



Parole Board  
of the  
Northern Territory

***2004 ANNUAL REPORT***

**Pursuant to Section 3H of the *Parole of Prisoners Act***

Year Ending  
31 December 2004

**The Hon Peter Toyne MLA  
Minister for Justice and Attorney-General**

**I am pleased to provide this report on the activities of the Parole Board during the year ending 31 December 2004, in compliance with section 3H of the Parole of Prisoners Act.**

**T Riley  
A/Chairman**

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## **I. Legislative Mandate for the Operation of the Board**

Section 3A of the *Parole of Prisoners Act* states:

“For the purposes of this Act, there shall be a board to be known as the Parole Board of the Northern Territory.”

## **II. Membership of the Board**

Sections 3B and 3C of the *Parole of Prisoners Act* require that the Board must have 10 members who are to be (a) the Chief Justice or another nominated Judge; (b) the Director of Correctional Services; (c) a member of the Police Force nominated by the Commissioner of Police; (d) a person who is – (i) a registered medical practitioner; or (ii) a registered psychologist; (e) a person who represents the interests of victims of crime; and (f) 5 persons who reflect, as closely as possible, the composition of the community at large and include women and Aboriginals and Torres Strait Islanders. Members described in by (d), (e) or (f) are appointed by the Administrator for three (3) year terms, are eligible for reappointment, and may resign their membership in writing to the Minister.

Although there are 10 appointed members, full constitution of the Board by all members is only required for a matter relating to a prisoner who is serving a term of imprisonment for life for the crime of murder. For all other matters, the Board is constituted by the Chairman; the members of the Board referred to in points (c) and (e) above; and 2 of the members of the Board referred to in point (f).

Every Judge of the Supreme Court is an Acting Chairman of the Board, and may be appointed by the Chairman to attend meetings or perform functions of his office in his stead. The Chief Justice nominated Judge Bailey acting Chairman for the 2004 calendar year. Justice T Riley and Justice D Angel chaired 2 meetings each during 2004.

The Minister may appoint a person to act as a member of the Board while a member is not available or there is a vacancy on the Board. Superintendent C Gwynne acted in the place of the Police representative on two occasions during 2004.

During 2004, membership of the Board comprised:

Justice S R Bailey – A/Chairman  
Mr C Manners – A/Director of Correctional Services  
Mr J Tolstrup – Director of Correctional Services  
Superintendent K Evans – NT Police representative, Darwin  
Ms S Lowry – Victims of Crime representative, Darwin  
Mr P Rysavy – Psychologist, Darwin  
Mr J Flynn - Darwin  
Ms D Fleming – Alice Springs  
Mr A Domaschenz - Katherine  
Ms J Huck - Darwin  
Ms G Brown – Tennant Creek

Functions of Secretary to the Parole Board were carried out by 2 members of the Community Corrections Division of Northern Territory Correctional Services throughout the year.

### **III. Functions and Responsibilities of the Board**

In summary, the Board:

- i) decides which prisoners, whose sentence includes a non parole period, will be released to parole;
- ii) sets the conditions of release;
- iii) may vary the conditions of a parole order; and
- iv) determines if and how a parole order should be revoked.

#### ***i. Release***

The Parole Board considers all cases where a prisoner's sentence has a non parole period specified by the Court. A non parole period is a minimum term of imprisonment during which an offender is not eligible to be released from prison to parole.

Northern Territory legislation requires the Court to fix a non parole period if an offender has been sentenced to 12 months imprisonment or more, unless the Court thinks it is inappropriate. The non parole period must not be less than 50% of the sentence to be served, and cannot be less than 8 months. For certain sex offences, the non parole period set cannot be less than 70% of the head sentence. These provisions do not apply where the sentence of imprisonment is wholly or partially suspended. For a matter relating to a prisoner who is serving a term of imprisonment for life for the crime of murder, the standard non parole period is 20 years or 25 years in certain cases. There is also provision for the Court to consider exceptional circumstances to reduce, increase or refuse to set a non parole period on such matters.

The Board considers a broad range of material when deciding whether or not to release a prisoner to parole. The documentation will always include:

- a Parole Report prepared by the assigned Parole Officer;
- an Institutional Report prepared by staff of the prison where the prisoner is held;
- a police record of prior convictions; and
- a transcript of the Supreme Court sentencing details, if the prisoner was sentenced in that Court.

The Board may also consider such other reports as are relevant for the individual case, including:

- Pre Sentence Reports;
- Psychological/Psychiatric Assessments and Reports;
- Medical Assessments and Reports;
- Assessments and Reports from Substance Misuse Programs and Treatment Facilities;
- Legal Opinions;
- Letters and/or Reports from Interstate Services;
- Letters from the prisoner; and
- Letters from the victim or victim's representative.

