

## **Juvenile Shackling Affidavit of Dr. Robert Bidwell – General**

Dr. Robert Bidwell, being first duly sworn, hereby deposes and says:

1. My name is Robert Bidwell. I am a physician who is board certified in pediatrics and adolescent medicine. I am licensed in the State of Hawai'i and my practice is based in Honolulu, Hawai'i.
2. I received my MD from the University of Minnesota School of Medicine (1981) and completed my pediatric training at the University of Hawai'i John A. Burns School of Medicine (UH) (1981-85). I subsequently completed an Adolescent medicine Fellowship at the University of Washington School of Medicine in Seattle (1986-88).
3. I assumed the position of Assistant Professor of Pediatrics and Director of Adolescent Medicine at UH in 1988, and in 1993 became Associate Professor of Pediatrics. I retired from full-time practice in 2012 but have continued to serve as Associate Clinical Professor of Pediatrics at UH. In each of these positions, I have provided adolescent health care and counseling in a variety of medical center and community-based settings. A predominant part of my practice has been providing health care to youth at the Hawai'i Youth Correctional Facility and the O'ahu Juvenile Detention Facility. Including my years of pediatric/adolescent medicine training, I have worked extensively in juvenile detention/correctional settings since 1984, both in Washington State and Hawai'i.
4. My expertise is in the area of adolescent health, which includes not only the medical care of adolescents, but also the areas of adolescent development and the psychological and social issues impacting adolescent health and well-being. All these aspects of adolescent health are represented in my daily practice of medicine. They also are the focus of my

teaching of medical students and pediatric physicians-in-training, who join me in providing care to adolescents in all my clinics. I have provided numerous trainings on adolescent health and development in many different settings including the University of Hawai'i's School of Medicine, College of Nursing, School of Public Health, School of Social Work and College of Education, to the staff of nonprofit agencies serving at-risk youth, and to pediatricians, family medicine physicians, internal medicine, obstetrician-gynecologists and psychiatrists at medical centers and conferences across the state of Hawai'i and the U.S. Mainland. I also have an interest in the field of child and adolescent sexual abuse and have been a pediatric/adolescent forensic examiner for the Sex Abuse Treatment Center in Honolulu since 1985.

5. Within the broader area of adolescent health, my areas of focused interest have been the health of detained and incarcerated youth, homeless/runaway youth, and lesbian, gay, bisexual and transgender (LGBT) youth, which often are significantly overlapping groups. Because of this interest and expertise, I have been asked to give numerous presentation and trainings in Hawai'i, nationally and internationally on the experience and needs of these young people. These have included trainings for the Hawai'i State Judiciary, the Hawai'i Youth Correctional Facility, the O'ahu Youth Detention Facility, and the Hawai'i State Departments of Education, Health, and Human Services. I am also a consultant and trainer on adolescent development for the Project on Addressing Prison Rape national training efforts based at the Washington College of Law at American University in Washington, D.C.
6. In addition to training activities, I have been involved directly in local Hawai'i and national activities focused on the well-being of detained and incarcerated youth,

including LGBT youth. I am a member of the Child Welfare League of America Advisory Network on LGBT youth, which focuses on the safety of LGBT youth in out-of-home care (including both foster care and youth in detention/correctional settings). I am an active pediatric consultant to the Hawai'i Family Court Committee on LGBT Youth in Hawai'i's Juvenile Justice System and am a member of the Equity Project Advisory Committee, a national project which seeks to assure the safety and respectful treatment of LGBT youth in juvenile justice systems across the U.S. I was also an active participant in the federal lawsuit *R.G. v Koller* (2006) in which 3 minors successfully brought suit against the State of Hawai'i for abuse based on their sexual orientation and gender identity, experienced while residents of the Hawai'i Youth Correctional Facility.

