

Clinical Evaluation for Juveniles' Competence

A Guide for Judges and Lawyers

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Bringing Research to Policy and Practice

Improving Practice for Evaluations of Juveniles' Adjudicative Competence

- National Juvenile Court Clinician Survey of Practice (2001-02)
- Guidelines for Juvenile Competence to Stand Trial Evaluations (2002-04)
- Teaching the Guidelines: Nationwide Regional Workshops for Juvenile Court Clinicians (2005)

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The National Juvenile Court Clinician Survey

Lead clinicians in 87 of the largest juvenile courts

Interviewed to learn about:

How services were provided, by whom

Current juvenile CST evaluation practices

What needs they had for doing these evaluations

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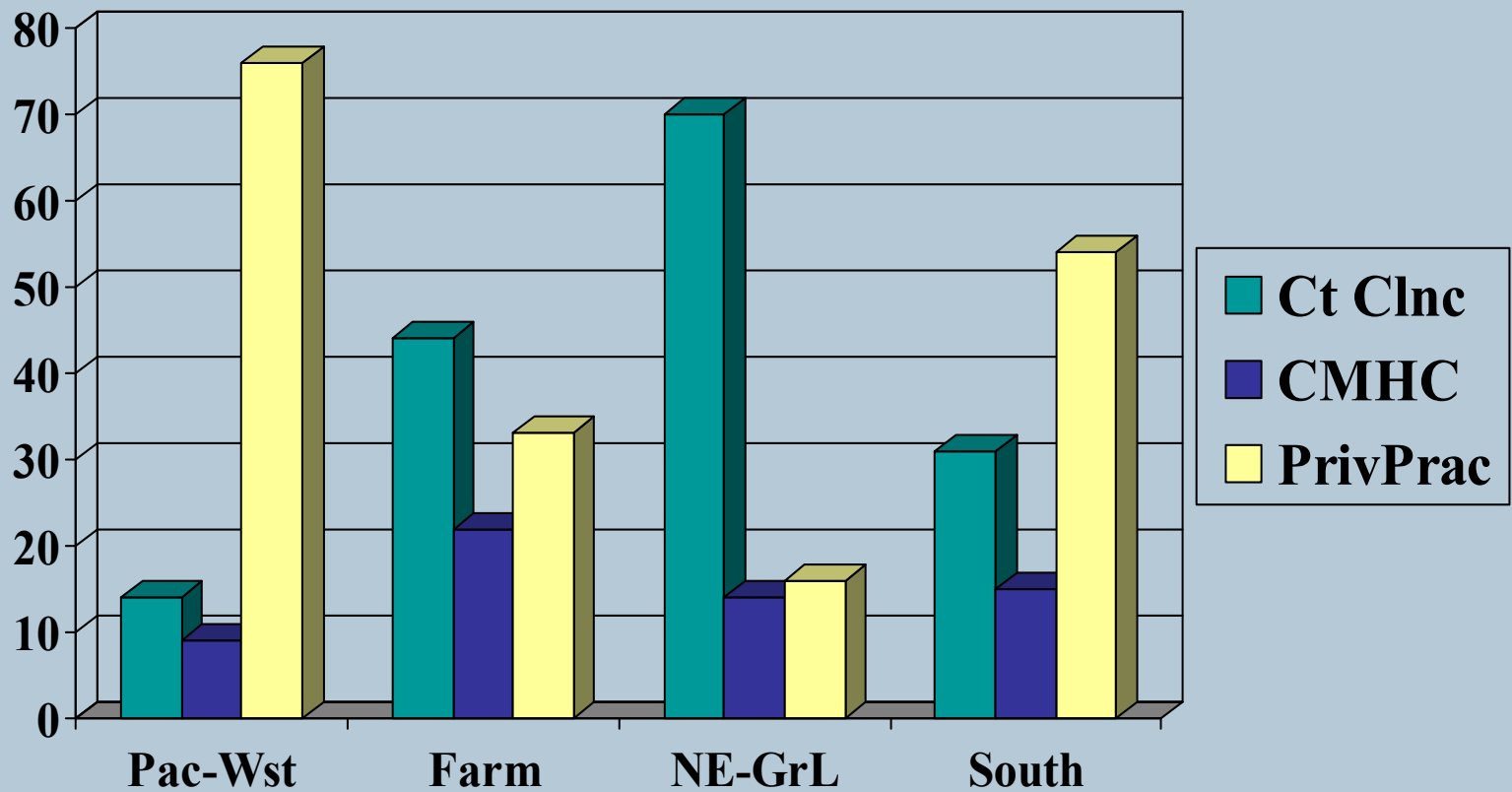
Types of Service Arrangements

