

HOGAN, J. TFH

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

D

SIMBI WATERS, a minor
by AMERAH SHABAZZ, her mother
201 I STREET, S.W.
WASHINGTON, D.C. 20024
(202) 484-5606

JEFFREY SMITHSON, a minor,
by KAREN M. CHRISTENSEN, his mother
1718 Crestwood Drive, N.W.
Washington, D.C. 20011
(202) 722-0208

DAVID DRANITZKE, a minor,
by ALAN DRANITZKE, his father
124 12th Street, S.E.
Washington, D.C. 20003
(202) 547-2737

FRANKLIN L. FOER, a minor,
by ALBERT A. FOER, his father,
c/o 1400 20th Street, N.W. #119
Washington, D.C. 20036
(202) 457-0801

JONATHAN S. FOER, a minor,
by ALBERT A. FOER, his father,
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ALBERT A. FOER
c/o 1400 20th Street, N.W. #119
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MAXWELL F. MIREL, a minor,
by LAWRENCE H. MIREL and
ELIZABETH P. MIREL, his parents,
8120 West Beach Drive, N.W.
Washington, D.C. 20012
(202) 291-8807

Civil Action No. 89-0707

MAR 17 1989

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

LAWRENCE H. MIREL and
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ALL ON BEHALF OF THEMSELVES AND
OF OTHERS SIMILARLY SITUATED,

Plaintiffs,

v.

MARION BARRY, JR.
Mayor, The District of Columbia
District Building
Washington, D.C. 20004
(202) 727-6319

THE DISTRICT OF COLUMBIA
c/o The Corporation Counsel
District Building
Washington, D.C. 20004
(202) 727-6248

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
(Violation of First, Fourth and Fifth Amendment Rights)
(Class Action)

Introduction

The District of Columbia "Short Term Curfew Emergency Act of 1989" (the "Curfew Law") became effective on March 16, 1989, and the Mayor has announced that it will be enforced beginning on March 20, 1989. It generally requires persons under eighteen years of age to be off the streets by 11:00 p.m. on weeknights and midnight on weekends. This action seeks a declaration that the Curfew Law is unconstitutional, and an injunction prohibiting its enforcement.

Jurisdiction and Venue

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question). Plaintiffs bring this action under 42 U.S.C. § 1983 and also seek relief authorized by the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq.

2. Venue is properly laid in this Court pursuant to 28 U.S.C. § 1391(b).

Parties

3. Plaintiff Simbi Waters is seventeen years old and is a resident of the District of Columbia. She is a senior at the Duke Ellington School of the Arts, and plans to attend the California Institute of the Arts beginning in the fall of 1989. During the 1988 fall semester, plaintiff Waters played the role of Annie Sullivan in the Ellington School's production of *The Miracle Worker*. Because she travels by public transportation, she did not return home from rehearsals until approximately 11:30 p.m., and did not return home from performances until after midnight. She has auditioned for a

role in the spring semester play, which would involve similarly late travel home through the District by bus, in violation of the Curfew Law. As a student at the Ellington School, plaintiff Waters is also required to attend and write class papers about various theatrical performances. For example, she recently attended a performance of the Martha Graham Dance Company. Travelling by public transportation, she is often unable to arrive home from such performances before the hour specified by the Curfew Law. The Curfew Law contains no exception that would permit her to continue to engage in these activities. Plaintiff Simbi Waters brings this action through her mother, Amerah Shabazz, who is an adult resident of the District of Columbia.

4. Plaintiff Jeffrey Smithson is seventeen years old and is a resident of the District of Columbia. He is a senior at the Field School, where he is President of the Student Council. His activities in that and other capacities occasionally require him to be out after the hours set by the Curfew Law. For example, last year he was part of a "Youth in Philanthropy" program that raised money by serving a dinner and then donated those funds to an organization providing benefits to young men and women with drug and alcohol problems. Clean-up after the dinner lasted well beyond midnight and plaintiff Smithson was on the public streets and sidewalks, returning home, long after the hour set by the Curfew Law. Student Council activities and student theatrical productions (in which plaintiff Smithson has participated) also often last until after the curfew

hour. On weekend nights plaintiff Smithson often stays out past midnight with classmates and friends studying for a test or simply socializing. He and his parents have together established a 1 a.m. curfew that generally applies to his weekend activities. He wishes to continue these activities and does not believe that the government has the right to dictate to him and his family the time by which he must return home. Plaintiff Smithson brings this action through his mother, Karen Christensen, who is an adult resident of the District of Columbia.

