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THE IRS'S SYSTEMATIC DELAY AND SCRUTINY OF TEA PARTY APPLICATIONS

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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THE IRS'S SYSTEMATIC DELAY AND SCRUTINY OF TEA PARTY APPLICATIONS

Thursday, July 18, 2013

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The committee met, pursuant to call, at 11:05 a.m., in Room 2154, Rayburn House Office Building, Hon. Darrell E. Issa [chairman of the committee] presiding.

Present: Representatives Issa, Mica, Turner, Duncan, McHenry, Jordan, Chaffetz, Walberg, Lankford, Amash, Gosar, Meehan, DesJarlais, Gowdy, Farenthold, Hastings, Lummis, Woodall, Massie, Collins, Meadows, Bentivolio, DeSantis, Cummings, Maloney, Norton, Tierney, Lynch, Cooper, Connolly, Speier, Cartwright, Duckworth, Kelly, Davis, Cardenas, and Lujan Grisham.

Staff Present: Alexia Ardolina, Assistant Clerk; Kurt Bardella, Senior Policy Advisor; Richard A. Beutel, Senior Counsel; Brian Blase, Senior Professional Staff Member; Will L. Boyington, Press Assistant; Molly Boyl, Senior Counsel and Parliamentarian; Lawrence J. Brady, Staff Director; David Brewer, Senior Counsel; Daniel Bucheli, Assistant Clerk; Caitlin Carroll, Deputy Press Secretary; Steve Castor, General Counsel; Drew Colliatie, Professional Staff Member; John Cuaderes, Deputy Staff Director; Brian Daner, Counsel; Linda Good, Chief Clerk; Tyler Grimm, Senior Professional Staff Member; Frederick Hill, Director of Communications and Senior Policy Advisor; Christopher Hixon, Deputy Chief Counsel, Oversight; Mark D. Marin, Director of Oversight; Kristin L. Nelson, Senior Counsel; Katy Rother, Counsel; Laura L. Rush, Deputy Chief Clerk; Scott Schmidt, Deputy Director of Digital Strategy; Sarah Vance, Assistant Clerk; Rebecca Watkins, Deputy Director of Communications; Jeff Wease, Chief Information Officer; Jedd Bellman, Counsel; Meghan Berroya, Counsel; Claire Coleman, Counsel; Susanne Sachsman Grooms, Deputy Staff Director/Chief Counsel; Adam Koshkin, Research Assistant; Julia Krieger, New Media Press Secretary; Elisa LaNier, Director of Operations; Jason Powell, Senior Counsel; and Dave Rapallo, Staff Director.

Chairman ISSA. The committee will come to order.

The Oversight Committee exists to secure two fundamental principles: First, Americans have a right to know that the money Washington takes from them is well-spent. And, second, Americans deserve an efficient, effective government that works for them. Our duty on the Oversight and Government Reform Committee is to protect those rights.

Our solemn responsibility is to hold government accountable to taxpayers, because taxpayers have a right to know what they get from their government. It's our job to work tirelessly, in partnership with citizen watchdogs, to deliver the facts to the American people and bring genuine reform to the Federal bureaucracy.

Today's hearing particularly touches on taxpayers and what taxpayers should expect from their government. It continues the committee's investigation into the IRS's inappropriate treatment of groups applying for tax-exempt status. It is now our understanding that some of those groups were 501(c)(3)s, groups for whom you receive a tax deduction if you give, and that the vast majority were 501(c)(4)s, groups for whom you do not receive a tax deduction for your contribution but who do not pay the same corporate taxes on that income.

This scandal first came to light via a planted question, directed at Lois Lerner's request, at the American Bar Association event on May 10th. Prior to the planting of that question, designed to obstruct the truth about targeting and break the news to a sympathetic audience that Friday afternoon, this committee had worked with our Inspector General for Treasury for more than 10 months. Multiple committees of the House of Representatives had wanted answers, had sought answers, and were waiting on those answers.

In response to the planted question, Lois Lerner blamed the inappropriate IRS activities of line people in Cincinnati. The IRS hoped it would—we believe the IRS hoped this would make the scandal quickly dissipate. It did not. And, in fact, today we are going to hear from one of those line employees in Cincinnati. But our committee has heard from many of those line employees. We have also begun hearing from people they reported to or exchanged information with in Washington.

Sadly, the White House press secretary continues a narrative characterizing it as "inappropriate conduct by IRS officials in Cincinnati." Today's hearing needs to dispel that so we can begin following the witnesses and following the testimony and following the truth wherever it leads.

We are now convinced and we will hear testimony that, as the Inspector General found in his investigation/audit, what began in Cincinnati with one case of a Tea Party application soon was, in fact, in Washington at levels well above line employees. They stated the assertions—the assertion Cincinnati was to blame were absurd, and we will hear that today. More importantly, it is now understood that these files, these hundreds of files were in many, many hands, most of whom—many of whom were not in Cincinnati.

As we look for the truth, let us bear in mind that we can debunk many things along the way. We will probably never debunk all accusations, nor should we make accusations unless testimony and evidence takes us there.

We can today, I believe, debunk the accusations that Cincinnati was, in fact, the source or that it didn't go to Washington, which it clearly did. Particularly when we hear from the Honorable Russell George, the IG who brought us this, and his staff, I think we're going to find out more, within the limits of his ability to tell us.

I certainly want to make sure that the smear stops here today. I want to caution the ladies and gentlemen on both sides of the aisle here: We will work with what we know, and we will work to find out what we do not know. And I, for one, and I hope everyone on both sides of the dais will reject categorically assumptions for which there is not evidence.

It is difficult to say who should have come forward first. We know one thing: Conservative groups came forward with their accusations more than 10 months ago, and they were heard. We know that, in fact, Members of both parties sent letters to the IRS, and I believe that is an important area that this committee cannot overlook.

Everything we have learned of real substance begins with Mr. George's impartial, independent investigation of IRS treatment of tax-exempt organizations and the targeting of them since March of 2010. Our investigation will continue.

I hope that both my side of the aisle and the ranking member's side of the aisle will be very careful and cautious in what we say. When I say something goes to the Office of the Counsel of the IRS, that is not to be construed as the Office of the President or to the counsel himself. It is important that we understand that words matter, nuances matter, and that we not go one step beyond what we know.

What we do know today and what I believe we are going to hear is that, in fact, Washington made a catastrophic mistake in taking what would have been in the ordinary course an individual, one by one application, evaluating them, as Mr. Hull has done for 48 years, accepting them, denying them, or asking for more information, and not looking at them as a group with some sort of special cynicism. That's not what America expects. America does not expect people targeted as groups.

One of the questions I will ask today will be, if they were fairly evaluated, wouldn't some of these cases have been resolved if they were not lumped into a group? I may not get an answer today, but I will not cease until I get that answer.

Lastly, there have been accusations leveled against the Inspector General and the work that he has done and his team has done. This committee is the most important place to resolve that. We have oversight over all the inspector generals, we control the legislation that created the position, and we take seriously accusations about their independence. We will investigate it, but, as of right now, we stand solidly behind the best efforts of all our inspector generals. If a credible accusation occurs, we will take it up.

Lastly, Mr. Ranking Member, I want to make sure that I make something clear. You're frustrated about 6103 and its interpretation, and you've made that clear. I'm frustrated about it. I believe this committee must ensure that the fair interpretation of this law designed to protect taxpayers' confidential information is, in fact, not used to re-victimize people who have previously been victimized. And I will work with the ranking member and anyone else to make sure we protect victims from being kept from finding out what actually happened to them and the public as appropriate.

With that, I recognize the ranking member.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Let me be very clear. We come today to seek the truth, the whole truth, and nothing but the truth, so help me God.

Eight weeks ago, on May 22nd, we met in this room to hear testimony about a report from the Inspector General about the IRS's review of groups applying for tax-exempt status. At the time, there was justifiable outrage, including from me, about the inappropriate search terms used to screen these groups and the unacceptable delays they endured.

On this side of the aisle and I know the other side of the aisle, we are not only concerned about conservative groups, we are concerned about all groups and all individuals who have anything to do with the IRS.

Since that hearing, Republican politicians and commentators have engaged in a sustained and coordinated campaign to accuse the President and the White House of using the IRS to target Tea Party groups for partisan, political purposes without any evidence to support these claims.

Our chairman led the charge, saying this was, "targeting of the President's political enemies." Other Republicans followed suit. They cited, "the enemies list out of the White House." They argued that President Obama, "doesn't have clean hands." They invoked the specter of disgraced former President Richard Nixon.

The fact is that there is no evidence before this committee to support these claims—none. Two days ago, I issued a memo finding that since the chairman and other Republicans first began making these accusations, the committee has identified no evidence whatsoever—documentary, testimonial, or otherwise—to substantiate them.

I ask that this memo be entered into the record at this time, Mr. Chairman.

Chairman ISSA. Without objection, so ordered.

Mr. CUMMINGS. Committee staff now has conducted—and that's bipartisan committee staff—have now conducted 16 transcribed interviews of IRS employees in Cincinnati and Washington, D.C. We did another one just Tuesday. And none of them reported any White House involvement or political motivation, including six who identified themselves as Republicans and who the chairman chose not to invite today.

To the contrary, these employees indicated that they sought guidance on how to process these applications in a consistent manner according to the law. For example, a tax law specialist in Washington, D.C., one who identifies herself as a Republican, called the accusations made by the chairman, "laughable." She explained, "This is purely cases that unfortunately Cincinnati didn't have enough guidance on, that the (c)(4) area is a very, very difficult area and there is not much guidance." This is what she said. "And so the lingering length of time, unfortunately, was just trying to apply the law to the specific facts of each case." I didn't say that. She said it.

Yet even today, this very morning, the chairman is still pedaling this claim. In an op-ed appearing in USA Today, he asked the question, "Was the targeting of the Tea Party applicants directed from the White House or somewhere else outside the IRS? As our

investigation is ongoing, the responsible answer is that judgment should be withheld."

This is unsubstantiated nonsense. It undermines the committee's integrity and every Member of this body's integrity, and it destroys the committee's credibility. The chairman certainly did not withhold judgment. He rushed to it with no evidence whatsoever. The responsible answer is that we have no evidence at all to back up that claim.

Since our previous hearing 8 weeks ago, we have also obtained new documents that raise serious questions about the Inspector General's report. And I'm glad to hear that the chairman stands by the Inspector General, and I do too. But I'm very interested, as he would be, to know certain questions that we will be asking, and I'm encouraged that he has agreed to come back in today in order to address them directly.

And I want to thank you, Mr. Chairman, at my request, for bringing him back.

We must have an independent, transparent IG. It is so very, very important, because we all depend on his word.

For example, the Inspector General failed to disclose, Mr. Chairman, to this committee that he tasked his top investigator with reviewing 5,500 emails from IRS employees. After conducting this review, this official concluded, "There was no indication that pulling these selected applications was politically motivated."

I want to ask the Inspector General why he did not disclose this significant information when he testified on May 22nd, just as I railed against Mr. Shulman for not coming back to this committee to let us know what he may have found out.

I also want to ask the Inspector General why he was unaware of documents we have now obtained showing that the IRS employees were also instructed to screen for progressive applicants and why his office did not look into the treatment of left-leaning organizations, such as Occupy groups. I want to know how he plans to address these new documents. Again, we represent conservative groups on both sides of the aisle, and progressives and others, and so all of them must be treated fairly.

Finally, I want to ask the Inspector General about some very, very troubling testimony we heard yesterday from the acting head of the IRS, Daniel Werfel. Mr. Werfel testified that the IRS was about to produce unredacted documents to the committee last week that include references to additional categories of non-Tea Party groups, but the Inspector General personally—personally—intervened to block the IRS from producing this information to this committee. According to Mr. Werfel, no IRS officials he consulted could ever recall such an unprecedented intervention. We need to know why that was.

And, finally, Mr. Chairman, I'm not here today to attack anyone. I'm here to get to the truth—not a partial or a selective truth, but the whole truth. I believe that that should be the goal of everyone in this room. We do need to stop making baseless accusations, and we need to get full information, and I emphasize "full," about the treatment of all these groups—conservatives, liberals, everyone in between. And I sincerely hope that we can do that today.

And, with that, Mr. Chairman, I yield back.

Chairman ISSA. I thank the gentleman.

Chairman ISSA. All Members will have until the end of the day to submit their written statements.

Chairman ISSA. And we now welcome our first panel of witnesses.

Ms. Liz Hofacre is the revenue agent in Exempt Organizations, Quality Assurance in the Cincinnati office of the Internal Revenue Service. That's a mouthful for any chairman.

And Mr. Carter Hull was a senior tax law specialist at the Exempt Organizations Technical Unit in Washington, D.C., and was with the Internal Revenue Service for an astounding 48 years of service.

And we want to thank you for your service.

Pursuant to the committee rules, I'd ask you please both rise to take the oath and raise your right hands.

Do you solemnly swear or affirm the testimony you are about to give will be the truth, the whole truth, and nothing but the truth.

Ms. HOFACRE. Yes, I do.

Mr. HULL. I do.

Chairman ISSA. Please have a seat.

Let the record reflect that both witnesses answered in the affirmative.

I know that sometimes prepared statements are the best way to go, and I'm not going to dissuade you from it, but use your 5 minutes in any way you want. You can abbreviate your statements if you think it's appropriate in light of opening statements or for any other reason to add, you may.

I will not hold you to exactly 5 minutes, but when you see the countdown getting close, please wrap up.

Ms. Hofacre?

STATEMENT OF ELIZABETH HOFACRE

Ms. HOFACRE. Chairman Issa, Ranking Member Cummings, and members of the committee, since 1999 I have been an IRS employee in the Office of Exempt Organizations, EO Determinations, in Cincinnati. As of April of 2010, my position was an EO Determinations specialist.

At the time, I had been assigned to serve as the emerging issues coordinator. In this role, I was tasked with handling applications that had been identified as emerging issues. In late April, I was assigned by my supervisor to handle all applications that had been identified as applications by Tea Party groups applying for 501(c)(3) or 501(c)(4) exemption status. Initially, around April 30th, 2010, approximately 20 Tea Party applications were assigned to me. Subsequently, I received a steady flow of Tea Party applications.

There were occasions when other agents sent to me applications from liberal or non-Tea-Party-type groups. When that occurred, pursuant to the instructions that had been given to me, I would send those application to general inventory, since they were not within the scope of the Tea Party emerging issue.

Around the same time that these applications were assigned to me, I also learned that two Tea Party applications had been assigned to Carter Hull in EO Technical in Washington, D.C. I was

told that I was to coordinate the review of these applications assigned to me with Mr. Hull.

I called Mr. Hull. He sent me the development letters that he had prepared for the applications assigned to him to use as examples for my applications. Mr. Hull requested that I send to him drafts of the development letters I was writing for my applications, and he subsequently asked me to send him copies of the applications as well.

At the beginning of the process, when I sent my draft development letters to Mr. Hull, he would call me with suggested edits to the letters. I would make the edits and send them to the applicant—send them to the applicants. When I'd receive responses from the applicants, I notified Mr. Hull, who asked that I send copies of the responses to him as well. I do not remember how many such responses I received. I would estimate 15 to 25.

At no point did I receive any guidance from Mr. Hull or anyone else as to what to do with these responses. Similarly, beginning sometime in the summer of 2010, when I sent draft development letters to Mr. Hull, I received no guidance from him or anyone else at EO Technical as to those letters.

In my experience, this was a highly unusual process. I never before had to send development letters that I had drafted to EO Technical for review, and I never before had to send copies of applications and responses that were assigned to me to EO Technical for review. I was frustrated because of what I perceived as micromanagement with respect to these applications.

I also received numerous calls from applicants asking about the status of their applications. I was only able to tell those applicants that their applications were under review. I became very frustrated because I had—because until I received guidance from EO Technical, I was unable to process these applications.

I expressed my concerns to both Mr. Hull and my supervisor at the time, Steve Bowling. As a result of this frustration, in July of 2010 I applied for a transfer to Quality Assurance, and in October 2010 I received the requested transfer.

When that occurred, these cases that I had assigned were reassigned to another agent. To the best of my recollection, I had a total of 40 to 60 Tea Party cases assigned to me at that time.

In July and August 2010, I attended several meetings with Mr. Bowling and another manager, Jon Waddell, at which I was informed of the creation of the BOLO list. They told me that the purpose of this list was to consolidate into a single document all the instructions that agents received about certain applications. The BOLO list was a new tab that was added to an existing spreadsheet that had other descriptions of groups and instructions to agents.

In August 2010, Mr. Waddell told me the language that should be added to the BOLO list with respect to Tea Party groups. After adding the language, I sent the document first to Mr. Waddell for his review. Mr. Waddell then told me to send the document to Cindy Thomas and a couple of other managers.

A few days later, he told me to email the list to everyone else in EO Determinations in Cincinnati. I accidentally emailed the list

to everyone in Rulings and Agreements, including agents in Washington, D.C.

Since October 2010, I have had no direct involvement in the processing and review of Tea Party applications, aside from occasionally reviewing them in the course of my quality assurance responsibilities.

In December 2011 and January 2012, I attended two to three meetings regarding the creation of a team to process Tea Party applications that had been held awaiting guidance. I provided this group with development letters that I had drafted in 2010.

I had no role in the processing of Tea Party applications following those meetings.

Chairman ISSA. Thank you.

[Prepared statement of Ms. Hofacre follows:]

Written Testimony of
Elizabeth Hofacre
Before the House Oversight and Government Reform Committee
July 18, 2013

Chairman Issa, Ranking Member Cummings, and members of the Committee:

Since 1999, I have been an IRS employee in the Office of Exempt Organization ("EO") Determinations in Cincinnati. As of April of 2010, my position was as an EO Determinations Specialist. At the time, I had been assigned to serve as the "emerging issues coordinator." In this role, I was tasked with handling applications that had been identified as "emerging issues." In late April, I was assigned by my supervisor to handle all applications that had been identified as applications by Tea Party groups applying for 501(c)(3) or 501(c)(4) exemption status. Initially, around April 30, 2010, approximately 20 Tea Party applications were assigned to me. Subsequently, I received a steady flow of Tea Party applications.

There were occasions when other agents sent to me applications from liberal or non-Tea Party type groups. When that occurred, pursuant to the instructions that were given to me, I would send those applications to general inventory since they were not within the scope of the Tea Party emerging issue.

Around the same time that these applications were assigned to me, I also learned that two Tea Party applications had been assigned to Carter Hull in EO Technical in Washington, D.C. I was told that I was to coordinate the review of the applications assigned to me with Mr. Hull. I called Mr. Hull. Mr. Hull sent me the development letters that he had prepared for the applications assigned to him to use as examples for my applications. Mr. Hull requested that I send to him drafts of the development letters I was writing for my applications, and he subsequently asked me to send him copies of the applications as well.

At the beginning of the process, when I sent my draft development letters to Mr. Hull, he would call me with suggested edits to the letters. I would make the edits and send them to the applicants. When I received responses from applicants, I notified Mr. Hull, who asked that I send copies of the responses to him. I do not remember how many such responses I received; I would estimate 15 to 25. At no point did I receive any guidance from Mr. Hull or anyone else as to what to do with respect to the applications in which I had received responses from applicants. Similarly, beginning sometime in the summer of 2010, when I sent draft development letters to Mr. Hull, I received no guidance from Mr. Hull or anyone else at EO Technical as to those letters.

In my experience, this was an unusual process—I never before had to send development letters that I had drafted to EO Technical for review, and I never before had to send copies of applications and responses that were assigned to me to EO Technical for review. I was frustrated because of what I perceived as micromanagement with respect to these applications. I also received numerous calls from applicants asking about the status of their applications. I was only able to tell those applicants that their applications were under review. I became frustrated because until I received guidance from EO Technical, I was unable to process these applications. I expressed my concerns and frustrations to both Mr. Hull and to my supervisor at the time, Steve Bowling. As a result of this frustration, in July 2010, I applied for a transfer to Quality Assurance, and, in October 2010, I received the requested transfer. When that occurred, the Tea Party cases that I had were re-assigned to another agent. To the best of my recollection, I had a total of 40-60 Tea Party cases assigned to me at that time.

In July and August 2010, I attended several meetings with Mr. Bowling and another manager, John Waddell, at which I was informed of the creation of the BOLO list. They told me

that the purpose of the list was to consolidate into a single document all of the instructions that agents received about certain applications. The BOLO list was a new tab that was added to an existing spreadsheet that had other descriptions of groups and instructions to agents. In August 2010, Mr. Waddell told me the language that should be added to the BOLO list with respect to Tea Party groups. After adding the language, I sent the document to Mr. Waddell for his review. Mr. Waddell told me to send the document to Cindy Thomas and a couple of other managers. Several days later, he told me to email the list to everyone in EO Determinations in Cincinnati. I accidentally emailed the list to everyone in Rulings and Agreements, including agents in Washington, D.C.

Since October 2010, I have had no direct involvement in the processing and review of Tea Party applications, aside from occasionally reviewing them in the course of my Quality Assurance responsibilities. In December 2011 and January 2012, I attended two to three meetings regarding the creation of a team to process Tea Party applications that had been held awaiting guidance. I provided this group with the development letters that I had drafted in 2010. I had no role in the processing of Tea Party applications that followed those meetings.

Chairman ISSA. Mr. Hull?

STATEMENT OF CARTER HULL

Mr. HULL. Chairman Issa, Ranking Member Cummings, and members of this committee.

As of the spring of 2010, I was employed by the IRS as a tax law specialist in the Exempt Organizations, EO, Technical in Washington, D.C.

In April of 2010, I was assigned by my supervisor to work on two applications from Tea Party groups. In that same month, I became aware that a group of Tea Party applications were being held by EO Determinations in Cincinnati. It was my understanding that the applications assigned to me were to be test cases to provide guidance for others—other applications. I was also told by my supervisor that I was to coordinate the review of the Tea Party applications that were assigned to Elizabeth Hofacre in Cincinnati.

With respect to the two applications assigned to me, I reviewed the application materials and I sent out initial development letters to the applicants. When one of those applicants did not respond, the file was closed, and I was assigned another Tea Party application to replace it.

As part of my review, I also researched determinations that had been made with respect to previous applications by groups applying for tax-exempt status that had similar indications of potential political activity. Throughout this process, I spoke to my reviewer, Elizabeth Kastenberg, about these cases.

At some point, and I do not have a clear memory as to when, I made conclusions as to how the applications assigned to me should be determined, and I subsequently drafted documents stating my recommendations and analysis. I am constrained from saying more about these applications due to prohibitions regarding the disclosure of taxpayer information.

I discussed my recommendations with Ms. Kastenberg, and she suggested I forward the recommendations to Judy Kindell, who was at that time a senior technical advisor to Lois Lerner. I later had a meeting with Ms. Kindell and Ms. Kastenberg in March of 2011, at which Ms. Kindell told me to forward my recommendations to the Office of Chief Counsel for their review.

While this process was going on, I also received draft development letters from Mrs. Hofacre. In order to assess the appropriateness of the questions that she had drafted for the applications assigned to her, I asked Ms. Hofacre to send me copies of the applications as well. I gave Ms. Hofacre suggestions regarding her letters over the telephone. I also asked her to send me the responses to the letters that she received. However, I was not able to give her guidance on those responses because the review of the test cases assigned to me had not been completed. At some point, I stopped giving Mrs. Hofacre feedback regarding draft development letters for the same reason.

During this period of time, at the request of my supervisor, I prepared sensitive case reports on a monthly basis regarding the Tea Party applications. In October 2010, at the request of EO Technical Manager Michael Seto, I also wrote a memorandum to EO Director Holly Paz that described the coordination of the Tea Party cases in

Cincinnati. I attached a list of all the Tea Party cases that I had received from Ms. Hofacre.

In the summer of 2011, I recall attending two meetings relating to the Tea Party applications. In July 2011, I attended a meeting at which Mrs. Lerner, Ms. Paz, Mr. Seto, Ms. Kindell, Mrs. Kastenberg, and someone from Chief Counsel's Office were present. Ms. Lerner led the meeting, and she instructed everyone that the applications should be referred to as "advocacy" applications and not "Tea Party" applications.

In August 2011, I attended a meeting at which the applications assigned to me were discussed. I recall that Don Spellmann, David Marshall, and Amy Franklin from Chief Counsel's Office were at the meeting, as well as tax law specialists Justin Lowe, Hilary Goehausen, and Ms. Kastenberg.

I recall that Ms. Franklin or someone else from Chief Counsel's Office stated that more current information was needed for my applications and that a second development letter should be sent to the applicants.

I also recall a discussion about the creation of a template development letter for Tea Party applications. I expressed my opinion that a template was not a good idea, as there was a great deal of variance among the groups and each application needed to be developed according to its particular facts and circumstances.

After the August 2011 meeting, the applications assigned to me were transferred to another tax law specialist, Ms. Goehausen. After the applications were transferred, I had no further involvement with respect to the Tea Party applications.

Thank you.

Chairman ISSA. Thank you.

[Prepared statement of Mr. Hull follows:]

Written Testimony of
Carter Hull
Before the House Oversight and Government Reform Committee
July 18, 2013

Chairman Issa, Ranking Member Cummings, and members of the Committee:

As of the spring of 2010, I was employed by the IRS as a tax law specialist in Exempt Organizations ("EO") Technical in Washington, D.C. In April of 2010, I was assigned by my supervisor to work on two applications from Tea Party groups. In that same month, I became aware that a group of Tea Party applications were being held by EO Determinations in Cincinnati. It was my understanding that the applications assigned to me were to be test cases to provide guidance for those other applications. I was also told by my supervisor that I was to coordinate the review of the Tea Party applications that were assigned to Elizabeth Hofacre in Cincinnati.

With respect to the two applications assigned to me, I reviewed the application materials, and I sent out initial development letters to the applicants. When one of those applicants did not respond, the file was closed, and I was assigned another Tea Party application to replace it. As part of my review, I also researched determinations that had been made with respect to previous applications by groups applying for exempt status that had similar indications of potential political activity. Throughout this process, I spoke to my reviewer Elizabeth Kastenberg about these cases.

At some point, and I do not have a clear memory as to when, I made conclusions as to how the applications assigned to me should be determined, and I subsequently drafted documents stating my recommendations and analysis. (I am constrained from saying more about those applications due to prohibitions regarding the disclosure of taxpayer information.) I discussed

my recommendations with Ms. Kastenberg, and she suggested that I forward the recommendations to Judy Kindell, who was at the time a senior technical advisor to Lois Lerner. I later had a meeting with Ms. Kindell and Ms. Kastenberg in March 2011 at which Ms. Kindell told me to forward my recommendations to the Office of Chief Counsel for their review.

While this process was going on, I also received draft development letters from Ms. Hofacre. In order to assess the appropriateness of the questions that she had drafted for the applications assigned to her, I asked Ms. Hofacre to send me copies of the applications as well. I gave Ms. Hofacre suggestions regarding her letters over the telephone. I also asked her to send me the responses to the letters that she received; however, I was not able to give her guidance on those responses because the review of the test cases assigned to me had not been completed. At some point, I stopped giving Ms. Hofacre feedback regarding draft development letters for the same reason.

During this period of time, at the request of my supervisor, I prepared Sensitive Case Reports on a monthly basis regarding the Tea Party applications. In October 2010, at the request of EO Technical manager Michael Seto, I also wrote a memorandum to EO Director Holly Paz that described the coordination of the Tea Party cases in Cincinnati. I attached a list of all of the Tea Party cases that I had received from Ms. Hofacre.

In the summer of 2011, I recall attending two meetings related to the Tea Party applications. In July 2011, I attended a meeting at which Ms. Lerner, Ms. Paz, Mr. Seto, Ms. Kindell, Ms. Kastenberg, and someone from Chief Counsel's office were present. Ms. Lerner led the meeting, and she instructed everyone that the applications should be referred to as "advocacy" applications and not "Tea Party" applications.

In August 2011, I attended a meeting at which the applications assigned to me were discussed. I recall that Don Spellman, David Marshall, and Amy Franklin from Chief Counsel's Office were at the meeting, as well as tax law specialists Justin Lowe, Hillary Goehausen and Ms. Kastenberg. I recall that Ms. Franklin or someone else from Chief Counsel's Office stated that more current information was needed for my applications and that a second development letter should be sent to the applicants. I also recall a discussion about the creation of a template development letter for the Tea Party applications. I expressed my opinion that a template was not a good idea, as there was a great deal of variance among the groups and each application needed to be developed according to its particular facts and circumstances.

After the August 2011 meeting, the applications assigned to me were transferred to another tax law specialist, Ms. Goehausen. After the applications were transferred, I had no further involvement with respect to the Tea Party applications

Chairman ISSA. I'm going to start with a round of questions. Mostly, these are pretty much "yes" or "no," if at all possible.

Ms. Hofacre, is it true that you were unable to close any Tea Party cases because you were waiting on guidance from Mr. Hull?

Ms. HOFACRE. Yes.

Chairman ISSA. Mr. Hull, why were you unable to give Ms. Hofacre guidance she needed? And I guess I will abbreviate it by saying, were you—were you waiting on answers from Chief Counsel and Lois Lerner, and is that effectively what your opening testimony said?

Mr. HULL. I was awaiting word from Chief Counsel——

Chairman ISSA. Mic.

Mr. HULL. I was awaiting word from Chief Counsel as to how to proceed.

Chairman ISSA. Thank you.

Mr. Hull, you testified that you made recommendation in these cases; is that correct?

Mr. HULL. That is correct.

Chairman ISSA. And under some caution of 6103, you're not prepared to tell us your recommendations at this time; is that correct?

Mr. HULL. I'm prepared to tell you that one was an application that I was saying should be exempt—should be recognized as exempt, and one was an application I said that should be denied.

Chairman ISSA. Okay. So there were applications recommended "yes" and applications recommended "no." Were those heeded, to your knowledge? In other words, did they agree with your recommendation and act on it, or did they not act on it?

Mr. HULL. It was after that time that I was told additional information was needed on those cases.

Chairman ISSA. So it's fair to say that when you recommended a "yes," you got told, "Go get more information"?

Mr. HULL. Correct.

Chairman ISSA. Mr. Hull, you have 48 years of experience. Throughout those 48 years, did you ordinarily, for similar cases to the ones you're speaking, have enough facts to close these cases, and were you often overruled in those decisions?

Mr. HULL. I don't recall that I was overruled, sir. I'm not sure. It goes back a long way. I can't say for certain.

Chairman ISSA. And with your 48 years of experience, your recommendation was that these cases should be treated as individuals, but, in fact, they were treated as a group, over your recommendation; is that correct?

Mr. HULL. I recommended each organization as I saw fit, those two organizations.

Chairman ISSA. Thank you.

Could we put up the slide?

Okay. Mr. Hull, Mr. Seto, one of your superiors in Washington, told the committee staff that Lois Lerner sent him an email saying that—said, "These cases need to go through" a—and the "a" is out, but—a "multitiered review, and they will eventually have to go to Ms. Lerner's senior advisor and the Chief Counsel's Office."

