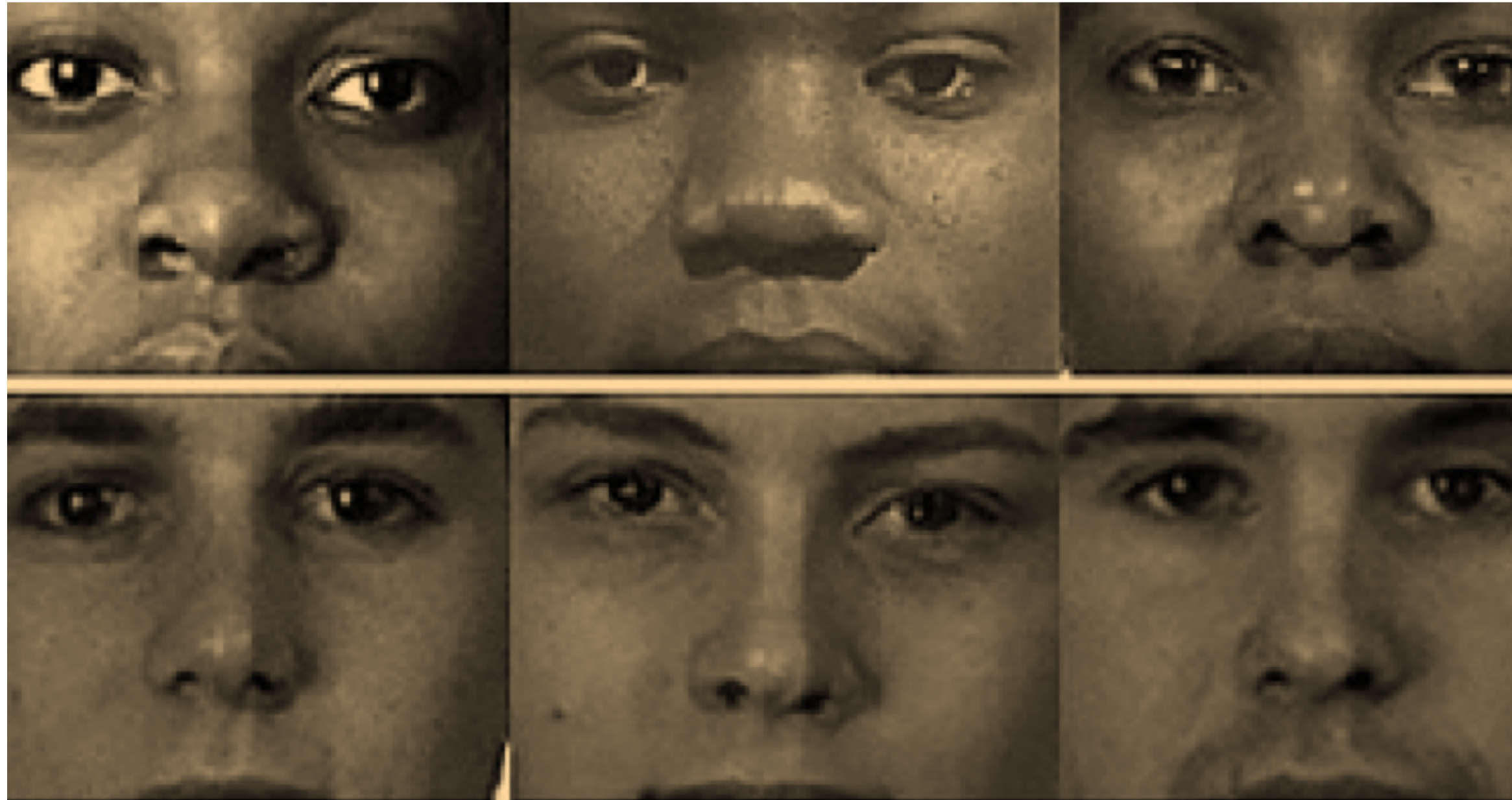


| Implicit Bias

Michelle O'Brien
Principal Court Consultant
National Center for State Courts



Ohio Specialized Docket Conference
November 22, 2019

Goals for Today



Understand why **we have** implicit biases



Know how to identify **implicit** biases



Understand the difference **between** implicit and explicit bias



Demonstrate steps to take **to** debias

Exercise

RED BLUE GREEN PURPLE
YELLOW ORANGE PINK
BROWN GREEN YELLOW RED
ORANGE BLUE BROWN PURPLE
GREEN PINK BLUE RED YELLOW
PURPLE GREEN ORANGE PINK
BROWN RED ORANGE PURPLE
YELLOW BROWN BLUE GREEN
RED PURPLE YELLOW ORANGE

