

A photograph showing a close-up of a person's hands and wrists. The person is wearing brown, heavy-duty handcuffs. Their hands are clenched into fists. In the background, another person's hands are visible, also wearing brown handcuffs. The person in the foreground is wearing a brown jacket and blue pants. The background is a plain, light-colored wall.

THE SHACKLING OF
JUVENILE OFFENDERS:

THE DEBATE IN
JUVENILE JUSTICE POLICY

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INTRODUCTION: THE SHACKLING OF JUVENILE DEFENDANTS

*Take the chains and shackles off juveniles. Florida's juveniles endure a practice worthy of chain gangs. Bar panel urges: unchain the children.*¹ Headlines questioning the routine shackling of juvenile defendants have emerged in newspapers across the state. Juvenile shackling is a controversial issue in Florida and is an increasingly hot topic among public defenders and child advocacy groups throughout the United States. In most Florida circuits and counties, detained juveniles are shackled with metal handcuffs, belly chains and leg irons during all court appearances—regardless of alleged offense or projected security risk.²

Many Florida lawyers, child advocates, and psychological experts believe shackling children is harmful and inconsistent with the rehabilitative goals of the Florida Department of Juvenile Justice (DJJ).³ These opponents of juvenile shackling argue that it serves only to demean and humiliate children, causing severe emotional stress and psychological harm, while serving no rehabilitative purpose.⁴ A recent motion to unshackle juveniles in the 11th Circuit contends that the practice of detaining juveniles in shackles, “stands in clear violation of international law...the handcuffing and shackling of children can cause them serious mental and emotional harm, and undermine the court’s very objectives in preventing delinquency or rehabilitating a child.”⁵

Experts in adolescent development, childhood trauma, therapeutic jurisprudence and international law, note that the reasons to end “indiscriminate” juvenile shackling are numerous, and include that: The practice of children appearing in court in chains is irrational, inhumane, degrading and an affront to the dignity of both children and juvenile court proceedings; it may cause the child significant physical, mental or emotional health impairment; it is anti-therapeutic for the large number of children in delinquency proceedings who have suffered physical or sexual abuse, have mental illness or retardation, or have other disabilities; it may further traumatize children who have been previously victimized, especially when restraint was a part of the abuse; it may restrict the juvenile’s ability to communicate with counsel; and it may contribute to the perception of the defendant as a criminal.⁶

Proponents of unshackling further argue that most juvenile defendants are not charged with violent crimes, decreasing the need for their restraint. In the United States in 2006, only 4.5 percent of juvenile offenses included a violent crime (murder, non-negligent manslaughter, forcible rape, robbery and aggravated assault).⁷ Eleven percent of juvenile arrests in 2006 included simple assault.⁸ In contrast, in 2006, property crimes, such as burglary, larceny-theft, motor vehicle theft and arson, comprised 18 percent of juvenile offenses.⁹ Twenty-nine percent of juvenile offenses that year were non-violent status offenses.¹⁰

Most public defenders interviewed by the Center on Children and Families reported that current juvenile shackling practices are excessive; since most juveniles are arrested for property crimes or status offenses, the threat of courtroom violence is low. “It is ridiculous that they shackle them (juveniles) as much as they do,” said Jennings Wright, assistant public defender, Juvenile Division, Fourth Circuit (Clay County), who further suggested that it is “absolutely not” necessary for the juveniles to be shackled.¹¹

Not all of the professionals involved with juvenile offenders support a change to current shackling practices. While the DJJ does not have an official policy regarding juvenile shackling during court proceedings, the DJJ and many Florida State Attorney's Offices often maintain that shackling detained juveniles is a necessary safety measure.¹² Proponents of continued shackling assert that unshackled juveniles present a flight risk, as well as a security risk to the judge, lawyers and other courtroom observers.¹³



