Practical Steps for Interrupting Bias in the Legal Profession

Distinguished Professor Joan C. Williams
Director, Center for WorkLife Law
University of California, Hastings College of the Law
Huge Body Of Research

• Hundreds of lab studies

• Documenting bias over and over again for 40 years

• Do these lab studies describe what actually goes on at work?
What Works for Women at Work

96% of women reported gender bias

Four distinct kinds of bias

- **Tightrope**: 73%
- **Prove-It-Again!**: 68%
- **Maternal Wall**: 59%
- **Tug of War**: 55%

Williams & Dempsey, 2014
Workplace Experiences Survey

• 10-minute organizational climate survey
  • Whether: race, gender, class origin, disability
  • Where: e.g. assignments, performance evaluations
  • Impact: on belonging, intent to stay etc.
YOU CAN'T CHANGE WHAT YOU CAN'T SEE

Interrupting Racial & Gender Bias in the Legal Profession
Feedback

I don't receive constructive feedback.

% agreement

- White Men: 21
- White Women: 26
- Men of Color: 40
- Women of Color: 35
Compensation

My pay is comparable to that of my colleagues who have similar qualifications and experience.

% agreement

- White Men: 66%
- Women of Color: 35%
- Men of Color: 63%
- White Women: 42%
1. INDIVIDUAL BIAS INTERRUPTERS

*What individuals can do*

2. ORGANIZATIONAL BIAS INTERRUPTERS

*Changing organizational systems*
Compensation:

- Establish procedures to ensure the reality of fairness.
  Institute a low-risk way partners can receive help in disputes over credit. Set up a way to settle disputes over origination and other forms of credit that lawyers can use without raising eyebrows.
Tightrope 73%
Prescriptive Stereotypes

♀ are expected to be…
- *Nice*
- “Communal”
  - Helpful
  - Modest
  - Interpersonally sensitive
- *Good team players*

♂ are expected to be…
- *Competent*
- “Agentic”
  - Direct
  - Assertive
  - Competitive
  - Ambitious
- *Leaders*

Eagly & Karau, 2002; Fiske, Cuddy, Glick, Xu, 2002; Bettis & Adams (forthcoming).
So if you’re stern… or you say no, your immediate reaction is to call that woman a b*tch, right? If you’re a man, it’s just a no.”

Study: 66% of women; 1% of men

Supporting evidence: Rudman & Phelan, 2008; Brett, Atwater, & Waldman, 2005; Rudman & Fairchild, 2004; Rudman & Glick, 2001; Costrich, Feinstein, Kidder, Marecek, & Pascale, 1975. Snyder, 2014
Performance Evaluations:

- **Separate personality issues from skill sets** for each candidate.
  Personal style should be appraised separately from skills, because a narrower range of behavior often is accepted from women and people of color. For example, women may be labeled “difficult” for doing things that are accepted in majority men.
Tightrope

Assertiveness: Hillary problem

I seldom receive pushback when I behave assertively.

- White Men: 62%
- Women of Color: 46%
- White Women: 49%
- Men of Color: 60%

16%
Tightrope | Express Anger: Serena problem

I feel free to express anger at work when it’s justified.

% agreement

- White Men: 56%
- Women of Color: 40%
- White Women: 44%
- Men of Color: 43%
Tightrope | Self-Promotion

% agreement

Rewarded for self-promotion

- White Men: 61%
- White Women: 51%
- Men of Color: 59%
- Women of Color: 54%

10%
"In most Asian cultures, being modest is the number one virtue."

Boasting and self-promotion and credit hogging are wrong and unseemly

Williams, 2010 (quoting Lubrano, 2004).
Performance Evaluations:

- **Level the playing field** by ensuring everyone knows how to promote themselves effectively and sending the message they are expected to do so. Distribute our *Writing an Effective Self-Evaluation Worksheet*, which can help.
Tightrope

Pressures to Behave in Feminine Ways

• Organizational citizenship behavior

• Women do more of it
  – And get less credit for doing it
Tightrope | Office Housework

- **Administrative work**
  - Scheduling conference calls, filling in on a recruiting schedule

- **Emotion work**
  - Responsible for associate morale

- **Glamour work vs. undervalued work**
  - “We do the task list.”
Tightrope

Administrative work

% agreement

More administrative tasks than colleagues

- White Men
- White Women
- Men of Color
- Women of Color

21%
Office Housework Interrupters

You suspect that women do more of the office housework.

