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Juvenile Curfews

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A curfew is a regulation that prohibits members of a certain population, such as juveniles, from being in public during a specified time. The primary purpose of a curfew is social control. Juvenile curfews generally prohibit minors, persons under the age of 17 or 18, from being in public spaces at night. The form of the regulations and their requirements vary by time, place, and age. However, many regulations are based on the Dallas ordinance, which prohibits juveniles under the age of 17 from being on the street between 11 :00 p.m. and 6:00 a.m. on weekdays and 12:00 a.m. and 6:00 a.m. on weekends (*Qutb v. Straus*, 1993). The curfew regulations may allow for exceptions, including employment, emergencies, errands for parents, parents accompanying, and school or other legitimate activities (Adams, 2003). In the late 1990s, 70-80% of the largest communities in the United States had established juvenile curfews (The United States Conference of Mayors, 1997; Diviaio, 2007). Cities or towns enact most curfews; however, the State of Oregon has enacted a statewide juvenile curfew (Ghent, 1974).

Curfew is derived from the French words *couvre feu*, meaning covering for fire. Curfews were originally used to indicate the time when fires in the home should be covered or protected for the night. William

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the Conqueror of England used curfews to proscribe a given time that people were to be off the streets to prevent gatherings (*Thistlewood v. Trial Magistrate for Ocean City*, 1964). In the pre-Civil War south, curfews prohibited slaves from being on the streets after a certain time. Courts, including the US Supreme Court, have held that general curfews are a valid use of a state's police power when they are passed during a time of riot or civil disobedience or there is a threat to security. For example, a curfew enacted in anticipation of a hurricane was valid after the governor had declared a state of emergency (*State v. Severin*, 2007). However, curfews have been found invalid in the absence of authority by the enacting body, for vagueness or overbreadth, and for undue restrictions of personal liberty. For example, a general curfew was found invalid when it was unclear what behavior was prohibited. Such a curfew was found to infringe on First Amendment rights to association and assembly (*Ruff v. Marshall*, 1977; Ghent, 1974).

The first recorded juvenile curfews were enacted in the mid-1890s in Nebraska cities and towns. The Lincoln ordinance, enacted in 1896, became the model for cities. Similar to modern ordinance, the Lincoln curfew prohibited children from being on the streets after 9:00 p.m. in the spring and summer and after 8:00 p.m. in the fall, unless they were accompanied by a parent, were running an errand, or working a job that required them to be on the streets (Baldwin, 2002). By the end of the nineteenth century 3,000 cities had enacted similar laws. Progressive reformers saw it as a means to protect and control unsupervised and neglected juveniles (Hemmens and Bennett, 1999). Although there was an interest in enacting the laws, juvenile curfews were only sporadically enforced until World War II. A renewed interest in controlling juveniles emerged as parents were either at work or war and unable to supervise their children (Ghent, 1974). Since that time many cities and towns have fallen into a cyclical pattern of enacting curfews, enforcing them vigorously and then sporadically, that reflects the city growth and concerns about juvenile delinquency. The 1990s saw a renewed focus on juvenile crime and political support for curfews. President Clinton endorsed juvenile curfews and the 1996 Anti-Gang and Youth Violence Act provided \$75 million for local initiatives, including curfews, to combat juvenile crime. As a result, cities that did not have curfews enacted them and those that did began enforcing them (Hemmens and Bennett, 1999).

This same time period saw an interest in holding parents accountable when their child broke a curfew. Such accountability normally falls under the purview of parental responsibility laws and punishments vary with common options being parents paying fines or participating in community service (Brank and Scott, 2012).

Supporters of juvenile curfews argue that they address the twin objectives of the juvenile justice system: protection and control of minors. By keeping juveniles off the street at night, they are not present when most serious crime occurs. Therefore, juveniles cannot participate in the crime, learn how to commit crime, or be victims of crime. Curfews are passed in response to and as part of cries for action to address a growing juvenile crime problem (Hemmens and Bennett, 1999; Adams, 2003). However, the most violent juvenile crime occurs between 3:00 p.m. and 7:00 p.m. (Office of Juvenile Justice and Delinquency Prevention, 2014), before the average curfew begins and when most juveniles are unsupervised because schools are out of session, but parents are still at work.

