

American Orthopsychiatric Association

Shackling Children in Court: Implications for Adolescent Development

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Introduction

The overwhelming majority of court-involved juveniles are there for non-violent offenses (U.S. Department of Justice, 2014). Indeed, in 2011, the juvenile violent crime arrest index rate was the lowest in three decades (Puzzanchara, 2013). All youth, regardless of their alleged offense, are shackled in proceedings in hundreds of juvenile courts across the country. In some cases, these children are as young as 7 years of age (McLaurin, 2012). Shackling even occurs in status offense cases in which a young person is brought to the court for non-criminal behavior (e.g., truancy). Children find themselves in handcuffs, leg irons, and belly chains as a routine, unquestioned practice. That is, there is no evidence presented or even considered that these young people are a danger to anyone or likely to attempt to flee (Puritz, 2014). The practice is specifically used on youth who are coming to their court hearings from detention. Because minority children are sent to detention at much higher rates than white peers, shackling is indiscriminately imposed upon children of color (Hoytt, Schiraldi, Smith, & Ziedenberg, 2002).

Purpose/Problem Statement

Adolescence is a critical stage in the development of an individual's sense of self (Erikson, 1968; Harter, 1999; McLean & Breen, 2009). It is also a time when individuals have a heightened concern as to how others perceive them (Erikson, 1968). Shackling of juveniles holds the potential to do great harm at this formative stage. Indeed, young people frequently describe the experience as making them feel like a criminal (Washington State Supreme Court Rules Committee, 2014).

During adolescence, the brain undergoes marked changes, known to experts as *plasticity*. These changes include an increase in the strength of connections between the prefrontal cortex and the limbic system. This physical change may be exhibited through the actions of young people, including through the development of greater self-control (i.e., the ability to regulate one's own behavior in accordance with social norms; Steinberg, 2011). The use of shackles deprives young people of the opportunity to control their behavior at a most basic level. Ultimately, physical restraints are counterproductive to helping children and adolescents learn to control their own behavior (Rosenblitt, 2015).

The purpose of the juvenile justice system is rehabilitative, a mission that relies heavily on a young person's ability to self-regulate. The literature on the use of mechanical restraints on young people in other settings links the practice with an increase in problematic or even violent behavior (U.S. General Accounting Office, 1999).

Restraints, which are sometimes painful and which always limit autonomy, can recall traumatic experiences. Estimates of the prevalence of trauma among juvenile justice involved youth vary, though they are universally high. Admission to detention is especially associated with a history of trauma (Abram, 2004). Because youth who have been held in detention are the ones automatically shackled in many states, we know that the majority of shackled youth have had at least one – and often multiple – exposures to trauma. Thus, a policy of indiscriminate juvenile shackling is in essence a policy of retraumatization.

The effect of stress on human cognition, including learning and memory is well established (Lupien, 2007). To impose the stress of being shackled in the courtroom on young defendants, particularly ones likely to have a history of trauma, puts the youth at a disadvantage in assisting in their own defenses. Shackled youth have more difficult understanding and paying attention to judges and their own attorneys. Juvenile incarceration facilities in many states have been sanctioned for the violence and abuse young people suffer within them (Annie E. Casey Foundation, 2011).

Policy/Position Statement

The American Orthopsychiatric Association (Ortho) is a strong supporter of best practices in juvenile justice. For these reasons, Ortho believes that the shackling of juveniles in courtroom settings should be limited to the rarest of situations. Shackling should never be automatic or the presumptive practice of a juvenile court. Ortho encourages an interdisciplinary dialogue among mental health professionals, child advocates, service providers, researchers, policymakers, and other stakeholders to develop and promote a more humane approach to addressing the needs of children and families involved in the juvenile justice system. Courtroom actors and professionals across all related disciplines must be aware of harmful practices such as automatic shackling. This egregious practice should only be used in cases in which an individualized determination has been made that such restrictive procedures are the only means available to ensure and maintain safety.

References

- Abram, K. M., Teplin, L. A., Charles, D. R., Longworth, S. L., McClelland, G. M., & Dulcan, M. K. (2004). Posttraumatic stress disorder and trauma in youth and juvenile detention. *Archives of General Psychiatry, 61*, 403-410.
- Annie E. Casey Foundation. (2011). *No place for kids: The case for reducing juvenile incarceration*. Baltimore, MD: Author.
- Erikson, E. (1968). *Identity: Youth and crisis*. New York, NY: Norton.
- Harter, S. (1999). *The construction of the self: A developmental perspective*. New York, NY: Guilford Press.
- Hoytt, E. H., Schiraldi, V., Smith, B., & Ziedenberg, J. (2002). *Pathways to juvenile detention report: Reducing racial disparities in juvenile detention*. Baltimore, MD: Annie E. Casey Foundation.
- Lupien, S. J., Maheu, F., Fiocco, A., & Schramek, T. E. (2007). The effects of stress and stress hormones on human cognition. Implications for the field of brain and cognition. *Brain and Cognition, 65*, 209-237.

- McLaurin, K. M. (2012). Children in chains: Indiscriminate shackling of juveniles. *Journal of Law & Policy*, 38, 213-239.
- McLean, K. C., & Breen, A. V. (2009). Process and content of narrative identity development in adolescence: Gender and well-being. *Developmental Psychology*, 45, 702–710.
- Puritz, P. (2014). Shackling juvenile offenders can do permanent damage to our kids. *The Washington Post*. Retrieved from <http://www.washingtonpost.com>
- Puzzanchera, C. (2013). *Juvenile arrests 2011* (National Report Series Bulletin NCJ 244476). Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Rosenblitt, D. (2015). *Affidavit regarding indiscriminate shackling*. Retrieved from <http://njdc.info>
- Steinberg, L. (2012). Should the science of adolescent brain development inform public policy? *Issues in Science and Technology*. Retrieved from <http://issues.org>
- U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice & Delinquency Prevention. (2011). *Juvenile court statistics*. Retrieved from <http://ojjdp.gov>
- U.S. General Accounting Office. (1999). *Mental health: Improper restraint and seclusion use places people at risk* (GAO Report No. HEHS-99-176). Retrieved from <http://www.gao.gov>
- Washington State Supreme Court Rules Committee (2014). *Comments for JuCR 1.6 - Physical restraints in the courtroom*. Retrieved from <http://www.courts.wa.gov>