

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.

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- * 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.

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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

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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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. 

*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.

VISIT OUR WEBSITE AT:

<http://www.abanet.org/tips/animal/home.html>