

The Implications of Therapeutic Jurisprudence for Judicial Satisfaction

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“Drug court judges get to color outside the lines.”¹

Therapeutic jurisprudence has been posited as the jurisprudential underpinning of the burgeoning drug treatment court movement and drug treatment courts as therapeutic jurisprudence in action.² Therapeutic jurisprudence is the study of the extent to which substantive rules, legal procedures, and the roles of lawyers and judges produce therapeutic or antitherapeutic consequences for individuals involved in the legal process.³

Drug treatment courts are an alternative to traditional case processing in which judges supervise the treatment and recovery of alcoholics/addicts and where the adversarial system is out of place. Drug treatment courts use a team approach among the judge, prosecutor, defense counsel, treatment provider, probation officer, drug treatment court coordinator, and community policing officer where the “focus is on the participant’s recovery and law-abiding behavior—not on the merits of the pending case.”⁴ If, however, a drug treatment court participant is not capable of compliance with the rigors of the drug treatment court program, that individual is returned to the traditional criminal justice system for further processing of his or her case. Drug treatment courts can be either pre- or post-plea and, thus, another court may impose sentence, including jail or prison time, or try the case if there is a program failure.

By shifting the main focus in selected alcohol and other drug cases from legal to therapeutic concerns, the roles of the drug treatment court professionals shift as well. This does not mean that legal concerns, such as due process, are trumped by therapeutic ones. Rather, it means that the therapeutic value of non-adversarial case processing—where the focus is on treatment and recovery—is recognized and utilized. This shift in role appears to benefit staff as well as litigants. Specifically, judges

who work therapeutically seem to experience increased job satisfaction.

For the prosecution, police, and probation, the focus shifts from arrest and conviction to treatment and recovery. Underlying this shift in focus is the belief that it will result in a reduction of criminal behavior, a savings in incarceration costs, and both tangible and intangible benefits to the community, the individual, and the individual’s family.⁵ The defense attorney, after analyzing the legal issues and clarifying all options for the client, shifts focus from minimizing a client’s exposure to criminal sanctions to ensuring that the addicted client stays in treatment and recovery.⁶ Police officers who are involved in drug treatment courts through community policing efforts see their role change from a “You call, we haul, that’s all” role in drug cases to more of a community monitoring and direct participant encouragement role. Many drug treatment court participants have asked that their arresting officer be present at their graduation and they credit the officer with literally saving their lives.

Finally, the judge goes from being a detached, neutral arbiter to the central figure in the team, which is focused on the participants’ sobriety and accountability. Sanctions for program failures are not primarily for punishment; rather, sanctions are tools for program compliance to enhance treatment and recovery. Sanctions provide the external structure needed until participants can develop their own internal structure to be able to maintain sobriety. The judge’s personal knowledge of a participant’s background, reasons for use, living situation, physical and mental health, family, employment, parenting skills, and other matters is unequaled in the criminal system. The judge is both a cheerleader and stern parent, encouraging and rewarding compliance, as well as attending to lapses. Through weekly, fortnightly, then monthly mandatory court appearances, the judge sees the incredible changes a participant makes. The judge watches as the participant gets a GED, gains employment, recovers children from Child Protective Services, gets off wel-

Footnotes

1. Remark overheard at a national drug court conference.
2. Peggy Fulton Hora & William G. Schma, *Therapeutic Jurisprudence*, 82 JUDICATURE 9 (1998); and Peggy Fulton Hora et al., *Therapeutic Jurisprudence and the Drug Treatment Court Movement: Revolutionizing the Criminal Justice System’s Response to Drug Abuse and Crime*, 74 NOTRE DAME L. REV. 439 (1999).
3. See David B. Wexler & Bruce J. Winick, *Therapeutic Jurisprudence as a New Approach to Mental Health Law Policy Analysis and Research*, 45 U. MIAMI L. REV. 979 (1991).
4. DRUG COURTS PROGRAM OFFICE, U.S. DEP’T OF JUSTICE, *DEFINING DRUG COURTS: THE KEY COMPONENTS* 6 (1997).
5. DRUG STRATEGIES, *CUTTING CRIME: DRUG COURTS IN ACTION* (1997); See generally, Steven Belenko, *Research on Drug Courts: A Critical Review*, 1 NAT’L DRUG CT. INST. REV. 1 (1998).
6. See Videotape: *Drug Treatment Courts: The Defense Perspective* (The Rutter Group, 1994), in which Michael Judge, Public Defender of Los Angeles, explains the defense role.

fare, kicks out an abusive boyfriend, gains independence and confidence, and, finally, graduates from the program.

