

Advocates ignore juveniles' safety, and DC Superior Court rehabilitation programs

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I have read with interest the recent articles and opinion pieces on the topic of using safety restraints on juvenile offenders, including: "D.C. defense attorneys want juveniles released from shackles in court" on August 24, 2014 by Keith Alexander; "Shackling D.C. juvenile offenders should not be routine" on September 8, 2014 by the Editorial Board; "Shackling juveniles offenders can do permanent damage to our kids" on November 13, 2014 by Patricia Puritz; and "Rethink shackling of youth in D.C. courts" on November 19, 2014 by Marc Schindler. Ms. Puritz and Mr. Schindler call on U.S. Attorney General Eric Holder to order the U.S. Marshals Service to change their practices and "limit shackling to rare cases where there is evidence that a child presents a risk." (Puritz, November 13 article). It is inaccurate to say it is the rare case where safety interests require that a juvenile be in restraints. Advocates against the use of safety restraints are ignoring the very real security issues that would be posed by not using restraints and overlook the wide range of successful rehabilitation programs available to juveniles in *this* city, through the Court's Social Services Division and elsewhere.

Safety is the court's top priority

As Chief Judge of the Superior Court of the District of Columbia, my top priority is the safety of the over 10,000 people who walk through the front door of the courthouse each day. This also includes court staff, judicial officers, jurors, witnesses, parties to cases, and last but certainly not least – the more than 60 youth who appear in our juvenile courts each day. In her letter, Ms. Puritz states that jurisdictions that have adopted a policy of limiting restraints "have found no downside." She cites Miami-Dade County, Florida as an example of a jurisdiction with such a policy and argues that no juveniles escaped and "no one was harmed."

Judges in DC Superior Court's Family Court work closely with the U.S. Marshals Service to protect juveniles while they are in custody because we continue to have numerous incidents of restrained and unrestrained juveniles becoming aggressive in the courtroom and attempting to escape from the building. Here are some real examples of what we have experienced:

- Earlier this year, a hearing-impaired respondent appeared at a hearing with a broken hand from having punched a wall at the city's residential facility. The respondent had been released early and banned from another treatment facility after seriously injuring at least 12 staff members. Upon discharge, he was transported back to the residential facility, where he injured two staff members,

resulting in new juvenile charges. The judicial officer was warned prior to his entering the courtroom that the juvenile had been volatile while in the cellblock. The juvenile entered the courtroom with safety restraints on his hands and legs. The respondent was approximately 5'10" and heavysset. The hearing required two sign language interpreters. Several of respondent's family members were present, as well as a social worker, who had a long history with the respondent. Defense counsel requested that the hand restraints be removed so that respondent could sign more easily. The judge denied the request, based on juvenile's propensity for violence. His counsel also argued that since respondent's hand was already in a cast, additional restraints were unnecessary. The judge continued to deny the request; however, halfway through the hearing, staff removed the additional hand restraints. Soon thereafter, the juvenile went on a violent rampage, bucking and swinging his arms, trying to get to the judge. The judge pulled the duress alarm, requesting deputy marshals; however, the police outside the courtroom were the first responders, followed by deputy marshals and court security officers. It took the police and the marshals quite a while to get the situation under control and contain him. In the process, the juvenile injured several responders. This was an emotionally upsetting and chaotic experience for all who were present.

- Another judge recalled an incident in the courtroom where juveniles initially appear after arrest, where safety restraints definitely prevented a more serious security occurrence. During an initial hearing, a juvenile in safety restraints angrily flipped over counsel table (and everything on it) into the well of the courtroom, surprising everyone and causing a huge disturbance. The judge activated the duress alarm. The juvenile aggressively resisted Department of Youth Rehabilitation Services (DYRS) youth officers' and deputy marshals' directives to calm down. Many responders were needed to subdue the juvenile and escort him from the courtroom back to the cellblock.
- One colleague, who has been on the bench for over ten years and presided over juvenile and adult cases, has had two escape incidents, both involving juveniles. In one incident, the respondent fought with the deputy marshal in the courtroom forcing two other deputies to use pepper spray on him. In the second case, the juvenile successfully escaped the courtroom.
- Before the marshals started using safety restraints, another very experienced colleague was conducting a status hearing when very suddenly the juvenile

vaulted over the counsel table and ran out of the courtroom. The juvenile's mother, who was in the audience, jumped up and ran after him into the central corridor, shouting, "He has a gun. He has a gun." Fortunately, he did not have a gun, but she was a police officer, who probably knew that saying that would get everyone focused on her fleeing son.

- Another juvenile attempted to escape from the courtroom, but failed to understand that we alternate the locking of the courtroom's doors. He went through the first door easily enough, but then ran smack into the second (locked) door, injuring himself enough that he left a substantial amount of blood on the carpet at the foot of the locked door and never made it out.
- One of the court's most seasoned judges presided over a case in which after the deputy marshals brought out the unrestrained juvenile, he began to run out of the courtroom. There were four police officers entering the courtroom, who stopped the youth from escaping.
- Just recently, a judge shared that she has had numerous situations in which she pushed the duress alarm. In all of them, unrestrained female juveniles were so aggressive and unruly that it took no fewer than 3-4 deputy marshals to subdue them.
- There has also been an incident where an individual in custody punched an attorney while in the courtroom.

