

Texas Judicial Summit on Mental Health 2020 Summit

Implicit Bias-Social Determinants of Health

Dr. Rita Cameron Wedding
November 10, 2020

"....Each of us has a duty to recognize there is much unfinished and essential work that must be done to make equality and inclusion an everyday reality for all. We must, as a society, honestly recognize our unacceptable failings and continue to build on our shared strengths. We must acknowledge that, **in addition to overt bigotry, inattention and complacency have allowed tacit toleration of the intolerable....**"

**Statement from the Supreme Court of California
June 11, 2020**

"Racism" has new meaning- updated definition

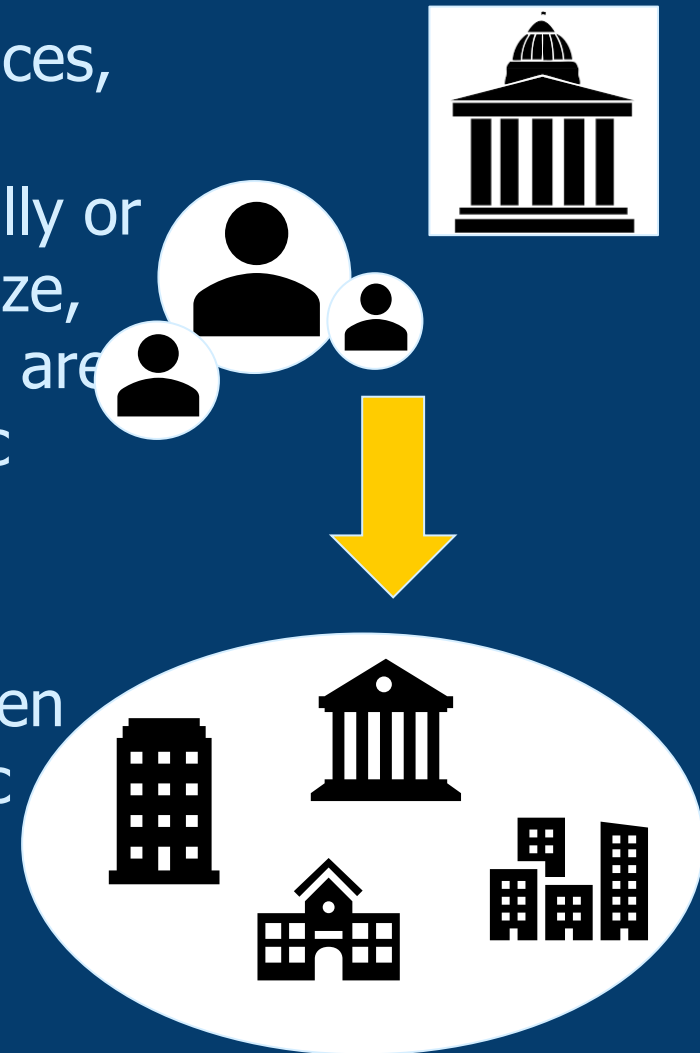
"The systemic oppression of a racial group to the social, economic, and political advantage of another; specifically: white supremacy"



- Kennedy Mitchum, recent graduate from the University in Iowa, contacted Merriam-Webster, which has published its dictionaries since 1847, to propose updating the term of racism.
- According to Mitchum, "I basically told them that they need to include that there's a systematic oppression upon a group of people," - "It's not just, 'Oh, I don't like someone.'"

What is Systemic Racism?

- Those patterns, procedures, practices, and policies that operate within institutions in ways that intentionally or unintentionally, consistently penalize, and disadvantage individuals who are members of nonwhite racial/ethnic groups.
- When there are persistent racial disparities in all public systems, then what we are describing is systemic racism.



This is how we can reduce disparities...

“In order to get beyond racism, we must first take account of race. There is no other way.”

438 U.S. 265.

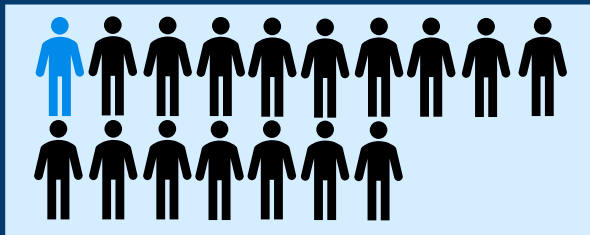
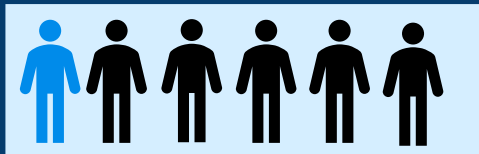
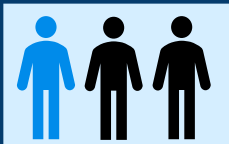
Justice Harry Blackmun, Regents of the University of California v. Bakke (1978)

“The opposite of racism isn’t ‘not racist,’ it’s ***anti-racist.***”

Dr. Ibram Kendi, How to Be an Anti-Racist

Report to the UN on Race Disparities in US Criminal Justice System (2018)

- African-American adults are 5.9 times as likely to be incarcerated than whites and Hispanics are 3.1 times as likely.



