

Mental Health, Neuropsychology, and Working with Experts

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What is “Mental Health?”

- *NOT* diagnoses
- The multigenerational narrative arc of the life of a client and his/her family
- The narrative is longitudinal, developmental, and encompasses the full range of risk factors and protective factors that existed or were absent in the multigenerational life of the family
- The narrative contains vivid details and stories



Mental Health Issues Most Commonly Encountered

- Psychological trauma exposure
- Mood symptoms
- Psychotic symptoms
- Intellectual impairments & disabilities
- Developmental impairments & disabilities
- Brain insults, dysfunction or disorder
- COMORBIDITY





Red Flags- Trauma

- Adverse Childhood Experiences (ACE)
 - Physical abuse
 - Sexual abuse
 - Emotional abuse
 - Physical neglect
 - Emotional neglect
 - Parent with mental illness
 - Substance abuse in parent
 - Domestic violence
 - Parent in prison
 - Separation/divorce of parents



Red Flags- Mood

- Family history of depression, bipolar disorder, particularly hospitalizations for suicide attempts
 - Early difficulties with self-regulation (e.g., extremely colicky as baby, sensory sensitivity, difficulty settling, feeding, sleeping, etc.)
 - Extreme lability, irritability ,behavioral problems as child (not developmentally appropriate, in multiple settings)
 - Suicidal ideation as a child
 - Substance abuse (self-medication for mood)
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Red Flags-Psychosis

- Psychosis/Schizophrenia Spectrum Disorders are highly heritable- family history is key- esp. 1st degree relatives (though most cases- no family hx)
- Typical “first break” onset of delusions/hallucinations- for males- early to mid 20s; females-late 20s
- Slow and gradual development of psychotic symptoms- prodromal period
- High co-morbidity w/substance abuse & mood disorder
- Positive symptoms, negative symptoms, cognitive symptoms



Red Flags- ID & DD

- Family history (again!)- especially of special ed
- Does not achieve early developmental milestones (i.e., speech, motor, toileting, etc.)
- Early difficulties with acquiring basic academic skills (letter ID, rhyming, printing name)
- early (K, 1st grade) grade retention/failure
- Early problems with attention (e.g., cannot sit in Circle Time), overactivity, restlessness, impulsivity
- Early difficulties with play (especially imaginary), socialization/interest in peers

Red Flags- Acquired Brain Injury

- Easier category- usually better documentation- strokes, seizure disorders, head injury, brain tumor (e.g., surgeries, hospitalizations, etc.)
 - Indicators of SEVERITY important- e.g., Glasgow Coma Scale, neuroimaging revealing blood, swelling, brain impaction, atrophy
 - Significant recovery time, significant loss of function, change from previous level of functioning
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Commonly Encountered Pitfalls

- Inadequate investigation
- Failure to contextualize a client's life
- Failure to establish working relationships with clients, family members and other witnesses
- Turning the case over to the mental health experts
- Failure to direct the investigation, development, and presentation of evidence



Selecting and Vetting Experts

“If the only tool in your box is a hammer, all your problems will look like nails.” –Mark Twain



Choosing & Screening your Expert

1. Life History Investigation ~ Educate yourself about your client and influences on his life
2. Research the expert who fits your needs!
 - Consulting experts
 - Testifying experts
3. Background check
4. Interview



Step 1. Two essentials in approaching mental health issues

- Investigate the client's life more thoroughly than anyone has ever done before, so that when you approach experts (new or old), you can provide more insight than ever before
- Educate ourselves sufficiently so that we can approach experts as informed consumers who choose experts wisely and frame their referral questions based on the unique needs of the case





Sources of Information (Olley, 2015)

1. School records
2. Work records
3. Social Security records
4. Affidavits, declarations, records of interviews
5. Interviews with lay witnesses (e.g. family, etc.)
6. Records of therapeutic, mental health programs
7. Medical records
8. Interview with defendant
9. Direct assessment of performance
10. Prison records and interviews with corrections officers



Step 2. Finding the right expert

- When should we be retaining experts?
- What kind of expert(s)?
- What referral questions should the expert(s) address?

