

Governor Perry Sets the Record Straight

August 19, 2014

What is clear since this outrageous assault on the rule of law began is the near universal condemnation of it by political commentators, constitutional scholars, and major newspapers across the country.

Governor Perry will fight this injustice 100% and he will prevail in the end because he is on the side of the rule of law.

We do not settle political differences in the United States and in Texas in this manner.

We settle political differences at the ballot box. This is banana republic politics.

Governor Perry acted lawfully and properly exercised his power under the law as Governor to protect the public safety and integrity of government.

It is important to understand the issues raised in this manner are much larger than Governor Perry.

There are significant constitutional concerns raised by this indictment.

The charges leveled against the Governor are pernicious attacks on:

- The Rule of Law
- The U.S. Constitution and Texas' state Constitution
- Free speech (1st Amendment)
- Separation of Powers
- Absolute Right of an Executive to Veto

Governor Perry was right, a prosecutor who breaks the law and abuses law enforcement shouldn't judge the "public integrity" of others in government.

The indictment has had the profound affect of uniting Republicans and Democrats in denouncing the prosecution as politically motivated, and they agree he will likely to be vindicated.

Sen. Cruz, Sen. Cornyn, Gov. Jindal, Gov. Christie, Jeb Bush, and many other prominent Republicans have rushed to Governor Perry's defense.

Liberal Harvard law professor Alan Dershowitz, former Clinton White House Counsel Lanny Davis, and former Obama Senior Adviser David Axelrod have expressed this indictment is political overreach.

This is one of those rare cases in which the issue at the heart of the indictment actually improves the public's opinion of the elected official, because what Governor Perry did was right.

Travis County DA Rosemary Lehmborg, an influential Democrat, pled guilty to DWI and served 45 days in jail.

This guilty plea was after an embarrassing video surfaced of Lehmborg stumbling in a parking lot and spitting on police officers in the Travis County jail.

An analysis of Lehmborg's blood sample showed her blood alcohol level was .239 — nearly three times the legal limit for driving.

Before pleading guilty, she violated the public's trust by committing a crime and literally spitting in the face of law enforcement. This is confirmed on video from the Travis County jail video footage. Just google it.

MORE REACTION TO THE POLITICAL PERSECUTION OF RICK PERRY

YouTube Of DA Lehmborg's Booking At Travis County

Jail:<http://youtu.be/s7y70J266qI>

YouTube Of DA Lehmborg's Traffic Stop:http://youtu.be/JrxsCH_p10c

The Media Is Continuing To Pile On Over The Decision To Indict Governor Perry:

***Bloomberg View:* “The Criminal Case Against [Perry] Is A Farce And Should Be Dismissed Faster Than Prairie Fire With A Tail Wind.”**

(Bloomberg View, 8/17/14)

- **“Few Legal Observers Give The Prosecution Much Chance For Success In Court. But Conviction Isn't The Goal Here. Harassment And Humiliation Are.”** *(Bloomberg View, 8/17/14)*
- ***Bloomberg View* Headline: “The Partisan Farce To Get Rick Perry”**
(Bloomberg View, 8/17/14)

***San Antonio Express-News:* “The Grand Jury Indictment Friday Of Gov. Rick Perry For Abuse Of Power Casts A Pall On Texas Politics And Governance, Long Known For Its Hardball Characteristics.”** *(San Antonio Express-News, 8/17/14)*

- **“We Continue To Doubt Whether The Governor’s Actions In This Case Amount To Criminal, Much Less Felony, Behavior.”** “But an indictment is not a conviction, and we continue to doubt whether the governor’s actions in this case amount to criminal, much less felony, behavior.” (*San Antonio Express-News*, 8/17/14)

Wall Street Journal: “Prosecutorial abuse For Partisan Purposes Is Common These Days, And The Latest Display Is Taking Place In The All-Too-Familiar Venue Of Austin, Texas.” (*Wall Street Journal*, 8/17/14)

- **“Indicted ... For The High Crime Of Exercising His Constitutional Right To Free Speech And His Legal Power To Veto Legislation.”** “On Friday a Travis County prosecutor indicted Governor Rick Perry for the high crime of exercising his constitutional right to free speech and his legal power to veto legislation.” (*Wall Street Journal*, 8/17/14)

