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INTRODUCTION TO THE MANUAL
This manual is written to enable interested attorneys and professionals to offer training on implicit bias on their own. To do this requires planning. The materials here, as well as use of materials offered in the rest of the Section’s Implicit Bias Toolbox and Implicit Bias website, should prove helpful. Those with questions or wanting more background should contact Professor Redfield at 207-752-1721 (cell) or sarah.redfield@law.unh.edu.

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SCOPE AND TIME

There are two PowerPoints:

I. A 90 minute CLE based on a PowerPoint presentation and supplementary materials that offer a general overview of implicit bias and debiasing. (For those interested in a longer general version, with additional attention to employment, email Professor Redfield at sarah.redfield@law.unh.edu.)

II. An alternative choice CLE based on a PowerPoint and supplementary materials that focus on the Implicit Association Test (IAT) and the work of The Honorable Delissa Ridgway and Professor Jeffrey Rachlinski.

✓ The following materials use PowerPoint I for the 90 minute CLE. The first chart gives a summary overview and the second chart gives a detailed slide by slide bird’s eye view.

THE CLE POWERPOINT OVERVIEW

<table>
<thead>
<tr>
<th>Topic</th>
<th>Slides</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Introduction, including short culture and cultural group exercise for introducing participants</td>
<td>1-8</td>
</tr>
<tr>
<td>II</td>
<td>Implicit Bias Explained and Tested (Redfield version)</td>
<td>9-21</td>
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<tr>
<td>III</td>
<td>Debiasing</td>
<td>22-28</td>
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<tr>
<td>IV</td>
<td>Conclusion, including Section’s video, <em>The Science and Implications of Implicit Bias</em>, and program evaluations</td>
<td>29</td>
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</tbody>
</table>

SLIDE BY SLIDE CHECKLIST

The following chart shows the content type for each slide and marks areas where discussion is called for (not that you can’t have more discussion). This should facilitate choices based on time for your session.
<table>
<thead>
<tr>
<th>Topic (Transition in Red)</th>
<th>Change Your Venue</th>
<th>Discussion Questions</th>
<th>Handouts</th>
<th>Notes Info</th>
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<tbody>
<tr>
<td>1 Title</td>
<td>✓</td>
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<td>2 Roadmap</td>
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<td>3 Introductions</td>
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<td>4 Intro Facilitator</td>
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<td>5 Objectives</td>
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<tr>
<td>6 Norms</td>
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<tr>
<td>7 Intro Ex. Cultural Groups</td>
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<tr>
<td>8 5 Circle Ex.</td>
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<tr>
<td>9 Implicit Bias</td>
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<td>✓</td>
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<tr>
<td>10 Schemas</td>
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<tr>
<td>11 Professor Schema</td>
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<td>12 Shorthand Schemas</td>
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<td>13 Implicit Social Categories/Cognition</td>
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<tr>
<td>14 Implicit Bias Defined</td>
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<td>15 Stroop Task</td>
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<td>16 IAT</td>
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<tr>
<td>17 IAT (Internet)</td>
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<td>18 Implicit/Explicit Bias</td>
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<td></td>
<td>Topic (Transition in Red)</td>
<td>Change Your Venue</td>
<td>Discussion Questions</td>
<td>Handouts</td>
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<td>19</td>
<td>Systemic Concerns</td>
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<td>20</td>
<td>Debiasing</td>
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<tr>
<td>22</td>
<td>Debiasing Overview</td>
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<tr>
<td>23</td>
<td>Education (includes Internet clip)</td>
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<td>24</td>
<td>Exposure</td>
<td>✔</td>
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<td>✔</td>
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<td>25</td>
<td>Approach</td>
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<tr>
<td>26</td>
<td>Approach: Stare not Blink</td>
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<tr>
<td>27</td>
<td>Change Process</td>
<td>✔</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>28</td>
<td>Notice Your Messaging</td>
<td>✔</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>29</td>
<td>Conclude (include Internet) and Evaluation</td>
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</tbody>
</table>
A NOTE ON CLE

We strongly encourage you to apply for continuing education credits if you conduct training sessions using this curriculum (which should qualify for both diversity and ethics credits). It has been acknowledged that “a great amount of racial disparity exists in how the law treats individuals. [Continuing Legal Education] has great potential to educate legal practitioners of this disparity and the wide array of ways it is manifested in their profession.”\(^1\) For information on obtaining CLE credit, visit https://www.clereg.org/.\(^2\)

OVERALL NOTES ON USING THE POWERPOINT

SIGNIFICANCE OF ITALICS

Slides that you may particularly want to change to reflect your venue before final distribution are provided in italics, but it is possible to use the slide deck exactly as is. For reference to possible changes, see the Slide Summary Checklist, supra.

NOTES VIEW

The presentation is meant to be distributed in notes version so that references and further research information is available to the participants. The additional instructions on the slide by slide version here are for facilitators/presenters. (“Notes” is a choice in PowerPoint for view and print.) (Click here for printable version of handouts and here for printable version of slide-by-slide instructions...)

FULL CITATION

\(^1\)It has been acknowledged that “a great amount of racial disparity exists in how the law treats individuals. [Continuing Legal Education] has great potential to educate legal practitioners of this disparity and the wide array of ways it is manifested in their profession.” However, “among the forty states that require [Continuing Legal Education], only five require coursework addressing bias and discrimination in the profession.” This gap in training can be filled by providing training that complies with state requirements for those who may not otherwise be motivated to learn more. Lorenzo Bowman et al., The Exclusion of Race from Mandated Legal Education Requirements: A Critical Race Theory Analysis, 8 Seattle J. for Soc. Just. 229, 229 (2009).

\(^2\) This description is from ABA BUILDING TRUST at Chapter 4.
Citation to sources and references for the PowerPoint is provided with these materials and as a separate document. (Click here for printable version of the handouts and click here for a printable version of just the references.)

TIME

Ninety minutes is an estimated time. The amount of time will depend, in part, on the number of participants in your program or workshop. As written, the presentation allows for mostly lecture and some discussion. However, the amount of time allocated for a particular topic can be shortened or lengthened by carefully selecting from among the suggested discussion questions. If one topic in a particular unit is more important than another (based on your assessment of your program’s specific needs or goals), you may choose to skip a few of the slides or otherwise shorten the time spent on topics less important to your group in order to maximize the time available for suggested discussion questions or exercises on other points.3 (Click here for Slide Summary Checklist.)

PREPARING FOR THE PRESENTATION

In preparing for the presentation, facilitators will want to be familiar with the PowerPoint and the information provided in the notes view for the slides (which are intended to be in the handouts for participants), as well as the slide-by-slide instructions offered here. (Click here for printable version of instructions and here for printable version of notes pages for handouts. The slide-by-slide entries in the instructions include both presentation tips and additional substantive background for most slides.

EVALUATIONS

We recommend that you use a written evaluation form to elicit feedback regarding the participants’ learning experience. A sample evaluation is included. Please share your evaluation results with the Section to help to improve this training. Results and comments can be emailed to Professor Sarah Redfield at sarah.redfield@law.unh.edu.

Much of this PowerPoint is taken from or modeled after the excellent work of other American Bar Association [ABA] sections developing training curriculum around bias and related issues in the criminal justice and court system.

