



## **Concerns about the TASK Program proposed by the American Humane Association**

Highly trained dogs can provide unmatched emotional support for abused children during the investigation and prosecution of criminal cases. The appropriate dogs to be used in forensic interviews and in the courtroom are professionally trained assistance dogs. These working dogs should be handled by forensic interviewers, victim advocates, prosecutors or law enforcement officers who are skilled members of a criminal justice team. Dogs specifically trained for this work can be obtained from accredited nonprofit assistance dog organizations at little or no cost to the jurisdiction.

In contrast, the American Humane Association TASK Program and Delta Society recommend the use of pet therapy dogs and their volunteer handlers during the investigation and prosecution of child abuse cases. The presence of pet therapy dogs and their owners presents many problems in these settings. The use of pet dogs can have a negative impact on a child, can impede the gathering of evidence, and might result in a mistrial or raise an issue on appeal.

The reasons for our concerns about the use of pet therapy dogs (as opposed to highly trained working dogs) in forensic interviews and in the courtroom as recommended in the TASK Program are stated below.

### **I. Therapy dogs are not tested for safe and appropriate behavior when in close contact with children.**

There is no accepted evaluation process for therapy dogs to be screened for their behavior around children. For liability reasons Delta Society, Therapy Dogs International and Therapy Dogs Inc. do not test pet dogs for safe behavior around children when they register a therapy dog team. The evaluators attempt to mimic childlike behavior when testing the dogs, but there is no evidence that this is valid or effective. Because of this, most hospitals with successful and long-standing therapy dog programs have developed their own screening procedures to satisfy their institutional risk management teams; the Cincinnati Children's Hospital is an excellent example of this model. However, this individualized program development is expensive in terms of staff time and specialized consultation.

The TASK manual acknowledges this concern for the safety of children. The manual states:

A sudden reaction by a child or an animal might cause injury to either.  
[...] Presenting an inappropriate animal that has not been properly

trained and evaluated for its skill and aptitude for therapy work can not only be unsafe for the child, but also inhumane to the animal (not all animals enjoy therapy work). [Page 7]

The manual adds:

Therapy animals are highly vulnerable to stress because unless their handler allows them, they cannot voluntarily leave a stressful situation. A responsible handler must diligently manage the environment his or her therapy animal is in and monitor for stress at all times. If excessive stress exists from which an animal cannot escape, the animal is forced to manage the situation on its own, which may initiate defensive behaviors like growling or even biting. [Page 9]

It is unlikely that most Child Advocacy Center (CAC) directors or prosecutors have the skill and experience necessary to determine if therapy dogs are safe around children. This risk alone outweighs the benefit of an untested dog around vulnerable children.

In contrast, assistance dogs that can pass the stringent requirements of the public access test developed by Assistance Dogs International demonstrate that they have high standards of behavior around people of all ages and can perform in stressful environments. This test can be found at <http://www.assistancedogsinternational.org/publicaccesstest.php>.

## **II. The level of training for therapy dogs is not consistent.**

Animal-assisted therapy exists in large part because well-meaning and caring pet dog owners want to serve their communities by making their dogs available to people who would enjoy the presence of a dog in their surroundings. The most common path to registering a pet dog as a therapy dog is a group class that meets once a week for 6 to 10 weeks, followed by a 30 to 60 minute evaluation of the dog by a certified therapy dog evaluator. (Details vary by registration body and by geographical area.) After passing the evaluation, the dog becomes a registered therapy dog for the next 2 years, after which retesting is required.

While some therapy dogs are well mannered and expertly trained, many are not. In fact, there is no effective supervision of therapy dogs by the registering body once the dogs are working in a facility.

Two Delta Society instructor/evaluators who recently watched a video clip of a highly trained assistance dog with a child in a forensic interview (the unidentified child's image was blurred) stated that the use of a therapy dog in this situation would be inappropriate because it was not a therapeutic setting. They also did not think that pet dogs could be expected to perform well under such circumstances.

Although no dog is absolutely bomb proof, the assistance dogs that we recommend using in forensic interviews have usually been in training since they were puppies, have about six months of advanced training at an assistance dog organization and are specially selected for this type of placement due to their ability to deal with this tense working environment.