Reuters’ Steve Brill: “This Two Page, Two-Count Indictment Is Such A Joke...” “McCrum is well regarded in Texas, but this two page, two-count indictment is such a joke that it is hard to believe serious reporters for serious news organizations read it before writing their on-the-one-hand, on-the-other-hand stories about the case.” (*Reuters*, 8/17/14)

- **Brill: “By Now There Should Have Been A Pile On Of Stories Shedding Light On Just How Ridiculous The Indictment Of Texas Governor Rick Perry Is.”** (*Reuters*, 8/17/14)

Iowa Republican Party Activist Jamie Johnson: “Every Republican In Iowa That I Have Spoken To Thinks It Is A Politically Motivated Scheme To Tarnish Him As He Prepares For The 2016 Campaign.” (*Bloomberg*, 8/17/14)

Bloomberg Headline: “Perry Indictment May Become Asset by Rallying Republicans” (*Bloomberg*, 8/17/14)

The Washington Post’s Jennifer Rubin: “Most Pundits, Pols And Voters Concede That Vowing To Veto Funding... Unless... Lehmborg Resigned After A Drunk Driving Arrest Is Commendable, Not Illegal.” “Most pundits, pols and voters concede that vowing to veto funding for a department unless Travis County District Attorney Rosemary Lehmborg resigned after a drunk driving arrest is commendable, not illegal.” (*The Washington Post*, 8/18/14)

The New Republic’s Alec MacGillis: “It Is Not Going To Be Easy For Prosecutors To Convince A Trial Jury That A Governor Wielding His Veto Power... Amounts To A Crime.” “But it is not going to be easy for prosecutors to convince a trial jury that a governor wielding his veto power in even the rawest, most ad hominem form, as Perry did here, amounts to a crime.” (*The New Republic*, 8/17/14)

National Review's John Fund: "Criminalizing Political Differences And Celebrating Indictments Is A Poor Substitute For Winning Votes." (*National Review*, 8/18/14)

Houston Chronicle's Patrick Svitek: "The Media Narrative Is Quickly Hardening In Perry's Favor. Legal Experts Are Skeptical The Indictment Will Stick..." "The media narrative is quickly hardening in Perry's favor. Legal experts are skeptical the indictment will stick, other Republicans with presidential hopes are rushing to his defense and even liberal pundits are rolling their eyes at the charges." (*Houston Chronicle*, 8/18/14)

U.S. News' Susan Milligan: "Indicting A Governor For Simply Vetoing A Budget Item – No Matter What The Reason – Seems A Stretch." (*U.S. News*, 8/18/14)

National Review: "Texas Governor Rick Perry Has Been Indicted On Two Felony Charges... For The So-Called Crime Of Vetoing A Piece Of Legislation." "Texas governor Rick Perry has been indicted on two felony charges and could, in theory, spend the rest of his life in prison – for the so-called crime of vetoing a piece of legislation." (*National Review*, 8/18/14)

- **"Governor Perry Is Standing By His Veto, And He Is Right To Do So."** (*National Review*, 8/18/14)

Washington Examiner's Philip Klein: "It Didn't Take Long For It To Become Widely Accepted... That Friday's Indictment Of Gov. Rick Perry Rests On A Razor-Thin Legal Premise." "It didn't take long for it to become widely accepted – and not just among conservatives – that Friday's indictment of Gov. Rick Perry, R-Texas, rests on a razor-thin legal premise." (*Washington Examiner*, 8/18/14)

- **"But This Is Likely One Of Those Rare Cases In Which The Issue At The Heart Of The Indictment Actually Makes The Accused Politician Look Better."** (*Washington Examiner*, 8/18/14)

Commentary Magazine's John Steele Gordon: "This Is About As Blatantly A Political Indictment As Can Be Imagined." (*Commentary Magazine*, 8/17/14)

