

**What's Culture Got To Do With It?: *Becoming More Culturally Aware & Competent***

Honorable Trina Thompson  
Alameda County Superior Court

Greg Tanaka, Family Law Facilitator  
San Mateo County Superior Court

19<sup>th</sup> Annual AB 1058 Child Support  
Training Conference  
October 14-16, 2015

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**READ the following words:**

RED GREEN BLUE YELLOW

JUDICIAL COUNCIL OF CALIFORNIA

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**State the COLOR of the words:**

BLACK  
GREEN BLUE  
YELLOW

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## The Stroop Task

- Automatic processing helps our brain organize vast amounts of stimuli and information in short periods of time.
- When faced with an incongruent task:
  - Response is more delayed
  - Less accurate
  - More concentration needed to perform well.



"The Lens of Implicit Bias",  
By Shawn C. Marsh, Ph.D. (2009).

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## "What Would You Do?"



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## What is Implicit Bias?

- A preference (positive or negative) for a social category that operates outside of awareness.
- *Explicit bias* is a conscious preference (positive or negative) for a social category.



"The Lens of Implicit Bias",  
By Shawn C. Marsh, Ph.D. (2009).

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## The Implicit Association Test (IAT)

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

2 pieces of information + Time spent pairing info.

= Degree of Implicit Bias

Tony Greenwald, Mahzarin Banaji and Brian Nosek



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## IAT Research Results

- White Americans consistently express a strong “white preference” for associating White with Good and Black with Bad.
- African Americans express a slight “white preference” although more varied (e.g. moderate-strong preferences for black/good). Latinos also express a slight “white preference.”
- Asians show a “white preference” slightly below Whites.



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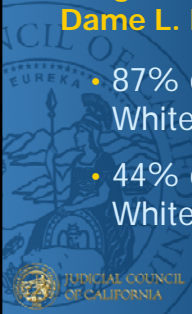
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## “Does Racial Bias Affect Trial Judges?”, (2009) 84 Notre Dame L. Rev. 1195.

- 87% of White judges showed a White preference overall.
- 44% of Black judges showed a White preference.



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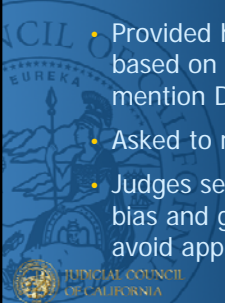
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**“Does Racial Bias Affect Trial Judges?”, (2009) 84 Notre Dame L. Rev. 1195. (Cont’d.)**

- Provided hypothetical fact patterns based on criminal cases that explicitly mention D’s race.
- Asked to render judgment.
- Judges seemed aware of potential for bias and generally compensated to avoid appearance of bias.



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**Judicial Standards**

“A judge must not, in the performance of judicial duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (1) bias or prejudice, including but not limited to bias or prejudice based on race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or (2) sexual harassment.”

Cal Rules of Ct, Code of Judicial Ethics, Canon 3B(5)  
2015 Supplement



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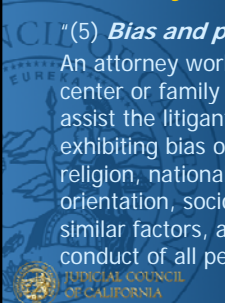
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**Guidelines for the Operation of Family Law Information Centers and Family Law Facilitators Offices**

**“(5) Bias and prejudice**

An attorney working in a family law information center or family law facilitator office should assist the litigants who seek assistance without exhibiting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status, or other similar factors, and should require similar conduct of all personnel.”



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## Got Bias?

In re. Healy, 2014

Public Admonishment of Family Law  
Superior Court Judge

"...[r]eferring to litigants as 'rotten,'  
'stupid and thuggish,' and a 'total human  
disaster,' and telling litigants their child  
'might as well start walking the streets as  
a hooker...'



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## Got Bias?

- Consider the possibility that unconscious or implicit biases are affecting your decision-making.
- Recognize that impatience may be construed as bias.



1 Cal. Judges Benchbook Civ. Proc. Trial  
Chapter 1, § 1.7

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## Got Bias?

- Regularly examine your own conduct for evidence of bias.
- Possible indicators include your tone of voice, posture, and gestures, and the forms of address that is used with persons perceived as belonging to certain categories or groups (e.g., women, or persons of a certain race, national origin, religion, or sexual orientation).