Shackling proponents argue that young defendants are more impulsive than adults, and thus, juvenile offenders may require tighter security practices than adults because they are more likely to run without considering the consequences of their actions.¹⁴ Detained children have already been determined to meet secure detention criteria, indicating that they pose a public safety risk.¹⁵ Proponents further argue that shackling serves to deter further juvenile crime because detained children will see each other shackled.¹⁶ Supporters of juvenile shackling also assert that security in the court room is the sheriff's responsibility.¹⁷ Therefore, the sheriff should be allowed to decide how best to secure the court room, not the judge.¹⁸

“This is humiliating for children to appear in a courtroom in front of their families in an orange jumpsuit and shackles. I don't understand why they have to do this.” David Perry, Assistant Public Defender, Juvenile Division, Second Circuit, FL

REVIEW OF SHACKLING PRACTICES

The pivotal question in the shackling debate is whether the use of shackles is counterproductive to the goals of juvenile rehabilitation when the shackles are used during courtroom appearances regardless of alleged offense or projected security risk. Unarguably, the rehabilitation of children in the Florida juvenile justice system is a crucial goal of the state. The mission of the Florida DJJ is “to increase public safety by reducing juvenile delinquency through effective prevention, intervention and treatment services that strengthen families and turn around the lives of troubled youth.”¹⁹ The goal of rehabilitating juvenile offenders is also clearly expressed in the Florida Statutes Annotated §§985.01 and 985.02.²⁰

In response to the ongoing debate and concerns from the Eighth Circuit judiciary about shackling practices, the Center on Children and Families (CCF) reviewed juvenile shackling practices and policies throughout Alachua County, the state of Florida and the United States. CCF also conducted observational research to evaluate the Eighth Circuit's unshackling assessment. This report provides the results of CCF's review.

I. THE EVOLUTION OF JUVENILE UNSHACKLING EFFORTS IN FLORIDA

Recent action by the Office of the Public Defender in Dade County served as the catalyst for the increase in statewide attention to juvenile shackling procedures. In May 2006, the Chief of the Juvenile Division in Dade County issued a memorandum to Associate Administrative Judge Lester Langer, detailing the objections of the Office of the Public Defender to the Court's juvenile shackling policy.²¹ At that time, all detained juveniles in Dade County were fully shackled—at the hands, waist and ankles—for all court appearances. In response to the memorandum, the judges of the Juvenile Division agreed to remove the juveniles' handcuffs and leg irons during adjudicatory hearings only.²² Unsatisfied, the Dade County public defenders, led by Chief Assistant Public Defender Carlos Martinez, filed a formal motion with the Court in September of 2006.²³

In the Motion for Child to Appear Free from Degrading and Unlawful Restraints, Dade County unshackling proponents set forth numerous objections to the policy of shackling all detained juveniles who appear in court. The motion contained allegations that indiscriminate juvenile shackling violates the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, and Article 1, Sections 9 and 16 of the Florida Constitution.²⁴ The motion also declared the court's practice of shackling juveniles to be a violation of international law, and a harmful practice that stands in direct opposition to the rehabilitative purpose of the juvenile delinquency system.²⁵ The Motion asserted that "the use of exceptional restraints must be reserved for the rare case where the court makes an individualized determination in the exercise of its discretion that unusual facts warrant such an extreme measure."²⁶

Four expert opinions included with the motion concluded that the indiscriminate shackling of all children for in-court appearances is "gratuitously punitive," "counter-therapeutic," and "psychologically harmful; that shackling may have particularly harmful effects on victims of abuse and juveniles of color; and that potential physical harm can result from the use of metal shackles on juveniles."²⁷

The unshackling efforts in Dade County were successful, and the protocol for detained juveniles changed. Currently, before each juvenile enters the courtroom, an unshackling hearing takes place before the judge in which the defense attorney argues for unshackling the juvenile. In most cases, the juvenile appears before the judge completely free of restraints. According to Martinez, who continues to champion the unshackling issue in Miami and across the state, some administrative burden exists with the current system, but the hearings are becoming increasingly efficient. No written policy exists; however, the new protocol is applied consistently.²⁸

