

Mind your mind-set

The psychology of judgement for the judiciary

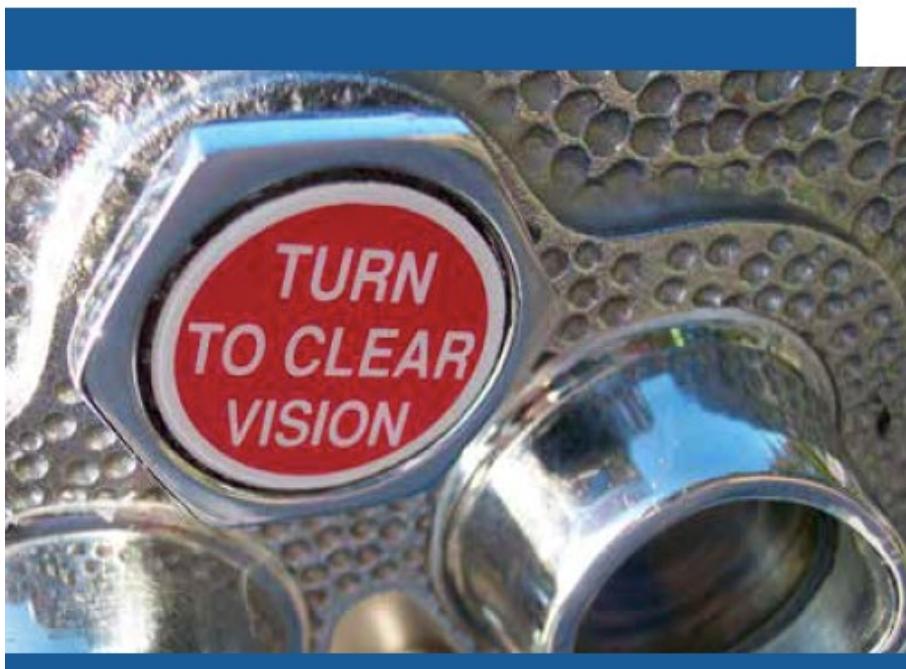
Steven Shorrock

Senior Human Factors and Safety Specialist
European Safety Culture Programme Leader
27 October 2020



Just Culture

Understanding Biases of
Judgement for Members of
the Judiciary



Types of Bias

Each card introduces a different issue for reflection or discussion. The biases are organised into the following categories.



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The same behaviour or decision, with the same underlying knowledge and skills, should be judged more harshly when the outcome is more severe, even where the outcome is influenced by factors outside of the person's control.

- A. I mostly agree
- B. I mostly disagree
- C. I neither agree nor disagree

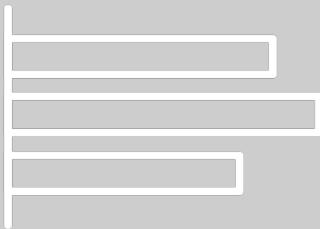
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The same behaviour or decision, with the same underlying knowledge and skills, should be judged more harshly when the outcome is more severe, even where the outcome is influenced by factors outside of the person's control.



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Outcome Bias

We tend to judge a decision based on the eventual outcome instead of the quality of the decision at the time it was made

The same decision or behaviour will tend to be evaluated more negatively when it happens to produce a bad rather than good outcome, even by chance.

How can we reduce the influence of knowledge of outcome on our decisions about a person's performance?

Outcome & Baseline Frequency



Photo by Cory Denton

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Harmful actions are worse than equally harmful omissions.

- A. I mostly agree
- B. I mostly disagree
- C. I neither agree nor disagree

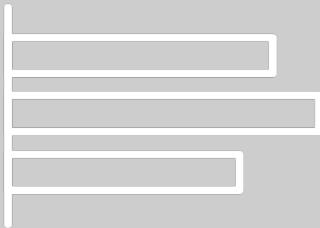
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Harmful actions are worse than equally harmful omissions.



