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CITY OF OAKLAND



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94612

Ignacio De La Fuente
City Council Member, District 5

(510) 238-7005
FAX:(510) 238-6129

Larry Reid
City Council President

TO: Oakland City Council

FROM: Councilmember De La Fuente and Council President Larry Reid

DATE: 10/4/11

RE: Adopt an Ordinance establishing a juvenile protection curfew to apply to youth under the age of 18 (1) between the hours of 10:00 PM and 5:00 AM Sunday through Thursday and 11:30 PM to 5:00 AM Friday and Saturday (2) between the hours of 8:30 AM and 1:30 PM on school days and (3) directing the City Administrator and the Chief of Police to come back to the City Council within 30 days with an implementation plan

Colleagues-

The proposed ordinance enacts a Juvenile Protection Curfew that would:

1. Make it unlawful for any minor to be present in any public place or on the premises of any establishment within the City of Oakland during curfew hours.
2. Make it unlawful for any parent or legal guardian of a minor knowingly to permit, or by insufficient control to allow the minor to be present in any public place or on the premises of any establishment within the City of Oakland during curfew hours.
3. Make it unlawful for the operator or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

“Curfew hours” are defined as

1. 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 a.m. of the following day; and
2. 11:30 p.m. on any Friday or Saturday until 5:00 a.m. the following day.
3. 8:30 a.m. on any school day until 1:30 p.m. the same day

Over the years curfews have raised a number of legal issues and constitutional challenges. In 1991 the City Council of Dallas, Texas adopted its curfew ordinance which was subsequently challenged by the ACLU and upheld by the U. S Court of Appeals for the Firth Circuit in 1993. The court stated in its ruling that the ordinance was properly aimed, that is, narrowly tailored to “...allow the city to meet its stated goals while respecting the rights of the affected minors.”

As established by the Dallas ordinance, the following exemptions are included in this proposed ordinance so as to meet address the specific needs in the least restrictive means possible. It is a defense to prosecution under Subsection 9.12.110.A, 9.12.110.B, or 9.12.110.C of the ordinance that the minor was:

1. accompanied by the minor’s parent or guardian, or by a responsible adult;
2. on an errand at the direction of the minor’s parent or legal guardian, or the responsible adult, without any detour or stop;
3. in a motor vehicle involved in interstate travel;
4. engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
5. involved in an emergency;
6. on the sidewalk abutting the minor’s residence;
7. attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Oakland, a civic organization, or another similar entity that takes responsibility for the minor;
8. exercising First Amendment rights protected by the United States Constitution; or
9. Emancipated pursuant to law.

BACKGROUND

A 1995 survey by The U.S. Conference of Mayors found that 272 cities, 70 percent of those surveyed, had a nighttime curfew. Fifty-seven percent of these cities considered their curfew effective. Since that survey was done the trend toward establishing curfews—both nighttime and daytime—has continued and more is known about their impact. A 1997 survey gathered information from 347 cities with a population over 30,000. Findings of the survey include:

Four out of five of the survey cities (276) have a nighttime youth curfew. Of these cities, 26 percent (76) also have a daytime curfew.

Nine out of 10 of the cities (247) said that enforcing a curfew is a good use of a police officer's time. Many respondents felt that curfews represented a proactive way to combat youth violence. They saw curfews as a way to involve parents, as a deterrent to future crime, and as a way to keep juveniles from being victimized.

Examples of city comments from the survey include:

- **Tulsa:** There is generally no useful purpose for a juvenile to be out late at night. Enforcement of curfews serves to protect them from being victimized by the criminal element.
- **Charlotte:** This is a good tool to protect children. Most parents didn't even know their children were outside the home.
- **Jacksonville (NC):** It provides officers with "probable cause" to stop the youth.
- **Claremont:** It frees up officers' time during the curfew hours to do other police work. Kids don't go out because they know they will get in trouble.
- **Anchorage:** Parents are contacted each time a juvenile is picked up, often eliminating repeat occurrences.
- **St. Peters (MO):** It assists in providing a method of controlling juveniles when adult supervision is lacking. Less time is spent by officers in getting them off the street than responding to problems they create.
- **Toledo:** It provides officers an opportunity to intervene with potential issues before problems develop. Periodic sweeps remind the public about the law officer. Curfew enforcement has, in large part, become a part of routine enforcement.

A 2010 study conducted by Patrick Kline of UC Berkeley titled, "The Impact of Juvenile Curfew Laws," looked at 65 cities and compared arrest behavior of various age groups within a city before and after curfew enactment. The study found that "overall, curfews appear to have important effect on the criminal behavior of youth. The arrest data suggest that being subject to a curfew reduces the number of violent and property crimes committed by juveniles below the curfew age by approximately 10% in the year after enactment, with the effects intensifying substantially in subsequent years for violent crimes."³

Dallas, Texas

The Dallas Police department conducted an assessment of the effectiveness of the juvenile curfew after 3 months of enforcement. They found that juvenile victimization during curfew hours dropped 17.7 percent while juvenile arrests during curfew hours decreased 14.6 percent.

Long Beach, California

In 1994, in an attempt to meet the needs of the city's growing population and thwart escalating gang activity, Long Beach officials established a 10 p.m. to 6 a.m. curfew law. The ordinance led to a 14-percent decrease in the average number of crimes committed per hour in 1994, compared with 1993. During the same time period, gang-related shootings decreased nearly 23 percent.

New Orleans, Louisiana

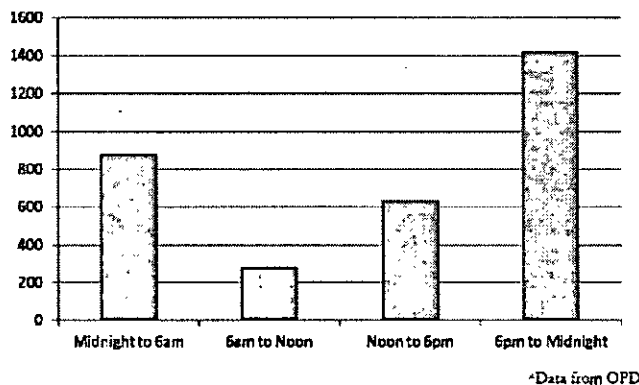
New Orleans, which has enacted one of the strictest curfew ordinances in the country, also reports a significant decrease in juvenile crime since its curfew ordinance went into effect in May 1994. The dusk-to-dawn curfew, enacted in response to an escalating level of violent crime involving juveniles as both perpetrators and victims, was influential in decreasing the incidence of youth crime arrests by 27 percent the year after its adoption. In that same time period, armed robbery arrests decreased by 33 percent and auto theft arrests decreased by 42 percent.

