

For discussion on

3 January 2006

LEGISLATIVE COUNCIL PANEL ON SECURITY

OPERATION OF

THE LONG-TERM PRISON SENTENCES REVIEW BOARD

Purpose

This paper provides information on the operation of the Long-term Prison Sentences Review Board (the Board), including the procedure for conducting sentence reviews, and the principles and factors considered in sentence reviews.

Composition of the Long-term Prison Sentences Review Board

2. The Board is an independent statutory body established under the Long-term Prison Sentences Review Ordinance (Cap. 524) (the Ordinance) in 1997. All members of the Board are appointed by the Chief Executive. The President and Deputy President must be judges or former judges of the High Court. Other members (six to nine) shall come from various fields, including psychiatry, psychology, social work, legal profession, education, industry/commerce and rehabilitation of offenders. The current membership list of the Board is at **Annex A**.

Principal Function of the Board

3. The principal function of the Board is to conduct regular reviews of the cases of prisoners serving indeterminate sentences or long sentences of over 10 years. The Board may recommend to the Chief Executive that a prisoner's indeterminate sentence be substituted with a determinate one or that a prisoner's determinate sentence be remitted. The Board may also order a prisoner serving an indeterminate sentence to

be released conditionally under supervision before making a recommendation for a determinate sentence.

Procedure for Reviews

4. The Board normally meets quarterly at the Board Secretariat to review the prisoners' sentences referred to it by the Commissioner of Correctional Services. On average, about 120 cases are reviewed at a meeting.

5. About three months prior to the sentence reviews, the Board Secretary writes to inform the prisoners concerned of the date and place of the review, the powers of the Board and their right to make written representations to the Board. The Board also receives written representations made on the prisoners' behalf by others, such as family members, prison chaplains as well as religious and voluntary workers. For prisoners serving indeterminate sentences, they are provided, in their preferred official language and not less than 14 days before the date of the review, with a copy of all relevant documents to be considered by the Board in connection with the review. After the reviews, prisoners are also informed in writing of the results with reasons. This enables prisoners to identify and work on areas for improvement.

6. Under the Ordinance, a prisoner may, with the consent of the Board, appear before the Board either personally or through a representative of his/her choice, to make oral representations in relation to his/her sentence review. Should there be such requests by prisoners, the Board will assess the merits and need on a case-by-case basis. On the other hand, if the circumstances so warrant, the Board may, with prisoners' consent, initiate to interview certain prisoners when their sentences are due for review. As a means to facilitating prisoners' oral representations, the Board has set up video link facilities in the Board Secretariat to connect with correctional institutions equipped with such facilities.

Principles and Factors to be Considered in Reviews

7. When reviewing the sentence of a prisoner, the Board is obliged to have primary regard to the four principles set out in section 8 of the Ordinance (**Annex B**) in relation to the rehabilitative effect of release on prisoners, the benefit of supervision after release, sufficiency of sentence served, and the protection of the community.

8. The Board also takes into account a number of factors such as the nature of the offence, the prisoner's age, remorse shown by the prisoner for the offence, etc. as listed in Schedule 1 of the Long-term Prison Sentences Review Regulation (**Annex C**), and any other matters considered relevant. Furthermore, the Board takes into account a number of reports and documents on the prisoners provided by various government departments or independent bodies, such as the Correctional Services Department, the Judiciary, the Police, the Social Welfare Department, and the Independent Commission Against Corruption.

Security Bureau
December 2005

**Membership List –
Long-term Prison Sentences Review Board**

President

The Hon. Mr. Justice Wally YEUNG
Justice of Appeal of the Court of Appeal of the High Court

Deputy President

The Hon. Mr. Justice Louis TONG
Judge of the Court of First Instance of the High Court

Members

Dr. SHUM Ping-shiu, B.B.S., J.P.
(Psychiatry)

Mr. HO King-man, Kenneth, J.P.
(Legal/Rehabilitation of Offenders)

Prof. LEE Wing-ho, Peter, J.P.
(Psychology)

Mr. NG Wing-tung, Peter
(Social Work)

Dr. KWOK Kin-fun, Joseph, B.B.S., J.P.
(Social Work)

Dr. MAK Ki-yan, J.P.
(Psychiatry)

Mr. LAM Tai-wai, David
(Legal)

Mr. LAU Ping-kwan, Albert
(Commerce/Industry)

Ms. YIP Sau-wah, Lisa
(Education)

Section 8 of the Long-term Prison Sentences Review Ordinance (Cap. 524)

Principles on which the Board is required to exercise or perform its functions and duties

The Board must have primary regard to the following principles when exercising its functions or performing its duties in relation to a prisoner –

- (a) in any case where the prisoner has not been completely rehabilitated, the rehabilitative effect of releasing the prisoner from detention before the unremitted part of the prisoner's sentence is served;
- (b) the benefits to the prisoner and to the community arising from the prisoner being supervised after release with a view to securing, or increasing the likelihood of securing, the prisoner's rehabilitation (in any case where the prisoner has not been completely rehabilitated) and successful reintegration into the community;
- (c) whether the part of the prisoner's sentence already served is sufficient, in all the circumstances (in particular given the nature of the offence for which the prisoner is being detained), to warrant consideration being given to having the prisoner released from detention early;
- (d) the need to protect members of the community from reasonably foreseeable harm that could be inflicted by the prisoner as a result of having been released from detention early.

**Schedule 1 of the Long-term Prison Sentences Review Regulation –
Matters that may be taken into account by the Board**

1. The nature of the offence.
2. The prisoner's criminal record.
3. Reports, if any, made by the trial judge in relation to the offence.
4. Any mitigating circumstances.
5. Remorse shown by the prisoner for the offence.
6. The prisoner's response to counselling and rehabilitative treatment.
7. The prisoner's age when the offence was committed.
8. The prisoner's rehabilitation prospects and employment prospects on release.
9. Sentences in other similar cases.
10. Public interest, including public safety and the likelihood of commission of the same or further offence.
11. The prisoner's psychological condition.
12. The prisoner's psychiatric condition.
13. The prisoner's conduct in prison.
14. The prisoner's state of health.
15. The prisoner's age.
16. The length of time the prisoner has served in prison.
17. The minimum term of the prisoner's sentence (if applicable).
18. Any assistance provided by the prisoner to law enforcement agencies.