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Tuesday, March 14, 2023

Senator Anne Carney, Chair  
c/o Legislative Information  
100 State House Station  
Augusta, ME 04333

Submitted via the public portal

**RE: Public Hearing / Work Session on LD888**

Good day Senate Chair Carney, House Chair Moonen, and Honorable Members of the Judiciary Committee.

Thank you for this opportunity to present written testimony on the proposed legislation affecting Maine's criminal laws before you today. I am offering this testimony both individually and on behalf of Maine's elected District Attorneys.

We are pleased to wholeheartedly support LD888. Courthouse Facility Dogs are professionally trained dogs working throughout the Country in prosecutors' offices, child advocacy centers, and family courts. They primarily provide a calming influence for children and other vulnerable witnesses during stressful legal proceedings. 18 States currently have enabling legislation like LD888, while Courthouse Facility Dogs are currently used as an asset to the citizens of 42 States across the Country and in Canada. By passing LD888, Maine would become the 43<sup>rd</sup> State to codify the use of Courthouse Facility Dogs.

As members of the Judiciary Committee, you are familiar with the breadth and width of the toll crime has on individuals and communities. One effective way to combat the stress and emotional toll of crime is with a courthouse facility dog.

Courthouse Facility Dogs assist crime victims, witnesses and others during the investigation and prosecution of crimes as well as other legal proceedings. They provide compassion and emotional support to everyone in the justice system. Courthouse Facility Dogs are utilized in such a way as to not disrupt legal proceedings or create legal issues. Courthouse Facility Dogs can provide a sense of normalcy during juvenile and family court proceedings, and can accompany vulnerable crime victims, including, children, rape victims, developmentally delayed adults, and the elderly during court proceedings. They can also provide emotional comfort to family members during the trial and

sentencing of the offender. Courthouse dogs also help attorneys and legal staff, who carry the emotional toll of trying to help some of the community's most vulnerable citizens.

We know too well the toll that Covid has taken on not just the workload within our offices (and the Courts), but that Covid has adversely impacted the quality of life across the criminal justice community; morale is at an all-time low. The added stress of the pandemic, the hectic schedule, unpredictability, and the return to "normal" with staggering backlogs, increased new cases, and the severity of the new cases – we currently have 3 pending attempted murder charges; multiple armed home invasion cases; multiple discharge of firearms case; dozens of DV cases with serious bodily injuries; and a variety of gross-sexual assault cases with victims ranging from the very young to adults – has taken an understandable, but inevitable emotional toll on the attorneys, VWAs, and staff of the DAO.

Burnout is a real concern for our Offices. Vicarious Trauma is an occupational challenge for people working and volunteering in the fields of victim services, law enforcement, emergency medical services, fire services, and other allied professions, due to their continuous exposure to victims of trauma and violence. This work-related trauma exposure can occur from such experiences as listening to individual clients recount their victimization; looking at videos of exploited children; reviewing case files; hearing about or responding to the aftermath of violence and other traumatic events day after day; and responding to mass violence incidents that have resulted in numerous injuries and deaths.

Compassion fatigue is comprised of two components: burnout and vicarious traumatic stress. The first component consists of characteristic negative feelings such as frustration, anger, exhaustion, and depression. The second component, vicarious traumatic stress, may result when the professional is negatively affected through vicarious or indirect exposure to trauma material through their work.

In essence, the first responders, attorneys, and support staff will experience the same trauma as the victims and clients that we serve. One effective way to combat the stress and emotional toll of crime is with a courthouse facility dog.

LD 888 is modeled after its corollary in the Federal system. It is designed to pair highly trained dogs with trained criminal justice professionals together as a Courthouse Facility Team to provide legally neutral support to those citizens entangled (mostly involuntarily so) in the Court process.

Courthouse Facility Dogs must meet a high standard of service:

- The dog must be able to perform basic obedience skills with voice commands and/or hand signals: walk on a loose leash on the right or left side, come, sit, sit stay, down, down stay, and maintain discipline and focus in stressful environments. A Facility Dog should also have a basic understanding of additional service dog skills such as my lap, visit, and place.

- The dog must show appropriate public behavior at the highest level. Inappropriate behaviors such as barking, growling, jumping on or sniffing people are unacceptable.
- The dog must be neutered or spayed and be current on all vaccinations. A medical evaluation will be completed to determine that the dog does not have any medical or physical problems that will affect its role as a Facility Dog.
- The designated handler and dog must complete and pass a Public Access test. Facility Dogs will be retested at five years and ten years of age to renew their public access.
- Public access for a Facility Dog team is directed toward the team's work environment. Public access to maintain the dog's working ability in public situations or to participate in Helping Paws functions is allowed. The handler is expected to use diligence in their use of public access. Public access for the team is not transferable to anyone other than the handler of the dog.

Here is a brief link to a video of Holiday in training – keep in mind that she is only 1 year into a minimum 2 year training program: <https://www.facebook.com/100076797242081/videos/716537039963573/> .

Maine's District Attorneys believe that the Legislature's endorsement of LD 888 and the implementation of Courthouse Facility Dogs across Maine will increase the quality of judicial services for all of Maine's citizens.

Thank you for your time and your consideration.

Be Well and Stay Safe,



Todd R. Collins

District Attorney, Aroostook County

Vice-President, Maine Prosecutors' Association

I had to send a card because  
I couldn't stop thinking about this  
magical, real occurrence that helped  
me in more ways than one. Sir,  
(I don't know your name and I hope  
this finds you well but your dog  
he is an angel. A golden light in  
a very dark tunnel. You're very lucky  
to have such a great dog. Horses are  
my animal that have rescued me,  
but I've never encountered such a  
kind hearted, intuitive, smart dog.



To The Golden Dog who saw me  
when no one else did,  
I want to thank the man that had  
a very smart/kind dog. I don't remember  
anything until I saw this dog running  
to me. All I remember was running,  
running from a person that I've become  
so afraid of and cry everyday. Your  
dog grounded me when I had a million  
racing thoughts from bad things that  
were done to me. I was actually in  
court that day, I got scared and ran.  
Your dog came back in and grounded me  
and I felt so loved and strong, like nothing  
could hurt me. He gave me confidence.  
Thank you for letting me hug your dog.  
It's my favorite memory right now.

