

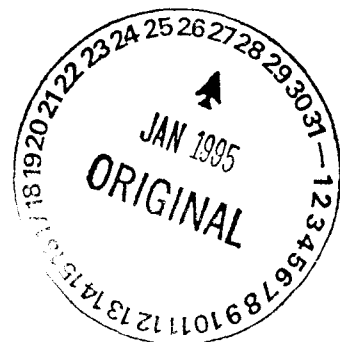
LAW ENFORCEMENT MANAGEMENT INSTITUTE

AN OVERVIEW AND STUDY OF LAW ENFORCEMENT PROGRAMS
TO REDUCE JUVENILE CRIME AND VIOLENCE
IN SMALLER TEXAS JURISDICTIONS

A RESEARCH PROJECT
SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR
THE LAW ENFORCEMENT MANAGEMENT INSTITUTE

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I. INTRODUCTION

The purpose of this research project is to document, review, and evaluate the effectiveness of some of the programs being used in the State of Texas to reduce the incidence of juvenile crime and violence. It is the intent of this paper to present information about various programs targeting juvenile crime problems in an effort to improve the capacity of local police administrators to make informed decisions about what juvenile programs to implement and where to spend their tight budget dollars.

This research is important since juvenile crime is increasing and various strategies are being tried to reduce it's occurrence. As juvenile crime and gang violence moves from the big cities into the smaller jurisdictions, many police administrators are having to change their tactics and priorities to deal with this problem. This study will be helpful to compare and evaluate some of the various strategies being used across the state.

Although crime rates have generally come down across the state in recent years, the juvenile crime rate in Texas, and across the country, has risen rapidly. Referrals for juveniles charged with delinquent conduct in Texas has risen 69 percent in the past five years.¹ Nationally, a survey reported that one in every four students feels that violence has lessened the quality of education in his or her school.²

According to a United States Justice Department report, the number of juvenile court cases involving serious offenses grew by 68 percent between 1988 and 1992. Overall juvenile court cases increased by 26 percent during this same period.³ In a survey of smaller Texas police departments conducted for this research project, all eighteen of the responding agencies stated that they felt that they have a juvenile crime and violence problem in their jurisdiction and that the problem has increased over the past two years.

This project has targeted five major juvenile programs for study - Drug Abuse Resistance Education (D.A.R.E.), juvenile curfews, School Resource Officers, the federal Drug Free/ Gun Free Schools programs, and Student Crime Stoppers. These programs are reviewed as to their reported effectiveness, their popularity, and any legal considerations pertaining to them.

Accompanying this research project is a survey which was sent to thirty smaller Texas police departments to determine which of these programs were in use in their jurisdictions and to receive feedback as to the program's effectiveness, popularity, and usefulness to them. The police departments targeted were chosen using a criteria of having between 15 and 30 officers, and not being a suburb of a major city. This was so information would be received from those agencies dealing with their own isolated juvenile problems and not the problems of nearby metro areas. Of the

thirty surveys sent out, eighteen police departments responded. (See appendix A for a copy of the survey and a list of the responding agencies)

II. DARE

In 1983 the Los Angeles Police Department and the Los Angeles Unified School District, working in a collaborative project, developed a new drug prevention program called Drug Abuse Resistance Education (D.A.R.E). Since then the program has expanded to the point where it is now being taught in over 80,000 classrooms to over 3 million children a year.⁴ There are DARE programs in every state and in several English speaking countries. The program has also been adopted by the Department of Defense schools for teaching to the children of military personnel.⁵ In 1994, the tenth year of the program, the forty millionth grade school student will graduate from the program.⁶

The D.A.R.E. program offers a structured curriculum, taught by a uniformed police officer, aimed at fifth and sixth grade students. The program attempts to equip school age children with the skills necessary to withstand peer pressure and resist experimenting with or using drugs, alcohol, and tobacco.

The D.A.R.E. program consists of seventeen lessons of approximately 50 minutes each during the semester.

The lessons are taught in the following order:

1. Practices for personal safety
2. Drug use and misuse
3. Consequences

4. Resisting pressures to use drugs
5. Resistance techniques - ways to say no
6. Building self esteem
7. Assertiveness - a response style
8. Managing stress without taking drugs
9. Media influences on drug use
10. Decision making and risk taking
11. Alternatives to drug abuse
12. Role modeling
13. Forming a support system
14. Ways to deal with pressures from gangs
15. Project DARE summary
16. Taking a stand
17. Culmination/ graduation⁷

Most conventional drug education programs were based on one of three main concepts:

- 1) Drug education
- 2) Dealing with and understanding attitudes, feelings, and values.
- 3) Understanding and controlling behavior.⁸

Although the D.A.R.E. program uses many ideas from drug prevention programs of the 1970's and early 1980's, what made it unique is that the program incorporated all three concepts into the instruction.⁹ Although studies on the effectiveness of drug education programs are inconsistent, those programs which emphasize resistance training, such as

D.A.R.E., seem to be generally more effective than those that do not.¹⁰

D.A.R.E. programs are widely popular. In many jurisdictions which have begun D.A.R.E. programs, it would now be impossible to terminate the program because the programs are adored by the community, students, school officials, and parents. D.A.R.E. has proved to be a good public relations tool for local police departments. But are D.A.R.E. and similar programs actually effective in impacting drug use among youth?

Various studies of the D.A.R.E. program have produced mixed results and D.A.R.E. evaluations up to this point are inconclusive.¹¹ Generally, the studies have shown that D.A.R.E. instruction produces an increase in the students attitudes against drugs. However, this is short term and there have been no long range studies of D.A.R.E. graduates' rates of drug use as they move into junior and senior high schools.¹²

Also, most of the studies which have been completed have compared attitudes of students who have graduated from a D.A.R.E. program against the attitudes of students who have not had D.A.R.E. instruction. There has been no comparison of the effectiveness of D.A.R.E. versus any other drug prevention programs.

