



**THE PAINS OF INDETERMINATE
IMPRISONMENT FOR FAMILIES OF
IPP PRISONERS**

FINDINGS AND RECOMMENDATIONS

EXTENDED REPORT

Dr Harry Annison and Dr Rachel Condryⁱ

The indeterminate IPP sentence has rightly been described as one of the ‘least carefully planned and implemented pieces of legislation in the history of British sentencing.’²¹ Our research project ‘Exploring the Secondary Pains of Indeterminate Imprisonment: The case of Imprisonment for Public Protection (IPP) families’ provides the first empirical exploration of this important issue. It comprised in-depth interviews with family members; an online survey of families; and interviews with policy participants.

The findings make clear that a pervasive sense of injustice and uncertainty underpins and permeates more specific concerns relating to efforts to progress towards release, and managing the stresses of life beyond release. Families report significant material effects, which appear to be heavily gendered in their distribution. Family relationships – both with the prisoner and more widely – are often heavily disrupted. Respondents reported significant negative health effects caused by the stress and anxiety. All of this is likely to undermine efforts to rehabilitate individuals who have served an IPP sentence.

The recommendations set out in this policy briefing point to practical ways in which the issues highlighted by the research findings can be addressed or ameliorated.

Findings

Injustice and Uncertainty

The abolition of the IPP sentence in 2012 was justified explicitly on the basis that, in the words of then-Justice Secretary Kenneth Clarke:

[They are] unclear, inconsistent and have been used far more than was ever intended...That is unjust to the people in question and completely inconsistent with the policy of punishment, reform and rehabilitation.²²

Understandably, the decision not to make the abolition retrospective, or to take some other form of action,^{iv} caused considerable difficulties for families. When provided, respondents' comments on imprisonment were not abolitionist, nor seeking to downplay the crime committed by their relative: while some pointed to specific concerns about their case (e.g. mental health issues that raised concerns about the initial decision to imprison), many believed that a determinate prison sentence would have been entirely appropriate.

However, the incongruence of strident assertions for its abolition by government representatives at that time with a refusal to pursue this to its logical conclusion for electoral reasons^v caused respondents anger and confusion:

I feel bitter towards the justice system knowing worse crimes are committed with much lesser sentences. (Survey)

I may be naïve, but I don't understand how they can just ignore the truth of the deep injustice of it. (Interview)

One respondent spoke of the injustice of the law 'eating away at you' (Survey).

As regards the overarching 'not knowing when it will ever end' (Survey) that results from their relative serving an indeterminate-sentence, respondents pointed both to the substantial emotional challenges posed by the open-ended sentence, and the extent to which they experienced themselves as serving the sentence with their relative:

The not knowing is the hardest part, we have no end date, no light at the end of the tunnel, no hope. (Survey)

We serve this sentence too because our lives are spent waiting for something that right now to me personally feels like it may never come. (Survey)

Hope and Hopelessness

Many respondents reported being in a condition of what one respondent described as ‘chronic loss’ (Survey):

...it's exactly the same feeling as when you've lost somebody. [But]
It don't go away and you can't move on from it. (Interview)

We argue that many families of IPP prisoners find themselves in a liminal state, hopeless but unable to fully abandon hope; hopeful but worn down by constant setbacks.

Families are fighting a ‘a never-ending battle’ (Survey). But the ever-present possibility that a prisoner’s situation might improve means that ‘every single one of us has got that little bit of hope that something’s going to change’ (Interview):

I'm a professional and understand well how the systems work, including mental health systems. I have huge resilience, but I am worn down at times. I have never been through such a difficult process ... [my partner and I] can barely support each other any longer because it has broken us all down. (Survey)

I will not let them break me where I'll give up my campaign for [my son], you know? I can't. That IPP's coming off him, that IPP, I swear to God. (Interview)

Key Organizations

Prison

As Wainwright and Harriott have recently noted, families can find it ‘virtually impossible...to penetrate the prison system’.^{vi} Respondents reported a range of challenges faced in supporting their relative. Basic issues regarding distance from prison, and practical difficulties flowing from this, were central to many respondents’ concerns:

The 350 mile journey to see my brother every 3 - 4 weeks is something I dread. It's also very expensive. Being treated like a criminal at the prison - having to be searched, even your open mouth examined. (Survey)

He has been moved 2 times in 2 weeks.... both times we had no warning and both times were to different counties. (Survey)

Families sometimes found the requirement for the prisoner to give permission for them to receive information and (potentially) speak on their behalf challenging:

[As a Mum] you're supposed to be the person that's there making sure they're ok and everything. But, once they're an adult, is it difficult for them to...? You have to have the person's permission who's in the prison, for example, don't you, for them to liaise with you and things like that? (Interview)

While the reasons for permission are understandable and appeared to be largely understood, relatives described such processes, as part of supporting their relative, as complicated by a number of inefficiencies, poor communication and ever-changing staff:

You have no power...it's hard to speak to anyone. They'll normally let you speak with the chaplain, and they'll pass on your message to the relevant person. You can't speak to anyone directly. So your only option is to write. And you might get a response in three weeks, if you're lucky. (Interview)

Some pointed to inconsistencies in policies between prisons, and even apparent inconsistencies between staff within one institution:

At one point, one prison he was in, he had to stop me getting angry. I think it was about important papers that he was allowed to have, and he needed to pass on. He was told he could, but then this prison officer [later] said, "He can't have them". (Interview)

The prison service has endured deep and sustained cuts in recent years^{vii} and this was recognized by some respondents: ‘they’re cutting down [on staff] more and more’ (Interview).

Probation

Respondents reported a range of concerns with probation. As with prisons, while some of the concerns may flow from what family members might perceive as ‘cultural’ issues with probation (i.e. a general reluctance to engage with family members), many of the issues have roots in the substantial resource cuts imposed in recent years. The probation service has also been buffeted by its part-privatization and marketization under ‘Transforming Rehabilitation’ in 2015.^{viii}

Stories of long delays in communication with probation were commonplace; this response was particularly striking:

I’ve been actually trying to speak to [relevant probation officer] for the last probably six weeks. I’ve left messages, the reception have emailed her, I’ve rung and spoken to her boss, and actually I managed to get through to her today and I had a lengthy conversation with her. She only works two days a week. She’s in at 10 o’clock and left usually by half past two. You know, it’s just not conducive to... well, how on earth can she do the work that she needs to do in that time? (Interview)

Concerns about the nature and quality of probation supervision and support towards release were commonplace, being reported as ‘detrimental to him getting out’ (Interview), not providing ‘support for families...and recognition for what families do to support their loved one’:^{ix}

[My partner] hasn’t even got a progression plan... [I think] “pull your finger out your backside and do something”, because he’s sat there festering. His parole’s been deferred again, and yet you’re

still not seeing him to say to him, “OK, this is what you’re doing, you need to do this differently” or, you know, “If you did this, you’re going to have a better chance”. (Interview)

[The prisoner] was asked, in preparation for the Parole Hearing to write a Release Plan and a C.V. but was given no guidance as to how to do this or what they were to encompass. (Survey)

Parole

A widespread issue for many prisoners and their families are delays to their parole hearing.^s

This was one particularly acute example:

There was a huge delay, he was put in a prison where he didn’t do any of the courses he was required to do. Then the Parole Board, at less than 24 hours’ notice, cancelled his parole hearing. (Interview)

Some respondents reported that they ‘don’t want to be part of [the process], because they don’t want to go through the trauma ... When [the prisoner is] thinking, “I might get released, I might be recalled”, and then it’s delayed, deferred’ (Interviews):

It’s a really, really hard emotional journey, really emotional. I mean, this parole, by the time it comes around in the new year is probably... It’s been deferred three times...it’s the constant waiting and not knowing. (Interview)

Families, further, reported the perceived difficulties of their relative being ‘dangled on a string’ (Interview):

The Parole Board goes against you again, knocks you back again. You can’t get on the right programme, or the prison won’t let you. A sense of helplessness, that you can’t help the prisoner, you cannot make the prison put your loved one on the right course. You cannot make the prison get your loved one into the right prison. (Interview)

