

HM Chief Inspector of Prisons
HM Chief Inspector of Probation

The indeterminate sentence for public protection

A thematic review

September 2008

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Introduction

The Criminal Justice Act 2003 created two new indeterminate sentences: the sentence of indeterminate detention for public protection (IPP) for adults, and a parallel sentence of detention for public protection (DPP) for children and young people under 18. They were to be imposed on those who committed specified 'serious violent or sexual offences' and who were deemed to pose a 'significant risk of serious harm' in the future. The sentence became operative in April 2005.

The scope of these sentences was very wide. The offence in question could be one of 95 different offences, from manslaughter to robbery. Moreover, in the case of adults, the fact of having previously committed any of the 153 offences specified in the schedule to the Act (including, for example, affray or criminal damage) created a presumption that the threshold of significant risk of serious harm had been reached. That presumption could be displaced only if the court was presented with material about the offence or the offender which made the imposition of an IPP unreasonable. Once sentenced, offenders were given a 'tariff' (the minimum period of imprisonment required for punishment and deterrence) but would only be released after that point if they could show the Parole Board that they had reduced their risk to the public. Given the wide range of offences and the presumptive nature of the legislation, many tariffs were short: averaging 30 months at first (the equivalent of a five-year sentence), with one as low as 28 days.

The inevitable consequence of these provisions was an explosion in the number of those receiving the new sentence: reaching nearly 2,000 by the end of 2006. Contrary to some reports, this was both predictable and predicted – within the projections prepared by the Home Office's own research department. It was hoped that other provisions in the Act – particularly the reduction in the minimum period of imprisonment for those serving longer determinate sentences – would to some extent compensate. However, it was unarguable that IPP (and DPP) offenders would require a considerably higher degree of intervention and management than determinate-sentenced prisoners. They would not be released until and unless they had done something to satisfy the Parole Board that their perceived risk to the public had been reduced; and, once released, they would be subject to licence supervision and possibly recall to prison for at least 10 years and possibly for life. As this process was the same as that for life-sentenced prisoners, the National Offender Management Service (NOMS) decided that they should be managed in the same way as lifers.

This large number of new, and resource-intensive, prisoners was fed into a system that was already under strain. By autumn 2005, when such sentences began to be passed, the prison population was surging, and has continued to do so. There are now nearly 8,000 more prisoners in the system than the average for 2005. This has not only increased pressure, and reduced manoeuvrability, within the prison system; it has also meant that a great deal of officials' time and energy has been taken up with simply finding enough prison spaces. Similarly, the Probation Service was increasingly under strain as a result of increased workloads.

Even more alarmingly, central national systems for managing lifers and indeterminate-sentenced prisoners through their prison sentence had been considerably weakened. Responsibility for placing and tracking such prisoners had been devolved to area managers, effectively leaving prison governors to try to arrange necessary moves to appropriate places. The caseworking section of the national lifer review and recall section also lost 18% of its own funding just as the new IPP population began to enter the system. Similarly, the Probation Service, charged with assessing and eventually supervising such prisoners, was poorly prepared, trained and resourced for this role, nor did such prisoners come within the new offender management model until early 2008. Finally, the parole system, which determined IPP prisoners' release, was itself severely under-resourced. By 2007, the Parole Board's caseload had increased by nearly a third since 2005–6, and it faced considerable delay in listing and hearing cases, not least because only 38% of the dossiers it needed were arriving on time from NOMS.

This was a perfect storm. It led to IPP prisoners languishing in local prisons for months and years, unable to access the interventions they would need before the expiry of their often short tariffs. A belated decision to move them to training prisons, without any additional resources and sometimes to one which did not offer relevant programmes, merely transferred the problem. By December 2007, when there were 3,700 IPP prisoners, it was estimated that 13% were over tariff. As a consequence, the Court of Appeal found that the Secretary of State had acted unlawfully, and that there had been 'a systemic failure to put in place the resources necessary to implement the scheme of rehabilitation necessary to enable the relevant provisions of the 2003 Act to function as intended'. Rather more pithily, a prison lifer governor told us: 'It is as though the government went out and did its shopping without first buying a fridge'.

This report chronicles clearly the problems and confusion that this caused for prisons and prisoners up to the end of 2007. As this report shows, these are prisoners with many and complex needs, including mental health, learning disability and a risk of self-harm, as well as criminogenic needs. Nine out of the 12 women IPP prisoners we sampled had mental health needs, and we were particularly concerned that nearly 80% of IPP sentences for women were for offences of arson, which could be an indicator of serious mental illness or self-harming behaviour. The continued imprisonment of such prisoners, without active intervention or progress towards release, was therefore particularly problematic.

One in five of the IPP prisoners interviewed was already over tariff. They had stayed in local prisons for an average of over a year and in some cases more than two years. Prisoners and staff became increasingly frustrated with their Kafka-esque predicament, unable to access the interventions they needed in order to secure release. Life-sentenced prisoners, too, were increasingly angry and frustrated as short-tariff IPP prisoners were prioritised for scarce courses and programmes.

The new sentence also created problems for an already overstretched Probation Service. Given the presumptive nature of the legislation in relation to those with previous offences, accurate pre-sentence reports, properly assessing the degree and imminence of serious risk of harm, as defined in the Act, were essential to assist the court in deciding whether an IPP sentence was in fact reasonable. The definitions in the Act did not exactly parallel those used in OASys risk assessments and no training was provided for staff. In the 48 cases we examined, we found that risk of harm to others was not always fully assessed. Even where there was a full assessment, we considered that the classification was too high in 40% of cases. Courts were therefore not given sufficient information to guide their decision-making. Once sentenced, IPP prisoners could initially expect little support from probation: as they were treated as life-sentenced prisoners, they were not an immediate priority and it was nearly three years before they came within the new offender management model, requiring active probation input into their sentence management.

The situation of young people sentenced to DPP sentences was different, but equally troubling. The circumstances in which someone under 18 can be sentenced to a DPP are more restrictive than for an adult, and there is no presumption based on previous offending. Though only 51 children and young people were serving DPP sentences by the end of 2007, they added significantly to the growing number and proportion of young people with long and indeterminate sentences. Most were persistent offenders, often including violence, with complex psychological needs and vulnerabilities. Yet this is a population for which the Youth Justice Board, prisons and youth offending teams (YOTs) were inadequately prepared. First, the YOTs, like their probation colleagues, did not provide sufficiently comprehensive pre-sentence reports to assist the court and accurately assess risk. Second, there were and are too few young offender institutions catering specifically for long-sentenced children and young people, and capable of responding to their needs. Third, none of the responsible agencies focused sufficiently on identifying and reducing risk to the public, even though this was the key issue that the Parole Board would be looking at in determining release; indeed there are very few programmes for young people aimed at reducing risk to the public.

This report should be required reading for all those within the criminal justice system, but particularly those who propose and put in place new sentences or are responsible for implementing them. It is a worked example of how not to do so. First, the breadth of the definition meant that this expensive and long-term sentence could be, and indeed was, over-used and insufficiently focused on the population for which it was designed. Second, there was no planning or resourcing to ensure that the already overstretched systems into which these prisoners were to be decanted were capable of dealing with them. Third, this created a vicious circle, in which IPP prisoners were both casualties and contributory causes of a severely overcrowded prison system. Moreover, as they tend to be younger, frustrated prisoners with complex needs, they are likely to pose significant control problems and self-harm risks.

It is good that action has now been taken, both legislatively and operationally, to manage the crisis this has created – though not before it resulted in a finding of unlawfulness. However, the crisis has a long tail: there are thousands of prisoners already in the system who, together with the prison and probation services, will feel its consequences for a long time to come.

Anne Owers
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1 Background, key findings and recommendations

Background

- 1.1 This report examines the effect of the two new indeterminate sentences – IPP for adults and DPP for children and young people – introduced in the Criminal Justice Act 2003 and available from April 2005. Those sentences were available for a wide range of offences, and average tariffs (the minimum period of detention) were relatively short. The decision was taken initially to manage them as lifers. This created pressure on the prison, probation and parole systems.
- 1.2 The report is based on fieldwork carried out by prison and probation inspectors during the autumn of 2007, at a time when there were around 3,600 IPP prisoners, with an average tariff of 38 months, and 51 DPP prisoners. During 2007, male IPP prisoners had begun to be moved from local prisons to first stage lifer training prisons.
- 1.3 Inspectors collected detailed information on a sample of 30 adult men, six young adult men (18–21), 12 women and 12 young people (15–18), held in 11 prisons and young offender institutions. They spoke to prisoners and staff, and looked at pre-sentence reports, prison case files and, where possible, at case files in the community.

Key findings

Probation input

- 1.4 Inspectors examined a sample of 48 cases of adult men, young adults and women sentenced to IPPs, to see whether pre-sentence reports (PSRs) properly addressed risk in order to assist the sentencing court. There had been little guidance to probation staff in carrying out this role. Inspectors found:
 - Of the 45 cases with pre-sentence reports, fewer than half were informed by a full and accurately completed assessment of current and previous offending behaviour.
 - Of those cases, 31 (over two-thirds) had at least one diverse need, such as mental health, substance misuse, ethnicity or learning difficulties. In only 14 cases did the report demonstrate an understanding of the relevance of the need to the offending or future risk.
 - Of the 40 cases which had a risk of harm analysis, only half were judged to have given sufficient consideration to risk issues. Inspectors disagreed with the classification in 17 cases, judging it to be inflated in 16 (40% of cases).
 - Overall, the quality of the risk of harm assessment was not sufficient to assist the courts adequately in deciding whether to impose an IPP sentence.
- 1.5 At the time, IPP prisoners were not within the scope of offender management. This, and the fact that they were being managed as lifers, limited the engagement of outside probation officers. Inspectors found:
 - The supervising probation officer had communicated with the prison or prisoner in just over half of the cases examined.
 - This was particularly problematic for the nine prisoners in the sample whose tariffs had expired and who required probation reports. Fewer than half of these reports were informed by an up-to-date OASys (offender assessment), a third lacked a clear assessment of the risk

of harm, just under a half an assessment of the risk of re-offending, and under a quarter a recommendation about release. Only 22% of parole reports were judged sufficient or better.

Adults and young men sentenced to IPP

1.6 At the time of the review, prisons were still working to the instruction to treat IPP prisoners as lifers, which involved a complex and bureaucratic system of documents and reports. Inspectors examined the cases of 36 men and spoke to prisoners and the staff responsible for managing them. They found:

- There was a higher than average incidence of prisoners who needed further mental health assessment.
- More than one in five of the prisoners were already over tariff.
- In the local prisons:
 - there were three times as many IPP prisoners as lifers, but there had been no increase in resources. There was no formal strategy for managing IPP prisoners and no ongoing case management
 - no prisoners had a complete set of documents necessary for risk assessment and sentence management. Apart from basic assessments and preliminary documentation, little else had been done in the average 13 months they had spent in the prison
 - staff were struggling to move IPP prisoners to first stage lifer prisons, and were resorting to one-to-one exchanges with other prisons: prioritising them over lifers to avoid them becoming control problems or self-harming
 - confusion about the sentence was initially widespread. Staff had not been specifically trained to understand the sentence and were not in a strong position to assist prisoners
 - most prisoners in the sample were unaware of the life sentence planning process, but were aware they had to complete courses. Identification of targets and availability of offending behaviour programmes was poor, and this led to considerable frustration among prisoners whose release was contingent on completing these programmes.
- In the training prisons:
 - there were nearly as many IPP prisoners as lifers in the two adult prisons, and twice as many in the young adult prison, without any increase in resources. Prisons were expecting a one-off payment, but this would not enable them to recruit much-needed staff
 - IPP prisoners became more frustrated as they realised that courses were not as readily available in training prisons as they had been led to believe: in many cases, the waiting lists were longer than in locals
 - there was little contact with outside probation staff, or with psychology staff. Most prisoners had an up-to-date OASys, but one prison was using an inadequate abridged version because of the sudden influx of IPP prisoners
 - sentence planning documentation was better than in locals. Nearly all the sample of prisoners had been assessed and knew their targets: in general risk assessment paperwork was of a high standard.

Women sentenced to IPP

1.7 There were 77 women serving an IPP at the time of this review, a disproportionately high number for arson offences. They were also managed as lifers, but smaller numbers meant that the pressure was not so great. Inspectors examined the pre-sentence reports, case management and circumstances of 12 women at Styal and New Hall prisons, and spoke to prisoners and the staff responsible for managing them. They found:

- All the 12 women had a pre-sentence report but nearly all were deficient in some respect. Only five had a full and accurate OASys and only two analyses of risk of harm were of good quality. The level of risk was over-estimated in seven cases.
- The pre-sentence reports identified nine of the 12 women as having a mental health need, and eight of these as having additional needs, including learning disability and self-harming behaviour.
- Probation had made some contribution to sentence plans and some contact with half the women, but had ongoing engagement with only one.
- Four of the women were already over tariff and only three thought they might have done everything they needed to do to be released on tariff. Tariff length was too short for a staged system to work well.
- Only two of the women were aware of the life sentence plan process. Seven of the 12 women had an OASys assessment, not all up-to-date, and five had a sentence plan.
- The support available to staff was limited and women said that staff lacked knowledge and understanding of the sentence.
- This was particularly the case at Styal, which, though it was designated a second stage lifer prison, had held newly-sentenced IPP prisoners for many months after sentence. The average stay there was 18 months, with an average tariff of only 26 months.
- New Hall had developed better assessment capacity: formal intelligence testing had revealed that two out of the six women in the sample had learning difficulties.

Children and young people sentenced to DPP

1.8 Young people were managed through the adult lifer system, which ran alongside the training plan system. Neither system was appropriate for supporting long-term planning that included the transition from the under-18 to the young adult estate. Inspectors spoke to 16 young men in three YOIs, as well as the staff who managed them, and examined the pre-sentence reports of 12 and the casework files in the community of six. They found:

- There were deficiencies in the pre-sentence reports prepared by youth offending teams (YOTs). Only five of the 12 had a fully and accurately completed Asset (assessment of risk and need). Offence analysis was incomplete and judgments on potential risk of harm flawed in most cases. Inspectors did not agree with the risk classification in six of the 10 cases which had one: in five it was too high.
- Assessments of need identified that around 60% of those sentenced to DPPs had some sort of vulnerability, which might include mental health, conduct disorder or substance misuse.
- The quality of casework in YOT files suggested a high degree of involvement with the young person and continuity in case management, though this felt insufficient to the young men themselves.
- There was considerable variation between those young people in the two small specialist units (called 'enhanced' units), which are accustomed to holding long and indeterminate sentenced young people, and those held in non-specialist young offender institutions (YOIs). The specialist units had sufficient trained officers and specialists; the non-specialist sites had fewer trained staff and little support. Around a quarter of young people sentenced to DPP, mainly those under 17, were in the specialist sites.
- Those sentenced to DPP were rarely identified on remand, but once sentenced documentation arrived promptly.

- Only two-thirds of case files included an Asset, and they were of variable quality. All files contained a training plan, but lifer documentation was incomplete, especially outside the specialist units. Training plans were heavily focused on behaviour and involvement in the regime, rather than the reduction of risk. Even in the two specialist units, practice in relation to target-setting varied. Educational reports were good, and in one case exemplary.
- The lack of offending behaviour programmes frustrated young people and staff. There was only one accredited programme, which was not widely available, and no accredited programme for sex offenders.
- Staff were not aware of Parole Board members with specialist knowledge of young people, and were concerned that the expectations seemed to be the same as for adults.
- Most young people initially thought that their tariff date was their release date. They were generally aware that they had to complete courses to be released. Only half thought they would be able to achieve targets in time for parole. Understanding, and contact with staff and specialists, was better in the specialist sites.
- There were problems in continuity of care in the transition from the secure care system to the under-18 prison estate, and also from that estate to young adult prisons. There was little guidance from the YJB to assist this process.

