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INSTITUTE FOR
RACE & JUSTICE

HARVARD LAW SCHOOL

That Lion Made a Monkey Out of Me: Taking Implicit Bias By the Tail

Workshop at
Crisis and Opportunity in the Age of Obama

Kirwan Institute
March 12, 2010

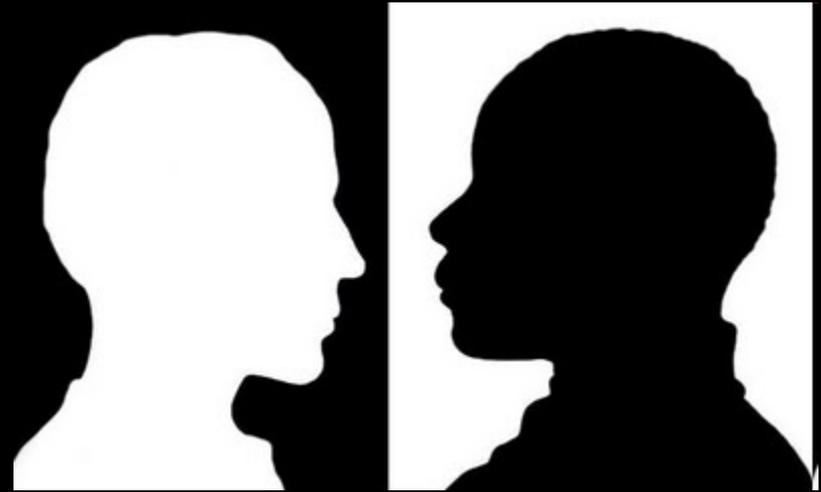
Clip from *Crash*



Click image to play

Disagreements Over Defining “Bias”

- Blacks and whites define “bias” very differently.
- Blacks tend to assume it is present, whites tend to deny its existence without clear evidence.
- Roughly 74% of blacks stated that the criminal justice system generally is biased against blacks, while only 22% of whites perceived such bias.



*(K. Robinson. Perceptual Segregation.
108 Colum. L. Rev. 1093, 2008)*

Compelling Skin-Tone Evidence

Participants shown a photograph of the dark-skinned suspect were significantly more likely to find ambiguous evidence more probative of guilt.

Participants who viewed the dark-skinned defendant were also more likely to believe that the suspect was guilty-- both on a scale of 1-100 and by a traditional guilty / not guilty measure.

Justin Levinson and Danielle Young, *Compelling (Skin Tone) Evidence: Implicit Racial Bias and Judgments of Ambiguous Evidence*, West Virginia Law Review (forthcoming 2010).

Misremembering the Facts

Prospective jurors were given a fictional incident. Some read about “William,” and the others about “Tyrone.” The facts of the incident were exactly the same.

Participants more frequently remembered aggressive details when Tyrone rather than William was the defendant.

Levinson concluded “that the race of a civil plaintiff or a criminal defendant can act implicitly to cause people to misremember a case's facts in racially biased ways.”

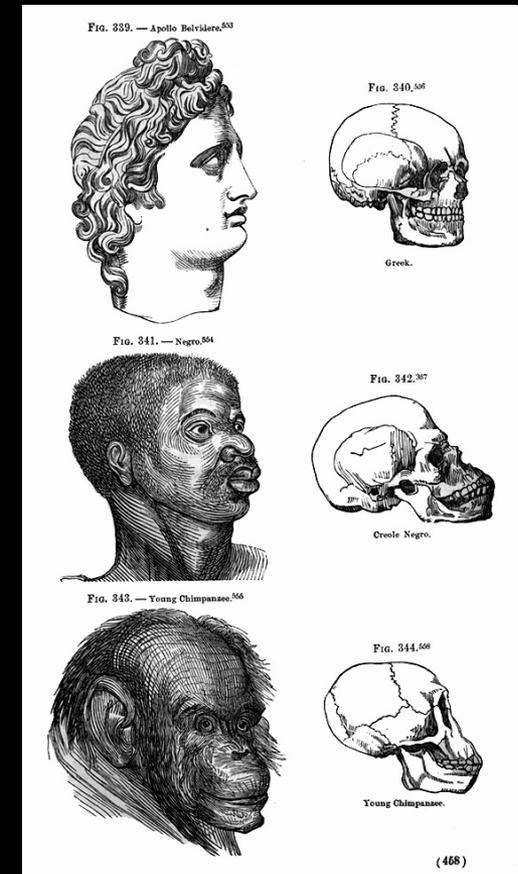


Justin Levinson,
*Forgotten Racial Equality:
Implicit Bias, Decision Making,
and Misremembering,*
57 Duke L.J. 345 (2007).

Less Than Human?

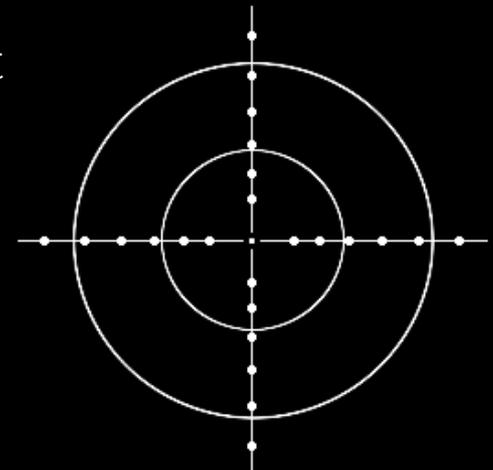
After being flashed a picture of a black face participants are able to recognize pictures of apes in fewer frames than immediately after being flashed a picture of a white face. Participants were also able to pair the words "ape" and "black" together more rapidly than other combinations such as "ape" and "feline." When primed with a picture of an ape, participants were more likely to find that a black suspect being beaten by the police *deserved* the beating than when participants were primed with a picture of a big cat.

