

**“INSIDE”**

**INTELLIGENCE**

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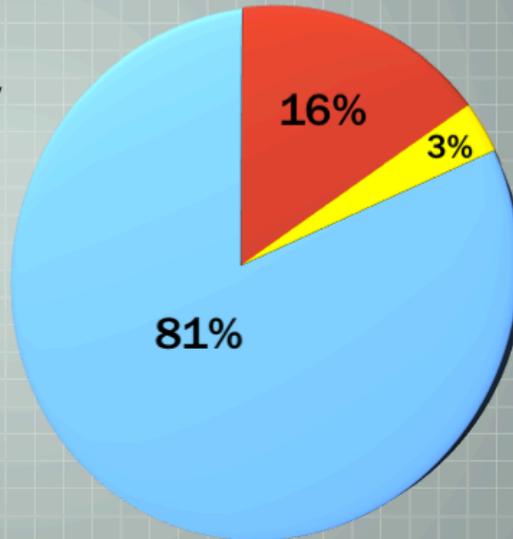
**THE TEXAS TRIBUNE**  
**TEXAS  WEEKLY**

**The insider's poll for the week of May 2.**

# INSIDE INTELLIGENCE

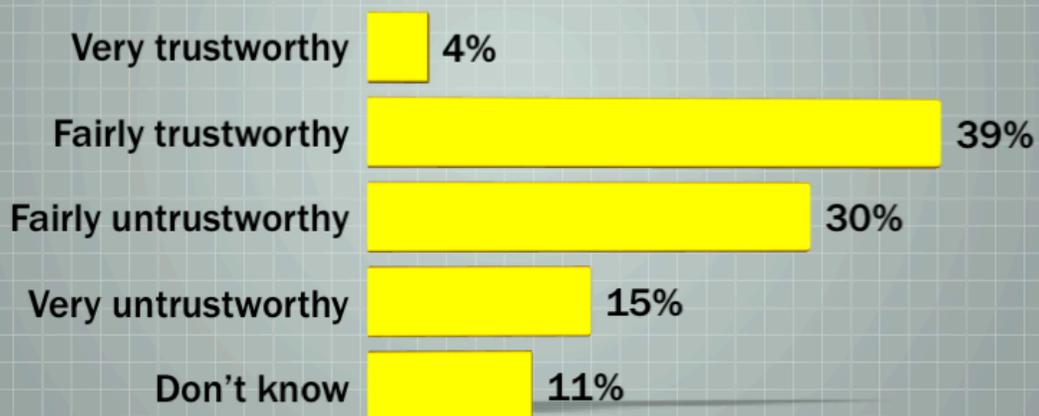
Should the state bear the costs of its identity breaches?

- Yes
- No
- Don't know



# INSIDE INTELLIGENCE

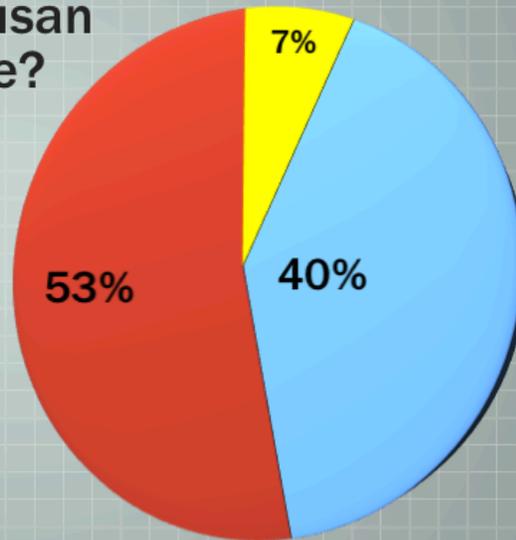
Is the state trustworthy with private information?



# INSIDE INTELLIGENCE

How will this affect Susan Comb's political future?

