



courtroomsciences.com

Generations X and Y: Communication in Today's Litigation Environment



Dr. Mary Noffsinger

Crisis Communications

Records & Depositions

Litigation Psychology

Trial Consulting

4950 North O'Connor Road, Suite 100, Irving, TX 75062-2778

Phone 972.717.1773

Toll Free 800.514.5879

courtroomsciences.com

THE DRAMATIC GROWTH IN THE AGING population of the Baby Boomers is well known; however, Generation Y, a cohort of the children of Boomers, is steadily becoming the largest population segment in the United States. In fact, combined with Generation X (those born between 1965 and 1981), adults between the ages of 18 and 46 now constitute over 50% of the adult population in the United States and, correspondingly, as much as 60% of the nationwide jury pool¹. Generational study explores the distinctions between X, Y, and Baby Boomers as each generation brings unique values, attitudes, and communication styles, with varying receptiveness to persuasion tactics. Influencing the attitudes and decision-making of others is a critical process involved at every phase of the litigation lifecycle – and can be worth considerable monetary value. Thus, understanding different generations provides a foundation for the improvement of communication with individuals of all ages.

factors. An individual's generation accounts for communication strengths and weaknesses and is an important factor to consider in interactions with those we serve, manage, represent, mentor, instruct, and attempt to influence.

Everyone is familiar with the experience of a “failure to communicate” – a moment when we realize a message has been misconstrued, ignored, rejected, or simply forgotten. Several communication challenges contribute to miscommunication in litigation, including: conflicting goals, timing, power struggles, geography, perceived risk, technology, and lack of trust. Inter-generational differences are often to blame for ineffective communication among the many litigation players. Conflicting communication styles result in unnecessary expenditures of time, energy, and emotional resources.

Failure to Communicate



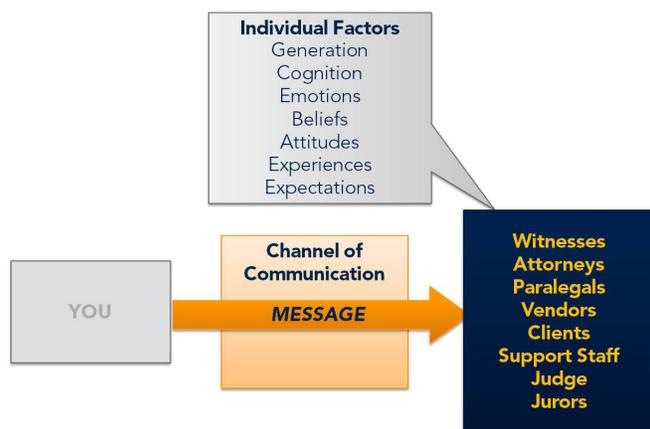
Communication Challenges in the Litigation Environment

In litigation, attempts to influence or persuade others are often challenged by an environment that is uncertain, adversarial, risky, and ever-changing, with communication that is technical, unclear, fast-paced (or at times, painstakingly slow), and emotionally charged. The communication process is actually quite complex, and the effectiveness of communication is driven by the content of the message itself and importantly, by contextual (i.e., physical, social, cultural, historical) and individual (e.g., background, beliefs, knowledge, expectations)

Know Your Audience

Whether a litigation matter ever reaches trial, managing the case effectively requires anticipating, at every decision point in the litigation process,

how the ultimate triers of fact may react. A deep understanding of generational dynamics can inform every aspect of litigation management from case valuation and mediation posture, through deposition and trial preparation – all the way to closing arguments. It is important to recognize common characteristics of the members of our own generation and especially those of others, whether “observable” attributes (e.g., physical appearance, education, political affiliation) or more complex behavioral and psychological processes involved in information processing and decision making.



Generational Demographic Profiles

A generation, comprised of individuals who were born during a certain time period, is characterized by universal attitudes and values that have developed from significant events occurring during its childhood and adolescence. Naturally, generational overlap exists, and there is a lack of consensus regarding the line of demarcation between Generations X and Y[†]. Nonetheless, three generations are well represented in today’s adult population: Baby Boomers, Generation X, and Generation Y.

The Baby Boomer generation arose out of the rapid economic expansion following World War II and currently represents nearly 80 million individuals, ages

47 to 65, in the United States². During their formative years, Baby Boomers experienced memorable events and cultural phenomena including the Vietnam War; the civil rights and women’s movements; inflation; the Cold War; and assassinations of JFK, Robert Kennedy, and Martin Luther King, Jr. To date, the social, cultural and economic impact of the Baby Boomers is unprecedented.

