

# **WASHINGTON RACE EQUITY & JUSTICE INITIATIVE**

## **WASHINGTON PRO BONO EQUITY TRAINING GUIDE: Race Equity & Cultural Competency Curriculum for Volunteer Lawyers**



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## 〔 PURPOSE OF THE TRAINING GUIDE 〕

The following resource is designed for programs working with pro bono attorneys and legal advocates in Washington State. Our goal is to provide a starting point for volunteers seeking to understand and practice key concepts related to race equity and anti-bias work. The resources offered below and companion video guides to follow cover the role of attorneys as stewards of racial justice, the intersection of racism and poverty, strategies for addressing implicit bias and internalized racism, and mechanisms for improving client interactions through a multicultural and anti-racist approach.

The content provided can be offered and shared as a stand-alone resource for pro bono attorneys, though *Appendix A* also outlines how pro bono coordinators and programs can utilize the curriculum and companion materials to host customized trainings. We acknowledge that programs differ with respect to resources, bandwidth, geography, practice area, and focus but offer these materials as a foundation that can be used and adapted freely to fit the unique context of local communities and specific programs.

## 〔 CURRICULUM PARTNERS 〕

This resource is offered through the [Washington Race Equity & Justice Initiative](#) (REJI), an effort staffed by [JustLead Washington](#), in close partnership with the [Washington State Pro Bono Council](#), the [Washington State Bar Association](#), and [Wayfind](#). REJI seeks to ensure that all who are a part of, and who are affected by, the law and justice systems have the awareness, tools, and ability to center a race equity approach toward their work within those systems. With this focus in mind, REJI provides training, connection, and resources to support law & justice organizations and advocates in their work towards racial equity.

Special thanks to Dominique Shannon from Family Law CASA of King County and the many colleagues who reviewed this resource. Funding for the Pro Bono Equity Training Guide has been generously provided by the [Washington State Office of Civil Legal Aid](#).

## 〔 LICENSING AND ATTRIBUTION 〕

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**PART I:**

**WHY AN EQUITY  
MINDSET IS CRITICAL FOR  
VOLUNTEER ATTORNEYS**

As outlined in REJI's [Acknowledgments & Commitments](#), U.S. society, policies, structures, and systems operate to benefit certain groups and disadvantage others. Systems including the legal system have been infused over time by conscious and unconscious bias and continue to operate in ways that harm communities of color and other groups that have been targeted due to social identity factors such as gender and gender identity, immigration status or nationality, age, disability, religion, poverty and social class, sexual orientation, membership in an Indigenous community and ethnicity.

### ***WHY TALK DIRECTLY ABOUT RACE?***

**For the purposes of this Guide we focus explicitly but not exclusively on race and racism. While bias and oppression based on other social identities are equally harmful, and in fact the damaging effects of oppression are multiplied when race intersects with other factors like gender, class, and others, for reasons set forth below we are utilizing the frame of race and racism throughout this curriculum. However, many of the frameworks and concepts provided are to help navigate other forms of bias and oppression. Companion pieces will be released in the coming year that dig more deeply into other frequently requested topics.**

## **Our Role as Stewards of the Justice System**

The effects of bias and racism are especially damaging when they are woven into the law, legal profession, and justice system, where they can weaken the ability of these systems to safeguard equity and justice under the rule of law. As attorneys and legal advocates, our obligation is to ensure that meaningful access to the law and justice systems is a reality for all members of society. We also understand the law, access, and technical expertise that we can lend towards a greater good. With this knowledge, we must lend our skills and access towards advancing justice, pro-actively supporting anti-racist policies, practices, and movements.

One framework used by REJI Partners is the [Circle of Human Concern](#), coined by Professor John A. Powell and the [Haas Institute](#). Those operating within the Circle of Human Concern are those who are considered full members of society, who feel a sense of belonging. Those outside of the circle are intentionally targeted, excluded, and “othered.” Our work to pursue equity and justice demands that we expand the circle of human concern as widely as possible and that our limited resources are directed toward those who are experiencing the most harm and exclusion.

## **Special Duty of Attorneys Engaging with Low-Income Clients**

The [2017 Justice Gap Report](#) issued by the national Legal Services Corporation found that 71% of low-income households experienced at least one civil legal problem that year, including problems with health care, housing conditions, disability access, veterans' benefits, and domestic violence. However, 86% of the time households did not receive any or adequate legal help. Similarly, here in Washington State, we know from the [2015 Civil](#)

[Legal Needs Study Update](#) that seven in ten low-income households in Washington face at least one significant civil legal problem each year, and more than three-quarters (76%) of those who have a legal problem do not get the help they need. Given the limited resources of civil legal aid and nonprofit civil rights organizations, pro bono attorneys play a critical role in ensuring equitable justice for all.

Pro bono service – the provision of free legal services to those unable to pay – is even codified as a professional and ethical obligation of all attorneys. In the Washington Rules of Professional Conduct (RPCs), Rule 6.1 states that “every lawyer has a professional responsibility to assist in the provision of legal services to those unable to pay.”<sup>1</sup> In addition to our ethical responsibility, RPC 1.1 also reminds us of our duty of competence, which “requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” When providing pro bono services, attorneys must endeavor to acquire the skills needed to best serve low-income clients.

### **DID YOU KNOW?**

The preamble to Section 6 of the RPCs states that “all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.”

***Because by definition pro bono attorneys are working almost exclusively with clients and communities experiencing poverty, racism, and other forms of oppression, our pro bono partners must have the competence and confidence to carry out their work in ways that acknowledge, respect, and support the lived experiences of those they work with.***

### **PAUSE & REFLECT:**

**What motivated you to want to offer your services as a volunteer legal advocate?**

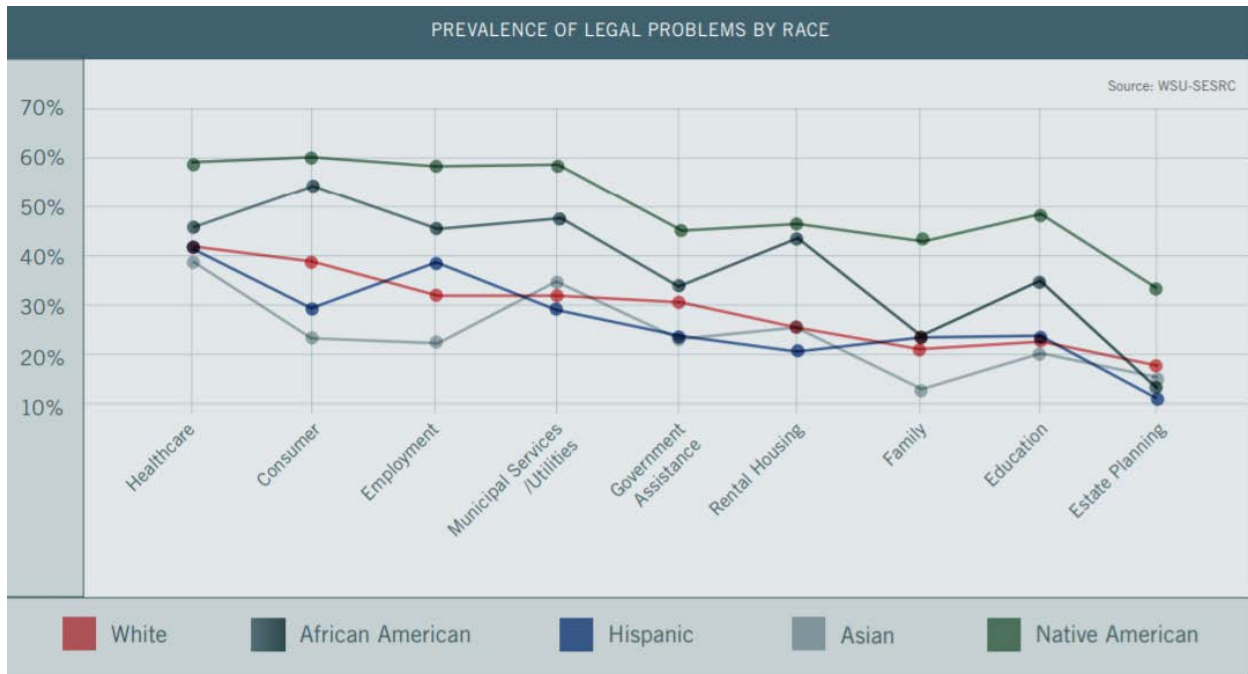
## **Race, Poverty, & the Law**

Many pro bono attorneys work with clients experiencing poverty, and often in training we are asked, “Why are we talking about race? Isn’t this really about class or poverty?” Yet race and poverty have always been linked and remain so today. The Washington State [Civil Legal Needs Study Update](#) conducted in 2015 confirms that who you are still matters:

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<sup>1</sup> Rule 6.1, Pro Bono Publico Service. Washington State Courts, Rules of Professional Conduct. Website. Access at [https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.list&group=ga&set=RPC](https://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=RPC)

*Native Americans, African Americans, people who identify as Hispanic or Latino, victims of sexual assault, young adults and families that include military members or veterans experience substantially greater numbers of problems and different types of problems than the low-income population as a whole.<sup>2</sup> Often these problems adversely affect their ability to get or keep a job, secure stable housing and access necessary consumer credit. They also lead to greater difficulties with debt collection and their ability to secure government benefits to which they are entitled by law.*



The Study also highlights that communities of color experience higher degrees of discrimination and unfair treatment and that those with the highest proportion of legal issues have the least confidence that the legal system can solve their problems. More than one in four low-income Black households and nearly one-third (31.5%) of low-income Hispanic households believe the legal system solves their problems “rarely” or “not at all.”

