

STANDARD BRIEFING NOTE #12

Children at the Margins: Human Rights Challenges in South Australia's Youth Justice System

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This Briefing Note contains key points, key terms, background information and examples of practical application as well as links to further information and local contacts. It does not contain legal advice and should be used as a starting point for further research rather than an authoritative source. Feedback on its contents is welcome.

Key Points

Purpose & Context

- This briefing note examines systemic human rights challenges within South Australia's youth justice system, focusing on how structural inequalities, punitive institutional practices and post-release disconnection continue to harm children and young people. It aims to inform reform through rights-oriented, social-work, evidence-based analysis and recommendations.
- Australia has signed several major international human rights treaties that protect the rights of children in the justice system, including the *Convention on the Rights of the Child (CRC)*, the *Convention on the Rights of Persons with Disabilities (CRPD)*, the *International Covenant on Civil and Political Rights (ICCPR)*, and the *UN Declaration on the Rights of Indigenous Peoples (UNDRIP)*. These agreements make it clear that detention should only ever be used as a last resort and for the shortest possible time. While these obligations apply nationally, criminal law is handled by each state, which means South Australia carries direct responsibility for ensuring that its youth justice laws and practices align with these international standards.
- Unlike the ACT, Victoria and Queensland, South Australia does not have a Human Rights Act, leaving no overarching framework to ensure that government decisions uphold children's rights. Furthermore, South Australia's age of criminal responsibility remains 10—lower than the Northern Territory and the ACT (12) and below the internationally recommended minimum of 14. Protections for children and young people involved in the youth justice system are fragmented across the Young Offenders Act 1993 (SA) and the Youth Justice Administration Act 2016 (SA), with oversight provided by the Guardian for Children and Young People (GCYP), the Training Centre Visitor (TCV), the SA Ombudsman and the Commissioner for Children and Young People (CCYP). These are supported by programs and mechanisms such as the Integrated Housing Exits Youth Justice Program, the Metropolitan Aboriginal Youth and Family Services (MAYFS) and various Aboriginal advisory bodies.

- While these oversight frameworks offer important safeguards, their statutory powers are limited and they do not fully ensure compliance with international human rights obligations. Recent trends in key youth justice indicators reflect this limited impact: the average daily number of young people under supervision has increased from 255 in 2019–20 to 292 in 2023–24; the average daily rate of First Nations children under supervision has risen from 115 to 138 per 10,000; the proportion of young people on remand has grown from 81% to 85%; and the 12-month return-to-sentenced-supervision rate has increased slightly from 40.2% in 2019–20 to around 43% in 2022–23 (Australian Institute of Health and Welfare [AIHW], 2021; 2025a; 2025b). Detention also imposes a disproportionate fiscal burden—South Australia spent approximately AU\$49 million on detention-based services in 2023–24, equating to around AU\$4,189 per child per day (South Australian Council of Social Service [SACOSS], 2025)—yet systemic gaps remain.
- From a human rights and social work perspective, the circumstances of children and young people in South Australia’s youth justice system reflect systemic disadvantage rather than individual failure. Intersecting factors such as poverty, trauma, disability, and cultural marginalization interact with institutional responses that prioritize control over care. Data from the AIHW (2025a) and the CCYP (2022) show that children facing overlapping disadvantage—such as being Aboriginal or Torres Strait Islander, having a cognitive disability or mental illness, or experiencing unstable housing and poverty—are heavily overrepresented in detention. This pattern breaches multiple international human rights obligations. The overrepresentation of Aboriginal children contravenes the principles of non-discrimination and cultural safety under the *Convention on the Rights of the Child* (CRC, Art. 2) and the *UN Declaration on the Rights of Indigenous Peoples* (UNDRIP). The detention of children with disability, mental illness, or homelessness violates *Articles 14, 23, 27, and 37(b) of the CRC and CRPD*, which protect liberty, adequate living standards, and care. Collectively, these systemic failures illustrate how structural and cultural barriers continue to criminalize disadvantage, undermining children’s dignity, rights, and wellbeing.
- To move forward, South Australia requires an integrated and rights-based youth justice framework that strengthens human rights oversight, equitable resource allocation, and community reintegration. This approach is operationalised through three interlinked initiatives: (1) the Bail Accommodation Access Program (BAAP) to reduce unnecessary remand through safe, accessible housing options; (2) the Human Rights Oversight and Digital Coordination to ensure transparency, data accountability, and protection of children’s rights in detention; and (3) Vulnerable Youth Intervention and Post-release Support to provide coordinated, trauma-informed assistance that bridges youth justice, social services, and community organizations. Together, these initiatives translate social work and human rights principles into actionable reform across custody, transition, and reintegration stages.