5. Plaintiff David Dranitzke is seventeen years old and is a resident of the District of Columbia. He is a senior at the Maret School, where he is President of the Student Council. He often engages in activities that keep him out after the hours permitted by the Curfew Law. For example, Maret School Senior Class dinners are held about twice a month, usually at a classmate's house, and generally with parents present; these dinners sometimes last past the curfew hour. From time to time he visits his grandparents, who live in Chevy Chase, and returns after the curfew hour. The Senior Prom, later this spring, will last well past midnight. He also attends events at the Capital Center and other public places that keep him out past the time specified in the Curfew Law. He wishes to continue these and similar activities, with the consent of his parents, and without the interference of the government. He brings this action through his father, Alan Dranitzke, who is an adult resident of the District of Columbia.

6. Plaintiff Franklin L. Foer is fourteen years old and is a resident of the District of Columbia. He is a ninth grade student at the Georgetown Day School. Although he is generally home well before 11:00 p.m. on weeknights and midnight on weekends, there are times when -- with his parents' permission -- he is out on the public streets or sidewalks, or on public property or in a public place, after those hours. For example, during the summer and fall of 1988, he worked as a volunteer intern performing photocopying and other clerical services for the Dukakis for President campaign. There were several times when he was still working after 11:00 p.m. or midnight, and, in order to get home, had to be on the public streets and sidewalks after those hours. Plaintiff has worked as a volunteer in other political campaigns, including David Clarke's last campaign for D.C. Council Chairman, and he plans to be active in other political campaigns between now and his eighteenth birthday. He does not want to have to curtail his efforts on behalf of the candidates he supports in order to be home by 11 p.m. or midnight. Plaintiff is also a member of the debate team at his school, which regularly travels to other schools in and out of the District to engage in interscholastic debates. There are times when he doesn't arrive home until after 11 p.m. or midnight from those trips. At other times he stays at the home of another debate team member until after the curfew hour, working on arguments and preparing for upcoming debates. He expects to continue to be active on the debate team, and does not want to have to limit his activities in order to avoid violating the

curfew law. Additionally, Plaintiff's family belongs to the Adas Israel synagogue, and he is active in their United Synagogue Youth ("USY") group. USY organizes religious, cultural, athletic and social activities for teenagers in the Washington area, and these sometimes continue until after 11 p.m. or midnight. He is also frequently invited to attend the Bar Mitzva celebrations of his thirteen-year-old friends; which often do not end until after midnight. He also sometimes plays tennis or goes jogging with his father before 6 o'clock in the morning. All of the conduct described above would violate the Curfew Law. Plaintiff Franklin Foer brings this action through his father, Albert A. Foer, who is an adult resident of the District of Columbia.

7. Plaintiff Jonathan Foer is twelve years old and a resident of the District of Columbia. He is a sixth grade student at the Georgetown Day School. Although he is usually home and in bed before 11:00 p.m. on weeknights and midnight on weekends, there are times when he is out on the public streets or sidewalks, or on public property or in a public place, after those hours. For example, he sometimes plays tennis or goes jogging with his father on the public streets before 6 a.m., and sometimes goes out to pick up the morning newspaper prior to that hour. He also occasionally attends parties with his parents, or with their permission, that last until after 11 p.m. on weeknights or midnight on weekends. He does not wish to have to curtail these activities because of the Curfew Law.

8. Plaintiff Albert A. Foer is an adult resident of the District of Columbia and is the father of plaintiffs Franklin and Jonathan Foer. From time to time he and his wife allow their children to stay out late at night, or to go out early in the morning, when in their view there is an appropriate reason. He believes it invades his family's privacy and usurps his role as a parent for the government to forbid him and his family from making these decisions for themselves, when their conduct is causing no harm to any person. He believes it violates his rights, as guaranteed by the Constitution, for the government to make criminals of himself, his wife, and his children simply because they exercise parental discretion in customary and reasonable ways.

