

Anchorage Police Department Regulations and Procedures Manual	Operational Procedures 3.02.095	
Policy and Procedure Title Protective Custody-Juvenile Curfew	Effective Date January 26, 2021	Page 1 of 6
Replaces Prior Policy: December 8, 2009	Approved by: Chief Justin Doll	

This policy is the internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.

3.02.095 Protective Custody- Juvenile Curfew

PURPOSE

To advise all personnel of the policies and procedures regarding curfew violations.

POLICY

That members of the Department limit their enforcement of the curfew ordinance to situations requiring protection of the minor(s) from harm or the commission of delinquent acts.

DEFINITIONS

Curfew Hours:

September through May:

11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 a.m. of the following day; and

1:00 a.m. on any Saturday and Sunday until 5:00 a.m. of the same day.

9:00 a.m. until 2:00 p.m. on any day that the Anchorage School District is in session and schools are operating.

June through August:

1:00 a.m. on any day until 5:00 a.m. of the same day.

Emergency: An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment: Any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian: A person who, under court order, is the guardian of the minor; or A public or private agency with whom a minor has been placed by a court.

Knowingly: With respect to conduct or to a circumstance described by a provision of law defining an offense, that a person is aware that his or her conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist.

Minor: Any person under the age of 17 years of age.

Operator: Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent: A natural parent, adoptive parent, or stepparent of another person; or At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public Place: Any place to which the public or a substantial group of the public has access, and includes but is not limited to streets, highways, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain: Linger or stay; or Fail to leave the premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Serious Bodily Injury: Bodily Injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

REFERENCE

This procedure addresses enforcement of Anchorage Municipal Code 14.70.060.B, which states:

A minor commits an offense if he/she, without the consent of his/her parental (parent) or guardian, remains in any public place or on the premise of any establishment within the municipality during curfew hours.

The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premise of the establishment during curfew hours without the consent of the minor's parent or guardian.

EXCEPTIONS

The ordinance provides the following specific exceptions to enforcement. Officers contacting minors during curfew hours must ascertain the reason that the minor is out and if the reason fits within one of the exception categories.

A. It is an exception to prosecution under subsections B.1. and B.2. if the minor was:

Accompanied by his or her parent or guardian;

Involved in an emergency;

Engaged in an employment activity, or going to or returning from an employment activity, without detour or stop;

On the public right-of-way immediately abutting the minor's residence or immediately abutting the residence of a next-door neighbor, if the neighbor did not complain to the police department about the minor's presence;

Attending, or going to or from any lawful activity with the consent of the minor's parent or guardian;

Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

Married or had disabilities of minority removed in accordance with AS 9.55.590.

B. It is an exception to prosecution under subsection B.2. that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

PROCEDURE

I. INTRODUCTION

A. **Background.** Curfew laws have historically suffered periodic abuse by governments, so have received much attention by appellate courts. Properly framed and enforced, however, such ordinances can operate to:

1. Protect the minor from a variety of physical and emotional hazards.
2. Reduce crime.
3. Alert authorities to minors who are grossly unsupervised.

II. Enforcement method

A. **Detection.** Detection of curfew violations and approach of the subject(s) is indistinguishable from the detection of suspicious circumstances and approaching suspicious subjects found in the procedure "Custody--Field Interviews 3.02.040". If an officer has reasonable suspicion that a particular person is underage, and the time and location meet the legal requirements for curfew violation, that officer is well within his/her authority and duty to approach and question that subject.

B. **Resolution.** The following are guidelines for the officer in resolving possible curfew violations. Experience has shown that an officer is most

likely to encounter one of several situations, each of which is discussed below.

1. Age in question.

a). An essential element of curfew is that the subject is under 17 years of age. Often, a minor will appear young, but claim to be 17 or older. Juveniles do not routinely carry identification, so it is up to the officer to investigate. In these situations, consider the following:

i. The minor's identity is the most important fact to establish, as age can be determined later. There are no "victims" to curfew, so the urgency of the investigation is diminished.

ii. Parental contact will usually resolve questions of age and identity.