A 1994 study by the Austin, Texas Police Department found that there was little or no difference between

students who had completed a D.A.R.E. program and those who had not had D.A.R.E.¹³ However, a report by the Bureau of Justice Assistance states that D.A.R.E. students, compared with those who had not had D.A.R.E., indicated significantly lower substance use since graduation from the sixth grade.¹⁴

A 1992 Long Beach, California study found that D.A.R.E. was most effective in maintaining current levels of substance use. Also, that the D.A.R.E. students did not experiment with new illicit substances, as compared with the control group students. However, D.A.R.E. was unable to prevent a broad variety of substance use by students such as the use of cigarettes, alcohol, and inhalants.¹⁵

A major 1994 study financed by the National Institute of Justice and conducted by the Research Triangle Institute concluded that D.A.R.E. had an effect on the students knowledge of drugs but had little effect on actual drug use. This study also did not track the students into high school, so there is no information if they actually stayed away from drugs as they grew up. This study, upon it's completion, was criticized by the National Institute of Justice, which funded it, because of concerns as to it's scientific validity.¹⁶

Many of the studies of the D.A.R.E. program have found some beneficial side effects. Several of the studies have found that the program has resulted in increased self-esteem

and improved attitudes of students towards law enforcement.¹⁷

According to a 1993 Gallup Poll, over ninety percent of D.A.R.E. graduates nationwide said that they believed that the program helps them avoid drugs and alcohol, increases self-confidence, and helps them deal effectively with peer pressure.¹⁸

In the survey of smaller Texas police departments conducted for this paper, eleven of the eighteen departments who responded reported that they currently have a D.A.R.E. program. The departments with D.A.R.E. generally rated it high, especially in helping with juvenile/ police relations, and as a public relations tool with the community. Although the rating was generally positive, it was somewhat less than the ratings for other programs for having an impact in preventing juvenile crime and violence. It appears that the departments view D.A.R.E. favorably but question it's actual impact on preventing juvenile crime.

The survey resulted in the following positive comments about the D.A.R.E program. All of the comments received are included.

"Helps juveniles learn what drugs and alcohol can do to them and what part it plays in crime and violence. Most juveniles learn from these kind of programs."

"Builds self esteem - shows you don't have to belong in a gang to be recognized."

"It is our (law enforcement's) first encounter with the children and is an opportunity to instill the positive aspects of this job, and to show the children that we care."

"The program gives us the chance to provide some guidance where the "family" has failed."

"Allows kids to get to know a police officer personally."

"Role playing seems to be an important self esteem builder."

"This program promotes better images of law enforcement officers to the youth."

"After searching for years for a good drug program, D.A.R.E. is it. A great PR tool."

The survey resulted in the following negative comments about the D.A.R.E. program. All of the comments received are included.

"The program does not continue through school and there are no means to evaluate the program to gauge it's success or failure."

"It is sometimes taught to kids who have already begun using and dealing drugs. Should begin at an earlier age."

"It stresses that the child has the right to make his/her choices about things when it might be better to emphasize

stronger moral values based on acceptable standards. Some children are not mature enough to make choices that are appropriate."

"It is difficult to continue funding after start-up grants have expired."

Although D.A.R.E. is widely popular and spreading rapidly, there is some question as to its effectiveness in its primary goal - to prevent youth drug use. It is clear that there are benefits to the program, such as improved relations with youth, boosting self esteem and social skills, and as a public relations tool, however its effectiveness in achieving the long term goals of preventing drug use are unclear.

III. SCHOOL RESOURCE OFFICERS

Another program involving a partnership between law enforcement and the schools is the school resource officer. This is a relatively unstructured program in which uniformed police officers are assigned to schools, usually junior and senior high schools, to perform a variety of functions. The fact that it is not a structured program is often a benefit in that the program can be tailored to the individual needs of the community. The cost of the officers is often split between the city government and the school district, since each hopefully benefits. The concept, although in use at least since the 1970's, has been growing rapidly across the country during the past decade as a result of the increasing crime and violence problems in the public school systems.

Although the duties of school resource officers are different in every jurisdiction, most programs have the following goals they strive to achieve in their schools:

1. Increased safety and security on and around the school campus by the presence of a uniformed police officer.
2. The opportunity to train and teach students, teachers, administrators, and parents about law and law enforcement.
3. Reducing truancy by working to enhance the learning environment.

4. Creating good will and understanding towards law enforcement.
5. Strengthening the student-police relationship.

The school resource officers can be a benefit to law enforcement, school districts, and the community in general. By having the officers in the schools every day, they can open lines of communication between school officials and the law enforcement community. Many times the police and school officials are working on the same problems and have to handle the same "bad" kids, but are not able to work closely together for various reasons. The school resource officers help break down these barriers.

The uniformed officers obviously are a deterrent to crime in and around the schools and therefore help to provide a safe learning environment for the students who want to go to school to learn. The officers also get to know the students on a personal basis and often are able to receive good tips about criminal activity in the community because of this close relationship.

Truancy is often decreased through the work of school resource officers. Truants often are involved in daytime burglaries and thefts and therefore by cutting down truancy, hopefully burglaries and thefts in the community are also reduced.

The school resource officer program provides good public relations for the police department and the school

system. The public wants governmental agencies to work together to help solve community problems and this program provides a good example to the public of governmental agencies working together. The program also provides reciprocal understanding between the police and schools. Law enforcement learns about and sympathizes with the problems school officials have to deal with and the school officials and teachers can learn to understand and appreciate the problems and constraints that law enforcement must face.¹⁹

Although there are no national policies to follow or a structured system as in the D.A.R.E. program, statewide organizations have developed as a support and training aid to local agencies. In Texas, the Texas Association of School Resource Officers (T.A.S.R.O.) was developed to encourage the formation of school resource officer programs in local schools and to assist those newly formed programs in their development.