Lived Experience: Voices from Young People

Young people's lived experiences provide essential insight into how South Australia's youth justice system operates in practice—beyond its stated intent of rehabilitation. Their voices reveal the human impact of systemic inequality, institutional neglect, and service fragmentation. From a social work perspective, these testimonies represent not individual weakness but relational and structural harm that reflects deep systemic injustice. Listening to these accounts is fundamental to understanding where the system fails to uphold dignity, connection, and hope.

Many children and young people describe being criminalised for behaviours linked to distress, trauma, or unmet need. **One young person in residential care shared that carers called the police “maybe 10 times” when they became upset, using police as a behaviour management tool instead of providing emotional support** (GCYP, 2023).

Others speak about being held in custody not because of risk to the community but because they had nowhere else to go. **“Stakeholders believe some children are being placed on custodial remand because they have no place to go, or because they cannot participate in programs that are only made available to children who are already in detention”** (CCYP, 2022).

The overrepresentation of Aboriginal and Torres Strait Islander children further exposes the system's structural bias. As Lambden observed, **“This is a crisis that is just going to get worse because between 26 May and 8 June there were 24 juveniles arrested but from 6 April to 8 May there were seven. So in a month we saw a 243% increase in Aboriginal children arrested”** (Cumming-Burns, 2023).

Inside detention, detention systems fail to accommodate the needs of young people, including those with disabilities, reflecting a punitive approach rather than a rehabilitative one. **“They lock disability kids up in here, bro. It's shameful.”** (Brennan, 2024). Another observed that carers failed to protect their dignity and human rights, conducting medical care through “cuff traps,” and placed them in an environment of degradation and psychological harm. **“That little rectangle on the door – that is undignified and there's no privacy.” Shona Reid said, Guardian and Youth Detention Inspector, “They weren't able to have staff escort them or take them to a place where they can have confidential services.”** (Cumming-Burns, 2023). Reduced access to education is another big system's failure to uphold children's basic rights. At South Australia's Kurlana Tapa Youth Justice Centre, due to chronic staff shortages and extended cell confinement, children often spend most of the day locked in their rooms, leaving minimal time for education or rehabilitation programs. **As one young person reflected, “When school was running properly, we got three-plus hours in class a day; now that's down to one”** (Cumming-Burns, 2023).

After release, many young people express feelings lost and unsupported. **“I had no idea who to reach out to or where to go. I slept on the streets and had no choice but to go back to the foster carer. All kids should know where to go to seek help.”** (The Constellation Project, 2022).

From a social work standpoint, these voices call for a system grounded in human rights, cultural safety, and trauma-informed practice. Amplifying lived experience is an ethical imperative under the Australian Association of Social Workers (AASW) Code of Ethics (2020), which demands respect for persons, social justice, and participation. Meaningful reform in South

Australia must begin by centring young people's perspectives—ensuring their voices and experiences shape policy, program design, and every stage of their journey through and beyond the justice system.

Key Problems and Human Rights Concerns in South Australia

Problem 1 – Structural Inequality

Who Enters the System: Social and Structural Drivers of Youth Justice Involvement

In South Australia, structural inequality within the youth justice system continues to produce disproportionate outcomes for children and young people. On an average day in 2023–24, First Nations young people make up only 5.4% of South Australia's 10–17 population but represent 54% of those under supervision and 55% of those in detention (AIHW, 2025a). They were about 21 times more likely than non-Indigenous peers to be under supervision (138 per 10,000 compared with 6.7 per 10,000) (AIHW, 2025a). This disproportionate representation reflects long-standing structural and cultural inequities—including intergenerational disadvantage, limited access to culturally safe diversion options, and systemic bias in policing and judicial decision-making—rather than differences in offending behaviour, a point repeatedly affirmed in national analyses (AIHW, 2025a).

