

The Comparative Youth Penalty Project



Images by: Hunter Desportes, D Sharon Pruitt, Brad Flickinger. Rights reserved by original owners under [Creative Commons Licenses](#).

Project Newsletter October 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

Professor Eileen Baldry becomes UNSW's first Deputy Vice-Chancellor Inclusion and Diversity

In July, Eileen was appointed UNSW's first Deputy Vice-Chancellor Inclusion and Diversity. In September Eileen was elected to the Academy of Social Sciences in Australia in recognition of her outstanding and ongoing contributions to the field of social sciences and criminology.

Barry Goldson visits UNSW

In July 2017, Barry travelled to Sydney for meetings with the Australian CYPP project team. During this time, the project team read through the manuscript of the CYPP book *Youth Justice and Penalty in Comparative Context* which is due to be published mid-2018. During his time in Sydney, Barry also taught the intensive subject Juvenile Justice, as part of the UNSW Law School's Master of Criminal Justice and Criminology programme.

Recent Publications

Human Rights and Youth Justice Reform in England and Wales: A Systemic Analysis

Chris, Barry and Sophie recently published 'Human rights and youth justice reform in England and Wales: A systemic analysis' in the leading journal *Criminology and Criminal Justice*. The article examines the persistently antagonistic relationship – across the past quarter-century – between the provisions of international human rights instruments and the nature and direction of youth justice reform in England and Wales. It introduces the core provisions of the human rights framework that pertain to youth justice and it sketches the nature and direction of policy reform over the last 25-year period under scrutiny (1991-2016). The article applies a detailed systemic analysis; beginning at the point at which criminal responsibility is formally imputed and progressing through each stage of the youth justice system, up to the point where the child might ultimately be deprived of his/her liberty. The article presents an analytical account of both change (policy reforms) and continuity (the enduring nature of human rights violations). The article is available to read online [here](#).

Social Media, Vigilantism and Indigenous People in Australia

Chris and Sophie recently published a chapter for the Oxford Research Encyclopaedia on Criminology and Criminal Justice. The chapter looks at Social Media, Vigilantism and Indigenous People in Australia. In recent years 'anti-crime' Facebook pages have appeared across all states and territories in Australia, and as our social spaces increasingly shift from the physical to the virtual realm, different forms of online 'cyber' vigilantism have emerged. The chapter explores the ways in which community-justice and vigilantism in Australia are exercised through social media in the wider context of the racialised criminalisation of Indigenous young people. It explores how new forms of media are used to produce and reproduce a racialised narrative of crime, which at the same time has the effect of legitimating

violence against (young) Indigenous Australians. In the chapter, the authors draw on a number of these 'anti-crime' Facebook pages, and find that the very presence of these sites legitimates the beliefs of its members, while at the same time providing details of potential targets, most of whom are young people. It is contended that the views expressed on these sites mirror, in more prosaic language, sentiments that are expressed in sections of the old media and among a number of ultra-right politicians and groups. There is, then, an assumed social consensus around what is being presented on the Facebook sites: that overt racism and calls to vigilante violence are socially and politically acceptable. While in some cases there appears to be a direct link between the Facebook groups and incidents of violence, at a broader level it is the constant reinforcement of an environment of racist violence that is most troubling. The chapter is available to read online [here](#).

Indigenous Criminology

Chris has recently co-authored the book *Indigenous Criminology* with Juan Tauri. The book is the first to explore Indigenous peoples' contact with the criminal justice systems comprehensively in a contemporary and historical context. Drawing on comparative Indigenous material from North America, Australia and New Zealand, it both addresses the theoretical underpinnings of a specific Indigenous criminology and explores this concept's broader policy and practice implications for criminal justice at large. In the book, Chris and Juan argue for the importance of Indigenous knowledge and methodologies in shaping this field and suggest that the concept of colonialism is fundamental to understanding contemporary problems in criminology, such as deaths in custody, high imprisonment rates, police brutality, and the high levels of violence in some Indigenous communities. The book is available to purchase in paperback [here](#).

Conference Presentations

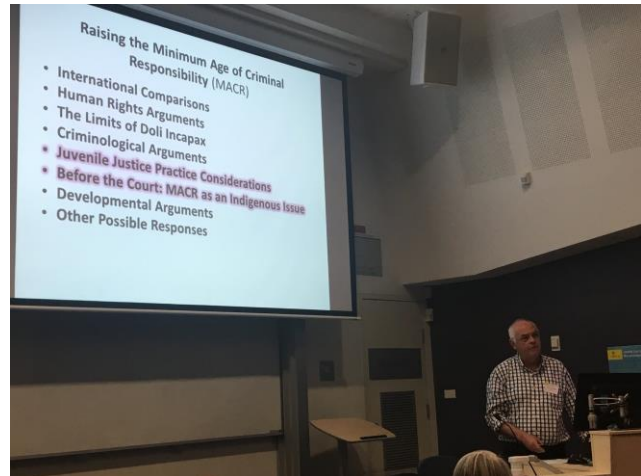
Eileen, Chris and Sophie recently presented a panel on 'Criminalisation or Social Policy?' at the Australian Social Policy Conference held at UNSW from 25-27 September. The guiding theme for the session was the relationship between criminalisation and social policy. The papers presented considered the various ways criminalisation prevents or limits the ability to support people with complex and diverse support needs. At a broader theoretical level, the panel engaged with the problem that crime and criminalisation *subverts* the development of effective social policy and reproduces marginalisation and exclusion along lines of class, race and disability.

