

Thursday, Aug. 31, 2006

Only 53%-58% of Americans Say President Must Follow a Supreme Court Ruling, [Large Minority (38%) Says President Can Ignore the Supreme Court Under Some Conditions], Three-Fourths Reject Presidential Signing Statements as Replacement for Veto, New Annenberg Public Policy Center Survey Shows.

Contrary to what they have been taught in civics books, over one-third, 38 percent, of American adults thinks it is okay for the president to ignore a Supreme Court ruling if the president believes the ruling will prevent him from protecting the country against terrorist attacks, according to a recent national survey conducted for the University of Pennsylvania's Annenberg Public Policy Center (APPC) that polled 1,002 members of the American public from August 3 to August 16, 2006.

The results of the new survey will be released by University of Pennsylvania professor and APPC director Kathleen Hall Jamieson, Thursday August 31 at a 10:15 A.M. panel on separation of powers at the annual convention of the American Political Science Association in Philadelphia.

"The big surprise in the survey," said Jamieson, "is the minimal level of support for the notion that in a clash between the president and the Supreme Court, the president should accede to the Court." Only fifty eight percent (58%) believes that if the president disagrees with a Supreme Court ruling, he should follow the Supreme Court's ruling rather than do what he thinks is in the country's best interest. A bare majority (53%) holds that a president must follow a Supreme Court ruling regardless of circumstances and even if he believes that the ruling will prevent him from protecting the country from terrorist attack.

"From President Truman to President George W. Bush, presidents have done what the Court required," said Jamieson. "When the Court ruled against his position in the steel seizure case, President Truman did as the Court instructed; so did President Eisenhower when he sent the paratroopers to integrate the Little Rock schools, President Nixon in turning over the tapes in the middle of the Watergate investigations, and President George W. Bush in response to the ruling in Hamdan v. Rumsfeld. A surprisingly large part of the public doesn't think a president needs to do so if he thinks the ruling is not in the country's best interests or if abiding by the court's ruling would put the country at risk from terrorist attack."

Higher educational levels predict a belief that presidents should follow the Supreme Court's rulings regardless of circumstances (Tables 1 and 2).

Gender too plays a role. Women are significantly more likely to say that the president should ignore the court if he thinks doing so is in the country's interest and also that it is

okay for the president to ignore the court if he believes the ruling would prevent him from protecting the country against terrorist attacks (Tables 1 and 2).

Partisanship plays a role in one of the responses. Of those who say the president can ignore the Supreme Court if he believes it would prevent him from protecting the country from terrorist attack, 37 percent said they were Republican, 30 percent were Democrats, and 27 percent were independent. These differences are statistically significant when holding other socio-demographic variables constant; Republicans are more likely to say that the President can ignore the Supreme Court under those circumstances (See Table 1).

Trust in the president is at play as well. The more one trusts the president to operate in the best interest of the American people the more likely one is to believe that the president can ignore the Supreme Court if he believes doing so will prevent a terrorist attack (Table 1) and to think that when in conflict with the Court the president should do what he thinks is the best for the country (Table 2).

Trust in the U.S. Supreme Court is also part of the equation (see Tables 1 and 2).

Of those who believe that if the president disagrees with a Supreme Court ruling he should do what he thinks is in the best interests of the country instead of following the ruling, 29 percent were Republicans, 37 percent were Democrats, and 27 percent were independents. These differences are not statistically significant when controlling for other variables (Table 2). “When terrorism is taken out of the equation, Democrats and Republicans are indistinguishable in their views of what a president who disagrees with the Supreme Court should do,” notes Jamieson.

In the same survey, nearly three-quarters, 73 percent, of Americans say they reject the use of presidential signing statements in which the president reserves the right to carry out only portions of a law enacted by Congress. Rather than act unilaterally, Americans believe that the president should veto the entire bill and send it back to the legislative branch for reconsideration. Those who trust the U.S. Supreme Court are less likely to afford the president the opportunity to act unilaterally

Earlier this month a commission of the American Bar Association (ABA) concluded that this use of signing statements is “contrary to the rule of law and our constitutional system of separation of powers.” The ABA urged Congress to create a system of court review of the statements, and to require that the president detail the legal basis for his objections.

President George W. Bush’s Deputy Assistant Attorney General Michelle Boardman reported at Senate Judiciary Committee hearings June 27th that as of June 20, 2006 President Bush “has issued constitutional signing statements with respect to 110 bills.” A single signing statement may, of course, contain a number of challenges to provisions of a bill. Phillip Cooper reports in a 2005 article in *Presidential Studies Quarterly* that in his first term President Bush issued 505 constitutional objections to parts of bills. To date, President Bush has vetoed a single bill, on stem cell research. “The routine use of signing statements to take exception to parts of signed legislation raises serious Constitutional issues,” Jamieson said.

