



## MEMORANDUM

**TO:** Mayor and Council

**FROM:** Assistant City Manager Bert Lumbreras

**DATE:** June 10, 2008

**SUBJECT:** June 18, 2008 Council Public Hearing: Juvenile Curfew

On the June 18, 2008, Council Meeting agenda, an item is listed to conduct a public hearing and approve the continuation of Chapter 9-3, relating to juvenile day and night time curfews. Chapter 370 of the Texas Local Government Code requires that every three years, the Juvenile Curfew Ordinance be reviewed and readopted or it automatically expires. The juvenile curfew ordinance applies to minors under 17 years of age. Violations by minors, parents, guardians, and business operators are Class C misdemeanors. The ordinance contains exceptions for specified youth activities and situations.

The city-wide curfew hours are:

- 11:30 p.m. to 6:00 a.m. on weeknights, and midnight to 6:00 a.m. on weekends.
- Weekdays when school is in session, the citywide curfew also applies from 9:00 a.m. to 2:30 p.m.

There are three specific curfew areas within the city, two located downtown and one southeast with different curfew hours.

- Areas 1 and 2, which are downtown: hours are from 10:00 p.m. to 6:00 a.m. any day of the week.
- Area 3, which is east of I-35 and south of Ben White Boulevard: hours are from 11:00 p.m. to 6:00 a.m. on weeknights, and from midnight to 6:00 a.m. on weekends.

### **Report:**

The Austin Police Department has prepared the attached report regarding juvenile crime and victimization for 2005-2007 as compared to previous years. The 2005-2007 report includes the following noteworthy findings:

- **Juvenile arrests as a proportion of all arrests declined** from 12% before the ordinance was passed (1987-1989) to 7% during the most recent periods (2002-2007).
- **Juvenile arrests as a proportion of juvenile population dropped** from 11% before the ordinance was passed (1987-1989) to 9% most recently (2002-2007).

- **The majority (90%) of juvenile Part I arrests were property offenses**, rather than violent offenses. Theft was the most frequent Part I property offense.
- **Juveniles represented 6% of all crime victims**; this proportion has remained stable since 2002.
- **APD issued slightly more than half of its citations during daytime curfew hours** (the rest during nighttime). All AISD citations were issued during the daytime.

#### **Recommendations:**

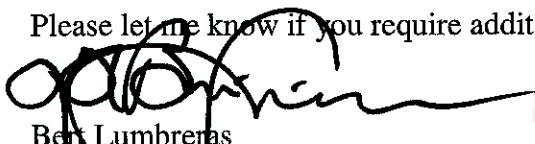
APD supports the continuation of the ordinance as it is an effective enforcement tool. However, APD recommends that changes should be made to standardize the varying night and daytime curfew hours in order to improve enforcement. These changes will improve the understanding and effectiveness of the ordinance within the city by clearing citizen and officer confusion based on the multiple enforcement areas. Recommendations include:

- Maintain current daytime curfew hours, but that the citywide nighttime curfew hours for the weekdays (Sunday-Thursday) be changed from 11:30 pm – 6:00 am to 11:00 pm. – 6:00 am. Change weekend curfew hours (Friday-Saturday) citywide to 12:00 am – 6:00 am. This action would eliminate the need for curfew area 3 as this area would be consistent with citywide enforcement hours.
- Areas 1 and 2 (Downtown) share a common boundary with curfew hours from 10:00 pm – 6:00 am any day of the week. APD recommends modifying the curfew hours to begin at 11:00 pm any day of the week and renaming these two areas to the Downtown Entertainment District Curfew Area which would be the only area in the city with nighttime enforcement hours that would vary from citywide enforcement times.

#### **Next Steps:**

The posting of the public hearing allows for Council to hear public comments regarding the ordinance. Council may also take action to continue or modify the curfew ordinance provisions. If Council does not continue or modify the curfew provisions before August 4, the ordinance will expire as required by state law. APD has prepared a brief presentation which includes highlights of the report and justification for the aforementioned recommendations and will be prepared to present during the scheduled public hearing if Council so desires.

Please let me know if you require additional information.



Bert Lumbrenas  
Assistant City Manager

Cc: Marc Ott, City Manager  
Art Acevedo, Chief of Police

Encl: Juvenile Curfew Report: 2005-2007

# **Austin Police Department**

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## **Juvenile Curfew Report: 2005-2007**



Prepared by the Austin Police Department  
Research and Planning Unit  
June 10, 2008

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# Introduction

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## Background

In May 1990, the City of Austin instituted a Juvenile Curfew Ordinance in an attempt to address a rising juvenile crime rate. According to state law, the ordinance will expire unless it is reviewed and readopted every three years. Since 1990, it has been amended several times to make changes in the curfew areas, hours, and include parents, guardians and establishment owners as responsible parties. The ordinance was last reviewed and renewed on August 4, 2005.

## Scope

This report presents the most recent data regarding juvenile crime patterns, including arrests, victims, and violations of the curfew ordinance. Data are presented citywide as well as for the three curfew areas. Sources include:

- APD: arrests, victims, and curfew violations issued by APD officers
- FBI Uniform Crime Reports: national juvenile arrest data
- AISD: curfew violations issued by AISD police officers

Data are reported according to FBI Uniform Crime Reporting (UCR) standards, which identify seven "Part I Index Crimes," based on their seriousness and frequency. Each crime is defined, including how incidents are counted, and grouped into two categories:

### Violent crimes

Murder (number of victims)  
Rape (number of victims)  
Robbery (number of offenses)  
Aggravated Assault (number of victims)

### Property crimes

Burglary (number of premises entered)  
Theft (number of offenses)  
Auto Theft (number of vehicles)

## Current Ordinance

The juvenile curfew ordinance currently resides in the Austin City Code, Title 9, Prohibited Activities, Chapter 9-3, Non-Emergency Curfews.