1 Cal. Judges Benchbook Civ. Proc. Trial  
Chapter 1, § 1.7

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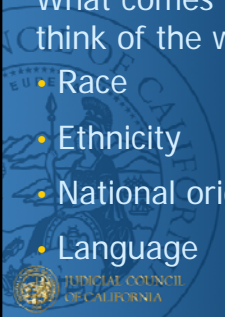
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**What is Culture?**  
What comes to mind when you think of the word culture?

- Race
- Ethnicity
- National origin
- Language
- Indigenous heritage
- Sexuality
- Gender
- Religion



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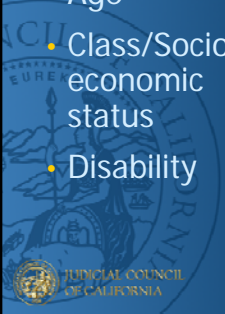
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**What is Culture?**

- Age
- Class/Socio-economic status
- Disability
- Immigration Status
- Education
- Geographical Location: Urban, Suburban, Rural



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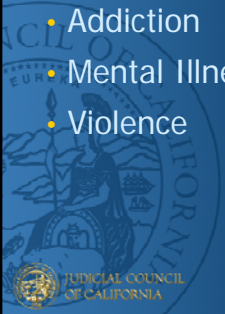
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**What is Culture?**

- Addiction
- Mental Illness
- Violence



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**What is Cultural Competence?**  
*"The way we do things around here."*

Who is the WE?  
What are the THINGS?  
What is the WAY?  
How do we DO?  
Where is HERE?



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**What is Cultural Competence?**

"Cultural competence is a process that involves individual practitioners and systems responding to their clients in ways that recognize, value, and respect the clients' cultures, languages, classes, races, ethnic backgrounds, religions, and other diversity factors (NASW National Committee on Racial and Ethnic Diversity, 2001; Rothman, 2008)."



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**Culture Matters**

- Communities are increasingly more diverse.
- Culture bears upon what *all* people bring into the court setting.
- Culture greatly influences an individual's trust in authority.
- Culture dictates the minor/major variations in how people describe and explain things.
- Culture impacts access to resources and services.



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### Cultural Competence –

#### A Critique:

- It could lead to perpetuation of ethnic and racial stereotypes broadly applied to every individual
- Trainees are expected to recognize deeply rooted and perhaps unconscious beliefs and habits that are **impossible** to overcome in brief periods.
- “Cultural Competence” assumes that deep understanding of a culture can be taught and learned, which is **impossible!**



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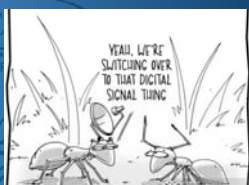
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### Switching Signals



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### Addressing Cultural Complexities: Using Your E.A.R.R.

Cultural Competence focuses on:

- Education
- Awareness
- Respect & Response



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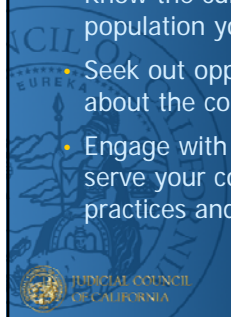
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## Education

- Know the cultural demographics of the population you serve.
- Seek out opportunities to actively learn about the community.
- Engage with cultural organizations which serve your communities about best practices and approaches.



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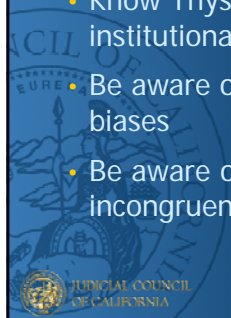
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## Awareness

- Know Thyself (Both individually and institutionally)
- Be aware of explicit and implicit biases
- Be aware of cues and clues of incongruence present



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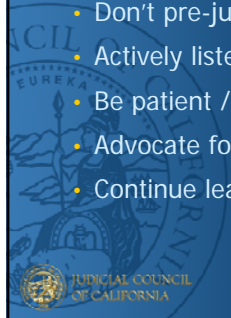
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## Response & Respect

- Don't pre-judge
- Actively listen
- Be patient / more deliberate
- Advocate for language access & capacity
- Continue learning



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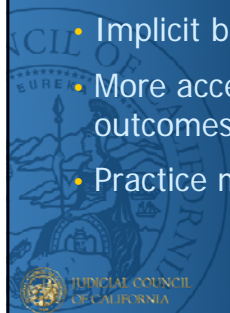
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## The Good News...

- Implicit bias can be overcome
- More access and better outcomes
- Practice makes... Progress!



