

Improving Offender Accountability in CSEC Cases:

Tools for Investigating and Prosecuting Adult Exploiters



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**Improving Offender Accountability in CSEC Cases:
Tools for Investigating and Prosecuting Adult Exploiters**

PREPARED BY:
Darlene C. Lynch
Kosha Tucker
Kirsten Widner

Barton Child Law and Policy Center
Emory University School of Law
1301 Clifton Road
Atlanta, Georgia 30322
404.727.6664
bartonclinic.emory@gmail.com
www.childwelfare.net

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INTRODUCTION

Hundreds of children are commercially sexually exploited through prostitution in Georgia every month.¹ Atlanta is a hub for this activity and has been identified by federal law enforcement officials as one of the fourteen U.S. cities with the highest rates of child prostitution.² However, the problem is not confined to the Atlanta area; children are being commercially sexually exploited throughout the state.³

Ending the commercial sexual exploitation of children (CSEC) cannot be accomplished simply by providing services for children who have already been victimized. Those who break the laws designed to protect our children must also be held accountable, and prosecutors play a special role in providing that accountability. This toolkit, which was developed through interviews with current and former prosecutors, conversations with subject matter experts, and academic research, is intended to assist you in building successful prosecutions that will take offenders off the streets, protect our children, and send a strong message that Georgia takes these crimes seriously.

This toolkit includes the following sections:

- Building Your Case: Tools for Obtaining Useful Evidence (starting at page 3)
- Educating the Jury: Tools to Help the Jury Understand CSEC and Its Victims (starting at page 10)
- Bringing a Victim-Centered Case: Tools for Protecting the Child During CSEC Prosecutions (starting at page 17)
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 - Appendix B: Common CSEC Street Terminology
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BUILDING YOUR CASE: TOOLS FOR OBTAINING USEFUL EVIDENCE

The prosecution of cases involving the commercial sexual exploitation of children poses unique challenges for prosecutors. To secure conviction and substantial sentences, prosecutors must do more than produce evidence of pimping, pandering or trafficking. They must also produce evidence that will:

1. Dispel harmful myths about children involved in prostitution;
2. Corroborate the child’s testimony and bolster her credibility;
3. Establish the elements of multiple crimes that occur in connection with each CSEC episode; and
4. Satisfy the requirements of federal jurisdiction for cases that are tried in the federal system.

This section focuses on the investigative process of acquiring this evidence. Later sections of this toolkit provide tips and tools for addressing these concerns at trial.

1. Gathering Evidence to Dispel Harmful Myths About Child Prostitution

A critical part of the prosecutor’s job in a CSEC prosecution is to educate the jurors about the realities of child prostitution and dispel commonly-held myths, including the belief that prostitution is a victimless crime; that most people freely choose prostitution; and that prostitution is an “easy” way for a child to gain wealth and independence.⁴

In reality, most victims of prostitution are young girls⁵ fleeing abusive and neglectful homes,⁶ the overwhelming majority of whom have been sexually abused before leaving home.⁷ The average age that a child first falls victim to CSEC is 13 or 14.⁸ Typically, an older man (“the pimp”) wins the child’s trust by showering her with attention, offering her food, shelter, and often drugs, and initiating a sexual relationship with her. He then uses physical and verbal abuse to break her will and force her into prostitution.⁹ The children become trapped in a modern form of slavery, prevented from leaving by their dependence on the pimp, their isolation from the community, and their own complex feelings of love, fear, hopelessness, and shame.¹⁰ To be successful, prosecutors must explain these realities to the jurors:¹¹

Gathering answers to the following questions can help you build an understanding of your victim’s story, which can in turn help you demonstrate to a jury the unique vulnerability of the child and the sophisticated manipulation of the offender.

The child’s vulnerability to commercial sexual exploitation

- Has the child ever been in the custody of the Division of Family and Children Services (DFCS) or the subject of a DFCS investigation?
- What was the child’s home life like? Did she experience abuse or neglect at home or in DFCS’ care?
- Has she been treated or evaluated for physical or mental health problems or developmental disabilities?
- Does she abuse drugs or alcohol?
- Is she still in school? Does she have trouble at school? Has she ever had an Individualized Education Program (IEP) for special education services?¹²
- Has she run away? When? For how long? What was her life like on the street?
- Has she been arrested? Is she on probation?¹³
- What kind of social network does she have separate and apart from the defendant? Who

- are her friends? Teachers? Other confidants?
- Does she have a social networking page?

The defendant's use of seduction and manipulation

- How did the child meet the defendant? (She may refer to him as her boyfriend or daddy.)
- What did he say to her at that first meeting? Did he offer her a free place to stay, "modeling opportunities," love or a relationship, etc.?
- Did she move in with him? Where?
- Did he buy her clothes, gifts?
- Did he take her for beauty treatments, such as getting her hair or nails done?
- Did he supply drugs or alcohol?
- Did he show her pornography to teach her about sex?
- Did he take "sexy" pictures of her?
- Did they engage in sex? (Clarify how the child defines sex.)

The defendant's use of control and fear

- When did the defendant introduce the child to the idea of having sex with others? How old was she?
- What did he say to convince her to participate? ("If you love me, you would . . .")
- Did she take a street name?
- Does she have tattoos or other "branding" marks that suggest she belongs to the defendant?
- Did the defendant threaten or use violence against her?
- Did he threaten to kick her out or withhold food or drugs?
- Did he threaten to turn her over to law enforcement or immigration authorities?
- Did he injure her? If she sought medical treatment, when and where?
- Did he cause her to become pregnant? Was he violent to her during the pregnancy?
- Did he take steps to prevent her from leaving (physical confinement, threats to her or her family, etc.)?
- Did he have a list of rules the child had to follow?
- Did she ever disobey him? What was his response?
- How did the child ultimately leave the defendant and come to the attention of law enforcement? Arrest? Involvement in another criminal case? Hospital admission? Intervention of friends or family?

Some of these answers can be gathered through third party sources, such as DFCS, medical and school records. Where possible,¹⁴ prosecutors may also want at the victim's juvenile records as an additional source of information. The victim's pimp or a fellow CSEC victim may have been involved as co-defendant or witness to past charges such as shoplifting or trespassing for which victim was prosecuted in juvenile court. Also, many jurisdictions have school resource officers assigned to both middle and high schools. These officers can be a great resource for knowledge of what's going on with some of the more troubled students, which often includes CSEC victims.

However, much of the information may need to be gathered from the victim herself. Interviewing child victims in CSEC cases can be particularly challenging. Ideally, interviews should be conducted by specially-trained forensic interviewers or police officers in a child advocacy center, rather than a police station or detention center. In some jurisdictions, children may be effectively interviewed by experienced investigators with training in child sex crimes. Interviewers should recognize that commercial sexual exploitation of children differs in significant ways from traditional sexual abuse. As a result, interviewers may need to deviate from the traditional forensic

model, and prosecutors must be prepared to defend these deviations in court. Children who have been commercially exploited are usually dependent on the defendant who is the subject of the prosecution and some face criminal charges themselves. They are typically reluctant to testify and only provide information gradually over time. As a result, while a prosecutor must always strive to minimize the child's trauma and avoid contaminating her testimony, it may sometimes be necessary in a CSEC case to conduct more than one interview or ask direct, as well as open-ended, questions.¹⁵

2. Gathering Evidence to Corroborate the Testimony of the CSEC Victim.

CSEC prosecutions often depend heavily on the testimony of the child victim. Yet, many of these children are reluctant to testify. They do not understand that they have been sexually exploited and may feel loyal to the defendant, complicit in the crimes, and distrustful of law enforcement. In fact, they often face criminal charges themselves, ranging from prostitution to juvenile status offenses such as truancy, curfew violations, or running away.¹⁶ Because of their abuse, they may also suffer from emotional problems, substance abuse and other difficulties that impair their effectiveness as witnesses. It is not uncommon for jurors to view children victimized by prostitution as unreliable and unsympathetic witnesses.¹⁷

Consequently, it is important that prosecutors seek evidence that bolsters the child's credibility and corroborates her testimony. The testimony of other victims is often essential, particularly when the child is uncooperative or medical evidence is lacking.¹⁸ Real and documentary evidence is also powerful.¹⁹

Finding other witnesses

- Did the defendant introduce the child to any other of his "girls"? If so, what were their names or street names? Where can they be found? Were any of them ever arrested?
- Did he have any particular girl who helped him mentor the girls or run his business, i.e., his "bottom girl?"²⁰
- Where did the child "work?" Is there anyone who may have witnessed her involvement in prostitution, such as a hotel employee, taxi driver, or child outreach worker?
- Did the child confide in or seek help from any other person, such as a friend, teacher, counselor, or caseworker?

Family members may also have valuable information, but can be problematic. Family members may sometimes be complicit in, tolerant of, or willfully ignorant of the child's exploitation, particularly if the child is bringing money into the home, or if the defendant is someone the family member knows, loves, or is dependent upon. Thus, some family members may be uncooperative and may also discourage the victim's cooperation.

Finding real and documentary evidence²¹

Search warrants should be used to gather as much corroborating evidence as possible, including the following "low-tech" items:

- Medical records and related documents signed by the defendant, such as consent or release forms²²
- Newspapers or magazines that contain personal or erotic services ads featuring the child
- Ledgers or other business records kept by the defendant
- Pornography or prostitution training tapes
- Photos of the child or other victims in the presence of the defendant or other men

- Hotel bills and rewards
- Gas station receipts
- Street clothes belonging to the victim
- Fancy pimp-type clothing belonging to the defendant
- Drugs and drug paraphernalia
- False forms of identification, such as driver’s licenses, passports and visas
- Large amounts of cash
- Child diaries
- Bail records linking the defendant to the child
- Transcripts of jail calls

Additionally, electronic evidence is increasingly important in CSEC prosecutions. Search and seizure of computers, cell phones, Blackberries and other PDA’s can yield the following types of “high tech” evidence:

- Phone numbers and records for the phones, cell phones, chirp phones,²³ and PDAs²⁴ belonging to the child and defendant
- Email
- Address books and contact lists
- Photos and videos of the child and others involved in the defendant’s business
- Social networking pages, such as My Space, Facebook and Twitter
- Personal ads on Craigslist, Backpage or other online classified websites
- IP addresses of computers used to post online ads and internet activity logs
- Photos and videos of the child and others in the business
- Pornography stored on the computer
- Google searches and browsing history
- Mapquest requests²⁵
- Text messages, call records, photos, videos, emails stored on phones and PDAs
- Location of cell towers used to relay messages²⁶

3. Gathering Evidence to Prove the Full Range of CSEC Related Offenses

Exploiting children through prostitution violates numerous state and federal criminal statutes. CSEC offenders not only commit pimping, pandering and trafficking offenses, but rape, kidnapping, assault and battery, child pornography and a host of other crimes. Prosecutors are most effective when they pursue all of the offenses that arise from the child’s exploitation. In this way, they can tell the child’s story in a more complete and compelling way and maximize the chance of a conviction and satisfactory sentence.²⁷ The following questions are intended to give you some ideas in considering what types of charges you might be able to bring; they are not intended to be a comprehensive list.²⁸

Knowledge of the child’s age

Several CSEC related offenses require proof that the defendant knew or had reason to know the child was under a certain age.²⁹

- Did the child tell the defendant her age?
- Did the defendant know that she lived in a juvenile facility or was involved juvenile proceedings?
- Did the defendant celebrate her birthday?
- Did the defendant supply her with false identification to conceal her true age?
- Did the defendant accompany the child to the doctor, where her age was provided to obtain diagnosis or treatment?

