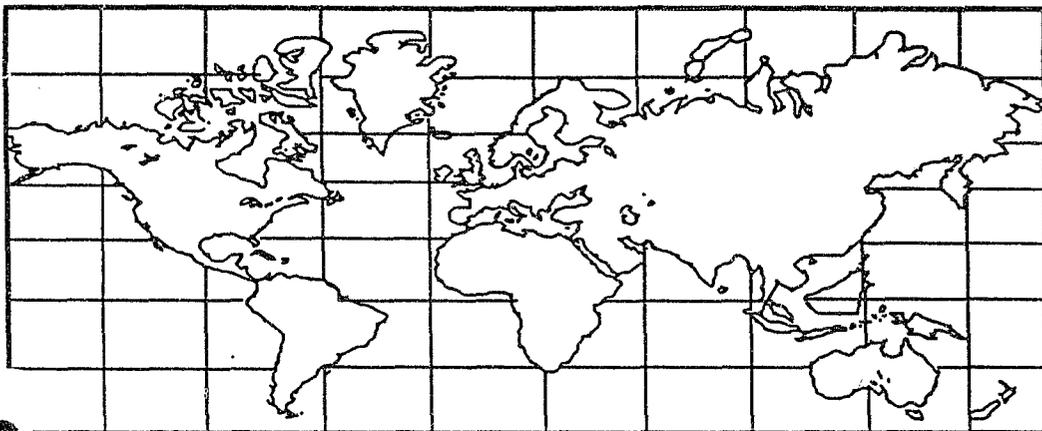


OBSERVATIONS ON PAROLE:

A COLLECTION OF READINGS FROM
WESTERN EUROPE, CANADA AND THE
UNITED STATES



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ASSOCIATION OF PAROLING AUTHORITIES

INTERNATIONAL

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**OBSERVATIONS ON PAROLE:
A COLLECTION OF READINGS FROM
WESTERN EUROPE, CANADA AND THE
UNITED STATES**

Proceedings of the First
International Symposium on Parole
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FOREWORD

On April 6-9, 1986, the Association of Paroling Authorities International (APAI) hosted the first International Symposium on Parole at the Lyndon B. Johnson School of Public Affairs, University of Texas in Austin, Texas.

The Symposium brought together over 150 parole and criminal justice professionals from Europe, the United States and Canada. For three days the participants discussed the many complex issues, and problems impacting on their respective jurisdictions. Of significance were the attendance and presentations by representatives from five European countries and Canada.

A majority of the presentations made during the Symposium are included in this document. They have not been edited or revised. Rich in detail, they cover a wide array of topics confronting paroling authorities in much of the Western world. The articles offer a "sympathetic" assessment concerning the current status and future prospects of parole, as well as the relationship of parole to the other components of the criminal justice system. Together, the articles provide far-reaching proposals and insightful analyses--written from the point of view of policymakers and committed advocates of criminal justice reform.

The National Institute of Corrections is making these papers available so that those who did not attend the Symposium can review the proceedings. The presentations contained here offer an opportunity to reconsider the issues and concerns voiced during the First International Symposium on Parole in the United States.



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PART I

INTERNATIONAL PERSPECTIVES

ON PAROLE

PAROLE IN THE UNITED KINGDOM

By
Eric Morrell

An Overview of the United Kingdom

Since the Second World War, the total population of the United Kingdom has risen gradually to its present level of around 56 million. This unremarkable statistic conceals, however, two very fundamental changes in the structure of society within the United Kingdom which are relevant to criminal justice matters.

Population

About 20% of the United Kingdom's population is over retirement age. In economic terms, this obviously means that the non-productive population represents an increasing drain on the working population. In criminal justice terms, many believe--without statistical support--that a growing section of the population is especially vulnerable to criminal activity.

