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On Behalf of the ACLU of New Jersey  
Foundation

Received and Filed  
Superior Court of New Jersey

APR 10 2013

Passaic County

**AMERICAN CIVIL LIBERTIES UNION  
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P.O. Box 32159  
Newark, New Jersey 07102  
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Attorneys for Plaintiff, Linda Richardson, on  
behalf of herself and her minor child, Shaina  
Harris

|   |   |                                   |
|---|---|-----------------------------------|
| LINDA RICHARDSON, on behalf of herself<br>and her minor child, SHAINA HARRIS, | : | SUPERIOR COURT OF NEW JERSEY      |
|   | : | CHANCERY DIVISION: PASSAIC COUNTY |
|   | : | DOCKET NO.                        |
| Plaintiff,  | : |                                   |
|   | : | <u>Civil Action</u>               |
| v.  | : |                                   |
|   | : | <b>COMPLAINT</b>                  |
| BOROUGH OF WANAQUE,   | : |                                   |
|   | : |                                   |
| Defendant.  | : |                                   |

Plaintiff, Linda Richardson (“Richardson”), on behalf of herself and her minor child,  
Shaina Harris (“Harris”), complaining against the Borough of Wanaque (the “Borough”), alleges  
as follows:

**NATURE OF THE ACTION**

1. This action, brought pursuant to N.J.S.A. 10:6-1 et seq. and this Court’s equity  
jurisdiction, seeks to enjoin further enforcement of the Borough’s Juvenile Curfew Act of 2005,  
Borough Ordinance No. 69-4A, as amended (the “Curfew Ordinance”), because it is

unconstitutional under the New Jersey Constitution. The Curfew Ordinance makes it unlawful for all minors under 18 years of age “to remain in or upon any public place or on the premises of any establishment within the Borough” between the hours of 10 p.m. and 5:30 a.m. – including the large majority of minors who have no criminal record or history of disciplinary problems, who have entirely legitimate and innocent reasons for being out, and even those who have permission from their parents or guardians to be out – unless they meet certain limited and vague exceptions.

2. The Curfew Ordinance imposes penal sanctions, including fines of up to \$1,000 and community service of up to 50 hours, on minors who are found guilty of violating its provisions. The Curfew Ordinance also imposes penal liability on parents and guardians, and subjects them to the same punishments, if they “knowingly or negligently permit or by insufficient control allow the minor” to be in public in contravention to the ordinance.

3. This case is also brought to enjoin the Borough’s unauthorized practice of detaining minors whom they believe to be in violation of the Curfew Ordinance. New Jersey statutes prescribe the circumstances under which detainment is permissible. Violation of the Curfew Ordinance is not among these circumstances. The Borough’s detainment policy is therefore contrary to the laws of this State and should, independent of the validity of the Curfew Ordinance, be enjoined.

#### **THE PARTIES**

4. Richardson and her minor daughter, Harris, reside at 2 Lake Drive, Haskell, New Jersey, located within Wanaque Borough, in Passaic County, New Jersey. Both are United States citizens. Harris was born on November 7, 1995 and is now 17 years old.

5. Harris earned her General Education Development (“G.E.D.”) diploma in November 2011. She is currently in her second year of studies at Passaic County Community College. She began attending Passaic County Community College prior to September 2012.

6. The Borough is a duly constituted municipal corporation of New Jersey. The Borough has its principal offices at 579 Ringwood Avenue, Wanaque, New Jersey 07465.

### FACTS

#### The Curfew Ordinance

7. On December 12, 2005, the Borough adopted the Curfew Ordinance.<sup>1</sup> The Curfew Ordinance makes it unlawful for “any minor ... to remain in or upon any public place or on the premises of any establishment within the Borough ... during curfew hours” of 10:00 p.m. to 5:30 a.m. The restrictions apply every day of the week. “Public place” is broadly defined as:

Any place to which the public or a substantial group of the public has access, including, but not limited to, a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, recreation or shopping area, public transportation facility, vehicle used for public transportation, parking lot or any other public building, structure or area.

