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Curfew

Curfews have reemerged recently as a popular option for policymakers in their efforts to deter juvenile victimization and delinquency. Imposed on and off since the turn of the century, curfews tend to receive increased attention when there is a perceived need for more stringent efforts at social control. For example, curfew ordinances were originally enacted in the 1890's to decrease crime among immigrant youth. During World War II, curfews were perceived as an effective control for parents who were busy helping with the war effort. More recent interest in juvenile curfew ordinances came as a response to growing juvenile crime during the 1970's.⁴⁸

Many States have laws enabling localities to enact curfew ordinances, with Georgia, Minnesota, Ohio, Tennessee, and Texas recently enacting laws of this sort, according to NCSL.⁴⁹ Only Hawaii has enacted statewide curfew legislation. Both California and Florida have debated the idea of adopting statewide curfew legislation, but neither State has enacted any legislation to that end.

Traditionally under the jurisdiction of local governments, curfews are commonplace in cities and towns across America, according to the U.S. Conference of Mayors. In a December 1995 survey of 1,000 cities with populations of more than 30,000, the conference found that 70 percent, or 270 of the 387 cities responding, have a curfew ordinance in place. An additional 6 percent, or 23 cities, were considering adopting curfew legislation, according to the survey.⁵⁰ Cities that have enacted new curfew ordinances or have amended existing curfew legislation since 1994 include Arlington, VA; Austin, TX; Baltimore, MD; Buffalo, NY; Phoenix, AZ; Oklahoma City, OK; and San Jose, CA.⁵¹

Curfew laws vary with respect to the locale affected, timeframe, and sanctions. Most restrict minors to their homes or property between the hours of 11 p.m. and 6 a.m., with some jurisdictions allowing exceptions for weekend nights or summer months. Many curfew ordinances provide exemptions for youth who are going to or from a school-, religious-, or civic-sponsored event. Youth traveling from places of employment or responding to emergencies often are excluded from curfew provisions as well. Several ordinances allow unrestricted mobility for youth who are married, accompanied by an adult, or traveling with a parent's permission.

In addition, some curfew laws impose more stringent curfew parameters in specific zones of the city, usually in targeted high-crime or commercially important areas. A recent example of this type comes from the city of Austin where, in 1994, the city council took action to limit youth activity in the nightclub district of the city. In that area, the curfew begins at 10 p.m. each night, compared with the 11:30 p.m. curfew for the rest of Austin.⁵²

Enforcement efforts also differ from city to city. William Ruefle, then of the University of South Alabama, and Kenneth Mike Reynolds, of the University of New Orleans, found in a recent literature review and survey of existing curfew ordinances that curfew enforcement initiatives are implemented through

regular law enforcement and special policing units. The 1994 survey, which polled 77 U.S. police departments in cities with populations of 200,000 or more, indicates that 71 percent of the cities with curfew ordinances used regular law enforcement personnel and resources to implement the cities' curfew initiatives. The remaining police departments frequently used additional personnel to augment regular enforcement, according to the survey. These added officers contributed to periodic sweeps or "zero tolerance" crackdown efforts in which law enforcement personnel were pulled from other assignments for short periods to strongly enforce a curfew ordinance.⁵³

Sanctions for curfew violations, which are status offenses for juveniles, also may vary among jurisdictions. Offenders can be fined from \$50 to several hundred dollars or charged with a misdemeanor. Some ordinances include a parental accountability provision, under which parents can be held partially or fully responsible for children's curfew violations. Sanctions against parents may include participation in diversion programs, fines, and, in some jurisdictions, jail time. For example, the 1994 curfew ordinance in Denver, CO, does not mandate a fine be levied against parents whose children violate the city's curfew ordinance. Rather, the law provides for the assessment of a fine only if the youth and their parents fail to participate in a court-assigned diversion program.⁵⁴

Pros and Cons

The stated goal of most curfew laws is twofold: to prevent juvenile crime and to protect youth from victimization. According to the Ruefle and Reynolds analysis, those who support juvenile curfews indicate that neighborhoods afflicted with high rates of crime may use curfews as a "means to protect nondelinquent youth from crime and to deny delinquent youth the opportunity to engage in criminal behavior."⁵⁵ By keeping youth under the age of 18 off the street, curfews are expected to reduce the incidence of crime among the cohort most likely to offend, according to the Federal Bureau of Investigation's (FBI's) 1994 Uniform Crime Report (UCR).⁵⁶ Since juvenile perpetrators of crime often take as their victims other youth, it is hoped that rates of youth victimization will drop as well.

