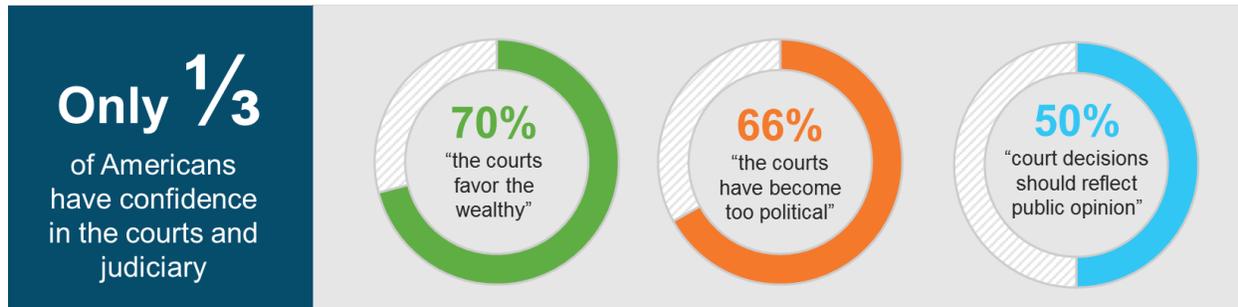


Do Americans Have Confidence in the Courts?



Overview

In recent years, the courts have found themselves featured prominently in debates over immigration, access to healthcare, and voting rights—issues that have the potential to reshape the country for generations.

But as the courts wrangle with these problems, do Americans have faith in their decisions? And if they don't, what does that mean for the future?

In order to answer that question, Willow Research conducted a survey in November 2018 with a nationally representative sample of over 1,000 Americans, age 16 and over.

Our study found that...

- **Public confidence in the courts is low.** Only about one-third of Americans today express confidence in the courts and the judiciary in general.
 - Most Americans say that the courts are too tangled up in politics.
 - A majority also believe that wealthy parties have an advantage in our courts, while the poor and minorities are at a disadvantage.
- **Belief in the jury system has also declined.**
 - Less than two-thirds of Americans believe the jury system is the best way to resolve disputes, a sizable drop over previous surveys.
- **A generational shift is driving many of these trends.**
 - Younger Americans are even less likely to have faith in the jury system.
 - *And an especially striking finding:* The majority of young adults (Millennials and Generation Z) say that "court decisions should reflect public opinion," a belief that questions the basic tenets of an independent judiciary.

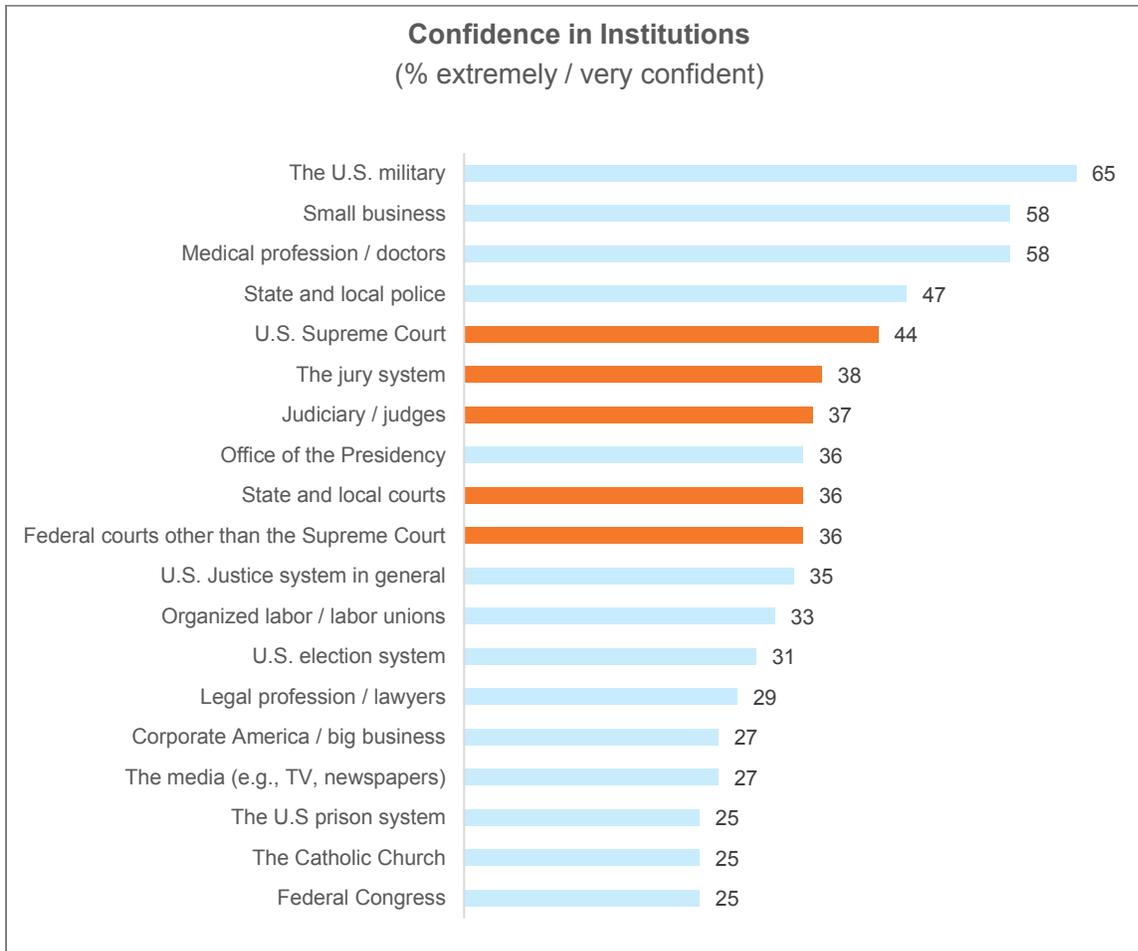
**For older generations, this is not the court system they remember.
For younger generations, this is not the court system they want.**

