

OFFICIAL



NSW Police Force

Non-denial Statements

Standard Operating Procedures

1 July 2026

 RESPECT
PRIDE
TRUST

OFFICIAL

Document Control Sheet

Document Properties

Title	Non-denial Statements
Subject	Children (Criminal Proceedings) and Young Offenders Legislation Amendment Bill 2025
Command responsible	Youth Command
Authorisation	Superintendent Phil Hallinan
Security Classification/Protective Markings	OFFICIAL
Publication date	July 2026
Current version number	1.0
Review date	June 2027
Document RMS number	D/2026/882044
Linked RMS number	D/2026/878815
Copyright statement	Copyright of this document is vested in the Commissioner of Police © 2026
Suitable for Public Disclosure	YES

Modification History

Version #	Version Approval Date	Author/Position	Summary of changes
1.0	20 March 2026	Youth Command, Policy & Project Officer	First release, due to Amendment of Children (Criminal Proceedings) Act 1987 No 55, Amendment of Young Offenders Act 1997 No 54 and Amendment of Young Offenders Regulations 2016

Contents

.....	1
Document Control Sheet	2
Document Properties	2
Modification History	2
Essential Summary	4
Non-denial Statements – Young Offenders Act 1997(NSW)	4
Message	5
1. Purpose.....	5
1.1 Scope	5
1.2 Definitions	5
1.2.1 Context	6
1.3 Eligibility	6
1.3.1 Non-denial Statement Form	6
2. Procedures	7
2. Investigating Officer	7
2.1 Warnings.....	7
2.2 Cautions	7
2.2.1 Limits to Cautions	8
2.3 Non-denial Statement Information for the Young Person Sheet.....	8
3. Considerations	11
3.1 Role of the Specialist Youth Officer	11
3.2 Effect of Completing a Non-denial Statement.....	11
3.3 Evidentiary Limitations	11
3.4 Additional Offences Raised During Interview	12
3.5 Disclosure of Other Persons’ Involvement	12
4. Concluding the Non-denial Statement Process.....	12
4.1 Recording and Documentation Requirements.....	13
4.2 Compliance Requirements and Internal Controls.....	13
5. Misconduct Prevention	13
5.1 Misconduct Risks	13
5.2 Risk Controls.....	14
6. Annexures.....	14
Annexure 1: Non-denial Statement Form	15
Annexure 2: Non-denial Statement – Information for the Young Person Sheet.....	16
Annexure 3: How to use the Non-denial Statements (NDS for Cautions/Youth Conferences (YJC)	17

Essential Summary

Non-denial Statements – Young Offenders Act 1997(NSW)

The objective of these procedures is to enable young offenders to access a suitable non-court outcome, where appropriate, while preserving their legal rights.

The former Protected Admissions Scheme has been repealed from the *Young Offenders Act 1997 (NSW)* (the Act/YOA). The Act now recognises 'Non-denial statements', which enable the child to participate in a diversionary outcome.

A primary objective of the YOA is to divert young offenders from the court system, where appropriate, through warnings, cautions and youth justice conferences. Previously, this was impeded by the requirement that a young offender make an admission to the offence before a caution could be given or a youth justice conference arranged. The introduction of Non-denial statements addresses this barrier by allowing a young offender to indicate that they do not deny (or that they admit) the alleged offence, enabling access to non-court outcomes without a formal admission.

- A "Non-denial statement" is a statement that the child does not deny (or admits) the elements of the offence and time and place it was committed.
- It does NOT include whether the child knew the behaviour was "seriously wrong" at the time.
- To be valid, the statement must be made with an appropriate support person present (parent/guardian/responsible person, approved adult, chosen adult if 14+, or a lawyer chosen by the child).
- If the statement is offered and made under s67A of the YOA, it cannot be used as evidence later in criminal or civil proceedings. (Except for the purposes of a guilty plea made before a Court being taken to be a Non-denial statement.)

If the young person would like to make a Non-denial statement, fill in the relevant parts of the Non-denial Statement Form and have the young person and their support person complete and sign their sections.

Message

1. Purpose

The Non-denial statement framework operates as a practical mechanism that enables Police to determine a child's eligibility for an appropriate non-court outcome, such as a warning, caution or youth justice conference, without requiring a formal admission of guilt.

