

Testimony of David A. Shapiro, Esq.
Manager, Campaign Against Indiscriminate Juvenile Shackling
In Support Of
H.B. 7050 An Act Concerning The Juvenile Justice System

Submitted to the Connecticut General Assembly
Joint Committee on Judiciary

March 30, 2015

State Capitol, Hartford, Connecticut

My name is David Shapiro. I am the Manager of the Campaign Against Indiscriminate Juvenile Shackling, housed at the National Juvenile Defender Center in Washington, D.C. Thank you for giving me the opportunity to speak today on HB 7050, Section Four, concerning the shackling of youth in the courtroom. In further support of my testimony, I am attaching letters from two judges who are national leaders in juvenile shackling reform. (See Attachment A from Judge Teske and Attachment B from Judge Byrne.)

National best practices establish that effective shackling reform contains at least three basic components: 1) that shackles be used only when absolutely necessary; 2) that there be a presumption against their use; and 3) that there be an opportunity for the child's attorney to contest the use of shackles. While the proposed bill is worthy of support, we recommend that the language be amended to include this third principle of providing the child's attorney an opportunity to contest the use of shackles.

I work around the country to promote measures that maintain courtroom safety while ending the unnecessary and harmful practice of automatically shackling youth in juvenile court settings. In at least 13 states, judges make individual determinations whether to

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restrain a young person based on safety and whether that child is a flight risk. This past year, South Carolina, Alaska, and Washington State ended the practice of automatically shackling all youth in juvenile court settings. South Carolina's bill passed both houses unanimously.

Here is the experience of three other jurisdictions that have eliminated the automatic shackling of youth. I am happy to provide other examples as well.

- Pima County (Tucson), Arizona, implemented individualized shackling determinations last March. The court there reports that as of July 2014, 889 youth have now appeared unrestrained without incidents.
- In Los Angeles, the juvenile court handles about 6,000 cases a year, and the vast majority of youth are unshackled.
- In Miami Dade County (Florida), indiscriminate shackling was eliminated in 2006. More than 25,000 children have gone through court arraignments and trials unshackled with **no escapes** and **no injuries**.

The harm of indiscriminate shackling is broadly recognized. The American Bar Association passed a resolution calling for the end of indiscriminate shackling of juveniles on February 9, 2015. Other professional organizations supporting shackling reform include the Association of Prosecuting Attorneys, the National Child Traumatic Stress Network, the American Academy of Child and Adolescent Psychiatry, the American Orthopsychiatric Association, and the Child Welfare League of America.

Shackles have a direct impact on youth the moment they step foot into the courtroom. Leading experts tell us that shackled children have a harder time following judges' instructions, taking notes, recollecting narratives, and even appearing truthful. Overall,

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even youth wearing only handcuffs are less likely to communicate effectively and more likely to come across poorly to judges—not simply because of what they look like in shackles, but because of how shackles affect their ability to present themselves.

Experts also speak about the link between trauma and shackles. Shackling often involves a sense of powerlessness, betrayal, fear, humiliation, and pain. The experience of indiscriminate shackling brings up earlier childhood traumas and increases the likelihood that the effects of this trauma will reverberate through their lives for years to come.

Under Judge Conway’s leadership, Connecticut’s judicial branch has created a new policy which is a tremendous improvement. What we have seen across the country, however, is that administrative policies are not enough. They provide little accountability, and are easily altered, or even reversed. In juvenile court, where so much is confidential—and for good reason—the protection provided by statute is needed most.

These are just some of the reasons to think critically and carefully about the shackling practices in Connecticut’s courts and support the passage of HB 7050, Section Four. Give Connecticut’s children a statute that will protect their rights and well-being. Thank you for your time. I am happy to answer any questions you may have.

Attachment A.