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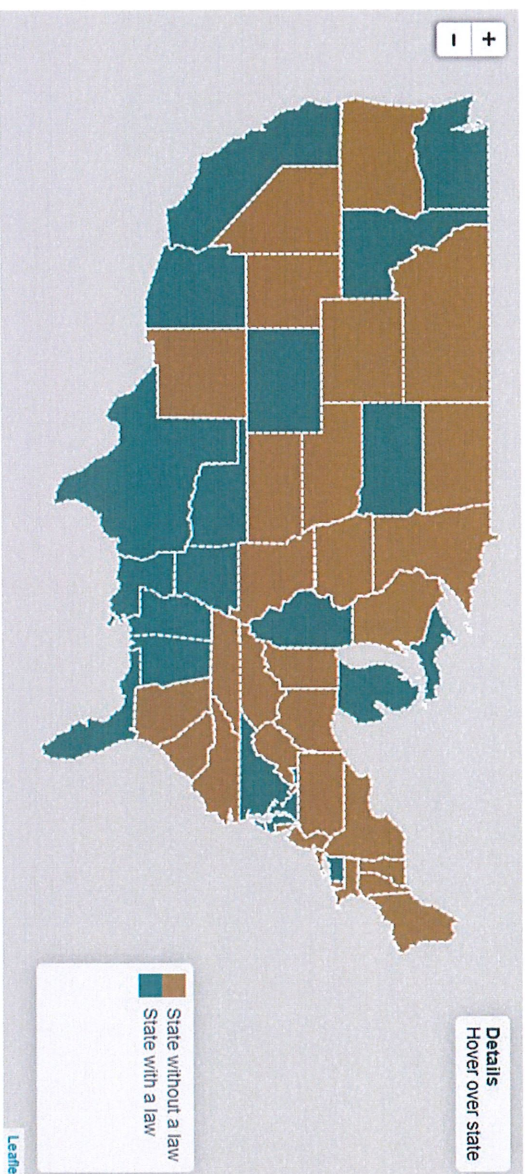
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## Facility Dogs/Courthouse Support Dogs



Summary: As of 2023, eighteen (18) states have laws that allow the use of facility/courthouse dogs in some legal proceedings.



## Learn more about facility dogs and Justice Facility Dogs Canada

JFDC follows and endorses the International Best Practice.

+

Who are the handlers of Justice Facility Dogs?

-

- Professionals who work within the criminal justice system.
- May be victim support workers, prosecutors, police officers, counsellors/therapists, social workers, etc.
- Trained in trauma-informed practice and who takes a victim-centred approach when utilizing a Facility Dog with victims of crime.
- An effective communicator.

What outcomes do we see when Justice Facility Dogs are utilized with victims of crime?

-

- Calm, stable dog behavior sets a tone for the space when meeting a client;
- Facility dogs may assist people who struggle to talk. They help reduce negative stress responses, help people to function better cognitively which assists victims in their ability to effectively communicate.
- Facility Dogs provide cathartic & healing touch where human responders cannot.
- Facility Dogs normalize traumatic situations.
- Facility Dogs draw out healthy emotions.
- Facility Dogs may reduce blood pressure & lower heart rates.
- Facility Dogs may calm agitated persons, reduce anxiety & extreme/uncontrolled emotion.

Trauma, the brain and canine intervention - how do Facility Dogs help?

-

Researchers have learned that dogs can have a positive neurochemical effect on persons affected by trauma. When individual's sympathetic nervous systems are activated by traumatic events they often experience a subsequent surge of the hormone cortisol. While cortisol has positive properties, it also has negative ones. Primarily speaking, cortisol may negatively impact an individual's cognitive capacities. This may result a person struggling to communicate, difficulty remembering and recalling information and trouble with focus and concentration, among other things. Merely looking at a dog, let alone interacting with one can result in the "oxytocin effect". When interacting with dogs, the human body may produce another hormone called oxytocin. Oxytocin is often referred to as the "love drug" or "love hormone". It is associated with people feeling comforted, connected to others, cared for, etc. Oxytocin also provides the added benefit of counteracting cortisol and positively impacting individuals cognitive functioning.

“Scratch a dog and you’ll find a permanent job.”

—Franklin P. Jones (humorist)

# FROM THE DOGHOUSE TO THE COURTHOUSE: FACILITY DOGS AS TRIAL AIDS FOR VULNERABLE WITNESSES

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In 1989 a seeing-eye dog named Sheba was used to comfort abused children in the Special Victims Bureau in Queens, New York. Largely believed to be the first “facility dog,” the practice did not gain traction until 2003, when Ellen O’Neill-Stephens began using her dog to comfort witnesses in courtrooms. She established the Courthouse Dog Foundation, which provided training for facility dogs and education for judges (Mariani, 2020). Today, 262 facility dogs are used in 41 states, formally or informally, to comfort witnesses (<https://courthousedogs.org/>).

Though courtroom proceedings are stressful for most people, children and other vulnerable witnesses might find testifying in court to be especially stressful. For example, many cases involving child abuse never go to trial, as children are often too stressed, anxious, or otherwise unable to provide effective testimony of their experiences. Due to the special challenges associated with prosecuting cases involving vulnerable complainants, special accommodations are sometimes made to lessen the stress of testifying and to aid cases in going to trial, thereby improving outcomes for victims (Caprioli and Crenshaw, 2017).



*Different types of support dogs are becoming a common sight in courtrooms. What do judges and court staff need to know about using support animals to aid witnesses during trials?*

These accommodations, also known as trial aids, include screens, support persons, and video testimony. Unfortunately, many established trial aids lead jurors to doubt the credibility of the witness (Chong and Connolly, 2015). The consequence of such effects (e.g., biased verdicts) makes understanding the effects of trial aids on all parties important. An increasingly popular trial aid involves facility dogs, also known as therapy dogs or courthouse dogs. Currently, more than 40 states allow facility dogs in courtrooms during some portion of a legal process.<sup>1</sup> How dogs are used also varies greatly (whether the witness is able to interact with the dog, whether the jury is allowed to see the dog), as does the dog's ownership (if the dog belongs to the judge or prosecutor or to a community member).

This article reviews the current state of dogs as trial aids. Specifically, we discuss why dogs are so popular as trial aids; describe the different types of support dogs and their respective rights; present current research, practice, and caselaw/legal precedent involving facility dogs; and offer considerations for judges who are contemplating using dogs.

## WHY DOGS PROVIDE COMFORT

MacLean and Hare (2015) asked: "Why do we feel genuine friendship, love, and social attachment . . . with dogs?" (p. 281, emphasis added). The answer is complex, emerging, and beyond this article's scope. However, efforts to understand the form, function, and trajectory of human-animal bonds have engaged fields such as philosophy, evolutionary psychology, biology, genetics, and public health. Although more research is needed and some findings are mixed (e.g., mere dog ownership is not universally associated with lower levels of depression or increased exercise; Mueller et al., 2018), evidence is accumulating that the human-dog relationship is unique and beneficial to the well-being of both across myriad domains (Menna et al., 2019).

Specifically, various health benefits of human-dog interactions include lower blood pressure, fewer depression symptoms, and improved functioning after social loss (such as divorce or the death of a loved one). Petting a dog reduces anxiety and enhances mood, perhaps due to release of

