IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE
RULES OF JUVENILE PROCEDURE Case No. SC09-141
Fla.R.Juv.P. 8.100
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UNIVERSITY OF MIAMI SCHOOL OF LAW CHILDREN & YOUTH LAW CLINIC COMMENTS IN SUPPORT OF RULE 8.100 AMENDMENT

I. Introduction

The University of Miami School of Law Children & Youth Law Clinic ("CYLC") submits these comments in support of the Juvenile Court Rules Committee's proposed amendment to Florida Rule of Juvenile Procedure 8.100. Although the proposed amendment has generated considerable debate and controversy within the Rules Committee, as evidenced by the narrow vote in support of this rule and the strenuous opposition to the rule articulated in the Minority's Report, the CYLC respectfully urges the Court to adopt this proposed rule. The rule establishes reasonable and practical guidelines for the use of shackles on children in the juvenile courtroom and the constitutional, statutory and public policy arguments in support of these guidelines overwhelmingly favor its adoption by this Court.[1]

[1]Indeed, recent scholarship addressing the indiscriminate shackling of children in juvenile court uniformly favors adoption of procedures such as those

A. Interests of the Children & Youth Law Clinic

The CYLC is an in-house legal clinic staffed by faculty and students of the University of Miami School of Law. Students and supervising attorneys in the Clinic serve as attorneys for the legal interests of adolescents and represent these young people in juvenile court.

The CYLC has filed rule comments and *amicus curiae* briefs in numerous cases implicating fundamental rights of children in Florida, including: *Amendment to the Rules of Juvenile Procedure, Fla. R. Juv. P. 8350*, 804 So. 2d 1206 (Fla. 2001) and 842 So. 2d 763 (Fla. 2003)(due process rights of foster children placed in psychiatric treatment facilities); *Amendment to the Rules of Juvenile Procedure, Fla.*

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proposed in this amendment to Rule 8.100. *See, e.g.*, Bernard P. Perlmutter, *"Unchain the Children:"* Gault, *Therapeutic Jurisprudence and Shackling*, 9 Barry L. Rev. 1 (2007); Anita Nabha, Note, *Shuffling to Justice: Why Children Should Not Be Shackled in Court*, 73 Brooklyn L. Rev. 1549 (2008); Daniel Zeno, Note, *Shackling Children During Court Appearances: Fairness and Security in Juvenile Courtrooms*, 12 J. Gender Race & Just. 257 (2008); Brian D. Gallagher and John C. Lore, *Shackling Children in Juvenile Court: The Growing Debate, Recent Trends and the Way to Protect Everyone's Interest*, U.C. Davis J. Juv. L. & Pol'y 453 (2008); Emily Banks, Anna Cowan, and Lauren G. Fasig, *The Shackling of Juvenile Offenders: The Debate in Juvenile Justice Policy*, Center for Children and Families, University of Florida Levin School of Law (2008), *available at* http://www.law.ufl.edu/centers/childlaw/pdf/shackling.pdf. Similarly, the most recent case law from other jurisdictions on the subject of juvenile court shackling supports measures such as those proposed herein. *See, e.g., Tiffany A. v. The Superior Court of Los Angeles County*, 59 Cal.Rptr.3d 363 (Cal. Ct. App. 2007); *In Re R.W.S.*, 728 N.W.2d (N.D. 2007).

R. Juv. P. 8355, 952 So.2d 517 (Fla. 2007)(court procedures for psychotropic medication hearings for children in foster care); *S.C. v. GAL*, 845 So. 2d 953 (Fla. 4th DCA 2003) (foster children's medical privacy rights); and *DCF v. Statewide Advocacy Council*, 884 So. 2d 1162 (Fla. 2d DCA 2004) (health care rights advocacy to protect children in foster care); *R.C. v. Juvenile Court Judges*, Case No. 4D07-454 (Fla. 4th DCA) (indiscriminate shackling of children in juvenile court).

In addition, the CYLC has participated in several recent *amicus curiae* briefs of national significance submitted on behalf of children's advocacy organizations in the U.S. Supreme Court, including: *Roper v. Simmons*, 543 U.S. 551 (2005) (constitutionality of juvenile death penalty); *Smook v. Minnehaha County* (Case No. 06-1034) (constitutionality of detention center policy of strip-searching juveniles); *Boumediene v. Bush*, 128 S.Ct. 2229 (2008) (legality of personal jurisdiction over child combatants under Military Commissions Act); *Safford Unified School District v. Redding* (Case No. 08-479) (constitutionality of strip-searches of public school students).

The CYLC is interested in this proposed rule based on its desire to advance the due process and statutory rights and therapeutic interests of children as they move through the juvenile justice system. This proposed rule implicates the fundamental liberty interest to be free from the arbitrary use of external restraint by

the government. It thus presents an opportunity to strengthen the body of law recognizing children's rights to "fair hearings by a respectful and respected court…the recognition, protection and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and the dignity of the courts are adequately protected." §985.01(1)(a), Fla. Stat. (2008).

B. Summary of Argument

The proposed rule presents questions implicating fundamental liberty, due process and therapeutic interests of children to be free from external restraint when they appear before the juvenile court. There are four reasons why this Court should adopt the proposed rule. First, the Court has the authority to promulgate a rule of procedure to require an individual hearing before a child may appear in juvenile court in wrist and ankle shackles. Second, a blanket policy of requiring all children in court appearances to be wrist and ankle shackled, regardless of their age, size, gender, pending charges, history of violence, or risk of escape, is unconstitutional. Third, as this proceeding concerns the fundamental liberty to be free from external restraint, due process requires an individualized determination by the court of dangerousness and a finding that there are no less restrictive alternatives before permitting the juvenile to be restrained in court. Finally, a

blanket shackling policy is anathema to the rehabilitative aims of the juvenile justice system and is anti-therapeutic.

II. The Proposed Rule is Procedural Law

The Florida Supreme Court has long established the difference between procedural law and substantive law. *In re Florida Rules of Criminal Procedure*, 272 So. 2d 65, 65-66 (Fla. 1972) (per curiam) (Adkins, J., concurring). The Court has defined substantive law as, "the part of the law which creates, defines, and regulates rights, or that part of the law which courts are established to administer, while procedural law prescribes the method of enforcing those rights." *Id*. at 65. The division of law signifies a division in power. The Florida legislature is vested with the power to promulgate statutes of substantive law, while the Florida judiciary has the right to create rules of procedural law. *In re Clarification of Florida Rules of Practice and Procedure*, 281 So. 2d 204, 204 (Fla. 1973) (per curiam). Therefore, the Florida Supreme Court may only ratify the proposed rule if it meets the definition of procedural law. *Hall v. State*, 823 So.2d 757, 763 (Fla. 2002) (citing *Benyard v. Wainwright*, 322 So.2d 473, 475 (Fla. 1975)).

