

San Jose Youth Protection Ordinance

**An Analytical Study of
the Impact on the San Jose Community**

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Introduction

It has been said that the United States is the most violent nation in the world today. Sociologists, historians, and others offer many different reasons as they try to determine why a wealthy, prosperous society like the U.S. suffers from so much alarming violence. Among teenagers, it causes the most harm. According to journalist David Gelman, "Teenagers don't invent violence, they learn it. To a considerable extent, they act out the attitudes and ethics of the adults closest to them....In the last 30 years, Americans have developed a culture of violence surpassing in its pervasiveness anything we experienced before."¹

Yet, others believe that violence is actually decreasing in America. They say that the fear over crime's supposed new pervasiveness is largely a result of politicians and the news media cashing in on the emotional issue. University of Minnesota law school professor Michael Tonry said that "Everything we know about crime now is that it is not getting worse, yet we also know that everybody believes it's getting worse."²

In California, statistics have been used to show two different stories with regard to crime. State statistics show that overall, crime in 1993 was down 4.3% when compared with 1992 statistics.³ Yet serious crime involving young people went up 39% in San Jose between 1988 and 1994.⁴

It is exactly the latter type of alarming statistic that has caused cities all across the country to enact youth curfew laws to protect youths at night. President Bill Clinton is at the helm of this popular new law. Clinton calls it a return to family values. Cynical journalists and skeptics call it a quick, easy solution that produces immediate results so that politicians can say they are being "tough on crime." These people point out that curfew laws have been easily passed in numerous cities for at least one simple reason: teenagers cannot vote, and therefore cannot legally oppose their passage. Teenagers resent the government placing even more restrictions on their freedom. And civil rights advocates like the American Civil Liberties Union (ACLU) believe that this is yet another law attempting to restrict youth's rights.

¹David Gelman, "The Violence in Our Heads," Newsweek, (August 2, 1993), p. 48.

²Michael Tonry, as cited by David Hess, "Angst is up, but crime rate is down," San Jose Mercury News, (January 29, 1994), p. 6A.

³Thomas Farragher, "State's crime declined in '93," San Jose Mercury News, (March 16, 1994), p. 1A.

San Jose, California is only one in a growing number of cities that have passed curfew laws. San Jose chooses to call it the Youth Protection Ordinance because, unlike other cities, San Jose's curfew law is non-punitive. The Youth Protection Ordinance was enacted in 1994 after alarming statistics showed that 4,693 juveniles had been arrested or victimized between 10:00 PM and 5:00 AM in 1993.⁵ The city government believed it was necessary, therefore, to create a new curfew law, which currently applies to those under the age of 18, that would prevent teenagers from loitering in the streets at night. After the first year of the curfew's enforcement, the San Jose Police Department's program evaluation showed that the curfew had been successful in its aims and recommended the continuance of the curfew law. Even in its first year, however, the curfew program produced controversial results.

Therefore, although enforcement of the San Jose Youth Protection Ordinance has resulted in some racial discrimination and violation of youths' rights, the curfew law has been effective in protecting youth, as its architects intended it to do.

⁴Mayor Susan Hammer, text of a press conference statement regarding the Youth Protection Ordinance given January 25, 1994. (Text of this statement found in the files of San Jose Councilman David Pandori's aide Kelly Kline.)

⁵Youth Protection Ordinance *Fact Sheet* given out at a press conference held by Mayor Susan Hammer for the annual State of the City speech on January 25, 1994. (Flyer found in the files of Kelly Kline.)

Background and Controversy

On January 25, 1994, Mayor Susan Hammer announced at a press conference that a new ordinance would be enacted in San Jose that would prevent kids under the age of 17 from loitering in the streets between the hours of 11:30 PM and 5:00 AM. Teenagers found on the streets by police officers would be taken to one of two holding centers — called Truancy Abatement and Burglary Suppression (TABS) centers — until a parent or relative could be notified and pick them up. Hammer stressed to the press that this measure was not called a “curfew” because it would not be punitive, unlike many cities’ curfews. She preferred to call it the Youth Protection Ordinance. It was not intended to simply regulate youth and sweep kids off the streets.⁶ Rather, the new ordinance would hook up troubled kids and their families with counseling, education and recreation services. Behind the curfew proposal was a new community ethos, marketing the idea of being responsible families.⁷

In July, 1994 the *San Jose Mercury News* ran a large cover story that basically showed the ineffectiveness of curfew laws. The article compared San Jose’s new law to that of Phoenix, Arizona’s, which was an example of a curfew law supposedly at its best. Like San Jose’s, Phoenix’s is also non-punitive. Although Phoenix Vice Mayor John Nelson had said the curfew had been “very” successful, the article implied otherwise, pointing to statistics. A study had been done comparing crime in Phoenix during 10 months with the curfew in effect to the same 10 months a year earlier, when the curfew had been in effect for just two months. While the number of young people suspected of homicide, sexual assault and robbery dropped during the 10 months of the curfew, the number of kids suspected of aggravated assault, victims of homicide, robbery and aggravated assault rose. The article proclaimed, “That kind of ambiguity isn’t stopping politicians from following the lead of Phoenix....By some estimates, as many as 1,000 cities have hopped on the bandwagon in recent years.”

⁶E. Mark Moreno, “Mayor, cops propose tightening S.J. curfew,” *San Jose Mercury News*, (January 26, 1994), p. 1B.

⁷Marilyn Lewis, “The curfew: Is it cure or curse?” *San Jose Mercury News*, (January 30, 1994), pp. 1B, 4B.

The *San Jose Mercury News* was not alone in its portrayal of curfew laws. The media believes that curfew laws are the result of politicians responding to the media's demonization of youth by seeking to rid the streets of youth all together. *Time* and *Newsweek* both ran cover stories in August 1993 that labeled a whole generation potentially violent thugs. Indeed, Nell Bernstein argued in San Jose's *Metro* that the media is rushing to label and condemn the next generation as violent teenagers.⁸ Brad Branan wrote in the *Utne Reader* that "Instead of assuming the responsibility of helping teens overcome despair and reject violence, adults have looked to the superficial solution — feel-good laws."⁹

In an interview with Captain Joe Brockman of the San Jose Police Department, he explained more in detail how the city government is really run, from the inside.¹⁰ He has been a police officer for nearly 30 years. Brockman explained that city policies are formed through a process called social engineering: engineering a response to fit social trends. With regard to violent crimes among youth, city officials could see that there was an increasing amount of freedom for youths in recent years. There were youths whose parents had no idea their children were causing harm or being in harm's way, and some that did not even care where their children were. Even if a curfew law could force them off the streets, they would have no place to go because their families did not care enough.

