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Implicit Bias: Impact on Decision-Making

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Objectives

- 1. To discuss how implicit bias can influence perceptions of risk.**
- 2. To discuss how implicit bias can influence language embedded in court reports, affidavits, case notes, referrals and laws.**
- 3. To discuss how implicit bias can effect how policies are designed, applied, interpreted and enforced.**
- 4. To discuss strategies that can reduce bias in decision-making.**



Bias: Unconscious and Discretionary Decisions

- Racially coded language embedded in school records, case notes, arrest and court reports
- Differential application of policies, procedures and the law at multiple decision points
- Discretionary decisions: “I don’t notice race, I just follow rules”



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



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



Implicit bias Can Effect Perceptions Which:

- Impact choice of language in written reports
- Result in ambiguous determinations of neglect e.g., “poor parenting skills”
- Result in consequences, e.g., allegations founded or unfounded
- Cause poverty to mimic neglect
- Effect determination of risk, criminality
- Impact outcomes at other decision points



What is Implicit Bias: It's Neuroscience!

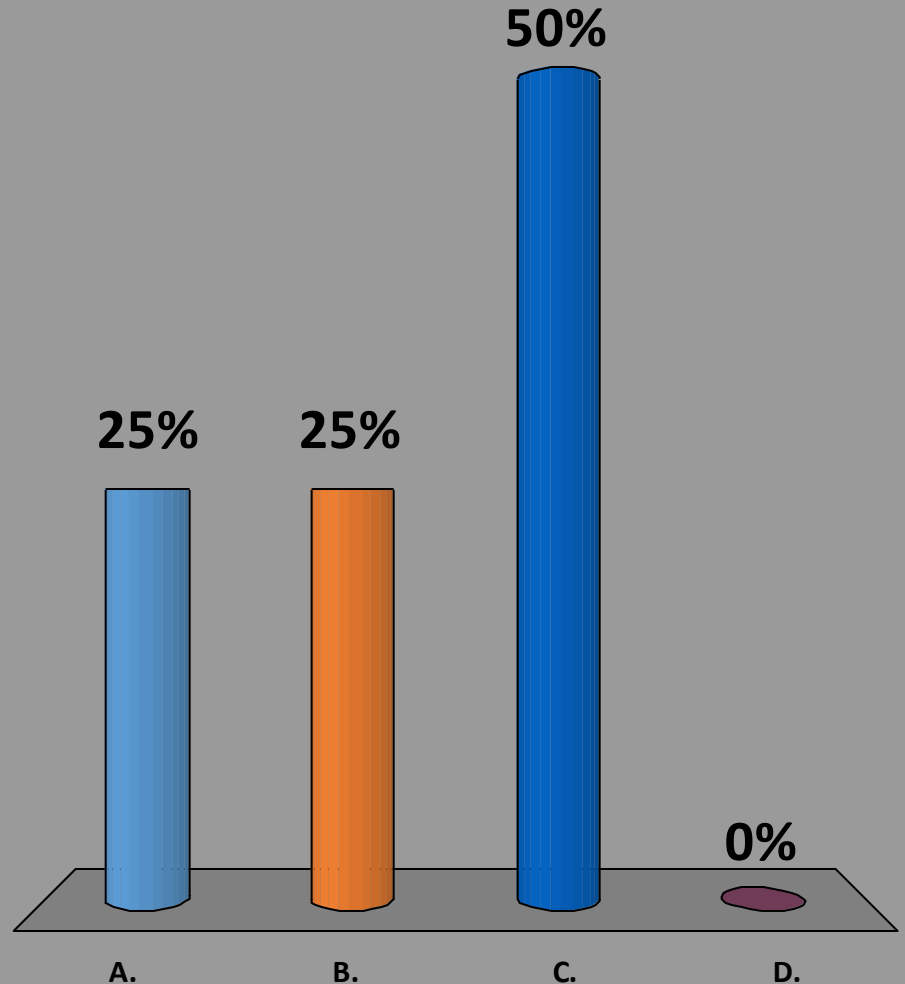


“If scientists could scan our brains when we see spiders or snakes, they would see that the area of our brains that focuses on fear, threat, anxiety and distrust is triggered or, as neuroscientists say, “activates.” Studies have shown that the same area of the brain activates more when people see pictures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



