

Overview for CPUC: Recruitment, Retention, and Recognition

**The Moral and Ethical
Imperative for
Eliminating Bias in
Government Service**



The Speaker

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(all remarks are Chief Judge Clopton's personal opinion

and do not represent the State of California or

the California Public Utilities Commission)

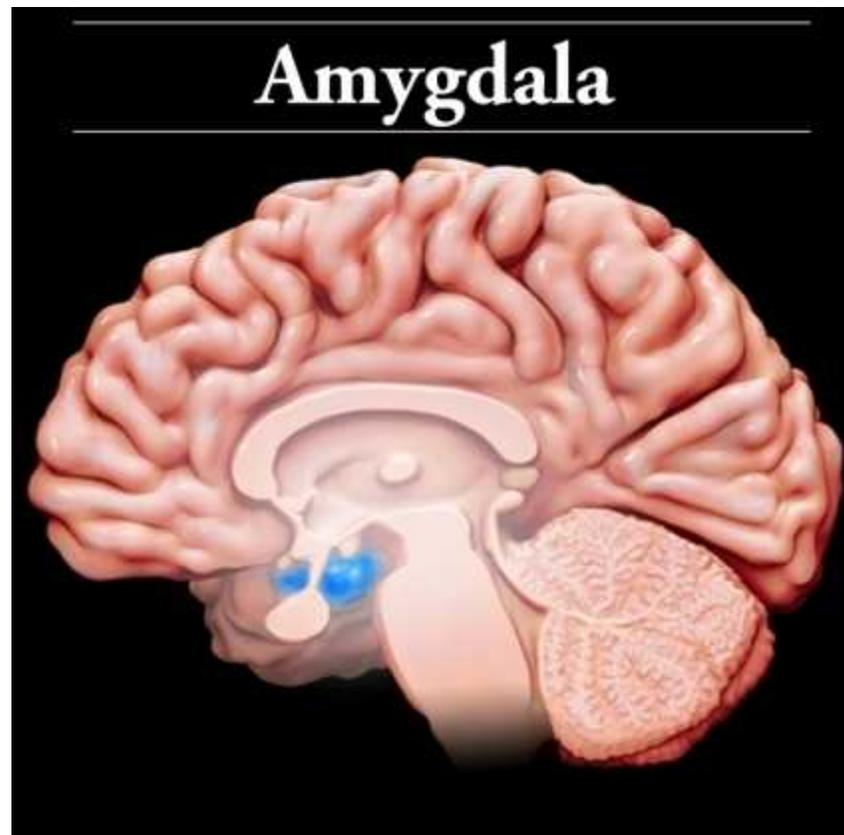
The Neuroscience of Bias

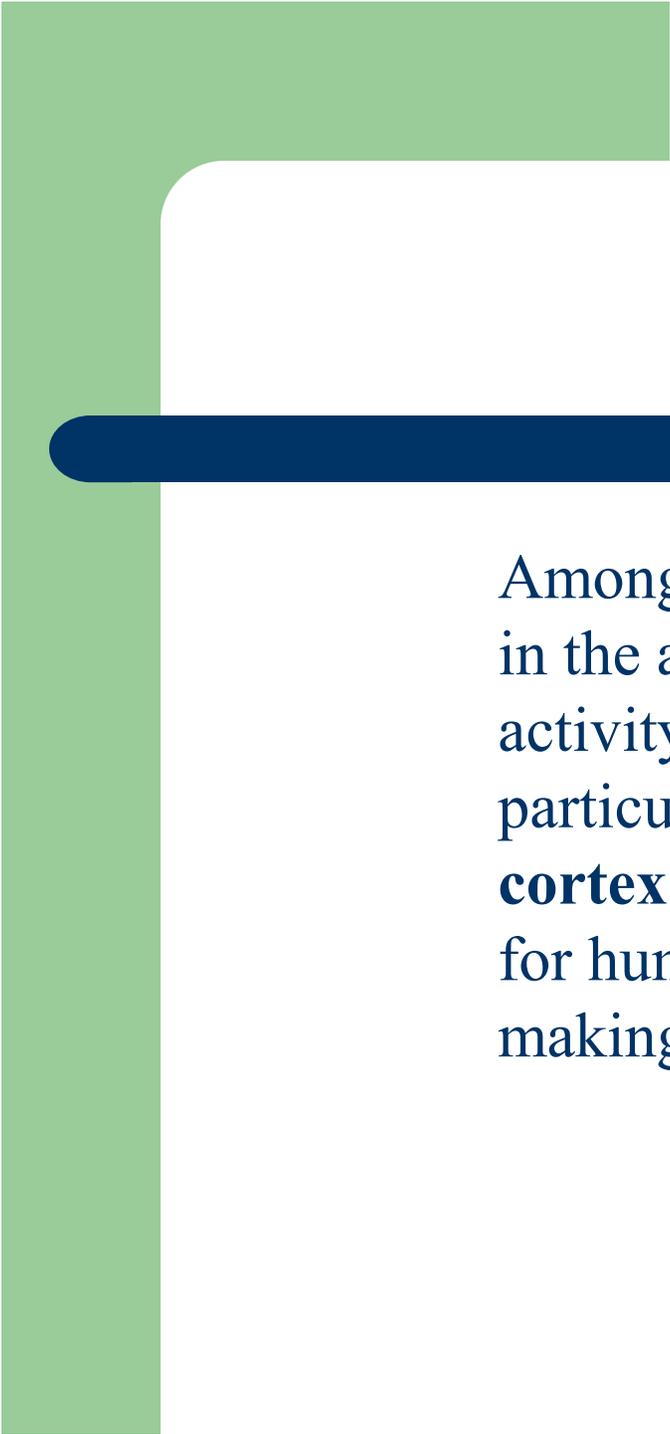
How the human brain informs our ability to demonstrate empathy or apathy, To act to help or harm others, and treat each other with respect or fear and hatred.