Ethnicity

Over the past 30 years, the proportion of the United Kingdom's population originating from either the Afro-Caribbean countries or from the Indian subcontinent, has now become a sizeable minority of the population. Many people believe that there has been widespread discrimination against these groups within the criminal justice system as elsewhere; it is suggested that blacks are more likely than whites to appear in court and that they are more likely to be sentenced to custody when they do appear in court. In recent years, there has been a backlash of black protest. The police are a particular object of black hostility.

Unemployment

Unemployment in the United Kingdom as a whole stands now at around 14 percent of the working population and seems to have settled at about this level.

Addictions

Drinking is a long-standing social problem within at least some parts of the United Kingdom and it is now on the increase. In addition, there is growing concern about drug abuse.

Homelessness and Bad Accommodation

Although the numbers of people affected by these problems are relatively small, the link between these problems and crime seems to be well established.

There are marked regional and local variations in the incidence of these social factors within the United Kingdom.

The Criminal Justice System in the United Kingdom

1. Crime Trends

The level of recorded crime in the United Kingdom has risen consistently over the past 20 years, though there is some skepticism about the accuracy of the recording.

2. Criminal Justice Authorities

a. Courts

There are essentially two groups of courts within England and Wales.

The great majority of criminal work is dealt with through Magistrates Courts whose greatest power is to sentence for 12 months imprisonment. Most magistrates are unpaid people from the community. Technically, they are appointed by the Lord Chancellor. In practice, they are proposed by local magistrate selection committees. Despite periodic grumblings that the magistracy is a self-perpetuating body from a rather narrow cross-section of society, it is widely supported within the United Kingdom.

The more senior court is the Crown Court at which a legally qualified judge or recorder, who has been appointed by the Lord Chancellor, presides.

b. Police

The 43 police forces in England and Wales are equally funded by the Home Office (the responsible Central Government Department) and Local Authorities. They are technically answerable to Police Authorities which comprise a mixture of magistrates (see above) and Local Authority counsellors. The Home Office has the right to inspect.

c. Prisons

The Prison Department is entirely centrally controlled.

d. The Probation Service

The Probation Service which only exists in England, Wales and Northern Ireland, is accountable to local Probation Committees which are comprised predominantly of magistrates. It receives 80 percent of its cash from the Central Government and 20 percent from the relevant Local Authorities. Despite that and contrary to the general current trend towards centralization, the Probation Service has traditionally had firm links with Local Authorities and has been heavily influenced by them.

3. Attitudes to Crime

a. There is a widespread fear of violent crime.

- b. The British Crime Survey has shown that by and large, people are less punitive towards offenders than had traditionally been thought.
- c. The cost of current Criminal Justice System is beginning to cause concern.

These attitudes have led to two developments.

- a. There is a growing belief that fewer offenders should be processed through the courts, especially in relation to juveniles.
- b. For several years now, there has been strong encouragement to all courts to consider alternatives to custodial sentences whenever possible.

Parole: An Introduction

1. Enabling Legislation

The Criminal Justice Act 1967 (Section 60) made provision for the release on license of any prisoner who had served one-third of his or her sentence, subject to the provision that he must serve a minimum period of 12 months. The Criminal Justice Act 1982 (Section 33) reduced this minimum period to six months. In practice, Section 60 cases now include those originally sentenced to roughly two years imprisonment or more, while Section 33 cases include those sentenced to roughly 1-2 years.

2. The Decision-Making Process

The decision to release on parole rests with the Home Secretary. He receives advice from one or both of two sources: the Local Review Committee at the relevant prison and/or the parole board. Local Review Committees comprise prison staff, probation officers and independent members (who might be virtually anybody). The parole board comprises about fifty members, including judges, psychiatrists, doctors, probation officers and lay members.

Local Review Committees have always considered every case and since 1972 have been able to make recommendations, in relation to less serious offenders, directly to the Home Secretary without routing their views through the parole board. In the early years of parole, the parole board had to consider every case. Since 1972, it has only considered the more serious offenders.

Decisions are guided by reports from prison staff, probation officers selected to work as welfare officers in penal institutions, probation officers in the home area and, when necessary, doctors.

