



TURNING OFF THE AUTO-PILOT:

**Cultural Competence
Implicit Association
Racial Anxiety**

2018 CCJSCA Annual Meeting
Richard A. Robinson

The Lunch Date

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Presentation Overview



Mission Statement of the Connecticut Judicial Branch:

....to serve the interests of justice and the public by resolving matters brought before it in a fair, timely, efficient and open manner.

“We view our job functions through the lens of our experiences, and all of us are impacted by biases and stereotypes and other cognitive functions that enable us to take shortcuts in what we do.”

Hon. Bernice B. Donald
6th Circuit Court of Appeals

So how do you like your Drazi,
Green or Purple?

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We are surrounded by an almost endless
matrix of data!



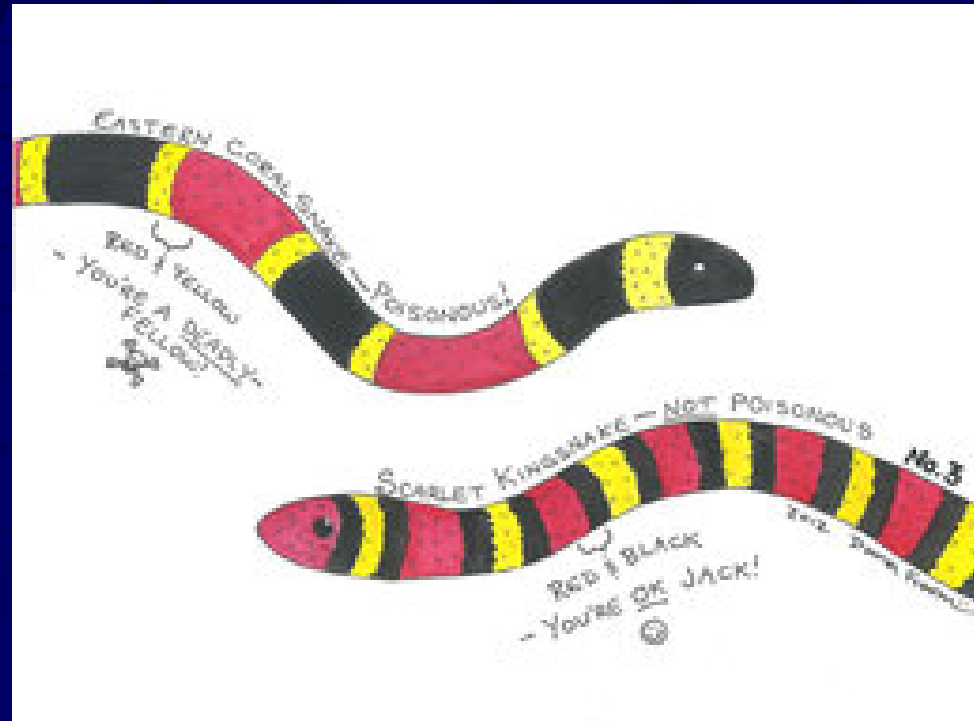
The World is an Extremely Complex Place!

- § Every second the human brain processes about 400 billion bits of information.
- § However, we are only aware of about 2000 bits.
- § Out of 50 gigabytes of information per second we are only conscious of processing 250 bytes.

"It's natural to look for shortcuts with so much information to process every day. However, when you rely on your gut instincts as a shortcut to make decisions, mistakes can happen."

(Shelley Correll, The Clayman Institute for Gender Research, at Stanford University)

"Red and yellow you're a deadly fellow." (Coral Snake)
"Red and black, you're ok Jack!"
(Scarlet King Snake)



According to a research at Cambridge University, it doesn't matter in what order the letters in a word are, the only important thing is that the first and last letter be at the right place. The rest can be a total mess and you can still read it without problem. This is because the human mind does not read every letter by itself, but the word as a whole.

IMPLICIT ASSOCIATIONS

(Who me???)

The Stroop Test

In psychology the Stroop effect is a demonstration of interference in the reaction time of a task.