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Omission Bias

We tend to judge harmful actions as worse, or less moral, than equally harmful omissions

Actions are more visible than omissions and tend to be seen as more harmful in the context of unwanted events.

How can we see actions and omissions as equivalent rather than fundamentally different?



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Given the same training and information about a case, others would interpret information in the same way and make approximately the same judgements.

- A. I mostly agree
- B. I mostly disagree
- C. I neither agree nor disagree

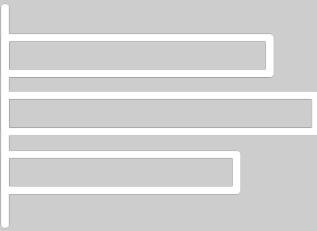
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Naïve Realism

We tend to think we are objective, but we are not

We sometimes believe that our world view is objective and that others will interpret information with this same view. If their view differs, we think that they must be thinking irrationally. In reality, people interpret the world differently.

How can we acknowledge and take into account our own subjectivity?

Quality of Our Judgement



Photo by Anders Sandberg

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Compared to others in my profession, my judgements are better than average.

- A. I mostly agree
- B. I mostly disagree
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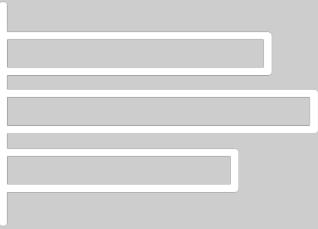
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Overconfidence Effect

We tend to be overconfident in the accuracy of our judgements

We tend to overestimate our own performance, be overconfident that we know the truth, and believe ourselves to be better than others, or 'better-than-average'.

How can we moderate our own confidence in our judgements, while still being able to make decisions?



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Repeating a statement multiple times has no effect on whether people believe it is truthful.

- A. I mostly agree
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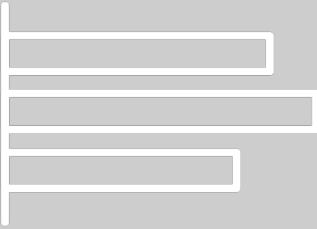
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Illusory Truth Effect

We tend to believe that a statement is true if it has been stated multiple times

Repetition tends to make statements easier to process than new statements, leading people to believe that the repeated conclusion is more truthful.

How can we reduce the impact of familiar or repeated statements on our perceptions of truth?



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Framing the same information positively (e.g., 1 in 10 chance of winning) or negatively (e.g., 9 in 10 chance of losing) has no effect on people's judgement.

- A. I mostly agree
- B. I mostly disagree
- C. I neither agree nor disagree

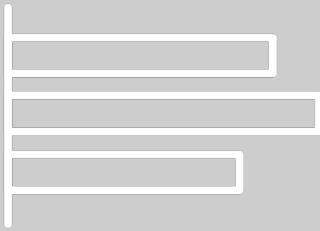
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Framing Effect

We tend to draw different conclusions from the same information, depending on how that information is presented or 'framed'

A positive or negative presentation of the same information (e.g., related to opportunity or risk) can lead to very different judgements.

How can we moderate the effect of framing of information on our judgement?

Evidence Presentation



steven.shorrock@eurocontrol.int

When presented with new evidence, others revise their beliefs accordingly.

- A. I mostly agree
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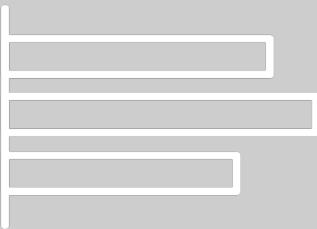
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When presented with new evidence, I revise my beliefs accordingly.

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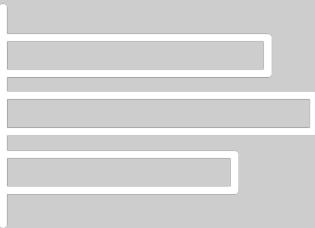
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When presented with new evidence, I revise my beliefs accordingly.



