



**Kansas Attorney General
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Racial or Other Bias-Based
Policing
Overview of the Statutes




**Racial or Other Bias-Based
Policing Statutes**

- Definitions
- Prohibition
- Agency Policy
- Annual Report
- Complaint Procedure




Racial or Other Bias-Based Policing Statutes

- Definition of ROBBP:
 1. Unreasonable use
 2. Race, Ethnicity, Gender, Religion, National Origin
 3. In deciding to initiate a law enforcement action



Racial or Other Bias-Based Policing Statutes


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Racial or Other Bias-Based Policing Statutes


Reasonable Use:

To use those factors
in combination with
other identifying factors as part of a
specific individual description



Racial or Other Bias-Based Policing Statutes

- Definition of ROBBP:
 1. Unreasonable use
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Racial or Other Bias-Based Policing Statutes

Bias Bases


- **RACE**
- **ETHNICITY**
- **NATIONAL ORIGIN**
- **GENDER**
- **RELIGION**

NOT age, disability, sexual orientation, gender identity, socio-economic . . .




Racial or Other Bias-Based Policing Statutes

- Definition of ROBBP:
 1. Unreasonable use
 2. Race, Ethnicity, Gender, Religion, National Origin
 3. In deciding to initiate a law enforcement action




Law Enforcement Actions

- Nonconsensual, and . . .




Law Enforcement Actions

- Arrest, or
- Stop, or
- Search




Racial or Other Bias-Based Policing Statutes

It is unlawful
to use racial or other biased-based policing
in [law enforcement actions].




Racial or Other Bias-Based Policing Statutes

- Not the only recourse
- Advantages of local complaints
- Exception




Agency Requirements

- Policy
- Officer Training
- Annual Reporting




Agency Requirements

- Policy
 - ❖ Definition
 - ❖ *Prohibition*
 - ❖ Training
 - ❖ *Discipline*
 - ❖ Community outreach and communication
 - ❖ *Public record*



Agency Requirements

Officer Training



Agency Requirements

Annual reporting

WWW.AG.KS.GOV

4. Mutual or Other Non-Based Policing Annual Report has been submitted

General Information

Law Enforcement Agency Reporting: Abilene Police Department

Reporting Period: July 1, 2014 through June 30, 2015

Comments:

Number of racial or other non-based policing complaints received for the reporting period: 0

Racial Complaints	Other Complaints	Police	Other Complaints
0	0	0	0

Subsection

1. Have all of your enforcement officers serving in the agency who have not completed their annual training by the Kansas Commission of Police Officer Standards and Training completed training required in K.S.A. 22-4112 subsection (b)(2)(A)? YES

2. Does the agency have a policy prohibiting racial or other non-based policing? YES

3. Does the agency manage recruits to acquire the authorized components of racial or other non-based policing? YES

4. Does the agency have a racial or other non-based policing community advisory board? NO

5. Does the agency have a racial or other non-based policing comprehensive plan? YES

6. Does the agency collect entry information on a file, via data, pursuant to the racial and other non-based policing statute (K.S.A. 22-4112)? NO

Signature:

Consent for the annual review: you provide the information you submit on this form will be published online, without modification, on the Attorney General's website, pursuant to 2014 S.B. 1045. The annual review you provide is used for the annual review of the Attorney General's office. It will not be included in the online document if you need



Agency Requirements

- Policy against Racial and Other Bias-Based Policing
- Officer Training
- Annual reporting




Community Members

- Training Advisory Board
 - Review & Recommend Training Curricula
- Community Advisory Board
 - Policy Development
 - Education
 - Community Outreach & Communications



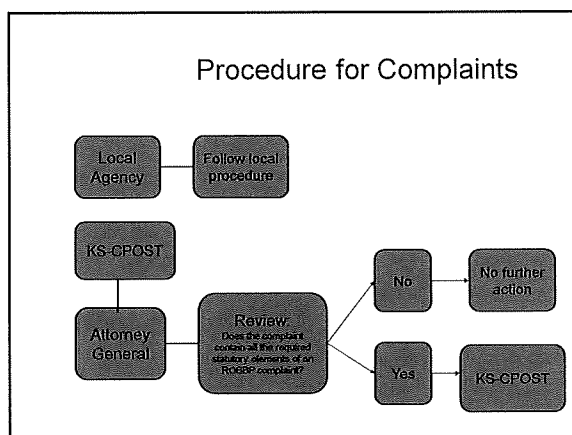
Optional


- Advisory Boards
- Comprehensive Plans
- Data Collection (pedestrian/traffic stops)



