

# Issues of Cultural Competence in Forensic Mental Health Evaluations and Treatment

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# Race

- Not a strict genetic categorization
- Historically based on common physical features
- Geographic race based on population stability over time
- A social categorization as defined by a given culture based on multiple circumstances.

# Ethnicity

- A social group that distinguishes itself from others based on common historical experiences, language, and rites.
- A group identity

# Culture

- Kultur – German term from late 18<sup>th</sup> century to refer to the achievements of a civilization.
- Culture
  - A common heritage or set of shared beliefs, norms, morals, customs, and values.
  - Shared understanding or meaning.
  - “way of life of a group of people” passed through language & imitation (Barnouw 1963)
  - Dynamic

# ODMH Culture Definition

## Policy MD-29

The behaviors and beliefs characteristic of a particular social, ethnic, or age group: the sum total of ways of living built up by a group of human beings and transmitted from one generation to another

# Types of Culture

- Religious
- Ethnic
- Geographic
- Political
- Sexual Orientation
- Hearing Impaired
- Generational

# Different Cultures Exert Different Stresses

- Lack of educational opportunities
- Exposure to violence
- Family dissolution
- Exposure to drugs
- Unrealistic expectations
- Gender based expectations

# Significance of Culture in General Mental Health

- Diagnostic Accuracy
- Appropriate Treatment
- Genetic Impact on Medications
- Enhancing Compliance
- Rallying Social Supports

# Cultural effects on diagnosis

- Pathogenic effects - Koro
- Pathoselective effects - Amok
- Pathoplastic effects - Alien abductions & the space race
- Pathofaciliative effects – Anorexia & bulimia
- Pathodiscriminating effects – Substance Use
- Pathoreactive effects – Ataques de nervios

# Cultural Knowledge

- Axis I
  - Are behaviors/beliefs culturally sanctioned or appropriate
  - Do they cause distress within the cultural context
  - Culture Bound Syndromes
- Axis II
  - Personality Disorders - “...inner experiences and behavior that deviates markedly from the expectations of the individual’s culture”

# Cultural Triad

- Patient's culture
- Provider's culture
- Medical or Mental Health culture
  - Insurance
  - Availability
  - Stigma
  - Folk concepts

# Culture and the Legal System

- Different culture from medical/mental health
- Part of the larger sociocultural system
- Influenced by cultural concepts of “wrongness”, punishment, & regulation
- Cultural background and beliefs impacts all parties in the legal system
- 2003 Non-whites comprised 25% of US population but 62% of prison population

# Cultural Competence and Forensic Evaluations

- “..lack of knowledge and familiarity with the specific culture of the examinee, coupled with emotional discomfort toward an examinee of diverse ethnic, racial, or cultural backgrounds, can result in impaired examiner-examinee relations and communications and in suboptimal forensic evaluations.”

