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**CHALLENGES IN PAROLE SUPERVISION: SOME EVIDENCE
FROM MALAYSIA**

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Abstract

The supervisory role of parole officers in the community is vital in guiding and monitoring the parolees to comply with the Parole Order and be a law abiding citizens in the community. Indirectly, they are responsible in protecting the welfare and safety of the community. However, in undertaking these obligations, the community parole officers are facing numerous legal and operational impediments. There is a paucity of research on the mechanism of surveillance of the parolees released on parole and the challenges facing the parole officers in community surveillance. Within this context, this paper aims at highlighting the abovementioned challenges facing the parole officers in their surveillance duties. This paper adopts a qualitative methodology, of which the primary data is obtained from four case studies of the regional prisons in Malaysia from where the parolees were released. Such data is triangulated with those obtained from the Parole Board and the parolees. The secondary data is the Prison Act 1995 and library-based sources and Internet sources. The authors contend that surveillance of the parolees is rather demanding on the parole officers as they are facing various challenges such as in developing the surveillance case plan to monitor the parolees. Also, their heavy workloads often hamper their abilities to perform their dual roles in the surveillance and rehabilitation of the parolees in the community.

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1. Introduction

Parole is designed to function as a critical surveillance and rehabilitative mechanisms for offenders transitioning from prison into the community. The aspiration of the system is that prisoners released on parole or parolees under the appropriate supervision of parole officers in the community will be assisted to become fully re-integrated and law-abiding at the expiry of their imprisonment terms. The primary practice in many parts of the world is that the community parole officers have a duty to supervise the parolees from two different approaches, namely rehabilitation and surveillance (Siegel and Bartollas, 2015). Similarly, Abadinsky (2015) contends that parole officers perform two primary duties, firstly, as the rehabilitating agent who would be practicing social work-oriented training and secondly, the policing aspects, which includes surveillance or monitoring and controlling the parolees.

Within this context, the first part of this article briefly explains the problem statement of this research before addressing the research question and the purpose of this study. The methodology that is being adopted in this study will be deliberated in the fifth part. The following part which is the crux of this paper goes to reveal the findings as what is seen in the Malaysian practice and discuss the main challenges involved in monitoring the prisoners released on parole in the community. Finally, the last part concludes the paper and suggests some ways to improve the surveillance roles of parole officers.

2. Problem Statement

Within the global context, the literature on monitoring and supervision for parolees released under the parole system suggests that parole officers are continually facing many difficulties (Scott-Hayward, 2011). Such problems are due to the lack of surveillance of the parolees in the community have led to recidivism and the likelihood of the threats to community safety (Latessa & Smith, 2015). Extant literature in the USA shows that the challenge of community parole officers is to monitor the parolees from recidivism and violating the parole order, but also acting as the rehabilitating agent by engaging the parolees in their treatment to assist their re-entry into the community. As a result, surveillance and enforcement approach may have appeared to be the most prudent way to supervise the parolees.

The literature in the United Kingdom also indicates that it is a dilemma for parole officers to address the case plans of the parolees and engage with the assessment tools, which require the application of both the principle of dynamic risk factors and criminogenic needs (Taxman, 2016). Similarly, the literature in Australia also indicates that community parole officers are facing some challenges in using scientific assessment tools in developing the parolees' case plans to ensure that adequate surveillance is being maintained (Heseltine et al., 2011).

However, in Malaysia, research into the parole system is rather scarce and is not as well developed as those in the jurisdictions mentioned above. Importantly, there has been little research that explores the challenges facing the parole officers in their surveillance duties. The literature on parole tends to focus merely on the parole decision making by the Parole Board (Hamin et al., 2014) or the rehabilitation of parolees in the community under the supervision of the parole officers (Hamin et al., 2012). Other recent literature on the rehabilitation of inmates in the institution has only focused on the rehabilitation programs available in the prisons (Mohammad Jodi et al., 2015) and the implementation of the said rehabilitation programs within the prisons (Md Ghani, 2011).