## Historical Context

Understanding how class, race, and the law intersect requires knowing the historical and racialized context of our legal system. Our current system is rooted in the English Common Law System and was initially established to protect and enforce the rights and property of the white land-owning class at the inception of the United States and its colonization of Indigenous land. At that time, African Americans were enslaved and considered chattel property without rights of their own.

<sup>2</sup> 2015 Washington State Civil Legal Needs Study Update. Washington State Supreme Court. October 2015. Website. Accessed at [https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.list&group=ga&set=RPC](https://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=RPC)

Unjust laws throughout US history have perpetuated racism and helped to racialize poverty. The premise of the law and justice system rests upon two frameworks designed to maintain the status quo: 1) Common Law doctrine known as “stare decisis,” which means that courts should use precedent (what has happened in the past) in decision making; and 2) the structure of the law as an adversarial “them versus us” system. In other words, those who benefit most by things staying as they are can count on the law and justice system to help perpetuate a status quo that advantages them and creates inequities and harm for others. For example:



Getty Images

- Genocidal policies towards Indigenous communities allow white people to lay claim to their children, land and natural resources<sup>3</sup>;
- The enslavement of Africans during times of chattel slavery, Jim Crow laws and “The New Jim Crow” manifested through our modern-day prison system<sup>4</sup>; and
- The Chinese Exclusion Act of 1882, Immigration Act of 1924, and other travel bans targeting immigrant communities and primarily immigrants of color such as the most recent Muslim Ban in 2018/19.<sup>5</sup>

In Washington State, civil rights were undermined by racist policies such as [redlining](#) and [racial covenants](#) on house deeds as part of a national crusade to racially segregate neighborhoods. For example, redlining was a discriminatory policy by banks, insurance companies, and other financial institutions to refuse or limit loans, mortgages, insurance to People of Color to create “white-only” neighborhoods. This deliberately segregated People of Color to neighborhoods that were under-resourced in schools and employment opportunities. Racial covenants added to this effort by ensuring land could only be owned by the “Caucasian race.” If you own a home, you might still view these “white-only” clauses written in your house deed as they have not been removed from many home deeds although they are illegal to enforce. Today, the Washington State Department of Health deems racism and its relationship to what neighborhood you live in as a critical determinant of health equity and overall well-being.<sup>6</sup>

<sup>3</sup> Fixico D. When Native Americans Were Slaughtered in the Name of ‘Civilization.’ HISTORY. Website. March 2, 2018. <https://www.history.com/news/native-americans-genocide-united-states>.

<sup>4</sup> Alexander M. The New Jim Crow: Mass Incarceration in the Age of Colorblindness. New York : New Press ; [Jackson, Tenn.] : Distributed by Perseus Distribution, 2010. <https://search.library.wisc.edu/catalog/9910095136402121>

<sup>5</sup> Munshi S. Beyond the Muslim Ban. South Asian American Digital Archive. Website. October 10, 2018. <https://www.saada.org/tides/article/beyond-the-muslim-ban>

<sup>6</sup> Washington State Department of Health. Race and Place: The Influence of Place on Health. Website. <https://www.doh.wa.gov/CommunityandEnvironment/HealthEquity/RaceandPlace>. Accessed August 3, 2018.



Poverty is a serious issue that limits access to food, employment, jobs, and safe neighborhoods in both urban and rural environments across Washington State and the United States. There are poor Americans of every race, *and* we also continue to see that the harms of poverty are worsened by racist policies. For example, owning land is a marker of prosperity and wealth in the United States, yet the land the U.S. occupies was forcefully taken from Indigenous tribal nations and other Indigenous communities (i.e. Native Hawaiians). Japanese internment during World War II forced Japanese Americans to give up their homes, property and freedom, and incarcerating them in camps. The G.I. bill, which provided employment, housing, and educational opportunities to veterans returning from World War II, largely [excluded Black veterans](#) due to a combination of redlining, restrictive covenants, and informal racism, resulting in patterns of segregation that persist today across the U.S. Policies that limit the ability for communities of color to accumulate intergenerational wealth create, maintain and exacerbate poverty within their communities. In this way, poverty has been racialized and race and class are inextricably linked.

In rural communities, we see the impacts of poverty worsened as compared to urban communities, as rural communities often have poor or more dispersed infrastructure, resulting in less access to resources such as healthcare and legal services. People of color living in rural communities as well as Indigenous communities living on reservations (in some of the most remote and poor areas of our state due to the Indian Removal Act of 1830), face worsened outcomes due to the compounding bias of racism overlaid onto rural-based barriers to resources. In Washington State, about 25 percent of rural residents are Indigenous and People of Color. Immigrants in rural areas also face challenges as well including language, cultural differences, and barriers to accessing health care.<sup>7</sup>

One example of progress toward more equitable goals is the Washington State Access to Justice Board's [2018-2020 State Plan for the Coordinated Delivery of Civil Legal Aid to Low-Income People](#), which states as Goal 1 that racial equity must be promoted both systemically and within organizational practices, working toward a vision that race or color does not determine the availability and quality of services, fairness of outcomes, and opportunities for communities and individuals. The resources that follow support the civil legal aid organizations guided by the State Plan and other equity & justice partners that seek to center racial equity within the delivery of volunteer-based legal services.

***PAUSE & REFLECT:***

**What racial or other disparities are most prevalent within the systems you work with? How might an intentional focus on race equity benefit your work with pro bono clients?**

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<sup>7</sup> <http://muse.jhu.edu/article/686951>



**PART II:**

**FOUNDATIONAL  
EQUITY CONCEPTS**

## Race & Racism

We must define race and racism separately as they are not the same thing. “Race” is a social and political construction created to categorize human beings within a hierarchy. Historically in the United States, race has been used to concentrate power by and for white people, or those of European descent, to justify oppression over Indigenous communities and People of Color, or those not of European descent. Race is not biologically determined as our textbooks once declared. Racial classifications can be traced back some 400 years ago to European scientists who sought to classify human beings under the false belief that European civilization at the time was “civilized” and “advanced,” contributing to the perpetuated belief that white and European ideals and modes of operating are better and should dominate (e.g. white organizational culture, white supremacy).

“Racism” similarly focuses on concentrating power yet operates through structural oppression. Racism is often defined as racial prejudice combined with power, creating the structural racial oppression and inequitable outcomes we see across US society. One’s race does not inherently lead to harm - there is nothing inequitable about being a person of color. However, the social and political context of living in the United States *exposes* People of Color and Indigenous communities to dehumanizing ideologies, structural bias, and stereotypes that have become part of the dominant American culture. Similarly, being of European descent does not inherently lead to the oppression of others. However, a person’s whiteness yields power and benefits from a racialized US society. In this context, a white person benefits from structural racism and can both intentionally and unintentionally perpetuate it.

