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Forensic psychology is the application of psychological practices within the scope of the legal system. Forensic psychologists are called upon to provide their professional opinion on issues of competency, capacity, and diagnostic clarification for clients. Psychologists also provide recommendations pertaining to clients' amenability to treatment, appropriate interventions, and the impact of serious mental illness on functioning. These recommendations in turn assist in facilitating a court-related decision in regard to issues involving custody, liability, and in some cases a person's mental status.

The extant literature on cultural considerations for forensic practice with Asian Americans is generally lacking. However, general cultural considerations are discussed at length throughout

this book. One possible explanation for the limited information specific to forensics could be a relatively low incarceration rate for Asian Americans. Specifically data from 1990/2000 through May 2013 from the Federal Bureau of Prisons revealed that only 1.6 % of their population identify as Asian American (<http://www.bop.gov/news/quick.jsp#2>). Given the broad nature of this field and the limited amount of empirical research on Asian Americans in the forensic setting, this chapter serves as a brief overview for the various domains covered in greater detail in other chapters, with expansion provided for their unique applications in the forensic setting.

It is important to note here at the outset that the overarching goal of this book is to provide evidence-based assessment recommendations on specific measures. As noted above, research on Asian Americans and assessment measures used in legal contexts is sorely lacking. Thus where direct recommendations based on empirical evaluations of specific measures could not be made (due to an absence of empirical literature), a theoretical position was taken. Specifically, Asian cultural values were considered in light of the construct being assessed. While in general we recommend that clinicians and researchers avoid making recommendations based on anthropological assertions that have not been empirically investigated, for measures that have high face validity this may be a reasonable approach to take when empirical data is absent.

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## Child Custody Evaluations

Given an overarching goal of providing a valid and reliable approach to child custody evaluations, Tolle and O'Donohue (2012) proposed a model that compares promotive factors to egregious factors. Promotive factors are considered conducive to the child and his or her well-being as well as development of the child while egregious factors are considered detrimental to the child's well-being and overall development. The factors are all factored into the evaluation with the overarching goal of joint custody so long as it is in the best interest of the child. As the name of the model suggests, many of the skills (i.e., factors) are comprised of abilities or deficits at opposing ends of a particular domain. For example, a parent's perception and expectations related to parenting are typically assessed through self-report or interview. These methods can result in the identification of either skills that are consistent with positive outcomes for children (e.g., positive parenting) or deficits and/or practices known to yield suboptimal or poor outcomes (e.g., parenting skills deficits). The disparity between Western and Asian sociocultural value systems is most evident in parenting and family relationships, and thus it is important to ensure that we appropriately discriminate problem parenting issues from behaviors that arise from ascribing to cultural value systems. Below a review of each factor that is housed within the model is provided alongside specific cultural considerations that must be taken into account with the Asian family.

### Promotive Factors

*Positive parenting.* Positive parenting emphasizes parents identifying positive attributes of their children and an avoidance of physical punishment based on a philosophy of creating autonomy and decision-making in children (Caspi et al., 2004; Rothbaum & Weisz, 1994). Thus, in positive parenting, the goal of the parent should be to promote choices that may be more difficult, but also have more long-term benefits for the

child. For the Asian American family there is value in shame and corporal punishment as it increases the socially desirable trait of conformity (Yeh & Yeh, 2002), and the notion of autonomy is distinct from the Western construct. For example, self-sufficiency is expected, though individualism is not. As a consequence, Asian American children raised in a more traditional environment are more likely to be encouraged to follow directions and not engage in independent decision-making (Yeh & Yeh, 2002). Specific normative data on how Asian parents perform on measures that assess positive parenting are absent. However, it is likely that in some situations, lower than expected scores may reflect cultural differences within the family value system rather than poor positive parenting. The clinician should therefore use supplemental nonpsychometric methods to assess how the parenting style is impacting the child. In such situations, information gleaned from the clinical interview and third-party observations may trump data obtained from self-report questionnaires.

