




# GROUPTHINK

The pitfalls of decision-making in groups


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**GOOD DECISIONS**




**HUMAN JUDGMENT**



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GOOD DECISIONS



HUMAN JUDGMENT

**PROBLEM**

- 1 We take shortcuts
- 2 We are influenced by irrelevant factors

**RESULT**

- 1 Decisions with systematic errors (biases)
- 2 Inconsistent, "noisy" decisions

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WHO WANTS TO BE A  
MILLIONAIRE  
WHO WANTS TO BE A

**WISDOM  
OF THE  
CROWDS**




ASK THE  
AUDIENCE  
91%




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“Surveys of (..) lawyers indicate a belief that groups of judges arrive at better decisions than individuals judging alone”

Bary (2023) *Judging Better Together: Understanding the Psychology of Group Decision-Making on Panel Courts and Tribunals*



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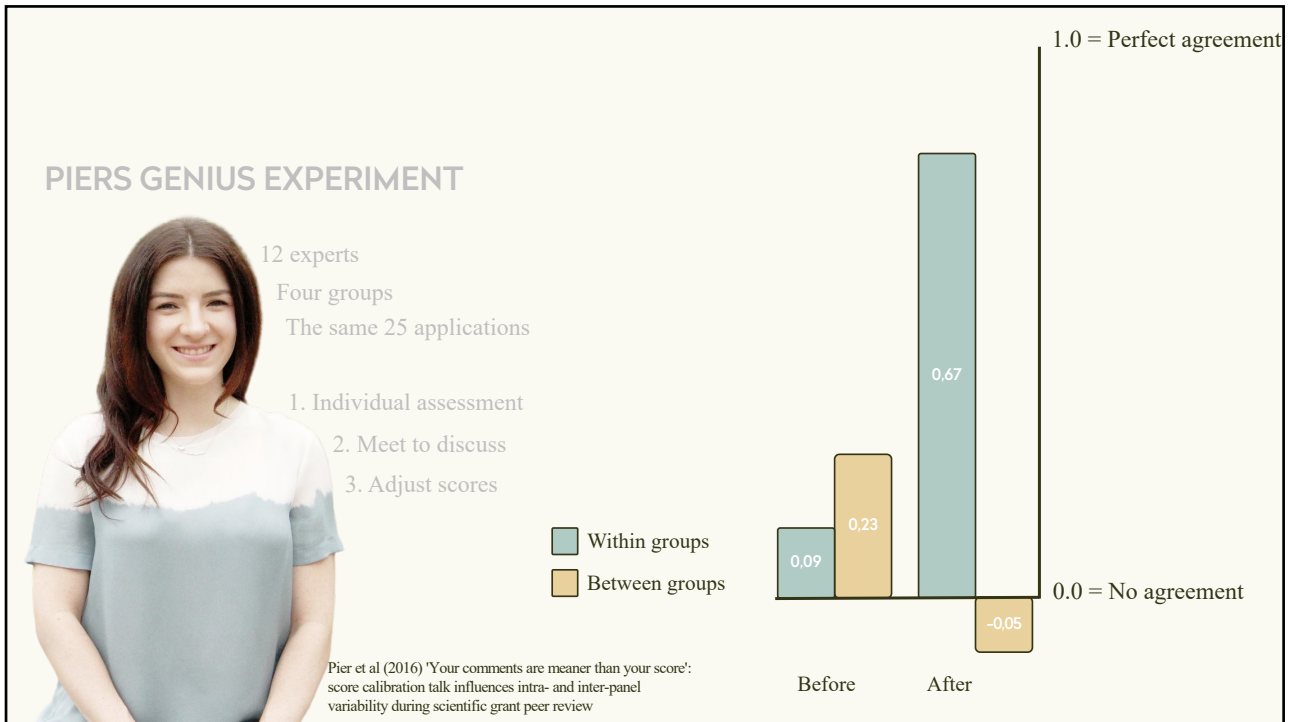
### PIER's GENIUS EXPERIMENT