The definitions of procedural and substantive law appear to be relatively simplistic. However, the reality is that actually distinguishing between whether a rule is procedural or substantive has proven to be difficult. Recognizing that these two types of law have a tendency to overlap, Justice Adkins described the

confusion between procedural and substantive law as the "twilight zone." *In re Florida Rules of Criminal Procedure*, 272 So. 2d at 66.

Fortunately, this proposed rule clearly falls within the category of procedural law. To better define procedural law, Justice Adkins focused on defining the term "practice and procedure." He defined practice and procedure as, "the course, form, manner, means, method, mode, order, process or steps by which a party enforces substantive rights…" *Id*. Furthermore, he added that practice and procedure included, "all the rules governing the parties, their counsel and the Court throughout the progress of the case from the time of its initiation until final judgment and its execution." *Massey v. David*, 979 So. 2d 931, 937 (Fla. 2008) (citing *In re Florida Rules of Criminal Procedure*, 272 So. 2d at 66).

In reference to shackling, juvenile courts, as with all courts, are endowed with the "inherent power to control the conduct of its own proceeding in order to preserve order and decorum." *S.Y. v. McMillan*, 563 So. 2d 807, 809 (Fla. 1st DCA 1990) (per curiam) (quoting *State ex rel. Gore Newspapers Co. v. Tyson*, 313 So. 2d 777, 782 (Fla. 4th DCA 1975)). In *S.Y. v. McMillan*, the court determined whether this inherent power included the trial judge's discretion to have a blanket policy of shackling children inside the courtroom. *Id*. While the court "question[ed] the propriety of the issuance of a blanket order" to shackle all children who were in secure detention, it balanced the questionable blanket

shackling policy with the trial judges' discretion, security concerns, and the lack of a prejudicial effect of having a jury see the child in shackles. *Id*. at 808-09. Based on these factors, the First District Court of Appeal upheld the trial judges' blanket policy. *Id*.

It is important to note that the court permitted the use of blanket shackling principally because it was within the trial judge's power to control the courtroom and maintain its decorum.[2] *Id*. Moreover, both the Majority and Minority Reports of the Juvenile Court Rules Committee agree that shackling children inside the courtroom implicates the trial judge's "inherent discretionary authority over courtroom security." Rule 8.100. General Provisions for Hearings. Majority and Minority Report, Three-Year Cycle Amendments to the Florida Rules of Juvenile Procedure, at 6, 13. In fact, the Minority Report expresses concern that the proposed rule would "encroach upon the traditional authority of the trial judge." *Id*. at 13.

The proposed rule does not encroach upon the trial judge's discretion to shackle children. It simply alters *the method* in which the court may use its discretion. The court, in order to shackle a child, must make a factual finding as to the security threat or risk of absconding that the child poses in the courtroom.

[2]These comments will further elaborate on how the court's security concerns were unfounded and how blanket shackling of children does violate both the U.S. constitution and Florida statutes.

Once the trial judge determines that a child is a security threat or flight risk and there are no less restrictive measures to prevent this threat or risk, the trial judge may order that the child be shackled.

Blanket policies of shackling all youths in secure detention violate both youths' constitutional and statutory rights. The proposed rule assures that only youths who are a security threat or flight risk will be shackled inside courtroom. The Florida Supreme Court not only has the power but also the obligation to enact procedural rules that reinforce constitutional and statutory rights and "to the extent possible, ensure against their violation." *State, Dept. of Health and Rehabilitative Services, Division of Youth Services v. Golden*, 350 So.2d 344, 346 (Fla. 1976). The proposed rule ensures that the procedures governing appearances of detained children in court are carried out in conformity with their constitutional and statutory rights.

III. Indiscriminate Shackling is Unconstitutional

Current practices in the juvenile justice system with respect to shackling disregard the well-established due process rights of children in delinquency proceedings. The general policy of blanket shackling fails to even facially consider the underlying harms to the individual due process rights of children.[3]

[3]The Minority Report exemplifies this failure to consider the constitutional implications of an indiscriminate shackling policy. Within the Minority Report,

Adoption of the proposed rule would bring the Florida juvenile justice system into line with the weight of constitutional authority. The rule also would provide juvenile court judges with the appropriate guidelines to ensure that their discretionary decisions on shackling respect the inviolable due process rights of the children before them.

The juvenile courts of Florida must always conduct themselves with an eye toward the *In re Gault* decision and subsequent case law that has solidified the constitutional rights of children in delinquency proceedings. *In re Gault* heralded a new era in juvenile justice in which children are recognized as having constitutional rights similar to those of adult criminal defendants. *In re Gault*, 387 U.S. 1 (1967). The unique needs of the juvenile system constrain the constitutional rights of juveniles and, accordingly, the full panoply of rights afforded to adults is not available to juveniles. *In the Interests of C.J.W.*, 377 So. 2d 22, 24 (Fla. 1979). However, the due process rights already attributable to children encompass specific protections, such as the right to access counsel and the presumption of innocence, which are severely and irreversibly compromised by a blanket policy of shackling. The Court is urged to adopt the proposed rule as a means of ensuring that juvenile courts comport themselves in conformity with accepted constitutional standards.

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the limited space allocated to constitutional issues is constrained to dismissive responses directed at the NJDC recommendation, and no independent consideration of ample constitutional case law is even attempted. Minority Report, at 11.

A. Indiscriminate Shackling Violates Children's Due Process Rights

A standard for approaching the constitutional rights of children has evolved over time since the issuance of the U.S. Supreme Court's decision in *In re Gault*. In that case, the Court definitively held that "neither the Fourteenth Amendment nor the Bill of Rights is for adults alone." 387 U.S. at 13. The Court did not sweepingly apply all rights of adults to children. However, with respect to a child at the adjudicatory stage of proceedings, the Court found violations of a child's constitutional rights where he is denied notice of charges, the right to counsel, the privilege against self-incrimination, and the right to confrontation and cross-examination. *Id.* at 31-59. Following *In re Gault*, other due process rights have been explicitly recognized as belonging to children in a delinquency context, including proof of delinquency beyond a reasonable doubt (*In re Winship*, 397 U.S. 358, 367 (1970)) and protection against double jeopardy (*Breed v. Jones*, 421 U.S. 519, 541 (1975)).