Curfews are credited by some with restoring and maintaining order in lower crime neighborhoods, according to the Ruefle and Reynolds analysis. In addition to equipping law enforcement with tools to keep youth off the streets, curfews provide parents with a legitimate, legal basis for restricting the activities of their children. It is easier for parents to place boundaries on their children's activities, proponents argue, when other youth in the neighborhood are similarly restricted by a specific time to return home.⁵⁷

Critics of curfew ordinances oppose these initiatives on both practical and legal grounds. According to the National Council on Crime and Delinquency (NCCD), curfew enforcement is often ineffective and unnecessarily funnels large numbers of nondelinquent youth into a criminal justice system that is already inundated with alleged offenders.⁵⁸ In addition, some opponents cite a dearth of empirical evidence supporting the efficacy of curfew legislation. According to the literature review conducted by Ruefle and Reynolds, little or no recent empirical evidence indicates that curfew initiatives have an effect on juvenile crime, nor has research addressed the impact of curfews and their enforcement on the criminal justice system as a whole.⁵⁹

The one outcome evaluation uncovered by Ruefle and Reynolds described the efficacy of a Detroit, MI, curfew ordinance evaluated during the summer of 1976. The before-and-after comparison of youth gangs indicated that the presence of a curfew seemed to reduce or suppress crime levels effectively during curfew hours. However, the authors note that this diminished incidence of youth misbehavior while under curfew was accompanied by an observable increase in criminal activity between 2 and 4 p.m. Thus, it appears as if youth misconduct was merely displaced to time periods when the curfew ordinance was not in effect.⁶⁰

Additional criticisms come from other groups, like the American Civil Liberties Union (ACLU), who argue that curfew measures violate the constitutional rights of children and parents. Legal challenges to the constitutionality of curfew laws are most often based on the 1st, 4th, 9th, and 14th amendments to the U.S. Constitution, according to a recent report by OJJDP. Opponents of curfew ordinances are concerned with the restrictive nature of these laws and the limitations on a youth's first amendment right to free speech and association. Others argue that curfews give law enforcement excessive power to detain children without probable cause and subject them to police questioning in violation of the fourth amendment's guarantees against unreasonable search and seizure. Additional legal challenges to curfew laws have been based on the ninth amendment, which has been interpreted as providing a privacy right applicable to parents rearing children. Yet other critics argue that curfews violate the equal protection clause of the 14th amendment by establishing a suspect classification based solely on the age of a group of individuals.⁶¹ Some groups, like NCCD, fear that this classification may result in a disparate enforcement of curfew initiatives, to the detriment of minority youth.⁶² Further, some court cases have struck down curfew laws because they are vague and overreaching, not because they violate fundamental rights.

Judicial Interpretation of the Constitutionality of Curfews

U.S. district and appellate court decisions indicate that the critical issue in cases challenging curfew ordinances may be maintaining the intricate balance between the government's interest in protecting public safety and ensuring the mobility rights of youth. A recent case in Texas illustrates this problem. In May 1994, the U.S. Supreme Court refused to hear an appeal of a case, *Qutb v. Bartlett*, in which the U.S. Court of Appeals for the Fifth Circuit upheld a Dallas, TX, curfew ordinance. The refusal to hear the case allowed the Fifth Circuit's decision to stand.

The ordinance, adopted by the city in June 1991, prohibits persons under the age of 17 from being present in a public place or establishment between 11 p.m. and 6 a.m. on weeknights and between midnight and 6 a.m. on weekends. The law does not apply if the juvenile is traveling to or from work, church, or a civic event; if the juvenile is accompanied by a parent or guardian; if there is an emergency; if the juvenile is running an errand for a parent or guardian; or if the juvenile is on the sidewalk in front of his or her home. The maximum penalty for violating the ordinance is a \$500 fine. The minor's parent also may be fined if he or she allows a minor to remain in any public place during the curfew.

In *Qutb v. Bartlett*, a mother and daughter challenged the ordinance on the grounds that the ordinance unconstitutionally infringed upon a youth's right to mobility and free association and a parent's fundamental privacy interest in choosing how children are to be raised.

