
The HiiL Innovating Justice Forum, Therapeutic Jurisprudence, and Legal Education: New Opportunities

David B. Wexler*

My contribution to the April 11, 2014, Suffolk University symposium on therapeutic jurisprudence (TJ) related mainly to my project—with Judge Michael Jones (ret.) of Arizona (another symposium participant) and Victoria Australia Magistrate Pauline Spencer—to “mainstream” TJ in the criminal and juvenile justice process. The project was part of the Hague Institute for the Internationalisation of Law’s (HiiL) Forum on Innovating Justice, and as it turns out, several entrants had projects and proposals that were TJ-related. In these published remarks, part of *Suffolk University Law Review*’s effort to expose the readership to a broad range of TJ ideas, it seems appropriate to briefly canvass the TJ-type projects, discuss how they can enrich legal education, and suggest ways in which law faculty and law students can improve on the forum’s innovations and add to their durability and practical application.

HiiL has a special focus on innovating justice, acquiring many of its innovative ideas and successful innovations through yearly awards programs.¹ For the 2013 program, largely through the efforts of “networker-in-chief,” J. Kim Wright, whose web of contacts has brought many in the TJ and Integrative Law community in touch with HiiL, a number of the entries had to do with TJ and TJ-related innovations.²

I shared several of these entries with students in my TJ class, especially, of

* Professor of Law and Director, International Network on Therapeutic Jurisprudence, University of Puerto Rico; Distinguished Research Professor of Law Emeritus, University of Arizona. The author is best contacted by email at davidbwexler@yahoo.com. The website of the International Network on Therapeutic Jurisprudence is at www.therapeuticjurisprudence.org, and the TJ Facebook page is www.facebook.com/TherapeuticJurisprudence.

1. See *About HiiL*, HiiL, <http://www.hiil.org/about-us> (last visited Feb. 14, 2015), archived at <http://perma.cc/5T36-5FVL> (discussing mission of HiiL); *About Us*, INNOVATING JUST. F., <http://www.innovatingjustice.com/about> (last visited Feb. 14, 2015), archived at <http://perma.cc/BA2U-APQD> (discussing mission and approach of Innovating Justice Forum).

2. In a last minute “get out the vote” email, Kim Wright sorted the TJ/Integrative Law entries from the others and listed the former in the three categories of Successful Innovations, Innovative Ideas, and Human Rights. See *Entries Nominated for HiiL Innovating Justice Award—Innovative Idea 2013*, INNOVATING JUST. F., <http://www.innovatingjustice.com/awards/2013/innovative-ideas> (last visited Feb. 14, 2015), archived at <http://perma.cc/X58S-WB6D>; *Entries Nominated for HiiL Innovating Justice Award—Successful Innovation 2013*, INNOVATING JUST. F., <http://www.innovatingjustice.com/awards/2013/successful-innovations> (last visited Feb. 14, 2015), archived at <http://perma.cc/6A9N-XVTV>; *Entries Nominated for Human Rights Tulip*, INNOVATING JUST. F., <http://www.innovatingjustice.com/awards/2013/human-rights-tulip> (last visited Feb. 14, 2015), archived at <http://perma.cc/H2Y4-E2GH>.

course, my own proposal entitled “Integrating the Healing Approach to Criminal Law.”³ I also spoke with my class about the parallel project by Michel Vols, a young Dutch academic and former scholar-in residence at the International Network on Therapeutic Jurisprudence at the University of Puerto Rico Law School, whose project “Neighbours from Hell” was a wonderful TJ look at antisocial behavior leading to eviction from public housing.⁴ We discussed, too, Swedish-police-officer-turned-psychology-professor Ulf Holmberg’s suggested “good cop” interviewing method, which research shows yields more and better information because interviewees feel respected rather than abused.⁵ We also, touched on a lawyer “incubator” proposal, where newly graduated lawyers might spend a period of supervised time learning the ropes and serving clients of modest means, which is a win/win situation for new lawyers in a tight job market and for clients just above the cutoff line for free legal services.⁶ These projects were all in the Innovative Ideas category. In the category of Successful Innovations, we spoke of Judge Ginger-Lerner Wren’s mental health court—the first ever such court and one founded explicitly on principles of therapeutic jurisprudence.⁷

