Does Effective Therapeutic Jurisprudence Require Specialized Courts (and Do Specialized Courts Imply Specialist Judges)?

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An implicit answer is emerging to the question of whether the effective practice of therapeutic jurisprudence requires a specialized court. Without much debate or deliberation, specialized courts are proliferating nationally: drug courts, domestic violence courts, mental health courts, tobacco courts, and the like are commonplace.[1] Already the new specialized courts are evolving into hybrid forms—such as family drug courts or juvenile domestic violence courts—that bring together several specialties. It is increasingly likely that the kinds of cases traditionally regarded as rich in therapeutic opportunities will be heard within a specialized court forum. At the same time, the fortunes of therapeutic jurisprudence are being tied to the new wave of court specialization, which may yet prove to have shallow roots.

This essay offers a more deliberative answer to the question of whether therapeutic jurisprudence requires specialized courts and judges by tracing the paths of three powerful contemporary trends: the new special court movement, the logic of American court reform, and the changing role of judges. The intersection of these trends is the best vantage point to assess where and how TJ might be most effectively applied in the courts.

THE NEW SPECIAL COURT MOVEMENT

The purpose of the new specialized courts is to qualitatively improve outcomes for litigants and society in cases involving individuals with underlying social and emotional problems. Previous waves of specialty courts tended to be designed to meet concerns over efficiency and timeliness by using differentiated case management techniques to make events in a case happen more quickly.

The rationale for the current trend toward court specialization goes something like this. First, some categories of cases (and associated litigants) are marginalized within the vast volume and mix of cases in courts of limited and general jurisdiction. Second, a problem-solving approach is more appropriate and effective than the traditional adversarial process for those categories of cases. Third, special knowledge and special personal attributes (and perhaps special technology) are needed to be a judicial problem-solver. Fourth, the necessary special knowledge is as likely or more likely to be drawn from the fields of mental health and psychology than from knowledge of the law. Fifth, a judge needs continuous access to social and psychological services to problem solve effectively.[2]

A problem-solving orientation is the most fundamental characteristic of the new specialized courts. Problem solving requires a shift in what is valued in the adjudication process: outcomes (rather than outputs), flexibility in decision making, listening to people's concerns, participation by community organizations, and consideration of what is best for communities as well as for individual defendants or victims. Problem solving also places greater emphasis on post-disposition events, a significant change in focus from traditional models of case processing. Traditional caseflow management, for example, is based on cases rather than persons, while "effective management of post-disposition matters may require much more attention to the persons involved in cases."[4]

Another characteristic of the new specialized courts is that

1. *See* DAVID ROTTMAN, CAROL FLANGO, MELISSA CANTRELL, RANDALL HANSEN & NEIL LAFOUNTAIN, STATE COURT ORGANIZATION 1998 236, TABLE 33 (2000). The most current estimates indicate 320 drug courts.
2. Some observers might point to a sixth rationale, the desirability of having a single judge hear all of the cases of a particular type in a jurisdiction.
3. Specialization has also been proposed as a basis for a therapeutic model of tort reform. Specifically, specialized forums may offer a less costly and less emotionally draining alternative to the standard civil process to establish responsibility for a harm, the real issue underlying a significant proportion of tort claims. *See* Daniel W. Shuman, *The Psychology of Compensation in Tort Law*, in LAW IN A THERAPEUTIC KEY: DEVELOPMENTS IN THERAPEUTIC JURISPRUDENCE 433, 465 (David B. Wexler & Bruce J. Winick, eds, 1996); and *The Role of Apology in Tort Law*, 83 JUDICATURE 180 (2000).
4. *See* DAVID C. STEELMAN, CASEFLOW MANAGEMENT: THE HEART OF COURT MANAGEMENT IN THE NEW MILLENIUM 33 (2000).

they are not, strictly speaking, courts.[5] A court is a judicial body established by constitution or statute to which judges are selected to serve and (where relevant) be retained in offices. Courts can be generalist or specialist in nature. [6] Specialized courts are "courts that possess limited subject matter jurisdiction and are staffed by permanent judges who have substantive expertise in the area."[7] Established probate and juvenile courts often meet that definition, as did an array of specialized courts earlier in this century, such as water courts, tax courts, and land courts. However, the combination of judicial expertise and permanency of assignment is rare in the new specialized courts, at least at this point in their evolution. That rarity is important to understanding the implications of focusing therapeutic jurisprudence in specialty courts. One of the defining features of the new specialized courts is the ease with which they can be dismantled.

