



## The COVID Effect Part 2: Measuring the Impact on Juror Perspectives

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Jury trials are starting up again—but the world has changed. ThemeVision recently conducted a national survey of 532 U.S. adults to assess the impact of COVID and other 2020 events on civil juries. We [previously reported](#) that **about half the people we surveyed said they were either unwilling or unable to serve in an in-person or ‘remote’ jury trial in the near future.**

This article focuses on the feelings, beliefs and perspectives of the **people who said they would be willing or able to serve as jurors.** Our observations and analysis attempt to shed some light on the make-up of future jury pools. Living through turbulent 2020 has no doubt affected everyone, and many people may see the world differently than they did before. Our survey respondents were no different.

### ***Greater Sympathy; Greater Concern***

**Some prospective jurors may have more sympathy and concern for some types of litigants.** Most of our survey respondents told us they are more concerned now about social

justice and civil rights than they were in early 2020 – 53% and 59% of respondents respectively as shown in Figure 1. They were also more concerned about their own physical health and getting sick, which may come as no surprise given the reality of a global pandemic.

### **Some survey respondents also indicated having more sympathy for certain groups of people.**

Figure 2 shows the distribution of responses to questions asking whether respondents’ level of sympathy for different groups of people and organizational entities changed over the last year. A strong majority of our respondents reported more sympathy for healthcare workers, people without a job, and those with low incomes. They also reported having more sympathy now for small business owners. On the other hand, more than a third of respondents indicated less sympathy for government and large businesses. Interestingly, most respondents said their sympathy was unchanged with respect to people suing a business (i.e., “Lawsuit filers” in the figure).

Figure 1. Increased concern across domains

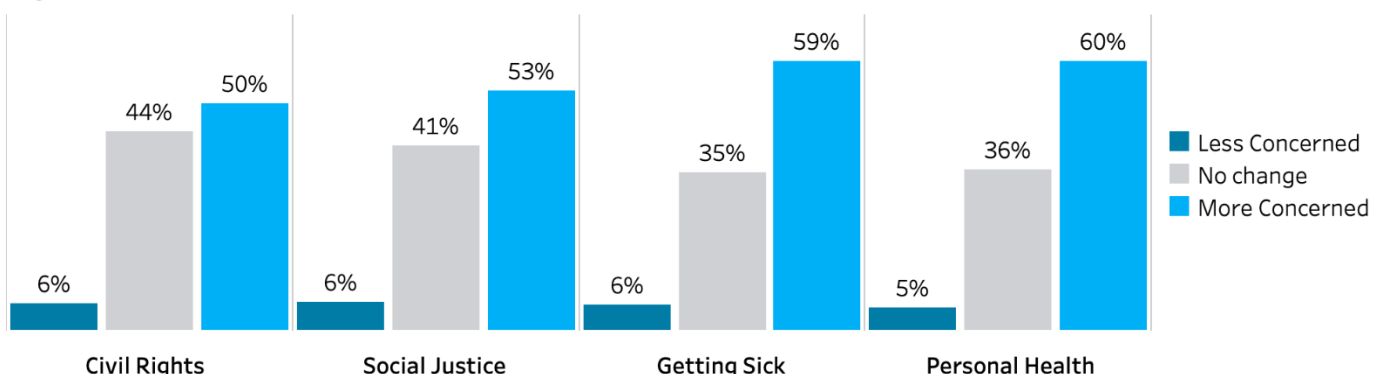
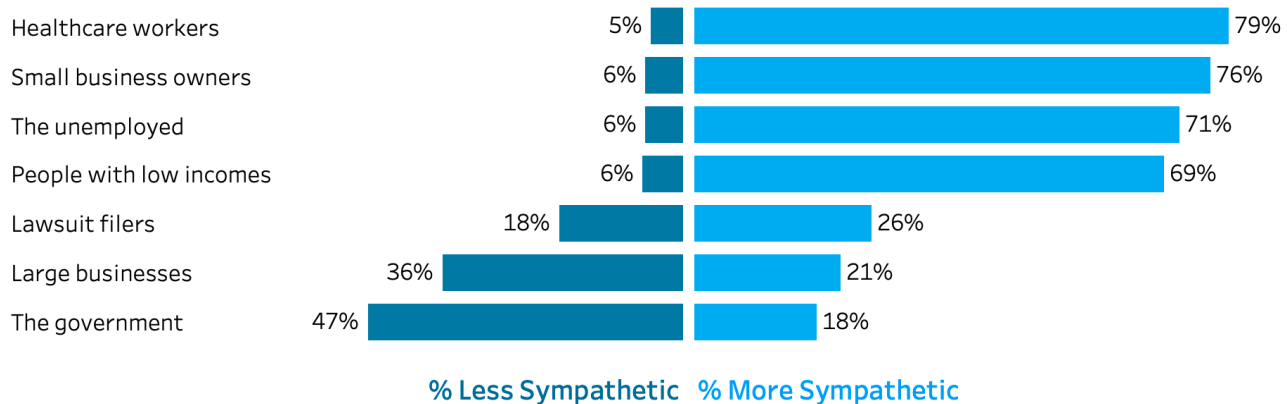