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Conservatism

We tend to revise our beliefs insufficiently when presented with new evidence

When update their prior beliefs as new evidence becomes available, people often do so more slowly than we expect, or to a lesser extent.

How can we present new evidence and updated information, and take new information into account?

Evidence Presentation



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I perform better than my average most of the time.

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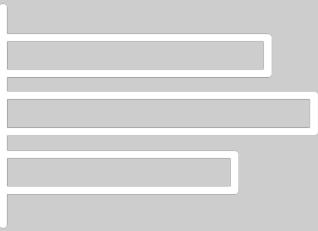
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Confirmation Bias

We tend to search for, interpret, focus on, and remember information in a way that confirms our preconceptions

This effect tends to be stronger for emotionally charged issues and deeply held beliefs (especially with ambiguous information), and reinforces individual and group beliefs.

How can we challenge our own preconceptions and consider alternatives?



Anchoring

We tend to rely too heavily - or 'anchor' - on one trait, piece of information or aspect of a situation when making decisions

Once a value or an anchor is set, future arguments may be discussed in relation to the anchor.

How can we ensure that all relevant information is taken into account, without undue emphasis on one aspect?



enter your presentation title



Neglect of Probability

We tend to disregard probability when making a decision under uncertainty

Seriousness of outcome and emotional resonance may inflate our intuitive estimation of risk.

How can we take into account probability when judging performance?



Hindsight Bias

We tend to believe events were predictable at the time that they happened

People attribute responsibility on the basis of the supposed predictability of events. Hindsight bias is stronger for more severe negative outcomes, and applies to self and others.

How can we see situations from the point of view of people who were in the situation at the time, considering what they knew, their options and focus of attention?



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We tend to revise our beliefs insufficiently when presented with new evidence

When updating their prior beliefs as new evidence becomes available, people often do so more slowly than we expect, or to a lesser extent.

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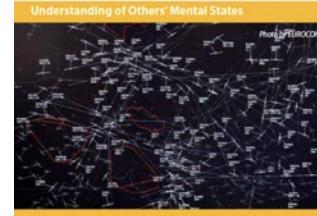


The Curse of Knowledge

We unknowingly assume that others have the necessary background to understand what we understand

A person with particular knowledge may be misundertstood when and how a person (e.g. judge, jury) without that knowledge would think, or how they would act.

How can we better understand the knowledge of others, and help ensure they have the knowledge they need?



Group Attribution Error

We tend to make assumptions about people based on group membership

People tend to think that the characteristics of an individual group member are reflective of a group to which they belong, and that a group's decision outcome must reflect the preferences of individual group members.

How can we challenge our biases about group membership?



Naïve Realism

We tend to think we are objective, but we are not

We sometimes believe that our worldview is objective and that others will interpret information similarly. If their view differs, we sometimes think that they must be thinking irrationally. In reality, people interpret the world differently.

How can we acknowledge and take into account our own subjectivity?



Continued Influence Effect

We tend to believe previously learned misinformation even after it has been corrected

It is often easier to accept a piece of information than to evaluate its truthfulness, and truthfulness may be determined via other biases.

How can we challenge and disregard previously learned misinformation?



Defensive Attribution Hypothesis

We tend to be biased against people who are different to us when evaluating an event

People tend to assign more responsibility for mishaps to people who are dissimilar to the observer. A mishap may therefore seem controllable and thus preventable.

How can we reduce bias against people who are different to us?



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Just World Hypothesis

We tend to assume that a person's actions inherently bring morally fair consequences to that person

People often believe in a just world (for their own wellbeing), but may reinterpret an outcome, cause, or the character of a victim to fit this belief.

How can we moderate beliefs in a 'just world' so that victims are not blamed for their suffering?



Bandwagon Effect

We tend to believe things because many others do

People often derive information from others and prefer to conform, especially with more popular views.

How can we maintain our own independence of judgement and not be unduly affected by others?



Framing Effect

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Thank you!

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European Safety Culture Programme Leader
27 October 20220



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