Consistency Bias

People tend to believe they have been more consistent in their attitudes, opinions, and feelings than they actually have. This is consistency bias: the conviction that we now think and feel as we always have, even when our views, preferences, or emotions have in fact changed over time. The bias operates without awareness — a person who has shifted political parties, come to love a food they once disliked, or grown to dislike a former friend often sincerely recalls having always felt the present way. Far from a character flaw or a lie, this is a normal product of how memory reconstructs the past in light of the present. In a legal setting the bias matters because witnesses testify about their past beliefs, attitudes, and emotional states, and because a witness who insists their account has never changed may be reporting a sincerely held but inaccurate sense of their own consistency. This paper explains what consistency bias is, why it occurs, its mirror image (the change bias), and how it bears on testimony. It assumes no background in psychology, and the science here favors no party.

What Consistency Bias Is

Consistency bias is the tendency to remember one's past attitudes, beliefs, and feelings as more similar to one's current ones than they really were. It is one instance of what Schacter (1999) classified among the basic distortions of memory — the "sin of bias," in which present knowledge, beliefs, and feelings reshape recollection of the past. The everyday examples are familiar: a person certain they have always held a political position they in fact adopted recently; someone sure they always loved an activity they used to avoid; a former friendship recalled, after a falling-out, as never having been warm. In each case the rememberer is not lying but genuinely fails to detect that a change has occurred.

The defining feature, and the source of its risk, is the absence of awareness. Because the reconstructed past feels like a straightforward memory, the person has no internal signal that their recollection has been bent toward the present. This is what distinguishes consistency bias from deliberate revision: the witness who says "I have always said exactly this" may believe it completely, even when an earlier record shows otherwise.

Why It Happens: Implicit Theories of Stability

The leading explanation comes from research on how people construct their personal histories. Ross (1989) showed that people hold implicit theories about whether their own attributes — attitudes, opinions, abilities, feelings — tend to stay stable or to change, and that they use those theories to reconstruct the past. When a person assumes that some attitude of theirs is stable, and they cannot directly retrieve their actual past view, they infer it by anchoring on their present view and projecting it backward. The result is a recalled past that matches the present more closely than the facts warrant. Where the implicit theory of stability is mistaken — where the attitude actually did change — consistency bias is the predictable outcome.

This places consistency bias squarely within the broader principle that memory is reconstructed rather than replayed. The past is not read off a fixed record but rebuilt at the moment of remembering, using current beliefs and a theory of how much one is likely to have changed. That reconstruction is ordinarily serviceable, but when the underlying theory of stability is wrong, it quietly rewrites the past to fit the present.

The Two Directions: Consistency and Change

The same mechanism can run in the opposite direction. When a person's implicit theory holds that they have changed — improved, recovered, grown — they may misremember their past as worse than it was, exaggerating the change. The classic demonstration is Conway and Ross (1984), who enrolled students in a study-skills program that did not actually improve their performance.

Believing they had improved, participants misremembered their earlier skills as poorer than they had reported them to be before the program — "getting what you want by revising what you had." This change bias is the mirror image of consistency bias: in both, an implicit theory about stability or change distorts memory of the past to fit a present conviction. Which way the distortion runs depends on whether the person believes the trait in question holds steady or shifts.

Memory for Emotions Is Especially Reconstructed

Feelings are particularly vulnerable to this kind of distortion, because a past emotion cannot be retrieved the way a fact can. When people try to remember how they felt, they cannot replay the fleeting feeling itself; instead they construct an estimate from their memory of the circumstances and their beliefs about what they probably felt — beliefs heavily colored by how things turned out and by how they feel now (Levine & Safer, 2002). A clear demonstration involved students' memories of their anxiety before a midterm examination. Asked weeks later to recall their pre-exam anxiety, students who had since learned they did well tended to underestimate how anxious they had been, while those who had done poorly tended to overestimate it; the outcome, learned after the fact, reshaped the memory of the earlier feeling (Safer, Levine, & Drapalski, 2002). The practical implication is that a person's later report of how they felt at an earlier moment is partly a reconstruction built from what they have learned and felt since.

Memory for Relationships and Attitudes

Consistency bias also shapes how people remember their feelings about others. Studying couples, Scharfe and Bartholomew (1998) found that participants' recollections of their own attachment patterns from eight months earlier were biased toward their current patterns: people remembered having felt about the relationship much as they felt now, even where their earlier reports had differed. The same pull appears in memory for feelings about a partner: current impressions of a dating partner color recollections of how one felt about that partner in the past (McFarland & Ross, 1987). When a present relationship is good, the past is remembered as warmer than it was; when it has soured, the past is remembered as cooler. A witness's recollection of how they regarded another person at an earlier time is therefore liable to be tinted by how they regard that person at the time of testimony.

