

**The Bill Blackwood  
Law Enforcement Management Institute of Texas**

Is it time for parents to be held responsible?  
A Juvenile Curfew Proposal for Borger, Texas

**A Policy Research Project  
Submitted in Partial Fulfillment  
Of the Requirements for the Professional Designation  
Graduate, Management Institute**

**by**  
Berl W. Bridwell

Borger Police Department  
Borger, Texas  
March, 1999

## **ABSTRACT**

Many Texans are blaming parents for the current rise in juvenile crime. Various cities in the State of Texas and across the nation have researched and implemented a Juvenile curfew's as a tool to deter juvenile crime. This project is to review the pros and the cons of juvenile curfews, to determine if the juvenile crime rate in the City of Borger justifies a nocturnal curfew and to determine when and if parents should be held accountable for violations. There are legal issues that surround the use of juvenile curfews. One main issue of concern is; do juveniles have the same constitutional rights as adults? Curfews challenge the First, Fourth, Fifth, Ninth and fourteenth Amendments. The intended outcome of this project is to determine if the City of Borger needs a Juvenile curfew and to see if those needs prove to be compelling and significant, as Mandated by the courts.

## **TABLE OF CONTENTS**

<b>Section</b>	<b>Page</b>
Introduction	1
Historical and Legal Context	2
Review of Literature or Practice	4
Discussion of Relevant Issues	7
Conclusion/Recommendations	9
Bibliography	11

## **Introduction**

A recent Scripps Howard Poll revealed that ninety-eight percent of Texans believe juvenile crime is a serious problem. A majority of those polled blame parents for the increase in juvenile crime. Many cities across the nation are using a curfew that holds a parent accountable for their children being out after curfew hours. The purpose of this project is to review the pros and the cons of juvenile curfews, to determine if the juvenile crime rate in the City of Borger justifies a nocturnal curfew and to determine when and if parents should be held accountable for violations.

The intended audience for the consideration of this research project will be the Chief of Police, the City Manager and the City Council of the City of Borger. Likewise, the citizens of Borger will consider the impact and needs of the issue and voice their opinions to the city council.

In this research project, numerous sources of information will be used. Recent court decisions identify what parameters make curfews constitutional. Several municipalities, some comparable in size to the City of Borger, are contacted to investigate their policies and to share their statistical findings on whether the curfews have had a positive or negative impact on their community and juvenile crime. Local statistics are used to show the juvenile crime rate in the City of Borger. Newspaper articles and journals, as well as state statistics are used to review the effects of curfews.

The intended outcome of this project is to determine if the City of Borger needs a juvenile curfew and to see if those needs prove to be compelling and significant, as mandated by the courts. If the City of Borger show the need and court requirements are met, the city council will be presented with the results to propose a juvenile curfew for the City of Borger.

## **Historical, Legal and Theoretical**

The curfew is an institution that dates back to the time of William the Conqueror. It was also used quite extensively during the 19th century America to control the movement of free blacks. In the 20th century curfews have been used to respond to emergencies, to limit the hours in public parks, to decrease vagrancy and to protect national security.

The juvenile curfew gained popularity in the United States during the early 1900s. It was primarily instituted to "curb unwholesome juvenile activity" which was thought to stem from lack of parental responsibility. (Markatos, 17) Use of the juvenile curfew declined between World War 1 and World War II but drastically returned in the 1950's. This return was due to rising juvenile crime rates. From 1948 to 1956 juvenile arrests increased from 31,750 to 234,474. This increase has continued into the 1990s. (Markatos, 17) In 1898, the Texas Court of Criminal Appeals struck down a blanket curfew for persons less than 21 years of age. (Telemasp 94, pg5) A Texas Attorney General Opinion in 1982 suggested that a particular curfew ordinance would be unconstitutional because it failed to distinguish between legal and illegal activities. (Telemasp 94, pg5) In more recent years Texas Governor, Ann Richard's, used the implementation of a statewide curfew as a campaign issue in attempt to gain popularity.

There are many legal issues that surround a juvenile curfew. One main issue of concern is; do juveniles have the same constitutional rights as adults? Curfews challenge the First, Fourth, Fifth, Ninth and Fourteenth Amendments. While some curfew laws have been deemed unconstitutional due to vagueness and overreach, they have not been found to violate young people's constitutional rights. (Ruefle, Reynolds and Brantley, pg. 187). In the case of *Bellotti v Baird*, The Supreme Court outlined three reasons justifying the conclusion that the constitutional rights of children cannot be equated with those of adults; 1) the peculiar vulnerability of children;

2) their inability to make critical decisions in an informed, mature manner; and 3) the importance of the parental role in child rearing.