The judge cannot help but be changed by this process. Consequently, the hypothesis for this article stemmed from two judges known to the judicial co-author, who discovered their own alcoholism after becoming drug treatment court judges. She also noticed her own attitudes, job satisfaction, and happiness in court being affected by her assignment as a drug treatment court judge. Personal observation makes it clear that the drug treatment court not only can have a therapeutic effect on the recovering participant but also on the other criminal justice players in the courtroom as well.

THE JUDICIARY

The positive effect of a particular judicial assignment on the judge is not a topic that has received much research attention. In a 1980 study of American trial judges, the perception of their work environment was not found to be related to whether they were sitting on specialized calendars or master calendars.⁷ However, in a 1981 survey, judges complained of job stress arising from lack of control over what type of cases they were given.⁸ In another 1982 study, 422 juvenile court judges in West Germany were surveyed to assess their attitudes toward social assistance and the administration of justice. The highest job satisfaction was found in the judges who endorsed and practiced with a social science and educational orientation in their work, interacted well with service providers, approved of specialized judicial training, and were involved in community work outside the court.⁹ In the 1980 study of American judges, it was found that judges who work long hours, are involved in community relations, and are involved in bar activities are more likely to be satisfied with their environment.¹⁰

Job stress is the more common focus of research on judicial satisfaction.¹¹ Job stress in judges is commonly associated with social isolation,¹² feeling disliked by others, lack of interest and understanding, and not feeling appreciated.¹³ They also suffer from lack of feedback, a heavy caseload volume, and lack of control over what cases they get.¹⁴ Additionally, frustration with their lack of ability to be helpful to litigants seems to contribute to judicial stress.

Judges express dismay when, due to large caseloads, they have to "process" people, because they have so little time to listen. In such circumstances, there can be a tendency for them

to withdraw empathy and respect for the litigants.¹⁵ The presence of judicial stress is frequently observed in family law court judges, for example. Judicial officers in family law seem to experience high stress, frustration, feelings of helplessness, and burnout.¹⁶

In contrast, however, many of the factors related to job stress are not as commonly observed in drug treatment court judges. It is proposed that the therapeutic effects of drug treatment courts carry over to the judicial officers and other court workers in increased job satisfaction and possibly overall mental health. Drug treatment court judges and others have stopped smoking, stopped drinking alcohol, realized their own alcoholism, gone on diets, and exercised more. Many have expressed a sense of pride in a job well done and a brighter outlook since taking the drug treatment court assignment. These feelings had not heretofore been experienced in their professional careers.

Family law court judicial officers work with a courtroom process that is quite different from that of the drug treatment court. Although originally conceptualized to be therapeutic in orientation,¹⁷ family law courts, due to increased caseloads and fragmentation of issues, have not broadly employed therapeutic principles.¹⁸ The National Center for State Courts has determined that family law is the largest and fastest growing segment of state courts' civil caseloads.¹⁹ Legal issues related to a family enter the court system in many different ways. Cases of child abuse and/or neglect are heard in criminal court and/or juvenile dependency court. Juvenile delinquency matters are heard in the juvenile court. Cases concerning the guardianship of children are heard in probate court. Divorce, paternity, and district attorney child support cases may be heard in family court. Requests for civil domestic violence restraining orders may be heard in civil domestic violence courts. If there have been criminal charges, those cases are heard in criminal court. While there is movement toward court reform for family law, to date only eleven states have implemented unified family law systems to address these issues.²⁰

California has not implemented a therapeutic unified family law system. Cases related to families are still fragmented into multiple departments in the overwhelming majority of California counties. According to California Superior Court Judge Donna Petre, "Each of these departments has minimal knowledge of the decisions of the other, even if the decisions

7. JOHN PAUL RYAN, ET AL., *AMERICAN TRIAL JUDGES* 160 (1980).
8. Issiah M. Zimmerman, *Stress—What It Does to Judges and How It Can Be Lessened*, *JUDGES J.*, Summer, 1981, at 4.
9. R. Pommerening, *Self-Image of German Juvenile Judges*, 65 *MONATSSCHRIFT FUER KUMINOLOGIE UND STRAFRECHSREFORM* 193 (1982).
10. RYAN, ET AL., *supra* note 7.
11. Pommerening, *supra* note 9; Tracy Eells & Robert C. Showalter, *Work Related Stress in American Judges*, 22 *BULL. OF AM. ACAD. OF PSYCHIATRY & L.* 71 (1994); Joy Rogers, et al., *The Occupational Stress of Judges*, 36 *CANADIAN J. OF PSYCHIATRY* 317 (1991).
12. Eells & Showalter, *supra* note 11; Rogers et. al., *supra* note 11. See also Issiah M. Zimmerman, *Isolation in the Judicial Career*, *COURT REVIEW*, Winter 2000 at 4.
13. Eells & Showalter, *supra* note 11.

