

Systemic Racism

A form of racism that is embedded as normal practice within society or an organization. It can lead to such issues as discrimination in criminal justice, employment, housing, health care, political power, and education, among other issues.
Also called Institutional Racism

Systemic Racism Impacts

- Housing
- Education
- Employment
- Nutrition
- Health Care
- Life Expectancy
- Criminal Justice
 - "Evidence" Based Policies
 - Profiling
 - Policing
 - Penalties

Anti-Racism

Being antiracist is making conscious efforts and actions to provide equitable opportunities for all people on an individual and systemic level.

People can act against racism by acknowledging personal privileges, confronting acts of racial discrimination, and working to change personal racial biases.

<https://en.wikipedia.org/wiki/Anti-racism>

Can you be an Anti-Racist Prosecutor?

If your response to an unarmed black man getting shot by the cops seven times in the back in front of his children is to ask what he did to deserve that, you really need to stop insisting that all lives matter to you.

Empty rectangular box for notes.

Seven horizontal lines for writing.

Empty rectangular box for notes.

Seven horizontal lines for writing.

**White Privilege &
White Fragility**

Seven horizontal lines for writing.

**#BlackLivesMatter
Blue Lives Matter
All Lives Matter**



MICRO-AGGRESSIONS

MICRO-AGGRESSION

A statement action or incident regarded as an instance of indirect, subtle, or unintentional discrimination against members of a marginalized group.

- Micro-Assault**
- Micro-Insult**
- Micro-Invalidation**

COMMON MICRO-AGGRESSIONS

- Where are you from?
- You're so articulate.
- They're not like you.
- I don't see color.
- The purse clutch.
- The street crossing.
- I have _____ friends.
- I worked hard to get my position.
- Mistaken for person of less power.
- Indian giver, gypped, that's gay, that's so white...
- Imitated accents.

**Think Twice
Ask First
Be Kind**

MICRO-AGGRESSION ACTION PLAN

- Do I engage?
- What is my goal?
- Am I prepared for reply?
- Keep an open mind.
- Ask follow up questions.
- Listen.
- Explain point of view.
- Avoid sarcasm.
- See something, say something.
- Don't laugh.
- Offer support afterwards.
- Be a diligent witness.
- It's ok to remind people:
 - We're at work
 - That's not professional
 - I don't agree
 - Why would you say that
 - That's offensive

**Think Twice
Ask First
Be Kind**

KEY DEFINITIONS

Systemic Racism: A form of racism embedded into an organization or society as normal practice which can and often does result in discrimination. The most significant impacts of systemic racism can be found in education, financial status and employment, health care, criminal justice and government representation. It is also called institutional racism. In his book, *How to be an Anti-Racist*, Ibram Kendi describes it this way: “The marriage of racist policies and racist ideas which produces and normalizes racial inequities.” According to Kendi a racist policy is one that, “produces or sustains racial inequity between racial groups.”

Racism: “Any prejudice against someone because of their race” or any prejudice against someone “based on race, when those prejudices are reinforced by systems of power.” (Oluo)

Racist: A person who is “supporting a racist policy by their action or inaction or expressing a racist idea.” (Kendi) A racist policy is one that causes or continues racial inequity between racial groups. A racist idea is one that suggests one racial group is inherently inferior to another. (Kendi)

Anti-Racist: A person who is supporting an antiracist policy by their actions or expressing an antiracist idea. According to Kendi, an Anti-racist policy is one that “produces or sustains racial equity between racial groups”, which may lead to disparate treatment, in order to assist a group that has been marginalized. Antiracist ideas see that racist policies, past and present, cause racial inequities. (Kendi) Being antiracist is making conscious efforts and actions to provide equitable opportunities for all people on an individual and systemic level. People can act against racism by acknowledging personal privileges, confronting acts of racial discrimination, and working to change personal racial biases. (Smithsonian)

White Privilege: “Having white privilege and recognizing it is not racist. But white privilege exists because of historic, enduring racism and biases.” “[W]hite privilege is not just the power to find what you need in a convenience store or to move through the world without your race defining your interactions. It’s not just the subconscious comfort of seeing a world that serves you as normal. It’s also the power to remain silent in the face of racial inequity. It’s the power to weigh the need for protest or confrontation against the discomfort or inconvenience of speaking up. It’s getting to choose when and where you want to take a stand. It’s knowing that you and your humanity are safe.” (Collins)

White Supremacy: This term can be used in several ways: It most commonly refers to a belief that “white people”, usually referring to individuals of European ancestry are superior to other peoples. However, it can also refer to a political ideology that works to maintain control of power by white people or a social system where white people enjoy privileges over others due to structural inequities that have evolved over time.

