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GEORGIA

Family Violence Newsletter

Governor's Office for Children and Families

A PUBLICATION OF THE PROSECUTING ATTORNEYS' COUNCIL OF GEORGIA
DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAM

>>> OUR MISSION

The goal of PAC's Domestic Violence and Sexual Assault Program is to effectively assist and be a resource to prosecutors, law enforcement and victim advocates across Georgia, and to improve the effective adjudication of domestic and sexual violence cases and to reduce such crimes across our state.

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Source: http://www.voxxi.com/victims-of-human-trafficking-sequels/

feature articles

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Commercial Sexual Exploitation of Children

By Lalaine Briones, Domestic Violence and Sexual Assault Resource Prosecutor, Prosecuting Attorneys' Council of Georgia

The commercial sexual exploitation of children has become the third largest money generator for organized crimes, only the sale of illegal firearms and drugs exceeds it.[1] Children, too, are victims of trafficking in large numbers. International and federal law defines trafficking as profiting from the participation of anyone under the age of 18 in commercial sex. According to UNICEF figure of more than 2,000,000 children are exploited yearly in the global sex industry, but children are trafficked for more than commercial sex. They are forced to beg or commit petty crimes, used in industries such as fishing, gold mining, and brick making, or turned into child-soldiers by rebel armies. The International Labor Office has estimated that 40% to 50% of those in its category of "forced labor" are children.

The United States government annually counts both worldwide and domestic trafficking prosecutions and convictions, and the numbers are woefully low. The 2013 U.S. Trafficking in Persons Report gives a worldwide figure of 7,705 prosecutions and 4,746 convictions. In addition, the Justice Department reports separate law enforcement figures for cases of child sexual exploitation; in FY 2013, the Criminal Division's child Exploitation and Obscenity Section, in coordination with United States Attorneys' Offices, initiated 18 prosecutions involving the sex trafficking of children and child sex tourism.[2]

While commercial sexual exploitation of children is an international epidemic, it also occurs much closer to home, right in our own backyards. Atlanta is a hub for CSEC.[3] There are many forms of Commercial Sexual Exploitation of Children, pornography, prostitution, sex tourism, and trafficking. In Atlanta, the most prevalent form of commercial sexual exploitation is prostitution.[4] While Atlanta is the hub for this activity in Georgia, the entire state is impacted. This is the case because some of the minors that are exploited come from suburban or rural counties outside of Atlanta.[5]

There has long been the belief that prostitution is a victimless crime because prostitutes willingly participate in the activity. However, when prostitution involves under-age girls, some as young as 10 years old, the perception of prostitution as a victimless crime is preposterous. Under Georgia law a child under 16 years of age cannot legally consent to participating in any form of sexual activity. Our Legislature, based on current community standards, has determined that children under 16 cannot comprehend nor fully understand the consequences of participating in sexual activity. For any child, consequences can include unwanted pregnancies, sexually transmitted diseases and psychological trauma. For children who are victims of CSEC, the consequences include the aforementioned as well as medical neglect, educational neglect, physical violence, drug abuse, alcohol abuse, psychological abuse, HIV, depression and even death.

WHAT CHILDREN ARE VULNERABLE TO COMMERCIAL SEXUAL EXPLOITATION

Gender and age predispose victims within the United States to commercial sexual exploitation, which is the most documented form of domestic trafficking.[6] Girls and women are trafficked domestically or from abroad to meet the demand generated by customers willing to buy women and children for commercial sex.[7] Girls involved in CSEC are far more likely than boys to be under the control of pimps.[8] The aspect of youth, itself, makes children vulnerable. The majority of people in prostitution entered before they turned 18 years old, many well before, and any sexual exploitation of children under 18 is trafficking under State and Federal law.

This newsletter is a publication of the Prosecuting Attorneys' Council of Georgia and was made possible by a Grant from the Governor's Office for Children and Families. PAC encourages readers to share varying viewpoints on current topics of interest. We invite law enforcement, prosecutors and victim advocates to write an article for publication. The views expressed in this publication are those of the authors and not necessarily of the State of Georgia, PAC or the Council staff. Please send comments, suggestions or articles to Lalaine Briones at lbriones@pacga.org.

In the United States poverty is a major risk factor. Family dysfunction that correlates to poverty is a primary reason that many children are lured into commercial sexual exploitation. Common among commercial sexual exploitation victims are children who have run away from home; been thrown out of home; and those that have experienced physical abuse, sexual abuse, or neglect. These children often come from homes where substance abuse or domestic violence is prevalent. Those who are in the United States illegally are easily lured into commercial sexual exploitation because of the fear of being deported. One study found that a third of foreign national victims were recruited once they had entered the United States and not when they were in their country of origin.[9]

RECRUITMENT

Shockingly, a child's own friends often recruit them into the world of sexual exploitation. Peers who are already in CSEC, living what look like glamorous lives, recruit schoolmates, friends, or even sisters.[10] Pimps looking for prospects often hide their intentions by feigning interest in the well-being of their targets. Typically, they find girls who have run away from home, often after they have been sexually abused, or whose dysfunctional families have physically or emotionally abandoned them.[11] Children are recruited at schools, shopping malls, bus stations, shelters, drop in centers, or even correctional facilities. Victims are often found online in chat rooms, social media sites, or recruiters place advertisements pretending to be talent scouts and modeling agents.[12] Recruiters can often be boyfriends or those pretending that they want a romantic relationship with the victim. Initially, they may profess love, give their victims a place to live, and shower them with gifts of clothes or jewelry. This assists in easing the victim's transition into prostitution and creating a strong bond with victims. This also accomplishes the goal of making the victim feel complicit in their own victimization.[13]

Girls and women are often used in the recruitment process.[14] Women constitute a fairly large percentage of defendants in prosecutions for trafficking.[15] In the sex trade, female recruiters and handlers are useful because they lend legitimacy to the operation. They are less threatening than male traffickers and better able to gain the trust of victims. They also make the fact of prostitution seem less offensive to new victims. Frequently, these women and girls are themselves victims of sex trafficking who gain special privileges from those holding power over them or find an escape from prostitution by moving from exploited to exploiter.[16]

CONTROL OF VICTIMS

The kinds of abuse used to control victims have been documented by various studies of both domestic and international trafficking. The studies describe a fairly consistent and devastating set of tactics. Violence is the most common tactic used by traffickers to maintain control and power over victims.[17] Violence is used to convince victims that their survival depends on submission to their traffickers' demands. It also serves as punishment, reminds victims that they live in captivity, and acts as a means of keeping victims on edge so that they are more easily controlled.[18] Many kinds of violence are employed. One study reported that victims were "hit, kicked, punched, struck with objects, burned, and cut with knives."[19] In the most extreme cases, victims are murdered.[20] Rape is extremely common.[21] Once traffickers establish their capacity for violence, they exercise control through coercion.[22] Traffickers threaten not only victims but also their friends and families.[23] These threats are plausible. Traffickers often know victims' families, and victims often report having seen, or knowing about, traffickers' violence, including murder, perpetrated against other victims.[24]