Steven C. Teske
Chief Judge

Deitra Burney-Butler
Judge

Bobby D. Simmons
Judge



John P. Johnson, III
Director of Juvenile Court Services

A. Colin Slay
Chief of Staff

Robin Austin
Clerk of Court

Juvenile Court of Clayton County

March 13, 2015

Judge Teske Letter

My name is Steven Teske, and I am the chief judge of Clayton County Juvenile Court in Georgia. I am a past president of the Council of Juvenile Court Judges of Georgia and am a member of the Board of Trustees of the National Council of Juvenile and Family Court Judges. I have testified before Congress and state legislatures on matters of juvenile justice reform. I am the author of the book *Reform Juvenile Justice Now: A Judge's Timely Advice for Drastic System Change*. I support legislative efforts to end the automatic shackling of children and adolescents in juvenile court.

After a year of following an informal practice of making individualized shackling determinations in my own courtroom, I signed an order in late February formalizing this practice. I discussed limiting shackling with my sheriff before changing practice. I encouraged him to visit Florida, where indiscriminate shackling is banned statewide, to observe the juvenile court there and confer with colleagues. He found that shackles were not necessary to maintain order and trained his staff in the new policy.

The change has not diminished the safety of my courtroom and has benefitted the children who come before me. No child has fled my courtroom or assaulted anyone in the past year. Anecdotally, I have found that children behave better when they are unshackled and they

are less likely to lash out at detention staff and others in the courtroom. This has been the common experience in jurisdictions that have limited juvenile shackling.

The relationship between law enforcement and youth is critical. In Clayton County, I led a community-wide effort to limit arrests in public schools. We found that when there was a decline in student arrests for minor misbehavior, our young people were more comfortable communicating with law enforcement. This led to more cooperation and better policing. By limiting juvenile shackling, Connecticut will have safer courts and safer communities, just as we saw in Clayton County.

Whether through court rule or legislation, shackling reforms always leave room for judges to order a child shackled if there is a flight or safety risk. The rare hearings when we must consider shackling a child are not burdensome. My Massachusetts colleague Judge Blitzman reports that these procedures take approximately five minutes in his courtroom. This is in line with my own experience.

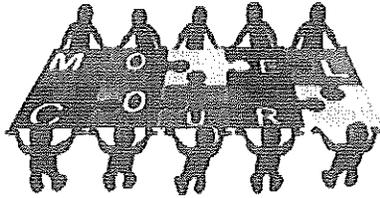
In short, I have found no disadvantages to ending indiscriminate shackling in my courtroom. I encourage you to pass legislation that will limit shackling to reflect the rehabilitative mission of the juvenile court.

Steven C. Teske, Chief Judge
Clayton County Juvenile Court
Clayton Judicial Circuit

Attachment B



The Travis County Model Court for Children and Families



Lead Judge:

The Honorable Darlene Byrne
126th District Court of Travis County
P.O. Box 1748
Austin, Texas 78701

Staff Attorney:

Katy Gallagher Parker

David A. Shapiro, Esq.
Campaign Manager
Campaign Against Indiscriminate Juvenile Shackling
National Juvenile Defender Center, Washington D.C.
Via Electronic Mail to: DS Shapiro@njdc.info

March 24, 2015

My name is Judge Darlene Byrne and I am writing to voice my position regarding the indiscriminate practice of shackling juveniles. I preside over the 126th Judicial District Court in Travis County, Texas, and in July will become president of the National Council of Juvenile and Family Court Judges ("NCJFCJ"). The NCJFCJ is one of the largest and oldest judicial membership organizations in the nation and serve approximately 30,000 juvenile court professionals and judges. The position I espouse in this letter is my personal position and not that necessarily of my fellow district court judges or the entire membership of the NCJFCJ. The NCJFCJ is considering a resolution that would call for an end to the indiscriminate or automatic shackling of juveniles across the country, however, this resolution is still in the development stage.

Indiscriminate shackling of juveniles is inconsistent with the rehabilitative purpose of the juvenile justice system.