With enormous respect for their work, and gratitude for their generosity in letting us incorporate and build from their materials, these materials follow the approach of ABA CRIMINAL JUSTICE SECTION ET AL., BUILDING COMMUNITY TRUST: IMPROVING CROSS-CULTURAL COMMUNICATION IN THE CRIMINAL JUSTICE SYSTEM. The topics in the ABA Building Trust materials are: Unit 1: Introduction; Unit 2: Culture, Cultural Competency & the Criminal Justice System; Unit 3: Implicit Bias; Unit 4: Unearned Privilege or Advantage; Unit 5: Micro-Messages; Unit 6: Systemic Disparities and Community Perceptions; Unit 7: Cross-Cultural Communication; Unit 8: Organizational Change; all available at http://www.americanbar.org/groups/criminal_justice/pages/buildingcommunity.html [hereinafter “ABA Building Trust”].

Additional notes for the facilitator/presenter—

You may want to change this to reflect your program title, date, and group.
Slides #2–#8

These slides are introductory and lay out the introductions and approach for training using this PowerPoint.
**Slide #2 Roadmap of Presentation**

<table>
<thead>
<tr>
<th>Roadmap of the Presentation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INTRODUCTIONS</strong></td>
</tr>
<tr>
<td>- IMPLICIT BIAS, including</td>
</tr>
<tr>
<td>- Implicit Association Test (IAT)</td>
</tr>
<tr>
<td>- Significance for leaders of legal profession and system of justice</td>
</tr>
<tr>
<td>- DEBIASING</td>
</tr>
<tr>
<td><strong>CONCLUSIONS</strong></td>
</tr>
</tbody>
</table>

**Additional notes for the facilitator/presenter—**

✔ This slide reflects topics to be covered in a 90 minute CLE, 60 minutes for the PowerPoint and 30 minutes for the Section’s video, *The Science and Implications of Implicit Bias*, plus evaluation and concluding remarks. As previously indicated, you may want to change this to reflect particular interests of your group.
*** Connections ***

This part of the program allows for individual introductions and also introductions to groups (ingroups and outgroups). The introductions serve the usual function of participants’ meeting each other, plus offer an underlying approach for the rest of the materials on implicit bias.

**Additional notes for the facilitator/presenter—**

This slide transitions to the introductory group of slides; it lists the three preliminary areas for presentation: facilitator intro; objectives & norms; and cultural group intros.

- Show this for just a second and ask for questions or just click by it and leave as part of the handout for participants’ organization of their notes.
Additional notes for the facilitator/presenter—

- Introduce yourself and any additional faculty members and welcome participants to the session.

For your possible use:

Sample Introduction for Faculty

Faculty role: “My role here today is as a facilitator of learning. This means presenting information and facilitating our discussions in such a way as to ensure that we achieve each session’s objectives, and that we stick to the schedule so that we cover the material that has been planned. We all like to talk—so we’ve built in time for discussion. Still, sometimes I will need to re-direct or move a discussion in a particular direction – please work with me if this happens.”

- IF your group is small, you may want to ask participants to quickly (!) introduce themselves. If you do use individual introductions, these guidelines might be helpful:

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4 Modeled on/from ABA BUILDING TRUST, Unit 1,
• Be prepared to cut off anyone who tends to give an opening statement. Tell the participants that more time for getting to know each other will come later.

• Ask each person in turn to introduce self by stating name, office/employer, and one word or phrase that best describes why participating in the session.

• Model an introduction for the participants, e.g., I’m Jesse Taylor. I am a supervisor in the juvenile division of the public defender’s office. Why I am here = “curious.”

• Record word / phrase each participant chooses on a flip chart. Note initial impressions of commonalities, interests.

• If there are unifying themes in the list, e.g., Debias, make note of those as such.

• Post the flip chart page where it will be visible throughout the program/conference.

• Refer back to any common interests, values, and objectives at appropriate times during the conference to reinforce key points.
Slide #5 Objectives

Objectives

1. Understand what implicit bias means and how it may influence our decisions.
2. Understand that being implicitly biased does not necessarily mean we act in explicitly biased ways.
3. Learn to recognize some behaviors that may suggest bias or differential treatment.
4. Learn some techniques that help debias perceptions and improve interactions.

Additional notes for the facilitator/presenter—

This slide is self-explanatory, and you may want to edit it to suit your particular group and session. These are the same objectives as listed in the Toolbox materials on the website.

✓ Each line appears separately as you hit spacebar or click forward.

✓ Show this for just a second and ask for questions.

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5 Approach taken from ABA BUILDING TRUST.
Slide # 6 Norms

Norms
- Confidentiality
- Breaks / or individual leave & rejoin
- Phones off
- What else?
- Do we all agree?

Additional notes for the facilitator/presenter —

This is a housekeeping slide to set particular rules that you may want for your group and venue. You will know your group best, so will know what is or is not useful and appropriate. Some topics may be sensitive, so you may choose to use a confidentiality approach; if you do, this is the place to discuss these ground rules.

✓ You may want to touch on some or all of these points if you use this slide, though some of them may be a bit “touchy feely” for your group. If you decide to use the norms approach, the following points may be helpful:

- **Awareness.** “Issues related to race and culture can bring up strong emotions. It is important for us to come together in a safe environment, where folks can share feelings, experiences, and thoughts. Norms and expectations can help us do that.”
- **Confidentiality.**
- **Respect.** Each of us is at a different stage of learning and experience with this subject.
- **Listening** to understand. Don’t just listen to argue.
- **Taking self-responsibility.** “I—statements” – “I feel x” and “I think y.”
• *Explaining.* If something is said that is hurtful or uncomfortable, explain why.

• Breaks are scheduled, but take as you individually need.
Examples of cultural traits that define groups include race, ethnicity, religion, gender, sexual orientation, national origin, family or professional status, etc. [ABA Building Trust Unit 2]

The ease with which we identify our cultural groups speaks to material that will be discussed later when we take the Implicit Association Test and begin to see how ingroup and outgroup preferences, sometimes referred to as intergroup discrimination, may play out. [Dasgupta]

The purpose of this Exercise is to bring to a more conscious level participants’ thinking about attributes that might otherwise be automatically and implicitly recognized and lead to automatic associations, attitudes, and/or stereotypes. [ABA Building Trust Unit 2, also Mills, Banaji & Heiphetz]

Psychology researchers link culture and decision making: "Decision making is a very private thing, individualized and personal. Yet it has a cultural dimension. The human brain does not acquire language, symbolic skills, or any form of symbolic cognition without the pedagogical guidance of culture and, as a result, most decisions made in modern society engage learned algorithms of thought that are imported from culture.” [Donald, 191, also, Shepherd]

Similarly, the attitudes of one’s group influence individual attitudes. When we become aware that our attitudes differ from our group’s, our attitudes tend to shift toward the norm of our peer group; this includes influence on our biases. [Dasgupta Mechanisms]

* Modeled on/from ABA BUILDING TRUST, Unit 1.
Additional background information you may want to use for discussing this slide—

✓ The idea of culture, where our perceptions and attitudes (and biases) are grounded, underlies much of the rest of the presentation.

✓ As the notes indicate, we are using the Cultural Group/Five Circles Exercise (this slide and the next slide) as an introduction for two reasons: it is an informal and engaging way for participants to meet each other or, in a group where most of the participants already know each other, for members to perhaps learn something new about others there. Because the approach launches participants’ thinking about how they define their groups (and this relates to later work on how they implicitly perceive others, ingroups, and outgroups), we urge you to consider using it even if it seems a bit too “touchy-feely.”

