CHILDREN'S COURT OF NEW SOUTH WALES

Standard Operating Procedures during Christmas/New Year 2020 Children's Court Bail Courts

(AVL from Cobham, Acmena, Riverina, Baxter, Reiby and Orana Youth Justice Centres and some regional police stations)

INTRODUCTION

The purpose of this procedure is to outline the process and responsibilities of all agencies for the operation of bail hearings conducted for young people during Christmas Closedown period from 25 December 2020 to 10 January 2021 (inclusive).

This procedure does not change the current Weekend and Public Holiday Bail Court SOPs for periods falling outside the Christmas Closedown period.

The aim of these procedures is to ensure consistency in decision making, access to legal practitioners with experience in Children's Court matters and access to Youth Justice in providing the Court with information and arranging alternative supports for children who might otherwise be refused bail.

To this end all bail hearings for young people during this period across NSW will be conducted before a Magistrate at Parramatta Children's Court via AVL from a Youth Justice Centre <u>unless</u> it is impracticable for the person to be transported and detained in a detention centre as contemplated by s9 *Children (Detention Centres) Act* 1987.

For the purposes of these Standard Operation Procedures (SOPs) the Children's Court, NSW Police Force, the Children's Legal Service – Legal Aid, Aboriginal Legal Service and Youth Justice agree that ordinarily it would be considered impracticable for the young person to be transported to a Youth Justice Centre for a bail application in the first instance if the relevant police station is more than 2 hours from the relevant detention centre. However, in other circumstances the Children's Court at Parramatta will consider dealing with a young person from a police station if, for example, the bail hearing would be dealt with the following day if the young person was transported to a detention centre. (see para 4.2). This generally applies to regional police stations only.

This document sets out the requirements and tasks to be completed for bail hearings in each of these scenarios. However, it is acknowledged that in exceptional circumstances adjustment may need to be made to these SOPs but only where it is in the interests of the young person concerned.

1. PART 1 - PRE-COURT ARRANGEMENTS

AVL to Parramatta Children's Court from a detention centre Initial transport and receipt of detainees

- 1.1 Where a young person is detained by Police (i.e. Bail refused/not met), the young person is to be transported to a detention centre by Police or Youth Justice in accordance with s9 of the *Children (Detention Centres) Act* 1987 unless the charging police station is more than 2 hours from the detention centre.
- 1.2 Where a young person is transported to a detention centre the following paperwork is to be provided to the detention centre:
 - Court Attendance Notice
 - Facts sheet
 - Police Transfer / Intoxication Note
 - Property Docket
 - Custody Management Record
 - Police Photo
 - Copy of any arrest warrants for the young person
 - Form 7 (reason for bail decision by authorising officer)
- 1.3 Where a detention centre receives a young person, the detention centre staff are to prepare a list of detainees for bail court (see attached Form 1 **Appendix A**).

Parents and guardians

1.4 Youth Justice staff are to telephone a young person's parent/guardian to advise that the young person is to appear before the Bail Court at Parramatta Children's Court by audio visual link (AVL). Centre staff are to ask parent/guardian if they wish to be involved in bail court hearing via telephone. The parent/guardian's telephone number

is to be provided to the Court on the form 1, with an indication of whether they wish to participate in the AVL hearing. If they wish to participate parents are to be advised to be by their phone to be contacted 5-10 minutes prior to the hearing (refer also para 20).

Preparing for a hearing

1.5 Youth Justice Centre staff are to email Form 1 to Parramatta Children's Court Police Prosecutors (email PCCP@police.nsw.gov.au) by 6.30am on the morning of the Court and include in the same email an attachment for each young person admitted overnight. The attachment will consist of all the paperwork received from Police when the young person was admitted and include information as noted in 1.2 above. In practice for example, if a Centre received 5 admissions, the e-mail would include the Form 1 and 5 attachments pertaining to each of the young person admitted. A copy of this email should also be sent to:

Legal Aid (email clspjp@legalaid.nsw.gov.au)

Aboriginal Legal Service (email childrenscourt@alsnswact.org.au)

Court registry (email childrens.court@justice.nsw.gov.au)

Youth Justice Intake (email <u>YJNSWIntake@justice.nsw.gov.au</u>) to enable Court reports to be completed.

