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Congress of the United States

House of Representatives

Washington, DC 20515-0301

March 31, 2014

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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HEALTH CARE AND ENTITLEMENTS

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The Honorable Harold Rogers
Chairman
House Appropriations Committee
H-305, The Capitol
Washington, DC 20515

The Honorable Nita Lowey
Ranking Member
House Appropriations Committee
1016 Longworth HOB
Washington, DC 20515

The Honorable Tom Latham
Chairman
Subcommittee on Transportation,
Housing and Urban Development
House Appropriations Committee
HVC-207, The Capitol
Washington, DC 20515

The Honorable Ed Pastor
Ranking Member
Subcommittee on Transportation,
Housing and Urban Development
House Appropriations Committee
1016 Longworth HOB
Washington, DC 20515

Dear Chairmen Rogers and Latham, and Ranking Members Lowey and Pastor:

We write to request that the following language be added to the Fiscal Year (FY) 2015 Transportation, Housing and Urban Development, and Related Agencies Appropriations Act:

"None of the funds made available by this Act may be used for any action relating to or for the administration of the National Highway Traffic Safety Administration's (NHTSA's) National Roadside Survey (NRS)."

Civil libertarians have raised legitimate concerns about the unconstitutionality of this program. Put simply, this "survey" looks like and acts like a police checkpoint and uses uniformed officers to pull cars over. Under the Fourth Amendment, the United States Supreme Court has ruled that a "seizure" occurs when a vehicle is stopped at a checkpoint. . . . The question thus becomes whether such seizures are "reasonable" under the Fourth Amendment. More importantly, the courts have allowed police checkpoints only when there is a compelling public safety justification—such as stopping drunk drivers.

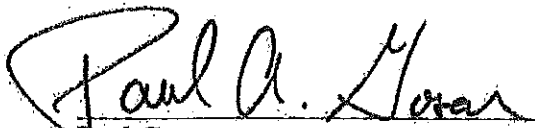
Here, there is no public safety justification that would warrant a checkpoint stop under this program. This wasteful and invasive survey does nothing to curb impaired driving; it is an abuse of power and a violation of our basic civil liberties. While NHTSA claims the survey is voluntary, the process begins—as NHTSA describes in their methodologies—with a "police

officer working with the survey team to direct the potential respondent into the survey site without speaking to the driver." Typically, a researcher then approaches the driver and takes a passive alcohol sensors (PAS) reading before the driver agrees to participate in the survey. PAS are small electronic units used to detect alcohol in the vehicle and are usually built into police flashlights or clipboards. Most people are not familiar with these devices and don't even realize their use is occurring. The driver is then asked to participate in the 22 question survey and to take a more accurate breath test and/or a mouth swab test for substances in the blood. NHTSA has previously reported that "We also obtained PAS readings from well over 90 percent of these drivers who did not provide actual breath tests." As lawmakers who believe in protecting the fundamental rights of our constituents, we are concerned that collecting blood alcohol content in this so-called "voluntary" survey through intimidation and without consent is a violation of the 4th Amendment, thereby blatantly unconstitutional. This survey has been administered in the 48 contiguous states. Our constituents, as well as other Americans throughout the country, are outraged about this process and intrusion into their daily lives.

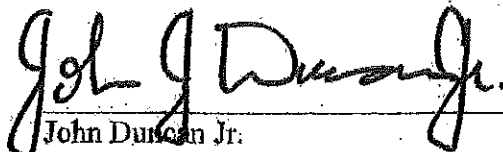
Respondents to the survey are typically offered \$65 for agreeing to participate upon initial request. If they refuse the first time, then they are offered \$100. Despite this bribery, respondents can still refuse to participate in the survey and drive off. While researchers try to take steps to prevent this occurrence, this study, meant to assist with curbing impaired driving, allows for impaired drivers to get back on our streets and drive away. This year's survey will squander almost \$8 million dollars of taxpayer money and does nothing to make our communities safer.

In the end, these uneconomical surveys arrive at the predicted conclusion that the number of impaired drivers on the roads has continued to decrease since the first time the survey was commissioned in the 1970s. This decrease can be attributed to the efforts of law enforcement, effective policies that curb abuse and worthwhile education efforts from organizations like Mothers Against Drunk Driving. NRS is not a worthwhile effort. We ask that you prevent funding for this fraudulent and unconstitutional survey. With a federal debt surpassing \$17 trillion, our country cannot afford to subsidize such an invasive and meaningless program. We thank you for your consideration of this request, and for your leadership in your respective committees.

Sincerely,



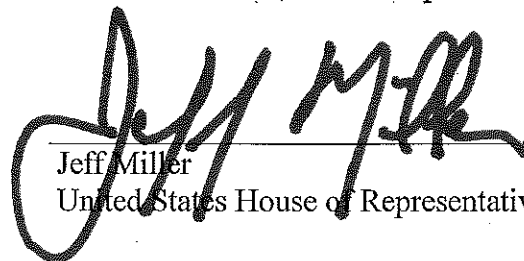
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United States House of Representatives



John Duncan Jr.
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Scott Perry
United States House of Representatives