CHILDREN IN CHAINS:
The Shackling of Georgia’s Youth

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I. Introduction

Across the state of Georgia, children may be shackled with handcuffs, leg irons, and belly chains during their delinquency appearances in juvenile court. Shackling of detained children automatic in some circuits;\(^1\) however, there is no statewide policy addressing this issue. In recent years, a growing number of anti-shackling advocates in numerous states have argued that shackling children is harmful and unnecessary.\(^2\)

Georgia should consider adopting a procedural court rule limiting shackling. Shackling is contrary to the purpose of the juvenile system, violates the due process rights of children, and causes psychological harm. This paper will explain these problems with the practice and propose a new court rule that requires an individual assessment prior to the use of shackles on children in juvenile court.

II. Shackling Children Hampers Rehabilitative Efforts, Undermines Due Process Rights, and Harms Children.

A. Shackling Is Contrary to the Purpose and Goals of Georgia's Juvenile Justice System.

Shackling is inconsistent with the purpose of the Georgia juvenile justice system, which is to provide “the care, guidance, and control that will be conducive to the child’s welfare and the best interests of the state.”\(^3\) For over a century, Georgia has recognized that the differences between children and adults warrant a different kind of court treatment.\(^4\) The existence of a separate juvenile justice system is an acknowledgment that children are both more amenable to treatment and more vulnerable than adults. Georgia created its juvenile code with the purpose of providing the care and protection that all children deserve.\(^5\)

One of the primary goals of Georgia’s juvenile code is to provide guidance and rehabilitation.\(^6\) The code states, “[C]hildren whose well-being is threatened shall be assisted and protected and restored, if possible, as secure law-abiding members of

\(^{1}\) E-mail from Mike L. Randolph, Chief, Macon Cir. Pub. Defender's Office Juvenile Div., to author (September 26, 2011, 16:41 EST) (on file with the Barton Center).


\(^{4}\) MARK H. MURPHY, GEORGIA JUVENILE PRACTICE AND PROCEDURE §1:4 (5th ed. 2011) (quoting 1908 Ga. Laws 1107) (“In 1908, the Georgia Legislature authorized the establishment of a 'children's court' having jurisdiction over delinquent and 'wayward children.’”).

\(^{5}\) O.C.G.A. § 15-11-1.

\(^{6}\) O.C.G.A. § 15-11-1(1). The United States Supreme Court has acknowledged that the objective of the separate justice system for children “is to provide measures of guidance and rehabilitation for the child ... not to fix criminal responsibility, guilt and punishment.” Kent v. United States 383 U.S. 541, 554 (1966).
society.” Shackling children in court creates an adversarial and hostile environment that is perceived as degrading and unfair. It may also act as a label, reinforcing the child’s sense of “badness,” creating a self-fulfilling prophecy. This sense of unfairness can lead children to then “resist the rehabilitative efforts of the court personnel.” In contrast, when children “believe that the legal system has treated them with fairness, respect, and dignity, they are more amenable to treatment and rehabilitation.”

Children may also feel that they have been treated unfairly when they have done nothing to warrant the assumption of dangerousness implicit in the need for shackles. This concern may be especially true in Georgia, where approximately 85% of juvenile offenses are non-violent in nature. By creating a feeling of injustice in many of Georgia’s children, shackling fosters a lack of respect for the law and legal system, undermining the statutory goal of rehabilitation.

B. Shackling Undermines Constitutional Due Process Values.

Shackling interferes with children’s constitutional due process rights because it weakens the presumption of innocence, is inherently prejudicial, and hinders their ability to communicate effectively with counsel.

1. Shackling during an adjudicatory hearing may be prejudicial.

Children who are accused of delinquent acts are presumed innocent and must be proven guilty beyond a reasonable doubt. In fact, the United States Supreme Court has stated that “[t]he same considerations that demand extreme caution in factfinding to protect the innocent adult apply as well to the innocent child.” As the Court asserted in In re Gault when it recognized the need for due process protections for children, “the condition of being a boy does not justify a kangaroo court.”