• How can you find out if this is true?
• How can you as an individual intervene?
Individual Bias Interrupters

• DON’T ask for volunteers
• DO establish a rotation of admin and literal housework
  – OR assign to support personnel
Who’s a worker bee?

I am expected to be a "worker bee" who works hard, avoids confrontation, and does not complain.

- 20% of White Men agree
- 61% of Women of Color agree
- 55% of Men of Color agree
- 58% of White Women agree
Tightrope  

Who’s a leader?

People at work see me as a leader.

% agreement

- White Men
- Women of Color
- Men of Color
- White Women

11%
Prove-It-Again! 68%
I have been mistaken for administrative staff, custodial staff, or court personnel.

<table>
<thead>
<tr>
<th>Category</th>
<th>Agreement</th>
</tr>
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<tbody>
<tr>
<td>White Men</td>
<td>7</td>
</tr>
<tr>
<td>Women of Color</td>
<td>58</td>
</tr>
<tr>
<td>Men of Color</td>
<td>30</td>
</tr>
<tr>
<td>White Women</td>
<td>51</td>
</tr>
</tbody>
</table>

% agreement
Prove-It-Again!  Lack of Fit

Have to prove themselves more than colleagues

% agreement

- White Men: 28
- Women of Color: 63
- Men of Color: 54
- White Women: 54

35%}

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An Initiative of the Center for WorkLife Law at UC Hastings
"I love her—but she’s not ready"

"No one assumes you got promoted because you were the smartest person in the room."

Tightrope | Prove-It-Again!
"Male laterals are taken at their say-so. Female laterals have to show they have the book of business."

Biernat, Fuegen, & Kobrynnowicz, 2010; Bowles & Gelfand, 2010; Bauer & Baltes, 2002.
Hiring:

- **Pre-commit to what’s important—and require accountability.** Pre-commit in writing to what qualifications are important, both in entry-level and in lateral hiring. When qualifications are waived for a specific candidate, require an explanation of why they are no longer important—and keep track to see for whom requirements are waived.
Performance Evaluations:

- Require evidence from the evaluation period that justifies the rating.
  Try: “In March, she gave X presentation in front of Y client on Z project, answered his questions effectively, and was successful in making the sale,” instead of: “She’s quick on her feet.”
Prove-It-Again! | Stolen Idea

Prove-It-Again!  ABA/MCCA Study

Contributions attributed to someone else

<table>
<thead>
<tr>
<th></th>
<th>White Men</th>
<th>Women of Color</th>
<th>Men of Color</th>
<th>White Women</th>
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<tbody>
<tr>
<td>0% agreement</td>
<td>29%</td>
<td>51%</td>
<td>35%</td>
<td>49%</td>
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</tbody>
</table>

22%
Stolen Idea

You are sitting in a meeting and you see the stolen idea occur.

- Why does this happen?
- If so, how do you intervene?
Individual Bias Interrupters

• “Is there an echo in here?”

• “I’ve been thinking about that idea ever since Pam first said it. You’ve added something important, Tim – maybe here’s the next step.”

Uhlmann & Cohen, 2005; Tetlock, Tetlock & Mellers, 2011
Maternal Wall

59%
Maternal Wall  Negative Competence and Commitment Assumptions

• 79% less likely to be hired
• Half as likely to be promoted
• Offered $11,000 less

Correll, Benard, & Paik, 2007; Heilman & Okimoto, 2008; Cuddy, Fiske, & Glick, 2004; Fuegen, Biernat, Haines, & Deaux, 2004.
Maternal Wall

Commitment and Competence

Parenthood didn't harm perceived competence

% agreement
Maternal Wall

Flexibility Stigma

- Asking for family leave or flexible work arrangements would not hurt my career. (Engineers)
  - Women: 50%
  - Minority: 50%
  - White Men: 63%

- Asking for flexible work arrangements would not hurt my career. (Lawyers)
  - Women: 35%
  - Minority: 34%
  - White Men: 50%

% agreement
Use Metrics:

- Do women’s ratings fall after they have children? Do employees’ ratings fall after they take parental leave or adopt flexible work arrangements? Do parents returning from leave do more office housework?
Tug of War 55%
“Opportunities for women are very zero-sum. If one woman gets a prized position…another woman won’t. And so it breeds a sense of competition.”

