

## Albuquerque Model City Council Curriculum

<http://www.abqjournal.com/621867/will-curfew-make-our-kids-streets-safer.html>

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### *Danger in the Dark*

*by Dan McKay*

The lights draw teens from across the city.

Atop Pat Hurley Park on the West Side, they can see Downtown buildings glowing green and purple, traffic lumbering across the interstate and countless yellow street lamps.

That landscape is what attracted 15-year-old Summer Larsen one night.

“We went to look at the view,” she said, recalling a visit with friends. “It was really pretty.”

But you won’t find her there after the park closes at 10 p.m.

“I wouldn’t feel safe,” she said.

Plenty of adults wish every teenager felt that way.

The shooting death of a 14-year-old boy in the early morning hours at Pat Hurley Park has reignited a familiar debate in New Mexico – over the merits of curfew laws that prohibit youngsters from being out late at night.

An Albuquerque city councilor, Ken Sanchez, plans to begin a push this week for a change in state law that would allow municipalities to set curfews for teenagers. He supports something like the ordinance Albuquerque enforced for about a year in the mid-1990s, before it was struck down in court.

That law prohibited anyone under 17 from being out after 11 p.m. on weeknights or midnight on weekends.

It’s an idea that’s resurfacing across New Mexico.

“Nothing good comes of very young people being out at wee hours,” Roswell Mayor Dennis Kintigh said in an interview.

He said he would pursue adoption of a curfew in Roswell if the Legislature clears the way for one.

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Gov. Susana Martinez said she believes communities should have the opportunity to decide whether they want curfews, and Albuquerque Mayor Richard Berry says a curfew might be part of the solution to keeping teens safe, but not the whole answer.

Opponents, however, say curfews are for parents, not the government, to impose.

“Criminalizing kids because we don’t know how to reach parents is not an answer for me,” said Donald Duran, a former teacher and principal who serves as president of Albuquerque’s school board.

### **Teen shootings**

A fatal shooting just last week – at 2 a.m. Monday of 14-year-old Isaiah Albright in Pat Hurley Park – is one of a handful of fatal encounters involving youngsters this year.

- In March, 17-year-old Jaquise Lewis was shot and killed during a fight at Los Altos Skate Park in Northeast Albuquerque. It happened about 10 p.m. on a Sunday.
- In June, Jaydon Chavez-Silver, 17, was gunned down about 10 on a Friday night. He was in the kitchen at a friend’s house, and the bullets went through a bay window.
- In July, six teenagers, two as young as 14, were arrested in connection with the killing of Steven Gerecke, a 60-year-old man shot in his driveway in late June. The shooting happened about 3 a.m. on a Friday.

Most of Albuquerque’s nearly 300 parks close at midnight under a city ordinance. It’s up to police to keep people out.

Pat Hurley Park, which has had a history of problems, closes at 10 p.m. The city stations surveillance cameras there sometimes, though they weren’t in the lower part of the park, where the shooting occurred, last week.

Albuquerque police began stationing mobile cameras at the park last summer to discourage vandalism, but the camera unit is also deployed elsewhere in the southwest part of town, depending on where police think they’re needed.

On a recent weeknight, the upper level of Pat Hurley Park was largely empty at closing time, though the parking lot still had plenty of cars.

### **Old debate**

#### **Albuquerque’s 1994 curfew ordinance**

- No one under age 17 could be on the streets after 11 p.m. on weeknights or after midnight on weekends. The curfew expired at 6 a.m.
- Curfew violators were picked up and held at the Wells Park Community Center until a parent or guardian could pick them up.
- Parents and teens could be cited for repeat offenses, and breaking the law was punishable

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by a fine of up to \$500 and imprisonment of up to 90 days.

The curfew debate isn't new to New Mexico, and there are plenty of political and legal hurdles.

In Albuquerque, former Mayor Martin Chávez successfully pushed for a curfew law in 1994.

Enforcement started in the summer of 1996 and stopped about a year later after a successful legal challenge by the American Civil Liberties Union. A state district judge ruled that the ordinance violated the due process rights of children and conflicted with state law.

In 1999, the state Supreme Court also decided against the curfew law, ruling that it conflicted with the state Children's Code.

Since then, state lawmakers, both Democrats and Republicans, have repeatedly tried and failed to secure passage of a bill to fix the conflict.

