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Curfews: A National Debate

In the summer of 1995, the District of Columbia became the latest in a rash of cities to pass a law imposing a curfew on teenagers. The law required everyone under the age of 17 to be home by 11:00 p.m. on weekdays, midnight on weekends and to stay put until 6:00 the next morning. It also prohibited drivers under 18 from driving in the District after midnight. Not only did the teenagers face punishment if caught in public after curfew; their parents could be prosecuted as well.

In passing this law, Washington, D.C. joined what has fast become a burgeoning trend. According to one recent study, 146 of the country's 200 major cities -- almost 75% -- impose curfews of some sort on minors. Many cities have tried to get around the obvious constitutional issues by making the curfews voluntary. Others have gotten parents to sign forms giving police permission to pick up their children after hours.

The summer of 1996, President Clinton jumped on the bandwagon when he announced his support for a federal curfew law, catapulting the issue to national prominence.

Curfews are just the latest in a long line of misguided anti-crime strategies which divert public attention from the real root causes of crime. The fact is that such laws are empty political gestures: they will do nothing to make our streets safer. It is absurd to think that any teenager who is selling drugs or carrying a gun -- crimes that could lead to years in prison -- would rush home at 11:00 to avoid violating curfew, or that this same teenager won't have a false ID. And certainly any crime that would be committed after midnight can just as easily be committed earlier. In fact, most juvenile crimes are committed right after school, between 3:00 and 6:00 p.m.

What curfews will do is to wreak havoc with one of our most fundamental constitutional rights -- the right to freedom of movement. Curfew laws punish the innocent instead of the guilty. They put law-abiding teenagers under house arrest every night of the week, not because they have done anything wrong but because of the crimes committed by others.

Curfews criminalize normal and otherwise lawful behavior, like standing on street corners, walking the dog, or going for an early morning run. They usurp the rights of parents to raise their children as they think best to allow parents to let their teenagers go to the theater, or a jazz club. In fact, this law made it a crime for parents to grant such permission, injecting the government where it doesn't belong.

There is also no evidence that curfews work. In Houston, a curfew was introduced, and youth crime went down by 22%. But in New York, where no curfew exists, youth crime went down 30%. In Detroit and New Orleans, youth crime increased after curfews were introduced. And in San Francisco, youth crime went down after a curfew was repealed. Curfews also squander police resources that should be used to fight real crime. That is why many police chiefs oppose them. And inevitably, curfews result in discrimination: studies have consistently found that curfew laws are disproportionately enforced in minority communities.

In sum, while curfews may give the appearance of bold action, in reality they do far more harm than good. They are little more than an election-year stunt. Washington, D.C.'s Juvenile Curfew Act of 1995 was



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modeled after a Dallas ordinance, that survived a court challenge brought by the ACLU.

Under the D.C. Act, curfew violators would be taken to police holding centers and detained until an adult came to pick them up. In addition, they could be required to perform community service, and those caught behind the wheel faced suspension of their drivers' licenses. Equally as disturbing, their parents could be fined up to \$500 and sentenced to community service and mandatory parenting classes. Businesses, too, faced fines if they allowed minors to remain on their premises after hours. The law did allow for some exceptions, such as traveling to or from work, participating in a school event, or going out with parents (but not with any other adult even with their parent's permission). However, **the only way to enforce these exceptions is to stop and question anyone who appears to be underage**, violating the rights even of those who turn out to be exempt.

The Act was never actively enforced. Last November, the ACLU filed suit against Washington, D.C. on behalf of a group of parents, teenagers and businesses, charging that the new law violated the fundamental rights of both teenagers and their parents.

Now, one year later, we have won a major victory: U.S. District Court Judge Emmet G. Sullivan has ruled that the Act is flatly unconstitutional. In reaching his decision, Judge Sullivan invoked what he called the "poignant" stories told by the eight teenage plaintiffs in this case. Sixteen-year-old Tiana Hutchins, for example, said the law would interfere with her ability to take on modeling assignments. Jessica Levi said it would get in the way of study group sessions with classmates. James Friedman told of his participation in numerous benefit band concerts which normally extend past curfew hours. Rachel Schneebaum says she won't be able to attend the ballet. And Michael Wittie testified that he won't be able to get to private swim team practices that begin at 6:00 a.m. or to walk his dog after curfew hours.

Judge Sullivan found that the government didn't offer any compelling evidence to substantiate its claim that curfews actually lower the crime rate. And while the District tried to argue that minors simply do not have a constitutional right to freedom of movement as adults do, the Judge disagreed, pointing to ample Supreme Court precedent supporting that right with only narrow limitations. Among the cases he quoted was a 1976 landmark decision, in which the Court commented, "Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority."

In sum, Judge Sullivan declared that the law "was not narrowly tailored by the City Council to sanction the government's erosion of one of the most comprehensive and valued liberty interests afforded citizens of a civilized society -- the cherished freedom of movement." And he found that there was simply no justification for the law's "substantial intrusion into the private domain of the family and the rights of parents to make appropriate decisions for their minor children and to raise their children in a responsible manner."

This strong decision will send a message to cities across the nation that laws which punish all minors are not a permissible response to the damage done by the small fraction of teenagers who actually commit crimes. Certainly juvenile crime is a formidable problem, but most crimes are still committed by adults and no one is proposing curfews for them. Perhaps that is because they vote.

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The proper response to crime, including juvenile crime, is to arrest people suspected of criminal conduct, not to keep millions of innocent, law-abiding young people under lock and key. An even better proposal would be to develop resources designed to prevent juvenile crime by addressing the social conditions that cause it. Teenagers without a stake in the future and without constructive activities to occupy them, will be more likely to commit crimes.

The ACLU cannot solve all social problems. But we can, with your help, continue to resist false solutions that help politicians sound tough and get elected, but which violate the rights of innocent people without offering any environment of public safety.

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