Courts have long exercised the use of therapeutic jurisprudence—the law’s ability to influence the psychological wellbeing of those involved in the justice system (Dellinger, 2009). Consistent with this goal are various courtroom innovations that are intended to decrease discomfort, especially among young or vulnerable testifying witnesses, like the use of CCTV, comfort toys, and dolls (Goodman, Quas, Bulkley, & Shapiro, 1999). A new form of therapeutic jurisprudence recently introduced for use in the courtroom involves canine companions. These “courthouse dogs” assist individuals who suffer from psychological, emotional, or physical difficulties and/or those who would benefit from the comfort of an animal while giving testimony. The dogs are expertly trained and are most often used with children in child sexual abuse trials, but have also been utilized to assist elderly witnesses, disabled witnesses, and defendants. The dog is typically instructed to lie silently on the floor near the witness or just within the witness’s view, and often the dog is hidden from the jury’s view. Courthouse dog programs currently exist in over half of the states in the U.S. (Courthouse Dogs, 2016).

Those who support the use of courthouse dogs argue that they help bring defendants to justice by calming vulnerable witnesses and making their testimony clearer (Dellinger, 2009). Some claim that young witnesses have been so distraught when testifying that they could not be functional on the stand and that the dogs can calm them to the point of being cooperative, successful witnesses (Courthouse Dogs, 2014). However, there is opposing concern that the presence of a courthouse dog emphasizes the victimization of the witness, thereby playing to jurors’ sympathies. Some argue that witnesses may be viewed as even more vulnerable or likeable, thus infringing upon the defendant’s right to a fair trial. Certain labels for the canines such as “therapy dogs” or “advocate dogs” may also imply that the witness is in fact a victim in need of therapy, which may further bias jurors (Campos, 2008).

The use of a courthouse dog during trial has provided a basis for appeal in several recent cases. For instance, in People v. Tohom (2013), a child was sexually assaulted multiple times by her father (the defendant), twice resulting in pregnancies that were aborted. The victim was diagnosed with PTSD, felt highly unsafe, and was unable to discuss the sexual assaults. At trial, the State sought the use of a courthouse dog for the then 15-year-old victim’s testimony on the basis that being accompanied by the dog would reduce her anxiety and facilitate her ability to speak about the crimes. The court permitted the dog, and the defendant was found guilty of predatory sexual assault against a child. On appeal, the defense argued that the use of the dog was unwarranted under the law, restricted the defendant’s right to a fair trial by inducing sympathy, and interfered with cross-examination of the victim. The higher court rejected this appeal stating that there were no overt signs of prejudice due to the presence of the dog, that the ability to cross-examine the victim was not hindered, and that the use of the dog was permitted by the state laws on allowances for child victims.

A similar argument was made in State of Washington v. Dye (2013) in which the home of a mentally handicapped man was burglarized. Because of the victim’s intense fear and anxiety about testifying, the State sought to allow a courthouse dog to assist him during testimony and the court allowed it. The defendant was found guilty of residential burglary. On appeal, it was argued that the dog induced undue sympathy for the victim, thereby violating the defendant’s right to a fair trial. The appeal was rejected on the basis that there was no measurable impact of the presence of the dog on the jury, that there were ample opportunities for the defense to address the presence of the dog with the jury, and that the jury was properly instructed to not assume anything from the use of the dog.

These are two of several examples in which the courts have made assumptions about the impact of courthouse dogs on jurors’ decisions based on intuition rather than empirical evidence. Thus, our research was aimed at investigating this issue: Are courthouse dogs, compared to comfort items, prejudicial against defendants? Because it is typical for only the most vulnerable witnesses to be accompanied by courthouse dogs or comfort items, we first investigated their impact in a case involving child sexual abuse (Burd, 2013; Burd & McQuiston, 2014). We predicted that witness
status (victim vs. bystander) and innovation type (courthouse dog vs. teddy bear vs. none) would differentially impact jurors’ perceptions of the child witness. Mock jurors read a trial transcript depicting the case of an alleged sexual molestation of a six-year-old girl by her grandfather. Either the victim or a witness to the abuse testified and was accompanied by a dog, a teddy bear, or nothing (several photographs were included depicting each of these three conditions). We found no effect of witness status on verdict, and no effect of innovation type on judgments of the victim or defendant. Further, there was no direct effect of innovation on verdict: Disgust mediated the relation between innovation and verdict such that the presence of the comfort item (the teddy bear) increased participant disgust, which in turn increased the likelihood of conviction.

We next explored the possibility that courthouse dogs and comfort items might differentially impact jurors depending on the severity of the crime; the nature of a child sex abuse case might have created a ceiling, thus distorting any possible effect of innovation type. We examined the impact of innovation type (courthouse dog vs. teddy bear vs. none) on jurors’ judgments across two crimes (child sexual abuse vs. robbery of a child) using the same experimental paradigm. Again, we found no direct effect of innovation type on verdict and no effect of crime severity on verdict. Disgust had a direct effect on verdict such that, across crime severity and innovation, higher levels of mock juror disgust were associated with an increased likelihood of conviction. Neither innovation nor crime severity were related to jurors’ perceptions of child witness credibility.

Across two studies utilizing mock jury paradigms we found that, contrary to popular beliefs and our own predictions, courthouse dogs did not exert undue influence on juror decision-making regardless of the severity of the crimes tested, and did not differentially impact perceptions of child witnesses. Our work highlights the need to further explore the influence of jurors’ emotions, like disgust, on decision making when it comes to innovations in the courtroom. Research is also needed that examines how the presence of a courthouse dog specifically affects the quality and quantity of information vulnerable witnesses provide. Currently, our data do not suggest that courthouse dogs elicit any type of juror prejudice and do not affect judgments over and above the value they offer to vulnerable witnesses.

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References


