

**AN ORDINANCE CONTINUING AND READOPTING THE PROVISIONS OF
CHAPTER 9-3 RELATING TO NON-EMERGENCY CURFEWS.**


PART 1. The City Council, after review of Austin City Code Chapter 9-3, (*Non-Emergency Curfews*), and having conducted a public hearing, as required by Chapter 370 of the Texas Local Government Code, readopts and continues in effect Austin City Code Chapter 9-3 (*Non-Emergency Curfews*).

PASSED AND APPROVED

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Austin Police Department

Juvenile Curfew Report: 2011-13



Prepared by the Austin Police Department
Research and Planning Unit
April 14, 2014

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Introduction

Background

In May 1990, the City of Austin instituted a Juvenile Curfew Ordinance in an attempt to address a rising juvenile crime rate. According to state law, the ordinance will expire unless it is reviewed and readopted every three years. Since 1990, it has been amended several times to make changes in the curfew areas and hours. The ordinance was last reviewed on May 26, 2011, effective on June 18, 2011.

Scope

This report presents the most recent data regarding juvenile crime and victimization patterns, including arrests, victims, and violations of the curfew ordinance. Sources include:

- APD: arrests, victims, and curfew violations issued by APD officers
- FBI Uniform Crime Reports: national juvenile arrest data
- AISD: curfew violations issued by AISD police officers

Data are reported according to FBI Uniform Crime Reporting (UCR) standards, which identify seven "Part I Index Crimes," based on their seriousness and frequency. Each crime is defined, including how incidents are counted, and grouped into two categories:

Violent crimes

Murder (number of victims)
Rape (number of victims)
Robbery (number of offenses)
Aggravated Assault (number of victims)

Property crimes

Burglary (number of premises entered)
Theft (number of offenses)
Auto Theft (number of vehicles)

Current Ordinance

The juvenile curfew ordinance currently resides in the Austin City Code, Title 9, Prohibited Activities, Chapter 9-3, Non-Emergency Curfews.

The ordinance sets curfew hours for minors (under 17 years):

Curfew	Days	Hours
Day	While school is in session; Monday through Friday	9:00 am – 2:30 pm
Night	Year-round; Monday through Sunday	11:00 pm – 6:00 am

Key Findings

This report contains the following noteworthy results:

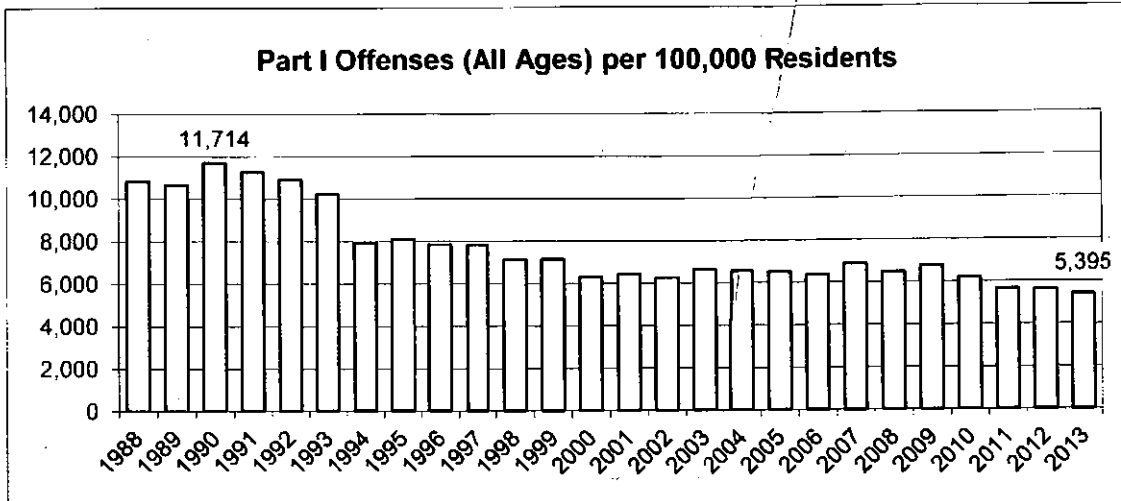
- **Juvenile arrests as a proportion of all arrests declined** from 12% before the ordinance was passed (1987-89) to 5% most recently (2011-13).
- **Juvenile arrests as a proportion of juvenile population dropped** from 11% before the ordinance was passed (1987-89) to 4% most recently (2011-13).
- **During 2011-13, most juvenile Part I arrests (92%) were for property offenses**; theft was the most common arrest offense. The most common Part II arrests were for curfew violations, drug offenses and simple assaults. These patterns were stable from 2008-10.
- **Juveniles represented 5.4% of all crime victims** during 2011-13, down slightly from 5.7% during 2008-10. Juveniles are most likely to be victims of simple assault.
- **APD issued 60% of its curfew citations during school hours**, down from 65% during 2008-10. AISD (Austin Independent School District) also issues curfew citations, 100% during school hours.
- **The number of juvenile curfew citations issued by both agencies dropped from 2008-10 to 2011-13**; APD's citations fell 58% and AISD's citations fell 50%. This continues a downward trend with both agencies from 2005-07 to 2008-10.
- **During 2011-13, 86% of juvenile curfew violators were one-time offenders**, 10% (136 juveniles) were two-time offenders, and 4% (49 juveniles) violated the curfew three or more times.