7. This affidavit is based on current research in adolescent development, as well as my own *experience working with juvenile justice-involved youth.*
8. The literature tells us that a high proportion of young people in the juvenile justice system have experienced trauma, both within their families and the broader community, and exhibit symptoms of Post-Traumatic Stress Disorder (PTSD). My own experience caring for detained and incarcerated youth certainly supports this. For many of these youths, shackling mirrors past trauma experience, particularly the experience of physical and emotional abuse. Similar to instances of past trauma, it often involves a sense of loss of control, powerlessness, betrayal, fear, humiliation and pain. These memories, and the overwhelming feelings that accompany them, often remain with these youths for a lifetime. The experience of indiscriminate shackling simply compounds the trauma and increases the likelihood that the effects of this trauma will reverberate through their lives for years to come.

9. Putting youth in situations reminiscent of past trauma can cause intense feelings of distress, invasive thoughts about the original incident, and physical symptoms such as abdominal pain, nausea, vomiting, sweating, chest pain, a pounding heart, and a sense of suffocation and impending death.
10. Extreme stress impairs cognition. This distress, together with the alien physical experience of shackling itself, may compromise the ability of a young person to focus on the issues at hand in a court proceeding, as well as impair their memory and self-expression. Thus the youth will be unable to effectively assist with his or her own defense.
11. For anyone, shackling is a profoundly shaming experience. Unlike adulthood, adolescence is the time when human beings are uncertain of their identity and therefore exceptionally vulnerable to the effects of humiliation and shame inherent in shackling. A fundamental developmental task of adolescence is to develop a sense of self and self-esteem. Shackling unavoidably implies that one is a bad or dangerous individual, someone who is untrustworthy or unable to control their emotions or actions, a criminal, or even less than human. Given youths' uncertainty related to their identity and their vulnerability to negative messages about who they are as individuals, the experience of shackling can have a lasting negative effect on a young person, making it harder to develop the sense of self-respect that is critical to pro-social behavior and that is foundational to the goals of the modern juvenile justice system.
12. Indeed, the experience of being treated as a dangerous creature can shape a young person's emerging identity. If a young person perceives that societal institutions such as courts view that youth as violent and untrustworthy, as represented by shackling, that

still-developing youth may come to believe that she or he must, in fact, be a bad person. This self-image might well lead a youth who would otherwise be rehabilitated to engage instead in violent and other anti-social behaviors.

13. Because of the harmful impact of indiscriminate shackling on youths' physical, emotional and developmental health and well-being, I have begun to routinely inquire of all the youth I care for in my clinics at the O'ahu Juvenile Detention Facility and the Hawai'i Youth Correctional Facility about whether or not they have ever been shackled in a courtroom setting when appearing before a judge. To this point, over half of my young patients, aged 14-17 and both boys and girls, report having been shackled when appearing before a judge in a courtroom setting. Handcuffs and ankle-chains are the shackles most frequently reported. Some youth were not sure whose decision it was that the shackles should not be removed in the courtroom, but the majority stated clearly and confidently that they felt the decision was left to the sheriffs who accompanied them to court. Many youth reported injuries to their ankles and wrists from the shackles, although none of them reported them to be physically serious. Most concerning to me as a pediatrician has been the lasting emotional impact of shackling on these youths. When asked, "How did you feel when you appeared in court in front of the judge wearing shackles?" these young people's answers seemed to reflect more sadness and pain than anger, and several had tears in their eyes as they talked about what they felt at the time. "I felt so shamed." "I felt like a criminal." "It didn't seem like anyone cared." "I felt like a danger to society." "I felt like I wasn't welcomed there." "I didn't think anyone wanted to listen to why things happened the way they did." "It seemed like I was being targeted." "It didn't seem fair." "It hurt so much to have my little 3-year-old brother and 5-year-old

sister there seeing me like that, and to see my mother crying.” The most frequent responses from my patients reflected this shame and pain in having mothers and fathers, siblings, grandparents, cousins and other family members see them in shackles, “like a prisoner”, “like I was a dangerous person.”

14. Lesbian, gay, bisexual and transgender (LGBT) youth are over-represented in the juvenile justice system. Throughout their childhood and adolescence, many have experienced rejection, harassment and physical and emotional violence within their families and among their peers. Some have been arrested and detained simply because of their sexual orientation and gender identity. For them, shackling can represent a continuation of being treated as “other”, as unacceptable, and as dangerous, this time at the hands of the state itself. Being young, and still trying to develop a sense of self-identity, which includes sexuality and gender, in an often non-accepting world, LGBT youths are exceptionally vulnerable to the harmful effects of stigmatizing treatment by societal institutions, including the courts. This can unnecessarily prolong, perhaps for a lifetime, a feeling of alienation and hopelessness.