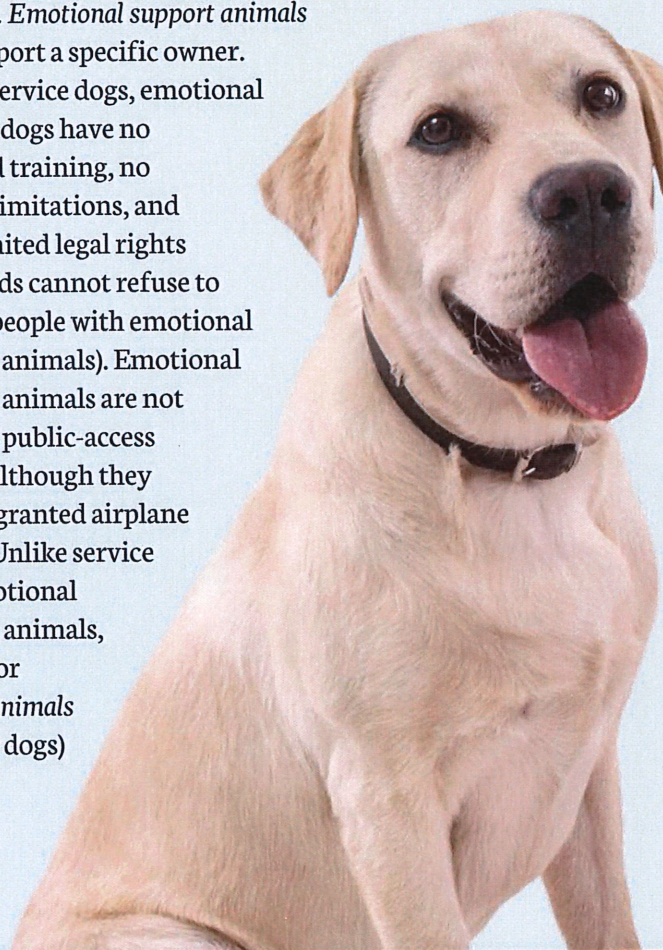
"feel good" hormones in *both* human and dog. Human-dog encounters provide comfort, calm, and reciprocal bonding (Powell et al., 2019). This effect provides rationale for use of appropriately selected dogs to promote well-being in various stressful settings (e.g., universities, airports, or hospitals).

## TYPES OF DOGS USED TO PROMOTE WELL-BEING

Although it is becoming more common to use animals to support well-being in public spheres, their presence remains somewhat controversial (see news stories of emotional support peacocks and other exotic animals brought onto airplanes). Contributing to this controversy is a misunderstanding of the differences in training and legal-access rights between types of assistive animals. Officially, there are four recognized classes of dogs that aid humans: working dogs (excluded from this discussion, as they do not work in courtrooms), service dogs, therapy dogs (which includes facility dogs), and emotional support dogs. Each differ in their training and legal rights.

*Service animals* are individually trained to help a specific person with a disability and have full public-access rights under the Americans with Disabilities Act. Currently, only dogs and miniature horses can be certified as service animals. *Emotional support animals* also support a specific owner.

Unlike service dogs, emotional support dogs have no required training, no species limitations, and have limited legal rights (landlords cannot refuse to rent to people with emotional support animals). Emotional support animals are not granted public-access rights, although they may be granted airplane access. Unlike service and emotional support animals, *therapy or facility animals* (mainly dogs)



1 See [Courthouse Dogs Foundation](https://perma.cc/P948-SENW). Perma link: <https://perma.cc/P948-SENW>.



are not trained to work with a specific human. Instead, they are trained to be comfortable in new environments and interact with strangers (e.g., patients, witnesses, or students). Therapy dogs must complete a certification-training program, the contents of which differ among organizations. These dogs generally do not have public-access rights but are increasingly accepted in courtrooms and other stressful environments, such as post-disaster crisis intervention.



## FACILITY DOGS IN THE COURTROOM

Although the use of facility dogs is increasingly popular, some concerns include:

- the visual appeal of dogs might cause jurors to perceive witnesses as more vulnerable, likeable, or sympathetic;
- some labels applied to facility dogs (“therapy dog” or “advocate dog”) imply the child needs therapy and endorse his or her status as a victim;
- dogs might distract jurors or witnesses;
- jurors might transfer their feelings toward dogs (good or bad) onto the witness;
- a dog in the courtroom limits access to people who are allergic to or afraid of dogs; and
- the calming effect of a dog could lead jurors to believe the witness was not severely harmed or was coached.

The overarching concern is that the dog’s presence could bias the jury; for example, the dog could lead the jury to think the victim must be *really* injured if she needs a dog to testify, or that the dog is a ploy to trick the jury into thinking her injuries are severe. There is less controversy about using dogs at hearings without juries, although judges could also be influenced by the dog’s presence.

Research indicates that the presence of a facility dog does not bias jurors (Burd and McQuiston, 2019). In the two known studies, participants read a detailed case summary and a partial trial transcript in which a child testifies with either a teddy bear, a facility dog, or no trial aid. In both studies, the facility dog did not affect mock jurors’ perceptions of the defendant or witness. Even so, the written nature of the manipulations lacks verisimilitude and, therefore, such findings should be interpreted with caution.

Based on this research and the general fund of knowledge regarding human-animal interaction, proponents of facility dogs believe that facility dogs calm children, improve testimony, and aid witnesses who would otherwise not be emotionally capable of testifying (Caprioli and Crenshaw, 2017). Legal experts tend to view facility dog use as an improvement over other trial aids, as they do not interfere with the defendant’s right to confront their accuser (as has been said of CCTV and other video testimony; *Crawford v. Washington*, 2004). Nor do they offer the potential distraction of nonverbal cues from a support person through unconscious reactions of disgust toward the defendant or empathy for the child. Judges have generally recognized that the benefits outweigh the potential drawbacks, with nearly 90 percent of judges surveyed indicating that they would welcome the presence of a facility dog in their courtroom (Firth, 2020). However, most of these benefits and drawbacks have not been tested empirically, and there is a need for continued research on dogs as trial aids.

## LEGAL CONSIDERATIONS

Although research suggests that dogs have little negative effect, there have been a small number of legal challenges to the use of dogs in the courtroom, especially during trials. Most of these appeals include claims that the presence of a facility dog enhanced the perceived victimhood of the witness (e.g., *California v. Chenault*, 2014; *California v. Spence*, 2012; *Jones v. State*, 2020; *New York v. Tohom*, 2013; *State v. Hasenyager*, 2016). In all these cases, the courts ruled that facility dogs do not bias the jury’s decisions. Another case admitted the possibility of some bias stemming from facility dog use but found that the court’s attempt to minimize the stressful impact of testifying for witnesses outweighs the defendant’s objection to the facility dog (*State v. Lacey*, 2018).



An additional claim is that facility dogs violate due-process rights (*Michigan v. Johnson*, 2016; *Smith v. Texas*, 2016; *Washington v. Moore*, 2014) and the confrontation clause (*California v. Spence*, 2012). These claims were also rejected, citing the discretion of the court and other rulings making trial aids admissible (*California v. Chenault*, 2014; *New York v. Tohom*, 2013; *Washington v. Dye*, 2013).

While most cases involved the use of facility dogs for children, two cases also approved their use for adults with a mental disability (*State v. Dye*, 2013) or post-traumatic stress disorder (*Jones v. State*, 2020). Many judges have allowed the use of facility dogs, citing the Victims of Child Abuse Act of 1990 and the Uniform Child Witness Testimony by Alternative Methods Act, which allow the use of a teddy bear or support person.

In sum, every appellate decision we could find upheld the use of facility dogs. This paves the way for their use in courtrooms nationwide.

## CONSIDERATIONS FOR JUDGES

A 2020 survey of judges by the National Judicial College indicated that the vast majority are in favor of using facility dogs (88.65 percent of 881 respondents; Firth, 2020). Supporting the use of facility dogs and using facility dogs in court, however, are different issues. Specifically, what are the practical considerations for judges who want to use facility dogs in court?<sup>2</sup> As judges are ultimately responsible for the practices and climates of their courtrooms, we offer some common considerations for both the human and dog elements of the interaction.

