

# Recognizing & Interrupting Bias in the Courtroom

Featuring distinguished panelists:

- Hon. Joseph Whitfield, 18th Judicial District - Ms. Christine Hernández, Esq.
- Ms. Karen Steinhauser, Esq.

Accredited for two CLEs, including two equity, diversity, and inclusivity (EDI) credits.

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*This program was previously presented to the Doyle, Marsh and Yasui Inns of Court. We would like to thank the presenters for their permission to use the attached materials.*

**The January 27, 2022 presentation is presented by the Justice Sonia Sotomayor American Inn of Court.**

**Christine M. Hernández, Esq.**, is a shareholder at Hernandez & Associates, PC in Denver, CO. With over 15 years of experience, Christine specializes in removal defense, family-based immigration (including U visas and VAWA), and federal appellate litigation before the Board of Immigration Appeals, Ninth Circuit, Tenth Circuit, and the U.S. Supreme Court. Christine has been endorsed as an expert witness in the area of immigration law. She frequently lectures on topics related to immigration, as well as equity, diversity, and inclusion in the legal profession. Christine received the Chris Miranda Outstanding Attorney Award from the Colorado Hispanic Bar Association and was named “Barristers Best - Immigration Attorney” by Law Week Colorado in 2020. In 2019 she was named “Lawyer of the Year” by Law Week Colorado for her work in immigration. She has been named a Super Lawyer since 2019 and was recognized as a Super Lawyer Rising Star from 2016-2018. Christine has also been named a Top Latino Lawyer since 2017 and was named one of the Most Powerful Latinas in Law in 2018 by the Latino Leaders Magazine. She is a Past President of the Colorado Hispanic Bar Association (2019) and has been Co-Chair of the Hispanic National Bar Association’s Immigration Section since 2015 and was Chair of HNBA’s inaugural ImmiGRANT Legal Defense Fund. Christine was appointed to the Colorado Supreme Court’s CLE Advisory Board in 2021 and appointed to the Colorado Supreme Court’s Hearing Board in 2020. She also serves on the Colorado Supreme Court’s Wellness Taskforce, focusing on the wellness of diverse law students. Christine is Co-Chair of the Colorado Bar Association/Colorado Judicial Institute’s Diversity on the Bench Joint Initiative and sits on the Denver Bar Association’s Board of Trustees. She is also Co-Chair of the Colorado Lawyers Committee’s Racial Justice Taskforce.

**Karen Steinhauser, Esq.**, is currently a part-time deputy district attorney for the 5th Judicial District after running her own criminal defense law practice for many years. She also serves as a part-time judge for Aurora Municipal Court. She has worked as a prosecutor for 20 years, a full-time law professor at the University of Denver, and as Of-Counsel and Shareholder in private law firms, handling family, criminal, and civil litigation. As a prosecutor, she helped start the Domestic Violence Unit, and specialized in prosecuting sexual assault on children and adult sexual assault cases. She is an adjunct professor at the University of Denver Sturm College of Law, where she has taught Evidence and Trial Advocacy for the past 30 years, and has been a faculty member of the National Institute for Trial Advocacy for approximately 30 years, training lawyers both nationally and internationally in various aspects of litigation including taking effective depositions and trial skills advocacy. Karen provides implicit/unconscious bias training to lawyers and non-lawyers in government agencies and private businesses. Her article entitled “We are all a

little bit biased” was published by the American Bar Association. She serves on the Diversity on the Bench Committee through the Colorado Bar Association and Colorado Judicial Institute. She is also a former board chair and member of the AntiDefamation League. You can find more information about her implicit/unconscious bias training here: [www.steinhauserimplicitbias.com](http://www.steinhauserimplicitbias.com)

**Honorable Joseph Whitfield** is a District Court Judge in the 18th Judicial District in Colorado. There he can handle a variety of case types, including civil, criminal, domestic relations, juvenile, and others. Prior to his appointment to the bench, he served as a Deputy District Attorney for the Office of the District Attorney for the 18th Judicial District. Prior to joining the District Attorney’s Office, Judge Whitfield had a career in business and technology. He would later clerk for the United States Attorney’s Office for the Eastern District of Missouri, handling a variety of cases, including human trafficking, intellectual property, organized crime, and public corruption. Judge Whitfield has served in a variety of leadership positions, including as a Committee Chair for the NAACP Aurora Colorado Chapter, President of the Sam Cary Bar Association of Colorado, Vice President of the Board for Highline Academy Charter Schools, as a Commissioner on the Uniform Law Commission (Colorado Delegation), and as an Instructor with the National Institute for Trial Advocacy (NITA). Judge Whitfield received both his J.D. and LL.M. in Intellectual Property and Technology Law from the School of Law at Washington University in St. Louis.

### **Change is Upon Us: The Importance of Diversity and Inclusion Initiatives**

By Christine M. Hernandez, Olivia Serene Lee, Nandini Nair

**Christine M. Hernandez** is a shareholder at Hernandez & Associates, PC. and specializes in removal defense and family-based immigration matters. Hernandez & Associates, PC was awarded the Inclusiveness@Work Award (Law Firm Category) by the Center for Legal Inclusiveness in 2019. Christine was recognized as a Super Lawyers Rising Star from 2016-2018 and named a Colorado Super Lawyer in 2019. She has been recognized as a Top Latino Lawyer since 2017 and was named one of the Most Powerful Latinas in Law in 2018 by the Latino Leaders Magazine. She is the Immediate Past President of the Colorado Hispanic Bar Association and Chair of the Hispanic National Bar Association’s Immigration Section. Christine serves on the Colorado Bar Association/Colorado Judicial Institute Diversity on the Bench Joint Initiative and the Colorado Supreme Court’s Wellness Task Force, focusing on the wellness of diverse law students.

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## **Introduction**

Discussions of racism in the aftermath of the police killing of George Floyd and how businesses have responded highlight the importance of Diversity and Inclusion efforts. A recent example of how a lack of understanding of diversity issues has impacted businesses includes CrossFit founder Greg Glassman's inflammatory remarks about the nationwide protests in support of Black Lives Matter, which resulted in CrossFit's loss of contracts with athletic companies and franchise deals and eventually in Glassman's resignation as CEO of the company.

Demands to increase Diversity and Inclusion efforts within the legal profession have gained more prominence in recent years, and immigration practitioners especially those who work with corporate client companies must adopt Diversity and Inclusion initiatives to remain competitive. It is now prudent for savvy business immigration practitioners to showcase their Diversity and Inclusion efforts to impress not only their current and potential corporate clients, but also that they are not out of touch with the national discussion happening about inequality.