Under this approach, a child may indicate that they do not deny (or that they admit) what the Police are stating happened, including the basic details of the offence and when and where it allegedly occurred. This allows the child with the support of a lawyer or other appropriate support person, to participate in a non-court outcome which supports the child's best interests, while preserving their legal rights.

Using Non-denial statements is expected to bring clear social benefits and make the criminal justice system operate more efficiently. Benefits include:

- More children being diverted from court, which is one of the primary objectives of the YOA.
- Police spending less time initiating criminal proceedings where a non-court outcome is appropriate, allowing Police to return to operational duties earlier.
- Reduced workload for custody managers, Police Prosecutors and court staff.
- Fewer matters being taken on by children's legal assistance services.
- Reduced congestion in the Children's Court, with fewer matters proceeding unnecessarily to court where diversionary outcomes are suitable.
- The introduction of Non-denial statements reflects a contemporary legislative approach to youth justice, by encouraging early diversion while maintaining fairness, voluntary participation and legal protections for young people.

1.1 Scope

How Police investigate offences involving young people does not change under this framework, however, to be eligible for diversion including cautions and youth justice conferences, a non-denial statement must be made.

The Non-denial statement may be used where:

- a child is unwilling to make a formal admission of guilt, and
- a non-court outcome (e.g. a caution) is appropriate for the young person, based on the circumstances of the offence and the child's situation.

The non-denial statement is designed for children to have easier access to warnings, cautions and youth justice conferences. It allows a child to participate in these diversions without having to formally admit guilt (though, they can still make an admission), while still acknowledging the alleged conduct (i.e. what Police say happened, and when and where it is said to have happened).

1.2 Definitions

- A child means a person who is of or over the age of 10 years and under the age of 18 years (s4 YOA).
- A Specialist Youth Officer means a member of the NSW Police Force appointed as a Specialist Youth Officer for the purposes of the YOA by the Commissioner of Police.
- A Non-denial statement, in relation to an offence, is a statement made by a child that the child does not deny or admits the following allegations against the child about the offence:
 - The elements of the offence
 - The time and place of the commission of the offence

- The reference to the elements of the offence does not include that the child knew, at the time of the offence, that it was seriously wrong to engage in the conduct constituting the offence.
- To be valid, the statement must be made in the presence of an appropriate support person, being a parent, guardian or other responsible person, an approved adult, a chosen adult (if the child is aged 14 years or older), or a lawyer.
- A Non-denial statement must, if practicable, be made in the standard written form approved by the Secretary of the Department of Communities and Justice. (found in Annexure 1.)
- If the statement is offered and made under s67A of the YOA, it cannot be used as evidence later in criminal or civil proceedings. (Except for the purposes of a guilty plea made before a Court being taken to be a Non-denial statement.)

1.2.1 Context

To be read in conjunction with the following:

- *Young Offenders Act 1997 (NSW) No 54*
- *Children (Criminal proceedings) Act 1987 (NSW)*
- **NSW Police Force Handbook – “Young Offenders”**
- Code of Practice CRIME – “Questioning Suspects”

1.3 Eligibility

Before commencing criminal proceedings against a young person, ensure that the requirements of the YOA have been considered.

Refer to Section 8 of the Act to determine which offences are covered/excluded by the Act.

The decision to offer a young person make a Non-denial statement rests with the police officer investigating the offence as it is this officer who has the current authority to determine whether to arrange the young person be given a caution.

A Specialist Youth Officer (SYO) may recommend a youth justice conference. Refer to the YOA for your obligations.

Do not caution a young person unless you have been authorised in writing by the Commissioner to give cautions under the YOA.

If you, as an authorised officer, believe a respected member of the community should give a caution, make the necessary arrangements for this to be done.

1.3.1 Non-denial Statement Form

The non-denial statement form must be used to be eligible for a YOA diversion, it is not valid unless it is made by a child in the presence of, in the following circumstances:

- For a child under 14 years of age:
In the presence of a person responsible for the child or an adult (not the investigating police officer) who is present with the consent of a person responsible the child
Example of a person responsible: lawyer, parent, guardian, or independent person.
- For a child aged 14 to 17 years:
In the presence of an adult chosen or an Australian legal practitioner chosen by the child.

Alternatively, it can be used in consultation with the child’s legal representative, either:

- by email at the time of the interview, or
- at a later time following the interview.