Some respondents also reported issues regarding information and guidance about the parole process. For example, some reported being unprepared for – or simply not informed about – parole hearings:

There's things people don't know, like what [my family member] just said before, he didn't know that he could go to parole. You know, they don't get the permission, so they don't get to speak to [the prisoner], you know. (Interview)

Sometimes they did not proceed as expected, leading to family members feeling pressured – but unprepared – to help their relative to obtain release:

Well, you're allowed... I think if the prisoner wants you at the hearing, they can ask, and I was allowed to be there. I was there as an observer but, in fact, when I got there, the parole... the chairman of the panel said did I want to say anything, which I didn't realize I was going to be allowed to. (Interview)

The perceived injustice of the IPP situation (discussed above) has led a number of family members to campaign publicly against the sentence, as well as supporting one another through a number of (mostly online) groups. Some raised concern about how this was perceived by criminal justice professionals, and the potential for negative consequences flowing from this for their relative:

I'm scared to flag up my partner's name [when connecting with other IPP families, or campaigning] and [criminal justice organizations] use it against him. (Survey)

Probation don't like it when you go to groups about IPPs. They are seen as protesting, which is also against IPP licence conditions and can warrant a recall. (Survey)

Beyond Release

Families whose relative had been released reported continuing stress and anxiety regarding the ongoing potential for recall:

My partner is a released IPP prisoner. It's like living on the edge, constant probation contact still, we can't go abroad. [He has] anxiety [about] fear of recall and the fact he wouldn't have a tariff [if returned to prison]. We have kids now and constantly worry. (Survey)

I mean I cry as often [as when he was in prison]... I know [my partner's] home, but it is the fear of like someone taking him away. (Interview)

Families worried in particular about licence requirements imposed, and the potential for technical breaches (i.e. not further offending) that might lead to recall to prison. The restrictions imposed could also place heavy burdens on family members:

He cannot use a mobile phone, a computer, or travel without notifying the police – meaning a huge amount of continuing stress for me as I shall have to be his constant “helper”... [Building] a normal life again, this can all be swept away for any minor incursion, with me being left to pick up the pieces yet again. (Survey)

Some family members whose relative was yet to be released reported experiencing anxiety in relation to release: desiring it but fearing the consequences:

If my husband is ever released I have the fear of recall as probation [resort to that] rather than help, so I fear recall. Being thrown right back into this never ending nightmare, my husband got 8 years not life. (Survey)

Further, some families reported not understanding the recall process when it did occur:

My partner is an IPP in recall, we don't know where we stand. I don't know what really happens when an IPP is recalled. (Survey)

The Effects on Families

Material Impact

Families generally reported significant material impacts including financial and time commitments, emotional labour and work to support their relative's efforts to obtain release. There were indications that, in line with existing literature, that these efforts were highly gendered with women predominantly (but not exclusively) taking on this additional labour.

A wide range of circumstances were reported. Some respondents were on low incomes or other difficult circumstances. This forced difficult decisions to be made:

I have had to house his daughter. I have a tiny [house]. I used to make a little extra income renting out the spare room. I can't now, despite being on a low income. (Survey)

The cost of regular prison visits [are] a constant drain but we want to maintain family ties to show him we still care & support him. (Survey)

Others were in an apparently better position, well-educated and employed in a professional role, but faced considerable challenges nonetheless:

I have had to find a way to manage all of this and still work in my professional role. I have been limited in my job role, because I have lacked the energy at times to pursue what I might have done had our lives not been blighted by this sentence. (Survey)

It is very difficult to juggle everything. I'm at work, I go to university and I'm also dealing with this. It affects me massively. (Interview)

Many respondents reported their day-to-day life having been completely transformed following their relative's imprisonment on an IPP sentence:

My whole life is centred around my partner, phone calls, letters, emails, visits....they take priority. Solicitors, petitions, protests, interviews - I do them all. It's taken over completely – it's consuming. (Survey)

I had to end up acting as a [de facto] solicitor because I found out, through cut-backs, there was no Legal Aid and no solicitors in the area who were willing to take on any prisoners. (Interview)

These challenges were compounded for some families by the lack of 'one word of acknowledgement or support' (Survey) from any relevant individual or organization of their plight.

