How Therapy Animals Support Vulnerable Victims:
The Do’s and Don'ts, Legal Issues and Case Law

Allie Phillips, Esq.
Co-Founder, Therapy Animals Supporting Kids (TASK) Program
Lansing, MI
allie@alliephillips.com

Work experience:
• Assistant Prosecutor (Michigan)
• National District Attorneys Association (Senior Attorney)
• American Humane Association (Vice President of Public Policy and Vice President of Human-Animal Strategic Initiatives)
• National District Attorneys Association
  - Founder/Director, National Center for Prosecution of Animal Abuse
  - Deputy Director, National Center for Prosecution of Child Abuse

Programs:
• Founder, Sheltering Animals & Families Together (SAF-T) Program™
• Co-creator, Therapy Animals Supporting Kids (TASK)

Author:
• 2 books, 10 book chapters

Boards/Associations:
• ABA’s Commission on Domestic & Sexual Violence (Liaison)
• Association of Professional Humane Educators (Advisory Group)
• Denver Pet Partners (Advisory Council)
• Friends of Ingham County Animal Shelter (Co-Founder)
• Michigan State Bar Animal Law Section (Council Member)
• Michiganders for Shelter Pets (Co-Founder)
• National Coalition on Violence Against Animals (Executive Board)
• National Law Enforcement Center on Animal Abuse (Advisory Group)
• National Link Coalition (Steering Committee)

Therapy Animals Supporting Kids (TASK)™ Program
• Co-created while at American Humane
• National initiative to advise child protection, prosecution and judicial professionals to incorporate therapy animals into the process of helping children
• Peer-reviewed guidelines
• Launched in August 2009

America’s Top 10 Animal Defenders

TASK Force
• Working group at NDAA:
  - Pet Partners
  - Denver Pet Partners
  - Florida Courthouse Therapy Dogs Program
  - Prosecutors
  - Therapy animals handlers in the criminal justice system

Sophie (Johnson County, TX)
Legal Definitions

• New as of March 15, 2011: Service/Assistance Animals = any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The crime deterrent effects of an animals’ presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

• Therapy Animals = not legally defined but they provide therapeutic support to people. They are usually the personal pets of their handlers, and work with their handlers to provide services to others.

IAHAIO Guidelines

• Established March 2013
• Focus on proper terminology
• Focus on animal welfare

• Animal Assisted Intervention (AAI)
  • An Animal Assisted Intervention is a goal oriented intervention that intentionally includes or incorporates animals in health, education and human service (e.g., social work) for the purpose of therapeutic gains in humans.
  • Includes Animal Assisted Therapy (AAT)
    • Therapeutic goal
  • Includes Animal Assisted Education (AAE)
    • Educational goal

• Animal Assisted Activities (AAA)
  • Informal visitation, no specific treatment goal

Visual difference between service and therapy animals

The Big Pink Elephant

• The word “therapy”
  • Con --> Conveys an image onto the victim?
  • Pro --> proper utilization of the registered name

• Analogize to other titles during trial
  • Victim
  • Homicide detective

• Consistency --> Animal-assisted activity dog/cat

Where can Animal-Assisted Activities (AAA) be utilized

• Child Advocacy Centers
• Social Service Agencies
• Medical Centers
• Therapy Offices
• Domestic Violence Centers
• Family Justice Centers
• Prosecutors Offices
• Police Departments
• Courthouses

When to utilize AAA

• Greeters at the CAC
• Forensic Interview
• Medical/SANE exams
• Individual/group therapy
• Court preparation
• Court testimony
Benefits of AAA for children

- Aids in building rapport with the professional adult and promotes engagement with the child who may be nervous or withdrawn (Parish-Plass, 2008)
- Facilitates communication for the child (Corson, 1975)
- Assists as a therapeutic intervention for the child (Corson, 1975)
- Acts as comfort or support for the child and reduces anxiety and stress (Serpell, 1996)

Benefits of AAA for children

- Provides nonjudgmental acceptance and attention to the child (Parish-Plass, 2008)
- Provides healing touch to a child and removes feelings of social alienation. (Parish-Plass, 2008)
- Improves morale among staff; reduces employee turnover which promotes continuity with patients

Drawbacks of AAA for children

- Sudden reaction by a child or an animal that might cause injury to either.
- Allergies or fear of animals.
- Having the animal treated like or viewed as a toy by the child.
- Improper matching of an animal to a child could harm the therapeutic process.
- Children with a history of violence toward animals may not be safe to work with a therapy animal.
- An untrained or inexperienced handler may not be able to properly serve in their role as their animal’s advocate.

