

# JUVENILE JUSTICE

YOUTH AND CRIME IN AUSTRALIA

FOURTH EDITION

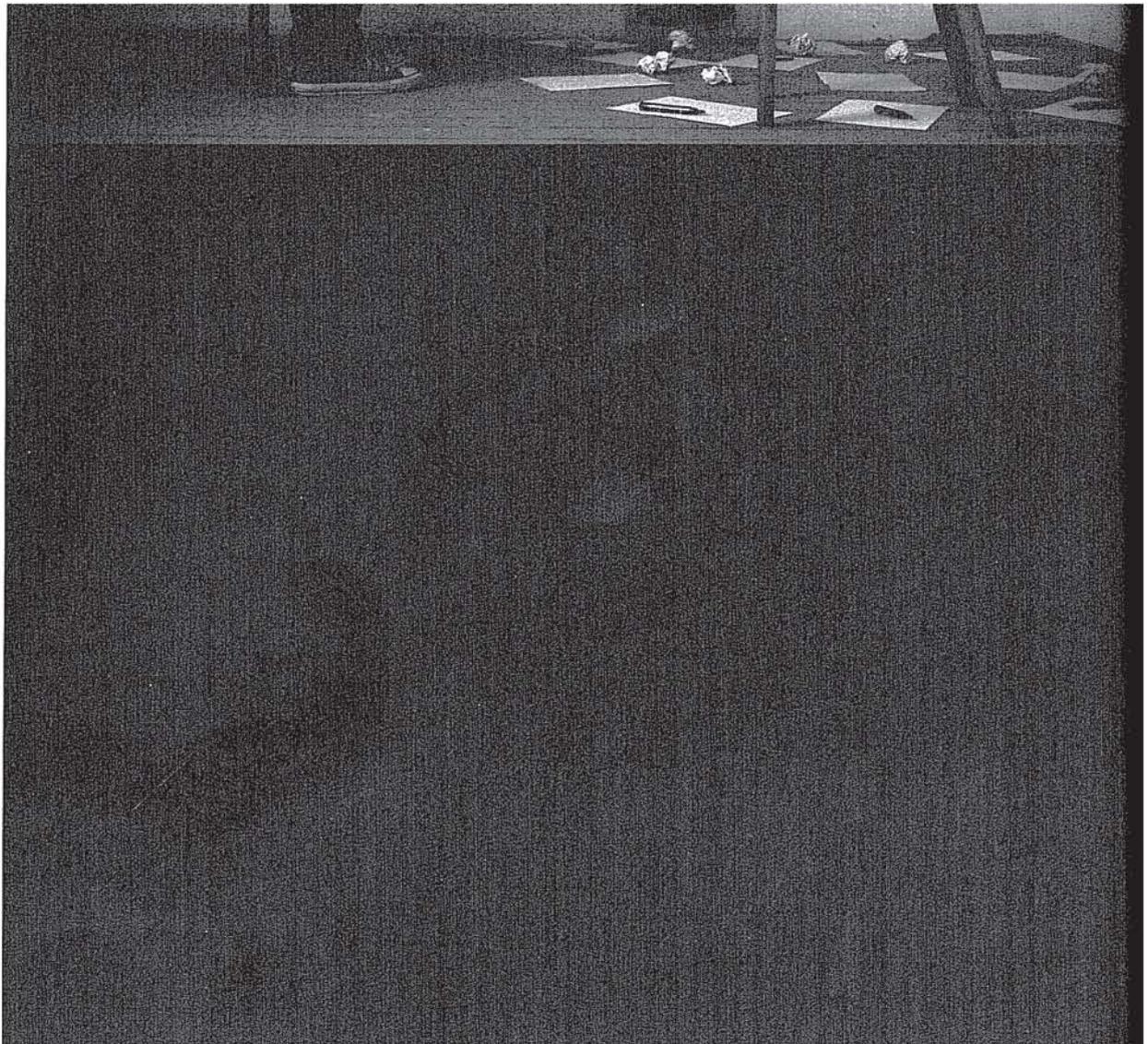
