

Courthouse Facility Dogs: Considerations for Prosecutors and Defense Attorneys

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### Abstract

The use of courthouse facility dogs to comfort vulnerable witnesses has increased in recent years. Courthouse facility dogs are specially trained to work in legal settings while being as inconspicuous as possible. The Victims of Child Abuse Act and the Uniform Child Witness Testimony by Alternative Methods Act allow judges to accommodate vulnerable child witnesses by allowing them to testify using closed-circuit tv, by videotape, while holding a toy, or while sitting with a supportive adult. Several judges have stated that facility dogs are an extension of these acts and have allowed witnesses to use them in the courtroom. The potential pros and cons of using courthouse facility dogs have been discussed colloquially. The pros include allowing the witness to testify without retraumatizing them, allowing the witnesses to testify face to face with the defendant, and allowing the witness to give clear and coherent testimony. Some cons are that the dogs might cause a distraction, limit the defense attorney's ability to seek the truth from the witness, and prejudice the jury. These issues have recently been studied scientifically and the data suggests that facility dogs do offer witnesses comfort but do not prejudice the jury. This article will review why courthouse facility dogs are used in courts, offer advice on the use of courthouse facility dogs to both prosecutors and defense attorneys, and discuss the current research on courthouse facility dogs. These are all factors that should be considered by trial attorneys when deciding to ask for or object to the use of courthouse facility dogs.

*Keywords:* courthouse facility dogs, child witnesses, civil cases, therapy dogs, victims, testimony

### **Courthouse Facility Dogs: Considerations for Prosecutors and Defense Attorneys**

Testifying in court is, at the very least, a stressful and anxiety-inducing event. For some, it can be traumatizing (Holder, 2013). Witnesses who can give clear and coherent testimony are essential to the legal process. When witnesses decline to testify due to fear, stress, and/or anxiety, cases are often dropped and a victim is denied justice. When a victim takes the stand but is overcome by fear, stress, and/or anxiety and is unable to give clear and coherent testimony, it could hurt the prosecutor's case and deny the defendant the ability to face the witness (Holder, 2013). Child witnesses are particularly vulnerable, and certain accommodations have been put in place to help children testify, such as the use of closed-circuit television (CCTV), stuffed animals, and support persons (Holder, 2013). In the past decade, courthouse facility dogs (i.e., dogs that are trained to support vulnerable witnesses in and out of the courtroom) have been used as an accommodation for children or vulnerable adult witnesses in criminal cases and have the potential to help witnesses in civil cases as well.

Several states have created laws about the use of courthouse facility dogs, but in most states, the decision to allow a courthouse facility dog is made by the trial judge (Bergal, 2017). As of 2020, at least 41 states allow dogs in the courtroom in some capacity (Courthouse Dogs Foundation, 2020). This is likely to increase, as a recent study by The National Judicial College found that the overwhelming majority of judges supported their use (Firth, 2020). As such, it is likely to become an increasingly used practice in a variety of trial types in the future.

As with any new practice, not much is known about how courthouse facility dogs affect the fairness of trials. Proponents argue that courthouse facility dogs allow vulnerable witnesses, who otherwise would be unable to testify, to do so freely (Holder, 2013). Critics argue that the presence of the courthouse facility dog biases the jury against the defendant (Grimm, 2013).

Nothing is known about the use of courthouse facility dogs in civil cases, but the same concerns would likely apply. Trial attorneys need to know what to consider when making decisions about asking for or objecting to the use of courthouse facility dogs. An analysis of court rulings related to the use of courthouse facility dogs will help to determine the successful and unsuccessful arguments that trial attorneys have made when asking for a courthouse facility dog. The themes that emerge will be discussed in this article to help trial attorneys make decisions about asking for or objecting to the use of a courthouse facility dog. This article will also explain the history and purpose of courthouse facility dogs, discuss current psychological research on the use of courthouse facility dogs, and make recommendations for the use of courthouse facility dogs in civil cases.