I’m not a girl at Google, I’m a geek at Google.”

- Marissa Mayer
Tug Of War

Admin Support

<table>
<thead>
<tr>
<th>% agreement</th>
<th>Women</th>
<th>Minority</th>
<th>White Men</th>
<th>White Women</th>
<th>Women of Color</th>
<th>Men of Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Engineers)</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>I find it difficult to get administrative personnel to do the kinds of support work for me that they do for other engineers.</td>
<td>19</td>
<td>24</td>
<td>13</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Lawyers)</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>I find it difficult to get administrative personnel to do the kinds of support work for me that they do for other lawyers.</td>
<td>17</td>
<td>34</td>
<td>34</td>
<td>21</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Patterns of Bias: Negatively Correlated with Belonging

Prove-It-Again! Bias
r=-.37**

Tightrope Bias
r=-.76**

Maternal Wall Bias
r= -.58**

Tug-of-War Bias
r=-.38**
Belonging Index

Comparisons of Means (alpha=.93)

- White Men: 4.51
- Women: 4.27 (*** p<.01)
- Men: 4.50 (** p<.05)
- White Non-white: 4.44 (p<.1)
- Non-white: 4.40

*** p<.01
**  p<.05
*   p<.1
Patterns of Bias: Negatively Correlated with Intent to Stay

- **Prove-It-Again! Bias**
  - $r = -0.35^{**}$

- **Maternal Wall Bias**
  - $r = -0.28^{**}$

- **Tightrope Bias**
  - $r = -0.55^{**}$

- **Tug-of-War Bias**
  - $r = -0.48^{**}$
Natural experiment

• Major STEM research org
  – I gave *Individual Bias Interrupters* workshop to all managers
  – Bias interrupter in place
    • If scores more than 1 standard deviation off the mean for ♀ or POC…
  – Workplace Experiences Survey before/after

*No bias* in performance evaluations
Time for a shift

• Evidence based
• Metrics driven

That’s the way businesses handle any problem they really care about
Get in touch

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Bias Interrupters: An Evidence-Based, Metrics Driven Way to Interrupt Implicit Bias

Date: Thursday, April 5, 2018, 1:15pm to 2:30pm
Location: Taubman 102: WAPPP Cason Seminar Room

Joan C. Williams, Distinguished Professor of Law, UC Hastings Foundation Chair and Director of the Center for WorkLife Law

Recent studies have found that one-shot bias trainings are not an effective way to interrupt implicit bias. In this seminar, Professor Joan C. Williams discusses Bias Interrupters, a new model for interrupting the implicit bias that is constantly being transmitted in basic business systems at many companies. Joan introduces the Workplace Experiences Survey, a simple 10-minute “bias climate” survey designed to test for every major pattern of bias based on gender, race, disability, and class origin. She also explains the research and theory behind the open-sourced toolkits at biasinterrupters.org, which identify key metrics and identify low-impact tweaks to basic business systems to interrupt bias. Both the survey and toolkits are based on the 40 years of studies in experimental social psychology, industrial-organizational psychology, and behavioral economics documenting common bias patterns.

See also: Economic Opportunity, Organizational Design, Seminar Series

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When Google, Yahoo, LinkedIn, and Facebook disclosed their woefully low levels of female employment in the summer of 2014, admitting that they had a lot of work to do to improve them, they signaled a shift for the technology industry. It’s remarkable that the sector is finally stepping up to the plate on diversity—and refreshing that its focus is on metrics rather than rhetoric.

Make no mistake: Improving those metrics will be challenging. A key feature of the tech culture—the shared belief that it’s a meritocracy—may work against change. An important study by Emilio J. Castilla and Stephen Benard has shown that when an organization’s core values state that raises and promotions are “based entirely on the performance of the employee”—in other words, when a company sees itself as a meritocracy—women are actually more likely to get smaller bonuses than men with equivalent performance reviews. Subtle biases against women are clearly at work here. Moreover, 40 years of social science have taught us that such biases will be perpetuated unless they’re intentionally interrupted, and people who think they work for meritocracies are less likely to do what it takes to interrupt them.