A third characteristic of the new specialized courts is that they have tended to develop by trial and error as the experience of one court is passed on to other courts. Specialized court thus grew into a movement without an underlying legal theory to justify and guide, for example, the relaxation of the adversarial process. The lack of a jurisprudential base left drug treatment and similar courts open to criticism over their status and without an effective response beyond pragmatism. Therapeutic jurisprudence has been put forward to fill this void by serving as the legal theory for drug treatment and similar courts,[8] as well as the rationale for why unified family courts should be created.[9]

THE PROS AND CONS OF SPECIALIZATION

The growing concentration in specialized courts of cases ripe for TJ intervention makes it prudent for therapeutic jurisprudence proponents to carefully weigh the benefits and costs of specialization. The pros and cons of court and judicial specialization have been examined thus far primarily for federal appellate and trial courts such as the Tax Court, the Bankruptcy Court, and the Court of Federal Claims.[10] It is nonetheless possible to derive a balance sheet of aspects of specialization that are likely to promote or inhibit therapeutic court outcomes.[11]

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Problem solving in specialized courts promotes therapeutic outcomes in the following ways:

- Specialized courts provide a forum in which the adversarial process can be relaxed and problem solving and treatment processes emphasized.
- Judges and court staff become more sensitive to issues and more adept at developing individual and systemic responses to address these issues when a court's caseload presents a large proportion of cases in which similar therapeutic jurisprudence issues are likely to arise.[12]
- Skill development in applying therapeutic jurisprudence principles may proceed faster because of a common focus and collegial support among judges.
- Courts with exclusive subject matter jurisdiction are likely to attract a vigilant and involved bar that will further enhance the identification of therapeutic issues and possible remedies.
- A specialized court is in a better position to mobilize and coordinate treatment and social service providers in a locality, providing the court with access to skilled resources.
- The expertise of a specialized judge in a particular subject matter helps the court secure community-wide support for

5. The basic rationale for the new era of specialization also is being expressed in the creation of commercial or business courts but generally to achieve some of the traditional reasons for specialization, such as concentrating expertise and promoting efficiency in case processing. Ad Hoc Committee on Business Courts, *The Status of Business Courts in the United States*, *in* BUSINESS LAW SECTION OF THE AMERICAN BAR ASSOCIATION (1998) <http://www.abanet.org/buslaw/buscts/ctsurvey.html.>.
6. While court divisions and dockets are often designated as courts in local usage, they are not autonomous courts. I propose that the following distinctions be drawn when discussing court specialization: Special *forums* are divisions, calendars, dockets, courtrooms, or procedures dedicated to a designated set of cases and to which judges are assigned by the presiding or chief judge of a court. Such forums are often the creatures of local court rules or custom. Thus, the ease with which such entities can be administratively established or disestablished is one of their defining characteristics. *Parent courts* (or sponsoring courts), then, are judicial bodies that have assigned judges to dockets or units that meet the definition of a special forum.
7. Isaac Unah, THE COURTS OF INTERNATIONAL TRADE: JUDICIAL SPECIALIZATION, EXPERTISE, AND BUREAUCRATIC POLICY-MAKING 7 (1998). Previous work on specialized adjudication suggests that the most basic distinctions are (a) the extent to which jurisdiction is limited and (b) the extent to which it is exclusive. Beyond that, distinctions are made between courts or forums with generalist judges and those with specialist judges.
8. *See* Peggy Fulton Hora, William G. Schma, & John T. A. Rosenthal, *Therapeutic Jurisprudence and the Drug Treatment Court Movement: Revolutionizing the Criminal Justice System's Response to Drug Abuse and Crime in America*, 74 NOTRE DAME L. REV. 449 (1999).
9. *See* Barbara A. Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law: A Blueprint to Construct a Unified Family Court*, 71 S. CAL. L. REV. 71 (1998); *see also* Pamela Casey & David Rottman, *Therapeutic Jurisprudence in the Courts*, BEHAVIORAL SCIENCES & THE LAW (forthcoming 2000).
10. *See e.g.*, STEPHEN H. LEGOMSKY, SPECIALIZED JUSTICE: COURT, ADMINISTRATIVE TRIBUNALS, AND A CROSS-NATIONAL THEORY OF SPECIALIZATION (1990); and Unah, *supra* note 7. *But see also* Jeffrey W. Stempel, *Two Cheers for Specialization*, 61 BROOK. L. Rev. 61 (1995) and Dreyfuss, *infra* note 19.
11. This list is a revision to one previously offered by Casey & Rottman, *supra* note 9.
12. This extends to legal issues, as Fritzler and Simon note in their *Principles of an Effective Domestic Violence Court:* "The domestic violence judge who applies therapeutic principles should also be an expert on the special evidentiary issues that arise repeatedly in the context of domestic violence cases." COURT REVIEW., Spring 2000 at 31 (Principle #9).