*Parental school involvement.* Parental involvement at a child's school is beneficial (National Research Council [NRC], 2001; U.S. Department of Education, 2000), and thus the degree of this involvement is another identified promotive factor. The Family Involvement Questionnaire (FIQ; Fantuzzo, Tighe, & Childs, 2000) is used as an objective measure to assess parental involvement, and utilizes a 4-point rating scale to measure a child's primary caregiver's school involvement. While the measure was developed on a multicultural sample of Head Start parents, Asian Americans are not specifically described and likely fall into the "other" category that make up 11 % of the normative sample. Further, while there are a number of studies that include Asian Americans in the sample (McIntyre, 2008; Rockhill, Stoep, McCauley, & Katon, 2009), there is little information that suggests ethnic or culture-specific findings or recommendations for Asian American families. Nonetheless, minority parents (including Asian Americans) report more involvement in scholastic activities at home than at school, as compared to nonminority parents

who typically have more involvement at school. Despite this, minority parents (including Asian American parents) are likely to increase parental involvement when invited to do so from teachers or the school. Moreover, economic status should be considered as lower income parents are less likely to be involved in activities at school or attend school-arranged workshops but more involved in scholastic activities at home and via alternative activities (e.g., religious activities: Mendez, Carpenter, LaForett, & Cohen, 2009). In sum, when assessing parental school involvement the clinician should factor in the extent to which the parent is involved in scholastic activities at home and also in extracurricular activities that may not be school specific.

*Promotion of interpersonal development.* There are several measures available to assess the status of interpersonal development including the Multidimensional Scale of Perceived Social Support (MSPSS, Zimet, Dahlem, Zimet, & Farley, 1988), the Friendship Quality Questionnaire, and the Functional Status Questionnaire (FSQ; Jette et al., 1986). Of note, the MSPSS (Zimet, Dahlem et al., 1988) has been researched specific toward Asian American participants. Using a Chinese equivalent version of the MSPSS (MMSPSS-C) for a sample of Chinese in Hong Kong, Chou (2000) found that, while it had mild to moderate construct validity with the Luben social network scale (0.41 for the Family Support factor and 0.25 for a combined factor of friends and significant others), there were two factors rather than three with the category of Friends and Significant others being combined into a single category. Based on these findings, the evaluator should be aware that the construct of interpersonal development appears to differ for Asians, with greater weight being placed on the family. Thus, the Asian parent may be more inclined to promote interpersonal development as it relates to the family and this would not necessarily be negative, provided that the child is responding appropriately to a familial emphasis. It is unclear at this time if Asian Americans would exhibit similar differences on the standard MSPSS.

*Promotion of mental health.* Assessment of parental promotion for mental health in children traditionally includes several self-esteem and autonomy measures as well as various parental inventories and functional assessments. As with other measures, there is limited data specific to Asian Americans. It is important however to note that Asians have been noted to not seek out mental health services (Yeh & Yeh, 2002). Currently, it is unknown whether or not this generalizes to seeking services for their children. Therefore the clinician may wish to assess the extent to which the parent seeks services for their child when needed as well as promotes positive mental health through encouraging self-esteem, engagement in positive activities, etc.

*Promotion of community involvement.* Research on the promotion of community involvement among Asian American families is largely absent. Nonetheless, given the emphasis the Asian culture places on the community (given the collectivistic nature of the culture; Yee, Huang, & Lew, 1998) it is reasonable to hypothesize that Asian parents will promote involvement in the community. The specifics of what constitutes community may be somewhat culturally dependent and could include religious involvement, involvement with the extended family, and perhaps the Asian cultural community (although as previously discussed, lesser importance is placed on friends and significant others; Chou, 2000). Thus, while community involvement may extend to traditional institutions like religion, for Asian Americans, the clinician should be aware that it may not include other Westernized constructs of community (e.g., social clubs).

*Effective co-parenting.* The Parenting Alliance Measure (PAM; Abidin & Konold, 1999) is a 20-item self-report measure developed to identify perceived alliance between parents of children less than 19 years of age. The total score for the measure is indicative of the degree to which parents see themselves to be part of a cooperative relationship when caring for their children. There are no specific investigations of the PAM, but

both the initial normative sample and a subsequent follow-up factor analysis by the original authors (Konold & Abidin, 2001) included a small sample of Asian Americans (1.2 % of the overall sample;  $n = 1224$ ). The authors did not make note of findings for ethnic or racial differences on the identified factors or total score. Given the limited available data specific to Asian Americans for this measure, it is unclear if this is a valid or reliable measure for Asian American parents. Thus, if administered the results should be evaluated against collateral information from teachers or other outside sources. The clinician should be mindful of a traditional desire to maintain social appearances and conformity and to minimize an appearance of disagreement (Yee et al., 1998; Yeh & Yeh, 2002). It may be more helpful to provide specific vignettes to assess for how each parent would resolve the conflict, and to do so with each parent independently.