Is this consistent with the instructions you received?

Mr. HULL. I don't ever recall seeing that memo, sir.

Chairman ISSA. Well, but is it consistent with the instructions you believe you received?

Mr. HULL. Yes.

Chairman ISSA. In your experience, is that unusual?

Mr. HULL. Yes, that is unusual.

Chairman ISSA. Particularly the multitiered process of, essentially, belt and suspenders; is that correct?

Mr. HULL. Oftentimes there was more than one reviewer, but multitiered is unusual.

Chairman ISSA. Ms. Hofacre, to your knowledge, do you know of anyone that you would say, in your opinion, had political motives in the role of treating of Tea Party groups?

Ms. HOFACRE. No, I do not.

Chairman ISSA. Mr. Hull, do you know, to your personal knowledge, of anyone in Washington—obviously, I was asking Ms. Hofacre primarily Cincinnati—but in Washington or Cincinnati, for either of you, that you know had political motives against the Tea Party groups?

Mr. HULL. No, sir.

Chairman ISSA. Do you have any personal knowledge of Lois Lerner's politics, activities, or motives?

Mr. HULL. No, sir.

Chairman ISSA. Lastly, one of the challenges that we have here is determining whether or not specifically there was special treatment, in your knowledge, of Tea Party groups.

And, Ms. Hofacre, you've said you only worked on Tea Party groups; is that correct?

Ms. HOFACRE. In 2010, that is correct.

Chairman ISSA. Okay. So, at that time, your experience is that the special treatment that you experienced was specifically related to groups who had been gathered—some 298 is the number we have during the entire—the tenure, and 471 to date—for special treatment. Is that correct?

Ms. HOFACRE. Yes, that is correct.

Chairman ISSA. Mr. Hull, you have 48 years of service, and I can't say that enough without realizing what a unique, long career that is.

Can you give us a single valid reason for groups to be lumped together and not granted for this long period of time? Realizing you didn't look at all of these, but can you give us a reason where, in history, you'd seen that kind of lumping together of people, primarily 501(c)(4)s, and the kind of delays, this nearly 3-years delay and still counting?

Mr. HULL. I don't think I could answer that question, sir.

Chairman ISSA. But you don't have any experience of seeing it before?

Mr. HULL. I have no experience—no.

Chairman ISSA. Thank you.

We now go to the ranking member.

Mr. CUMMINGS. Thank you very much.

To you, Ms. Hofacre, and to you, Mr. Hull, before I begin, I want to take a moment to thank you, Ms. Hofacre, for your 14 years of service, and to you, Mr. Hull, for your 48 years.

And I know this can be—this is a tough environment to be in.

You're retired, Mr. Hull?

Mr. HULL. Yes, sir.

Mr. CUMMINGS. And I'm sure there are a lot of things you'd rather be doing. Amen.

And to you, Ms. Hofacre, I want you to understand, as I said to both of you, that we're simply seeking the truth. That's all.

I'm sure—I'm sure you would—let me just go back to one thing. The chairman invited only two of you today, and he didn't invite any of the other 14 IRS employees who were interviewed, even though they could help provide a more complete explanation of what occurred. At any rate, I just want you to answer the questions as best you can, and that's all we can expect.

So, Ms. Hofacre, let me start with you. Since the IG released his report, we've been hearing over and over again from the Republicans that the Obama administration and the White House were responsible for the, "targeting," of Tea Party groups for political reasons. Even the chairman's op-ed this morning in USA Today continues to raise questions about whether the White House, "directed," the targeting.

Chairman ISSA. Would the gentleman yield?

Mr. CUMMINGS. Of course. I want to say, I need my time.

Chairman ISSA. Yes.

Mr. CUMMINGS. Okay. Stop the clock.

Chairman ISSA. We'll hold——

Mr. CUMMINGS. Yes.

Chairman ISSA. I would hope that you're not linking the two. I have never said that it was the President. I've never said that he directed it. And, certainly, my questions in an op-ed were posed as questions, not as conclusions.

Mr. CUMMINGS. Very well. If you would——

Chairman ISSA. Thank you.

Mr. CUMMINGS. —let me finish——

Chairman ISSA. Thank you.

Mr. CUMMINGS. —you will see that I'm just stating the facts.

This is despite the fact that the committee has already conducted 16 interviews, reviewed thousands of documents, and found no evidence of White House involvement. This is also despite the fact that the Inspector General identified no evidence of White House involvement during his office's interviews or email searches.

Hearing this sustained focus on this supposed involvement of the White House, however, I have no choice but to ask about your personal knowledge about whether the White House was involved.

Ms. Hofacre, let me start with you. During your transcribed interview with the committee staff, you were asked this question: Are you aware of any—aware of any political bias by employees in the Cincinnati office against Tea Party organizations? And you responded; "No, I am not." Is that correct?

Ms. HOFACRE. Yes, sir, that is correct.

Mr. CUMMINGS. And you still stand by that?

Ms. HOFACRE. Yes, sir.

Mr. CUMMINGS. You also were asked this question: "Are you aware of any political motivations behind the development and screening and grouping of Tea Party cases." And, again, you responded that, "No, I am not." Is that correct?

Ms. HOFACRE. Yes, sir, that is correct.

Mr. CUMMINGS. And is your testimony the same today?

Ms. HOFACRE. Yes, sir.

Mr. CUMMINGS. Okay. So based on your own personal experience, did you ever receive direction from anyone in the White House concerning your handling of the Tea Party applications?

Ms. HOFACRE. No, sir, I did not.

Mr. CUMMINGS. You know, we heard exactly the same thing from—just to let you know, we heard the same thing that you just said from every single person we interviewed, 16 of them, of you all. So I don't understand why this keeps—these allegations keep cropping up.

Ms. Hofacre, Senator Mitch McConnell recently released a video that was paid for by his political campaign, and I would like to read what it says. "I don't know about you, but I think that the leader of the free world and his advisors have better things to do than dig through other people's tax returns. What they are trying to do is intimidate donors to outside groups that are critical of the administration. They've got the IRS, the SEC, and other agencies going after their contributors."

Ms. Hofacre, you have basically already answered this question, but do you have any knowledge, personal knowledge, of the President digging through, the White House digging through other people's tax returns?

Ms. HOFACRE. No, I do not have any personal knowledge.

Mr. CUMMINGS. Do you have any knowledge?

Ms. HOFACRE. No, sir, I have none.

Mr. CUMMINGS. And so, again, I want to thank you all for being with us today. There has been no greater defender of public employees. I know that, in the great words of one of my favorite theologians, Swindoll, he says, so often the great things that people do are unknown, unseen, unappreciated, and unapplauded. I take this moment to thank you for what you have done, what you continue to do, and thank you for being great public servants.

Thank you.

Chairman ISSA. Thank you.

We now go to the gentleman from Ohio, Mr. Turner. If——

Mr. TURNER. I'll yield the chairman 30 seconds.

Chairman ISSA. Yeah, just very briefly, just to maybe tell a story.

You know, the amazing thing is I keep saying, it wasn't in Cincinnati if we see it leading to Washington. We now today see it leading to Washington. It reminds me that, although I expect the right to say it immediately leads to the White House, I'm always shocked when the ranking member seems to want to say, like a little boy whose hand's caught in the cookie jar, "What hand? What cookie?"

I've never said that it leads to the White House. We've gone out of our way to say, we're following the facts where they lead. So, hopefully, when these kind of statements come up, people will understand we're following the facts. They undeniably now lead to Washington, to the offices of Lois Lerner and to the counsel. And that's what we're saying here today.

Mr. CUMMINGS. Mr. Chairman?

Chairman ISSA. I thank the gentleman for yielding. Yield back.

Mr. TURNER. This is my time now.

Thank you. Mr. Cummings was attempting to interrupt.

Let me say this first before I ask you both questions. I know that neither of you have any direct, personal knowledge of whether the President of the United States had lunch yesterday. And Mr. Cummings can ask you whether or not the President of the United States had lunch, and neither of you will have personal information. It doesn't mean he didn't have lunch; it means you don't know. And we knew that already when you were here. So asking questions that we know you're not here to prove or have information about really is irrelevant to our discussion.

But I want to ask both of you about, you know, what we've heard so far in this testimony previously. I want to thank both of you, because you're coming forward and being honest. Because there are those who not only want to stick their heads in the sand but who don't want us to find out the answers. And both of you are standing here telling the truth and honestly telling us what happened. And one of those truths is that this was not just directed out of Ohio.

Now, Ms. Hofacre, I'm from Dayton, Ohio, just a few miles from you. So I was kind of personally offended when it was placed as a label, as a bunch of rogue employees in Cincinnati. Because what we now know from you and Mr. Hull definitively, under oath, is that that was not true. If we had stopped this investigation previously, we would just have the answers of the IRS that this was some rogue employees from Cincinnati.

Ms. Hofacre, how did you feel when they said that, when you knew that that was not the case that it was just rogue agents down in Cincinnati?

Ms. HOFACRE. Sir, I was deeply offended. I mean, it impugned my reputation and the reputation of other agents and basically all Federal employees.

Mr. TURNER. Mr. Hull, you've had a great career, dedicated to what we know is one where we have some people who execute things honestly and with detail. You've dedicated yourself to the principles of that.

How did you feel when you heard that they were saying it was just Cincinnati, when you knew that also was not the case from your involvement?

Mr. HULL. I didn't feel that I had anything to say, sir.

Mr. TURNER. Well, I know you would—it would seem to me that you would feel, as Ms. Hofacre, that since you were dedicated to making certain that the truth occurred, that these things were executed, that it also violated your sense of, really, integrity.

I want to ask both of you, have either of you been contacted by the Department of Justice or the FBI to be questioned about this matter?

Ms. Hofacre?

Ms. HOFACRE. Yes, I have.

Mr. TURNER. Who were you contacted by, Department of Justice or FBI?

Ms. HOFACRE. I believe both.

Mr. TURNER. Mr. Hull?

Mr. HULL. Yes, I was contacted by the Department of Justice.

Mr. TURNER. I'm glad to hear that, because one of the questions that we have had from the very beginning is that this should not merely be an issue of the IRS, through Lois Lerner issuing an apology, but that the American public should never be afraid of the investigative arms of their government being turned against them. And criminal laws should be enforced to ensure that that doesn't happen. And, to the extent that there are not criminal laws, they should be enacted.

I have a bill, 1950, that would make this a specific crime. We certainly are hopeful that, as the Department of Justice and the FBI looks into this, that they don't merely just stop and stick their heads in the sand, as some of those wish that we would do, but they would actively look at all the aspects of this to make certain that we can hold people accountable and make certain that this doesn't happen again.

Mr. Hull, when—you had said that this was different, that this was not what your experience had been before. You said, I can't recall that—it ever happening, but it may have—that you'd been overturned or that things had this type of delay.

Is there a process by which you could, and/or an inquiry as to, "This is unusual," that you might have been able to report to supervisors or record that this process was unusual and, therefore, you know, by you, needed additional scrutiny?

Mr. HULL. I don't believe that was any part of my—my duties, sir.

Mr. TURNER. Say that again?

Mr. HULL. This was not part of my duties, to complain about what the review process should be.

Mr. TURNER. Okay. So you would not, then, have a forum by which to say, "This is of a concern," and have someone else review the fact that you were being reviewed?

Mr. HULL. I—as a tax law specialist, any suggestion that I had a determination on would go to a reviewer, and the reviewer would either agree with me or disagree with me, whereupon we would have a discussion about it. Further review is very—beyond that, is very rare. But it did happen in—in this particular case.

Mr. TURNER. Thank you both for your honesty.

Mr. Chairman?

Chairman ISSA. I thank the gentleman.

We now go to the—oh, the gentleman, Mr. Lynch, is gone—the gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. Thank you, Mr. Chairman.

And thank you both for being here.

I must say, I agreed with the opening statement of our distinguished chairman. I listened carefully to what he said: We should not rush to judgment. Words mean something. We need to be careful.

And if only those very commonsensical principles had been at work when the very same chairman called the press secretary of the President of the United States a paid liar. "Rush to judgment?" "Words mean something?"

He took time just now to insist that the ranking member is wrong in suggesting that he had rushed to judgment and deliberately took what now turns out to be not much of a scandal—bad

judgment; balanced, they went after progressives as well as conservatives. And it's a terrible thing when the narrative we've got in our heads just doesn't quite work out because the facts don't back them up and witnesses we call to back them up turn out to be flawed.

Not you.

But——

Chairman ISSA. Would the gentleman yield?

Mr. CONNOLLY. I will in a second, Mr. Chairman.

But—but I—in fact—in fact, before I yield, I'd read back a quote from the chairman on national television, because he just assured us that he never linked the President to this. And I'd read this quote: "This was the targeting of the President's political enemies, effectively, and lies about it during the election year so that it wasn't discovered until afterwards."

Now, that's the narrative. And there's no evidence, including from these two witnesses today, that that's true.

So when the chairman cautions us correctly to withhold judgment, to be careful, words mean something, I wonder whether the chairman wants to retract his own statements, including that one I just read on television.

Mr. Chairman, I yield.

Chairman ISSA. I thank the gentleman.

I look forward to seeing evidence that progressive groups were treated equally harshly, delayed, and anything more than looked at.

But I will say this: I think it's fair to say today that, with the harsh statements the President's made about Tea Party groups and with the way the Tea Party groups feel about the President's usurping of the Constitution, his expansion beyond his powers, yes, they are enemies of the President's politics. And I stand by that.

Mr. CONNOLLY. I reclaim my time.

That, of course—you can stand by that, Mr. Chairman, but that wasn't your initial narrative. Your initial narrative was there was an enemies list and it was limited to conservative groups like the Tea Party. And that's not true. In fact, the evidence tells us that's not true.

More and more evidence coming out that the Inspector General cherry-picked evidence to help with your narrative. And we'll hear from him in the next panel.

But the fact that the Tea Party was——

Chairman ISSA. Would the gentleman yield?

Mr. CONNOLLY. No, Mr. Chairman, I won't.

Chairman ISSA. No, no, I just want you to—we're stopping the clock.

Folks, we're going to take about a 5-minute recess until that stops. I don't—your time will be preserved.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Chairman ISSA. We'll stand in recess for 5 minutes until we get that stopped.

[Recess.]

Chairman ISSA. Could we please close the doors to enjoy our quiet?

The gentleman from Virginia may continue when ready.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Mr. Chairman, we left off with you saying that you welcomed Democratic evidence that progressive and Democratic-oriented groups were targeted. I would—I'll ask unanimous consent that this press release be entered into the record from the Ways and Means Committee, but I will read from it.

"The group of Democratic-leaning organizations was denied tax-exempt status by the IRS after their applications were pending for over 3 years. These denials happened during the period of the TIGTA's audit, but they were not disclosed by the IG in the audit report or during his testimony before our committee and the Ways and Means Committee.

"These applications were processed in the same manner as the Tea Party cases outlined in the TIGTA's audit report released on May 14th. The cases were identified and screened for political activities. They were transferred to Exempt Organizations Technical Unit. They were the subject of a sensitive case report. They were subject to multiple levels of review within the IRS. And they were reviewed by the IRS Chief Counsel."

The chairman has asked for evidence. I will be glad to make sure that this evidence from the Ways and Means Committee, our colleagues on the Ways and Means Committee, is provided to the chairman and his staff. And I would ask that this be entered into record.

Chairman ISSA. Reserving——

Mr. CONNOLLY. This is——

Chairman ISSA. For the gentleman, as long as you don't want to call it evidence. We don't call press releases evidence.

Mr. CONNOLLY. No, no. I'm not referring to this as evidence, Mr. Chairman.

Chairman ISSA. But we're happy to put the press——

Mr. CONNOLLY. It describes evidence, and I'm happy to make sure that evidence is made available to you.

Chairman ISSA. We look forward to seeing that evidence. It has not been provided to the majority or minority at this time. But I thank the gentleman. And, without objection, it will be entered in the record.

Mr. CONNOLLY. I thank the chairman.

And I thank our two witnesses. And I'm sorry you have to be here today, but thank you for coming.

Chairman ISSA. We now go to the gentleman from Florida, Mr. Mica.

Mr. MICA. Well, thank you, Mr. Chairman.

And, first of all, just a comment, observing this process today and through the past couple of months that we've been working on this IRS thing.

I'm disappointed that the ranking member and the other side of the aisle have chosen to continuously try to close down this process of discovery to get to the bottom of what took place——

Mr. CUMMINGS. Would the gentleman yield for just 5 seconds?

Mr. MICA. Well——

Mr. CUMMINGS. That's absolutely not true.

Mr. MICA. Well, first of all, he—I didn't yield, but he said that.

But we started this on the 22nd of May. On the 9th of June, Mr. Cummings said—you can put it up on the screen—"Based on everything I've seen, the case is solved." Started almost immediately to try to close this down.

When they couldn't do that, they tried to discredit the chairman. And then they released time and time again, as we interviewed folks, different transcripts, taking parts out and trying to, again, discredit the process.

When they couldn't do—discredit the chairman and we proceeded in a very orderly fashion, now they're attempting to discredit the Inspector General. And I find that offensive, because, whether they targeted conservative or progressive groups, it's our responsibility to get to the truth and find out what happened.

We've done this in a methodical manner. In fact, we first went to the Cincinnati folks. And we've only had—Mr. Hull, you're the second IRS official at the Washington level we've had, I understand.

Is that correct, Mr. Chairman?

Chairman ISSA. [Nonverbal response.]

Mr. MICA. So you're the first one we've had.

We've gone first to—and I think there were eight folks who said that we interviewed that—the rogue employees. And I'd never met one before, but you look very good for a rogue employee, Ms. Hofacre.

But, in any—in any event, you started getting these cases in the beginning of 2010, was it, approximately?

Ms. HOFACRE. Sir, it was the end of April 2010.

Mr. MICA. Okay, the beginning of 2010. And you—this wasn't a targeting by a group of your colleagues in Cincinnati that decided we're going to go after folks.

And most of the cases you got, were they "Tea Party" or "Patriot" cases?

Ms. HOFACRE. Sir, they were all "Tea Party" or "Patriot" cases.

Mr. MICA. Were there progressive cases? How were they handled?

Ms. HOFACRE. Sir, I was on this project until October of 2010, and I was only instructed to work "Tea Party"/"Patriot"/"9/12" organizations.

Mr. MICA. Okay. And then you sought counsel or advice from higher up in Washington, and that was Mr. Hull, sitting next to you?

Ms. HOFACRE. Yes, sir, I was instructed to contact Mr. Hull.

Mr. MICA. Okay. And did you get advice back? What was happening at the local scene? Did any of those affected contacted you? Or was it, you were just waiting for Hull? What was going on?

Ms. HOFACRE. Sir, I'm not real clear on what you're asking. Could you rephrase it?

Mr. MICA. Well, like, taxpayers or those that submitted these requests, did you hear from them at all?

Ms. HOFACRE. Yes, sir. When certain taxpayers responded, as Mr. Hull and I both earlier said, I sent him a copy of the response, and he was to get back to me in order to process the response. The taxpayers called me, when I had not gotten any instruction from Mr. Hull, to find out the status——

Mr. MICA. And that didn't happen.

So, Mr. Hull, you had also contacted Ms. Lerner for advice and counsel and also, I understand, that the counsel—the IRS counsel. Is that correct?

Mr. HULL. I gave my recommendations to my reviewer, and my reviewer sent them up to Ms. Kindell. And Ms. Kindell suggested that they should go to Chief Counsel. I don't recall——

Mr. MICA. So Kindell is in Lerner's office. And did——

Mr. HULL. And——

Mr. MICA. Did she tell you that something had gone to the—the legal counsel?

Mr. HULL. Ms. Kindell suggested or said that the cases should go to the Chief Counsel.

Mr. MICA. So—and the Chief Counsel is one of the two, I believe, IRS employees that are political appointees. Is that correct, staff? I'm not sure, but I think that's the case.

So, so far, we find that, again, Cincinnati "rogue employees," are asking for advice from Washington. You're in Washington. You're the second person we've had from Washington. I think we had Mr. Shulman, was the only other one.

So we're just beginning this investigation. We're just starting this. It's not going to be closed down.

Chairman ISSA. Would the gentleman wrap up?

Mr. MICA. Yes.

So, finally, Mr. Hull, again, those are—you sought counsel and advice from above. That didn't come. You never got it down below. And, finally, what happened?

Did you—did you step aside or seek another assignment, Ms.——

Chairman ISSA. The gentleman may answer briefly. The gentlemen's time has expired.

Mr. HULL. Were you asking me, sir?

Mr. MICA. No. I—well, I was trying to get back to her not getting answers, the frustration she experienced. And I'll——

Chairman ISSA. Did the gentlelady understand—do you understand the question?

Mr. MICA. I was told you finally——

Chairman ISSA. We do need an answer, but we're out of time.

Ms. HOFACRE. Sir, yes, I did get transferred out of there.

Mr. MICA. At your request?

Ms. HOFACRE. Yes, sir, I did.

Mr. MICA. Thank you.

Chairman ISSA. Thank you.

We now go to the gentleman from Massachusetts, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman.

I thank the ranking member.

I thank the witnesses for coming before the committee and trying to help us with our work.

I would like to try to reset this if I could. It seems we are getting into a debate about whether or not it was fair for the IRS to add enhanced scrutiny for Tea Party groups if they did the same thing for progressive groups, and I just want to point out that when the inspector general, Mr. George came before the committee, he indicated there were three classifications of U.S. citizens that were subject to enhanced scrutiny: One, he did identify Tea Party

groups, Patriot groups, ones of a more conservative ideology. He also mentioned progressive groups. But he also mentioned another—another category that sort of subsumes both of those groups. He said that there were enhanced scrutiny of groups that were critical of the way the government was being run, which in my district is about 90 percent of the population, including myself at times.

And I think it's unfortunate that the allegations against the White House were made because it became a game of gotcha, whether or not the White House was somehow implicated here. Those facts are not in evidence yet, but I think we are missing an opportunity here because what we do know is that the IRS was targeting groups who were critical of the way the government is being run, which is a core democratic right, small "d" democratic, and a core—a core right for every citizen.

Ms. Hofacre, have you in your experience there, have you come across groups that were targeted because of their could you call it criticism of the way the government is being run?

Ms. HOFACRE. No, sir. I have not.

Mr. LYNCH. Okay, what about yourself, Mr. Hull?

Mr. HULL. I'm not aware of any, sir.

Mr. LYNCH. Would—but you are—you are aware of instances where Patriot, or Tea Party were investigated?

Mr. HULL. Only what I read in the newspapers, sir.

Mr. LYNCH. Only what?

Mr. HULL. Only what I read in the newspapers, sir.

Mr. LYNCH. I see, how about you, Ms. Hofacre?

Ms. HOFACRE. Sir, I don't understand what you're asking.

Mr. LYNCH. Well, why do you think the folks that had the—those labels, why do you think they were being investigated?

Ms. HOFACRE. Do you mean scrutinized by the IRS, or why we were——

Mr. LYNCH. Yeah, yeah.

Ms. HOFACRE. Well, each application is evaluated on the facts and circumstances in that particular case, and consequently——

Mr. LYNCH. But these are "Be on the Look Out." You know, be, Be On the Look Out for Patriot, Be On the Look Out for Tea Party. I mean, help me if you can. Those seem to be political positions and indicia of a political view, and so the IRS is focusing on that, and I'm just curious.

Ms. HOFACRE. Well, when I was there in 2010, sir, I was instructed to develop these applications.

Mr. LYNCH. Uh-huh. And what does that mean?

Ms. HOFACRE. That means that somebody else screened them out for whatever reason, and I was assigned these applications that met the parameters of Tea Parties.

Mr. LYNCH. Okay. Well—well, you are the one who was involved in the process. Why are these people being singled out then?

Ms. HOFACRE. Because the screeners and the management identified that they should be screened out, or I mean, for this particular reason.

Mr. LYNCH. Who was the—who was the individual who screened them for you?

Ms. HOFACRE. Well, it was a whole group. I mean, Mr.—there were several screeners. That is what they were tasked to do based on my understanding.

Mr. LYNCH. Okay. I have about 20 seconds left. I just think it is disgraceful that we are squandering this opportunity to get to the bottom of this because of partisan bickering; one group trying to blame the President, the other one trying to defend themselves that progressives were also being targeted.

I think it is very unfortunate because I think the root of this matter is that people who were critical of the way this government is being run were being targeted, regardless of what their—what the source of their gravamen was, what the source of their complaint was, they were being targeted as U.S. citizens by the IRS. And I think we have squandered the opportunity to get to the bottom of this.

I yield back.

Chairman ISSA. I would ask unanimous consent I have 30 seconds.

Without objection.

Mr. Lynch, I couldn't agree with you more. And hopefully you are setting a tone that we will all observe going forward, and I will do my best.

Mr. CUMMINGS. I ask unanimous consent for 30 seconds?

Chairman ISSA. Of course.

Mr. CUMMINGS. I said in the beginning of what I said, I think that we—and I have said it 50 million times. We have got to get to the bottom of this. There have been recommendations made by the IG. We need to make sure those—and I don't think the people want the IRS to be destroyed. They want it to be—function the way it is supposed to function for everybody, conservatives, progressives, those in the middle. Thank you, Mr. Issa.

Chairman ISSA. Thank you.

We now go to the gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman.

We have heard Mr. Hull in his 48 years of experience say that these cases were handled in a very unusual manner.

And Ms. Hofacre, I understand that you said that in your 14 years experience these cases were handled differently. Was that the word?

Ms. HOFACRE. Yes, sir, that is correct.

Mr. DUNCAN. And you had 40 to 60 of these cases that were given to you in April, and then, in October, you requested a transfer, is that correct?

Ms. HOFACRE. Well, sir, the number that you had just stated was how many I had when—assigned to me when I left in October of 2010. Initially I had maybe about 20.

Mr. DUNCAN. I see. And prior to this, how common was it that you would be told by the—by someone in Washington to hold up applications?

Ms. HOFACRE. It wasn't very common at all.

Mr. DUNCAN. And was your frustration coming from the fact that you felt that you had enough information to go ahead and process these applications, but you basically were just made to sit on them?

Ms. HOFACRE. Well, my frustration primarily was that I had to sit on them and wait for guidance from D.C.

Mr. DUNCAN. Now, I'm told an IG report in May said there were 70 Tea Party groups, 11 9/12 groups, 13 Patriot groups. Now I'm told these numbers have been revised upward to say there were 298 Tea Party groups; and 3 groups that had the word "progressive" in the application; zero that had the word "Occupy."

But I also—staff tells us that Washington officials asked for two additional Tea Party cases that would serve as test cases. As of the present, one of those cases is still pending and the other case, the application process was withdrawn because the person or persons, "couldn't take it anymore." I would assume that that's extremely unusual to be delayed from 2010 when you worked on these cases till now, 2013, and still all of these cases are still apparently pending.

Ms. HOFACRE. Yes, sir.

Mr. DUNCAN. What—this investigation was started in part because of complaints from Tea Party groups to various Members of Congress. We don't have any evidence yet, or any comment yet that any progressive groups, these three that had the word "progressive," ever complained to any Member of Congress about their hold-up, if they were held up. But you also know that this was started in part not entirely from the complaints from Members, but Lois Lerner said at an ABA conference that Tea Party and Patriot groups were being targeted. What was your reaction when you heard about that comment?

Ms. HOFACRE. Well, as I said previously and it has been reported, I said it was like a nuclear strike.

Mr. DUNCAN. And did you and other people in the Cincinnati office feel that they were being unfairly blamed or used to excuse this political activity that was going on in the Washington office?

Ms. HOFACRE. Well, I can't comment on what others, but personally, I felt like it was a nuclear strike. I felt they were blaming us.

Mr. DUNCAN. All right. Thank you very much, Mr. Chairman.

Chairman ISSA. Would the gentleman yield?

Mr. DUNCAN. Yes, I will yield the rest of my time to you.

Chairman ISSA. The gentleman, Mr. Lynch has left, but you have been asked repeatedly about the politics of it. And I just want to take a moment to say that I appreciate that both of you are not political folks, and that it is appropriate that, no surprise, you did everything as far as we know, very professionally.

So, particularly for Ms. Hofacre, I want to thank you again for being here. You represent a larger group who have all said similar things. You were chosen, quite candidly, because of the time frame that you had these cases. But we appreciate—and maybe this is not a lottery you wanted to win, but we appreciate the fact that you are here today to speak on behalf of many people that you work with in Cincinnati, who, as far as we can tell, by the close of this hearing today, we will understand they did what they could do; they were limited as to what they could do. They moved it to Washington.

Mr. Hull, to a great extent, we have had you here to show that you and others who got cases after you did what they could do and,

as far as we know, waited on others to make decisions. And I thank you.

And with that, we go to the gentlelady from California, Ms. Speier.

Ms. SPEIER. Thank you, Mr. Chairman.

And thank you both for your service in a department, frankly, that none of us like, right? But nonetheless, we recognize the great value that you provide to making sure that everyone is treated equally under the law.

And let me just start off with you, Ms. Hofacre, isn't it true that in the division within Cincinnati that you were working in that your responsibility was to determine whether or not applicants for 501(c)(4) status were—met the definition, which meant that they could not primarily be engaged in political activity?

Ms. HOFACRE. Yes, it is.

Ms. SPEIER. And as a result, it has always been your task, at least when you were doing that there, to scrutinize applications to make sure that it was less than 50 percent.

Ms. HOFACRE. It was our job to make a determination, to ensure that they were 51 percent social welfare.

Ms. SPEIER. And there was an unusual increase in the number of applications during that period of time, was there not?

Ms. HOFACRE. From what I understand, I believe that's correct.

Ms. SPEIER. All right. You stated in your written testimony that there were occasions when other agents sent you applications from liberal or non-Tea Party-type groups. When that occurred pursuant to the instructions that you were given, it would—I would send these applications to general inventory since they were not within the scope of the Tea Party emerging issue.

When you met with committee staff, you were asked whether you received direction to send non-Tea Party cases back to general inventory.

And I'm going to read the exchange:

"Do you remember if anyone told you to send progressive or liberal cases back to general development?"

"No, I don't remember anything like that."

"It just made sense to you?"

"Exactly, because my function was to develop Tea Party and work with Carter Hull and the Tea Parties."

Can you explain the discrepancy between these two statements?

Ms. HOFACRE. Ma'am, I was instructed by management to work Tea Parties. It was on the BOLO list, and anything that did not meet the parameters between, that met the parameters in that BOLO list, I sent to general inventory.

Ms. SPEIER. But you didn't know what happened to those non-Tea Party cases?

Ms. HOFACRE. No, ma'am I do not.

Ms. SPEIER. How many do you think you referred to inventory?

Ms. HOFACRE. I can't estimate that.