These constitutional rights guaranteed to children are circumscribed by the rehabilitative ends of the system as a whole. For example, the right to a jury trial was not extended to juvenile proceedings on the premise that "if required as a matter of constitutional precept, [the right to a jury trial] will remake the juvenile proceedings into a fully adversary process and will put an effective end to what has been the idealistic prospect of an intimate, informal protective proceeding."

McKeiver v. Pennsylvania, 403 U.S. 528, 545 (1970) (Blackmun, J., plurality opinion). Accordingly, the approach to due process in the context of juvenile justice is to extend rights so far as possible to accommodate the specific rehabilitative tenor of the juvenile system.

Underlying the analysis in *In re Gault*, *McKeiver* and other cases addressing the due process rights of juveniles is the rule previously articulated in *Kent v. U.S.*, 383 U.S. 541 (1966) that, while due process in a delinquency setting need not meet the standards of an adult criminal trial or administrative hearing due to the unique ends of juvenile justice, it must "measure up to the essentials of due process and fair treatment." *Id*. at 562. From this requirement of due process and fair treatment, a two-part inquiry for determining the fundamental fairness of a juvenile proceeding emerged: 1) does the action serve a legitimate state objective?; and 2) are there adequate procedural safeguards to authorize the action? *Schall v. Martin*, 467 U.S. 253, 263-264 (1984). The effect is a balancing test in which the due process interests of the child are weighed against the distinctive state interests involved in the administration of juvenile justice.

The inquiry is not wholly distinct from the analysis undertaken when considering shackling in the adult context. Similarly, when restraints are imposed on adults in a criminal court setting, courts look for a legitimate state interest in the use of restraints and for a judicial process by which the use of such restraints is

justified. Our common law tradition has long maintained that an individual "be brought to the bar without irons, or any manner of shackles or bonds; unless there be evident danger of an escape." 4 W. Blackstone, Commentaries on the Laws of England 317 (1769). In modern parlance, the use of shackles has been limited to instances where restraints are justified by "an essential state interest specific to each trial." *Holbrook v. Flynn*, 475 U.S. 560, 568-569 (1986). The Court illustrated this standard explicitly in *Deck v. Missouri*, 544 U.S. 622 (2005), when it wrote that the right to be free from restraints

> permits a judge, in the exercise of his or her discretion, to take account of special circumstances, including security concerns, that may call for shackling [….] But any such determination must be case specific; that is to say, it should reflect particular concerns, say special security needs or escape risks, related to the defendant on trial.

Id. at 633. While the *Deck* and *Holbrook* cases addressed shackling at different stages of a criminal trial, the common approach behind the imposition of restraints is a finding of need for such restraints, in light of a legitimate state interest and specific to the defendant at that particular juncture of adjudication.

The current practice of indiscriminately shackling detained children is indefensible under either the analysis of prior juvenile due process cases, such as *Kent* and *Schall*, or the approach utilized with respect to the shackling of adult defendants, as in *Holbrook* or *Deck*. A blanket policy by its nature does not even begin to address the state interest, if any, in shackling children or the specific need

for shackling a particular child. While the legitimate state interest of courtroom safety and decorum may be asserted (*Deck*, 544 U.S. at 632; *infra*, Part IVB), a blanket policy that does not even inquire into that interest, never mind require any substantiation of such an assertion, cannot be countenanced. The standardless, indiscriminate policy utterly disregards the due process concerns of the child and, consequently, the central issue of fundamental fairness. Where no inquiry occurs at all, judges are exercising discretion in direct conflict with these previously established due process principles.

The proposed rule would have a curative effect on the juvenile justice system's current neglect of constitutional standards. By requiring findings of both necessity and the lack of less restrictive alternatives, the rule ensures that judges sitting in juvenile courts comply with the established constitutional standards. Judges still retain discretion to enforce courtroom safety, but now are able to do so within guidelines that prevent the transgression of the child's qualified right to be free from restraints.

B. Indiscriminate Shackling Violates the Presumption of Innocence

Of these fundamental due process rights owed to a child in the juvenile system, the presumption of innocence is one such right that is significantly compromised by an indiscriminate shackling practice. When judges impose restraints without regard to the actual needs or risks of a child, they necessarily

pass judgment on the child's character in the absence of proof and negatively influence the attitudes of other parties with respect to the child. The proposed rule is necessary to protect the shackled child from the labels and prejudicial connotations that accompany unwarranted shackling. Indeed, as argued below, blanket shackling policies create self-fulfilling prophecies. Treated like deviants, shackled children act the part.

The right to a presumption of innocence is identified as foundational in *In re Winship*, and is termed an "axiomatic and elementary" principle, even in the juvenile delinquency context. *In re Winship*, 397 U.S. at 363. Arising out of this central precept is the uniform rule that appearing before a jury in shackles is inherently prejudicial to a defendant. *Holbrook*, 475 U.S. at 568; *Bello v. State*, 547 So. 2d 914, 918 (Fla. 1989). The prejudice is apparent in the negative impression that chains and restraints may make upon the fact finder, be it a jury or a judge. *Holbrook*, 475 U.S. at 568.

The prejudicial effect of shackling on the judge as fact finder has not been thoroughly addressed in prior case law. However, the centrality of the presumption of innocence should force any court to proceed with extreme caution when imposing restraints. Judges in juvenile court serve the same role as the jury in the sense that they are the triers of fact, and the child should be protected from any impermissible inferences drawn from the child's appearance in restraints,

whether those inferences are consciously drawn or inadvertent. When the shackling is done indiscriminately, without regard to the actual threat the child poses, the danger of a prejudicial inference is increased for those children for whom the shackling is unwarranted. A child with no prior delinquent history and no history of violence will garner an image as a much more dangerous individual in the eyes of the judge when he appears shackled, especially where the judge has taken no efforts to consider factors in the child's life and context that could mitigate that impression.

