

NABL U PRESENTS
THE WORKSHOP:

VIRTUAL 2020 9 | 23-25 | 2020



Thank you for joining.

*“Diversity & Implicit Bias” session
will begin shortly.*

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Are you kidding me? Some of my best friends are...

Diversity & Implicit Bias: A Discussion of Implicit Bias, Its Effects on the Practice of Law, Including Costs and Solutions for Taking Control

Panel Chair: Sani A. Williams

Bryant Rabbino LLP – New York, NY

Panelists:

Karen M. Jordan

Dentons US LLP – St. Louis, MO

Latasha R. Thomas

Clark Hill PLC – Chicago, IL

Peter Wilson Jr.

Proskauer Rose LLP – New York, NY



Welcome to The Workshop: Virtual 2020

Attendee Reminders

- This session will feature polling questions and the ability to submit your live questions using the Q&A feature. **Members of the press must identify themselves and their news organization when posting a question.**
- This session will be recorded. NABL will share a link to all the recorded sessions a week after The Workshop.
- Two (2) numerical verification codes will be announced during this session. On-demand listeners will need to email these codes to NABL after listening. **You, as a live listener, are not required to do so.**
- Please fill out the survey at the conclusion of the conference.
- If you are experiencing technical difficulties or need any assistance, please contact NABL at (202) 503-3300 or nabl@nabl.org.



What We Will Cover

- ABA Model Rules (Model Rule 8.4(G))
- Implicit Bias and its Entrenchment in American Culture
- The Implicit Association Test
- Implicit Bias and its Application to the Practice of Law
- Transformative Learning/Practical Solutions
- NABL Diversity Initiative
- Ways to Interrupt Implicit Bias



Introduction

Are we a Melting Pot or a Salad Bowl?

Traditional View - America is a “Melting Pot” of many races and cultures which have blended or assimilated to become one common “American” culture.

Contemporary View - America is more of a “Salad Bowl” or an integration of unique, distinct cultures. This view celebrates diversity along with our national identity.

Melting Pot vs. Salad Bowl

- The Melting Pot theory requires that immigrants assimilate in order to become one common culture-“American”
- The “Salad Bowl” theory basically calls for us to celebrate our diversity along with our oneness.





Things to Consider

- Despite our diversity, bias has always been a problematic aspect of American history, culture and society, and it filters through every aspect of American life.
- Law is the least diverse profession in the nation.
- NABL, the ABA and other entities have all adopted rules and created policies and procedures to combat discrimination and unintentional bias and to promote diversity and inclusion within the practice of law.



The ABA Model Rules (Model Rule 8.4(G))

- What are the ABA Model Rules and Why Does the ABA Adopt Model Rules?
- Pre-Model Rule 8.4(g)
- History of Adoption of Model Rule 8.4(g)
- Model Rule 8.4(g): It is professional misconduct for a lawyer to " . . . engage in conduct that **the lawyer knows or reasonably should know** is harassment or discrimination on the basis of **race, sex, religion, national origin, ethnicity, age, sexual orientation, gender identity, marital status or socioeconomic status** in conduct related to the practice of law."



Implicit Bias: It's in the DNA

What is Implicit Bias and is it in our DNA as Americans?

- Scientific Definition
 - "... attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner."
 - Mental Shortcuts
- Practical Result in Business
 - John = Significant Advantage Over Jennifer
 - Jose = Will get more callbacks if he changes name to "Joe"
 - Emily or Greg = 50% More Callbacks than Lakeisha or Jamal



What is
"Implicit Bias"




Common Types of Unconscious Biases

- Confirmation Bias
 - Thomas Meyer Study
- Attribution Bias
- Availability Bias
- Affinity Bias

... all play a role



“Looting” vs. “Finding Groceries”




AP Associated Press AP - Tue Aug 30, 11:31 AM ET

A young man walks through chest deep flood water after looting a grocery store in New Orleans on Tuesday, Aug. 30, 2005. Flood waters continue to rise in New Orleans after Hurricane Katrina did extensive damage when it

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AFP 3:47 AM ET

Two residents wade through chest-deep water after finding bread and soda from a local grocery store after Hurricane Katrina came through the area in New Orleans, Louisiana. (AFP/Getty Images/Chris Graythen)

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RELATED

- Katrina's Effects, at a Glance AP - Tue Aug 30, 1:26 PM ET

[Hurricanes & Tropical Storms](#)



Yearbook Photos vs. Mug Shots

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By Lee Hermiston, The Gazette