14. Zimmerman, *supra* note 8.
15. Zimmerman, *supra* note 8.
16. Jeffrey A. Kuhn, *A Seven-Year Lesson on Unified Family Courts: What We Have Learned Since the 1990 National Family Court Symposium*, 32 *FAM. L.Q.* 67, 75-93 (1998).
17. Herma Hill Kay, *A Family Court: The California Proposal*, 56 *CAL. L. REV.* 1205, 1205-1248 (1968).
18. Barbara A. Babb, *America's Family Law Adjudicatory Systems*, 32 *FAM. L.Q.* 31, 37-50 (1998); Catherine Ross, *The Failure of Fragmentation: The Promise of a System of Unified Family Courts*, 32 *FAM. L.Q.* 3, 6-14 (1998).
19. Ross, *supra* note 18, at 6.
20. The states are Delaware, the District of Columbia, Hawaii, New Jersey, Rhode Island, South Carolina, Florida, Massachusetts, New York, Vermont, and Washington. See Babb, *supra* note 18, at 38.

involve the same family and its children. The larger the court, the more the problem is compounded. In large courts, each of these departments may not be just in separate courts, but in different facilities miles away from one another with no technological contact."²¹ The lack of a holistic approach by the court to the family law litigants sets it in stark contrast to the approach taken by the drug treatment courts.

RESEARCH

The authors conducted an informal opinion survey of court professionals, including judicial officers, to compare the opinions in drug treatment courts to those in family law courts. It was hypothesized that the differences in judicial satisfaction observed between drug treatment court and family law court judicial officers might be related to the differences between the operation of a court when incorporating the principles of therapeutic jurisprudence²² and the operation of a court that functions in a more traditional manner. Such differences were expected to be expressed through significantly different attitudes in the following areas:

- The drug treatment court judicial officers were expected to feel more strongly that the role of the court includes providing help to the litigants in solving the problems that brought them there.
- The drug treatment court judicial officers were expected to hold a more positive view of the individuals who appeared before them.
- The drug treatment court judicial officers were expected to feel more strongly that their assignments had a personally positive emotional effect on them.
- The drug treatment court judicial officers were expected to report a greater increase in personal insights and motivation for healthy change as a result of their assignment.

THE SURVEY

Participants were given a set of 25 questions with answers on a 5-point scale in which the respondent was to rate each answer from (1) "Very Untrue" to (5) "Very True." The questions were identical for both groups. Questionnaires were distributed to attendees at a January 1999 California conference of drug court professionals; through the California Association of Drug Court Professionals' newsletter in the spring of 1999; and at the National Association of Drug Court Professionals' conference in June 1999. Family law professionals were surveyed at the California Family Support Council's annual training conference in February 1999. There were participants from most of California's counties who were asked to take questionnaires back home and distribute them to judges, attorneys, mediators,

family law facilitators, and others, and to return them by mail. In the summer of 1999, judges attending an advanced family law course in California were surveyed and a direct mail campaign to judicial officers in both assignments was completed in the winter of 1999. Responses from the drug treatment court professionals came from across the country. Responses from the family law court professionals came from within California. The California family law court professionals who responded to this survey were selected from the part of California's fragmented system that handles cases of divorce, legal separation, annulment, paternity, child support, and, in some cases, private guardianships and domestic violence restraining orders.²³ These family law court professionals have not had the benefit of a statewide court strategy that applies the principles of therapeutic jurisprudence to the family law courtroom.

THE PARTICIPANTS

There were a total of 194 judicial officers who responded to the survey; 98 from the family law courts and 96 from the drug treatment courts. One hundred twenty-three non-judicial officers responded; 68 from the drug treatment courts and 55 from the family law courts.

Overall, the judicial officers²⁴ responding were 67% male and 33% female. They ranged in age from 35 years to 75 years with a mean age of 52 years. The drug treatment court judicial officers were 72% male and 28% female. The family law court judicial officers were 63% male and 37% female.

The judicial officers' professional tenures ranged from 1 year to 50 years, with an overall average of 14 years. The time in their current assignments ranged from 3 months to 19 years, with an average of 4 years. The female judicial officers were slightly younger, on average, and had been in the profession for less time. This was true for both the drug treatment court and the family law court groups.

