

Boulder COUNTY

BAR ASSOCIATION

IMPLICIT BIAS IN THE LEGAL PROFESSION

MARY CLAIRE MULLIGAN

"It is the outcry of a very challenged young man talking about challenges in his personal life that led him to this point,"

--Austin police chief, Brian Manley, talking about white bomber Mark Conditt

Chief Manley's comments struck many as illustrating the height of white privilege— that a white person, who left multiple bombs around a city, killing two people and wounding others, would be described as "a very challenged young man," when a similarly situated person of color would likely be identified as a terrorist.

His statements are also perhaps an indication of implicit bias—the unconscious effect of attitudes and stereotypes, created by one's upbringing, environment, and society. Everyone has implicit biases, often without realizing it. We as normal humans instantaneously categorize those we see and speak with by gender, age, and race. The associations we have about those groups are largely based on the culture in which we were raised. It is those associations, and the judgments we make based on them, that make up our unintentional biases—biases we may be able to change.

One first step is to recognize that this phenomenon exists, and to understand how it affects us individually.

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Annual
Meeting
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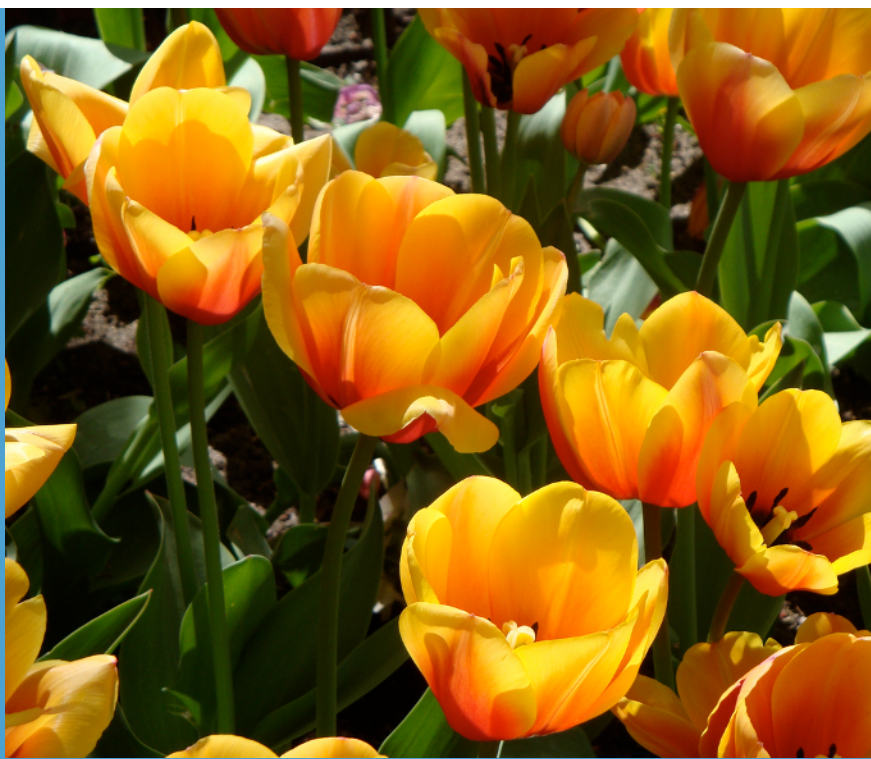
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IMPLICIT BIAS CONTINUED

Harvard University's "Project Implicit" has posted online tests measuring our implicit biases in a number of areas (race, gender, etc). Information about the tests can be found [here](#).

The results are frequently eye-opening. Implicit biases often do not align with our own explicitly held beliefs, and do not necessarily even show a preference for our own in-group (about a third to a half of African-American participants in the Harvard test actually show a preference for whites over African-Americans).

For example, noted South African human-rights activist Desmond Tutu tells a story about flying on an airplane with two Black African pilots—he was at first proud and thrilled. But as the flight wore on, he became uncomfortable and found himself wondering if the Black pilots were going to be able to safely fly the plane without a white person in the cockpit. We are affected by implicit bias even when that bias is antithetical to our strongly held personal beliefs and goals.

Studies have demonstrated that unconscious bias cuts across all professional fields and affects all groups—Black, white, female, male, gay, straight, old, young, fat, thin.