Mayor Susan Hammer took a strong leadership role from the outset in dealing with juvenile and gang crime. Hammer sat down with politicians and police officers and looked into a system-wide approach to the problem of juvenile crime. It was important to determine why the kids were out: how many because the parents really did have poor parenting skills, how many because of drug problems or domestic abuse, how many out to cause trouble, and how many who were just "being kids" out to have a good time. The mayor proceeded by meeting with representatives from school districts, lawyers, counselors from places such as Alum Rock Counseling Center, social services, and special organizations like the Youth Commission and the Mexican-American Community Services Agency (MACSA).

⁸Nell Bernstein, " 'Generation Why'?" *Metro*, (September 1-7, 1994), p. 32.

⁹Brad Branan, "Ten O'Clock Lock," *Utne Reader*, (May-June, 1995), p. 30.

Alum Rock Counseling Center brought up the most important follow-up issue of what to do with kids after they had been identified as troubled youths. Simply rounding them up as many other cities' curfew laws do and then letting them go again would solve nothing. Alum Rock stressed the fact that it was crucial that services be provided to these kids that would be ethnic-sensitive and be able to respond at any time. Printed materials and counselors had to be made available for them.

Police officers also held numerous community meetings in order to look at the problems from all perspectives. Young people felt that they did not need the law being nosy. Ethnic minorities felt that the curfew would simply give police officers more opportunities to harass youths of ethnic minorities. On this point, Brockman commented, "Here in San Jose we have good relations [with ethnic minority groups]."¹¹ He pointed out that many police officers are of ethnic minorities, Police Chief Lou Cobarruviaz is Latino, as is the city's gang policy task force manager Dick De La Rosa. Brockman cited a statistic that 70-75% of the gangs in San Jose are Hispanic. So MACSA, the local chapter of the NAACP, and the San Jose Youth Commission decided to monitor the curfew program in its first year of implementation to insure that both youth rights were not being violated and that youths of ethnic minorities were not being automatically identified and targeted as gang members.

With the various concerns raised kept in mind, the police department and the city government then proceeded to study 19 other cities' curfew programs to determine which aspects of other cities' curfew laws worked and which aspects should be avoided. In addition, it was important to the architects of San Jose's curfew law to build an ordinance centered around constitutional rights. In surveying the 19 other cities, it was found that some had punitive fees attached to their curfew laws, as well as possible suspension of a youth's driver's license. In Phoenix, Arizona, it is not even required to notify parents if their children are in curfew centers. Rather, youths can walk in and simply leave in the morning. Youths could use the curfew centers there as "hang-outs" and for recreation.

¹⁰Captain Joe Brockman, interviewed by Liza Ching, San Jose, California, April 8, 1997.

¹¹Interview with Joe Brockman.

In San Jose, Hammer and others wanted the curfew to serve as a place for an assessment of problems. There would be home visits on Wednesdays and more than simply one-time contacts with the youths and their families if necessary. All of these elements the curfew's architects in San Jose wished to incorporate were part of what Brockman called a problem solving tree, which looks at the problems at different levels and determines what the different levels of intervention are. For example, Hammer created the Gang Prevention Task Force and San Jose BEST in 1991. The focus of the gang task force is to address the entire continuum of high-risk behavior: prevention, intervention, and suppression. San Jose BEST is a grant process that provides funds to agencies who deliver services on this continuum. Through the efforts of the Mayor's Gang Prevention Task Force and the San Jose BEST Program, a full range of funded projects has been established which offers a multitude of services to youth and their families.¹²

Part of the idea behind the gang task force is community policing, where it is necessary to identify a solution, Brockman said. Journalist Wendy Kaminer described community policing as the following in *The Atlantic Monthly*:

Community policing calls for a partnership of the police and local residents, and expands the focus of the police from arrests to intervention and preventive "problem solving." In its most reductive form, this approach is viewed as a shift from deploying police officers in patrol cars that randomly cruise the streets and answer calls for assistance to deploying them on the street and encouraging them to establish ongoing relationships with residents. Community policing is often described simplistically as a return to cops on the beat who are integral parts of the neighborhood. In its sophisticated form, however, community policing entails...a "sea change" in the concept of policing, from reactive, "incident-oriented" law enforcement to a hybrid of enforcement and community-service work aimed at crime prevention. It envisions the demilitarization of police departments, a shifting of authority down through management to the ranks, so that cops on the street will have more discretion and can go beyond making arrests to analyzing underlying problems and responding to them with community cooperation.¹³

¹²"History of the Gang Task Force and San Jose BEST," informational sheet part of the 'Gang Packet' distributed by the Mayor's Budget Office at San Jose City Hall.

¹³Wendy Kaminer, "Crime and Community," *The Atlantic Monthly*, (May, 1994), pp. 111-112.

Using these criteria, San Jose would qualify to be on the more sophisticated end of community policing. It is imperative to have strong community support in order for something like a curfew to work. Part of community policing in practice here in San Jose is to hold public meetings by each police district. In addition, San Jose spends \$2 million each year on community services and programs (such as the Gang Task Force and the BEST programs). All of these programs integrated have already made progress in San Jose. In fact, San Jose is touted as one of the safest cities of its size.¹⁴

Brockman recognized that there would be three kinds of kids that would pass through the curfew centers. The first group would be kids that would only visit the center once. These kids were out late at a party across town or trying to sneak out of the house. Brockman admitted, "You can't beat human nature."¹⁵ Once they are caught the first time, though, punishment from the parents' end will be sufficient to keep these kids off the streets in the future. The second group would be the law violators involved in criminal activity. Such youths would not be taken down to the curfew center, but would be taken directly to juvenile hall. Finally, the third group would be the throwaways and runaways that come from homes where the parents may not even want the kids or do not even care for their safety. The Youth Protection Ordinance, therefore, has a contract with the Bill Wilson Center (a shelter and counseling service for runaway and homeless youth) which reserves two beds for kids who have no home to go back to. These youths could have a whole host of problems: drug and alcohol abuse, violence, or physical abuse.

The number one benefit, Brockman stressed, was that the curfew would provide a "safety net" for long term problems. By saying this, Brockman recognized that the curfew was not a substitute for solving social ills from the roots. That would have to come in the formative years in the child's home. But because such a problem does exist, something must be done to correct the damage already done. The curfew, in one aspect, could act as a take-off point in which the youth and family could then be offered a wide array of services. Brockman concluded, "The alternative to curfew laws would be to wait until the crimes actually occur. The

¹⁴Holly A. Heyser, "Curfew Fever," San Jose Mercury News, (July 27, 1994), p. 1A.

