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## Why Curfews Should Be Opposed

Daytime curfews are gaining popularity around the country. A typical ordinance prohibits any person under the age of 18 from being in public during the hours of 8:30 A.M. to between 1:30 P.M. and 3:00 P.M., when school is in session. Most ordinances have provisions which allow a juvenile some legal excuses to be in public, such as permission from school or parents, an emergency, or when accompanied by a parent. Technically, a child without a legal excuse to be outside can be cited and fined for breaking the curfew.

**In reality, even a person who does have a legal excuse to be outside is still not protected from being questioned, detained, or held in custody until his innocence is proven.**

Supporters of daytime curfews argue that juvenile crime has reached desperate levels; only a measure as harsh as a curfew will control it or protect juveniles from crimes committed against them. Many citizens, however, see no need for the wholesale abrogation of juveniles' liberty merely because a few "bad apples" do not abide by the law.

- **Daytime curfews do not deter juvenile crime.** Curfew proponents rely most heavily on the argument that daytime curfews deter juvenile crime. If this premise was true, then areas that strictly enforce a curfew ordinance should have a lower juvenile crime rate than areas that do not have a curfew. A 1998 California study compared the crime rates of counties that enforced curfew ordinances and counties that did not.<sup>1</sup> The study found that the crime rate of the counties where a curfew ordinance was enforced remained the same as those counties without such an ordinance. The curfews had no effect on juvenile crime. There is no **consistent** evidence that curfews reduce crime rates.
- **Daytime curfews allow searches without probable cause.** The Fourth Amendment of the Constitution proscribes any investigation of a citizen without "probable cause." Under curfew ordinances, police are not bound to this principle. They have the authority to stop, question, and possibly cite anyone who **appears to be young enough** to be violating the curfew.
- **Daytime curfews assume a person is guilty until proven innocent.** In many incidents, none of the teenagers engaged in any suspicious activities. There was no evidence that they either had committed a crime or intended to commit a crime. Nonetheless, the police subjected these young people to interrogation and suspicion until they had proved their innocence. A daytime curfew reverses the long-held American presumption of "innocent until proven guilty."
- **Daytime curfews punish all juveniles indiscriminately.** Juveniles quickly learn that because some kids are truant and some kids commit crimes, all kids must suffer. If our liberties depend on everyone else's good behavior, our liberties are fragile indeed.
- **Most crime against juveniles occurs between 3:00 and 6:00 pm;** a time period not covered by school hour curfews.
- **If the parents are unavailable, what will they do with the children?** Most municipalities do not have areas to allow youth to wait for parents, other than foster homes, detention facilities, or jail.
- **Youth and parents will spend more time in court** proving they were not violating curfew...students won't be in school, parents won't be at work or supervising their other children, police will be in court and not on the streets.
- **Curfews are a clear violation of a parent's right to parent.** They criminalize young people for looking young and being visible.
- While criminals are hiding in alleys or ducking down in cars, it is the private, charter, alternative, dual enrollment, and home schooled children who will be stopped, interrogated, **and forced to prove they have permission to be out in public.**
- **Curfews criminalize** the next generation. Our youth are guilty until proven innocent.

## Curfews on Trial

- ☑ On January 23, 2003, the Supreme Court of Washington State struck down a nighttime curfew ordinance of the City of Sumner, saying that the curfew was unconstitutionally vague, an argument that also applies to daytime curfews.<sup>2</sup>
- ☑ The U.S. Court of Appeals for the Second Circuit struck down another nighttime curfew ordinance on June 2, 2003, holding that it interfered with a minor's right to freedom of movement, thus violating the right of equal protection. The court stated that the ordinance "interfered with juveniles' right to walk the streets, move about at will and leave their houses when they please."<sup>3</sup> Although this decision invalidated a nighttime curfew case, the reasoning would also apply to a daytime curfew.
- ☑ In 1997, the Congress attempted to fund daytime curfews in its Violent and Repeat Juvenile Offender Act of 1997. Advocates contacted congressional subcommittee attorneys as well as the bill's sponsors and persuaded them to remove funding for daytime curfews. At this time, there is no federal funding for such ordinances.

### The Real Solution

Juvenile crime is a serious problem and must be combated, but daytime curfews are not the way to do it. We don't need ordinances which are better suited to a country under martial law, especially when existing ordinances address the same problem. Existing ordinances need only to be enforced.

The solution to crime—juvenile and otherwise—is swift and severe penalties for breaking the law. It is sadly nonsensical that those who support curfews and are willing to curtail the liberties of all juveniles are often the same people who oppose punishment for the juveniles who do commit the crimes. Punishment is a strong deterrent to crime.

This country has not needed curfews until now because of its history of swiftly punishing all offenders. Today these offenders are escaping proper punishment through the trend towards leniency in our courts. Only by returning to our foundational system of justice—punishment for the criminal, freedom for the innocent—will we restore the balance of liberty that Americans cherish.

### Endnotes

- 1 . Mike A. Males and Dan Macallair, The Impact of Juvenile Curfew Laws in California, The Justice Policy Institute, San Francisco, June 1998
2. City of Sumner v. Walsh, 148 Wash.2d 490, 61 P.3d 1111
3. Ramos v. Town of Vernon, 331 F.3d 315 (2nd Cir. 2003); 71(48) U.S. Law Week 1772-73 (June 17, 2003)