- **Court Clinics**
- **Community Mental Health Clinics**
- **Private Practitioners**

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Percent of Cities Using Models By Region of U.S.

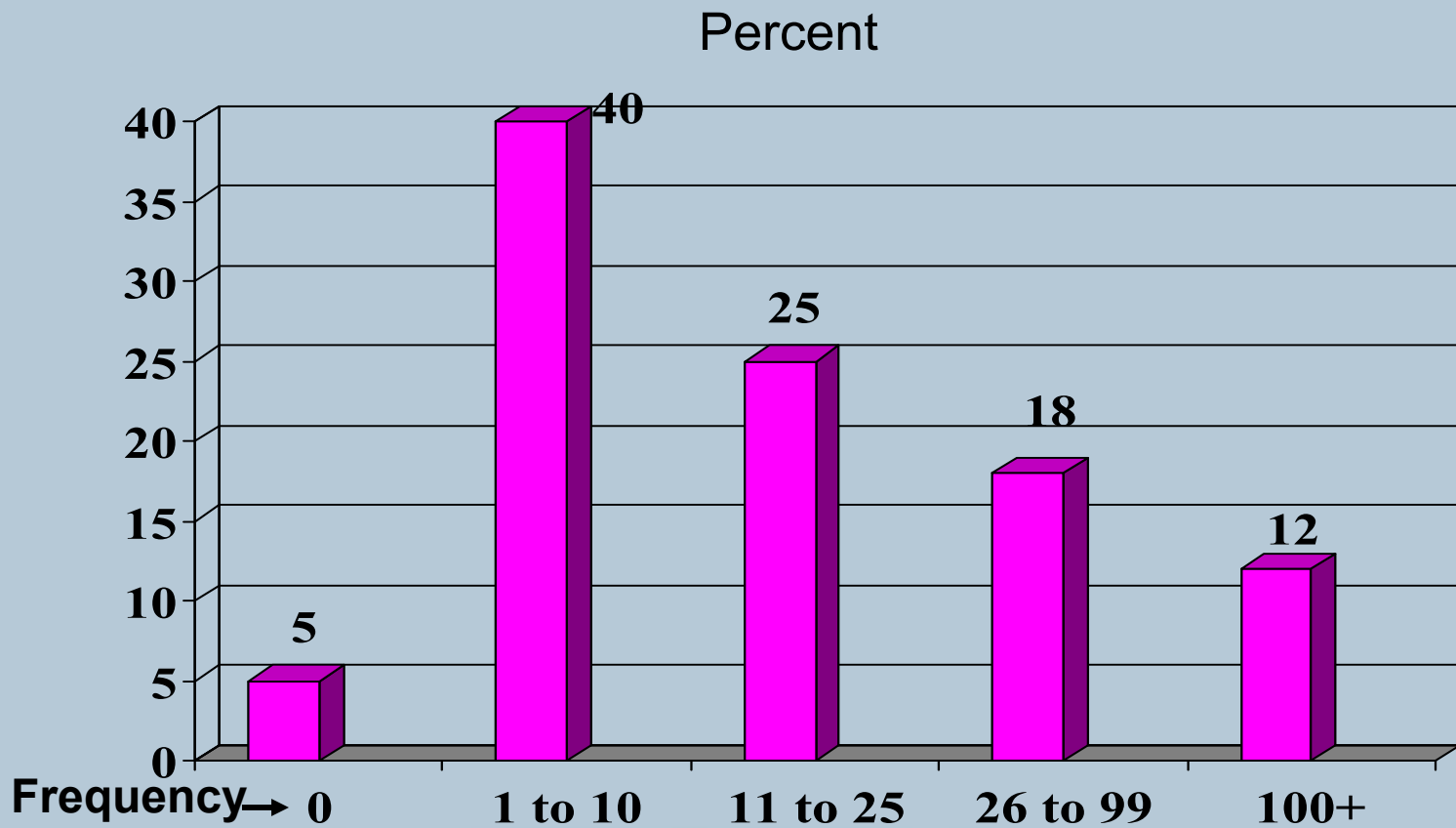


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Frequency of raising the question

Frequency of referrals for JCST evaluations
in 2003, in 87 of 100 largest juvenile courts