On the other hand, if tech’s senior leaders are serious about gender diversity, they could be perfectly positioned to lead change. As they so often remind us, they’re not about business as usual. They’re out to change the world, with corporate mottoes like “Don’t be evil” and “Move fast and break things.” One thing I hope they’ll break with is the “diversity industrial complex”: the standard approach of making token hires, offering sensitivity training, setting up mentoring networks, and
introducing other incremental changes that focus on altering women’s behavior to, say, make them better negotiators. When an organization lacks diversity, it’s not the employees who need fixing. It’s the business systems.

This article is intended to help tech companies—and others—fix those systems. It describes a new metrics-based approach that pulls from the lean start-up playbook: Collect detailed data about whether gender bias plays a role in daily workplace interactions; identify company-specific ways to measure its effect; create hypotheses about what “interrupters” might move those metrics; and then throw some spaghetti at the wall and see what sticks. Measure what happened, adjust your hypotheses, and do it all over again until you get it right.

**What’s a Bias Interrupter?**

While much of the social science research is still devoted to “admiring the problem”—demonstrating the same patterns of gender bias over and over—some studies have begun to explore how to interrupt bias effectively. In one, researchers Andreas Leibbrandt and John A. List posted two versions of announcements for administrative assistant jobs in stereotypically masculine businesses—NASCAR, football, and basketball. One version said nothing about salary; the other said “salary negotiable.” Leibbrandt and List wanted to investigate the well-documented phenomenon that women are less likely to negotiate their salaries than men, which contributes to the pay gap between the sexes. Could a simple two-word phrase interrupt that pattern?

It could. In fact, not only did the “salary negotiable” language close the negotiation gap between men and women, it closed the pay gap between the male and female hires by 45%.

This experimental approach is a classic example of a bias interrupter: It changed the basic business system in a way that stopped a pattern of bias in its tracks. And it did so without talking about bias at all (or even raising it). It also highlights three advantages that bias interrupters have over the sweeping cultural change initiatives that researchers who study organizational bias tend to recommend. Such efforts can be effective, but they’re expensive—and often abandoned when a new CEO arrives with different priorities. Recently, for instance, Best Buy’s new CEO eliminated the company’s much-ballyhooed Results Only Work Environment, despite rigorous data documenting its business benefits.
First, bias interrupters are based on objective metrics, whereas cultural initiatives tend to rely on earnest conversations. Second, interrupters are iterative, so they allow companies to try small interventions and then scale them up. Last, interrupters build change into the basic business systems that perpetuate bias, so they are less likely to disappear when a new CEO decides that diversity is not an imperative.

While the evidence of the effectiveness of interrupters is growing in social science literature, the effort to systematically pilot and test them in companies is just beginning. I’ve started to work with several companies, including Twitter and the Silicon Valley law firm Fenwick & West, on a model for building bias interrupters. With Jennifer Berdahl from the University of British Columbia, I’m also forming a working group to explore interrupters with other social scientists. It’s still early days, but here’s the approach I’m using to help companies identify, measure, and address diversity-related bias.

**Step #1: Determine Whether There’s a Problem**

The first step is to find out whether women in your organization are encountering one or more of the four basic patterns of gender bias. Here’s a quick primer:

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**ESSENTIAL BACKGROUND**

**Women Rising: The Unseen Barriers**

**GENDER FEATURE** by Herminia Ibarra, Robin Ely, and Deborah Kolb

Why making diversity a priority doesn’t often translate to real results.

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**Prove-it-again!**

Women often have to provide more evidence of competence than men do to be seen as equally capable, a problem documented in scores of studies on double standards, attribution bias, leniency bias, recall bias, and polarized evaluations. About two-thirds of the 127 professional women that I and Erika Hall, now a professor at Emory’s Goizueta Business School, interviewed for the book *What Works for Women at Work* reported prove-it-again problems. Our interviews additionally suggested that women in tech often get promoted but don’t get the title or salary that typically accompanies the new job, and that women’s technical expertise is dismissed the minute they are no longer in technical roles. “We’re constantly asked ‘if you write any code’ when speaking about technical topics and giving technical presentations, despite just having given a talk on writing code,” note the authors of the widely circulated “Open Letter on Feminism in Tech.”
Tightrope.
This is the kind of bias faced by the female salary negotiators. High-status jobs are seen as requiring stereotypically masculine qualities, while women are expected to be modest and self-effacing, so women must walk a tightrope between being seen as too feminine to be effective and too masculine to be likable. Nearly three-fourths of the women we interviewed reported tightrope issues, with twice as many reports of “too feminine” as “too masculine” problems. Classic “too feminine” problems are large loads of “office housework”—which includes fetching documents, planning parties and conferences, and cleaning up messes, literally and figuratively—and assignments to do undervalued tasks. In tech, power and prestige lie with those who “own the code”; even very talented women end up in marketing or project management roles instead. Yet a woman risks being seen as “not a team player” if she turns away work that men are rarely asked to do. (See the sidebar “Housework’ vs. ‘Glamour Work.’”)