Taken together, our findings suggest a general erosion in public faith in the courts— especially among the young—potentially signaling a long-term threat to the legitimacy of court decisions and decision-makers.

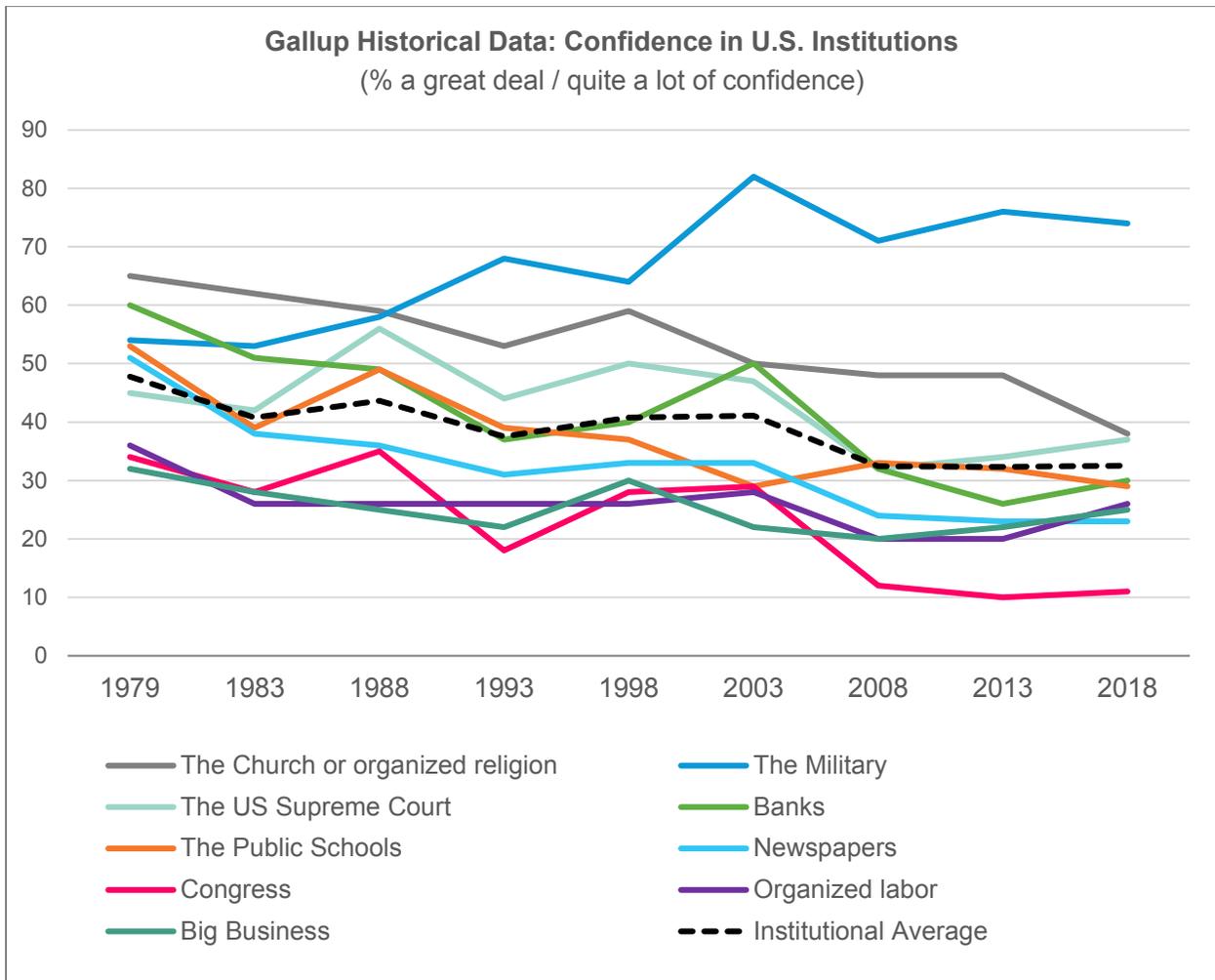
Low Public Confidence in the Courts

Relative to other U.S. institutions, the courts and judiciary are in the middle of the pack, with the U.S. military, small businesses, and the medical profession being the only three institutions garnering greater than 50% confidence. The courts and judiciary certainly enjoy greater public confidence than some other institutions, such as Congress, the Catholic Church, and the media.