The ordinance sets curfew hours for minors (under 17 years) in three geographic areas:

- Citywide
- Areas 1 and 2 (downtown entertainment district)
- Area 3 (southeast portion)

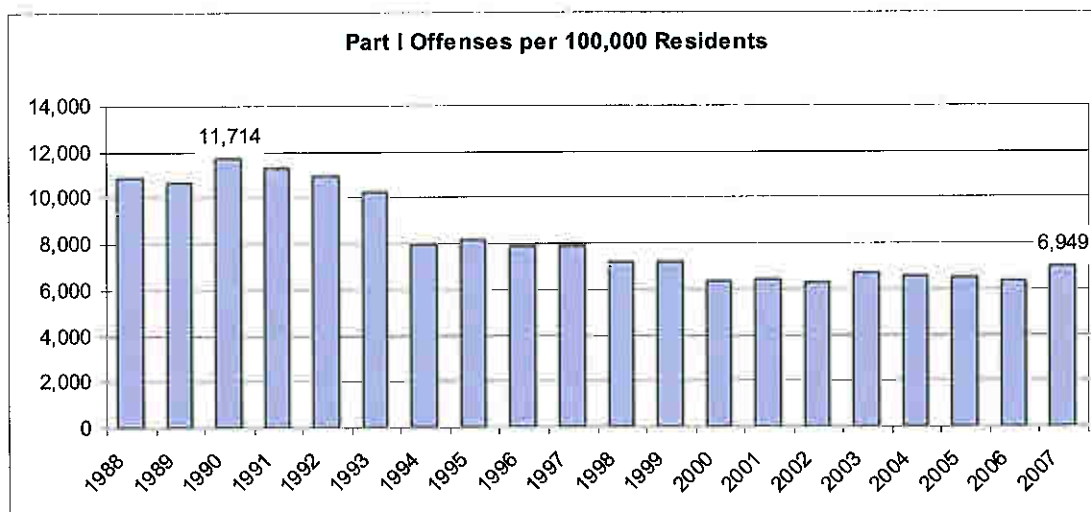
Area	Night Curfew	Day Curfew
Citywide	11:30 pm – 6:00 am (Sun – Thurs)	9:00 am – 2:30 pm (Mon – Fri, when school is in session)
	12:30 am – 6:00 am (Fri – Sat)	
Areas 1 and 2	10:00 pm – 6:00 am (any day)	
Area 3	11:00 pm – 6:00 am (Sun – Thurs)	
	Midnight – 6:00 am (Fri – Sat)	

## Notable Findings

This report contains the following noteworthy findings:

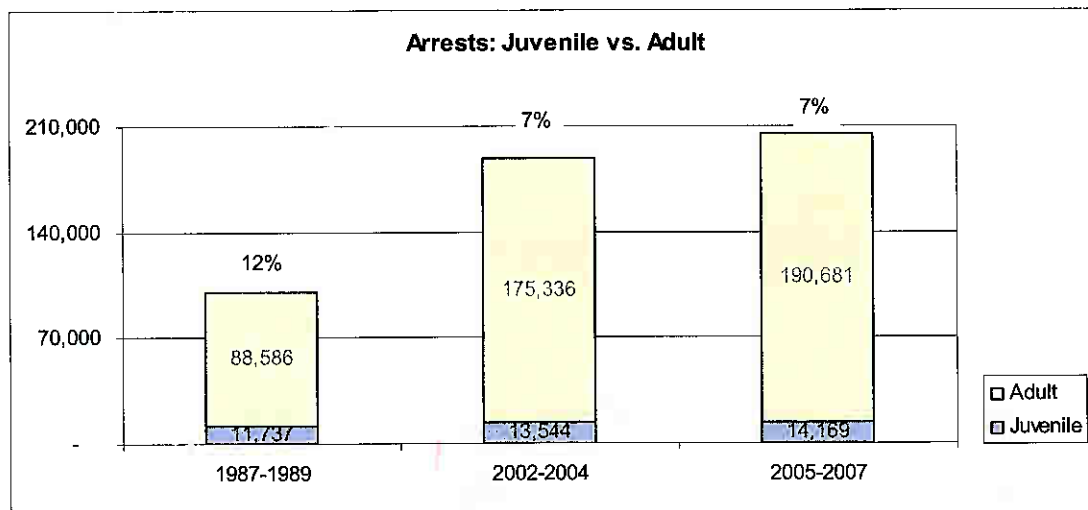
- **Juvenile arrests as a proportion of all arrests declined** from 12% before the ordinance was passed (1987-1989) to 7% most recently (2002-2007).
- **Juvenile arrests as a proportion of juvenile population dropped** from 11% before the ordinance was passed (1987-1989) to 9% most recently (2002-2007).
- **The majority (90%) of juvenile Part I arrests were property offenses**, rather than violent offenses. Theft was the most frequent Part I property offense.
- **Curfew violations, drug and alcohol offenses, and simple assaults were the most frequent Part II arrests**, representing 67% of all Part II juvenile arrests.
- **Juveniles represented 6% of all crime victims**; this proportion has remained stable since 2002.
- **Together, Curfew Areas 1 and 2 experienced far fewer juvenile arrests** (67% fewer) than Area 3. In contrast, Areas 1 and 2 saw nearly as many victims (13% fewer) as compared to Area 3.
- **APD issued slightly more than half of its citations during daytime curfew hours** (the rest during nighttime). All AISD citations were issued during the daytime.

## Overall Crime Trends



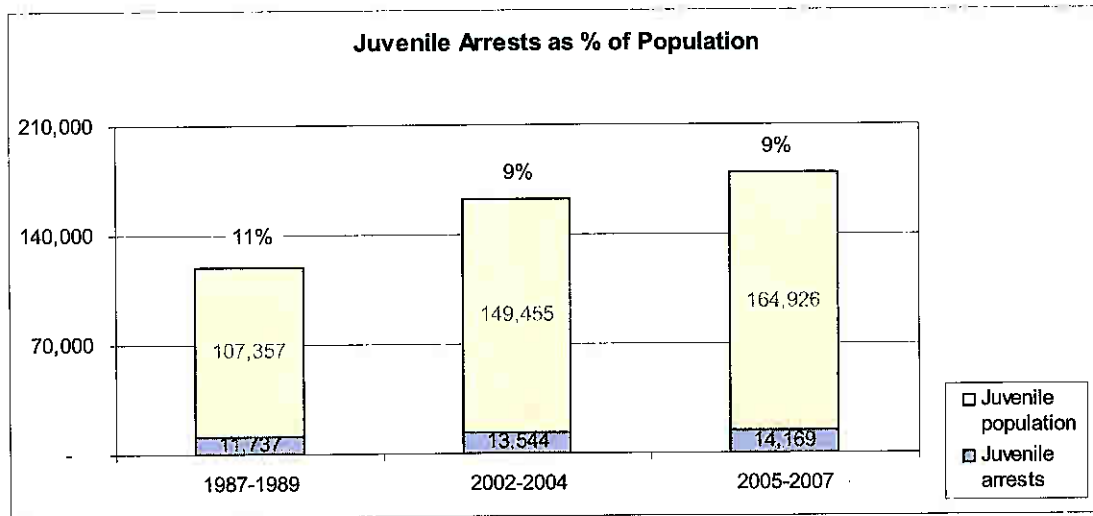
Around the time that the Juvenile Curfew Ordinance was instituted (May 1990), Austin saw a peak in overall crime, as well as a rising juvenile crime trend. In 1990, there were 54,543 Part I crimes committed by offenders of all ages, or a rate of 11,714 crimes per 100,000 residents. The crime rate has decreased 42% since then, and has remained relatively stable since 2000.