Homicides and Shootings in Oakland

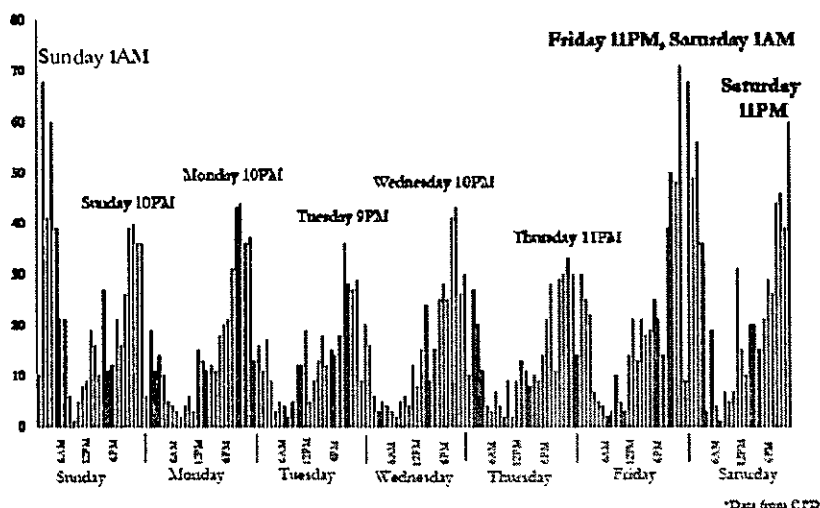
A 2008-2010 Measure Y study of the Demographics of Homicide and Shooting Victims revealed the following: In 2008, there were 11 homicide victims under the age of 18. In 2009, there were 09 homicide victims under the age of 18. In 2010, there were 10 homicide victims under the age of 18.¹ The 2008-2010 study also revealed that young people under the age of 18 accounted for 12% of shooting victims.¹

The two following tables are taken from the same study:

Homicides and Shootings by Time of Day
2008-2010



**Number of Homicides and Shootings by Day and Time
2008-2010**



A 2009 report by Urban Strategies Council which analyzed the 125 murders that took place that year, found that the deadliest hours in Oakland in 2008 were at night between 8:00 PM and 4:00 AM with 66.5 percent of homicides occurring during this 8 hour period.²

ACTION REQUESTED OF THE COUNCIL

As the violence continues to escalate in our City and the homicide numbers continue to climb, taking the lives of young people in our City, we submit to you this proposed ordinance as an additional tool for our police department to use in their efforts to reduce crime. We also ask the City Administrator and the Chief of Police to come back to us with an implementation plan for this youth protection curfew.

Respectfully submitted,

Council President Larry Reid
Prepared by Ray Leon

Council President Pro Tempore
Ignacio De La Fuente
Prepared by Claudia Burgos

ATTACHMENTS:

- Attachment A – Long Beach Ordinance
- Attachment B – San Jose Ordinance
- Attachments C & D -As requested by Vice Mayor Brooks during the September 22nd Rules and Legislation Committee meeting, Attachments C and D are included with this report.

¹ Measure Y – The Demographics of Homicide and Shooting Victims 2008-2010

² Urban Strategies Council - Homicides in Oakland 2008 Homicide Report: An Analysis of Homicides in Oakland from January through December, 2008

³ The Impact of Juvenile Curfew Laws by Patrick Kline

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City Attorney

OAKLAND CITY COUNCIL

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ORDINANCE No. _____ C.M.S.

DRAFT

INTRODUCED BY COUNCILMEMBER IGNACIO DE LA FUENTE & COUNCIL
PRESIDENT LARRY REID

AN ORDINANCE (1) ADDING ARTICLE II TO CHAPTER 9.12 OF THE OAKLAND MUNICIPAL CODE (OMC) TO ESTABLISH A JUVENILE PROTECTION CURFEW PROGRAM AND (2) AMENDING OMC SECTION 1.28.020 TO CODIFY THE PENALTIES FOR VIOLATIONS OF THE CURFEW ORDINANCE , AND (3) REPEALING OAKLAND MUNICIPAL CODE SECTIONS 9.12.020 AND 9.12.030 PROHIBITING MINORS FROM LOITERING IN PUBLIC PLACES

WHEREAS, the City Council has determined that there has been an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of eighteen (18) years ("Minors") in the City of Oakland; and

WHEREAS, Oakland Municipal Code sections 9.12.020 and 9.12.030 which intended to address loitering offenses committed by minors, were passed around 1947 and since then have been outdated by new case law and should therefore be repealed; and

WHEREAS, minors are particularly susceptible by their lack of maturity and experience to participate in unlawful, gang-related activities and to become victims of adult perpetrators of crime; and

WHEREAS, a significant amount of serious crime (burglaries, robberies, assaults, rapes, etc.) is committed by and against minors during late night hours in the City of Oakland; and

WHEREAS, there has been an increase in minors committing shootings and other crimes during late night hours in the City of Oakland; and

WHEREAS, the involvement of minors – as perpetrators and victims – in offenses dealing with human trafficking and prostitution continue to increase; and

WHEREAS, a significant amount of serious crime is also committed by adults during the late night hours in the City of Oakland thereby compromising the public's safety and in particular the safety of minors, and

WHEREAS, the California Legislature has found that a significant number of injury vehicle accidents involving minors occur between 9:00 p.m. and 5:00 a.m. and, for the safety of minors and others on the streets, has restricted driving privileges so that for the

first 12 months of issuance of a driver's license, a minor may not transport passengers under age 20, and may not drive between the hours of 11:00 p.m. and 5:00 a.m. without a parent or other adult driver, as specified in Section 12814.6 of the California Vehicle Code; and

WHEREAS, reducing the number of minors in public places in the City of Oakland during late night hours will reduce the instances in which minors are at risk of committing serious crimes or become themselves the victims of serious crimes, and reduce the opportunity for minors to be involved in narcotics, prostitution and gang activity involving other youth or adults; and

WHEREAS reducing the number of minors in public places in the City of Oakland during late night hours will allow the Oakland Police Department to deploy its personnel to focus on investigating and preventing serious crimes committed by adults during the late night hours; and

WHEREAS, by addressing the presence of youth in public places during late night/early morning hours the City of Oakland seeks to provide for the protection of minors from violence committed by minors and adults, to enforce parental control over and responsibility for children, to protect the general public, to reduce the incidence of juvenile criminal activities and the victimization of juveniles, and to reduce the incidence of night/early morning time juvenile injury motor vehicle accidents; and

WHEREAS, the City Council finds and determines that passage of a youth curfew ordinance will protect the welfare of minors by:

1. Reducing the likelihood that minors will be victims of criminal acts during the curfew hours;
2. Reducing the likelihood that minors will become involved in committing criminal acts; and
3. Reducing the likelihood that minors will be exposed to narcotics trafficking and gang activity involving adults during the curfew hours; and
4. Reducing the likelihood that minors will be involved in night time injury motor vehicle collisions; and
5. Aiding parents and legal guardians in carrying out their responsibility to exercise reasonable supervision of minors entrusted to their care; and

WHEREAS, OMC Chapter 1.28 sets forth the classification of OMC violations as misdemeanors or infractions; and

