

State of Connecticut Division of Criminal Justice

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Connecticut's Juvenile Laws

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This presentation looks at some major areas in the Connecticut juvenile justice system that have undergone significant changes over the past ten years including:

- I. Raise the Age - Who is a Child and who is an Adult?
- II. Interviewing Juveniles
- III. Police Options for Handling Juveniles
- IV. Pretrial Detention
- V. Transfer to the Adult Court
- VI. Dispositional (Sentencing) Options
- VII. How Should the System Respond to Juvenile Auto Theft?

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Raise the Age - Who is a Child and Who is an Adult?

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Delinquency Cases

Delinquency cases involve a child who **prior to age 16** has violated any:

1. ➤ federal law,
 - state law (including infractions, violations, misdemeanors and felonies) or
 - municipal or local ordinance;
2. court order in a delinquency case;
 - suspended detention orders
3. condition of their juvenile probation;
4. failure to appear for a juvenile court hearing;

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Delinquency Cases

Effective 7/1/12, a 16 or 17 year old will be handled as:

Juvenile

Violate:

any federal criminal law,
a state law other than:

- * a violation,
- * an infraction, Except the marijuana law!
- * a Title 14 MV offense,
- * failure to pay or plead or
- * FTA in an adult court case;

juvenile delinquency court order;

juvenile probation;

FTA for a juvenile court hearing;

Adult

Violate:

a local or municipal ordinance;
a state law that is:

- * a violation,
- * an infraction, Except the marijuana law!
- * a Title 14 MV offense,
- * failure to pay or plead or
- * FTA in an adult court case;

adult probation;

adult court order;

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Summary of Points of Interest

- 16 and 17 year olds charged with a violation or infraction, other than one involving under 1/2 ounce of marijuana, or a title 14 motor vehicle offense, failure to pay or plead or failure to appear in an adult case are handled as adults.

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Interviewing Juveniles

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Taking a Statement From a Juvenile

There are different rules applicable to statements of juveniles under age 16 and those that are 16 or 17.

The key difference between the rules is that:

- For juveniles under age 16 – having a parent or guardian present is a ***requirement*** for the admissibility of the juvenile’s admission, confession or statement. ***CGS §46b-137(a)***
- For 16 year olds or 17 year olds, the presence of a parent or guardian is a ***right*** that may be waived subject to review by the court using the “totality of the circumstances” test. ***CGS §46b-137(b)***

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Any admission, confession or statement, written or oral, made by a **16 or 17 year old** child to a police officer or Juvenile Court official **shall be inadmissible** in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement, unless

- (1) the police officer has made reasonable efforts to contact a parent or guardian of the child, and
- (2) such child has been advised that:
 - (A) they have the right to contact a parent or guardian and to have them present during any interview,
 - (B) they have the right to retain counsel or, if unable to afford counsel, to have counsel appointed for them,
 - (C) they have the right to refuse to make any statement, and
 - (D) any statement they make may be introduced into evidence against them. **CGS § 46b-137(b)**

Following a recent Supreme Court decision, consider amending your Notice of Rights forms for all juveniles under 18 to include notice that statements may be used "in any court including the adult court if the case is transferred."

Summary of Points of Interest

- 16 and 17 year olds charged with a violation or infraction, other than one involving under 1/2 ounce of marijuana, or a title 14 motor vehicle offense, failure to pay or plead or failure to appear in an adult case are handled as adults.
- The presence of a parent is required for juveniles under 16 and a judge will determine if the waiver of a 16 or 17 year old is valid.

Police Options for Handling Juveniles

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Police Options - Delinquency Cases ***(Graduated Response/Sanctions)***

- Warn the child and take no further action:
- Refer the child to a Juvenile Review Board or other agency for services;
(Referral to court should be considered only if diversion is not appropriate.)
- Charge the child with a crime, serve a Juvenile Complaint and Summons, release to responsible adult or agency and refer to court;
- Charge the child with a crime, serve a Juvenile Complaint and Summons, release to child's own custody and refer to court;
- Arrest the child, obtain a court order and bring to a Juvenile Detention Center;

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Pretrial Detention

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Previously Required to Place a Juvenile in Detention

- (A) there is probable cause to believe that the child has committed the acts alleged,
- (B) there is no less restrictive alternative available and
- (C) one of the following:
 1. a strong probability that the child will run away,
 2. a strong probability that the child will commit other offenses injurious to the child or to the community,
 3. probable cause to believe that the child's continued residence in the child's home poses a risk to the child or the community because of the serious and dangerous nature of the acts the child is alleged to have committed,
 4. a need to hold the child for another jurisdiction,
 5. the child has failed to respond to the court process, or
 6. the child has violated the conditions of release;

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Impact of PA 16-147 (effective 1/1/2017)

- (A) there is probable cause to believe that the child has committed the acts alleged,
- (B) there is no less restrictive alternative available and
- (C) one of the following:

1. ~~a strong probability that the child will run away,~~

Child has a history of running away, was on the run when arrested or tells the police they are running away upon release.

