



Agenda

PUBLIC PROTECTION COMMITTEE

December 5, 2011

11:00 A.M.

651 Pine Street, Room 101, Martinez

Supervisor Federal D. Glover, Chair

Supervisor Gayle B. Uilkema, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day
and preference of the Committee

1. Introductions
2. PUBLIC COMMENT on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes)
3. RECEIVE status report from the Health Services Department on outreach efforts to increase the number of individuals trained and certified to assist during a public emergency
4. RECEIVE oral status report from the County Probation Officer, as Chair of the Community Corrections Partnership, on public safety realignment
5. CONSIDER oral responses from the District Attorney issues related to the proposed enactment of a daytime curfew ordinance in the county unincorporated area
6. CONSIDER approving the 2011 committee productivity report and recommended disposition of referrals

The Public Protection Committee will provide reasonable accommodations for persons with disabilities planning to attend Public Protection Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.

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Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.

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Glossary of Acronyms, Abbreviations, and other Terms (in alphabetical order):

Contra Costa County has a policy of making limited use of acronyms, abbreviations, and industry-specific language in its Board of Supervisors meetings and written materials. Following is a list of commonly used language that may appear in oral presentations and written materials associated with Board meetings:

AB	Assembly Bill	HCD	(State Dept of) Housing & Community Development
ABAG	Association of Bay Area Governments	HHS	Department of Health and Human Services
ACA	Assembly Constitutional Amendment	HIPAA	Health Insurance Portability and Accountability Act
ADA	Americans with Disabilities Act of 1990	HIV	Human Immunodeficiency Syndrome
AFSCME	American Federation of State County and Municipal Employees	HOV	High Occupancy Vehicle
AICP	American Institute of Certified Planners	HR	Human Resources
AIDS	Acquired Immunodeficiency Syndrome	HUD	United States Department of Housing and Urban Development
ALUC	Airport Land Use Commission	Inc.	Incorporated
AOD	Alcohol and Other Drugs	IOC	Internal Operations Committee
BAAQMD	Bay Area Air Quality Management District	ISO	Industrial Safety Ordinance
BART	Bay Area Rapid Transit District	JPA	Joint (exercise of) Powers Authority or Agreement
BCDC	Bay Conservation & Development Commission	Lamorinda	Lafayette-Moraga-Orinda Area
BGO	Better Government Ordinance	LAFCo	Local Agency Formation Commission
BOS	Board of Supervisors	LLC	Limited Liability Company
CALTRANS	California Department of Transportation	LLP	Limited Liability Partnership
CalWIN	California Works Information Network	Local 1	Public Employees Union Local 1
CalWORKS	California Work Opportunity and Responsibility to Kids	LVN	Licensed Vocational Nurse
CAER	Community Awareness Emergency Response	MAC	Municipal Advisory Council
CAO	County Administrative Officer or Office	MBE	Minority Business Enterprise
CCHP	Contra Costa Health Plan	M.D.	Medical Doctor
CCTA	Contra Costa Transportation Authority	M.F.T.	Marriage and Family Therapist
CDBG	Community Development Block Grant	MIS	Management Information System
CEQA	California Environmental Quality Act	MOE	Maintenance of Effort
CIO	Chief Information Officer	MOU	Memorandum of Understanding
COLA	Cost of living adjustment	MTC	Metropolitan Transportation Commission
ConFire	Contra Costa Consolidated Fire District	NACo	National Association of Counties
CPA	Certified Public Accountant	OB-GYN	Obstetrics and Gynecology
CPI	Consumer Price Index	O.D.	Doctor of Optometry
CSA	County Service Area	OES-EOC	Office of Emergency Services-Emergency Operations Center
CSAC	California State Association of Counties	OSHA	Occupational Safety and Health Administration
CTC	California Transportation Commission	Psy.D.	Doctor of Psychology
dba	doing business as	RDA	Redevelopment Agency
EBMUD	East Bay Municipal Utility District	RFI	Request For Information
EIR	Environmental Impact Report	RFP	Request For Proposal
EIS	Environmental Impact Statement	RFQ	Request For Qualifications
EMCC	Emergency Medical Care Committee	RN	Registered Nurse
EMS	Emergency Medical Services	SB	Senate Bill
EPSDT	State Early Periodic Screening, Diagnosis and treatment Program (Mental Health)	SBE	Small Business Enterprise
et al.	et ali (and others)	SWAT	Southwest Area Transportation Committee
FAA	Federal Aviation Administration	TRANSPAC	Transportation Partnership & Cooperation (Central)
FEMA	Federal Emergency Management Agency	TRANSPLAN	Transportation Planning Committee (East County)
F&HS	Family and Human Services Committee	TRE or TTE	Trustee
First 5	First Five Children and Families Commission (Proposition 10)	TWIC	Transportation, Water and Infrastructure Committee
FTE	Full Time Equivalent	VA	Department of Veterans Affairs
FY	Fiscal Year	vs.	versus (against)
GHAD	Geologic Hazard Abatement District	WAN	Wide Area Network
GIS	Geographic Information System	WBE	Women Business Enterprise
		WCCTAC	West Contra Costa Transportation Advisory Committee

2011 PUBLIC PROTECTION COMMITTEE

OPPORTUNITIES TO IMPROVE COORDINATION OF RESPONSE TO DISASTERS AND OTHER PUBLIC EMERGENCIES

Approximately three weeks following the November 2007 Cosco Busan oil spill, the Sheriff's Office of Emergency Services (OES) presented to the Board of Supervisors its assessment of the emergency response efforts, including what worked well and didn't work well, and what lessons were learned through those experiences. At the conclusion of the Board discussion, Supervisor Gioia introduced five recommendations that were approved by the Board. Supervisor Gioia also convened meetings within his District to discuss the implementation of the recommendations.

On February 5, the Board of Supervisors referred this matter to the PPC for continuing development and oversight. Following a briefing to the PPC by the Office of the Sheriff on February 11, 2008, the PPC reported out to the Board of Supervisors on May 6, 2009 with recommendations for follow-up by the Sheriff and Human Resources departments. PPC received a status report from the Office of the Sheriff and Health Services Department in February 2009 and requested the Hazardous Materials Program Manager to report back to the PPC on the development of mutual aid agreements from local oil refineries.

The Health Services Department made a report to the PPC on April 19, 2010 regarding the resources and connections available to respond to hazardous materials emergencies. The PPC requested a flowchart of the Incident Command System and more information regarding who determines which local official participates in incident command if an event is in Contra Costa County.

On October 18, 2010, the Health Services and Sheriff's Departments debriefed the PPC on the response to the Cosco Busan oil spill emergency, the Senior Leadership Guidebook, other guidelines on incident command, and volunteer information. The PPC requested a follow-up report on what kind of outreach and training was being provided to community volunteers and new county residents, and how convergent volunteers can best be utilized during a public emergency. Attached is a follow-up report from the Health Services Department addressing these questions.

Contra Costa Health Services Hazardous Materials Programs

Public Protection Committee Report December 5, 2011

When there is a major hazardous material incident, the hazardous materials response is to stop the release, to protect the public, and to protect the environment. When there is a major oil spill or other hazardous materials incident, there may be many people that want to volunteer. How can this resource be used to the greatest extent possible and as safely as possible? The California Fish and Game Oil Spill Prevention and Response has developed a plan to work with volunteers. The Hazardous Materials Response Programs has developed educational material on hazardous materials and hazardous materials responses, which is available on the Health Services website and which has been presented in public meetings and events. This information will help the public to take the best actions to protect themselves during a major chemical accident or release.

Oil Spill Volunteers

The California Fish and Game Oil Spill Prevention and Response has developed a means for volunteers to sign up before an oil spill (Attachment A), developed a brochure that addresses oil spill response (Attachment B), and drafted a statement for their Public Information Officers checklist to direct convergent responders (Attachment C).

The convergent volunteers will be used on non-oil contaminated areas as part of the response. Some of the work that they could be doing is:

- Be a field monitor
- Be a transporter
- Pre-impact beach cleanup
- Light construction
- Facility and site maintenance
- Donations management and more...

There is a way for people to sign up as a volunteer before an oil spill working with Oiled Wildlife Care Network.

The Hazardous Materials Programs can put on their website links to the Fish and Game Oil Spill Prevention and Response web page and hand out their brochures during events that we participate and at our office.

Hazardous Materials Programs Outreach

The Hazardous Materials Programs has information on the Health Services website at the following address: <http://cchealth.org/groups/hazmat/>. This includes information on the each of the programs that we regulate, the Hazardous Materials Response Team, information on the Industrial Safety Ordinance, and any Major Chemical Accident or Releases that have occurred. Fact sheets have been prepared for each of the Industrial Safety Ordinance facilities listing the findings from the latest audits. The Industrial Safety Audits are submitted for comment from the public and the findings are presented at public attended meetings or events.

The Hazardous Materials Programs personnel also works with the Office of the Sheriff, industry and the Contra Costa County CAER Group in outreaching to the community on the Community Warning System, Sheltering-in-Place and the annual School Drill for Sheltering-in-Place.

Hazardous Material Responders need to have hazardous materials awareness training (Hazwoper Training) and to have annual refresher of this training. This can be done for existing staff and is not feasible to do for the public. There would be the initial of 24 or 40 hour training, the annual 8 hour refresher training, and the upkeep of the database to track such training. The Hazardous Materials Programs could develop a means to have volunteers to assist in areas that would not bring them into contact with the hazards presented by the incident. This could include such things as:

- Answering phones
- Keeping a log
- Taking notes
- Transporting

CALIFORNIA

DEPARTMENT OF FISH AND GAME

HAZMAT TRAINED ? HAZCOM TRAINED ?

VOLUNTEER SERVICE AGREEMENT

NAME (<i>First, MI, Last</i>)	SS# (<i>Optional</i>)
HOME ADDRESS:	Telephone Number () Cellular Number Email Address ()

I am 18 or over I am under 18

I **do not know** of a health limitation which may restrict my performance of assigned duties
OR
 I **do know** of a health limitation which may restrict my performance of assigned duties

EMERGENCY Name:

NOTIFICATION Telephone Number:

I will comply with all policies, rules, regulations, directives and instructions. I understand that I am a non-paid employee of the State Department of Fish and Game when working on an approved schedule, and will receive worker's compensation insurance coverage. I will conduct myself in accordance with those standards set forth for regular department employees. I understand and agree to the following policies and conditions:

Any training provided by the Department is to assist the volunteer in performing functions and duties which are of benefit to the community and/or to the volunteer;

The volunteer will not replace any regular department employee;

The volunteer may be reimbursed for necessary allowable expenses for subsistence and travel in connection with approved volunteer services. Such Reimbursement shall be in accordance with Board of Control Rules; and

If the volunteer operates a private motor vehicle as a part of their volunteer activities, they must file a Certification of Insurance coverage and Mechanical Safety of the automobile.

NOTE: OATH OF ALLEGIANCE (STD 689) REVERSE SIDE

VOLUNTEER'S SIGNATURE: DATE:

VOLUNTEER COORDINATOR'S SIGNATURE: DATE:

EMPLOYER SECTION USE ONLY

REGION/DIVISION	SECTION	LOCATION
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VOLUNTEER WILL WORK FROM THROUGH
(*Effective Date*) (*Expiration Date*)

Duties: (*Attach job description*)

INDICATE IF DUTIES WILL INCLUDE ANY OF THE FOLLOWING:
 Travel Handling of Money Driving a State Vehicle Driving a Personal Vehicle
(IF PART OF DUTIES, VEHICLE AUTHORIZATION STD 261 REQUIRED)
DRIVERS LICENSE NUMBER EXPIRATION DATE

VOLUNTEER SERVICE AGREEMENT EXTENSION

Date/Year	Volunteer's Signature	Supervisor's Signature

RESIGNATION VERIFICATION

I officially resign as a DFG Volunteer

Volunteer's Signature	Date	Volunteer Coordinator Signature	Date
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Oil Spill Response Volunteers



Some volunteer organizations* for your consideration:

- Oiled Wildlife Care Network, U.C. Davis
- California CoastKeeper
- Baykeeper Organizations
- Surfrider Foundation
- Sierra Club
- California Volunteers

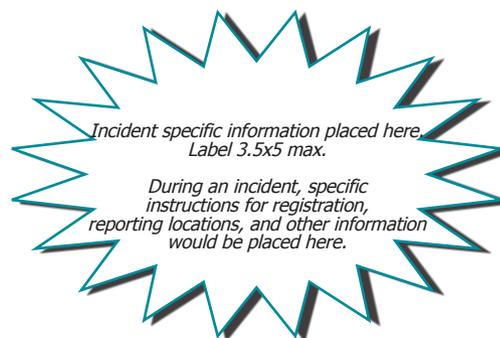
**This list of organizations is not inclusive nor does it represent an endorsement.*

Office of Spill Prevention and Response Volunteer Hotline

1-800-228-4544
www.dfg.ca.gov/ospr/

Alternate communication methods are available upon request. If reasonable accommodation is needed, contact the Dept. of Fish and Game - Office of Spill Prevention and Response (OSPR) Volunteer Hotline at 1-800-228-4544. The California Relay Service serves the deaf and hearing-impaired residents using TTY/TDD phones, and speech-impaired callers, at (800) 735-2929.

5/2010



**What you
should know and
how you can help**



What is a volunteer?

A member of the general public who comes forward during an event to offer assistance. A volunteer may be:

- Pre-trained: Members of the Oiled Wildlife Care Network (OWCN) who have been trained to perform tasks and functions related to oiled wildlife, or
- Convergent: Citizens who come forward to help cleanup efforts after hearing of an oil spill.

Each spill response is unique, and the skills needed may be somewhat different each time.

Volunteer requirements:

- Register before participating in a spill response (see rear panel for current volunteer information)
- Be at least 18 years old
- Be in good health
- Be able to lift 25-35 pounds

What can a volunteer do?

- Be a field monitor
- Be a transporter
- Pre-impact beach cleanup
- Light construction
- Facility and site maintenance
- Donations management and more...

Can we help with shoreline clean up?

Safety always comes first so volunteers may not be authorized to clean up contamination. The Unified Command (federal, state, responsible party) will evaluate the safety and need for using volunteers at each spill. Until they make a determination, volunteers will not be allowed to collect contaminated materials from shorelines.

What is so dangerous about oil?

Oil is toxic! It is classified as a hazardous material. Some effects may include throat irritation, headache from toxic fumes, or skin irritation.

What can I do if I don't get called to volunteer or decide not to volunteer?

Everyone plays a critical role in a spill response. The best support is to keep yourself, kids and pets away from contaminated areas to minimize scaring oiled wildlife and prevent tracking oil or other contaminants into otherwise clean areas.

How does oil get cleaned up and how do responders know where to go first?

Initial response generally focuses on stopping the oil leak, then advances to on-water containment and recovery, and finally moves to shoreline cleanup. Getting oil off the water first minimizes oiling and re-oiling of shorelines.

Since 1990, California has strived to prevent and prepare for oil spills. Area Contingency Plans (ACP) identify environmentally sensitive sites and other areas of concern. All interested agencies and partners contribute to creating and maintaining ACPs, which are regional in nature but consistent statewide. These plans identify response resources, environmentally sensitive sites and priority response strategies.

Observers may not see response teams on every shoreline immediately because teams may be responding elsewhere to higher priorities. Responders move from site to site in descending priority.

Who will collect the oiled wildlife?

The OWCN, coordinated through the U.C. Davis School of Veterinary Medicine, has trained professionals and veterinarians who will direct oiled wildlife search, collection, transport and rehabilitation activities.

During an oiled wildlife event, oiled wildlife need to get out of the water, rest quietly on the shore and be given a chance to warm up. As a caring person, your first instinct might be to pick them up, but this can do more harm than help. Animals can be further injured (wings broken, bills dislocated, etc.) or you can be injured yourself.

Animals do not understand good intentions; they see you as a predator and they defend themselves or run away. If oiled animals are scared back into the water by pets or people, their chances of survival decrease dramatically.

You can best assist by reporting oiled wildlife at 1-877-UCD-OWCN.

Who is in charge of an oil spill response?

In California, the U.S. Coast Guard is the federal response agency for marine oil spills. The U.S. Environmental Protection Agency responds to inland oil spills.

The Office of Spill Prevention and Response (OSPR) is the lead state agency for all oil spills in California. Other federal, state and local government agencies share information and contribute to decisions depending on the jurisdictions affected.

In a marine oil spill response, the Unified Command (UC) is made up of the USCG, OSPR and a representative of the responsible party (the spiller). By law, the responsible party participates in the UC, and helps to direct and pay for the spill response.

All functions in oil spill response, including volunteer management, fall under an Incident Command structure.

How can you stay involved after the spill ends and receive more training?

Contact your local community volunteer center, non-profit environmental groups, local humane societies, service organizations, faith-based organizations, and government agency volunteer programs. Some of these organizations can train you to be a long-term environmental monitor, or train you in various types of disaster management.



2011 PUBLIC PROTECTION COMMITTEE

UPDATE ON STATE PUBLIC SAFETY REALIGNMENT

The County Probation Officer, as Chair of the Community Corrections Partnership Executive Committee, will make an oral report on County's experience with realignment since the October 1 implementation.

Background

The California Legislature passed the Public Safety Realignment Act (Assembly Bills 109), which transfers responsibility for supervising specific low-level inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to counties. Assembly Bill 109 (AB 109) takes effect October 1, 2011 and realigns three major areas of the criminal justice system. On a prospective basis, the legislation:

- Transfers the location of incarceration for lower-level offenders (specified non-violent, non-serious, non-sex offenders) from state prison to local county jail and provides for an expanded role for post-release supervision for these offenders;
- Transfers responsibility for post-release supervision of lower-level offenders (those released from prison after having served a sentence for a non-violent, non-serious, and non-sex offense) from the state to the county level by creating a new category of supervision called Post-Release Community Supervision (PRCS);
- Transfers the housing responsibility for parole and PRCS revocations to local jail custody

AB 109 also tasked the local Community Corrections Partnership (CCP) with recommending to the County Board of Supervisors a plan for implementing the criminal justice realignment, which shall be deemed accepted by the Board unless rejected by a 4/5th vote. The Executive Committee of the CCP is composed of the County Probation Officer (Chair), Sheriff-Coroner, a Chief of Police (represented by the Richmond Police Chief), District Attorney, Public Defender, Presiding Judge of the Superior Court or designee, and Health Director as agreed by the County Administrative Officer.

On October 4, 2011, the Board of Supervisors approved the CCP Realignment Implementation Plan and the CCP Executive Committee has been meeting monthly to monitor the plan and state revenue distributions, and formulate recommendations, if necessary, for plan adjustments.

2011 PUBLIC PROTECTION COMMITTEE

FOLLOW-UP REPORT FROM THE DISTRICT ATTORNEY ON THE DEVELOPMENT OF A DAYTIME CURFEW ORDINANCE TO REDUCE TRUANCY

Background

The PPC took this item up as a referral at the request of the District Attorney, who suggested under Public Comment at the April 4 PPC meeting that the Committee consider enacting a daytime curfew ordinance to reduce truancy and consider the use of gang injunctions to help prevent gang violence.

PPC received an in-depth report on May 2 and decided to pursue an ordinance for a daytime curfew for minors. Within two months of the May 2 PPC meeting, the City of Concord enacted a daytime curfew ordinance, which is proposed today by the District Attorney as a model for a county unincorporated area ordinance.

Following are highlights of the Concord daytime curfew ordinance:

- Defines daytime curfew hours as the period of the minor's regular scheduled school hours when school is in session, and nighttime curfew hours as the hours between midnight and 5:00 a.m. for minors (persons under the age of 18).
- Provides that any minor who is present in or about a public place during curfew hours is guilty of an infraction, and any parent who knowingly permits a minor to violate the curfew is also guilty of an infraction.
- Would permit officers to detain truants and, on first offense, issue a warning citation to their parents, who would have to sign and return the notification with an explanation, if there is one.
- Upon subsequent violations during the same 12-month period, the minor will be fined up to \$100 for the first subsequent offense, up to \$200 for the second offense, and up to \$500 for any additional violations. Parents who knowingly permit minors to violate the curfew can also be cited and fine under the same schedule.
- States that officers can transport the truants back to school once they are cited.
- Provides a list of reasonable exceptions.