There is one further important influence on the decision-making process. The Parole Unit within the Home Office uses a prediction score in relation to all cases which the board considers. It also produces that score for samples of cases dealt with by Local Review Committees as a check on the work of those Committees.

3. The Home Secretary's Use of Discretion

Home Secretaries theoretically exercise their discretion in relation to every case considered for parole. In practice, the Home Secretary is likely to take the final decision only in relation to the most serious offenders considered for parole.

In addition to these individual decisions, Home Secretaries have on two occasions issued general guidance which has influenced the development of parole in the United Kingdom. In 1975, Roy Jenkins effectively increased the use of parole after several early experimental years. In 1983, Leon Britton announced that he would exercise his discretion "to ensure that prisoners serving sentences over five years for offenses of violence or drug trafficking, will be granted parole only when release under supervision for a few months before the end of a sentence is likely to reduce the long-term risk to the public or in circumstances which are generally exceptional."

4. Total Releases

After some years of operation, the rate of discharge on parole settled at roughly 50 percent of all those considered. In 1980 for instance, 5,088 men and women were released on parole out of a total of 10,756 who were considered. The reduction of the minimum qualifying period has led to a substantial increase in the rate of release on parole: more prisoners have obviously become eligible. In addition, the parole board has indicated that in the case of those serving shorter sentences, there should be a presumption in favor of release on parole.

In 1984 (the last year for which complete figures are available but, it is important to remember, a year in which the full effects of reducing the minimum qualifying period on July 1, 1984, had not yet materialized) 11,909 men and women were released on parole out of a potential total of 19,592. 53.2 percent or more serious offenders (Section 60 cases) were released, but 76.4 percent of short sentence offenders (Section 33) cases were released.

5. Supervision

Prisoners released on parole are usually subject to supervision during the middle third of their sentence; the main exception is that young offenders under 21 are under supervision for the final two-thirds of their sentence. All parole licenses include standard conditions relating to the parolee's contact with his/her supervising officer, behavior, residence and employment. Additional conditions can be inserted in appropriate individual cases.

The supervision of all parolees is the responsibility of the Probation Service.

6. Recall

Parolees can be recalled following either the commission of a further offense or a breach of the conditions of the license, usually on the authority of either the parole board or a Crown Court. In exceptional

circumstances, the Secretary of State can order a recall. In the last six months of 1984, 7.2 percent of Section 60 cases were recalled, while only 1.3 percent of Section 33 cases were recalled.

7. Current Views of the Parole System

- a. Overall, the United Kingdom parole system is felt to be a powerful and positive influence within the prison system and a fairly effective control on men and women during the period of parole supervision.
- b. There is unease about some aspects of the system.
 - i. The parole board has always refused to give reasons for its decisions and while on balance this is accepted, there are constant discussions about possible ways of saying more about the process to the prisoners involved.
 - ii. From time to time, the administration of the parole system becomes bogged down. At worse, decisions are only made after the date on which a prisoner becomes eligible for parole.
 - iii. There is also widespread misgiving that judges may at times adjust their sentences upwards to compensate for the possibility of early release on license.

These sources of unease, however, do not undermine confidence in the system as a whole.

- c. There is a debate currently being waged about the substitution for parole of automatic release on license (possibly after the service of one-third of the sentence). Some persons predict that such a step would remove the important control elements of the parole system.

An Assessment of Parole in the United Kingdom

What follows elaborates on the strengths and weaknesses of parole in the United Kingdom and on the critical ingredients leading to relative success or failure.

The United Kingdom experience of Section 60 parole is encouraging and the factors contributing to the success of the system may be identified. Section 33 parole, a much newer and as yet relatively unknown component, must at this stage be regarded as an uncertain asset not least because some of the factors which contribute to the success of Section 60 parole are missing in the case of Section 33.

The Success Story

Section 60 parole which has now operated for approaching 20 years may be described as a success. Indeed, within the United Kingdom criminal justice system about which there is widespread pessimism and which is generally regarded as a graveyard for political and social aspirations,

Section 60 parole and community service are generally regarded as by far the most constructive and effective measures introduced in recent years.