2. a strong probability that the child will commit other offenses injurious ~~to the child or~~ to the community,

Child has a substance abuse problem, is associated with a gang or involved in prostitution or trafficking.

3. probable cause to believe that the child's continued residence in the child's home poses a risk to ~~the child or~~ the community because of the serious and dangerous nature of the acts the child is alleged to have committed,

4. a need to hold the child for another jurisdiction,

5. the child has failed to respond to the court process, or

6. ~~the child has violated the conditions of release;~~

Child is out on a suspended detention order for another crime and they fail to abide by a court ordered curfew, order to attend school, remain alcohol or drug free or not associate with known gang members.

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Required to Place a Juvenile in Detention After 1/1/2017

- (A) there is probable cause to believe that the child has committed the acts alleged,
- (B) there is no less restrictive alternative available and
- (C) one of the following:

1. probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition,

2. a need to hold the child in order to ensure the child's appearance before the court, as demonstrated by the child's previous failure to respond to the court process, or

3. a need to hold the child for another jurisdiction.

Risk of harm to the child & violation of conditions of release no longer considered.

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Required to Place a Juvenile in Detention After 7/1/2018

- (A) there is probable cause to believe that the child has committed the acts alleged,
- (B) there is no **appropriate** less restrictive alternative available and
- (C) one of the following:
1. **probable cause to believe that the level of risk that the child will pose a risk poses to public safety if released to the community prior to the court hearing or disposition cannot be managed in a less restrictive setting,**
 2. **a need to hold the child in order to ensure the child's appearance before the court, or compliance with court process, as demonstrated by the child's previous failure to respond to the court process, or**
 3. **a need to hold the child for another jurisdiction.**

Risk of harm to the child & violation of conditions of release still not considered.

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Summary of Points of Interest

- 16 and 17 year olds charged with a violation or infraction, other than one involving under 1/2 ounce of marijuana, or a title 14 motor vehicle offense, failure to pay or plead or failure to appear in an adult case are handled as adults.
- The presence of a parent is required for juveniles under 16 and a judge will determine if the waiver of a 16 or 17 year old is valid.
- A court order is needed to detain a juvenile and such order will only be granted if the juvenile is a risk to public safety, has a history of failing to respond to the court process or is wanted by another state.

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Transfer to the Adult Court

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Transfer to the Adult Court - Prior to 2012

<u>TRANSFER TYPE</u>	<u>QUALIFYING OFFENSES</u>	<u>PROCEDURE</u>
Automatic Transfer CGS §46b-127(a)	Capital Felonies Class A Felonies Class B Felonies CGS §53a-54d (Arson Murder)	Automatic transfer. Class B Felonies and certain Class A sexual assault cases may be returned to juvenile court upon motion of the State's Attorney.
Discretionary Transfer CGS §46b-127(b)	Class C Felonies Class D Felonies Class E Felonies Unclassified Felonies	Prosecutor's motion; To transfer, court must find probable cause; Adult court may return case to juvenile court.

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Transfer to the Adult Court - After 2012

<u>TRANSFER TYPE</u>	<u>QUALIFYING OFFENSES</u>	<u>PROCEDURE</u>
<p style="text-align: center;">Automatic Transfer</p> <p>CGS §46b-127(a)</p>	<p>Capital Felonies Class A Felonies Class B Felonies CGS §53a-54d (Arson Murder)</p>	<p>Automatic transfer. Class B Felonies and certain Class A sexual assault cases may be returned to juvenile court upon motion of the State's Attorney.</p> <hr style="width: 50%; margin-left: auto; margin-right: 0;"/> <p>Prosecutor's motion; To transfer, court must find probable cause and best interests of child & public are not served by keeping case as a juvenile matter; Adult court may return case to juvenile court.</p>
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p>Consider:</p> <ul style="list-style-type: none"> ✓ any prior criminal or juvenile offenses; ✓ seriousness of such offenses; ✓ evidence of intellectual disability or mental illness; ✓ availability of services in juvenile court; </div>		
<p style="text-align: center;">Discretionary Transfer</p> <p>CGS §46b-127(b)</p>	<p>Class C Felonies Class D Felonies Class E Felonies Unclassified Felonies</p>	

