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**STATEMENT OF ROGER BALDWIN FOUNDATION OF ACLU, INC.
OPPOSING PROPOSED CURFEW ORDINANCE AMENDMENT**

To the Members of the City Council:

The Roger Baldwin Foundation of ACLU, Inc., provides this written testimony in opposition to the proposal to amend the City’s curfew ordinance, Chicago Municipal Code § 8-16-020.

We have significant concerns about the speed at which this amendment has been pushed through the City Council. It was directly introduced to the Public Safety Committee only on Friday, May 20. The Public Safety Committee did not take public comments that day. As a result, members of the public have not had a sufficient opportunity to provide input. Such momentous policy changes should be open for full public hearings and other opportunities for public comments.

Significant questions about the proposal remain unanswered. We urge all members of the City Council to insist on responses from the appropriate agencies to the questions below before voting on the amendment. If the data and other information needed to answer these questions are not provided or do not exist, we urge members of the City Council to vote against the proposed amendment to the curfew ordinance.

- 1. Why does the City believe that moving the weekend curfew for youth earlier one hour will reduce crime or violence in Chicago? Why has the City not produced evidence in support of its proposal?***

All evidence indicates that curfews do not affect crimes committed by, or targeted against, young people. The Marshall Project [documented](#) in 2018 that a “voluminous body of research has cast strong doubts on the claims that juvenile curfew laws prevent victimization or reduce juvenile crime” A 2016 [study](#) by the Campbell Collaboration (cited in a May 16, 2022 Chicago Sun-Times [editorial](#)), which reviewed findings from twelve other studies, concluded that, “[c]ontrary to popular belief, the evidence suggests that juvenile curfews do not produce the expected benefits.” Among other findings, the Marshall Project’s research indicates that removing people from the streets actually makes everyone less safe, because “deserted streets invite crime.”

Curfews are a discredited relic of 1990s “super-predator hysteria” (as the Marshall Project reported), which imposed draconian limitations and penalties on young people, and which turned out to be plainly incorrect – and extremely damaging to youth. They are a failed policy; Chicago should not double down on a tactic that does not work.

At the very least, before implementing changes to the curfew ordinance, the City should produce any data on which it relied to determine that moving the curfew from 11pm to 10pm on weekends would keep the public safer. The City also should provide the public with any data indicating that implementing a curfew for 17-year-olds would improve public safety. If these data do not exist, members of the City Council should vote against the proposed amendment. Public safety decisions should be based on evidence, not speculation.

- 2. What guardrails will be in place to ensure that curfew enforcement is not conducted in a racially discriminatory fashion? What records will the City and the Chicago Police Department keep regarding curfew enforcement actions, including stops, demands for individuals’ age or identification, dispersal instructions, warnings, tickets, and arrests? What guidelines and training will be provided to instruct officers on how to identify people who violate the curfew?***

During the 2020 curfew enacted in the City in the wake of protests of George Floyd’s murder, [more than 3 in 4 of the individuals stopped and arrested for curfew violations were Black](#). “If you remove arrests made on the first night of the [2020] curfew, an astonishing 93% of those arrested for curfew violations were Black,” as reported by ACLU’s Executive Director, Colleen K. Connell, on June 16, 2020.

Given this history, and without additional protections built into the policy, it is highly likely that the “enhanced” youth curfew enforcement that Mayor Lightfoot recently has demanded will be implemented in a biased and discriminatory fashion. How does the City plan to address this serious issue? What instructions and training, if any, will guide officers’ discretion as to *which* young people will be subject to law enforcement action for violating the curfew?

We urge the City Council not to vote on any curfew amendment without a plan to document curfew enforcement actions, audit the data for any racial or other bias, and correct any patterns of discrimination that emerge – which is highly likely.

- 3. Will the City redeploy or reassign police officers from other responsibilities to take on the job of curfew enforcement?***

The City’s plan to ramp up curfew enforcement raises the question, which other types of law enforcement activities will be reduced or eliminated as officers are directed instead to curfew

enforcement? If so, which assignments, beats or neighborhoods are losing police resources to curfew enforcement?