Chris Cunneen: We need to raise the age of criminal responsibility

Chris's paper presented in the panel for the Australian Social Policy Conference focused on the age of criminal responsibility. He argued that the age of criminal responsibility is the main legal barrier to criminalisation and thus entry into the youth justice system. Current Australian legislation establishes 10 as the minimum age of criminal responsibility and the UN Committee on the Rights of the Child has criticised the relatively low age in Australia and recommends an absolute minimum age of 12 years, while arguing that 14 or 16 years is more appropriate.

Research from Australia has found that children who first come into contact with the criminal justice system between the ages of 10-14 are significantly more likely to experienced sentenced detention in their later years compared with children who are first supervised at 15-17 years. There is evidence to suggest that raising the age of criminal responsibility (particularly to 14 years) has the potential to reduce the likelihood of life-course interaction with the criminal justice system. Criminalisation of young children ties any community-based welfare or support intervention for the young person to the criminal justice system. The low age of criminal responsibility particularly impacts on Indigenous children. They comprise 87% of 10 and 11 year olds under custodial and community supervision in Australia.

Chris was quoted in the [Sydney Morning Herald](#) saying ‘Children this young should not be prosecuted. It’s not that we shouldn’t respond to them, but it should be through social support rather than criminalisation’, and in [ABC](#) ‘... the political climate at the moment makes it difficult at state, territory and federal levels [to raise the minimum age of criminal responsibility]... but it’s something that certainly needs to happen – just because it’s not on the political radar doesn’t mean it’s not a necessary change’.



News (Australia & UK)

Australia

[Youth justice system rules driving up Indigenous incarceration rate, commissioner says](#), Calla Wahlquist, *The Guardian*, 26 September 2017.

[Hopes resting on royal commission to recommend raising age of criminal responsibility](#), Stephanie Zillman, *ABC News*, 25 September 2017.

[Ten-year-old children should not be locked up, leading criminologist says](#), Jacqueline Maley, *Sydney Morning Herald*, 24 September 2017.

[NT failed boy who said he sniffed inhalants to stop hunger, royal commission told](#), Helen Davidson, *The Guardian*, 21 September 2017.

[QLD LNP would scrap youth bail housing, Stuart Layt](#), *The Australian*, 21 September 2017.

[More than \\$300,000 spent on call-outs to Victoria’s youth prisons in a year](#), Monique Hore, *Herald Sun*, 17 September 2017.

[Bailed Queensland youth to be accommodated in community homes](#), Felicity Caldwell, *Brisbane Times*, 15 September 2017.

[Jesuit Social Services wants targets for tackling youth crime, incarceration rates](#), Wes Hosking, *Herald Sun*, 28 August 2017.

[Children locked in cells and security footage taped over at youth detention centre](#), Calla Wahlquist, *The Guardian*, 19 July 2017.

[Juvenile justice report calls for 'volatile' Banksia Hill centre to be repurposed](#), Jacob Kagi, *ABC News*, 17 July 2017.

[Dylan Voller's family speaks out on juvenile justice, youth services, life after Don Dale](#), Luke Pearson, *ABC News*, 10 July 2017.

United Kingdom

['Urgent action' needed to improve inmate safety in youth offender institutions, warn council leaders](#), *The Independent*, 22 September 2017.

[Don't lock up young offenders – send them to top boarding schools instead](#), Afua Hirsch, *The Guardian*, 18 September 2017.

[Justice system in Wales 'to be reviewed to suit Welsh needs'](#), Tom Davidson, *Daily Post*, 18 September 2017.

[Restorative justice is the way forward](#), Janet Fearnley, *The Guardian*, 16 September 2017.

[Our criminal justice system and prisons need radical reform](#), John Bird and Baroness Young, *The Guardian*, 12 September 2017.

[The racial bias in our justice system is creating a social timebomb](#), David Lammy, *The Guardian*, 8 September 2017.

[Exposed: 'racial bias' in England and Wales criminal justice system](#), Owen Bowcott and Vikram Dodd, *The Guardian*, 8 September 2017.

[G4S – a global security giant with a chequered record](#), *BBC News*, 1 September 2017.

['Tough on crime' created the prisons crisis. It's time for justice to be rational](#), Polly Toynbee, *The Guardian*, 31 August 2017.

