

The Comparative Youth Penalty Project



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Project Newsletter January 2017

The Comparative Youth Penalty Project (CYPP) is an ARC Discovery Project led by Professor Chris Cunneen, Professor Eileen Baldry, Emeritus Professor David Brown, Melanie Schwartz and Professor Barry Goldson (University of Liverpool).

The CYPP is an international comparative study of youth punishment in Australia (focusing on NSW, Victoria, Queensland and WA) and in England and Wales. The project aims to analyse developments in the punishment of children and young people over the last 30 years. This is the first in-depth analysis of Australian youth penalty and the first comparative study of youth punishment across these jurisdictions.

The Project seeks to answer the following questions:

- What are the defining features of contemporary juvenile justice penalty?
- How has youth penalty changed since the early 1980s across the jurisdictions that are the subject of this project?
- How have changing approaches to youth penalty impacted upon particular social groups, including racial minorities, Indigenous youth, young women, and young people with mental and cognitive disabilities?
- What, if any, jurisdictional differences are to be found in discourses on community safety, the nature of childhood and youth (including child welfare and protection), the appropriateness of rehabilitation and the character of punishment practices for youth?
- How has the development of a human rights framework impacted on penal law, policy and practice as applied to youth? What impact, if any, has a children's rights framework had on differentiating youth justice from adult penal systems?

This newsletter provides stakeholders with an update on the progress of the CYPP. It also lists some of the latest news and research in the field of youth penalty. For more information please visit our [website](#) or contact CYPP Research Associate, [Sophie Russell](#).

CYPP News

CYPP Research and Project News

Over the next few months the CYPP team will be finalising and publishing our research findings, with the project to conclude towards the end of 2017.

Chris Cunneen, Barry Goldson and Sophie Russell recently published an article on [Juvenile Justice, Young People and Human Rights in Australia](#), in *Current Issues in Criminal Justice*. The article identifies the key human rights issues that emerge for young people in juvenile justice in Australia. While there is a clear framework for respecting the human rights of children within juvenile justice, the article poses the question: to what extent does Australia actually operationalise and comply with these rights in law, policy and practice? In answering, it discusses various national and international reports, legislation, academic and other research and litigation on behalf of children. It identifies substantive and procedural human rights violations affecting young people in juvenile justice, many of which fall disproportionately on two over-represented groups: Indigenous young people, and those with mental health disorders and cognitive disability. While there are review and compliance mechanisms in place, respect for young people's rights within the broad area of juvenile justice remains problematic.

The CYPP have also published a companion paper on human rights and youth justice reform in England and Wales (Cunneen, Goldson, and Russell 2017 forthcoming).

Conference Presentations

In November CYPP researchers Chris Cunneen, David Brown, Melanie Schwartz, Barry Goldson and Sophie Russell travelled to New Orleans, USA to present a panel on youth justice at the American Society of Criminology Conference 2016. The panel was titled *The Many Colours of Juvenile Justice*.

Chris and Sophie travelled to Hobart for the Australian and New Zealand Society of Criminology Conference 2016. They presented two papers on



Juvenile Justice and Human Rights and Young People with Complex Support Needs in Youth Justice: A Comparative Study. Chris also presented on a sub-plenary panel on Indigenous Criminology; his paper was titled *The Elements of Indigenous Criminology*.

In November, Barry Goldson presented at the UNICEF International conference on Crime Prevention and Resocialisation of Children in Contact with the Criminal Justice System. His keynote presentation was titled *Penal Politics and the Problematics of Child Imprisonment*.

The Booming Industry: Australian Prisons 2017

Eileen Baldry and Sophie Russell have recently written an article titled *The Booming Industry Continued: Australian Prisons, a 2017 update*. The article uses publicly available quantitative data and academic literature to look at the rate of imprisonment across Australia, and the growth in prison numbers particularly for remand, women and Indigenous prisoners. Across Australia, [over half \(54%\)](#) of children in detention are on remand.