Ms. SPEIER. I mean, was it 5, or was it 50?

Ms. HOFACRE. Ma'am, I sent everything back that didn't meet the parameters of Tea Party, so on the right and on the left.

Ms. SPEIER. Okay. So it was a significant number then?

Ms. HOFACRE. It seemed at the time. I can't estimate how many.

Ms. SPEIER. One of the documents obtained by the committee is a PowerPoint presentation for a 2010 training session instructing employees on how to handle applications for tax-exempt status from groups engaged in political activity. And it has photos of an elephant and a donkey, not very good ones, but, and since that the employees should look for names like the following, and you see there on the next page it shows what those employees should be looking for: Terms, "Tea Party," on the next page, "Patriots," "9/12 Project." Then on the following page, it says to look for the word "progressive." And there's lots of redacted information there, which I understand may be a list of progressive or left-leaning groups.

When you turn to the next page, the slide show explains that most of these applicants will file a 501(c)(4), and it says that the concerns are that there may be more than 50 percent political, possible PAC, political action committees. Do you recall attending this training?

Ms. HOFACRE. I do not specifically recall attending that training.

Ms. SPEIER. Do you dispute that you were there at the training?

Ms. HOFACRE. I do not recall. I do not dispute that I was there either.

Ms. SPEIER. So I understand that your—your plate was full handling of lot of these Tea Party applicants. Are you—and you referred non-Tea Party cases back to the general inventory. Based on this training document, it appears that someone else may have been looking at progressive groups. Is that a logical assumption to make?

Ms. HOFACRE. I—I don't have the facts to verify that.

Ms. SPEIER. So you never talked to anyone else in the Cincinnati office that might have been looking at another segment that were——

Ms. HOFACRE. I do not recall talking to anybody else.

Ms. SPEIER. Okay, Mr. Chairman, based on these training materials, I think we need to see what is under those redactions and examine in more detail how these progressive cases were handled as well.

Chairman ISSA. I agree with the gentlelady. We would like to see the claim of 6103 modified to be more reasonable. I would mention that Teddy Roosevelt was a progressive, that the term is not automatically liberal.

Ms. SPEIER. Well, no, but my point is that there is a lot under that second bullet that has been redacted, and for us to really do an exhaustive investigation, we really need to know that. And to the extent that Ms. Hofacre has testified that she did return significant numbers, we should find where do those significant numbers of applications go and have someone come testify on them.

Chairman ISSA. I agree with you, and this committee has reached out and asked I and I will ask again with theoretically with a larger audience, that if there was any progressive group that was held for 3 years, asked abusive questions, asked about their campaign activities, their board of directors, their names of their contributors, and so on, I would ask them that they come forward because they can get us around this arcane 6103 law that causes victims not to be protected, but rather re-victimized.

And I join with the gentlelady that I would like to see groups on the left and the right be able to come to us as victims and get some resolution rather than being re-victimized by a system that is supposed to protect confidential information.

So I join with the gentlelady in total agreement.

Ms. SPEIER. Thank you.

Chairman ISSA. With that, we go to the gentleman from Ohio, who is keying up his mike, Mr. Jordan.

Mr. JORDAN. Thank you, Mr. Chairman.

Mr. Hull, you have got 48 years of experience with the IRS, and your annual reviews and evaluations, were those all positive.

Mr. HULL. Yes, sir, they were.

Mr. JORDAN. And most of the time that you spent at the IRS, you dealt with applications for tax-exempt status?

Mr. HULL. Yes, sir.

Mr. JORDAN. And you are viewed as an expert in this field, is that fair to say?

Mr. HULL. Which field, sir?

Mr. JORDAN. Dealing with applications—and you can, you know, you are dealing with politicians here. You can give the yes answer. That's fine. We are used to boasting and——

Mr. HULL. I'm very knowledgeable about working applications for tax exempt status.

Mr. JORDAN. Okay, isn't it true you conducted the training sessions, right?

Mr. HULL. Yes, I have.

Mr. JORDAN. And in some of those training sessions, Lois Lerner even showed up and was present at some of the training sessions, is that true?

Mr. HULL. I don't recall, sir.

Mr. JORDAN. Okay. We have been—other witnesses we talked to said that's the case. And you were assigned the now famous two test cases that dealt with two—I think it is important. These were test cases of Tea Party groups. You were assigned those two cases, is that correct?

Mr. HULL. Yes.

Mr. JORDAN. And you, in your testimony, you said those cases were taken from you in August of 2011, is that right?

Mr. HULL. Yes, sir.

Mr. JORDAN. And they were given to, my understanding is they were given to Hilary Goehausen, is that correct?

Mr. HULL. That's correct as far as I know.

Mr. JORDAN. And could we put the slide up real quick because we want to talk about—do you how long Hilary Goehausen had been at the IRS when she got those cases, do you know?

Mr. JORDAN. Well, we do, because we asked her:

"And how long have you been with the IRS", is the question that Hilary Goehausen—"

"I have been with the IRS since late April 2011."

"Prior to this time, had you had any experience in campaign intervention, lobbying, or as it relates to tax-exempt organizations?"

"No."

So we have a lady who has been at the IRS 4 months, never dealt with this area, who now gets the two infamous test cases. They take them from a guy who has been there 48 years with stellar evaluations, and they gave them to this individual, correct?

Mr. HULL. Yes, sir.

Mr. JORDAN. Okay, okay, fine. So here is what I—from your testimony, they were taken from you after you made recommendations on how to deal with the test cases, is that correct?

Mr. HULL. That's correct.

Mr. JORDAN. And the recommendation—just for the other side to know, the recommendations were split. You said one group should be approved for tax exempt status and one should be disapproved, and get further information, further data, is that correct?

Mr. HULL. That's correct.

Mr. JORDAN. And they give them to someone who had no experience dealing with this. And they also took them away from you after, according to your testimony, you met with the Chief Counsel's office, is that correct?

Mr. HULL. That's correct.

Mr. JORDAN. So this is I think important to understand. The real harassment of Tea Party groups wasn't just the fact that they applied and maybe were denied. The fact was, they had to wait. They never got resolution. Because even if you are denied, you have an appeals process. You can finally get some closures through an appeal process. So the real harassment was never getting to an answer.

Mr. Hull, with 48 years experience, the expert, conducts the training sessions, gives recommendations on the test cases, and they say, oh, wait a minute. We are not going to let that happen. We are going to hold these cases. We want to continue to further harass these entities. And furthermore, we are going to the them away from you and not give you any more. And we do that after he has made the recommendations and after there has been a meeting with the Chief Counsel's Office. That's why this is—that's why this is all about Washington and this Chief Counsel's Office and why we are going to have Mr. Wilkins in front of this committee at some point in the future.

Ms. Hofacre, you are a public servant. You have served at the IRS for 14 years, I think, if I got that right?

Ms. HOFACRE. Yes, sir, that is correct.

Mr. JORDAN. Prior to that you served our country wearing the uniform of our country as a veteran, is that correct?

Ms. HOFACRE. Yes, sir, I was both Active Duty and Reserve.

Mr. JORDAN. Tell me how you felt when Lois Lerner with the plan in question on May 10th, goes public and says, "this was inappropriate actions by line people in Cincinnati."

Ms. HOFACRE. Sir, like I said before, it was like a nuclear strike, and——

Mr. JORDAN. I think that's the term you used with——

Ms. HOFACRE. With the earlier interviews.

Mr. JORDAN. With your interview with staff, a nuclear strike.

Ms. HOFACRE. Correct.

Mr. JORDAN. So you would agree with Cindy Thomas, one of your bosses in Cincinnati who said, people in Cincinnati felt like they were being thrown under the bus.

Ms. HOFACRE. I'm not sure the context that was stated in, but literally, that statement I would agree with that.

Mr. JORDAN. Let me ask you one other question here and then I will close, Mr. Chairman. You were asked in your interview by our staff, Ms. Hofacre, this specific question:

"Do you think the public has been purposely misled by assertions that Cincinnati was to blame?"

And your response was?

Ms. HOFACRE. Yes, I believe so.

Mr. JORDAN. Yeah, I think your response was, according to what we have, exactly. So statements made by folks in Washington, two rogue agents, this narrative that was trumpeted out there and bandied about, statements made by—statements made by the White House press secretary, "apparent conduct by IRS officials in Cincinnati. IRS line personnel had improperly targeted conservative groups."

They were purposely—according to your statement, you think folks in Washington were purposely, that's the key point, you said you think it was a purposeful misleading of the facts and what really took place.

Ms. HOFACRE. Sir, in my opinion, when Lois Lerner made that statement, that would be correct.

Mr. JORDAN. Thank you.

Mr. Chairman, I yield back.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Pennsylvania, Mr. Carter.

Mr. CARTWRIGHT. Thank you, Mr. Chairman, and Ms. Hofacre, Mr. Hull.

Chairman ISSA. I'm sorry, Mr. Cartwright, I apologize.

Mr. CARTWRIGHT. Well, I'm sorry, I didn't hear you.

Mr. Hull and Ms. Hofacre, thank you both for being here and I want to thank you both for your long service.

Mr. Hull, according to the transcript of your interview with committee staff, you stated that the processing of Tea Party cases was subject to, "substantial delays," because "we didn't know exactly where we were going." Is that still your testimony?

Mr. HULL. Yes, sir.

Mr. CARTWRIGHT. And what did you mean by that?

Mr. HULL. I just meant that I was receiving no indication of which way we should be going with the—I had made my—I had made some recommendations, and I was not told if those recommendations would be accepted or not. All I was told, we needed additional information.

Mr. CARTWRIGHT. All right.

And Ms. Hofacre, you previously told the committee that Mr. Hull took a long time to give you guidance on development letters for Tea Party applicants. You are not—you are not suggesting that Mr. Hull intentionally delayed developing Tea Party cases that you handled, am I correct in that?

Ms. HOFACRE. Yes, sir, you are.

Mr. CARTWRIGHT. Okay. And back to you, Mr. Hull. You never intentionally stalled or delayed your work with Ms. Hofacre on the Tea Party cases, did you?

Mr. HULL. No, sir.

Mr. CARTWRIGHT. Okay. And now, we learned that there was a miscommunication between the senior management in the Cincinnati office and the group manager overseeing the political advocacy cases that caused a 13-month long delay when the person Ms. Hofacre transferred her cases to stopped sending development letters while waiting for guidance from the Technical Unit.

Unfortunately, both the individual who held the cases and his manager at the time are Republicans and neither of them was invited to testify here today to discuss that delay. I believe the delays in processing these political advocacy cases are highly problematic, but the evidence compiled by the committee does not suggest that they were intentional or motivated by bias.

Now, Mr. Hull, did anyone tell you to stall or delay your work on the Tea Party cases?

Mr. HULL. No, sir.

Mr. CARTWRIGHT. And one IRS official we interviewed was an attorney in the IRS Office of Chief Counsel who worked on these cases. And when he was asked if anyone ever instructed him to stall or delay providing guidance on how to develop these cases, he responded as follows: "No. On the contrary, we were told to work extremely fast. We were given a 48-hour time deadline on the first document. We turned around and had such extremely short deadlines to turn that around."

As far as you understand, I will throw it up to both witnesses, is that correct?

Mr. HULL. I'm not aware of anything in that regard, sir.

Mr. CARTWRIGHT. Okay.

Ms. HOFACRE. I'm not either.

Mr. CARTWRIGHT. Well, thanks very much.

And I yield back, Mr. Chairman.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Utah, Mr. Chaffetz.

Mr. CHAFFETZ. Thank you, Mr. Chairman.

And I do think it is important that we continue on to find the truth. And I appreciate you holding this hearing.

And for these two fine Americans who are coming forward, and I appreciate your service. Nearly 70 years of service between the two of you in the IRS. Both have served in the military and for that, we are very grateful, and we thank you.

Ms. Hofacre, we have had your reaction to some of the statements by some very powerful people in Washington. I would like to have you comment, if you could, about accuracy of their comments. We had—CNN reported that former Commissioner Miller blamed two employees in Cincinnati. I think the quote was, "two rogue agents." Is that true or not true, in your opinion?

Ms. HOFACRE. Sir, I'm not clear on what you're asking.

Mr. CHAFFETZ. The former commissioner, IRS Commissioner Miller——

Ms. HOFACRE. Right.

Mr. CHAFFETZ. —blamed all this targeting on two rogue agents.

Ms. HOFACRE. Correct.

Mr. CHAFFETZ. I would suspect that you would be one of those two rogue agents.

Ms. HOFACRE. It was inferred that I was one of them.

Mr. CHAFFETZ. Is that true?

Ms. HOFACRE. No, it was not. I was following direction from management, and they were aware of what I was doing.

Mr. CHAFFETZ. Who is that management?

Ms. HOFACRE. Well, when I started the project, it was Joseph Herr, and then I was transferred to another group, Steve Bowling.

Mr. CHAFFETZ. Who, when the spokesperson for the President of the United States, Jay Carney stood up before the American people and said, "IRS line personnel had improperly targeted conservative groups."

What's the accuracy of that statement?

Ms. HOFACRE. Sir, I know the accuracy of any inference to rogue agents is not correct.

Mr. CHAFFETZ. How—there had to be a moment when you went back home and you were kind of by yourself. What was that like?

Ms. HOFACRE. Well, like I said to the other gentleman, it was like a nuclear fallout. I mean, the press hounded my family and me. They were hounding us at work, so, I mean, it wasn't a character builder.

Mr. CHAFFETZ. Why—why did they do that? Why was everybody——

Ms. HOFACRE. I don't understand—I don't have any factual knowledge of why they said what they said or why they did what they did.

Mr. CHAFFETZ. What could you do about it?

Ms. HOFACRE. There's nothing I could have done.

Mr. CHAFFETZ. What did you want to do?

Ms. HOFACRE. Go back to my life previously, before May 10th.

Mr. CHAFFETZ. And I guess that's the sad part of this story. You know, I'm glad the truth is surfacing because I think most people now reflecting back are going to understand that you're more heroic in this, and really, I think when you have such senior powerful people in Washington, D.C., trying to discredit you and your person, your service, it's just wrong. And I'm proud of the fact that we are pursuing this.

You know, if we did what the White House wanted us to do, if we did what the ranking member suggested we do, this thing would be over: Nothing here. Don't do it. As far as I'm concerned it is over.

When you have the spokesperson for the President of the United States make a definitive statement that it was two rogue agents and start poking at these people, who have no power to do anything about it, that is wrong. How dare anybody suggest that we are at the end of this? This is the beginning of this. We have to make an example of it. We need to get to the bottom of it, and quite frankly, I'm tired of this administration having to keep having these hearings. We have done it on Fast and Furious. We are doing it on Benghazi. We are doing it on the IRS. We are doing it—why? Each time, there is a pattern. Nothing here. Oh, it was just a couple of people. Just move on. That's not true. When the rank-

ing member went on national television and said that this case should be closed, that's wrong. And I have the greatest respect for——

Mr. CUMMINGS. Will the gentleman yield?

Mr. CHAFFETZ. Yes.

Mr. CUMMINGS. Let me—let me be clear because there's some old talking points going on here.

Mr. CHAFFETZ. No, I'm reclaiming my time.

Mr. CUMMINGS. I just want to answer your allegation.

Mr. CHAFFETZ. No, no, I want to reclaim my time.

Chairman ISSA. It's the gentleman's time.

Mr. CHAFFETZ. To suggest that they are just talking points. These are not just talking points.

I yield the gentleman time.

Mr. CUMMINGS. Thank you. Let me be very clear. I hope the gentleman will join me when I say that I want every single syllable of every single transcript that we can get redactions, appropriate redactions. But I have been asking for that and I want that.

What I said was, when it came to the issue of saying that the President and the White House was responsible for this, I said that the evidence to that point and continues to be not there.

As far as the investigation is concerned, I want us to get to the bottom of that. And I really mean that. It is very, very, very important. So I just wanted to make that clear.

Mr. CHAFFETZ. Can I ask unanimous consent for 30 seconds?

Chairman ISSA. Of course.

Mr. CHAFFETZ. Part of the reason it has risen to this level is that you have the White House spokesman, Jay Carney, blaming one of the people sitting there at this table. You have the former acting commissioner saying it was two rogue agents. It was the most powerful people in Washington, D.C., placing blame on the person sitting before us, and that's why it continues forward, and that's why I do think the White House is now engaged in this.

Chairman ISSA. The gentleman is entitled to his opinion.

We will stick to the facts here at this time.

We thank the gentlelady for her showing that it's not Cincinnati.

With that, we go to the gentlelady from New York.

Mrs. MALONEY. Thank you, and thank you for your public service and for being here today and for your testimony. I just would—I would like to get to the bottom of this and get over with it, too.

And I have to ask you. I would like to ask both of you. Would it make your professional life easier if you were not retired and still working, if it was just very clear in the law that no not-for-profit that engages in political activity shall receive in any, way, shape, or form a tax relief from the IRS? Would that make your life easier in doing your job, Mr. Hull.

Mr. HULL. Yes, I think it would.

Mrs. MALONEY. How about you, Ms. Hofacre?

Ms. HOFACRE. Yes, I agree with Mr. Hull.

Mrs. MALONEY. Okay, well, I intend to put in such a bill. Just stop it. Let's just make sure that there is never any confusion in the future. The IRS is there to perform a function, not to decide whether someone is involved in political activity or not, and quite frankly, most Americans believe that not-for-profits serve an impor-

tant role if they are addressing social concern and need of this great country and deserve a tax deduction, but certainly political activity does not.

So, in concerns of efficiency and clearness, I think that's the approach we should take in a bipartisan way and end this, as my colleagues on both sides of the aisle want to do so much. Let me say that, as a Member of Congress, we do have a serious responsibility and a constitutional responsibility to practice and conduct oversight. But we must do it in a responsible and clear way, and not make unfounded political attacks or use this incredibly important responsibility to make a political point. And one of the myths that keep being pushed out there by the right and some others, is that the Obama campaign was somehow involved in directing the IRS to target Tea Party groups for unfair scrutiny, and according to all of the testimony that I have read, some many, many people testified, only two of you are before us, but in the depositions, they have all said there was no connection whatsoever.

But to give an example of sort of unfounded conduct and statements, I would like to quote Senator Rubio, who recently claimed on national television that both the Obama administration and President Obama's campaign had attempted to use the IRS, and I will quote directly, "muscle anyone who is their political opponent and to use whatever power they have at their disposal to intimidate people who they don't agree with."

So I would like to ask both of you the same question. Were any of you intimidated or contacted or influenced in any way, shape, or form by the Obama campaign committee to do anything?

Mr. Hull?

Mr. HULL. No, I was not contacted.

Mrs. MALONEY. Okay, Miss?

Ms. HOFACRE. No, ma'am, I was not.

Mrs. MALONEY. Did any—did anyone from the campaign, either a political appointee, a volunteer, a bystander, or an employee ever give instructions or directions on how to process Tea Party applications? Did anyone interfere in the process?

Mr. Hull?

Mr. HULL. No.

Mrs. MALONEY. Ms. Hofacre?

Ms. HOFACRE. No.

Mrs. MALONEY. Okay, did any of your IRS colleagues ever tell you that the Obama campaign gave them any instructions or directions on how to process applications for tax exempt status of Tea Party applicants? Did any——

Ms. HOFACRE. No, they did not.

Mr. HULL. No, they did not.

Mrs. MALONEY. Now, they are giving the exact same answers that were given also by other witnesses that were interviewed by both the Republican and Democratic committee that it is completely un—it is not true. It is un—I'm getting very concerned about this because it keeps going on and on, and I just want to make it very clear that there was no connection whatsoever, correct?

Mr. HULL. That is correct.

Ms. HOFACRE. That is correct.

Mrs. MALONEY. And again, would it make your life easier if we just had clear directions from Congress that no not-for-profit receive any tax deduction whatsoever for—if they engage in political activity?

Mr. HULL. I'm sure it would be a help.

Ms. HOFACRE. Yes, it would.

Mrs. MALONEY. I yield back the balance of my time.

Chairman ISSA. If the gentlelady would yield. A follow up just to get clarity on your question.

Mrs. MALONEY. Sure.

Chairman ISSA. Mr. Hull, wouldn't the American Lung Association's support of an initiative in California, the NAACP's support of civil rights, wouldn't all of those be a challenge in which you would like to have clarity that zero may not be the right number either?

Mr. HULL. I'm not sure I would be able to answer that question, sir.

Chairman ISSA. But currently, it is roughly 5 percent for 501(c)(3)s and under 50 percent for 501(c)(4)s. You would have a challenge if you had to audit at zero for organizations, such as the American Lung Association, that actually endorses initiatives, and so on, and I only ask this for the gentlelady. We are not the tax committee, but I think we have to—we have to work together to find solutions for this.

Mrs. MALONEY. Yes.

Chairman ISSA. Hopefully, we will recognize that the narrow interpretation of none might, in fact, hamper very good charities that we all support.

Mrs. MALONEY. Will the gentleman yield?

Chairman ISSA. Of course.

Mrs. MALONEY. The difficulty, it appears to me, is when an employee who is trying to do their job honestly and fairly and correctly is then given the task to interpret the 5 percent. That's a very difficult thing to do when you don't have access to their books or their activities or everything they are doing.

And given the fact that our democracy is such a sacred right—and I want to share this with you very quickly, the ambassador from Pakistan, they just had their first peaceful transfer of power, and they are so thrilled that they had a peaceful election. We have had that—we have had that honor our entire existence.

Chairman ISSA. I thank the gentlelady.

Mrs. MALONEY. It is important to honor that and continue that honor clearly and fairly. And the allegations are very serious allegations against the American Democratic system that the Tax Code would be used in any way to promote an election in any way, shape, or form, and so I feel——

Chairman ISSA. The gentlelady's time is really expired.

Mrs. MALONEY. —very strongly about it, and I appreciate that they agree that they don't want to get involved in the election.

Chairman ISSA. Please, the gentlelady's time really has expired.

We now go to the gentleman from Michigan, Mr. Walberg.

Mr. WALBERG. Thank you, Mr. Chairman.

And thank you for continuing these hearings, because frankly, it is important to get to the truth and I thank the two witnesses here

today. You deserve your day to have the truth come out, especially since you were put in as rogues incorrectly.

I read in D.C. newspapers and seen on cable news that some people believe the IRS case is solved. We know that not to be the case. My constituents, the groups in question, those being targeted, the evidence we have uncovered so far and continue to look for, says differently. And so we appreciate you being here.

Ms. Hofacre, just to continue some questioning where you had indicated that in working with Mr. Hull, initially, plenty of responsiveness, information was shared, questions were answered, but that slowed down.

Ms. HOFACRE. Yes, sir, that is correct.

Mr. WALBERG. And though it might not have been direct statements from individuals above you saying slow it down, yet it was starting to slow walk in the process.

Ms. HOFACRE. Yes, sir, as Mr. Hull pointed out, he stopped responding to me.

Mr. WALBERG. And we know from his testimony that the reasons why he stopped responding or slowed it down because of hurdles that were put in his way, and disagreements that took place as well. Were taxpayers calling you still during this time period?

Ms. HOFACRE. Yes, sir, they continued to call me probably until the end of 2010, beginning of 2011.

Mr. WALBERG. How often would you get the calls?

Ms. HOFACRE. Well, initially, I got numerous calls a day.

Mr. WALBERG. What did you tell them?

Ms. HOFACRE. I continually told them that the cases were under review.

Mr. WALBERG. How did that make you feel telling them the cases were under review?

Ms. HOFACRE. Like I said in my testimony, it was like working in lost luggage. I mean— I mean, there was never any positive response because I couldn't give them a clear answer. And like I may have said in my previous testimony, that every taxpayer deserved an answer because if the answer is negative, they have other avenues they can pursue, like appeals to, you know, to look at it from a different angle, perhaps.

Mr. WALBERG. You said also, I remember in your response to the committee: "I remember thinking this is ridiculous because at the same time you are getting calls from irate taxpayers, and I see their point, even if a decision is unfavorable, they deserve some kind of a treatment. They deserve, you know, timeliness, and it was just these applications and their responses were just being sent up there, and I'm not sure what was happening. But I mean, I just kept getting the same responses from Carter Hull. They are under review. And that is what I told the taxpayer."

Ms. HOFACRE. I continued to tell them that, yes, sir.

Mr. WALBERG. Did you express frustration to anyone about the delays in the process?

Ms. HOFACRE. Yes, sir, I expressed it to my manager at the time, Steve Bowling.

Mr. WALBERG. Steve Bowling. I understand you told the committee staff that you expressed that frustration and what was his response?

Ms. HOFACRE. He was just saying that he was waiting on Washington, and that he had—he was just waiting on them.

Mr. WALBERG. I understand you switched positions in October of 2010, that's correct?

Ms. HOFACRE. Yes, sir, that is correct.

Mr. WALBERG. What caused you to switch positions?

Ms. HOFACRE. I mean, it was the frustration of working on this project. Like I may have previously said, I was getting more and more Tea Party applications. I was also getting applicants—applications with any kind of political or legislative activity, and I was tasked to do Tea Parties, but I think I said in my previous interview that I became a dumping ground probably around August of 2010, so I was seeing every case with any inkling of any kind of political or legislative activity.

At the same time, I was getting slammed with phone calls from taxpayers who seemed to have a legitimate, you know, right to complain about the process because they deserve some kind of answer at that time. And that was 3 years ago.

Mr. WALBERG. What happened to the Tea Party cases in your queue when you transferred?

Ms. HOFACRE. They were transferred to another agent.

Mr. WALBERG. Who was that agent?

Ms. HOFACRE. It was Ron Bell.

Mr. WALBERG. And Ron Bell, do you know if he was able to make any progress on these cases?

Ms. HOFACRE. From what I understand, no.

Mr. WALBERG. Did you have any contact with him over these cases subsequent to your transfer?

Ms. HOFACRE. Just, I had—I was still receiving telephone calls from taxpayers, so——

Mr. WALBERG. On these issues from taxpayers to you?

Ms. HOFACRE. Right, so for about a few months after I changed, so I would call him and give him the name of the applicant and the contact number to have him call them and tell them what was going on.

Mr. WALBERG. Did he indicate to you whether they continued in a holding pattern?

Ms. HOFACRE. I was under—I was led to believe they were in a holding pattern. I believe he did say that.

Mr. WALBERG. And these were just Tea Party cases, right?

Ms. HOFACRE. In October of 2010, that is correct.

Mr. WALBERG. What is a pink slip?

Ms. HOFACRE. Sir, a lot of these organizations, they all have various activities, but a couple of the applicants would have these email blasts on their Web sites, and you could send a pink slip to your Congressman or your Senator, however——

Mr. WALBERG. These were Tea Party groups?

Ms. HOFACRE. Yes, sir, they were Tea Party group Web sites.

Mr. WALBERG. So were you to select out these pink slips, organizations?

Chairman ISSA. The gentleman's time is expired. The gentlelady may answer.

Ms. HOFACRE. Sir, I mean, that was just one of their activities. I mean, if their activity was in the file, I would ask about it.

Mr. WALBERG. Well, I guess I just wonder what relevance that is to IRS, Mr. Chairman. Could I ask Ms. Hofacre to answer that?

Chairman ISSA. If the gentlelady would answer and then that's the end.

Ms. HOFACRE. Okay, so like, we keep saying it is facts and circumstances and our job was to determine, and for me to get the information to help determine whether or not they were primarily social welfare or political, and that was just one piece of the pie.

Chairman ISSA. Okay, thank the gentlelady. I thank you.

The gentlelady from Illinois, Miss Kelly.

Ms. KELLY. Thank you, Mr. Chair.

Mr. Hull, I understand that you were originally assigned two Tea Party cases in April of 2010 and then had those cases transferred away from you in August of 2011. Is that correct?

Mr. HULL. Yes, that's correct.

Ms. KELLY. Were you given any special instructions on how to work those cases?

Mr. HULL. No, I was not.

Ms. KELLY. Did anyone ask you to give them special attention?

Mr. HULL. No, no one asked me to give them special attention.

Ms. KELLY. When you sat down with the committee in June of 2013, you told staff that you asked for a special card to be drawn up so that you could put your time into that particular place coordinating Cincinnati cases. Can you explain what you meant by this?

Mr. HULL. Each time we get a case, there is a—you get a card saying this is your case, and you are working it. Because I knew I would be spending time on coordinating Tea Party cases with Ms. Hofacre, I asked that card be made up so that when I did talk to her, I could put my time correctly as to what I was doing.

Ms. KELLY. Okay, did taking these cases on add a significant burden to your workload?

Mr. HULL. Yes, it did.

Ms. KELLY. Did they add to the many responsibilities that you already had?

Mr. HULL. Yes, they did.

Ms. KELLY. I want to ask about the process of having the cases transferred away from you to a different tax law specialist, who identified herself to the committee as a Republican. Mr. Hull, do you know why these cases were transferred from your inventory to that of the other tax law specialist?

Mr. HULL. I was never told the reason.

Ms. KELLY. Never told. Were they transferred away from you in order to give them extra scrutiny or to further delay them?

Mr. HULL. I have no knowledge of that.

Ms. KELLY. According to evidence gathered by the committee, it appears that these cases were transferred so they could be—they would be worked more efficiently. Mr. Hull, a manager in the Technical Unit acknowledged your experience in working on 501(c)(3) applications, but told the committee that you were not moving fast enough on these cases. Specifically, he said, "it was taking longer time than I would expect for someone at his level." He told committee staff that the cases you were working had been, "stagnant

for a year and a half, so he and his manager decided to reassign the cases."

Ms. Hofacre, you told committee staff that at first Mr. Hull was, "more timely," but as the months dragged on, he became less timely and nonresponsive. Is that accurate?

Ms. HOFACRE. Yes, ma'am, that is.

Ms. KELLY. Mr. Hull, did you know that your managers, and Ms. Hofacre wanted you to move more quickly on these cases?

Mr. HULL. I don't believe—I can't remember them ever expressing that to me.

Ms. KELLY. As we can see, the original Tea Party cases were not transferred within the Technical Unit, so they would be delayed and given extra scrutiny. Instead, the opposite was true. These cases were transferred away from Mr. Hull where they were a burden on his already heavy workload to another tax law specialist in order to ensure that they would be processed more efficiently. And thank you both.

Mr. CUMMINGS. Does the gentlelady yield?

Ms. KELLY. I yield.

Mr. CUMMINGS. I just want to pick up on one thing, Mr. Hull, and I want to thank the gentlelady for yielding. So your cases were transferred to a Republican, is that what they just said?

Mr. HULL. I have no knowledge of what Ms. Goehausen's political affiliation was.

Mr. CUMMINGS. And you said you had not received any complaints about your work speed or anything like that?

Mr. HULL. Not that I can recall, sir.

Mr. CUMMINGS. And Ms. Hofacre, you never complained to him about his work speed or anything did you?

Ms. HOFACRE. No, I did not.