Generation X (once known as the “Whatever” or “Slacker” generation) emerged in the late 1970s to early 1980s and comprise nearly 50 million of the U.S. population¹. In their formative years, this group of individuals (now in their early 30s to mid-40s), experienced the end to the Vietnam and Cold Wars; the economic crises of the 1980s; HIV/AIDS awareness; Desert Storm; and the rise of the personal computer and the Internet. Generation Y (often referred to as “Millennials”) is a group of 76 million late adolescents and young adults¹, ages 16 to late 20s, who have emerged in the midst of a digital age, experiencing corporate scandals, 9/11, and Middle East conflicts in their early years.



Understand X and Y

People of similar age experience significant historical events and social changes at the same points in their development. Through their shared experiences, they tend to form common values, expectations, attitudes, and communication styles that define their distinct generation. Identifying generalized characteristics of each generation across several life dimensions help us to acknowledge and understand our own and others’ assumptions and belief systems and then to tailor our messages accordingly.

Generation X

Early in their formative years, Generation Xers (now ages 30 to 46) experienced economic and cultural changes, including a global recession and drastic increases in divorce rates and two-income families, resulting in the age of the “latchkey” kid. Political scandals, the rise of technology, and myriad entrepreneurial opportunities engendered traits of self-sufficiency, skepticism, and independence among Generation X. Their life experiences also fostered a new focus on a “work to live” (versus “live to work”) mindset, which characterizes the lives of many Generation Xers today. The enterprising and self-starter abilities of Generation X are reflected in notable icons including Dell founder and CEO Michael Dell; Google founders Sergey Brin and Larry Page; entrepreneur and founder of TOMS shoes, Blake Mycoskie; Olympic gold medalist Mary Lou Retton; former NFL quarterback Brett Favre; actors Johnny Depp and Jennifer Aniston; and musicians Kurt Cobain, Dave Matthews Band, and Eminem.

Generation Xers tend to be independent and adaptable. They may be perceived as defiant towards authority and resistant to structure and rules. Generation X is often referred to as “underachievers” or “loners,” and their attitudes may be characterized as disrespectful, apathetic, or cynical. Generation X is better educated than previous generations, as 32% have a four-year college degree³. Interestingly, their professional trajectories may not align with their academic credentials. In the workplace, many individuals of Generation X adopt an approach that reflects efforts to maintain balance in their work and personal lives. Furthermore, Generation Xers may frequently change employment in search of better

benefits and more opportunities for personal and professional growth.

Generation X is more insecure than earlier generations about job stability and earnings. They have survived the massive downsizing of their parents and accept instability as natural and expected and apply a “move on” attitude toward career and jobs. Ironically, members of Generation X do develop a commitment to their work, to the team with whom they work, and to their direct supervisors.

Generation X may seem cynical, particularly about the future. Socially, Generation X is more ethnically and racially diverse and more tolerant than previous generations. Overall, Generation X is accepting of uncertainty, stemming from an early recognition that crime, divorce, single-parenting, and financial difficulties are facts of life. They also tend to be politically ambivalent and have weak attachments to political parties, perhaps in part because they have lived through significant administration scandals during critical points in their development.

While considered to be tech-friendly, members of Generation X remember living without mobile phones and the Internet and now use technology primarily to support a lifestyle need. Overall, Generation X does not simply accept something as truth simply because it was derived from a person or source of authority. Thus, a member of Generation X is not likely to perceive an expert witness to be particularly compelling or significant to a case, based solely on his or her credentials. Generation X expects someone’s authority and trustworthiness to be earned over time.

Generation Y

Generation Y, a group of 16- to 29-year-olds who emerged as “digital natives,”⁴ experienced rapid advances in technology, school violence, corporate scandals, 9/11, and the United States’ massive military and political campaign to fight global terrorism during their formative years. Perpetually connected to each other and to technology, this generation is resourceful and considered to be optimistic, tolerant, and self-confident. Notable icons from Generation Y include Facebook founder Mark Zuckerberg; Great Britain’s Prince William; NBA MVP LeBron James; actors Natalie Portman and Ryan Gosling; and musicians, from Lady Gaga to Taylor Swift and Justin Timberlake to Justin Bieber.