#1	#2	#3
SLB	CFLTK	CFLTK
SPRND	HLMG	CFLTK
SLB	SPRND	SLB
SPRND	HLMG	CFLTK

#1

#2

#3

GREEN

BLUE

GREEN

RED

YELLOW

YELLOW

PURPLE

BLUE

RED

GREEN

YELLOW

PURPLE

#1

#2

#3

RED

GREEN

YELLOW

BLUE

GREEN

BROWN

RED

YELLOW

BLUE

BROWN

BROWN

BLUE

Implicit Associations (Bias)

An implicit bias [or association] is a positive or negative mental attitude towards a person, thing, or group that a person holds at an unconscious level. [It] is a [predisposition] in judgment and/or behavior that results from subtle cognitive processes that often operate at a level below conscious awareness and without intentional control.

(National Center for State Courts)

Sorting - Familiar v. Unfamiliar

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Bias Studies

§ People are not as neutral or colorblind as we once thought (Implicit Bias in the Courtroom, 59 UCLA L. REV. 1124, 1128 (2012))

§ Implicit Association Tests appear to indicate that *everyone* has implicit biases

(<https://implicit.harvard.edu>)

Implicit Bias

- § Operates in unintentional and unconscious manner
- § Does not require the perceiver to endorse it or devote attention to its expression
- § Activates quickly and unknowingly by situational cues (skin color or accent)
- § Silently exerts influence on perception, memory, and behavior

(The Permanente Journal/ Spring 2011/ Volume 15 No. 2)

Explicit v. Implicit Bias

- § Explicit bias toward ethnic/racial groups has declined significantly over the past 50 years
- § Explicit bias is now considered unacceptable in general society
- § **Implicit bias appears to be common and persistent**

(The Permanente Journal/Spring 2011/ Volume 15 No. 2)

“If we get into a mindset that implicit bias is unidirectional, from the majority to the minority, it's completely unhelpful. This is a universal human problem . . . If you're a human being raised on the Earth, you're going to have some implicit biases.”

Kimberly Curseen, M.D., Associate Professor of Internal Medicine Emory School of Medicine

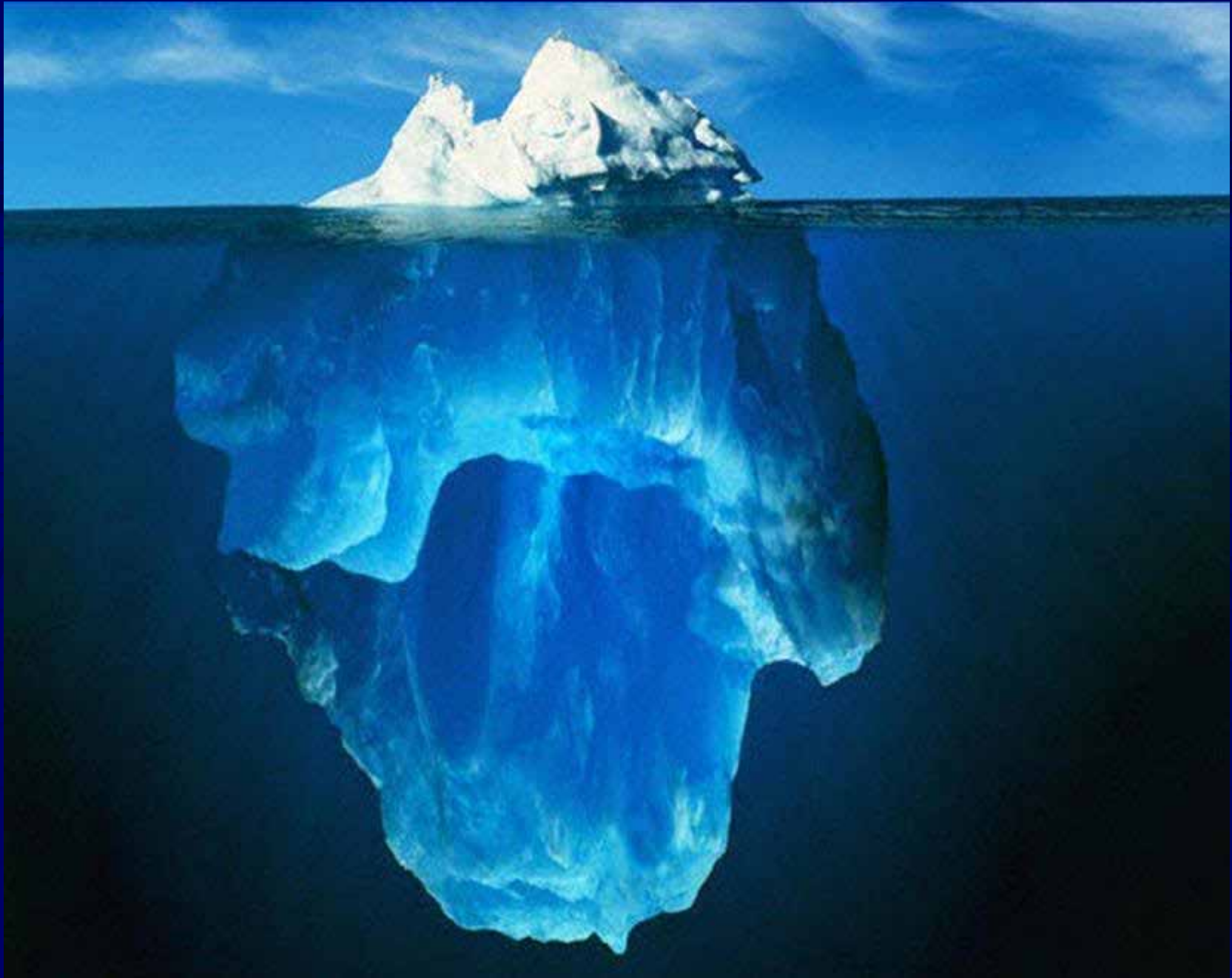
Director of Outpatient Supportive/Palliative Care, Emory Health Care