A potentially more dangerous impairment on the presumption of innocence occurs in the mind of the child himself when restraints are imposed upon him without a showing of cause. The adolescent's peculiar stage of development makes him particularly susceptible to outside perceptions in his formation of identity. Affidavit of Dr. Marty Beyer ¶ 9-10.[4] The stigmatizing and humiliating effect of being shackled, especially where unwarranted, can result in the child himself adopting the attitude that he is a bad or dangerous person. *Id.* Affidavit of

[4]Dr. Beyer, a clinical psychologist with expertise in adolescent development, and a national independent consultant on juvenile justice policy, submitted an expert affidavit to eradicate blanket shackling of children in the courtroom. The affidavit was filed in support of a Motion for Child to Appear Free from Degrading and Unlawful Restraints filed by the Miami-Dade Office of Public Defender in the Eleventh Judicial Circuit, *available at* http://www.pdmiami.com/unchainthechildren/AppendixDBeyer.pdf.

Dr. Gwen Wurm. ¶8.[5] The perception of a presumption of innocence all but vanishes if the child is led to believe by his being treated like a dangerous person that he is in fact thought to be so by the court and society.

The prejudicial effects of shackling on both the fact finder and the child's psyche are exacerbated because restraints are imposed at all stages of delinquency proceedings, not just the adjudicatory or penalty phases. *See* Bernard P. Perlmutter, "*Unchain the Children:" Gault, Therapeutic Jurisprudence, and Shackling*, 9 Barry L. Rev. 1, 3 (2007). A child in the juvenile justice system can appear in shackles at a sounding, pre-trial conference, a simple motion hearing, or any other pre-adjudication court date. Consequently, the child is branded as criminal or guilty, regardless of whether he has in fact been found to be so.

The Minority Report justifies the blanket policy for shackling during these pre-adjudicatory proceedings as being "beneficial" to the youth. Minority Report, at 15. Its report relies on undocumented anecdotes claiming that "shackling, rather than being injurious, could have several beneficial effects, including impressing upon the securely detained child the seriousness of his or her situation, and,

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[5]Dr. Wurm, a board-certified developmental, behavioral and general pediatrician who teaches at the University of Miami Miller School of Medicine and serves as director of Jackson Memorial Hospital's Medical Foster Care Program, submitted an expert affidavit in support of the same Motion, calling for individual needs assessments before shackling children inside the courtroom, *available at* http://www.pdmiami.com/unchainthechildren/AppendixFDrGwen%20Wurm.pdfWurm.

likewise, a deterrent effect upon other young people in the courtroom could be expected." *Id.* These arguments fly in the face of the child's right to the presumption of innocence. The criminal justice system, *especially* the juvenile justice system, should never be allowed to treat a child punitively, either at the pre-adjudicatory phase of the delinquency process or after a child has been adjudicated delinquent. Indeed, to require shackling as a form of punishment in hopes of deterring children from violating the law is profoundly unconscionable in light of the historic mission of this system to provide treatment for children charged with delinquent offenses.[6]

Protecting the presumption of innocence should be of the highest concern for judges in the juvenile justice system, although the current approach treats such a right dismissively when it presumes the child to be worthy of shackling without just cause for doing so. The proposed rule can return meaning to the presumption of innocence by requiring factual findings before the shackling can be imposed. The risk, even if small, of a judge or other observers being impermissibly prejudiced by the image of a shackled youth can effectively be avoided when the judge is invited to rebut an unwarranted inference of dangerousness through an

[6]Consistent with this mission, and with the empirical evidence on adolescent behavior, the Supreme Court has recognized that deterrence may not have the same effect on children as it does on adults. *See Roper v. Simmons*, 543 U.S. 551, 571 (2005)("[T]he absence of evidence of deterrent effect is of special concern because the same characteristics that render juveniles less culpable than adults suggest as well that juveniles will be less susceptible to deterrence.").

individualized finding in which countervailing factual considerations are examined.

C. Indiscriminate Shackling Violates the Child's Access to Counsel

Justice Fortas, in the *Kent v. U.S.* opinion, succinctly articulated the consequences of the dual nature of juvenile courts, which were purported to rehabilitate children while depriving them of their rights. 383 U.S. at 556 ("he [the child] gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children.") Since the creation of the juvenile courts, children have been extended some, but not all, of the constitutional rights accorded to their adult counterparts. In the seminal case of *In re Gault*, Justice Fortas pronounced that children were equally deserving of due process rights. 387 U.S. at 33. One of the most important of those due process rights recognized by the Court was the child's right to be represented by counsel when faced with a charge of delinquency. *Id*. at 39, n.65 (referring to National Crime Commission Report, pp. 86-87, "The Commission believes that no single action holds more potential for achieving procedural justice for the child in the juvenile court than provision of counsel. The presence of an independent legal representative of the child, or of his parent, is the keystone of the whole structure of guarantees that a minimum system of procedural justice requires.").

The Minority Report completely ignores the critical constitutional issue of access to counsel. Indiscriminately shackling youths inside the courtroom makes it very difficult, if not impossible, for youths to communicate with their attorneys. Physically, if children are shackled, they are prevented from writing notes to their attorney. *See* Perlmutter, *"Unchain the Children,"* 9 Barry L. Rev. at 37. Thus, shackling limits the type of communication children can have with their attorneys and therefore, frustrates their right to counsel.

It is also important to understand that while an adolescent might only be a couple of years away from being defined as an "adult," the mind of an adolescent is very different than the mind of an adult. Marty Beyer, Ph.D., *Developmentally-Sound Practice in Family and Juvenile Court*, 6 Nev. L. J. 1215, 1226-7 (2006). Children experience shackling personally. *See* Affidavit of Dr. Marty Beyer ¶ 14. They do not have the ability to understand that all youths are shackled. *Id*. The youth sees shackling as a personal injustice perpetrated by the court, and therefore, distrusts those associated with the court. See *Id*. ¶ 16. This distrust can affect the relationship the youth has with his attorney. If the child attributes the attorney as being part of the system that has shackled him, then surely the child will not be able to speak openly with his attorney. Thus, whether or not the youth has a right to counsel is moot when the youth distrusts his attorney.