### **What is a Courthouse Facility Dog?**

Dogs can be trained to perform many different tasks, such as providing emotional support, sniffing out drugs or bombs, or assisting persons with disabilities. Courthouse facility dogs are specifically trained to work in legal settings to provide comfort to vulnerable witnesses to allow them to communicate with the court (Mariani, 2020). Courthouse facility dogs can be used in pretrial activities and during the trial while a witness is on the stand. The dogs are trained to sense human stress and respond by gently nudging the person's leg or laying their head in the person's lap (Mariani, 2020). Although typically courthouse facility dogs are used to help witnesses, they have also been used to help offenders in juvenile, drug, and veterans courts (Bergal, 2017). This section will discuss the history, training, and research associated with courthouse facility dogs.

## **History of Courthouse Facility Dogs**

The benefits of dogs reach far and wide; their presence has physical and mental health benefits (Friedmann, 1983; Kertes, 2017; Shiloh, 2003). One of the first instances of a dog being used in the courtroom was in 1989, in the Special Victims Bureau in Queens, New York. Sheba, a seeing-eye dog, was used to comfort children who had been sexually abused (Lin, 1989). In 2003, Ellen O'Neill-Stephens realized that the mental health benefits dogs provide could be used in a legal setting to help the vulnerable children that she worked with in court every day (Mariani, 2020). O'Neill-Stephens began using her dog to help vulnerable children manage stress and anxiety while in court. Soon after, she established the Courthouse Dog Foundation to help standardize training for courthouse facility dogs and educate others on the use of dogs in the courtroom (Mariani, 2020). As of October 2020, there are 255 dogs in 41 states being used as courthouse facility dogs (Courthouse Dogs Foundation, 2020).

## **Courthouse Facility Dog Training**

The training required for courthouse facility dogs varies by state. The strictest regulations require that the dogs be trained by an accredited program (Bergal, 2017). The training must be maintained regularly, and proof of training must be provided to the judge before the dog can be used in court. Courthouse facility dogs are trained to be calm and quiet to avoid causing distractions in court. Their training lasts two weeks and consists of socialization exercises in which the dog is exposed to things like public transportation, work offices, children, and even cats (Courthouse Dogs Foundation, 2020). This training results in a dog that is not stressed out or excited easily. Courthouse facility dogs are owned by specific handlers who are usually prosecutors, investigators, or victims' advocates (Bergal, 2017). This is an important distinction between emotional support dogs, dogs that are trained to provide support but are not rigorously

trained to be in a courtroom, and courthouse facility dogs. Specifically, courthouse facility dogs are not owned by the witness—they are made available to whoever needs them. The *handlers* also go through training on how to get the dog to perform as desired (Courthouse Dogs Foundation, 2020). At the end of the training, both the dog and the handler must pass the Assistance Dogs International Public Access test and must be re-certified often (Courthouse Dogs Foundation, 2020). This training guarantees that not just any dog can be used in a courtroom as a courthouse facility dog. This is an important part of maintaining the fairness of trials.

Some courthouses allow dogs with less rigorous or specific training to serve as facility dogs. For instance, some courtrooms use therapy dogs from the community (Paws4Love, 2020). Therapy dogs are certified to provide comfort but do not have extensive training specific to the courtroom; they are essentially a pet with a knack for comforting people in distress. Typically, they go to hospitals, educational centers, or counseling centers. In Washoe County, Nevada, therapy dogs can go to the courthouse to comfort victims in a program called “Justice Dogs.” The District Attorney works with a local therapy dog group, Paws 4 Love, to arrange for dogs to sit in on interviews and counseling sessions to comfort victims (Paws4Love, 2020). At the most lenient extreme, some courts have allowed dogs with no special training to comfort people appearing in court. For instance, Omaha, Nebraska Judge Doug Johnson brings his dog to the Douglas County Juvenile Court (McCartney, 2016). As this brief review indicates, training requirements vary by state and by courtroom—and is often determined by the presiding judge.

### **Research on Courthouse Facility Dogs**

In general, companion animals have been linked to reductions in stress and other positive health benefits in humans (Friedmann, 1983). Specifically, therapy and courthouse facility dogs

reduce stress in adults (Lass-Hennemann, 2018), vulnerable children (Beetz, 2011), adult eyewitnesses (Peters, 2017), and adult sexual offense survivors (Spruin, 2020).

