

1. Debating the Effectiveness of Curfews

Youth curfews are enacted as a means to deter juvenile crime and the victimization of juveniles. By keeping juveniles off the street during late night hours, curfews are expected to reduce the incidence of crime among those most likely to offend (FBI, 1994). Since juvenile perpetrators of crime often take as their victims other youth, it is hoped that the rates of youth victimization will drop as well (NCJA, 1997). In addition, adult predators will not be able to victimize youth if they are not on the streets. A review of the literature on curfews shows that the reported effectiveness of curfews varies tremendously. Statistical analysis of whether or not curfews are effective is extremely limited. Most evidence of the effect of curfews is anecdotal, based on the opinions of those enforcing curfew ordinances.

The most comprehensive statistical analysis of curfews studied the impact of curfew ordinances in California (Macallair and Males, 1999). The results of the analysis provided no evidence that curfew enforcement reduced crime either absolutely or relative to adults, by location, by city or by type of crime and that curfew enforcement generally had no discernible effect on youth crime. Where youth crime rates did significantly decrease, adult crime rates declined at the same rate. The rate of youth felonies to adult felonies did not change because of the youth curfew. In fact, the study showed that when a significant effect was shown, it was more likely that greater curfew enforcement was associated with higher rates of juvenile crime than lower rates (Maccallair and Males, 1999).

Furthermore, the study found that while most California counties enforce curfew laws evenhandedly, there were four counties in which there was a disparity between the arrest rates of white youth and the arrest rates of Hispanic and African-American youths (Maccallair and Males, 1999).

The results of the California study support the American Civil Liberties Union's (ACLU) arguments regarding the effectiveness of curfews. The ACLU is one of the most vocal opponents of curfew laws primarily on the grounds that they infringe on juveniles' constitutional rights. The ACLU also argues that the laws are ineffective and that they are enforced in an arbitrary and discriminatory manner.

The Executive Director of the Greater Pittsburgh Chapter of the ACLU stated that unless the proportion of all crimes committed by juveniles is high during curfew hours, a curfew ordinance would have no significant effect on the crime rate. Furthermore, he said that police will enforce the law disproportionately against youths of color, youths who dress differently, and those who don't look like they belong in a given neighborhood. Curfew laws impact primarily on young people who do not have private backyards, automobiles to travel out of the city, and other types of private property that provide "rich kids" exemptions from the curfew (Walczak, 1996).

Much of the literature on the effectiveness of curfews consists of articles about the curfew ordinances in specific cities. Although the results of curfew ordinances

reported in these articles are not based on comprehensive statistical analysis, most mayors and police departments believe the ordinances in their cities are effective.

The Dallas police chief reported that the total number of juveniles taken into custody decreased 25 percent and crimes against young people dropped 31 percent since the curfew began (two years earlier). The number of juveniles taken into custody for selected offenses during curfew hours dropped 42 percent (Associated Press, Dallas, 1996). However, the police department said that it was impossible to determine how much of the reduction was because of the curfew and how much was because of other programs.

Police officers in Chicago say that stricter enforcement of the more than 40-year-old curfew law is working. They saw a 42 percent decrease in juvenile murder offenders in the first half of 1995, but admit there are many factors that could have contributed to the decrease, not just the curfew. However, they say they know when the streets seem safer and calmer (Frerking, 1995).

Many other cities report that their curfew ordinances have been successful in decreasing juvenile crime. In its first year, New Orleans' curfew was influential in decreasing the incidence of youth crime arrests by 27 percent, armed robbery arrests by 33 percent and auto theft arrests by 42 percent. In Long Beach, CA, the curfew ordinance led to a 14 percent decrease in the average number of crimes committed per hour and approximately half the number of crimes committed during curfew hours as non-curfew hours (NCJA, 1997).

In its 347-city survey, the United States Conference of Mayors' survey found that 93 percent of the survey cities believed that a nighttime curfew is a useful tool for police officers; 90 percent said that enforcing curfews is a good use of police officers' time; 88 percent said that curfew enforcement helps make streets safer for residents; and 83 percent said that a curfew helps to curb gang violence. The respondents saw curfews as a proactive way to combat youth violence, a way to involve parents, a deterrent to future crime, and a way to keep juveniles from being victimized (U.S. Conference of Mayors, 1997).