Just one-third of Americans express confidence in the judiciary (37%) and similar levels of confidence are found in the federal courts, and in state and local courts. Only the Supreme Court earns the confidence of more than four in ten respondents.



As we see from [Gallup historical data](#), with the exception of the military, there has been a general downward trend in public confidence in most U.S. institutions over the past 40 years. The declining confidence in the courts is consistent with this broader trend.

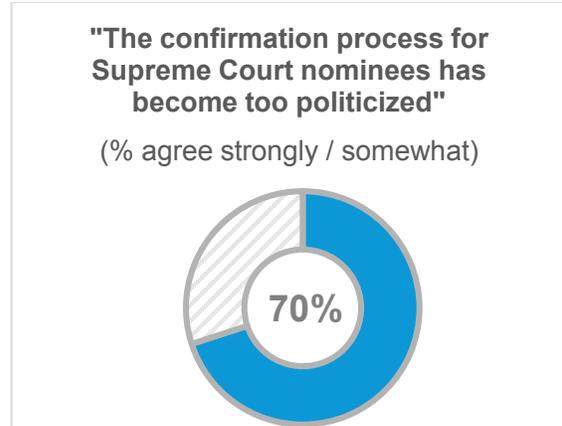
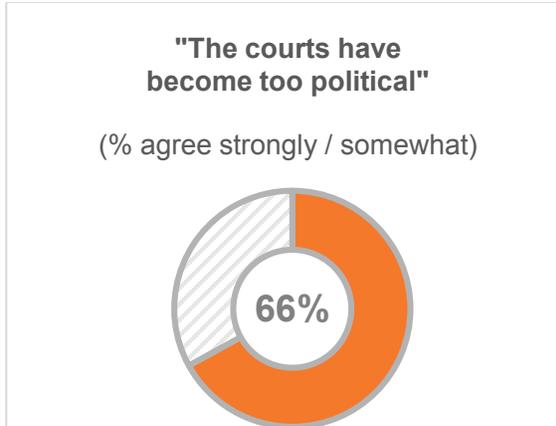


The Courts Are Too Political

While many factors contribute to America's general declining faith in U.S. institutions, the erosion of confidence in the courts and judiciary, in particular, appears to be driven—at least in part—by a prevailing belief that the courts have lost their independence from politics.

Two-thirds (66%) of Americans either strongly or somewhat agree with the statement “the courts have become too political.”

And the survey, conducted just one month after the Brett Kavanaugh confirmation hearings, found that even more Americans (70%) believe that “the confirmation process for Supreme Court nominees has become too politicized.”



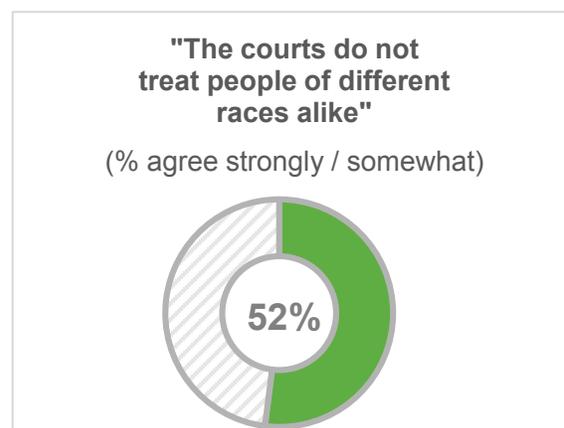
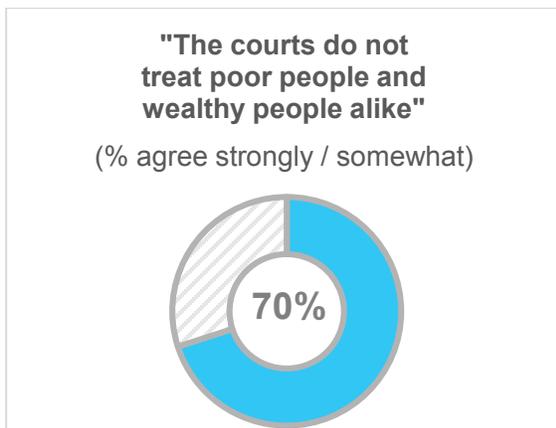
Importantly, this view is shared across both sides of the aisle. Regardless of political leaning, the majority of Americans agree that the Supreme Court confirmation process has become too politicized.

