

Topline Data

Statewide Survey of 700 Likely Voters in Texas

prepared for

The Federalist Society

by the polling company™, inc.

Fielding Dates: October 6-11, 2008

Margin of Error: ±3.7%

INTRODUCTION

- A. Are you 18 years of age or older and currently registered to vote here in Texas, registered in a different state, or not registered at all?

100% REGISTERED IN TEXAS

- B. This November, Texans will have the chance to elect a Justice to the Supreme Court of Texas when they cast their ballots for President and Congress. Thinking specifically about the election for a Justice to the Supreme Court of Texas, would you say that you will...(READ CHOICES)

79% DEFINITELY VOTE

21% PROBABLY VOTE

FAVORABILITY

I am going to read you the names of a few groups. After I read each name, first please tell me if you have heard of that group and then tell me if you have a favorable or unfavorable opinion of it. If you have no opinion of a person, or have never heard of a particular group, just tell me and we'll move on. (ROTATED NAMES)

(ASKED FAVORABLE/UNFAVORABLE): And, do you have a STRONGLY (favorable/unfavorable) opinion of that person, or just a SOMEWHAT (favorable/unfavorable) opinion of that person?

1. The Supreme Court of Texas

58% TOTAL FAVORABLE (NET)

23% STRONGLY FAVORABLE
35% SOMEWHAT FAVORABLE

13% TOTAL UNFAVORABLE (NET)

8% SOMEWHAT UNFAVORABLE
5% STRONGLY UNFAVORABLE

18% HEARD OF/ NO OPINION
4% NEVER HEARD OF
7% DO NOT KNOW (VOLUNTEERED)
1% REFUSED (VOLUNTEERED)

2. The Supreme Court of the United States

72% TOTAL FAVORABLE (NET)

29% STRONGLY FAVORABLE
43% SOMEWHAT FAVORABLE

16% TOTAL UNFAVORABLE (NET)

10% SOMEWHAT UNFAVORABLE
6% STRONGLY UNFAVORABLE

8% HEARD OF/ NO OPINION
1% NEVER HEARD OF
2% DO NOT KNOW (VOLUNTEERED)
1% REFUSED (VOLUNTEERED)

KNOWLEDGE OF SUPREME COURT OF TEXAS

3. How familiar would you say you are with the Supreme Court of Texas and its rulings and decisions? Are you... (READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP)

34% TOTAL FAMILIAR (NET)

- 5% VERY FAMILIAR
- 29% SOMEWHAT FAMILIAR

64% TOTAL NOT FAMILIAR (NET)

- 35% JUST A LITTLE BIT FAMILIAR
- 29% NOT AT ALL FAMILIAR

- 2% DO NOT KNOW (VOLUNTEERED)
- * REFUSED (VOLUNTEERED)

4. Who do you think **should** have the greatest input on who is selected to serve as a Justice on the Supreme Court of Texas? (READ AND ROTATED, ACCEPTED ONLY ONE RESPONSE)

- 71% TEXAS VOTERS
- 10% TEXAS GOVERNOR
- 9% TEXAS STATE LEGISLATURE
- 3% TEXAS LAWYERS

- * OTHER (VOLUNTEERED)
 - * THE PRESIDENT OF THE UNITED STATES

- 1% ALL OF THE ABOVE (VOLUNTEERED)
- 1% NONE OF THE ABOVE (VOLUNTEERED)
- 5% DO NOT KNOW (VOLUNTEERED)
- * REFUSED (VOLUNTEERED)

5. Can you name any of the current Justices on the Supreme Court of Texas or any of the people who are running for that office? (OPEN-ENDED. PRE-CODED LIST. ACCEPTED MULTIPLE RESPONSES. VOLUNTEERED LIST.) Probed: Can you name any others?

1% NATHAN L. HECHT
1% WALLACE B. JEFFERSON
* SCOTT A. BRISTER
* PAUL W. GREEN
* SAM HOUSTON
* PHIL JOHNSON
* DAVID MEDINA
* HARRIET O'NEILL
* ROGER STAUBACH
* DALE WAINWRIGHT
- JIM JORDAN
- TOM OXFORD
- DREW SHIRLEY
- DAVID G. SMITH
- DON R. WILLET
- LINDA REYNA YAÑEZ

* OTHER
* MASON
* BLACKBURN
* GREG IN WHEELCHAIR
* MADAM LANIER

97% DO NOT KNOW/CANNOT NAME ANY

SUPREME COURT OF TEXAS ELECTIONS

As you may know, there are nine Justices on the Supreme Court of Texas. They are elected by Texas voters in partisan elections (meaning the Justices identify as Republican or Democrat) for six-year terms. Elections are staggered such that not every seat is up for election at the same time.