CHRIS CUNNEEN & ROB WHITE

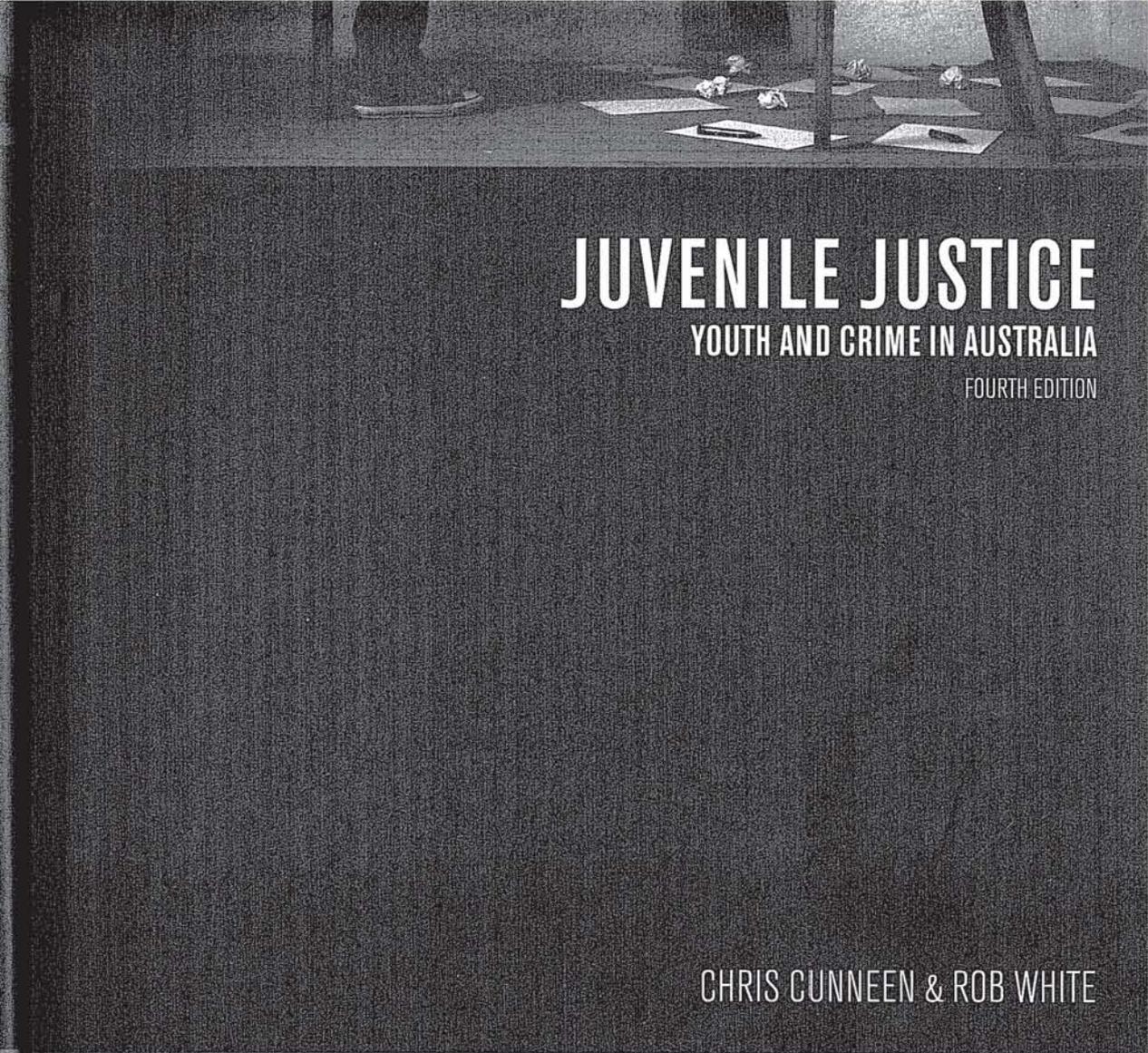
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# CONTENTS