### ***PAUSE & REFLECT:***

**When was the first time you became aware of your racial identity?**

## Equity

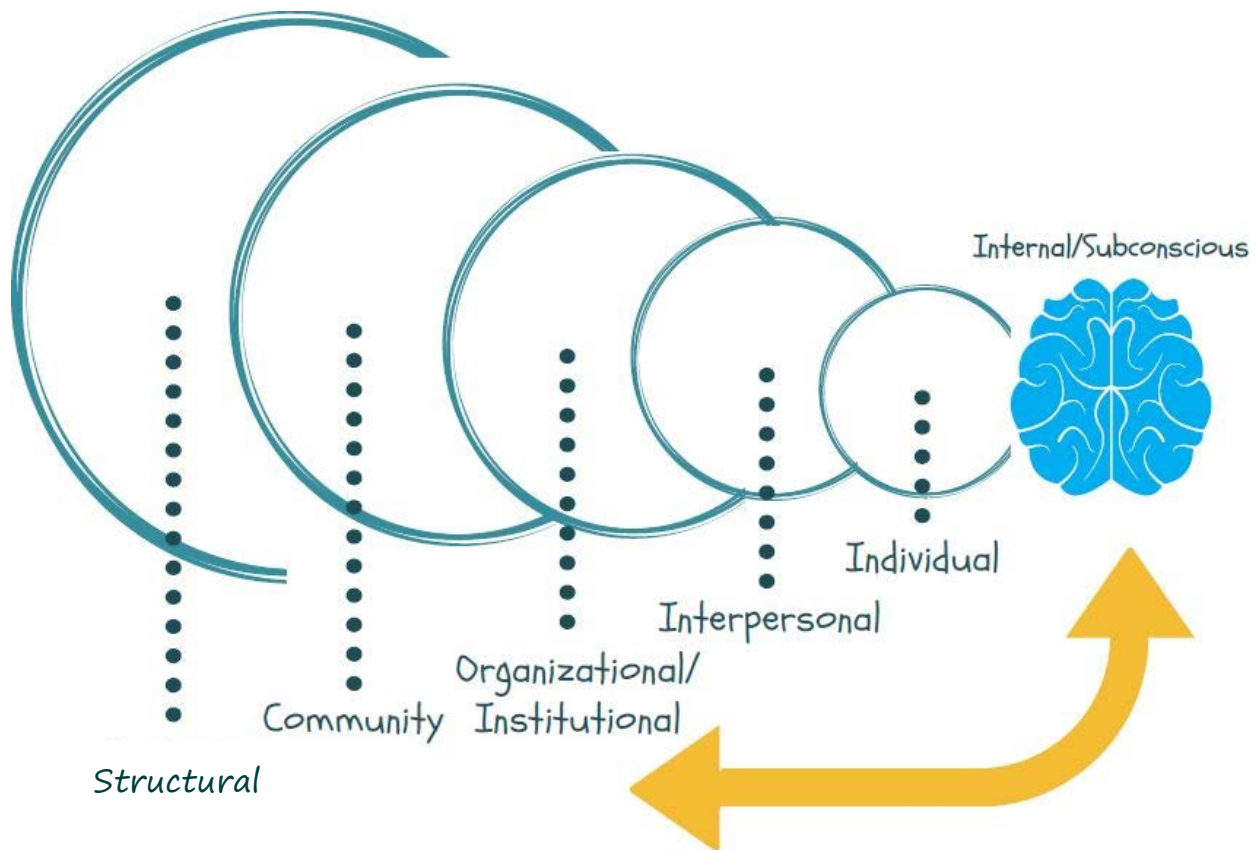
In a societal context, “equity” is about ensuring all people have opportunities to reach their full potential. It necessitates the creation and strengthening of policies, practices, and organizational structures that produce fair outcomes and eliminate disparities based on social factors such as race, class, gender, sexual orientation, ability, age, place of origin, religion, and Indigenous heritage. We particularly note that “equity” is not the same as “equality.” Equality means that everyone is treated the same; equity means that our strategies and approach should look different to account for social and historical context and different forms of structural oppression.

*Race equity* means specifically that race no longer determines one’s outcomes. It is the condition that would be achieved if one’s racial identity no longer predicted, in a statistical

sense, how one fares. When we use the term, we are thinking about racial equity as one part of racial justice, and thus we also include work to address root causes of inequities and not just their manifestation. This includes developing and reinforcing policies, practices, attitudes, and cultural messages that eliminate differential outcomes by race.

## Five Levels of Equity Work

A critical component of race equity work is engaging in this work across a variety of circumstances and levels:



Within each “level” of equity work there is a different, though related, approach. All levels are important and interconnected yet each come with valuable strategies and goals:

- The individual level (includes both conscious and unconscious bias) is the awareness and understanding of the work we need to do within ourselves to combat implicit and explicit racial biases that we hold and are fed daily by living in an inherently racist society.
- The interpersonal level requires growing our race equity “muscles” - our competence and confidence - to deal with race and bias issues when they arise in our interactions with clients, colleagues, and others in our personal life.

- Organizational/institutional level work invites organizations with a stated commitment to equity and justice to analyze if and whether they are “walking the talk,” that is, behaving organizationally in ways that are wholly consistent with their stated race equity values and intent.
- At the community level we ask how we advance racial justice in our work across organizations, coalitions, and networks in ways that hold ourselves accountable to those communities most harmed by structural racism. Those who are most acutely harmed by racism are closest to the problem and know best what needs to change.
- The structural level considers how and whether we are aligned and allied with social justice movements that emanate out of communities most harmed by racism, eliminating policies, practices, and structures that perpetuate harm to communities of color, and taking action to make broad change.

## Additional Definitions

We recognize that not every person is at the same place with this work and offer the following definitions. [Explore a full list of definitions by viewing the official glossary of the REJI Organizational Race Equity Toolkit.](#)



*Pixabay Image*

**Anti-Racism:** A concept described as “the active process of identifying and eliminating racism by changing systems, organization structures, policies and practices and attitudes, so that power is redistributed and shared equitably.” (NAC

International Perspectives: Women and Global Solidarity). Found [here](#). This is more a pro-active stance that requires individual work rather being simply “non-racist.”

**Person/People of Color:** A Person of Color, sometimes abbreviated as “POC,” is a person that does not identify as white or does not have white/Caucasian/European ancestry. This term gets complicated when you consider mixed-race or biracial persons (particularly people who have both European and non-European ancestry), but many mixed-race people identify as People of Color. As race is socially constructed in the United States, who is considered “white” or a Person of Color also shifts over time.

There have also been recent movements to use “BIPOC,” (Black, Indigenous & People of Color) to specifically bring attention to the complex and racist histories faced by both Black and Indigenous communities in the United States. It also acknowledges that even within “non-white” spaces, people of different races are treated differently, especially Black and Indigenous women.

**Latinx:** Latina/o (a person whose background is from a country in Latin America) often gets used interchangeably with the term Hispanic (from a Spanish-speaking country). However,

there are very important and real historical, linguistic, geographical, and cultural nuances that have influenced those terms and their usage.<sup>8</sup> The “x” in Latinx, as opposed to Latino or Latina, shifts the language away from the male/female gender binary and is intended to be more inclusive of all gender identities. In this text, we will use Latinx.

**white person:** A person who identifies as white/Caucasian/of European descent.<sup>9</sup>

**Culture:** A shared set of attitudes, values, goals, and practices that characterizes an institution or an organization.<sup>10</sup>

**Cultural Competency:** As defined by the Seattle-King County Department of Health, cultural competency is “the ability of individuals and systems to respond respectfully and effectively to people of all cultures, classes, races, ethnic backgrounds and religions in a manner that recognizes, affirms, and values the cultural differences and similarities and the worth of individuals, families, and communities and protects and preserves the dignity of each.”<sup>11</sup> As pro bono attorneys we should not just be providing good legal advice, our work must be rooted in taking the client’s needs and values into account.

Recently, professional communities have shifted away from the “cultural competency” framework to instead talk about “cultural humility,” which is considered the “ability to maintain an interpersonal stance that is other-oriented (or open to the other) in relation to aspects of cultural identity that are most important to the person.”<sup>12</sup> Cultural humility also suggests that our work is ongoing, rather than a setting a benchmark level of “competency” that can be reached. The below concepts and practices encourage both cultural competency and humility, yet reach even further to also offer frameworks for proactively eliminating bias and oppression within our client relationships and law & justice efforts.

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<sup>8</sup> Simón, Yara. Hispanic vs. Latino vs. Latinx: A Brief history of How These Words Originated. Website. <https://remezcla.com/features/culture/latino-vs-hispanic-vs-latinx-how-these-words-originated/>. See also the video “What’s the difference between Hispanic, Latino, and Spanish?” by Kat Lazo.

<sup>9</sup> You may notice that throughout this text we do not capitalize the term “white” when referring to white people; whereas the term “Black” when referring to African American or Black-identified folks will use an uppercase “B.” This is intentional. “Black” reflects a recognition for the cultural, historical, political, and social identity of the African diaspora. Although race is a social construct, “Black” is an identity. For example, Irish American or Caucasian are also capitalized. Further, several white supremacy organizations have chosen to capitalize the “w” in white to reflect their ideologies; this text does not, in an effort to decenter whiteness. Sources: McKenzie Jr, Sam. “Capital B, Please: Why I Capitalize the B in Black”. Medium, 2017. Website. <https://medium.com/@SamMcKenzieJr/capital-b-please-d4c16e7cdaa5>; Why Detroit Times now capitalizes ‘Black.’ iMediaEthics, 2019. Website. <https://www.imediaethics.org/why-detroit-metro-times-now-capitalizes-black/>

<sup>10</sup> Ehman M. Transforming Culture-An Examination of Workplace Values Through the Frame of white Dominant Culture. [www.pbs.org/race/000\\_About/002\\_04-about-03-01](http://www.pbs.org/race/000_About/002_04-about-03-01). Accessed August 5, 2019.

<sup>11</sup> The Cross Cultural Health Care Program. Why Cultural Competency? <https://xculture.org/cultural-competency-programs/about-cultural-competency/>. Published 2003. Accessed August 5, 2019.

<sup>12</sup> Hook JN, Davis DE, Owen J, Worthington EL, Utsey SO. Cultural humility: Measuring openness to culturally diverse clients. *J Couns Psychol.* 2013;60(3):353-366. doi:10.1037/a0032595

**PART III:**

**ADDRESSING IMPLICIT BIAS,  
INTERNALIZED RACISM, &  
MICROAGGRESSIONS**

## Implicit Bias & Internalized Racism

Using the “Five Levels” as a reference, the engine driving race equity work is who we are and how we operate as individuals. This includes considering how we both intentionally and unintentionally perpetuate bias and racism through our own attitudes and learned behaviors. Implicit bias, also known as implicit social cognition, refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.<sup>13</sup> This frame suggests that, due to the systems with which we interact every day, we are constantly and unconsciously creating meaning and associations as we experience the world, including associations based on race which become our implicit racial biases. As our assumptions, conversations, consumption of culture and media, and interactions with systems reinforce one another, our brains “normalize” what we see and result in the internalization - both by white people and People of Color - of racial stereotypes.