Building the case for pimping, pandering and trafficking³⁰

- Did the defendant ever explain the “Rules?”
- What kind of prostitution did the child engage in (“track,” internet, night club, front companies)?
- How did the defendant convince or force her to engage in prostitution?
- How did the defendant get paid? In the case of a defendant charged with pandering, how did he make payment?
- Where did the child engage in prostitution? If a building or vehicle was used, who owned it? Was the owner aware of the activity?
- If hotels were used, which hotels? On what dates? Who paid the bills?
- Does the child have “street” clothes or other items used in prostitution? Who paid for them?
- Does she have a cell phone, chirp phone, or PDA?
- Does she have a social networking account?
- Did the defendant ever transport her some place to engage in prostitution?³¹ How was she transported? On what dates? Who paid for the transportation?
- Did the defendant post ads or messages offering or soliciting the child for prostitution on the internet or in newspapers or magazines?
- For federal offenses:
 - Did the defendant transport the child across state lines?
 - If the child did not cross state lines, did the defendant use an instrument of interstate commerce, such as a cell phone, email or the internet, to convince her to engage in prostitution or to facilitate the economic transaction?
 - Did he know she was under age 18?

Building the case for human trafficking offenses³²

- Did the defendant ever make false promises to the child, such as offers of modeling, music, or acting opportunities?
- Did the defendant ever threaten to reveal information that the child worried would subject her to criminal or immigration proceedings, hatred, contempt, or ridicule?
- Did the defendant take and refuse to return any immigration or identification documents belonging to the child?³³
- Did the defendant have the child work in a strip club or other establishment against her will or for little or no pay?
- Did the defendant use threats or violence to prevent her from leaving?

Building the case for other sexual offenses

- Did the defendant have sexual intercourse with the child³⁴ or engage in other sexual acts with her?³⁵
- If the child was under age 16,
 - Did the defendant masturbate or engage in sex acts in front of her?³⁶
 - Did he try to force or entice her to go somewhere to engage in sexual acts?³⁷

Building the case for related violent offenses³⁸

- Did the defendant use or threaten violence?
- If so,
 - Were the defendant and the child living in the same household?
 - Did the incident occur around a school, in a transit station, or on a bus or train?
 - Was the child pregnant?³⁹

- If so, was the fetus harmed or killed?⁴⁰
 - Was the defendant armed?⁴¹
- Did he ever try to kill the child?⁴²
- Did he transmit HIV to her?⁴³
- Did he beat or rape another person in her presence?⁴⁴

Building the case for kidnapping and false imprisonment

- Did the defendant take the child somewhere against her will?⁴⁵
- Did the defendant ever lock her in or otherwise physically prevent her from leaving an apartment, hotel room, car or other place?⁴⁶
 - If so, was she injured or under age 14 at the time?⁴⁷

Building the case for child pornography

- Did the defendant take sexually explicit photos or videos of the child?⁴⁸
- Did the defendant distribute any such photos or videos?⁴⁹
- Did the defendant possess any such photos or videos?⁵⁰
 - If the prosecution is in federal court, did the defendant have at least 3 such photos or videos?⁵¹
- Did the defendant show the child pornographic websites or DVDs?⁵²
- If the child was under age 16,
 - Did the defendant post ads or transmit information about her online?
 - Did the person seeking sex from her solicit it online?⁵³

Building the case for organized crime and street gangs⁵⁴

- Did the defendant introduce the child to other defendants? What were their names or street names? Have they ever been arrested?
- Did the defendant and the other individuals share gang names or tattoos, or wear similar clothing or gang insignia?
- Did they recruit girls together?
- Did they “share” girls? What were the rules for sharing girls?
- Did they help each other’s girls evade arrest or get out of jail?
- Did they throw prostitution parties together or attend social events together that celebrated crime or prostitution?
- Did they commit other crimes together, such as drug dealing?
- Did they share proceeds of prostitution or other crimes?

Building the case for drug offenses

- Did the defendant supply drugs to the child?⁵⁵

Building the case for false identification

- Did the defendant supply the child with false identification, such as a fake drivers’ license with a different name or age?⁵⁶
- If the child is an illegal immigrant, did he supply her with false immigration papers or a false passport?⁵⁷

Building the case for obstruction of justice⁵⁸

- Did the defendant do or say anything to prevent the child or others from cooperating with the prosecution?
- Has he threatened or used violence to retaliate against her or others for cooperating in this case?

4. Gathering Evidence to Establish Federal Jurisdiction

While state and local investigators often uncover CSEC crimes, federal authorities are better suited to prosecute some CSEC cases, such as cases involving international trafficking or multi-state criminal networks. Defendants acting alone frequently travel across state lines or use email and the internet to facilitate their crimes, and federal prosecutors have the ability to prosecute their offenses, both in and outside of Georgia. Yet, federal prosecutors have the additional burden of establishing federal jurisdiction and must produce evidence showing that the crimes took place on federal land or have an interstate or international nexus.⁵⁹

Questions to ask to determine if there is federal jurisdiction

- Did any part of the child’s exploitation take place on federal land, such as a national park?
- Did the child travel between states or countries to engage in commercial sex acts? On what dates? How did she travel? Who paid?
- Did the defendant or others travel between states or countries in order to engage the child in commercial sex acts?
- Did the defendant transmit sexually explicit photos or videos of the child (or the materials used to create them) between states or countries?⁶⁰
- Did the defendant use supplies, such as condoms, that traveled between states or countries?
- Did the defendant use “interstate facilities,” such as mail, phones, email or the internet, to commit CSEC crimes?
- Did the defendant violate federal immigration laws, for example, by falsifying or destroying immigration papers?

It is clear that in order strengthen CSEC cases, prosecutors must work closely with investigators to obtain evidence that not only supports pimping, pandering or trafficking charges, but also addresses all of the challenges these cases present.

EDUCATING THE JURY: TOOLS TO HELP THE JURY UNDERSTAND CSEC AND ITS VICTIMS

Prosecutors can also strengthen CSEC cases by maximizing opportunities at trial to educate the jury about CSEC and its victims. Voir dire questionnaires and expert testimony are two important tools you can use to achieve this goal.

1. Voir Dire

The importance of jury selection should not be understated since it is “the only time there is any exchange of dialogue and ideas between counsel and the jurors.”⁶¹ Voir dire provides a process in which a prosecutor can weed out jurors who are more likely to lack empathy for children who are prostituted and are thus less likely to see them as victims. It also provides a prosecutor with the opportunity to educate jurors about the law and correct misconceptions. Thus, in order to take full advantage of the voir dire process, a prosecutor must first identify the qualities of an ideal juror, and then devise questions that would best facilitate finding such juror. An ideal juror in CSEC cases is a juror who:

- Empathizes with children, including teenagers;
- Feels comfortable with hearing and believing the testimony of a child;
- Holds adults accountable for their actions;
- Has some awareness of the type of abuse in question; and
- Is committed to the rule of law.⁶²

Once the ideal juror is envisioned, a prosecutor should construct questions that would help detect that juror. Some CSEC experts recommend submitting these questions in writing as a questionnaire, prior to *voir dire*. A juror questionnaire allows a juror to be more forthcoming and honest about subjects he or she may be uncomfortable talking about in a large group. A juror questionnaire would also reduce the amount of time it would take to ascertain individualized responses to the same questions. Some sample voir dire questions and areas to explore are provided below. These sample questions are not exhaustive; they are merely provided as examples.

Topics and sample questions⁶³

- Witness Credibility
 - Would you feel that the defendant should not be held accountable for his or her criminal conduct simply because the victim did not want him or her prosecuted, or did not want to come to court?
 - Do you believe that victims of abuse usually report that abuse promptly?
 - Can you think of any reasons why a child might not promptly report abuse?
 - Can you think of any reasons why victims would deny that they had been abused or exploited, even if it were true?
 - Can you think of any reasons why children would recant, or “take back,” prior statements indicating that they had been abused or exploited, even if the statements were true?
 - Can anyone think of reasons that a child victim might want to protect her exploiter or abuser?
 - Do you understand that the mere fact that the victim was gullible or “should have known better” does not mean the perpetrator did not commit a crime? The law protects the savvy as well as the naïve. For example, if someone sends a cashier’s check for \$45,000 to an online seller for a car, but no car is delivered, that does not mean that the “seller” has not committed fraud. Is there anyone who disagrees with this concept?

- Do you believe that a story, which is not told the same way every time, is necessarily a lie?
- Can you think of any circumstance where the victim of commercial sexual exploitation brought the event on by his or her own conduct?
- **Witness' Demeanor on Stand**
 - Do you have any preconceived ideas, expectations, or beliefs as to how victims of commercial sexual exploitation will act or react when they testify in court?
 - Would you expect them to exhibit any particular emotion? For example, would you expect such a victim to act fearful, tearful, angry, or withdrawn?
 - Could you understand how three different victims could react completely differently to the same set of circumstances? For example, one victim of armed robbery could be terrified, another furious, and a third stunned at being the victim of a crime. Can you accept that there is not just one correct way for a person to react to being victimized?
 - Do you understand that although the court will instruct you that the demeanor of a witness on the witness stand during testimony should be considered in evaluating his or her testimony, your expectations, beliefs or ideas about how he or she should act on the witness stand may not be realistic or appropriate for this particular victim?
 - The evidence in this case may reveal that the victim is a troubled child/teenager. You may or may not like this victim, his or her conduct, attitudes or behavior. In light of this, would you find it more difficult to judge the evidence fairly to determine if the defendant is responsible for his or her conduct with this victim?
 - Would you excuse the defendant's criminal conduct simply because of the victim he chose?
 - You may approve or disapprove of the victim's background, lifestyle, conduct, or character. Regardless of your feeling, do you accept the fact that your judgment or opinion of the victim cannot affect your decision regarding whether the defendant committed the offense(s) for which he or she is on trial?
 - Would you disbelieve the testimony of a witness solely because you did not like the witness' appearance, attitude, background, or lifestyle?
 - The laws against child sexual exploitation exist to protect children not only from adults, but also from themselves. The evidence in this case may reveal that (for example):
 1. The child actively cooperated with the defendant.
 2. The child did not disclose the defendant's behavior or run away.
 3. The child accepted gifts/money.
 4. The child loved, liked, and/or had a romantic relationship with the defendant.