List of Tables, Boxes, and Figures	vi
Introduction	vii
Acknowledgments	x
<b>PART I HISTORY, THEORY, AND INSTITUTIONS</b>	<b>1</b>
1 The Development of Juvenile Justice	2
2 Theories of Juvenile Offending	26
3 The Nature of Contemporary Juvenile Crime	53
4 The Institutions of Juvenile Justice	86
<b>PART II THE SOCIAL DYNAMICS OF JUVENILE JUSTICE</b>	<b>115</b>
5 Class and Community	116
6 Indigenous Young People	149
7 Ethnic Minority Young People	177
8 Young Women, Young Men, and Gender	202
<b>PART III THE STATE, PUNISHMENT, AND COMMUNITY</b>	<b>233</b>
9 Policing the Young	234
10 Courts and Sentencing Processes	259
11 Detention and Community Corrections	290
12 Youth Crime Prevention	327
13 Restorative Justice and Juvenile Conferencing	353
<b>Bibliography</b>	<b>377</b>
<b>Index</b>	<b>413</b>

## LIST OF TABLES, BOXES, AND FIGURES

Table 3.1	Alleged offenders and recorded crime, New South Wales, April 2009–March 2010	57
Table 3.2	Alleged offences by juveniles apprehended by police, South Australia, 2006	59
Table 3.3	Finalised criminal matters in the New South Wales Children’s Court, 2008	60
Table 5.1	Parents’ perceptions of the characteristics of a good preschool	138
Table 6.1	Indigenous young people in detention centres in Australia, daily average 2007–08	150
Table 6.2	Aboriginal and non-Aboriginal juveniles: police apprehension by major-offence category, South Australia, 2006	158
Table 6.3	Young people referred by police to a conference or to court by Indigenous status	166
Table 10.1	Court outcomes for proven offences, New South Wales Children’s Court, 2008	285
Box 1.1	Historical interpretations	22
Box 2.1	Main focus of theories of youth offending	45
Box 4.1	Key juvenile justice legislation in Australia, 2010	88
Box 4.2	International human rights: juvenile justice	91
Box 8.1	Judicial observations regarding young female offenders	222
Box 9.1	Youth and police perceptions of each other	237
Box 12.1	Social institutions and young people	330
Box 12.2	Models of youth crime prevention	333
Box 13.1	Three ways to respond to young offenders	354
Figure 6.1	Intervention type by Indigenous status, New South Wales, 2004	156

# INTRODUCTION

This book is about youth and crime in Australia, and the institutions and agencies associated with the administration of juvenile justice. It provides an overview and introduction to the main concepts and issues of juvenile justice in a way that is simple and descriptive, yet critical. The intention is to provide basic information across a broad range of areas, and in so doing raise a number of questions about the institutions of juvenile justice and, indeed, how we think about issues of juvenile justice.

Depictions of young offenders and juvenile justice agencies are all too often based upon exaggeration, stereotype, and conjecture. Politicians and the media constantly bemoan the present youth generation's lack of discipline and respect. We are frequently told that many of these young people, especially certain 'ethnic' youth, are beyond redemption. For every story about a youth gang, there is a simultaneous demand for an even bigger stick to keep young people in line.

Young people, it seems, should not be seen or heard. They should not be allowed in the street or be visible in city centres or local neighbourhoods. To grow up 'good', they need to be restricted in where they can go and what they can do. To protect society, young people need to be under control and under surveillance.

When young people act up, when they commit crimes or engage in antisocial behaviour, then they must be held accountable. Here, we are told, the solution is to make them responsible for their actions. They must pay for their transgressions. They must make amends for the harm they have caused. They must be made to change their ways.

The distorted outlooks on and punitive approaches to youth behaviour that are so prominent in the media and in the political arena are made manifest in many different ways in the juvenile justice system. Simultaneously, however, non-coercive alternatives are also being developed, as many practitioners and theorists in the field of juvenile justice appreciate more fully than others in the community the complexities and difficulties of life for young people in

## INTRODUCTION

the twenty-first century. Ongoing debate and discussion surround how people think about the problems of 'youth crime' and also how best to respond to it. Competing opinions indicate both the highly political nature of juvenile justice and important differences in basic philosophies.