The state Children's Code says youngsters can be arrested only for certain offenses, and a curfew violation isn't on the list.

But even if curfew supporters succeed in changing the code, there would be new legal challenges.

Peter Simonson, executive director of the American Civil Liberties Union of New Mexico, said a curfew would violate teenagers' basic civil rights, including their First Amendment right to free speech, such as participating in a protest.

There are also constitutional questions about due process – including whether a teen has adequate notice and fair treatment under the law – and unlawful arrest, Simonson said.

“If the Legislature were to reverse 15 years of history and amend the Children's Code to allow these kinds of ordinances to be passed,” Simonson said, “there would still be standing constitutional questions, and I think we'd pursue those vigorously.”

Kintigh, the Roswell mayor and a former state representative, doesn't see a constitutional conflict.

Courts throughout the country have found that children can be treated differently in some cases, he said, clearing the way for prohibitions on minors buying alcohol and cigarettes, for example.

“There's no fundamental problem with a curfew on a constitutional basis,” he said.

Gov. Martinez and Albuquerque Mayor Berry aren't likely to stand in the way.

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The governor believes that “local communities should be able to decide for themselves whether to enforce teen curfews with common-sense exceptions for things like emergencies,” a spokesman for Martinez said in a written statement.

In an interview, Berry said a broader effort is necessary to keep teens safe.

“The curfew may be part of the answer, and I’m happy to have that discussion,” he said, “but let’s be honest with each other. That is not a magic wand that’s going to solve some of these issues.”

Albuquerque’s police administration is also on board.

“We believe it is a parent’s responsibility to monitor their child, but would support a constitutional law enforcing a curfew if one was passed,” APD spokeswoman Celina Espinoza said.

The police union is also supportive. But in a statement, the Albuquerque Police Officers’ Association also asked city leaders to recognize that APD is facing a “staffing crisis” that could affect officers’ ability to respond to curfew violations.

“With the increase in violence we’ve seen across the city, specifically among our youth, we would absolutely support a teen curfew and it would definitely help officers to have a way to address these growing issues,” union President Stephanie Lopez said.

State Rep. Patricio Ruiloba, D-Albuquerque, was a police officer the last time the city enforced a curfew. There are practical reasons to be concerned about bringing it back, he said, including parents who would tell officers to take their kids to jail, because they weren’t going to come pick them up.

“What I’m afraid of now is there’s not enough law enforcement resources to support that kind of legislation,” said Ruiloba, a police sergeant for the Albuquerque school district and a retired APD officer.

He said he is working on legislation that addresses runaways, and improving communication among government agencies and parents to help them.

Few young people interviewed by the **Journal** said they thought a curfew would succeed in keeping youngsters safe at home. Some said the idea had merit – it just wouldn’t work.

Gustavo Tafolla, 15, said teenagers naturally test their limits.

“I think if you put a restriction on a teen, they’re most likely going to break it,” he said as he gathered with friends at Pat Hurley Park at 9:30 on a recent night.

Josue Nava, 17, said his church group has late activities that might conflict with a citywide

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curfew.

Fernanda Banda, also 17, said people her age are naturally rebellious.

“I’m having doubts about it,” she said of the effectiveness of a curfew.

Tafolla, Nava, Banda and another friend, Nayeli Ruiz, 18, laughed and relaxed Thursday as they gathered to watch the city lights from Pat Hurley Park. They’re part of a Bible study group, and they left shortly before the park closed at 10.

Three members of the Mayor’s Youth Advisory Council in Albuquerque say they oppose the idea of a curfew. In a group interview, they also expressed doubt that teens would accept it.

Jordan Padilla, a 16-year-old student at Nex+Gen Academy, said the curfew might backfire as teens deliberately try to hide from view when going out late.

Teens would “become sneakier,” she said.

Juhee Patel, a 17-year-old student at Sandia Preparatory School, said more community-sponsored activities would help. She suggested promoting the city’s events website – [ABQtodo.com](http://ABQtodo.com).

Daniel Ohiri, 16, a student at Bosque School, said he doesn’t like the idea of the government telling teenagers what to do, rather than their parents.

“A curfew is a way of avoiding the problem,” he said. “We just need to have better communities for young people.”