WHAT JUDGES CAN DO ABOUT IMPLICIT BIAS
EVIDENCE-BASED RECOMMENDATIONS AND PRACTICES

I. DEFLATE (YOUR EGO) AND EMBRACE FALLIBILITY
1. Recognize that you are fallible.
2. Avoid “moral credentialing” simply because you have studied implicit bias.
3. Don’t fret over external motivations for political correctness. Instead, cultivate your internal motivation to be fair.
4. Continue to learn more about all kinds of biases and decision-making errors not because education directly decreases those errors but because deeper awareness will support your internal motivation to improve continuously both individually and institutionally.

II. DEBIAS (WITH SHORT-TERM “SPOT CLEANING” AND LONG-TERM INTERACTIONS)

A. SHORT-TERM TACTICS
5. Change the built environment (e.g., photographs, art, posters, statues, books) to include regular, consistent exposure to admired figures from diverse groups and counteryypical exemplars (“debiasing agents”).

B. LONG-TERM TACTICS
6. Expand social contact with other, less familiar social groups directly and vicariously. In so doing, always curate complexity, not caricature.
7. Leverage your market power to nudge others to be mindful of whom they feature as speakers or experts because “we are what we see.”

III. DEFEND (AGAINST THE BIAS THAT PERSISTS)

A. CAREFULLY CONSIDER BLINDING, DIMMING, OR TEMPORARY CLOAKING SOCIAL CATEGORY INFORMATION
8. Consider whether blinding may improve fairness and not simply pass through prior acts of discrimination by the judicial system and others.
9. Consider dimming by decreasing the intensity, salience, or completeness of social category information. For example, you can keep the race field in documents but remove the photograph.
10. Consider using the two-stage process of temporary cloaking to first cloak identity and make a tentative decision, then uncloak to check for unintended consequences.

B. GIVE YOURSELF AMPLE TIME, EMOTIONAL CALM, AND MENTAL ENERGY
11. Give yourself ample time to improve accuracy in making complex, subjective, multifaceted decisions.
12. If you are in an especially high or low emotional state or feel especially stressed or cognitively depleted, try to delay making complex, subjective, multifaceted decisions until you return closer to your baseline.

C. REMIND YOURSELF TO DELIBERATE CAREFULLY
13. Remind yourself to be careful instead of jumping to conclusions or relying on intuitions or gut feelings.

D. CABIN DISCRETION BY USING CHECKLISTS AND RUBRICS
14. For important subjective decisions you regularly make, use a checklist, rubric, or algorithm to help guide your decision making.
15. If no such checklist or rubric exists, work with your institution to develop collaboratively the substantive content of such decision aids. In so doing, watch out for algorithms that bake in biases or pass through prior acts of discrimination.

E. GIVE YOURSELF SPECIFIC COUNTERSTEERING INSTRUCTIONS
16. Identify the social categories that might trigger either explicit or implicit bias in any interaction or matter. Consciously surface such dangers instead of trying to suppress them.
17. Go beyond a general reminder to take care and give yourself specific countersteering instructions about the specific relevant bias.

F. ENGAGE IN PERSPECTIVE SHIFTING AND CATEGORY SWITCHING
19. Before exercising discretion or making a judgment call against an outgroup member or a target of implicit bias, briefly put yourself in the shoes of that person.
20. Also, try switching categories counterfactually (for example, from Black to White) and see if your judgment changes.

G. PREFER DIVERSE DECISION-MAKING TEAMS
21. Assemble diverse decision-making teams so that one member’s implicit biases might dampen out another’s.

IV. DATA (TO CREATE EARLY WARNING SYSTEMS)
22. Count your own exercises of discretion, such as the clerks you’ve hired or the families you’ve had over for dinner. See if the data reveal a pattern that concerns you.
23. Encourage institutional-level counting of highly discretionary decision making to look for disparities by race and other social categories that cannot be explained away by confounding variables. Plant a red flag wherever you spot troubling disparities.
24. Call for teams and task forces to examine those red flags and study whether any of the tactics above, including cabining discretion, might improve accuracy and decrease bias.
WHAT IS IMPLICIT BIAS? An implicit bias is an attitude or stereotype about a social category that is not easily subject to direct introspection. In other words, we cannot easily ascertain our implicit biases simply by asking ourselves for an honest answer.

WHY DO WE CARE? Even if we reject explicit biases, we are likely to have implicit biases. They are pervasive and correlate to a small degree with worse treatment. Unfortunately, even small cognitive effects can compound over time and across populations to create large societal impacts.

WHAT CAN WE DO? The four basic strategies are deflate, debias, defend, and data. Brief explanations appear on the flip side but here’s a visual checklist.

- **DEFLATE**
  - Recognize that you are fallible
  - Avoid moral credentialing
  - Cultivate internal motivation to be fair
  - Keep learning to increase awareness
  - Change the built environment to display countertypical exemplars
  - Expand social contact, and curate complexity not caricature
  - Leverage your market power to feature diversity of talent

- **DEBIAIS**
  - Count your own exercise of discretion
  - Encourage institutional level counting
  - Examine all red flags

- **DATA**
  - Blind, dim, or temporarily cloak
  - Check your time, calm, energy
  - Deliberate carefully
  - Cabin discretion
  - Countersteer
  - Shift perspectives and switch categories

- **DEFEND**
  - Consider blinding but watch out for “pass through” discrimination
  - Consider dimming the intensity of social categories, by removing e.g., salient photographs
  - Consider temporary cloaking (cloak identity, make tentative decision, then lift cloak to check for unintended consequences)
  - Give yourself ample time
  - Return to emotional and mental baseline before making hard decisions
  - Use checklists, rubrics, algorithms
  - Develop decision aids collaboratively
  - Surface dangers of implicit bias instead of trying to suppress them
  - Countersteer against the specific bias
  - Signal respect and warmth to outgroup members
  - Put yourself in the shoes of the other
  - Switch categories counterfactually and test your judgment
  - Assemble diverse decision-making teams so that biases counter biases

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