Micro-Aggression: Words, actions or events that occur as a result of indirect, subtle, or unintentional discrimination.

COMMON MICROAGGRESSIONS

Theme	Microaggression	Message
<p><i>Alien in own land</i> When Asian Americans and Latino Americans are assumed to be foreign-born</p>	<p>“Where are you from?” “Where were you born?” “You speak good English.” A person asking an Asian American to teach them words in their native language.</p>	<p>You are not American You are a foreigner</p>
<p><i>Ascription of Intelligence</i> Assigning intelligence to a person of color on the basis of their race.</p>	<p>“You are a credit to your race.” “You are so articulate.” Asking an Asian person to help with a Math or Science problem.</p>	<p>People of color are generally not as intelligent as Whites. It is unusual for someone of your race to be intelligent. All Asians are intelligent and good in Math / Sciences.</p>
<p><i>Color Blindness</i> Statements that indicate that a White person does not want to acknowledge race</p>	<p>“When I look at you, I don’t see color.” “America is a melting pot.” “There is only one race, the human race.”</p>	<p>Denying a person of color’s racial / ethnic experiences. Assimilate / acculturate to the dominant culture. Denying the individual as a racial / cultural being.</p>
<p><i>Criminality – assumption of criminal status</i> A person of color is presumed to be dangerous, criminal, or deviant on the basis of their race.</p>	<p>A White man or woman clutching their purse or checking their wallet as a Black or Latino approaches or passes. A store owner following a customer of color around the store. A White person waits to ride the next elevator when a person of color is on it.</p>	<p>You are a criminal. You are going to steal / You are poor / You do not belong / You are dangerous.</p>
<p><i>Denial of individual racism</i> A statement made when Whites deny their racial biases</p>	<p>“I’m not a racist. I have several Black friends.” “As a woman, I know what you go through as a racial minority.”</p>	<p>I am immune to races because I have friends of color. Your racial oppression is no different than my gender oppression. I can’t be a racist. I’m like you.</p>
<p><i>Myth of meritocracy</i> Statements which assert that race does not play a role in life successes</p>	<p>“I believe the most qualified person should get the job.” “Everyone can succeed in this society, if they work hard enough.”</p>	<p>People of color are given extra unfair benefits because of their race. People of color are lazy and / or incompetent and need to work harder.</p>
<p><i>Pathologizing cultural values / communication styles</i> The notion that the values and communication styles of the dominant / White culture are ideal</p>	<p>Asking a Black person: “Why do you have to be so loud / animated? Just calm down.” To an Asian or Latino person: Why are you so quiet? We want to know what you think. Be more verbal.” Speak up more.” Dismissing an individual who brings up race / culture in work / school setting.</p>	<p>Assimilate to dominant culture. Leave your cultural baggage outside.</p>

Theme	Microaggression	Message
<p><i>Second-class citizen</i></p> <p>Occurs when a White person is given preferential treatment as a consumer over a person of color</p>	<p>Person of color mistaken for a service worker</p> <p>Having a taxi cab pass a person of color and pick up a White passenger</p> <p>Being ignored at a store counter as attention is given to the White customer behind you</p> <p>“You people ...”</p>	<p>People of color are servants to Whites. They couldn't possibly occupy high-status positions.</p> <p>You are likely to cause trouble and / or travel to a dangerous neighborhood.</p> <p>Whites are more valued customers than people of color</p> <p>You don't belong. You are a lesser being.</p>
<p><i>Environmental microaggressions</i></p> <p>Macro-level microaggressions, which are more apparent on systemic and environmental levels</p>	<p>A college or university with buildings that are all names after White heterosexual upper class males</p> <p>Television shows and movies that feature predominantly White people, without representation of people of color</p> <p>Overcrowding of public schools</p>	<p>You don't belong / You won't succeed here. There is only so far you can go.</p> <p>You are an outsider / You don't exist. People of color don't / shouldn't value education.</p> <p>People of color are deviant.</p>

Adapted from: Wing, Capodilupo, Torino, Bucceri, Holder, Nadal, Esquilin (2007). Racial Microaggressions in Everyday Life: Implications for Clinical Practice. *American Psychologist*, 62, 4, 271-286 (UMN.edu)

Heteronormativity: “Don’t you want a family?” “Have you ever had real sex?” “So who is the man in the relationship?”