RED BLUE GREEN PURPLE
YELLOW ORANGE PINK BROWN
GREEN YELLOW RED ORANGE
BLUE BROWN PURPLE GREEN
PINK BLUE RED YELLOW PURPLE
GREEN ORANGE PINK BROWN
RED ORANGE PURPLE YELLOW
BROWN BLUE GREEN RED
PURPLE YELLOW ORANGE

Human Brain

- The human mind processes 400 billion bits of information per second
- Of those, we only consciously process 2,000 bits of information
- 99.999996% of our mental processing takes place on an unconscious level
- Implicit or unconscious associations occur



Schema

Definition

- Mental Shortcuts
- Organizes Information
- Creates Categories
- Develops Relationship
- Automatic

Examples

- Four equal-sided figure = Square
- Object with flat seat, a back, and some legs = Chair



Professor Schema

Students re: Professor

- Knows the subject
- Prepares for and attends class
- Has office hours
- Gives and grades assignments and exams



So Students

- Rely on the schema to:
 - Predict and explain the professor's actions
 - Fill in gaps if professor's actions are ambiguous
- But may change perspective based on individual performance

Shorthand Schema



**Helpful in some situations,
but...**



**...can lead to discriminatory behaviors,
inequity, and unfairness**

Implicit Social Cognitions

From

- Parents/Families
- Friends/Peers
- School/Work
- Media



Can Be

- Direct or Vicarious Experiences
- Positive or Negative Associations

Why do we have Implicit Bias?



Implicit biases are **necessary** for us to survive.



Our brains **cannot possibly process** every piece of information coming at it in real time for us to make decisions.



Our brains learn to **categorize** similar things so we can react.

Video: Selective Attention Test by Simons & Chabris

Selective Attention Test
from Simons & Chabris (1999)

Selective Attention Test
from Simons & Chabris (1999)

Selective Attention Test
from Simons & Chabris (1999)

Implicit Bias Defined

EVERYONE has Schema/Implicit Bias

- A preference for a group (positive or negative)
- Often operating outside our awareness
- Based on stereotypes and attitudes we hold
- That tend to develop early in life
- And tend to strengthen over time

Attitudes

Evaluative feelings that are positive or negative



Stereotypes

Traits we associate with a category

Implicit Bias Trends

People tend to show more positive implicit bias toward the more socially accepted group, even if they are a member of the minority, or less accepted group.

Video: Historic “Doll Test” by Dr. Kenneth Clark



Implicit Association Tests

- Implicit Association Tests have been created to give participants an idea of where their biases may lie
- Available online at <https://implicit.harvard.edu/>
- These tests typically pair 2 social and 2 evaluative categories, e.g. white/black and pleasant/unpleasant
- Closer associated categories, easier and quicker to sort together
- Faster reaction times show implicit connections
- Implicit biases exist even in our feelings about non-human subjects

Calm



Pretty



Ugly



Freaky



Sweet



Scary

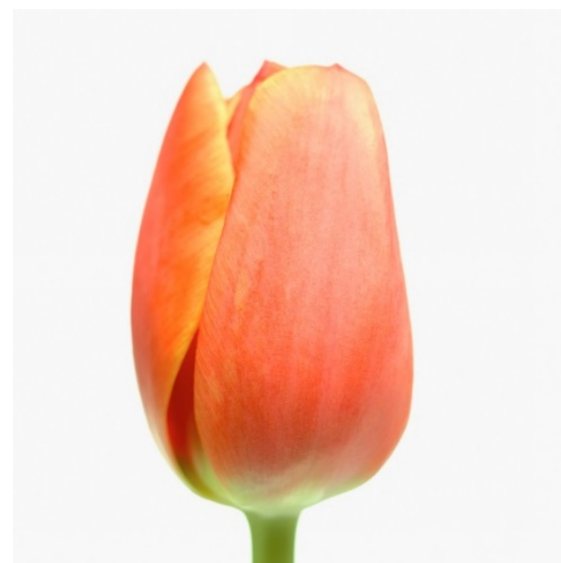


But if we reverse it?