Recommendations

The Secretary of State should:

- Carry out and publish a costed impact assessment on the effect on the National Offender Management Service of any proposed new criminal sentences.
- Ensure that the Parole Board has the resources available to be able to carry out parole reviews at the prescribed time for all IPP/DPP prisoners.
- Appoint sufficient specialist Parole Board members to assess maturity and risk in young people.

HMCS should:

- Ensure that court staff provide a clear and understandable written record of the sentencing decision to solicitors and other criminal justice agencies.
- Record the tariff length of IPP prisoners on their IT systems.

NOMS should:

- Ensure that IPP defendants are identified in advance of sentence so that pre-sentence reports can be subject to quality control arrangements and
 - contain a complete and accurate analysis of risk of serious harm that is capable of assisting the court in determining whether an IPP sentence is the appropriate disposal
 - accurately reflect the diverse needs of offenders being considered for an IPP sentence.
- Clarify who has overall policy responsibility for IPP prisoners and appoint a senior level policy lead.
- Provide sufficient resources to effectively assess, manage, progress and provide reports on the indeterminate-sentenced population within the timescales of their tariffs, including year on year funding.
- Ensure that prison and probation staff working with IPP offenders receive training for their specific roles.

- Collate and make publicly available in a single location up-to-date management information about IPP prisoners, including tariff length, ethnicity, location, assessments completed, needs identified, interventions required and progression.
- Complete an intervention needs analysis of those sentenced to IPP and make the resources available to assess and meet these needs in a sufficient number of prisons at appropriate levels of security across the country.
- Ensure that interventions to reduce risk are adapted to be suitable for those with a learning disability or difficulty.
- Ensure the seamlessness of sentence planning for IPP offenders, through and beyond custody, by means of the effective implementation of Phase III of the offender management model.
- Ensure that on first arrival IPP prisoners are assessed for their state of mind and provided with appropriate support as required.
- Ensure that self-harm incidents of IPP prisoners are monitored locally by safer custody committees and the information collated centrally.
- Ensure that IPP prisoners in custody who are primary carers of children (often but not exclusively women) are not moved more than 50 miles away from their families.
- Ensure that the staff managing IPP prisoners in custody and pre-release liaise effectively with multi-agency public protection boards.

The YJB should:

- Ensure that pre-sentence reports for those who have committed offences that could attract a DPP sentence, contain a comprehensive analysis of risk of serious harm that includes reference to maturity and vulnerability, to assist the court in deciding how the level of risk can best be managed.
- Routinely collect information about the numbers, risks and needs of young people sentenced to DPP in order to inform a strategic approach to their management.
- Ensure, through effective quality control, that Assets¹ are completed to a satisfactory standard to inform individual sentence planning for young people assessed as high risk of harm, and allow aggregated information to be collected about their risks and needs.
- Revise staff guidance to ensure that Assets, pre-sentence reports, vulnerability assessments and all care and management plans require staff to take specific account of young people on remand for offences for which they may receive a DPP sentence.
- Ensure that Asset reviews conducted in youth offending teams are made available to prison staff.
- Develop a strategy to accommodate and manage young people sentenced to DPP within a wider strategy for young people serving long-term sentences.
- Provide guidance for the management of transitions for young people – and the transfer and sharing of information – within the juvenile secure estate and between this and the young adult estate.
- Develop a case management system that will support longer-term sentence planning and transition planning from the juvenile estate to the young adult estate.
- Create a sufficient number of specialist units to accommodate young men serving DPP and other long sentences, resourced to meet their welfare, offending behaviour and learning needs into the young adult estate.

¹ Youth Justice Board assessment documentation completed by youth offending teams.

- Develop a range of interventions to meet the complex criminogenic risks and needs of young people committing serious offences.
- Provide specialist training for staff working closely with disturbed adolescents in specialist units, as well as ongoing supervision and support.
- Provide age-appropriate information leaflets about DPP and other indeterminate sentences for young people and their families.
- Liaise with the Probation Service to ensure that those moving from YOT to probation supervision are provided with the resources to maintain the work that has been started over the lifetime of the sentence, including the period on licence.

2 The sentence and its impact

- 2.1 **This chapter examines the details of the indeterminate sentence for public protection, arrangements for its implementation and management, the profile of prisoners sentenced to IPP and the impact of the sentence on prisons, the parole system and the Probation Service.**

The sentence

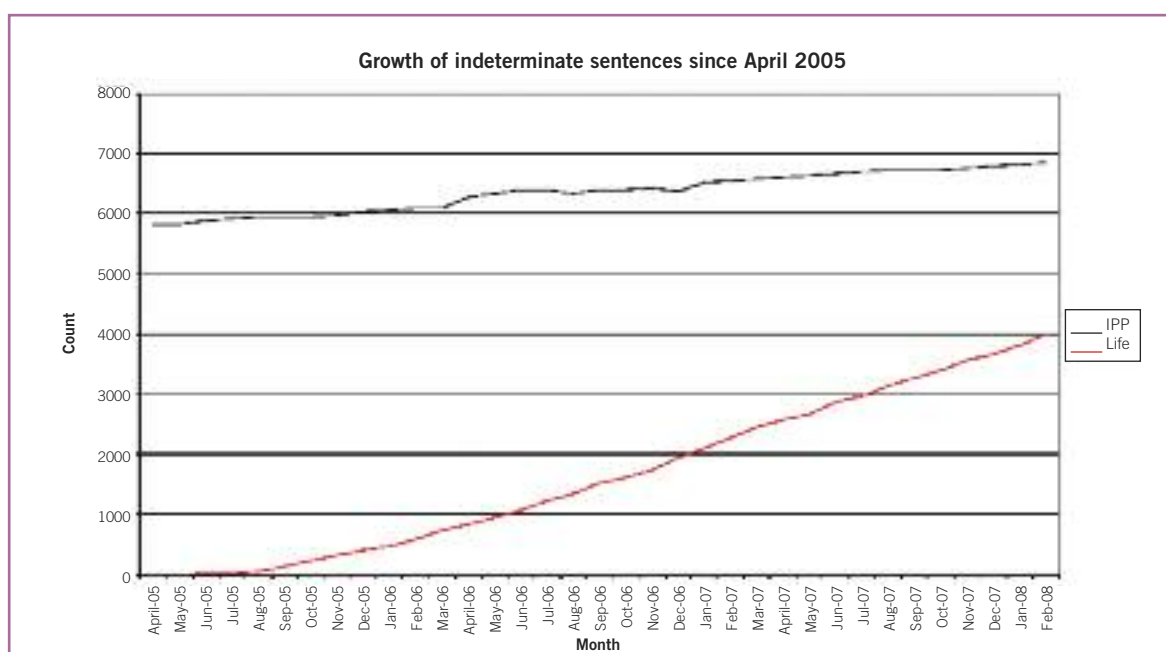
- 2.2 The Criminal Justice Act 2003 (CJA 2003) introduced two new indeterminate sentences for ‘dangerous offenders’ – an indeterminate sentence for public protection (for those over 18) and a sentence of detention for public protection (for under 18s). They are to be passed on those convicted of certain offences specified in schedule 15 of the Act (referred to as ‘serious offences’), if they are considered to pose ‘a significant risk to members of the public of serious harm...by the commission...of further such offences’². Serious harm is defined as ‘death or serious personal injury, whether physical or psychological’. These sentences became available from 4 April 2005.
- 2.3 In the case of adults the IPP sentence replaced the far less wide-ranging automatic life sentence that had previously been available for those who committed any one of 11 serious offences for the second time. An IPP sentence can be passed on anyone who commits any one of 95 offences included in the schedule – offences which can (but would not always) attract a maximum sentence of at least 10 years – if the court considers that they pose a significant risk of serious harm and are therefore dangerous. Moreover, the schedule includes a further 58 specified offences, including much less serious ones such as affray and criminal damage. If the offender has ever previously committed any of the 153 offences specified in the schedule, the court must presume that the test of significant harm has been reached and that they should be given an IPP sentence. This presumption can be displaced if the court receives information about the nature and circumstances of the offences, the offender’s pattern of behaviour, and any other information which leads it to conclude that it would be unreasonable to impose an IPP.
- 2.4 For children and young people under the age of 18, the conditions for passing a sentence of detention for public protection (DPP) are more restricted. There is no presumption in relation to any previous convictions, and the court first has to determine that an extended sentence for public protection (a determinate sentence with extended community supervision) is not sufficient.
- 2.5 All indeterminate sentences consist of a minimum period that has to be served to satisfy the requirements of retribution and deterrence, known as the tariff. After this, offenders become eligible for release on licence, provided that they can satisfy the Parole Board that they no longer pose a ‘risk to life or limb’. The Parole Board expects to see evidence that the individual offender has addressed his or her areas of risk, and will normally expect this to include the completion of relevant offending behaviour programmes or other interventions. Even after release, those sentenced to IPP or DPP sentences remain on licence for life, although they can apply for their licence to be cancelled after 10 years. During this time, they remain subject to the sentence and can be recalled to prison at any point.
- 2.6 The wide range of specified offences had two consequences. First, the tariffs set for these sentences could be relatively short (indeed at first the mean was only 30 months, with one as low as 28 days). Second, the presumption that any adult who has previously been convicted of any of these offences – even a lesser one many years ago – is dangerous and should be given an IPP has the potential to be over-inclusive. This presumption can, however, be displaced by

²ss. 224, 225 and 226, Criminal Justice Act (CJA) 2003

information about the nature of these offences and the pattern of behaviour exhibited. Such information will normally be provided in pre-sentence reports to the court by the Probation Service: indeed the sentencing guidelines produced in September 2007³ require the court to ask for such a report. Accurate pre-sentence reports, properly identifying significant risk of serious harm, are therefore important in assisting the court on these matters.

IPP prisoners: numbers, offences, ethnicity

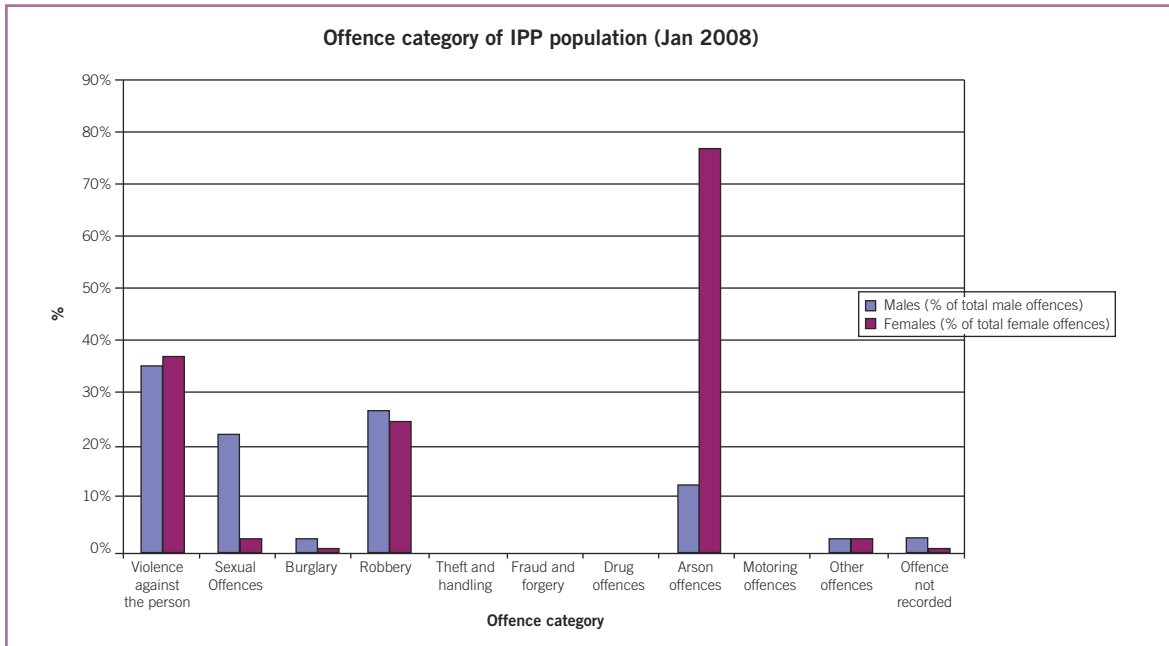
- 2.7 Largely as a result of the introduction of the IPP sentence, there has been a significant increase in the number of indeterminate-sentenced prisoners, which includes those sentenced to life imprisonment. When the IPP sentence was introduced, there were almost 6,000 lifers in prison. By October 2007, there were over 10,000 indeterminate-sentenced prisoners: 12% of the prison population. They included 6,740 lifers and 3,386 prisoners serving IPP sentences (an annual increase of 111% and rising at a rate of 150 a month). At this point, for the first time, there were more prisoners serving indeterminate sentences than prisoners serving sentences of less than 12 months.



- 2.8 Once the sentence has been decided, the tariff is set in court. It was difficult to obtain information about tariff length as this was not routinely recorded by the courts. Data collected in prison suggested that towards the end of 2007, the average tariff for IPP prisoners was 38 months, with the shortest being 28 days and only 1% over six years. Nearly 13% were over their minimum tariff period, but only 15 adult IPP prisoners had been released, with two subsequently recalled to prison.
- 2.9 At this time, the vast majority (97%) of IPP prisoners were male. Information available indicates that they are younger and have a higher risk of re-offending than the lifer population. A Parole Board judge told us that 'IPP prisoners are younger than lifers, have more problems with drugs and alcohol, live chaotic lives and are angry young men who are now stuck in prison getting angrier'.
- 2.10 Despite the relevant offences being described as violent or sexual, not all would normally be thought of as offences that would attract a life sentence. At the end of 2007 just over half of IPP prisoners (53%) were convicted of sexual or violent offences; 28% were convicted of robbery; and the rest were convicted of burglary, arson and other offences. The offence profile for women

³ Sentencing Guidelines Council, Dangerous Offenders – Guide for Sentencers and Practitioners. Version 1, September 2007.