“Housework” vs. “Glamour Work”
In many companies, women are expected to do disproportionate amounts of “housework,” which includes both domestic tasks, like planning parties, and undervalued tasks, such as those listed below.

<table>
<thead>
<tr>
<th>INDUSTRY</th>
<th>HOUSEWORK</th>
<th>GLAMOUR WORK</th>
</tr>
</thead>
<tbody>
<tr>
<td>High tech</td>
<td>Managing projects</td>
<td>Writing the code</td>
</tr>
<tr>
<td>Law firms</td>
<td>Being a “service partner” who does the actual legal work</td>
<td>Bringing in clients</td>
</tr>
<tr>
<td>Consulting</td>
<td>Managing projects, delivering work, mentoring colleagues</td>
<td>Developing new business, managing C-suite relationships, serving as subject matter experts</td>
</tr>
<tr>
<td>Investment management firms</td>
<td>Handling logistics on pitches, working for low-profile clients</td>
<td>Making investment decisions, executing high-profile deals, managing key client relationships</td>
</tr>
<tr>
<td>Academia</td>
<td>Being dean of students or on the admissions</td>
<td>Publishing in prestigious journals</td>
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In addition, when women are direct, outspoken, competitive, or assertive—rather than “nice”—they often face a backlash, including what one researcher called “the sexual harassment of uppity women” in a study showing that dominant women actually experience the most harassment. There’s an avalanche of sexual harassment in tech, ranging from “angry e-mails that threaten us to leave the industry, because ‘it doesn’t need any more c***s ruining it’” to “booth babes” and networking events held in strip clubs. This “brogrammer” culture has pushed many women out of the field. In 1985, 37% of computer science degrees were awarded to women; in 2012 only 18% were. In 1991 women held 37% of all computing jobs; today they hold only 26%. Forty-one percent of women leave tech companies after 10 years, as opposed to 17% of men.
There’s an avalanche of sexual harassment in tech. The “brogrammer” culture pushes many women out of the field.

**Maternal wall.**

Bias triggered by motherhood has dramatic effects. In one famous study subjects evaluated pairs of equally qualified candidates, one of whom was a mother. The subjects received identical résumés, but the candidate who was a mother varied. The researchers found that mothers were 79% less likely to be hired, half as likely to be promoted, offered an average of $11,000 less in salary, and held to higher performance and punctuality standards. Another study looked at mothers who were considered indisputably competent and committed. Because of their dedication to the job, they were seen as bad mothers and bad people. As a result, they were disliked and held to higher performance standards.

A common take is that the long-hours culture drives mothers out of tech, but often what drives them out is sexism. As one woman told me, “Women...29, 30...were hitting the glass ceiling that I’ve been hitting for a long time. And if they could [afford to]..., they would just start having babies and drop out because they wanted to have kids anyway, and it’s hard to show up every day and fight and fight and fight.” While many women in tech have praised the industry for allowing flexible hours and remote working arrangements, mothers remain suspect. Take the recent flap when Marissa Mayer, the CEO of Yahoo, was late to a meeting. The only reason that story made the news is that it confirmed the stereotype that mothers aren’t suited to be CEOs. Fifty-nine percent of the mothers Hall and I interviewed reported experiencing maternal wall bias.

**Tug-of-war.**

This pattern, reported by 45% of the women interviewed, occurs when gender bias against women fuels conflict among women. Research shows that women who encounter discrimination early in their careers tend to distance themselves from other women, refuse to help them, or even align themselves with men at other women’s expense. Distancing oneself from complaints against sexism becomes an emblem of loyalty. “I’m not a girl at Google; I’m a geek at Google,” was Marissa Mayer’s standard response to questions about what it was like being one of the few female programmers at the company. Today, when asked how we can encourage more women to become engineers, Mayer responds that her focus is getting more men and women to become engineers. The Open Letter
protests that its authors have been “paraded around by men in the industry for how nice we’ve been in trying to address the social problems in tech as a way to discredit more vocal, astutely firm feminist voices. We don’t like this, we’ve never liked it, and it needs to stop.”

