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HOMOSEXUALITY AND THE LAW: THE VIEW FROM WISCONSIN
by G. Donald Ferree, Jr.

The issue of gay marriage, and other related questions surrounding the relationship of homosexuality and the law in the United States has long been controversial, but has received special attention of late with key court decisions, the question of legislation or a constitutional amendment relating to marriage, and the like. To plumb these issues, which operate on a number of interrelated dimensions, a series of questions was included in the most recent Badger Poll™, which interviewed 511 randomly chosen state residents by telephone between August 18 and 27th, inclusive.

As noted, there are a number of facets, or dimensions, to the issues surrounding the law and gay men and lesbians. One is how the public views homosexuality from the standpoint of morals. Just shy of six in ten (58%) of the public say that "sexual relations between two adults of the same sex" is basically wrong. About one in five (21%) say it is "not wrong", while one in six (16%) say it depends on the situation.

Two thirds of men, but only half of women say homosexual relations are "basically wrong". When it comes to religious preference, Christians other than Roman Catholics ("Protestants" for short, even if some would not apply this label to themselves) are more likely (69%) to say such acts are wrong than are either Roman Catholics (54%) or those with a non-Christian or no religious preference (51%). The sense that homosexuality is basically wrong declines as one moves up the age spectrum from a low of 35% among those under thirty to a high of 77% among the oldest residents. (Among the youngest group, the largest proportion says same-sex relationships are "not wrong", while counting

On balance, then, the Wisconsin public takes a negative stance on gay relationships -- with some inter-group differences. On a previous question, residents had more trouble with the idea of "a married person having sexual relations with someone other than the marriage partner". That circumstance was found "basically wrong" by seven residents in eight (85%). Only about one in one hundred labeled it as not wrong, while one in ten (11%) said it depended on the situation.

Group to group differences here tended to be much smaller. Men and women are essentially identical in their positions as groups. The party differences are muted (91% of Republicans called it basically wrong, but so did 81% of both Independents and Democrats). Not only do age differences tend to be smaller, but those under thirty are as opposed as are older residents. Roman Catholics agree on balance with other Christians, those of a non-Christian or no religious

background are somewhat less likely to condemn this behavior as wrong. But all groups on balance express greater disapproval of breaking the marriage vows than of homosexual activity. (Indeed, at the individual level, only about six in ten of those who said a married person having sexual relations with another person was basically wrong, said the same thing about homosexual relations in general).

Homosexual persons are certainly not outside the acknowledged experience of Wisconsin residents. Three in four (72%) answered "yes" in response to the question "do you personally know anyone who is a homosexual". Granted the fact that many gay men and lesbians remain "in the closet" and this behavior is not approved of in the abstract by society, this figure may be a "conservative" estimate of the makeup of the typical resident's circle of family and friends. Women were more likely than men to say they personally knew a homosexual person, the proportion saying they did was lower among the eldest group. Other than that demographic differences tended to be quite small.

A continuing controversy (with varying perceived degrees of relevance to basic views of homosexuality) is whether this is an "in-born" or "acquired" trait. Asked "do you think homosexuality is something a person is born with or is it due to other factors, like upbringing or environment", state residents split. Just under one in four (37%) opt for it being in-born. An equal proportion (again, 37%) say it is acquired, and a perhaps surprisingly large proportion (11%) volunteered that it was a mixture of the two.

By about five to three, men thought sexual orientation was acquired rather than inborn -- women on balance took the opposite stance by about the same margin. This also held for Democrats as opposed to Republicans (the latter tended to see it as inborn). Views were pretty closely balanced along age lines and interestingly Roman Catholics as a group were somewhat more partial to the inborn explanation while other Christians were more likely to feel it was acquired (both groups were relatively closely divided, however, preferring the more common answer by about four to three).

One one level of "tolerance", Wisconsin residents stand high. "If you found out a friend of yours was a homosexual, do you think that would make you think more of them, less of them, or wouldn't it make any difference to you?" Six of seven (84%) claimed it would make no difference, only one in ten (11%) said they would think less of their friend (and 1% would think more). Answers such as these may not be an absolute prediction of actual behavior, which would also probably depend on the circumstances, but they do point toward a mindset and what is viewed as acceptable. This tended to hold across all groups, although men were a bit less overwhelmingly likely to say it would make no difference and conversely more likely to say they would think less of the person than women (77% compared to 17%, versus 90% compared to 6%).