# Relationship Between Race and Triage Disposition

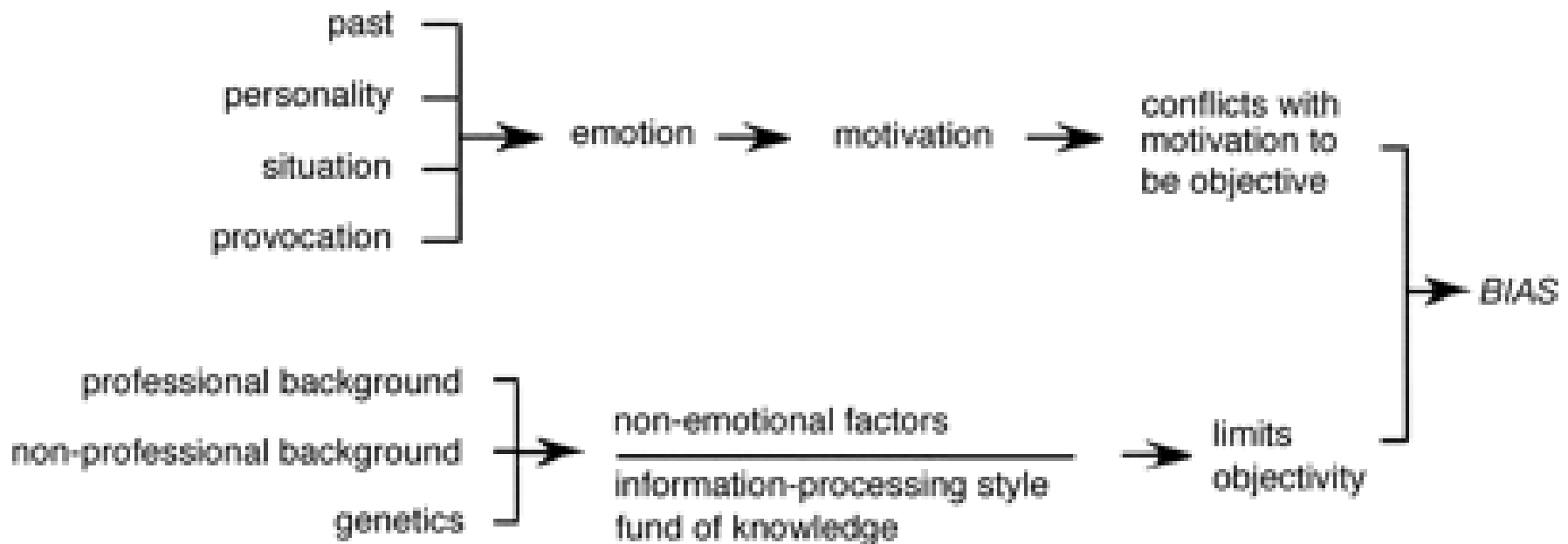
- D. Pinals et al MA court clinic data 1994-2001
  - African Americans more likely to be referred for an inpt eval after outpt screening
  - African American and Hispanic males more likely to be sent to a strict-security facility

# Impact of the evaluator's culture

- Examiner-examinee matching
- Unconscious biases
- Transference (positive and negative)
- Juries may be more or less trusting

# Framework for conceptualizing the origins of bias

Adam Goldyne, M.D.



# Questions that an expert may use to detect bias

Adam Goldyne, M.D.

- Emotions and Motivation
  - Did I think excessively about the case or someone involved in it?
  - Have I been more or less diligent than typical?
  - Does my opinion resemble my opinion in other cases?
  - Am I having Difficulties outside of the case?
  - Have I failed to follow up on discrepancies or consider malingering?

# Questions that an expert may use to detect bias

Adam Goldyne, M.D.

- Fund of Knowledge
  - Is my personal background appropriate for this case?
  - Is my training and experience adequate for this case?
- Information Processing Style
  - Does my theoretical perspective leave aspects of the case unexplained?
  - Does my reasoning involve unchecked heuristics and bias?

# Culturally Informed Interactions

- Impact of cultural beliefs about doctor-patient relationship
  - Overly deferential → extra warnings about limits of confidentiality/purpose of exam
  - Antagonistic → extra time to get the evaluatee to open up
- Power disparity issues
- Gender considerations

# Language barriers

- Misunderstanding
- Interpreter use
  - Difficult to assess thought process
  - Simple translation, cultural interpretation, or adjunct therapy
  - In-group vs out-group
  - Transference issues

# Landmark Connection

Jackson v Indiana, US Supreme Court 1972

- Theon Jackson 27 year old deaf mute charged with 2 counts of robbery
- Only knew some home-signs
- Could write his name
- No schooling
- Interpreter use
- Testimony of supervising teacher at the Indiana State School for the Deaf x 20 years

# Mental Status Examination

## Appearance, Speech, & Motor

- Appearance
  - Cultural markings & clothing
- Speech
  - Volumes differ by culture
- Motor
  - Eye contact
  - Gestures

# Mental Status Examination

## Mood & Affect

- Mood
  - Cultural taboos to admitting happiness
  - Somatization of depression
- Affect
  - Discomfort with strangers/authority
  - Need to appear stoic/controlled
  - Different views of personal space
  - Appearance of irritability