Source: Jennifer Eberhardt



Shooter Bias

- A video game depicts a picture of either a white or a black suspect, and then couples that suspect with either a gun or an innocuous object (i.e. a wallet). Study participants were asked to look at the suspects on the screen and determine whether to shoot.
- The results displayed a bias among all participants--but especially white participants--to *shoot* unarmed black defendants and to *not shoot* armed white suspects.



Source: See Joshua Correll, Event-related potentials and the decision to shoot: The role of threat perception and cognitive control, Journal of Experimental Social Psychology, Volume 42, Issue 1, January 2006, Pages 120-128.

Unconscious Stereotypes about Adolescents

Two studies examined unconscious racial stereotypes of police officers and juvenile probation officers. They found those decision-makers who were subliminally exposed to category “Black” reported more negative trait ratings, greater culpability and endorsed harsher punishments than those subliminally exposed to race-neutral primes, after reading a vignette with unstated race of offender and ambiguous causes of the crime.

Source: Sandra Graham and Brian Lowery, Priming Unconscious Racial Stereotypes About Adolescent Offenders.



The Superpredator Script



- A mere five second exposure to a mug shot of African American and Hispanic youth offenders raises levels of fear among viewers, increases their support for “get tough” crime policies, and promotes racial stereotyping.

Frank Gilliam and Shanto Iyengar, 1998

Exposure to the “Superpredator News Frame”

- Increases support for harsher punishment among Whites and Asians by 11%
- Decreases support for harsher punishment among African Americans and Latinos by 25%

“Right now, in the minds of the viewing public, youth crime is as much about race as it is about crime”



Can We Use This Research to Identify New Interventions to Redirect the School to Prison Pipeline?

Black
or
Good



White
or
Bad



Nasty
Wonderful
Fallure

- Implicit bias research helps us to understand how unconscious prejudice or stereotypes may affect decision-making process of teachers, administrators, and school resource officers

What We Know About the Pipeline:

- In 1972, 6% of black children were suspended from school. In 2000-2001, 13.6% of black children were suspended.
- Some schools suspend over half of their black and Latino students in any year.
- Being suspended is a major predictor of dropping out. Only 50% of black students, and 53% of Latino students graduate on-time from high school
- Only 43% of black males, and 48% of Latino males graduate on time from high school

Student Arrests on the Rise

- Arrests of students in school are no longer an anomaly, but an accepted fact
- 17,000 School Resource Officers Now Placed Permanently in School Buildings
- Largest increase in arrests and court summons are for “disrupting a school assembly,” or minor fights, not serious offenses



Black Males with Disabilities

- Black males with disabilities fare the worst
- They are more than three times as likely as whites to be suspended
- They are more than four times as likely to wind up in a correctional facility



Schools' Responses

- Cultural “disconnect” between mostly white and middle class teachers and the children of color in their classrooms
- Crowded conditions, under-resourced facilities, over-taxed teachers, can lead to chaotic environments
- Misreading and misunderstanding of behaviors and effects of trauma, exposure to violence, abuse—leading to suspensions, expulsions, etc. that increase dramatically as children become teenagers in middle school



Many Built-in Discretionary Points

- Teachers' decisions to call for back-up or handle incident within the classroom
- Principals and SRO decisions' to handle incident "in-house" or turn to law enforcement
- SROs' decision to warn, summons or arrest, to send to diversion or to juvenile court
- Judges' decisions to detain, dismiss, or to place on probation
- Same incident or behavior can produce vastly different results, sometimes depending upon split second decisions

The Good News

- Self, situational, or broader cultural interventions can correct systematic and consensually shared implicit bias.
- Moreover, recent discoveries regarding malleability of bias provide the basis to imagine both individual and institutional change.

(Fair Measures, California Law Review, Jerry Kang and Banaji)

“There is Great Promise....

- **from the most recent 2007 ‘shooter bias’ study indicating that police officers are able to completely overcome implicit racial bias with adequate training and in the 2009 study of judges indicating that judges are able to apply a ‘cognitive correction’ to their implicit biases, if motivated to do so.”**

Joshua Correll, *Across The Thin Blue Line*, *supra*, and Jeffrey Rachlinski, *Does Unconscious Racial Bias Affect Trial Judges*

Findings on Potential Strategies

- Saliency of Race effects jury decisions—When race is made explicit, jurors tend to bring back guilty verdicts less frequently than when race is not made explicit. (*Dale K Larson UCLA Law Review*)
- Remind people of their conscious values, which tend to be our better angels on race. The average American strongly agrees with the sentiment that, "In America, we don't discriminate against anybody because of their color, ethnicity, or anything else"--whether they see that as a statement of actuality or aspiration. And they mean it--and will act on it, as long as their conscious values are active and guiding their behavior.
- (*Drew Westen, Huffington Post, September 09*)

Findings on Potential Strategies cont.

- Persons who are shown that their reactions are biased, and then allowed to "practice" neutral judgments are more likely to make them, especially if they are personally committed to racial equality norms.
- The best candidates for non-prejudiced reactions are a group who are called "chronic egalitarians" - people who monitor their own reactions and behavior in an effort to root out stereotypes and feelings of which they don't approve. (*Sheri Lynn Johnson 39 Colum. Human Rights L. Rev. 178, 186*)

Key Challenges

How do we have this conversation in a productive way? To both convince people that implicit bias is real, and also to avoid blame and accusations?

How to apply it to make a difference?

How to measure the difference it makes?

