

FIFTH REPORT OF THE RELEASE UNDER SUPERVISION BOARD

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Chairman's Remarks

This is the fifth report published by the Release under Supervision Board since its establishment on 1 July 1988. Up to 30 June 2006, the Board has considered a total of 1,697 applications for the Release under Supervision Scheme and the Pre-release Employment Scheme, of which 340 have been approved. The Board also considered 166 applications for review regarding refused cases. I am pleased to present this report which gives an account of the work of the Board from its establishment up to 30 June 2006.

Over the past few years, though the Board has undergone a gradual and complete change of its membership, it has continued to consider each application carefully, with a view to selecting suitable prisoners to join the two schemes. Since the establishment of the Board, with the exception of five cases of breaching supervision conditions which led to revocation of two supervision orders, all the other supervisees are able to comply with the supervision conditions during the supervision period.

Lastly, I would like to take this opportunity to thank all members of the Board, the Security Bureau, the Correctional Services Department, the Hong Kong Police Force, the Judiciary, the Independent Commission Against Corruption and other departments for their continuous support to the work of the Board over the years.

(Louis Tong)
Chairman,
Release under Supervision Board

A. Background and Objective

All over the world many countries operate different types of parole schemes to enable certain prisoners to serve part of their sentences outside the prison environment under supervision. Over the years, Hong Kong has implemented a correctional policy with increasing emphasis on the reintegration and rehabilitation of offenders. In addition to the various statutory supervision schemes for discharged offenders, there are two early release schemes which allow eligible prisoners to serve, under supervision, part of their sentences in an open environment rather than in prison.

2. The primary objective of the early release of prisoners while placing them under supervision is to facilitate their early reintegration into society and leading a law-abiding life. The two schemes, namely the Release under Supervision Scheme and the Pre-release Employment Scheme, adopt strict criteria in selecting prisoners and provide supervision on them upon release, thus helping reduce recidivism for the benefit of society as a whole.

B. Establishment and Functions of the Board

3. Following the operation of the Prisoners (Release under Supervision) Ordinance (the Ordinance) on 1 July 1988, the Release under Supervision Board (the Board) was established to administer the two early release schemes. The Board serves as an advisory body, whose main functions are to consider applications for early release from eligible prisoners, conditions of supervision to be specified in the supervision orders and variation or cancellation of such conditions, applications for review of the decisions of the Chief Executive regarding refusal of applications, and revocation of

supervision orders, and to make recommendations to the Chief Executive on these matters.

4. Prisoners released early under the two schemes are subject to supervision by the staff of the Correctional Services Department and have to comply with the requirements and conditions of the supervision orders during the supervision period.

C. The Two Early Release Schemes

The Release under Supervision Scheme

5. Prisoners who are serving a sentence of three years or more (other than imprisonment for life) and who have served not less than one half or 20 months (whichever is the greater) of their sentences are eligible to apply for this scheme under section 7(1) of the Ordinance. They may apply six months before the earliest date on which they may be released under the scheme. Successful applicants are released from prison subject to a supervision order which will remain in force until their latest date of discharge, i.e. the date on which the full sentence (without remission under the Prison Rules (Cap. 234 subsidiary legislation)) ends. A sample supervision order is at Annex I. This scheme has proved to be helpful to prisoners who have been reformed during incarceration but require assistance and guidance after release in adapting to normal life after serving a long period in prison. The period of supervision ranges from about 2 years to 20 years for successful applicants released so far.

The Pre-release Employment Scheme

6. Prisoners who are serving a sentence of two years or more (other than imprisonment for life) and who are within six months prior to their earliest date of discharge are eligible to apply for this scheme under section 7(2) of the Ordinance. They may apply within 12 months from their earliest date of discharge. Successful applicants are released from prison six months or less prior to their earliest date of discharge. They are subject to a supervision order (sample at Annex II), which is similar to that for the Release under Supervision Scheme, with an additional requirement for residence in a hostel managed by the Correctional Services Department. An applicant for this scheme must have secured employment for the supervision period. This scheme has proved to be helpful to prisoners who need a period of adjustment in the course of reintegrating into society by residing in a hostel and earning a living on their own under the guidance of the supervising officers.

7. Apart from those conditions as listed in the two sample supervision orders, the Board may impose additional conditions depending on individual circumstances, such as the requirement for attending psychological/psychiatric treatment and counselling.

D. Membership of the Board

Chairman

8. All members of the Board are appointed by the Chief Executive. The Chairman of the Board is the Hon. Mr. Justice Louis Tong, Judge of the Court of First Instance of the High Court. He was appointed for a term of

three years starting from 1 January 2004.