8. The Curfew Ordinance provides several exceptions where, for example:

(1) The minor is accompanied by the minor’s parent or guardian;

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<sup>1</sup> A true copy of the Curfew Ordinance is attached hereto as **Exhibit A**. The Curfew Ordinance was adopted pursuant to N.J.S.A. 40:48-2.52, a statute authorizing municipalities to “enact an ordinance making it unlawful for a juvenile of any age under 18 years within the discretion of the municipality to be on any public street or in a public place between the hours of 10:00 p.m. and 6:00 a.m. unless accompanied by the juvenile's parent or guardian or unless engaged in, or traveling to or from, a business or occupation which the laws of this State authorize a juvenile to perform. Such an ordinance may also make it unlawful for any parent or guardian to allow an unaccompanied juvenile to be on any public street or in any public place during those hours.” N.J.S.A. 40:48-2.52(b)(1).

- (2) The minor is accompanied by an adult over 21 years of age authorized by a parent to accompany the minor for a designated period of time and specific purpose within a specific area;
- (3) The minor is exercising First Amendment rights protected by the Constitution, such as free exercise of religion, freedom of speech and the right of assembly;
- (4) There exists a case of an emergency or reasonable necessity, but only after the minor's parent or guardian has confirmed the facts establishing the emergency or reasonable necessity, including the points of origin and destination, the specific streets at a designated time for a designated purpose;
- (5) The minor is on the sidewalk that abuts the minor's residence or the sidewalk that abuts the residence of the next-door neighbor if the neighbor did not object to the minor's presence on the sidewalk;
- (6) The minor is in attendance at, or returning home by direct route from and within 30 minutes of the termination of, an official school activity or any activity of a religious, civic or voluntary association, which entity takes responsibility for the minor; [or]
- (7) The minor is in a motor vehicle with the consent of his or her parent or guardian engaged in normal travel, either intrastate or interstate, through the Borough of Wanaque[.]<sup>2</sup>

There is no exception for cases where the minor has parental consent to be in public during curfew hours.

9. The Curfew Ordinance further prohibits “any parent or guardian of a minor to knowingly or negligently permit or by insufficient control allow the minor to be in any public place or on the premises of any establishment within the Borough ... during curfew hours.” Any minor found to be in violation of the Curfew Ordinance “shall be detained by the Wanaque Police Department at the police headquarters and released into the custody of the minor's parent, guardian or an adult person acting in loco parentis.” Both the minor and parent/guardian found

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<sup>2</sup> For a full list of curfew exceptions, see Curfew Ordinance at §69-5.

guilty of violating the Curfew Ordinance are subject to a fine of \$100 and 15 hours of community service for a first offense and up to \$1,000 and 50 hours of community service for multiple offenses.

**Shaina Harris**

10. On the evening of September 22, 2012, Harris, who was 16 years old at the time, was home with her family and decided to walk to Burger King to pick up a milk shake. Her home is located on a private road accessible by a bridge that is across the road from the home.

11. At approximately 11:00 p.m., with her parents' permission, Harris left her home and went to Burger King. The Burger King is in full view of Harris's home and no more than 200 feet from the home.

12. The mail boxes and garbage collection bins for residents of the private road are on the other side of the bridge. The Burger King property is directly across the street from the mailboxes and no more than 30 feet away.

13. On her short walk home, at approximately 11:30 p.m., Harris was stopped by Sergeant Calabro ("Calabro") of the Wanaque Police Department. According to the police report, Harris was stopped because of the "time of night and she appeared to be a juvenile, which would be a violation of the Juvenile Curfew Act."<sup>3</sup> During the ensuing conversation, Calabro threatened to detain Harris and bring her to the Wanaque Police Station where she would be held until a parent or guardian came to pick her up. Harris was able to contact her stepfather who came to pick her up. Harris was issued a summons and complaint charging her for violation the Curfew Ordinance.

