Implicit Bias —
A Law Enforcement Perspective

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Implicit Bias: A Law Enforcement Perspective

By Heather B. Perkins and Janine M. Gilbert, Esq.

The following is not the opinion or official policy of the NYPD with respect to implicit bias in policing. Several studies have been conducted on this topic, and abundant research material is available based on empirical data. This paper approaches the subject from the perspective of a career police sergeant and a police executive (a former prosecutor) who have worked for years on developing an implicit bias training for police officers. The hope is that this paper may provide useful information that will help to explain *one* law enforcement perspective on implicit bias in policing, proposed implicit bias training, and the challenges faced by police officers and law enforcement executives, as opposed to an academic or clinical review of the subject.

Implicit Bias Training has emerged as the new panacea for discrimination, whether experienced by coffee house customers, college kids, tech executives, or members of the community who interact with the police. Though there is not a consensus on the efficacy of training on the topic, or even on what effective training would look like, there has been a general surge in the direction of disseminating it in response to critical incidents occurring in institutions and corporations, especially when race is involved. As a result, there are two simultaneous lines of inquiry regarding implicit bias, one is the original question of, "What it is and how it effects our behavior?", and the other is, "What is to be done about it."

Some law enforcement executives are starting to accept the idea that implicit bias has played a part in some of the decision-making and behavior of officers, and that training is required to begin to address the issue. Police officers, like every other segment of the population, are susceptible to the influence of the information and input they receive on a daily basis, particularly from news media, movies, television, the experiences of their friends and peers, and family lore. Some may say officers are even more susceptible because they risk their lives everyday just by showing up at work. The NYPD has embarked on the journey of educating each of the nearly 37,000 uniformed members of service in the department about implicit bias and its impact on policing. The goal of the NYPD is observable and measurable behavioral change in its officers. However, there are many obstacles to transforming the intention of making all members of service aware of implicit bias into achieving that goal.

This discussion is intended to identify the challenges faced by law enforcement in addressing implicit bias, review approaches to addressing it in our enforcement ranks and beyond, and on establishing a framework for evaluating success in this arena. There has been an abundance of scholarship on the topic of implicit bias and policing, its effects on our behavior, and the best way to combat it.[1]

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[1] Fridell, Lorie A., Producing Bias-Free Policing: A Science-Based Approach, Springer (2017); Spencer, K. B., Charbonneau, A. K., & Glaser, J. (2016), "Implicit Bias and Policing," *Social and Personality Psychology Compass*, *10*(1), 50-63. doi:10.1111/spc3.12210; Weir, K., "Policing in Black & White, Police Departments are Eager for Ways to Reduce Disparities and Psychological Research is Beginning to Find Answers," *Monitor on Psychology*, *47*(11), 36 (December 2016); Goff, P.A., & Kahn, K.B., "Racial Bias in Policing: Why We Know Less Than We Should," *Social Issues and Policy Review*, (March 2012).

This is the first challenge that confronts law enforcement, the divergent camps and their varying beliefs on how much impact implicit bias has on our behavior, and the validity of any form of training that may be based on it. Researchers such as Joshua Correll and Tracie Keesee find racial bias in the shoot/don't shoot decision of officers,[2] while other research claims to find no statistical discriminatory result in the same set of decisions.[3]

Law enforcement tends to be full of cynics, and for those people, a lack of consensus in an idea is a red flag. Therefore, a notion that suggests they may not be aware of what drives their decision-making or behavior is extremely hard to accept. Law enforcement training hones tangible skills, such as those intended to uncover truths, reveal lies, not take things at face value, find a theory that is supported by evidence, and follow the trail of motive and intent to identify the bad actors in society and to solve crime. "The inherent stress and frustration found in the law enforcement profession" causes cynicism in many officers.[4] "Cynicism can be defined as a means to display an attitude of contemptuous distrust of human nature and motives."[5] It should be noted that it is generally understood that the type of personality found in law enforcement is one that tends toward absolutes and sees the world in a binary fashion – right and wrong; lawful or unlawful; dangerous

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[2] Correll, J., *et al.* (2007). Across the Thin Blue Line: Police Officers and Racial Bias in the Decision. *Journal of Personality and Social Psychology*, *92*(6), 1006–1023.

[3] Roland G. Fryer J. An Empirical Analysis of Racial Differences in Police Use of Force. Journal of Political Economy. Forthcoming.