Social media and the ease of video recording events have led many to the realization that disparate treatment based on race is less the result of overt and intentional discrimination than of a structurally racialized society and culture. For example, when in April 2018 a white store manager called the police to have two Black men arrested for waiting for their friend at Starbucks, and a white student reported a suspicious and “not belonging” Black student at Yale University sleeping in a dorm common room, conversations circulated at the national level about how our implicit biases translate into actions with real-world consequences. While such events are happening all the time, they are now being recorded and shared broadly, including with white people, leading to greater accountability and less isolation of those subjected to race bias-motivated harm.

For those of us working within the law and justice systems, and truly any profession, understanding our own implicit biases is critical to understand how we may be unintentionally allowing racial bias to enter our daily decision-making and interpersonal interactions. With this increased self-awareness of our own internalized racism we can begin to have more open conversations about race and racism and reduce the negative impact that our biases have on our clients, co-workers, colleagues and partners.

### ***TAKE IT FURTHER***

**Test your own unconscious, subconscious, and hidden biases and learn about implicit bias through the Harvard Project Implicit’s [Implicit Association Test \(IAT\)](#). Or, take a deep-dive into implicit bias through the Kirwan Institute’s online video modules, <http://kirwaninstitute.osu.edu/implicit-bias-training/>**

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<sup>13</sup> Kirwan Institute for the Study of Race and Ethnicity. Implicit Bias.; 2016. <http://kirwaninstitute.osu.edu/wp-content/uploads/2016/07/implicit-bias-2016.pdf>. Accessed August 3, 2018



### ***Additional Resources on Implicit Bias:***

- [REJI “Understanding & Addressing Implicit Bias” Webinar](#): 90 minute free webinar (with CLE credit) led by [JustLead Washington](#). Please contact [info@justleadwa.org](mailto:info@justleadwa.org) to request companion slides and training materials.
- [Implicit Bias in the Courtroom Article](#): This law review article from 2012 introduces implicit bias, applies the science to two trajectories of bias in the courtroom (criminal and civil) and explores intervention strategies to counter implicit biases in the justice system.

## **Microaggressions**

The term “microaggression” was initially coined in the 1970s by psychiatrist Dr. Chester M. Pierce. The concept was popularized by psychologist Derald Wing Sue, who defined racial microaggressions as “brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial slights and insults toward People of Color.”<sup>14</sup> Microaggressions - which are slights and insults based on race or other social identities - are distinguished from macroaggressions’ by their more subtle, frequent, and often unconscious nature. They can be broken down into different categories, including:

### **Microinsults**

**Subtle snubs that convey insulting messages.**

**Example: An attorney compliments their Asian American client’s ability to speak English. Even if well-intentioned, this microinsult suggests and perpetuates a stereotype that People of Color are less articulate or are perpetual “foreigners” or “others” in their own country.**

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<sup>14</sup> Sue DW, Capodilupo CM, Torino GC, et al. Racial Microaggressions in Everyday Life Implications for Clinical Practice. 2007. doi:10.1037/0003-066X.62.4.271. <https://world-trust.org/wp-content/uploads/2011/05/7-Racial-Microaggressions-in-Everyday-Life.pdf>

### **Microassaults**

**Verbal attacks or behaviors designed to hurt the intended victim, whether intentionally or unintentionally.**

**Example: An intake coordinator is managing a full waiting room of clinic participants. The coordinator continues to approach and process requests from white and lighter-skinned community members but ignores two Black women who have been waiting. This type of microassault, whether intentional or not, causes the women to feel devalued and question whether they are intentionally being discriminated against.**

### **Microinvalidations**

**Messages that invalidate or devalue the feelings, thoughts, or experiences of the target**

**Example: An attorney is questioned about a statement that they made to a community partner that was received as racist. The attorney responds “that’s impossible - I don’t see race. We’re all members of one race - the human race.” This microinvalidation ignores the impact on the community member and discounts racial differences. The denial of racial differences negates the community members feelings and lived and cultural experiences.**

Though often subtle, microaggressions are a common and everyday reality experienced by people of color and simultaneously affirms and reinforces structural racism through interpersonal interactions. The cumulative effect can lead to feelings of frustration, anger, self-doubt, and isolation. For a quick and accessible video that illustrates the impact of microaggressions, consider viewing the brief video [“How Microaggressions Are Like Mosquito Bites.”](#)

### ***PAUSE & REFLECT:***

**Think of a microaggression you have observed or been the recipient of. How did you respond? Was it productive? What would you have done differently if given the chance?**

## **Strategies to Address Our Implicit Biases & Microaggressions**

Addressing our implicit biases starts with cultivating self-awareness of who we are, our cultural background, and our unique lived experience. Self-awareness allows a level of introspection of how our worldview is shaped and thus where our implicit biases may lie within our minds. In turn, enhanced self-awareness also leads to increased “other-awareness” – a deeper understanding of what clients, colleagues, and others experience.

As legal advocates working to advance equity and justice, cultivating self-awareness requires we examine where we are *privileged* and *marginalized* in society. The experience of a Person of Color living in the United States is distinct from that of a white person. Women navigate different experiences and dynamics than men; Indigenous people live distinct experiences than those who are non-Indigenous. Understanding different experiences between social groups in the United States – particularly within the context of which experiences and identities carry privileges attached to them and which are targeted as less valued, or marginalized – can mitigate our implicit biases.

## ADRESSING Model

One powerful tool to understand our social identities and examine how we interact with others is called the “ADRESSING” model.<sup>15</sup> Used locally by psychotherapist and anti-oppression trainer Dr. Leticia Nieto and adapted from the work of Pamela Hayes, each letter stands for what Dr. Nieto calls our social rank categories: **A**ge, **D**isability, **R**eligion, **E**thnicity and race, **S**exual orientation, **S**ocial class, **I**ndigenous heritage, **N**ational origin, and **G**ender identity. Though each individual carries their own set of complex identities, generally speaking these social rank categories break down across a duality of either being “targets” for marginalization or “agents” (seen as the dominant or advantaged group). In the United States, with or without our consent, society treats and socializes us based on our social rank categories:

<b>SOCIAL RANK CATEGORY</b>	<b>AGENT RANK</b>	<b>TARGET RANK</b>
<b>Age</b>	<b>Adults (18-64)</b>	<b>Children, Adolescents, Elders</b>
<b>Disability *</b>	<b>Able-Persons</b>	<b>Persons with Disabilities</b>
<b>Religion **</b> (relates to religious culture)	<b>Cultural Christians, Agnostics and Atheists</b>	<b>Jews, Muslims, and members of all other non-Christian religions</b>
<b>Ethnicity</b>	<b>White Euro-Americans</b>	<b>People of Color</b>
<b>Social Class Culture</b>	<b>Middle and Owning Class Persons</b> (Access to Higher Education)	<b>Poor and Working Class Persons</b> (No Access to Higher Education)
<b>Sexual Orientation</b>	<b>Heterosexuals</b>	<b>Lesbian, Gay, Bisexual, Questioning</b>
<b>Indigenous Heritage</b>	<b>Non-Native</b>	<b>Native</b>
<b>National Origin</b>	<b>US-Born</b>	<b>Immigrants and Refugees</b>
<b>Gender</b>	<b>Cisgender Men</b>	<b>Intersex and Transgender Persons, Cisgender Women, Questioning</b>

\* Now identified by Hays as “Developmental and Acquired Disabilities”

\*\* Now Identified by Hays as “Religion and Spiritual Orientation”

Each category warrants exploration, but for the limited purpose of addressing our implicit racial bias, the work is focused on building awareness of our unique relationship to race and racism, to understand the ways we have unconsciously internalized racial attitudes, behaviors, and beliefs that cause harm in our lives independent of our best intentions. People who are seen or socialized as white must develop skills as “Agents,” building

<sup>15</sup> Nieto L, Boyer M. Beyond Inclusion, Beyond Empowerment, About the Book. <https://beyondinclusionbeyondempowerment.com/about-the-book/>. Accessed August 5, 2019.

awareness about what privilege attaches to living white in the U.S. and determining how those privileges can be leveraged toward anti-racist behaviors in support of People of Color For People of Color, whose racial identities have been targeted and othered within the context of U.S. society, the work is surviving racism while moving toward fuller agency and power, discerning “our own optimal, liberating norms and values from oppressive, dehumanizing ones, and supporting members of our own and other “Target” groups.”<sup>16</sup> Learn more [through three articles by Dr. Nieto](#).

### ***WHAT ABOUT ME?***

**People who are not targeted for their racial identity often think about the oppression and discrimination they may have experienced based on our other social identities. “I know what it’s like because I grew up poor (or gay, or as a member of a religious minority, or any other Target group).” These experiences are indeed real and painful, and other identities intersect and compound harm when combined with race. Reflecting on where you have been targeted can even help generate empathy, but this is not the same as experiencing racism. It can also deflect from focusing on race. To reflect further on this and other common “detours” that can divert attention from directly confronting race and racism, visit [Cultural Bridges to Justice](#).**

### **Intent vs. Impact**

Another key component of interrupting bias is increasing our awareness of the impact we have on others in our lives. As attorneys, we are taught to always consider intent – think back to law school and the time spent on studying the intent elements for criminal acts or torts. While intent can be taken into consideration to give context, when building attorney-client relationships, the focus should be on the impact or harm experienced by the client.