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<sup>3</sup> A copy of the police report is attached hereto as **Exhibit B**.

### **Continuing Injury From The Curfew Ordinance**

14. There are a number of legitimate reasons for Harris to travel and/or visit public areas between the hours of 10:00 p.m. and 5:30 a.m. including, but not limited to, errands and social gatherings. Harris believes she should have the freedom to engage in age-appropriate activities regardless of whether those activities require public travel after 10:00 p.m. If Harris continues to follow her beliefs, she will be at further risk of detainment and prosecution under the Curfew Ordinance.

15. Richardson wishes to continue to allow Harris the freedom to leave her home for age-appropriate reasons, even if her daughter is not going to return by 10:00 p.m. Richardson believes that it is in Harris's best interests, and important for her development, to be involved in age-appropriate activities and associations that may require her to be in public areas after 10:00 p.m. Richardson wishes to continue to allow Harris to exercise the freedom and responsibility that she, as her parent, has decided is appropriate. If Richardson pursues her beliefs about what is best for her child, she will risk prosecution under the Curfew Ordinance.

16. Both Harris and Richardson face immediate and irreparable injury to their fundamental rights. They have no adequate remedy at law to redress those injuries.

### **FIRST COUNT**

17. Richardson repeats and realleges Paragraphs 1 through 16 of this Complaint as if fully set forth herein.

18. The Curfew Ordinance constitutes a violation of the fundamental rights of Harris to peaceful use of public areas, to travel, and to associate as guaranteed by Article I, paragraphs 1, 3, 6, and 18 of the New Jersey Constitution.

**WHEREFORE**, Richardson respectfully requests this Court order judgment awarding the following:

- A. Preliminary and permanent injunctions prohibiting further enforcement of the Curfew Ordinance;
- B. A declaration that the Curfew Ordinance is unconstitutional;
- C. Attorneys' fees and costs of suit; and
- D. Such other and further relief as the Court deems just, appropriate and equitable.

**SECOND COUNT**

19. Richardson repeats and realleges Paragraphs 1 to 18 of this Complaint as if fully set forth herein.

20. The Curfew Ordinance constitutes a violation of Richardson's right to direct the upbringing of her children free of unwarranted governmental intrusion under Article I, paragraph 1 of the New Jersey Constitution.

**WHEREFORE**, Richardson respectfully requests this Court order judgment awarding the following:

- A. Preliminary and permanent injunctions prohibiting further enforcement of the Curfew Ordinance;
- B. A declaration that the Curfew Ordinance is unconstitutional;
- C. Attorneys' fees and costs of suit; and
- D. Such other and further relief as the Court deems just, appropriate and equitable.

**THIRD COUNT**

21. Richardson repeats and realleges Paragraphs 1 to 20 of this Complaint as if fully set forth herein.

22. The Curfew Ordinance lacks sufficiently precise standards to provide adequate notice of what conduct is prohibited, to preclude discriminatory and arbitrary enforcement, and to prevent infringement on protected conduct. As such, it constitutes a violation of Article I, paragraph 1 of the New Jersey Constitution.

**WHEREFORE**, Richardson respectfully requests this Court order judgment awarding the following:

- A. Preliminary and permanent injunctions prohibiting further enforcement of the Curfew Ordinance;
- B. A declaration that the Curfew Ordinance is unconstitutional;
- C. Attorneys' fees and costs of suit; and
- D. Such other and further relief as the Court deems just, appropriate and equitable.

#### **FOURTH COUNT**

23. Richardson repeats and realleges Paragraphs 1 to 22 of this Complaint as if fully set forth herein.

24. The Curfew Ordinance violates the due process rights of Richardson by subjecting her to penal sanction for the acts of others, i.e., her minor child, in violation of Article I, paragraph 1 of the New Jersey Constitution.