[4] Behrend, Kenneth R. "Police Cynicism: A Cancer in Law Enforcement?" *FBI Law Enforcement Bulletin*, August 1980, Vol. 49, No. 8, at 1. http://www.ncjrs.gov/App/publications/abstract.aspx?ID=76356
[5] http://www.ncjrs.gov/App/publications/abstract.aspx?ID=76356

or safe, etc. Whether this tendency is a result of their training or is what drew them to the profession to begin with, is another question that we are not addressing; but law enforcement is well populated with proof-seeking, polarized thinking, cynics. As such, a concept in social science (sometimes referred to in police circles as "soft science") that still seems unsettled, is challenged to find support in the law enforcement community. This is not to say that all law enforcement officers are cynics, solely that the type of personality commonly found in police ranks has to be factored into the equation in order to develop an effective and long lasting training that will impact officer decision-making and behavior.

The next challenge is the "*Us vs. Them*"[6] mentality that pervades law enforcement communities. Though most communities or populations have their own version of "us vs. them," it is particularly strong in law enforcement circles. In law enforcement, "the 'us' are his fellow police officers, and 'them' becomes the remainder of society."[7] This can be attributed to the type of work officers are asked to do. Officers are repeatedly exposed to the worst sides of humanity, causing them to question the motives and actions of the people they encounter. Officers are constantly aware that there is a real danger that intentional harm may be inflicted by others at any time. Finally, the rigid paramilitary structure of law enforcement organizations requires officers to follow orders, defer to the rank and command structure, and depend upon their group for safety. As a result, mistrust and doubt

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[6] Behrend, Kenneth R. "Police Cynicism: A Cancer in Law Enforcement?" *FBI Law Enforcement Bulletin*, August 1980, Vol. 49, No. 8, at 2. http://www.ncjrs.gov/App/publications/abstract.aspx?ID=76356
[7] Id.

are inherent in most police encounters, pushing the "them" further away, resulting in an overreliance on "us."

This divide is compounded by the lack of understanding by the greater community of the realities faced by police. There are myths about all professions, usually helped along by Hollywood and other popular entertainment, but the result of the disconnect between what the public thinks they know about policing and the realities of the job have an even more polarizing effect. These assumptions about policing lead people to believe that they know what an officer should have done, and the officer's motivation for the action taken. Given that these situations can be fraught with personal danger and are rarely reported accurately to begin with, officers expect that non-law enforcement personnel will not understand the facts of the incident and may even be actively hostile to police and law enforcement generally.

The challenge this presents with implicit bias training is two-fold. First, it makes any information coming from a non-police source de facto less credible. Second, it magnifies the resistance to the information because as long as other in-group members (officers, units, or departments) don't buy into a concept such as implicit bias, the concept's credibility is weakened. This creates a C*atch 22* for the introduction of ideas from outside law enforcement circles, and highlights the importance of finding partners within law enforcement to be able to develop a training that can reach officers.

The third challenge is that culture change take time. Even innovative attitudes that originate from inside an organization or culture need time, faith, repetition, and

buy-in (especially from the leadership) to be adopted and passed down to subsequent generations. The larger the population and the deeper entrenched opposing ideas are, the longer and more difficult the change process becomes.

This is not to suggest that law enforcement should be allowed to abdicate responsibility for recognizing and addressing obstacles to providing fair, legitimate, and impartial service to all communities equitably. This is simply a factor that must be considered when developing training and evaluating its efficacy. In order to address these challenges, we have developed some ideas about the best approach to addressing implicit bias in law enforcement.

Not only must it be exemplary, the training also has to have as its goals: (1) developing informational awareness, (2) addressing actual changes in behavior, (3) changing attitudes about the community itself, specifically historically marginalized communities, and law enforcement's relationship with the community (transforming "us vs. them" to "we are them"), and do so in a manner that law enforcement personnel will be open to accepting it (which may not necessarily always look the way the community or social scientists think it should.) However, the first and, arguably, most important aspect is the development of awareness of implicit bias.

Chief of Police Kenneth Behrend noted the following about cynicism, a similar and related problem:

> The first and perhaps best line of defense against allowing police cynicism to infect you or your agency is simply acknowledging that it does exist. It is real, and as such, can be prevented or corrected. Being aware of what it is in layman's terms is an asset in identifying the symptoms and taking corrective action or instituting procedures which will minimize its occurrence.... By educating our personnel that cynicism is a reaction to conditions that can strike anyone and expose

the phenomenon so that it can be understood, we have taken the first step toward preventing its occurrence.[8]

Similarly, the awareness component of any implicit bias training curriculum is key. Awareness of how our brains work and how we make decisions gives us a chance to recognize where bias may impact that process, therefore, allowing us the opportunity to control against its effects on our behavior. Though the positive effect of awareness on policing behavior is difficult to measure, if not impossible, it should still be the essential component. The first step to solving any problem, is recognizing that there is a problem.

The aspects of the training that address behavioral change should build upon the structure of preexisting police training. The institution of new, stand-alone, behavioral expectations would be difficult and prone to failure. Instead, the curriculum should identify existing police tactics that provide officers the opportunity to allow their newly developed awareness of implicit bias to help inform their decision-making and behavior. "Don't rush" is a good example. In critical situations officers must work quickly, but it is considered "Best Practice" not to rush in without evaluating a situation first. Rushing can result in decision-making with insufficient information and often leads to mistakes.

