

Op-Ed: It is time to unshackle Connecticut's juvenile defendants

By: MARISA MASCOLO HALM | March 24, 2015

Like many youth in the juvenile justice system, Derek (a pseudonym to protect his identity) was in juvenile detention not for committing a serious offense but for violating conditions of his probation. When his case was up for review by the juvenile court, Derek's mother could not find childcare. She had no choice but to take her four-year-old daughter with her.

"Mommy, what's on Derek's legs?" the little girl asked.

She was pointing at her teenage brother, who was brought into the courtroom wearing heavy leg irons, his hands cuffed together in front of him and a metal belly chain around his waist. This was not because he posed an exceptional danger. All children who are transported from Connecticut's juvenile detention centers to court are shackled for the ride. Those shackles generally stay on in the courtroom – a place where they are, of course, supposed to be presumed innocent.

Data recently released by Connecticut's judicial branch shows that 75 percent of kids appear in court with mechanical restraints. Ironically, Connecticut's adult defendants are protected by law against appearing in court in chains -- unless there is a compelling safety concern. But kids in the juvenile justice system, a system intended to be rehabilitative, are not afforded that dignity.

Derek's little sister saw him enter the court looking guilty and dangerous, not like the loving caretaker he was, not like a kid who made a mistake by getting into a fight with another kid in school.

School has never been an easy place for Derek. For over a decade, his teachers have said he needed to work harder, that he was not motivated. At some point, after all this talk, he began to believe that he was not as good as the other kids. But, Derek has a learning disability that has always interfered with his success in school.

"It hurt me to see him like that, like he's a convict or something," his mom recalled.

Derek has certainly made some mistakes. His mother is the first to say he needs to change his ways. But he is also the child who volunteers to help with the laundry and cares deeply about his siblings and friends. He wants to finish high school, something his older brother never did.

Research tells us that youth who feel they have been treated fairly and respectfully by the court are more likely to cooperate and less likely to re-offend. As an attorney for children in the juvenile justice system, I know how crucial client communication is. Shackling psychologically inhibits communication between a child and the attorney defending him. A shackled child cannot quietly gesture to his attorney or lean in for a conversation. It is challenging for him to focus on what's happening in the courtroom.

Washington state banned shackling in its juvenile courts last year after youth testified that shackling made them feel criminal, or like a slave or an animal.

University of Connecticut School of Medicine Professor Julian Ford has noted the high rates of Post-Traumatic Stress Disorder among youth in juvenile detention and warned that shackling can "reactivate memories of past traumas and result in heightened PTSD symptoms, such as anxiety, anger, distrust, non-compliance, depression and dissociation."

Judges in jurisdictions with limited juvenile shackling report that courtroom management is easier because youth are less stressed and more cooperative. Massachusetts eliminated shackling without any logistical difficulties. After routine shackling was ended in Florida, Miami-Dade County did a study of the change's effect. In the first 20,000 cases where children were brought into the courtroom without shackles, there were zero escapes and zero injuries.

Currently, bills are pending in legislatures around the country, including Connecticut, to limit shackling. These measures call upon states to restrict shackling to those rare cases where a child presents a flight or safety risk that cannot be managed by less drastic means.

When we use shackles in juvenile court, we are not seeing youth with a potential for reform. That is not juvenile justice. In fact, that is no justice at all.

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