Family Relationships

Respondents reported significant negative effects on the dynamics of the family and its individual members:

It has caused a huge gap in the family, depression, separation and suicidal thoughts. Siblings have found it incredibly hard to continue visiting due to having children of their own, work commitments and illness. (Survey)

[My son] got to school age and he'd say, "Why haven't I got a daddy like everybody else?" (Interview)

[His son] throws tantrums and he screams and shouts and it affected him, going to the prison to see him. So, the mum doesn't take him up there anymore, he's not seen him for two years. (Interview)

Special occasions – birthdays, weddings and so on – were tainted by the absence of the relative: ‘every special occasion is a reminder that he's not here’ (Survey).

These dynamics were reported to place considerable burdens on those caring for the children, who amongst our respondents were primarily mothers:

His children, who are now 12 and 14, have grown up without their father. I have been the sole person trying to help them maintain some contact but their relationship with him is damaged and may never be healed. (Survey)

Over the last year it has completely torn mine and my daughter’s relationship apart. She's become so angry at me; she wants her dad home. (Survey)

Health

Respondents reported significant health effects due to supporting their relative serving an IPP sentence, being described by some as ‘pure torture’ and ‘like a slow painful death’ (Survey). Some reported losing ‘trust and happiness’, as being fundamentally changed by the experience, being ‘not the same person I once was’ (Survey). Many reported stress, anxiety and trouble sleeping:

[The family member] is seeing the doctor for depression. He has written a letter saying that a lot of it, and a lot of her anxiety and phobias, stem from seeing this happen to her son. (Interview)

The sentence has caused mental health issues with myself, my son and his siblings. These have ranged from self-harming, psychosis and depression. (Survey)

I’ve gone grey! My heart’s pumping fast, I throw things, you know. I sit there and I have a drink and I start crying, and I start smashing things. And then my daughters are like, “Mum’s upset again”, so it’s affecting them. (Interview)

Some respondents reported their difficulties being exacerbated by their relative's struggles with their ongoing incarceration:

You can't eat, you can't sleep. And then you get the IPP prisoner on the phone, "What're you doing? Help!" You know, "do this, do that". And you feel like if you're not doing it or you can't get through or they're not talking... You feel like you're letting them down. (Interview)

Recommendations

Our findings make clear the extent to which many family members feel isolated and unsupported in trying to support their relative through their IPP sentence. As the issues relating to IPPs increasingly ‘bunch’ around release – be that prisoners seeking to achieve that goal, or released IPPs seeking to avoid recall – the central contribution families can make is clear. The families we spoke to were keen to be seen as part of the solution and to have their role in the support and rehabilitation of the prisoner recognized.^{xi} This flows with Lord Farmer’s important recognition of families as the ‘golden thread’ that must run through efforts to help prisoners achieve rehabilitation.^{xii}

1. Criminal justice organizations that work with IPP prisoners and their families are urged to develop guidance materials for working with families. These materials should:
 - a) Acknowledge the particular pains of indeterminacy and related uncertainties for families
 - b) Recognize the central role that families can often play in prisoners achieving rehabilitation, and their need for support
 - c) Set out principles for communicating with family members throughout the relevant processes
2. Organizations that support prisoners' families are advised to develop guidance for staff and volunteers on the specific pains of IPP for families
3. These important organizational responses can only go so far. Further beneficial outcomes would be considerably advanced by changes to the underlying legislative framework:
 - a) Conversion of IPP sentences from indeterminate to fixed length sentences, starting with the shortest tariff lengths
 - b) Replacement of the automatic life licence on release with a specified licence period

In responding to these recommendations, organizations are urged to involve affected families in the development of guidance. A collaborative process that draws on a range of relevant perspectives will ensure that materials developed are both appropriate and effective.¹

Conclusion

This research has identified a number of challenges, and resulting harms, experienced by families of IPP prisoners. Some of these are common to all prisoners' families; some are exacerbated by the IPP sentence; and others are specific to it. The pervasive sense of injustice and uncertainty colours the more specific concerns relating to efforts to progress towards release, and indeed to manage the stresses of life beyond release. Families report significant material effects, which also appear to be heavily gendered in their distribution. Family relationships – both with the prisoner and more widely – are reported often to be severely disrupted. Respondents reported significant negative health effects caused by the stress and anxiety.