✓ If you choose not to use the Exercise, do spend some time pointing out the significance of group identification to work around implicit bias.
The standard understanding of discrimination is that it stems from prejudice, generally defined as outgroup hostility, but a revised understanding (influenced by research on implicit bias) is that most societally significant discrimination may be "discrimination-in-reverse," the effect of ingroup favoritism. [Greenwald AALS, also Dasgupta]

Our automatic group identification is significant; it is easy to see how it can impact diverse admissions, hiring, retention, and promotion, as well as more general decision making. Research suggests that being a member of a group creates a preference for that group, the ingroup, and against the outgroup. [Dasgupta, research overview] A now classic experiment showed that this group loyalty occurred even if factors that put you in a group are random and arbitrary, that is, the very act of categorization may be enough to create an ingroup preference. [Tajfel] When we categorize people into groups, we tend to regard members of the same group as “more similar than they actually are, and more similar than they were before they were categorized together.” The reverse is also true and can be self-perpetuating, that is, once categorized into groups, we see the differences as inherent and remember the ingroup more and more favorably. [Fiske & Gilbert]

Ingroup bias may be influenced by the size of the group, e.g., bias in favor of members of one’s family but not a whole ethnic group. [Greenwald & Krieger] Other research suggests an inability to distinguish between members of a group once the group is created and a tendency to find our ingroups affirming of our accomplishments and to perceive outgroups as lesser. [Benforado, Dasgupta, Perdue] We also may show preference for ingroup members based on their displaying bias against outgroups. [Fiske & Gilbert] Similarly, when the ingroup perceives itself threatened by the outgroup, the ingroup has an even more negative views of the outgroup. [Fiske]
Additional notes for the facilitator/presenter—

This slide is a visual for these instructions, which you should give to your audience:

- On the Five Circles Handout (or a blank sheet of paper where participants draw five circles), write one cultural group with which you closely identify in each circle. For example, I might write woman, mother, Yankee, teacher, lawyer.

- Move around the room and find one or two people for each circle with whom you share a cultural connection and add their names to your circles. [Note: please be mindful of any participants with disabilities in the language you use for this instruction.]

The way this will work will depend in part on the size of your group and how well participants may already know each other.

- Start by offering a very short time period of perhaps 3 minutes. Keep track of time. Try to be sure everyone has a chance to fill in at least one circle. If need be, extend by minute increments, keeping in mind your overall schedule for the day.

DEBRIEF FIVE CIRCLES EXERCISE:

- Ask the participants to return to their seats and facilitate a 5 minute (or less, depending on how engaged your participants are) discussion.

- Choose from these questions:
  - Did anyone have a hard time actually filling out all 5 circles?
  - How many put your role in the court/criminal justice/firm as one of your cultural groups?
  - Did any of you share more than one cultural connection with same person? What does that suggest to you?
  - What struck you about the process of finding matches?
Slides #9–#21

These slides provide background and testing for implicit bias.

Slide #9 Implicit Bias

*** Connecting the Topics ***

The Five Circles Exercise is a self-selected, self-reporting of attributes. We might have chosen not to report an invisible or hidden attribute, e.g., LGBTQ, or even to say that a visible attribute was not something we considered to be our cultural group. This Exercise connects to later observations by way of the Implicit Association Test, which measures associations and attitudes on a less conscious level.

The core of this program is its focus on Implicit Bias. [ABA Building Trust Unit 3] As the preceding Exercise and comments suggest, our cultural awareness and response is not necessarily explicit and not necessarily what we say when asked to self-report, i.e., it is **implicit**. The following slides explore some of the research from the fields of sociology and psychology on these points as background for understanding our cognitive responses, implicit and explicit, as legal professionals.

Expanded information on definitions and other basic background materials in the court context can be found at JERRY KANG, NAT’L CENTER FOR STATE COURTS, NCSC, IMPPLICIT BIAS, A PRIMER (2009), available at http://wp.jerrykang.net.s110363.gridserver.com/wp-content/uploads/2010/10/kang-implicit-bias-primer-for-courts-09.pdf, as well as in the Glossary, which is separately linked on the Section’s website, xxxx.
This slide transitions from the introductory group of slides to the core materials on implicit bias.

✔ You may show this for just a second and ask for questions or just click by it

*Reminder (also in the Handouts as Notes): The Five Circles Exercise is a self-selected, self-reporting of attributes. Our cultural awareness and response is not necessarily explicit and not necessarily what we say, when asked to self-report, i.e., it is **implicit.**
Schemas are sets of propositions or mental constructs for relationships; they create generalizations and expectations about categories of objects, places, events, activities, and people. [Bernstein]

We use schemas in order to make sense of and navigate the incredible volume of data and input encountered from day to day. [ABA Building Trust Unit 3]

The example on the slide illustrates a schema for a square. We have schemas for many objects—think about a car, a bicycle, a flower. The unconscious brain deals with the “mundane and routine,” while the conscious brain is the “mediator of novelty and learning.” [Donald, 203]

We also have schemas for ourselves and other people, and these schemas also carry certain expectations—think back to the Five Circles Exercise; think about a schema you might have for a law professor … (See next slide.)

Additional notes for the facilitator/presenter—

As you show this slide:

✓ Explain to participants that the next few slides build on each other up to the definition of implicit bias; once defined, participants will have the opportunity to participate in a test experience with regard to implicit bias—the Implicit Bias Test.
✓ Explain to participants that the slide illustrates the example of a schema for a square. Also explain that we have such schemas for many objects, people, and processes (the latter sometimes called scripts).

Additional background information you may want to use for discussing this slide—

✓ Schemas are implicit shortcuts we all use. The concept of schema is the first concept needed to understand implicit bias as such, and it is covered at some length in the next three slides. Understanding the brain’s use of these implicit shortcuts leads to understanding of the operation of implicit bias and its consequences in terms of self and group identification.

✓ The next slide illustrates a schema for a type of person, a professor, and the slide after that suggests the way this may all come together in a biased decision.

✓ Other processes you might want to use for examples are ordering in a restaurant, we all know what to do when we get a menu; or reading music, once we have learned to read the music that part becomes automatic, and we can concentrate on the art.
This slide offers a common social categorization to illustrate how schemas may affect our work. We don’t immediately think of each professor separately; instead, we have an implicit general view of likely professorial attributes. Expectancies flow from our schema and social cognitions. [Hamilton] From this implicit schema, we tend to find explanations for contradicting behavior that go with our schemas. For example, if a professor is late, students’ instinct is to think some emergency arose; but, if the professor is consistently late, then students may decide he’s a lousy professor.

Such schema can predispose us to certain expectancies and to evaluate others in a way that confirms our pre-existing biases [Fiske, Darley], e.g., if we implicitly judge men to be better leaders, we are (implicitly) quicker to find weaknesses in female managers and to forgive or recast similar behaviors in male managers. [Eagly & Karau, Levit, Porter, Valian Why So Slow, Valian Beyond]

In addition to impacting how we view and evaluate others, schemas affect our self-perceptions. Research shows that our self-schemas are influenced by stereotypes and impact performance. If the self-schema for women, for example, is that they are not good at math, or as a group women area told they will likely not do well on a particularly difficult math test, women are likely to test lower than if their self-schema and gender stereotypes are the reverse. Claude Steele has labeled this a “stereotype threat.” [Steele & Aronson, Steele, Dasgupta] A stereotype threat has obvious implications, e.g., for admissions testing for diverse law students. [cf. Walters]

Other research shows that our self-images and self-perceptions of ability can be improved through high-quality interaction with successful members of the relevant ingroup. [Asgari & Dasgupta, Dasgupta & Asgari]
Additional notes for the facilitator/presenter—

This slide illustrates how schemas work to categorize and view people. We have a set of expectations based on our schemas.