Timing

Only **after the investigation** of the social history can counsel make an informed decision about what kind of expert(s) may be needed and what the referral question(s) will be.

Importance of mitigation investigator – your team mines the story; determines the significant actors; preps them for your expert.



Mitigation Tells the Client's Mental Health Story

“The home was a complete wreck.... There were several places on the floor where someone had had a bowel movement. Urine was standing in several places in the bedrooms. There were dirty dishes scattered over the kitchen, and it was impossible to step any place on the kitchen floor where there was no trash”

Williams v. Taylor, 529 U.S. 362 (2000)



Williams v. Taylor, 529 U.S. 362 (2000)

- “The children were all dirty and none of them had on under-pants. Noah and Lula were so intoxicated, they could not find any clothes for the children, nor were they able to put the clothes on them.... The children had to be put in Winslow Hospital, as four of them, by that time, were definitely under the influence of whiskey.”



Mitigation Places Symptoms in Context: Prosecutor's Description

- Billy's school records show he does not get along with others. He refused to share his toys in preschool. He was consistently rude and inconsiderate to his teachers and classmates. No one wanted to play with him because he was such a self-centered jerk. Billy was a bad kid, and he's a bad person now.



ASD Explanation

- Billy has a social learning disorder. He does not understand social cues accurately and misses a lot of information, particularly nuances or implied tasks. He is very socially immature. Billy's classmates sometimes encourage him to say sexually inappropriate things in the classroom and he does not realize he is being made fun of. Billy would like to have friends, but he lacks the social skills to make them. He is vulnerable to manipulation by others, and he is frequently teased, bullied and humiliated by his peers.

What Type of Expert?

Consulting Experts

- Help with theme development, brainstorming, interpreting client's history, deconstructing prior evaluations, checking raw data
- Recommending and vetting additional experts
- Quasi-therapeutic intervention; assistance to legal team in facilitating communication and cooperation between client and team
- Essentially an “in-house” expert who does not testify

What Type of Expert?

Storyteller (Testifying Expert)

- Narrator of social history – synthesizer of all the data
- Conducts evaluation/ writes reports according to area of expertise
- Teaching witness (e.g., explains how a particular mental disorder affects someone's functioning)
- Not a member of the core team, since everything he/she considers may be discoverable (even e-mail)

Varieties of (nonfungible) Mental Health Experts

- Psychiatrists
 - Neurologists, neuroendocrinologists
 - Psychologists (clinical, developmental, forensic, social)
 - Neuropsychologists
 - Speech/language Pathologist
 - Neuroradiologists
 - Psychopharmacologists
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Varieties of Mental Health Experts

- May need an expert with a particular area of expertise:
 - Severe psychiatric illness (e.g., schizophrenia)
 - Substance abuse
 - Fetal Alcohol Syndrome
 - Trauma
 - Dementia



Clinical vs. Forensic

- Empathic
- Therapeutic alliance built on trust
- Goal: healing, treatment
- Training: broad areas of mental illness
- “Objective”
- Evaluation begins with distrust (suspicion of malingering)
- Goal: not to be fooled
- Training: narrow areas involving CST, NGI



Psychiatrist vs. Psychologist

- M.D.
 - Relies on clinical judgment
 - Skilled in assessing medical and/or neurological influences
- Ph.D.
 - Trained in administering tests, conducting tx
 - Skills will depend on specific clinical expertise & training
 - Numerous subspecialties



What is Neuropsychology?