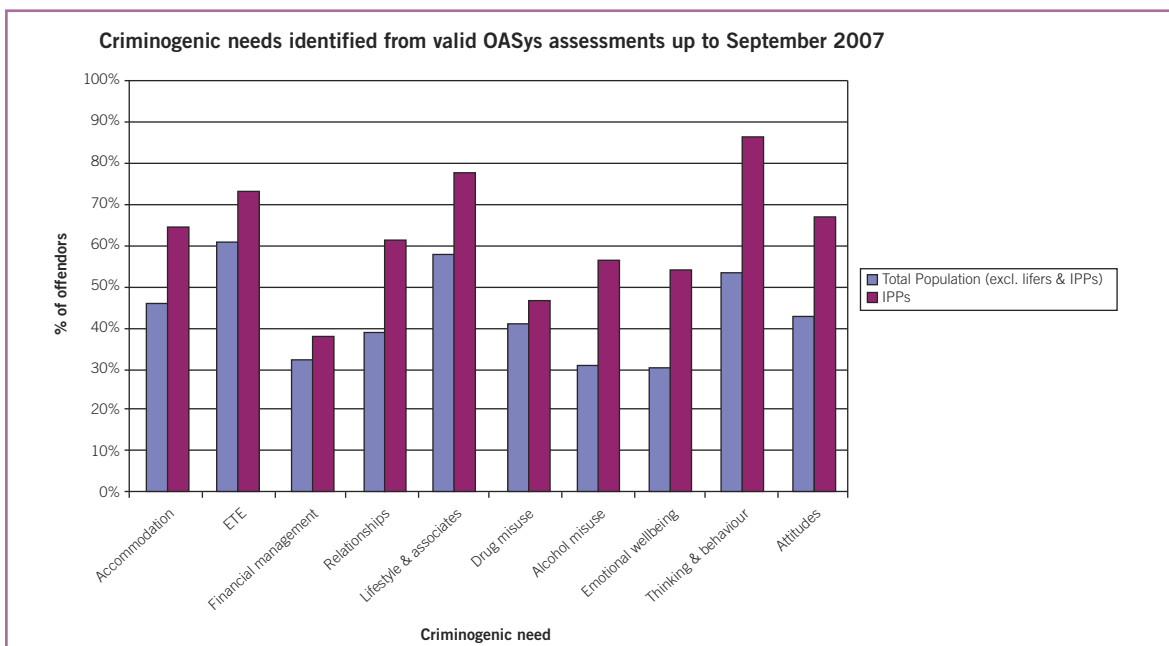
shows that far fewer were convicted of sexual offences and far more of arson, even in circumstances that did not appear to endanger others (see chapter 5).



2.11 In seven out of 31 cases examined at the pre-sentence stage, PSR authors identified ethnicity as being relevant to the assessment. During our fieldwork, 23% of prisoners interviewed classified themselves as black and minority ethnic, which is in proportion with the ethnic mix of the prison population. However, in none of the establishments visited was the ethnicity of IPP prisoners monitored and figures were not available centrally.

Criminogenic needs and risk of serious harm

2.12 The profile of criminogenic needs of IPP prisoners as measured by OASys assessments indicates that they have an average of 6.3 needs from a possible 10, compared to 4.4 for other prisoners⁴.

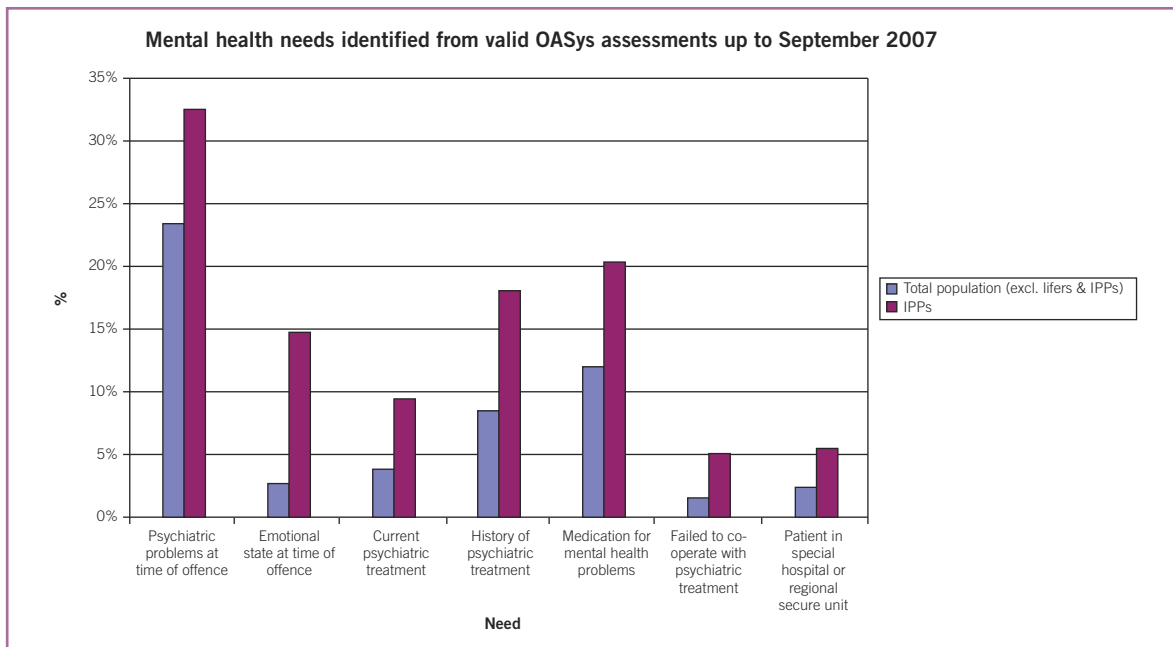


⁴ O-DEAT data from 54,785 valid OASys (Offender Assessment System) assessments of all prisoners up to September 2007, against a subset of 2,204 IPP assessments. The 10 areas are: accommodation, employment, training and education (ETE), financial management, relationships, lifestyle and associates, drug misuse, alcohol misuse, emotional wellbeing, thinking and behaviour, and attitudes.

- 2.13 Although criminogenic need is associated with risk of reoffending, it does not necessarily equate to significant risk of serious harm, which is the crucial trigger for an IPP sentence. The OASys assessments used by prisons and probation analyse risk of harm and categorise this risk as low, medium, high or very high⁵. In the legislation what constitutes a ‘significant risk’ is not defined, though ‘serious harm’ is defined as ‘death or serious personal injury, whether physical or psychological’. There is not a direct read-across between OASys and the provisions of the Act. However, guidance issued to practitioners in June 2005 states that there is ‘a measure of compatibility’ between ‘significant risk of serious harm’ and the OASys category of ‘high/very high risk of serious harm’. Sentencing guidelines issued in September 2007 confirmed that the definitions of serious harm in the Act and OASys are comparable⁶.
- 2.14 The risk profile of IPP prisoners varies considerably. OASys assessments of risk of harm place 68% of IPP prisoners in the high risk category but only 6% in the very high risk of harm category, while a quarter are assessed as low or medium risk. Part of the explanation for these variations is the presumption that the threshold of ‘significant risk of serious harm’ has been reached if the offender has committed any specified offence, even a less serious one, in the past. In this context, pre-sentence reports are crucial in providing a clear and accurate analysis of the risk of serious harm to assist the court in deciding whether this presumption is unreasonable in the particular case. However, as is explored further in chapter 3, we identified concerns about the reliability and consistency of the risk assessment process.

Mental health

- 2.15 OASys assessments suggest that IPP prisoners have more mental health problems than other prisoners. The graph below indicates that higher proportions of IPP prisoners have needs in a range of areas associated with mental health.



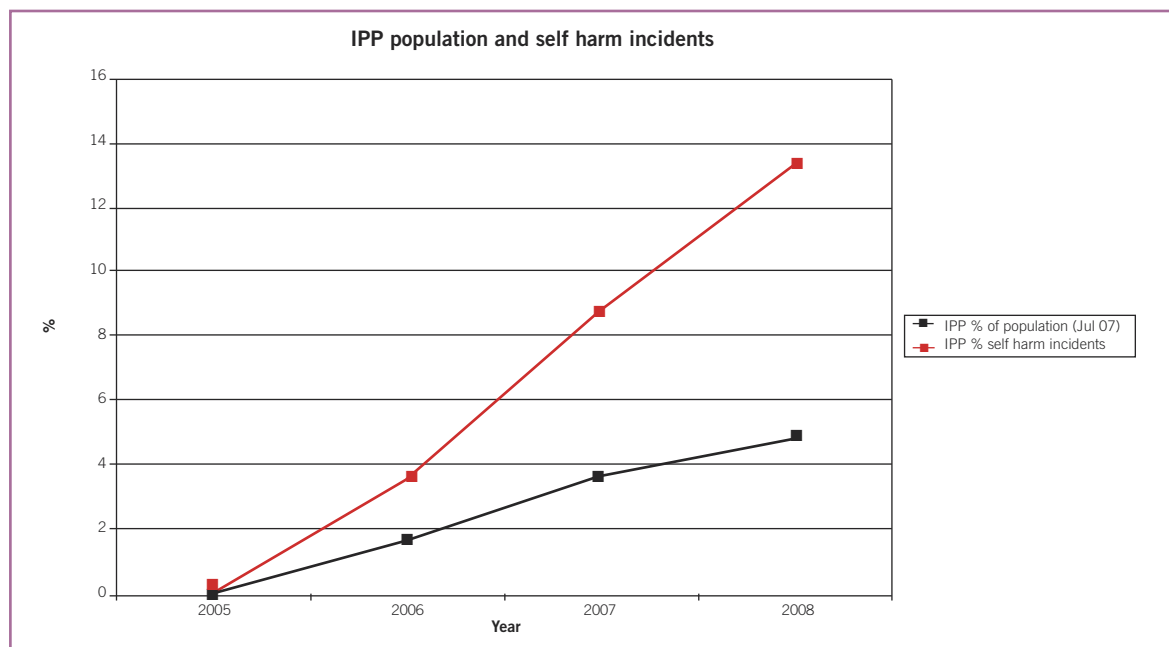
Self-harm

- 2.16 OASys assessments identify that both IPP prisoners and lifers have a raised risk of self-harm and suicide (37%) compared to other prisoners (23%). Data from the Prison Service’s Safer Custody Group also confirm that IPP prisoners have a raised incidence of self-harm. This is consistent

⁵ NOMS, OASys Manual v2, July 2006, chapter 8. YJB, Criminal Justice Act 2003, ‘Dangerousness’ and the New Sentences for Public Protection – Guidance for youth offending teams, 2006.

⁶ Sentencing Guidelines Council, September 2007: <http://www.sentencing-guidelines.gov.uk/guidelines/other/courtappeal/default.asp?T=Cases&CatID=1&subject=Dangerousness>.

with their complex needs, the uncertainty about length of detention and their frustrations in making progress. The graph below shows that the number of self-harm incidents among IPP prisoners since the sentence was introduced has risen more steeply than their proportion in the prison population.



Management arrangements

- 2.17 Most of those receiving an IPP sentence would, in any case, have been given a significant custodial sentence. However, the response of NOMS when the sentence was introduced – to manage them as lifers – assigned them to a different, and much more rigid and bureaucratic, system of assessment and allocation. Moreover, the need for them to show that they had addressed risk by the end of the tariff period placed a considerable burden on the capacity of that system, in the context of shorter – and occasionally very short – tariffs.
- 2.18 The lifer management system requires newly convicted indeterminate-sentenced prisoners to spend up to five months in a local prison where pre-sentence documentation is collated, initial needs assessed and an allocation decision made. They are then transferred to a first stage lifer (training) prison for more in-depth assessment to identify risk factors, complete sentence plans and begin interventions to reduce risk. Reviews take place at least annually and at some stage the lifer moves to a second stage lifer prison where intervention work is completed. Once tariff has expired and it is deemed appropriate by the Parole Board and endorsed by the Secretary of State, the lifer usually moves to a third stage open or resettlement prison to be prepared for release back into the community. Only a limited number of prisons are designated as lifer prisons at different stages.
- 2.19 By the time IPP prisoners entered the lifer system, there had also been significant changes in the national management arrangement for such prisoners. There had been a national Prison Service body, the Lifer Unit, with responsibility for managing the progress of lifers, and for overseeing their review and recall. In December 2003 responsibility for lifer review and recall moved from the Prison Service to the Home Office and soon after, the management of lifers within the prison system was devolved to Prison Service area managers. By December 2004 lifer review and recall had been rebadged as part of the National Offender Management Service (NOMS), and at the same time had experienced an 18% drop in staffing – just as its case load was burgeoning to

twice its previous size. The Prison Service and individual prisons continued to manage IPP prisoners as lifers as best they could, although responsibility for this decision and its consequences lay with NOMS. A senior official told us 'lifer work is at the edge of the universe for senior policy people. They are only interested when something goes wrong'.

- 2.20 The aim, within the NOMS model, was for end-to-end offender management of each individual prisoner during and beyond custody. High risk and persistent and prolific offenders were the first prisoners to be managed under this model, for obvious reasons. That definition includes many of those sentenced to IPPs. However, because they were classified as lifers, IPP prisoners did not come within the offender management model until phase III, scheduled for the beginning of 2008. As a result, they were not subject to the same level of offender management as those serving determinate sentences.
- 2.21 The Youth Justice Board (YJB) did not issue guidance to secure establishments on the management of children and young people serving DPP sentences in the juvenile estate. Nor did the Prison Service's Women and Young People's Group (W&YPG) issue guidance specifically on the management of the IPP sentence for women, and no additional resources were provided. Although there have been fewer juveniles sentenced to DPP or women sentenced to IPP than adult men, the lack of strategy or guidance left Youth Offending Teams, juvenile establishments and women's prisons to develop their own systems. For children and young people, these were based on practice with other indeterminate-sentenced young people and for women, on current practice with women lifers.
- 2.22 Regional briefings for probation staff before the Act was implemented focused on the new sentencing framework and the introduction of the community order. In June 2005, after the Act was implemented, NOMS issued a national guide⁷ which made extensive reference to the preparation of pre-sentence reports, as well as including risk management plans. However, this was not supported by sufficient specific training. Few probation areas that we visited appeared to have considered, even in the broadest terms, the significant resource implications of the new sentence and how these could be managed. We found no evidence of areas identifying potential IPP cases before trial to ensure that pre-sentence reports properly addressed the difficult concept of identifying significant risk of serious harm, to meet the definition of dangerousness. The consequences were evidenced in our examination of pre-sentence reports (see chapter 3).

The impact of the sentence on prisons, the parole system and the probation service

- 2.23 Local prisons are not resourced to carry out anything more than basic work with a small number of potential and newly convicted life-sentenced prisoners. However, some had received over 100 IPP prisoners, with the instruction to treat them as lifers, and it proved extremely difficult to move adult male prisoners on to their usual first stage lifer prison. In July 2007, there were more than 2,500 such prisoners in local prisons, some of whom had been there for over two years. Many were not assessed and did not have a sentence plan. They did not have a clear idea of what they needed to do to progress and the locals did not offer the range and type of offending behaviour courses they needed.
- 2.24 Those who did progress to first stage centres in training prisons, which in theory were better resourced and equipped to deal with them, found these prisons could not cope with the numbers involved either. A large influx of IPP prisoners from locals in early 2007 caused significant bottlenecks. Little assessment work or intervention had been done before their arrival and many were close to tariff expiry. Promised additional resources did not materialise and the lack of prior

⁷ National Guide to the Criminal Justice Act 2003 sentences for public protection. Edited version 1, June 2005.

assessment meant prisoners were often in the wrong prison to access the interventions they required.