☑ You may want to ask participants to offer professorial attributes before you show the slide.

Additional background information you may want to use for discussing this slide—

☑ An important point here is that a schema predisposes us to think a certain way and to slot behaviors into anticipated slots implicitly. This idea is particularly relevant with regard to employment, judicial decision making, etc.
Using schemas, the brain takes in information and processes it in connection with its pre-existing patterns. If I tell you that the court ruled 5-4 in the recent Arizona tax standing case, you likely, without thought, would categorize this to mean the Supreme Court of the United States ruled this way. Some researchers call the way the brain operates with schemas “unconscious cognition” or, in regard to people or groups, unconscious or “implicit social cognition.” [Greenwald Psychology]

• Schemas can be right or wrong, helpful or not, for example:
  • Helpful, e.g., tying shoes, driving. Once learned, these are tasks we do quickly without conscious thought or effort. [Tying shoes image licensed from Getty Images.]
  • Not helpful, e.g., some connections with race. This is a picture of Amadou Diallo; Diallo was shot in 1999 by New York City police who thought he was reaching for a gun when he was in fact reaching for his wallet. (The police were subsequently acquitted on charges of second degree murder.) [Diallo, Correll, Vedantam Hidden Brain]
✓ With the idea of square and professor schemas as background, you can explain to participants that the shorthand way our minds work can be helpful or not, right or not.

✓ You may want to ask your participants to offer a few examples of helpful/not, right/not.

**Additional background information you may want to use for discussing this slide—**

✓ The pictures on the slide, as explained in the notes, illustrate a helpful schema (tie our shoes) and a not-helpful scheme (race based police shooting).

✓ Schemas set up implicit expectations. When we encounter someone for whom we have a schema. We expect certain behavior and we try to fit that behavior within our schema, as the late professor example on this slide illustrates. In this sense, behavior is often self-confirming, the psychology version of you get what you ask for.
Slide #13 Implicit Social Categories, Cognition

<table>
<thead>
<tr>
<th>Implicit Social Categories/Cognition</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FROM</strong></td>
<td><strong>Direct or vicarious experiences</strong></td>
</tr>
<tr>
<td>Parents/Families</td>
<td>Positive or negative associations</td>
</tr>
<tr>
<td>Friends/Peers</td>
<td>Media</td>
</tr>
<tr>
<td>School</td>
<td></td>
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</tbody>
</table>

This slide relates back to the previous slides on schemas and connects to the next slide on implicit bias and its measurement. Social categories and stereotypes are types of schemas. We develop our generalized social categories/characteristics from many sources, including those listed here: parents, friends, and media. [Dasgupta & Rivera] Our social categories can be either positive or negative, e.g., Asians are good at math, and professors are smart and/or absent-minded. They can also be accurate or not. [ABA Building Trust Unit 3, Project Implicit, Nosek (images)]

Understanding the inherent and automatic nature of implicit social categorization helps explain implicit bias and its potential repercussions.

Implicit recognition forms early and quickly. Research shows we tend to **implicitly and immediately classify people by gender, race, and age**. [Ramirez, Gawronski & Payne]

A research study at the Children's Research Lab at the University of Texas illustrates how early we form categories and biases. The study considered early tendencies to discriminate on the basis of skin color: “Asked how many white people are mean, these children commonly answered, ‘Almost none.’ For the same question about black people, many answered, ‘Some,’ or ‘A lot.’” [Bronson, Vedantam Hidden Brain]
Additional notes for the facilitator/presenter—

This slide continues to build on the idea of schemas, now as applied to people and groups.

✔ As you show this slide, mention the key points on sources of social cognition, i.e., our environment from birth including family, peers, teachers, media...Later in the presentation there is discussion of situational and environmental conditions that can change these inputs and change implicit bias.

✔ You may want to refer back to the Five Circles Exercise at this point and to remind participants how they self-reported on their own cultural groups.

✔ You may want to emphasize the point made in the notes research that we implicitly and immediately classify people by race, gender, age.

Additional background information you may want to use for discussing this slide—

✔ This slide and its notes provide information on where schemas and social categorizations originate. The common vocabulary in the social science literature sometimes refers to such schemas as “implicit social categories” and “cognition.” Such categories form early from many sources, direct and indirect.
We can think of implicit bias as a lens through which we view the world—a lens which automatically filters how we take in and act on information, a lens that is always present. [ABA Building Trust Unit 3, Kang Primer]

These implicit social categorizations or biases are seen to be deeply held, indeed, even by those who are committed to civil rights in their explicit world. The Reverend Jesse Jackson reported: “There is nothing more painful to me at this stage in my life than to walk down the street and hear footsteps and start thinking about robbery . . . then look around and see somebody white and feel relieved.” [Bennett 149 (quote), Steele, Vedantam See No Bias, but see Jost (discussing differences in test results White/Black/Conservative/Liberal)]

Implicit biases do not necessarily lead to explicitly biased decisions or behaviors, but they may well predict discriminatory nonverbal, subtle behaviors such as sitting further away or cutting interviews short, which behaviors are then interpreted as biased. [Fiske](See Slide #18 for further discussion.)

Additional notes for the facilitator/presenter—

- As you show this slide, give participants a chance to read.
- Ask your participants to offer examples of stereotypes and attitudes, e.g.:
- **Stereotype example:** men are better at playing the tuba than women
✓ Attitude example: we will be comfortable with someone who graduated from the same college we did...

✓ Point out before leaving this slide, that just like schemas, implicit biases are not inherently right/wrong.

**Additional background information you may want to use for discussing this slide—**

✓ Each word on this slide has meaning: implicit bias is talking about a preference—a preference for a group—a preference that can be positive or negative—a preference that is based on stereotypes and attitudes we hold—a preference for a group that tends to develop early in life.
This is another kind of illustration of categorization. It is easier and quicker to read the word red when it is written in red than to read the word green when it is written in red. If we measure the speed with which you read each, we are measuring how closely aligned the concepts are in your brain. This kind of time measurement forms the core of the Implicit Association test. [Stroop]

**Additional notes for the facilitator/presenter**

This slide offers a quick illustration of how implicit thinking works and is measured. Like the upcoming slide that introduces the actual Implicit Association Test [IAT], this slide shows how response time is impacted by implicit cognition. It takes us longer to process the dissonant terms, e.g., reading blue when written in green.

- On the first click, the first set of words comes onto the slide, blue for blue.
- Ask participants to read a few aloud as a group, reading across the slide from left to right.
- On the second click, the first set disappears.
- On the third click a second set of words comes onto the slide, now the words are written in a color that is not the same as the word, for example, yellow for blue.
✔ Again ask the participants to read a few words aloud as a group. Their time will be slower and/or they will make errors.
Remember that, by definition, implicit biases are those we carry without awareness or conscious direction. So how do we know what ours are and whether they are impacting our decision making or our interactions? One way developed by social scientists is the Implicit Association Test or IAT. [Project Implicit]

The IAT is designed to measure associative knowledge, associations, and links that cause one concept to be activated by another, so-called automatic associations (e.g., math ability) with attributes (like male, female) under tight time parameters.

