

PRACTICING CULTURAL HUMILITY

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"Race Matters II: The Impact of Race on Criminal Justice"

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Practicing Cultural Humility
Race Matters II Seminar: The Impact of Race on Criminal Justice
National Association of Criminal Defense Lawyers
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“It’s not always what we don’t know that gets in our way; sometimes it’s what we think we know that keeps us from learning.” ~ Steve Maraboli

Background and History of Cultural Humility

- “Cultural humility” was developed by pediatrician Melanie Tervalon, MD during the 1990s as she founded the Multicultural Curriculum Program at Children’s Hospital in Oakland, CA
- “Cultural humility” was the moniker that described her efforts to train doctors to set aside pre-conceived notions about patients that substituted their own lack of knowledge about the diverse and culturally complex communities and individuals they served
- While the concept was derived while examining and evaluating patient/practitioner relationships, the principles also apply to client/lawyer relationships

FOUR PRINCIPLES

1. Critical self-reflection and life-long learner
2. Client as expert
3. Community-based advocacy
4. Institutional consistency

Critical self-reflection and life-long learner

- Courageously ask yourself:
 - What do I think about this cultural group?
 - How do I know this to be “true”?
 - What are my biases?
 - What are my biases based on?
 - What are the consequences in my relationship with this person, this community, if I act on my biases?
 - What can I learn here? And how?
- Know your own identity and what you’re bringing to the interaction
- In what way are you bringing your identity, power and privilege to the work?

Client as expert—“*Listen as if the speaker is wise.*”

- Avoid the checklist of “cultural traits”
 - Practice curious, respectful inquiry
 - Encourage, rather than obstruct, the telling of the story

- Anticipate multiple cultural identities
- Challenge the power imbalances
 - Individual or community is the teacher/expert on their culture, “isms” and community life
 - Practitioner is the student, a partner and facilitator, with access to resources and knowledge—practitioner should demonstrate humility
 - Determine and negotiate access to resources, knowledge and services in the best interest of the individual
- Can you listen and respectfully inquire in order to determine how best to meet your client where they are?
- Choose to be a servant leader; choose humility

Community-based advocacy

- Respect the priorities as defined by the community
- Build on existing strengths
- Act as effective students of and partners with the community
- Recognize that the community we serve is central to our work
- Ask yourself if you’re really listening. Are you creating the conditions for community voice?
 - **Example:** *Sure, you want to house the homeless. What do people who are homeless say about being housed and how and where and how do you know? Do you create the conditions for that information to be gathered and understood?*

Institutional consistency

- See the community as an expert on what is and what is not important
- Ensure community representation in every opportunity (e.g., hiring, strategic planning, policy development)
- Dialogue with the community and hear their input as expert—in the community’s venue of choice
- Work with the power imbalance by distributing knowledge and decision-making often and freely
- Balance the power imbalance by determining the course of action as a dynamic partner with the community, in the interest of the community being served
- See the institution as rich with resources (holder of the “keys to the kingdom”)
- Institutions need to reflect on questions such as:
 - What is the demographic profile of our staff?
 - Is our staff diverse?
 - Does the institution culture support inclusion and real discussions about difference?
 - Do institutional practices support multicultural goals (e.g., if staff are taught to not use children as translators, does the institution provide real access to translators?)

Dialogue vs. Discussion

Dialogue

To learn
To hear and understand different perspectives
To offer, reflect and inquire
To allow for common ground
To discover and create shared visions
To seek coherence between thought and action

Discussion

To fix
To advocate a single perspective
To sell, persuade or enlist
To succumb to one strong opinion
To prove one's own vision
To decide to act first

Tips for Challenging Oppression and Bias during Dialogue

- Acknowledge that intent does not always equal impact
- Assume best intentions
- Challenge personal assumptions
- Be aware of your own stereotypes
- Be aware of your communication style and the biases you have toward other communication styles
- Speak in "I" statements
- Avoid making generalizations
- State when you are sharing a personal experience versus a perception
- Model non-defensive behavior
- Model cultural humility (e.g., correct stereotypes you make out loud to show that we are always learning)
- Be comfortable with silence
- Ask clarifying questions

Tips to Overcome Defensiveness during Dialogue

- Explore the speaker's feelings of being attacked; acknowledging someone's feelings does not mean that you agree with them or accept blame for them
- Don't accuse
- Help the speaker gain control over their emotions, circumstances or environment
- Use "I" statements in conjunction with positive statements instead of negative statements (e.g., "I sense that this is emotional for you" vs. "You're always so emotional")
- Provide feedback during the dialogue process to help clarify, learn and gently challenge ideas

Cultural Humility in Legal Practice

- Take the Implicit Association Test (IAT)
<https://implicit.harvard.edu/implicit/takeatest.html>
- Slow down, take your time in order to notice your biases; mindfulness meditation helps us become better at noticing our thoughts (biases) and develop the skills needed to not allow those thoughts to take over; science has proven that mindfulness meditation reduces implicit race and age bias
- Review clients' files, collect data—notice whether you're spending less time and resources on certain clients and examine why that's so

- Listen more, talk less during client interviews
- Ask your client open-ended questions (e.g., can you tell me more about that; how did you feel in that moment)
- Visit clients in their homes, their communities
- Conduct client satisfaction surveys
- Review office/agency policies—do they really meet clients' needs
- Incorporate cultural humility principles into attorney and other staff recruitment and hiring practices; ask questions during candidate interviews that probe candidates' cultural humility (e.g., If a client says they wish to have a lawyer who is the same race as them, how do you handle that situation?)

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