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## Addressing Cultural Complexities in the Courthouse



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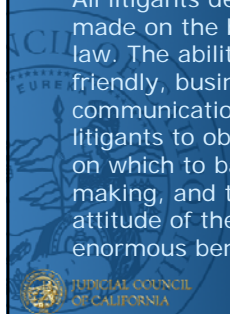
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## Goal:

All litigants deserve to have decisions made on the basis of the facts and the law. The ability of a judge to conduct friendly, businesslike, and unbiased communication with self-represented litigants to obtain the best information on which to base high-quality decision making, and to convey the proper attitude of the court toward them, is an enormous benefit.



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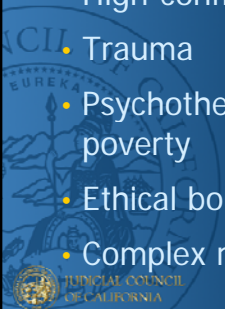
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**Cross Cultural Challenges**

- High-conflict cases
- Trauma
- Psychotherapy of people living in poverty
- Ethical boundaries
- Complex relationships



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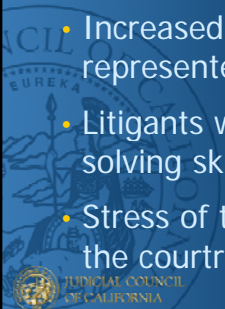
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**Implicit Bias increases under Certain Circumstances**

- Increased number of self represented litigants
- Litigants with limited problem solving skills
- Stress of the litigants permeate the courtroom



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**Empowering litigants:**

- Powerpoint Slideshow providing litigants with a roadmap of what to expect
- Infograms
- 45 minute orientation video
- Community Outreach



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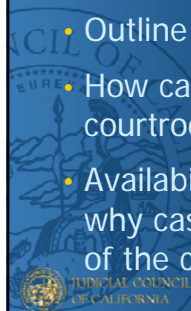
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## Empowering Judicial Officers

- Outline Courtroom Procedures
- How cases are prioritized in the courtroom
- Availability of interpreters and why cases are moved to the end of the calendar



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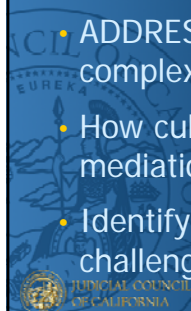
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## Family Law Facilitators

- ADDRESSING cultural complexities
- How cultural mores impact mediation
- Identify the family's strengths and challenges, then mediate



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## Mental Health

- We are afraid of what we do not understand
- Litigants with ongoing court involvement
- Support system and extended family support



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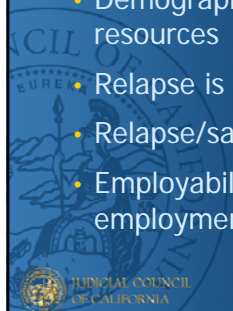
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## Substance Abuse

- Demographically accessible resources
- Relapse is a part of the process
- Relapse/safety plan and prevention
- Employability – sustainable employment is the goal.



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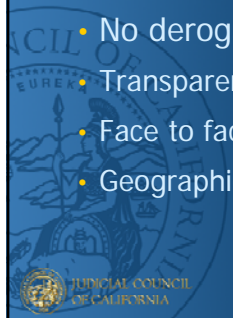
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## Remain Neutral

- No derogatory comments
- Transparency
- Face to face contact at all levels
- Geographically accessible resources



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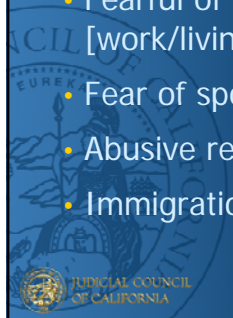
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## Domestic Violence Cases

- Fearful of implications of answers [work/living situation disclosed]
- Fear of spouse
- Abusive relationship
- Immigration status



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### In re. Healy

- Pro se litigants
- Favoritism
- Antagonism
- Becoming embroiled
- Derogatory comments



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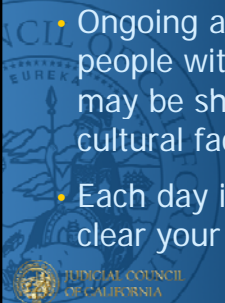
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### Checking our biases at the door

- Ongoing awareness of how people with whom we interact may be shaped by personal and cultural factors.
- Each day is an opportunity to clear your lens.



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### Contact Information

Honorable Trina Thompson  
(510) 891-6326  
[trhompson@alameda.courts.ca.gov](mailto:trhompson@alameda.courts.ca.gov)

Greg Tanaka, Family Law Facilitator  
(650) 261-5650  
[gtanaka@sanmateocourt.org](mailto:gtanaka@sanmateocourt.org)



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