For matters relating to a prisoner who is serving a term of imprisonment for life for the crime of murder:

- submissions from members of the victim's family;
- if the prisoner is an Aboriginal or Torres Strait Islander who identifies with a particular community of Aboriginals or Torres Strait Islanders – representatives of that community.

The Chairman may require a prisoner to be brought before the Board pursuant to Section 3G of the *Parole of Prisoners Act*. No prisoners were required to attend a Board meeting during 2004.

Under section 5 of the Act, the Parole Board has discretion to direct the release of a prisoner on parole, providing that the time of release is after expiration of the non parole period. The Board may decline to release a prisoner to parole, or defer consideration to a later meeting. Prisoners may also decline parole consideration.

<b>2004 Parole Board Decisions</b>		
<b>Result</b>	<b>Number</b>	<b>% of Total</b>
<b>Granted</b>	<b>114</b>	<b>50</b>
<b>Refused</b>	<b>44</b>	<b>19</b>
<b>Deferred</b>	<b>42</b>	<b>19</b>
<b>Declined by Prisoner</b>	<b>26</b>	<b>12</b>
	<b>226</b>	<b>100%</b>

## **ii. Conditions of Release**

Section 5(5)(a) of the *Parole of Prisoners Act* requires that the person released shall be subject to supervision and obey all reasonable directions of the appointed supervisor for the duration of the parole period. Section 5(5)(b) allows the Board to set such other conditions as it sees fit.

The standard parole conditions attached to every Northern Territory Parole Order are:

1. the parolee shall be of good behaviour and shall not violate the law;
2. the parolee shall be subject to supervision on parole of a parole officer, appointed in accordance with this parole order, and shall obey all reasonable directions of the parole officer appointed;
3. the parolee shall report to the parole officer, or other person nominated by the parole officer, in the manner and at the places and times directed by the officer and shall be available for interview at such times and places as a parole officer or nominee may from time to time direct;
4. the parolee shall not leave the Northern Territory without the written permission of the supervising parole officer;
5. the parolee shall enter into employment arranged or agreed upon by the parole officer and shall notify the parole officer of any intention to change employment before such change occurs or, if this is impracticable, then within such period after the change as may have been directed by the parole officer;
6. the parolee shall reside at an address arranged or agreed upon by the parole officer and shall notify the parole officer of any intention to change address before such change occurs or, if this is impracticable, then within such period after the change as may have been directed by the parole officer;
7. the parolee shall not associate with any person specified in a direction by the parole officer to the parolee;
8. the parolee shall not frequent or visit any place or district specified in a direction by the parole officer to the parolee.

The Board frequently sets additional conditions which are tailored to maximise community protection by addressing the factors which underlie a prisoner's offending behaviour. Those additional conditions often include:

- abstinence from alcohol and other substances;
- breath testing and urinalysis;
- residence at a specified community or outstation;
- participation in and completion of an assessment/treatment/counselling regime (residential or sessional attendance) e.g. alcohol programs, domestic violence programs, sex offender programs, psychiatric treatment;
- no contact, directly or indirectly, with a victim or potential victims.

<b>2004 Additional Conditions Set</b>	
	<b>Number</b>
<b>Abstinence – Drugs</b>	<b>42</b>
<b>Abstinence – Alcohol</b>	<b>76</b>
<b>Breath Testing</b>	<b>76</b>
<b>Urinalysis</b>	<b>42</b>
<b>Residence</b>	
- <b>Treatment/Program</b>	<b>36</b>
- <b>Community/Outstation</b>	<b>35</b>
<b>Counselling</b>	
- <b>Sex Offender Treatment</b>	<b>1</b>
- <b>General assessment, treatment and/or counselling</b>	<b>14</b>
- <b>Other *</b>	<b>35</b>
<b>Nil Contact – Victim</b>	<b>5</b>
<b>Other **</b>	<b>21</b>
	<b>383</b>

\* Includes: Forensic Mental Health counselling, specific anger management, drug and alcohol counselling.

\*\* Includes: Not enter licensed premises; Commit no acts of violence; Nil unsupervised contact with minors; Not visit specified communities; Not leave the NT; Not enter the NT; Not carry weapon; and Not conduct business.

Parole officers throughout the Northern Territory, and interstate where a parolee has transferred interstate, monitor the parolee's compliance with the conditions set, and are required to bring any incident of non compliance to the Board's attention.

### **iii. Variation of Parole Conditions**

Pursuant to sections 5(6) and (6AA) of the *Parole of Prisoners Act* the Chairman may amend a parole order by varying or revoking a condition of the order at any time before the expiration of the order.

This would usually be done because a condition is no longer workable. For example, the parolee is directed to enter and complete a residential program which closes down before completion of the parolee's treatment.

Under section 5(7) the amendment does not take effect until notice is given to the parolee of that amendment.

During 2004, the Parole Board varied a condition on 7 parole orders.



#### **iv. Revocation**

If a parolee fails to comply with the conditions of a parole order, the supervising parole officer prepares a report for the Board's consideration setting out the circumstances of the breach. The breaches fall into two categories – reoffending and conditional breach.