Diversity is about recognizing, respecting and valuing differences based on ethnicity, gender, color, age, race, religion, disability, national origin and sexual orientation. It also includes a range of individual unique characteristics and experiences, such as communication style, career path, life experience, educational background, income level, marital status, military experience, parental status and other variables that influence personal perspectives. Inclusion is the active, intentional, and ongoing engagement with diversity. Diversity and inclusion have been described by some experts as a two-step process. "Diversity is being invited to the party. Inclusion is being asked to dance."<sup>1</sup>

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<sup>1</sup> The Association of Legal Administrators Diversity Toolkit, IILP Review 40 (2017) (quoting Pauline Higgins, a leader in diversity education). The phrase was copyrighted by Verna Myers

Moreover, those who perceive diversity as exclusively a moral imperative or societal goal are missing the larger point. Decades of research confirm that diversity within the workforce, especially in leadership teams, lead to more and better innovation and improved financial performance.<sup>2</sup> Despite this, diversity gains in the law firm setting have not significantly improved.<sup>3</sup> For example, the Institute for Inclusion in the Legal Profession's Review 2019-2020: The State of Diversity and Inclusion in the Legal Profession confirms that compared to most other professions, the legal profession remains one of the least diverse of all professions in the US and that the aggregate minority representation among lawyers is significantly lower than minority representation in most other management and professional jobs. The 2019 Report on Diversity in U.S. Law Firms by the National Association for Law Placement (NALP) confirms that while women and people of color continue to be well represented in law school and in the summer associate class, at each year after that women and people of color leave the lawyer ranks at law firms at a higher rate than white men, and women of color remain the most underrepresented of all; and lawyers with disabilities of all sorts remain vastly underreported.

In response to the meager gains of diversity in the legal profession, recent trends indicate prominent initiatives to promote diversity in the legal profession, including the ABA Resolution 113, The Mansfield Rule, and GCs for Law Firm Diversity, among other initiatives.

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The **ABA Resolution 113** was passed in August 2016, urging legal service providers to expand and create opportunities for diverse attorneys, and urges the buyers of legal services to direct a greater percentage of legal spend towards diverse attorneys. In the report supporting the Resolution, the following goals were stated:

- Increase diversity at all levels within the legal profession which will make the legal field a more appealing profession for diverse individuals;
- Increase in the number of diverse attorneys and remediate the issues of implicit bias in the legal profession; and
- Encourage corporate clients to use a Model Diversity Survey in procuring and evaluating legal service providers.

**The Mansfield Rule**, named after the first woman lawyer in the United States, Arabella Mansfield, challenges law firms to consider at least 30% women, attorneys of color, LGBTQ+ and lawyers with disabilities for leadership and governance roles, equity partner promotions, formal client pitch opportunities, and senior lateral positions. To comply with the Mansfield Rule, participating law firms are required to establish metrics to assess their talent pipelines and measure their progress towards the 30% goal as well as identify areas for improvement. Law departments have supported

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<sup>2</sup> <https://www.bcg.com/en-us/publications/2018/how-diverse-leadership-teams-boost-innovation.aspx>

<sup>3</sup> See **2019 NALP Report on Diversity**, available at [https://www.nalp.org/uploads/2019\\_DiversityReport.pdf](https://www.nalp.org/uploads/2019_DiversityReport.pdf), and **IILP Review 2019-2020: The State of Diversity and Inclusion in the Legal Profession**, available at [http://www.theiilp.com/resources/Documents/IILP\\_2019\\_FINAL\\_web.pdf](http://www.theiilp.com/resources/Documents/IILP_2019_FINAL_web.pdf).

the Mansfield Rule by encouraging more law firm participation. The Diversity Lab sponsors a program offering law firms that have successfully implemented the Mansfield Rule the opportunity to send their promoted diverse partners to a two-day Client Forum to forge relationships with, and learn from, influential in-house counsel. To date, 70 legal departments have committed to support the Mansfield Rule and attended these client forums. Recently, the Diversity Lab has opened the Mansfield Rule to legal departments within corporations, requiring participating in-house legal teams to consider at least 50% women, minority, LGBTQ+ attorneys, or attorneys with disabilities for key leadership roles and to consider at least 50% diverse lawyers for outside counsel hires for new or expanded work. The initial participants include BASF Corporation, Compass Minerals, Lending Club, MassMutual, PayPal, Symantec, thredUP, and U.S. Bank. Law departments should strongly consider implementing the Mansfield Rule given its promising initial results.

**GCs for Law Firm Diversity** reflects an open letter in January 2017 signed by 170 general counsel and corporate legal officers to big law firms, lamenting new partner classes that “remain largely male and largely white”. The letter confirms their companies will prioritize their legal spend on those firms that commit to diversity and inclusion. The letter has been signed by chief legal officers in a variety of industries, including those in technology, retail, media, hospitality and financial services. The companies range from small tech outfits to large corporations, such as Google Fiber, Etsy, Heineken USA, Chobani Global Holdings, Waymo, Lyft, Vox Media, S&P Global Ratings and Booz Allen Hamilton. An excerpt of this letter reads:

“We, as a group, will direct our substantial outside counsel spend to those law firms that manifest results with respect to diversity and inclusion, in addition to providing the highest degree of quality representation. We sincerely hope that you and your firm will be among those that demonstrate this commitment.”<sup>4</sup>

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Adopting a Diversity and Inclusion plan needs to be viewed as a competitive advantage and a business opportunity - and it will impact your bottom line.

### **Tangible Benefits of Diversity for Your Firm**

Many successful companies regard Diversity and Inclusion as a source of competitive advantage, workplace equality has become a conscious initiative for businesses. So companies that don't focus on this are at great risk of being out of date. Law firms specifically have been slow to embrace the benefits of diversity. But are there tangible benefits of diversity for the law firms? You bet there are!

Diversity and inclusion provides law firms and all organizations with at least 3 tangible benefits, if not more:

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<sup>4</sup> <http://www.theiilp.com/resources/Documents/GCStatementDiversity.pdf>

## 1. Diversity Helps Fill The Talent Gap

Today, one of the biggest concerns for organizations, including law firms, is not having the right people to run and grow their businesses. So they're starting to look to diverse applicants as a way to address this issue. An organization that embraces diversity will be able to attract a wider range of candidates for their vacancies, as it will be viewed as a more progressive organization and will appeal to individuals from all walks of life. People always want work in an environment which is accepting of all backgrounds and advocates for equality. Individuals from diverse backgrounds can bring to the table different skill sets, talents, perspectives and experiences that may benefit the organization. In addition, Of course, the more applicants you receive, the chances of finding a great employee also increases!