Consequences of a Transfer

A child transferred from the juvenile court to the adult court loses all juvenile protections including the right to:

- ✓ be kept separate from adult offenders;
- ✓ confidentiality;
- ✓ a maximum sentence of 4 years in a juvenile facility;
- ✓ get their record erased; *Only until July 1, 2018.*
- ✓ automatic suppression of statements made to police without a parent present;

Transfer to the Adult Court - After 2015

<u>TRANSFER TYPE</u>	<u>QUALIFYING OFFENSES</u>	<u>PROCEDURE</u>
<p style="text-align: center;">Automatic Transfer</p> <p>CGS §46b-127(a)</p>	<p>Capital Felonies Class A Felonies Some Class B Felonies CGS §53a-54d (Arson Murder)</p>	<p>Automatic transfer. Class B Felonies and certain Class A sexual assault cases may be returned to juvenile court upon motion of the State's Attorney.</p>
<p>Consider:</p> <ul style="list-style-type: none"> ✓ any prior criminal or juvenile offenses; ✓ seriousness of such offenses; ✓ evidence of intellectual disability or mental illness; ✓ availability of services in juvenile court; 		<p>Prosecutor's motion; To transfer, court must find probable cause and best interests of child & public are not served by keeping case as a juvenile matter; Adult court may return case to juvenile court.</p>
<p>Discretionary Transfer</p> <p>CGS §46b-127(b)</p>	<p>Some Class B Felonies Class C Felonies Class D Felonies Class E Felonies Unclassified Felonies</p>	

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The class B felonies no longer automatically transferrable after 10/1/15 (PA 15-183):

- manslaughter 1st

Manslaughter 1st
§53a-55(a)(3) Class B felony:

- ✓ under circumstances evincing an extreme indifference to human life,
- ✓ recklessly engages in conduct
- ✓ creating a grave risk of death to another person, and
- ✓ thereby causes the death of another person

Assault 1st §53a-59(a)(3)
Class B felony:

- ✓ under circumstances evincing an extreme indifference to human life
- ✓ recklessly engages in conduct
- ✓ creating a risk of death to another person, and
- ✓ thereby causes serious physical injury to another person

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Transfer Consequences

Sec. 53a-55. Manslaughter 1st degree: Class B felony.

(a) A person is guilty of manslaughter in the first degree when:

(3) under circumstances evincing an extreme indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person.

Discretionary transfer

Sec. 53a-59. Assault 1st degree: Class B felony:

A person is guilty of assault in the first degree when:

(3) under circumstances evincing an extreme indifference to human life he recklessly engages in conduct which creates a risk of death to another person, and thereby causes serious physical injury to another person;

Automatic transfer

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The class B felonies no longer automatically transferrable after 10/1/15 (PA 15-183):

- manslaughter 1st
- assault on DOC employee
- sexual assault 2nd (victim under 16)
- kidnapping 2nd
- burglary 1st - w/injury or attempted injury (*still automatic transfer: §53a-101(a)(1) - armed w/explosives, deadly weapon or dangerous instrument or §53a-101(a)(3) a dwelling at night - even if not occupied*)
- arson 2nd
- larceny 1st
- identity theft 1st
- robbery 1st - w/serious physical injury, use or threatens w/dangerous instrument or displays or threatens the use of what he represents to be a pistol, revolver, rifle, shotgun, machine gun or other firearm (*still automatic transfer: §53a-134(a)(2) - armed w/deadly weapon*)
- importing child porn
- possession child porn 1st
- computer crime 1st
- computer crime in furtherance of terrorist purposes

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The class B felonies no longer automatically transferrable after 10/1/15 (PA 15-183):

Robbery 1st §53a-134(a)(1) Class B felony:
 ✓ commit robbery, and
 ✓ cause serious physical injury

Robbery 1st §53a-134(a)(3) Class B felony:
 ✓ commit robbery, and
 ✓ use or threaten use a dangerous instrument

Robbery 1st §53a-134(a)(4) Class B felony:
 ✓ commit robbery, and
 ✓ display or threaten use of what is represented to be a firearm

Sex Assault 2nd §53a-71 Class B felony:
 engage in sexual intercourse with another person and:
 ✓ the other person is 13 or older but under 16 and the actor is more than 3 years older than such other person; or
 ✓ the other person is under 16 and impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse; or
 ✓ the other person is under 16 and physically helpless;

