



BOARD/COMMISSION RECOMMENDATION

Human Rights Commission

Recommendation Number: 20170925-1b: Evening Juvenile Curfew

WHEREAS, the Human Rights Commission of the City of Austin (“Commission”) advocates on behalf of human rights for all people in the city of Austin (“City”); and

WHEREAS, two community groups, Texas Appleseed and Excellence and Advancement Foundation (“Community Groups”), have come before the Human Rights Commission to request that the Commission examine the City’s Juvenile Curfew Ordinance, Austin City Code Chapter 9-3 (“Evening Curfew”), which creates a Class C Misdemeanor offense anytime a juvenile under seventeen (17) years of age (“Juvenile”) is found in a public place or on the premises of an establishment between 11:00 p.m. and 6:00 a.m. on any day; and

WHEREAS, the Commission formed a working group (“Commission Working Group”) to examine the Evening Curfew, which has compiled a bibliography of local, government, social science, advocacy, and secondary resources relating to evening curfews and their implications for children’s human rights and civil rights and liberties, a copy of which is attached at Exhibit A; and

WHEREAS, children possess human rights and certain civil rights and liberties; and

WHEREAS, the text of the Evening Curfew raises issues related to children’s human rights and their recognized civil rights and liberties; and

WHEREAS, African-American Juveniles are overrepresented in City data reporting Evening Curfew citations, accounting for 17% of ticketed Juveniles while representing approximately 8% of the 10- to 17-year-old population in the 2014-2016 reporting period; and

WHEREAS, the Ordinance’s disparate impact on the African-American community has and continues to negatively impact race relations in Austin; and

WHEREAS, the Commission questions whether heightened curfew enforcement would be the best use of the City’s limited law enforcement resources and would prevent police officers from investigating more serious crimes; and

WHEREAS, the Commission questions whether the Evening Curfew has been effective at achieving its stated purpose of reducing juvenile crime, since the Evening Curfew does not apply to the hours when Juvenile arrests are highest (3:00-9:00 p.m.) and since available City data, which

establishes a correlation between lower Juvenile arrest rates since the law's 1990 passage, is insufficient to establish a causative effect; and

WHEREAS, a body of social science literature has cast doubt on the efficacy of similar juvenile curfew laws in lowering juvenile crime rates; and

WHEREAS, separate and apart from its efficacy in curbing Juvenile crime, the adjudication of the Evening Curfew and its anticipated after-effects raise issues related to children's human rights in the City; and

WHEREAS, mandatory court appearances label the Juvenile delinquent in the eyes of society, even though the offense, being out after 11:00 p.m., does not indicate any immoral conduct and is inoffensive when committed by adults; and

WHEREAS, social science literature suggests that the stigmatization of a Juvenile caused by mandatory court appearances and entry into the criminal justice system at a tender age *may itself* contribute to future delinquent conduct and to a distrust of society and legal systems; and

WHEREAS, successfully navigating the Evening Curfew adjudication process and anticipating its after-effects requires the assistance of an adult, and preferably an attorney, which makes Juveniles who lack parental support and socio-economic advantage especially vulnerable to adverse outcomes; and

WHEREAS; Juveniles bear ultimate responsibility for appearing at court with parents (typically on multiple occasions), mounting a defense (public defenders are not provided), incurring fines and diversion fees, preparing and filing a motion to expunge their criminal record (if they are otherwise qualified to do so), and knowing, long after the process is over, how they should correctly respond to future criminal background inquiries from potential landlords, employers, and licensing agencies; and

WHEREAS, some portion of Juveniles need social services, including some portion of those Juveniles that APD encounters in public during the hours of 11:00 p.m-6:00 a.m. and alternate means exist to refer those Juveniles to social service agencies without issuing criminal citations; and

WHEREAS, when APD officers come into contact with Juveniles, they are always free to inquire after their safety and offer assistance; and

WHEREAS, provided they have probable cause to do so, APD officers may detain and search Juveniles suspected of committing crimes; and

WHEREAS, a working group ("Austin Juvenile Curfew Working Group") of community and governmental entities, including the Community Groups and the APD, was formed in connection with possible Evening Curfew renewal and has been researching, developing, and working to implement effective interventions to divert Juveniles from the criminal justice system and ensure their safety and future success; and

WHEREAS, upon information and belief, the members of the Austin Juvenile Curfew Working Group have recommended that the Evening Curfew not be renewed; and

WHEREAS, upon further information and belief, the City's Public Safety Commission has also examined the issue and has also recommended that the Evening Curfew not be renewed; and

WHEREAS, upon information and belief, the APD is expected to also recommend to Council that the Evening Curfew not be renewed; and

NOW, THEREFORE, BE IT RESOLVED, that the Commission joins the Austin Juvenile Curfew Working Group, the Public Safety Commission, and the APD in recommending that Council not renew the nighttime curfew; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager and Council encourage the APD to consult with the City's Chief Equity Officer to review the enforcement of any other policing policies which may have resulted in racially-skewed citation and arrest patterns with an eye towards mitigating any racially disparate impacts; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager and Council undertake all necessary action to ensure that all of the social services currently available to Juveniles through the Municipal Court's Evening Curfew diversion program are readily accessible to any Juvenile in the City that wishes to take advantage of them and that knowledge regarding those social service programs is widely disseminated throughout the City; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager and City Council encourage the voluntary continuation of the Austin Juvenile Curfew Working Group in order to continue researching, developing, and working to implement effective interventions to divert Juveniles from the criminal justice system and ensure their safety and future success.

Date of Approval: September 25, 2017

Record of the vote: 10-0. Motion to adopt by Vice Chair Caballero, second by Commissioner McMahon. Voting in favor were Chair Davis, Vice Chair Caballero, Commissioner Avashia, Commissioner Bennett, Commissioner Brown, Commissioner Casas, Commissioner McMahon, Commissioner Miguez, Commissioner Normand, and Commissioner Yang. Commissioner Royall was absent.

Attest: _____

Jonathan Babiak

Staff Liaison, Human Rights Commission