Complaints

- Any person who feels subjected to Racial or Other Bias-Based Policing can file
- Forms online
- File with Local Agency or Attorney General
- Attorney General notifies Local Agency
- CPOST




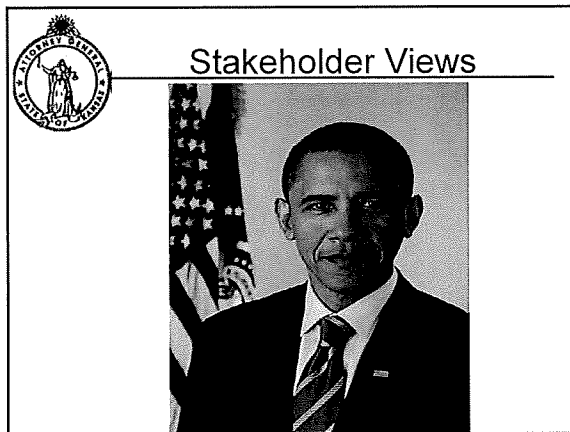


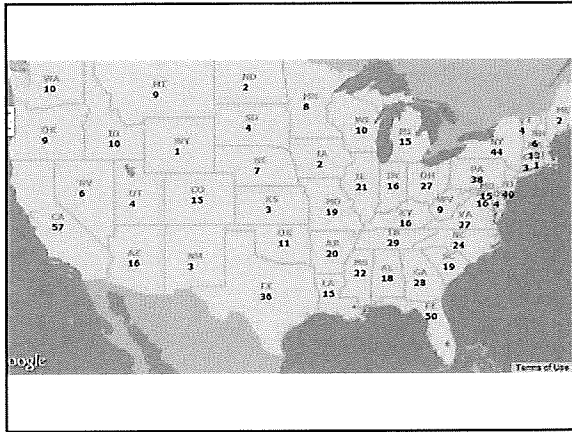
Kansas Attorney General Derek Schmidt


Fair and Impartial Policing: A Science-Based Perspective

Fair and Impartial
Policing, LLC

- 
- This session will address:
- **Foundational Issues:**
 - Stakeholder views
 - Terminology and Definitions
 - **Rethinking Biased Policing:**
 - Research on human bias
 - Reframing the issue of biased policing
 - **Implications and Interventions:**
 - Achieving Fair and Impartial Policing





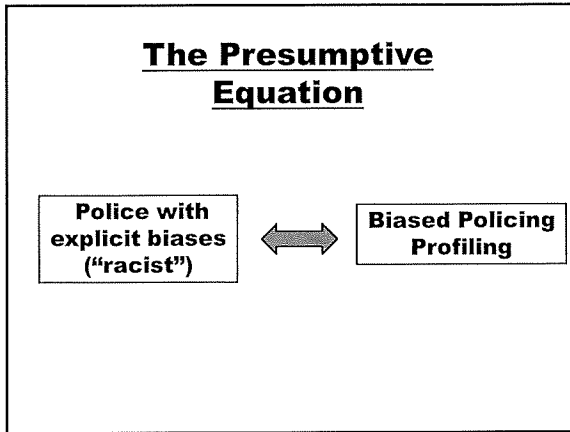





What do Community Members and LE think of Racial Profiling?

- Who thinks it exists?
- What do they say it is?
- When do they say it happens?
- What groups are subject to it?
- How do they define it?
- Why do they think it happens?