9. Plaintiff Maxwell F. Mirel is seventeen years old and is a resident of the District of Columbia. He is a senior at the Georgetown Day School. Some of the activities in which he regularly engages will, if continued on or after March 20, 1989, be unlawful under the Curfew Law. For example, plaintiff participates in a night telemetry program sponsored by the U.S. National Park Service. This is a project to study the habits and habitats of raccoons in the Washington area. The animals are fitted with small radio transmitters, and plaintiff and other volunteers periodically monitor their movements and activities during consecutive 12-hour periods from 7:00 p.m. to 7:00 a.m. They follow the raccoons wherever they lead, which is frequently into residential areas of the District of Columbia, so that plaintiff is out on the public streets and sidewalks

between the hours of 11 p.m. and 6 a.m. Plaintiff wishes to continue to take part in this program. Additionally, plaintiff's family owns a dog, which it is generally his responsibility to walk. Frequently, he walks the dog after 11 p.m. on weeknights. Plaintiff also attends live concerts, visits with friends, and engages in other lawful activities that keep him out after the hours specified by the Curfew Law. Plaintiff Maxwell Mirel brings this action through his parents, Lawrence H. Mirel and Elizabeth P. Mirel, who are adult residents of the District of Columbia.

10. Plaintiffs Lawrence H. Mirel and Elizabeth P. Mirel are adult residents of the District of Columbia and are the parents of plaintiff Maxwell Mirel. They believe that, just as part of educating children about responsible behavior involves setting limits, part of such education also involves showing them that rules are not rigid, and that reasonable exceptions should be made when there is good justification. Accordingly, they allow their children to stay out late from time to time, when in their view there is an appropriate reason. They wish to remain free to do so, which they will not be if the Curfew Law is permitted to go into effect.

11. Plaintiff Melissa Miele is 21 years old, and is a student at Hood College in Frederick, Maryland. She works as a volunteer at a non-profit agency in the District of Columbia two days a week, and she sometimes stays in town on weeknights, or comes to the District on weekend evenings, to take advantage of the city's cultural and artistic opportunities. There are times when she does not carry any

identification papers, and in that event she might well be detained overnight at a police station just because she looks young. Even if she is carrying identification, she doesn't want to have to show it to every police officer who requests it, even if the officer has no reason to suspect that plaintiff is **breaking any law, at the risk of spending the night in custody if I refuse.** She believes that she should have the right to tell a police officer to mind his own business if she is not doing anything wrong. If she is detained, she will have to spend the entire night at the police station, since her parents live in California and will not be able to come and pick her up.

12. Plaintiff Rev. Raymond B. Kemp is a priest in the Roman Catholic Church, and is the pastor of the Holy Comforter—St. Cyprian Roman Catholic Church on East Capitol Street. The Curfew Law will directly interfere with the ministry of his Church and with the ability of its parishioners to practice their faith. For example, on Saturday, March 25, the night preceding Easter Sunday, plaintiff Kemp's church will be holding an Easter Vigil service beginning at 9 p.m. and lasting until 1:00 or 1:30 a.m. on Sunday morning. Three teenagers under 18 years old will be baptized, confirmed and will celebrate their first communion at that service. Many of their friends will also attend. Many parishioners will be walking home on the public streets of the District of Columbia after the service is over. Those who are under 18 years of age will be breaking the law at that time. Their parents will also be violating the law, by "suffer[ing], permit[ting], or . . . allow[ing]" their children to be on the street.

