

BIAS AND DECISION MAKING IN COMPLEX HOMICIDE CASES

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POWER

Cognitive Bias Defined

- A **cognitive bias** is a type of error in thinking that occurs when people are processing and the world around them and trying to simplify information.
- Unintentional Stereotyping
- Bias is part of the human condition, despite our commitment to egalitarian values

Cognitive Bias Defined

- These biases are heightened in stressful situations. We have less time to consider whether our initial impressions are correct.
 - *Implicit Racial/Ethnic bias among health care professionals and its influence on healthcare outcomes: a systematic review. American Journal of Public Health 2015*

10% overt bigotry

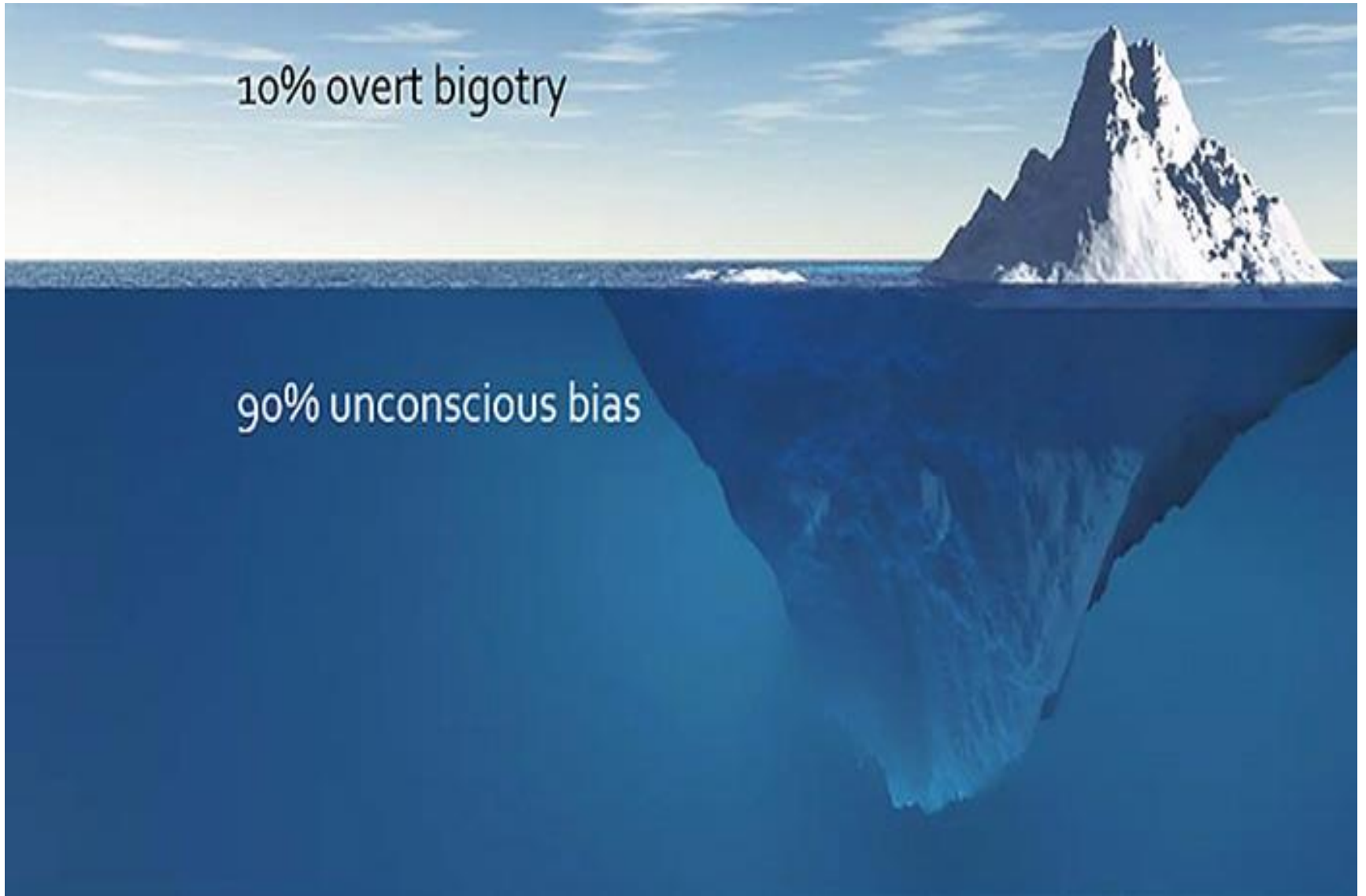
90% unconscious bias





10% overt bigotry

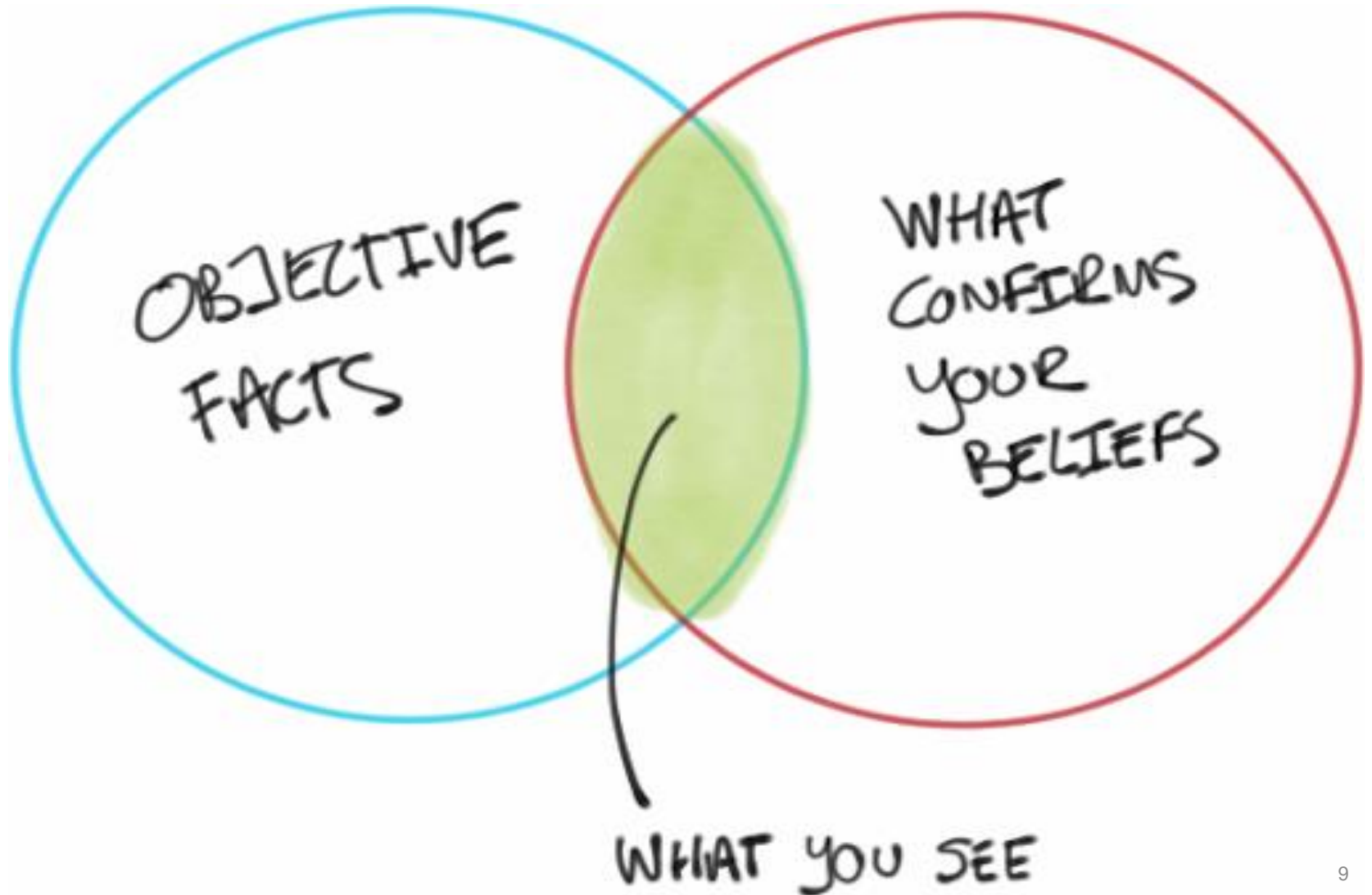
90% unconscious bias



Confirmation Bias

- The tendency to search for, interpret, focus on, and remember information in a way that confirms one's preconceptions/beliefs. **
- We avoid cognitive dissonance.
- Also called the “Prosecutor’s Bias”.

Confirmation Bias



CONFIRMATION BIAS

**WHEN YOU FIND OUT THAT
YOUR WORST-BEHAVED STUDENT...**

HAS 3 YOUNGER SIBLINGS

What You See Is All There Is



% Of DV Victims Who Recant?

We presume they will recant...so we look to:

 911 call, EMS record, Medical Records

FIREFIGHTER/EMS




% Of DV Victims Who Recant?

We presume they will recant...so we look to:

 911 call, EMS record, Medical Records

 Social Media, text messages, jail calls

 Determine Primary Aggressor On Scene

 Meet w/victim early in process, neighbors, family, friends, etc...

Just World Theory

**YOU
DESERVE IT**

Just World Theory

People have an automatic tendency to look for something or someone to blame for unfortunate events. But rather than simply attributing a bad turn of events to bad luck, people tend to look at the individual's behavior as a source of blame.

Just World Theory

blue seat studios

Just World Theory

People have an automatic tendency to look for something or someone to blame for unfortunate events. But rather than simply attributing a bad turn of events to bad luck, people tend to look at the individual's behavior as a source of blame.