Focus Groups-Community

- Traffic stops
- Racial profiling




Focus Groups - Community

- "It happens"
- "Bad" things = racial profiling (perception)
- Lack of Respect
Lack of Courtesy
Lack of Information

↔


Race



Focus Groups - Community


- "It happens"
 - Kansas "Normative Experience"Consideration in daily choices:
route, car, etc
- Lack of Respect
 - Lack of Courtesy
 - Lack of Information

↔ Race



Focus Groups - LEO

- Traffic stops
- Racial profiling



Focus Groups - LEO

- Default stop "justification"
- Lose - Lose situation



Sum of Community and LEO

- Minority Community: Racial Profiling, even when it MAY NOT BE occurring
- LEO: No Racial Profiling, even when it MAY BE occurring



Terminology


Racial Profiling



Terminology


Racial Profiling

Stops made solely on the basis of race



Kansas 2005 - 2011


"Racial profiling" means the practice of a law enforcement officer . . . relying, as the sole factor, on race . . . in selecting which individuals to subject to routine investigatory activities . . .



Other Terminology

- National Organization of Black Law Enforcement Executives ("**NOBLE**") and
- Police Executive Research Forum ("**PERF**") moved away from the term "Racial Profiling"

- NOBLE/CALEA: "Bias-based policing"
- PERF: "Racially Biased Policing"



RBP Definition

- RBP occurs when LE inappropriately considers race or ethnicity in deciding with whom and how to intervene when acting as an enforcer of the law



"Inappropriately"

- Whom to watch, whom to investigate
- Whom to stop (pedestrian or driver)
- Whom to treat with dignity, respect, courtesy
- What questions to ask
- Whom to search, and whom will you ask for a consent to search
- Whom to arrest
- When to use force, including deadly force




Kansas

Racial and Other Biased-Based Policing




Racial and Other Biased-Based Policing

- Unreasonable use
- Race, Ethnicity, National Origin, Gender or Religion
- Law Enforcement Actions
 - Probable cause to arrest
 - Reasonable suspicion to detain
 - Probable cause to search

 Fair and Impartial Policing

Definition → Policy

 Kansas

Fair and Impartial Policing

 Fair and Impartial Policing

- Positive
- Aspirational
- The focus isn't on "problem"
- Not blaming
- Neutral terms, not inflammatory


 Fair and Impartial Policing

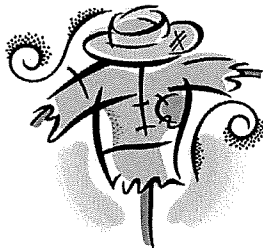
Tied to research

The Presumptive Equation

Ill-intentioned ("racist") LEO ↔ **Racially Motivated Policing/ Profiling**

Produces distortions, Thwarts change, It is inaccurate

 Mischaracterization of Issue




The Presumptive Equation

Police with explicit biases ("racist")

↔


Biased Policing Profiling

It is incorrect - It is too narrow



Science

- Human beings have biases
- All human beings: all races, all personalities, all people



Science

- Biases impact perceptions
- Biases impact behavior
- Biases impact decisions



Science

Because they are human,
even the best officers have biases,
and might practice biased policing



Science "Implicit System"


- Reactive rather than reasoned
- Processing constant sensory input
- Quick categorizations/generalizations
 - Safe – Dangerous
 - Strong – Weak
 - Friend – Foe



"Implicit System"


- Reactive rather than reasoned
- Processing constant sensory input
- Quick categorizations/generalizations

- Produces mental shortcuts –
facilitating split second reactions




"Implicit System"

- Social Psychologists - "Implicit System"
 - Reactive rather than reasoned
 - Processing constant sensory input
 - Quick categorizations/generalizations
- Produces mental shortcuts – facilitating split second reactions
- **WORKS BELOW CONSCIOUS AWARENESS**



"Implicit System"

WORKS BELOW CONSCIOUS AWARENESS



"Implicit System"

–Blink Response
–Thinking . . . Without Thinking

Blink by Malcolm Gladwell



"Implicit System"
Blink Response

Linking people, on sight, to the
STEREOTYPES
associated with their group




"Implicit System"

- All people, all professions
- All races, ethnicities, genders




"Implicit System"


How does the Blink Response, or
our Implicit System Manifest?

