

The Role of the Medan State Attorney's Office in Supervising Parole of Prisoners

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Abstract: The purpose of this study is to determine and analyze the implementation of the Prosecutor's Office in supervising prisoners who receive parole, and the obstacles of the Prosecutor's Office in supervising prisoners who are granted parole. This writing is normative legal writing and the nature of the research is descriptive analytical, the data sources used in this research are primary data and secondary data consisting of primary, secondary and tertiary legal materials. The results of the study concluded that the regulation of parole is regulated in Law Number 12 of 1995 concerning Corrections, Law of the Republic of Indonesia Number 16 of 2004 which was amended to Law of the Republic of Indonesia Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia, as well as the legal rules for parole based on Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning Terms and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Ahead of Release, and Conditional Leave. Supervision can be carried out by the Prosecutor in accordance with the place of residence of the person released on parole. Prosecutors as supervisors in parole of prisoners who obtain parole in the Attorney General's Office, especially in the Medan District Attorney's Office, have obstacles in supervision in parole consisting of internal and external factors.

Keyword: Parole, Prosecution, Supervision.

Citation: Sinurat, R. L., Ablisar, M., Marlina, M., & Ekaputra, M. (2023). The Role of the Medan State Attorney's Office in Supervising Parole of Prisoners. *Locus Journal of Academic Literature Review*, 2(1), 31–37. <https://doi.org/10.56128/ljoalr.v2i1.121>

1. Introduction

The Attorney General's Office of the Republic of Indonesia is a state that exercises state power, especially in the field of prosecution and is authorized to enforce law and justice, the Attorney General's Office is led by the Attorney General who is elected by and responsible to the President. Both the Attorney General's Office, the High Prosecutor's Office, the District Attorney's Office and the District Attorney's Office Branch are state powers, especially in the field of prosecution (Ramadani, 2020).

Fungsi dan wewenang jaksa Menurut Undang-undang Republik Indonesia Nomor 16 tahun 2004 yang diperbarui menjadi Undang-Undang Republik Indonesia Nomor 11 2021 concerning the Prosecutor's Office of the Republic of Indonesia contained in Article 30, Article 30A, Article 30B, and Article 30C are divided into criminal, civil, state

administration, public order and tranquility, asset recovery, and intelligence in the field of law enforcement. Apart from that, specifically the prosecutor's office also supervises the implementation of "parole" for convicts who order the execution of decisions that have permanent legal force, as stated in Article 14 letter d paragraph 1 jo. Article 15 letter a paragraph 3 of the Criminal Code (KUHP) and Article 30 letter c of Law Number 16 of 2004 which was amended by Law of the Republic of Indonesia Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia.

Supervision of prisoners who are released on parole is relatively easier because he/she has been fostered and served imprisonment for $\frac{2}{3}$ (two thirds) of the length of sentence that has been imposed, at least 9 (nine) months. The Correctional Institution that proposes to the Minister of Law and Human Rights for a person other than because it is considered to have behaved well during coaching and has met the requirements as specified in Article 15 paragraph 1 of the Criminal Code to obtain conditional release (Chazawi, 2010).

The length of serving the intended punishment cannot include the length of the temporary detention period (if he has not been convicted he is temporarily detained), meaning that the length of temporary detention is not counted in determining the $\frac{2}{3}$ (two thirds) or 9 (nine) months, although in the judge's decision it is always stipulated that the punishment proposed to the Minister of Law and Human Rights for a person other than because he is considered to have behaved well during coaching and has fulfilled the conditions as specified in Article 15 Paragraph (1) of the Criminal Code to obtain a decision to grant parole. Conditional release can run concurrently with the imprisonment system in cells and convicts get the right to conditional release after serving $\frac{2}{3}$ (two thirds) of the implementation in prison if the minister grants conditional release. In practice, the supervision of the parolee is carried out by the Public Prosecutor's Office in the place where the convicted person resides. In the Netherlands, for life sentences, conditional release may be granted if thirteen years of imprisonment have been served. In France, conditional release may be granted if half of the sentence has been served; for life sentences, conditional release may be granted if fifteen years of imprisonment have been served (Siahaan, 2017).

Based on the brief introduction above, the purpose of this writing is to find out and analyze how the supervision of the Public Prosecutor's Office on prisoners who get parole and the obstacles of the Medan District Attorney's Office in supervising prisoners who are granted parole.