The Chairman has the power to revoke a parole order, before or after the expiration of that order, under the circumstances set out in section 5 of the *Parole of Prisoners Act*.

The Board may request the Commissioner of Police to have a parolee in non compliance with their conditions arrested and taken before the Court for cancellation of the parole order. The parolee may then argue any reasons for the non compliance before the Court.

Alternatively, the Chairman may issue an instrument of revocation pursuant to sections 5(6) or 5(6AA) of the *Parole of Prisoners Act*.

<b>2004 Revocation Reports</b>		
<b>Outcome</b>	<b>Number</b>	<b>% of Total</b>
<b>Revoked by Chairman</b>	<b>35</b>	<b>46</b>
<b>Referred to Court (including extradition)</b>	<b>2</b>	<b>3</b>
<b>Warning letter</b>	<b>22</b>	<b>29</b>
<b>No Action</b>	<b>6</b>	<b>8</b>
<b>Request Further Information/Deferred</b>	<b>11</b>	<b>14</b>
	<b>76</b>	<b>100</b>

<b>2004 – Breaches</b>		
<b>Type of Breach</b>	<b>Number</b>	<b>% of Total</b>
<b>Conditional</b>	<b>23</b>	<b>62</b>
<b>Reoffending</b>	<b>14</b>	<b>38</b>
	<b>37</b>	<b>100</b>

#### IV. Parole Board Activity

- i. The Parole Board met in the Chief Justice's Chambers in Darwin on the following dates during 2004:

29 January	27 August
26 March	24 September
30 April	29 October
28 May	26 November
25 June	11 December
30 July	

- ii. The Board considered a total of 511 matters, between 27 and 61 each meeting.

The business conducted by the Parole Board is reflected in the types and numbers of reports and correspondence dealt with.

**Parole Reports** Sets out the relevant background of a prisoner, details assessment and treatment needs, outlines post release plans, recommends whether or not a prisoner should be released, and identifies conditions which should be attached to parole to minimise the risk of reoffending.

Number	% of Total
227	44

**Termination Reports** Outlines a parolee's conduct and progress over the course of a parole period, including compliance with parole conditions set; residence, employment/ training, treatment, reoffending and any other relevant matters.

Number	% of Total
56	10

**Revocation Reports** Details any non compliance with parole conditions, and recommends what course of action should be taken (revocation, cancellation, extradition, warning, and no action).

Number	% of Total
80	15

**Revocation Advices** Notifies the Parole Board of cancellation of a parole order or issue of a warrant of commitment for the outstanding balance, by the Court.

Number	% of Total
42	8

Requests from Prisoners Usually seeking parole release after revocation, refusal or deferral.

Number	% of Total
67	13

Supplementary Reports Provides additional information about a parolee, and may recommend variation to, addition or deletion of conditions.

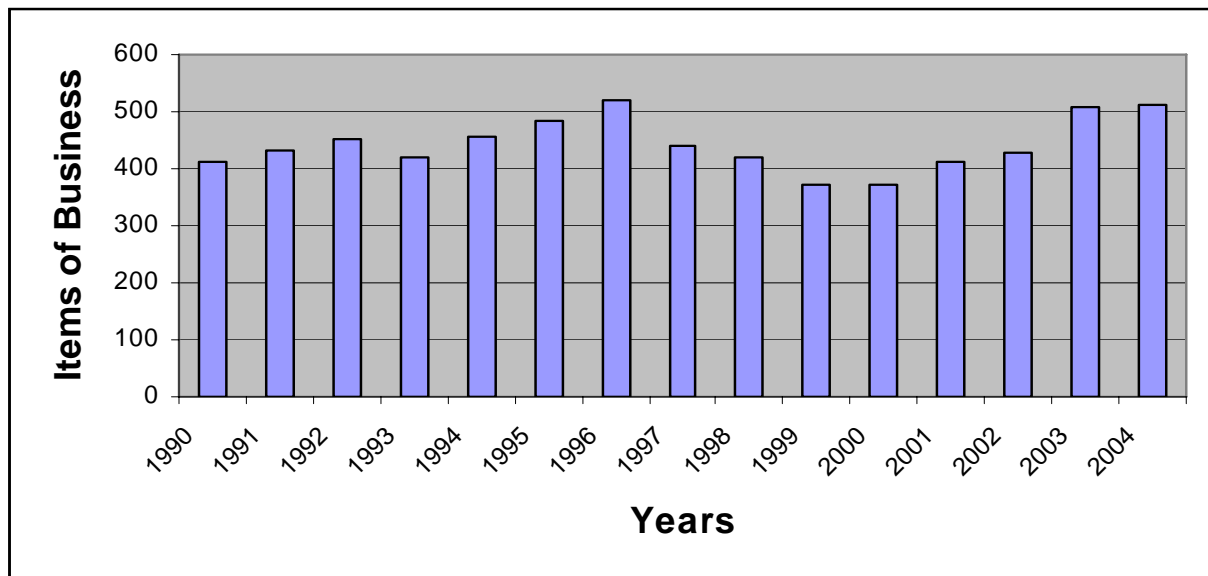
Number	% of Total
12	2

Progress Reports Requested by the Board for certain parolees at set intervals (e.g. every 3 or 6 months).