Staff from the District Attorney's Office presented the District Attorney's recommendations on November 7, 2011. However, the PPC had questions that required additional research. Specifically, the Committee was concerned about how residency relates to enforcement. For example, if the County enacted the ordinance and cited a juvenile or his parents who are residents of City A, which has no ordinance or whose ordinance conflicts with the County's, whose ordinance would apply?

There was also concern expressed about those cities within the county that do not have such an ordinance. Would juveniles then simply choose to congregate in cities that do not have a curfew because there is no fear of penalty? Would we be solving a problem for one jurisdiction and creating a problem for another?

The Sheriff supported the ordinance in concept but was concerned about setting up unrealistic public expectations about the Sheriff's ability to enforce the ordinance. They appreciate having another "tool in the toolbox" but do not have the beat coverage that allows them to respond to truancy complaints. They were unclear as to whether they can cite and release under the ordinance or if they have to cite and transport, which can require significant time to find a parent or school official to take custody of a minor.

In response to the Sheriff's concerns, the PPC suggested that the schools might be willing to pick up kids that were cited for truancy from the Sheriff. It was also suggested that retired police or probation officers might be willing to volunteer part time as County truancy officers to assist the Sheriff with enforcement.

An related item that was not discussed but requires consideration is the collection of fines. Who will be responsible for collection fines under the ordinance, since the Office of Revenue Collection no longer exists?

The District Attorney will respond to these questions orally.

Mark A. Peterson
District Attorney

OFFICE OF THE
CONTRA COSTA COUNTY
DISTRICT ATTORNEY
900 Ward Street
Martinez, California 94553

TO: Contra Costa County Board of Supervisors Public Protection Committee

FROM: Mark Peterson, District Attorney

DATE: September 20, 2011

SUBJECT: School Hours Curfew

A school hour curfew ordinance gives law enforcement officers the ability to regulate juvenile activity during school hours by prohibiting the presence of unsupervised minors in public places during normal school hours. Thus, a school hour curfew ordinance for juveniles can prevent crime, while simultaneously encouraging students to attend school. In recognition of this, several Contra Costa County cities, including Pittsburg, Richmond, El Cerrito, San Pablo, Hercules, Pinole, Martinez, and Concord, have already enacted a school hour curfew ordinance.

Immediate Effects of Truancy on Crime:

The high correlation between truancy and crime is well established. Put simply, students not in school during school hours are at a much higher risk of becoming perpetrators or victims of crime. A report compiled by the Los Angeles County Office of Education on factors contributing to juvenile delinquency concluded that chronic absenteeism is the most powerful predictor of delinquent behavior.¹

In Contra Costa County, police reported that 60 percent of juvenile crime occurred between 8 a.m. and 3 p.m. on weekdays.² During the first 5 months of 2011, the

¹ B. Shuster, "L.A. School Truancy Exacts a Growing Social Price," *Los Angeles Times*, June 28, 1995, sec. A, p. 1, cited by E. Garry, "Truancy: First Step to a Lifetime of Problems," *The Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin*, October, 1996.

² M. Baker, J. Sigmon, and M. Nugent, "Truancy Reduction: Keeping Students in School." *The Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin*, September, 2001.

Concord Police Department conducted monthly 4 hour truancy sweeps, averaging 41 truant students being detained during each sweep.³

The city of Roswell, New Mexico enacted a school hour curfew in 1994. Roswell police reported that school hour burglaries and other reportable crimes in neighborhoods surrounding the city's two high schools decreased. In reviewing the ordinance enforcement, the Roswell Police also found that:

- Students who commit burglaries or other crimes generally commit them during school hours and then return after school to retrieve the hidden stolen property.
- Many students detained for school hour curfew violations had been involved with criminal activities such as substance abuse, burglary, larceny, and vandalism.
- Many detained truants had records indicating an escalating pattern of delinquent behavior.
- Most detained truants were aware of and understood the consequences of breaking the law.⁴

In 2003, The Chief of Police for the City of Grass Valley, California, recommended the continuance of the 2001 daytime curfew ordinance. In support of his recommendation, he reported that 132 citations for curfew violations had been issued over the time span, but only 18 citations had to be issued to repeat offenders. Moreover, the number of calls for service regarding problems with juveniles in the downtown area had decreased by 72 percent, while school attendance at the high schools had increased.⁵

Of the half million Californians who turn twenty each year, 120,000 do not have a high school diploma. High school dropouts are three and half times more likely to be arrested than their peers with high school diplomas. Additionally, dropouts are eight times more likely to be in jail. Approximately 75 percent of state prison inmates and 69 percent of jail inmates did not complete high school.⁶

Research shows that a ten percent increase in graduation rates would lead to a twenty percent reduction in murder and assaults. For California this means that approximately 500 murders and 22,000 aggravated assaults would be prevented each year. More specifically, for Contra Costa County this means that approximately 19 murders and 479 aggravated assaults would be prevented each year.

³ D. Keen, Concord City Manager, "Report to City of Concord Mayor and Council on Proposed Adoption of Daytime Curfew Ordinance." July 12, 2011.

⁴ E. Garry, "Truancy: First Step to a Lifetime of Problems," *The Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin*, October, 1996.

⁵ J. Foster, Grass Valley Chief of Police, "Recommendation to Grass Valley City Council Regarding Continuance of Daytime Curfew." October 17, 2003.

⁶ Harlow, C. (2003). Education and Correctional Populations. In *Bureau of Justice Statistics Special Report*. Washington DC: U.S. Department of Justice.

By increasing the graduation rate among males by just 10 percent, murder and assault arrests would decrease about 20 percent, motor vehicle arrests would drop by 13 percent, and arson arrests would drop by 8 percent.⁷

In 2007, total state spending on corrections was over \$49 billion.⁸ In terms of reduced policing, government programs to combat crime, state funded victim costs, trials, sentencing, and incarceration, the average savings per new high school graduate would be \$26,000 a year.⁹

Investing in the Future by Increasing School Attendance:

The economic consequences of California's high dropout rate are profound. High school dropouts earn roughly \$9,000 less per year than high school graduates with no postsecondary education, and nearly \$20,000 less than residents with some college education. These dropouts tend to be unemployed, no longer in the labor force, or not actively seeking employment (i.e., "discouraged" workers) at higher rates than high school graduates. In addition, they are nearly twice as likely as high school graduates to fall below the Census Bureau's poverty threshold.¹⁰ This adds up to more than \$400,000 over a 45 year career.

We estimate that a high school graduate will earn \$412,000 more in present value dollars than a dropout over a 45-year career, and contribute \$13,328 more in tax dollars. Moreover, at the beginning of the current economic depression in 2008, the unemployment rate for high school graduates was 5.2 percent, while the rate for high school dropouts was 8.5 percent. By 2010, the percentage rates had risen to 10.3 and 14.9.¹¹

In addition, each new high school graduate yields \$209,000 in net economic benefit through increased government revenues and lowered government spending.¹² Finally, individuals with higher levels of education are far less likely to participate in government funded social programs like Medicaid, school lunch programs and food stamps. In 2005, 34 percent of high school dropouts lived in households that used Medicaid versus 6 percent of college graduates.¹³

⁷ Moretti, E. (2005) *Does Education Reduce Participation in Criminal Activities?* Research presented at the 2005 Symposium on the Social Costs of Inadequate Education at Teachers College, Columbia University, New York.

⁸ The Pew Center on the States. (2008) *One in 100: Behind Bars in America 2008*. Washington DC: The Pew Charitable Trusts.

⁹ Levin, H., Belfield, C., Muennig, P., & Rouse, C. (2007). *The Costs and Benefits of an Excellent Education for all of America's Children*. New York: Teachers College, Columbia University.

¹⁰ U.S. Bureau of the Census. (2006).

¹¹ Bureau of Labor Statistics. (2008). (2010).

¹² Levin, H., Belfield, C., Muennig, P., & Rouse, C. (2007).

¹³ Baum, S., & Ma, J. (2007). *Education Pays: The benefits of Higher Education and Society*. Washington DC. The College Board.

Legality of School Hour Curfew:

Under existing case law, school hour curfew ordinances are legal so long as they are not vague and do not preclude constitutionally protected rights.

In *Nunez v. City of San Diego* (1997) 114 F. 3d 935, the Ninth Circuit Court of Appeals struck down San Diego's nighttime curfew ordinances on the grounds that the wording was vague and that it also precluded expressive activity and other constitutionally protected rights. After this ruling San Diego revised the curfew ordinance in response to the *Nunez* ruling, and the revised ordinance has not been challenged in any courts to date.

More recently in *Harrahill v. City of Monrovia* (2002) 104 Cal. App 4th 761, a California Court of Appeal upheld the city of Monrovia's daytime curfew ordinance against a challenge that it was preempted by the truancy provisions of the California Education Code.

Therefore, a school hour curfew ordinance is legal so long as it is not vaguely worded, and so that it does not preclude any constitutionally protected rights.

Recommendation for Action:

It is respectfully requested that Contra Costa County enact a school hour curfew ordinance.

In considering the wording for such a daytime curfew ordinance it is suggested that the county refer to the proposed ordinance that was submitted to the Mayor and City Council of Concord when a daytime curfew ordinance was being recommended for that city. When drafting this daytime curfew ordinance the city of Concord took into account the legal requirements of such a curfew, reviewing several cities' ordinances, including the ordinance upheld in Monrovia. Attached please find a copy Concord's proposed daytime curfew ordinance.

Dated: September 2, 2011

MARK A. PETERSON
District Attorney

Attachment: Concord's Proposed School Daytime Curfew Ordinance

**REPORT TO MAYOR AND COUNCIL****TO THE HONORABLE MAYOR AND COUNCIL:**

DATE: July 12, 2011

SUBJECT: PROPOSED ADOPTION OF A DAYTIME CURFEW ORDINANCE AND REVISIONS TO EXISTING NIGHTTIME CURFEW ORDINANCE**Report in Brief**

The purpose of this staff report is to recommend modifications to the City's existing nighttime curfew ordinance and to add daytime curfew restrictions. In California, daytime curfew ordinances are local public safety measures designed to prevent daytime crime, increase community and youth safety, and deter truancy. Properly written, daytime curfew ordinances are a constitutionally valid, effective mechanism to increase community safety during hours when public schools are in session. There are numerous municipalities in the Bay Area with daytime curfew ordinances. Many law enforcement agencies in these municipalities regard daytime curfew ordinances as an effective crime prevention tool. Likewise, educators, school administrators, and parent-teacher groups also support daytime curfew ordinances as part of a strategic effort to improve public safety and deter truancy.

Background

The City of Concord presently has a nighttime curfew ordinance. At certain points during the past 20 plus years, however, the Concord Police Department ("CPD") staff has also briefed the Council on the truancy problem and associated crime faced by the City Concord, as well as the status and viability of a daytime curfew ordinance:

In November 1991, Staff presented to the Council a report outlining the scope of the truancy issue in Concord, and how truancy was being addressed. The report detailed the comprehensive measures that were being utilized to address this problem, most of which are still in effect today: School Resource Officers (SRO) primarily lead daytime truancy enforcement efforts, augmented by beat Patrol Officers, downtown foot beat Officers, and campus supervisory staff from the high schools. The focus of these collective efforts has primarily been on habitual offenders.

In October 2000, CPD and Mount Diablo Unified School District (MDUSD) staff jointly presented to the Council an updated report on the truancy problem in Concord. The report discussed the viability of a daytime curfew ordinance to augment the existing truancy law framework provided in the California Education Code. In lieu of a daytime curfew ordinance, Council directed staff to explore alternative solutions.

CITY OF CONCORD ADOPTION OF A DAYTIME CURFEW ORDINANCE.

July 5, 2011

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In December 2006, staff reported to the Council the benefits of the SRO program, including the deterrence factor to criminal activity and truancy.

In April 2007, CPD and City Planning staff presented a report to the Council outlining the deleterious impact of juvenile truancy on downtown Concord businesses, patrons and City services. This presentation emphasized the linkage between truant downtown high school students and incidents of vandalism, thefts, and fighting. The information contained in this report ultimately was a factor in the MDUSD's decision to close campuses during school hours, installing physical barriers (gates) to deter truancy.

Discussion

It is widely understood that there is a close connection between truancy and juvenile crime committed both by and against minors. Recognizing this correlation, for the past 20 years the Concord Police Department (CPD) has worked cooperatively with the schools of the Mt. Diablo Unified School District to address truancy, thereby enhancing public safety. This has largely been accomplished through the MDUSD "Stay-in-School" (SIS) program. The CPD's primary role in the SIS program is to detain truant minors observed in public places during regular school hours, and transport them back to their host schools. The Officers' legal authority to detain and take temporary custody of truant minors is codified in the California Education Code. However, the absence of a daytime curfew ordinance in the Municipal Code limits the CPD law enforcement role to the "detention and return to school" functions. The schools are responsible for initiating disciplinary action (if any) against truants, and no police-initiated criminal sanctions (i.e.; fines) attach when a minor is detained in public for truancy. SIS enforcement by CPD Officers is time consuming, costly, and competes with higher-priority calls for police service.

The Concord Police Department recently was directed by the Council to research the current extent of truancy in Concord and its impact on public safety, as well as its consumption of City resources and services. Research obtained from the California Department of Education shows that truancy rates in Concord are higher than the state average and even the Mt. Diablo Unified School District average. The truancy rates in Concord's high schools are particularly high, especially in the downtown area schools, such as Mt. Diablo High School and Olympic High School. These high rates were underscored when CPD personnel conducted five truancy (SIS) sweeps during the first five months of 2011. Each monthly sweep lasted about four hours and occurred while public schools were in session (0800-1200 AM). In total, approximately 204 truant students were detained and taken back to their schools. This equated to an average of 41 truant students being detained during each four-hour SIS sweep.

CPD research linked incidents of daytime vandalism, fights, thefts, and residential burglaries to truant students. Truants often tend to loiter in and about public places. Frequently, persons going about their lawful business as well as public property become targets of the delinquent behavior of truants when they should be in school. Additionally, minors in these situations are particularly vulnerable to violence and to the pressure to participate in criminal activity. When students are attending school they are under adult supervision. They are therefore less likely to be victimized and lack the opportunity to participate in crime and disorder in the community.

While the MDUSD is responsible under state law for enforcing truancy laws and ensuring student attendance, the City has a compelling public safety interest in reducing the rate of local juvenile crime and victimization that often accompanies truancy. Staff believes that adoption by the City of a daytime curfew

CITY OF CONCORD ADOPTION OF A DAYTIME CURFEW ORDINANCE.

July 5, 2011

Page 3

ordinance would greatly enhance its law enforcement efforts in this regard. As drafted, the proposed daytime curfew ordinance would prohibit minor students (i.e., those subject to compulsory education) from being in public during hours when their respective schools are in session. The ordinance would permit CPD officers to detain truants (after determining that they are under 18 and not subject to any of the exceptions to the ordinance), and on the first offense issue a warning citation, mailing the parent(s) a notification that the minor has been found in violation of the curfew. The parent(s) will then be required to sign and return the notification, including any explanation of an applicable ordinance exception.

Upon any subsequent violations of the daytime curfew ordinance during the same year, the minor will be fined up to \$100 for the first subsequent offense, up to \$200 for the second offense, and up to \$500 for any additional curfew ordinance violations. Parents are required under California law to ensure that their children attend school on a regular basis. Accordingly, as a mechanism to encourage parents to observe this obligation, the ordinance provides that parents who knowingly permit minors to violate the curfew ordinance may also be cited and fined under the same schedule.

It should be noted that the proposed daytime curfew ordinance complements existing CPD practices, since it does not restrict CPD officers from also transporting truants back to school once they are cited.

In drafting the proposed ordinance, CPD and City Attorney's Office staff reviewed existing case law, focusing in particular on the California Court of Appeal decision in *Harrhill v. City of Monrovia* (2002) 104 Cal. App 4th 761, which upheld the City of Monrovia, California's daytime curfew ordinance against a challenge that it was preempted by the truancy provisions of California's Education Code. Staff also analyzed the Ninth Circuit Court of Appeals decision in *Nunez v. City of San Diego* 114 F. 3d 935 (9th Cir. 1997), in which the court struck down San Diego's nighttime curfew ordinance on the grounds that it was vaguely worded, and that it also precluded expressive activity and other constitutionally protected conduct and rights.

Staff additionally reviewed the subsequent daytime/nighttime curfew ordinance adopted by San Diego in response to the *Nunez* decision. The revised San Diego curfew ordinance added exceptions and provisions in direct response to the *Nunez* holding, and to date, it has not been challenged in any courts. Further, staff analyzed daytime and nighttime curfew ordinances adopted by a number of other cities throughout the Bay Area, including Pittsburg, Benicia, El Cerrito, Fairfield, San Pablo, Fremont, Richmond, Hayward and Hercules. Staff also reviewed the Monrovia curfew ordinance, which as noted above, was held to be lawful in purpose and scope.

The proposed City of Concord curfew ordinance attached to this report incorporates language from these respective ordinances that meets the City's goal of providing a law enforcement tool to curb truant crime that is efficient to administer, and that will comprise a vigorous deterrent to students and parents who violate its terms.

It should be noted that although the revisions to Concord's existing curfew ordinance primarily consist of language adding daytime curfew provisions, staff has also modified language in the current nighttime curfew ordinance bringing it into compliance with the *Nunez* decision. Because of the scope of the proposed changes to the City's existing curfew ordinance, the entire article (Article III, CMC Section 66) will be repealed and the proposed ordinance, if adopted, will be codified in its place.

CITY OF CONCORD ADOPTION OF A DAYTIME CURFEW ORDINANCE.

July 5, 2011

Page 4

Prior to moving forward with this ordinance, police staff solicited opinions from Concord high school principals and PTA members to gauge their support for a daytime curfew ordinance. All individuals contacted voiced approval for the concept of a daytime curfew. PD staff also contacted several other Bay Area cities with daytime curfew ordinances, and received favorable feedback and opinion from them as well. Contra Costa County District Attorney Mark Peterson has also expressed his support for a daytime curfew ordinance, and urged all cities in Contra Costa County to adopt similar ordinances.

Fiscal Impact

Ordinance enforcement would result in little to no added cost to the city. CPD officers who issue daytime curfew cites are likely to work shifts which overlap with court appearance dates and times, thus requiring no overtime expenditures. Therefore, staff believes that the implementation and enforcement of a daytime curfew ordinance would likely be cost neutral, with no fiscal impact. With a fine-based ordinance model, some revenue would be generated.

Public Contact

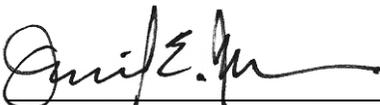
On May 26, 2011, staff publicly presented initial daytime curfew research and findings to the Neighborhood and Community Services Council Committee, which recommended forwarding the proposal to the full Council for review. The agenda has been posted as required by the Brown Act.

Recommendation for Action

Approve the daytime/nighttime curfew ordinance.

Alternative Courses of Action

1. Retain existing nighttime curfew ordinance;
2. Request staff to submit modified nighttime curfew ordinance;
3. Request staff to modify proposed daytime and nighttime curfew ordinance.


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Reviewed by: Guy Swanger
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Craig Labadie
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ORDINANCE NO. 11-4

**AN ORDINANCE AMENDING CONCORD MUNICIPAL CODE
CHAPTER 66, (OFFENSES AND MISCELLANEOUS PROVISIONS),
ARTICLE III (CURFEW FOR MINORS)**

THE CITY COUNCIL OF THE CITY OF CONCORD DOES ORDAIN AS FOLLOWS:

Section 1. Concord Municipal Code Chapter 66, (Offenses and Miscellaneous Provisions), Article III (Curfew for Minors) is hereby repealed in its entirety.

Section 2. Concord Municipal Code Chapter 66, (Offenses and Miscellaneous Provisions), Article III (Curfew for Minors) is hereby added to read as follows:

ARTICLE III. CURFEW FOR MINORS

Sec. 66-71. Purpose and Intent.