Implicit bias is reflected in the language of the court reports, affidavits, or statutes in your jurisdiction

- A. True
- B. False
- C. Partially True
- D. Don't Know





Infusing Bias Through Language Contained in Court Reports, Petitions, Case Notes, Affidavits

- Some groups are described by race and others not
 - “7 year-old African American boy”
 - “7 year-old Hispanic boy” or simply
 - “7-year old boy” (when describing a white boy)
- Differential choice of words
 - White mother is “upset”
 - Black mother is “angry”
- Disparities in how reports are written and interpreted
 - White mother: “no drug involvement”
 - Black mother: “mother alleges no drug involvement”



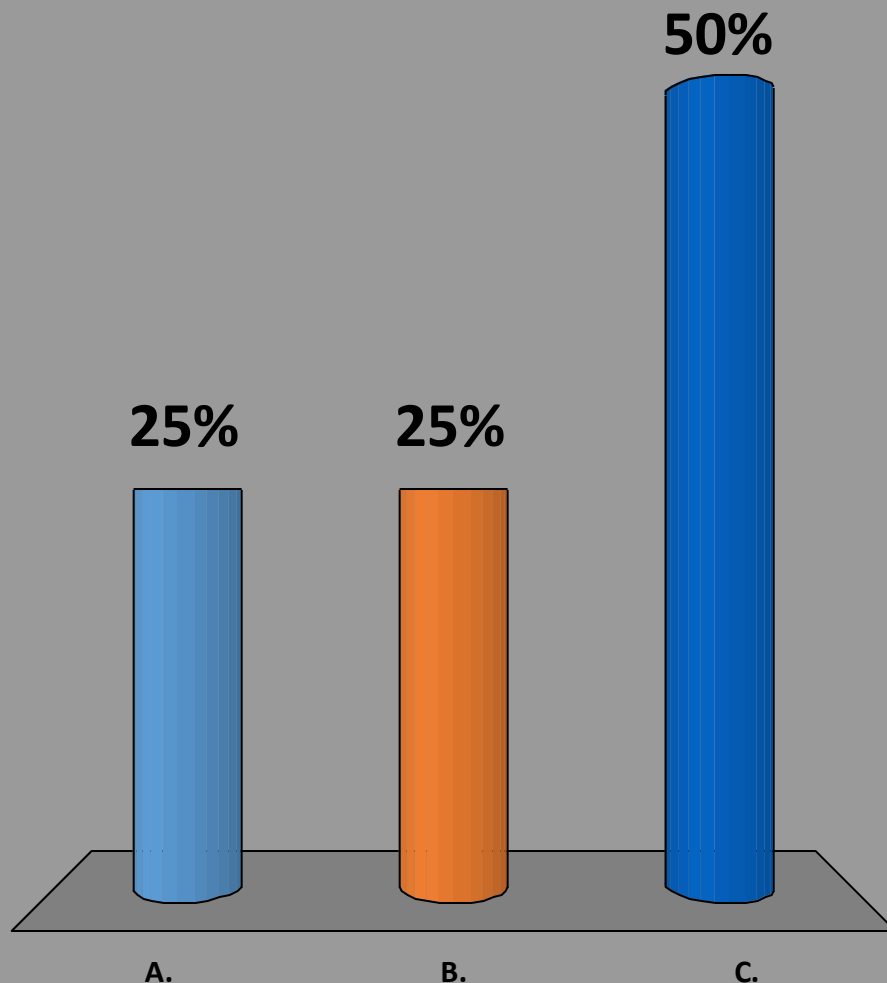
Effect on Language, Labeling, and Laws

- Language can distort facts.
 - wielding/ brandishing a knife vs. holding a knife
 - upset vs. volatile; angry vs. hate
- Labels are ambiguous and subjective.
 - uncooperative, willful intent, angry, inappropriate dress
- Laws are written and applied differentially.
 - sagging pants → indecent exposure
 - watching a fight → inciting a riot



Should identities of race be salient in decision-making?

