

Written evidence from Donna Mooney

Justice Select Committee IPP Inquiry

I am the sister of Tommy Nicol who took his own life in 2015 following a second knock back from the parole board. My brother served 6 years of a 4-year IPP sentence. He hung himself in HMP The Mount after spending an extended time in both segregation and an unfurnished cell, having been denied access to any mental health support.

Since my brother's death I have been involved in campaigning for change to the IPP sentence in order to stop other people going through what Tommy went through and to stop other families going through what my family has and continues to go through. This is why I am submitting evidence to the inquiry.

What options are available to reduce the size of the IPP prison population?

Having seen what my brother went through and I now hear daily what others are going through, I feel that the only real way to address the issue with the IPP sentence is through political change, essentially policy change. I put forward the following options I believe would do this.

Resentencing

- To resentence every person currently still serving an IPP sentence, to a determinate sentence that is proportional to the crime they committed, and legal under current sentencing law (a life sentence could be reserved for the most serious crimes). This would restore a sense of just and proportionate punishment. This is also the only real way to fully address an issue that has not been solved in over 10 years.

Licence conditions

- Once a person serving an IPP sentence is released from prison, adjust their licence conditions by either:
 - Making the licence length proportionate to the index offence.
or
 - Allow the Parole Board discretion to set licence lengths.
or
 - Reducing the amount of time people must wait to apply to have their licence removed, from 10 years to 5 years or to 2 years.
or
 - Removing the IPP sentence upon release from prison, and replace it with a time-limited supervision order, to aid resettlement.
- Restrict the use of indeterminate recall to prison for minor breaches.
- Involve a third party in recall decisions (e.g. the Parole Board).
- Give those recalled to prison a right to an annual Parole hearing, rather than every two years.

Support

- Allocate funding to offer holistic support to all those affected by the IPP sentence. There is a wealth of evidence documenting the harm that the IPP sentence has caused to those serving it, and to their families.

What are the current barriers preventing release?

During the 6 years my brother spent in prison, he tried endlessly to progress through formally requesting to be put on the relevant courses, alongside completing 4 different applications to get in to a Therapeutic Community.

With his requests for the courses he was repeatedly told that they were not provided in the prison he was in. This continued throughout his whole sentence and he was often moved to new prisons, where he found the same barrier. He had no say in which prison he was moved to and had no knowledge of what they provided prior to arriving there.

With the applications to the Therapeutic Communities, one of Tommy's applications was lost and he was not told for over a year, despite regularly asking for an update. Another one closed down, he was turned down for a third and the final one refused him a place because his form was not detailed enough. My brother suffered from dyslexia and had to complete the form himself, which was why his answers were brief.

In the whole time Tommy spent in prison he only had one offender manager where it was evident they had actively supported him with trying to progress. Outside of this he was expected to progress himself despite having no control over which prison he was in. In fact, in order to be moved to a prison to try to progress, Tommy did the only thing in his power to try to move this along. He went on a number of hunger strikes over extended periods of time. He did this because it was a non aggressive way of showing he was frustrated at having no power over his progression. Unfortunately though this sorts of expression was viewed negatively at his parole hearings alongside it having a detrimental affect on his mental health and general well being. The level of desperation that someone must feel that would lead them to starve themselves must be extreme and this is exactly what the IPP sentence does.

At each of his parole hearings Tommy was told that he needed to show lowered risk by attending a therapeutic community, which he had tried to get on to endlessly from the moment he went to prison. He was penalized (noted not engaging) for requesting a psychologist report to be completed by a more experienced psychologist as the prison psychologists are generally fairly new to the field and less experienced, if at all on the impact the IPP sentence can have on someone. He also had reports written for parole hearings by an outside probation officer who had only spoken to him once on the phone for 20 minutes. This report would include a judgment on whether he would progress or not and it was decided he would not progress.

The issues my brother faced are not isolated events. I speak to people every week who are still facing many of these same barriers.

- Lack of access to courses/rehabilitation/therapeutic community. It is important to add that access to these courses have dropped by 68% in the last 7 years, which will add further strain to IPP's accessing them.
- Lack of a systematic approach to ensuring that **all** those on an IPP are in a prison that will cater for their needs in order to progress. This is not currently tracked by the MOJ public protection team.
- There was no list of what was offered in each prison available to Tommy so he was unable to see if a move would be beneficial. This is an issue faced by anyone I speak to serving an IPP today.
- Extremely inconsistent approaches by OM's with how they support those serving an IPP and no accountability or checks of how they are supporting progress.
- No accountability held by those employed to support progression despite obvious lack of progression between parole hearings.
- Reports being written for parole hearings by professionals who have spent very little time (if any) with the person serving an IPP.

- Inexperienced staff/psychologists offering evidence/opinions that can potentially delay or stop progression and there is no way for the person serving the IPP to push back on these opinions/evidence.
- In some cases, inaccurate OASIS reports or outdated information.

What is the experience of people on IPP sentences in prison?

My brother experience of the IPP sentence was one of shock, frustration, loss of control over his entire life and his progression but ultimately a complete loss of hope that started after his first knock back despite doing everything within his power to be a better person.

Whilst serving an IPP in prison my brother feared getting any sort of write up or bad mark on his Oasis report but this in itself added to his stress levels. Prison officers and other inmates were aware of this and in some cases used this to their own benefit.

My brother often talked about how difficult it was seeing people come in to prison on a determinate sentence, often having committed a far worse crime than he had. They would behave in any way they liked and yet they would still walk out the gates when their time was up. For him as an IPP, despite his best efforts, he was never granted this despite his crime being less than those he watched come and go. This further fed his feeling of frustration with a system that is openly unfair but yet expects people to continue to engage or be further penalised. My brother often referred to the sentence as ‘psychological torture’ and it was essentially what led him to his death.