As a result of the efforts in Dade County, nearby Broward County has altered its policy of shackling juveniles, according to Broward County Public Defender Gordon Weeks. Currently, only handcuffs are used on juveniles for both transport and court appearances.²⁹

In neighboring Palm Beach County, similar efforts were met with a different response. The Palm Beach County Public Defender's Office filed a motion to unshackle detained juveniles during court proceedings, but on February 1, 2007, the 15th Circuit juvenile judges denied the motion.³⁰ The Palm Beach judges based their denial on a failure to show that the use of restraints on juveniles can cause psychological damage and a failure to offer alternate solutions that would not jeopardize courtroom safety.³¹

The Palm Beach County public defender then appealed the judges' denial to the Fourth Circuit Court of Appeals. The Fourth Circuit issued an order to the Palm Beach County juvenile judges to show cause for their denial of the motion. On August 2, 2007, the court denied the public defenders' petition.³² Public Defender Carey Haughwout then filed a Petition for Writ of Habeas Corpus with the U.S. District Court. Although the petition was denied on the grounds that it was procedurally flawed,³³ all four 15th Circuit Court judges have since agreed to remove the handcuffs from Juveniles during court proceedings.³⁴

In February 2007, Alachua County began an assessment of shackling practices, removing detained juvenile's handcuffs prior to court room appearances. Leg irons and belly chains remained in place. The location of handcuff removal varied, occurring inside the holding cell, just outside the door between the holding cell and the courtroom, or by the podium where the juveniles stand for court appearances. If any DJJ official believed a juvenile might present a flight or security risk, the matter was brought before the judge to seek approval for continued full shackling.

In July, 2008, the Florida Bar Board of Governors endorsed an amendment to the Florida Rules of Juvenile Procedure, Chapter 8.100, which would prohibit the routine shackling of youth appearing in juvenile court unless the court finds good reason for such restraint. The amendment is under review by the Florida Supreme Court.³⁵

Most counties in Florida fully shackle detained juveniles when they appear in court, a practice that includes the use of handcuffs, a waist chain or belt connected to the handcuffs and leg irons. The locations in which juveniles wait for their appearances vary, and include holding cells, conference rooms, jury boxes, witness rooms, and benches within the courtrooms, but appeared to have no relationship to whether and to what extent they are shackled.

LEGISLATIVE APPROACHES

Unshackling proponents in Florida are also making efforts to exact change through legislation. Two bills relating to the restraint of juveniles while in court went before the Florida House of Representatives and the Florida Senate. During the 2007 House Session, the Juvenile Justice Committee chose to hear only one bill, and consequently the unshackling bill was never addressed. The bills were re-introduced in the 2008 legislative session, but were not passed out of the Criminal Justice Committees of either chamber.

II. CURRENT JUVENILE SHACKLING PRACTICES IN FLORIDA

Through the course of CCF's statewide research, all twenty judicial circuits in Florida were surveyed, typically including multiple counties in each circuit. CCF collected substantive responses from all but the sixth, ninth, tenth and thirteenth judicial circuits. This survey revealed that detained juveniles remain in shackles while waiting for court appearances an estimated average of 2.7 hours. The range of time juveniles remain shackled varies from less than one hour to all day.

Most counties in Florida fully shackle detained juveniles when they appear in court, a practice that includes the use of handcuffs, a waist chain or belt connected to the handcuffs and leg irons. All counties shackle juveniles during transport to and from detention facilities and courthouses. The locations in which juveniles wait for their appearances vary, and include holding cells, conference rooms, jury boxes, witness rooms, and benches within the courtrooms. However, the location in which the juveniles wait appeared to have no relationship to whether and to what extent they are shackled. Some counties with decreased shackling practices during court appearances include Lafayette, Hamilton, Suwannee, Clay, Monroe, Palm Beach, Dade and Broward.