Other parishioners may be deterred from attending this service, or from bringing their children, because they do not wish to break the law. Plaintiff Kemp's church also sponsors other activities that would be rendered unlawful by the Curfew Law. For example, the church is holding a teen dance on March 18, for young parishioners, former students at the church school, and their friends. Persons from 14 to 18 years of age will be attending, under adult supervision, and the dance is scheduled to last until midnight. Teenagers will be assisting in the clean-up after the dance, which will last until at least 1 a.m. Most of those attending the dance live in the same neighborhood as the church and will be walking home after the dance. Plaintiff Kemp believes that this dance, and other activities that the church holds for young people, represents the kind of wholesome, supervised activity that youngsters should be encouraged to attend as an alternative to hanging around on the streets at night. In that respect he believes that the Curfew Law not only will not serve its purported goals but will have precisely the opposite effect. Father Kemp brings this action on his own behalf, on behalf of those members of his congregation who will be violating the Curfew Law if they continue to engage in the exercise of their religious faith, and on behalf of members of his congregation whose exercise of religious and associational activities will be impaired because of the impact of the Curfew Law on their co-religionists

13. Defendant Marion Barry, Jr., is the Mayor of the District of Columbia and is responsible for executing the laws thereof. He has

publicly announced that the Curfew Law will be strictly enforced beginning at 11:00 p.m. on Monday, March 20, 1989. Defendant Barry is sued in his official capacity only.

13. Defendant District of Columbia is a municipal corporation created by Congress pursuant to Article I, Section 8 of the Constitution of the United States. It is the official policy of the District of Columbia to enforce the Curfew Law against minors present in the District during the hours specified in that law, and against their parents or guardians.

Class Action Allegations

14. Plaintiffs bring this action as a class action on their own behalf and on behalf of all others similarly situated, under the provisions of Rules 23(a) and 23(b)(1) and (2) of the Federal Rules of Civil Procedure.

15. The class represented by plaintiffs consists of (a) all minors in the District of Columbia, (b) all parents of minor children in the District of Columbia, (c) all young adults in the District of Columbia who might appear to a police officer to be minors, and (d) all persons whose exercise of religious or associational activities will be impaired because of the application of the Curfew Law to their co-religionists or associational companions. The exact number of class members is not known, but is believed to number several hundred thousand. The class is so numerous that the joinder of individual members is impracticable.

16. There are common questions of law and/or fact in this action that relate to and affect the rights of each member of the class. The basic issue presented in this action -- the constitutionality of the Curfew Law -- is common to all class members.

17. The claims of the named plaintiffs are typical of those of the class. Like other members of the class, plaintiffs Waters, Smithson, Dranitzke, Franklin and Jonathan Foer and Maxwell Mirel engage in a variety of otherwise lawful activities that will cause them to violate the provisions of the Curfew Law; plaintiffs Albert Foer and Lawrence and Elizabeth Mirel are the parents of minors who engage in otherwise lawful activities that will cause them to violate the provisions of the Curfew Law; plaintiff Miele is a young adult who may be mistaken for a minor and required to prove her age upon pain of overnight detention; and plaintiff Kemp's religious and associational rights will be impaired by the application of the Curfew Law to others.

18. The named plaintiffs are able to and will fairly and adequately represent and protect the interests of the class. Plaintiffs attorneys are experienced in litigating constitutional claims such as those made herein, and are cognizant of their responsibilities to the entire class.

19. This action is appropriately maintained as a class action because the prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for

defendants' agent, the Metropolitan Police Department, and because adjudications with respect to individual class members would as a practical matter be dispositive of the claims of other class members not parties to the adjudications or would substantially impair or impede their ability to protect their interests.

20. This action is also appropriately maintained as a class action because the defendants have announced their intention to act on grounds generally applicable to the class, thereby making appropriate preliminary and permanent injunctive relief and corresponding declaratory relief with respect to the class as a whole.

Facts

21. The District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Pub. L. 93-198, 87 Stat. 774), commonly known as the "Home Rule Charter," sets out the law-making powers of the Mayor and Council of the District of Columbia. In ordinary circumstances, in order to create a law, a bill must (i) be introduced in the Council, (ii) be referred to a committee, (iii) be reported by the committee, (iv) pass at First Reading in the Council, (v) pass at Second Reading in the Council, not less than two weeks later, (vi) be signed or not acted upon by the Mayor; or passed by a two-thirds majority of the Council over his veto, (vii) not be disapproved by Congress and the President during a period of thirty legislative days (sixty legislative days for criminal laws). However, the Charter provides that the Council may by a two-thirds vote (and without the participation of the Mayor) declare the existence of an

emergency and may then (by a simple majority) enact emergency legislation in a single reading. Such legislation becomes effective immediately upon signature or acquiescence by the Mayor or override of his veto, and is not subject to congressional review. Emergency legislation expires after 90 days unless it has been succeeded by "temporary" legislation (which is good for 180 days) or by regular legislation.