First, not all people like dogs, and some people are extremely fearful of dogs, possibly because of traumatic histories. Thus, introducing a facility dog to the court will require strong communication with both staff and litigants about the procedure—and their ability to decline direct contact with the dog. Perhaps a more difficult situation arises when someone is allergic to dogs, whereby residual hair or dander can trigger itching, eye watering, or even breathing difficulties (approximately 30 percent of the U.S. population has allergies to cats and dogs; [www.aafa.org/pet-](http://www.aafa.org/pet-dog-cat-allergies)

[dog-cat-allergies](http://www.aafa.org/pet-dog-cat-allergies)). Nonetheless, precautions can limit these issues (e.g., avoiding contact, routine cleaning, use of hypo-allergenic breeds, or strong grooming practices). Awareness of potential health challenges related to actual human-animal contact is important to acknowledge and plan for before introducing a facility dog to court.

Handlers should obtain any required certifications for their dogs, which vary by jurisdiction. Dogs should have a specified job description, which identifies their responsibilities, limitations, evaluations, and day-to-day duties—and the human responsible for the dog. This ensures everyone in the courtroom understands the dog's role.

Trainers and handlers of facility dogs are excellent sources for suggestions for mitigating potential contact challenges, as are organizations such as Courthouse Dogs. These sources are also well situated to advise on the overall care of the dog to ensure its health and safety. This includes feeding, grooming, regular exercise, a bed, a place to urinate/defecate, stimulation/recreation, and other day-to-day considerations of good pet guardianship. In some cases, facility dogs might be trained and handled by a court employee, external guardians, or specialized organizations, such as the Courthouse Dogs Foundation.

Finally, judges can take steps to mitigate the dogs' effects. The dog's handler can bring the dog in when the jury is out of the courtroom, and the dog can be placed outside of the jury's view. Judges can issue special instructions to juries to ignore the dog and any feelings it might evoke. Such instruction has been upheld (e.g., *People v. Chenault*, 2014; *State v. Dye*, 2013). These steps mitigate potential biases.

## SUMMARY

Engaging appropriately trained dogs to support humans during stressful court proceedings is increasingly popular, but certainly neither universally practiced nor even accepted.<sup>3</sup> Education and research on the legal and ethical use of dogs in this capacity—as well as benefits and risks—is an important endeavor. Judges largely appear supportive of this growing trend of adopting “human's best friend” to serve as a partner in the administration of justice.

2 People interested in beginning a facility dog program should consult Jones and Miller (2021) and Courthouse Dogs Foundation for a discussion of [best practices](https://perma.cc/E953-533Q). Perma link: <https://perma.cc/E953-533Q>.

3 This article discusses facility dog use during normal operating conditions; however, the COVID-19 pandemic has forced many trials to occur virtually. During virtual trials, a witness could potentially use their own well-behaved pet at the judge's discretion.



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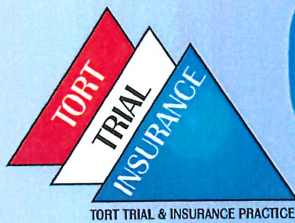
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# Committee News

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Defending Liberty  
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Summer 2009

## Animal Law Committee



### SUCCESSFUL LAUNCH OF HUMANE EDUCATION PUBLIC SERVICE PROJECT

By: **Meena Alagappan**

*"In the end, we will conserve only what we love. We will love only what we understand. We will understand only what we are taught."* - Baba Dioum, Ecologist

The Animal Law Committee recently launched the Humane Education Project as a joint public service project of the TIPS' Animal Law and Law in Public Service Committees; and Humane Education Advocates Reaching Teachers (HEART), a nonprofit public charity. The primary objective of the Humane Education Project is to cultivate compassion and empathy in our youth toward animals and foster respect for the environment.

In March 2009, we began piloting this program in Washington, DC and New York City, where interested volunteers were trained by two of HEART's teachers, Kimberly Korona and Casey Sullivan, to offer a four-lesson humane education program for fourth and fifth grade students. As part of the project, the Animal Law Committee (the Committee) and HEART published a comprehensive Humane Education Training Manual including detailed lesson plans, teaching tips, classroom

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## COURTHOUSE DOGS: A Case Study

By: **Ellen O'Neill-Stephens**

"Leave Mama alone!" screamed five-year-old Joey as he saw his drunken father strangling his mother. "Who are you sleeping with, answer me!" demanded Robert as he continued to tighten his grip. Sophia struggled and managed to push her husband aside. She ran to the kitchen to escape out the back door but her husband grabbed her again and flung her against the refrigerator with such force that it rocked backwards. Joey tried to get between his parents to protect his mother and begged his father to leave her alone. The assaults continued and each time Sophia tried to flee the apartment, Robert stopped her. Sophia managed to grab a phone and call 911, but Robert pried it from her hands and threw it to the ground, shattering it into pieces. Finally, Robert shoved Sophia out the door of the house, pulled her to the ground by her hair and threw the pieces of the broken phone after her. As a parting shot he told her he was going to kill her and she believed him. Robert brought sobbing Joey inside and locked Sophia out. Concerned for Joey's safety Sophia ran to the car and used a cell phone she had left there to call 911.

When the police arrived and entered the house they found Joey on the bed with a blanket pulled tightly to his chest. The officer who found him in the darkened bedroom described him as having tears in his eyes and shaking visibly. When questioned, Joey described the assault in detail and it was apparent he had witnessed the whole thing.

Several months later and just weeks before trial, deputy prosecuting attorney Tomas Gahan met with Sophia in her apartment. While reluctant to testify, Sophia indicated she would respond to her subpoena. When Gahan asked Joey if he would also take the stand and tell the jury what his father did, Joey just shook his head and looked at the floor. He's too scared, Sophia said—he won't talk. Then Gahan remembered Ellie, the trained assistance dog that works in the prosecutor's office to comfort crime victims. "Do you like dogs?" asked the prosecutor. "Yes, I like puppies a lot," replied Joey. The promise of seeing Ellie insured Joey's presence at the defense interview.

By this time Gahan had learned that this case was more than one incident of domestic violence. Sophia had at one time been Robert's stepdaughter, whom he had sexually abused for years; at age 19 she had given birth to their son

Joey. Robert then divorced Sophia's mother and married Sophia. During the five years that they had been married, Sophia was often physically abused by Robert. Prior to this most recent incident she had attempted to distance herself from him, but there was pressure from their extended families for Sophia just to accept the situation with her husband.



Gahan was determined to do his best to convict Robert because his incarceration would mean that Sophia and Joey would be safe for a number of years. The defendant was charged with several felony offenses, but Gahan knew that Sophia, like so many victims of domestic violence, was going to minimize the attack, saying that she felt "a little frustrated" when the defendant strangled her. This made Joey's testimony crucial—whereas Sophia had had years to become accustomed to the violence, the impact of the assaults witnessed by Joey still had an emotional impact. Gahan needed him to convey to the jury what Sophia had really gone through.

On the day of the defense interview, Gahan's heart ached when he saw Joey. The child had black hair, huge brown eyes, and was wearing cotton jogging pants and sandals. Joey looked scared and Gahan wondered how he could put him through this ordeal. "Just a minute, I'll be right back," Gahan said and trotted down to the other end of the prosecutor's office to retrieve Ellie. Joey's face brightened when he saw Ellie wagging her tail as she walked towards him. They played together for about ninety minutes and with Ellie snuggled beside him, Joey was able to tell the prosecutor and defense attorney what had happened.