Recommendation

Based on crime trends and input from APD patrol officers and other partners (Municipal Court, Austin Independent School District), the department recommends that the ordinance be renewed.

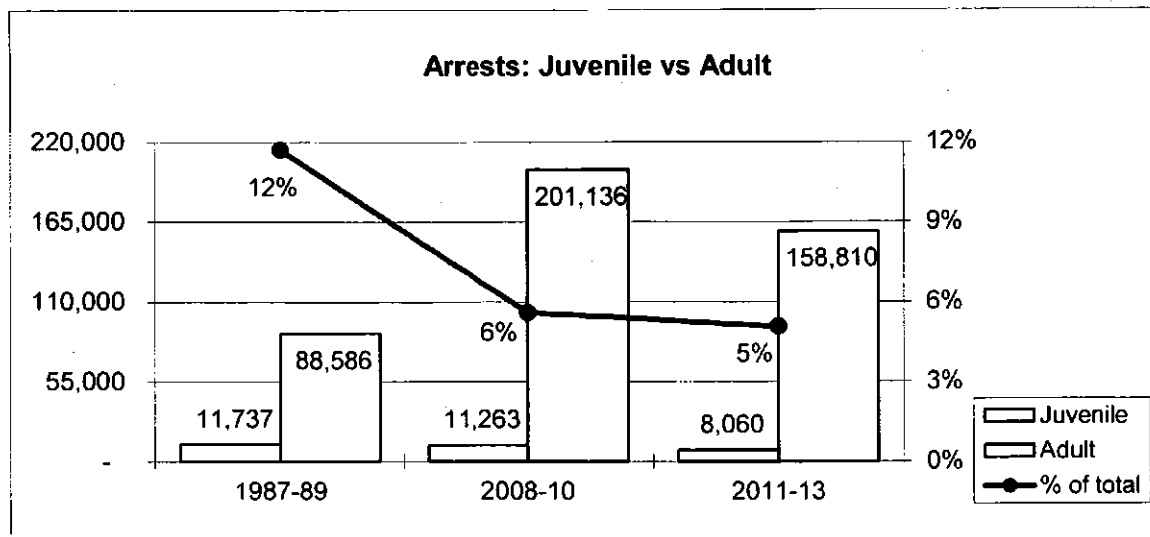
Overall Crime Trends

Around the time that the Juvenile Curfew Ordinance was instituted (May 1990), Austin saw a peak in overall crime, as well as a rising juvenile crime trend. In 1990, there were 54,543 Part I crimes committed by offenders of all ages, or a rate of 11,714 crimes per 100,000 residents. The crime rate has decreased 45% since then, and has remained relatively stable since 2000.

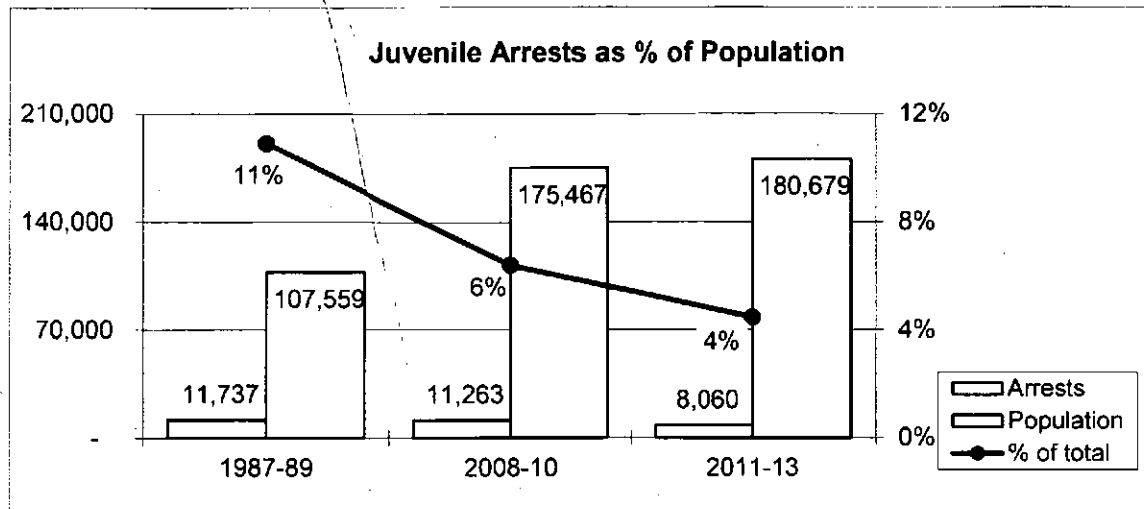


Arrests

Juvenile arrests as a proportion of arrests of all ages has dropped. During 2011-13, juvenile arrests comprised 5% of total arrests, down from the prior period (2008-10) when juveniles made up 6% of total arrests, and more significantly from the pre-ordinance period (1987-89) when juvenile arrests represented 12% of all arrests.