- 1.6 Police Prosecutor will also provide CANs, Facts Sheets and Records for all detainees to Legal Aid practitioners from 7.30am.
- 1.7 Police Prosecutor will provide the CANs to court registry staff onsite at Parramatta by **8.00am**.
- 1.8 Priority should be given to commencing interviews with young people in police stations. However, generally one solicitor will commence interviews for Cobham where the majority of detainees are being held. The other will commence interviews from other centres / police stations in the order suggested in para 2.2. Circumstances may from time to time result in changes to this order and this will be decided on the basis of numbers in custody.
- 1.9 The Youth Justice Centre is to have the detainee readily available from **8.00am** so that practitioners from Legal Aid or the Aboriginal Legal Service can seek instructions from

- the young person via video link from Parramatta Children's Court. This call will be initiated by Legal Aid or the Aboriginal Legal Service.
- 1.10 A police station is to have the detainee readily available from 7.45am so that practitioners from Legal Aid or Aboriginal Legal Service can seek instructions from the young person via video link VMR from Parramatta Children's Court. This call will be initiated by Legal Aid or Aboriginal Legal Service.
- 1.11 Legal Aid is to provide the court staff, Police Prosecutor and Youth Justice staff on site with a running list of those matters that are ready to commence from 9.30am by 9:15am. See Appendix C.
- 1.12 Court staff will then advise the respective Youth Justice Centre and relevant police stations as soon as possible as to the running order for AVL appearances (i.e. which detainees) and in which Courtroom AVLs are being heard.
- 1.13 Youth Justice Centre telephone numbers:

Centre /Admissions Office	Phone	Fax
Cobham (St Marys)	(02) 9833-6555	(02) 9673-4917
Acmena (Grafton)	(02) 6643 0016 (02) 6643 0014	(02) 6643 0015
Riverina (Wagga)	(02) 6931 2811 (02) 6931 2212	(02) 6971 1012
Orana (Dubbo)	(02) 6881 0800	(02) 6881 0810
Baxter (Gosford)	(02) 4340 3805	(02) 4340 3861
Reiby (Campbelltown)	(02) 4629 3817	(02) 4629 3829

- 1.14 Each Youth Justice Centre will have detainees ready for the bail hearing at the allocated commencing time to ensure the smooth operation of the Court.
- 1.15 A flow chart of the process for preparing for court appears at **Appendix D**.

AVL to Parramatta Children's Court from regional police stations that are more than 2 hours from a Youth Justice Centre

- 1.16 Where the young person is being detained at a police station that is more than 2 hours from a Youth Justice Centre the young person may remain at the police station to appear via AVL to Parramatta Children's Court.
- 1.17 If the young person is at a relevant regional police station, the Police must complete Form 1 **Appendix A**.
- 1.18 Police at the relevant police station are to email Form 1 to Parramatta Children's Court Police Prosecutors (email <u>PCCP@police.nsw.gov.au</u>) by 6.30am on the morning of Court together with a copy of any warrants. A copy of the Form 1 is also to be emailed to

Legal Aid (email clspjp@legalaid.nsw.gov.au),

Aboriginal Legal Service (email childrenscourt@alsnswact.org.au),

Youth Justice intake (email YJNSWIntake@justice.nsw.gov.au)

and the court registry (email childrens.court@justice.nsw.gov.au).

1.19 If a young person is at a relevant police station, the Police must also ensure copies of the charge sheets, fact sheets, antecedents and copies of any warrants are emailed to:

Youth Justice intake (YJNSWIntake@justice.nsw.gov.au.)

The subject heading of the email is to include "PAC – Police Station – YP Name - DOB". An example of this would look like "*Richmond PAC – Lismore PS – John Brown – 23/04/2004 ALS requested Yes/No*"

- 1.20 Police will ensure that the legal practitioner representing the young person is able to conduct a confidential interview with the child and if present, the parent, guardian or support person.
- 1.21 Youth Justice intake staff should make contact with the relevant police station to provide assistance to the young person and if requested, police will allow Youth Justice intake staff to speak with the young person confidentially.