The abuse used to control victims is psychological as well as physical. Non-physical violence can be as damaging to the health, well-being, and ability of victims to function as physical violence. One scholar characterized psychological abuse in trafficking as "generally persistent, commonly extreme, and frequently perpetuated in such a way as to destroy a woman's mental and physical defenses."[25] The forms of psychological abuse are many, varied, and designed to keep victims off balance, frightened, and in a constant state of stress. Traffickers almost always cut victims off from their family, friends, and communities.[26] Movement of any kind is a useful means of isolating victims psychologically as well as physically, and transporting them to different locations is particularly effective in isolating them.[27] Victims who have been taken across multiple borders are often completely lost to family members who might try to locate them.[28] Once commercial exploitation begins, traffickers often keep victims on the move, and the changes of locale can be so frequent that victims have no idea where they are.[29] Victims are often confined by their traffickers, and their movements are restricted; they may be constantly watched and allowed outside only if closely guarded.[30] They are often prevented from calling or communicating with people they know.[31] Victims exploited in prostitution are often given new identities.[32] Victims are also often deprived of basic necessities, including food, sleep, and secure shelter.[33] Victims are kept hungry and exhausted. In addition, they may be forced to live in places that are dirty, overcrowded, and unsafe.[34] Generally, victims live where they work, sleep in beds they use to service customers, or sleep on floors.[35]

Drugs and alcohol can play major roles in the subjugation of commercial sexual exploitation victims. Traffickers sometimes prey on children with addictions. If a victim does not abuse drugs, traffickers will sometimes introduce them to illegal substances.[36] The giving and withholding of drugs by traffickers is commonly used to maintain control over victims.[37] Drugs and alcohol also act as an anesthesia, dulling physical and psychological pain, making victims capable of enduring the conditions of their circumstances.[38]

Endnotes

[1] *The FBI Law Enforcement Bulletin, Human Trafficking 2011*, by Amanda Walker Rodriquez and Rodney Hill.

[2] Trafficking in Persons Report 2013, U. S. Department of State.

[3] FBI Law Enforcement Bulletin, Atlanta Division 2010.

[4] Alexandra Priebe, *Hidden in Plain View, The Commercial Sexual Exploitation of Girls in Atlanta*, A Study of the Atlanta Women's Agenda, September 2005.

[5] Alexandra Priebe, *Hidden in Plain View, The Commercial Sexual Exploitation of Girls in Atlanta*, A Study of the Atlanta Women's Agenda, September 2005.

[6] Estes, *Commercial Sexual Exploitation of Children in U.S.*

[7] *Id*.

[8] *Id*.

[9] Bales, *Trafficking in the United States*, *supra* note 48, at 24, 29. *See also* Advocates for Human Rights, *Sex Trafficking in Minnesota*, *supra* note 41, at 24; TIP Report 2010, *supra* note 2, at 338.

[10] Estes, *Commercial Sexual Exploitation of Children in U.S.*, *supra* note 47, at 58; Raphael, *Domestic Sex Trafficking in Chicago*, *supra* note 44, at 6; Priebe, *Commercial Sexual Exploitation of Girls in Atlanta*, *supra* note 45, at 18; Minnesota American Indian Resource Center, *Shattered Hearts*, *supra* note 42, at 51.

[11] Raphael, *Domestic Sex Trafficking in Chicago*, *supra* note 44, at 7; Minnesota American Indian Resource Center, *Shattered Hearts*, *supra* note 42, at 54-55, 61; Williamson, *Domestic Minor Sex Trafficking*, *supra* note 43, at 6-8; Urbina, Runaways, *supra* note 78; Wilson, *Human Trafficking in Ohio, supra* note 46, at 17; Estes, *Commercial Sexual Exploitation of Children in U.S.*, *supra* note 47, at 57-58.

[12] Advocates for Human Rights, *Sex Trafficking in Minnesota*, *supra* note 41, at 24; Urbina, Runaways, *supra* note 78.

[13] Urbina, Runaways, *supra* note 78; Advocates for Human Rights, *Sex Trafficking in Minnesota*, *supra* note 41, at 24; Estes, *Commercial Sexual Exploitation of Children in U.S.*, *supra* note 47, at 58; Raphael, *Domestic Sex Trafficking in Chicago*, *supra* note 44, at 10-11; Wilson, *Human Trafficking in Ohio*, *supra* note 46, at 18; Priebe, *Commercial Sexual Exploitation of Girls in Atlanta*, *supra* note 45, at 19.

[14] UNODC Overview, *supra* note 51, at 12; UNODC Report 2009, *supra* note 16, at 45-47; TIP Report 2008, *supra* note 74, at 11; Advocates for Human Rights, *Sex Trafficking in Minnesota*, *supra* note 41, at 24; Wilson, *Human Trafficking in Ohio*, *supra* note 46, at 22-23; Priebe, *Commercial Sexual Exploitation of Girls in Atlanta*, *supra* note 45, at 18; Tumlin, *Trafficking in Children in Asia*, *supra* note 40, at 15-16.

[15] UNODC Report 2009, *supra* note 16, at 45-47.

[16] TIP Report 2008, *supra* note 74, at 11; Hughes, *The 'Natasha' Trade*, *supra* note 39, at 11; Hughes, *Trafficking in Women from the Ukraine*, *supra* note 39, at

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15; Tumlin, *Trafficking in Children in Asia*, *supra* note 40, at 15; Priebe, *Commercial Sexual Exploitation of Girls in Atlanta*, *supra* note 45, at 18.

[17] Bales, *Trafficking in the United States*, *supra* note 48, at 49 ("Above all pure violence is the most powerful means traffickers used to control trafficked workers."); Wilson, *Human Trafficking in Ohio*, *supra* note 46, at 20-22; Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 41, 45-46; Hughes, *Trafficking in Women from the Ukraine*, *supra* note 39, at 55-56; Ian Urbina, "A Grim Tour," *The New York Times*, Feb. 21, 2007; Hooper, *Invisible Chains*, *supra* note 50, at 198.

[18] *See*, *e.g.*, Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 37, 41, 46; Raphael, *Domestic Sex Trafficking in Chicago*, *supra* note 44, 17-19, 29-31; Bales, *Trafficking in the United States*, *supra* note 48, at 49-50.

[19] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 46.

[20] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 46. For a number of international instances, *see* Hughes, *The "Natasha" Trade*, *supra* note 39, at 12.

[21] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 37, 41, 47; Zimmerman, *Stolen Smiles, A Summary Report*, *supra* note 38, at 10; Wilson, *Human Trafficking in Ohio*, *supra* note 46, at 20-21; Stephen-Smith, *Routes In, Routes Out*, *supra* note 37, at 22; Hooper, *Invisible Chains*, *supra* note 50, at 195-96; TIP Report 2010, *supra* note 2, at 5.