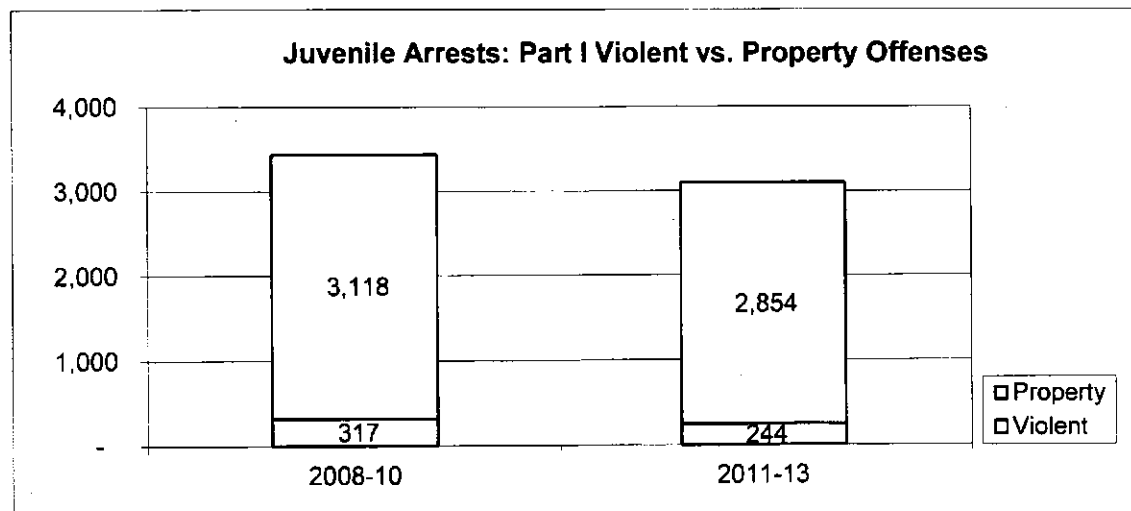


Nationally, juveniles represented about 8% of arrests of all ages during 2012 (the most recent data available; source: FBI Uniform Crime Reports). In Austin, juvenile arrests as a percentage of the juvenile population decreased from 11% immediately before the ordinance was implemented in 1990, to 5% in 2011-13.



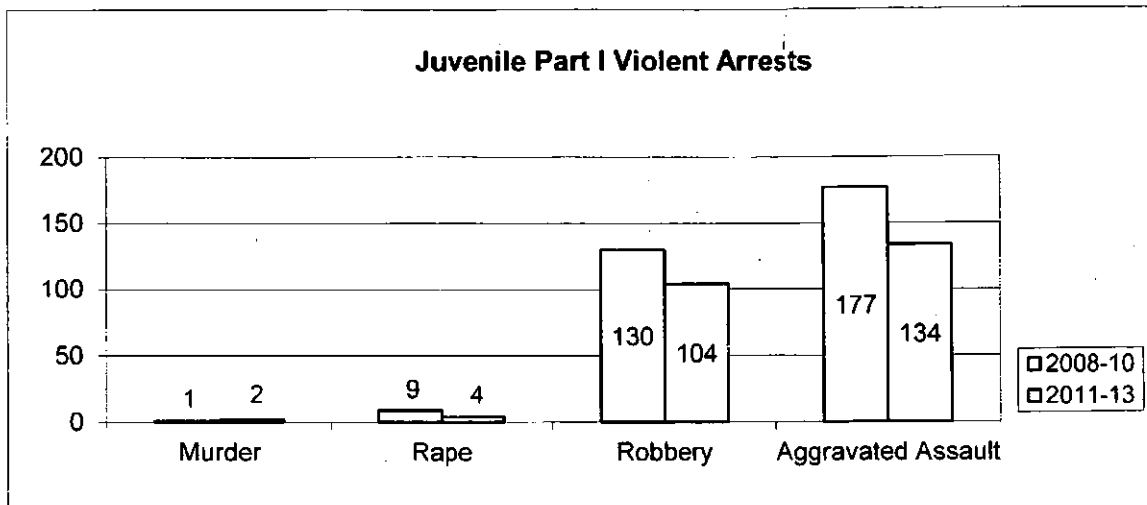
Focusing on Part I offenses, juvenile arrests during 2011-13 consisted of 8% violent crimes (murder, rape, aggravated assault, robbery) and 92% property offenses (theft, auto theft, and burglary). These proportions were similar during 2008-10 (9% violent, 91% property).

Arrests for all ages during 2011-13 comprised 18% violent offenses and 82% property offenses.



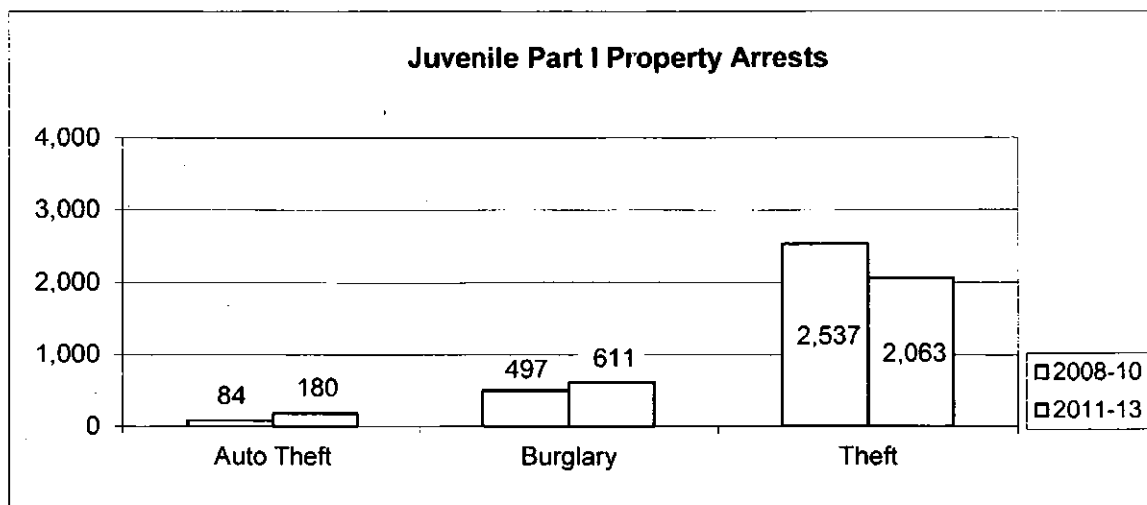
Of the 2011-13 violent offenses, the majority of juvenile arrests were for aggravated assaults (55%) and robberies (43%). This pattern was similar during 2008-10, with aggravated assaults representing 56% of violent arrests and robberies representing 41%.