(a) The City has a compelling interest in reducing the rate of juvenile crime and victimization. Minors are particularly vulnerable to violence and to the pressure to participate in criminal activity due to their limited ability to make critical decisions in an informed and mature manner. Enactment and enforcement of a daytime and nighttime juvenile curfew reduces the amount of juvenile crime and victimization.

(b) In addition to reducing the rate of juvenile crime and victimization, a daytime curfew also serves to promote the City’s compelling interest in prohibiting daytime presence in public places by those subject to compulsory education. State law requires all persons between the ages of 6 and 18 to attend school. Regular school attendance provides important benefits not only to the students themselves but also to the health, safety, and welfare of all residents within the City.

(c) The community as a whole suffers when a minor student is not attending school. Truancy also often leads to vandalism, petty theft, daytime burglaries, and other criminal activity. Truants often tend to loiter in and about public places. Frequently, persons going about their lawful business as well as public property become targets of the delinquent behavior of truants when they should be in school.

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1 (d) This Article is intended to assist with the policing of public places in the City
2 during specified daytime and nighttime hours, and the prevention of crimes by and against
3 minors during those hours. It is not intended to interfere with or supersede the enforcement of
4 state laws regulating education or truancy or with the Mt. Diablo Unified School District's
5 truancy programs. Rather, this Article is intended to provide the City with an additional
6 proactive intervention tool to protect youth and prevent crime.

7 **Sec. 66-72. Definitions.**

8 The following definitions shall govern the application and interpretation of the curfew
9 regulations set forth in this article.

10 *Nighttime Curfew hours.* The hours between midnight to 5:00 a.m. for minors.

11 *Daytime Curfew hours.* The period of the minor's regular scheduled school hours
12 when school is in session.

13 *Emergency.* An unforeseen combination of circumstances or the resulting state that
14 calls for immediate action. "Emergency" includes, but is not limited to, a fire, a natural
15 disaster, an automobile accident, or any situation requiring immediate action to prevent serious
16 bodily injury or loss of life.

17 *Errand.* A trip to carry a message or do a definite lawful thing.

18 *Guardian.*

19 (1) A person who, under court order, is the guardian of the person of a
20 minor; or

21 (2) A public or private agency with whom a minor has been placed by a
22 court; or

23 (3) A person who is at least 18 years of age and authorized by a parent or
24 guardian to have the care and custody of a minor.

25 *Minor.* Any person under 18 years of age.

26 *Parent.* A person who is a natural parent, adoptive parent, or step-parent of a minor.

27 *Public place.* Any place to which the public has access, including, but not limited to,
28 streets, roads, alleys, trails, sidewalks, parks, recreational areas, public grounds or buildings,

1 vacant lots or buildings, common areas of a school (except during regular school hours), office
2 buildings, transport facilities, restaurants, retail establishments, places of amusement, parking
3 lots, or other unsupervised places.

4 *Responsible Adult.* A person at least 18 years of age and authorized by a parent or
5 guardian to have the care and custody of a minor.

6 **Sec. 66-73. Daytime and Nighttime Curfew and Prohibitions.**

7 Except as provided in section 66-74 below:

8 (1) *Nighttime curfew:* Every minor who is present in, about, or upon any public
9 place during nighttime curfew hours is guilty of an infraction.

10 (2) *Daytime curfew:* Every minor who is subject to compulsory education or to
11 compulsory continuation education who is not in possession of a valid, school issued, off-
12 campus permit giving permission to leave campus or not receiving instruction by a qualified
13 tutor pursuant to Education Code §48224 or not otherwise exempt from attendance at a public
14 or private full-time day school as set forth in the California Education Code, who is present in,
15 about, or on any public place during the daytime curfew hours is guilty of an infraction.

16 (3) Every parent or guardian who knowingly allows or permits a minor to violate
17 any provision of this section is guilty of an infraction.

18 **Sec. 66-74. Exceptions.**

19 The provisions of section 66-73 shall not apply when:

20 (1) The minor is coming directly home from a public meeting, or a place of public
21 entertainment, such as a movie, play, or sporting event. This exception will apply for one-half
22 hour after completion of the event. This exception shall apply to nighttime curfew only;

23 (2) The minor is exercising his First Amendment rights protected by the United
24 States or California Constitutions. This exception shall apply to nighttime curfew only.

25 (3) The minor is authorized to be absent from his or her school pursuant to
26 applicable school rules, or under the provisions of the California Educational Code or any
27 applicable state or federal law. This exception shall apply to daytime curfew only.

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1 (4) The minor is legally employed for the period from one-half hour before to one-
2 half hour after work, while going directly between his home and place of employment. This
3 exception shall also apply if the minor is in a public place during curfew hours in the course of
4 his employment, provided the minor carries a written statement from the employer attesting to
5 the place and hours of employment.

6 (5) The minor is accompanied by his parent, guardian or responsible adult;

7 (6) The minor is on the sidewalk abutting the minor's residence or abutting the
8 residence which is immediately adjacent to his residence.

9 (7) The minor is engaged in an errand directed by his parent or guardian, or by his
10 or her spouse who is 18 years of age or older;

11 (8) The minor is attending an official school, religious or other cultural, educational
12 or recreational activity supervised by adults and sponsored by the City of Concord, a civic
13 organization, or another similar entity or organization that takes responsibility for the minor, or
14 going to or returning home from, without any detour or stop, any official school, religious, or
15 other cultural, educational or recreational activity supervised by adults and sponsored by the
16 City of Concord, a civic organization, or another similar entity or organization that takes
17 responsibility for the minor;

18 (9) The minor is responding to or acting pursuant to an emergency;

19 (10) The minor is in a motor vehicle involved in interstate travel;

20 (11) The minor is emancipated in accordance with the California Family Code or
21 other state or federal law.

22 (12) The minor is going to or coming directly from a school-approved or school
23 related business, trade, profession, occupation or program in which the minor is lawfully
24 engaged, such as a work study or work experience program, subject to verification by a proper
25 school authority.

26 (13) The minor is going directly to or from an event or activity that is directly
27 related to any medical condition of a parent, guardian or spouse who is 18 years or older.

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1 **Sec. 66-75. Enforcement.**

2 (a) A police officer, upon reasonable cause based on articulable facts that an
3 individual is in violation of the curfew regulations, shall detain that individual, ascertain
4 whether the individual is a minor, and if so, determine if the minor has a legitimate reason
5 based on the exceptions detailed in section 66-74 for being in apparent violation of the curfew
6 regulations set forth in this Article.

7 (1) Upon the first violation of the curfew regulations, the police officer
8 shall issue to the minor a warning citation regarding the consequences of a subsequent
9 violation. The Chief of Police or his designee shall mail to the parents or legal guardian
10 of the minor a notification that the minor has been found in violation of curfew
11 regulations, and that any subsequent violation of section 66-73 shall result in the
12 issuance of an infraction to the minor and/or the parents or legal guardian. This notice
13 shall require the parents or legal guardian to sign and return the notification and include
14 space for the explanation of any circumstances relevant to any applicable exception
15 from section 66-73.

16 (2) Upon any subsequent violation of section 66-73, the minor and/or the
17 parents or guardian of the minor shall be charged with an infraction, a conviction of
18 which shall be punished by:

19 (i) A fine not exceeding \$100 for the first violation;

20 (ii) A fine not exceeding \$200 for the second violation within the
21 same twelve (12) month period;

22 (iii) A fine not exceeding \$500 for each addition violation within the
23 same twelve (12) month period.

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1 (3) This section shall not be construed to abridge the authority of a police
2 officer to assume temporary custody, during school hours, of any minor subject to
3 compulsory full time education or compulsory continuing education found away from
4 his or her home and who is absent from school without a valid excuse, and return such
5 minor to their school of registration, pursuant to California Education Code §§ 48264
6 and 48265.

7 (4) This section shall not be construed to limit the authority of the court to
8 render any disposition authorized by Welfare and Institutions Code Section 258,
9 subdivision (a), or any other provision of the Juvenile Court Law.

10 **Sec. 66-76. Severability.**

11 If any section, subsection, subdivision, sentence, clause, phrase, or portion of this
12 Article or the application thereof to any person or place, is for any reason held to be invalid or
13 unconstitutional by the decision of any court of competent jurisdiction, such decision shall not
14 affect the validity of the remainder of this Article. The City Council hereby declares that it
15 would have adopted this Article, and each and every section, subsection, subdivision, sentence,
16 clause, phrase, or portion thereof, irrespective of the fact that any one or more section,
17 subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or
18 unconstitutional.

19 **Secs. 66-77—66-100. Reserved.**

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1 **Section 3.** This Ordinance No. 11-4 shall become effective thirty (30) days following its
2 passage and adoption. In the event a summary of said Ordinance is published in lieu of the entire
3 Ordinance, a certified copy of the full text of this Ordinance shall be posted in the office of the City
4 Clerk at least five (5) days after its passage and adoption, including the vote of the Councilmembers,
5 in the Contra Costa Times, a newspaper of general circulation in the City of Concord.
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Laura M. Hoffmeister
Mayor

ATTEST

Mary Rae Lehman, CMC
City Clerk

(Seal)

Ordinance No. 11-4 was duly and regularly introduced at a regular joint meeting of the City Council and Redevelopment Agency held on July 12, 2011, and was thereafter duly and regularly passed and adopted at a regular joint meeting of the City Council and Redevelopment Agency held on July 26, 2011, by the following vote:

AYES: Councilmembers -

NOES: Councilmembers -

ABSTAIN: Councilmembers -

ABSENT: Councilmembers -

I HEREBY CERTIFY that the foregoing is a true and correct copy of and ordinance duly and regularly introduced, passed, and adopted by the City Council of the City of Concord, California.

Mary Rae Lehman, CMC
City Clerk

CITY COUNCIL COMMITTEE

NEIGHBORHOOD AND COMMUNITY SERVICES

Bill Shinn, Chair

Tim Grayson, Committee Member

5:30 p.m., Thursday, May 26, 2011

**Garden Conference Room
1950 Parkside Drive, Concord**

ROLL CALL

PUBLIC COMMENT PERIOD

- 1. DISCUSSION** – Review of Student Truancy Issues, Existing Enforcement Tools, and Consideration of a Daytime Curfew Ordinance – Report by Lieutenant David Hughes and Sergeant Tiffany Leftwich-Barraco.

1. ADJOURNMENT

Distribution: City Council
Dan Keen, City Manager
Valerie Barone, Assistant City Manager
Craig Labadie, City Attorney
Guy Swanger, Police Chief
Lieutenant David Hughes
Sergeant Tiffany Leftwich-Barraco
Administrative Services
Press

**REPORT TO COUNCIL COMMITTEE ON
NEIGHBORHOOD & COMMUNITY SERVICES****TO HONORABLE COMMITTEEMEMBERS:**

DATE: May 26, 2011

**SUBJECT: REVIEW OF STUDENT TRUANCY ISSUE, EXISTING ENFORCEMENT TOOLS,
AND CONSIDERATION OF A DAYTIME CURFEW ORDINANCE****Report in Brief**

On March 8, 2011, Councilmember Grayson shared his observations on the number of students that appear to be truant and loitering in the downtown area. Following comments by the rest of the Council, staff was requested to review the matter and provide information and suggestions. Chief of Police Guy Swanger, along with Lieutenant David Hughes and Sergeant Tiffany Leftwich-Barraco, researched the matter and prepared the attached report dated May 3, 2011 (Attachment 1). This report presents a summary of the findings and proposed recommendations.

Background

There is a strong correlation between student truancy and incidents of juvenile delinquency, a phenomenon which is well understood by educators and law enforcement personnel alike.¹ Truancy is a significant risk factor for substance abuse, gang activity, teen pregnancy, and dropping out of school. Truancy is often a precursor to serious violent and nonviolent criminal offenses, such as burglary, auto theft, and vandalism. The connection between truancy and delinquency also appears to be particularly acute among males.²

The City's Police Department (CPD) has recently sought to establish a stronger relationship between the Department and the Mt. Diablo Unified School District regarding the truancy issue. Statewide, compulsory education attendance laws (also known as "truancy laws") are enforced locally via the California Education Code; however, law enforcement agencies have recognized that administrative truancy enforcement alone within schools is insufficient as a standalone tactic to deter truancy and the impact it can have on local businesses, parks, and neighborhoods.

In response to the truancy problem, several local governments have opted to implement local daytime curfew ordinances which impose fines and criminal sanctions which are above and beyond the limitations of the California Education Code. Staff is recommending the Council Committee on Neighborhood and Community Services review this method as an option for the City of Concord.

¹ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (2001). Truancy reduction: keeping students in school. Retrieved April 24, 2011 from <http://www.ncjrs.gov/pdffiles1/ojjdp/188947.pdf>

² Kelley, B.T., Loeber, R., Keenan, K., and DeLamarte, M. (1997). *Developmental Pathways in Boys' Disruptive and Delinquent Behavior*. Washington, DC.

**REVIEW OF TRUANCY LEVELS WITHIN THE CONCORD SCHOOL DISTRICT
AND PROPOSED RECOMMENDATIONS**

May 26, 2011

Page 2

The City of Concord does not have a daytime curfew ordinance. A daytime curfew ordinance would prevent unsupervised and unexcused minors from frequenting public places while public schools are in session. As a consequence, police officers in Concord are limited by the California Education Code when detaining truant minors. Typically, this results in truants being detained and then returned to their school of attendance or a parent/guardian. Truants are not cited by CPD officers or otherwise referred to court for a criminal violation. The schools are solely responsible for pursuing administrative disciplinary action, if any, against a truant student.

Cooperative efforts between the Mt. Diablo Unified School District (MDUSD) public schools and the Concord Police Department have been on-going for the past 20 years using the *Stay-in-School* (SIS) program. This program is a direct result of a collaborative partnership to get truant students off the streets of Concord and back into their schools. This effort, however, currently lacks a reliable deterrence factor necessary to effectively reduce truancy, while improving public safety. Without a supplementary ordinance prohibiting unsupervised and unexcused minors from frequenting public places while public schools are in session, an Officer's legal authority is limited to the following:

Section 48264 of the CA Education Code authorizes the detention and temporary custody of truants by peace officers:

“The attendance supervisor or his or her designee, a peace officer, a school administrator or his or her designee, or a probation officer may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without valid excuse within the county, city, or city and county, or school district”.

Section 48265 of the CA Education Code authorizes the return of the minor to school by peace officers:

“Any person arresting or assuming temporary custody of a minor pursuant to Section 48264 shall forthwith deliver the minor either to the parent, guardian, or other person having control, or charge of the minor, or to the school from which the minor is absent....”

For high school students, present day truancy enforcement and consequences in Concord involving the Police Department generally consist of a ride back to school in a police car, combined with whatever disciplinary consequences await them at their host school. This is likely to be insufficient to compel a minor to attend school, discourage a student from leaving a school campus without authorization, or to deter loitering in public places during school hours. From a deterrence and prevention standpoint, it is akin to transporting a suspect home who has been caught driving on a suspended license, without any criminal repercussions.

For Police Departments, truancy enforcement is costly, time-consuming, and often competes with calls for service and other higher-priority crimes.

REVIEW OF TRUANCY LEVELS WITHIN THE CONCORD SCHOOL DISTRICT AND PROPOSED RECOMMENDATIONS

May 26, 2011

Page 3

Discussion

In November, 1991, PD staff presented to Council the scope of the truancy issue in Concord, applicable curfew ordinances (nighttime only), and how truancy was being impacted. A comprehensive plan was described, most of which is still in effect today: School Resource Officers (SRO) primarily lead daytime SIS efforts, augmented by beat patrol officers, downtown foot beat officers, and campus supervisory staff from the high schools. Truancy focus was primarily on habitual offenders.

In October, 2000, PD and MDUSD staff jointly presented to Council a report documenting the truancy problem in Concord. Discussion consisted of the viability of a daytime curfew ordinance to augment existing truancy law in the California Education Code. In lieu of a daytime curfew ordinance, Council directed that alternative solutions be explored.

In December 2006, PD staff reported to Council the benefits of the SRO program, including the deterrence factor to criminal activity and truancy.

In April, 2007, PD and City Planning staff presented a report to Council outlining the impact of juvenile truancy on downtown Concord and city services. This presentation included the strong linkage of truant students to incidents of vandalism, thefts, and fighting. One result of this report was closed campuses with physical barriers installed to deter truancy.

As a means to decrease student truancy, the Mt. Diablo Unified School District has several different kinds of formal preventative, counseling, and prescriptive programs that attempt to reduce student truancy. These programs are in addition to on-going intervention and counseling with students from school staff, administrators, and CPD School Resource Officers. These programs are discussed in more detail in the attached report, and consist of a Student Attendance Review Team (SART), School Attendance Review Board (SARB), and Coordinated Care Team (CARE).

All principals in each of the five major high schools in Concord were contacted regarding what action(s) they take when a truant student is returned to school under the Stay in School Program. They all stated that they have different forms of progressive discipline which are determined on a case-by-case basis, based upon the attendance history of the student. They shared that there is an opportunity for an enhanced partnership with the police on the truancy issue and it is likely that more could be done to address the problem. When the principals were asked if they would support a daytime curfew ordinance preventing unsupervised and unexcused minors from frequenting public places while public schools are in session, all replied that they would support the concept of a daytime curfew ordinance. A small sample of Parent and Teacher Association (PTA) representatives from each school were also surveyed regarding the ordinance and all were in support of an ordinance.

The following municipalities in and outside of Contra Costa County have implemented daytime curfew ordinances: Benicia, El Cerrito, Fairfield, Fremont, Hayward, Hercules, Pinole, Pittsburg, Richmond and San Pablo (see the attached supporting documents for samples of daytime curfew ordinances from most of these cities).

**REVIEW OF TRUANCY LEVELS WITHIN THE CONCORD SCHOOL DISTRICT
AND PROPOSED RECOMMENDATIONS**

May 26, 2011

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Out of the ten surveyed municipalities with ordinances, eight are fine-based: Benicia, El Cerrito, Fairfield, Fremont, Hayward, Pittsburg, Pinole, and San Pablo. The ordinances in Richmond and Hercules are not fine-based and instead offer diversionary programs.

Ordinance Models:

Under most daytime curfew ordinances, violators may be detained when a police officer develops reasonable suspicion that a minor (one who is subject to compulsory education) is away from his/her own home school during normal school hours, without a lawful defense. Lawful defenses include:

- Supervised by a parent/guardian
- On an emergency errand directed by a parent/guardian
- Bona fide medical appointment, student or parent/guardian
- To/from place of employment
- Authorized school-related business
- Authorized excuse/absence from the school
- Exempt by law from compulsory education (i.e.; home schooled)
- Emancipated minor

Unless one or more of the defenses are present, at the discretion of the detaining officer, the minor may be cited to appear in traffic court, in violation of the daytime curfew ordinance. In some cases, first offenses may be eligible for diversion. Subsequent citations/convictions may also result in increased fines (e.g.; \$50 for the first offense or \$100 for the second offense if it occurs within one year of the first offense).

Within the sample ordinances, the definition of “normal school hours” varies, but they are generally described as those specific to the minor’s regularly-scheduled school time on those days when school is in session. They are also explicit (i.e.; 8:30 AM to 1:30 PM), or school-dependent (i.e.; 30 minutes after school starts to 30 minutes before school ends).

Staff believes adoption of a daytime curfew ordinance for controlling truancy would be effective for the City of Concord in helping to combat student truancy. Further, based on feedback from school administrators and a sampling of parents, staff further believes that the ordinance would be supported by the Mt. Diablo Unified School District.

Recommendation for Action

Staff recommends the Council Subcommittee on Neighborhood and Community Services discuss this matter and provide direction to staff.