"The New Hampshire Republican Party Is Standing By Texas Gov. Rick Perry After His Indictment By A Grand Jury..." "The New Hampshire Republican Party is standing by Texas Gov. Rick Perry (R) after his indictment by a grand jury for allegations of abuse of power, ahead of his visit to the state later this week." (Alexandra Jaffe, "NH GOP Defends Perry On Indictment," *The Hill*, 8/18/14)

- **The Hill Headline: "NH GOP Defends Perry On Indictment"** (*The Hill*, 8/18/14)

***The Washington Times*' Ralph Z. Hallow: "A Tricky Back Story Clouds The Decision By A Democratic State Prosecutor To Indict Texas Gov. Rick Perry..."** "A tricky back story clouds the decision by a Democratic state prosecutor to indict Texas Gov. Rick Perry on an abuse of power charge, apparently in retaliation for the Republican governor's veto of funding for state prosecutors investigating public corruption, which could cut both ways in Mr. Perry's expected 2016 bid for the White House." (*The Washington Times*, 8/17/14)

***Commentary Magazine*'s Jonathan Tobin: "Let's Not Mince Words About The Egregious Nature Of The Indictment..."** "First, let's not mince words about the egregious nature of the indictment and what it means about how out-of-control prosecutors can derail democracy." (*Commentary Magazine*, 8/18/14)

***Salon*'s Michael Lind: "It Is Bad For Democracy When Parties That Have Lost Elections Try To Overturn The Results In The Courts."** (*Salon*, 8/18/14)

- ***Salon* Headline: "Rick Perry's Indictment Is Bad For Democrats: A Texas Perspective"** (*Salon*, 8/18/14)

***Christian Science Monitor*'s Peter Grier: "The Underlying Facts Of The Case Could Allow Perry To Portray Himself As A Strong Leader..."** "Plus, the underlying facts of the case could allow Perry to portray himself as a strong leader who was acting openly in what he believed to be the best interests of the state." (*Christian Science Monitor*, 8/18/14)

***Bloomberg View*'s Jonathan Bernstein On The Indictment: "It Certainly Doesn't Smell Kosher To Me."** "I'm slightly hesitant to say much about Governor Rick Perry's indictment that came down Friday (overview here), since I'm surely no expert on the relevant Texas laws. What I can say is it certainly doesn't smell kosher to me." (*Bloomberg View*, 8/18/14)

- **Bernstein: "As I Scanned Some Of The Various Commentaries, The Consensus Seemed To Be That The Indictment Lay Somewhere Between Highly Dickey And Totally Without Merit."** (*Bloomberg View*, 8/18/14)

***Wall Street Journal*'s James Taranto: "There Is Ample Evidence That [Perry] Did Not [Run Afoul Of The Law]..."** "That of course is a separate question from whether Perry's actions ran afoul of the law. But there is ample evidence that he did not—that the special prosecutor has misapplied a criminal statute in a way that is offensive to both the Texas and U.S. constitutions." (*Wall Street Journal*, 8/18/14)

Legal Experts Have Questioned The Decision To Indict Governor Perry:

***Austin American-Statesman*: "The Two Felony Charges Against Gov. Rick Perry Will Be Challenging To Prove In Court, Criminal Law Experts Said Friday."** (*Austin American-Statesman*, 8/15/14)

“Prosecutors Will Face Two Challenges In Making The Felony Stick, Said University Of Texas Law Professor Jennifer Laurin.” (Chuck Lindell, “Rick Perry Charges Will Be Challenging To Prove, Experts Say,” *Austin American-Statesman*, 8/15/14)

- **Laurin: “State Of Mind Is Always A Difficult Thing To Have To Prove. But I Would Say That Here It’s Particularly Difficult...”** “State of mind is always a difficult thing to have to prove. But I would say that here it’s particularly difficult because the statute suggests that the state may have to show that the governor actually knew that what he was doing was illegal,’ [University of Texas law professor Jennifer] Laurin said.” (Chuck Lindell, “Rick Perry Charges Will Be Challenging To Prove, Experts Say,” *Austin American-Statesman*, 8/15/14)