THE ROLE OF THE COURT

The judicial officers were asked to respond to several statements meant to reflect their perception of the court's role. A statistical test called an analysis of the variance (ANOVA) was conducted between the responses of drug treatment court and family law court judicial officers.²⁵

The first statement was, "I believe that part of our job is to help the litigants/defendants work to solve the problems that brought them to our courts." Although the drug treatment court group was slightly stronger in this belief (average=4.57) than the family law court group (average=4.53), this difference was not statistically significant. Both groups, however, were strong in their positive responses to this inquiry. Overall, the

21. Hon. Donna Petre, *Unified Family Court: A California Proposal*, 1 J. OF THE CENTER FOR CHILDREN & THE CTS. 161 (1999).

22. Hora & Schma, *supra* note 2.

23. This survey did not seek respondents from the juvenile court or criminal courts, which deal with cases of child abuse or neglect, delinquency, or domestic violence.

24. Both judges and subordinate judicial officers, such as commissioners and referees, responded to this survey.

25. The statistical size of these differences is represented by the F-val-

ues, which are set out in the footnotes. These differences are considered statistically significant if they are not likely to have occurred by chance. In social science research, the point at which the results are considered not to have occurred by chance is referred to as the probability value or p-value, and is commonly set at a minimum level of p=.05. The p=.05 value indicates that there is only a 5% probability that the observed effect has occurred by chance. Likewise, a value of p=.01 indicates probability of 1% that the effect occurred by chance and a value of p=.001 indicates

judicial officers answered this question in the affirmative 88% of the time.²⁶

The second statement was, "I feel like the court I work in is helpful to the litigants/defendants who appear there." Both groups of judges also felt that their courts were helpful to the people who appeared there before them; however, the drug treatment court judicial officers scored significantly higher (average=4.35) than the family law court judicial officers (average =4.09) on this question.²⁷

In response to the statement "I have seen the litigants/defendants make significant improvement in their lives," there was also a significant difference between the drug treatment court group (average=4.58) and the family law court group (average=3.71).²⁸ While 92% of the drug treatment court judicial officers reported seeing improvement in those appearing before them, only 56% of the family law court judicial officers responded similarly. The non-judicial personnel from the drug treatment court also responded significantly more often that they believe their courts are helpful and witness improvement in the litigants.

A drug treatment courtroom clerk had this to say:

I am part of the solution. Before Drug Court there was a feeling that there were a lot more probation violations and offenders and I would feel, 'Here they are again. They're back.' I feel confident that I won't see graduates [from the Drug Treatment Court] again and the caseload will be less. I am in touch with the community with Drug Court and I know the faces and names of the defendants who are actually smiling and happy.

TABLE NO. 1 WITNESS OF LITIGANT IMPROVEMENT (N=183*)			
	No	Sometimes	Yes
(answers)	(1,2)	(3)	(4,5)
Drug Treatment Court (n=87)	0	8%	92%
Family Law Court (n=96)	4%	40%	56%

* 11 missing responses

Working relationships among the personnel in the courtroom were also addressed. Both the drug treatment court and family law court judicial officers perceived that their courtrooms worked in a teamlike fashion. However, there is a difference in the way the non-judicial professionals view their

.1% probability of a chance occurrence. Statistically, a significant difference is important because it allows a mathematical inference that the differences found between these particular drug treatment court and family law court respondents would be present in a larger population of similar participants.

26. The percentage figures for survey responses were calculated as follows: responses of 1 and 2 were coded as "NO"; responses of 3

courtroom relationships. The drug treatment court professionals indicated that there was more teamwork in their courtrooms than did the family law court professionals.²⁹

Both the drug treatment court and family law court judicial officers felt respected by their co-workers. There was, however, a difference between the responses of each court's non-judicial professionals: the drug treatment court group felt significantly more respect from their co-workers than the family law court group.³⁰

ATTITUDE TOWARD LITIGANTS/DEFENDANTS

The next set of statements dealt with the respondents' attitudes toward the litigants. There were significant differences between the drug treatment court judicial officers and the family law court judicial officers in every question about their attitudes toward those appearing in their courtrooms.