Prepared by: Guy Swanger
Chief of Police

**REVIEW OF TRUANCY LEVELS WITHIN THE CONCORD SCHOOL DISTRICT
AND PROPOSED RECOMMENDATIONS**

May 26, 2011

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Daniel E. Keen
City Manager

Reviewed by: Valerie Barone
Assistant City Manager

Attachment 1 – Report dated May 3, 2011 prepared by the Concord Police Department



Concord Police Department

1350 Galindo Street, Concord, California 94520

CITY COUNCIL
Laura M. Hoffmeister, Mayor
Ron Leone, Vice Mayor
Tim Grayson
Daniel C. Helix
William D. Shinn

Mary Rae Lehman, City Clerk
Thomas J. Wentling, City Treasurer

Daniel E. Keen, City Manager

DATE: May 3, 2011
TO: Captain Daniel Siri
FROM: Lieutenant David Hughes
Sergeant Tiffany Leftwich-Barraco
RE: DAYTIME CURFEW REPORT

Attachment 1

SUMMARY

The direct correlation between truancy and juvenile delinquency is well-established and generally understood by educators and law enforcement personnel alike.¹ Truancy is a significant risk factor for substance abuse, gang activity, teen pregnancy, and dropping out of school. Truancy may also be a precursor to serious violent and nonviolent criminal offenses, such as burglary, auto theft, and vandalism. In many jurisdictions, law enforcement agencies have linked high rates of truancy to juvenile daytime crime, such as burglary and vandalism. The connection between truancy and delinquency also appears to be particularly acute among males.²

It is the relationship between truancy and crime which will be the focus of this report.

PURPOSE

The purpose of this report is fourfold:

- Present a historical perspective of truancy in Concord and the impact.
- Describe current efforts by the Mt. Diablo Unified School District and the Concord Police Department to reduce truancy.
- Survey high school Principals administrators and PTA members regarding the truancy problem and if a daytime curfew ordinance would be supported.
- Sample daytime curfew ordinances within other jurisdictions and offer recommendations.

¹ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (2001). Truancy reduction: keeping students in school. Retrieved April 24, 2011 from <http://www.ncjrs.gov/pdffiles1/ojjdp/188947.pdf>

² Kelley, B.T., Loeber, R., Keenan, K., and DeLamarte, M. (1997). *Developmental Pathways in Boys' Disruptive and Delinquent Behavior*. Washington, DC.

BACKGROUND AND HISTORY

Fundamentally, the intent of California's truancy law is to compel minors to attend school: to be *in and attending* school. Statewide, compulsory education attendance laws (AKA truancy laws) in California are enforced locally via the California Education Code. Recently, however, several Bay Area law enforcement agencies, as well as other agencies around the state, have recognized that administrative truancy enforcement alone is insufficient as a stand-alone tactic to deter truancy and the eventual negative impact it can have on local businesses, parks, and neighborhoods. In response to the truancy problem, several local governments have opted to implement local daytime curfew ordinances which potentially impose fines and criminal sanctions which are above and beyond the limitations of the California Education Code.

Herein lays the difference between truancy laws and daytime curfew ordinances: truancy laws are intended to keep minors in school for an educational purpose; daytime curfew ordinances are designed to keep minors out of public places, during school hours, for a public safety purpose. At first glance, the difference between the two laws may appear to be slight and a matter of semantics, however, they are not.

The larger difference between truancy laws and daytime curfew ordinances is that truancy laws alone do not expressly prohibit unsupervised minors from frequenting public places, congregating in businesses, loitering in parks, or otherwise regulate where they may be while school is in session. In contrast, daytime curfew ordinances expressly prohibit this activity during school hours and attach *criminal liability* (i.e.; fines) to daytime curfew violations.

For example, the City of Concord does not have a daytime curfew ordinance which prevents unsupervised and unexcused minors from frequenting public places while public schools are in session. Currently, Police Officers in Concord are limited by the California Education Code when detaining truant minors. Typically, this results in truants being detained and then returned to their school of attendance or a parent/guardian. Truants are not cited by CPD Officers or otherwise referred to court for a criminal violation. The schools are solely responsible for pursuing administrative disciplinary action, if any, against a truant student.

Addressing the truancy problem in Concord has historically been accomplished through cooperative efforts between the Mt. Diablo Unified School District public schools and the Concord Police Department, using the *Stay-in-School* (SIS) program. The Police Department's 20+ year SIS program is a direct result of collaborative efforts between the schools and the PD to get truant students off the streets of Concord and back into their schools. This effort, however, currently lacks a reliable deterrence factor necessary to effectively reduce truancy, while improving public safety.

The focus of this report is whether or not a daytime curfew ordinance in Concord would be viable, effective, or supported as a public safety measure.

Stay-in-School (SIS) -- Limitations

As previously mentioned, for the past 20+ years the Concord Police Department has been addressing school truancy primarily through the Department's SIS program. When possible, Officers have been detaining truant students and transporting them back to their host schools. The objectives of the MDUSD in addressing truancy and CPD's SIS efforts have been mutually beneficial in this regard, since it is widely understood that a reduction in truancy carries with it a reduction in juvenile disorder and crime during school hours. Simply put, minors who are attending school lack the opportunity to be victimized or engage in criminal or disruptive behavior in public. This pro-active Police enforcement activity, however, is entirely administrative and carries with it no criminal sanctions initiated by the Police Department. Without a supplementary ordinance prohibiting unsupervised and unexcused minors from frequenting public places while public schools are in session, an Officer's legal authority is limited to the following:

Section 48264 of the CA Education Code authorizes the detention and temporary custody of truants by Peace Officers:

"The attendance supervisor or his or her designee, a peace officer, a school administrator or his or her designee, or a probation officer may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without valid excuse within the county, city, or city and county, or school district".

Section 48265 of the CA Education Code authorizes the return of the minor to school by Peace Officers:

"Any person arresting or assuming temporary custody of a minor pursuant to Section 48264 shall forthwith deliver the minor either to the parent, guardian, or other person having control, or charge of the minor, or to the school from which the minor is absent...."

For high school students, present-day truancy enforcement and consequences in Concord – at least involving the Police – generally consists of a ride back to school in a Police car, combined with whatever disciplinary consequences await them at their host school. This is likely to be insufficient to compel a minor to attend school, discourage a student from leaving a school campus without authorization, or deter loitering in public places during school hours. From a deterrence and prevention standpoint, it is akin to transporting a suspect home who has been caught driving on a suspended license, without the implication criminal repercussions.

For Police Departments, truancy enforcement is costly, time-consuming, and often competes with calls for service and other higher-priority crimes.

Truancy Impact - Concord

Truancy is most visible when students leave school, or fail to go to school, and then gather or remain in nearby public places. Although no definitive statistics are currently available to show the correlation of truancy to daytime crime and disorder in specific geographical areas of Concord, we know from experience that it is common for truant students to congregate in the familiar retail business areas, public areas, or parks which are geographically close to our five major high schools:

High School	Areas Commonly Impacted
Concord High School	Dana Plaza (Concord Bl./Landana Dr.); Dave Brubeck Park
Clayton Valley High School	Vineyards Shopping Center (Clayton Rd./Alberta Wy.); Clayton Valley Shopping Center (Clayton Rd./Ygnacio Valley Rd.)
Mt. Diablo High School*	Todos Santos Park; Downtown shops; Park 'n Shop; Baldwin Park
Olympic High School	Same Areas as MDHS
Ygnacio Valley High School	Ygnacio Valley Shopping Center (Treat Bl./Oak Grove Rd.)

*The downtown business areas, including Todos Santos Park, are particularly popular as a destination and gathering point for truants from Mt. Diablo High School and Olympic High School.

City Council Reports - History

Over the past 20+ years, PD staff has reported to council the truancy problem in Concord, as well as the status and viability of a curfew ordinance:

In November, 1991, PD staff presented to council the scope of the truancy issue in Concord, applicable curfew ordinances (nighttime only), and how truancy was being impacted. A comprehensive plan was described, most of which is still in effect today: School Resource Officers (SRO) primarily lead daytime SIS efforts, augmented by beat Patrol Officers, downtown foot beat Officers, and campus supervisory staff from the high schools. Truancy focus was primarily on habitual offenders.

In October, 2000, PD and MDUSD staff jointly presented to council a report documenting the truancy problem in Concord. Discussion consisted of the viability of a daytime curfew ordinance to augment existing truancy law in the California Education Code. In lieu of a daytime curfew ordinance, Council directed that alternative solutions be explored.

In December 2006, PD staff reported to council the benefits of the SRO program, including the deterrence factor to criminal activity and truancy.

In April, 2007, PD and City Planning staff presented a report to council outlining the impact of juvenile truancy on downtown Concord and city services. This presentation included the positive linkage of truant downtown high school students to incidents of vandalism, thefts, and fighting. Resolution from this report ultimately resulted in closed campuses with physical barriers installed to deter truancy.

Stay-in-School (SIS) Sweeps

In a PD effort to disrupt emerging truancy trends, coordinated truancy (Stay-in-School-SIS) “sweeps” have occurred around local high schools over the past few years. In January, February, and March of 2011, CPD School Resource Officers conducted dedicated truancy (SIS) sweeps on three dates for a period of about three hours each. In total, they returned approximately 90 students back to their high schools of attendance. School administrators at each of the schools were then tasked with taking appropriate disciplinary action:

School	Number of Truants Returned			Total
	1/14/11	2/15/11	3/22/11	
Concord High School	2	0	2	4
Clayton Valley High School	0	0	1	1
Mt. Diablo High School*	12	27	17	56
Olympic High School*	6	9	5	20
Ygnacio Valley High School	0	0	6	6
Total:	20	37	33	90

*MDHS and Olympic HS students accounted for 84% of all truants contacted and returned during the three SIS sweeps.

MDUSD Truancy Reduction Strategies

According to the California Department of Education³, over the course of an academic year, the truancy rate for all California public schools in 2009-2010 was 28.15%. This is calculated by dividing statewide student enrollment by the number of students with unexcused absences or tardy on three or more days.

The 2009-2010 academic year truancy rate for all public schools within the Mt. Diablo Unified School District was nearly the same, 28.42%.

³ California Dept. of Education, expulsion, suspension, and truancy information by state (2009-2010).

The 2009-2010 academic year truancy rate for all public schools within the city of Concord was 33.12%⁴

During the same period, the truancy rate for the five major high schools in Concord was much higher, 39.17%:

Concord - High Schools' Truancy Report – 2009-2010¹			
High School	Enrollment	Truants²	Truancy Rate
Concord High School	1591	337	21.18%
Clayton Valley High School	1868	542	29.01%
Mt. Diablo High School	1610	827	51.37%
Olympic High School	368	287	77.99%
Ygnacio Valley High School	1343	663	49.37%
Total:	6780	2656	39.17%
¹ California Dept. of Education, expulsion, suspension, and truancy information by school (2009-2010).			
² Number of students with unexcused absence or tardy on three or more days.			

As a means to decrease student truancy, the Mt. Diablo Unified School District has several different kinds of formal preventative, counseling, and prescriptive programs that attempt to reduce student truancy. These programs are in addition to on-going intervention and counseling with students from school staff, administrators, and CPD School Resource Officers. Listed below are three truancy intervention programs administered within the MDUSD:

Student Attendance Review Team (SART):

SART is the first formal MDUSD process to address student attendance and truancy issues. It is a unique program which encourages the parent or guardian to get involved in their student's attendance issue, with a emphasis on prevention and intervention. By way of example, Clayton Valley High School's SART program meets once a month at Concord Police Department. Students and parents are at the meeting and they are given a package of information which provides detailed information of the student's attendance record and their grades. At that time, students and the parents are given a course of action contract and expectations, which they agree to and sign. This is an early intervention program that has prevented numerous students from being referred to SARB.

⁴ California Dept. of Education, expulsion, suspension, and truancy information by schools with more than 100 student enrollment.

School Attendance Review Board (SARB):

SARB is the formal anti-truancy program adopted by the entire Mt. Diablo Unified School District. It is managed by staff members at the district office and is effectively the last diversionary resort in administratively compelling a student to attend school. This process is administered through a summons to appear in Juvenile court. Ultimately, following this process, a parent may be criminally charged and fined for willfully keeping their child from attending school.

Coordinated Care Team (CARE):

CARE is a group of staff members assembled at each school site within the Mt. Diablo District. They meet weekly to discuss students who are having academic issues, truancy issues, home life issues as well as any other issue that might affect their school attendance. The group receives referrals from staff members about issues that involve a student. They discuss alternative measures and come up with the best plan of action in order to assist the student. They often seek creative solutions in helping the juvenile and the family. Of those programs they often refer the family to the Parent Project, which is an educational opportunity that teaches the parent how to parent their youth. When appropriate, they also offer mediation and counseling programs. In all, they attempt to determine what the underlying issue is at the root of the attendance problem.

SURVEY AND OPINION

Mt. Diablo Unified School District - Response

At each of the five major high schools in Concord, the Principals were contacted by PD Staff (SROs) regarding what action(s) they take when a truant student is returned to school under the Stay in School Program. They all stated that they have different forms of progressive discipline which are determined on a case-by-case basis, based upon the attendance history of the student. They shared that there is an opportunity for an enhanced partnership with the Police on the truancy issue and it is likely that more could be done to address the problem. When the Principals were asked if they would support a daytime curfew ordinance preventing unsupervised and unexcused minors from frequenting public places while public schools are in session, all replied that they would support the concept of a daytime curfew ordinance. A small sample of Parent and Teacher Association (PTA) representatives from each school were also surveyed regarding the ordinance. Of those that were contacted, all supported it:

High School / PTA	Support For a Daytime Curfew Ordinance
Clayton Valley High School Principal Gary Swanson	YES
Clayton Valley High School PTA Allison Bacigalupo	YES
Concord High School Principal Dr. McAdams	YES
Concord High School PTA Diana Cochrane	Unknown
Mt. Diablo High School Principal Kate McClatchy	YES
Mt. Diablo High School PTA Raquel Echeverra.	Unknown
Olympic High School Principal Leyla Benson	YES
Olympic High School No PTA	N/A (No PTA)
Ygnacio Valley High School Principal Bill Morones	YES
Ygnacio Valley High School PTA Sherry Whitmarch	YES

OUT SIDE AGENCY DAYTIME CURFEW ORDINANCES

The following municipalities in and outside of Contra Costa County have implemented daytime curfew ordinances: Benicia, El Cerrito, Fairfield, Fremont, Hayward, Hercules, Pinole, Pittsburg, Richmond and San Pablo (see the attached supporting documents for samples of daytime curfew ordinances from most of these cities).

Out of the ten surveyed municipalities with ordinances, eight are fine-based: Benicia, El Cerrito, Fairfield, Fremont, Hayward, Pittsburg, Pinole, and San Pablo. The ordinances in Richmond and Hercules are not fine-based and instead offer diversionary programs:

Daytime Curfew Agency	Daytime Curfew Ordinance	
	Fine-Based	Administrative (Diversion)
Benicia	YES	
El Cerrito	YES	
Fairfield	YES	
Fremont	YES	
Hayward	YES	
Hercules		YES
Pinole	YES	
Pittsburg	YES	
Richmond		YES
San Pablo	YES	

Police personnel at the some of the surveyed agencies were contacted and asked their opinion regarding the effectiveness of their daytime curfew ordinances. Of the agencies that responded, the ordinances were characterized as:

- “Very helpful”
- “A useful tool for Officers on the street”
- “A deterrent to daytime crime”
- “Extremely effective”
- “Curbed (daytime) burglary significantly”
- “A good tool to contact juveniles out on the street during school hours”
- “A good tool”
- “Fewer kids hanging out”

Comments included nearly unanimous observations that truant students no longer congregated in public places during school hours. Anecdotally, visible loitering during school hours appeared to have been reduced within these agencies.

Ordinance Models:

Under most daytime curfew ordinances, violators may be detained when a Police Officer develops reasonable suspicion that a minor (one who is subject to compulsory education) is away from his/her own home during normal school hours, without a lawful defense. Lawful defenses include:

- Supervised by a parent/guardian
- On an emergency errand directed by a parent/guardian
- Bona fide medical appointment, student or parent/guardian
- To/from place of employment
- Authorized school-related business
- Authorized excuse/absence from the school
- Exempt by law from compulsory education (i.e.; home schooled)
- Emancipated minor

Unless one or more of the defenses are present, at the discretion of the detaining Officer, the minor may be cited to appear in traffic court, in violation of the daytime curfew ordinance. In some cases, first offenses may be eligible for diversion. Subsequent citations/convictions may also result in increased fines (e.g.; \$50 for the first offense or \$100 for the second offense if it occurs within one year of the first offense).

Within the sample ordinances, the definition of “normal school hours” varies, but they are generally described as those specific to the minor’s regularly-scheduled school time on those days when school is in session. They are also explicit (i.e.; 8:30 AM to 1:30 PM), or school-dependent (i.e.; 30 minutes after school starts to 30 minutes before school ends).

Some ordinance models also impose similar criminal sanctions on parents/guardians, business owners, or motor vehicle drivers who knowingly permit minors to violate the ordinance.

In cases where a minor is then released on the citation, s/he may be either returned to school or picked up at the scene by a parent or guardian. If/when the minor appears in court, typically s/he is then given the choice of a fine or community service.

There is currently no statistical data related to the number of citations generated by the agencies which were sampled, since many of these ordinances are relatively new.

Diversionsary Ordinance Models:

The Richmond Police Department established their daytime curfew ordinance under a diversionsary model in October of 2010. They will contact the offender under similar written municipal code; however, their first summons is assigned to their Youth Services Bureau for diversion, instead of the fine-based models used by other agencies.

In Richmond, the minor is contacted by the School Resource Officer and taken to a re-engagement center if no parent is able to pick up the juvenile during school hours. The juvenile is not returned to the school. In the City of Richmond, it is the RYSE Center or Police Activity League (PAL) programs that act as the re-engagement centers. The youth is then eventually released to the parent and given a summons to appear in Juvenile Court.

Richmond's Youth Services Bureau has a PAL Officer assigned to it as well as other detectives that only handle juvenile delinquency issues. Those select officers attempt to resolve the root issue of the juvenile's truancy problem by sending them to programs offered in the City of Richmond. This whole process is administered under the direction of a Juvenile Court Judge and with a summons to appear in court. This model is very labor intensive and requires additional resources that are not readily available in most cities. At this time it is unknown what impact it has had on the truancy problem within the City of Richmond.

Anticipated Economic and Fiscal Impact:

Implementing and maintaining a daytime curfew ordinance would likely be cost-neutral. Start up costs would consist of staff time to draft and prepare the ordinance for council. Many tested, sample ordinances already exist in a variety of forms throughout the Bay Area and California. A legally defensible ordinance would require final review and approval from the City Attorney's office, however, the constitutionality of a daytime curfew ordinance in California has already been well established (most conforming with *Nunez v. City of San Diego*, 114 F.3d 935, 9th Cir. 1997). A large number of major cities (i.e.; Los Angeles, San Diego) in California have successfully instituted daytime curfew ordinances which have prevailed when legally challenged.

The economic impact of a daytime curfew ordinance is unknown, but likely to be minimal. Truant students may frequent and patronize local businesses during school hours, but they may also discourage other residents from patronizing businesses as well. Like any other public safety municipal code, enforcement by way of citation to traffic court would result in a fine being levied, with some revenue being created. A first offense fine would likely be in the \$50 to \$100 range.

State truancy laws will continue to overlap with any proposed curfew ordinance, regardless of whether or not criminal sanctions (fines) attach. In short, Officers will still contact truants, detain them, and return them to their schools. The act of issuing a citation for a CMC curfew ordinance violation, in tandem with truancy enforcement, will

not substantively require additional resources or cost. Since all citations will be issued by Officers during hours that both public schools and traffic court are in session (i.e.; 8:00 AM-2:00 PM), it is highly likely that the citing Officers' court appearances would be on a straight-time, regular (day) shift basis, and not require overtime appearances.

Based upon all these factors, it is unlikely that a daytime curfew ordinance would have any negative fiscal impact to the city.

CONCLUSION AND RECOMMENDATIONS

School age-minors, with certain exceptions, are required by California law to be in school. Voluntary compliance with compulsory education requirements – both from students and parents – necessarily brings with it the benefit of increased public and community safety during school hours. Simply put, when minors are in school being supervised by adults, they are less likely to cause harm or be harmed by others. A reduction in youth-related daytime crime and disorder, especially in public areas, businesses, or neighborhoods adjacent to schools, is directly related to vigorous enforcement of truancy laws.