Where the Non-denial Statement is signed by the child, this must occur in the presence of their adult support person. The adult support person is required for a statement and must record:

- their name
- their capacity or relationship to the child
- their signature
- the date and time of signing

The Non-denial statement form must be completed and signed by all relevant parties prior to any diversionary action.

See: Annexure 1 – Non-Denial Statement Form

2. Procedures

Before commencing criminal proceedings against a child consider the provisions of the (YOA). Where a child is suspected of committing an offence covered by the YOA (see **s.8**), the child is entitled to receive the least restrictive sanction (a warning, a caution, or a youth justice conference).

Where it is not appropriate to impose one of the sanctions you may commence proceedings in accordance with the **Children (Criminal Proceedings) Act 1987 (NSW)**.

2. Investigating Officer

2.1 Warnings

A young offender is entitled to a warning for summary offences unless:

- The offence is excluded by **s8 YOA**
- The circumstances of the offence involve violence, or
- It is more appropriate to deal with it by another means because it is not in the interests of justice for the matter to be dealt with by warning

When issuing a warning, ensure the child understands its purpose, nature and effect.

2.2 Cautions

Do not caution a child unless you have been authorised by the Commissioner to give cautions under the YOA.

If you, as an authorised officer, believe a respected member of the community should give a caution, necessary arrangements should be made for this to be done.

If a young person has made a Non-denial statement in relation to an offence covered by the YOA (in accordance with s10) you may arrange for a caution to be given.

To be eligible for a caution (**s19 YOA**),

- (a) the offence is one for which a caution may be given, and
- (b) the child makes a Non-denial statement in relation to the offence
- (c) the child consents to the giving of the caution, and
- (d) the child is entitled to be given a caution.

When deciding whether to caution a young person, you need to consider the following criteria (**s20(3) YOA**):

- the seriousness of the offence

- the degree of violence involved in the offence
- the harm caused to any victim
- the number and nature of any offences committed by the young person and the number of times the young person has been dealt with under the Young Offenders Act.
- any other matters you think appropriate in the circumstances.
- If the offence is one that cannot be dealt with by a caution, refer the matter to a Specialist Youth Officer (SYO) to determine if it can be dealt with by holding a youth justice conference.

If you do not believe that a caution is appropriate, refer the matter to a Specialist Youth Officer who may authorise a Youth Justice conference or charge.

Police have the power to postpone the making of a Young Offenders Act 1997 determination for up to 14 days pursuant to **s9(2B)** of the Act. Police should be aware that this power is still available after arrest.

A child can potentially be dealt with under the YOA for a Table 1 Aggravated Break and Enter offence (that is, where the only circumstance of aggravation is that the offence was committed in company, and the serious indictable offence alleged is stealing or damaging property, and the value of that property does not exceed \$60,000). This is because break and enter offences are not specifically excluded by **s8(2)** of the YOA.

However, all other types of Aggravated Break and Enter offences remain strictly indictable and cannot be dealt with under the YOA.

Note: A Specialist Youth Officer is a police officer appointed to this role by the Commissioner of Police for the purposes of making determinations under the YOA.

2.2.1 Limits to Cautions

- Under the YOA a child is not entitled to be dealt with by caution in relation to an offence if the child has been dealt with by caution on 3 or more occasions during the previous three years Refer to **(s20(7))** of the YOA for further details.
- Where you determine that a caution is not appropriate, refer the matter to a SYO who may authorise a youth justice conference or charge.
- If the child fails to attend the scheduled caution after the Non-denial statement is obtained, the matter should be referred to the SYO whether another appointment for a caution is appropriate. If the child fails to make contact, criminal proceedings may be commenced with the approval of the SYO.
- A Non-denial statement must not be taken into account when considering charge options. The content of the Non-denial statement cannot be used for any purpose other than determining eligibility for a caution or referral for a youth justice conference.
- When considering whether to proceed by way of charge, officers must have regard to all other available information, including any voluntary first interview, as if the Non-denial statement had not been made.

2.3 Non-denial Statement Information for the Young Person Sheet

The Non-denial Statement Information for the Young Person Sheet is a one page plain English document prepared to explain the Non-denial statement process to the child and, where relevant, their parent, guardian, support person or legal representative.