The underlying theory is that we will respond more accurately and quickly to associations that fit with our schemas and implicit social cognitions, that is, those acquired associations that are largely involuntary. [Greenwald Psychology, Nosek (images), Ashburn-Nardo, Shepherd] The next few slides offer an opportunity to test and reflect on our implicit biases.

There is a wealth of literature on the IAT generally and on its relationship to explicit bias and its value as a predictor of same. [Banaji, Blanton, Dasgupta Implicit, Dasgupta Mechanisms, Fiske & Gilbert, Gawronski & Lebel, Gawronski & Payne, Greenwald & Poehlman, Greenwald et al., Hoffman, Jost, Kang, Kang Colorblind, Lane, Pettigrew, Tetlock1, Tetlock2]

Additional notes for the facilitator/presenter—
This slide follows the Stroop Task and introduces the IAT, which will be taken online.

✔ Show the slide and explain again the basic idea of implicit cognition where our brains make connections implicitly or automatically and quickly (as participants saw in the Stroop Task).

✔ If asked, you may want to be prepared to tell participants that most researchers believe that we can’t “rig” our answers even when we know the way the test works.

• Like the Stroop Exercise, the IAT rests on the assumption that two concepts that are closely associated will be linked more readily and more quickly. The IAT measures this response time.

• How this works: The test calculates reaction times [RT]: “Average RTs from White+pleasant / Black+unpleasant [and] Average RTs from White+unpleasant / Black+pleasant [and] … the difference in times forms a score such that positive values = ingroup preference.” [Ashburn-Nardo]

• The pictures on this slide are some of those that are used in the IAT.

Additional background information you may want to use for discussing this slide—
This was too much detail to include in the notes research box:


✔ Much is also written about the brain functions the IAT measures and many researchers find it to be a better measurement of our biases than an explicit self-reporting approach provides. See, e.g., Jerry Kang, Nilanjana Dasgupta, Kumar Yogeeswaran & Gary Blasi, Are Ideal Litigators White? Measuring the Myth of Colorblindness, 7 J. EMPIRICAL LEGAL STUDIES 886 (2010); Nilanjana Dasgupta, Implicit Ingroup Favoritism, Outgroup Favoritism, and Their Behavioral Manifestations, 17 SOC. JUSTICE RES. 143 (2004).

✔ Researchers have also found the IAT to be a predictor of biased behavior. See, e.g., Greenwald Poehlman, supra this note; Anthony G. Greenwald et al., Measuring Individual Differences in Implicit Cognition: The Implicit Association Test, 85 J. Personality & Soc. Psychol. 1464 (1998); Kang Colorblind, supra this note; Nilanjana Dasgupta, Mechanisms Underlying Malleability of Implicit Prejudice and Stereotypes: The Role of Automaticity Versus Cognitive Control in T. Nelson (Ed.), Handbook of Prejudice, Stereotyping, and Discrimination (2009).

As the Stroop Task and prior slides have indicated, this test measures and compares response times to identify unstated biases.

The Implicit Association Tests have documented existence of bias on a range of dimensions of diversity (gender, race, ethnicity, age, skin tone, sexual orientation, etc.) and in a range of cultures/contexts. [Adapted from ABA Building Trust Unit 3, also Greenwald Poehlman]

“Implicit biases are pervasive. They appear as statistically ‘large’ effects that are often shown by majorities of samples of Americans. …75-80% of self-identified Whites and Asians show an implicit preference for racial White relative to Black.” [IAT, quote, Dasgupta] These biases show “implicit preference for high status groups, relative prejudice against lower status groups, and correlated behavioral bias that preserves or exacerbates intergroup inequalities.” [Dasgupta & Rivera, citations omitted]

Such biases, often distinct from our self-reported responses to groups other than our own, play out in many ways ranging from expectations about behavior and ability to assessment and advancement. These implicit biases are “particularly evident when measured unobtrusively…” [Dasgupta & Rivera, 55; Dasgupta Mechanisms]
However, meaningful social contact can change these implicit biases. [Kang & Banaji, Dasgupta & Rivera] (See further discussion with regard to social contact and debiasing at Slide #24.)

Additional notes for the facilitator/presenter—

This is a chance for your audience to take the IAT. It is done as a group so a “score” is not all that valuable, but it will show them quite quickly that their intuitive response times are quicker with implicit biases than without.

To do the test you will need an online connection to the Harvard Project Implicit site, https://implicit.harvard.edu/implicit/. Once connected:

- Click on “demonstration,”
- Then “go to the demonstration test,”
- Then agree to the preliminary information and click on “I wish to proceed.”
- Then choose the Race IAT.
- On the next screen, “Click here to begin.”

This is all fairly straightforward. You may want to do all of these steps before the presentation starts and minimize this window and restore it to full size when you get to this point in your presentation.

- When the test begins, the first screen asks for self-reporting—you may want to ask people to jot a few answers, or, in the interest of time, skip on to the actual test. [You cannot skip this page entirely, so answer at least one question to get to the test.]

- Explain that you (or someone you tap as your assistant) will handle the typing (either “e” or “i” based on what you hear from the group.

- [If all of the participants have their own laptops, you want to let them use them and take the test separately, but doing this partially as a group and partially individually will probably not work because those speaking out loud will be distracting.]

- Ask participants as a group to quickly and loudly tell you what to choose. “E” for the answer on right as look at screen, “I” for the answer on the left as look at screen.
After the test, there is another screen of questionnaire type questions. Answer at least one of these and then...the test will report your automatic preferences based on your time in answering.

DEBRIEF the test.

Ask for audience participation on some or all of these three questions, answers for which are summarized on the next slide:

• Were you surprised by the results?
• What does it mean if we are implicitly biased?
• In what arenas of the legal profession and access to justice do you expect this might make a difference?

Additional background information you may want to use for discussing this slide—

As the notes explain, most Americans who take the test show biases toward white men, toward associating men with careers, women with families, etc. Some of these numbers are laid out in the notes page.

Even civil rights researchers and activists show these tendencies.

You may want to acknowledge the sources of implicit bias again, that is, for example, we are exposed to media that reinforce such bias on the news, etc.

Implicit bias is NOT necessarily explicitly reported or acted upon.

Awareness and debiasing are possible.

The Harvard Project Implicit website provides the following information, which might also be useful background for your group⁸ (as quoted from their website):

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• What does it mean if I get a test result that I don't believe describes me or, if I take the same test twice, I get different results each time?

Answer: You may be giving the test more credit than it deserves! These tests are not perfectly accurate by any definition of accuracy. Normally, outcomes will change at least slightly from one taking to another. You may discover this if you repeat any of the tests. We encourage repeating any test for which the outcome surprises you. If the outcome repeats, the result is definitely more trustworthy than is the first result alone. If the outcome varies, it is best to average the different results. However, if the outcome varies widely from one taking to another (something that is unusual) we suggest that you just regard the set of results as 'inconclusive'. Besides normal variation in the reliability of assessment, the IAT is also known to be malleable based on differences in the social setting and recent experience. These factors will influence the consistency of measurement across occasions. For more information about reliability see Nosek, Greenwald & Banaji, in press. For more information about malleability of implicit attitudes and stereotypes see Blair, 2001.