Scientific research has begun exploring whether facility dogs can prejudice a jury. The only study on the subject has shown that the presence of a courthouse facility dog causes less prejudice than the presence of a teddy bear (Burd, 2019). The participants also showed decreased disgust levels toward the defendant when the dog was present, which bodes well for defendants (Burd, 2019). In sum, while research has found that courthouse facility dogs might be beneficial to both witnesses and defendants, there are still many questions that remain about courthouse facility dogs that need to be explored.

### **Courthouse Facility Dog Case Law**

Due to the recent growth in popularity of courthouse facility dogs, the lack of universal rules regarding courthouse facility dogs, and the lack of research on their use, there has been some debate over the appropriateness of using courthouse facility dogs (Grimm, 2013; Holder, 2013). The main argument in favor of the use of courthouse facility dogs is that the dogs provide a necessary service in allowing vulnerable victims to testify without re-traumatizing them (Grimm, 2013; Holder, 2013). The main arguments opposed to the use of courthouse facility dogs are that the dogs will prejudice the jury against the defendant and deny the defendant the ability to confront the witness (Grimm, 2013; Holder, 2013). Over the years, case law has addressed these issues.

### **Vulnerable Witnesses**

Testifying in court is often a stressful event, especially for vulnerable witnesses such as children, or those that have faced a traumatic event. The stress, anxiety, and fear that comes with

testifying in court often leads to witnesses refusing to testify or witnesses not being able to give accurate testimony (Holder, 2013). Prosecutors have often argued that facility dogs are necessary to help comfort child witnesses and keep them from being re-traumatized by reliving the event during testimony. Lawyers who have made this argument have been successful in asking for a courthouse facility dog and the decision has been upheld by appellate courts in *People v. Spence* (2012), *People v. Tohom* (2013), *Smith v. State* (2016), *State v. Devon D.* (2016), *State v. George* (2014), *State v. Jacobs* (2015), and *State v. Reyes* (2016).

The use of courthouse facility dogs for adults has been successfully argued and upheld in *State v. Dye* (2013), in which the witness had a mental disability and expressed anxiety at the sight of the defendant. Similarly, the use of the dog was also upheld in *Jones v. State* (2020), in which a service dog was used for a young adult who had been diagnosed with PTSD following a sexual assault by the defendant. Many judges have likened the use of courthouse facility dogs to the use of a support person or teddy bear, which are allowed under the Victims of Child Abuse Act of 1990 and the Uniform Child Witness Testimony by Alternative Methods Act (Holder, 2013). The appellate courts have all agreed that the dogs should be used in this manner and no appeals based on the “need” of the dog have been successful, to our knowledge.

## **Prejudice**

Opponents believe that the use of courthouse facility dogs will prejudice the jury against the defendant; the jury might think that the witness is so traumatized that they need to have the dog and that because they have the dog, they must be telling the truth, resulting in unfair sentencing (Grimm, 2013). Several cases, such as *People v. Chenault* (2014), *People v. Johnson* (2017), *People v. Spence* (2012), *People v. Tohom* (2013), *Smith v. State* (2016), *State v. Dye* (2013), *State v. Moore* (2014), and *State v. Reyes* (2016) have argued on appeal that the presence

of the courthouse facility dog prejudiced the defendant. In all these cases, the appeals based on prejudice have been denied, with judges stating that the benefits the dogs bring (e.g., allowing testimony to be given and comforting the witnesses) outweigh any potential for prejudice. In *People v. Spence* (2012) and *People v. Chenault* (2014), the appeals court stated that the dogs could not have prejudiced the jury against the defendant because the dogs were either hidden from the jury's view or inconspicuous throughout the witness's testimony. In *People v. Chenault* (2014), *People v. Johnson* (2017), and *State v. Dye* (2013) the appeals court stated that there was no prejudice against the defendant because jury instructions were given regarding the courthouse facility dogs. Specifically, before the courthouse facility dogs are brought into the courtroom, the jury is instructed that the dog is there to comfort the witness and that they should not draw any conclusions based on the dog's presence. Such instruction was thought to prevent any prejudice.

