

CONNECTICUT JUVENILE JUSTICE ALLIANCE

**PUBLIC HEARING
JUDICIARY COMMITTEE**

APRIL 4, 2007

H.B. NO. 6285

**AN ACT CONCERNING THE AGE OF A CHILD WITH RESPECT TO JUVENILE
COURT JURISDICTION**

CTJJA in collaboration with the Chief Public Defenders Office has prepared an objective examination of issues related to raising the age of jurisdiction on local police agencies.

1. Doubling of the number of cases police will have to handle under juvenile procedures
 - a. Doubling of the time police must take to process 16 and 17 year olds as juveniles rather than as adults
 - i. Locate and await arrival of parents before questioning
 - ii. Require referral and follow up by additional officers when parent can't be found
 - iii. All the things they do to release 16 and 17 year olds quickly now would be nullified because of need to find parent
 - iv. Where will 16 and 17 year olds go when the police can't locate a parent or guardian?

The legal system makes two key assumptions about juveniles and their parents. First, the system presumes that parents help ensure competent decision making by juveniles. Second, the system presumes that juveniles have the capacity to make decisions about exercising rights and parents are helpful in that decision process. These two assumptions share the following components: that parents have adequate knowledge, that parents can communicate that knowledge effectively to juveniles, and that parents and juveniles share an identity of interests.

It is important that parents are notified when their children are arrested. This in itself will create a new level of accountability for 16 and 17 years old and the community, allowing for further expansion of community policing models. While contact with parents could enhance an overall community's safety, it is a new requirement of police. Even though current law requires that a youth be released to parents, in practice, police often return a

child to their home and release them to a responsible adult having control of the child (guardian, other relative). The statute could be modified to make this practice the legal standard. This would help to minimize the additional time spent locating parents. In extreme cases, when no appropriate adult can be found, youth can be taken to detention.

2. Problems with questioning

- a. Eliminates ability of officer to question a 16 or 17 year old in the field, without parent present
- b. Statements and admissions made to an officer in the field can't be used in prosecuting the offense, meaning that additional follow-up and investigation may be needed to make up for the fact that these admissions can't be used.
- c. What if a 16 or 17 year olds refuse photos or fingerprinting (no sanctions if they refuse?)

Miranda protections were created to protect individuals from being coerced. Through this legislation we are presuming that 16 and 17 are not as capable of making rational and thoughtful decisions as adults. In the same light, then, it would follow that 16 and 17 year olds should have their parents present for questioning and reading of the Miranda rights as they are not fully capable of understanding the situation and the possible consequences of waiving their Miranda rights.

Why juveniles are more vulnerable to police coercion than adults[1]

- Confrontational interrogations especially target the suspect's abilities to weigh risks and benefits. The goal is to manipulate the suspect's perception of risks and benefits and to get him to think that it is in his best interests to confess. Juveniles are more susceptible to this kind of interrogation than adults and are more apt to confess to something that they did not do for the reasons described below.
- **BRAIN IMMATURITY:** MRIS show that pre-frontal cortex – the area of the brain involved in nearly all “high-level cognitive tasks,” including decision-making and the ability to evaluate future consequences and weigh risks and rewards – does not develop fully until the late teens or early twenties. This is the very part of the brain that juvenile suspects need to make the series of complex decisions, including whether to assert or waive their Miranda rights, asked of them during police interrogations.
- Juveniles are more susceptible to **SUGESTIBILITY**. This is the phenomenon which occurs when a defendant, in a closed social interaction, comes to accept the messages communicated to them during formal questioning, and begins to incorporate them into his or her own memories and behavior.
- **COMPLIANCE** is the extent to which a juvenile will acquiesce or give in to the demands of the interrogator, usually because the suspect is made to perceive a social gain. A suspect may confess to something he did not do because he knows it is what the police officer wants him to do.

- RISK ASSESSMENT/VALUATION: Adolescents are less capable than adults of making long-term decisions because they discount the future more than adults do, and weigh more heavily the short-term consequences of decisions. For example, a young person might confess because they see it as the quickest way to get out of the police station and home, not realizing the long-term affects of their guilty plea.

As with the current juvenile population, if a 16 or 17 year old refuses to be photographed or fingerprinted, he or she can be charged with interfering with a police officer.

3. Problems when in police custody
 - a. Most police departments don't have separate secure detention facilities for juveniles
 - i. Officers will have to be taken off of the street to monitor 16 and 17 year olds processed in non-secure areas in police facilities
(Editorial question: what do they do with those under 16 now?)
 - ii. Arrests of 16 and 17 year olds occur in the evening, which is when police are busiest
 - b. In juvenile court the jurisdiction is where juvenile lives and not where the crime was committed.

When the change occurs, pursuant to the JJDP Act, 16 and 17 year olds will have a six-hour limitation with respect to how long they may be held in secure custody by the police. Due to this, police will no longer have to hold 16 or 17 years over night. They will be limited to holding them for 6 hours, decreasing the need for additional space. Currently arrests of juveniles lead to the juvenile being brought home. It is expected the same will happen with the 16 and 17 year olds. As most police departments believe in community policing, this greater interactions with parents should work as a deterrent for future delinquent behavior

4. Detention concerns
 - a. When a 16 or 17 year old needs to be detained, estimate processing will take 4 to 5 times longer than it does now.
 - b. Where will there be staff sufficient detention facilities to hold 16 and 17 year olds that won't require officers to drive long distances?
 - c. What about bond for 16 and 17 year olds after arrest for serious crimes since juveniles don't have bond.

When most 16 and 17 year olds are arrested as juveniles they will simply receive a summons, significantly lessening the time police have to spend with youth of this age group, booking and detaining them (as is the current practice). There will be a small percentage of the case that will require more time, but these cases should be the vast minority.

After implementing the change, if the burden on municipal police is found to be great, because they are forced to transport juveniles to detention over long distances, the CSSD Central transport unit could be enhanced to provide support for the local police.

Serious crime will lead to automatic placement within a detention center. Bond will not be available until arraignment. This measure can only enhance public safety.

5. Traffic concerns

- a. Can a traffic infraction be issued directly to this group?
- b. Can a summons to appear in court for a serious traffic violation be issued to someone this age or must it go to the parent?
- c. In what court would this group appear?
- d. What about DUI arrests for this group – how can the police get valid BAC tests if kids can't consent to the test or question the juvenile until the parents arrive?
- e. BAC tests are done in the adult side of detention areas, where these juveniles would not be able to go.

Infractions are not criminal prosecution and can therefore stay within the infraction court with a change in the definition of a delinquent act. This will allow the State to keep fine revenues.

More serious traffic violations will be prosecuted as delinquent offences.

Since driving is a privilege and not a right, the legislature could carve expectation into the law to allow for 16 and 17 year olds to enter the areas where the BAC tests are completed. This could be addressed in the follow-up committee proposed in the current legislation.

6. Overall concerns

- a. Police already have chronic staffing shortages
- b. Doesn't reduce number of kids committing crimes, just moves them from one jurisdiction to the other
- c. Foresee police recruitment as a more acute problem in the future.
- d. This will overload urban departments and reduce or eliminate capacity of suburban departments to do individualized case management or diversion.
- e. Police overtime will go up and that will increase state costs.
- f. Will officers avoid intervention with this age group because of cumbersome juvenile processes?
- g. What about FWSN offenders?
- h. Will need new officers trained for juvenile matters
- i. New in service training for all police officers
- j. Could be perceived as an unfunded mandate

State will have to fund training and diversion.