[22] For descriptions of how traffickers establish and exploit a capacity for violence, *see* Bales, *Trafficking in the United States*, *supra* note 48, at 51-52; Zimmerman, *Stolen Smiles, A Summary Report*, *supra* note 38, at 10; Hooper, *Invisible Chains*, *supra* note 50, at 198.

[23] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 52; Zimmerman, *Stolen Smiles, A Summary Report*, *supra* note 38, at 11; Stephen-Smith, *Routes In, Routes Out*, *supra* note 37, at 22-23; Hooper, *Invisible Chains*, *supra* note 50, at 199: Shelley, *Trafficking: The Business Model Approach*, *supra* note 51, at 126.

[24] Hughes, *The "Natasha" Trade*, *supra* note 39, at 12; Stephen-Smith, *Routes In, Routes Out*, *supra* note 37, at 23; Hooper, *Invisible Chains*, *supra* note 50, at 200; Urbina, *A Grim Tour*, *supra* note 97.

[25] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 51.

[26] Hooper, *Invisible Chains*, *supra* note 50, at 195; Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 57-58; Bales, *Trafficking in the United States*, *supra* note 48, at 30; Priebe, *Commercial Sexual Exploitation of Girls in Atlanta*, *supra* note 45, at 19.

[27] Bales, *Trafficking in the United States*, *supra* note 48, at 47-48; Hughes, *Trafficking in Women from the Ukraine*, *supra* note 39, at 37; Hooper, *Invisible Chains*, *supra* note 50, at 195.

[28] Hughes, *Trafficking in Women from the Ukraine*, *supra* note 39, at 37.

[29] Bales, *Trafficking in the United States*, *supra* note 48, at 47-48.

[30] Wilson, *Human Trafficking in Ohio*, *supra* note 46, at 20; Bales, *Trafficking in the United States*, *supra* note 48, at 46-49; Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 56-57; Zimmerman, *Stolen Smiles, A Summary Report*, *supra* note 38, at 11; Stephen-Smith, *Routes In, Routes Out*, *supra* note 37, at 23; Hughes, *Trafficking in Women from the Ukraine*, *supra* note 39, at 55; Hughes, *The 'Natasha' Trade*, *supra* note 39, at 11. One study of domestic sex trafficking in Chicago found that 43% of victims said outright that they could not leave the premises on their own without fear of physical harm, and another 20% said they did not even know if they could. Raphael, *Domestic Sex Trafficking in Chicago*, *supra* note 44, at 27-28.

[31] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 57; Raphael, *Domestic Sex Trafficking in Chicago*, *supra* note 44, at 27-28.

[32] Hooper, *Invisible Chains*, *supra* note 50, at 199; Lustig, *Working Girl or Sex Slave?*, *supra* note 49; Wilson, *Human Trafficking in Ohio*, *supra* note 46, at 21.

[33] Stephen-Smith, *Routes In, Routes Out*, *supra* note 37, at 23; Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 39-40, 46-47; Zimmerman, *Stolen Smiles, A Summary Report*, *supra* note 38, at 12; Hooper, *Invisible Chains*, *supra* note 50, at 191-92.

[34] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 63; Bales, *Trafficking in the United States*, *supra* note 48, at 42-43.

[35] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 59-60; Bales, *Trafficking in the United States*, *supra* note 48, at 43-44.

[36] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 55-56; Raphael, *Domestic Sex Trafficking in Chicago*, *supra* note 44, at 10, 27; Advocates for Human Rights, *Sex Trafficking in Minnesota*, *supra* note 41, at 67-68; Priebe, *Commercial Sexual Exploitation of Girls in Atlanta*, *supra* note 45, at 19; *see also* Melissa Farley *et al*., *Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder*, 2 Journal of Trauma Practice 33, 62-63 (2003) (*hereinafter* Farley, *Posttraumatic Stress*).

[37] Raphael, *Domestic Sex Trafficking in Chicago*, *supra* note 44, at 27. In a study of pimp-controlled prostitution in Chicago, 29% of the participants reported that drugs were provided to encourage addiction and 23% said that drugs were withheld as a means of coercion. *Id*.

[38] Zimmerman, *Health Consequences of Trafficking*, *supra* note 38, at 55-56; Bales, *Trafficking in the United States*, *supra* note 48, at 44-45. GFV

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Expanded Options for Helping Child Victims of Sexual Exploitation

By Kirsten Widner, Director of Policy and Advocacy,
The Barton Child Law and Policy Center at Emory University School of Law

Cases involving the commercial sexual exploitation of children (CSEC) can be some of the most challenging prosecutors face, because of the unique characteristics and needs of the victims. The challenges have been exacerbated by the scarcity of appropriate resources for responding to these victims. This article will briefly review the nature of the problem and then provide information on some recent developments that expand the options at your disposal when working with CSEC victims.

CSEC is the prostitution or sex trafficking of people under the age of 18. CSEC victims have experienced layer upon layer of trauma. The exploitation itself usually involves rape or sex coerced by a third party, physical violence, and confinement by force or threats. In addition to these recent experiences, the majority of CSEC victims come from troubled homes where they have experienced neglect, physical abuse, sexual abuse, or some combination of these. Service providers who work with these victims report that between 70-90% of the children they see had a history of sexual abuse *before* becoming CSEC victims.

CSEC victims often cope with their trauma in maladaptive ways. They may become chronic runaways, abuse alcohol or illegal substances to numb their pain, bond with their exploiter, or act out in a number of other illegal or unsafe ways. It is hard to get them to trust or to talk about their experiences. They can make uncooperative or unreliable witnesses against their exploiters. All this makes them challenging for prosecutors and law enforcement who come across them.

Prosecutors often express frustration at the difficulty of balancing competing concerns relating to a CSEC victim: concerns for the child's safety; the need for the child's testimony against the exploiter; accountability for offenses the child might have committed; and compassion for the child's needs and rights as a crime victim. In the past, the difficulty of this balance has been exacerbated by a lack of resources appropriate to these victims. Often, it seemed the only way to keep a child safe and in one place was to put them in an RYDC. Recent developments, however, have expanded the options available to you when you face these challenging cases.

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The Georgia Care Connection Office (GCCO)

Founded in June 2009 as an initiative of the Governor's Office for Children and Families, the Georgia Care Connection Office serves CSEC victims statewide through a system of care approach. Now in their fifth year, GCCO has built a strong network of providers who can provide specialized services to CSEC victims, including safe house or residential treatment services. They also have peer advocates—CSEC survivors who work with referred victims, giving them someone who understands what they've been through and someone who can reach them when no one else can. In addition to service referrals, peer support, and case management, GCCO can also help find ways to pay for the child's services, whether or not the child is in state custody. GCCO should be your first point of contact when looking for services or placements for CSEC victims. To make a referral to GCCO, call 404.602.0068 or visit their website at http://www.georgiacareconnection.com/refer_a_victim for an email referral form.