## 2. Diversity Drives Innovation

Increased creativity is another byproduct of capitalizing on differences. "Diversity jolts us into cognitive action in ways that homogeneity simply does not", wrote Columbia Business School Professor, Katherine Phillips as she described hers and other research for Scientific American in "How Diversity Makes Us Smarter"[1]. Historically, some of the most creative periods in civilization have emerged when people of different backgrounds have contact and work together. America's inventiveness and growth have been attributed to the diversity of thought born from this nation of immigrants.

By working alongside people of different backgrounds, experiences and working styles, creative concepts can be born from bouncing ideas off of each other and offering feedback and suggestions. More recently, research has shown that effective diversity management coupled with inclusive work environments improves organizational performance and innovation.

## 3. Your Clients Will Feel More Connected to You

As an immigration practitioner, we are interacting daily with individuals from all over the world. In the same way that it's important for a diverse workforce to see themselves represented and spoken for in your firm, it's just as important for your clients to feel understood, catered to, and feel represented. No matter your specific immigration practice area, diversity inherently exists in your client base. In other words, when it comes to your clients, a one-size-fits-all approach is a thing of the past.

It takes diverse thinking and backgrounds to authentically understand the journey of your clients which has the potential to open up new ones. The more your clients have the opportunity to see themselves authentically represented within your firm and by the people they come into contact with, the more they'll be able to relate to you which drive meaningful connection and better business results.

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[1] How Diversity Makes Us Smarter By Katherine W Phillips (September 28<sup>th</sup>, 2015)



## **Obstacles Legal Professionals Encounter as They Seek to Eliminate Implicit Bias and Solutions**

Partners at large firms often lament that the reason their law firm lacks diversity is because there “just aren’t enough qualified applicants”. According to a 2018 ABA study, the student body of ABA-accredited law schools was comprised of 6.17% Asian, 12.8% Hispanic, .56% Native American, and 8.11% Black students<sup>5</sup>. Putting aside these percentages, all law firms, big and small, should be looking at their hiring practices and evaluating whether they allow for qualified diverse applicants to make it to their applicant pool.

For example, does your firm tend to hire males, whites, graduates from a particular law school, fraternity/sorority members, golfers? The truth is, it is our natural tendency to look for applicants who look like us or share our backgrounds, this is implicit bias!

So, what is the solution, how does a law firm break through implicit bias and succeed in becoming diverse? There is no silver bullet, but there are a number of strategies that can easily be undertaken. Most importantly, senior leadership and management needs to have bought into the idea of diversifying a law firm. Senior leadership/management has to be actively involved and participate meaningfully in diversity efforts. Without senior leadership’s involvement, the result will be a diverse law firm that is NOT inclusive, which in the long term will translate into a loss of diverse talent and return to a non-diverse law firm.

Below you will find a number of strategies to implement in your law firm to ensure diversity AND inclusion:

1. Ensure that your hiring committee is diverse.
  2. Do not limit your talent search to just the top ranked law schools, branch out to lower tiered schools.
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3. Consider factors other than grades, such as: strong academic performance at a recognized undergraduate institution; military service; volunteer work; writing ability/writing awards; law journal experience; and involvement in student bar activities.
  4. Implement a first-year summer clerkship program.
  5. Participate in diversity job fairs.
  6. Delete grades/GPAs from résumés of students coming in for in-office interviews.
  7. Include diverse attorneys when conducting interviews.
  8. When pairing law students with attorney "mentors" or "liaisons," do not automatically pair diverse students with diverse lawyers, instead look for shared interests/experiences.
  9. Use Fall and Spring clerkships to hire diverse law students. You may find that their work product is more representative of their future success as an attorney than their grades.

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<sup>5</sup> <https://www.enjuris.com/students/law-school-race-2018.html>



10. Get your firm involved in diverse law student association activities, as well as the diversity bar associations.

### **How Your Firm Can Develop Sustainable Diversity and Inclusion Practices**

“Diversity gets people of color in the room. Inclusion is what makes people really part of the room and makes people want to stay.”<sup>6</sup>

Now that you have successfully gotten senior leadership on board with diversity initiatives in your law firm, how do you convert those efforts into an inclusive law firm. First, senior leadership must understand that diverse attorneys have to be shown that they belong and that their voice is valued.

How do you show your diverse attorneys that are valued – invest in their future. For example, make sure your diverse attorneys are getting the following:

- Training
- Constructive feedback with opportunities to correct
- Equitable work distribution
- Real client-facing opportunities
- Stretch assignments
- Increased responsibilities, and
- Access to key-decision makers

A sink or swim mentality is NOT going to cut it. Employing the above strategies will ensure that diverse lawyers have equal access to advancement opportunities, and that merit and work ethic will be recognized over nepotism. Attorneys with more traditional backgrounds (white males) may be able to more quickly find mentors and sponsors than diverse attorneys. For this reason, law firms have to be intentional about setting up their diverse attorneys for success, by providing them the tools they need to be successful.

Senior leadership also has to lead by example in creating and maintaining a culture and work environment that is welcoming and allows all attorneys to bring their full self to the workplace.

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Providing training on implicit bias, signals a law firm’s awareness of the issue and willingness to tackle it. Encouraging and supporting an attorney’s involvement in the community or a diverse bar association, are ways law firm can signal “we are diverse through our actions, not just our words”.

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<sup>6</sup> Nicole Norfleet, Lack of Diversity Drives Professionals of Color Out of Twin Cities, Star Tribune (Minn.), Jan. 7, 2017.

## **How Adopting These Initiatives Could Make Your Firm More Attractive to Corporate Clients**

According to Business News Daily, “Today’s consumers are looking for more than just highquality products and services when they make a purchase. They’re prioritizing Corporate Social Responsibility (CSR), and holding corporations accountable for effecting social change with their business beliefs, practices and profits.” For successful companies, they are increasingly looking at Diversity and Inclusion as essential for their growth strategy and as a source of competitive advantage.<sup>7</sup> Legal departments within corporations now see their legal vendors as strategic partners in achieving Diversity and Inclusion goals. As such, when corporate companies are seeking law firms for their legal work, they are now increasingly requesting for Diversity and Inclusion information, including social justice, growth strategy, corporate social responsibility. In responding to corporate Requests for Proposals (RFPs), potential clients will want to see where your diversity and inclusion plans, and it is now imperative to include details that encourage the retention, development, and promotion of diverse attorneys, including:

- Diversity and Inclusion Strategic Plan;
- Metrics for diverse attorneys and partners, including how to track, measure, and benchmark diversity and inclusion efforts at both the leadership and practice group levels;
- Initiatives to promote diverse attorneys, including placing diverse attorneys on pitch and client teams, ensuring that diverse attorneys are given meaningful opportunities to lead projects, cases, or client teams;
- Commitment to diversity and inclusion outside of the law firm, including philanthropic efforts for community and social justice causes and engagement with minority bar groups or affinity bar groups.