Dual involvement between the care and justice systems is another defining feature of South Australia's youth justice landscape. Linked administrative data demonstrates that 84% of South Australian young people under youth justice supervision have had prior contact with child protection, and 24% have lived in out-of-home care (Malvaso et al., 2020). These patterns indicate that child protection involvement—often associated with poverty, placement instability, and family adversity—is one of the strongest predictors of later justice contact. Many young people are drawn into the system not because of the seriousness of alleged offending, but because they lack stable housing or cannot meet bail conditions—structural circumstances that elevate justice visibility rather than inherent criminogenic behaviour (CCYP, 2022).

Family adversity and community disadvantage frequently intersect in the lives of young people who enter South Australia's youth justice system. A South Australian study found that 89% of supervised young people had experienced maltreatment and household dysfunction (Malvaso et al., 2022), while many also grow up in neighbourhoods characterised by social isolation, limited youth programs and concentrated policing. In these contexts, loosely organised peer groups—often labelled as “gangs” in political and media discourse—can provide a sense of identity, safety and belonging rather than reflecting organised criminal intent (Lee, et al., 2021). For children facing cumulative trauma and weak community supports, these dynamics increase exposure to police and heighten the risk of early justice involvement.

When unrecognised, communication and cognitive difficulties—such as slow processing speed or trouble following instructions—are easily misinterpreted by schools, police, and courts as defiance or aggression. South Australian data illustrates this risk. At the Kurlana Tapa Youth Justice Centre, of 36 young people screened, 29 completed CELF-5 testing, with 89.7% at risk of language disorder and 72.7% showing moderate–severe difficulty understanding paragraph-level information (Department of Human Services [DHS], 2020). D-REF results showed 77.9–83.9% had significant impairments in executive functioning, attention, or working memory.

Without appropriate screening and disability-informed support, these children face elevated risks of exclusion, punitive responses, and justice involvement—a pathway shaped by systemic rather than individual shortcomings.

From a social work perspective, the overrepresentation of Aboriginal and Torres Strait Islander young people and those experiencing cumulative disadvantage demonstrates how structural inequities—such as poverty, racism, intergenerational trauma, inadequate early screening—translate into criminalisation. Social workers recognise that these outcomes stem from systemic exclusion rather than individual behaviour (AASW, 2020; Ife, 2012). Practice therefore requires cultural humility, genuine partnerships with Aboriginal-controlled organisations, and advocacy to reform policies that treat disadvantage as risk, while investing in preventative, community-led supports that address the structural drivers of harm before children enter the justice system. A structural approach positions social workers as agents of social justice, addressing the root causes of offending through prevention, community development, and equitable resource distribution.

Problem 2 – Institutional Failures

How the System Responds: Control, Containment, and the Failure to Meet Children's Needs

Conditions in South Australia's youth detention facilities—formerly the Adelaide Youth Training Centre (AYTC) and now the Kurlana Tapa Youth Justice Centre—continue to attract scrutiny from oversight bodies for breaching humane standards and violating children's rights (Ombudsman SA, 2019). Once children enter the youth justice system, institutional responses frequently default to punitive, containment-based practices rather than therapeutic care. The TCV (2025) reported a 50% increase in isolation incidents between late 2023 and early 2024, noting that isolation continues to function as a behaviour-management tool rather than a safety measure. Ombudsman SA (2019) similarly found that two children were confined to their rooms for more than 22 hours a day and subjected to punitive handcuffing, and documented 57 uses of spit hoods between 2016 and 2019—conditions the Ombudsman described as incompatible with humane care. These punitive responses reflect a custodial logic centred on surveillance, compliance, and operational convenience, exacerbating distress and retraumatising young people whose behaviours often reflect unmet needs rather than wilful defiance.

