

1

Understanding Bias, It's Effects on Your Practice, and What to do About it

Types of Bias

- What biases are at work?
- Implicit, Explicit and Systemic Bias

Recognizing Bias

- If you are human you have bias.
- What are your biases?
- When is someone being biased against your client?

Strategies to Reduce Implicit and Unconscious Bias

- What can you do to curb your biases as it relates to your practice?
- What can you do to address bias against your client?

2

WHAT IS BIAS?

- Bias is a broad term to describe preconceived, often negative, prejudice or leanings against a person or group compared to another – usually in a way that is considered unfair
- Types:
 - **Implicit:** the various stereotypes that people unknowingly assign to others based on a variety of factors, such as age, gender, sexual orientation, socioeconomic status, weight, ethnicity and race
 - Affinity Bias: the gravitational pull to groups or people we feel closest to – assimilation and acceptance.
 - Unconscious Categorization: Stereotype based on visible or perceived traits
 - Court of Appeal: Individuals develop implicit attitudes and stereotypes as a way of categorizing stimuli.
 - **Explicit:** conscious attitudes or beliefs that a person holds about a particular group or individual.
 - **Systemic:** ingrained and pervasive patterns of discrimination or prejudice that are embedded within the structures and systems of an organization, society, or institutions

3

We All Have It - Bias

- Harvard's Implicit Association Test (IAT) allows people to take an assessment of where their biases may exist for various categories:
 - Disability, Skin tone, Weight, Sexuality
 - Releases % for areas of bias
- <https://implicit.harvard.edu/implicit/takeatest.html>
- Must answer quickly!

During the Implicit Association Test (IAT) you just completed:

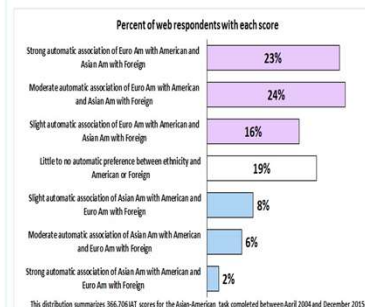
Your responses suggested a strong automatic association for American with European American and Foreign with Asian American.

Disclaimer: These IAT results are provided for educational purposes only. The results may fluctuate and should not be used to make important decisions. The results are influenced by variables related to the test (e.g., the words or images used to represent categories) and the person (e.g., being tired, what you were thinking about before the IAT).

How does the IAT work?

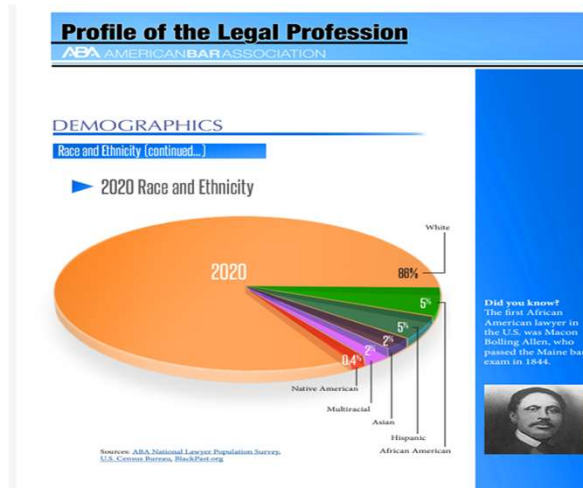
The IAT measures associations between concepts (e.g., European American and Asian American) and evaluations (e.g., American, Foreign). People are quicker to respond when items that are more closely related in their mind share the same button. For example, an implicit preference for European American relative to Asian American means that you are faster to sort words when 'European American' and 'American' share a button relative to when 'Asian American' and 'American' share a button.

Studies that summarize data across many people find that the IAT predicts discrimination in hiring, education, healthcare, and law enforcement. However, taking an IAT once (like you just did) is not likely to predict your future behavior well.



4

Statistics: Is there really a problem?



5

California Requirements

California Rule of Court 10.20

Requires the courts to actively prevent bias

Requires courts to develop local committee on bias and to incorporate framework in local rules so that it is known what the mechanism is for reporting and addressing bias in the courts (judges, staff)

California Rules of Professional Conduct 8.4.1

Requires attorneys to refrain from discrimination

California Business and Professions Code

Mandates training for attorneys

6

Problem Extends to General Public

- Lack of access to justice resulting from systemic bias
- Lack of resources provided to public
- Lack of paid attorneys willing to assist members of public of lower socioeconomic means

Figure 4: Low-income Californians seek out information for a majority of the legal problems they experience.