The first statement was, "I believe that the litigants/defendants are really trying hard to solve their problems and improve their lives." The drug treatment court judicial officers seemed more convinced that the individuals in their courts were working hard to solve their problems, while the family law court judicial officers did not express this view. Neither group of judicial officers ranked remarkably high in their view of litigant motivation; however, the drug treatment court responses were significantly higher (average=3.79) than the family law court responses (average=3.08) in this respect.³¹ Fifty-seven percent of the drug treatment court group believed that the litigants were genuinely working to solve their problems. Another 43% of this group expressed the belief that the litigants are making an effort at least some of the time. No drug treatment court respondents thought that the litigants completely lacked motivation to address their problems. Comparatively, only 18% of the family law court respondents felt that the litigants were trying to make progress; 74% reported that they saw this motivation in litigants at least some of the time; and 8% reported that litigants were simply not trying at all.

TABLE NO. 2 LITIGANT MOTIVATION (N=184*)			
	No	Sometimes	Yes
(answers)	(1,2)	(3)	(4,5)
Drug Treatment Court (n=89)	0	43%	57%
Family Law Court (n=95)	8%	74%	18%

* 10 missing responses

were coded as "SOMETIMES"; responses of 4 and 5 were coded as "YES."

- 27. F= 4.94 p=.03
- 28. F= 64.69 p=.0001
- 29. F= 4.85 p=.03
- 30. F= 3.84 p=.05
- 31. F= 51.98 p=.0001

The second statement was, "I believe that the litigants/defendants have a good chance for improvement if they are given some help by the court." The drug treatment court judicial officers were significantly more hopeful (average=4.27) than the family law court judges (average=3.68) that the litigants in their courtrooms could make significant improvements if provided with some help from the court.³² The drug treatment court group expressed hope for the litigants' prospects for improvement 84% of the time while the family law court group reported such hopefulness only 54% of the time. All of the drug treatment court judicial officers had at least some hope for the litigants; however, 3% of family law court judicial officers saw no hope at all for improvement in their litigants.

**TABLE NO. 3
HOPE FOR LITIGANT
(N=185*)**

(answers)	No (1,2)	Sometimes (3)	Yes (4,5)
Drug Treatment Court (n=89)	0	16%	84%
Family Law Court (n=96)	3%	43%	54%

* 9 missing responses

The next statement was, "I feel I am respected by the litigants/defendants." The drug treatment court judicial officers (average=4.45) felt significantly more respected by the individuals who appear in front of them than the family law court judicial officers (average=3.89).³³ Ninety-two percent of the drug treatment court group reported that they felt respected by the litigants while only 72% of the family law court group felt respected by litigants.

**TABLE NO. 4
RESPECTED BY LITIGANTS
(N=184*)**

(answers)	No (1,2)	Sometimes (3)	Yes (4,5)
Drug Treatment Court (n=88)	0	8%	92%
Family Law Court (n=96)	1%	27%	72%

* 10 missing responses

The most significant difference between the two groups was in their responses to the statement, "I feel that the litigants/defendants are grateful for the help our court is providing to them." The drug treatment court group perceived gratitude from the litigants far more frequently (average=4.21)

than did the family court group (average=3.34).³⁴ The drug treatment court judicial officers perceived the litigants as grateful for the help that they had received from the court 81% of the time. In the family law court group, only 33% felt that the litigants were grateful for help received from the court.

**TABLE NO. 5
LITIGANT GRATITUDE
(N=184*)**

(answers)	No (1,2)	Sometimes (3)	Yes (4,5)
Drug Treatment Court (n=88)	1%	18%	81%
Family Law Court (n=96)	4%	63%	33%

* 10 missing responses

Additional differences were found in the responses to the statement, "I admire the litigant/defendants for their efforts in trying to change their lives for the better." The drug treatment court judicial officers were significantly more admiring (average=4.37) than the family law court judicial officers (average=3.69) of efforts made by the litigant/defendants to change their lives for the better.³⁵ Of the drug treatment court group, 86% expressed admiration for the litigants. In the family law court group, only 55% reported that they admired the litigants for their efforts. The non-judicial drug treatment court professionals were also significantly more likely than those in the family law court group to admire the litigant/defendants for their efforts to change their lives for the better.³⁶ One drug treatment court judge added the comment: "I have a great respect for what our participants accomplish; I don't even have the ability to stay on a diet."