- She'll recover
- It's a big problem
- It's not a problem



*Should the state pay the expenses and cover the losses of people whose identities are stolen as a result of the breach?*

- "The state does not have the money to pay these losses."
- "It's an absolute travesty, not only that this information has been exposed, but how it's been handled. I've never seen such finger pointing and attempts to scapegoat so many other agencies and staff. It just perpetuates great distrust in government."
- "The state is liable so yes within reason"
- "This is not an option under TX law as I understand it."
- "As a former staffer who got the letter from poor Victor Gonzales, I sure as sh\*t expect the state to be responsible for this monumental demonstration of incompetency and buck-passing. I have never been involved in a lawsuit before in my life, but I can figure out how to be a part of this one, that will change!"
- "If this were a regular case of identity breach and theft the answer would be no. However this was gross negligence on the

part of the state, and people are going to be damaged, some possibly long term and deeply, by this. This is a case of doing what is right. ... Some state leader should step up and say that in spite of tough times, we won't have our people harmed by gross negligence of the state without us taking care of them. ... Wonder if anyone has looked at all the info scrapers that send web crawlers through all the deep web all the time? No way this info would have escaped them for a year, and I bet it is up on several of their subscription sites. So the road may go on forever, and this party may never end."

- "Of course they should...the state created the situation...they should pay for it."
- "The state has the power to force you to provide the information they request. When you have no opportunity to decline then the state should be liable for any breach of the information collected."
- "Considering the number of people whose data was exposed, even the smallest

compensation amount offered would add up quickly for the State."

- "Texas consistently underfunds the state workforce, whether it is long lines at DMV, long waits for processing unemployment claims, or bungled attempts at privatizing call centers, to few staff is a consistent theme. If staffing is at issue here that might suggest state responsibility."

- "State's fault? State pays."

- "We don't have the money."

- "It would be inappropriate for the state to pay. There is definitely a personal and political reason for Susan Combs to want to pay the victims, but there is no legal or policy reason for the state to pay. The state is not liable. Sovereign immunity protects the state against all kinds of mistakes by public officials. Why should Texas pay these victims when most other types of victims are barred from recovery? But nothing would prevent the Combs campaign from voluntarily choosing to pay for identity theft monitoring and the other items."

- "They put the info out there and any issues arising are the fault of the State."

- "While a line should be drawn to ensure some certainty and finality to compensation (not all possible damages flowing from potential ID theft should or can be realistically compensated), identity theft is a tremendously expensive, time-consuming, and difficult to address crime. As someone who has had to deal repeatedly with data breaches by various companies, I know personally how frustrating the process can be. Luckily, I haven't had my identity stolen yet, but some baseline of compensation is both fair and necessary as a deterrent to future negligence or misfeasance by responsible officials."

- "If American Express did the same thing, they would have to cover my expenses."

- "Susan should have to pay them out of her check."

- "Breach?? She handed detailed identity information to anyone that happened to be

scrolling around on her website. AND after she found out about she fired some person low down the totem pole, not even the person who was ultimately responsible in the IT Department. She doesn't appear to take this as seriously as everyone who is at risk."

- "State should take the responsibility, but could do that by negotiating the costs with credit card companies and establishments that were involved in fraudulent transactions. The state could not carry the costs of the losses in it's present financial crisis, but could certainly shoulder the burden of mitigating the damages, and credit the people for losses incurred and not prosecute those who ... were unable to pay bills as the result of the breach. The legal costs alone of repairing stolen identities are huge so all of those should be carried by the state. The state should set up a special task force to handle all legal issues involved for those affected, and help these people get their identities cleared, and credit ratings cleared as well."

- "It would cost the state more to investigate claims, than likely damage that occurred."

- "Subject to a reasonable level of verification."

- "While it is absolutely tragic that the breach happened, it is not a taxpayer responsibility to try to remedy it. The state may want to get involved in any lawsuits filed by victims of the breach, but the 'guilty' is ultimately the THIEF, not the state."