The next stage of the proceedings was the competency hearing. Judge Craighead had to determine if Joey knew the difference between right and wrong and if he could provide truthful testimony. The judge, Joey, and Ellie nestled into the jury box and the judge asked Joey questions about Ellie. *How old are you? Who is your friend, there? What is her name? Would it be a truth or a lie if I said Ellie was a cat?* It would be a lie, exclaimed Joey. After several more questions the judge determined that the case could proceed to trial with Joey as a witness.

*Continued on page 21*

- \* Promising breed registration papers to the buyer in a stablemen's lien foreclosure sale. Breed registries, unless they receive a signature on the transfer papers from the last recorded owner, will only transfer papers if the lien sale was lawfully performed. Some breed registries insist on an attorney's opinion letter that the lien sale complied with the applicable law. A few registries demand a declaratory judgment from a court that the sale was legal before they will allow papers to transfer.

## Conclusion

Because of drastic differences among the laws, counsel should make sure to research and read the applicable law very carefully.

*This article does not constitute legal advice. When questions arise based on specific situations, direct them to a knowledgeable attorney.* 

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## COURTHOUSE DOGS...

*Continued from page 9*

On the day of the trial Joey immediately asked for Ellie and held her leash as he walked up to the witness chair with her by his side. Assuming that Joey would be able to recount the incident again, Gahan asked Joey his name. Joey looked up at the rear of the courtroom and saw his aunt, Robert's older sister, looking at him. She frightened him and Joey could only sit in his chair and stare at the floor. Gahan felt terrible about Joey's situation but continued to ask him questions hoping to get some sort of response from him. Finally he approached the stand and in a whisper asked him if he was afraid. Joey nodded his head yes and Gahan asked for a recess. "Let's take Ellie and show the judge the tricks she can do," Gahan said as they walked off the stand. Gahan felt a little guilty that he was using Ellie to bribe Joey to get off the stand and into the judge's chambers but he was desperate to salvage his case. Inside the judge's chambers Joey played with Ellie and after a few minutes he began to relax. The judge showed Joey pictures of her dog and they talked about how friendly Ellie was. Then the judge asked Joey why he was afraid and he told her that his aunt would be angry with him for telling what happened.

The judge excused the aunt from the courtroom. Joey resumed his seat in the witness stand and Ellie lay down beside him. "Let's start again, what's your name?" Gahan asked. "My name is Joey, spelled J-O-E-Y," and his description of the strangling and assault of his mother was described from a terrified five-year-old's perspective. During cross-examination, Ellie flipped onto her back for a tummy rub and Joey reached down and stroked her belly for several minutes. Gahan was amazed

to see that Joey had become so relaxed that he could absentmindedly pet Ellie while answering the defense attorney's questions. At last it was over and Joey and Ellie marched off the stand and out of the courtroom.

At the defendant's sentencing a few weeks later, the judge based her decision that the defendant should spend seven years in prison in large part on Joey's compelling testimony.\*

In an interview a short time later Gahan told me about this case.

*"I first met Ellie when she and I were working in juvenile court. I'm not a dog lover, I thought Ellie was okay but the only thing we had in common was going into other people's offices to look for food at lunch time. I'm still not a dog lover but I have to give Ellie credit for not only helping Joey testify but making him feel more relaxed and safe during the experience. Using Ellie for trial didn't just help me win the case, it also provided a calming effect on Joey, who was certainly a primary victim in this case, and assisted him in his rehabilitation as a victim and witness to a horrific event. I got a call from Sophia just before the sentencing. She told me that she and Joey were living together in an apartment and that they were alone now because everyone in their family hated them. But she also said for the first time in their lives they felt free."*

## Courthouse Dogs

Since 2003 courthouse dogs in King County, Washington, have been promoting justice by providing emotional support for everyone in our criminal justice system. Because the concept of dogs assisting crime

victims in a courtroom setting is in its infancy, it is essential that best practices be used in order to preserve the use of this important tool.

### What type of dog should be used in this setting?

Only highly trained facility dogs should accompany a witness to the stand. A dog that can reduce stress for a witness while he or she testifies requires a dog that can be quiet and unobtrusive. The dog should be able to either sit or lie on the floor beside the witness and be emotionally available to the witness when the need arises. Needless to say, if a dog misbehaves in a courtroom it could result in a mistrial or make judges reluctant to take this risk to accommodate the needs of a nervous witness.

### When should a dog accompany a witness to the stand?

Using a dog to provide emotional support to a witness should be reserved for those witnesses that truly require this assistance. Make this assessment while preparing the witness for the trial. In one instance, the deputy prosecutor asked the judge to allow a facility dog to assist young twin sisters in an incest case, because the girls cried and refused to sit in the witness chair. In another case, the judge permitted the facility dog to assist an adult rape victim when the victim exhibited physical symptoms of stress and told the judge she needed the dog to get through the ordeal of seeing the defendant and his defiant family while she testified. Afterwards, this woman told me that merely holding Ellie's leash while she was on the stand made her feel more in control.

### Presenting the motion to the judge

Information about the evidence rule, the case law, and making a record about the use of the dog in a trial can be found at <http://www.courthousedogs.com/courtroom.html>. A sample brief in support of the use of a dog in the courtroom can be found at <http://www.courthousedogs.com/brief.html>.

### A courthouse dog helps defense counsel too

A defense attorney who is comfortable with dogs can use the dog to her or his benefit during


cross-examination. In this case defense counsel did not object to Ellie providing emotional comfort to Joey. During cross examination both petted the dog and she scored some points on behalf of her client. Rather than appearing to be grilling the child and alienating the jury she came across as a kind and gentle person.

### Courthouse use improves the status of dogs

Well-trained dogs working in the criminal justice system are raising the status of these animals in society. When many people think about a dog, they envision a barking pet who lives in the backyard and adds very little value to society. When they encounter a highly-trained assistance dog at the courthouse, it is an eye-opening experience. Their contact with these professional dogs changes their perception of the cognitive capabilities possessed by a domestic canine. The next time that they think about a dog, they may remember the calm, perceptive animal that they met at the courthouse.

### A vision for the future

The use of courthouse dogs can help bring about a major change in how we meet the emotional needs of all involved in the criminal justice system. The dog's calming presence creates a more humane and efficient system that enables judges, lawyers, and staff to accomplish their work in a more positive and constructive manner.

*For more information about this innovative use of well-trained dogs working in the criminal justice system, visit [www.courthousedogs.com](http://www.courthousedogs.com). *

*\*This is a true story. The names of the individuals involved in the incident have been changed to protect their identities.*

**Ellen O'Neill-Stephens** is a King County Senior Deputy Prosecuting Attorney in Seattle, Washington. She has worked in this capacity since 1985. She currently assists Seattle Police Department with narcotics investigations and community drug abuse prevention and treatment. Her disabled son Sean and his service dog Jeeter were the inspiration for the Courthouse Dogs program. Ellen lives in Edmonds, Washington with her husband Jack and a charming Pembroke Welsh Corgi named Chloe.

*Photograph of Ellie by Dane and Dane.*

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January 12, 2022

FEATURE

# Courtroom Dogs Help Ensure Victims' Voices Are Heard

By Jill Mariani

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A courtroom dog provides the support to enable victims and other vulnerable witnesses to speak their truth and receive justice.