The Federal district court ruled in favor of the Qutbs. However, the Fifth Circuit reversed, ruling that an ordinance may be constitutional, even when it infringes upon a fundamental right, if it promotes a compelling governmental interest and if no less restrictive way exists to achieve the State's objective. The court held that the Dallas City Council proved its compelling interest in reducing juvenile crime by providing statistical findings that showed the incidence of youth misconduct in the city. The data provided demographic information about the prevalence of juvenile delinquency, the incidence of specific crimes, and the times of day and locations at which most violent juvenile crimes were committed. This effort, combined with the numerous exceptions written in the ordinance, indicated to the court the council's intent of limiting youth crime and victimization in the least restrictive manner possible. The court concluded that "the ordinance presents only a minimal intrusion into the parents' rights" because of the broad exemptions.⁶³

The Court's refusal to hear an appeal in the *Qutb* case does not guarantee protection against future challenges to curfews on constitutional or nonconstitutional grounds. However, a more recent ruling out of the U.S. District Court for the Southern District of California upheld that city's more stringent curfew legislation based upon the *Qutb* precedent. In March 1995, ACLU filed a suit in San Diego Federal court challenging the city's juvenile curfew ordinance on the grounds that it unreasonably restricted the mobility of youth in the city. The ACLU suit came in response to 6 months of aggressive enforcement of the curfew legislation in late 1994. From June to November of that year, 2,300 young people were arrested for curfew violations, an increase from the 1,000 charged with a violation during that same period in 1993.⁶⁴

The Federal district court upheld the 10 p.m. curfew ordinance in December 1995. According to the court, the city has a legal right to impose ordinances meant to "promote the moral, social, and physical welfare of minors" by keeping them off the streets.⁶⁵ At the time of this writing, ACLU was appealing the judgment.

An October 1996 decision handed down by the U.S. District Court for the District of Columbia illustrates the significance of obtaining relevant data to support the position that a curfew ordinance fulfills a public safety need. In *Hutchins v. District of Columbia*,⁶⁶ a group of minors, parents, and a commercial establishment sued the District of Columbia to restrain the city from enforcing its Juvenile Curfew Act of 1995. Under the law, minors under the age of 17 could not be in any public place or on the premises of any establishment, with certain exceptions, in the District of Columbia, on Sunday through Thursday between 11 p.m. and 6 a.m. and between midnight and 6 a.m. on weekends and during the summer.

None of the plaintiffs who commenced the action were prosecuted under the curfew law, but the minors argued that the imposition of the law violated their constitutional rights to freedom of movement while their parents asserted that the law infringed upon their fundamental rights to raise and supervise their children. The plaintiffs contended that because the law violated protected

fundamental rights, the District of Columbia must show that the law was necessary to promote a compelling interest and that it was narrowly tailored to advance that purpose.

The U.S. District Court for the District of Columbia found that both the minors and parents had protected fundamental rights under the U.S. Constitution and analyzed the curfew law to determine whether the District of Columbia law was constitutional. The court found that the District of Columbia had a compelling interest in enacting the law because the three objectives were to (1) protect children from becoming victims or perpetrators of crimes, (2) assist parents in exercising their responsibility over minors, and (3) prevent all persons from the dangers posed by unsupervised minors who are out late at night and in the early morning.

The court found, however, that although the District of Columbia had a compelling interest in enacting the law, it was drawn broadly without consideration of less restrictive means to achieve the three aims of the curfew law. The Federal district court was critical of the data compiled by the District of Columbia and concerned with the city's inability to show that the enactment of a curfew ordinance would preserve public safety. In drafting the law, the City Council relied on "extrapolated" crime statistics that did not distinguish between crimes committed by juveniles or the time of day that the crimes occurred. In other words, the statistics did not demonstrate a clear connection between the stated purpose of the law and the restriction imposed upon all juveniles. The court also found that the data that the District of Columbia relied upon was flawed. The data included 18-year-olds as minors, whereas the curfew law considered those under 17 years of age as minors. Further, the majority of the data was based upon Federal statistics rather than local statistics. In fact, the court indicated that the District of Columbia ignored data showing that more than 90 percent of all juveniles do not commit crimes and are not arrested at night or at any other time.