- 1.22 Where a parent or guardian is present at the police station, police will make arrangements to facilitate their attendance at the bail hearing by AVL either via the bail court AVL suite or the AVL witness suite where this is not feasible.
- 1.23 The contact details for police stations that have AVL facilities and are more than two hours from a Youth Justice Centre are;

Police station	Phone	
		Fax
Armidale	(02) 6771 0699	(02) 6771 0611
Bathurst	(02) 6332 8699	(02) 6332 8610
Batemans Bay	(02) 4472 0099	(02) 4472 0011
Bourke	(02) 6870-0899	(02) 6870-0812
Broken Hill	(08) 8087-0299	(08) 8087-0244
Byron Bay	(02) 6685 9499	(02) 6685 9411
Coonamble	(02) 6822-1488	(02) 6822-1610
	(03) 5027-7599	(03) 5027-7511
Dareton		
Deniliquin	(03) 5881-9299 (press 3)	(03) 5881-9411
Forster	(02) 6555 1299 (press 4)	(02) 6555 1211
	Charge room direct – (02) 6555-1214	
Glenn Innes	(02) 6732 9799	(02) 6732 9711
Griffith	(02) 6969 4299	(02) 6969 4211
Inverell	(02) 6722-0599	(02) 6722-0511
Kempsey	(02) 6561-6199	(02) 6561-6111
Moree	(02) 6757-0799	(02) 6757-0711
Muswellbrook	(02) 6542 6999	(02) 6542 6811
Port Macquarie	(02) 6583-0199	(02) 6583-0159
Queanbeyan	(02) 6298-0599 (press 3)	(02) 6298-1116
Tamworth	(02) 6768-2999	(02) 6768-2805
Taree	(02) 6552-0399	(02) 6552-0311
Tweed Heads	(07) 5506 9499	(07) 5506 9411
Walgett	(02) 6820-3999	(02) 6820-3911

AVL to Parramatta Children's Court from regional police stations that are less than 2 hours from a Youth Justice Centre

- 1.25 Where a young person is detained by Police (i.e. Bail refused/not met), at a police station that is <u>not</u> specified above, the young person is to be transported to a Youth Justice Centre by Police or Youth Justice in accordance with s9 of the *Children* (Detention Centres) Act 1987.
- 1.26 Notwithstanding this, where a young person is being detained at a police station that is not more than 2 hours from a Youth Justice Centre and the senior police officer on duty believes it is impracticable for the young person to be transported and detained in a detention centre, the senior police officer may apply to the Children's Court for the young person to remain at the police station to appear via AVL to Parramatta Children's Court. The senior police officer will need to complete the Application for Young Person to appear a for Audio Visual Appearance from a non-designated Police Station (Appendix B) which must be fully completed and e-mailed to the Court registry (email childrens.court@justice.nsw.gov.au) immediately. Only a judicial officer can consider the application.
- 1.27 If such application is granted the Children's Court registry will notify the police station as well as the Prosecutors, Legal Aid, Aboriginal Legal Service and Youth Justice Intake.
- 1.28 Contact details for other regional police stations that have AVL facilities are as follows;

Police Station	Phone	Fax
Albury	(02) 6023 9299	(02) 6023 9258
Ballina	(02) 6681 8699	(02) 6681 8605
Casino	(02) 6662 0099	(02) 6662 0024
Coffs Harbour	(02) 6691 0799	(02) 6691 0811
Coonabarabran	(02) 6842 7299	(02) 6842 7211
Cootamundra	(02) 6942 0099	(02) 6942 0011
Goulburn	(02) 48240799	(02) 4824 0718
Katoomba	(02) 4782 8199	(02) 4782 8182
Lake Illawarra	(02) 4232 5599	(02) 4232 5511
Lismore	(02) 6626 0599	(02) 6626 0511
Lithgow	(02) 6352 8399	(02) 6352 8321
Maitland	(02) 4934 0200	(02) 4934 0311
Mudgee	(02) 6372 8599	(02) 6372 8511
Nowra	(02) 4421-9699	(02) 4421-9605
Orange	(02) 6363 6399	(02) 6363 6311
Parkes	(02) 6862 9999	(02) 6862 9911
Raymond Terrace	(02) 4983 7599	(02) 4983 7511
Singleton	(02) 6578 7499	(02) 6578 7411
Southern Highlands	(02) 4869 7899	(02) 4869 7811
(Moss Vale)		
Tumut	(02) 6947 7199	(02) 6947 7111
Wyong	(02) 4356 6099	(02) 4356 6011
Young	(02) 6382 8199	(02) 6382 8111

2. PART 2 – CONDUCT OF HEARINGS AT PARRAMATTA CHILDREN'S COURT

- 2.1 The Court will commence sitting at **9:30am**. **Priority must be given to young people appearing via AVL from a regional Police Station** to allow Police sufficient time to make transport arrangements if necessary.
- 2.2 In light of the transport issues at particular locations the general order of appearances via AVL will be:
 - 1) Any Police Stations with priority to be given to those police stations furthest from a Youth Justice Centre
 - 2) Riverina (Wagga)