It listed the following four objectives in it's development:

1. To encourage and promote a high level of professionalism within school resource officer programs throughout the state of Texas, thus providing a positive image of law enforcement to students and school personnel.

2. To provide assistance to police agencies in Texas which are interested in implementing a school resource officer program.
3. To establish a clearinghouse for the dissemination of instruction currently in use in school resource officer programs.
4. To provide professional training for school resource officers to assist them in maintaining a high level of proficiency in the performance of their duties.²⁰

Since there have been few studies on the effectiveness of the school resource officers, most of the evidence of it's effectiveness is anecdotal.

The North Carolina Governor's Crime Commission has recently funded a study of the school resource officer program in that state. Although it is not yet complete, the preliminary findings indicate that the program "contributes significantly to reduced break-ins and burglaries, reduced school detention time, lower training school admissions, and fewer incidents of school violence."²¹

In a survey conducted by the Garland, Texas Independent School District, about "90 percent of teachers and employees said that students like and trust their officers."²² Students also wrote that they "liked the personal attention from the officers and felt safer knowing they were around."²³

In 1983, the Phoenix, Arizona Police Department created a school resource officer program using federal funds. After three years they conducted a study and found that the truancy rate at the schools with the officers had dropped by 73 percent and crimes committed at the schools and in the surrounding neighborhoods "significantly decreased". They also observed that the number of child abuse and neglect cases reported rose dramatically. Obviously this was due to the close relationship built between the students and school officers.²⁴

In the survey of smaller Texas police departments conducted for this paper, eight of the eighteen responding departments reported having a school resource officer program. All of the agencies having the school officers rated the program very high in all aspects, including being effective in reducing juvenile crime and violence. The majority also commented that they would like to expand the program from a part time program to full time or expand into additional schools if they had the resources to do so.

The survey resulted in the following positive comments about the school resource officer program. All of the comments received are included.

"Less violence is occurring at the schools."

"The officer gets to know a lot of the students and can observe who are the one's we need to keep an eye for after hours."

"Administrators and teachers along with students feel a better sense of security."

"Officer on premises keeps other patrol officers from having to respond to calls at school."

"Takes the fear children have of police away."

The survey resulted in the following negative comments about the school resource officer program. All of the comments received are included.

"The officer can not be present at all schools at one time. One officer for junior high and one for high school would be excellent."

"Teachers sometimes try to direct the officer and tell him what to do."

"We had this program at one time but the school did not want us involved in anything that happened at school. They wanted to handle it without us."

"Not enough time to complete all the necessary programs and goals for one officer."

"Great idea but needs expanding, more officers, and needs to expand to the junior high."

"Didn't think we would ever need a police officer in a school."

Those involved in school resource officer programs, including the police, school officials, students, and the community, seem to be highly in favor of it and seem to feel that it is making a difference in the schools. The only complaint is that they can not adequately cover the areas and schools they want to with limited funding.

IV. DRUG FREE/ GUN FREE SCHOOLS

The Federal Government became involved in the fight against school crime and violence when the United States Congress passed the "Drug Free Schools Act", United States Code Chapter 21, section 860, and then the "Gun Free School Zones Act of 1990, United States Code, Chapter 18, section 922q. Although the Drug Free Schools Act has generally been upheld by the courts, the Gun Free School Zones Act has run into difficulty.

The "Drug Free Schools Act" is actually a penalty enhancement act in which the penalties for distribution, sale, or possession with intent to sell within 1000 feet of various schools and other areas where children are likely to congregate has been increased. The penalty has been increased to double whatever penalty would have normally been given under federal sentencing guidelines. In addition, the measure states that probation may not be given in these cases.

The act creates "drug free" zones within one thousand feet of the property of a public or private elementary, vocational, or secondary school, or a public or private college, junior college, or university, or a playground. In addition it creates zones within one hundred feet of a public or private youth center, public swimming pool, or video arcade facility.

In the statute, a "playground" is generally defined as an outdoor facility designed for children's recreation and containing at least three or more separate pieces of playground equipment. A "video arcade facility" is any facility available to persons under 18 years old, intended primarily for the use of pinball or video machines for amusement and containing a minimum of ten pinball and/or video machines. In each of these, the definition includes any parking lot appurtenant to the facility. (See appendix D for the text of this act)

According to United States Senator Paula Hawkins, this act was passed to create a "drug free zone" around our schools and to send a clear "signal to drug dealers that we will not tolerate their presence near our schools."²⁵ The statute has been contested several times to various federal courts of appeal. In 1990, in the US Court of Appeals, Fifth Circuit, which has jurisdiction over the state of Texas, in the United States of America v. Benjamin J. Crew, the court upheld the law as a valid use of the federal government's power to regulate narcotics trafficking.²⁶

In 1993, the same court, in the United States of America v. Carlos Echevaria, again upheld the law and sentencing provisions and further stated that the law applied to a private kindergarten.²⁷

In 1990, the United States Congress passed the "Gun Free School Zones Act" which bans the possession or

discharge of firearms within 1000 feet of a public or private elementary or secondary school. The act includes all firearms, including rifles and shotguns, but it does provide some exceptions. Exceptions to the act include firearms possessed on private property, by an individual possessing a state license, firearms which are unloaded and locked in a vehicle, by a law enforcement officer while performing duties, or by a person who is in route to hunting and must cross the school property to do so and receives permission from school officials. (See Appendix C for the text of this statute.)

This bill was enacted by Congress in spite of the fact that Richard Cook, Chief of the Firearms Division of the Bureau of Alcohol, Tobacco, and Firearms, testified against the bill before the House of Representatives Subcommittee on Crime of the Committee on the Judiciary. He testified that this law duplicates existing state and federal laws involving firearms. It also gives, for the first time ever, original federal jurisdiction over a gun law at the local level. He further testified that the ATF does not have the manpower to enforce the law and that the law would not be enforced against juveniles (under eighteen years old under federal law) because the federal government does not have a juvenile justice system. He admitted that juveniles carrying guns to school would probably be the primary violators of this law.²⁸

After enactment of the "Gun Free School Zones Act", several people were prosecuted by federal authorities. Several cases were appealed and cases were decided by the appellate courts both for and against the law. The future of this bill has remained uncertain with the issue now heading to the Supreme Court.