Can you evaluate and decide this case on the defendant's conduct, and the defendant's conduct alone?

- Attitudes Toward Prostitution
- Adult Prostitution
 - Are there any members of the jury panel who believe that prostitution should be legalized?
 - Does anyone think that sometimes victims deserve what happened to them because they made bad choices or put themselves in a vulnerable position?
- "Child Prostitution" and Corresponding Myths
 - Do you think that sexual exploiters target popular, happy, self-confident, loved, and supported children?

- Can you think of any reasons that an exploiter would target children with family problems, emotional difficulties, or low self-esteem?
- Do you have any preconceived ideas about how a child might react to being abused or exploited?
- Does anyone think that sometimes victims deserve what happened to them because they made bad choices or put themselves in a vulnerable position?
- Do any of you believe that if a female under the age of 18 decides to work as a prostitute, that decision should be her business only, and not something that the criminal justice system should get involved in?
- During the course of this trial, some of the witnesses will testify that they had been involved in prostitution – taking money for sex. Is there anyone who would not give that person’s testimony the same consideration given to any other witness?
- Does anyone believe that people can be forced to do things by means other than physical force?
- Does anyone think that for someone to be held against their will they must be physically restrained?
- Adult Defendant on Trial
 - Do all of you understand that this trial is about the defendant’s criminal acts and culpability, not the child’s, and that the child’s conduct is not on trial alongside that of the defendant?
- Adult Defendant as an Exploiter
 - Does anyone think they would recognize the type of person who engages in sexual conduct with children if they saw him or her on the street?
 - Does everyone agree that this type of crime, like most crimes, can be committed by people from all walks of life?
 - Does a person who commits this offense have certain characteristics? Such as:
 1. Physical characteristics
 2. Background
 3. Race
 4. Economic level
 5. Type of job
 6. Gender
 7. Age
- Personal Experiences or Those of Close Friends or Family Members
 - Are there any members of the jury panel who have or have had family members or close friends affected by prostitution, sexual assault, or sexual abuse?
 - Have any of you, or your relatives or close friends) ever been involved in any incident in which there was sexual contact, sexual abuse, sexual molestation, or sexual assault between an adult and a child? Describe the following related to the incident:
 1. Nature and circumstances (including ages of those involved)
 2. When and where
 3. Outcome (Police involved? Did it go to court?)
 4. Your feelings about it
 5. Whether it affects in any way your ability to be fair to both sides
 - Have any of you or your relatives or close friends ever been involved in any way in any incident similar to the one charged in this case?
 1. Nature and circumstances (including ages of those involved)
 2. When and where
 3. Outcome (Police involved? Did it go to court?)
 4. Your feelings about it

- 5. Whether it affects in any way your ability to be fair to both sides
- Comfort with Hearing testimony about Sex
 - Do you think that explicit discussion of sex acts will bother you or affect your ability to be fair?
 - Did you have any emotional or other reaction when you first heard what this case was about?
- Weight Accorded Expert and Corresponding Testimony
 - Do you understand that the testimony of an expert can be accepted or rejected, just like that of any other witness?
 - What sort of factors would you look to in determining whether to believe one expert rather than another?
 1. Profession and position
 2. Education (degrees, seminars, training, etc)
 3. Work experience
 4. Teaching experience
 5. Publications
 6. Honors and awards
 7. Memberships and associations
 8. Prior testimony and qualification recognition
 9. Potential bias, motive for testifying or personal agenda
 10. Whether the expert's testimony makes sense
 - Do you believe that good psychologists (or social workers) by education and training, possess insight about relationships that can be helpful?
 - Have any of you ever had to take your child to see a counselor or therapist? What was it for? Was it helpful?
 - Would anyone say they have had bad or negative experiences with psychologists/ social workers? Please explain.
- Conflicting Testimony
 - If you hear conflicting testimony from two experts, do you feel comfortable in the role of the decision maker who will resolve the conflict? Do you understand that if there is conflict among experts, this conflict is not the same thing as reasonable doubt? You, as the finder of fact, decide what weight to give each expert's testimony.
- Jury's Own Knowledge and Expertise
 - Do you have any education or background experience in law enforcement, forensic interviewing, medical examinations, social work, therapy, etc.? Do you know anyone with such a background?
 - Does anyone have any medical training?
- Media Influence and Law Shows on TV
 - Who has ever seen any shows on TV about lawyers or law enforcement? Do you notice any difference between those shows and what you are experiencing here in court now? What differences do you notice? Are there other differences?
 - One thing I have noticed is that on TV, the courtroom scenes are filled with drama and surprises. Is there anyone here who will be disappointed if this case is based on facts, rather than drama?
 - Also, often on TV, the cases focus on physical items of evidence and scientific reports, rather than witness testimony. In this type of case, however, the primary evidence is usually oral testimony of witnesses, and jurors' main job is to determine whether a witness is credible and is telling the truth. Is there anyone who thinks that what a witness says is not evidence?

- State’s Interest in Promoting Best Interests of the Child
 - Does anyone feel that the State does not have an interest in protecting troubled children?
- Georgia’s Statutory Rape Law (O.C.G.A. § 16-6-3)
 - Georgia law prohibits adults having sex with children. Does anyone disagree with this law?
- Georgia’s Prostitution Statute (O.C.G.A. § 16-6-9)
 - Georgia law criminalizes prostitution at any age. Does anyone here think that a child should be held to the same standard of conduct and judgment as an adult, or that we should judge a child’s conduct or behavior in the same way we judge an adult’s?
- Additional Penalties: Georgia’s Other Prostitution-related Statutes (O.C.G.A. §§ 16-6-13 (punishment for keeping a place of prostitution, pimping or pandering); 16-6-13.2 (forfeiture of motor vehicles operated by persons convicted of pimping or pandering); 16-6-13.3 (forfeiture of proceeds or money used for or derived from pimping involving minors))
 - The Court will instruct you that you are not to concern yourself with any issue regarding potential punishment. The penalty to be imposed, if any, is solely a matter for the Court. Do any of you feel that you could not follow that instruction?
 - Is there anyone here who would not be able to return a verdict of guilty solely because you are concerned that the penalty might be harsh?
 - Do you regard the current punishment for the commercial exploitation of children to be too light, about right, or too harsh?

2. Expert Testimony

Georgia courts have long admitted expert testimony addressing the unique behaviors and characteristics of child victims of physical and sexual abuse. Since Georgia law defines “sexual exploitation of a child” as a form of child abuse, expert testimony would be admissible in CSEC cases.⁶⁴ Expert opinion testimony serves to assist jurors in these cases since jurors, as laypersons, would not otherwise understand the behaviors and characteristics of CSEC victims without it. In other words, the conclusions a CSEC expert is able to draw are “beyond the ken of the average laymen.”⁶⁵

Types of Experts

- **Experts on Child Sexual Abuse Accommodation Syndrome:** Georgia courts have long recognized the Child Sexual Abuse Accommodation Syndrome (CSAAS) in child sexual abuse cases, particularly child molestation cases, and have found that the syndrome is a permissible subject for which expert testimony is accepted.⁶⁶ Characteristics of Child Sexual Abuse Accommodation Syndrome include secrecy, helplessness, accommodation, delayed disclosure, and recantation.⁶⁷ CSEC victims, as victims of child sexual abuse,⁶⁸ exhibit characteristics consistent with CSAAS; thus, this type of expert testimony would be admissible in CSEC cases. The CSAAS expert would be called to educate the jury about these counterintuitive aspects of the CSEC victim’s behavior. Georgia courts have qualified social workers, psychologists, and nurses to testify as CSAAS experts.⁶⁹
- **Law Enforcement as Experts:** Law enforcement testimony could also qualify as expert opinion testimony. A law enforcement officer would qualify as an expert in the field of prostituted children and the investigation of those cases, just as a drug officer would qualify as an expert in illegal drug offenses and those investigations.⁷⁰ This testimony would give the jury background knowledge about the circumstances that surround the prostitution of children,

and demonstrate to the jury that such cases are taken seriously by the police, and that they are accorded the same weight as other types of crimes against children and other types of violent crime.⁷¹

- **Offender Typologist as Expert:** An offender typologist may also qualify as an expert witness in CSEC cases. The offender typologist could testify about the profile of exploiters—how they select their victims, engage and seduce them, and/or exert violence or blackmail over them to control them.⁷² This type of testimony would assist the jury in understanding that exploiters look for children who are vulnerable and are unlikely to be believed if they disclose the exploitation.⁷³

Expert Witness Qualification

Below are sample questions a prosecutor may use to qualify a witness as an expert in CSEC cases. These sample questions are not exhaustive; they are merely provided as examples.⁷⁴

- What is your profession?
- How long have you done this type of work? (Are you licensed?)
- Where are you currently employed?
- How long have you worked there?
- What are your job responsibilities?
- What other positions have you held?
- What is your educational background?
- Have you received special training pertaining to issues that arise in child sexual abuse, assault or exploitation cases? Please describe this training.
- Are there on-going educational opportunities pertaining to children that you participate in? Describe.
- Are you a member of any professional associations in this field?
- Is there professional literature pertaining to the commercial sexual exploitation of children with which you are familiar? Describe.
- Are you involved in any studies or publications pertaining to child sexual abuse, assault or exploitation issues? Describe.
- In your work, do you encounter children who have been victims of sexual abuse? How many have you encountered, and over what course of time? What is the nature of your work with these children?
- What percentage of your time is spent working in this field?
- Does your work or training include topics pertaining to forensic interviewing, child development issues, or common psychosocial aspects in child sexual abuse cases? Describe.
- Have you ever been called upon to testify in court as an expert in the area of issues arising in child sexual abuse, assault, or exploitation cases? How many times?
- Have you been allowed by a court to provide expert opinions in child sexual abuse, assault, or exploitation cases? How many times? Have you ever been denied the opportunity to testify as an expert witness in this field?

CSEC EXPERTS IN GEORGIA WHO COULD POTENTIALLY SERVE AS EXPERT WITNESSES

The following list includes practitioners who have extensive experience dealing with CSEC victims. It is not intended to be a comprehensive list, but rather should serve as a starting point of places you can call when seeking an expert witness.