- 2.25 It also became evident that the parole system was under-resourced for the increased number of oral hearings required for indeterminate prisoners and recalled prisoners. Parole dossiers were often late because prisons lacked capacity to prepare them. The Parole Board Annual Report for 2006/7 reported that only 38% of parole reports were received on time, and that at one point during the year a third of oral hearings were being deferred. They also predicted a staggering 4,000 oral hearings a year for lifer and IPP cases by 2009.
- 2.26 A judicial review on behalf of two IPP prisoners whose tariffs had expired or were approaching expiry found that the Secretary of State had acted unlawfully in failing to provide for such prisoners to be able to address risk before tariff expiry, and also that it followed that once tariff had expired, they were held unlawfully.⁸ The government appeal against this judgment was dismissed, though the Court of Appeal did not uphold the finding that post-tariff detention was unlawful. The court nevertheless reasserted that the Secretary of State had acted unlawfully and that 'there has been a systemic failure on the part of the Secretary of State to put in place the resources necessary to implement the scheme of rehabilitation necessary to enable the relevant provisions of the 2003 Act to function as intended'⁹ and that if the situation continued, detention could indeed become unlawful.
- 2.27 An internal policy review¹⁰ recommended that phase III of the implementation of offender management in January 2008 should bring IPP prisoners (and young people sentenced to DPP aged 18 and over) into scope, and that they should be managed as determinate-sentenced prisoners rather than lifers. Instructions were issued that newly-sentenced IPP prisoners and those with an up-to-date OASys should be prioritised by tariff, with the gradual assimilation of the remaining prisoners over subsequent months. With OASys replacing lifer sentence planning, paper and reporting processes were simplified. However, with no significant increase in resources, the prioritisation of the ever-growing IPP population will inevitably detract from the attention paid to other prisoners, not least lifers.
- 2.28 Changes have also been made to the legislation, limiting the availability of IPP/DPP sentences to those with a minimum tariff of over two years. This should reduce the numbers sentenced to an IPP by up to an estimated 30%. However, those sentenced previously with a tariff of two years or less remain in prison subject to an indeterminate sentence, where they are likely to stay well beyond tariff.
- 2.29 Although the NOMS guide, issued in June 2005, identified the criteria for eligibility for potential IPP/DPP prisoners, it did not offer any guidance about how probation staff should engage with IPP prisoners before their release, or explicitly address their status as lifers. This omission was only remedied by the revisions to the Lifer Manual that were circulated to probation areas in June 2006 but were not widely publicised and may well have gone unnoticed. A national guide to working with high risk prisoners also made some reference to IPP prisoners but did not address their particular needs in any detail.
- 2.30 At the time of this review, IPP prisoners had made relatively little impact on probation areas. Few had been released and, due to their exclusion from phase II of the offender management model, little systematic pre-release work was being carried out. With little engagement at the initial stages, this was likely to make their future extended supervision problematic. Moreover, the risk and needs profile of these prisoners suggests that they are likely to make significant demands on probation resources as phase III of the offender management model is rolled out, and during extended, even lifetime, periods of licence in the community.

⁸ Wells v The Parole Board & Walker v Secretary of State Home Dept

⁹ (page 17)

¹⁰ NOMS: Service Review – Indeterminate Sentence Prisoners (ISPs), 17 August 2007. Subsequently published on 14 July 2008, Hansard Column 4WS.

3 Probation input to IPP prisoners

- 3.1 **This chapter examines the input of the probation service into the dangerousness decision of the courts for 48 prisoners sentenced to IPP: 24 men, 12 young adults (aged 18 to 21) and 12 women. It also includes an examination of their case management after sentence from their files in the community.**

Pre-sentence reports to court

- 3.2 IPP sentences are based on assumptions about an individual's potential for future serious offending (see 2.13). Thorough assessment of the likelihood and potential impact of re-offending in pre-sentence reports (PSRs) is therefore crucial. These reports are informed, for adults, by an OASys assessment that contains an assessment of general criminogenic need, or likelihood of re-offending, and a more detailed risk of harm assessment. The risk of harm assessment makes further discriminations about who is at risk of harm from the offender, in what circumstances and with what degree of imminence, and comes to a conclusion about the level of risk of harm posed by the offender.
- 3.3 In our sample of 48 IPP prisoners, only three had no PSR, but a further five had no OASys completed. Of the 40 cases with an OASys, only 22 had been completed fully or accurately,¹¹ so overall less than half of the whole sample (46%) had a PSR informed by a full and accurately completed assessment of current and previous offending behaviour.
- 3.4 Of the 45 adult IPP cases with a PSR, 31, or over two-thirds, had a special need identified, with some having more than one such need. These included mental health in 21 cases, ethnicity in seven, substance misuse in six, learning difficulties in one, age in another and social care history in another. But in only 14 (one female and 13 male) of the 31 cases had the PSR author demonstrated an understanding of how the need was relevant to the offending and to future risk.
- 3.5 An analysis of reoffending, risk of harm screening, and a full risk of harm analysis were undertaken in all 40 cases where an OASys assessment had been completed. Although the risk of harm screenings were considered accurate in 88% of cases, only 58% of the full risk of harm analyses were judged to have given sufficient consideration to the relevant risk issues. We disagreed with the classification in 17 cases, judging it to be inflated in 16.
- 3.6 Less than half of the 45 PSRs clearly stated who was at risk from the offender and only 22% separated out the likelihood of harm and the impact of that harm. The pattern of offending was documented in 33 (73%) of the 45 reports examined, but an analysis of the offence was present in only 22 (49%).
- 3.7 Overall, the quality of the PSRs and the OASys assessments completed for the IPP cases were not sufficient to assist the courts adequately in establishing whether to impose an IPP sentence, or whether the presumption that one should be imposed could be rebutted. Risk of harm assessments were deficient in a substantial number of cases, and inaccurate classifications meant that the court was not properly advised as to whether some offenders reached the threshold of dangerousness. In our opinion, if such an exercise had been carried out, pre-sentence reports could have advised that the risks posed in 19 of the 48 cases could have been managed by a different sentence.

¹¹ Based on all relevant information about the current and previous offending behaviour.

Probation case management

- 3.8 At the time of the fieldwork, IPP prisoners were not within the scope of offender management, which meant there was no specific requirement for probation officers in the community to communicate routinely with the prison holding them. They were treated as lifers, and probation involvement with lifers was traditionally predicated on a working relationship being established with the prisoner over a lengthy period in custody, focusing on safe preparation for release. This model clearly did not work for the IPP population. Probation involvement was therefore limited and not generally sufficient to meet needs.
- 3.9 Just over half the 35 case files examined, of both men and women, indicated that the supervising probation officer had communicated with the relevant custodial staff during the custodial phase and with the prisoner, mainly in writing. In 64% of cases where the prisoner had spent more than 12 months in custody, probation staff had contributed to the reviews of OASys. Eight of the 35 case files suggested probation involvement in sentence planning, and four showed evidence of the supervising probation officer's contribution to the ongoing assessment of the prisoner's risk of harm to others. In only three instances had there been a meeting between the supervising probation officer, the prisoner and a member of prison staff, including one where this had involved a discussion about a transfer to a training prison.
- 3.10 There was evidence of substantial numbers of internal transfers of IPP cases between probation staff during the period of the sentence. Fifteen of the 35 prisoners had been held by two different probation officers during the first year of sentence and one by three different probation officers. Several prisoners in their second year of sentence had also had changes of probation officer, including one who had had two different probation officers in the first year and a further three in the second year. However, with the outside probation officer so peripheral to case management, this had less serious consequences than if these offenders had been in the scope of offender management arrangements.
- 3.11 The picture was more problematic with regard to parole reports for the nine prisoners whose tariffs had expired. Here, the consequences of probation's lack of ongoing involvement during sentence became evident. In only four of the nine cases was there clear evidence that the probation parole report had been informed by an up-to-date OASys. Six included a clear assessment of risk of harm, five an assessment of the likelihood of re-offending and seven a recommendation about release, but only one included a comprehensive risk management plan. In only 62% of relevant cases had the victim or their family been offered contact with the probation service, although there was clear evidence that the victim liaison officer had provided relevant information about the victims' views on the proposed release conditions. There was some evidence in case files of active engagement with multi-agency public protection arrangement (MAPPA) processes, but the overall quality of the reports was disappointing, with only two of the nine (22%) judged sufficient or better.

4 Adult and young adult men sentenced to IPP

- 4.1 **This chapter examines the quality of casework in prison for the 36 adult and young men in our sample, the experiences of these prisoners interviewed in prison and the experiences of staff managing IPP prisoners in three local prisons, two male training prisons and one young offender institution. It also records the results of a mental health screening of a proportion of our sample.**
- 4.2 At the time of this review, prisons were still working under the instruction to treat IPP prisoners as lifers. This involved a complex and bureaucratic set of paperwork, with 28 separate forms plus reports to be completed as the prisoner moved through the various stages of the lifer process. The day-to-day management of this complex paper system was demanding. The decision to treat IPP prisoners as lifers also meant that when they were finally moved from a local to one of the relatively few training prisons specialising in indeterminate sentenced prisoners, they were often located long distances from their home area.
- 4.3 We looked in depth at the cases of 36 men, half of whom were in Birmingham, Nottingham and Wandsworth local prisons and half in Aylesbury (where we examined a sample of six young adults), Garth and Parkhurst training prisons. The average stay of those we interviewed in local prisons was 13 months, ranging from one to 27 months. This compared to nine months in training prisons, with a range of between two and 18 months, reflecting the delays in moving IPP prisoners from locals into the training estate.
- 4.4 During fieldwork, 23 of the 36 young adult and adult IPP prisoners in our sample completed a GHQ-12, a measure of psychological wellbeing. A score of four or greater on this questionnaire would normally, in a community setting, trigger further mental health assessment. Fourteen (61%) met or exceeded this threshold. This compares with 52% of men and 27% of young adults screened at a known high risk time within a month of entry to custody as part of our mental health thematic last year. It suggests that our sample of IPP prisoners was a troubled group. However, only in Aylesbury was there any formal involvement of mental health in-reach teams with IPP prisoners, and this was for limited cases. This is not to say that individual IPP prisoners might not have been picked up on reception if they had had previous mental health input or were on psychotropic medication on arrival, but if this was the case there was little sharing of this information with prison staff.

Local prisons

- 4.5 At Birmingham, Nottingham and Wandsworth, IPP prisoners made up three quarters of the total indeterminate-sentenced population (lifers and IPPs), which averaged about a hundred in each prison. Resources had not increased in line with the numbers and none of the prisons had a full-time lifer manager, although all had full-time clerks and other lifer-trained staff who contributed the equivalent of about a full-time officer. There was no ongoing case management for any of the IPP prisoners and none of the three locals had a formal strategy for managing them.

We raised the issues with the area manager, with the regional offender manager, with the population management unit – to no avail. No one in the Prison Service is taking a lead. We wrote to operations two years ago, anticipating the problems IPP prisoners would bring: no reply.

It is like the government went out and did its shopping without first buying a fridge.

Lifer governors

- 4.6 The 18 files we examined all had the pre-first stage paperwork completed together with an initial allocation report. The local prisons were aiming to do the basics that they usually did for lifers: conducting a multi-agency lifer risk assessment panel (MALRAP) and completing the pre-stage one documentation. Some lifer governors did not seem to be aware that OASys might be available from outside probation. PSRs were present in only four of the 18 prison files, even though we knew these had been completed in most cases, and only one file contained a probation post-sentence report. Two contained a multi-agency lifer review panel report (MALRAP), which is part of the inter-agency information exchange that takes place for lifers soon after sentence, and 11 contained an OASys completed in prison. There was no input from psychologists to the assessment process and scarce seconded probation resources. Little else had been done in the average 13 months the men had been in prison.
- 4.7 All three locals cited the difficulty of moving IPP prisoners on to a first stage lifer prison as the major barrier to progression. At one, IPP prisoners were typically waiting 18 months for their first move. There were not enough places and local managers resorted to making direct contact with prisons, sometimes out of area, to negotiate individual moves.

We negotiate one-to-one swaps, which means the stage one prison gets a lifer or IPP, whereas we usually take a troublesome prisoner they are anxious to get rid of.

A lifer governor

- 4.8 IPP prisoners were being prioritised for moves to stage one centres when these came up, causing a consequent problem for mandatory lifers.

Mandatory lifers are feeling like the poorer cousins – waiting for courses even longer because of the shortages and IPP prisoners with short tariffs getting priority.

A lifer governor

- 4.9 Another lifer governor complained about the rigidity of the lifer system.

We managed to get one prisoner re-categorised from B to C and sent him to a category C prison for an offending behaviour programme, but we got him back as he had not been through a category B (stage one lifer centre).

A lifer governor

- 4.10 Managing prisoners in these circumstances created potential control problems. One lifer governor talked about self-harm issues and another about the danger of prisoners playing up to engineer a move.

After they have been here for a period, they are champing at the bit, saying 'when are we moving on?' repeatedly. It's very frustrating for them and the families. It heightens self-harm risk.

Some get so fed up, they play up just to trigger a move.

Lifer governors

- 4.11 Managers tried to offer more where they could as they found they could not move their prisoners on, but this was insufficient and ad hoc.

We have helped some individuals in dire need along by getting them on specialist thinking skills... ideally we would be able to do some sentence planning, to start to prioritise and put resources to risk.

We make every person feel like an individual. Once they feel they have a voice, they are more likely to talk rather than cause problems. Someone sees them soon after arrival and then we have an open door to obviate stress. We set up monthly wing forums; IPP and lifer issues are a standing item... we try hard to keep them motivated and in purposeful activity.

Lifer governors

- 4.12 Lifer governors were aware of the inadequacy of their input and what they were failing to deliver. As tariffs expired, however, they were obliged to prepare a parole dossier and to staff an oral hearing, even though no work had been achieved. This took a considerable amount of time for no positive outcome as no work to reduce risk had been completed.

We need offending behaviour programmes, staff to administer the courses and accommodation and we should have a proper lifer department with full-time staff, the resources and infrastructure.

The work involved in parole is not properly anticipated. We have three or four parole hearings per month. The dossiers take six to eight hours to produce.

Lifer governors

Understanding the sentence

- 4.13 When first introduced, the IPP sentence was confusing for many criminal justice professionals. In fieldwork, we found examples where judges' sentencing comments were unclear about the status of the sentence and, in a few cases, this had resulted in IPP prisoners being treated for several months as if they had a determinate sentence.

Case study

D was sentenced for robbery only months after the introduction of the IPP sentence. He received a tariff of 20 months which had already expired. His LSP1 documents contained details of conflicting information provided by the judge, solicitor, probation and prison services. D was not prepared for the sentence and it was reported that the judge explained the sentence using the old sentencing rules. D had completed various offending behaviour programmes and met his targets, but it appeared that the original OASys score (69) had been changed retrospectively to high risk (102) to reflect the judge's comments, and further needs and programmes had been identified. D had written to the judge to explain his current situation and express his frustrations and provided a copy of the judge's response:

'You were one of the very first people sentenced at this court to the new IPP sentence. At that time no one realised that the prison service would treat all IPP prisoners as 'lifera' with the extra courses that would be necessary as a result. Although it may not have seemed like it at the time, you were lucky to be sentenced as quickly as you were, because you have been able to do the courses much sooner than many others.'

- 4.14 Many prisoners also reported that they were confused, having received contradictory information from different criminal justice staff involved in their case, often relying on their solicitors or other prisoners for information. Only two of the 18 prisoners in our local prison sample reported receiving any information at the time of sentencing and both said this was inadequate. Only seven of the 60 probation case files examined contained evidence that the implications of an IPP sentence had been discussed with the prisoner at the time of sentence.

At first, thought 6.5 years, do half if don't get parole then do 6.5 years. Only three months later realised I was indeterminate... they had me down as a determinate sentence.

I was told four days after sentencing that I was IPP – I thought it was a determinate sentence of three years, four days.

Didn't know I was a lifer until I got here. No idea for two years. Read stuff in Inside Time¹², but because no one had spoken to me about it I didn't believe it.