As a result, the court found that the District of Columbia's evidence was insufficient to support the imposition of a curfew on all minors as a means to reduce juvenile crime and victimization and that the law was not narrowly drawn to achieve the purpose of the curfew law. Consequently, the court found that the law impermissibly interfered with a minor's right of freedom of movement and a parent's right to raise and supervise his or her minor children and held that the curfew law was unconstitutional.

Recent Initiatives

Although empirical studies addressing the impact of juvenile curfew ordinances have not yet been undertaken, officials of several localities that recently adopted curfew legislation have self-reported success since the introduction of these initiatives into their communities. For example, 3 months after the enactment of the Dallas curfew ordinance, the Dallas Police Department found that juvenile victimization during curfew hours declined by 17.7 percent and juvenile arrests during curfew hours dropped by 14.6 percent, according to the recent OJJDP report.⁶⁷

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.⁴⁸

A curfew ordinance in Long Beach, CA, amended in January 1994, has enjoyed similar success. 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. Gang-related shootings decreased in that time period as well, down nearly 23 percent. However, Chief William Ellis of the Long Beach Police Department acknowledged that Long Beach has experienced displacement of youth delinquency. "In Long Beach," Ellis said, "approximately twice as many crimes per hour are committed during noncurfew hours as during curfew hours."⁴⁹

Effective curfew programs share several components. Two of the keys to the success of any curfew ordinance are sustained enforcement and community involvement, according to the OJJDP report. Curfew laws are less successful when they are enforced rigorously immediately after adoption, but become more loosely enforced as limited law enforcement resources and personnel are pushed into other policing efforts. City officials ensure a program's success by making a long-term commitment to enforcement and by enlisting volunteers to fill out paperwork, wait for parents to pick up their children, or give on-the-spot counseling to parents and children.

Other factors that contribute to the implementation of successful curfew policies include:

-  Establishing a curfew center or using recreational, religious, or educational facilities to hold violators while they await their parents.
-  Staffing centers with community social service providers and volunteers; providing intervention services for juveniles and their families.
-  Creating specific procedures for repeat offenders; recreational, educational, and job opportunities for offenders; and antidrug and antigang programs.
-  Providing a hotline for community questions or problems related to curfews and juvenile delinquency in general.

⁴⁸ Tamara Henry, *Curfews Attempt to Curb Teen Crime*, USA Today, Apr. 5, 1995.

⁴⁹ NCSL Legislator's Guide, *supra* note 33.

⁵⁰ *Cities with Curfews Trying to Meet Constitutional Test*, Wash. Post, Dec. 26, 1995.

⁵¹ William Ruefle & Kenneth Mike Reynolds, *Curfews and Delinquency in Major American Cities*, 41 Crime & Delinquency 347, 355358 (July 1995).

⁵² *Id.* at 358.

[53.](#) *Id.*

[54.](#) Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice, Juvenile Justice Bulletin, Curfew: An Answer to Juvenile Delinquency and Victimization 4 (April 1996) [hereinafter Curfew].

[55.](#) *Id.* at 349.

[56.](#) 1994 UCR, *supra* note 3, at 221.

[57.](#) Ruefle & Reynolds, *supra* note 51, at 348.

[58.](#) *Id.* at 347.

[59.](#) *Id.* at 350.

[60.](#) *Id.* at 351.

[61.](#) Curfew, *supra* note 54, at 7.

[62.](#) Ruefle & Reynolds, *supra* note 51, at 347.

[63.](#) *Qutb v. Bartlett*, 11 F.3d 494 (5th Cir. 1993).

[64.](#) *ACLU Challenges San Diego's Curfew Law; Lawsuit Filed in Federal Court on Behalf of Teenagers, Parents*, Press Release by American Civil Liberties Union, March 15, 1995.

[65.](#) Tony Perry, *Teen Curfew in San Diego Upheld*, L.A. Times, Dec. 19, 1995.

[66.](#) *Hutchins v. District of Columbia*, 942 F. Supp. 665 (D.D.C. 1996).

[67.](#) Curfew, *supra* note 54, at 45.

[68.](#) *Id.* at 7.

[69.](#) Chief Samuel D. Pratcher, *A Response to Juvenile Curfew Violations*, 61 Police Chief 58, 58 (Dec. 1994).

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