WHEREAS, the Juvenile Protection Curfew Ordinance grants discretion to the prosecuting attorney to charge certain misdemeanor violations as infractions and creates a new infraction offense; and

WHEREAS, OMC Chapter 1.28 should be amended to codify the discretion granted to the prosecuting attorney, now, therefore

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. That the City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. Oakland Municipal Code Chapter 9.12, Article II is added to read as follows:

Article II Juvenile Protection Curfew

§9.12.100 Definitions for Curfew Provisions

For purposes of this Article:

- A. "Curfew hours" means:
1. 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 a.m. of the following day; and
 2. 11:30 p.m. on any Friday or Saturday until 5:00 a.m. the following day.
 3. 8:30 a.m on any school day until 1:30 pm the same day
- B. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- C. "Establishment" means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
- D. "Legal Guardian" means (1) a person who, under court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.
- E. "Minor" means any person under eighteen (18) years of age.
- F. "Operator" means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- G. "Parent" means a person who is a natural parent, adoptive parent, or step-parent of another person.
- H. "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, parks, plazas, playgrounds, sidewalks, alleys, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

- I. "Responsible adult" means a person at least eighteen (18) years of age, temporarily authorized by a parent or legal guardian to have the care and custody of a minor.
- J. "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

§9.12.110 Curfew Offenses

- A. It is unlawful for any minor to be present in any public place or on the premises of any establishment within the City of Oakland during curfew hours.
- B. It is unlawful for any parent or legal guardian of a minor knowingly to permit, or by insufficient control to allow the minor to be present in any public place or on the premises of any establishment within the City of Oakland during curfew hours.
- C. It is unlawful for the operator or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.
- D. It is a defense to prosecution under Subsection 9.12.110.A, 9.12.110.B, or 9.12.110.C that the minor was:
 - 1. accompanied by the minor's parent or guardian, or by a responsible adult;
 - 2. on an errand at the direction of the minor's parent or legal guardian, or the responsible adult, without any detour or stop;
 - 3. in a motor vehicle involved in interstate travel;
 - 4. engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - 5. involved in an emergency;
 - 6. on the sidewalk abutting the minor's residence;
 - 7. attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Oakland, a civic organization, or another similar entity that takes responsibility for the minor;
 - 8. exercising First Amendment rights protected by the United States Constitution; or
 - 9. emancipated pursuant to law.
- E. It is a defense to prosecution under Subsection 9.12.110.C. that the operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.
- F. Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place or on the premises of the establishment during curfew hours. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an

offense has occurred and that, based on any responses and other circumstances, no defense under Subsection 9.12.110.D or 9.12.110.E is present or applicable.

- G. A person who violates a provision of this Article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.

§9.12.120 Penalty

- A. Any minor violating the provisions of Subsection 9.12.110.A shall be guilty of an infraction, and shall be dealt with in accordance with juvenile court law and procedure.
- B. If a minor violates the curfew two (2) times within a six (6) month period the prosecuting agency will have the discretion to elevate the infraction to a misdemeanor.
- C. Any adult violating the provisions of Subsection 9.12.110.B or C shall be guilty of a misdemeanor or an infraction pursuant to the provisions of Section 1.28.020 of this Code and will be cited.
- D. The applicable fines for violations of this Chapter shall be imposed in accordance with Chapter 1.28 of this Code.

Section 3. Severability

This Article shall be enforced to the full extent of the authority of the City of Oakland. The Subsections, paragraphs, sentences and words of this Section are deemed severable, so that, if any Section, Subsection, paragraph, sentence or word of this Section is found to be invalid or beyond the authority of the City of Oakland, such finding shall not affect the applicability and enforcement of the remaining portions of this Section

Section 4. Oakland Municipal Code Chapter 1.28.020 is amended to add the following subsection to the list of infraction offenses:

§1.28.020.A.2.k. Section 9.12.110.A – Juvenile Protection Curfew.

Section 5. Oakland Municipal Code section 9.12.020 and 9.12.030 are repealed to remove the following:

~~9.12.020 Minors in public places.~~

~~Every person under the age of eighteen (18) years who loiters in or about any public street or other public place or any place open to the public in the city, between the hour of ten p.m. and the time of sunrise of the following day when not accompanied by his or her parent, guardian or other adult person having the legal care, custody or control of such person, or spouse of such person over twenty-one (21) years of age, is guilty of a misdemeanor.~~

~~9.12.030 Responsibility of parents, guardians and other persons:~~

~~Every parent, guardian, or other person having the legal care, custody, or control of any person under the age of eighteen (18) years who permits such person to violate the provisions of Section 9.12.020, is guilty of a misdemeanor.~~

Section 6. This Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes on final adoption as provided by Section 216 of the City Charter; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2011_

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

AN ORDINANCE (1) ADDING CHAPTER 9.12 OF THE OAKLAND MUNICIPAL CODE TO ESTABLISH A YOUTH PROTECTION CURFEW AND (2) REPEALING SECTIONS 9.12.020 AND 9.12.030 (MINORS LOITERING IN PUBLIC PLACES)

NOTICE AND DIGEST

This Ordinance adds Oakland Municipal Code Chapter 9.12 and establishes a Youth Protection Curfew. The curfew prohibits persons under 18 years of age from being in any public place or establishment in the City of Oakland, between the hours of 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 a.m. of the following day, and 11:30 p.m. on any Friday or Saturday until 5:00 a.m. the following day. And between the hours of 8:30 a.m and 1:30 p.m on school days. It also prohibits parents or legal guardians from allowing minors under their control to violate this Ordinance. Additionally, it prohibits a business establishment from knowingly allowing minors to remain on its premises during curfew hours. Finally, this ordinance repeals sections 9.12.020 and 9.12.030 of the Oakland Municipal Code (minors loitering in public).

Attachment A

Long Beach, California, Municipal Code >> - Volume 1 >> Title 9 - PUBLIC PEACE, MORALS AND WELFARE >> VII. - Offenses by or Against Minors >> Chapter 9.58 - LOITERING >> .

Chapter 9.58 - LOITERING

Sections:

9.58.010 - Prohibition against juvenile being in public place between the hours of ten p.m. until six a.m. the following day.

9.58.020 - Prohibition against juvenile being in public place between the hours of eight-thirty a.m. until one-thirty p.m.

9.58.010 - Prohibition against juvenile being in public place between the hours of ten p.m. until six a.m. the following day.

- A. Curfew.** It is unlawful for any minor under the age of eighteen (18) years to remain in or upon any "public place," as defined in Section 9.02.090, between the hours of ten p.m. until six a.m. the following day.
- B. Exceptions.** The provisions of subsection A of this section shall not apply when:
1. The minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor;
 2. The minor is on an errand at the direction of the minor's parent or guardian, without any detour or stop;
 3. The minor is in a motor vehicle involved in interstate travel;
 4. The minor is engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 5. The minor is involved in an emergency requiring immediate action to prevent serious bodily injury or loss of life;
 6. The minor is on the sidewalk abutting the minor's residence;
 7. The minor is attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or the minor is going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
 8. The minor is exercising First Amendment rights protected by the United States Constitution;
 9. The minor is emancipated pursuant to law.
- C. Enforcement.** Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception under subsection B of this section is present.