- **Dr. Jordan Greenbaum, M.D.**, Medical Director of Children’s Healthcare of Atlanta Child Protection Center
1001 Johnson Ferry Road NE
Suite 500
Atlanta, GA 30342-1600
Phone: 404-785-3829
Email: jordan.greenbaum@choa.org
- **Detective Jeff Thomas**, Sandy Springs Police Department
Phone: 404-374-6173
Email: jeffrey.thomas@sandyspringsga.org
- **Special Agent in Charge John Whitaker**, Georgia Bureau of Investigation
3121 Panthersville Road
Decatur, GA 30034
Phone: 404-270-8866
Email: john.whitaker@ghi.state.ga.us
- **Sergeant Ernest L. Britton**, Atlanta Police Department/ Child Exploitation Unit
Phone: 404-546-6948
Email: EBritton@AtlantaGa.Gov
- **Kaffie McCullough**, Trained Licensed Psychotherapist & Program Manager at A Future. Not a Past.
395 Pryor Street SW
Suite 2117
Atlanta, GA 30312
Phone: 404.612.4566
Email: Kaffie.McCullough@FultonCountyGA.gov
- **Tracey Bussey**, Counselor at Wellspring Living
Phone: 770-463-2606
Email: Tbusse@wellspringliving.org
- **Melba Robinson, M.S.W.**, Care Coordinator at Georgia Care Connection
Phone: 404-224-4999
Fax: 404-371-1030
- **Valentina Moss**, Care Coordinator at Georgia Care Connection
Email: vmoss@grncsb.com

BRINGING A VICTIM-CENTERED CASE: TOOLS FOR PROTECTING THE CHILD DURING CSEC PROSECUTIONS

Unlike other criminal prosecutions, CSEC prosecutions are governed by a “best interests of the child” standard.⁷⁵ In these cases, prosecutors must pay special attention to the victims’ needs and take steps throughout the proceedings to protect their welfare.

1. Give primary consideration to the best interests of the child.

According to an international agreement to which the United States is a party, the best interests of the child victim must be a “primary consideration” in all CSEC prosecutions.⁷⁶ Most children in these cases have suffered severe abuse and exploitation, and participating in a CSEC prosecution can be painful, scary, humiliating and, for some, re-traumatizing. Prosecutors have a legal duty to manage the proceedings to avoid causing child victims further harm and to protect their privacy, safety, and well-being.

2. Speed the child’s recovery from abuse.

The Georgia Care Connection is a statewide system of care that provides specialized treatment and services to children exploited through prostitution. When a child victim is identified, state or federal authorities should immediately notify the GCC office at 404-602-0068. The office will link the child to the treatment and services she needs and help the child begin her recovery while the prosecution proceeds.

3. Provide the child with an advocate or guardian ad litem for guidance and support.

Each child should be assigned a child advocate from the local child advocacy center⁷⁷ or victim-witness assistance office. The advocate can be instrumental in establishing trust with the child and may serve as a bridge between the child and prosecutor. When a child’s parent or guardian is absent or implicated in the abuse, prosecutors may also wish to request that the court appoint a guardian ad litem (GAL).⁷⁸ GALs are specially trained in identifying a child’s best interests and help courts to address them. It is particularly helpful if you can find a GAL who has been specially trained in unique nature of cases involving commercially sexually exploited children.⁷⁹

4. Notify the child of her legal rights in age-appropriate language.

Victims have certain legal rights in federal and state prosecutions, such as the right to be notified of all court dates; give opinions about the defendant’s release; confer with the prosecution and, in Georgia, refuse to confer with the defense.⁸⁰ Federal law gives additional rights to child victims, including the right to testify by closed circuit television, have papers filed under seal, and be provided with a guardian ad litem at no cost.⁸¹ Prosecutors should be sure to explain these rights to the child in age-appropriate language and confirm that she has understood them.⁸²

5. Protect the child’s privacy.

Prosecutors should also take steps to preserve the child’s privacy to spare her further pain and embarrassment and guard her safety. DFCS records of child abuse and exploitation are confidential⁸³ and disclosure may be limited during the prosecution.⁸⁴ To prevent other harmful disclosures, prosecutors should also:

- Limit identifying information in all court papers and correspondence;⁸⁵
- File court papers under seal (sealing is automatic in federal court).⁸⁶
- Obtain protective orders that prevent public disclosure and bar defense counsel from sharing information about the child with the defendant;⁸⁷
- Have the courtroom closed during the child’s testimony.⁸⁸

6. Preserve the child’s safety.

Child victims are particularly vulnerable to harassment, intimidation and violence by the defendant. To protect the child, prosecutors should:

- Argue against the defendant’s release on bail. Federal law presumes that CSEC offenders are unsuitable for bail and require pretrial detention.⁸⁹ Georgia law contains similar restrictions for CSEC-related offenses.⁹⁰
- Ensure that any defendant released on bail is subject to restrictive conditions that protect the child from harm.⁹¹ In federal CSEC cases, certain restrictions are required, such as no-contact orders and electronic monitoring.⁹²
- Provide a separate, secure waiting area for the child during trial.⁹³
- Where there is evidence of harassment, immediately seek a protective order⁹⁴ and consider witness tampering and obstruction charges.⁹⁵
- Initiate federal witness protection proceedings, where appropriate.⁹⁶

7. Invoke the protection of rape shield laws where possible.

Children who have been exploited through prostitution often feel a great deal of shame about their sexual behavior. Rape shield laws may be available to protect the child from harmful and irrelevant questions about her sexual past,⁹⁷ but their application can be complicated and contentious. Prosecutors may wish to consider the following when deciding whether to use these laws:

- Rape shield protection is not limited to cases of rape. Federal Rule of Evidence 412 prevents admission of a victim’s sexual history in any case alleging sexual misconduct. Georgia’s rape shield law, O.C.G.A. § 24-2-3, is offense specific and can be used with charges of statutory rape, aggravated child molestation, aggravated sodomy, aggravated sexual battery, and false imprisonment.⁹⁸
- Certain commonly-used exceptions to the rape shield laws are inapplicable to CSEC cases, as recently held by a federal court of appeals in *U.S. v. Elbert*, 561 F.3d 771 (8th Cir. 2009). For example, evidence used to show that the victim consented to sex is generally inadmissible, because most CSEC victims are below the legal age of consent. Evidence that someone other than the defendant engaged in sex with the child is inadmissible when the defendant is charged with sex trafficking, rather than sexual assault.⁹⁹
- Rape shield laws apply to the prosecution, as well as the defense. While some Georgia courts have made an exception to allow prosecutors to introduce evidence of the child’s past abuse and the child abuse syndrome, rape shield laws may sometimes hinder the prosecution.¹⁰⁰
- Prosecutors should make a case-by-case assessment about when and whether to invoke rape shield protection. The prosecutor may wish to raise the issue prior to trial through a pre-trial motion and hearing; or he or she may prefer to wait until it becomes clear that the defense intends to use the child’s sexual past inappropriately.

8. Make the courtroom experience less intimidating.

The courtroom experience can be frightening and overwhelming to CSEC victims, particularly those who are very young. Prosecutors can take simple steps to make the courtroom less intimidating:

- Familiarize the child with the courtroom before trial.
- Provide the child with a child-sized chair during the trial and re-arrange the courtroom furniture to make the child more comfortable.
- During the child’s testimony, use a partial barrier to block her view of the defendant or turn her chair so that she does not face him directly.¹⁰¹

- Ensure that the child has an advocate or trusted adult at court proceedings for emotional support. Federal law guarantees children this right.¹⁰² Courts may allow that adult to sit at counsels’ table, or even to hold the child’s hand or stand nearby during her testimony.

9. Explore alternatives to live testimony.

Some CSEC victims may be too young, fragile, or fearful of the defendant to testify effectively in open court. In these cases, prosecutors should explore alternatives to live testimony:

- Use closed circuit television to take the child’s testimony. This option is available to child victims of all ages in federal court, but only to child victims of certain sex crimes, who are under age 11, in state court.¹⁰³
- Provide testimony through a videotaped deposition.¹⁰⁴

10. Use hearsay evidence of the child’s abuse, where appropriate.

Prosecutors may reduce the trauma that a CSEC victim feels when testifying about her abuse by telling her story through hearsay testimony, where appropriate. Some hearsay evidence, such as a child’s statements to police and forensic interviewers, is admissible only if the child is available for cross-examination. Other evidence, such as a child’s statements to friends and family made outside of the CSEC case, are more generally admissible.¹⁰⁵ When deciding whether to use hearsay evidence, prosecutors should:

- Explore the full range of hearsay exceptions provided under state and federal law. For example, a child’s “excited utterance” during an assault or her statements to a nurse when seeking medical help are admissible hearsay.¹⁰⁶
- For state cases, consider Georgia’s Child Hearsay Rule, O.C.G.A. § 24-3-16. The rule only applies if the victim is under age 14, is available to testify, and the circumstances of her statement suggest that it is reliable.
- Determine if the child is available to testify when admitting statements to investigators or using exceptions that require availability. To be available, the child must be a competent witness; all child victims are deemed competent under state and federal law.¹⁰⁷ She must also be present at court so that the defendant has an opportunity to cross examine her. This requirement is met even if the child has difficulty remembering events or answering questions.¹⁰⁸
- Weigh the benefits of using hearsay evidence, including its use to protect the child witness, against the jury’s tendency to discount it as “second hand.”

This list is not exhaustive. Rather, its purpose is to help prosecutors understand the “best interests of the child” standard that governs CSEC prosecutions and suggest ways that prosecutors can meet that standard while conducting a successful prosecution.

Appendices

Appendix A: Language and Sensitivity Chart¹⁰⁹

How we talk about these issues influences how the public, and, by extension, members of the jury, perceive them. The following chart is provided to help you choose language that focuses the blame on true offenders – the adults who exploit children – rather than focusing that blame on the child herself.

“Teen/Child Prostitution” “Teen/Child Prostitute”	“Prostituted Child”
<ul style="list-style-type: none">• A young person who has made a conscious and poor choice to enter the commercial sex industry• Provides no context for “choices” made• A “bad kid” who is resistant to help and may not be worth the effort• Used as an insult/derogatory term• Associated with stereotypes• A label with long-lasting stigma• Supports myths and misunderstanding of the issue and of youth involved• Wrongly equated with a “profession” or work• A juvenile offender, a criminal• Punishable—youth deserve consequences of sexual violence, social isolation, incarceration, etc.• Denies social responsibility and accountability to address as an issue CSEC Sexually Exploited Child	<ul style="list-style-type: none">• A child not developmentally, legally, or socially able to make the “choice” to have sex for money or to become involved in the commercial sex industry• Indicates that multiple factors impact how and why children are involved• A young person who deserves intensive support and services• A young person who has been sexually used, coerced, manipulated, and violently controlled for another person’s profit• Understanding of inequality, power imbalance• Takes into consideration vulnerability of children• Defines what has happened to a child, rather than labels who the child is• A form of child abuse• Indicates a system of violence against women and children• A young person victimized by multiple systems of oppression• Call for social responsibility and accountability to address as an issue

Appendix B: Common CSEC Street Terminology¹¹⁰

Exploiters and their victims communicate using a lot of slang. Knowing these terms ensures that you are able to follow what your victim or witness is telling you, and can also help you build credibility with victims by reassuring them that you know something about their world. Some of this language is harsh and crude. It is reproduced here to build your effectiveness, not to condone its use.

