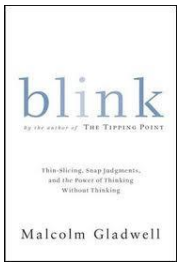
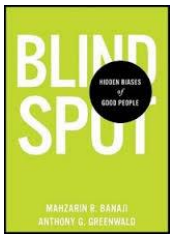
Beyond the Bench, 2015 – Reading List and Educational Resources
Implicit Bias and Racial Impact Statements

Books: Implicit Bias

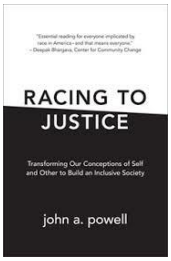
[These resources were selected and summarized by William Kennedy, Attorney, Race Equity Project – Training and Consulting]



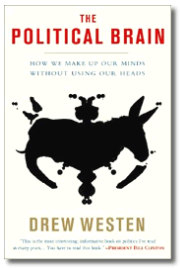
1. ***Blink – The Power of Thinking without Thinking*****, by Malcolm Gladwell,** New York: Little, Brown and Co., (2005) **–** This book is a very accessible explanation of the workings of the subconscious mind including a discussion of the dangers of implicit bias; the manner in which the brains filters can sharpen our expertise or make us blind to change.



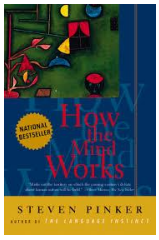
2. ***Blind Spot – Hidden Biases of Good People,*** **by Mahzarin Banaji and Anthony Greenwald,** New York, Delacorte Press, (2013) - Professors Banaji and Greenwald tell the history of the Implicit Association test and its' implications for our day to day lives. After a decade of testing, they conclude that the biases revealed by the test will affect our decision making unless we become aware of them. A very accessible book with many more tests you can take to learn how your own brain processes information.



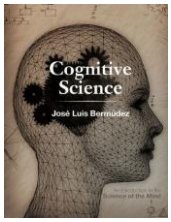
3. Racing to Justice, Transforming Our Conceptions of Self and Other to Build an Inclusive Society, **by john a powell**, (2012) **-** john had a hand in the formation of LSNC's Race Equity Project (REP) and his book addresses many of its' themes. It is must reading for anyone seeking to incorporate racial equity into practice. The book discusses the use of cognitive science to reverse the "intent" doctrine in *Washington v Davis*; how to use targeted universalism to talk about race; and many of the themes that we have adopted in our practice.



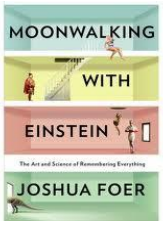
4. ***The Political Brain: The Role of Emotion in Deciding the Fate of the Nation,*** **by Drew Westen,** Published by Public Affairs, New York, New York (2007) - Dr. Westen explains how implicit bias is manipulated to acquire power and financial gain through the use of frames that trigger an emotional reaction. He suggests ways in which the reader can identify when the triggers are used and how they may be overcome through the use of our choices of words, symbols metaphor and values.



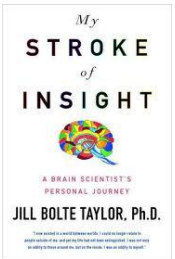
5. ***How the Mind Works,*** **by Stephen Pinker**, WW Norton & Company, New York (1997). This is a scientific look at the brain's function beginning at a cellular level. If provides detailed information about the genetic and evolutionary aspects of our brain function. It is required reading for first year students at some Medical Schools.



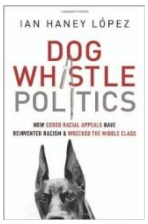
6. ***Cognitive Science,*** **by Jose Luis Bermudez,** Cambridge University Press, (2010). Cognitive Science draws upon many academic disciplines, including Psychology, Computer Science, Philosophy, Linguistics and Neuroscience. This is the first textbook to present a unified view of Cognitive Science as a discipline in its own right, with a distinctive approach to studying the mind.