- As of 2001, one of every three black boys born in that year could expect to go to prison in his lifetime, as could one of every six Latinos—compared to one of every seventeen white boys.
- Racial and ethnic disparities among women are less substantial than among men but remain prevalent.

Marc Mauer, Addressing Racial Disparities in Incarceration, 91 supp. 3 the Prison Journal 87S, 88S (Sept. 2011).



Personal email to me from a Judge in the Midwest...

“.....every time I visit a prison or a juvenile detention facility I am struck by the numbers, the obscenely disproportionate number of black inmates that we have here in Michigan.”

Disparities in decision-making in youth-serving systems

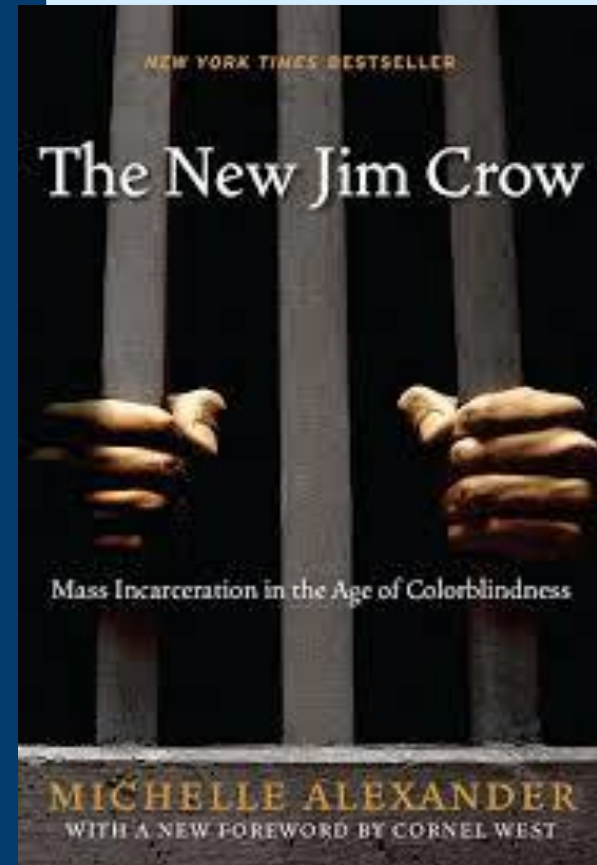
Education: Disproportionate disciplinary and special education outcomes create a two-track system

"Students come as students leave as felons"

Child Welfare: Does implicit bias help explain racial disproportionality in child welfare outcomes?

The New Jim Crow

By Michelle Alexander



Racism has not ended... it has just transformed. What is Institutional Racism?

Institutional racism consists of established laws customs and practices which systematically reflect and produce intentionally and unintentionally racial inequalities in American society. Individuals and institutions apply and create rules, guidelines, standards, procedures and practices that create racist effects. *Off White*, Robert Carter

The differences in how policies, laws and standards are enforced are justified and explained by the **5 tools of modern racism**:

- 1) Implicit bias
- 2) Microaggressions
- 3) Colorblindness
- 4) Stereotypes
- 5) Language



1. What is Implicit Bias?

- *Unconscious bias*, also known as *implicit bias*, refers to attitudes or stereotypes that are outside our awareness and affect our understanding, our interactions, and our decisions.
- Researchers have found that we all harbor unconscious associations—both positive and negative—about other people based on characteristics such as race, ethnicity, gender, age, social class, and appearance.



Implicit Bias

It's how the brain is wired!



“If scientists could scan our brains when we see spiders or snakes, they would see that the area of our brains that focuses on fear, threat, anxiety and distrust is triggered or, as neuroscientists say, “activates.” Studies have shown that the same area of the brain activates more when white people see pictures of African American faces than when they see pictures of Caucasian ones.”

(An overview of Implicit Bias by the Equal Justice Society)

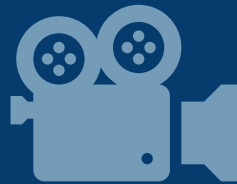


2. Stereotypes

Stereotypes are powerful information systems; and are operating even before we have the facts.

