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LETTER TO THE EDITOR

Authors' Response to Gill et al Response

See Original Dror et al Article [here](#)

See JFS Editor-in-Chief Preface [here](#)

See Gill et al Commentary on [here](#)

See Authors' Response to Gill et al Commentary on [here](#)

See Gill et al Response to Authors' Response [here](#)

Editor,

In their Letter, the National Association of Medical Examiners (NAME) President Gill and their top leadership claim that they “do not object to discussion of or research on cognitive bias,” yet their actions tell a very different story. Rather than engaging in professional discourse about this important issue, NAME's leadership unfortunately has continually deflected attention from the issue by launching baseless straw man attacks against our paper as well as personal attacks and official complaints against the authors. They officially requested that the paper be retracted, which was formally investigated, and their request for retraction was dismissed. They also filed ethics, misconduct in academic research, and other complaints against the lead author, which were likewise formally investigated and dismissed. Although Gill et al. politically state that “conversations about cognitive bias are appropriate and important conversations to have,” in actuality they have done everything in their power to avoid such a conversation. Contrary to their misleading statements, and despite the fact that their allegations and requests for retraction have been independently investigated and dismissed multiple times, they continue in their quest to discredit the authors and try to have the paper retracted, wishing that the data and issue would just disappear.

We now turn to Gill et al.'s latest set of misguided arguments, which continue to reflect that they have not carefully read our paper and are preoccupied with attacking it rather than understanding it. We urge everyone to please read the paper itself [1] and see for themselves what it actually says.

Gill et al.'s misrepresentation of our statements begins in the very first sentence of their Letter, which claims that we “now acknowledge that over 30% of the forensic pathologist cohort were not forensic pathologists” (and they make this false claim repeatedly). What we actually say is that hypothetically *even if* we assume that (a) 30% of the participants were not board-certified forensic pathologists (which is an estimate from NAME President Gill himself), and (b) that *every single one* of those individuals made a “biased” judgment, even if we remove and exclude that data, the effect would still be statistically significant ($\chi^2(1)=4.07, p<.05$) among the remaining 70% of participants.

Furthermore, the reality is that real-world manner of death determinations are not only made by board-certified forensic

pathologists, but also by medical examiners, coroners, and others. NAME and its members represent the professionals who investigate and certify deaths. The survey was specifically directed to NAME members who were “medical examiners,” i.e., those who certify manner of death. Insofar as our sample included a variety of professionals, it makes our data *more* representative of the population of individuals who actually determine manner of death and thus makes our findings more ecologically valid.

Our paper [1] states very clearly—please read it—that “depending on the case and jurisdiction, the manner of death may be determined by medical examiners, forensic pathologists, or coroners who frequently rely on the opinion of the forensic pathologist in determining the manner of death—in this paper “*we use them interchangeably*” (emphasis added). Gill et al. spend time selectively quoting our usages of the term “forensic pathologist,” while overlooking or ignoring our clear statement that we use these terms *interchangeably* (see above). Even a cursory reading of our paper reveals that we use all three terms throughout our paper (e.g., “*coroners* more often attributed death to homicide...,” “*medical examiners* who responded to the recruitment e-mail,” etc.).

Gill et al. also incorrectly state that we do “not know who completed” the death certificates in our dataset. That is, again, false, as we *do* know who certified the death certificates. It was important that our examination of bias in death certificates reflects the real world of manner of death decisions, which are not made exclusively by forensic pathologists. Nevertheless, to alleviate Gill et al.'s concern, the fact of the matter is that coroners certified a minority (less than 20%) of the death certificates in our dataset. Furthermore, even if we remove all of the coroners' death certificates, the biasing effect is still apparent, ($\chi^2(1)=3.74, p=.05$). (We also refer readers to our Reply to the Letter by Tse et al., where we analyzed the death certificates by cause of death, sex, age, and other factors.)

NAME's fixation with how many of our participants were board-certified forensic pathologists vs. medical examiners or coroners is ill-informed and misses the point. First, their argument is predicated on the fallacious assumption that expertise, training and/or certification protect against bias, which it unequivocally does not [2–4]. Second, board-certified forensic pathologists comprise the majority of *all* NAME membership (not just pathologist or physician members) [5], so the vast majority of respondents to a survey which was specifically directed to “medical examiners” in NAME were most likely to be board-certified forensic pathologists. Third, our paper—as the title states—is about “forensic pathology *decisions*” about manner of death determinations, regardless of who makes them.



Rather than grasping at straws in repeated attempts to have the paper retracted and suppress the data, as well as personally attacking and trying to discredit the authors, it would better serve forensic pathology and the justice system if NAME would focus its time and energy engaging and leading the long-overdue discussion of potential sources of bias and ways to mitigate them. Along these same lines, NAME should encourage rather than attack research on cognitive bias and gaps in measuring and mitigating it (research which takes place in many expert domains [3], including healthcare [6]).

Despite what Gill et al. claim, the fact of the matter is that NAME has opposed research on bias in the past, e.g., the lead author requested NAME to enable data collection about bias but NAME did not allow it, and now their vitriolic reactions to our paper and complaints against the paper and its authors just further demonstrate their actual stance.

We urge NAME to actively embrace positions adopted by a myriad of organizations, including the American Association for the Advancement of Science, the National Science Foundation, the National Academy of Sciences, the National Institute of Justice, and the American Medical Association, and encourage research that attempts to improve society at large by bringing attention to and exploring ways to proactively mitigate cognitive and implicit biases.

It is NAME's actions that seriously jeopardize the reputation of forensic pathology. While our paper is groundbreaking in the sense that it provides the first evidence of cognitive bias in manner of death determinations, it is not at all novel in the sense that such biases have been demonstrated time and time again in a myriad of domains, from CSI, fingerprinting, and DNA analysis to analytic chemistry and healthcare [2–4,7–9], including even in medical devices [10]. Ultimately, it will be NAME's reaction to our paper—more so than the paper itself—that stands to damage the reputation of forensic pathology.

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