- 3) Orana (Dubbo)
- 4) Cobham (St Marys)
- 5) Reiby (Campbelltown)
- 6) Acmena (Grafton)
- 7) Baxter (Gosford)
- 2.3 If there are no matters for the relevant Police Stations, Riverina or Orana will commence at **9:30am**.
- 2.4 Children's Court staff will ring the police station or the Youth Justice Centre site 5-10 minutes before the AVL hearing and notify them to have the young person ready.
- 2.5 In all AVL matters where the **parent/guardian** has advised the Youth Justice Centre of their desire to be involved in the bail hearing, Youth Justice Staff must ring the parent/guardian on the telephone number provided, 5-10 minutes prior to the hearing to advise that the matter will be dealt with shortly and that the next telephone call they will receive will be as part of the bail court hearing.
- 2.6 Registry staff will provide the VCR number to all relevant agencies on the morning of proceedings.
- 2.7 If necessary, registry staff will add another person on the telephone (**Parent or Guardian**). Court staff will hang up the telephone when the parent guardian is no longer required in respect to that AVL hearing.
- 2.8 Where efforts have been made to contact the parent/guardian without success then the bail hearing is to continue without further delay.
- 2.9 As the numbers of young people in custody and their location can vary, the timeframes and running order indicated in the procedure will at times be subject to change in order to accommodate these variances.

3 PART 3 - PROCESS FOLLOWING HEARING

- 3.1 In matters where bail is granted or dispensed with the case is to be adjourned to the Children's Court for the district in which the offence occurred or the first available Children's Court sitting on that circuit to meet the requirements of the *Bail Act 2013*
- 3.2 Youth Justice will make staff available at the Youth Justice Centre to assist detainees in meeting bail conditions should bail be granted by the Court.
- 3.3 The relevant police stations will also make staff available to assist detainees meeting bail conditions at their location.
- 3.4 Where a young person is in police custody if bail is refused/not met police must **immediately** arrange for the young person to be transported to a Youth Justice Centre consistent with s9 of the *Children (Detention Centres) Act* 1987.

4 PART 4 – OTHER OPERATIONAL ISSUES

- 4.1 Magistrates will ordinarily be available at Parramatta Children's Court until 4pm to determine Children's Court bail hearings. However, police are to submit a Late Notification form (see Appendix E) if they expect to arrive at the detention centre after 12 noon or they expect to charge a young person at a designated police station after 12 noon on any sitting day. This is to ensure that the workload of the Court and other agencies can be managed appropriately.
- 4.2 Admissions to the court list may be declined by the presiding Magistrate where it may be anticipated that a matter will not be ready to proceed by 4pm or the court may not be in a position to deal with the matter by 4pm due to the number of matters already listed before the court. However, it is expected that every effort will be made to deal with any young person in custody on the same day.
- 4.3 To obtain approval for a late admission to the list police are to email a Late Notification form (see Appendix E) to the court registry at childrens.court@justice.nsw.gov.au. Registry staff will advise the requesting police, prosecutors, Legal Aid, ALS and Youth Justice intake officers of the result of the request.

- 4.4 Operational police are to be advised of the new procedures and a copy of these instructions will be posted on the Police NSW intranet site. Police are also to be provided with the telephone number for the Youth Justice Centre and the Legal Aid Youth Hotline number. Police are to refer parents or guardians to those organisations where necessary.
- 4.5 Instructions to be issued via Police systems to advise Patrol commanders and operational Police that young people in custody who will be transferred to Cobham, Acmena, Riverina, Baxter, Reiby, and Orana for a bail court appearance at Parramatta via AVL must be entered on the COPS system as appearing at Parramatta Children's Court. This is necessary so that the Police Prosecutor at Parramatta when searching for appearances for the bail court can get the papers for all matters.

Contingency Plan in the event of overcrowding at Detention Centres

- 4.6 Every effort will be made by Youth Justice to ensure that young people can be accepted at detention centres to appear before the bail court.
- 4.7 In the event that a Youth Justice Centre is at capacity and is therefore unable to accept any further young persons to appear before bail court police should make contact with the registrar at Parramatta Children's Court immediately to make arrangements for the young person to appear before a bail court.