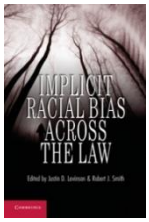
7. ***Moonwalking with Einstein, The Art and Science of Remembering Everything,*** by Joshua Foer, Penguin Books (2011) - Author Joshua Foer turned a magazine assignment to cover a contest challenging some of the best memory experts in the world into a fascinating and entertaining book about the science of memory. For the book, he learned the techniques of memory experts and competed against the best with surprising results. A great read.



8. ***My Stroke of Insight, A Brain Scientists Personal Journey,*** **by Jill Bolte-Taylor,** Penguin Books, New York, NY (2006) - This books presents the stunning personal tale of a cognitive scientist who has a stroke and is able to use her insight about the brain to watch and chronicle her own brain's efforts to rewire and reclaim the functions that the stroke took from her. A remarkably human tale of connections between us all.



9. ***Dog Whistle Politics, How Coded Racial Appeals have Reinvented Racism & Wrecked the Middle Class,*** **by Ian Haney Lopez,** Oxford University Press, New York, New York, (2014) - Professor Lopez describes how coded language manipulates racial divisions to create wealth and power in the United States. He traces the origins of "dog whistle politics" and its manipulation of implicit bias. He also provides a valuable discussion of the 5 ways in which Americans understand race.



10. ***Implicit Bias Across the Law*****, by Justin Levinson and Robert Smith -** This collection of essays surveys the evidence of implicit bias in several substantive areas of law. It discusses criminal law, health and land use, areas where a lot has been written, but also discusses tax law, intellectual property and some fields that we have not considered.

Online Resources: Implicit Bias

[These resources were selected and summarized by William Kennedy, Attorney, Race Equity Project – Training and Consulting]

1) **The Implicit Association Test:** Project Implicit Harvard University. https://implicit.harvard.edu/implicit/demo/

2) **All In The Mind,** Here you will find podcasts that explore subjects related to the brain and behavior. A great audio introduction to cognitive science. http://www.abc.net.au/radionational/programs/allinthemind/

3) ***Framing in Race Conscious Antipoverty Advocacy – A Science Based Guide to Delivering Your Most Persuasive Message. By William Kennedy, Emily Fisher & Colin Bailey.*** **Clearinghouse Review, Journal of Poverty Law & Policy. (2010)** http://www.northeastern.edu/law/pdfs/academics/phrge-kennedy-clearinghouse-article.pdf

4) ***Instituting a Race Conscious Practice in Legal Aid, One Program's Effort,*** **by Bill Kennedy, Mona Tawatao and Colin Bailey. Clearinghouse Review, Volume 42, Number 1 and 2. (May – June , 2008)** https://www.law.berkeley.edu/files/thcsj/Instituting_a_RaceConscious_Practice_in_Legal_Aid_One_Progams_Effort.pdf

5) ***Putting Race Back on The Table – Racial Impact Statements in Legal Services Advocacy,*** **by William Kennedy, Gillian Sonnad and Sharon Hing, Clearinghouse Review.** http://www.law.berkeley.edu/files/thcsj/PuttingRaceBackOnTheTable_.pdf

6) **The Situationist Blog. A project of the Harvard University Consortium on Law and Mind Science.** http://thesituationist.wordpress.com/

7) **Jill Bolte-Taylor, The TED lecture.** This 19 minute lecture tells the heroic tale of a cognitive scientist who recovered from a stroke and chronicled her recovery in a very scientific yet highly personal way. http://www.ted.com/talks/jill_bolte_taylor_s_powerful_stroke_of_insight.html

8) **Implicit Bias Brief filed in Supreme Court case *Texas Department of Community Affairs v. Inclusive Communities Project.*** This brief was filed on behalf of cognitive scientists in support of the fair housing disparate impact standard in assessing discriminatory intent. http://prrac.org/pdf/EJS-WCLP-LSNC-et_al_amicus_brief.pdf