¹⁵Interview with Joe Brockman.

public thinks the curfew law is punitive. Some people never listen; they don't want to believe that a curfew can work."¹⁶

The San Jose Youth Commission worked with the Mayor's Office during the time period when the ordinance was drafted by the city attorney to ensure that all youth concerns were heard. Unfortunately, the Youth Commission had to request to even become involved with it. This presented a slightly different picture from what Captain Brockman had described. Brockman had given the impression that the police from the outset had wanted to hear all youth concerns. From documents of the Youth Commission, it appeared that the mayor's office had planned only to hold such public meetings after the Youth Commission insisted upon them. In a memorandum addressed to the mayor and city council from the Youth Commission dated February 14, 1994:

We wish to note that there has been a communication problem between the Mayor's Office and our Commission in the past. We strongly believe that the Mayor's Office should consult with the Youth Commission on any major youth initiative during its formative stages, and not after the issue is already voted on by Council, or even after direction to draft the ordinance has been given to the Attorney. We point this out now, for the Youth Protection Ordinance will have a profound impact on the lives of our peers, and we were nearly left out of the process.¹⁷

From the beginning, the Youth Commission expressed definite concern about the kind of impact the new curfew would have on relations between kids and the police. In the minutes of a Youth Commission meeting held on February 22, 1994, sarcasm was evident from one youth commissioner: "Commissioner Garcia stated that she had discussed the issue of a curfew with others, and most young people didn't see it as that much of a problem since most young people feel that they are currently harassed by police officers anyway."¹⁸

The Youth Commission did extensive research itself into other cities' curfew laws as well as researching public concerns. Youth Commissioner Paul Pereira found that a curfew had been tried in 1992 in

¹⁶Interview with Joe Brockman.

¹⁷City of San Jose memorandum from the Youth Commission to the Honorable Mayor and City Council regarding the Youth Protection Ordinance, dated February 14, 1994. (Memorandum found in the San Jose Youth Commission's files.)

the state of New Jersey, for the same reasons that the San Jose ordinance was being proposed. There were also various cases and incidents involving curfews throughout that state, including some court cases where the state chapter of the ACLU had sued against specific ordinances in towns and had won. It was found that even California had an existing state curfew.

The *San Jose Mercury News* ran a large article in its August 7, 1994 edition that summarized the concerns that youths had raised regarding this new curfew. Some questions raised were: Will they adequately protect youth with legitimate reasons to be out late? Will they help curtail crime while protecting the majority of law-abiding teens? The concerns were:¹⁹

- The curfew would be another chance for cops to hassle youth. And if pulled over for another unrelated violation, the cops could throw the curfew at youth as well.
- There would not only be age discrimination, but also discrimination based on appearance. If a youth did not look like a "typical" student, (i.e. was not dressed "right"), was black or Hispanic, the youth would be stopped.
- Although crime may go down, kids could very likely grow up being afraid of police officers. (As was the case with the TABS program.)
- The curfew is merely politicians' program to make it "look like" they are doing something about crime because obviously the immediate result is that crime would go down.
- The curfew would do no good because the people who commit crimes would not care whether there was a curfew and would break the curfew law anyway.
- Youth are allowed to be out after curfew hours if they are at a restaurant or a movie, for example. Therefore, teenagers who cannot afford to go to such places are discriminated against because they have no place to go after dark.
- There is no money to have follow up services for problem families.
- The curfew will simply cause troubled teens to rebel even more (and avoid police officers) and thus be harder to offer services to.
- The curfew presumes that any young person out late is involved in a negative or criminal activity.

¹⁸Youth Commission minutes of February 22, 1994 meeting. (Minutes found in the San Jose Youth Commission's files.)

¹⁹"Minor infringement," *San Jose Mercury News*, (August 7, 1994), p. 1H. (SAVE gateway Document Delivery; Available at: http://newslibrary.infi.net/global/cgi-bin/sj/slwebcli_get.pl?DBLIST=sj&DOCNUM=827482)

The ACLU also vehemently opposes any type of curfew law—including San Jose’s—and has fought numerous court cases in cities all across the nation, arguing that curfews are unconstitutional, ineffective, inherently discriminatory, and nothing more than a tactic politicians use to make it look like they are doing something about crime. Joe Cook, regional director of the ACLU in Dallas, called curfews in general “gross violations of fundamental rights for no reason....[violating] too many rights—freedom of association, familial privacy...It’s Big Brother at its worst.”²⁰ Alan L. Schlosser, Northern California ACLU managing attorney, said this: “Curfew laws, like some other tough sounding anti-crime strategies, mask the underlying causes of crime by diverting the public’s attention away from real crime prevention, like enriched educational programs or meaningful job opportunities. They also divert the police’s attention from more serious crime problems.”²¹ What curfews really mean, ACLU believes, is that law-abiding citizens will be stopped and questioned for no reason. Studies have also found that curfew restrictions are disproportionately enforced in minority communities.²²

ACLU has also repeatedly pointed out that there is no evidence that curfews work. In Houston, a curfew was introduced, and youth crime went down by 22%. But in New York, where no curfew exists, youth crime went down 30%. In Detroit and New Orleans, youth crime increased after curfews were introduced. And in San Francisco, youth crime went down after a curfew was repealed.²³ “Ultimately,” Schlosser writes, “these curfew laws do not make us any more safe. They only make us less free.”²⁴

²⁰Joe Cook, as cited by Heyser, “Curfew Fever,” p. 1A.

²¹Alan L. Schlosser, “Why Curfews Won’t Work,” ACLU News, (January – February, 1995), p. 2.

²²Laura W. Murphy, “ACLU says National Curfew Policy ‘Ain’t No Cure for the Summertime Blues,’ ” ACLU Press Releases, (May 30, 1996). (Available at: <http://www.aclu.org/news/n053096a.html>)

²³Ira Glasser, Executive Director of ACLU, in a letter addressed to “Guardian of Liberty,” dated November 27, 1996. (Letter from the Northern California office of the ACLU in San Francisco, California.)

²⁴Schlosser, “Why Curfews Won’t Work,” p. 2.

The First Year and Related Incidents

After a two week period in which the police department went on a public awareness campaign to educate youths and their families about the provisions of the new curfew law, the curfew went into effect on July 28, 1994. The first curfew center opened in Willow Glen on August 11, the first night youths were detained for being out past curfew hours.

The local chapter of the NAACP sent one of its vice presidents, Brenda Otey, to observe one of the curfew centers for many nights over the course of several months. Her objectives were to see whether the curfew was being enforced fairly and whether youth rights were being violated. In an interview with Brenda Otey, Otey described her thoughts with regard to the new curfew center.²⁵ As a parent, she could definitely see that there were positive attributes to the program. However, Otey emphasized, there was also a definite potential for harassment. She felt that the curfew was simply a law to sweep children out of sight and sound, instead of providing them places to go.

While the politicians are seeking a quick, easy solution, the police officers who enforce the curfew are often on power trips, she said. Much discretion is granted to the police officers who are oftentimes discriminatory in their practice of who to stop and who not to stop. Sometimes the police officers would pick up a youth who was out with an older sibling or relative. In a number of separate incidents, police officers would pull teenagers over in cars before it was past curfew and then detain them at the side of the road until it was past curfew and cite them for curfew violation. Sometimes police officers would stop kids on a technicality, such as a broken tail-light, and then, upon discovering they were minors, would take them to the curfew center. In other incidents, kids who were waiting "too long" at a bus stop were taken to the center. These were exactly the types of things the curfew was not supposed to do. It states very clearly in the provisions of the curfew that youths are not to be detained if they are with an adult designated by the youth's parent/guardian, in a moving vehicle, or on their way home.