For example, when responding to a domestic violence call, officers are taught to gather as much information as possible from databases, 911 operators, complaints/witnesses, and prior incident reports, as well as develop a plan of action

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[8] Behrend, Kenneth R. "Police Cynicism: A Cancer in Law Enforcement?" *FBI Law Enforcement Bulletin*, August 1980, Vol. 49, No. 8, at 3. http://www.ncjrs.gov/App/publications/abstract.aspx?ID=76356

with their partner before arriving on the scene. If, however, in the rush to respond to such a call for service, officers do not utilize these resources in the time available prior to arriving on the scene, they will be forced to be overly dependent on assumptions and observations they make upon arrival. This situation creates the opportunity for bias to inform decision-making, putting all parties at greater risk. One of the assumptions in a domestic violence situation is likely to be that the parties involved are a heterosexual couple and that the male is the aggressor. In fact, there are documented instances where officers have been attacked by a female aggressor because they entered a situation focusing on the male participant as the perpetrator. If training emphasizes the link between good police tactics and overcoming a reliance on assumptions informed by implicit bias, then it offers the best opportunity to be accepted by officers and influence their behavior and decision-making.

Additionally, any discussion around implicit bias has to address the matter of race head on. Officers are predisposed to believe that implicit bias training is about race and racism. In fact, many will think the purpose of the training is to expose them as racist. This training, however, is not intended to uncover racists or those with explicit biases, but it is intended to address those implicit biases that inform decision-making and behavior. Failure to talk about race directly, and specifically how implicit biases around race impact police decision-making, will compromise the credibility of both the training and the trainers. Reluctance or outright refusal to address race communicates an unwillingness to reckon with such controversial

topics and can be interpreted as resistance to the overall culture change this training seeks to effect.

Additionally, the curriculum must tackle cynicism and the "us vs. them" mentality and how to combat it. In order to truly have a positive outcome, one of the primary goals must be overall culture change. Moreover, there is an element of community buy-in and public commitment by community leaders and elected officials to the training and to allowing the change process to occur. This culture change will take time, as true change comes slowly, and there may be setbacks. Community leaders have to be prepared to work with law enforcement in the aftermath of any incidents, and trust in the Agency's commitment to change. While the lion's share of responsibility in this space falls on the paid professionals that have sworn an oath of service to the community, real and lasting change can only be achieved if the community participates and is invested as well. In order for officers to see themselves as part of the communities they serve, communities have to accept the legitimacy of law enforcement and its place in society.

The training itself has to be presented in small groups such that participant's individual skepticism and cynicism can be directly addressed by the facilitators. Additionally, the facilitators must be extremely knowledgeable about the material and possess excellent classroom management skills. Without these two elements, the training will be unsuccessful, and threatens to further officer's distrust. Officers who have attended an ineffective training are harder to convince of the importance of implicit bias awareness. This means there must be buy-in from the top executive staff, before the attitudes of the rank-and-file are addressed. The executive corps

of any department deciding to implement this kind of training, has to accept it as more than a public relations maneuver. They have to understand the mechanisms of bias and the ways that they pose risks to their officers and to the communities they serve.

Furthermore, every stakeholder has to be clear on the goals: changing outcomes of police interactions with communities, specifically those that have been historically marginalized. If this is the goal, then the public and academics, alike, have to trust that experienced and knowledgeable police trainers know the best way to achieve this. The community may wish for the training to have a greater focus on the impact of officers' mistakes on public. Academics often want the language of the training to more science-based and technically specific. However, this training will be most successful if it is created with an understanding of the culture of each specific organization and tailored to how the members of service think and their motivations.

Finally, there is the question of what success looks like and how we measure it. Social scientists are not in agreement about what constitutes an effective training or how to evaluate success. Some research suggests that there is little positive impact on the behavior of attendees of implicit bias training, or that its effect is short lived. [9] We contend that the fact that the training shows a change of behavior, even if short-lived, is sign of its efficacy. This demonstrates that the training effects

[9] Forscher, Patrick & Lai, Calvin & R. Axt, Jordan & R. Ebersole, Charles & Herman, Michelle & Devine, Patricia & Nosek, Brian. (2016), "A Meta-Analysis of Change in Implicit Bias;" James, T. (2017, December 23) "Can Cops Unlearn Their Unconscious Biases?" *The Atlantic.* Online.

behavior and suggests that continued reinforcement and exposure to the concept would have a lasting effect. Weaving the ideas into other trainings and procedures, and actively working towards buy-in will promote change in the agency culture in general, and specifically around issues of bias and the behavior of officers.

