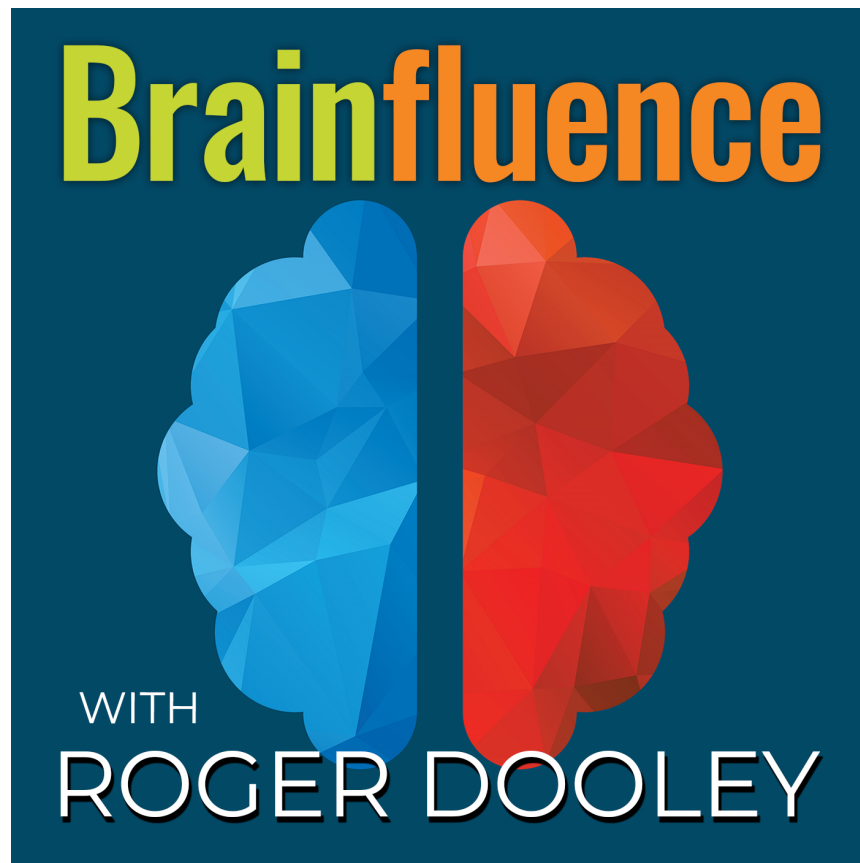


How to Ask Persuasive Questions with Trey Gowdy

<https://www.rogerdooley.com/trey-gowdy-ask>



Full Episode Transcript

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Roger Dooley

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Welcome to Brainfluence, where author and international keynote speaker Roger Dooley has weekly conversations with thought leaders and world class experts. Every episode shows you how to improve your business with advice based on science or data.

Roger's new book, *Friction*, is published by McGraw Hill and is now available at Amazon, Barnes & Noble, and bookstores everywhere. Dr Robert Cialdini described the book as, "Blinding insight," and Nobel winner Dr. Richard Claimer said, "Reading Friction will arm any manager with a mental can of WD40."

To learn more, go to [RogerDooley.com/Friction](https://www.RogerDooley.com/Friction), or just visit the book seller of your choice.

Now, here's Roger.

Roger Dooley: Welcome to Brainfluence. I'm Roger Dooley. A quick reminder today's episode is appearing in both audio and video formats so if you're listening to the audio version, you can find the video on YouTube linked from the show notes page at [rogerdooley.com/podcast](https://www.rogerdooley.com/podcast). Today's guest is the author of a book on communication persuasion, but he comes at this topic from a different angle than the many persuasion experts I've had on the show before. Trey Gowdy is a former state and federal prosecutor and a four term member of the US Congress, among other roles he chaired the select committee on Benghazi. Today he's back in private law practice and is the author of the new book, *Doesn't Hurt to Ask: Using the Power of Questions to Communicate, Connect, and Persuade*. Welcome to the show, Trey.

Trey Gowdy: Thank you, Roger. I appreciate you having me.

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Roger Dooley: So Trey in your book you talk about softball questions, I'll start off with one in, since many of our listeners are from other places in the United States the role of the prosecutor may not necessarily be clear. In many countries the arrest is really what counts and after that what happens is a foregone conclusion, but in the US the arrest is just the beginning of the process and the prosecutor takes over, explain what the role is in the US.