**WHEREFORE**, Richardson respectfully requests this Court order judgment awarding the following:

- A. Preliminary and permanent injunctions prohibiting further enforcement of the Curfew Ordinance;
- B. A declaration that the Curfew Ordinance is unconstitutional;
- C. Attorneys' fees and costs of suit; and

22. The Curfew Ordinance lacks sufficiently precise standards to provide adequate notice of what conduct is prohibited, to preclude discriminatory and arbitrary enforcement, and to prevent infringement on protected conduct. As such, it constitutes a violation of Article I, paragraph 1 of the New Jersey Constitution.

**WHEREFORE**, Richardson respectfully requests this Court order judgment awarding the following:

- A. Preliminary and permanent injunctions prohibiting further enforcement of the Curfew Ordinance;
- B. A declaration that the Curfew Ordinance is unconstitutional;
- C. Attorneys' fees and costs of suit; and
- D. Such other and further relief as the Court deems just, appropriate and equitable.

#### **FOURTH COUNT**

23. Richardson repeats and realleges Paragraphs 1 to 22 of this Complaint as if fully set forth herein.

24. The Curfew Ordinance violates the due process rights of Richardson by subjecting her to penal sanction for the acts of others, i.e., her minor child, in violation of Article I, paragraph 1 of the New Jersey Constitution.

**WHEREFORE**, Richardson respectfully requests this Court order judgment awarding the following:

- A. Preliminary and permanent injunctions prohibiting further enforcement of the Curfew Ordinance;
- B. A declaration that the Curfew Ordinance is unconstitutional;
- C. Attorneys' fees and costs of suit; and

D. Such other and further relief as the Court deems just, appropriate and equitable.

**FIFTH COUNT**

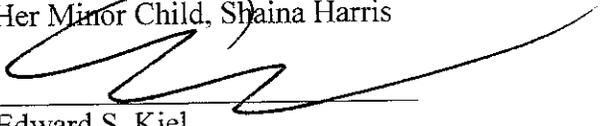
25. Richardson repeats and realleges Paragraphs 1 to 24 of this Complaint as if fully set forth herein.

26. Whereas the Curfew Ordinance punishes certain conduct by minors as criminal for which no adult may be prosecuted, it constitutes a violation of the rights of Harris to equal protection under the laws as guaranteed by Article I, paragraph 1 of the New Jersey Constitution.

**WHEREFORE**, Richardson respectfully requests this Court order judgment awarding the following:

- A. Preliminary and permanent injunctions prohibiting further enforcement of the Curfew Ordinance;
- B. A declaration that the Curfew Ordinance is unconstitutional;
- C. Attorneys' fees and costs of suit; and
- D. Such other and further relief as the Court deems just, appropriate and equitable.

COLE, SCHOTZ, MEISEL,  
FORMAN & LEONARD, P.A.  
Attorneys For Plaintiff, Linda  
Richardson, On Behalf Of Herself  
And Her Minor Child, Shaina Harris

BY:   
Edward S. Kiel

Dated: April 10, 2013

**DESIGNATION OF TRIAL COUNSEL**

Plaintiff hereby designates David K. Kohane and Edward S. Kiel as trial counsel for plaintiff, Linda Richardson, on behalf of herself and her minor child, Shaina Harris, in this matter pursuant to Rule 4:25-4.

COLE, SCHOTZ, MEISEL,  
FORMAN & LEONARD, P.A.  
Attorneys for Plaintiff, Linda Richardson, on  
behalf of herself and her minor child, Shaina  
Harris

By: 

Edward S. Kiel

DATED: April 10, 2013

**CERTIFICATION PURSUANT TO R. 4:5-1**

I certify that the within matter is not the subject matter of any other proceeding, action or pending arbitration other than those Municipal Court matters arising from the enforcement of the Curfew Ordinance, and that no such other action or arbitration proceeding contemplated. To the best of my knowledge there are no other parties who should be joined in this action at this time.

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7.