As far as our Therapy Dogs go, they continue to be a huge addition to the services we provide for child victims. Because trainers have taken great care in who is passed, we have very well-behaved dogs that provide a great deal of comfort and companionship for the kids, the team and our staff. I cannot imagine our center without the therapy animals.”

-- Tammy King, Children’s Advocacy Center Johnson County, Texas

Starting an AAA Program

- Program coordinator
- Locate a volunteer handler
  - Pet Partners
  - Therapy Dogs International
  - Therapy Dogs, Inc.
- Own pet?
- Locating a local pet partner team
  - Experience
  - Matching

Starting an AAA Program

- Handler credentials
  - Evaluated & tested
  - Screened animals
  - Registered/Insurance
  - Proficiency with children
  - Child maltreatment training
    - Engaging maltreated children by the handler
    - Humane education, kindness and compassion
    - Compassion Fatigue
  - Court procedures training
  - Background check
  - Confidentiality agreement
Starting an AAA Program

- Policies and Procedures
  - Allergies
  - Fear of pets
  - No one is forced to interact with the animal
  - The animal is not to be left alone with a client or visitor
  - The animal is a respected member of the team
  - Presence of the handler during sessions

Two-way Street

- They are part of the team:
  - Appropriate breaks
  - Leaving escalating situations
  - Never left alone
  - Limited work hours

When Therapy Animals Can Help

- Benefits
  - Creates ease and lessens anxiety when therapy animals and their handlers are present.
- Concerns
  - Need to address allergies, fear of animals and appropriateness for the child.
  - Ask a parent or guardian regarding the child’s relationship with animals.

Johnson County, Texas
Children’s Advocacy Center

“Jake is still the “Rock Star” of the CAC and has free run of the center. Every time our door chimes, he runs to greet the kids. He also goes into interviews and therapy. I have to say that he is incredible therapy for our team as well. Every team member that comes through the door looks for Jake. I think he greatly reduces their stress levels.”

AAA in the Forensic Interview

- Crucial stage for professionals; frightening for children
- A therapy animal can build rapport, safety and allow the child to communicate
- Incorporate into your existing protocol
- Good opportunity to talk to kids about animals in the home
**AAA in the Forensic Interview**

- Do allow the child to decide.
- Do inform the child that the therapy animal needs to have the handler present.
- Do allow the child to walk to the room with the therapy animals (if not allowed in).
- Do allow the child to pet, connect with and even talk to the therapy animal during the interview.

**Legal Issues in the Forensic Interview**

<table>
<thead>
<tr>
<th>Objection</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The presence of the handler inhibited the child from a full disclosure that may have exonerated my client.</td>
<td>Testimony that the child consented to the presence of the handler and animal; the outward demeanor of the child (apprehensive or inhibited). If the interview was videotaped, offer the videotape as the best evidence of what occurred.</td>
</tr>
</tbody>
</table>

**Research: AAA in Forensic Interviews**

- Children undergoing forensic interviews at a Texas CAC
- Half interviewed with a therapy dog
- 2/3 of the children disclosed

Salivary immunoglobulin A tended to be lower ($p = 0.055$) when the therapy dog was present during the forensic interview. Results further indicated that the drop in heart rate was greater in longer interviews and with older children ($p = 0.02$) when the dog was present.