Trey Gowdy: Yeah, Roger, the arrest is just the charge, it's a formal way of charging someone and then the arrest leads to an indictment, and that's all done by law enforcement. Prosecutors are members of what we call the executive branch, one of our three branches of government, and the police don't work for us and we don't work for them. So prosecutors, when there's an arrest, do one of three things. They dismissed the case because there's insufficient evidence. They may dismiss the case because there is some evidence, but not enough to get to beyond a reasonable doubt. Or what most Americans think of when they think of prosecutors, as the person who goes to court and stands in front of those 12 jurors and using evidence, and argument, and facts, and logic and passion persuades the jury beyond a reasonable doubt that this person in fact did commit this crime.

So there's no presumption in favor of an arrest, in our system you're presumed innocent up until the very point the jury goes back and decide you're not innocent. Throughout the trial you're presumed innocent. It's the prosecutor's job taking that evidence to convince 12 people and you have to convince all 12, 11 out of 12 as a loss, you have to convince all 12 beyond a reasonable doubt that this person did in fact, commit this crime.

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Roger Dooley: Well, that's a pretty high standard if... I'm sure some of our folks in the audience are in the sales and they think they've got a difficult persuasion job, but imagine going into a boardroom with 12 people sitting around the table, and you had to convince every single one, not just the boss, that doing whatever you want, placing that order is a good idea. So that's a pretty high standard. I am curious, in your book you talk about studying psychology in college and that you took more psychology courses than anything else, did that inform your strategy as a prosecutor and also in developing your question strategy?

Trey Gowdy: I wish, I wish I'd paid enough attention Roger, in college to rely on any of it. Really where I learned it, I grew up the son of a doctor, so I'm not going to say we were poor, but my father convinced us we were poor. And he made us... I started working when I was 14 years old. I worked in a warehouse where I was one of only a handful of white people, every boss I had was a man of color. I went to public school and even that was not enough to prepare me to be an effective communicator. It was a federal judge that I worked for that said, "Son, you're going to have to learn how ordinary people think and what motivates them and what persuades them and how they process information."

So when I started off, and I tell this story in the book, I was terrible, I was a terrible prosecutor when I started off. It is a learnable, acquirable skill to be able to effectively persuade. And you mentioned the boardroom, the first thing that went through my mind is yes, it's daunting to have to convince more than one person. But the real question is how much evidence do you need in that boardroom? Are you trying to get them to change the

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wallpaper, which is a pretty low evidentiary standard? Or are you working for Coke trying to introduce a new product line called New Coke. That should be a high burden of persuasion to do something like that, or to change your logo or add an additional product line. So you have to calibrate what you're asking the other person or people to do with how good your evidence is and if your evidence is okay, you better not be asking for something major.

Roger Dooley: Mm-hmm (affirmative). Yeah, I think the process that you described in the book, and certainly the trial process, but I think it relates to other situations too, typically in a court case you've got an opening argument, then you've got the whole testimony phase, and then you've got a closing argument. Now you emphasize that the opening argument is you don't start off by trying to make your case there, that explain why this person is guilty and why they're going to have to convict that person. And I think that in many daily situations, both in business and personal life, all of us tend to go straight to our argument. Whether it's an opening argument or a closing argument, but we sort of skip that evidentiary phase. Do you think that's true?

Trey Gowdy: I know it is true. And when I left the US Attorney's Office, which is a federal prosecutor in the United States, I became the top state prosecutor. And so I hired young lawyers and I was stunned that they would tell these 12 people who just sat down, this may be the most important decision they're going to make in their lives, whether or not to convict someone of murder, and you're opening salvo to them is to tell them, before they've heard anything, that you're going to ask them for a conviction.

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It's so antithetical to what the judge just told them, the judge just said, keep an open mind, don't make up your mind. So you have to build a rapport, some relationship. I never asked a jury for a conviction in an opening statement. And I'm one of the few prosecutors that will tell you that, but I never did. What I asked him is to keep an open mind and to be fair to both sides.