Scary



Ugly



Pretty



Calm



Freaky



Sweet



Implicit Association Tests

- By measuring reaction times in tests like these, scientists are able to measure your association of positive words with flowers and negative words with insects.
- We call this positive association a preference and the negative association a bias.

Implicit vs. Explicit Bias

- Implicit biases sometimes differ substantially from stereotypes and attitudes we expressly self-report.
- Just because we may have a certain implicit bias, it does NOT mean we necessarily act on those biases.
- Having biases is not bad or wrong, but understanding what biases we have can change our behavior.
- Expressions of explicit bias (discrimination, hate speech, etc.) occur as the result of deliberate thought. Thus, they can be consciously regulated.
- People are more motivated to control their biases if there are social norms in place which dictate that prejudice is not socially acceptable.
- Research reveals that in sensitive domains of stereotyping and prejudice, Implicit Association Test scores better predict behavior than explicit self-reports.

Implicit Bias Affects Behavior – Why We Should Care

- Black people receive a lower quality of medical care than white people.
- Men are more likely to be hired and to receive a promotion and higher pay than women.
- Black people receive longer jail sentences than white people.
- Black students are disciplined at a higher rate than white students.

Activity: How Do I Identify my Personal Bias?

Consider the next four questions to help you recognize where implicit bias might exist in your life.

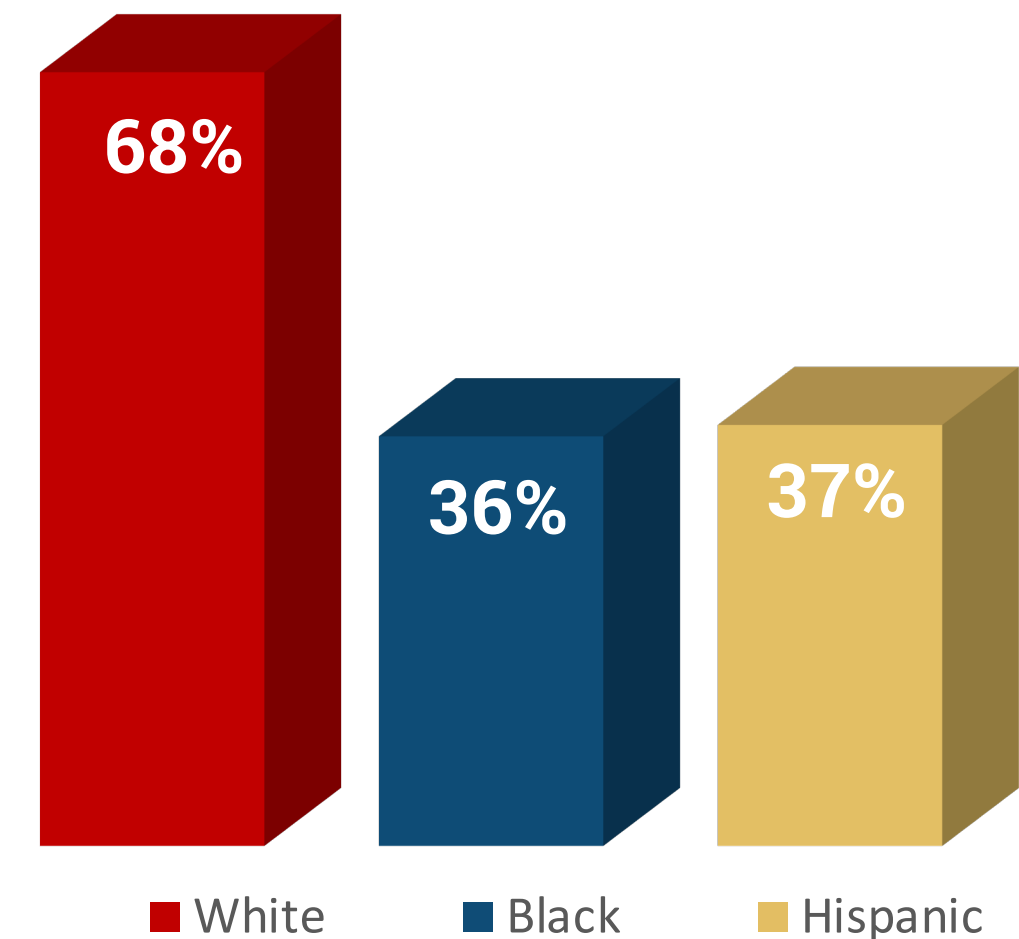
1. Who are your three best friends?
2. Do you automatically exclude certain neighborhoods as places you might live or send your kids to school?
3. Do you only date a certain type?
4. Do you have a “gay friend” or a “black doctor”?