Photos



Ross Lembeck, Seth Gross and Logan Ryan

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NEWS WEATHER CANCELLATIONS SPORTS VIDEOS 9.2 9.3 SHOW YOU CARE YOUNEWS CONTACT US

Coralville police arrest four in burglary investigation

By Lee Hermiston, The Gazette

Video Photos



Coralville burglary suspects Kwain Crawford, Milton Whitehead, Quentin D.W. Eatman and Curtis J. Johnson (left to right)



The Implicit Association Test ("IAT")

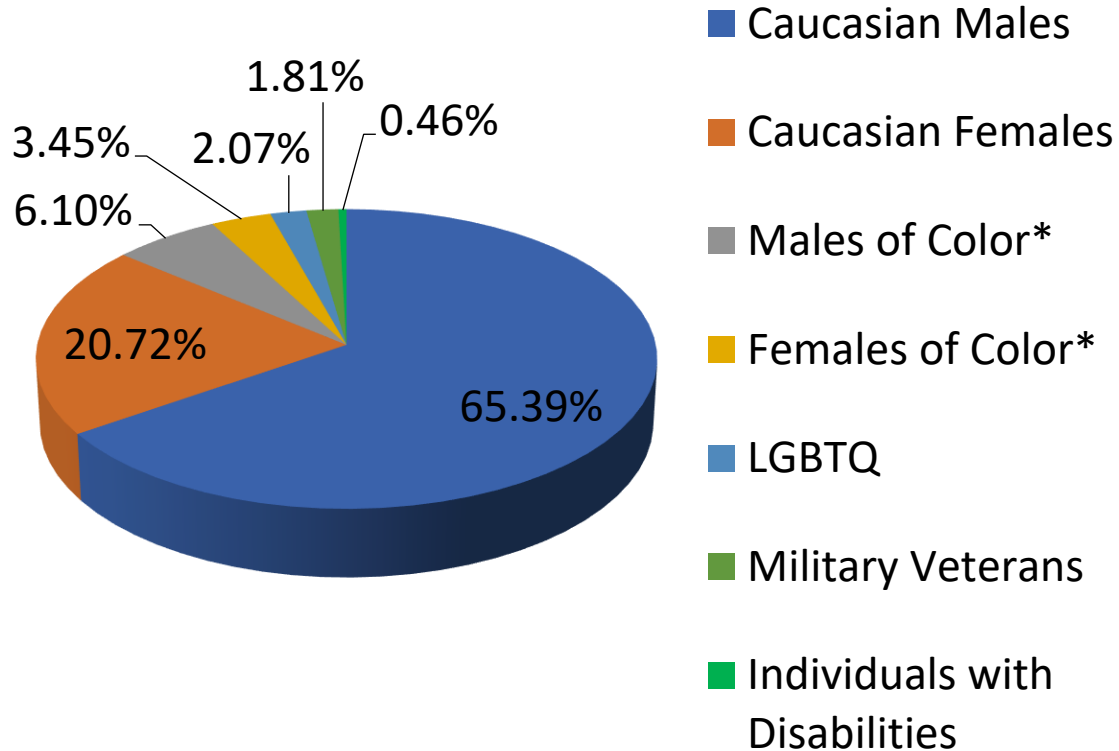
What is the IAT?

- Measures Attitudes and beliefs that people are either unwilling or unable to report. – Project Implicit
- Measures strength of associations between concepts (e.g. race or sexual orientation) and evaluations (e.g. good or bad) or stereotypes (e.g. athletic or smart).
- IAT is designed to get the test taker to move through the test as quickly as possible before that person's brain has the ability to make a politically correct response as opposed to following the person's underlying instinct.