Violent offense arrests for all ages during 2011-13 consisted of 73% aggravated assaults and 22% robberies.

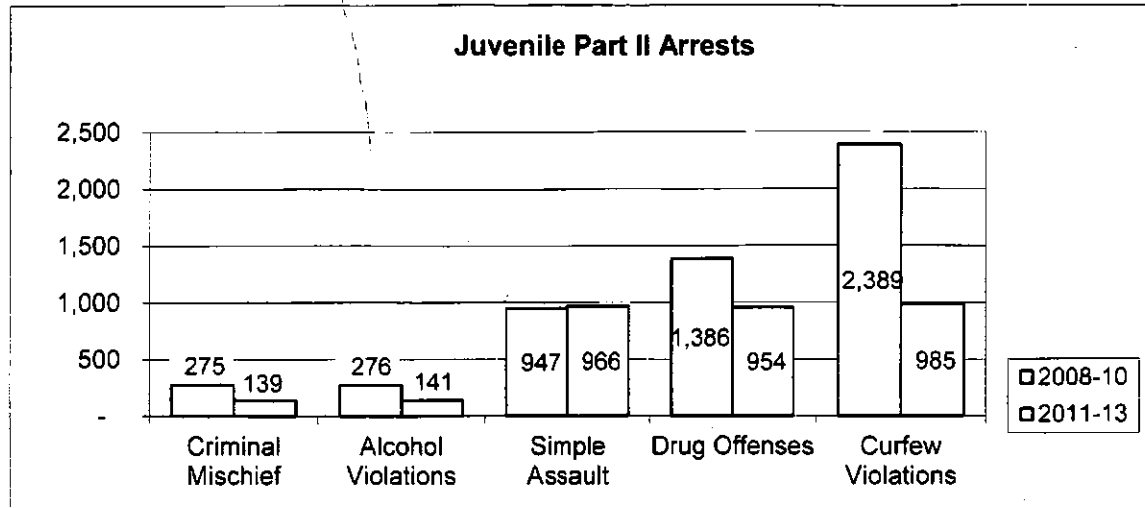


Of the 2011-13 property offenses, most juvenile arrests were for theft (72%). This is down from 2008-10 when these arrests were 81% of juvenile property arrests. Conversely, juvenile arrests for burglary and auto theft have increased from the prior period – both in terms of arrest count and as a percent of total juvenile property arrests.

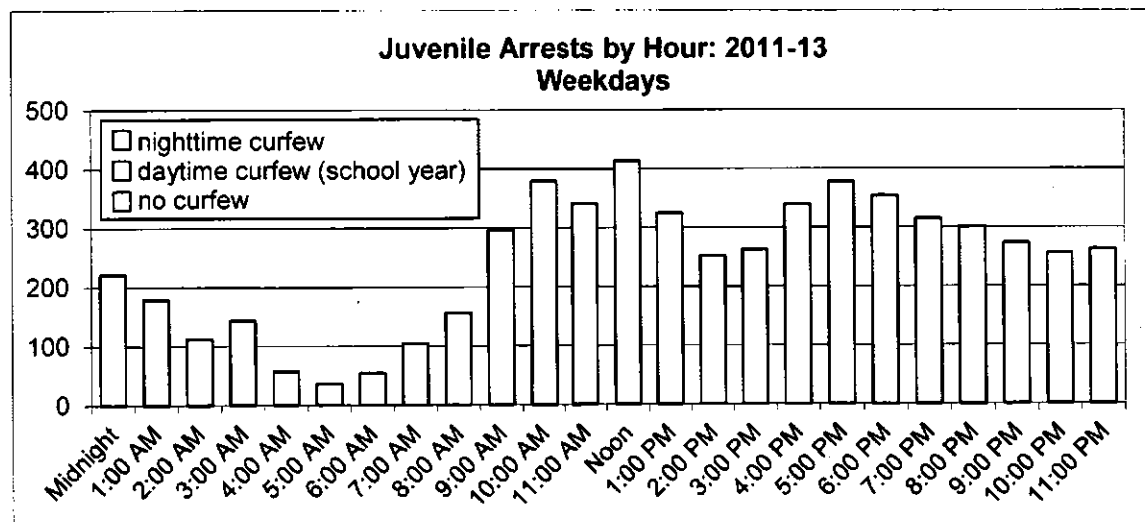
During 2011-13, thefts represented 82% of property offense arrests for all ages.