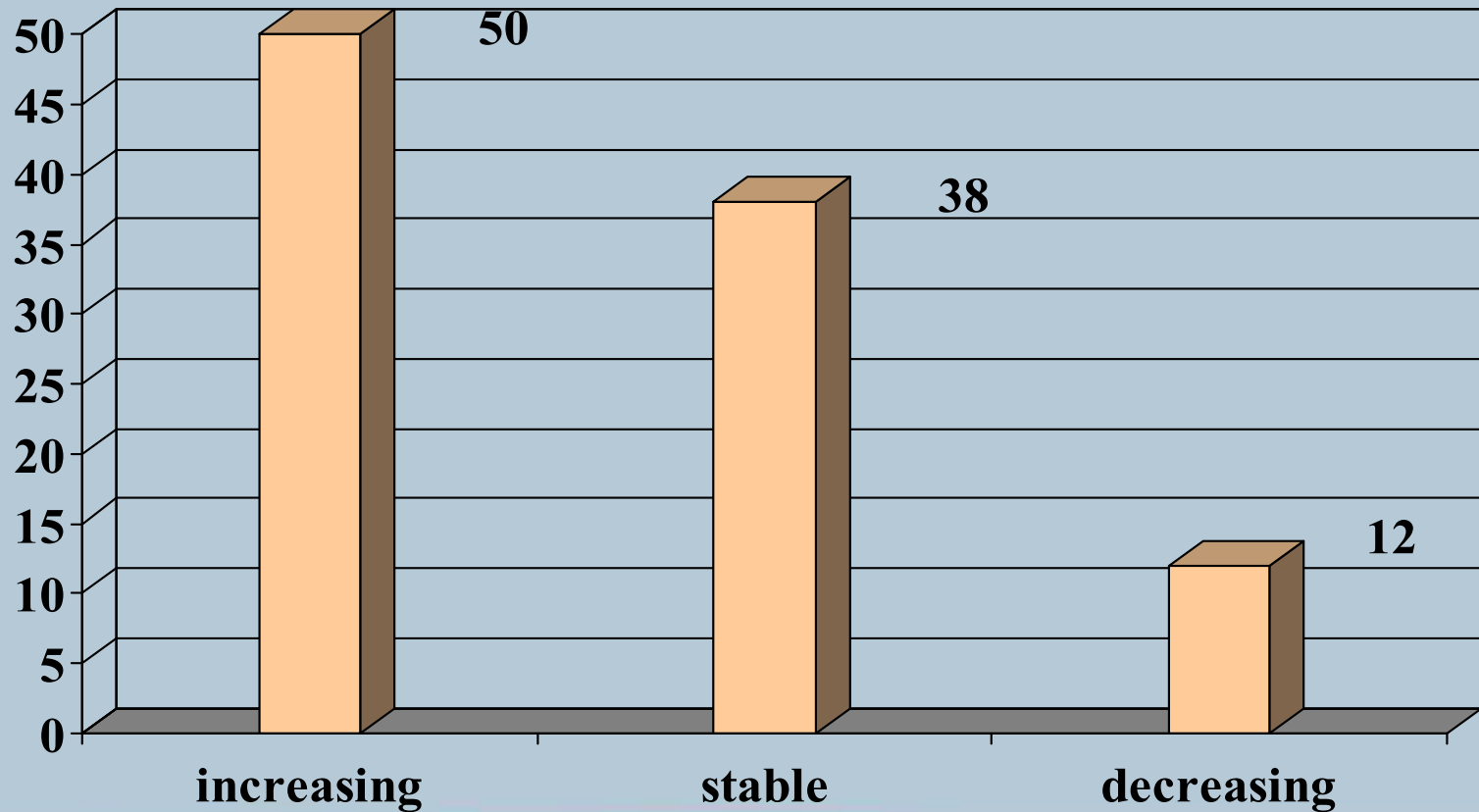


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**Survey of clinical services, 2003, 87 of 100
largest juvenile jurisdictions in U.S.
J-CST referral trend compared to previous year**

(percent of JCC services)

