

Innovation Brief

Eliminating the Practice of Indiscriminate Shackling of Youth

Many youth in custody are forced to appear in court shackled with leg irons, belly chains, and handcuffs. The practice of restraining youth who pose no safety threat unnecessarily humiliates, stigmatizes, and traumatizes young people. Shackling youth is inconsistent with the rehabilitative goals of the juvenile justice system and offends due process. Juvenile defenders involved in the Juvenile Indigent Defense Action Network (JIDAN) developed a variety of strategic innovations to end the indiscriminate shackling of youth and the successes have been widely replicated across the nation.

The Issue

Whether a child presents a threat or not, juvenile courts across the country routinely require youth in custody to be brought to court and remain shackled and handcuffed for the duration of their court appearances. Adolescent development experts confirm that children who are shackled are more vulnerable than adults to lasting harm from feeling humiliation and shame. An indiscriminate policy of shackling all detained youth, without any individualized showing that such restraints are necessary, runs counter to the presumption of innocence. Indiscriminate shackling interferes with a youth's right to effective assistance of counsel and ignores due process protections afforded by the Constitution. The National Juvenile Defender Center's (NJDC) recently issued *National Juvenile Defense Standards* advocate strongly against the practice of shackling youth.

Strategic Innovations

With the support of the John D. and Catherine T. MacArthur Foundation's *Models for Change* Juvenile Indigent Defense Action Network, juvenile defenders from California, Florida, Illinois, Louisiana, Massachusetts, New Jersey, Pennsylvania and Washington collaborated on the development of strategic innovations to improve access to and quality of counsel and create more developmentally appropriate policies and juvenile defense practices.

The resulting strategic innovations represent a collaborative effort to offer a variety of approaches tailored to meet specific areas ripe for reform.

Innovations

Florida juvenile defenders, who represent youth in court every day, confirmed that shackling was so prevalent they had become inured to seeing youth in court restrained. As a result of NJDC's assessment, *Florida: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings Report*, highlighting

2.8 Obligation to Investigate and Address Custodial Mistreatment.

Counsel should also challenge the indiscriminate shackling of children in custody. —*National Juvenile Defense Standards*

the dehumanizing practice, Florida defenders zeroed in on ending indiscriminate shackling.

In Pennsylvania, juvenile defense stakeholders again leveraged successful reforms in other states to educate decision makers about the need to end indiscriminate shackling in their courts. In 2012, the state's Governor signed legislation that effectively eliminates the practice. In Pennsylvania today, shackling can only occur if the court determines, on the record, shackles are necessary.

Juvenile defenders in Washington continue to mount robust advocacy to end indiscriminate shackling.

Through litigation, court policies, and a proposed rule change they are chipping away at county practices where a presumption of shackling juveniles persists. A 2013 Court of Appeals ruling, *In re D.M.*, affirmed progress toward ending indiscriminate shackling when it said that a trial court had abused its discretion in denying a child's motion to appear in court without restraints because it did not consider the individual circumstances of the case. Washington judges have interpreted the

ruling differently, but juvenile defenders in the state are beginning to make it a standard practice to file motions to request the removal of shackles.

Benefits and Outcomes

Since the decision to unshackle Florida's youth, more than 20,000 detained children in just one state have now appeared before the court unbound. There have been no reports that any unshackled children have harmed themselves or others, or escaped from court. Ending the practice of indiscriminate shackling in Florida has contributed to the goal of establishing developmentally-sound juvenile courts. Replication of the reforms to end indiscriminate shackling have been successful in California, Colorado, Maine, Massachusetts, Nevada, New York, North Carolina, North Dakota, and New Mexico. Efforts to implement legislation, rule changes, and litigation are ongoing in other states to end the practice of indiscriminately shackling youth in juvenile courts. JIDAN juvenile defenders are available to provide technical assistance to other states' juvenile courts seeking to end the practice of indiscriminate shackling.

To learn more about the development and implementation of the collateral consequences strategic innovations, contact:
National Juvenile Defender Center, 1350 Connecticut Avenue, NW, Suite 304, Washington, DC 20036, 202-452-0010, inquiries@njdc.info

This brief is one in a series describing new knowledge and innovations emerging from *Models for Change*, a multi-state juvenile justice reform initiative. *Models for Change* is accelerating movement toward a more effective, fair, and developmentally sound juvenile justice system by creating replicable models that protect community safety, use resources wisely, and improve outcomes for youths. The briefs are intended to inform professionals in juvenile justice and related fields, and to contribute to a new national wave of juvenile justice reform.