How will the City ensure that redeploying police resources for curfew enforcement downtown will not harm public safety in predominantly Black and brown neighborhoods that already suffer the brunt of Chicago's tragic gun violence?

4. *Will the ordinance protect young peoples' rights to engage in First Amendment protected activity and other legitimate activities, without privileging people who can pay for ticketed events?*

The current curfew ordinance, [§ 8-16-020](#) allows youth to be out in public to exercise their First Amendment right to engage in public protests, as well as travel to and from their jobs, schools, or other civic events, to address an emergency situation, and other important carve-outs. It is constitutionally required, as well as of paramount importance to affected youth, that the City Council retain those existing exemptions.

The City should not, however, add an exemption for young people who have purchased tickets to paid events. Such an exemption would be highly likely to encourage curfew enforcement disproportionately against disadvantaged young people who cannot pay to attend a concert or a show; it is also likely to exacerbate the racial disparity concerns we mentioned above. The proposed "Lollapalooza Loophole" sends the wrong message – that young people who are economically disadvantaged are unwelcome to participate in the cultural and civic life of the city.

5. *What will be the consequences for violating curfew?*

Conflicting public statements by the Mayor, the Superintendent of Police, and the Chicago Police Department representative who testified at the Public Safety Committee indicate significant confusion and/or disagreement about how, and whether, the amended ordinance will be enforced.

The Mayor has publicly threatened youth with "[arrest](#)" for violating curfew (although she stated that arrests should not be the first option). Chicago Police Department Lt. Michael Kapustianyuk, on the other hand, stated to the Public Safety Committee that CPD generally does not arrest youth found to be violating the curfew ordinance, but either sends them home or holds them in custody (presumably under Chicago Municipal Code § 8-16-022¹) until they are picked up by a parent, legal guardian, or other adult with authority.

¹ Section 8-16-022 provides that if police find a minor to be in violation of the curfew ordinance, they are "authorized to take such minor into custody until such time as the minor's parent, legal guardian, or other adult having legal care or custody of the minor is located and notified of the violation, and takes custody of the minor from the police. If no such person can be located within a reasonable period of time, the minor shall be referred to the appropriate juvenile authorities."

The Mayor has demanded “[increased enforcement](#)” of curfews, while Lt. Kapustianyk stated that CPD has [decreased enforcement](#) of curfew violations, writing 364 tickets in 2021 compared to 2,453 in 2018. Although it is not entirely clear, we understood Lt. Kapustianyk’s testimony to be that those tickets (also known as “ANOVs”) were issued to parents and not to children.²

Meanwhile, Superintendent Brown stated publicly that it is [not illegal for youth to gather](#), and CPD will charge young people only if they break the law – presumably meaning laws other than the curfew ordinance. His remarks suggest that CPD does not intend to enforce the ordinance against children or parents at all.

These muddled messages show that the City and the Police Department either do not have an enforcement plan or cannot agree on one. The City Council should insist on a clear implementation strategy before voting on the proposed curfew amendment.

Any changes to the curfew ordinance should not send a message to young people, and particularly young people of color, that they are unwelcome in public spaces,³ including the iconic areas of expressive activity in downtown, or that the entire class of youth in Chicago is responsible for the misdeeds of a few. Moreover, changes to the curfew ordinance should not exacerbate tensions between the police and young people. We fear that the proposed amended ordinance will do both.

We urge the City Council not to vote on an ordinance amendment until the questions and concerns above are addressed.

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² ANOVs for curfew violations can result in fines as high as \$500 for a single violation or \$1,500 for the third violation within a year, a very high cost for most Chicago families to bear. *See* Chicago Municipal Code § 8-16-020(e).

³ The curfew ordinance restricts youth across the city from any “public place,” including not only parks and streets but also “common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.” Chicago Municipal Code §8-16-020(a)(8).