- A loss of hope and loss of control
- Life filled with uncertainty
- Constantly living in flight or fight mode
- Slow disengagement with family and care for self over time
- IPP used to control people in some ways by both prison guards and other inmates
- Slow deterioration in self-care and mental health
- Inconsistent expectations, support and understanding from prison to prison

What additional mental health challenges do people serving IPP sentences face because of the nature of their indeterminate sentence?

The loss of hope that the IPP sentence instills slowly ate away at my brother and when he got a second knock back from the parole board it snowballed. He found himself in an extremely low place and it took hold of his mental health completely because he could see no other way out and so after spending 3 months in a segregation unit with stints of a hunger strike some as long as 7 days, he was moved to a new prison. He was offered no mental health support and was moved to the segregation unit within 2 days, where he deteriorated further, self-harming, cutting his face, rocking, dressing up as a warrior and having extreme psychosis. At which point he was restrained by 5 men in full riot gear, told to behave himself and was strip-searched and moved to an unfurnished cell, where he spent more than 24 hours. He killed himself a few hours after being taken out of the unfurnished cell. At no point during these 3 days was he given any access to mental health support. Report after report by prison staff noted him having extremely odd and unusual behaviour but the focus always came back to his compliance, never his need for mental health support.

Most people serving an IPP sentence will say themselves that they deserved to be punished for what they did, my brother was the same but what they find hard to understand is that the punishment never seems to end and in most cases for a crime that would not warrant a life sentence. The unfairness of the sentence, alongside the never really knowing if you’ll be released and having no control over this or the

real expectations of this is often the trigger for the mental health decline. Combine this stress and trauma with the level of stress that is added when living in an extremely volatile environment where you are expected to be 'perfect' in order to be released but also survive in such an environment is an mental health crisis waiting to happen and is evident with the self-harm and suicide rates for those serving an IPP sentence.

Tommy referred to the sentence as 'mental torture'. A sentence that keeps you in prison with no idea if you will ever be released, with ever changing expectations, with a system that has no clear structure in place for the needs of the IPP sentence, with changing expectations and approaches within each individual establishment, it is no wonder that the self-harm and suicide rates of those serving this sentence are much higher than any other type of sentence. A psychiatrist spoke at my brother's inquest and he said that the nature of the IPP sentence causes trauma due to the uncertainty, the unfairness and the lack of control people have. He said that in my brother's case the IPP sentence more than minimally contributed to his death. Add all of these aspects of trauma to living in a prison system that is often chaotic, dangerous and has people constantly living in flight or fight mode, never knowing if they will ever get out, it will inevitably impact a persons mental health.

The final point I would like to make about the mental health of my brother was the way the prison dealt with his mental health and subsequently treated his family following his death. From the reports we received through the inquest process we saw how almost all staff believed he was faking his mental health crisis despite his behaviour being 'extremely unusual and odd' in their own words and because of this viewpoint (which I believe is an institutional issue within the prison service) my brother was punished further for not coping and not coping in the way they felt he should have been. This was further evident by the fact that he was kept in hand cuffs while unconscious and sedated in hospital the day before he died.

At no point in the three months that my brother was in segregation and on a hunger strikes and self-harming did anyone from the prison attempt to contact family or next-of-kin. In fact they waited until he was in hospital having hung himself to begin this process and because of this my brother died alone with no family with him. Had family been informed and had contact with Tommy, he may well still be alive today. For me this further reinforces the importance of real family ties and not just a tokenistic approach to this idea.

I want to finish with a few key points that highlight the ineffectiveness of the current approach to sorting out the IPP issues:

- An action plan has been in place since 2015 to sort out the issue with the IPP sentence: while numbers of released increased initially this has now slowed significantly and there are currently 96% of IPP's who are over tariff, many by more than 10 years.
- The recall rate is growing year on year: MP Lucy Frazer her self publically said that by 2026 there will be almost 3,000 people serving an IPP on recall and this will grow every year.
- The self-harm and suicide rates have continued to be at an alarming rate with no change.

There has been 10 years spent trying to figure out a way to fix the sentence without political change and where we find ourselves today is not much has changed other than more people being damaged and more families left without a loved one. What all of this tells me is that the current approach does not work and the only real way to sort this problem out is for political change to the sentence itself.

Evidence from a report carried out by an experienced psychologist who gave evidence at Tommy's inquest:

Having an indeterminate sentence continued his experience of trauma and having no prospect of release increased his risk of suicide. Having no hope and no prospect of release repeatedly retraumatised him. His despondency with regard to his release also added to his risk of self-harm and suicide.

The system that was in place both at HMP Mount and the wider prison estate unfortunately are failing to keep prisoners such as Mr Nicol safe, this is due to a multitude of factors as summarised below.

1. Sentences i.e. IPP sentences being currently active and kept in place even though for the same offence the same sentence would be considered unjust if committed currently.
2. Lack of provision of offender behaviour treatment programmes and imposition of unrealistic thresholds and expectations both to provide access to offender behaviour programmes and psychological input in a prison setting and subsequently non-completion of such programmes being used as a measure for continued detention beyond the tariff period i.e. prisoners being stuck in a vicious cycle of lack of access to appropriate treatment and therapeutic programmes and lack of appropriate treatment and non-completion of treatment and therapeutic programmes being used as reason for continued detention. This leading to loss of hope and frustration and expression of such lack of hope by behavioural disturbance leading to further periods of detention and lack of access to offender behavioural programmes. This is especially impossible vicious cycle to break out of for individuals who are already the most deprived in society by way of childhood abuse and lack of support throughout their childhood and adult life.

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