- The Information for the Young Person Sheet must be provided to the child to reinforce the explanation given by the investigating officer when offering the option of making a Non-denial statement.
- Where a Non-denial statement is made, the Information for Young Person Sheet should be provided together with the Non-denial Statement Form.

- The form and Information for the Young Person Sheet are designed to be electronically shared and may be attached to an email for forwarding to the child's legal representative where required, including outside business hours.

Providing the Information Sheet supports informed decision making by the child and assists legal representatives and support persons to understand:

- the purpose of a Non-denial statement,
- that making a statement is voluntary,
- the requirement for a support person to be present, and
- the limited use of the statement for diversionary purposes only.

Refer to: Annexure 2 – Non-Denial Statement - Information for Young Person Sheet

3. Considerations

3.1 Role of the Specialist Youth Officer

The Specialist Youth Officer (SYO) plays an important oversight and checking role in relation to the use of Non-denial Statements and must be consulted prior to the commencement of criminal proceedings against a child.

In this role, the Specialist Youth Officer will confirm:

- That the nature of the alleged offence(s) and the circumstances in which the alleged offence(s) arose have been clearly identified and considered.
- That it appears the young person may be eligible to be dealt with by way of a formal caution or referral to a youth justice conference if a Non-denial Statement is made.
- That the young person understands that, if a Non-denial Statement is made, the decision as to whether the matter is dealt with by way of:
 - a formal caution under Part 4, or
 - referral for a youth justice conference under Part 5of the YOA will be made by an investigating official or a SYO.
- That the young person is aware that a Non-denial Statement made under section 67A of the YOA:
 - cannot be admitted as evidence in any subsequent civil or criminal proceedings; and
 - that the statement does not apply to a formal guilty plea entered in court.

3.2 Effect of Completing a Non-denial Statement

- The completion and signing of a Non-denial Statement may be sufficient for the investigating officer to offer a formal caution.
- The investigating officer may elect to ask further questions of the child in relation to the offences referred to in the Non-denial Statement, subject to all applicable legal and procedural safeguards.

3.3 Evidentiary Limitations

- Any conversation with the child that occurs after the Non-denial Statement process has commenced (relating to the applicable offence) must not be used in any criminal proceedings, in any court, under any circumstances.

- Completion of a Non-denial Statement requires the investigating officer to proceed with a caution or to refer the matter to a youth justice conference. However, any statements made during the Non-denial Statement process remain inadmissible.

3.4 Additional Offences Raised During Interview

- Where a child refers to additional offences during an interview and is otherwise eligible for cautioning, consideration may be given to managing those matters through the Non-denial Statement process, where appropriate.
- If the child refers to additional, more serious offences, police may:
 - suspend the interview; and
 - commence a separate interview in relation to those matters.

In these circumstances, police must clearly explain to the child that:

- The Non-denial Statement may not be applicable for the new offences protections do not apply to the new interview and
- anything said during the new interview may be admissible in criminal proceedings.

Nothing disclosed during the Non-denial Statement process may be used in any proceedings for applicable any offences.

3.5 Disclosure of Other Persons' Involvement

- If, during the Non-denial Statement process, the child indicates the involvement of another person in criminal activity, that information must not be used in proceedings against that other person. If, during an interview while making a non-denial statement, the child indicates involvement of another person in criminal activity, that information can be used by the investigating official to act upon and investigate the information which was provided (s69 YOA).
- Following the conclusion of the Non-denial Statement process, police may request the child provide a separate statement in relation to that other person's alleged offending.
- Any such statement, provided outside the Non-denial Statement process, may be used in criminal proceedings.

The use of a Non-denial Statement may also engage judicial discretion to exclude admissions where their use would be unfair (s 90 Evidence Act 1995) or where the admission was obtained following an inducement (s85 Evidence Act 1995).

The Code of Practice: Crime confirms that practices relating to induced statements do not apply to properly administered Non-denial Statements.

4. Concluding the Non-denial Statement Process

At the conclusion of the interview segment relating to the Non-denial Statement, the investigating officer must:

- Clearly indicate that the Non-denial Statement process has concluded; and
- Determine whether the child is to be dealt with by way of:
 - a formal caution, or
 - referral to a youth justice conference.