IPP prisoners are a complex group, and the challenges are therefore particularly acute. Whether a particular IPP prisoner was seriously dangerous at point of sentencing and is in a process of risk reduction, or has become caught up in a sentence whose net was cast far too wide and whose journey is often far more treacherous, families often have an important role to play. As importantly, the state has a principled duty to provide them with support, particularly in the context of a recognized policy failure such as the IPP sentence.

¹ See further Annison (2017) 'Interpreting Influence: Towards reflexivity in penal policymaking?' in Armstrong et al (eds, 2017) *Reflexivity and Criminal Justice*, Basingstoke: Palgrave Macmillan. Free download at: <https://eprints.soton.ac.uk/399532/>

Appendix: Methodology

The research comprised an online survey and in-depth interviews, supported by analysis of a range of relevant documentary materials. An online survey was constructed, which was promoted via prison newspaper Inside Time, Twitter and relevant Facebook groups. Family members were asked questions relating to how they were affected by the IPP sentence; organizations or individuals who may have provided support to them; possible involvement with campaigns relating to the IPP sentence; and demographic information. In total 119 people responded to the survey, with an average of 70-80 responses to each individual question.^{xiii}

In-depth interviews were conducted with 15 family members of indeterminate-sentenced prisoners.^{xiv} Interviews lasted between 40 minutes to over 3 hours. Interviews were conducted in person at the respondent's home, or in another location requested by the respondent, with a small number conducted by phone.

The research received ethical approval by the University of Southampton ethics committee (Ethics ID:28613). Information was provided to interviewees and survey respondents explaining the nature and goals of the research. In particular, their freedom to consent (or not) to participation in the research, and the anonymization of responses, was emphasized. Some quotes presented have had identifying information redacted in order to ensure anonymity.

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- ¹ Associate Professor, Southampton Law School, Southampton University; Associate Professor, Centre for Criminology, Oxford University. Invaluable research assistance was provided by Anna Leatham and Katie Hunt. Supported by a Southampton Law School impact fund award 2017-18
- ² Jacobson and Hough (2010) 'Unjust Deserts' London: Prison Reform Trust, page vii
- ³ Hansard: HC Deb 1 November 2011, col 785-787.
- ⁴ For example, conversion to determinate sentences or introduction of a maximum period of imprisonment, see Annison, H. (2018) Tracing the Gordian Knot: Indeterminate-Sentenced Prisoners and the Pathologies of English Penal Politics. *The Political Quarterly*, Volume 89, No. 2, pp. 197-205.
- ⁵ See Annison, H. (2015) *Dangerous Politics*. Oxford: OUP, ch 7.
- ⁶ Wainwright, L., and Harriott, P. (2018) *The Golden Thread: Evaluation of the Pact Helpline for the families of prisoners and people with convictions*, 21.
- ⁷ See latest Centre for Crime and Justice Studies' report, Garside, R. et al. (2018) 'UK Justice Policy Review 7'.
- ⁸ See Justice Committee Report. (2018) Transforming Rehabilitation, HC 482; HM Inspectorate of Probation, *Transforming Rehabilitation* (2014-2016) inspection reports. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/inspections/>
- ⁹ Further research is required to obtain a detailed, holistic understanding of these issues.
- ¹⁰ See The Parole Board for England and Wales. (2018) 'Annual Report and Accounts 2017/18'
- ¹¹ There will of course be certain situations in which the family-prisoner relationship is more complex or potentially problematic.
- ¹² Farmer, M. (2017) *The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime*. London: MoJ, 8.
- ¹³ Respondents could choose to answer as many questions as they wished.
- ¹⁴ An expansive notion of 'family member' is utilized here, including blood relatives but also (for example) close family friends who are primary supporters, in order to capture the variety of individuals heavily involved in providing ongoing support to IPP prisoners, and who consider themselves to be, or to be acting as, 'family'.