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7 O.C.G.A. § 15-11-1(1).
9 Id. ¶¶ 7-9. Labeling theory hypothesizes that children conform their behavior to their ascribed roles. Thus, shackling a child and treating him as you would a dangerous person creates a self-fulfilling prophecy. Id.
10 In re Gault, 387 U.S. 1, 26 (1967) (quoting STANTON WHEELER & LEONARD S. COTTRELL, JR., JUVENILE DELINQUENCY: ITS PREVENTION AND CONTROL 33 (1966)).
15 Id.
16 In re Gault, 387 U.S. 1, 28 (1967).
The Court has stated, in relation to adult criminal proceedings, that “shackling undermines the presumption of innocence and the related fairness of the factfinding process.”17 This presumption is fundamental to maintaining a justice system deserving of public and individual confidence.18 It has been firmly and unequivocally established that shackling adult defendants during the guilt or sentencing phases of their criminal trials is—absent an individualized finding of need—a violation of the Fifth and Fourteenth Amendment rights to due process.19 Shackling a child who stands before the court without considering the child’s particular circumstances implies that the child has been in some way pre-judged. This is a sharp contrast to adult proceedings where even a murder conviction does not automatically create an assumption of dangerousness sufficient to justify shackles in open court before a jury.20

Shackling in adult cases is “inherently prejudicial,” so much so that the verdict will be overturned on appeal if the court made no particularized finding of need to restrain the defendant.21 In reaching this conclusion, the Supreme Court reasoned that it is impossible to know how the presence of shackles impacted decision makers.22 The Court’s decision was not indicative of a lack of faith in the wisdom of juries but was simply a recognition that, as imperfect human beings, juries may unwittingly draw improper associations. While this holding specifically addressed the prejudicial impact shackles have on a jury, judges are not immune, by reason of their legal training or desire for impartiality, from subconscious associations of guilt based upon the presence of shackles.23 In fact, there is empirical evidence suggesting that judicial decisions of guilt and innocence are impacted by knowledge of inadmissible considerations, even if only on a subconscious level.24 Because even the most insightful and discerning of individuals may be subject to subtle subconscious influences, the best course of action is to keep shackles—with their implications of guilt—out of the courtroom unless absolutely necessary.

18 In re Winship, 397 U.S. at 363-64.
19 Deck, 544 U.S. at 624-630.
20 See id. at 624-25.
21 Id. at 635 (citing Holbrook v. Flynn, 475 U.S. 560, 568 (1986) and Riggins v. Nevada, 504 U.S. 127, 128 (1992)).
22 Id.
23 See HARRY KALVEN & HANS ZEISEL, THE AMERICAN JURY, 124 (1966) (inadmissible evidence appeared to have an impact on judicial decision making); Wal-Mart Stores, Inc. v. Duke, 131 S. Ct. 2541, 2564 n.6 (2011) (Ginsburg, J., concurring in part and dissenting in part) (cites empirical study to show that “all humankind[] may be prey to biases of which they are unaware”).
24 Martin Guggenheim & Randy Hertz, Reflections on Judges Juries, and Justice: Ensuring the Fairness of Juvenile Delinquency Trials, 33 WAKE FOREST L. REV. 553, 572-74 (1998); Stephan Landsman & Richard F. Rakos, A Preliminary Inquiry into the Effect of Potentially Biasing Information on Judges and Jurors in Civil Litigation, 12 BEHAV. SCI. & L. 113, 125 (1994) (In one study, exposure to prejudicial information weakened the judges’ perceptions of the strength of the defendant’s case and made them more likely to find for the plaintiff. Yet, the judges continued to erroneously believe that they had rendered their decision without reliance on the inadmissible evidence.); Andrew J. Wistrich et al., Can Judges Ignore Inadmissible Information? The Difficulty of Deliberately Disregarding, 153 U. PA. L. REV. 1251, 1288-1312 (2005).
2. **Shackling interferes with children’s ability to assist in their defense.**