- "Depends on whether the person took proper steps to protect themselves after getting notice of the breach."

- "Just like Amazon will pay for damages when their cloud crashed last week."

- "Not just yes, but Hell Yeah!"

- "Looks like a simple tort to me."

- "Susan can't Combs-over this one. She has to be accountable to the taxpayers she's jeopardized."

- "The state should pick up the tab for a credit monitoring service for everyone affected by the breach. It's not particularly expensive and

seems to be becoming the norm as a remedy for entities, both private and public, that inadvertently expose data."

- "Yes the state should assist those affected - the data was available for one year. Stolen identity is a serious issue - expensive and lengthy to resolve. These individuals are required to submit the most sensitive information to governmental entities that guarantee their information is safe and secure."

- "Data breaches occur more often than anyone would like. However, ones data being exposed and ones data being stolen - AND USED - are very different. ... We live in a world full of risk, and those risks change over time. We no longer fear the Black Plague, instead we fear identify theft."

- "Pottery Barn principal applies. If the State of Texas broke it, we need to pay to fix it."

- "Some amount of reimbursement but not a complete hold-harmless."

- "It was the Comptroller's screw-up and she should be responsible for cleaning up the damage."

- "CPA has taken reasonable steps to allow those impacted to protect themselves. IF they avail themselves of this, and still suffer consequences, there should be some level of compensation."

- "The state shouldn't pay Mike Leach, and we shouldn't pay for identity theft because this happens all the time when private companies expose data, and no one rides to the rescue for the defrauded consumer then. Plus, did the state pay for credit repair for UT students? Bad precedent."

- "In war there are casualties"

### *How trustworthy is the state government with private information?*

- "There are poor procedures in place to keep sensitive information from being release whether in electronic form or not."

- "She needs to step up, take responsibility, and start fixing the problem rather than blaming others. Admitting you have a problem is the first step..."

- "Mistakes happen."

- "By definition privacy is seclusion or secrecy - secrecy and state government aren't even in the same zip code."

- "There is a huge mass of confidential info on companies-business etc as well as individual that is filed with the State of Tx. This seems to be the first time such info has been neglected in such a manner and for a long enough period of x to allow for serious consequences!"

- "I think having to answer 'don't know' is pretty scary."

- "Would have said 'fairly trustworthy' until this ridiculous, amateur hour eff-up."

- "Part of the problem is that agency requests for system and IT upgrades have been underfunded for years as the state places s higher priority on other state services"

- "Our security is only as good as the people who create and monitor it, and the level of currency of the software used to guard it. Both require highly talented people that are very proud and happy with their jobs and situation, and/or significant expenditures to maintain. I see neither as the situation with our information security."

- "Fairly trustworthy but any security system can be breached. Of course, when the state is the culprit and allows for private information to be posted on a public web site.... heads need to roll."

- "The breach speaks directly to the question of trustworthiness."

- "Despite this incident, State agencies - and specifically those agency employees who

work with private information - are extremely cautious."

- "Painfully obvious now that they are/were not trustworthy."
- "This is an isolated incident by someone asleep at the switch."
- "Simply because a lot of the information is in the hands of folks who may not be criminals, but they also don't really care. They do not believe bad things can happen. After it has happened, it is too late. Rules to protect data need to be set in concrete and anyone trying to go around the rules even once should be fired."
- "Either they accidentally let it slip, or they have to respond to a FOIA."
- "Would need to see a lot more data about the various agencies, etc. Certainly, transparency is important to ensure that other breaches aren't being covered up or ignored."
- "The security of proprietary business information is a very serious matter."
- "Too many avenues of access to private information especially on the internet."
- "Trustworthy is not the same a competent"
- "This breach is an excellent example of WHY citizens must continue to fight for privacy rights. No government can be or should be privy to so much information in the first place."
- "As trustworthy as Facebook, Google Chrome and Amazon. And apparently more trustworthy than the Defense Department's top secret Guantanamo Bay files."
- "Obviously, not as trustworthy as we had hoped for in our comptroller."
- "The Combs thing is just the latest piece of private information made public. Information that most citizens would hope private (performance reviews, home addresses, job classification, benefit packages, and salaries) is already available on this web site or easily obtained under the state Open Records Act."