While this suggests that there is some desire for the courts—or at least the Supreme Court—to be less bound up with political or partisan divides, the belief that the courts are indeed “political” has become commonplace.

Justice Is Not Blind

Americans also question the underlying fairness of the courts. The notion that justice is blind and that the scales are weighted equally, regardless of wealth or race, is a minority opinion among Americans.

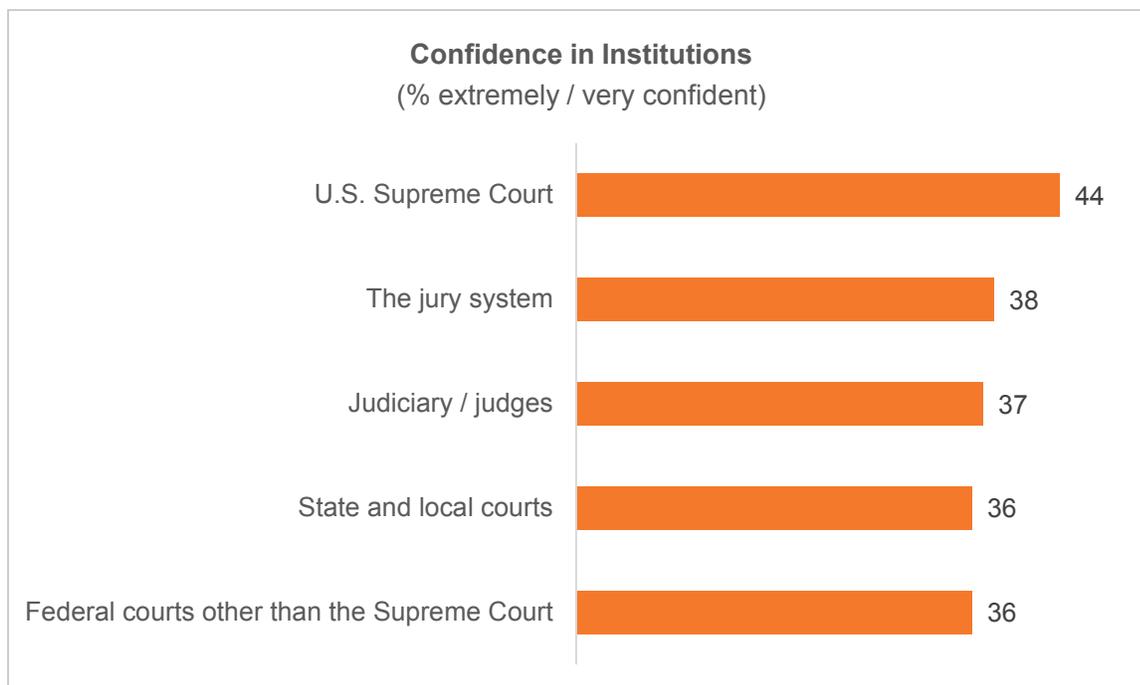
A significant majority (70%) of Americans today believe that the poor and the wealthy are not treated equally by the courts. And, slightly more than half (52%) say that the courts are not color blind—they do not treat people of different races alike.



As broader awareness and engagement with issues of income inequality and racial injustice have increased, it's possible that this has informed how Americans view the court system. Indeed, these attitudes may not depend on direct experience with the courts, but may instead reflect a broader worldview about all U.S. institutions. Either way, this suggests that the image of the courts as a fair and impartial arbiter where all are treated equally does not necessarily hold for most Americans.

Low Confidence in the Jury System

America's lack of confidence in the courts and judiciary carries through to the jury system. Just 38% of Americans express confidence in the jury system today, which is right in line with their level of confidence in the judiciary (37%), the state and local courts (36%), and the federal courts (36%).