Due process considerations also implicate the ability of children to communicate with their attorneys, both orally and through writing, and to assist in their own defense. The Sixth Amendment of the U.S. Constitution provides an “accused” with procedural rights, such as the right “to have the Assistance of Counsel for his defense,” a right also enjoyed by children in delinquency proceedings.\(^25\) The Supreme Court has found that the use of shackles may limit the defendant’s communication with his or her attorney, impact the defendant’s decision to testify, and “confuse and embarrass the defendant’s mental faculties, thereby tending materially to abridge and prejudicially affect his constitutional rights.”\(^26\) As one public defender in Georgia stated: “In general, shackling definitely makes the kids shut down. They aren’t as open during the interviews and it’s hard enough to connect with them because we are pressed for time, especially during detention hearings.”\(^27\) Shackling children may therefore interfere with their rights to have “the guiding hand of counsel at every step in the proceedings against [them],” a result judges should strive to avoid when possible.\(^28\)

3. **Shackling undermines the dignity of judicial proceedings and of the court.**

Due process concerns are compounded by the Supreme Court’s declaration that the idea, much less the sight of, a defendant standing trial while bound in shackles “is itself something of an affront to the very dignity and decorum of judicial proceedings.”\(^29\) Although the Court in *Deck* was concerned with undermining public confidence in the justice system, it went beyond the problem of prejudicing a jury to attacking the inherently negative aspects of shackling a person on trial.\(^30\) The Court stated, “The courtroom’s formal dignity, which includes the respectful treatment of defendants, reflects the importance of the matter at issue, guilt or innocence . . . And it reflects a seriousness of purpose that helps to explain the judicial system’s power to inspire the confidence and to affect the behavior of a general public. . . .”\(^31\) The potential for undermining this confidence affects fact finders and members of the public equally. While there are no juries in juvenile proceedings in Georgia, adjudicatory proceedings are sometimes open to the public, as well as people connected with the proceeding or the child.\(^32\) Thus, the Court’s statement of the need to protect the dignity of the judicial process by limiting the use of shackling is relevant in Georgia.

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\(^{25}\) U.S. CONSTIT. amend. VI; *In re Gault*, 387 U.S. 1, 3 (1967).


\(^{27}\) Email from Nkenge Green, Assistant Pub. Defender, Juvenile Div., DeKalb County, to Jasmine Gibbs, intern, Barton Child Law and Policy Ctr. (Oct. 6, 2011) (on file with author).

\(^{28}\) *In re Gault*, 387 U.S. at 36 (quoting Powell v. Alabama, 287 U.S. 45, 69 (1932)).


\(^{30}\) *Deck*, 544 U.S. at 631.

\(^{31}\) *Id.*

\(^{32}\) O.C.G.A. §15-11-78(b) (2011) (hearings are open to the public where the child is accused of a designated felony or has previously been adjudicated delinquent).
C. Shackling Can Cause Psychological Harm to Children.

Evidence from the therapeutic jurisprudence\textsuperscript{33} and psychological communities indicates that shackling children may have long-term negative effects on both their self-perceptions and their chances of rehabilitation.\textsuperscript{34} Experts suggest that shackling children in a public courtroom causes them shame and humiliation, damaging their self-esteem at a "time and condition of life when [they] may be most susceptible to influence and to psychological damage."\textsuperscript{35} It is generally accepted that the stages of pre-adolescence and adolescence are times of rapid personal change, as children begin to develop distinct, coherent identities.\textsuperscript{36} This understanding of child development, coupled with the mental health community’s acknowledgement of the harms of shackling, sheds light on the potential injuries that can result from this form of restraint.\textsuperscript{37}


Court-involved children are already a vulnerable population—many have experienced physical and sexual abuse, domestic and street violence, foster care, and school failure resulting from learning difficulties or truancy.\textsuperscript{38} Many of children in delinquency proceedings are “crossover” youth, meaning they are involved in both juvenile delinquency cases and cases of abuse or neglect.\textsuperscript{39} In Georgia in 2008, 14.6% of youth on probation in Clayton County also had a current open deprivation case.\textsuperscript{40} Similarly, 72% of youth 14 years and older who had been adjudicated “deprived” in