Members

9. The following four members are currently serving on the Board :

- Dr. Lee Tak-shing, Dominic, Professor, Department of Psychiatry, Faculty of Medicine, The Chinese University of Hong Kong (appointed on 15 March 2003)
- Mr. Chan Wai-to, Senior Lecturer, Division of Social Studies, The City University of Hong Kong (appointed on 1 July 2003)
- Mrs. Cheng Chung Yau-ling, Associate Director, School of Professional & Continuing Education, The University of Hong Kong (appointed on 10 May 2005)
- Ms. Tsuei Pik-shan, Jane, Business Director (Service Development), Hong Kong Council of Social Service (appointed on 1 July 2005)

10. The Board is thankful to the following past members whose terms have expired in the past few years –

<u>Past Chairman</u>	<u>Period Served</u>
The Hon. Mrs. Justice Verina Bokhary, Judge of the Court of First Instance of the High Court	1.1.1998 - 31.12.2003

Past Members

The Rt. Revd. Dr. Thomas Soo Yee-po, JP	10.5.1996 - 9.5.2002
Dr. Cheung Hung-kin	15.3.1997 - 14.3.2003
Mr. So Bay-hung	1.7.2000 - 30.6.2003
Prof. Kwok Siu-tong	10.5.2002 - 9.5.2005
Miss Cheung Kam-hung, Rainbow, JP	1.7.1999 - 30.6.2005

E. Selection of Prisoners for the Schemes

11. On receiving an application made under Section 6 of the Ordinance, the Board Secretary liaises with the departments concerned to compile the following documents as stipulated in the Ordinance for the Board's consideration :

- (a) a report of the Superintendent of the correctional institution on the conduct of the applicant during incarceration, with recommendation on the application;
- (b) any report that was prepared for the court of trial to assist the trial judge or magistrate, as the case may be, in determining

the sentence of the applicant;

- (c) any recorded observations of the trial judge or magistrate, as the case may be, in passing sentence;
- (d) any medical reports on the applicant that are available to the Board, which may include reports from psychiatrists and psychologists; and
- (e) any report and recommendation which the Commissioner of Police or other law enforcement authority has made for the Board.

12. Under the Prisoners (Release under Supervision) Regulations, an applicant has the right to make written representations to the Board regarding his application. In addition to the reports mentioned above and the prisoner's written representations, the Board also considers other documents such as letters from the prisoner's family members, friends, solicitors, religious bodies, etc., and offers of employment where available. In the case of an application for the Release under Supervision Scheme recommended by the Correctional Services Department, a social profile report is compiled on the spouse or the close relative who will be helping the prisoner with his rehabilitation upon release from prison for the Board's consideration.

13. Section 5 of the Prisoners (Release under Supervision) Regulations provides that the Board may, subject to the applicant's consent, designate a member to interview the applicant regarding his application for early release as well as review under section 12(1) or 16(1) of the Ordinance.

After the interview, the applicant will be given an opportunity to submit further written representations to the Board. A report on the interview will also be prepared for the Board's consideration. In 2005 and 2006, the Board designated members to interview two applicants in prison, including a prisoner who applied for review following reimprisonment upon revocation of his supervision order and an applicant for the Release under Supervision Scheme respectively. In considering whether such interview is warranted, the Board will take into account the circumstances of individual cases carefully.

14. In determining whether to make a recommendation to release an applicant under supervision, the Board considers the following 12 factors as prescribed in the First Schedule to the Prisoners (Release under Supervision) Regulations, and any other relevant factors :

- (a) his personality, maturity, stability, sense of responsibility and any apparent development in personality which may promote or hinder his capacity to comply with the law and with conditions in his supervision order;
- (b) the adequacy of supervision available for his supervision order;
- (c) his ability and readiness to assume obligations and to undertake responsibilities;
- (d) his intelligence and training;
- (e) his family circumstances;
- (f) his associates before imprisonment;
- (g) where he proposes to reside on release from imprisonment;
- (h) any history of the use by him of drugs, or of involvement by him with any person who holds a criminal record;

- (i) his criminal record;
- (j) his conduct in prison;
- (k) his attitude towards authority and the law; and
- (l) his conduct during any previous period of probation, care, supervision or licence.