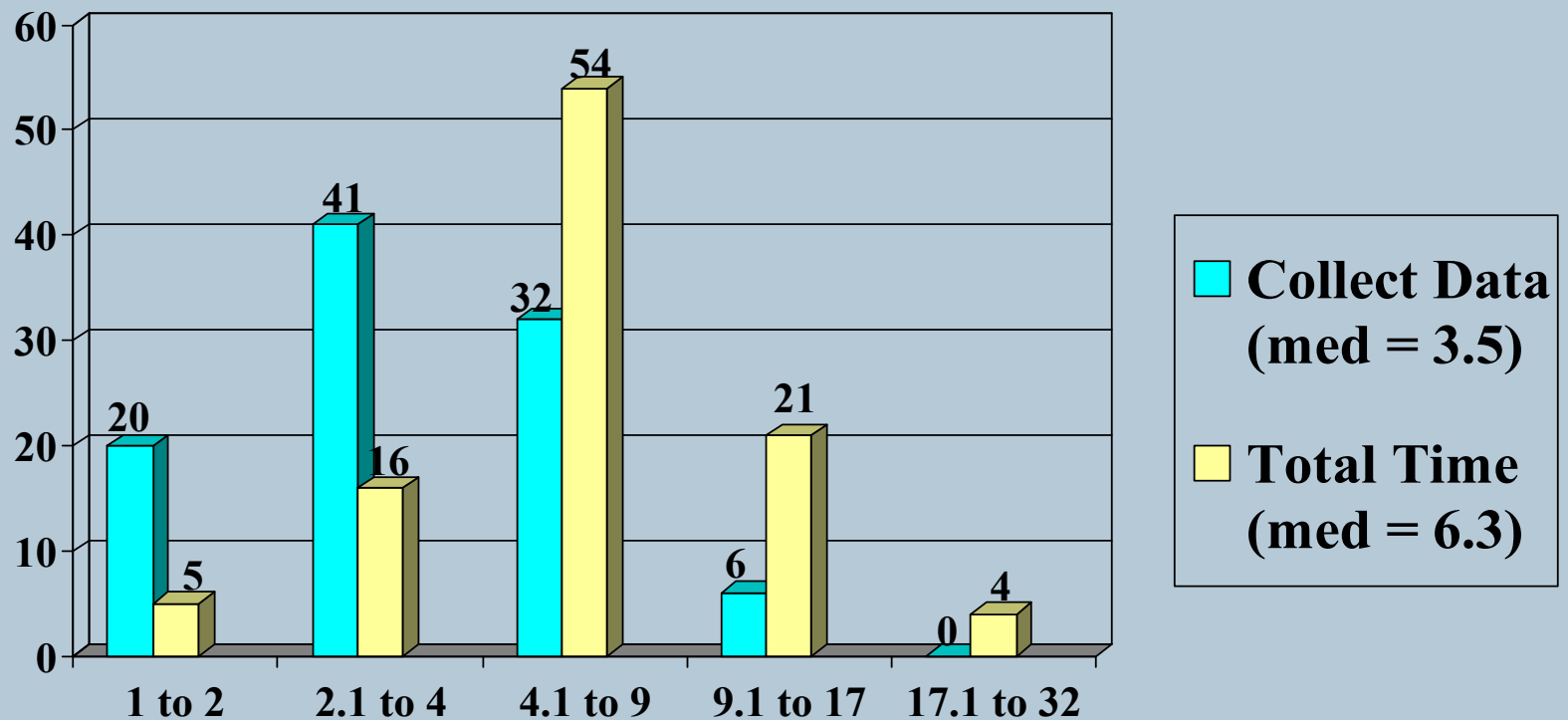


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The JCC Survey: Hours Spent on Average J-CST Evaluation

(percent of courts surveyed)



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Developing a Guide for Juvenile Competency Evaluations