• "On the whole the state has done a good job for a long time. This problem is purely linked to the incompetence of the current comptroller."

- "The state is only slightly more trustworthy than big business in regards to privacy. Unfortunately, they are also a good deal less competent in protecting that privacy, which makes for a potentially disastrous combination for you and me."
- "Real and possible breaches are becoming increasingly common, but in fairness it's not just state government that seems to be unable to secure the data it collects."
- "All government information be it state, municipal, local or federal is untrustworthy. The data is accessible to too many entities."
- "How trustworthy is the State with anything."
- "The tragedy of this debacle is the distraction it creates for proposed improvements to other critical state databases. For example, Texas is finally discussing reforming the state's costly and outdated 'opt-in' immunization registry. Even though proposals will increase privacy and save the state money, progress has been slowed by this story."
- "Humans are humans and mistakes will be made. It's amazing this hasn't happened before."
- "This stands out as one of the only large-scale data breaches. Considering how outdated much of the state's IT systems, it is a miracle we haven't had more."
- "Lots of dedicated and talented people focused on protecting sensitive data. It's a tough gig . . . the bad guys are smart. As a former state employee, I'm well aware of two dreaded words that can impact effectiveness in a variety of areas . . . 'low bid'."
- "Texas has had breach after breach, yet continues to bend to collect more -- particularly when private business pushes for it. Note case being argued at the USSC today over Vermont refusing to allow drug companies to mine data on doctor

prescription patterns over the doctor's objections. This is part of a bigger problem in a bigger trend."

- "I am at a loss as to how this is a useful question at this point."

### *How will this affect Comptroller Susan Combs' political aspirations?*

- "It demonstrates a lack of proper management and oversight."

- "Thousands of Texan's records released, a missed revenue estimate, a bungled federal rebate program, a salty romance novel, and a left of Republican political philosophy all point to issues for her future."

- "If the state loses substantial funds as a result of the incident, by that I mean tens of millions, she will not be able to make a move upward in 2014, and will get a serious opponent in her next primary if she runs for reelection. ... If there are few if any costs associated with the exposes private info, she may be okay. Hard to imagine that a lot of people will be ripped because of this, but it seems like a wave of problems should have appeared by now."

- "She angered just about everyone across the political spectrum. The fall-out from this is just beginning. Wait until more and more people are touched by identity theft."

- "Compounds problems with the appliance rebate program (twice), lack of progress on ERP, lack of popularity of Formula One deal and of course missing the revenue estimate. ... Makes it harder for her to run for Lt. Governor."

- "She took action immediately and called for and got some heads. She stumbled a bit and perhaps still is with who is liable for what but I nothing she wont recover from"

- "S Combs is all about reaching for the next rung on the ladder-if this issue allows for survival she will not stop at Lt Gov as her goal is, and always has been, Gov! Her campaign 'kitty' reflects her priorities!! Tx top office holders seem to spend an inordinate amount of time in 'Campaign Mode'. Makes one wonder how much they could accomplish

- "When they leave the SSNs and Birthdates of 3.5 million Texans exposed for a year, the question of their trustworthiness is a no-brainer. FAIL."

if the law required them to STAY between 183 and Town Lake after being elected!!"

- "If the Governor never even had a scratch on him from the Gardasil flap, then the tall lady won't see a scar over this."

- "The more she refuses to take responsibility and explain how she missed this, the deeper she will go into the hole. It may not be her "fault" as maybe she was misled or lied to, but it was her responsibility. People will forgive a lot, but they don't tolerate well those that tend to never take responsibility and push it off on others. ... Unless it is the governor, of course."

