

REMARKS BY JUDGE LUBBIE HARPER, JR.
SYMPOSIUM ON IMPLICIT BIAS
April 15, 2010

Good morning, Ladies and Gentlemen. There are not enough words to describe how delighted I am to have the opportunity today to welcome many of Connecticut's prosecutors and public defenders to this symposium on implicit bias. I realize how busy all of you are, and the sponsors of this symposium are extremely grateful that you recognize the importance of this subject and have taken the time to be here. As you well know, training is vital, and this is a significant step on behalf of the various players within the criminal justice system.

I also want to welcome, and thank, the police chiefs and other police officials in the audience for caring enough about this topic to be here today. Without your attendance, our efforts would be for naught.

More important, we believe that the knowledge you gain here today will make a significant difference in the field, whether you are in a police cruiser or in a courtroom. The people we serve deserve a justice system that is fair and impartial, and where -- regardless of race, religion, culture or station in life -- everybody is treated equally and with respect. So, to be cognizant of the implicit bias we *all* have, to know the consequences that it may have, is to make a difference, one step at a time, one case at a time.

To give you some background, I have the honor of serving as chairman of the Commission on Racial and Ethnic Disparity in the Criminal Justice System, one of the sponsors of today's program. Three years ago, the commission decided to create a first-ever joint training program, bringing together prosecutors and public defenders, to discuss disparity in the criminal justice system. As a result, we met with Chief Public Defender Susan Storey and Chief State's Attorney Kevin Kane, both of whom enthusiastically supported the idea.

The notion really crystallized last year following a conversation I had with Judge Tom Bishop, my colleague on the Appellate Court. I owe a debt of gratitude to Judge Bishop, who, in helping turn our idea into reality, was instrumental in developing today's program. Tom, thank you.

The program's other sponsors deserve our thanks as well. To the Judicial Branch, the Division of Public Defender Services, the Division of Criminal Justice and the Criminal Justice Commission, please accept my heartfelt gratitude for all that you have done.

Finally, on behalf of all of today's sponsors, I want to thank the Quinnipiac University Law School for allowing us to use its wonderful facility. Hosting such a program is no easy task, and we appreciate the law school's hospitality and attention to detail.

Now, on to our program. One of the highlights of making a welcoming speech is that you get to showcase the program's keynote speaker. And make no mistake about it, our keynote speaker, UCLA Law Professor Jerry Kang, is an extraordinary man whose work in the area of implicit bias has revolutionized not only how we see others, but ourselves. And in forcing us to look in the mirror and closely examine how we process input from our fellow men and women, he teaches us that, while we more often than not profess to having no bias, our inner self is telegraphing a different message.

Unfortunately, it is a message of which we are unaware. Professor Kang defined the word "implicit" this way in a courts primer he prepared in 2009 for the National Campaign to Ensure the Racial and Ethnic Fairness of America's State Courts. "Implicit," he said, "means that we are either unaware of or mistaken about the source of the thought or feeling."

You might ask yourself: "Well, if I don't know about it, how am I supposed to do anything about it"? Or you might think to yourself, "I know what's inside of me. There is no bias." Or maybe you're asking yourself, "Why does it matter if I don't know what the problem is in the first place"?

I would answer, "That's why you're here today." By alerting you to the intricacies of our inner wiring, you indeed can do something. And if we accept that everyone in this room has implicit biases, by virtue of the fact that we are human, then we move to the next question: "Why does it matter"?

Well, it matters a lot, and I'll tell you why. According to Dr. Kang's primer, implicit bias leads to awkward body language that may influence whether someone feels

he or she is being treated respectfully. It may affect how we read friendliness or facial expressions. It can indicate binge drinking, suicide ideation and sexual attraction to children. Implicit bias can also impact shooter bias – or how much easier it is to shoot African Americans compared to whites in a videogame simulation. So I would suggest to you that recognizing implicit bias could sometimes mean the difference between life and death.

I would suggest as well that recognizing implicit bias is vital to the preservation of our criminal justice system. It's really that basic: for a democracy to work, people must have faith in their court system. That faith is rooted in the belief that justice is blind and that the rule of law will prevail. Without that, we lose, for we depend on that faith to sustain a democratic government.

And, as Dr. Kang tells us, there is good news, because implicit bias can be changed – provided we are honest and admit to ourselves that it exists. The primer adds: “Even if we are skeptical, the bottom line is that there's no justification for throwing our hands up in resignation. ... Although the task is challenging, we can make real improvements in our goal toward justice and fairness.”

In other words, we cannot afford to do nothing. We need to take action against implicit biases because it's the right thing to do. We tell our kids every day to do the right thing, to look beyond what's on the outside of a person. And I can think of few more critical areas than this one to set a positive example.

Following Professor Kang's presentation, we will have lunch and then there will be a panel discussion on eyewitness identification. Now, we are all aware of the pitfalls of eyewitness testimony; how five different people can give five different descriptions of a crime that occurred and of the individual who committed it. We also know that convictions and acquittals can rise and fall on eyewitness testimony, and the dire consequences that may follow when a description is in error. Add in implicit bias, and the chances of compounding the error rise exponentially.

We are very pleased that Chief State's Attorney Kane has agreed to moderate this panel. The Honorable David M. Borden, a legend in his own right, and our esteemed former senior Supreme Court justice, will speak on the topic along with Attorney James Clark and Attorney Karen Goodrow. Jim, a prosecutor, and Karen, a public defender,

have had a lot of experience in this area, and I am certain that their observations and wisdom will be of great benefit.

After the panel discussion, Supreme Court Justice Richard Palmer will make closing remarks. And I promise you that we will have you out of here shortly after 3 p.m.

I have great expectations. I hope that you leave here with new and valuable insight. I also hope that you enjoy the opportunity to network with colleagues and others who care as deeply as you do about making sure that our criminal justice system really is about justice.

Finally, I hope you know how much we appreciate all that you do. You are the people in the trenches, who slog through the hundreds of cases, deal with the grieving and bewildered family members, the murders of our young people, and the raw emotion that is palpable in every GA, JD and police department in this state, every day, every minute. By being here today, you have made it clear that you believe you can still make a difference.

One of my favorite quotes – and I’ve used it before -- is from Albert Einstein. He once said, “The world is a dangerous place, not because of those who do evil, but because of those who look on and do nothing.”

Thank you for doing something. I hope you enjoy the program and I look forward to your feedback.

Now, it gives me great pleasure to introduce to you Chief Justice Chase T. Rogers. Chase was appointed chief justice in 2007, and since then has led the Judicial Branch with grace, energy, smarts and a keen eye toward the future. Please join me in welcoming Chief Justice Chase Rogers.

###