This year, my class discussion of the Innovating Justice proposals was merely in passing and incidental to my preparing and submitting my own innovative idea. Still, the brief but interesting class discussions led to some ideas that I then added as very brief comments on the websites of two of the proposals. The comment section is supposedly a forum for others to give feedback on the innovations and to provide ideas that may strengthen them. Accordingly, in the “good cop” proposal, I noted that:

This is an excellent innovation, and although [D]r[.] [H]olmberg is correct that more research is necessary (especially on defining well-being), there is enough supportive literature, by holmberg and colleagues and others to begin training officers in this type of cognitive interviewing. I think this innovation could be improved by adding a resource page of the literature that could be used in such

3. See David Wexler, *Voting Nominee—Integrating the Healing Approach to Criminal Law*, INNOVATING JUST. F., <http://www.innovatingjustice.com/innovations/integrating-the-healing-approach-to-criminal-law> (last visited Feb. 14, 2015), archived at <http://perma.cc/VH4G-6ABG>.

4. See Michel Vols, *Voting Nominee—Housing Law Solutions to ‘Neighbours from Hell,’* INNOVATING JUST. F., <http://www.innovatingjustice.com/innovations/housing-law-solutions-to-neighbours-from-hell> (last visited Feb. 14, 2015), archived at <http://perma.cc/VJ3H-E3LF>.

5. See Ulf Holmberg, *A Good Cop Approach Securing Better Crime Investigation Results*, INNOVATING JUST. F., <http://www.innovatingjustice.com/innovations/humanitarian-interviewing> (last visited Feb. 14, 2015), archived at <http://perma.cc/3D5L-YC78>.

6. See Deborah Ramirez, *Wildcard Nominee—Scaling Up the Business of Community Lawyers*, INNOVATING JUST. F., <http://www.innovatingjustice.com/innovations/justice-bridge> (last visited Feb. 14, 2015), archived at <http://perma.cc/M27Y-U62P>.

7. See Ginger Lerner-Wren, *Voting Nominee—Therapeutic Court Screening Mental Health*, INNOVATING JUST. F., <http://www.innovatingjustice.com/innovations/therapeutic-court-screening-mental-health> (last visited Feb. 14, 2015), archived at <http://perma.cc/X85J-5K4H>.

training. One excellent article available online is “the cognitive interviewing method of police interrogation: eliciting extensive information and promoting therapeutic jurisprudence”, [sic] published in the [International] [J]ournal of [L]aw and [P]sychiatry, and available online . . . [I] have used this article in lecturing and, in [S]outh [A]merica, recommended that it be translated to [S]panish, although [I]’m not aware of that being done.⁸

In the “incubator” project on community lawyers, I offered a TJ interpretation to the intake interview:

Your interesting project, which [I] mentioned in my therapeutic jurisprudence class at U Puerto Rico law school, sparked an interesting discussion with a student involved in the creation of an incubator. At UPR, there is an in-house legal clinic, and the proposed incubator will draw clients from those who seek law school clinic assistance but are ineligible for financial reasons. Our discussion dealt with the fact that an incubator automatically accepting clients steered to them by the law school clinic would be able to have a more substantive rapport-building client intake interview. Similarly, a law school clinic knowing there was a back-up source of assistance for all those who come to its doors can likewise soften its own intake procedure, spending more initial time allowing the potential client to tell his/her story and tempering the cold financial and often off-putting part of intake. Good luck with your program.⁹

My experience this year convinces me that utilizing HiiL Innovating Justice award entries can enrich and animate legal education, and I would like to use them in future TJ classes in a much more substantial way. I can also easily imagine their use by other faculty, such as in a first-year Introduction to the Legal Profession course, in courses on criminal law and procedure, family law, human rights, alternative dispute resolution, and perhaps in a separate seminar that could be created exclusively to promote an Innovating Justice theme.

My TJ classes are typically divided roughly into three segments. I begin by teaching overview material in a fairly traditional way, with lecture and discussion. In the next part, I assign students separate TJ law review articles to read and report on, in order to provide the class with an idea of the scope of TJ writing and to give them an opportunity to read, summarize, present, and critique something concrete and very manageable. In the final segment, the

8. David B. Wexler, Comment to *A Good Cop Approach Securing Better Crime Investigation Results*, INNOVATING JUST. F. (Oct. 19, 2013, 6:36 PM), <http://www.innovatingjustice.com/innovations/humanitarian-interviewing>, archived at <http://perma.cc/3D5L-YC78>. The International Journal of Law and Psychiatry article can be found at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1696130.

