

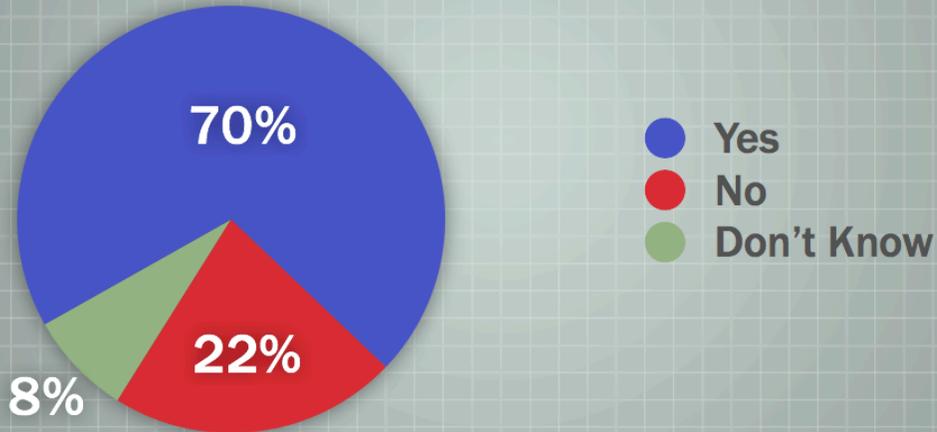
“INSIDE” INTELLIGENCE

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*The Texas Weekly/Texas Tribune insider poll
for the week of April 29*

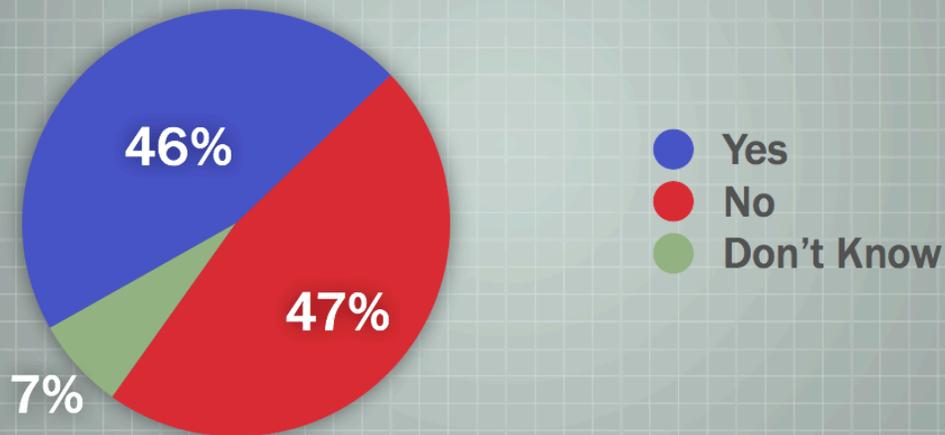
INSIDE INTELLIGENCE

Should prosecutors who break the law have to resign?



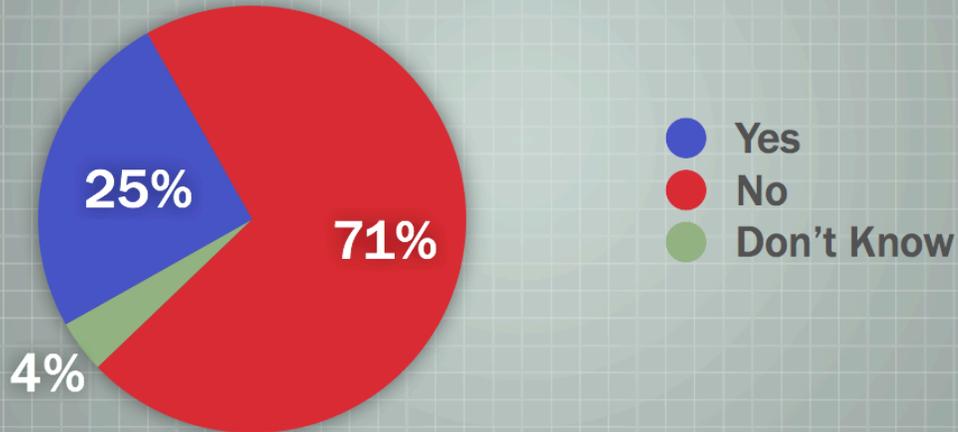
INSIDE INTELLIGENCE

Should lawmakers accused of crimes be allowed to avoid court during legislative sessions?