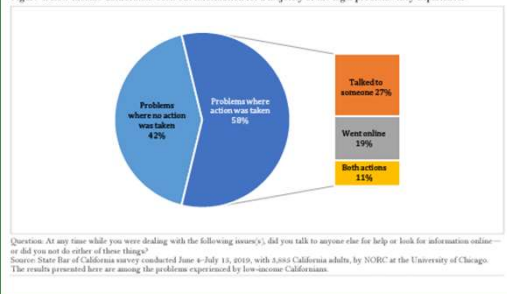
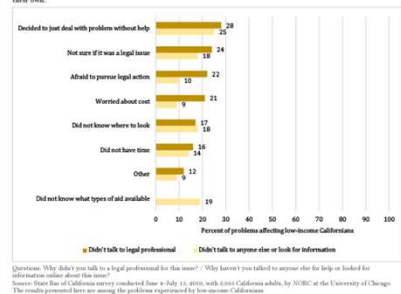


Figure 6: The most common response for not seeking aid relates to low-income Californians dealing with the issue on their own.



7

Unpacking Unconscious Bias

Operates **OUTSIDE** our awareness and could contradict our values and how we perceive ourselves

1. **Education and Training:** Participate in workshops and training programs that are focused on identifying YOUR biases and how to work to limit and eliminate them.
2. **Self-Reflection:** Regularly check in with yourself. Debrief after conversations with colleagues. Don't get defensive, become curious about the situation, why is this the perception I am giving?
3. **Broad Horizons:** Actively seek input from colleagues and clients but put in the work to give you the basis for the questions you need answered and input you are seeking.
4. **Standardized Decision-Making:** Implement structured decision-making processes such as checklists for all clients, cases, protocols for managing monolingual or culturally different clients
5. **Client Engagement:** Foster relationships with clients of diverse backgrounds to help develop your practices, learn more about them than what you NEED to know. Implement client satisfaction surveys and reflect on time spent on them versus other clients to recognize and mitigate biases.

8

Explicit Bias

Openly expressed or known bias that results in a judgment of a person or groups of people. In a legal context, explicit bias can affect decision-making, interactions with clients, and courtroom dynamics. For instance, an attorney might consciously favor or disfavor a client based on their race, gender, or socioeconomic status, leading to unfair treatment or unequal representation.



Client Selection



Jury Selection



Opposing Counsel

9

Client-Related Bias

• **Consider Client Intake:**

- Fee Structure: believing they lack the ability to pay or worse that they can pay more because they didn't have a lot to begin with (fee structures)
- Language-barriers: providing support of interpreters versus imposing on the client the obligation to bring one
- Conflict resolution: preconceived notions of willingness to accept settlements

Tips:

- Active listening
- Gain trust through actions – if you say you are going to call, call
- Learn about various social norms within that culture and how they feel about the legal system
- Invest in client outreach and communication
- Strive for cultural competency

10

Cultural Competency

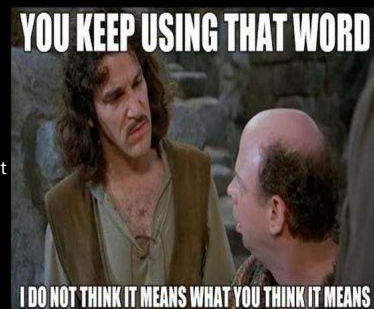
Here are some examples of developing a culturally competent practice:

- **Delivery of services via systems that are of the clients choosing, not yours**
- **Be cognizant and respectful of characteristics that can define different cultures**
- **Listen to how a client refers to themselves**
 - Names are a big one
 - Take the time to learn it – don't just say, I am going to butcher it. Ask and ask again and learn it
- **Pay attention to conference room setups, body language, demeanor**
- **Bring in translators and translator services**
- **Set boundaries and pay attention to the ones the client sets**
 - Gauge comfort level before asking about family background
 - Recognize taboos
 - Even basic questions for client intake can seem intrusive and raise suspicion and lack of trust
 - Clients have their own biases that you must navigate