Organizations need to find out how, if at all, these four patterns affect women’s careers internally. A good place to start is with confidential interviews or focus groups conducted by an expert in the patterns of bias. Obviously, the people in a focus group have to trust one another not to disclose who said what. One organization I’m working with has so few women that they all know one another—and already agree that there’s a problem. The idea that the women in their company already discuss these issues freely with one another often surprises male senior executives—and so do the focus group results.

**Step #2: Identify Key Metrics**

Your internal research will often bring to light ways to measure the problem, which you can use to identify a baseline and track the results of changes. In one organization in which internal referrals play a major role, women suggested an elegant metric: Ask both men and women if they got their last five opportunities from inside or outside the firm. In this organization and many others, senior men typically staff their teams with people they feel comfortable with—people like themselves. (It’s called “in-group favoritism.”) Assumptions that “men have families to support” and that “mothers do not want stretch assignments” also play a role; examining how assignments are distributed can surface some of these.

If the problem’s office housework, the metric will be different. One organization that identified this as a major issue proposed setting up a list of low-profile tasks (List A) and high-profile ones (List B). The plan was to ask men and women what percentage of their time was spent on tasks from List A versus List B.

With maternal wall bias, it’s key to track how women’s assignments differ before and after maternity leaves. At the Center for WorkLife Law, which I direct, we frequently hear that women returning from maternity leave get fewer or poor-quality assignments. (The result, of course, is that they quit.)
The right metrics will differ from organization to organization, depending on the types of bias uncovered and the strategic goals of the firm. But it does make sense to be systematic. Any firm undertaking this work should think carefully about four processes: how people are hired, how work is assigned, what happens during performance evaluations, and how compensation is determined. In addition, it should look for cultural markers that exclude outsiders. In tech, that’s the oft-celebrated “brogrammer” culture. Companies should go beyond the classic “body counts,” which simply note the number of women but don’t tell you why women didn’t get hired, why they don’t get promoted, or why they leave sooner than you want them to (if they do).

**Step #3: Experiment, Measure Success—and Keep Trying**

Once you’ve assessed bias and identified key metrics, the next step is to interrupt the bias, see whether the metrics improve, and then—if no improvement occurs—ratchet up to stronger interventions. The ideal interrupter is like the one in the Leibbrandt/List experiment: easy to do and not requiring training on, or even a discussion of, gender bias.

Another good example of a successful interrupter comes from Google. The company’s analytics showed that women were being promoted less often than men because, to be promoted at Google, you needed to nominate yourself. Fewer women did so, presumably because modesty is so associated with femininity that women who advocated for themselves often encountered pushback, just as with negotiation. Google’s response was to include female leaders at workshops on when and how to put yourself forward. This signaled to women that they were expected to self-promote. So they did, and the gender difference among Googlers nominating themselves all but disappeared.

One organization I’ve spoken with is concerned about whether gender bias is affecting performance evaluations. The Center for WorkLife Law proposed reading its performance evaluations to spot patterns of bias. The company’s executives sensibly suggested starting off with a staff meeting explaining that they’re committed to improving the quality of performance evaluations, and introducing the four patterns. Great idea: Accountability causes more people to interrupt automatic bias more often.

What happens if you find bias—how should you present it to the people involved in the relevant processes? Obviously, it’s important to design feedback loops very carefully, so people don’t feel they are on a forced march into political correctness. Just as the metrics and the interrupters will
differ from firm to firm, so will the feedback loops. But the best tone is judgment free and evidence based: “I’ll bet you’re not aware that there’s an inconsistency in the way you’re evaluating women and men; here’s a study that explains why this is common.”

### The Research

This work grows out of the research I did for *What Works for Women at Work: Four Patterns Working Women Need to Know* (cowritten with my daughter Rachel Dempsey), which examined whether the kinds of gender bias documented in social psychology labs shows up in real workplaces. My team interviewed 127 professional women, including 63 in science, technology, math, and engineering, and 71 women of color. Our finding: Virtually all the women interviewed (96%) reported experiencing one or more of the patterns documented in experimental studies. Only five women had not, and three of them had founded their own companies.