Contingency Plan in the event of equipment failure

- 4.7 Technical support for AVL users will be available by phone to the Multimedia Operational support team between 7.30am and the conclusion of the Court. The contact number is **(02)** 8759 1010.
- 4.8 The following contingency plans are to be activated in the event of a system failure that is unable to be resolved that day or within 1.5 hours of being reported to the helpdesk.

Scenario 1 - AVL fails at Youth Justice regional site or police station.

Affected Youth Justice site to contact local police station to make arrangements for local Registrar to attend nearest Local Court to facilitate an AVL appearance to Parramatta Children's Court or, if necessary, to conduct the Bail court at the Local Court.

The young person may appear at Parramatta Children's Court by telephone but only if this is a suitable option in the circumstances and the young person's lawyer agrees to this course.

Youth Justice staff are to arrange the transport of the young person to the Local Court premises if required.

Police prosecutors to confirm that arrangements have been put in place and to fax / email papers to appropriate location.

Remaining matters to be dealt with at Parramatta Children's Court as usual.

Scenario 2 - AVL fails at metropolitan Youth Justice site

Affected Youth Justice site to contact Parramatta Children's Court and arrange for young persons to be transported to Parramatta Children's Court to deal with matters in person.

The young person may appear at Parramatta Children's Court by telephone but only if this is a suitable option in the circumstances and the young person's lawyer agrees to this course.

Youth Justice staff are to arrange the transport of the young person to Parramatta Children's Court if required.

Scenario 3 - AVL fails at Parramatta Children's Court

Children's Court to re-convene at another site.

1st option – Children's Court move to Parramatta Local Court.

2nd option – Children's Court move to Sydney West Trail Court Complex (Parramatta District Court)

3rd option – Children's Court move to Surry Hills Children's Court

All matters to be dealt with by AVL unless it is more practicable to deal with some matters by telephone because of the delay in moving locations and the young person's lawyer agrees with this course.

<u>Scenario 4</u> - Parramatta Children's Court not operational at all due to power failure or some other emergency.

Children's Court to re-convene at another site.

1st option – Children's Court move to Parramatta Local Court.

2nd option – Children's Court move to Sydney West Trail Court Complex (Parramatta District Court)

3rd option –Children's Court move to Surry Hills Children's Court

All matters to be dealt with by AVL unless it is more practicable to deal with some matters by telephone because of the delay in moving locations and the young person's lawyer agrees with this course.

APPENDIX A

List of young people in custody for Audio Visual Appearance during 2020 Christmas Children's Court Bail Courts (FORM 1)

Name of Detention Centre / Designated Police Station: (ie. More than 2 hrs from detention centre)							
(le. More than 2 hrs from detention centre) Court Date://20							
Name of Detainee	Police H no. ref:	Age of Young Person	Aboriginal or Torres Strait Islander Yes / No	Does parent / guardian wish to be involved in Bail Hearing	Contact telephone number for parent/guardian for all matters regardless of whether wanting to be involved or not.		
1.							
2.							
3.							
4.							
5.							
6.							

Please note – s 9 *Children (Detention Centres) Act 1987* - A person on remand may be detained in a police station, during the period between the person's being charged with an offence and the person's first appearing before a court in or in connection with proceedings for the offence, <u>but only</u> if it is impracticable for the person to be detained in a detention centre during that period. A child who is detained in a police station under subsection (3) shall, so far as is reasonably practicable, be detained separately from any adults detained there.

This list is to be emailed to

7.

Children's Court at: Parramatta

Police Prosecutor (email PCCP@police.nsw.gov.au), Legal Aid (email clspip@legalaid.nsw.gov.au), Aboriginal Legal Service (email childrenscourt@alsnswact.org.au), Youth Justice intake (email YJNSWIntake@justice.nsw.gov.au) and The court registry (email childrens.court@justice.nsw.gov.au).

by 6:30am on the morning of the Bail Court

APPENDIX B

Application for a young person in custody to appear a for Audio Visual Appearance during 2020 Christmas Children's Court Bail Courts from a non-designated Police Station (ie. Police stations less than 2 hours from a Youth Justice Centre)

(FORM 1)