Number	% of Total
19	7

Other Correspondence May be received from victims, legal counsel or be in relation to attendance by Board members at conferences, etc.

Number	% of Total
8	1



iii. Over the past 15 years, the workload of the Parole Board has fluctuated between a low of 374 business items in both 1999 and 2000 to a high of 522 business items in 1996.

Parole Outcomes of Prisoners Released in 2004		
	Number	% of Total
Parole Still Active	70	62
Parole Order Completed	22	19
Parole Revoked	22	19
Revocation in Progress	0	0
Registration Interstate	0	0
	<b>114</b>	<b>100</b>

At the meeting held on 31 January 2003, the Board determined that reports prepared in relation to illegal non citizens convicted of federal charges to do with people smuggling and illegal fishing in Australian waters who were to be deported immediately upon release, need not come before it given their parole release is automatic. Reports on this category of offender would be forwarded directly to the Federal Attorney-General's Department by the Secretary. In 2004, 2 of these reports were forwarded to the Federal Attorney-General's Department.

**V. Amendments to Legislation**

In February 2004, a number of amendments to the *Parole of Prisoners Act* and *Sentencing Act* commenced which authorised the setting of non parole periods for prisoners serving a term of imprisonment for life for the crime of murder and for the Board to act on such matters. The key changes involve the requirements for a Court to set a non parole period where deemed appropriate, an increase in the number and composition of Board members. Additionally, the matters the Board must give regard to before releasing a prisoner serving a term of imprisonment for the crime of murder to parole.

No amendments were made to the *Parole Orders (Transfer) Act*.

**VI. Parole Orders (Transfer) Act**

This Act commenced in 1984 as part of a national scheme under which an offender on parole can transfer to another jurisdiction and have his/her parole order registered under the corresponding Act in the other jurisdiction.

Upon registration, the parolee ceases to have any connection with the originating jurisdiction. The parole order and original sentence are treated as though they were imposed in the receiving jurisdiction.

In 2004 there were 4 cases where Northern Territory parolees moved to other jurisdictions and had their parole orders registered there, while 2 parole orders from other jurisdictions were registered in the Northern Territory as follows:

Jurisdiction	Transfer to NT	Transfer from NT
QLD	1	1
VIC		
WA	1	
SA	2	1
NSW		
ACT		
TAS		
	4	2

A further 3 requests made during 2004 for registration of Northern Territory Parole Orders in interstate jurisdictions were outstanding as at 31 December 2004.

## **VII. Extradition**

Where a parolee has left the Northern Territory without permission, failed to comply with parole conditions whilst interstate, or committed further offences, the Board may consider extradition of the parolee to the Northern Territory to serve the outstanding balance of the sentence to which the parole order relates. Each case is considered on its merits.

During 2004, 4 parolees were extradited from other jurisdictions and were returned to a Northern Territory prison.

## **VIII. Victims of Crime**

The Northern Territory Charter for Victims of Crime lays down basic guiding principles to ensure sympathetic treatment and protection for victims and their families.

Under the Charter the victim may apply in writing to the Secretary of the Parole Board requesting a direction be given to an offender not to approach them whilst on parole, and for advice about the outcome of any parole proceedings concerning the offender.

Victim issues and concerns are frequently identified in reports prepared for the Board's consideration, and those concerns may result in special conditions being added to a parole order to avoid unwelcome contact.

## **IX. Acknowledgements**

The Parole Board wishes to express appreciation for the ongoing assistance provided by Northern Territory Correctional Services, and other government and community organisations which have assisted the Board with its work during the year.

In a special note, the Board wishes to express its particular appreciation for the work and commitment of Justice Stephen Bailey in his role as the Chairman of the Board. Justice Bailey acted as the Chairman of the Parole Board from 2000 – 2004 before passing away due to a serious illness. His continued commitment to the work of the Parole Board has been invaluable and his passing is considered a great loss.