However, existing truancy rates within Concord high schools – especially those near to the downtown area -- strongly suggests the consequences of violating truancy laws are insufficient to compel minors to attend or remain in school. Thus it is primarily the public safety need for the daytime safety of minors which has produced daytime curfew ordinances in Bay Area cities and around the state.

A daytime curfew ordinance in Concord would provide Officers with an additional option for dealing with truant minors who are out on the streets during school hours. Instead of just school-based administrative consequences or discipline, real criminal sanctions (i.e.; fines) would attach. This would likely enhance our collective ability to deter truancy, reduce the potential for truancy-associated crime and disorder in our communities, and increase the safety of minors in Concord during school hours.

After a review of the Mt. Diablo Unified School District Response to truancy, the current truancy problem in Concord today, and the preliminary, surveyed opinion of some of the stakeholders (Principals and PTA members), it is our recommendation that the City of Concord consider implementing a daytime curfew ordinance in Concord. Such an ordinance would jointly serve as a benefit to schools, students, law enforcement, and the public. In the interim, broader opinion can be solicited from youth, parent, business, and school representatives.

The Mt. Diablo Unified School District continues to be our partner in this issue and we will maintain our collaborative efforts to prevent truancy.

Respectfully Submitted,

Lieutenant David Hughes
Sergeant Tiffany Leftwich-Barraco

SAMPLE DAYTIME CURFEW ORDINANCES

Benicia
El Cerrito
Fairfield
Fremont
Hayward
Hercules
Pinole
Pittsburg
Richmond
San Pablo

BENICIA
DAYTIME CURFEW ORDINANCE

Article II. Daytime Curfew

9.28.070 Purpose and intent.

State law requires all persons between the ages of six and 18 to attend school. Regular school attendance provides important benefits not only to the students themselves but also to the health, safety, and welfare of all residents within the city. Regular school attendance promotes employability upon graduation and reduces delinquency as well as the potential for future dependence upon public assistance.

The community as a whole suffers when a minor student is not attending school. Truancy or unexcused absenteeism from school results in a loss of educational opportunities to the student and a loss of revenue to the school. Truancy also often leads to vandalism, petty theft, daytime burglaries, and other criminal activity. Truants often tend to loiter in and about public places; frequently, persons going about their lawful business as well as public property become targets of the delinquent behaviors of truants when they should be in school. This is not intended to abridge or interfere with the lawful rights of parents or legal guardians or to contravene or supersede the laws of the state of California dealing with such matters.

This article is intended to assist with the policing of public places in the city during specified daytime hours and the prevention of crimes by and against minors during those hours. It is not intended to interfere with the enforcement of state laws regulating truancy or with the school district's truancy programs. This article is intended to provide the city with an additional proactive intervention tool to protect youth. (Ord. 08-17 § 1).

9.28.080 Definitions.

For the purpose of this article, the following terms shall be defined as follows:

- A. "Curfew hours" shall mean the period of the minor's regular scheduled school time on school days.
- B. "Emergency" shall mean any unforeseen combination of circumstances or a situation that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, an automobile accident, explosion, or any condition requiring immediate action to prevent serious bodily injury or loss of life.
- C. "Establishment" shall mean any privately owned place of business operated for profit to which the public is invited including, but not limited to, any place of amusement or entertainment.

D. "Guardian" shall mean:

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

E. "Loiter" shall mean to delay an activity, errand, or journey with aimless idle stops and purposeless distractions, to remain in a place in an idle manner, to hang around aimlessly or without real necessity.

F. "Minor" shall mean any person under 18 years of age.

G. "Operator" shall mean any individual, firm, association, partnership or corporation operating, managing or conducting any establishment.

H. "Parent" shall mean a person who is a natural parent, adoptive parent or step-parent of a minor.

I. "Public place" shall mean any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

J. "Remain" shall mean:

1. To stay behind while others withdraw, to tarry, to stay; or
2. To fail to leave the premises when requested to do so by a peace officer, the owner, operator or other person in control of the premises.

K. "Responsible adult" shall mean a person at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

L. "Serious bodily injury" shall mean 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. (Ord. 08-17 § 1).

9.28.090 Offenses.

It is unlawful for any minor subject to compulsory full-time education or to compulsory continuation education to be found away from his or her home during the minor's regular scheduled school time when absent from school within the city without lawful defense as defined herein in BMC 9.28.100. (Ord. 08-17 § 1).

9.28.100 Lawful defenses for absence from school.

- A. When the minor is accompanied by his or her parent, guardian, or other adult person having care or custody of the minor.
- B. When the minor is on an emergency errand directed by his or her parent or guardian, or other adult person having care or custody of the minor.
- C. When the minor is going or coming directly to or from his or her place of gainful employment or to or from a medical, dental or other health care appointment.
- D. When the minor has permission to leave for lunch or school-related activity.
- E. When the minor is going or coming directly to or from a school-approved or school-related business, trade, profession, occupation or program in which the minor is lawfully engaged, such as a work study or work experience program, subject to verification by a proper school authority.
- F. When the minor is exempt by law from compulsory education or compulsory continued education.
- G. When the minor is authorized to be absent from his or her school under the provisions of California Education Code Section 48205, or any applicable state or federal law.
- H. When the minor is going directly to or from an event or activity that is directly related to any medical condition of a parent or other adult person having the care and custody of the minor. (Ord. 08-17 § 1).

9.28.110 Enforcement – Penalties.

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in a public place or on the premises of an establishment during curfew hours. The officer shall not issue a citation or detain a minor under this article unless the officer reasonably believes that an offense has occurred and, based upon the minor's response(s) and other circumstances, no defense under BMC 9.28.100 appears present or applicable. (Ord. 08-17 § 1).

9.28.120 Penalties.

Any person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed or continued. Any person who violates the offenses described in this article shall be guilty of an infraction. The fine for this violation shall be \$50.00 for the first offense, \$100.00 for the second offense within one calendar year of the first offense, and \$200.00 for the third and

consecutive offense(s) within one year from the second offense. In lieu of paying the fine, first-time offenders who are eligible for the city's diversion program may provide community service through the diversion program. (Ord. 08-17 § 1).

**EL CERRITO
DAYTIME CURFEW ORDINANCE**

10.70.010 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

A. "Emergency" shall mean an unforeseen combination of circumstances or the resulting state that justifies immediate action. Emergency includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation justifying immediate action to prevent serious bodily injury, loss of life or damage to property.

B. "Guardian" shall mean:

1. A person who, under court order, is the guardian of the person of a minor and may, under appropriate circumstances, include a person who, under court order, is the guardian of the estate of a minor; or

2. A public or private agency with whom a youth has been placed by order of a court of competent jurisdiction; or

3. A person who is at least eighteen years of age and authorized by a parent or guardian to have the care and custody of a minor.

C. "Juvenile" shall mean any person less than eighteen years of age. "Juvenile" is synonymous with "youth" and "minor."

D. "Loiter" shall mean to delay, to linger or to idle about.

E. "Minor" shall mean any person less than eighteen years of age. "Minor" is synonymous with "youth" and "juvenile."

F. "Official warning" means documentation that the minor and/or parent or guardian, has been contacted, detained and/or counseled.

G. "Parent" shall mean a person who is a natural parent, adoptive parent, or step-parent of a minor.

H. "Public place" shall mean any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, sidewalks, highways, parking lots, private residences left open to the public without the presence of a parent or guardian as a supervisor and the common areas of schools, hospitals, apartment houses, multiple family dwellings, office buildings, transport facilities, shopping centers, commercial establishments, retail establishments, and shops.

I."Remain" shall mean to loiter, linger or stay, whether on foot or in a vehicle, or fail to leave a public place when requested to do so by a police officer or the owner, operator or person in control of the public place.

J."Youth" shall mean any person less than eighteen years of age and is synonymous with the term "minor" and "juvenile."

K."Curfew hours" shall be from 8:00 a.m. until 2:00 p.m. and 10:00 p.m. until 5:00 a.m., except Friday and Saturday nights, when they shall be from 11:00 p.m. until 5:00 a.m. (Ord. No. 2010-02, § II, 2-1-2010)

10.70.020 - Purpose and intent—Daytime curfew.

A.State law requires all persons between the ages of six and eighteen to attend school. Regular school attendance provides important benefits not only to the students themselves but also to the health, safety, and welfare of all residents within the city. Regular school attendance promotes employability upon graduation and reduces delinquency as well as the potential for future dependence upon public assistance.

B.The community as a whole suffers when a minor student is not attending school. Truancy or unexcused absenteeism from school results in a loss of educational opportunities to the student and a loss of revenue to the school. Truancy also often leads to vandalism, petty theft, daytime burglaries, and other criminal activity. Truants often tend to loiter in and about public places; frequently, persons going about their lawful business as well as public property become targets of the delinquent behaviors of truants when they should be in school.

C.It is the intent of the City Council of the City of El Cerrito, by this Chapter and in cooperation and coordination with the West Contra Costa County Unified School District by the exercise of the city's traditional police powers and its curfew powers over minors, to establish and enforce a curfew upon minors of school age on school days during the hours between 8:00 a.m. and 2:00 p.m., with stated exceptions, in order to provide protection for the community and public property from deleterious effects of truancy. This is not intended to abridge or interfere with the lawful rights of parents or legal guardians or to contravene or supersede the laws of the State of California dealing with such matters.

(Ord. No. 2010-02, § II, 2-1-2010)

10.70.030 - Authority.

The authority of the ordinance codified in this chapter is based upon (a) the police power granted to the city by the Constitution of the State of California, Article XI, Section 7 and (b) independent and separate from the provisions of California Welfare and Institutions Code, Sections 625, 626 and 626.5.

(Ord. No. 2010-02, § II, 2-1-2010)

10.70.040 - Prohibited activity—Daytime curfew.

It shall be unlawful for any minor subject to compulsory full-time education or to compulsory continuation education to be found away from his or her home between the hours of 8:00 a.m. and 2:00 p.m. when absent from school within the city without lawful excuse as defined in Section 10.70.050.

(Ord. No. 2010-02, § II, 2-1-2010)

10.70.050 - Lawful excuses for absence from school.

It shall be permissible for a minor subject to compulsory full-time education or to compulsory continuing education to be found away from his or her home between the hours of 8:00 a.m. and 2:00 p.m. under the following circumstances:

A. When the minor is accompanied by his or her parent, guardian or other adult person having care or custody of the minor.

B. When the minor is on an emergency errand directed by his or her parent, guardian, or other adult person having care or custody of the minor.

C. When the minor is going or coming directly to or from his or her place of gainful employment or to or from a medical appointment.

D. When the minor has permission to leave for lunch or school-related activity and has in his or her possession a valid, school issued, off-campus permit.

E. When the minor is going or coming directly to or from a school approved or school related business, trade, profession, occupation or program in which the minor is lawfully engaged, such as work study or work experience program, subject to verification by a proper school authority.

F. When the minor is exempt by law from compulsory education or compulsory continued education.

G. When the minor is authorized to be absent from his or her school under the provisions of California Education Code section 48205, or any applicable state or federal law.

H. When the minor is going directly to or from an event or activity that is directly related to any medical condition of a parent or other adult person having the care and custody of the minor.

(Ord. No. 2010-02, § II, 2-1-2010)

10.70.060 - Enforcement penalties—Daytime curfew.

A.A violation of any section in this article is an infraction and not a misdemeanor.

B.The fine for this violation shall be listed in the City of El Cerrito Master Fee Schedule as adopted from time to time by resolution.

C.A peace officer or probation officer may assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without a valid excuse and return such minor to his or her school of registration.

D.This section shall not be construed to limit the authority of the court to render any disposition authorized by California Welfare & Institutions Code Section 258, subdivision (a) or any other provision of the Juvenile Court Law for violation of this article.

(Ord. No. 2010-02, § II, 2-1-2010)

FAIRFIELD PD DAYTIME CURFEW

CHAPTER 12 OFFENSES - MISCELLANEOUS

Article I. In General.

12.1.1 Purpose and Intent.

The City has a compelling interest in reducing the rate of juvenile crime and victimization. Minors are particularly vulnerable to violence and to the pressure to participate in criminal activity due to their lack of maturity and experience and their limited ability to make critical decisions in an informed and mature manner. Enactment and enforcement of a juvenile crime and victimization.

In addition to reducing the rate of juvenile crime and victimization, a daytime curfew also serves to promote the City's compelling interest in prohibiting daytime presence in public places by those subject to compulsory education.

Both the nighttime and daytime juvenile curfews promote legitimate and compelling governmental interests while not restricting constitutionally protected activities.

12.1.2 Definitions.

In these sections 12.1.1 through 12.1.7:

Custodial Person means any parent or legal guardian of the minor, or any person eighteen (18) years of age or older who possesses written authorization by such parent or legal guardian for the care and custody of the minor.

Daytime Curfew Hours means the period from 8:30 a.m. through 1:30 p.m. on those days when the minor's school is in session with the exception of a school approved lunch hour.

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

Minor means a person under the age of eighteen (18) years.

Nighttime Curfew Hours means the period from 11:00 p.m. through 5:00 a.m. every day of the week.

Public Place means any place to which the public has access and includes, but is not limited to, streets, roads, alleys, trails, parks, recreation areas, public grounds or buildings, vacant lots or buildings, common areas of schools (except during regular school hours), office buildings, transport facilities, restaurants, retail establishments, places of amusement, parking lots, or other unsupervised places.

12.1.3 Prohibitions.

Except as provided in section 12.1.4 (Exceptions) below:

- (a) Nighttime curfew: Every minor who is present in or upon any public place during nighttime curfew hours is guilty of an infraction.
- (b) Daytime curfew: Every minor subject to compulsory education or to compulsory continuation education who is not in possession of a valid, school-issued, off-campus permit giving permission to leave campus or not receiving instruction by a qualified tutor pursuant to Education Code Section 48224 or not otherwise exempt from attendance at a public or private full-time day school as set forth in the Education Code, who is present in or upon any public place during the daytime curfew hours is guilty of an infraction.
- (c) Custodial responsibility: Every custodial person who allows or permits a minor in his or her custody to violate any provision of this section is guilty of an infraction.

12.1.4 Exceptions.

The prohibitions of Section 12.1.3 do not apply if the minor is:

1. Accompanied by a custodial person;
2. On an errand directed by, and in possession of a written excuse from, a custodial person;
3. Engaged in or going directly to or returning directly from a school-approved activity or one that is supervised by school personnel, a medical appointment, a religious activity, other lawful educational or recreational activity supervised by adults and sponsored by the school, the city, a civic organization, or a similar entity that takes responsibility for the minor;

4. Engaged in a lawful employment activity or in a place in connection with or as required by a business, trade, profession, or occupation in which the minor is lawfully engaged, or going directly to or returning directly from such activity;
5. Engaged in or going directly to or returning directly from any lawful activity with written permission from a custodial person;
6. Involved in an emergency or seeking medical assistance;
7. Exercising rights protected by the First Amendment of the United States Constitution or Article 1 of the California Constitution, including but not limited to: free exercise of religion, freedom of speech and freedom of assembly;
8. In the right-of-way abutting the minor's residence;
9. In a motor vehicle involved in interstate travel;
10. Emancipated pursuant to State law and California Family Code Section 7000, et seq, including but not limited to the following reasons: married or in the military service.

12.1.5 Enforcement.

A police officer shall ask the age of an apparent offender and the reason for being on the premises or property. The officer shall not issue a citation or make an arrest unless the officer reasonably believes that an offense has occurred and that none of the exceptions set forth in Section 12.1.4 apply.

Nothing in this section shall be construed as limiting in any way the power or right of law enforcement officers to make investigations, detentions or arrests as would have been permitted had this section not been enacted.

12.1.6 Penalty.

Each violation of Section 12.1.3 is a separate offense.

12.1.7 Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence,

clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional. (Ord. No. 98-18, § 1.)

**FREMONT
DAYTIME CURFEW ORDINANCE**

ARTICLE 2. DAY TIME YOUTH PROTECTION

§ 3-16200. Prohibited activity.

§ 3-16210. Enforcement; penalties.

Sec. 3-16200. Prohibited activity.

(a) It is unlawful for any minor under the age of eighteen years, who is subject to compulsory education or to compulsory continuation education to be in or upon any public street, highway, road, alley, park, playground, or other public ground, public place, public building, place of amusement, eating establishment or vacant lot when the minor is required to be in school. This section shall only apply during the hours of 7:30 a.m. to 2:30 p.m. on days when the minor's school is in session.

(b) This section does not apply:

(1) When the minor is accompanied by his or her parent, guardian, or other adult person having the care or custody of the minor; or

(2) When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having care or custody of the minor; or

(3) When the minor is going or coming directly to or from his or her place of gainful employment or to or from a medical appointment; or

(4) When the minor has permission to leave school campus for lunch or school-related activity and has in his or her possession a valid, school-issued, off-campus permit; or

(5) When the minor is exempt by law from compulsory education or compulsory continuation education; or

(6) When the minor is authorized to be absent from his or her school under the provisions of California Education Code section 48205, or any other applicable state or federal law; or

(7) When the minor is going directly to or from an event or activity that is directly related to any medical condition of a parent or other adult person having the care and custody of the minor.

(Ord. No. 12-2006, § 8, 6-27-06.)

Sec. 3-16210. Enforcement; penalties.

(a) Notwithstanding section 1-3100, a violation of this Article is an infraction and not misdemeanor.

(b) The fine for violation of this article shall be seventy-five dollars for the first offense, one hundred fifty dollars for the second offense within one calendar year of the first offense, and two hundred fifty dollars for the third offense within one year of the second offense.

(c) This section shall not be construed to limit the authority of the court to render any disposition authorized by Welfare and Institutions Code section 258, subdivision (a) or any other provision of the Juvenile Court Law for violation of this article.

(Ord. No. 12-2006, § 9, 6-27-06.)

**HAYWARD
DAYTIME CURFEW ORDINANCE**

ARTICLE 9

CURFEW HOURS FOR MINORS

("Youth Protection Ordinance")

SEC. 4-9.00 TITLE. This Article shall be known as the "Curfew Hours for Minors Ordinance."

SEC. 4-9.01 PURPOSE AND INTENT. The purpose of this Article is to protect youth from unlawful and corrupting influences; to reduce juvenile crime, especially violent crime committed by and perpetrated against juveniles; and to promote the public health, safety, and general welfare during late night and school hours. Although the City Council desires to reduce the incidents of juvenile crime and victimization, the City Council does not intend to prohibit, prevent, or interfere with a youth's exercise of First Amendment or other rights under the United States Constitution. This Article's provisions preserve those constitutionally protected rights. In enacting this Article, the City Council is updating the City's existing curfew ordinance for minors to ensure the ordinance conforms to *Nunez v. City of San Diego*, 114 F.3d 935 (9th Cir. 1997), which requires sufficient specificity in the ordinance language. The City Council hereby finds and declares that:

(a) The City's nighttime and daytime curfews for minors are a significant factor in the City of Hayward's efforts to minimize juvenile violence, criminal street-gang activity, and crime by and against juveniles in the city;

(b) Because of their lack of maturity and experience, persons under the age of eighteen years are particularly susceptible to the lure of unlawful and gang-related activities and to becoming the victims of crime;

(c) Appropriate nighttime and daytime curfews will assist the City Council in its objective of protecting the welfare of minors by:

(1) reducing the likelihood that minors will become the victims of criminal acts,

(2) reducing the likelihood that minors will participate in criminal acts, unlawful gang-related activity, drug use, or narcotics trafficking, and

(3) assisting parents and guardians in carrying out their parental responsibility to exercise reasonable supervision and control over minors entrusted to their care; (d) Daytime and nighttime curfews for minors will be in the interest of the public health, safety, and general welfare.

SEC. 4-9.02 DEFINITIONS.

For the purpose of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their context that a different meaning is intended:

(a) 'Nighttime Curfew hours' means: (1) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day (Friday); (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(b) 'Daytime Curfew Hours' means: For any minor who is subject to compulsory education or to compulsory continuing education, the actual hours when said minor's school is in session.