IV. Courtroom Security Concerns are Unfounded

A. No Demonstrated Security Need Justifies Indiscriminate Shackling

The Minority Report insists that unshackled children are a security threat, and thus, blanket shackling policies are necessary to protect those inside the courtroom. Minority Report, at 14-15. However, there is no evidence of security risks posed by unshackled children. *See* Perlmutter, *"Unchain the Children,"* 9 Barry L. Rev. at 14 ("…data on the incidence of courtroom violence, and particularly violence perpetrated by juveniles, is sparse and not supportive of a blanket shackling policy.") (citing Hon. Fred A. Geiger, *Courtroom Violence: The View from the Bench*, 576 Annals Am. Acad. Pol. & Soc. Sci. 102, 103 (July 2001)). In fact, evidence shows that unshackled children pose no greater risks to the safety of the courtroom than do shackled children. Emily Banks, et al., *The Shackling of Juvenile Offenders: The Debate in Juvenile Justice Policy*, Center for Children and Families ("CCF"), University of Florida Levin School of Law 1, 9 (2008), *available at* http://www.law.ufl.edu/centers/childlaw/pdf/shackling.pdf .

Nationally, there has been a movement to unshackle children in the courtroom. *Id*. at 11. Currently, 22 states do not have a regular practice of shackling their youth. *Id*. at 10. Within Florida, Miami-Dade County juvenile courts have elected to only shackle children based on individual findings of a security threat; and Alachua County, while continuing to shackle children by the

legs, has discontinued handcuffing children inside the courtroom except for individual findings of a security threat.[7] *Id*. at 5-6.

The movement to unshackle children in the courtroom seems to beg the question as to why courts decided to implement blanket policies of shackling children in the first place. Carlos Martinez, Miami-Dade County Public Defender, has written that,

> In Miami-Dade, since the first child was unshackled, more than 3,000 detained children have appeared in court, few have been determined to be a flight or safety risk to justify shackling. We have not had courtroom escapes or injuries caused by the detained but unshackled children. Despite seeing a high number of detained children in court each day, our judges dispense justice one-child-at-a-time, without additional courtroom personnel. We do not have armed officers in court.

Carlos Martinez, *Challenging the Shackling of Juveniles in Court*, 2 COD Network Newsletter 5 (July 2007), *available at* http://www.lajusticecoalition.org/doc/COD%20Newsletter%202007.pdf. The findings in Alachua County were similar. Based on observation research conducted by the Center for Children and Families (CCF), 95% of unshackled children were "compliant." Banks, et al., *The Shackling of Juvenile Offenders*, at 9.

[7]Other Florida counties have also rejected blanket shackling of children in the courtroom (e.g. Lafayette, Hamilton, Suwannee, Clay, Monroe, Palm Beach, Dade and Broward). Banks, et al., *The Shackling of Juvenile Offenders*, at 7.

Fears that children would escape or pose a threat to courtroom decorum have been dispelled by research which shows that unshackled children are not a security threat. Furthermore, many children in delinquency proceedings have not been accused of serious crimes. Department of Juvenile Justice, *Getting Smart about Juvenile Justice in Florida*, Blueprint Report 1, 9 (January 2008), *available at* http://www.djj.state.fl.us/blueprint/documents/Report_of_theBlueprint_Commision.pdf (" …Florida's detention centers and residential placement programs are heavily populated with youth who are considered low risk and whose most serious violations are misdemeanors. In secure detention centers across Florida in 2007, almost half of the youth had committed nothing worse than a misdemeanor.") These children are not violent criminals who pose a security threat to the court.

Youths accused of more serious crimes are usually direct filed to the adult criminal justice system. Perlmutter, "*Unchain the Children,*" 9 Barry L. Rev. at 31. Yet, these youths who have been direct filed are less likely to be shackled in the criminal justice system than in the juvenile justice system. *Id.* Consequently, in the many counties in Florida, a child who is accused of shoplifting is much more likely to be shackled than an adult accused of murder.

B. Discretion to Maintain Security and Decorum Cannot Trump a Child's Constitutional Rights

The proposed rule and its imposition of a standard for the exercise of discretion does not negate the authority of the juvenile court judge to maintain the safety and decorum of the courtroom, as has been suggested. Rather the proposed rule merely circumscribes that discretion within the accepted limits of due process. The Minority Report condemns the proposed rule as an unnecessary constraint on the ability of judges to control their courtrooms. It warns that explosions of violence from children will result from the adoption of the proposed rule should shackling be instituted only upon individualized findings. Minority Report, at 13-14. Not only do these charges misconceive the emotional reactions of juveniles in the courtroom (*see infra*, Part V). They also disregard the constitutional rights of children in delinquency proceedings and too narrowly imagine the scope of judicial discretion that will be exercised by juvenile court judges if the rule is adopted by this Court.

There can be no dispute that judges have discretionary authority within the courtroom to manage security and decorum. *Deck*, 544 U.S. at 632 ("We do not underestimate the need to restrain dangerous defendants to prevent courtroom attacks, or the need to give trial courts latitude in making individualized security determinations"); *Hernandez v. State*, 2009 LEXIS 149, *28 (Fla. 2009); *England v. State*, 940 So. 2d 389, 404 (Fla. 2006). However, this discretion has never been utterly unbridled, nor has its exercise been authorized to the detriment of a

defendant's constitutionally protected rights. The Court in *Deck* was careful to note that the exercise of a judge's discretion with respect to shackling must be a case-specific determination couched in concerns relevant to the defendant at that point in trial. *Deck*, 544 U.S. at 633. Similarly, in *England*, this Court circumscribed the court's discretion to maintain courtroom decorum to the restraint options that inhibited the defendant's constitutional rights the least. *England*, 940 So. 2d at 404. These attitudes toward judicial discretion, particularly with respect to restraining defendants, reflect the overarching concern of *In re Gault*, that "[u]nbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and practice." 387 U.S. at 18.

Consequently, the Minority Report's fears of encroachment upon judicial discretion are unfounded. An absolute resistance to any kind of guideline or limit to judicial discretion is contrary to the standards for discretion previously articulated. In truth, the proposed rule very closely mirrors the requirements articulated in the case law of the U.S. and Florida Supreme Courts in that it sanctions discretion in making a case-specific determination of the need for restraints.