4.1 Recording and Documentation Requirements

The investigating officer must:

- Record all actions relating to the offer and use of the Non-denial Statement in COPS.
- Scan and attach a copy of the completed Non-denial Statement form to the relevant case in COPS.
- Provide a copy of the Non-denial Statement form to the Specialist Youth Officer, who monitors its use within the Local Area Command; and
- Where applicable, attach a copy of the Non-denial Statement to the relevant Youth Justice office as part of a youth justice conference referral.

4.2 Compliance Requirements and Internal Controls

Source	Compliance Requirement	Internal Controls	Frequency	Responsibility
Young Offenders Act 1997	Section 7 (a) – (j)	Supervision of COPS Events and Custody Manager responsibilities	Each occasion	PAC/PD and Police Prosecutions Command
Code of Practice CRIME	Section 13 Children Criminal Proceedings) Act 1987	Custody Manager and COPS supervision	Each occasion	Custody Manager
NSW Police Handbook – Young Offenders	Warnings, cautions and Youth Justice conference SOPs and SOPs for not proceeding with a caution	SYO/YO	Each occasion	SYO/YO

5. Misconduct Prevention

5.1 Misconduct Risks

When overseeing the operation of the Non-denial Statements, supervisors and managers should be mindful of the following misconduct risks:

- Inappropriate use of non-court alternatives
 - Incompetent use/used when other action should be pursued
 - Unethical use/bribery/coercion – police obtain a benefit from not taking a more appropriate course of action
- Unethical behaviour towards a young person by misleading them, using the Non-denial statement framework, e.g. tricking a confession/admission for crimes not covered by the Act
- Risk of allegations of improper actions by police

5.2 Risk Controls

Where possible, consult the Specialist Youth Officer/Youth Officer, your supervisor or Command/District Inspector prior to your use the Non-denial Statement Form.

Each use of the Non-denial Statement Form should be reviewed by the Specialist/Youth Officer to ensure it has been used and completed appropriately.

Consider the role and activities of the SYO in regular oversight of the framework.

6. Annexures

Annexure 1 - Non-denial Statement Form

Annexure 2 - Non-denial Statement - Information for the Young Person

Annexure 3 – How to use a non-denial Statement for Youth Caution / Youth Justice Conference (YJC)

Annexure 2: Non-denial Statement – Information for the Young Person Sheet

Non-denial Statement – Information for the young person

What this is

Police can sometimes deal with a matter without going to court, for example with a caution or a youth justice conference. To do that, we will ask if you want to make a "non-denial statement".

Your choices

- You can choose to say nothing (stay silent) or you can deny the offence (say that it did not happen). If you stay silent or deny the offence, you may have to go to court.
- You can choose to make a non-denial statement. This means:
 - You are not denying that you committed the offence, or
 - You are admitting that you committed the offence.

You do not have to make any statement. It is your choice.

If you make a non-denial statement

A non-denial statement means you are saying you are not denying, or you admit, the offence and when and where it happened.

A non-denial statement is usually made in writing.

Making a non-denial statement does not mean you are saying you knew your behaviour was seriously wrong at the time.

If you make a non-denial statement, police will decide if:

- they will give you a caution for the offence, or
- they will refer the matter to a specialist youth officer to decide if there will be a youth justice conference.

A non-denial statement made under this process cannot be used as evidence later in court or in any other legal case.

Who must be with you

A support person must be with you when you make a non-denial statement. This can be:

- your parent/guardian or another person responsible for you, OR
- another adult (not the police officer) who is there with your parent/guardian's permission, OR
- if you are 14 or older: an adult you choose, OR
- a lawyer you choose.

Take your time

You can ask questions. You can ask for an interpreter.

A lawyer can also help you understand this form or help you fill it out if you want.

You can also ask to think about it and do it later.

Annexure 3: How to use the Non-denial Statements (NDS for Cautions/Youth Conferences (YJC)

How to use Non-denial Statements (NDS) for Cautions/Youth Justice Conferences (YJC)



Child In Custody – Contact Numbers

- Non-Aboriginal/Torres Strait Islander -Legal AID Hotline 1800 101 810
- Aboriginal/Torres Strait Islander-Contact your Local ALS office, or Custody Notification Scheme on 1800 765 767