Parents, politicians and law enforcement officials all have theories on the subject of juvenile curfews. Some parents tend to believe that government is intervening in their parental roles and that those juveniles that are legally compliant will be the ones detained and questioned by authorities. Others believe that if a teenager is going to commit acts of vandalism, robbery, assaults and murders, that the offender will not be deterred by a curfew violation and that the only kids that it will keep off the streets will be the decent law abiding teenagers.

The American Civil Liberties Union believes that "Curfews, like other tough-sounding anti-crime strategies, simply divert from real crime prevention programs. (ACLU NEWS March 15, 1995) Jordan Budd, Staff Counsel of San Diego & Imperial Counties noted that the curfew ordinances would actually interfere with effective police work. "If police officers are checking the Id's of every teenager walking a dog after 10:00 p.m., and then driving those kids to the police stations to be held until parents arrive, the police departments resources are diverted from dealing with real crime. (ACLU News). Most police officers are reluctant to say anything negative about their department policies but most officers agree that juvenile curfews are nothing more than baby-sitting laws and that it will deter from real police work. As far as the Hutchinson County Law Enforcement is concerned, most administrative personnel believe that a curfew is needed in Borger. David Hagler, Chief Juvenile Probation Officer of Hutchinson County, states "The City of Borger is in need of a juvenile curfew. The curfew needs to be countywide. I have noticed a significant decrease in the number of referrals from the cities of Fritch and Stinnett since they have implemented a curfew." The City of Borger has in the past had alarming rates of juvenile crime. In summers past juveniles were responsible for over 200 auto burglaries all

committed between the hours of 12:00 a.m. and 3:00 a.m. According to the Hutchinson County Juvenile Probation Office, in 1998, there were a total of 141 cases that went before the Juvenile Courts. Sixty-One of these cases were filed from the Borger Police Department. The H.C.J.P.O. indicated that there were approximately 250 other referrals, from the City of Borger, that were handled outside of court.

Proponents of juvenile curfews believe that a curfew is a necessary social mechanism. The common assumptions underlying it are: (a) human beings must be controlled if society is to be orderly and safe, (b) society has a consensus on a set of appropriate values and behaviors, and (c) absent internally motivated voluntary compliance, people can be forced to comply through external control mechanisms. City officials who support curfews believe they have a compelling interest to reduce juvenile crime and victimization. (Ruefle, Reynolds and Brantly, 188)

Supporters of the curfew believe that they serve as a tool for parents and police. Many believe that there is a devastating rise in juvenile crime and that was as a society need to get control before these offenders reach adulthood. Children who come from unstable homes and do not have parental role models need our help to succeed today. Youth in our care need our help and guidance, or take the option of refusing it, now. Not in the year 2000. (Abruzzese, 1)

### **Review of Literature or Practice**

Little actual research exists regarding the effectiveness of curfews. Only one journal article with statistical analysis of curfews has been written in the last twenty years, (Telemasp 94). Most research indicates that municipalities believe that juvenile curfews do have a positive effect on their communities regardless if there is no statistical evidence that juvenile crime is declining. Then United States Conference of Mayors released a report stating that in 1977, 347 U.S. cities with populations over 30,000 were surveyed. Over 70 percent of the cities surveyed

said that the nighttime curfews had a positive effect because it reduced "gathering" by youth, and compels parents to be more responsible, and additionally provides parents with a specific reason for keeping their children in (USCM). In addition to this, there are overwhelming indications that curfews help protect the youth even if there is little or no decline in juvenile crime. In a recently released survey report by Then United States Conference of Mayors, Officials report that overall juvenile crime has decreased. Early numbers show a 29 % decline in nighttime juvenile arrests and an 85 % plunge in youth victimization by violent crime. (NCJ document # 169961, pg. 1-2). Although there is insufficient research to show that juvenile curfews have a positive impact on crime during restricted hours, the majority of cities with reportable data indicate that curfews do have an effect on the reduction of crime. The city of Detroit found that during the hours of curfew, there was a 3 to 6 percent drop in Part I offenses committed in comparison with earlier years. However, there was a displacement phenomenon clearly evident in which the proportion of each day's offenses committed from 2:00 p.m. to 4:00 p.m. increased from 13 percent to 22 percent. (Telemsp 1994). Of the 347 cities reporting to the United Conference of Mayors, 26 surveyed cities with nighttime curfews experienced a 21 percent reduction in juvenile crime ranging from two percent reduction in Charlotte, NC, to a 50 percent reduction in Orlando FL. (Then United States Conference of Mayors). Nineteen of the cities surveyed did not believe that nighttime curfew was useful. They noted that when curfews are implemented there is more crime during non-curfew hours, and also said that it removes parental control. Many cities and communities have opted to draft a juvenile curfew whether it is to reduce crime, to protect the young, or to make citizens feel safer. Different communities have different needs, depending on size, geographical location and demographics. Some social problems will be similar in some ways but will be different in other ways. What works for one community may not work for



