

ATTACHMENT A – COMMENTS ON RECOMMENDATIONS

Substantive recommendations

1.	That the Four Pillars model be adopted as the Government’s Youth Justice Policy: a. Intervene early b. Keep children out of court c. Keep children out of custody d. Reduce reoffending	We would revise: a) ensure children get the best start in life, from the time of conception (universal responses) b) intervene early and positively (eg health, child care, school identify emerging issues) c) keep children out of court d) keep children out of custody All of the above and the actions related to them relate to achieving a goal of “reducing reoffending”
Prevention and Early Intervention		
2.	That a Youth Justice strategy include collaborative crime prevention and early intervention initiatives in high-risk communities	All of this needs to be undertaken in a non-judgemental way and would be best done by community-based organisations with good links in and around community. This will permit the building of the trust and relationships which will enable families to engage and seek help. For schools, this means investing in resources such as a social welfare worker, or team for larger schools or schools in areas which are considered to be high risk. These staff should not be EQ employees.
3.	That a systematic response be developed for cases where indicators identify a need for early intervention.	
4.	That schools become focal points for early intervention for children in need of targeted support, with key agencies working collaboratively to proactively identify, assess and work with families, communities and non-government organisations.	
5.	That the Government consider appropriate alcohol and drug assessment, and interventions for families and children as part of early intervention.	We would like to see more than “consideration” of this recommendation.
Education, Vocational Training and Employment		
6.	That the Government consider adopting a collaborative model between the Department of Education, Department of Child Safety Youth and Women, and the Childrens Court, based on the Victorian Education Justice Initiative (EJI).	We also refer to the YAC Youth Court Assistance Program described earlier in this submission. The issue of safe and suitable accommodation is equally critical – children struggle to maintain schooling when they are homeless or at risk of homelessness.
7.	That consideration be given to using the Youth Engagement Charter as a platform for further work in education and employment pathways when engaging with high-risk children involved in the youth justice system.	We would like to see more than “consideration” of this recommendation.
8.	That targeted resourcing be provided for schools with a high occurrence of children with problem behaviours so that teachers can retain their focus on education while specialist behaviour management staff can focus on those aspects.	For schools, this means investing in resources such as a social welfare worker or team for larger schools or schools in areas which are considered to be high risk as well as behaviour management staff. These staff should not be EQ employees. Exclusions must be a last resort and better options put in place in terms of ongoing education than currently exist – relying on Distance Education is inappropriate: this is not what it was set up for and relies on strong parental or adult support –the very thing which is often lacking for children who are in the youth justice system.

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9.	That alternative and flexible schooling options and pathways into them are available for children in the youth justice system and those at high risk of mainstream school disengagement.	This recommendation is supported as long as it is not understood to relieve schools of their responsibility to provide an education for all children and ensure that they are flexible to enable this. It should not be an excuse for schools “moving the problem on”. They must be part of the solution.
10.	That supported transition back to school following a period in detention is delivered in partnership between the Department of Education, Department of Child Safety, Youth and Women, Department of Aboriginal and Torres Strait Islander Policy and local community organisations.	This recommendation is supported, as transition points are always critical.
11.	That the importance of vocational training, job readiness and employment is recognised and reflected in responses to criminal offending, in particular for older children who are involved in the criminal justice system.	This recommendation needs to be stronger – DCSYW needs to have a partnership with the Department of Employment and Training in relation to older children connecting to proper work opportunities.
Health and Wellbeing		
12.	That the capacity to conduct full physical health, mental health, disability and educational assessments of children at all levels of the youth justice system, together with referral to related treatment and programs be progressed to the greatest extent possible.	We would suggest that assessment of children who are in contact with the police for the first time, unless for a very serious offence, or the police can readily identify that there is a significant problem, is not cost effective. The data indicate that a significant number of children will not come to police attention again after a caution – or indeed a first court appearance. Resources are limited and should therefore be focussed where they are most necessary and effective.
13.	That training in the impact of trauma on neurological development, and the risk of impairment be adopted for key staff working in the youth justice system, notably frontline police, teachers, judiciary and legal practitioners, as well as Youth Justice staff and non-government service providers.	Training needs to also include child and youth development in general as adolescence itself is a risk factor in offending. This is why there should be a specialist court and different approach for all children, whether or not they remain in the system.
Substance Abuse		
14.	That the Government consider extending drug diversion to drugs other than cannabis for minor drug offences committed by children.	Agreed.
15.	That the Government consider a range of evidence-based treatment options for children in the youth justice system with substance abuse issues.	This should require the Government to commit to evidence based treatment options if we are to achieve the goals of reduced offending, avoiding court and avoiding detention.
Minor Offending		
16.	That members of the Queensland Police Service be supported in exercising discretion not to prosecute and be provided with as wide a range of options as possible in that regard.	The police are already directed by the legislation to consider the options other than offending. Diversion by police should apply except for the most serious of offences. Limiting discretion to minor offences will miss the aim of keeping children out of court.
17.	That pathways for police to refer to non-government service providers for the purposes of diversion be enhanced.	Engagement with community services will be the best option provided that such services are not given responsibility for breaching children, which will have the potential to limit rapport and relationship-building.