Since Section 60 parole became fully established, it has allowed the Home Office to release roughly half of all prisoners serving sentences of two years or more into the community after serving between one-third and two-thirds of their sentences. The average length of license in recent years has been about five months.

Section 60 parole has also produced one other major benefit. There is little doubt that the prospect of parole has operated as an important control agent during prison sentences and possibly to a surprising degree during the period of license. The strain does occasionally become too much for an individual prisoner during sentence and there have been breakdowns--some of them dramatic--during license. On the whole, however, the controlling function of the parole system is demonstrable and widely regarded as a good thing.

The acid test of any social measure is, of course, public acceptability; on that score, the Section 60 parole system undoubtedly comes out well. The indicator for that is the absence of media coverage. The obvious point is that the United Kingdom media pays relatively little attention to parole which is by no stretch of the imagination part of the media staple diet. It is safe to conclude that the general public believes that the parole system includes enough control mechanisms. And those failures which have occurred have not been great or numerous enough to fundamentally shake that confidence.

That sense of public confidence has been largely shared by the judiciary. There are persistent misgivings that some judges adjust their sentences upwards to take account of probable releases on parole. There is also some suspicion that judicial confidence may occasionally rest on relative ignorance of the parole system. Against those rather jaundiced views, however, must be set the evident support of the judiciary, many of whose members have by now served on the parole board.

An Uncertain Quantity: Section 33

By contrast, Section 33 parole of which we so far have relatively little experience shows signs of being a much more problematic matter. There was the misgiving from the outset that this form of parole was a fairly blatant pragmatic attempt to simply reduce the prison population by a few thousand. The parole board itself, which plays relatively little part in the Section 33 process, has always appeared somewhat cool. And misgivings about Section 33 parole are currently being fueled by the apprehension--yet to be tested by adequate statistical information--that more of those released under Section 33 will reoffend during the period of parole than has been the case with those released under Section 60.

Section 33 parole will, of course, allow many more prisoners to be released. At this stage, however, it remains an open question whether or not the system can carry public confidence. And, if it does not carry public confidence, we must ask whether it can be allowed to survive and inevitably jeopardize the standing of Section 60 parole.

Factors Affecting Parole Success and Failure

Over the years, the United Kingdom parole system has attracted a great deal of discussion. These discussions remain lively during the current phase of uncertainty about Section 33. Six factors have quite clearly contributed to the success of Section 60 parole. The absence of some of those factors may well affect the future of Section 33 parole.

Among the six factors, four are tangible and measurable.

1. Parole Dossiers

During the 1970's, the format of the parole dossier for Section 60 cases became well established. Dossiers invariably comprise information from the police about the nature and seriousness of the original offense, a record of the prisoner's previous criminal history, a number of reports from prison staff on the inmate's behavior during sentence, a report by a probation officer on the offender's home circumstances and a report by another probation officer assigned to work as a welfare officer in the prison on a variety of matters including the inmate's response to previous supervision. Provided that the various reports are of a good standard, Local Review Committee and parole board members considering a case, should not have a shortage of information. Indeed, there is occasionally criticism that parole dossiers are too long and too cumbersome.

The Section 33 parole dossier is by contrast perfunctory; Home Office notes describe it as "routinized and abbreviated." It contains no police report on the original offense, relatively few prison reports. Moreover, the probation officer's home circumstances report is reduced to a very simple checklist.

2. The Decision-Makers

There are three critical groups of decision-makers in the United Kingdom parole system. All in my view--and the view of most other observers--have proved their worth over the years.

