Integrating the healing approach to criminal law

Using therapeutic jurisprudence (TJ) in criminal and juvenile courts
David Wexler
Professor of Law and Director, International Network on Therapeutic Jurisprudence, University of Puerto Rico
International Network on Therapeutic Jurisprudence
Small teams of experts open the windows of opportunity for therapeutic jurisprudence (TJ) practices in ordinary courts.

- Therapeutic Jurisprudence (TJ) (originally conceptualized and named by Wexler) invites judges to use insights from psychology, criminology, and social work.

- The strength of these approaches are mobilized within the framework of legal procedures, in order to achieve therapeutic gains, such as rehabilitation, compliance with the law and helping victims to cope with the impact of crime on their lives.

- Therapeutic jurisprudence practices often include contracts to commit to treatment and consensual approaches to sanctions, which incorporate the needs of victims and the community where the crime has been committed. Please see the website and the facebookpage.
TJ has been successfully employed principally in small and special “problem-solving” courts, such as Drug Treatment Court and Mental Health Court. These courts are structured so as to invite a healthy dose of TJ practices.

To extend TJ beyond those problem-solving courts, small teams of experts will help “ordinary” courts to apply TJ, especially in criminal and juvenile cases. The teams and the courts will explore how TJ can be integrated into various stages of the process, such as: early diversion from the criminal process itself; in bail hearings, during plea negotiations and judicial settlement conferences, in the imposition of sentence, and in post-incarceration procedures and conditional release.
More broadly, TJ sees “the law” as consisting of 1. Rules of law, 2. Legal Procedures, and 3. Roles of legal actors (such as judges and lawyers). Under a useful metaphor, the rules and procedures (the legal landscape or structure) can be seen as ”bottles”, and the practices and techniques of legal actors as the “wine.”

Better wine can often be poured into and served from the same bottles, although sometimes an inspection of the wine cellar may suggest the need for some new and better bottles (i.e., law reform).
A simple example of pouring better wine into an existing bottle can be seen in the imposition of probation: instead of the judge unilaterally ordering probation and its conditions, the judge could begin the process by soliciting the offender’s input: asking the offender to personally justify a probationary sentence and the conditions the offender deems necessary and appropriate (e.g., curfew, AA meetings, school attendance).

According to the procedural justice literature, this latter procedure should increase offender compliance and sense of fair treatment. The procedural justice example also underscores the important fact that psychology, criminology, and social work serve as the principal “vineyards” for producing TJ wine.
Principal Resources

- [www.therapeuticjurisprudence.org](http://www.therapeuticjurisprudence.org) (an orientation and bibliography)
- [www.facebook.com/TherapeuticJurisprudence](http://www.facebook.com/TherapeuticJurisprudence) (current items)
- Psychology, social work, and criminology (especially "postive criminology") as vineyards of TJ wine : [http://ssrn.com/abstract=2220509](http://ssrn.com/abstract=2220509)
- An interdisciplinary law/psychology/criminology TJ seminar as a law reform commission to examine wine/bottles and to make recommendations in both reform of the law and in its implementation: [http://ssrn.com/abstract=2220509](http://ssrn.com/abstract=2220509)
- [DavidBWexler@yahoo.com](mailto:DavidBWexler@yahoo.com)