A successful training would result in officer awareness of implicit bias and taking measures to minimizes its effects; officer and executive buy-in into the concept of implicit bias and its impact on policing; culture change; and a transformation of the relationship between law enforcement and the community, eliminating the "us vs. them" mentality. These can be measured by internal climate surveys which are designed to evaluate members of service familiarity with the concept of implicit bias and their buy-in; an examination of the frequency the idea occurs in the overall training curriculum, policies, and procedures; and an improved community sentiment gauged by satisfaction surveys.

Implicit Bias:
The Law Enforcement Perspective

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Disclaimer

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Outline:

- Why Are We Talking about Implicit Bias?

- Challenges Faced by Law Enforcement

- Approaches to Addressing Implicit Bias

- Success and How to Measure It

3

Why Implicit Bias?

- Cognitive bias that unintentionally effects behavior
- Observable decline over time in explicit bias (racism/sexism/homophobia/anti-Semitism)
- No associated decline in discriminatory outcomes
- Implicit Bias may explain the gap

4

Why Implicit Bias Training?

- Bring awareness

- Bridge the gap

- Move toward change

- Address the issues head on

5

Challenges:

- "Personality" of police officers

- Skepticism of Law Enforcement

- Us vs. Them mentality

- Effective training takes time and resources

- Culture change takes time

6

Approach to Addressing Implicit Bias:

- Clear Goals

- Strong Training

- Universal Experience

- Risk Based Focus

- Multidimensional Considerations

7

Goals of Implicit Bias Training

- Awareness

- Behavior Change

- Replace *"Us vs. Them"* Mentality with *"We are Them"*

- Address the Issue of Bias Openly

8

Training Structure

- Small Class Size

- Full Training Day or Days

- Excellent Facilitators

- Curriculum Tailored to Audience

9

Universal Experience

- Explain how cognitive bias effects all people

- Identify where it can be seen in daily life

- Draw connections between everyone's experience

  and policing experience

10

Risk-Based Focus

- Training needs to focus on what is at risk

- Officer safety

- Public safety

11

Multidimensional Approach

- Talk about history of law enforcement and community

- Reflect on current tensions/problems

- Self-diagnose causes

- Obstacles to solutions

- Reaffirm mission and ideals

12

The following is an example of what a small part of the risk-based curriculum might look like...

13

Implicit Bias – Defined:

- Attitudes about people, that influence decision-making, unrelated to the nature of one's character.

14

Implicit Bias

- Universal to the human condition

- Not a condemnation of character

- Not the result of conscious racism

  - Implicit bias is not code for racist

- Presents performance risks for personnel

- Awareness can help avoid falling into traps

15

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Training Need

- Human brains have evolved to act in certain ways.
- Brains make decisions without our conscious input.
  - Some responses are helpful:

    (Stove= Hot = Do Not Touch)
  - Some responses can put us at risk:

  (Female = Not Threatening= Diminished Awareness)

16

Subconscious Conclusions

- Think Branding

- Can you name
  these Brands →

- Were you born knowing them?
- How did you learn them?

17

What does this have to do with policing?

- The same forces that influence our brains to know brands, also influence our brains in other ways.

- Our brains *usually* get it right.

- Sometimes our brains don't and we fall into a trap.
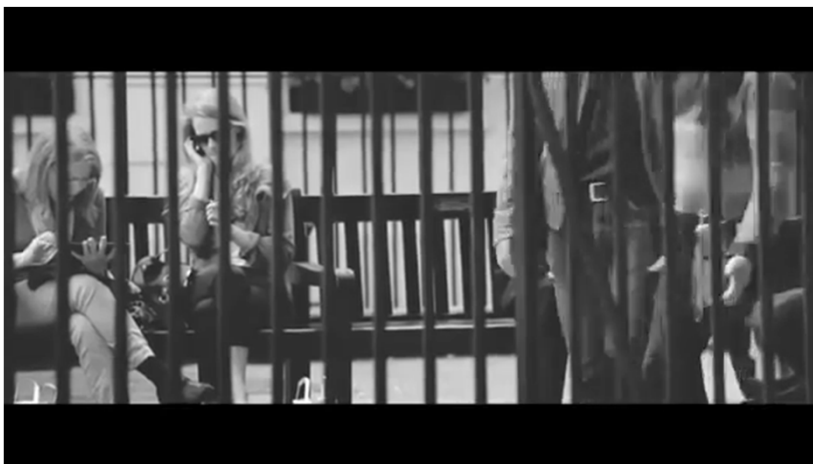
- Those traps put us at risk.

18

Risks

- Personal safety

- Legitimacy

- Reputation

- Tension

- Fairness

- Failure of Mission

- Public Safety

- Loss of trust

- Discipline

- Litigation

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Training Need

20

This type of training is about...