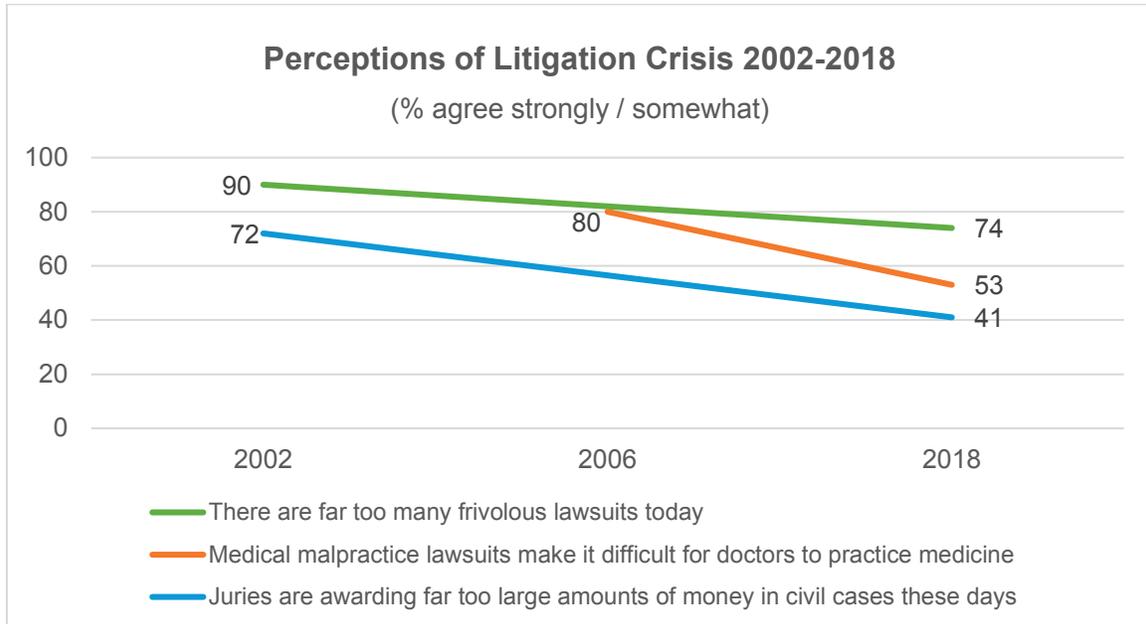


Is There Still a Litigation Crisis?

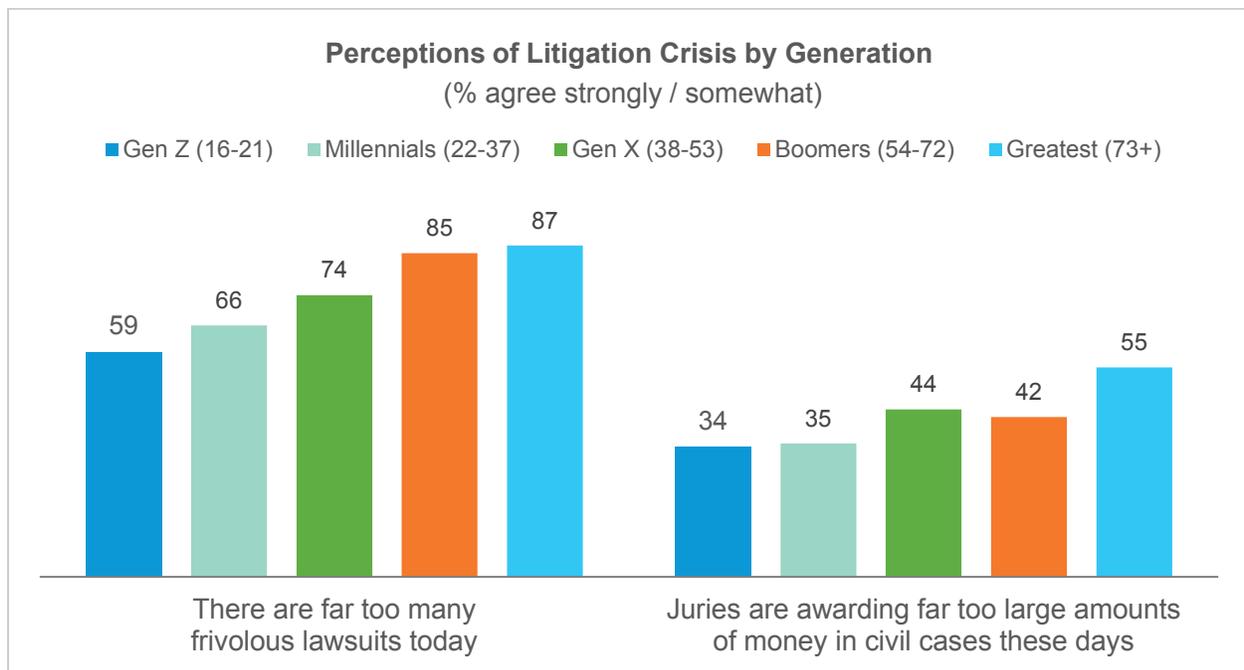
Is this the litigation crisis at work? Are these numbers a reflection of a populace that believes juries are out of control and need reining in?

Apparently not. Those who strongly or somewhat agree that “juries are awarding far too large amounts of money in civil cases these days” has declined dramatically, from 72% in January 2002 to 41% in the most recent survey.

And, while three-quarters of Americans still agree “there are far too many frivolous lawsuits today,” that number is down from 90% in 2002. Similarly, those who strongly or somewhat agree that “medical malpractice lawsuits make it difficult for doctors to practice medicine” has dropped from 80% in a September 2006 survey to 53% now.