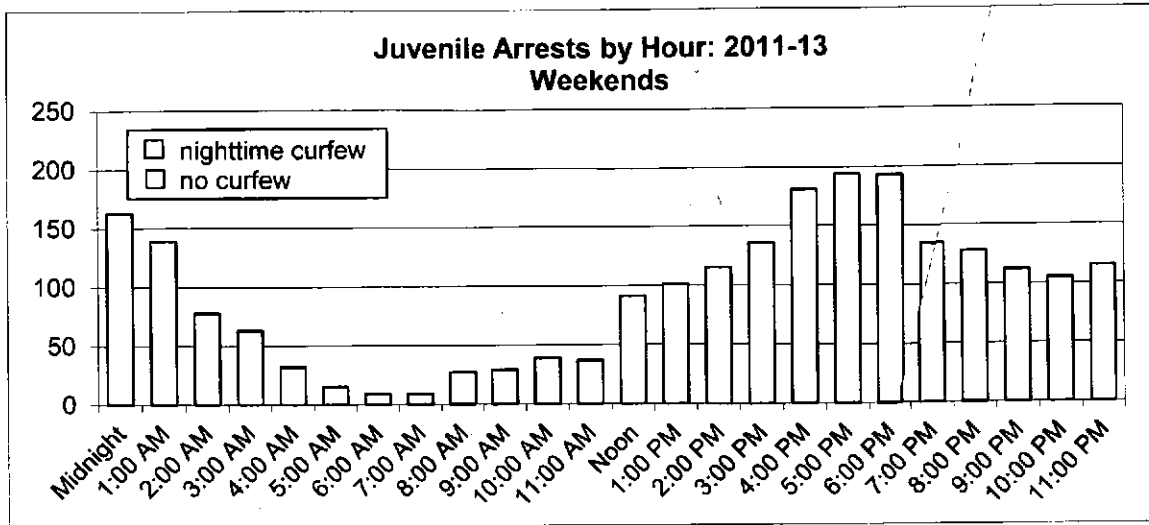
Of Part II (generally less-serious) offenses in 2011-13, the most frequent juvenile arrests were for curfew violations (20%), drug offenses (19%) and simple assaults (19%). This compares with the pattern for 2008-10, when the proportions were 31%, 18%, and 12% respectively.



During the week, juveniles are most likely to be arrested between 10:00 a.m. and 1:00 p.m., primarily for curfew violations. The next most frequent period for juvenile arrests is between 4:00 and 7:00 p.m., primarily for shoplifting and simple assault.

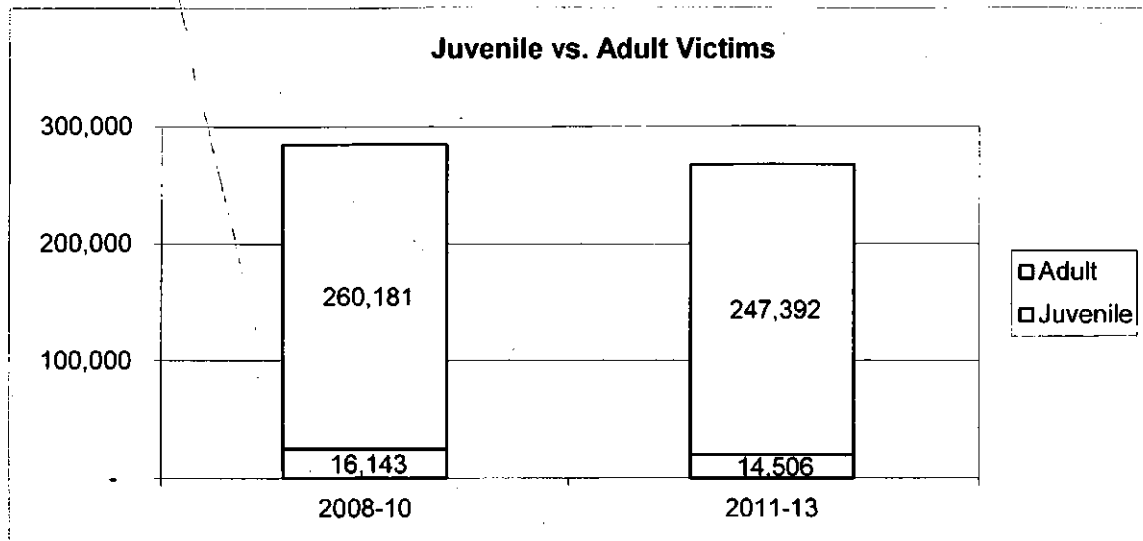


During the weekend, however, arrests are more concentrated during the hours between 4:00 and 7:00 p.m., primarily for shoplifting.