The majority of prisoners (both children and adults) are from severely disadvantaged backgrounds, with serious health, mental health and disability concerns. Those with mental and cognitive disability and a history of abuse are grossly over-represented amongst the prison population, as are Indigenous Australians. The continuum from juvenile detention to adult prison ([Chen et al 2005](#)) in which significant numbers of juvenile detainees progress to adult prison, is also seen in the exceptionally high rates of potential mental health disorders amongst that population of young people. In the 2015 Young People in Custody Health Survey Key Findings Report it was found that 83% of the young people in custody in NSW have a psychological disorder. These included 78% having symptoms consistent with a behavioural disorder and 64.5% with substance use disorder (NSW Health and NSW Juvenile Justice 2016). In addition to this, 70% were found to have experienced abuse and 30% had experience 'severe' abuse. The survey also found that 18% had cognitive functioning scores consistent with a possible intellectual disability, compared with less than 3% of the general population, and 39% had cognitive functioning scores consistent with borderline intellectual disability. In addition to this, 51% had severe difficulties in core language skills, and 79% had severe difficulties in reading and comprehension (NSW Health and Juvenile Justice 2016).

The prison is tasked with a number of purposes: punishment, deterrent, protection and rehabilitation. But as this article argues the legitimacy and indeed the viability of these purposes for the majority of those in prison and for the wider citizenry in the context of increasing imprisonment in Australia are challenged using social justice and community well-being analyses. The full article is available to read [here](#).

News (Australia & UK)

Australia

[Chilling poetry reveals Don Dale inmate Dylan Voller's suffering](#), Kate Aubusson, *Sydney Morning Herald*, 27 January 2017.

[Children in group homes face criminal charges for breaking coffee cups, says report](#), Calla Wahlquist, *The Guardian*, 25 January 2017.

[Don Dale: NT Chief Justice denies judges sentencing fewer youth to detention after scandal](#), Alyssa Betts, *ABC*, 21 January 2017.

[Don Dale detainee says he told guards he was giving up before teargassing](#), Steven Schubert, *ABC*, 20 January 2017.

[Children as young as five suspended in NT, Children's Commissioner 'floored' by numbers](#), Jano Gibson, *ABC*, 17 January 2017.

[Youth detention: Former detainees file class action against NT Government, seek compensation](#), James Oaten and Jane Bardon, *ABC*, 11 January 2017.

[Police quell riot at Melbourne youth detention centre](#), AAP, *The Guardian*, 8 January 2017.

[Man on Tas detention centre assault charge](#), Andrew Drummond, *The Daily Telegraph*, 30 December 2016.

[Vic govt loses youth prison appeal](#), Helen Velissaris and Genevieve Gannon, *The Daily Telegraph*, 28 December 2016.

[Doing HSC in Juvenile Justice: pen audits and no phones but 'fewer distractions'](#), Patrick Begley, *Sydney Morning Herald*, 19 December 2016.

[Northern Territory juvenile detention royal commission given four-month extension](#), *The Guardian*, 16 December 2016.

['Stop making Dylan Voller a martyr'](#), *The Daily Telegraph*, 14 December 2016.

['Overwhelming lack of therapeutic support' for Don Dale detainee: youth worker](#), Felicity James, *ABC*, 13 December 2016.

[Dylan Voller was set up to fail by the system, NT royal commission hears](#), Neda Vanovac, *ABC*, 13 December 2016.

[Parole Board rejected offer to rehabilitate teen at centre of NT royal commission](#), Allan Clarke, *BuzzFeed News*, 13 December 2016

[Dylan Voller gives evidence before NT royal commission, says he felt like he was 'going to die'](#), Neda Vanovac, *ABC*, 13 December 2016.

[Don Dale detention royal commission: Dylan Voller evidence vindicates PM's decision](#), Michael Gordon, *The Age*, 12 December 2016.

[Is 2016 the year our leaders are shocked into action for Indigenous kids?](#), Rodney Dillon, *The Guardian*, 8 December 2016.

[We now have a Premier who makes no apologies for disregarding the human rights of children](#), Ruth Barson, *Sydney Morning Herald*, 6 December 2016.

[Children in detention have rights: keeping them in isolation compounds their problems](#), Megan Mitchell, *Sydney Morning Herald*, 2 December 2016.