Besides, despite the high level of need among children in detention, Kurlana Tapa frequently fails to provide timely assessment, therapeutic care and education. A recent audit by the CCYP (2023), drawing on TCV's data, found that in 2022–23 each unit spent an average of only 2 hours and 45 minutes in class per day – far below a standard school day. The same report noted that children with disability accounted for between 53.0% and 97.7% of those placed in the Protective Actions Unit on any given day, indicating that disability-related distress is disproportionately managed through segregation rather than support. TCV inspections have also documented delays in health assessments after incidents and that young people can be excluded from education until an initial health assessment is completed, further disrupting learning and rehabilitation. More recently, SA Health data show that around 44% of children detained at Kurlana Tapa have been prescribed melatonin to help them sleep, underscoring how

custodial conditions and inconsistent routines undermine children's basic wellbeing (Richards, 2024).

From a social work perspective, these practices highlight a system that remains punitive rather than trauma informed (Ife, 2012). The use of isolation, handcuffing and segregation reflects an institutional response focused on control instead of recognising behaviours as expressions of trauma, disability, grief or unmet needs (TCV, 2023). Such practices retraumatise children and undermine safety, trust and healing—core foundations of effective rehabilitation. Inadequate access to assessment, therapeutic care and education further indicates a system driven by operational convenience rather than children's developmental and wellbeing needs (Ife, 2012). These conditions illustrate institutional failings that compromise children's rights and hinder their capacity to recover, learn and reintegrate.

Problem 3 – Post-release Disconnection

What Happens After Release: Fragmented Supports and Cycles of Vulnerability

For many children in South Australia's youth justice system, release from detention does not mark a transition toward stability but instead ushers in a new period of uncertainty. Post-release support remains fragmented, inconsistently delivered, and poorly coordinated across Youth Justice, Housing SA, Centrelink, community organisations, and culturally specific services. Without a consistent statewide reintegration framework, the level and timing of support rely heavily on individual caseworkers, organisational capacity and local service availability rather than a predictable system of care.

As a result, young people frequently exit detention without stable housing, income security, educational pathways, or access to therapeutic and cultural support. The Constellation Project (2022) reports that young people leaving detention are almost twice as likely to experience homelessness or rely on temporary accommodation compared with their non-justice-involved peers. Oversight bodies have repeatedly documented inconsistent handovers, unclear agency responsibilities, and delays in accessing essential supports, all of which contribute to disconnection at a critical stage (CCYP, 2022; GCYP, 2023). Structural barriers compound these difficulties: during custody, Centrelink payments are suspended, and re-activation requires identity documents, proof of address, and banking information that many young people do not possess (Department of Social Services [DSS], n.d.).

These systemic shortcomings directly shape post-release outcomes. Instead of improving, the 12-month return-to-sentenced-supervision rate has shown a gradual upward trend in recent years (AIHW, 2025b), reflecting the enduring absence of coordinated, trauma-informed, developmentally appropriate support. In practice, young people are often left to navigate complex housing, income, mental health, and educational systems alone, increasing their risk of homelessness, police contact, and further justice involvement. Rather than providing a structured pathway back into community life, South Australia's post-release environment continues to reproduce cycles of vulnerability, reinforcing the very conditions that youth justice interventions aim to prevent.

From a social work perspective, the fragmented reintegration environment exposes a deeper systems failure: children are released into contexts that cannot meet the developmental, relational and therapeutic conditions required for recovery. Rather than functioning as a bridge

back to community, disconnected services disrupt the continuity that trauma-affected young people rely on for safety and regulation. As Ezell et al. (2018) emphasise, without targeted rehabilitation to address trauma, re-offending becomes more likely. Oversight bodies likewise note that the absence of coordinated, developmentally appropriate pathways compounds harm at the point of release (CCYP, 2022). In human-rights terms, such fragmentation violates the principles of dignity, participation and holistic care that should underpin youth justice practice (Ife, 2012).

