

December 5, 2018
Delivered via e-mail

The Honorable Mayor Michael S. Rawlings
City of Dallas

The Honorable Mayor Pro Tem Casey Thomas, II
District 3

The Honorable Tennell Atkins
District 8

The Honorable Deputy Mayor Pro Tem Adam Medrano
District 2

The Honorable Mark Clayton
District 9

The Honorable Scott Griggs
District 1

The Honorable Adam McGough
District 10

The Honorable Rickey D. Callahan
District 5

The Honorable Lee Kleinman
District 11

The Honorable Omar Narvaez
District 6

The Honorable Sandy Greyson
District 12

The Honorable Kevin Felder
District 7

The Honorable Jennifer S. Gates
District 13

The Honorable Philip T. Kingston
District 14

CC: Jon Fortune, Assistant City Manager
Chief U. Reneé Hall, Dallas Police Department
The Honorable Cheryl Williams, Dallas Municipal Court - Juvenile Court

Re: Dallas' Juvenile Curfew Ordinance

Dear Mayor Rawlings and Dallas City Council Members,

We write to urge the City of Dallas to end the juvenile curfew (Curfew) currently scheduled to expire in January of 2019. While the purpose cited by the Dallas Police Department (DPD) for enacting and maintaining a curfew—to prevent the victimization of juveniles—is laudable, citing minors and funneling them into the court process for merely being out of their homes or school ultimately harms more than helps them. Juvenile curfews undermine success for young people by bringing them into contact with the criminal justice system.

The Curfew Encourages Negative Police Interaction

Police best serve our youth and community when officers are trusted rather than feared. Youth who genuinely need assistance should be able to turn to police officers for help without fear of being arrested or cited. But the Curfew discourages such positive interactions by encouraging police to cite youth ages 10 - 16 for doing nothing other than not being home or at school during Curfew hours. Police interactions can be scary for anyone, but in particular for youth. We should not provide an additional reason to make them more fraught.

The Curfews Impact Youth's Future

The Curfew makes it a Class C misdemeanor to be out of home or school¹ during curfew hours. Young people who receive Class C misdemeanor tickets are sent to adult criminal court and are not provided legal representation, which can prove difficult for youth with disabilities and youth with language barriers. Research demonstrates that youth who come into contact with the criminal justice system are more likely to drop out of school.² A conviction also mars a person's record, making it harder—and in some instances impossible—to secure a job, obtain advanced education, enroll in the armed forces or find housing. There is also a potentially significant financial burden when youth are stopped for curfew violations: convictions can result in up to \$500 in fines plus court fees. Many families would not have the resources to pay the fine without significant strain or at all. And failure to pay of course ushers a separate host of negative consequences for families, such as suspended drivers' licenses and future warrants. The collateral consequences attendant to the Curfew warrant reconsidering the usefulness of having the Curfew in place.

Curfews Impact Youth of Color Disproportionately

Just as research has indicated that discrepancies in school discipline and truancy offenses disparately impact youth of color, juvenile curfews disproportionately impact communities of color. By renewing the Curfew, the City of Dallas will be imposing the hardships mentioned above to its youth of color in particular. The City of Austin chose to let its juvenile curfew lapse in part for its concern about the impact it was having on its youth of color. The City of Dallas should do the same.

DPD reported to the Dallas Public Safety Committee that in roughly the last year and a half, Latinos were issued 70.83% of the curfew violations while African Americans are issued 18.38% and White youth were issued 10.05%.³ The City of Dallas Office of Economic Development reports the demographic breakdown of the city as: Latinos comprise 41.4% of the population,

¹ The Texas Legislature decriminalized truancy in 2015 with House Bill 2398. Yet, local curfew ordinances criminalize children for the same behavior—being out of school during the day. Every school district in the state is required to implement meaningful truancy prevention and intervention measures, but curfew ordinances could allow districts to skirt these requirements.

² The Vera Institute of Justice, *When Misbehaving is a Crime*, 2017, available at <https://www.vera.org/when-misbehaving-is-a-crime#introduction>.