In interviewing several students from Leland High School, it was discovered that they too suffered harassment from police even near the Almaden Valley.²⁶ The incident occurred on a Saturday night in October, 1996 when a group of about 15 juniors and seniors that were both Caucasian and Indian were in the Main Street plaza at the corner of Blossom Hill Road and Santa Teresa Boulevard. One member of their group was an 18-year-old Indian teenager who was a high school graduate. The group of teenagers were standing near a telephone booth in the parking lot. Apparently, one of the teens' van had engine trouble and all of the teens had to wait while he called his dad for assistance. At this time it was about 11:00 PM. They were all dressed in casual, comfortable clothing: jeans, sweatshirts, and jackets. The only exception was the 18-year-old who was wearing slightly baggy jeans and the atypical "gang"-type clothing, as purely a fashion statement. They had not been at the phone booth for very long when they spotted a black police officer in a patrol car slowly driving through the parking lot, stopping right in front of where they were waiting. Right away, the police officer put on a "tough" attitude. First, he asked all of them their ages. Then he asked them why they were out so late at night. The teenager whose car had broken down explained repeatedly and politely to the officer that they had been on their way home, his car had engine trouble, so he paged his dad to see what to do. The officer, on the other hand, felt no need to return the courtesy to the group of teenagers, "giving us a real attitude"²⁷ and purposely trying to intimidate them was the general consensus of the teens. Suddenly, in the midst of the inquiry, the officer turned on the 18-year-old who had been standing a little bit away and said "What you standing like that for, boy?!"²⁸ apparently referring to the 18-year-old's slouching stance. "Do you have a problem?"²⁹ the officer repeated. Looking at the 18-year-old with hatred, the officer said, "Why do you keep on dancing?!"³⁰ The 18-year-old had not intentionally provoked the officer, nor was he "dancing," as the officer called it. The other teens explained in the interview that the officer was probably picking on their 18-year-old friend because of his style of clothing and manners. Twice he threatened to take the whole group "downtown" (presumably

²⁵Brenda Otey, interviewed by Liza Ching, Campbell, California, April 10, 1997.

²⁶Gina Tibaldi, Anjna Mehta, and Neha Kapadia, interviewed by Liza Ching, San Jose, California, April 12, 1997.

²⁷Interview with Tibaldi, Mehta, and Kapadia.

²⁸Interview with Gina Tibaldi.

²⁹Interview with Neha Kapadia.

³⁰Interview with Neha Kapadia.

juvenile hall as there is no curfew center downtown). By that time it was several minutes after 11:30 PM. The officer grudgingly let them leave in their cars, watching them as they walked off. The group was walking across the parking lot to their cars when the same officer drove up to them and said, "You guys haven't left yet? If you don't leave now, you'll have to get into the back of mine!"³¹

In the summer of 1996 another Leland High School student was caught by police officers violating curfew and was taken down to a curfew center.³² She and a group of friends were in East San Jose near Eastridge Mall around 2:00 AM and had stepped out of their cars to chat when a patrol car pulled up and two police officers, male and female (one Asian and the other Caucasian), stepped out. The officers asked for identification from the group of Hispanic teenagers. For nearly two hours, the officers "rudely"³³ questioned the teens, asking why they were out on the streets at that hour of the night. The officers also searched their cars and threatened several times to impound the cars because the officers claimed they could not be left there when the teens were taken down to a curfew center. The teens finally arrived at the center around 4:00 AM.

Otey spent "many, many"³⁴ Friday and Saturday nights in one of the curfew centers, occasionally with Youth Commissioner Paul Pereira also. The NAACP was the only independent organization there on a constant organization monitoring the program. After the youths had been processed at the curfew center by police personnel, NAACP volunteers (mainly Otey) would speak to the youths individually. At that point the youth would be asked the following questions:³⁵

- 1.) Were you informed of your Miranda Rights?
- 2.) Do you know the importance of those rights?
- 3.) How old are you?
- 4.) What city do you live in?

³¹Interview with Neha Kapadia.

³²Melissa Avila, interviewed by Liza Ching, San Jose, California, April 26, 1997.

³³Interview with Melissa Avila.

³⁴Interview with Brenda Otey.

³⁵"Background," informational sheet regarding the NAACP monitoring of the curfew program. (Sheet found in the personal files of Brenda Otey, 2nd Vice-President of the San Jose Branch of the NAACP.)

- 5.) What is your ethnicity?
- 6.) What time were you stopped by the police?
- 7.) Is there anything you would like to share with us or any questions you have?

At no point were the youths asked questions that would violate the confidentiality of the youth. Otey also took note of how the youths were dressed. Otey repeatedly mentioned in the interview the importance of knowing Miranda Rights (i.e. the right to remain silent, the right to an attorney). Police officers interviewed later would say that it was not necessary to read youths their Miranda Rights upon notice of curfew violation because a curfew arrest was not like a regular arrest—it would not go on any criminal record anywhere.³⁶ Otey, however, strongly expressed her belief that knowing one's Miranda Rights is very important because lack of knowledge of them could lead to abuse of rights. What the public never knew and was never informed of by either the press or city officials, was the following:

On August 11, 1994, the first night the Willow Park Center was open to receive youth our monitoring program began. We expanded monitoring as the other detention centers opened. Our monitoring of the enforcement of the Youth Protection Curfew Program at the curfew centers ended (September 16, 1994), when we were informed by the San Jose Police Department that as a policy decision we would no longer be able to talk directly with the youth until parents arrived. This limited the amount of time available to talk with the youth, essentially making it close to impossible for us to ascertain the conditions under which youth were detained. For youth who were not picked up by their parents and were taken home by the police officers, any possibility of conversation or interaction with those youth was totally eliminated.³⁷

Otey explained the importance of speaking with the youths before their parents arrived. Most youths would not feel comfortable discussing the situation in its entirety of how they were brought down to the curfew center in the presence of their parents. Perhaps the youth would be in more trouble if the parents knew the true situation or

³⁶Sergeant Bob Mendiola, interviewed by Liza Ching, San Jose, California, April 9, 1997.

³⁷"Background," informational sheet regarding the NAACP monitoring of the curfew program. (Sheet found in the personal files of Brenda Otey.)

perhaps even there were domestic problems and frankly discussing the situation surrounding a curfew violation might make relations even worse.

Otey also observed on various occasions incidents where youths were clearly treated differently depending on their ethnicity and clothes. One time several youths were brought in, one Caucasian and others of ethnic minorities. The Caucasian, female police officer at the curfew center treated the youths of ethnic minorities harshly, while at the same time she allowed the Caucasian youth to play with her handcuffs. Another incident involved two Latino boys. The attending police officer had made the teens take sobriety tests, claiming they smelled like alcohol, then took them down to juvenile hall. Otey had been observing the entire incident close by and she recalled very clearly that neither boy smelled as if they had drunk alcohol at all.

