

Thinking Outside the Box About Those Inside the Box

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Tsongas consultants have the privilege of working with some of the best attorneys in the country and in the greater Seattle area. A benefit of these relationships is that we are constantly evaluating cases in the courtroom. How do jurors react to strategic stories? What makes a well-prepared witness? Why do jurors ignore some types of evidence?

In addition, we also have had the opportunity to evaluate the pool of jurors from which seated juries are drawn. We wanted to take an opportunity to share some basic data that we have collected about King County jurors.

While this is not the full extent of our pool, we took jury data from seven recent King County civil cases (595 subjects)¹ from which we could present some basic descriptive information about King County jurors. The trials that provided the data were a minimum of two weeks in length. The gathered data include both selected and excused jurors. This investigation does not intend to analyze who actually served on the juries as a result of hardship, cause and the exercising of peremptory strikes.

Who Is Showing Up for Jury Duty?

One might expect that King County juries would be somewhat similar to the county population at large. However, the data show that it is quite different than the U.S. Census Bureau projections:

Age	Census ²	Actual	Gap	Education	Census ²	Actual	Gap
18-24	12.0%	3%	-9%	HS GRAD OR LESS	26.5%	15.6%	-10.9%
25-34	21.9%	14.6%	-7.3%	AA or SOME COLLEGE	29.1%	20.3%	-8.8%
35-44	23.0%	20.6%	-2.4%	COLLEGE GRAD	28.1%	39.6%	+11.5%
45-54	19.2%	27.8%	+8.6%	POST GRADUATE	16.3%	24.5%	+8.2%
55-64	10.5%	23%	+12.5%				
65+	13.4%	11%	-2.4%				
MEAN AGE: 48 Years and 3 months				MEAN YEARS IN SCHOOL: 15.8 yrs			

Of note, younger jurors are seriously underrepresented in the jury pool. Jurors 18-24 years old are underrepresented by 9% and jurors 25-34 years old are underrepresented by 7.3%. Older jurors, on the other hand, are overrepresented. Those 45-54 years old are overrepresented by 8.6% and jurors 55-64 years old are overrepresented by 12.5%. For perspective, the

average age of an actual King County juror in this survey is just over 48 years old.

King County also provides a very educated and sophisticated jury pool. Its jurors are among the most educated, as a population, in the country. The average number of years in school is 15.8 years (16 equating to a four-year college degree). In fact, only 15.6% (10.9 points lower than the census projection) have a high school diploma or less and 20.3% (8.8 points lower than projected) have an Associate of Arts degree or some college coursework completed without graduation.

Amazingly, 64.1% have at least a four-year college degree or more, and 24.5% of all jurors had post-graduate education of some kind (M.A., J.D., Ph.D., MBA, etc.). Both of these statistics are double-digit jumps over what the U.S. Census Bureau projects.

Occupational data also was compiled. We created a coding system of individuals' responses to the question of employment to categorize the pool's diverse list of jobs. While an exhaustive summary of occupational percentages would be tedious in this forum, a couple of figures do stand out.

The highest-ranking category, comprising 9.2% of the pool, was individuals from "science or highly skilled trade." Those with occupations related to medicine made up 8.6% of the jury pool and those from information technology accounted for 7.6% of the pool. On the lower end, students comprised only 1%, members of the legal profession accounted for 2.3%

and the unemployed (not including homemakers) made up 2.3%.

Your Case Story, the Jury Pool, and Individual Attitudes and Experiences

The demographic information can provide an initial guide in framing your story. Knowing that the jury

pool skews older, ask yourself key questions about your case and your presentation:

- How will older jurors take to your case about music downloading sites?
- If you can expect your pool to be more highly educated, perhaps a complex patent infringement story might take hold more readily than in a county with lower average education levels.
- Does a jury full of advanced degrees have a higher need for proof?
- Will they be more procedural and methodical in their approach to jury instructions and in their evaluations of evidence?

Knowing the basic characteristics of your jury pool helps provide important considerations when preparing for trial. Remember that jury trials are not just about information and evidence, they are about values and principles (*i.e.*, fair verdicts), and they are about competing stories.

Information and evidence are given meaning by a narrative or thematic context. A juror's attitudes and experiences can determine what evidence and themes he or she finds relevant and memorable, and which ones they choose to dismiss and disregard.

It is good to know some of the demographic characteristics of your jury pool, but it is critical to remember that demographics only tell us about a group of people, not about an individual. While these characteristics can be interesting, they also can be highly misleading if one intends to predict individual behavior based on a group characteristic.

When evaluating a person, it is more important to focus on what lies under the surface: the nature of the individual's experiences, his or her beliefs and attitudes, and the attitudes and opinions that have been developed over a lifetime. These are the best predictors of behavior.

Detecting potential bias for jury selection is a task that must go well beyond judging a book by its cover. Because there are no *tabula rasa* jurors, lawyers must attend carefully to jury selection, approach it systematically based on the evidence and themes of your case, and work diligently and efficiently to reveal those jurors with potential bias or resistance to those case themes. ■

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¹ All personal information was scrubbed; only raw information, information severed from names and other identifying information were used for the jury pool analysis.

² Source: U.S. Census Bureau, 2006-2008 American Community Survey.