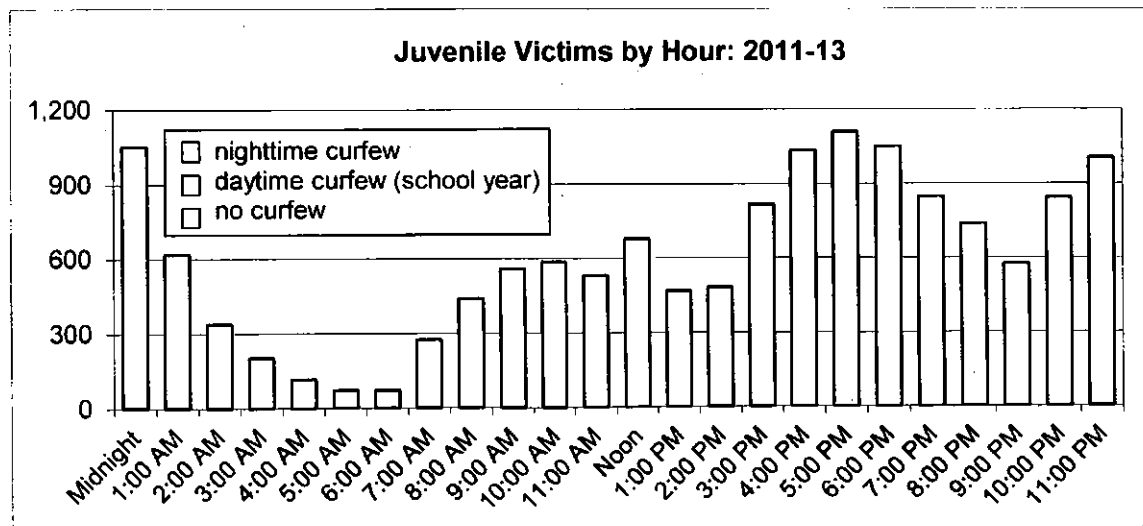


Victims

During 2011-13, juveniles represented 5.4% of all victims of crime. This percentage dropped slightly from the rate of 5.7% during 2008-10.



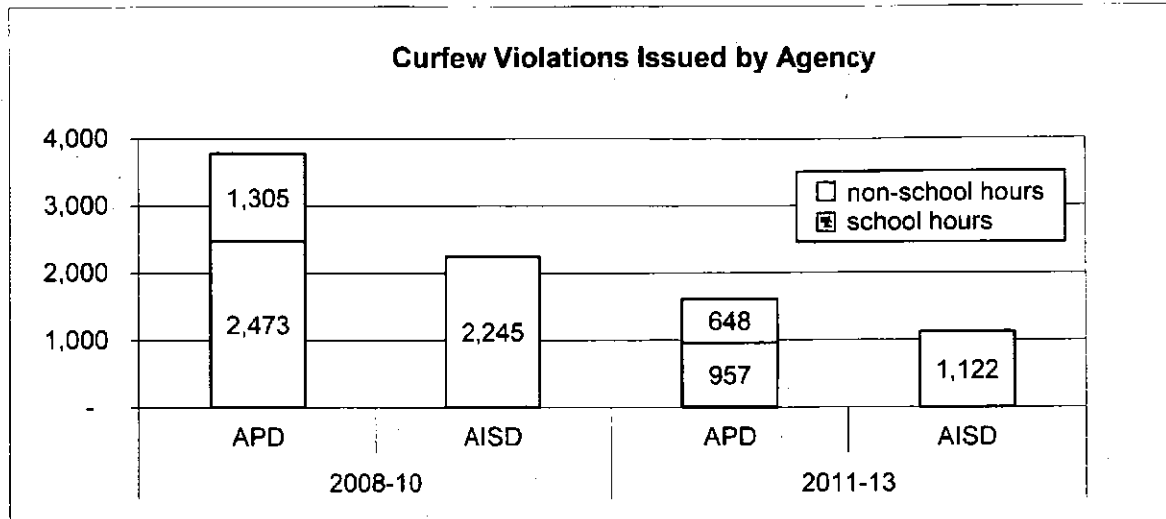
Juveniles are most likely to become victims during two periods: between 4:00 and 7:00 p.m. (the hours immediately after school) and between 11:00 p.m. and 1:00 a.m. During both periods, juveniles are most likely to be victims of simple assault. These patterns are consistent on both weekdays and weekends.



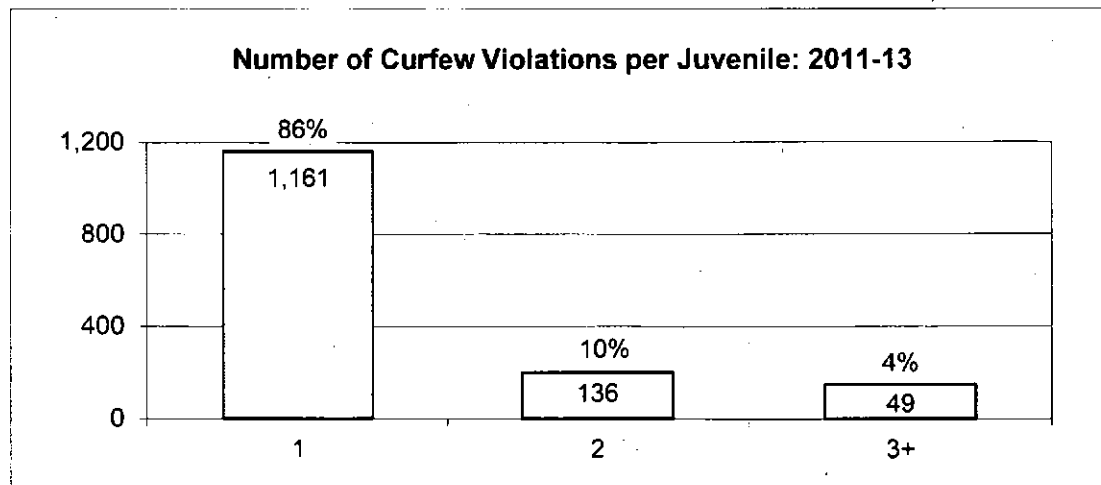
Curfew Violations

Both APD and AISD (Austin Independent School District) issue juvenile curfew citations. AISD issues all its citations during school hours (9:00 a.m. - 3:00 p.m.).