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

(d) 'Minor' means any person less than 18 years of age, unless the person is:

(1) on active duty with the armed forces of the United States,

(2) validly married, whether or not the marriage has been dissolved, or

(3) otherwise emancipated under California Family Code sections 7000 et seq. or another state's laws. For the purposes of this Article, the term is synonymous with the terms "youth" and "juvenile."

(e) 'Adult' means any person 18 years of age or older.

(f) 'Parent' means a person who is a natural parent, adoptive parent, or step-parent of another person.

(g) 'Guardian' means:

(1) a person who, under court order, is the guardian of the person of a minor; or

(2) a public or private agency with whom a minor has been placed by a court; or

(3) a person who is at least eighteen (18) years of age and is authorized by the minor's parent or guardian to have the care and custody of that minor.

(h) 'Public place' means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, roads, alleys, sidewalks,

highways, and the common areas of schools, hospitals, apartment houses, office buildings, public buildings, transport facilities, shops, parks, playgrounds, malls, places of amusement, eating establishments, shopping centers and parking lots.

(i) 'Remain' means to:

(1) linger or stay, whether on foot or in a vehicle; or

(2) fail to leave premises when requested to do so by a police officer or the owner, operator, or person in control of the premises.

SEC. 4-9.05 DAYTIME CURFEW OFFENSE.

(a) It is unlawful for any minor, who is subject to compulsory education or to compulsory continuation education to loiter, idle, wander, or be in a public place when said minor's assigned school is actually in session. This section shall also apply to a minor whose enrollment status is under suspension, expulsion, or transfer in progress.

(b) A parent or guardian of a minor commits an offense if he or she knowingly permits, or by insufficient control allows, a minor who is subject to compulsory education or to compulsory continuation education to violate 4-9.05(a). No parent or guardian shall refuse to take custody of a minor who has been detained, arrested or issued a citation for violation of this Article.

SEC. 4-9.06 LIMITATIONS TO DAYTIME CURFEW OFFENSE.

The offenses listed in section 4-9.05 shall not apply when the minor is:

(a) Accompanied by the minor's parent, guardian, or other adult having care or custody of the minor; or

(b) On an errand directed by his or her parent, guardian, or other adult having care or custody of the minor, without any unnecessary detour or stop; or

(c) In said place or places in connection with, or as a requirement of, a business, trade, profession or occupation in which the minor is lawfully engaged, or going to or returning home from without any unnecessary detour or stop; or

(d) Involved in an emergency, receiving medical treatment or care, or going to or coming from a medical appointment, without any unnecessary detour or stop; or

(e) Off of the school campus for lunch or school-related activity, and has in his or her possession a valid, school issued, off-campus permit, or is otherwise authorized to be absent from his or her school pursuant to the provisions of California Education Code § 48205, or any other applicable state or federal law; or

(f) Exempt by law from compulsory education or compulsory continuing education as provided by the California Education Code, or is going directly to, or coming directly from, a compulsory alternative education program activity; or

SEC. 4-9.07 ENFORCEMENT.

(a) Before taking any enforcement action under this Article, a police officer shall ask the apparent offender's name, address, age, and reason for being in the public place, and any other information reasonably necessary to determine whether a violation exists. The officer shall not issue a citation or make an arrest under this Article unless the officer reasonably believes that an offense has occurred, as set forth above.

(b) There is no requirement of a first warning in order for the officer to issue an Administrative Citation under this Article.

SEC. 4-9.08 PENALTIES.

A person who violates a provision of this Article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. In addition to all other remedies or penalties provided by law, a violation of any of the sections contained in this Article is punishable by administrative penalties as set forth in Chapter 1, Article 7 of the Hayward Municipal Code.

SEC. 4-9.09 HEARINGS ON THE IMPOSITION OF ADMINISTRATIVE PENALTIES – APPEALS.

Any person subject to administrative penalties pursuant to this Article shall have the right to request an administrative hearing in accordance with Hayward Municipal Code 1-7.07 through 1-7.10, inclusive. The administrative penalties imposed by this Article do not preclude other potential civil actions or criminal prosecution under any other provision of law, including but not limited to Education Code § 48264.

HERCULES DAYTIME CURFEW ORDINANCE

Article 1: Daytime Curfew

Sec. 4-4.101 Purpose and Intent—Daytime Curfew.

(a) State law requires all persons between the ages of six (6) and eighteen (18) to attend school. Regular school attendance provides important benefits not only to the students themselves but also to the health, safety, and welfare of all residents within the City. Regular school attendance promotes employability upon graduation and reduces delinquency as well as the potential for future dependence upon public assistance.

(b) The community as a whole suffers when a minor student is not attending school. Truancy or unexcused absenteeism from school results in a loss of educational opportunities to the student and a loss of revenue to the school. Truancy also often leads to vandalism, petty theft, daytime burglaries, and other criminal activity. Truants often tend to loiter in and about public places; frequently, persons going about their lawful business as well as public property become targets of the delinquent behaviors of truants when they should be in school.

(c) It is the intent of the City Council of the City of Hercules, by this Chapter and in cooperation and coordination with the West Contra Costa County Unified School District and the John Swett Unified School District, by the exercise of the City's traditional police powers and its curfew powers over minors, to establish and enforce a curfew upon minors of school age on school days during the hours between 8:00 a.m. and 2:00 p.m., with stated exceptions, in order to provide protection for the community and public property from deleterious effects of truancy. This is not intended to abridge or interfere with the lawful rights of parents or other legal guardians or to contravene or supersede the laws of the State of California dealing with such matters.

(d) This Chapter may be cited as the "Hercules Youth Protection Ordinance." (Ord. 439 § 1 (part), 2008)

Sec. 4-4.102 Authority.

The authority of this Chapter is based upon (a) the police power granted to the City by the Constitution of the State of California, Article XI, Section 7, and (b) independent and separate therefrom, the provisions of California Welfare and Institutions Code Sections 625, 626 and 626.5. (Ord. 439 § 1 (part), 2008)

Sec. 4-4.103 Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) "Emergency" shall mean an unforeseen combination of circumstances or the resulting state that justifies immediate action. Emergency includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation justifying immediate action to prevent serious bodily injury, loss of life or damage to property.

(b) "Guardian" shall mean:

(1) A person who, under court order, is the guardian of the person of a minor and may, under appropriate circumstances, include a person who, under court order, is the guardian of the estate of a minor; or

(2) A public or private agency with whom a youth has been placed by order of a court of competent jurisdiction; or

(3) A person who is at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

(c) "Juvenile" shall mean any person less than eighteen (18) years of age. "Juvenile" is synonymous with "youth" and "minor."

(d) "Loiter" shall mean to delay, to linger or to idle about.

(e) "Minor" shall mean any person less than eighteen (18) years of age. "Minor" is synonymous with "youth" and "juvenile."

(f) "Official warning" means documentation that the minor and/or parent or guardian has been contacted, detained and/or counseled.

(g) "Parent" shall mean a person who is a natural parent, adoptive parent, or step-parent of a minor.

(h) "Public place" shall mean any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, sidewalks, highways, parking lots, private residences left open to the public without the presence of a parent or guardian as a supervisor and the common areas of schools, hospitals, apartment houses, multiple-family dwellings, office buildings, transport facilities, shopping centers, commercial establishments, retail establishments, and shops.

(i) "Remain" shall mean to loiter, linger or stay, whether on foot or in a vehicle, or fail to leave a public place when requested to do so by a police officer or the owner, operator or person in control of the public place.

(j) "Youth" shall mean any person less than eighteen (18) years of age and is synonymous with the term "minor" and "juvenile."

(k) "Youth protection ordinance hours" shall be from 8:00 a.m. until 2:00 p.m. and 10:00 p.m. until 5:00 a.m. of the following day. (Ord. 439 § 1 (part), 2008)

Sec. 4-4.104 Prohibited Activity—Daytime Curfew.

It shall be unlawful for any minor subject to compulsory full-time education or to compulsory continuation education to be found away from his or her home between the hours of 8:00 a.m. and 2:00 p.m. when absent from school within the City without lawful excuse as defined in Section 4-4.105. (Ord. 439 § 1 (part), 2008)

Sec. 4-4.105 Lawful Excuses for Absence from School.

It shall be permissible for a minor subject to compulsory full-time education or to compulsory continuing education to be found away from his or her home between the hours of 8:00 a.m. and 2:00 p.m. under the following circumstances:

(a) When the minor is accompanied by his or her parent, guardian or other adult person having care or custody of the minor.

(b) When the minor is on an emergency errand directed by his or her parent, guardian, or other adult person having care or custody of the minor.

(c) When the minor is going or coming directly to or from his or her place of gainful employment or to or from a medical appointment.

(d) When the minor has permission to leave for lunch or school-related activity and has in his or her possession a valid, school-issued, off-campus permit.

(e) When the minor is going or coming directly to or from a school-approved or school-related business, trade, profession, occupation or program in which the minor is lawfully engaged, such as a work study or work experience program, subject to verification by a proper school authority.

(f) When the minor is exempt by law from compulsory education or compulsory continued education.

(g) When the minor is authorized to be absent from his or her school under the provisions of California Education Code Section 48205, or any applicable state or federal law.

(h) When the minor is going directly to or from an event or activity that is directly related to any medical condition of a parent or other adult person having the care and custody of the minor. (Ord. 439 § 1 (part), 2008)

Sec. 4-4.106 Enforcement; Penalties—Daytime Curfew.

(a) A violation of any section in this Article is an infraction and not a misdemeanor.

(b) The fine for this violation shall be fifty dollars (\$50.00) upon a conviction for the first offense, one hundred dollars (\$100.00) upon conviction for the second offense within one (1) calendar year of the first offense, and two hundred dollars (\$200.00) upon a conviction for the third offense within one (1) year from the second offense.

(c) A peace officer or probation officer may assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without a valid excuse and return such minor to their school of registration.

(d) This Section shall not be construed to limit the authority of the court to render any disposition authorized by Welfare and Institutions Code Section 258, subdivision (a) or any other provision of the Juvenile Court Law for violation of this Article. (Ord. 439 § 1 (part), 2008)

**PINOLE
DAYTIME CURFEW ORDINANCE**

9.16.020 DAYTIME CURFEW.

It shall be unlawful for any minor subject to compulsory full-time education or to compulsory continuation education to be in or upon any public street, highway, road, alley, park, playground, or other public ground, public place, public building, place of amusement, eating establishment, or vacant lot between the hours of eight a.m. (8:00 a.m.) and two p.m. (2:00 p.m.) when absent from school within the city without lawful excuse as defined in Section C. below.

A. Authority. The authority of this Chapter is based upon the police power granted to the city by the Constitution of the State of California, Article XI, Section 7.

B. Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. "Emergency" shall mean an unforeseen combination of circumstances or the resulting state that justifies immediate action. Emergency includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation justifying immediate action to prevent serious bodily injury, loss of life or damage to property.

2. "Guardian" shall mean:

a. A person who, under court order, is the guardian of the person of a minor and may, under appropriate circumstances, include a person who, under court order, is the guardian of the estate of a minor; or

b. A public or private agency with whom a minor has been placed by order of a court of competent jurisdiction; or

c. A person who is at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of the minor.

3. "Minor" shall mean any person less than eighteen (18) years of age.

4. "Parent" shall mean a person who is a natural, adoptive, legal, or step- parent of a minor.

C. Exemptions. This section shall not apply to the following circumstances:

1. When the minor is accompanied by his or her parent, guardian or other adult person having care or custody of the minor.

2. When the minor is on an emergency errand directed by his or her parent, guardian, or other adult person having care or custody of the minor.
3. When the minor is going or coming directly to or from his or her place of gainful employment or to or from a medical appointment.
4. When the minor has permission to leave for lunch or school-related activity and has in his or her possession a valid, school-issued, off-campus permit.
5. When the minor is going or coming directly to or from a school-approved or school-related business, trade, profession, occupation or program in which the minor is lawfully engaged, such as a work study or work experience program, subject to verification by a proper school authority.
6. When the minor is exempt by law from compulsory education or compulsory continued education.
7. When the minor is authorized to be absent from his or her school under the provisions of California Education Code Section 48205, or any applicable state or federal law.
8. When the minor is going directly to or from an event or activity that is directly related to any medical condition of a parent or other adult person having the care and custody of the minor.

D. Enforcement - Penalties.

1. A violation of any section in this section is an infraction and not a misdemeanor.
2. The fine for this violation shall be fifty dollars (\$50.00) upon a conviction for the first offense, one hundred dollars (\$100.00) upon conviction for the second offense within one (1) calendar year of the first offense, and two hundred dollars (\$200.00) upon a conviction for the third offense within one (1) year from the second offense. (Ord. 2009-07 § 2, 2009)

**PITTSBURG
DAYTIME CURFEW ORDINANCE**

9.84.015 Daytime curfew.

A. Curfew. It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education, to be present in or upon any public street, avenue, highway, road, curb area, alley, park, playground or other public ground, public place or public building, place of amusement or eating place, vacant lot, or abandoned or vacant building between the hours of 8:30 a.m. and 1:30 p.m. on days when the minor's school is in session.

B. Exceptions. This section does not apply when:

1. The minor is accompanied by his or her parent, guardian or other adult person having the lawful care or custody of the minor, or by his or her spouse 18 years of age or older; or
2. The minor is on an errand directed by his or her parent, guardian or other adult person having the lawful care or custody of the minor, or by his or her spouse 18 years of age or older; or
3. The minor has in his or her possession a written excuse from his or her parent, legal guardian or other adult person having the legal care or custody of the minor, or from his or her spouse 18 years of age or older; or
4. The minor has permission to leave campus and has in his or her possession a valid, school-issued, off-campus permit; or
5. The minor is going directly to or returning from a public meeting, or place of public entertainment, such as a movie, play, sporting event, dance or school activity, provided such meeting, event or activity is a school-approved activity for the minor or is otherwise supervised by school personnel of the minor's school; or
6. The minor is going directly to or coming directly from a medical appointment or is going or coming directly to or from his or her place of gainful employment or the presence of such minor in such place or places is connected with or required with respect to a business, trade, profession or occupation in which such minor is lawfully engaged; or
7. The minor is receiving instruction by a qualified tutor pursuant to Education Code Section 48224, or is otherwise exempt from attendance at a public or full-time day school as set forth in the Education Code; or

8. The minor is married or has been emancipated in accordance with California Family Code Section 7000 et seq.; or

9. The minor is attending an off-campus official school, participating in a home school program, religious, recreational, educational, social, or other organized activity sponsored by the city, school district, or other private civic or religious organization that supervises the activity; or

10. The minor is involved in an emergency including, but not limited to, a fire, natural disaster, automobile accident, a situation requiring immediate action to prevent serious bodily injury or loss of life, or any unforeseen combination of circumstances or the resulting state which calls for immediate action; or

11. The minor is in a motor vehicle involved in interstate travel; or

12. The minor is on a sidewalk abutting the minor's residence. [Ord. 1162 § 5, 1999.]

9.84.020 Aiding and abetting – Parent responsibility.

A. It is unlawful for any parent, legal guardian or other person knowingly to aid, abet, assist or encourage any minor under the age of 18 years to violate the provisions of this chapter.

B. Every parent, guardian or other person having legal care, custody or control of any person under the age of 18 years who allows or permits a minor to violate any provision of this chapter is guilty of an infraction. [Ord. 1162 § 6, 1999; Ord. 668 C.S. § 16, 1974; 1937 Code § 541.1.]

9.84.030 Minors in hotels and similar establishments – Report to police.

Each owner, agent, manager or keeper of a hotel, boardinghouse, lodging house, tenement house, motor court or apartment house shall immediately report to the police department of the city the presence therein of any and all minors under the age of 18 years, unless such minor or minors is or are accompanied by the parent, guardian or other adult person having the legal care and custody of such minor or minors, and in making such reports shall state to the police department of the city the name, age, last known place of abode, the names and residences of the parents, guardian, or of any other custodian of such minor or minors, so far as such information can be ascertained from the minor or minors or otherwise. [1937 Code § 541.2.]

9.84.040 Minors in certain public places.

It is unlawful within the city for any proprietor, keeper, clerk or any other person having charge or control of any cafe, tavern, restaurant, bar, eating place or public dance hall to permit any person under the age of 18 years to remain in the public place between the hours of 10:00 p.m. and daylight immediately following unless such person is

accompanied by a parent, guardian or other adult person having the legal care and custody of such minor. [1937 Code § 541.3.]

9.84.050 Enforcement procedure.

A. Before taking any enforcement action under this article, the law enforcement officer shall ask the minor his or her age and reason for being in a public place during curfew hours. The officer shall not issue a citation to or temporarily detain a minor under this chapter unless the officer reasonably believes that an offense has occurred as provided in this chapter.

B. Upon the first violation of this chapter, the police shall issue to the minor a warning citation regarding the consequences of a second violation of this chapter. The police chief or his designated representative shall mail to the parent(s) of the minor or legal guardian a notification that states that upon a second violation the parents or legal guardian may be held liable for actual administrative and transportation costs. The parents or legal guardian shall be required to sign and return the notification. The notification shall include a space for the explanation of any circumstances relevant to an applicable exemption from the fee as provided in PMC 9.84.070(D). This explanation shall be reviewed by the police chief or his designated representative. If the explanation is found to be insufficient, the representative may request a consultation with the parents or legal guardian of the minor for the purpose of discussing the circumstances claimed to be relevant to an applicable exemption. [Ord. 1162 § 7, 1999; Ord. 668 C.S. § 16, 1974; 1937 Code § 541.4.]

9.84.060 Violations.

A. Infractions. Notwithstanding any other provision of this code, when a person under the age of 18 years is charged with a violation of this code, and a peace officer issues a notice to appear to that minor, the charge shall be deemed an infraction unless the minor requests that a petition be filed under Section 601 or 602 of the Welfare and Institutions Code.

B. Juvenile Traffic Court Appearance. Any person issued a citation for a violation of this chapter must appear before the juvenile traffic court within the prescribed time to adjudicate the citation. Any person appearing before the juvenile traffic court must be accompanied by a parent or guardian. The hearing officer shall not adjudicate the citation otherwise and shall continue the matter until such time as the minor is accompanied by a parent or guardian.

C. Failure to Appear Before the Juvenile Traffic Court. Any person who has been issued a citation for a violation of this chapter who fails to appear before the juvenile traffic court shall be reported to the State Department of Motor Vehicles, and shall have his or her driver's license suspended until the citation is adjudicated. If the person does not have a driver's license, the right to a license will be suspended until the citation is

adjudicated. At the adjudication of a citation for which an offender initially failed to appear, the court shall be required to impose community service work and a fine.

D. First Offense. Upon adjudication of a first infraction the court shall impose a fine of \$35.00. The court may also require 20 hours of community service work, instead of or in addition to the above-referenced fine. The court may delay imposition of the fine and/or community service obligations for a period of 60 days. If the juvenile attends all classes during those 60 days and provides the court with a letter from the school verifying that attendance, the court may thereafter waive the fine and community service hours obligation.

E. Second Offense within One Year. Upon adjudication of a section infraction within one year, the court shall impose a fine of \$75.00 and may suspend or delay the issuance of a driver's license for 60 days. The court may also require 20 hours of community service work, instead of or in addition to the above-referenced fine.

F. Third Offense within One Year. Upon adjudication of third and subsequent infractions within one year, the court shall impose a fine of \$150.00 and may suspend or delay the issuance of a driver's license for 90 days. The court may also require 20 hours of community service work, instead of or in addition to the above-referenced fine. [Ord. 1162 § 8, 1999; 1937 Code § 541.5.]

9.84.070 Cost recovery.

A. Determination by Court. When a court determines that a minor less than 18 years of age is subject to civil or criminal or criminal liability based on violation of curfew, truancy or other willful misconduct, it may provide that the parent(s) or legal guardian(s) of the minor shall be jointly and severally liable for the cost of providing law enforcement personnel to supervise the minor during his or her detention, over and above the cost of services normally provided by the city's law enforcement agency.