### **Egregious Factors**

*Parent-child relationship.* Assessment of the parent-child relationship can be accomplished through observation and the collection of information from collateral contacts, but there are specific measures designed to provide an objective evaluation of this component of the child custody evaluation. These measures include the Parental Stress Inventory (PSI), The Parent Child Relationship Inventory (PCRI; Gerard, 1994), and to a lesser extent, the Child Abuse Potential Inventory (CAPI; Milner, 1989). This latter measure is a 160-item self-report tool devised for the detection of child physical abuse. This instrument contains ten scales (seven clinical), with the primary scale being the Abuse scale. There are three validity scales to identify lying, random responding, and inconsistency in responding. While previous research has found no difference for the prediction of abuse among ethnic groups, this comparison did not include Asian American participants in the sample (Medora, Wilson, & Larson, 2001). The evaluator may wish to explore any elevations that suggest abuse, as well as attain any information to reported cases of abuse, whether founded or unfounded to

either rule out maladaptive parental stress responses or identify them.

*Parenting skills.* As seen in other domains of child custody evaluation, objective self-report measures consider things like parenting style, expectation comparisons between parents and children and styles of discipline, as well as various other domains to identify potential deficits that would result in suboptimal or ineffective parenting. These measures include the Parental Authority Questionnaire (PAQ; Buri, 1991), the Parent Behavior Checklist (PBC; Fox, 1994), and the Parenting Sense of Competence Scale (PSOC; Gibaud-Wallson & Wandersman, 1978). These measures are all self-report measures that assess the aforementioned aspects of parenting and to our knowledge there is no research specific to Asian Americans. However, similar to the assessment of promotion for personal development and mental health, the culture of Asian Americans is one of identification with the group rather than the individual (Yee et al., 1998). Thus, self-esteem and self-confidence may be less valuable than conforming to the group and adhering to social norms, and what might be considered clinically relevant for the dominant culture may not be indicative of maladaptive parenting in Asian American parents. Here again, the clinician must be careful to not over-interpret parental views or beliefs that support a deference of children to parents and a strong hierarchical structure where children are not encouraged to engage in autonomous behavior, as these are considered culturally appropriate for many Asian American cultures (Yee et al., 1998). Thus the absence of such a belief system is a benefit to the child, but the presence of this hierarchical and authoritative structure is not necessarily an egregious factor.

*Environmental instability.* A specific tool designed to assess a child's environment is the Home Observation for the Measurement of the Environment (HOME; Caldwell & Bradley, 1984; Caldwell & Bradley, 2003). This tool is a measure of the number and quality of environmental interactions for a child and their family. This assessment is adapted in four different age brackets and

also is available in a short form (HOME-SF) as well as for assessment of alternate care settings, such as with a family member as well as for children with disabilities. A primary benefit of this measure is that it can be administered in a single visit. As research on Asian Americans is lacking, with the exception of dangerous or blatant neglect (such as lack of shelter, food, clothing, or serious bodily injury) identification of deficiencies here should be used to make recommendations for improving the child's environment rather than as a determination of custody.

*Interparental conflict.* The fact that a custody evaluation is being conducted indicates that parental conflict is present. The goal for evaluation of interparental conflict within the context of a custody evaluation is to identify parental conflict that is excessive and possibly harmful to the child. To this end, two measures are frequently utilized to measure parental conflict.

The Multidimensional Assessment of Interparental Conflict (MAIC; Tschann, Flores, Pasch, & Marin, 2002) is a parent self-report measure designed to assess parental conflict in six dimensions (including frequency, intensity, child-related content, child involvement, and resolution) whereas the Children's Perception of Interparental Conflict Scale (CPIC; Grych, Seid, & Fincham, 1992) assesses the child's impression of their parents' conflict utilizing a 51-item true-false questionnaire. A review of the literature yielded few studies that included Asian Americans (usually reported as 1 % or less), and no studies that offered culture or ethnic specific recommendations. Despite the absence of normative data on these measures, it remains of utmost importance that egregious factors be thoroughly assessed as they are the most likely to cause harm to the child. Therefore, the evaluator should assess for interparental conflict, note the limited availability of the normative data for these measures, and use collateral contacts to either support or refute findings.

