



Curfews as a crime prevention measure

An exploration of their implementation and social impacts

SACOSS Information Paper

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Context

Over the years, politicians and political parties have attempted to address concerns surrounding law and order issues, particularly in regards to juvenile justice with rafts of 'get tough' measures designed to quell synthesized 'fear' within our communities (Hil & Dawes 2000). The increasing focus on criminal justice and an escalation of anachronistic penalties has been the result of the dual processes of media sensationalism and political parties seeking to be seen as championing crime reduction. These negative environments and perceptions are further exacerbated by often racialised and baseless pronouncements of increasing crime or 'crime waves' within particular youth groups (White 2004).

The Rann government has made consistent public statements signaling their intention to reform the criminal justice system in South Australia as a priority. The government has sought to make radical changes throughout the legal system including creating tougher penalties, increased sentences, cracking down on repeat offenders and an ostensible increased focus upon restorative justice principles (South Australian Labor Platform 2005). However within this continually evolving legal environment, hurried, archaic and populist 'crime prevention' measures often rear their heads to mass acclaim and media sensation. Youth curfews are a perennial favourite that surface, disappear and re-surface again at regular intervals and are often spoken of as a panacea of the media inflated youth crime statistics.

The Proposed Implementation of Curfews to Curb Youth Crime

The implementation of curfews is not a contemporary phenomenon. Historians have noted that curfews were often employed in the 19th Century to 'clear' the streets of stigmatized groups such as young working class men and women. In fact the social category that we know as 'juvenile delinquent' was born of this era to describe undesirable working class youth (Sercombe 1997). Over more recent years, numerous papers have been written on the problematic and contestable relationship between young people and public space. Within public spaces, young people are often subject to

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increased regulation, exclusion and surveillance which only serve to perpetuate misunderstanding, mistrust and tension (Hil 1998).

The state government is again considering curfews for young people who behave in an 'anti-social' manner. This is occurring concurrently as the mayors of Playford and Port Augusta are seriously considering instituting midnight curfews for people aged under 16 years. The Attorney General Michael Atkinson has suggested that the State Government is examining 'targeted' curfews that are currently being utilised within the United Kingdom and the United States that he proposes will reduce anti-social behaviour and youth crime statistics (Henderson 2006).

Within the United Kingdom the police have been given powers (through Part four of the Anti-Social Behaviour Act 2003) to disperse 'intimidating' groups. In addition, the police have the power to delineate an region (with the local authority's approval) as an area in which police can disperse individuals or groups that intimidate, harass, alarm or distress other residents and can exclude those person's for a period up to 24 hours. Within these designated areas there can also be a curfew imposed in which police have the power to take a child home if they are on the street unaccompanied by an adult between 9pm and 6am. Police are currently prevented through a court judgment of forcibly removing children from the streets but are currently appealing this decision in order to apply force to return children home (Home Office 2006). An additional element that has developed as part of the UK Crime and Disorder Act 1998, are Anti-Social Behaviour Orders (ASBO). These orders can be applied against an individual that will at a minimum have the effect of denying free speech and at their most ludicrous can even prevent the youth from being with more than one person at a time in a public place. Breaching one of these orders can result in up to five years in prison (Youth Justice Board 2006).

There have been several implementations of youth curfews within Australia over recent years. In 1993 the Gallop Government in Western Australia instituted a curfew within the Northbridge area which banned youth under 18 years (who were unsupervised by an adult) from the inner city entertainment area. Youth who were deemed to be 'at risk' were subject to removal from the public space to be deposited into police detention at

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the offices of the Juvenile Aid group until an adult arrived to collect them. Theoretically, the local traders were satisfied that the curfew had delivered the return of a district that was more attractive for particular groups to frequent. However, it was later identified through research conducted by Mission Australia (2002, cited in Koch 2003) that approximately 70% of crime that was recorded in the area was perpetrated by offenders over the age of 18 years. Crime statistics also confirmed that there had been no dramatic escalation of crime in the area which conversely had actually decreased in the 12 months prior to the inception of the curfew (Koch 2003).

When the statistics of this operation were analysed it was discovered that out of the 324 youths that were removed and detained within the Northbridge area, 285 were Indigenous youth while 39 were non-indigenous. Therefore it is not surprising that the suggestion has been put forward that in the Government's fervor to be seen as championing the law and order debate they have (either inadvertently or decisively) targeted Aboriginal youth who are one of the most vulnerable and oppressed groups in the country (Koch 2003).

Similarly within South Australia 'Operation Shuteye', was developed and implemented to remove youths who were found on the streets after midnight and return them home via a police minibus. The operation focused upon 'trouble spots' around the city and by 2003 had resulted in 74 youths being returned home and 22 other either being arrested or issued with informal cautions. This operation has been seen as a success by SAPOL and the Adelaide City Council however, The Adelaide Inner City Youth Service (AICYS) and the Kumangka Youth Services Aboriginal Corporation have witnessed the negative impact that these operations have on youth and have instead labeled curfews as a major and destructive form of harassment. AICYS have noticed that subsequent to the implementation of the curfew there had been a marked decrease in the number of Indigenous youth who came into the city to socialise. Some of the major concerns regarding the inception of curfews that unfairly target various groups (indigenous youth in particular) criminalise behaviour that is not in fact illegal, impinge upon basic human rights and needlessly introduce vulnerable youth into contact with the law and the criminal justice system. More recently we have seen Operation Mandrake rolled out

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across South Australia in which the police have focused their attention upon a group of approximately 54 persons of interest. Within these persons of interest a small number are juveniles. The media has been almost rabid in their impetus to portray these juveniles negatively and to perpetuate a societal perception of groups of youths 'out of control' and becoming a danger to the safety and wellbeing of the public. From this contrived and spurious notion has come the fresh round of conversations regarding targeted youth curfews (SAPOL 2006).