3. Research Questions

Based on the above premises, in examining the surveillance duties of the parole officers the supervision of the prisoners released on parole, the research question that this paper would address is: What are the duties of the Malaysian parole officers and their challenges in supervising and in particular, monitoring the parolees in the community?

4. Purpose of the Study

Given the paucity of such research and the lacuna in the local literature, this paper aims at identifying and providing some insights into the challenges facing the community parole officers in their surveillance duties.

5. Research Methods

This study employed the qualitative type of research methodology. This methodology is chosen as it would provide a deeper understanding of the social phenomena and would enable the researcher to gain an in-depth, intense and holistic overview of the study (Silverman, 2013). For the purpose of this paper, the findings of this research are based on the data collection of both the primary and the secondary data which is divided into two phases. The first step of the data collection involved reviewing all of the relevant literature on the surveillance of the parolees under the parole system via the library-based search. The primary source was mainly the Prison Act 1995 and the secondary sources being reviewed include textbooks, academic journal articles, government reports, newspaper articles and online sources.

In phase two, the primary data was generated by adopting a case study research design, involving five units of analysis representing the prisons in West and East Malaysia as well as the Parole Board members and the parolees. The instrument for the case study was the face-to-face semi-structured interviews with the respondents from each prison, involving the parole officers at the institutional level, the field parole officers at the state and district levels.

Qualitative data analysis was conducted through thematic and content analyses, in which the observations and the interview transcripts from the semi-structured interviews were examined. The process consisted of creating codes and categories, considering the themes and then creating hypotheses about the respondents' experiences, along with the integration of experts' opinions on the issues and the literature review. The primary data were triangulated with the semi-structured interview data obtained from seven members of the Parole Board and six parolees. The interviews have been digitally recorded, and their contents have been transcribed and analysed using the Atlas.ti qualitative research software.

6. Findings

The results of this study are based on both the primary and secondary data. At the first stage, the literature review or the library-based research led to the secondary data, in which the content analysis approach was adopted. At the second stage of the research, primary data was generated by utilizing a case study research design. Below are the said findings:

6.1. Findings of the Literature Review: Legal Position on the Malaysian Parole System

In Malaysia, the legislative intent of the parole system was to alleviate prison overcrowding and operating costs, reduce recidivism and to rehabilitate the parolees to ensure a successful re-entry and reintegration into society through the role of family, employers or community members (Parliamentary Hansard No 85, 19 December 2007). Such novel intention is reflected in the values and principles of the Parole Division of the Malaysian Prison Department in its mission statement. Such aims are evidenced by the objectives of the Parole Division which is to ensure a continuity of effective rehabilitation programs and to give prisoners a second chance to go through the process of reintegration of their lives into the community. Parole would maintain the welfare of the society and also reduce recidivism by assisting and guiding the prisoners to live as law abiding citizens (Malaysian Prison Department, 2008).

Prisoners released on parole before the expiry of their imprisonment term or by a decision by a parole board, when granted, are given the opportunity to serve the remainder of a term of imprisonment in the community. The Prison Act 1995 defines parole as “the release of a prisoner to serve any part of his imprisonment sentence outside the prison under a parole order.” By section 46A of the same “prisoner” means a prisoner who is released on a parole order made by a Parole Board. Section 46I of the said Act provides that “a prisoner is deemed to continue serving his sentence of imprisonment during the period of parole that begins on the date of release on parole as specified in the parole order and ends upon the expiration of his sentence of imprisonment, taking into account so much of his sentence as shall remain after deducting from it such part of remission of sentence granted, or when the parole order is suspended or revoked”. As such, parole in Malaysia is viewed as an extension of the custodial period, as the prisoner will be placed in the community under the correctional authority and supervision of parole officers.