Otey's observations about different treatment accorded to youths of different ethnic backgrounds were not isolated. In fact, the *San Jose Mercury News* plastered across the Local And State headlines on February 21, 1995: "S.J. curfew often targets Hispanics."³⁸ The article cited that Hispanics were being picked up three times as often as whites for curfew violation. 61% of the curfew violators were Hispanic, even though they only account for about 34% of teens in San Jose. Councilman Manny Diaz, who represents the predominantly Hispanic District 5 commented, "I find that figure very disturbing....I want to determine what kind of criteria (police) are using to single out the youths. The goal is to have all youths comply with the curfew. It shouldn't matter what color you are or how you dress."³⁹ The police department claimed that it was because most gang and criminal activity occurred in largely Hispanic neighborhoods, so police activity was concentrated there (namely downtown). The result was that Hispanics, whether or not they belonged to gangs, were targeted by police officers. Even after city council direction was given that the curfew law be enforced evenly citywide, it was found that young Hispanics were still being picked up for violating the ordinance two and a half more often than kids from any other ethnic group. In fact, 60% of the kids picked up for being out after curfew were Hispanic after citywide enforcement took place.⁴⁰

³⁸Jeordan Legon, "S.J. curfew often targets Hispanics," *San Jose Mercury News*, (February 21, 1995), pp. 1B-2B.

³⁹Councilman Manny Diaz, as cited by Legon, "S.J. curfew often targets Hispanics," pp. 1B-2B.

⁴⁰Michelle Guido, "Mostly Hispanics held for curfew," *San Jose Mercury News*, (November 18, 1995), pp. 1A, 12A.

Otey's fears and observations that youths would be mistreated were also reported on independently by the *San Jose Mercury News*. Youth Commissioner Paul Pereira told the *San Jose Mercury News* that beat officers could be pretty severe with those they picked up. Being taken in for violating curfew varies little from an arrest. Violators are read their rights (supposedly) and taken to detention centers in the back seats of police cars, and reports are filed.⁴¹ Sparky Harlan, executive director of the Bill Wilson Center, told the *San Jose Mercury News* that there are problems in the way young people are treated at the centers. Police are reluctant to believe a kid is having a hard time at home.⁴²

That is not to say that even the program's critics did not have positive things to say about the program. Otey presented an independent observers' report to city council after the curfew had been in enforcement for six months that pointed out both the curfew's attributes and weaknesses as well as listing some areas of concerns the NAACP had. In addition, the report made some recommendations for the program.

The NAACP report gave 4 program attributes:⁴³

- Identifies some children who are in need of counseling and services.
- Makes parents become involved and ultimately accountable for their children, who are minors and who are unsupervised or not where they should be.
- Provides "non-punitive" law enforcement designed to educate minors in the areas of San Jose Youth Curfew laws.
- Provides a safe haven from the harmful elements of "street nightlife" for the youth violators until their parents pick them up, or until they are dropped off at home.

With regard to the first program attribute listed, apparently some children were not identified as in need of counseling and services. Sparky Harlan said that "law enforcement isn't a good front for social service, and

⁴¹Legon, "S.J. curfew often targets Hispanics," pp. 1B-2B.

⁴²Michelle Guido, "Up all night," *San Jose Mercury News*, (July 23, 1995), pp. 1A, 20A.

as someone who works with these kids, it makes my job harder, because they're so angry that once they get out they never come back in."⁴⁴ Critics say that children are sometimes sent back to abusive homes because they are afraid to talk to police about their problems.⁴⁵ Robert Simbe, a counselor with Alum Rock Counseling Services, told the *San Jose Mercury News* that his biggest complaint is that many children are reluctant to accept help because they are bitter about being picked up.

For youths who are identified as in need of counseling, there is not necessarily a counseling service available for every youth. Youth Commissioner Pereira had feared this, as he said in an article of the August 7, 1994 *San Jose Mercury News*: "No community service can function unless some private or public partnership is involved. And the sad reality is the majority of people aren't pressuring politicians to give money to social services....Unfortunately I don't see any money going into those things."⁴⁶ His fears were very much a reality, as Eddie Subega, director of counseling at Alum Rock, admitted. Far more children could be helped if he had more counselors — at least one at every site, but there is no money for that. Simbe, on a good night, could see only about one-fourth of the children who passed through the Willow Glen curfew center.⁴⁷

The NAACP report next gave 7 concerns:⁴⁸

- The disproportionate number of Hispanic youth and black youth detained for curfew violation (Hispanic youth 61%, black youth 7%) in comparison to their respective representation in the population (Hispanic youth 34%, black youth 3%)
- That minority youth are being retained in high numbers because they resemble "gang profile."
- There were incidents of youth detainment when the youths were not in violation; areas of concern are:
 - Youth were removed from the custody of a "guardian" as defined by the ordinance

⁴³"San Jose Youth Protection Curfew Ordinance: Independent Observers Report, NAACP Recommendation," submitted by Brenda Otey, NAACP Monitoring Coordinator, S.J. Youth Protection Curfew Ordinance, 2nd Vice-President San Jose Branch NAACP. (Report found in the personal files of Brenda Otey.)

⁴⁴Sparky Harlan, as cited by Guido, "Up all night," p. 20A.

⁴⁵Guido, "Up all night," p. 20A.

⁴⁶Paul Pereira, as cited by "Minor infringement," p. 1H.

⁴⁷Guido, "Up all night," p. 20A.

⁴⁸"NAACP Recommendation."

- Youth were detained who were not loitering but represented that they were in transit from a particular destination or activities exempted in the ordinance (amusement and entertainment)
- Youth detained after being removed from a motor vehicle and were found to be under-age.
- Are the names of youth designated as having “gang affiliation” collected in this process added to the gang identification files.
- The lack of independent monitoring could lead to undisclosed and undetected abuse of youths’ rights and no appeals process exists.
- A prevailing attitude of keeping youth out of sight without adequate consideration and research into alternative programs to address the underlying issues rather than the symptom.
- Limited data comparison — Are statistics available for more than the last two years, if so, what picture do they show?

Finally, the NAACP report gave the following recommendations:⁴⁹

- The utilization of Street Counselors. (suggested by Youth Commission.)
- Independent Monitoring of the Enforcement of Ordinance.
- Provide “life counseling” to youth, particularly youth identified as not in school but otherwise not exhibiting “beyond control” behavior. Additionally, increase the numbers of youth receiving counseling from 16% of those detained.
- Viable Youth Alternative Activities, for example, a Midnight Basketball Program which includes: job training/career counseling; tutorial and crisis counseling components.
- Incorporation of an appeals process with an independent hearing officer and publicizing the process for removal of juveniles’ names from the database.