*Parental mental health.* There are a number of chapters devoted to clinical assessment of Axis I and Axis II disorders, and those specific assessments will not be discussed here. However, the

presence of mental illness in a parent directly and negatively correlates with their ability to provide appropriate parenting. Of primary concern for this domain are the under-endorsement and the atypical presentation of mental health symptoms for Asian Americans (Wu & Chang, 2008; Yeung et al., 2002). Here too, the level of acculturation is an important consideration when evaluating the presence of a mental illness or personality disorder (Cuéllar & Paniagua, 2000; Stevens, Kwan, & Graybill, 1993; Tsai & Pike, 2000). If mental illness is suspected, the clinician may wish to use a structured or semi-structured interview, which is discussed in Chap. 8, to allow for additional probing rather than relying on objective assessment for these symptoms.

## Summary and Recommendations for Child Custody Evaluations

Data for measures commonly used for child custody evaluations specific to Asian Americans are largely absent. Given the identifiable differences between Asian Americans and other minority groups as well as differences between Asian American parents and the dominant culture, caution should be used when utilizing these common measures of child custody and collateral contacts should be made to either support or refute findings.

Given the limited amount of data available for the measures, it would be more appropriate to discuss potential considerations for the aforementioned attitudes and behaviors rather than the specific measures. Thus, when considering promotive factors for Asian American parents, an evaluator should be cognizant that the following may be characteristic of Asian American parents: authoritative parenting; low levels of school involvement but substantial assistance with school activities at home (e.g., assistance with homework); a preference for religious activities over school activities; and a greater encouragement for acculturation (so long as there is a maintenance of respect for the culture of origin). While one would expect salient measures of impairment (such as mental retardation, severely disordered personality, and low SES) to remain as markers for poor

outcomes, the less overt markers such as parental attitudes, community involvement and school involvement, as well as differential reporting of symptoms of mental illness, require further investigation and collateral support in making a determination or providing an opinion for custody. This can be accomplished by including more probative questions during interviews, as well as measures of acculturation and structured or semi-structured interviews for assessing mental illness and disorders of personality. Clinicians should always note the limited availability of the normative data for the measures administered, and use collateral contacts to either support or refute findings.

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## **Criminal Competency**

While mental health professionals are often asked to provide evaluations of competency, this construct is a legal one that is occasionally defined in statute and is ultimately determined by the court. The court often follows the recommendations made by the mental health professional; the expert mental health professional provides a discussion regarding an individual's capacity for a specific legal construct (Grisso, 2003; Melton, Petrila, Poythress, & Slobogin, 2007). This is because individuals are assumed to be competent unless the court determines otherwise. Additionally, the construct of competency is not all encompassing. This means that a finding of incompetence for one domain does not mean the individual can be considered incompetent for other domains. In fact, individual states have begun to delineate the various competencies in statute. The fact that competency is a legal construct also means that there is even less consistency for the psychological construct definition than we traditionally find for other psychological constructs. Instead the guiding principle for defining the construct is based upon the legal definition of competency for the state or municipality within which it is being conducted and relevant case law (Grisso, 2003; Melton et al., 2007; Roesch, Zapf, Golding, & Skeem, 1999).

Further, with regard to cultural considerations, there is a great deal of variability among the

sociopolitical systems within which the Asian American cultures originate. Not all of these cultures function within a legal system that is both adversarial or one that assumes innocence to which the western U.S. culture ascribes. Thus, while there are a wide range of competency-related abilities where an assessment could be requested (for an expansive listing and description see Melton et al., 2007), few assessments exist to measure all possible iterations for this expanding scope of competencies, and all necessarily measure only the U.S. constructs of competency. Because all of these measures lack research specific for Asian Americans, they are summarized here as to the general process of administration and an identification of the unique components of each.