## Arrests

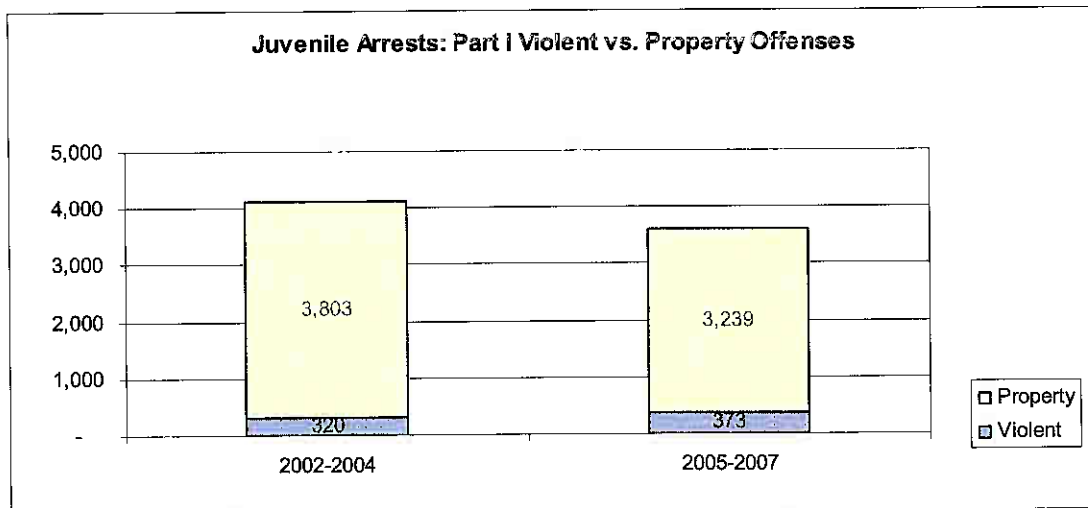


Although the number of juvenile arrests has increased over time, the proportion of juvenile arrests as compared with arrests for all ages has remained stable at 7% since 2002. That rate represents a fairly large decrease from the period immediately before the ordinance went into effect (1990). At that time, juvenile arrests comprised 12% of all arrests.

Nationally, juveniles represented about 11% of arrests of all ages during 2006 (the most recent data available; source: FBI Uniform Crime Reports).



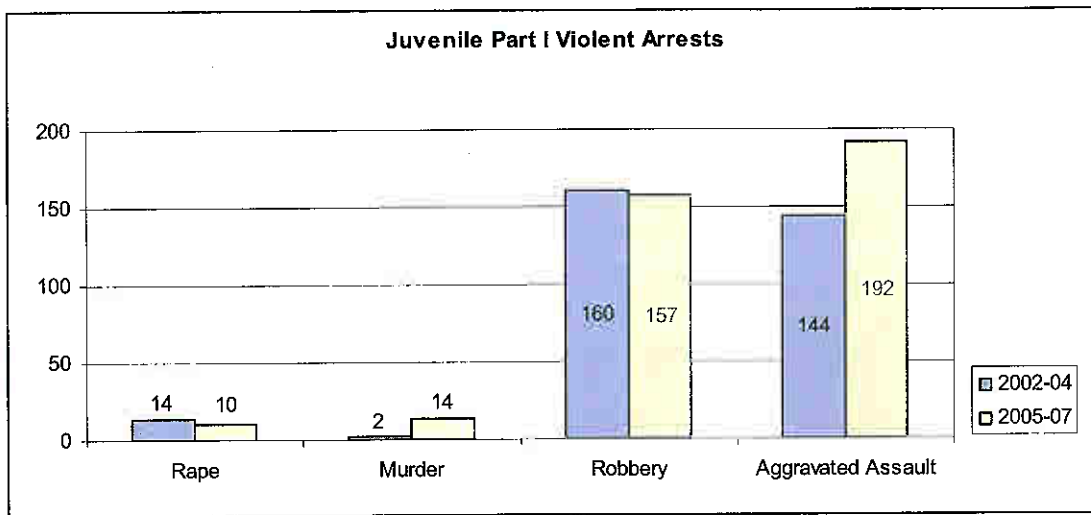
Similarly, juvenile arrests as a percent of the juvenile population decreased from 11% immediately before the ordinance was implemented in 1990, to 9% since 2002.



Focusing on Part I offenses, juvenile arrests during 2005-2007 consisted of 10% violent crimes (murder, rape, aggravated assault, robbery) and 90% property offenses (theft, auto theft, and burglary). The proportions were similar during 2002-2004 (8% violent, 92% property).

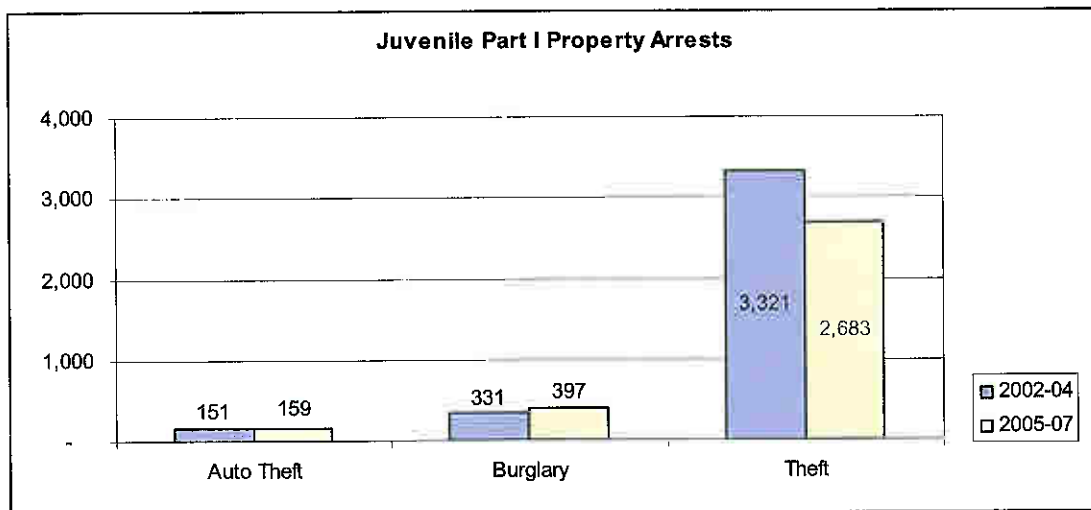
Arrests for all ages during 2005-2007 comprised 20% violent offenses and 80% property offenses.