- Automatic: When a pimp is out of town in another city and a prostitute is working while he is gone.
- Bag up: To be caught/arrested by the police.
- Bare Back: Sexual intercourse without the use of a condom.
- Bend: A prostitute.
- Berry: A police car.
- Bitch: The most common term used by pimps when referring to a prostitute.
- Bottom bitch: The prostitute who has been with a certain pimp the longest period of time. She is typically the recruiter for the pimp, and is usually the most trusted.
- Branded: A tattoo on a victim indicating ownership by a trafficker/pimp.
- Break a bitch: Phrase used to define the actual act of a pimp taking money from a prostitute.
- Break yourself: What a pimp tells a prostitute when he wants her to make money.
- Broke luck: Phrase referring to when a prostitute makes money. If a prostitute has turned a trick for money she is said to have “broke luck” for that day.
- Buster: A person who tries to act like a pimp, but is not really a pimp.
- Cat eye: To stare at a woman or man with sexual intention.
- Caught a case: When a prostitute or pimp has been arrested and charged with a crime.
- Choose: A prostitute having to pick a new pimp. This can be done either voluntarily or by looking another pimp in the eyes. In the latter case, she has “chosen” that new pimp even if she didn’t want to.
- Circuit: All of the tracks in the country. When a prostitute works the circuit, her pimp takes her from city to city, or track to track. The female will work a certain track until she stops making money or the police begin paying too much attention to that prostitute.
- Daddy: The name that most pimps are called by their prostitutes.
- Date: Can be used to describe the act of prostitution or the client itself. Example: when a prostitute is with a client, she is said to be “with a date,” “on a date,” or “turning a date.” The time and place where a prostituted woman or girl is scheduled to meet a man, known as a “john.”
- Family or Folks: A group of victims under the control of a trafficker/pimp. The term is an attempt to recreate the family environment.
- John: A slang term for a man who pays for the services of a prostitute. A client of prostitution.
- Lot Lizard: Derogatory term for prostituted children at truck stops.
- Mack: An “upper level” pimp. Will supposedly take money from any female, not just a prostitute. This information is according to Macks arrested thus far. It is also an acronym for “Man Acquiring Cash through Knowledge”
- Mark: A client of prostitution.
- Out-a-pocket: When a prostitute has a pimp and looks at another pimp. That prostitute is now subject to the “choosing” rules. See: Choose
- Outlaw: A prostitute without a pimp.
- Party: The act of prostitution. Example: A prostitute may ask a client if he wants to “party.”
- Peel a trick: Phrase used to describe the act when a prostitute steals something from her client.

- **Pimp:** A person who persuades, compels, or entices a female to become a prostitute or continue to commit acts of prostitution. The pimp takes all of the money from his prostitutes and usually has no legitimate source of income. Pimp is also an acronym for “Provided Income from Managing Prostitutes.” He or she manages prostitutes, scheduling their “dates” and profiting from their earnings. The relationship between pimps and prostitutes is often psychologically and physically abusive. Prostituted women are sometimes kidnapped off the street by pimps at a young age or lured through the Internet. Pimps are often involved in other illegal industries and activities such as drug dealing or abuse.
- **Pimp Circle:** Describes a situation where pimps circle around a victim to intimidate and discipline them, using verbal and physical threats/action.
- **Pimp party:** When several pimps “unite” to abuse a prostitute for either being disrespectful, trying to leave the “game” or reporting a pimp to the police. It usually consists of several pimps “gang-raping” the prostitute, beating her, urinating and/or defecating on her, and other forms of abuse.
- **Quota:** The amount of money a victim must give to their trafficker/pimp each night. If a quota is not met, the victim may be made to work until it is, or may be beaten or otherwise disciplined.
- **Reckless eye balling:** When a prostitute is looking at another pimp or suspected pimp.
- **Rick:** A client of prostitution.
- **Seasoning:** The process of breaking a victim’s spirit and gaining control over her, using rapes, beatings, manipulation and intimidation.
- **Serve:** The procedure by which the newly “chosen” pimp “serves notice” to the old pimp. This is done when the “chosen” pimp takes his “new” prostitute’s money (earned from the previous night) and gives it to the old pimp. This is an older custom and not used as much. Most pimps will simply “serve” the old pimp verbally without a money exchange.
- **Square:** A person not involved in the game of “pimpin” and prostitution. Someone who leads a normal life.
- **Stable:** The amount of prostitutes working for a particular pimp. Example: if a pimp has six girls working for him, he has a stable of six.
- **Staying in pocket:** A slang term for the practice of forbidding prostituted women from observing street or establishment names or general surroundings during “dates” in order to keep them isolated.
- **Streets:** Areas that prostitutes offer their trade. Work on the streets is easier and unlike entertainment service or hotel work.
- **The Life:** Prostitution.
- **Track:** A certain area of a street in any given city where prostitution can be found.
- **Trade Up/Trade Down:** The act of buying or selling a person for a pimp’s stable.
- **Trap:** Money/cash earned by a prostitute.
- **Trick roller:** A female/prostitute who steals, either through using deception or drugs, property from male clients after she befriends and either offers or performs sex on him. Most trick roll victims are drugged to the point of unconsciousness, thereby giving the suspect several hours before the victim awakes.
- **Turn-out:** A brand new prostitute. One who has just turned from a normal girl to a prostitute.
- **Wife-in-law:** The name each prostitute in a pimp’s “stable” call each other. A prostitute can only be a wife-in-law to another prostitute if they have the same pimp. In some “stables,” wife-in-laws are not allowed to communicate with each other. Many pimps will enforce this rule to keep the prostitutes from unifying against him and to keep them from knowing how he treats others.

Appendix C: Additional Resources

The facts about CSEC and its victims

- GOVERNOR'S OFFICE FOR CHILDREN AND FAMILIES, <http://children.georgia.gov/02/gov/gocf/home/0,2790,113927404,00.html>.
- Chris Swecker, Assistant Dir., Crim. Investigative Div. FBI, Statement Before the Comm. on Security and Cooperation in Europe, U.S. Helsinki Comm.: Exploiting Americans on American Soil: Domestic Trafficking Exposed (June 7, 2005), available at <http://www.fbi.gov/congress/congress05/swecker060705.htm>.
- EVA J. KLAIN, PROSTITUTION OF CHILDREN AND SEX TOURISM: AN ANALYSIS OF DOMESTIC AND INTERNATIONAL RESPONSES (ABA Center on Children & The Law et. al., 1999) available at www.missingkids.com/en_US/publications/NC73.pdf.
- RICHARD J. ESTES AND NEIL ALAN WEINER, COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN THE U.S, CANADA AND MEXICO, UNIVERSITY OF PENNSYLVANIA, EXECUTIVE SUMMARY (2001), available at www.sp2.upenn.edu/restes/CSEC_Files/Exec_Sum_020220.pdf.
- SHARON COOPER, ET AL., MEDICAL, LEGAL & SOCIAL SCIENCE ASPECTS OF CHILD SEXUAL EXPLOITATION (G.W. Medical Publishing, 2005).

CSEC in Georgia

- ALEXANDRA PRIEBE & CRISTEN SUHR, HIDDEN IN PLAIN VIEW: THE COMMERCIAL SEXUAL EXPLOITATION OF GIRLS IN ATLANTA (Atlanta Women's Agenda ed., 2005), available at www.womensagenda.com/Child_Prostitution.pdf.
- GOVERNOR'S OFFICE FOR FAMILY & CHILDREN, GEORGIA'S SEX TRADE PROBLEM (2010), available at http://www2.georgia.gov/vgn/images/portal/cit_1210/13/42/163482685CSEC%203rd%20qtr%20fact%20sheet.pdf.

Federal and state laws available for prosecuting CSEC offenders

- DARLENE C. LYNCH & KIRSTEN WIDNER, ADDRESSING THE "DEMAND" SIDE OF COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN: REVIEW OF FEDERAL AND STATE LAWS FOR PROSECUTING OFFENDERS (Barton Child Law and Policy Center ed., 2010), available at <http://www.childwelfare.net/activities/legislative2010/GOFCDemandProject.pdf>.
- DARLENE C. LYNCH & KIRSTEN WIDNER, COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN GEORGIA: SERVICE DELIVERY AND LEGISLATIVE RECOMMENDATIONS FOR STATE AND LOCAL POLICY MAKERS (Barton Child Law and Policy Center ed., 2008), available at <http://www.childwelfare.net/activities/legislative2008/CSEC20080131.html>.
- OFFICE OF JUVENILE JUSTICE AND PREVENTION, EFFECTS OF FEDERAL LEGISLATION ON THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN (2010), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/228631.pdf>.

Unique issues involved in the investigation and prosecution of CSEC cases

- SHARON COOPER, ET AL., MEDICAL, LEGAL & SOCIAL SCIENCE ASPECTS OF CHILD SEXUAL EXPLOITATION (G.W. Medical Publishing, 2005).
- HEATHER J. CLAWSON, ET. AL, PROSECUTING HUMAN TRAFFICKING CASES: LESSONS LEARNED AND PROMISING PRACTICES (2008), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/223972.pdf>.
- U.S. Department of Justice, Department of Justice Releases First National Strategy for Child Exploitation Prevention and Interdiction (Aug. 2, 2010), available at <http://www>.

- justice.gov/opa/pr/2010/August/10-opa-887.html.
- U.S. Department of Justice, The National Strategy for Child Exploitation Prevention and Interdiction (2010), available at www.projectsafefchildhood.gov/docs/natstrategyreport.pdf.
- Malika Saada Saar, Craigslist's shame: Child sex ads, CNN Opinion (Aug. 4, 2010), available at <http://www.cnn.com/2010/OPINION/08/02/saar.craigslist.child.trafficking/index.html>.