In Lafayette, Hamilton, and Suwannee Counties, a relatively small number of juveniles are brought from detention, and consequently, proceedings take place in the judges' chambers. In Lafayette County, juveniles are fully unshackled when they enter chambers, and a bailiff stands at the door. Similarly, in Hamilton and Suwannee Counties, juveniles are typically fully unshackled when they arrive at chambers. However, if it is determined that shackling is necessary for a particular juvenile, only handcuffs are used.

In Clay County, leg shackles are not used. In Monroe County, all juveniles are shackled to some extent, but the extent of their shackling is determined on a case-by-case basis, and is dependent upon their charges. Monroe County infrequently uses leg irons.

Other counties have considered decreasing or eliminating the practice of juvenile shackling during court proceedings, either through informal discussions or formal motions; in these counties, however, no change has taken place. Among these counties are Franklin, Leon, Nassau, Hernando, Putnam, St. Johns, Sarasota, Martin, St. Lucie, and Charlotte Counties. In addition, public defenders from several counties anticipate an upcoming motion or discussion, including Franklin, Leon, Seminole, Martin, and Okeechobee Counties.

Of the counties surveyed, public defenders from nineteen counties are in favor of a statewide unshackling policy, though some believe it should be limited to those juveniles not charged with serious or violent offenses, and one public defender suggests hands-only shackling. Five public defenders that are in support of a statewide unshackling policy work in a county in which there has been no motion or discussion regarding unshackling efforts. Four public defenders surveyed do not support a statewide unshackling policy.

III. SHACKLING IN ALACHUA COUNTY (8TH CIRCUIT) JUVENILE COURT PROCEEDINGS

In February 2007, Alachua County, Florida, began unshackling the wrists of detained juveniles on a trial basis. CCF agreed to conduct an observational study aimed at determining whether decreased shackling impacted the defendants' court room behavior. CCF representatives observed 436 juvenile court proceedings in Alachua County during the first seven months of 2007. Most of the proceedings were detention hearings (59%), or dispositions (26%). The children observed by CCF representatives were predominately male (76%) and African American (75%). Twenty-one percent (21%) of the children were Caucasian and three percent (3%) were Hispanic.

CCF observed the shackling procedures used with the juvenile defendants. The following scenarios were most commonly observed:

- The detained juvenile entered the courtroom with his/her hands and legs shackled. The juvenile's hands were un-cuffed in the courtroom before appearing before the judge. The juvenile's hands were re-cuffed in the courtroom before returning to the holding cell.
- The detained juvenile entered the courtroom with his/her legs shackled only. The juvenile's hands were un-cuffed and re-cuffed in the holding cell.
- The detained juvenile entered the courtroom with his/her legs shackled only. The juvenile's hands were re-cuffed in the courtroom before returning to the holding cell.
- The juvenile entered the courtroom completely unshackled because he/she was not being held in secure detention.
- The detained juvenile's hands and legs remained shackled at all times.

Forty-seven percent (47%) of the defendants had not been detained; they entered un-cuffed from the audience area of the courtroom. Twenty-nine percent (29%) of the juveniles entered the courtroom shackled at the leg only, and were un-cuffed and re-cuffed in the holding cell. Twelve percent (12%) entered the courtroom shackled at the leg only but were re-cuffed before returning to the holding cell. Nine percent (9%) of the defendants entered the courtroom and returned to the holding cell shackled at the hands and legs and were un-cuffed only during their appearance. Three percent (3%) of defendants remained completely shackled at the hands and feet throughout the proceedings. Defendants were charged with 19 different types of violations, including violation of probation or home detention.

CCF also observed the overall demeanor of the defendants. For these observations, demeanor was described as either: compliant, withdrawn, defiant, or aggressive.³⁶ Most of the defendants, regardless of charge or hearing result, were rated as compliant (93%). Four percent (4%) of the defendants were rated as withdrawn, while only one percent (1%) was rated as defiant. One individual was rated as aggressive, and a second person was rated as having an “emotional outburst.”

