**Session:** Checking for Biases Remotely: Best Practices for IOLTA Program Decision Making in a Time of Social Distancing

**Facilitators:** Destiny Peery, Principal Consultant, The Red Bee Group

*Decision making and professional judgments, whether about staffing, leadership, trustee/board member selection, board operations, long- and short-term program strategy, or grants, are the foundation of successful IOLTA programs. And each of these decisions can be influenced by both explicit and implicit biases. Further, these decisions are interrelated – biases that affect staffing and trustee/board members selection, for example, can lead to biases that affect decisions about grant-making. Destiny Peery is a lawyer and social psychologist whose expertise includes how cognitive biases impact organizational decision making and outcomes. In this interactive virtual session, she will help attendees identify potential biases and call attention to the unique ways that biases may manifest during a time when we’re all relying more heavily on virtual rather than in-person interactions, both for work with colleagues as well as with external partners including grantees and grant applicants.*

**Supplementary Readings:**


   **Takeway:** This is a study of the impacts of conducting bail hearings by video-conferencing compared to in-person hearings. The researchers found that for cases that moved to video-conferencing, average bail amounts were higher after the shift to video, whereas for cases that maintained in-person hearings, there was no change over the same period of time. More specifically, felonies with video bail hearings saw 50% - 90% higher bail amounts whereas felonies with in-person hearings saw a statistically insignificant increase of just 13% over the same period. Thus, defendants who had video bail hearings were significantly disadvantaged compared to defendants who had in-person hearings. The researchers call for attention to be paid to challenges presented by video hearings, including quality of video and audio, where is the person on video looking – into the camera or not, can the person on the video speak up or interject as needed, how does conducting hearings by video vs. in-person affect access to counsel and efficacy of said counsel.


   **Takeway:** When setting up video-conferencing, participants should be mindful of camera framing, as this can affect perceptions of others, including empathy afforded to those we’re interacting with. This study found that having the camera focused on just the face vs. the upper body affected how empathetic participants were to their
interaction partners because a close-up frame of someone’s face removes important non-verbal cues and body language that facilitate empathic interactions. In addition, the study found that a upper body camera framing didn’t differ from an in-person interaction, suggesting that video-conferencing doesn’t have to be a diminished substitute for in-person interactions.


**Takeaway:** A blog post put out by the National Center for State Courts that discusses the challenges of relying on video-mediated communication as a substitute for in-person proceedings. It also provides additional citations to research on the topic.


**Takeaway:** This article discusses concerns raised by the increased move to video-conferencing in the courtroom, with an emphasis on how it affects communications between attorneys and clients. This article also provides a good overview of existing uses of video in courtroom proceedings, including arraignment, testimony, and sentencing.


**Takeaway:** This detailed RAND report surveys existing research (as of 2004) on the effects of various forms of communication mediums used as substitutes for in-person communications. In particular, the existing literatures show that technology-mediated interactions have consequences for relationships, interactions, and judgments of others that should be of interest to anyone making consequential decisions based on information gathered and interactions occurring through these platforms. These other means of communicating, may lead people to be more extreme in their thinking processes and judgments, less sensitive to others, including how what they’re thinking and doing affects others, and more honest and candid.

**Takeaway:** This study examines how video vs. in-person interviews affect the interviewer’s experience and perceptions of the person they’re interviewing. The researchers found that video interviews were more mentally-draining than in-person interviews, likely due in part to the enhanced self-awareness that accompanied video interactions vs. in-person interactions. Further, eye contact, an important component of making judgments about truthfulness, among other things, was negatively affected by interacting by video, with interviewers perceiving less eye contact in video interactions compared to in-person interactions.


**Takeaway:** This study examines how video and internet connection quality affect judgments of interviewees. The researchers find that when internet connection or video quality is bad, interviewers judge the candidates more negatively than those with better connections and less disrupted or fluent video. Further, the researchers found that even after being told to disregard the difference in video quality and to not let it affect decisions, interviewers were not able to overcome their biases against the candidate who experiences technological glitches.


**Takeaway:** Article about a first of its kind virtual jury trial.


**Takeaway:** Discussion of the potential benefits and drawbacks of conducting legal proceedings virtually, including acknowledgment of the role that perceiving others plays in so many aspects of legal interactions like trials and hearings and how that is disrupted by virtual interactions.