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the court's programs.

• Specialized courts can be structured to retain jurisdiction over defendants, promoting continuity of supervision and accountability of defendants for their behavior in treatment programs. Continuing jurisdiction facilitates a proportionate response by court to the missteps during the treatment process rather than a one-shot chance at redemption.

Other benefits potentially associated with specialization include reduction of caseload congestion in the generalist court, greater uniformity and predictability of decisions, and prevention of forum shopping. Some observers see the ability to use non-lawyer judges as another benefit from specialization, one not yet taken advantage of in the new wave of specialized courts.

Specialization also inhibits therapeutic outcomes. The reasons that specialization might limit what therapeutic jurisprudence can accomplish include:

- Judges in specialized courts may become overly deferential to experts.
- The perspective promoted by maintaining distance from a subject matter is eroded by specialization.
- Specialized forums become dependent on a particular judge, creating problems of succession when judicial assignments rotate.
- The new generation of specialized forums proliferated in an era of particularly generous funding for criminal justice and an extraordinarily robust economy. The (usually) higher costs associated with specialized courts may prove fatal during an economic downturn.
- Specialized forums may impose costs on the trial court to which they belong by tying up resources, generating tensions within the bench, and creating conflicting loyalties among court staff. Such potential costs have not been taken into account in evaluations of special courts, which look at the outcomes associated with the specific defendants appearing in that court forum.[13]
- Specialized courts are susceptible to capture by special interest groups, who tend to make it "their" court.
- Judicial specialty problem-solving assignments can result in judicial stress and burnout and fewer opportunities for career advancement.[14]

Special courts may tend to emphasize the specific circumstances of the offender rather than the essence of the wrong they committed. Given the uncertainty over the effectiveness of various court-ordered therapies, the most therapeutic approach to some members of this category of offender might be to treat them as if the victim were a stranger, adjudicating their cases as part of the mix with violent felonies in the generalist court. Finally, an emphasis on TJ in specialized courts leaves small trial courts (three or fewer judges) and the residents of their jurisdiction out in the cold without a developed body of writing and guidance relevant to their circumstances.

THE LOGIC OF COURT REFORM

The consolidation of specialized courts into generalist courts has been and, in important ways remains, the main vehicle for court reform in this country. Statewide unification and trial court consolidation have incorporated most of the pre-1970s specialized courts as divisions.[15] That process of incorporation was one of the main achievements of court reform in this country. And the unification agenda is still being realized, with significant movement occurring in California and Michigan, and a proposed constitutional amendment (thus far unsuccessful, in part because of special court interests) in New York.

Advocates of unification offer a generic model in which a single trial court has jurisdiction of all cases and proceedings. The most authoritative statement of what that entails is the American Bar Association's *Standards Relating to Court Organization* (as revised in 1990) and *Standards Relating to Trial Courts.* The rationale goes like this:

> Simplification makes courts easier for citizens to understand and use, as well as for collateral organizations to service. Flexibility in assigning judges to dockets makes it easier to meet caseload pressures, while also affording judges more diverse dockets. Administrative efficiency is achieved by eliminating duplication of facilities and support services and by creating streamlined management hierarchies. Communication among those involved in processing different kinds of cases is enhanced.[16]

In many respects, though, these presumed administrative advantages from consolidation are less important than concerns over the link between courts and local politics.