2. Research Method

This research is a normative research and descriptive analysis. This research is expected to describe examine, explain and analyze the role of the Prosecutor's Office in supervising prisoners granted parole in the scope of the Medan State Attorney's Office. The data used are primary data and secondary data. Primary data is obtained through data collection techniques with field studies by obtaining documents and interviews at the Medan State Attorney's Office. Secondary data is obtained through literature study data collection techniques carried out by examining library materials or secondary data

which includes primary legal materials, secondary legal materials and tertiary legal materials. The data that has been obtained is then systematized, processed and researched and analyzed qualitatively.

3. Result and Discussion

The provisions regarding parole are regulated in Indonesian legislation, the first time it was contained with the term parole in the Criminal Code, where the preparation of the Criminal Code was made based on the *Wetboek van strafrecht voor Nederlandsch Indie*, which is the Criminal Law itself. Article 15 paragraph (1) of Law No. 1/1946 on the Criminal Code states that "If the convict has served two-thirds of the length of imprisonment imposed on him, which must be at least nine months, then he may be subject to conditional release. If the convict has to serve several consecutive sentences, the sentences shall be considered as one sentence (Furqan & Sidiq, 2019).

Based on Law No. 12 of 1995 concerning Corrections "The release of prisoners after serving at least two-thirds of their sentence provided that the two-thirds is not less than 9 (nine) months". Based on Article 1 point 1 of Law No.16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, prosecutors are functional officials authorized by law to act as public prosecutors and executors of court decisions that have obtained permanent legal force and other powers under the law. Legal Rules for Parole Based on Regulation of the Minister of Law and Human Rights Number 3 of 2018 concerning Conditions and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Before Release, and Conditional Leave. Parole must be beneficial for prisoners and children and their families and is granted by considering the interests of security, public order, and a sense of public justice. The conditions for granting parole can be given to prisoners of certain crimes such as terrorism (Article 84) who have met the requirements The implementation of supervision carried out by the Prosecutor for prisoners who obtain parole is regulated in Article 14 letter k of Law No. 12 of 1995 concerning Corrections which means the release of prisoners after serving at least two-thirds of their sentence with the provision that the two-thirds is not less than 9 (nine) months.

Parole can be granted to all criminal offenses except the death penalty and the granting of parole must be in accordance with all the requirements that have been determined as in Parole according to the Minister of Law and Human Rights Regulation Number 32 of 2020 concerning Conditions and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Before Release and Conditional Leave. Parole, like conditional sentences, is intended to educate prisoners. The aim is to help the prisoner when moving on from a sentence with conditional freedom. Prisoners are encouraged to work on their own with good intentions. On the one hand the sentence is shortened, because the last part of the sentence is not carried out, longer under the supervision of the authorities, because the probation period of one year is longer than the remaining time of the actual sentence.

This parole is a right for every convict or criminal in accordance with Article 14 of the Law of the Republic of Indonesia Number 12 of 1995 concerning Corrections.

Supervision carried out by the Prosecutor appointed by the Chief Prosecutor against the person who has obtained parole is carried out at the place where the convict lives on condition that he must always fill in the book data for attendance in the book that has been provided and of course the person who obtained this parole must have a guardian or companion to help supervise so that he does not commit a criminal offense again. If the convicted person commits a violation and agreement in the conditions of the release letter, the convicted person is summoned back to revoke the decision of his Parole and continue the rest of the sentence. Parole can of course be revoked at the suggestion of the Prosecutor in the place where the convicted person lives with the parole book data presented by the convicted person at a predetermined time.

The granting of parole is carried out through the correctional information system. The correctional information system is an integrated correctional information system between the Correctional Technical Implementation Unit, Regional Office, and the Directorate General of Corrections (Junaedi et al., 2019).

Based on an interview with the General Criminal Section of the Medan District Attorney's Office "Parole is a prisoner who has served at least two-thirds of his/her punishment period provided that the two-thirds is not less than 9 (nine) months. Before a convict can be granted parole, the convict must fulfill specific and general conditions in accordance with the Regulation of the Minister of Law and Human Rights Number 32 of 2020 concerning Conditions and Procedures for Granting Remission, Assimilation, Leave to Visit Family, Parole, Leave Ahead of Release, and Conditional Leave. After all these requirements are completed, the next thing the convicted person does is get coaching before the conditional release."

