



The New American Jury: The Current State of U.S. Attitudes and Opinions

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Session Title: Changing Tides and Steady Streams in the Jury Panel

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Chris Dominic | President & Senior Consultant

serves as President and Senior Consultant of Tsongas Litigation Consulting, Inc. He leads the company's national practice and counsels clients on cases ranging from everyday litigation to some of the highest-profile, highest-stakes trials in the nation. Dominic began working with Tsongas Litigation Consulting in 1997. He has presented many nationwide seminars on strategy, witness preparation, research, jury selection, opening/closing, and jury decision-making.



Alexis Knutson | Consultant & Research Manager

Alexis Knutson, M.A., is a Tsongas Consultant and Research Manager. She is based in Seattle and highly experienced in jury research throughout the country, having coordinated, and managed projects from small community venue matches to six-panel mock trials. Alexis' expertise is built on her extensive grounding and study in Psychological Science and Social Psychology, focusing on jury decision-making.

Introduction

Successful persuasion, indeed, any form of communication starts with audience analysis. Data such as demographics are relatively easy to obtain but fraught with error. Life experience information can be helpful—mainly to the extent that it allows us to profile likely opinions and attitudes, the most robust information we can have on a given audience.

Significant events such as 9/11 and the Great Recession created some shifts in attitudes and opinions. It follows then that the Covid-19 pandemic, with all of its disruptions to so many people, may do the same. To assess the current state of U.S. attitudes and opinions, we examined recent, broad poll data from the Pew Research Center with error rates of +/- 3%. The attitudes and opinions analyzed were determined as the most relevant to litigation and civil trials.

We are also doing our own litigation and product liability-related research regarding fundamental attitudes and opinions. During mock trials and focus

groups in the normal scope of our jury consulting practice, we ask the following questions:

1. Corporations often put profit before safety/Companies care more about profit than safety/Corporations routinely put profits over the safety of people.
2. The primary responsibility of the safety of a product rests with the manufacturer, not the user.
3. Punitive damages are a good way to hold corporations accountable for their actions.
4. No product can be 100% safe.
5. In a lawsuit, large corporations should have to prove they did nothing wrong.
6. If a product is recalled, it must mean the product has a serious defect and/or is dangerous.

The data analysis and comparison regarding this opinion data will be done at the conclusion of 2021. In time for the presentation in February 2022 but not in time for the publication deadline of this article.

As for the broad attitudinal data mentioned earlier, the results we found the most helpful to be aware of are:

Biggest Recent Shift - Trust of the Media Divided

In 2016, 70% of people self-identifying as "leaning Republican" stated that they have "a lot or some trust in the information that comes from National news organizations." In 2021 that number has dropped to 35%--a 35% drop in 5 years. During that same period, those "leaning Democratic" only dropped 5% points from 83% to 78%. In 2016 the delta between the two groups was a mere 13%. In 2021 that difference is now a gulf of 43% sits between Republicans and Democrats on trust in national media.

Trust of the Government Consistently Low

Only 24% of Americans believe they can "trust the government in Washington to do what is right" This is slightly higher than the all-time low of 17% in May 2019. This number has been consistently declining since 1964 when the all-time high was at 77%. There are a few temporary bumps of increased confidence: in 1991, after Operation Desert Storm (46%) and after 9/11 (60%).

Climate Change Concerns Correlate with the Generations

Generation Z or the group of people born after 1996 are the most concerned with climate change, followed by Millennials, born 1981 to 1996 (the largest group of the four by population), Generation X, born 1965 to 1980, and Baby Boomers born 1946 to 1964. There are multiple indicators for this, such as:

7. Percentage of U.S. adults that have personally taken action to help address climate change within the last year.
 - a. Gen Z-32%
 - b. Millennial-28%
 - c. Gen X-23
 - d. Boomers-21%
8. Talked about the need for action on climate change at least 1-2 times.
 - a. Gen Z-67%
 - b. Millennial-61%
 - c. Gen X-53%
 - d. Boomers-50%
9. Engaged on social media with content on the need for climate action.
 - a. Gen Z-45%
 - b. Millennial-40%

- c. Gen X-27%
- d. Boomers-21%

Majority are Vaccinated Against Covid-19

Most Americans claim to be vaccinated, with 73% saying they've received at least one dose of a vaccine for Covid-19.

Majority Believe Covid Restrictions Were Worth it.

The percentage of Americans who believe the public health benefits of restrictions on public activity to slow the spread of the coronavirus have been worth the costs are 62%.

Access to the Internet is Abundant

Depending on the source, 72% (Pew Research) or 80% (U.S. Census) of Americans have access to broadband internet.

Support for Same-Sex Marriage at All-Time High

Support for same-sex marriage is at an all-time high of 70% among Americans. According to Gallup, one of the fastest-changing attitudes in modern history, this number was at 27% in 1997. Gallup reports this is one of the most significant transformations in public opinion along with the massive shift in support of marriage between black and white people, which at 4% in 1961 and is at 94% in 2021 (Note--interracial marriage was legalized nationwide in the 1967 *Loving v. Virginia* case).

Conclusion

There has been massive polarization in the attitudes and opinions of American citizens, and therefore one can expect this injury pools as well. However, it's important to note some trends have remained steady.

For example, in 5 years, people leaning conservative went from a 70% trust in the national news media to 35%. That's a significant change in a short period of time and particularly interesting when noted along with the fact that during the same period, people leaning liberal only dropped 5 points from 83% to 78%. Still, the 24% of Americans who believe they can "trust the government in Washington to do what is right" isn't significantly different from the all-time low of 17% in May of 2019.

Furthermore, with the massive difference liberals and conservatives have concerning trust in the media, you would think you would see that polarization everywhere. But that doesn't explain the swift and broad acceptance of gay marriage (70%) and interracial marriage (94%).

Finally, news stories consistently present the country as starkly divided on their perception of the Covid-19 vaccine. However, 62% believe the restrictions have been worth the public safety benefit, and the percentage of those vaccinated in some form is 73%.