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Edward S. Kiel

DATED: April 10, 2013

# EXHIBIT A

## Chapter 69. CURFEW

§ 69-1. Title.

§ 69-2. Findings and purpose.

§ 69-3. Definitions.

§ 69-4. Prohibited acts.

§ 69-5. Exceptions.

§ 69-6. Enforcement procedures.

§ 69-7. Violations and penalties.

§ 69-8. Severability; periodic review; interpretation.

**[HISTORY: Adopted by the Borough Council of the Borough of Wanaque 12-12-2005 by Ord. No. 31-0-05. Amendments noted where applicable.]**

### GENERAL REFERENCES

Underage drinking — See Ch. 47, Art. III.

### § 69-1. Title.

This chapter shall be known and may be cited as the "Juvenile Curfew Act of 2005" as authorized by N.J.S.A. 40:48-2.52 et seq.

### § 69-2. Findings and purpose.

- A. The Mayor and Council of the Borough of Wanaque have determined that there has been an increase in juvenile violence and crime by persons under the age of 18 years in the Borough of Wanaque and that much of said activity takes place during night and evening hours and on school days during the hours in which school is in session.
- B. The Mayor and Council of the Borough of Wanaque have determined that persons under the age of 18 years are particularly susceptible, because of their lack of maturity and experience, to participate in unlawful and gang-related activities and to be the victims of older perpetrators of crime.
- C. The Mayor and Council of the Borough of Wanaque have determined that a curfew for those under the age of 18 years will be in the interest of public health, safety and general welfare and will help to attain these objectives and to diminish the undesirable impact of this conduct on the citizens of the Borough of Wanaque.
- D. The Mayor and Council of the Borough of Wanaque have determined that passage of a curfew will protect the welfare of minors by:
  - (1) Reducing the likelihood that minors will be the victims of criminal acts during the curfew hours and during the hours that school is in session.
  - (2) Reducing the likelihood that minors will become involved in criminal acts or be exposed to narcotics trafficking during the curfew hours and during the hours that school is in session.
  - (3) Aiding parents or guardians in carrying out their responsibility to exercise reasonable supervision of minors entrusted to their care.

### § 69-3. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein:

#### **CURFEW HOURS**

The hours from 10:00 p.m. until 5:30 a.m.

**EMERGENCY**

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

**ESTABLISHMENT**

Any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment, store, tavern, saloon or restaurant or any other commercial or business establishment or place.

**GUARDIAN**

A person other than a parent to whom legal custody of the minor has been given by court order or who is acting in the place of the parent or is responsible for the care, custody, control and welfare of the minor.

**KNOWINGLY**

A. With respect to a parent or guardian, knowledge which a parent or guardian is reasonably expected to have concerning the whereabouts of a minor in his or her legal custody.

B. With respect to an owner, operator or employee of an establishment, knowledge that a reasonable person is expected to have concerning the status of a person as a minor, including prior contacts with such person.

**MINOR**

Any person who has not attained the age of 18 years as of his/her last birthday prior to the date of the violation of this chapter, but does not include a judicially emancipated minor or a married minor.

**OPERATOR**

Any individual, firm, association, partnership, corporation, limited liability company or other entity that operates, manages or conducts any establishment. The term "operator" includes the members or partners of an association, partnership or limited liability company and the officers of a corporation.

**PARENT**

A natural parent, adoptive parent, stepparent or any person over the age of 21 years of age who has legal custody by court order or marriage of any minor and who is authorized by the natural parent, adoptive parent, stepparent or custodial parent of a child to be a caretaker for the child.

**PUBLIC PLACE**

Any place to which the public or a substantial group of the public has access, including, but not limited to, a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, recreation or shopping area, public transportation facility, vehicle used for public transportation, parking lot or any other public building, structure or area.

**REMAIN**

To linger or stay or fail to leave the premises when requested to do so by a police officer or the owner, operator or other person in control of the establishment.