At this point, the questions shifted more to a legal and societal focus. A majority believes homosexual activity is basically wrong, as we have seen. But by a two to one (60%-30%) majority, state residents believe "homosexual relations between consenting adults in private should be legal". Just under half (48%) of those who called homosexuality wrong felt it should be illegal, but 41% of them felt it should be permitted by the law, and the remainder took no stand. The vast majority (but not all) of those who thought it was either not wrong or it depended thought this activity should be legal (96%, and 82% respectively).

There is virtually no difference between men and women on this basic question, nor is there a strong partisan pattern, although two thirds of Democrats and only somewhat above half of Republicans say consenting adults'

behavior should not interest the law. Similarly, non-Roman Catholic Christians are ten points less likely to say homosexual activity should be legal than are those of a non-Christian or no religious preference, but majorities of each think it should be legally permitted.

Then there is marriage ("do you approve or disapprove of laws allowing homosexual people to marry members of their own sex"). Overall, Wisconsin residents DISapprove of this by about two to one (62%-30%). As was the case on the morality of homosexuality, this overall result disguises a fair amount of dissensus across groups.

With the exception of persons under thirty, at least a plurality opposes gay marriage (which term did not occur in the survey, it should be noted). But women oppose it by about three to two, men by almost three to one. Democrats come closest to being split, Republicans are opposed by almost three to one. Both groups under thirty are close to split (the younger "for", the relatively older "against"), But things get onesided (three to one and more than six to one against) among those older. The proportion favoring same sex marriage is only one in four among non-Roman Catholic Christians, one in three among Roman Catholics and more than four in ten among those of another or no preference. Those who favored homosexual activity being legal (that is, not legally prohibited) split evenly on whether marriage should be permitted (49% yes, 43% no). Those who would have homosexual acts be against the law opposed gay marriage onesidedly (94%-6%).

In an attempt to separate "marriage" from some of its legal accouterments, a followup question asked, "how about what have been called civil unions, where without calling it marriage, people of either sex can register partnerships that give them most of the legal advantages husbands and wives now have". THIS idea splits the population almost down the middle: 48% approve; 47% disapprove. (To be sure, this question encompasses couples of BOTH same and opposite sex, but it is pretty clear that a law that allowed same sex couples to register without being married but NOT opposite sex couples would not survive court challenge).

On balance, men and women come down on opposite sides by relatively narrow and similar margins. Democrats as a group narrowly favor this, Independents do so by an even narrower margin, Republicans oppose it by about three to two (one of the strongest margins observed for any group). Youngest respondents are most in favor, opinion is closely split for the "middle" two age groups, those sixty and over oppose the notion, but not as onesidedly as their younger counterparts endorse it. "Protestants" narrowly oppose it, others even more narrowly back it on balance. A key is that for every group examined, backing for civil unions is higher than that for "full flown" marriage.

Looking at the individual level, some 82% of those who favored gay marriage as such also favor civil unions, though 17% opposed them. On the other side, 67% of those who had opposed gay marriage feel the same way on civil unions, but 27% favor them. This pattern, plus the fact those who expressed no opinion on gay marriage broke disproportionately (59%-18%) in favor of civil unions, accounts for the overall greater support of the latter idea.

This is obviously not just a civil rights issue in the minds of many. Endorsement is quite onesided (83%-12%) for "laws guaranteeing homosexuals the right to live wherever they want to, just like anyone else." Groups differ, but the distinctions tend to be relatively modest. Thus, men (79%) are less likely than women (87%) to back antidiscrimination laws, but a substantial majority do.

Support drops (modestly) from 89% among Democrats to 77% among Republicans with Independents in the middle at 83%. Age groupings find those below 45 are stronger (91% and 89% for the youngest and next older group) than those above that cutoff (81% and 74% for those up to fifty-nine and those sixty and above). Roman Catholics are about ten points higher in support than other Christians (80%) or those with another preference (80%).

On balance there is also backing (albeit less one-sided) for non-discrimination in education, or specifically "should homosexuals be allowed to teach in elementary schools in Wisconsin". Overall, three in four (73%) say "yes", one in four (23%) say "no". Similar patterns (women back this more than men, modest partisan differences, declining support with age, "Protestants" least in favor) hold.

A related issue suggests that this opinion has more to do with the rights of gay or lesbian teachers and the idea of non-discrimination, for which there is broad support, and less for the acceptance of homosexuality in itself. Thus, given a choice only one in six (17%) feel that "the public schools in Wisconsin" should "teach children about same sex relationships". Eight in ten (79%) feel that should "be left strictly to their parents". This issue speaks both to the rights of parents to influence their children and broader issues of morality and tolerance.