22. On February 28, 1989, without prior public notice or hearing, the District of Columbia Council adopted Resolution 8-22, the "Short Term Curfew Emergency Declaration Resolution of 1989." That resolution "determine[d]" that there were "emergency circumstances making it necessary that the Short Term Curfew Emergency Act of 1989 be adopted after a single reading." A true copy of this resolution is attached hereto as Exhibit A.

23. Thereafter, on the same day, and also without prior public notice or hearing, the Council enacted Bill No. 8-172, the "Short Term Curfew Emergency Act of 1989" (hereinafter the "Curfew Law"). The stated purpose of that law is "To impose a curfew on minors in the District of Columbia, on an emergency basis."

24. As of midnight on March 15, 1989, defendant Marion Barry, Jr., as Mayor of the District of Columbia, had neither signed nor vetoed the Curfew Law, which thereupon become effective as provided by § 4 thereof and pursuant to D.C. Code § 1-227(e). A true copy of the Curfew Law is attached hereto as Exhibit B.

25. By letter addressed to Hon. David A. Clarke, Chairman of the D.C. Council, dated March 15, 1989, defendant Barry stated that the District of Columbia "Corporation Counsel has concluded that it [the Curfew Law] raises serious constitutional questions under the First and Fifth Amendments to the Constitution."

26. At a public press conference on March 15, 1989, defendant Barry announced that in order to provide time for training of law enforcement personnel, the Curfew Law would not be enforced before Monday, March 20, but that it would be strictly enforced throughout the District of Columbia beginning on the evening of March 20.

27. Under the Curfew Law, persons under 18 years of age may not lawfully "remain on the streets, sidewalks, or on or in any public property or public place" within the District of Columbia after 11:00 p.m. on weekday nights, or after midnight on weekend nights. Such activity is unlawful even if the minor has his or her parents' permission to "remain" in such places. Indeed, it is unlawful for a minor to be on the streets or sidewalks or on public property or in a public place after the specified hours even if the minor is accompanied by his or her parent or guardian.

28. The only exception provided by the Curfew Law is that a minor "on specific business or engaged in activity directly connected with or required by legitimate employment, or a legitimate trade, profession, or occupation" may remain out after the curfew, but only if he or she "has obtained an affidavit signed by a parent [or]

guardian . . . and [by] the minor's employer" (emphasis added). The law does not specify what the affidavit must say.

29. The Curfew Law makes it the "duty of the Metropolitan Police force" to "request" identification from any person who an officer reasonably believes to be violating the curfew. The law specifies that the "requested" identification "shall includes [sic] the person's name, age, date of birth, home address, phone number, and, if the person's home address is outside the District [of Columbia], the address at which the person is staying while within the District." The law does not specify the form (e.g., photographic, written, or oral) in which all or any portion of such identification must be provided.

30. The Curfew Law does not indicate what is to occur if a person who is "request[ed]" to identify himself or herself is able to provide some but not all of the information specified in the statute, or is not able to provide all such information in any particular form. Nor does the Curfew Law indicate what is to occur if a person who is "request[ed]" to identify himself or herself declines to do so. The law does, however, provide that the curfew law "shall be enforced by the Metropolitan Police force" (emphasis added).

31. A person discovered in apparent violation of the curfew is to be "detained . . . at the nearest available Police District headquarters" and released at 6:00 a.m., unless the person's parent or guardian appears sooner to take him or her from police custody.

32. Under the Curfew Law, it is also an offense on the part of a parent or guardian to "suffer, permit or, or, by inefficient [*] class control, allow" a minor to violate the curfew. Such offenses are punishable by fines of up to \$500.

33. By reason of the Curfew Law, plaintiffs Waters, Smithson, Dranitzke, Franklin Foer, Jonathan Foer, and Maxwell Mirel, and the class members whom they represent, will be unable to continue their otherwise lawful activities, as described above, even if they have the explicit permission of their parents to do so.