Although all of these examples put the lives of the youth, their parents and the court staff in harm's way, the most dangerous situation during my time as Chief Judge occurred after court hours when a fully restrained juvenile escorted by DYRS youth officials walked away from them and attempted to open a judge's chambers where her law clerk was working but the door was locked. He then walked through the back entrance to a courtroom (the one judge's use to enter) out to the public corridor, up the escalator to the front door of the courthouse, and walked out. As he moved through the front door, a startled security officer pulled out her service gun, which she accidentally discharged, causing a nearby woman cleaning the area to faint. Deputy marshals quickly apprehended the juvenile as he ran penguin-style down Indiana Avenue. Most of this incident was captured on videotape. Mr. Schindler argues that using safety restraints "does not make courtrooms safer." I believe the exact opposite – safety restraints are essential to protecting juveniles, attorneys, court staff and others in the courtroom. Restraints make

the courtrooms, hallways and entire courthouse safer for the 10,000 people who are there each and every day.

Juveniles' trial rights are not being violated, but due process issues will arise if advocates have their way

Another uninformed argument made by Ms. Puritz is that restraints interfere with a juvenile's right to a fair trial. She argues courts have "consistently ruled that adult defendants should be shackled only in exceptional circumstances." What Ms. Puritz conveniently leaves out is that in adult cases, there is a jury present, which can be influenced negatively by viewing a defendant in restraints. Juvenile proceedings are not decided by a jury, but by a judge. Moreover, in Superior Court, it is routine practice during trial for a judge to ask the marshals to remove hand restraints so that juveniles can assist their attorney. Ms. Puritz has never observed juvenile proceedings in Superior Court, so it is not a surprise that she makes blatantly inaccurate statements.

One suggestion that will potentially prejudice a juvenile is the requirement that judges make individualized determinations as to the use of restraints at each hearing. Not only is this unreasonable due to the volume of cases in Superior Court each day, but it also raises due process concerns. A juvenile's underlying charges are most definitely not indicative of their behavior in the courtroom. Most of the juveniles discussed above were in court on minor misdemeanor charges, but still became aggressive and unruly. For this determination to occur, the judge would be required to receive information about the juvenile's behavior in the cellblock and review other factors irrelevant to their underlying charges. Just reflect on the following scenario: a judge, presiding over a case in which the juvenile was charged with assault and threatening to do bodily injury, speaks to the deputy marshal who was watching the juvenile in the cellblock to determine whether to remove restraints. The judge learns that for the past hour, that juvenile had been threatening to hurt other youth and had tried to kick one of them. With that knowledge the judge can certainly make a determination as to restraints, but now defense counsel could argue that the juvenile has been prejudiced and his constitutional right to a fair trial has been violated. Defense counsel would immediately make a motion requesting the judge to recuse herself from the case. It is important to note that no D.C. Court of Appeals opinion has restricted the use of safety restraints for impeding a juvenile's constitutional rights.

City officials, criminal justice partners and advocates should focus on strengthening our rehabilitation programs

All of the recent letters to the editor, articles and opinion pieces argue that the use of safety restraints runs counter to rehabilitation. I adamantly disagree. The use of these safety restraints may appear distasteful; however, they do not inhibit the juvenile's

rehabilitation when you look at the big picture of the rehabilitation process. What they do inhibit is the juvenile, the juvenile's family, attorneys and court staff from getting hurt during a hearing. Restraints also lessen the chance that a juvenile will escape and /or commit additional crimes. That is most definitely what restraints do inhibit.

Mr. Schindler closes his letter to the editor with “[i]f we want young people to fulfill their potential, we need to lift them up and support them, not place them in chains.” I wholeheartedly agree with lifting juveniles up and helping them find ways to fulfill their potential. As the former interim director at D.C.’s Department of Youth Rehabilitation Services, I thought he would remember and focus on the major initiatives and programs the court and our juvenile justice partners have implemented that are rehabilitating youth, rather than the fact that these juveniles are in safety restraints for their own protection for a matter of minutes at a hearing.

The court has many programs that directly impact rehabilitation and are reducing juvenile delinquency and recidivism. We have opened [three BARJ Centers – Balance & Restorative Justice Drop-In Centers](#) – for youth providing an alternative to detention. We are in the community – in three of the four quadrants of the city – working directly with youth and their families. These centers have been so successful that we hope to have a fourth [BARJ Center](#) operational soon. The court has implemented programs such as the [juvenile behavioral health diversion program](#) for those with mental health and substance abuse issues, and the court operates the city’s only [youth sex offender program](#). All of these programs can be tailored to support each youth’s specific rehabilitation needs. The court also has stepped outside the box and developed the [LOTS Unit – Leaders of Today in Solidarity Unit](#) – which is a revolutionary conceptual change providing early intervention and continuity in services to enhance the adolescent female’s chances to successfully transition into adulthood by using a unique and therapeutic method under the concept of restorative justice.

I would encourage everyone with a position on this issue to remember what the focus should be – the juveniles. And the juveniles are the ones who benefit most from the use of safety restraints. Given the lack of discipline displayed by most teenagers, juvenile behavior is often unpredictable. The use of safety restraints keeps them and keeps others, who work for the court or come to court to help them, safe.