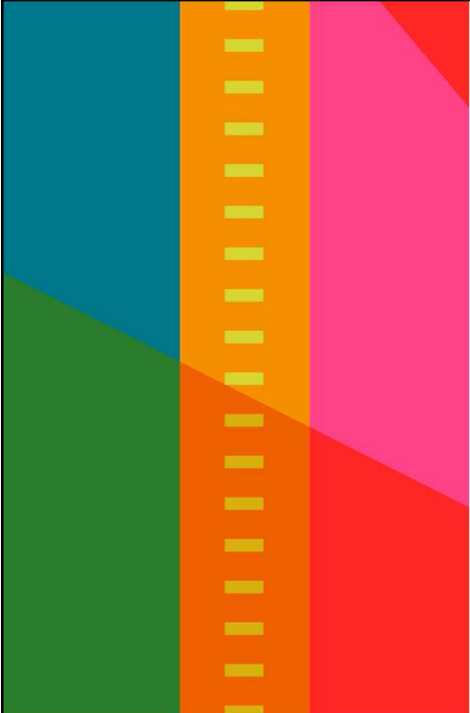
11

How does culture impact estate planning?

- Understanding a client's cultural needs and sensitivities is crucial for providing them with adequate representation.
- How can you best serve a client's needs if there is a language barrier?
 - Neutral translators and interpreter
- How can you build trust with a client that is uneasy about the process?
 - If you cannot provide personal service, can you assign one staff person to be that client's point of contact v. whoever answers the phone
 - Meeting location, meeting times, willingness to be flexible where possible
- Attorney v. Notario issues
- Cultural expectations and patriarchal tendencies



12



Action Plan

Recommended Action Plan

- Conduct client surveys – you can't fix what you don't know is broken
- Create framework and standardized protocols for client intake
- Enhance client engagement - implement training programs for staff to help them recognize and accommodate cultural needs of clients
- Promote diversity in hiring
- Continually evaluate and measure progress
- Maintain self-awareness and self-reflection
- Adapt and evolve – actually change practices based on feedback
- Work toward deconstructing implicit bias: don't just appear more empathetic and understanding
- ABA Implicit Bias Initiative:
<https://www.americanbar.org/groups/litigation/about/diversity/task-force-implicit-bias/>

13

Specific Cultural Issues Relating to Latino Clients

- Death is Taboo
- Lack of Understanding of Probate System
- Lack of Trust or Misplaced Trust
- Alternative Means for Estate Planning
- Unique Asset Holdings

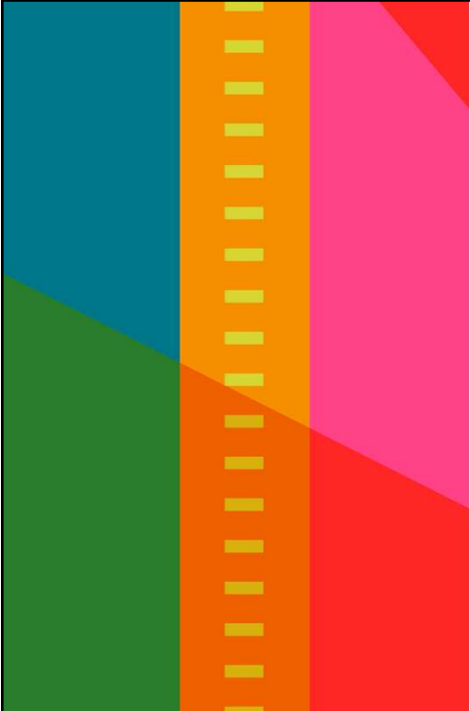



14

Helpful Links and Resources:


- ABA Toolkit: <https://www.americanbar.org/groups/diversity/resources/toolkits/>
- Harvard Course “Outsmarting Bias”: It’s a course that focuses on eliminating bias in the workplace
- Ventura Superior Court has a bias and education committee – Judge Johnson is the Chair

15







Rennee Dehesa
 Managing Partner
 Becker & Dehesa, LLP
 Bilingual estate planning attorney




rennee@venturaestatelegal.com
Work



+18055257104 Ext. 103
Office



915 E. Main Street, Santa Paula, CA 93060
Office



THANK
YOU

16