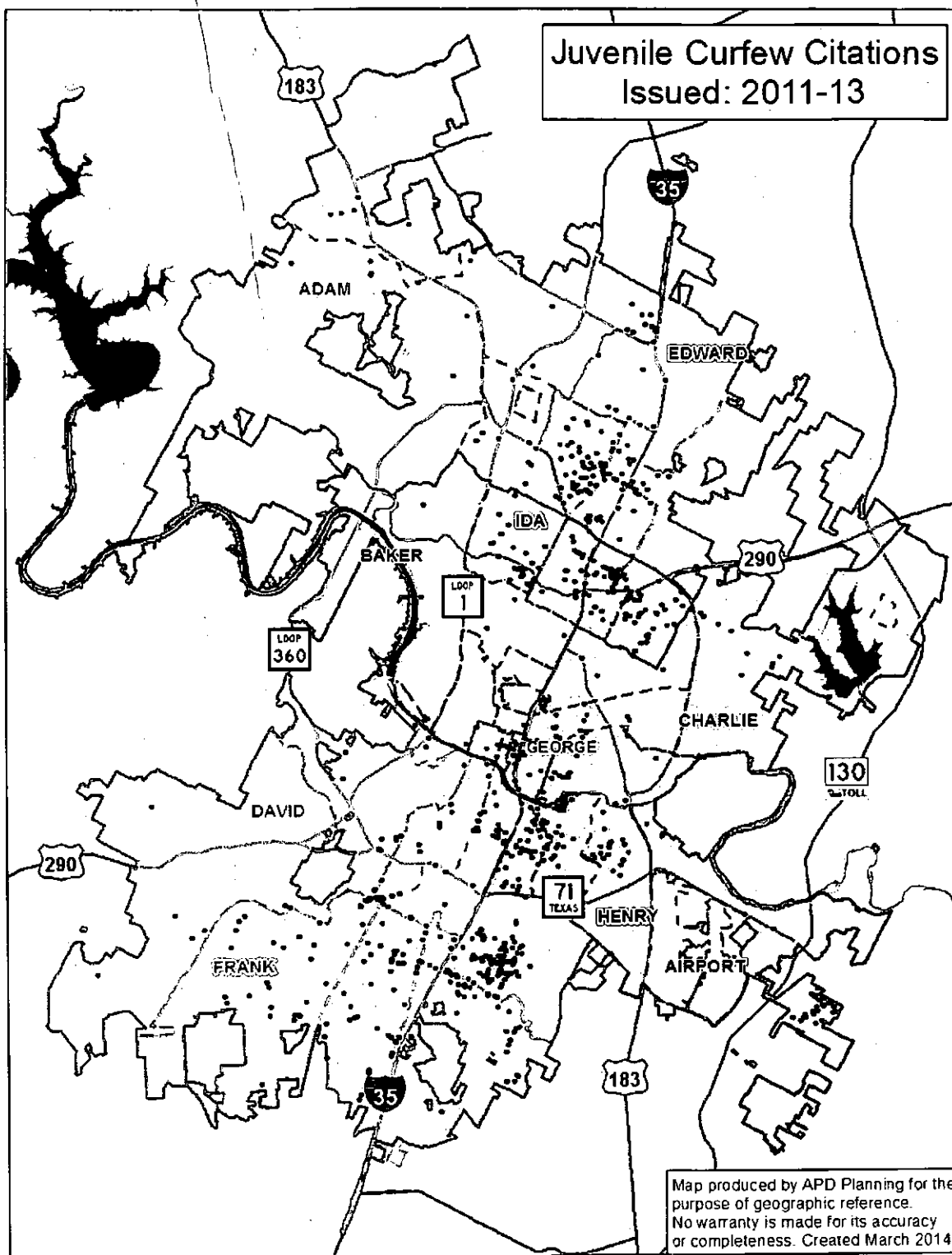
During 2011-13, APD issued 60% of its citations during school hours, down from 65% during 2008-10. Both agencies saw declines in the number of citations issued between 2008-10 and 2011-13; AISD was down 50% and APD was down 58%.



During the most recent period (2011-13), 86% of curfew violators (or 1,161 juveniles) were one-time offenders. Ten percent (or 136 juveniles) violated the curfew ordinance twice. And 4% (or 49 juveniles) violated the curfew three or more times.



The map below shows the location of each APD-issued juvenile curfew violation during 2011-13.



Recommendation

As part of the analysis, APD solicited input about the juvenile curfew ordinance from patrol officers, as well as City of Austin Municipal Court, and AISD (Austin Independent School District). Specifically, feedback was requested about the curfew's effectiveness and recommendations about renewing or revising the current ordinance.

Based on that feedback, ***it is recommended that the juvenile curfew ordinance be renewed.*** The curfew is viewed as useful in preventing juvenile crime and victimization. Further, the crime data show a trend of declining juvenile crime (both crimes committed by juveniles and crimes committed against juveniles) since the ordinance was first put in place.

Appendix: Juvenile Curfew Ordinance

CHAPTER 9-3. NON-EMERGENCY CURFEWS

§ 9-3-1 Definitions

§ 9-3-2 Offenses

§ 9-3-3 Defenses

§ 9-3-4 Enforcement Procedure

§ 9-3-5 Penalty

§ 9-3-6 Expiration

§ 9-3-1 DEFINITIONS.