On September 15, 1993, the United States Court of Appeals, Fifth Circuit, in United States of America v. Alfonso Lopez, ruled that the "Gun Free School Zones Act of 1990" was unconstitutional because it was beyond the power of Congress under the commerce clause of the United States Constitution.²⁹

The United States Constitution, in what is known as the commerce clause, states that "The Congress shall have the Power... To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."³⁰ Congress has generally used this power to assert that anything which even remotely affects interstate commerce or in which goods or services have crossed state lines, is thereby subject to the regulation of the Congress. For example, this is where Congress obtains the authority to make drug laws, because drugs are a national problem and therefore they affect interstate commerce. There are numerous other examples of the Congress' use of the commerce clause to regulate.

When Congress passed the "Gun Free School Zones Act of 1990", they made no finding that the possession of guns near schools would affect interstate commerce. This is the basis by which the Fifth Circuit Court of Appeals has declared the act to be unconstitutional. This case has now been appealed to the United States Supreme Court.³¹

In November 1993, the United States Congress amended the "Gun Free School Zones Act of 1990" to include a finding that the possession of guns near schools affects interstate commerce and therefore falls under the jurisdiction of the federal government.³²

Recent testimony before the Supreme Court on this issue seems to indicate that it may rule that there is no interstate commerce interest in the federal government banning firearms near schools and that this issue is one that is better left to the states.³³

Soon after this law was originally enacted, the U.S. Attorneys in Texas conducted a public relations campaign in which they appeared at various schools in the state and declared that these schools were now "drug free" and "gun free" zones. Signs were often posted around the schools indicating to citizens that they were entering "drug free/ gun free" zones.

In the survey conducted for this paper, twelve of the eighteen responding agencies stated that they participate in the Drug Free/ Gun Free Schools programs. Although all

agency's jurisdictions are covered by this statute, the agencies indicating that they participate in this program probably mean that they have signs posted indicating these laws will be enforced and they have participated in public relations campaigns or that they have referred someone for federal prosecution under these statutes.

Many of the agencies responding rated the drug free/ gun free school zones programs lower than the other programs especially in the area of preventing juvenile crime and violence. Several of the respondents indicated a rating of "strongly disagree" or "disagree" to the statement "Seems to have an impact in preventing juvenile crime/ violence." They also stated that the program was all talk and that it was difficult to enforce because of lack of jurisdiction and problems in prosecuting juveniles, who made up the majority of the offenders.

The survey resulted in the following positive comments about the federal "drug free/ gun free" schools programs. All of the comments received are included.

"Makes people aware that they will be harshly punished if drugs or guns are brought to the school campuses."

"Good at first - lot's of publicity."

"Idea sounds great."

"Let's the juveniles know exactly what behavior is not tolerated by society (not that they care)."

"Helps parents to regain responsibility for their children."

The survey resulted in the following negative comments about the federal "drug free/ gun free" schools programs. All of the comments received are included.

"The worst part of this program is trying to prosecute for this offense."

"Few have been filed on since laws pertain to 18 years and older."

"It does not prevent juvenile crime. It doesn't work."

"The kids don't care or just don't pay attention to it."

"Typical government program, all promise and no teeth."

"Does not have a good point. As you know the federal programs are only talk. There is no teeth or enforcement."

"Little impact on juveniles."

"Indifferent attitude of the juvenile justice system."

Although the federal government has responded to public opinion to do something about crime, the local law enforcement agencies seem to realize that the federal government's steps are political in nature and are of little practical use to the local governments. Although there may be occasional prosecutions under the drug act, it is not enough of a factor to impact the local crime problems.

As of the time of this writing, the "Gun Free School Zones Act" has been declared unconstitutional in the 5th Circuit and it is likely that the Supreme Court will also find it unconstitutional in the near future.

V. STUDENT CRIME STOPPERS

In 1976, in Albuquerque, N.M. police detective Greg MacAleese started an organization that has spread throughout the United States and the world called Crime Stoppers. The first Crime Stoppers organization in Texas was started in El Paso in 1978. There are currently over 200 local Crime Stoppers programs in Texas.³⁴

Crime Stoppers is based on the idea that for every crime that occurs, someone has information about it. Crime Stoppers offers rewards and the promise of anonymity along with publicity about certain crimes in the hope that someone will come forward with the information needed by the police to solve the crime.

Crime Stopper organizations are run locally by a civilian board of directors with a local police coordinator assigned as a liaison between the board and law enforcement. The board of directors raises funds, controls finances, approves reward payments, and oversees the direction and policy of the organization. The police coordinator runs the daily operation of the organization, screens tips, and assists the board of directors. Crime Stoppers programs generally operate by having an anonymous phone line answered by a police officer or other person trained to answer the phone. The caller is assigned a number or code name. The tip is then given to the police official investigating that

particular case and they use the tip as a tool to help gather evidence to solve the case. If the information proves to be correct and a suspect is arrested, the caller is paid an award amount of up to \$1000.

As of January 1993, tips to Crime Stoppers programs in Texas had resulted in 53,699 suspects arrested, 72,136 cases cleared, \$7,734,468 in rewards paid, \$127,59,460 in property recovered, and \$293,789,745 worth of narcotics seized.³⁵

Crime Stoppers organizations are sanctioned by the state of Texas. Over the past several years, the state has enacted legislation which authorizes local Crime Stoppers organizations. The law also specifies that Crime Stoppers records are confidential and makes them very difficult to obtain in court.³⁶ This helps to ensure the anonymity of callers, even if their identity is known to the Crime Stoppers organization.