Furthermore, the General Criminal of the Medan State Attorney's Office said that "the convict will be guided by the Correctional Officer then the Correctional Observation Team will propose a parole document to the Head of the Correctional Facility forwarded to the Director General of Corrections of the region then the Director General of Corrections on behalf of the Minister of Law and Human Rights issued the minutes of the release of the convict in accordance with the area of North Sumatra, especially Medan and sent back to the Head of the Correctional Facility, then the Head of the Correctional Facility will notify the Medan State Attorney's Office in the form of a letter in the form of minutes of the Ministry of Law and Human Rights of the Republic of Indonesia North Sumatra Regional Office, whether this prisoner still has other criminal cases that have not been decided. If the answer from the Medan State Attorney's Office provides a reply letter of no, it means that the prisoner can carry out a conditional release. Then the prisoner will be given guidance and supervision by the Medan State Attorney's Office."

Based on the interview, "in the supervision carried out by the Medan State Attorney's Office by means of the Head of the Medan State Attorney's Office ordering the Prosecutor at the Medan State Attorney's Office assisted by one of the administration of the Medan State Attorney's Office to supervise prisoners who get Parole. Supervision carried out by the appointed Prosecutor by checking the report book on the behavior of prisoners who obtain parole, the report book is filled in by the guardian. The behavior

of the convict is contained in the convict's report book so that the guardian is obliged to supervise the convict to do good because he has returned to the community environment after the report is filled in by the guardian then the convict brings the report to the Medan District Attorney's Office. The guardian can supervise and help the prisoner to be accepted back into the community, therefore he must fulfill this report."

Based on the interview "prisoners who obtain parole will be made a notification letter regarding the implementation of parole on behalf of the prisoner, then the letter is sent to the Director General of Corrections with a copy to the Regional Office of the Department of Law and Human Rights, Head of Correctional Facility, and Head of Bapas. This letter is evidence of the implementation of parole. However, if the prisoner commits another violation of the law during the parole position, the parole will be revoked."

Based on interviews, the factors of obstacles in carrying out supervision of prisoners who are on parole in the Medan State Attorney's Office consist of 2, namely internal factors and external factors.

Internal factors consist of First, the lack of Human Resources, Second, administration, which means the lack of clear instructions in terms of implementing parole and there is no clear coordination between agencies in supervising parole. Third, operational standards do not run in accordance with the Prosecutor's SOP regulations, namely the Regulation of the Attorney General of the Republic of Indonesia Number 1 of 2021 concerning the Organization and Work Procedures of the Prosecutor's Office. Fourth, facilities and infrastructure are not running due to unclear SOPs and are not implemented properly coupled with a minimal budget. Fifth, there is no awareness from prisoners who obtain parole.

External factors consist of, First, lack of coordination between agencies. In supervision, the Medan District Attorney's Office does not yet have a clear instrument in coordination in the Medan area, this is due to unclear technical implementation. The Criminal Code (KUHP) in fact explains that it regulates the institution of the Prosecutor's Office as a supervisory agency for the implementation of parole so that the Prosecutor's Office can be referred to as a juridical supervisory institution for the implementation of parole, but in practice in the field there are no clear implementing rules regarding the further authority possessed by the Prosecutor's Office in supervising prisoners on parole release. In the implementation of coordination between the Correctional Institution and the relevant Prosecutor's Office as well as the release of parole, there is no clarity on this procedure because there is nothing regulating it in Medan. If coordination does not run optimally then the supervision carried out will also not run optimally either. Indeed, coordination between agencies has a very important role both directly and indirectly regarding supervision of parole inmates, and indeed the lack of coordination between agencies related to supervision of parole inmates can be seen from the absence of actions or proposals for revocation of parole.

Secondly, the lack of convict's family to guarantee the convict to obtain conditional release because the family is still afraid if the convict repeats the criminal offense in the

future. In the environment of the convicts, there is no place to prove that the convicts can become good citizens and will not commit criminal acts again that can disturb the community.

4. Conclusion

Based on the results and discussion above, it is concluded that the implementation of supervision carried out by the Prosecutor for prisoners who obtain parole is regulated in Article 14 letter k of Law No. 12 of 1995 concerning Corrections which means the release of prisoners after serving at least two-thirds of their sentence with the provision that the two-thirds is not less than 9 (nine) months. Supervision can be carried out by the Prosecutor in accordance with the place of residence of the person released on parole. Prosecutors as supervisors in parole of prisoners who obtain parole in the Attorney General's Office, especially in the Medan District Attorney's Office, have obstacles in supervision in Parole, namely internal and external factors as described. It is recommended that the implementation of supervision to make parole procedures flow well in order to control and process the mechanism of work so as not to cause confusion between agencies between the prosecutor's office and community institutions. With a clear mechanism, the standard rules of coordination between institutions can run effectively so that the purpose of parole is achieved.

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