Question #1: Who are your three best friends?

Research suggests that implicit biases and stereotypes, positive and negative, are maintained through persistent lack of contact with others beyond your “in-group.”

The people you socialize with are all or mostly the same race as you.

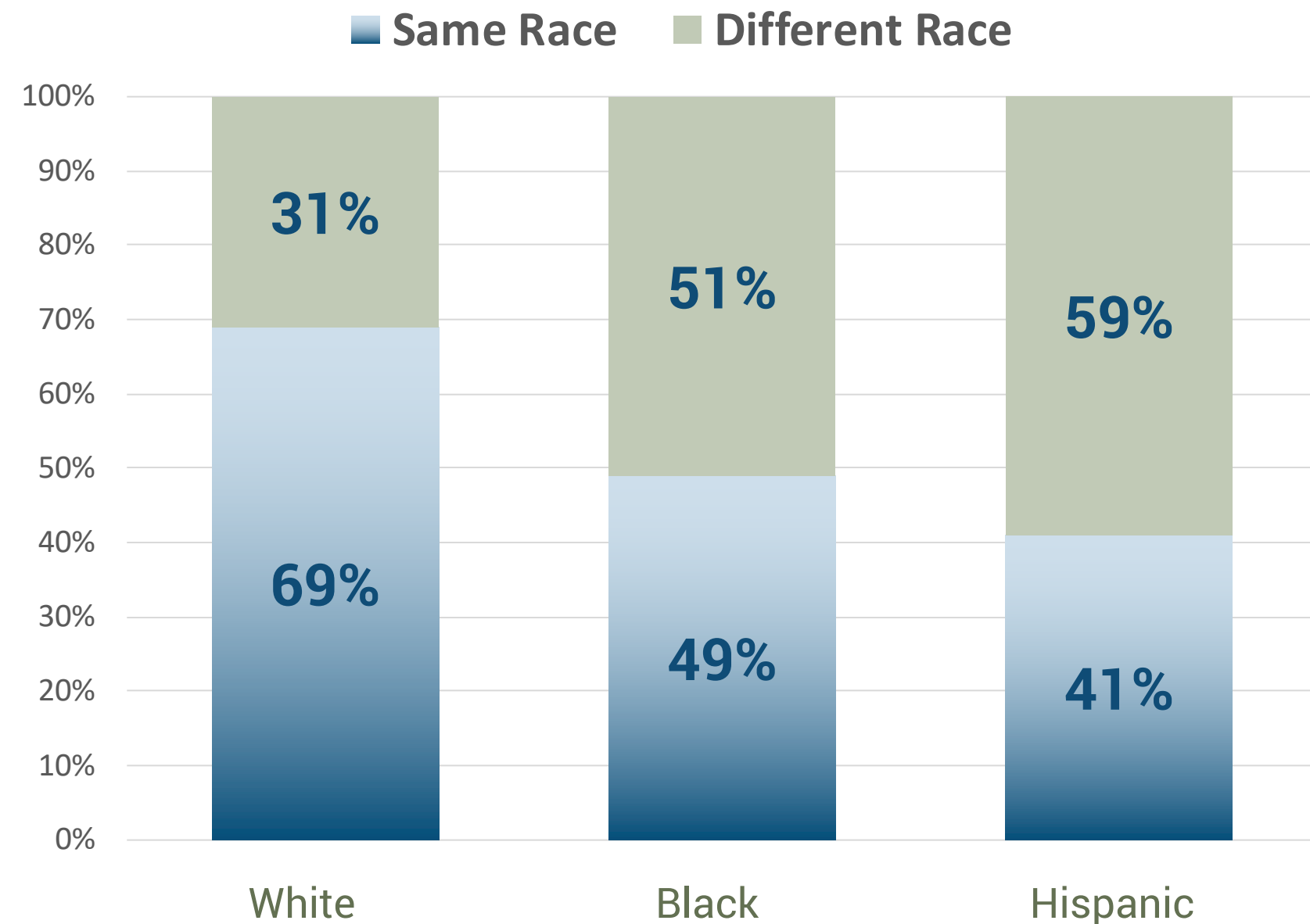
Americans age 18-24



Source: CNN/Kaiser Family Foundation Poll, Aug-Oct 2015

Question #2: Do you automatically exclude certain neighborhoods as places you might live or send your kids to school?