Implicit Association Test (IAT)

<http://implicit.harvard.edu/implicit>

Amygdala – Threat / Fear Impulse





Among the specific brain areas involved in the adult social brain, **functional** activity in **prefrontal cortex (PFC)**, particularly the **medial prefrontal cortex (mPFC)**, is of special importance for human social cognition, decision making, and behavior.

What were the goals of the Human Genome Project?

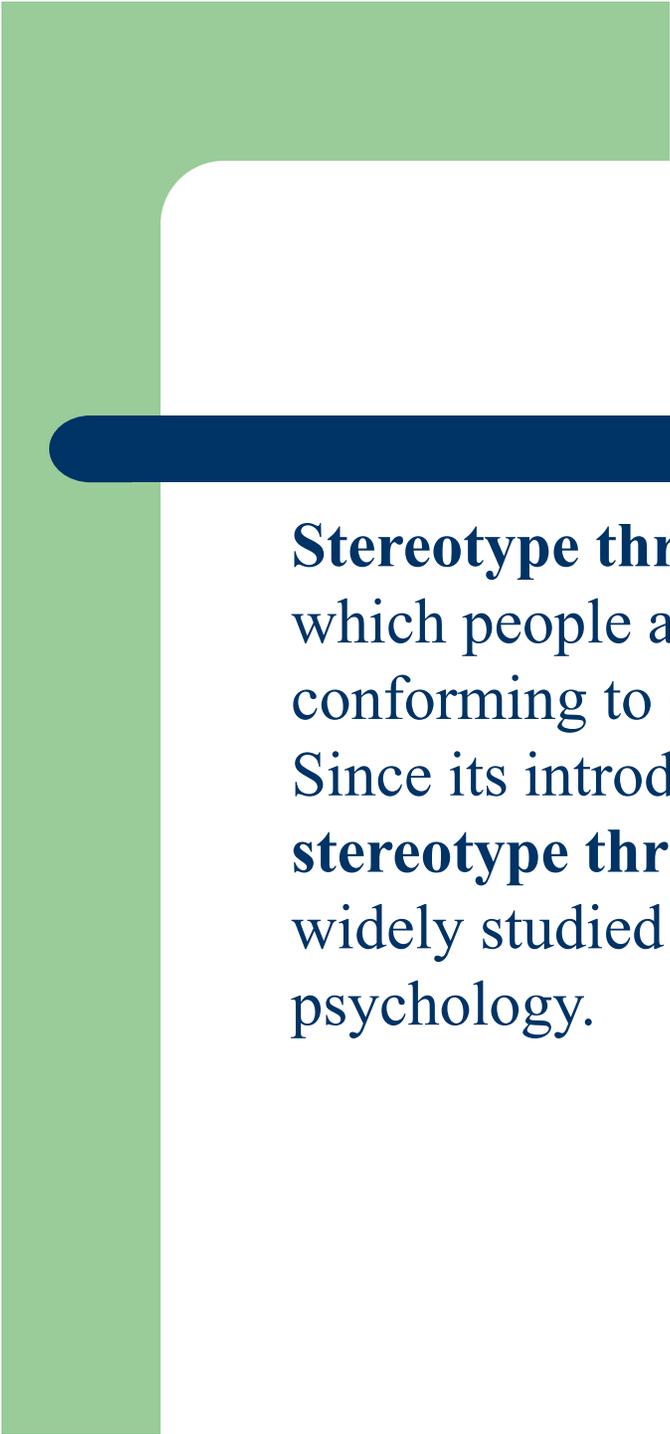
The main goals of the Human Genome Project were to provide a complete and accurate sequence of the 3 billion DNA base pairs that make up the human genome and to find all of the estimated 20,000 to 25,000 human genes. The Project also aimed to sequence the genomes of several other organisms that are important to medical research, such as the mouse and the fruit fly.