(Ord. C-7488 § 1, 1997; Ord. C-6503 § 1, 1988; Ord. C-5938 § 1, 1983).

9.58.020 - Prohibition against juvenile being in public place between the hours of eight-thirty a.m. until one-thirty p.m.

- A. Curfew.** It is unlawful for any minor under the age of eighteen (18) years, who is subject to compulsory education or to compulsory continuing education, to remain in or upon any "public place," as defined in Section 9.02.090 of this code, between the hours of eight-thirty a.m. until one-thirty p.m. on days when such minor's school is in session.
- B. Exceptions.** The provisions of subsection A of this section shall not apply when:
1. The minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor;
The minor is on an emergency errand at the direction of the minor's parent or guardian, without

Attachment A

2. any detour or stop;
 3. The minor is in a motor vehicle involved in interstate travel;
 4. The minor is engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 5. The minor is involved in an emergency requiring immediate action to prevent serious bodily injury or loss of life;
 6. The minor is going or coming to or from a medical appointment;
 7. The minor has permission to leave campus for lunch or other school-related activity and has in his or her possession a valid, school-issued, off-campus permit;
 8. The minor is attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or the minor is going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
 9. The minor is exercising First Amendment rights protected by the United States Constitution;
 10. The minor is emancipated pursuant to law;
 11. The minor is not required by his or her school vacation, track or curriculum schedule to be in school.
- C. Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception under subsection B of this section is present.

(ORD-06-0025 § 1, 2006; Ord. C-7386 § 1, 1996).

Print

Attachment B

San Jose, CA Code of Ordinances

Chapter 10.28 YOUTH PROTECTION CURFEW ORDINANCE

Parts:

- 1 Definitions
- 2 Regulations

Part 1 DEFINITIONS

Sections:

- 10.28.010 Definitions.
- 10.28.020 Curfew hours.
- 10.28.030 Emergency.
- 10.28.040 Establishment.
- 10.28.050 Guardian.
- 10.28.060 Minor.
- 10.28.070 Parent.
- 10.28.080 Public place.
- 10.28.090 Serious bodily injury.

10.28.010 Definitions.

The definitions set forth in this part shall govern the application and interpretation of this chapter.

(Ords. 24648, 25397.)

10.28.020 Curfew hours.

"Curfew hours" means:

- A. The hours between 10:00 p.m. to 5:00 a.m. for minors under the age of sixteen years; or
- B. The hours between 11:30 p.m. to 5:00 a.m. for minors under the age of eighteen years.

(Ords. 24648, 24826, 25397.)

Attachment B

10.28.030 Emergency.

"Emergency" means an unforeseen circumstance or circumstances or the resulting situation that calls for immediate action to prevent serious bodily injury or loss of life. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(Ords. 24648, 25397.)

10.28.040 Establishment.

"Establishment" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement, entertainment, or recreation.

(Ords. 24648, 25397.)

10.28.050 Guardian.

"Guardian" means:

A. A person who, under court order, is the guardian of the person of a minor; or

B. A public or private agency with whom a minor has been placed by a court; or

C. A person who is at least eighteen years of age and authorized by a parent or guardian to have the care and custody of a minor.

(Ords. 24648, 25397.)

10.28.060 Minor.

"Minor" means any person under eighteen years of age.

(Ords. 24648, 25397.)

10.28.070 Parent.

"Parent" means a person who is a natural parent, adoptive parent, or step-parent of a minor.

(Ords. 24648, 25397.)

10.28.080 Public place.

"Public place" means:

A. Any out-of-door area to which the public or a substantial group of the public has access, including, but not limited to, streets, highways, sidewalks, alleys, parks, playgrounds, or other public grounds; and

B. The out-of-doors common areas of establishments, including, but not limited to, entry ways and parking lots.

(Ords. 24648, 25397.)

Attachment B

10.28.090 Serious bodily injury.

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Ords. 24648, 25397.)

Part 2 REGULATIONS

Sections:

- 10.28.100 Prohibition.
- 10.28.110 Exemptions.
- 10.28.120 Constitutional rights.
- 10.28.130 Enforcement procedure.

10.28.100 Prohibition.

A. It is unlawful for any minor under the age of sixteen years to be in any public place within the city during curfew hours, except as provided under Section 10.28.110.

B. It is unlawful for any minor under the age of eighteen years to be in any public place within the city during curfew hours, except as provided under Section 10.28.110.

(Ords. 24648, 24826, 25397.)

10.28.110 Exemptions.

A minor under the age of eighteen years shall not be in violation of this chapter if, at the time the minor was stopped by a police officer, the minor was:

- A. Accompanied by the minor's parent or guardian;
- B. On an errand at the direction of the minor's parent or guardian, without detour or stop;
- C. Driving or riding in a motor vehicle or riding on public transportation;
- D. Engaged in a lawful volunteer or paid employment activity, or going to or returning home from a lawful volunteer or paid employment activity, without detour or stop;
- E. Acting in response to an emergency;
- F. On the sidewalk abutting the minor's residence or abutting the residence which is immediately adjacent to the minor's residence;
- G. Attending or going to or returning home, without detour or stop, from a school, religious, cultural, sports, amusement, entertainment, or recreation activity; or any organized rally, demonstration, meeting or similar activity;

Attachment B

H. Waiting at a train or bus station for transportation;

I. Emancipated in accordance with the California Family Code or other applicable state law.

(Ords. 24648, 24826, 25397.)

10.28.120 Constitutional rights.

Nothing in this chapter shall be interpreted to preclude minors from being in a public place for the purpose of exercising the rights guaranteed by the First Amendment of the United States Constitution and by Article I, Sections 2, 3, and 4 of the California Constitution, including the free exercise of religion, freedom of speech, the right of assembly, and the right to petition.

(Ord. 25397.)

10.28.130 Enforcement procedure.

A. Before taking any enforcement action under Section 10.28.100, a police officer shall ask the apparent offender's age and reason for being in the public place.

B. The officer shall not take enforcement action under this chapter unless the officer has probable cause to believe that neither Section 10.28.120 nor any exemption under Section 10.28.110 applies.

(Ords. 24648, 25397.)