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DeKalb County also had either a status or delinquency offense. Of these crossover youth, 74% had two or more such offenses. National statistics, which look at lifelong outcomes, also show that the incidence of neglect and abuse is positively correlated with future delinquency. One study found that early child abuse and neglect increased the risk of all juvenile arrests by 55% and specifically increased juvenile arrests for violent offenses by 96%. A child’s initial deviant behavior is often a result of unhealed trauma, and the practice of shackling may have an exacerbating effect. Survivors of physical and sexual abuse may re-experience earlier episodes of powerlessness and pain, which can lead to feelings of re-victimization. All of these forms of life trauma make children especially susceptible to the negative effects of shackling.

Children in the juvenile justice system also have high incidences of learning difficulties, developmental disabilities, and psychiatric disorders. Studies have shown that “while only 7% of all public school students in the United States have been identified as having disabilities such as mental retardation, emotional disturbance, and learning disabilities, in the juvenile justice systems the prevalence is estimated to be between 12% to 70%.” As many as two-thirds of the detained boys and three-quarters of detained girls meet the diagnostic criteria for one or more psychiatric disorders. Thus, many children who enter the juvenile justice system are already vulnerable to further psychological injury from practices such as shackling.

2. Shackling Disproportionately Affects Children of Color.

The trauma from shackling is particularly damaging to children of color, given the legacy of discrimination in America. One psychologist explains, “for youth of color, being degraded in public may be experienced as racism (even if the practice is universal) which is extremely harmful to the development of positive identity.”

41 Id.
42 Id.
44 Id.
45 Id.
46 JULIAN D. FORD ET AL., NATIONAL CENTER FOR MENTAL HEALTH AND JUVENILE JUSTICE, TRAUMA AND YOUTH IN THE JUVENILE JUSTICE SYSTEM: CRITICAL ISSUES AND NEW DIRECTIONS 3 (2007), available at http://iers.umt.edu/docs/nmctdocs/Trauma_and_Youth.pdf. See, e.g., Press Release, Legal Aid of N.C., Legal Aid of N.C. Responds to Court’s Decision to Continue Routine Shackling Children in Court (March 6, 2007), http://www.legalaidnc.org/public/learn/Media_Releases/2007_MediaReleases/2007_MediaRelease_LAN CresspondstoCourtdecisiontoContinueShacklingofChildren_Mar_06_07.aspx. Lawyers from North Carolina reported one case where a young girl was shackled despite her history: “the girl’s medical records revealed a history of sexual abuse that also included being handcuffed by her abuser. Consequently, whenever she is handcuffed in court, she is reminded of her past sexual abuse.” Id.
49 Beyer, supra note 12, at ¶ 12.
50 Id.
Minorities are overrepresented in detention facilities in general. In Georgia, African-American and Hispanic youth are more likely to be detained while awaiting their adjudication hearings than their white peers. Because the only time youth in Georgia appear before the judge in shackles is when they are coming from detention, minority children are therefore disproportionately shackled. This disproportionate impact upon children of color is another reason to reform the practice of shackling.

III. Georgia Should Join the Nationwide Movement to Reform Shackling.

There has been growing resistance among courts and legislators across the nation to the routine shackling of child defendants. While New York and Vermont have addressed the issue of shackling children during detention and transportation, many other states have more directly questioned the use of shackling during court appearances. Nine states—California, Illinois, Florida, Massachusetts, New Mexico, North Carolina, North Dakota, Oregon, and Pennsylvania—have all

51 JESSICA SHORT & CHRISTY SHARP, CHILD WELFARE LEAGUE OF AMERICA, DISPROPORTIONATE MINORITY CONTACT IN THE JUVENILE JUSTICE SYSTEM 2 (2005), available at http://www.cwla.org/programs/juvenilejustice/disproportionate.pdf (“although youth of color represented just 34% of the population in the United States in 1997, they make up: 62% of youth in detention, 67% of youth committed to public facilities, and 55% of youth committed to private facilities”).

