CFCC WORKS TO ENSURE THAT THE PRACTICE OF FAMILY LAW IN MARYLAND, THE NATION AND AROUND THE WORLD IMPROVES THE LIVES OF FAMILIES AND CHILDREN AND THE HEALTH OF COMMUNITIES.

“Human beings are happier, more cooperative and productive, and more likely to make positive changes in their [behavior] when those in positions of authority do things with them, rather than to them or for them.” (Wachtel, 2013).

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THERAPEUTIC JURISPRUDENCE (TJ)
TJ is an interdisciplinary framework that examines the effect laws, legal procedures, and the behavior of legal actors (including judges, lawyers, court personnel, service providers, and litigants) have on parties involved in a proceeding.

TJ supports due process and existing court practices by maximizing the “therapeutic” effects of the law while minimizing “anti-therapeutic” effects. Therapeutic effects are restorative, beneficial, and constructive, seeking to improve a party’s well-being as a result of the court’s involvement. Anti-therapeutic effects are harmful, increasing the chance of negative consequences.

A TJ approach includes drawing from other disciplines, such as mental health and child development, to make more informed decisions about people affected by the legal system—including litigants, their families, and the community at large.

The judge is often the most influential factor in a hearing. Additionally, studies demonstrate that parties are more likely to accept outcomes with which they disagree when they perceive the process as fair. TJ seeks to enhance a judge’s positive impact on legal participants by providing methods to maximize perceived fairness through judicial dialogue and therapeutic outcomes.

TJ PRINCIPLES
1. **Voice**: Allowing the participant to narrate their story according to how they perceive it. A TJ judge encourages a party to tell their story and allows participants to ask questions.

2. **Neutrality & Trust**: Fostering trust by being unbiased, sincere, and transparent about the proceedings and explaining what the process will be. The judge also helps families understand the basis for any decision made and what steps to take next.

3. **Respect**: Treating all participants in a dignified and courteous manner.

4. **Support**: Demonstrating an interest in the problems, concerns, and needs of the participants.

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WHAT TJ LOOKS LIKE
The Judge begins with a welcoming expression, asks the parties what they want to be called, and explains what to expect.

The Judge: I understand you would like to be addressed as Alex and Blake. Alex, can you help me better understand your concerns regarding Blake seeing the children?
Alex: Blake has a history of drug abuse and I am not comfortable with Blake having any unsupervised custody or visitation with the kids.

The Judge: I understand this is hard for you, Alex, and that you just want your children to be safe and taken care of. It is my understanding that Blake successfully completed a drug treatment program. Can you tell me what would make you more comfortable with your children spending time with Blake?
Alex: I don’t know... maybe for me to have Facetime check-ins with the kids while they are with Blake?

The Judge [to Blake]: Would it be okay with you, Blake, if Alex Facetimes or calls the children once a day during their visits with you?

TJ BENCH CARD
• Name Preference: Ask parties how they prefer to be addressed— “What would you like me to call you?”

• Greet participants by name instead of by “ma’am” or “sir”—this promotes a more personal dialogue where participants are more likely to view themselves as individuals rather than “objects.”

• Break the ice—After swearing in, start with a quick dialogue— “You look well, how are you doing today?”

• Body Language:
  → Maintain eye contact.
  → Lean forward.
  → Nod to show understanding.

• Ask open-ended questions with the goal to better understand the party’s unique circumstances.

• Give affirmations such as occasional nods or statements with “I see”—this lets the party know you are actively engaged and that you understand what they are saying.

• Engage a participant’s family members or supporters, including caseworkers if present.

• Praise the successes of participants.

• Encourage self-motivation.

• Use “we” statements to convey that you are working toward the same goals—“let’s see what we can do to...”

• Team approach—when scheduling follow-up court appearances, ask about convenient times for the participants.

THERAPEUTIC JURISPRUDENCE RESOURCES
5. Vicki Lens, Judging the Other: The Intersection of Race, Gender, and Class in Family Court, Family Court Review (2019).