

NEWS

For Immediate Release

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**HOW TO COMMUNICATE WITH "MTV/X GENERATION" JURIES?
SYMPOSIUM SPELLS OUT CHALLENGES FACING ATTORNEYS**

NEW YORK, May 22, 1995 – Young adults' familiarity and comfort level with technology will have a strong, if as yet unknown, impact on the way information is presented in courtrooms in the future, according to a panel of law experts at a symposium held earlier this month.

The event, entitled *The MTV and X Generations: Redefining the Jury Pool*, was sponsored by national trial consultants Decision Research, and included panel members: the Honorable Loretta A. Preska, U.S. District Judge, Southern District of New York; Daniel F. Kolb, senior trial litigation partner with Davis, Polk & Wardwell; Professor Jeffrey Abramson, author of the book "We, the Jury"; Sonya Hamlin, jury communications consultant; and Rob Duboff, a senior partner at Decision Research.

The consensus of the panelists was that, though it is vital not to overgeneralize about the younger generation or consider the group monolithic, there is growing evidence that members of the "MTV and X generations" (together, loosely defined as teenagers through adults in their mid-thirties) have different attitudes from older generations. As a group, the MTV/X generation tends to be more interested in actively controlling information, and less tolerant of lengthy or visually dull information. Lawyers who want to persuade this group must recognize and adapt to these differences, the panelists observed.

The symposium was triggered by interest in the increasingly significant role that members of the MTV/X generations are expected to play as jurors in the coming years. Jeff Herman, director of Decision Research and moderator of the panel discussion, pointed out that "the MTV/X generation is projected to account for more than four-in-ten (41 percent) adults by the year 2000."

Quoting from a nationwide Decision Research survey, Mr. Duboff pointed out that the MTV/X generations, Baby Boomers (adults in their mid-thirties through late forties or early fifties) and "older" Americans each display specific characteristics and mind-sets, especially with regard to technology. For example, he said, more than three-quarters (76%) of MTV/Xers agree that programming a VCR is easy. In contrast, more than one-quarter (27%) of older adults admitted to having trouble using a push button phone for telephone services such as voice mail. As Mr. Duboff explained, "Such differences can affect the actions of juries."

According to the panel, attorneys may have to find ways to let jurors influence the timing and order of information that is presented to communicate most effectively with the jurors from these generations. Mr. Kolb noted that one consequence of the MTV/X generation's influence may be a reexamination of the U.S. legal system. "It may be a good thing that the MTV/X generations won't put up with an antiquated jury system that makes little human sense," he said.

Professor Abramson agreed that changes in the legal system are imminent, given the current mood of the country. Among the suggested reforms he expects to be considered are: allowing jurors to ask questions during the course of trials; allowing jurors to take notes as they watch trials; and possibly, even allowing jurors to discuss evidence with each other before they deliberate, as long as they do not attempt to reach a verdict until the trial is complete.

Judge Preska discussed her courtroom experience in dealing with younger jurors' expectations. "This generation is not used to tolerating visuals that bore them," she warned, adding that "this generation grew up with the all-powerful remote control that permitted them to zap off the screen anything they found uninteresting or boring." Judge Preska noted the effect that computer graphics and other visually compelling techniques had on the jury in a recent trial, and especially on one young juror, who had appeared bored at the start of the trial. "When those images were up there, that juror was paying rapt attention ... she watched everything," she stated.

Although generational differences will strongly influence the jury pools of the future, there are also some important similarities among jurors that span age barriers. Mr. Duboff noted that

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jurors of all ages are more likely to approach a case in a "right-brained," intuitive way than in the "left-brained," analytical fashion that most lawyers have been trained to use. "Jurors are likely to respond better to a case presented in a way that makes sense to them," he said. "You know, there are ten times as many astrologers as astronomers in this country. You have to speak people's language."

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Founded in 1971, Decision Research is part of Mercer Management Consulting and specializes in the field of jury research. Its litigation services include qualitative and quantitative jury research techniques, trial consulting, visual strategy, and witness preparation. The nationwide telephone survey referenced in this release was conducted between March 28 and April 5. It consisted of 100 respondents in each of four age categories: 20-29, 30-39, 40-49, and 50 and older. For more information, call Jeff Herman at 617-861-7350.

LAWYERS & CLIENTS

As Generation X Joins Juries, Lawyers Try to Get Hip

By AMY STEVENS

Staff Reporter of THE WALL STREET JOURNAL

Nevette Previd may be a middle-aged lawyer's worst nightmare. The 26-year-old movie publicist listens to Nirvana, watches VH-1 and says she is into "entertainment overload." Two weeks ago, she showed up for jury duty in New York with a leather backpack and the latest copies of *Us* magazine.

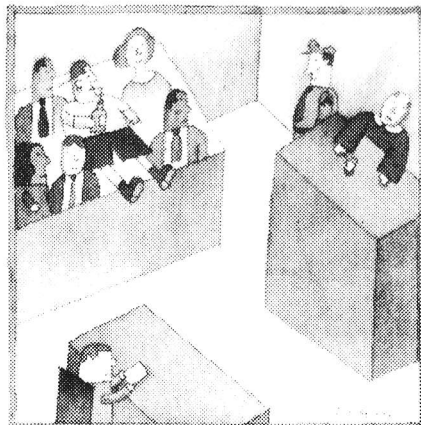
"This one lawyer droned on and on," says Ms. Previd, who was chosen for a slip-and-fall case. But she could relate to one of the defense lawyers. "She was a lot hipper than everyone else," Ms. Previd says. "She had a very 'in' hairdo, hip little glasses on, and she got to the point and got it over with."

