

Research Paper

2018/02



Too many bends in the tunnel? Women serving Indeterminate Sentences of Imprisonment for Public Protection – what are the barriers to risk reduction, release and resettlement?

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Executive Summary

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Background

I am a qualified solicitor and work for the third sector charity, Women in Prison. The impetus for this piece of research came from meeting a number of women in my role in the Mental Health In-Reach team of a women's prison who were serving indeterminate sentences for Imprisonment for Public Protection (IPP). Their sense of being lost and stuck in the creaking penal system, many years over tariff, led to a profound, palpable and disabling sense of hopelessness. Many of my colleagues also spoke to me about the tragic case of Charlie Nokes, an IPP prisoner who was found unresponsive in her cell in HMP Peterborough on 23rd July 2016. IPP was introduced from 4 April 2005 by the New Labour Government as part of their rhetoric to be "*Tough on crime, tough on the causes of crime*" through s.225 of the Criminal Justice Act (CJA) 2003, when a person was convicted of one of a schedule of 153 designated "Specified Violent Offences"¹ and the Court found them to be 'dangerous' (to present a significant risk of serious harm). Where the defendant had been previously convicted of a 'relevant offence' dangerousness had to be assumed, unless there was evidence that it was unreasonable to do so. It was striking to me that this was a most particular sentence, but without any particular provision for those left in prison serving it. What was additionally troubling was the added pain of serving a sentence that has now been outlawed, non-retrospectively, by the Legal Aid, Punishment and Sentencing of Offenders Act 2012 (s.123). When I began to probe, I found there was very little research on the lived experience of women serving an IPP sentence and none post-abolition.

Key objectives

My key objectives were to identify the barriers to risk reduction, release and resettlement amongst women serving an IPP sentence. I particularly wanted to do this through speaking to the women themselves and giving them a voice in a landscape where they were undeniably lost. The release rate for IPP prisoners is poor and, at the outset of my research, 95% of women in custody on IPP were over tariff, which raises vital questions: What is the lived experience of serving an IPP? What are the barriers to risk reduction? Are these due to pre-existing factors, internal factors, or external factors? Does the IPP sentence itself trap the women in a paradoxical situation of poor risk reduction, due to the specific impact of the sentence on mental health? How can identified barriers

be addressed? This report summarises research to understand these issues through the voices of women on IPP.

Overall Research Design:

Given the lack of research on and voices of women serving IPP in the literature, I was determined to speak to them directly and record their lived experiences. My aim was to try and reach as many women as possible through three different prisons and National Probation Services in the community. Despite having permission from the National Research Council of HMPPS for all these different sites, ultimately, I only accessed two different prisons and reaching women on licence in the community proved difficult, so this comparator group was abandoned. Although a small scale, qualitative study, it is the first study documenting the lived experience and examining the barriers to release of IPP women post-abolition that I am aware of.

Methodology:

I adopted a qualitative approach to the research and used the grounded theory to data analysis. I developed a semi-structured, narrative interview, which I carried out with nine women still in custody on IPP across two different sites. I transcribed all of the interviews myself, which proved helpful in allowing me to become familiar with the data, to identify common themes and refine my interview technique as the study progressed. I carried out a thematic analysis, using Lieblich *et al's* (1998) holistic-content standpoint using an inductive approach, identifying the themes from participants' responses, informed by the literature. I highlighted patterns and divergences in themes and groups and grouped like-themed quotes together in word documents, before identifying sub-themes and areas of particular interest.

Thematic Analysis – Key Findings:

My analysis revealed the following key themes:

- Each woman had served at least twice her tariff with one serving eleven times her tariff.
- None of the women had spoken specifically before about the reality of serving an IPP sentence.

- All of the women came into custody with pre-existing internal barriers, due to a variety of reasons: childhood trauma (leading to alcohol and substance abuse), learning disabilities, language difficulties, autism, psychiatric diagnoses, including personality disorders
- All of the women spoke about the lack of information on IPP at the time of sentencing and families continuing to struggle to understand the sentence.
- Six of the nine women got very few or no family visits, largely due to practical considerations around how far from home they were imprisoned and aging parents unable to make the journey.
- All of the women distinguished their tariff lengths – which they all judged as fair – from the length of time they have actually spent in custody. The indeterminate element of the sentence was what caused most frustration and pain and had affected their ability to progress.
- There were widespread feelings of compounded anger that the sentence had been abolished, but they were still in custody, which led to a lack of confidence in the system and affected their willingness to engage.
- The women had all experienced significant losses during their sentence, with five of the nine losing children into Local Authority care. Five of the nine had also experienced significant bereavements in the post-tariff period of their sentence.
- All of the women spoke about the adverse effect of the sentence on their mental health, which affected their ability to engage in regime and risk reduction work. They had a wide range of psychiatric diagnoses, including, most prevalently (six of the nine), personality disorders, as well as bi-polar, complex PTSD, eating disorders, schizophrenia, anxiety and depression.
- Six of the nine had tried to commit suicide multiple times during the sentence.
- Accessing interventions was problematic due to poor availability, including lack of appropriate courses (particularly relevant to the two sex offenders) and, most predominantly, past trauma and anxiety making it too difficult to engage.
- Parole Boards were immensely stressful for the women and three had had a majority of paper hearings, despite being entitled to oral hearings. The approach of individual Boards had an immense impact on the women and their perception of due process.
- All the women said that simply “having a date” would make the most difference.

