

THE CHANGING FACE OF JURIES: UNDERSTANDING GENERATION X¹

Elizabeth Foley
Zagnoli McEvoy Foley Ltd.
401 North Michigan Avenue
Suite 1100
Chicago, Illinois 60611
(312) 494-1700
beth@zmf.com

I. Introduction

The 78.2 million Americans who were born between 1966 and 1976 are now moving into the mainstream of American culture. *They are Generation X*. By the year 2000, 30 percent of all jury panels will be made up of this generation. They are called “X” because it is a symbol that connotes an unknown, a mystery. Who are they? What do they value? What has influenced their lives? What persuades them? Courtroom strategies, themes, and arguments will have to change to meet their unique communication needs.

II. Generational Cohorts: A Sociological Theory for Understanding Generation X

Studying a generational group involves a look at the political, economic, and social events that have shaped the feelings and views of its individuals. Sociologists acknowledge that separating generational effects from other significant life influences is complex. However, it is also an effective starting point for understanding a group’s basic perspectives and core values.

In 1951, sociologist Norman Ryder published an important thesis titled “The Cohort as a Concept in the Study of Social Change.” Ryder’s work has been invaluable to sociologists and marketers trying to understand what explains and what motivates different segments of the population. Trial lawyers trying to understand “Generation-Xers” can benefit from Ryder’s concept as well.

Generational cohorts are people born over a relatively short and contiguous time period who are deeply influenced and bound together by the events of their formative years. Ryder’s concept is distinctive because he teaches that age or generations do not necessarily link people into any meaningful category. Instead, it is the events that occur at various critical points in the group’s lifetime that create cohorts and define core values.

For example, sociological events that happen when one reaches “economic adulthood” create life-long attitudes toward jobs, money, and savings. Similarly, sociological events that happen when one is becoming a “sexual adult” influence core values about permissiveness, tolerance,

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gender roles, and sexual behavior. Most psychologists agree that many of these core values are carried through life largely unchanged.

What this means is there exists a generational predisposition that must be overcome, eliminated, or taken advantage of.

III. Describing Generation-Xers

Sweeping generalizations about any generation will not describe each individual member of the generation. Generation X is particularly difficult to characterize for it is one of the most diverse and multiethnic groups of individuals to encompass a generation. Nevertheless, members of any generation are also different or unique compared to others. Generation-Xers have experienced events that make their perspective particular to the generation into which they were born. Understanding the generational values of any cohort helps a lawyer appeal to his or her core values, likes, and dislikes.

For this cohort, it is important to understand the three defining experiences which have undoubtedly influenced all aspects of Generation-Xers' personalities and behaviors: the divorce rate (which has tripled since 1960); an increase in the amount of children born out of wedlock (28 percent); and an increase in the amount of absent fathers. According to this theory, these three circumstances have led to a host of other social phenomena.

In particular, Generation-Xers have experienced the highest divorce rates in history making them cautious romantics who seem to desire creating more stable marriages. Since 1983, 72 to 79 percent of teenagers feel that divorce laws are too lenient versus 55 percent in 1977. They are deferring marriage and children longer than the Boomers did. They may end up more economically stable because they are focused on education and career first. They may also beat the high divorce rates by marrying later in life.

Generation X has been left in a state of instability due to trends believed by some to be linked to an increase in social problems such as: dwindling education and high crime; marriages ending in divorce; children born out of wedlock; and the lack of a father figure in many families. Some researchers opine that Generation X accepts this as a fact of life which in turn has inspired Generation-Xers to seek *stability* in all aspects of their lives. They feel ultimately responsible for creating and maintaining a more stable environment.

Listed below are Generation X characteristics.

Stability

1. Generation-Xers tend to look for balance and perspective. They expect to see a continued emphasis on leisure activities and family entertainment, economical and functional clothing, quality day care, and home office.

2. Generation-Xers are perhaps closer to their parents than any recent generation because they live at home longer. For this reason they are called the “long good-bye” generation. They postpone independent living into their mid- to late-20s. Whereas other cohorts were eager to move away from their parents and start their own nuclear families, Generation-Xers stay around longer redefining their relationships with parents. A 1993 *Details* survey found many still receive financial support from their parents.

The result is that, as young adults, Generation-Xers have created, and are still trying to create, closer relationships with their parents. The 1993 *Details* survey found that 51 percent of Generation-Xers admire their parents more than anyone else. Sociologists predict Generation-Xers will reciprocate by taking full responsibility for their aging parents.