Our implicit biases do not mean that we are "prejudiced," but they can predict our behavior. Recent studies have shown that pediatricians were more likely to prescribe painkillers for white patients than for African-American patients. Other studies have documented that defendants who were perceived as having more traditionally African-looking features (e.g., dark skin) were sentenced more harshly than those with less African-looking features.

Implicit bias has obvious effects on our society and our profession. But it can be changed. Awareness and acknowledgment are the first steps. Educating yourself about your own personal biases, and those of your community, are key to change. Claiming to be "color-blind" or "gender-blind" is not an effective method for combating our unconscious biases, according to social psychologists who have studied this phenomenon.

As lawyers, our behavior and our decisions have

life-altering effects on our clients and the other people we come into contact with as professionals. We can and should take the lead into making our justice system as fair as we possibly can. Boulder's newly appointed District Attorney, Michael Dougherty, stated, "Implicit bias influences how all of us make decisions, including prosecutors, defense attorneys and judges. Taking steps to recognize these unconscious reactions when making decisions will make the criminal justice system fairer for everyone." Dougherty plans to implement a review of implicit bias in his office.

The defender community has recognized the effects of implicit bias for many years and has been training lawyers, investigators, and social workers to recognize and combat it.

The federal district court for the Western District of Washington has developed a ten-minute video for jurors, which includes a discussion of implicit bias by judges, defenders, and prosecutors. It can be viewed [here](#). It is well worth checking out as a quick and interesting introduction to implicit bias. The district has also developed criminal jury instructions addressing this topic in the hopes of reducing the effect of bias on jurors.

The National Center for State Courts has implemented a project on implicit bias and judicial education, and has published a short primer available [here](#).

There is no consensus yet on how to fix the damage that can be caused by unconscious bias. But scientific studies indicate that learning about bias, recognizing it, and making the effort to change, is a good first step.

Mary Claire has practiced criminal defense litigation in Colorado since 1992, as both a deputy state public defender and as a private practitioner with the firm of Mulligan and Mulligan. Since 2010, she has specialized in capital post-conviction, and represents two of the three men on Colorado's death row. She has lectured on numerous criminal defense topics and has testified as an expert in the field of criminal trial practice. Mary Claire authored several articles and a book chapter related to criminal defense, and appeared as a panelist on local television show "Law and Justice: DUI," 2006. She served as a member of the Colorado Commission on Criminal and Juvenile Justice Probation Task Force, is active in several bar associations, and is the former President of the Colorado Criminal Defense Bar.

CALENDAR OF EVENTS

Tuesday, April 10

EMPLOYMENT

Trends in Harassment Claims and Workplace Investigations

Presenter: Elizabeth Rita

Noon @ BCBA Conference Room

[Register and pay online here](#)

Wednesday, April 11

BUSINESS

Venture Funds and the Next Generation of Investors

Presenter: David DiGiacomo

Noon @ BCBA Conference Room

\$25 CLE, \$15 New/Young Lawyer (with 0.5 Ethics credit)

[Register and pay online here](#)

Thursday, April 12

LONGMONT LAWYERS LUNCH

The Current Status of the Longmont Courts

Presenters: Judge Carolyn Moore and Municipal Judge David Frick

Noon @ Caprese Trattoria (1067 South Hover Road)

\$35 CLE and lunch

[Register and pay online here](#)

Thursday, April 12

INTELLECTUAL PROPERTY

Intellectual Property Division Happy Hour

4:00-6:00PM @ Rayback Collective (2775 Valmont Rd)

[Please RSVP to Kyle here](#)

Tuesday, April 17

ELDER

Mediation in Probate and Elder Law Matters

Presenter: Judge Kim Goldberger (ret.)

Noon @ BCBA Conference Room

\$25 CLE, \$15 New/Young Lawyer

[Register and pay online here](#)

Wednesday, April 18

FAMILY

Impact of Income Tax Reforms on Family Law Matters

Presenter: Preston Hofer

Noon @ Justice Center Training Room East

\$25 CLE, \$15 New/Young Lawyer

[Register and pay online here](#)

Thursday, April 19

REAL ESTATE

Wire Fraud Risks in Real Estate Transactions

Presenter: Julia A. Occhuizzo

Noon @ BCBA Conference Room

\$25 CLE, \$15 New/Young Lawyer

[Register and pay online here](#)

Thursday, April 19

BANKRUPTCY

Monthly Lunch and Roundtable

Noon @ Kathmandu

Thursday, April 19

BOULDER COUNTY BAR FOUNDATION ANNUAL MEETING AND RECEPTION

5:30PM @ The Boulder Cork (3295 30th Street)