52 GA. DEP’T OF JUVENILE JUSTICE, supra note 13. (According to admissions data after intake, for 2010 the proportion of youth “at home – awaiting adjudication” versus the number of youth in “secure detention” was as follows: Whites – 10,951 at home/3,894 awaiting adjudication, Blacks – 11,329 at home/10,756 awaiting adjudication, and Hispanics 997 at home/1,278 awaiting adjudication. Therefore, whites are approximately twice as likely to be “at home waiting for adjudication” than African-American or Hispanic youth.).

53 John v. Carrion, 2010 WL 390933, (N.Y. 2010) (holding that an agency rule limits shackling of children in state custody applied to children being transported to court); N.Y. COMP. CODES R. & REGS. tit. 9, § 168.3 (2011) (outlining the criteria for using shackles on children, limiting the kind shackles which can be used on children, and the length of time a child may be shackled).

54 VT. STAT. ANN. tit. 33, § 5123 (limiting the use of shackles while children in state custody are being transported); VT. DEP’T FOR CHILDREN & FAMILIES, FAMILY SERVICES POLICY MANUAL § 150, available at http://dfc.vermont.gov/sites/dfc/files/pdf/fsd/policies/150__Transportation_of_Youth_.pdf (limiting the use of shackles while children in state custody are being transported).

55 Tiffany A. v. Superior Court, 59 Cal. Rptr.3d 363, 373 (Cal. App. 2007) (holding that an individual assessment of child is necessary before the use of shackles during court proceedings and provides criteria for use of shackles).

56 People v. Booze, 362 N.E.2d 303, 305-06 (Ill. 1977) (holding that an individual assessment of defendant is necessary before the use of shackles during court proceedings and provides criteria for use of shackles); In re Staley, 364 N.E.2d 72, 73-74 (Ill. 1977) (holding that the Booze test for shackling applies to juvenile defendant); ILCS S. CT. R. 430 (codifying People v. Booze and In re Staley).

57 Fla. R. Juv. P. 8.100 (requiring an individual assessment of child is necessary before the use of shackles during court proceedings and provides criteria for use of shackles).


59 See N.M. STAT. ANN. § 32A-2-14(A) (2011) (juvenile delinquents are entitled to the same basic rights as adults); See also N.M. STAT. ANN. § 32A-1-16 (2011) (children subject to juvenile code in general are entitled to the same basic rights as adults); NMRA Rule 10-223A (requiring an individual assessment of child is necessary before the use of shackles during court proceedings and provides criteria for use of shackles).
established a presumption against the shackling of children during delinquency proceedings. Public defender offices in Ohio, Wisconsin, and Connecticut have been pushing to follow suit. Many states, undeterred by unsubstantiated fears of jeopardizing court security, rejected their prior policies of indiscriminately shackling children as inconsistent with due process values. The shared presumption was that shackling is unnecessary and harmful, although each state established different factors for use in determining when a child should be shackled.

IV. Georgia Should Adopt a Court Rule Banning the Indiscriminate Shackling of Juveniles.

A. Juvenile Courts Should Treat Children as Individuals.

An accused child should only be shackled as a last resort, and the need for shackles should be determined on a case-by-case basis. Because punishment is not the primary end of Georgia’s juvenile justice system, juvenile courts have great leeway in assessing the individual needs and best interests of each child, particularly in regards to treatment, rehabilitation, supervision, and detention. This individualized assessment both prior and subsequent to a finding of delinquency is an effective means of fostering respect and compliance for the final court decision, preserving children’s due process rights, and protecting children from psychological harm. For these reasons, the Georgia practice of making individualized assessments in juvenile court matters should be applied to shackling practices.