In addition to sequencing DNA, the Human Genome Project sought to develop new tools to obtain and analyze the data and to make this information widely available. Also, because advances in genetics have consequences for individuals and society, the Human Genome Project committed to exploring the consequences of genomic research through its Ethical, Legal, and Social Implications (ELSI) program.

DEFINITIONS

1. Stereotype: A conventional, formulaic, and **oversimplified** conception, opinion or belief.
2. Stereotype: A person, group, event or issue considered to typify or conform to an unvarying pattern or manner, **lacking any individuality**.



Stereotype threat is a situational predicament in which people are or feel themselves to be at risk of conforming to **stereotypes** about their social group. Since its introduction into the academic literature, **stereotype threat** has become one of the most widely studied topics in the field of social psychology.

DEFINITIONS

3. Bias: **Preference** or inclination that inhibits impartial judgment; prejudice.
4. Prejudice: **Irrational** suspicion or hatred of a particular group, race or religion.
5. Diversity: The fact or quality of being diverse, i.e. distinct in kind; disparate; unlike; **different**.

DEFINITIONS

6. Integration: The organization of organic, psychological, or social traits and tendencies of a personality into a *harmonious whole*; desegregation.

RACIAL CONSTRUCTS IN AMERICA: A BRIEF TIMELINE

1619 - Slaves from Africa, Indentured servants from England, British colonials settle in the American colonies. During the next 250 years, the law recognizes slavery as lifelong bondage and color as an emblem of slavery. Systematic elimination of indigenous people begins.

1776 - “All men are created equal...” Thomas Jefferson in the Declaration of Independence; Revolutionary War, Africans fight with the British forces and with the colonists. Slavery continues in the new republic reinforced in the U.S. Constitution, which refers to slaves as “threefifths” human beings.

RACE IN AMERICA: A BRIEF TIMELINE

1860 - 1865 - Civil War, Emancipation Proclamation, 13th Amendment abolishes slavery, 14th Amendment provides for equal protection under the law.

13th Amendment: Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

14th Amendment: Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

15th Amendment: Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

RACE IN AMERICA: A BRIEF TIMELINE

1865 - 1875 - Reconstruction Era

1875 - Jim Crow begins, segregation reinforced, Klan starts.

1896 - Plessy v. Ferguson, Separate but equal is acceptable under the law, U.S. Supreme Court.

RACE IN AMERICA: A BRIEF TIMELINE

1880 - 1915 - Industrial Revolution, influx of European immigrant workers; on West Coast, Chinese workers.

1948 - U.S. armed forces desegregated.

1954 - Brown v. Board of Education, separate but equal is inherently unequal, U.S. Supreme Court.

1950 - 1970 - Civil Rights Movement

1965 - 1975 - Black Power Movement

RACE IN AMERICA: A BRIEF TIMELINE

1965 - 2016 - Immigration (both legal and illegal) from Mexico, Central and South America, the former Soviet Union, Vietnam, and Southeast Asia; the Caribbean (Cuba and Haiti).