Supporters also argue curfews help law enforcement identify high-risk members of the community. Youth that are out during curfew hours likely have indifferent parents or ineffective supervision. Identifying those individuals allows for legal intervention. Additionally, curfews give law enforcement reason to stop and question juveniles for intervention and prevention of crime that may occur (Adams, 2003).

Another justification provided is that parents are the first line of defense in requiring their juveniles to be at home and the curfews serve to strengthen family ties and reinforce parental authority. These justifications assume teens have a better place to go and that their parents are home during the curfew hours (Hemmens and Bennett, 1999). Finally, supporters point to curfews as a seemingly inexpensive solution to a serious problem. However, this depends on the operational details and amount of enforcement (Adams, 2003).

Opponents of juvenile curfews argue that juvenile crime does not occur during curfew hours, there are many legitimate reasons juveniles may be out at night, the curfews are not enforced or equally enforced, and the state interposing the parent-child relationship may harm family relationships (Hemmens and Bennett, 1999). Juvenile curfews have been criticized as ineffective. Unfortunately, very little empirical work has examined the impact of curfews on the juvenile crime rate.

Curfews have also garnered constitutional challenges. Courts must consider three major legal issues when presented with a constitutional challenge to a juvenile curfew: (1) Is there a right being infringed and what is that right?; (2) Should that right be protected among juveniles with the same vigor as adults?; and (3) What level of scrutiny should the court employ to evaluate the legislation? Juvenile curfews have been challenged as violations to the right to assembly and association, to be free from unwarranted searches and seizures, the right of parents to raise their children as they see fit, and the right to travel. Generally, the federal courts have a tradition of limiting juveniles' rights due to the unique circumstances of being a juvenile. In *Bellotti v. Baird*, the Supreme Court considered three factors to decide if the state had the authority to infringe on the rights of a juvenile to a greater degree than adults: the peculiar vulnerability of children; the inability of children to make important decisions in a mature, intelligent manner; and the importance of the parent in childrearing (Hemmens and Bennett, 1999). Considering these factors, the court will determine if the right is a fundamental right for juveniles. The result of this analysis will generally inform what level of scrutiny is applied: strict scrutiny, intermediate scrutiny, or rational basis review. Depending on the level of scrutiny the court uses the burden of proof may be higher or lower for each party (Diviaio, 2007).

There has been little agreement between courts on these issues. When one court considers a right, such as the right to travel, fundamental for juveniles another may not. When one court applies strict scrutiny to the right of parents to raise their children another applies rational basis. When one court upholds the law under strict scrutiny another strikes it down (Diviaio, 2007). However, the courts recognize that the government has an interest in reducing juvenile crime and protecting juveniles from crime. Under any level of scrutiny, the court must then consider the relationship between the achievement of that interest and the legislation.

Because there has been little empirical work examining the impact of juvenile curfews on juvenile crime it is hard to know whether curfews are effective at reducing juvenile crime. The empirical work that has been done reveals mixed results; studies have found no change in juvenile crime rates, an increase, and a decrease. In a systematic review of the research to date, there was no strong, consistent

finding that curfews reduce juvenile crime (Adams, 2003). Further, the studies use different variables, times, and methods to examine effectiveness.

Using crime statistics from the Federal Bureau of Investigations (FBI) for 65 cities across the United States, Kline (2012) compared juvenile arrest rates for violent and property crime from 3 years before a curfew enacted to 3 years after. The results indicate that although there is a slight change in the arrest rate of juvenile property offenses, the change is not significant. However, the results did indicate a significant reduction in arrests for violent offenses in the years following the enactment of the curfew. Kline argued that curfews did not seem to reduce crime in general, but did reduce crime, as operationalized by arrest rates, for the targeted age group.