Do Curfews Reduce the Incidences of Crime?

There is no reliable or consistent research that supports the argument that the inception of curfews reduces the incidences of crime. Males & Macaillair (1999, cited in Justice 2005) analysed arrest, reported crime and mortality data from several Californian jurisdictions who had instituted youth curfews and other harsh youth related laws over the period from 1980 to 1997. They discovered that there had been no beneficial effect on lowering crime rates nor had they increased the perception of safety or actual safety within those jurisdictions. This included those areas that had instituted a zero tolerance policy on youth crime (Justice 2005).

Another more interesting explanation has been suggested as to why governments' seek to impose curfews on young people which have little or nothing to do with crime prevention. The use of curfews not only placates the general populations' phobia of young people but it is also an important tool in the dual process of enabling government to control the behaviour of young people that falls short of criminality and to impose the mainstream morality upon all groups within the community. This is particularly been the case within the United States where curfews operate as a way of controlling the waking hours of youth to force them into structured pursuits such as study, work, extra-curricular sports activities and religious events (Walsh 2002).

Statistics of Crime

Curfews are interesting propositions to curb our 'apparent' crime wave when we actually the statistics of crime in Australia. Nationwide, recorded crime statistics have

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demonstrated a reduction (with some fluctuations over the ten year period) across all forms of recorded crime since 1996¹ (Australian Institute of Criminology 2006). Within South Australia, the figures collected by Government paint a similar picture of an actual reduction in juvenile crime rather than the 'crime waves' that are sensationalized by the political parties and by the media. During 2005 there were 6,127 police apprehension reports involving young people² which was actually 5.5% lower than in 2004 and 39% lower than the peak of 10,118 reports that were collected in 1995. The 2005 statistics were in fact the lowest demonstrated over a twelve year period. Government may prefer to cite that reductions in crime are resultant from their crime prevention measures however South Australian statistics are merely reflecting a national fluctuating trend.

Implications for Personal Freedoms and Human Rights

There are several imperatives that should not be ignored during a debate regarding the instituting of curfews. Curfews are an affront to both personal freedoms and basic human rights. Aggressive street policing and the implementation of zero tolerance policies are being duly criticized for their restrictions of human and personal rights as well as being linked quite convincingly to racist assessments of who these measures are actually targeting. Curfews create resentment within youth and indigenous youth in particular (who are overwhelmingly represented in the figures relating to curfew infringements) against authority figures and leads to feelings of social isolation and a loss of community connectedness (White 2004).

Curfews arbitrarily discriminate against a section of society based entirely upon their age. This discrimination not only goes against the notion of child and youth rights but also clearly contravenes the basic provisions contained within the United Nations Convention of the Rights of The Child (White 1996). Article 37 of the United Nations Convention on the Rights of the Child, which dictates that no child should be deprived of their liberty arbitrarily and that detention should only be used as a last resort, be in accordance with the law, be for the shortest amount of time practicable and that the child

¹ Forms of crime recorded within statistics include; property crime, violent crime, motor vehicle theft, etc (Australian Institute of Criminology 2006).

² The term 'young people' is not elaborated upon within this report so the definition is ambiguous.

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has the right to prompt legal advice and has the right to challenge the legality of any detention in front of a court or other impartial authority. Curfews' that deny the liberty of youths simply for being youths does not conform nor comply with the directives of this convention (United Nations 1990).

More positive and developmental ways of engaging with young people are possible and have the potential to create environments of mutual understanding and partnerships. Alternatives to curfews can include the employment of youth and community workers to assist children and youth who are living on the street (many of whom are victims of violence and abuse) to create partnerships that benefit both the youth and the community. Negotiations can also be promoted between youth, the owners of private spaces, councils and developers that seek common ground in deciding on agreements that satisfy the needs of all concerned. These alternatives do not create an us against them environment nor do they needlessly introduce youth to the criminal justice system. They promote social inclusion, connectedness and instill feeling of value and empowerment (White 1996).

Conclusion

Curfews are a perennial favourite that are trundled out at regular intervals to enable governments to find quick, reactionary and demonstrative measures to quell societal fear regarding youth related crime as well as being seen as championing law and justice issues. However the inherently exclusionary and racist overtones that curfews employ are not only contravening the rights that children and youth have in this country that are

provided for by the United Nations Convention of the Rights of the Child but they are also destructively impacting upon the most vulnerable and marginalised groups that we have in our society. There are more positive and constructive ways for the Government and the police to interrelate with young people within our public spaces that do not serve to alienate, exclude and criminalise behaviour that in most instances is actually not illegal. We have to examine historical uses of curfews and reflect upon whether these

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anachronistic traditions are appropriate within our society, particularly in regards to already vulnerable and disadvantaged groups.

We are making an important and potentially destructive decision when we actively choose, as a society to discriminate against another section of society based upon characteristics that are beyond the control of the individual. When we seek to make these decisions regarding the wellbeing of our youth we should at least make it an informed and rational one based upon cognizance of societal issues, good ideas and empirical rigor rather than on political point scoring and media sensationalism.

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