15. As stipulated in the said First Schedule, the Board will not recommend an application if it concludes that :

- (a) it is unlikely that the applicant will comply with the conditions of his supervision order;
- (b) a supervision order in respect of the applicant would be inappropriate having regard to the gravity of the offence for which the applicant was sentenced to imprisonment; or
- (c) continuing correctional treatment, medical care, or vocational or other training in an institution of the Correctional Services Department would substantially enhance the capacity of the applicant to lead a law-abiding life if he were released at a later date.

16. All recommendations made by the Board are submitted to the Secretary for Security for consideration, who may exercise the powers delegated to him by the Chief Executive under section 19(2) of the Ordinance.

F. Applications for Review

17. When an application for early release is refused, the applicant has the right to apply for a review of this decision in accordance with section 12(1) of the Ordinance, by writing to the Chief Executive through the Board within 14 days of receipt of the refusal notice. He may apply for only one review of this decision. Again, the applicant has the right to make written representations to the Board in connection with such application for review. In reviewing an application, the Board will thoroughly examine the prisoner's case file once again and reconsider the previous decision. It will also consider carefully any new information provided by the prisoner in his letter of application for review and/or written representations and any new information made available to the Board. The Board will then submit its recommendation to the Secretary for Security who will make the final decision on the case. A prisoner may apply for early release again under section 6 of the Ordinance but the Board shall consider such application only one year after the date of the original refusal.

G. Revocation of Supervision Order

18. Under section 14(2) of the Ordinance, during the supervision period, should a supervisee be convicted of an offence and sentenced to imprisonment (other than a sentence that is suspended), or be also the subject of a suspended sentence that is ordered to take effect under section 109C(1)(a) or (b) of the Criminal Procedure Ordinance, the supervision order shall cease to have effect. Further, where it appears to the Commissioner of Correctional Services that the public interest requires that a supervisee be re-imprisoned immediately, he may revoke that order under section 14(3) of the Ordinance.

The Board may also recommend to the Secretary for Security to revoke a supervision order under section 14(1) of the Ordinance, if, for instance, the supervisee has breached the supervision conditions without lawful authority or reasonable excuse. Upon revocation of his supervision order or when the supervision order ceases to have effect, the supervisee shall be re-imprisoned for the remainder of his sentence. Unless the supervisee is reimprisoned by reason of his supervision order ceasing to have effect under section 14(2) of the Ordinance, he may apply in writing to the Chief Executive through the Board for a review of his case within 14 days of his re-imprisonment in accordance with section 16(1) of the Ordinance. He also has the right to submit written representations to the Board. After reviewing the case, the Board will submit its recommendation to the Secretary for Security for a final decision. The prisoner may submit an application for early release again under section 6 of the Ordinance but the Board shall consider such application only one year after the date of revocation of his supervision order or the supervision order ceases to have effect.

19. Up to 30 June 2006, 335 successful applicants have been released under the two early release schemes. Among them, 5 supervisees of the Release under Supervision Scheme have breached the supervision conditions. As a result, the supervision orders of two supervisees have been revoked under section 14(1) of the Ordinance while the other three supervisees have received warning letters issued by the Correctional Services Department.

H. Meetings and Caseload of the Board

20. The Board meets as often as when necessary. On average, it meets every two months. From 1988 to 30 June 2006, the Board has

considered a total of 1,697 applications for the two early release under supervision schemes, of which 340 applications have been approved (or 20.03% and including one applicant who subsequently withdrew the application). In addition, the Board has considered 166 applications for review under section 12(1) of the Ordinance. The relevant statistics are provided at Annex III.

I. Visits

21. Since its establishment, the Board has visited various correctional institutions and hostels managed by the Correctional Services Department. In March 2002, the Board and the Long-term Prison Sentences Review Board jointly paid a visit to the government departments and correctional institutions in Guangzhou and Dongguan. More recently, the Board visited Pak Sha Wan Correctional Institution in November 2005. As part of the visit, a discussion session was held with the Correctional Services Department regarding the operation of the two early release schemes and the Department's work on risk and needs assessment of offenders. All in all, members have found such visits useful in broadening their understanding of the work of the Correctional Services Department in the rehabilitation of offenders as well as the parole system in the Mainland.

J. Secretariat of the Board

22. The Board Secretary is Ms. Fiona So, Senior Executive Officer of the Security Bureau. The secretariat of the Board is located at Rooms 907-8, 9th Floor, Tower Two, Lippo Centre, 89 Queensway, Hong Kong.

