

Austin's Juvenile Curfew Ordinance Issue Brief

May 2017

Recommendation: Austin should not renew its Juvenile Curfew Ordinance.

Background: Austin's Juvenile Curfew Ordinance (JCO) was adopted in 1990 in response to a perception of rising juvenile crime. However, prior to Austin's adoption of the juvenile curfew ordinance, juvenile crime rates were declining and have continued to decline. Currently, juvenile arrests account for only 3% of arrests in Austin. Research confirms this trend of declining juvenile crime across the country and demonstrates the lack of a clear causal connection between JCOs and reductions in crime: "evidence suggests that juvenile curfews are ineffective at reducing crime and victimization."¹

The JCO creates a Class C misdemeanor if:

- A 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.
- A 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., Monday through Friday while school is in session.
- A parent knowingly allows the juvenile to be in violation of the ordinance.
- The owner, operator, or employee of an establishment knowingly allows a juvenile to remain on the premises of the establishment during curfew hours.

In 2015, the Texas Legislature passed a truancy reform bill, which decriminalized the Class C misdemeanor offense of Failure to Attend School. Texas students may not be charged with a criminal offense related to truancy and each school in Texas must now provide prevention and intervention services to students with chronic unexcused absences—services that can also be utilized to address behaviors targeted by the JCO.

The truancy law was designed to prevent the harms of criminalizing truancy for juveniles and instead help students and families address absences through appropriate, effective attendance supports. The law also explicitly prohibited any type of court intervention for children who were absent from school due to homelessness, being in the state foster care system, pregnancy, or being the primary income earners for their families. Austin's JCO criminalizes the very behavior that the Texas Legislature decriminalized in the 84th legislative session and does not account for the unique circumstances of particularly vulnerable youth in Austin.

When a juvenile is charged with a Class C misdemeanor, he or she will appear in **adult criminal court** (municipal court for JCOs), **without guaranteed counsel**, face **fines of up to \$500** plus court costs and fees, and may end up with a **criminal record**.

¹ Wilson, et. al, *Juvenile Curfew Effects on Criminal Behavior and Victimization*, The Campbell Collaboration, 2014.

Harms: Research shows that criminalizing youth is harmful:

- Criminal charges threaten a student's ability to succeed in school.
- Fines and fees associated with Class C misdemeanor charges present significant challenges to working Austin families and threaten to trap youth in cycles of debt.
- Criminal records compromise college, job, housing, and military prospects.
- Children of color are over-represented in police and court interactions.
- Youth with disabilities are over-represented in police and court interactions.
- Homeless youth may be targeted and face unique harms.

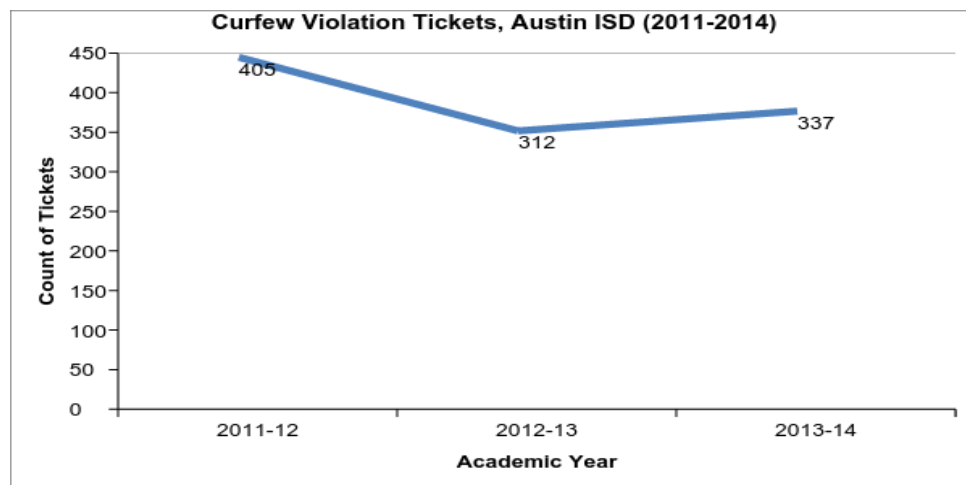
Criminalizing youth for missing school is particularly ineffective. While some students may be out of school for relatively minor reasons, like an off-campus lunch, others may be dealing with serious circumstances that impact their ability to consistently attend school. In either scenario, the behavior should never be criminalized. In the 2013 truancy report, *Class, Not Court*, Texas Appleseed found that:

Courts, particularly adult courts, are constrained in how they can respond to children, and are not equipped to assess the underlying circumstances that resulted in truancy. Their responses tend to be one-size-fits-all. Most JP and municipal courts neither seek out nor are provided with detailed, specific information about each youth's past and present situation including prior offenses, past or current trauma, special education needs, family obligations, or medical issues. Courts have the ability to require a child to attend counseling or programs, but without specific information, it is not clear what interventions are appropriate for each child. Furthermore, judges are often ill-prepared to handle the complex social, educational, and environmental issues involved when a student is truant. Most adult court judges do not have the necessary training nor information regarding youth development and services. Courts are also overburdened, making them unable to provide the individualized attention and services that truant students need.

Research suggests that court-based interventions are not effective solutions to truancy. One recent study out of Washington State indicated that truancy petitions to juvenile court had no effect on future school attendance and grade point average or dropout rates. Students who were referred to court for truancy were compared with students who were not referred to court, and their resulting school attendance was no different. The research shows that overly punitive responses are not effective, since truancy is most often not the result of mere defiance that can be corrected by punitive measures. Rather, truancy is a complex issue brought on by one or a combination of school, personal and family factors. Family factors may include poverty, parental neglect, even homelessness. Personal factors may include addiction, mental health problems, or gang involvement. And school factors may include bullying, negative school climates, or failure to identify learning disabilities. Effective truancy intervention must address these underlying causes of truancy rather than merely punishing a student for nonattendance.²

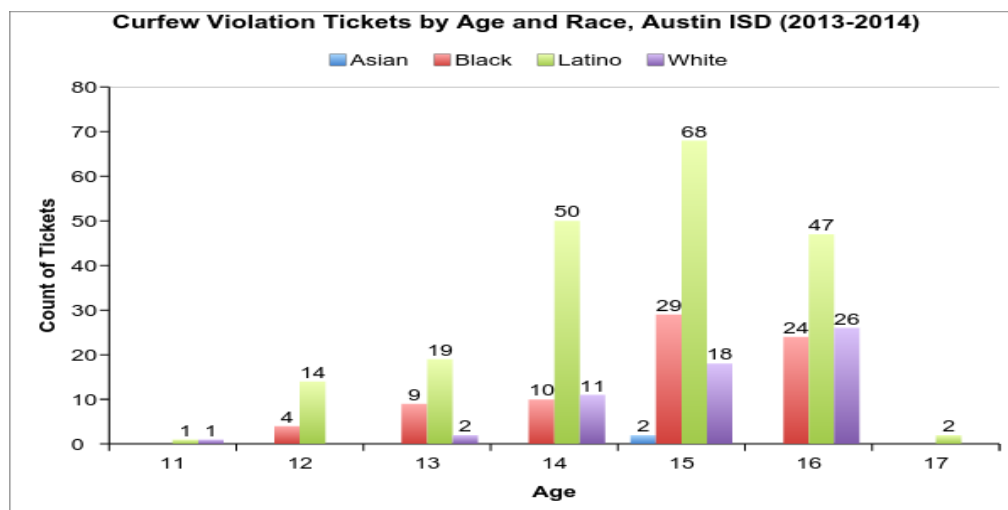
² Texas Appleseed, *Class, Not Court: Reconsidering Texas' Criminalization of Truancy*, March 2015.