Creating awareness of the factors,

including implicit bias, that go into

human decision-making, and

learning how we can avoid falling

into traps -- or defuse them.

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Awareness

- **Not** about condemning character
- **Not** about reprimanding you
  ∾
- *Is* about identifying potential problems
- *Is* about developing mental tactics
- *Is* about avoiding traps

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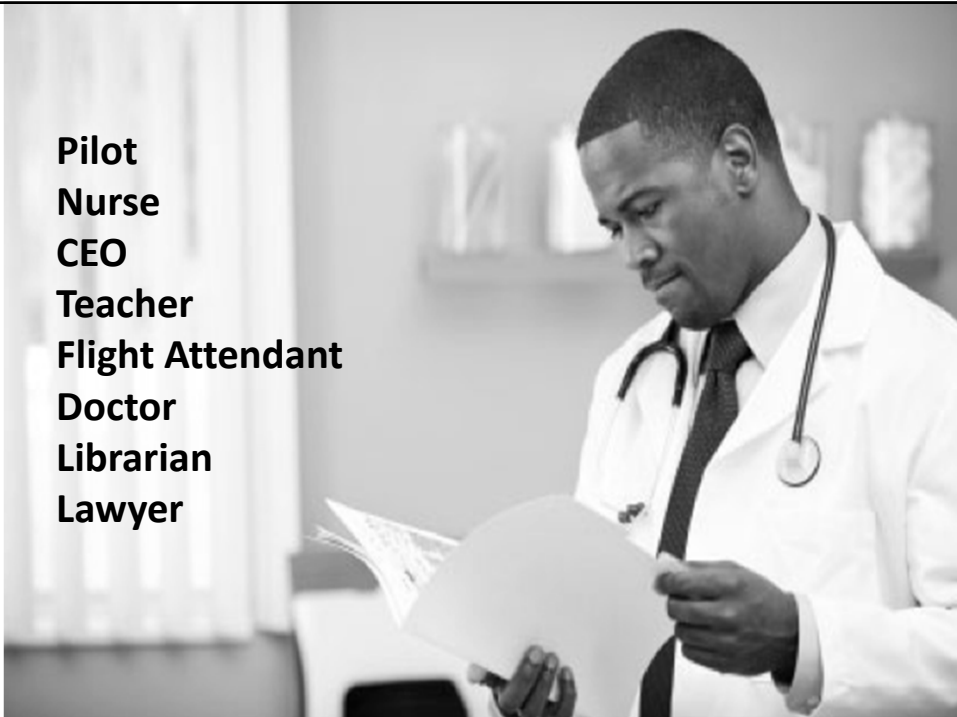
Observation Skills Test

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- Teacher
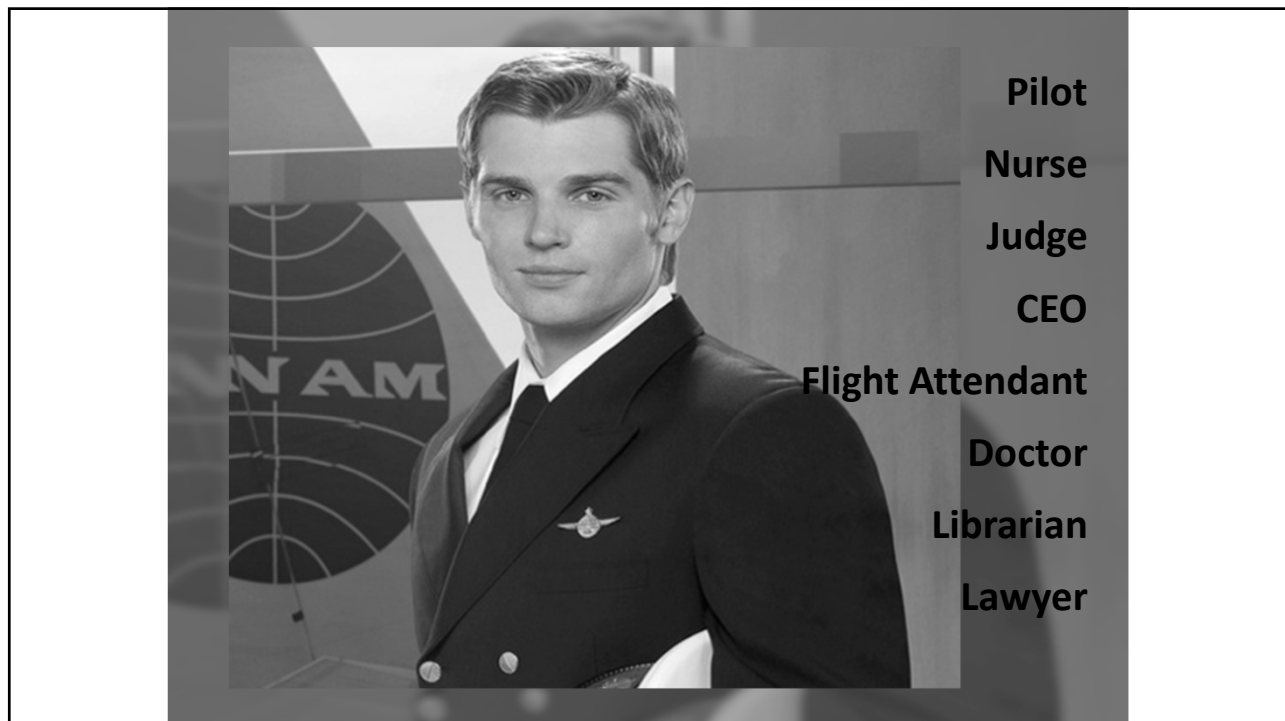- CEO

