



DecisionQuest/National Law Journal 2001 Annual Juror Outlook Survey Executive Summary

The Fourth Annual Juror Outlook Survey was conducted from October 15 to October 29, 2001. The sample consisted of 1,007 jury eligible adults. Phone numbers were selected based on a random digit dialing probability sample that results in every telephone number in the continental United States having an equal chance of being included in the survey. The sample is thus a random sample of jury eligible adults, and has margin of error of plus or minus three percent.

Selected Key Findings

- Of those respondents who had served on juries where graphic exhibits had been used, 75% said that such exhibits helped them understand the case better. Only 3.8% said that the graphic exhibits made things more confusing, and 20.2% said that they made no difference either way.
- Respondents were asked to assign a value to a serious injury such as the loss of a limb. Although many of the respondents said that they were unable to do this, of those who did assign a dollar amount, 31.4% put the value between \$1M and \$3M.
- Nearly ten years later, jurors in America are still highly aware of the verdict in the McDonald's coffee case. 44.6% characterized the jury's decision in that case as a bad decision, compared to only 6.7% who characterized it as a good decision.
- Respondents had a higher awareness of the more current claims involving Ford vehicles and Firestone tires. 83.5% reported having heard of such claims.
- Over three quarters of the sample (77.1%) thought that some accidents may have been caused by problems with Firestone tires, and 48.5% thought that Ford Explorers may be more likely to roll over in some situations than other vehicles.
- Claims against these corporations are not viewed as frivolous, in contrast to the McDonald's case. 78.4% of the sample believe that people suing Ford and Firestone should probably be paid money in defective product or design cases.

- A strong majority (80.8%) of the sample agreed that the right to sue doctors, hospitals and HMOs for medical malpractice is important. However, 52.7% agree that there should be limits on this right.
- Potential jurors are more likely to initially favor a plaintiff suing for a medical mistake than a hospital or HMO accused of making the mistake (52.9% would vote for the plaintiff versus 8.1% for the defense, with 37.6% saying that they were unsure).
- Nearly three fourths of the respondents (71.1%) believe that people often try to blame others when they are injured by their own carelessness.
- Many respondents (52.8%) agreed with the statement that most lawsuits these days are frivolous. However, more respondents (70.1%) agreed that insurance companies often try to get out of paying legitimate claims.
- Two-thirds (66.7%) agreed that when executives at companies do something wrong, they usually try to cover it up. Only 12% disagreed, compared to 21% last year.
- Similarly to last year, 33.7% agreed that if a defendant in a criminal trial does not testify, it probably means that they have something to hide (36% in 2000, and 50% in 1999). A fairly high proportion (47.9%) disagreed with this idea.
- 67.2% agreed that given the recent terrorist attacks, law enforcement agencies should have more power to use wiretaps and monitor Internet usage.
- 59% of the sample agreed that given the recent terrorist attacks, racial profiling is not always a bad thing.
- 35.7% said that they would feel worried about their safety if called to jury duty in a Federal Courthouse.
- Although the majority stated that their opinions about the death penalty had stayed the same since the attacks (79.6%), 15.6% said that they were now more in favor of the death penalty.
- Only 29.8% agreed that most big companies treat all employees fairly, compared to 47.4% who disagreed. 67.4% agreed that race and gender discrimination is still a fact of life at many companies.
- Only 28.1% would favor a person suing a tobacco company for a smoking-related illness, compared to 53% who would favor the tobacco company.
- 46.7% would favor the plaintiff in a case against a pharmaceutical company in a case involving a drug side effect (25.1% would favor the defense).

- 57.6% say that they would favor an American-owned company versus a foreign-owned company, with only 1.7% saying that they would favor the foreign company.
- 64.1% would vote against an asbestos company, compared to 12.4% who said that they would favor an asbestos company where someone was claiming to have been injured by asbestos exposure.

Selected Demographic Differences

With regard to gender, the general pattern observed is that males tended to have stronger opinions about some business issues and patent issues than females, whereas females tended to have stronger opinions on healthcare, drug interdiction and employment/discrimination issues. Males tended to disagree more that discrimination issues were a problem in the workplace. Females were more likely than males to support plaintiffs in some types of lawsuits.

Most of the differences between various age groups were apparent in contrasts between the youngest and oldest respondents. Younger respondents tended to favor most types of plaintiffs more than the other age groups (although the youngest respondents were most likely to favor a tobacco company as a defendant). Older jurors were more likely to support the war on drugs, to trust law enforcement, and to believe that the real problem with healthcare in the US is that there are too many lawsuits.

The strongest favoritism toward American-owned companies was seen in the West South Central and East South Central regions (both 68%) and the Mid-Atlantic (63%). The lowest levels of support for American-owned companies were seen in the Pacific region (44%) and New England (49%).