9. David B. Wexler, Comment to *Wildcard Nominee—Scaling Up the Business of Community Lawyers*, INNOVATING JUST. F. (Oct. 19, 2013, 10:27 PM), <http://www.innovatingjustice.com/innovations/justice-bridge>, archived at <http://perma.cc/M27Y-U62P>.

students present to the class their own substantial research, ultimately embodied in a final written product.

As I see it, several HiiL Innovating Justice award entries could be liberally sprinkled among the student assignments in the second segment. Additionally, for the major work for the final segment, students could choose to write extensively about one of the projects and how it might apply in their own jurisdiction, or they could even try their hand at creating their own innovative idea, as could students in a specific Innovating Justice seminar. In all of these ways, the Innovating Justice forum could enhance and enrich legal education. In turn, law school involvement with the HiiL projects could serve to better the innovations themselves. This could be done in large part through submissions to the comment sections of the respective project webpages.

The comment section has obviously been designed with the hope of receiving constructive criticisms, perhaps of the type of my own two modest remarks noted in the “good cop” and the “incubator” projects discussed earlier.¹⁰ Unfortunately, the comment section is not typically used. Instead, this section seems at best to attract supportive comments, during the voting period, from enthusiastic proponents. Later, the comment section seems completely dormant, likely reflective of the reality that the competition has become an end in and of itself, and in the process unintentionally swallowing up the idea of actually nurturing innovation.

As the award process comes to a close, talk by HiiL immediately turns to encouraging submissions for the *following* year. The lunch on award day focuses on the important and interesting question: “What happened to the award-winning innovations from previous years?” An equally important question, though, ought to become: “What happened to the many interesting submissions from past years?” There are obviously many ways of attending to the second question, and law school participation can easily be one of them.

Law school involvement in the process, especially in the post-award period, could truly serve the intended purpose of improving the innovations. Thus, if any given innovation has received critical attention during a student class presentation and discussion, the student could then memorialize the more trenchant comments in the comment section of the selected innovation. This process could be an ongoing and dynamic one, constantly breathing life into the project. To facilitate such a development, HiiL should consider taking some modest steps and making minor changes in its archive of projects, such as signaling the projects’ active status or their search for new coordinators.¹¹

10. See *supra* notes 8-9 and accompanying text. The page of each innovation invites such comments under the heading Contribute: “Innovations need nurturing and we welcome your ideas. Suggest ways to improve this innovation. Propose people or organisations who might be interested. Share relevant know how or lessons learned that can help. We invite you to post your comments below.” See Wexler, *supra* note 3.

11. These steps and changes might include the following:

A. Except perhaps for the “winning” and “runner-up” innovations, the votes secured by an innovation

The award process is exciting, and the award announcement is rightfully the culmination of the excitement that builds from the time of each year's innovation submission deadline. An effort, however, should be made to insure that the award announcement is merely the beginning—not the end—for the many innovative projects submitted. These projects, now officially launched, should proceed to the stage where they can truly be nurtured, improved, and implemented. As this essay suggests, one way to facilitate that end is through use of the forum to enrich legal education and, in turn, to enrich the Innovating Justice projects themselves. In that respect, it is my hope that this essay itself will be regarded in its own way as an appealing, innovative idea.

should eventually be removed from its cover page. An especially weak showing in the voting process can serve to diminish enthusiasm for a good proposal.

B. Shortly after the award announcement, the author should be asked about his/her interest in continued involvement. If the author wishes to remain involved, a current email address should be required.

C. If the author no longer wishes to be involved, HiiL could appoint another interested person (or small group) to coordinate the project.

D. HiiL should maintain a bank of rule of law professionals willing to be tapped as coordinators. Law school faculty members could be strong candidates for coordinators of some proposals and could work with students over time to modify them, promote them, and keep them fresh.

E. Law faculty should be encouraged to use the innovative justice forum in classes suitable for bringing to fruition some of the ideas in this essay and related ideas that others will surely have.