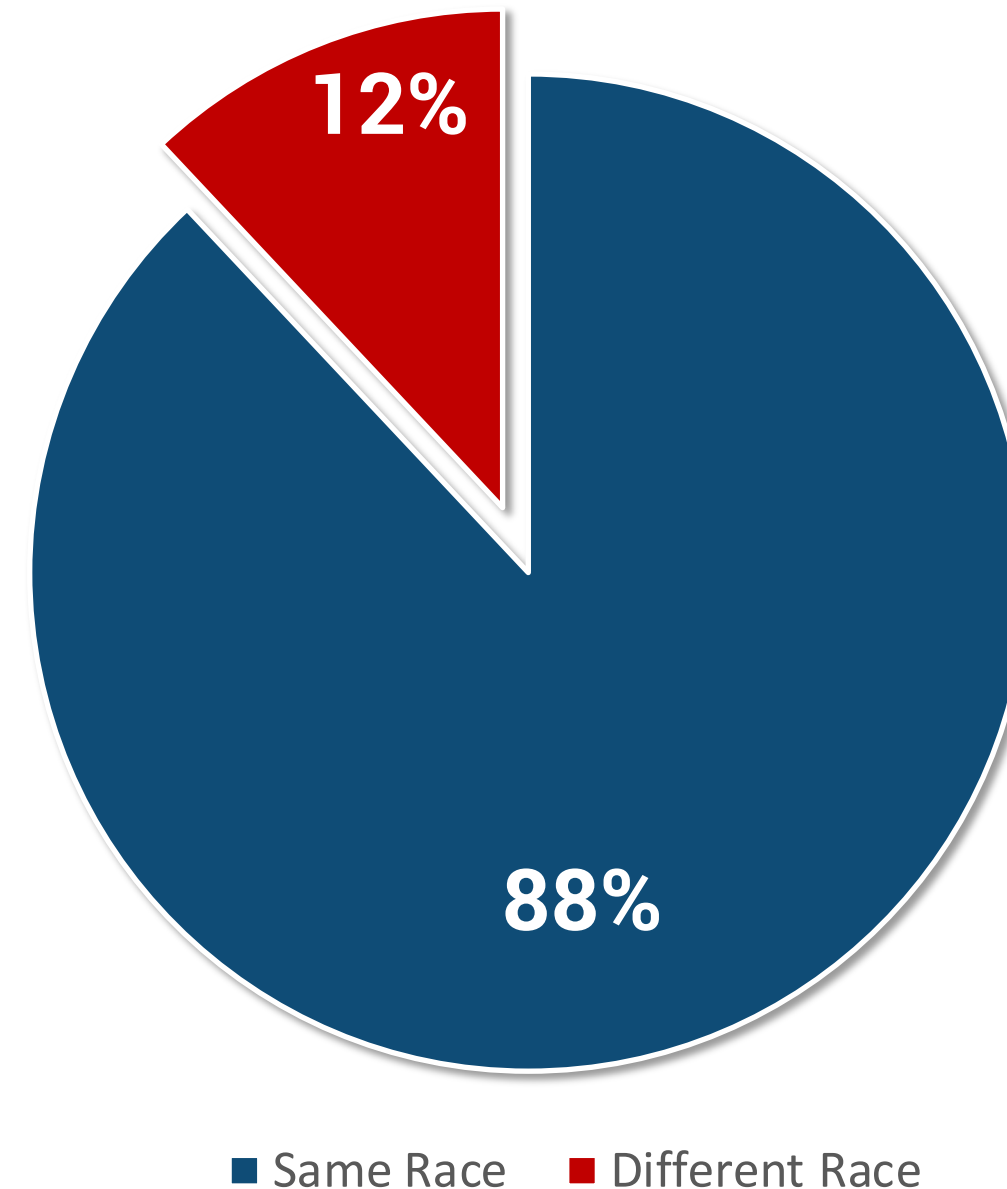
One long-standing explanation for the prevalence and persistence of racial segregation is that white families are unwilling to live in neighborhoods or send their children to schools with large minority shares.