### **Marketing Your Diversity and Inclusion Initiative**

You or firm have developed Diversity & Inclusion initiatives and practices, how do you go about marketing that?

#### **1. Be Clear About Your Message**

Messaging is one of the most important aspects in any marketing strategy. If done well, it will get you the results you are looking for. When it comes to Diversity and Inclusion, pictures are a stronger proof point than words on your website or your social media platforms. Candidates not only want to know what it’s like to work at your company, they also want to see who works at your company. Most marketing departments will strongly advise you against using stock photography, rather they will recommend using the most diverse and inclusive photos you can of your own employees. The goal is to try to mirror your target audience but do so in an authentic way.

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<sup>7</sup> [7](https://www.mckinsey.com/~/media/McKinsey/Business%20Functions/Organization/Our%20Insights/Delivering%20through%20diversity/Delivering-through-diversity_full-report.ashx)

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But words are important too, especially words that can exclude people due to unconscious bias. You can use something like Textio, the augmented writing platform to help remove unconscious bias from their job descriptions and ensure your language is gender neutral and inclusive.

## **2. Include and Engage Leadership in Marketing of D&I Initiatives**

Any programs you developed to promote your D&I goals will be most effective if you tap the resources of your leadership. The senior leadership must be involved and visible throughout the whole diversity project, speeches alone have little impact. The CEO and other senior leaders should be visible at workshops, training programs and during Q&A sessions on diversity, they need to be seen as invested and engaged in these initiatives.

## **3. Do you have a Diversity Statement?**

What the heck is this? A diversity statement is a written document, maybe posted on your website that declares your commitment to encouraging diversity and inclusion. How do you create an effective Diversity statement? Well here are some tips:

- Keep it short, 45 to 75 words is all you really need.
- Keep it positive. Use positive words such as inclusive, commitment, celebrate, growth, freedom, experience, etc.
- Mention your mission in clear terms
- Be specific as to how you promote diversity in your firm. For example, do you have Employee Resource Groups, if yes name them.

## **Conclusion**

A national discussion regarding inequality and inequities has erupted following the police killing of George Floyd during a global pandemic that has significantly impacted minority communities.<sup>8</sup> The time is ripe for all organizations to adopt Diversity and Inclusion initiatives. The authors of this article also encourage practitioners to explore systemic injustices and examine the difference of equality and equity. Also, these Diversity and Inclusion discussions should never be abandoned to only be picked up again when there is another national outrage on inequality issues. Instead, these discussions and the actions implemented from Diversity and Inclusion initiatives must always continue to happen.

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<sup>8</sup> COVID-19 disproportionately impacts communities of color, including elevated risk of infection and death for Black Americans, Latinos, and Native Americans, as well as more than 1700 hate incidents on Asian Americans. See <https://ehe.amfar.org/inequity>, <https://www.cnn.com/2020/05/27/health/latinoimpact-covid-19/index.html>, <https://www.theatlantic.com/ideas/archive/2020/04/disease-has-never-beenjust-disease-native-americans/610852/>, and [http://www.asianpacificpolicyandplanningcouncil.org/wpcontent/uploads/Press\\_Release\\_5\\_13\\_20.pdf](http://www.asianpacificpolicyandplanningcouncil.org/wpcontent/uploads/Press_Release_5_13_20.pdf).

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## INTRODUCTION

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- Increase diversity at all levels within the legal profession which will make the legal field a more appealing profession for diverse individuals
- Increase in the number of diverse attorneys and remediate the issues of implicit bias in the legal profession
- Encourage corporate clients to use a Model Diversity Survey in procuring and evaluating legal service providers

**The Mansfield Rule**, named after the first woman lawyer in the United States, Arabella Mansfield, challenges law firms to consider at least 30% women, attorneys of color, LGBTQ+ and lawyers with disabilities for leadership and governance roles, equity partner promotions, formal client pitch opportunities, and senior lateral positions. To comply with the Mansfield Rule, participating law firms are required to establish metrics to assess their talent pipelines and measure their progress towards the 30% goal as well as identify areas for improvement. Law departments have supported the Mansfield Rule by encouraging more law firm participation. The Diversity Lab sponsors a program offering law firms that have successfully implemented the Mansfield Rule the opportunity to send their promoted diverse partners to a two-day Client Forum to forge relationships with, and learn from, influential in-house counsel. To date, 70 legal departments have committed to support the Mansfield Rule and attended these client forums. Recently, the Diversity Lab has opened the Mansfield Rule to legal departments within corporations, requiring participating in-house legal teams to consider at least 50% women, minority, LGBTQ+ attorneys, or attorneys with disabilities for key leadership roles and to consider at least 50% diverse lawyers for outside counsel hires for new or expanded work. The initial participants include BASF Corporation, Compass Minerals, Lending Club, MassMutual, PayPal, Symantec, thredUP, and U.S. Bank. Law departments should strongly consider implementing the Mansfield Rule given its promising initial results.

**GCs for Law Firm Diversity** reflects an open letter in January 2017 signed by 170 general counsel and corporate legal officers to big law firms, lamenting new partner classes that "remain largely male and largely white". The letter confirms their companies will prioritize their legal spend on those firms that commit to D&I. The letter has been signed by chief legal officers in a variety of industries, including those in technology, retail, media, hospitality and financial services. The companies range from small tech outfits to large corporations, such as Google Fiber, Etsy, Heineken USA, Chobani Global Holdings, Waymo, Lyft, Vox Media, S&P Global Ratings and Booz Allen Hamilton. An excerpt of this letter reads:

"We, as a group, will direct our substantial outside counsel spend to those law firms that manifest results with respect to D&I, in addition to providing the highest degree of quality representation. We sincerely hope that you and your firm will be among those that demonstrate this commitment."<sup>4</sup>

<sup>4</sup> [www.theiilp.com/resources/Documents/GCStatementDiversity.pdf](http://www.theiilp.com/resources/Documents/GCStatementDiversity.pdf)

Adopting a D&I plan needs to be viewed as a competitive advantage and a business opportunity - and it will impact your bottom line.

## TANGIBLE BENEFITS OF DIVERSITY FOR YOUR FIRM

Many successful companies regard D&I as a source of competitive advantage, workplace equality has become a conscious initiative for businesses. Thus, companies that don't focus on this are at great risk of being out of date. Law firms specifically have been slow to embrace the benefits of diversity. But are there tangible benefits of diversity for the law firms? You bet there are!