ALL groups examined one-sidedly think this issue should be left to parents to discuss, but for the most part, weak patterns across groups are similar to what was found for other questions. One exception is the youngest who are as one-sided in feeling this should be left to parents.

One year's controversy can become today's (relative) non-issue. "Should homosexuals be allowed to serve in the armed forces of the United States" was very much in dispute during the 1992 presidential campaign, after which Bill Clinton instituted the don't ask don't tell policy which remains in effect. Overall, almost nine in ten (87%) state residents favor allowing (known) homosexuals to serve in the United States military. Only one in ten (11%) oppose this. Every group examined has at least eight in ten backing, though men lag a bit behind women, Democrats are a little more supportive than Republicans or Independents. Age makes little or no difference. And it is worth noting that this overall accepting opinion is the single most one-sided lineup on any of the questions asked.

On another topic having to do (among other things) career and sexual conduct, the notion that celibacy might be optional for Roman Catholic priests finds a good deal of support in principle here in Wisconsin. Respondents were reminded that "at present, Roman Catholic priests are not allowed to be married, but some people have suggested that they should be permitted to marry if they wish". They were then asked "is this option something you would personally like to see or not". More than eight in ten (81%) said they would like to see this, fewer than one in ten (8%) would not.

There is strong support across all groups, with women slightly more positive than men, Democrats than Republicans, although age makes very little difference, and the most positive group is actually that between forty-five and fifty-nine. Interestingly, Roman Catholics are at least as much in favor of the idea as are other Christians or those with a non-Christian or no preference. (Differences tend, however, to be so small that one can have only very limited confidence that what is seen on the survey represents real distinction among these groups in the population more than random fluctuation due to which individuals happened to be included in the sample.)

Overall, then, this survey found a complex set of opinions relevant to the issue of "gay marriage". On the strictly moral basis, homosexuality remains beyond the acceptable pale for many (though not as clearly as "adultery" -- a married person breaking their vows). But there is a clear distinction between what people may or may not like personally and what they think the law should forbid.

Again, however, there is a distinction between the idea of ALLOWING behavior (having homosexual relations legal) and positively endorsing it in policy and practice. Thus gay marriage is opposed on balance, and even civil unions -- legal benefit without traditional marriage -- finds the public quite split. And there is clear discomfort at the public schools teaching about homosexuality, where the typical state resident would leave this solely in the hands of parents.

Finally, Wisconsinites on balance clearly feel that gay men and lesbians should not be discriminated against. This is a common theme in the acceptance of homosexuals as elementary school teachers, or in the military (two historically problematic areas) and the backing of anti-discrimination legislation in housing. All of these have been controversial in the past, which also provides an important warning that views on this, as on many issues, can change a good deal in a relatively short timeframe.

Statewide Marginals and Percentages for Key Groups

What follows is the exact question wording for each of the items referred to in the release. All results shown are for the basic sample of state residents. The first column is the percentage of the entire sample giving each response. The second and third reports the percentages for men and women separately. The fourth, fifth, and sixth columns show self-described Democrats, Independents, and Republicans. Columns seven through ten group respondents by age. The last three columns depict respondents based on their reported religious preference: Christian other than Roman Catholic; Roman Catholic; those with a non-Christian or no religious preference.

Q01. INTERVIEWER: (DO NOT ASK) Enter respondent's gender

	GENDER			PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
	TOT	M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
MALE	49%	100%	--%	39%	60%	48%	38%	54%	45%	51%	47%	46%	55%
FEMALE	51	--	100	62	40	52	62	46	55	49	53	54	45

GAY01. On a different topic... What is your opinion about a married person having sexual relations with someone other than the marriage partner--is it basically wrong, not wrong, or does it depend on the situation?

	GENDER			PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
	TOT	M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
BASICALLY WRONG	85%	84%	85%	81%	81%	91%	91%	83%	81%	88%	89%	88%	78%
NOT WRONG	1	1	*	*	2	--	2	1	*	--	1	1	*
DEPENDS ON SITUATION	11	13	10	15	15	7	7	12	15	9	8	9	18
DON'T KNOW	1	*	2	1	*	--	--	2	2	--	--	1	2
REFUSED	2	2	3	2	2	2	--	3	2	4	2	2	1

GAY02. What about sexual relations between two adults of the same sex--is it basically wrong, not wrong, or does it depend on the situation?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
BASICALLY WRONG	58%	66%	50%	48%	57%	68%	35%	51%	60%	77%	69%	54%	51%
NOT WRONG	21	19	23	25	25	14	41	30	16	5	15	21	30
DEPENDS ON SITUATION	16	12	20	21	15	13	22	14	19	11	13	20	16
DON'T KNOW	3	2	4	4	2	2	3	2	4	3	2	1	4
REFUSED	2	2	3	2	2	3	--	3	1	4	1	4	--