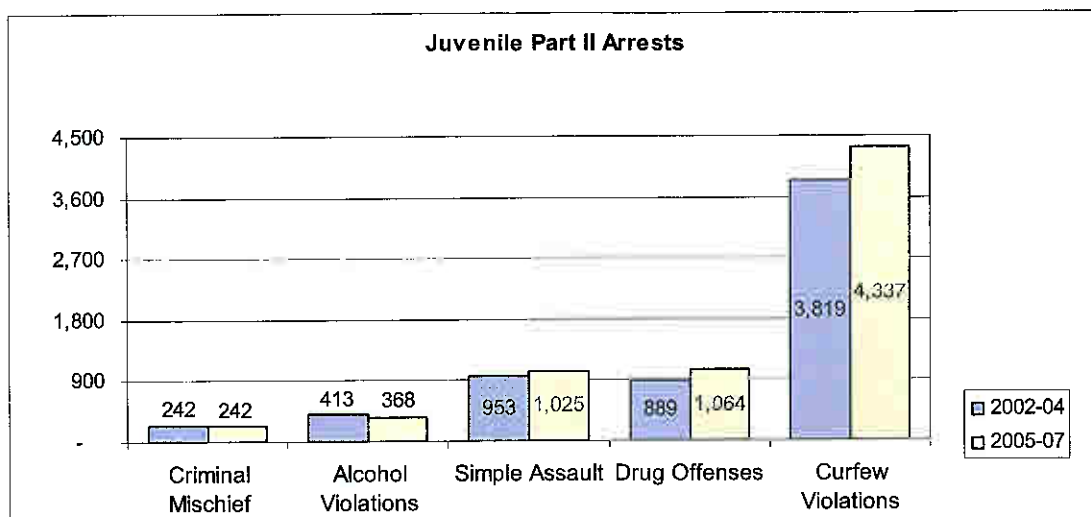


Of the 2005-2007 violent offenses, the vast majority of juvenile arrests were aggravated assaults (51%) and robberies (42%). This pattern was similar during 2002-2004 (aggravated assaults = 45%, robberies = 50%).

Arrests for all ages during 2005-2007 consisted of 63% aggravated assaults and 31% robberies.

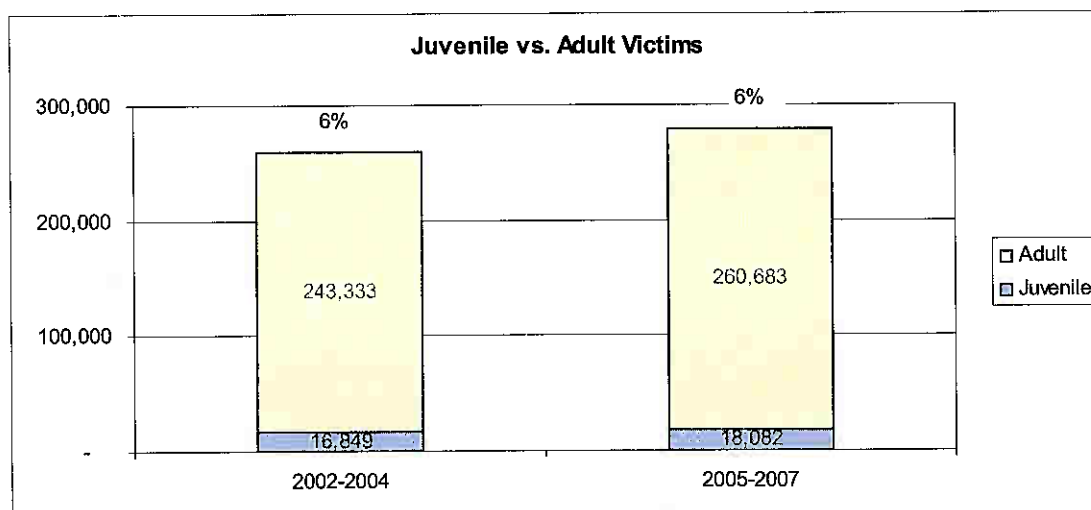


Of the 2005-2007 property offenses, most juvenile arrests were for theft (83%), which is consistent with the pattern for 2002-2004, when thefts represented 87% of juvenile arrests. During 2005-2007, thefts represented 82% of arrests for all ages.

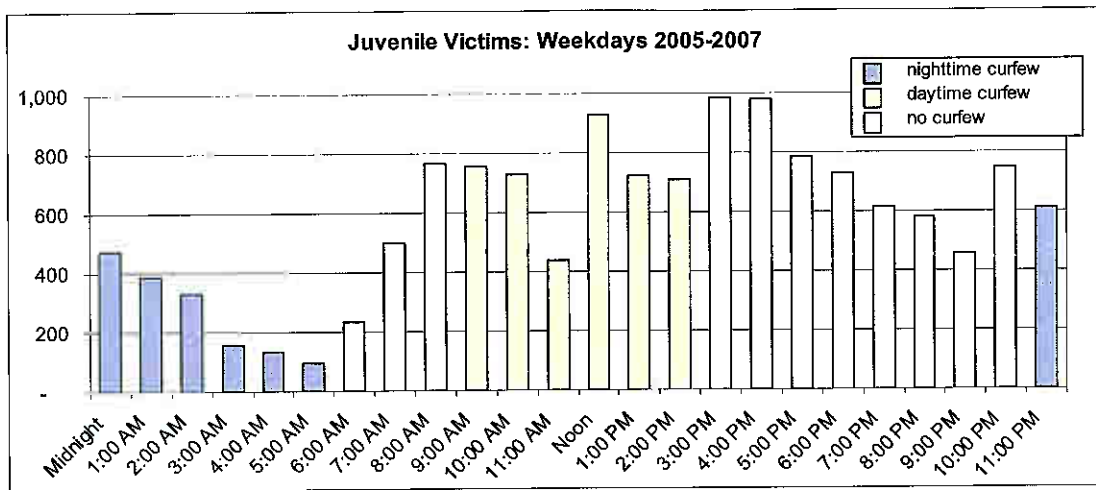


Of Part II (generally less-serious) offenses in 2005-2007, the most frequent juvenile arrests were for curfew violations (43%), followed by drug offenses (11%) and simple assaults (10%). This pattern was similar during 2002-2004, when the proportions were 41%, 9%, and 10% respectively.