Developing consensus on recommended practices

and

Producing tools to promote them

Teaching them to juvenile court clinicians nationwide

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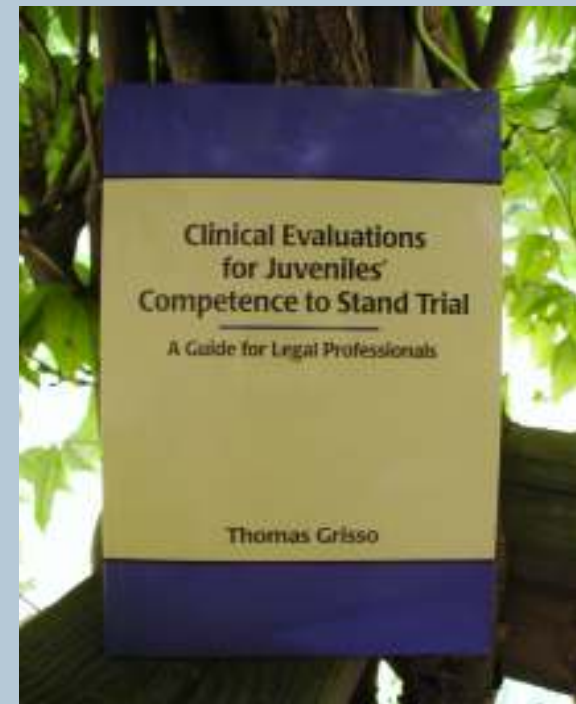
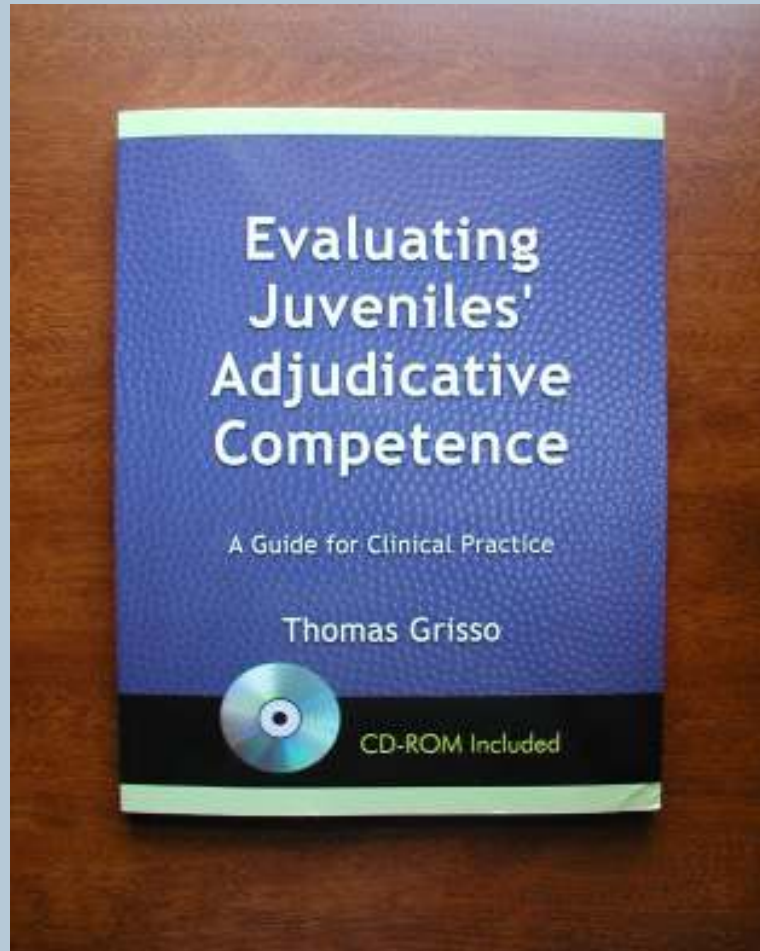
Consensus Process