### **Confrontation Clause**

Another argument in opposition of facility dogs is that the calming presence of the dogs could violate the confrontation clause by making it more difficult for defense attorneys to determine if a witness is lying on the stand. Defense attorneys argue that the current accommodations are sufficient and dogs are not necessary (Grimm, 2013). On appeal, this argument has been unsuccessful; the appeals court has stated that the presence of the dogs allowed the witness to give reliable testimony (*People v. Chenault*, 2014; *People v. Johnson*, 2017; *People v. Spence*, 2012; *People v. Tohom*, 2013; *State v. Devon D.*, 2016; *State v. George*, 2014; *State v. Jacobs*, 2015). Courthouse facility dogs allow witnesses who otherwise might not testify to give their testimony, which allows the defendant the chance to confront the witnesses in person, rather than through CCTV or not at all (Holder, 2013). This means that, rather than violating the confrontation clause, the courthouse facility dogs might be *beneficial* to defense

attorneys, in allowing defendants the chance to confront witnesses. The case law on courthouse facility dogs has made it clear that most judges support the use of the dogs in the courtroom. There are some things that attorneys on both sides of the courtroom should consider when courthouse facility dogs will be used in a trial, as discussed next.

### **Considerations for All Attorneys**

Courthouse facility dogs appear to be gaining popularity and have the support of most judges (Firth, 2020). Therefore, attorneys should consider what effects courthouse facility dogs might have on their cases and how to use the dogs to their advantage. In this section, we will discuss variables that all attorneys should consider when a courthouse facility dog will be used in a case.

### **Jury Selection**

When selecting jury members, both the prosecutor and the defense attorney should consider the impact a courthouse facility dog will have on the jury. Attorneys can consider jurors' beliefs about the ability of dogs and other pets to provide comfort to humans in general and their attitudes and beliefs about *therapy* animals more specifically. If a juror does not believe a dog has the ability to calm people, they could be more skeptical of the witness and the witness's testimony. In the same way jurors might be skeptical of a car accident victim who wears a neck brace, jurors might also be skeptical that a victim might be faking the extent of their injuries by trying to convince the jury that they are so injured they need a dog just to testify. Jurors might also believe that the dog will violate the defendant's right to confrontation (as discussed above) and therefore not be supportive of the use of the dog. Thus, both might question potential jurors about their beliefs about whether dogs have the ability to calm

victims—and more generally if they think dogs should be allowed in the courtroom. Prosecutors who intend to use a therapy dog would want to remove such skeptical jurors, while defense attorneys would want to retain such jurors.

Attorneys will also want to consider if a juror is afraid of dogs; this would cause a distraction that could affect the ability of the jurors to do their job. Either attorney might gain favor from remaining jurors by showing empathy by removing the fearful juror. In sum, both attorneys should consider juror attitudes toward dogs and therapy animals in general to select an unbiased jury.

### **Jury Instructions**

If an attorney wants to use a courthouse facility dog, they should request that the judge give special instructions to the jury on the use of the dog. In most of the cases discussed above, judges told the juries that a courthouse facility dog would be present with the witness on the stand to help the witness testify and that the jurors should not make any assumptions or judgments based on the presence of the dog. These simple instructions will help limit the distraction that could be caused by a dog entering the courtroom unexpectedly and will limit the prejudice that could be caused against the witness and defendant. Additionally, the attorneys can plan to have the dog enter inconspicuously if possible, or have the dog enter when the jury is out of the room. The dog will then not be visible when entering the room and will not be visible while the witness is on the stand. This argument, that the jury will not know the dog is there and is instructed on how to treat the presence of the dog, has been successful in previous cases (*People v. Chenault*, 2014; *People v. Johnson*, 2017; *People v. Spence*, 2012; *People v. Tohom*, 2013; *State v. Dye*, 2013). In sum, both attorneys should consider requesting instructions to take to minimize any prejudice that the dog might cause.

### **Considerations for Prosecuting and Plaintiff Attorneys**

When deciding if they should ask for a facility dog, prosecutors should consider the following variables: the type of witness that will be testifying, the type of case that is being heard, and how they will avoid prejudicing the jury. This section also discusses some issues that have not yet been raised in court or research that civil attorneys should consider.