- A. I don't notice race, I just read what's in the court report.
- B. Race shouldn't matter, I treat everyone the same
- C. Being aware of race can improve judicial decision-making





Colorblindness

- Suppresses the public discourse on race and masks discrepancies in decision-making. According to one study how Black boys walk is associated with low academic achievement.
- Researchers found that Whites with relatively high levels of implicit bias perceived Blacks to be more threatening (and bigger)
- Studies suggest that White teachers may incorrectly attribute anger or aggression to Black students. (State of the Science: Implicit Bias Review 2013)

Video: A
Girl Like Me



Stereotypes

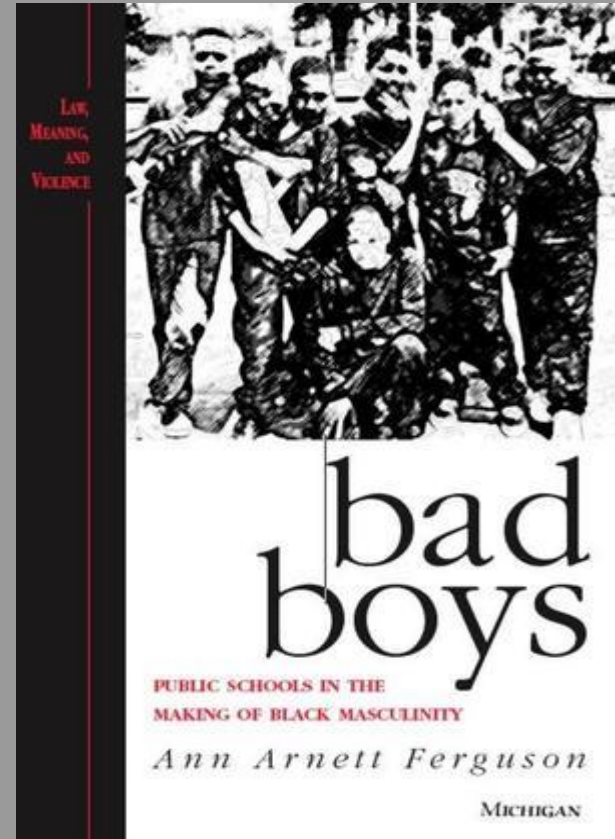
- Where a Black perpetrator was shown 70% of subjects recalled a Black perpetrator
- Where no perpetrator was shown, 60% recalled seeing a perpetrator, and 70% of those recalled seeing a Black perpetrator
- Where subjects were shown a White perpetrator, 10% recalled seeing a Black perpetrator



Stereotypes Construct Criminality

- Dreadlocks
- Swagger
- Sagging pants
- Communication style
- Dialect

Video: Psychology of Stereotypes



Ann Ferguson-*The Making of Black Masculinity in America's Public School System*



Constructing Race Through Laws and Public Policy

Using Racial Restrictive Covenants in Housing

“...hereafter no part of said property or any portion thereof, shall be occupied by any person not of the Caucasian race. It being intended hereby to restrict the use of said property for residents or other purposed by people of Negro or Mongolian races.