Often, however, when a negative impact is felt and communicated back to us, we feel it challenges our perception of ourselves as “good” people. What we must work towards is the understanding that it is not about being a good or bad person, it is about changing behavior in ways that we can eliminate what our clients and others are experiencing negatively. It is essential to establish trust and respect with our clients and strive to repair relationships when we



*Pexels Image*

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<sup>16</sup> Nieto L, Boyer M. Beyond Inclusion, Beyond Empowerment, Understanding Oppression, Second Installment: Skill Sets for Targets. <https://beyondinclusionbeyondempowerment.com/about-the-book/>. Accessed August 5, 2019. [https://beyondinclusion.files.wordpress.com/2011/07/ask\\_leticia\\_part\\_2.pdf](https://beyondinclusion.files.wordpress.com/2011/07/ask_leticia_part_2.pdf)

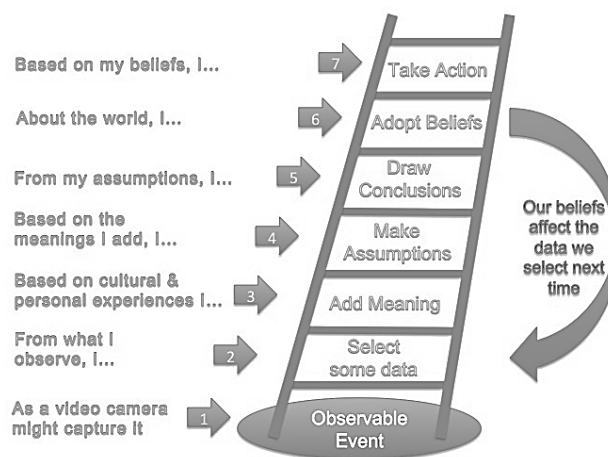
cause harm. By focusing on intent, we are often prioritizing our own feelings rather than admitting to mistakes, apologizing, and taking corrective action.

**Examples:**

- Person A accidentally steps on Person B’s foot, breaking Person B’s toe. Although this was an accident, the more important issue is that Person B was harmed. Rather than spending their energy convincing Person B that this was unintentional; Person A could better rectify this mistake by acknowledging the harm caused, apologizing and working to avoid a similar mistake.
- An attorney misgenders their trans client repeatedly during their clinic consultation (transgender means the person’s gender identity or expression differs from their sex assigned at birth). Noticing this mistake, the clinic assistant interrupts and corrects the attorney. The attorney responds, “but I did not intend to offend my client.” Although the attorney was sincere that they had no ill intent, the reality is that the client was harmed by having their identity and humanity denied.<sup>17</sup> This is further compounded by the fact that this client may have also been misgendered multiple times that month, week, or even day. Although intent provides context, it does not acknowledge the harm that impacted the client.

**Ladder of Inference**

In fast-paced environments like a legal clinic – and in our everyday lives – we often make assumptions and draw conclusions based on those assumptions, leading to misunderstanding and stereotyping. The “ladder of inference,” or “ladder of assumptions,” details the process our minds undertake between observing an event, selectively making meaning of what we see, generating conclusions, and then acting upon those conclusions.



Adapted from: The Fifth Discipline by Peter Senge, 1994

17 St. Patrick, J. What You’re Really Saying When You Misgender. The Body is Not an Apology. May 2017. Website. Accessed at:<https://thebodyisnotanapology.com/magazine/what-youre-really-saying-when-you-misgender/>

If you find yourself moving up “the ladder,” pause, surface where you are drawing conclusions, and walk back down the ladder to determine what the observable reality is, what you may be selectively noticing, and whether your assumptions are valid. If you can get in practice of questioning your assumptions and conclusions, you will improve your ability to avoid flawed judgements.

***PAUSE & REFLECT:***

**Think of a time you have “jumped up the ladder” or seen someone do this. What assumptions were made? What turned out to be the factual reality? What information was missed that may have provided the full picture?**

**In the alternative, take a few minutes to watch the brief video [“Why the Ladder of Inference Creates Bad Judgment.”](#)**

## **Rebounding from Mistakes**

Perfectionism, valuing efficiency, prioritizing “reason” and objectivity over feelings and subjectivity, being risk-averse.... These are all characteristics of the legal system and most of our workplace cultures that - as a result - discourage vulnerability, making time for relationships, and learning from mistakes. Yet our clients, our colleagues, and our humanity all stand to gain from a culture that allows for learning and growth. One critical component of building a relational and learning culture is acknowledging that we all are imperfect and make mistakes. In the pro bono context, our clients are in crisis and everyone is operating under extreme time constraints and other pressures. And, attorney-client relationships inherently have unequal power dynamics because of the attorney’s system access and technical expertise. In addition, often the attorney and client do not share the same class, racial identity, or other social identities. As a result, some miscommunication and discomfort may be inevitable.

If you have said or done something that had a negative impact on someone else, and that person had the time and energy to share with you of that negative impact, here are tips and practices that can support you to recover from unintentionally causing harm:

### **FIVE Tips for Recovering from Mistakes and Microaggressions**

1. ***Take a Breath and Own the Mistake.*** Resist the inevitable urge to defend or explain yourself. This may come off as making excuses, so instead, accept that the impact of your words or actions may have caused harm despite your intent.

2. **Apologize - Directly, Sincerely, and Quickly. Then Move On.** We often skip over apologies or offer backhanded apologies, like “I’m sorry if what I said hurt your feelings.” Directly apologizing shows you own your words and actions. But, also move on so that we are not centering our own feelings and desire for reassurance or forgiveness. Instead, focus on the client and demonstrate changed behaviors.
3. **Offer Gratitude.** If someone has bravely shared how they or others have been harmed, we owe it to them and ourselves to take their feedback as a gift and learning opportunity. Offer thanks, and if you have a relationship with the person you may choose to briefly share what you have learned from the experience or inquire first if they are interested in discussing it further with you.
4. **Don’t Expect Anything in Return.** You won’t win a cookie for apologizing or accepting criticism, and you may not necessarily be forgiven either. It is up to the person who has been harmed to decide how they will respond. Remember, an apology is about repairing harm and not about getting recognition.
5. **Keep Learning & Evolving.** Becoming more self-aware and proactively anti-racist is a lifelong process. We all have learning and unlearning to do. Take each chance to learn what to do differently the next time (and do your own work, not relying on those who are harmed to educate you beyond what they want to share, as this may cause further harm and frustration). Resist the urge to defend yourself; focus on listening and understanding. The best apology is changed behavior.

### ***What About Witnessing Microaggressions as a Recipient or Bystander?***

- **Ask a question: “What did you mean when you said ...?”**
- **Avoid accusations.**
- **Arouse dissonance – people don’t like to be inconsistent: “I’m surprised you would say something like that considering how supportive you are of women in leadership.”**
- **Pivot/Redirect the conversation and stop the harm. This is a way of not confronting the person directly, but still letting people know they made a mistake in a socially graceful way.**
- **Educate, either in the moment or later. Sometimes people simply don’t know the negative power behind certain words or phrases. Explain why the term or phrase is offensive.**
- **Use Humor** (when appropriate for the situation or your relationship with a colleague).
- **Echo:** Its powerful to be the first voice that interrupts bias.
- **Support** the person who has been targeted.

*(Source: Washington State Bar Association)*

**PART IV:**

**PRINCIPLES FOR BUILDING  
EQUITABLE CLIENT RELATIONSHIPS**



## White Dominant Work Culture and Its Relevancy to Building Equitable Relationships

***“Culture is powerful precisely because it is so present and at the same time so very difficult to name or identify.”<sup>18</sup>***

Tema Okun, author and activist, writes about ways in which “white supremacy culture” comes up in our systems, institutions, organizations, and our work—thereby shaping the dominant work culture. “The premise of white dominant culture is the often unspoken and coded notion that the values, behaviors, practices, beliefs, and ways of working associated with white people are seen as superior to those of People of Color and other marginalized identities.”

Okun outlines several characteristics attributed to white dominant culture. We have selected a few characteristics that often come up in our profession and pro bono work:

- ***Perfectionism***: Perfection is the standard for all work product, mistakes are given value judgments and poorly reflects on the individual rather than seeing it as a mistake.
- ***Quantity over Quality***: Resources and energy are spent on measurable outcomes; value is defined in quantifiable terms rather than valuing deepening of relationships or quality of work. This comes up often in a pro bono legal clinic when an attorney is expected to see as many clients as possible in a single shift, sometimes at the cost of prioritizing the needs of each client.
- ***Worship of the Written Word***: This is incredibly common in the legal profession—memoranda, emails, letters, etc. are valued over conversations or in-person meetings. In legal clinics, sometimes our clients do not have access to documentation that could be helpful to their case. However, as an attorney part of our role is to adapt to finding alternative ways to capture information.
- ***Paternalism***: As legal advocates we often believe our technical expertise makes us best situated to make decisions for our clients, especially our pro bono clients. However, it removes agency from the client and devalues a client’s ability to think and decide for themselves.
- ***Either/Or Thinking***: Okun shares that this characteristic often “results in trying simplify complex things, for example believing that poverty is simply a result of lack of education.” It can also prevent people from exploring alternatives.

