

MAYOR
DANNEL P. MALLOY



THOMAS M. CASSONE
DIRECTOR OF LEGAL AFFAIRS
ASSISTANT CORPORATION COUNSEL
BARRY J. BOODMAN
JAMES V. MINOR
KENNETH E. POVOGATOR
RICHARD A. ROBINSON
JOHN E. SMYTH

CITY OF STAMFORD
OFFICE OF LEGAL AFFAIRS
888 WASHINGTON BOULEVARD
P.O. BOX 10152
STAMFORD, CT 06904-2152

(203) 977-4081
February 16, 1996

TO: Representative Maria Nakian (D-20)
Board of Representatives

FROM: Thomas M. Cassone
Director of Legal Affairs

RE: Matthew Kosbob Loitering Ordinance

RECEIVED

FEB. 20 1996

BOARD OF REPRESENTATIVES
CITY OF STAMFORD

Your recent revelation concerning the inability to fine juveniles (those under 16) is accurate, with some qualifications. A recent legislative enactment, Public Act 95-225 § 24, provides that a convicted delinquent may be placed in an alternative incarceration program, in lieu of incarceration which can include as penalties, fines and restitution, among other things. I believe that what Joanne Goldberg was referring to is that there is no other law adjudicated in juvenile court, to which these matters are referred, that would impose a fine. This was confirmed to me by Representative Dan Weiner (also D-20) who also told me that in his experience as a juvenile public defender, no fines are directly levied by the court, although a \$200 adjudication fee typically is (on the delinquent). Even this is typically waived, however, upon a finding of inability to pay.

The more practical problem is that the Juvenile Probation Department would not enforce a fine against a juvenile for loitering especially if it were the juvenile's sole reason for arrest.

With respect to the suggestion that children's parents be fined, there is a law on the books that makes parents liable to an injured party for the willful or malicious acts of their minor children up to \$5,000.00. Parents are not, however, subject to criminal penalties for their children's actions, and it is my opinion that such a statute or ordinance would not withstand a constitutional challenge. Further, the City is unable to create liabilities beyond the scope of power delegated by the State under the Municipal Powers Act CGS.7-148. A review of this statute provides no such authority.

My recommendation therefore is to live with the ordinance that is on the books, if for no other reason than for its deterrent value.

TMC:cq