Stereotypes can override the facts.

Stereotypes can drive our decision-making.



Stereotypes are well-known by all!

- Stereotypes that link Black people to criminal activity make it easier for anyone to surveil them for breaking the rules. They experience heightened scrutiny for “living while Black” from random people who make 911 calls to report Black people for the most mundane things e.g. children selling water in a park, barbequing in the park, trying to cash their check, raking leaves in their front yards, birdwatching in Central Park, falling asleep while studying in a common area at a prestigious university, or hanging out at Starbucks.
- In 2019 Grand Rapids MI made racially biased 911 calls a crime.



Having a positive attitude towards a group does not mean we don't have implicit bias.

- People may overlook their implicit biases because they don't have any ill-will towards the group. Having a positive attitude about a group, such as Latinx, and enjoying their culture does not immunize us from negative stereotypes.
- For instance, one might have a positive overall attitude toward Blacks and still associate them with dangerousness; or Latinos and still assume that they are undocumented. (Implicit Bias in the Courtroom)

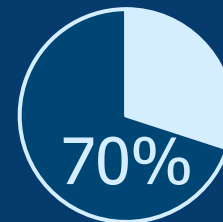
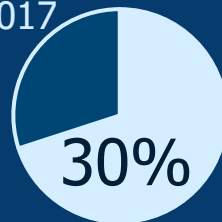
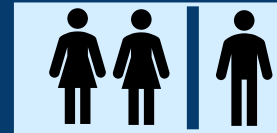
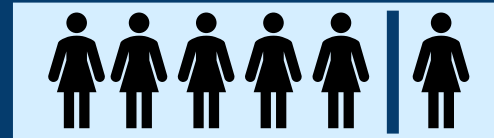


Stereotypes have consequences

- Stereotypes of Black women and girls “paint Black females as hypersexual, boisterous, aggressive, and unscrupulous.”
- “What we found is that adults see Black girls as less innocent and less in need of protection as white girls of the same age,” said Rebecca Epstein, lead author of the report, *Girlhood Interrupted: The Erasure of Black Girls’ Childhood.*
- Equal Justice Initiative 2017

Stereotypes and implicit bias can affect outcomes in public systems

- Black girls are:
 - Five times more likely to be suspended than white girls
 - Twice as likely to be suspended than white boys
 - Nearly three times as likely to be referred to the juvenile justice system
 - 20 percent more likely to be charged with a crime than white girls
- One study found that prosecutors dismissed only 30 percent of cases against African American girls, while dismissing 70 percent against white girls. Equal Justice Initiative 2017



3. Colorblindness

“You shouldn’t talk about race...”

- You shouldn’t talk about race or think about race because race doesn’t matter.
- Whoever mentions race first is the racist in the room.
- Colorblindness is a strategy to discourage people from thinking and talking about disparities in employment, housing, education, criminal justice, environment, voting rights, and plain old everyday racism in daily social interactions that remain ubiquitous features of U.S. society. *Off White*, Robert Carter



4. Microaggressions

- Microaggressions are everyday verbal, nonverbal and environmental slights, snubs, insults which communicate hostile and derogatory messages which target persons according to the stereotypes. *D. Sue*

Slights

Snubs

Insults

- Our biases can lead to microaggressions and how we act in the presence of people. Microaggressions can be communicated through language, tone of voice, interruptions, intimidating body posturing, commands vs. requests, or defensiveness.