• The red Xs forced me to give responses I did not consider proper. Does that mean the test is no good for me?

Answer: The instructions page for each IAT lists the words, names, and/or types of pictures that appear in that test. The page also indicates the category to which each of those words belongs (For example, the page might say "good words = wonderful, beautiful, happy, joy, smile."). However, it is sometimes difficult to clearly view the pictures or to remember which category each word or name belongs to once the test begins. In laboratory versions we can make sure that each person understands the categories used in the test and the words, faces, or names that define each category. For web versions of these tests selected items that most people would agree on their category membership, and should work for as many people as
possible. If the categories that you believe best represent the IAT's words, names, or faces are treated by the applet as wrong (red X) for more than a few items, then that test will indeed not be adequate or accurate for you. We hope that you may have found something useful in the experience nevertheless.
Implicit and explicit biases are related but different mental constructs. It is likely that neither solely offers an accurate measure of bias. [Adapted from ABA Building Trust Unit 3, also Kang Primer] At the least, the IAT tells us to consider our possible implicit bias and be mindful of its implications. (See further discussion in debiasing section starting at Slide #20.)

Psychology research shows how implicit bias may be relevant to the composition of the legal profession—90% white, 31% female profession, with prevailing male leadership in largest firms [Bureau of Labor, ABA Commission1]: "if people have a schema about gender differences, that schema spills over into their judgments. . . . The implications for judgments of professional competence are clear. Employers faced with a man and a woman matched on the qualities relevant to success...may believe they are judging the candidates objectively. Yet, if their schema represents men as more capable...they are likely to overestimate the male's qualifications and underestimate the female's." [Valian Why So Slow, Bertrand, Valian Beyond]

The experience of transgendered people offers an illustration. Research biologist Barbara Barres changed her gender and became Ben Barres. When Ben gave a presentation someone in the audience who did not know his history observed, “Ben Barres gave a great seminar today, but, then his work is much better than his sister’s.” [Vedantam Hidden Brain, 102-03]. For further research, see citation at Slide #16 [Blanton and others discussing data and assumptions]. For a very readable general discussion, see Vedantam See No Bias.
Additional notes for the facilitator/presenter—

This slide and the next provide an overview of answers to the questions you asked in debriefing the IAT.

✓ As you show this slide, the important point to emphasize is that implicit bias is likely different from self-reported bias. If asked, I might say the politically correct thing, that is, that I am not biased against African Americans, but implicitly I may be. Reasons why someone may not self-report biases held implicitly include not knowing, fear of appearing discriminatory, and fear of interracial confrontation.

✓ Also note the point on the slide that implicit bias may exist, but it does not necessarily predict or cause explicit bias in decisions or behavior.

Additional background information you may want to use for discussing this slide—

✓ As the notes and research box on this slide and others suggest, the psychological research on the correlation between implicit bias and self-reported bias and the correlation between implicit bias and biased decisions or actions is not uniform, though research showing correlations is on the increase. However, regardless of these correlations, awareness of possible implicit biases and their formation and nature can only help achieve more fairness in decision making.

For those that doubt we are implicitly biased, the example mentioned in the notes on how we perceive the same person, once transgendered to female, as less intelligent or competent, should prove interesting.
The potential influence of implicit bias on the legal profession and access to and delivery of justice is wide-ranging. For one example, implicit bias likely underlies part of the reason why the practicing bar remains predominantly white male. [Redfield 2009, 2011, also Slide #18] The employment data reflects differences in educational qualifications, entry, retention, and success between genders and among races and ethnicities, and demonstrates how decisions are made that maintain the ingroup status quo. [Trix, Bertrand, Jost Beyond Reasonable Doubt, Valian Why So Slow, National Center]
Additional notes for the facilitator/presenter—

This slide brings together previous ideas with the reality of the legal profession. While it is only one slide, it speaks volumes about our need to be concerned with this topic.

✔ Before you show this slide, ask your audience to list some of the ways implicit bias impacts the legal system and note them on your chart paper (or ask someone in the audience to be the writer for this).

✔ Then show the slide as a summary to go with those noted.

Additional background information you may want to use for discussing this slide—

✔ The legal profession remains at 90% white according to recent Bureau of Labor statistics, and the ABA Commission on Women in the Profession reports 31% female. So too the higher ranks of the academy and the practice remain mostly white male.

✔ There is research on each point listed on the slide (and more) that shows how bias, particularly race or gender bias, plays out and impacts lives.

Slides #20–#28

These slides move on from recognizing implicit bias to considering techniques to debias our behavior and decision making.
Having considered the nature of our implicit biases and attitudes toward ingroups and outgroups, this section of the presentation offers suggestions for debiasing techniques. Consider what behaviors at which we should “stare” rather than “blink.” [Gladwell, Frederick]
Taking as a given that implicit bias exists and that many of us would want to be sure our decision making is not biased, research suggests some techniques that can be useful to debias decisions. Shawn Marsh summarizes these debiasing techniques from the research:

[Marsh]

1. Education around awareness that implicit bias exists;
2. Reducing cognitive load to allow more time and space for accurate reflection;
3. Encouraging high effort processing for more careful attention to information and to one’s own thinking errors;
4. Employing checklists to assure thought at certain points;
5. Encouraging mindfulness to increase understanding of one’s own thought processes and to watch out for thinking errors;
6. Exposing people from different groups to each other to “help counteract biased thinking”;
7. Reducing bias-related cues within environment;
8. Reviewing organizational behavior.

**Additional notes for the facilitator/presenter—**

Transition slide for organizational purposes only.
The good news is—

“Motivation to be fair makes a difference.”

[Quote, Kang Primer]

Motivation has a significant impact on explicit expressions of bias. [Jost Beyond Reasonable Doubt] Implicit biases are malleable and can be changed [Dasgupta Mechanisms, Kang Colorblind] when people are pushed to change by specific motivations, including the motivation to be fair, the motivation to not appear prejudiced, and the motivation to avoid inter-racial conflict [Dasgupta, Dasgupta & Asgari] as well as by situational factors. [Shepherd] But motivation requires that you know there is an issue. Recognizing our implicit biases and responses, through use of the IAT, for example, can provide this motivation. [Kang Primer, Ramirez, Blair] Implicit biases can also be changed when people “invest the effort to practice specific strategies to avoid stereotypic or prejudicial responses.” [Dasgupta & Asgari 643, Fiske & Gilbert] In addition to these intentional approaches, implicit biases can be changed by changing the “social context people inhabit rather than by directly manipulating their goals, motivation, or effort,” with the longer the period of exposure to counterstereotypes, the greater the decrease in stereotypes. [Dasgupta & Asgari 643-44, see also Fiske & Gilbert (describing impact of direct experience)]
While the research is not uniform, some research does conclude that a desire to be fair can change implicit attitudes through developing “chronic egalitarian values.” [Fiske & Gilbert 1110, Wellman] The desire to be fair may be more effective at impacting bias than legal coercion might be. Conditions that support this motivation include strong, unambiguous norms around bias, and leadership with positive examples. [Bartlett]

Additional notes for the facilitator/presenter—

✓ As you show this slide, emphasize its basic point—change can happen if one is motivated to reduce implicit bias and its potential impact on deliberation and decisions for the legal profession.