Strategies for conducting forensic interviews of CSEC victims

- Deborah Rossignol, L.C.S.W., Lead Forensic Specialist at Children's Healthcare of Atlanta (404-785-3820).
- DEBRA A. POOLE & MICHAEL E. LAMB, INVESTIGATIVE INTERVIEWS OF CHILDREN: A GUIDE FOR HELPING PROFESSIONALS (1998).
- Kayla Bakshi & Darcy Katzin, Helping Child Victims and Witnesses Present Effective Testimony, 54 INTERNET PORNOGRAPHY AND CHILD EXPLOITATION 42 (2006), available at http://www.justice.gov/usao/eousa/foia_reading_room/usab5407.pdf.
- Allison Turkel & Suzanna Tiapula, Strategies for Interviewing Child Victims of Human Trafficking, 21 NAT'L CENTER FOR PROSECUTION OF CHILD ABUSE UPDATE NEWSLETTER 10 (2008), available at http://ndaa.org/pdf/update_vol_21_no_5_2008.pdf.
- M. Finnegan, Interviewing Compliant Adolescent Childs, FEDERAL BUREAU OF INVESTIGATION LAW ENFORCEMENT BULLETIN (May 2010), available at www.fbi.gov/publications.

Selecting juries for CSEC prosecutions

- PROSECUTOR'S SEXUAL ASSAULT REFERENCE BOOK (Wisconsin Office of Justice Assistance, Violence Against Women Program ed., 2009), available at <http://oja.wi.gov/docview.asp?docid=18554>.
- SHARON COOPER, ET AL., MEDICAL, LEGAL & SOCIAL SCIENCE ASPECTS OF CHILD SEXUAL EXPLOITATION (G.W. Medical Publishing, 2005).

Using expert testimony in CSEC cases

- PROSECUTOR'S SEXUAL ASSAULT REFERENCE BOOK (Wisconsin Office of Justice Assistance, Violence Against Women Program ed., 2009), available at <http://oja.wi.gov/docview.asp?docid=18554>.
- SHARON COOPER, ET AL., MEDICAL, LEGAL & SOCIAL SCIENCE ASPECTS OF CHILD SEXUAL EXPLOITATION (G.W. Medical Publishing, 2005).

Protecting the Child Witness

- H.N. FELLER, H.A. DAVISON, M. HARDIN AND R.M. HOROWITZ, WORKING WITH COURTS IN CHILD PROTECTION: THE CHILD AS A WITNESS (U.S. Department of Health and Human Services ed., 1992), available at www.childwelfare.gov/pubs/usermanuals/courts_92/courtsk.cfm.
- Best Practices Representing Child Victims of Crime Explored by Experts, AMERICAN BAR ASSOCIATION, (Feb. 14, 2009), <http://www.abanow.org/2009/02/best-practices-representing-child-victims-of-crime-explored-by-experts/>.
- Child Victims and the Law, NATIONAL CENTER FOR VICTIMS OF CRIME, www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentID=32462 (last visited October 30, 2010).

Referral services available for CSEC victims

- Georgia Care Connection Office (Statewide system of care for exploited children)
Phone: 404-602-0068
Website: www.georgiacareconnection.com
- Children's Healthcare of Atlanta, Child Protection Center (Forensic interviewing and forensic medical exams)
Phone: 404-785-3820
Website: <http://www.choa.org/default.aspx?id=4275>
- Center to End Adolescent Sexual Exploitation (CEASE) (Prevention and early intervention)
Phone: 404-612-4566
Website: www.juvenilejusticefund.org/programs/cease/index.aspx
- Children's Advocacy Centers of Georgia (Forensic interviewing and counseling)
Phone: 770-319-6888
Website: www.cacga.org/centers/

Training Resources

- Governor's Office for Children and Families
Phone: 404-656-5600
Website: <http://children.georgia.gov/02/gov/gocf/home/0,2790,113927404,00.html>
- A Future Not A Past
Phone: 404-224-4555
Website: www.afuturenotapast.org
- The Barton Child Law and Policy Center
Phone: 404-727-6664
Website: www.childwelfare.net
- INTERVENE (Identifying and Responding to America's Prostituted Youth) Training
Website: <http://www.sharedhope.org/what/intervene.asp>
- Girls Educational and Mentoring Services (GEMS) Trainings & Workshops
Website: <http://www.gems-girls.org/get-involved/training>

Appendix D: Acknowledgements

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- Diane McLeod, Chief Assistant District Attorney, Chatham County, Georgia
- Shondeana Morris, Deputy District Attorney, Crimes Against Women and Children, Fulton County, Georgia
- Julia Slater, District Attorney, Chattahoochee Judicial Circuit, Georgia
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¹ E-mail from Alex Trouteaud, Ph.D., Contract Researcher, Governor’s Office for Children and Families, in Atlanta, Ga., to Kirsten Widner, Barton Child Law and Policy Clinic (February 28, 2010, 20:21 EST) (on file with the Barton Child Law and Policy Center). Research conducted for the Governor’s Office for Children and Families shows that approximately 400 girls are engaged in prostitution in Georgia each month. *Id.*

² Chris Swecker, Assistant Dir., Crim. Investigative Div. FBI, Statement Before the Comm. on Security and Cooperation in Europe, U.S. Helsinki Comm.: Exploiting Americans on American Soil: Domestic Trafficking Exposed (June 7, 2005) available at <http://www.fbi.gov/congress/congress05/swecker060705.htm>.

³ See, e.g., Lindsey Connell, Three Women and Teen Busted in Prostitution Sting, WTVM 9, Feb. 8, 2010 (Fifteen year old arrested for prostitution in Columbus, Ga.) available at: <http://www.wtvm.com/Global/story.asp?S=11950948>; David Schoetz, Stings Target Madams Posing as Masseuses, ABC NEWS, July 23, 2008 (Seventeen year old among those arrested for prostitution in Macon, Ga.) available at: <http://abcnews.go.com/US/story?id=5435009&page=1>.

⁴ SHARON COOPER, et al., MEDICAL, LEGAL & SOCIAL SCIENCE ASPECTS OF CHILD SEXUAL EXPLOITATION 753-755 (2005).

⁵ Young boys and transgender youth also fall victim to commercial sexual exploitation. However, because the vast majority of victims that come to the attention of the courts are female, we use the female pronoun as our default in this toolkit.

⁶ RICHARD J. ESTES AND NEIL ALAN WEINER, COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN THE U.S, CANADA AND MEXICO, Executive Summary at 3 (2001), available at http://www.sp2.upenn.edu/restes/CSEC_Files/Exec_Sum_020220.pdf.

⁷ ALEXANDRA PRIEBE & CRISTEN SUHR, HIDDEN IN PLAIN VIEW: THE COMMERCIAL SEXUAL EXPLOITATION OF GIRLS IN ATLANTA 5 (Atlanta Women’s Agenda ed., 2005), available at www.womensagenda.com/Child_Prostitution.pdf; see also EVA J. KLAIN, ABA CENTER ON CHILDREN & THE LAW ET. AL., PROSTITUTION OF CHILDREN AND SEX TOURISM: AN ANALYSIS OF DOMESTIC AND INTERNATIONAL RESPONSIBILITIES (1999) available at www.missingkids.com/en_US/publications/NC73.pdf.

⁸ ESTES & WEINER, supra note 6 at 92.

⁹ PRIEBE & SUHR, supra note 7 at 19. For more on the ways in which defendants recruit and control their victims, see KLAIN, supra note 7 at 5.

¹⁰ COOPER, et al., supra note 4 at 753-755.

¹¹ *Id.*

¹² IEPs are mandated by the Individuals with Disabilities in Education Act for children with special education needs. See 20 U.S.C. § 1431 et. seq. (2010).

¹³ Many child victims of prostitution are involved in the child welfare or juvenile justice system. They may have prior convictions for prostitution, shoplifting, trespassing or running away, or probation violations. Prosecutors should deal proactively with the child’s record, raising it in the opening or on direct to prevent defense counsel from using it to attack the child on cross-examination. The prosecutor may also use the child’s negative experiences with the juvenile justice and child welfare systems to explain her distrust of authority and reluctance to testify.

¹⁴ Records relating to a child’s first adjudication of delinquency are confidential unless that first adjudication was for a designated felony. See O.C.G.A. §§ 15-11-78 & 15-11-79.

¹⁵ Erin Otis, Deputy County Attorney, Maricopa County Attorney’s Office, Phoenix, Arizona, Address at the National District Attorney’s Association Training: Investigation and Prosecution of Cases Involving Juvenile Victims of Prostitution (May 12, 2010). For more information about conducting forensic interviews in CSEC cases, see A. Turkel and S. Tiapula, Strategies for Interviewing Child Victims of Human Trafficking, National District Attorneys Association, American Prosecutors Research Institute (2010), available at www.ndaa.org; see also C. Connell and M. Finnegan, Interviewing Compliant Adolescent Victims, FEDERAL BUREAU OF INVESTIGATION LAW ENFORCEMENT BULLETIN (May 2010), available at <http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/May-2010/interviewing-compliant-adolescent-victims>.

¹⁶ An adjudication of unruliness against the child for committing one of the juvenile status offenses may not be used by the defense to impeach the child. O.C.G.A. § 24-9-84.1(d)(1) (2010). However, adjudication for certain charges that would be crimes if the child were an adult may be used if the “probative value of the evidence substantially outweighs the prejudicial effect of its admission.” O.C.G.A. § 24-9-84.1(d)(2).

¹⁷ COOPER, et al., supra note 4 at 755.

¹⁸ Prosecutors interviewed by the Barton Center stressed the necessity of having more than one victim testify in CSEC prosecutions. Interview with Anne Harris, Assistant District Attorney, Cobb County, Georgia (July 13, 2010); Interview with Susan Coppedge, Assistant U.S. Attorney, N.D. Georgia (June 21, 2010); Interview with Judge Janis Gordon, Dekalb County, Georgia (July 7, 2010).

¹⁹ Expert testimony on the victimology of commercial child sexual exploitation can also be effective. See page __ .

²⁰ Defendants often use an older, more experienced prostitute, called a “bottom girl” or “bottom bitch” to help control the younger girls. Her testimony can be particularly valuable because of her inside knowledge of the defendant’s business. If she is age 18 or older, she may face serious criminal charges. Because she likely entered prostitution as a child

herself, prosecutors should determine whether (1) she should be offered immunity or a reduced sentence in exchange for her testimony; and (2) it is still feasible to prosecute the CSEC crimes committed against her when she was younger. See O.C.G.A. §§ 17-3-1, 17-3-2.1 (extending the 7-year statute of limitations for certain sex offenses when children are sexually abused before they turn 16).

²¹ See Rami Badawy and Justin Fitzsimmons, Presentation at the National District Attorney Association Training: Prosecuting CSEC Cases and Working with Victims (2010) (on file with the Barton Center and available through the National District Attorneys Association at www.ndaa.org). For additional suggestions about the kinds of real evidence that are useful for CSEC prosecutions, see Turkel, *supra* note 15 and Cooper, *supra* note 4.

²² Medical bills and consent forms signed by the defendant can also help demonstrate the defendant's control over the child.

²³ Chirp phones function like walkie talkies.

²⁴ PDA stands for a "personal digital assistant" such as a Palm Pilot.