## **Measures of Criminal Competency**

There are several measures available for the assessment of criminal competency, and each attempts to yield some semblance of an objective evaluation for the construct of competency. Adaptations have been made for use with unique populations such as individuals with mental retardation. However, there is negligible research available that is specific to the assessment of criminal competency for Asian American populations. As stated at the outset, what little information exists comes in the form of individuals who identify as Asian American in the normative sample of the respective measures or in the various participant samples of experimental paradigms for these measures that make no indication of differences specific to Asian American participants. In fact, when one embarks on a literature search using the term "Asian American assessment of criminal competency" several thousand items are identified, and while this initially may elicit hope, a cursory glance is enough to show that there is less than a handful that actually specifically discuss Asian Americans as a specific group of interest. Finally, because of the high stakes of forensic assessment, in particular criminal competency, a more conservative approach is warranted. While competency measures attempt

to standardize the process and create an actuarial rather than subjective evaluation of competency, Grisso (2003) reminded us that these measures serve as a part of the process and not the determinate criteria for evaluating competency. In other words, the forensic domain is as stringent as other mental health settings (and some argue it is necessarily more stringent; APA, 2012; Grisso, 2003; Melton et al., 2007) and we would not diagnose an individual with schizophrenia or bipolar disorder based on responses to a single measure. Therefore we should not expect to do so for psycho-legal constructs like capacity, competency, or criminal responsibility. Finally, the measures of competency generally utilize some form of interview, or in the case of the CAST-MR for mental retardation, a combination of multiple-choice responses, and open-ended questions. Due to the lack of extant literature for specific data related to Asian Americans these tools are merely listed here and include the following:

- MacArthur Competency Assessment Tool—Criminal Adjudication (MacCAT-CA; Poythress et al., 1999)
- Evaluation of Competency to Stand Trial—Revised (ECST-R; Rogers, Tillbrook, & Sewell, 2004)
- Competency to Stand Trial Assessment Instrument (CSTAI; McGary, 1973)
- Georgia Court Competency Test (GCCT; Wildman et al., 1978)
- Fitness Interview Test—Revised (FIT-R; Roesch, Zapf, & Eaves, 2006)
- Competence Assessment for Standing Trial for Defendants with Mental Retardation (CAST-MR; Everington & Luckasson, 1992)

*Recommendations for criminal competency.* The measures listed above are those that are commonly used in practice (Archer, Buffington-Vollum, Stredny, & Handel, 2006), but there is little extant literature that discusses cultural or ethnic considerations specific to these measures for Asian Americans. Thus, consistent with recommendations in other domains with limited representative normative data, it is suggested that each step of the process incorporate cultural considerations including test selection, administra-

tion in the client's primary or preferred language, and that obtaining appropriate collateral information. We emphasize that it is important to acquire not just quantitative information (such as years of education or occupational attainment) but also qualitative information (such as level of acculturation and community participation) in an effort to either support or refute a finding (Hicks, 2004; Wong & Fujii, 2004). Thus, for highly educated and well-accultured Asian Americans, existing standardized assessments, such as the MacCAT, FIT-R, CAST-MR, etc., would be appropriate for assessing competency. However, for lesser-accultured Asian Americans with limited linguistic abilities, one could attempt to utilize an interpreter, but may have to rely more on assessment of related domains, such as IQ and functional abilities. Finally, and most importantly, especially in light of the lack of research for Asian Americans on measures of criminal competency, the evaluator has an ethical obligation to include a discussion of these limitations in their findings.

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## Capacity

Forensic assessment in civil litigation includes a spectrum of domains. It can be a singular ability including capacity to consent to research; engage in contracts or make wills; to make treatment-related decisions, parent, etc. However, assessments in the civil litigation can also require an assessor to recommend a broader denial of civil rights (including institutionalization) based on a more general appraisal of dangerousness and/or grave disability (Grisso, 2003; Melton et al., 2007). The majority of these assessments all share common domains that consist primarily of an appraisal of intellectual/cognitive abilities, mental health, and personality with some measure of functional performance for the specific domain of interest (Grisso, 2003). The comprehensive capacity evaluation, similar to a competency evaluation, also includes a psychosocial history. For example, a testamentary capacity evaluation would likely include intellectual assessment to include a brief or full intellectual

capacity evaluation, an achievement measure, and a functional assessment of the constructs of testamentary knowledge. Melton and colleagues (2007) suggested that to assess testamentary knowledge, interview questions that relate to the individual's knowledge of the reason for a will; what constitutes property; the consequences of distributing property (e.g., will others have use of an object or to what extent will the inheritance of an object impact an individual); and those who may or should expect an inheritance (e.g., an assessment of why or why not an individual was included in the will, such as a significant caretaking role or close familial relationship) should be included.