B. Georgia Should Adopt a Court Rule to Limit the Shackling of Juveniles.

60 N.C. GEN. STAT. § 7B-2402.1 (2011) (requiring an individual assessment of child is necessary before the use of shackles during court proceedings and provides criteria for use of shackles).
61 In re R.W.S. 728 N.W.2d 326, 331 (N.D. 2007) (holding that an individual assessment of child is necessary before the use of shackles during court proceedings and provides criteria for use of shackles).
62 State ex rel. Juv. Dept. of Multnomah County v. Millican, 906 P.2d 857, 860 (Or. App. 1995) (holding that an individual assessment of child is necessary before the use of shackles during court proceedings and provides criteria for use of shackles).
63 Pa.R.J.C.P. No. 139 (requiring an individual assessment of child is necessary before the use of shackles during court proceedings and provides criteria for use of shackles).
65 Jennie Tunkieicz, Juvenile Shackling Demeaning, Advocates Charge: ACLU, NAACP Object to Practice of Chaining All Detention Center Defendants, MILWAUKEE J. SENTINEL, July 28, 2005 (opposing blanket shackling policy and calling for reform).
68 See O.C.G.A. § 15-11-46.1 (detention); O.C.G.A. § 15-11-65(a) (treatment, rehabilitation, and supervision).
Language for a court rule in Georgia is proposed below. This rule bans all group shackling and creates a presumption against individual shackling. The judge has the discretion to use shackles in the rare cases where security concerns truly outweigh the harms of shackling. Upon a motion by the prosecution or the court, the judge shall consider the factors enumerated in the rule and make specific findings of fact on the record to determine that shackles are necessary in that case.

**Use of Mechanical Restraints on the Child**

(a) Mechanical restraints, including but not limited to handcuffs, chains, and/or irons, shall not be used to shackle children together during a court proceeding; and are presumptively prohibited for use upon an individual child during a court proceeding. Mechanical restraints must be removed prior to the child’s appearance before the court unless, upon a motion by the prosecutor or on the court’s own motion, the court holds a hearing, in which all parties may present evidence and argument that the child should remain in restraints.

(b) If the court holds the hearing in paragraph (a) above, the court shall consider and evaluate each of the following factors and make specific findings of fact on the record to determine whether the use of restraints during the child’s court appearance is necessary. Factors for judicial consideration shall include:

1. The child’s delinquency record and the nature of his or her past and present offenses;
2. The risk of the child making an attempt to escape;
3. The risk the child presents to him- or herself and others;
4. The child’s history of compliance with law enforcement, including officers of the court;
5. The child’s past and present behavior before the court;
6. The availability of alternative security measures;
7. The extent to which restraints will interfere with the child’s access to counsel;
8. The extent to which restraints will cause psychological harm to the child, in consideration of the child’s previous medical and mental health diagnoses, psychological evaluations, and/or history of physical or psychological abuse; and
9. Any other factors considered by the court to be relevant and proper to its determination.

**V. Unshackling Children Is Not Burdensome.**

**A. The Procedure for Unshackling Children Is Practical.**

Georgia courts can easily and practically implement the proposed rule above. By establishing a presumption against shackling, the court rule acknowledges that the overwhelming majority of children brought into Georgia juvenile courts are not likely to
act out or flee the courtroom. Because most children are compliant, generally neither
the judge nor the attorneys need take any action to have a child restrained. On
occasion, a hearing on the issue of shackling may be necessary. However, from
experiences in other states, these hearings are infrequent and brief. Nothing in this
rule would prevent the court from shackling a child when necessary; a judge need only
make factual findings on the record as to the basis of his or her decision.

B. Security is Maintained Where Children Are Unshackled.

A presumption against shackling does not create new security concerns. The
reasonableness of such procedures has been demonstrated in criminal proceedings,
where the unshackling of defendants before entering the courtroom is routine—even
where the defendant has already been charged or convicted of a capital offense. It is
unlikely that ending the presumptive shackling of even the most impulsive children in
juvenile court presents a greater danger than does the unshackling of convicted adult
murderers. In addition to the deputies who accompany the children from the detention
center and remain with them in the courtroom, juvenile courts across Georgia already
employ sheriffs to ensure courtroom safety. Thus, if adults may stand free in a
courtroom with several deputies at the ready, the same must be true of children.
Furthermore, children who are detained following arrest and are thus shackled in a
preliminary or probable cause hearing, often return to court for subsequent hearings, at
which they are not shackled. If nothing in the child’s history or behavior has changed