Where should companies begin experimenting? Again, by looking at the same core processes they examined in Step 2. Though research on and experiments with interrupters are relatively new, they suggest the following brief template:

**Hiring.**

Develop job-advertisement guidelines that advise steering clear of masculine-gendered words like “competitive,” “assertive,” and “ambitious.” Track whether those guidelines are followed. To the extent possible, give hiring managers blinded résumés, so they can’t tell whether the applicant is a man or a woman. Track whether this practice changes hiring numbers. Agree in advance on standard interview questions, watch for subtle biases, and adjust the list of questions as you learn which ones work well for all candidates. A seemingly harmless question like “Tell me about a personal or professional accomplishment that best shows your strengths” can be problematic. Since women are wary of bragging (the tightrope problem), they’ll often answer this question by telling you how proud they are of their kids (women are allowed to brag about their children); men will give a work-related answer and advance their cause more effectively.

**Assignments.**

The gentlest interrupter is one that documents that men and women are getting different kinds of projects and offers a training on how the four patterns of bias commonly affect assignments. If that doesn’t work, more robust interventions are needed, up to and including a formal assignment
system. As Louise Roth points out in her study of high finance, a huge problem is the channeling of women into groups with lower revenue potential. “These firms develop mathematical models for all sorts of other things,” says Roth, “so why not for dividing work evenly?”

**Performance evaluations.**

Having someone who is trained in the literature on gender bias read through all performance evaluations, which Ernst & Young has done for years, can help if your analysis shows that bias is affecting them. Be sure to track whether praise differentially translates into high overall evaluations for men but not women. Check, too, whether similar evaluations translate into greater rewards for men than for women.

**Promotion and compensation.**

Systems that require people to brag will push women out onto the tightrope—disliked but respected if they do, and liked but not respected if they don’t. In fact, any hiring, evaluation, or other process that requires self-promotion should take a hint from the Leibbrandt/List experiment and the Google example. Self-promotion should be cabined into formal contexts in which both men and women are sent the message that everyone is expected to tout his or her accomplishments.

Compensation systems based on objective metrics that are not easy to game offer a strong control on gender bias and give managers insight into who their most valuable players actually are. Roth’s study of bankers confirmed what I’ve also found: Women fare best in jobs where performance is measured by objective metrics. Objectivity often suffers, however, when compensation is set by a powerful group of insiders. Law firm compensation systems, in which pay depends heavily on backroom negotiations over credit for bringing in clients, are a petri dish for bias. In a 2010 study about 30% of women in law firms reported being bullied out of receiving such credit. The promise of bias interrupters is that they allow for institutional learning and build on a critical, consistent finding: Doing anything once will not change organizational culture forever. You need to continually interrupt bias. And you need to be empirical: Keep throwing spaghetti at the wall until some sticks. Tech companies are used to spaghetti flinging, which makes them a perfect fit for an iterative process rather than one grand gesture.
What a company can’t do is establish metrics, document bias, and then do nothing. That’s a recipe for legal liability. But as long as companies that find bias try in good faith to remedy it, interrupters promise to be both more effective, and probably cheaper, than elaborate cultural change initiatives. And they will work a whole lot better than the other standard tools of the diversity industrial complex. Unlike women’s initiatives, which often seek to fix women, and unlike stand-alone bias training, which can make diversity metrics worse, interrupters do something novel. They identify how bias is playing out in real time. And then they short-circuit it.

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You Can’t Change What You Can’t See

A groundbreaking new study examines implicit bias in the legal profession and its effects.

By Catherine McGregor
MCCA has just launched an important piece of research which examines the lasting day-to-day effects of many well-known stereotypes on different groups in the workplace.

We’ll be revisiting this research in more depth in future issues of Diversity & the Bar and talking to some of the main architects of the report, but here’s an overview of the key areas of focus. The full report will be available on the MCCA website shortly.

In April 2016, the American Bar Association’s Commission on Women in the Profession, the Minority Corporate Counsel Association, and the Center for WorkLife Law at the University of California, Hastings College of the Law launched a survey seeking to understand in-house and law firm lawyers’ experiences of bias in the workplace: 2,827 respondents completed the survey, and 525 respondents included comments.

This formed the basis for a piece of research conducted by Center for WorkLife Law under Professor Joan C. Williams.

The main focus of the research, which is unique, was in understanding how implicit gender and racial biases which have been documented and studied by experimental social psychologists over many years of study, were being experienced in real life by women lawyers and lawyers of color in their working lives.