²⁵ Mapquest requests can provide evidence of interstate travel that may be necessary to establish federal jurisdiction.

²⁶ The location of cell towers where the child's messages were relayed may be used to corroborate her testimony about the location of the prostitution. Interview with Shondeanna Morris, Deputy Chief, Crimes Against Women and Children, Fulton County District Attorney's Office, Georgia (June 17, 2010).

²⁷ Interview with Susan Coppedge, Assistant U.S. Attorney, N.D. Georgia (June 21, 2010).

²⁸ For a comprehensive compilation of state and federal CSEC related offenses, the elements of each, and relevant case law, see DARLENE C. LYNCH AND KIRSTEN WIDNER, BARTON CHILD LAW AND POLICY CENTER, ADDRESSING THE "DEMAND" SIDE OF COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN: REVIEW OF FEDERAL AND STATE LAWS FOR PROSECUTING OFFENDERS (2010), available at <http://www.childwelfare.net/activities/legislative2010/GOFCDemandProject.pdf>.

²⁹ State and federal law differ as to when the prosecution must prove the defendant knew the child's age. State prosecutors must show knowledge of age to prove exploitation of a child through pornography, O.C.G.A. §§ 16-12-100, 16-12.100.2, and that the defendant knew or should have known for electronically furnishing obscene materials to minors, but proof of knowledge is not an express element of other important CSEC offenses, such as pimping, pandering, trafficking, statutory rape, or child molestation. Federal prosecutors must show knowledge of age to prove federal sex trafficking of children, 18 U.S.C., § 1591, and interstate transportation for the purposes of child prostitution, 18 U.S.C. §§ 2422, 2423, but not to prove the federal crime of exploiting a child through pornography. 18 U.S.C. § 2251.

³⁰ O.C.G.A. § 16-6-11 (pimping); 16-6-12 (pandering); O.C.G.A. § 16-5-46 (trafficking); 18 U.S.C. §1591 (sex trafficking a child); 18 U.S.C. §§ 2421-2423 (offenses related to interstate transportation of a person for purposes of prostitution); 8 U.S.C. §§ 1324, 1328 (importation of an alien for purposes of prostitution).

³¹ Under Georgia and federal law, a CSEC offender's car, as well as the proceeds of prostitution, are subject to forfeiture. O.C.G.A. §§ 16-6-13.2, 16-6-13.3; 18 U.S.C. § 1593.

³² O.C.G.A. § 16-5-46 (human trafficking).

³³ Fraud, force or coercion do not need to be proven under the sexual servitude prong of the state or federal human trafficking crimes when the victim is a child, but they are frequently present in these crimes, may lead to sentencing enhancements, and help to tell the story of human trafficking to the jury.

³⁴ O.C.G.A. § 16-6-3 (statutory rape, if the child is under age 16); O.C.G.A. § 16-6-1 (rape, if the child is under age 10 or the defendant used force); 18 U.S.C. §§ 2241, 2242 (sexual abuse, including sexual intercourse).

³⁵ O.C.G.A. § 16-6-2 (sodomy); O.C.G.A. § 16-6-22.1 (sexual battery); O.C.G.A. § 16-6-22.2 (aggravated sexual battery); 18 U.S.C. § 2241-2242 (sexual abuse).

³⁶ O.C.G.A. § 16-6-4 (child molestation and aggravated child molestation).

³⁷ O.C.G.A. § 16-6-5 (enticing a child for indecent purposes).

³⁸ O.C.G.A. §§ 16-5-20, 16-5-21 (assault and aggravated assault); O.C.G.A. § 16-11-37 (terroristic threats) §§ 16-5-23, 16-5-24 (battery and aggravated battery); O.C.G.A. § 16-5-70 (cruelty to children); 18 U.S.C. § 113 (assault); 18 U.S.C. § 114 (maiming); 18 U.S.C. § 117 (domestic assault by a habitual offender); 18 U.S.C. § 2261 (interstate domestic violence).

³⁹ The Georgia assault and battery statutes provide for sentencing enhancements when the child lives with the defendant, is pregnant, or is assaulted in a school or public transit zone. See O.C.G.A. §§ 16-5-1 – 16-5-3, 16-5-23, and 16-5-24. A defendant can be prosecuted under federal domestic assault statutes if he cohabits with the child, has a child with her, or acts like her spouse or guardian. 18 U.S.C. §§ 117 and 2261.

⁴⁰ O.C.G.A. § 16-5-80 (feticide); O.C.G.A. §§ 16-5-28, 16-5-29 (assault and battery on an unborn child); 18 U.S.C. § 1841 (death or injury to an unborn child).

⁴¹ When the defendant uses a weapon to threaten or attack the child, he is guilty of the aggravated offense of assault and battery. If he merely possesses a knife or gun, but does not use it in the crime, he can be convicted of a separate offense that adds time to the underlying assault and battery sentence. See O.C.G.A. § 16-11-106 (authorizing a 5-year additional sentence, or ten years for a second offense, for possessing a gun or knife during a violent crime); 18 U.S.C. § 924 (authorizing a range of sentencing enhancements for possessing a firearm during a federal violent crime).

⁴² O.C.G.A. §§ 16-5-1 – 16-5-3 (murder and manslaughter); 18 U.S.C. § 1111 (murder); 18 U.S.C. § 1112 (manslaughter); 18 U.S.C. § 1113 (attempted murder or manslaughter).

⁴³ O.C.G.A. § 16-5-60 (reckless endangerment).

⁴⁴ O.C.G.A. § 16-5-70 (cruelty to children); O.C.G.A. § 16-6-4 (child molestation, if the defendant committed an indecent or immoral act in the presence of a child under age 16).

⁴⁵ O.C.G.A. § 16-5-40 (kidnapping); 18 U.S.C. § 1201 (kidnapping). See also, 18 U.S.C. §§ 1583, 1584, and 1589 (slavery and involuntary servitude offenses) and 18 U.S.C. § 241 (conspiracy against civil rights).

⁴⁶ O.C.G.A. § 16-5-41 (false imprisonment).

⁴⁷ If the child is less than age 14 or injured when kidnapped, the penalty is elevated to life imprisonment, with at least 25 years served in prison. O.C.G.A. § 16-5-40(d)(2). If the child is less than 14 when falsely imprisoned, stricter sentencing rules also apply. O.C.G.A. § 16-5-41(c).

⁴⁸ O.C.G.A. § 16-12-100 (sexual exploitation through child pornography); 18 U.S.C. § 2251 (sexual exploitation through child pornography).

⁴⁹ O.C.G.A. § 16-21-100(b)(5); 18 U.S.C. §§ 2252, 2252A (distribution of child pornography); 18 U.S.C. §§ 1461-1470 (federal statutes relating to distribution of obscene materials, including those depicting children).

⁵⁰ *Id.*

⁵¹ 18 U.S.C. §§ 2252, 225A

⁵² O.C.G.A. § 16-12-100.1 (electronically furnishing obscene material to a child under 18); 18 U.S.C. § 1470 (furnishing obscene material to a child whom the defendant believes is under age 16).

⁵³ O.C.G.A. § 16-12-100.2(d) (online solicitation); 18 U.S.C. §§ 2425 (use of interstate facilities to transmit information about a child to entice others to engage in sex with her).

⁵⁴ O.C.G.A. § 16-14-4 (racketeering); O.C.G.A. § 16-15-4 (criminal street gangs); 18 U.S.C. § 1962 (racketeering); 18 U.S.C. § 521 (criminal street gangs).

⁵⁵ The Georgia criminal code lists drug offenses at O.C.G.A. §§ 16-13-1 – 16-13-114. A defendant who supplies drugs to a minor may not only be guilty of distribution, but also of contributing to the delinquency of a minor. O.C.G.A. § 16-12-1. Federal drug offenses are found at 21 U.S.C. §§ 801-971. Distributing drugs to a minor is a specific federal felony, which authorizes twice the maximum punishment for distribution of that same drug to an adult. 21 U.S.C. § 859.

⁵⁶ O.C.G.A. §§ 16-9-1—16-9-4 (forgery and false identification crimes); O.C.G.A. § 16-9-121 (identity theft); 18 U.S.C. §§ 1028, 1028A (false identification and identity theft).

⁵⁷ 18 U.S.C. §§ 1423, 1426 (false immigration papers); 18 U.S.C. § 1543 (false passport); 18 U.S.C. § 1546 (false visas); 18 U.S.C. § 1592 (destroying identification, immigration papers or passport to maintain person in servitude); 8 U.S.C. § 1324c (immigration document fraud).

⁵⁸ O.C.G.A. § 16-10-93 (influencing a witness); 18 U.S.C. § 1512 (witness tampering); 18 U.S.C. § 1513 (retaliation against a witness).

⁵⁹ For certain offenses, the interstate nexus is supplied when the defendant uses interstate “facilities,” such as email or the internet to facilitate the CSEC crime. See, 18 U.S.C. § 2422(b) (using interstate facilities to entice or coerce a child to engage in prostitution); 18 U.S.C. § 2425 (using interstate facilities to transmit information about a child to entice another to engage in sex with the child); 18 U.S.C. § 1470 (using interstate facilities to transfer obscene material to a child under age 16). See also *U.S. v. Barlow*, 568 F.3d 215 (5th Cir. 2009) (defendant convicted under 18 U.S.C. § 2422 and 1470 after using email and internet chat rooms to arrange sex with the child, even though both the defendant and child were in the same state and their rendez-vous was to take place within that state); *U.S. v. Giordano*, 260 F. Supp. 2d 477 (D.Conn. 2002) (use of cellular telephones to transmit the names of two juvenile trafficking victims violated 18 U.S.C. § 2425; although the defendant only used the phones to make intrastate calls, the phones were part of a larger interstate network).

⁶⁰ *U.S. v. Pipkins*, 378 F.3d 1281, 1295 (11th Cir. 2004), opinion reinstated by, 412 F.3d 1251 (11th Cir. 2005), cert denied, 546 U.S. 994 (2005).

⁶¹ COOPER, ET AL., supra note 4 at 753.

⁶² *Id.*

⁶³ Excerpted primarily from SHARON COOPER, ET AL., supra note 4, at 692-98. See also WISCONSIN OFFICE OF JUSTICE ASSISTANCE, VIOLENCE AGAINST WOMEN PROGRAM, PROSECUTOR’S SEXUAL ASSAULT REFERENCE BOOK COMMITTEE, WISCONSIN PROSECUTOR’S SEXUAL ASSAULT REFERENCE BOOK 303-07 (2009), available at <http://oja.wi.gov/docview.asp?docid=18554>; NATIONAL CENTER ON DOMESTIC AND SEXUAL VIOLENCE, VOIR DIRE AND PROSECUTION TIPS FOR SEXUAL ASSAULT CASES, (excerpted from COLORADO COALITION AGAINST DOMESTIC VIOLENCE, THE ENDING VIOLENCE AGAINST WOMEN TRAINING MANUAL), available at <http://www.ncdsv.org/images/SexualAssault--VOIRDIREANDPROSECUTIONTIPS.pdf>; TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES, THE TEXAS PRACTICE GUIDE FOR CHILD PROTECTIVE SERVICES ATTORNEYS: VOIR DIRE, available at http://www.dfps.state.tx.us/documents/Child_Protection/Practice_Guide/Section_11_Tools/Jury_Trials/Voir_Dire.pdf.