Almost all of these recommendations cited in the NAACP report came down to one thing: give more funding to help youth.

The *San Jose Mercury News*, in an article on August 26, 1994, quoted Walter Wilson, the first vice president of the San Jose branch of the NAACP, as saying this about the curfew: “I think it’s a very good program....Things are going well.”⁵⁰ This was before the police department decided to change policy that

⁴⁹“NAACP Recommendation.”

⁵⁰Walter Wilson, as cited by Brandon Bailey, “Praise for S.J. curfew,” *San Jose Mercury News*, (August 26, 1994), pp. 1B-2B.

effectively terminated the NAACP monitoring. When asked about what the independent monitors had to say about the program, Captain Brockman said, "Tony Alexander (president of the San Jose branch of the NAACP) came out and publicly praised the curfew program. In fact, he got beat up by national headquarters for saying that. They told him 'You're not supposed to ever say that we support curfews!'"⁵¹ When Brenda Otey was told of what Captain Brockman had said about Tony Alexander, Otey shook her head in disbelief. According to Otey, the NAACP had never been 100% enthusiastic about the program.

The San Jose Youth Commission had been monitoring the program in conjunction with the NAACP. Captain Brockman said that after the monitoring, the Youth Commission endorsed the program and gave it their full approval. However, as Otey's and Brockman's stories clashed as to the feelings the NAACP had toward the curfew program, it might also be well advised to be careful in accepting Brockman's estimation of the feelings of the Youth Commission.

NAACP and the Youth Commission were not the only organizations that monitored the program, however. In an interview with Angel Rios, director of MACSA, Rios described the findings and conclusions his organization had found.⁵² One of the main concerns that MACSA had was that there would be suppression. Teenagers with problems would simply be brushed off by authorities and the curfew law would do little more than transport teens bodily from the streets to the centers, and then either back home or out on the streets again the following night.

What the staff of MACSA found upon observation of the program were a number of positive attributes. The first was that the curfew did in fact identify youths with problems who had no choice but to be on the streets. Secondly, the police officers who worked the fields specifically for the curfew program were pretty well trained. It was also found that there really were youths out there on the streets just waiting to be helped who had no prior way of coming into contact with any of these city services, even though they were made readily available. What

⁵¹Interview with Joe Brockman.

⁵²Angel Rios, interviewed by Liza Ching, San Jose, California, April 15, 1997.

the curfew did was "initiate a plan of dialogue," according to Rios. He said, they "handled the program with white gloves....We were actually real pleased, even though initially we were reluctant."⁵³

MACSA did find some areas of improvement for the curfew program, however. It was felt that there was a need for greater participation of non-profit organizations, such as Alum Rock Counseling Center and Bill Wilson Center, as well as continuing having social service people on-site at the curfew centers. In addition, it was also equally important that there be continued sensitivity training of police personnel. Usually police training focuses on suppression and punitive intervention. Often overlooked are other strategies, such as prevention and early intervention. San Jose police, Rios felt, could stand more training for that purpose, but currently there is a lack of training and not enough emphasis was placed on community relations.

In response to the criticism that the curfew program often targeted ethnic minorities and was discriminatory in its practices, Rios conceded that though Hispanics were being detained at a disproportionately high percentage, the "East Side," has a population of 41% under the age of 18. It has its fair share, maybe even more than its fair share, of family problems. The result of these family problems is that youths often become involved in gangs and, subsequently, criminal activity. As to what exactly caused there to be so many Hispanics detained, Rios believed it was a combination of economic and race factors. The race factor, he said, accounts for only 1/3 of the whole issue. In fact, it is only one "part of the equation."⁵⁴ Rather, it is a community problem. Rios feels that people all too often focus on the negative statistics, not understanding that there is more to the problem than mere race relations. Rather, at the root of the problem of troubled youth is the disintegration of families. "I mean, let's face it. Either you raise your kids or the streets do," Rios said frankly.⁵⁵

MACSA monitored the program for about 5 months and during that period of time it was not felt that there was a great number of teens who were picked up and brought in who should not have been. Most of the teens who were brought in MACSA staff observed to be "throwaway" kids. Some were pretty mad about being brought in, but then their attitudes would change and were usually open about their problems once they realized that the social workers on-site really cared about them. There was basically a good rapport between curfew

⁵³Interview with Angel Rios.

⁵⁴Interview with Angel Rios.

personnel and the kids, Rios said. In addition, few kids felt that they were being picked on by their dress. After the 5 month monitoring, MACSA decided to wait until the one year report came out to raise possible objections. When the report did come out, MACSA found that it did not have any objections and fully endorsed the program. Rios, in conclusion, said that ongoing monitoring of the programming is necessary. In fact, he mused, now would be a good time to do spot monitoring, just to make sure it is still running smoothly.⁵⁶

The Police Department had been carefully gathering data throughout the entire first year of the curfew operation. At the end of the first year, the Police Department compiled the data and completed a careful study of effectiveness, program impact, cost/benefit, as well as a variety of other factors. The evaluation concluded that the curfew program had been successful in its aims and recommended continuance of it.

Some of the major findings related to the program's first year of operation were:⁵⁷

- Since January, 1995, only 21% of all instances in which a juvenile was contacted by a Youth Protection Team officer resulted in detention.
- Juveniles identifying themselves as Hispanic accounted for 60% of the detainees.
- Although curfew violators reside in all areas of the City, the most frequent location of the initial contact was in the downtown area (Police District K) between the hours of 11 p.m. and 1 a.m.
- Many of the juveniles detained displayed characteristics of at-risk youth such as being identified as runaways, using alcohol, self admission of past narcotic use, or self identification of having a gang affiliation. Over 35% of detainees admit to past narcotic use.
- Routine investigative procedures revealed that almost 40% of all juveniles detained and 60% of those detained three or more times had a prior arrest record. 14% were under court-ordered restrictions for a prior arrest at the time of their detention.
- Parents of children who have been detained as part of the curfew program indicated support for the continuation of the program by a margin of almost 25 to 1.

⁵⁵Interview with Angel Rios.

⁵⁶Interview with Angel Rios.

⁵⁷"San José Police Department Youth Protection Curfew Program August 11, 1994 - August 10, 1995: Program Evaluation First Year Report," (November, 1995), pp. ii-iii. (Report found in the 'Gang Packet' distributed by the Mayor's Budget Office at San Jose City Hall.)

- During non-curfew hours, special property and violent crimes involving juvenile offenders increased in comparison to the previous year. However, during the hours the curfew was in effect, these crimes either decreased or showed less of an increase.
- The San José Medical Center Trauma Service reported a 42% decrease in juvenile admissions for assault and penetrating injuries during curfew hours.
- The recidivism rate of repeat violators was only 12.6% after one full year.
- While the number of juveniles detained for curfew violations is expected to decrease over time, there is no clear indication to date in the data showing a reduction in the number of juveniles detained as a result of curfew violations. Although the average number of juveniles declined during the beginning of the program, increases occurred during the summer months.