Summary Conclusions:

This research highlights that:

- IPP women face a series of internal and external barriers to release.
- There is a lack of robust, proactive, multi-disciplinary offender care and sentence planning for IPP prisoners.
- The IPP sentence itself adversely affects mental health to a significant degree and, as such, IPP prisoners merit specific support and resourcing to enable sentence progression.
- There are pressing discrimination and human rights issues around those women identified with disabilities who are unable to demonstrate risk reduction.
- The problem of institutionalisation is profound.

Recommendations:

- **Each prison should have a designated IPP Caseworker, with a protected caseload solely of IPP prisoners**, in recognition of the complex needs and peculiar pains of this group of prisoners. They could be employed through the Offender Management Unit, or a third sector organisation, to provide specialist, meaningful support to IPP prisoners, liaise with Offender Managers in overseeing sentence progression, consider the use of ROTLs and act as a named liaison point around IPP for the Mental Health In-Reach Team and family members. This would ensure that IPP prisoners fitted a specific remit for support from a dedicated professional, whereas often they are not eligible for extra support because of their lack of a release date.
- **Professionals who work with IPP prisoners should talk with IPP women specifically about the lived reality of serving an IPP sentence and consider their feelings and experiences in their casework.** This study has shown there is great value, both ways, in simply asking and listening. IPP prisoners deserve to be heard, having experienced the “deep injustice” (Annison and Condry 2018:3) of IPP which they so often feel is ignored.
- **Specific training for professionals supporting IPP prisoners around the pains of indeterminacy, and the importance for sentence progression of being given positions of trust and responsibility, should be developed in collaboration with IPP prisoners and their families to raise awareness and sharpen expertise.**

- **The development of specific materials and programmes to address female sex offending behaviour and facilitate risk reduction.**
- **The expectations of the prisoners interviewed were low, particularly in terms of the consistency and proactivity of professional support around them.** Expectations of Offender Managers and Supervisors working with IPP prisoners should be strengthened to hold them accountable for exploring avenues of progression and support in a timely manner.
- **The Parole Board, in the interest of fairness, should monitor the number of IPP prisoners choosing paper parole decisions,** in light of the findings that three of the women had had a majority of paper hearings and ensure they are receiving strong advice that is in their best interests.
- **HMPPS should ensure that IPP women over tariff who have been reviewed at national level are informed of this fact and updated about progress and additional reviews.** In particular, support and sentence planning to be examined of those IPP women over tariff with diagnoses of autism or learning disabilities and specialist provision from Mental Health In-Reach teams to be funded and put in place to guard against discrimination.
- **Other avenues of robust support should be investigated by prisons in recognition that Offending Behaviour Programmes may not necessarily, or solely, remove barriers to release.** Closer, more tailored support, through third sector agencies or chaplaincy teams could increase prisoners' engagement, progression and prospects of success at parole. In particular, there is excellent potential support available in the specialist women's sector. Where women know the area they intend to return to, resources should be made available to enable women to rebuild community connections in advance of release through, for example, a women's centre worker visiting once a month.
- **Mental health and offending risk needs should be integrated into programmes of help that can be evaluated and rolled out in joint work between Her Majesty's Prison & Probation Service and health providers in prisons.** There should no longer be a split between offending risk and mental health.

For Parliament I recommend consideration of the following policy options and legislative changes:

- **Conversion clauses** – Convert all or some IPP sentences to a fixed term sentence with a definite sentence end date, recognising the resounding message of the women interviewed to give them a date.
- **Sunset Clause** – Make provision for all or some post-tariff prisoners to be released no later than a certain date.
- **Risk Test Reversal** - Place the burden of proof on the Parole Board to demonstrate that IPP prisoners continue to pose a serious risk of harm to the public which must be managed in custody.
- **Executive Release** – Use existing powers to release IPP prisoners who have now served more than the current maximum tariff for their offence.
- **Recalls** – End the IPP sentence once the Parole Board has ordered release, limit licence lengths and deal with further offences under normal sentencing provisions.
- **AP and ROTL** – Make greater use of ROTL and AP support for IPP prisoners through increased funding. Recognise that ROTL use is key for overcoming institutionalisation, building hope and increasing confidence. ROTLs out to supportive places of work and women’s centres should be investigated more proactively and used more widely.

ENDS