Additional background information you may want to use for discussing this slide—

✓ Of course, good intentions are not likely to change implicit bias enough standing alone. Mindfulness and careful thinking are called for.

✓ Experts sometimes refer to intuitive thinking as “System 1 thinking,” and this is popularly called Blinking, a term made popular by Malcolm Gladwell in his book, Blink: The Power of Thinking without Thinking (2007). More deliberate or conscious thinking is sometimes called “System 2 thinking,” occasionally popularly called “Staring.” Legal writers have considered these approaches. Professor Rachlinski, among others, has studied the way judges make decisions, characterizing that model as “intuitive deliberative”.

51
Slide #22 Overview of Debiasing

Research tells us that both implicit and explicit attitudes can change. [Fiske & Gilbert] Psychologists identify these change agents:

1. Change in contextual cues (e.g., expose White participants to positive African Americans and/or disliked Whites) [Fiske & Gilbert]

2. Addition of new information [Fiske & Gilbert, cf. Pettigrew “simply knowing more about the outgroup typically does not have a major effect on reducing prejudice])

3. Directly experiencing objects so as to create “new strong associations that are incompatible with existing stereotypes or prejudice” [Fiske & Gilbert 1110]

4. Taking the perspective of someone in the outgroup [Aberson]

5. Asking questions that get at both sides[Plous]
Additional notes for the facilitator/presenter—

This slide provides an overview of takeaway debiasing techniques that can be put into practice in a variety of settings. Some of them are quick and appear to focus only on the surface; others offer longer and deeper opportunity for change.

✓ This slide is mostly transitional, offering a summary of the techniques to come.

✓ As you show this slide, tell participants that the ideas offered in the next few slides are research-based and have proven can prove helpful confronting implicit bias.

Slide #23 Education

As the prior slides suggest, becoming aware of implicit bias is first an educational process. The film clip shown with this slide illustrates mindfulness. [Simons or Davison] There are other optical illusions that show similar ideas, i.e., that things are not always as they seem intuitively nor at first glance, for example, A & B are the same shade.
Additional notes for the facilitator/presenter—

Not surprisingly, education and awareness are critical to confronting implicit bias. The idea is that we take that which is implicit and often unknown and unspoken and shine a spotlight on it. Even just this awareness can be helpful.

✓ With this slide you may want to show a short film clip mentioned in the notes. [For a 90-minute session you will probably need to use one of the two short clips, though the Lunch Date, which is 10 minutes, is richer ground for discussion.]

✓ To show one of these you have to use from the internet sites.

- Christopher Chabris & Daniel Simons, *The Invisible Gorilla* (Film) available at [http://www.theinvisiblegorilla.com/videos.html](http://www.theinvisiblegorilla.com/videos.html) (1.5 minutes)

  or

- Adam Davison, Lunch Date (Film 1989) available at [http://www.youtube.com/watch?v=eputZigxUY8](http://www.youtube.com/watch?v=eputZigxUY8) (ten minutes)

✓ If you show them, or if your participants have watched them, DEBRIEF THE FILM.

✓ Ask participants what they saw/missed.

✓ If time allows, ask them to offer examples of similar “misses” from their own practices.

Additional background information you may want to use for discussing this slide—

✓ The point of any of this slide, the checkerboard, and the films is that they 1) are entertaining and 2) show situations where we make assumptions about directions or appearances and miss other things in the process.
We can help ourselves to be less implicitly biased through social contact, positive exemplars, and environmental context that expose us to other groups. [Jolls, Chang (education), Blair, Dasgupta & Rivera (personal and media)] -- “A principal mechanism for psychological change is the ‘social contact hypothesis,’ which suggests that prejudice and stereotypes can be reduced by face to face interaction between groups. [Kang & Banaji, Fiske & Gilbert, Asgari, Dasgupta & Asgari]

The idea of perspective taking, where a person takes the viewpoint of a member of the outgroup, is also useful in changing implicit bias. [Aberson] This is much like the law school approach of arguing both sides.
Kang and Banaji summarize the research for debiasing through social contact as requiring that people: [Kang Banaji, Miller]

1. be exposed to disconfirming data;
2. interact with others of equal status;
3. cooperate;
4. engage in non-superficial contact; and
5. receive clear norms in favor of equality.

An interesting study involving rising college freshmen illustrates the power of positive exemplars and these principles. Among girls who showed implicit biases for men before college, those who went to all-women schools and were exposed to women leaders lost that bias as compared to those who went to coed institutions where the bias became stronger. [Dasgupta & Asgari]

Research at law schools has also shown that “As racial diversity of a law school increases, there are strong increases in endorsements of perceived diversity of ideas and strong decreases in prejudice.” [LSAC]

Additional notes for the facilitator/presenter—

This slide offers a few examples of exposure—to other people and groups and to the perspectives held by others.

 ✓ As you show this slide, tell participants that research shows that such exposure can change implicit and explicit bias.

Additional background information you may want to use for discussing this slide—

 ✓ Social contact has long been a core idea for discussing and achieving the values of diversity. The notes highlight two examples of this research and also highlight that mere exposure is not likely sufficient; meaningful exposure is needed.

 ✓ The idea of perspective-taking is another way to encourage us to think more widely. When asked to put ourselves in another’s position or articulate that position, we are more likely to be able to decrease our implicit biases.
✓ The idea of meaningful attention is as addressed in the next slide, and the idea of positive exemplars is illustrated in Slide #28 with regard to noticing our messaging.

Slide # 25 Approach

Additional notes for the facilitator/presenter—

This is an overview/transition slide summarizing the next 2 slides, which offer more detail on these approaches.
Implicit bias can be limited by allowing more time to consider decisions, that is, by decreasing your cognitive load—the amount and complexity of information to be processed in any given time frame. E.g., decreasing caseloads for judges, defenders, prosecutors. [ABA Building Trust Unit 3]

Related to the time to consider is the opportunity to engage in “high-effort processing” of information vs. low-effort/peripheral processing, that is, time to “stare” or consciously consider; for example, through the use of more writing of discussion points and decisions, rather than to just “blink” with off-the-cuff decisions. [Secunda]

Using checklists at key decision points can encourage less biased decisions by providing an objective framework to assess your thinking. [Arkes] For example, in a hiring decision, it is useful to agree beforehand to the basic merit criteria (e.g., are book smarts or street smarts more important?). This helps assure decreased attention to biased characteristics that may be influencing decision making. [Rudman, Uhlmann, Luzadis, National Center] This approach can also limit the tendency to re-make the criteria to fit the ingroup favoritism and “preferred” candidate. [Greenwald AALS, Uhlmann, Gawronski & Bodenhausen]

Research has shown that these checkpoints can be effective in overcoming stereotypes. [Isaac, summary] For example, committing to the relative value of credentials before reviewing applications eliminated gender bias for those hiring a new police chief. [Uhlmann] Stereotypes are also less likely where there are more than one or two diverse candidates in the pool. [Isaac]
Additional notes for the facilitator/presenter—

This slide offers four specific ways to train ourselves to be less quick in our thinking, as the title says, to stare not blink. These are not rocket-science approaches, but the research shows they can be effective in achieving more informed and fair decision making.

✓ As you highlight the methods and points on this slide, you may want to ask participants for examples from their practices and/or the likelihood of adding these techniques for various aspects of their work.