Mission Statement:

The Travis County Model Court for Children and Families is a multidisciplinary effort to make certain every child has a safe, permanent, healthy home in a timely manner and strengthen families, while ensuring fairness and procedural protections for individuals

Contact us at: Ph. (512) 854-4915 Fax (512) 854-9780 Email: Katy.GallagherParker@traviscountytexas.gov

In Travis County, we use shackles in juvenile court only under extraordinary circumstances and as a last resort to ensure the safety and well-being of our youth and staff. To give you a sense of the size of our juvenile court docket, in Fiscal Year 2013 we held 3,132 detention hearings. In Fiscal Year 2014 we held 3,506 such hearings. Very few, if any, children in my courtroom were shackled during that time period, though if any had posed a security or flight risk, I would not have hesitated to hold a hearing to determine whether restraints should have been used. My courtroom has always been a place of safety. The fact that youth in my court remain unshackled has not resulted in the need for additional security. In fact, I have found that youth probably behave better, are better listeners, and are more engaged in the court process when they remain unshackled. From FY 2013 to present, I am aware of no incidents of physical harm or escape in our juvenile courtrooms despite the absence of shackles.

The most recent event I can recall in which a child was shackled occurred when a probation officer advised the judge prior to a hearing that the child was having a very difficult time in detention and that the child had said he would “go off” in the courtroom. The youth had been destructive and had assaulted an officer, so shackling was authorized at that hearing. Although the youth was sullen and nonresponsive during the hearing, no other form of acting out occurred and the hearing went on without incident. Other than that isolated incident, I cannot recall another child being shackled in my courtroom during the past several years. We conduct hundreds of hearings a week and our juvenile court typically hears five to ten detention hearings per day.

On one other occasion I am aware of in a fellow judge’s courtroom, a child flipped over a table. Our probation team was able to get that situation under control without further incident or

injury and our courtroom practices have remained constant. Judges should ask whether we are going to operate our courtrooms out of fear for the .1% of children who pose a risk or for the benefit of the 99.9% of kids who act respectfully in court.

The children in my court come from the same diverse backgrounds and share many of the same tragic stories of young people in courts all across the country. But they are still children, and we cannot lose sight of this.

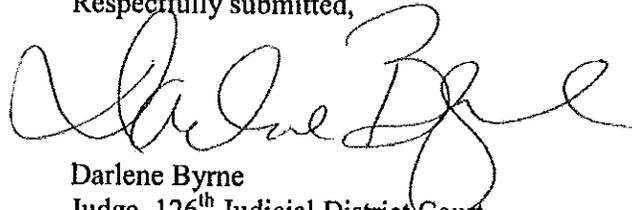
A child who comes into my court in shackles immediately knows that he or she is different from the other kids. There is a sense of embarrassment, humiliation, and shame. I sense they feel that they are disappointing me as a judge. We rarely acknowledge how judges and the decisions we make might be affected by seeing a shackled child before us. Shackles place a barrier between the judge and the child. It is simply not in the interest of justice, or in the child's best interest, to have children shackled. To ensure that young people fully participate in our court proceedings and understand my directives, I insist that they remain unshackled or, in the alternative, that we spend more time talking to them to ensure that they fully comprehend their situation.

A court of law must be a place of respect and dignity. Only in the rarest of circumstances, when there is a serious risk of harm or flight from custody, should we ever need to shackle a child. Experience has taught me that the best way to deescalate a tense situation or to improve a child's behavior in my courtroom is with proper courtroom management—not by shackling the child. Judges can speak calmly, allow for short recesses, and deescalate emotional situations. That's what judges do.

In our jurisdiction, unarmed juvenile probation officers supervise children in the courtroom. Our Chief Juvenile Probation Officer has served for more than 20 years and understands adolescent behavior and development. We work together closely to find ways to keep my courtroom safe and to keep children unshackled whenever possible.

In summary, I do not believe that shackling children in court is necessary to maintain safety, and at times it may actually engender more problematic behavior. Shackling humiliates young people and can reactivate past traumas. Shackling should be limited to those rare instances when a judge believes that a child poses a security risk and that courtroom safety cannot be achieved in any other way. Please join me in voicing opposition to the indiscriminate or automatic practice of shackling juveniles in court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Darlene Byrne', written in a cursive style.

Darlene Byrne
Judge, 126th Judicial District Court
Travis County, Texas