



UNIVERSITY OF
NORTHERN COLORADO

Project CLIMB

Cultivating Legal Interpreters from Minority Backgrounds

Legal Interpreting Webinar Series

Interpreter Training Grants US Department of Education Rehabilitation Services Administration

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Interpreter Training Grants from US Department of Education-Rehabilitation Services Administration



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Schawn Hardesty
Director of Operations



Erica West Oyedele
Director of Instruction



Amy Williamson
Director of Administration

Project CLIMB Co-Directors



Kelly Decker

Instructional Coordinator



Leilani Johnson

Principal Investigator



Barbara Garrett

Director, Dept. of ASL &
Interpreting Studies

UNC-Project CLIMB

Project CLIMB:

Cultivating Legal Interpreters from Minority Backgrounds

Why are we unique?

- focus on training and supporting interpreters of color, Coda interpreters, and Deaf interpreters entering the legal specialty
- Communities of learning will be primarily composed of interpreters of color, Coda interpreters, and Deaf interpreters

Project CLIMB: 5-year plan

Year 1 (2017)

- Develop 30 online modules
- Credentialing roundtable
- Webinars
- Recruiting

Year 2 (2018)

- Develop media
- Webinars
- Recruiting
- Barriers roundtable
- Train 20-25 mentor supervisors

Years 3-5 (2019-2021)

- Webinars
- Recruiting
- 20-25 Communities of practice



Collusion or Collision? Where Mental Health and Legal Interpreting Intersect

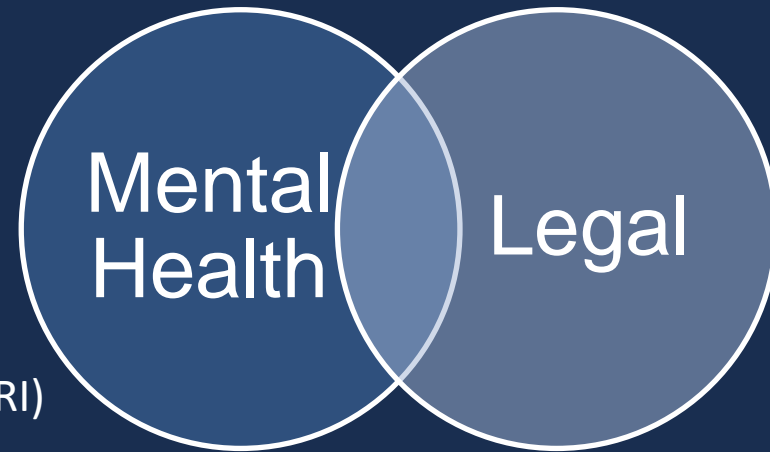
Roger C. Williams, LISW-CP, NAD 5, CT, QMHI-S
Webinar
February 2020

Disclaimer

- I am not an attorney
- My opinions are not legal advice but are based on experience in a variety of situations
- Specific state statutes can (and do) vary widely, if you are unsure, consult with a legal professional

Where is this intersection?

- Mentally ill individuals in court
- Mental Health Court
- Competency to Stand Trial (CST) evaluation
- Mental Status Exams, in response to a plea of Not Guilty by Reason of Insanity (NGRI)
- Sexually Violent Predator determinations
- Civil Commitment Procedures
- Child/Elder/Vulnerable Adult Abuse reporting and investigation



Specific Terms

- Competency to stand trial
- Not Guilty by Reason of Insanity/NGRI
- M'Naghten Rule
- Durham Rule
- Model Penal Code
- Federal standard
- Diminished capacity
- Guilty But Mentally Ill (GBMI)/Guilty and Mentally Ill (GAMI)
- Commitment hearings

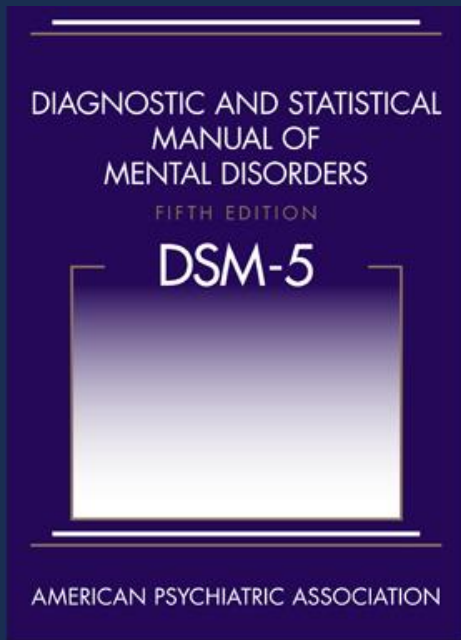


Mental Health Interpreting Norms

- The form is often more important than the content
- Interpreters are part of the behavioral healthcare team with a specific area of expertise
- May chart and maintain record independent of other team members
- Providing commentary on language, culture and the interpreting process is appropriate
- Issues that could lead to misunderstanding or misdiagnosis must be shared with the evaluators, this may include sharing information about Deaf culture and communication norms



Mental Health Interpreting Expectations



- Interpreters should have a working knowledge of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5)
- Interpreters should have access to qualified ongoing supervision/mentoring
- Interpreters will be compliant with OSHA and HIPAA
- Interpreters should know the standard for insanity, competence and commitment in their jurisdiction
- Interpreters should know abuse reporting

Competency to Stand Trial

- Has a factual understanding of the proceedings
 - Appreciates the charges against him/her
- Ability to cooperate with counsel
 - Talk about their case
 - Understand advocate role of defense attorney
 - Be able to state own opinions
 - Able to participate in their defense
 - Share their memories of the case with their attorney
- Able to make their own decisions
- Able to understand testimony given by others