## **X. List of Appendices**

**Appendix 1** – Characteristics of Prisoners Released to Parole During 2004 by Sex and Aboriginality

**Appendix 2** – Prisoners Released to Parole During 2004 by Age

**Appendix 3** – Prisoners Released to Parole During 2004 by Offence

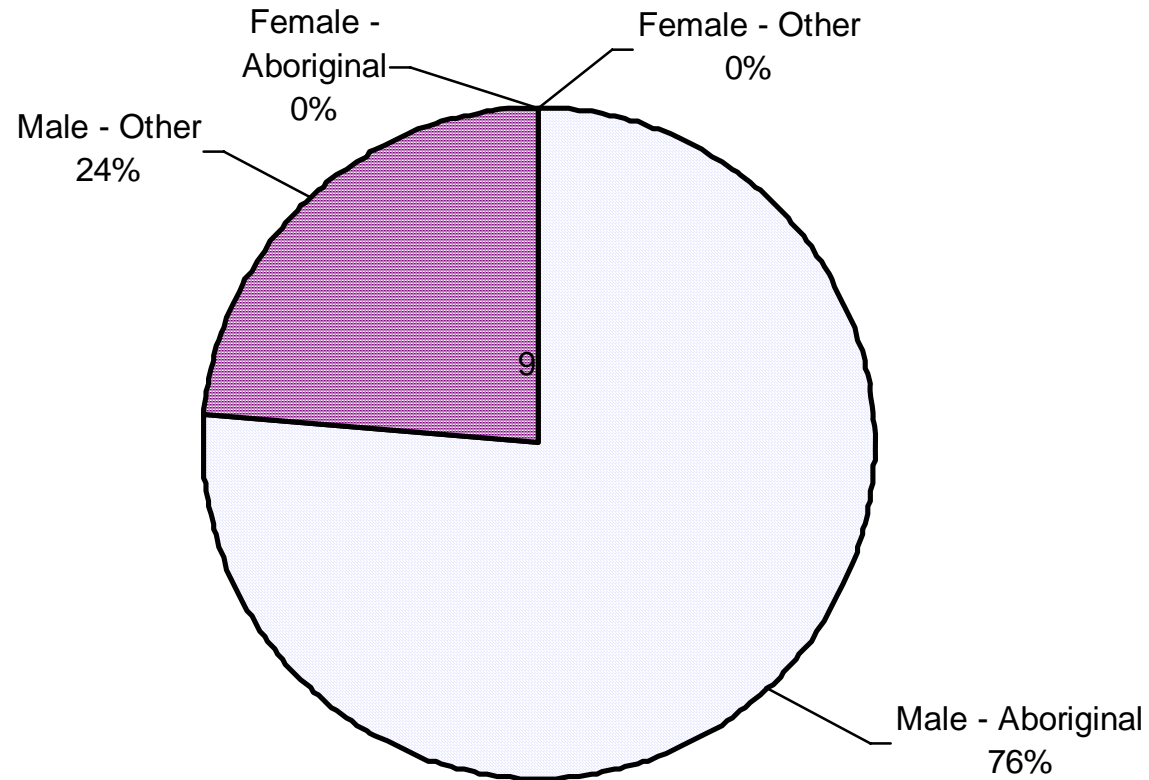
**Appendix 4** – Length of Parole for Prisoners Released to Parole During 2004

**Appendix 5** – Outcomes of Prisoners Released to Parole During 2004

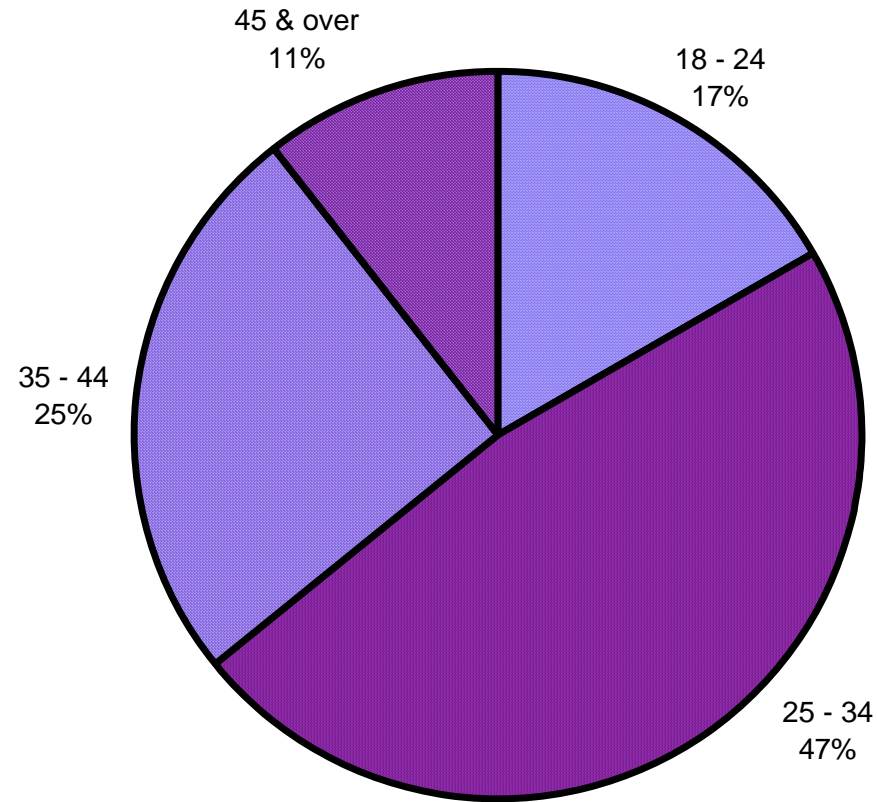
**Appendix 6** – Period on Parole Prior to Breach – Conditional and Re-offending