\$65

[Register and pay online here](#)

Friday, April 20

AVAILABILITY OF LEGAL SERVICES

What Every Lawyer Should Know About Public Benefits

Presenters: Christina Ebner, Peter Komlos-Hrobsky, Joel Hayes, and Erin Eastvedt

3:00PM @ BCBA Conference Room

\$25 CLE, \$15 New/Young Lawyer

[Register and pay online here](#)

Wednesday, April 25

TAXATION, ESTATE & PROBATE Presentation TBD

Presenters: TBD

Noon @ BCBA Conference Room

\$25 CLE, \$15 New/Young Lawyer

[Register and pay online here](#)

Thursday, April 26

NATURAL RESOURCES

Rocky Flats: A Cubist Perspective

Presenters: Dan Miller and Lindsay Masters

Noon @ BCBA Conference Room

\$25 CLE, \$15 New/Young Lawyer

[Register and pay online here](#)

BOULDER IDC – CFI/PRE AND ATTORNEY BOOT CAMP

Developing Your Skills in the Courtroom

Thursday and Friday, May 10 & 11.

Bootcamp: Friday 8am - 5pm, Boulder County Courthouse, Courtroom F

Pre-Bootcamp workshop: Thursday, 6pm - 7:30pm, Law Office of Todd Stahly

Up to 8 general credits and additional ethics credits To RSVP, go to boulderidc.org

BECOMING A BCBA BOARD MEMBER

If you would like to be considered for a board or co-chair position, please send a letter of intent to laura@boulder-bar.org before April 20. Interviews will be conducted after the board meeting on Thursday, May 3. We currently have openings for 2 three year director positions and one opening for Treasurer which will enter the leadership track to be President in the 2020-2021 term.

We are also seeking co-chairs for the following sections: ADR, Business, Civil, Employment, Elder, Intellectual Property, In House Counsel, Natural Resources, Real Estate, Paralegal, Tax and Estate Planning and Solo/Small Firm.

BOULDER COUNTY BAR FOUNDATION

The Boulder County Bar Foundation will hold the annual meeting and reception at the Boulder Cork on Thursday, April 19. The event will begin at 5:30 PM at 3295 30th Street. There will be an opportunity to see your fellow colleagues and enjoy cocktails and hors d'oeuvres. The annual meeting will be extremely short but your attendance is necessary to approve our new Trustees and those Trustees who are continuing on for another term. All current Fellows are strongly encouraged to attend. An invitation was mailed to you a few weeks ago and please RSVP here by April 16.

The current members of the Board of Trustees are Judge David Archuleta, Karl Kumli, Denean Hill, Jessica Catlin, Judson Hite, Ellen Cadette, Dave Cheval, Keith Collins and Keith Olivia. There are currently 3 three-year terms and 1 two-year term on the Board of Trustees that must be filled. The current Board of Trustees has nominated the following slate: Stephanie Brennan – three-year term; Ron Jung – three-year term; Keith Collins - three-year term; Keith Olivia - two-year term.

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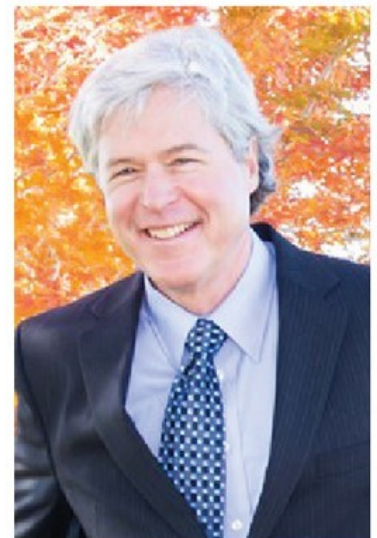
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PRESIDENT'S PAGE

RENEE EZER

One of my favorite annual professional events is the BCLS Pro Bono Luncheon. It's not just a chance to run into colleagues I don't regularly see (though I do love this aspect of it). I think it's the fact that what brings us all together is a common thread that runs through each of us and our practices – that we value the contribution of pro bono hours to make a difference and to provide access to justice to clients who otherwise couldn't afford to pay for it, and that we celebrate those among us who provide them.

Pro bono service strengthens our community by helping those in need and provides us with a unique kind of satisfaction not otherwise available in most traditional practices. It's an annual reminder to me of things that are important, and an opportunity to reconnect with the community that shares my values.