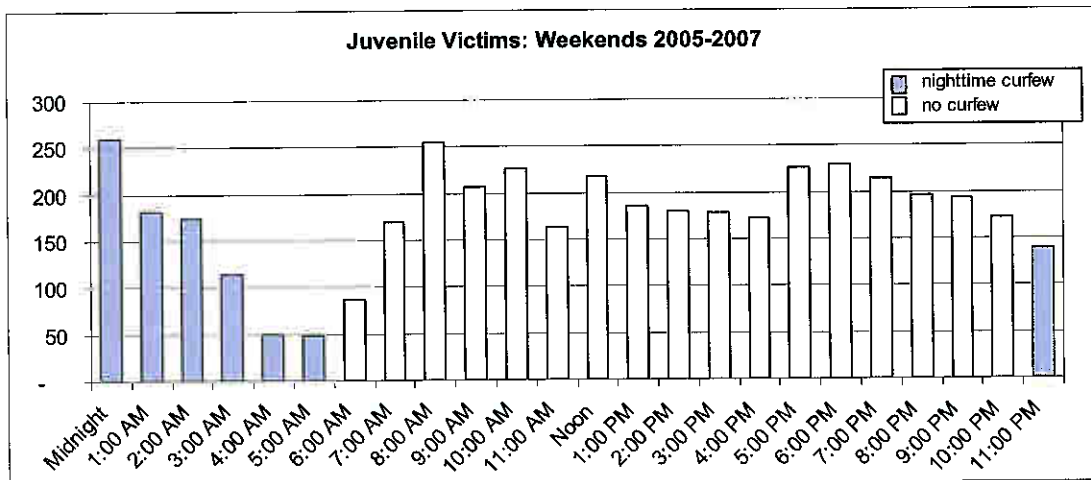
## Victims



During 2005-2007, juveniles represented 6% of all victims of crime. This percentage remained unchanged from 2002-2004.

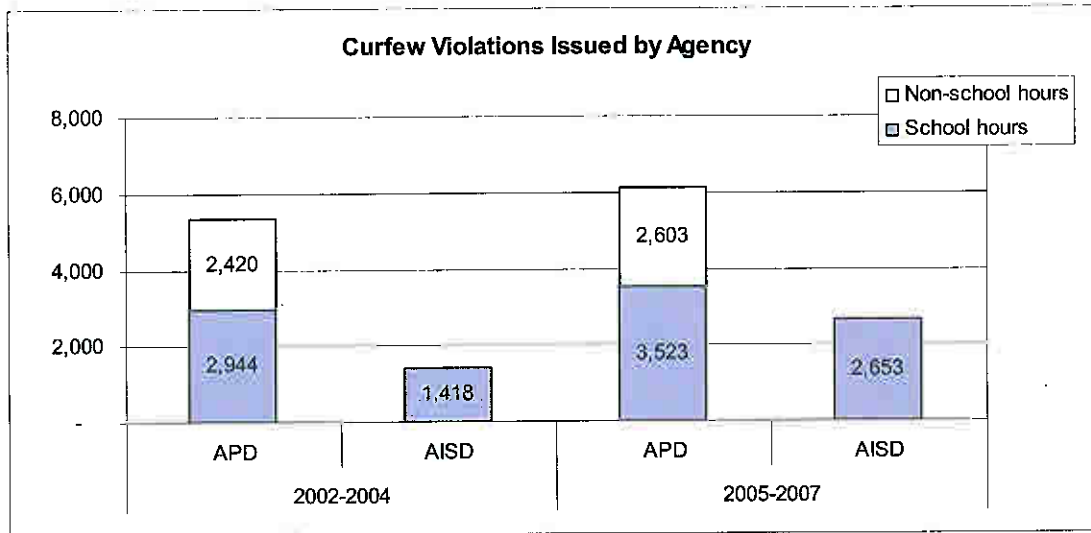


During the week, juveniles are most likely to be victimized during 3:00 - 5:00 p.m., the hours immediately after school.



During the weekend, however, incidents are more evenly distributed throughout the day, with midnight and 8:00 - 9:00 a.m. being peak hours.