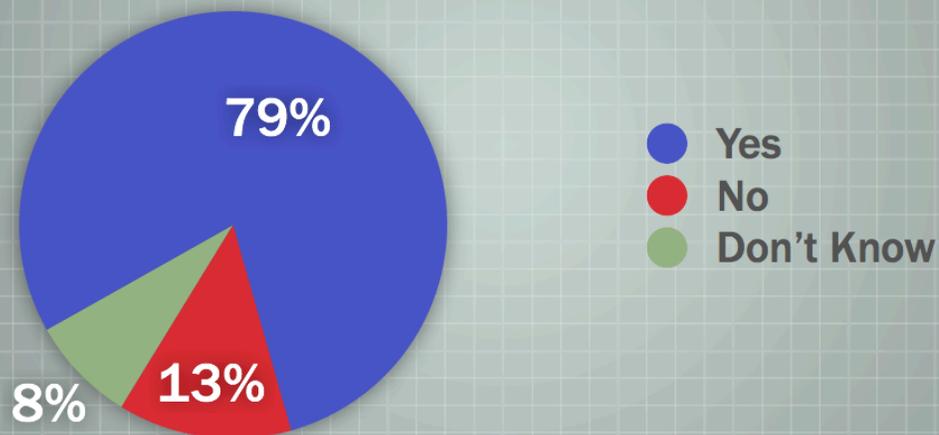
INSIDE INTELLIGENCE

Should a statute of limitations apply to wrongful prosecutions?



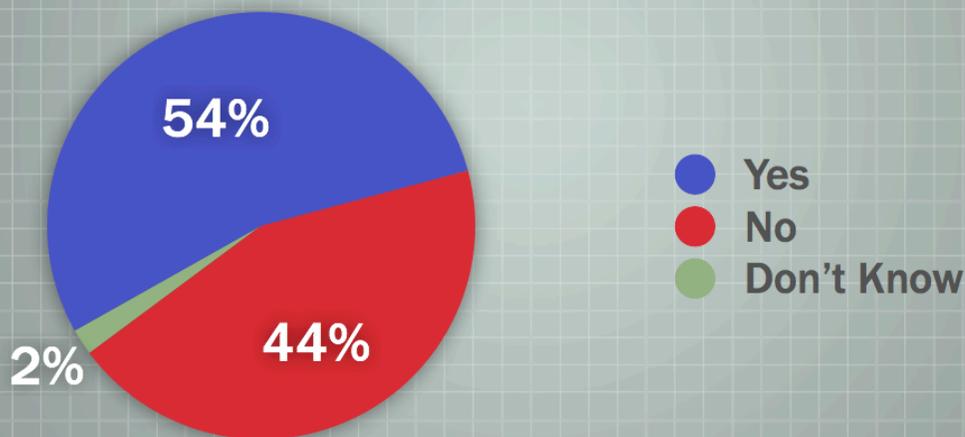
INSIDE INTELLIGENCE

Should prosecutors and the defense have to share important evidence?



INSIDE INTELLIGENCE

Should federal officials be allowed to waive Miranda rights in cases like the Boston Marathon bombings?



Should Texas prosecutors be required to resign if they are convicted and imprisoned for breaking the law?

- "Duh some prosecutors need advanced ethical training as they loose touch with justice while seeking a conviction at all costs. That attitude needs to go."
- "No brainer. Break the law as a prosecutor, then you're no longer a prosecutor. Not always fair, but then again neither is our justice system."
- "Notwithstanding the current example of Travis County's District Attorney, there is bound to be at least one circumstance where I would not think resignation is required."
- "'AND imprisoned'?! Is there really any daylight in cases like that?"
- "Very difficult to see how they would do their job while imprisoned. Thus, I would apply this same standard to all officeholders."
- "Only if they are required to do jail time."
- "Duh"
- "It's an elected position; let the voters decide."
- "That's ridiculous. Everyone makes mistakes now and then, and suffers the penalties prescribed by law."
- "It's too bad some of them don't have the decency to resign on their own. I don't like the idea of having a

requirement to resign but it appears necessary in Travis County."

- "Should be held to a higher standard -- how can they prosecute criminals for crimes they themselves have been charged with?"

- "I think it depends on the circumstances. There are several examples where a prosecutor was held in contempt for reasons that were later proven to be justified. And with the current Travis County DA, she has been an exceptional public servant for 35 years and made a mistake that should not end her career. In fact, I think her voluntary guilty plea and request for jail time helps debunk public cynicism about all politicians being corrupt and above the law. She made a mistake, accepted the consequences and will probably be an even better prosecutor for it."

- "It depends on which law the prosecutor violated--for example, murder is more serious than a silent call to 911 (conviction of either could result in jail time). On the other hand, if a prosecutor has been convicted of a crime, then s/he generally has lost the public trust and confidence to carry out his/her duties. How can s/he prosecute those accused of the same crime for which s/he was convicted and served time?"