In the Program Evaluation, the report sought to study program monitoring, program impact, and cost/benefit. The purpose of program monitoring was two-fold: to determine whether or not the program was reaching its target population and also to determine whether or not the program was operating as designed.⁵⁸

The target population was juveniles under 18. It was found that the three curfew centers combined processed a total of 3,358 juveniles between August 11, 1994 and August 31, 1995.⁵⁹ It was found that slightly more males than females had been detained for curfew violations. After February 23, 1995, information was collected that showed that the residences of the juvenile detainees were basically evenly distributed throughout the city. Thus, a comparison of the location of residence with the location of the initial stop shows that juveniles are being attracted to the downtown area and subsequently detained for curfew violations.⁶⁰ Curfew violator characteristics were also studied. It was found that about 6% of the violators had been runaways.⁶¹ The odor of alcohol was supposedly noted on 7% of the violators. Almost 13% identified themselves as having a gang affiliation.⁶² The first year report did not answer one of the concerns Otey had brought up after the six-month evaluation: were the names of those curfew violators identified as "gang" members added to the gang identification files?

⁵⁸Police Department First-Year Program Evaluation, p. 3.

⁵⁹Police Department First-Year Program Evaluation, p. 3.

⁶⁰Police Department First-Year Program Evaluation, p. 10.

⁶¹Police Department First-Year Program Evaluation, p. 11.

⁶²Police Department First-Year Program Evaluation, p. 12.

Next the evaluation reported on the study conducted on program operation. It was found that since January 1995, 79% of all juveniles contacted for a possible curfew violation were released at the scene.⁶³ That means that the entire police report focused only on the 21% that were processed through the curfew centers. If there were abuse of youths' rights in the 79%, there would be no possible way to track this. It was noted, additionally, that 3% of the curfew violators were placed in either the Santa Clara County Children Shelter or the Bill Wilson Counseling Center. The reasons for the special placements included parental abandonment, intoxication, and use of narcotics in the home.⁶⁴

Finally, the first-year report stressed that juveniles cited for repeat violations are directed to a Juvenile Probation intervention officer and referred to counseling for both parent and child. Sanctions are not punitive and repeat violations do not result in fines or jail time.⁶⁵ However, Santa Clara County Acting Chief Probation Officer Mike Mathayosin said in an interview that curfew violations are utilized perhaps for later referrals (i.e. crimes committed after the first curfew violation.) A juvenile's curfew violations fit into the big picture. He concluded ominously, "It's one of the straws that breaks the camel's back. If you add 'em up, they (repeat curfew violations) build up enough weight and eventually come crashing down on you. Some kids think it doesn't matter if you have numerous curfew violations or not, but there are consequences."⁶⁶

The second main point of the program evaluation was the assessment of program impact, the purpose of which was to determine whether or not the program had its intended effects. The main impacts expected as a result of the Curfew Ordinance were a reduction in offenses committed by juveniles, a reduction in juvenile victimizations, and a reduction in juvenile curfew violations.⁶⁷

In an interview with Dick De La Rosa, the City's Gang Policy Task Force Manager, it was pointed out that although there were significant drops in property crimes among juvenile offenders 16 and younger during curfew hours as well as in violent crimes among 17-year-old juvenile offenders during curfew hours, there were

⁶³Police Department First-Year Program Evaluation, p. 13.

⁶⁴Police Department First-Year Program Evaluation, p. 16.

⁶⁵Police Department First-Year Program Evaluation, p. 16.

⁶⁶Mike Mathayosin, interviewed by Liza Ching, San Jose, California, April 7, 1997.

also significant increases in both property and violent crimes for youths of all ages during non-curfew hours. In fact, there was a net increase of 14% in violent crimes among 17-year-olds. If net changes were also considered for those four areas of interest, there would only be a net decrease in one category: property crimes among youths 16 and under, and that net decrease was only 3%. When presented with this information, De La Rosa simply replied, "So what? That (increase during non-curfew hours) has nothing to do with the curfew."⁶⁸ He stressed that the curfew program is, as the Youth Commission considered it, a service for youths, getting kids out of harm's way. De La Rosa pointed out that there would always be crime, especially in the hours between when school gets out in the afternoon to night time. De La Rosa lamented that the real problem is that people look at the curfew in an isolated manner and do not understand the whole map.⁶⁹ He summed up his feelings regarding laws such as the curfew by saying, "We really are looking out for youth. And the curfew is a very good program to do that."⁷⁰

The first-year evaluation itself also emphasized both the tangible and intangible benefits of the curfew program. The report had this to say regarding tangible benefits:

San Jose continues to experience a reduction in incidents where juveniles are the offenders and a reduction in incidents where juveniles are victims. The reduction in juvenile offenses results in direct savings in terms of fewer police events, reports, investigations, arrests, and transfers for detention to juvenile probation. Direct savings are also realized by citizens as the potential victims of the person or property crimes that are perpetuated by juveniles.

The reduction in juvenile victimizations also results in direct savings for San Jose. Juveniles, their families, and the public are also spared the medical expenses and trauma associated with crimes involving violence. For example, the San José Medical Center reported a reduction of almost \$130,000 in total billings for assault, shooting, and stabbing cases during the hours of the curfew in comparison to the previous year. This amount includes a reduction of more than \$80,000 in billings charged to Medi-Cal.⁷¹

⁶⁷Police Department First-Year Program Evaluation, p. 16.

⁶⁸Dick De La Rosa, interviewed by Liza Ching, San Jose, California, April 7, 1997.

⁶⁹Interview with Dick De La Rosa, April 7, 1997.

⁷⁰Interview with Dick De La Rosa, May 15, 1997.

⁷¹Police Department First-Year Program Evaluation, pp. 27-28.

The report also discussed intangible benefits as well:

Numerous other benefits are being achieved as a result of the curfew program although it is difficult to place a monetary value on them. One of the primary benefits is the belief among participants that the program fosters family responsibility. Parents report using the Ordinance as a justification to set restrictions on their children. The program also provides parents with information regarding counseling services and parenting classes available through both public and private agencies.

The curfew program has also been an effective means of getting necessary support services to children in need or at risk. Children are making use of the counseling services available through the program, pregnant teenagers have been identified and referred for prenatal care, and children who have not been attending school have been enrolled.

In more serious cases, runaways have been directed to counseling services along with their parents and placements have been provided to children from abusive homes. Keeping children off the streets during curfew hours is believed to reduce drug and/or gang exposure and will hopefully lead to a culture where loitering late at night will no longer be considered the status quo.

Police service delivery also benefits from the curfew program. The reduction in incidents involving juveniles improves the availability of patrol units to respond to other calls. The special knowledge that is being acquired by curfew staff regarding juvenile problems, intervention procedures, and community resources are being shared with patrol to broaden the benefits.⁷²

The police department's evaluation was presented to city council, was publicized to the *San Jose Mercury News*, which praised the program, and the curfew was slated to continue with periodic review. Controversy subsided, even the ACLU did not complain, and the public never read about the curfew again in the *San Jose Mercury News*.