Mr. CUMMINGS. Okay, and again, when you look at all of this, when you are trying to figure out, Ms. Hofacre, what part of the case is, I mean organization's work is political, and which part is for general welfare, is that a complicated situation?

Ms. HOFACRE. Yes, sir. It's 51 percent.

Mr. CUMMINGS. Uh-huh, and how do you do that?

Ms. HOFACRE. Again it's facts and circumstances.

Mr. CUMMINGS. So you got to really go through each case very carefully?

Ms. HOFACRE. That is correct.

Mr. CUMMINGS. Would you agree with that, Mr. Hull?

Mr. HULL. Yes, I would.

Mr. CUMMINGS. So you had gone through the cases and looked through them very carefully, Mr. Hull?

Mr. HULL. Yes, I did the cases I had.

Mr. CUMMINGS. The factual patterns of each one?

Mr. HULL. Of the two cases that were assigned to me, yes, sir.

Mr. CUMMINGS. And what did you go through to get to your conclusions?

Mr. HULL. I did research. I went to their Web site. I looked for prior precedents as to how cases like this may have been handled in the past to try and decide how we would put—what my recommendation would be.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Chairman ISSA. Thank you.

We now go to the gentleman from Oklahoma, Mr. Lankford.

Mr. LANKFORD. Thank you.

And I thank both of you for being here. You know very well, because you have heard from people, that when others talk about applications and groups, these folks have names and faces. Some of them live in my district, some of the individuals that waited a very, very long time to give a response, so I appreciate both of your work and your diligence through the process on this.

Mr. Hull, I understand that the Tea Party test cases were a sensitive case report, is that correct?

Mr. HULL. A sensitive case report was sent up every month, yes, sir.

Mr. LANKFORD. Okay, I want to ask for the slide. I think we have one of those that staff has requested. Is this the—I'm not sure if you can tell from where you are, but does this look like one of the sensitive test case reports?

Mr. HULL. I can't actually read anything, but the form looks familiar.

Mr. LANKFORD. Yeah, the form looks familiar to you. We will try to get a copy of it to you. The top part of it seems to have just a template information, and then the middle to the bottom of it seems to be filled in. Let me read some of the stuff that's in it. When it says, "the case or issue summary," it says: "The various Tea Party organizations are separately organized, but appear to be part of a national political movement that may be involved in political activities. The Tea Party organizations are being followed closely in national newspapers, such as The Washington Post, almost on a regular basis."

Further down, it says this: "Met with J. Kindell to discuss organizations two and three, and service position. Mrs. Kindell recommended additional development activities, i.e. The activities then forwarded on to the chief counsel."

Later on, it says: "Coordination between HQ and Cincinnati is continuing regarding information letters through applicant's exemption under 501(c)(3) and 501(c)(4)."

Mr. Hull, does this sound like the document that you had created there?

Mr. HULL. Yes, it does.

Mr. LANKFORD. Did someone instruct you to create a sensitive case report for Tea Party cases?

Mr. HULL. My manager, Mr. Shoemaker, asked me to prepare one.

Mr. LANKFORD. Okay, well, I need to ask that question. At one point, you write into this, "Met with J. Kindell to discuss organizations two and three and service position." What did you mean by discussing "service position"?

Mr. HULL. Whether or not the organization— the facts would go to exemption, or denial.

Mr. LANKFORD. So trying to make a broad decision on that, you are waiting on decisions on the—on a broader case because I know you have said a lot they say case by case, and you pushed back on saying this can can't be a template response because each case is

different. So I'm trying to determine the service position, what that might be in that conversation.

Mr. HULL. Well, at this point the service position was going to be decide, I thought, by chief counsel. I was—I had given my recommendations. And I never received back one way or the other whether either recommendation was acceptable to the higher ups.

Mr. LANKFORD. So you are continuing to wait on the Counsel's Office to be able to give your response back so that you could finish up these cases. You are waiting on a service position, not only just two and three, not only these two individual sensitive test cases that you are working with, but also trying to figure out what is going to be the broader perspective as well?

Mr. HULL. If we were able to tell from the facts and circumstances of each particular case whether they should or not be recognized as exempt, then I could be able to tell Ms. Hofacre, that yes, if this organization was recognized as exempt and sent her the file if she so desired, so that she could find out what the story was. Or, since—if she was transferred, it would have gone to Mr. Bell.

Mr. LANKFORD. Okay, but that's waiting on Counsel's Office to be able to respond back to you to be able to get that back to them.

Mr. HULL. Yes, sir.

Mr. LANKFORD. Okay, aside from the sensitive case reports that you created for the three Tea Party applications, did you create sensitive case reports for any other political advocacy cases between March 2010 and July 2011.

Mr. HULL. Not that I'm aware of, sir.

Mr. LANKFORD. You had mentioned earlier as well, "further review is extremely rare." What did you mean by that?

Mr. HULL. Usually, if my reviewer agrees with me, the case can go to the supervisor for signature. Usually, it's—most cases only last that far, application cases. Some application cases go further up to Ms. Kindell or someone else and some go to chief counsel.

Mr. LANKFORD. Okay, but in this case, the reviewer agreed, is that correct, or——

Mr. HULL. She neither agreed or disagreed. She just said that it should be forwarded.

Mr. LANKFORD. It was just a hold on it. You also mentioned Lois Lerner at some point came in and said to some kind of training environment that these cases need to be referred to as advocacy applications, not Tea Party applications.

Mr. HULL. That's correct.

Mr. LANKFORD. Was that for all of these political or just for these particular Tea Party groups?

Mr. HULL. Ms. Lerner seemed to indicate that any time we should use the word advocacy as opposed to Tea Party.

Mr. LANKFORD. Not use Tea Party anymore, just call them advocacy groups and——

Mr. HULL. Correct.

Mr. LANKFORD. —but you knew that she was referring to the Tea Party groups. Just say said, don't say that; say advocacy applications only?

Mr. HULL. Yes, sir.

Mr. LANKFORD. Thank you, I yield back.

Mr. JORDAN. [Presiding.] I thank the gentleman.

Ms. Lujan Grisham.

Ms. LUJAN GRISHAM. I want to talk about—I'm way over here. I'm sorry, you guys are going to break your necks getting all the way to the end of the hearing room. But it is my understanding that in the 2 years following the Citizens United decisions—decision which allowed social welfare organizations to directly spend money on campaign activities, the number of applications for 501(c)(4) status nearly doubled.

In the testimony that I have heard today and in previous hearings, it becomes clearer to me that there is no political motivation, but there is confusion, at best, about what you do about the facts and circumstances review to figure out whether more than 49 percent of a 501(c)(4)'s funding has been spent directly on political activity. And following the line of questioning by my colleague from New York, Representative Maloney, I have such a bill that says that the 1959 congressional law says, exclusive, that the IRS that the Treasury ruled later that said you can do 49 percent should never have been allowed, that now we have what is a disorganized, at best, complete mess, and I agree with this committee that however you are objectively trying to take subjective information and identify whether or not there has been a violation, has caused grave concerns by both—by this committee in particular.

I think we should go back to exclusive, and the point that the chairman raised that they won't be able to advocate is not true, that in fact as long as they are taking the positions, 501(c)(3)s are limited, and 501(c)(4)s are not, as long as they are taking an advocacy position in line with that organization, like the Cancer Society, or the Muscular Dystrophy Society, but engaged in broad political activity should not be allowed.

You answered my colleague's question that, Mr. Hull, that that would certainly simplify this issue and allow the IRS to determine clearly and definitively who meets the standard for a 501(c)(4) and who does not. Correct?

Mr. HULL. It is very difficult to be able to say that an organization is involved 51 percent of their time in social welfare activities. There is no bright line that defines it, and it's the facts and circumstances, and they usually fall one way or the other, but there is no bright line at the present time.

Ms. LUJAN GRISHAM. And if they can still follow their basic 501(c)(4) status, which means they can advocate their position and do their social welfare work, disengaging them from political activity should not harm those organizations. And is it also true if you want to engage in political activity, you can have a 527 or establish a super PAC, that there are many clear organizational structures that are not tax exempt that would allow you to engage directly in political activity. True?

Mr. HULL. There are such organizations, yes.

Ms. LUJAN GRISHAM. And in those organizations, those donors would have to be disclosed. Correct?

Mr. HULL. I do not know the answer to that question.

Ms. LUJAN GRISHAM. I believe that's correct. In that setting, it would be managing those efforts, just like Members of Congress are required to do? I think that's correct as well.

And the point being that it seems, based on the testimony today and prior testimony, that the clearer way forward if we're going to solve the problem, which seems to me to be what we should do from here in out is that we should solve it, let's make the 501(c)(4)'s go back to exactly what Congress intended in 1959. They're exclusively for the purpose of social welfare.

Mr. Chairman, I yield back the rest of my time.

Mr. JORDAN. I thank the gentlelady.

The gentleman from Tennessee, Dr. DesJarlais, is recognized.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

And thank you both on behalf of the people of Tennessee's Fourth District and people across America. They're anxious to get to the facts on this case, and this case it not going away.

One of your colleagues, Ms. Lerner, testified here briefly, and she proclaimed that she was innocent and did nothing wrong, and that very well may be the case, but I also believe that she knows a lot more, possibly a lot more than even the two of you, but yet she did not sit there and do what you're doing and testify.

The big unanswered questions of all these hearings still is, why? You know, why were these groups targeted? And they were targeted. Mr. Werfel yesterday was kind enough to be one of the first to admit that the IRS did target conservative groups. Mr. Shulman, Miller and others were reluctant to say that.

So do either of you have an opinion onto why these groups were targeted in this fashion, with your 62 years of combined experience?

Mr. HULL. I have no—I—I can't answer that question. I have no idea why they were targeted.

Mr. DESJARLAIS. Have you ever seen anything like it before?

Mr. HULL. There—there were somewhat similar instances at one time, but that was a long time ago, and I'm afraid my memory is very dim about that.

Mr. DESJARLAIS. It wasn't, like, 40 years ago, was it?

I—Ms.—Ms. Hofacre, go ahead.

Ms. HOFACRE. I wasn't aware of any situation that was—that—where applications were treated in this fashion.

Mr. DESJARLAIS. Okay. So pretty unusual. The other question is who. And we're starting to get an idea of who, when we had other folks here, Mr. Shulman. I assume that some of the people you've named today probably do interact with the commissioner. I don't know how high up they are, but do they actually interact with the commissioner, some of your bosses?

Ms. HOFACRE. I would imagine so. I mean——

Mr. HULL. I have no knowledge of——

Ms. HOFACRE. I mean——

Mr. HULL. —of their—of their——

Mr. DESJARLAIS. Okay. Their testimony a while ago, they didn't know anything; they just knew that it was a couple of rogue agents in Cincinnati. That was the story. And I think we've dispelled that rumor. So we're still trying to find out who.

And the President, you know, may not know anything about why this happened, but we do know, I think we proved today that one of his political appointees did know. Would you both agree with

that? That this was going on, that this was being—this targeting was going on?

Ms. HOFACRE. I have no factual basis to agree or disagree.

Mr. DESJARLAIS. Okay. The chief counsel is a political appointee, correct?

Ms. HOFACRE. From what I understand, that is correct.

Mr. DESJARLAIS. Is that your understanding, Mr. Hull?

Mr. HULL. Yes.

Mr. DESJARLAIS. And you both have testified that these cases were sent to Chief Counsel's Office?

Mr. HULL. Yes.

Ms. HOFACRE. I was just a made aware of that recently.

Mr. DESJARLAIS. Okay. So, at any rate, there does seem to be somebody who doesn't want the truth to come out, because if there was nothing wrong done here, then we wouldn't be sitting here today, we wouldn't continue to have these hearings. Do you have agree with that?

Mr. HULL. I have no knowledge of such a situation, sir.

Mr. DESJARLAIS. Okay. Did you have a special expertise, Ms. Hofacre, in this area of Tea Party organizations or this type of case you were asked to do?

Ms. HOFACRE. I had no specific expertise in political organizations.

Mr. DESJARLAIS. Any idea why you were assigned that?

Ms. HOFACRE. Oh, at the time, it was identified by management as an emerging issue, and I was the emerging—emerging issue coordinator, so consequently, I was assigned the cases.

Mr. DESJARLAIS. As you were doing these cases, both of you, did it ever dawn on you that this was kind of strange, there's something weird going on here, that this is abnormal, you know, maybe I should suggest this to someone?

Ms. HOFACRE. I did. I think that's—the fact that I pursued another job is evidence of that.

Mr. DESJARLAIS. Mr. Hull, did you find this strange?

Mr. HULL. I approached it as two organizations that have—of which I was supposed to determine whether or not they were exempt. I did not go in any further type of speculation.

Mr. DESJARLAIS. So you felt you were given an assignment, you were just doing your job?

Mr. HULL. Yes, sir.

Mr. DESJARLAIS. Okay. Did either of you think it was strange the type of questions they were being asked? There were some pretty unusual questions asked. Like donor information, do you think that that was inappropriate?

Mr. HULL. I think——

Ms. HOFACRE. I—go ahead.

Mr. HULL. I think they were inappropriate. And when I learned of that, I did talk to somebody and say that question should not be asked, because a (c)(4), it doesn't really matter where the money comes from. It's what the organization's activities are.

Mr. DESJARLAIS. Wouldn't it make—as you were asked earlier, wouldn't it make your lives a lot easier if someone within the IRS, if this was designed within the IRS to target these groups, would just step up and say, you know, I did this. Or even if the President,

somebody—if the President didn't know about it, wouldn't it make life easier if someone on the president's team who made this decision and sent it down to you would just step up and say, I did this, so the American people can start to regain the credibility that they deserve from an agency that expects so much of them?

Ms. HOFACRE. Sir, I cannot comment on that.

Mr. DESJARLAIS. Okay.

Mr. HULL. I wouldn't be able to comment either, sir.

Mr. DESJARLAIS. Okay. I know that you guys are very brave to come forward. And really you're just telling the truth, and that's all we're asking from other people who come forward as well. So let me just say we very much appreciate that. And we hope for the sake of the country and everyone else that we do get the bottom of this, because there's obviously something to be determined. And thank you for your help.

I yield back.

Mr. JORDAN. I thank the gentleman.

We'll now go to the gentlelady from Illinois, Ms. Duckworth.

Ms. DUCKWORTH. Thank you, Mr. Chairman.

Mr. Hull, thank you for your years of military service in Vietnam.

And of course Ms. Hofacre, for your over 13 years of service in the army.

Mr. Hull, I would like to ask about the involvement of the IRS Office of the Chief Counsel in this process. It's my understanding that the IRS Office of the Chief Counsel sometimes reviews applications for tax exempt status in order to provide legal advice. Is that correct?

Mr. HULL. Yes, ma'am.

Ms. DUCKWORTH. It's also my understanding that all 501(c)(3) denials are reviewed by the IRS Office of the Chief Counsel as part of standard procedure. Is that correct?

Mr. HULL. I believe that is standard procedure, yes.

Ms. DUCKWORTH. Okay. In this case, your boss asked the Chief Counsel's Office to review the two Tea Party cases you were working. Did you agree with that decision?

Mr. HULL. I agreed the cases should go to the chief counsel, yes.

Ms. DUCKWORTH. Okay. Thank you. You know, we have talked to a number of your colleagues who agreed with the decision to obtain advice on these cases from the Office of the Chief Counsel. For example, the committee spoke with a tax law specialist who took over the Tea Party cases that you had been working, and you'd established that your workload was heavy; she took those over. She, in fact, has identified herself as a Republican to this committee, and she told us that on some issues, it was common to ask the IRS Chief Counsel's Office for assistance and to review applications for tax exempt status. And I just want to quote what she said. And she said, "from my experience, it's been cases, applications that have received some media attention or that, like, in the (c)(4) instances, the law is really murky, those have been my experiences with the cases that I've had sent to them." And to "them," she means the chief counsel.

Mr. Hull, do you agree with your colleague that the cases that sometimes get sent to the chief counsel, the ones that are murky, that are difficult, that need further clarification?

Mr. HULL. I don't believe I can comment on—on what reasons they—what reasons they gave to send to chief counsel. I'm not aware of—of those particular murky things.

Ms. DUCKWORTH. When you send cases to—when your cases that you've worked on that have gone to chief counsel, you said that if they're denied, then they go to the chief counsel. Were there other cases in your time that also went to chief counsel for further clarification?

Mr. HULL. I don't recall any that—I believe the (c)(3) questions are going up if they're denials, because chief counsel would have to defend them, and that's why they go up there.

Ms. DUCKWORTH. I understand. Okay. Do you have any reason to believe that your colleague who took over your two cases is biased against Tea Party groups?

Mr. HULL. I have no knowledge of that at all.

Ms. DUCKWORTH. Thank you. We also spoke, the committee spoke to an attorney in the IRS Chief Counsel's Office who attended a meeting about the two specific Tea Party cases and assisted with drafting guidance for the development of political advocacy cases in 2012. And we asked him whether it was appropriate for the office of chief counsel to review two of these two Tea Party cases, and he said this: "It's customary, it would be—certainly be customary, it makes perfect sense that—I mean, you see, we have seen this situation before where they have a group of cases that they would send over sometimes to look at."

Mr. Hull, do you disagree with your colleague?

Mr. HULL. I don't think I have enough knowledge to understand what—what he was getting at. My two cases, I—that went over to chief counsel, I'm not sure how long it had been since I'd sent a case to chief counsel.

Ms. DUCKWORTH. Okay. We also spoke with an employee who served as the Exempt Organizations Technical Unit Group manager in Washington, D.C., and this employee said it was quite typical to send to counsel cases that were particularly difficult or there was felt to be a need for further review of the case.

Do you agree with the colleague—with this statement?

Mr. HULL. I think that person would have had more knowledge of those cases than I. I'm not aware of all the cases that may or may not have gone to chief counsel.

Ms. DUCKWORTH. Okay. Mr. Hull, do you have any reason to believe that this decision to have the IRS Chief Counsel's Office review Tea Party cases was motivated by political bias?

Mr. HULL. No, I do not.

Ms. DUCKWORTH. And so it seems to me that seeking advice from one of the 1,600 lawyers in the IRS on a complicated legal question seems reasonable. And numerous witnesses have told us that this was not a stalling tactic or evidence of a political bias, but in fact, at this time, it was common that if you had questions, that's why legal counsel was there, was to refer and ask them additional clarification. And, of course, you did talk about the fact that if they are denied, then they go right to the legal counsel.

I, too, want to thank both of you for being here. I know that you were both moved off of these cases, Ms. Hofacre, because you went on to another position. Mr. Hull, your two cases when on to another employee. So sometimes when we're talking about these rogue agents, we're not necessarily talking about you, but that there are many people who were in this chain of confusion that led to these cases being delayed for a long period of time. Thank you so much for being here.

I yield back, Mr. Chairman.

Mr. JORDAN. The gentleman from South Carolina is recognized.

Mr. GOWDY. Thank you, Mr. Chairman.

I have been fascinated by, and not necessarily in a good way, by the evolution of the defense in this case.

Mr. Chairman, initially it started when Lois Lerner disclosed this information in a fashion most calculated to be ignored, with a planted question at some boring conference.

And then the second iteration of this defense was blaming two rogue agents in the Ohio field office.

And, Mr. Chairman, make no mistake, Jay Carney advanced and furthered that narrative, and he did so intentionally. You know, Mr. Carney's willingness to say, "I don't know," is exceeded perhaps only by his willingness to acknowledge that he appreciates the question, but he didn't say, "I don't know." He advanced the narrative that two rogue agents were responsible for this insidious discriminatory practice.

And then we had colleagues that said this matter was closed months ago, Mr. Chairman, the matter was closed.

And then the new iteration of the defense is, well, at least the White House isn't directly involved, as if that's the new standard for propriety in this town, that at least the White House directly didn't know about it. So that's our defense.

And then the defense, Mr. Chairman, morphed into this, the most novel of all defenses, that the IRS is too poorly managed to be capable of concocting a scheme this sophisticated. That was the defense, that my client's too dumb to have committed this crime.

And then, Mr. Chairman, we moved to the most recent defense, which is that, no, we didn't just improperly target conservative groups; we improperly targeted all groups. So while we may be guilty of improper conduct, we're not guilty of discrimination, because we did it against people at both ends of the political spectrum. So—so that's our defense.

And now to see the inspector general attacked. And Mr. Chairman knows it was an axiom in court, if you had the facts, pound the facts; if you had the law, pound the law; if you didn't have either one, pound the judge. And what has been said about Mr. George is reprehensible, and I can't wait until he has an opportunity to defend himself.

But let me tell you what else is reprehensible, Mr. Chairman, Lois Lerner sat where those two witnesses sit today several weeks ago, and these two witnesses put on a uniform and fought and defended this country and the Constitution so she could hide behind the Constitution, invoke her Fifth Amendment right, but only after she blamed them. She blamed two rogue agents in Ohio and then didn't have the courage that these witness—I ought to just be

thankful any time IRS agents don't invoke the Fifth Amendment. I ought to be glad that anyone's willing to come before a committee of Congress and testify, but to have these two people's reputation or whoever she was talking about besmirched by someone who doesn't even have the courage to come do what they're doing?

Mr. Hull, I appreciate your modesty. It's not something we see very often in this town, but you have been in service to the IRS for exactly as long as I've been alive, 48 years, so whether you want to be called an expert or not, you are one, by virtue of your training and your expertise and your education.

And so are you, Ms. Hofacre, you're both experts. And if we were in a court of law, the defense would stipulate that you're experts. They wouldn't even challenge it.

So I've heard about the complexities and I've heard about the novel issues, but—but, Mr. Hull, there's nothing novel about political activity. It's been going around since before the country was founded. So that part of your analysis, what was novel about that? What's novel about determining political activity?

Mr. HULL. Each case is looked at. It depends on the facts and circumstances of each particular case.

Mr. GOWDY. And you've done it a hundred times, times a hundred times, right?

Mr. HULL. I'm—I'm not aware of how many political cases I may have worked. That's——

Mr. GOWDY. Is it because you can't count that high? I mean, it's a lot, right?

Mr. HULL. I can't remember that far back, sir.

Mr. GOWDY. Well, I can't either. I can't either. But there's nothing new about political activity. And our numeric code, we've had since, Lord knows when. I think it's Arabic, but—but ascertaining 50 percent is not a new phenomena.

So—so, Mr. Chairman, I'm out of time. I'm just vexed by the complexity that our colleagues on the other side of the aisle talk about. It's political activity; 50.1 percent will disqualify you. And the Tax Code's been around forever, so what's new about this? Why did we have to have test cases? Why did we have to have Washington involved on what strikes me as a pretty simple analysis. But I'm out of time, and I yield back to the chairman.

Mr. JORDAN. Thank the gentleman.

The chair now recognizes Ms. Norton. I'm sorry. I didn't know which of the three were next on the list.

Ms. Norton, you're recognized, the gentlelady from D.C.

Ms. NORTON. Thank you, Mr. Chairman.

Without trying to answer the gentleman's question about complexity, there could be a great deal of complexity when you tell someone that something has to be 51, "political." The most pregnant word in the English language is the word political, what is political and what is not political.

And I want to congratulate these two civil servants for having the courage to come forward before this committee. These are civil servants of the IRS, which this Congress has cut by 30 percent. President won't sign that. It will not get through the Senate. But out of retaliation somehow against what we are told is targeting by agents, rogue agents. I don't see any rogue agents. I see civil serv-

ants who are heros and who are trying to—to deal with the complexities, and it has lots of complexities, that come before you every day. And I congratulate you for the way you do it.

I don't see targeting, even. I don't see confusion. You get into targeting, we're into one to one. This is what I see, and I want to—my question really goes to it. Forgive me for getting out the statute, but it says, concerning these social welfare organizations, that they must be operated exclusively for the promotion of social welfare, and they say if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Then it goes on to define what it means by "exclusively" to say an organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

I say, I wouldn't want to be in your position to look first at the words "exclusively," then "primarily," and then trying to figure it out.

I cite that because I don't see what so many are looking for here, and I want to find it if I can. So I look to see, well, why would anybody pick out anybody. And I noted that after Citizens United—and remember, we're talking about a 501(c)(4), so what do you get from wanting to be a 501(c)(4)? Well, you don't get any tax exemption, but you don't have to disclose your donors and you can raise apparently unlimited funds, if I'm correct on that. Is that true, you can raise unlimited funds for a 501(c)(4), Mr. Hull?

Mr. HULL. Yes, ma'am.

Ms. NORTON. Now, there was a surge in spending, because the figures are in now on the surge in spending in the last campaign. Almost 85 percent of that surge, or that—those funds for—for 501(c)(4) organizations went to—and others, went to organizations which have conservative viewpoints.

Now, it—after Citizens United, it would not be unusual, would it, for those who wanted to spend a lot of money and had access to it, that is their right in this country, to take advantage of a court decision and come forward in the numbers that they had not done before. Could that not be reflected in seeing this large surge where you were assigned to look for—look at this special group called Tea Party-type applications?

Mr. HULL. Did you have a particular question, ma'am?

Ms. NORTON. Yes. Whether or not you think the—the opportunity for spending unlimited amounts of money opened the door for people who had that money to spend to come forward, or had access to it, to come forward and say, please give us this status which we have not had before? Wouldn't that—if you knew you could get funds in a way you had not thought of before, because you now can get unlimited funds, there would be reason to come forward and ask for the status that you had not done before?

Mr. HULL. I'm sure there would be.

Chairman ISSA. The gentlelady's time has expired. We now go to—but if there's a pending question anyone wants to answer, go ahead.

Ms. HOFACRE. Can we have a short break?

Chairman ISSA. We'll take a 5-minute break now. Thank you.

Ms. HOFACRE. Thank you.

Chairman ISSA. Stand in recess.

[Recess.]

Chairman ISSA. While people are taking their seats, I want to announce that we expect a series of votes. It is our hope that we will complete this panel by the time we leave for the votes. If we do, then we'll pick up the next panel afterwards.

I must also announce for members that by agreement with the minority, there will be concurrent—or concurrent full committee and subcommittee hearings, so it's your responsibility to go back and forth. And we will accommodate people as they come in to take care of that.

With that, we go to the—Mr. DeSantis.

Mr. DESANTIS. Thank you, Mr. Chairman.

Thank you to the witnesses for your time. You know, as I've been sitting here through this whole ordeal, one consistent theme has been the refusal of higher ups in the IRS to take any responsibility for the malfeasance within the agency. We had Douglas Shulman testify in front of this committee, and he said that while this impropriety happened on his watch, that he was not, in fact, responsible even though he was the IRS commissioner at the time. Lois Lerner, of course, famously blamed rogue agents in Cincinnati for illicit targeting. Even the White House press secretary, Jay Carney, falsely claimed that political targeting was perpetrated by line personnel in Cincinnati.

As the witnesses have explained today, the lack of response by the IRS to applications for tax exempt status effectively froze these Tea Party groups in place and was even worse than a denial, because the groups could not appeal a non-decision. And so I think it had a—a very tangible effect on these groups' ability to organize, but as I go through this, I keep coming back to Lois Lerner and her role in all this. It seems to me that she's left behind a trail of misinformation and obfuscation. As the testimony demonstrated today, Lerner deliberately misled the public and the Congress by blaming rogue agents in Cincinnati for something that she knew was being orchestrated from Washington, D.C.

And as the witness testified, this was akin to a nuclear strike against employees in Cincinnati. They were the ones that she wanted to throw under the bus. No responsibility for her; blame people beneath you who may not be able to defend themselves effectively.

And even worse than that, she tried to cloak the illicit targeting that she knew about by ordering that employees use, "advocacy groups," a neutral sounding term, in lieu of, "Tea Party," which of course denotes a conservative group.

And I just found it interesting that a couple years ago it was reported that she referred to thick IRS questionnaires, those being sent to somebody, as being, "behavior changers." Some of us would think that that would constitute harassment if it's being illicitly done, but for her it's a behavior changer.

So I think Lois Lerner needs to answer for her behavior. This committee found that she waived her Fifth Amendment rights when she testified in front of the committee. I think she should be required to testify.

As we get more and more information, it's becoming increasingly clear to me that if there were any, "rogue agents" during this or deal, that rogue agent was Lois Lerner.

That's all I have, Mr. Chairman. I yield back the balance of my time.

Chairman ISSA. Would the gentleman yield to me?

Mr. DESANTIS. Yes, sir.

Chairman ISSA. I want to take a point of privilege for a moment. Earlier, like many people from the chair, you say something and you take a shortcut. And I want to make sure I make something very clear. When I referred to my ranking member, who when we're not sparring over politics, he and I work very well together, I talked about effectively me thinks he doth protest too much as we debate the question of whether things not being rogue agents in Cincinnati but rather being in Washington at various levels that we're discussing here today, which include the—the Office of the Counsel and Lois Lerner, and I've been offended by my ranking member wanting to defend the White House, who I have not accused. But I took a shortcut in how I expressed it, and I want to make it very clear that when I talk about the little boy putting his hand in the cookie jar, I'm talking about the, I—what cookie jar? What hand? And that is something that I grew up with. It is intended to be about a small child, and in no way the use of "boy" or "little boy" to be anything else. Ranking member and I enjoy a personal relationship that is by definition strained because of our jobs, but not because of how we respect each other.

So, Mr. Cummings, I want to make it very, very clear that that difference of opinion should always be expressed in a way that you understand, that you and I disagree sometimes about policies, but never about our individual roles. And—and I want to make sure that's clear, because the press, I think, took the use of little boy in a way that would certainly never come out of my thought, much less deliberately out of my mouth.

And to the extent that anyone gets offended, Mr. Cummings, I certainly do not want it to be you.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I really do appreciate your words. Words can certainly be taken out of context and taken and twisted, whatever, but I do appreciate it and I know you mean that.

We—like you said, we are—we differ sometimes on our views, but at the end of the day, the respect level is still extremely high, and so I really appreciate that.

Chairman ISSA. Thank you, Mr. Cummings.

I thank the gentleman.

The gentleman from Illinois, Mr. Davis, has the full 5 minutes.

Mr. DAVIS. Well, thank you very much, Mr. Chairman.

And I want to thank our witnesses for not only their stamina, but also for the—what I call their careful, analytical and professional way in which they have responded to many highly subjective questions. And so I appreciate both your—your long service to the agency as well as your professionalism.

Yesterday, the principal deputy commissioner of the Internal Revenue Service, Danny Werfel, testified before this committee that progressive groups received treatment from the IRS that was

similar to Tea Party groups when they applied for tax exempt status. In fact, Congressman Sandy Levin, who is the ranking member of the Ways and Means Committee, explained these similarities in more detail. He said the IRS took years to resolve these cases, just like the Tea Party cases. And he said the IRS, one, screened for these groups, transferred them to the Exempt Organizations Technical Unit, made them the subject of a sensitive case report, and had them reviewed by the Office of Chief Counsel.