6. Do you approve or disapprove of this method of judicial selection for the Supreme Court of Texas? (PROBED: And do you STRONGLY or SOMEWHAT approve/disapprove?)

80% TOTAL APPROVE (NET)

49% STRONGLY APPROVE

31% SOMEWHAT APPROVE

13% TOTAL DISAPPROVE (NET)

7% SOMEWHAT DISAPPROVE

6% STRONGLY DISAPPROVE

2% NEED MORE INFORMATION/ NO BASIS TO JUDGE (VOLUNTEERED)

5% DO NOT KNOW (VOLUNTEERED)

* REFUSED (VOLUNTEERED)

7. Overall, would you prefer to have justices on the Supreme Court of Texas that are (ROTATED) Republican or Democrat or would you prefer a mix?

61% MIX

20% REPUBLICAN

15% DEMOCRAT

3% NO DIFFERENCE/DOESN'T MATTER

1% DO NOT KNOW (VOLUNTEERED)

* REFUSED (VOLUNTEERED)

8. As I mentioned previously, judicial elections here in Texas are partisan, meaning candidates identify themselves as Republican or Democrat. Do you think that judicial elections in Texas should be non-partisan or do you believe people running for Supreme Court in Texas should reveal whether they are Republicans or Democrats?

68% REVEAL POLITICAL PARTY

26% NON-PARTISAN

6% DO NOT KNOW (VOLUNTEERED)

* REFUSED (VOLUNTEERED)

9. Which of the following will be MOST important to you in deciding how to vote for Justice to the Supreme Court of Texas in November? (READ AND ROTATED, ACCEPTED ONE RESPONSE)

- 50% CANDIDATE WHO WILL INTERPRET THE LAW AS IT IS WRITTEN
- 18% CANDIDATE'S PAST EXPERIENCE AS A JUDGE
- 16% CANDIDATE WHO WILL TAKE INTO ACCOUNT HIS PERSONAL VIEWS AND EXPERIENCES
- 6% CANDIDATE'S POLITICAL PARTY
- 3% CANDIDATE WHO RECEIVES THE HIGHEST RATING IN A POLL OF LAWYERS CONDUCTED BY THE LOCAL BAR ASSOCIATION.
- 1% CANDIDATE WHO IS ENDORSED BY THE TEXAS TRIAL LAWYERS ASSOCIATION
- * OTHER (VOLUNTEERED)
 - * A CANDIDATE CURRENTLY NOT IN OFFICE
- 5% DO NOT KNOW (VOLUNTEERED)
- * REFUSED (VOLUNTEERED)

10. I am again going to read you the opinions of two people. Please tell me which one comes closest to your view.

PERSON 1: Judges should interpret and apply the law as it is written and not take into account their own viewpoints and experiences.

PERSON 2: Judges should go beyond interpreting and applying the law and take into account their own viewpoints and experiences.

(AND WOULD THAT BE STRONGLY OR SOMEWHAT AGREE WITH PERSON 1/2?)

76% TOTAL AGREE PERSON 1 (NET)

- 53% STRONGLY AGREE PERSON 1
- 23% SOMEWHAT AGREE PERSON 1

20% TOTAL AGREE PERSON 2 (NET)

- 10% SOMEWHAT AGREE PERSON 2
- 10% STRONGLY AGREE PERSON 2
- 3% DO NOT KNOW (VOLUNTEERED)
- * REFUSED (VOLUNTEERED)

JUDICIAL ACTIVISM/ RESTRAINT

[ROTATED QUESTION SETS 11-12 and 13-14 SO THAT SOME VOTERS WERE ASKED ABOUT JUDICIAL ACTIVISM FIRST AND OTHERS WERE ASKED ABOUT JUDICIAL RESTRAINT FIRST.]