Sexism: “You’re going to stay home with the kids right? "What she's trying to say is..." "You should smile more" “My boss is crazy!” “She’s on the mommy track.”

Environmental: High School or College rooms and hallways with pictures of predominantly white heterosexual upper class males can convey to non-whites and women that you don’t belong.

Dismissive: You’re just being too sensitive,” Eye rolling, “You’re always so difficult”

BOOKS TO READ

“From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America” (2016) by Elizabeth Hinton

“The New Jim Crow: Mass Incarceration in The Age of Colorblindness” by Michelle Alexander

“So You Want To Talk About Race” by Ijeoma Oluo

“White Fragility” by Robin DiAngelo

“White Rage: The Unspoken Truth of Our Racial Divide” (2016) by Carol Anderson

“The Origin of Others” (2017) by Toni Morrison

“Stamped From the Beginning: The Definitive History of Racist Ideas in America” and “How To Be An Antiracist” by Ibram X. Kendi

“Racism Without Racists” by Eduardo Bonilla-Silva

“Conquest” by Andrea Smith

City of Inmates: Conquest, Rebellion, and the Rise of Human Caging in Los Angeles, 1771–1965” (2017) by Kelly Lytle Hernández

“Racism: A Short History” (2015, original ed. 2002) by George Fredrickson

“When Police Kill” (2017) by Franklin E. Zimring

“Why I’m No Longer Talking to White People About Race” by Reni Eddo-Lodge

“God's Bits of Wood” by Ousmane Sembène

“They Were Her Property: White Women as Slave Owners in the American South” by Stephanie E. Jones-Rogers

“Killing the Black Body: Race, Reproduction, and the Meaning of Liberty” by Dorothy Roberts

“The Color of Law” by Richard Rothstein

“Katrina’s Legacy” by Eric Mann

“Chicano Students and the Courts” by Richard Valencia

“Talking to Strangers” and “Blink” by Malcolm Gladwell

“Letter to My Daughter” by Maya Angelou

HYPERLINKED RESOURCES AND ARTICLES

[List of Ethnic Slurs](#)

[List of Disability Related Slurs](#)

[List of Religious Slurs](#)

[List of LGBTQIA Slurs](#)

[TALKING ABOUT RACE](#)

This excellent online resource has several interactive trainings with current research and training on how to practice anti-racism.

[ABA JOINT STATEMENT ON ELIMINATING BIAS IN THE CRIMINAL JUSTICE SYSTEM](#)

This statement recognizes the threat that implicit bias poses to the administration of justice and proposes:

1. The collection of data on law enforcement contacts with civilians;
2. The collection and publication of race/charging/sentencing data by prosecutors;
3. Enlistment of experts to assist prosecution offices in creating protocols and practices to address disparities borne out by data;
4. Implicit bias training for all justice partners;
5. Swift action to address misconduct by prosecutors;
6. Diversification of offices through hiring from represented communities;
7. Increased public communication with community stakeholders and openness to alternative approaches to traditional justice issues;
8. Education regarding the role of prosecutors;
9. Transparency in OIS incidents and BWC footage;
10. Expulsion of repeat bad actors;
11. Increased attention to the collateral consequences of convictions.

[ABA DIVERSITY AND INCLUSION CENTER](#)

This online repository is the result of the ABA's efforts to help judges, prosecutors and public defenders address implicit bias by providing numerous links to online resources that:

1. Explain the social science term implicit bias;
2. Provide some examples of where implicit biases live and thrive;
3. Explain how they exist;
4. Raise consciousness about the power of these unknown "mind bugs," as some have called them, and their ability to negatively impact decision-making;
5. Help you identify some of your own implicit biases;
6. Examine how implicit biases might show up in the performance of your job;
7. Provide some tools to help you catch and correct snap decision-making that may be linked to harmful implicit biases; and
8. Provide you with the knowledge that will allow you to help others catch decision-making that might be based on implicit biases.

THE ABA's "IMPLICIT BIAS TOOLKIT" TOOLKIT

This interactive "Toolkit" includes several links to speakers, articles, and videos related to understanding and protecting against implicit bias.

WHITE PRIVILEGE: UNPACKING THE INVISIBLE KNAPSACK

Peggy McIntosh, "White Privilege and Male Privilege: A Personal Account of Coming To See Correspondences through Work in Women's Studies," (1988)

The seminal essay on white privilege provides a summary of many ways in which white privilege benefits white people on a daily basis.

WHAT IS WHITE PRIVILEGE, REALLY?