**SERIOUS BODILY INJURY**

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

**§ 69-4. Prohibited acts.**

A. It shall be unlawful for any minor to remain in or upon any public place or on the premises of any establishment within the Borough of Wanaque during the curfew hours.

B. It shall be unlawful for any minor to remain in or upon any public place on any school day during the hours in which such minor's school is in session, unless such minor has been officially excused from attendance at such school by

school authorities.

- C. It shall be unlawful for any parent or guardian of a minor to knowingly or negligently permit or by insufficient control allow the minor to be in any public place or on the premises of any establishment within the Borough of Wanaque during the curfew hours.
- D. It shall be unlawful for any parent or guardian to allow or permit any minor to be in or upon any public place at any time during the hours in which said minor's school is in session, unless such minor has been officially excused from attendance at such school by school authorities.
- E. It shall be unlawful for any owner, operator or any employee of an establishment to knowingly permit a minor to remain upon the premises of any establishment during curfew hours.
- F. It shall be unlawful for any owner, operator or employee of an establishment to knowingly allow or permit any minor to remain in or upon such establishment at any time during the hours in which such minor's school is in session, unless such child has been officially excused from attendance at such school by the school authorities.

### § 69-5. Exceptions.

A. It is a defense to prosecution under this chapter if any of the following apply:

- (1) The minor is accompanied by the minor's parent or guardian;
- (2) The minor is accompanied by an adult over 21 years of age authorized by a parent to accompany the minor for a designated period of time and specific purpose within a specific area;
- (3) The minor is exercising First Amendment rights protected by the Constitution, such as free exercise of religion, freedom of speech and the right of assembly;
- (4) There exists a case of an emergency or reasonable necessity, but only after the minor's parent or guardian has confirmed the facts establishing the emergency or reasonable necessity, including the points of origin and destination, the specific streets at a designated time for a designated purpose;
- (5) The minor is on the sidewalk that abuts the minor's residence or the sidewalk that abuts the residence of the next-door neighbor if the neighbor did not object to the minor's presence on the sidewalk;
- (6) The minor is in attendance at, or returning home by a direct route from and within 30 minutes of the termination of, an official school activity or any activity of a religious, civic or voluntary association, which entity takes responsibility for the minor;
- (7) The minor is in a motor vehicle with the consent of his or her parent or guardian engaged in normal travel, either intrastate or interstate, through the Borough of Wanaque;
- (8) The minor is traveling, without detour or stop, to or from a business or occupation which the laws of the State of New Jersey authorize a minor to perform; or
- (9) The minor carries on his or her person a special permit from the Chief of Police which has been issued upon written application, signed by the minor and by a parent or guardian of the minor, which application includes the name, address and telephone number of the minor; the name, address and telephone number of the minor's parent or guardian; the height, weight, sex, color of eyes and hair and other physical characteristics of the minor; and the necessity which requires the minor to be present on the public streets and the beginning and ending of the period of time involved by date and hour. The Chief of Police may grant a permit, in writing, for the use by the minor of such streets and upon such hours as, in the opinion of the Chief of Police, may be reasonably necessary. In the case of an emergency, this may be accomplished by telephone or other effective communication, with a corresponding record being made contemporaneously by the Chief of Police or by his or her designee.

- B. It is a defense to prosecution under this chapter that the owner, operator or employee of an establishment promptly notified the Wanaque Police Department that a minor was present on the premises of the establishment during curfew hours or school hours and refused to leave.