According to the information provided to the Committee on Ways and Means, some of these progressive groups actually had their applications denied after a 3-year wait, and the resolution of these cases happened during the time period that the inspector general reviewed for its audit. Unfortunately, because the inspector general objected to the release of this information to the public, I can only ask you about these groups only in a vague manner.

Ms. Hofacre, were you aware of the existence of any groupings of progressive organizations within the Determinations Unit?

Ms. HOFACRE. Sir, when I was involved in the project in 2010, I was not aware of any such grouping.

Mr. DAVIS. Were you aware of how these cases were being processed?

Ms. HOFACRE. In 2010, no, I do not have any awareness of how they were being processed.

Mr. DAVIS. Did you know that they were being treated in a manner that was similar to your Tea Party groups?

Ms. HOFACRE. I have no knowledge of that, sir.

Mr. DAVIS. Mr. Hull, let me ask you. I understand that you were not assigned any of these progressive groups. Do you know who in the Washington Technical Unit was assigned these applications?

Mr. HULL. No, sir, I do not.

Mr. DAVIS. Do you have any information you can share with the committee about how such groups were screened or reviewed?

Mr. HULL. No, sir, I do—I cannot.

Mr. DAVIS. According to Ranking Member Levin, who has been able to review the names of these categories of groups, key terms to search for these groups are included in the screening workshop training's slide show from July of 2010. It appears from that document that screeners were told to; "Look for names like the ones for these groups as well as for the terms "Progressive" and "Tea Party" and "Patriot" and "9/12 Project."' Certainly from this document, it appears that the Tea Party groups were not treated differently than progressive groups; rather, they appear to be handled in a similar manner.

Mr. Hull, do you agree that in order to determine whether a group has been singled out and treated differently than its peers, it is important to review how all similarly situated groups were handled?

Mr. HULL. I think that's above my grade level, sir. I wouldn't be able to comment on that.

Mr. DAVIS. All right. But to me, based on the evidence before us, the inspector general's report did not tell us the full story of how the Internal Revenue Service handled applicants with political advocacy issues between 2010 and 2012. I hope that the reviews will provide relevant information and those corrections can be made.

I thank you again both.

And I yield back the balance of my time.

Chairman ISSA. I thank the gentleman. We're now going to complete our—as fast as we can as many as we can before we have to go to the vote.

At this point, I show Mr.—Dr. DesJarlais—I'm sorry.

Mr. Meehan, if you'd please go next.

Mr. MEEHAN. Thank you, Mr. Chairman.

And I want to thank you for your perseverance today, both of the witnesses. And I have struggled just to sort of find out as we continue to pursue, you know, what's happening with these Tea Party cases, I'd like to go back and put these things into context. I'm just trying to find out at a baseline how cases were handled normally, Ms. Hofacre, before—before Tea Party got put into—to your life.

So, first, you were working in a division that the responsibility for you was to make decisions about people who were applicants for these 501(c)(4) designations. Is that not accurate?

Ms. HOFACRE. Yes, sir.

Mr. MEEHAN. And in that period of time, you had to make decisions numerous times about the very characteristics that we've identified here, that would include the possibility that some of it might be political activity and some of it may be advocacy for their—for their activity, correct?

Ms. HOFACRE. Sir, I worked cases that had all different activities. I—I worked 501(c)(3)'s, all different tax exempt codes.

Mr. MEEHAN. And once you made those decisions, what did you have to do? When you made a conclusion that that passed muster, what happened then?

Ms. HOFACRE. Sir, we would have work papers and we would provide a summary of the case. We used the appropriate law and then come to some kind of conclusion. And then I would recommend approval to our manager, and then he would decide whether or not to sign off and approve the case.

Mr. MEEHAN. And if your manager approved and signed off on the case, what happened then?

Ms. HOFACRE. Well, if the case were not mandatory review, it—the applicant would get exemption, and they would get their letter. If it were mandatory review, it would go through another level.

Mr. MEEHAN. What creates mandatory review?

Ms. HOFACRE. Well, it can be manager designated. We have an internal revenue—internal revenue manual that designates numerous cases mandatory review?

Mr. MEEHAN. And that's what happened with the Tea Party cases at one point in time?

Ms. HOFACRE. It may have down the road after I left.

Mr. MEEHAN. Okay. But normally, you were able to make the recommendation. Your supervisor, presumably in Cincinnati, then approved it. And in the normal course of business, many of those cases then were—the exemption was granted, and they went on their way.

Ms. HOFACRE. That is correct.

Mr. MEEHAN. Okay. When—when—when you were making those calculations, there were questions you asked. Who designed the questions?

Ms. HOFACRE. Sir, the individual agent, myself, designed the questions based on the information typically in the file.

Mr. MEEHAN. And, once again, that was part of your—your analysis, but you weren't—nobody else was looking at the questions that you were asking to make that calculation, were they?

Ms. HOFACRE. Generally, that is correct.

Mr. MEEHAN. Okay. Now, when you were assigned this special class of cases that were now going to seek approval of—working on the Tea Party cases, is this the first time that you then had to automatically make sure that it went to EO Technical?

Ms. HOFACRE. Yes, sir, that would be correct.

Mr. MEEHAN. Now, when you met—asked the questions at the outset, did you design that questionnaire?

Ms. HOFACRE. Well, Mr. Hull had provided me copies of the letters he had sent to his applicants, and I used those and tailored them to my particular applicants' activities.

Mr. MEEHAN. And, Mr. Hull, did you design those to—all of the questionnaires that were used in the applications for the Tea Party?

Mr. HULL. With regards to those—the two cases that were assigned to me.

Mr. MEEHAN. Simply two cases?

Mr. HULL. Two cases.

Mr. MEEHAN. Okay.

Mr. HULL. I prepared a letter asking for additional information from the organizations. No one reviewed it. I signed it.

Mr. MEEHAN. Just a letter asking for additional——

Mr. HULL. Just a letter asking for——

Mr. MEEHAN. How complex was that letter? Was it a lot of issues that were being asked for?

Mr. HULL. I don't recall the exact number of questions, but usually it wasn't more than a page of questions or maybe a page and a half. It would depend on what the facts——

Mr. MEEHAN. Okay. A page—a page and page and a half.

Mr. HULL. It would depend on the circumstances, sir.

Mr. MEEHAN. Okay. Ms. Hofacre, did you get any other extensive questionnaires that were directed to you from Washington, D.C.?

Ms. HOFACRE. No, I did not.

Mr. MEEHAN. At that point in time, okay, you did not ask those questions. All right. When you forwarded these to Mr. Hull, then, which was EO Technical and it was your responsibility, Mr. Hull, to in all of the cases or in only in a few of these to make decisions on the recommendations that were made by Mrs. Hofacre with—with regard to Tea Parties?

Mr. HULL. In the beginning, when the first applications came in, there was a—there was a manager that overlooked it with me, and he decided at the end of the first group, he said he didn't need to see any more. So I—I looked at all the questions that Ms. Hofacre——

Mr. MEEHAN. And that changed? How did it change and when did it change?

Mr. HULL. How did—which change?

Mr. MEEHAN. Well, he decided that he didn't need to see any more, so I'm presuming that you then made determinations, sent

them back down to Cincinnati in the beginning, as you stated, with some of these cases, and that was the resolution, and it was either granted or appealed. Is that accurate?

Mr. HULL. I made suggestions to Ms. Hofacre on these letters that were to be sent out for information.

Mr. MEEHAN. And when did it change that there was a requirement for you not simply to send it back down to her with those recommendations, but that you had to send it two other places, including chief counsel for resolution?

Mr. HULL. I had to send the two cases to chief counsel to find out exactly what—what would be appropriate as far as they were concerned, at which point, it went—when I finally learned what was appropriate, then I would be able to tell Ms. Hofacre how she might want to tailor her questions.

Mr. MEEHAN. Okay.

Chairman ISSA. If the gentleman could wrap up.

Mr. MEEHAN. Yes. I—I want to thank you. I was just simply asking about routine process. Thank you.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Massachusetts, Mr. Tierney, who will complete this panel. And you will be excused following his questions.

Mr. TIERNEY. And I'll do it quickly. Thank you.

Just on the reform side of things, both of you have had an extensive history with the agency, and we thank you for your service and your experience, but let me ask you to put that experience to work. Do you have any suggestions as to how this process might be speeded and made to run more smoothly and to resolve some of the issues that bring us here today?

Mr. HULL. I never thought about suggestions in that regard, sir.

Mr. TIERNEY. I'm sorry?

Mr. HULL. I never thought about suggestions in that regard, sir, as to how it might go faster. It—it never occurred to me.

Mr. TIERNEY. Okay. Ms. Hofacre?

Ms. HOFACRE. Sir, there are so many unknown variables and facets to a question like that. I'm not in a position to give an answer.

Mr. TIERNEY. Okay. I only say it because, I mean, part of the problem, I mean, people thought they were getting delayed and delayed on that, and it seemed to me endemic to the entire system on that. So I didn't know if it was a lack of manpower, if it was a lack of clear guidance, or what it might be, but if you haven't thought about it, then you haven't thought about it. And I thank you.

I'll yield back my time.

Chairman ISSA. I thank the gentleman.

That allows us to dismiss the panel. I want to thank you for your years of service, and I want to thank you for your patience with, if you will—and I'm not trying to be—unkind, but we know you were asked the same questions over and over again. We know you heard the same speeches over and over again, but you have moved us in a decisive way toward our next level of investigation. And I did not expect to ask you to come back. I do expect you to enjoy your retirement, Mr. Hull.

And Ms. Hofacre, I hope your career is as long as you want to have it. Something tells me it may not be 48 years, but hopefully——

Ms. HOFACRE. No.

Chairman ISSA. —we have not diminished——

Ms. HOFACRE. It's all right.

Chairman ISSA. —your—your confidence in Congress.

Mr. Cummings.

Mr. CUMMINGS. I'll be very brief.

I actually want to thank both of you for your service and I thank you for being here.

Ms. Hofacre, I got to tell you, one of the most painful things that I've heard since I've been here is when you said that there were some threats or whatever to you and your family. You know, that—that is totally unfortunate. If there's anything that we can do, and I know the chairman joins me in that, and all our members, we want to make sure that we do what we can to help you.

And, again, to you Mr. Hull, thank you very much, and your testimony has been quite helpful. Thank you.

Ms. HOFACRE. Thank you.

Mr. HULL. Thank you.

Chairman ISSA. We stand in recess for the next panel.

[Recess.]

Chairman ISSA. The committee will come to order.

Thank you for your patience and indulgence during the panel and the recess.

We now welcome our second panel of witnesses. The Honorable Russell George is the—is Treasury's inspector general for tax administration. He comes today with Mr. Michael McCarthy, who is the chief counsel for Treasury inspector general for tax administration, in other words, your counsel, and Mr. Gregory Kutz, who is the assistant inspector general for Treasury inspector general for tax administration. In other words, you're the guy that digs into it.

Chairman ISSA. Pursuant to the committee rules, as you all know, and Michael particularly you know, would you please rise to take the oath?

Do you solemnly swear or affirm that the testimony you're about to give will be the truth, the whole truth and nothing but the truth.

Please have a seat. Let the record reflect that all witnesses answered in the affirmative.

Since I understand that there will only be one opening statement for all three of you, given by inspector general, we will not observe the 5 minutes. Take the time reasonably you need. You're effectively the only witness.

And, Mr. McCarthy, welcome back. I know that, for many years, you worked from this side of the dais for Mr. Towns and others, and that you wondered what it would be like on that side. Today you find out.

Mr. MCCARTHY. Thank you, Mr. Chairman. I look forward to it.

Chairman ISSA. Thank you.

The gentleman is recognized.

STATEMENT OF THE HONORABLE J. RUSSEL GEORGE

Mr. GEORGE. Thank you, Chairman Issa, Ranking Member Cummings and members of the committee.

Thank you for the opportunity to address specific issues that have been raised related to our report, published May 14th, 2013, on inappropriate criteria used by the Internal Revenue Service to identify tax exempt applications for review.

Our report included three key findings: first, that the Internal Revenue Service used inappropriate criteria that identified for review organizations applying for tax exempt status based upon their names or policy positions, rather than on tax exempt law and Treasury regulations; second, that the cases that the IRS referred for review as potential political cases experienced delays; and third, the IRS made unnecessary and burdensome requests for information.

On May 10th, 2013, at an American Bar Association conference held in Washington, D.C., Lois Lerner, the director of exempt organizations for the IRS at the time, stated, "Instead of referring to the cases as advocacy cases, they actually used case names on this list. They, the Determinations Unit in Cincinnati, Ohio, used names like Tea Party or Patriots, and they selected cases simply because the applications had those names in the title. That was wrong. That was absolutely incorrect, insensitive and inappropriate."

She also stated that some cases were delayed and unnecessary questions were asked, confirming the three key findings of our report. The story line based on Ms. Lerner's presentation was that the IRS had apologized for inappropriately targeting conservative organizations.

Ms. Lerner made her statements on May 10th, 2013, before our audit was completed and issued on May 14th, 2013.

It has been asserted that TIGTA concluded that the IRS inappropriately targeted conservative organizations. However, that narrative is based upon Ms. Lerner's statements, not on TIGTA's conclusions. It is imperative for me to emphasize that our audit never labeled groups as conservative or liberal.

TIGTA reviewed the process used by the IRS from May 2010 through May 2012 to screen cases for potential political campaign intervention, in other words, advocating for or against a candidate running for political office.

As of the end of May 2012, the IRS provided TIGTA a list of 298 organizations that it, the IRS, had selected for further scrutiny. The report focuses on the terms, "Tea Party, Patriots and 9/12, is at the—IRS provided us a document at the beginning of our audit that showed these were the terms they used to select the potential political cases.

I submit for the record a document that the IRS provided to my organization on May 17th, 2012, while we were still in the planning phase of our audit. This document is purported to be the language used in the "Be on the Look Out," otherwise known as BOLO listing, over time to describe potential political cases.

Mr. GEORGE. We focused our audit on the BOLO entries shown in this document precisely because the IRS represented that these were the criteria relevant to potential political cases. Furthermore,

the IRS provided us additional names and policy positions that were used to select cases, including Patriots and 9/12.

The scope of our audit included the process the IRS used to review applications for tax exemption from groups potentially involved in political campaign intervention. During the audit, our understanding was that the other BOLO entries were not used to select cases for this type of specialized review. As new information emerges, we are continuing to review whether this is accurate. In interviews, emails and documents, we found repeated discussions of the use of Tea Party and other related criteria described in our audit report.

New documents from July 2010 listing the term, "progressive," but noting that progressive are not considered Tea Parties were provided to TIGTA last week on July 9th, 2013. They were not provided during our audit, even though similar documents that "Tea Party," but not progressive were. I am very disturbed that these documents were not provided to our auditors at the outset, and we are currently are you're viewing this issue.

To follow up on the information that other terms like, "progressive and Occupy," appeared in various sections of the BOLO list, we conducted additional analyses to provide you, Members of Congress, with the data that we had due to the interest in this issue. However, we do not have full audit findings on the use of these other criteria.

With respect to the 298 cases that the IRS selected for political review, as of the end of May 2012, three have the word "progressive" in the organization's name; another four were used—are used, "progress," none of the 298 cases selected by the IRS, as of May 2012, used the name "Occupy."

I know you have questions, and so do we, on the other Be on the Look Out listings, but from the date of the May 17th, 2012, document until we issued our report 1 year later, IRS staff at multiple levels concurred with our analysis citing Tea Party, Patriot and 9/12 and certain policy positions as the criteria the IRS used to select potential political cases.

Although our audit was focused on the processing of potential political cases, we were concerned about the appropriateness of other criteria appearing in BOLO listings. We took prompt action after our report was issued to follow up on those concerns and communicated them to Congress, consistent with legal restrictions on the release of confidential taxpayer information. The names of the 298 groups and the majority of the information on the BOLO listings are return information, as defined under Title 26, United States Code, Section 6103, and thus TIGTA is prohibited by law from disclosing this information to members of this committee and to the public.

However, we did provide this information to the acting commissioner, Danny, or Daniel Werel, on May 28, 2013, and recommended that he review whether BOLO listings were still in use and whether they were appropriate. He has since announced that he has taken action on this suggestion and restricted the use of Be on the Look Out listings.

We also provided this information and briefed staff on the committees authorized by statute to receive tax information, the House

Committee on Ways and Means and the Senate Committee on Finance, in early June of 2013.

Our Office of Audit also referred the IRS's use of other BOLO listings to TIGTA's Office of Investigations for further review.

The letter from Ranking Member Cummings to the chairman, dated July 12th, 2013, states that I failed to disclose to Congress that we had no evidence of political motivation.

With all due respect, I believe the record shows otherwise. When I testified before this committee on May 22nd, 2013, Representative Cartwright inquired as to whether TIGTA saw any evidence that IRS employees were politically motivated in their creation or use of the inappropriate screening criteria. I stated unequivocally, "we received no evidence during the course of our audit to that effect."

In addition, when I testified before the House Committee on Ways and Means, on May 17th, 2013, Ranking Member Levin inquired, "did TIGTA find any evidence of political motivation in the selection of the tax exemption applications," I responded, "we did not, sir."

The letter from Ranking Member Cummings also states that I may have improperly prevented disclosure of relevant information. That is not correct. Career TIGTA and IRS attorneys independently determined that certain taxpayer information should be redacted. Following that decision, the IRS told us it had changed its mind about one BOLO entry. This was an interpretation that we requested additional information about, and our lawyers continue to have a dialogue regarding it.

It is important that I be clear on this point. None of this information has been withheld from Congress. TIGTA provided it in an unredacted form to the tax committees entitled to receive this information weeks ago.

Since the issuance of our report, on May 14th, 2013, Congress, the Department of Justice, the Internal Revenue Service and TIGTA have been reviewing the issues surrounding the IRS' processing of tax exempt applications. As such, we understand that additional questions may be raised and additional issues may need to be reviewed.

Permit me to conclude by saying that when Ms. Lerner revealed information on our unissued report on May 10th, 2013, her statements confirmed the findings in our report. In fact, as previously noted, we provided IRS officials with several opportunities to comment on our findings, and they consistently agreed that, "Tea Party," and related criteria described in our report were the criteria that the IRS used to select cases for review of potential political campaign intervention during the 2010 to 2012 time frame that we reviewed.

Chairman Issa, Ranking Member Cummings, members of this committee, this concludes my testimony.

[Prepared statement of Mr. George follows:]

Oral Statement – Committee on Oversight and Government Reform
July 18, 2013

Chairman Issa, Ranking Member Cummings, and Members of the Committee, thank you for the opportunity to address specific issues that have been raised related to our report published May 14th, 2013 on inappropriate criteria used by the Internal Revenue Service to identify tax-exempt applications for review.

Our report included three key findings: first, that the IRS used inappropriate criteria that identified for review organizations applying for tax-exempt status based upon their names or policy positions, rather than on tax exempt law and Treasury Regulations; second that the cases that the IRS referred for review as potential political cases experienced delays; and third, the IRS made unnecessary and burdensome requests for information.

On May 10th, 2013, at an American Bar Association conference held in Washington D.C., Lois Lerner, the Director of Exempt Organizations for the IRS at that time, stated, quote:

> "Instead of referring to the cases as advocacy cases, they actually used case names on this list. They [Determinations Unit in Cincinnati, Ohio] used names like 'Tea Party' or 'Patriots' and they selected cases simply because the applications had those names in the title. That was wrong, that was absolutely incorrect, insensitive, and inappropriate." End of quote.

She also stated that some cases were delayed and unnecessary questions were asked, confirming the three key findings of our report. The story line based on Ms. Lerner's presentation was that the IRS had apologized for inappropriately targeting conservative organizations.

Ms. Lerner made her statements on May 10th, 2013 before our audit report was completed and issued on May 14th, 2013.

It has been asserted that TIGTA concluded that the IRS inappropriately targeted conservative organizations; however, that narrative is based upon Ms. Lerner's statements, not on TIGTA's conclusions. It is imperative for me to emphasize that our audit report never labeled groups as "conservative" or "liberal."

TIGTA reviewed the process used by the IRS from May 2010 through May 2012 to screen cases for potential political campaign intervention; in other words, advocating for or against a candidate running for political office. As of the end of May 2012, the IRS provided TIGTA a list of 298 organizations that it—the IRS—had selected for further scrutiny. The reason the report focuses on the terms quote "Tea Party," "Patriots", and "9/12" unquote is that the IRS provided us a document at the beginning of our audit that shows these were the terms they used to select the potential political cases.

I submit for the record a document that the IRS provided to my organization on May 17th, 2012 while we were still in the planning phase of our audit. This document is purported to be the language used in the Be On the Look Out, otherwise known as BOLO, listing over time to describe potential political cases. We focused our audit on the BOLO entries shown in this document precisely because the IRS represented that these were the criteria relevant to potential political cases. Furthermore, the IRS provided us additional names and policy positions that were used to select cases including "Patriots" and "9/12."

The scope of our audit included the process the IRS used to review applications for tax exemption from groups potentially involved in political campaign intervention. During the audit, our understanding was that the other BOLO entries were not used to select cases for this type of specialized review.
As new information emerges, we are continuing to review whether that is accurate.

In interviews, e-mails, and documents we found repeated discussion of the use of "Tea Party" and other related criteria described in our report. New documents from July 2010 listing the term quote "Progressive" unquote but noting that "Progressive are not considered Tea Parties" were provided to TIGTA last week, on July 9th, 2013. They were not provided during our audit, even though similar documents that list quote "Tea Party" unquote but not "Progressive" were. I am disturbed that these documents were not provided to our auditors at the outset, and we are currently reviewing this issue.

To follow up on the information that other terms like quote "Progressive and Occupy" unquote, appeared in various sections of the BOLO list, we conducted additional analyses to provide you, Members of Congress, with the data that we have, due to the interest in this issue.

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Although our audit was focused on the processing of potential political cases, we were concerned about the appropriateness of other criteria appearing in BOLO listings. We took prompt action after our report was issued to follow up on those concerns and

communicated them to Congress, consistent with legal restrictions on the release of confidential taxpayer information.

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However, we did provide this information to the Acting Commissioner, Daniel Werfel, on May 28th, 2013 and recommended that he review whether BOLO listings were still in use and whether they were appropriate.
He has announced that he has taken action on this suggestion and restricted the use of Be On the Look Out listings.

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House Committee on Ways and Means and the Senate Committee on Finance – in early June 2013. Our Office of Audit also referred the IRS's use of other BOLO listings to TIGTA's Office of Investigations for further review.

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In addition, when I testified before the House Committee on Ways and Means on May 17th, 2013, Ranking Member Levin inquired, "Did [TIGTA] find any evidence of political motivation in the selection of the tax exemption applications?" I responded, quote "We did not, sir" unquote.

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Since the issuance of our report on May 14th, 2013, Congress, the Department of Justice, the IRS, and TIGTA have been reviewing the issues surrounding the IRS's processing of tax-exempt applications. As such, we understand that additional questions may be raised and additional issues may need to be reviewed.

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Chairman Issa, Ranking Member Cummings, and Members of the Committee, this concludes my testimony.

Chairman ISSA. Thank you. Thank you all three for being here today.

Mr. George, USC 26, 6103 was created by Congress, right?

Mr. GEORGE. Yes. That is correct.

Chairman ISSA. But the rules and the interpretation to a great extent come from the IRS itself. Is that correct?

Mr. GEORGE. That is my understanding.

Chairman ISSA. And the intent, as far as you know, of 6103 was in fact to protect confidential information from Members of Congress and others diving into it and extracting personal information for whatever use that would be thus inappropriate. Is that right?

Mr. GEORGE. Among many others, not just Members of Congress.

Chairman ISSA. Right. And there is good caselaw for why a law like that would be on the books.

Let me ask you first a question. Are you interpreting 6103, in your years since I guess 2004, and your two deputies there, substantially the same as your predecessors?

Mr. GEORGE. Yes.

Chairman ISSA. Does it frustrate you that often a victim can, in fact, be denied the ability to get information as a result of that law?

Mr. GEORGE. It is extremely frustrating, Mr. Chairman. And it's actually counterintuitive that someone who may be the victim of a tax-related crime, incident, what have you, can complain to us, can complain to Members of Congress, and that we have limited opportunity to provide them with an outcome of any investigation that we conduct.

Chairman ISSA. Now, our own House counsel has explained to us many, many times that, under speech and debate, we can take a great deal of information and use it on the House floor in an official committee in ways that the executive branch objects to.

But I want to get specifically into Mr. Cummings and I receiving what, rightfully or wrongfully, has been interpreted as 6103. Isn't it true that each body, the Senate and the House, produce their own rules as to who receives 6103?

Mr. GEORGE. That I will defer to my chief counsel on, sir.

Mr. MCCARTHY. Mr. Chairman, the House rules and the Senate rules, they can determine. The way the statute is written is that the chairman of the Committee on Ways and Means, the chairman of the Committee on Finance in the Senate, and the staff director of the Joint Committee on Taxation can make requests for information from the Treasury Department.

Chairman ISSA. And share it.

Mr. MCCARTHY. And then they can designate who they will share it with.

Chairman ISSA. So if I——

Mr. MCCARTHY. However, in closed session, in some circumstances.

Chairman ISSA. Sure. No, I understand.

But, of course, they also can make the final determination on whether they agree with the 6103 or not, as a body. So when they get unredacted information, they, then, in the ordinary course, usually work with your organization, Mr. George, and make decisions on what should be redacted before release. Is that right?

Mr. GEORGE. I believe we do have discussions, but they are not limited at all.

Chairman ISSA. Right, they make the final decision, although they work in consultation with yours and other offices.

Mr. GEORGE. Yeah, I don't know if I would use the words "work in consultation," sir. They make the determinations on their own unless——

Chairman ISSA. So, if I understand correctly—and I want to make sure I understand this, because Mr. Cummings and I are very much in agreement on the need to protect victims and get full disclosure to the public as appropriate.

The Senate, as I understand it, the chairman over there shares with the ranking member; is that correct?

Mr. MCCARTHY. Yes, the chairman, Chairman Baucus, has authorized that we share information with his staff as well as Ranking Member Hatch and his staff.

Chairman ISSA. So they've made a decision that includes more than a dozen people.

Mr. MCCARTHY. That's correct.

Chairman ISSA. And the House has not made a similar decision.

Mr. MCCARTHY. That's not—I'm not sure about that right now.

Chairman ISSA. Or, at least, it's a little more narrow.

Mr. MCCARTHY. The letter that we have received from Chairman Camp authorizing us to provide 6103 information to him included members of the Republican staff. I believe that there has been—has been information shared between the majority staff and minority staff; however, we do not have currently on file an authorization from the chairman allowing us to share that information directly.

Chairman ISSA. So if Chairman Camp sent a letter saying that Mr. Cummings was included in the group to see 6103, you would comply with that, is that correct, under the law?

Mr. MCCARTHY. I would have to review that, but I believe that's accurate.

Chairman ISSA. Okay. So I just want to make sure that we understand that, to the extent that somebody pushes back on 6103, we have two problem. One is to make sure the scope is narrow enough that it only includes 6103, and that's open to consideration, including by Chairman Camp. And, secondly, the question of who gets the information, which, currently, in open session would not be appropriate but even in closed session would not be available to us. Is that correct?

Mr. MCCARTHY. Yes, that's correct, sir.

Chairman ISSA. And, Mr. George, your need to err on the side of caution, just briefly, if you were wrong and you came before us and you disclosed 6103, would you be protected by what we call "speech and debate," something that protects us?

Mr. GEORGE. No.

Chairman ISSA. What could happen to you if you released 6103 information, if you erred on the side of, let's say, a little more liberal interpretation?

Mr. GEORGE. Anywhere from removal from position to possible criminal prosecution, sir.

Chairman ISSA. Thank you.

I recognize the ranking member.

Mr. CUMMINGS. Thank you very much.

Mr. George, I want to begin by sort of picking up where the chairman left off. I'm going to ask you about some very troubling testimony we heard yesterday about your efforts to personally intervene to block this committee from receiving documents. And I listened to what you just said, and I just want to—I'm taking that into consideration as I ask.

At a hearing yesterday, the new acting head of the IRS, Mr. Werfel, testified that the IRS was about to send us documents last week with information related to categories of progressive or left-leaning groups that may have received treatment similar to the Tea Party applicants. Mr. Werfel said that career experts at the IRS determined that it was permissible to share this information with our committee because it related to categories of groups rather than specifically identifiable taxpayers, but Mr. Werfel said you personally intervened and objected to the legal determination of these career IRS officials who make these determinations for a living.

I want to read exactly what he said yesterday under oath and then get your response. He said, "We were imminently going to produce a document in an unredacted form that would indicate the identity of a grouping of entities that we felt were similar in a kind of scope as Tea Party in terms of its grouping, so that it wouldn't be able—you wouldn't be able to identify a particular taxpayer because the grouping name was so broad. And he", meaning you, Mr. George, "he reached out when he learned that we were about to produce this information and expressed concern and indicated a disagreement with our internal experts on whether this information was 6103-protected or not." And that's the end of the quote.

Mr. George, is that true?

Mr. GEORGE. Is——

Mr. CUMMINGS. Did you personally contact Mr. Werfel's office and——

Mr. GEORGE. Yes, I did. Yes, I did. And can I explain why?

Mr. CUMMINGS. Yes, please.

Mr. GEORGE. I was contacted by counsel on my staff about the overall situation that you described and that there was a dispute, there was some concern, because the career IRS officials that you referred to——

Mr. CUMMINGS. Yes.

Mr. GEORGE. —you cited Mr. Werfel——

Mr. CUMMINGS. Yes.

Mr. GEORGE. —had indicated their original position was that this was 6103-protected information.

Mr. CUMMINGS. Okay.

Mr. GEORGE. And then, lo and behold, after all of this has broken into the public, they all of a sudden changed their legal, you know, decision——

Mr. CUMMINGS. Okay.

Mr. GEORGE. —position on this, and without providing me, personally, with a legal analysis.

Now, I have had subsequent conversations with my staff, and we are still in the process of discussing this. But if I'm going to err, sir, it's going to be err—I'm going to err on the side of protecting

confidential taxpayer information and not on some willy-nilly decision by some unnamed career IRS employees to release sensitive taxpayer information.

Mr. CUMMINGS. Well, let me say this: I understand your term "willy-nilly," but these were not willy-nilly people, as I understand it. And—let me finish. I think we need to be very careful with those kinds of words. You are career people, just like the career people that sat here a few minutes ago. And, according to Mr. Werfel, they were experts.

And let me—and so we asked Mr. Werfel whether this has ever happened before, that is, an Inspector General intervening personally in a production of documents to Congress based on a disagreement with career IRS experts. And Mr. Werfel went back to his office and checked and then provided us with this response, and let me read it. And keep in mind, according to the law, this is still under oath, this written response.