Consistency Bias and the Law

Consistency bias touches testimony at several points. The first concerns inconsistency between statements. When a witness's trial testimony differs from an earlier statement, the witness may sincerely insist that they have always said the same thing — not as evasion, but because consistency bias has erased their awareness of the change. The law provides for examination on prior inconsistent statements (Fed. R. Evid. 613), and the science cautions that a witness's confident denial of any change is itself an unreliable guide; the contemporaneous record, not the witness's present sense of having been consistent, is the better measure. The second concerns memory for past emotional states. Where a case turns on how a witness or complainant felt at an earlier moment — fear, willingness, distress, or attitude toward another person — the research shows that such recalled feelings are reconstructed in light of later knowledge and present emotion, and may shift in either direction. This cuts no single way: it can lead a remembered feeling to be reported as stronger or weaker, warmer or colder, than it actually was.

These matters reach the trier of fact through the ordinary tools of the adversary system and, where appropriate, expert testimony, the admissibility of which is governed by the general standards for expert evidence — Daubert v. Merrell Dow Pharmaceuticals (1993), as extended by Kumho Tire Co. v. Carmichael (1999), or the Frye general-acceptance test still followed in some jurisdictions (Frye v. United States, 1923). A witness may testify only to matters within personal knowledge (Fed. R. Evid. 602), and courts that have examined the malleability of memory have recognized

that present states can reshape recollection of the past (cf. State v. Henderson, 2011). As always, consistency bias describes a general tendency, not a verdict about any particular witness; it identifies a reason that a sincere assertion of unchanging belief or feeling should be weighed against the contemporaneous record rather than taken at face value.

Special Issues in Legal Practice

The principles described above apply with equal force to every party in a legal proceeding. Memory operates the same way regardless of who is asking the questions, and the science summarized here favors no side. What differs between the parties is not the science but the vantage point — the particular places where memory issues tend to surface, and the particular errors each party is best positioned to guard against. The two summaries below identify those recurring issues. They are offered for orientation, not as litigation strategy; in every case the controlling question is what the evidence in that case will, and will not, support, and the expert's role is to inform the trier of fact rather than to advocate for either side.

Special Issues for Prosecutors

For the State, consistency bias is most likely to surface in a witness's account of past feelings or attitudes, or in a witness's sincere insistence that their account has never changed. The error best guarded against is treating a witness's confident sense of having always felt or said the same thing as proof that no change occurred, when the science shows people routinely fail to detect such changes in themselves. Equally, a genuine difference between a witness's earlier statement and later testimony need not signal dishonesty; ordinary reconstruction, including consistency bias, can produce it. Preserving and relying on the witness's earliest statements, and recognizing that a recalled emotional state may have been reshaped by later events, lets the State present this evidence for what it reliably shows. Because the distortion can run in either direction, attention to the contemporaneous record protects the integrity of the State's proof rather than undermining it.

Understood this way, the science supports careful, defensible use of testimony about past states and beliefs. An account documented close in time to the events, rather than reconstructed long afterward under the pull of present feeling, is the sturdier evidence, and candor about the limits of remembered emotion forestalls challenges that a less careful presentation would invite.

Special Issues for Defense

For the defense, the recurring task is to test claims of unchanging belief, attitude, or feeling against what the record actually shows. The issue most likely to surface is a witness's assertion that their account or their feelings have always been the same, where consistency bias may have masked a real change, or a recalled emotional state that may have been reshaped by the known outcome or by the witness's present view of a party. The error best guarded against is overclaiming — treating consistency bias as proof that a particular witness has changed their story or fabricated a feeling, when the bias describes a tendency, not a finding about an individual. Comparing the witness's earlier statements with their current testimony, and identifying what the witness has since learned or come to feel, is the sounder course.

The corresponding safeguard is to ensure the trier of fact understands the science: that people sincerely believe they have been more consistent than they were; that memory for past feelings is reconstructed from present emotion and later knowledge and can shift in either direction; and that a witness's confidence in their own consistency is not a reliable measure of it. Where admissible, expert explanation of consistency bias can help the factfinder weigh testimony about past beliefs and emotions against the contemporaneous record, without assuming either that the witness is lying or that the recollection is accurate.

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