The Iceberg

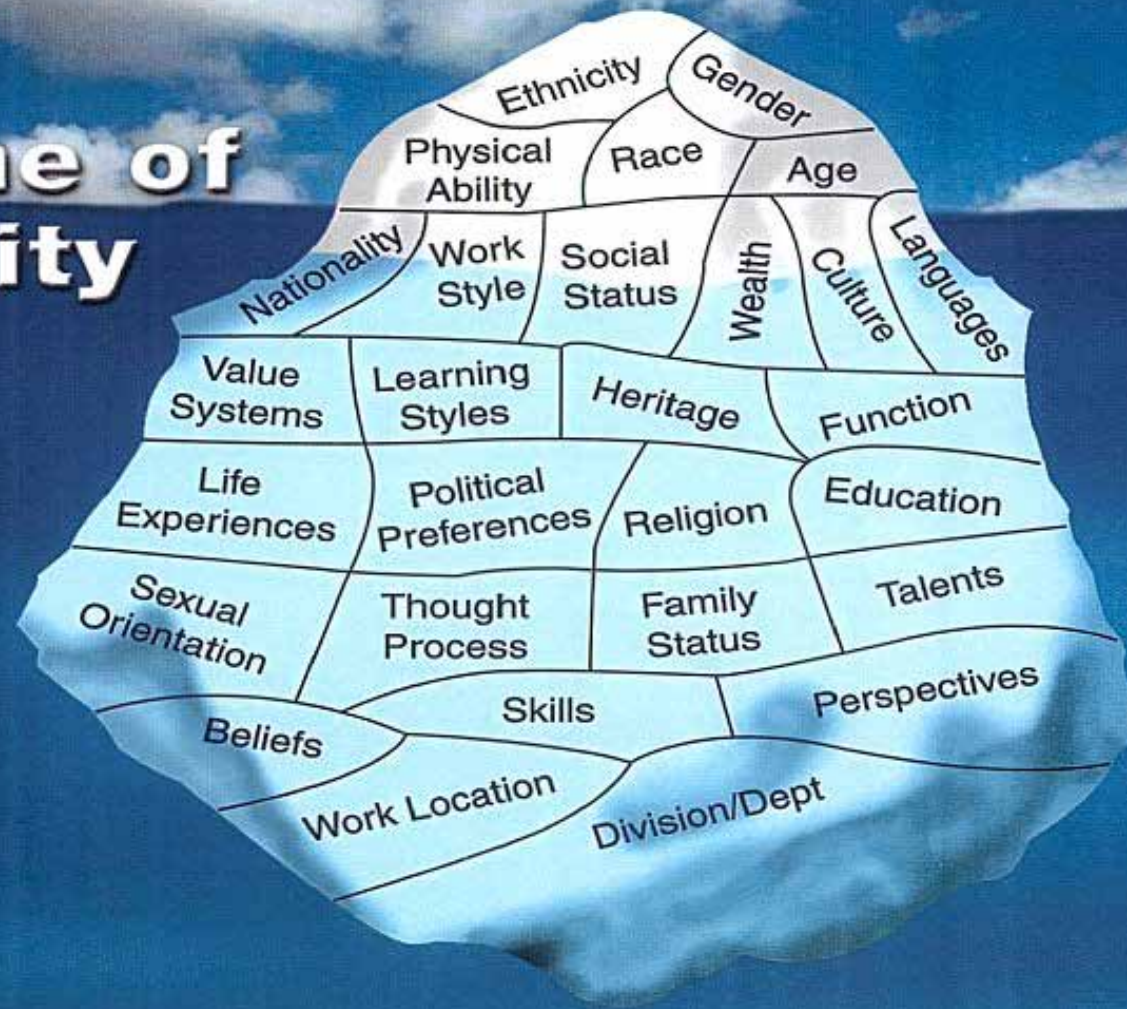


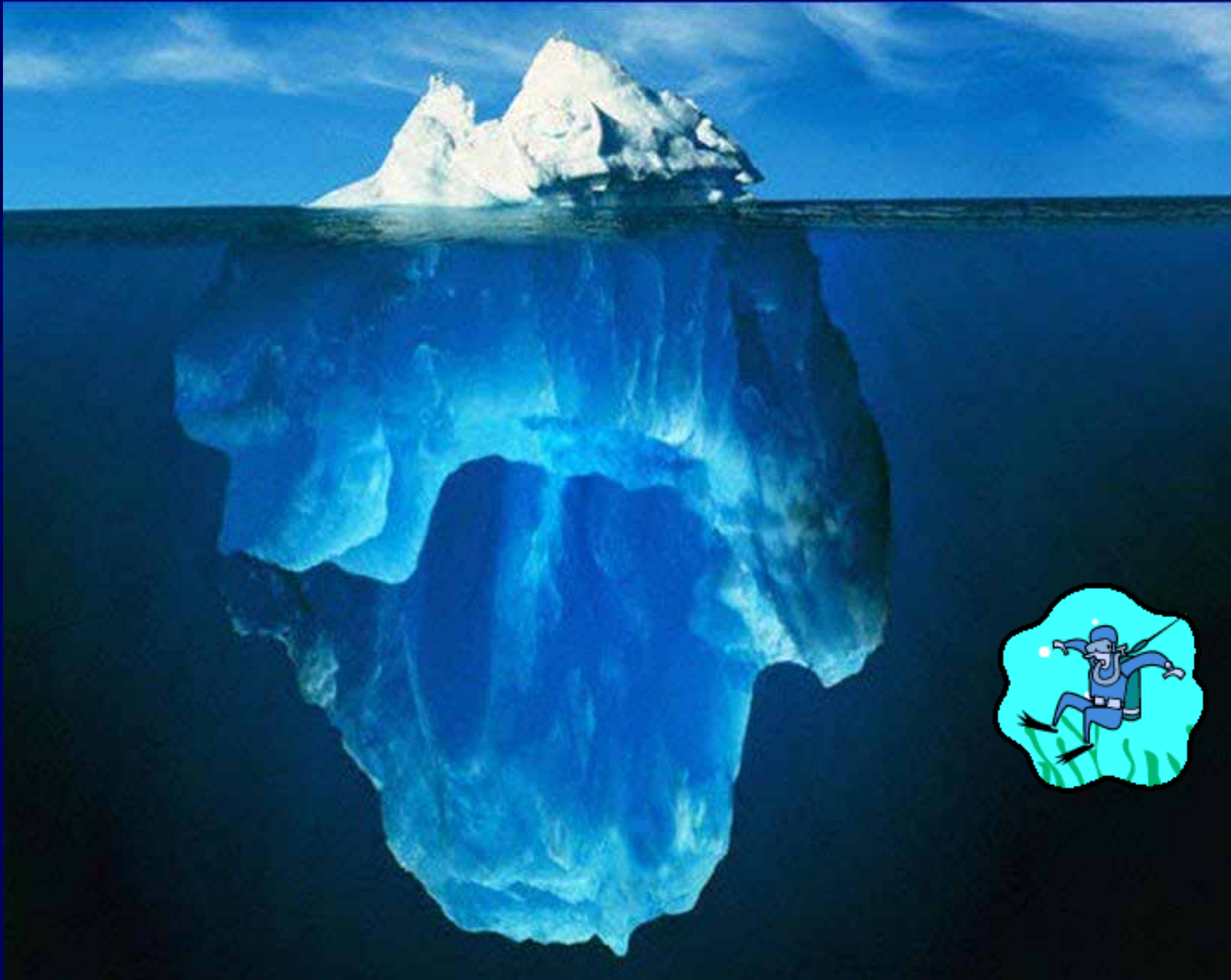






Waterline of Visibility





The Iceberg Model

- § People are the entire iceberg, not just the part above the waterline.
- § A person's appearance may trigger implicit associations.

In order to avoid implicit biases we must view people that we interact with as deeply contextualized, socially connected and individually complex.

(Professor Regina Austin 1996 CJI Stanley Lecturer)