Comparative Lessons

When identifying solutions that could work in South Australia, the strongest lessons emerge from Victoria and Queensland—the only Australian states operating under legislated human rights frameworks, the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and the *Human Rights Act 2019 (Qld)*. These Acts require decision-makers to consider children’s rights when developing or applying youth justice policies, giving practical domestic effect to the principles of dignity, liberty, and participation embodied in the *Convention on the Rights of the Child* and the *Convention on the Rights of Persons with Disabilities*.

Victoria’s youth justice system provides a strong model for South Australia through its sustained, rights-based reform agenda. Guided by the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, all authorities must consider children’s rights and proportionality, embedding rehabilitation and participation as central principles. Under the *Youth Justice Strategic Plan 2020–2030*, Victoria has expanded early intervention and diversion programs such as the Children’s Court Youth Diversion Service (CCYD), which allows young people to complete tailored community or education plans—94% of which are successfully completed—thereby avoiding conviction (Centre for Justice Innovation, 2020). The Youth Justice Bail After-hours Service (YJBAS) complements this framework by providing statewide, after-hours bail assessments that enable supervised community release instead of overnight remand (Department of Justice and Community Safety Victoria [DJCS], n.d.). Together with restorative practices such as Youth Justice Group Conferencing and Court Integrated Services Program (CISP), these initiatives are likely to have contributed to Victoria maintaining one of the lowest detention rates nationally (DJCS, n.d.).

Queensland demonstrates measurable, program-level improvements alongside a stronger community focus. Program evaluations report tangible reductions in re-offending: participants in Intensive Case Management (ICM) recorded a 51% reduction in reoffending frequency over six months—22% greater than a matched comparison group—and more than 40% remained offence-free up to three years post-completion (Department of Youth Justice and Victim Support [DYJVS], 2023). An independent evaluation of Transition to Success (T2S) found custody exposure fell from 1.8 to 1.1 nights per month in the 12 months after participation, with 67% of participants did not re-offend within 12 months (DYJVS, 2024a). Complementing these program-level reforms, the Youth Crime Taskforce—formerly the Youth Justice Taskforce—developed a Multi-agency Action Plan with a cross-sector panel to address serious youth offending through coordinated responses between police, youth justice, housing, health, education, and child protection agencies (DYJVS, 2024b). This collaborative framework promotes continuity of care, earlier intervention, and shared accountability across government sectors, reinforcing Queensland’s gradual shift toward a rehabilitative and community-based

youth justice model supported by measurable improvements in outcomes.

An instructive international example is the United Kingdom’s Mobile Apps for Youth Offending Teams (MAYOT) initiative, co-designed with young people, caseworkers and youth justice managers to improve day-to-day supervision and engagement (Barn & Barn, 2019). Piloted across several Youth Offending Services, the app integrates practical tools—appointment reminders, visual progress dashboards, curfew and exclusion-zone alerts, and links to substance-use and knife-crime prevention resources—that directly support compliance and routine decision-making. Evaluations found that these features increased punctuality, reduced missed appointments, and enabled more constructive casework conversations, with young people reporting greater clarity about expectations. Behavioural-economic research further explains these effects: adolescents rely heavily on fast, heuristic-based choices, meaning simple prompts and timely cues can meaningfully shift behaviour (Taylor et al., 2023). Limitations remain, including privacy risks, inconsistent smartphone access and concerns that digital tools can drift toward surveillance if poorly governed. Importantly, as of 2023 the app continues to be tested within several Youth Offending Teams—such as Medway YOT—demonstrating practical, ongoing utility rather than a discontinued pilot. For South Australia, comparable co-designed and trauma-informed digital supports—such as SMS “nudge” reminders for bail and appointments—could strengthen communication, accountability and wellbeing monitoring while upholding children’s dignity, participation and cultural safety.

Recommendations and Action Plan

1. Bail Accommodation Access Program (BAAP)

Aim: Prevent unnecessary remand and reoffending by ensuring every young person has timely access to safe, supported, and culturally appropriate bail accommodation.