GAY03. Do you personally know anyone who is a homosexual?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
YES	72%	67%	77%	72%	73%	68%	81%	76%	77%	63%	70%	72%	77%
NO	27	32	22	26	24	31	17	24	22	34	29	28	23
DON'T KNOW	1	1	*	1	1	1	2	--	1	1	1	--	1
REFUSED	1	1	1	1	2	--	--	--	1	2	1	*	--

GAY04. Do you think homosexuality is something a person is born with, or is it due to other factors, like upbringing or environment?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
BORN WITH IT	37%	30%	44%	51%	33%	32%	42%	37%	39%	33%	35%	43%	32%
ACQUIRE IT	37	47	28	28	38	47	39	40	33	34	46	32	36
BOTH (VOL.)	11	11	11	12	13	8	10	12	12	12	9	10	16
DON'T KNOW	13	12	15	8	14	12	9	11	13	20	10	14	15
REFUSED	1	1	2	1	2	1	--	--	3	2	1	1	2

GAY05. If you found out a friend of yours was a homosexual, do you think that would make you think more of them, less of them, or wouldn't it make any difference to you?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
MORE	1%	2%	--%	*%	2%	1%	4%	2%	--%	1%	--%	2%	2%
LESS	11	17	6	10	10	16	7	12	9	13	17	8	9
NO DIFFERENCE	84	77	90	88	84	79	89	84	88	79	78	89	84
DON'T KNOW	2	2	3	1	2	4	--	3	3	2	2	2	4
REFUSED	2	2	1	1	3	1	--	--	1	5	3	--	1

GAY06. Do you think homosexual relations between consenting adults in private should be legal or not?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
LEGAL	60%	61%	60%	67%	62%	56%	69%	69%	61%	44%	56%	62%	66%
ILLEGAL	30	35	26	25	29	37	29	22	31	38	35	29	27
DON'T KNOW	6	2	9	7	4	6	--	8	5	9	6	6	5
REFUSED	4	2	5	2	5	2	3	1	3	9	3	4	2

GAY07. Do you approve or disapprove of laws allowing homosexual people to marry members of their own sex?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PREF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
APPROVE	32%	27%	37%	42%	31%	24%	52%	41%	31%	12%	25%	32%	44%
DISAPPROVE	60	66	53	50	60	70	45	49	61	79	67	59	52
DON'T KNOW	6	4	8	6	6	5	3	10	6	6	7	7	4
REFUSED	2	2	2	2	3	2	--	1	3	4	2	3	1

GAY08. And how about what have been called civil unions, where without calling it marriage, people of either sex can register partnerships that give them most of the legal advantages husbands and wives now have.

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PREF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
APPROVE	48%	42%	53%	55%	53%	36%	67%	50%	46%	37%	40%	51%	52%
DISAPPROVE	47	57	37	39	44	58	32	46	48	53	54	43	43
DON'T KNOW	4	1	7	4	3	4	2	4	4	6	4	4	5
REFUSED	2	*	3	1	1	3	--	1	2	3	2	2	--

GAY09. How about laws guaranteeing homosexuals the right to live wherever they want to, just like anyone else. Do you approve or disapprove of such laws?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PREF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
APPROVE	83%	79%	87%	89%	83%	77%	91%	89%	81%	74%	80%	89%	80%
DISAPPROVE	12	16	8	9	11	18	8	10	14	12	14	7	16
DON'T KNOW	3	2	4	*	2	4	2	*	5	4	3	3	3
REFUSED	2	3	2	2	5	1	--	1	--	9	4	1	1

GAY10. Should homosexuals be allowed to teach in elementary schools in Wisconsin, or not?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PREF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
YES, ALLOWED	73%	67%	78%	77%	69%	71%	89%	78%	74%	57%	66%	77%	77%
NO, NOT ALLOWED	23	29	17	21	26	24	9	20	21	36	31	18	19
DON'T KNOW	3	2	4	1	3	3	2	1	3	5	2	2	3
REFUSED	2	2	2	--	3	1	--	1	3	2	1	2	1

GAY11. Should the public schools in Wisconsin teach children about same sex relationships, or should that be left strictly to their parents?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PREF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
SCHOOLS SHOULD TEACH	17%	13%	21%	24%	13%	15%	10%	20%	20%	14%	12%	21%	19%
NO, LEAVE TO PARENTS	79	84	74	72	82	82	89	79	74	80	85	77	75
DON'T KNOW	3	2	4	3	4	3	2	1	5	5	3	1	6
REFUSED	1	1	*	1	2	--	--	--	1	2	1	1	--