IPP prisoners in local prisons

- 4.15 Fifteen of the 18 reported that they had subsequently received information from a lifer officer in prison, generally in the form of a lifer booklet and verbal explanation, but most again reported that this was inadequate. We were told that the timing of this initial contact was variable, ranging from several days to several months after sentence. Only seven of the 18 reported ever seeing the lifer manager. Even for those who were seen by staff in the early days, there was still confusion around the sentence. Some positive comments were made about their contact with lifer staff.

Seen by a lifer officer, but mostly given information about discretionary lifers, not IPP prisoners, didn't define what an IPP was. Given booklet about lifers, but not useful.

Yes an IPP officer explained to me that I was on a life sentence and I was shocked... haven't seen him since.

When first came into prison I saw a lifer officer... he explained the sentence and initial allocation. It was informal and helpful.

IPP prisoners in local prisons

- 4.16 A number of the prisoners reported to us that their needs during the first days after sentence had not been met. Some had been held on their first night with short-term determinate prisoners and it was common for them to share cells with very short-term remand or convicted prisoners. They said this was unsettling, especially when their cellmate was released, which happened frequently.
- 4.17 Most ongoing contact with staff in local prisons was with personal officers, but this did not necessarily help with their sentence as many were not lifer trained. Contact with external probation staff was described as poor and infrequent, with the majority of those interviewed saying they had been contacted only once. Bearing in mind that IPP prisoners were not in scope of offender management arrangements, brief post-sentence contact was all that would be expected. From the probation case files, it was clear that just over half of the IPP prisoners had met or communicated with their probation officer after sentence to discuss the IPP sentence with them, mostly by letter.

¹² *Inside Time*: the prisoners' monthly newspaper.

No real contact – one lifer officer on that wing. Officers pass the buck; I don't get any real help.

Little contact since arriving at prison after sentence – like I don't exist.

Good contact with personal officer whenever she is on duty and see the psychiatrist once a month and a community psychiatric nurse weekly. I have had good support from the mental health workers and health care generally.

IPP prisoners in local prisons

- 4.18 Only four of the 18 prisoners reported contact with other prison specialists, such as psychology, and two with mental health professionals. Contact had increased for those who were nearing their parole date.
- 4.19 Eleven of the 18 prisoners in local prisons were unaware of the life sentence planning process. Only four reported having an OASys assessment, although case files indicated that 11 had an up-to-date report, with all but one of the men at Nottingham and Birmingham having an OASys. Only three reported having a sentence plan and there was little evidence of these in case files. When asked about what targets they were working towards, prisoners in locals said very few had been set by staff. Prisoners saw their time in these prisons as wasted, with little or no progress made. However, some had taken their own action to get on courses despite not having completed assessments or knowing what their formal targets were.
- 4.20 With greater knowledge about the sentence, prisoners were more frustrated about their lack of progress in moving through the system and more aware of the consequences for them.

My solicitor thought I had a place on a course at Rye Hill, but no move has materialised. In 2005, I was 26th on the list for Parkhurst. A year later, I was 24th.

Supposed to move quickly through the stages, stage one to D via cat C. I'm nearly at end of my tariff. Took me two years to start courses – I have no chance of finishing them by tariff.

There isn't any progression – supposed to be the same system as mandatories, but nowhere to go. On arrival (at a local prison), they said I'd go to stage one to be assessed and then stage two to do courses, then released. I'm still here two years later.

IPP prisoners in local prisons

- 4.21 Across all three locals, identification of targets and availability of relevant offending behaviour programmes (OBPs) was poor. Prisoners were trying to access whatever courses were available despite not knowing what their targets were. They said this helped them to feel a sense of purpose and progression while waiting for transfer.

I've heard that OASys should be done every 12 months, setting targets, but I'm here more than 12 months and not had any formal targets given to me.

Will stay inside... getting on courses is the main problem. Have applied for all of them, but they have long waiting lists and I am at the back of the queue because of time left.

It wouldn't be so bad if I knew what I had to do to get released because at the moment, although I'm doing everything I can, it's still not certain I'm working towards right goals.

IPP prisoners in local prisons

Training prisons

- 4.22 The three training prisons visited, Aylesbury (young adults), Garth and Parkhurst, had the advantage of a larger accumulation of paperwork from the court and from local prisons. For our sample of 18 prisoners, confidential summary dossiers had usually arrived, although all prisons claimed this was a slow process and the information they contained was often incomplete. Any vulnerability to self-harm was usually noted, as was some description of the background offending from probation in the form of a PSR (seven cases) and/or a post-sentence report (eight cases) and/or a MALRAP (four cases). All the cases seemed to have drawn from an OASys assessment, although it was not clear whether this was from probation or had been completed in prison. Aylesbury benefited from paperwork from Feltham, which was completed to a high standard.
- 4.23 Garth was struggling to cope with an influx of 115 IPP prisoners from locals at the beginning of 2007, many of whom had arrived with little information. The 12 files examined at Parkhurst and Aylesbury showed more evidence of progress, with half fully assessed, including two cases in which there were in-depth psychological assessments and two with progress reports on interventions completed. Four to six cases contained evidence of second stage work, with sentence planning boards held and progress reviews submitted. On the whole, both the OASys and lifer sentence plans (LSPs) were detailed and analytical.
- 4.24 Parkhurst staff pointed out that many of their IPP prisoners were convicted of domestic violence. The only interventions for this were the cognitive self-change programme, for which they had only four vacancies, and healthy relationships, which had a long waiting list. This was one of many examples where a large number of IPP prisoners were chasing a small number of programme places.
- 4.25 At the adult trainers, Garth and Parkhurst, IPP prisoners made up between a third and a half of the total population of indeterminate-sentenced prisoners (lififers and IPPs), which was over 300 in each case. In Aylesbury YOI, IPP prisoners accounted for two-thirds of the indeterminate-sentenced population, reflecting the national trend for them to be younger than lififers.
- 4.26 None of the prisons had received any increase in resources, although they had been told this would be forthcoming in the form of a one-off payment. This would prevent the money being used to recruit staff, which incurred a year-on-year cost and was where the greatest need lay. Staff in all three establishments said they had received little or no support from Prison Service headquarters or NOMS.

Feels like we're warehousing and that's it. We need more resources and a clear policy direction on how to manage.

They are not aware what it is like at the coal face.

Lifer governors

- 4.27 Like local prison staff, they were also worried about the negative impact of prioritising IPP prisoners over lifers. Both Garth and Aylesbury had experienced some backlash.

There are fundamental risks with pushing lifers back. You can't leave them with long tariffs not doing anything constructive – they become a control problem.

A lifer governor in a training prison

- 4.28 At Aylesbury, managers had experimented with creating a dedicated lifer wing for lifers and IPP prisoners, but the more volatile IPP population had destabilised the wing and the decision had been reversed. Staff in Garth and Parkhurst were concerned that the IPP prisoners they had received showed little understanding of the sentence and had been poorly prepared for the demands it would place on them. Unlike lifers, who were expecting a life-changing sentence, IPP prisoners were not and were reluctant to accept the full implications.

Psychological denial is further compounded by staff not explaining the sentence.

A lifer governor in a training prison

- 4.29 Prisoners in training prisons were much clearer about their sentence and its implications. Many complained that the impression given at local prisons was that they would make progress only when they reached a training or stage one prison, which is clearly what most local prison staff believed. The majority of those interviewed were disappointed to discover that the reality was very different, with long waiting lists for courses and fast approaching parole dates.

Good practice: Aylesbury

Psychology staff ran a one-day lifer/IPP prisoners risk workshop to provide lifers with clear information on the lifer process and on risk assessment. It explained the process of risk assessment undertaken by psychology and who else would be looking at risk with them. A lifer who had been through the process and understood it helped as a 'graduate'. This helped to prepare prisoners for the assessment and to understand how their progress would be measured over time.

- 4.30 Like men in locals, those in training prisons reported external probation staff being in contact only once during their sentence, although 50% reported more regular contact with seconded probation staff. Many of those interviewed felt they were 'playing the waiting game', not receiving updates on assessments or courses and having difficulty in gaining access to relevant staff involved in their case. Only six out of 18 reported contact with psychology staff and this was for assessment for OBPs. There was little one-to-one offence counselling, though we did come across some productive one-to-one work with a young man at Aylesbury that involved cooperation between psychology and mental health in-reach staff.

Case study

X, a young offender sentenced to an IPP, worried staff due to his complex needs and his reluctance to engage with help. Psychology liaised with the mental health team to rule out mental illness before undertaking an assessment to determine the relationship between his personality disorder and his offending, and his ability to progress on his sentence. As he was unsuitable for accredited offending behaviour programmes he was offered individual intervention with social skills, relationship issues and problem solving. Without this level of one-on-one attention he would be unlikely to be able to reduce his risk and work towards his release.

- 4.31 Seventeen out of the 18 prisoners reported having an up-to-date OASys completed by prison staff, with all but two saying they were aware of what was included. Garth had used an abridged version of OASys (OASys7A) for its prisoners. This had been adopted to manage the large influx of IPP prisoners with little or no assessment work completed. We had significant concerns about the adequacy of these assessments based on the limited information available for OASys7A, particularly given the complex nature of the IPP population.
- 4.32 Sixteen out of the 18 reported having a sentence plan and 12 said they had been fully involved in its development. Seventeen were aware of the targets set for them. In one case progress had been smooth and the required courses had been made available at the right time.

Case study

F was sentenced to an IPP. After four months in one YOI, in which he adjusted to being in prison, he was transferred to another YOI to begin the sex offender treatment programme and an assertiveness course. He asked to be allowed to delay the assertiveness course as he found it too much too soon. Even at a slower pace, F would be able to complete the necessary programmes before his tariff expired and his extended supervision would hold his relapse prevention plan in place.

- 4.33 However, only four out of the 18 were attending an OBP, although eight reported having previously completed one or more courses, some while in a local. There were a number of examples of prisoners offered a course while at a local but advised not to start it due to the uncertainty of when they would transfer to a stage one training prison. On arrival at a training prison, they reported being dismayed that sufficient courses and places were not available and in many cases the waiting lists were longer than at locals.

A lot of people moved here for assessment for programmes, but now they don't even do the assessment. It's not on – it gives people false hope.

Feel going backwards at Garth, at least at Preston getting offered courses. Here nothing.

IPP prisoners in training prisons

- 4.34 Overall, 22% of those interviewed, three in locals and five in trainers, were already over tariff. None believed they would be released on tariff, which caused considerable frustration and distress for many.

I will not go home and will have to wait another year until the next review. I am finding it very hard to cope with not knowing when my release date is.

Difficult to contemplate. I don't know when I will be released. I deserve to know... It's not a humane way to treat people. It's a form of torture. That's how I feel, tortured and there is no light at the end of the tunnel.

At this point can't see any way of not staying well over tariff. Things need to be available for you to do, to lower your risk.

I won't get out on first parole. I'm depressed. I'm locked up 23 hours a day. I go to education two hours twice a week. That's all.

IPP prisoners in training prisons

- 4.35 The consequences of the lack of sufficient activity and offending behaviour work could have been serious for a young man without family support and input from staff.

Case study

W, aged 19, was very depressed about his situation. He was not well supported by his family. He was estranged from his mother and his father lived abroad so he had no visitors. He had been in bed and breakfast since the age of 15. He had lodged an appeal and wanted to follow up what happened to it, but he had not been able to talk to anyone. His personal officer had been on leave for some time and he was not an assertive young man equipped to follow up his applications for labour or courses. He had been locked in his cell for 23 hours every day for several days as association had been cancelled. It had gone unnoticed that he was doing so little and getting depressed. He was tearful and depressed on interview and said 'I was sitting in my cell planning how to end my life when they unlocked me to see you'. The inspector arranged for suicide prevention procedures to be put in place after the interview.

5 Women sentenced to IPP

- 5.1 **This chapter examines the quality of pre-sentence reports to court for a sample of 12 women, including their diverse needs. It reports on how their sentence had been managed in prisons and the quality of the casework, and provides an account of interviews with the women and the staff who managed them.**
- 5.2 In our sample of 60 IPP prisoners, 12 were women with an average age of 34 years. They were located in two prisons – New Hall, a first stage lifer centre, and Styal, a second stage lifer centre – which we selected as they held the greatest number of women IPP prisoners. When we selected our sample, 77 women were serving IPP sentences. Far fewer women than men had attracted this sentence and the pressures on the lifer system in female establishments were correspondingly less.
- 5.3 The profile of IPP offences in 2.11 indicates that far fewer women than men had been sentenced to IPP for sexual offences and far more for arson. Of those interviewed, six had committed violent offences against the person, four arson and criminal damage, one robbery and one a sexual offence.

Pre-sentence reports to court

- 5.4 All 12 women had a PSR prepared for the court. Seven of these were clearly based on an OASys, but only five of the OASys documents were completed fully and accurately and contained enough detail to assist with the PSR.
- 5.5 Nine of the 12 women were identified with a mental health need. In our recent mental health thematic¹³ we found that 27% of women reported previous mental health treatment in the community, which suggests that the prevalence of mental health need in women IPP prisoners may be disproportionately high. Eight of these had additional needs, including learning difficulty, alcohol dependency, ethnicity and self-harming behaviour. The implications of this are significant for the capacity of women to cooperate with their sentence plan and make progress, especially when taken together with other jeopardies such as mental health problems and possible drug or alcohol misuse.
- 5.6 Less than half of the women (five of 12) had an OASys completed fully and accurately at the pre-sentence stage, and only two of the analyses of risk of harm within OASys came to an accurate conclusion about the level of risk posed by the individual woman. In seven cases, the level of risk was over-estimated. In only two reports did the PSR author make a clear recommendation for an IPP sentence. For most other cases, a custodial sentence was acknowledged as inevitable, but no type was specified. In one case, a community order had been recommended.

Case study

T was already over tariff. She was convicted of arson with intent to endanger life, although she states she was trying to set fire to her letter box to stop unpleasant letters from her ex-partner from being delivered. She panicked and tried to put the fire out, but had been drinking and was not able to do this, so called the emergency services. She had one previous conviction for driving offences. She had a substantial history of mental health problems and needed mental health support. Her release was being held back because probation staff could not find her a suitable hostel placement with mental health provision.

¹³ The mental health of prisoners: A thematic review of the care and support of prisoners with mental health needs. HMI of Prisons, October 2007.

- 5.7 From our analysis, pre-sentence reports could have advised that the risks posed by six of the 12 women could have been managed in a different way than by an IPP sentence.

Probation case management

- 5.8 There was evidence of a contribution to sentence planning in only half of the six case files reviewed in the community. In only one was it evident that probation had met with prison staff and the prisoner post-sentence and in none had they contributed to decisions about movement to another prison. Probation staff had communicated with half of the women post-sentence and, like male prisoners, this was usually in writing.
- 5.9 Two of the women had parole reports completed by probation, but both had limited or missing risk management plans.

The experience of women in prisons

- 5.10 Some women reported particular problems when returning to prison after being sentenced, with little specific support offered at a time when they felt shocked and extremely vulnerable.

When sentenced I asked for an explanation – probation and lifer clerk had a meeting to explain it. I have a little more understanding now, but still don't really get it.

When back from court after sentence, I was locked back into cell with no support... sharing with three other people. A very difficult time having to chase staff, to ask what is happening.

Not seen for the first few weeks.

A lot of staff don't understand the sentence.

Women IPP prisoners

- 5.11 Unlike male IPP prisoners, most of the women had a fair understanding of what the sentence meant and how they would have to reduce their risk before being considered for release. However, the sentence seemed to impact differently on women. For many, there was a sense of disbelief that they were deemed a risk to the public. They felt the sentence was unfair and harsh in proportion to their offences and only one of the 12 said she had been forewarned of potentially receiving an IPP.