12 experts  
Four groups  
The same 25 applications

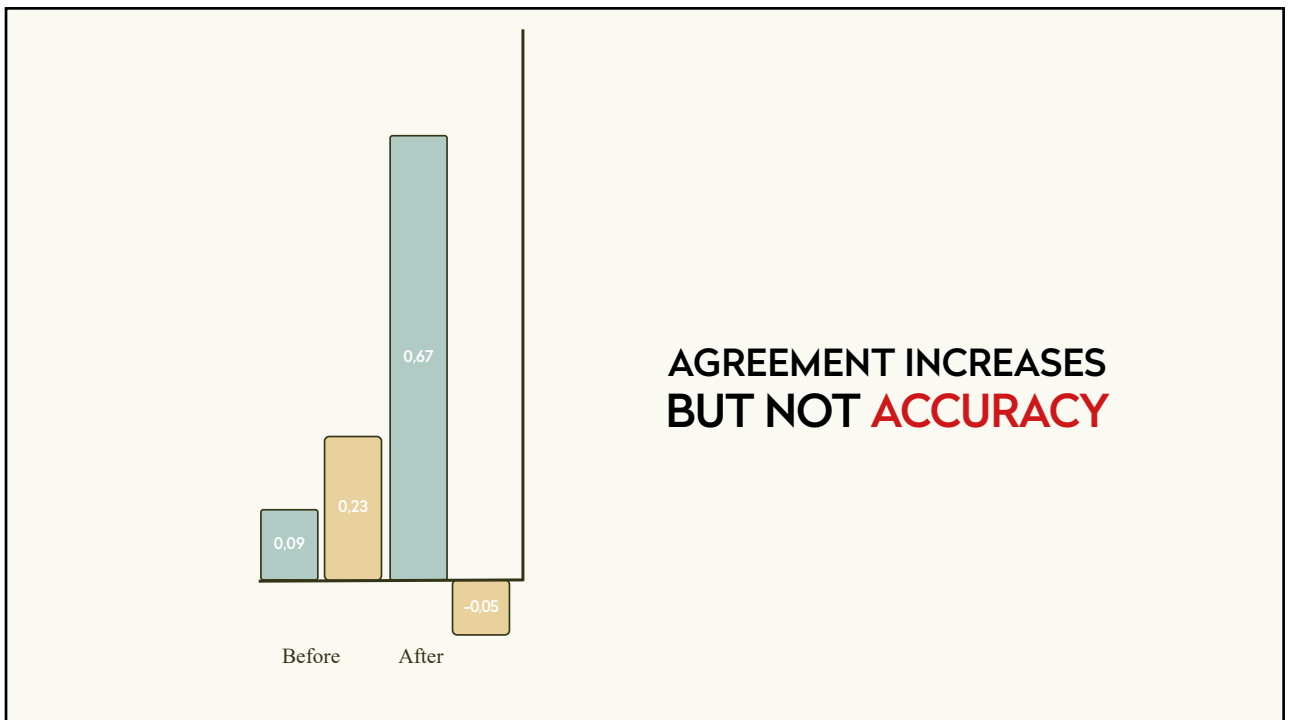
1. Individual assessment
2. Meet to discuss
3. Adjust scores

Pier et al (2016) 'Your comments are meaner than your score': score calibration talk influences intra- and inter-panel variability during scientific grant peer review

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## WHY DOES THIS HAPPEN?

Sequence effects

Dissent aversion

Authority bias  
(freshman and seniority effects)

Social loafing

Common information bias

Sunstein (2004) *Ideological Voting on Federal Courts of Appeals: A Preliminary Investigation*,  
Hagle (1993) "Freshman Effects" for Supreme Court Justices  
Boyce (2010) *Does Seniority Matter? The Conditional Influence of State Methods of Judicial Retention*  
Epstein et al (2011) *Why (And When) Judges Dissent: A Theoretical and Empirical Analysis*

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## 133 EXPERIMENTS

Cultural differences...  
... but people give in everywhere

In a situation where ...

- 1) You are testing you eye sight
- 2) The answer is obvious
- 3) The others are unknown
- 4) There is no pressure

Bond, R., & Smith, P. B. (1996). Culture and conformity: A meta-analysis of studies using Asch's (1952b, 1956) line judgment task.

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**TEAMWORK**

**IT GETS SHIT DONE**

**CONFORMITY IS (MAINLY) A GOOD THING**

Being able to make decisions is often better than making the optimal decision

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**INFORMATION IS LOST**

In the last **important** meeting you attended, did you withhold **potentially useful** information?