Child Advocacy Centers (CACs)

CACs have always been amazing partners for law enforcement in traditional sexual abuse cases. However, the usual protocol for those cases involved doing a forensic interview as early in the case as possible and all at once—responses inconsistent with a CSEC victim's lack of trust and complex trauma history. The Georgia Center for Child Advocacy recognized this, and obtained a grant from the Substance Abuse and Mental Health Services Administration (SAMHSA) to develop a CSEC specific approach to forensic interviewing. Though their SAMHSA research is still ongoing, they have already learned a lot about how to conduct effective forensic interviews with CSEC victims, and they are sharing this knowledge throughout their statewide network. This allows your local CAC to be an even better resource to your office in building cases against the people who have exploited children.

Georgia's New Juvenile Code

Passed by the Georgia General Assembly as House Bill 242, the new juvenile code takes effect on January 1, 2014. When it goes into effect, there are a couple of parts of the bill that may be helpful to you in responding to CSEC victims.

Prosecutors often struggle with how to respond to acts committed by CSEC victims that would be crimes if they were adults, but which are related to their exploitation. Prostitution is the most obvious example, though O.C.G.A. § 16-3-6 now provides an affirmative defense to this for sex trafficking victims. Less obvious examples may be drug use or possession or loitering—acts that stem from or are involved in the exploitation of the child. Prosecutors may not wish to see children punished for these acts, but may be uncomfortable with having no court supervision for the child. Under both current law and the juvenile code, if the parent is involved in the exploitation or has been neglectful and failed to protect the child, then court supervision can be obtained through a deprivation petition (or dependency petition, as it will be called under the new code). However, if parental fault is not able to be found, under current law the alternative is to file a delinquency or unruly petition. However, this option tends to be more punitive in nature and is not ideal based on the child's status as a victim.

Under the new code, there is another alternative: a child in need of services (CHINS) petition. CHINS covers the same class of children currently considered to be unruly, but with a more holistic, service-focused approach. CSEC victims will often meet the statutory definition of CHINS, either because they are habitually disobedient to their parents and placing themselves in danger, they are running away, or they are truant or breaking curfew when they are being sold for sex. By filing a CHINS petition rather than a delinquency petition, you can access they court's service resources and supervision for the child without bringing delinquency charges. Another benefit of CHINS is that it covers 17 year olds, whereas delinquency jurisdiction ends on the child's 17th birthday. For a 17-year-old victim, a CHINS petition would be a much better alternative than charging the child in adult court.

Finally, if you have brought charges against a child for prostitution and you later discover that the child is a CSEC victim, the new code provides the option to modify or vacate a delinquency adjudication on the grounds that the child was exploited. If the child has already completed his or her disposition, the new code allows for the sealing of the delinquency record on grounds of exploitation as well.

Better forensic interviewing services through CACs, a coordinated system of care approach through GCCO, and additional options under the new juvenile code are new tools to help you provide a victim-centered response to CSEC victims while balancing the complexities of these cases. Thank you for all you do to protect children and hold exploiters accountable. GFV

Source: 2010 Child Trafficking Danger, by Carly Ritz; Article found at http://www.parent24.com/Teen_13-18/health_safety/2010-child-trafficking-danger-20100115.

Source: http://daniellej556.files.wordpress.com/2011/06/child-abuse-stories.jpg

>>> **facts:**

- **100,000 to 300,000 youth are at risk for CSEC annually.**
- **1.7 million children run away each year in the U.S.**
- **The average age of entry into commercial sex industry in the U.S. is 12-14 years old.**

Atlanta is a Hub for Child Sex Trafficking

The FBI has named Atlanta as one of the 14 cities in the U.S. with the highest incidence of children used in Sex Trafficking

- **By Appointment**
- **Hartsfield Airport**
- **Adult Entertainment Industry**
- **Large hotels with busy lobbies**
- **Motels near strip clubs**
- **Escort service call centers**

Statistics from the Governor's Office of Children and Families (http://children.georgia.gov)

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Sexual Assault Resources for Prosecutors

Websites:

Prosecutor's Resource on Violence Against Women – www.Aequitasresource.org

The Women's legal defense and Education fund – www.Legalmomentum.org

End Violence Against Women International – www.evawintl.org

National Sexual Violence Resource Center – www.nsvrc.org

Other sites:

http://www.nij.gov/journals/264/SANE.htm

http://www.aequitasresource.org/library.cfm

http://www.aequitasresource.org/Prosecutor_Reference_Medical_Evidence.pdf

http://www.aequitasresource.org/Benefits_of_Specialized_Prosecution_Units_in_Domestic_and_Sexual_Violence_Cases_Issue_8.pdf

http://www.aequitasresource.org/Benefits_of_a_Coordinated_Community_Response_to_Sexual_Violence_Issue_7.pdf

http://www.aequitasresource.org/Absence_of_Anogenital_Injury_in_the_Adolescent_Adult_Female_Sexual_Assault_Patient_Issue_13.pdf

http://www.aequitasresource.org/Prosecuting_Cases_of_Sexual_Abuse_in_Confinement.pdf

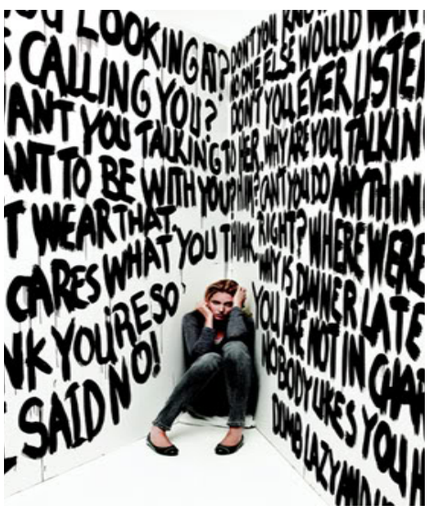
http://www.wcasa.org/file_open.php?id=3

http://law.lclark.edu/live/files/6470-a-criminal-justice-guide-legal-remedies-for-adult

http://www.aequitasresource.org/Rape_and_Sexual_Assault_Analyses_and_Laws.pdf

http://www.legalmomentum.org/challenges-adult-victim-sexual-assault-cases

http://www.legalmomentum.org/resources/intimate-partner-sexual-abuse-adjudicating-hidden-dimension-domestic-violence-cases



Case Law Update

Stevens v. State

A13A1057, 2013 Ga.App. Lexis 715, Decided August 9, 2013

Defendant alleged that a variance existed between the State's proof at trial and the acts alleged in the indictment. The indictment alleged that Stephens committed child molestation by placing his hand on the victim's "female sex organ." Stephens argued the State did not prove this offense because the victim did not specifically testify that this act occurred; rather, she testified that he touched her breasts and thighs. The victim also testified that Stephens cleaned her vaginal area with a towel after the assault. Following prior decisions, the court declined to hold that evidence of skin-to-skin contact is required to prove that the defendant touched the victim's vagina or made physical contact with the victim's genital area. Gunn v. State, 300 Ga.App. 229, 230(1) (684 S.E.2d 380) (2009).