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Protected Admissions and Enhanced Diversions		
18.	That the Government support a trial of a 'Protected Admissions' and enhanced diversions scheme in a suitable location, which, if successful, could be progressively introduced in other locations across the State.	YAC would appreciate the opportunity to be part of the discussion in relation to this. We have not had any input into this proposal as we were not consulted in the development of the Report.
Bail		
19.	That the Government maintain the existing Supervised Bail Accommodation services in Townsville, Logan and Carbrook and consider extending the referral pathways to include: a. children leaving detention b. children on bail and ordered by the court to reside as a condition of bail c. children subject to police bail d. children on supervised orders who have nowhere suitable to live.	We refer to the community consultation and research that was undertaken when the YBASS program was established. Placing children back in their communities with support is usually the better option, both in the short and long term. It is our experience that the criteria children must meet to be in an SBA are too rigid and will not take many of the young people that we would work with. A continuum of services is required.
20.	That a referral pathway similar to the Bail Assistance Line (BAL) in NSW be considered.	We do not know enough about this to be able to comment but if programs have been shown to work, they should be considered.
21.	That child criminal matters be returned to court regularly to test readiness to proceed and, where a child is in custody, whether bail is appropriate.	This can be problematic for children: too many court appearances when nothing progresses is frustrating and risks their non-attendance. The defence lawyer has primary responsibility for bail for their client where those are the instructions. It should be noted that some children may choose to stay in detention.
22.	That further measures be put in place to ensure bail conditions do not place unrealistic expectations on children in light of their circumstances, whilst ensuring community safety.	"Community safety" will be compromised where unnecessary and inappropriate bail conditions are applied because children will see them as such and breach them.
23.	That, to the greatest extent possible, bail support services are available to keep children in the community, instead of remanded in custody	Agreed – a continuum of services is needed, with SBAs as a last resort.
Remand in Custody		
24.	That goals be set to progressively reduce the proportion of children on remand in custody, with annual targets and key milestones.	Targets do not necessarily achieve results as we have seen with Indigenous deaths in custody and Closing the Gap.
25.	That measures be put in place to ensure all children on remand in custody have access to rehabilitative programs to address the criminogenic factors relating to their offending including, where indicated, continuation of the program on release from custody.	Agreed
Restorative Justice		
26.	That restorative justice conferencing continue to be promoted for use in a wide range of child offending matters.	Agreed – however, more consideration needs to be given to restorative justice orders other than conferencing. For the small group of recidivist offenders, engaging with a conference may be problematic if they have mental health or substance use issues, intellectual impairment, language difficulties (in English and English as a second language), have autism, or other behavioural challenges. YJ needs to provide flexible alternatives to achieve similar outcomes to a conference but in a way which will make it an effective process for all concerned.

