

## Cultural Competency: Forensic Challenges

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## Psychology of Immigration

- In 2011 the U.S. census bureau estimated 40 million people living in the U.S. are foreign-born of which 11 million are undocumented
- Most are seeking legal status
- Reasons for immigration to the U.S. include: asylum/safety issues, better opportunity and to reunite with family members.

• Source: APA (2013) [Working with Immigrant-Origin Clients](#)

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## Why is Culture Important to Forensic Psychology?

- Noncitizens make up nearly 50% of all defendants charged in U.S. Federal Courts\*
- A growing number of both documented and undocumented immigrants are facing issues that require adjudication in legal settings\*\*
- Psychologists are increasingly called upon to evaluate and testify in these cases

• \* U.S. Sentencing Commission, 2011; Weiss & Rosenfeld, 2012

• \*\* Ochoa et al., 2010

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### Why is Culture Important

- In 2011, the majority of convicted offenders in the U.S. were people of color\*
- 48.1% = Hispanic
- 20.7% = Black/African American
- As of 2008, 20.3% all male inmates and 16.1% of all female inmates held in local jails or state/federal prisons were Hispanic\*\*

\* Source: U.S. Sentencing Commission, 2011

\*\* Source: U.S. Department of Justice, 2009

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### What is Cultural Competence?

- 1) Development of an awareness of one's own cultural values and biases and how these factors impact our work with our clients;
- 2) Understanding our diverse client's world view
- 3) Culturally appropriate assessment and interventions

• Source: Sue & Sue, 2012, Counseling the Culturally Diverse: Theory and Practice

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### Ethical Issues and Sound Practice

- Ethical Principles of Psychologists and Code of Conduct (APA, 2010) and Specialty Guidelines for Forensic Psychology (APA, 2013) highlight the importance of cultural and language considerations when conducting evaluations:
- Must insure measures are reliable and valid for the target population and account for acculturation issues

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**Multicultural Guidelines-2017**

- In 2017 APA updated and increased it's Multicultural Guidelines from 6 to 10 to help psychologists become more aware of increasing diversity in the population we evaluate and treat and to help understand and apply knowledge related to cultural identities and background by broadening the concept of multicultural

Sources: APA. 2017. Multicultural Guidelines: An Ecological Approach to Context, Identity and Intersectionality.

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**Multicultural Guidelines-2017**

- Broadened the concept of multicultural to include: language, gender, race, ethnicity, ability, sexual orientation, age, gender identity, SES, religion, spirituality, immigration status, education and employment

Sources: APA. 2017. Multicultural Guidelines: An Ecological Approach to Context, Identity and Intersectionality.

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**DSM-5 Cultural Formulation**

- Highlights the significance of culture in diagnosis
- Provides a cultural formulation interview for understanding more clearly the context of psychological disorders and mental illness
- Culture refers to: "systems of knowledge, concepts, rules and practices learned and transmitted across generations including spirituality, life-cycle stages, rituals, customs, moral and legal systems"

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### DSM-5 Cultural Formulation

- Recognize/understand cultural identity of interviewee: religion, immigrant status, SES
- Cultural conceptualization of distress: what are norms of the reference group?
- Psychosocial stressors, cultural features of vulnerability and resilience
- Are there differences between clinician and interviewee in language or culture that could misinform diagnosis? over vs. under diagnosis

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### Cultural Concepts of Distress

- Refers to ways that cultural groups experience, understand and communicate suffering, troubling thoughts or emotions and behavioral problems:
- 1) Cultural Syndromes= clusters of symptoms/ attributions that tend to co-occur among individuals in specific cultural groups or communities

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### Cultural Concepts of Distress

- 2) Cultural Idioms of Distress= ways of expressing distress that include shared ways of experiencing and talking about problems
- 3) Cultural Explanations= labels, attributions or features of an explanatory model that indicate culturally recognized meaning or etiology for symptoms or distress

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### Cultural Concepts of Distress

- Once a disorder is diagnosed the cultural context should be included in case formulations to help clarify symptoms that could otherwise be misunderstood
- e.g. "Nervios" is a common idiom of distress among Latinos in the U.S. and Latin America that refers to a general state of vulnerability to stressful life experiences including emotional distress, somatic disturbance and inability to function
- Source: DSM-5, page 835

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### DSM-5 Cultural Formulation Interview

- Brief, semi-structured, 16 questions, field-tested for diagnostic usefulness
- Cultural identity of examinee, cultural conceptualizations of distress and cultural features of vulnerability and resilience are highlighted.
- Highlights the meaning of symptoms within cultural contexts
- Informant version for obtaining collateral information can be used to further supplement information obtained

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### Immigration Hardship Psychological Evaluation