ABA MODEL RULES OF
PROFESSIONAL CONDUCT
RULE 8.4g

It shall be professional misconduct for a lawyer to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these Rules.

Impacts of Implicit Bias

- § Unintended Slights (“Microaggressions”)
- § Cultural Incompetency
 - § Limited English Proficiency
- § Racial Anxiety

"Micro Messaging" (Micro Affirmations & Micro Iniquities)

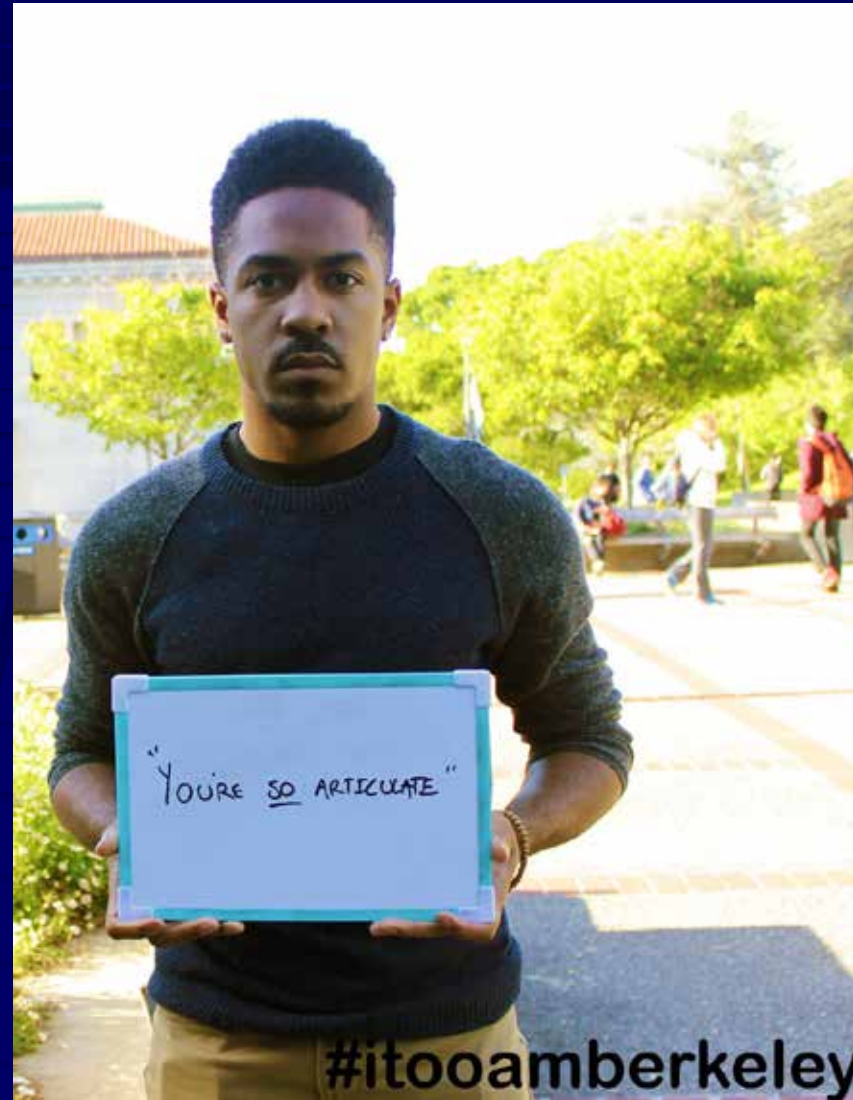
§ Micro-messages are small, sometimes unspoken and often unconscious messages that are constantly sent and received that have a powerful impact on our interactions with others

Unintended Slights

The subtle, and often unintended slights that are perceived by individuals when someone is referring to that person's color, race, ethnicity, gender, weight or stereotypes about them that are prevalent in our diverse society. The term "microaggressions" has been used to describe this situation.