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27.	That Youth Justice staff, police and courts are supported with the requisite knowledge, skills, training and resources to facilitate referral of a wide range of offences to restorative justice conferencing.	Agreed
28.	That the Government consider adopting other forms of restorative justice for application in Queensland, including Family Group Conferencing and Family-Led Decision-Making, with specific consideration of their relevance and suitability to deal more effectively with Aboriginal and Torres Strait Islander children who commit offences.	There is no discussion of children in care and the failure of the State as the child’s guardian. What should happen in these situations?
Court Orders and Sentencing Options		
29.	That the capacity for mental health and disability assessments to assist the courts be enlarged to the greatest extent possible, including availability and timeliness.	Agreed - this relates to culpability at its most basic level.
30.	That the Government consider legislation and facilities to make available to the courts, therapeutic and forensic orders for children with mental health, substance use or disability issues related to their criminal offending.	This should require Government to take this action if there is a real commitment to “intervening early”, and avoiding court and custody.
31.	That the range and content of current court orders and sentence options under the Youth Justice Act 1992 be reviewed and consideration be given to a wider range of options being available for children’s courts.	These options should be diversionary in nature – therapeutic, educative, and possibly with a community service component.
Detention		
32.	That the Government adopt a goal of reducing by half the number of children entering detention for the first time (516 in 2016-2017), by 2019-2020.	We note our previous concern regarding targets.
33.	Noting the negative consequences of detention, that detention be used for serious offenders where public safety is a factor.	We should respond to the evidence and research, not populist views, so we agree.
34.	That consideration be given for more use of detention options in alternative community settings for example community detention, leave of absence, community service, and for court-ordered periods at on-country residential programs, remand fostering and professional foster care.	Agreed: leave of absence has been used more extensively in the past and is particularly useful as part of the transition from detention.
35.	Should the construction of additional detention centre infrastructure be required, that consideration be given to designing facilities that are different from the current large-scale institutions. They should ideally be small in size, built in multiple locations across Queensland and potentially specialised and therapeutic in focus, to meet the circumstances of different cohorts of children, for example girls, serious and high-risk offenders, or offenders with challenging behaviours.	Agreed: we would support the dismantling of the current institutions and move towards more appropriate facilities over time rather than if “more are needed”. They should follow best practice in terms of being therapeutic and educative.
36.	That flexibility with detention and remand orders be adopted so that children can spend time outside of a detention centre during periods of custody to maintain positive connections to home and country and to support their transition and reintegration back into the community.	Agreed – is a similar recommendation to R 34 above

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Electronic Monitoring Devices		
37.	That the Government examine the use of electronic monitoring together with community or home detention as an alternative to detention in a youth detention centre.	<p>We are yet to be convinced of the appropriateness of this before undertaking other strategies discussed in the Report. The money spent on these devices and monitoring would be better spent on services to address issues which are contributing to offending with the longer term benefits that provides.</p> <p>We also have significant concerns about their use on Aboriginal and Torres Strait Islander children in light of historical use of shackles etc.</p>
Stand-alone Specialist Childrens Court		
39.	That the Government consider establishing a standalone Childrens Court for all youth justice and child protection matters based on the model that currently exists in New South Wales.	It was a great disappointment when the only Childrens Court building was closed without any consultation. The current environment is less than ideal in a number of ways. If buildings cannot be designated for use as Childrens Courts then the Court should keep operation of the Childrens Court quite separate in time from other court matters.
40.	Allowing for resource implications, that more full-time Childrens Court magistrates be appointed over time to work exclusively in the Childrens Court jurisdiction.	Agreed – but all Magistrates should have an appropriate level of training to be able to undertake this work where necessary.
41.	That the President of the Childrens Court be able to perform that role and provide the associated leadership and management in a full-time capacity.	Agreed – this would give greater status to the Court and the work it does.
42.	In recognition of the benefits of greater specialisation, that consideration be given to extending the summary jurisdiction in the Childrens Court to enable specialist children’s magistrates to deal with more serious offences.	Agreed – but it is about having a specialist court as currently there is no specialisation, only a small modification of the rules.
Legal Representation in the Children’s Criminal Jurisdiction		
45.	That lawyers who practice in the children’s criminal jurisdiction undertake specialist training and accreditation, potentially developed and delivered jointly by LAQ and ATSILS.	YAC lawyers only undertake Childrens Court work. That significant expertise includes engagement and working with young people. With that of the youth lawyers at South West Brisbane Community Legal Centre and Logan Youth Legal, YAC would have a role to play in the delivery of training, not only LAQ and ATSILS. We refer to comments made earlier in our submission.
46.	<p>If the Four Pillars are adopted as Government policy, that:</p> <p>a. the Legal Aid funding model for children’s criminal matters be reviewed to examine if it can better support early finalisation of matters and non-court outcomes for children who come into contact with the criminal justice system;</p> <p>b. local area protocols be established between QPS, ATSILS, LAQ and Youth Justice with a view to diverting more children from court, custody and the criminal justice system;</p> <p>c. LAQ and ATSILS collaborate on implementing the four pillars in their criminal justice practices.</p>	<p>It is not simply about LAQ funding. There are three community legal centres who could already do this work within their current grant guidelines.</p> <p>Supporting more holistic legal and social welfare responses, as per the YAC model detailed previously, would also be a way to support early finalisation of matters and greater diversion.</p> <p>We would argue that YAC already implements the Pillars of keeping children out of court, keeping children out of detention and seeking to prevent re-offending.</p> <p>Any protocols need to be in relation to the police and their willingness to divert and enable engagement with lawyers when needed.</p>