#### **Type of Witness**

Judges might be more likely to grant the use of a courthouse facility dog when certain types of witnesses are testifying. Trial judges tend to grant the use of a courthouse facility dog when the witness is a child (*People v. Spence*, 2012; *People v. Tohom*, 2013; *Smith v. State*, 2016; *State v. Devon D.*, 2016; *State v. George*, 2014; *State v. Jacobs*, 2015; & *State v. Reyes*, 2016). In some cases, adult witnesses were granted the use of courthouse facility dogs when the witness was traumatized (*State v. Moore*, 2014) or had cognitive development issues (*State v. Dye*, 2013). It is also important to consider using a courthouse facility dog if the witness, no matter the age, might refuse to testify or might freeze up while testifying. Scientific research supports the claim that the courthouse facility dogs will help reduce stress and anxiety (Beetz, 2011; Peters, 2017; Spruin, 2020) and courts have ruled that any prejudice to the defendant the dog might cause is small compared to the need for truthful and reliable testimony (*People v. Chenault*, 2014; *People v. Johnson*, 2017; *People v. Spence*, 2012; *People v. Tohom*, 2013; *Smith v. State*, 2016; *State v. Devon D.*, 2016; *State v. George*, 2014; *State v. Jacobs*, 2015; & *State v. Reyes*, 2016). Courthouse facility dogs are trained to detect and respond to human stress, no matter the cause, so they have the potential to be used with any witness.

### **Type of Case**

Another factor to consider is the type of case. Most cases using courthouse facility dogs have been criminal child sexual assault cases. This is because the courthouse facility dogs are often perceived by judges as an accommodation granted by the Victims of Child Abuse Act of 1990 and the Uniform Child Witness Testimony by Alternative Methods Act. Some prosecutors have successfully asked for facility dogs in other cases in which the witness has expressed fear of the defendant (*Smith v State*, 2016; *State v Dye*, 2013; & *State v Moore*, 2014). In theory, the calming benefits of the dogs can be applied to witnesses in civil cases as well, for example, if a witness in a sexual harassment/assault civil case feels anxious about testifying, the courthouse facility dogs can be used to comfort the witness. The same could apply if a witness is not traumatized but simply nervous about speaking in front of people; again, the dogs could be used to comfort the witness. Civil attorneys should consider using courthouse facility dogs in any cases that have a stressed/anxious/fearful witness. For instance, a grieving wife might benefit from comfort during her testimony about the wrongful death of her husband. Although dogs have not been used in a wide variety of cases, they have the potential to be useful in many types of cases, though past cases suggest the best bet is to use them in sexual assault cases.

### **Avoiding Prejudice**

Prosecutors should avoid prejudicing the jury by asking the judge to give a jury instruction and making sure the dogs are properly trained. Most appeals are based on the use of a facility dog claim that the dog biased the jury against the defendant, but none of these appeals have been successful. This is partly due to the courts' belief that the dogs serve a bigger purpose, and any bias is minimal (*People v. Chenault*, 2014; *People v. Johnson*, 2017; *People v. Spence*, 2012; *People v. Tohom*, 2013; *Smith v. State*, 2016; *State v. Dye*, 2013; *State v. Reyes*, 2016; &

*State v. Moore*, 2014). As mentioned previously, prosecutors should give jury instructions about the dog to minimize distraction and bias. Prosecutors should also make sure the dog is properly trained to be in a courtroom. Proper training will ensure that the dog is not noticeable to the jury, which judges have said minimizes bias (*People v. Chenault*, 2014; *People v. Spence*, 2012). Though more research on prejudice needs to be done, current research suggests that facility dogs do not prejudice the jury against the defendant (Burd, 2019).

Neither the law nor research has discussed the potential for the dogs prejudicing the jury against the witness. Civil plaintiff attorneys should consider this possibility when deciding to ask for a courthouse facility dog. While there is worry that a courthouse facility dog will make a witness appear to be more vulnerable and more trustworthy, the opposite could also be true. The dog could make the witness appear to be “faking it.” In civil cases, juries might think that the use of neck braces, crutches, or courthouse facility dogs might be a ploy to make the damages seem worse than they are. Additionally, the calming presence of the dog might make the witness appear to be less emotional, which might make the jury not believe the witness. Whether the dogs are used in good faith or not, the potential that their presence could backfire on the prosecutor or plaintiff attorney remains. In summary, attorneys will probably not face any obstacles in requesting a courthouse facility dog but should consider how the presence of the dog will affect their case.