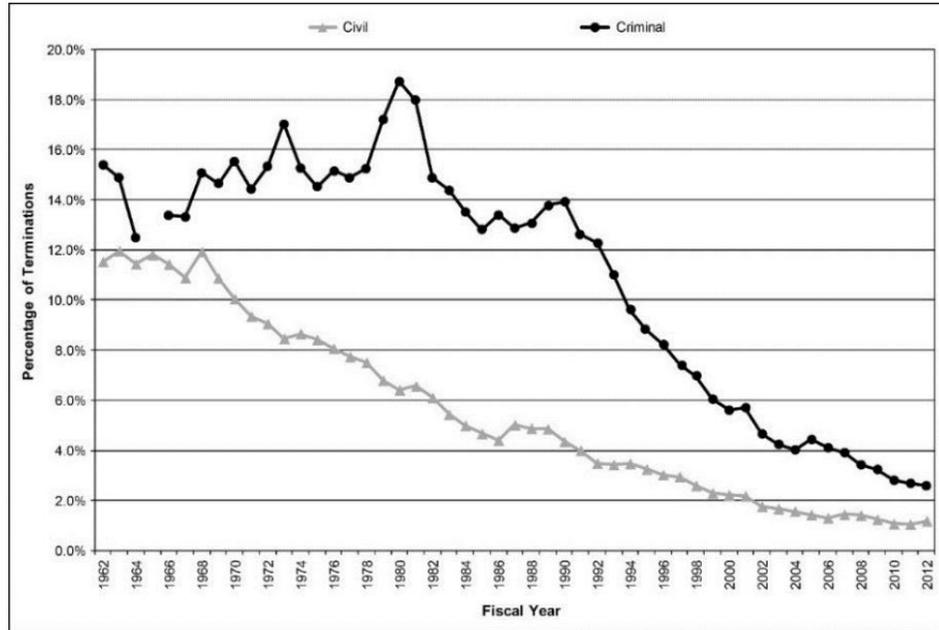


Notably, the litigation crisis is least relevant among younger Americans. Gen Z and Millennial respondents are much less likely than older generations to believe that there are too many frivolous lawsuits or that jury awards are excessive.



Why is the litigation crisis no longer a crisis—particularly among younger Americans? One plausible explanation is the significant decline in jury trials over the past 30+ years, which has been well-documented by [Marc Galanter](#) and others.

Fig. 5-Civil and Criminal Trial Rates in U.S. District Courts, 1962–2012



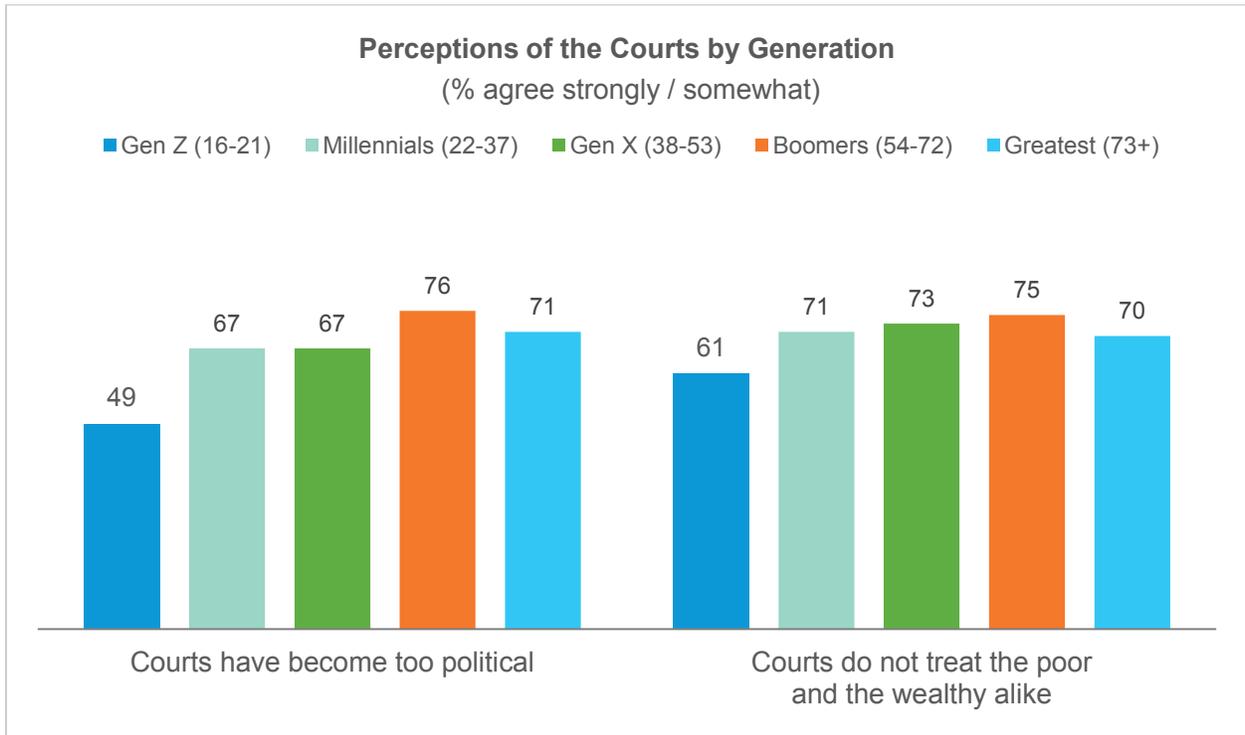
One of the repercussions of the decline in jury trials may be an erosion in our commitment to the very ideal of the American jury system. While 62% of Americans agree that the “American jury system is still the best way to resolve disputes,” this is a significant drop since a January 2002 survey, when 82% agreed.