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CENTER ON JUVENILE AND CRIMINAL JUSTICE

Center on Juvenile and Criminal Justice, 54 Dore Street, San Francisco, CA 94103

www.cjcj.org
Tel: (415) 621-5661 | Fax: (415) 621-5466

The Impact of Juvenile Curfew Laws in California

[Press Release] [Executive Summary]

CONTACT: Daniel Macallair
E-mail: [dmacallair@cjcj.org]
Tel: (415) 621-5661 x310

Abstract

In recent years cities and localities across the country have expanded the use of youth curfews to address growing public concern about juvenile crime and violence. By reducing the number of youths on the street during certain hours, curfews are assumed to lesson the number of circumstances in which youth crime can occur. It is also assumed that curfews reduce youth crime by deterring youths from being on the streets at certain hours out of fear of being arrested. Curfews have been widely-cited by policy makers as an effective tool for reducing youth crime. However, despite these assertions, virtually no comprehensive analysis of the effects of these laws has been completed. This study analyzes arrest data from jurisdictions throughout California. It is hypothesized that jurisdictions with strict curfew enforcement will experience lower overall, and serious crime arrests, than jurisdictions with less strict curfew enforcement. Also, because of their emphasis on youth curfew enforcement, jurisdictions with strict youth curfews will have accelerated rates of youth crime reduction in relation to adult crime trends.

Introduction

National and California leaders, including President Bill Clinton, Governor Pete Wilson, and Attorney General Dan Lungren, have endorsed implementation and enforcement of stronger "status" laws (those imposed on children and youths but not on adults, such as laws criminalizing running away from home, truancy, underage drinking, incorrigibility, and presence in public during certain hours). The last of these, nighttime and schoolday curfews, have won the most attention and have been cited by Clinton and Lungren for their potential to reduce juvenile crime (Krikorian, 1996; Riccardi, 1997). Strict curfew enforcement follows deterrence theory, which argues that "certain, swift, and severe punishments" will cause juveniles to rationally weigh consequences and commit fewer criminal acts (Lundman, 1993, p.150). Defenders argue that such laws protect youth and the public from violence and criminality and deter violators from more serious offenses (Reufle, Reynolds and Brantley, 1997). Detractors warn that arresting youth for acts that would not be crimes if committed by adults violates basic constitutional guarantees, leads to antagonism between non-criminal youth and law enforcement, and is an inefficient way to deter crime (Harvard Law Review Association, 1997).

Curfews also employ elements of incapacitation theory, though only if narrowly applied. Incapacitation theory holds that most youth crime is caused by a small number of juveniles who can be identified and

restrained. Curfews used to incapacitate would be selectively applied only to juveniles who are repeat offenders, not to all youths. Boston has implemented incapacitory curfews targeting only youths on probation and, initially at least, claims success in preventing homicide. Incapacitory curfews are not evaluated in this paper since California curfews apply to all youths (Lundman 1993).

Instead of presenting controlled data, advocates on both sides have made anecdotal statements to the media such as, "Monrovia, California's, curfew adoption resulted in a 54% decline in daytime burglaries (Riccardi, 1997)." This assertion requires scrutiny since Monrovia had already experienced a 40% decline in juvenile burglaries (and had only 13 juveniles arrested for burglary per year) prior to the curfew's adoption (Criminal Justice Statistics Center, 1978-96). The decline was also not compared to that of cities which did not enforce curfews.

Recently, the U.S. Conference of Mayors surveyed the nation's 1,010 cities with populations more than 30,000, asking if law enforcement authorities would credit their curfews for any recent improvements in juvenile crime. Only one-third, or 347, of the cities responded to this invitation. Of those, 88% claimed their curfew enforcement was responsible for reducing youth crime - even though, the Los Angeles Times reported, the survey "did not include a statistical analysis of the effect curfews have had on crime" (Wilgoren and Fiore, 1997). Recently, the Los Angeles Police Department reported that vigorous curfew enforcement, including 101 task forces of 3,600 officers who wrote 4,800 curfew citations to youths in six months, had no effect on reported crime or juvenile violent crime. This report also did not include a scientific comparison with areas that did not enforce curfews (Lait 1998). Surprisingly, given that curfew arrests of California youth have risen fourfold, (from 5,400 in 1989 to 21,200 in 1996), it appears that no systematic study of California's experience with enforcement of status crime and curfew laws has been undertaken to shed light on whether they deter crime. A search turned up only 25 studies of curfews nationwide (only three in California) since 1990. These reached mixed, often diametrically opposite, conclusions, primarily because all examined philosophical issues rather than analytical studies. None adopted a scientific approach of analyzing the effects of curfew enforcement on juvenile crime over time; nearly all focused on just one jurisdiction rather than examining numerous and diverse experiences with curfews; and none compared jurisdictions which enforced curfews to those which did not (Reufle, Reynolds and Brantley, 1997; Harvard Law Review Association, 1997). Without long term, large scale, and controlled statistical analyses, it is impossible to reach even preliminary conclusions as to whether curfew enforcement reduces, increases, or has no effect compared to the myriad other factors that influence juvenile crime rates. The lack of systematic analysis is all the more surprising given that data is readily available to test the effects of curfews on youth crime.

Methodology

Statistics on crimes by type, age of arrestee, year, and county are taken directly from the tabulations by the California Department of Justice's Law Enforcement Information Center (LEIC), annually reported statewide by Crime & Delinquency in California and county wide in "California Criminal Justice Profile 1980-1994," and statewide and by county in the 1995 and 1996 updates. This study uses the LEIC's definition of "youth" (age 10-17) and "adult" (age 18-69) and estimates of population for each group in calculation of crime rates. The categories of youth crime examined are: all arrests, felonies, violent felonies, homicides, property felonies, and misdemeanors (Division of Law Enforcement, 1978-95; Criminal Justice Statistics Center, 1978-1996). "All arrests" and "misdemeanors" do not include arrests for status (including curfew) violations. Population figures are from the California Department of Finance's Demographic Research Unit.

Whether a particular police strategy (i.e., enforcement of curfews) is related to higher or lower levels of youth violence is examined by means of a standard correlation analysis of annual changes in arrest rates (called "differencing"). Correlation by the differencing method factors out the artificial patterns natural to trending series by comparing the year-to-year changes in rates of curfew enforcement with year-to-year changes in rates of other crime. This analysis examines whether year-by-year increases or decreases in the rates of police enforcement of curfews affects the corresponding rates of youth crime. Correlations determine whether Item A is related to Item B positively (A rises as B rises, A falls as B falls), negatively (A rises as B falls, A falls as B rises), or not at all.

The formula produces a statistic in which a perfect positive correlation is 1.00, a perfect negative correlation is -1.00, and no correlation is 0. If stronger enforcement of curfew laws against youths over the 1980-96 period is significantly negatively correlated with rates of youth crime in a particular county (that is, more curfew arrests were accompanied or followed by lower levels of youth crime), it could be argued as a working hypothesis that law enforcement strategy reduced crime.

Since curfew laws do not apply to adults, we might expect that enforcement of these laws would affect youth crime rates but not adult crime rates. Thus, both raw youth crime rates and net youth crime rates (expressed as a ratio to adult crime rates) for each year, type of crime, and state/county/city jurisdiction are compared. Three different analyses are conducted:

(1) Statewide curfew arrest rates and crime rates separated by race/ethnicity for all youths in aggregate and for California's four major groups (White non-Hispanic, Hispanic, Black non-Hispanic, and Asian/other non-Hispanic) are compared for the 1978-96 period, the maximum time for which reliable statistics exist. The analysis of six types of crime for all groups in aggregate plus the four racial groups yields 30 separate correlations (six times five) for raw youth crime rates, and 30 for youth crime rates net of adult crime rates.