Case study

N had initially been advised by her solicitor that community service would be the likely outcome and had in fact been remanded at home for seven weeks before sentencing. She was then given an IPP with an 18-month tariff for arson. Her confusion related to the presumption of dangerousness. If she was dangerous enough to warrant an IPP sentence, why had she not been remanded in custody?

Comments included:

No date of release, indeterminate. Still in shock, it feels very unfair... no previous convictions.

Very surprised to get an IPP sentence. Appealing against it... expecting a community sentence as on bail prior to sentence... didn't understand the sentence, very shocked, feel 'hard done by' – a harsh sentence.

Women IPP prisoner

- 5.12 The women reported that contact with lifer officers was more frequent and consistent at New Hall than at Styal. Seven of the 12 women (five at New Hall and two at Styal) said they had had contact with the lifer manager. In both prisons, women said staff lacked knowledge and understanding of the IPP sentence, making it difficult to get clear information about what they needed to do to progress. Much of the information provided was designed for lifers rather than IPP prisoners. Women at Styal said they gathered much of their information from other women in the prison. Only two of the 12 were aware of the life sentence plan process and at what stage they were.

Personally I have had a lot of help here so been lucky, but most of them come in here and they don't have a clue. I go and speak to them when they come in and try to explain it.

Female IPP prisoner

- 5.13 Those interviewed reported minimal contact with any specialist or probation staff. Seven of the 12 women had an OASys assessment, although not all of these were up to date, and only two said they really understood the document and their risk factors. Five had a sentence plan, but seven said they were aware of targets and courses they needed to achieve and attend. Three were on OBPs and six had previously completed some type of intervention, although four of these six were unclear whether these were relevant to their risk factors. Women at Styal were required to refer themselves to courses.

Felt like I was being left to rot. If not done things myself I would have done nothing.

None (courses) yet, put application in to start soon, but told me no rush – have to do sentence plan first.

I completed the short duration drug programme – self-referred. My name is down for the specialist thinking skills course – self-referred. When came here I put my name down for everything because didn't know what I needed to do.

Women IPP prisoners

Case study

K received a tariff of one year, 206 days that had already expired. She completed specialist thinking skills on remand having referred herself after her pre-sentence OASys assessment. Despite this OASys not being available to prison staff, K was fully aware of her risk factors and also self-referred to the counselling, assessment, referral, advice and throughcare drugs service. The lifer documentation completed betrayed the lack of lifer experience among staff. Her lifer profile, which should record the results of specialist assessment, was completed as an interview. Under 'any further assessments required?' the response recorded was 'K states not at this time'. She was subsequently transferred to another prison for lifer assessment, but at this point was already past her parole date and had addressed the risk factors identified in the pre-sentence OASys.

- 5.14 Only three of the 12 women thought they had done everything required to be released on tariff expiry and four were already over tariff. The majority of women knew they would not be released if they had not achieved all their targets, but had limited knowledge of the further implications this might have for them.

Expect to be released at tariff expiry – not really based on anything other than hope.

I have no sentence plan completed... told I'm a 'model prisoner' and got on with things. Have a trusted position in prison so would like to think the Parole Board would recognise this and release me. Not having a release date is very frightening. Leaves me hanging on a thread.

Not a clue what I have to do. Done seven months and just been left... gets me upset. Don't think I will get home.

Women IPP prisoners

The case management of women IPP prisoners

- 5.15 As with men, very little planning had gone into how women IPP prisoners would be managed. Styal was formally designated as a stage two lifer centre for women, but had held on remand a number of IPP prisoners with multiple and complex needs. Once sentenced it was the expectation that they would transfer to a stage one lifer centre, for completion of the initial lifer sentence planning documentation. However, the women in our sample had waited an average of 18 months in Styal (ranging from seven to 27 months) for a move to a stage one lifer centre, when their average tariff was 26 months, and they needed to be able to demonstrate progress by tariff expiry.
- 5.16 Staff at Styal told inspectors they could hold a maximum of 12 IPP prisoners, and had eight at the time of the review. Although it was a designated second stage lifer prison where women were expected to address their offending behaviour, it offered only specialist thinking skills (ETS) and a short duration drug programme to which the women were expected to self-refer.
- 5.17 In contrast, New Hall had operated as a first stage centre since July 2006 and was developing its capacity to assess lifers on arrival, although it was still under complement for psychologists. Several of the IPP prisoners in our sample had been transferred to New Hall when it came on stream, but in the meantime some had self-referred and completed programmes at Styal before their needs had been assessed.

- 5.18 Here the psychology department had a reciprocal arrangement with clinical psychologists in training who carried out formal intelligence testing (WAIS III) with the women. They had identified low IQ levels in the borderline range and below among several of the women convicted of arson, including two of our small sample of six women. This had been discovered serendipitously as IQ screening is not a normal part of the assessment carried out at stage one lifer centres. The implications of this are significant for the capacity of women to make progress, especially when taken together with other jeopardies such as mental health problems and drug or alcohol misuse.

Case study

S was sentenced for threats to kill and false imprisonment and received a tariff of 17 months. She had only one previous conviction for shoplifting, so this offence was a substantial departure from the norm. There were no first stage (LSP2) documents or OASys in the file. She had a history of self-harm and severe mental health issues. She had a GHQ-12 score of seven, which indicated that she was very troubled and depressed.

An educational assessment identified that she had the learning ability of a six-year-old and psychiatric assessment identified emotional instability and personality disorder. S was described as unaccepting of her offence and lacking insight into her offending. Very little was gleaned from her on interview and it was clear she did not understand her sentence and could not comment on her sentence plan or risk assessment. Given her inability to demonstrate progress and the fact that that her risk of harm to others had been set inappropriately high, S seemed to be trapped in a sentence from which she could not achieve her release.

- 5.19 During fieldwork all 12 of the women IPP prisoners in our sample completed a GHQ-12, a measure of psychological wellbeing. A score of four or greater on this questionnaire would normally, in a community setting, trigger further mental health assessment. Seven (58%) met or exceeded this threshold. This compares with 65% of women, screened at a known high risk time within a month of entry to custody, as part of our mental health thematic last year. However there was little formal involvement of mental health in-reach teams with IPP assessment, though staff at Styal reported that two women had severe mental health difficulties and it was very difficult to get them to cooperate with their sentence plan. They told us that they were trying to arrange a transfer to the Primrose unit for dangerous and severe personality disorder at Low Newton prison for one, and to an NHS secure unit for the other.
- 5.20 Some of the women had resisted transferring to New Hall from Styal. Once they were settled into Styal, it felt like a reverse move to a first stage lifer prison. One woman was the primary carer of her children who lived close to the prison and she was reluctant to move away from them. It was also known that New Hall did not offer any more OBPs, so the women did not believe they would be any better off there. The reality was that tariff length was too short for a staged system to work, especially where resources could not be deployed promptly. Staff felt they were supported in managing IPP prisoners by being able to discuss their needs at quarterly meetings with the Women and Young People's Group (W&YPG) at Prison Service headquarters and with a named NOMS coordinator. However, neither of these parts of the organisation had any operational responsibility for these prisons.

6 Children and young people sentenced to DPP

6.1 This chapter examines the number and profile of children and young people sentenced to DPP, their placement and case management. It comments on the quality of pre-sentence reports and the experience of a sample of children and young people in custody and of the staff managing them.

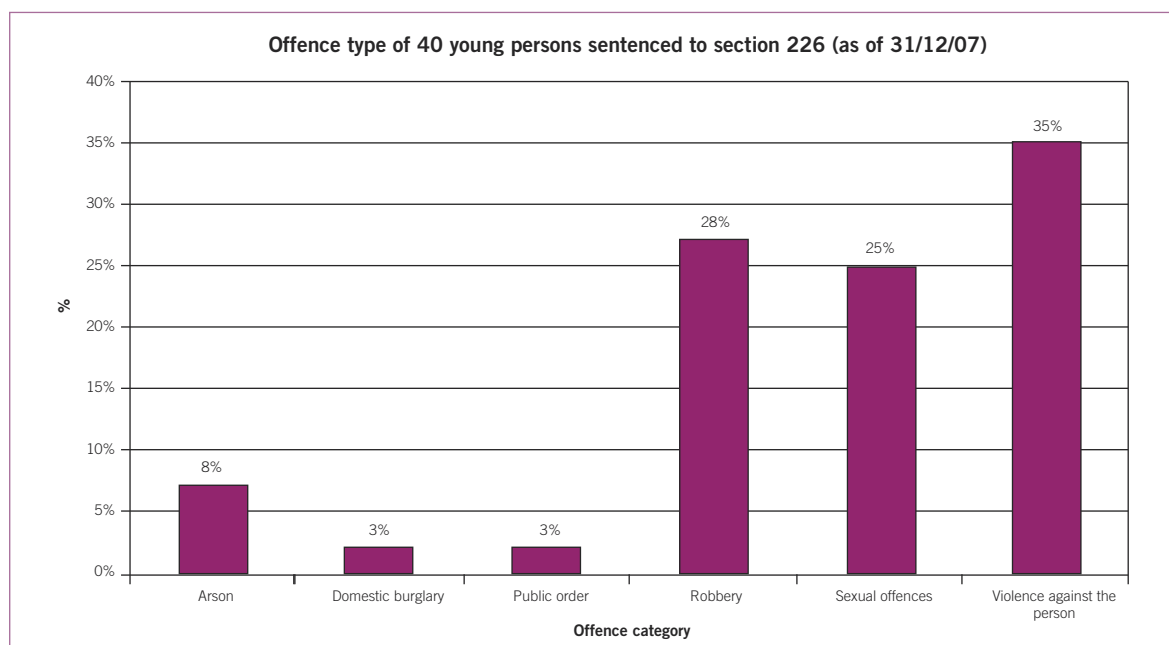
The DPP sentence

6.2 The number of children and young people serving long-term sentences has risen significantly as a proportion of those held in custody since the introduction of the DPP sentence. In July 2007, about half the indeterminate-sentenced young people were serving DPP, with numbers continuing to climb. This is changing the nature of the under-18 secure estate.

6.3 As of December 2007, 51 young people were serving DPP sentences and as of March 2008, five had been released. All were boys. No parole data was available to determine how many had been released at their first eligibility date or how many had been refused parole, and it was not possible to determine how many had been transferred to young adult establishments.

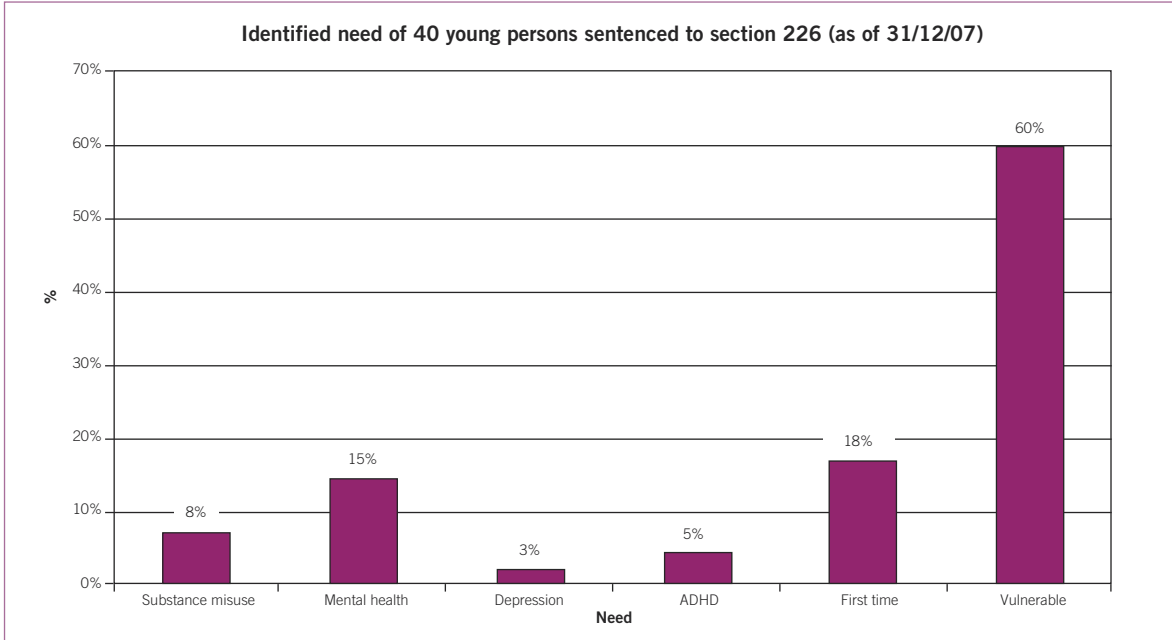
The DPP population

6.4 Data provided by the YJB indicates that young people sentenced to DPP were convicted mostly of robbery, violence and sexual offences. They also had a high number of previous convictions, as the typical pattern for this group was that of persistent offending, often including violent offending of some kind. More than half had previous convictions for violent or sexual offences and one in five had at least three such previous convictions.



6.5 The average length of tariff for those convicted by the end of 2007 was 36 months, compared to 38 months for adult IPP prisoners, and ranging from 12 months to 18 years.

6.6 There is no systematic analysis of Asset assessments, as there is of OASys assessments for adults, to provide a picture of risk and need. However, data supplied by the Youth Justice Board suggests that 60% of children and young people sentenced to DPP had some sort of vulnerability. There were references to problems with mental health, conduct disorder and/or substance misuse in a significant proportion of case files. As with adult IPP prisoners, those sentenced to DPP appear to have complex psychological problems.



(Each might have more than one need, so proportions do not add up to 100%.)

Management arrangements

6.7 No guidance was provided for the care and management of those serving DPP, and in practice no distinction was made between those with a DPP sentence and those with other indeterminate sentences. All were being managed at the time of this review by the same processes and documentation, which were based on the needs of adult prisoners and were not appropriate for short tariffs. Children and young people sentenced to DPP transferring to the young adult estate needed to have the adult documentation for continuity of case management. However, while they were in the under-18 estate, their case management was structured around the training plan, which was designed to support short-term detention. Lifer documentation ran alongside the training plan and resulted in some duplication of planning. The emphasis in the lifer documentation was on identifying risk factors, while the emphasis in the training plan was on meeting immediate needs and setting short-term targets based on what was available to meet the needs identified. Neither system was appropriate for supporting long-term planning that included the transition from the juvenile to the young adult estate.

6.8 Despite the small number of children and young people sentenced to DPP, or perhaps because of it, there was considerable variation in the regimes they experienced. They could be located in non-specialist young offender institutions (YOIs) or in one of two national specialist (so-called 'enhanced') units: the Carlford unit at Warren Hill and the Oswald unit at Castington. The former allocated nine beds for young people serving indeterminate sentences and the latter allocated 12 beds, which is clearly inadequate for the number involved. These units specialised in the management of children and young people serving long-term and indeterminate sentences, but made no specific provision for those sentenced to DPP and did not manage them any differently from lifers. In July 2007, these units held 12 of the 48 children and young people sentenced to

DPP in custody at that time. Here, the majority of staff had received lifer training and were able to undertake lifer duties in profiled time. In contrast, the non-specialist sites were geared up to manage short-term detention and training orders (DTOs) and there were fewer lifer-trained staff and no profiled time to carry out lifer work, which was completed under pressure.

