

Avoiding the Pitfalls of Investigation Bias

June 22, 2018

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Today's Agenda

1. How implicit bias affects compliance investigations
 - Distinguishing conscious from unconscious biases
 - Impact on investigations
2. Recognizing the different types of implicit bias
 - Understanding different categories of bias
 - Characteristics and effects of each
3. Case study in implicit bias impacting an investigation
 - Real-world example from a court case
4. Minimizing bias risks
 - Actions to take to minimize bias risk in investigations



First – A Problem

- You will be divided into two groups
- While the first group answers two questions **silently**, the second group will turn away from the screen
- Next, the first group turns away from the screen while the second group answers two questions **silently**
- Do the **entire exercise in silence**
- Write your answers down on a piece of paper and fold it in half
- Write your group number (1 or 2) on the outside of your folded piece of paper
- Your answers will be collected

•Group 2 – Please Turn Around



First Group – Question No. 1

Is the nightly rate of this 900 sq. ft. hotel room with king bed greater or less than \$200?



First Group – Question No. 2

- How much more or less than \$200 is its nightly rate?



Problem

Group 1 – turn to the back of the room

Group 2 can now face the screen



Second Group – Question No. 1

Is the nightly rate of this 900 sq. ft. hotel room with king bed greater or less than \$5,000?



Second Group – Question No. 2

- How much more or less than \$5,000 is its nightly rate?



PART 1

How Bias Affects an Investigation



Bias

- The inclination or tendency to present or hold a partial perspective that is preconceived or unreasoned.
 - Conscious or
 - Unconscious

Can lead to unfair treatment of people and inaccurate interpretations of information in an investigation



Unconscious (Implicit) Bias

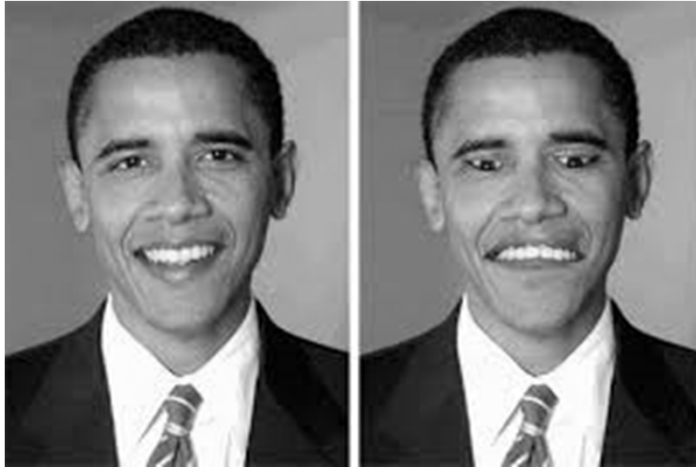
- Unconscious (implicit) biases are those that we are not aware of at the time they are impacting us (we might become aware of them later)
- Science says we have more of these unconscious biases than we'd care to admit
- And numerous real-life cases provide further evidence of the existence and effects of implicit bias
- Unconscious bias is just one category of numerous unconscious behaviors we experience
- Closely related to "heuristics" – mental shortcuts that allow people to solve problems and make judgments quickly and efficiently



Unconscious Processing of Information



Unconscious Processing of Information

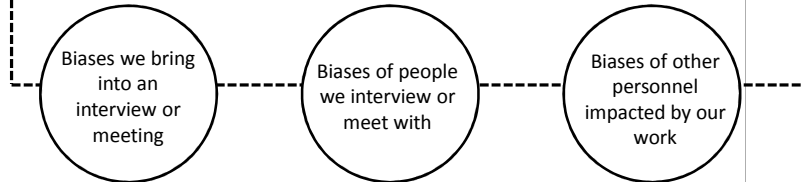


Concepts Closely Related to Bias

1. **Stereotype** - an exaggerated belief, image, or distorted truth about a category of people
2. **Prejudice** - an opinion, prejudgment, or attitude about a category of people
3. **Discrimination** - behavior that treats people unequally as a result of their group memberships