Although the lawsuit settled before Ms. Previd had a chance to cast her vote, her reactions could be instructive for lawyers and clients. The newest participants in the nation's slug-paced judicial system switch off tedium with a remote control.

Generation X is showing up on jury panels more and more. And their elders, the Baby Boomers and beyond who still dominate the courtroom, are starting to think about how to appeal to people who think a 30-second commercial is long.

In some cases, lawyers are consciously changing both the media they use and their messages. Attorneys are shortening their speeches and juicing up their presenta-

tions with multimedia displays. New York lawyer Dan Kolb says he tries out his arguments on his 20-something kids. Lawyers on the West Coast are talking about putting virtual-reality headsets in the jury box.



John Segal

Attorneys are also beginning to wonder how to deal with Generation X's mistrust of authority and contempt for ambition. As witnesses, successful corporate executives might actually be a turnoff for X'ers — unless they work for a software company. A recent survey by the jury consulting firm Decision Research showed that three times as many X'ers as their elders say

they admire or respect fictional characters, artists or "nobody."

"The values of this generation are clearly different from jurors in other age categories," says Philip Anthony, chief executive of the jury consulting firm DecisionQuest. As evidence, he points to post-verdict polls and jury research the firm conducted in several recent cases.

In one contract dispute, twice as many jurors under 30 voted for a semiconductor company as voted for the utility that had sued it, Mr. Anthony says. The young panelists were impressed by the chip maker's ingenuity, and, unlike most of the older jurors, they were unmoved by the technicalities of the utility's contract. In an international patent dispute last year, younger jurors favored a foreign upstart over a domestic manufacturer. "Many times older jurors will have a natural pro-domestic bias," Mr. Anthony says.

Mr. Anthony is among the proliferating number of people selling advice on dealing with X'ers in the judicial system — much the way consultants sell such advice in merchandising and politics. Decision Research recently drew 75 New York litigators to a panel discussion of the subject. One popular idea: Make court more interactive, perhaps by allowing jurors to submit questions during the proceedings or carry testimony on computer disks into the

deliberation room.

Of course, many of the moves reflect a widespread sense that trials are long-winded, inefficient and dull. A snappy delivery and good graphics can help win over gray-haired jurors as well as purple-haired ones. Stereotyping the tastes of an entire generation is always dangerous, too, and the consultants' advice can be self-serving, since many of them hawk high-tech trial gadgetry.

That said, however, some outspoken X'ers see definite differences between themselves and Boomers (even compared with the days when Boomers themselves didn't trust anyone over 30).

"We've grown up in a society where lots of information is available through a wide variety of sources," says Jon Cowan, a 30-year-old co-founder of Lead or Leave, a Washington-based, self-described Generation X advocacy organization. "It has to be made digestible. We can't afford to wade through piles of information."

Mr. Cowan says the Rodney King case taught him and his counterparts that video images may undercut the credibility of government officials. "So in the courtroom, we don't look at the prosecutors, the judge and attorneys and say, 'Oh, those are authority figures I can believe,'" Mr.

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Cowan says.

Richard Thau, 30, executive director of Third Millennium, a New York-based organization started by young people to address long-term social problems, agrees that his generation is more cynical than its forebears. "We've seen one major example of government ineptitude or malfeasance after another," he says. "On some level, it has to impact on your world view."

Mr. Thau says Gen-X jurors are likely to be "much more skeptical" of people who blame others for their actions. In the infamous case of a New Mexico woman who sued McDonald's after scalding herself with coffee, "the response among my friends was: 'She obviously wanted hot coffee. It wasn't McDonald's fault,'" Mr. Thau says. Of the 12 people on that jury, only two were under the age of 30.

Mr. Thau also suggests that lawyers might better connect with X'ers by making references to their cultural icons. "If someone on the defense team in the O.J. case were to turn to [prosecutor] Marcia Clark and say, 'Marcia, Marcia, Marcia,'" Mr. Thau says, every young juror "would immediately know that it was Jan on the 'Brady Bunch' complaining that her older sister always gets her way. An entire generation watching the trial would burst out laughing." (The O.J. jury includes two people under 30 and a 32-year-old.)

The tactic, of course, could totally confuse everyone else and even backfire with X'ers. Mr. Thau warns that a cutting-edge phrase could "sound quite uncool" trip-

ping off a middle-aged tongue. He also warns against pigeonholing the roughly 80 million Generation X'ers—often defined as people born between 1961 and 1981. "To presume that all people in their 20s are MTV-obsessed couch potatoes who are incapable of processing information longer than 15 seconds in duration is a dangerous and misguided stereotype."

Mr. Thau hasn't served on a jury, but he met his 24-year-old girlfriend, who has flowers tattooed on her ankle, while hanging around for a day and a half of jury duty in February. "There were a lot of us there," he says.

In fact, Generation X is expected to account for 41% of American adults by the year 2000, according to the U.S. Bureau of the Census. And more young people will show up in jury pools, says Daniel Wolfe, managing director of the jury consulting firm Litigation Sciences Inc., as courts abandon some longstanding reasons for excluding jurors, including letting students off almost automatically. Now some judges are adapting to their schedules.

Whether young people actually make it onto juries is another story. Jack P. Levin, a New York lawyer, says he heard some colleagues say, "I'd rather not have them on a jury because I don't know how they think."

Mia Ferraro, 28, is a case in point. She spent endless hours waiting in a Los Angeles courthouse last year and never made it onto a jury. Says the punk-band guitarist, who sports dyed bright-red hair and tattoos on her legs, "I kind of felt like they're not going to pick me."