Diversity and inclusion provides law firms and all organizations with at least 3 tangible benefits, if not more:

### • **Diversity Helps Fill the Talent Gap**

Today, one of the biggest concerns for organizations, including law firms, is not having the right people to run and grow their businesses. So, they're starting to look to diverse applicants as a way to address this issue. An organization that embraces diversity will be able to attract a wider range of candidates for their vacancies, as it will be viewed as a more progressive organization and will appeal to individuals from all walks of life. People always want work in an environment which is accepting of all backgrounds and advocates for equality. Individuals from diverse backgrounds can bring to the table different skill sets, talents, perspectives and experiences that may benefit the organization. In addition, Of course, the more applicants you receive, the chances of finding a great employee also increases!

### • **Diversity Drives Innovation**

Increased creativity is another byproduct of capitalizing on differences. “Diversity jolts us into cognitive action in ways that homogeneity simply does not”, wrote Columbia Business School Professor, Katherine Phillips as she described hers and other research for Scientific American in “How Diversity Makes Us Smarter”.<sup>5</sup> Historically, some of the most creative periods in civilization have emerged when people of different backgrounds have contact and work together. America’s inventiveness and growth have been attributed to the diversity of thought born from this nation of immigrants.

By working alongside people of different backgrounds, experiences and working styles, creative concepts can be born from bouncing ideas off of each other and offering feedback and suggestions. More recently, research has shown that effective diversity management coupled with inclusive work environments improves organizational performance and innovation.

<sup>5</sup> K. Phillips, How Diversity Makes Us Smarter (Sept. 28, 2015).

### • **Your Clients Will Feel More Connected to You**

As an immigration practitioner, we are interacting daily with individuals from all over the world. In the same way that it is important for a diverse workforce to see themselves represented and spoken for in your firm, it’s just as important for your clients to feel understood, catered to, and feel represented. No matter your specific immigration practice area, diversity inherently exists in your client base. In other words, when it comes to your clients, a one-size-fits-all approach is a thing of the past.

It takes diverse thinking and backgrounds to authentically understand the journey of your clients which has the potential to open new ones. The more your clients have the opportunity to see themselves authentically represented within your firm and by the people they come into contact with, the more they’ll be able to relate to you which drive meaningful connection and better business results.

## **OBSTACLES LEGAL PROFESSIONALS ENCOUNTER AS THEY SEEK TO ELIMINATE IMPLICIT BIAS AND SOLUTIONS**

Partners at large firms often lament that the reason their law firm lacks diversity is because there “just aren’t enough qualified applicants”. According to a 2018 ABA study, the student body of ABA-accredited law schools was comprised of 6.17% Asian, 12.8% Hispanic, .56% Native American, and 8.11% Black students . Putting aside these percentages, all law firms, big and small, should be looking at their hiring<sup>6</sup> practices and evaluating whether they allow for qualified diverse applicants to make it to their applicant pool.

<sup>6</sup> [www.enjuris.com/students/law-school-race-2018.html](http://www.enjuris.com/students/law-school-race-2018.html)

For example, does your firm tend to hire males, whites, graduates from a particular law school, fraternity/sorority members, golfers? The truth is, it is our natural tendency to look for applicants who look like us or share our backgrounds, this is implicit bias!

So, what is the solution, how does a law firm break through implicit bias and succeed in becoming diverse? There is no silver bullet, but there are a number of strategies that can easily be undertaken. Most importantly, senior leadership and management needs to have bought into the idea of diversifying a law firm. Senior leadership/management has to be actively involved and participate meaningfully in diversity efforts. Without senior leadership’s involvement, the result will be a diverse law firm that is NOT inclusive, which in the long term will translate into a loss of diverse talent and return to a non-diverse law firm.

Below you will find a number of strategies to implement in your law firm to ensure diversity AND inclusion:

- Ensure that your hiring committee is diverse.
- Do not limit your talent search to just the top ranked law schools, branch out to lower tiered schools.
- Consider factors other than grades, such as: strong academic performance at a recognized undergraduate institution; military service; volunteer work; writing ability/writing awards; law journal experience; and involvement in student bar activities.
- Implement a first-year summer clerkship program.
- Participate in diversity job fairs.
- Delete grades/GPAs from résumés of students coming in for in-office interviews.
- Include diverse attorneys when conducting interviews.
- When pairing law students with attorney “mentors” or “liaisons,” do not automatically pair diverse students with diverse lawyers, instead look for shared interests/experiences.
- Use Fall and Spring clerkships to hire diverse law students. You may find that their work product is more representative of their future success as an attorney than their grades.
- Get your firm involved in diverse law student association activities, as well as the diversity bar associations.

## **HOW YOUR FIRM CAN DEVELOP SUSTAINABLE DIVERSITY AND INCLUSION PRACTICES**

“Diversity gets people of color in the room. Inclusion is what makes people really part of the room and makes people want to stay.”<sup>Z</sup>



N. Norfleet, Lack of Diversity Drives Professionals of Color Out of Twin Cities, Star Tribune (Minn.), Jan. 7, 2017.

Now that you have successfully gotten senior leadership on board with diversity initiatives in your law firm, how do you convert those efforts into an inclusive law firm. First, senior leadership must understand that diverse attorneys have to be shown that they belong and that their voice is valued.

How do you show your diverse attorneys that are valued—invest in their future. For example, make sure your diverse attorneys are getting the following:

- Training
  - Constructive feedback with opportunities to correct
  - Equitable work distribution
  - Real client-facing opportunities
  - Stretch assignments
  - Increased responsibilities, and
  - Access to key-decision makers

A sink or swim mentality is NOT going to cut it. Employing the above strategies will ensure that diverse lawyers have equal access to advancement opportunities, and that merit and work ethic will be recognized over nepotism. Attorneys with more traditional backgrounds (white males) may be able to more quickly find mentors and sponsors than diverse attorneys. For this reason, law firms have to be intentional about setting up their diverse attorneys for success, by providing them the tools they need to be successful.

Senior leadership also has to lead by example in creating and maintaining a culture and work environment that is welcoming and allows all attorneys to bring their full self to the workplace. Providing training on implicit bias, signals a law firm's awareness of the issue and willingness to tackle it. Encouraging and supporting an attorney's involvement in the community or a diverse bar association, are ways law firm can signal "we are diverse through our actions, not just our words."