 "Implicit System"


- ✓ It is doctors not adequately treating patients of different races
- ✓ It is law firms not promoting blacks and women
- ✓ May be Sports Media being slow to hire women editors

 "Implicit System"


- Image of RP white LEO picking on Black driver--- It's bigger than that:
- It's an officer perceiving danger when there is none
- It's a minority citizen equating a uniform with bias/racism

 "Implicit System"

- Believing the BMW driver over the 'old beater' pick-up driver
- Treating the prostitute who reports rape unlike other victims
- Not patting down the white female when indicators are there


**“Implicit System”**

Stereotypes fill in when we are facing ambiguous stimuli

**Linking people to stereotypes**

Britain's Got Talent




**Implicit System: Bias**

Employment Setting

- 5,000 job applications/resumés
- 1,300 job newspaper ads
- Comparable qualifications

EXCEPT


- European American (Todd, Meredith) or African American names (Darnell, Tamika)
- Bertrand & Mullainathan (2004)



Implicit System: Bias

Employment Setting


- 5,000 job applications/resumés
- 1,300 job newspaper ads
- Comparable qualifications
- European names (Todd, Meredith)
- **50% more likely to be interviewed**



Implicit System: Bias

Health Care Setting


- 220 Physicians
- Hypothetical patient medical file (written)
- Randomly black or white patient
- Diagnose & recommend treatment
- Green *et al* (2007)



Implicit System: Bias

Health Care Setting


- Higher diagnosis rate for blacks CAD



Implicit System: Bias


Health Care Setting

- Higher treatment rate for whites




Implicit System: Bias

- Assessed Doctors' explicit racial bias
- Assessed Doctors' implicit racial bias




Implicit System: Bias

- Assessed Doctors explicit racial bias
 - No correlation



Implicit System: Bias


- Assessed Doctors' implicit racial bias
 - Yes correlation




Implicit System: Bias

Health Care Setting

- Pediatricians 'treating' child patients
- Surgery-related pain
- Pediatricians provided increased treatment (pain meds) to white children disproportionately to black children
- Consistent with pro-white bias on Implicit Attitude Test




Sabin & Greenwald 2012



Implicit System: Bias Research


- Ethnicity and race (e.g., Nosek, Banaji and Greenwald, 2002)
- Gender (e.g., Banaji and Hardin, 1996)
- Sexual orientation (e.g., Dasgupta and Rivera, 2008)
- Body shape (e.g., Bessenoff and Sherman, 2000)
- Age (e.g., Perdue and Gurtman, 1990)
- Etc.

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Implicit System: Bias
Key Points

- Impacts our perceptions
- Operates below consciousness (i.e. outside our own awareness)
- And




Implicit System: Bias
Key Points

Even in people who consciously reject racial/ethnic stereotypes




Implicit System: Bias
Key Stereotype

Race ↔ **Crime**

 **Implicit System: Bias
Research**

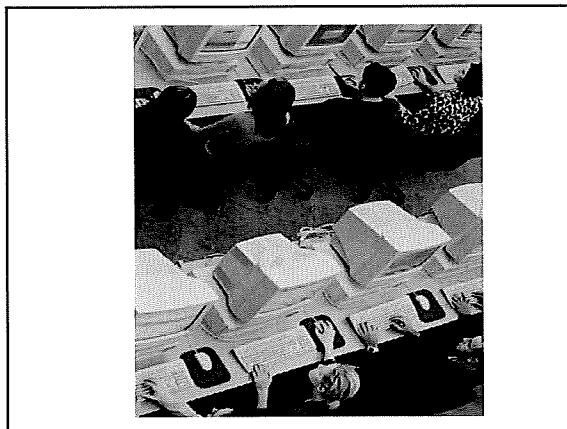
**The Black - Crime
Association/Stereotype
Influences Visual
Processing**


 **Implicit System: Bias
Research**

Visual Perception Study

- Subjects "primed" with images
- Subjects completed object recognition task

Eberhardt, Goff, Purdie, & Davies (2004). *Journal of Personality and Social Psychology*