**TABLE NO. 6
ADMIRE LITIGANTS' EFFORTS
(N=178*)**

(answers)	No (1,2)	Sometimes (3)	Yes (4,5)
Drug Treatment Court (n=83)	0	14%	86%
Family Law Court (n=95)	7%	38%	55%

* 16 missing responses

POSITIVE EFFECT OF JUDICIAL ASSIGNMENT

Other statements were included to elicit responses pertaining to personal beliefs about being influenced by one's court assignment. Significantly more drug treatment court judicial officers enjoyed talking with family and friends about their work,³⁷ were

32. F= 28.12 p=.0001
 33. F= 33.68 p=.0001
 34. F= 70.57 p=.0001

35. F= 30.46 p=.0001
 36. F= 11.9 p=.001
 37. F= 40.66 p=.0001

happier in their assignments,³⁸ and felt more pride in their work³⁹ than those from the family law court. Drug treatment court judicial officers were slightly less likely than family law court judicial officers to think they might want to transfer to another assignment; however, neither group exhibited much motivation to change assignments. Nevertheless, drug treatment court judicial officers were significantly more likely (average=4.48) than family law court judicial officers (average=3.76) to feel that they had been positively affected by their judicial assignments.⁴⁰ Ninety-one percent of judicial officers in the drug treatment court group reported feeling that their assignment had affected them in a positive way emotionally. Family law court judicial officers felt this way only 64% of the time.

A California drug treatment court judge said:

[I]t's a passion and working with passion is more energizing and worthwhile. . . . I have become more honest and direct in my dealings with others and myself which is a tremendous growth. One reason is that you cannot ask others to be honest without being honest yourself. . . .

[W]orking with a team has increased my skills in that area. My leadership skills have sharpened. Best of all, I am a happier person because I believe that what we are doing in our DTC is making a difference.

Another California drug treatment court judge said she would have left the bench had it not been for Drug Treatment Court:

My involvement with drug court is the most meaningful contribution I have made in my life other than raising my children. . . . I would have quit this job without drug court. I love my job because of drug court. Drug court gives meaning in my life; I am part of a solution rather than part of the problem

FACTORS MOST ASSOCIATED WITH POSITIVE AFFECT OF JUDICIAL ASSIGNMENT

In drug treatment courts the three answers most highly correlated to the feeling that the “judicial assignment was beneficial” were: (1) “litigants are grateful for the help they received”;⁴¹ (2) “witnessing the litigants improve”;⁴² and (3) “hope for litigant improvement.”⁴³ For the family court judicial officers, the order was: (1) “belief that the court is helpful”;⁴⁴ (2) “feeling admiration for the efforts of the litigants”;⁴⁵ and (3) “feeling that the litigants were grateful for the help they received.”⁴⁶ Overall, it was found that the most common predictor of positive emotional effect was the perception by the judicial officers that the “litigants are grateful for the help they are given by the court.”⁴⁷

INCREASED INSIGHT AND MOTIVATION FOR HEALTHY CHANGE

The final set of statements were designed to measure insight and motivation for healthy change. Thirty-seven percent of the drug treatment court judicial officers indicated that they had learned a lot about domestic violence from working in their assignment and 95% had reported learning about alcoholism/addiction. Of the family law court judicial officers, 70% reported learning a lot about domestic violence and 57% reported learning about substance abuse. Given the correlation between substance abuse by both the perpetrator and the victim in domestic violence cases, it appears that more training needs to be done in this area.⁴⁸

Twenty percent of both family law court and drug treatment court judicial officers responded that they had gained some insight into their own personal problems. Overall, the drug treatment court professionals (both judicial and non-judicial) far more frequently than the family law court professionals (both judicial and non-judicial) have discovered their own addiction during their court assignments,⁴⁹ have stopped drinking or using other substances,⁵⁰ or have stopped smoking.⁵¹ These differences were more pronounced in the non-judicial professionals than in the judicial officers. However, the drug treatment court judicial officers were still significantly more likely to have stopped drinking or using other substances than the family law court judicial officers.⁵² There was no significant difference between the drug treatment court and family law court groups with regard to diet and exercise.

DISCUSSION

All groups of judicial officers agreed that part of their job is to help those appearing before them solve the problems that brought them to court. Likewise, both groups felt that their

TABLE NO. 7
AFFECTED POSITIVELY BY ASSIGNMENT
(N=177*)

(answers)	No (1,2)	Sometimes (3)	Yes (4,5)
Drug Treatment Court (n=82)	1%	8%	91%
Family Law Court (n=95)	11%	25%	64%

* 17 missing responses

- 38. F= 10.01 p=.002
- 39. F= 6.1 p=.01
- 40. F= 31.70 p=.0001
- 41. r = .56 p=.0001
- 42. r = .49 p=.0001
- 43. r = .44 p=.0001
- 44. r = .34 p=.0007
- 45. r = .33 p=.0009
- 46. r = .30 p=.003
- 47. r = .52 p=.0001