- **Micro:** Within 72 hours of bail approval, Youth Justice, Housing SA, and Aboriginal Community Controlled Organisations (ACCOs) and other organisations collaborate to secure a suitable address, ensuring disability access and cultural safety.
- **Mezzo:** A 72-hour Service-Level Agreement (SLA) enforces accountability between agencies. Unmet obligations trigger automatic alerts to oversight bodies such as the TCV and GCYP.
- **Macro:** Aggregated, de-identified data feed into a **public Bail Accommodation Dashboard**, showing waiting times, unmet needs, and geographic gaps to drive resource coordination and transparency.



Local Evidence:

The Bail Conditions for Children Report (CCYP, 2022) reports that in a 12-month period in South Australia more than 2,000 children under 18 were held in police watch-houses because no suitable accommodation was available, indicating a systemic coordination failure rather than individual offending. To enhance sustainability and avoid duplication, the BAAP could be linked with Housing SA's existing Integrated Housing Exits Program (IHEP) (Housing SA, n.d.).

2. Human Rights Oversight and Digital Coordination Platform (HRD-SA)

Aim: Create a transparent, real-time monitoring and early-warning system to detect rights breaches and prevent degrading treatment in detention.

- **Micro:** Daily data track key indicators—education hours, isolation time, healthcare access, family contact. If thresholds are exceeded (e.g., >22 hours isolation), automatic alerts prompt internal and external reviews.
- **Mezzo:** Monthly summaries are shared with TCV and GCYP to strengthen inter-agency coordination and accountability.
- **Macro:** A **public Human Rights Dashboard** publishes anonymized data on isolation, education, and service access, ensuring community oversight and trust.



Local Evidence:

Investigations at Kurlana Tapa Youth Justice Centre revealed children confined for up to 23 hours per day with minimal education access, highlighting the urgent need for proactive monitoring (Cumming-Burns, 2023; No Child In Solitary, 2024).

3. Vulnerable Youth Intervention and Post-release Support Panel (VYIP)

Aim: Provide coordinated, culturally safe, and sustained support for young people exiting detention or at risk of reoffending.

- **Micro:** Each child is assigned a case coordinator who presents their care plan to a multidisciplinary panel including Youth Justice, Housing SA, Disability Services, Education, and Aboriginal Community Controlled Organizations (ACCO)s.
- **Mezzo:** The panel meets weekly to allocate resources, ensure transition planning, and coordinate NGO-led community programs for housing, education, and wellbeing.
- **Macro:** The panel publishes an **Annual Youth Transition Outcomes Report** tracking housing stability, education re-engagement, and recidivism to guide reform.

Local Evidence:

Queensland's Multi-agency Action Plan with a cross-sector panel reduced reoffending through cross-sector coordination; a similar model in South Australia would enhance accountability and continuity of care (DYJVS, 2024b).

Integrated Action Plan

Priority	Lead Agencies	Core Actions	Timeframe
Cross-sector System Reform Task Force	Attorney-General's Department; Department of Human Services (Youth Justice); ACCOs (e.g., ALRM); SA police	Establish a 12-month cross-sector task force to co-design a rights-based youth justice framework	Within 3 months
BAAP Pilot Implementation	DHS (Youth Justice), Housing SA; Aboriginal Legal Rights Movement (ALRM); Supporting Role: NGOs (Shelter SA, youth-specialising housing	Launch a 12-month pilot providing 20 bail beds with real-time coordination and quarterly data on remand reduction and housing stability. A BAAP coordinator will match eligible youth to placements within 72 hours of bail.	Within 6 months

	providers , and ACCOs to deliver culturally appropriate accommodation and support		
HRD-SA Rollout (Human Rights Dashboard)	GCYP, TCV, Rights Resource Network SA; NGOs	Develop and deploy a Human Rights Dashboard with automatic alerts and quarterly public reporting to monitor detention conditions, education access, and contact with family.	Within 12 months
VYIP Establishment (Vulnerable Youth Intervention & Post-release Support)	DHS, Education SA, Disability Services SA, ACCOs	Form a standing inter-agency panel to ensure continuity of care for young people leaving detention—integrating housing, income, education, and disability supports, with annual outcomes reporting.	Within 12–18 months

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