# Mental Status Examination

## Hallucinations and Delusions

- Hallucinations
  - Difficult to ask via interpreter
  - Different meanings (Blessed vs Possessed)
  - Talking to oneself
- Delusions
  - Beliefs that are not ordinarily accepted by other members of the person's culture or subculture
  - Political and Religious beliefs
  - Obtain collateral data

# Landmark Connection

## Cultural belief vs Erotomania

- **Tarasoff v Regents, 1976**
  - Mr. Poddar, 23 year old from Indian “untouchable” cast, grad student at U.C. Berkeley
  - No pervious dating experience so felt kissing Ms. Tarasoff constituted a “special relationship” and they would marry
  - Felt betrayed by her talk of other men
  - Stabbed Ms. Tarasoff to death

# Mental Status Examination

## Proverb Interpretation

- Indian
  - If you live in the river you should make friends with the crocodile
- Scottish
  - It is a sad house where the hen crows louder than the cock
- Iranian
  - A blind person who sees is better than a seeing person who is blind
- African
  - Bad dancing does not break an engagement

# Mental Status Examination

## Proverb Interpretation

- 18<sup>th</sup> English
  - Don't teach your grandmother to suck eggs
  - A drip in June sets all in tune
  - Keep your own fish-guts for your own sea-maws (seagulls)
  - Length begets loathing
  - When all fruit fails welcome haws (hawthorn tree berries)

# Mental Status Examination

## Insight, Judgment & Fund of Knowledge

- What is the cultural meaning of admitting sickness
- Fund of Knowledge questions
- Cultural taboos against taking Western medicine
- Judgment questions

# Landmark Connection

## **Application of the President and Director's of Georgetown College, 1964**

- 25 year old Jehovah's Witness refused blood transfusion necessary for life saving operation
- Justice Wright spoke with husband and patient: “Against my will”
- Judge decided pt was not competent and ordered the transfusion

# Components of a Cultural Formulation

- Cultural identity of the individual
- Cultural explanations of the individual's illness
- Cultural factors related to psychosocial environment and level of functioning
- Cultural elements of the relationship between the individual and clinician
- Overall cultural assessment for diagnosis and care



# AMERICAN PSYCHOLOGICAL ASSOCIATION

## Documentation Suggestions

- # of generations in the country
- # of years in the country
- Fluency in English
- Extent of family support
- Community resources
- Level of education
- Change in social status with move
- Relationships with others of different backgrounds
- Level of stress related to acculturations

# Issues of Wrongfulness

- Impacted by motivation, meaning, implications, consequences, and view of others
- Different cultures view behaviors differently:
  - Abuse of children
  - Women's rights
  - Killing of enemies
- A seemingly bizarre illegal act is not the product of a mental disease or defect if it is accepted by the culture or subculture.

# Issues of Wrongfulness

## People v. Kimura, 1985

- Japanese-American woman in CA learned of husband's mistress
- Drowns her 2 children and tried to drown herself in attempted oyako-shinju
- Outpouring of Japanese-American community support and defense
- Plea bargained to voluntary manslaughter time served and probation

# Malingering & Culture

- Lying is viewed differently in different cultures
- Outward cues to lying can be difficult to interpret across cultures
- Approximate answers and changing stories may be due to language problems, eagerness to please, or lack of trust
- Culture specific diagnoses may present with atypical symptoms

# Competence to Stand Trial

- Presumption of competence
- Preponderance of the evidence
- Due to their present mental condition

# Competence to Stand Trial

- Understand the Nature and Objectives of the proceedings
  - Unfamiliarity with local laws or court system not a bar to competence
  - To what extent can the individual learn
- Assisting in their defense
  - Communication – Appropriate interpreter
  - Ability to trust legal system
  - Ability to work with attorney

# Distrust of the Legal System

- Psychotically based
- Foreigners and Immigrants from areas with corrupt legal systems
- Members of certain political groups
  - Montana Freemen
- Members of cultural minorities
- Economically disadvantaged
- Those with extensive legal histories

# Race and Competence

- Mock jury studies White jurors rated black defendants as more guilty, aggressive, and violent for non-race related crimes
- African American men more likely to:
  - be diagnosed with Schizophrenia
  - Deny their mental illness
  - Have involuntary status
  - All are associated with a finding of incompetence in the MacArthur studies

Stefan, S. Race, competence testing and disability law: a review of the MacArthur competence research. *Psychology, Public Policy, and Law*. 1996, 2(1), 31-44.