- "They have betrayed the public trust and are not above the law?"

- "But it should trigger a special election so the residents of the district can elect their public officials."

- "It depends on where you draw the line. A conviction of a felony or theft, resign. A conviction for a

misdemeanor, no automatic resignation"

- "But Lehmborg should be primaried."

- "Depends on what law they broke."

- "Question is too vague. It depends on the crime. A first-time DWI, no."

- "Sort of depends n what they were convinced of. No hard answer. Felonies, obviously, high misdemeanors, maybe. An alternative would be to provide that if they are convicted of a crime that they are made to stand for reelection (recall?) at the next general election. Interesting concept to let the voters decide if they are offended."

- "There will be many better qualified candidates rise up to replace a lawbreaker."

- "Too broad a statement."

- "Really depends on the details, doesn't it? Which law? First-time DWI; I don't think so."

- "If that is the case then all elected officials should."

- "Let the voters decide their fates."

- "It depends on what crime has been committed. For example, imprisonment for a DUI should not require a resignation, but imprisonment for theft should."

- "Depends on the law. DWI? Nah. Theft, assault? Sure."

- "Depending on the offense"

- "Not for DWI."
- "Depends upon the circumstances. In most cases, they will probably lose their job anyway."
- "For crimes involving moral turpitude."
- "Our judicial system is built upon innocence until proven guilty; consideration should be given to those who have unpaid parking tickets versus those who may have endangered the lives of others."
- "If she were a Republican, this would be a no-brainer. Only partisanship and wanting a check on state officials keeps me on her side."
- "If it is a class b or higher"
- "For crimes above a certain level. DUI, yes - it endangers others."
- "Define 'breaking the law'."
- "Minor things, no, but man that DA is BAD!"
- "We must hold prosecutors to the highest standards."
- "Not a black and white issue, depends on the severity of the crime"
- "Once a person is convicted of a crime, there is no doubt that it has been committed so send them off!"
- "Depends on which law they break"

Should lawmakers accused of crimes be allowed to delay their court appearances during a legislative session?

- "The voters deserve their representation."
- "Does anyone else get a break from a judge because of a part-time job?"
- "A lawmaker should be arraigned like every other citizen and make all court appearances even if the trial prevents a lawmaker from attending to his or her duties during a legislative session. Nothing prevents the lawmaker's attorney from presenting extenuating circumstances to the court and letting a judge decide whether court appearances can be delayed."
- "While it may be longer than most Texans can bear, our Legislative Session is short enough that if a Member wants to waive his right to a speedy trial in order to get his work done, we should be fine."
- "Who would run the asylum if legislators are not present? Constituents deserve representation even if it comes in the form of a criminal."
- "Depends on nature of case need that expertise in capitol"
- "Although obviously abused, this rule also prevents abuse via politically motivated indictment."
- "Depends on crime, but office should be secondary to justice."
- "It should be left up to the judge and depend on the offense."

- "Accused of a crime like murder, arson, robbery, etc. -NO! Civil - yes!"
- "Why should they?"
- "No special privileges."
- "I thought we're all equal. Why should they--based solely on their status as a state legislator--receive special treatment not afforded to you, me, or my grandfather?"
- "Innocent until the State proves otherwise."
- "This courtesy is abused, and the law allowing or requiring continuances for defendants hiring legislator/lawyers is WIDELY abused."
- "Sort of depends #2. Accused, but not indicted? Probably not. Indicted, yes; generally. Then the question is the same as #1..."
- "That depends on the charge."
- "Convicted lawbreakers should NOT be making laws for the rest of us."
- "Treat 'em like one of us."
- "The Legislative session is short. Court appearances are most often delayed several months as a matter of practice, so Legislators may not necessarily be getting special treatment on this."
- "Although their work is important, it is no more important than someone making a living so they can provide for their family. They need to play by the same rules. As I tell my kids, you make choices, be they good or bad,

you still pay the price and deal with the results. Let the legislators play by the same rules for their choices."

- "In theory NO, in the reality of politics it is necessary. Now, letting attorney/legislators delay cases simply because the legislature is in session is pure sleaze."
- "You must look from the constituent's point of view. They deserve representation, even if their representative/senator is a criminal."
- "Justice can wait a few months to ensure representation."
- "BUT it depends on the seriousness of the crime. Not for a serious crime."
- "If we do not permit such a delay, we run the risk of politically motivated charges being levied to change the vote on a specific high profile issues."
- "Equal justice for all."
- "A constituency needs their elected representation in Austin and should not have to suffer because of the potential criminal activity by those individuals."
- "They can what?!"
- "Legislators must have the ability to delay any defense against crimes until the legislature is NOT in session. The local prosecutors are elected officials and as such should be treated as the political animals they are. Think about someone that is prosecuted for an offense, a hearing date is scheduled on the same day as a close legislative vote and the legislators are required to be in court. Then after the session the

charges are dropped. Yes, it would happen and we all know it would."