another. Today juvenile curfews are found in cities as diverse as Middletown, P A (population 9,080), Dallas, TX, and Jackpot, Nevada (an unincorporated town in a county with a population Of 21,000 in 1985)(Hessel, 1). Texas curfew ordinances fall into three different categories: area, nocturnal and school time. An area curfew applies only to parts of a city designated by street and block. It allows a city council to choose particular trouble spots for a focused approach (Telemasp 4, 1994). The city of Austin uses an area curfew. Nocturnal curfews are usually from 11:00 p.m. to 6:00 a.m. with later hours usually on the weekends. All current nocturnal curfew laws specify a number of circumstances which are treated exceptionally (Telemasp 4, 1994). Wichita Falls, TX, ordinance is a typical nocturnal curfew. The City of Laredo, TX, uses a combination of a nocturnal curfew and a school time curfew. School time curfews are designed to keep juveniles off the streets during school hours, usually 9:00 a.m. to 2:30 p.m. (Telemasp 4, 1994). Currently all Texas cities that use daytime curfews use them in combination with one of the other curfew but no cities are found to be using all three curfews (Telemasp 4, 1994). Each city considering drafting a curfew will have to decide what type of restrictions will suite their community. For instance the city of Dumas, TX, enforces a nocturnal curfew on any person under the age of 17 years of age (Al Rodela, 02/01/99). Houston, Laredo and EI Paso all enforce the ordinance on those under 18 years of age. The city of Pasadena has two different curfew times: one for those under 18 and one for those under 13 (Telemasp 4, 1994).

"Comparison of Types of Curfews in Texas Cities."

Texas Cities	Approx. Population	Nocturnal curfew	Daytime curfew	Area curfew	Affected ages
Highland Village	16,000	Yes	No	No	Under 17
Dumas	13,000	Yes	No	No	Under 17
Webster	10,000	Yes	No	No	Under 17
Lubbock	185,000	Yes	Yes	No	Under 17
Laredo	122,000	Yes	Yes	No	Under 17
Austin	465,000	Yes	Yes	Yes	Under 17
Wichita Falls	96,000	Yes	No	No	Under 17
Pasadena	119,000	Yes	Yes	No	Under 17

### Discussion of Relevant Issues.

There is the question of a curfew being constitutional. Legal challenges to the constitutionality of curfew ordinances are most often based on the First, Fourth, Fifth, Ninth and Fourteenth amendments to the Constitution. Laws must both demonstrate a compelling interest and narrowly tailor the means to achieve the law's objective to past constitutional muster (NCJRS abstract, Leboeuf). On June 2, 1997, the Washington State Court of Appeals issued a decision in *Washington v. Jd.* in which the court declared unconstitutional the City of Bellingham juvenile curfew ordinance (Rubestello 1).

(1) The ordinance was found unconstitutional infringement on the freedom of movement of minors because:

- (a) it was not "narrowly tailored" to prevent juvenile crime or protect minors from becoming victims; and
- (b) the state failed to establish an evidentiary nexus between the compelling governmental purposes of the ordinance and the curfew prohibition.

(2) The ordinance infringed minors free expression rights because:

(a) it permitted minors engaged in "activities" to be in a public areas of the Bellingham Central Business District during curfew hours and contained no specific exemption for "expressive activities," such as "participating in study groups of youth vigils, and protests"; and

(b) it was not "narrowly tailored" to serve the City's legitimate purpose of reducing juvenile rates in the Bellingham Central Business District

(3) The ordinance was unconstitutionally vague because the listed exceptions to the curfew were unclear as to what is and is not an exempted activity, and therefore failed to provide explicit standards for enforcement by the police (Rubstello 1-2).

In a land mark case *Quib v. Strauss*, the United States Fifth Circuit Court of Criminal Appeals applied strict scrutiny to a 1991 Dallas curfew. The Dallas ordinance was upheld because the majority held there was not violation of the Equal Protection clause because Dallas clearly established a nexus between its compelling interests in delinquency prevention and reduction of juvenile victimization, and the age classification created by the ordinance (Ruefle 189).

Other issues of concern are those of parents and local law enforcement. Many parents feel that the local Government should not intervene in their parental rights. Many of these parents feel that a curfew infringes on their liberty and that both the guilty and innocent will be punished for curfew violations. On the other hand, parents with little authority feel that a curfew ordinance will force youth to stay at home. Forcing youth to stay at home may place them in a better environment than the streets and enhance the family unit (Telemasp 09-94).