Mirroring the results of the full group of defendants, 94% of those who were shackled at the leg only were compliant, four percent (4%) were withdrawn, and one percent (1%) was defiant. Only one defendant in this category was rated as aggressive. Of the three percent (3%) who remained fully shackled throughout the court proceedings, 75% of the defendants who were shackled at the hands and legs throughout the proceedings were rated as compliant, and 25% of defendants in this category were rated as withdrawn. Thus, the court room behavior of the children who were un-cuffed at the hands was statistically no different than the behavior of those who were completely shackled or of those who were un-cuffed (95% compliant, 3% withdrawn, and 2% defiant). Although CCF also considered charges and hearing results, we found no differences in the behavior of defendants who were shackled at the legs only as compared to those who were un-cuffed or shackled at the hands and legs, related to these factors.

California, Connecticut, Illinois, New Mexico, North Dakota, North Carolina, Oregon, and Vermont do not shackle juvenile defendants as a result of State Supreme Court rulings or legislative action.



IV. OVERVIEW OF NATIONAL JUVENILE SHACKLING PRACTICES

State courts and legislatures are struggling to balance safety with the rehabilitation of juveniles. An important goal of CCF's research reviewing juvenile shackling practices is to assess how other states are addressing this policy issue. As evidenced by CCF's study of Florida, juvenile court procedures vary among circuits and counties within each state, so the exact number of courts that restrain juveniles during court proceedings is difficult to determine. Our review indicates that juvenile courts in 28 states regularly shackle detained juveniles during court appearances.³⁷ However, many states have altered this practice:

California: In *Tiffany A. v. The Superior Court of Los Angeles County*, the California Second District Court of Appeal ruled in May 2007, that juvenile delinquency court could not use shackles on minors "absent an individualized determination of need."³⁸

Connecticut: In Connecticut, juvenile courts stopped shackling youths in March 2007, except when judges decide that certain children require restraints. Approximately 30% of youth in court are in some kind of cuffs, based on assessments made by juvenile detention staff and approved by a judge.³⁹

Illinois: In 1977, the Illinois Supreme Court held that juvenile defendants should not be restrained in court unless the court finds that the restraint is necessary to maintain order.⁴⁰

New Mexico: In March 2007, the Third Judicial District Court in New Mexico entered an order that children "shall not be brought into the Courtroom wearing handcuffs, leg irons, waist chains, or any other physical restraint except as ordered in advance by the Court based upon an individualized determination of need."⁴¹

North Dakota: In *In re R.W.S.*, the North Dakota Supreme Court held that the juvenile court abused its discretion and violated a juvenile's due process rights when it refused to remove the juvenile's handcuffs. The trial court should have considered the juvenile's record, temperament, the desperateness of his situation, the security situation at the courtroom and courthouse, the juvenile's physical condition, and whether there was adequate means of providing less prejudicial security.⁴²

North Carolina: Legal Aid filed a motion on behalf of a young girl facing juvenile misdemeanor and felony larceny charges.⁴³ Legal Aid attorneys reported that the use of handcuffs during court appearances caused her to suffer severe emotional and psychological trauma because she had experienced prolonged sexual abuse involving handcuffs.⁴⁴ In its motion, Legal Aid requested that shackling "must be reserved for the rare case where the court makes an individualized judicial determination that an actual risk of danger or flight warrants such an extreme measure."⁴⁵ However, the judge failed to rule on the issue,⁴⁶ saying that the shackling policy was not determined by the court.