In this chapter:

(1) **DIRECT ROUTE** means the shortest path a person may travel through a public place to reach the person's destination without a detour or additional stop at any other destination along the way.

(2) **EMERGENCY** means an unforeseen circumstance including a fire, natural disaster, automobile accident, or the need to obtain immediate medical care for another person.

(3) **ESTABLISHMENT** means a privately owned place of business operated for a profit to which the public is invited, including a place of amusement or entertainment.

(4) **JUVENILE** means a person under 17 years of age.

(5) **OPERATOR** means an individual, firm, association, partnership, or corporation operating, managing, or conducting an establishment, including a member or partner of an association or partnership and an officer of a corporation.

(6) **PARENT** means a person who is the natural or adoptive parent of a juvenile, including a court-appointed guardian or other person 21 years of age or older, authorized by a parent, court order, or court-appointed guardian to have the care and custody of a juvenile.

(7) **PUBLIC PLACE** means a public street, alley, highway, sidewalk, playground, park, plaza, building, or place used or open to a member of the public; or a building, business, or amusement or entertainment establishment.

(8) **RELIGIOUS ACTIVITY** means a function or event sponsored by a religious organization that has received tax exemption under Section 501(C)(3) of U.S.C.

Source: 1992 Code Section 10-7-1; Ord. 031023-13; Ord. 031211-11; Ord. 20080618-090; Ord. 20110526-095.

§ 9-3-2 OFFENSES.

(A) A juvenile commits an offense if the juvenile is in a public place or on the premises of an establishment between 11:00 p.m. and 6:00 a.m. on any day.

(B) While school is in session, a juvenile commits an offense if the juvenile remains, walks, runs, idles, wanders, strolls, or aimlessly drives or rides about in or on a public place between 9:00 a.m. and 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday or Friday.

(C) A parent having custody of a juvenile commits a violation if the person knowingly allows the juvenile to be in violation of this chapter. A parent is presumed to knowingly allow or permit the juvenile to be in violation of this chapter if the juvenile has two previous convictions for violations of this chapter. For the purpose of this section a deferred adjudication is a conviction.

(D) The owner, operator, or employee of an establishment commits an offense if the person knowingly allows a juvenile to remain on the premises of the establishment during curfew hours.

Source: 1992 Code Section 10-7-2; Ord. 031023-13; Ord. 031211-11; Ord. 20080618-090; Ord. 20110526-095.

§ 9-3-3 DEFENSES.

(A) It is a defense to prosecution under Section 9-3-2 (*Offenses*) that:

- (1) the juvenile is accompanied by the juvenile's parent or spouse;
- (2) the juvenile is on an errand authorized by the juvenile's parent or spouse or made necessary by an emergency;
- (3) except as provided in Subsection (C), the juvenile is traveling by a direct route to the juvenile's home;
- (4) the juvenile is in a vehicle involved in transportation for which passage through the city is the most direct route;
- (5) the presence of the juvenile is connected with or required by a religious activity, educational activity, or a business, trade, profession, or occupation in which the juvenile is lawfully engaged;
- (6) except as provided in Subsection (C), the juvenile is on the sidewalk in front of the juvenile's residence or on the sidewalk of either adjacent neighbor who is not communicating an objection to the presence of the juvenile to a police officer; or

(7) the juvenile is exercising First Amendment rights protected by the United States Constitution, including the free exercise of religion, freedom of speech, and the right of assembly.

(B) It is a defense to a violation of Subsection 9-3-2(B) (*Offenses*) that:

- (1) the school that the juvenile attends is not in session;
- (2) the juvenile is a high school graduate or has an equivalent certification; or
- (3) the juvenile is on an excused absence from the juvenile's school.

(C) Subsections (A)(3) and (A)(6) are not defenses to a violation of Subsection 9-3-2(B) (*Offenses*).

(D) It is a defense to prosecution under Subsection 9-3-2(D) (*Offenses*) that the owner, operator, or employee of an establishment promptly notified the Police Department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave after being requested to do so by the owner, operator, or employee.

Source: 1992 Code Section 10-7-3; Ord. 031023-13; Ord. 031211-11; Ord. 20080618-090; Ord. 20110526-095.

§ 9-3-4 ENFORCEMENT PROCEDURE.

The Police Department shall adopt enforcement procedures in compliance with Chapter 52 (*Proceedings Before and Including Referral to Juvenile Court*) of the Texas Family Code.

Source: 1992 Code Section 10-7-4; Ord. 031023-13; Ord. 031211-11; Ord. 20080618-090.

§ 9-3-5 PENALTY.

(A) A juvenile who violates this chapter commits a Class C misdemeanor.

(B) A person not a juvenile who violates this chapter commits a Class C misdemeanor, punishable by a fine of not less than \$50.

Source: 1992 Code Section 10-7-99; Ord. 031023-13; Ord. 031211-11; Ord. 20080618-090.

§ 9-3-6 EXPIRATION.

This chapter shall expire if it is not reviewed and readopted every three years as prescribed by Chapter 370 (*Miscellaneous Provisions Relating to Municipal and County Health and Public Safety*) of the Texas Local Government Code.

Source: 1992 Code Section 10-7-5; Ord. 031023-13; Ord. 031211-11; Ord. 20080618-090.