**III. Therapy dogs work only a few hours at a time, so they may not be available when the child needs them the most.**

Because therapy dogs are pets, not working dogs, they are not bred or trained to withstand the stress of long workdays. Best practices in the therapy dog field and the TASK manual call for each dog to work no more than two hours at a stretch, in order to reduce the chance of either behavior problems or health problems for the dog. In addition, since each therapy dog handler is a volunteer, the facility must restrict the required hours of work and also fit into the volunteer's lifestyle.

Forensic interviews and trials are not always predictable. For instance, a child witness or victim may be kept waiting for hours for his or her turn to testify. Because of the time limitations, the volunteer and therapy dog may not be able to accompany the child during this long waiting period, and may not be available as the child goes into the courtroom.

**IV. Issues regarding the use of a therapy dog and handler in forensic interviews.**

**(a) A therapy dog must be on a leash with its volunteer handler in forensic interviews and other settings.**

The National Child Advocacy Center (NCAC) recommends that best practices be used in forensic interviews and provides articles written by experts on these topics on their website. As of November 2009 there is a link to an article written by Jack Annon published in "Issues in Child Abuse Accusations". In Annon's article, Recommended Guidelines for Interviewing Children in Cases of Alleged Sexual Abuse, he states,

"Interview the child alone. The only people in the room should be the child and the evaluator, unless there is a compelling need to do otherwise."

The entire article can be found at [http://www.ipt-forensics.com/journal/volume6/j6\\_3\\_2.htm](http://www.ipt-forensics.com/journal/volume6/j6_3_2.htm) .

Although the TASK manual states,

Don't assume the child is comfortable disclosing trauma or abuse in front of the therapy animal handler. The presence of the handler may inhibit the child from making a full disclosure. [Page 17]

it still recommends that a pet therapy dog and volunteer handler can be present in a forensic interview with a child. But how would an interviewer know in advance if a child would be comfortable disclosing trauma and abuse in front of a therapy animal handler? Once the interview begins with the handler in the room, the child may not want to talk about what happened and the interviewer would never know if the child felt inhibited.

**(b) The emotional reactions of volunteer handlers can disrupt a forensic interview.**

The presence of a volunteer in the room can interfere with creating the best environment for the child to relate what happened. This could affect the successful investigation or prosecution of the case. Their presence can also increase the issues that defense counsel can raise regarding the validity of the interview. In addition volunteers do not have the training to deal with listening and reacting to verbal accounts of disturbing child abuse.

The TASK manual acknowledges these concerns but the solutions can create additional problems during the interview and the prosecution of the case.

The manual states:

Volunteer therapy animal handlers who are not professionally trained in working with children with a history of abuse will be exposed to upsetting and at times shocking events or graphic disclosures of abuse, which they may find very difficult to manage emotionally. It is important that they have a support system in place to assist them with secondary trauma. [...]

Handlers should be briefed in advance on how to handle their emotions in a session — up to and including giving them permission to leave the session if they feel they absolutely must. Give handlers instruction on how to excuse themselves without having a negative impact on the child. [Page 12]

*A victim advocate who reviewed this above statement expressed concern about how the child would react to having the volunteer and dog leave after hearing the child disclose disturbing information about what had occurred. The advocate wondered if the child would feel if he or she had done something wrong and feel punished by having the dog removed. She was also concerned that the emotional needs of the volunteer and the therapy dog appeared to be more important than the needs of the traumatized child.*

*A prosecuting attorney raised the issue of how the departure of the volunteer and dog would be explained to the jury if a video of the interview were presented as evidence.*

**(c) A therapy dog can distract a child during a forensic interview.**

The TASK manual states,

Don't allow the child to focus so much on the animal that the interview is compromised or ceases. Use redirecting techniques to re-engage the child with the interview. If the child becomes distracted by the therapy animal and is unable to focus on the interview, the interviewer should send a pre-determined cue to the handler and the handler should excuse him or herself. The handler could inform the child that the therapy animal needs a bathroom break so that the child does not feel bad about the departure.  
[Page 17]

*Many people who reviewed this suggestion in the manual were distressed to read that the volunteer was being advised to lie to the child especially since many interviewers ask children if they know about the consequences of telling the truth or a lie.*

**V. Possible defense objections regarding therapy dogs and their handlers.**

Page 29 of the manual goes into greater detail of how to address the legal issues associated with confidentiality of information, objections regarding the presence of a handler during disclosure and handlers being subpoenaed to testify as witnesses.

