



Written by [Joe Wolverton, II, J.D.](#) on August 17, 2014

## Texas Gov. Perry Indicted on Felony Charges: Abuse of Power, Coercion

A Travis County, Texas, grand jury on Friday indicted Governor Rick Perry (shown) on two charges of abuse of power — a first degree felony — and one charge of coercion, a third degree felony.



Although the story had received very little attention until the indictments were handed down, the events that led to this historic event began in 2013 and may reverberate through the 2016 presidential contest, in which many speculated Perry would be a player.

Now, however, Perry becomes the first sitting Texas governor to be indicted on criminal charges since 1917, when Governor James E. “Pa” Ferguson was indicted by a grand jury in the same county on charges of extortion and other crimes.

On Saturday, Perry responded to the indictment, calling it “nothing more than abuse of power,” vowing that he “will not allow that to happen.”

The story is convoluted and doesn’t have the instant headline-grabbing cachet of other political scandals, and that may explain its unfamiliarity. Over the weekend, however, the *New York Times* reported the particulars of the frankly bizarre scenes of the drama, scenes that include drunk public officials, police partisanship, and white masks used to protect identities.

In its simplest terms, the indictment charges Perry with abusing his power by vetoing a bill to fund a Travis County investigation of public corruption “because the Democratic official heading the office refused to resign after being convicted of drunken driving.” The official was Rosemary Lehmborg, the district attorney in Travis County. After she was pulled over for suspicion of drunk driving, Perry reportedly vowed to veto a bill allocating \$7.5 million to the public corruption unit headed by Lehmborg unless she resigned. She didn’t. Perry vetoed the bill, and therein lies the controversy and the basis of the charges.

The details of the story, however, are much more baffling. Here’s the synopsis of Lehmborg’s run-in with the law that triggered the showdown, as told by the *New York Times*:

One Saturday night in April 2013, Ms. Lehmborg was found by sheriff’s deputies with an open bottle of vodka in the front passenger seat of her car in a church parking lot in Austin and was arrested on a drunken-driving charge. She pleaded guilty and was sentenced to 45 days in jail.

The Daily Beast, unsurprisingly, provided a somewhat more salacious synopsis:

The District Attorney in Travis County, Rosemary Lehmborg, was pulled over near Lake Travis, on April 13, 2013, found with an open bottle of vodka in her vehicle, and promptly arrested. Lehmborg acted belligerently enough to be strapped into a restraining chair once she arrived to jail — and officials filmed her.



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In the video, officers chastise Lehmborg for grabbing them as they remove her jewelry, and she berates them from behind glass, yelling “I don’t care if you film me.” Her head bobbing, hair tousled, and eye-makeup running, she questions the actions of the officers. The officers then place a white mask over her face as they prepare to roll her down a hallway, “this way nobody sees you.” In one shot from the video, Lehmborg points her finger at the camera as if it is a gun. Her arms strapped back, Lehmborg tells the officials. “this erratic behavior is going to ruin my career.”

Despite the rarity and the severity of facing indictment on felony charges, Perry’s people are confident the governor will be exonerated. CBS News reports:

Mary Anne Wiley, Perry’s general counsel, predicted Perry ultimately will be cleared of the charges against him — abuse of official capacity and coercion of a public servant.

“The veto in question was made in accordance with the veto authority afforded to every governor under the Texas Constitution,” she said.

David L. Botsford, Perry’s lawyer, echoed Wiley’s assessment of the case. “This clearly represents political abuse of the court system, and there is no legal basis in this decision,” the *New York Times* quoted Botsford saying. “The facts of this case conclude that the governor’s veto was lawful, appropriate and well within the authority of the office of the governor.”

While several members of the governor’s staff testified before the grand jury, Perry himself did not testify.

Perry did address citizens of the Lone Star State in a news conference Saturday, however, and he stood by the legality of the veto, declaring,

I wholeheartedly and unequivocally stand behind my veto and will continue to defend this lawful action of my executive authority as governor. We don’t settle political differences with indictments in this country. It is outrageous that some would use partisan political theatrics to rip away at the very fabric of our state’s constitution.

There is, of course, another partisan element to the story. Travis County is unique among counties in Texas for being staunchly Democratic. Lehmborg was not only the head of the corruption unit, but the Travis County district attorney, as well.

It is in her capacity in the latter office that touches and concerns the Perry indictment. It would seem that a state governor should have no power to interfere in the affairs of an office that is filled by the county, rather than by the state. There could be, perhaps, a more nuanced issue of separation of powers to be addressed, as well.

For now, while he is awaiting trial on these charges, the *New York Times* reports that Perry will be fingerprinted and have a mugshot taken. Conviction on the charges of abuse of power would carry a prison sentence of five to 99 years, while the coercion charge would be punishable by two to 10 years imprisonment upon conviction by a jury.

*Photo of Gov. Rick Perry: AP Images*

*Joe A. Wolverton, II, J.D. is a correspondent for The New American. Follow him on Twitter @TNAJoeWolverton.*



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