Where Bias Impacts Investigations



How Bias Impacts Investigations

- Mistakes in planning or designing our procedures
- Improperly performing procedures
- Reaching incorrect conclusions
- Improper review of our own work by supervisors
- Failures in applying professional scepticism



Example
Impact of Bias on an Investigation

- Biases regarding the guilt or innocence of someone alleged to have committed an offense
- Bias regarding acceptance of representations made by management or personnel
- Biases impacting our determination regarding scope of work
- Bias with respect to our initial hypothesis of what happened and how
- Biases in how we perform interviews and in how we interpret results of interviews
- Bias in how we interpret data



PART 2

Types and Examples of Implicit Bias



Categories of Bias

- Affinity bias
- Priming
- Confirmation bias
- Bounded awareness
- Anchoring
- Incrementalism
- Availability bias
- Groupthink



Affinity Bias

- There is a natural tendency to favor those people with whom we are most comfortable
- Often based on:
 - Age
 - Race
 - Religion
 - Education
 - Cultural background
 - Gender
 - Geographic location or origins
 - Common Interests or memberships



Priming

- An implicit memory effect in which exposure to one stimulus influences a response to another stimulus
- Differentiated from purely implicit forms of bias because implicit biases are formed entirely internally, while primed biases are the result of external influences



Confirmation Bias

- The natural tendency to seek out or interpret information in a manner that supports the existing hypothesis, belief, or expectation
- Satisficing is a related term that refers to selecting the first hypothesis that appears to be good enough, rather than exploring all alternatives to find the best one



Some Science Behind Confirmation

Bias – from a Study

- Participants underwent fMRI brain scans while they read political quotes from two opposing candidates in a recent U.S. presidential election
- In each case, one statement was consistent with the candidate's political beliefs and the other quote was contrary to the candidate's beliefs
- Participants had no problems seeing the contradictions in the statements attributed to the candidate they disagreed with
- But, notable levels of distress in the brain were detected when reading contradictory comments attributed to the candidate they supported (cognitive dissonance)
- The brain shuts this distress down, even through faulty reasoning, and sends reward signals once this is done



Some Science Behind Confirmation

Bias – cont'd

Conclusions:

- Human brains do not like distress or conflict
- The brain takes action to eliminate this distress, often through faulty reasoning, activating rewards circuits in the brain in doing so
- We are not consciously aware of the actions the brain is taking to do this



Manifestations of Confirmation Bias

1. Only considering , or placing exclusive reliance on, evidence that supports an existing hypothesis
2. Interpreting evidence or information in a manner that supports an existing hypothesis
3. Only registering information during an interview that supports an existing hypothesis

The hypothesis could be the guilt or innocence of an individual in an investigation, the methods used to perpetrate a fraud, an assertion or explanation provided by management during an investigation, or assumptions used in preparing a valuation.



Bounded Awareness

- An unconscious bias in which a someone fails to seek, see, use, or share relevant information or records
- Relationship between confirmation bias and bounded awareness - as more information is gathered and interpreted as support for one hypothesis (due to confirmation bias), the more inclined the individual is to stop searching for information that could contradict that hypothesis, or to ignore available, contradictory information
- In other words, the professional stops investigating or auditing



Anchoring

- Anchoring bias occurs when someone *anchors*—or fixates—on a preliminary estimate related to a case, and becomes convinced that the figure is correct. For example:
- An auditor is presented with a set of financial statements from a client, and the auditor anchors on the figures in the statements.
- An investigator anchors onto a preliminary estimate of an amount embezzled from a company, or an amount that a fraudster admits to stealing.
- Anchoring is the thinking that if these preliminary figures are not correct, they can't be off by a substantial amount, can they?