- 6.9 As a general rule, younger people sentenced to an indeterminate sentence before their 17th birthday with more than a year to serve after the initial lifer paperwork was completed were given priority for placement at one of the specialist units. Those who were almost 18 or had less time to serve were usually held in YOIs without specialist provision and transferred directly to the adult estate when their lifer paperwork was completed. However, there was clear evidence that young people were being held beyond their 18th birthday, due to lack of resources to complete the necessary lifer documentation and lack of space in the adult estate. This was despite the YJB placement protocol that states that they should be transferred within a month of reaching their birthday unless 'individual circumstances' determine otherwise.
- 6.10 In the absence of strategic direction from the YJB or W&YPG, some establishments had formed their own local support networks to share good practice. A support network existed between the Carlford unit, Ashfield, Huntercombe, Feltham, the Oswald unit and Wetherby, and representatives from Moorland, Swinfen Hall and Aylesbury also attended to resolve issues of transition to the young adult estate.

Fieldwork

- 6.11 All those serving DPP sentences at the time of the review were boys. Fieldwork took place in three YOIs holding boys only. The pre-sentence reports for 12 young people were examined and the casework files in the community for six. These boys, with four others (16 in total), were interviewed in three juvenile establishments, along with the staff who managed them.

Pre-sentence reports to court

- 6.12 Courts have more options in relation to young people who may be eligible for DPP sentences. There is no presumption of a DPP sentence, even for those with previous relevant convictions, and the court must first decide that an extended public protection sentence is not suitable. It must also consider the maturity and vulnerability of the young person. Accurate pre-sentence reports (PSRs), provided by youth offending teams (YOTs), are therefore important in assisting the sentencing decision of the court. They are informed by an Asset – an assessment of risk and need.
- 6.13 We examined the PSRs for the 12 DPP cases in our sample. In all, a PSR had been completed. No attempt was made in any of the YOTs visited to identify all potential cases at the PSR stage on the basis of the index offence, although in some cases they made specific reference in the PSR to the fact that the offences were specified serious offences as defined in the Act. None made clear proposals for DPP sentences, although many reports acknowledged that a custodial sentence was likely.
- 6.14 Only five of the 12 PSRs had a fully and accurately completed Asset based on all the available relevant information about current and previous offending. None included a full offence analysis that accurately identified the factors contributing to the offence. In many cases, the PSR simply recorded the young person's description of their offence(s), without highlighting the discrepancies between their account and the official account in the CPS documentation. Seven clearly documented the pattern of offending of the young person, including reference to previous convictions, but only one included a clear differentiation between the likelihood of harm-related behaviour and the impact of such behaviour, and only one clearly stated who would be most at risk of harm from the young person.

- 6.15 Sentencing guidelines draw attention to the level of maturity of the young person in the context of the decision about whether to impose a DPP on grounds of dangerousness. The courts are directed to be ‘particularly rigorous before concluding that a youth is a dangerous offender... the court should consider the offender’s level of maturity and that he or she may change and develop in a shorter period of time than an adult.’¹⁴
- 6.16 However, 10 of the 12 reports did not include an assessment of the vulnerability of the young person, though nine recorded diverse needs that included learning difficulty in three cases, ethnicity in four, emotional and behavioural difficulties in two and age in three. But only one of the nine PSR authors showed any awareness of the relevance of the needs identified. In just three cases did the PSR author take into consideration the ability of the young person to understand the seriousness and consequences of the offence, and in only one other was consideration given to the young person’s ability to carry out the proposed sentence.

Case studies

M was 14 at the time of the offence. By the time of trial, there was already considerable evidence that he was responding positively and was fully remorseful about his crime. This did not appear to have been taken into consideration in assessing his dangerousness.

G had been assessed by a clinical psychologist as having an IQ of between 40 and 60, yet the impact of this on his ability to understand and accept responsibility for his offending had not been considered by the PSR author in the report.

- 6.17 Although all the screenings indicated that a full risk of serious harm analysis was required, two did not have one on record. We did not agree with the overall risk classification in six of the 10 cases which had one. In one, it was too low and in the other five too high. Overall, the quality of the PSRs completed for the 12 cases was not sufficient to assist the court in reaching an appropriate decision about the level of dangerousness posed by the young person. In our judgment, the PSR could have advised that the risks posed by five of the 12 young people could have been managed in a different way than by a DPP.

Case management in the community

- 6.18 The case files of five children and young people sentenced to DPP were examined in YOT files in the community. At the time of the review, YOTs were managing DPP cases as they managed other serious custodial cases, by having regular three-monthly contact with the young people during their time in custody, including involvement in training planning and reviews.
- 6.19 The quality of risk management planning was variable. In three of the five cases, there was evidence that YOT staff carried out ongoing risk of harm assessments, but two had no risk management plans on record. Some YOT staff reported that they felt frustrated by the lack of attention to risk of harm by custodial staff. This was confirmed to some extent by the lack of emphasis on offending behaviour in custodial training plans (see 6.37–8 below), in which the focus was mostly on the day-to-day management of young people in terms of their compliance with the regime, rather than on the reduction of risk.
- 6.20 In all five cases, there was evidence of a full contribution by YOT staff at the beginning of sentence. In four of the five cases, a meeting had taken place between the YOT officer, a member of custodial staff and the young person post-sentence, and in all five cases the YOT officer had made representations concerning the prison allocation in terms of proximity to family. In every case, the current training plan was on file for the YOT worker to refer to and in four of the

¹⁴ Sentencing Guidelines Council, *Dangerous Offenders – Guide for Sentencers and Practitioners*. September 2007, page 17.

five cases, reviews of Asset had clearly been undertaken by them to prepare for training plan reviews. However, prison staff said they rarely received an updated Asset after the first training planning meeting and these were present in only three of the 12 case files we examined in prisons.

- 6.21 In four out of the five cases, there was clear evidence in the YOT case file that the YOT officer had met or communicated with the young person and his parents or carers after sentence to discuss the DPP sentence. There was also evidence of ongoing contact between the YOT and the parents or carers while the young person was in custody, as well as contact through a visit to the secure establishment to see the young person. None of the five cases had yet begun preparation for release, so there were no parole reports on file.
- 6.22 All five of the DPP cases had been held by a single YOT officer during the first year and only one of the four who had progressed into the second year of sentence had had a replacement officer, the remaining three being held by the same officer throughout.

Case management in prisons

- 6.23 We visited three establishments holding young people sentenced to DPP: the Carlford unit at Warren Hill and the Oswald unit at Castington (both specialist units that held the largest concentration of those sentenced to DPP in the under-18 estate) and Brinsford (a non-specialist site that held a mixed population of under-18s and young adults). Brinsford had been profiled to take 60 young adults sentenced to an IPP sentence with short tariffs of up to two years from January 2008. It had submitted a bid for resources to be able to deliver a specialist service that it intended to extend to children and young people sentenced to DPP, but none of this was in place at the time of our fieldwork. In addition, two young people in our sample were located in the main prison at Warren Hill rather than in the Carlford unit, which was the equivalent of a non-specialist site.
- 6.24 We have already established that, for our sample, the information coming into prisons by means of PSRs and the Asset was poor and often failed to identify where young people were facing a potential DPP. Nor was there a requirement for YOI staff to identify these young people and provide support for any increased vulnerability associated with their offence and the prospect of an indeterminate sentence. Staff told us that in practice some young people on remand for murder were provided with additional support but practice between establishments varied.
- 6.25 We reviewed 16 case files. Six were at stage one of the lifer process, eight at stage two and two were at an unknown stage. Five of the boys had stayed in the same establishment they were remanded in after sentence: three in Brinsford and two at Warren Hill. Seven had transferred from other YOIs and lifer documentation had been completed before their transfer in five cases. Overall, documentation from the initial establishments contained a good level of detail, with issues of vulnerability or self-harm identified clearly. Four boys had come from secure training centres to the Carlford unit and lifer documentation had been completed in these cases after their arrival. In only one case had no documentation been completed.
- 6.26 Of the 16 case files, 10 contained an Asset, normally in the confidential summary dossier (CSD), though these were of variable quality and large amounts of material were often missing. The Asset was the main source of pre-sentence information but was often incomplete. Carlford had begun all planning with a multi-agency meeting (MALRAP) to ensure that the relevant information was obtained. This was good practice. Otherwise all that was available in the CSD was an Asset of variable quality, a PSR of variable quality, sentencing remarks, previous convictions (if any), the custodial order and court warrant. Access to CSDs was problematic only in the non-specialist site.

- 6.27 Both specialist units had well organised case files. Monitoring sheets in the Oswald unit files demonstrated that lifer staff were chasing up relevant information and reports. Of the 16 cases, approximately half contained an offence analysis (LSP2A), but only two had a risk factor summary (2B), psychological evaluation (2D) and sentence planning objectives (2F) completed. Three cases contained partially completed risk factor summaries, but outside the specialist units no LSP2 documentation had been completed. Only two case files contained any LSP3 documentation, although where this was completed the level of detail was excellent, and where links had been made to the PSR/Asset these were clearly evidenced.
- 6.28 The gaps in lifer documentation explained the perception of YOT staff that prison staff were under-focused on analysis of risk. In some cases this was due to delays in the receipt of the relevant information to inform the risk analysis, but in many it resulted from the lack of necessary specialist resource, particularly in non-specialist sites. This was a common complaint from staff. As a consequence many young people became stuck waiting for a backlog of LSPs to be completed.
- 6.29 In contrast, training plan targets were completed for all the young people in our sample and were heavily focused on behaviour and involvement in the regime. Although personal development is important for this age group, and not unrelated to their offending, it is also important that their offending should be addressed directly. Practice relating to offending behaviour target-setting was diametrically different in the two specialist units. One was only setting targets that could be met locally, while the other set targets according to individual need regardless of the availability of a resource to meet them. One of the specialist units held monthly multi-disciplinary meetings with all those serving indeterminate sentences to monitor progress against both risk and needs, which was a good attempt to bridge the gap between the training plan and life sentence plan.

Case study

R had served approximately one year of a four and a half-year tariff for robbery, wounding and possession of a firearm. His case file revealed a training plan, but no lifer sentence plan paperwork. An Asset and pre-sentence report were on file, but there was no evidence of these informing the training plan or linking to the targets or objectives identified. The objectives set were the standard ones that corresponded with what the prison could offer: education, gym, juvenile enhanced thinking skills and general behaviour. Notes of reviews made no mention of the offence, risk or dangerousness and there was no acknowledgement of the type of sentence he was serving and the public protection or risk reduction element. Discussion in reviews focused on his behaviour in prison and further targets related to education and any gym courses available. In interview, R was not aware of a separate sentence planning process for lifers or that anything else was required of him.

- 6.30 Six files contained an educational evaluation. All the educational reports contained detailed information on educational history, needs and targets, employment history and any progress made. Comments were analytical, demonstrated high levels of engagement and displayed good links to needs and targets set. Reports at Oswald by educational staff were an example of good practice. This could be partly due to their having attended lifer training.
- 6.31 The lack of accredited offending behaviour programmes (OBPs) was a problem for the under-18 estate. The only accredited programme was the juvenile enhanced thinking skills (JETS) and this was available only at one of the specialist units. For those convicted of sex offences, who made up 25% of the total number of children and young people sentenced to DPP, there were no accredited programmes in the under-18 estate. The Lucy Faithfull Foundation provided some

specialist sex offender work in both specialist units, but places were limited and insufficient for the number of eligible young people. One of the specialist units delivered a range of non-accredited OBPs, but the other had stopped delivering any programmes that were not accredited.

- 6.32 This was a source of frustration for staff who were not able to prepare young people for parole. Staff were not aware that there were any Parole Board members with specialist knowledge of young offenders from whom they could obtain advice. In their experience the Parole Board appeared to have the same expectations it did for adults, that risk factors would be identified and addressed by means of offending behaviour programmes, even though they were not available. In any event, they believed that such a formulaic approach was not always appropriate for young people. They remarked that the young people also seemed to receive a standard two year further review date, which was very demotivating when tariffs were an average of just three years. The following formal feedback from an oral hearing was provided by a member of staff:

'The home YOT officer provided no assessment of risk, no release plan and no risk management plan. He referred to the absence of any work on his offending. The panel was concerned at the lack of formal assessment and appropriate interventions to identify trigger factors and reduce risk. The panel could find no evidence that risk had reduced and concluded therefore that the young person was unsuitable for parole. The panel expected that the next review would be informed by a structured risk assessment and reports on the effectiveness of suitable interventions, together with a resettlement plan and a risk management plan.'

Continuity of case management

- 6.33 For juveniles there were two potential transition points: at the interface of the secure care system with the under-18 YOI estate, and of the under-18 YOI estate with the young adult estate.
- 6.34 Secure children's homes and secure training centres (STCs) had developed their own procedures and documentation for the management of children serving indeterminate sentences, since they were not required to complete the life sentence planning documentation devised for adults by the Prison Service. Staff from the Carlford and Oswald units were therefore making informal visits to access the information they needed to complete Prison Service lifer documentation. Although good working relationships developed, such initiatives were not supported by the YJB by way of guidance and instructions across the three sectors of the under-18 secure estate.
- 6.35 Transfer from under-18 establishments to the young adult estate involved a change in assessment and sentence planning systems. The lack of interface between the Asset system of assessment and training planning for juveniles and OASys for adults meant that all information had to be transferred manually. Plans to roll out an electronic version of Asset offer a potential opportunity to address this difficulty.
- 6.36 For the young person, the transition to the young adult estate involved a transfer to probation management and a substantial reduction in the frequency of contact and support provided, at the same time as he transferred to a prison establishment for young adults. This discontinuity in case management and relationships with staff had the potential to seriously destabilise the young person without careful preparation and planning.
- 6.37 The establishments that accepted young people sentenced to DPP in the adult estate were Aylesbury, Moorland and Swinfen Hall, which were all resourced to work with indeterminate sentences, although only Aylesbury and Swinfen Hall offered sex offender treatment programmes. The two specialist units had produced information packs for young people to prepare them for this transition and, where possible, they arranged for a member of staff to visit

the young person before they moved. The Carlford unit had produced a video entitled 'moving on' and staff had arranged visits from members of the Parole Board to speak to young people about the sentence and parole. There were no similar transition arrangements in the non-specialist sites.

Meeting the needs of DPP prisoners

- 6.38 Young people sentenced to DPP who had committed serious offences at a young age were likely to have complex psychological needs that, given their immaturity, they would need in-depth help to overcome. Paragraph 6.6 notes the apparent vulnerability of children and young people sentenced to DPP. With the added uncertainty around the length of time they were to serve, this rendered them particularly needy and placed a high burden of responsibility for their support, care and guidance on the staff. The following case of a young person in denial of his difficulties and resistant to working on his offending, who expressed his frustrations through self-harm, illustrates the scale of this challenge.

Case study

B was 17 at the time of interview and 16 at the time of the offence. He had no previous convictions, but his offence was particularly violent. He self-harmed and had only recently come off an open assessment, care in custody and teamwork (ACCT) form. Documentation was dense, containing a good level of detail. An Asset had been received and lifer staff were beginning to complete LSP2 documents. In interview, B appeared unconcerned about his sentence and was fully prepared to serve a long period of time in custody, well over his tariff. Staff had provided him with copies of his LSP and had explained the process and the implications of the sentence. B claimed he was not interested in progressing and chose to disregard any information given to him. His only concern was that his self-harming had been disclosed at the last review meeting, at which his parents had been present. B felt he might take an interest in his targets after he had served five years or so and was quite happy to carry on as he was.