Additional background information you may want to use for discussing this slide—

✓ All of these techniques can help us move from blink to stare, from intuitive to deliberative thinking.

✓ Of course, not all situations need or should remove themselves from intuitive thinking—consider a parent’s intuitive response to a child’s appearance or symptoms, consider the use of our intuitive expertise to evaluate items within that expertise. Malcolm Gladwell’s opening example in Blink: The Power of Thinking without Thinking of the art experts evaluating a statue purchased by the Getty museum as fake is an example; their evaluations were not based on research, but on their cumulated experience in a blink.

✓ The techniques that involve checklists and writing make it harder for us to slip into our implicitly biased views and can be particularly significant in employment and evaluation matters. For example, a checklist might help us from falling into gendered descriptions in recommendations and evaluations. National Center for Women & Information Technology offers these examples from their research:

Stereotypical and Grindstone Adjectives. Adjectives used to describe both male and female applicants were often based in gender stereotypes: men as successful and women as nurturing. Words like “compassionate” were frequently used for women, while words like “accomplishment” were more often used for men. Grindstone words - adjectives describing applicants as hard workers-were also more often used for women than for men, implying that women may have strong work ethic, but men have ability.
Another approach to debiasing is to use procedural changes to disrupt the link between implicit bias and discriminatory behavior through changed procedures.

Similarly, adding a level of accountability to the process debiases decisional outcomes. If we think we are being monitored or may have to explain our decisions, we are more motivated to act in an unbiased or debiased way. [Benforado, Ziegert] But it is important that the accountability be to a superior who him/herself offers a clear unbiased approach. [Jost Beyond Reasonable Doubt]

Some very telling research shows these points. For example, researchers have documented how using screens to provide a “blind” audition opportunity increased the numbers of women who achieved seats in orchestra trials. [Goldin]

Additional notes for the facilitator/presenter—

The debiasing techniques offered here build on the previous slides on debiasing, but are likely suggestions that require a more serious, longer-term motivation and commitment to change.

✓ As you show this slide, ask participants for examples from their practices.
Additional background information you may want to use for discussing this slide—

✓ It is common wisdom that what you test and what you count is what is learned.

✓ As leaders make known their intention to count, test, and consider results in evaluation settings, this model and its practices filter into the organizational ethos.

✓ The orchestra screens mentioned in the notes pages offer a clear example of how implicit bias could and did influence decisions rather than allowing merit to control. For those who think their decisions are based on merit, this is instructive.

✓ Similarly, the various research experiments where resumes are sent to potential employers with names changed, e.g., from Jack to Jamal, and where Jack gets far more interview requests than Jamal, illustrate the value of more careful procedure.

✓ The ABA Commission on Women in the Profession, Fair Measure: Toward Effective Attorney Evaluations (2nd ed. 2008) report is an excellent resource, which you might want to mention.
Another approach to debiasing is to focus on “micro-messaging,” where small messages are sent, typically without conscious thought or intent. [Valian Why So Slow, Valian Beyond] These messages may be micro-affirmations or micro-inequities or even micro-aggressions.

To understand micro-messaging, think about what pictures hang in your office. When the statue of the women suffragists joined the many male statues in the Capitol Rotunda, Senator Olympia Snowe commented that her work environment—and doubtless that of many others—had improved. [Harvard, VA, Architect (images), Library (images); also, Sheperd (environment)]

Also consider these examples: an associate of color shares an idea and no one responds; or the senior partners are seen repeatedly chatting in the hallways with certain associates, but not others ....

These are either micro-affirmations or micro-inequities depending on who you are in the scenario, and they accumulate.

Research shows that small differences accumulate: “A useful concept in sociology is the accumulation of advantage and disadvantage. It suggests that ...advantages accrue, and... disadvantages also accumulate. Very small differences in treatment can, as they pile up, result in large disparities ... It is unfair to neglect even minor instances of group-based bias.” (Valian Way Too Slow, Sandler)

Research also shows that these “small” messages have power for insiders and outsiders. For example, when a person with higher status acknowledges someone at a meeting, that acknowledgement influences others to also think better of that acknowledged person. [Valian]
Additional notes for the facilitator/presenter—

For micro-messaging. The notes give a few examples for consideration.

 ✓ As you show this slide, offer an example, e.g., “In my office, all the past deans are white men, so all the pictures on the walls are white men…” and ask participants to offer an example as well.

 ✓ Also then ask participants to offer a suggestion for how they can change their messaging.

Additional background information you may want to use for discussing this slide—

 ✓ This slide moves to a discussion of inclusion and making a safe and welcoming environment.

 ✓ There is research showing that such inclusion can produce greater productivity and creativity.

 ✓ The pictures on this slide are from the statuary in the U.S. Capitol Rotunda: Portrait Monument to Lucretia Mott, Elizabeth Cady Stanton, and Susan B. Anthony which was moved there in 1997 when it joined the many males already there including Washington, Lincoln, and Garfield, pictured here.
The presentation has reviewed the way our brains function, often implicitly and without cognition, to categorize objects and people in ways that may be implicitly biased. By educating ourselves and becoming aware of these implicit biases, we can help assure that our explicit behavior is fair. The debiasing section offers takeaways to these ends.

Additional notes for the facilitator/presenter—

✔ At this point, it is a good time for questions. Then show the Section of Litigation’s film on implicit bias as a good summary and send off. Be sure to also do the evaluations and share your feedback with us.
IMPLICIT BIAS AND DEBIASING POWERPOINT REFERENCES


ABA Commission2, AMERICAN BAR ASSOCIATION, ABA COMMISSION ON WOMEN IN THE PROFESSION, FAIR MEASURE: TOWARD EFFECTIVE ATTORNEY EVALUATIONS (2nd ed. 2008).


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Eagly & Karau. Alice H. Eagly & Steven J. Karau, Role Congruity Theory of Prejudice toward Female Leaders, 109 Psychol. Rev. 573.


Fiske. **SUSAN T. FISKE, SOCIAL BEINGS: CORE MOTIVES IN SOCIAL PSYCHOLOGY** (2nd ed. 2010).


Greenwald AALS. Anthony G. Greenwald, PhD, Professor, University of Washington, Department of Psychology, Presentation, *Implicit Association Test (IAT) in Legal Settings*, AALS Annual Meeting (Jan. 6 2011).


Lane. Kristin A. Lane, Mahzarin R. Banaji, Brian A. Nosek, and Anthony G. Greenwald, *Understanding and Using the Implicit Association Test: IV. What We*

Levinson & Young. Justin D. Levinson & Danielle Young, Different Shades of Bias: Skin Tone, Implicit Racial Bias, and Judgments of Ambiguous Evidence 112 W. V. U. L. Rev. 307,316-323 (2010) (“Participants who implicitly associated Black and Guilty were more likely to make harsher judgments of ambiguous evidence.”).


Redfield. SARAH E. REDFIELD, *Diversity Realized: Putting the Walk with the Talk for Diversity in the Pipeline to the Legal Profession* (2009).


Steele 2010. CLAUDE M. STEELE, WHISTLING VIVALDI AND OTHER CLUES TO HOW STEREOTYPES AFFECT US (2010) (describing source of title as a black graduate student who becomes non-threatening when he whistles Vivaldi).


VA. *Univ. of Virginia Portraits of Law School Deans Focus Attention on Need for Diversity*, JET, Mar. 3, 1997 at 32.