<http://www.bostonfairhousing.org/timeline/1920s1948-Restrictive-Covenants.html>



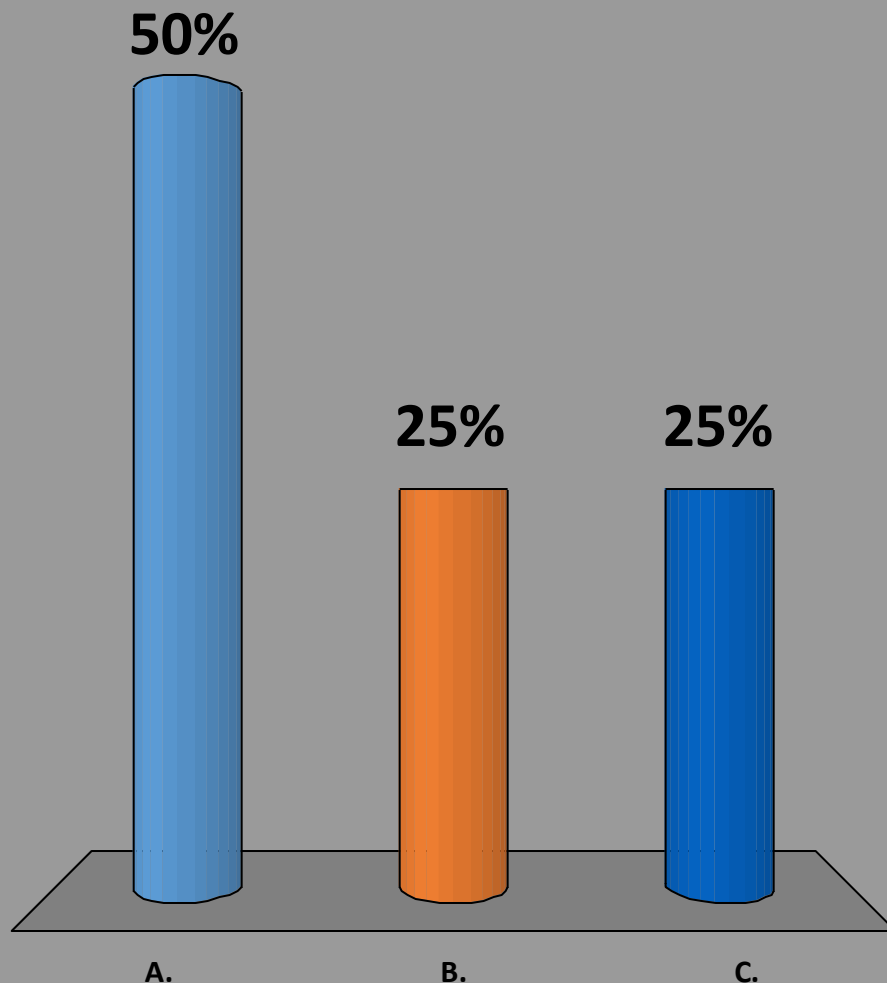
How Does Implicit Bias Influence Perception of Risk and Criminality?





Can the differential application, interpretation and enforcement of laws and policies at prior decision points, have an effect on child welfare?

- A. Court decisions should not be effected by decisions made at prior decision-points. We should just ignore them.
- B. The consequences of implicit bias at prior decision-points, can effect judicial decision-making.
- C. We should be mindful of the accumulative impact of implicit bias on judicial decision-making.





Institutional Bias and the School to Prison Pipeline

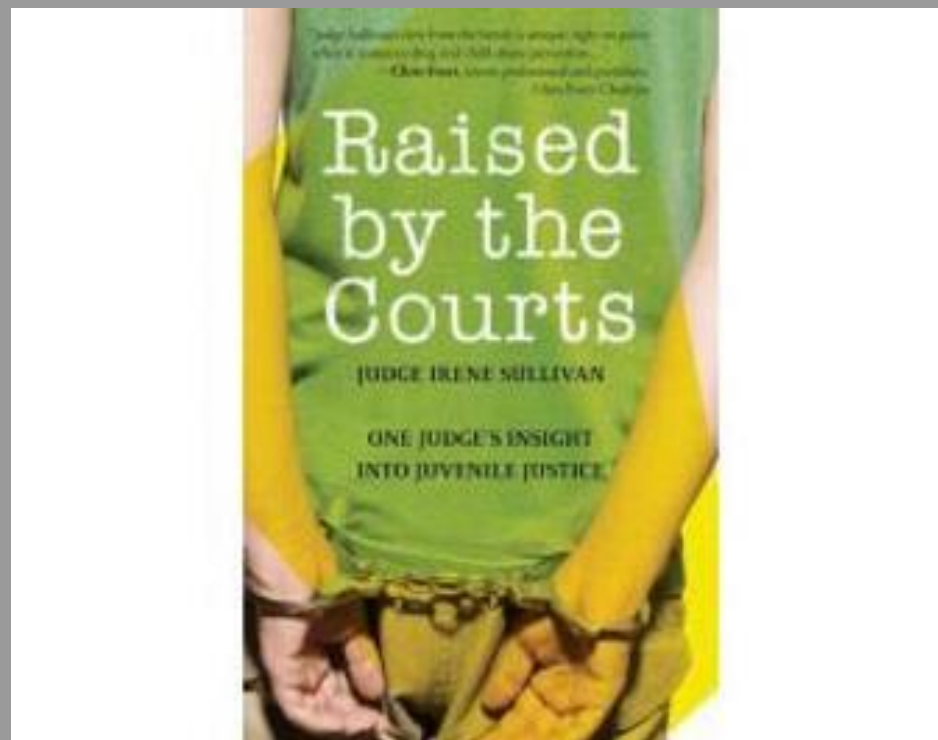
- Decision Point Bias-Collaboration of major social institutions
- Criminalization of youthful offenses increases contact with juvenile justice.
- ***Criminalization***: having police nearby transforms the daily school experience into a minefield of potential crimes:
 - *fighting in the hallway* → **battery**
 - *swiping a classmates cell phone* → **theft or robbery**
 - *talking back to an officer/teacher* → **disorderly conduct**
- *School discipline* → **arrest**