## Curfew Violations

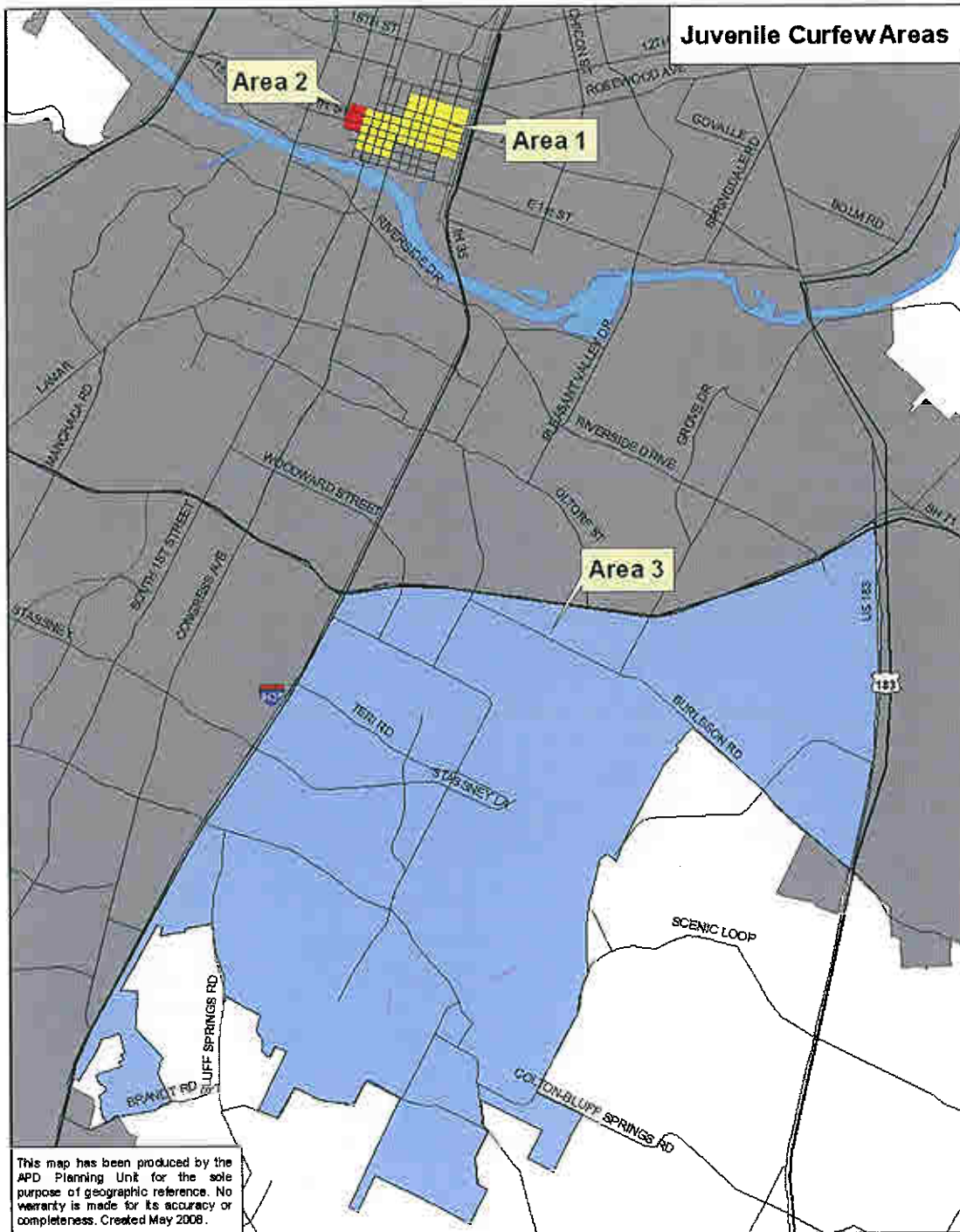


Both APD and AISD issue juvenile curfew citations. AISD issues all its citations during school hours (9:00 a.m. to 3:00 p.m.). APD issues between 55% and 58% of its citations during school hours.

## Trends by Curfew Area

The following maps show the geographic locations of Curfew Areas 1 and 2 (downtown) and Area 3 (southeast). Varying curfew times that apply to each area, as well as citywide, are found in the Introduction (Page 3).

### Areas 1, 2, and 3



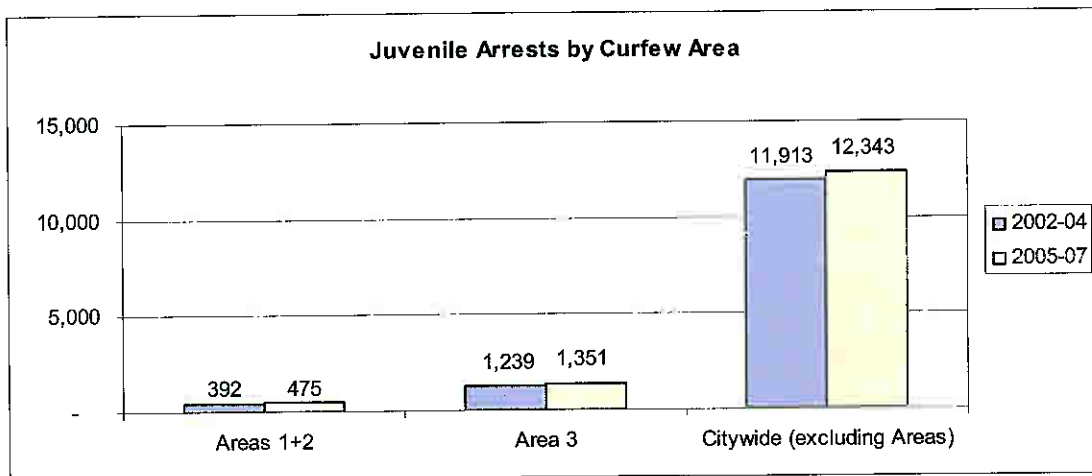
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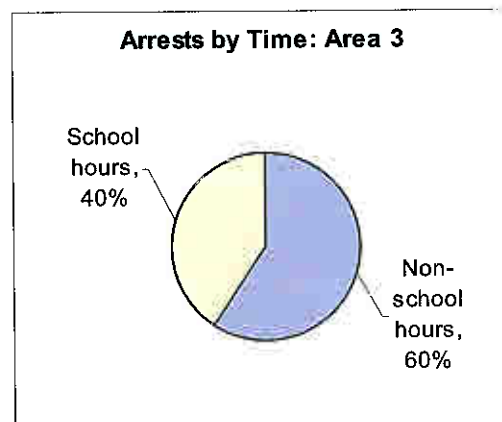
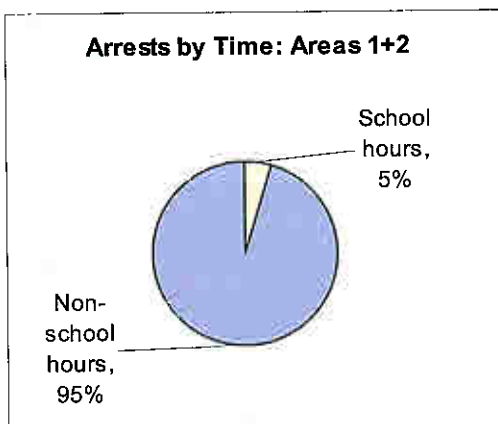
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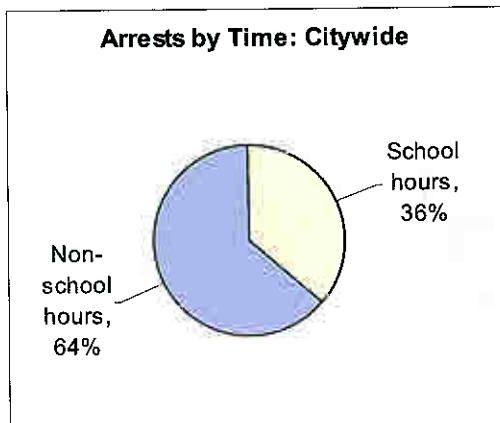


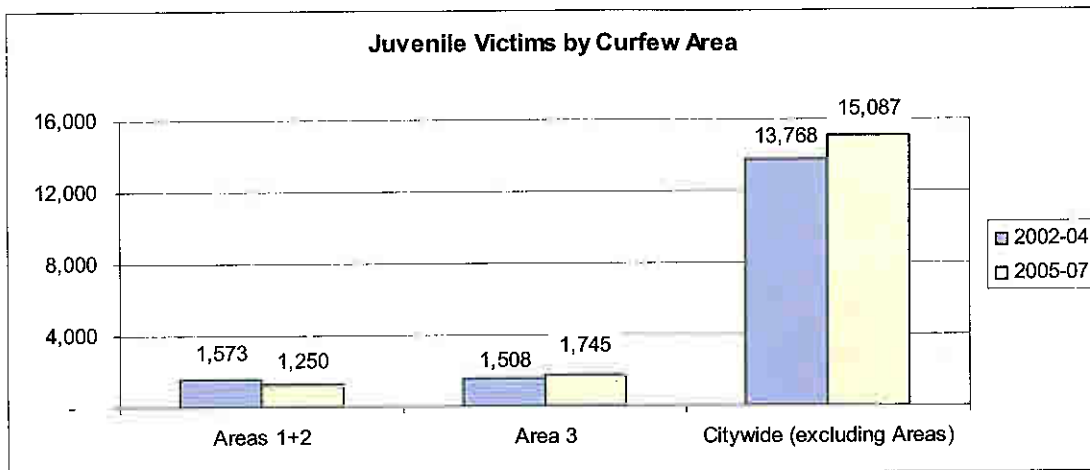


Areas 1 and 2 (downtown) experienced a lower volume of juvenile arrests than Area 3 (southeast). This trend was consistent from 2002-2004 through 2005-2007.