The current proliferation of specialized forums clearly cuts against the grain of court reform during the twentieth century. This leaves the burden of proof that the benefits of specializa-

13. The Therapeutic Justice Task Force, consisting of representatives from the Conference of Chief Justices, the Conference of State Court Administrators, the American Judges Association, and the National Association for Court Management, was established in the fall of 1999 to address and advance strategies, policies, and recommendations on the future of therapeutic courts (e.g., community courts, domestic violence courts, drug courts, mental health courts). The Task Force will examine the effects of these courts on the larger state court system.
14. For a review of the relevant research evidence, *see* Deborah J. Chase and Peggy Fulton Hora, *The Implications of Therapeutic Jurisprudence for Judicial Satisfaction*, COURT REVIEW, Spring 2000 at 12.
15. *See* Rottman, *supra* note 1 at 15 (Table 3). The surviving specialized courts have jurisdiction over probate matters (and sometimes juvenile cases as well) in 12 states, tax courts exist in 5 states, and worker's compensation courts in 3 states. A number of states retain courts of claims and water courts.
16. *See* David Rottman & William Hewitt, TRIAL COURT STRUCTURE AND PERFORMANCE: A CONTEMPORARY REAPPRAISAL 12 (1996), for consideration of what this model looks like in practice.

tion outweigh the costs to the larger reform movement on those promoting specialization. One consideration is the source of the impetus to specialize. It is possible that the current wave of specialization will end only when every victim and interest group has his or her own forum. Another consideration is whether the new forums seem headed for absorption into the generalist court or to devolution into independence. The emergence of hybrid specialized forums may be one indication of what lies ahead. A third consideration is what amount of jurisdictional fragmentation can occur in generalist courts before the viability of central administration erodes. One can also ask, of course, whether the new generation of specialized forums can thrive within the confines of a generalist court.

The alternative view of the current wave of court specialization is as a correction to excessive consolidation and centralization. Specialization is the natural response to an overreliance on large, all purpose generalist courts. The creation of special court forums can also be viewed as a reform mechanism in itself, permitting experimentation that allows the judiciary to keep step with changing times. Even Roscoe Pound, the most formidable twentieth century foe of specialized courts (but not of specialist judges), regarded the creation of new courts as an organic process by which court systems adapt to changing social conditions.[17] A similar logic can be found today in the advocacy of specialized courts and forums as the heart of "a problem-oriented approach to court reform"[18] or in the claim "that partial and targeted specialization may promote useful court reform."[19]

THE CHANGING ROLE OF JUDGES

A shift toward a more engaged, problem-oriented style of judging probably preceded the growth of specialized courts. Specialized courts and the adoption of therapeutic jurisprudence principles, in this view, are manifestations of a change in the role of judges from "dispassionate, disinterested magistrate" to that of a "sensitive, emphatic counselor."[20]

Over the last 15 or so years, judges have innovated to find solutions to changing societal conditions and public expectations. The broad impetus to innovate is evident from the changing composition of trial court caseloads. Between 1984 and 1998, *civil* (tort, contract, and real property*)* case filings increased by 34 percent, *criminal* filings by 50 percent, and *traffic* cases decreased by 11 percent. The largest increases, however, were in the areas of *domestic relations*, where case filings grew by 75 percent, and in *juvenile cases*, which rose by 73 percent. As a point of comparison, the United States population increased by 15 percent over those years.[21]

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Courts, therefore, stood in the frontline response to problems like domestic violence that entered the courts along with changing court caseloads. Courts cannot deflect the flow of cases that bring with them complex emotional and health problems in the form of substance abusers, violent spouses, and neglected children. Specialized dockets or courts were created to bring together defendants facing similar charges, with similar underlying problems, and thus in need of the same type of support services. A growing number become engaged as partners with communities at large and an array of public and private entities to leverage the staff and service resources necessary to solve problems like substance abuse, domestic violence, and neighborhood decline (through community-focused courts). Courts also took on the role of coordinating the delivery of social services to individual families and children. Judges took the lead in establishing local councils and task forces charged with developing and administering a uniform strategy for responding to specific problems. In doing so, judges sought therapeutic outcomes for communities as well as individuals or families: "The purpose of the domestic violence court is to reduce the incidence of domestic violence."[22]

To meet these new responsibilities, judges have drawn upon aspects of established and widely accepted practices from mental health, family, and juvenile law, which have a long history of judicial specialization, and specialized courts. The effect of judicial specialization on judicial behavior and stress remains uncertain because few research studies have been undertaken.[23] In any case, the kind of specialization in question in most studies is expertise in technical and scientific matters or in complex areas of civil law. Specialized forums like drug or domestic violence courts require a different kind of special qualities, specifically of a judicial temperament in interacting directly with litigants and an openness to insights from fields like mental health.