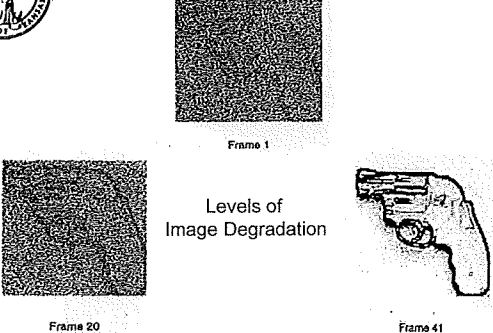
 **Research**


Frame 1

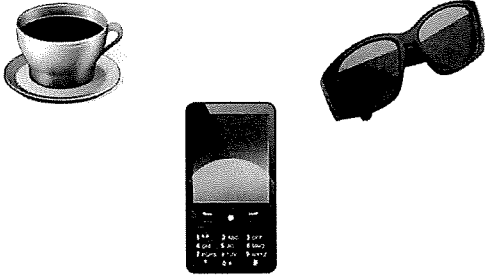
Levels of Image Degradation


Frame 20

Frame 41




 **Research**



 **Research**

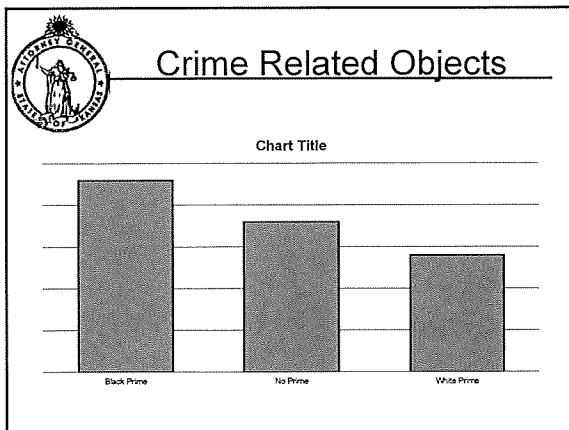
Visual Perception Study: Hypothesis

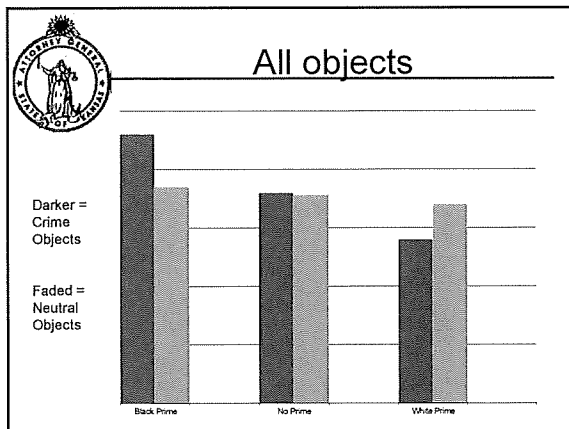
- **If:** Subjects have Black – Crime implicit association
- **Then:** Black male face prime will result in ID of crime-relevant objects fastest
- **And:** faster than White male face prime


 **Research**
Visual Perception Study: Hypotheses

- If: Black - Crime implicit association
- Then: Black male face prime = ID of crime-relevant objects fastest
- And: faster than White male face prime

- And: No effect of prime for crime-irrelevant objects








Research

Visual Perception Study: Conclusions


- Exposure to Black male faces facilitated the identification of crime-relevant objects.
- Exposure to White male faces inhibited the identification of crime-relevant objects.



Research

The Black - Crime Association


Influences Behavior



Research


Shooter Study

- On the computer screen:
 - White or Black people
 - Armed or unarmed
- Threat/Shoot or No Threat/Don't Shoot
- Correll, Park, Judd, & Wittenbrink (2002). *Journal of Personality and Social Psychology*




Research

- What is the impact of RACE on the perception of THREAT
- Two Measures
 - Speed
 - Errors




Summary of Results

- Reaction Times:
 - Slower to recognize "Threat" with a white target
 - Slower to recognize "No Threat" when it is a black target



Summary of Results


- Errors:
 - Incorrectly shoot the Black with No Gun
 - Incorrectly NOT shoot the White with gun



Research

More recent research reveals a


"Turban Effect"



Similar methodology:


- Muslim-style clothing or turbans
- Armed and unarmed

Unkelbach, Forgas & Denson 2008



The Turban Effect


- Subjects were more likely to shoot Muslim-looking characters
 - even unarmed
- They also found a gender effect
 - Subjects were more likely to shoot men than women (even unarmed men)



Research


- Shoot/Don't Shoot Study
- Police as subjects

Peruche/Plant, 2006, *Basic and Applied Social Psych* 28(2)




Research Results

- Race based Over-vigilance
- Race based Under-vigilance



Research Implications?


