

Congressman Paul A. Gosar

Floor Speech

Gosar Amendment #3 (Leg Counsel Number 129) --No Funds for
National Roadside Survey
Transportation, Housing and Urban Development, and Related Agencies
Appropriations Act for Fiscal Year 2015

Mr. Chairman (or Madam Chair), I have an amendment at the desk.

[The Clerk will report]

[Amendment X offered by Mr. Gosar of Arizona—(reads)]

Interrupt Clerk

Mr. Chairman (or Madam Chair), I ask unanimous consent that the amendment be considered as read.

[Without objection, so ordered. The Gentleman from Arizona is recognized for 5 minutes.]

Mr. Chairman (or Madam Chair),

I rise today to offer an amendment to save taxpayers money, to protect the civil liberties and privacy of my constituents in accordance with the 4th amendment, and to champion efforts of local law enforcement and those advocacy groups which work hand-in-hand to curb citizens from driving under the influence.

My amendment is simple. It seeks to prohibit funds from being used to administer the National Highway Traffic Safety Administration's National Roadside Survey.

This "survey" looks like and acts like a police checkpoint and uses uniformed officers to pull cars over.

Under the Fourth Amendment, the U.S. 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 and arresting drunk drivers.

Given the circumstances of this survey, there is no public safety justification that would warrant this sort of checkpoint stop.

This wasteful and invasive survey does nothing to curb impaired driving.

While the National Highway Traffic Safety Administration claims the survey is voluntary, the process begins—as the Administration describes—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 sensor reading before the driver agrees to participate in the survey.

Passive alcohol sensors are small electronic units used to detect alcohol and are usually built into police flashlights or clipboards.

The National Highway Traffic Safety Administration has previously reported that they obtained, without permission, “Passive alcohol sensor readings from well over 90 percent of these drivers who did not provide actual breath tests.”

Following this involuntary test, the driver is then asked to participate in a 22-question survey and to take a more accurate breath test and/or a mouth swab test.

Respondents 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 then they are free to drive off!

While researchers try to take steps to prevent this occurrence, this study, meant to assist with studying impaired driving, allows for impaired drivers to get back on our streets and drive away.

The latest survey squandered almost **\$8 million** in taxpayer money and did nothing to make our communities safer.

In the end, these uneconomical and potentially unconstitutional 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 should be attributed to the efforts of law enforcement, effective local policies that curb abuse, and worthwhile education efforts from organizations like Mothers Against Drunk Driving (MADD) and similar groups.

I greatly appreciate that the Committee recognized the dangers associated with methodology utilized for this survey and included report language that will require the National Highway Traffic Safety Administration to produce a report which includes:

- “What characteristics distinguish survey sites from mandatory law enforcement checkpoints.”

- “What steps are taken to make clear that either pulling over or participating in the survey are both completely voluntary”.
- “What steps are taken to protect the privacy of both participants and drivers that come upon NRS sites.”

The Committee also directed the Government Accountability Office to “review and report on the overall value of the highway survey to researchers and other public safety stakeholders.”

Should GAO find value in this survey, and the Administration take significant steps to improve the methodology for collecting data so it is administered in a manner that does not trample on the privacy and basic civil liberties of our citizens, then Congress can revisit this issue.

However, until such a time occurs and with a federal debt surpassing **\$18 trillion**, our country cannot afford to subsidize such an invasive program that yields highly questionable data.

I thank the Transportation and Infrastructure Committee as well as the Appropriations Committee for working with me on this amendment.

I ask my colleagues to support this amendment, I thank the Chairman and Ranking Member for their continued work on the Committee, and with that, I yield back.