"I had my staff check with the current IRS disclosure counsel and one retired disclosure counsel. None of the people we checked with recalled a situation where the Inspector General told the IRS that a planned release of information by the IRS would constitute a Section 6103 violation after the IRS disclosure counsel determined that particular material was releasable to the public or to Congress under Section 6103."

So, Mr. George, he is basically saying your intervention is unprecedented. That's what he's saying.

Mr. GEORGE. You know, there's a first time for everything, sir. And, again, I repeat: I would rather make a mistake on protecting the privacy of a taxpayer than making a mistake——

Mr. CUMMINGS. I understand, but let me finish. Here is my concern. First, your report discloses a "Tea Party" category. Then, several weeks later, we learned there was also a "progressive" category. Then, a week after that, we discover there was a category for Occupy groups. And now we understand that there are other progressive categories but that you intervened to prevent us from seeing them.

Mr. George, our goal is to have as much information as possible so we can draw accurate conclusions about the treatment of all of the groups, all of them. As I said a little bit earlier in the hearing, we don't just represent conservative groups—I have a lot of conservative groups in my district, believe it or not, and I will fight for them just as hard as I will fight for more liberal, progressive groups.

Mr. Werfel testified yesterday that the IRS has asserted its position that he has been in further discussions with the office and that if you—if you withdraw your objection, he will send over the documents to our committee.

And so, you said those discussions are continuing? Is that what you said?

Mr. GEORGE. Yes, that is correct.

Mr. CUMMINGS. And if you all can come to an agreement, you will allow us to see those documents?

Mr. GEORGE. Most definitely. We're going to comply with the law, sir.

Mr. CUMMINGS. And how soon do you think that decision might be made?

Mr. GEORGE. That, I have no—I don't know, sir. I don't know the answer to that.

Mr. CUMMINGS. I mean, are there planned meetings already or what?

Mr. GEORGE. They are ongoing. It's going to be sooner rather then later. But I under oath can't give you an exact——

Mr. CUMMINGS. I understand. And I want you—and, as I close—Mr. Chairman, thank you—I just want to—all I'm trying to do is, we have—these are documents, of course. We want you to stay within the law. I don't want you to get in trouble or anything like that. But, you know, I just want to make sure that there is some type of decision made and then we know about it. Because we want this investigation to go forward, and so that is very important for us. And I think the information would be helpful.

Mr. GEORGE. Mr. Cummings, if I may—and I beg the chairman's indulgence—two things.

One, this information has been provided to Congress, to the committees with the ability to receive 6103 information. So we're not withholding anything, one.

Mr. CUMMINGS. Okay.

Mr. GEORGE. Two, "progressive," we just learned about that recently, that that name was being used by the Internal Revenue Service.

So, you know—and, as I indicated in my opening statement, we, just as recently as last week, received new information that is disturbing and that we need to pursue. So, you know, this is not a clean-cut matter, sir. There's a lot going on here.

Mr. CUMMINGS. Yeah. I'm not saying that it's clean-cut. I'm just saying that we would just like to know—I mean, you just said a number of things just in that 1 minute. But, apparently, this is an ongoing process. We are in an ongoing process. And you're trying to do your job, and we're trying to do ours.

And all I'm asking you to do is, as this information becomes available, and it's things that do not violate the restrictions that you have, for example, 6103 problems, we would like to have it. Okay?

Mr. GEORGE. Understood.

Mr. CUMMINGS. All right. Thank you very much.

Mr. MICA. [Presiding.] I thank the gentleman.

And let me ask a few questions, if I may, Mr. George.

First of all, this all started with different Tea Party groups and groups, I guess, some with the name of "Patriot," and "9/12," requesting IRS certification as a tax-exempt organization. And, as I recall, the motivation was by a number of Members of Congress who said, "What's going on here? We have reports from our constituents of this." Is that sort of the genesis of this?

Mr. GEORGE. That, in addition to media reports about——

Mr. MICA. Right, about this going on.

And you testified today you conducted an audit. It wasn't an investigation; we know that. And you mentioned today that IRS provided you with this list of 298 organizations, "Tea Party," "Patriot,"

"9/12." That's correct. So it's not something that you just went after on your own.

Mr. GEORGE. Right.

Mr. MICA. It appears, too—I don't know, did you hear the witness today from Cincinnati? Because we've had a whole bunch of folks say this is Cincinnati, Cincinnati. And the committee, in trying to act in a responsible manner, is trying to find out how this all occurred, who was responsible for what.

But did you hear today—was it Hofacre? She said that all of her cases were Tea Party, or I guess "Patriot," and they were referred—or they were—she was looking for guidance from Washington and waiting on that. Is that what you found in your audit?

Mr. GEORGE. You know, I only heard bits and pieces of her testimony, so I'm going to defer to Mr. Kutz.

Mr. KUTZ. The answer is yes.

Mr. MICA. The answer would be yes.

Now, the question recently has been how were progressives treated. And it's been intimated that you have tried to block, oh, certain information or groups that they may have gone after or treated.

Is there any indication that progressives were treated differently? Did you—have you investigated—in your part of the audit, did you look at progressives? You said a few minutes ago, this is a fairly recent——

Mr. KUTZ. We look at the criteria they gave us for the BOLOs that had only "Tea Party" on it. And that was what Ms. Hofacre talked about this morning.

Mr. MICA. And that was the crux of your——

Mr. KUTZ. On May 17th, 2012, they gave us what was called the BOLO iterations list——

Mr. MICA. Exactly.

Mr. KUTZ. —which is what Mr. George submitted for the record in his opening statement. And on that listing were the Tea Party criteria, iterations that started in pre-BOLOs, in May 2010, and went all the way through when the Cincinnati staff changed the criteria back to include policy positions after Ms. Lerner——

Mr. MICA. And he traced that all the way up to Ms. Lerner and her staging and coming out on May 10th, 2013. That was your testimony. She was the one that actually confirmed the conservative targeting. That's what you testified today.

So what you're seeing is sort of a diversionary tactic to try to undermine your audit and your report. From my standpoint, they have tried to undermine my chairman. They've tried to close down the investigation. They tried to keep us from moving forward.

Now, you aren't through with your investigation, are you?

Mr. GEORGE. That is exactly right, and that is such an important——

Mr. MICA. And audit—I said audit or review, we'll call it.

Mr. GEORGE. And if you don't mind, thank you, sir, because that is an important distinction.

Mr. MICA. Right.

Mr. GEORGE. I mean, I can't discuss, you know, an investigation. Suffice it to say, though, that we are working with the FBI and the Department of Justice——

Mr. MICA. And we heard both witnesses today, one from Cincinnati who testified and created a direct link to Washington, and we heard from Mr. Hull, a 48-year veteran, I guess, of IRS. And he continued the link up to both Lois Lerner's office and then he had also indicated that one of the two political appointees—did you get that far? How far have you gotten in tracing it up the line?

Mr. KUTZ. As part of the audit, we did not interview anyone from Chief Counsel's Office, but our timeline shows——

Mr. MICA. Okay.

Mr. KUTZ. —the Chief Counsel's office was consulted at some points in the process.

Mr. MICA. So you can confirm that.

Mr. KUTZ. We can confirm that, and——

Mr. MICA. Okay. And, again, we are all in an ongoing review of how this started, what took place, who was responsible. We have—Ms. Lerner has exercised, at least initially, her Fifth Amendment right. We may be calling her back. But this is an ongoing process.

Do you think it should be closed down, Mr. George?

Mr. GEORGE. Not at all. And, if I may, the moment I was made aware of the fact that other groups were similarly, you know, spotlighted——

Mr. MICA. Yeah.

Mr. GEORGE. —by the IRS, I directed my staff to commence a review of that. However, given the work that we're doing with the FBI and with the Department of Justice, we have to hold in abeyance many of the other things we would otherwise be doing to allow for the completion of their work or that work.

Mr. MICA. And you are dotting your I's and crossing your T's——

Mr. GEORGE. Precisely.

Mr. MICA. —because you are subject to criticism like we are.

Well, thank you. My time has expired.

And let me see, we have—Mr. Connolly is next. You're recognized, sir.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Welcome back.

Mr. GEORGE. Thank you.

Mr. CONNOLLY. Mr. George, we all have political backgrounds. I assume, once you were appointed by President Bush to your present position, you saw yourself as a nonpartisan professional; is that correct?

Mr. GEORGE. Yes. Yes, it is, sir.

Mr. CONNOLLY. Mr. George, there have been reports with respect to the scope of your audit or review, including by the spokesperson in your office, that you met with the chairman of this committee and, essentially, he helped limit the scope of the review.

Mr. GEORGE. That's incorrect, sir.

Mr. CONNOLLY. That is incorrect?

Mr. GEORGE. The report I did see, but that did not occur.

Mr. CONNOLLY. So Karen Kraushaar, your spokesperson who quoted—who said, and I quote, that Darrell Issa had specifically requested that investigators, "narrowly focus on Tea Party organizations," so they did just that, according to Kraushaar, that is an inaccurate statement?

Mr. GEORGE. That is correct.

Mr. CONNOLLY. On what basis would she make such a statement on your behalf to the press?

Mr. GEORGE. Well, it was not without my authorization, and she misspoke, sir.

Mr. CONNOLLY. She misspoke. Did you, in fact, have meetings with the chairman of this committee about the nature of this audit?

Mr. GEORGE. I had one meeting with the chairman. And, if anything, I was berated because he thought I failed to provide information to him that he thought he was entitled to.

I'm sorry, what?

Oh, and this was actually, sir—and it was just pointed out to me that this was after the audit was issued. So there was no meeting prior to that at all.

Mr. CONNOLLY. All right. And so, other statements, either attributed to you or others in your operation, that, for example, looking at those 202—if you remember, you and I had a conversation about the pie chart. Two hundred and two of 298 organizations were not identified. And do you remember your answer under oath to me when I asked you, could that 202 include progressive organizations?

Mr. GEORGE. And I recall the discussion. I don't recall verbatim what I said.

Mr. CONNOLLY. Let me read to you what you said: "We were unable to make that determination, sir, because in many instances the names were neutral, in that you couldn't necessarily attribute it to one particular affiliation or another."

And yet, that's not exactly what you said to me in July in your letter to me on this very same subject. You said, "It would be inappropriate for a nonpartisan inspector general with responsibility for the tax administration and law enforcement to apply political labels to organizations based solely on the name of the organization and subjective assumptions about what those names mean."

Mr. GEORGE. I don't——

Mr. CONNOLLY. That seems to be at variance with what you said to me in May.

Mr. GEORGE. I beg your—I beg to differ, sir. I don't see an inconsistency in that at all.

I believe that, one, the statement that I made about the inappropriateness of a nonpartisan inspector general to determine—"progress," I have no idea what that stands for, sir. Teddy Roosevelt ran for President under the Progressive Party banner. Would you consider him a Democrat or a Republican?

Mr. CONNOLLY. Today, I most certainly would, Mr. George. He'd be primaried in his own party for being too squishy and liberal, but that's a different matter.

Mr. GEORGE. Well——

Mr. CONNOLLY. Well, so I want to make sure—you're under oath, again—it is your testimony today, as it was in May, but let's limit it to today, that at the time you testified here in May you had absolutely no knowledge of the fact that in any screening, BOLOs or otherwise, the words "Progressive," "Democrat," "MoveOn," never came up. You were only looking at "Tea Party" and conservative-related labels. You were unaware of any flag that could be seen as a progressive—the progressive side of things.

Mr. GEORGE. I was unaware of the names on the—the 298 names except for "Tea Party," "9/12," and "Patriots."

Mr. CONNOLLY. No knowledge at that time?

Mr. GEORGE. I was aware of those groups being on that list.

It subsequently was made aware to me of groups that might have "progress" in it, that groups might have some other names. And I have to be careful, sir, because if I give some of the names here, I'm in violation of 6103.

Mr. CONNOLLY. Uh-huh.

Mr. GEORGE. So please don't——

Mr. CONNOLLY. But you did give names about the Tea Party.

Mr. GEORGE. But that, you know, that's a grouping. That's a grouping. That's a——

Mr. CONNOLLY. Oh, I see.

Mr. GEORGE. —you know, a categorization——

Mr. CONNOLLY. I see.

Mr. GEORGE. —a category.

Mr. CONNOLLY. So one is not a violation, one is.

So let me ask you, at the same time, when you were at this table in May, you had already—and you knew you had—asked for an investigation of a total of, or an examination of, 5,500 emails on this subject matter. Is that correct?

Mr. GEORGE. Well, I'm so glad you've raised that issue, sir, because it's very important that this matter be clarified.

I was told that there was a smoking gun, that there was an email that the Internal Revenue Service provided to us that indicated that someone directed the targeting of Tea Party groups and that such an email existed. The auditors and the investigators are two different parts of TIGTA. Five thousand emails—I don't recall the timing of it, and I might defer to Mr. Kutz to give a little more flavor to this. But the auditors did not have the wherewithal to go through all 5,000, whatever the number was, emails.

And when that was brought to my attention, because of the due diligence that I think is necessary whenever you conduct any audit, I instructed my Deputy Inspector General for Investigations to use the facilities that he has, the capabilities that he has to go and to review that.

Do you want to elaborate?

Mr. KUTZ. Well——

Mr. MICA. If you would like to respond to that.

Mr. KUTZ. Yeah, if I could just elaborate, Congressman, I would just say that there was—IRS had said at one point there was a May 2010 email out there that elaborated on the BOLO criteria that was being used. That was a pre-BOLO, before the actual BOLO list was developed in August.

And then we were trying to determine, also, who actually authorized and developed the criteria that were inappropriate that were being used. And so that was what was in the referral to OI, the Office of Investigations, to look for.

Mr. MICA. Thank you, Mr. Connolly.

Mr. Jordan?

Mr. JORDAN. Thank you, Mr. Chairman.

Mr. George, the information that Mr. Cummings and Mr. Connolly were talking about, that 6103, and your experts—I think

you said earlier Mr. McCarthy is the one who said you shouldn't release the names of those entities; is that accurate? He's your chief counsel.

Mr. GEORGE. You know, this is attorney-client, too, so, you know——

Mr. MCCARTHY. If I could expand on the——

Mr. JORDAN. Let me just ask this question.

Mr. MCCARTHY. Yes.

Mr. JORDAN. Just tell us—I just want to know the number. What's the—we don't need to know the names. How many—how many entities are we talking about that Mr. Cummings wants you to make public and that you think there are 6103 concerns? What's the number?

Mr. MCCARTHY. Well, the first, there was one that was raised to us by the IRS counsel that they had changed their position on that we asked for more information on. And then others——

Mr. JORDAN. Right.

Mr. MCCARTHY. There's a second one that they believe would be treated similarly if their new——

Mr. JORDAN. The two entities——

Mr. MCCARTHY. —were to be adopted.

Mr. JORDAN. Two entities? Not two terms, two entities?

Mr. MCCARTHY. Two terms, at this point. I don't know how many entities it would cover.

Mr. JORDAN. Do you have an idea?

Mr. MCCARTHY. No, I do not.

Mr. JORDAN. Let me ask you—I'm looking at your testimony, Mr. George. You said, "New documents from July 2010 listing the term 'progressive' were provided to TIGTA last week on July 9th, 2013." You're disturbed that these weren't provided earlier. I get that. "We are currently reviewing the issue."

What can you tell us? Without violating 6103, what can you tell us?

Mr. GEORGE. Great question, sir.

I don't know whether they were withheld intentionally. I don't know—I don't know the circumstances. Again, I may defer to Mr. Kutz, if he has additional information on that. But I don't know because I just learned about this.

Mr. KUTZ. We don't know. But, Congressman, throughout the entire audit, starting May 17, and the document Mr. George submitted for the record, we were given a listing of the BOLOs that were——

Mr. JORDAN. No, I get what you're going to say now because you said it once. Because I had this underlined, too: From the date of the May 17th, 2012, document until we issued our report 1 year later, the IRS staff had multiple levels—at multiple levels concurred with our analysis.

So they had all kinds of opportunity to tell you this was there. They didn't tell you. Suddenly it appears, because the Democrats keep talking about it, it appears out of nowhere. You're currently reviewing it. I mean, is there anything else you can tell us about the current review?

Mr. GEORGE. It tells me I'm concerned that there may be additional pieces of information that we don't have. I am very concerned about that, sir.

Mr. JORDAN. But you—can we put this slide up?

I just want to walk through the numbers, because—and, you know, this is largely developed from your report and interviews and emails that our staff has looked at.

But when you walk through this, you know, we start in February 2010. You got one Tea Party case, you got nothing anywhere on the "progressive" name, "Occupy" name, whatever term is being used. You move down to March, you got 10 to zero. You move down, the score is 18 to zero. Then it's somewhere between 40 and 60 to zero. Then it's 100 to zero. It's unclear, around 100. And then, finally, we get to the end, and it's 96 to 7 is the score. And yet, none of those seven groups, to my knowledge, were ever denied the status they sought. And if I do my math right, there's 195 cases you don't, frankly, know about that are part of that overall universe of 298.

So when you walk—in fact, USA Today reported 12 applications from liberal and progressive groups got some kind of scrutiny. They were all approved. None of the Tea Party/conservative groups were. There was obviously disparate treatment here.

And I think that this idea that Mr. Connolly keeps raising, I just—the evidence doesn't point to that at all.

Mr. KUTZ. Again, the document we submitted for the record—I don't want to repeat it because you already have seen it—it showed what the BOLOs were relevant to this.

The other tabs of BOLOs were touch-and-go and other things like that, related in some cases to fraud, abuse, terrorist activity——

Mr. JORDAN. Everything you guys have looked at—the heightened scrutiny, the delays, the fact that these groups were never approved, the fact that when they hung out there in this limbo status they were denied their opportunity to appeal any decision because there was no decision rendered—everything you have looked at, that happened with "Tea Party," "9/12," "Patriot," conservative groups, correct?

Mr. KUTZ. The criteria in our report is what we understand to be accurate——

Mr. JORDAN. All right.

Mr. KUTZ. —that was used.

Mr. JORDAN. All right. I understand.

Mr. Chairman, I'd yield back.

Mr. CONNOLLY. Mr. Chairman?

Mr. MICA. Mr. Walberg?

Mr. CONNOLLY. Well, Mr. Chairman, could I just have a unanimous consent?

Mr. MICA. Oh, no problem.

Mr. CONNOLLY. Thank you so much.

Just before we were finished, I was going to ask unanimous consent to enter into the record the communication from the head of investigations to the Principal Deputy IG on the subject we were talking about, in the review of the 5,500 emails.

Mr. MICA. Without objection——

Mr. CONNOLLY. I thank the chair.

Mr. MICA. —so ordered.

Mr. MICA. And now we'll go to Mr. Walberg.

Mr. WALBERG. Thank you, Mr. Chairman.

And thanks to the panel for being here again.

According to Mr. Hull, who we had the privilege of listening to this morning with his direct testimony, during a meeting in July of 2011, Ms. Lerner instructed her subordinates to—that the Tea Party applications should henceforth be referred to as "advocacy" applications. Is that right?

Mr. KUTZ. What Ms. Lerner did, as I understand, is she changed the criteria in the BOLO to no longer include "Tea Party" names in the BOLO, if that's what you're referring to. July 2011 is when the criteria was changed from "Tea Party" to what you have——

Mr. WALBERG. "Advocacy."

Mr. KUTZ. That's correct. That's my understanding. And that's what's in the document Mr. George submitted for the record.

Mr. WALBERG. But just to be clear, according to Mr. Hull, the two test cases he was working in Washington on were both filed by groups affiliated with the Tea Party movement, right?

Mr. KUTZ. Only one, sir.

Mr. WALBERG. Only one.

Mr. KUTZ. Correct.

Mr. WALBERG. Do you think it was pretextual for Ms. Lerner to label these applications as advocacy cases when they were really Tea Party cases?

Mr. KUTZ. Well, she was trying to fix the problem. She actually, I think, recognized then that these criteria were inappropriate, to use any names, regardless of political party.

Mr. WALBERG. Okay.

Mr. KUTZ. And she was trying to fix it. It wasn't perfect criteria, but it was better than using the names "Tea Party," "9/12," and "Patriots."

Mr. WALBERG. Okay, so "Tea Party" didn't work, so "advocacy" would, at that point.

Mr. KUTZ. Political advocacy, sir. That's how it was——

Mr. WALBERG. Political advocacy.

Mr. KUTZ. —referred to, yes.

Mr. WALBERG. Mr. Hull has testified that the Tea Party test cases pending in Washington were transferred from him in August of 2011 with no explanation and assigned to Hillary Goehausen. Is that reflective of your findings, as well?

Mr. KUTZ. Yes, sir.

Mr. WALBERG. With no explanation, just a transfer.

It's interesting that Mr. Hull, as we listened to this morning and know of his record, his tenure and service, extensive service, 48 years, in fact, do you have any sense of whether Ms. Goehausen has anywhere near the practical experience of Mr. Hull?

Mr. KUTZ. We don't have anything on that, sir.

Mr. WALBERG. She had 4 months before being put in this job.

Ms. Goehausen told committee staff in an interview that, prior to July 2011, she had no experience with 501(c)(3) and 501(c)(4) groups applying for tax-exempt status. Do any of you find that to be odd, that the IRS would transfer these test party—or these Tea Party, these advocacy cases from someone with decades of experience to someone with little or no experience?

Mr. KUTZ. We don't know. I mean, in the time that we have, the issue you're talking about contributed to the delays that we describe in our report. But we have no knowledge of what have described there.

Mr. GEORGE. But I would just add, Congressman, given the fiscal constraints facing the entire Nation but especially those confronting the Internal Revenue Service, I am not surprised that they would have made a decision like that. And they are unfortunately going to have to continue to make some of these, you know, haphazard types of decisions because of a lack of resources and manpower.

Mr. WALBERG. We can only hope it was resources and manpower.

Mr. George, in a letter sent to Chairman Issa on Friday, Ranking Member Cummings asserts that you found no evidence of political bias. And I apologize for not being here for your opening comments due to the fact of being on the floor.

But in the course of your audit, you said that you hid this fact from the general public, about the political bias. I recall reading the audit and finding you stating exactly that, that you did not find any evidence implying political bias.

It seems Mr. Cummings and his staff did not thoroughly read your report or pay attention when you testified to this effect previously. How do you respond to Mr. Cummings' criticism that you hid this fact from the public?

Mr. GEORGE. Yes, Congressman, thank you for helping me once again to clarify both in the opening statement that I issued today, both in terms of the audit report that we issued and in previous testimonies before a variety of a number of committees both in the House and Senate, I made it patently clear that we had not found such motivation, political motivation.

But, again, this was under an audit, not under any other review that we're undertaking.

Mr. WALBERG. Mr. Chairman, I yield back.

Mr. JORDAN. [Presiding.] I yield to the gentleman from Tennessee, Dr. DesJarlais.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

And, Mr. George, I do appreciate you being here and your colleagues.

You've been doing this for about a decade. Have you ever been involved in a case quite like this?

Mr. GEORGE. This is the most unprecedented example I have ever experienced, not only as an inspector general but as a former member of this very committee's staff for almost 25 years and being a former White House staffer. I have not—I have never experienced anything like this, sir.

Mr. DESJARLAIS. What type of things have made it more challenging than usual?

Mr. GEORGE. The fact that people are trying to misinterpret the findings of career employees who, over the course of the existence of our organization, have uncovered billions and billions of dollars that the IRS has misspent or could be spent in more efficient and effective ways, and then a variety of policy changes that the IRS has agreed to in terms of making changes to better serve the American people.

And to have our reputation, again, of career people—I am, you know, a political appointee; I expect this heat. I mean, even though I don't think I deserve it in this instance, I expect it. My career people neither deserve it nor should they have to expect it. And that is troubling, sir.

Mr. DESJARLAIS. Well, certainly, we could sense the frustration from our earlier witnesses, Ms. Hofacre and Mr. Hull, that—you know, it was apparent that they were willing to come here, openly testify. They didn't have anything to hide. They were doing their jobs. But yet somebody higher up the food chain chose, as Ms. Hofacre said, to invoke a nuclear strike, and they felt essentially thrown under the bus.

Do you have any sense as to why somebody would either want to cover something up or blame somebody that clearly we've proven, I think, through testimony were not responsible?

Mr. GEORGE. You know, I don't have facts that I—to provide to justify that, sir. But it's just troubling that it's happening.

Mr. DESJARLAIS. Well, you know, I guess I hate to say we're almost getting used to that here, but after our hearing on Benghazi and listening to reports come out about how this pesky YouTube video was responsible for the death of the Americans, and that story was propagated for 3 weeks, and then we hear Mr. Carney and other folks higher up in the IRS blaming it on these two rogue agents in Cincinnati, you might think that they want to change their storyteller, because, you know, we've proven both of those are not the case. You know, I think the American people are getting very frustrated, and I know that they are extremely anxious to hear what we find and where this goes.

What would—what would make your job easier? What continues to make this so difficult, besides being personally attacked by members of this committee?

Mr. GEORGE. And, again, I have to preface my response by saying tax policy decisions that the Department annunciates is within the scope of the Assistant Secretary for Tax Policy. And it has been that way since the Nixon administration.

But it is extremely—and I indicated this earlier in a response to a question—when a provision of law prevents me from telling you and others information that I have that I know would help clarify the matter but under, you know, the potential of violating Federal law I'm unable to do so. So I'll have to leave it at that.

Mr. DESJARLAIS. Okay.

Elizabeth Hofacre testified that she could not process Tea Party applications pending in Cincinnati because she was waiting on guidance from Carter Hull in Washington. Mr. Hull testified that he could not provide Ms. Hofacre with guidance because he was waiting for direction from senior IRS leadership, including Chief Counsel's Office.

Is that consistent with the findings of your audit?

Mr. KUTZ. Yes, sir.

Mr. DESJARLAIS. And I'm assuming that Chief Counsel will be questioned more thoroughly in the future?

Mr. KUTZ. We did not interview Chief Counsel as part of the audit, I will say. They were in our timeline as being consulted and

one of the reasons perhaps for the delays. But we did not interview anyone from Chief Counsel's Office for the audit.

Mr. DESJARLAIS. Okay. Are there plans to interview people from Chief Counsel?

Mr. GEORGE. Again, as I indicated earlier, sir, we're working both with the Department of Justice as well as the FBI—there's a component of that—on a continuing review of this matter. And I'm not at liberty to go into——

Mr. DESJARLAIS. Okay. Well, you know, people seem to feign outrage that the Republicans are just on this witch hunt trying to implicate the White House. The fact is, there was an election year, there were groups that had different political views than this President, and there was a political appointee who has been implicated in these cases that have been sent up the food chain.

So, you know, I think it's only fair that we continue to look and dig, because, you know, this happened about 40 years ago in our history, not this exact same thing. But I don't think it's outrageous, considering the fact that people are trying to put out misleading stories if there's nothing more to see. And there wouldn't be agents, or there wouldn't be employees claiming the Fifth or asking for the Fifth when they come to testify.

So, anyways, thank you for your work. I'm out of time, and I'm sure there's more to come.

Mr. GEORGE. Thank you, sir.

Mr. JORDAN. The gentleman from Pennsylvania is recognized.

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

You know, when Mr. George was here last in front of this committee, I said, it's an outrage if this is true. And I want to say I took a lot of heat from folks back home, because I was implying that perhaps what you said in your report wasn't the complete story. And I just want to go back to that, because I'd hate to imply something that isn't true.

Mr. George, in the committee hearing on May 22, 2013, the chairman asked you some clarifying questions to my line of questioning. I'd like to ask you some clarifying questions about those clarifying questions.

To refresh your memory, here's what you—what you said. Chairman Issa said, "Were there any BOLOs issued for progressive groups, liberal groups?"

"Mr. George: The only 'Be on the Lookout,' that is BOLO, used to refer cases for political review were the ones that we described within our report. There were other BOLOs used for other purposes. For example, there were lookouts for indicators of known fraud schemes so that they could be referred to the group that handles those issues. There were nationwide organizations. There were notes to refer State and local chapters to the same reviewers. As we continue our review of this matter, we have recently identified some other BOLOs that raised concerns about political factors. I can't get into more detail at this time as to the information that there is because it's still incomplete—that we've uncovered, rather, because it's still incomplete."

Chairman Issa said, "So, clearly, it's fair to say, though, there was a BOLO for 'Tea Party' but not a BOLO for 'MoveOn' or 'progressive.'"

Mr. George, you said, "I'm not in a position to give you a definitive response on that question at this time."

Chairman Issa said, "I only ask if there's at least one. Are you aware of at least one that was targeted using a BOLO that was a 501(c)(4), in which they were targeted politically but did not fall into this current report we have before us?"

Mr. George, you said, "Under the report, the review, the purposes of the audit that we conducted, which was to determine whether they were looked at for—in the context of political campaign intervention, there were no others."

And the chairman said, "Thank you."

So, to be clear, Mr. George, first you said the only BOLOs used to refer cases for political review were the ones described within the report. Then you immediately say there were other BOLOs used to refer cases for political review that were outside your report. Then, after Chairman Issa pressed you—and I want to thank Chairman Issa for pressing you so hard on this issue—by asking if there was even one group that was flagged with a BOLO for political reasons that wasn't included in the report, and you said there were no others.

Have I read that correctly?

Mr. GEORGE. You've read it correctly, but, I mean——

Mr. CARTWRIGHT. I just want to give you the benefit of the doubt here and allow you to explain yourself, Mr. George. Was it true when you said that the only BOLOs used to refer cases for political review were the ones described within the report?

Mr. GEORGE. That is correct, sir.

Mr. KUTZ. Congressman, that's in the document that he submitted for the record. Those were the BOLOs we were given by the IRS, May 17, 2012, that show for political advocacy cases what the BOLOs were.

Mr. GEORGE. Sir, you were not here during the part of my testimony which indicated that, as recently as last week, the Internal Revenue Service is still providing us information that would've had a direct bearing on this testimony and on our audit report.

Mr. CARTWRIGHT. Let's go at it this way, Mr. George. As of today, are you aware that there were BOLOs out about progressive or liberal groups?

Mr. GEORGE. There were BOLOs——

Mr. CARTWRIGHT. And when did you first find out?

Mr. KUTZ. On which ones?

Mr. CARTWRIGHT. I'm asking Mr. George.

When did you first find out there were BOLOs about liberal or progressive groups?

Mr. GEORGE. It was the night before I was testifying before the Senate Finance Committee, at around 6:30 p.m.

Mr. CARTWRIGHT. And was that before your testimony here on May 22nd?

Mr. GEORGE. That was before, yes.

Mr. CARTWRIGHT. So you were here on May 22nd testifying about BOLOs about Tea Party groups, and when Mr. Issa questioned you specifically about other groups, you said there were no others.

Mr. GEORGE. Well——

Mr. CARTWRIGHT. But you didn't say a word about BOLOs that you knew were about progressive or liberal organizations, even though you just admitted today——

Mr. GEORGE. Yeah.