- "I wouldn't be able to postpone my court appearance for my job. Shouldn't elected officials be held to a higher standard?"
- "Misdemeanors yes. Felonies no."

- "Yes, while people scream about this, what is to say accusations will be filed for political reasons. A few months are not going to matter."

- "This was put in place to make certain no politics are played to keep lawmakers from voting. We should keep it."

Should the state have a statute of limitations on wrongful prosecutions?

- "It seems to take so long for the justice system to determine whether there was a wrongful prosecution, that a statute setting a particular end date could not cover every injustice."

- "Yes. Statutes of limitations exist because of the reality that with the passage of time, memories fade, witnesses die, and exculpatory evidence is destroyed. This is equally true with case of this type."

- "Once the time is served, you cannot get it back. The person initiating the wrong should pay the same consequence."

- "No limits when personal liberty is involved"

- "Not for intentional misconduct by the state's representative to the court."

- "Absurd that they would, particularly since scientific evidence may only recently have become available."

- "If we're going to do it for prosecutors, then we need to also hold those judges and jurors accountable too. How do we do that?"

- "Nearly every cause has a limitation period. No pressing reason not to have one for this set of facts."

- "These cases are rare, but as we saw in Morton, important."

- "The statute of limitations should run two years beyond the prison term handed out to the wrongly convicted"

- "At least not to the extent evidence is produced late showing the wrongful prosecution."

- "Probably should be a long one. Due process weighed against the seriousness of the charge compels that we not convict a prosecutor on stale evidence."

- "The statute of limitations should start when the poor guy got out of prison. It's contrary to the interests of justice that the effects of his crime insulate him from his crime."

- "Tolled by incarceration"

- "This is the height of violating the public trust and the social contract. No limitations!!"

- "NO"

Should the state pass an "open file" law requiring criminal prosecutors and defense lawyers to share important evidence?

- "Surely criminal prosecutors should have to share important evidence with defense lawyers, but the concept of defense lawyers sharing all evidence with prosecutors just doesn't seem right."
- "Criminal prosecutors ALREADY have to share evidence, especially exculpatory evidence. However, defense counsel should NEVER be required to hand over incriminating evidence!"
- "Clearly the prosecution should."
- "Do you really believe the guilty want to share their information with prosecutors?"
- "The defense should not be required to help the prosecution. Presumption of innocence, etc."
- "The rules of evidence and procedure have served our state and nation well for a long, long time."
- "This would be a one way street for defendants. Prosecutors would have to open their files and let the defense work on the state's witnesses while the defense is under no obligation to supply incriminating evidence."
- "Absolutely. Both defendants and prosecutors need to have access to the same evidence."
- "We already have this in criminal cases--it's called the Texas Code of Criminal Procedure. And on the civil side, see the Texas Rules of Civil Procedure."
- "As long as ongoing investigations are protected."
- "It is standard elsewhere."
- "They should already be doing this per a Supreme Court ruling."
- "It should be just like they show it in My Cousin Vinnie."
- "Texas prosecutors shouldn't be afraid of a fair fight."
- "Yes, and look to Ken Anderson and the Morton case and how he mucked it up and sent an innocent man to jail for the purposes of getting elected again."

Should the federal government be able to suspend Miranda rights for defendants in cases like the Boston Marathon bombings?

- "Yes where public security is directly involved."
- "Yes, if the interrogation is for national security purposes and not

prosecutorial purposes, Miranda rights should not even be an issue!"

- "The Boston Marathon bombings were an act of terrorism and should have been classified as such. The living bomber should have received a first-class ticket to Guantanamo. No Miranda rights for terrorists."
- "An American citizen acting within the U.S. should retain his/her full rights, regardless of the crime."
- "The Bill of Rights is the Bill of Rights. Otherwise, the lynch mob becomes judge and jury."
- "This is a most disturbing issue, but the precedent for the public safety exception is legally codified. The hope is that law enforcement and the federal government use this exception sparingly."
- "Only in 'public safety' exclusion or 'enemy combatant' situations"
- "This is sloppily worded and assumes this is a civilian criminal matter, not a war/military matter. Also, what about state and local governments--can they do so, too? Regardless, please recognize there's a big difference between interrogation for trial purposes and interrogation for war purposes. Lastly, even if it's a criminal matter, answers from an interrogation with or without Miranda rights might not be needed to be admitted to obtain conviction in court. Evidence other than oral testimony under questioning can be used to demonstrate guilt."
- "If they are US citizens we should recognize the rule of law and our constitution. There has been a 'public

safety' exception to Miranda warnings since the early 1980s."