- Salivary immunoglobulin A was 14.7% lower in children with a therapy dog present
- when the dog was not present, heart rate was significantly greater for younger children than older children

**Legal Issues in the Forensic Interview**

<table>
<thead>
<tr>
<th>Objection</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The presence of the therapy animal was suggestive to the child.</td>
<td>Therapy animals are akin to comfort items (such as dolls and blankets) and are incapable of suggesting information or answers to the child in response to questioning.</td>
</tr>
</tbody>
</table>

**Legal Issues in the Forensic Interview**

<table>
<thead>
<tr>
<th>Objection</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The handler behaved inappropriately in the interview room and responded with comforting sounds when the child spoke of abuse. This encouraged the child to disclose additional false allegations of abuse in order to receive approval.</td>
<td>Testify regarding the child’s interactions with the handler, whether the handler spoke or made any physical gestures, whether the handler wore ear phones, handler orientation. If the interview was videotaped, offer the videotape as the best evidence of what occurred.</td>
</tr>
</tbody>
</table>
Legal Issues in the Forensic Interview

- Handler as a witness
  - Provide an orientation so that handlers know what to expect and do not react to a child’s words
  - 3rd party issues --> analogize to interpreter
  - Discuss with handler beforehand
  - Is the handler testifying to unique information?
  - Is there an allegation of improper conduct?
  - Was the interview videotaped (best evidence rule)?
  - Be sensitive to the handler’s schedule

Forensic Interview Examples:

Alliance for Children CAC, Tarrant County, Texas

- 10 year old sexual abuse girl, no outcry
- Dad confessed
- Introduced Willie to help the girl tell her story
- Willie went into the interview room and the girl was comfortable enough to talk

AAA in the Medical Exam

- Ask the child if the animal and handler can be present
- Sight-barrier between the handler and the child
- Consult with medical staff

AAT in the Medical Exam

- Benefits
  - The child feels safe and comforted by the therapy animal
  - The therapy animal distracts and relaxes the child
  - The therapy animal may prevent retraumatization of the child
- Concerns
  - The medical staff may have policies in place prohibiting animals in medical facilities and these policies may conflict with the best interest of the child.
  - Issues of evidence contamination

Austin, Texas
Children’s Advocacy Center
Woodstock

AAA in Therapy

- For group and individual therapy
- Helps the child to express and project feelings
- Conduct during a therapy session may be questioned during trial, including subpoenaing the therapist and records
- Handler is present
Research: AAA in Group Therapy

- Three groups:
  - Group therapy without dogs
  - Group therapy where dogs interacted in the lobby for 30 minutes and then came into group therapy for 10-15 minutes
  - Group therapy where dogs interacted in the lobby for 30 minutes, came into group therapy for 10-15 minutes, added “dog stories”

- “Children in the groups that included therapy dogs showed significant decreases in trauma symptoms including anxiety, depression, anger, post-traumatic stress disorder, dissociation, and sexual concerns. In addition, results show that children who participated in the group with therapeutic stories showed significantly more change than the other groups.”


Therapy Examples: 

Children’s Advocacy Center Jackson, MS

Pookie the therapy cat

AAA in Court Preparation

- Benefits
  - Can relax the child and provide a sense of safety which may transfer to the prosecutor handling the case.

- Concerns
  - Be sure not to let the child believe that a “good performance” on the witness stand is contingent on having the therapy animal available for pre-trial court preparation.

Court Preparation: 

Alliance for Children, Tarrant County, Texas

- Isabelle helps with the Tarrant County Kids in Court Program
- Helped a 9 year old girl get ready for court
- The girl was shy, but warmed up especially after finding Isabelle’s ticklish spot
- Nan told Isabelle’s story about secrets
- The girl then disclosed to Isabelle more than she previously had about her abuse
In the Courtroom

There is no legal reason for a child to be alone on the witness stand. Isolating a child can actually harm the integrity of the trial and result in—delays if the child’s participation is inhibited by fear.

