

The Feasibility of a Curfew Ordinance  
in the  
City of Rochester

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## THE PURPOSE OF THE STUDY

With the City of Rochester experiencing increases in juvenile harrassment and nuisance complaints, there has been interest in exploring all types of measures which may have delinquency prevention aspects. A curfew for juveniles are among the preventive measures which are being considered in this study.

There are, within the City of Rochester, 78,000 persons or 29% of the population under the age of 17 years. This population is almost equally distributed among the four Councilmanic Districts. However, the East District has the least number of persons in this age group. Nonetheless, the Northwest Councilmanic District has the greatest number of households with children under 17 years of age, 34%.

Another unique feature of this age group is that 31% of the households in Rochester have children under 17 years of age. Also 7.3% of the households with children under 17 are headed by females. This group representation is more noticeable in the Northeast and South Councilmanic Districts, 9.2% and 8.1% respectively.

This study is principally based upon questions asked by the section command of the Rochester Police Department; information from 12 police departments in metropolitan areas of the United States and the results from the New York State Youth Commission study of curfew ordinances in New York State. The New York study involved police departments in 62 cities and 68 incorporated villages (5,000 population or over) of the State.

There was a heavy reliance on Police Departments for information because it was believed that the police departments, the branch of municipal government responsible for the enforcement of laws were, therefore, best qualified to supply information on curfews and the need for such laws.

To aid Rochester in an intelligent approach to this problem, the City Manager's Office undertook a study of curfews in other municipalities. This study included an analysis of local curfew ordinances and general laws which may have curfew-like effects. The experience of municipalities with curfew ordinances and the need for such ordinances in other municipalities also have been explored. It is believed that such analysis and experiences should assist this community in appraising its requirements to determine whether a curfew is necessary or desirable.

Most curfew ordinances provided that a child may be arrested without a warrant, and either be taken to the police station or home to his or her parents. If a child is taken to the police station, it is usually directed that the child should only be detained for a reasonable period of time as may be necessary to notify the parent or guardian, and to make complaint and obtain a warrant against the child. Further provisions are usually made that no child arrested should be placed in confinement until the parents or guardian of the child have been notified and given a reasonable opportunity to come to the police station to take the child home. Some curfews provide for fines ranging from \$1 to \$100, and some provide for no penalty for either children or parents.

Whenever the question of a curfew ordinance is raised by a community, the most stated objective is to have all children under a certain age off the street between certain hours of the night and in the morning. Of course, there are exemptions to the ordinance. A large number of municipalities with curfews provide curfew hours between the hours of 10:00 p.m. and 5:00 a.m. Sunday through Thursday, and 11:00 p.m. to 5:00 a.m. Friday and Saturday.

Without considering the enforceability, efficiency and need for a curfew ordinance, there is strong feeling that the benefits and liabilities of a curfew ordinance are as follows:

#### Benefits

1. Night-time in the streets provides a greater temptation and an unwholesome atmosphere for juveniles, therefore, a curfew would reduce juvenile delinquency.
2. Since a curfew ordinance in most cases places a penalty on the parents, the responsibility is placed where it should be.
3. A curfew provides law enforcement officers with the legal authority to act in protecting children and its society.
4. By enacting a curfew ordinance, the municipality sets standards which will strengthen parental authority.

#### Liabilities

1. A curfew ordinance enacted against persons under 16 years of age would most likely be a violation and not a crime, and therefore, a person under 16 years of age could not be arrested or detained.
2. Municipalities do not have enough police officers to enforce curfews.
3. Children may feel that a curfew is an undue restriction upon their freedom and may challenge it and other laws.

4. Curfews are a negative approach to the problem and make no positive contribution to meeting the needs of children.

5. There are general laws under which law enforcement agencies can act, late at night, to protect the welfare of children.

6. Most criminal acts occur before the effective hours of the curfew and, therefore, a curfew does not contribute substantially to the prevention of juvenile delinquency.

7. Since there are a substantial number of night-time activities for juveniles sponsored by schools, churches and other local agencies which may keep them out after the curfew hours, law enforcement officers cannot be informed of all the authorized juvenile activities within the City.

8. Some parents have misinterpreted the curfew as relieving them of primary responsibility for their children.

9. There are problems in enforcing a curfew in a municipality which adjoins another municipality which does not have a curfew ordinance.

Most Corporation Counsels, when asked for a legal opinion on a curfew for minor ordinance proposed by the City Council, will find that in the past, courts reviewing curfews have generally limited their inquiry to three main areas:

1. Is there an evil?

2. Do the means selected to curb the evil have a real and substantial relation to the result sought? And,

3. If the answer to the first two inquiries is yes, do the means availed unduly infringe or impose upon the fundamental rights of those whose activities or conduct are curbed?

Because of these questions, the Corporation Counsel must be prepared to articulate the rights and interests involved.