- **Expert juvenile court clinician panel**
 - Developed the prototype concepts and methods
- **National panels of clinicians and legal professionals (judges, prosecutors, defenders)**
 - Developed consensus on practical application of the concepts and methods
- **Piloting, feedback to the panels, refinement**

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The Guides



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Contents of the Guide

- **Legal, Forensic, and Developmental Concepts for J-CST Evaluations**
- **Preparation for the Evaluation**
 - Referral—Determining, scope and methods
 - The Defense Attorney—Making contact
 - The Caretakers—Making contact and invitations
 - Records, interviews and testing

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The Guide (cont'd)

- **The Data Collection Process**
 - Preparing the youth and caretakers
 - Obtaining a developmental and clinical history
 - Evaluating developmental and clinical status
 - Assessing competency abilities
 - Exploring caretakers' perceptions of youth's adjudication

The Guide (cont'd)

- **Interpretation of Data**
 - Formulating opinions related to competency
 - Formulating remediation
 - Writing the report
- **Appendices (reproduced in the guide's CD)**
 - The Clinicians' Records Form
 - The Interview Guides
 - The "Juvenile Adjudicative Competence Interview" (JACI)
 - The "Attorney CST Questionnaire"

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Recommended Content of Juvenile Competence Evaluations

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What Juvenile Competence Evaluations Ought to Provide Courts When Describing Youths

- **The youth's psychological status**
 - Clinical and developmental characteristics
- **What the youth can and cannot do**
 - Legal competency abilities and deficits
- **Why the youth has deficits in abilities**
 - Causes of deficits in legal competency abilities
- **What can be done**
 - Potentials to remediate incompetence

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The Youth's Psychological Characteristics

- **Clinical conditions**
 - Mental illness
 - Mental retardation
- **Developmental conditions**
 - Degree of maturity of cognitive abilities
 - Degree of maturity of social-emotional capacities relevant for CST

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What The Youth Can and Cannot Do

- **Legally relevant abilities for trial participation**
- **The legal standard for CST**

A defendant must have:

...sufficient present ability to consult with his attorney with a reasonable degree of rational understanding...

...and a rational as well as factual understanding of the proceedings against him
(Dusky v. U.S, 1960)

- **The relevance of decision making capacities**

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Capacity for factual and rational understanding of...

- Nature of the Trial Process
- Accused of a crime
- Court will decide guilt
- Could be punished
- What possible sentences are
- Meaning of possible pleas
- Roles and functions of trial participants
- What trial process involves (“trial process” is pretrial preparation and events through trial)

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Ability to assist counsel....

- Capable of comprehending counsel's inquiries
- Capable of responding to counsel inquiry and providing relevant information
- Can handle the demands of trial process (won't decompensate under stress, demeanor won't jeopardize fairness, can testify relevantly)

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Decisional ability...

- Able to make decisions based on rational beliefs and perceptions
- Able to process/weigh information

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Why Youth Has Deficits in Legally-relevant Abilities (if deficits exist)

- **Is there a connection between their clinical/developmental status and their deficits in legal competency abilities**
- **Or are they due to other factors...e.g.**
 - lack of exposure to what they need to know
 - malingering

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Potential for Remediation

- Can the deficits be remediated?
- If so, in the time allowed?
- With what methods?