A statewide comparison of total crime arrests and curfew arrests is also provided. This analysis is intended to examine a possible relationship between raw curfew arrests and overall arrest patterns.

It might be argued that gross statewide statistics would fail to capture local variations. Therefore, two local analyses are also performed:

(2) County curfew arrest rates and youth crime rates are compared for the 12 most populous counties for the 1980-96 period; again, the maximum time for which reliable figures are available for all counties. The counties examined are Alameda, Contra Costa, Fresno, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, Santa Clara, and Ventura (see appendix tables). Together, these counties totaled 22 million in population in 1995 and accounted for 90% of the state's arrests. This analysis of 12 counties for six types of crime yields 72 separate correlations for raw, and 72 for net, youth crime rates. San Jose and San Francisco are compared separately.

(3) Local curfew and youth crime rates and trends for all cities over 100,000 population in Los Angeles and Orange counties, 21 in all, are compared for the 1990-96 period (see appendix tables for list). This analysis examines felony crime rates and burglary rates, the latter due to the fact that burglary is often cited as particularly affected by curfew and status law crackdowns. This analysis of 21 cities for two major types of crime (felonies and burglaries) yields 42 separate correlations over time for the 1990-96 period, and 12 separate correlations for

the two types of crime for each of the six years, 1990 through 1995, the latter the most recent available. A separate analysis of Monrovia is presented as a case study.

Results

Statistical analysis provides no support for the proposition that stricter curfew enforcement reduces youth crime either absolutely or relative to adults, by location, by city, or by type of crime. Curfew enforcement generally had no discernible effect on youth crime. In those few instances in which a significant effect was found, it was more likely to be positive (that is, greater curfew enforcement was associated with higher rates of juvenile crime) than negative.

(1) Statewide analysis.

Of the 30 correlations of statewide rates of youth crime by race/ethnicity for the 1978-96 period, seven were significantly positive, none were significantly negative, and 23 showed no effect (see table one). Of the 30 correlations of net youth crime rates compared to adult rates, four were significantly positive, none were negative, and 26 were not significant.

Greater curfew enforcement was associated with significantly higher absolute rates of misdemeanor arrest for whites, Hispanics, Asians, and all youth in aggregate. Curfew enforcement was also associated with higher rates of violent crime by Asian youth and with higher rates of all types of arrest (subtracting curfew arrests) among white and Asian youth. No significant effect was found on rates of juvenile arrests for property crime, violent crime, homicide, all felonies, or all offenses.

When stricter curfew enforcement in each year was compared to juvenile crime rates in the following year (on the theory that perhaps curfew laws have delayed effects), no significant effects were found for either absolute or net rates of juvenile crime (compared to adults¹). In only two of 60 comparisons were significant results found, and both were positive. Conclusion: curfew enforcement does not reduce youth crime over time for any racial/ethnic group on a statewide basis.

(2) Correlations by county over time and by locale.

Of 72 correlations for absolute rates of six types of crime in the 12 largest counties for 1980-96, five were significantly positive, none were negative, and 67 were not significant. A similar pattern emerged when 72 correlations for net rate of six types of crime in the 12 largest counties for 1980-96 were examined. Four were significantly positive, none were negative, and 68 were not significant.

Curfew arrest rates were positively correlated with youth misdemeanor arrest rates as a whole, both on an absolute and net basis. Riverside and San Diego counties showed significant increases in juvenile misdemeanor arrests correlated with greater curfew enforcement, while San Diego showed a greater increase in violence arrests, and San Francisco in felony and total arrests. Orange County showed significantly higher net rates of youth property crime and total arrests compared to adult rates associated with greater curfew enforcement; Riverside showed higher net levels of juvenile misdemeanor arrests and Santa Clara County had higher rates of youth homicide. No county showed a significant decrease in any kind of youth crime, either on an absolute or net basis, associated with greater curfew enforcement.

(3) County-by-county comparisons.

It might be argued that in locales with stronger status/curfew law enforcement, youth crime levels (rates) would be reduced. California counties are laboratories for the study of this question. Compared to the state average, Fresno (2.1 times higher), San Diego (1.8), Los Angeles (1.6), Ventura (1.6) and Santa Clara (1.2) counties have curfew arrest rates dozens of times higher than San Francisco (0), Sacramento (0.01), Alameda (0.09) and Riverside (0.25). Youth violent crime levels in 1995-96 varied sixfold, from 1,779 per 100,000 youths in San Francisco County to 285 in Riverside. Youth property felony rates range from 1,727 in San Francisco and 1,685 in Fresno to 689 in Riverside (San Francisco's rates are elevated because it is the only county wholly comprised of a city). Relative to adults, the youth felony arrest rate is 1.51 times higher in Santa Clara and 1.44 times higher in Fresno, twice the net youth felony rate of Riverside (0.75). Rates of status crime arrests varied twentyfold, from 1,363 per 100,000 in Fresno County and 1,300 in San Diego to 60 in Sacramento.

If strong curfew enforcement reduces youth crime, net youth crime rates relative to adult crime rates in high curfew enforcement counties should be lower than in low curfew enforcement counties. Again, this is not the case. In 1995-96, greater rates of curfew enforcement are associated with higher levels of youth property crime and no significant effect on other types of crime. In particular, much publicized curfew crackdowns in Fresno, San Diego and Santa Clara counties were followed by higher levels of youth crime in every category, both absolutely and relative to adult crime. Conversely, low enforcement counties such as Riverside and Sacramento have lower rates of youth crime relative to adult crime. Other counties show mixed results. Overall, no significant trends are evident.

(4) Correlations by city over time and location.

Cities in Los Angeles and Orange Counties show widely varying patterns of curfew enforcement. Burbank, Fullerton, and West Covina display high rates of status and curfew arrest; Pasadena and Anaheim very low rates; Los Angeles and Huntington Beach show rapidly increasing rates in the mid-1990s after low rates of enforcement in the early part of the decade. Even given these dramatic differences, no consistent effects of curfew arrest on local youth crime could be found. While more significant results were found due to small numbers and extreme values produced by certain cities, they were more likely to show curfew and status crime enforcement associated with higher levels of youth felony and burglary arrest than with lower levels. Monrovia in particular showed youth crime increases associated with its daytime curfew.

Of the 42 correlations of curfew arrest rates with youth crime rates in 21 major Los Angeles and Orange County cities for 1990-95, nine were significantly positive, seven were negative, and 26 were not significant.

Similar results were found for the 12 correlations comparing local status and youth felony and burglary arrest rates by year for 1990 through 1995.

The year-by-year analysis shows that in no case did cities with stricter curfew enforcement show lower than expected levels of juvenile crime compared to corresponding adult crime rates; the opposite was more likely to be the case.