Judicial Considerations

- Therapy animals are part of the witness support team:
  - Appropriate breaks
  - Handler knows when to leave escalating situations
  - Never left alone
  - Limited work hours
- Allergies
- Use of “therapy animal” name

Placement of the therapy animal team

- In the hallway
- In the courtroom
- In the witness stand

Legal Analysis

- Child-fair courtrooms
- Analysis to support person law
- Analysis to comfort item
- Analysis to interpreters
- Analysis to CCTV law
- Balanced approach
- Handling perceived prejudice
- Fair administration of justice

AAA in the Courtroom

- Motion in Limine
- Therapy animals assist with effective, efficient, and thorough testimony
- Feelings of security
- Placement of the therapy animal

Support Person Laws

- 48 States that allow the court to consider a support person:
  - AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY
- Federal
- American Samoa, District of Columbia, Guam, Puerto Rico, Virgin Islands
Comfort Item Laws

- Arkansas (§ 16-43-1202)
- California (CAL. PENAL CODE § 868.8)
- Florida (Fla. Stat. Ann. § 92.55)
- Guam (Code Ann. tit. 8, § 75.85)
  - Court can take "special precautions"
- Illinois (705 Ill. Comp. Stat. 80/1)
- Missouri (MRS 491.725.3(4))
  - "State any other condition necessary for taking or presenting the testimony."

Animal-Assisted Laws

- Florida (FSA 92.55)
  - Became law in 2011
  - Upon motion for any child under 16, the court may allow a registered service or therapy animal in proceedings involving sexual assault.
  - Considerations: age, interests of child, rights of parties, other relevant factors to facilitate testimony.
  - Animals must be evaluated/registered according to national standards.
  - Added vulnerable adults in 2014.

Support in Tallahassee

- Superior Court Judges
- Swearing in ceremony for the dogs
- Public Defenders
- Prosecutors
- Child Advocacy Centers

Animal-Assisted Laws

- Required for any child under the age of 13 testifying in a criminal trial
- Therapy animal must be registered and come with insurance
- Okla. Stat. tit. 12 §2611.12(D)(1)

AAA in the Courtroom

<table>
<thead>
<tr>
<th>Objection</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The presence of the therapy animal and handler in the witness stand will be prejudicial to the defendant.</td>
<td>Efforts to conceal therapy animal and move the handler as far from the witness stand, but allow for control. The therapy animal fulfills the role of support person and comfort item and is less suggestible than a concerned adult.</td>
</tr>
</tbody>
</table>

AAA in the Courtroom

<table>
<thead>
<tr>
<th>Objection</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The presence of the therapy animal and handler in the witness stand conveys that the child is fragile and needing of protection against the defendant, which conveys a negative image on the defendant.</td>
<td>Valid objection? Reach the legal level of “extreme prejudice” or “overly prejudicial”? The demeanor of the witness, whether strong or fragile during testimony, is not an objectionable factor since all witnesses react differently when testifying (Eggshell Plaintiff Doctrine).</td>
</tr>
</tbody>
</table>
AAA in the Courtroom

<table>
<thead>
<tr>
<th>Objection</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The defendant, defense attorney, or other courtroom observer is allergic to animals.</td>
<td>Most allergies occur from touching an animal and then touching your eyes/face. The therapy animal is usually placed far enough away to avoid any allergies. Ask court to weigh the interests of the child in relation to the complained-of allergies.</td>
</tr>
</tbody>
</table>

Case Law

CA vs. Spence
- 10-yr-old child testified with an advocate and therapy dog at her feet
- Defendant objected that the dog made the child look like more of a victim
- Therapy dog allowed as a procedural ruling to get to the truth and compared to a teddy bear
- CA has a mandatory support person law (1 on the stand) and found the dog to not be a person
- The dog was properly allowed as a comfort item and did not violate the 1 support person rule

NY vs. Tohom
969 N.Y.S.2d 123 (N.Y.A.D. 2 Dept.,2013)
- Years of sexual abuse to a child11-15 yrs
- PTSD and working with Rose
- Cannot talk about the abuse, but more vocal with Rose
- Will testify better with Rose
- Defense objected based on prejudice
- Defendant convicted