Cory Collins, Teaching Tolerance Website (2018)

A critique and elaboration on the meaning of white privilege as developed from the original essay by Peggy McIntosh.

HOW TO THINK ABOUT IMPLICIT BIAS, Scientific American March 2018

This 9 page article provides information regarding the utility and veracity of data imputed from Implicit Association Tests, which show that almost all people harbor implicit biases and that there is a relationship between those biases and discriminatory behavior.

TRANSFORMING PERCEPTION; BLACK MEN AND BOYS, AN EXECUTIVE SUMMARY

This 24 page Executive Summary provides an extremely well researched and resourced summary of information pertaining to the perception of black males, a description of commonly held biases against them, and ways to alter perceptions and reduce bias. This guide also includes information on successful interventions in police departments and schools. Of particular interest is summarized information regarding the interrelation of racial anxiety, the perception that you will "appear racist" and increased use of excessive force.

WHAT'S IN A NAME? A SMALL STEP PROSECUTORS CAN TAKE TO BUILD A MORE HUMANE SYSTEM

Akhi Johnson, Vera Institute July 2020

This brief but important article highlights the importance of humanization by prosecutors and urges basic changes to how we address the people we prosecute, in order to achieve justice without resort to practices that contribute to biased outcomes.

THE IMPACT OF IMPLICIT RACIAL BIAS ON THE EXERCISE OF PROSECUTORIAL DISCRETION

Robert J. Smith & Justin D. Levinson, Seattle University Law Review Vol 35:795

This 52 page law review article was published in 2008, but contains significant research on the disproportionate impact that implicit bias appears to have on people of color in the criminal justice system, particularly how it relates to prosecutorial discretion. Among the concerns addressed are:

1. Priming: a cognitive phenomenon that describes the impact of frequent exposure to negative stereotypes, culminating in automatic classifications, that can only be overcome through conscious de-biased thought;
2. The history and legacy of implicit association testing, with predictive analysis of how results in other areas of expertise, such as medicine, indicate a strong likelihood that implicit biases held by prosecutors may be the cause of some disparities in treatment among people of color;
3. A discussion of the potential areas where bias can impact prosecution work including the decision to charge, what to charge, bail or custody, discovery, plea bargaining, jury selection, argument, and sentencing; and
4. A summation of ideas designed to reduce implicit bias.

IMPROVING PROSECUTORIAL DECISION MAKING: SOME LESSONS OF COGNITIVE SCIENCE

Alafair S. Burke, William and Mary Law Review March, 2006

This 30 page law review article details the available science pertaining to cognitive bias in decision making, using illustrative studies to highlight areas of concern for implicit bias in prosecutorial decisions. The article provides concrete recommendations designed to reduce or eliminate bias including increased transparency and review of charging and conviction data, adherence to issuing standards, pre-trial discovery, judicial involvement in plea bargaining, switching sides, peer and committee review, involvement in conviction review, and diversification of the relationships among prosecutors. With regard to decision making bias, the article explores four areas of significant concern:

1. Confirmation bias, which describes the tendency of people to disregard evidence that negates a previously held theory;
2. Selective information processing, which describes the practice of isolating or overvaluing information from a larger body of facts in order to justify a desired outcome;
3. Belief perseverance which refers to people adherence to a theory even after it has been contested; and
4. The intolerance for cognitive dissonance, which leads people to avoid confronting stereotypes and perceptions, because it is simply easier to rely on previously held standards or beliefs.

IMPLICIT RACIAL BIASES IN PROSECUTORIAL SUMMATIONS: PROPOSING AN INTEGRATED RESPONSE

Praatika Prasad, Fordham University School of Law, 2018

This 37 page article details the history of racial bias by jurors and prosecutors through the lens of summation language. It highlights the use of tropes in summation that reinforce racist ideas of Black dishonesty and hypersexuality through the use of animal imagery, us-them associations, and language that denigrates communities and dehumanizes individuals.

PROSECUTOR'S CHEAT SHEET ON IMPLIED BIAS (See Page 9)

Kimberly Norwood, ABA Prosecutor Toolkit resource, 2016.

This five page document includes basic research on the prevalence and impact of bias and where prosecutors can improve use of discretionary decision making powers, being an ally and overcoming one's own implicit biases. These include:

1. Conscious stereotype replacement;
2. Counter stereotypic visualization to re-train the brain automatic categorizations;
3. Focusing on individual characteristics rather than group characteristics;
4. Conscious consideration of "other" perspectives;
5. Increasing contact with "other" communities and individuals.

Works Cited:

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