- ◆ The study of brain - behavior relationships
- ◆ Infer brain function (not structure) from behavior
- ◆ Draws from cognitive sciences, neurology, neuroanatomy, and all areas of psychology
- ◆ Concerned with developmental and acquired injury
- ◆ Employ tests and guided observations as tools for evaluation (norms, standardization)



Model of Neurogenetic Disorders

Micro

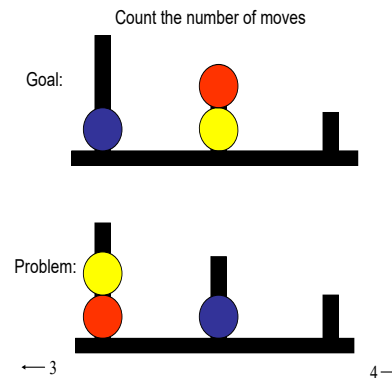
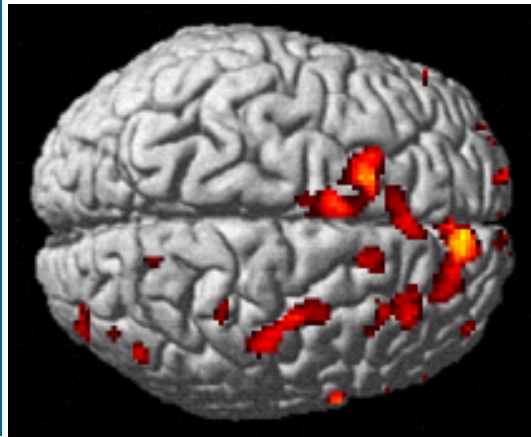
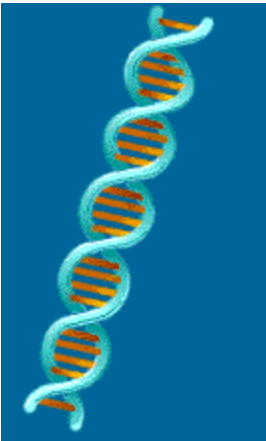
Macro