Furthermore, instead of constraining the judicial discretion of the juvenile court judges, the proposed rule in fact frees these judges to appropriately exercise their inherent discretion. This Court has previously defended the judicial integrity

of juvenile court judges when it repealed a similar blanket rule that established video detention hearings. *Amendment to Florida Rule of Juvenile Procedure 8.100(a)*, 796 So. 2d 470, 475 (Fla. 2001). In support of repealing that rule, the Court commented that

> [t]he issue here is not the integrity of individual judges for it is the compulsory approach advanced by the proponents that belies and negates the integrity and judgment of individual judges. The repealed ruled forced the implementation of a predetermined policy representing a mechanistic and robotic approach to matters that require individualized care and attention.

Id. at 475. The problem to which the present rule is addressed is precisely as formulated by the Court in 2001 – judges are being forced into a compulsory judgment in conformity with an indiscriminate rule, when their inherent discretionary authority and the matter itself require an individualized approach.

The proposed rule permits judges to effectively exercise discretion as to the appropriateness of shackles. In fact, the rule encourages the judge to make and follow his or her own assessment of the risks presented at any given point in delinquency proceedings. The discretion to which judges are entitled cannot exist in the face of a uniform policy lacking exception; the proposed rule abrogates the blanket policy and amplifies the judges' discretion by providing guidelines toward its exercise. The proposed rule should be adopted not only as a protection for the child's rights, but also as a means of validating and bringing into conformity with constitutional principles the discretionary authority of juvenile court judges.

V. Indiscriminate Shackling is Contrary to the Purposes of the Juvenile Justice System

Chapter 985 of the Florida Statutes spells out the bounds of our juvenile justice system. While the issue of shackling is not explicitly addressed in this foundational legislation, indiscriminate shackling is nothing if not wholly incompatible with the purpose and implementation of this statute. This Court, in interpreting Chapter 985, and an evolving body of psychological and jurisprudential scholarship support the core concept that the juvenile justice system, in order to be effective, must be individualized and rehabilitative. A blanket rule of shackling, which in practice can inflict both emotional and physical harm on the child, affords neither the individualized attention that a child in the delinquency system needs nor the opportunity for growth and reformation. The proposed rule conforms more closely to the current legal and psychological understanding of the purposes and role of the juvenile justice system, and should therefore be approved and implemented.

Section 985.01 articulates the legislative intent behind the creation of the juvenile justice system. §985.01, Fla. Stat. (2008). Overall, this section intends to balance the safety and security of the child and society against the unique developmental needs of the child while in the system. In particular, §985.01(1)(b) emphasizes that the system should promote the "healthy social, emotional, intellectual, and physical development" and the "overall health and well-being" of

a child in the juvenile justice system. Section 985.01(1)(c) further differentiates the juvenile system from the adult criminal system and reinforces the focus on the developmental well-being of the child by stressing the rehabilitative end of the juvenile justice system. Specifically, the section highlights the need for "comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered" with an eye toward "the specific rehabilitation needs of the child" among other concerns. *Id*. Also important to note is §985.01(2) which instructs that the Chapter be "liberally interpreted and construed in conformity with the its declared purposes." Thus, the purposes of rehabilitation and attention to the well-being of the child found in Chapter 985 were not meant to be merely aspirational, but rather are to be reflected in the interpretation and implementation of the rest of the statute's provisions.

True to this express mandate, this Court has been deferential to the stated legislative intent of Chapter 985 and has interpreted it in a variety of cases so as to conform to the unique purpose of rehabilitating the child. As early as the 1970s, this Court explicitly recognized the rehabilitative focus of the juvenile justice system in *In the Interests of C.J.W*. There the Court noted

> that certain significant distinguishing characteristics justify the differences of approach and procedure between the juvenile justice system and the criminal justice system[….] The key to this difference in approach lies in the juvenile justice system's ultimate aims.

> Juveniles are considered to be rehabilitatable. They do not need punishment. Their need lies in the area of treatment.

In the Interests of C.J.W., 377 So. 2d at 24. Subsequent case law reiterates and faithfully conforms to the underlying purposes of rehabilitation and treatment. More recently, the Court in *V.K.E. v. Florida*, 934 So. 2d 1276, 1280-1281 (Fla. 2006) adopted in full the analysis of the circuit court in refusing to impose steep fines on juvenile offenders and, as the primary basis for the decision, quoted the trial court's interpretation of legislative intent:

> The statutory scheme sets up a separate procedure and system for handling juveniles who violate the state/county/city criminal laws, different and apart from the adult system. The stated public policy underlying Chapter 985 is to protect children involved in the juvenile justice system, and to insure their care, safety, treatment, education and rehabilitation.

See also E.A.R. v. Florida, 2009 LEXIS 150 at *5-6 (Fla. 2009) ("the Legislature created the juvenile justice system as a separate, distinct rehabilitative alternative to the more punitive, incapacitation-oriented criminal justice system"); *State v. J.M.*, 824 So. 2d 105, 114 (Fla. 2002); *P.W.G. v. State*, 702 So. 2d 488, 491 (Fla. 1997).

Thus, through extensive prior case law, the Court has created a well-articulated understanding of the juvenile justice system as a rehabilitation-oriented alternative to the adult criminal system that is focused on the specific needs of children. Given the stated purpose of Chapter 985 and the Court's understanding

of and deference to that purpose, the proposed rule is appropriate and, furthermore, necessary. The current model of indiscriminate shackling has deviated substantially from the goals of the juvenile justice system and created a situation that does not support the individual psychological and rehabilitative needs of the child, but in many cases actually inflicts further harm upon the child. Evidence from the fields of child psychology and pediatrics supports the conclusion that children who are shackled as routine face risks of emotional harm that can be lasting and counterproductive to the ends of rehabilitation.

Going all the way back to *In re Gault*, the judicial approach to juvenile justice has recognized the legitimacy of the emotional well-being of the child and the child's perceptions of justice in the application of the law. In concluding that children are not exempt from the Fourteenth Amendment, Justice Fortas referred to and relied upon the expertise of a sociological study prepared for the National Council of Juvenile Court Judges in which procedural laxness on the part of the court was connected to negative feelings in the child that would inhibit the ultimate end of rehabilitation. *In re Gault*, 387 U.S. at 26. The study concluded that "[u]nless appropriate due process of law is followed, even the juvenile who has violated the law may not feel that he is being fairly treated and may therefore resist the rehabilitative efforts of court personnel." *Id*. The Court's ultimate ruling was made with an eye toward this critical connection between emotions and

perceptions of the child with respect to the proceeding and the overall success of the rehabilitative process.