So when you're sitting in a jury box and you hear someone say, "All I'm asking you to do is to be fair." Most people intrinsically think they are fair, so you're just asking me to be myself and it puts me at ease. The other thing I'll tell people is it's okay to be likable. I mean, you can be persuasive and be likable at the same time. So my goal and opening my first connection with the jury... Keep in mind, Roger, if anybody on the jury knows you, they're not sitting on the jury. In America if you know the prosecutor you're off. So it's 12 strangers, my goal was to, when I sat down, for them to think to themselves, "I don't think that young man would lie to me." That was my sole goal.

Roger Dooley: Mm-hmm (affirmative). And I think that probably just about everybody listening or watching would agree that being likable is absolutely critical for persuasion, at least in most cases. That's liking, which is not exactly the same as being liked is one of Robert Cialdini's principles of influence that have been around for 30 years. And it's really a fundamental concept showing that you are like this person, you've got things in common with them, and the more they relate to you, the more persuadable persuasive you'll be.

So one of the great stories of the book Trey was how you unexpectedly ended up in the Oval Office with President

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Trump and some members of the media, and you were asked your opinion. Now probably that's a fantasy that a lot of us would have or, wow, okay, I'm there with the president. I'm there with these people in media and they asked me my opinion, man, I am going to tell them exactly what I think. I'll never get an opportunity like this again. But you didn't do that, right?

Trey Gowdy: No, I did not do that. And you're exactly right, the temptation is to say, "Well, I'm so glad you asked. I think..." Or, "I believe..." Or worse for me, I don't like sentences that begin I feel, but sometimes people do begin it. But I want to convince folks I believe in the power of questions enough that when I am sitting in between at that point, the President of United States and members of the media, and they were having an animated, shall we say animated conversation about fundamental fairness and media standards. I turned and ask a question to the members of the media and it wasn't a provocative, accusatory question, it was one that they had to answer the way that I wanted them to answer. And again, I write it in the book, you have to have an objective before you open your mouth. If you don't have an objective that you can explain to yourself, what is your goal with the next thing you're about to say? My goal was to have them say, "You know what, it is impossible to be fair without being complete."

Being accurate and being fair are two different things. It was accurate to say that the President mentioned Alabama was going to be impacted by hurricane, there is no question that was accurate. It just wasn't fair because he mentioned a handful of other States and you left those out. And in a courtroom, if you're ever, or really in life, if

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you're perceived as excluding information, as being afraid of information, of denying the existence of a fact, the jury will judge you very harshly for that.

Roger Dooley: Mm-hmm (affirmative). Yeah, and in that particular case, that was a misstatement by the President, which is why at least some, if not many members of the media seized on that and highlighted that fact, as opposed to simply present it in more neutral tone. But I think that's been sort of a province of headline writers and actually journalists have all kinds of since forever. You can take one set of information and spin it so many ways and unfortunately it's pretty hard to keep bias out of it, and many journalists don't try and keep bias out of it. Something that you say is that you should be persuadable to be persuasive. Now why is that? That isn't necessarily intuitive, Trey. You would think that the more firmly you hold your convictions, the more persuasive, you'll be.

Trey Gowdy: Yeah. I mean, I used to think that too, but if I'm asking you to be open-minded on fill in the blank, whatever issue it is and your rejoinder to me is, "Okay, I'll be open minded. Are you also open minded to what I have say?" If my response is no, no, I'm asking you to be something that I'm not willing to be. If I'm asking you to be fair, but I'm not going to be fair. If I'm asking you to be fact centric, but I'm not going to be fact centric. I'm asking you to be open minded, but yet I'm not. There's a certain arrogance with that that is neither likable nor persuasive.

I did get in trouble. I was given a speech in Texas doing some Q&A, and I said, just what you quoted me as saying, that you have to be persuadable yourself. And someone in the audience said, "Oh, does that mean you

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have no firm convictions? Does that mean that there's nothing you hold inviolate?" And my response is I have to be an objectively true fact away from changing my mind on any issue, because if I'm not, then what does that tell you? If my response is, "Roger, I don't care what your evidence is, I'm never changing my mind." How in the world can I expect you to be different? If I'm not willing to do it, how can I expect you? Hypocrisy is not persuasive, and that's hypocrisy.