The assessment of a domain like intellect may involve simply a mental status evaluation to screen for sensory and cognitive deficits before moving on to the domain of interest, or it could consist of a formal assessment of IQ (for considerations specific to the assessment of IQ) and/or specific assessment of mental health symptoms (e.g., a semi-structured interview like the SCID). The principles of forensic assessment of capacity differ from competency primarily based upon the functional domain (e.g., parenting skills for parental capacity, financial or contract-related functional abilities as they relate to testamentary capacity). Given the level of specificity in this domain there is even less empirical information specific to assessment of the individual capacities for Asian Americans, and the scope of the discussion for how to construct an assessment for these various capacities is beyond the bounds of a single chapter. Thus, it is recommended that for assessments of specific capacities for Asian Americans, one refer to a forensic assessment text (such as that of Melton et al., 2007), and utilize the recommendations for cultural adaptations discussed in the relevant chapters of this text (for example referring to the chapter on structured or semi-structured interviews when an interview is included as part of the assessment).

A key consideration when conducting an assessment of capacity is the atypical presentation for symptoms of mental illness (discussed elsewhere in this chapter as well as specific chapters in this text; for example a greater endorsement for

somatic symptoms of anxiety; Gordon & Teachman, 2008) as well as the general desire for social conformity. Thus, for Asian Americans, there tends to be a general lack of acknowledgment for socially atypical thoughts or behaviors like symptoms of mental illness as well as a general deference to authority (Yeh & Yeh, 2002).

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## Mental Injury

Civil litigation for mental injury differs from the criminal aspects of competency, criminal responsibility, and risk assessments. It is distinct because the individual who is being assessed is seeking compensation for a mental or cognitive disorder that they believe was incurred as the result of the action(s) of another. This means that the evaluator is tasked with identifying the injury, the etiology of the injury, the severity of the injury, and the prognosis for the injury. These are all necessary components in a civil tort related to *Extreme Emotional Distress* (EED), a legal construct. The challenge for the evaluator is reconciling a historically difficult task of quantifying psychological constructs with the legal constructs necessary for civil litigation related to EED.

## General Legal Construct for Mental Injury

While allegations of mental injury are addressed in the civil courts, the case can arise out of occurrences from both civil and criminal incidents. For example, Posttraumatic Stress Disorder (PTSD) can result from a near drowning in an unsupervised swimming pool (civil), as well as from an attempted homicide or sexual assault (criminal). These examples also illustrate a further delineation between negligence (simply not covering your pool) and intentional infliction (assault). Civil tort law is again a setting where traditional constructs of psychological assessment must be applied to forensic constructs that are not always convergent (Gerbas, 2004); in order to win a case for mental injury, the injured party must demonstrate that the defendant engaged in behavior that



was so extreme or outrageous it led to the mental injury. Thus sticking with our example, demonstrating that it would be outrageous (perhaps because your HOA has rules that require a pool cover or perhaps ordinances that dictate a pool cover, that leaving your pool uncovered was extreme or outrageous behavior). The forensic psychologist must, for this referral question, find a means to find concordance for psychological constructs of mental illness and legal constructs such as extreme (which at least allows for some statistical interpretation based on a normal distribution curve) and outrageous as well as the all-important constructs of clinically significant with the preponderance of the evidence. Specifically, psychologists can be of help in defining the nature of the injury, liability, nonfinancial loss, past financial losses, future fiscal losses, future financial costs, and mental capacity and also in explaining how the person has been affected by the injury (Benuto, Leany, & Cirlugea, 2013).

### **Normative Standard vs. Self-Standard**

Typically two types of comparisons can be made when assessing for damages as they relate to personal injury—the normative standard and the self-standard (Lanham & Misukanis, 1999). Lanham and Misukanis discussed how when using the normative standard of comparison a client's test scores are compared to the scores of a group of people with similar demographic factors. The goal of the normative standard is to examine the client's functioning as it relates to a normative group. Conversely with the self-standard of comparison, the client's post-injury performance is assessed relative to their pre-injury functioning. To utilize the self-standard of comparison, a record review should be conducted including reviewing mental health records, medical records, work and school records, etc. (Witt & Weitz, 2007).