The first decision-making forum is the Local Review Committee (LRC) at the prison. Although a somewhat mixed bag of people and despite the fact that they have often failed to recruit a true cross-section of the community (they typically include relatively few manual workers and relatively few members from ethnic minorities) they have shown sound judgement. For practical purposes, Local Review Committees decide the outcome in the case of all prisoners sentenced to up to four years imprisonment for property offenses and up to two years imprisonment in other cases. It is quite clear that Local Review Committees have generally proved reliable judges with those groups of offenders. In the case of more serious offenders, LRC's act as the first filter and have again generally proved reliable: the correlation between their initial opinions and final outcomes is high.

One important contribution to their success has been the practice of ensuring that one member of the LRC interviews each

candidate for parole. The purpose of that interview is to check the candidate's personal statement and not to assess his suitability. Those interviews together with the various documents in the parole dossier have led to a situation in which LRC members are able to form a judgement on the basis of accurate information.

The parole board has similarly proved its reliability in relation to both release and recall decisions. Membership on the parole board is widely regarded as a distinction and has invariably been taken seriously by all professions which contribute to the board's work.

The Parole Unit (i.e., officers working for the parole board--not decision-makers but clearly an important influence) has refined its activities especially in the sphere of predictions. It plays a particularly important role in reassessing those prisoners considered by LRC's to be unsuitable but emerging with a low probability of reoffending. The Parole Unit has the power to refer such cases to the parole board and so has contributed to a substantial number of such cases being released without undue failure rates and without greatly taxing the parole system.

These decision-making groups have kept themselves almost entirely free of political influence. The only demonstrable political influences on the parole system throughout its entire existence, have been the two sets of guidance issued by Home Secretaries in 1975 and 1983.

Similarly, the decision-makers have avoided any influence by victims or victim's associations. Within the United Kingdom, Victim Support Schemes have multiplied rapidly in recent years. Those schemes, however, are designed to deal with the problems of the victims in the wake of offenses. There has never been a serious suggestion within the United Kingdom that victims should play any part in the subsequent treatment of offenders. Indeed, such a suggestion would be remote from thinking in any quarter of the United Kingdom. The only current links of any sort between offenders and victims take place within a few experimental reparation schemes which are quite separate from the parole system.

In short, the success of the United Kingdom parole system has been built to a very large extent on the reliability and independence of the decision-making process.

3. Effective Help on Release

Reviews of the Probation Service work with parolees over the years have consistently shown that probation officers devote a great deal of time to helping parolees resettle in the community. Both probation officers assigned as welfare officers in prisons and field probation officers maintain contact with inmates and their families, where they exist and help likely parolees arrange future employment. By way of back-up facilities, most probation areas have in recent years devoted a great deal of energy to the

establishment of special accommodation facilities and occupation schemes which can absorb parolees who are released without a permanent home and/or job to go to. Prisoners are simply not released to a life of homelessness or idleness. It can confidently be said for both Section 60 and Section 33 parole cases that the preparations for release are generally good.

The Probation Service believes that it must now pay substantial attention to the provision of adequate services to help those with addiction problems. Over the years, there has been endless debate within the United Kingdom about this situation and the debate has led to very little action. The development of services aimed at this problem will mark a further step forward in the process of re-establishing parolees in the community.

4. Sanctions

At an early stage in the history of United Kingdom parole, two sanctions were established.

The first relatively modest control is the practice of chief probation officers, in consultation with the Parole Unit, issuing warning letters whenever parolees break the conditions of their licenses in relatively minor ways or show behavior which prima facie could lead to further offenses. That well established procedure appears very insubstantial. Experience over the years has, however, shown it to be valuable to many cases.

The more serious sanction is, of course, the power to recall. That power is enjoyed by both the parole board and, in the case of parolees who have committed a further offense, by the Crown Court. Both the board and the Crown Courts have shown themselves willing to exercise this power of recall if there appears to be serious risk.

These two levels of control and sanction have been effective in the case of Section 60 parole. It is, however, difficult to see how they can be effective in the case of Section 33 parole; the brevity of the license period often makes it impractical to exercise sanctions in these cases. The likely absence of any true sanctions may well prove to be one of the most damaging features of Section 33.

Beyond these four relatively tangible features of the United Kingdom parole system, two more elusive factors have affected the fortunes of the parole system.