It is necessary to recognize how pervasive this culture is within the U.S. context and in legal advocacy. Those who follow the norms laid out by white dominant culture are afforded power and ease when navigating institutions. Given its pervasiveness, even People of Color may internalize and uphold white dominant culture to gain a bit of access

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<sup>18</sup> Okun, T. white Supremacy Culture. dRWorks, Dismantling Racism: A Workbook for Social Change Groups. Access at: [http://www.dismantlingracism.org/uploads/4/3/5/7/43579015/okun\\_-\\_white\\_sup\\_culture.pdf](http://www.dismantlingracism.org/uploads/4/3/5/7/43579015/okun_-_white_sup_culture.pdf)

to power and ease. *Any* organization can be guilty of perpetuating these characteristics. This is often why diversity efforts in the workplace are not enough; organizations must intentionally work to address and dismantle white dominant culture. Without engaging, committing to naming, and working to expel ourselves of white dominant culture, institutions will continue to perpetuate harm towards the very clients we have agreed to assist.

***PAUSE & REFLECT:***

**Think about the qualities that you value as qualities of a “good” colleague, boss, or client. How many of the characteristics listed above sound familiar to you as “good” work ethic?**

### Why an Equitable Approach to Lawyering Matters

The heart of why race equity in lawyering matters can be surmised through practices called movement lawyering, or community lawyering. According to Law For Black Lives, movement lawyering means “taking direction from directly impacted communities and from organizers, as opposed to imposing our leadership or expertise as legal advocates. It means building the power of the people, not the power of the law.”<sup>19</sup> Within the context of pro bono work, how can volunteer lawyers take the direction of their client in ways that shifts power away from the attorney and to the client? How can a volunteer lawyer community be a part of a larger movement towards race equity?

If reaching equity necessitates creating and strengthening policies, practices, and structures that produce fair outcomes and eliminate disparities based on social factors, then for equitable attorney-client relationships to exist, we must consider how these social factors impact the attorney-client power dynamic. As advocates, we must recognize the ways in which we might perpetuate harm towards our clients by ignoring the nuances of our clients’ needs and thereby limiting the effectiveness of our legal assistance. For example:

- A client, a Woman of Color and domestic violence survivor, shares her hesitancy about involving the police when her abuser violates a domestic violence protection order. The attorney grows increasingly frustrated at the client for not contacting law enforcement right away and chastises the client for not following her advice. By ignoring or not asking why the client is hesitating, the attorney is ignoring a very real fear that the client may have about engaging the police,

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<sup>19</sup> Law For Black Lives. What We Can Do: Movement Lawyering in Moments of Crisis. Website. Access at <http://www.law4blacklives.org/respond>

which will then influence the client's willingness to be open and trusting of the attorney in the future.

- An attorney on a family law listserv asks her fellow attorneys to help advise her on a dissolution. She summarizes the case and says that the client (a survivor of domestic violence and an immigrant woman of East Asian descent) is waffling on leaving her abusive husband. The attorney writes, "I don't know why she won't just leave him. This would never happen in the U.S." Several attorneys promptly respond by stating that not only does this in fact happen in the U.S. with white survivors of domestic violence, but also that she is making biased assumptions about an entire community, particularly perpetuating stereotypes of Asian women as "submissive."

Washington RPC 2.1<sup>20</sup> specifically states: "In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client's situation." Using the examples above, the attorney is ethically obligated under RPC 2.1 to consider the various factors as to why a survivor of domestic violence might not want to contact the police or leave their abusive partner. Then, based on those considerations offer advice that puts the client in the best position possible to make an informed decision, rather than impart the attorney's own viewpoint or objectives.

The concept of equitable lawyering directly relates to the Access to Justice Board's [State Plans](#) call for "holistic" and "client-centered" approaches to legal services. Holistic services "are provided in a manner that takes into account the entirety of a client's barriers and goals, legal and non-legal."<sup>21</sup> When working with clients, this includes helping clients parse out legal and non-legal issues as well as addressing

### **DID YOU KNOW?**

Comment 2 to RPC 2.1 says that "advice couched in narrow legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant." This is particularly applicable with domestic violence survivors, where leaving their abusers might result in loss of income, housing, custody of children, or may have potential immigration or legal consequences.

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20 Rule 2.1, Pro Bono Public Service. Washington State Courts, Rules of Professional Conduct. Website. Access at [https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=RPC&ruleid=garpc2.1](https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=RPC&ruleid=garpc2.1)

21 ATJ 2018-2020 State Plan for the Coordinated Delivery of Civil Legal Aid to Low Income People. Access at [https://www.wsba.org/docs/default-source/legal-community/committees/atj-board/guiding-docs/atj-state-plan-final.pdf?sfvrsn=b08d3ef1\\_2](https://www.wsba.org/docs/default-source/legal-community/committees/atj-board/guiding-docs/atj-state-plan-final.pdf?sfvrsn=b08d3ef1_2)

them in collaboration with community partners. RPC 2.1 corresponds to the holistic lawyering concept, as it frees up an attorney to go beyond advising about the technical aspects of the law. Also, when reflecting on the dominant white culture concept, placing the client in the best position possible to make their own decisions disrupts the concept of paternalism by including the person most impacted by the decision-making.

Competent lawyering recognizes and understands that a client's race, ethnicity, or culture should play a role in the attorney's legal analysis and advocacy, rather than relying on a "one-size-fits all" methodology. Often the latter tactic fails to take into consideration the history of race in the legal system and will less likely produce equitable outcomes for clients of color.

## Key Principles for Equitable Relationships



Let clients tell their stories. They are the expert of their own lived experiences; lawyers are the experts in an unfair system. Although all the facts may not be legally relevant, listening to what a client most desires to share with you is essential to developing a trusting attorney-client relationship. Everyone wants an opportunity to be heard, understood, and respected.

This is an opportunity to disrupt the "sense of urgency" we feel as attorneys to get things done quickly and efficiently. This feeling particularly surfaces in legal clinics, when time and human resource constraints severely limit the amount of contact an attorney will have with a client. However, by rushing the client, you may unintentionally be causing harm by preventing the client from sharing their story—sometimes being heard is just as important as the solution itself. Clinics and pro bono attorneys must seek balance between quantity – helping as many people as possible – with quality of service to each client.

### ***TAKE IT FURTHER:***

**See Pages 35-36 for exercises to practice and further reflect on deep and active listening techniques.**



## *Valuing the Client's Experience: Positionality*

“Positionality” is a concept that recognizes where an individual is positioned in relation to others within society, thereby impacting how the person experiences the world. As volunteer attorneys and legal advocates, we should evaluate our position within the attorney-client structure, in order to identify and address power dynamics. This means recognizing that not every client will share the same trust in the legal system or in attorneys, and that clients may not desire the same outcomes that you may want to seek. Rather than reassuring the client that the system does work, which can unintentionally devalue the client’s lived experiences, it is important to understand the client’s concerns about why the system is not working, identify the client’s ultimate goals, and address the best strategies for the client to meet their legal needs.

Often as attorneys we are trained as problem-solvers: we believe that we have the most knowledge, understand the nuances of the law, and can apply law to fact. However, as we work towards more equitable lawyering, we need to hear, acknowledge, and value the lived experiences of our clients. If we do not include the perspectives of the most marginalized, the communities we seek to serve will continue to be excluded and harmed. Our clients are best positioned to tell us what they want, and our role is to offer information that they can use to inform their decisions.

### **DID YOU KNOW?**

RPC 1.2 states that “...a lawyer shall abide by a client’s decisions concerning the objectives of representation, and as required by RPC 1.4, shall consult with the client as to means by which they are to be pursued.” This calls attorneys to recognize paternalistic moments when an attorney might feel like “they know better.” This is not to say that attorneys should not share their assessment or recommendation; rather, it reminds us that it should be the clients who are driving their cases and making the ultimate decisions.



## *Non-Judgmental Attitude*

It is important to approach attorney-client relationships without judgment. Often times people will say (and believe) “I don’t judge others” however, by way of example, how many times have we heard or made judgments about poor people with “luxury” items, implying that they do not know how to take personal responsibility or “correct” choices about items such as cellphones, organic food, brand name apparel, etc.? In reality, we know nothing about a person’s life or past life; it is unreasonable to judge them based on their

appearance or lifestyle choices. This is a paternalistic response and has a harmful impact on people in poverty.<sup>22</sup>

It also fails to take into account the systems that keep people in poverty. Poor People of Color, especially poor Black women, are often judged the harshest. “Welfare queen” was a racially-coded and derogatory term used against Black women on welfare programs, most famously by former President Ronald Reagan. Internalizing these beliefs that poor people do not deserve to have nice things will affect how we as attorneys interact with our clients. It is important to be consciously aware of how our implicit biases against people in poverty manifest in our lives and in representing clients.