Mr. CARTWRIGHT. —that you were aware of that as of your May 22nd——

Mr. GEORGE. Sir——

Mr. CARTWRIGHT. —testimony. Am I correct on that, Mr. George?

Mr. GEORGE. —I need to clarify something. One, it was on—the BOLO group name was on "Occupy." And I can use that word because it's generic. We had no information whatsoever how, if at all, that information was used or misused.

Mr. CARTWRIGHT. It doesn't matter. You knew there were BOLOs about "Occupy"——

Mr. GEORGE. But we——

Mr. CARTWRIGHT. —and you didn't say a word about it in your last testimony here in this committee, May 22nd.

Mr. GEORGE. Yeah.

Mr. CARTWRIGHT. You knew people's heads would explode if you talk about Tea Party BOLOs, and you didn't mention any other ones.

Mr. GEORGE. Sir——

Mr. CARTWRIGHT. What do you think we are doing here?

Mr. GEORGE. Sir, if you look at page 6, footnote 16 of my audit report, it acknowledges the existence of other BOLOs and the fact that we did not—the charge of that audit was not on how they were utilized.

Mr. CARTWRIGHT. You knew there were BOLOs about liberal groups——

Mr. JORDAN. The gentleman's time has expired.

Mr. CARTWRIGHT. I'll yield back, Mr. Chairman.

Mr. JORDAN. You can only yield back when you've got time to yield back, but we thank the gentleman.

We'll go now to the gentleman from South Carolina.

Mr. GOWDY. Thank you, Mr. Chairman.

Mr. George, how long have you been the Inspector General?

Mr. GEORGE. I was confirmed in November of 2004 for this current position.

Mr. GOWDY. And how do you view your job, your role?

Mr. GEORGE. I consider it one of the most important Inspector General responsibilities in the Federal Government, given the role that the IRS plays in the lives of every single American and anyone else who has a tax obligation to the United States of America.

Mr. GOWDY. Well, I've always thought of inspector generals as really having no friends to reward and no foes to punish; they just go where the facts take them.

Mr. GEORGE. And that is exactly how I've comported myself, sir.

Mr. GOWDY. You know, Mr. George, when I see quotes like this one from one of our colleagues on the other side of the aisle—or, rather than discuss the facts of your investigation or your background or your reputation for integrity, they just want to say this: "This is a Republican-appointed inspector general. This is someone who has donated and worked for prominent Republicans. Are we as

Democrats and the public to believe he is objective and simply followed the truth where it leads?"

And I think to of your colleagues, a man by the name of Michael Horowitz. He's the Inspector General for the Department of Justice. And, you know, he had a connection to Lanny Breuer, and he was appointed by this administration. But I decided to do something novel, and I would encourage my colleagues on the other side of the aisle to do it, too: Allow the person to do their job before you judge them based on connections. So I let Mr. Horowitz do his job, and guess what? He was fantastic, straight down the middle, calling balls and strikes. Couldn't tell he had any political connection.

So what's your reaction when you have questions like the ones you just had from our colleague on the other side of the aisle and when your integrity is attacked like it was by my colleague responsible for this quote? What's your reaction?

Mr. GEORGE. You know, and I'm not being flip here, but they don't know that I was page at the 1980 Democrat National Convention. They don't know that I was a founder of the Howard University College Democrats. Yes, you know, I saw the light and joined Bob Dole's staff during college, but I have—I think anyone who has worked with me on either side of the political spectrum will agree that I call it as I see it. I have never allowed political—you know, personal political views to affect decisions. We worked with Democrats, we worked with Republicans to get legislation passed. And we—and I continue to do so.

And so, you know, I mean, again, sir, I've been in Washington now for, you know, over 2 decades, and I know how, you know, sometimes politics is played and works. It's unfortunate, because, you know, when I was doing my due diligence, sir, by talking to some of the first IGs, you know, who were appointed by Jimmy Carter and then later fired by Ronald Reagan and then some rehired by him, they said to me, do not take this job. They say, if you are perceived to be too aggressive, the administration is angry at you. If you're perceived to be not aggressive enough, Congress is angry at you.

And while I love this job and I just have the greatest staff that work with me, you know, I'm willing to make—to do it. And I've made sacrifices personally and in many other ways, but I'm serving the people of the greatest Nation on Earth, and I have no regrets.

Mr. GOWDY. Well, Mr. George, I've got to be honest with you, you're a lot more magnanimous than I am, because I think it's disgraceful. I think when you attack people just because you have a political opportunity and you go through their background and find some tangential connection to a Republican or a Democrat and then want to disparage their work because of that—if somebody has a problem with your audit—and I hasten to add, this was not an investigation, it was an audit. And your work is ongoing.

You know, you got Republican and Democrat sheriffs, you got Republican and Democrat prosecutors, you can't tell the difference. I can't tell the difference in inspector generals, which is why I never thought to ask. Just tell me what the facts are.

And you don't prosecute cases, do you? You don't convene a grand jury.

Mr. GEORGE. That is correct.

Mr. GOWDY. You refer them to the Department of Justice.

Mr. GEORGE. That is correct, sir.

Mr. GOWDY. And I will remind my colleagues on the other side of the aisle, one of his referrals to the Department of Justice for the willful disclosure of confidential information was declined by the Department of Justice.

So, Mr. George, I appreciate your work. Keep going, keep at it, and don't let the detractors get you down.

I yield back, Mr. Chairman.

Mr. GEORGE. Thank you.

Mr. JORDAN. Mr. McCarthy, real quick. You were—in your former job, you were deputy staff director at this committee; is that correct?

Mr. MCCARTHY. That's correct, sir.

Mr. JORDAN. And you served under a Democratic chairman, Mr. Towns; is that correct?

Mr. MCCARTHY. That's correct, yes.

Mr. JORDAN. And in your 3 years working, or approximately 3 years for working for Mr. George at TIGTA, have you ever seen him function in a political manner being biased one way or the other?

Mr. MCCARTHY. I haven't been at TIGTA for 3 years. I've been there for about 18 months.

Mr. JORDAN. In your 18 months that you've been there—excuse me—have you ever seen that?

Mr. MCCARTHY. No, I—it's not a political organization.

Mr. JORDAN. The way he described his behavior in the last 12 years, you would attest to that in what you've seen in the last 18 months?

Mr. MCCARTHY. I haven't seen any political behavior.

Mr. JORDAN. I appreciate that, Mr. McCarthy.

I now yield to the gentlelady from the District of Columbia, Ms. Holmes Norton.

Ms. NORTON. Mr. George, I asked staff to get out what was the charge for the audit. And the charge, and here I'm quoting, was that you were to look for inconsistent treatment of applications. That's the word I want to focus on, "inconsistent treatment of applications."

You have testified earlier today that you did not know of the—of the handling of progressive groups. You didn't know, for example, that some of them had had a 2- or 3-year wait.

Mr. George—Mr. George, my question really goes to the methodology that you were using. You have used words previously like "targeted." It seems to me that one has to look at the entire universe in order to know whether any specific groups have been targeted or kicked out.

Even though you were not told about progressive groups, if your charge was to look for inconsistent treatment of applications, doesn't that necessarily drive you to look at applications from progressive groups to the extent possible and applications from conservative groups to the extent possible? That's my question.

Mr. GEORGE. Okay. And I'm going to defer to Mr. Kutz.

Mr. KUTZ. We probably could. We weren't labeling anybody. I mean, that's what Mr. George said in his opening statement——

Ms. NORTON. That's not my question, about whether you were labeling. Here is my question. My question goes to methodology.

Mr. GEORGE. Uh-huh.

Ms. NORTON. You were focused on the Tea Party—the way in which Tea Party groups were treated.

Mr. GEORGE. All groups in the 298. All groups in that 298 that——

Mr. KUTZ. All groups in the political advocacy——

Ms. NORTON. Well, if you were focused on all groups, how could you not have—how could you not have, in the ordinary course of doing your work, discover the treatment of the progressive groups? And why would you not have reported the treatment of both groups to this—to this committee?

I mean, you have testified that you didn't know of the treatment of some of the progressive groups. And that says to me—that goes to a flaw in methodology. If all of the groups are on the table, one concludes targeting only after comparing the groups. And I don't see evidence of that kind of rigorous comparison, Mr. George, in your work.

Mr. GEORGE. Ms. Norton, if I may, first of all, again, we did not go line by line to say, this is a progressive group, this is a, you know, conservative group, this is——

Ms. NORTON. Well, then, how could you find that there was targeting of Tea Party groups?

Mr. GEORGE. Because of the——

Ms. NORTON. Because that would have to be compared to something else.

Mr. GEORGE. It was because——

Ms. NORTON. Because you can't possibly target everybody or else you wouldn't use the word "target." If you are targeting, it means you're picking them out from the universe of groups, or else you were wrong to use the word "target" at all.

Mr. GEORGE. But, ma'am, it was because they used "Tea Party." The groups that were highlighted/targeted had the name "Tea Party" or "9/12" or——

Ms. NORTON. Yeah, well, the BOLO listing for Occupy groups, unless—if you were born even yesterday, would mean that you'd have to look at Occupy groups, but you don't mention Occupy groups in your report.

Mr. GEORGE. But they weren't in the same category, Congresswoman. They were in a, what was called historical tag. They were not—I'm sorry, what?

I'm sorry, they were on a watch list. They were not on the political advocacy group tab that we were provided and that we were charged with looking at in this audit.

Ms. NORTON. You were charged with looking at what? Inconsistencies among groups.

Mr. GEORGE. We were charged with looking at whether or not the Internal Revenue Service was applying Treasury regulations, as well as, you know, the Tax Code, as it applied to 501(c)(4) applicants in this particular realm, which the Internal Revenue Service itself provided us. Not, there——

Ms. NORTON. I don't know what the Internal Revenue Service provided you. All I know is your charge was to look at inconsistent treatment of applications.

If I may say so, Mr. George, I don't believe you are dishonest and I don't believe that you are political. I do believe that your testimony shows, demonstrates that you were not using the appropriate methodology in order to meet your charge, which was to find whether there was inconsistent treatment. You would have had to put the universe before you to responsibly make that—answer that question.

Mr. KUTZ. May I comment just because, you know——

Mr. JORDAN. The lady's time has expired. The gentleman may respond.

Mr. KUTZ. Okay. We looked at over 600 cases, and only 72 of them were Tea Party cases. We sampled from a bucket of cases that was outside of this 298 cases, and we found that 175 statistically should have actually been included in the political review.

We didn't look at them and label them as any sort of political thing. We said, based on the substance in the case, if there was evidence in the files, as Mr. George said, and Treasury regulations in that should've been actually looked at as political cases. In the same light, of the 298, we found that 31 percent of them had no evidence in the file of political campaign intervention and perhaps should not have been looked at.

So we only looked at 72 Tea Party; we looked at over 600 cases total. So, you know, we did look at it a little bit broadly, sure, but the lane we looked at was the lane called political advocacy. Keep in mind, they process tens of thousands of cases a year. There were only 300 in this group——

Ms. NORTON. Political advocacy, where the statute says 51 percent. You know, obviously, you narrowed—you narrowed your focus.

Mr. KUTZ. That's correct. We narrowed it to political advocacy cases.

Chairman ISSA. [Presiding.] I thank the gentlelady.

We now go to the gentleman, Mr. Meadows.

Mr. MEADOWS. Thank you all for being back with us.

And, as you know from some of our previous inquiries, I'm one that will call it as I see it. And so I am not necessarily giving you a free pass, but I want to just apologize. You know, you guys are the messengers, and you're getting beat up in the middle of this when we're throwing out red herrings.

You know, we're talking about BOLO list, and we're—these are red herrings. And I'd like you to comment on this. Even though there may have been two different BOLO lists, we do know that the "Tea Party"s were singled out because 100 percent of those were either detained for a long period of time or systemically detained in terms of any kind of result, for some as much as 3 years or more. Is that not correct?

Mr. KUTZ. There were actually five different BOLO tabs. There was the potential abusive historical, potential abusive coordinated processing watch list, or what was called emerging issues——

Mr. MEADOWS. Right.

Mr. KUTZ. That's where the Tea Party was, emerging issues. These other four BOLO lists out there, we said very clearly in our report on page 6 that we did not look at them. That doesn't mean there's not something wrong, perhaps, with what they were doing——

Mr. MEADOWS. But they weren't treated in the same way as these on this BOLO list; is that correct? Let that message be clear today.

Mr. KUTZ. We don't know if they got delays and letters. We know that the people—a large group of those people got significant delays, on average almost 600 days.

Mr. MEADOWS. And 100 percent of the Tea Party cases got a delay?

Mr. KUTZ. I don't know if a hundred. No. Some were actually approved. Some Tea Parties were approved at some point.

Mr. MEADOWS. Three? I think you—how many were approved?

Mr. KUTZ. We'll have to get that into the record, sir.

Mr. MEADOWS. Okay. Because I've read your report five times, I feel like I know you, and so I want to go on a little bit further, because Lois Lerner, you know, it's been reported widely that she found out about this in July of 2011 is—but in—there was a sensitive case report that actually started back as early as April of 2010. Is that not correct? I think it's on page 32 or 33 of your TIGTA report. April of 2010. Is that correct?

Mr. KUTZ. April 2010, yes, that's correct.

Mr. MEADOWS. Okay. And that report actually went to Ms. Lois Lerner at that particular point. So she could have known. It was meant to be reported. It was going to the executive, as Mr. Hull testified earlier today. And we also know that it went up to E and O. Could it have gone to her—her desk?

Mr. KUTZ. She gets a summary. She would not get the actual report, my staff——

Mr. MEADOWS. So she would get a summary of the sensitive case reports?

Mr. KUTZ. Right.

Mr. MEADOWS. Okay.

Mr. KUTZ. That's correct.

Mr. MEADOWS. And so that summary, would it indicate that these were Tea Party cases?

Mr. KUTZ. We don't know.

Mr. MEADOWS. Okay. Why would we not call these progressive cases from—from February of 2010 until July of 2011? Why would we not have called those progressive cases?

Mr. KUTZ. I don't understand your question.

Mr. MEADOWS. Well, I mean, did we call them Tea Party cases because the majority of them were Tea Party cases?

Mr. KUTZ. We called them Tea Party cases because that was what was actually told——

Mr. MEADOWS. Right. I mean, why would the IRS call them Tea Party cases? I mean, we're missing this whole point. We——

Mr. KUTZ. Because——

Mr. MEADOWS. If they were predominantly progressive cases, wouldn't we have referred to them as progressive cases——

Mr. KUTZ. I believe——

Mr. MEADOWS. —or Occupy cases?

Mr. KUTZ. I believe they're generally referred to Tea Party cases, meaning Tea Party, 9/12 and Patriots, because if you look at the names of some of the Tea Party organizations, they actually have the word "Patriot" in them. So I think that there's some combination. My understanding is 9/12 is a separate organization, but I think Tea Party Patriots is—is a frequent combination.

Mr. MEADOWS. So if you think predominantly that these were liberal groups, would we have not probably come up with a different name, the IRS would have come up with a different name to refer to them as?

Mr. KUTZ. Let—let me say this: of the 298 cases, we know that 96 were Tea Party, 9/12 or Patriots. We did not go through and make a judgment about what the 202. You've read our report five times.

Mr. MEADOWS. Right.

Mr. KUTZ. You know we did not do that.

Mr. MEADOWS. Right.

Mr. KUTZ. And we really don't think it's—some of them had the words "liberty," "freedom." I don't think we could make a judgment based upon certain words. And that wasn't really our charge. Our charge was to look at the substance of the case and see if it had actual evidence of political advocacy.

Mr. MEADOWS. All right. Knowing what we know now, and so let me get to—so we don't follow this red herring here, if—if we've got—as we start to look at these particular cases, knowing that you can't classify conservative or liberal, were Tea Party, 9/12, Patriot groups treated predominantly differently than the Occupy or progressive groups that we have?

Mr. KUTZ. We don't know. We did not audit Occupy or the other names you've used. We know everybody that got into the 298, whether they were conservative, liberal, whatever, they were treated differently. The average time in our report was well over 500 days that they were sitting waiting. So—and we know there were 96 Tea Party, 9/12 and Patriot. That's what we do know, sir.

Mr. MEADOWS. If I can ask one last question. We've been told by IRS employees that the case names actually appeared on the summary of this sensitive report that went up. Is that accurate? So those case names were actually on there, the ones that went to Lois Lerner? That's what we've been told by IRS employees.

Mr. KUTZ. We know they're on the actual case reports. That's what I'm told.

Mr. MEADOWS. So can you check back with us and let—because that would make a big difference, because it would indicate that Lois Lerner probably knew about it as early as April of 2010, some 14 months before she changed it.

Mr. KUTZ. Yeah. The first thing we know of Lois Lerner knowing is July of 2011, but we will check on the question you have and submit it for the record.

Mr. MEADOWS. All right. Thank you. I appreciate the patience

Chairman ISSA. I thank the gentleman. We now go to the gentleman from Massachusetts.

And if the gentleman would allow me 10 seconds before he begins.

Would you also include in the gentleman's request, quite frankly, a short, quick analysis to see if you can find one or more of this nearly 300 files that your people could potentially go through that is, in fact, clearly not conservative? And if you find one or more, would you inform the ranking member and myself? I know that an exhaustive, extensive search might take time, but if it's there, I think the ranking member and I would love to know anecdotally that at least one likely, and we will then go to the Ways and Means Committee to ask for a detailed look, because right now, you know, we show that there are seven that have the name "progressive."

Mr. GEORGE. The answer's yes, Mr.——

Chairman ISSA. Okay. So——

Mr. GEORGE. And it may be more than one, but, so——

Chairman ISSA. Okay. So—so progressive likely are not conservative groups, right?

Mr. KUTZ. We didn't look below the name. I mean, there were—there were, I think, three with the word "progressive," and there were no "Occupy" in the 298.

Chairman ISSA. Okay. I've taken too much time. I'll come back to it. You know, I think—I think all of us here at some point are going to want to know of nearly 300, how many of them—I mean, if you dig down into them, whether deliberately or accidentally were set aside in this group of people that wait 500 days.

You know, I think the ranking member and myself, we may argue about a lot of things, but we don't want to argue about the facts. If the facts are that—that people got abused for a myriad of reasons, we'd like to know it.

There's one thing that I think we all are going to know at the end of this hearing is groups got sectioned out, and they got abused in the process, and that's the undeniable part. Now we—we want to dumpster dive, if you will, a little bit in to find out why, but certainly I don't think any of you or any of us here think that this be—or the president thinks that this behavior was acceptable.

Yes, Mr. George.

Mr. GEORGE. I don't know whether you were in the room, but I indicated that I requested that my staff do take a look to see how these other groups were treated, but again, during the course of this additional review that we're doing with the FBI and the Justice Department, some of this has to be held in abeyance until that aspect of the work is done, but we will try to comply with your request.

Chairman ISSA. All right.

And, Mr. Cummings, maybe you and I should speak off line, but it would be our considered opinion, I believe, that this committee can receive knowledge which cannot be made public, so that at least we could understand whether or not there was a there there, even if it has to be withheld. We don't norm-—we want to be very public, but we certainly, I think, would join together to say if you find certain—some of those things in your investigation, we'd like—sort of consistent with the 7-day rule, we'd like a non-public disclosure, so at least we know how to plan going forward.

Mr. GEORGE. And I've just been informed by staff that we can comply with that within a timely period, sir.

Mr. CUMMINGS. Would the gentleman yield?

Chairman ISSA. Of course. The chairman will yield as much time as the ranking member wants.

Mr. CUMMINGS. I apologize. I just want to get this straight, Mr. Chairman.

Chairman ISSA. We haven't started the clock. Go ahead.

Mr. CUMMINGS. Real quick. Can you put some kind of timeline on that for us? I mean, do you have any idea? Because we may be next year.

Mr. GEORGE. Actually, I'm told, sir, it could take us almost as long as a month from now. We have the information, but it's voluminous, sir.

Mr. CUMMINGS. Well, a month is not as bad as a year.

Chairman ISSA. That's lightening time when we're going to be gone all of August.

Mr. GEORGE. Okay. Right.

Chairman ISSA. So—but we look forward to hearing that by the time we come back from the August——

Mr. GEORGE. Maybe we could work with your staff just to ensure that we are all on the same——

Chairman ISSA. We will—we will work together with your folks.

Mr. GEORGE. Thank you.

Chairman ISSA. Mr. Tierney, thank you for your patience.

Mr. TIERNEY. Certainly. Thank you.

Mr. George, in your testimony, you made a statement that raised some concern the with me, and I quote, your statement was, "the letter from Ranking Member Cummings to the chairman dated July 12, 2013, states that I failed to disclose to Congress that we found no evidence of political motivation."

I think, you know, when I read the letter from Mr. Cummings to Mr. Issa, that's not what it says. Let me, in fact, read to you what it says. It says, Mr. George did not disclose to the committee either in his report or during his testimony that he met personally with his top investigator and tasked him to conduct the review of 5,500 emails of IRS employees and that this official concluded after this review that there was, "no indication of pulling these selected applications was politically motivated," a fact that this official reported was, "very important."

That's quite a distinction from what you were saying in your testimony, Mr. Cummings, had said, and so I wanted to make sure that we were all on the same page here.

But the fact of the matter is, Mr. George, you never told this committee, you never disclosed about your meetings with your top investigator, did you?

Mr. GEORGE. Yeah. Well, sir, for two reasons: one—and, again, you weren't in the room when I explained this earlier—I was told by my staff that there was a smoking gun email in which an IRS employee either, and this is not verbatim, but acknowledged that he or she was charged with targeting Tea Party people—and, again, I know there's a nuance here that my colleague can address in a moment—and that there were, again, roughly 5,000 emails that the auditors had not had a chance to review, but that my investigators——

Mr. TIERNEY. I guess the point is, if I can be so—to interrupt you, but you never told us that you charged your investigator with looking at the 5,500 emails.

Mr. GEORGE. Well, sir, but because it's very important, this was an audit. It was no more than an audit, sir.

Mr. TIERNEY. All right. So he reported to you that the emails showed no indication of any political motivation, and you didn't think it was important to share that information with this committee?

Mr. GEORGE. Well, sir, because I don't know whether there was an email that was destroyed. This was done very quickly. There may have been an email that was destroyed.

Mr. TIERNEY. Well, it certainly wasn't amongst the 5,500 that he reviewed.

Mr. GEORGE. Yeah.

Mr. TIERNEY. —that he thought that it was very important that he found nothing in there that was politically motivated.

Mr. GEORGE. Well——

Mr. TIERNEY. And then you just thought you weren't going to share that with the committee?

Mr. GEORGE. Well, that was one—that was his opinion. And—and, then, so if—under oath, when people are subject to a lot more, you know, potential penalties regarding their behavior and responses to questions and additional information available, who knows whether or not this email will surface. I don't know, sir.

Mr. TIERNEY. Well, no. I'm not asking about one that may service in the future. I'm asking about the 5,500 that you charged your investigator to look through, and he reported—let me tell you what he reported back. The emails indicated the organizations needed to be pulled because the IRS employees were not sure how to process them.

Mr. GEORGE. Right.

Mr. TIERNEY. Not because they wanted to stall or hinder the application. There was no indication that pulling these selected applications was politically motivated.

Mr. GEORGE. Yeah.

Mr. TIERNEY. The email traffic indicated that there was unclear processing directions, and the group wanted to make sure they had guidance on processing the applications, so they pulled them. This is a very important nuance. So your investigators went through 5,500. That's what I found. I think it's an important nuance. You then had it in an earlier draft report, and you scrubbed it.

Mr. GEORGE. I'm going to ask——

Mr. TIERNEY. What's that all about?

Mr. GEORGE. Well, there's a reason for that.

Mr. KUTZ. Because the investigator said that our report support—that their work supported the fact that we said ineffective management. Our report also said there was no political motivation. He's testified to that today.

Mr. TIERNEY. Right. But you didn't give us the—I mean, I—you don't think it's important that you look through 5,500 emails and had a report from an investigator that said the words I just quoted? You don't think it would be important for us know to that, when everybody's running around here trying to make allegations

and, you know, hyperventilating about it being something more than it is? You don't think that was important?

Mr. KUTZ. Well, we thought it was important because it confirmed our report. And he told us that it confirmed our report.

Mr. TIERNEY. So why didn't you put it in there?

Mr. KUTZ. We——

Mr. TIERNEY. I think it's important because it confirms your report as well. I think it gives us the kind of substance that may have stopped some of this, you know, allegations that are running around here rampant and people, you know, going off, you know, and taking these positions that don't make any sense when the facts are out there. These are facts that support your report that are pretty important.

Mr. GEORGE. Sir, this is an ongoing matter. If, at the conclusion of this, if you were to make the same allegations, mea culpa. I would join you in admonishing me. This is an ongoing review, and we're working with the FBI. We're working with the Department of Justice. We're doing subsequent work looking at various other treatment of taxpayers.

Mr. TIERNEY. That's fair. But it would have been helpful to have that——

Mr. GEORGE. Hindsight's 20/20, sir.

Mr. TIERNEY. —at the appropriate time, because it opened the door to a lot of people going off in directions that are just——

Mr. GEORGE. But not at my——

Mr. TIERNEY. —helter-skelter.

Mr. GEORGE. Sir, I didn't suggest they do that.

Mr. TIERNEY. No, no. You did not suggest it, but I'm suggesting that if you had left it in your report instead of scrubbing it out, if you had wanted to tell us that you did have an investigator involved even though it was audit, that he looked through 5,500 emails, that he found out that, you know, there was no indication that pulling these selected applications was politically motivated, all of those things, I think, would have been important at the right time on that.

So, Mr. Cummings, I don't know if you want any more time on that. Otherwise, I'll yield back.

Chairman ISSA. The gentleman yields back his negative 24 seconds.

We now go to the gentleman from Florida, Mr. DeSantis.

Mr. DESANTIS. Thank you, Mr. Chairman.

And the gentleman from Ohio, would you like me to yield?

Mr. JORDAN. You go first.

Mr. DESANTIS. Go first? Okay.

Mr. George, I know that some of our colleagues on the other side have attacked the manner in which your audit was conducted. I think Ranking Member Cummings wrote a letter requesting your testimony. In that letter he wrote, he implied that your audit was purposely tailored in a way that shows only conservatives were targeted. It that true?

Mr. GEORGE. The—his assertions or that——

Mr. DESANTIS. His assertions.

Mr. GEORGE. No. No.

Mr. DESANTIS. Were—were there any facts that your team uncovered that were intentionally left out of the audit?

Mr. GEORGE. You know, there are always decisions made as to what information should and should not be included in an audit, some which are—have, you know, just a tangential relationship to the overall subject matter, others that might be, you know, in hindsight deemed extraordinarily important and then the vast majority in between, which is why there are different iterations of it, which is why the subject of the audit is included in almost every step of the audit process, to make sure that we don't misstate facts or that if they deem something that is of great importance that we neglected to mention, that we are in a position to include it. So—so I don't know. Did you want to add anything to that?

Mr. KUTZ. No. I mean, with respect to what Mr. Tierney was talking about, we were told that what they found validated the facts in our report, and we thought that made us feel good that our report was accurate. And we didn't say something in addition to what we already said, because we'd already said what he found.

Mr. DESANTIS. So any facts that were left out, I mean, there was no intent to kind of skew the result of the report in one direction or another?

Mr. KUTZ. It didn't change the report. We just didn't say we did it. That—that—that's the difference.

Mr. GEORGE. And the answer is no. And nothing that has been alleged here at all changes our conclusion that the IRS engaged in inappropriate behavior and this showed gross mismanagement in the process of operating this program, sir.

Mr. DESANTIS. And what was your reaction to the letter that the ranking member sent to Chairman Issa? Have you had a chance to read that?

Mr. GEORGE. I—just in passing. There's been so much paperwork, sir, but, I mean—so, I mean, it's—you know, again, this is Washington. This is a highly contentious issue. I understand if, you know, if there's a feeling that it's not perfect what we have done, but, you know, being human beings—I'm from, you know, the old school. By definition, being a human being, were imperfect, so I can't say that, you know, anything that a human does is perfect. Would I have loved for him to given me a gold star on it? Of course. He didn't do that.

Mr. DESANTIS. Well, this is Washington, after all. Thank you.

And I'll yield the balance of my time to the gentleman from Ohio.

Mr. JORDAN. I thank the gentleman for yielding.

Look, Mr.—Mr. George, if you're such a Republican political hack, look, I've been a little critical of a couple things in your timeline, but if you're favoring the Republicans, we got the TIGTA timeline the last time you were in front of this committee testifying. And on May 30th of last year, you shared with the IRS commissioner initial findings of your audit that Tea Party, Patriot, 9/12 were used to target groups. Four days later, you shared that with the chief counsel at the Treasury.

Mr. GEORGE. Correct.

Mr. JORDAN. But you didn't share it with us. You had to—think about this. Put it in context. That's in the middle of a Presidential election year. That's kind of important information for people to

get, but you chose, because what Mr. Gowdy said, you're calling the balls and strikes here. You're going to play it down the middle. You're going to play fair. You chose not to share that information with the chairman of the committee, with me as the chair of the subcommittee who asked for the audit, and we're the committee that has jurisdiction over the inspector general. And you said, you know what? I'm not going to do it, because that would look politically motivated as well. So this idea is just baloney. I mean, I wish you would have shared it, frankly, but—and I made that point clear a month and a half ago when you were here. It makes no——

And here's the other thing. Look at the facts. I know media reports one or two left wing groups said they experienced delays, but they got approved, but I know of dozens and dozens and dozens of conservative groups that got not only delayed, but still haven't been approved, because one of them is in our district and is what prompted the chairman and I to request the audit in the first place.

So the other side can say all the baloney the want, but the facts are the facts. That—that's what—I got fired up again, as I do sometimes in this committee.

But, I mean, look, you were calling the balls and strikes, because, frankly, I would have loved to have had that information in May of 2012 that dozens and dozens and dozens of conservative groups were being targeted, and you chose not to give it to the very committee who asked for the audit. And that's fine. That's your role. But to say you're somehow favoring the Republicans, I just don't get it.

Mr. GEORGE. It was never a consideration of politics at all, sir. Never considered.

Mr. JORDAN. And you're proving that, you're proving that.

Chairman ISSA. Because if politics had been the case, releasing that just before the election would have been dynamite for the Republican side. If you—if you wanted to play Republican politics, you could have had a heck of an impact by showing that they were going after Tea Party people systematically at a time in which the President was up for election, right?

Mr. GEORGE. But if I may, sir, the most important factor that I—that I took into consideration is that the audit was in midstream; it wasn't complete. Had it been complete, it would have been released. It was not complete.

Chairman ISSA. Thank you. We now go to the gentleman from Illinois.

Mr. TIERNEY. Will the gentleman first yield for a question?

Chairman ISSA. I—I don't control any time.

The gentleman from Illinois is recognized.