- 48. Using self-reports of substance abuse from assailants and victims, one study found that nearly all of the assailants (94%) and almost half of the victims (43%) used alcohol or other drugs in the six hours prior to the assault. See Daniel Brookoff, Drug Use and Domestic Violence (unpublished National Institute of Justice Research in Progress Seminar Series) (1996).
- 49. F= 7.21 p=.008
- 50. F= 10.96 p=.001
- 51. F=4.53 p=.04
- 52. F= 3.97 p=.05

courts were helpful to the litigants. However, the drug treatment court group was far more likely to report actually getting to witness changes for the better in their litigants. For this group, seeing the litigants improve was highly correlated with viewing their judicial assignment as positive. The drug treatment courts commonly use frequent reviews as part of the therapeutic strategy. This allows the judicial officers to see the litigants on an ordered, routine basis and view their progress. Such is not the case in most family law courts. For the most part, the only time the family law court judicial officers have contact with their litigants is when something has gone wrong. The opportunity to see the effect of the court on the litigants provides the drug treatment court judicial officers with positive feedback about their work and may serve to relieve stress.⁵³

The greatest difference between the drug treatment court and the family law court judicial officers was in their attitude toward the litigants. The drug treatment court judicial officers expressed a far more positive attitude toward those appearing before them. They were more likely to believe that the litigants were actually trying to solve their problems and had a good chance for improvement if given some help from the court. They felt more respected by the litigants, were more likely to feel that the litigants were grateful for the help they received from the court, and were more likely to admire the litigants for their efforts.

Perception of litigant gratitude was the most important overall predictor of feeling positively about the judicial assignment. This suggests that recognition by the litigants of the help they have received is an important part of the helping process and that the effect on both judicial officer and litigant is dependent on the relationship between them. It has been a principle in the drug treatment court literature that the therapeutic effect on the litigant is dependent on the relationship that develops with the judicial officer. Interestingly, this survey suggests that the judicial officers' satisfaction in their work also is a product of the relationship with the litigant. The greatest difference between these two groups of judicial officers is in the perception of litigant gratitude. The family law court group scored remarkably low in this category. Perhaps predictably, the drug treatment court respondents were far more likely than those in the family law court group to report that their assignments had affected them positively.

CONCLUSION

As a final observation, it must be stated that the enthusiasm of drug treatment court professionals for their work is not only infectious but is almost unheard of in a profession which experiences a high degree of "burnout" and job dissatisfaction.⁵⁴ Still, therapeutic jurisprudence is a relatively young field, and much research remains to be done.⁵⁵

For example, there are other factors affecting judicial satisfac-

tion that differentiate drug treatment courts and family law courts and seem to exist independently from the application of therapeutic jurisprudence. The family law court is a civil court in which the two parties are emotionally involved in an inability to resolve their differences. The emotional dynamics of the adversarial system in a criminal court is different when one of the parties is the state. Another difference is that litigants are entitled to attorneys in the criminal court; in family law court, however, the litigants frequently appear pro se. It has also been suggested that family law litigants appear less sympathetic because their actions are often harmful to others, such as in domestic violence or contested custody cases. Of course, drug treatment court defendants, while being basically harmful to themselves, do inflict injury on others as well. Another difference is that the drug treatment court assignment is usually self-selected by judicial officers. For the most part, this is not true for the family law judicial officers. Family law courts are routinely understaffed, underfunded, and are not high-ranking in the judicial status hierarchy. Consequently, family law judicial assignments are frequently entry-level positions of short duration, usually held by those who are younger and have less experience.⁵⁶

Future research is needed to assess the significance of these and other factors in relation to the questions we have posed herein. It would be helpful, for example, to survey a group of family law court judicial officers who are actually working in therapeutic courts, either in the increasing number of therapeutic civil domestic violence courts or from a jurisdiction that employs a unified family court system. Likewise, it would be informative to survey a group of criminal court judicial officers that work in a traditional criminal justice setting.

The study of judicial satisfaction is important because it can be used as an indicator of the efficacy of the court. This research suggests that if, indeed, the work of the court is beneficial to the litigants, this success will express itself in the attitudes of judges and other court professionals with regard to their own job satisfaction. If the work of the court results in fewer criminal cases or fewer protracted family law litigations, both litigants and the court benefit. If stress reduction and job satisfaction result in improved mental and physical health for judges, such benefits are both personal and systemic. Moreover, the ambiance in a courtroom where the judge is happy and satisfied provides an atmosphere in which the litigants are more likely to be comfortable and perform at their maximum. Recognition of the relationship between a judge's perception of litigant gratitude and his or her own job satisfaction shows that judges, too, remain social and human, even while on the bench. It is also believed that the therapeutic effects of these new types of courts, which employ the social sciences and are orientated to problem solving, not only will continue to have beneficial effects on the litigants and court personnel, but also will result in an increased quality of justice for all.