Using the self-standard of comparison could be useful with Asian American clients as it makes use of the client's "baseline" functioning prior to the injury. Thus, despite that Asian clients have been documented to underreport symptoms (Yeh

& Yeh, 2002) or to endorse more somatic complaints (Gordon & Teachman, 2008), with the self-standard this would be somewhat irrelevant as the evaluator would be looking at changes from pre- to post-injury. Conversely the normative standard does call for some additional culture-specific caveats.

There are no standard measures for the assessment of mental injury. However, these injuries typically result from both physical and mental stimuli and can include, but are not limited to, generally anxiety-based disorders, mood disorders, traumatic brain injury (TBI), and adjustment disorders (Melton et al., 2007). With regard to these and the normative self-standard it is important that the evaluator keep in mind that Asian Americans may endorse more somatic complaints rather than cognitive ones (Gordon & Teachman, 2008); many of the Asian cultures have specific anxiety disorders that some argue are a culture-specific presentation of an anxiety disorder that could be diagnosed within a Westernized taxonomy (Hinton et al., 2001; Lin, 1983). Consistent with this, Asian Americans report a lower prevalence of actual anxiety disorders (Asnaani, Richey, Dimaite, Hinton, & Hofmans, 2010) and depression (Takeuchi et al., 1998; Takeuchi, Hong, Gile, & Alegría, 2007) than the general U.S. population and may be more likely to endorse somatic complaints (Mak & Zane, 2004). Put simply, if an Asian client presents with a personal injury it is important to keep in mind that their injury may indeed be substantial even when resulting symptomology is not extraordinarily high as the baseline for Asian Americans and the display of symptomology is lower than that of the general population.

### **Summary of Mental Injury Assessment**

Because the specific assessments of the constructs that are typically assessed in a personal injury evaluation (e.g., neuropsychological insult, anxiety, depression) are discussed extensively elsewhere in this text, specific measures were not discussed here. Nonetheless, there are concrete

cultural considerations that should be made when assessing mental injury for Asian Americans. First, there are a number of traditional measures that can objectively quantify the possible mental disorders resulting from EED including various measures of depression and anxiety. There are two standards for assessing for damages as they relate to personal injury—the normative standard and the self-standard (Lanham & Misukanis, 1999). While the latter compares the client's post-injury status to pre-injury status (calling for less cultural accommodations), when using the normative standard the evaluator should keep in mind norms that are specific to the Asian population. Lastly, the use of collateral contacts with the measures discussed in the chapters on anxiety, depression, and neuropsychological assessment can be effectively used to determine the emotional impact of an injury on the Asian client.

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## Summary

The paradox between the high stakes nature of forensic assessment and the relative dearth of information specific to forensic assessment of Asian Americans is an issue. There is clearly greater information available for discreet components of the overall assessment. For example, there is a good deal of research specific to Asian Americans, related to intellectual and cognitive assessment as well as specific mental health constructs like PTSD and depression. However there is less (or no) empirical data for the more consequential constructs of competency, criminal responsibility, and risk assessment.

Hicks (2004) provided a review of the responsibilities of a forensic evaluator with regard to cultural competency and makes recommendations that specifically address the importance and weight of an expert's testimony in the courtroom, as well as highlights areas of bias. These recommendations are not specific to Asian Americans, but should be reviewed by any evaluator working with nondominant culture populations. Hicks (2004) provided sound recommendations specific to the forensic setting that mirror recommendations for

other domains such as general clinical practice and neuropsychological assessment that are specifically aimed at providing services to Asian Americans (Wong & Fujii, 2004). These include providing services either bilingually or in the preferred language of the individual being assessed, using assessments that have been appropriately validated with the specific population being assessed, as well as the seeking of consultation and frank, open identification and discussion of possible biases with other professionals. Finally, many of the above sections include a discussion of the familial and cultural values for Asian American families that are inconsistent with those of Western cultures. Consideration of acculturation and those specific cultural attitudes toward parenting, extra-familial relationships, and mental health must be considered and discussed in forensic evaluations.

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