Further, access to a smart phone is incredibly important when you may not have regular access to the internet. Cell phones help people stay connected to their communities, help them practice self-care, and help them navigate life. If thoughts like these come up when working with a client, take a moment to reflect on why you might be feeling that way.

***TAKE IT FURTHER:***

**We all carry bias with us, often unconsciously, as our culture and systems create and reinforce meaning and associations around our daily interactions. Test your own unconscious, subconscious, and hidden biases and learn about implicit bias through Project Implicit, based out of Harvard, and the [Implicit Association Test \(IAT\)](#).**

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<sup>22</sup> Rios, C. This Is Why Poor People Can (and Should) Have Nice Things. Everyday Feminism. February 2016. Access at <https://everydayfeminism.com/2016/02/poor-people-having-nice-things/>

**PART V:**

**PRACTICES FOR HUMBLE &  
MINDFUL CLIENT INTERVIEWING**

We all have a cultural experience, background, assumptions and biases based on our lived experience that impacts the way we engage, listen to, and advocate for our clients. If we accept that implicit bias and internalized and structural racism exists, we must explore how these dynamics are affecting our client relationships, including how we understand clients' interests, needs, issues, and goals related to their legal matters.

***Practice #1: Cultivate Self Awareness.***

Consider your own background, values, traditions, habits, experiences, beliefs and assumptions. How might they be similar or different from your clients? How would you know? We often unknowingly impose our values, perceptions and beliefs on others, which can negatively impact our relationship with clients. We sometimes unknowingly engage in microaggressions (see above) when we engage with others who have different lived experiences from us.

Building this awareness is a baseline to culturally humble client interviewing. It also helps us build empathy and challenge ourselves when clients do not always meet our expectations related to things like communication style, time management, predictability, composure, conduct and appreciation.

**REFLECTIVE EXERCISE**

**On a sheet of paper draw a grid with four labels for each category: Background, Values, Habits, Beliefs. Reflect and jot down words and feelings that explain each quadrant about you. Here's an example:**

Background	Values
<b>Middle class Law school educated Survivor of violence white Cisgender Male (gender identity matches sex assigned as birth) Christian</b>	<b>Honesty Integrity Hard working Results Fairness Kindness Personal responsibility</b>
Habits	Beliefs
<b>Dependable Predictable Timely/Punctual</b>	<b>Justice shouldn't be only available to the wealthy. More attorneys need to give back to the community. Hard work always pays off.</b>

**What themes can you identify? How might who you are and what you believe impact the way you advocate from clients who are different from you in real or perceived ways?**



## Practice #2: Pause, Slow Down and Reflect.

We are busy. We feel pressure. We have a lot of information to share. We have too many clients and not enough time and resources. We are sometimes impatient. We don't always know how to fix the problem and feel like we are (or should be) the experts. As attorneys we operate in a rigid justice system with rules and deadlines. Intentionally switching gears to be more present and to connect with clients can sometimes nearly feel impossible. As attorneys, we must intentionally clear out the mental chatter of the justice system and shift towards a more holistic practice with clients at the center. The starting point is s-l-o-w-i-n-g down.



**TIP.** Share information about your organization, the legal process, your role, the policies and laws that impact their case; their family; their life. The information you share may be new, complex and seem strange. Be sure to 1) use clear simple statements; 2) repeat key details at different times during your conversation; and 3) check for understanding throughout the conversation.

## Practice #3: Understand Context.

Speaking and advocating on behalf of someone always runs the risk of inadvertently creating a paternalistic relationship. This can happen when people with real or perceived authority make decisions for others which, even when benefiting them may prevent them from taking responsibility for their own lives. There are also often vast differences in the social and cultural reality in which we live and work and in which our clients live and work. Do not assume what exactly those differences are but do know that they are there.

Don't let paternalism get in the way. Instead, approach your client relationship and your client with curiosity and humility. Everyone has agency, a story to share, and socio-cultural context that impacts the experience and outcome of their story. You are part of your client's story now, which impacts their experience of the justice system.

## Practice #4: Understand How You Deal with Conflict.

Conflict is inevitable and is common in our daily lives in our human interactions. In the context of pro bono work, we are often engaging with clients in crisis, which can mean emotions and tension sometimes run high. Having a strong relationship will allow you to move through and often overcome conflict. Consider your own experience with and relationship to conflict. How do you deal with it?

### ***PAUSE & REFLECT:***

**Think back to your family of origin and jot down notes on how your family dealt with conflict. How was it expressed? How was it not expressed? How did it feel? How is it similar or different from your experience as a professional and advocate trained to operate in an adversarial justice system? What has changed, what hasn't? How has it played out when you've had a client relationship with tension or conflict?**

## **Practice #5: Engage Empathetically.**

“Humans aren't as good as we should be in our capacity to empathize with feelings and thoughts of others, be they humans or other animals on Earth. So maybe part of our formal education should be training in empathy. Imagine how different the world would be if, in fact, that were 'reading, writing, arithmetic, empathy.’” - Neil deGrasse Tyson

As an advocate you work within and navigate systems seamlessly, systems that many fear or have negative experiences with including bureaucracy, law enforcement, incarceration, detention, judges, case workers, court clerks and lawyers. You are a gatekeeper and often control critical information and services that clients need meaningful access to. Most of us are pretty good at this. But what keeps us from engaging our empathy? Sometimes we feel the need to detach. We often unconsciously do this to protect ourselves emotionally from secondary trauma (taking in stress and distress from exposure to someone else who has been traumatized). Attorneys have also been trained to prioritize objectivity and efficiency. But what do we lose when we don't understand the whole story? What if our clients do not trust us enough to share or engage meaningfully?



**TIPS:** During interviewing and even at initial stages like intake and reviewing financial eligibility, acknowledge that you are asking very personal questions. Every client interaction presents an opportunity for communicating with empathy and establishing a trusted relationship. We ask our clients to open their lives to us, revealing intensely personal information at stressful times in their lives.

- Consider how you might feel if someone were asking you these questions including how vulnerable you might feel.
- Explain why information needs to be collected, how it will be used, and how it won't be used.
- Thank clients for trusting you and your organization with their information and story.

- Do your homework ahead of time – if the client has already shared painful facts and experiences, avoid asking them to repeat their stories over and over again.

***PAUSE & REFLECT:***

**What practices do you already engage in to connect empathetically and relationally with friends and colleagues that might help you build a trusted relationship with your client (while maintaining appropriate boundaries)? What support do you have to address any secondary trauma and compassion fatigue you might be experiencing?**

### **Practice #6: Practice Active Listening.**

As a volunteer advocate, you may be one of the first people a client will interact with. Active engagement is a way to establish rapport and ensure understanding of your client's issue and its real-world effects on them. *Active engagement in listening ensures both that the client feels heard and that the attorney understands what has been communicated.*

Active listening implores us to engage all our senses to be attuned to what is going on for our client and what they are communicating – or not communicating – both intentionally and unintentionally. To act and speak on behalf of our client is a great privilege and responsibility; we need to pay attention to mannerisms, body language, and voice and to listen to what is said and how it is said.



***TIPS:***

- Ask open-ended and clarifying questions. This demonstrates you are listening and helps build trust. Keep in mind, the person you're talking with may not give you all the information all at once. This also keeps you from making incorrect assumptions.
- Reflect back what you're hearing and the feelings that the client is expressing. This includes taking the time to summarize, paraphrase, or restate the client's message to check for understanding.
- Remember that what is important to you and what is important to the client might be different. Allow space for what the client most wants to communicate but gently redirect away from unhelpful information when necessary.

### ***PAUSE & REFLECT:***

**Lawyers are problem solvers, and we're expected to have answers. Has this dynamic ever led you to tune out when someone is talking because you are already formulating a response and waiting to interrupt or jump in? This type of "predatory listening" stands in contrast to active listening and to the other person feeling heard. What practices can you develop to keep yourself present when your client (or colleague, or partner), is sharing with you?**

### **Practice #7: Understand the Power of Questioning**

Skillful questioning serves many purposes. Used well, questions not only collect needed information but also demonstrate that you are listening, allow you to seek clarification, and help redirect your client toward the information you need.



#### ***TIPS:***

- Use a mix of closed questions (yes or no answer), open questions (what/how/why), and follow-up/clarifying questions, depending on what you need. Try not to ask leading questions, as they may lead you toward faulty or incomplete assumptions.
- Make sure your questions are short and clear, and try to avoid asking multiple questions at once.
- Allow time and space for your client to process and think.

### ***INTERVIEWING ROLE PLAY EXERCISE:***

**In triads, have one person (in a client role) read the following fact pattern while a second person plays the attorney/interviewer:**

***"My landlord told me that no children's toys can be left in the stairwell. I think that's unfair because other tenants leave their sports stuff there. The landlord only complains about me and my kids. We are the only Latinx family in the building. He is constantly leaving notes on my door. It is awful. I hate living here, but it's the only place I can afford."***

*- Drawn from a hypothetical originally developed by the Housing Justice Project*

**How would you engage the client? What questions would you ask to make it a 2-way dialogue? Practice a few minutes of back and forth then have the third person (observer) share feedback.**

## Practice #8: Become Skilled at Communicating Through Interpreters.

Many clients speak more than one language. We often determine at the intake and eligibility stage when a client might need the assistance of an interpreter. Assessing whether a client needs an interpreter, however, isn't always obvious. Many English Language Learners speak some English, but aren't proficient enough to effectively communicate regarding their legal matter. Sometimes language interpretation needs are revealed well after an attorney-client relationship has been established. It is never too late to ask a client directly whether it would be easier for them to understand and speak through an interpreter.