- "It is either required or not. I am sure there are exceptions but I would as soon have the government not take any short cuts."
- "Difficult to define such an emergency. Miranda next to worthless in many cases, especially high profile ones."
- "No they shouldn't be able to suspend rights, but on the other hand constitutional rights should be for citizens only."
- "Only if there is an actual public safety concern. They basically enacted martial law in Boston."
- "Yes, but it should be limited as much as possible, both to the number of incidences and the amount of time rights are suspended for any one incidence. This is a provision that could be inappropriately used and result over time in a loss of everyone's fundamental rights."
- "A constitutional 'right' isn't something the government should be suspending."
- "But only under the public safety exception"
- "Under the narrow public safety exception only."
- "IF there's evidence of foreign influenced terrorism under the law."
- "For a defined period of time under clearly defined circumstances."
- "For a US citizen no; non US yes"

- "In the case of public safety and/or terrorist threats, Miranda should be suspended. It should be used judiciously and the burden of proof to suspend should be extremely rigorous."
- "Supreme Court said this is fine. They can't use what he says before he's Mirandized in court. That's fair. Need to make sure he's not part of some sleeper cell."
- "For enemy combatants."
- "As usual your attempt to shrink a complex issue into a 7th grade civics book question is an utter and complete failure."
- "And others like Ft. Hood, that was not a 'workplace incident' that was terrorism!"
- "What is the purpose of Miranda if it can be suspended as law enforcement sees fit?"
- "Some things should be left sacred."

Our thanks to this week's participants: Gene Acuna, Cathie Adams, Brandon Aghamalian, Jenny Aghamalian, Clyde Alexander, George Allen, Doc Arnold, Jay Arnold, Charles Bailey, Tom Banning, Dave Beckwith, Andrew Biar, Allen Blakemore, Tom Blanton, Hugh Brady, Chris Britton, David Cabrales, Raif Calvert, Lydia Camarillo, Kerry Cammack, Thure Cannon, Snapper Carr, Janis Carter, Elna Christopher, Addie Mae Crimmins, Beth Cubriel, Randy Cubriel, Curtis Culwell, Denise Davis, Hector De Leon, Eva De Luna-Castro, June Dadrick, Roberto DeHoyos, Tom Duffy, David Dunn, Jeff Eller, Jack Erskine, Wil Galloway, Neftali Garcia, Norman Garza, Dominic Giarratani, Bruce Gibson, Stephanie Gibson, Kinnan Golemon, Jim Grace, John Greytok, Jack Gullahorn, Wayne Hamilton, Bill Hammond, John Heasley, Ken Hodges, Deborah Ingersoll, Richie Jackson, Cal Jillson, Mark Jones, Robert Jones, Lisa Kaufman, Richard Khouri, Tom Kleinworth, Sandy Kress, Nick Lampson, Pete Laney, Dick Lavine, James LeBas, Donald Lee, Luke Legate, Leslie Lemon, Ruben Longoria, Vilma Luna, Matt Mackowiak, Phillip Martin, Scott McCown, Mike McKinney, Robert Miller, Mike Moses, Steve Murdock, Keir Murray, Nelson Nease, Keats Norfleet, Pat Nugent, Sylvia Nugent, Nef Partida, Gardner Pate, Robert Peeler, Jerry Phillips, Tom Phillips, Wayne Pierce, Richard Pineda, Allen Place, Kraege Polan, Gary Polland, Jay Pritchard, Jay Propes, Ted Melina Raab, Bill Ratliff, Patrick Reinhart, Kim Ross, Jeff Rotkoff, Grant Ruckel, Jason Sabo, Andy Sansom, Jim Sartwelle, Stan Schlueter, Bruce Scott, Robert Scott, Bradford Shields, Christopher Shields, Jason Skaggs, Brian Sledge, Ed Small, Martha Smiley, Todd Smith, Larry Soward, Dennis Speight, Tom Spilman, Jason Stanford, Keith Strama, Bob Strauser, Colin Strother, Charles Stuart, Michael Quinn Sullivan, Sherry Sylvester, Jay Thompson, Russ Tidwell, Trey Trainor, Joe Valenzuela, Darren Whitehurst, Woody Widrow, Seth Winick, Peck Young, Angelo Zottarelli.