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69 Banks, supra note 2, at 9.
70 E.g., Email from Marie Osborne, Pub. Defender, Pub. Defenders Office, Juvenile Division, Miami, Fla.,
to Kosha Tucker, Robin Nash Postgraduate Fellow in Law, Barton Child Law and Policy Ctr. (Oct. 28,
2011) (on file with author) (“On a practical level, we have not had a hearing in years. And, in the 1 or 2
hearings we have had, they do not take more than 5 minutes”); Email from Peggy Huscher, Deputy Pub.
Defender, Shasta County, Cal., to Jamie Schickler, intern, Barton Child Law and Policy Ctr. (Nov. 14,
2011) (on file with author) (only two hearings on shackling in 2011); Email from Elton Anglada, Assistant
Chief, Juvenile Unit, Defender Ass’n of Phila., Pa. to Shoshana Elon, intern, Barton Child Law and Policy
Ctr. (Oct. 28, 2011) (on file with author) (a request that the child remain shackled is uncommon).
72 In Georgia, children charged with very serious offenses, such as murder or rape, are not within the
73 Correspondence with public defenders across Georgia reveals a consistent practice of utilizing several
depuities per courtroom while a child is present. E.g., Email from Amanda Jones, Assistant Cir. Defender,
Pub. Defender's Office, Brunswick Judicial Cir., to Shoshana Elon, intern, Barton Child Law and Policy
Ctr. (Sept. 26, 2011) (on file with author); Email from Amanda Patterson, Assistant Pub. Defender, Alcovy
30, 2011) (on file with author); Email from Jill Roth, Assistant Pub. Defender, Office of the Pub. Defender,
Eastern Judicial Cir., to Samuel Warman, intern, Barton Child Law and Policy Ctr. (Sept. 28, 2011) (on file
with author). In Fulton County, for instance, there are two deputies, one deputy, who is present at all
times and remains at the front of the courtroom, and a second deputy, who accompanies the child from
detention and sits on a bench behind the child. Email from Ryan Locke, Staff Att’y at the Office of the
Pub. Defender, Atlanta Judicial Cir., to Shoshana Elon, intern, Barton Child Law and Policy Ctr. (Sept.
74 Of course, it may be that some courts shackles adult defendants while not before a jury; however, the
fact remains that adult defendants, as a general rule, are unshackled during trial.
75 “They use [shackling] indiscriminately and shackles everyone who comes in if they are detained. But
the children who have been released (sometimes the same children) are not shackled.” Email from Nkenge
between these hearings, then the shackling of the child in the first instance served no legitimate protective function. The well-established security practices of Georgia courts ensure that indiscriminate shackling is unnecessary to maintain courtroom safety and decorum.\footnote{In Illinois, where a presumption against shackling was adopted, the superintendent of the Juvenile Justice Center in Kane County, Ill., Rick Anselme, has attested to its success and to the absence of security problems. Email from Kim Bilbrey, Pub. Defender, Kane County Juvenile Justice Ctr., Ill., to Sammy Warman, intern, Barton Child Law and Policy Ctr. (Nov. 15, 2011) (on file with recipient).}

**VI. Conclusion**

The Georgia Council of Juvenile Court Judges should recommend the proposed court rule for adoption by the Georgia Supreme Court to limit the detrimental effects of shackling. Shackling impairs the rehabilitative purpose of Georgia’s juvenile code, interferes with children’s constitutional due process rights, and may cause long-term psychological harm. Because the overwhelming majority of accused children are not likely to pose safety or security problems and the Georgia juvenile courts have well-established security practices already in place, shackling children very rarely serves a legitimate protective function. Adopting an individualized assessment is a practical and effective way of limiting the harms of shackling while still addressing security concerns. Georgia should join the growing number of states that have limited the use of shackles to circumstances in which they are truly necessary.

Green, Assistant Pub. Defender, Juvenile Division, DeKalb County, to Jasmine Gibbs, intern, Barton Child Law and Policy Ctr. (Oct. 6, 2011) (on file with author).