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Guidelines for Performing Juvenile Competence Evaluations

10 ways in which doing competence evaluations with juveniles require different methods than with adults

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#1 - Developmental child expertise of the examiner

- **Examiners of J-CST evaluations should be specialized in:**
 - The diagnosis of children's mental disorders
 - The assessment of youths' developmental capacities

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#2 - Developmental concepts to guide the logic

- **Defining “immaturity”**
 - **Immaturity is a relative term**

“Immature compared to whom?”
Adults? Average adolescent? Own age peers?
 - **Age is not synonymous with developmental level**

Do not presume level of maturity based on age
 - **Maturation is not all-or-none**

Always identify the specific developmental ability
or characteristics in question

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#2 - Developmental concepts to guide the logic (cont'd)

- **Biological Development**
- **Intellectual Development**
- **Psychosocial Development**
 - Autonomy
 - Risk Perception
 - Time Perspective
 - Abstract Thinking

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#3 - Both clinical and developmental information

- CST evaluations require defining reasons for deficits in CST abilities
- Traditionally those have been clinical disorders, requiring information about symptoms
- With youths, potential deficits due to immaturity require additional inquiry into cognitive and social development

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#4 - Special importance of historical records of development

- **Examiners should obtain and review, whenever possible, past records from:**
 - School
 - Pediatrician/physician
 - Child Mental Health services provider

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#5 - Involvement of defense attorney

- **Involvement of defense attorneys are important for**
 - Testing specific hypotheses
 - Improving ability to address specific reasons for referral
 - Understanding the attorney's observations that led to the referral
 - Protection of the youth's rights

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#6 - Involvement of caretakers

- **Caretaker involvement recommended**
 - To obtain youth's developmental history
 - Assess caretakers' abilities to assist youth in understanding and decision making
- **Controversy about caretakers**
 - About presuming parents can compensate (legally they cannot waive youth's constitutional rights)
 - About parents' conflicts of interest
 - About parents' emotional capacities

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#7 - Multiple interviews

- **Recommend more than one interview with youths (a few days apart)**
 - Youths' appearance day to day is less stable than adults—"one look" on one day is more likely to be misleading
 - If youths are assisted to understand trials on first interview, second interview allows one to see if they retained it

#8 – Assessing Capacity to Learn

- **Some youths do not understand trial information simply because they have not been exposed to it (rather than being incapable)**
- **Clinicians should “teach” them some of the things they do not know to see if**
 - They have the capacity to learn, or
 - They have developmental problems that interfere with learning

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#9 – Assessing Appreciation

- **With youths, factual understanding is less often the problem than is the ability to use information in making judgments about decisions**
- **Does the youth grasp the significance of what he/she understands for own situation?**
- **Example:**
 - Accurate factual understanding: “Attorney helps the defendant”
 - Inaccurate appreciation: “My attorney can’t help me because I did the offense” or “My attorney will have to tell the judge if I did the offense.” (Defense is only for the innocent.)

#10 – Assessing Judgment in Decision-making

- Many youths may understand “what” a plea agreement is, but have developmental difficulties when making plea “decisions”
- **Examples:**
 - Immature time perspective: Focusing only on short-term rather than long-term consequences
 - Immature peer influences: Focusing only on what peers would say rather than deciding what might be best for oneself

The Juvenile Adjudicative Competence Interview (JACI)

- An interview guide for clinicians
- Provides standardized questions covering trial process, participants, roles, decisions of defendants
- For each question, examines both factual understanding and appreciation

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For example....

Example: Juvenile Adjudicative Competence Interview (JACI)

- **Understanding:**

Before a juvenile court trial, defendants are asked whether they plead “guilty” or “not guilty” to the offense. What does “pleading guilty” mean?

- **Appreciation**

What will happen at court if you plead “guilty”?

What will happen if you plead “not guilty”?

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In Closing

- Juvenile CST evaluations are relatively new
- These evaluations must be performed differently than with adults
- The 'guides' produced by the MacArthur foundation may be seen as a set of emerging principles for J-CST evaluations
- It is important for clinicians to provide judges and lawyers information about youths CST abilities that are developmentally sensitive

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