Data: Texas Appleseed's data analysis shows that hundreds of tickets are issued to Austin students each year for JCO violations.³



Source: Open Records Request to the Austin ISD Police Department

Students of color are over-represented in JCO cases. In 2013-14, **Black youth received 23% of tickets issued, though they represented only approximately 8% of the Austin population for the eligible age group (10-17-years-old). Latino youth received nearly 60% of tickets, though they represented 48% of the eligible age group.** White youth received 17% of tickets, though they represented 33% of the eligible age group.



Source: Open Records Request to the Austin ISD Police Department

³ This chart shows tickets issued by AISD PD, and does not include those issued by APD. A [report by KUT](#) revealed that in the school year following implementation of the statewide truancy law, AISD PD tickets for juvenile curfew ordinance violations increased by 30% to 392. In the same timeframe APD issued 20 tickets. Differences in data are difficult to explain but may be due to the different points in the ticketing process at which data is collected by AISD PD, APD, and the Office of Court Administration.

Further, though the law specifies that no child younger than ten years old can be ticketed, it is possible that very young children could be stopped and questioned for curfew violations. This may be particularly true for Black youth given research showing that individuals tend to overestimate the age of Black children by about four and a half years.⁴

Solutions: There are research-based strategies that work to:

- support students and families who need assistance,
- keep all kids safe, and
- improve attendance, leading to improved outcomes overall.

Austin ISD's Truancy Prevention and Intervention program utilizes a number of strategies, none of which include using the criminal justice system. According to Austin ISD, "[i]mproving student attendance is a top priority for the district. It is our goal to work with students, families, and the community to ensure regular school attendance and improve academic achievement." Austin ISD's truancy prevention and intervention program includes the following resources:

- [Everyday Counts Campaign](#)
- [Truancy Intervention Flowchart](#)
- [Parent Tips Sheet](#), including referral to counseling and other services
- [Ways to Improve Attendance](#)
- [AISD Attendance White Paper](#)

Though AISD provides a number of supports to chronically absent students and families, and has reduced its truancy case referrals, youth are still being charged with curfew violations, demonstrating the need for a complete removal of the JCO. If they are able to use the JCO, AISD PD and APD officers will continue to rely on criminalizing students instead of ensuring they receive the interventions they need through the programs that AISD and the Texas Education Agency already provide.

	Juvenile Curfew Cases Filed in Austin Municipal Courts	Truancy Cases filed in Travis County Courts
Sep 1, 2014-Aug 31, 2015 (pre truancy reform)	269	1841
Sep 1, 2015-Aug 31, 2016 (post truancy reform)	268	169 ⁵

Source: The Office of Court Administration

⁴ Goff, et. al, *The Essence of Innocence: Consequences of Dehumanizing Black Children*, Journal of Personality and Social Psychology, 2014, available at <http://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>.

⁵ The 2015 truancy law decriminalized "Failure to Attend School," but still allows school districts to file civil cases in justice and municipal courts for "Truant Conduct."

There are a number of other research-based best practices to support students who have unexcused absences, including those listed below. For more details on the characteristics of successful school attendance programs, see Texas Appleseed's report, [*Class, Not Court*](#).

- [Family Keys Programs](#) – Bexar, Travis, and Webb Counties through the Texas Juvenile Justice Department
- [Suspending Kids to School Program](#) – Waco ISD
- Building Engagement Support Teams (B.E.S.T.) Program – Williamson County
- [Community Truancy Board Model](#) – Spokane County, Washington State

For more information, please contact [Texas Appleseed](#) at 512-473-23800:

Morgan Craven, Director: School-to-Prison Pipeline Project: mcraven@texasappleseed.net

Brennan Griffin, Development Director: bgriffin@texasappleseed.net

Brett Merfish, Staff Attorney: bmerfish@texasappleseed.net