In addition, in June 1981, the legislature established the Texas Crime Stoppers Advisory Council which operates out of the Criminal Justice Division of the Governor's Office.³⁷ It is financed through a mandatory court fee collected from local county and district courts. It's duties are primarily to promote and assist local Crime Stoppers organizations.

The Texas legislature has also enacted laws which allow local Crime Stoppers organizations to obtain restitution from criminal defendants for rewards paid in their case³⁸ and to enable county and district court judges to assess a

fine to be paid to a local Crime Stoppers organization from each criminal defendant placed on probation.³⁹

Over the past few years the Crime Stoppers concept has been expanded to include Crime Stoppers organizations in the public schools. These are generally affiliated with an adult program, however, they can be established independently. As of 02/01/93, there were 24 student Crime Stoppers programs in the state of Texas.⁴⁰ Most of these were in public high schools, although a few were in elementary schools. That number is undoubtedly higher now, as the number of programs have been growing steadily.

As stated by the Texas Crime Stoppers Advisory Council, "Dramatic increases in crime and violence on our state's university and public school campuses prompted the formation of Campus Crime Stoppers programs in an effort to empower the campus community to provide an alternative means to solve and reduce crime."⁴¹

Student Crime Stoppers programs have a board of directors made up of students in each school. They are supervised and directed by a school official who acts as coordinator to the program. The board raises funds, evaluates reward payments, and advertises the program and specific crimes. The organization offers rewards for anonymous information about crimes occurring at the schools or at school functions. Information received by the student

group pertaining to crimes occurring off campus are generally referred to the adult organization.

After the successful inception of a student Crime Stoppers program in a Tulsa, Oklahoma high school, a senior Tulsa police official stated, "With the help of school administrators and police officials, every student is working to alleviate the crime problems they face and to reap the rewards of attending a school where the learning environment has been improved through crime prevention."⁴²

Although there has not been much scientific research into the effectiveness of Crime Stoppers programs, in 1987, the U.S. Department of Justice commissioned an in-depth study of the program. The study found that most of the people who had heard of Crime Stoppers had a favorable impression of it. A national survey of media executives was conducted and it found that 90% were aware of Crime Stoppers, even though most of their organizations were not participating in it at the current time. In addition, two thirds of those stated that they would be willing to participate if a local program was started.⁴³

The survey also found that Crime Stoppers is a "highly standardized program." Nearly two-thirds of new Crime Stoppers organizations received substantial help from existing programs. In addition, there is a widespread practice of sharing services and resources among Crime Stoppers organizations.⁴⁴

The study did not research actual crime rates or the effect of Crime Stoppers programs on them. But it did conclude, due to the volume of numbers generated by the programs, that Crime Stoppers is effective in assisting police in solving crimes, especially those crimes that have grown "cold" and have no additional leads to follow.⁴⁵

The study also indicated that there was a small number of critics of the program, including some journalists, defense attorneys, and legal scholars. They generally cited questions about civil rights and privacy, the recruitment of police informers, and complaints about undermining citizens "civic duty" to report crime without pay.⁴⁶

Several cases involving Crime Stoppers and the confidentiality of Crime Stoppers' informants have been appealed to the higher courts. They generally have been upheld by the courts and Crime Stoppers has been ruled to be a constitutional method of generating information for law enforcement.⁴⁷ Additionally, the higher courts have usually held that anonymous information given to a Crime Stoppers organization is confidential.⁴⁸

In the survey of smaller police departments completed for this paper, four of the eighteen departments responding stated that they have a student Crime Stoppers program in the local schools. One of these four indicated that the program was just recently started. One additional agency stated that a student Crime Stoppers has recently been

approved by the local board of directors but is still in the process of being implemented. Another indicated that they desired a program but had not yet taken steps to implement one.

All of the agencies having a student Crime Stoppers rated it highly, including in the area of reducing juvenile crime and violence.

The survey resulted in the following positive comments about student Crime Stoppers. All of the comments received are included.

"Great response from the students. Helped solve several cases."

"It is for the student's use and not to be confused with the adult program. The students trust their judgement more than that of the strange adult authority figure. They have control over the situation."

"Get's the good kids involved."

The survey resulted in the following negative comment about student Crime Stoppers. All of the comments received are included.

"The difficulty in getting the 'word' out to all of the students, and the problem of eliminating the personality aspect of the board members. The program leans to being ethnic oriented with more minorities being targeted."

VI. CURFEWS

A curfew is defined as "a regulation requiring certain or all people to leave the streets at a prescribed hour."⁴⁹

One of the more recently noticeable juvenile related enforcement strategies is the curfew. During the 1994 Texas gubernatorial election between Governor Ann Richards and challenger George Bush, the juvenile crime problem became a campaign issue and both candidates made calls for the enactment of curfews.⁵⁰

During the past year, numerous cities, large and small, across the state have enacted nighttime curfews and several larger cities experimented with daytime curfews. This rush towards curfews was brought on by the U.S. Supreme Court decision to uphold the City of Dallas nighttime curfew which had been on hold since its enactment in 1992 as it was challenged through the courts. Shortly after the final decision in May 1994 upholding the Dallas curfew, many cities across the state enacted their own curfews, most of them identical to the Dallas curfew.