Modern psychologists and child development experts have similarly concluded that the rehabilitative ends of the juvenile justice system are thwarted when the child's emotional and developmental needs are not addressed in court proceedings. Dr. Marty Beyer, a clinical psychologist with expertise in adolescent development and a national consultant on juvenile justice, has attested to the generally accepted principle among similar professionals to only physically restrain children in rare instances where imminent harm is likely. Affidavit of Dr. Marty Beyer ¶1-7. Dr. Gwen Wurm, a pediatrician and public health specialist on the faculty of the University of Miami Miller School of Medicine, also identifies the use of routine restraint to be contrary to the basic tenets of developmental pediatric practice. Affidavit of Dr. Gwen Wurm ¶7, 11.

According to both experts, the special developmental period of adolescence tends to amplify the effects of court actions on the child because it is at this time in life that the child's sense of self and moral identity is being formed; the child's treatment by society and by the court can heavily influence the outcome of that formative process. Affidavit of Dr. Marty Beyer ¶14, 17; Affidavit of Dr. Gwen Wurm ¶8. When the actions of the court seem indiscriminate and are not tied to any offending behavior by the child, the child's sense of unfairness will be

heightened. This sense of unfairness will cause the child to be resistant or inattentive to the court's proceedings, thus impeding any rehabilitative efforts intended by Chapter 985 or juvenile justice jurisprudence. *Id*. Shackling in particular cultivates a negative image for the child, leading to self-identification as a dangerous animal. Affidavit of Dr. Marty Beyer at ¶8.

The recent report of the National Juvenile Defender Center ("NJDC") objects to indiscriminate shackling for reasons similar to those of child development and psychology experts. After thorough investigation, the NJDC concluded that "[t]he practices of chaining youth together and to stationary objects represent a serious hazard in case of fire, are contrary to good correctional practice, and are arguably unconstitutional." Cathryn Crawford and Patricia Puritz, *Florida: An Assessment of Access to Counsel and Quality Representation of in Delinquency Proceedings*, National Juvenile Defender Center (Fall 2006) at 56, *available at* http://www.njdc.info/pdf/Florida%20Assessment.pdf.[8] The "good correctional practice" of other entities within Florida, most notably the Department of Children

[8]The Minority Report's dismisses the NJDC recommendations as consisting of "less than two pages." Minority Report, at 10. This criticism ignores the validity of the recommendations contained therein and misconceives the comprehensive nature of the NJDC recommendations. To selectively read the NJDC recommendation and to view shackling issue in isolation, as the Minority Report appears to be doing, is to unduly minimize the overall legal and psychological impact of the juvenile justice system on children who are charged with delinquent acts.

and Families ("DCF") and the Department of Juvenile Justice ("DJJ"), conform to the proposed rule and reject the use of a blanket shackling policy. DJJ has promulgated numerous rules that delimit the permissible use of mechanical restraints and authorize their use only "if necessary." *See* Fla. Stat. §985.03(44)(c)(3); Fla. Admin. Code §63G-2.012(3)(a)-(d); §63G-2.005(2)(3); §63G-2.005(6)(d); §63H-1.002-1.006; §63H-1.009; §63H-1.012. Likewise, DCF has specific rules that generally prohibit the mechanical restraint of children in mental health facilities unless necessary for safety and, even when found to be necessary, require that restraints be used only for limited periods of time. *See* Fla. Admin. Code §65C-14.021; §65E-9.006(1)(b)-(c); §65E-9.007(5)(f); §65E-9.012; §65E-9.013; §65E-10.021(3)(e)(8). Indeed, it is generally accepted by medical and mental health professionals that shackling and physical restraints should only be used on children as a last resort.[9]

[9]*See, e.g.*, American Psychiatric Ass'n, The Use of Restraint and Seclusion in Correctional Mental Health Care 4 (2006), *available at* http://archive.psych.org/edu/other_res/lib_archives/archives/200605.pdf.

Additionally, U.S. Department of Health and Human Services general regulations for the use of restraints on patients in mental health facilities set forth explicit guidelines for determining when the use of physical restraints on patients in these facilities is appropriate. Like the state regulations cited above, these guidelines emphasize the limited situations when physical restraints might be appropriate, the types of personnel who should apply restraints, the duration for which restraints should be used, and appropriate follow-up care. *See* 42 C.F.R. §482.13(e).

Thus, best practices among various fields limit the physical and mechanical restraint of juveniles and carefully regulate the use of restraints when they are found to be necessary. The general understanding, be it by DJJ, DCF, or child development and pediatrics experts, is that the imposition of restraints ought to be done sparingly and only where warranted by the specific circumstances presented. These attitudes toward restraints are reflected in the underlying purpose of Chapter 985 and in the proposed rule, which mirrors the best practices in other fields of child welfare and juvenile justice. The Minority Report fails to provide any reason why juvenile court judges should act in a manner contrary to these well-accepted practices.

Thus, federal regulations do not allow the restraint of mental facility patients, whether adults or children, except in those situations in which there is no other available choice, and require their removal at the earliest possible time. Significantly, they prohibit the use of standing orders for restraint, 42 C.F.R. §482.13(f)(4)(a), and limit the duration of restraint to two hours for children and adolescents ages nine through seventeen, or one hour for patients under age nine. 42 C.F.R. §482.13(f)(4)(g).

These guidelines, which illustrate the "best practices" in the use of restraints to control mental health patients in psychiatric facilities, clearly demonstrate that the unbridled use of mechanical restraints upon children and adolescents in the courtroom, without any consideration of less restrictive alternatives, any limits on the use of restraints to situations involving an immediate risk of safety to the juvenile or others in the courtroom, and any durational limits, is, at best, arbitrary and capricious, and at worst, anti-therapeutic or even injurious to the child.

Rather than proceeding in a manner that is precisely antithetical to the ends of the juvenile justice system, judges under the proposed rule are freed to utilize their discretion and assess the safety and rehabilitative needs of each child in a manner consistent with the legislative intent of Chapter 985 and the general understanding of the unique needs of children in the delinquency system. The proposed rule reinforces the legislative purpose and puts the power back in the hands of judges to make the necessary individualized assessments of safety and need for each child. The constraints of a blanket rule would be removed in favor of freedom for the judges to consider the full context of the child's age, maturity, health, alleged delinquent act, prior delinquencies, and other factors and to make an individualized ruling on the necessity of holding the child in restraints accordingly.