The Malaysian parole system adopts a combined model of both rehabilitation and surveillance in its approach to parole supervision (Malaysian Prison Department, 2008). Section 46J of the Prison Act 1995 provides that the parole officers’ duties, among others, are to take custody, supervise and maintain a register of the parolees during their parole period. However, the legislative context for the surveillance duties of the community parole officers can only be evidenced from the provisions of section 46K of the Prison Act 1995. The said section laid down the duties of the parolees where the parolees “shall report to the parole office, reside at a place specified in a parole order, enter into employment arranged or agreed by a parole officer and to comply with any conditions or instructions given by the Parole Board or the community parole officer”. Hence, rather than explicitly providing for the surveillance duties of the parole officers under section 46K of the Prison Act 1995, such obligations are impliedly provided in the said section. It follows that the monitoring function of the community parole officers remained hard tasks for them, which is to ensure that the parolees report to the parole office and to control the residence and movement of the parolees.

The parole officers have a duty to develop the case plan for each parolee under their supervision. They must develop such case plans to match with the parolees’ criminal record, attitude, and the tendency of recidivism, social surrounding, and support from family, neighbours, and employers (Malaysian Prison Department, 2008). Such case plans will then be categorized as either maximum, medium or minimum in which the nature of rehabilitation in the community and the frequency of surveillance involving face to face contact, residential and work visits will be determined (Malaysian Prison Department, 2008).

6.2. Community Surveillance

The extant literature explains the broad meaning and the types of monitoring. Lyon (2001) defines the phenomenon of surveillance as “the focused systematic and routine attention to personal details for influence, management, protection or direction.” Within the context of the parole system, the literature implies that the primary objectives of surveillance in parole supervision are to control and monitor the movement of the parolees in the community. For example, Chin and Dandurand (2012) suggest that monitoring within the community is imperative, as it operates on the premise that the parolees are dangerous and to be controlled and closely monitored. The literature also suggests that the surveillance of parolees is to prevent recidivism and to ensure community protection. Larkin (2013) suggests that the high rates of recidivism among the parolees will put public safety at risk and escalate the expenditures on law enforcement and the criminal justice agencies. Alarid (2016) contends that supervision, restriction, and monitoring of parolees and the revocation of parole when the conditions of release are not complied with, contribute to the community safety and protection.

Parolees who go through a parole process are restricted by the supervision and the monitoring by the community parole officers and by the conditions outlined in the parole order (Latessa and Smith, 2015). Further, Siegel and Bartollas (2015) contend that parole supervision involves the role of parole officers in carrying out their statutory duties laid down by the law and monitoring the conditions imposed upon the parolees by the Parole Board. Abadinsky (2015) contends that community parole officers enjoy wide discretionary powers in the course of their supervision of parolees.

The literature suggests that a variety of problems are in the way of parole officers in monitoring the parolees. Firstly, the issue arises in preparing and developing the case plans for the rehabilitation and surveillance of the parolees to determine the level of supervision for them (Burke, 2011). Hence, the case plan will define the nature of the rehabilitation and the frequency of surveillance, including face to face contact and visits to places of residence and workplaces (Latessa and Smith, 2015). The literature indicates that following the case plan, a variety of tasks is involved in the surveillance duty. For instance, Shah (2017) suggests that the act of monitoring under the parole system would include monitoring the parolees' compliance with the conditions of the parole order. However, such officers face the problem in preparing the proper case plans for the parolees because they must also match the suitable intervention programs according to the needs of the parolees. Taxman (2016) rightly contends that preparing appropriate case plans for the parolees, with the appropriate surveillance and rehabilitation that could be delivered by adequately trained staff is a continual challenge.

Secondly, another challenge relates to the adoption of scientific and evidence-based programs and practices. The literature suggests that parole officers should adopt and incorporate scientific and evidence-based programs and practices (Schaefer et al., 2014). The research advocates that many advantages could be gained from such evidence-based approach. With proper assessments based on scientific tools, parole officers could focus and implement on the parolees, a suitable and balanced supervision case plan that drives the parolees' goals to address their risks to re-offend while under supervision (Burke, 2011).

However, despite adopting such scientifically-based model, the problems for parole officers are continuing. Taxman (2016) argues that it is a dilemma for parole officers to address the needs of the

parolees and engage with the assessment tools, which requires the adoption of both the principle of dynamic risk factors and criminogenic needs. Bourgon et al. (2012) also contend that translating these principles into everyday practices was currently one of the profession's most significant challenges. Also, Klingele (2016) asserts that parole officers are not receptive to using the evidence-based program as they are guided by whatever method they were trained in or preferred.