*Courtesy of Courthouse Dogs® Foundation*

At its 2021 Midyear Meeting, the American Bar Association House of Delegates approved Resolution 101A, which urged all jurisdictions to permit a specially trained canine to accompany an anxious or traumatized individual who is testifying in court. The resolution also urged actions to ensure these canines' welfare.<sup>1</sup> This resolution enhances victims' rights and advances the rule of law by assuring "meaningful access to justice for all persons."<sup>2</sup> However, the resolution's passage, by a vote of 202 in favor and 135 in opposition, was not without debate from the defense bar.

A blue banner for LawPay. On the left, the 'LAWPAY' logo is in white. Below it is a green button with 'Learn More' in white. To the right, white text reads 'Easy payments and deposit reconciliation!' followed by 'LawPay + QuickBooks Online'. Further right is a small graphic of a computer monitor showing a green envelope with a dollar sign and the text 'You just got paid!'. On the far right, the ABA logo is in blue, with 'Member Benefit' in blue text below it.

This article addresses procedural and due process concerns arising from a canine's presence in the courtroom. Some instruction for maintaining fairness for all parties is provided in state statutes; other required procedures may be derived from case law. Moreover, there is guidance from a panel of judges who recently participated in a 75-minute webinar entitled "Courthouse Dogs: Best Practices for Judges," hosted by the National Judicial College (NJC) on July 21, 2021.<sup>3</sup> This article also provides accounts from individuals who have observed firsthand the positive influence canines have had on victims and vulnerable witnesses while they testify.

## The Accommodation

There is significant support across the United States for permitting specially trained canines as a witness accommodation. Dozens of states have programs that involve hundreds of dogs that have assisted testifying witnesses in the courtroom. To date, at least 16 states have enacted statutes that explicitly permit certified dogs to accompany victims and vulnerable witnesses in specified circumstances.<sup>4</sup> The most recent legislation is the South Dakota law that authorizes a court to allow "a child witness or a witness having a developmental disability to be accompanied by a certified therapeutic dog during the witness' testimony."<sup>5</sup> In February 2021, New York State Senator Pamela Helming sponsored a bill, which was referred to the New York State Senate Judiciary Committee, to amend the New York Judiciary Law to authorize a canine to accompany a vulnerable witness while he or she gives testimony in the courtroom.<sup>6</sup> Although the proposed legislation was not voted upon in 2021, it remains viable for consideration during the second half of the present legislative session in 2022 and may be introduced in future sessions.

In jurisdictions that do not have explicit statutory authority, judges are exercising their inherent power to direct courtroom protocol and decorum, including the mode of examining witnesses

and protecting witnesses from harassment and embarrassment, in determining whether to permit a canine to accompany a victim or vulnerable witness.<sup>7</sup> In September 2020, the NJC, the largest and oldest judicial college in the country, surveyed its alumni and asked: “Would you allow a professionally trained facility dog in the courtroom during a trial to assist a victim or vulnerable witness while giving testimony?” Almost nine out of ten judges responded yes.<sup>8</sup> On April 14, 2021, the Supreme Court of Pennsylvania heard oral argument in *Commonwealth v. Purnell*,<sup>9</sup> a case of first impression addressing whether a trial judge erred in the exercise of his discretion in permitting a canine to accompany a minor witness during her testimony in a murder case. The intermediate appellate court affirming the conviction held that the trial judge did not abuse his discretion in permitting a canine to accompany a witness.<sup>10</sup>

Some state statutes restrict the accompaniment of a certified canine to victims and vulnerable witnesses who are 18 years of age or younger in criminal matters, or in noncriminal matters involving child abuse or neglect. Other state statutes provide for the accommodation to a witness who has an intellectual, physical, or developmental disability or is testifying in sexual assault cases. Some statutes do not restrict the category of witness who may seek canine assistance.<sup>11</sup> The NJC panel supported the availability of accommodation to any witness, including a defense witness, provided the witness can establish the need for the presence of the dog.

Federal legislation was introduced in both houses of the 116th Congress to empower federal judges to permit a certified dog to accompany a witness testifying in federal criminal proceedings.<sup>12</sup> Advocates of courthouse dogs are hopeful that the bill may be reintroduced in the new Congress.

Courtroom dog programs are flourishing throughout Europe. In early 2021, Victim Support Europe (VSE), a Brussels-based umbrella organization of victim support, received funding from the European Commission for its initiative called FYDO (Facility Dogs in Europe). VSE partnered with experts in Belgium, Italy, and France to train dogs over the next two years to provide canine support to vulnerable victims. The funding will also enable VSE to prepare a comparative research report on the impact of the canines on the testimony of victims.

## Ensuring Fairness

Critics of the accommodation contend that a dog's presence in the courtroom during the witness's testimony may prejudice the jurors against the opposing party. They argue, particularly

in a criminal case, that a dog may make the jury sympathetic to the witness, would suggest that the witness is undergoing therapy as a result of the defendant's actions, or would portray the defendant as so menacing that the witness needs protection. However, the limited research to date indicates that the presence of a canine has no effect on jurors.<sup>13</sup> Notably, during oral argument in *Commonwealth v. Purnell*, counsel for the defendant-appellant conceded that the presence of a canine in the courtroom is not inherently prejudicial.<sup>14</sup>

## Make a Full Record

There are several measures that may be taken to ensure fairness. First and foremost, making a full record is paramount. It was the consensus of the NJC panel of judges that the party seeking the accommodation for the witness should make an in limine application, followed by a hearing, preferably with live testimony. Among the relevant factors identified by the NJC panel that the moving party should provide are: (1) the credentials, experience, and training of the canine; (2) the established relationship between the victim or vulnerable witness and the canine; and (3) an explanation of how the canine's presence may reduce the anxiety of the witness and is likely to elicit full and truthful testimony. The need for a robust record was stressed by the NJC panel, particularly for appellate review of the issues. The NJC panel was receptive to including in the record a photograph of the designated canine because the dog's physical appearance may be relevant to certain issues.

## Dog Training

Although there is no national training standard, some state statutes require that supportive dogs graduate from an assistance dog program that is a member of an accredited assistance dog organization.<sup>15</sup> Some statutes require a trainer to accompany the dog in the courtroom.<sup>16</sup> A few jurisdictions also require proof that the dog is insured.<sup>17</sup>

## No Disruption

The NJC panel agreed that the movant should provide evidence that the canine's presence will not be disruptive to the proceedings, particularly because the dog sits next to the witness during direct testimony and cross-examination, a period that may, in some instances, be lengthy. Of course, a trial judge may be able to observe and evaluate the dog's behavior if present in the

courtroom during the in limine hearing or at some other pre-trial appearance and thus find that the canine will be unlikely to cause interruptions.

## **“Courtroom Dog”**

The term used to describe a supportive canine is also an important factor in maintaining a neutral playing field. Among the existing state statutes, the qualifying canine is defined as a “facility dog” and/or a “therapy dog.” However, such references in a criminal proceeding may convey a subliminal message that the witness fears or has been traumatized by the defendant. In response to this concern, the NJC panel suggested the neutral terms “courtroom dog” or “courthouse dog” as preferable references in front of a jury.

