

Facility Dogs – A Vulnerable Victim’s Best Friend  
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Victims’ rights attorneys, advocates, and activists have fought for years to make the criminal courtroom accommodating for victims. This has been a difficult challenge, as the reality is that vulnerable witnesses must face the daunting and potentially traumatizing task of testifying in court while sitting only a few feet away from the person who victimized them. A new and revolutionary accommodation is for a certified facility dog to accompany vulnerable victims to the witness stand. Whether the victim is a child sexually abused by a family member, a woman raped by a stranger, or a wife battered for years, he or she can benefit from the presence of a dog during testimony.

A certified facility dog is specially trained and, like a seeing-eye dog, can remain quiet and still for long periods of time. Research has documented that companion animals can reduce a witness’s anxiety by promoting a safe feeling and providing contact-comfort to the witness.<sup>i</sup> This research has proven true in the courtroom as evidenced by observations made by Ellen O’Neill-Stephens, senior deputy prosecuting attorney with the King County Prosecutors Office in Seattle, Washington.<sup>ii</sup> Ms. O’Neill-Stephens started a courthouse dog program in 2003. Her experience with facility dogs in the courtroom has led her to conclude that these dogs will change the way the criminal justice system works. She, and others she works with, have found that the dog’s presence creates a less antagonistic atmosphere in the courtroom and all participants are “on their best behavior.” According to Ms. O’Neill-Stephens, the courtroom is a nicer place to be when a dog is present.

Ms. O’Neill-Stephens has found that the dog’s calming influence on the victim facilitates testimony even under the most difficult circumstances. Ms. O’Neill-Stephens recounted a courtroom scene where a defense attorney and a child victim sat across from each other with a facility dog between them. They were both petting the dog as defense counsel cross-examined the child. The dog neutralized the situation and enabled defense counsel to ask very penetrating questions without antagonizing the child.

Ms. O’Neill-Stephens has collected a lot of anecdotal evidence of the dogs’ benefits to victims over the years. Another such anecdote involves an adult victim of stranger rape. During the woman’s testimony, when she faltered she would reach down and pet her facility dog, Ellie, to regain the strength to continue. Ms. O’Neill-Stephens personally noted that in this particular case, Ellie’s presence enabled the witness to lower her guard to allow a glimpse of the real person behind the emotional wall the woman had constructed following the rape. In these types of situations, Ms. O’Neill-Stephens believes the dogs help jurors to connect with and see the victim as a person.

Ms. O’Neill-Stephens also feels that the dog’s benefit to a vulnerable witness lasts beyond the actual testimony. The dog’s assistance can be the first step in part of the healing process, as victims come away from court with a positive association with a terrible event. Significantly, the rape victim detailed above related how just holding onto Ellie’s leash during her testimony gave her a sense of being in control: a feeling not often felt by victims in the criminal justice system.

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Facility dogs are appearing in court in various jurisdictions, including Washington, Mississippi, Texas, and Maryland with resounding success.<sup>iii</sup> Ms. O’Neill-Stephens believes the continuing expansion and success of dogs in the courthouse will come in the form of a the policy of making the dogs available for everyone to use and not just vulnerable victims. As such, she promotes the use of dogs in the courthouse lobby for witnesses, jurors, and attorneys to pet. Having the dogs in the elevator, or hallways where anxious people are waiting, is a pleasant distraction from the serious purpose of the court visit.

This theory of making the dogs available to everyone, including the defendant, is also a sound legal strategy because it removes any objection that the dogs are merely a “tool of the state.” The policy works to help alleviate a judge’s hesitancy to grant a victim’s motion asking for dog accompaniment, because a trial judge can instruct the jury that the dogs are trained for the courthouse setting and are available to anyone, including the defendant, who wants their assistance. Having this instruction on the record can also help defeat a defendant’s argument on appeal that the dog’s presence was unduly prejudicial.

Ms. O’Neill-Stephens is such a proponent of courthouse facility dogs that she and Celeste Walsen, DVM, founded Courthouse Dogs, LLC, in 2008, with the mission of promoting justice through the use of well-trained dogs to provide emotional support to all in the criminal justice system.<sup>iv</sup> The Courthouse Dogs’ website, [www.courthousedogs.com](http://www.courthousedogs.com), is informative and helpful to anyone interested in starting a facility dog program in his or her jurisdiction. Included on the website is a sample motion requesting the court to allow a facility dog to accompany a witness during testimony, as a guide for practitioners to use in drafting their own motion.

While the criminal courtroom will never be a victim’s favorite place to be, through the work of dedicated people like Ms. O’Neill-Stephens, it can be a less hostile place. Victim attorneys who represent a vulnerable victim should not hesitate to ask the court for accommodations to alleviate the trauma of testifying in open court. Accompaniment by a facility dog is a one such method that can benefit all participants in the criminal justice process. While it is still a new and little-used practice, in time facility dogs may just prove to be a vulnerable victims’ best friend in the courtroom.

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<sup>i</sup> Rena Marie Justice, *Animal Assistance Part II: Pets in the Courtroom: The New “Comfort Item,”* Update (APRI’s Nat’l Ctr. for Prosecution of Child Abuse, Alexandria, Va.), 2007, at 1.

<sup>ii</sup> Telephone interview with Ellen O’Neill-Stephens, Co-Founder, Courthouse Dogs, LLC, in Seattle, Wash. (Aug. 13, 2008).

<sup>iii</sup> See *Children’s Victim Advocates Have Four Legs, Fur*, Gainesville.com, Aug. 26, 2006, [www.gainesville.com/apps/pbcs.dll/article?AID=2006208260335](http://www.gainesville.com/apps/pbcs.dll/article?AID=2006208260335) (article on Florida’s Pet Therapy in the Courts Program); Arin Gencer, *Court-System Canine Helps Put Kids at Ease; Victims, Witnesses Open Up to Carroll County Prosecutors*, Baltimore Sun Archives, June 2, 2008, <http://pqasb.pqarchiver.com/baltsun/access/1488275691.html?dids=1488275691:1488275691&FMT=ABS&FMTS=ABS:FT&date=Jun+2%2C+2008&author=Arin+Gencer&pub=The+Sun&desc=COURT-SYSTEM+CANINE+HELPS+PUT+KIDS+AT+EASE>; see also, Justice, *supra* note 1, at 2.

<sup>iv</sup> [http://www.courthousedogs.com/courthouse\\_dogs\\_llc.html](http://www.courthousedogs.com/courthouse_dogs_llc.html).