# Obtaining Juvenile Court Records in Sex Offense Cases

Under Georgia law, a defendant can seek a court order to obtain the juvenile court records of any victim or witness who will testify against him at trial. Typically, we will want to discover whether a victim or witness was prosecuted in juvenile court for a crime. If so, evidence of this prior crime may be used to impeach his or her credibility or to show that the person may have a motive to help the prosecution. In some instances, juvenile court records can reveal whether DFCS had ever filed a delinquency petition against a parent of a child accuser or whether the court had ever become involved in a custody dispute regarding the child. In a sex offense case that involves an allegation made by a child against one of the parents, the juvenile court will sometimes get involved in DFCS's attempt to modify or terminate the parent's parental rights. In these cases, there will often be evidentiary hearings and extensive testimony that can be invaluable in the defense of the criminal charges.

The procedure for requesting these records is identical to the procedure for requesting DFCS records. First, a motion must be filed requesting that the court conduct an *in camera* inspection of the records. The court will then review the records and determine what records, if any, should be provided to the defense. The standard is whether the records reveal exculpatory evidence or are, in any other way, relevant to an issue in the case.

In *Mangum v. State*, 274 Ga. 573, 555 S.E.2d 451 (2001), the Georgia Supreme Court held that the defendant was entitled to a new trial after the trial court refused to conduct an *in camera* examination of a witness' juvenile court records to determine if they could be used for impeachment purposes, thereby violating the defendant's Sixth Amendment right to confrontation. *See Davis v. Alaska*, 415 U.S. 308 (1974), holding that the confrontation clause requires that a criminal defendant be allowed to impeach the credibility of a government witness by exploring issues on cross-examination that may reveal bias in favor of the government resulting from the witness' status as a juvenile offender.

From a procedural standpoint, if the trial court concludes after an *in camera* review that the juvenile court records contain no exculpatory or relevant

evidence, the defendant can challenge this decision on appeal. The burden is on the defendant to show what materials were suppressed and how they were relevant to the defense. Therefore, it is essential that the defense request that the records be filed under seal with the court so that they will be available for review by the appellate court.