Furthermore, other witnesses, including the victim's mother, the investigator assigned to her case, the physician's assistant who examined her after the assault, and a forensic interviewer testified that the victim's initial allegation was that Stephens touched her vaginal area. These prior statements were admissible as substantive evidence under the Child Hearsay Statute, former O.C.G.A. § 24-3-16. Therefore, the evidence was sufficient for a rational trier of fact to find Stephens guilty beyond a reasonable doubt of child molestation in the manner alleged in the indictment. The trial court did not err in denying Stephens' motion for a new trial.

Bacchus v. State

A13A0925, 2013 Ga.App. Lexis 697, Decided July 31, 2013

Defendant was convicted of Rape, Child Molestation and Cruelty to Children. The trial court denied defendant's motion for new trial, at which he was represented by Michael Sheridan. Trial counsel, Anton Rowe, was not called by the defense to testify at the motion for new trial.

Sheridan filed a motion to withdraw as counsel, which the trial court granted, and new counsel was appointed to represent Bacchus on appeal. That same day, Bacchus' newly appointed appellate counsel, the public defender, filed a notice of appeal with the trial court. However, just six days later, a second notice of appeal was filed on Bacchus's behalf by Anton Rowe. Rowe, not the newly appointed public defender, appeared as attorney of record in the Court of Appeals and represents Bacchus in this appeal.

The defendant's sole argument on appeal is ineffective assistance of counsel. Because Bacchus chose to pursue this appeal using the same attorney who defended him at trial (despite having hired new counsel to represent him at the motion-for-new-trial hearing and despite having been initially appointed a public defender to represent him on appeal), he has waived appellate review of this issue. This situation is distinguishable from one in which an appellant has been represented by the same attorney from trial through direct appeal and makes a claim for ineffective assistance of counsel for the *first time* on appeal. Nevertheless, just as in those cases, Bacchus's appellate counsel should be "precluded from presenting a claim of ineffective assistance of counsel concerning a trial in which he participated due to the ethical prohibition of a lawyer acting as a witness." Defendant's convictions were affirmed.

Barmore v. State

A13A0691, 2013 Ga.App. Lexis 645, Decided July 15, 2013

Defendant contended trial counsel was ineffective for failing to move to strike a juror for cause. The juror was the president of the board of a child advocacy corporation, at which the victim was interviewed. The Court of Appeals concluded that counsel was not ineffective, because the juror was not a full-time employee of the district attorney's office, nor was he compensated by either the corporation or the district attorney's office. In addition, the juror unequivocally stated that he could be impartial.

Walker v. State

A13A0185, 2013 Ga.App. Lexis 471; Decided June 11, 2013

The Court of Appeals considered what is required to protect a defendant's right to confrontation under the Child Hearsay Act in light of Hatley and Bunn. Defendant was convicted of two counts of rape, four counts of aggravated child molestation, three counts of aggravated sodomy and two counts of child molestation.

Walker argued that the introduction of his older daughter's out-of-court statements pursuant to the Child Hearsay Statute, former O.C.G.A. § 24-3-16, violated his constitutional confrontation rights. Walker's rights were not violated because he was given the opportunity to have the child testify, but he chose not to.

In Hatley v. State, 290 Ga. 480, 483-484(I) (722 S.E.2d 67) (2012), the Supreme Court of Georgia overruled a long line of cases, including Sosebee v. State, 257 Ga. 298 (357 S.E.2d 562) (1987), that had construed the Child Hearsay Statute to require the trial court (1) at the request of either party, to cause a child molestation victim to take the stand before the state rests; and (2) to inform the jury that the court called the child as a witness. In *Hatley*, the court ruled that such a procedure does not

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"pass constitutional muster because it fails to put the onus on the prosecution to put the child victim on the witness stand to confront the defendant."

Instead, to comport with the Confrontation Clause, former O.C.G.A. § 24-3-16 requires that the child whose statements are at issue not merely be "available to testify" but actually testify at trial, unless the defendant forfeits or waives such testimony, and requires pretrial notice of the state's intent to use child hearsay statements to allow the defendant to exercise that right. *Bunn v. State*, 291 Ga. 183, 189(2)(b), n. 4 (728 S.E.2d 569) (2012). **The *Hatley* court directed trial courts to "take reasonable steps to ascertain, and put on the record, whether the defendant waives his right to confront the child witness."** The Court found that this is precisely what the trial court did here, even without the benefit of the *Hatley* opinion.

The older victim did not testify. The state decided not to call her but informed the court that she was available, should the court decide to call her. Defense counsel told the court that he did "not require this," was concerned about her emotional state, and did "not request that she be brought in." Regardless, in "an abundance of caution," the trial court excused the jury and said that he would have the child brought into the courtroom so that Walker could question her regarding her emotional state. Defense counsel reiterated that he "accepted the state's report of the child's emotional state and that he did not want to traumatize the child. He and Walker were not requesting to call the witness." The court nonetheless brought the child in so that defense counsel could "examine her if he chose to. He could examine her to see what her state was and to satisfy himself that things were as they were represented and make a decision whether he wanted to place her on the stand and have her to testify in the case." Defense counsel questioned her, asking her whether she wanted to testify and telling her that he had "no intention of calling her to force her to testify." When he was done questioning the child, defense counsel conferred with Walker and then informed the court that, "the defense does not request the court call her as the court's witness. We do not intend to call her as our witness. I do appreciate the fact that I had a chance to see her and observe this. We are satisfied that she has an enormous reluctance to testify. She has so said. She does appear to be rather tense at the moment."

The Court of Appeals found not only did Walker fail to object on Sixth Amendment grounds at trial, but he affirmatively declined the opportunity to question the victim before the jury, thereby "waiving his right to confront the child witness." Walker asserted that any waiver was induced by the *Sosebee* line of cases. In essence, he argues that under *Sosebee*, the admission of child hearsay did not violate his right to confront witnesses, so he did not raise a Confrontation Clause objection. Walker was given the opportunity to question the child and chose not to. Under these circumstances, Walker waived his right to confront the child witness.

Wynn v. State

A13A0176, 2013 Ga.App. Lexis 457, Decided May 30 ,2013

Defendant was convicted of Rape, Child Molestation and Incest. On appeal, Defendant argued that the State failed to prove the element of force with regard to the rape. The victim testified that she pretended to be asleep during the assault because she was scared. When she failed to obey Wynn's command that she open her legs, he pushed them open. As Wynn spoke to her, the victim did not reply and continued to pretend to be asleep. When Wynn went into the bathroom during the repeated acts of sexual intercourse, she remained motionless in the bed because she was scared to move. Further, the victim testified that it "did not feel good" when her father had intercourse with her. The testimony of a single witness is generally sufficient to establish a fact. Here, the victim's testimony provided evidence of force necessary to support Wynn's rape conviction.

Ford v. State

A13A0204, 2013 Ga.App. Lexis 442, Decided May 29, 2013

Ford argued that the trial court erred in allowing a victim's advocate to accompany the first victim to the witness stand and sit by her in front of the jury while she testified.