⁶⁴ O.C.G.A. § 19-7-5(b)(3), (3.1).

⁶⁵ See, e.g., *Allison v. State*, 353 S.E.2d 805, 807 (Ga. 1987) (applying the rule that “expert opinion testimony on issues to be decided by the jury, even the ultimate issue, is admissible where the conclusion of the expert is one which jurors would not ordinarily be able to draw for themselves; i.e., the conclusion is beyond the ken of the average layman”).

⁶⁶ See, e.g., *Hall v. State*, 411 S.E.2d 777 (Ga. Ct. App. 1991); *Holsey v. State*, 406 S.E.2d 127 (Ga. Ct. App. 1991); *Grayer v. State*, 354 S.E.2d 191 (Ga. Ct. App. 1987).

⁶⁷ *Pearce v. State*, 686 S.E.2d 392, 399, fn. 7 (Ga. Ct. App. 2009).

⁶⁸ O.C.G.A. § 19-7-5(b)(3), (3.1) (2010) (defining sexual exploitation of a child as “child abuse” and including acts associated with sexual exploitation of a child within the definition of “sexual abuse”). See also SHARON COOPER, ET AL., *supra* note 4 at 756.

⁶⁹ See, e.g., *Kelly v. State*, 399 S.E.2d 568, 571 (Ga. Ct. App. 1990) (DFCS worker with child molestation training was qualified to testify as an expert on CSAAS); *Mullis v. State*, 664 S.E.2d 271 (Ga. Ct. App. 2008) (psychologist was qualified to give expert testimony on CSAAS); *Pearce v. State*, 686 S.E.2d 392 (Ga. 2009) (nurse practitioner was qualified to give expert testimony regarding CSAAS).

⁷⁰ SHARON COOPER, ET AL., *supra* note 4 at 756.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Excerpted from WISCONSIN OFFICE OF JUSTICE ASSISTANCE, VIOLENCE AGAINST WOMEN PROGRAM, *supra* note 63 at 310.

⁷⁵ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, art. 8(3), opened for signature May 25, 2000 G.A. Res. 54/263, Annex II, U.N. Doc. A/RES/54/263 (CRC Protocol), ratified by the United States on Dec. 23, 2002.

⁷⁶ *Id.*

⁷⁷ Child Advocacy Centers of Georgia provides a list of child advocacy centers in the state at <http://www.cacga.org/centers/>.

⁷⁸ Federal law explicitly authorizes courts to appoint a GAL to represent the child victim’s best interests in CSEC cases. 18 U.S.C. § 3509(h) (2010). While Georgia law does not do the same, GALs are routinely used to represent the child’s interests in domestic relations cases, as well as in cases before juvenile courts. See Unif. Sup. Court Rule 24.9 (2010) (domestic relations cases); O.C.G.A. § 15-11-9 (2010) (juvenile proceedings); see also O.C.G.A. § 9-11-7 (children may use a GAL to initiate or defend a civil suit).

⁷⁹ The Barrocas Group has handled some of these cases in Fulton County and could be a resource. For more information, see their website at <http://thebarrocasgroup.com/>.

⁸⁰ Georgia and federal crime victims’ rights are found at O.C.G.A. §§ 17-17-1 – 17-17-16 and 18 U.S.C. § 3771 respectively.

⁸¹ 18 U.S.C. § 3509.

⁸² For a model “List of Child Victim Rights” in child-appropriate language, see <http://new.abanet.org/sections/criminal-justice/PublicDocuments/childvictimrights.pdf>.

⁸³ O.C.G.A. § 49-5-40.

⁸⁴ *Napper v. Georgia Television Co.*, 356 S.E.2d 640 (Ga. 1987).

⁸⁵ While federal indictments need not include the victim’s names, *U.S. v. Powell*, 1 F. Supp.2d 1419 (N.D. Ala. 1998), *aff’d* 177 F.3d 982 (11th Cir. 1999), indictments filed in Georgia state court must include the victim’s name if the crime alleged is against a specific person, rather than the general public. Compare *Dennard v. State*, 534 S.E.2d 182, 189 (Ga. Ct. App. 2001) (name required in indictment for attempted child molestation) with *Coalson v. State*, 555 S.E.2d 128 (Ga. Ct. App. 2001) (name not required in indictment for distributing child pornography).

⁸⁶ Georgia Uniform Superior Court Rule 21; 18 U.S.C. § 3509(d)(2).

⁸⁷ 18 U.S.C. § 3509(d)(3)(protective orders to prevent public disclosure); O.C.G.A. § 17-17-10 (court order to prevent defense counsel from transmitting the child’s contact information to the defendant).

⁸⁸ State judges must close the courtroom whenever a child under age 16 testifies about sexual abuse. O.C.G.A. § 17-8-54 (court must close courtroom, except to journalists, when child under age 16 testifies about sex offense); see also, *State v. Mullis*, 292 Ga. App. 218 (2007) (court may close courtroom in cases involving children over age 16 if the child is likely to suffer serious harm); 18 U.S.C. § 3509(e) (court may close courtroom if a child under age 18 is likely to suffer serious harm or be unable to testify effectively).

⁸⁹ 18 U.S.C. § 3142(e)(3)(E).

⁹⁰ While state law does not contain a specific presumption that CSEC offenders be held pending trial, O.C.G.A. § 17-6-1(e) does require that defendants who commit serious CSEC-related offenses, such as rape, aggravated child molestation and criminal gang activity, be denied bail unless the court finds that they pose no flight or safety risk. All repeat offenders are presumed to be unsuitable for bail. *Id.*

⁹¹ Georgia courts have the inherent power to set conditions on defendants’ pretrial release, including prohibiting contact

with the victim. *Camphor v. State*, 529 S.E.2d 121 (Ga. 2000). See also O.C.G.A. § 17-6-1(f) (requiring specific bail conditions, such as no-contact orders, when offenders commit criminal gang activity or violence against someone in their household).

⁹² 18 U.S.C. § 3142(c)(1)(B).

⁹³ O.C.G.A. § 17-17-9(c).

⁹⁴ O.C.G.A. § 17-17-16; 18 U.S.C. § 1514.

⁹⁵ O.C.G.A. § 16-10-93 (influencing witnesses); 18 U.S.C. §§ 1510-1513 (obstruction and tampering).

⁹⁶ 18 U.S.C. § 1594(f) (victims in federal trafficking cases are eligible for federal witness protection under 18 U.S.C. §§ 3521-3528).

⁹⁷ O.C.G.A. § 24-2-3 (Georgia's rape shield law); Fed. R. Evid. 412 (federal rape shield law).

⁹⁸ Georgia's rape shield law expressly applies to cases of rape, aggravated sodomy, aggravated child molestation and aggravated sexual battery. O.C.G.A. § 24-2-3(a). It has been construed to apply to cases of statutory rape and false imprisonment. See *Berry v. State*, 437 S.E.2d 630 (Ga. Ct. App. 1993); *Grier v. State*, 624 S.E.2d 149 (Ga. Ct. App. 2005).

⁹⁹ See *Osborne v. State*, 662 S.E.2d 792 (Ga. Ct. App. 2008) (consent exception is inapplicable where defendant was charged with molesting a 7-year-old with no legal capacity to consent); *Roberts v. State*, 503 S.E.2d 614 (Ga. Ct. App. 1998) (evidence of a child's sexual history is inadmissible to prove consent, nonchastity, or familiarity with sexual terminology).

¹⁰⁰ *Flowers v. State*, 566 S.E.2d 339 (Ga. Ct. App. 2002); *McGarity v. State*, 480 S.E.2d 319 (Ga. Ct. App. 1997).

¹⁰¹ *Harris v. State*, 604 S.E.2d 565 (Ga. Ct. App. 2004) (partial barrier is permissible); *Ortiz v. State*, 374 S.E.2d 92 (Ga. Ct. App. 1988) (child witness need not face the defendant directly during testimony). While taking the child's testimony, prosecutors can also position themselves to block the view between the child and defendant.

¹⁰² 18 U.S.C. § 3509(i).

¹⁰³ 18 U.S.C. § 3509(b)(1); O.C.G.A. § 17-8-55.

¹⁰⁴ 18 U.S.C. § 3509(b)(2) (a child's deposition is admissible if she is unable to testify in open court because of fear, infirmity, the likelihood of suffering emotional trauma, or defense misconduct); O.C.G.A. § 24-10-135 (depositions are admissible when the child is unavailable to testify); O.C.G.A. § 24-3-16 (a child's deposition may be admissible under the child hearsay exception if the child is under the age of 14 and available for cross-examination).

¹⁰⁵ *Crawford v. Washington*, 541 U.S. 36 (2004) (restricting "testimonial" statements to police and forensic interviewers made during a criminal investigation are inadmissible when the witness is unavailable for cross examination; non-testimonial evidence, statements made with no expectation they would be used in criminal proceedings, is admissible.); *Davis v. Washington*, 547 U.S. 813 (2006) (non-testimonial statements, such as statements made during an emergency 911 call are admissible when the victim is unavailable).

¹⁰⁶ O.C.G.A. § 24-3-3 (excited utterance or "res gestae"); Fed. R. Evid. 803(2)(same). O.C.G.A. § 24-3-4 (statements for medical treatment); Fed. R. Evid. 803(4) (same).

¹⁰⁷ O.C.G.A. § 24-9-5(b); 18 U.S.C. § 3509(c).

¹⁰⁸ See, e.g., *U.S. v. Owens*, 484 U.S. 554 (1988) (child is available even though she cannot recall events); *Smith v. State*, 491 S.E.2d 194 (Ga. Ct. App. 1977) (child is available although uncommunicative on stand); *Starr v. State*, 604 S.E.2d 297 (Ga. Ct. App. 2004) (child is available even though she did not take stand because the defense could have called her to testify); but see *Hines v. State*, 548 S.E.2d 642 (Ga. Ct. App. 2001) (child is unavailable if she is too upset to testify at all).

¹⁰⁹ From a CSEC training developed by G.E.M.S. (Girls Educational and Mentoring Services).

¹¹⁰ Drawn from the Community Coalition Against Human Trafficking website, at <http://www.ccaht.org/terms.html>.