Although police can not tell a youth's age by mere sight, it does give the police a tool to stop and detain youth for questioning. A tool of this sort will inevitably result in solving more property crimes such as criminal mischief, thefts and burglaries. A legitimate concern for police will be the time spent on enforcing a curfew. Patrol Officers may feel as if they are baby-sitting and that their time is not being effectively used. In a community the size of Borger, which has a limited amount of officers, curfew enforcement will result in less than adequate patrol due to officers being off the streets while waiting on parents or guardians. According to Captain Glen Fowler of the Lubbock Police Dept., the problem was resolved by Police and concerned citizens working together. The patrol officers transport the youths to a location where volunteers will remain with the youths until their parent or guardian arrives to take custody of them.

If the City of Borger favors a juvenile curfew, policy and procedures will have to be implemented. The policy will have to determine at when fines will be imposed and to whom the fine will be assessed. Some Communities fine the offending youths are others have elected to hold the parents accountable for their children's action. Some communities also choose to educate the parents and or children in lieu of a fine on the first violation that warrants a fine. The policy and procedures should also include a properly tailored exemption that will allow law abiding citizens to conduct their daily lives.

### **Conclusion /Recommendations.**

The purpose of this research project is to consider the positive and negative outcomes of juvenile curfews and to determine if the City of Borger should consider implementing a curfew. For many years Texas Courts have challenged curfews in attempt to determine the constitutionality of a curfew. The courts have ruled that a community must prove a compelling need for a curfew. To satisfy the courts a curfew ordinance will need to be narrowly tailored to

avoid being vague and over reach. The Borger Police Department is responsible for researching and reviewing the information in regards to a curfew ordinance. It is then up to the city council to decide if such an ordinance should be implemented.

The real issue is whether curfews are effective tools for discouraging crime or if they provide any sense of security among citizens. While there are very few statistics to show whether a curfew decreases crime or not, there are statistics to indicate that curfews do significantly decrease juvenile victimization.

It is my recommendations that the Borger City Council review this project and implement a nocturnal curfew for the City of Borger. Statistics show that there is a need to reduce juvenile crime and we also have the responsibility to protect our youth from victimization. Since the City's of Stinnett and Fritch have started enforcing their curfew ordinances, the Borger Police Department's assault calls have seemed to increase due to the youths of Stinnett and Fritch coming to Borger to avoid curfew violations.

Not only will a nocturnal juvenile curfew reduce crime and juvenile victimization, it will give our senior citizens more sense of security when they need to leave the security of their homes at late hours.

## BIBLIOGRAPHY

- Abruzzese, George. "Juvenile Crime: Approaching the Millennium."  
(Jan. 197): 5pp. Online. Internet. 18 June 1998.  
[www.juvenilejustice.com/millennium.htm](http://www.juvenilejustice.com/millennium.htm)
- "ACLU Challenges San Deigo's Curfew Law." American Civil Liberties Union.  
(March 15, 1995): 3pp. Online. Internet. 18 June 1988.  
[www.aclu.org/news/n031595b.htm](http://www.aclu.org/news/n031595b.htm)
- Claunch, Tom, Sergeant assigned to Patrol Division, Webster Police Department,  
Webster, TX., personal intrview with the author. 1 March 1999.
- Fowler, Glen, Captain assigned to Patrol Division, Lubbock Police Department,  
Lubbock, TX., personal interview with the author. 1 March 1999.
- Hagler, David, Chief Juvenile Probation Officer, Hutchinson County, personal interview  
With the author. 10 February 1999.
- Hessel, Mark. "Drafting a Juvenile Curfew Ordinance to Withstand Constitutional  
Challenges." National League of Cities, Juvenile Crime Prevention, Vol. 1,  
NO.5. 4-15.
- LeBoeuf, D. "An Answer to Juvenile Delinquency and Victimization?" Juvenile Justice  
Bulletin. (April 1996) abstract. Online. Internet. [www.ncjrs.org/cgi/database/nph](http://www.ncjrs.org/cgi/database/nph).
- "Juvenile Curfews." TELEMASP BULLETIN September 1994: 1-11.
- Marketos, Alexander K. "The Constitutionality of Juvenile Curfews." Juvenile and  
Family Court Law, Spring 1995: 17-30.
- "Merging Community-Oriented and Crime-Specific Policing." TELEMASP BULLETIN  
July 1998: 1-4.
- Rodela, Albert, Police Officer, The City of Dumas, TX, personal interview with the  
Author, 15 October 1998.
- Rubstello, Greg. "The Drafting of Juvenile Ordinances after Bellingham." Municipal  
Research and Services Center. 10 pp. Online.  
Internet. [www.mrsc.org/legal/curfew/rubstello.htm](http://www.mrsc.org/legal/curfew/rubstello.htm)
- Ruefel, W., et al. Juvenile Crime: Opposing Viewpoints. San Diego, California:  
Opposing Viewpoints Series, 1997.
- "Youth Curfews in America's Cities." The United States Conference of Mayors.  
(1977) : 3 pp. Online. Internet. 18 June 1988.