Figure 2. Shifts in sympathy toward various groups



Note: "Less Sympathetic" refers to those who selected either "Much less sympathetic" or "A little less sympathetic" as a response to the prompt. Likewise, "More Sympathetic" refers to those who selected either "Much more sympathetic" or "A little more sympathetic." A fifth option, "No change," is omitted from the graph for figure clarity. Total frequencies for each group add to 100.

### Who Will Be in the Venire?

A number of demographic variables and social attitudes were statistically associated with willingness to serve as a juror in the near future (Figure 3). Interestingly, the format of the trial mattered very little—those who said they were more willing and able to serve in a traditional in-person jury trial tended to be the same ones who said they were more willing and able to serve in a remote trial. In general, **people with a variety of characteristics were more likely to say they would be willing and able to serve in both types of jury trials.** The data indicated that those who are more willing to serve are also more likely to be: males, more affluent, more highly educated, members of the Democratic Party, and/or have expansive views of the court.

**The best statistical predictors of willingness and ability to serve were attitudes about the courts and civil litigants.** These questions addressed assumptions about lawsuits, attitudes toward litigants (e.g., big businesses), and the role of the courts in society. The three best social attitudes for predictive purposes each reflected that an activist view of the courts was associated with a

greater willingness and ability to serve. In particular, people in this group tend to more strongly believe:

- The court system provides one way to fix some of the problems in our country.
- Courts in this country should protect the "have nots."
- Civil juries should send a message to society through their decisions.

Conversely, several demographic variables of note were *not* correlated with willingness or ability to serve as a juror. Race and Hispanic ethnicity (measured separately) were not predictive. Nor was political ideology (although political party affiliation was).

And, surprisingly, age was entirely unrelated to willingness and ability to serve. A number of factors could be in play with respect to this finding, including a growing comfort that masks and social distancing are effective. Additionally, vaccines were becoming widely available to older segments of the population around the time of our survey, which may have changed their concerns about health.

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**Figure 3: Who said they would be willing to serve jury duty?**

We identified several characteristics of people who are willing to serve jury duty, including:



Male



Democratic Party  
affiliation



More affluent



Feel courts should  
protect the “have nots”



More highly  
educated



Endorse using emotion / intuition  
for legal decisions



Cynical toward big  
companies



Believe court system is a  
way to fix problems

It's a mixed bag – but it is clear that willingness and ability to serve have a systemic impact on who makes it into the venire.

## Potential Implications

What does all of this mean for your next jury trial? Is the shift in attitudes about issues like social justice and health, or sympathy toward one group or another, temporary or fundamental and here to stay? These are important considerations depending on the specific facts and issues of your case and critical when developing trial strategy. You can't pick a jury in the near future and not consider whether the pandemic and other major events have affected the way people think and how those perspectives may impact your case.

The differences between who is summoned to serve on a jury during the pandemic and who would *actually* serve could leave potential litigants with an interesting, and perhaps unexpected, mix of people in the jury pool and trial teams will have to consider this.

The possibility of an over-representation of prospective jurors with pronounced leanings for one party or another underscores the value of conducting case-specific research. Willingness

and capability to serve likely have a systematic impact on who makes it into the box (or at least into the venire). But who are those people in your case and your venue? Case-specific research can identify personal characteristics associated with “unfavorable” verdict leanings and can help your team assess the impact of the COVID effect in your specific case.

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