

Hawaii Access to Justice Commission

2016 Access to Justice Conference

Friday, June 24, 2016

Workshop: “Implicit Bias and Access to Justice”

Presenters: Professor Charles Lawrence, Professor Justin Levinson,
Justice Simeon Acoba (ret.), Judge Michael Town (ret.)

Prepared by: Mihoko Ito

Professor Levinson began the session with a group exercise to help understand and recognize implicit bias and provide a framework for the discussion. He indicated that, in Hawaii, the strongest implicit bias occurs with the Micronesian community. Implicit bias can also impact access to justice in many ways, including housing, employment, education, and in the courtroom.

Judge Town discussed how jurors in the courtroom are impacted by biases and how judges could help improve expectations of jurors by focusing on effective communication and instruction.

Justice Acoba also discussed the judicial perspective, citing to the Hawaii Code of Judicial Conduct standard which prevents judges from manifesting bias by words or conduct. He also discussed where biases can appear during jury selection, sentencing and in grand juries, and how institutional or procedural unfairness can perpetuate implicit biases.

Professor Lawrence indicated that we are all collectively and equally infected by implicit bias, and despite this fact, judges routinely place themselves in the top quartile of being able to avoid bias. He talked about what we as a community can do to change implicit bias – we can look for it by testing and trying to recognize our own biases, but it is also important to analyze systemic and structural implicit bias in order to create change.