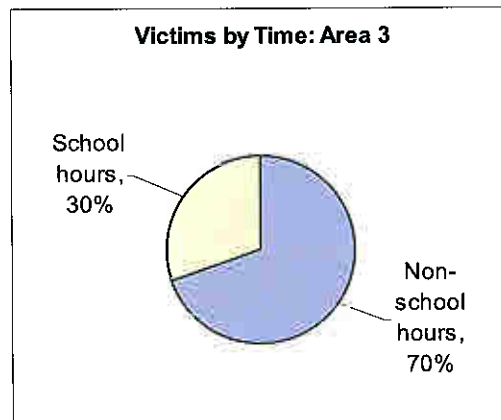
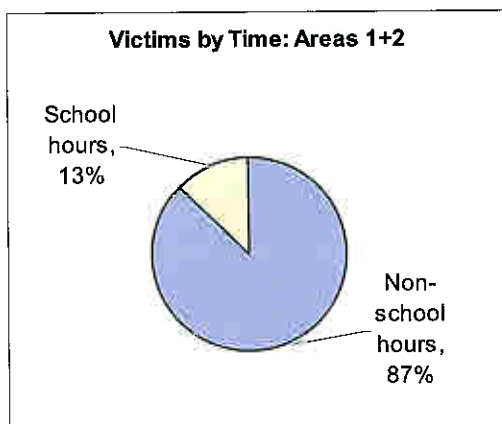


Nearly all the juvenile arrests in Areas 1 and 2 (downtown) occurred outside school hours, while Area 3 (southeast) juvenile arrests were somewhat more evenly split between school and non-school hours.

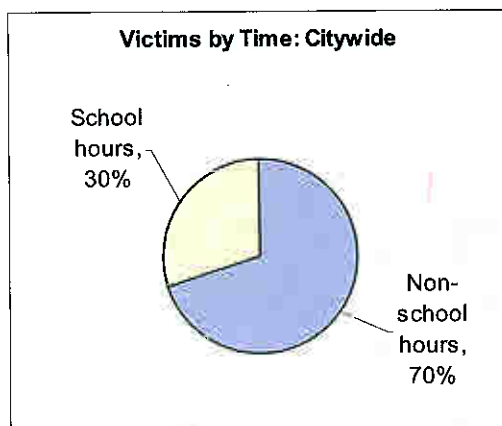




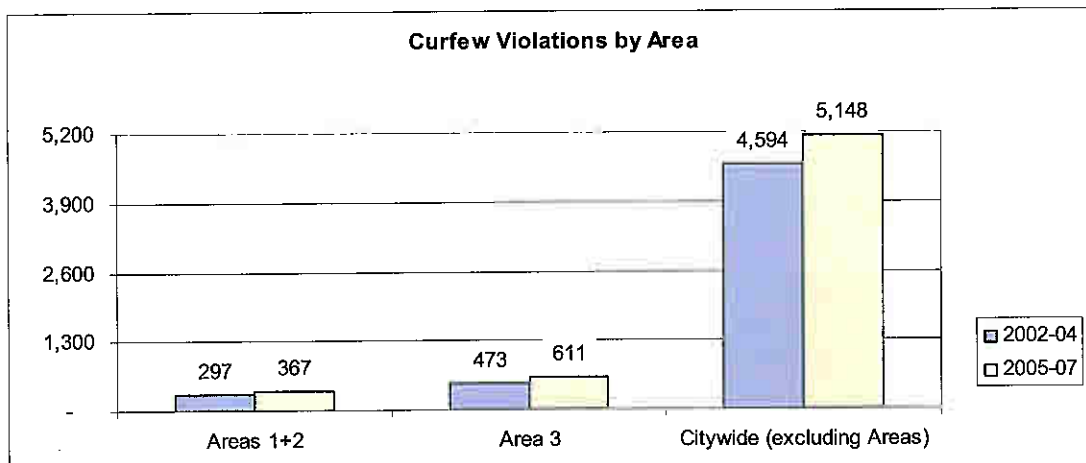
In contrast to juvenile arrests, Areas 1 and 2 and Area 3 experienced similar volumes of juvenile victims. Areas 1 and 2 declined 21% from 2002-2004 to 2005-2007, whereas Area 3 increased 16% during the same time period.



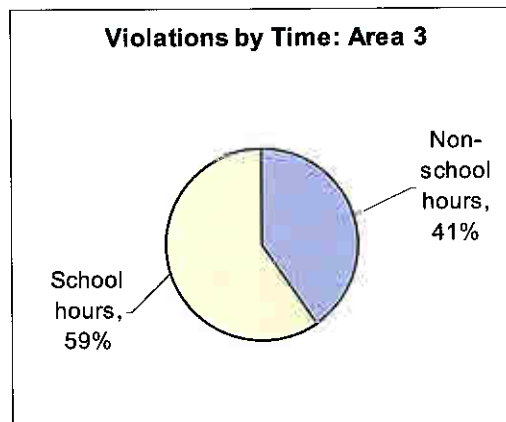
Similar to the juvenile arrests, juvenile victim incidents occur mostly during non-school hours.



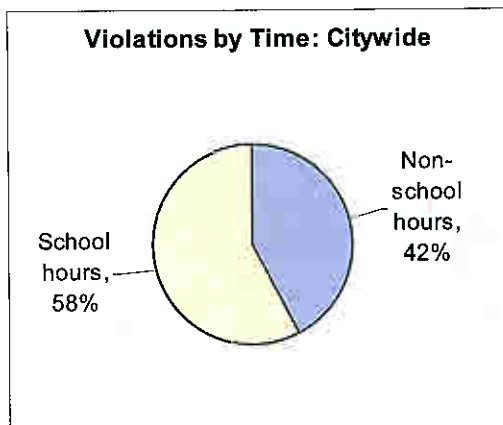




In terms of curfew violations, Areas 1 and 2 (downtown) experienced about 40% fewer violations than Area 3 (southeast) during 2002-2007. Together, Areas 1, 2, and 3 represent about 15% of the total curfew violations issued citywide.



Areas 1 and 2 violations occurred primarily during non-school hours, while Area 3 violations were somewhat more evenly distributed between school and non-school hours.



