



# Intoxication and the NGRI Defense

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# Historical Precedent

- 1857 trial
- Defense argued defendant should not be held responsible for murder because chloroform used during surgery induced insanity
- Prosecutor in the case - Abraham Lincoln

# NGI Standard

- McNaughton vs. ALI
- McNaughton (1843)
  - Scottish woodcutter who killed Sir Robert Peel in attempt to murder prime minister
  - Believed Prime Minister was involved in conspiracy to ruin his personal finances
  - Nine experts testified to support insanity
  - Strict knowledge criteria

# NGRI Standard

- American Law Institute
  - Two pronged test
  - Adds ability to conform conduct to knowledge
- “Lacking substantial capacity to appreciate the wrongfulness of one’s actions or conform conduct to the requirements of the law”
- By statute, must be the product of “mental disease or defect”



# The Role of Intoxication?



# Federal Standard

- In federal courts, voluntary intoxication rules out any use of the insanity defense
- Insanity Defense Reform Act (1984)
  - Primarily felt to be result of Hinckley's attempted assassination attempt of then President Reagan
  - Conformity arm dropped
  - Becomes "Right/Wrong" test and requires presence of "severe" mental defect
  - Voluntary use of alcohol or drugs does not constitute insanity
- Courts have generally not upheld substance induced psychotic symptoms when substance had been taken voluntarily

# Downing vs. Commonwealth

- Murder case
- Defense argued “uncharacteristic aggression” due to a altered mental state as the result of intoxication
- Court ruled even if drunkenness produced temporary insanity it would “afford no excuse”

# Diminished Capacity

- In some cases where standards do not allow for intoxication to result in an NGRI plea regardless of consequences, allowances are made for 'diminished capacity.'

# Potential Scenarios

- Intoxicated - Not NGI
- Intoxicated - NGI
- Substance Abuse Masquerading as Mental Illness
- Alcoholic Blackout
- Delirium (vs. Acute Intoxication)



**Intoxicated, Not NGRI**



# Intoxicated, Not NGI

- United States vs. Knott
  - Knott and accomplice kidnapped several people, raped, stole property
  - Contended schizophrenia plus intoxication caused behavior
  - Convicted and appeal denied
  - Court stated if a person is insane and drinks alcohol, insanity defense is no longer an option

# State v. Wicks

- Court rules “The only time that drugs or alcohol may be successfully used for an insanity defense is when the influence of alcohol or drugs triggers an underlying psychotic disorder”

# Case Example

- Personal History
  - 30 year old Caucasian man
  - Raised primarily by mother
  - Attended school until tenth grade, dropped out in context of drug use
  - Molested by three different individuals during childhood

# Case Example

- Convicted of burglary, additional charges, sentenced to nine years in prison; placed out of state in Oklahoma
- Repeatedly physically assaulted while in prison
- Eventually released from prison in 2008

# Case Example

- Following release, obtained entry level work, but began drinking with increasing regularity
- At time of arrest, living with sister and brother in law and working at Pizza Hut

# Case Example

- Substance History
  - Began drinking as young teenager; in months prior to arrest was drinking daily to intoxication
  - Began crushing amphetamines as a teenager (with mother) used illicit amphetamines most of adult life
  - Intermittent cocaine with binge use following most recent release from prison

# Case Example

- Psychiatric History
  - Prescribed stimulants as a teenager for ADHD
  - One prior hospitalization following suicide attempt
  - Since prison in Oklahoma described frequent nightmares, flashbacks, hypervigilance, mood swings, problems with loud noises, and thoughts of suicide

# Case Example

- Account of Crime
  - Stayed awake for several days prior using cocaine
  - On day of arrest worked a full day at pizza restaurant
  - Following work, went to a party where he consumed vodka for several hours and had consensual interaction with female acquaintance

# Case Example

- Account of Crime (Cont.)
  - Returned home, witnessed domestic dispute between sister and her husband
  - Reported leaving house, feeling cold, and falling in the snow several times before returning home and eventually being approached by police

# Case Example

- Collateral Information
  - Police reported defendant had entered a nearby home, entered bedroom, and lay in bed next to several children
  - Walked into living room and engaged in sexual contact with a child sleeping on floor
  - When yelled at by adult in the home, fled residence, and returned home