**48 %**

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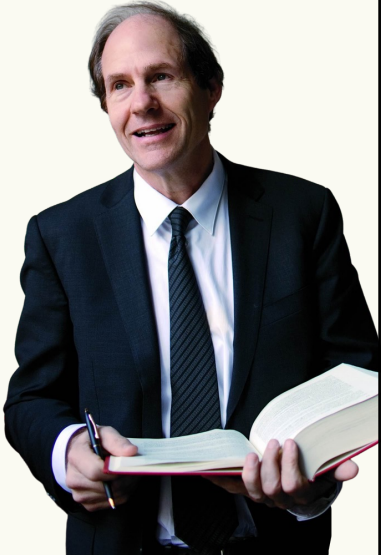
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**VULNERABLE SITUATIONS**

- Ambiguity
- Unequal power or knowledge
- Time pressure




**CASS R. SUNSTEIN**  
Bestselling author of *Nudge*



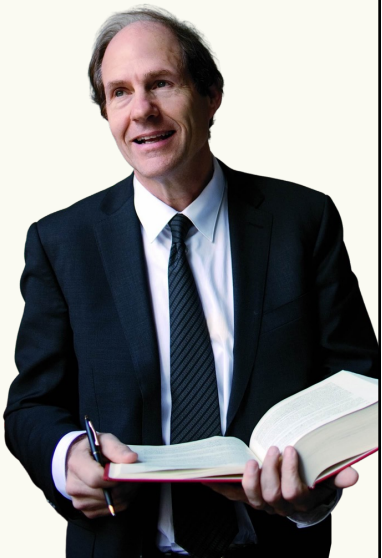
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**JUDGES ARE NO EXCEPTION**  
US Federal Courts of Appeals



Democrat      Democrat      Republikaner

Landes and Posner (2009) Rational Judicial Behavior: A Statistical Study  
Sunstein et al (2006) Are Judges Political?: An Empirical Analysis of the Federal Judiciary  
Tim (2009) Deliberation And Strategy On The United States Courts Of Appeals: An Empirical Exploration Of Panel Effects




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**JUDGES ARE NO EXCEPTION**

“There is an unmistakable pattern of **CONFORMITY** when sitting with Republican appointees, Democratic appointees often vote like Republican appointees, and when sitting with Democratic appointees, Republican-appointed judges often vote like Democratic appointees.”

Sunstein (2019) *Conformity*




Landes and Posner (2009) *Rational Judicial Behavior: A Statistical Study*  
Sunstein et al (2006) *Are Judges Political?: An Empirical Analysis of the Federal Judiciary*  
Tim (2009) *Deliberation And Strategy On The United States Courts Of Appeals: An Empirical Exploration Of Panel Effects*

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**JUDGES ARE NO EXCEPTION**

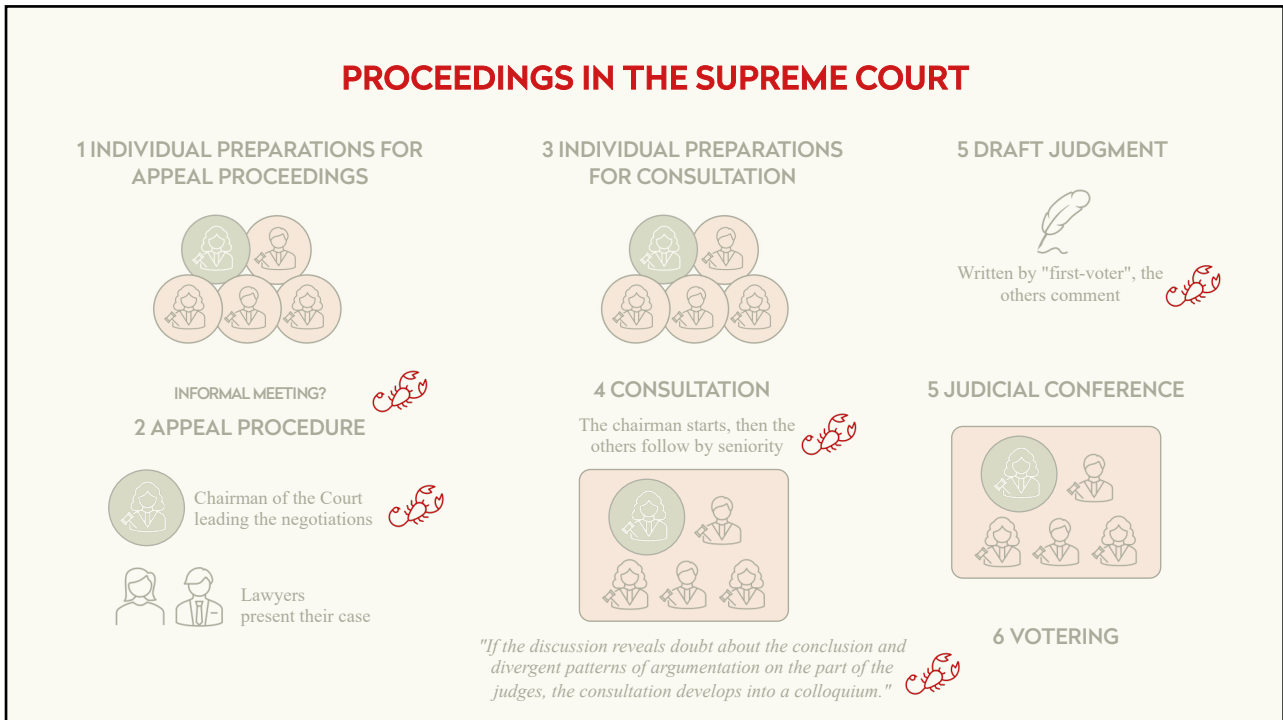
On the whole, judges are excellent decision makers and sometimes resist common errors of judgment that influence ordinary adults.