- "I don't think she can recover. Reggie Bashur is good.... but not this good. Combs will ride off into the sunset...."

- "In a republican primary she already has problems with her social record, add an agency breach of personal data which can be exploited as caused be her incompetence and you could have a devastating one-two punch."

- "It's a 'big news' headline that's easy to understand and impacts a lot of angry people. This one will be brought up in every election by every opponent she faces. If nothing else...just to stir the pot."

- "She was well positioned to move up to Lt. Gov., but she is not quick on her political feet, so she has not gotten out in front of this. She looked very uncertain and defensive. She has time to recover if she has the skill."

- "She was going to have problems in a statewide race with her social positions, but this goes to the core of competence and trust. She continues to magnify it with a high degree of arrogance by not standing up and

taking responsibility. She can't get re-elected Comptroller, let alone Lt. Governor."

- "Stick the proverbial fork in her. She's done. This problem will linger and the bumbling way she handled will make great political ads."

- "Not only is it a big problem, if she were CEO of a publicly held corporation, she would be removed from her position. This is a show of total incompetence."

- "Surprisingly, her response to the problem has been less than stellar. I thought she would be more of a 'take responsibility' type than 'save my political backside' type. Guess when the chips are down is when you find out how someone handles hard times."

- "This situation is a HUGE problem for Susan Combs, but not because of the original data security breach. #1 Susan's mishandling of the original situation has become the story and the problem. From my personal experience and in my personal opinion, Susan is NOT a level-headed, professional, and polite person (except on the campaign trail). Her reaction to the problem is exposing her true self to the public. The voters are sick and tired of excuses, and pass-the-buck. #2 Beyond voters, her current fumbling raises questions about whether she is ready for something larger. #3 Also many local officials, attorneys/lobbyists and other people who have worked with her as Comptroller deeply dislike Susan on a personal level and this data breach issue gives a focus to that and a justification for people to express those feelings. Many around the Capitol who might otherwise be silent now have the opening to shake their heads and say, 'that's too bad; but it couldn't happen to a nicer person.'"

- "People forget -- over and over and over again. This is occurring too far from an election to ruin her career. But she will be beat over the head with it for years to come."

- "There is a lot of time until the next election"

- "Combs showed she gets it. Made a mistake. Tried to explain it. Explanation got translated to blaming others. So she quickly took bull by the horns. Expensive mistake,

but needs to come out of it with a visible sense of humor."

- "Unless she's elected solely by teachers and state employees, then I doubt it will hurt her."

- "It helps her that the victims are state employees and teachers, who are 1) not natural Combs supporters anyway, and 2) not the focus of a lot of care and compassion from other voters. If these were taxpayers, her career would be in real danger."

- "Combs was already stymied in the Republican Party because of her pro-choice politics, and this will likely prevent Republicans from facing a showdown fight over that issue."

- "Not only did she respond poorly from a public relations standpoint, but she seems unwilling to confront the issue directly and to propose reasonable remedies. A website and private firings of staffers just doesn't provide the same reassurance as someone who's willing to step up and take charge. She is also proving to be unresponsive to inquiries from organizations trying to get answers for their members who are affected."

- "Combs' handling of the situation has been pitiful to date. She should stop hiding behind staff and take responsibility for the situation while demonstrating leadership in preventing such a mistake in the future. Texas voters tend to be a fairly forgiving lot, but it's foolish to impose on their good graces by not being personally forthright and offer a bit of contrition."

- "One cannot recover from this mistake. The timing and way it was handled magnified the problem."

- "Comptroller Combs has not attached her name to the majority of media releases nor the Letter of Notice to those affected by the breach - only the Officer of Technology or the Office of the Comptroller has been identified."