It is more than a decade and a half since our first edition of *Juvenile Justice* was published by Oxford University Press. Since then we have seen at various times heightened public concern and moral panics about ethnic minority youth, about young refugees and about youth gangs; we have seen the development of mandatory sentencing regimes for juvenile offenders in the Northern Territory (since repealed) and Western Australia (still in place); the apparent acceptance of zero tolerance policing, especially in public spaces; the persistent over-representation of Indigenous young people within the juvenile justice system (which has grown worse in some states such as Western Australia and New South Wales); and intensification of intervention in the lives of young offenders and non-offenders alike. Inequality and social polarisation are growing, accompanied by the racialisation of criminal justice and the criminalisation of the poor—despite a federal Labor government since 2007 with a commitment to social inclusion. With the demise of the welfare state and the rise of the repressive state, discussion has often centred on how best to control, manage, and contain those youth suffering most from the disadvantages of social, economic, and political exclusion. In practical terms these changes manifest themselves in growing remand populations as more young people are refused bail, and the introduction of more punitive legislative measures such as move-on powers for police and court orders prohibiting antisocial behaviour.

On the positive side, greater attention is now being given to the basic rights and wellbeing of young people. In particular, there has been a growth in the human rights perspective as a critical perspective by which to evaluate policing practices, the operation of courts and youth conferences, and the conditions under which young people are detained or sentenced to community work. Renewed emphasis on crime prevention has likewise been used to challenge explicitly the coercive 'law and order' approaches. Meanwhile, the increasing popularity of 'restorative justice', with an emphasis on repairing social harm, can serve as an important counterweight to traditional retributive methods that emphasise punishment. All Australian states and territories have some diversionary processes in place, including police cautioning and youth conferences. Decreasing crime rates during the last decade may yet provide an opportunity to lower our levels of youth incarceration and expand non-punitive, socially supportive youth justice policies.

Analysis of the principles, policies, and practices of juvenile justice is never a politically neutral exercise: that is, it always involves value judgments of some kind. In our view, such review and evaluation ought to be guided by a vision of society, and of young people, in which human rights and dignity are respected, and social equality and human liberation are the goals.

## INTRODUCTION

This means that issues of class division, racism, sexism, homophobia, and colonialism can never be far from the centre of analysis. The marginalisation of specific groups of young people (and their families and communities), and their criminalisation by the mainstream criminal justice system, reflect substantive inequalities and the oppressive structures that shape everyday life in Australian society.

This book is divided into three parts. Part I, 'History, Theory, and Institutions', provides a historical and theoretical overview of the development of juvenile justice, its main institutions, and the nature of contemporary juvenile crime as determined by the actions of official state agencies. Part II, 'The Social Dynamics of Juvenile Justice', provides an analysis of how class, ethnicity, race, and gender impinge upon the processes and institutions of juvenile justice, and how particular groups of young people are dealt with by the system in ways that reflect their specific social location and status in society. Part III, 'The State, Punishment, and Community', examines the operation of various parts of the juvenile justice system, from police and courts through to detention, crime prevention, and juvenile conferencing. Each section of the book provides a wide-ranging survey of relevant facts and figures, literature, and concepts, while raising issues and perspectives necessary to a critical appraisal of key questions in the juvenile justice area.

If we are to comprehend the situation of young people adequately, and to interpret their position within the field of criminal justice, then analysis must be informed theoretically as well as validated empirically. A critical criminology is one that builds upon the knowledge and conceptual contributions of socially progressive perspectives and approaches. In so doing, the objective is to provide a clear, unambiguous picture of the existing field, while retaining a critical edge.

The misrepresentation of youth on the one hand and the intrusiveness of the state on the other demand that issues of young people and crime be considered carefully and in a wider social and political context. We hope that, in its own modest way, this book will assist those who wish to create a more humane and socially just system of juvenile justice in Australia.

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