34. By reason of the Curfew Law, plaintiffs Albert Foer and Lawrence and Elizabeth Mirel, and the class members whom they represent, will be unable to exercise their parental judgment as to the appropriate activities of their minor children, as described above.

35. By reason of the Curfew Law, plaintiff Miele, and the class members whom she represents, will be forced to carry with them during curfew hours sufficient identification to satisfy a police officer that they are not minors, and will be forced to display that identification to any police officer upon "request," or face a night in custody.

36. By reason of the Curfew Law, plaintiff Kemp and the parishioners and class members whom he represents will be unable reasonably to exercise their religious and associational rights.

* Sic. Presumably "insufficient" was intended.

37. Unless enforcement of the Curfew Law is enjoined by this Court, some of all of the plaintiffs, and many members of the class they represent, will suffer irreparable injury. Plaintiffs have no adequate remedy at law.

38. Neither defendants nor any third parties will suffer any injury if injunctive relief is issued.

39. The public interest favors the issuance of relief to protect the constitutional rights at stake in this case.

Claims for Relief

40. By making it unlawful for minors to engage in otherwise lawful activities between the hours of 11:00 p.m. or midnight and 6:00 a.m., the Curfew Law violates the Freedom of Speech Clause and the freedom of association component of the First Amendment to the Constitution of the United States.

41. By making it unlawful for minors to attend religious Services on Easter morning and to participate in other religious activities during curfew hours, the Curfew Law violates the Free Exercise Clause of the First Amendment to the Constitution of the United States.

42. By forcing young adults to carry adequate identification and display it to police officers on request, the Curfew Law violates the First and Fourth Amendments to the Constitution of the United States.

43. By making it unlawful for minors -- with the consent of their parents -- to engage in a wide range of ordinary, lawful

conduct that in no way harms any other person, the Curfew Law violates the Due Process Clause of the Fifth Amendment to the Constitution of the United States.

44. By making it unlawful for a parent or guardian to exercise parental discretion and control of their children in ordinary and reasonable ways, the Curfew Law violates the Due Process Clause of the Fifth Amendment to the Constitution of the United States.

45. By failing to specify with reasonable clarity and precision what conduct it prohibits, the Curfew Law is unconstitutionally vague, in violation of the Due Process Clause of the Fifth Amendment to the Constitution of the United States.

46. By discriminating irrationally between persons under 18 years of age and persons over that age, the Curfew Law violates the equal protection component of the Fifth Amendment to the Constitution of the United States.

WHEREFORE, plaintiffs request that this Court:

A. Enter judgment declaring that the District of Columbia "Short Term Curfew Emergency Act of 1989" violates the First, Fourth and Fifth Amendments to the Constitution of the United States and may not lawfully be enforced;

B. Issue preliminary and permanent injunctions prohibiting the defendants, their employees and agents, and all persons acting under their direction, from enforcing the District of Columbia "Short Term Curfew Emergency Act of 1989";

C. Award to plaintiffs their costs and reasonable attorneys' fees in this action; and

D. Grant plaintiffs such other and further relief as the Court may deem just and proper.

Respectfully submitted,



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March 17, 1989

A RESOLUTION

8-22

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 28, 1989

To declare the existence of an emergency due to the escalating criminal homicide rate and other violent crimes related to narcotic trafficking in the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Short Term Curfew Emergency Declaration Resolution of 1989".

Sec. 2. (a) Narcotic trafficking, loitering in public places and violent crimes associated with narcotic trafficking adversely affect the quality of residential and commercial life in the District of Columbia ("District")

(b) The health, safety, and welfare of many of the residents of the District are jeopardized by narcotic trafficking, loitering for the purpose of narcotic trafficking, and violent crimes associated with narcotic trafficking in the District.

(c) Arrests of juveniles for narcotic charges increased from 439 in 1983 to 1,894 in 1987.

(d) Arrests of adults for possession of narcotics charges increased from 2,607 in 1978 to 4,687 in 1987.

(e) Numerous minors have been shot, stabbed, and murdered in the District.

(f) The number of criminal homicides in the District of Columbia increased from 225 in 1987 to 372 in 1988, an estimated 70% of which were associated with narcotic trafficking. Criminal homicide is defined as first or second degree murder, or voluntary and involuntary manslaughter.

