

Does your attorney wear rose-colored glasses?

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UCI psychologist and law professor Elizabeth Loftus says lawyer overconfidence can clog courts with unnecessary cases and damage the relationship between clients and attorneys. (Hoang Xuan Pham)

(PhysOrg.com) -- Study co-authored by UCI's Elizabeth Loftus finds lawyers overly optimistic about case outcomes.

Lawyers often overestimate their chances of success when predicting the outcomes of civil and criminal cases, reports a new study co-authored by UC Irvine psychologist and law professor Elizabeth Loftus.

It also found that attorneys' ability to accurately foresee case results does not increase with years of legal experience and that women are better predictors of case outcomes than men. The research supports previous findings that overconfidence is common in human decision-making

generally.

This has serious implications since lawyers advise clients and make strategic decisions on their behalf based on perceived odds of success. If [attorney](#) expectations are unrealistic, clients can suffer, Loftus says.

“One important piece of advice a [lawyer](#) can give an individual is whether to litigate or settle,” she says. “Sometimes an attorney who allocates valuable resources to arguing a case in court could have just settled out of court and saved the client a significant amount of time and money.”

The [study](#) is the first to explore predicted outcomes of real legal cases in a large national sample and appears online in the May issue of *Psychology, Public Policy & Law*, a journal of the American Psychological Association.

Loftus and her colleagues surveyed 481 U.S. lawyers who represented plaintiffs and defendants in criminal and civil cases expected to go to trial in six to 12 months.

The attorneys were asked: What would be a win situation in terms of your minimum goal for the outcome of this case? They then rated their confidence of achieving that goal on a scale from 0 to 100 percent.

In follow-up interviews, researchers found that 44 percent of outcomes were less successful than the goals set by lawyers. Thirty-two percent matched the goals, and 24 percent exceeded them.

Attorneys with confidence levels above 65 percent were less likely to meet their stated goals than colleagues with less confidence. Those with confidence levels of 86 to 100 percent actually achieved their aims only 70 percent of the time.

“The higher the expressed level of confidence, the more likely lawyers were to fall short of their goals,” Loftus says. “In addition, male attorneys were found to be more overconfident than female attorneys.”

Judgmental errors can be costly for lawyers and their clients, she says, and place an unnecessary burden on an already overloaded justice system. “A client will be more satisfied with an attorney who’s realistic than one who pushes litigation without delivering results,” she notes.

Loftus worked on the study with Jane Goodman-Delahunty of Australia’s Charles Sturt University; Pär Anders Granhag of the University of Gothenburg, in Sweden; and Maria Hartwig of the John Jay College of Criminal Justice, in New York.

Provided by UC Irvine

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