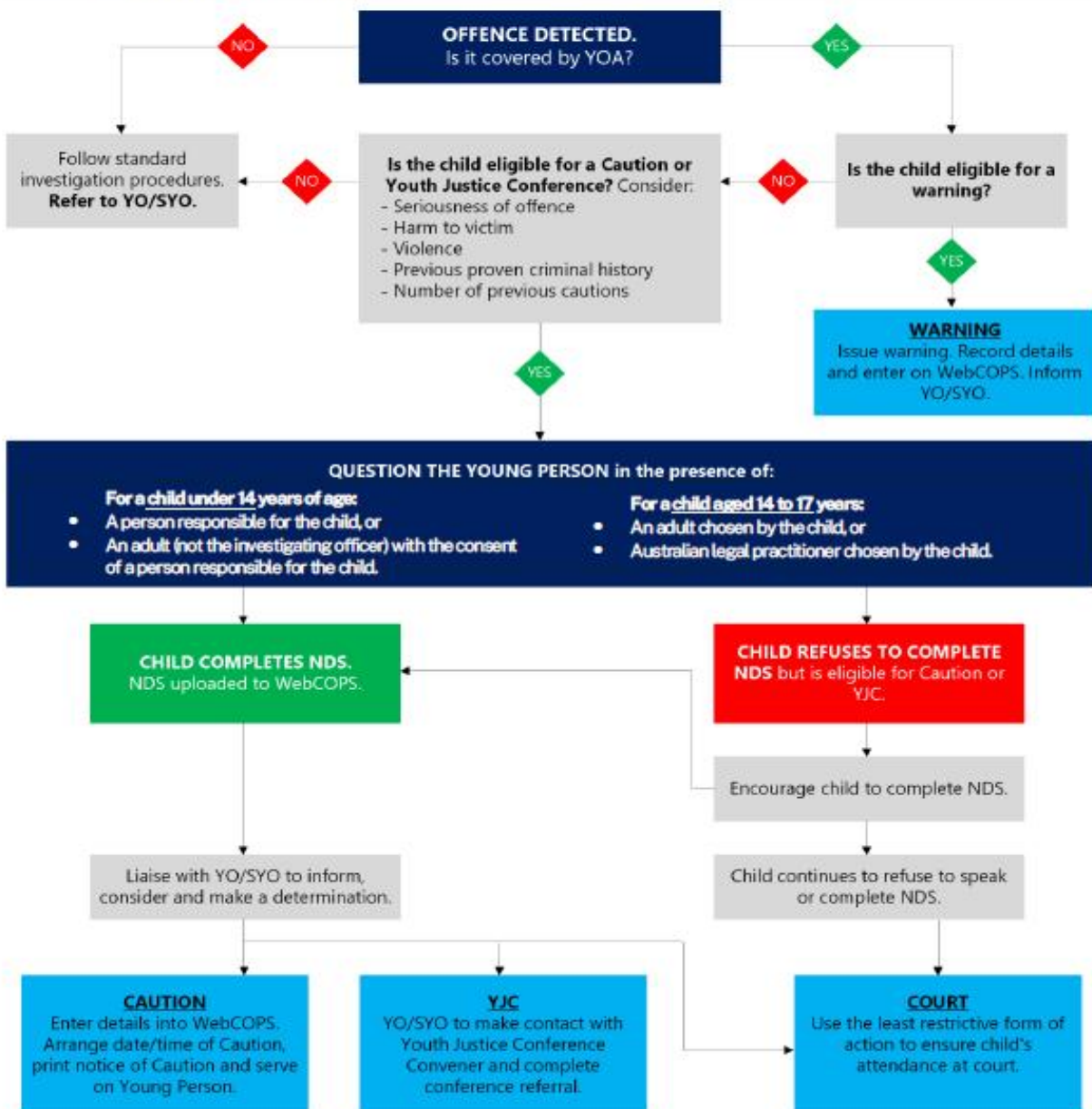
A non-denial statement (NDS) is NOT valid unless it is made by a child in the presence of:

For a child under 14 years of age:

- A person responsible for the child, or
- An adult (not the investigating officer) with the consent of a person responsible for the child.

For a child aged 14 to 17 years:

- An adult chosen by the child, or
- Australian legal practitioner chosen by the child.



HOW TO USE NON-DENIAL STATEMENTS | July 2026

Youth Command
Hurstville NSW 2220

Locked Bag 5102
Parramatta NSW 2124

Office hours:
Monday to Friday
06:30am – 16:30pm



NSW Police Force