Roger Dooley: Mm-hmm (affirmative). Well, right now we're in the middle of the COVID pandemic. And I've seen some people who are very unpersuaded. Well, I know that in my case, I have changed some opinions about the nature of the crisis, the implications of proper behaviors several times since this started this, as have some of the medical experts, simply because there was so little data at the beginning. And as the data starts evolving if you're not changing your mind, then you are probably not being very persuadable and probably suffering from confirmation bias too. That's something that I see a lot of where people seize on one piece of information and keep regurgitating that because it supports their belief and then reject a hundred other probably more valid pieces of information because they don't. And I'm sure that you had to fight confirmation bias when you were working as a prosecutor, the police are, I won't say they're notorious but we've certainly heard of instances when a particular individual in the police is so convinced that one person is guilty, that they reject information that might exonerate them. And how did you fight confirmation bias?

Trey Gowdy: Well, my mind is wired more like a defense attorneys that are prosecutors. My mind is wired to see gaps and holes

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and evidentiary shortcomings. And that's what you need because you're you're right, law enforcement officers have a tendency sometimes to fall in love with their case. And they used to come in my office and say, "Let me tell you my theory of the case." And I would say, "I don't care what your theory of the case is, I care what evidence you have." And what I used to always tell them is I am less interested in what you know, and more interested in what I can prove. You may think you know something, but if I cannot affectively persuade 12 people, what use is that to us? You may know in your well of souls that this person committed the robbery, okay, that's great. Now, how does that translate into evidence that I can use? So I had a great relationship with cops, but I think they respected the fact that I was tough on them, and I was tough on them in my office.

One of the murder cases I write about in this book, the lead detective had a note in his file, the defendant, Jonathan Vick, did not commit this crime. Okay, well that's a bad piece of evidence when you have Jonathan Vick on trial for murder, when the lead detective writes, Jonathan Vick did not commit this crime. So you have to introduce a little bit of humility to the police officers that maybe their theories and their hypotheses and their profiles of who the killer was, maybe that is subordinate to what the actual facts are.

Roger Dooley: Mm-hmm (affirmative). Any suggestions for persuading some of the anti-maskers who are so convinced and firm in their belief that they get into fist fights at the grocery store and such?

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Trey Gowdy: I think the approach I take with people is, "Well, okay, what's the harm? What's the harm?" I believe firmly that wearing a mask protects others and myself. You think not, what's the harm in you doing it? It's not costing you money. It's not adversely impacting your life. I'm simply asking you to wear a face covering, and what does it cost you? I mean, I believe strongly you at best would be ambivalent, I don't think you have any evidence that it's harmful. I don't think there's any evidence it's harmful, so your best argument is that it's just not helpful. My best argument is it saves lives, so why not just do it?

Roger Dooley: That's good, it may occasionally work. And again, it's in the form of a question. Dale Carnegie talked about, this is kind of jumping back to the likability issue, Dale Carnegie was a believer in asking questions. And he said that you should ask questions that people enjoy answering. It seems like that would be a good strategy, particularly at the outset of a conversation. What do you think?

Trey Gowdy: I write about this in the book, also, people are wired to want to talk. I mean, think of the conversations you've been part of Roger in your life where the other person did 90% of the talking and at the end, they said, "Wow, I'm glad we had this talk. It was so great."

Roger Dooley: "You're a great conversationalist, Roger."

Trey Gowdy: Yeah.

Roger Dooley: Even though they did all the talking, but that's true, yeah.

Trey Gowdy: But people like to talk and what I'm trying to teach the reader, to the extent they don't already know it, not only does it give you a chance to think when the other person's

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talking, they're going to make a mistake. They're going to say something that... They're going to use a word that they can't define. Even if it's a word that we all know, the word fair. If I were to say, "Roger, you said I'm not being fair. What do you mean by fair?" Well, you're going to define it, but you're going to leave something out and you're going to give me the opening to seize on what you left out.

I write a chapter, look it's morbid and I don't want to be morbid, but the word suicide is a perfect example. Almost everyone thinks they know what the word suicide means, but I go through this book and say, do you really? Is your definition bulletproof? Is your, pardon the oxymoronic nature of that, is your definition fully inclusive? If you listen, you're going to get your next really good question from whatever comes out of the mouth of the person you're talking to.

Roger Dooley: One of the strategies you talk about Trey is repackaging. What do you mean by that?