11. How familiar are you with the concept of “judicial activism”? Would you say you are...
[READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP]

33% TOTAL FAMILIAR (NET)

11% VERY FAMILIAR
22% SOMEWHAT FAMILIAR

66% TOTAL NOT FAMILIAR (NET)

20% JUST A LITTLE BIT FAMILIAR
46% NOT AT ALL FAMILIAR

2% DO NOT KNOW (VOLUNTEERED)
- REFUSED (VOLUNTEERED)

“Judicial activism” is a term used to describe when a judge feels that his or her role is not simply to review the law as it is written, but is instead to allow for new or evolving meaning of the law over time.

12. Do you think judicial activism is a (ROTATED) mostly positive or mostly negative thing for the Supreme Court of Texas?

40% MOSTLY POSITIVE
46% MOSTLY NEGATIVE

13% DO NOT KNOW (VOLUNTEERED)
1% REFUSED (VOLUNTEERED)

13. How familiar are you with the concept of “judicial restraint”? Would you say you are...
[READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP]

32% TOTAL FAMILIAR (NET)

7% VERY FAMILIAR
25% SOMEWHAT FAMILIAR

65% TOTAL NOT FAMILIAR (NET)

19% JUST A LITTLE BIT FAMILIAR
46% NOT AT ALL FAMILIAR

3% DO NOT KNOW (VOLUNTEERED)
- REFUSED (VOLUNTEERED)

“Judicial restraint” is a term used to describe when a judge views his or her role solely as an evaluator of whether a law or lower court ruling is in line with the state or federal constitution.

14. Do you think judicial restraint is a (ROTATED) mostly positive or mostly negative thing for the Supreme Court of Texas?

- 66% MOSTLY POSITIVE
- 19% MOSTLY NEGATIVE

- 14% DO NOT KNOW (VOLUNTEERED)
- * REFUSED (VOLUNTEERED)

15. Based on the definitions I gave you, would you rather the Supreme Court of Texas practice (ROTATED) judicial activism or judicial restraint?

- 56% JUDICIAL RESTRAINT
- 30% JUDICIAL ACTIVISM

- 3% BOTH (VOLUNTEERED)
- 1% NEITHER (VOLUNTEERED)

- 10% DO NOT KNOW (VOLUNTEERED)
- * REFUSED (VOLUNTEERED)

DEMOGRAPHICS

And now some questions for statistical purposes...

16. What is your age, please? (IF RESPONDENT SAID DO NOT KNOW OR REFUSED TO ANSWER SAID, “Which of the following ranges best describes your age?”)

- 9% 18-24
- 16% 25-34
- 20% 35-44
- 24% 45-54
- 18% 55-64
- 13% 65+

- 1% REFUSED (VOLUNTEERED)

17. Would you describe your racial or ethnic background as... (READ LIST)?

68% WHITE/CAUCASIAN
18% HISPANIC/LATINO
11% BLACK/AFRICAN-AMERICAN
2% ASIAN
* MIDDLE EASTERN
* NATIVE AMERICAN
- DO NOT KNOW (VOLUNTEERED)
1% REFUSED (VOLUNTEERED)

18. In politics today, do you consider yourself to be a (ROTATED) Republican, Independent, or Democrat? (If Republican or Democrat, asked: "Are you a strong (Republican/Democrat) or a not-so-strong (Republican/Democrat)?" (If Independent asked: "Which way do you lean towards, the Democratic or the Republican party?")

45% TOTAL REPUBLICAN (NET)
28% STRONG REPUBLICAN
9% NOT-SO-STRONG REPUBLICAN
8% INDEPENDENT LEANING REPUBLICAN

14% INDEPENDENT

36% TOTAL DEMOCRAT (NET)
6% INDEPENDENT LEANING DEMOCRAT
9% NOT-SO-STRONG DEMOCRAT
21% STRONG DEMOCRAT
* OTHER (VOLUNTEERED)
* CONSERVATIVE
5% DO NOT KNOW/REFUSED (VOLUNTEERED)

19. Thinking for a moment about your political views...Do you consider yourself to be...?

51% TOTAL CONSERVATIVE (NET)
24% VERY CONSERVATIVE
27% SOMEWHAT CONSERVATIVE

24% MODERATE

17% TOTAL LIBERAL (NET)
13% SOMEWHAT LIBERAL
4% VERY LIBERAL

4% LIBERTARIAN

4% DO NOT KNOW/REFUSED (VOLUNTEERED)

20. And regarding your family's annual income...Please tell me which of the following categories best describes your family's annual income. I don't need a specific amount, a broad range will be fine.