Employing a similar methodology, McDowall, Loftin, and Wiersema (2000) found weak support for the notion that curfews reduce juvenile crime rates. Using FBI crime statistics, McDowall and colleagues compared juvenile arrest rates of cities and counties that implemented new curfew laws and revised curfew laws for various types of crime. New laws were curfews implemented in cities or counties that had not previously had a curfew. Revised laws may have signaled a period of renewed enforcement of a previously existing curfew. Additionally, they examined the rates of homicide with juvenile victims. The findings indicate that rates of arrest for burglary, larceny, and simple assault decreased after cities revised curfew statutes. Juvenile arrest rates for larceny decreased after enactment of new curfews. These findings suggest that curfews could be effective if the city or county is concerned about burglary, larceny, or simple assault. However, some of these findings may also be attributable to the amount of police enforcement of the curfew laws at that time.

Males and Macallair (1999) analyzed official data to compare crime and death rates of California jurisdictions with tougher curfew enforcement to jurisdictions with lesser curfew enforcement. Additionally, juvenile crime rates were compared to adult crime rates. The results demonstrate no significant difference between jurisdictions with vigorous curfew enforcement and those with little to no curfew enforcement regardless of the specifics of the statute or the type of crime examined. The juvenile crime dropped at the same rate as adult crime between 1990 and 1997. The findings suggest

that juvenile curfews are not responsible for the juvenile crime reduction and future research and policy should focus on alternative methods to reduce crime.

Reynolds, Seydlitz, and Jenkins (2000) examined the effectiveness of the curfew law in New Orleans, Louisiana, by comparing official juvenile arrest rates and victimization rates one year before and one year after implementation. The New Orleans curfew law, enacted in 1994, is one of the most restrictive in the country. The curfew prohibits youths under 17 from being in public places after 8:00 p.m. on weekday nights (9:00p.m. in the summer) and 11:00p.m. on weekend nights. The law does provide for exceptions, including emergencies, school, religious or city-sponsored events with suitable adult supervision, reasonable errands, and exercise of First Amendment rights. Additionally, the law does not provide for sanctions for violators. The youths are taken home or to curfew centers. The law does target parents, resulting in fines, counseling or community service for the parents of the violators. Reynolds and colleagues found victimization and juvenile arrests were not significantly lower after the curfew was implemented. Juvenile victimization rates, overall victimization rates, and juvenile arrest rates did not significantly change after the curfew was implemented. However, victimization and arrest rates during non-curfew hours did increase significantly after the curfew implementation. Reynolds, Seydlitz, and Jenkins concluded that the curfew was not effective at reducing juvenile arrests or victimizations.

Some research does indicate that with targeted enforcement there can be a positive impact of curfew laws on specific types of harm. For example, Preusser, Zador, and Williams (1993) found that the number of vehicle crashes and injuries was lower in states with juvenile curfews than in neighboring states without curfews. Additionally, Fritch, Caeti, and Taylor (1999) found a significant drop in overall gang violence after implementation of a gang suppression program with a curfew. Although the results were mixed for reducing overall juvenile crime, curfews combined with other crime control techniques may be effective at reducing certain types of crime.

Despite the lack of empirical support, 80-90% of the public in the United States support having a juvenile curfew. This public support is widespread, including support even from juveniles and minority groups (Hemmens and Bennett, 1999; Adams 2003). A nationwide

survey of teens found that the majority, approximately 60%, supported curfews as a way to assist children. Although teens in New Orleans reported they believed the curfews were unfair, the majority also reported they felt curfews made the neighborhood safer (Adams, 2003). This widespread support likely stems from the public's belief that curfews are an effective crime control technique.