- 6.39 Prison officers working with these young people had not received any additional training for the complexity of their task. Psychology and probation staff spoke of their concern about the lack of training, professional supervision of and support for prison officers dealing with some very disturbed adolescents, and who faced personal challenges in their day-to-day dealings with these complex young people. This concern was upheld from our interviews with personal officers. Some establishments had set up their own informal support networks, but these required staff to recognise that they needed help and to be willing to ask for it, as well as for specialist staff to be available to provide the necessary support.

The experience of children and young people serving DPP in prison

- 6.40 We interviewed the 16 young people whose case files we reviewed. Several described how confused they were about the sentence when they received it and in some cases for some time after. Only one of the 16 boys reported a discussion taking place while on remand about the likelihood that he might receive a DPP sentence and only seven said they had been given an explanation about the sentence in court. In three cases, this came from the judge and the remaining four had received an explanation from either their solicitor or YOT worker. However, these explanations were not particularly clarifying. Some young people said they had not covered

the public protection element or the implications for release. Where nothing had been explained the implication was that the solicitors and YOT workers had not been able to explain it themselves.

The judge had a discussion with me and told me that I had a 99 to 1 chance of getting out on my first parole date. The escorts and YOT tried to explain, but didn't do it very well.

I didn't understand what the judge was saying to me. The YOT in court didn't know anything about the sentence and my solicitor didn't know anything either.

My solicitor and YOT worker talked to me about it, but I didn't really understand it. They said I could potentially be in prison for a very long time, that I should do as many courses as possible, that I should prove I've changed.

The judge didn't say IPP, just the tariff – I thought would get out then. I had a YOT meeting two days after sentencing and they fully explained it.

Means nothing special to me. The judge went through mathematical calculations in great detail, but I couldn't understand how long I'd serve. None of the staff I was with (Group 4) understood it either.

Young people sentenced to DPP

6.41 The following case study illustrates the level of confusion.

Case study

J was sentenced in September 2006 to what his local YOT interpreted as an extended sentence of four years. However, the Prison Service and Parole Board interpreted the sentence as one of DPP with a two-year minimum term. He subsequently received a parole date for two years after sentence. He arrived on Oswald unit a year after sentence in September 2007 and the confusion in relation to sentence type and length remained an issue. Clarification was sought by the YJB and J's solicitor from the sentencing court and judge. In mid-November 2007, a letter received from the court confirmed the sentence as one of DPP. However, the court could not confirm the minimum term intended by the sentencing judge. J was advised that he would have to apply to the Court of Appeal Criminal Division to clarify the intended minimum term. It was still unclear what this was, and J was awaiting a response from his solicitor.

6.42 The majority of young people interviewed had initially believed that their tariff date would be their release date. Some said it had taken them several weeks and various explanations from staff to realise that they had been given an indeterminate sentence and what that meant. Some were shocked to discover they had been categorised as lifers. From the interviews, it appeared that some young people still did not fully appreciate the uncertainty concerning their release date.

The indeterminate means it goes on forever and that I will not be released from prison unless I behave myself.

I understand that they can keep me in prison as long as they want and that I will not be released until somebody says that I am safe to go back home.

Young people sentenced to DPP

- 6.43 Overall, the level and type of information provided was variable, as was the point at which it was received after sentencing and first reception. The majority of young people in all three establishments had been provided with some information, but this was more complete at the specialist sites than the non-specialist sites. Of the four who were initially located in a secure training centre or secure children's home, only one said that the sentence had been explained to him.
- 6.44 Generally the young people understood they would have to persuade the Parole Board that they had changed in order to be released and that they had to behave themselves while in prison. They thought this would include attending education and completing courses. Some expressed an inevitability that 'you won't get parole first time round'. The majority had some understanding that the sentence had been imposed because they had been considered a danger to the public.

I need to do courses to lower the risk I am to other people. I am aware that the Parole Board are the people who will decide when I should be released, but I do not understand what they have to do to make that decision. I would like to know, but understand that I probably don't need to know anything yet as I still have a long way to go before a decision is made. By that time I will be in another prison.

I think I have been sent here to do a couple of courses to show I have changed. I have done everything here that I can and in a couple of weeks I am going to Swinfen Hall. I don't know what will happen there.

Young people sentenced to DPP

- 6.45 In both the specialist units, the majority of young people were extremely positive about their personal officers and there was a good level of specialist contact, including regular psychology support. In contrast, those in the non-specialist site indicated that they had had little contact with personal officers or specialists. Access to the lifer manager was generally through the applications process and response time was good.

The psychologist is really helpful, talks to you. So is the drugs worker, but haven't seen him recently – I think he was on holiday. I would like to see more – I didn't see them in previous places really. I see my YOT worker every two or three months.

I don't really know my personal officer. I speak to who I can. There are some officers who I feel that I can trust.

Personal officer helpful. If I wanted to talk about my sentence I could. Chaplain is helpful. Seen YOT once since here, but don't see the point, as not helpful.

Young people sentenced to DPP

- 6.46 Contact with outside YOT workers was reported to vary from monthly to three monthly and in one case was just telephone contact. This was felt by the boys to be insufficient, yet more than complied with the standards for those sentenced to short detention and training orders (DTOs). Only one young person said he felt sufficiently supported by his external YOT worker. Yet records indicated a good level of attendance at training planning meetings by YOT staff, with contact between meetings with prison staff and young people in several cases. The level of dissatisfaction expressed by these young people could partly be explained by their general level of need and their frustration with training planning meetings, which they felt were repetitive and set unachievable targets.

- 6.47 Twelve of the 16 young people interviewed knew they had a training plan and said they had been involved in its development, and eight of them knew what their targets were. All listed education as part of their plan and good behaviour was commonly cited. There was some frustration expressed that they were not able to meet offending behaviour targets.

I do have a training plan and have felt involved in setting it up.

Yes targets were agreed jointly – but pointless because I can't do them.

Yes I know my targets, but have not been able to achieve them all because this prison does not offer much.

I have no targets set and am not sure how I will prepare for parole or what I have to do to be accepted for parole.

Young people sentenced to DPP

- 6.48 Most, however, did not know they were also required to have a lifer sentence plan, running concurrently with their training plan, which focused on the public protection element of the sentence. Knowledge of the life sentence system and of risk assessment was generally poor and no risk assessments had been carried out at non-specialist sites. Where understanding was better – at the specialist sites – the young people were keen to move to the young adult estate to begin to address their offending behaviour and prepare for parole, though they were aware that this would move them further from home.
- 6.49 In the specialist establishments, review meetings were mostly well attended by a range of disciplines: personal officers, psychologists, seconded probation and YOT workers and education staff, and in the Oswald unit, substance use workers. However, families attended less frequently due to work commitments or distance and this was a concern both for staff and the young people themselves.
- 6.50 About half the young people interviewed thought they would have the opportunity to achieve their targets before their parole date, a quarter were uncertain and another quarter were certain that they would not. Most thought they would have to stay in prison longer if they did not achieve their targets; only one had no idea what could happen to him if he failed to do so.

Case study

P's tariff of 18 months had just expired. He had completed the JETS living skills programme and offence-focused assessment work with psychology, and had a parole report completed in preparation for his imminent parole oral hearing. At the hearing, his legal team and his YOT spent some time consulting with the panel and requested a deferral, given that his legal team had been appointed only 24 hours earlier. It was also requested that further work be carried out with him relating to victim empathy and emotional management that, it was argued, had not been undertaken to a sufficient standard or depth. The panel eventually agreed to a deferral of four months in order that the legal team might be better prepared and other work completed. P had recently heard that his hearing would now be held some time after June 2008.

Appendix 1

Demographic profile of sample

	Males		Females		Young Adults		Juveniles	
	Number	%	Number	%	Number	%	Number	%
Number in sample	30	-	12	-	6	-	16	-
Age (av)	36.4	-	34.8	-	19.6	-	16.8	-
Pre-stage	9	0.3	3	0.25	0	-	0	-
First stage	14	0.46	7	0.58	6	-	14	0.87
Second stage	7	0.23	2	0.16	0	-	2	0.12
Over tariff								
(at time of fieldwork)*	8	0.26	4	0.33	0	-	0	-
Average time in prison								
(months)	14	-	24	-	14	-	8	-
Average time in current								
establishment (months)	8.5	-	7	-	8	-	6.5	-
Black and minority ethnic	10	0.33	1	0.08	2	0.33	7	0.43
Foreign national	2	0.06	1	0.08	1	0.16	0	-
Disabled	4	0.13	2	0.16	0	-	n/a	n/a
GHQ12 scores (av)**	5 (17)	-	6 (12)	-	6 (6)	-	4 (16)	-
Violent offences	5	0.16	5	0.41	4	0.66	7	0.43
Sexual offences	7	0.23	0	-	1	0.16	4	0.25
Arson	1	0.03	4	0.33	0	-	1	0.06

*Excludes those where date of sentence is missing. Numbers provided for 'over tariff' through to 'disabled' have been taken from prisoner interviews so average times spent in custody are approximations, and categorisation of ethnic group, nationality and disability are self-reported, except with the juvenile sample. These questions were not included in the juvenile interview schedule and information was taken from case files.

**Of a total sample of 64, 52 completed a GHQ-12. The average score from the 36 adults (excluding juveniles) is 5.

Appendix II

Methodology

At the time of sample selection, there were approximately 3,069 people serving an indeterminate sentence for public protection. Eleven establishments were selected for the fieldwork. This included three juvenile establishments, one young offender institution, two women's prisons and five adult male prisons (three local and two training).

Six cases were randomly selected at each establishment, with home probation area also incorporated into the selection procedure. There was only one establishment where there were fewer than six serving a D/IPP (HMYOI Brinsford). A total of 64 cases were selected (12 female, 16 juveniles, six young adults and 30 adult males).

Phase one of the thematic was split into two strands. HMI probation reviewed pre-sentence assessment and management for all selected cases, followed by an in-depth review of the post-sentence assessment and management and any work undertaken in preparation for release. HMI Prisons examined the experiences and management for all selected cases serving an IPP/DPP sentence in custody.

HMI Probation sample

- Documentary analysis of pre-sentence assessments and management (PSRs/ OASys) were conducted in 60 cases (12 male children and young people sentenced to DPP, 36 male IPP prisoners and 12 female IPP prisoners).
- Probation and YOT areas were visited to conduct further documentary analysis on 40 cases (five male children and young people sentenced to DPP, 29 male IPP prisoners and six female IPP prisoners). Analysis focused on post-sentence assessment and management and any work undertaken in preparation for release.

HMI Prisons sample

- 64 semi-structured interviews were conducted with prisoners serving an IPP/DPP sentence.
- Documentary analysis of 64 case files was conducted, including sentence planning paperwork and risk assessments.
- 35 respondents completed a GHQ12, a formal measure of psychological wellbeing (juveniles were excluded from the analysis).
- Semi-structured group interviews were carried out with key members of staff directly involved in the management of IPP prisoners. Composition of groups: lifer governor, lifer manager, lifer officer(s), lifer clerk(s), probation/psychology staff and wing staff/personal officers in some instances.

Please note that missing data have been excluded from all analyses. The size of the sample should be borne in mind in terms of generalisability of the findings.

Appendix III

HMI Probation standards and criteria for Inspection of Indeterminate Public Protection (IPP) and Detention for Public Protection (DPP) cases

- 1 Probation/YOT staff provide good advice to courts in order to assist them in assessing dangerousness and sentencing prisoners/children and young people convicted of specified offences as defined by the Criminal Justice Act 2003 Schedule 15 Section 224.**
 - 1.1 Probation staff/YOT staff accurately identify potential cases at the PSR stage who have committed specified offences and therefore could be considered for an indeterminate sentence for public protection or detention for public protection.
 - 1.2 An accurate and comprehensive OASys/Asset informs the report and is based on all relevant information about the offending behaviour of the individual about whom the report is written.
 - 1.3 A clear offence analysis is included in reports, which accurately identifies those factors that contributed to the offence/offending for the individual, rather than simply describing the offence(s).
 - 1.4 Reports clarify the pattern of offending behaviour of the offender/child or young person, including reference to previous convictions where relevant.
 - 1.5 Reports describe risk of harm accurately in terms of both the likelihood of recurrence of the specific harm-related behaviour and the impact of recurrence of the behaviour.
 - 1.6 The author clearly differentiates between the general likelihood of re-offending and the likelihood of the individual committing a further serious violent or sexual offence.
 - 1.7 The risk of harm assessments in reports clearly state who is most at risk of harm from the prisoners.
 - 1.8a Reports demonstrate an awareness and understanding of the diverse needs of the offender/child or young person (including ethnicity, gender, mental health, age).
 - 1.8b (DPP cases only) Reports specifically consider the child or young person's maturity, with regards to their ability to understand the seriousness of the offence and its consequences and to carry out the proposed sentence.
 - 1.9 Sentencing proposals made in PSRs are appropriate and commensurate with the risk of harm assessment.
 - 1.10 Those prisoners/children and young people sentenced to an IPP/DPP are those for whom the sentence is warranted/required by virtue of their level of dangerousness/risk of harm and the need to ensure that the public is protected from them until their risk of harm is minimised and they are assessed as being manageable in the community.

2 Probation/YOT staff communicate effectively with custodial staff to manage the prisoners/children and young people throughout the custodial element of the sentence.

- 2.1 Probation/YOT staff ensure that establishments have the necessary information in relation to the risk of harm and vulnerability of the offender/child or young person sentenced to an IPP/DPP at the earliest opportunity following sentence (on the day of sentence).
- 2.2 Probation/YOT staff contribute effectively to sentence planning in custody, using up-to-date knowledge of the case.
- 2.3 Probation/YOT staff contribute effectively to reviews of risk of harm throughout the custodial element of the sentence and inform the custodial establishment if information comes to light that impacts on risk of harm.
- 2.4 Probation/YOT staff contribute to reviews of OASys/Asset in those cases where prisoners/children and young people have spent over 12 months in custody.
- 2.5 There is evidence of good communication between probation/YOT staff and custodial staff in the management of IPP/DPP cases in custody.
- 2.6 There is good communication between probation/YOT staff and the prisoners/children and young people serving the IPP/DPP sentences during their time in custody.
- 2.7 There is continuity of offender management/engagement with the child or young person by consistent YOT staff during their time in custody.

3 Work with victims – High priority has been given to issues of victim safety, with victims being kept informed of relevant information about the sentence, as well as being able to contribute their views to parole reports.

4 Release preparation – There is positive, proactive and timely joint working between custodial staff and probation/YOT staff in preparation for an offender/child or young person moving between custody and the community.

- 4.1 Parole reports are written to a high standard, are informed by an up-to-date OASys/Asset and include accurate and clearly stated assessments of risk of harm and likelihood of re-offending. There should be a risk management plan included and each report should give a clear recommendation to the Parole Board on whether to grant or refuse conditional release.
- 4.2 MAPPA are utilised effectively in release planning and preparation.
- 4.3 Probation/YOT staff contribute effectively to MAPPA processes, including by following through actions from MAPPA meetings.
- 4.4 Licence requirements are comprehensive and necessary. They are proportionate to the risk of harm, likelihood of re-offending and the protection of victims.

Appendix IV

HMI Prisons interview schedules

Adult/YO prisoner interview schedule

Juvenile prisoner interview schedule

Adult/YO lifer staff interview schedule

Juvenile lifer staff interview schedule

Adult/YO case file checklist

Juvenile case file checklist

Notes