The weight of the evidence, however, suggests that judges are vulnerable to systematic deviations from the ideal of judicial impartiality.



Rachlinski & Wistrich (2017) *Judging the Judiciary by the Numbers: Empirical Research on Judges*

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### BALANCED DECISION-MAKING TECHNIQUE (BDMT)

STEPS	CONFORMITY	AUTHORITY BIAS	SOCIAL LOAFING
<p><b>1 Individual judgments before meeting</b> Moderator reviews judgments before meeting May be anonymous and can be shared with participants.</p>	✓	✓	✓
<p><b>2 Everyone presents arguments</b> <b>No conclusion talk allowed</b> The ones with the most power talk last.</p>	✓	✓	✓
<p><b>3 Challenge judgments</b> Discuss strength and weaknesses of the arguments. Debate and criticize. Exercise: Devil's Advocate</p>	✓		
<p><b>4 Vote</b> Can be anonymous and does not have to be conclusive. Exercise: Pre mortem</p>	✓	✓	✓

**A neutral moderator is preferred**  
Preferably without self-interest and power

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## KNOWLEDGE IS NOT THE PROBLEM

”The psychology of small-group decision making is well understood.

Yet ... such theories have not been widely applied to investigations of decision making in courts.

This is curious, because these theories fit well with the nature of the task that most appellate courts face.”

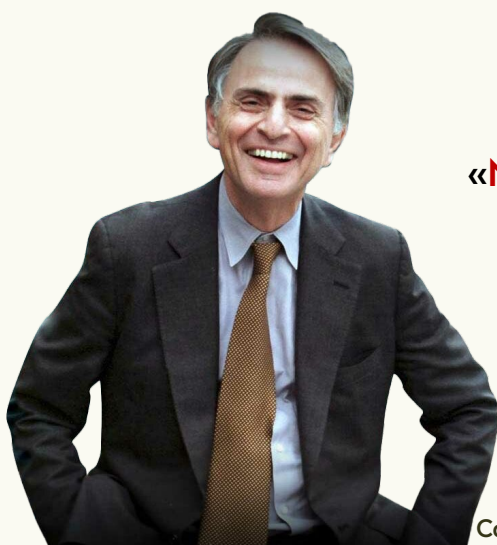


Miller and Curry (2017) *Small-Group Dynamics, Ideology, and Decision Making on the US Courts of Appeals*

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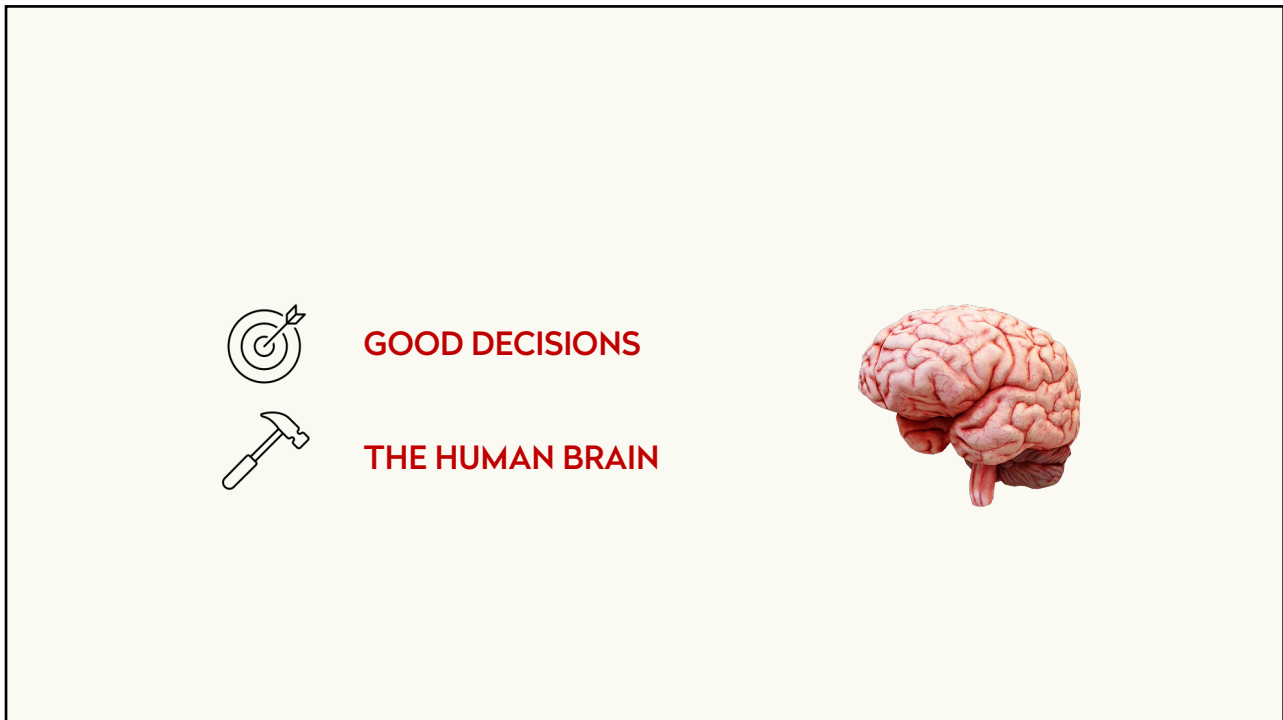
«**NOT** A PROBLEM HERE»