"So, like,
what are
you?"



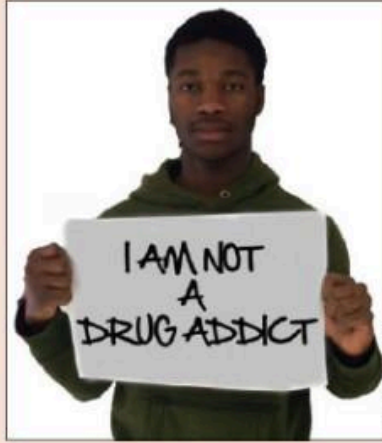
#itooamberkeley



"No, you're white."



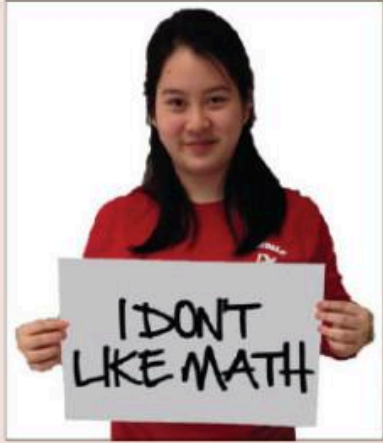
NGUYEN CAO



KHALID KANDHEH



LILY MONTES DE OCA



AMELIE TRIEU



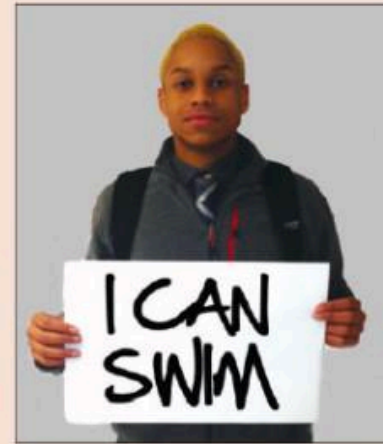
KOWTHAR SAID



SASHA SILVA



BRAYM QUIROZ CORDOVA



AARON BOYD



AS NATURAL AS your own tan

Johnson's

HOLIDAY SKIN™
BODY LOTION

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- 24 hour moisturisation
- Improved fragrance

NORMAL TO DARKER SKIN
with aloe vera

400ml
Johnson & Johnson

N - 535540

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PARIS

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BODY

NUTRIBRONZE

BODY LOTION
GRADUAL TAN

DAY 1 DAY 3 DAY 4

Daily use
Natural looking glow

NORMAL TO DARK SKIN





Nr 1 wśród balsamów
brązających
w Polsce

Dove

summer
glow

nourishing lotion

moisturiser with
subtle gradual
self-tanner

DeepCare
COMPLEX

NORMAL TO DARK SKIN





BABY K'TAN
organic
BABY CARRIER

61014
Compare at \$40
Check My Price
\$30

- 100% certified organic cotton
- multiple wearing positions (8-35 lbs.)
- promotes healthy development

BABY K'TAN
BABY CARRIER

61014
Compare at \$40
Check My Price
\$30

- like a sling
- multiple wearing positions (8-35 lbs.)
- promotes healthy development





Created Equally, Perceived Differently

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"That's a very good suggestion,
Miss Wilson - perhaps one of the
men would like to make it?"

Why should I care?

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Why do workplace microaggressions matter?

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Connecticut Judicial Branch's Working Definition of Cultural Competency

Cultural Competency is the ability of the Judicial Branch and its employees to communicate, cooperate, and serve people from all cultural identities with respect, professionalism, integrity, and fairness in a manner that recognizes the individual dignity of each person.

What is LEP?