*The forensic interviewers, victim advocates and prosecuting attorneys who handle trained assistance dogs themselves when working with victimized children in the investigation and prosecution of a criminal case question the wisdom of creating the above issues when the benefit of a dog's presence does not have to include a volunteer handler or an untrained dog. The use of therapy dogs is not the only alternative when fully trained assistance dogs are available to jurisdictions at little or no cost.*

**VI. The use of a therapy dog in the courtroom may be detrimental to the prosecution of a case.**

The presence of a therapy dog and handler in the courtroom can present difficulties during the prosecution of a criminal case.

To begin with, **it is essential that the dog not be referred to as a therapy dog.** The defense could ask for a mistrial or raise an issue on appeal by arguing that this term used by the judge or prosecutor is a comment on the evidence. In other words the term "therapy" implies that the witness is in fact a victim in need of therapy. The defense would argue that it is up to the jury to decide if the witness is a victim of a crime.

When considering whether to allow a dog to accompany a witness to the stand many judges are greatly concerned about the possibility that the dog's behavior could disrupt the court proceedings, cause a mistrial or raise an issue on appeal. Some judges have required the assistance dogs that we work with remain out of sight of the jury.

Assistance dogs can comply with this request with the child in the witness stand holding the dog's leash. The assistance dogs we recommend for this type of work can remain immobile next to the child and are available to be petted when the child needs that comfort to speak.

**(a) A volunteer handler near the witness stand and a therapy dog could be distracting to the jury and disrupt the proceedings**

The TASK manual recommends that:

The prosecutor should take steps to conceal as best as possible the therapy animal and move the handler as far from the witness stand as possible, but still allow leash control and a visual of the animal to ensure the animal's safety. [Page 21]

The recommendation that the handler be as far away from the witness stand as possible is because the handler could distract the jury with emotional or non-verbal responses to the proceedings.

Since most of the therapy dogs registered for this type of work are selected because they seek out social contact with people, a handler that is as far away from the witness stand as possible may have ineffective leash control over the dog.

If a therapy dog in the courtroom is interested in seeking out and visiting with the child this could be distracting to the child and break the child's concentration. If the therapy dog is interested in the other people in the courtroom it will likely move from its position near the witness stand to visit with them.

If a therapy dog becomes stressed during the trial it can become vigilant and begin looking around the courtroom anxiously. This could cause the child to become concerned for his or her own safety if the dog is acting fearful.

An anxious dog may pant heavily, lick its lips, or yawn. These actions could prove to be distracting to both the child witness and the jury.

If the above situations occur, the same advice the TASK manual provides for these situations in forensic interviews would also apply to animal and handler behavior in the courtroom. An emotional handler would be required to leave the courtroom or remove

the dog from the courtroom. This could disrupt the proceedings or require a recess. It may be difficult for the child to resume testifying after this has occurred.

**(b) Issues associated with the use of therapy dogs and their handlers could result in a ban of all dogs in a courtroom.**

The basis for a judge permitting a dog to accompany a child witness to the stand is found in Evidence Rule 611(a)(1) because the dog's presence can "make the interrogation and presentation effective for the ascertainment of the truth". However the use of a volunteer handler and a therapy dog in court could conflict with section (2) of this rule, which allows the court discretion to avoid needless consumption of time during a trial.

These competing interests could have the very adverse affect of discouraging judges from permitting **any dogs** to accompany a child in future cases rather than take the risk of interrupting a trial to allow an emotional handler to leave and/or remove a dog

## **VII. Conclusion**

The use of well-trained assistance dogs to provide emotional support to children during forensic interviews and in the courtroom is in its infancy.

We all agree that the presence of a dog can have a calming effect on a child.

However, if the use of therapy dogs and handlers become commonplace during criminal investigations and prosecutions it will only be a matter of time before their presence results in a safety problem for a child, a child who feels inhibited by their presence during an interview or trial, a mistrial, an issue on appeal or judges reluctant to allow even highly trained assistance dogs to accompany a child into the courtroom because therapy dogs have set a bad precedent.

Please seriously consider these issues before deciding to implement the programs described in the TASK manual

November, 2009