B. Determination by Chief of Police. When the chief of police or designee thereof determines that the city's law enforcement agency incurred costs over and above the cost of services normally provided by the agency in providing law enforcement personnel to supervise a minor during his or her detention for violation of curfew, daytime loitering, truancy or other willful misconduct, and when it has been determined by a court that the minor was civilly or criminally liable for such misconduct, the parent(s) or legal guardian(s) of the minor may be assessed, and billed for, such additional costs. In the alternative, the city may require community service in lieu of payment of the city's administrative costs.

C. Appeal. Any person receiving a bill for law enforcement services pursuant to this chapter may, within 15 days after the billing date, file a written request appealing the imposition of the charges. Any billing sent pursuant to this section shall inform the billed party of the right to appeal the billing. Any appeal regarding the billing shall be heard by the city manager, or designee thereof, as the hearing officer. Within 10 days after the

hearing, the hearing officer shall give written notice of the decision to the appellant. Upon the filing of a request for an appeal, payment of the bill for the law enforcement services shall be suspended until notice of the decision of the hearing officer is issued. If the appeal is denied in part or in full, all amounts due to the city shall be paid within 30 days after notice of the decision of the hearing officer. The hearing officer's decision is final.

D. Exemption From Administrative Costs. The hearing officer's decision may:

1. Provide for a waiver of the payment of the fee by the parent(s) or legal guardian upon a determination that the minor has made reasonable efforts to exercise supervision and control over the minor;
2. Provide for a determination of the ability to pay the fee and provide that the fee may be waived if neither the minor nor the parent(s) or legal guardian has the ability to pay the fee;
3. Provide for the performance of community service in lieu of imposition of the fee; and/or
4. Provide for a waiver of the payment of the fee by the parent(s) or legal guardian upon a determination that the parent(s) or legal guardian has limited physical or legal custody and control over the minor.

E. Court Fines and Community Service. Any fines or community service imposed by a court shall be considered separate and distinct from any administrative fines required to be paid to the city. [Ord. 1162 § 9, 1999.]

**RICHMOND
DAYTIME CURFEW ORDINANCE**

11.61.010 - Finding and determination.

The City Council finds and determines that school-aged children, with certain exceptions, are required to be in school. When in school they are under the supervision of adults. Parents, police, and the community at large rely on the schools to supervise the minors in their charge. When children are absent from school without excuse, they are no longer under the watchful eye of school authorities, and for that reason, are at greater risk of both being harmed and of causing harm to others. The Council further finds that it has a strong and legitimate interest in the welfare of its young citizens, whose immaturity, inexperience, and lack of judgment may sometimes impair their ability to exercise their rights wisely. The Council further recognizes that protecting the welfare of minors by reducing juvenile crime and victimization is an important governmental interest and recognizes the risks associated with minors who the community assumes are being supervised at school, but who in fact are not. The Council therefore finds that this ordinance addresses these concerns by prohibiting the presence of unsupervised minors in public places during normal school hours.

(Ord. No. 16-10 N.S., § 1, 4-20-2010)

11.61.020 - Unsupervised minors prohibited in public places when school is in session.

It shall be unlawful for any minor who is subject to compulsory education or to compulsory continuation education to be in or upon any public street, highway, road, alley, park, playground, or other public ground, public place, public building, place of amusement, eating establishment or vacant lot 30 minutes or more after school commences and 30 minutes or more prior to the time school ends on days when said minor's school is in session. This section does not apply:

(a)When the minor is accompanied by his or her parent, guardian, or other adult person having the care or custody of the minor; or

(b)When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having care or custody of the minor; or

(c)When the minor is going or coming directly to or from his or her place of gainful employment or to or from a medical appointment; or

(d)To any minor who has permission to leave school campus for lunch or school-related activity and has in his or her possession a valid, school issued, off-campus permit; or

(e)When the minor is exempt by law from compulsory education or compulsory continuation education; or

(f)When the minor is authorized to be absent from his or her school pursuant to the provisions of Cal. Education Code § 48205, or any other applicable State or federal law. (Ord. No. 16-10 N.S., § 1, 4-20-2010)

11.61.030 - Other prohibited conduct.

(a)It shall be unlawful for a minor's parent or legal guardian to knowingly permit, allow, suffer or encourage such minor to violate any provision of Section 11.61.020. The parent or legal guardian of any minor subject to this ordinance may be charged with a misdemeanor if the minor is found in violation of this ordinance three (3) or more times during a single school year. The parent or legal guardian may also be subject to mandatory mediation and/or family counseling if they fail or refuse to control the affected minor's non-permitted appearing in public during designated school hours.

(b)It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow, suffer or encourage a violation of any provision of Section 11.61.020

(c)It shall be unlawful for the operator or any employee of any establishment, to knowingly permit, allow, suffer or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment promptly notified the police department that a minor was present at the establishment during curfew hours and refused to leave.

(d)It shall be unlawful for any person (including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this chapter.

(Ord. No. 16-10 N.S., § 1, 4-20-2010)

11.61.040 - Penalty.

(a)Notwithstanding any other provision of this Code, including Section 1.04.100(a), any minor found in violation of this ordinance shall be subject to an infraction citation and ordered to appear in the Contra Costa County Juvenile Traffic Court. The court may order the minor into a diversion or youth intervention program including any other youth program approved by the courts and/or City of Richmond.

(b)At the sole discretion of the arresting officer, any minor found in violation of this chapter shall be immediately returned to his or her home if an adult is present there and the residence is within the Richmond City limits, or taken to the parent or guardian's place of employment. If the officer is unable to locate the parent or guardian or is unable to transport the minor to the parent or guardian's location, the minor shall be placed in a designated secure location, as determined by the police department, until such time as

a parent or legal guardian is notified and arrives to take custody of the minor or the minor's school is no longer in session.

(c)It shall be unlawful and a misdemeanor for the parent or legal guardian of any minor taken into protective custody for violation of this chapter to refuse or fail to timely respond and assume custody of the minor upon notification that the minor has been detained for violation of this chapter.

(d)Any person over 18 years of age and/or any operator or employee of any establishment found in violation of Section 11.61.030 shall be guilty of a misdemeanor. (Ord. No. 16-10 N.S., § 1, 4-20-2010)

11.61.050 - Remedies not exclusive.

Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies including administrative citations, civil and/or criminal actions. The remedies provided for herein shall be cumulative and not exclusive.

(Ord. No. 16-10 N.S., § 1, 4-20-2010)

11.61.055 - Community review committee.

A Community Review Committee is hereby established to evaluate the operation and effects of the curfew imposed by this chapter. The Committee shall consist of stakeholders with an interest in the curfew ordinance, including but not limited to parents, students, the school district, and youth centers, and other interested community organizations. The Committee shall meet quarterly beginning with the commencement of the 2010—2011 school year. After the second quarterly meeting, the Committee shall meet annually. The Committee shall present its conclusions to the City Council at a regularly scheduled meeting following each of the Committee's meetings.

(Ord. No. 16-10 N.S., § 1, 4-20-2010)

**SAN PABLO
DAYTIME CURFEW ORDINANCE**

9.32.010 Purpose and intent—Daytime curfew.

A. State law requires all persons between the ages of six and eighteen to attend school. Regular school attendance provides important benefits not only to the students themselves but also to the health, safety, and welfare of all residents within the city. Regular school attendance promotes employability upon graduation and reduces delinquency as well as the potential for future dependence upon public assistance.

B. The community as a whole suffers when a minor student is not attending school. Truancy or unexcused absenteeism from school results in a loss of educational opportunities to the student and a loss of revenue to the school. Truancy also often leads to vandalism, petty theft, daytime burglaries, and other criminal activity. Truants often tend to loiter in and about public places; frequently, persons going about their lawful business as well as public property become targets of the delinquent behaviors of truants when they should be in school.

C. It is the intent of the city council of the city of San Pablo, by this chapter and in cooperation and coordination with the West Contra Costa County Unified School District, by the exercise of the city's traditional police powers and its curfew powers over minors, to establish and enforce a curfew upon minors of school age on school days during the hours between eight a.m. and two p.m., with stated exceptions, in order to provide protection for the community and public property from deleterious effects of truancy. This is not intended to abridge or interfere with the lawful rights of parents or other legal guardians or to contravene or supersede the laws of the state of California dealing with such matters.

D. This chapter may be cited as the "San Pablo Youth Protection Ordinance." (Ord. No. 2009-006, § 2, 10-6-09)

9.32.020 Authority.

The authority of this chapter is based upon the police power granted to the city by the Constitution of the State of California, Article XI, Section 7, and separate therefrom, the provisions of California Welfare and Institutions Code Sections 625, 626 and 626.5. (Ord. No. 2009-006, § 2, 10-6-09)

9.32.030 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Emergency" means an unforeseen combination of circumstances or the resulting state that justifies immediate action. Emergency includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation justifying immediate action to prevent serious bodily injury, loss of life or damage to property.

"Guardian" means:

1. A person who, under court order, is the guardian of the person of a minor and may, under appropriate circumstances, include a person who, under court order, is the guardian of the estate of a minor;
2. A public or private agency with whom a youth has been placed by order of a court of competent jurisdiction; or
3. A person who is at least eighteen years of age and authorized by a parent or guardian to have the care and custody of a minor.

"Juvenile" means any person less than eighteen years of age. "Juvenile" is synonymous with "youth" and "minor."

"Loiter" means to delay, to linger or to idle about.

"Minor" means any person less than eighteen years of age. "Minor" is synonymous with "youth" and "juvenile."

"Official warning" means documentation that the minor and/or parent or guardian has been contacted, detained and/or counseled.

"Parent" means a person who is a natural parent, adoptive parent, or step-parent of a minor.

"Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, sidewalks, highways, parking lots, private residences left open to the public without the presence of a parent or guardian as a supervisor and the common areas of schools, hospitals, apartment houses, multiple-family dwellings, office buildings, transport facilities, shopping centers, commercial establishments, retail establishments, and shops.

"Remain" means to loiter, linger or stay, whether on foot or in a vehicle, or fail to leave a public place when requested to do so by a police officer or the owner, operator or person in control of the public place.

"Youth" means any person less than eighteen years of age and is synonymous with the term "minor" and "juvenile."

"Youth protection ordinance hours" shall be from eight a.m. until two p.m. and ten p.m. until five a.m. of the following day. (Ord. No. 2009-006, § 2, 10-6-09)

9.32.040 Prohibited activity—Daytime curfew.

It shall be unlawful for any minor subject to compulsory full-time education or to compulsory continuation education to be found away from his or her home between the hours of eight a.m. and two p.m. when absent from school within the city without lawful excuse as defined in Section 9.32.050. (Ord. No. 2009-006, § 2, 10-6-09)

9.32.050 Lawful excuses for absence from school.

It shall be permissible for a minor subject to compulsory full-time education or to compulsory continuing education to be found away from his or her home between the hours of eight a.m. and two p.m. under the following circumstances:

- A. When the minor is accompanied by his or her parent, guardian or other adult person having care or custody of the minor.
- B. When the minor is on an emergency errand directed by his or her parent, guardian, or other adult person having care or custody of the minor.
- C. When the minor is going or coming directly to or from his or her place of gainful employment or to or from a medical appointment.
- D. When the minor has permission to leave for lunch or school-related activity and has in his or her possession a valid, school-issued, off-campus permit.
- E. When the minor is going or coming directly to or from a school-approved or school-related business, trade, profession, occupation or program in which the minor is lawfully engaged, such as a work study or work experience program, subject to verification by a proper school authority.
- F. When the minor is exempt by law from compulsory education or compulsory continued education.
- G. When the minor is authorized to be absent from his or her school under the provisions of California Education Code Section 48205, or any applicable state or federal law.
- H. When the minor is going directly to or from an event or activity that is directly related to any medical condition of a parent or other adult person having the care and custody of the minor. (Ord. No. 2009-006, § 2, 10-6-09)

9.32.060 Enforcement and penalties—Daytime curfew.

A. A violation of any section in this chapter relating to daytime curfew is an infraction and not a misdemeanor.

B. The fine for this violation shall be fifty dollars upon a conviction for the first offense, or twenty hours of community service; one hundred dollars upon conviction for the second offense within one calendar year of the first offense; and two hundred dollars upon a conviction for the third offense within one year from the second offense.

C. A peace officer or probation officer may assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without a valid excuse and return such minor to their school of registration.

D. This section shall not be construed to limit the authority of the court to render any disposition authorized by Welfare and Institutions Code Section 258, subdivision (a) or any other provision of the Juvenile Court Law for violation of this chapter.

E. It is the City Council's Intent that, when made aware of a minor student's violation of this chapter, the West Contra Costa County School District demonstrate its partnership with the city by taking all required actions. (Ord. No. 2009-006, § 2, 10-6-09)

2011 PUBLIC PROTECTION COMMITTEE

**REVIEW OF COMMITTEE'S WORK DURING 2011 AND
IDENTIFICATION OF ISSUES TO BE REFERRED TO THE 2012 COMMITTEE**

Attached is a draft Order to the Board summarizing the activities and accomplishments of the Public Protection Committee in 2011 and recommending matters for referral to the 2012 Committee.

Staff requests direction on any changes you require on the disposition of referrals.

TO: BOARD OF SUPERVISORS
FROM: PUBLIC PROTECTION COMMITTEE
DATE: DECEMBER 13, 2011



Contra Costa County

SUBJECT: **2011 YEAR-END REPORT ON ACCOMPLISHMENTS AND DISPOSITION OF
REMAINING REFERRALS TO THE PUBLIC PROTECTION COMMITTEE**

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATIONS:

1. ACKNOWLEDGE that the Board of Supervisors referred 15 issues to the Public Protection Committee (PPC) for its review and consideration during 2011.
2. FIND that the 2011 PPC convened eight meetings, worked through and provided an opportunity for public input on a number of significant issues, and made seven reports with recommendations to the Board.
3. RECOGNIZE the excellent work of the County department staff who provided the requisite information to the PPC in a timely and professional manner, and members of the Contra Costa community and other public agencies who, through their interest in improving the quality of life in Contra Costa County, provided valuable insight into our discussions, and feedback that helped us to formulate our policy recommendations.
4. ACCEPT year-end productivity report and APPROVE recommended disposition of PPC referrals described on Page 11 of this report.

CONTINUED ON ATTACHMENT: YES NO

SIGNATURE:

____ RECOMMENDATION OF COUNTY ADMINISTRATOR _____ RECOMMENDATION OF BOARD COMMITTEE
____ APPROVE _____ OTHER

SIGNATURE(S):

FEDERAL D. GLOVER, Chair

GAYLE B. UILKEMA, Vice Chair

ACTION OF BOARD ON _____ APPROVE AS RECOMMENDED _____ OTHER _____

VOTE OF SUPERVISORS

____ UNANIMOUS (ABSENT _____)

AYES: _____ NOES: _____
ABSENT: _____ ABSTAIN: _____

CONTACT: JULIE ENEA (925) 335-1077

CC: PUBLIC PROTECTION COMMITTEE STAFF
COUNTY ADMINISTRATOR

I HEREBY CERTIFY THAT THIS IS A TRUE
AND CORRECT COPY OF AN ACTION TAKEN
AND ENTERED ON THE MINUTES OF THE
BOARD OF SUPERVISORS ON THE DATE
SHOWN.

ATTESTED: December 13, 2011

DAVID J. TWA, CLERK OF THE BOARD OF
SUPERVISORS AND COUNTY ADMINISTRATOR

BY _____, DEPUTY

BACKGROUND:

The Public Protection Committee (PPC) was established on January 8, 2008 to study criminal justice and public protection issues and formulate recommendations for consideration by the Board of Supervisors. During 2011, the PPC examined the following 15 issues:

1. Opportunities to Improve Coordination of Response to Disasters and Other Public Emergencies. Approximately three weeks following the November 2007 Cosco Busan oil spill, the Sheriff's Office of Emergency Services (OES) presented to the Board of Supervisors its assessment of the emergency response efforts, including what worked well and didn't work well, and what lessons were learned through those experiences. At the conclusion of the Board discussion, Supervisor Gioia introduced five recommendations that were approved by the Board.

On February 5, 2008 the Board of Supervisors referred this matter to the PPC for continuing development and oversight. PPC received a status report from the Office of the Sheriff and Health Services Department in February 2009 and requested the Hazardous Materials Program Manager to report back to the PPC on the development of mutual aid agreements from local oil refineries. Following a second briefing to the PPC by the Office of the Sheriff, the PPC reported out to the Board of Supervisors on May 6, 2009 with recommendations for follow-up by the Sheriff and Human Resources departments.

The Health Services Department made a report to the PPC on April 19, 2010 regarding the resources and connections available to respond to hazardous materials emergencies and, again, on October 18, 2010 regarding who determines which local official participates in incident command if an event is in Contra Costa County.

[HSD to report to PPC on Dec 5 regarding training and certification of volunteers...](#)

Recommendation: Pending outcome of December 5 PPC meeting...

2. Improving Public Response During Emergencies Through Education. In January 2008, the Board of Supervisors referred to the PPC the matter of improving public response to emergency instructions and protocols through broader and better education, which had previously been on referral to the IOC. The Board suggested that the PPC work with the Office of the Sheriff, the Health Services Department, and the CAER (Community Awareness & Emergency Response) Program to determine what educational efforts are being made and what additional efforts may be undertaken to improve public response and safety during an emergency.

In April, the PPC met with CAER (Community Awareness Emergency Response) Executive Director Tony Semenza and staff from the Office of the Sheriff and Health Services to discuss what has been done to better inform the public and what more can be done to improve public response to emergency warnings. CAER provided a thorough report on its countywide community fairs, and programs targeted at the education system and non-English speaking populations. Our committee asked CAER to provide a written outreach strategy that describes how new homeowners are educated about emergency awareness. As the matter has not been brought back to the PPC since the April discussion, we recommend that this matter be referred to the 2009 PPC for follow-up.

Due to scheduling conflicts and the cancellation of the October-December PPC meetings, CAER was unable to make a follow-up report to the PPC in 2010.

Recommendation: [Pending outcome of December 5 PPC meeting...](#)

3. Welfare Fraud Investigation and Prosecution. In September 2006, the Employment and Human Services (EHS) Department updated the Internal Operations Committee (IOC) on its efforts to improve internal security and loss prevention activities. The IOC had requested the department to report back in nine months on any tools and procedures that have been developed and implemented to detect changes in income eligibility for welfare benefits.

The EHS Director made follow-up reports to IOC in May and October 2007, describing what policies, procedures, and practices are employed by the Department to ensure that public benefits are provided only to those who continue to meet income eligibility requirements, explaining the complaint and follow-through process, and providing statistical data for 2005/06, 2006/07, and for the first quarter of 2007/08.

Upon creation of the PPC in January 2008, this matter was reassigned from the IOC to the PPC. PPC has received status reports on this referral in October 2008, June and October 2010 and, most recently, in November 2011. The Committee has reviewed the transition of welfare fraud collections from the Office of Revenue Collection, which was disbanded last year, to the Employment and Human Services Department; the fraud caseload and percentage of fraud findings; fraud prosecutions and the number of convictions; and the amounts recovered.

The PPC reported its findings to the Board most recently on December 13. As the PPC wishes to monitor performance of the welfare fraud program, it is recommended that this matter be retained on referral with a status report in one year.

Recommendation: **REFER to 2012 PPC**

4. Multi-Language Capability of the Telephone Emergency Notification System. This matter had been on referral to the IOC since 2000 and was reassigned to the PPC in January 2008. The PPC met with Sheriff and Health Services Department staff in March 2008 to receive an update on the County's efforts to implement multilingual emergency telephone messaging. The Committee learned that the Federal Communications Commission has before it two rulemaking proceedings that may directly affect practices and technology for multilingual alerting and public notification. Additionally, the federally-funded Bay Area "Super Urban Area Safety Initiative" (SUASI) has selected a contractor undertake an assessment and develop a five-year strategic plan on notification of public emergencies, with an emphasis on special needs populations. The Sheriff's Office of Emergency Services reported to the PPC in April 2009 that little has changed since the March 2008 report.