## HOW ADOPTING THESE INITIATIVES COULD MAKE YOUR FIRM MORE ATTRACTIVE TO CORPORATE CLIENTS

According to Business News Daily, "Today's consumers are looking for more than just high-quality products and services when they make a purchase. They're prioritizing Corporate Social Responsibility (CSR), and holding corporations accountable for effecting social change with their business beliefs, practices and profits." For successful companies, they are increasingly looking at D&I as essential for their growth strategy and as a source of competitive advantage. Legal departments within corporations now see their legal vendors as strategic<sup>8</sup> partners in achieving D&I goals. As such, when corporate companies are seeking law firms for their legal work, they are now increasingly requesting for D&I information, including social justice, growth strategy, corporate social responsibility. In responding to corporate Requests for Proposals (RFPs), potential clients will want to see where your D&I plans, and it is now imperative to include details that encourage the retention, development, and promotion of diverse attorneys, including:

[www.mckinsey.com/~media/McKinsey/Business%20Functions/Organization/Our%20Insights/Delivering%20through%20diversity/Delivering-through-diversity\\_full-report.ashx](http://www.mckinsey.com/~media/McKinsey/Business%20Functions/Organization/Our%20Insights/Delivering%20through%20diversity/Delivering-through-diversity_full-report.ashx).

- D&I Strategic Plan
- Metrics for diverse attorneys and partners, including how to track, measure, and benchmark D&I efforts at both the leadership and practice group levels;
- Initiatives to promote diverse attorneys, including placing diverse attorneys on pitch and client teams, ensuring that diverse attorneys are given meaningful opportunities to lead projects, cases, or client teams
- Commitment to D&I outside of the law firm, including philanthropic efforts for community and social justice causes and engagement with minority bar groups or affinity bar groups

### Marketing Your D&I Initiative

You or firm have developed D&I initiatives and practices, how do you go about marketing that?

#### ***Be Clear About Your Message***

Messaging is one of the most important aspects in any marketing strategy. If done well, it will get you the results you are looking for. When it comes to D&I, pictures are a stronger proof point than words on your website or your social media platforms. Candidates not only want to know what it is like to work at your company, they also want to see who works at your company. Most marketing departments will strongly advise you against using stock photography, rather they will recommend using the most diverse and inclusive photos you can of your own employees. The goal is to try to mirror your target audience but do so in an authentic way.



But words are important too, especially words that can exclude people due to unconscious bias. You can use something like Textio, the augmented writing platform to help remove unconscious bias from their job descriptions and ensure your language is gender neutral and inclusive.

### ***Include and Engage Leadership in Marketing of D&I Initiatives***

Any programs you developed to promote your D&I goals will be most effective if you tap the resources of your leadership. The senior leadership must be involved and visible throughout the whole diversity project, speeches alone have little impact. The CEO and other senior leaders should be visible at workshops, training programs and during Q&A sessions on diversity, they need to be seen as invested and engaged in these initiatives.

### ***Do You Have a Diversity Statement?***

What the heck is this? A diversity statement is a written document, maybe posted on your website that declares your commitment to encouraging D&I. How do you create an effective Diversity statement? Well here are some tips:

- Keep it short: 45 to 75 words is all you really need.
- Keep it positive. Use positive words such as “inclusive,” “commitment,” “celebrate,” “growth,” “freedom,” “experience,” etc.
- Mention your mission in clear terms
- Be specific as to how you promote diversity in your firm. For example, do you have Employee Resource Groups? If yes, name them.

## **CONCLUSION**

A national discussion regarding inequality and inequities has erupted following the police killing of George Floyd during a global pandemic that has significantly impacted minority communities. The time is ripe for all organizations to adopt D&I initiatives. The authors of this article<sup>9</sup> also encourage practitioners to explore systemic injustices and examine the difference of equality and equity. Also, these D&I discussions should never be abandoned to only be picked up again when there is another national outrage on inequality issues. Instead, these discussions and the actions implemented from D&I initiatives must always continue to happen.

<sup>9</sup> COVID-19 disproportionately impacts communities of color, including elevated risk of infection and death for Black Americans, Latinos, and Native Americans, as well as more than 1700 hate incidents on Asian Americans. See <https://ehe.amfar.org/inequity>, [www.cnn.com/2020/05/27/health/latino-impact-covid-19/index.html](http://www.cnn.com/2020/05/27/health/latino-impact-covid-19/index.html), [www.theatlantic.com/ideas/archive/2020/04/disease-has-never-beenjust-disease-native-americans/610852/](http://www.theatlantic.com/ideas/archive/2020/04/disease-has-never-beenjust-disease-native-americans/610852/), and [www.asianpacificpolicyandplanningcouncil.org/wpcontent/uploads/Press\\_Release\\_5\\_13\\_20.pdf](http://www.asianpacificpolicyandplanningcouncil.org/wpcontent/uploads/Press_Release_5_13_20.pdf)).

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March 16, 2020

# Everyone Is a Little Bit Biased

Karen Steinhauser

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## IN BRIEF

- We all have biases that affect all aspects of our lives and the lives of others with whom we interact.
- How do we identify them and what steps can we take to overcome them?

Everyone has biases. It's true. Having a bias doesn't make you a bad person, however, and not every bias is negative or hurtful. It's *not* recognizing biases that can lead to bad decisions at work, in life, and in relationships.

My first reaction to this notion that we all have biases was, "Certainly not I!" After all, I grew up in a family where diversity and inclusion were part of our basic values. My father was head of the Anti-Defamation League (ADL), an organization whose mission is to secure justice and fair treatment for all people. I was an ADL board chair and helped train others to combat prejudice and discrimination. So how in the world could I have biases?

Although people have both explicit and implicit biases, the implicit ones are the most concerning because they are the ones we don't recognize we have.

## What Is Implicit Bias?

What exactly is an unconscious (or implicit) bias? The Kirwan Institute (for the study of race and ethnicity) at Ohio State University defines these biases as "the attitudes or stereotypes that affect our understanding, decisions and actions in an unconscious manner. These implicit biases we all hold do not necessarily align with our own declared beliefs."

I began analyzing how biases affect so many aspects of our jobs and our lives when I began teaching advocacy skills as they pertain to jury selection a number of years ago. We identified many biases associated with stereotypes: teachers were too soft; engineers and scientists too rigid; older people too judgmental; younger people too immature. These were the conscious parts of our brains at work —i.e., explicit biases. I then began noticing that when I was teaching a law school class and referring to expert witnesses and judges, I would always use the pronoun "he". This was in spite of being a judge and having testified as an expert witness myself. This is the implicit or unconscious bias at work.

As I was exploring biases in the legal profession, I began asking more questions of my colleagues and friends. I learned that gender bias was endemic in many professions, including:

- female lawyers, including myself, mistaken for someone other than the lawyer in a case
- female pilots mistaken for flight attendants
- male nurses frequently mistaken for doctors, and female doctors mistaken for nurses
- females in the construction industry generally not presumed to be contractors or general managers

The list goes on and on.