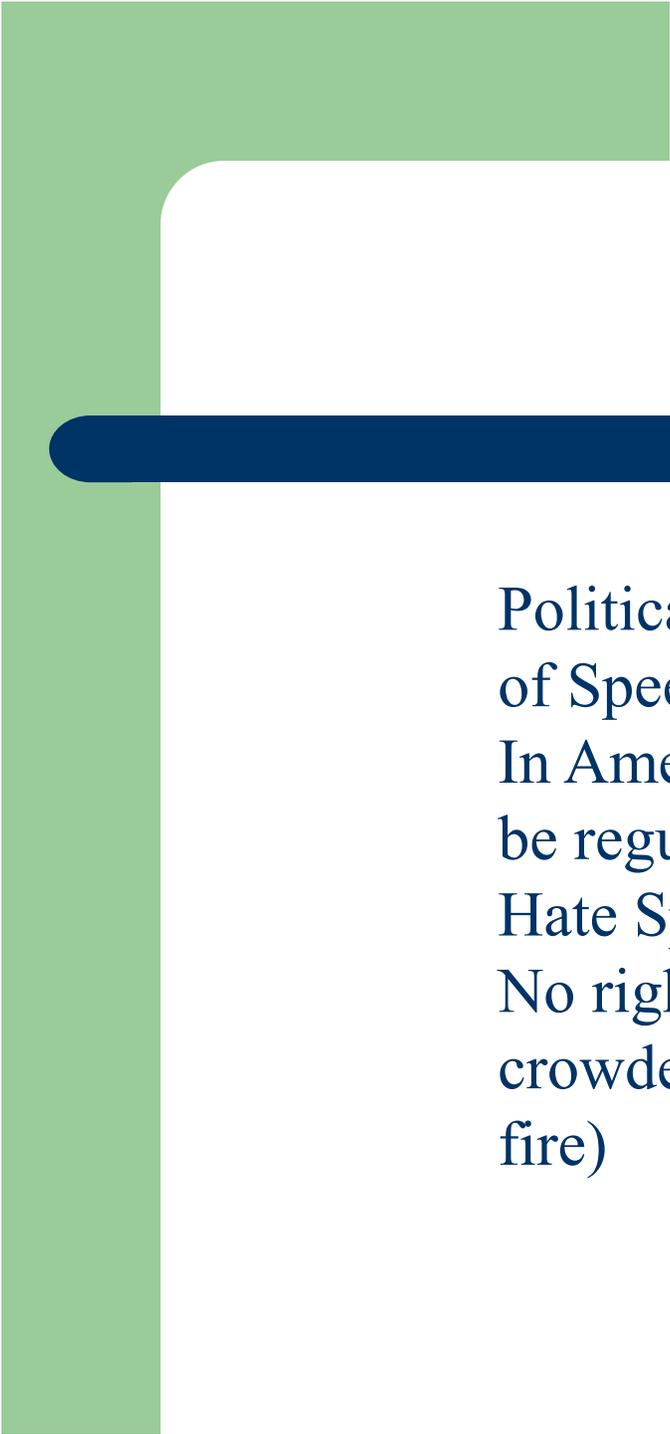
1966-1996- The Second Reconstruction, Affirmative Action

American Bar Association-segregated until 1960

2016: In California, less than 2% of the Bar is African American, nationally less than 5%

PROHIBITED BASES OF DISCRIMINATION

1. **Age**
2. **AIDS and related conditions**
3. **Ancestry**
4. **Bankruptcy**
5. **Citizenship or citizenship status**
6. **Color**
7. **Crime Victim**
8. **Disability (mental or physical)**



Politically Correct versus Freedom of Speech

In America, freedom of speech can be regulated for time and place

Hate Speech is not protected

No right to scream “Fire” in a crowded theatre (when there is no fire)

PROHIBITED BASES OF DISCRIMINATION

9. Filing a worker's compensation claim
10. Garnishment because of a single debt
11. Handicap (or perception of handicap)
12. Illiteracy
13. Jury Duty
14. Lactation Accommodation
15. Marital status
16. Medical condition, including cancer in remission

PROHIBITED BASES OF DISCRIMINATION

17. Missing work to accompany a child to school who is under threat of suspension
18. National origin
19. Personal relationship with a person employed by a competitor
20. Political beliefs
21. Pregnancy
22. Race
23. Religion
24. Sex
25. Sexual Orientation

PROHIBITED BASES OF DISCRIMINATION

- 26. Taking up to 40 hours off each year to attend school with child**
- 27. Taking time off to perform emergency duty as a volunteer firefighter**
- 28. Union membership**
- 29. Use of family leave**
- 30. Use of medical leave**
- 31. Veteran status**
- 32. Victim of Domestic Violence**



Lawyer Demographics

Year 2015

NUMBER OF LICENSED LAWYERS

1,300,705

Source: American Bar Association, 2015 National Lawyer Population Survey

GENDER

	2000	2005	2010	2015
Male	72%	71%	69%	65%
Female	28%	29%	31%	35%

RACE / ETHNICITY

	2000*	2010*
White, not Hispanic	89%	88%
Black, not Hispanic	4%	5%
Hispanic	3%	4%
Asian Pacific American, not Hispanic	2%	3%
American Indian, not Hispanic	<1%	-
Native Hawaiian or Pacific Islander, Not Hispanic	<1%	-

*Source: 2000, 2010 U.S. Census, Bureau of the Census

NOTE: U.S. Census considers Hispanic an ethnicity, not a race. Persons of Hispanic origin can be of any race.

