



Do You Trust Your Intuition? - 4 Steps to Checking Your Gut

Bronwyn Thompson, an occupational therapist and PhD candidate, recently wrote on her [HealthSkills blog](#) about the effects of intuition on the diagnosis of a patient. While the [commentary she provides is in regards to a therapist and a patient](#), it can equally be applied to a lawyer and when new legal issue is presented for review.

*A strict definition from [Princeton Uni](#), no less, states: “**intuition n.** The act or faculty of knowing or sensing without the use of rational processes; immediate cognition.” In other words, intuition is knowing without thinking. Some people use it to mean their ‘knack’ of knowing what is ‘really’ wrong with a patient, or their sense of what someone is feeling, or why something has happened. Other people use it as a way to describe their way of working – coming up with ‘the right thing’ without systematically going through an assessment, hypothesis development and testing process. And still others use it to defend failing to read the literature or keeping on with learning.*

*The first step is to **become aware of the probability that any clinical reasoning we do will be subject to these cognitive biases.** No-one is immune, from novice to highly experienced clinicians, we’re all inherently vulnerable to the thinking errors that have given us humans such a headstart in dominating the world.*

-While lawyers are aware that [cognitive biases](#) (the human tendency to draw incorrect conclusions in certain circumstances based on cognitive factors rather than evidence) tend to skew the weight given to legal evidence by jurors, they might be unaware of their own internal cognitive biases when presented with an issue. **It is important to make sure that lawyers look at every issue with a fresh and open mind and not to fall back and rules of thumb or pre-packaged solutions.**

*The next step is to **put some strategies in place to counter the most common biases.** For me, this means systematically collecting a lot of clinical information across many domains, and delaying making a decision on ‘what is going on’ until after I have done this. It means investing a good deal of time in assessment before beginning treatment. It also means generating several competing hypotheses about what ‘might’ be going on.*

-Too often it seems as though lawyers present each problem the same way. **It is important to have more than one tool in your toolbox when approaching a new issue or project.** It

also means being able to craft multiple solutions to a problem and then make educated and informed decisions as to which is the best fit for the issue at hand.

It means looking at outcomes

dispassionately – using outcome measures that are less subject to demand biases than asking ‘How do you feel now?’ Taking at least three outcome measures: one before treatment, one after treatment and one at follow-up (actually, I’d make the one after treatment happen several weeks after treatment, and the follow-up several months – but this takes buy-in from the funder).



-Seemingly one of the biggest gaps between a law firm and a well-managed business (or in this case, a clinician) is a lack of follow-up and review. When a lawyer is only concerned about his next billable hour, it can be difficult to see the value in reviewing (non-billable) the outcome of a project. However, it is unlikely that the lawyer will ever learn from their mistakes if they do not review how they have performed in the past. **This review should not be left to someone else and don’t wait for the annual review from a senior partner.** Acquire and develop your own methodologies for reviewing your past performance and put in place a system to learn from your review so that you can increase performance in the future.

It means questioning everything carried out as part of treatment. Questioning and challenging and holding up our processes to someone else’s scrutiny. Preferably someone who is prepared to challenge and question treatment choices just as strongly. This can take the form of a file review by the whole team, or maybe a random sample of patient treatments that can be reviewed according to written protocols. Preferably reviews by someone else other than you!

-This is perhaps the least developed but often strongest tool for a lawyer to possess. **It is essential that you have an effective team around you that you can trust, not just to help and support your work, but to criticize and eviscerate it.** Any work product that is put out by an attorney needs to be able to withstand the harshest criticism and judgment.