## **Burden of Proof**

Most state statutes place the burden of proof on the party seeking to have a canine in the courtroom, either explicitly or implicitly. However, the state statutes are not uniform in defining the standard of proof. Some statutes simply require proof that a certified canine may be helpful in reducing the stress of the victim or vulnerable witness while testifying.<sup>18</sup> The NJC panel agreed that this is an adequate showing. At least one state statute requires a standard of the preponderance of the evidence,<sup>19</sup> and one jurisdiction requires a showing of compelling evidence.<sup>20</sup>

## **Canine’s Visibility in Courtroom**

Another step for ensuring fairness and due process is the manner in which the canine is introduced into the courtroom. The preferable practice is for the dog to enter and leave the courtroom *outside* the presence of the jury<sup>21</sup> and, to the extent possible, not be visible to the jury during the witness’s testimony. In a courtroom where the witness is not seated in a closed witness box, the dog can be camouflaged by draping a curtain around the bottom of the witness chair. The judicial panel stressed that the victim or vulnerable witness should be instructed to refrain from petting the dog or in any way drawing attention to the dog while testifying. In many Florida juvenile court proceedings, the handler and the canine are seated in the audience in full view of the witness but not visible to the jury. This prevents any suggestion that the witness and the canine are connected.

## **Educate the Jury**

As another precautionary measure, the court should educate the jury. The NJC panel agreed, and several state statutes require, that a party requesting the assistance of a courtroom dog should seek the court's approval to question prospective jurors during voir dire on the issue of whether a dog accompanying a witness would create any undue sympathy for the witness or cause prejudice to a party in any way.<sup>22</sup> Because this is a novel topic, the parameters of that inquiry by the parties should be discussed with the trial judge before the voir dire commences.

To further the jurors' understanding, the NJC panel strongly advised that the trial judge consider providing specific instructions to the jury. Such instructions may be given as part of the preliminary instructions before testimony begins, immediately before the witness who is accompanied by the dog takes the stand, and/or as part of the general instructions at the conclusion of the trial.<sup>23</sup> It may be prudent to provide instructions to the jury at all three stages of the proceeding. The NJC panel agreed that any instruction should include language admonishing the jurors to not make or draw any conclusions from the dog's presence during a witness's testimony.

## Allergies, Fear of Canines

Critics of courtroom canines have also raised concerns that a party to a proceeding or the courtroom staff may be allergic to dogs. Allergens are everywhere in a public space, even on people's clothing, and as long as an allergic individual does not come into direct contact with the dog, there should not be any issue. Notably, a canine that qualifies under the Americans with Disabilities Act is not precluded from assisting an individual because someone in the public space may be allergic to dogs.<sup>24</sup> Opponents of this accommodation also complain that dogs may smell or drool. However, certified dogs that accompany victims and vulnerable witnesses are normally very well groomed and are selected for their calm and quiet demeanor.

A more sensitive situation arises when the objection comes from a person who has a fear of dogs either because of a personal negative experience or as an observer of the use of certain breeds by law enforcement for crowd control. A related objection is rooted in negative cultural attitudes toward animals in general. If the concern is raised by a prospective juror, the solution may be excusing the juror by exercising a challenge for cause. However, if the objection is raised by one of the parties to the proceeding, a solution will require a careful balancing of rights and some creative thinking.

## Benefits

Courtroom canine proponents recognize that the cornerstone to this initiative lies in the evolutionary bond that has developed between humans and canines over thousands of years. Dogs' unique ability to support humans has had a profound effect on the mutually beneficial relationship. Dogs play a role in facilitating trust and attachment and provide a number of emotional benefits that surpass those of any other animal and, in some cases, even humans.

Dr. Elizabeth Spruin, a canine behaviorist and an investigative psychologist in the School of Psychology, Politics and Sociology at the Canterbury Christ Church University in England, specializes in the use of dogs to support vulnerable victims of crimes and children with autism and emotional issues. She explains:

[M]any victims in the Criminal Justice System do not have a "trusted" individual to transfer attachment to due to early experiences or recent events of the crime and that leads to a lack of disclosure and problems building trust. . . . These dogs provide unconditional acceptance and love, and a sense of safety. Through the support they provide, dogs help to build rapport for many people who struggle to trust others.

As director of the Justice Support Dogs International Lab, Spruin recalls the case of an eight-year-old girl and her two sisters who had been sexually abused by a relative. When Spruin's facility dog Oliver was introduced into the interview room, the young girl's demeanor transformed, enabling her to open up and communicate. After learning about Oliver, the eight-year-old girl's two sisters agreed to provide evidence in the case.

Spruin recalls another case involving a 12-year-old autistic girl who had been raped several times by an older man in her neighborhood. The girl was very shy and muttered when she spoke, making it difficult to understand her. However, the child's demeanor changed the moment she met Oliver, openly communicating the facts of the incidents clearly and coherently. Spruin has observed that the benefits reach beyond the victims to the anxious family members of a traumatized child.

New York State Ontario County District Attorney James Ritts supports having canines accompany both minor and adult vulnerable witnesses during in-court testimony. His office is currently working with Juno, a two-year-old Labrador retriever that has supported at least a dozen crime

victims. According to Ritts, such canine companionship “puts survivors and witnesses of crime, especially children, at ease to participate more comfortably, not only in legal proceedings but in forensic interviews and therapy sessions. You can actually see the level of anxiety lessen to the point that conversation about these difficult experiences is possible.” He stresses that “this accommodation recognizes a crime victim’s right to be treated with fairness and dignity.”<sup>25</sup>

Michael Galantino, a special-victims prosecutor for 30 years and the executive director of the National Association of Prosecutor Coordinators, observes:

The presence of a supportive dog at all stages of a criminal prosecution is extremely beneficial to the well-being of the victim and the pursuit of justice. Young victims of sexual or physical abuse are already traumatized before they come into contact with the criminal justice system. Having a supportive dog near them for the forensic interview, trial preparation and testimony helps to reduce further trauma and facilitate communication.

According to Levent Altan, the executive director of VSE, “The victims’ voice is often overlooked in the justice system, but practice and evidence have shown that the presence of a trained facility dog by their side can empower them and give them back control of their story while minimizing the harm they experience in the proceedings.” Altan stresses:

Justice systems need to adapt to the needs of victims, putting them at the center of the process, while continuing to respect fair trial rights of the [defendant]. . . . Fundamentally a balance is needed between both, since the rights of victims are of the same order as suspects and should not be considered inferior to them. The basic objectives of our criminal justice system—to find the truth, achieve justice for victims and society, protect the innocent, punish and rehabilitate perpetrators—[rely] on the protection of victims and their participation within the system. Justice systems fail in their objectives if they fail victims. . . . By adapting the system and making it safer for the most vulnerable we can regain the general public’s confidence in justice, which ultimately leads to more cohesive, successful societies.

## Securing the Canine’s Welfare

ABA Resolution 101A also advocates for the canine's health and well-being. The long hours of service and exposure to stress from victims and vulnerable witnesses can have a negative effect on a supportive canine; this requires a suitable environment for shelter, relief breaks, and a comfortable resting area. For more than 14 years, Chuck Mitchell has been working with certified therapy dogs that support victims, especially children who have suffered sexual abuse.<sup>26</sup> According to Mitchell,

A familiar bed should be provided, particularly since the dog visits different courtrooms and environments. The dog should also have ample water and nutrition, as well as playtime and familiar toys to relieve stress. Equally important, the dog should be regularly groomed and have veterinarian visits to check for general health and well-being, and any injuries and/or signs of stress.<sup>27</sup>

Usually, a courtroom dog remains under the guardianship of a government or not-for-profit facility and resides with the handler. However, arrangements should be made in advance for the dog's long-term care upon retirement from service, unless the dog will remain with its handler, the preferred practice.