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Multi-agency, Coordinated Approaches		
47.	That the Government consider implementing collaborative approaches similar to Townsville Stronger Communities Action Group (TSCAG) in other towns and communities experiencing child offending and community concern.	We have heard quite mixed responses to how this is rolling out and its level of success. We would like more information about this.
Place-based Approaches		
48.	That the Government consider adopting place-based approaches that address both the causes of offending as well as responses to offending in Queensland towns and communities with high levels of concern about youth offending.	High levels of concern are not of themselves indications of a problem: the offending rate in Townsville is barely higher than the State average but the local media and some very vociferous citizens have given the impression to the contrary. It is important that government actively seeks to re-assure community about the situation and not simply respond as if what is being alleged is correct. Getting community involved by taking responsibility for their own young people is a key step: if they are their children in their community then clearly they have ownership of the problem and the solution. Place-based approaches are known to be preferable in terms of implementing solutions.
Non-Government Services and Programs		
50.	That systems for identifying effective referral services are enhanced to the greatest extent possible to ensure these services are known and available to key agency staff in the locations in which they work.	Agreed
51.	That referral pathways are optimised for police, Youth Justice, courts and relevant Government agencies to facilitate referrals of children to non-government and other support services.	Agreed
After-Hours Services		
52.	That the Government trial key agency and government-funded after-hours service provision in conjunction with police in locations where high levels of need is identified.	Agreed – although police need to be directed to not undertaking police interviews in the middle of the night but organising them at a more appropriate time unless there are significant risks in not so doing.
53.	That the Government consider re-allocating funding to after-hours services where high levels of need are identified.	This would be the initial priority but then should continue to be rolled out generally.
54.	That the necessary industrial and contractual arrangements be investigated to enable and support after-hours service provision by key Government agencies and NGOs.	Government will have to actively support and resource properly trained and skilled staff.
55.	That after-hours youth facilities modelled on 'The Lighthouse' in Townsville be considered for other high-risk youth offending locations in Queensland where there are limited safe, suitable activities and locations for teenagers at night time.	The provision of a space for young people to congregate is important everywhere. Activities are good, but they also need to have a place where they can just sit and "chill", watch a movie, listen to some music, or read a book – as many adults want to do.
56.	That policies, procedures and practices of key agencies be enhanced to support discussions between police, relevant key agencies and NGOs to progress the intent of the four pillars.	It is not clear what this refers to and is something of a motherhood statement.

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Driver Licence and Vehicle Support Programs		
58.	That consideration be given (in partnerships, including with the Departments of Transport and Main Roads, the Motor Accident Insurance Commission, and the Department of Employment, Small Business and Training) to a program for 16-17 year olds in the youth justice system that would assist in obtaining a driver’s licence and potential employment in a motor vehicle or transport-related field.	This is also critical to avoid the driving related offences such as unlicensed driving. Programs such as Brake the Cycle should be available across the State and should incorporate defensive driving skills.
Technology to Reduce Car Theft (UUMV) and Traffic Offending		
59.	That Government continue to support the development and use of technological solutions to prevent car theft.	This is a general criminal justice/crime prevention issue: it does not need to be in a YJ strategy
60.	That Government seek to put the use of technological solutions to prevent car theft on a national agenda.	Not relevant to this discussion.