K. Assistance from Government Departments/Independent Bodies

23. Over the years, the Board has received assistance from a number of government departments/independent bodies. Without their continued support, the Board could not have fulfilled its duties effectively. In particular, the Board takes this opportunity to thank the following departments/bodies for their assistance and co-operation throughout these years :

Correctional Services Department
Customs and Excise Department
Department of Justice
Hong Kong Police Force
Immigration Department
Independent Commission Against Corruption
Judiciary
Security Bureau
Social Welfare Department

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

30 June 2006

SAMPLE

PRISONERS (RELEASE UNDER SUPERVISION) ORDINANCE

囚犯(監管下釋放)條例

(CHAPTER 325)

(香港法例第 325 章)

SUPERVISION ORDER

監管令

To (1) _____
致 (一) _____

I HEREBY ORDER that upon your release from _____
茲飭令你自 _____

you be subject to supervision by (2) _____
獲釋放後，即須接受 (二) _____

until the _____ day of _____ and during such period of supervision you shall comply with the _____
直至 _____ 年 _____ 月 _____ 日為止。在此段監管期內，你必須遵守 _____

following requirements :
下述規定：

- (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.
(一) 你必須服從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.
(二) 你必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.
(三) 你的家庭或辦事處地址如有改變，或職業狀況如有更改，包括被革職，必須立即通知監管人員。
- (4) You shall be of good behaviour and keep the peace.
(四) 你必須行為良好，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.
(五) 如果你打算離開香港一段指定時間或在外地定居，必須通知監管人員。
- (6) You shall reside at an address approved by your supervising officer.
(六) 你必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.
(七) 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.
(八) 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.
(九) 除非你有合理的解釋，否則你必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.
(十) 你不得觸犯香港的任何法例。
- (11) You shall refrain from associating with persons who have a criminal record or who have any connection with the offence for which you were sentenced.
(十一) 你必須避免與下述人士交往：有刑事記錄的人或與你因此而被判服刑的罪名有任何關係的人。
- (12) You shall refrain from visiting any place connected with the offence for which you were sentenced.
(十二) 你必須避免探訪任何與你因此而被判服刑的罪名有關的任何地方。

Dated this _____ day of _____
日期: _____ 年 _____ 月 _____ 日

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 謹此證明本監管令經由本人送達

.....and the conditions were fully explained to him byme.....
而令內的條件亦經由 本人

in dialect.
以 方言當面向後者解釋清楚。

.....
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.

本人完全明白本人在監管期內應遵守的規定，同時並證實接到上述監管令乙份。

I certify that on discharge my place of residence is :

本人並證明於釋放後本人住所的地址為：

My place of employment is :

本人就業的地址為：

Signature
簽署

Notes : (1) Name of person placed under supervision
註： (一) 受監管行為者姓名
(2) Name of supervising organization or person
(二) 監管組織或人員姓名

Prisoner's Name:
犯人姓名:
Registered No. :
登記編號:

Date :
日期:

* Delete as appropriate 將不適用者刪去

SAMPLE

PRISONERS (RELEASE UNDER SUPERVISION) ORDINANCE

囚犯(監管下釋放)條例

(CHAPTER 325)

(香港法例第 325 章)

SUPERVISION ORDER

監管令

To (1) _____

致 (一) _____

I HEREBY ORDER that upon your release from _____

茲飭令你自 _____

you be subject to supervision by (2) _____

獲釋放後，即須接受 (二) _____

的監管

until the _____ day of _____ and during such period of supervision you shall comply with the
直至 _____ 年 _____ 月 _____ 日為止。在此段監管期內，你必須遵守

following requirements :

下述規定：

- (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.
(一) 你必須服從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.
(二) 你必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.
(三) 你的家庭或辦事處地址如有改變，或職業狀況如有更改，包括被革職，必須立即通知監管人員。
- (4) You shall be of good behaviour and keep the peace.
(四) 你必須行為良好，奉公守法。
- (5) You shall not travel outside Hong Kong without the prior permission of your supervising officer.
(五) 你未得監管人員批准前，不得離港外遊。
- (6) You shall reside at an address approved by your supervising officer.
(六) 你必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.
(七) 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.
(八) 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.
(九) 除非你有合理的解釋，否則你必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.
(十) 你不得觸犯香港的任何法例。
- (11) You shall refrain from associating with persons who have a criminal record or who have any connection with the offence for which you were sentenced.
(十一) 你必須避免與下述人士來往：有刑事記錄的人或與你因此而被判服刑的罪名有任何關係的人。
- (12) You shall refrain from visiting any place connected with the offence for which you were sentenced.
(十二) 你必須避免探訪任何與你因此而被判服刑的罪名有關的任何地方。
- (13) You shall reside at *Bauhinia/Pelican House until such time as you are authorized to reside elsewhere and during your period of residence, you shall :
(十三) 你必須入住*紫荊樓/百勤樓，直至得到批准居住其他地方為止，於住宿期間你必須：
 - (i) obey all lawful orders of the officer-in-charge or any officers of the House, and shall not in any way contravene the good order and discipline of the House;
(i) 服從主管或樓內職員的所有合法命令，更不得以何方式妨礙樓內良好秩序及紀律；
 - (ii) return to *Bauhinia/Pelican House not later than the time specified by the Officer-in-charge of the House when granted leave of absence;
(ii) 假期獲批准後，在主管規定時間之前返回*紫荊樓/百勤樓；
 - (iii) report to your approved work place at the appointed time;
 - (iii) 每日在指定時間前往經批准的工作地點；