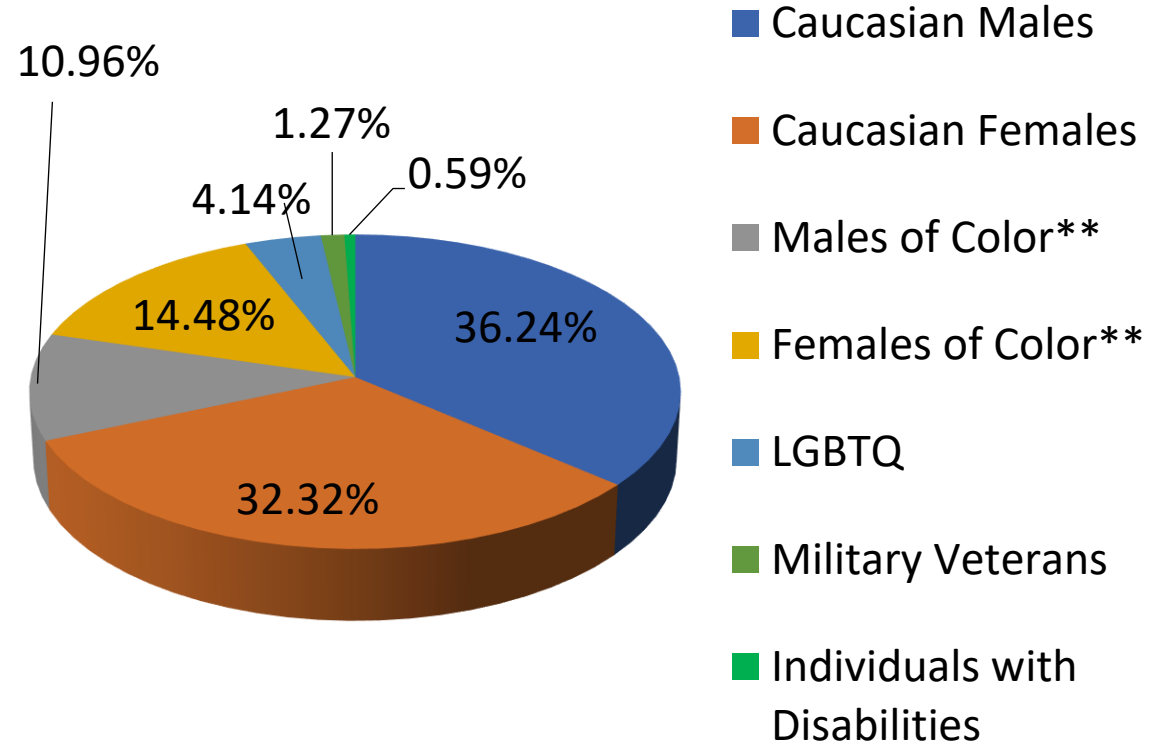


2019 Law Firm Demographics

2019 Law Firm Partners



2019 Law Firm Associates



#NABLWorkshop2020

Source: National Association for Law Placement 2019 Report on Diversity in U.S. Law Firms



Progress or Status Quo?

Survey Says: Status Quo

“[T]he overall arc of the storyline for large law firm diversity remains the same — it is one of ***slow incremental gains*** for women and people of color in both the associate and partner ranks.”

- James G. Leipold, NALP Executive Director on the modest gains made in the area of law firm diversity over the past ten years (2009-2019)



Implicit Bias and Law Firms

Effects in the Management of Firms

- Hiring, Work Allocation, Performance Reviews, Promotion

Retention and Advancement

- Less Access to Growth Tools
- Mentoring vs. Sponsorship
- Compensation Disparity Between Women and Men

Direct and Indirect Financial Costs

- \$9.1 billion annually for 400 largest law firms in the U.S.
- Recruitment, client retention and the Millennial Effect

Client Driven Diversity Initiatives

- "We have invested in diversity at all levels, and I expect no less from our outside law firm partners. I believe we can all do better." – Kim Rivera, CLO & GC, Hewlett Packard
- ABA Resolution 113



Transformative Learning/Practical Solutions

What is Transformative Learning?

" . . . expansion of consciousness through transformation of basic worldview and specific capacities of self" – Dean Elias

“. . . a shift of consciousness that... involves our understanding of ourselves and... relations of power in interlocking structures of class, race and gender...”

– Edmund O’Sullivan

- Stetson University College of Law Bus Tour
- Pedagogy of the Privileged (Six Steps)



The NABL Diversity Initiative

The Diversity Committee (est. 2006)

- To "[f]acilitate increased participation by culturally diverse individuals in NABL and its activities" ...

Expanded Concept of Diversity (2016)

- Race, Ethnicity, Gender, Sexual Orientation, Socio-Economic Status, Age, Physical Abilities, Religious Beliefs, Political Beliefs, or Other Ideologies

The NABL Diversity Initiative (est. 2017)

- 9 Steps to Inclusion



Ways to Interrupt Implicit Bias

- Education, Awareness & Mindfulness
- Exposure: Expand Your Networks
- Curiosity: Ask Questions
 - Become More Mindful of Your Thoughts and Actions
 - Increase Empathy
- Making a List of Evaluation Characteristics First
- Blind Evaluations
- Focus on Results, Not Style or Processes
- Create an Environment that Encourages Candid Disclosure of Diversity
- Alter Feedback/Guidance/Mentoring Delivery Methods
- Promote Diversity
- Allyship

Thank you for attending!

Platinum

Gold

Silver

Bronze

