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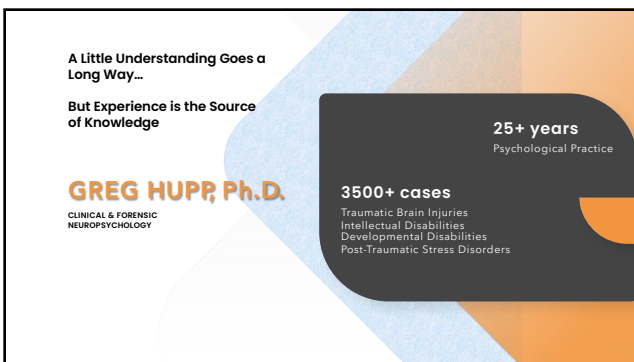
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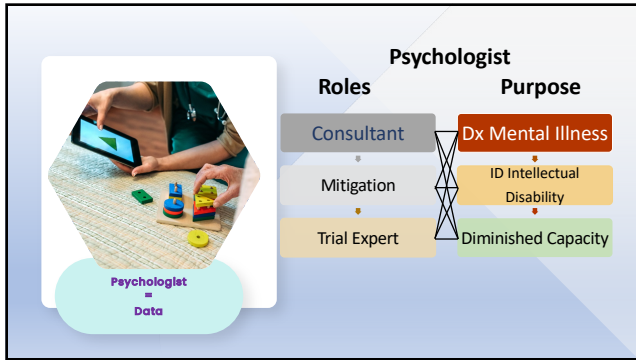
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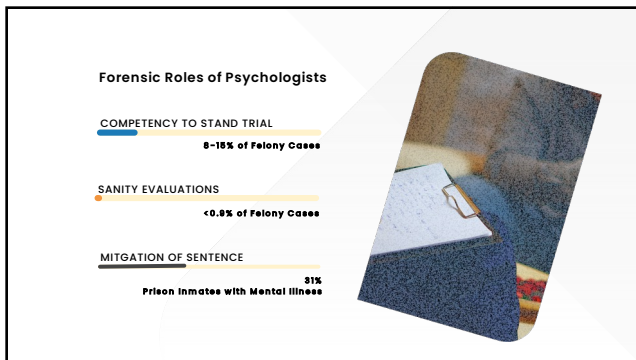
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**Use of Psychological Evaluations in Capital Cases**

**100%**

the defendant has a right to present any information that might be perceived as mitigating

(SCOTUS - Lockett v. Ohio, 1978)

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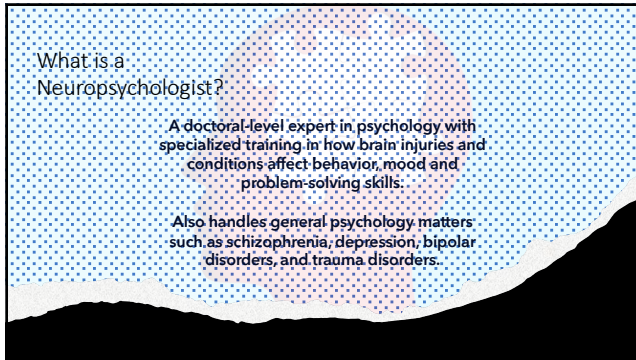
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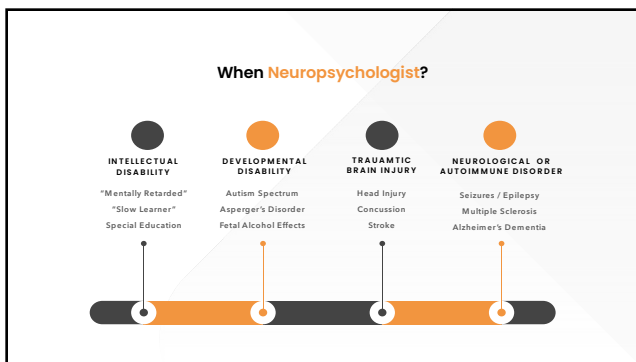
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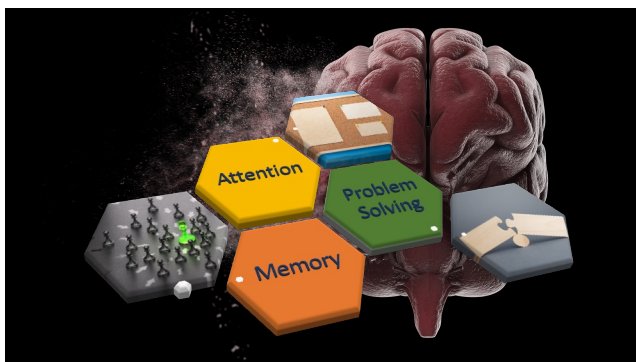
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**Considerations**  
Cases rarely rise and fall on whether a defendant has a mental illness.

Prosecution	Defense
Focus on the Crime	Focus on the Defendant
Defendant's physical capacity	Organic brain disorder Head injuries
Evidence of planning and deliberation	"You want to build a bridge from the mental disorder to the conduct which gave rise to the charged crime." (e.g. diminished capacity)
Other evidence that the defendant knew what he or she did was wrong by society's standards	"You want to prove that the syndrome evidence that you advance explains your client's conduct." (e.g. Post-Traumatic Stress Disorder (PTSD))

The mental infirmity defense or the mitigation evidence is used to provide an explanation for the defendant's behavior.

UNDERSTANDING AND ANTICIPATING MENTAL HEALTH DEFENSES AND DEALING WITH MITIGATION EVIDENCE  
EST McCorn  
First Assistant District Attorney  
Montgomery County, Pennsylvania District Attorney's Office

Criminal Practice Report, Volume 12, No. 11 (6/2/98)

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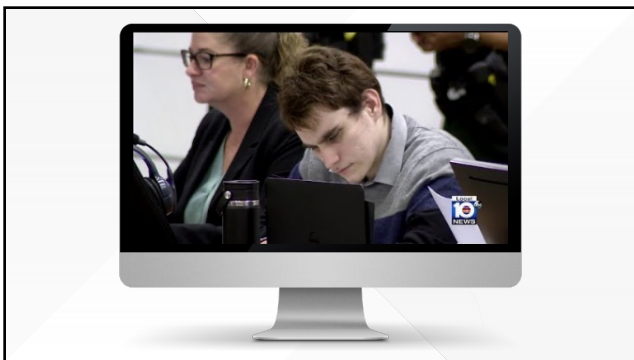
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**Using Your Expert**

- Communicate your concerns about your client upfront
- Talk with your client about why this expert is on your team
- Trust your expert's judgement
- Get discovery to your expert
- Discuss findings verbally before a report is ever written
- Don't hide test results (malingering, feigning, effort testing)
- **You** decide the strategy of the case
- **PREPARE** your expert for testimony



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Questions  
&  
Discussion



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# TAKE CARE OF YOURSELF

**Thank You**



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