•Sommers and Ellsworth (2000)

# Race and Prosecutors and Defense Attorneys

- Radelet & Pierce 1985
  - 1017 homicide defendants in FL
  - Blacks accused of killing whites the most likely to be “upgraded” and least likely to be “downgraded”
- Edkins 2011
  - Hypothetical minority client plea deal had higher sentences and jail time in contrast to Whites

Radelet & Pierce 1985 Race and Prosecutorial Discretion in Homicide cases. Law & Society Review

Edkins, V. Defense attorney plea recommendations and client race: does zealous representation apply equally to all? Law Hum Behav 35:413-425, 2011

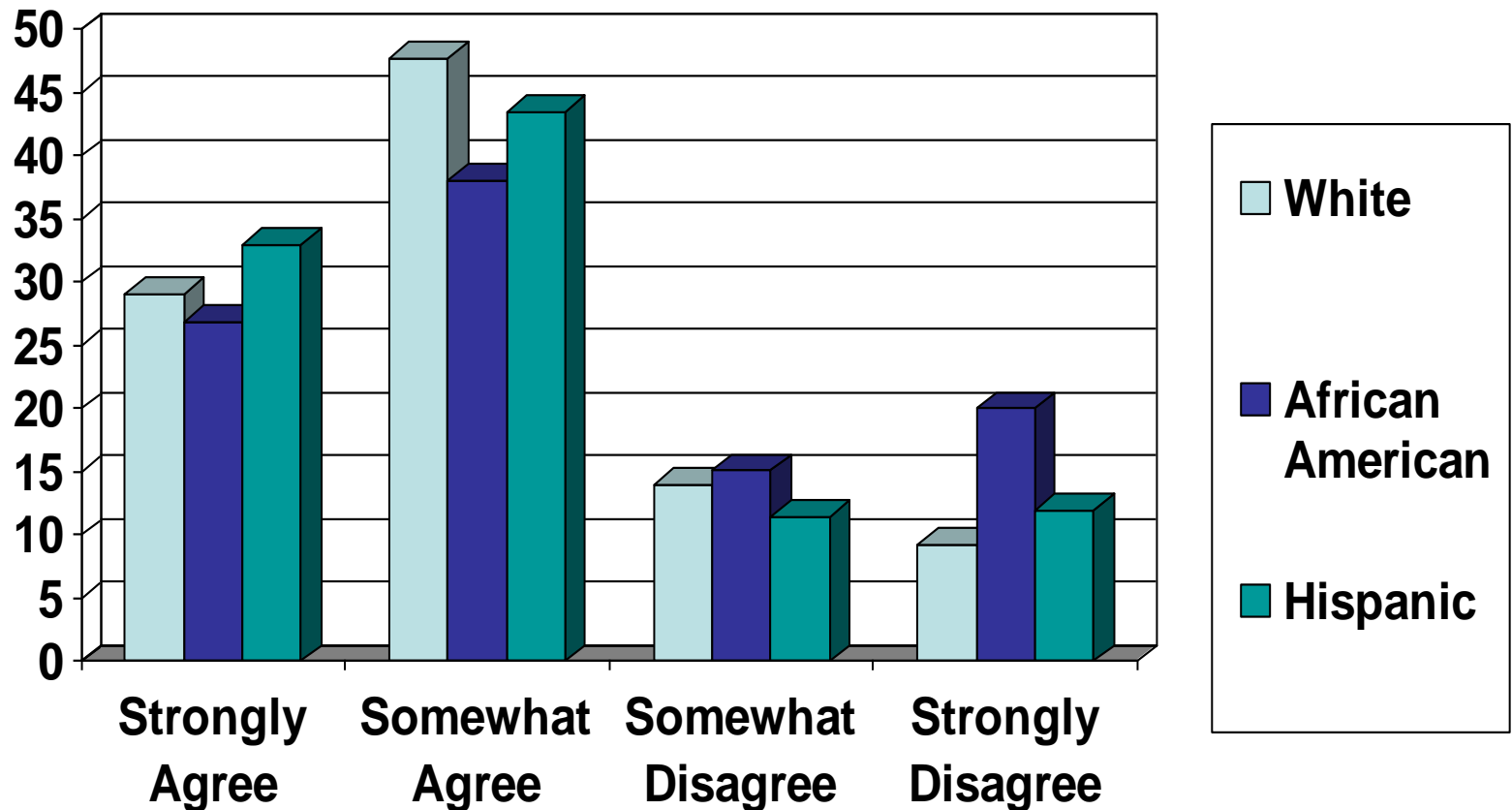
# San Jose Mercury News 1991

- Reviewed 700k criminal cases over 10 yrs
- Percent of those whose crimes qualified for diversion actually received it
  - 20% white
  - 14% African American
  - 11% Hispanic
- Chance of having a felony reduced to a misdemeanor (no prior offenses)
  - 33% white
  - 25% African American or Hispanic

# How the Public Views the State Courts

- 1999 National Survey by the National Center for State Courts
- Telephone interview of 1,826 adults
- Almost 70% of AA respondents think that AA get “somewhat worse” or “far worse” treatment from the courts (vs 40% White and Hispanic)
- Over 70% of AA and 65% of Hispanics believe that juries do not represent their community (vs 40% White)
- AA and Hispanics were significantly less likely to agree that judges are generally honest and fair in their decision making

# Courts make reasonable efforts to ensure that individuals have adequate attorney representation



# Race, Income, and Perceptions of the U.S. Court System

- Brooks and Jeon-Slaughter 2001
- Used National Center for State Courts data
- Almost 64% of African Americans felt that the courts treat them worse than others.
- 30% of African Americans believe the courts handle criminal and juvenile cases poorly