Awards presented by 20th JD magistrates and judges, as well as Supreme Court justices, are given to those who contributed many pro bono hours, as well as those who contributed just a few, on the right case at the right time, to make a big difference. It feels good to be among many of the hundreds of lawyers who have represented BCLS clients over the last 43 years. The speakers and awards inspire me. For me, this is a "don't miss" event.

During 2017, attorneys from the volunteer panel of approximately 250 attorneys volunteered a total of 2,765 hours. This included private attorneys, attorneys volunteering in-house at BCLS, and attorneys volunteering for the weekly BCLS Pro Se Program. Other volunteers, including paralegal client intake interviewers, law students, and office volunteers, contributed 1,267 hours.



The combined total of volunteer hours was 4,032, with an in-kind value of \$807,091. This outstanding volunteer support made it possible for BCLS, with a staff of only three, to serve a total of 778 clients in 2017.

This year I'm excited to introduce the BCLS intern to receive the first Paul Bierbaum Fellowship award at the BCLS Pro Bono Luncheon. Paul Bierbaum was an extraordinary man and attorney, who wore his passion for justice and equality throughout his life on his sleeve. He touched thousands of people with his generous spirit and commitment to public service. His untimely death nearly three years ago was a tremendous loss to the entire community. The BCBA Board of Directors recently created this fellowship to honor Paul's memory, and to alive the exemplary public service which made him iconic in the Boulder Bar.

I hope to see many of you at the luncheon on April 30th. Contact BCLS at 303-449-2197 if you'd like register to attend.

Renee Ezer is a shareholder at Dietze and Davis, P.C. She can be reached at 303-447-1375 or ezer@dietzedavis.com.

Save the Date!

BOULDER COUNTY LEGAL SERVICES ANNUAL PRO BONO LUNCHEON & AWARDS CEREMONY

MONDAY, APRIL 30

- Pro bono achievement awards
- Supreme Court pro bono awards
- John Marshall Pro Bono Service Award
- Paul Bierbaum Fellowship announcement

LAWYERS AND PUBLIC BENEFITS

ERIN EASTVEDT

Almost every attorney will encounter public benefits issues in his/her practice. As an elder law attorney, you need to understand how your client's estate plan will affect eligibility for long-term care Medicaid. As a family law attorney, you need to understand how a divorce will affect your client's (or your client's ex-spouse's) eligibility for public benefits. As an immigration attorney, you need to understand how your client's status affects eligibility for various public benefits. These are just a few examples of how public benefits issues come up in the everyday practice of law.

If you have come across any of these issues (or just want to know more about public benefits law), you're in luck! The Availability of Legal Services Section of the Boulder County Bar Association will be hosting a training entitled "What Every Lawyer Should Know About Public Benefits." This training will include the basics of:

1. Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI);
2. Colorado's public benefits programs, including Temporary Assistance to Needy Families (TANF), Food Assistance (Food Stamps), Old Age Pension (OAP), and

Aid to the Needy Disabled (AND); and

3. Health care benefits, including Medicare, Medicaid, and the Affordable Care Act (ACA).

The training will feature a panel of expert practitioners who will explain these areas of the law. Christina Ebner, a Social Security disability attorney, will discuss SSDI and SSI. Peter Komlos-Hrobsky, a staff attorney with Colorado Legal Services, will discuss Colorado's public benefits programs. Joel Hayes, a former staff attorney with Colorado Legal Services, will discuss health care benefits. Erin Eastvedt, a Social Security disability attorney and former in-house volunteer with Colorado Legal Services, will moderate the discussion.

The training will be held on Friday, April 20, from 3 PM to 5 PM, in the Boulder County Bar Association conference room at 1942 Broadway #205, Boulder, CO 80302. CLE credits will be available. To register and pay, please click [here](#). Cost is \$25.

Erin Eastvedt is a Co-Chair of the Availability of Legal Services section of the Boulder County Bar Association. She can be reached at erin.eastvedt@gmail.com.



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PROFESSIONALISM ON CALL

April 2	Peggy Goodbody	303.440.5736
April 9	Anton Dworak	303.776.9900
April 16	Steve Clymer	303.530.2137
April 23	Mike Rafik	303.444.9292
April 30	Gwyn Whalen	303.443.8010

The Professionalism Committee assists lawyers, clients, and other members of the community with questions or complaints about behavior by lawyers that fails to meet generally accepted standards of professionalism and courtesy, or that is contrary to the BCBA Principles of Professionalism.