Further research is needed to examine whether juvenile curfews truly reduce juvenile crime. Most of the research on the impact of curfews on juvenile crime rates was conducted in the late 1990s and early 2000s. Legal and empirical questions would benefit from attention to the area. Future research should include programmatic, controlled research with comparison groups and primary, rather than archival, data. Practical issues, such as anticipating when and where renewed interest in enforcement will occur or observing enforcement, often make this goal difficult. Additionally, future research should consider alternative ways of measuring effectiveness. Juvenile arrest rates, which many studies used to examine effectiveness, could be a misleading proxy for ineffectiveness. Studies did not include details about the arrests, such as how the officers made contact with the juveniles. Effective curfew laws could reasonably lead to an increase in juvenile arrests, especially during high enforcement.

References

- Adams, K. (2003). The effectiveness of juvenile curfews at crime prevention. *The Annals of the American Academy of Political and Social Science*, 587: 136-159. DOI:10.1177/0002716202250944
- Baldwin, P. C. (2002). "Nocturnal habits and dark wisdom": The American response to children in the night, 1880-1930. *Journal of Social History*, 35(3): 593-611.
- Brank, E. M., and Scott, L. B. (2012). The historical, jurisprudential, and empirical wisdom of parental responsibility laws. *Social Issues and Policy Review*, 6: 26-53. DOI:10.1111/j.1751-2409.2011.01034.x
- Diviaio, D. (2007). The government is establishing your child's curfew. *Saint John's Journal of Legal Commentary*, 21: 797-835.
- Fritch, E. J., Caeti, T. J., and Taylor, R. W. (1999). Gang suppression through saturation patrol, aggressive curfew, and truancy enforcement A quasiexperimental test of the Dallas anti-gang initiative. *Crime & Delinquency*, 45: 122-139.

- Ghent, J. F. (1974). Validity and construction of curfew statutes, ordinance, or proclamation. *American Law Reports, 3rd Edition*, 59: 321.
- Hemmens, c., and Bennett, K. (1999). Juvenile curfews and the courts: Judicial response to a not-so-new crime control strategy. *Crime & Delinquency*, 45: 99-121. DOI:10.1177/0011128799045001006
- Kline, P. (2012). The impact of juvenile curfew laws on arrests of youth and adults. *American Law and Economics Review*, 14: 44-67. DOI:10.1093/aler/ahedj01121
- Males, M., and Macallair, D. (1999). An analysis of curfew enforcement and juvenile crime in California. *Western Criminology Review*, 1. Retrieved from <http://westerncriminology.org/documents/WCR/v01n2/Males/Males.html> (accessed February 15, 2017).
- McDowall, D., Loftin, c., and Wiersema, B. (2000). The impact of youth curfew laws on juvenile crime rates. *Crime & Delinquency*, 46: 76-91. DOI:10.1177/001128700046001005
- Office of Juvenile Justice and Delinquency Prevention. (2014). Violent crime time-of-day profile by offender age. Retrieved January 11, 2015 from <http://ojjdp.gov/ojstatbb/offenders/qa03401.asp?qaDate=2010>
- Preusser, D. F., Zador, P. L., and Williams, A. F. (1993). The effect of city curfew ordinances on teenage motor vehicle fatalities. *Accident Analysis & Prevention*, 25: 641-645. DOI:10.1016/0001-4575(93)90016-P
- Qutb v. Straus*, 11 F.3d 488 (5th Cir. 1993).
- Reynolds, K. M., Seydlitz, R., and Jenkins, P. (2000). Do juvenile curfew laws work?: A time-series analysis of the New Orleans law. *Justice Quarterly*, 17: 205-230. DOI: 10.1080/07418820000094531
- Ruff v. Marshall*, 438 F. Supp. 303 (D.C. Ga. 1977).
- State v. Severin*, 958 So.2d. 21 (La. Ct. App. 5th Cir. 2007).
- The United States Conference of Mayors. (1997). A status report on youth curfews in America's cities: A 347-city survey. Retrieved January 11, 2015 from <http://www.usmayors.org/publications/curfew.htm>
- Thistlewood v. Trial Magistrate for Ocean City, Worcester County*, 236 Md. 548 (Ct. App. Md. 1964).