### § 69-6. Enforcement procedures.

- A. Before taking any enforcement action under this chapter, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall first warn the minor that he or she is in violation of curfew and shall, during curfew hours, direct the minor to proceed at once to his or her home or usual place of abode or, during school hours, to his or her school. The officer shall not issue a citation or make an arrest under this chapter unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in this chapter is proffered or is present.
- B. If a police officer determines that a minor is committing a curfew offense, the police officer shall take the minor to the Wanaque Police Department headquarters.
- C. A minor who violates this chapter shall be detained by the Wanaque Police Department at the police headquarters and released into the custody of the minor's parent, guardian or an adult person acting in loco parentis. The minor's parents, guardian or an adult person acting in loco parentis with respect to the minor shall be called to the police headquarters to take custody of the minor. The Police Department may request that the parent, guardian or adult person acting in loco parentis submit an appropriate form of identification and sign appropriate authorization. A minor who is released to a person acting in loco parentis with respect to the minor shall not be taken into custody for violation of this chapter while returning home with the person acting in loco parentis. If no one claims responsibility for the minor, the minor may be taken to the minor's residence or placed in the custody of the appropriate official of the Division of Youth and Family Services or Juveniles in Need of Supervision Shelter.
- D. If a minor violates this chapter on more than three occasions, he or she may be charged as a delinquent under the Code of Juvenile Justice, N.J.S.A. 2A:4A-20 et seq. In appropriate cases, however, the Police Department may refer the matter to the appropriate juvenile authorities as a juvenile-family crisis pursuant to N.J.S.A. 2A:4A-22.
- E. The provisions of this chapter shall not limit the power of the Police Department to charge parents, guardians or the owners, operators or employees of business establishments with violations of this chapter.

### § 69-7. Violations and penalties.

[Amended 9-18-2006 by Ord. No. 23-0-06]

- A. For a first offense, a violator of this chapter shall be required to perform 15 hours of community service and pay a fine of \$100; for a second offense, a violator of this chapter shall be required to perform 30 hours of community service and pay a fine of \$200; for a third offense, a violator of this chapter shall be required to perform 45 hours of community service and pay a fine of \$300; for a subsequent offense, a violator of this chapter shall be required to perform 50 hours of community service and pay a fine of up to \$1,000. If both the minor and the parent or guardian violate this chapter, they shall be required to perform the community service together.
- B. In addition to any fine imposed under Subsection A of this section, a violator shall reimburse to the Borough the cost of supervision by the Borough of Wanaque while performing community service.
- C. Any violator who fails to perform the required community service within the specified time frame and/or fails to pay a fine and/or reimbursement for supervision shall be subject to a fine of up to \$1,000 and/or additional community service.

### § 69-8. Severability; periodic review; interpretation.

Severability is intended throughout and within the provisions of this chapter. If any provision, including any exception, part,

phrase, or term of the application thereof to any person or circumstance is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of this chapter in any and all other respects shall not be affected thereby. Additional exceptions to be included under § 69-5 will be considered by the Mayor and Council as warranted by future input illuminated by the views of the student government associations, school personnel, citizens, associations, parents, officers and persons in authority concerned positively with minors as well as with juvenile delinquency. The Police Department shall be responsible to make periodic review of the practical aspects of enforcement and interpretation of this chapter, including the need for clarification or relaxation of any term or provision contained herein as well as the need for continued or discontinued curfew regulations. Whenever, in the opinion of the Borough Attorney or of any court, the application of this chapter to a particular act or activity of a minor is unclear or ambiguous, the less restrictive interpretation shall be deemed to be the intent of this chapter.