2. Optimizing the Effectiveness of Curfews

It is generally agreed that a curfew in and of itself is not as effective as when it is part of a larger youth crime and victimization prevention strategy. Furthermore, curfew enforcement needs to be consistent in order for a curfew to be effective.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) examined the curfew ordinances in seven representative cities: Phoenix, AZ; Dallas, TX; New Orleans, LA; Jacksonville, FL; Chicago, IL; Denver, CO; and North Little Rock, AK. Each city has a comprehensive, community-based curfew program that employs a variety of strategies. The approaches demonstrate a range of community partnerships and non-punitive strategies designed to promote early intervention to prevent the

development of delinquent behavior and to address the issues of parental responsibility, discipline, and family dysfunction (OJJDP). Based on its review, the OJJDP designed curfew guidelines and criteria that are widely used in literature regarding curfews. The guidelines are designed to optimize the effectiveness of a curfew program and the criteria are designed to withstand a constitutional challenge. Criteria are discussed in legal portion of the literature review. Guidelines are:

- Provide a curfew center to receive violators
- Staff the curfew center with volunteers and social service professionals
- Offer counseling or other referrals for families
- Set up fines or community service sentences for repeat offenders
- Provide recreation or jobs programs
- Offer anti-drug and anti-gang programs
- Establish hotlines for follow-up service (OJJDP, 1996)

The general consensus in curfew literature is that a comprehensive curfew program should be only one part of community's plan to curb youth violence and that positive alternatives to antisocial behavior must be offered as well.

3. Legality of Curfews

The ACLU has challenged the legality of curfew ordinances in jurisdictions across the country and the literature shows that they have sometimes been successful. A federal appeals court invalidated San Diego's nighttime curfew for minors as unconstitutionally vague and a First Amendment violation that curtails legitimate conduct (ACLU, 6/9/97). The Washington State Court of Appeals ruled that Bellingham, WA's curfew law infringed on minors' fundamental freedoms of movement and expression and was constitutionally vague (ACLU, 6/2/97).

Legal challenges to the constitutionality of curfew ordinances are most often based on the First, Fourth, Fifth, Ninth and Fourteenth amendments to the United States' constitution. The First Amendment guarantees the right to freedom of speech, religion, and peaceful assembly. The Fourth Amendment protects persons against unreasonable searches and seizures and has been interpreted to include protection against unreasonable stopping and detainment of individuals. The Fifth Amendment has been interpreted to include a right to privacy, including the right to due process under the law. The Ninth Amendment has been interpreted to include a right to privacy, including the right to family autonomy. The Fourteenth Amendment protects persons against the deprivation of their liberty without due process of law and includes the right to travel, which is embodied in the privileges and immunities clause. (OJJDP, 1996)

The curfew ordinances that the court ruled against were usually far too general. Laws that impinge on fundamental constitutional rights must (1) demonstrate that there is a compelling State interest and (2) narrowly tailor the means to achieve the law's objective. (OJJDP, 1996) If a curfew ordinance passes this "strict scrutiny" test, it will be upheld. A good example of a curfew ordinance that was challenged and that passed

the strict scrutiny test is the Dallas curfew ordinance. The court held that Dallas had demonstrated a compelling State interest in reducing juvenile crime and victimization and the ordinance was properly aimed and narrowly tailored to “allow the city to meet its stated goals while respecting the rights of the affected minors.” The Justice Department developed criteria, based on the Dallas case, that should be used when drafting curfew ordinances to ensure that they will withstand a constitutional challenge. The Justice Department suggests following the same procedures that Dallas did. (OJJDP, 1996).

4. Conclusion

The literature review shows that there is a dearth of empirical evidence regarding the effectiveness of youth curfews. The one statistical analysis that does exist shows that youth curfews are not effective in decreasing the incidence of youth crime and youth victimization. Anecdotal and regional informal statistical analyses show that curfew ordinances are effective tools in decreasing youth crime and victimization.

To be effective, curfew ordinances must be part of a larger, comprehensive youth anti-crime program. They should follow the Justice Department’s guidelines and they should be coupled with positive, non-punitive solutions to the reduction of youth crime and victimization.

Furthermore, to stand up to legal challenges, a curfew ordinance must pass the strict scrutiny test. When drafting a curfew ordinance, it would behoove the community to use the Justice Department’s criteria and to examine other cities whose curfew ordinances have withstood legal challenges.