“Jerry Dowling, Professor Emeritus Of Criminal Justice At Sam Houston State University In Huntsville ... Said The Law Typically Sets A High Bar Before An Act Is Deemed A Crime.” “Jerry Dowling, professor emeritus of criminal justice at Sam Houston State University in Huntsville and author of ‘Texas Criminal Law: Principles and Practices,’ said the law typically sets a high bar before an act is deemed a crime.” (Chuck Lindell, “Rick Perry Charges Will Be Challenging To Prove, Experts Say,” *Austin American-Statesman*, 8/15/14)

- **Dowling: “I’m Not Quite Sure What One Might Choose To Present To A Jury To Show That There’s Harm And Coercion In This Context.”** (Chuck Lindell, “Rick Perry Charges Will Be Challenging To Prove, Experts Say,” *Austin American-Statesman*, 8/15/14)
- **Dowling: “But At What Point Does A Governmental Official, With Discretion About How The Government Operates And Spends Its Money, Cross The Line Into Criminal Conduct?”** (Chuck Lindell, “Rick Perry Charges Will Be Challenging To Prove, Experts Say,” *Austin American-Statesman*, 8/15/14)

Legal Scholar Eugene Volokh: “The Statute... Is Unconstitutionally Overbroad. It Would, For Instance, Punish Clearly Protected Speech...” “Even without Hanson, it seems to me, the statute — as understood in the indictment — is unconstitutionally overbroad. It would, for instance, punish clearly protected speech such as, ‘If you Legislators enacts a bill with this language rather than the version I like, I will veto it,’ since that too would be ‘threat[ening]’ ‘to take ... action as a public servant’ by vetoing the bill in ‘attempt[ing] to influence’ legislators in ‘specific performance of [their] official duty,’ namely drafting and enacting legislation.” (*The Washington Post*, 8/16/14)

Legal Analyst Rich Hasen: “This Indictment Will Not Fly Because The Law Potentially Violates The First Amendment (By Being Unconstitutionally Vague, Unconstitutionally Overbroad, Or Both).” “I haven’t studied Texas law or the indictment closely enough yet (read Ross Ramsey’s column for the basics), but Eugene Volokh, who is very careful with these thing, makes a good case that this

indictment will not fly because the law potentially violates the First Amendment (by being unconstitutionally vague, unconstitutionally overbroad, or both).” (Election Law Blog, 8/16/14)

Legal Analyst Scott Lemieux: “I’m As Contemptuous Of Perry As Anyone, But This Seems Really Thin.” (*Lawyers, Guns And Money*, 8/15/14)

Legal Analyst Jonathan Turley: “There Are Significant Constitutional Concerns Raised By This Type Of Indictment.” (JonathanTurley.org, 8/16/14)

- **Turley: “Perry Is Essentially Being Indicted For His Use Of Constitutional Power To Veto An Appropriations Item.”** (JonathanTurley.org, 8/16/14)
- **Turley: “In The End, I Have Great Reservations Over The Use Of A Criminal Indictment In A Case Of This Kind.”** (JonathanTurley.org, 8/16/14)
- **Turley: “In The Very Least, This Should Have Been A Matter For The Use Of Prosecutorial Discretion In Declining A Criminal Case Given The Vague Or Inapposite Character Of The Underlying Provisions.”** (JonathanTurley.org, 8/16/14)

“Ed Mallett, A Highly-Regarded Houston Attorney... Also Questioned How The Governor Could Be Held Liable For Exercising His Clear Veto Authority Authorized In The Texas Constitution.” “Ed Mallett, a highly-regarded Houston attorney who has served as president of both state and national criminal-defense lawyers associations, also questioned how the governor could be held liable for exercising his clear veto authority authorized in the Texas Constitution.” (Mike Ward, “Prosecutors May Have A Tough Time Making Perry Indictment Stick,” *Houston Chronicle*, 8/16/14)

“Sandra Guerra Thompson, Director Of The Criminal Justice Institute At The University Of Houston Law Center, Said Having A Governor Face Such Charges Is Unusual, Especially Over A Veto.” (Mike Ward, “Prosecutors May Have A Tough Time Making Perry Indictment Stick,” *Houston Chronicle*, 8/16/14)

