



Future Trends in State Courts

1999 - 2000



Therapeutic Jurisprudence

The Honorable William Schma, Circuit Court Judge, Kalamazoo, Michigan

One recent trend that spans many aspects of court management is therapeutic jurisprudence, also called “therapeutic justice” or “TJ.” Judge William Schma describes TJ as “the study of the role of law as a healing agent” that “offers fresh insights into the role of law in society and those who practice it.”³ The role of judges, proliferation of specialty courts,³ expansion of court services, increasing use of ADR, and other developments all appear to have been influenced by or intertwined with TJ.

What does TJ look like in practice? Its applications vary and encompass such corresponding trends as specialized courts¹ and “involved judging”² in a number of contexts. Therapeutic drug courts (as opposed to specialized drug dockets) typically apply TJ to cases of nonviolent, low-level drug offenders. Judges are involved with defendants, rewarding success and penalizing failure. Permutations of the drug court include family drug court and juvenile drug court. Some courts also apply the philosophy and practices of drug courts to DUI cases.

Domestic violence is another specialized court type that has applied TJ.³ One such court in Vancouver, **Washington**, is the child of court/community collaboration that is “premised on principles of therapeutic jurisprudence, preventative law, and restorative justice with the aim of holding the offender accountable, ensuring the safety of victims and their children, and improving victim satisfaction with the justice process.”⁴

TJ has also been applied in mental health law. Broward County, **Florida**, was a pioneer in this area.⁵ Courts in other states, including **Alaska**⁶ **California**, and **Washington**,⁷ have instituted similar programs.⁸

The applications of TJ are numerous and evolving. We expect to see more variations on the theme of TJ in the future.

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¹ *Ibid.*

² Michael Zimmerman, “Viewpoint: A new approach to court reform,” *Judicature*, vol. 82, no. 3, 1998, p. 109.

³ Randal Fritzler and Leonore Simon, “Creating a Domestic Violence Court: Combat in the Trenches,” *Court Review*, Spr. 2000.

⁴ *Ibid.*, p. 28.

⁵ <http://www.osu.edu/units/law/jdr/>.

⁶ <http://akmhcweb.org/News/mhctpr.html>.

⁷ <http://www.metrokc.gov/kcdc/mhhome.htm>.

⁸ For a comparative study, see John Goldkamp and Cheryl Irons-Guynn, *Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload: Mental Health Courts in Fort Lauderdale, Seattle, San Bernardino, and Anchorage* (Philadelphia: CJRI, 2000).

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