“Look out for yourself” attitude

1. The majority of Generation-Xers’ parents worked outside the home, leaving them to fend for themselves. This independence, learned at an early age, is sometimes perceived as selfish and cold-hearted. However, this is not the Generation-Xers’ intention. They use this mentality as a survival tactic. Rather than labeling Generation-Xers as unfeeling, it is more accurate to cite them as extremely independent.
2. Generation-Xers came of age during the Reagan/Bush era when many social programs were cut. This reinforced the “look out for yourself because no one will do it for me” mentality.
3. As a result of low expectations, 59 percent of Generation-Xers would rather not pay into Medicare, opting instead to save for their own future health care. This is another extension of their independence and growing cynicism. Generation-Xers have always lived in a period where health care costs were high. Since they do not feel that the government “owes them,” they would rather take the responsibility for their own health care. This gives them more control and, thus, more stability.
4. Generation-Xers tend to show little deference to authority. The Generation-Xer-nomic theory would claim that this is a direct result from the unstructured homes Generation-Xers experienced as children.

Employment

1. Generation-Xers tend to be insecure (definitely less confident than their predecessors) about job stability and earnings, yet they do not necessarily think anyone owes them a job or job security. They seem to accept job instability as a natural characteristic of employment. This observation has created a “look out for yourself” and “move on” attitude toward jobs and careers as well.

2. Many Generation-Xers grew up watching their parents work long hours for one company only to be downsized into unemployment. As a result, “They have a much different take on job security: They don’t believe in it. To a Generation-Xer, job security means having the kinds of skills that make you attractive to the next company or enable you to start your own business. It has nothing to do with earning a gold watch.”²
3. Generation-Xers are experiencing declining wages and they know it. The median income in 1971 was \$27,057, in 1981 it was \$24,057, and in 1991 it was \$21,595. This is not good news for those Generation-Xers whose reading and math skills never advanced beyond eighth grade. However, technological changes have been good for many who can operate computers and complex machinery and easily adapt to rapidly changing work environments.
4. Twenty percent of college graduates in the 1980s were unemployed or were overqualified for the jobs they did obtain. This figure has risen to 30 percent of college graduates in the 1990s.
5. Generation-Xers (and “thirtysomethings”) seem to be most attracted to small businesses with a minimum of bureaucracy.

Politics

1. Out of any generation, Generation-Xers have the weakest attachment to political parties. They have never experienced a period of time where the country was not cynical toward its officials. They are the aftermath of the post-Nixon national sentiment regarding politics.
2. Activism does not mean sit-ins or protests for Generation-Xers. Rather, it is done through e-mailing or donating their time to help a cause.
3. Generation-Xers have never had a clear, common enemy and they have never lived during a time of war (excluding Desert Storm). In the absence of war, some sociologists speculate Generation-Xers have no clear ideas about who and what they stand for, or even what they stand against.
4. The Generation-Xer’s skepticism stems from the changing value system of the political world. Most Generation-Xers believe that politicians will say anything just to get a vote. This is why Generation-Xers have the lowest percentage of Americans who vote.

²Susan Caminiti, *Young and the Restless*, YOUR COMPANY: THE MAGAZINE FOR SMALL BUSINESSES (Feb./Mar. 1998).

Diversity—tolerance

1. Generation-Xers accept racial and sexual diversity as facts of life. They have never lived in a world with *overt* racism or sexism, and they do not readily accept the idea of *covert* racism or sexism.
2. However, “diversity” is another word that explains Generation-Xers. This generation seems to be more tolerant and considerably more accepting of homosexuality and diverse ethnic groups than any other group.
3. The diversity of Generation X is reflected in the wide range of music its members listen to. One person may enjoy “grunge,” “hip-hop,” “country,” and “rap.”

Generation X women

1. Although Generation X women have a clear shot to the boardroom, they seem to place a greater importance on the home and family they missed as children and are unwilling to compromise family and quality of life for a career.
2. Generation X women tend to think feminist battles are over. Boomer women, some of whom spent a lifetime opening new opportunities for women, are understandably puzzled when Generation X women preface a statement with, “I’m not a feminist, but” Boomers are concerned when Generation X women are quick to claim the benefits of feminism and equally as quick to disavow any association with it.

