



Know Your Rights

by Atty. Jay C. Howell

Proving Child Abuse in Court

During my years as an Assistant State Attorney in Jacksonville, I specialized in the prosecution of child abuse and sexual crimes. They are very difficult cases to prove. A prosecutor must spend enough time with child victims to ensure that they are comfortable in the court setting and able to tell the story of what happened to them as best they can. My own experience confirmed over and over again that the child's ability to testify in a courtroom increased dramatically with time spent with the prosecutor organizing and understanding his/her testimony. If properly educated, children can be excellent witnesses.

Another challenge in almost every physical or sexual child abuse case is the education of the jury. Most of the time, jurors come to criminal court with no particular expertise in understanding or dealing with incidents of child abuse. They often do not understand why a child would recant or withdraw his/her previous statements about the guilt of the perpetrator, or why child victims often deny incidents of abuse at first and disclose information gradually, over a period of time. The most successful prosecutors will often call expert witnesses to the stand to educate the jury on these and other difficult issues.

The appellate courts of Florida have allowed such expert testimony in child abuse cases. Recently in Palm Beach County, the defendant was convicted of one count of sexual battery on a person less than 12 years of age. The case had gone to trial before a jury. During the trial the State

presented the testimony of a former FBI agent as an expert witness on child crimes and the sexual victimization of children. The expert provided extensive testimony on the common characteristics of behavior exhibited by child molestation victims and explained a concept he called "The Compliant Child Victim." He defined a compliant child victim as one "who cooperates in or consents to their sexual victimization" and he explains that they are frequently adolescent boys. He described why compliant child victims may not disclose the behavior at first and may later disclose the facts surrounding the incident in a piecemeal fashion.

The expert knew very little about the actual case and had not seen any police reports, taped interviews or transcripts of statements. He did not speak with anyone at length about the facts of the case, nor did he render an opinion on whether the victim was a compliant child. Rather, he testified to his opinions about victims of child molestation derived from his own personal experiences in working on thousands of cases. None of his opinions were based on scientific studies or medical diagnostic criteria, or other scientific tests.

The victim testified in the case along with two other boys who had also been victims of a sexual assault by the defendant. The defendant was found guilty by the jury and sentenced to life in prison. The defendant appealed and his attorneys argued that the FBI expert's testimony improperly bolstered, or supported, the credibility of the child victim,

who was an adult at the time of trial. The defendant also argued on appeal that the expert's testimony was not "pure opinion," but rather was based on "experimental scientific methods that failed to meet the proper test."

The Court of Appeals cited a recently decided case that was very similar to this one. In that case, another Florida appeals court found that expert testimony concerning the behaviors of child molestation victims based entirely upon the expert's professional experience did constitute "pure opinion" and as such, was admissible before the jury. In that case, the expert explained how victims typically deny the sexual abuse at first, delay disclosure, and ultimately disclose information in a piecemeal fashion. The court approved the expert's testimony in the other case and affirmed the conviction.

In this case the appellate court made clear that the expert had limited the basis for his testimony to his own professional experience and did not render an opinion on whether the victim in this case was a compliant child victim. Accordingly, the appeals court found the expert's testimony to be properly admitted and affirmed his conviction.

This case is *Torres vs. The State*, and was decided by Florida's Fourth District Court of Appeal on January 7, 2009.

Jay Howell, a Jacksonville attorney, has been a State Prosecutor, a US Senate Investigator, and the founder of the National Center for Missing and Exploited Children. He represents crime victims in civil claims for damages and advocates for the legal rights of all victims.

Federal stimulus funds to promote public safety



Ask the Mayor

by Mayor John Peyton

It is no secret that our country and city are experiencing stressful economic times with pressures that haven't been felt in decades. However, we know that with challenges come opportunities.

When President Barack Obama signed the nearly \$800 billion American Recovery and Reinvestment Act of 2009, he offered leaders from every segment of our community an opportunity to help our country, and this city, recover from the devastating effects of the national economy. Federal stimulus funds are available for Jacksonville, and I have instructed my staff to identify opportunities and aggressively seek funding - especially in the public safety arena.

Much of the money has been set aside for work projects, environmental upgrades, investing in new technology, education and transportation; however, there is also a sizeable sum set aside for a variety of public safety programs. The city is going to pursue every available dollar to help keep Jacksonville's

streets and neighborhoods safe from crime.


City Hall will be working closely with the Jacksonville Sheriff's Office and law enforcement support organizations to ensure that every need is met. As I announced last month, the city is serious about garnering stimulus money and has established a working group to match city needs with available stimulus funds. Public safety is one of my administration's main priorities and is a major focus for this group.

I encourage all members of our community to stay involved and informed throughout this process by visiting the Jacksonville recovery page on www.coj.net. This site will be continually updated to ensure transparency and accountability as dollars begin to be allocated.

These are indeed troubling times, but the stimulus package is offering a unique opportunity to create new projects and new programs that will put Americans, including Jacksonville's citizens, back to work. The stimulus funding is going to be distributed and spent, and Jacksonville is working hard to ensure that its share goes to improve our community and create a safer city.

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