Discussion

Statistical analysis does not support the claim that curfew and other status enforcement reduces any type of juvenile crime, either on an absolute (raw) basis or relative to adult crime rates. The consistency of results of these three different kinds of analysis of curfew laws point to the ineffectiveness of these measures in reducing youth crime. California counties display a number of interesting extremes.

In 1996, for example, Los Angeles arrested 10,800 youths for curfew violations, ten times more than in 1987. Supporters cite the 30% decline in youth crime from 1990 to 1994. Yet adult crime declined at the same rate, in almost identical fashion, for each category. The bottom line was that LA's rate of youth felonies relative to adults' (which had previously fallen rapidly from 1980 to 1987) was the same in 1996 as it was a decade earlier.

Also, a comparison of San Francisco and San Jose reveals similar patterns. Despite San Jose's much touted curfew law, no effect on youth crime trends can be demonstrated. The San Jose figures contrast with San Francisco, where curfew arrests were almost nonexistent during this same period. As San Francisco's curfew arrests went down, its juvenile arrest rate declined.

Finally, of much greater significance in crime control is the fact that rates of serious crime among youths are strongly correlated with those of adults around them, both by local area and over time. Significant positive correlations (that is, youth and adult crime rates rise and fall together) were found between rates of youth and adult violent, property, felony, and homicide arrests for the 12 largest counties and for the state as a whole (see table 7) (Criminal Justice Statistics Center, 1978-1996).

Youth and adult felony rates were correlated for all four major racial groups, as were violent and property crime arrests for all racial groups except whites, homicide rates for whites and Hispanics, and misdemeanor rates for Asians. Where adult crime rises or falls, youth crime rises or falls in tandem; where adults display a high rate of violent crime arrests, youths also display a high rate of violent crime arrests.

Law enforcement authorities have stated that they enforce curfew laws evenhandedly. For most major counties, this appears to be true. Arrest rates of white (non-Hispanic) youth are reasonably similar to those of Hispanics, blacks, and Asians. However, four large counties display discrepant racial/ethnic statistics. In Ventura County, curfew arrests of Hispanic and black youths are 8.4 times and 7.4 times higher, respectively, than those of white youths. In Fresno and Santa Clara counties, Hispanic youths are five times, and black youths three times, more likely to be arrested for curfew violations than are white youths. Los Angeles authorities arrest Hispanic and black youths for curfew violations at rates two to three times that of whites.

It could also be argued that greater curfew enforcement evidences more proactive policing which, in turn, might result in more juvenile arrests for other offenses. In this sense, curfews would be seen as serving an incapacitation goal by selectively detaining youths likely to commit crime. Although this possibility cannot be categorically refuted with this data, it seems implausible as a general explanation. First, the chief effect of greater curfew enforcement is not its effect on youth crime. If curfew arrests signaled more proactive policing, and greater police contacts with curfew violators who may also be offenders in other regards, we would expect a consistent increase in non-curfew arrests coincident with curfew arrests. This is not the case; effects are inconsistent. Second, in Monrovia, the months showing higher levels of curfew arrests coincided not only with more juvenile arrests for other offenses, but with higher levels of criminal activity as measured by crimes reported to police. More reported crime is the opposite of the effect expected if curfews served an incapacitating goal. Finally, examination of a random sample of Monrovia's police logs of several dozen curfew citations reveals only one that could have coincided with arrest for an additional offense, and

it is not clear which offense provided police attention.

Conclusion

In recent years curfew laws are frequently cited by public officials and law enforcement authorities as essential elements in reducing crime in their communities. Despite widespread endorsement of this policy approach, virtually no substantive analysis, prior to this study, has been completed that tests the hypothesis that tougher curfew enforcement reduces juvenile crime. Through an analysis of official data, this research compared the relative crime rates of jurisdictions with strict curfew enforcement and jurisdictions with less curfew enforcement. In addition, the study examined the effects of curfew enforcement on specific types of crime and the impact of curfew enforcement on juvenile crime rates relative to adults.

The current available data provides no basis to the belief that curfew laws are an effective way for communities to prevent youth crime and keep young people safe. On virtually every measure, no discernable effect on juvenile crime was observed. In fact, in many jurisdictions serious juvenile crime increased at the very time officials were toting the crime reduction effects of strict curfew enforcement.

Curfews also may be regarded as a "panacea" approach to juvenile crime. Panacea approaches, especially those perceived to entail little cost, usually have been found satisfying to proponents but wanting in terms of effect. For example, independent replications of Scared Straight, a program that employs verbal confrontations of juvenile delinquents by menacing prisoners, disputed the program's 90% success rate claim. Finckenauer's evaluations found that not only did Scared Straight sessions (which involved swaggering convicts loudly threatening youths with violence and mayhem should they be imprisoned) fail to deter delinquency, the only question was whether the session provoked increased criminality (1982).

The research suggests that the solutions to juvenile crime often championed by law enforcement agencies and public officials must be closely examined. Based on the current evidence, a crime reduction strategy founded solely on law enforcement intervention has little effect and suggests that solutions are more complex and multifaceted. Future policy and research should focus on the potential crime reduction effects of prevention strategies that provide a comprehensive array of services, opportunities, and interventions. While this approach is likely to require a substantial infusion of public resources, the long term benefits may prove worth the investment.

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East Bay Express

NEWS - FULL DISCLOSURE

September 07, 2011

Attachment D

Why Curfews Don't Work

There's been a big push recently to enact a youth curfew in Oakland, but there's little evidence that they're effective; plus they waste police resources.

By Robert Gammon



5

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In the aftermath of the tragic daytime shooting of three-year-old Carlos Nava this summer, Oakland Councilmen Larry Reid and Ignacio De La Fuente renewed their call for a youth curfew in the city. Even though the suspects in Nava's killing are adults, the councilmen contend that Oakland police need as many law enforcement tools as possible to cope with this year's spike in violent crime. Their proposal, which would make it illegal for youth under the age of eighteen to be out past 10 p.m. without a parent or guardian, also has been endorsed recently by the *Oakland Tribune* editorial board, and has been pushed by *Tribune* columnist Tammerlin Drummond and *San Francisco Chronicle* columnist Chip Johnson.

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However, a closer look at youth curfews reveals that there's little evidence that they lower juvenile crime rates in other cities, and instead can waste precious police resources. Some civil rights and juvenile crime experts, including Alameda County Probation Chief David Muhammad, also say that youth curfews have the potential to damage already strained relationships between police and black and Latino youth, and if not implemented properly, can lead to racial profiling. In addition, curfews must be worded carefully, or they will be overturned by the courts as unconstitutional. The City of San Diego, for example, has twice had its youth curfew invalidated by appellate courts for violating young people's basic rights.

Over the years, there have been very few studies on the effectiveness of youth curfews, even though hundreds of cities have adopted such laws. A February 2009 memo that the Oakland Police Department co-authored with Reid's office had to reach back to the early- and mid-1990s to find drops in juvenile crime in three cities with youth curfews — Dallas, Denver, and Long Beach. Each of those cities reported decreases in youth crime in the year immediately following the adoption of curfews. However, the OPD memo did not report whether those cities also experienced drops in adult crime during the same period, so it's unclear whether the curfews were actually responsible for declines in youth crime.