## Conclusion

The rights of victims deserve the same recognition as those of other parties to a proceeding. A courtroom dog provides the support to enable victims and other vulnerable witnesses to speak their truth and receive justice. In return for rendering such assistance, the dog's welfare should be secured for its lifetime.

## Endnotes

1. The resolution (<https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2021/101a-midyear-2021.pdf>) was sponsored by the ABA International Law Section and the ABA Government and Public Sector Lawyers Division.
2. *ABA Mission and Goals*, AM. BAR ASS'N, [https://www.americanbar.org/about\\_the\\_aba/aba-mission-goals](https://www.americanbar.org/about_the_aba/aba-mission-goals) (last visited Nov. 29, 2021) (Goal IV: Advance the Rule of Law).
3. *Courthouse Dogs: Best Practices for Judges*, NAT'L JUD. COLL. (July 21, 2021), <https://www.judges.org/courses/courthouse-dogs-best-practice-for-judges>. The webinar panel was

composed of Judge Efrain Alvarado, Bronx Sup. Ct., New York, N.Y.; Judge David Denkin, 12th Jud. Dist., Sarasota, Fla.; Judge Bernice Donald, Sixth U.S. Cir. Ct. App.; and Judge Tara Flanagan, Almeida Cnty. Super. Ct., Oakland, Cal.

4. *See also* 2018 Resolution of the National District Attorneys Association (2018), [https://ndaa.org/wp-content/uploads/NDAA-Best-Practice-Resolution\\_Courthouse-Dogs.pdf?click=Courthouse%2520Dogs%2520Best%2520Practice%2520; Courthouse Facility Dog Resolution of the Association of Prosecuting Attorneys \(Feb. 7, 2018\), https://www.apainc.org/wp-content/uploads/2018/09/Courthouse-Facility-Dogs-Resolution-2018-Final.pdf](https://ndaa.org/wp-content/uploads/NDAA-Best-Practice-Resolution_Courthouse-Dogs.pdf?click=Courthouse%2520Dogs%2520Best%2520Practice%2520; Courthouse Facility Dog Resolution of the Association of Prosecuting Attorneys (Feb. 7, 2018), https://www.apainc.org/wp-content/uploads/2018/09/Courthouse-Facility-Dogs-Resolution-2018-Final.pdf).

5. S.D. CODIFIED LAWS §§ 23A-24-10 to -12.

6. S. 4616, 2021–2022 Reg. Sess. (N.Y. 2021), <https://trackbill.com/bill/new-york-senate-bill-4616-relates-to-courthouse-facility-dogs-for-witnesses/2020097>.

7. Jill Mariani, *Courthouse Facility Dogs: A Witness's Best Friend*, CRIM. JUST., Summer 2020, at 14.

8. Anna-Leigh Firth, *Survey: Nearly 9 out of 10 Judges Welcome "Man's Best Friend" in Court*, NAT'L JUD. COLL. (Sept. 8, 2020), <https://www.judges.org/news-and-info/survey>.

9. No. 71 MAP 2020 (Pa. Sept. 22, 2021).

10. *Commonwealth v. Purnell*, 233 A.3d 824 (Pa. Super. Ct. 2020).

11. *See, e.g.*, ALA. CODE §§ 12-21-147, -148; WASH. REV. CODE § 10.52.110.

12. *See* Press Release, John Cornyn, U.S. Sen. for Tex., Cornyn's Dogs in the Courthouse Bill Passes the Senate (Dec. 20, 2019), <https://www.cornyn.senate.gov/content/news/cornyn's-dogs-courthouse-bill-passes-senate>; Courthouse Dogs Act, S. 1029, 116th Cong. (2019), <https://www.govtrack.us/congress/bills/116/s1029/details>; Courthouse Dogs Act, H.R. 5403, 116th Cong. (2019), <https://www.govtrack.us/congress/bills/116/hr5403>.

13. *See* Dave Collins, *Comfort Dogs in Court Do Opposite for Some Defenders, Judges*, CHI. TRIB. (Apr. 5, 2018), <https://www.chicagotribune.com/nation-world/ct-comfort-dogs-in-court-20180404-story.html>; Kayla A. Burd & Dawn E. McQuiston, *Facility Dogs in the Courtroom: Comfort Without Prejudice?*, 44 CRIM. JUST. REV. 515 (2019).

14. Oral Argument, *Purnell*, No. 71 MAP 2020, [https://www.youtube.com/watch?v=8\\_TT7t9MeQc](https://www.youtube.com/watch?v=8_TT7t9MeQc).
15. *See, e.g.*, HAW. REV. STAT. § 621-30(a).
16. *See, e.g.*, WASH. REV. CODE § 10.52.110(6).
17. *See, e.g.*, ALA. CODE § 12-21-147(a)(3).
18. *See, e.g.*, ALA. CODE § 12-21-147(b) (to reduce the stress of the witness); WASH. REV. CODE § 10.52.110(5) (a showing that the dog's presence is necessary).
19. *See, e.g.*, VA. CODE ANN. § 18.2-67.9:1(C).
20. *See, e.g.*, HAW. REV. STAT. § 621-30(b).
21. WASH. REV. CODE § 10.52.110(7)(b), (c).
22. *See, e.g.*, ARK. CODE ANN. § 16-43-1002(e); WASH. REV. CODE § 10.52.110(7)(a).
23. *See, e.g.*, ARIZ. REV. STAT. ANN. § 8-422(C); ARK. CODE ANN. § 16-43-1002(f) (both requiring that the court provide appropriate jury instructions).
24. *See* Orly R. Rumberg, *The Clash Between Service Animals and Allergies in the Workplace*, WOOD + LAMPING LLP (Feb. 27, 2019), <https://woodlamping.com/articles/the-clash-between-service-animals-and-allergies-in-the-workplace>.
25. *See also* Brad Blackwelder, *District Attorney Gives Voice to Voiceless by Implementing Canines; Battling Big Pharma*, LAFOLLETTE PRESS (June 23, 2021), <https://www.lafollettepress.com/content/district-attorney-gives-voice-voiceless-implementing-canines-battling-big-pharma> (reporting that according to Tennessee Eighth Judicial District Attorney Jared Effler, one of the ways his office “has become more effective prosecuting [child abuse and child neglect] cases and providing [a] voice for victims is through the use of certified facility dogs”).
26. JULIE STRAUSS BETTINGER, *ENCOUNTERS WITH RIKKI: FROM HURRICANE KATRINA RESCUE TO EXCEPTIONAL THERAPY DOG* (2016).

27. *Id.*

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## Authors



**By Jill Mariani**

Jill Mariani was a senior investigative counsel in the Rackets Bureau of the New York County District Attorney's Office. The views and opinions in this article were her own and do not necessarily reflect her employer's. Mariani was a member of the ABA Government and Public Sector Lawyers Division Council.

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