⁷²Police Department First-Year Program Evaluation, p. 28.

How The Curfew Stands Now

Although the public may not hear anything from the press these days about the city curfew ordinance, the curfew is still in use. Three curfew centers are used Thursday, Friday, and Saturday nights throughout the year. Violators are cited throughout the year, but there is usually more activity during the summer months.

On a recent daytime visit to the curfew center in Willow Glen, a lone off-duty police officer was the only one staffing the center. He explained it is used as a TABS center during the daytime. A long wooden table on the right-hand side inside the door was covered with numerous pamphlets, brochures, and flyers for TABS, San Jose Branch NAACP, The African-American Community Services Agency, Alum Rock Counseling Center, Latino Youth Forum, San Jose Job Corps Center, and others. The entire operation of the curfew center was in a small classroom located at the end of a hallway in the rear of the Willows Senior Center on Lincoln Avenue. The officer explained the nightly operations of the program. It is a pretty easy job, he said, whether out in the field picking up kids or down at a center processing them as they come in. Officers receive one and a half times over-time pay. The officers who choose to do it are pretty mellow. After organizations like the ACLU hollered about discriminatory enforcement, officers were assigned one patrol car each to each police district throughout the city. However, all the officers know that most activity occurs downtown and officers who are assigned to patrol the outer limits of the city are allowed to come into downtown after circling their beat for awhile. Each cop on average picks up five to eight kids a night and sometimes the center can get pretty crowded. The kids brought in are asked for basic personal information by curfew personnel in order to create a file for each kid and also to call a parent to pick them up. Oftentimes, kids will lie to the police officer as they do not wish their parents to be notified. During this conversation, Sergeant Bob Mendiola, who is the current Program Manager (officers have one-year assignments with YPT), parked his truck outside and strode in. Mendiola gave his account of a typical night: About 30 kids are usually brought in, most of them not "good kids," but many who are gang members. Sometimes there will be kids from several different gangs in the center all at once.

The curfew center actually in operation during the night time is quite different. With a student⁷³ observing the curfew enforcement one Saturday night riding along in the patrol car, Officer Craig Storlie was on his best behavior, eager to show how well the curfew is run. He drove around the downtown area, looking for potential curfew violators in order to show how officers handle the situations. Storlie explained that there are four full time officers that are given a one-year assignment with the curfew program. Currently it is Storlie, Mendiola, and Officers Roberto Flamenco and Keith Crothers. In addition, there are anywhere from eight to twelve patrol cars on any given night. On this particular night, Storlie stopped almost a dozen teens, all Hispanic. Most turned out to be 18 or over, but Storlie explained when he stopped them that it was part of his job to stop anyone who looked like a juvenile and see if there was violation of curfew. Storlie mainly drove in the area called Police District K1. This covered the part of downtown from Highway 87 to 4th Street and from Julian Street to Santa Clara Street. An on-site Alum Rock counselor is also available. Jennifer Edwards, the Alum Rock counselor who was working on this particular night, explained that her job is to determine what kinds of problems a youth may be having. Are they depressed? Suicidal? Pregnant? Abused? Molested? Runaways? Besides an Alum Rock counselor, there are also female interns sometimes in the center whom youths can talk to. By the end of this night, Storlie has not found any teens to take down to the curfew center, though he has given one Filipino/Hispanic-looking male a ride home. After dropping the young man at his apartment where his angry aunt greeted them at the door, Storlie explained that it was probably wiser to have dropped him off at home than at the curfew center because the aunt had been drunk and for her to drive down to the curfew center to pick him up was just an accident waiting to happen. This type of discretion Storlie exercised was used exactly as intended by the curfew. Every situation an officer encounters is unique and a good deal of discretion is needed to decide what to do in each case. It was, overall, a relatively peaceful night and operations ran smoothly.⁷⁴

⁷³Jennifer Liu, interviewed by Liza Ching, San Jose, California, May 11, 1997.

⁷⁴Interview with Jennifer Liu.

Conclusion

The San Jose Youth Protection Ordinance has now been in operation for over two and a half years. Overall, supporters and critics alike found strong, positive attributes to the program. The ACLU, known for challenging countless cities' curfew laws, has not filed a lawsuit against San Jose's. There is no widespread protest about its enforcement. In fact, the majority of parents praise it and support its continuation.

However, there are still some troubling matters that have not been addressed. There are still a troubling number of cases where there has been abuse of police power and of youth rights. In addition, it is still too early to tell what kinds of long term impacts and effects the curfew will have. Although it is true the curfew has proved itself to be effective in reducing crime as well as connecting troubled youth with social services, no one knows how many youths and their families are in fact reunited and how many youths have been offered such counseling that their problems have been either solved or greatly reduced. Although the recidivism rate was not even 13% after the first year, was this because youths are staying at home or because they are getting better at avoiding police? Also, there were no statistics available as to how many youths who came through the center were indeed in need of counseling, how many were gang members, and how many were just "being kids." If the majority of violators are simply just "being kids," then the curfew would in fact be punishing all for the misdeeds of a few. A troubling statistic that was presented in the first-year report was that there was a net increase of violent crimes among 17-year-olds. This brings to mind the question of whether the curfew is working at all to protect youth. However, it must also be kept in mind that crime could have gone up or down with or without a curfew.

The San Jose curfew program, for all its shortcomings, has proven itself to protect youth during curfew hours. Across the nation, violence is a serious and major problem. We must create hope that the world of tomorrow can be better. In the words of the great writer Walt Whitman, "Nor for the past alone—for meanings to the future."⁷⁵

⁷⁵Walt Whitman, as cited by Carl Degler, Out of Our Past: Third Edition (New York, 1984), p. v.

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C. Interviews

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33. Interview with Captain Joe Brockman, San Jose Police Department, San Jose, California, April 8, 1997.
34. Interview with Dick De La Rosa, San Jose Gang Prevention Task Force Manager, San Jose, California, May 15, 1997.
35. Interview with Neha Kapadia, student at Leland High School, San Jose, California, April 12, 1997.

36. Interview with Jennifer Liu, student at Leland High School, San Jose, California, May 11, 1997.
37. Interview with Mike Mathayosin, Santa Clara County Acting Chief Probation Officer, San Jose, California, April 7, 1997.
38. Interview with Anjna Mehta, student at Leland High School, San Jose, California, April 12, 1997.
39. Interview with Sergeant Bob Mendiola, San Jose Police Department, San Jose, California, April 11, 1997.
40. Interview with Brenda Otey, 2nd Vice-President of the San Jose branch of the NAACP, Campbell, California, April 12, 1997.
41. Interview with Angel Rios, director of the Mexican-American Community Service Agency, San Jose, California, April 15, 1997.
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