The Professionalism Committee does not address allegations of criminal or ethical violations by lawyers, as regulated by the Colorado Rules of Professional Conduct, and any such violations should be addressed to the Office of Attorney Regulation Counsel.

BOULDER COUNTY FREE LEGAL CLINIC

The dates have been set for the 2018 Free Legal Clinics at the Sacred Heart of Jesus Church (2312 14th Street) and the Longmont Senior Center (910 Longs Peak Ave) from 5:30 - 7:30 pm. Volunteers are always needed. Please contact Laura at laura@boulder-bar.org if you can help in Boulder, or susan.spaulding@longmontcolorado.gov if you can help in Longmont.

Boulder: June 21

Longmont: May 22, August 28

PRO BONO CORNER

Interested in a Pro Bono case? Please call Erika at 303-449-2197. CLE credits available for pro bono service.

PRO BONO REFERRALS

Thirteen cases were referred during the month of February. Thank you to the following attorneys:

Evan Branigan
Susan Bryant
James Carpenter
Shirin Chahal
Christina Ebner
Judon Hite
Heather Kurland
Laura Moore
Rick Romeo
Jeff Skovron
Thom Ward
Bruce Wiener

PRO SE VOLUNTEERS

Josh Anderson
Evan Branigan
Lori Barkus
Kathleen Franco
Chris Jeffers
Tucker Katz
Zach LaFramboise
Michael Morpew

BCAP VOLUNTEERS

There were no requests for a referral for the Boulder County AIDS Project in February.

LAWYER ANNOUNCEMENTS



is pleased to announce that

Bradley R. Curl

has joined the firm as a Partner.

**Brad's practice will continue to emphasize
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The firm's practice will continue to emphasize
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I hope you will take this opportunity to update your records with our new company information, including our email addresses:

Herb.McPherson@midwesttrust.com
Mimi.Goodman@midwesttrust.com
Roxann.Deutch@midwesttrust.com
Jan.Smith@midwesttrust.com
Beth.Brandt@midwesttrust.com

COURT ANNOUNCEMENTS

The FY19 Truancy contract attorney information and applications are available on the 20th Judicial District website at: https://www.courts.state.co.us/Courts/District/Index.cfm?District_ID=20 (under Special Announcement on the right hand side of the page).

The FY19 Mental Health contract attorney information and applications are available on the 20th Judicial District website at: https://www.courts.state.co.us/Courts/District/Index.cfm?District_ID=20 under Special Announcement on the right hand side of the page).

Please call or email Amy Waddle, District Administrator at 303-441-3882, amy.waddle@judicial.state.co.us, if you have any questions.

Due to scheduling Boulder County Courts will not be scheduling FED and Name Change hearings at the Boulder and Longmont locations on the dates listed below:

BOULDER: November 23, 2018, December 21, 2018, and January 4, 2019,

Longmont: August 24, 2018, November 23, 2018, December 21, 2018, December 28, 2018, January 4, 2019

CLERK OF COURT Marizela Cano 01/22/18

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DOWNTOWN BOULDER OFFICE SPACE: Our building located one block NE of the Pearl Street Mall has single-office executive suites available. Reception services, conference room access, parking, standard janitorial services are included. Internet access, telephone service, state-of-the-art printing, scanning, copying equipment are available. Visit our website at <http://1526spruce.com/>. Contact David Beal at 303/928-2345 or sprucepartners@1526spruce.com.

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CONTRACT ATTORNEY POSITION: Bridge to Justice (B2J) is seeking a contract attorney to join our agency. B2J is a nonprofit organization based in downtown Boulder providing reduced-rate civil legal services to

low- and moderate-income individuals. This is a part-time position (5-10 hours per week) with an opportunity for growth. The ideal candidate would be a Colorado licensed attorney with 10+ years of experience in family law, strong communication and organizational skills, and a demonstrated commitment to pro bono/low bono legal services. Please visit our website at www.boulderbridgetojustice.org for more information about our services. Please send a cover letter, resume, and brief writing sample to Bruce Wiener, Executive Director, at bruce@boulderbridgetojustice.org.

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THE BCBA CONFERENCE ROOM

AVAILABLE TO BOOK



Please contact
Kyle@boulder-bar.org
at the bar offices to
reserve your space.
Rates are \$25 per
hour. 303-440-4758

Boulder^{COUNTY} BAR ASSOCIATION

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