Assessing someone as Limited English Proficient requires that two criteria be met:

1. The individual's primary language is not English

AND

2. The individual has limited ability to read, write, speak or understand English

Increase in Interpreting Assistance

Year	Total # of Languages Provided	Total # of Requests (In-Person)	Total Cost of Contract Interpreters
2008	28	28,000 (Estimated)	\$705,524.33
2015	72	40,667	\$1,725,273.00
2016	79	41,573	\$2,396,841.00
<ul style="list-style-type: none"> • 87% - 89% – Spanish • 6% - Portuguese & Polish • 1% - Haitian Creole & Mandarin/Cantonese • 4% - 6% - All Others 			

What is racial anxiety?

“Racial anxiety’ refers to the heightened levels of stress and emotion that we confront when interacting with people of other races. People of color [may] experience concern that they will be the subject of discrimination and hostility. White people, meanwhile, [may] worry that they will be assumed to be racist.”

(Perception Institute – Perception.Org)



The Blind Date

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“Studies have show that interracial interaction can cause physical symptoms of anxiety and that our non-verbal behaviors—making eye contact, using welcoming gestures or a pleasant tone of voice, for example—can be affected as well. When everyone in a conversation is anxious that it will turn negative, it often does. This causes a kind of feedback loop where the fears and anxieties of both white people and people of color are confirmed by their everyday interactions.”

Why it matters

“One obvious way that racial anxiety affects our daily lives is in the aggravation of existing racial tensions. While this may seem small in comparison to larger structural challenges, racial anxiety affects interactions with teachers, employers, law enforcement, and healthcare providers [and yes even judges and other members of the judicial systems].”

(Perception Institute – Perception.Org)

“Racial anxiety also affects many areas of our lives in ways that are subtle but pervasive. In health care, for example, studies using patients of color and doctors of other races, researchers found that patients will have shorter visits with white doctors and report less positive interactions.”

(Perception Institute – Perception.Org)

Interrupting Bias

- § Unpacking the Invisible Knapsack
- § Cultural Competency
- § Turn Off the Autopilot

Unpacking the Invisible Knapsack



**If I need to move, I can be pretty
sure of renting or purchasing
housing in an area I can afford
and in which I want to live?**

1. Yes

2. No

**I can go shopping alone
anywhere and feel assured I will
not be followed or harassed?**

1. Yes

2. No

Whether using checks, credit cards or cash, I can count on my skin color not to work against the appearance of financial reliability?

1. Yes

2. No

**I am never asked to speak for all
the people of my racial group,
gender identity, or sexual
orientation?**

1. Yes

2. No

I can choose public accommodations without fearing that people of my race, sexual orientation, or gender identity will be unwelcome or mistreated in the places I have chosen?

1. Yes

2. No

**I can be certain that if I need legal
or medical help, my race will not
work against me?**

1. Yes

2. No

**I can be confident that I will be
compensated equally for the same
work as a co-worker of a different race
or gender?**

1. Yes

2. No

Unpacking the Invisible Knapsack

What Can I Do?





"How can I address my biases if I don't know that I have them?"

What can be done about it

“Over the long term, diversity, integration, inclusion and greater contact between people of different races will go a long way towards lessening racial anxiety. In particular, positive interracial contact has been shown to increase positive impressions of people of other races.”

(Perception Institute – Percepton.Org)

Be wary of easy answers to complex problems!

- § We live in a very complex society.
- § The issues that we are trying to deal with are not about political correctness or people being too thin skinned.
- § The problems and the solutions are neither liberal nor conservative, and are not within the power or control of any one group of people or political party.

Turn off the Auto-Pilot

- § **Realize that we are all human beings subject to conscious and unconscious biases.**
- § **Awareness is the first step to keep you from engaging in microaggressions and letting implicit biases influence your conduct.**
- § **Beware of making assumptions and mental short cuts when assessing individuals.**

Turn off the Auto-Pilot

- § **Be diligent - do not allow implicit biases to influence your decision making process.**
- § **Beware of taking mental short cuts when evaluating individuals. Make sure that your “people” assessments utilize a fully conscious, intentional and deliberative process.**

Turn off the Auto-Pilot

- § **Be careful when engaging in "gastronomical jurisprudence," consider gut reactions to be potential indicators of implicit bias**
- § **Be conscious of diversity and the differences in people**
- § **Actively confront stereotypes**

Only One of Them is a Convicted Felon!



BE MINDFUL ABOUT STEREOTYPES!

ONLY ONE OF THEM IS A CONVICTED FELON.

Questions?

Thank you!