# Case Example

- Collateral (Cont.)
  - When questioned by police that evening, denied having ever left the house, also denied consuming any alcohol
  - Breathalyzer showed BAL of .153
  - Several pair of women's underwear subsequently found in defendant's bedroom and identified as being taken from victim's residence



**Substance Abuse that  
Appears to be Mental Illness**

# Substance Abuse-Apparent Mental Illness

- 17 year old male
- Charged with Robbery-Use of Force, Resisting, OVWAC, CDTP
- Jumped through plate glass window, ran down street with massive lacerations, commandeered vehicle, fought with police

# Apparent Mental Illness

- Agitated and out of control
- Taken to Children's Hospital
- Extremely paranoid
- "From a black planet and needed to talk to god"
- Required restraint and sedation
- Drug and alcohol screen negative
- Cleared after several days

# Apparent Mental Illness

- Features
- Very sudden onset
- Clears within hours or days
- Agitation/Psychosis- a direct result of intoxication- not delayed effect



**Intoxicated, NGRI**



# Intoxicated, NGI

- Defendant's History
  - Diagnosed at age five with ADHD
  - Counseling as a teenager
  - Dropped out of high school
  - Employed as a pipe fitter with family business

# Defendant's History (cont.)

- Substance History
  - Used marijuana consistently since age 14
  - Experimented with cocaine
  - Excessive use of alcohol

# Account of Offense

- Drank and smoked THC on day of offense
- Heard “Mary and God”
- Saw “Three suns on Christmas”
- Friend of victim nodded which he took as a sign
- “Mary told me she was evil and no good and needed to die”
- Saw Mary in the sky prior to killing victim

# Collateral Accounts

- Deteriorating performance at work
- Sent to do menial tasks and found “throwing snowballs into the woods”
- Told boss he was “looking for squirrels to feed his family”
- Reportedly killed a fox the day of crime and spread its blood on a porch
- Saw people waving by the roadside when driving to victim’s house
- Following crime he ran into woods, sat rocking until police arrived

# Post Crime

- Admitted to hospital
- Continued to exhibit psychotic symptoms for several weeks until treated with antipsychotic medication
- Questions regarding temporary state vs. “settled” condition



# Alcoholic Blackout



# Alcoholic Blackout

- Lady Macbeth - “That which hath made them drunk hath made me bold; what hath quenched them hath given me fire”

# Alcoholic Blackout

- Dense amnesia for significant events which have occurred during a drinking episode while outward behavior seemed within voluntary control
- Some studies cite prevalence of 50% of college students who report alcohol use
- White, et al study
  - 37.5% of individuals with history of blackout had been engaged in fight
  - 25% damaged or vandalized property
  - 25% had intercourse with someone they did not know

# Alcoholic Blackout

- Blackouts may occur even during first drinking experience
- Often dependant on rate of consumption as well as total volume
- Individuals may not necessarily appear impaired and may engage in conversations or carry out complicated behaviors