According to data the National Association for Law Placement collected in 2015:

- **only 3.71 percent of partners in the nation are of color;**
- **14.27 percent of law firm associates were people of color;**
- **19.19 percent of summer associates were people of color.**

According to recent California Judicial Council study:

- **District Attorney's:**
 - **85% white**
 - **4.8% African American**
 - **6.4% Latino**
 - **3.8% Asian American**
 - **Fewer than 1% Native American**

According to California Judicial Council study:

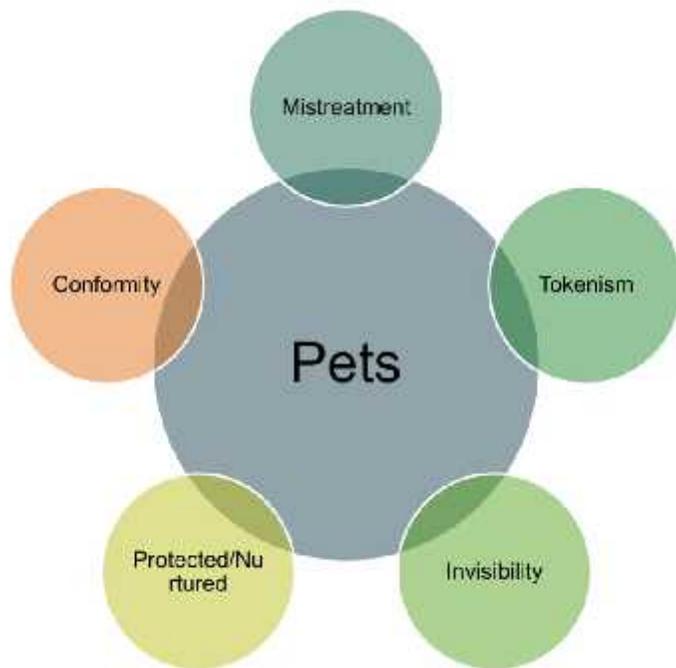
- **Public Defender's:**
 - **81% white**
 - **6.5% African American**
 - **8.7% Latino**
 - **3.9% Asian American**
 - **Fewer than 1% Native American**

Regarding Women in the Law:

- **30% of lawyers in the profession are women**
- **15% of judges are women**
- **15% of law firm managing partners are women**
- **10% of Law School Deans are women**
- **10% of General Counsel are women**

Ramin Farahmandpur, Ph.D.

Portland State University



Academic Outcasts

Resists the status quo

Questions racist policies and practices

Challenges white privilege

Experiences microaggressions

What You Can Do To Eliminate Bias

EDUCATION

1. Educate yourself

- Research your own ethnic background and those of your relatives, e.g. AncestryDNA, 23 and Me
- Read books by authors from different ethnic backgrounds, engage in “close reading”
- Travel
- Take courses about other cultures
- Learn about American history

What You Can Do To Eliminate Bias

OBSERVATION

2. Observe how other ethnic, differently abled, or gender groups are treated
 - Notice whether people are comfortable talking about differences
 - How does your classroom, workplace, social circle treat people who are different?
 - How does your neighborhood treat people who are different?
 - Notice whether certain groups are missing in meetings, leadership positions, job training opportunities, etc.

What You Can Do To Eliminate Bias

FAMILIARITY

3. Acquaint yourself

- Get to know co-workers and neighbors from different cultures
- Attend local cultural fairs and programs
- Learn how to prepare and enjoy culturally diverse foods and share with others
- Learn basic conversational greetings in another language
- When traveling immerse yourself in the local culture

What You Can Do To Eliminate Bias

INTERVENTION

4. Stand up for yourself and others, speak up when you witness racially motivated or sexist conduct
 - Let the speaker know that such speech or conduct is offensive
 - Let everyone know that you do not agree
 - Actively refute others' denial that racism or bias exists