Compared with Generation X, Generation Y’s early life experiences provided them with more structure and supervision than their predecessors. The Baby Boomer parents of Generation Y are described as “helicopters,” referring to their tendency to be overprotective and readily available to rescue their adult children from difficult situations⁵. Many Generation Yers live in their parents’ homes well into their 20s, resulting in nicknames for the generation, including “The Long Goodbye” and “Peter Pans.”⁶ Technological advances and early nurturing are responsible for this generation’s frequent communication or “tethering” with their parents.

In terms of education, Generation Y is exceptionally resourceful. In a society where they are constantly bombarded with sensory information, marketing messaging, and rapidly-changing technology, Generation Y has developed the ability to quickly process a significant amount of information.

Generation Y self-educates quickly with information from a variety of sources, primarily the Internet and social networks (e.g., Facebook). To meet their needs, most academic institutions have transformed curricula to simulate real-world experience and to facilitate collaboration and cooperative learning.

Record numbers of Generation Yers are entering college;⁷ however, due to the sensory demands, sheer volume of data they process, and perhaps an overreliance on digital media, these young adults have difficulty identifying valid, reliable sources of information and may have significant gaps in their knowledge as a result.

In the workplace, Generation Y is underrepresented. At the time of their report in February 2010, the Pew Research Center reported that 37% of Generation Y was unemployed or out of work⁷. Members of Generation Y may also be underemployed, which may be explained in part by their desire to hold out for “fulfilling” work. This mindset, coupled with the current recession, contribute to negative trends in the job market. While the employment rate for law school graduates has remained somewhat stable in recent years, a national survey revealed that 32% of them do not find jobs requiring bar exam passage⁸.

Socially, Generation Y is tolerant of differences. They value self-expression over self-control, and they actively participate in social and environmental causes. They are always “connected” – to technology and to others. In fact, social networking is a primary activity in which they are engaged. A recent national study found that 95% of students ages 18 to 24 use social networking, a majority of whom use it multiple times per day.⁹

According to an article in USA Today (2010), Generation Y is the least overtly religious of any generation, with 65% reporting they rarely or never attend worship services and 67% indicating they do not read sacred texts.¹⁰ Generation Y does, however, identify with being “spiritual” versus “religious” – a perspective that 72% acknowledged in the survey.

Generation Y tends to have high expectations of government. They have contributed to the decline in military service enlistment. Despite the growing obesity epidemic among children and young adults, Generation Y is the least likely to be covered by health insurance. A key attribute of their generation is an expectation of openness and transparency by individuals and corporations, coupled with an emphasis on their own personal privacy.

and attitudes will more easily be incorporated into his or her existing worldview. When this is accomplished, an individual’s affinity towards both the message and the messenger grows; memory for the content of the message improves; and convictions increase in strength. Generational study provides the foundation upon which key communication methods and concepts can be developed for persuasive messages.

In general, information will be best received by those aged 45 and younger if it is communicated through short, “sound bites,” with an emphasis on a clear, simple purpose. Verbally-presented messages should be accompanied by demonstrative exhibits (e.g., photos, videos, illustrations), which foster improved attention, reduced boredom, enhanced memory, increased credibility, and entertainment value. *Generations X and Y need to be empowered as listeners.* Additionally, they welcome the opportunity to provide feedback. Due to the inherent differences between Generations X and Y, however, a few distinct communication strategies are recommended for each group.



Make Connections Across the Generations

Increased awareness of these generational profiles can deeply enhance persuasion, because a message that is tailored to fit a receiver’s pre-existing beliefs

Baby Boomers (1946-1964)	Generation X (1965-1981)	Generation Y (1982-1995)
Clever family ideal	“Latchkey” kids	Have “helicopter” parents
Educated	Highly educated	Hyper educated
Company loyalty	Team loyalty	Network loyalty
Political activism	Political skepticism	Political liberalism
Respect authority	Prove authority	I am authority
Departed from religion	Pragmatic about religion	Passionate but unaffiliated
Tech-challenged	Tech savvy	Digital natives