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# EXHIBIT B

OPERATION REPORT

|  |   |                             |   |                                   |                        |     |
|--|---|-----------------------------|---|-----------------------------------|------------------------|-----|
| COMPLAINT NUMBER<br><b>2012-013472</b>   | NATURE OF INCIDENT<br><b>CURFEW VIOLATION</b> | DATE<br><b>Sep 22, 2012</b> | TIME<br><b>23:48</b>                        | CLASSIFICATION<br><b>2812</b>     |                        |     |
| VICTIM - <input type="checkbox"/> COMPLAINT <input type="checkbox"/> ACCUSED - <input checked="" type="checkbox"/> (LAST, FIRST, MIDDLE) |   |                             | DOB<br><b>11/07/1996</b>                    |                                   |                        |     |
| HARRIS, SHAINA M   |   |                             | PHONE<br><b>(973) 248-6124</b>              |                                   |                        |     |
| ADDRESS<br><b>2 LAKE DRIVE HASKELL NJ 07420</b>  |   |                             |   |                                   |                        |     |
| LOCATION OF INCIDENT<br><b>SUSQUEHANNA AVENUE HASKELL NJ 07420</b>   |   |                             |   |                                   |                        |     |
| REPORTED BY<br><b>SGT. CALABRO</b>   |   |                             | RADIO<br><input type="checkbox"/>           | PHONE<br><input type="checkbox"/> |                        |     |
| ADDRESS<br><b>579 RINGWOOD AVENUE WANAQUE NJ 07465</b>   |   |                             | VIEW<br><input checked="" type="checkbox"/> | OTHER<br><input type="checkbox"/> |                        |     |
| WITNESS - OTHER - AGENCY<br><b>CARBONE, (PTL) PAUL</b>   |   |                             | PHONE<br><b>(973) 835-5600</b>              |                                   |                        |     |
| ADDRESS<br><b>579 RINGWOOD AVENUE WANAQUE NJ 07465</b>   |   |                             | PHONE<br><b>(973) 835-5600</b>              |                                   |                        |     |
| Vehicle Status   | Year  | Make                        | Body Type                                   | Color                             | License Number & State | VIN |

NARRATIVE

ON THE ABOVE DATE AND TIME THIS OFFICER OBSERVED SHAINA HARRIS WALKING ON SUSQUEHANNA AVENUE. THE REASON MY ATTENTION WAS DRAWN TO HARRIS WAS THE TIME OF NIGHT AND SHE APPEARED TO BE A JUVENILE, WHICH WOULD BE A VIOLATION OF THE WANAQUE BOROUGH JUVENILE CURFEW ACT.

AT THIS POINT I PULLED ALONG SUSPECT IN MARKED PATROL UNIT 564, AND ASKED THIS FEMALE FOR HER NAME AND AGE. SUSPECT INDICATED "SHAINA HARRIS, 16 YEARS OLD". HARRIS WAS ADVISED SHE WAS IN VIOLATION OF THE JUVENILE CURFEW ACT. AT THIS POINT HARRIS BECAME EXTREMELY AGITATED TO THE POINT SHE COULD NOT BE SPOKEN TO, AND CONTINUALLY USED PROFANITY TOWARDS THIS OFFICER AND PTL. CARBONE. A WANAQUE POLICE DISPATCH CHECK SHOWED A PREVIOUS WARNING CASE #2012-002433 FROM 02-13-2011. SHAINA HARRIS INDICATED SHE WAS ONLY COMING FROM THE BURGER KING BECAUSE SHE WAS HUNGRY. HARRIS DID NOT HAVE FOOD WITH HER AT THIS POINT, BUT ONLY A CLEAR CONTAINER WITH ICE CREAM. SHAINA HARRIS PHONED HER STEP FATHER WHO ARRIVED SHORTLY AFTER HER CALL.

THIS OFFICER ATTEMPTED TO EXPLAIN TO HER STEP FATHER THE PARAMETERS OF THE CURFEW ACT, BUT HE APPEARED TO BE UNINTERESTED, AND INDICATED WE LIVE RIGHT HERE AND SHE ONLY WENT TO THE BURGER KING.

SUMMONS #SC003740 ISSUED TO SHANIA HARRIS FOR B.O. 69-4A. WANAQUE MUNICIPAL COURT DATE 10-04-2012 7:00 P.M. SUMMONS TO BE MAILED.

|                                 |               |       |              |                    |         |           |
|---------------------------------|---------------|-------|--------------|--------------------|---------|-----------|
| SGT ANGELO CALABRO<br>SIGNATURE | RADGT. NUMBER | HOURS | DATE         | REVIEWED           | PENDING | COMPLETED |
|                                 | 0019          | 23:48 | Sep 22, 2012 | SGT ANGELO CALABRO |         | 09-22-12  |