- "Lucky for her this happened in the first year of her term and not in the penultimate. As things stand now as long as she avoids any future errors she should be fine for re-election as Comptroller. ... But she is damaged goods for any higher level office since any

Republican primary opponent will have a field day with this, especially if large numbers of Texans have their identities stolen as a result (I can see the negative ads already of families who have "lost everything due to Susan Combs' incompetence")."

- "While the data was exposed, she was in England looking into how to promote F1 racing in Texas."

- "How you handle the aftermath is the important thing and she hasn't exactly been front ... and center to explain. She had her technology head sign the letter to those whose information ... was exposed and I believe he's no longer there. The irony is this happened after she spent a ton of money ... fighting to keep her own employees' dates is birth confidential in a case that went to the Supreme Court."

- "She's toast."

- "If just one instance of identity theft hits a little old lady, it will be the one thing that defines a person who is otherwise undefined in the eyes of most voters."

- "Sadly for Susan, will likely be a big problem. In reality, there is no way the head of such a huge agency can know what's going on in every corner of the operation. I know I couldn't . . . nor could those who are/ will be casting stones. But . . . politics is politics."

- "It will be a problem if she runs for light gov and her opponents use it against her and they will."

- "If she has an opponent, she can expect to get hit hard on this issues. 3.5 million folks are not happy about it, and she has done a very poor job of damage control."

- "If the Democrats remember to run some against her this time and remember how to attack"

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*Our thanks to this week's participants:* Gene Acuna, Cathie Adams, Victor Alcorta, Clyde Alexander, George Allen, Jay Arnold, Charles Bailey, Tom Banning, Reggie Bashur, Walt Baum, Eric Bearse, Leland Beatty, Mark Bell, Allen Blakemore, Tom Blanton, Hugh Brady, Steve Bresnen, Linda Bridges, Chris Britton, Andy Brown, Lydia Camarillo, Snapper Carr, Janis Carter, William Chapman, Rick Cofer, John Colyandro, Harold Cook, Eva De Luna-Castro, David Dunn, Jeff Eller, Alan Erwin, John Esparza, Jon Fisher, Robert Floyd, Wil Galloway, Bruce Gibson, Machree Gibson, Scott Gilmore, Eric Glenn, Daniel Gonzalez, John Greytok, Marta Greytok, Jack Gullahorn, Wayne Hamilton, Bill Hammond, Albert Hawkins, Susan Hays, Jim Henson, Ken Hodges, Steve Holzheuser, Shanna Igo, Deborah Ingersoll, Richie Jackson, Cal Jillson, Mark Jones, Richard Khouri, Tom Kleinworth, Ramey Ko, Tim Lambert, Pete Laney, Donald Lee, Luke Legate, Ruben Longoria, Vilma Luna, Matt Mackowiak, Dan McClung, Parker McCollough, Scott McCown, Mike McKinney, Kathy Miller, Robert Miller, Bee Moorhead, Steve Murdock, Craig Murphy, Keir Murray, Todd Olsen, Nef Partida, Gardner Pate, Bill Pewitt, Jerry Philips, Tom Phillips, John Pitts, Royce Poinsett, Kraege Polan, Ted Melina Raab, Bill Ratliff, Tim Reeves, Carl Richie, Kim Ross, Jeff Rotkoff, Jason Sabo, Luis Saenz, Mark Sanders, Jim Sartwelle, Stan Schlueter, Steve Scurlock, Terri Seales, Bradford Shields, Dee Simpson, Ed Small, Martha Smiley, Terral Smith, Todd Smith, Larry Soward, Dennis Speight, Jason Stanford, Bob Stein, Jeri Stone, Keith Strama, Colin Strother, Michael Quinn Sullivan, Jay Thompson, Russ Tidwell, Bruce Todd, Gilbert Turrieta, Ware Wendell, Ken Whalen, Darren Whitehurst, Chad Wilbanks, Michael Wilt, Alex Winslow, Peck Young, Angelo Zottarelli.