[Britain is failing young people in custody](#), Deborah Coles, Joe Sim and Steve Tombs, *The Guardian*, 18 August 2017.

[Judges warns of 'blood on our hands' if suicidal girl is forced out of secure care](#), Kevin Rawlinson, Owen Bowcott and Denis Campbell, *The Guardian*, 4 August 2017.

[Prison crisis causing violence and death](#), Pamela Taylor and Mike Stein, *The Guardian*, 20 July 2017.

Research

Birman, D. 2017 [Should we put juveniles away for life? Meet the teen who sparked a debate](#), *The Conversation*, 2 July 2017.

Creaney, S. and Richards, M. 2017 [Feltham ruling shows youth custody fails to meet needs of vulnerable children](#), *The Conversation*, 5 July 2017.

Cunneen, C. and Russell, S. 2017 [Social Media, Vigilantism and Indigenous People in Australia](#), *The Oxford Research Encyclopaedia for Criminology and Criminal Justice*.

Cunneen, C., Goldson, B., and Russell, S. 2017 [Human rights and youth justice reform in England and Wales: A systemic analysis](#), *Criminology and Criminal Justice*.

Daley, K and Thomas, S. 2017 [How resilience can break the link between a 'bad' childhood and the youth justice system](#), *The Conversation*, 16 May 2017.

Day, A. 2017 [Hearing the voice of looked after children: challenging current assumptions and knowledge about pathways into offending](#), *Safer Communities*, 16(3): 122-133.

Epstein, R. 2017 [How yoga is helping girls heal from trauma](#), *The Conversation*, 1 June 2017.

Fitz-Gibbon, K., Maher, J. and McCulloch, J. 2017 [Long ignored, adolescent family violence needs our attention](#), *The Conversation*, 3 July 2017.

Howard League for Penal Reform 2017 [Out of Control: Punishment in Prison](#), *Howard League for Penal Reform*.

Howard League for Penal Reform 2017 [Child arrests in England and Wales 2016](#), *Howard League for Penal Reform*.

Howard League for Penal Reform 2017 [Judging Maturity: Exploring the role of maturity in the sentencing of young adults](#), *Howard League for Penal Reform*.

Howard League for Penal Reform 2017 [Ending the criminalisation of children in residential care](#), *Howard League for Penal Reform*.

Jesuit Social Services 2017 [#JusticeSolutions Tour: Expanding the Conversation](#).

Golembiewski, J. 2017 [The bad buildings scream – lessons from Don Dale and other failed institutions](#), *The Conversation*, 14 August 2017.

Lammy, D. 2017 [The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System](#),

McFarlane, K. 2017 [Faulty child welfare system the real issue behind our youth justice crisis](#), *Green Left Weekly*, 18 February.

O'Brien, G. 2017 [Excluding Indigenous youth from schools may severely increase their risk of incarceration](#), *The Conversation*, 19 September 2017.

O'Brien, W. and Fitz-Gibbon, K. 2017 [The Minimum Age of Criminal Responsibility in Victoria \(Australia\): Examining Stakeholders' Views and the Need for Principled Reform](#), *Youth Justice*, 17(2): 134-152.

Royal Commission into the Protection and Detention of Children in the Northern Territory 2017 [Voices: What children have told us – Child Protection](#)

Schiraldi, V. 2017 [Juvenile Prisons: It's Time to Close 'Factories of Failure'](#), *The Crime Report*.

Speaking Out with Larrisa Behrendt 2017 [Dylan Voller Speaks Out](#).

Staines, J. 2017 [Looked after children and youth justice: a response to recent reviews](#), *Safer Communities*, 16(3): 102 – 111.

Stone, N. 2017 [Sentencing Children: Overarching Principles Revisited](#), *Youth Justice*, 17(2): 171 – 180.

Trotter, C. 2017 [Working with families in youth justice](#), *Probation Journal*, 64(2).

Williams, K. 2017 [In care, out of trouble – a policy perspective](#), *Safer Communities*, 16(3): 92 – 101.

Events

The [American Society of Criminology Annual Meeting](#) will be held from 15-18 November 2017 in Philadelphia, PA. The theme for the conference is Crime, legitimacy and Reform: Fifty Years after the President's Commission.

The 30th Annual [Australian and New Zealand Society of Criminology Conference](#) will be held from 5-8 December 2017. The conference will bring together academics, researchers, students, policy makers, and practitioners from across the criminology and criminal justice field to share knowledge and insights from criminology's rich traditions, it's vital current

contributions and its emerging future. The theme for this year's conference is 'Acknowledging the past, imagining the future'.

The [Applied Research in Crime and Justice Conference](#) will be held on 13 –14 February 2018 in Brisbane. The event is intended for both researchers and policy makers. Officers from all levels of government will have the opportunity to see how new research might assist them in developing more effective, more efficient and more equitable ways of managing crime and justice.