When the first victim took the stand to testify at Ford's trial, the trial court cleared the courtroom of all spectators, pursuant to O.C.G.A. § 17-8-54, with the exception of a victim advocate who accompanied the first victim to the witness stand and sat on the floor next to the first victim while she testified. The trial court carefully observed the advocate's presence and demeanor during the first victim's testimony and saw no inappropriate or prejudicial conduct or behavior.

The trial court has broad discretion in controlling the trial of a case and has a great deal of latitude in the examination of young witnesses. Moreover, this Court has held that a trial court does not abuse its discretion in allowing a victim-witness advocate to sit with the victim during testimony.

Ford argued that the victim advocate was not within the group of people authorized to remain in the courtroom under O.C.G.A. § 17-8-54, which provides:

> In the trial of any criminal case, when any person under the age of 16 is testifying concerning any sex offense, the court shall clear the courtroom of all persons except parties to the cause and their immediate families or guardians, attorneys and their secretaries, officers of the court, jurors, newspaper reporters or broadcasters, and court reporters.

Contrary to Ford's argument, O.C.G.A. § 17-8-54 protects the interest of the child witness, not the defendant, and a trial court's failure to follow the statute does not violate a defendant's rights. Furthermore, no evidence in the record shows that the victim advocate improperly influenced the first victim's testimony. Consequently, Ford failed to show that the trial court abused its discretion in allowing the advocate to sit with the victim during her testimony.

Whorton v. State

321 Ga.App. 335, 741 S.E.2d 653 (2013)

One of the important matters that this case resolved was that it held that a statement to a forensic interviewer is testimonial, and testimonial statements are defined as those made when the circumstances objectively indicate that there is no ongoing emergency, and that the primary purpose of the interrogation is to establish or prove past events potentially relevant to later criminal prosecution.

The case is also notable because Whorton argued that he was entitled to a pre-trial hearing to determine the reliability of child-hearsay statements (Gregg hearing) after the Supreme Court's holding in Hatley. The Court of Appeals wrote "despite Whorton's argument that the trial court erred in denying his request for a pre-trial hearing to determine whether the statements at issue had sufficient reliability, there is no requirement in the child-hearsay statute that the court conduct such a hearing *prior* to receiving the relevant testimony. Nor is there a requirement that the trial court "make a specific finding of sufficient indicia of reliability in order for the out-of-court statements of child victims to be admissible." Indeed, the statutory requirement is met if "after both parties have rested, the record contains evidence which would support such a finding." Thus, so long as sufficient evidence of indicia of reliability "appears in the record either before or after the introduction of the child's out-of-court statements, the fair trial rights of the defendant are adequately protected."

Moreover, Defendant argued that the trial court erred in admitting the child-hearsay statements in violation of his Confrontation Clause rights when, although the child was available to testify, the State did not call the child victim to testify at trial. The State conceded that the trial court erred. The Court of Appeals also agreed that the trial court erred but found the error harmless because the inadmissible evidence (testimony of the forensic interviewers) was cumulative of admissible non-testimonial evidence (testimony from the victim's mother and boyfriend that the child disclosed sexual abuse by the defendant to them).

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Castaneira v. State

321 Ga.App. 418, 740 S.E.2d 400 (2013)

Under Georgia law, transcripts of conversations that occurred via online instant messaging are admissible provided they are created and/or authenticated by someone who participated in that conversation, and who testifies "that the transcript accurately represent[s] the on-line conversation." *Ford v. State*, 274 Ga.App. 695, 697(1) (617 S.E.2d 262) (2005). Here, Detective Jones testified that she participated in all of the online conversations with Castaneira; that she created the transcripts by copying the text exactly as it appeared on her computer screen, without making any additions, omissions, or other alterations to that text; and that the transcript reflected the exact words used in the conversation, as well as the online names used by the persons who typed those words. "Under these circumstances, Detective Jones's testimony was tantamount to that of a witness to an event and was sufficient to authenticate the transcript." *Hammontree v. State*, 283 Ga.App. 736, 739(3) (642 S.E.2d 412) (2007) (transcript of online conversation properly admitted where witness testified "that she was an actual participant in the instant message session at issue, confirmed that the words printed on the paper were in fact the words used in the conversation and that the transcript was actually printed from the computer that she had used during the conversation").

Additionally, there was no merit to defendant's argument that because the transcripts introduced at trial were photocopies of the ones originally printed out by Detective Jones, their admission violated O.C.G.A. § 24-5-4. The best evidence rule does not prohibit the introduction of photocopies, so long as the originals are "satisfactorily accounted for." O.C.G.A. § 24-5-4(a). Here, the original transcripts were accounted for as having been placed in the case file, and there is no evidence that the photocopied transcripts were not exact duplicates of the originals. Under these facts, the trial court did not abuse its discretion in admitting the photocopies.

Tudor v. State

320 Ga.App. 487 740 S.E.2d 231 (2013)

Defendant argued that the evidence against him failed to satisfy the asportation element required for enticing a child for indecent purposes. The Court of Appeals disagreed, holding that the movement of B. C. the short distance from the living room sofa to the kitchen table satisfied the asportation element required to sustain Tudor's conviction for enticing a child for indecent purposes. See *Whorton v. State*, 318 Ga.App. 885, 887(1)(a) (735 S.E.2d 7) (2012) (evidence that defendant called victim to come from a different part of the house and into his bedroom, for the purpose of showing her pornography, satisfied the asportation element).

Johnson v. State

A13A0199, 2013 Ga.App. Lexis 573, Decided July 2, 2013

Defendant was convicted of Rape, Aggravated Battery and numerous other offenses. On appeal, he argued that the trial court erred by granting the State's motion in limine to exclude evidence that he and the victim had a prior consensual sexual relationship.

The facts at trial showed that the victim was hospitalized for almost two weeks. Her skull had been cracked to the point that a piece of that bone was protruding into her brain and underwent emergency surgery. The victim also required surgery for fractures she had sustained to her nasal bones. Additionally, she sustained fractures to other facial bones and to an arm bone, and numerous lacerations across her face and on her fingers. She also had bruises around her eyes and on her back, and several of her teeth had been knocked out.

Police officers investigating the crime scene found blood throughout the house — inside a closet, and on windows, walls, and floors, as well as upon various objects, including a broken liquor bottle. Windows were broken, and furniture lay strewn about.

The State moved in limine under the Rape Shield Statute to exclude any evidence of prior instances of consensual sexual conduct between the victim and defendant in light of the violence inflicted upon the victim. Although defense counsel argued that the evidence should be allowed, the trial court granted the state's motion, finding no inference, given the circumstances surrounding the events that gave rise to the charges that Johnson could reasonably have believed that the victim consented to sexual intercourse, even if she had previously consented to it.

The Court of Appeals affirmed the trial court writing, "In light of the victim's testimony, the crime scene, and the evidence of her injuries, we cannot say that Johnson's prior consensual sex with her substantially supports the conclusion that he reasonably believed she consented on the night of the offense. Nor does justice mandate the admission of such testimony."