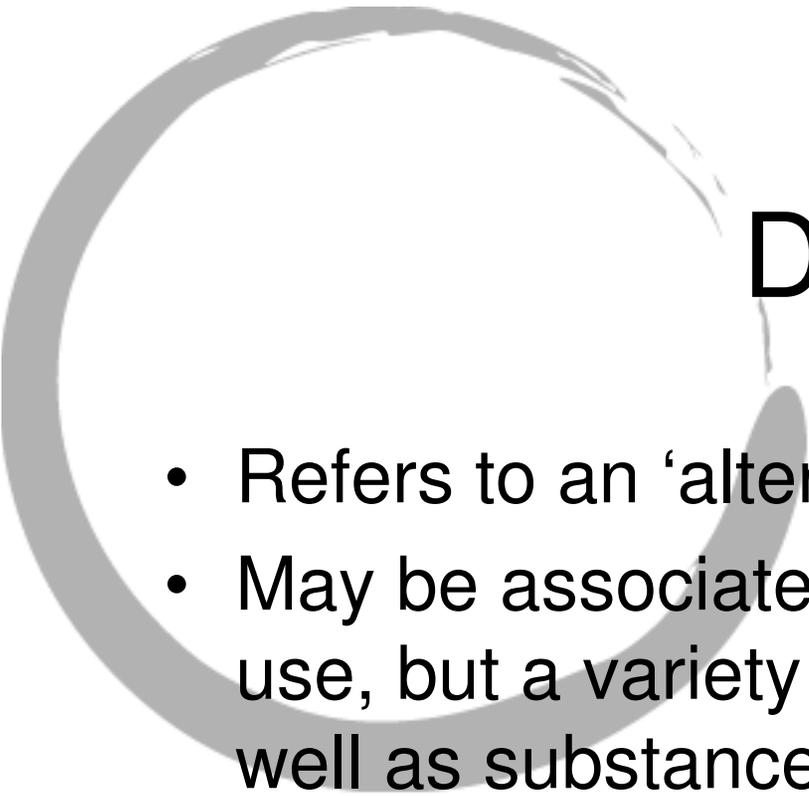
# Alcoholic Blackout

- Are blackouts the result of voluntary intoxication or unexpected consequence?
- Does blackout remove mens rea?
- Generally acknowledged that individuals do things while drunk they would not do while sober
- Should this be considered exculpatory?