Conservative mentality

1. Two terms that seem to define Generation-Xers are “caution” and “practicality.” These values are incompatible with hype and insincerity. Advertisers have learned Generation-Xers reject overstatement and flash although they appreciate satire. They especially resent conspicuous consumption.
2. Generation-Xers tend to be more conservative than Boomers. They think they possess a healthy skepticism toward blind liberalism and anticorporate mentality. They tend to be especially intolerant of the Baby Boomer’s rhetoric about the “underdog,” “evil corporate America,” and “equality for all.” This rhetoric is too idealistic and impractical for them.
3. AIDS has been around for most of the Generation-Xers’ lives. Some sociologists theorize that this has created a return to a more cautious, conservative mentality.
4. Economically, Generation-Xers search for the value of products. Even though they are entertained by creative advertising, they recognize it for what it is—flash and appeal. Even though Generation-Xers learn best through imagery, they are informed consumers of visual appeals and remain unseduced by it in order to be cautious with their money.

Cynicism

1. Fifty-three percent of Generation-Xers feel that the soap opera *General Hospital* will be around longer than Medicare.
2. The majority of “twentysomethings” are more likely to believe that UFOs exist than to believe that Social Security will exist when they retire.
3. Approximately one-fourth of Generation-Xers describe themselves as religious.

Socially

Socially they have had to say good-bye to Johnny Carson, Larry Bird, J.R. on *Dallas*, Daisy Duke, and Scooby Doo. They grew up with Pac Man, Atari, and new cable television to keep them company.

Visually

Generation-Xers are the first generation to grow up computer literate. They are also the first post-television generation so they seem more moved by visual images than the written word. They learn best through multimedia such as television, graphics, computers, and so forth. They easily manage more than one stimulus at a time. The spoken word alone seems dated and boring to them.

IV. Keeping Up with the Times

How can trial attorneys use this information? The previous characterizations should be incorporated into case themes, presentations, and communication styles. The next question then becomes, how should this be done?

First ask, “What am I using besides words to present my case?” Graphics are fast becoming essential to both learning and persuasion in the courtroom. Generation-Xers have been bombarded with visual entertainment. Television was their babysitter while their parents worked. Thus, presentations need to be punchier and more entertaining. Generation X is more accustomed to handling multiimage messages than any other generation before it.

Next, what about courtroom rhetoric? Does it sound the same as it did 10, 15, or 20 years ago? Is the trial attorney still using the same graphics, words, terms, and themes attorneys need to? If the answer is “Yes,” this approach requires updating. Check to see that their rhetoric is in sync with jurors. Some things to think about follow.

1. Generation-Xers can and do lead juries.
2. Their willingness to lead can clash with older, more opinionated Boomers.

3. Generation X has a high regard for long-established tradition and plans to uphold important traditions as an attempt for a more secure adulthood. Generation X will relate to cases where traditions were broken and they will seek to restore them.
4. Themes dealing with ethics, rules, and morality tend to be persuasive for some Generation-Xers.
5. Look for themes that capture their sense of pragmatism such as: Hope for the best; plan for the worst.
6. Themes dealing with the loss of independence and self-reliance tend to capture Generation-Xers' values.
7. For plaintiff's lawyers, "victim" has become a negative term. For defense lawyers, the terms: "accountability" and "personal responsibility" are golden. Plaintiff lawyers need to replace terms like: "pain and suffering" and "noneconomic damages" with terms like "human losses."
8. One attitude that seems to prevail is: "Look out for yourself." The concept of entitlement (in the workplace and the marketplace) has been replaced with a more cautious, conservative—some argue cynical—mentality. The rhetoric of entitlement is dead.
9. For plaintiff's lawyers, instead of persuading Generation X jurors to award money to "compensate the victim," describe how the money will make a difference in the life of your client. It is important to show that the "injured" person will endure the pain for a long time. Generation X relates more to fighters, not criers. Tell the jury how they can help accomplish your client's future goals. Generation-Xers are more impressed with those who are motivated than by those who think they are entitled.
10. Generation-Xers are cautious and practical. These values are incompatible with hyperbole and drama. They are on the lookout for overstatement and flash. They resist emotional appeals. Rather than editorializing about what happened to your client, it is better to tell descriptive stories in the active voice from your client's perspective.
11. Be careful with your time, Generation-Xers think in terms of the "bottom line." They do not want to wait an hour for you to get to the point.
12. We are living in an information world. Do not assume the next generation of jurors cannot handle complex information. They can and they do every day. Show them early that you have facts and data to back up your words and stories. Let them see you are not one of the Boomers (or authority figures) they distrust. The trick is to package the information in the way in which they are accustomed. It is not necessary to go into detail in the opening statement, but show them you have proof to support your story. Observe how information is presented in newspapers, on television, on the Internet at web sites: there is always a headline (the point) followed by supporting data.

13. Generation-Xers value the home and family and are not as willing to compromise family and quality of life for a career. They value close relationships with their parents and family. Use this value to your advantage.

The case of the very near future may look and sound much different than the one you are preparing today. Are you ready?

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