### **Considerations for Defense Attorneys**

There have been many appeals based on the use of courthouse facility dogs, mostly claiming that they prejudiced the jury, however, none of the appeals have been successful (*People v. Chenault*, 2014; *People v. Johnson*, 2017; *People v. Spence*, 2012; *People v. Tohom*, 2013; *Smith v. State*, 2016; *State v. Dye*, 2013; *State v. Moore*, 2014; & *State v. Reyes*, 2016).

Further, current research (Burd, 2019) does not support this claim. There are some things that defense attorneys can do during the trial to ensure that the dogs are used fairly. This section also discusses some issues that have not yet been raised in court or research that civil attorneys should consider; for example, whether the defense attorney also wants to use a dog.

### **Use of the Courthouse Facility Dog**

Courthouse facility dogs are not only available for the prosecutor's witnesses, but they can also be used for defendants and their witnesses as well. In *State v. Reyes* (2016) the prosecution petitioned for a courthouse facility dog for a 10-year-old witness. The defense filed a successful motion asking that the courthouse facility dog be made available to *all* witnesses in the trial. This will mitigate any bias that might occur when the prosecutor's witness testifies with the dog. Further, the calming effect of the dog could be beneficial to defendants that are anxious or stressed about taking the stand; this could potentially help defendants to keep from having outbursts when being questioned by the prosecutor or plaintiff attorney. These benefits apply to civil cases as well, in any case in which the defendant feels anxious or overly emotional about testifying, the courthouse facility dogs have the potential to help keep them calm. This might be particularly useful in civil cases, because defendants are often being sued and might feel defensive in the courtroom. In sum, the defense attorneys should consider using the courthouse facility dogs to their advantage.

### **Proper Training**

Some states (Arizona, Arkansas, Hawaii, Idaho, Illinois, Louisiana, Virginia, and Washington) have legislation that requires facility dogs to undergo specific training and evidence of this training must be submitted to the court (Courthouse Dogs Foundation, 2020). Even if

evidence of training is not required, defense attorneys would benefit by verifying that the dog's training is appropriate and that the dog is not simply a pet, a therapy dog, or work dog, but a specially trained courthouse facility dog. A defense attorney's objection to the prosecutor's use of a courthouse facility dog based on a lack of training is likely to be taken seriously. A defense attorney could argue that there needs to be evidence that the dog will help and not be a hindrance. They could further argue that there could be disruptions, people with allergies or fears, etc. In the case of the witness using their own pet, they are likely to be comforted but the risk of disruption is even higher because there is even more chance the dog will be disruptive. A defense attorney wanting their own witness to use a therapy dog should likewise ensure that the dog is properly trained. Proper training will ensure that the dogs do not cause distractions in the courtroom and will minimize the potential of prejudicing the jury.

### **Confrontation Clause – Seeking the Truth**

Courthouse facility dogs allow anxious or frightened witnesses to provide truthful and reliable testimony while remaining calm (*People v. Chenault*, 2014; *People v. Johnson*, 2017; *People v. Spence*, 2012; & *People v. Tohom*, 2013; *State v. Devon D.*, 2016; *State v. George*, 2014; *State v. Jacobs*, 2015). Defense attorneys might worry that having a calm witness will make it difficult to apply pressure and get truthful answers. However, the dog might be a better alternative to a support human that the witness might be given (Holder, 2013). If the defense believes that a witness has been coached or is lying on the stand, then the use of a courthouse facility dog will allow the witness to testify calmly without the presence of a human who might be coaching or pressuring them to give certain testimony. This allows for defendants to have a proper chance to confront the witnesses and get reliable and truthful answers.

One thing to consider when using the courthouse facility dog with the defendant, however, is that the same effect would occur, giving the prosecutor or plaintiff attorney the benefit of being able to question the defendant and extract reliable and truthful answers. This might not be in the best interest of the defendant, depending on the case. For example, if the defendant is calmed down by the presence of the courthouse facility dog, they might talk more than they would if they were feeling anxious, giving away unnecessary and potentially harmful information when questioned.

