

Executive Director

Ann Dugger

Editor

Shirley Shaw

Victim Services Practitioner

Lorraine Sinclair

Administrative Assistant/Bookkeeper

Terri Johnson

Public Relations

McCormick Agency, Inc.

Website Management

websessionshosting.com

Larry Cohen

Executive Board

Scott Adams
Treasurer

Ted M. Hires, Sr.
Founder

Stephen Joost

Nancy McGowan

Sheriff John Rutherford

Michael A. Rutledge

John Turknott

Lou Webber

Rev. Garry Wiggins

V. Wayne Williford
Board Chairman

Charlie Wilson



Know Your Rights

by Atty. Jay C. Howell

Victim Impact Videos

Criminal conduct which results in the death of the victim includes first and second degree murder, manslaughter, vehicular homicide, DUI manslaughter, and others. When the defendant stands convicted of committing these criminal acts, what evidence should the court receive during the sentencing procedure regarding the life of the victim? Our courts have wrestled with the limits which will be placed on the admission of this often powerful and emotional information.

It is important to note from the outset that there is a substantive difference between the way the courts look at victim impact evidence in second or third degree murder or manslaughter cases, and the way the courts view the same evidence if it is offered at a sentencing involving a first degree murder charge where the State has decided to seek the death penalty.

When the State seeks to enforce the ultimate penalty - to take the defendant's life - our courts have more carefully restricted the type of evidence that may be admitted in front of a judge or jury regarding the life of the victim. The advent of high technology has made the admission of so called "Day in the Life" videos a source of controversy and argument between the State and the defense attorneys.

The images on these videos often include still photos of the victim as a child, growing up, and his/her family and friends.

Some include video footage of the victim performing sports activities or playing a musical instrument or even singing. These presentations are becoming increasingly more sophisticated and even multimedia - so-called "Powerpoint" presentations. These videos dramatically portray the victim in a way that mere witness testimony cannot. Background music, dramatic lighting effects, and the presence of a narrator add an emotional power to these presentations. And now, their emotional impact has drawn the attention of the criminal court and appeals court judges.

Some of the highest courts of the various states have upheld the use of these videos in the sentencing phases of criminal prosecutions. The California Supreme Court upheld a video showing more than 100 photos of 79-year-old Elmer Benson and his 74-year-old wife Gladys who were stabbed to death in their home in 1996. The video was narrated by their daughter and ended with a visual depiction of the markers on their graves. Their assailant was sentenced to death.

In another recent case, the same California Supreme Court approved the use of a 20-minute video that documented the life of a young woman who was killed by a man she had become acquainted with at a fitness center. The defendant, Douglas Oliver Kelley, received the death penalty for raping and murdering her. Kelley sought to review the California

court ruling with the United States Supreme Court.

Though the Supreme Court declined to hear either case, Justice John Paul Stevens wrote in his dissent, "As these cases demonstrate, when victim impact evidence is enhanced with music, photographs, or video footage, the risk of unfair prejudice quickly becomes overwhelming." The effect of the Supreme Court's refusal to hear the cases means that the lower court opinions, approving the videos, will stand. The Supreme Court's refusal occurred in November of 2008.

The challenge remains for state prosecutors to effectively portray the value and import of the life of the victim without an overuse of musical, visual, and narrative enhancements, which may find disfavor in the courts. This may require closer cooperation between the prosecutor's office and the surviving family members or a faith-based organization with whom the victim associated. The high courts have yet to finally decide this issue. Ultimately, the United States Supreme Court will be called on to resolve the issue and decide the parameters of such evidence.

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.

The Justice Coalition began in 1995 because one man's priorities were changed. Ted Hires was the average businessman working 60 to 80 hours a week and looking out for himself until that day when he and his staff were held at gunpoint and robbed. Being a victim of crime, Ted found the criminal justice system worked harder for the criminal than the victim. As a result of Ted's experience, he formed a (501C3) non-profit organization, the Justice Coalition, and is making an effort to change the Fourth Judicial court system for the better.

Since 1995, the Justice Coalition has been fighting crime every step of the way. Fugitives captured are through a partnership with local media and law enforcement agencies.

The Justice Coalition's

Victims' Advocate

A free newspaper supporting victims' rights published monthly by The Justice Coalition. The opinions of contributing writers are not necessarily those of the Justice Coalition's Victims' Advocate or the Justice Coalition. The Justice Coalition's Victims' Advocate welcomes both editorial and photographic submission, but they cannot be returned. Please allow six weeks for a response to submitted works. Calendar information is welcome but must be submitted one month in advance of the event.

©Copyright 2009, The Justice Coalition's Victims' Advocate. All rights reserved.

The Justice Coalition's Victims' Advocate makes every effort to verify the information contained within; however, it assumes no responsibility for claims of advertisers. Should the publication be responsible for a reporting error, it will use twice the amount of space to print a correction. Advertising rates and information are available upon request. The Justice Coalition's Victims' Advocate retains the right to refuse questionable or offensive advertising as deemed by the publication and will not be held liable for false claims by an advertiser(s). Advertiser purchases right of publication only.

All correspondence to the Justice Coalition's Victims' Advocate should be sent to:

Justice Coalition's Victims' Advocate
1935 Lane Ave., South, Suite 1 • Jacksonville, Florida 32210
Phone: (904) 783-6312 • Fax: (904) 783-4172

THE JUSTICE COALITION'S OBJECTIVES

- To be available for innocent victims of violent crime
- To educate the general public on criminal justice issues
- To be pro-active in the fight against crime

Advertising Deadline

The deadline for advertising copy for the **March 2009 Edition** of the JUSTICE COALITION'S VICTIMS' ADVOCATE is **February 10, 2009.**

THE SECRET WORD GAME

Hidden in the text of the Victims' Advocate is the **SECRET WORD** for the month of **January**. The rules are simple:

1. Find the word.
2. Telephone the Justice Coalition office 783-6312.
3. The first person who telephones the correct Secret Word wins a Gift Certificate to Sonny's Real Pit Barbeque Restaurant.
4. You can only win once in a twelve month period.

SO START SEARCHING!

Exclusions: no persons employed by the Justice Coalition, Sonny's, nor their families are eligible.

AMERICAN ELECTRICAL Contracting, Inc.



"Wired Right At A Fair Price!"

(904) 737-9124
5065-3 St. Augustine Road
Jacksonville, Florida 32207

Mobile: (904) 591-9947
Fax: (904) 737-1099
ghopkins@american-electrical.com
www.american-electrical.com
License # ER0015316

Wound...

Continued from page 1

name for Radarius) was all right and he felt impressed that God said, "No, he's not all right, but he IS all right, because he's with Me."

When she arrived at the Trauma Unit and asked about her son, a doctor took her into a small room and gently told her Radarius did not make it. Keisha said, "I went crazy; I wanted to see my son." They took her to him, and she sat with him for a long, long time - until he turned cold and the nurse said they had to prepare him for the coroner.

"I couldn't believe it," she says today. "How can I drop my son off at a party one minute and the next minute he's dead? My second-born child, whom everyone loved and who got along with everyone. I miss him every day. I visit his grave and leave flowers appropriate for the season or holiday.

"People say 'time heals all wounds,' but this is a wound that will never heal."