On October 18, 2010, the PPC received a report from the Sheriff's Office of Emergency Services on the Community Warning and Telephone Emergency Notification systems, and on developments at the federal level that impact those systems and related technology. Sheriff staff concluded that multi-lingual public emergency messaging is too complex to be implemented at the local level and

should be initiated at the state and federal levels. New federal protocols are now being established to provide the framework within which the technological industries and local agencies can work to develop these capabilities.

The Office of the Sheriff has advised staff that a recent conference on emergency notification systems unveiled nothing extraordinary in terms of language translation. The UASI project is just commencing and Sheriff staff are on the contact list for a workgroup that will be developing a gap analysis, needs assessment, and five-year strategic plan. This matter has been on committee referral for more than ten years and technology has yet to provide a feasible solution for multilingual public emergency messaging. Staff, therefore, recommends that this referral placed in a pending status until there is something new to report.

Recommendation: **RETAIN on referral but schedule only upon request of the Sheriff**

5. Disproportionate Minority Contact. The Probation Department secured grant funding from the California Corrections Standards Authority to study factors leading to the over-representation of minority youth in the juvenile justice system relative to their numbers in the general population, to provide training and community outreach regarding Disproportionate Minority Contact (DMC), and to build integrated data systems that enable agencies to collaborate in monitoring the paths of minority youth through the juvenile justice system. The Board requested the County Probation Officer to provide an informational report to the PPC on the DMC initiative. The PPC received an orientation from the Probation Department in April 2008 and a status report April 2009 on the accomplishments of the Enhanced DMC Technical Assistance Project for 2008 and plan of activities for 2009, which was:

- ◆ To continuing its training efforts for staff with a mandatory eight-hour (8) class “Exploring other Cultures”;
- ◆ To develop, along with the District Attorney and Public Defender, a Management Information System (MIS) that will aid in the collection of DMC data;
- ◆ To develop a culturally competent assessment tool for the Juvenile Hall intake process;
- ◆ To develop criteria and protocol for diversion programs in three target areas;
- ◆ To work with stakeholders, community-based organizations, and other stakeholders to address DMC.
- ◆ To explore funding sources for the diversion programs through grants, foundation/endowment funding, and local and community business.

The County Probation Officer presented the final DMC report to the PPC on June 21, 2010 highlighting the accomplishments of the Enhanced DMC Technical Assistance Project and on the development of diversion and re-entry services in addition to probation and detention programs and services. The County has assisted the Richmond and Bay Point communities by providing seed money to community-based organizations to develop a referral process and diversion program curriculum. Once youths are referred to the programs, the Probation Department will track the participants to determine program completion and recidivism rates. The Board of Supervisors accepted the final DMC report on July 13, 2010 but requested a status report in one year’s time.

The County Probation Officer made a follow-up report to the PPC on August 1, 2011 and advised

the Committee that the three-year grant had expired and efforts to secure continuing funding were unsuccessful. Moreover, Probation was required to make additional budgetary reductions this year in juvenile probation services in order to balance the budget and meet new mandates related to public safety realignment. Consequently, the staffing and program structure that delivered prevention and outreach services under the DMC program cannot be sustained going forward. However, the department remains committed to the principals of DMC and has not abandoned its goal to develop protocol and projects addressing this issue. The department continues to conduct staff training to promote awareness of DMC and will continue to seek new funding. The County Probation Officer reported that his office has aggressively and successfully worked to decrease the Juvenile Hall population.

Recommendation: **TERMINATE referral.**

6. County support and coordination of non-profit organization resources to provide prisoner re-entry services. On August 25, 2009, the Board of Supervisors referred to the PPC a presentation by the Urban Strategies Council on how the County might support and coordinate County and local non-profit organization resources to create a network of re-entry services for individuals who are leaving jail or prison and are re-integrating in local communities. On September 14, 2009, the PPC invited the Sheriff-Coroner, County Probation Officer, District Attorney, Public Defender, Health Services Director, and Employment and Human Services Director to hear a presentation by the Urban Strategies Council. The PPC encouraged County departments to participate convene a task force to work develop a network for prisoner re-entry services, which has been meeting independently from the PPC.

The PPC received a status report from County departments in April 2010. The Employment and Human Services department reported on its efforts to weave together a network of services, utilizing ARRA funding for the New Start Program and on the role of One-Stop Centers in finding jobs for state parolees. Probation reported on the impacts of the anticipated flood of state parolees into the county. The Sheriff reported on the costs for expanding local jail capacity and possible expanded use of GPS (global positioning systems) use in monitoring state parolees released back to our county. The Health Services Department reported on its Healthcare for the Homeless Program as a means to get parolees into the healthcare system and on its development of cross-divisional teams on anti-violence. The Public Defender reported on its Clean State Program.

Supervisors Glover and Gioia indicated that their staff would continue to coordinate this local initiative when the Urban Strategies Council exhausts its grant funding from the California Endowment. The PPC continued to monitor progress on the initiative and, on February 7, 2011, received a presentation of the completed strategic plan and recommendations. In response to public testimony at the PPC meeting regarding concerns over the "Ban the Box" element of the plan, the plan recommendations were modified to exclude from the "Ban the Box" requirement certain identified sensitive positions in public safety and children's services or as determined by the agency.

On March 22, 2011, representatives from the Urban Strategies Council presented the completed Contra Costa County Re-entry Strategic Plan (100 pages), an Executive Summary (6 pages) of the

plan, and a slide show to the Board of Supervisors, which approved the strategic plan and implementation recommendations with one modification: rather than adopt a 'Ban the Box' policy as recommended, which would have removed the question about criminal records from county employment applications during the initial application, the Board agreed to *consider* adopting such a policy at a future date. The Board directed the County Administrator to work with the offices of Supervisors Glover and Gioia to identify the resources needed to implement the strategic plan and to report back to the Board with his findings and recommendations.

Six months after the Board's action in March, the State of California implemented public safety realignment, which encompasses re-entry, though without providing the County an adequate level of funding to fully implement our re-entry plan. As realignment and re-entry are intertwined, it is recommended that these matters be combined and referred to the 2012 PPC for continuing oversight.

Recommendation: **Combine with public safety realignment Referral No. 15 and REFER to 2012 PPC**

7. Mandatory spaying or neutering of Pit Bull-type dog breeds. On August 10, 2010, the Board of Supervisors referred to the Public Protection Committee (PPC) a proposal to enact an ordinance to require the spaying or neutering of pit bull-type dog breeds in the unincorporated area of Contra Costa County. The referral was prompted by concern over recent attacks by large, aggressive, and potentially dangerous dogs that were unlicensed and/or at large in neighborhoods and communities. The PPC took this matter up at its August 16, 2010 meeting and received a substantial amount of public testimony. The added concern over unlicensed dogs is that in the event of a dog bite, it is much more difficult to verify whether or not the dog was vaccinated, requiring the victim to undergo painful rabies shots.

The Committee requested the Animal Services Director to gather and report at a subsequent meeting statistics and other information on the number of impounded, adopted or euthanized dogs by breed, the number of dog bites before and after passage of the County's dangerous dog ordinance passage of San Francisco's ordinance, and the potential costs of a policy requiring spay/neutering of impounded dogs prior to allowing them to be reclaimed. The PPC received a follow-up report on November 30 and decided, rather than targeting specific dog breeds, to pursue the development of a policy that focuses on pet owners that do not comply with County regulations regarding dog licensing and control. The objectives of the policy were to gain greater compliance with relevant dog control laws and regulations, reduce over-population of companion dogs, reduce the euthanization of unclaimed/unwanted dogs, and increase public safety. Key elements of the policy were:

- Any unlicensed and unaltered dog at-large will be altered and microchipped before release;
- Any licensed and unaltered dog at-large (1st offense in 3 yrs) will be microchipped and released intact;
- Any licensed and unaltered dog at-large (2nd offense in 3 yrs) will be altered before release;

- Dogs that cannot be altered for a medical reason confirmed by a veterinarian would be released with a citation, providing two months to correct the infraction and a fine for failure to make the correction after two months

The Animal Services Director reported to the PPC in January regarding other counties that have similar policies, the amounts/ severity of their penalties for non-compliance, and the resources that would be required to implement such a policy in this county. As a result of these discussions and a significant amount of public testimony in support of voluntary spaying and neutering but against a mandatory spay/neuter program, the PPC, on May 10, 2011, recommended a change to County ordinance that attempted to address the need for better dog control and not penalize responsible pet owners who comply with dog control laws and regulations (specifically, County Code sections 416-6.002 and 416-4.4 and California Food and Agriculture Code section 31751.7). Ordinances 2011-08 and 09, which were adopted by the Board of Supervisors on May 17, 2011, do not contain a unilateral mandate for the spaying or neutering of all dogs owned by residents of the unincorporated area. Rather, they require the spaying or neutering of dogs only when owners fail to fulfill their responsibility of licensing, vaccinating, and controlling their pets.

The Committee also recommended a three-month public education period prior to implementing the ordinances. The Animal Services Department was asked to use this period to gear up for the program and to utilize the County Web Site, the Department Web Site, social media sites, monthly license mailers, and County newspapers to alert the public. During the three-month education period, violators were to be given warning notices and their dogs released intact.

Recommendation: **TERMINATE referral.**

8. Development of policy prohibiting the appointment of family members to public bodies for which the Board of Supervisors is the appointing authority. In July 2010, a vacancy occurred on the Byron-Brentwood-Knightesen Union Cemetery District (BBKUCD) Board of Trustees and, following recruitment, the spouse of a sitting County Supervisor applied for the seat. The Supervisor consequently recused herself from the process and, on September 14, 2010, the Board of Supervisors referred the matter to the PPC to discuss the issue of whether to develop a policy regarding the appointment of family members to boards and commissions and to consider the appointment process to fill the current BBKUCD Board vacancy.

The PPC considered the Board of Supervisors' referral at its regular meeting on October 18, 2010. The PPC received a substantial amount of written and oral public testimony on the spirit of the Maddy Act and in support of the various candidates. The PPC limited its discussion to the process to be used to fill the BBKUCD Board vacancy and the broader policy issue of permitting Supervisors' family members to serve on Board advisory bodies, committees, and commissions or other public bodies for which the Board of Supervisors is the appointing authority. There was consensus among the Committee members that Supervisors' family members should not be automatically barred from participating on Board advisory bodies, committees, and commissions, but that nominations for appointment should result from an "arms length" process whenever a Supervisor's family member is a candidate. The Committee determined that, in the case of the Trustee 3 seat on the BBKUCD Board of Trustees, the nomination process should be delegated to a panel made up of subject matter experts from outside of Contra Costa County. The PPC took this recommendation to the Board of Supervisors on October 26, 2010, and the Board directed the

County Administrator's Office to convene a panel of three individuals made up of trustees or district managers from cemetery districts outside of Contra Costa County, to evaluate candidates and nominate an individual to the Board of Supervisors, within 30 days, for appointment to the Trustee 3 seat on the BBKUCD Board. The County Administrator's Office convened the interview panel on November 10 and, on November 23, submitted a recommendation for appointment, which was approved by the Board of Supervisors.

On November 30, staff suggested some options to the PPC for an impartial screening process for recruitments to public bodies for which the Board is the appointing authority, when a Supervisor's family member is a candidate. The PPC decided it would, instead, work to develop a policy to prohibit the candidacy of a Supervisor's family member to public bodies for which the Board is the appointing authority, and requested staff to return in January with suggested policy language and a definition for "family member". Staff provided a draft policy to the PPC at a public meeting on January 24, 2011. The policy, as modified by the PPC, was adopted by the Board of Supervisors as Resolution No. 2011/55 on February 8, 2011, making family members of the Board of Supervisors ineligible for appointment to boards, committees or commissions for which the Board of Supervisors is the appointing authority.

Recommendation: **TERMINATE referral.**

9. Countywide 9-1-1 Wireless Capability. On December 14, 2010, the Board of Supervisors referred to the PPC the attached letter from the Emergency Medical Care Committee regarding the transmission of 9-1-1 emergency calls from cellular phones to the appropriate Public Safety Answering Point (PSAP). Our Committee met with representatives from the Office of the Sheriff on April 4 to discuss the status of establishing Sheriff's Dispatch as the PSAP for county unincorporated area wireless emergency calls.

Sheriff Department staff advised that the County is not accepting wireless 9-1-1 calls at this time. Staff explained that the GPS (global positioning system) technology exists to enable Sheriff's Dispatch to receive 9-1-1 system emergency calls from cellular phones and to locate the emergency location within some degree of precision. However, due to several years of tight budgets, Sheriff's Dispatch is not currently staffed at a level that is adequate to respond to the call volume associated with the wireless 9-1-1 calls, which are currently routed to the appropriate PSAP by the California Highway Patrol (CHP).

While our committee believes that transferring responsibility for handling wireless 9-1-1 calls from the CHP to Sheriff's Dispatch would be more efficient and would improve response time, it is unlikely that the County will be in a position, fiscally, to assume this responsibility in the next year. The PPC reported on April 12, 2011 to the Board of Supervisors, requested the Office of the Sheriff to provide a status report to the PPC in the spring of 2012 to advise if any outside funding becomes available to support such a transition of responsibility.

Recommendation: **REFER to 2012 PPC**

10. Brownfield identification and clean-up. On January 25, 2011, the Board of Supervisors referred to the PPC the report and recommendations from the Hazardous Materials Commission on the

identification and clean-up of brownfields (industrially contaminated land parcels) in Contra Costa County.

The Environmental Health Director and the Hazardous Materials Ombudsman presented the Commission's recommendations to the PPC at its April 4, 2011 meeting and the PPC approved the Commission's recommendation with one minor modification. On April 12, 2011, the Board of Supervisors approved the modified recommendations and also authorized a letter that was sent to the CA Dept of Toxic Substances Control regarding the communication of due dates for monitoring reports and five-year site reviews.

Recommendation: **TERMINATE referral.**

11. Request from Contra Costa County Fire Protection District (CCCFPD) Chief for dedicated Board of Directors meetings. On July 11, 2011, CCCFPD Chief Louder emailed Supervisor Uilkema to outline the myriad challenges facing the District and to seek guidance as to the best forum to communicate these issues to the District Board of Directors. Supervisor Uilkema asked the Board of Supervisors to refer this matter to the Public Protection Committee for examination.

The PPC considered this matter on August 1. The Fire Chief reported on mutual aid agreements, the difficulty in filling vacant positions, the District's financial position and forecast, and the recommended frequency of future reports. The PPC requested the County Administrator to schedule a meeting of the CCCFPD Board of Directors for October 4, at which the Board would determine if and how frequently it would meet to discuss District matters. On October 4, the Board of Directors determined that it would meet bi-monthly and requested the County Administrator to schedule a meeting in December and then bi-monthly thereafter.

Recommendation: **TERMINATE referral.**

12. Daytime curfew ordinance. This matter was referred to the PPC on May 12, 2011 at the request of the District Attorney, who suggested under Public Comment at the April 4 PPC meeting that the Committee consider enacting a daytime curfew ordinance to reduce truancy and consider the use of gang injunctions to help prevent gang violence.

PPC received an in-depth report on May 2 and decided to pursue an ordinance for a daytime curfew for minors. Within two months of the May 2 PPC meeting, the City of Concord enacted a daytime curfew ordinance, which was proposed to the PPC by the District Attorney on November 7 as a model for a county unincorporated area ordinance.

The proposed ordinance attempts to discourage truancy and penalize minors who violate the curfew and parents who knowingly allow their children to violate the curfew, through a series of escalating penalties ranging from a warning to \$500 fines.

Recommendation: **Pending outcome of the December 5 PPC meeting ...**

13. Civil gang injunctions. This matter was referred to the PPC on May 12, 2011 at the request of the District Attorney, who suggested under Public Comment at the April 4 PPC meeting that the

Committee consider the use of gang injunctions to help prevent gang violence. The District Attorney has advised committee staff that he is currently focusing on implementing a Ceasefire Program with Richmond Police Department and has requested that this referral be postponed until further notice.

Recommendation: **RETAIN on referral but schedule only upon the request of the District Attorney**

14. BayRICS Membership. The Bay Area Regional Interoperable Communication System (BayRICS) is the next phase of linking public safety interoperability systems. BayRICS is composed of the 10 Bay Area counties and several cities. The BayRICS participants recently formed a Joint Powers Authority (JPA) to address the challenges of sustaining and managing shared interoperability assets and enhancing the effectiveness of public safety communications systems. The BayRICS Authority (Authority) will oversee and implement the next phase of the strategic plan to create a technologically advanced voice and data interoperability system throughout the Bay Area region.

On June 28, 2011, the PPC recommended and the Board of Supervisors approved County membership in the Authority, with an annual membership fee of \$24,500. On July 26, the Board appointed its representatives to the BayRICS Authority. Membership in the BayRICS Authority will provide representation for the County to ensure that the UASI (Urban Area Security Initiative) funding allocation for Contra Costa County is commensurate with other counties or regional groups. As a member of the BayRICS Authority, Contra Costa County will continue to develop and implement mission-critical interoperable communications for public safety.

Recommendation: **TERMINATE referral.**

15. Public Safety Realignment. The California Legislature passed the Public Safety Realignment Act (Assembly Bills 109), which transfers responsibility for supervising specific low-level inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to counties. Assembly Bill 109 (AB 109) takes effect October 1, 2011 and realigns three major areas of the criminal justice system. On a prospective basis, the legislation:
- Transfers the location of incarceration for lower-level offenders (specified non-violent, non-serious, non-sex offenders) from state prison to local county jail and provides for an expanded role for post-release supervision for these offenders;
 - Transfers responsibility for post-release supervision of lower-level offenders (those released from prison after having served a sentence for a non-violent, non-serious, and non-sex offense) from the state to the county level by creating a new category of supervision called Post-Release Community Supervision (PRCS);
 - Transfers the housing responsibility for parole and PRCS revocations to local jail custody

AB 109 also tasked the local Community Corrections Partnership (CCP) with recommending to the County Board of Supervisors a plan for implementing the criminal justice realignment, which shall be deemed accepted by the Board unless rejected by a 4/5th vote. The Executive Committee of the

CCP is composed of the County Probation Officer (Chair), Sheriff-Coroner, a Chief of Police (represented by the Richmond Police Chief), District Attorney, Public Defender, Presiding Judge of the Superior Court or designee, and Health Director as agreed by the County Administrative Officer.

On October 4, 2011, the Board of Supervisors approved the CCP Realignment Implementation Plan and the CCP Executive Committee has been meeting monthly to monitor the plan and state revenue distributions, and formulate recommendations, if necessary, for plan adjustments.

As public safety realignment is a work in progress and at the very early stages of implementation, it is recommended that this matter be referred to the 2012 PPC for continuing oversight. As realignment encompasses and overlaps prisoner re-entry services (see Referral No. 6), it is recommended that the re-entry referral be merged within realignment as one referral.

Recommendation: **Combine with Re-entry Referral No. 6 and REFER to 2012 PPC.**

LIST OF REFERRALS TO BE TERMINATED

- 11/01 Opportunities to improve coordination of response to disasters and other public emergencies (Cosco Busan)
- 11/02 Improving public response to emergencies through education
- 11/05 Disproportionate Minority Contact in County Juvenile Justice System
- 11/07 Mandatory spaying/neutering of impounded dogs prior to release to owner
Development of policy prohibiting the appointment of family members to public bodies for which the Board of
- 11/08 Supervisors is the appointing authority
- 11/10 Brownfield identification and clean-up, HazMat Commission recommendations
- 11/11 CCCFPD special board meeting request
- 11/14 BayRICS Membership Agreement

LIST OF ITEMS TO BE REFERRED TO THE
2012 PUBLIC PROTECTION COMMITTEE

- 11/03 Welfare fraud investigation and prosecution
- 11/04 Multilingual capabilities of the telephone emergency notification system
County support and coordination of non-profit organization resources to provide prisoner re-entry services
- 11/06 Directing 9-1-1 emergency calls to the appropriate Public Safety Answering Point, letter from Emergency
- 11/09 Medical Care Committee
- 11/12 Daytime curfew ordinance
- 11/13 Civil gang injunctions
- 11/15 Update on Public Safety Realignment - Prisons