Burglary 1st §53a-101(a)(2) Class B felony:
 ✓ unlawfully enters or remains in a building w/intent to commit a crime, and
 ✓ intentionally, knowingly or recklessly inflicts or attempts to inflict bodily injury on anyone

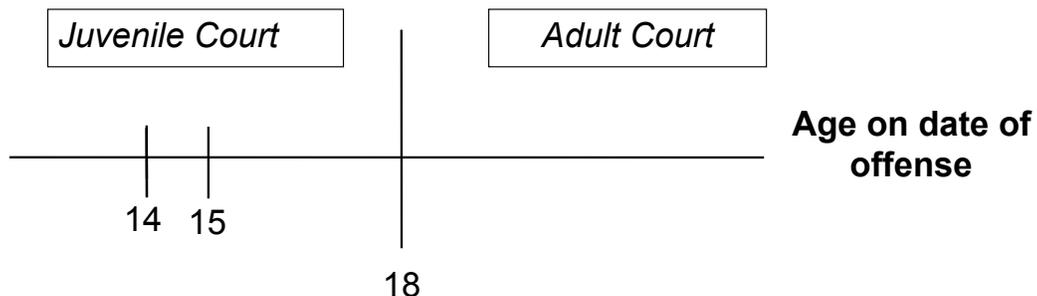
Robbery 1st §53a-134(a)(2) Class B felony:
 ✓ commit robbery, and
 ✓ armed w/a deadly weapon

Risk of Injury §53-21(a)(2) Class B felony:
 have contact with the intimate parts of a child under the age of 16 or subjects a child under 16 to contact with the intimate parts of such person, in a sexual and indecent manner likely to impair the health or morals of such child

Burglary 1st §53a-101(a)(1) Class B felony:
 ✓ unlawfully enters or remains in a building w/ intent to commit a crime, and
 ✓ is armed w/explosives, deadly weapon or dangerous instrument

Burglary 1st §53a-101(a)(3) Class B felony:
 ✓ unlawfully enters or remains in a dwelling at night w/intent to commit a crime

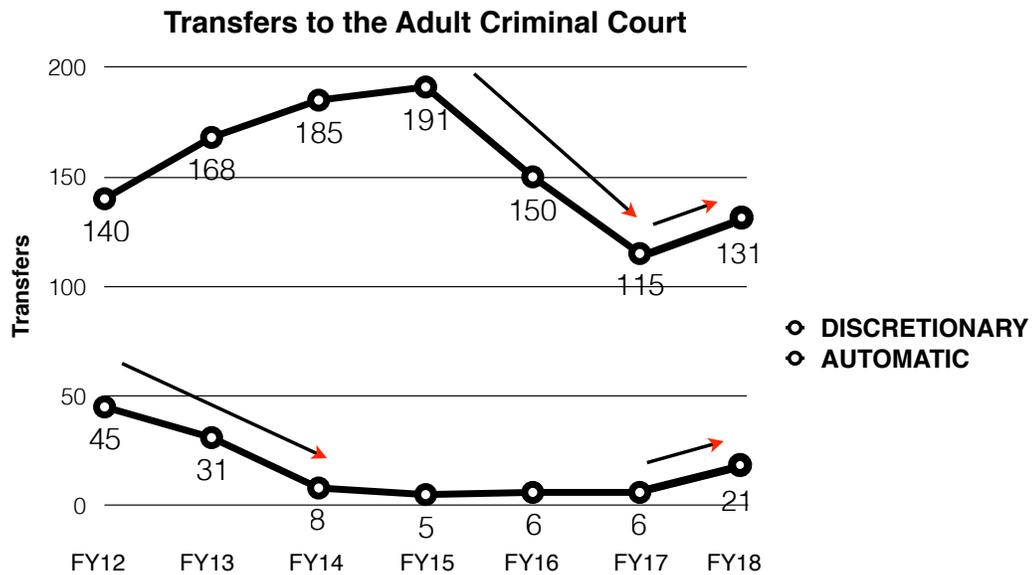
Age of Transfer: After October 1, 2015



Fifteen
~~Fourteen~~ is the minimum age for transfer to the adult court.

No matter how serious the crime or how extensive the prior record might be, a child under age ~~fourteen~~ ~~fifteen~~ cannot be transferred.