It is unclear that legal training is the best preparation for

17. *See* RUSSELL WHEELER, *infra* note 34, at 525 (quoting Roscoe Pound as the leading figure in the court reform movement: "Multiplying of tribunals is a characteristic of the beginnings of judicial organization. When some new type of controversy or new kind of situation arises and presses for treatment, a new tribunal is set up to deal with it.")(citation omitted).
18. *See* BABB, *supra* note 9, at 17.
19. Rochelle C. Dreyfuss, *Forums of the Future: The Role of Specialized Courts in Resolving Business Disputes*, 61 BROOK. L. REV. 1 (1995).
20. *See* Michael D. Zimmerman, *A New Approach to Court Reform*, 82 JUDICATURE 108, 109 (1998) and Fritzler & Simon, *infra*, note 22.
21. *See* BRIAN J. OSTROM, FRED CHEESEMAN, THOMAS H. COHEN, CAROL R. FLANGO, ANN M. JONES, NEAL B. KAUDER, ROBERT C. LAFOUNTAIN, KAREN GILLIONS WAY, & MELISSA T. CANTRELL, EXAMINING THE WORK OF THE STATE COURTS 1998 (B. J. Ostrom & N. B. KAUDER, EDS., 1999).
22. Randal B. Fritzler & Lenore M.J. Simon, *Creating a Domestic Violence Court: Combat in the Trenches*, COURT REVIEW, Spring 2000 at 28.
23. *See* LAWRENCE BAUM, THE PUZZLE OF JUDICIAL BEHAVIOR 145-46 (1997).

It is unclear that legal training is the best preparation for judging in specialized contexts.

judging in specialized contexts. Research on the attributes of attorneys suggests that they rely disproportionately on analytic, rational thought to make decisions and are not "interpersonally sensitive, meaning not attuned to the emotions, needs, and concerns of other people and not concerned with interpersonal issues or harmony."[24] Sensitivity to the lingering love in relationships with a history of domestic violence is one such attribute.[25] Such attributes suggest that the supply of judges for non-adversarial forums may be limited. Indeed, the ability to use non-lawyers as judges is cited as one of the benefits of specialized courts.[26]

The merit of encouraging judicial expertise in specialized subject matters was and remains controversial and examined primarily in the federal court context. On the one hand, the argument has been made that "judges typically are generalists, whose strongest virtue is their ignorance."[27] Specialist judges in this view duplicate the work of bureaucratic experts (in this instance social service and treatment providers) without adding effective review of decisions, in part, because they become too closely attached to those experts. On the other hand, decisions by judges with substantive knowledge in a subject area tend to be more highly regarded by litigants and the public.[28]

This raises two provocative questions. First, is legal training a prerequisite for presiding in a specialized problem-solving court and, indeed, are there reasons for giving preference to non-lawyer experts with social service and social science training. Second, will specialized TJ inevitably become bureaucratic in a specialized court setting? In other words, will the identification of a therapeutic moment give way to a standard response triggered automatically by a set of predetermined case and litigant circumstances?

CONCLUSION

There is an affinity between the legal theory and practice of therapeutic jurisprudence on the one hand, and problem-solving courts, on the other hand. Judges striving to respond to changes in American society and the resulting implications for their caseloads created specialized courts as a vehicle for implementing changes. In that sense, specialized courts were laboratories in which traditional adversarial court processes could be modified, collaborations with public and private service providers forged, and judicial oversight extended to cover the life of a treatment program. Therapeutic jurisprudence formally entered the picture when judges sought a legal theory that could justify and guide their experimentation.

Despite their apparent affinity, specialized courts bring advantages and disadvantages to the judicial pursuit of therapeutic outcomes. The fate of therapeutic jurisprudence in the courts today is linked closely with the future of the new special court forums. While specific pros and cons of specialized courts for the practice of therapeutic jurisprudence were outlined earlier in this essay, there are other, more general, considerations to bear in mind when answering the question of whether TJ requires specialized courts and judges. The long-term future of the new specialized courts depends upon their successful incorporation into larger trial court systems. Otherwise, they are likely to have limited life spans and do as much harm as good.

In my view, the investment of so many resources in special courts must ultimately be justified in terms of their role as agents of change beyond a few courtrooms. A concentration on special court forums can be justified only if there is the prospect of a long-term payoff for the general trial courts to which the forums belong. Deborah Chase and Peggy Hora suggest the potential for a natural process of diffusion in which drug court and other special court judges take the benefit of their experience with them when they return to civil and criminal dockets.[29] In many courts, though, the nature of the special court movement may prevent the realization of that potential for diffusion. The proponents of special courts are often purists, interested in promoting court forums that function de facto as separate courts and oriented toward a particular class of service providers, victims, or defendants rather than to the work of the rest of the court.