«*Extraordinary claims require extraordinary evidence*»

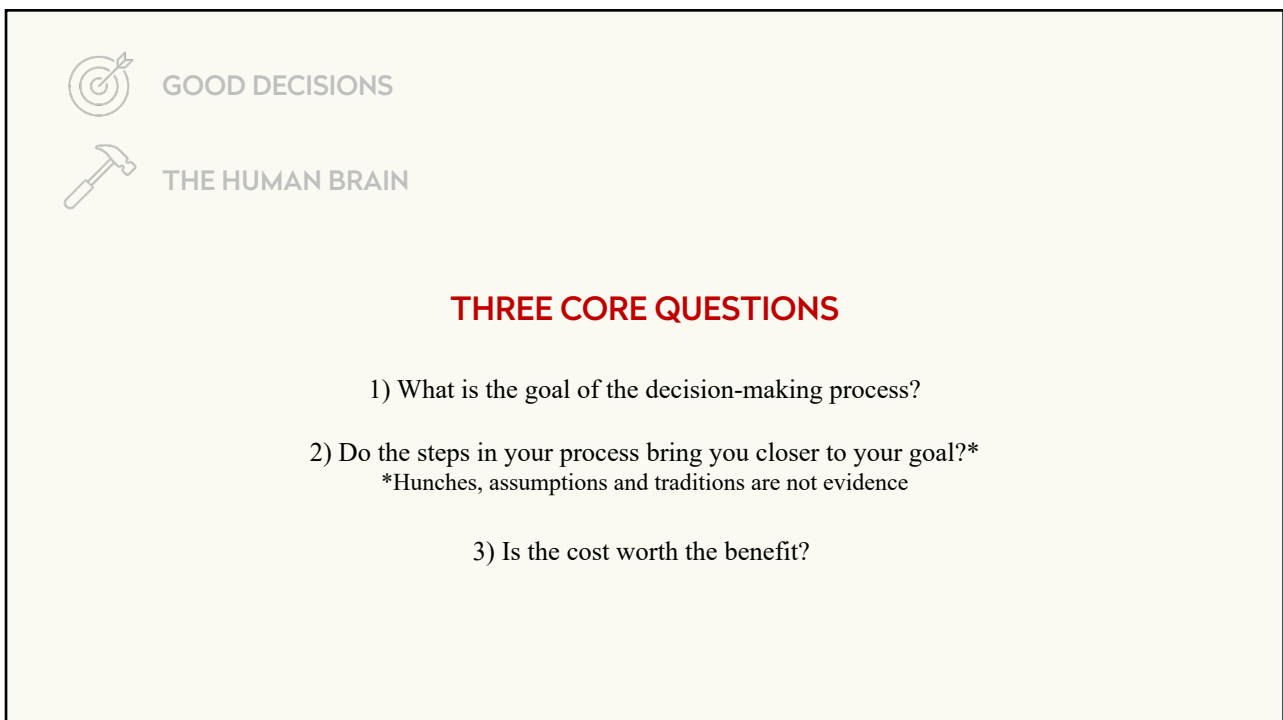


Carl Sagan

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