**Appendix 7** – Comparisons of Most Serious Offence – 1996 to 2004

### Characteristics of Prisoners Released to Parole During 2004 by Sex and Aboriginality

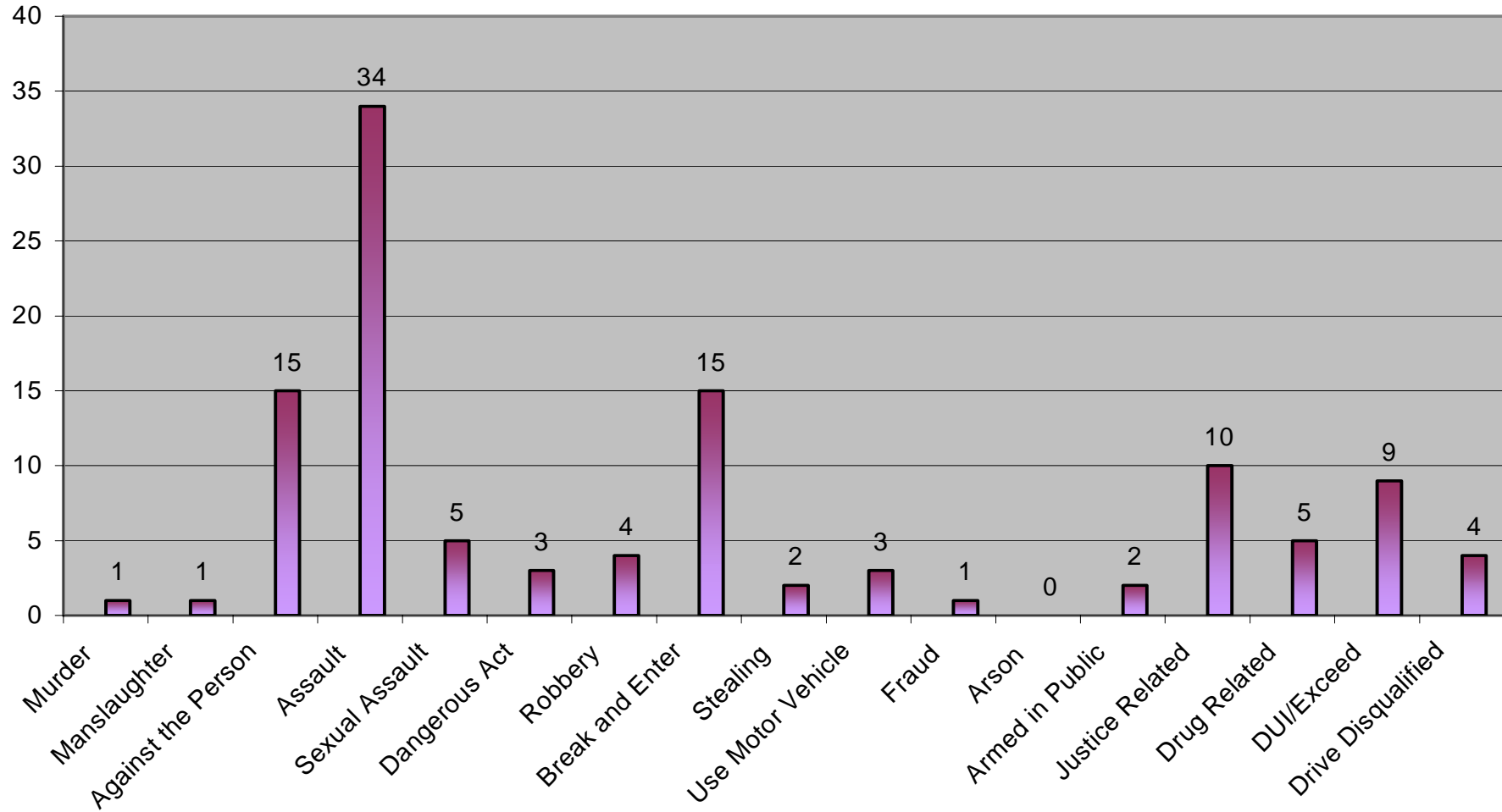