GAY12. And should homosexuals be allowed to serve in the armed forces of the United States?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
YES	87%	83%	90%	92%	86%	81%	87%	83%	88%	90%	83%	93%	84%
NO	11	15	7	7	11	17	11	14	10	8	14	7	14
DON'T KNOW	2	1	3	1	3	2	2	3	2	1	2	1	3
REFUSED	*	--	1	--	1	*	--	--	--	1	*	--	--

EXTQ. At present, Roman Catholic priests are not allowed to be married, but some people have suggested that they should be permitted to marry if they wish. Is this option something you would personally like to see or not?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
YES, WOULD LIKE TO SEE	81%	78%	83%	85%	77%	77%	77%	78%	87%	80%	80%	84%	78%
NO, WOULD NOT LIKE	8	8	9	7	9	10	14	9	4	7	8	12	5
DON'T KNOW	9	12	6	7	10	11	9	11	7	9	9	3	14
REFUSED	2	3	2	1	5	1	--	2	2	5	2	1	3

QD01. Finally, just a few questions about you... What is your present religious preference?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
PROTESTANT	34%	33%	36%	39%	32%	40%	26%	30%	33%	45%	100%	--%	--%
ROMAN CATHOLIC	37	35	39	36	31	41	24	31	42	41	--	100	--
JEWISH	1	--	1	1	*	--	3	*	*	--	--	--	2
OTHER	15	16	14	12	18	13	22	22	14	4	--	--	55
NONE	12	15	9	11	16	4	24	16	9	5	--	--	43
DON'T KNOW	--	--	--	--	--	--	--	--	--	--	--	--	--
REFUSED	2	2	2	1	3	2	1	1	1	4	--	--	--

QD05. Generally speaking, do you consider yourself a Democrat, a Republican, an Independent, or something else?

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
DEMOCRAT	29%	23%	35%	100%	--%	--%	25%	20%	36%	33%	33%	28%	26%
REPUBLICAN	30	30	30	--	--	100	23	31	26	35	35	33	19
INDEPENDENT	29	35	23	--	100	--	34	30	27	26	26	24	36
OTHER	9	12	7	--	--	--	16	16	6	4	4	10	15
NONE	2	1	2	--	--	--	3	2	2	1	*	2	3
DON'T KNOW	1	*	2	--	--	--	--	1	2	1	1	1	1
REFUSED	*	--	1	--	--	--	--	--	1	--	--	1	--

QD11. In what year were you born? (ENTER FOUR-DIGIT YEAR) (Calculated and grouped as below)

	TOT	GENDER		PARTISANSHIP			AGE IN YEARS				RELIG PEF.		
		M	F	DEM	IND	REP	<30	<45	<60	60+	P	RC	OTH
18-29	12%	9%	14%	10%	14%	9%	100%	--%	--%	--%	9%	8%	21%
30-44	29	32	26	21	31	30	--	100	--	--	25	25	42
45-59	31	29	33	39	30	27	--	--	100	--	30	35	27
60 and over	24	25	23	27	22	28	--	--	--	100	31	27	8
DK/REFUSED	4	5	4	3	4	7	--	--	--	--	5	5	2

* denotes less than .5%

-- denotes 0%

HOW THE POLL WAS DONE

This BADGER POLL™ was conducted by the University of Wisconsin Survey Center as part of its ongoing program of research designed to benefit the research community and the people of Wisconsin, under the direction of G. Donald Ferree, Jr., Associate Director for Public Opinion Research of the Center. The media sponsors of the survey are the (Madison) Capital Times, and the Milwaukee Journal-Sentinel. The BADGER POLL™ is intended to be a "poll of record" for the state, investigating matters of concern to Wisconsinites including politics, culture, and their daily lives, adhering to the highest standards of polling methodology and rigorous independence.

A total of 511 randomly chosen state residents were interviewed for this survey by telephone between August 18 and 27, inclusive. Telephone numbers were generated by computer in proportion to the number of adults living in each area of the state. Theoretically, results from this survey have a "margin of error" of a little over +/- 4%. This means that, had we asked every eligible resident in Wisconsin, exactly these questions at the time the survey was conducted, there is only a one in twenty chance that the answers would differ by more than that in either direction from what we report here. There could be differences because of changes in question wording, events occurring in the meantime, or any of the practical difficulties involved in taking a scientific survey. Results based on subgroups are subject to a larger "margin of error".