(g) Between 1985 and June 1988, 57% of criminal homicides occurred between the hours of 9:00 p.m. and 6:00 a.m. During the first 6 months of 1988, 9% of all criminal homicide victims in the District were minors compared to 6% in 1985, an increase of 50%. Sixty-one percent of all criminal homicide victims were between the ages of 18 and

32. During the first 6 months of 1988, 44% of all criminal homicide victims were killed either outside of their residence (30%) or on public space (14%).

(h) The temporary imposition of a curfew on persons in a community limited in time and made necessary by widespread violent, criminal activity that continues unabated, is a legitimate and proper exercise of the police power.

(i) The temporary imposition of a curfew on persons in a community has been upheld in the courts when there exists a real and immediate threat to the public safety that cannot be adequately met through less drastic alternatives provided that, the curfew is of limited duration and directed toward a specific crisis.

Sec 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Short Term Curfew Emergency Act of 1989 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To impose a curfew on minors in the District of Columbia, on an emergency basis.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Short Term Curfew Emergency Act of 1989".

Sec. 2. Curfew; authority and enforcement

New,
sec. 6-150

(a) The Council of the District of Columbia imposes a curfew on minors in the District of Columbia between the hours of 11:00 p.m. and 6:00 a.m. on each week day and between midnight and 6:00 a.m. on the weekend.

(b) It shall be unlawful for the parent, guardian, or other adult person who has custody or control of a minor to suffer, permit, or, by inefficient control, allow the minor to remain on the streets, sidewalks, or on or in any public property or public place within the District between the hours of 11:00 p.m. and 6 a.m. on a weekday and between midnight and 6:00 a.m. on the weekend.

(c) This section shall not apply to a minor on specific business or engaged in activity directly connected with or required by legitimate employment, or a legitimate trade, profession, or occupation, if the minor has obtained an affidavit signed by a parent, guardian, or other adult person who has custody or control of the minor and the minor's employer.

(d) It shall be the duty of the Metropolitan Police force to request identification from any person who loiters, idly remains, congregates, tarries, or stays on any public street, park, square, or any public place within the District during the curfew hours described in paragraphs (a) and (b) of this section if the actions, appearance, demeanor or other fact within the knowledge of the police officer give rise to a reasonable belief that the person is a minor under the age of 18 years. The requested identification shall include the person's name, age, date of birth, home

address, phone number, and, if the person's home address is outside the District, the address at which the person is staying while within the District.

(e) Curfews shall be enforced by the Metropolitan Police force.

(f) A minor who violates this act shall be detained by the Metropolitan Police force at the nearest available Police District headquarters and released into the custody of the violator's parent, guardian, or other adult person who has custody or control of the minor.

(g) A parent, guardian, or other adult person who has custody or control of the minor shall be called to the Police District headquarters to take custody of the minor.

(1) If no one claims responsibility for the minor, the violator shall be detained overnight and released at 6:00 a.m. that morning.

(2) No first offense under this act shall be prosecuted.

(3) A parent, guardian, or other adult person who has custody or control of a minor who violates this act shall be subject to a fine of more than \$100 for the second offense, \$200 for the third offense, and \$500 for any subsequent offense.

Sec. 3. Review Process.

(a) At the end of the curfew period, the Mayor shall report to the Council of the District of Columbia on the curfew's effectiveness and shall recommend 1 of the following:

(1) Discontinuing the curfew for minors; or

(2) Continuing the curfew for minors.

(b) Criteria by which effectiveness shall be measured include, but are not limited to, monthly statistics on:

(1) The number of curfew-violation citations issued by Ward and police precinct;

(2) The number of criminal homicides and other narcotic trafficking related crimes of violence;

(3) The number of minors injured as a result of crime during the curfew hours and the cause and location of each injury;

(4) The number and age of criminal homicide victims; and

(5) The number of victims of narcotic trafficking related crimes.

Sec. 4. This act shall take effect upon its enactment (approval by the Mayor, or in the event of veto by the Mayor, override of the veto by the Council) and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

section 412(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 788; D.C. Code, sec. 1-229(a)).

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