A Generational Shift

Collectively, the study finds that Americans lack faith in the courts, the judiciary, and the jury system, but this distrust does not seem to be linked to the “litigation crisis.”

Instead, there is a broader generational shift that appears to be changing American attitudes towards the courts and how they function, or even should function.

Generation Z, our youngest generation, is actually less likely than older generations to criticize the courts for being too political, or for disparate treatment by economic class.



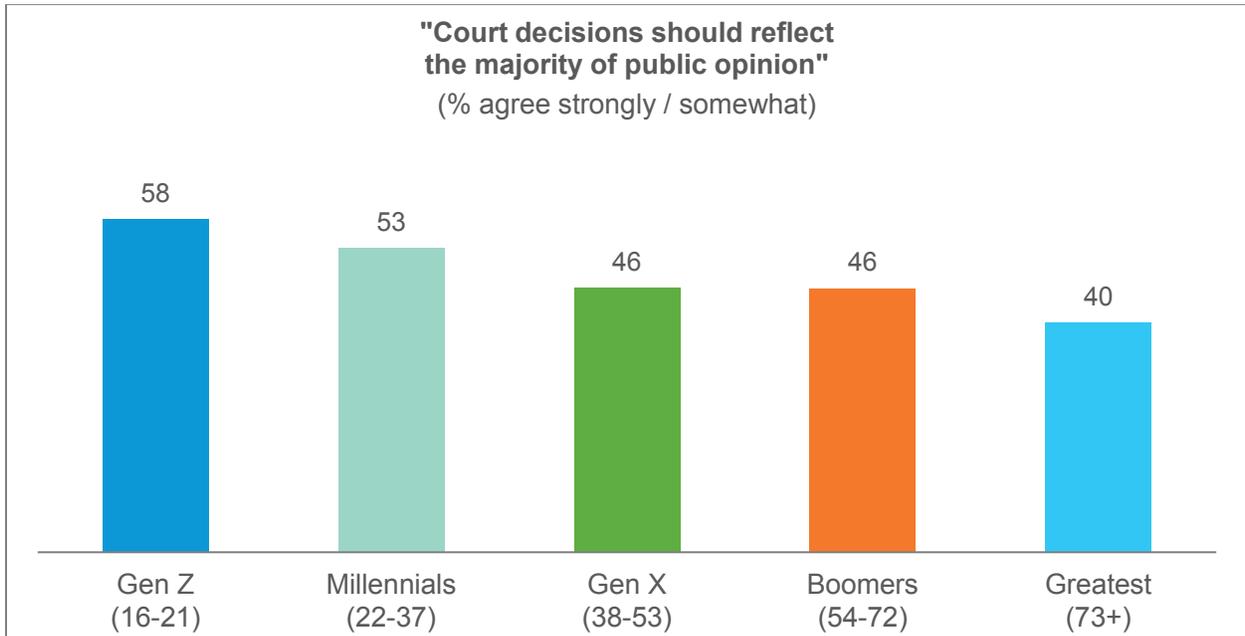
The relatively lower levels for Gen Z could reflect a lack of familiarity or experience with the courts, or it could reflect a more extreme view of the courts as being inherently and historically political.

Consider: for younger Americans, the courts have largely *always* been political. Prominent Supreme Court cases such as *Bush v. Gore* were not only viewed as political, but partisan. The O.J. Simpson trial is imprinted on Gen X and older Millennials as a case in which the history of race relations and police actions were as dispositive to the outcome as the underlying facts.