Differences in responses based on educational background were apparent for nearly half of the survey's questions. Respondents with lower levels of education tended to have stronger opinions that could be described as anti-corporate. They were also most likely to believe that people blame others for their own carelessness, and that there are too many frivolous lawsuits. Respondents with lower levels of educational attainment were more likely to favor plaintiffs in most of the scenarios presented. Those with high school degrees were more likely than other groups to say that they were now in favor of the death penalty (30%).

Caucasians tended to show more pro-tort reform and positive attitudes towards corporations and law enforcement than African Americans. African Americans and Hispanics were more favorable toward plaintiffs in discrimination and medical malpractice cases than were Caucasians.

Respondents with lower levels of household income tended to exhibit more anti-corporate attitudes and to favor the plaintiff in a variety of scenarios. 69% of those with incomes under \$15K and 70% of those with incomes between \$15-29K said that they

would vote in favor of an American company over a foreign-owned company, versus 46% of those with incomes over \$100K.



2001 DecisionQuest/National Law Journal Annual Juror Outlook Survey

The Fourth Annual Juror Outlook Survey was conducted from October 15 to October 29, 2001. The sample consisted of 1,007 jury eligible adults. All respondents were either registered voters or licensed drivers or both, and all were over age 18. Males and females were sampled in roughly equal proportions. Phone numbers were selected based on a random digit dialing probability sample that results in every telephone number in the continental United States having an equal chance of being included in the survey. The sample is thus a random sample of jury eligible adults, and has margin of error of plus or minus three percent. This means that if the survey were conducted a large number of times with similarly constructed samples, 95% of the time the results would not vary by more than three percentage points in either direction. Data collection was conducted under the supervision and direction of DecisionQuest by United Marketing Services, a telephone survey company.

Attached is a complete copy of the survey instrument along with the associated frequency data obtained. The following is a summary of the results.

Overview of Survey Results by Category

Jury Experience

- Nearly two-thirds of the sample (63.4%) have been called to jury duty, and 24.4% have actually served as jurors. Of those with jury experience (n = 246), nearly nine out of ten (87.8%) deliberated to verdict.
- Of those who had served as jurors, a strong majority (81.7%) believed that the Judge had done a good job running the trial efficiently. 13.4% said that the Judge did an okay job, and only 2% said that the Judge could have done a much better job running an efficient trial.
- Attorneys received less positive ratings than did Judges. Of those with jury experience, 44.7% of the respondents felt that the lawyers did a good job getting to the point and not wasting time. 28.4% said that the lawyers did an okay job, but 21.5% said that the lawyers could have done a much better job getting to the point and not wasting time.

Use of Visuals and Graphic Exhibits

- Of those respondents who had served as jurors, 42.3% reported that the lawyers had used charts or other graphic exhibits. Of these 104 respondents, 75% said that such exhibits helped them understand the case better. Only 3.8% said that the graphic exhibits made things more confusing, and 20.2% said that they made no difference either way.

Value of an Injury

Respondents were asked to imagine themselves as jurors in a case where a person had a serious injury involving the loss of a limb that had been proven to be caused by the negligence of a corporation. They were then asked how much the person should be paid as compensation.

- Many respondents (45.1%) were unable to assign a monetary value to this injury.
- Of those who did assign a value to the injury, 31.4% put the value between \$1M and \$3M. 21.6% assigned between \$100,000 and \$500,000, 18.3% assigned between \$500,000 and \$1M.
- Equal numbers of respondents put either very high or very low values on such an injury. 8.5% valued the injury at less than \$100,000, and 8.7% valued it at over \$10M. About 12% put the value at somewhere between \$3M and \$10M.

The McDonald's Case

- Nearly ten years later, jurors in America are still highly aware of the verdict in the McDonald's coffee case.
- Without any prompting whatsoever, 62% of the respondents said that they were aware of lawsuits involving McDonald's restaurants. Another 27.2% reported having heard of such suits when asked whether they had heard about a case where a woman had sued McDonald's after being burned by coffee spilled in her lap.
- 44.6% characterized the jury's decision in that case as a bad decision, compared to only 6.7% who characterized it as a good decision (31% were unsure, and 17.4% either had not heard of the case after prompting or else had not described a case involving coffee and/or burns).

Ford/Firestone

- Respondents had a higher awareness of the more current claims involving Ford vehicles and Firestone tires. 83.5% reported having heard of such claims.

- Respondents were split as to whether or not Ford and Firestone had done a good job (43.3%) or a bad job (30.4%) in dealing with problems related to Firestone tires (26.1% were unsure).
- Over three quarters of the sample (77.1%) thought that some accidents may have been caused by problems with Firestone tires, and 48.5% thought that Ford Explorers may be more likely to roll over in some situations than other vehicles.
- Claims against these corporations are not viewed as frivolous, in contrast to the McDonald's case. 78.4% of the sample believe that people suing Ford and Firestone should probably be paid money in defective product or design cases.