NY vs. Tohom
- Comfort-therapy dog terminology is good
- Permitting a comfort dog is less prejudicial than allowing a support person
- No Frye hearing needed since research is significant on the benefits of therapy animals
- “The utilization of a comfort dog to support vulnerable witnesses ... is an ‘accommodation’ which ... should be encouraged as an effective and beneficial courtroom measure in administering a trial”

Michigan vs. Johnson
Mich App ___, ___; ___ NW2d ___ (2016)
- Defendant convicted of CSC on 6-year-old niece
- Niece and brother testified with therapy dog
- Prosecutor = “canine advocate” per support person statute
- Trial court = “support dog” and “therapy dog from the prosecutor’s office”
- Defendant appealed the support “person” law
- Court of Appeals = “canine advocate”, “support animal”; dog is not a person but court allowed to use the law to provide alternative procedures; not concerned with working name of the dog
Michigan vs. Johnson

"The use of a support animal allows the trial court to ease the situation for a young traumatized or fearful witness, while at the same time allowing the jury and the defendant to view the witness while testifying. We therefore hold that it is within the trial court's inherent authority to control its courtroom and the proceedings before it to allow a witness to testify accompanied by a support animal."

CA vs. Chenault


- Two child victims of sexual assault by a relative
- Support/companion dog
- Dog brought in and out without jury present, kept as inconspicuous as possible
  - The appellate court supported this process
- "We do not believe the presence of a support dog is inherently more prejudicial than the presence of a support person."

Michigan vs. Johnson

"Similar to a victim’s use of a protective screen when testifying, a reasonable jury could conclude that the support animal is being used to calm the witness’s general anxiety about testifying, or simply being in an unfamiliar setting. Thus, the practice does not give rise to primarily prejudicial inferences, as it is possible for the jury to make a wide range of inferences from the use of this procedure that are unrelated to defendant. In addition, the use of a support animal is unlike the inherently prejudicial practices of clothing a defendant in his prison outfit or the shackling of a defendant, as the use of a support animal does not "brand a defendant with the mark of guilt." Instead, the support animal is merely present to assist the witness, and the presence of the animal does not reflect upon the guilt or innocence of a defendant. Therefore, the use of a support animal does not create "an unacceptable risk . . . Of impermissible factors coming into play."

Michigan vs. Degner

Unpublished opinion per curiam of the Court of Appeals, issued June 14, 2016 (Docket No. 327025)

- Defendant convicted of 2nd degree child abuse on two step children
- "Support dog" at trial
- Appellate court relied on Johnson case in that trial court can use discretion for victim support during testimony
  - Support dog not inherently prejudicial
  - Proper jury instruction given

CT vs. Devon

90 A.3d 383 (Conn.App, 2014)

- Three child victims, one testified with a dog
  - She could testify in front of the defendant but not others
  - She had not met the dog before testifying
  - No record about if/why the child needed the dog
  - Unclear record of the dog’s credentials
- On appeal, the trial court had the authority to allow the dog but abused its discretion because it failed to make a record showing the necessity of the child to have the dog
Ohio v. Jacob
2015-Ohio-4353 (Oct. 21, 2015)
• Child suffers from "psychological ailments" requiring the presence of the dog
• "Companion" dog from the DA's office sat at her feet at trial
• Convicted of sexual assault on a child between ages of 11-15
• Evidence Rule 611: judge has authority of control of the courtroom (effective ascertainment of truth and to protect witnesses)

Ohio v. Jacob
2015-Ohio-4353 (Oct. 21, 2015)
• Special accommodations should be allowed. Courts should “recognize that the protection of child victims of sexual abuse forms an important public policy goal in this state and across the nation.”
  • First, judges control the court proceeding.
  • Second, judges can approve special accommodations.
  • Third, animals can be an accommodation.

Making a good record without a direct statute
• Testimony about the child’s inability to testify without the therapy animal
• Testimony about the child’s work with a therapy animal
• Testimony about the therapy animal and handler’s credentials
• Discussion about placement before the jury enters
• Instruction to the jury

Questions?
Download the manual at Alliephilips.com
Contact me at allie@alliephilips.com