 30 June 2003

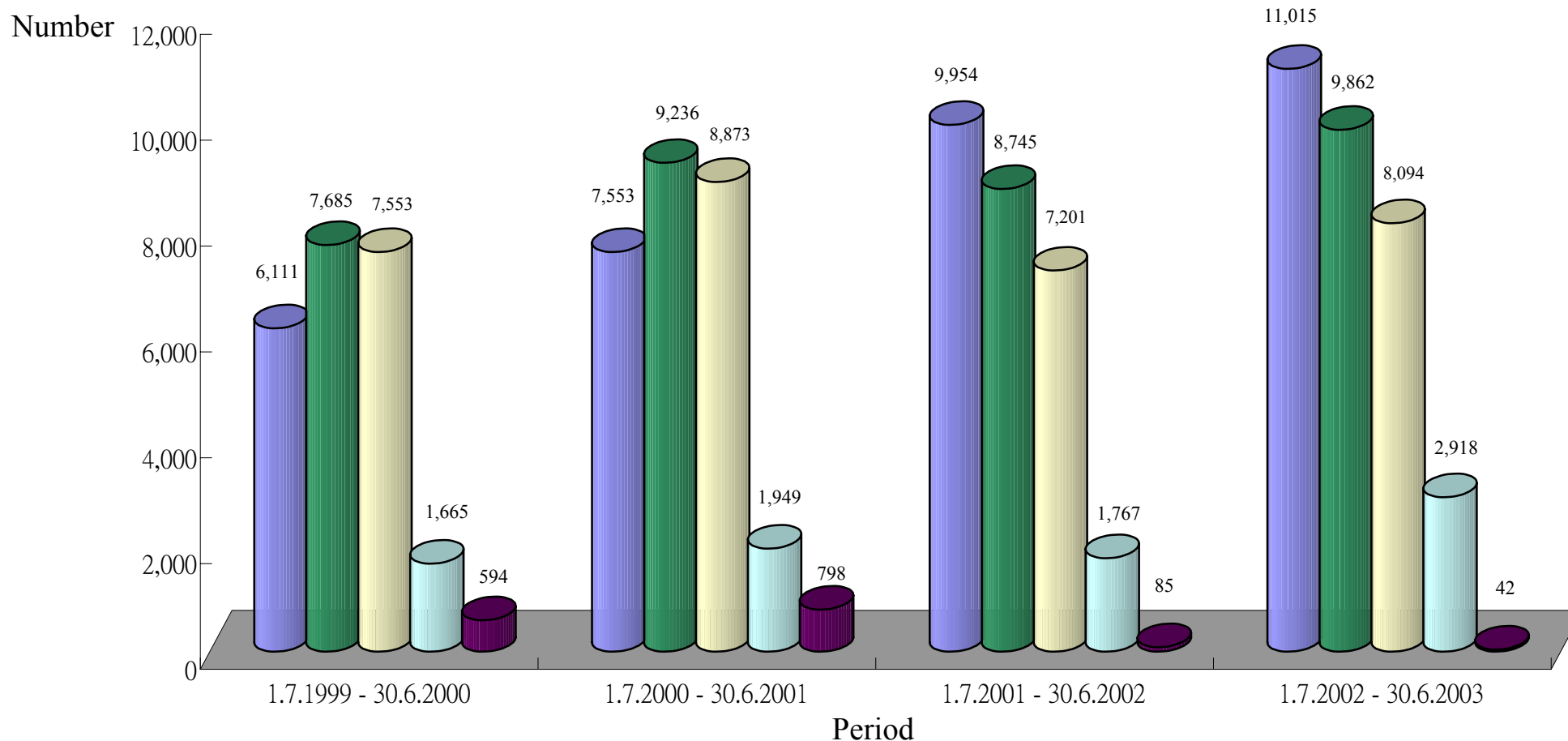


Breakdown of the Number of Cases of Prisoners considered and Number of Supervision Orders, Temporary Recall Orders and Suspension of Supervision Orders made by the Post-Release Supervision Board during the period from 1 July 1999 to 30 June 2003



■ Cases considered for making of supervision orders
 ■ Supervision orders issued
■ Temporary recall orders issued
 ■ Suspension of supervision orders issued

Breakdown of After-care Services provided by the Supervising Teams during the period from 1 July 1999 to 30 June 2003



■ Interviews with supervisees	■ Telephone contacts with supervisees
■ Visits at home or workplace	■ Contacts with a third party regarding supervisees
■ Referrals to government departments or voluntary agencies for assistance	