### Prisoners Released to Parole During 2004 by Age

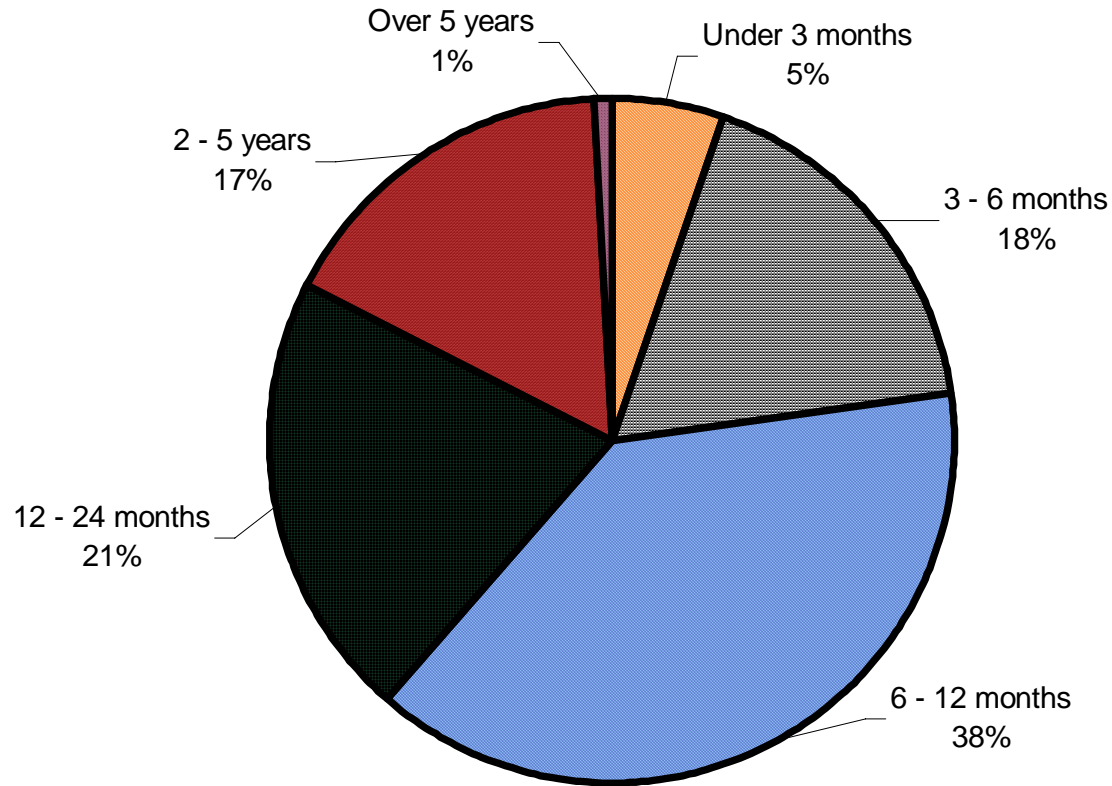




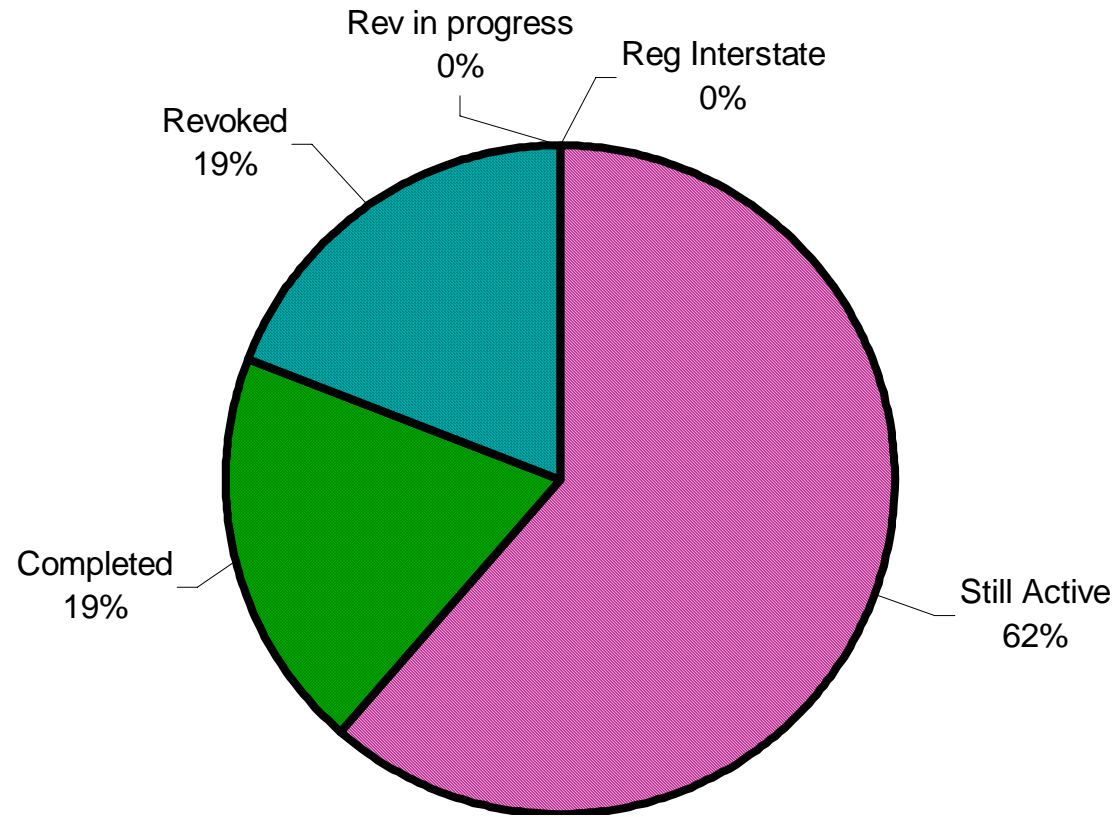
### Prisoners Released to Parole During 2004 by Most Serious Offence