VI. Considerations of Therapeutic Jurisprudence Argue in Favor of Adoption of the Proposed Rule

In addition to violating children's constitutionally protected liberty interests and being contrary to the rehabilitative aims of the juvenile justice system, the blanket use of restraints in the courtroom is anti-therapeutic. As noted in the preceding section, the central purpose of the juvenile justice system is "[t]o ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of

the act committed, the community's long-term need for public safety, the prior record of the child, and the specific rehabilitative needs of the child…." § 985.01(1)(c), Fla. Stat. (2008). A blanket courtroom shackling policy that fails to take into account on an individual basis any of these factors is profoundly contrary to this key purpose of the Florida juvenile justice system.

Moreover, considerations of therapeutic jurisprudence strongly argue against a blanket policy of shackling juveniles in court. Therapeutic jurisprudence is a field of social inquiry with a law reform agenda, which studies the ways in which legal rules, procedures, and the roles of legal actors produce therapeutic or anti-therapeutic consequences for those affected by the legal process. Therapeutic jurisprudence is a study of the ways in which legal rules, procedures, and the roles of legal actors produce therapeutic or anti-therapeutic consequences for those affected by the legal process.[10]

Therapeutic jurisprudence seeks to promote policies, systems, and relationships, consistent with normative principles of justice and constitutional law, which will secure positive therapeutic outcomes and minimize negative

[10]*See generally* Bruce J. Winick, Civil Commitment: A Therapeutic Jurisprudence Model (2005); Bruce J. Winick and David B. Wexler, eds., Judging in a Therapeutic Key: Therapeutic Jurisprudence and the Courts (2003); David B. Wexler and Bruce J. Winick, eds., Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence (1996).

psychological and behavioral effects of anti-therapeutic legal rules and practices. The principles of therapeutic jurisprudence are especially germane to the juvenile court setting, which was designed to meet a rehabilitative agenda by which judges dispense an assortment of therapeutic services to children who are victims of abuse or charged with delinquent offenses.[11]

Indiscriminate shackling brands and stigmatizes juvenile defendants in ways that adversely affect how others regard them, and the manner in which they regard themselves. This "self-fulfilling prophecy" effect has strong support in the social psychology and sociological literature.[12] Labeling persons or otherwise treating them in ways that convey to them a negative or discrediting message sets in motion

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[11]Therapeutic jurisprudence has been embraced by the Florida courts, particularly in proceedings implicating the due process and dignitary interests of juveniles. *See, e.g., M.W. v. Davis*, 756 So. 2d 90, 107 (Fla. 2001) (Pariente, J.) (noting the psychological benefits to juveniles from being afforded procedural protections prior to being placed in psychiatric treatment facilities); *Amendment to the Rules of Juvenile Procedure, Fla. R. Juv. P. 8.350*, 894 So. 2d 1206, 1210-11 (Fla. 2001) (Pariente, C.J.)(expressly applying the principles of therapeutic jurisprudence in the Florida Supreme Court's adoption of a rule of juvenile procedure requiring the court to consider the child's views before ordering him or her into residential treatment). *See also* Hon. Barbara J. Pariente, *Introduction, Symposium Issue: Therapeutic Jurisprudence in Clinical Legal Education*, 17 St. Thomas L. Rev. 403 (2005).

[12]*See generally* Thomas J. Scheff, Being Mentally Ill: A Sociological Theory (1966) (deviancy labeling serves to marginalize those labeled, causing them to internalize a deviant self-image, and sometimes as a result, to engage in acts of secondary deviance); Bruce J. Winick, *The Side Effects of Incompetency Labeling and the Implications for Mental Health Law*, 1 Psychol. Pub. Pol'y & L. 6 (1995) (same).

forces that lead them to behave in ways that confirm their ascribed roles. It does so in two ways. First, it produces behavior in individuals observing the labeled person that causes them to act in a manner toward the branded person that confirms the label's negative attributes. Second, it causes the labeled individual to regard himself differently, accepting the discrediting impact of the label and transforming his identity in ways that subsequently cause him to act in accordance with the stigmatizing label.

Shackling is a particularly pernicious form of labeling. It conveys the unmistakable message that the shackled individual is dangerous, violent, and must have committed a serious crime. It conveys this message to the judge, who will adjudicate his guilt, the prosecutor and other court personnel. Shackling gives the juveniles who are labeled a spoiled identity: they are "bad" and "dangerous" people who must be restrained in the most primitive way. They must thereby lack self-control. This is exactly the opposite message from the one we want to convey to juveniles struggling with their identity who get into trouble with the law.

Lastly, as the Supreme Court in *Deck* observed, a routine policy of shackling offends basic judicial notions of "formal dignity, which includes the respectful treatment of defendants, reflects the importance of the matter at issue, guilt or innocence, and the gravity with which Americans consider any deprivation of an individual's liberty through criminal punishment." *Deck*, 544 U.S. at 631. This

symbolic yet concrete objective is no less important in a juvenile court proceeding than it is in a criminal proceeding, both of which should aim to secure positive therapeutic outcomes and minimize negative psychological and behavioral effects of anti-therapeutic legal rules and practices.

In sum, the practice of requiring all detained children to be held in restraints, shackles and chains for their appearances in circuit court hearings, without individualized risk or dangerousness assessments, or consideration of less restrictive or drastic safety or flight-risk precaution precautions, is counter-therapeutic in that it brands and stigmatizes them as dangerous and deprives them of fair and dignified hearings by a respectful and respected court.

VI. Conclusion

For constitutional, statutory, rehabilitative and therapeutic jurisprudence reasons, the practice of indiscriminately shackling detained children in court, irrespective of the child's age, height, weight, gender, offense, risk of flight, or threat to public safety, should cease. The University of Miami School of Law's Children & Youth Law Clinic respectfully urges this Court to adopt the Juvenile Court Rules Committee's proposed amendment to Rule 8.100, Florida Rules of Juvenile Procedure.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent this 31st day of March, 2009, to the following: David Neal Silverstein, Esq., Committee Chair, The Florida Bar, Juvenile Court Rules Committee, 501 E. Kennedy Blvd., Ste 1100, Tampa FL 33602-5242.

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Bernard P. Perlmutter

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this document complies with the font requirements of Rule 9.210(a)(2) of the Florida Rules of Appellate Procedure.

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Bernard P. Perlmutter