- Increased scrutiny of people of color?
- Ambiguous behavior on the part of people of color interpreted as more aggressive?
- More aggressive response to people of color?
- Under-response to people not of color—Whites, Asians?



Research


Officer Surveys

- Years of experience
- Attitudes toward African-Americans*
- Beliefs about race & criminality*
- Level and Quality of contact with African-Americans – at work & off work
- Hours of diversity training




Research Results

- Weaker implicit bias-response:
 - Positive personal contacts ("contact theory")
 - Years of experience
 - Repeated random exposure




Research Results

- Stronger implicit bias-response:
 - Negative personal contacts
 - Negative attitudes toward African-Americans



Research Results


- No effect on blink response:
 - Diversity Training



Research Results


- 237 Officers
- 14 States
- Errors
- Speed

Correll, et al (2009)



Summary of Research Results

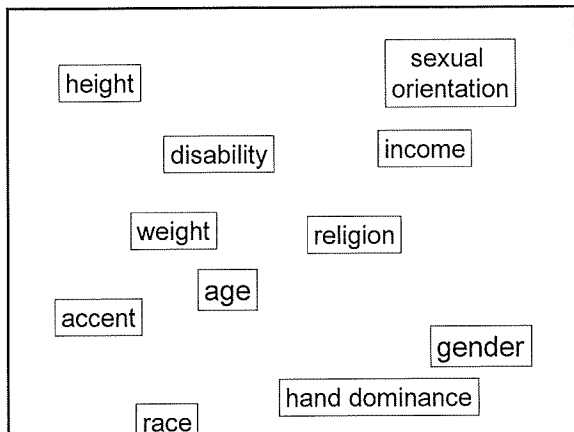
- Not merely ill-intentioned or racist officers producing biased policing
- Brain's implicit system
 - Produces mental shortcuts ("Blink responses")
 - Links people on sight to group stereotypes
 - Including unconscious racial stereotypes
 - Possibly contradicting conscious values




The Double Edged Sword of Blink Response

- It is Unreliable
- It is Unsafe
- It is Ineffective

- IT IS UNJUST



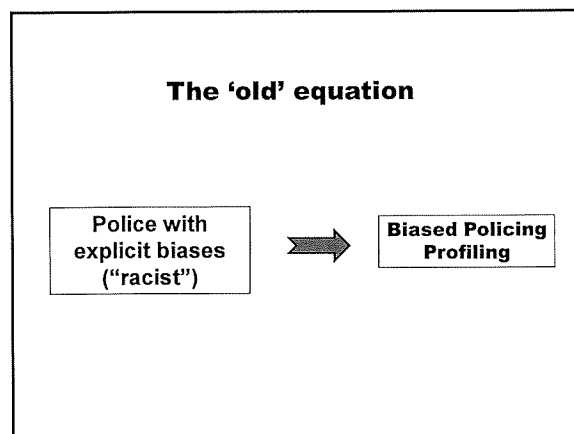



The First Step

Is to Understand Blink Response

Realize we ALL have Unconscious Biases


Recognize our own Unconscious Biases






The "New" Perspective
 Science Based – Fair and Impartial Policing

- Allows minority community members to stop chasing that straw man, recognize shared human condition
- Can reduce police defensiveness and minimization, recognize shared human condition
- Can provide direction and motivation for change efforts




Change Efforts

- Racist officers
- Well meaning humans who aspire to fair and impartial policing




Key Implication of the Science

- **EVERY HUMAN** is subject to unconscious bias
- **EVERY AGENCY**, because they hire humans, must be proactive to produce fair and impartial policing




**Where Bias
May Manifest**

- Recruitment, Hiring
- Policy, Enforcement
- Training




**Where Bias
May Manifest**


- Supervision, Accountability
- Assessing Policies, Practices, Procedures
- Measurement of Progress



**Comprehensive Plan to
Produce FIP**

- Policies
- Recruitment and hiring
- Training
- Measurement / Assessment

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