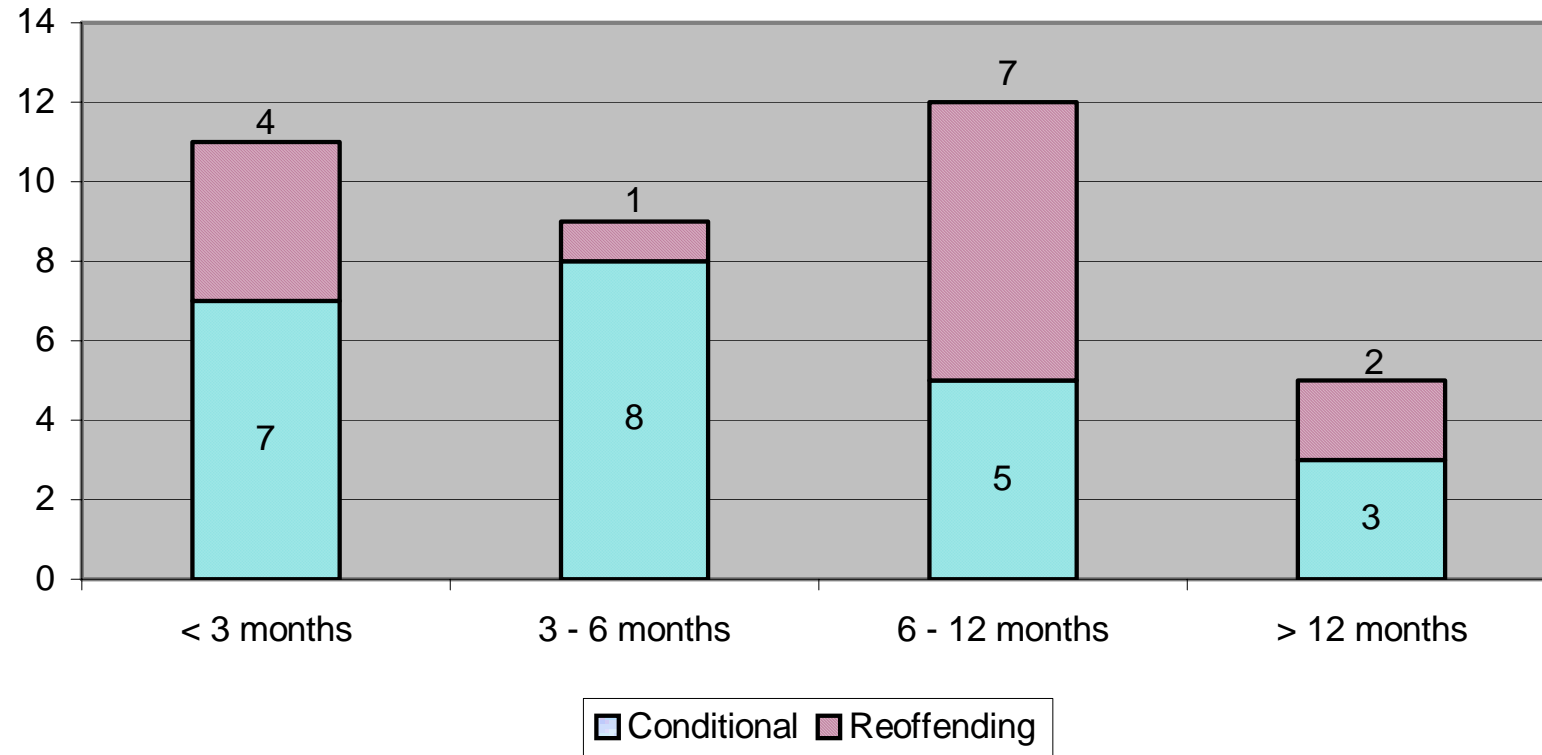
### Length of Parole for Prisoners Released to Parole During 2004



## Outcomes of Prisoners Released to Parole During 2004



### Period on Parole Prior to Breach -Conditional and Reoffending-



### Comparisons of Most Serious Offence 1997 - 2004

