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Baltimore curfew push questioned by ACLU, police union

Critics say measures don't deter crime, target youth in poor areas

By [Justin Fenton](#) and [Yvonne Wenger](#), The Baltimore Sun

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With city leaders pushing to impose earlier curfews on Baltimore's youth, civil liberties advocates and researchers say such measures don't deter crime and truancy and lead to police targeting children from poorer areas.

And though Police Commissioner Anthony W. Batts supports tightening the curfew law, rank-and-file officers are questioning the idea. Robert F. Cherry, the president of the city's Fraternal Order of Police lodge, said curfew enforcement should not be a priority of police officers but should be parents' responsibility.

"We can't shy away from the real problems of the city and depend on government to solve the problems," Cherry said.

Sonia Kumar, a staff attorney who specializes in juvenile issues for the American Civil Liberties Union of Maryland, said curfews are "notoriously difficult to implement fairly and have repeatedly been shown to be ineffective in making kids safer or less likely to get in trouble."

"We have significant concerns about the breadth of what's being proposed here — in our experience, increasing police contacts with youth is more likely to entangle them in the criminal justice system than it is to make them safer," Kumar said.

City Councilman Brandon Scott, with support of the mayor and City Council president, proposed legislation this week that calls for youngsters under 14 to be indoors by 9 p.m. Youths ages 14 through 16 could stay out until 10 p.m. on school nights and 11 p.m. otherwise.

Currently, all children and teens younger than 17 can stay out until 11 p.m. on weeknights and until midnight on weekends. Parents can be fined up to \$300 if their children are caught outside after curfew. The bill would increase the penalties to \$500, though under the new law they could be waived if parents and children attend counseling sessions provided by the city.

Exemptions would remain in the law, including a provision for youths to be out after the curfew if they're going to or from a job, religious event or school or recreational activity.

Hundreds of cities have curfews, spurred in part by support in the 1990s from President Bill Clinton. A survey by the U.S. Conference of Mayors from the late 1990s found that the overwhelming majority of city leaders considered such laws worthwhile.

Montgomery County rejected a divisive curfew proposal in 2011. Baltimore, Anne Arundel and Howard counties don't have youth curfew laws.

Some researchers say there is no evidence to suggest curfews reduce crime. Martin Guggenheim, a professor at the New York University School of Law who specializes in children's rights and juvenile delinquency, said curfews have been challenged in places across the country and called them a "boon to police and a bane to freedom."

"These ordinances are going to be harder and harder to lawfully apply," Guggenheim said. "But the police love them, simply because once there is an ordinance, it frees them to go after anybody who isn't obviously old. We've all seen some 17-year-olds who could pass for 25 years old. That makes it lawful for police to go after 25-year-olds."

A 2000 study sponsored by the U.S. Justice Department of New Orleans' strict curfew law found it was ineffective because it didn't cover older adolescents and young adults, who often perpetrate crime. According to The Times-Picayune newspaper, the measure also excluded what are called the "after school hours" when minors are most likely to commit offenses.

And a 1999 study of adult and juvenile crime statistics from 1980 to 1996 in California cities with youth curfews found no correlation between curfews and crime by or against juveniles.

One of the central concerns about curfews is selective enforcement. Guggenheim said it "gives the police what almost all communities that use curfews come to understand: enormous discretion to blink at kids from one part of town and overusing it gruffly in other parts of town."

Though Scott said he believes police would carry out his proposal "across the board," he also said, "The sad reality is that if you go to Roland Park, you don't see kids out at 12 o'clock."

Gun violence in Baltimore involving juveniles has been on a steep decline in recent years, though there has been an uptick in 2013. Twenty-four juveniles have been shot or killed through Aug. 19, the most recent data available, compared with 14 shootings or killings at the same time last year. But the number was 48 at this time in 2009.

Of the five youths killed this year in city street violence, only one would have been considered in violation of curfew at the time her killing occurred.

Police arrest data show that juvenile arrests for aggravated assault, drug abuse violations and larceny — the three largest categories — are all down this year compared with the same time last year, though robberies are up 65 percent and stolen car arrests are up 52 percent.

Batts believes curfews are a common-sense solution that keeps kids off the street and minimizes their risk of being hurt. Batts had hailed the curfew laws in Long Beach, where he worked for nearly three decades, and later tried to implement one when he became police chief in Oakland.

"When you start having crime spikes, curfew allows you to stop people," Batts told the website OaklandNorth.net in 2011. "And if they have the fear that you're going to stop them, they're going to leave the guns at home."

The proposal met with resistance in Oakland; Batts said he was told the city was "too progressive for that." Batts resigned from his post in Oakland, citing a lack of support from city leaders, one week after a curfew and other initiatives failed in the City Council.

In March, the Baltimore Police Department used its Twitter account to float the idea of an earlier curfew. But Batts backed down days later, telling residents at a community meeting that he had "stirred the pot" and was told to "leave it alone."

"I think the concept needed to be vetted properly for potential issues," Batts said in an email Tuesday, when asked to clarify the remark.

Jason Tashea, juvenile justice policy director at Advocates for Children and Youth, said the nonprofit organization is still studying the curfew legislation. He's hopeful the proposal opens a dialogue that also prompts city leaders to consider investing more resources in after-school and recreational programs.

"While we think that it's wonderful the mayor, the council and police are looking for ways of solving juvenile delinquency as well as youth victimization and crime, we have a number of questions and concerns we haven't had answered yet."

Tashea said an analysis of juvenile arrest rates — excluding warrant arrests — shows the majority of crimes committed by teens happen during the day and after school. Only 12.2 percent of juvenile arrests were made between 11 p.m. and 7 a.m. so far this year, he said.

"My interest is to know what their motivator is, if they have particular information to say this is a good working program," Tashea said. "Looking at these numbers, I wonder what they know that I don't."

Baltimore Councilwoman Mary Pat Clarke said she supports a curfew for the "safety of the children and for the well-being of the community," but said enforcement must be weighed against the other priorities before police at any given time.

Clarke was one of the biggest proponents of the city's initial efforts to establish a curfew in the 1990s, saying then that the city was on "borrowed time" without a juvenile curfew.

"It is our way to protect children when families won't," Clarke said. "Our children are safer in the curfew center than they are in the middle of the street a block away from people with guns."

Kumar said officers would have wide discretion over how to enforce the law. She questioned how an officer would determine a child's age and whether they are on the streets for one of the exceptions allowed under the proposal.

"We've heard a lot from kids about their interactions with police, and the stories we've heard don't inspire confidence that this proposal will be implemented in a way its proponents believe it might," Kumar said.

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