Medical Malpractice and Patient's Rights

- A strong majority (80.8%) of the sample agreed that the right to sue doctors, hospitals and HMOs for medical malpractice is important. However, 52.7% agree that there should be limits on this right.
- The HMO and managed care industries are viewed negatively (60.7% agree that such organizations have caused a decline in medical care for people in the United States). Even so, there is strong support for the idea that lawsuits are the real reason for problems with healthcare in the U.S. (45% agree with this proposition).
- Potential jurors are more likely to initially favor a plaintiff suing for a medical mistake than a hospital or HMO accused of making the mistake (52.9% would vote for the plaintiff versus 8.1% for the defense, with 37.6% saying that they were unsure). This initial bias is confirmed in the respondents' belief that most people that the respondent knows would vote for the plaintiff (64.8%) versus the defense (7.9%).
- Findings regarding a Patient's Bill of Rights, were somewhat mixed. Two-thirds of the respondents (67.4%) agreed that they would support a Patient's Bill of Rights only if it did *not* restrict a patient's right to sue if they believe that they had been harmed by an HMO's refusal to pay for a medical treatment. However, 53.4% agreed that they would support a Patient's Bill of Rights that limited the amount of money a plaintiff could collect in a lawsuit against doctors, hospitals or HMOs.

Personal Responsibility, Frivolous Lawsuits and Corporate Malfeasance

- Nearly three fourths of the respondents (71.1%) believe that people often try to blame others when they are injured by their own carelessness.
- Many respondents (52.8%) agreed with the statement that most lawsuits these days are frivolous. However, more respondents (70.1%) agreed that insurance companies often try to get out of paying legitimate claims.

- Two-thirds (66.7%) agreed that when executives at companies do something wrong, they usually try to cover it up. Only 12% disagreed, compared to 21% last year.
- Over half of the sample (57.1%) agreed that most large corporations are more concerned with profit than the safety of their products, and 61.9% agreed that most large corporations are more concerned with profit than with treating people fairly.

Biotechnology and Intellectual Property

- Potential jurors in 2001 were exposed to a great deal of debate in the media about biotechnology issues, such as cloning and the use of embryonic stem cells. Not surprisingly then, 68.2% agreed that medical science is advancing faster than the law can keep up with it.
- Respondents were split over issues related to scientific freedom versus the ethical implications of scientific research. When asked whether they agreed or disagreed with the proposition that scientists should *not* be allowed to conduct research that violates many peoples' ideas about right and wrong, 32.9% agreed, 48.3% disagreed and 18.3% were unsure. When asked about the contrasting proposition that scientists should be free to conduct research regardless of what people think of the implications of their findings, 41.9% agreed, 38.8% disagreed and 19% were unsure.
- Support for patent protection on medical devices and pharmaceutical drugs was mixed, although generally positive. Less than half (42.4%) agreed that patents on such technologies are bad because they lead to higher prices and fewer choices for consumers (30.3% disagreed and 26.9% were unsure). 64.4% agreed with the statement that such patents are important to encourage medical research by protecting the rights of companies investing in such research. 44.4% agreed that it is wrong for medical research companies to use patents to prevent other companies from making further advancements (30.8% disagreed and 24.1% were unsure).

The War on Drugs and Law Enforcement Issues

- There was a very high level of agreement among respondents that it is important for the Government to do everything it can to stop illegal drugs from entering the country (88.7% agreement). Even so, 43.4% agreed that we would be better off if some drugs were legalized instead of spending so much money in the war on drugs.
- Only 26.5% of the respondents agreed that enforcement of drug laws is fair to all citizens, whereas 55.5% disagreed. 31.6% agreed that a higher proportion of African Americans are charged and sentenced for drug crimes than Caucasians (45.6% disagreed that African Americans are unfairly affected).
- Over half (55.1%) say that they trust law enforcement such as police and the FBI to be fair in dealing with drug crimes (23.4% don't trust law enforcement to be fair). Respondents were split as to whether or not the FBI should be considered

trustworthy, given mistakes made by the agency in recent years (28.7% agreed that the FBI has made too many mistakes to be considered trustworthy versus 46.7% who disagreed).

- 38.3% admit that they would be more likely to trust the testimony of a police officer at a trial than the testimony of other witnesses, 33.2% said that they would not be more likely to trust a police officer's testimony, and 29% were unsure. (Last year's survey asked whether the respondents agreed that the police usually tell the truth when they testify, and the results showed 64% agreement.)
- Similarly to last year, 33.7% agreed that if a defendant in a criminal trial does not testify, it probably means that they have something to hide (36% in 2000, and 50% in 1999). A fairly high proportion (47.9%) disagreed with this idea.