Communicate with Generation X

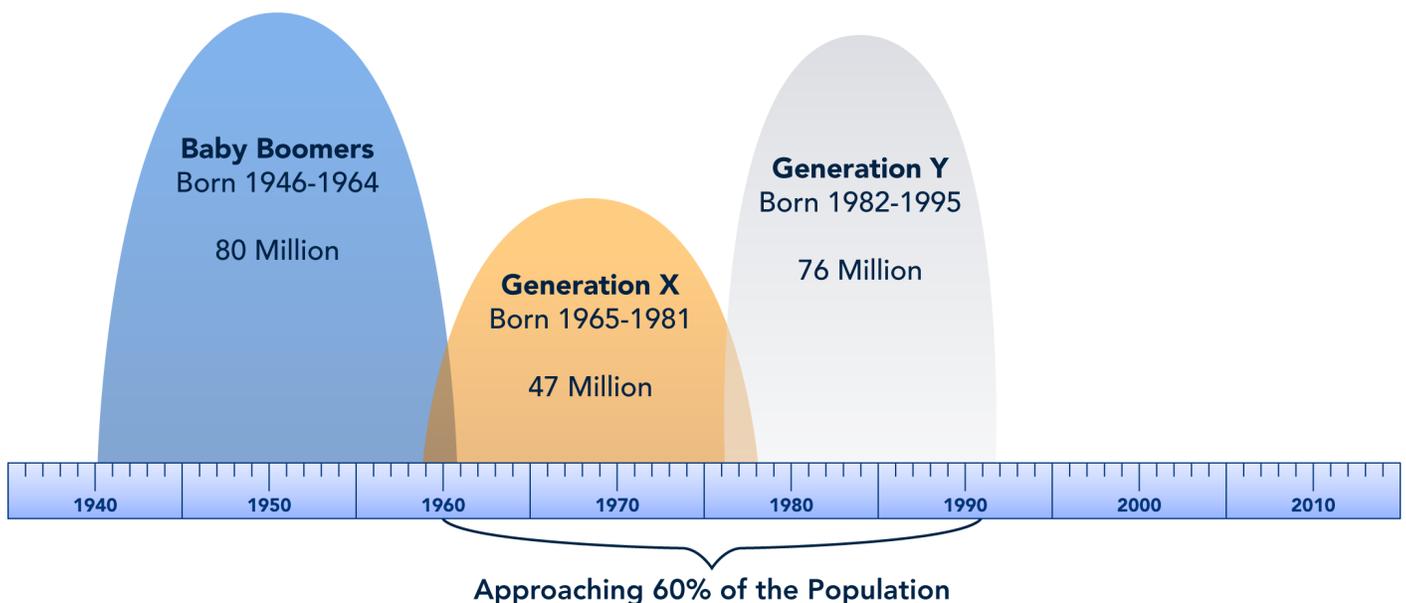
It is important to remember that Generation Xers are typically fiercely independent and struggle with skepticism and balancing priorities. They desire to communicate directly, and expect the message to be succinct and supported with evidence, not conjecture. Specific communication strategies should be utilized when interacting with Generation X witnesses, colleagues, and clients:

- Email
- Use humor carefully
- Emphasize solutions
- Anticipate skepticism
- Demonstrate respect
- Prepare for confrontation
- Focus on establishing trust
- Provide supporting evidence
- Don't overwhelm with information
- Adopt informal communication style
- Emphasize "what's in it" for them
- Straight talk (i.e., avoid emotional appeals, excessive detail)

Communicate with Generation Y

Technology is the key to success. While Generation Yers are optimistic and value fairness, they process information visually and rapidly and are apt to become bored and impatient with elaborate explanations and arguments. Communication strategies that resonate with Generation Y include:

- Instant message/text/social networks
- Focus on collaboration/teamwork
- Emphasize fairness/social good
- Talk about the "big picture"
- Use structure/organization
- Provide hands-on learning
- Adopt an interactive style
- Don't expect eye contact
- Make message relevant
- Appeal to entitlement
- Use frequent humor
- Don't condescend
- Utilize technology
- Play into idealism
- Post challenges



Generation X
Personal responsibility
Entrepreneurship
Personal growth
Corporate scandal
Suspicious of government
Inevitable change
Conservation
Resist rules
Self-sufficiency
Independence
Ethical risk-taking
Individual freedom
Accountability

VS.

Generation Y
Entitlement
Resourcefulness
Nurturing
Corporate transparency
High expectations of government
Stability
Spending
Revise rules
Self-confidence
Teamwork
Caution
The greater good
Fairness



Deliver Persuasive Messages

Effective communication requires the incorporation of particular strategies and relevant concepts into the messages we deliver, in order to appeal to an audience’s values, beliefs, and attitudes. An enhanced appreciation of each generation’s unique communication style, and the life experiences that have shaped it, provides a framework from which to craft memorable and persuasive messages.