In 1991 the city of Dallas enacted a curfew which restricted persons 16 years of age and under from the streets between the hours of 11:00pm and 6:00am on weekdays and between 12:00 midnight and 6:00am on weekends. The ordinance also allowed for the following defenses for minors who are:

1. accompanied by the minor's parent or guardian;
2. on an errand at the direction of the minor's parent or guardian, without any detour or stop;
3. in a motor vehicle involved in interstate travel;
4. engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
5. involved in an emergency;
6. on the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;
7. attending an official school, religious, or other recreational activity supervised by adults.
8. exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
9. married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

Within a few weeks of the enactment of the ordinance, the city was promptly sued by several citizens backed by the American Civil Liberties Union (ACLU) who sued on the following grounds:

1. The curfew restricts juveniles' First Amendment rights of free speech and free association.
2. The curfew violates the Fourth and Fourteenth Amendment rights against unreasonable searches and seizures.
3. The curfew ordinance deprives them of their Fifth and Fourteenth Amendment rights to a presumption of innocence, proof beyond a reasonable doubt, and freedom against self-incrimination.
4. The ordinance violates the equal protection clause of the United States Constitution.
5. The curfew ordinance is vague and overly broad.⁵¹

On August 10, 1992, the U.S. District Court, after holding a hearing and listening to testimony from both sides, ruled that the city of Dallas curfew ordinance, as written, was unconstitutional. The court, in its ruling, stated that the "curfew impermissibly restricted minors First Amendment right to associate, and that it created classifications that could not withstand constitutional scrutiny."⁵²

The city of Dallas appealed and on November 19, 1993, the Fifth Circuit Court of Appeals reversed the decision of the district court and ruled that the Dallas curfew ordinance was constitutional. The court agreed that the ordinance impinges on a fundamental right of free association, however, they also ruled that the infringement

is narrowly tailored to achieve a compelling governmental interest. In its decision the court cited the extensive defenses available in the Dallas ordinance and stated that, "... the city has enacted a narrowly drawn ordinance that allows the city to meet its stated goals while respecting the rights of the affected minors."⁵³

The court also cited the city's large volume of data which was presented in testimony indicating that there was a juvenile crime problem in Dallas that could be impacted with a curfew ordinance. The court stated that "it is conceded that the juvenile crime problem in Dallas constitutes a compelling state interest."⁵⁴

The original plaintiffs next appealed the case to the United States Supreme Court, and on May 31, 1994, the Supreme Court refused to hear the case, effectively ending the appeals process and allowing the Dallas curfew ordinance to stand.⁵⁵

An important point in the Dallas curfew being upheld is that the city of Dallas showed through a large volume of technical data that they had a need for a curfew in order to protect their juvenile population. Without this data, the curfew may not have been upheld. The courts stated that the need of the city to protect its juveniles outweighed the right of the juveniles to be unrestricted.

While many cities copied the Dallas curfew, they may not have the technical data to back up the need for the

curfew if it were to be challenged in court. While many feel that the need for curfews is obvious, without the ability to prove the need, the smaller cities would likely lose a court challenge.

For example, in February 1994, the city of Sweetwater formed a task force to evaluate the need for a curfew. That task force recommended to the city commission that a curfew was not necessary.⁵⁶ Likewise, in the fall of 1994, the city of Odessa conducted a study on the need for a juvenile curfew. The study concluded that a curfew would not have a significant effect on the juvenile crime rate. Only two percent of the crimes committed during the proposed curfew hours involved children under 16 years of age.⁵⁷

The big question is whether curfews actually work. Officials in San Antonio think they do. In 1991, about the same time that Dallas enacted its curfew ordinance, San Antonio enacted and began enforcing a similar but slightly different curfew ordinance. In 1993, after two years of enforcement, city officials reported that juvenile crime victimization dropped 77 percent during curfew hours. Juvenile crime also dipped, but only by four percent.⁵⁸

Corpus Christi police officials also believe that the curfews work. "It's extremely effective. The kids that stay in at night aren't becoming victims of crime, and they aren't becoming suspects," according to Corpus Christi Police Captain Ken Starrs.⁵⁹

In addition, the idea of curfews is generally very popular with the public. Many citizens see it as being an extremely effective enforcement tool. In a 1994 poll of 400 residents in the Lubbock area, 74% responded that they believed that curfews will help.⁶⁰

In the survey of smaller Texas police departments conducted for this paper, seven of the eighteen departments that responded reported having a curfew. Of those seven, two of the departments reported having just recently implemented their curfews. One additional department reported that it was in the planning stages of implementing a juvenile curfew. Most of the departments that reported having a curfew rated it average to high in reducing juvenile crime and violence.

The survey resulted in the following positive comments about juvenile curfews. All of the comments received are included.

"Seems like most of our citizens (adults) want such an ordinance."

"This department strictly enforces the curfew ordinance as a deterrent to juvenile activity. The juveniles are aware that if they are caught they will be processed, which reduces the number of juveniles out at night."

"Takes kids off the street (temporarily)."

"Gives parents a tool to use in dealing with problem kids."

"Helps prevent property crimes by allowing us to pick up known offenders."

"It is a good tool."

The survey resulted in the following negative comments about juvenile curfews. All of the comments received are included.

"It's a shame that a few people ruin it for the others."

"Juveniles who have been handled know that they are only looking at a fine or work program. Need stricter juvenile laws!"

"Still asks police to act as parents in setting rules of behavior."

"Does not have the support and backing of the parents of the offenders. It is a city ordinance and is not backed by the juvenile justice system."

"Parent's don't help enforce with our problem kids."

VII. SUMMARY OF FINDINGS

This research project and it's accompanying survey has demonstrated that different agencies have tried different programs to deal with the problem of juvenile crime and violence, meeting with varying degrees of success in the process. The survey collected opinion information from police departments actually using these programs, namely D.A.R.E., school resource officers, drug free/ gun free schools programs, Student Crime Stoppers, and curfews.

It appears that the school resource officer program has been very positive for those agencies that have implemented it and we will probably see the spread of this concept over the coming years.

The Drug Abuse Resistance Education (D.A.R.E.) curriculum has been well received in those jurisdictions using it and seems to be a very good public relations tool. However, there are questions as to it's long range effectiveness in achieving it's goal of reducing drug and alcohol use among youth.