Thirdly, the literature suggests that parole officers often feel challenged in trying to achieve their dual goals of helping the parolees to successfully re-integrate into the community while at the same time protecting the society from at-risk individuals. In fact, the operational practices of these combined goals are incompatible with each other (Trotter, 2015). Similarly, Abadinsky (2015) asserts that under this dual mode of practice, parole officers had to juggle the dual role of the helper and the enforcer in providing therapeutic counselling, job assistance, broker community resources and rehabilitation programs while at the same time engaging in a range of surveillance techniques.

The literature shows the impact of adopting the combined model in parole supervision duties. Gleicher et al. (2013), suggests that it creates a confusing state of affairs of parole officers' duty under the parole system. Abadinsky (2015), contends that the dual role of parole officer makes it challenging and demanding for them to have sufficient supervision plans, which would reflect the rehabilitation treatment priorities as well as surveillance of parolees. Consequently, as suggested by Taxman (2010), parole officers are inclined in focusing on the enforcement issues and in ensuring that the parolees comply with their parole conditions, rather than giving sufficient attention to the parolees' progress in obtaining their rehabilitation services, their attitudes and peer social supports.

Fourthly, in their operation, parole officers are also continually facing difficulties in managing their surveillance duties as they have to cope with their heavy caseloads. Gills (2014) contends that with an increasing number of parolees and the limited resources with which to manage them, parole officers are often left with large caseloads that just do not permit intensive case management and support services.

6.3. Findings on Stage Two: Legal Challenge

The legal challenge for parole officers in conducting their surveillance duties seems to stem from the ambiguity of their duties under the Prison Act 1995. As stated earlier, Section 46J of the 1995 Act does not expressly spell out the duties of the community parole officers. Due to this legal vacuum, parole officers had to rely on the parole departmental guidelines, policy and parole conditions, which they must initially understand and interpret correctly. Hence, more often than not, parole officers resort to their supervision styles to suit the specific needs and risks of the parolees, which they find more suitable and productive to the parolees. This point had been explained by one respondent when he commented that:

“The parole law does not state what we must do but it tells what the prisoners must do. So we just interpret the law that we have to assist and monitor the parolees”.

The evidence suggests that the parole officers are guided by the “soft law” which is the parole guidelines for the officers. One parole officer commented that:

“When we supervised the parolees released on parole we just follow the guidelines and directives from above”.

6.4. Findings: Operational Challenges

The results revealed that among the operational challenges facing the community parole officers in their surveillance duties are developing the monitoring case plan and the lack of any application of any scientific tools in monitoring the parolees. Firstly, regarding the monitoring case plans, before surveillance, the parole officers need to conduct interviews with the inmates and the community surrounding them, including their families, friends, neighbours and the local district police, to obtain relevant information. Such case plans are divided into three categories of maximum, medium and minimum and in categorizing such plan, the community parole officers are guided by the departmental guidelines.

Nevertheless, the data revealed that the majority of the parole officers found it challenging to follow the standard guidelines closely because such guidelines did not take into accounts the needs and risks of the parolees. Hence, most of the time the parole officers created their supervision styles to suit the specific needs and risks of the parolees. Such approach was taken as they felt that such style would be most comfortable and productive to the parolees. Also, the primary data suggested that the majority of the parole officers took into account the overall attitude of the parolees in determining their surveillance style which might suit the parolees best. Such evidence-based supervision style seems to be in line with the literature on the parole surveillance practices in other jurisdictions such as the UK, the USA, Canada and Australia (Andrews and Bonta (2010)). One respondent explained that:

“Sometimes it’s difficult to follow the guidelines. We have to make our own way of monitoring the prisoners. We look at the risk they pose and also their attitude. If they got no problem, we will reduce the surveillance visit on them”.