[FASD: Record Indigenous incarceration rates could be avoided with early clinical assessment: experts](#), Russell Skelton, *ABC*, 28 November 2016.

[Teenage Barwon prisoners kept in their cells as concerns about conditions grow](#), Bianca Hall, *The Age*, 26 November 2016.

[Children in 20-hour lockdown at Barwon Prison: lawyer](#), Bianca Hall, *The Age*, 23 November 2016.

[Juvenile crime fears: Mentoring program that breaks chain of offending under risk from cuts](#), Jane Hansen, *The Daily Telegraph*, 13 November 2016.

[Australia failing to safeguard cultural connections for Aboriginal children in out-of-home-care](#), Alwin Chong and Fiona Arney, *The Conversation*, 9 November 2016.

[Kids self-harm in custody, launch legal action against government](#), Jacqueline Maley and Patrick Begley, *Sydney Morning Herald*, 4 November 2016.

[Northern Territory under pressure to close Don Dale after scathing report](#), Helen Davidson, *The Guardian*, 1 November 2016.

[Teenage boys are locked in cells for up to 23 hours a day and spend one hour of 'recreation' time wearing handcuffs in correctional centres](#), Ashleigh Davis, *Daily Mail*, 27 October 2016.

[Juvenile Justice: NSW to review youth detention centres amid detainee isolation claims](#), Sarah Gerathy, *ABC*, 27 October 2016.

[Teen in NT youth detention left naked for almost 11 hours. Children's Commissioner report finds](#), Sara Everingham, *ABC*, 26 October 2016.

[Indigenous groups must be involved in policy that affects them. inquiry hears](#), Helen Davidson, *The Guardian*, 12 October 2016.

[Don Dale detainee 'unfairly punished' with teargas for actions of others. court told](#), Helen Davidson, *The Guardian*, 27 September 2016.

[A community program in a small NSW town could reform the justice system](#), Emily Brooks, *The Huffington Post*, 19 September 2016.

['You're just a face on a screen really': the huge technology change in NSW courts](#), Rachael Olding, *Sydney Morning Herald*, 19 September 2016.

[Backing Bourke: How a radical new approach is saving young people from a life of crime.](#) Geoff Thompson, Lisa McGregor and Anne Davies, *Four Corners*, 19 September 2016.

United Kingdom

[Child offenders need lifetime anonymity. says review.](#) *BBC News*, 29 December 2016.

[Bewsey lecturer calls for change in youth justice system following critical report](#), Lauren Hirst, *Warrington Guardian*, 27 December 2016.

[G4S should be a failed company by now. But the government won't allow it.](#) Simon Hattenstone and Eric Allison, *The Guardian*, 23 December 2016.

['Secure schools' pilot scheme for young offenders](#), *BBC News*, 11 December 2016.

[Government will use education to offer hope to young offenders.](#) Liz Truss, *The Guardian*, 11 December 2016.

[Our prison restraint techniques can kill children. Why aren't we using alternatives?.](#) Eric Allison and Simon Hattenstone, *The Guardian*, 7 December 2016.

[Some restrain techniques used in youth system 'could kill children'.](#) *The Telegraph*, 6 December 2016.

[Scotland to raise age of criminal responsibility to 12 years](#), Libby Brooks, *The Guardian*, 2 December 2016.

[Spalding murders must not be used to justify more punitive responses to young offenders.](#) Sean Creaney and Stephen Case, *The Conversation*, 12 November 2016.

[Why have so many people in prison spent time in care as children?](#), Claire Fitzpatrick, *The Conversation*, 27 October 2016.

[The terror of young offender institutions](#), Noel Phillips, *BBC News*, 12 September 2016.

[Should all victims of crime have the right to meet the perpetrator?](#) Ian Paylor, *The Conversation*, 1 September 2016.

Research

Acheson, I. 2016 [Summary of the main findings of the review of Islamist extremism in prisons, probation and youth justice](#), Youth Justice Board for England and Wales: UK.

Arthur, R. 2017 [The Moral Foundations of the Youth Justice System](#), Routledge: UK.

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Crowe, K. 2016 [Secure Welfare Services: Risk, Security and Rights of Vulnerable Young People in Victoria](#), Australia, *Youth Justice*, 16(3).