³ See City of Dallas Public Safety and Criminal Justice Committee Meeting, June 25, 2018, video available at <https://dallastx.swagit.com/play/06252018-1626>.

African Americans comprise 24%, and White people comprise 29.2%.⁴ The overrepresentation of Latino youth in curfew citations is significant. If this data do not illustrate the problems with juvenile curfews, they at least raises serious questions about disproportionality and enforcement that must be answered. The data also raise concerns for immigrant youth and families, given the monitoring of courts by federal law enforcement agencies.

Similarly, DPD's report of nighttime curfew violations broken down by district illustrates apparent disproportionate enforcement in Council District 6. The presentation to the Public Safety Committee indicated that District 6 had 91 night curfew citations issued since January 2017. No other district had more than 35. While demographics of a district and other factors could explain the apparent over-policing of District 6, these data illustrate that City of Dallas has the duty to investigate apparent disparities in enforcement.

The Curfew Fails to Help Youth in Distress

Criminalizing young people who are not at home or at school during curfew hours fails to address underlying issues that some of our youth face, including homelessness, abuse/neglect, and other challenges that could lead to curfew violations. A curfew is not necessary to have police help youth, just as a criminal law is not necessary for officers to interact with and help any other person who needs assistance, whether they are a motorist stranded on the side of the road or a person in need of medical care. The same strategies and resources that officers use to assist young people during non-curfew hours can be used to assist them during the times of the Curfew. But, instead of encouraging assistance, the Curfew encourages citations and justice system involvement. And this in turn, discourages young people from turning to police. Rather than further harm or marginalize vulnerable youth, the City of Dallas should find proactive ways to help them, including coordinating and utilizing existing city agencies and community-based organizations.

The Curfew Supplants a Parent's Right to Direct the Upbringing of their Child

The U.S. Constitution undisputedly protects a parent's right to direct the upbringing of their child. *Troxel v. Granville*, 530 U.S. 57, 65, (2000) ("The liberty interest at issue in this case—the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.") The Curfew, however, overrides this right during curfew hours. There are several reasons a parent might permit a minor to be out of the house after curfew hours but the Curfew places the burden on the minor and/or parent to prove this to avoid citation. For example, a minor may be returning from a babysitting job and get stopped by the police. What sort of proof does one need to show to prove one was babysitting? Furthermore, the Curfew criminalizes—without a defense—perfectly acceptable behavior that parents would allow. The same minor returning from a babysitting job, for instance, violates the Curfew if they stop at a fast food restaurant to buy food, or use the bathroom, en route home. This unnecessary interference with a parent's right to direct the upbringing of their child provides another reason why the Curfew should not be renewed.

⁴ <https://www.dallasecodev.org/490/Demographics>

Instead, of further criminalizing our youth, the City of Dallas should end the harmful Curfew ordinance and create a transition team of local stakeholders to develop ways to connect youth with appropriate services when law enforcement identifies youth that need specific interventions. Finally, Dallas should take all available steps to reduce the collateral consequences of curfew violations that have already been issued.

Put simply, juvenile curfews ordinances encourage a criminal justice response to situations that do not merit contact with law enforcement and the court. Juvenile curfews are an outdated approach. Truancy reform statewide represents a similar move away from criminalization of youth. Several cities have ended the practice of citing youth, including Austin⁵ and San Antonio. The undersigned groups call on Dallas City Council to allow the juvenile curfew ordinance to lapse.

Sincerely,

The ACLU of Texas
Texas Appleseed
Texas Organizing Project
Mexican American Legal Defense and Educational Fund
Texas Civil Rights Project
MEASURE
North Texas Dream Team
Disability Rights Texas, Inc.
Texas Criminal Justice Coalition
Democratic Socialists of America North Texas
Center for Racial Justice in Education
Excellence and Advancement Foundation

⁵ See Report: Austin's Juvenile Curfew Ordinance: Recommendations for Non-Criminal Ways to Support and Ensure the Safety of Young People in Austin, *available at* <http://www.austintexas.gov/edims/document.cfm?id=285194> .