Competency Outcomes

- Incompetent
 - Likely to regain competence
 - Not likely to regain competence (Nolle Prosequi – Nol Pros)
- Competent
 - Trial proceeds

Mental Health Court

- Vary from state to state
- Take cases upon referral from prosecutor
- Defendants must have severe mental illness
- Include staff from public mental health system
- Typically handle misdemeanors and “minor” felonies
- Have authority to require treatment, including medication, as condition of avoiding return to regular court
- Non-compliance results in a return to standard court system, with attendant greater penalties



M'Naghten Rule

- Presumption of sanity
- Defense burden
- Defect of reason from disease of the mind
- Requires that the individual:
 - Unaware of nature and quality of act, or
 - Did not know the act was wrong, or
- Often used with the “irresistible impulse” test
 - Is a person able to comport behavior

M'Naghten Rule

- Alabama, Alaska, Arizona, California, Colorado, Delaware, Florida, Georgia, Indiana, Iowa, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Virginia, Washington

Durham Rule

- Not criminally responsible if unlawful act was product of mental disease or defect
- Rejected by federal courts
- Too broad (only used in New Hampshire today)

American Legal Institute

- A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirements of the law
- Arkansas, Connecticut, District Of Columbia, Hawaii, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, North Dakota, Ohio, Oregon, Rhode Island, Tennessee, Vermont, West Virginia, Wisconsin, Wyoming

Federal NGRI Standards

- Defense burden – clear and convincing
 - At time of act
 - Severe mental disease or defect
 - Unable to appreciate nature and quality of wrongfulness of act
- Similar to M’Naghten but no “irresistible impulse” or “policeman at the elbow” test



GAMI/GBMI

- GBMI equivalent to a “guilty” verdict
- The defendant is sentenced the same as other people
- After sentencing, evaluated to see if they require psychiatric treatment and/or hospitalization, within the correctional system
- Alaska, Georgia, Illinois, Indiana, Kentucky, Michigan, Montana, New Mexico, Pennsylvania

Judicial Commitment

Emergency Commitment

- Laws vary from state to state but essentially require:
 - A severe mental illness
 - Clear and present danger to self or others
- And/or
 - Lacking in insight and/or judgment to make reasonable decisions about treatment

Name: _____

Less restrictive alternative treatment was considered and determined to be inappropriate because:

too dangerous
needs inpatient medication management

The respondent has been advised of the need for, but has not accepted voluntary treatment. The facility providing intensive treatment is certified by DSHS to provide such treatment.

Petitioner requests that a hearing be held on or before _____, 2010, unless respondent is sooner released to determine whether there is a probable cause to detain the respondent for an additional fourteen (14) days for the reason that the respondent is a mentally ill person whose mental disorder presents a likelihood of serious harm to others or himself/herself or that the respondent is gravely disabled.

The petitioner further requests authority to administer antipsychotic medications based on
☐ the preservation of life, ☐ protection of third parties, ☐ prevention of suicide, and/or
☒ maintenance of the ethical integrity of the medical profession.

Sexual Predators

- A “sexually violent predator” is defined as “any person who: (a) Has been convicted of a sexually violent offense; and (b) Suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment”

Sexual Predator Laws

- Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin, the Federal Government and the District of Columbia

Child-Elder-Vulnerable Adult Abuse/Neglect



- Interpreters (except for some privileged communication) may be mandated reporters
- All states have mandatory reporting for child abuse
- Elder and vulnerable adult mandated in many states, optional in the rest
- Depending on specific state statute, licensing and funding source, the obligation to report may be upon the interpreter, even if other parties are not mandated or choose not to

Abuse/Neglect Investigations

- Normally videotaped
- In most states the standard is preponderance of evidence
 - In a few it is “some credible evidence”
 - No significant difference in outcome
- Founded or not-founded
- Significant concern about leading questions
- Requires thorough knowledge of interview protocol and consultation with interviewer
- May lead to criminal investigation and prosecution

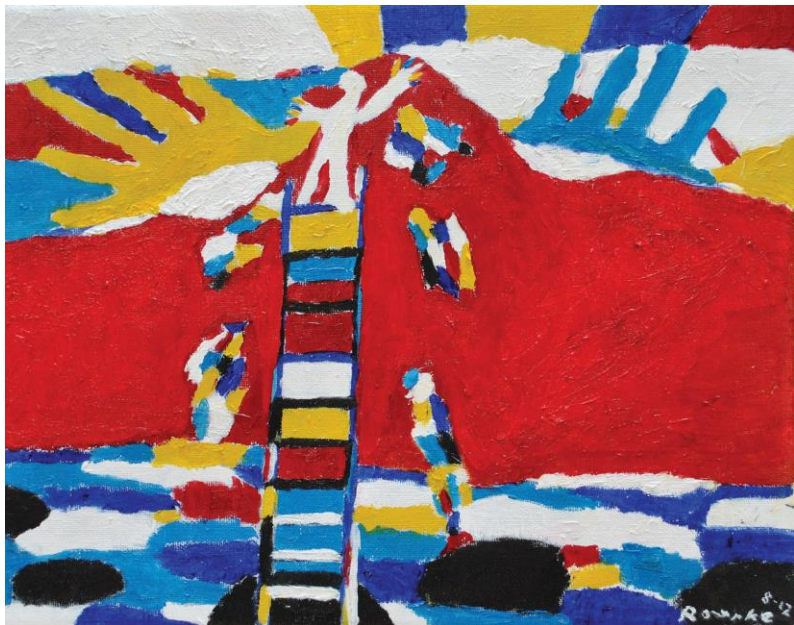


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THANK YOU!



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720-216-2662 (VP), 970-351-3161 (voice), or visit unco.edu/project-climb/