The issue of race and implicit bias has also been in the headlines recently, whether it is a group of African-American men asked to leave a Starbucks, or much worse, an African-American man shot under the assumption that he had a weapon. However, implicit bias isn't just about race or gender. We see implicit bias in many places, about many characteristics—age, religion, weight, appearance, disabilities, accents, gender identity, sexuality, single parents, stay-at-home moms and dads, kids with pink hair, people with tattoos and piercings, people with certain bumper stickers on their cars—again, the list goes on and on.

## Why Should We Care About Our Biases?

If we are litigators, these biases can impact how we pick juries, how we assemble our legal team, how we prepare our cases, how we deal with our clients and witnesses, and how we interact with our colleagues. As a judge, I work to ensure that the decisions I make, including credibility decisions, and the sentences I give out are based on appropriate facts, and not implicit biases of which I may not even be aware.

In a work-place environment, unconscious biases can affect hiring and promotion decisions, work assignments, and career tracks, and unfortunately can end up a part of harassment, hostile work environments, and discrimination law suits. These biases can also cause problems and damage relationships, as well as affect the reputations of businesses. In addition, these implicit biases have deadly consequences when they affect such individuals as police officers, who must assess situations quickly and make life-and-death decisions—decisions that may be the result of an implicit bias.

These biases can be incredibly painful for the victims of the biases. One of my dear friends who is a district court judge, formerly a public defender, shared a story with a group of lawyers. He told them how, as an African-American public defender in the courtroom, there were a number of occasions where judges and other lawyers and staff would ask him where his lawyer was, assuming that because he is an African-American, he must be the defendant in the case. The people who made those assumptions weren't necessarily racist or prejudiced, but there was clearly an implicit bias at work. As he shared this story, tears streamed down his face. Another friend of mine who is Hispanic shared his experience in court 15 years ago and being asked by a judge whether he spoke English (simply because of his last name). Regardless of the intent behind these questions, the pain was palpable for both of these individuals.

## Is It Possible to Overcome Our Implicit Biases?

How do we recognize and interrupt our own biases? First, we must be willing to admit we have biases. The more we convince ourselves how unbiased we are, the more of a blind spot we may have when it comes to recognizing our own implicit biases. A great place to start is by taking the Harvard Implicit Association tests (Project Implicit). These are on-line tests that are designed to measure implicit biases in about 28 different categories. Although the results may be shocking at first, the science suggests that the test is absolutely valid.

We must also recognize that the old adage, "trust your gut," may not prevent us from recognizing implicit bias. We must focus on how we form opinions about people. Sometimes it means asking ourselves whether our opinions would be the same if the person were a different race, gender, or religion or dressed in a different manner. In other words, would our opinion be the same if the individual were part of a different group? Studies suggest that we are most at risk of making a decision that is the result of an implicit bias when we are tired, under stress, and pressured to make quick decisions. How many lawyers do we know who fit that description? We may not be able to control how much sleep we get, or how much stress we feel, but we can control how quickly we make decisions that could be the result of an implicit bias.

Although we must be willing to identify and interrupt our own biases, we must also recognize and be willing to interrupt bias in others. This is probably the most difficult and the most uncomfortable part of overcoming bias.

The challenge with others is determining when to say something, how to say it, and to whom. I make every effort not to address another's bias in front of other people. I try to find a place to talk in private, and perhaps begin the conversation with something like,



"I know you didn't mean to make me (or another person) feel bad, but I need to share with you the effect that those words or actions had." I know it is easier said than done, but if someone isn't made aware that he or she has a particular bias, it will only continue to cause pain to another individual or group of individuals and could lead to significant problems for the employer or organization.

Finally, in terms of specific steps we can take when interrupting bias, it is important to remember that biases develop at a young age and are often the result of our tendencies to surround ourselves with people who are the most like us. In fact, research indicates that we tend to perceive anyone different from us as a threat because our brain tells us to do so. "The capacity to discern 'us from them' is fundamental in the human brain," wrote David Amodio, associate professor of psychology and neural science at New York University, in his 2014 paper, "The Neuroscience of Prejudice and Stereotyping." However, that doesn't mean that we can't begin to recognize and overcome our implicit biases. Here are some suggestions:

- Be aware of your initial thoughts about people and upon what those thoughts are truly based
- Stay attuned to people around you and notice how often you engage in conversations with people who are different than you
- Surround yourself with a diverse mix of cultural and social situations and individuals
- Share your own experiences of bias with others
- Educate others about the elements of an inclusive work, school, and community environment
- Look for commonalities that exist regardless of race, religion, gender, culture, etc.
- If you see something, say something, hopefully in a manner that is sensitive to the feelings of everyone involved
- Don't assume bad intent
- Slow down your decision-making process

The reality is that we all say things or do things that we wish we could take back. Unfortunately, the tendency is to pretend that it wasn't said, or that it didn't happen, or hope that perhaps the person didn't hear it. But it did happen, we did say it, and the person did hear it, so acknowledge it, apologize, MOVE on AND CHANGE. My experience has been that most people truly appreciate it and can move on when someone acknowledges a misstep and apologizes for it.

Finally, by challenging ourselves to identify and overcome our own implicit biases, and to help others recognize their biases, we can begin to lay the foundation for harmonious and productive work and personal environments.

*Karen Steinhauser is a practicing attorney, judge, and adjunct law professor at the University of Denver Sturm College of Law in Denver, Colorado. She presents workshops and seminars to lawyers and nonlawyers, government offices, and private businesses in the area of implicit/unconscious bias.*

For more business law content, visit [businesslawtoday.org](https://www.businesslawtoday.org).

Authors



## Implicit Bias Jury Instruction

By: Judge Mark W. Bennett

Do not decide the case based on "implicit biases." As we discussed in jury selection, everyone, including me, has feelings, assumptions, perceptions, fears, and stereotypes, that is "implicit biases," that we may not be aware of. These hidden thoughts can impact what we see and hear, how we remember what we see and hear, and how we make important decisions. Because you are making very important decisions in this case, I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluations of that evidence, your reason and common sense, and these instructions. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.

**IMPLICIT BIAS IN THE LEGAL PROFESSION, THE  
WORKPLACE, AND THE COMMUNITY–  
RECOGNIZING IT AND INTERRUPTING IT IN  
OURSELVES AND OTHERS**

*Presented to the Colorado Bar Association*

## Implicit Bias video

🔗 <https://player.vimeo.com/video/165006635>

2

## What is Implicit Bias?

IMPLICIT BIAS refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.

*Kirwan Institute – Ohio State University*

IMPLICIT BIAS is a term of art referring to relatively unconscious and relatively automatic features of prejudiced judgment and social behavior

*Stanford Encyclopedia of Philosophy*

EXPLICIT BIAS is a conscious bias that you are aware of. An implicit bias can turn into an explicit bias, but an explicit bias cannot turn into an implicit bias.



