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ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

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March 11, 2014

Mr. Bernard Murphy
President and Chief Executive Officer
Pacific Institute for Research and Evaluation
11720 Beltsville Drive, Suite 900
Beltsville, Maryland 20705-3102

Dear Mr. Murphy:

The House Oversight and Government Reform Subcommittee on Economic Growth, Job Creation and Regulatory Affairs is conducting oversight of the National Roadside Survey of Alcohol and Drugged Driving. It has come to my attention that the Pacific Institute for Research and Evaluation (PIRE) is performing work related to the survey at the direction of the National Highway Traffic Safety Administration (NHTSA). Due to widespread concerns about the circumstances surrounding the survey,[1] I write to request information about PIRE's work.

According to NHTSA, the survey "provides useful data about alcohol and drug use by drivers" by performing voluntary roadside surveys of drivers.[2] Although combating driving under the influence is rightly a priority for America and NHTSA, I am concerned that the manner in which the survey is being conducted may infringe upon the Constitutional rights of motorists. From publicly available information, it appears that PIRE utilizes off-duty, uniformed police officers to stop vehicles to participate in a "voluntary" roadside survey performed by PIRE data collectors.[3] Apparently PIRE conducted these roadside checkpoints from 10:00 p.m. to 3:00 a.m. on Fridays and Saturdays in six states. Data collectors asked survey participants a series of questions and asked them to voluntarily provide a breathalyzer test, cheek swabs, and blood samples in exchange for monetary compensation.[4]

I am concerned about the perceived level of "voluntary participation" in PIRE's current roadside survey. The study has generated significant concerns in communities across the country. For instance, the Executive Director of the Alabama chapter for the American Civil

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[1] Matt Smith, *Blood, spit and cops: Nationwide drug roadblocks raise eyebrows,* CNN, Jun. 19, 2013.
[2] *Id.*
[3] Office of Acquisition Management, Solicitation Number DTNH22-11-00451.
[4] Pilot Test of New Roadside Survey Methodology for Impaired Driving, Jan. 2007, National Highway Traffic Safety Administration.

Liberties Union, Susan Watson, asked rhetorically, "How voluntary is it when you have a police officer in uniform flagging you down? Are you going to stop? Yes, you're going to stop."[5] Many local police forces have publicly apologized to their citizens for participating in PIRE's survey.[6] Sherriff Tom Neer of Charles County, Missouri, vowed, "We will not cooperate with one of these federal checkpoints again. We would not have contracted with the subcontractor on this one if we had known in advance that our officers would be asked to flag down motorists. In essence, we got duped . . . ."[7] In addition, Jeffrey Halstead, the Police Chief in Fort Worth, Texas, stated, "Any future Federal survey of this nature, which jeopardizes the public's trust, will not be approved for the use of Fort Worth police."[8]

To better the Subcommittee's understanding of the 2013 roadside survey, I request that you provide a briefing to Committee staff on the protocols and processes of the 2013 survey. In addition, I ask that you please provide the following documents:

1. All documents and communications between or among the National Highway Traffic Safety Administration and Pacific Institute for Research and Evaluation referring or relating to the National Roadside Survey of Alcohol and Drugged Driving Solicitation for the period February 2011 through the present.

2. All documents referring or related to the roadblock locations, dates, and the survey.

3. All documents referring or relating to police officers participating in the survey.

4. All documents referring or relating to the number of participants surveyed to date.

5. All documents and communications referring or relating to any arrests that have taken place in conjunction with the survey.

6. All documents and communications referring or relating to the current status of the survey and remaining number of roadblocks to be carried out.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

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[5] *Federal contractor set up roadblocks in over 60 U.S. cities to harvest DNA samples,* POLICE STATE USA, Nov. 21, 2013.
[6] *Texas police chief sorry for letting officers help get saliva, blood samples in federal road survey,* FOX NEWS, Nov. 21, 2013.
[7] Bob Adelmann, *Pushback Against Federal Roadside Checkpoints Increasing,* THE NEW AMERICAN, Jan. 14, 2014.
[8] *Id.*

I request that you provide the requested documents and information as soon as possible, but no later than 5:00 p.m. on March 25, 2014. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

Please contact Drew Colliatie or Tyler Grimm with the Committee staff at (202) 225-5074 if you have any questions about this request. Thank you for your prompt attention to this important matter.

Sincerely,

Jim Jordan
Chairman
Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs

Enclosure

cc: The Honorable Matthew A. Cartwright, Ranking Minority Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

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Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

   (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

   (b) Document numbers in the load file should match document Bates numbers and TIF file names.

   (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

   (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

   BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT,CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.

8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.

7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.