It is perplexing that two key and threshold matters – the Minimum Age of Criminal Responsibility and the overrepresentation of Aboriginal and Torres Strait Islander children – are not discussed in their own right until the end of the Report, after a number of much less pressing issues

Minimum Age of Criminal Responsibility (MACR)		
68.	That the Government support in principle raising the MACR to 12 years subject to: a. national agreement and implementation by State and Territory governments b. a comprehensive impact analysis c. establishment of needs based programs and diversions for 8-11 year old children engaged in offending behaviour.	We refer to the detailed comments in relation to MACR in the body of our submission but our view is that 14 should be the minimum age. Programs for intervening early would obviously be those we would look to in terms of responding to behaviour which would be criminal if the child was the subject of the criminal law.
69.	That the Government advocate for consideration of raising the MACR to 12 years as part of a national agenda for all states and territories for implementation as a uniform approach.	If the Government wishes to proceed in line with other jurisdictions in relation to MACR, it should then reflect on those offences being used to criminalise children who are not criminalised in other Australian jurisdictions. We refer to the detailed comments in relation to this in the body of our submission.
70.	In the interim, that the Government consider legislating so that 10-11 year olds should not be remanded in custody or sentenced to detention except for a very serious offence.	We would prefer this to apply to 10-13 year olds.
Aboriginal and Torres Strait Islander Over-representation		
71.	That the Government set long-term goals for Aboriginal and Torres Strait Islander children in the criminal justice system, the priority being that the rate of incarceration of Aboriginal and Torres Strait Islander children be no higher than that of non-Indigenous children.	Aboriginal and Torres Strait Islander communities should be consulted on this – or preferably decide what they consider to be appropriate goals. We would for argue medium- to long-term goals as over-representation is such a long standing issue.

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72.	That the Government set annual targets for progress towards long-term goals for reducing the over-representation of Aboriginal and Torres Strait Islander children at multiple points in the criminal justice system, including: a. children charged with offences b. children under community-based supervision c. children remanded in custody, and d. children subject to detention	We have made comment previously in relation to targets but we will follow the lead of Indigenous organisations and elders as to their view of this.
73.	That the Government consider a program of community consultation in Aboriginal and Torres Strait Islander communities experiencing high levels of concern about youth offending to encourage local solutions to youth offending.	There will be little point in consulting unless the government is prepared to commit actual resources and implementation. Communities have been over-consulted and seen little result over the years. The issue of self determination will be key.
74.	That DCSYW and other criminal justice agencies set targets for Aboriginal and Torres Strait Islander representation and report annually against these targets.	We have made comment previously in relation to targets.
75.	That staff of key agencies who engage with child offenders undertake cultural competency training and development.	Agreed.

Other recommendations

BYDC and CYDC Human Resource Management		
38.	That the Department of Child Safety, Youth and Women continue to progress a long-term comprehensive workforce plan that embraces professionalisation and best practice for youth detention centre staff.	Agreed.
Stand-alone Child Legislation		
43.	That the Government consider stand-alone child criminal justice legislation that potentially incorporates bail and police powers and responsibilities relating to a child. That consideration also be given to including in the stand-alone children’s criminal legislation, provisions relating to court proceedings for children, the role and functions of the Childrens Court and the role of key agencies in the youth justice system.	This would assist comprehension of the Childrens Court jurisdiction as a whole as well as promoting consistency across courts.
44.	If the Four Pillars are adopted as Government policy that consideration be given to adopting them as principles and objectives in legislation that impacts on preventing and responding to youth offending.	The Youth Justice Act objects are relatively procedural in tone although they make reference to the Charter of Youth Justice Principles. The principles are quite lengthy and it might be helpful to have an overarching set of principles which they sit under.
Information Sharing		
49.	That the Department of Child Safety, Youth and Women in conjunction with other key agencies examine ways to maximise sharing information about children in the youth justice system to facilitate decision-making and positive outcomes for children.	Seeking consent is always a good starting point! YAC staff find that if the client is engaged and you explain why information needs to be shared, then the client will often agree. This is a more transparent way to work with people.