Incrementalism

- Focusing on a narrow range of alternatives representing marginal change without considering the need for dramatic change from the existing position. Closely related to anchoring.
- The professional only allows himself to make incremental adjustments to the amount he anchored to, even if all the evidence gathered indicates that the preliminary amount is significantly incorrect.



Group Problem

What is the nightly rate of this 900 sq. ft. hotel room with king bed?



Availability Bias

- The inclination to make decisions based on information that is most readily available.
- The more difficult information is to obtain, the less likely individuals are to bother with it.
- Another manifestation of availability bias, and one that is similar to bounded awareness, is the failure or inability to identify entirely new or different hypotheses



Groupthink

- A phenomenon in which the desire for harmony or conformity in a group results in an irrational or dysfunctional decision-making outcome
- There is a conscious and unconscious element to groupthink
- Also known as *consensus* - members of a group attempt to minimize conflict and reach a decision without proper consideration of alternative hypotheses or views
- Outside counsel may serve as counter-weight



PART 3

A Case Study in Bias



Case Study

- Summarized from an actual court decision
- A company terminated an employee for cause on grounds that he submitted duplicate expense reports to collect money he was not entitled to
- The employee had worked for the company for 27 years at the time he was terminated
- Investigation began when an internal auditor discovered six instances of apparent duplicate expense reporting
- Finding was reported to two VPs, who directed IA to analyze all the expense reports from the employee



Case Study

- After internal audit completed its additional work, HR director met with and informed the employee that 37 duplicate reports had been uncovered, totaling approximately \$9,000
- Frequency of duplicate expense reporting increased over time
- After a second meeting three weeks later, the employee was terminated for his alleged fraud



Case Study

- A court found that the employee was wrongfully dismissed, concluding that the investigation failed to prove that the employee intended to defraud the company.
- Key factors:
 1. Employee was handpicked for a special project, based on his technical knowledge in the area, and the project required significant travel along with long hours. During the course of the project, a gradual deterioration in the accuracy of his expense reports, including the duplicate reporting, could be observed.



Case Study

2. Coworkers stated that the employee was very disorganized in his recordkeeping, and his focus was always on producing a quality technical outcome at the expense of his recordkeeping.
3. The HR director admitted to denying the employee any administrative support when he requested it. The HR director also confirmed that the employee said he was having a difficult time keeping up with his expense reporting.
4. In addition to the \$9,000 of erroneous and duplicate claims for reimbursement, the employee failed to claim reimbursement for approximately \$2,800 of expenditures to which he was entitled. Why would someone intent on committing fraud fail to claim reimbursements that he was owed?



Case Study

- The court also pointed out the many honors that the employee had received in recognition of his excellent work
- The judge characterized the HR director's investigation as "an exercise in case building" against the employee rather than a "fact-finding mission."
- Judge noted the HR director's "failing to consider the total picture" and "turning a blind eye" to any kind of context or other circumstances
- The judge in effect scolded the HR director and the company's management for confirmation bias and bounded awareness, along with several other characteristics of implicit bias



PART 4

Minimizing the Impact of Bias



Becoming Unbiased

- It is virtually impossible to start out unbiased, let alone maintain an unbiased mindset throughout an engagement
- Instead, professionals must take actions to *become unbiased*—to identify and counter the effects of their own biases:
 - Acknowledge that all individuals bring implicit biases with them every day and are susceptible to the effects of priming
 - Take specific actions to eliminate (or at least minimize the effects of) their inherent biases, including priming.
- Use of outside legal counsel as a component of monitoring bias



Avoid Jumping to Conclusions

- This is the most obvious step, but one of the most difficult
- Attempt not to focus on a single theory/conclusion – but how?
- Two methods for professionals to avoid becoming fixated on a single hypothesis are:
 1. Actively challenge the existing hypothesis.
 2. Develop alternative hypotheses.