### Best Practices for Working with an Interpreter<sup>23</sup>:

- ➔ Whether you are meeting in person, by phone, or video conference, center all dialogue directly with the client, not the interpreter. Speak directly to the client as you would to any client. For example, say, "what is your legal issue?" rather than "what is his legal issue?" Focus your attention and eye gaze on the client.
- ➔ Speak clearly and at your usual pace and volume. It is easier for the interpreter to establish context and (for interpreters for the deaf) a natural signing flow if you speak normally. The interpreter will tell you if it is necessary to change your rate.
- ➔ Please do not ask the interpreter's opinion. Interpreters are bound to a Code of Ethics which prohibits them from giving opinions about the legal matter for which they are interpreting.
- ➔ Do not make asides you do not wish interpreted. The interpreter is ethically obligated to interpret everything that the client would have understood if he/she had understood (spoken) English.
- ➔ Provide copies of documents, pleadings, and even the parties' names *before* a meeting or hearing to give context to the interpreter.
- ➔ Give a little extra time for the client to answer any questions you have asked, as there is always a time lag interpreting from spoken English into a different language. The degree of delay will vary with interpreters and the complexity of the material. This is especially important during group discussions. Depending on the situation, some interpreters will choose to interpret consecutively (waiting until you have finished speaking). If this is the case, please speak or sign in short 'chunks' so that the interpreter can more easily remember what you have said.
- ➔ For deaf clients, allow time for the client to take notes or read any printed material. It is impossible for a deaf person to watch an interpreter and read/write at the same time.
- ➔ Be mindful about how much the interpreter has been speaking during the client meeting or hearing and offer them breaks.

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<sup>23</sup> The Washington Courts Interpreter Commission. Top 10 Suggestions for Attorneys Working with Court Interpreters. Access at <https://www.seattle.gov/Documents/Departments/Court/10tips.pdf>

***Interpretation Red Flags***  
***(Practices That May Be More Damaging Than Helpful)***

- ***Using family members, including children.*** With scarce resources and time, it is tempting to use the interpretation assistance of a client's family members, including children. Not only might this violate confidentiality it may also create other unintended consequences that may impact your client's legal matter.

***Relying on your own language skills.*** As with family members it is equally tempting as an advocate to rely on your own language skills. If you are not a native speaker you may not be proficient enough to communicate regarding the complexity of a legal matter. Have your language skills assessed beforehand and be sure to familiarize yourself with your program's process for obtaining and prioritizing professional legal interpretation services.

***Additional Interpretation Resources & Tips***

- From the American Bar Association: ['Say What?' Using Interpreters in Children's Cases.](#)
- From the Oregon State Bar Association: [Proper Use of Interpreters and Translators](#)
- From the Registry of Interpreters for the Deaf: [What Can we Do? Intersection of Interpreting Complexity in the Legal System.](#)

# APPENDIX A: PRO BONO COORDINATOR USER'S GUIDE

While the Pro Bono Guide may be used as a stand-alone resource to share with pro bono attorneys and staff, we encourage pro bono programs to utilize the material as a foundation for live or recorded training with new and existing volunteers. The following provides a suggested training agenda and connections to additional resources for utilizing this Guide for live training.

Most content would be eligible for Washington State Continuing Legal Education (CLE) “ethics” credits. For instructions on serving as a sponsor for a CLE program or requesting CLE approval, please visit: <http://mcle.wsba.org>.

## ***Sample 3 Hour Training Agenda***

With a 3 hour or half-day training, participants can start to:

- Understand why and how equity and racial equity are critically connected to pro bono work
- Recognize that legal systems and structures have been “racialized” and how explicit and implicit bias creates and maintains racialized systems
- Learn and practice strategies for interrupting bias and microaggressions that may occur within client interactions

### **9:00am – 9:30am *Welcome & Grounding in the 'Why'***

Welcome attendees to the training, offer time for introductions if the group is small enough, and invite dialogue about why race equity and anti-bias work is critical to the work of pro bono attorneys. Include information about the intersection between race and poverty (or race and substantive areas of practice depending on audience).

#### *Resources:*

- Core Curriculum, Part I
- For a copy of JustLead’s slides and facilitator notes for this section, please contact [info@justleadwa.org](mailto:info@justleadwa.org).
- [Race Equity & Justice Initiative \(REJI\) Acknowledgments & Commitments](#)
- [Sample Community Agreements](#)

### **9:30am – 10:20am *Foundational Concepts***

Introduce core concepts such as structural racism, race equity, and implicit bias, including social cognition (the “brain science” behind

bias). Where possible, include examples of how the local community has been racialized, such as historical examples of redlining and segregation and/or local perspectives from community leaders of color about the current reality of living in the community and/or interfacing with the justice system.

*Resources:*

- Core Curriculum, Part II
- For a copy of JustLead’s slides and facilitator notes for this section, please contact [info@justleadwa.org](mailto:info@justleadwa.org).
- [Mapping Inequality](#) offers redlining maps and examples for communities throughout the United States, including Seattle, Tacoma, and Spokane.
- [Project Implicit](#) - Implicit Association Tests

10:20 – 10:30am ***Break***

10:30 – 12:00pm ***Strategies for Interrupting Implicit Bias and Building Equitable Client Relationships***

Offer strategies to interrupt racism and microaggressions and engage more competently with clients of color and clients experiencing poverty. Examine the ways in which attorney-client relationships often mirror white dominant culture values and impact our ability to effectively serve our clients’ needs. Close with reflective questions: What is one step you’d like to take to further your own learning & development on these topics? What resources, information, additional training, or other support would help you be successful in your work going forward?

*Resources:*

- Core Curriculum, Parts III - V
- For a copy of JustLead’s slides and facilitator notes for this section, please contact [info@justleadwa.org](mailto:info@justleadwa.org).
- Kirwan Institute Online Implicit Bias Video Training, <http://kirwaninstitute.osu.edu/implicit-bias-training/>
- Dr. Nieto’s [ADRESSING Model and Social Rank Categories](#)
- [Transforming Culture: An Examination of Workplace Values Through the Frame of White Dominant Culture](#)



## ***Sample 90-Minute Training Agenda***

In a 90-minute training (or even in a half-day training), it is difficult to explain or explore the many different power and cultural dynamics that may arise within the context of pro bono work. We recommend starting with broad frameworks that help participants build their understanding of bias and oppression as well as strategies for building self-awareness (while interweaving suggestions for further resources and training), as these concepts can encourage a respectful and client-centered approach to interactions.

For short trainings we recommend:

- Starting with dialogue about why and how equity and racial equity are critically connected to pro bono work
- Including a brief overview of how legal systems and structures have been “racialized” and how explicit and implicit bias creates and maintains racialized systems

### **9:00am – 9:20am *Welcome & Grounding in the 'Why'***

Welcome attendees to the training, offer time for introductions if the group is small enough, and invite dialogue about why race equity and anti-bias work is critical to the work of pro bono attorneys. Include information about the intersection between race and poverty (or race and substantive areas of practice depending on audience).

Resources:

- Core Curriculum, Part I
- For a copy of JustLead's slides and facilitator notes for this section, please contact [info@justleadwa.org](mailto:info@justleadwa.org).
- [Race Equity & Justice Initiative \(REJI\) Acknowledgments & Commitments](#)
- [Sample Community Agreements](#)

### **9:20am – 10:00am *Foundational Concepts***

Brief introduction to core concepts such as structural racism, race equity, and implicit bias, including social cognition (the “brain science” behind bias). Where possible, include examples of how the local community has been racialized, such as historical examples of redlining and segregation and/or local perspectives from community leaders of color about the current reality of living in the community and/or interfacing with the justice system.

Resources:

- Core Curriculum, Part II

- For a copy of JustLead’s slides and facilitator notes for this section, please contact [info@justleadwa.org](mailto:info@justleadwa.org).
- [Mapping Inequality](#) offers redlining maps and examples for communities throughout the United States, including Seattle, Tacoma, and Spokane.
- [Project Implicit](#) - Implicit Association Tests

10:00 – 10:30am

***Strategies for Interrupting Implicit Bias***

Preview strategies to interrupt racism and microaggressions and engage more competently with clients of color and clients experiencing poverty. With a limited amount of time, encourage general principles of increased self-awareness and understanding of one’s own social identities with options and resources for further learning.

Resources:

- Core Curriculum, Parts III - V
- For a copy of JustLead’s slides and facilitator notes for this section, please contact [info@justleadwa.org](mailto:info@justleadwa.org).
- Kirwan Institute Online Implicit Bias Video Training, <http://kirwaninstitute.osu.edu/implicit-bias-training/>
- Dr. Nieto’s [ADRESSING Model and Social Rank Categories](#)