Trey Gowdy: I mean, taking what you said and sometimes using intentional hyperbole, but even if you don't use intentional hyperbole... It used to happen in the courtroom all the time. I mean, in domestic violence cases, the theme often was that because the victim, usually a female went back to the husband that the crime must not have happened. So you've got to be delicate, the defense attorney has to be delicate how they do that. So you need to repackage that and just shove it in their face. So what I hear you saying is it's her fault that she had a broken jaw. What I hear you saying is it's her fault for wanting to provide for her children and make sure they had a place to sleep.

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What I hear you saying... So almost always preface it by saying what I hear you saying, even though it is the outer limits of logic for what you just heard.

So it has to be somehow connected to what they just said, but you are intentionally overstating the premise and then you make them back down, "Well, no, that's not what I'm saying. No, I didn't mean that." Repackaging is my favorite rhetorical... I mean, I do it all the time, I do it with my friends. So I had a buddy on the golf course that said, "Wouldn't you agree that our foreign policy is more respected now than it used to be?" So I repackaged that in the form of questions, I said, "So you're telling me that worldwide, unanimously, everyone thinks our foreign policy is better? And by the way, can you define better? And what's your focus group? Did you talk to people in Chad? Did you talk to people in Iceland? Did you talk to people in Australia?" Taking their premise and making it into an absurdity is repackaging.

Roger Dooley: Right, remind me not to golf with you Trey, or not to ask any open ended questions like that. But, I think that's kind of a combative approach if you will, but I think there's probably a softer approach too that could be used in business situations where if somebody says, "Nah, we'll do that next fiscal, we don't have the money. This fiscal." Very softly repackaging that into, "So saving twice as much money in a year is not as good as saving a small amount of money right now?" In some business context that makes sense where you can let them at least, if not showing that their argument is absurd, at least let them sort of think about it in a different way where they say, "Well, no, that wasn't really what I meant" And maybe get

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their gears turning and say, "Well, okay, maybe that was the wrong answer that I gave."

Trey Gowdy: Do you know how I may have handled that Roger? And you're much better businessman than I'll ever think about being, but what I might consider saying in that circumstance is, "Fair enough, tell me what you think a higher priority should be?" I like to say fair enough. I mean, that's disarming, I'm acknowledging that there may be two sides to this and then I'll flip the burden back onto them, "Fair enough, you don't think we have the money for this, what are the priorities you think are more important than what I just proposed?" Make them do the dancing.

Roger Dooley: Mm-hmm (affirmative). Right, one of my favorite retorts, so when I had an IT business we had a technical people that would go into customer sites and do work for them. And we'd say, "Okay, the rate for this person is \$50 an hour say." And the customer would said, "Ah, we can't do that. The best we can go was 30." The response that I found always worked best was, "Oh, so you would prefer a \$30 an hour technician?" And it didn't always work, but it sort of put it in the right context that we've got people like that too, but we thought you wanted one of our better people.

Trey Gowdy: Or here's another one, what if my \$50 an hour person can do it quicker than two of your \$30 an hour people? I was not great in math, but aren't you still saving money?

Roger Dooley: Yeah, very good. So something else that you talk about is faking sincerity. Trey, now that doesn't sound like a very admirable thing to do.

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Trey Gowdy: Terrible.

Roger Dooley: What do you mean by faking sincerity?

Trey Gowdy: It's completely ironic, obviously. I mean, I knew the absurdity of that. That was the advice I got from the best prosecutor I ever saw in my life and what he meant-

Roger Dooley: It's the title of one of your chapters, Learn to Fake Sincerity, which is great.

Trey Gowdy: It is modeling the characteristics that we associate with authenticity and sincerity even on the days you don't feel it. Now in a murder case, it's easy to be passionate. I mean, someone's lost their life and someone's on trial for their life. It's tougher in a receiving stolen goods case, it's tougher in a drug case. So how do I communicate to the jury the importance of this when they're wondering why they didn't get picked on what they consider to be a serious case. Or if you're talking with someone and you just are not that interested in the topic, eye contact, asking followup questions.