2. Curfew violation established, but no parent available.

a). Ultimate parental notification is mandatory in a curfew violation, but immediate contact cannot always be made. In such an event, the officer's investigation can conclude in one of 3 possible ways, namely:

i. The minor has no parents immediately available, but still has access to housing and reasonable care. If so, the minor can be released on his/her own, with parental notification made through follow-up investigation with a parent. If appropriate, the officer may issue the juvenile a civil citation at the time of release, advising the parent of the citation at a later time.

ii. The minor has no parents immediately available, but other responsible adults are available to care for the juvenile. If so, the minor can be released to such an adult with parental notification established through the same third-party. If appropriate, the officer may issue the juvenile a civil citation at the time of release, advising the third party of the citation.

iii. The minor has no parents immediately available, and no place to stay or responsible adult to assume custody. The juvenile can be transported to the Covenant House Assessment Center who will assume custody of the juvenile and will contact the parent or guardian of the juvenile. The officer may issue the juvenile a civil citation at the time of transfer. Covenant House will advise the parent of the citation is one was issued.

Note: It is important to remember that our policy is to detain juveniles only in cases where there is a need to protect them from harm or the commission of delinquent acts. Detaining a juvenile should be viewed as a last resort and must fall within these criteria.

C. Parental Notification. Parents are notified for several reasons, including:

1. To inform them that their child has had police contact, and the nature and extent of that contact.
2. To establish if there was parental permission for the juvenile to be out, which is an exception to curfew ordinance.
3. To answer any questions the parent(s) might have, including resources available in the community for family help, or clarification of the curfew laws.

D. Establishments. An owner, operator, or employee of an establishment may be charged under section B.2. of the curfew ordinance for allowing a minor to remain on the establishment's premises during curfew hours. In determining whether to charge under this section, the officer should consider the totality of the circumstances, including but not limited to:

1. Any aggravating circumstances which may have raised the seriousness of the violation or placed the minor in an unsafe situation; and
2. The establishment's employee's knowledge that a curfew law was in effect at the time; and
3. The steps that the establishment had taken to determine its clientele were 17 years of age or older; and
4. The efforts that the establishment's employees made to get the minor to leave, and their compliance with section B.2.'s requirement to call police if a curfew violator was on their premises and refusing to leave.

E. Charging Documents. Since the rights of defendants and the requirements for processing differ from those in criminal cases, the standard Uniform Summons and Complaint cannot be used to charge violators. The proper charging document is the Civil Citation.

1. Though the Civil Citation form appears substantially similar to the Uniform Summons and Complaint, there are some minor differences in both structure and processing. See the Custody – Civil Violations/Infractions Policy 3.02.050, for further on this document.
 - a). Violations of curfew restrictions are civil infractions carrying a fine ranging from \$75 to a maximum of \$300 and do not require an appearance unless a hearing is requested by the defendant. For uniform enforcement purposes, officers will assess a standard fine of \$75 for curfew violations, unless either of the following aggravating circumstances exists:
 - i. The juvenile has been cited for curfew violation at least once prior, **and** the previous violation(s) can be documented by the officer; **or**
 - ii. The juvenile has committed a crime while in violation of the curfew.

In the cases cited above, officers should assess the maximum fine of \$300. Although the law provides for officer discretion, finer other than \$75 or \$300 should not be assessed. It is incumbent upon officers to thoroughly articulate the reason(s) *why* a juvenile was fined the maximum amount on the reverse side of the officer's copy of the citation, or on a Police Report. Officers are encouraged to aggressively enforce the curfew law as a deterrent, especially in conjunction with arrests for "Minor Consuming Alcohol."

2. Issuance of a civil citation for a curfew violation does not require a police report unless the circumstances are such that the situation cannot be fully explained on the ticket form, or if the citation is part of a larger investigation involving the possibility of criminal charges, such as child abuse or neglect. In those cases, the case number must be entered in the marked spaces along the right margin.

3. Violations of civil infractions do not require court appearances by either adults or minors. However, if a hearing is requested by the defendant, such hearing will be held before the Municipal Administrative Hearings Officer.

END OF DOCUMENT