7% BELOW \$20,000
5% \$20,000 TO \$24,999
4% \$25,000 TO \$29,999
9% \$30,000 TO \$39,999
8% \$40,000 TO \$49,999
8% \$50,000 TO \$59,999
9% \$60,000 TO \$69,999
6% \$70,000 TO \$79,999
6% \$80,000 TO \$89,999
29% \$90,000 AND ABOVE

10% REFUSED (VOLUNTEERED)

21. Are you...? (READ CATEGORIES)

30% CATHOLIC
53% PROTESTANT (ASKED NEXT Q.)
1% JEWISH
3% AGNOSTIC/ATHEIST
1% MUSLIM
1% MORMON

* OTHER (SPECIFIED) (VOLUNTEERED)
* HINDU
* BUDDHIST
* PAGAN
* WICCAN

8% NONE/UNAFFILIATED (VOLUNTEERED)
3% REFUSED (VOLUNTEERED)

22. (ASKED ONLY OF THOSE WHO SAID "PROTESTANT" IN PREVIOUS Q.) And would you consider yourself born-again or Evangelical? (N=368)

61% YES
21% NO

6% DO NOT KNOW/REFUSED (VOLUNTEERED)

23. How often do you attend religious services?

- 2% EVERY DAY
- 19% A FEW TIMES PER WEEK
- 31% ONCE A WEEK
- 18% A FEW TIMES PER MONTH
- 13% A FEW TIMES PER YEAR
- 14% SELDOM/NEVER

- 3% DO NOT KNOW/REFUSED (VOLUNTEERED)

24. Gender

- 48% MALE
- 52% FEMALE

25. Regionⁱ

- 4% BIG BEND COUNTRY
- 6% PANHANDLE PLAINS
- 34% PRAIRIES AND LAKES
- 8% PINEY WOODS
- 28% GULF COAST
- 12% SOUTH TEXAS PLAINS
- 8% HILL COUNTRY

ⁱ Big Bend Country: Brewster, Crane, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Pecos, Presidio, Reeves, Terrell, Upton, Val Verde, Ward, Winkler Counties

Panhandle Plains: Andrews, Archer, Armstrong, Bailey, Baylor, Borden, Briscoe, Brown, Callahan, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Concho, Cottle, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Donley, Eastland, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Howard, Hutchinson, Jack, Jones, Kent, King, Knox, Lamb, Lipscomb, Lubbock, Lynn, Martin, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Palo Pinto, Parmer, Potter, Randall, Roberts, Runnels, Scurry, Shackelford, Sherman, Stephens, Sterling, Stonewall, Swisher, Taylor, Terry, Throckmorton, Tom Green, Wheeler, Wichita, Wilbarger, Yoakum, Young Counties

Prairies & Lakes: Austin, Bastrop, Bell, Bosque, Brazos, Burleson, Caldwell, Collin, Colorado, Comanche, Cooke, Coryell, Dallas, De Witt, Delta, Denton, Ellis, Erath, Falls, Fannin, Fayette, Franklin, Freestone, Gonzales, Grayson, Grimes, Hamilton, Henderson, Hill, Hood, Hopkins, Hunt, Johnson, Kaufman, Lamar, Lavaca, Lee, Limestone, Madison, McLennan, Milam, Montague, Navarro, Parker, Rains, Red River, Robertson, Rockwall, Somervell, Tarrant, Van Zandt, Washington, Wise Counties

Piney Woods: Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Gregg, Hardin, Harrison, Houston, Jasper, Leon, Liberty, Marion, Montgomery, Morris, Nacogdoches, Newton, Panola, Polk, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Walker, Wood Counties

Gulf Coast: Aransas, Brazoria, Calhoun, Cameron, Chambers, Fort Bend, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, Victoria, Waller, Wharton, Willacy Counties

South Texas Plains: Atascosa, Bee, Bexar, Brooks, Dimmit, Duval, Frio, Goliad, Guadalupe, Hidalgo Jim Hogg, Jim Wells, Karnes, La Salle, Live Oak, Maverick, McMullen, Starr, Webb, Wilson, Zapata, Zavala Counties

Hill Country: Bandera, Blanco, Burnet, Comal, Crockett, Edwards, Gillespie, Hays, Irion, Kendall, Kerr, Kimble, Kinney, Lampasas, Llano, Mason, McCulloch, Medina, Menard, Mills, Reagan, Real, San Saba, Schleicher, Sutton, Travis, Uvalde, Williamson Counties