DC-Based Democratic Lawyer Stanley Brand: “It’s A Fight Between The Executive Branch And [Lehmborg], And It’s Not Suitable For Resolution In Court.” (Tarini Parti, “The (Maybe) Trial Of Rick Perry,” *Politico*, 8/16/14)

Former Deputy Council To The RNC Chris Gober Called The Indictment Vague And Its “Applicability To The Facts In This Case Is Questionable.” “Chris Gober, a Texas lawyer who has served as deputy counsel to the Republican National Committee, said the indictment is vague and its ‘applicability to the facts in this case is questionable.’” (Tarini Parti, “The (Maybe) Trial Of Rick Perry,” *Politico*, 8/16/14)

Elliot Berke, Former Counsel To Former GOP House Speaker Dennis Hastert: “Any Objective Judge Will See This For What It Is — A Pretty Outrageous Attempt To Criminalize Politics.” (Tarini Parti, “The (Maybe) Trial Of Rick Perry,” *Politico*, 8/16/14)

Harvard Law Professor Alan Dershowitz: “Everybody, Liberal Or Conservative, Should Stand Against This Indictment.” (Sandy Fitzgerald, “Dershowitz ‘Outraged’ By Perry Indictment,” *Newsmax*, 8/16/14)

Legal Blogger Patrick Frey (Patterico): “Words Truly Fail To Describe What An Outrageous And Unsupportable Abuse Of Prosecutorial Power This Is.” (*Patterico*, 8/16/14)

Defense Attorney Dick DeGuerin: “Criticize Anything Else Perry Has Done — A Lot Of Folks Do. But He Made The Right Call. Charging Him With A Crime Doesn’t Pass The Smell Test.” (*Texas Tribune*, 8/16/14)

Law Professor Mike Rappaport: “The Indictment Of Governor Rick Perry Seems, At First Glance, To Be A Political Lawsuit Without A Substantial Legal Basis.” (*Library of Law And Liberty*, 8/16/14)

- **Rappaport: “The Lawsuit Against Rick Perry Would Appear To Be A Blatant Action Of Political Retaliation...”** “I am not an expert on Texas law, but unless it is very different than federal law, the lawsuit against Rick Perry would appear to be a blatant action of political retaliation – for his veto of the funding of the prosecutorial unit – and an obvious attempt to undermine his possible presidential candidacy.” (*Library of Law And Liberty*, 8/16/14)

Tulane University Law Professor Stephen M. Griffin: “Like A Number Of Constitutional Law Scholars, I’m Very Troubled By The Indictment Of Rick Perry.” (*Balkinization*, 8/17/14)

- **Griffin: “It’s Been Said That A Prosecutor Could Get A Grand Jury To Indict A Ham Sandwich. In The Texas Case, It’s A Governor.”** (*Balkinization*, 8/17/14)

Cato Institute Legal Scholar Walter Olson: “When You’ve Lost Not Just David Axelrod And Matt Yglesias But Even Jonathan Chait And Scott Lemieux... You’re Not Just Aboard A Sinking Ship, It’s More Like You’re Grasping A Piece Of Random Driftwood.” “When you’ve lost not just David Axelrod and Matt Yglesias but even Jonathan Chait and Scott Lemieux for a legal complaint against a conservative, you’re not just aboard a sinking ship, it’s more like you’re grasping a piece of random driftwood.” (*Overlawyered*, 8/17/14)

Former Clinton Counsel Lanny Davis: “Democratic Elected Officials, Especially Democratic Attorneys General And District Attorneys Across The Nation, Must Call On The Travis County DA To Withdraw This Absurd

Indictment... “Democratic elected officials, especially Democratic attorneys general and district attorneys across the nation, must call on the Travis County DA to withdraw this absurd indictment, and Democratic Party leaders should publicly ask Texas Democrats who have rushed to public judgment of Gov. Perry to withdraw their comments ... and apologize.” (*The Hill*, 8/18/14)

- **Davis: “Yet We See The Shameful Indictment Of Texas Gov. Rick Perry By The Travis County District Attorney Because He Vetoed Funding Of The DA’s Public Corruption Unit.”** (*The Hill*, 8/18/14)