### **Use of Limiting Instructions**

Defense attorneys who want to object to the prosecuting or plaintiff attorney's use of a facility dog can argue that many jury instructions admonishing jurors to ignore what they have seen or heard are ineffective (see Alvarez et al., 2016). Social science research has generally indicated that an effort to ignore a piece of information can increase one's attention to it. As such, instructions such as curative instructions could actually backfire, making jurors rely even more on the information they were trying to forget (see Alvarez et al., 2016 for review). A defense attorney could present this research to the judge if the prosecutor is asking for a facility dog and argues that an instruction to ignore the dog will reduce any bias.

### **Conclusion**

Courthouse facility dogs are a new phenomenon being used in courtrooms across the country (Bergal, 2017). They are specially trained to comfort vulnerable witnesses in and outside of the courtroom. Their benefits have been recognized by trial judges and appellate courts. Judges have supported their use with children and vulnerable adults, stating that any prejudice the dog might cause against the defendant is minimal compared to the benefits the dog brings for

the witnesses (Bergal, 2017). While courthouse facility dogs have mostly been used in criminal sexual assault cases, they have just as much potential to be useful in any kind of civil case. The dogs are trained to sense and respond to human stress, no matter the cause, so they will be beneficial in any case that features a stressed witness—even the defendant. Trial attorneys should consider the type of witness and case they are dealing with when asking for a courthouse facility dog. They should also consider the potential that the dogs might prejudice the jury against not only the defendant but also their own witness. This idea has not yet been tested but should be explored in future research.

Defense attorneys generally have not been successful in appealing the use of courthouse facility dogs and should instead focus on how to minimize prejudice and how to use the dog to their advantage during the trial. Defense attorneys can use the courthouse facility dogs for their defendant and defense witnesses to minimize any bias that might occur when the prosecution's witness uses the dog. The presence of a courthouse facility dog is beneficial for the defense because it allows the defendant to confront the witness face to face without the presence of a support person who could be coaching the witness.

Both the prosecution and the defense should consider the jurors' beliefs about courthouse facility dogs and therapy animals in general during jury selection. Attorneys can also minimize bias by ensuring that the dogs are properly trained and certified to be in the courtroom. It appears that prosecuting, plaintiff, and defense attorneys can all benefit from the use of courthouse facility dogs, but more research needs to be conducted to truly determine the effect the dogs have in the courtroom.

### References

- Alvarez, M. J., Miller, M. K., & Bornstein, B. H. (2016). "It will be your duty...." The psychology of criminal jury instructions. In M. K. Miller & B. H. Bornstein (Eds.), *Advances in Psychology and Law*. Vol. 1. (pp. 119-158). Springer.
- Beetz, A., Kotrschal, K., Turner, D.C., Hediger, K., Uvnas-Moberg, K., & Julius, H. (2011). The effect of a real dog, toy dog, and friendly person on insecurely attached children during a stressful task: An exploratory study. *Anthrozzos*, 24(4), 349-368.  
DOI:10.2752/175303711X13159027359746
- Bergal, J. (2017). *Canines helping out in the courtroom*. The Pew Charitable Trusts.  
<https://bit.ly/3eSjNgJ>
- Burd, K. A. & McQuiston, D. E. (2019). Facility dogs in the courtroom: Comfort without prejudice? *Criminal Justice Review*, 44(4), 515-536.  
<https://doi.org/10.1177/0734016819844298>
- Courthouse Dogs Foundation. (2020). <https://courthousedogs.org/>
- Firth, A. (2020, September 8). *Survey: Nearly 9 out of 10 judges welcome 'man's best friend' in court*. The National Judicial College. <https://www.judges.org/news-and-info/survey-9-out-of-10-judges-welcome-mans-best-friend-in-court/>
- Friedmann, E., Katcher, A. H., Thomas, S. A., Lynch, J. J., & Messent, P. R. (1983). Social interaction and blood pressure: influence of animal companions. *Journal of Nervous and Mental Disease* 171(8), 461–465. <https://doi.org/10.1097/00005053-198308000-00002>