9) **Kirwan Institute – *State of the Science - Implicit Bias Review* (2013)** http://kirwaninstitute.osu.edu/docs/SOTS-Implicit_Bias.pdf

10) **Kirwan Institute - State of the Science – Implicit Bias Review (2014)** http://kirwaninstitute.osu.edu/wp-content/uploads/2014/03/2014-implicit-bias.pdf

11) **Kirwan Institute - State of the Science – Implicit Bias Review (2015)** http://kirwaninstitute.osu.edu/wp-content/uploads/2015/05/2015-kirwan-implicit-bias.pdf

Online Resources: Implicit Bias and the Courts

1) *Implicit Bias in the Courtroom*, 2012 Article, UCLA Law Review, Professor Jerry Kang, Judge Mark Bennett, et. al: http://www.uclalawreview.org/pdf/59-5-1.pdf

2) *Helping Courts Address Implicit Bias – Resources for Education*, National Center for State Courts: http://www.ncsc.org/ibeducation
    a. NCSC: *Implicit Bias – A Primer for State Courts*, 2009 article, National Center for State Courts, Professor Jerry Kang: http://www.ncsc.org/~/media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/kangIBprimer.ashx

    b. NCSC: *Implicit Bias Project Report*: http://www.ncsc.org/~/media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/IB_report_033012.ashx

c. NCSC: *Addressing Implicit Bias in the Courts*: http://www.ncsc.org/~/media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/IB_Summary_033012.ashx

d. NCSC: *Strategies to Reduce the Influence of Implicit Bias*: http://www.ncsc.org/~/media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/IB_Strategies_033012.ashx

3) *The Neuroscience of the Intent Doctrine - How the Doctrine Facilitates the Brain's Bias,* 2013 article, Clearinghouse REVIEW Journal of Poverty Law and Policy, Kimberly Papillon: http://povertylaw.org/sites/default/files/images//clearinghouse-review/free/implicit-bias.pdf

4) *Dangers of Implicit Bias and Decision Fatigue – Benchcard*, Minnesota Judicial Branch, 2015 http://www.mcaa-mn.org/docs/MN%20Judicial%20Training%20Updates/2015/15.12%20Implicit%20Bias%20%20Decision%20Fatigue.pdf

5) State of the Science - Implicit Bias Review, 2013, Cheryl Staats, Kirwan Institute (See page 72 for excerpt of Judge Mark Bennet's Jury Instructions re. implicit bias) http://kirwaninstitute.osu.edu/docs/SOTS-Implicit_Bias.pdf

Online Resources: Racial Impact Statements

1) *Putting Race Back on the Table – Racial Impact Statements*, 2013 article, Clearinghouse REVIEW Journal of Poverty Law and Policy, William Kennedy, Gillian Sonnad, and Sharon Hing: https://www.law.berkeley.edu/files/thcsj/PuttingRaceBackOnTheTable_.pdf

2) *State Interagency Team Working Group to Eliminate Disparities*, Racial Impact Statement Work and Resources: https://sites.google.com/site/sitwged/racial-impact-statement

3) *Racial Equity Impact Assessment,* Race Forward – The Center for Racial Justice Innovation: http://act.colorlines.com/acton/attachment/1069/f-011e/1/-/-/-/-/-/Racial%20Equity%20Impact%20Assessment.pdf

4) *Overview of Racial Impact Statements in Various U.S. States*, 2014, The Sentencing Project – Research and Advocacy for Reform: http://www.sentencingproject.org/detail/publication.cfm?publication_id=570&id=

5) *Race and Social Justice as a Budget Filter: The Solution to Racial Bias in the State Legislature?*, Gonzaga Law Review, Sahar Fathi: https://www.law.gonzaga.edu/law-review/files/2012/04/Fathi-final.pdf