## Appendix: Juvenile Curfew Ordinance

### CHAPTER 9-3. NON-EMERGENCY CURFEWS.

- § 9-3-1 Definitions
- § 9-3-2 Offenses
- § 9-3-3 Defenses
- § 9-3-4 Enforcement Procedure
- § 9-3-5 Penalty
- § 9-3-6 Expiration

#### § 9-3-1 DEFINITIONS.

In this chapter:

(1) CURFEW AREA NO. 1 means that area bounded by the south curb of Tenth Street, the east curb of the IH-35 West Frontage Road, the south curb of Fourth Street, the east curb of Congress Avenue starting at Fourth Street, south to the south curb of Second Street (West), the west curb of San Antonio Street, the north curb of Seventh Street (West), and the west curb of Congress Avenue.

(2) CURFEW AREA NO. 2 means that area bounded by the south curb of Fourth Street (West), the west curb of Rio Grande Avenue, the north curb of Seventh Street (West) and the west curb of San Antonio Street.

(3) CURFEW AREA NO. 3 means that area bounded by the east curb of the IH-35 East Frontage Road, the south curb of Ben White Boulevard (East), the west curb of U.S. Highway 183, the north curb of Scenic Loop and the north curb of the proposed extension of Slaughter Lane.

(4) DIRECT ROUTE means the shortest path a person may travel through a public place to reach the person's destination without a detour or additional stop at any other destination along the way.

(5) EMERGENCY means an unforeseen circumstance including a fire, natural disaster, automobile accident, or the need to obtain immediate medical care for another person.

(6) ESTABLISHMENT means a privately owned place of business operated for a profit to which the public is invited, including a place of amusement or entertainment.

(7) MINOR means a person under 17 years of age.

(8) OPERATOR means an individual, firm, association, partnership, or corporation operating, managing, or conducting an establishment, including a member or partner of an association or partnership and an officer of a corporation.

(9) PARENT means a person who is the natural or adoptive parent of a minor, including a court-appointed guardian or other person 21 years of age or older, authorized by a parent, court order, or court-appointed guardian to have the care and custody of a minor.

(10) PUBLIC PLACE means a public street, alley, highway, sidewalk, playground, park, plaza, building, or place used or open to a member of the public; or a building, business, or amusement or entertainment establishment.

(11) RELIGIOUS ACTIVITY means a function or event sponsored by a religious organization that has received tax exemption under Section 501(C)(3) of U.S.C.

*Source: 1992 Code Section 10-7-1; Ord. 031023-13; Ord. 031211-11.*

#### **§ 9-3-2 OFFENSES.**

(A) A minor commits an offense if the minor is in a public place in Curfew Area No. 1 or Curfew Area No. 2 between 10:00 p.m. and 6:00 a.m. on any day.

(B) A minor commits an offense if the minor is in a public place or is on the premises of an establishment in Curfew Area No. 3 between 11:00 p.m. and 6:00 a.m. on Sunday through Thursday or between midnight on Saturday and 6:00 a.m. on Sunday.

(C) Except as provided in Subsections (D) and (E), a minor commits an offense if the minor is in a public place or is on the premises of an establishment between 11:30 p.m. and 6:00 a.m. on Sunday through Thursday or between 12:30 a.m. and 6:00 a.m. on Saturday and Sunday.

(D) Except as provided in Subsection (E), if the following day is an Austin Independent School District holiday, curfew hours are the same as on Saturday and Sunday. During the regular Austin Independent School District summer recess, curfew hours are the same as an Austin Independent School District holiday.

(E) Subsections (C) and (D) do not affect the curfews established under Subsections (A) and (B).

(F) While school is in session, a minor commits an offense if the minor remains, walks, runs, idles, wanders, strolls, or aimlessly drives or rides about in or on a public place between 9:00 a.m. and 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday or Friday.

(G) A parent having custody of a minor commits a violation if the person knowingly allows the minor to be in violation of this chapter. A parent is presumed to knowingly allow or permit the minor to be in violation of this chapter if the minor has two previous convictions for violations of this chapter. For the purpose of this section a deferred adjudication is a conviction.

(H) The owner, operator, or employee of an establishment commits an offense if the person knowingly allows a minor to remain on the premises of the establishment during curfew hours.

*Source: 1992 Code Section 10-7-2; Ord. 031023-13; Ord. 031211-11.*

### **§ 9-3-3 DEFENSES.**

(A) It is a defense to prosecution under Section 9-3-2 (*Offenses*) that:

- (1) the minor is accompanied by the minor's parent or spouse;
- (2) the minor is on an errand authorized by the minor's parent or spouse or made necessary by an emergency;
- (3) except as provided in Subsection (C), the minor is traveling by a direct route through a curfew area or to the minor's home in a curfew area;
- (4) the minor is in a vehicle involved in transportation for which passage through a curfew area is the most direct route;
- (5) the presence of the minor is connected with or required by a religious activity, educational activity, or a business, trade, profession, or occupation in which the minor is lawfully engaged;
- (6) except as provided in Subsection (C), the minor is on the sidewalk in front of the minor's residence or on the sidewalk of either adjacent neighbor who is not communicating an objection to the presence of the minor to a police officer; or
- (7) the minor is exercising First Amendment rights protected by the United States Constitution, including the free exercise of religion, freedom of speech, and the right of assembly.

(B) It is a defense to a violation of Subsection 9-3-2(F) (*Offenses*) that:

- (1) the school that the minor attends is not in session;
- (2) the minor is a high school graduate or has an equivalent certification; or
- (3) the minor is on an excused absence from the minor's school.

(C) Subsections (3) and (6) are not defenses to a violation of Subsection 9-3-2(F) (*Offenses*).

(D) It is a defense to prosecution under Subsection 9-3-2(F) (*Offenses*) 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 after being requested to do so by the owner, operator, or employee.

*Source: 1992 Code Section 10-7-3; Ord. 031023-13; Ord. 031211-11.*

#### **§ 9-3-4 ENFORCEMENT PROCEDURE.**

The Police Department shall adopt enforcement procedures in compliance with Chapter 52 (*Proceedings Before and Including Referral to Juvenile Court*) of the Texas Family Code.

*Source: 1992 Code Section 10-7-4; Ord. 031023-13; Ord. 031211-11.*

#### **§ 9-3-5 PENALTY.**

(A) A minor who violates this chapter commits a Class C misdemeanor.

(B) A person not a minor who violates this chapter commits a Class C misdemeanor, punishable by a fine of not less than \$50.

*Source: 1992 Code Section 10-7-99; Ord. 031023-13; Ord. 031211-11.*

#### **§ 9-3-6 EXPIRATION.**

This chapter shall expire if it is not reviewed and readopted every three years as prescribed by Chapter 370 (*Miscellaneous Provisions Relating to Municipal and County Health and Public Safety*) of the Texas Local Government Code.

*Source: 1992 Code Section 10-7-5; Ord. 031023-13; Ord. 031211-11.*