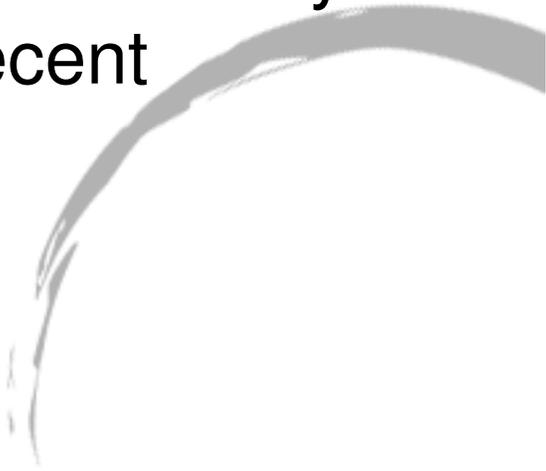


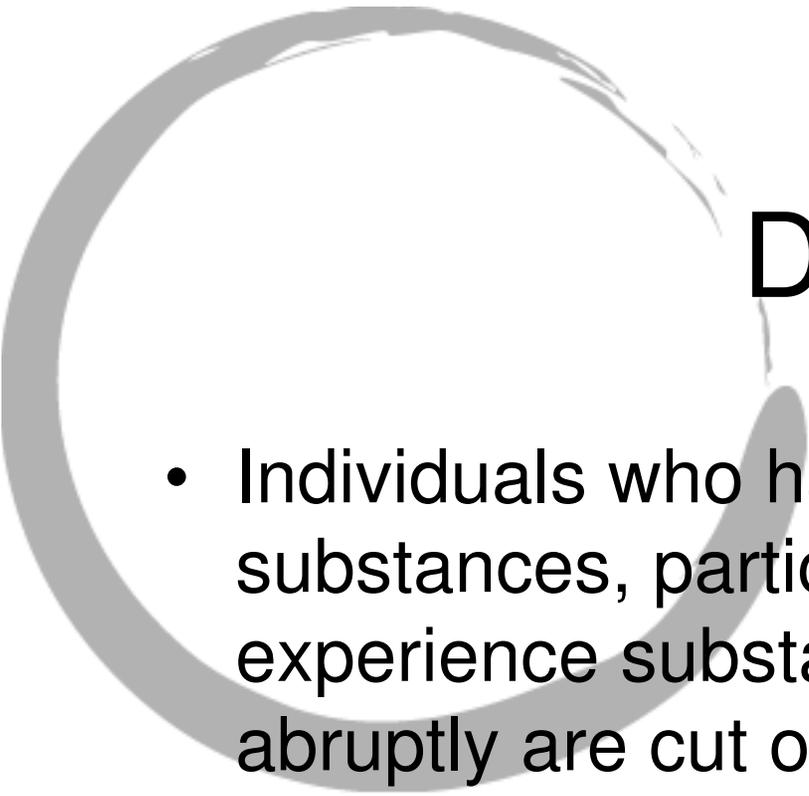
Delirium



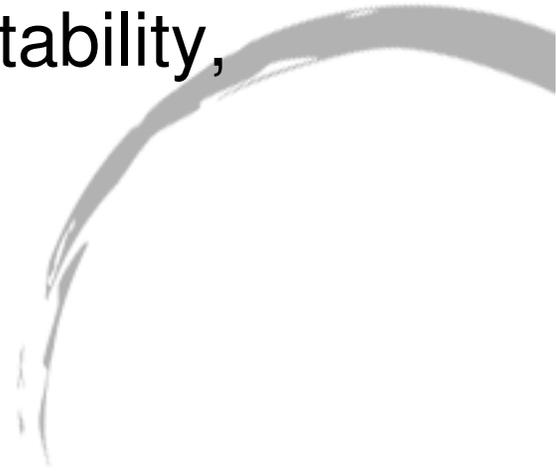


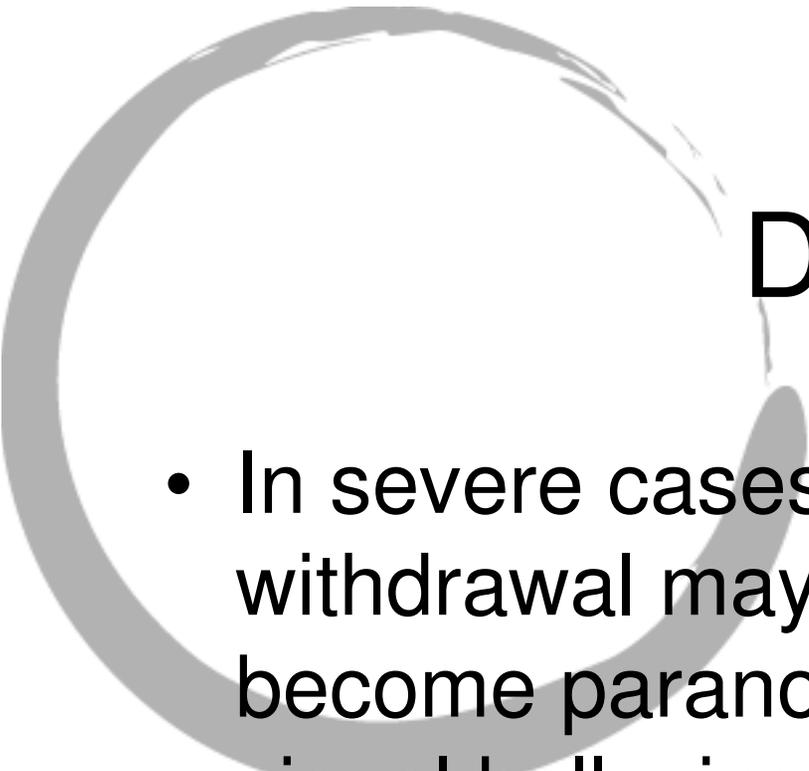
# Delirium

- Refers to an ‘altered mental status’
  - May be associated not only with substance use, but a variety of medical conditions as well as substance withdrawal
  - Common in hospitalized patients, particularly elderly and those who have had recent surgery
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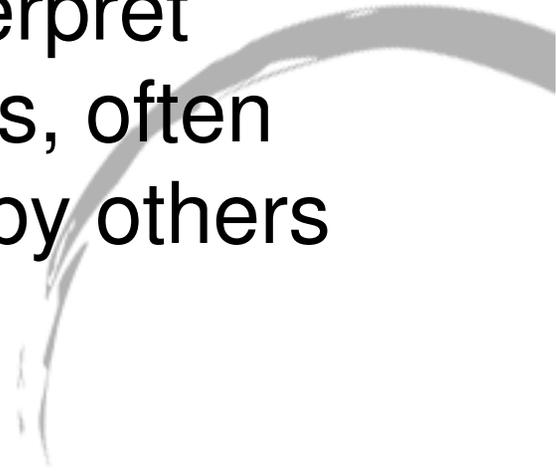


# Delirium

- Individuals who have become dependent on substances, particularly alcohol, may experience substantial withdrawal when they abruptly are cut off from use
  - Withdrawal symptoms may include rapid heart beat, sweating, agitation, irritability, sleep disturbance
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# Delirium

