Indiscriminate Shackling of Youth: Strategies for Successful Reforms

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njdc.info/campaign-against-indiscriminate-juvenile-shackling
@EndShackling
Shackling Basics

- Leg Irons; Handcuffs; Belly chains
- CAIJS focus: in-court shackling
Ending Indiscriminate Shackling

Constitutional Issues

“Visible shackles give the impression to any trier of fact that a person is violent, a miscreant, and cannot be trusted.”
Constitutional Issues

1) Shackles as Punishment?

2) Attorney-Client Relationship & Participation in Proceedings

- It just made my attorney not like me.
- I felt like he wasn’t even trying to work with me or reduce my time.
- I was so worried about how everyone was seeing me in shackles that I couldn’t concentrate …
- I felt unfairly treated.
- I was unable to focus.
Why Shackling is Especially Bad During Adolescence

I felt like everybody was looking at me like I was a monster.
Psychological harm

- Adolescents are more likely to suffer lasting harm from a humiliating or traumatizing experience than adults are.

- The majority of children held in detention in the United States have histories of trauma. Shackling can be a retraumatizing experience.

- Shackling can mirror past trauma, particularly physical and emotional abuse, increasing the risk that trauma’s effects will endure long-term.

- Stress makes it harder to focus and impairs memory and self-expression.

- Children in the system also suffer high rates of mental illness and disability.
Not necessary to maintain safety

- Miami-Dade County did away with the practice in 2006. Since then more than 25,000 children have appeared in the county’s juvenile court without injury or escape.

- Travis County, Texas: they use shackles in juvenile court only under extraordinary circumstances. > 3,000 detention hearings / year. No children in Judge Byrne’s courtroom were shackled in 2013 or 2014.

- Boulder, CO: In 2014 there were a total of 9 restraint recommendations out of 534 children who appeared in custody. Ultimately, only 3 were shackled. No incidents.

- Adults are not routinely shackled at trial.

- **Has Statewide Case Law, Policies, Court Rules, Administrative Orders and/or Statutes Limiting In-Court Juvenile Shackling**
- **No statewide, written limits on juvenile shackling in court**
Juvenile Shackling on Paper Across the U.S.
May 8, 2015

Has Statewide Case Law, Policies, Court Rules, Administrative Orders and/or Statutes Limiting In-Court Juvenile Shackling

No statewide, written limits on juvenile shackling in court
National Policy Statements
RESOLVED, That the American Bar Association urges all federal, state, local, territorial and tribal governments to adopt a presumption against the use of restraints on juveniles in court and to permit a court to allow such use only after providing the juvenile with an opportunity to be heard and finding that the restraints are the least restrictive means necessary to prevent flight or harm to the juvenile or others.

--107A, February, 2015
What Juvenile Defenders Say

We see children who are ten years old who weigh sixty pounds, whose feet don't reach the floor when they're sitting in the chair waiting to be called by the judge. The shackles are weighing their legs down.

I have been told that they want to plead guilty or they want to admit to wrongdoing at their very first appearance, merely because they don't want to have to appear again in front of their parents, in front of their peers, in front of a gallery, with shackles on.

As they sit there in the courtroom, metal around their wrists and feet, parents, grandparents, family members, and complete strangers see them at their lowest….Family members weep, too. It is hard for a child to focus on my conversation on my advisement of their rights and of their options. It's hard for them to sign the paperwork acknowledging that they understand these rights when their hands are shackled.
How You Can End Shackling

- Get involved in the drafting of local policies
- Keep track of what kids are being shackled - what is the top charge? Are these really kids that need to be shackled? This data is especially key moving forward if we are going to look to enact lasting change.
- Collect quotes/insight/anecdotes from children and families
- Try on Shackles
- Stop Operating in a Silo! Talk to stakeholders, known and unfamiliar
  - Medical; Prosecutorial; Law School Clinics; Defender Orgs; Policy orgs; local bar organizations
What CAIJS Can Help You With

- Motions, Affidavits, & Questions for Affidavits
- Anecdotes from children and families
- Legislative Advocacy & Rulemaking support
- Media
- Networking w/ stakeholders
- Brainstorming, Memos & Research
- Court Observation
Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, may not be used on a child during a court proceeding and must be removed prior to the child’s entry into the courtroom unless the court finds both that:

(1) The use of restraints is necessary due to one of the following factors:

(A) Instruments of restraint are necessary to prevent physical harm to the child or another person;
(B) The child has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or
(C) There is a founded belief that the child presents a substantial risk of flight from the courtroom;

AND
There are **no less restrictive alternatives** to restraints that will prevent flight or physical harm to the child or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.

The court shall provide the juvenile’s attorney an **opportunity to be heard** before the court orders the use of restraints.

If restraints are ordered, the court shall make **written findings** of fact in support of the order.
Questions?

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