Actively Challenging the Hypothesis

When actively challenging their own hypotheses, investigators should

1. Force themselves to:
 - a. Identify other explanations for the suspicious behavior
 - b. Consider different suspects
 - c. Develop alternate hypotheses
2. Consider writing down these alternatives and challenges.
3. Use a devil's advocate
4. Consult someone not previously involved in the investigation (much like the quality-review process for an audit)
5. Take a fresh look—essentially start over with some of the very first pieces of information
6. Consider what the absence of information could mean (e.g., if this really is fraud or noncompliance, what trail or clues should be present that are not?)



Overcoming Bias in Interviews

- Both participants in an interview bring their unconscious biases into an interview, creating potential for a severely compromised interview
- Interviews are designed to provide a flow of information. Nothing can cut off that flow more than unconscious biases that make either or both individuals uncomfortable—even if that discomfort is not consciously obvious



Overcoming Bias in Interviews

- Focus on gathering facts or on the other goals of the interview, and on establishing rapport with the person being interviewed.
- All people want to be treated with respect, and most people genuinely want to help other people.
- Make a conscious effort to identify things about the interviewee that he can relate to.
- Be aware of cultural differences.
- Half the battle is the interviewer reminding himself of the necessity of overcoming these differences to establish an effective interview process.



Additional Steps to Minimizing Bias

1. Consider all relevant records and information, not just ones that support an assertion or would most quickly close out a case. Always think "what else should I look at?"
2. In an investigation, consider all possible non-violation-related explanations for suspicious evidence and data anomalies. Write them down—this really does help.
3. Extend the scope of interviews beyond those who can corroborate facts that support the hypothesis. Include others who might have useful information that fits a different hypothesis.
4. Include all relevant findings in the report, including information that counters the hypothesis



Additional Steps to Minimizing Bias

5. Use an independent quality-review process.
6. Beware of affinity and other implicit biases in conducting interviews (on the part of both parties) and actively attempt to counter it (e.g., the interviewer can force himself to spend sufficient time interviewing someone who has the potential for triggering a bias).
7. Avoid group interview of multiple employees (GroupThink)
8. Get sufficient sleep.



Get Comfortable with Being Uncomfortable

- Get accustomed to actively challenging our own theories, even though it initially may be uncomfortable.
- *Cognitive dissonance*—"excessive mental stress and discomfort experienced by an individual who holds two or more contradictory beliefs, ideas, or values at the same time."
- It all sounds worse than it is! But addressing these natural tendencies are at the core of remaining open to alternate hypotheses.
- We all naturally gravitate toward conformity. However, challenging our assumptions, logic, and so on, and actively countering some of our unexplained tendencies in interviews, are the keys to professionals becoming unbiased.



Get Some Sleep!

- But isn't it a badge of honor to work long hours?
- An individual's work is less likely to be impaired if he has a couple of alcoholic drinks than if he works without sufficient sleep. According to research, the equivalent of a blood alcohol level of 0.1 percent (which exceeds the legal limit for driving in almost every state) results from either:
 1. going 24 hours without sleep or
 2. getting only four or five hours of sleep a night for one week



Get Some Sleep!

- According to scientists, two areas of the brain are less active in sleep-deprived people:
 1. The parietal lobe - responsible for integrating information from the senses and also plays a role in our knowledge of numbers and manipulation of objects.
 2. The occipital lobe, is involved in visual processing.
- Hmmm...
- Knowledge of numbers and processing of our observations. Do you think these skills ever come in handy in compliance or investigation work?



Get Some Sleep!

Margaret Heffernan, from her book *Willful Blindness*:

- “Because it takes less brain power to believe than to doubt, we are, when tired or distracted, gullible. Because we are all biased, and biases are quick and effortless, exhaustion makes us favor the information we know and are comfortable with. We’re too tired to do the heavier lifting of examining new or contradictory information, so we fall back on our biases, the opinions and the people we already trust.”



QUESTIONS ??

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