15. Adolescents frequently perceive shackling as unfair. They know that adults are rarely shackled in court. Most juvenile cases involve simple status offenses or relatively minor, non-violent crimes. Not infrequently a youth brought to court is found innocent of charges brought against them. Yet indiscriminate shackling often occurs in each of these circumstances. The indiscriminate shackling of youth and the disparate treatment of youth as compared to adults does not make sense to them and is seen as inherently unjust. This negatively colors their perception of the fairness of the court. This in turn

compromises the trust and open communication that are essential for the juvenile justice system to be effective in its rehabilitative approach to youth.

16. When young people perceive that the court sees them as individuals and is treating them fairly and respectfully they are more likely to engage with the judicial process and less likely to reoffend. Multiple studies confirm this. Thus shackling interferes with the *rehabilitative mission of the juvenile court.*
17. Shackles can also cause physical harm. Based on my clinical experience, and consistent with the medical literature, even when placed correctly (which often is not the case) shackles can cause not only pain but often result in bruising, abrasions, lacerations and swelling of the hands and feet. They force people to maintain an uncomfortable posture and a youth's ability to maintain balance and walk or stand up normally is impaired, *increasing the chance of injury from falls. While most of these injuries will be transitory, some injuries may result in permanent scarring. Open wounds from shackles can result in subsequent infection, requiring antibiotics with their attendant risks. It is not lost on the young person that the court chose to inflict physical harm. This will make the youth less likely to cooperate with the court and can reinforce a negative self-concept.*
18. The goal of the juvenile court is to guide youth toward better behavior. For adolescents *inside and outside the juvenile justice system, learning self-regulation is an important developmental task. Shackling takes away an opportunity to demonstrate the ability to self-regulate. Instead of learning and putting into practice more acceptable ways to behave, the child comes to believe that he or she lacks the potential for self-regulation and must be tightly controlled.*

19. When system-involved youth are not in physical restraints, the adults working with them *find other ways to manage behavior, such as clearly communicating expectations, modeling appropriate behavior, and providing positive reinforcement when the youth follows rules. Shackles not only rob youth of the ability to self-regulate; they impair adults' ability and motivation to engage with, teach and mentor young people.*
20. The trend in juvenile justice best practice is away from the use of restraints, for all of the *reasons enumerated above. Shackling is an unnecessary affront to the human dignity of a child and from a developmental perspective clearly does harm. Its indiscriminate application shocks the conscience of many adults and is in many instances tantamount to child abuse. Fortunately, in juvenile detention and correctional facilities across the U.S., staff are being trained in non-restraint techniques that are highly effective in gaining the cooperation of youth, even those with serious behavioral health issues.*
21. Most youth who come to court will not be sent to correctional facilities but will be released into the community. If they can safely conduct themselves in the community, it stands to reason that they can do so in the courtroom. Given the extremely negative consequences of shackling, it behooves the court to resort to this damaging practice only *in the very rare cases where the child poses a real safety risk and cannot be managed with other less-restrictive means.*



Further, affiant sayeth not. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 12, 2015

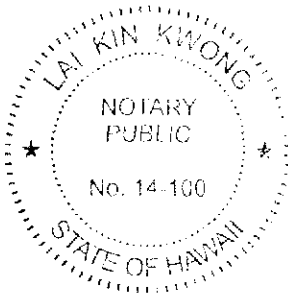
Robert J. Bidwell, MD

Sworn to me and subscribed in my presence on February 12, 2015

Lai Kin Kwong  
NOTARY PUBLIC

My commission expires: 4-6-2018

Seal:



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Notary Name: Lai Kin Kwong First Circuit

Doc. Description Juvenile Shackling

Affiant of Dr. Robert Bidwell - General

Lai Kin Kwong 2/12/15  
Notary Signature Date