Genetics

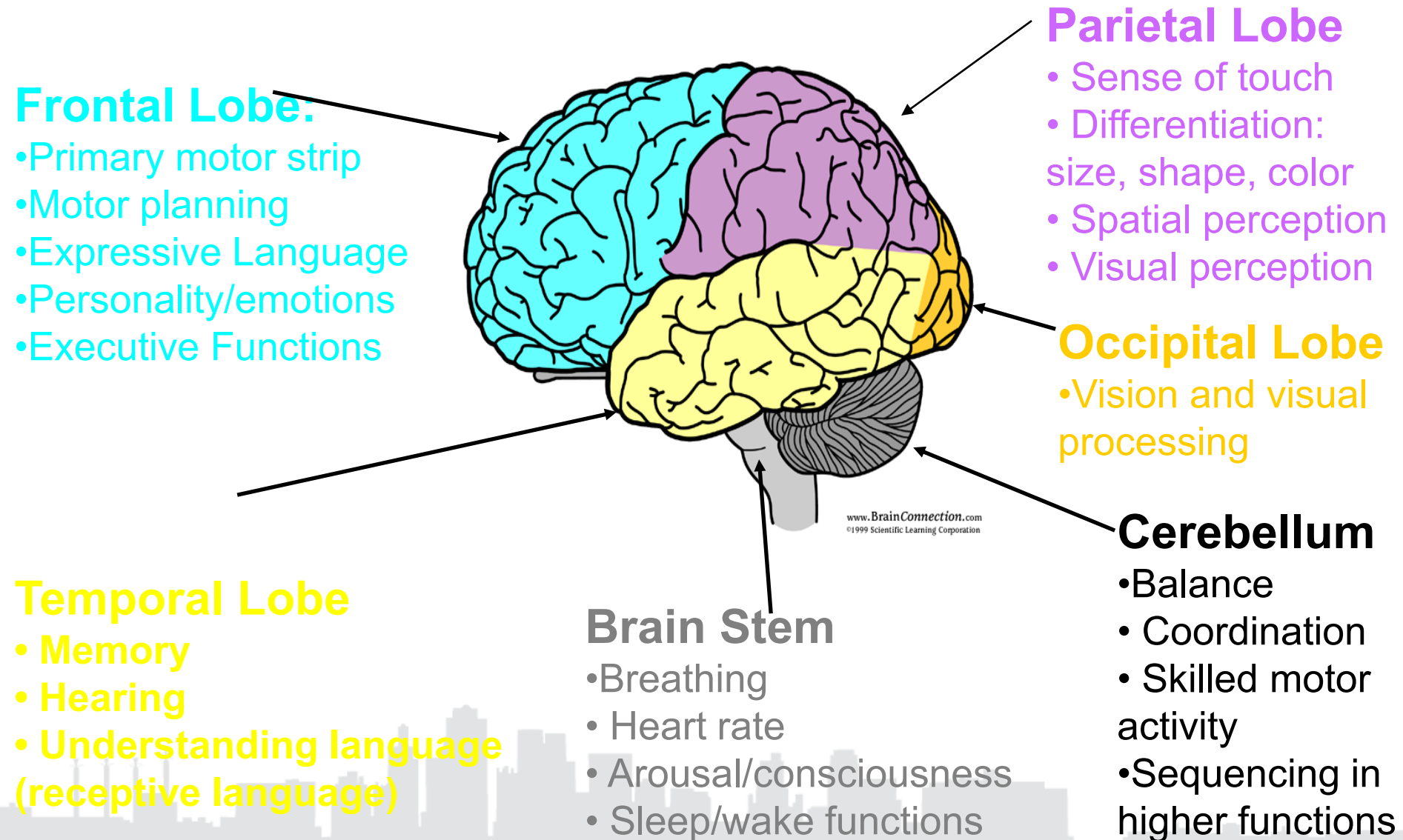
*Structural &
Functional
Imaging*

*Performance
Tests*

Behavior



Simplified Brain Behavior Relationships



According to the American Psychological Association, a Neuropsychologist has:

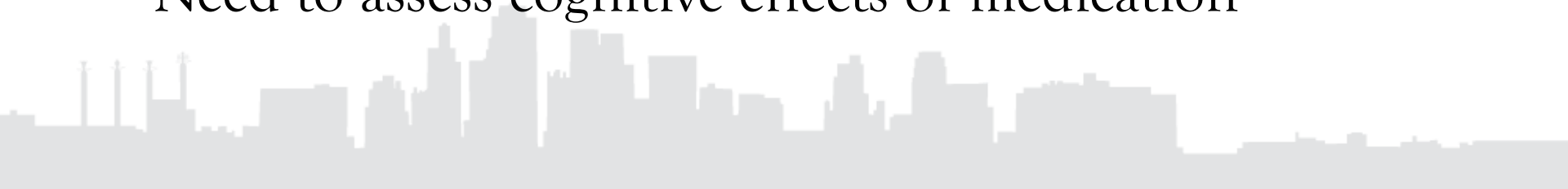
- ◆ Systematic didactic and experiential training in neuropsychology and neuroscience at an accredited university;
- ◆ Two + years of supervised neuropsychological training at the postdoctoral level
- ◆ Licensing and certification as psychologist;
- ◆ Review by one's peers as a test of competence.



Possible Questions for the Neuropsychologist

(van Gorp in Goldstein, 2007)

- Questionable screening results (e.g., low IQ) necessitating more comprehensive evaluation
- Suspicion of learning disability, ADHD, Autism Spectrum Disorder, intellectual disability
- History of head injury
- Suspected or known neurological disease (e.g., stroke, seizure, tumor)
- Suspicion of possible dementia vs. normal aging
- Need to assess cognitive effects of medication



Questions for the Neuropsychologist

- A neuropsychologist can help the court:
 - to understand the relationship between deficient brain functioning and subsequent behavior
 - By showing how brain dysfunction can cause, mediate, moderate criminal behavior



What does a Neuropsychological Evaluation include? (Bernstein in Rudel)

- **History-** risk factors and positive factors
- **Observations-** current social, emotional, academic, motoric, sensory, cognitive, memory, attentional, nonverbal etc. functioning
- **Testing-** structured observation in isolation to explore and explain observations in the context of history



A Functional Framework for Assessment (Testing & Observations)

- General Cognitive Functioning
- Executive-Regulatory Function
- Attention
- Language
- Visual/Nonverbal Processing
- Memory & Learning
- Sensory and Motor
- Academics
- Social & Emotional
- Adaptive Functioning
- Effort



Case Example- S.M.