North Carolina House Bill 1243: After the motion to end juvenile shackling in North Carolina failed, the North Carolina legislature passed legislation addressing shackling practices. Governor Mike Easley signed the bill into law on June 20, 2007. Under the new law, a juvenile may be physically restrained in the courtroom "only when the judge finds the restraint to be reasonably necessary to maintain order, prevent the juvenile's escape, or provide for the safety of the courtroom."⁴⁷



Oregon: In 1995, The Oregon Supreme Court extended that state’s no-shackling policy to juveniles in *State ex rel Juv. Dept. v. Millican*, holding that to exercise its discretion to order shackling of a defendant, the trial court must receive and evaluate relevant information about the defendant.⁴⁸

North Carolina is not alone in its efforts to address shackling practices through legislation rather than legal action. However, a chart compiled by the National Juvenile Defender Center including all 2006 State Juvenile Justice Legislation reveals that only Florida and Vermont had bills dealing with juvenile shackling issues.⁴⁹ Vermont’s recently enacted legislation addresses shackling during transport rather than during courtroom appearances.

The Vermont law mandates that when the state transports a child who is in the custody of the state, all reasonable and appropriate measures consistent with safety must be made to transport or escort the person in a manner which prevents physical and psychological trauma, respects the privacy of the individual, and represents the least restrictive means necessary for the safety of the person being transported. The recent legislation adds a provision stipulating that mechanical restraints are not to be routinely used during transport, but may be used if circumstances warrant and the reasons are documented in writing.

As long as children keep appearing in restraints before a judge, the decision-maker in their cases, advocates for juvenile unshackling will keep working for change. The survey of juvenile shackling across the United States shows that the movement to stop routine shackling of juveniles continues to grow, and both sides of the shackling controversy appear outfitted with strong sentiments.

“This is humiliating for children to appear in a courtroom in front of their families in an orange jumpsuit and shackles,” said David Perry, assistant public defender, juvenile division, Second Circuit, (Leon County). “I don’t understand why they have to do this.”⁵⁰

In the CCF observation study most of the defendants, regardless of charge or hearing result, were rated as compliant. The court room behavior of the children who were un-cuffed at the hands was statistically no different than the behavior of those who were completely shackled or of those who were un-cuffed.

¹ Miami-Dade Public Defender, Public Defender Challenges Shackling of Juveniles, <http://www.pdmiami.com/unchainthechildren.htm> (last visited Aug. 14, 2007).

² CCF Telephone Interviews with Florida Juvenile Public Defenders indicated 15 out of 20 circuits routinely shackle juveniles during court appearances. Circuits 6, 9, 10 and 13 did not report.

³ Florida Department of Juvenile Justice, <http://www.djj.state.fl.us/guidingprinciples.html> (last visited Aug. 14, 2007).

⁴ Motion for Child to Appear Free from Degrading and Unlawful Restraints, 2, http://www.pdmiami.com/unchainthechildren/Motion_for_Child_to_Appear_Free_from_Degrading_and_Unlawful_Restraints.pdf (last visited August 16, 2007).

⁵ *Id.*

⁶ *Id.*

⁷ OJJDP Statistical Briefing Book. Online. Available: http://ojjdp.ncjrs.org/ojstatbb/crime/JAR_Display.asp?ID=qa05200. (last visited December 13, 2007.)

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Supra*, note 2.

¹² Carlos Martinez, *Why are Children in Florida Treated as Enemy Combatants?*, National Legal Aid & Defender Association Cornerstone, May-Aug. 2007, at 10,11,15, <http://www.pdmiami.com/NLADACornerstoneMartinezArticleMay-Aug2007.pdf> (last visited August 16, 2007).

¹³ *Id.* at 11.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Florida Department of Juvenile Justice, <http://www.djj.state.fl.us/guidingprinciples.html> (last visited Aug. 14, 2007).

²⁰ **Florida Statute § 985.01(1)** The purposes of this chapter are:

- (a) To provide judicial and other procedures to assure due process through which children and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.
- (b) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; and to promote the health and well-being of all children under the state's care.
- (c) To ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of the act committed, the community's long-term need for public safety, the prior record of the child, and the specific rehabilitation needs of the child, while also providing whenever possible restitution to the victim of the offense....