Secondly, the data also revealed that the majority of the parole officers found it challenging to develop the surveillance case plans due to the lack of any scientific risks and needs assessment tools developed by the Parole Department to be employed by them. The findings indicated that the Parole and Community Services Division is not guided by any scientifically-based programs and approaches, which are most commonly adopted in other jurisdictions, to administer the parolees in the community. Hence, in many instances, such officers had to draw upon their own experiences and intuitions in tackling their supervision duties. Such finding would seem to agree with Burke’s (2011) view that with proper assessments based on scientific tools, parole officers could focus and implement a strategized supervision plan, which will enable them to do away with the need to adopt a maximum control approach. One respondent commented that:

“We lack any tools to help us develop our case plans. So we use our own experiences and intuitions”.

Thirdly, another operational challenge facing the parole officers is managing their diverse caseloads and balancing their dual roles in the rehabilitation and surveillance of the parolees in the community. The findings suggested that such officers have a lot of different positions that they need to fulfil as part of their job descriptions and responsibilities, which are not only concentrated on surveillance and rehabilitation of the parolees. They are also responsible for preparing the pre-release reports as well as supervising other parolees released in the community under various release schemes. They have to arrange the best possible schedules to conduct surveillance and this is time-consuming. Such findings verified Abadinsky's (2015) view that the dual role of the parole officer as the rehabilitation and supervision officer makes it challenging and demanding for them balance their control plans, which reflect the rehabilitation treatment priorities as well as surveillance. One respondent highlighted that:

"It is hard for us to manage our duties to help in the parolees' rehabilitation and to monitor them. Also, when parole duties and other social services are fused under one roof, problems arise. We also have a lot of administration and paperwork to do".

The study also found that the majority of the parole officers accepted that they have wider responsibilities and greater accountability regarding public protection. While all parole officers commented on the need for the parolees' rehabilitation, the evidence seems to imply that the amount of work done by such officers is inclined towards surveillance duties.

7. Conclusion

The findings above revealed that community parole officers play a significant role in the surveillance of parolees while at the same time, in ensuring community safety. In their oversight duties, parole officers are acting primarily as the law enforcement officers, ensuring compliance with the conditions of the parole order. The findings showed the existence of various legal and operational challenges facing such officers in their surveillance duties. The absence of any legal obligation in their oversight roles under the Prison Act 1995 seems to have impeded such officers' duties in the community as the 1995 Act does not expressly state the tasks involved in their community surveillance duties. Hence, the evidence revealed that due to such limitation, their surveillance duties are carried out based on the orders and guidelines given by the upper parole management, apart from any monitoring requirements stated in the parole order. The findings also suggested that the operational impediments in the surveillance duties are developing the surveillance case plan and the lack of any application of any scientific tools in monitoring the parolees. In some situations, the parole officers had to rely on their discretions and experiences in dealing with the parolees. Heavy workloads due to their dual role, other functions and responsibilities and the extensive administrative paperwork are also hampering parole officers in their surveillance duties. Such challenges have contributed to the officers' inclination towards their oversight role.

These findings revealed that there is a dire lack of statutory provisions to support the duties of the parole officers. As such it is imperative that policymakers review the existing laws to provide for those

supervision duties. The operational problems could be alleviated if the Parole and Community Services Division under the Malaysian Prison Department develop proper guidelines on creating the control case plan which would reflect the rehabilitative treatment priorities as well as surveillance and enforcement. As the combination of monitoring and rehabilitation is more effective at reducing recidivism than surveillance alone, such case plan should also be built on valid scientifically risks and needs assessment and strengths-based assessments. The use of such scientific tools may also assist the parole officers in determining which parolees should be given more attention as it could ensure that the programs, the services, and the resources are directed at the higher risk parolees, and mainly focuses on the reduction of re-offending. Significantly, parole officers should be adequately trained and guided in their supervision duties as such training will assist them in determining which parolees should receive more attention. The Parole and Community Services Division should also ensure that their community officers are appropriately resourced, trained and guided. Parole officers' caseloads should be reduced as the current high workloads would merely defeat the success of their supervision. Finally, future work on the surveillance duties of parole officers could involve some comparative analysis with other jurisdictions such as the New South Wales, Australia, and the United Kingdom to elicit some experiences and lessons to be learned.

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