- (iv) return to *Bauhinia/Pelican House as soon as possible if you lose your job or if you are not required to work on that day;
- (iv) 在失去工作或不須工作時盡速返回*紫荊樓/百勤樓；
- (v) return to *Bauhinia/Pelican House as soon as possible after leaving work and in any case, not later than the time specified by the Officer-in-charge of the House;
- (v) 工作完畢後盡速返回*紫荊樓/百勤樓，無論如何不得遲過主管所規定的時間；
- (vi) pay any fees chargeable to you for your residence in the House.
- (vi) 繳付所規定的住宿費。

Dated this _____ day of _____
 日期: _____ 年 _____ 月 _____ 日

 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 _____ 謹此證明本監管令經由本人送達

_____ and the conditions were fully explained to him by _____ me.....
 _____ 而令內的條件亦經由 _____ 本人

in _____ dialect.
 以 _____ 方言當面向後者解釋清楚。

 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.

本人完全明白本人在監管期內應遵守的規定，同時並證實接到上述監管令乙份。

I certify that on discharge my place of residence is :

本人並證明於釋放後本人住所的地址為：

My place of employment is :

本人就業的地址為：

Signature
 簽署

- Notes : (1) Name of person placed under supervision
 註： (一) 受監管行為者姓名
 (2) Name of supervising organization or person
 (二) 監管組織或人員姓名

Prisoner's Name :
 犯人姓名:
 Registered No. :
 登記編號:

Date :
 日期:

* Delete as appropriate 將不適用者刪去

Release under Supervision Board

Statistics of the two Early Release Schemes

(1988 - 30 June 2006)

Year	Release under Supervision Scheme			Pre-release Employment Scheme			Total		No. of Applications for Review
	No. of Applications	Approved cases	Approval %	No. of Applications	Approved cases	Approval %	No. of Applications	Approved cases (Approval %)	
1988	103	4	3.9%	174	14	8.0%	277	18 (6.5%)	3
1989	62	6	9.7%	133	20	15.0%	195	26 (13.3%)	16
1990	15	1	6.7%	84	23	27.4%	99	24 (24.2%)	3
1991	16	3	18.8%	103	22	21.4%	119	25 (21.0%)	9
1992	14	3	21.4%	151	16	10.6%	165	19 (11.5%)	24
1993	17	6	35.3%	93	20	21.5%	110	26 (23.6%)	5
1994	15	4	26.7%	85	16	18.8%	100	20 (20.0%)	13
1995	17	6	35.3%	69	12	17.4%	86	18 (20.9%)	15
1996	20	6	30.0%	70	17	24.3%	90	23 (25.6%)	11
1997	30	6	20.0%	52	10	19.2%	82	16 (19.5%)	18
1998	18	2	11.1%	41	1	2.4%	59	3 (5.1%)	12
1999	18	4	22.2%	26	2	7.7%	44	6 (13.6%)	5
2000	8	1	12.5%	26	3	11.5%	34	4 (11.8%)	5
2001	9	4	44.4%	35	4	11.4%	44	8 (18.2%)	5
2002	6	3	50.0%	27	12	44.4%	33	15 (45.5%)	4
2003	8	1	12.5%	45	14	31.1%	53	15 (28.3%)	6
2004	2	1	50.0%	34	22	64.7%	36	23 (63.9%)	5
2005	9	4 [#]	44.4%	32	24	75.0%	41	28 (68.3%)	5
2006 (up to 30 June)	5	3	60.0%	25	20	80.0%	30	23 (76.7%)	2
Total	392	68	17.3%	1,305	272	20.8%	1,697	340 (20.03%)	166

[#] including 1 withdrawn case