

City of Memphis



A C WHARTON, JR.
MAYOR

TENNESSEE

October 29, 2014

The Honorable Myron Lowery
Memphis City Council
125 N. Main St.
Memphis, TN 38103

RE: Enforcement of Minor Curfew Laws

Dear Councilman Lowery:

Pursuant to your request, the Administration has been reviewing all available options in addressing the problems posed by the groups of minors congregating at night, threatening public safety. One of the primary strategies we have considered is the enforcement of the City's minor curfew ordinance. As you know, however, both state law and the city of Memphis ordinance addressing the matter, currently limit the enforcement options available to the law enforcement.

The current TCA Section 39-17-1702, and City of Memphis Ordinance, Section 10-28-4(E) of the City Code describes the actions available to an apprehending officer when a minor child is found to be in violation of curfew. Only three options exist:

1. In the case of the first violation, and in the opinion of the officer such action would be effective, take the child to the child's home and warn and counsel the parents or guardians;
2. Issue a summons to the child and/or parents or guardians to appear at the juvenile court; or
3. Bring the child into custody of the juvenile court for disposition.

Under the ordinance, the local law enforcement agencies are not empowered to transport a curfew violator anywhere except the minor child's home or Shelby County Juvenile Court. The administration has been unable to ramp up enforcement of curfew laws in a meaningful way thus far. We do not have the power to take the minor children into city custody for curfew violations. That would leave us transporting and processing every individual violator, one by one, into the custody of Juvenile Court. We are also concerned that the possible mass transportation of juveniles to the Juvenile Court might overload the Court, run afoul of the States Disproportionate Minority Contact Policy, and place the Court in jeopardy because of the provisions of the agreement with the United States Department of Justice. Accordingly, the available police options are very challenging unless several changes are made in the pertinent laws.

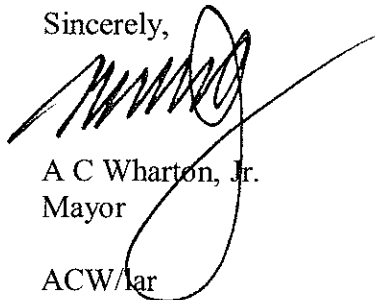
The Honorable Myron Lowery
October 29, 2014
Page 2

I propose that the City Council adopt an amendment to the city curfew ordinance that reduces on Sundays by thirty minutes, from midnight to 11:30 p.m., the permissible time for minors to be in public. This amendment, which would make our curfew ordinance more strict than the state law curfew and would make it legal for officers to transport minors who are in violation of the curfew to a location other than Juvenile Court. We will ask the Council to authorize the Administration to provide facilities known as "Juvenile Safety Centers," which could be one or more of our community centers especially designated and with the appropriate staff. We will include language that will guard against turning our community centers into juvenile detention facilities because it will be made clear that the child is to be held there only for a reasonable amount of time during which the parent or other responsible guardian will be required to appear and secure the release of the juvenile.

In addition to the foregoing the Administration will continue to explore all legal options available to curb this threat to public safety and look forward to working with the Council in considering new enforcement powers. The reason we feel that it is imperative that officers receive broader authority to transport is that the issuance of a summons in many of the volatile situations we have noticed recently diminishes the seriousness of the offense. It also breeds disrespect for the law. While we as adults may understand the niceties of the distinctions between summons and physical arrest and the policies underlying that distinction, unfortunately, our immature children get the impression that lawlessness has no real penalty. Additionally, I am told that the current restrictions are severely demoralizing to our law enforcement officers.

I am also pleased to advise that the Honorable Dan Michael, Judge of the Memphis and Shelby County Juvenile Court and I have had numerous conversations regarding this concern. At my request, he has agreed to convene a meeting of all pertinent policymakers and officials to begin working together to bring about the necessary changes in our present laws to ensure that our juveniles are kept safe and that we do not do anything to encourage disrespect for the law. It is my firm belief that removing the handcuffs from our police officers when it comes to making decisions as to transporting juveniles would go a long way in this effort.

Sincerely,

A handwritten signature in black ink, appearing to read "A C Wharton, Jr.", with a large, stylized flourish extending from the bottom right.

A C Wharton, Jr.
Mayor

ACW/lar