1. The Need for the Prisoner to Work for Parole

Parole in the United Kingdom is a privilege to be earned, it is not automatic.

Throughout the history of Section 60 parole, decisions have been made substantially on the strength of the prisoner's behavior during sentence and of his preparation, in collaboration with

the Probation Service, for release. The requirement that the prisoner contributes significantly to the outcome of his own application has done much to influence public and judicial attitudes.

The early history of Section 33 parole has been rather different. Parole is still a privilege and theoretically the prisoner still has to work to earn it. In practice, however, two factors reduce the need for the prisoner to make the sort of effort demanded of Section 60 cases.

- a. The first problem comes from the fact that the timeframe only allows one parole review to take place in Section 33 cases. It appears that knowledge of that factor influences LRC's to err on the side of generosity regardless of the prisoner's behavior and future plans.
- b. The second factor is the quite public statements from both the Home Office and the parole board that for Section 33 prisoners there should be a presumption in favor of parole. The public stance is supported by the practice of referring to the parole board all cases handled by a LRC which recommends for release less than 50 percent of Section 33 cases.

The requirement--or relative lack of it--that the prisoner must work for parole is in my view possibly the most critical factor affecting the standing in public and judicial esteem of the parole system.

2. A Sense of Justice

The other crucial if somewhat elusive influence in the outcome of the parole system is the degree to which it is seen to be a just system. By and large, Section 60 parole has been seen in this way, not least because it is clearly a reward for effort. The Home Secretary's 1983 guidance which in effect limited the prospects of parole for violent offenders in a way which was manifestly acceptable to the general public, served, of course, to confirm that sense of justice within the Section 60 parole system.

Section 33 parole suffers somewhat at this stage from a failure to establish itself as such a fundamentally just system. There are two problems.

- a. First, it is difficult to argue that Section 33 parole is a reward for effort in a manner comparable to Section 60.
- b. The second problem is easily missed. Section 33 parole fails in fact to distinguish between a large range of prisoners serving between roughly ten months at the lower end and eighteen months at the upper end of the range. All of these prisoners are eligible for release on parole after six months.

It has to be acknowledged that Section 60 parole has a similar weakness in that it could fail to distinguish between a man who was sentenced to as little as 21 months and a man sentenced to 3 years. In practice, the parole board has more room for maneuver at these sentence lengths and does succeed in distinguishing them to some degree.

This elusive quality is likely to prove a further fundamental influence on the future of parole. The system will survive in the long term only if it is perceived to be sound and just.

Conclusion

Within the United Kingdom, there is substantial confidence in the long-standing procedures for Section 60 cases. That confidence rests on six factors.

1. The parole dossiers are comprehensive.
2. The decision-making process has proved itself to be reliable and independent.
3. Release plans are generally sensible and thorough.
4. The existing sanctions are effective.
5. The system demands that the prisoner works for parole. This satisfies public opinion and creates in the prisoner attitudes which serve him well during the parole period.
6. It is believed to be fundamentally just.

The fledgling Section 33 parole system clearly does not yet meet all these criteria. Specifically:

1. The dossier information is far inferior to that for Section 60 cases.
2. The sanctions are less effective.
3. The system demands less from the prisoner.
4. There is less confidence that the system is just.

There is no serious question mark against the future of the Section 60 system as we have known it over the past 18 years. Within the United Kingdom, this system will continue for the foreseeable future vis a vis prisoners subject to sentences of about two years or over.

The future of the Section 33 system is less certain. In the short term, efforts to improve the system will be made. There will be debate about the possibility of introducing effective sanctions and the further possibility of making more tangible demands on the prisoner. If it proves impossible to replicate in the Section 33 system the features which have led to the success of the Section 60 system, it is possible that the

Section 33 system will be eliminated and other alternatives pursued for dealing with short-term prisoners. Continuing weaknesses in the Section 33 system will not be permitted to damage the parole system as it currently operates for longer sentenced prisoners.