- Flight Attendant
- Doctor
- Librarian
- Lawyer

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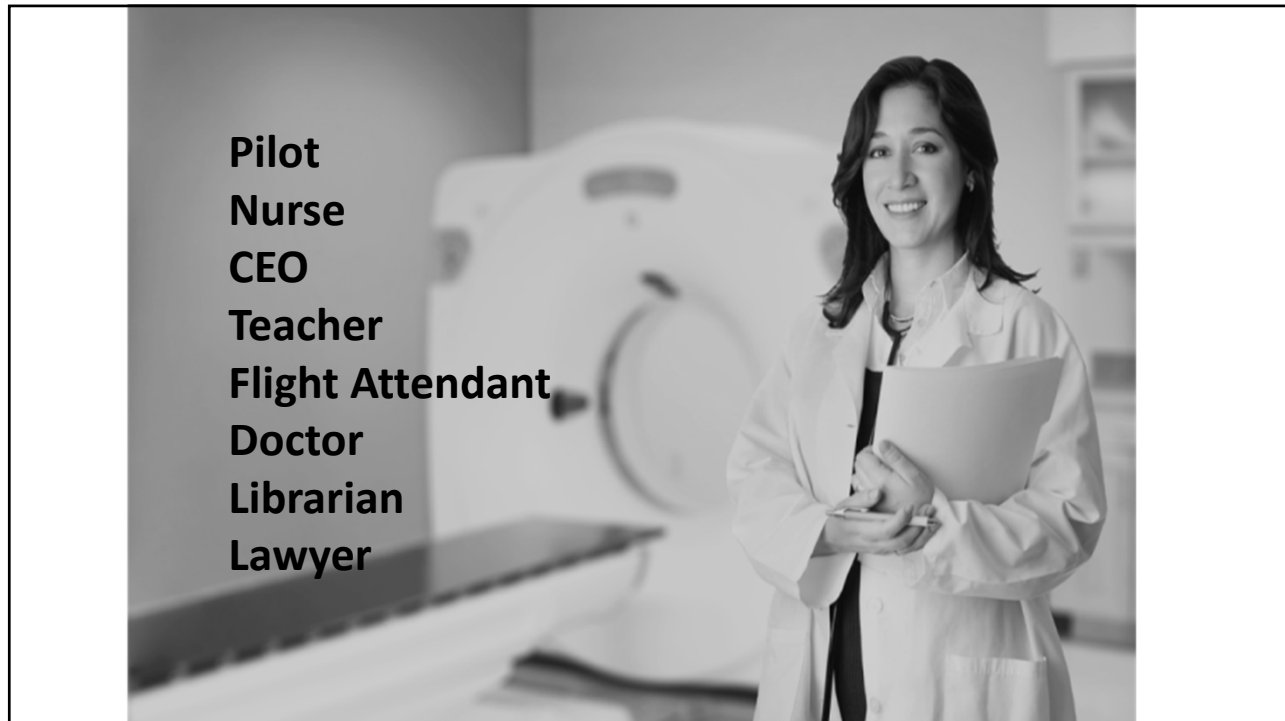**Doctor**
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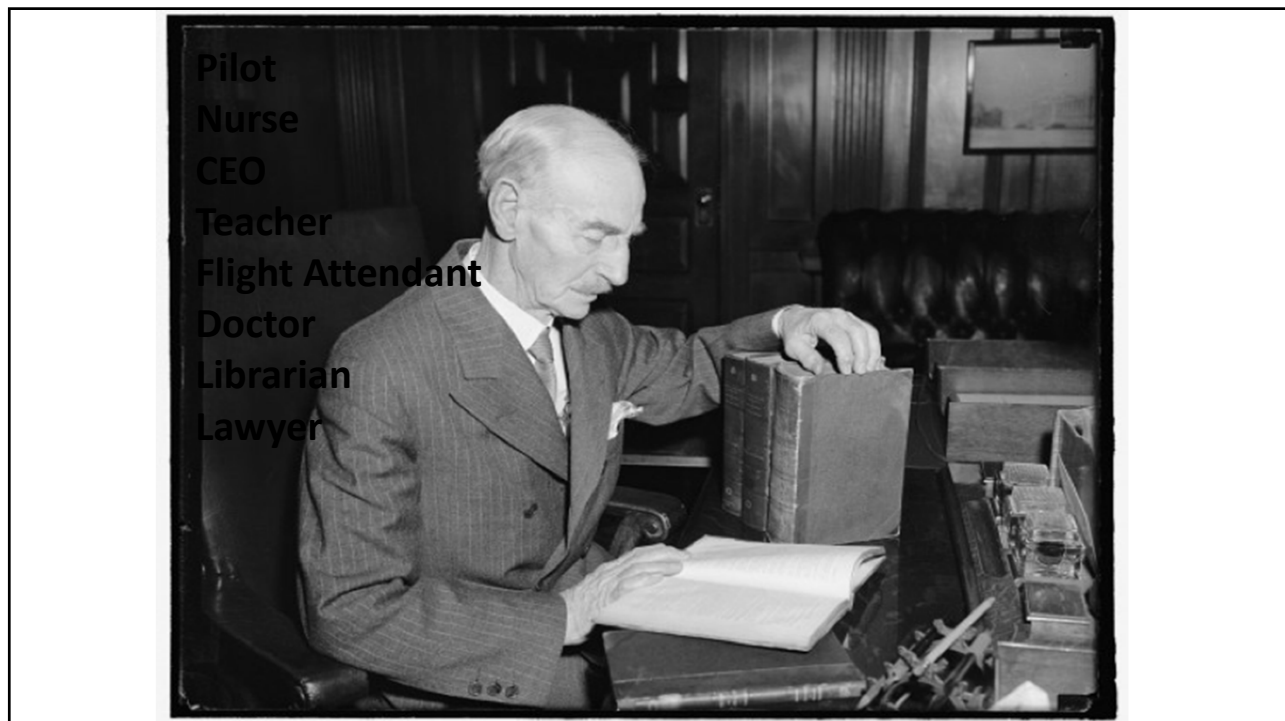**Flight Attendant**
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Lawyer