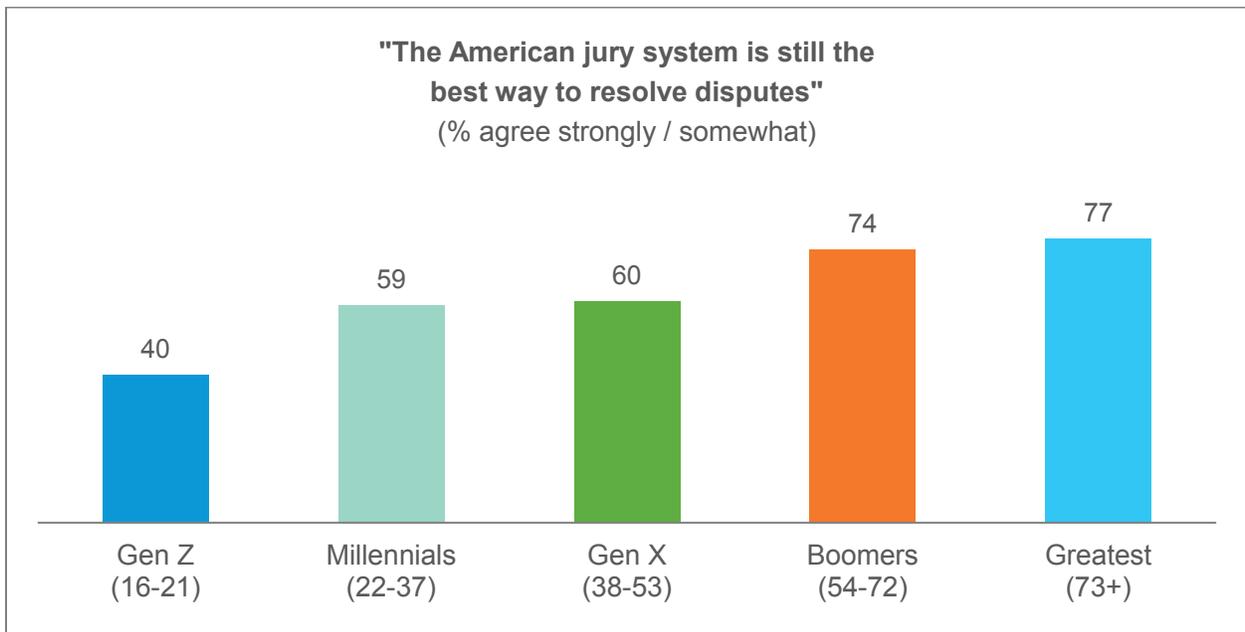
Having never experienced a judicial system that seems to fulfill its own ideals, younger Americans do not seem to possess the same degree of faith in those principles.

Yet, this doesn't mean that younger generations are satisfied with the status quo. While they may be less critical of the courts as political, they are also less committed to the basic tenet of an independent judiciary.

Instead, a majority of Gen Z and Millennials believe that “court decisions should reflect the majority of public opinion.” This sentiment decreases with age, with nearly six in ten of Generation Z expressing this opinion, compared to just four in ten of the Greatest Generation.



We also see a generational erosion in the commitment to the ideal of the American jury. Younger Americans, who have not had as much exposure to jury trials, are less likely than older Americans to see the jury as an essential component of our justice system. While over seven in ten older Americans (age 54+) continue to put their faith in the jury system, this declines with each successive generation. Just 40% of Gen Z believe that “the American jury system is still the best way to resolve disputes.”



What Does the Future Hold?

Having been raised in the fallout of the Great Recession, fully 80% of Generation Z self-identify as “[worriers.](#)” They are worried about the existential threat of climate change, and they have experienced years of inaction on issues they consider important such as gun control and the rising cost of college. Government institutions seem sclerotic and non-responsive to these issues of deep concern. Generation Z believes that they have inherited a mess, with 61% of those in our survey saying the country is on the wrong track.

Their lack of confidence in the judicial system and simultaneous sympathy for those who would use the system to redress grievances seems to fit. Our survey finds that they’re more politically engaged than previous generations, despite their relative youth. Yet, at the same time, they don’t view themselves as partisans. While Donald Trump has very low approval among Gen Z (19%), only 38% declare themselves likely to vote for a Democrat. Forty-four percent say they’re planning on voting for another candidate or are not yet sure who they’re going to vote for.

Do they believe in the power of the people, or are they simply manifesting a lack of faith and a frustration in the inability of our institutions to deliver when it comes to ensuring an equitable and just society?

Could renewed institutions change those attitudes, or are we looking at a post-institution age?

It’s possible we’re looking at attitudes that younger generations will grow out of as they accrue more first-hand experience with institutions like the courts.

It’s also possible that we may be looking at a seismic shift that could profoundly change how Americans believe justice is best delivered.

About the Study

Unless otherwise noted,ⁱ data in this report come from our recent “Willow Poll,” which explored public perceptions of justice, confidence in institutions, and other social and political issues. The study, conducted in November 2018, is based on online interviews with a nationally representative sample of over 1,000 Americans age 16 and over. Demographic quotas were established based on U.S. Census Bureau data.

Interviewing was conducted online by [Lucid](#), an innovative global survey sample provider.

The study was generously sponsored by Robert Clifford of [Clifford Law Offices](#), one of the nation’s leading trial law firms. For more information about the study, please contact us at info@willowresearch.com. You can find out more about Willow Research by visiting www.willowresearch.com.

This is just one of many papers and blog posts from Willow Poll that will be published in the coming months. [Sign up for our blog](#) to receive future posts and white papers.

ⁱ With the exception of the Gallup tracking studies, historical data cited in this report come from previous studies commissioned by Clifford Law Offices: “Public Perceptions of Lawyers” (2002); and “Public Perceptions of Justice” (2006).