



National Center for Mental Health and Juvenile Justice

Policy Statement on Indiscriminate Shackling of Juveniles in Court

If there is a valid rationale for shackling juveniles, I have never heard it. If the goal of juvenile justice is rehabilitation, shackling a young person is not the way to achieve it. So why do we continue this practice? I do not know and few others claim to know either.

Chief Justice Martha P. Grace (ret.), Massachusetts Juvenile Courts

The National Center of Mental Health and Juvenile Justice (NCMHJJ) strongly opposes the automatic or widespread shackling of youth appearing in court. The NCMHJJ holds that no youth should be shackled for a court appearance unless the court, following a formal hearing, has found that the specific child: (1) poses a credible and substantial risk to himself or others; and/or (2) poses a credible and substantial risk of attempted flight; *and* (3) there is no other less restrictive means reasonably available to manage risks of harm or flight.

Many jurisdictions continue to automatically or frequently shackle youth appearing in court.

The prevalence of shackling court-involved youth began to rise in the late 1980's when public policy embraced a more punitive approach to juvenile crime. Automatic shackling of youth became a common practice across the United States. Since that time, several states¹ have relied upon statutes or court rule-making and policy authority to curtail automatic or widespread use of shackles (commonly handcuffs, leg irons, belly chains) with youth appearing in court. These states have embraced a presumption that shackles may be used only when it is the least restrictive means available to prevent harm to self or others and/or to prevent flight by the juvenile. Nonetheless, the automatic or routine widespread shackling of youth remains commonplace in America's juvenile courts—including for the majority of court-involved youth who are appearing for non-violent offenses, and even for non-criminal "status offenses" such as being truant or stubborn. Data is not reliably kept but it is estimated that at least 100,000 youth are shackled each year.² It is especially appalling that children and adolescents are so commonly shackled for court appearances because the United States Supreme Court has held that fundamental due process rights require that adult defendants can be shackled only upon a showing of a "special need" to do so in an individual case related to safety or flight risk.³

¹ States which have halted automatic or widespread use of shackles for juveniles appearing in court include California, Florida, Illinois, Massachusetts, New Mexico, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, and Washington State.

² David Shapiro, Campaign Against Indiscriminate Shackling, as reported in *Mother Jones* article on shackling, February 24, 2015.

³ *Deck v. Missouri*, 544 U.S. 622 (2005)

Many compelling reasons have been cited to bar automatic or widespread shackling of youth.

A variety of compelling reasons have been offered for barring automatic or widespread shackling of youth appearing in court. Reasons cited by a variety of professional organizations⁴ include:

- Shackling is both unnecessary and contrary to law and a violation of fundamental fairness and due process.
- Shackling results in an erosion of the presumption of innocence of juvenile defendants
- Shackling compromises a juvenile’s ability to participate in their own defense and is contrary to the goals of the juvenile justice system.
- Shackling undermines and compromises normal development and may be traumatizing.
- Shackling disproportionately impacts upon youth who are impoverished and of color due to their over-representation among youth involved with juvenile courts and in the juvenile justice system.

Youth with significant behavioral health needs are disproportionately found among youth involved with the juvenile justice system and are particularly vulnerable to negative impacts from shackling in court.

Research has consistently demonstrated that the prevalence of youth with behavioral health needs is significantly higher among youth involved with the juvenile justice system than among youth in the general population. It has been known for almost a decade that some 70 percent of youth involved with juvenile justice have diagnosable psychiatric conditions with many of them having more than one.⁵ Research also indicates that some 70 – 90 percent of youth coming into contact with the juvenile justice system have had exposures to significantly adverse or traumatic experiences.⁶ Shackling of youth in juvenile court with behavioral health needs:

- Exacerbates distress and can directly contribute to the worsening of symptoms of mental disorders, compromising daily functioning
- May precipitate reactive behaviors arising from emotional dysregulation due to fear and/or anger which then prompt “disciplinary” responses such as further physical or mechanical restraints, seclusion or administrative segregation, or “chemical restraints” with medication
- Can undermine trust in adults in positions of caretaking or responsibility who might otherwise be able to work effectively with a youth with behavioral health needs
- May trigger memories of past maltreatment and specifically exacerbate post-traumatic symptoms such as anger, anxiety, dissociation, mistrust and non-compliance

⁴ See, for example, statements on shackling juvenile defendants promulgated by the American Bar Association, National Juvenile Defender Center, American Orthopsychiatric Association,

⁵ Skowrya, Kathleen and Joseph Coccozza. “Blueprint for Change: A Comprehensive Model for the Identification and Treatment of Youth with Mental Health Needs in Contact with the Justice Department.” *National Center for Mental Health and Juvenile Justice*. 2007.

⁶ DG. 2003; Sprague, C. 2008; Maschi T. Unraveling the link between trauma and male delinquency: the cumulative versus differential risk perspectives. *Social Work*. 2006; 51(1): 59; Abram KM, Teplin LA, Charles DR, Longworth SL, McClelland GM, Dulcan MK. Posttraumatic stress disorder and trauma in youth in juvenile detention. *Archives of General Psychiatry*. 2004; 61: 403-410;

- May deepen depression due to the shame and humiliation associated with public shackling, and in some cases may contribute to self-harming behavior or suicidality
- May contribute to intensification of negative thoughts and feelings and so inadvertently increase risks of self-medication with substance abuse or through high-risk, high-intensity behavior intended to block these thoughts and feelings

The National Center for Mental Health and Juvenile Justice calls for the elimination of automatic or widespread shackling of youth in court. In the vast majority of cases, shackling of youth is not necessary to assure safety or prevent flight by the youth. It substantially undermines the positive development of youth, compromises the basic fundamental fairness and due process guaranteed by the Constitution, and imposes significant additional burdens and risks upon youth with behavioral health needs who are disproportionately represented among youth in the juvenile justice system.