Question #3: Do you only date a certain type?

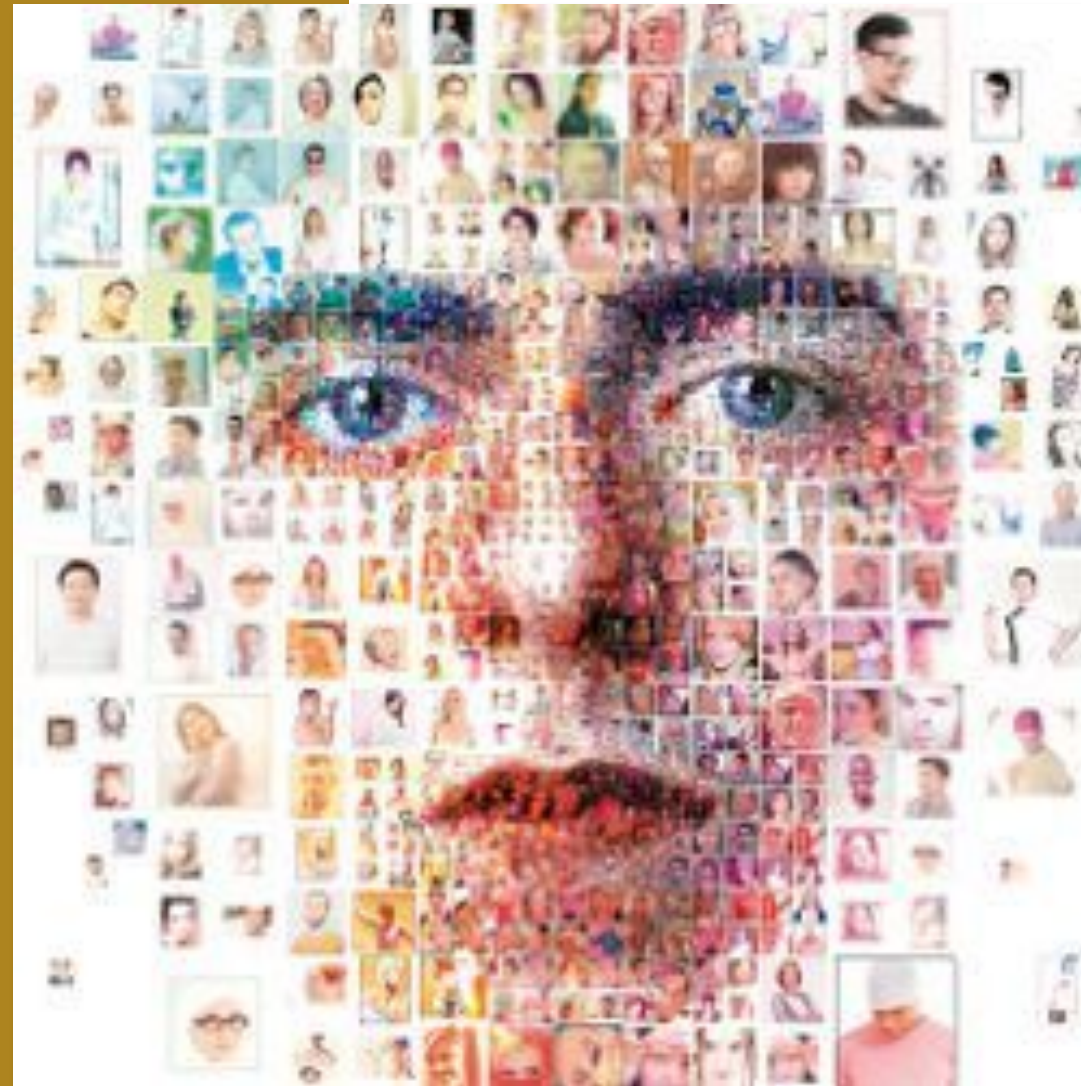
Although many factors play into our choice of potential partners, the communities that we are from also tend to be where our relationships and social circles are formed.

This is especially important regarding neighborhoods where a predominance of the members are of the same race.