Defendant further argued that the trial court erred in admitting into evidence a letter he purportedly wrote to a woman who called the police after hearing screams and loud noises. Defendant contended that the State failed to authenticate the letter, by demonstrating that it was written by him. The Court of Appeals found no error, noting that the letter bore defendant's name and booking number and the envelope bore a stamp from the county jail where defendant was being held. In addition, the letter detailed an account of what happened that was consistent with defendant's version of events, making it unlikely anyone else wrote the letter.

Easter v. State

A13A0024, 2013 Ga.App. LEXIS 476, Decided June 12, 2013

Defendant argued that the trial court erred when it denied his motion for disclosure of the psychiatric history of the victim under *Bobo v. State*, 256 Ga. 357 (349 S.E.2d 690) (1986). He claims that he was entitled to the victim's psychiatric records because he did not deny having sex with the victim; thus, the case against him rested upon the victim's credibility. Defendant contends that had he been able to further attack her credibility with materials gleaned from mental health records, the outcome might have been very different.

In *Bobo*, the Supreme Court held, that a witness' statutory psychiatrist-patient privilege must yield to the defendant's constitutional right of confrontation if the defendant makes a "showing of necessity, that is, that the evidence in question is critical to his defense and that substantially similar evidence is otherwise unavailable to him." The Supreme Court noted that the psychiatrist-patient privilege "prohibits the defendant from engaging in a 'fishing expedition' regarding a witness' consultations with a psychiatrist. Therefore, a defendant may not explore such evidence unless he makes allegations sufficient to establish a prima facie need for its discovery."

At the motions hearing and in his appellate brief, defendant pointed to no evidence indicating that the victim's psychological records were necessary to his defense. Rather, he merely speculated that the records might show that the victim's "story was different than what they expected her to testify to at trial, and any other information that may go to her credibility." Easter had not shown that the victim's mental condition or treatment was relevant to, or affected the credibility of her allegations. In the absence of such evidence, Easter failed to demonstrate the required necessity to obtain the victim's psychiatric history. See *Atkins v. State*, 243 Ga.App. 489, 496-497(3) (533 S.E.2d 152) (2000). Therefore, the trial court did not err.

Nelson v. State

320 Ga.App. 295; 739 S.E.2d 754 (2013)

Trial court erred in instructing jury that child molestation was a lesser included offense of statutory rape. The facts alleged in the indictment were not sufficient to establish crime of child molestation as they did not raise the intent to arouse or satisfy the sexual desires of either the child or the accused, an essential element of the crime of child molestation.

Durden v. State

293 Ga. 89; 744 S.E.2d 9 (2013)

The language and structure of O.C.G.A. § 16-5-21 demonstrate that the facts which the State must prove beyond a reasonable doubt to

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convict a defendant of the offense of aggravated assault — the essential elements of that crime — are those set forth in subsection (a). Only after a defendant is found guilty of that offense do the factors listed in subsections (c) through (j) come into play, potentially increasing the minimum sentence from one to either three or five years but leaving the maximum sentence at 20 years. **The "living in the same household" fact that triggers a three-year mandatory minimum sentence under O.C.G.A. § 16-5-21(j) is therefore only a sentencing factor, not an essential element of the offense.** See *United States v. O'Brien*, 560 U. S. 218, ___ (130 S.Ct. 2169, 2175, 176 LE2d 979) (2010) (discussing how to analyze whether the legislature meant a given fact to be an element of the crime itself or only a sentencing factor). **The Supreme Court's contrary conclusion in *Hall* was therefore overruled.**

Defendant further argued that the trial court erred in denying his motion to strike for cause prospective juror number 31, requiring him to use a peremptory strike to remove her from the trial jury. During voir dire, Juror 31 said that her sister, niece, cousin, and her cousin's children had been victims of **domestic violence** and that her college roommate's father had been murdered. When asked if anything about these incidents would make it difficult for her to be fair and impartial in deciding this case, the prospective juror answered, "Possibly," but added that she "would strive to be impartial." She also acknowledged that these experiences "would make it somewhat challenging" to be impartial, but again she said that she would "try to do her best to be an impartial juror." Because Juror 31 expressed her intention to be an impartial juror and did not express a fixed or definite opinion about Appellant's guilt, the Court of Appeals could not conclude that the trial court abused its broad discretion in declining to strike her for cause.

Dunn v. State

292 Ga. 359; 736 S.E.2d 392 (2013)

The defendant was convicted of the offense of murder after stabbing his wife in front of their minor children while they were exchanging custody in the parking lot of a business.

Defendant argued that the trial court erred when it refused to permit the defense from asking the medical examiner about the victim's blood alcohol level at the time of her death. Defendant wished to use the evidence to support his assertion that the alcohol in the victim's system caused her to act aggressively, thereby providing the provocation necessary to reduce murder to voluntary manslaughter. Such evidence is admissible when there is competent evidence of the effect that such chemicals which were found in the victim's system would have regarding her behavior. *McWilliams v. State*, 280 Ga. 724, 726, n. 4 (632 S.E.2d 127) (2006). In this case, appellant made a proffer of the medical examiner's testimony that the victim's blood alcohol content was 0.072 and that it was difficult to ascribe how such a concentration affected the victim because the medical examiner did not know the victim's experience with alcohol and could not tell whether it made her euphoric, aggressive, or sleepy. In the absence of evidence of the effect the victim's alcohol consumption had on her behavior on the day she was stabbed, the trial court properly excluded evidence of the victim's alcohol use. *Webb v. State*, 284 Ga. 122(2) (663 S.E.2d 690) (2008); *Robinson v. State*, 272 Ga. 131(3) (527 S.E.2d 845) (2000).

Bell v. State

A13A1655, 2013 Ga.App. Lexis 731, Decided August 23, 2013

This case arises from a domestic dispute involving Bell and his wife, the victim. Bell appealed the State Court order that denied Bell's motion to vacate his probated sentence. He argued that the court's previous order modifying a condition of his probation increased his punishment and was, therefore, void.

On December 12, 2011, the victim applied for and was granted an ex-parte temporary protective order from the Superior Court. The order contained a "no contact" provision. Bell was served with a copy of this order on the same day it was issued. Two weeks later, the superior court converted the order to a twelve-month, "no contact" protective order.

On January 15, 2012, Bell was arrested on misdemeanor charges arising out of an incident in which Bell bit the victim and behaved in a tumultuous manner. Bell pleaded guilty to the offenses of family violence battery and disorderly conduct in State Court on January 27, and the court sentenced him to 12 days in jail (which he had already served) and to 24 months of probation. As a condition of his probation, Bell was to have "no violent contact" with the victim.

On February 10, Bell was arrested for aggravated stalking because Bell had violated the terms of the protective order. After a compliance hearing in Superior Court, Bell was taken to State Court for a hearing on a motion to modify the terms of his probation. The solicitor asked the State Court to change the "no violent contact" provision to "no contact" to be consistent with the protective order. The court agreed to change the terms of Bell's probation, agreed to apply the change prospectively, and, on the same day, issued an order amending the terms of Bell's probation to provide for "no contact" with the victim.

