

# Therapeutic Jurisprudence: Nurturing Emotional Healing & Vitality in the Legal System

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## **Abstract**

Systems, institutions, and cultures affect the emotional lives of participants in the legal system. This fact is too often overlooked by law schools and in discourse on the rule of law and the roles of legal actors. Participants in the legal system arrive to courts with a variety of lived experiences prior to direct interactions with legal actors and the rule of law. Traumatic experiences and lack of opportunities affect the lives of participants in the legal system. As a result of these experiences, participants can show up to court rooms and conversations with legal actors emotionally vulnerable and on emotional edge due to the various oppressive and traumatic factors that have affected their lives. These life experiences should be viewed as valid facts by the legal system. Amidst this backdrop, how might legal actors engage in a healing approach to the law? As a lens for approaching the law and interacting with participants in the legal system, therapeutic jurisprudence holds that the law has therapeutic and anti-therapeutic effect. First coined in 1987 by David B. Wexler and further developed by Wexler, Bruce J. Winick, and other legal scholars in the 1990s, therapeutic jurisprudence considers the ways that the rule of law and role of legal actors, including the behaviors of judges, clerks, police officers, lawyers, therapists, and others, can have therapeutic effect instead of anti-therapeutic effect. An aim of therapeutic jurisprudence is to engage the rule of law and the roles of legal actors in such a way that reduces harm (anti-therapeutic effect) by the legal system and nurtures emotional well-being and vitality (therapeutic effect). This continuing education experience explores these concepts and aims to help courts in the State of Oregon produce therapeutic effect so that the state's courts can foster the well-being and justice for participants in the legal system and members of society.