Children's Court at: Parrar	natta				
Name of Police Station:		· · · · · · · · · · · · · · · · · · ·			
Court Date:/	/20				
Time charged:	Police Statio	n where you	ung person charg	jed:	
Distance to nearest Youth	Justice Centre:		k	ilometres	
Name of Detainee	Police H no. ref:	Age of Young Person	Aboriginal or Torres Strait Islander Yes / No	Does parent / guardian wish to be involved in Bail Hearing	Contact telephone number for parent/guardian for al matters regardless of whether wanting to be involved or not.
1.					
2.					
3.					
4.					
Please note – s 9 <i>Childre</i> station, during the period before a court in or in cor to be detained in a deter subsection (3) shall, so fa	between the person nnection with proceention centre during	n's being cha edings for th that period	arged with an off ne offence, <u>but or</u> I. A child who i	ience and the per <u>nly</u> if it is impracti is detained in a	rson's first appearing ticable for the person police station under
This list is to be emailed to t	the court registry (ema	ail <u>childrens</u>	s.court@justice.n	sw.gov.au) as so	on as practical
				Applicati	on Granted / Refused
					Judicial officer
					Time:

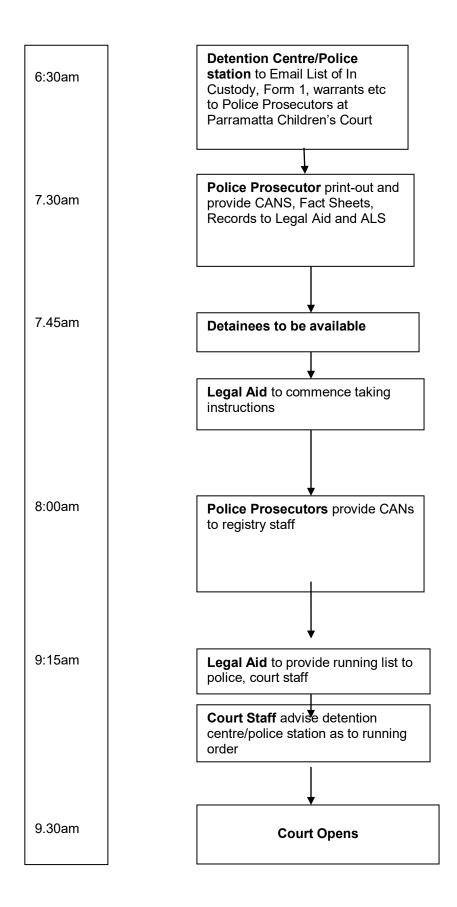
Appendix C

Running order of appearances for Bail Court at Parramatta Children's Court on -

____/20___

No.	Child's Name	Detention Centre/ Police station	Interpreter Yes/No Ref no.
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			

Process



Parramatta Children's Court

LATE NOTIFICATION FORM

Parramatta Children's Court Phone Contact: 8688 1888

email childrens.court@justice.nsw.gov.au

DATE:		Officer in Charge:			
Station:		Phone Number:			
		Fax Number:			
DEFENDANT'S NAME &					
AGE:					
H Number:					
Estimated time	of arrival of the	, , ,	at the	Detention	Centre is
	tion is to obtain approval rt on today's date. I also a				edings of the
This matter may n have been dealt wit	ot be dealt with by the c	court until all other ma	atters curren	tly listed bef	ore the Cour
	is not met and the Court h -convene to attend to this		day prior to t	he arrival, I al	so understand
(Signature of Officer Date:	in Charge)				
COURT DETERM	NATION.				
Application for late	admission to bail court l	has been Approved /	Declined.		
(Magistrate) Time	of decision:				
Faxed to) □ or De Copy of determinate	n faxed to: the NSW Police				

REQUEST TO BRING YOUNG PERSON TO COURT IN PERSON WHERE ADMISSION AT DETENTION CENTRE HAS BEEN REFUSED

Parramatta Children's Court Phone Contact: 8688 1888

email childrens.court@justice.nsw.gov.au

DATE:		Officer in Charge:		
Station:		Fax Number:		
		Phone Number:		_
YOUNG PERSON'S NAME:			AGE:	
H Number/s:				
Detention centre, admission refuse				
Estimated time of defendant at Pari Childrens Court:				
I agree this application is t Bail Court on today's date.			added to the proceedings of	of the Parramatta
			conveying Police and whe	
I understand that if the time-convene to attend to thi		and the Court has	already risen for the day th	ne Court may not
(Signature of Officer in	Charge)			
COURT DETERMINAT	ION.			
Application for request	to bring young pers	son in person has	been Approved / Dec	lined.
(Magistrate) Time of de	ecision:			
Court determination f Copy of determination Copy of determination	axed to: the NSW P n handed to Prosecu	itor 🗆		