Last month, Sen. Judiciary Committee chairman Arlen Specter (R., PA) introduced legislation that would allow Congress to sue a president over exceptions to legislation expressed in signing statements. Under terms of the proposed bill, the House or Senate

could file a lawsuit challenging the exceptions the President claims in a signing statement and ask for a court ruling on the constitutionality of the president's actions.

“If the president is permitted to rewrite the bills that Congress passes and cherry-pick which provision he likes and does not like, he subverts the constitutional process designed by our framers,” Specter was quoted saying in announcing the bill (*The Boston Globe*, July 27, 2006). If Specter's legislation becomes law, Congress would have a way to challenge the President's claim to take exception to a legislative provision.

The Annenberg Public Policy Center survey polled 1,002 adults 18 and over between August 3 and 16, 2006; margin of error = $\pm 3\%$. The survey was conducted for the Annenberg Public Policy Center by Princeton Survey Research Associates International. APPC research associate Bruce Hardy conducted data analysis for this release.

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Broadman, Michelle. (2006, July 27). Statement of Michelle Broadman before the Committee on Judiciary United States Senate on Presidential Signing Statements.

Cooper, Phillip. (2005). George W. Bush, Edgar Allan Poe, and the use and abuse of presidential signing statements. *Presidential Studies Quarterly*, 35, 515- 532.

Savage, Charlie. (2006, July 27). “Specter takes step to halt Bush signing statements: Says Congress needs power to sue president.” *The Boston Globe*, p. A3.

Table 1. Logistic regression predicting belief that the president can ignore a Supreme Court ruling if the president believes the ruling will prevent him from protecting the country against terrorist attacks.

	B	S.E.	Exp(B)
Female	.402	.171	1.494*
Republican	.718	.227	2.051**
Democrat	.022	.206	1.022
Age	-.002	.005	.998
Education	-.076	.039	.927*
Income	-.003	.002	.997
African Am.	-.117	.265	.890
Trust President	.556	.097	1.743**
Trust U.S. Supreme Court	-.236	.105	.790*
Constant	-.038	.621	.963

Nagelkerke R² .180; Cox & Snell R² .134

Note: * p ≤ .05, ** p ≤ .01

Table 2. Logistic regression predicting belief that if the president disagrees with a Supreme Court ruling he should do what he thinks is in the best interests of the country instead of following the ruling.

	B	S.E.	Exp(B)
Female	.360	.174	1.434*
Republican	.047	.230	1.048
Democrat	.336	.222	1.399
Age	-.009	.005	.991
Education	-.209	.041	.811**
Income	-.004	.002	.996
African Am.	.473	.296	1.605
Trust President	.603	.103	1.827**
Trust U.S. Supreme Court	-.454	.108	.635**
Constant	2.304	.671	10.012

Nagelkerke R² .188; Cox & Snell R² .136

Note: * p ≤ .05, ** p ≤ .01

APPENDIX: Question Wording

If the Supreme Court issues a ruling that the president disagrees with, should the president do what he thinks is in the best interests of the country or should the president follow the Supreme Court's ruling?

UNWEIGHTED BASE	1002
WEIGHTED BASE	1002
Do what he thinks is in the best interests of the country	36%
Follow the Supreme Court's ruling	58%
Don't know	6%
Refused	1%

Some people think it is okay for the president to ignore a Supreme Court ruling if the president believes the ruling will prevent him from protecting the country against terrorist attacks. Others think the president must follow a Supreme Court ruling no matter what the circumstances. Which position is closer to your opinion?

UNWEIGHTED BASE	1002
WEIGHTED BASE	1002
Okay to ignore Supreme Court ruling	38%
Must follow Supreme Court ruling	53%
Don't know	8%
Refused	1%

Suppose Congress passes legislation the president thinks is good legislation but he thinks there is part of the legislation that is unconstitutional. Should he veto the legislation and send it back to Congress or should he sign the legislation but only carry out the part that he thinks is constitutional?

UNWEIGHTED BASE	1002
WEIGHTED BASE	1002
Veto the legislation and send it back to Congress	73%
Sign the legislation but only carry out the part that he thinks is constitutional	18%
Don't know	8%
Refused	*

Generally speaking, how much do you trust the President to operate in the best interests of the American people—a great deal, a fair amount, not too much or not at all?

UNWEIGHTED BASE	1002
WEIGHTED BASE	1002
A great deal	18%
A fair amount	27%
Not too much	23%
Not at all	29%
Don't know	1%
Refused	1%

Generally speaking, how much do you trust the Supreme Court to operate in the best interests of the American people—a great deal, a fair amount, not too much or not at all?

UNWEIGHTED BASE	1002
WEIGHTED BASE	1002
A great deal	17%
A fair amount	47%
Not too much	19%
Not at all	10%
Don't know	6%
Refused	1%