- Grimm, A. L. (2013). An examination of why permitting therapy dogs to assist child victims when testifying during criminal trials should not be permitted. *Journal of Gender, Race, and Justice*, 16(1), 263-292.  
<https://link.gale.com/apps/doc/A328421826/OVIC?u=txshracd2583&sid=OVIC&xid=6ea0a7d0>
- Holder, C. (2013). All dogs go to court: The impact of court facility dogs as comfort for child witnesses on a defendant's right to a fair trial. *Houston Law Review*, 50(4), 1155–1187.
- Jones v. State, A19A2224 (Ga. Ct. App. Mar. 13, 2020).  
<https://law.justia.com/cases/georgia/court-of-appeals/2020/a19a2224.html>
- Kertes, D. A., Liu, J., Hall, N. J., Hadad, N. A., Wynne, C. D., & Bhatt, S. S. (2017). Effect of pet dogs on children's perceived stress and cortisol stress response. *Social Development*, 26(2), 382-401.
- Lass-Hennemann, J., Schäfer, S. K., Römer, S., Holz, E., Streb, M., & Michael, T. (2018). Therapy dogs as a crisis intervention after traumatic events? An experimental study. *Frontiers in Psychology*, 9, 1627. <https://doi.org/10.3389/fpsyg.2018.01627>
- Lin, W. (1989, November 12). *A prosecutor's best friend: Retired guide dog tips scales of blind justice toward victims*. Newsday. Retrieved December 12, 2020, from [http://www.vachss.com/dogs/av\\_dogs/sheba.html](http://www.vachss.com/dogs/av_dogs/sheba.html)
- Mariani, J. (2020). Courthouse facility dogs. *Criminal Justice*, 35(2), 14-18.
- McCartney, R. (2016, November 10). *Court goes to the dog*. KETV.  
<https://www.ketv.com/article/court-goes-to-the-dog/8276387>

Paws4Love. (2020) *Justice dogs*. Paws4Love.com. <https://www.paws4lovereno.org/home-welcome/community/justice-dogs/>

People v. Chenault, 227 Cal. App. 4th 1503, 175 Cal. Rptr. 3d 1 (Ct. App. 2014).  
<https://www.animallaw.info/case/people-v-chenault>

People v. Johnson, 891 N.W.2d 231 (Mich. 2017). <https://www.animallaw.info/case/people-v-johnson-0>

People v. Spence, 212 Cal. App. 4th 478, 151 Cal. Rptr. 3d 374 (Ct. App. 2012).  
<https://www.animallaw.info/case/people-v-spence>

Peters, C.S. (2017). Effects of support dogs on eyewitness anxiety during questioning. *Society & Animals*, 25(2), 105-18. <https://doi.org/10.1163/15685306-12341439>

Shiloh, S., Sorek, G., & Terkel, J. (2003). Reduction of state-anxiety by petting animals in a controlled laboratory experiment. *Anxiety, Stress & Coping: An International Journal*, 16(4), 387–395. <https://doi.org/10.1080/1061580031000091582>

Smith v. State, No. 14-15-00037-CR (Tex. App. Apr. 12, 2016).  
<https://www.animallaw.info/case/smith-v-state>

Spruin, E., Mozova, K., Dempster, T., & Freeman, R. (2020). The use of facility dogs to bridge the justice gap for survivors of sexual offending. *Social Sciences*, 9(6), 96.  
<https://doi.org/10.3390/socsci9060096>

State v. Devon D., 138 A.3d 849, 321 Conn. 656 (2016).  
<https://www.animallaw.info/case/connecticut-v-devon-d>

State v. Dye, 309 P.3d 1192, 178 Wash. 2d 541 (2013). <https://caselaw.findlaw.com/wa-supreme-court/1645704.html>

State v. George, 2014 Ohio 5781 (Ct. App. 2014). <https://www.animallaw.info/case/ohio-v-george>

State v. Jacobs, 2015 Ohio 4353, 2015 W.L. 6180908 (Ct. App. 2015).  
<https://www.animallaw.info/case/state-v-jacobs>

State v. Moore, No. 44221-3-II (Wash. Ct. App. May 13, 2014).  
<https://www.animallaw.info/case/state-v-moore>

State v. Reyes, 505 S.W.3d 890 (Tenn. Crim. App. 2016).  
<https://www.animallaw.info/case/state-v-reyes>