According to Daniel Macallair, executive director of the Center on Juvenile and Criminal Justice in San Francisco, it's a common problem when examining

curfews. His organization is one of the few to thoroughly analyze curfews. The 1999 study, published in *Western Criminology Review*, analyzed adult and juvenile crime statistics from 1980 to 1996 in California cities with youth curfews. It found that there was no correlation between youth curfews and crime by or against juveniles, even in cities that strictly enforced their curfew laws.

Moreover, cities that experienced drops in juvenile crime after adopting curfews also saw similar declines in adult crime during the same time periods, meaning that the curfews were likely unrelated to the downward crime trends. In addition, cities with curfews that experienced juvenile crime drops typically were also surrounded by other cities that saw the same declines and had no curfew laws. "It's a common misconception," Macallair said, regarding the belief that curfews work. "According to the studies, there's just no relationship between youth curfews and crime reduction. None. Nothing demonstrates that curfews have had any impact on crime."

In an interview, De La Fuente said he doesn't view curfews as a panacea. Instead, he said he sees them as another crime-fighting weapon that Oakland police need at their disposal. "No one is saying that curfews will stop crime by themselves," De La Fuente said. "But it's one of many things — like gang injunctions and monitoring parolees. We need to do something. We are in a crisis. People are dying."

De La Fuente said he hopes to get the curfew proposal before the city council later this month. In early 2009, the last time he and Reid proposed a curfew, it failed to get out of the council's Public Safety Committee because of widespread opposition. But the proposal may have a better chance this time because the Nava killing, along with several other shocking murders this year, may galvanize support for it.

But if there's little evidence that youth curfews work, are they worth it? Juvenile crime experts say that the problem with enforcing curfews is that it requires police officers to divert valuable time from crime prevention and patrol. If an officer, for example, comes across a teen who is out past 10 p.m., the officer is required to either take the kid home or to a late-night, police department-run youth center. According to the 2009 OPD memo, each such occurrence likely would take up to sixty minutes of the officer's time.

And it could be much longer than that if the cop decides to arrest a repeat violator of the curfew ordinance. In that case, it could take several hours to fill out a police report, and then transfer the youth to Alameda County Juvenile Hall in San Leandro, where the youth likely will be released as soon as a parent or guardian comes to get him or her — unless the youth was also arrested for a more serious crime, noted Probation Chief Muhammad, whose department operates Juvenile Hall.

Oakland police spokeswoman Holly Joshi said that Police Chief Anthony Batts, who has also pushed for a curfew, was out of town until September 12 and unavailable for an interview for this story. Batts' direct supervisor, City Administrator Deanna Santana, declined to comment on her experiences with curfews in San Jose when she was an assistant city manager there. Santana's current boss, Mayor Jean Quan, opposes curfews, and has been criticized by De La Fuente and the *Chronicle's* Chip Johnson for her stance. Joshi said that no other police department official was prepared to comment on the curfew idea because the department has not yet drafted an official proposal.

In 2009, however, the department apparently realized the costs of enforcing a curfew and the headaches it would create for patrol officers. So the department proposed to enforce the curfew, if adopted, only twelve times a year during special police sweeps using off-duty cops who would be paid overtime. "OPD does not currently have the capacity to run daily operations," the 2009 memo

explained. As a result, the department planned to deploy one sergeant at \$81.62 an hour, and eight officers at \$70.74 an hour during the seven-hour sweeps. The department estimated that the cost of twelve sweeps, along with operating late-night curfew centers, would be \$75,290.36. It should be noted that at the time, the department had 800 cops, compared to about 650 now, and thus would likely propose sweeps again to enforce a curfew since it now has fewer officers on patrol and can't afford to divert them to arresting kids who are out late. The city's finances also have nosedived during the interim, so it's unclear how Oakland would pay for such sweeps today.

Another flaw in the 2009 OPD proposal was that it failed to consider that youth are much more likely to commit crimes during the day or early evening. According to Macallair, crime statistics show that youths are most likely to commit crimes from 3 p.m. to 6 p.m., when they get out of school. According to the 2009 OPD memo, just 23 percent of youth crime occurs between 10 p.m. and 6 a.m., when a curfew would be in effect. By contrast, 77 percent of youth crime in Oakland occurs during the day or evening when there would be no curfew.

Youth curfews also target the wrong people. According to the FBI, up to 90 percent of serious crimes in the United States are committed by adults each year. In addition, when juveniles break the law, it tends to be less serious. Muhammad noted that of 400 youths arrested on average each month in Alameda County, only 125 are brought to Juvenile Hall. The rest are released to their parents or guardians because the crimes the youths are suspected of committing aren't serious enough to warrant being locked up. In short, instituting a curfew in Oakland is unlikely to impact this year's rise in violent crime.

A curfew, if targeted mostly at youth in West and East Oakland, also runs the risk of further harming the already poor relationship that many youth of color in the city have with police. In the 2009 OPD memo, the department said it would train officers to not engage in racial profiling, but the memo also said that the sweeps would target "specific" areas "Based on prevailing crime trends of juveniles as either victims or suspects." In other words: West and East Oakland. "They're not going to do this on Lakeshore [Avenue], stopping kids from Piedmont High; they're not going to be doing this in Rockridge, stopping kids from Berkeley High," noted Jim Chanin, an East Bay civil rights attorney.

Some civil rights advocates also contend that curfews are actually designed not to get kids off the street at night, but to give police officers a legal reason to approach them, and then possibly arrest them for other minor offenses. "It's all about giving police probable cause to stop people," Chanin said. The 2009 OPD memo noted that even though the department only planned to enforce a curfew during special sweeps, individual officers were still free to enforce it on their own.

Finally, there's the issue of whether curfews are constitutional. Over the past two decades, appellate courts throughout the nation have overturned youth curfews for violating the basic rights of young people. In February 2010, a state appellate court threw out San Diego's curfew ordinance for a second time, ruling that it was too broad and unlawfully infringed on the rights of youths to participate in legitimate, legal activities after 10 p.m. The San Diego City Council later rewrote its curfew law again in attempt to pass muster with the courts.

So why do cities continue to turn to curfews when they present so many problems? Juvenile crime experts say it's somewhat common for politicians and pundits to push for curfews during violent crime waves. At such times, people desperately want to do something to stanch the bloodshed. And

curfews, on the surface, seem like a logical answer. After all, who thinks kids should be out on the streets at all hours of the night?

But from Muhammad's perspective, there are more effective ways to deal with juvenile crime. He said, for example, that if probation, parole, police, and school officials worked closely with crime-prevention groups they would be able to identify and target the relatively small number of young people who are committing most of the violent crime in the city — "without casting this broad net that ensnares people who shouldn't be."