What I find works best for me is trying to connect this lower significant event or issue to some higher principle like fairness or justice, or I tell the story about selling vacuum cleaners. I mean, I would have a hard time selling the 12th best vacuum cleaner in America, unless I'd convince myself that my doing so enabled me to pursue something even more important to me, like more time at home or taking college classes. Just if you can find something to be aspirational about, even if you have to kind of manufacture it in your mind, that's what I'm trying to convince people to do.

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Roger Dooley: There's similar concepts in getting psyched up for an event if you're a public speaker or something, it's sort of getting yourself in that frame of mind that you should be in, which will make you more relatable, more persuasive and so on. So I intentionally kind of steered away from political stuff in part because most of our audience isn't highly political in the US but one question I do have, Joe Biden, the democratic presidential nominee just picked a former prosecutor, Kamala Harris as his running mate. And I'm curious since you too are a prosecutor, what you think about that choice? I would guess that prosecutors can't be magical thinkers in most cases, because in the same way that civil engineers can't be magical thinkers, so the building will fall down if they just assume things or they create a world where the way they want it to be, what do you think about this choice?

Trey Gowdy: Well, when I hear prosecutor, trial lawyer, I think quick on your feet, you have to think quickly. I think persuasive because her background is standing in front of 12 strangers and convincing them to do some really serious things. I think of the ability to prioritize information. And I write in the book about how to structure your evidence. You don't lead with your fifth best piece of evidence, but you also don't go exactly in order best piece, second best piece. I mean, you've got to save something and that's strategic. I think of the ability to repackage, and when I think of her debating Vice President Pence, her ability to take what the vice president, who also was a lawyer, but the ability to take his information and kind of repackage that back to him.

What I found most surprising, not about her pick, but about the Democrat primary was being a prosecutor used

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to be kind of something that propelled you to political success, people respected prosecutors. And I think that's changed a little bit in the current environment that we're in. I think she spent a lot more time defending her time as a prosecutor than she did touting it. I've got a friend running for the US Senate in Massachusetts, Joey Kennedy. He's a Democrat but he's a wonderful person. He also was a prosecutor, and I think it surprises me to see prosecutors on the defense now, that used to not be the case, right? Well, a law enforcement .

Roger Dooley: Mm-hmm (affirmative), right, well law enforcement is on the defense and I guess that's that guilt by association, perhaps if you will. One last question, Trey, an earlier book you co-authored it's called Unified and was about healing our political divisions. We are so divided today it seems, do you see hope for that in 2020? Or I mean, at least as sitting here in 2020, do you see hope going forward?

Trey Gowdy: Well, I'm not known for my hopefulness, but let me see if I can manufacture a little bit for you. I think people enjoy contrast, but they're growing weary of the conflict. And I think most Americans, if you sat me down, I just mentioned Joey Kennedy's name, Joey, and I will never vote for one another and we don't vote alike. But when I sat with him on the floor of the house, I was struck at how much of the rest of life we have in common. I think the challenge we have right now, at least in our country is everything is politicized. I mean, sporting events, school openings, whether or not to wear a mask, everything is politicized. If we can kind of keep politics in its compartment and then just enjoy the freedom to love

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people who don't look like us and think like us, then we'll get back to the way we used to be.

Roger Dooley: Well, that is a great way to wrap up. Trey, how can people find you and your ideas online?

Trey Gowdy: Oh, you Google me just don't believe everything you read. I mean, my books available at all the places they sell books, treygowdy.com. I'm on Facebook, Instagram, Twitter. I'm easy to find, just a what I'll tell people Roger is give me a chance to convince you that what you read is wrong no matter what you read online.

Roger Dooley: No questions asked. Yeah, we will link to those places on the show notes page at rogerdooley.com/podcast, where we will have the audio video and a text version of our conversation there as well. So Trey, thanks so much for being on the show, it's been fun.

Trey Gowdy: Thank you, you take care of yourself.

Thank you for tuning into this episode of Brainfluence. To find more episodes like this one, and to access all of Roger's online writing and resources, the best starting point is RogerDooley.com.

And remember, Roger's new book, *Friction*, is now available at Amazon, Barnes and Noble, and book sellers everywhere. Bestselling author Dan Pink calls it, "An important read," and Wharton Professor Dr. Joana Berger said, "You'll understand Friction's power and how to harness it."

For more information or for links to Amazon and other sellers, go to [RogerDooley.com/Friction](https://www.RogerDooley.com/Friction).

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