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Fitzgerald, R., Cherney, A., and Heybroek, L. 2016 [Recidivism among prisoners: Who comes back?](#), *Trends and Issues in Crime and Criminal Justice*, No. 530, Australian Institute of Criminology: Canberra.

Grandi, L. D. and Adeler, J. R. 2016 [A study into breaches of youth justice orders and the young people who breach them](#), *Youth Justice*, 16(3), 205 – 225.

Hamilton, C., Fitzgibbon, W. and Carr, N. 2016 [Punishment, Youth Justice and Cultural Contingency: Towards a Balanced Approach](#), *Youth Justice*, 16(3).

HM Inspectorate of Prisons 2016 [Children in Custody 2015-2016](#), HM Inspectorate of Prisons: UK.

Howard League for Penal Reform 2016 [2016 becomes worst year ever recorded for suicides in prisons](#), Howard League: UK.

Howard League for Penal Reform 2016 [Child arrests in England and Wales 2015:](#)

[Research Briefing](#), Howard League: UK.

Human Rights Watch 2017 [World Report 2017](#), Human Rights Watch: USA, pp. 94 – 100.

Mission Australia 2016 [Youth Survey Report 2016](#), Mission Australia: Sydney.

NSW BOCSAR 2016 [Trends in Indigenous offending NSW: 2001 – 2015](#), *NSW Bureau of Crime Statistics and Research*: Sydney.

NSW BOCSAR 2016 [The impact of the NSW Bail Act 2013 on trends in bail](#), *NSW Bureau of Crime Statistics and Research*: Sydney.

NSW BOCSAR 2016 [NSW Recorded Crime Statistics Quarterly Update September 2016](#), *NSW Bureau of Crime Statistics and Research*: Sydney.

Prison Reform Trust 2016 [Sentencing of mothers: improving the sentencing processes and outcomes for women with dependent children](#), Prison Reform Trust: UK.

Sentencing Advisory Council 2016 [Reoffending by Children and Young People in Victoria](#), *Sentencing Advisory Council*: Melbourne.

Taylor, C. 2016 [Review of the Youth Justice System in England and Wales](#), Youth Justice Board for England and Wales: UK.

Tomsen, S. and Payne, J. 2016 [Homicide and the night-time economy](#), *Trends and Issues in Crime and Criminal Justice*, No. 521. Australian Institute of Criminology: Canberra.

Young, J., van Dooren, K., Claudio, F., Cumming, C. and Lennox, N. 2016 [Transition from prison for people with intellectual disability: A qualitative study of service professionals](#), *Trends and Issues in Crime and Criminal Justice*, No. 528, The Australian Institute of Criminology: Canberra.

Victoria Legal Aid 2017 [Care not custody: a new approach to keep kids in residential care out of the criminal justice system](#), Victoria Legal Aid: Melbourne.

Wood, M. 2017 [For gangs with a social media presence like Apex, there's no such thing as bad publicity](#), *The Conversation*.

Events

The [Applied Research in Crime and Justice Conference](#) will be held 15 – 16 February 2017 at the Dockside Function Centre, Darling Harbour Sydney. The conference will showcase high quality Australian and international research in the areas of policing, offender rehabilitation, situational crime prevention, corrections, early-intervention and criminal justice administration.

The [Juvenile Justice Summit](#) will take place on 4 – 5 May 2017 at the Swissotel Sydney. The two day conference is a great opportunity to meet with like-minded professionals and learn about innovation and best practice in the field of youth justice. Through a series of program case studies, policy related papers and research findings; discussions will revolve around intervention, diversion, rehabilitation, risk assessment, staff training and Indigenous youth programs, among other topics. The conference provides a networking opportunity to discuss critical issues in Juvenile Justice.

The [Criminal Lawyers Association of the NT](#) 16th biennial Bali conference will be held from 24 – 30 June 2017. The 2017 conference will be held in Sanur, Bali, and the theme is ‘Justice on the sniff of an oily rag’.

The 17th Annual Conference of the [European Society of Criminology](#) will take place in Cardiff, Wales, from 13 – 16 September 2017.