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Evaluation

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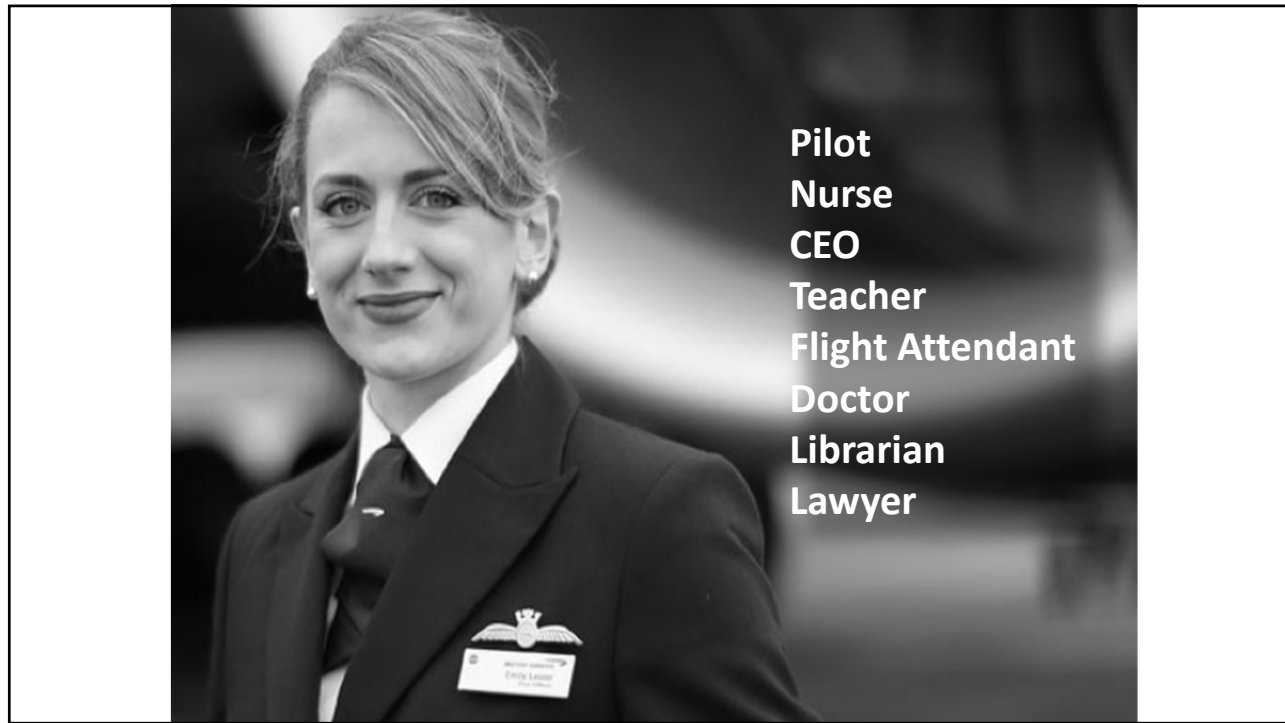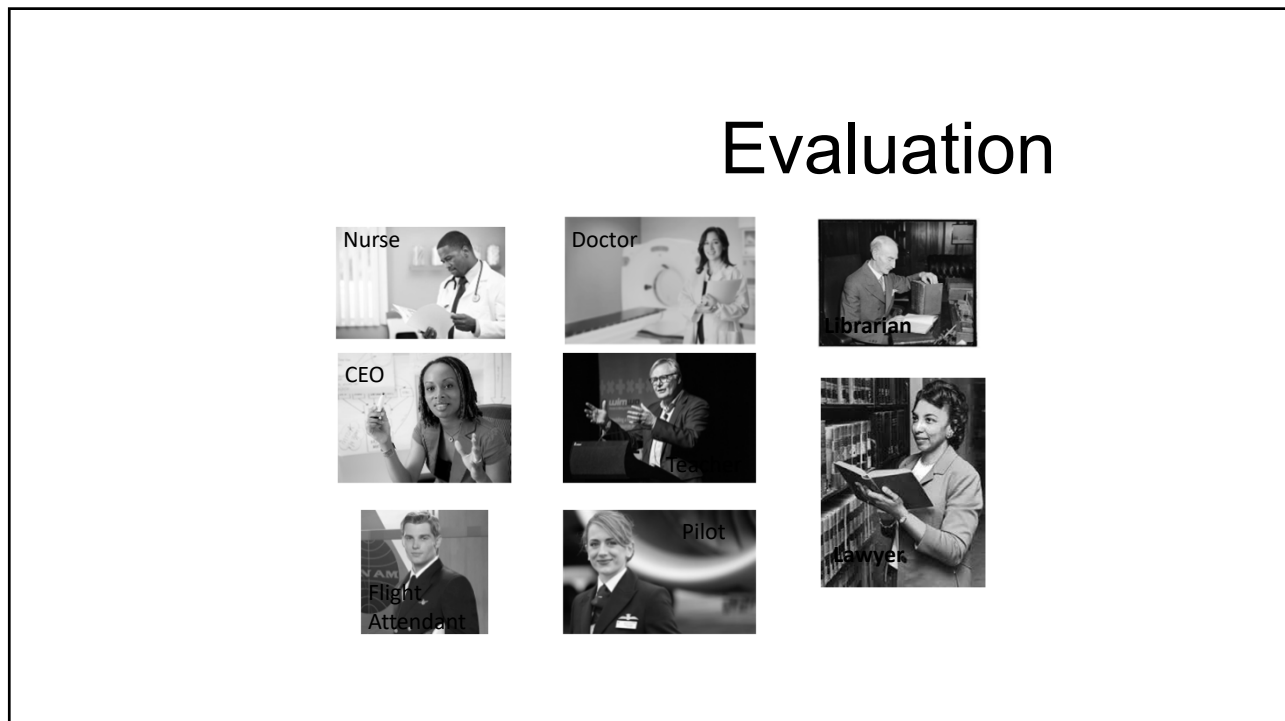
Where does it come from?

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AP Associated Press — AP - Tue Aug 30, 11:31 AM ET

A young man walks through chest deep flood water after looting a grocery store in New Orleans on Tuesday, Aug. 30, 2005. Flood waters continue to rise in New Orleans after Hurricane Katrina did extensive damage when it

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Two residents wade through chest-deep water after finding bread and soda from a local grocery store after Hurricane Katrina came through the area in New Orleans, Louisiana. (AFP/Getty Images/Chris Graythen)

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Aligning Behavior to Values

- Is behavior always consistent with values?

- Situations can affect behavior more than character.

- Situations can make us behave in ways that are inconsistent with who we think we are.

- When we do, we get trapped.

35

Situations that make us vulnerable

- Feeling threatened
- Being mentally taxed

- Complacency
- Being in a bad mood

- Making quick decisions
- Multitasking

36

Implementation:

- Full Training Day or Days

- Integration of the idea into trainings

- Consistent Follow-up and reinforcement

37

What does success look like?

- Awareness

- Buy-in

- Culture change

- Improved community sentiment

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How To Measure Success?

- Familiarity with the concept of Implicit Bias

- Prevalence of idea in training curriculum

- Buy-in gauged by internal climate surveys

- Community satisfaction surveys

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Thank You

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