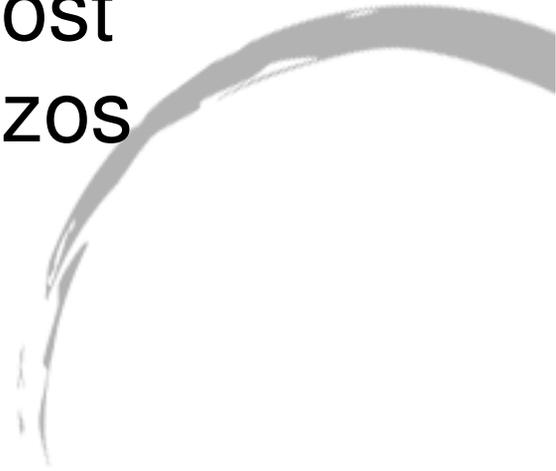
- In severe cases, individuals in withdrawal may become disoriented, become paranoid, and experience visual hallucinations
  - They may also grossly misinterpret statements or actions of others, often perceiving harmful intentions by others
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# Delirium - Case Example

- 38 year old male
- Arrested after firing shots out of his windows
- Saw gangs of “bikers” attacking his home
- Severe alcoholic- BAL 0.0



# Delirium

- Stopped drinking 5 days ago, because wife was incarcerated and had to care for children
  - Features- Complicated withdrawal can present as acute psychosis-most common with alcohol and benzos (valium,xanax,ativan,etc.)
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Take Home Points

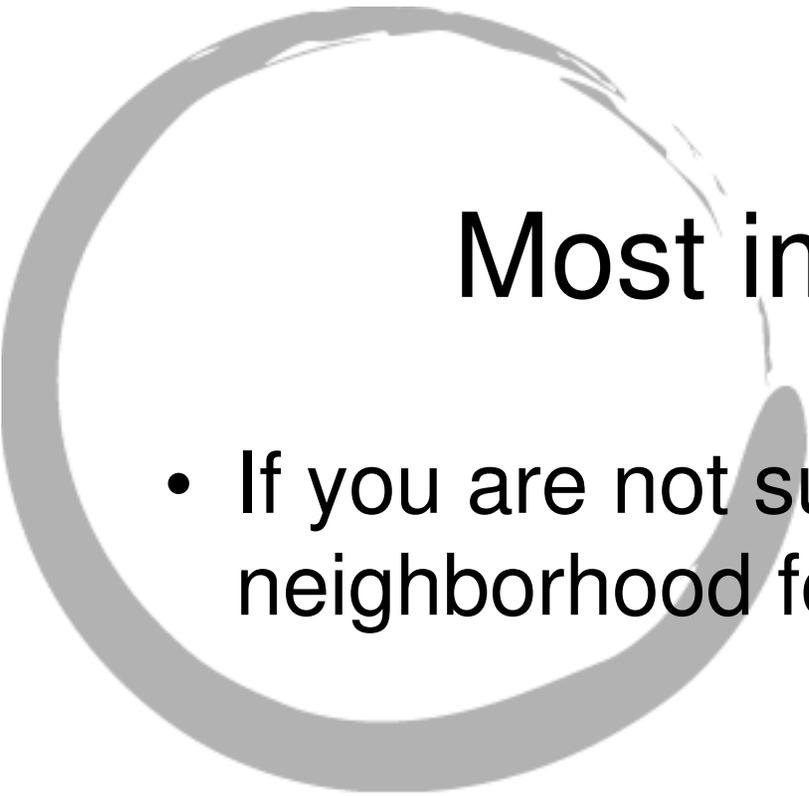


# Should I remember anything?

- Substance Abuse and Mental Illness Frequently Co-occur
- Substance use may exacerbate symptoms of mental illness
- While substances can directly result in a acutely mentally ill state, this is less likely

# Should I remember anything else?

- Abrupt discontinuation of substances after long term use may be as (if not more likely) to result in an acute mental status change as ongoing use
- A lack of memory for events (legitimate or not) does not necessarily equate to an exculpatory mental state



# Most importantly....

- If you are not sure, call your friendly neighborhood forensic psychiatrist!
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# References

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- Leong, Gregory B. MD. “Commentary: Intoxication and Settled Insanity: Unsettled Matters.” J. Am Acad Psychiatry Law 35:183-7, 2007.
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