Juvenile curfews have become popular now that the Supreme Court has laid the issue of constitutionality to rest with it's refusal to overturn the Fifth Circuit Court of Appeals ruling that the city of Dallas juvenile curfew is constitutional. Cities must be aware, however, that there must be a strong statistical finding of the need for a

curfew in each local jurisdiction before implementation in order for it to withstand court challenges.

The federal government's efforts in the Drug Free/ Gun Free Schools programs have generally been seen on the local level to be ineffective due to several factors. In addition, at the time of this writing, the Gun Free School Zones Act has been held by the U.S. Fifth Circuit Court of Appeals to be unconstitutional⁶¹ and therefore, unenforceable.

Student Crime Stoppers programs, although relatively new, have been seen to be generally effective, both as a crime fighting tool and as another method of involving students with law enforcement in a positive way. Student programs in the schools hope to mirror the success that adult Crime Stoppers programs have had since their inception almost twenty years ago.

In addition to these programs, many jurisdictions are using various different methods in their own locations to try to control the juvenile crime problem. These can include citizen task forces, targeted gang enforcement, mentor programs, summer youth recreation programs, conflict mediation programs, alcohol awareness classes, and numerous others.

VIII. CONCLUSION

Juvenile crime and violence has been increasing across the state and the country over the past several years even though crime rates in general have been coming down. As juvenile crime problems have spread from the metropolitan areas into the smaller jurisdictions, police departments have tried new programs with varying degrees of success.

This research project has shown that the various programs studied, namely Drug Abuse Resistance Education (D.A.R.E.), school resource officer programs, juvenile curfews, and Student Crime Stoppers, have generally been successful and useful in the smaller jurisdictions. Often a combination of these programs have been used with success.

An exception in this study was the evaluation of the federal drug free/ gun free schools legislation, which the jurisdictions generally felt were political programs with little usefulness in their communities.

It appears that each jurisdiction must decide what will work best for them while taking into consideration the extent of their juvenile problem, demographics of the community, the participation of school officials, and budgetary concerns. It appears that what works well in each community may or may not work equally well in a different community.

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APPENDIX

APPENDIX A - SURVEY

AGENCY NAME _____

DEPARTMENT HEAD _____

PERSON COMPLETING SURVEY _____
(if different from agency head)

DATE _____

- 1) Do you feel that your jurisdiction has a juvenile crime/ violence problem? YES NO
- 2) Do you feel that this problem has grown over the past two years? YES NO
- 3) If you answered yes to #2, please rank the following reasons that you feel contribute to this increase:

(1 is highest)

_____	Breakdown of the family
_____	Lack of appropriate response from law enforcement
_____	Failure of the juvenile justice system
_____	Availability of drugs to juveniles
_____	Availability of alcohol to juveniles
_____	Lack of discipline/ control in the schools

PROGRAM: _____

(DARE, Drug Free/ Gun Free Schools, School Resource Officer, curfew, Student Crime Stoppers)

Is this program/ strategy used in your jurisdiction either by your agency or another law enforcement agency? YES NO

Please rate the following statements from 1 - 5 with the numbers having the following meanings:

1 - strongly disagree, 2 - disagree, 3 - no opinion,
4 - agree, 5 - strongly agree

- | | | | | | | |
|----|--|---|---|---|---|---|
| 1. | Seems to have an impact in preventing juvenile crime/ violence. | 1 | 2 | 3 | 4 | 5 |
| 2. | Helps juveniles to relate to law enforcement officers. | 1 | 2 | 3 | 4 | 5 |
| 3. | Is a good public relations tool for this department. | 1 | 2 | 3 | 4 | 5 |
| 4. | Is well accepted by the public. | 1 | 2 | 3 | 4 | 5 |
| 5. | Has the support of the local law enforcement community. | 1 | 2 | 3 | 4 | 5 |
| 6. | Involves the commitment of other law enforcement/ community groups. | 1 | 2 | 3 | 4 | 5 |
| 7. | Please comment on the best part of this program/ strategy in preventing juvenile crime/ violence | | | | | |

8. Please comment on the worst part of this program/ strategy in preventing juvenile crime/ violence

DEFINITIONS

Please refer to the following definitions when responding to the survey.

DARE (Drug Abuse Resistance Education) - A school based program in which a uniformed officer instructs elementary students on a structured curriculum of drug resistance, self-esteem, etc.

School Resource Officer - A uniformed police officer assigned on a part time or full time basis to a school (generally junior high or high school) performing various duties including crime suppression, crime prevention, and student education.

Drug Free/ Gun Free Schools program - The federal program in which signs are posted at locations around schools declaring them to be drug free/ gun free. Includes federal sanctions for those found in violation of drug free/ gun free schools law.

Student Crime Stoppers - A student based program in the secondary schools in which rewards are offered for anonymous information involving school crime or violations of school rules. May be called various other names such as Crime Watch, Crime Line, Clue Line, etc.

Curfews - Community legislated ordinances prohibiting juveniles from the streets during certain time periods. This may include daytime curfews which prohibit juveniles from being in public during school hours when school is in session.

CITIES RESPONDING TO SURVEY

<u>CITY</u>	<u># OF OFFICERS</u>	<u>LOCATION</u>	<u>POPULATION</u>
Athens	21	East Texas	11,399
Beeville	19	Gulf Coast	14,080
Brownfield	15	South Plains	9,560
Brownwood	29	Central Texas	19,111
Commerce	18	North Texas	6,825
Dumas	21	Panhandle	13,377
El Campo	19	Gulf Coast	10,925
Fredericksburg	17	San Antonio Area	6,934
Hereford	23	Panhandle	15,325
Jacksonville	23	East Texas	13,267
Lamesa	16	South Plains	11,234
Levelland	20	South Plains	14,536
Mineral Wells	25	DFW area	15,453
Mount Pleasant	18	East Texas	12,775
Pampa	26	Panhandle	20,744
Plainview	31	South Plains	25,555
Stephenville	28	Central Texas	14,034
Sweetwater	21	Permian Basin	12,438