- What was she wearing?
- Why did she let him walk her home?
- How much she had to drink?

Just World Theory

WHAT IF I TOLD YOU

**THE POLICE WON'T BOTHER YOU IF YOU
DON'T BREAK THE LAW**

Just World Theory



Defensive Attribution



Defensive Attribution

- The similarity of the witness to the person(s) involved in the misfortune – in terms of situation, age, gender, personality, etc. – changes the amount of blame one is ready to ascribe.
- This is related to the empathy response, which is more likely to be activated if the witness sees similarities between themselves and the person(s) involved.

Defensive Attribution



Beauty Bias A.K.A. “Halo Effect”

- Research has shown that we give good-looking individuals favorable traits such as talent, kindness, honesty, and intelligence.



“Halo Effect”



“Halo Effect”

- Physically attractive individuals are more likely to be...
 - Hired and less likely to be fired
 - More likely to get a call back for interviews
 - Higher wage earners (10-15%)
 - Less likely to get in trouble when they are children

GENDER



Gender Bias: Police Chief Edition

Michael vs. Michelle

- Michael—streetwise, worked tough neighborhoods, got along with fellow officers. Poorly educated and lacked administrative skills.
- Michelle—smart, well schooled and experienced in administration, family oriented, little street experience and didn't get along with officers.

Gender Bias: Who Do You Hire?

When the male had experience,
participants chose...

The Man

When the male had no experience,
participants chose...

The Man

CONFESSIO

USHER





If I'm gonna tell it, then I gotta tell it all.





So What Had Happened...



See What Had Happened Was...



Microaggression

Stereotypes that leak out in many interpersonal situations. A.K.A. Sights, insults, indignities and denigrating messages.

Microaggression Examples

- You're good with numbers right?
- Can I touch your hair?
- You don't sound black.
- You look too white to be Hispanic/Arab/etc...

Implicit Racial Bias

- **Researched for over two decades.**
- **More researched than any of the other bias.**

Robbery In Black and White

- University of Hawaii Study, 66 participants
 - Japanese American, White, Chinese, Native Hawaiian, Pacific Islander, Korean American and Latino

Robbery In Black and White



Ambiguous Crime Details

- Prior drug addict, served with eviction notice
- Left handed
- Golden Gloves boxing champ in 2006
- NO License
- Owner Identifies defendant's voice
- Defendant had movie ticket stub for show that started 20 minutes before robbery

Robbery In Black and White: Results

How Guilty Is The Defendant?

Scale (0-100)

- Darker Skin Tone 66.97
- Lighter Skin Tone 56.37

Not Just Defendants...

- Black boys as young as 10 are seen as more responsible for their actions compared to their white counterparts.
 - Viewed as older (up to 4½ years) and less innocent.
 - *The Essence of Innocence: Consequences of Dehumanizing Black Children (Goff, 2014).*
- Black Girls are viewed as less innocent and need less nurturing than their white counterparts.
 - *Girl Interrupted: The Erasure of Black Girls Childhood (Epstein, Blake & Gonzalez, 2017)*

But I'm a Real Lawyer...



Written in Black and White

Memo drafted by a hypothetical law student given to 60 partners in 22 law firms.

- 37 men, 23 women, 39 white,
- 21 racial/ethnic minorities
- Memo had 22 writing and analytical errors.
- Same memo. Only difference was race of the “writer”.

Results

- **White “Thomas Meyer” averaged 4.1/5.0.**
- **Black “Thomas Meyer” averaged 3.1/5.0 scale, for the same memo.**

Quantitative Results: Errors Spotted by Lawyers

**White Thomas Meyer:
10.2 errors found avg.**

**Black Thomas Meyer:
14.6 errors found avg.**

Qualitative Results: Opinion of the Students

White Thomas Meyer:

“good writer but needs to work on”, “has potential”, “good analytical skills”.

Black Thomas Meyer:

“Needs lots of work”, “can’t believe he went to NYU”, “average at best”.

The Implicit Association Test (IAT)

- Designed to measure implicit bias
- <https://implicit.harvard.edu/implicit/takeatest.html>
- Flowers vs. Insects

My Story

- **Took the Implicit Association Test...**

implicit.harvard.edu



G+ Share



Your result:

Your data suggest a slight automatic preference for White people over Black people.

The sorting test you just took is called the Implicit Association Test (IAT). Half of you completed the task for African Americans and European Americans, whereas the other half completed the task for Black People and White people. You categorized good and bad words with images of African Americans (or Black People) and European Americans (or White People).

My Story

- About 50% of African-Americans show a preference toward whites.
 - *Nosek, Banaji, & Greenwald, 2002.*



Attacking Implicit Bias

- **Understand and acknowledge this is not a quick fix.**
- **Take the IAT**
- **Make a Commitment to learn more about Implicit and Explicit Bias that has happened in your community/country. It teaches empathy*****

Collaboration



IMPLICATIONS

**The more you bring in
different perspectives, the
better your outcome will
be.**

One Last Thing



Any Questions?

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