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		<p>A significant concern is information shared with schools: for example, the police or youth justice share information with a school which then chooses to suspend or exclude a student – which it can easily achieve under the current legislation. Considering the rate of exclusions and suspensions, this would be more than hypothetical.</p>
Community Champions		
57.	<p>That the Government consider appointing Community Champions in locations in Queensland where there are high levels of community concern about youth offending.</p>	<p>High levels of concern does not mean that those concerns are justified – Townsville is a prime example.</p> <p>YAC is not an enthusiastic supporter of Community Champions. The recollection of the author, who was an employee in the Department of Aboriginal and Torres Strait Islander Affairs around the time when Community Champions were implemented was that the intention was that the Champions would be advocates within government circles to ensure that various departments were engaging with and providing relevant supports to the DOGIT communities. The success of this seemed to depend very much on the individuals concerned rather than the program per se.</p> <p>We are not convinced that military figures are best placed to be Champions – it implies that a community is a battleground. Finding “champions” within communities would be more empowering – or at least this being a priority of an appointed Champion so that they can hand over to the community and give it the responsibility it needs to take.</p> <p>We have also heard mixed reports in relation to the Townsville experience.</p> <p>To what extent are the voices of young people actually heard and their communicated needs and views given any priority? We suspect not to any great extent: the children we are concerned with are the ones which some highly vocal adults (and media) are doing their best to demonise.</p>
Role of Key Agency Group and Regional Cross-Agency Coordination		
61.	<p>That an oversight body of key agencies continue to lead a whole of government youth justice strategy</p>	<p>Who would be responsible for convening such a group? It is important that it does not allow for attendance to be devolved to a degree that the group is ineffective.</p>
62.	<p>That Government consider strengthening regional departmental leadership and accountability for key agencies concerned with youth justice.</p>	<p>Agreed – this cannot be a Brisbane-based response.</p>
Measuring Success		
63.	<p>As part of a youth justice strategy, that the Government adopt goals related to key priorities, including the amount and frequency of representation of Aboriginal and Torres Strait Islander children in the youth justice system, educational engagement of children in the youth justice system, the proportion of children in detention who are remanded in custody, and recidivism.</p>	<p>What constitutes recidivism is a complex discussion: what is to be counted? We believe that the collection of data will need to go well beyond what is listed here.</p>

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64.	That success of a reformed and integrated youth justice system be measured using a combination of different measures of offending and reoffending and other outcomes concerning the key factors impacting on offending, such as improvements in education, mental health and family functioning, as well as factors that are important to communities, such as feeling safe and secure, less frequent offending, less harmful offending, and community confidence.	This recommendation again implies that children are responsible for communities being, or perceived as being, unsafe. We refer to comments in the body of the submission.
65.	That differential harm measures, such as the crime harm index and the offending magnitude measure, are tested and applied to assist police, courts, and youth justice service providers to make better decisions about what is working to reduce youth offending and reoffending.	We are unable to comment on this – save to note again, children should not be the focus of criminal justice responses.
Media		
66.	That the Government adopt a coordinated Statewide media strategy to promote and support the Four Pillars policy position.	Publication of data such as at the beginning of our submission is important.
Research, Evaluation and Knowledge Dissemination		
67.	That the Government: a. develop, support and contribute to youth justice and youth crime prevention research agendas for Queensland and Australia and that these align with strategic priorities and guide further research conducted by academics and other external researchers b. explore opportunities for partnering with Universities c. develop research and evaluation capability of Government staff and a scholarship program for those who wish to advance the evidence base alongside developing their own professional knowledge and skills d. explore opportunities for youth-justice-specific conferences e. publish research and evaluation findings in a variety of formats suitable for different audience	We suggest partnering with those working in the NGO sector who bring a day to day experience of the system and not least, with identifying opportunities to talk to young people about how and why they found themselves in the system and what did or did not work for them.
A Vision for the Future and a National Agenda: 20-20-38		
76.	That the Queensland Government endeavour to have youth offending put on a national agenda, preferably under the COAG regime.	See our comments in the main part of our submission
77.	That consideration be given to putting the issue of the disproportionate representation of Aboriginal and Torres Strait Islander children in the criminal justice system on a national level to develop an effective, nationally agreed bipartisan strategy with a set of nationally agreed goals	This should have been part of the original Closing the Gap initiative but governments did not want justice targets at that point. The question needs to be much broader: it is one of self-determination and an opportunity to move forward positively instead of constantly in deficit mode.