- 25-year-old male with complex history facing child pornography charges
- History of severe physical abuse by father (including shaking as an infant), sexual abuse by sister
- “staring spells,” abnormal EEG
- Delayed receptive and expressive language at age 3
- Diagnosed with ADHD in school after multiple behavior problems



Case Example- S.M.

- ◆ Admitted to inpatient psychiatric unit at age 8, where diagnosed with PTSD and an Autism Spectrum Disorder
- ◆ History of over-focused interests and repetitive bxs- insects, video games, rocking, rapid eye blinking, hand rubbing
- ◆ History of atypical social skills, poor social judgment
- ◆ Current best friends are 13 and 14 years old
- ◆ History of being bullied
- ◆ Lived in a variety of residential placements from age 8 to adulthood
- ◆ No treatment for Autism Spectrum Disorder





Case Example- S.M.

- Behavioral Observations:
 - Polite, cooperative and persistent
 - Socially immature and anxious
 - Child-like interests and strong desire to please
 - Reliant on concrete rules of conduct





Case Example- S.M.

- ◆ Neuropsychological Test Findings:
 - Average Verbal IQ (104) and Performance IQ (95)
 - Strengths in vocabulary knowledge
 - Emotionally altruistic and well-meaning
 - Significant executive dysfunction- inhibition, flexibility, working memory, organization/planning
 - Functional language deficits affecting comprehension, retrieval, formulation
 - Dysgraphia, poor motor coordination



Case Example- S.M.

- Neuropsychology Test Findings (cont.)
 - Significant social deficits- misses social cues
 - Trouble communicating nonverbally (formal, flat tone of voice)
 - Difficulty identifying own emotions
 - Literal understanding of words/takes people at face value
 - Poor “theory of mind”- cannot judge when offends or embarrasses someone



Case Example- S.M.

- ◆ Identify emotional, social, behavioral risks of ASD-relationship b/w autism (and PTSD) and crime
 - Judgment, problem-solving, interests are like those of a child- not acting as predatory adult
 - Characteristic of ASD to have focused, special interest- looked at many images
 - Limited ability to intuitively understand that he was supporting the exploitation of real children- social naivety
 - Potential for victimization in institutional settings- need for isolation





Case Example- S.M.

- Recommend treatment plan to reduce probability of re-offense
 - Structured program for social skills development- i.e. to “read” nonverbal cues, takes turns in conversation, regulate voice volume, appropriate social distance
 - Increase awareness of own feelings and coping skills
 - Training in self-advocacy
 - Adaptive behavior- e.g., personal hygiene and social acceptance
 - Vocational/educational coach





Case Example - E.D.

- 38-year-old A.A. male charged in a capital case
- Does he meet criteria under Atkins vs. Virginia to be ineligible for the death penalty?
- Task was review of numerous documents to render an opinion about diagnosis of Mental Retardation
- Three prongs: 1) Subaverage IQ; 2) current deficits in adaptive functioning; 3) Onset before age 18 years



Case Example- E.D.

- Review included:
 - medical records
 - school records
 - academic assessments
 - prior cognitive and neuropsychological evaluations





Case Example- E.D.

- IQ evaluated 4x over 27 years, noted consistency in scores over time (Full Scale IQs of 65, 70, 75, 76)
- Standard error of measurement, Flynn Effect discussed
- Examination of subtest scores- weaker performance on tasks associated with ability to think abstractly and flexibly



Case Example- E.D.

- Significant deficits in language and communication skills dating from age of 9, hinting at adaptive deficits
- Longstanding deficits in academic skills- consistent over 21 years- reading, spelling and arithmetic at early 2nd to late 3rd grade
- History of special education services
- Consistency of data through formal reports, teacher's comments, Rehab services



Case Example- E.D.

- Neuropsychologist's testimony focused on distinction between mental retardation and learning disability
- Concept of “unexpected underachievement”- that is that in an individual with MR, one would *expect* low academic scores, *not so with LD*
- Outcome: NOT eligible for death penalty



Questions?