Question #4: Do you have a “gay friend” or black doctor”?

When a person’s social identity such as being black, disabled, gay or Muslim becomes the central and most important aspect of that person, hidden bias unconsciously links that person to a label.



Consider it another way, would you refer to someone as your “straight white friend”?

NADCP Takes Action



2010 Board of Directors of NADCP

- Unanimous resolution directing courts to determine if racial/ethnic disparities exist. If so, take reasonable corrective actions to eliminate them.



Adult Drug Court Best Practice Standards Vol. I (2013), Vol. II (2015)

- Monitor for disparities at least annually and adjust eligibility criteria, assessment procedures and treatment services to eliminate them.

Treatment Court Disparities

- African Americans are underrepresented in drug courts by 15-20%
- Hispanic/Latino populations are underrepresented in drug courts by 10-15%
- African Americans, Hispanics/Latinos, and Female participants are less likely than Caucasian males to graduate from programs (some studies show 25-40% less likely)

Percent Decrease in Disparity in Graduation Rates Between Black Participants and White Participants by Best Practice

	Best Practice	Decrease in Disparity
1	Defense attorney attends treatment court team meetings (staffing)	50%
2	Probation, if applicable, attends treatment court team meetings (staffing)	55%
3	Coordinator attends treatment court team meetings (staffing)	72%
4	Defense attorney attends treatment court status hearings	63%
5	Representative from treatment attends treatment court status hearings	51%
6	Coordinator attends treatment court status hearings	50%
7	Treatment court census (number of active participants) is less than 125	75%
8	The treatment court offers family/domestic relations counseling	78%*
9	Participants are expected to have more than 90 days sober (negative drug tests) before graduation	68%
10	A new arrest for possession does not automatically prompt termination	105%
11	Review of the data and/or regular reporting of program statistics has led to modifications in treatment court operations	59%
12	The treatment court has an advisory committee that includes community members	145%

*p<.05

Percent Increase in Disparity in Graduation Rates Between Black Participants and White Participants by Best Practice

	Best Practice	Increase in Disparity
1	In order to graduate, participants must have a job or be in school	88%
2	Participants are required to pay court fees	197%

What can
we do
about it?

Debias



The Good News

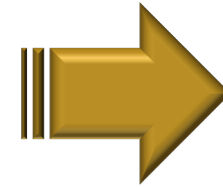
“Motivation to be fair makes a difference”



Debiasing

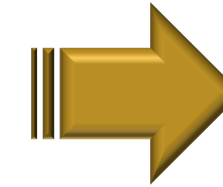
Education

- Awareness
- Mindfulness



Exposure

- Contact
- Positive exemplars
- Environment



Approach

- Higher level of process, e.g., writing
- Reduced cognitive load
- Checklists
- Procedural/organizational changes

Education

- Awareness
- Mindfulness
- Doubt your own objectivity

For example, take and consider IAT results.

- Be aware and remain mindful; intuition and implicit responses are valuable, but some decisions require a more explicit kind of thinking, a stare not a blink.
- Be aware that implicit biases are more likely to manifest in an atmosphere of high levels of stress.

Exposure

- Contact
- Positive exemplars
- Perspective taking

Make contact with positive, diverse colleagues and exemplars, and practice taking the “other” perspective; all contribute to decreasing implicitly biased responses.

Approach

- Higher Level processing
- Required cognitive load, slower decision-making
- Checklists
- Procedural/organizational changes
- Micro-messaging
- Manage stress
- Accountability



Where to Go From Here

- Recognize you have biases
 - Everyone does
- Be concerned about the consequences of your biases
- Check your thoughts and behaviors against those biases
 - Are your thoughts and behaviors based more on your biases than the facts of the situation?
 - Know your triggers
- Seek out an opportunity to address your biases
 - Interact with people you normally wouldn't
- Work with your organization to address areas that biases may be encouraged or reinforced

Where to Go From Here

- Review and discuss whether implicit bias affects:
 - Screening and assessment
 - Acceptance to treatment court
 - Treatment
 - Sanctions, incentives and therapeutic adjustments
 - Completion of the program
- Ensure that your treatment court has accountability

*The real voyage of discovery consists
not in seeking new landscapes
but in having new eyes.*

Marcel Proust

Contact



Michelle O'Brien

mobrien@ncsc.org