APPENDIX B

CITY OF DALLAS CURFEW
ORDINANCE NO. 21309

An ordinance amending Section 31-33, "Curfew Hours for Minors," of Chapter 31, "Offenses-Miscellaneous," of the Dallas City Code, as amended; repealing Section 2 of Ordinance No. 20966; defining terms; creating offenses for minors, parents and guardians of minors, and business establishments violating curfew regulations; providing defenses; providing for enforcement by the police department; providing for waiver by the municipal court of jurisdiction over a minor when required under the Texas Family Code; providing for review of this ordinance in lieu of Ordinance No. 20966 within six months after the date of initial enforcement; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city council as determined that there has been an increase in juvenile violence, juvenile gang activity, and crime by persons under the age of 17 in the City of Dallas; and

WHEREAS, persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

WHEREAS, the City of Dallas has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS, a curfew for those under the age of 17 will be in the interest of the public health, safety, and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Dallas; now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:
SECTION 1. That Section 31-33, "Curfew Hours for Minors," of CHAPTER 31, "OFFENSES-MISCELLANEOUS," of the City of Dallas Code, as amended, is amended to read as follows:
SEC. 31-33. CURFEW HOURS FOR MINORS.

(a) Definitions. In this section:

(1) CURFEW HOURS means:

(A) 11:00p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and

(B) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(2) EMERGENCY means an unforeseen combination of circumstances or the resulting state that calls for immediate

action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) ESTABLISHMENT means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(4) GUARDIAN means:

(A) a person who, under court order, is the guardian of the person of a minor; or

(B) a public or private agency with whom a minor has been placed by a court.

(5) MINOR means any person under 17 years of age.

(6) OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(7) PARENT means a person who is:

(A) a natural parent, adoptive parent, or step-parent of another person; or

(B) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) PUBLIC PLACE means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(9) REMAIN means to:

(A) linger or stay; or

(B) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(10) SERIOUS BODILY INJURY means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(b) Offenses

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

(2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(c) Defenses.

(1) It is defense to prosecution under Subsection (b) that the minor was:

- (A) accompanied by the minor's parent or guardian;
- (B) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (C) in a motor vehicle involved in interstate travel;
- (D) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (E) involved in an emergency;
- (F) on the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;
- (G) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Dallas, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Dallas, a civic organization, or another similar entity that takes responsibility for the minor;
- (H) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- (I) married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(2) It is a defense to prosecution under Subsection (b)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(d) Enforcement.

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection (c) is present.

(e) Penalties.

(1) A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.

(2) When required by Section 51.08 of the Texas Family

Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Subsection (b)(1) of this section and shall refer the minor to juvenile court.

SECTION 2. That Section 2 of Ordinance No. 20966, passed by the city council on June 12, 1991, is repealed.

SECTION 3. That within six months after the initial enforcement of this ordinance, the city manager shall review this ordinance and report and make recommendations to the city council concerning the effectiveness of and the continuing need for the ordinance. The city manager's report shall specifically include the following information:

- (A) the practicality of enforcing the ordinance and any problems with enforcement identified by the police department;
- (B) the impact of the ordinance on crime statistics;
- (C) the number of persons successfully prosecuted for a violation of the ordinance; and
- (D) the city's net cost of enforcing the ordinance.

SECTION 4. That CHAPTER 31 of the Dallas City Code, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

SAM A. LINDSAY, City Attorney

By /s/ Lisa Christopherson

Assistant City Attorney

Passed June 10, 1992

APPENDIX C

18 USCA s 922

(q) (1) (A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) shall not apply to the possession of a firearm-

- (i) on private property not part of school grounds;
- (ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;
- (iii) which is-
 - (I) not loaded; and
 - (II) in a locked container, or a locked firearms rack, which is on a motor vehicle;
- (iv) by an individual for use in a program approved by a school in the school zone;
- (v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
- (vi) by a law enforcement officer acting in his or her official capacity; or
- (vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

(2) (A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

(B) Subparagraph (A) shall not apply to the discharge of a firearm-

- (i) on private property not part of school grounds;
- (ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;
- (iii) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual; or
- (iv) by a law enforcement officer acting in his or her official capacity.

(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun-free school zones as provided in this subsection.

s 921(a)(25) The term "school zone" means -

- (A) in, or on the grounds of, a school; or
- (B) within a distance of 1,000 feet from the grounds of a school

(26) The term "school" means a public or private school which provides elementary or secondary education, as determined under State law.

APPENDIX D

21 U.S.C.A. s 860

United States Code Annotated
Title 21. Food and Drugs
Chapter 13 - Drug Abuse Prevention and Control
Subchapter I - Control and Enforcement
Part D - Offenses and Penalties

s 860. Distribution or manufacturing in or near schools and colleges

(a) Penalty

Any person who violates section 841 (a) (1) or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school, or a public or private college, junior college, or university, or a playground, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b) of this section) subject to (1) twice the maximum punishment authorized by section 841 (b) of this title; and (2) at least twice any term of supervised release authorized by section 841 (b) of this title for a first offense. A fine up to twice that authorized by section 841 (b) of this title maybe imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841 (b) of the title, a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marijuana.

(b) Second offenders

Any person who violates section 841 (a) (1) or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, after a prior conviction under subsection (a) of this section has become final is punishable (1) by the greater of (A) a term of imprisonment of not less than three years and

not more than life imprisonment or (B) three times the maximum punishment authorized by section 841(b) of this title for a first offense (2) at least three times any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to three times that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than three years. Penalties for third and subsequent convictions shall be governed by section 401(b) (1) (A) .

(c) Suspension of sentence; probation; parole

In the case of any mandatory minimum sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.

(d) Definitions

For the purposes of this section -

(1) The term "playground" means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

(2) The term "youth center" means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

(3) The term "video arcade facility" means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

(4) The term "swimming pool" includes any parking lot appurtenant thereto.