September 11, 2001

- Given the recent terrorist attacks on the United States, we drafted questions for inclusion in this year's survey to assess how potential jurors' attitudes may have been impacted. 67.2% agreed that given the attacks, law enforcement agencies should have more power to use wiretaps and monitor Internet usage. Only 27.7% agreed that the right to privacy is so important that law enforcement should not be given increased powers of investigation.
- Respondents were asked whether they agreed or disagreed with the statement that racial profiling by law enforcement is always wrong, no matter what. 45.6% of the sample agreed with this statement, versus 39.5% who disagreed. When asked whether they agreed that given the recent terrorist attacks, racial profiling is not always a bad thing, 59% of the sample were in agreement.
- Respondents were asked who, other than the terrorists themselves and their supporters, is most to blame for the September 11th hijackings, where the choices were Government security agencies such as the CIA and FBI, the Federal Aviation Administration, airport security companies, or the airlines themselves. Most frequently blamed were the airport security companies (32.2%). Next came the CIA/FBI (23.3%), the FAA (7.1%) and the airlines themselves (2.6%). Nearly 16% said "other," and 17% said that they were unsure (most of those who said "other" named the terrorists themselves when asked).
- 35.7% said that they would feel worried about their safety if called to jury duty in a Federal Courthouse.
- Respondents were asked whether any opinions they had about the death penalty had changed since the attacks. Although the majority stated that their opinions about the death penalty had stayed the same (79.6%), 15.6% said that they were now more in favor of the death penalty.

Employment Issues

- Respondents' antipathy towards corporations was apparent in the results for a number of questions. Only 29.8% agreed that most big companies treat all employees fairly, compared to 47.4% who disagreed.
- 67.4% agreed that race and gender discrimination is still a fact of life at many companies. 33% said that they would tend to believe an employee who claimed to have been treated unfairly by a supervisor (numbers virtually the same as those obtained last year in response to questions asking whether respondents agreed that if a person files a discrimination case, it usually means that the person was wronged).
- 42.3% agreed that when companies have to lay people off, older workers and minorities are usually the first to go.

Admissions of Bias

In past surveys, respondents have asked whether they could be fair (1999) or impartial (2000) in trials involving certain types of witnesses and/or parties. Because there is a vast amount of research, both academic and applied, that demonstrates that people often resist revealing bias when asked in terms most commonly preferred by the judicial system, we decided to measure bias differently in this year's survey. Respondents were asked to imagine that they had been called to Court and selected to serve as a juror in a lawsuit. They were then asked, "If the lawsuit was about ... would you tend to vote for...?" Inserted was information about different types of plaintiffs and defendants. Results showed that people were willing to say that they would tend to vote for one side or the other based on this minimal information, analogous to what they would hear at the very start of voir dire. The question thus measures the proportion of people who might be expected to be biased before hearing any details or evidence about a case. The following are the key results, from lowest support for the plaintiff to the highest:

- Only 28.1% would favor a person suing a tobacco company for a smoking-related illness, compared to 53% who would favor the tobacco company.
- If the case was about an airline being sued for a hijacking, 30.8% said that they would favor the plaintiff, versus 39.6% who would favor the airline.
- 33.8% would tend to vote for the plaintiff alleging discrimination against a corporation, as opposed to 10.3% who said that they would favor the corporation.
- 46.7% would favor the plaintiff in a case against a pharmaceutical company in a case involving a drug side effect (25.1% would favor the defense).
- 52.9% would tend to vote for a plaintiff suing a hospital or HMO for a medical mistake, versus 8.1% who would favor the defense.

- 57.6% say that they would favor an American-owned company versus a foreign-owned company, with only 1.7% saying that they would favor the foreign company.
- 57.6% said that they would favor the plaintiffs in a case against an airport security company for letting the hijackers through security, versus 20.9% who favored the airport security company.
- 64.1% would vote against an asbestos company, compared to 12.4% who said that they would favor an asbestos company where someone was claiming to have been injured by asbestos exposure.

Because our research shows that people will sometimes attribute their own biases to others even though reluctant to reveal such biases themselves, e.g., “I’d be fair, but most people I know would vote for...,” we followed up each of the above questions with a question that asked respondents who most people they know would vote for, and as expected, the results show higher levels of bias for every category of defendant.

<u>Against</u>	<u>Personal Vote for the Plaintiff</u>	<u>People I know Vote for the Plaintiff</u>
Asbestos	64.1%	70.9%
Airport Security	57.6%	62.8%
Foreign company	57.6%	70.1%
Hospital/HMO	52.9%	64.8%
Pharmaceutical Co.	46.7%	55.9%
Corporation for discrim.	33.8%	50.2%
Airline	30.8%	44.9%
Tobacco Co.	28.1%	44.0%