# Questions to ask

- Why can't you get a fair trial?
- What are your past experiences with the court?
- Could others of your same group get a fair trial?
- Seek collateral from same group

# Psychological Testing & Culture

- Impact of attitudes toward tester and tests
  - Acquiescence
  - Social Desirability
  - Positional
- Semantic/translational equivalence
- Functional equivalence
- Technical equivalence

# Psychological Testing & Culture

- MacArthur Competency Assessment Tool-Criminal Adjudication
- MMPI
- Culturally Specific Inventories
  - Chinese Personality Assessment Inventory
  - Somali Psychological Distress Scales

# Cultural Competence on an Inpatient Unit

- Detailed explanation of rights
  - civil commitment/voluntary
  - Informed consent/right to refuse tx
  - confidentiality
- Same gender providers
- Interpreters
- Trust
- Boundaries

# Cultural Competence on an Inpatient Unit

- Sleeping arrangements
- Group vs individual therapies
- Cultural transference and countertransference
- Meals
- Holidays
- Visits

# Prison Culture

- Culture of incarceration
  - Do not snitch
  - Do your own time
  - Do not appear weak
  - Lack of future orientation
  - Gang type behavior

# Prison Culture

## SPECTRUM & RAP Approach

### – SPECTRUM

- Educate providers to view behaviors through a cultural lens

### – RAP

- Psychoeducation regarding triggers, maladaptive behaviors, and social skills training with CBT techniques

– 28% reduction in frequency of disruptive events & 40% reduction in violence

# Conclusions

- All interactions are influenced by the cultural backgrounds of the participants and that of the system in which the interaction takes place.
- Sensitivity to cultural difference and knowledge about other cultures is essential for performing forensic evaluations and caring for forensic psychiatric patients.