5. Language

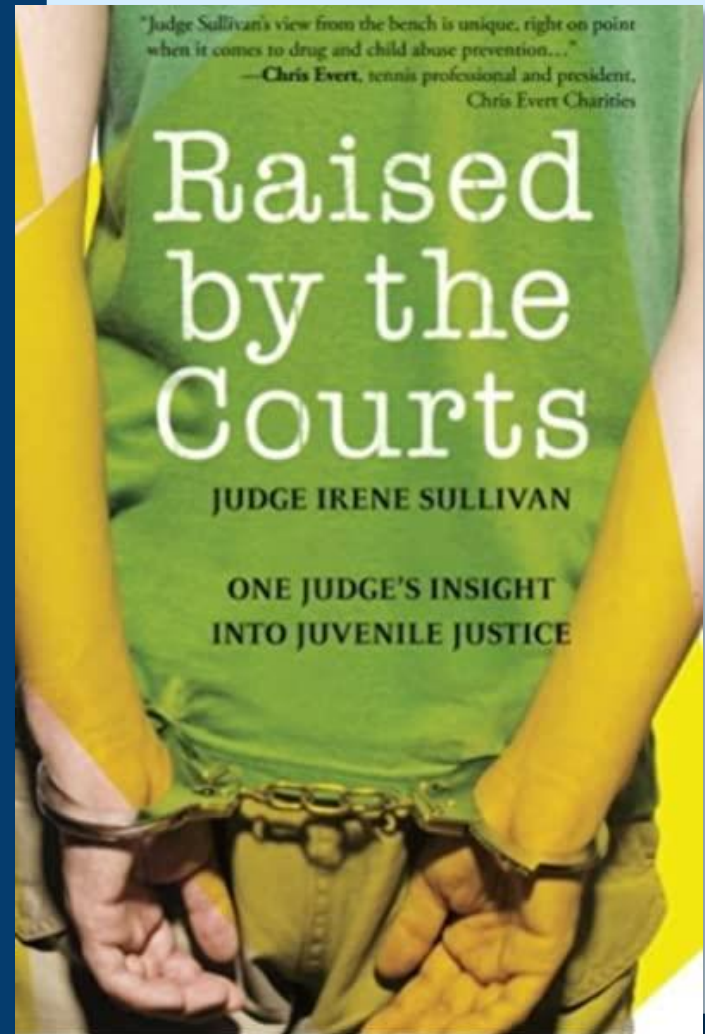
**LANGUAGE
MATTERS WITHIN
AND BETWEEN
SYSTEMS**

**"TANTRUM VS.
OUTBURST OF
VIOLENCE".**



Raised by the Courts: Judge Irene Sullivan

- *"Every week in my court, kids are charged as delinquents under criminal statutes written for adults. Only the penalties are different..."*
- *"Ricky threw an egg at a moving vehicle, and he's charged with a felony for throwing a "deadly missile".*
- *"Alexia grabbed her friend's cell phone out of her hand at the bus stop and threw it in the grass. She too is charged with a felony; robbery by sudden snatching".*



"Like Toxins, Language Is Deadly In Small Doses"

Supreme Court Justice Roberts

Implicit bias can influence the words contained in case notes and court reports.

*White mothers, "no drug involvement;"
Black mothers, "mother alleges no drug involvement"*

- *Combative*
- *Aggressive*
- *Hostile*
- *Violent*
- *Volatile*
- *Resistant*
- *Belligerent*

Language should be specific to the circumstance, not generalized, not ambiguous and subject to interpretation; words have consequences

Bias Encoded in Language

Colorblind Practices:

- I don't notice race, I treat everyone the same.
- I just follow the rules.
- Judges: I just read what's in the court reports

Racially coded language:

- Embedded in school records, child welfare case notes, medical records, arrest and court reports can promote bias at every subsequent decision point.



A young man walks through chest-deep flood waters after looting a grocery store in New Orleans on Tuesday.



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

Language can influence what decisions are made

- In one study when students were asked to rate (scripted) behavior of Black or White people shoving each other researchers found striking differences based on race. When the person doing the shoving was Black, and the victim was White, 75% of participants rated behavior as violent.
- But when the person doing the shoving was White with a Black victim only 17% of students considered the shove as violent, in fact 42% of Whites who shoved Blacks were deemed by students in the study to be simply “playing around”.
 - Jennifer Eberhardt, *Biased*

Respect Deficit Language-

Can stereotypes and implicit bias contribute to Respect Deficit Language?

- Dr. Jennifer Eberhardt's research cannot determine precisely if the differences in officer's language is attributable to bias but regardless of the cause, she states that the stakes are higher than just hurt feelings.
- **Research showed that when speaking to Black drivers, officers were rated as less respectful, less polite, less friendly, less formal and less impartial than when they spoke to white drivers.**
- According to Eberhardt, *an officer's language and the attitude it conveys could decrease a Black driver's inclination to cooperate. That increases the likelihood that the interaction might escalate and lead to an altercation and arrest, or worse-that could have been avoided.* (Biased pg. 106)

(Biased pgs. 105-106)



I can interrupt systemic racism!

Just imagine what would happen if you were the gatekeeper to systemic racism and you had the power to end it at your decision point. Well, you do! You can identify language that transmits bias from one decision-point to the next, you can be aware of how stereotypes affect how people are perceived, treated and believed; and notice how policies influenced by bias are applied and enforced in ways, that can contribute to disparities at the next decision point. In this way, each of us can do our part to end systemic racism!

"In order to get beyond racism, we must first take account of race.

There is no other way."

Judge Harry Blackmun