Florida Statute §985.02(1) General protections for children.—It is a purpose of the Legislature that the children of this state be provided with the following protections:...(c) a safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(3) Juvenile justice and delinquency prevention.—It is the policy of the state with respect to juvenile justice and delinquency prevention to first protect the public from acts of delinquency. In addition, it is the policy of the state to: ...the Legislature intends that detention care, in addition to providing secure and safe custody, will promote the health and well-being of the children committed thereto and provide and environment that fosters their social, emotional, intellectual, and physical development.

²¹ Motion for Child to Appear Free from Degrading and Unlawful Restraints, 4

²² *Id.*

²³ Dade County Public Defender's Office Web site, www.pdmiami.com (last visited August 16, 2007)

²⁴ *Supra*, note

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Supra*, note 2.

²⁹ *Id.*

³⁰ Kathleen Chapman, *Judges Refuse to Unshackle Juveniles*, Palm Beach Post, February 2, 2007, http://www.pdmiami.com/Palm_Beach_Post-Judges_refuse_to_unshackle_juveniles.pdf (last visited August 16, 2007).

³¹ *Id.*

³² *Juveniles to Remain Shackled for County Court Appearances*, Palm Beach Post, August 3, 2007, http://www.palmbeachpost.com/localnews/content/local_news/epaper/2007/08/03/s3b_shackles_0803.html (last visited August 16, 2007).

³³ http://dockets.justia.com/docket/court-flsdce/case_no-9:2007cv80761/case_id-301601/ (last visited September 25, 2008.)

³⁴ <http://dev.iamforkids.org/News/index.php?m=200806&paged=14> (last viewed on September 25, 2008.)

³⁵ <http://www.floridabar.org/DIVCOM/JN/JNNews01.nsf/Articles/7CE5FC18CEA0AAF58525749C00486A8B> (last visited September 25, 2008.)

³⁶ Demeanor Descriptions:

Compliant - responds appropriately and timely to requests and questions, demonstrates respect for authority of lawyers, judge, other court personnel

Withdrawn - does not respond to requests or questions; may require prompting and then provides limited, subdued answers, or responses (may include movements in response to requests), does not make eye contact with authority figures

Defiant – does not respond to requests, responds to requests only after repeated prompting, or responds inappropriately (loud, disrespectful language, interrupting, etc.); belligerent language or gestures

Aggressive – sudden and/or purposeful body movements that elicit a negative response from authority figures; threatening language or actions

³⁷ Martha T. Moore, *Should Kids Go to Court in Chains?*, USA TODAY, June 18, 2007, at 1A-2A, http://www.usatoday.com/news/nation/2007-06-17-shackles_N.htm (last visited August 16, 2007).

³⁸ *Tiffany A. v. The Superior Court of Los Angeles County*, 150 Cal.App. 4th 1344, 1362 (2007).

³⁹ *Supra*, note 37.

⁴⁰ *In re Stanley*, 364 N.E. 2d 72 (1977).

⁴¹ Temporary Emergency Order Establishing Procedures for the Use of Physical Restraints, State of New Mexico, County of Dona Ana, Third Judicial District.

⁴² *In re R.W.S.*, 728 N.W.2d 326 (2007).

⁴³ Jonathan D. Jones, *Group: Limit Use of Cuffs on Kids*, Greensboro News Record, February 5, 2007, <http://www.news-record.com/apps/pbcs.dll/article?AID=/20070205/NEWSREC0101/702050304/-1/NEWSREC0201> (last visited August 16, 2007).

⁴⁴ *Id.*

⁴⁵ *Rule Needs Review*, Greensboro News Record, February 11, 2007, <http://www.news-record.com/apps/pbcs.dll/article?AID=/20070211/NEWSREC010201/702110318/1014/NEWSREC020201> (last visited August 16, 2007).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *State ex rel Juv. Dept. v. Millican*, 906 P2d 857 (1995).

⁴⁹ For a state by state chart of policies relating to shackling, see Perlmutter, B. P. (2007). “Unchain the Children”: Gault, Therapeutic Jurisprudence, and Shackling, *Barry Law Review*, Appendix.

⁵⁰ *Supra*, note 2.

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