- Psychologists are increasingly being consulted to evaluate psychological issues of hardship within the population of undocumented immigrants seeking legal permanent resident status and ultimately, U.S. citizenship status
- A wide range of mental health problems including depression, PTSD and anxiety are thought to impact this population but are hard to measure due to a range of assessment challenges

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### Assessment Challenge: Language

- Examinee’s limited English proficiency vs. too few bi-lingual forensic evaluators\*
- The majority of U.S. psychologist workforce is primarily Caucasian/English speaking
- Nuances may be lost even with objective/certified interpreters
- Foreign language test versions e.g. MMPI-2 and PAI use same normative samples as the English versions\*\*

\*source: 2008 APA survey of psychology health service providers  
\*\* Canales et al, Professional Psychology : Research and Practice, 2017

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### Assessment Challenge: Stigma

- Some cultures view mental health conditions as a weakness that bring shame to the family of origin
- Attitudes such as these encourage culturally diverse respondents to hide/minimize rather than report their difficulties
- Mental health problems may present as physical as opposed to psychological syndromes e.g. “fake good”

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### Assessment Challenge: Culture-Fair Tests

- Research shows that most measures of personality and psychopathology, e.g. MMPI-2, PAI, SIRS that screen for response bias, despite various translations, lack the normative database that would permit cross-cultural comparisons
- Most standardized tests have been designed for use with Caucasian and English-speaking populations with Euro-American backgrounds.\*

Source: \*Perlin & McClain, 2009

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**PRAGMATIC CHALLENGES**

- Most examinee’s lack a clear understanding of hardship concept, e.g. *“how much will my letter cost?”*
- Lack of verifying information, e.g. *“there are gangs trying to kill me”-hard to verify info*
- Difficulty /delay retrieving relevant supporting documents e.g. *legal, medical, psych records often unavailable to substantiate self-report*
- “No attorney” cases- *“I can’t afford a lawyer”*

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**PRAGMATIC CHALLENGES**

- Tendency for hardship/undocumented (I-601a, overstay waiver) candidates to deny psychological difficulties in an effort to appear psychologically healthy due to their mistaken belief that appearing “healthy and strong” will help their cause
- Examining psychologists need to be aware of the DSM-5 cultural formulation and use it’s guidelines to understand how culture plays a role in presentation and assess for underlying mental health conditions
- Some *do not* have a “legitimate” hardship as defined by USCIS e.g. *“I do not do not want to be separated from husband”*

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**Assessment Challenge: Hard to Detect Conditions**

- Childhood Sexual Abuse = *shame*
- Childhood of Neglect = *denial/norms*
- Autism Spectrum Disorders = *culture*
- Addiction = *stigma*
- ADD/ADHD = *undiagnosed/limited resources*
- Culturally diverse may present differently and due to stigma or fear may hide/deny or under-report these circumstances/conditions

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### Culturally Sensitive Assessment Measures

- Cognitive/Executive Functioning Scales:
- Comprehensive Test of Non-Verbal Intelligence (CTONI-2)
- Raven’s Progressive Matrices =  $g(F)$
- Trail Making Tests = executive fxing
- Montreal Cognitive Assessment Scale (MOCA)
- Test of Memory Malingering (TOMM)= effort
- Dot Counting Test = effort

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### Raven’s Progressive Matrices

- A test that is often considered the best available measure of fluid intelligence  $g (F)$
- Raven’s requires examination of a matrix of geometric figures that differ from one another according to a rule to be identified by the individual being tested
- This rule is then used to generate an answer to a question about what new figure would satisfy the rule

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### Why is Culturally Fair Important?

- Re: measurement of IQ, since 70 is the cutting point for immunity from the death penalty in the U.S., inaccurate assessments can have significant legal consequences for those from other cultures who are facing adjudication

• Source: Atkins v. Virginia, 2002

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### Culturally Sensitive Assessment Measures

- Life Story/autobiographical statement
- Prime MD Evaluation of Mental Disorders/ PHQ-9- Spitzer et.al, (1994)
- Childhood Trauma Questionnaire
- PCL-5 for detection of PTSD/trauma
- SCID-5-Clinician Version (for DSM-5)
- Autism Diagnostic Observation Schedule
- Autism Spectrum Interview

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### Summary

- Learn about the cultural backgrounds of the individuals requiring evaluation through country of origin research and possible use of cultural consultants, certified translators, consultation with other psychologists
- Be willing to bypass established testing and assessment strategies and instruments
- Use multiple sources of information when assessing culturally diverse/immigrant populations with a lens toward recognizing culture-specific expressions of well-being, distress and resilience

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### Summary

- Forensic psychologists working within immigration proceeding contexts need to:
- Recognize the need for objectivity as a forensic evaluator
- Be aware of adversarial allegiance
- Consider social justice/advocacy issues- however, be careful re: appearing to be a "hired gun" which can lead to reduced credibility in court

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### Questions/Comments

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