

Prepared Testimony of Congressman Ted Poe (TX-02)
The Pros and Cons of Making the American Community Survey Voluntary
Before the House Oversight and Government Reform Committee's Subcommittee on
Health Care, District of Columbia, Census and the National Archives
March 6, 2011

Thank you Chairman Gowdy and Ranking Member Davis for the opportunity to speak before the Subcommittee today regarding the American Community Survey.

I understand today's hearing is to evaluate the pros and cons of making the American Community Survey voluntary. I am happy to be here to provide a voice for the many Americans who have called my office angry that they are forced to provide private information in response to the many invasive questions that the American Community Survey requires. Many of the callers to my office are my constituents. But an even greater number are individuals from around the country who are upset because they are forced to provide this personal information outside of the constitutionally required Census. The information that the American Community Survey asks for spans from do you have a flush toilet in your home to does someone in your household because of a physical, mental, or emotional condition, have serious difficulty concentrating, remembering or making decisions.

There may be benefits to the information obtained through the American Community Survey. It helps allocate funding for federal programs to state and local entities, for example. I am here to suggest that the federal government does not have an overriding state interest to force people to divulge their private matters. The survey should be voluntary.

Congress should prohibit the federal government from forcing Americans to provide certain private information, such as what time they leave for work in the morning and what time they return home. People are subject to repeated harassment by contracted agents who threaten them with fines for not complying with the survey.

It is also concerning how the Census Bureau obtains this personal information. One of my constituents, Linda Roberts from Kingwood, Texas, is a single mother with a young child. She received the American Community Survey last July, filled out only the information required by the Census and mailed it back to the Census Bureau. Later, she began to receive weekly calls from the Census Bureau asking her to complete the entire survey. When she refused, the calls increased from every week to multiple times each day. Then, a Census employee started showing up to her house, ringing her doorbell, and peaking through her windows - all for the purpose of getting her to complete the survey. On many occasions, she arrived home from work in the evening to find someone sitting in their car waiting for her to come home so that they could knock on her door. Ms. Roberts explained that she not only felt uncomfortable providing that detailed of information to the federal government, but she also felt afraid every time she came to and from her own home. Where in the Constitution does the federal government have the authority to do this?

The Supreme Court uses a least restrictive means test to assess the validity of laws that could potentially infringe upon our constitutional rights. The least restrictive means test says that if a law restricts individual liberty, it must employ the least restrictive means possible to achieve its goal. It is clear through Ms. Roberts' story, and through the hundreds of other calls that I have received, that the Census Bureau is not using the least restrictive means to obtain the information asked in the American Community Survey. It seems they are using the most restrictive – and most intrusive – means. Americans should have a choice to decide if they want to submit invasive, personal information to the federal government. And if they choose not to, they should be left alone.

The Census Bureau can get accurate information by other means. Since this is not an actual counting of people, it can do a survey like other organizations, pollsters, and marketing firms do – to obtain the information without harassment or threat of a penalty.

Frankly, many Americans believe it is none of the government's business to intrude on their privacy. I happen to be one of them. There is no compelling state interest that should allow this intrusion into private lives.

That is why I introduced H.R. 931, which seeks to make the American Community Survey voluntary by removing the criminal penalty imposed upon people who choose not to complete the survey. The American people should get to choose whether they want to submit their personal information to the federal government. They should not be mandated to do so through the American Community Survey.

Thank you.