

CHIEF JUDGE ROWAN WILSON

INTRODUCTION TO PERCEPTIONS INSTITUTE

IMPLICIT/UNCONSCIOUS BIAS VIDEO

I consider trial by jury as the only anchor ever yet imagined by which a government can be held to the principles of its constitution. Those are the words of Thomas Jefferson in the year the United States Constitution was adopted. The right to trial by jury is the preeminent protection for the liberties we hold dear, and it is the court's goal in every jury trial.

To seat jurors who will be fair and impartial. Because determining the truth and dispensing justice requires that jurors must put aside any preconceptions they have and decide a case by weighing all of the evidence fairly, evaluating the credibility of every witness fairly, and applying the law fairly. Although everyone wants to be fair and unbiased, we all come with our own set of biases and prejudices and stereotypes. That's part of being a human being.

Judges and jurors must keep their own biases out of the courtroom, which can be hard to do for any bias that is implicit, meaning unconscious and automatic. We've prepared this video to help you understand the dangers of implicit bias and what you can do to remove implicit biases, stereotypes, and prejudices from your deliberations and decision making as a juror.

INTRODUCTION TO THE Perception Institute by Rachel Godsil:

My name is Rachel Godsil. I'm a Professor of Law and Co-founder and Director of the Perception Institute. The Perception Institute shares research from the sciences about how our brains work. For over ten years, we've been asked by judges, doctors, teachers and others to help them understand why it can be difficult to align our behavior with our values.

AFUA ADDO – PERCEPTION INSTITUTE

Hi – My name is Afua Addo – I'm the Deputy Director of Programs and Training at the Perception Institute. Today you are taking on the great responsibility of serving on a jury. As a juror your decisions have important consequences and of course you want to treat everyone fairly. The law is asking you to consider each person as an individual and not to assume you know anything about them until you see and hear all the evidence. That may seem straightforward, but it can sometimes be harder than it sounds. And surprisingly what gets in our way can be our own brains!

In this video we are going to explain how the way our brains work can sometimes stop us from acting as fairly towards other people as we would like. Take a look at this image. How many triangles do you see? Usually, people see anywhere from 1 to 13, but the answer is actually zero. A complete triangle has three sides and none of these are complete. However, when you looked at the image, your brain filled in the gaps without you even realizing it. You automatically completed the triangle, seeing one or more triangles even though no complete triangles are really there.

But why would our brain lead us to see triangles here? It's part of a much wider process that helps us get through our daily lives and often serves us well. Think about all the things you did today without giving them a second thought. You didn't think about whether your coffee goes in a cup, whether your food goes on a plate, whether your shoes go on your feet. You learned those associations over time through personal experiences, for example, making your own cups of coffee, and through seeing the connections in media. Consider the number of times at the movies or on television you've seen people put coffee in cups. So familiar is the association between coffee and cup, that even on your worst day, chances are, you're not going to pour your coffee in your shoes.

These unconscious associations help us to lead our lives in a world where information is coming at us from all directions and if we had to stop and consciously think about every bit of information we would

never get anything done. And in fact our unconscious brains can process 11 million bits of information per second while our conscious brains process 40 bits per second. Without the unconscious brain we wouldn't be able to process all the information we receive.

Having our unconscious help us process information can be important in emergencies as well as in our daily lives. For example, if you see a ball rolling into the street, what jumps into your mind? For many of us, our instant assumption that there is a risk that a child may be running after it. Why? Maybe we've actually seen that happen, but most of us have either heard a story or seen it on TV or in a movie. And so we can imagine it as though we've seen it. That's our unconscious brain at work. And if a child was running after the ball, we would instantly be ready to grab the child!

We can think of the way our unconscious mind jumps to conclusions as a kind of mental short-cut. And these mental shortcuts are really useful when instant action is needed and there is no time to think - and also truly essential to our everyday interactions with the world around us. However, there are times when short-cuts don't serve us well. When it comes to interacting with other people those mental short-cuts can be a problem and can lead us astray.