On February 18, while in custody, Bell was served with an arrest warrant for violating the no contact term of his probation based upon the February 10 aggravated stalking charges. However, when Bell's probation was revoked on May 24, the revocation was not based upon the new aggravated stalking charges but upon other grounds, including that, between February 10 and 13, Bell made 382 telephone calls to the victim.

On September 6, Bell moved the State Court to vacate his modified probated sentence for the offenses of family violence battery and disorderly conduct on the ground that the sentence imposed increased punishment and was, therefore, void. On October 2, the State Court held a hearing on the motion. The court denied the motion. Bell appealed.

A trial court has statutory authority to modify conditions of probation throughout the period of the probated sentence. O.C.G.A. § 17-10-1(a)(5)(A) provides that the sentencing court "shall retain jurisdiction throughout the period of the probated sentence," and O.C.G.A. § 42-8-34(g) authorizes the court to "modify or change the probated sentence … at any time during the period of time prescribed for the probated sentence to run" and "in any manner deemed advisable by the judge." See *Tyson v. State*, 301 Ga.App. 295, 298(2) (687 S.E.2d 284) (2009) (physical precedent only) ("Probationary terms and conditions can be modified by the trial judge at any time during the probated sentence.") "This statutory authority may be limited, of course, by constitutional requirements." *Stephens v. State*, 289 Ga. 758, 764(2)(b)(2) (716 S.E.2d 154) (2011).

Bell argues that changing a condition of his probation from "no violent contact" to "no contact" violated the double jeopardy clause of the Fifth Amendment because it increased his punishment. However, it is well established that double jeopardy does not prohibit the imposition of any additional sanction that could, in common parlance, be described as punishment." *Stephens v. State*, 289 Ga. at 764(2)(b)(2). Bell has not shown that prohibiting a criminal defendant from having contact with a victim qualifies as punishment as that term is generally understood in legal parlance. See *Hudson v. United States*, 522 U.S. 93, 99-100 (118 SCt 488, 139 LE2d 450) (1997).

The clear and primary purpose of such a condition, as is apparent from the related statutory scheme, is to protect the victim of the crime. See O.C.G.A. § 19-13-30(b) ("The General Assembly has enacted comprehensive legislation addressing family violence, including provisions for the issuance of temporary protective orders to protect individuals from violence).

Also, in this case, the no contact condition supports the rehabilitative goals of Bell's probation. As a condition of his probation, Bell was required to complete a domestic violence intervention program within the first two months of his probated sentence. Having no contact with the victim both reduced the risk that he would re-offend and offered him the hope of a reward — renewed contact with his wife — if he successfully completed the domestic violence intervention program. Because the probation modification did not constitute punishment,

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the trial court did not err in denying Bell's motion to vacate his sentence.

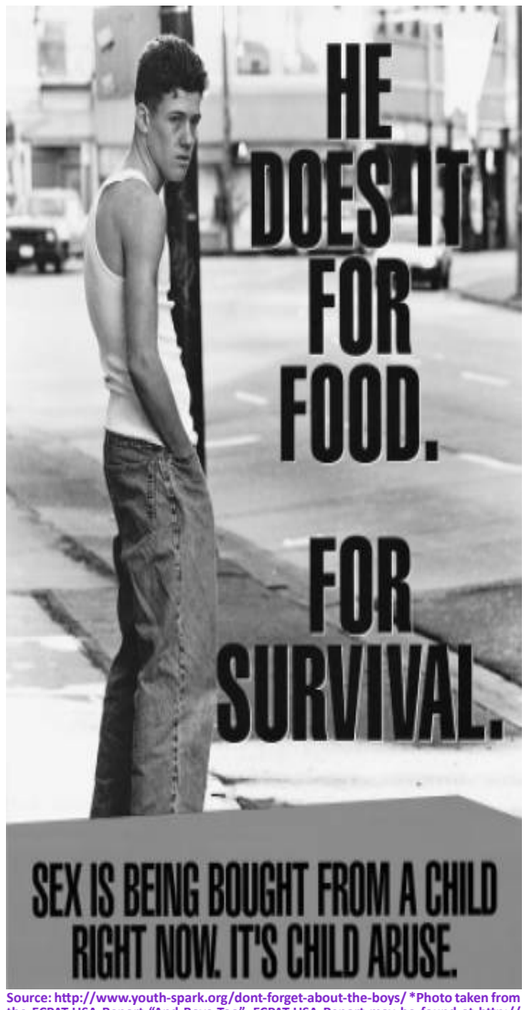
Edgecomb v. State

319 Ga.App. 804; 738 S.E.2d 645 (2013)

An order preventing defendant from stalking his ex-wife was issued against him, pursuant to O.C.G.A. § 16-5-94. Defendant violated that order several times and he was indicted on one count of aggravated stalking. The jury found him not guilty of aggravated stalking but found him guilty of violating a family violence protective order, based on the lesser included charged requested by the State and given by the trial court. Defendant objected to the jury charge, which the trial court gave over objection. On appeal, defendant contended that the trial court erred by instructing the jury on violation of family violence protective order as a lesser included offense of aggravated stalking.

Under the facts of this case, it is undisputed that there was no family violence order issued against Edgecomb, and he was not accused of violating one. The trial court's overbroad definition misled the jury to believe it could find him guilty of a lesser offense unrelated to his indicted offense. Therefore, the jury was not authorized to convict Edgecomb of such a charge. The Court of Appeals reversed the conviction. GFV

Recognizing the magnitude and impact of Domestic Violence in the State, the Governor's Office for Children and Families awarded a grant to the Prosecuting Attorneys' Council of Georgia. The grant provides much needed funding to train law enforcement officers, prosecutors, and victim advocates to more effectively respond to and prosecute crimes of domestic and sexual violence. The training is designed to improve the effective adjudication of domestic and sexual violence cases and effectuate the reduction of such crimes across our state.



Source: http://www.youth-spark.org/dont-forget-about-the-boys/ *Photo taken from the ECPAT-USA Report "And Boys Too". ECPAT-USA Report may be found at http://ecpatusa.org/wp/wp-content/uploads/2013/08/AndBoysToo_FINAL_single-pages.pdf

GEORGIA Family Violence Newsletter

Prosecuting Attorneys' Council of Georgia
Domestic Violence and Sexual Assault Resource Program
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Governor's Office for Children and Families

>>> GEORGIA DOMESTIC VIOLENCE AND SEXUAL ASSAULT RESOURCE PROGRAM

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>>> DID YOU KNOW?

In Georgia, "Family Violence" also known as Domestic Violence is defined as: "the occurrence of one or more of the following acts between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household: (1) Any felony; or (2) Commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass. The term "family violence" shall not be deemed to include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention."

-Statistics from 2012 Georgia Domestic Violence Fatality Review Annual Report courtesy Georgia Coalition Against Domestic Violence (www.gcadv.org) and Georgia Commission on Family Violence (www.gcfv.org)