## PREDICTING MOMENTS OF BIAS

### EMPLOYEES AND EMPLOYERS

- Hiring
- Evaluations
- Discipline
- The Assignment

### TRIAL WORK AND THE COURTROOM

- Putting together the Trial Team
- Themes/ theories
- Jury Selection
- OTHER? (CBA BOARD? OFFICERS?)

- **THINKING ABOUT NOT JUST HOW WE SEE OTHERS, BUT HOW OTHERS SEE US.**

## COLORADO RULE OF PROFESSIONAL RESPONSIBILITY 8.4 (g)

It is professional misconduct for a lawyer to:

- ∞ (g) engage in conduct, in the representation of a client, that exhibits or is intended to appeal to or engender bias against a person on account of that person's race, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, whether that conduct is directed to other counsel, court personnel, witnesses, parties, judges, judicial officers, or any persons involved in the legal process.

## Lena Olive Smith quote

“Perhaps the jurors were, with few exceptions, conscientious in their expressions of no race prejudice, yet it is common knowledge a feeling can be so dormant and subject to one’s sub-consciousness, that one is wholly ignorant of its existence.

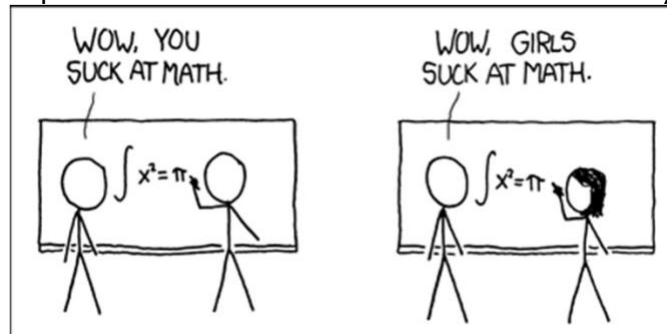
But if the proper stimulus is applied it comes to the front end and more often than not, one is deceived in believing that it is justice speaking to him, when in fact it is prejudice, blinding him to all justice and fairness.”

6

## Reinforcing Bias With the “Experiment of One”

Experiment

Take-Away



7

## Unconscious Bias: In the News



AP - Tue Aug 30, 11:31 AM ET

AP caption:

A young man walks through chest deep flood water after **looting a grocery store** in New Orleans on Tuesday, Aug. 30, 2005. Flood waters continue to rise in New Orleans after Hurricane Katrina did extensive damage when it made landfall on Monday.

*(AP Photo/Dave Martin)*



AFP/Getty Images - Tue Aug 30, 3:47 AM ET

AFP/Getty Images caption:

Two **residents** wade through chest-deep water after **finding bread and soda** from a local grocery store after Hurricane Katrina came through the area in New Orleans, Louisiana.

*(AFP/Getty Images/Chris Graythen)*

## Implicit Association Test (IAT)

Measures the strength of associations between

- ⌘ Concepts
- ⌘ Evaluations
- ⌘ Stereotypes



### HOW DO YOU RECOGNIZE THE BIAS?

Race  
Gender  
Religion  
Culture  
Profession  
Education  
Appearance (weight, dress, accent)  
Sophistication  
Accent  
Age  
Sexual Identity?/Sexual Orientation  
Others?

10

### Be aware of the signals you give:

- ⌘ Facial Expressions
- ⌘ Dismissing the idea of one only to embrace it when offered by another (or vice versa)
- ⌘ Leaving someone off a group e-mail
- ⌘ Addressing some employees by chummy nicknames
- ⌘ Continually mispronouncing a co-worker, staff, opposing party, another student's or juror's name
- ⌘ Mixing up individuals of same race, ethnicity or gender with another of the same.

**Other signals:**

- ⌘ Calling some people by last name and others by first name
- ⌘ Criticizing work or emails or dress or some other aspect of one employee but not another.
- ⌘ Applying rules differently to some than others.
- ⌘ Commenting on someone's clothing or appearance
- ⌘ Making assumptions about who the plaintiff is, who the defendant is, the attorney or clerk
  - ⌘ Making assumptions about who the first chair is.
- ⌘ RECOGNIZING THAT IT ALL MATTERS!

12

**What Do You See?  
(What Do They See?)**



13

Implicit Bias Jury Instruction

By: Judge Mark W. Bennett

Do not decide the case based on "implicit biases." As we discussed in jury selection, everyone, including me, has feelings, assumptions, perceptions, fears, and stereotypes, that is "implicit biases," that we may not be aware of. These hidden thoughts can impact what we see and hear, how we remember what we see and hear, and how we make important decisions.

Because you are making very important decisions in this case, I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluations of that evidence, your reason and common sense, and these instructions. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.





## HOW DO YOU INTERRUPT BIAS?

- ⌘ Recognize the bias
  - In yourself
  - In others
  - Beware of Microaggressions–Prejudices that leak out in many interpersonal situations experienced as slights, insults and denigrating messages
- ⌘ Understand the source of the bias
- ⌘ Confront the bias

## Should I Say Something?

### WHO SHOULD I SAY SOMETHING TO?

- ⌘ Awkward
- ⌘ Risky?
- ⌘ Beneficial?

- Implicit Bias Is Not “Cured”
- Awareness Enables Self-Correction
- Developing The Habit of Recognizing “Moments” for Implicit Bias That Would Hurt
- Silence is Acceptance. Silence makes you a complicitorin the behavior.

## FINAL THOUGHTS

- ⌘ Assessment: acknowledge your personal biases and understand what triggers them
- ⌘ Slow down!!! Don't just rely on your gut to make decisions.
- ⌘ Be aware of who/how often you engage in conversation with people who are different than you
- ⌘ Surround yourself with a diverse mix of cultural and social situations/individuals; actively expose yourself to counter stereotypical examples

## **MORE FINAL THOUGHTS**

- ⌘ Beware of organizational cultures and biases.
- ⌘ Language
- ⌘ Blindspots—ie; White Savior Complex
- ⌘ Always consider the “window and the mirror”
- ⌘ Understand the Difference between Diversity and Inclusivity.



## FINAL FINALTHOUGHTS

Find commonalities  
Share your own experiences with others,  
and **listen** to other's experiences.

Accept feedback without pushback or  
defensiveness.

Educate others about the elements of an  
inclusive work, school and community  
environment. Understand the difference  
between diverse and inclusive.

We all say or do things we wish we could  
take back –Just own it, apologize, move  
on, and CHANGE

## **Breakout Group Discussion Questions:**

- Based on what you have learned from the presentation and panel discussion, where, if at all, does implicit bias show up in your area of practice?
- Based on what you have learned from the Privilege Walk, how would you address the areas of implicit bias that may exist – individually in your life, or in society?