We believe that we should treat all people as individuals and not make assumptions about them based on their race, color, ethnicity, sex, gender identity, sexual orientation, religion, or national origin. These are our conscious values and it's easy to think that those values guide our decisions when it comes to other people. But our unconscious has often picked up a lot of images, ideas, assumptions and expectations about how people in different groups act, what their lives are like, and what they do or not do. We call these stereotypes. Often stereotypes come from media and stories that we hear - and a stereotype can't tell us the full story about any actual people in real life.

When unconscious stereotypes lead us to assumptions about people our brain is taking a short-cut just as it did with the triangle and the ball rolling into the street. Why does this matter? It matters because there are stereotypes about people -- based on their race, color, ethnicity, sex, gender identity, sexual orientation, religion, or national origin -- that may lead us to jump to conclusions about them. This is called implicit bias, when our brains automatically attach stereotypes and feelings to groups of people, without our even realizing it.

Our implicit biases can determine how we see people and prevent us from seeing them as individuals. Based upon implicit biases, for example, if a person from one group is running late for a meeting, people may say that person hit traffic or has been held up at an important meeting - not about the person but things outside of the person's control. But if a person from a different group is running late, people may instead say that the person has trouble managing their time or doesn't take the meeting seriously -- making assumptions about the person's character.

Researchers have looked at juries and their research has shown that this can happen to jurors. We have a tendency to judge the same behavior differently based on associations and stereotypes that our brains fill in automatically about different races, ethnicities, and gender groups. We all have implicit biases about other people because of how our brains operate, the goal is to know when those implicit biases are influencing our decisions so we can make sure we are treating each person as an individual and not a stereotype.

It is important to know that our brains can rely upon stereotypes about the groups that we ourselves are a part of -- our own race, ethnicity, gender, age, for example. Because we see the same TV shows and movies that tell us the same stories about our groups, over and over, and so they can become part of our unconscious picture of the world. And this can be difficult to hear.

The question is, how can we prevent implicit biases and stereotypes from affecting how we decide as jurors? The good news is there are concrete and easy steps we can take to reduce the likelihood that implicit biases will get in the way of our desire to be fair.

First, don't rush to a conclusion—take the time to really think about what is influencing your decision about a person and whether the way you are seeing that person relies on stereotypes. We don't want to fill in the missing line on that triangle.

Second, ask yourself the question. Would my judgment of any person (such as a witness or other party at trial) be different were they of a different race, gender, or another group? This gives you a chance to pause and interrupt any biases you might have.

Third, commit to your oath as a juror to be fair and impartial and make your decisions on the evidence presented in the courtroom and not on stereotypes. You want to consider each person as an individual in this important moment. None of us ever wants to be seen as a stereotype.

Now that you know that implicit bias may affect the way you see other people, you are in a much stronger position to actually stop yourself from relying on them. We all have biases but when we think or talk about them we can interrupt their power over our decisions. Think about what you have learned in this video and use it to help make sure you are treating each person as an individual.

As a juror, your role is important and critical to our court system. Our country relies upon you to be fair.

CHIEF JUDGE CONCLUDING STATEMENT TO IMPLICIT/UNCONSCIOUS BIAS VIDEO:

In her classic novel *Jane Eyre*, Charlotte Bronte wrote prejudices 'it is well known, are most difficult to eradicate from the heart, whose soil has never been loosened or fertilized by education'. The education provided to you today by the Perception Institute will enable you to identify and confront whatever implicit biases you may have so that you can discharge your duty as a juror fairly and impartially, as the law requires, and the parties deserve.

In the words of another great literary work, a court is only as sound as its jury and a jury is only as sound as the people who make it up. Your service as a juror is extremely important to the parties, to the court, to the society we live in, and to yourselves. The purpose of the courts is to provide a just result, which we cannot do without your dedicated, conscientious and unbiased participation as jurors. Thank you again for your attention today and, once again, thank you for your service.