Impact of Changes



NOTE: FY12 is 7/1/11 - 6/30/12

- “Best interests of the child” added to discretionary procedure in FY13
- Class B felonies became discretionary in FY16
- Minimum age increased in FY16
- CJTS admissions closed on 1/1/18

Source: Court Operations, Judicial Branch

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Summary of Points of Interest

- 16 and 17 year olds charged with a violation or infraction, other than one involving under 1/2 ounce of marijuana, or a title 14 motor vehicle offense, failure to pay or plead or failure to appear in an adult case are handled as adults.
- The presence of a parent is required for juveniles under 16 and a judge will determine if the waiver of a 16 or 17 year old is valid.
- A court order is needed to detain a juvenile and such order will only be granted if the juvenile is a risk to public safety, has a history of failing to respond to the court process or is wanted by another state.
- Transfer to the adult criminal court depends on the specific charges filed against a juvenile.

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Other Changes for 2018

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2018 Changes:

Responsibility for juvenile justice programs and services transferred from DCF to the Judicial Branch and CSSD (effective 7/1/18).

CJTS was scheduled to close on June 30, 2018.

Committed juveniles were released home or placed in staff-secure facilities.

Juveniles committed to DCF on July 1, 2018 were put on probation supervision or probation supervision with residential placement after that date.

At this time there is no secure treatment facility for convicted delinquents in Connecticut.

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Currently, adjudicated juveniles that require secure treatment are placed in the REGIONS program, a designated part of the juvenile detention centers in Hartford and Bridgeport.

The program does not provide the services and programming available at CJTS.

The physical layout is woefully inadequate compared to the campus setting that existed at CJTS.

The capacity of each program is 12. There are 3 juveniles on the waiting list to get into REGIONS.

How's that working out?

DCF reported at the February JJPOC meeting that placing juveniles with a history of car theft in staff-secure facilities presents the “biggest obstacle right now” because some staff cars have been stolen from facility lots.

DCF reported at the May JJPOC meeting that of the 39 juveniles discharged from CJTS since January 1st, 14, or 35%, had already been rearrested within 4½ months of release.

An out-of-state residential treatment facility that was thought to be an alternative to CJTS indicated recently that, due to problems with some Connecticut kids leaving the facility, breaking into houses and stealing cars in the neighborhood, they will no longer accept kids with a “profile of consistent elopement and criminal behavior.”

In the past six weeks, Connecticut kids left the facility on two occasions. In the first, the kids stole a truck and the facility had to pay \$3,000 in damages. In the other incident, the kids broke into a nearby home and stole two vehicles from that location. The facility already paid \$3,700 and is waiting for a final bill.

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2018 Changes:

- (6) After July 1, 2018, adjudicated juveniles will be:
- discharged with or without a warning;
 - put on probation supervision or probation supervision with residential placement;
- (7) Probation supervision and probation supervision with residential placement will be for up to 18 months, with a possible extension of 12 months, for a total of 30 months, regardless of the seriousness of the charge;

(Prior to 7/1/18, the maximum commitment was 18 months with possible extension of 18 months, for a total of 36 months for non-SJO charges and 4 years, 48 months, for SJO charges.)

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- 16 and 17 year olds charged with a violation or infraction, other than one involving under 1/2 ounce of marijuana, or a title 14 motor vehicle offense, failure to pay or plead or failure to appear in an adult case are handled as adults.
- The presence of a parent is required for juveniles under 16 and a judge will determine if the waiver of a 16 or 17 year old is valid.
- A court order is needed to detain a juvenile and such order will only be granted if the juvenile is a risk to public safety, has a history of failing to respond to the court process or is wanted by another state.
- Transfer to the adult criminal court depends on the specific charges filed against a juvenile.
- The maximum consequence for a delinquency adjudication is 30 months of probation supervision, with or without placement, regardless of the seriousness of the charges.

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Hypothetical Case

- A 14 year old walks into a school with a gun and murders five people;
- Because he/she is under 18, he/she comes to the juvenile court;
- Because he/she is under 15, he/she cannot be transferred to the adult criminal court;
- If convicted of five counts of murder, the maximum consequence will be a period of probation supervision, with or without residential placement, for a period of up to 18 months, with a possible extension for another 12 months, or a total of 30 months, minus any time spent in pretrial detention.
- He/she would be able to apply for an erasure of their record at age 18.

How do we explain that to a victim or their family?

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New way of parenting?

**The impact of the Governor's
criminal justice reforms?**

You decide...

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***How Should the System Respond
to the Juvenile Auto Theft
Problem?***

Is There a Problem?

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How Do You Think the System Respond?

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