Organizing information around familiar themes – presented early and repeated often – facilitates memory storage, acceptance, and confidence within the audience, whether that be a individual, small group, or a large audience. Generation-specific concepts lay the foundation for themes that link the important pieces of information and facts into a meaningful and powerful message.

In managing litigation matters, generationally-informed themes should be identified during early case assessment and discovery; developed for settlement negotiations; tested in pre-trial research; initially advanced in *voir dire*; and conveyed in opening statements, witness testimony, demonstrative evidence, and closing arguments. Certainly, a communication approach should be flexible. While the facts do not change, it is important to be ready to adjust themes as necessary, according to the makeup of the audience.

Miscommunication in today’s litigation environment is risky – and quite costly, in terms of time, energy, and resources. When faced with the challenge of delivering an effective and persuasive message, understanding one’s audience serves as an optimal starting point.

†For the purposes of this article, Generation X includes birth years 1965-1981, although many references cite the end of Generation X as 1977 or 1980.

References

1. U.S. Census Bureau. (2010). Online news conference: 2010 demographic analysis estimates. Retrieved from http://www.census.gov/newsroom/releases/archives/news_conferences/120610_demoanalysis.html
2. U.S. Census Bureau (2006). Selected characteristics of Baby Boomers 42 to 60 years old in 2006. Retrieved from <http://www.census.gov/population/www/socdemo/age/2006%20Baby%20Boomers.pdf>
3. Mitchell, S. (1998). American generations: Who they are, how they live, what they think. (2nd ed.). Retrieved from <http://www.newstrategist.com/store/files/AmGen6SamplePgs.pdf>
4. Prensky, M. (2001a). Digital natives, digital immigrants. *On the Horizon*, 9(5), 1–6. Retrieved from <http://www.marcprensky.com/writing/Prensky%20-%20Digital%20Natives,%20Digital%20Immigrants%20-%20Part1.pdf>
5. Cline, F., & Fay, J. (1990). Parenting with love and logic: Teaching children responsibility. (pp. 23-25). Colorado Springs: Navpress.
6. Shaputis, K. (2004). *The crowded nest syndrome: Surviving the return of adult children*. Clutter Fairy Publishing.
7. Pew Research Center (2010, February). Millennials: A portrait of generation next. Retrieved from <http://pewsocialtrends.org/files/2010/10/millennials-confident-connected-open-to-change.pdf>
8. NALP. (2011, June). Class of 2010 graduates faced worst job market since mid-1990s: Longstanding employment patterns interrupted [Press release]. Retrieved from <http://www.nalp.org/2010selectedfindingsrelease>
9. Marklein, M. B. (2009, November 16). Social networks could help community collegestudents. *USA Today*. Retrieved from http://www.usatoday.com/news/education/2009-11-16-ccsse16_ST_N.htm
10. Grossman, C. L. (2010, October 14). Survey: 72% Millennials 'more spiritual than religious.' *USA Today*. Retrieved from http://www.usatoday.com/news/religion/2010-04-27-1Amillfaith27_ST_N.htm

About the Author



Mary Noffsinger, Ph.D., is a Litigation Psychologist with Courtroom Sciences, Inc., a full-service, national litigation consulting firm with offices in Dallas, Chicago, and Atlanta. Dr. Noffsinger earned Master's and Ph.D. degrees from the University of North Texas and serves as an adjunct instructor for the University of Oklahoma. Her expertise in neuro- and forensic psychology, disasters, and terrorism translates into powerful insights, bridging the gap between psychology and law. Dr. Noffsinger evaluates and trains fact and expert witnesses, using techniques in neurocognitive development and information processing; communication science; and personality and learning theories. She is a frequent conference presenter and provides a full range of services: early case assessments; pre-trial research; scientific evaluations of liability and damages; trial strategy and preparation; jury selection and post-trial interviews. Dr. Noffsinger can be reached at 214-492-9323 or mnoffsinger@courtroomsciences.com.



Copyright 2013 Litigation Psychology, LLC. All Rights Reserved.

Crisis Communications

Records & Depositions

Litigation Psychology

Trial Consulting

4950 North O'Connor Road, Suite 100, Irving, TX 75062-2778

Phone 972.717.1773

Toll Free 800.514.5879

courtroomsciences.com