53. Zimmerman, *supra* note 8.

54. See generally, the work of Susan Daicoff, Associate Professor of Law, Capital University Law School, Columbus, Ohio, on lawyer job satisfaction, mental health, and alcoholism/addiction at <http://users.law.capital.edu/sdaicoff> (last visited April 1, 2000). See also, Isaiah Zimmerman, *supra* notes 8 and 12; and Isaiah

Zimmerman, *Dealing With Professional Stress: Insights for Judges*, 31 THE BOSTON B.J. Nov./Dec. 1987, at 39.

55. Professor David Wexler first used the term in 1987 in a paper delivered to the National Institute of Mental Health. The concept began to appear frequently in law literature only in the early 1990s. Hora et al., *supra* note 2.

56. Ross, *supra* note 18.



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Peggy Fulton Hora was elected to the Municipal Court of Alameda County, California, in 1984 and has served as that Court's presiding judge, president of the California-Nevada Women Judges, on numerous planning committees, and as a faculty member for California Judicial Education and Research (CJER). She was dean of the B.E. Witkin Judicial College of California in 1997 and 1998. When the courts consolidated in 1998, Judge Hora became a member of the Alameda County Superior Court. She has taught courses concerning alcohol and other drugs and courts for both the California Judicial College and the National Judicial College; has presented at national alcohol and other drug conferences; and has lectured all over the United States and internationally. She has published a number of articles on substance abuse, with a particular emphasis on pregnant and parenting women, drug treatment courts, and therapeutic jurisprudence.

Editor's note: The survey instrument used in the research reported in this article is reprinted in its entirety at page 20.

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APPENDIX DRUG COURT PROFESSIONALS SURVEY

JOB TITLE: _____ ___ MALE ___ FEMALE AGE: _____

Total years spent in your profession _____ Time in your current assignment _____

This is part of a study about working in the court. Your answers to the following items are anonymous; please do not put your name on this questionnaire. Please answer each question using the 1 to 5 response scale indicated below.

	Very untrue of me OR strongly disagree	Not true of me OR disagree	Sometimes true and sometimes not true OR undecided	True of me OR agree	Very true of me OR strongly agree
1) I believe that part of our job is to help the litigants/defendants work to solve the problems that brought them to our court.	1	2	3	4	5
2) I feel like the court I work in is helpful to the litigants/defendants who appear there.	1	2	3	4	5
3) I have seen litigants/defendants make significant improvement in their lives.	1	2	3	4	5
4) I believe that the litigants/defendants are really trying to solve their problems and improve their lives.	1	2	3	4	5
5) I believe that the litigants/defendants have a good chance for improvement if they are given some help from the court.	1	2	3	4	5
6) I feel that the judge and other members of our court staff work together as a team.	1	2	3	4	5
7) The judge in our court often talks to staff about the cases.	1	2	3	4	5
8) I feel respected by the other members of my court's staff, including the judge.	1	2	3	4	5
9) I feel that I am respected by the litigants/defendants.	1	2	3	4	5
10) I feel that the litigants/defendants are grateful for the help our court is providing to them.	1	2	3	4	5
11) I admire the litigants/defendants for their efforts in trying to change their lives for the better.	1	2	3	4	5
12) I feel I have been affected in a positive way emotionally by my work in this assignment.	1	2	3	4	5
13) I enjoy discussing my work with family and friends.	1	2	3	4	5
14) I feel proud of what I am doing at work.	1	2	3	4	5
15) I feel happier in this assignment than I have in others I have had.	1	2	3	4	5
16) I think I would rather go to another assignment or job.	1	2	3	4	5
17) As a result of this assignment I have learned a lot about domestic violence.	1	2	3	4	5
18) As a result of this assignment I have learned a lot about alcoholism and drug addiction.	1	2	3	4	5
19) As a result of this assignment I feel I have gained some insight into personal problems I have been struggling with.	1	2	3	4	5
20) Since I have been working in this court:					
a. my relationship with my significant other has improved.	1	2	3	4	5
b. I have discovered I was an alcoholic/addict.	1	2	3	4	5
c. I have stopped drinking or using other substances.	1	2	3	4	5
d. I have stopped smoking.	1	2	3	4	5
e. I have been trying to eat a healthier diet.	1	2	3	4	5
f. I have been trying to exercise more.	1	2	3	4	5