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...”

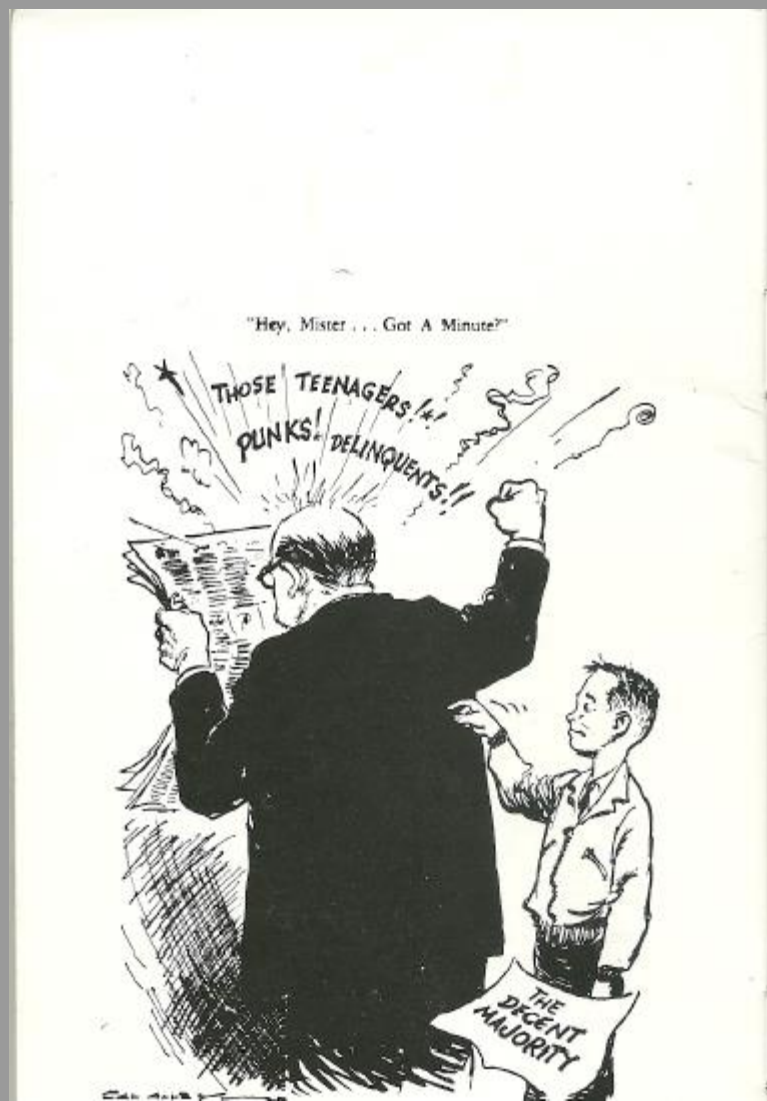




Strategies

Be mindful of jokes, or complaints that are commonly shared amongst school staff that might have racial overtones.

- e.g., “These kids are the worst of the worst.”





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