Long-established literature in experimental social psychology documents both racial and gender bias by means of laboratory studies. Typically, these are matched resume studies, in which the same resumes, some bearing male or white-sounding names and others bearing female or African American-sounding names, are reviewed. These studies have documented implicit bias over and over, but they raise an obvious question: Do they describe what actually happens at work? A few experimental studies attempt to answer this question.
PROVE-IT-AGAIN

Prove-It-Again bias has been documented in studies for more than forty years. Studies show that women and people of color often need to provide more evidence of competence than majority men in order to be seen as equally competent. Prove-ItAgain bias stems from the fact that when most people think of a lawyer, a white man comes to mind. Because women and people of color don’t fit that image, they often have to prove themselves more than majority men do. All groups stereotyped as less competent than majority men will encounter Prove-It-Again bias. Studies have documented that not only women and people of color but also individuals with disabilities and professionals from blue-collar backgrounds (class migrants) tend to encounter Prove-It-Again problems.

TIGHTROPE BIAS

Prove-It-Again bias stems from stereotypes about how certain groups do behave; Tightrope bias stems from stereotypes about how certain groups should behave. The Workplace Experiences Survey found that often a narrower range of behavior is accepted from women and people of color than from white men. Most of the forty years of research on Tightrope bias examines gender dynamics. Prescriptive stereotypes mandate that women should be modest, self-effacing, and nice - good team players. Prescriptive stereotypes mandate that men should be direct, assertive, competitive, and ambitious - leaders. Consequently, the kind of competitive, assertive behavior needed to get ahead in the law often is more readily accepted in men than in women. Women often walk a tightrope between exhibiting the kind of behavior expected of women and the kind of behavior expected of lawyers. The Workplace Experiences Survey found that a similar phenomenon is triggered by race. Not only women of all races but also men of color felt less free to express anger at work compared to white men, and they also are less likely than white men to report that their colleagues see them as leaders. The bottom line: both women and people of color have been invited into today’s legal workplaces, but the kinds of behaviors white men exhibit in order to get ahead are less likely to be accepted from other groups. Instead, women and people of color are more likely than white men to report that they are expected to be “worker bees” who keep their heads down but do not seek the limelight.

MATERNAL WALL

Maternal Wall bias is triggered by motherhood, and once triggered, it can be the strongest form of bias. More than twenty years of studies show that motherhood can trigger negative competency and commitment assumptions. In addition, mothers walk a special tightrope: if they work too much, they may be seen as bad mothers; if they work too little, they may be seen as bad workers. Our survey found that this type of bias can affect fathers too. For example, if there is a slot for only one woman, women may compete against each other to claim that one spot—a pure example of how gender bias in the environment fuels conflict among women. Similar dynamics sometimes affect people of color.

TUG OF WAR

Tug of War bias occurs when bias against women or people of color creates conflict within each group. For example, if there is a slot for only one woman, women may compete against each other to claim that one spot—a pure example of how gender bias in the environment fuels conflict among women. Similar dynamics sometimes affect people of color.
One asked law firm partners to evaluate a memo by a third-year associate. Each partner evaluated the exact same memo, except half of the partners were told the associate was white and half were told the associate was black. The partners found 41% more spelling errors in the identical memo supposedly written by the black associate.

**The Main Areas of Bias**

The report concentrates on four main areas of bias. This excerpt outlines what they are and for many of us they may be, sadly, all too recognizable. However, a positive about this study is naming and quantifying something that many of us experience as just an uneasy feeling that’s something is not right. As the title of the research states you can’t change what you can’t see but bringing out shared experiences into the open and giving them a name is incredibly powerful.

**What Next?**

The research suggests that if bias trainings and women’s initiatives don’t work, it is due to the subtle (and not-so-subtle) forms of bias that are constantly playing out in everyday workplace interactions - in meetings, in assignments, in mentoring, in compensation, and so on. The solution is not to “fix the women” but to fix the business systems.

The bias interrupters toolkits pioneered as part of this research are an important development in practically trying to tackle the worst forms of discrimination in the legal profession: those that are implicit, cultural and too often dismissed as ‘just the way things are.’

At Diversity & the Bar we’re looking forward to telling some of the stories of how this is put into effect, and starts to change not just what we do but thinking and expectations for the better.