The success of therapeutic jurisprudence as applied in court settings may owe as much to the process that is used as it owes to the content of specific therapeutic interventions. Therapeutic jurisprudence is effective, in part, because it promotes the legal procedures and judge-to-litigant interactions that the public experiences as fair and just. The perception of procedural fairness is more important than the favorability of court outcomes to litigant satisfaction with those outcomes, willingness to comply with court orders, and having confidence in the judiciary.[30]

A sense of procedural fairness is more likely when litigants believe that they were treated with respect, could trust the motives of the judge, received decisions that were made in a neutral manner, and had an opportunity to tell their side of the story. A belief in the trustworthiness of officials is perhaps the strongest contributor to a perception of procedural fairness.[31]

24. Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, at footnote 221 (1997).
25. *See* Kate Paradine, *The Importance of Understanding the Role of Love and Other Feelings in Survivors' Experiences of Domestic Violence,* COURT REVIEW, Spring 2000 at 40.
26. *See* Legomsky, *supra* note 10, at 23.
27. MARTIN SHAPIRO, THE SUPREME COURT AND ADMINISTRATIVE AGENCIES 52 (1968).
28. *See* Unah, *supra* note 7, at 96.
29. *See* Chase & Hora, *supra* note 14.
30. *See generally* TOM TYLER, WHY PEOPLE OBEY THE LAW (1990).
31. *See* T.R. Tyler & P. Degoey, *Trust in Organizational Authorities: The Influence of Motive Attributions on Willingness to Accept Decisions, in* TRUST IN ORGANIZATIONS: FRONTIERS OF THEORY AND RESEARCH (R. M. Kramer & T. R. Tyler eds., 1996).

Therapeutic jurisprudence communicates to defendants a sense that the court is concerned about their welfare, and is thus trustworthy. Trustworthiness also is enhanced to the extent that judges explain to defendants the basis for their decisions. Therapeutic judges and courts also communicate respect for defendants by treating them in the round and speaking to them one on one.[32] These are methods likely to promote therapeutic outcomes throughout a trial court.[33] It has been suggested, for example, that small claims courts, "probably work a therapeutic effect, at least when black-robed judges take the time to listen to plaintiffs and defendants explain their sides of a dispute."[34]

The future of therapeutic jurisprudence in specialized courts is likely to be multi-specialty courts that function at intermediate levels of specialization.[35] Semi-specialization may prove in the long-term a more effective vehicle to both enhance therapeutic outcomes and integrate specialized dockets into the work of a trial court without creating a new class of isolated special forums.

Finally, I have, of course, presented a false dichotomy by asking if the effective practice of therapeutic jurisprudence *requires* a specialized court or both judge and court. Therapeutic jurisprudence can be practiced inside and outside of specialized court forums at different levels. The most basic and informal level is when a judge interacts with the individuals involved in a particular court case. The second level is a special court forum that incorporates new procedures, disposition options, information systems, and connections to providers of social and other services (perhaps, but not necessarily, through a special court forum). Yet a third level of therapeutic jurisprudence practice is by changes to state statutes, court rules, and policies that apply across courts.[36] Special courts should not be allowed to distract judges and court managers from the challenge of nurturing TJ practices at all three levels and across the subject matters over which trial (and appellate) courts have jurisdiction.

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32. *See* Fritzler & Simon, *supra* note 12 at 31 (Principle #4)("Involve the defendant in contracting with the court and assisting the court in establishing the terms of no contact orders and terms of supervision.")
33. *See* Raymond Paternoster, Robert Brame, Ronet Bachman, & Lawrence W. Sherman, *Do Fair Procedures Matter?: The Effect of Procedural Justice on Spouse Assaults*, 163 LAW & SOC'Y REV. 31(1) (1997). The impact of fair procedures is powerful indeed: "When police acted in a procedurally fair manner when arresting assault suspects, the rate of subsequent domestic violence was significantly lower than when they did not."
34. Russell Wheeler, *Courts of Limited and Special Jurisdiction, in* ENCYCLOPEDIA OF THE AMERICAN JUDICIAL SYSTEM 517, 524 (R.J. Janosik ed., 1987).
35. *See* Legomsky, *supra* note 10, at 38-9.
36. *See* Casey & Rottman, *supra* note 9.