Mr. DAVIS. Thank you very much, Mr. Chairman——

Chairman ISSA. He can certainly yield.

Mr. DAVIS.—and thank you, gentlemen, for being here.

Mr. George, I'm—I'm recalling that when you appeared before this committee before, I specifically asked you how several progressive groups had been included in the list of 298. Neither your testimony nor your report revealed that you had limited your investigation solely to targeting of conservative political campaign ideology.

When you wrote Congressman Levin, you stated that you were nonpartisan. When I asked you at the Ways and Means hearing how this audit started, you stated that you met with staffers from the Oversight Subcommittee. Were these Democratic staffers or Republican staffers, or were they both?

Mr. GEORGE. You know, thank you so much for this opportunity, because I actually misspoke in response to, I don't know whether it was you, Mr. Cummings, or it was—whether it was Ms. Norton, but who inquired about the first time that I sat down with Mr. Issa. And I was informed that at—at a staff level, two of my staffers, three of my staffers met with Chris Hixon, a staffer of the Government Reform majority staff on March 8th, and this was prior to the—the audit. And so I—I wanted to clarify that now. And then——

Mr. DAVIS. And so there were no Democratic staff or staffers present at this meeting?

Mr. GEORGE. That's my understanding.

Mr. DAVIS. Did anyone ever raise any concerns that there may not have been any Democratic staffers present?

Mr. GEORGE. No one raised concerns to me about that. I don't know if——

Mr. KUTZ. I wasn't there.

Mr. GEORGE. Are you aware?

Mr. MCCARTHY. [Nonverbal response.]

Mr. GEORGE. All right.

Mr. DAVIS. And so you're basically responding to staff inquiry, and on the basis of that, you initiated the audit?

Chairman ISSA. Would the gentleman yield? The chair—very quickly. The chair in a formal letter requested that. The consultation earlier on led to a letter which the ranking member received. Thank you.

Mr. DAVIS. So once the chairman—Mr. Chairman received the concern, the expression or the information, then you actually initiated——

Chairman ISSA. Right. It was in a—it was in a letter that was CC'd to the ranking member requesting his audit. If the gentleman wants to be involved in protecting, you know, these groups, we're happy to have you help us with the Tea Party complaints. I will tell you, over in the Senate, the Senate Democratic leaders were constantly sending letters to the others—from the other side asking that they go after these groups. These are all in the record.

Mr. CUMMINGS. Will the gentleman yield just so I'll help him with—just—would you just yield just for a second?

Mr. DAVIS. Yeah.

Mr. CUMMINGS. We—okay. We—staff tells me we got the letter that the chairman sent out, we did get a copy of that, but we did not get a copy of the response from Mr. George to that letter. All right. Then you can let—thank you very much for yielding. And I'll enter George's response into the record.

Chairman ISSA. Without—without objection, it will be placed in the record.

Mr. CUMMINGS. All right. Thank you.

Mr. DAVIS. Thank you. Reclaiming my time.

Mr. George, there's been a great deal of discussion about whether you found any White House involvement or political motivation in your investigation, in your report. And I believe the statements on page 9 of your written testimony make clear that you found nothing of the kind, no documents, no witnesses, nothing. Is that correct?

Mr. GEORGE. That is correct, as of the time of that audit, sir.

Mr. DAVIS. Are you suggesting that at some other time, you found something else?

Mr. GEORGE. I'm—I'm suggesting, sir, that this is an ongoing review, and I'm not going to make any conclusions beyond what we have already done with a concluded—an audit report that has been concluded, but this is an ongoing matter, and I'm not going to prejudge the findings.

Mr. DAVIS. So as of this moment, nothing has been found that would suggest any kind of political motivation or involvement coming from the White House?

Mr. GEORGE. That is correct, sir, nothing as of now.

Mr. DAVIS. Thank you very much. I yield back.

Mr. CUMMINGS. Would the gentleman yield?

Mr. DAVIS. Yes.

Mr. CUMMINGS. Mr. George, I want you to understand something. I've been sitting here listening to the other side. You know, we're no potted plants over here. And I've gone on numerous television shows, and they've asked me, do I trust you and things of that nature? I said I have questions, and I will reserve judgment. I have—and I want to make that very clear. And for us to inquire about things that may have been left out of a report, and we even used that in hindsight it may have been a little different, but I'm going to tell you, that's my job to ask questions, and I will ask them, just like I would expect the chairman to ask them. So, you know, I'm glad—and I think it was—I think it's good that you came in here to clarify that. You know, I don't go out there and say, oh, George is a horrible person. I said let—I don't understand this, so let him come in with his people and explain it. I just want to make that clear to you. All right?

Mr. GEORGE. I appreciate that.

Mr. CUMMINGS. All right.

Mr. GEORGE. Thank you.

Chairman ISSA. Thank the gentleman.

We now go to the gentleman from—the gentleman from North Carolina has been pushed off by the gentleman from Tennessee.

If you're going to argue, I'll take the time.

Mr. DUNCAN. I'll yield. I'll yield to the chairman.

Chairman ISSA. Thank you. I recognize the gentleman, and I'll take a little of his time when they come back.

Mr. George, I just want to make sure to get a couple of things straight. Earlier Mr. Tierney was—was inquiring about what I have as a count, he called it 5,500, I have 5,617 different emails that came up as hits based on key word searches of a number of IRS employees, and those key word searches, obviously, we've talked about the 9/12, the (c)(4).

Now, Lois Lerner made a series of denials and statements and attempted to take the Fifth before this committee. I don't see her

listed as some—as somebody that you did a search on in this group. It's up on the board. Can we inquire as to whether a similar search has been done on her emails?

Mr. GEORGE. You know, sir, I have—my deputy, who conducted or authorized——

Chairman ISSA. As these are all Cincinnati people, and, again, this committee is not presuming there is political intent. We're looking for the communication to find out some—why something even the President has said was wrong went on.

Mr. MCCARTHY. All right. This was a search that was done during the course of the audit. It was a limited search. But we're not going to go into any——

Chairman ISSA. Current——

Mr. MCCARTHY. —current——

Chairman ISSA. Current——

Mr. MCCARTHY. —activities.

Chairman ISSA. Okay. Well, then I'll just use the time briefly to say, certainly when somebody comes before this committee and refuses to answer questions in their official conduct, we would hope that you have preserved those records.

Additionally, it is the intent to work with Justice and yourself to make sure that individuals who take the Fifth before this committee not only appropriately have their official mail checked, but because there has been a record of a number of individuals using private mail to circumvent official mail auditability, that you would also make efforts with the Justice Department, if appropriate, to determine whether or not they may have used such a technique, since that has been repeatedly seen by this committee.

I'm not asking for your answer. I realize that there are ongoing investigations as to possible wrongdoing.

Mr. GEORGE. I would just say the FBI, Justice Department utilize different——

Chairman ISSA. They have warrant authority, right?

Mr. GEORGE. Well, among other things. And, again, I'm not going to confirm or deny an investigation, sir, at this time. We're—it's a review——

Chairman ISSA. Okay.

Mr. GEORGE. —from our perspective.

Chairman ISSA. Now, your best efforts—and Mr. Duncan, if you need your time back, let me know.

But your—your best effort, if I understand correctly, you're going to have your people, and I know we're going to work on it off-line, you're going to have your people make every effort to take what we currently know, which is on a key word basis, 96 out of—out of 96 groups come up as Tea Party or 9/12 Patriot, 7 come up as progressive, and currently, you don't have any specific knowledge of time delays that occurred. We have a lot of knowledge that these were, as you said, 500 or so days, but the breakdown of groups that may have been caught up in the net that may not have been conservative or may have used "progressive" but not been liberal groups, you're going to make every effort to get that information and give it to us in an acceptable format?

The gentleman, Mr. McCarthy.

Mr. MCCARTHY. Mr. Chairman, if I could, one of the questions that came up was we get a lot of questions about the 298 cases and what are the names on there. And as the inspector general testified, we don't want to be in a position of trying to characterize things as liberal or conservative. One of the things that we have been able to do and we did very early on in the process is when we received the 6103 request from the Ways and Means Committee and the Senate Finance Committee, we provided the list to them. So Congress has these lists. If it would be appropriate for Congress to do an analysis within that list of 298 of who's liberal and who's conservative, I don't know if that would—that would be an option that would satisfy what you're looking for.

Chairman ISSA. Okay. The ranking member and I have agreed that we'll—we'll find a way to try to do that within our halls.

Mr. George, you've been a Federal employee for, what, a short 20 years or so?

Mr. GEORGE. 25.

Chairman ISSA. 25. So compared to the first panel, you're—you're a newcomer.

Mr. GEORGE. Yes.

Chairman KUTZ. Mr. Kutz, how long have you worked for the Federal Government?

Mr. KUTZ. About 23 years.

Chairman ISSA. Mr. McCarthy, including your time here?

Mr. MCCARTHY. About 13 years, sir.

Chairman ISSA. Now, Mr. McCarthy, you served here under—under a Democratic chairman, so I'm not going to ask you any questions for a moment, nor do I assume your politics.

Mr. George and Mr. Kutz, in your regular dealing, both yourselves and the people you deal with through Treasury at IRS, do you routinely either tell people what your politics are, Republican, Democrat or other, or do you routinely ask them what their politics are?

Mr. GEORGE. You know, Mr. Chairman, with the exception of this gentleman, because of the fact that I hired him——

Chairman ISSA. We—we——

Mr. GEORGE. —from this committee, so I could guess what his leanings were——

Chairman ISSA. Or at least who liked him a lot, although we liked him on both sides of the aisle, but doubtless, he's a good professional.

Mr. GEORGE. I have no idea whatsoever of the political persuasion of any other member of my 800-person staff. Never once have I had a conversation with them about their political persuasion.

Mr. KUTZ. I——

Chairman ISSA. Yes. Go ahead.

Mr. KUTZ. I have not either with my staff or with IRS officials. That is not the kind of thing I would feel comfortable talking about.

Mr. GEORGE. And I need to amend it. IRS, nor with the IRS, none.

Chairman ISSA. That's good. And that's the way I think we want it to be, and I thank you.

The gentleman from Massachusetts, Mr. Lynch, is recognized.

Mr. LYNCH. Thank you, Mr. Chairman. Mr. George, sometimes there's—in cases like this, that are controversial, there's collateral damage among the innocent, and I want to ask you a line of questioning here about the IRS Office of Chief Counsel. It's my understanding that the IRS Office of Chief Counsel periodically provides the Exempt Organizations Unit with guidance regarding how to process applications of 501(c)(4) tax exempt status. Is that correct?

Mr. KUTZ. Yes. That's my understanding.

Mr. LYNCH. Okay. Thanks, Mr. Kutz.

In the past, the chairman has described that involvement by the IRS Office of Chief Counsel as, "unusual," "atypical" and, "a break from ordinary procedure."

Now, contrary to those descriptions, several IRS employees that have been interviewed by the committee have basically said that the decision to consult with the Counsel's Office is consistent with their usual practice. For example, Mr. Hull's direct successor as the tax law specialist in the Washington, D.C., office, by the way, a self-described Republican, stated that it was, "common for us to ask for their assistance in review." And further she said, it was for the purpose of an extra—an extra pair of eyes, additional attorneys to weigh in on the application of this area of the law. She goes on and says, to review the kind of, I would say, well, hazards of litigation, you know, whether there could be a strong argument made later on down the line on the decisions that we made and whether the kind of—whether this was worth it going forward to deny an organization, for example, or approve them.

Similarly, there's another Technical Unit Group manager who as well described the chief—the office of—excuse me, the chief off—Office of Chief Counsel for the IRS as offering similar services.

In your investigations, is it—is it ordinary practice for different units on specialized questions to seek guidance from the Office of Chief Counsel for the IRS?

Mr. KUTZ. We don't have detailed understandings of that. What we do know is in our timeline in our appendix to our report, there is a reference to some meetings with chief counsel that happened as part of the Tea Party and other criteria with respect to our audit, so we can only speak to that limited piece of information.

Mr. LYNCH. Okay. Then let's get to those points, then. In several case there have been—it's been alleged that there have been considerable delays that were motivated by a desire to stop the granting of (c)—you know, tax exempt status to some of these groups by going to chief counsel.

Has your investigation shown that any of the attempts of conferring with the Office of Chief Counsel were—were done for the purpose of deliberate delay?

Mr. KUTZ. We don't have any details on intent necessarily. What we do know is that it was part of the confusion and the delay story. And, of course, we concluded ineffective management overall was the cause of what happened here. So it was part of that, but we found we have no indications of intent, but we did not interview anyone directly from the Office of Chief Counsel.

Mr. GEORGE. And I've been told by the auditors that actually conducted the audit that, no, we do not have information to that effect, sir.

Mr. LYNCH. Okay. Mr. George, let me ask you, when you were here last time, we talked about three categories of groups that were given extra scrutiny by the IRS. There were some progressive groups that were—were listed. The vast majority were conservative groups, but there was also a category that was described as individuals who were critical of the way the government was being run. That was—that came out of a hearing.

Do you have any recollection of facts or circumstances around that last category, people who were critical of the way the government was being run?

Mr. GEORGE. To make it clear, though, our audit did not characterize people by progressive or conservative. And then that last category was a category that the Internal Revenue Service itself devised when it, well, you know, went away from the Tea Party, you know, upper case, lower case Tea Party——

Mr. LYNCH. Okay.

Mr. GEORGE. —name, and so——

Mr. LYNCH. Okay. So let me get this straight. I just want—this is a fine point. So the IRS actually adopted the category here for greater scrutiny.

Chairman ISSA. I'd ask unanimous consent the gentleman have an additional 15 seconds. Without objection.

Mr. LYNCH. Thank you, sir. The—so the IRS actually came up with this—this term, this Be on the Look Out for individuals who were making application who were critical of the way the government was being run?

Mr. KUTZ. It was not on the Be on the Look Out. It was in a memo—a briefing that Lois Lerner had in June of 2011. In our report, it's showing Figure 3 as some of the expanded criteria that were used. The only thing in the BOLO's was the Tea Party. These other criteria like 9/12, Patriots, issues include government spending, government debt or taxes, the one you mentioned here, statements in the case file criticize how the country's being run, those were being used by the screeners when Lois Lerner asked, what's actually going on to screen cases for political advocacy. So that came from the screeners who were actually looking through the cases and funneling to the political advocacy pile, if you will.

Mr. LYNCH. Okay. So——

Chairman ISSA. Thank you. We now recognize the gentleman from North Carolina, Mr. McHenry.

Mr. MCHENRY. Thank you, Mr. Chairman.

At the heart of this hearing today and this ongoing investigation about the IRS is that we have millions of Americans that live in fear of their government. And that's not whether you're a liberal or a conservative, you're a Democrat or Republican, or you don't care at all about politics, you don't want to live in fear of your government. And that's what's frightening about this. And the more that we've investigated here in the House, the more that we find that is disturbing, deeply disturbing. And so when we—when we talk about this question about, you know, these—these cases being shipped from Cincinnati up to Washington, some want to believe it's because these were hard or complex cases, but what we found in our investigation is we have cases that were sent from Wash-

ington—from Cincinnati to Washington based on news reports about a class of Tea Party folks.

Then we've also heard from Carter Hull that he had—he had cases taken from him, and he's got 40 years of experience, and given to somebody who has very little experience with these cases. So the idea that it was complexity that drove this, it doesn't appear to be the case.

What we find is that it was the politics that mattered, and that leads us to be more fearful of what the IRS is doing.

Now, Mr. George, have you found anything counter to what I've said?

Mr. GEORGE. Counter to what you said. No. I mean, the IRS has one of the most important roles in the Federal Government, it is one of the organizations that most Americans at one point in their lives or another will have to interact with. It has to have the trust of the American people. We live in a voluntary compliance system, and if people don't trust that system, it can undermine, you know, this Nation.

Mr. MCHENRY. Trust.

Mr. GEORGE. Trust, yes.

Mr. MCHENRY. Well, you know, I appreciate you all's testimony and the work that you do on a daily basis to be that oversight, that inspect—you know, that inspector generals are there for that purpose. Regardless of what administration's in power, there needs to be a check on this.

And so going back to the first panelist's testimony, I referenced Mr. Hull, but also Ms. Hofacre, she testified that she accidentally sent this BOLO, this Be on the Look Out list, to Washington personnel. Have you found that in your investigation?

Mr. KUTZ. We—we didn't see that, no.

Mr. MCHENRY. You did not see? She testified to it on the first panel. So it—so—so then it leads to the question, so if she accidentally sent this to Washington leadership, shouldn't they have known this was happening?

Mr. KUTZ. All we know is according to Lois Lerner, this briefing I mentioned a minute ago to Congressman Lynch, Lois Lerner started asking questions and was first briefed in June of 2011. That's what we know at this point. There could be more information, but that's what we know based upon our audit.

Mr. MCHENRY. Okay. Well, with that, I'd like to yield the balance of my time to my colleague——

Chairman ISSA. Would the gentleman yield just 15 seconds first over here?

Mr. MCHENRY. Happy to yield to the higher ranking individual.

Chairman ISSA. We're not higher ranking.

There's been a lot of debate here, and I know you're not tax experts, but if I understand the letter of the law on 501(c)(4)'s, primary group was—was (c)(4)'s, 501(c)(4)'s must have the majority of their activity not, if you will, political, not advocacy.

Mr. KUTZ. Social welfare, yes.

Chairman ISSA. Social welfare. And throughout this audit and the targeting, did you find that they were using that standard, in other words, looking for, was it less than 51—or less than 49—49 percent or less, or did you find that they were looking for nuances?

And the reason I ask that is, as you know from your audit, in 2010 or shortly afterwards, they began asking for what did you do in the last cycle, in other words, auditing as though they had granted something which they hadn't yet granted.

And the reason I ask that is I just want to know, is there any semblance of information that they were not using, if you will, the existing law, but looking for advocacy that could have been certainly well less than 50 percent?

Mr. KUTZ. I heard Ms. Hofacre say the 50 percent. I think that must be an unwritten rule, because we haven't seen it in writing as far as I know. But our issue was using names and policy positions is the wrong thing to do. And the basis of our audit was the substance of the case, which is what we looked at, whether there was significant campaign intervention in the file, and that's what we recommend IRS should be doing going forward.

Chairman ISSA. Thank you. I yield back.

Mr. JORDAN. Well, I thank the gentleman. I have just a couple seconds, if I could.

Mr. George, the fact that you referred a case to the Department of Justice for willful misconduct regarding the 6103 and political donor, and Justice chose not to prosecute, does that cause you concern about the Department of Justice investigation of this issue?

Mr. GEORGE. It—it does not, sir, just because of the various standards.

Mr. JORDAN. Has—has the new FBI director contacted you? Have you talked to Mr. Comey about the IRS targeting case?

Mr. GEORGE. No, no.

Mr. JORDAN. Have you been in contact with the FBI?

Mr. GEORGE. Yes.

Mr. JORDAN. How many times—since the case was launched, how many times have you had conversations with the FBI?

Mr. GEORGE. We've had meetings with various senior FBI——

Mr. JORDAN. Can you give me a number?

Mr. GEORGE. Two.

Chairman ISSA. Okay.

Mr. JORDAN. Two meetings?

Chairman ISSA. Thank the——

Mr. JORDAN. Just two meetings?

Mr. GEORGE. Yes.

Chairman ISSA. Okay. Thank the gentleman.

We now go to the gentlelady from California, Ms. Speier.

Ms. SPEIER. Thank you, Mr. Chairman.

Mr. George, I have the highest regard for inspector generals. We can't do our job in this committee if we don't have inspector generals that will guide us, show us where the red flags are, but we need objective IG's that are not in any way going to spin something one way or the other. So let me ask you this: Last week, almost 8 weeks after you published your audit, our committee received an email dated May 3rd that revealed that you had tasked the head of your investigation office to run a search of IRS employee emails. According to your head of investigations, the purpose of the email search was to determine, and I quote, "if an email existed that directed the staff to target Tea Party and other political organizations."

So you were looking for any evidence that staff was directed to target Tea Party groups as well as any other political organization. That's what the email said. Correct?

Mr. GEORGE. I don't know verbatim what the email said, but I do know what I instructed my deputy for investigations. I was informed by an auditor, or maybe someone from the counsel's shop, I'm not sure which division, but——

Mr. KUTZ. Representative, IRS—we were looking for an email IRS told us existed. Okay? That's—let me make sure I clarify that.

Ms. SPEIER. All right. So let me go on. The email goes on to explain how this search was supposed to work. This is what your head investigator wrote, "audit provided us with a list of employees in question, key word search terms and a time frame for the emails. We pulled the available IRS emails, which resulted in 5,500 response emails."

So they used key words to search to identify the emails they wanted to review. Is that right? They used key search words.

Mr. GEORGE. Yes, yes.

Ms. SPEIER. All right. Earlier this week the ranking member of our committee, Mr. Cummings, wrote to you to request the specific search terms that your staff used to pull these emails, and late last night we received a document from your office that lists them out. It's a very short list. According to this document, your staff used only four key word search terms, and this is what they were: Tea, Patriots, 9/12, and (c)(4).

Now, that seems completely skewed, Mr. George, if you are indeed an unbiased, impartial watch dog. It's as if you only want to find emails about Tea Party cases. These search terms do not include any progressive or liberal or left-leaning terms at all. Why didn't you search for the term "progressive"? It was specifically mentioned in the same BOLO that listed Tea Party groups.

Mr. GEORGE. You know, unlike—my colleague didn't complete his answer. I was told that there was a specific email that identified Tea Party, 9/12 and/or Patriot, and that—and that this email was the, "smoking gun."

Ms. SPEIER. All right. You've said that. You've testified to that before. We know that. Okay? But when you're doing a search, you are an impartial third party. You know this BOLO list had a number of other groups. Why wouldn't you—I mean, it's not like it's costing you any more to search for these other terms when you're searching 5,500 emails, correct?

Mr. GEORGE. Well, the BOLO lists that we were focused on was on political activity. And we—again, and unless I'm mistaken, the progressives were—and just if you want to address this.

Ms. SPEIER. No. I've got a training workshop with PowerPoints that lists both parties, lists progressive groups. You've redacted it. Two bullets. We don't know what the second bullet is. So, I mean, you've done a training program on this. Did you not—why wouldn't you search for "Occupy"?

Mr. GEORGE. Now I will ask Mr. Kutz to respond.

Mr. KUTZ. Well, the emails we were looking for were ones that IRS told us existed but could not find, and that was the purpose of looking for the emails. You're talking about on the limited search we did, which was to support information that we were looking for.

Now you're talking about the document I think that we received on July 9th, 2013.

Ms. SPEIER. This is July 28th, 2010, is when——

Mr. KUTZ. But when——

Ms. SPEIER. —the workshop was.

Mr. KUTZ. —when we received it——

Ms. SPEIER. My point is this: If you are really impartial, if you really are the third party, unbiased, then you would be searching for all the terms, not just Tea Party, not just Patriot. And you said in a letter to the Ways and Means Committee ranking member, you described the scope of your audit as follows: We reviewed all cases that the IRS identified as potential political cases and did not limit our audit to allegations related to the Tea Party.

How can you make that statement when the only groups or only entities that were being searched for were Tea Party, 9/12, Patriot?

Mr. GEORGE. Because most of the complaints that we received were allegations that Tea Party, 9/12 and Patriots were being targeted, ma'am.

Chairman ISSA. Would the gentlelady yield for a question?

Ms. SPEIER. I certainly will.

Chairman ISSA. Ms. Speier, I'm going to not be the devil's advocate, but maybe help you here. The—if they had searched a broader group and found what they were looking for, which would have been somebody talking about targeting people for their politics, that would have gone against what, I believe, has been said repeatedly all day on your side of the aisle, which was there is no evidence of people being targeted for their politics or by their politics. The more extensive a group, if we looked through every single email of every IRS employee, we might find somebody talking about Republican or Democratic activity.

Ms. SPEIER. But that's—isn't that what you're all—what we're talking about here? We don't want them targeting one group or the other. I don't think anyone's——

Chairman ISSA. Well, but—but it wasn't about targeting groups. His search, if I understand correctly, this search was looking for whether there was political intent. And if they looked further and found political intent, it would fly in the face of what Mr. Cummings, Ms. Maloney and others have been saying. So although they could have done more, I will tell you from my personal observation, when we went to the IRS and began a joint investigation with the new commissioner and they were talking about search terms, they used these same four as their suggestion.

Ms. SPEIER. But my point is only this, Mr. Chairman, in his letter to Mr. Levin, he said that we reviewed all cases that the IRS identified as potential political cases and did not limit our audit to allegations related to the Tea Party. This would suggest that, in fact, he did.

Chairman ISSA. No. I agree with the gentlelady that a more exhaustive search might find more. I only——

Ms. SPEIER. It might find nothing.

Chairman ISSA. No. I understand it might find nothing if we went through every employee of the IRS, but one of our challenges, quite frankly, is that the inspector general works for and with the IRS. The IRS gave us these same terms when we were looking for

things, so to the extent that you're unhappy with their search, and you're welcome to be unhappy, the odd thing is the IRS suggested these terms as the right terms. And so the inspector general's here, but when Danny Werfel was here yesterday, it would have been his employees that suggested these same four words.

Ms. SPEIER. But, Mr. Chairman, the presumption of all of these hearings has been that the President is trying to take down his political enemies.

Chairman ISSA. Madam——

Ms. SPEIER. I mean, that has been said over and over again.

Chairman ISSA. Madam, only on your side of the aisle.

Ms. SPEIER. No, it hasn't. It was Mitch McConnell put out——

Chairman ISSA. He is not in this—on this committee.

Ms. SPEIER. Well, that have been references made by any number of members on your side of the aisle, and if you would like me to get them out, I'll be happy to do so. But I think the point is, we don't want to see the IRS targeting any group, correct?

Chairman ISSA. And we saw them targeting——

Ms. SPEIER. For political——

Chairman ISSA. —based on the key words Tea Party.

Ms. SPEIER. Well, no, we saw them—they're targeting because they got an influx of 501(c)(4)s, and as a result of that they were trying to find a way to streamline the process. And as it turned out, it didn't get streamlined, it ended up taking more time.

And the question for us is whether or not these entities are exclusively for social welfare purposes, which they are not, and that goes to the fact that the law says exclusively for social welfare purposes, and it was the IRS in a regulation that made it primarily, and now we're looking at these IRS agents and trying to—and expecting them to be able to determine if something's primarily or not. Unless you do a specific audit of every organization, you're never going to know if it's primarily for social welfare programs.

Chairman ISSA. Ms. Speier, I couldn't agree with you more that you'll never know unless you were to audit all of them. What I will find interesting is the number of 501(c)(4)s during the 2009–2010 period went down, and the special scrutiny of Tea Party groups began at application number one, and then went on with application number 10. By the time there was an influx, they were well along their targeting. Their targeting began at number one.

Last time I checked, and I go back to Euclid for my mathematics, I'm that old, but the fact is one is such a lonely number that I wouldn't call it a rush or an influx or a large group. It just seems to be the loneliest number, and that's when this began, is with the first one. That's how this thing gets to be one, then five, then hundreds, and people realize that they began targeting and sending to Washington before there were a dozen applications.

And so one of the challenges we face with Mr. Cummings, yourself, and myself, is we may find other misconduct at the IRS, and we are asking the IG to use his resources to help find them if they exist. But the key words, the BOLO and so on, predominantly began almost—early on, and they began with this Tea Party question.

The gentlelady's and many of us question about what the right amount is to be a 501(c)(4) and whether, as the Acting Commis-

sioner has said, 60 percent and you can self-declare. You can do 40 percent politics according to the Commissioner, self-declare, and you're fine. That's the current decision by the Commissioner, and that's over and above the current law, which would still be 50 plus 1.

So I'll work with the gentlelady on all kinds of reforms, but we're trying to stay focused. And I will say once again, we do not intend on going anywhere except the facts and the testimony lead, and currently there are no allegations by any of the witnesses about the President being involved. We are at the point of Lois Lerner and the Office of the Counsel. That's where we are in our investigation, and we'll continue, and you're welcome to come to the interviews as we——

Ms. SPEIER. I would love to. Thank you, Mr. Chairman.

Chairman ISSA. Thank you.

Mr. KUTZ. Mr. Chairman?

Chairman ISSA. We now go to the gentlelady—oh, yes, Mr. Kutz?

Mr. KUTZ. I just want to say, I mean, what Mr. George submitted at the beginning of the hearing is called the BOLO advocacy cases iterations. It was given to us May 17, 2012, and represented by the IRS to be the entire set of BOLOs that were used for political advocacy. We're not making this up. We've submitted it for the record.

If IRS was doing something beyond that, they never made it apparent to us in an entire year of doing an audit. So I just want to make that clear. If other people were misused, we're very concerned about that, but IRS is the one that asserted to us in this email and a document Mr. George submitted for the record that the entire population of BOLOs used for political advocacy is on the document that says Tea Party until Lois Lerner changed it to advocacy in July of 2011.

I just want to make that clear. That's a key piece of evidence for us. And they never changed their story for a year. When Ms. Lois Lerner came up May 10th, she didn't apologize for anything else except the evidence that she gave us. I just want to make that clear to everybody.

Chairman ISSA. Thank you.

We now go to the gentlelady from New York, Mrs. Maloney.

Mrs. MALONEY. Thank you. I want to follow up on the gentlelady's mention of a screening workshop on July 28th which clearly states in their training manual, look for terms such as Republican/Democrat, look for donkey/elephant, look for Tea Party, and look for progressives. So they were training according to their own training manual that they were to look for progressives when they were looking for this, "political activity."

So I think it's very clear that in their training manual they were saying look for political activity, Republican/Democratic, conservative/liberal, and Tea Party and progressive. Would you—did you have this training manual? Did you ever see this training manual?

Mr. GEORGE. Mrs. Maloney, we received that document last Tuesday.

Mrs. MALONEY. Okay.

Mr. GEORGE. And this is over a year of conducting an audit, they withheld that document.

Mrs. MALONEY. But do you know why you never received this document?

Mr. GEORGE. We do not, and it raises concerns about other documents that they may not have been sharing with us.

Mrs. MALONEY. But you also looked at, according to your testimony, over 5,500 emails, and did they not come across any claims relating in any way, shape, or form in all these 5,000 emails to the training session of what they are to look for?

Mr. GEORGE. As we weren't looking for that, that was not one of the search terms used to review the 5,000 emails.

Mrs. MALONEY. Well, would you agree, now that we have the training manual, that the IRS was training their employees to likewise look at progressives?

Mr. GEORGE. We will have to review that and make that determination. That, unfortunately, would require us either to amend the audit, which is a possibility, or, as I've indicated before I think you arrived, I've instructed my staff to conduct an audit to see how the other Be On the Look Out, BOLO lists were utilized. Unfortunately, most of this has to wait until after we've completed our work with the FBI, with the Department of Justice Civil Rights Division, and ourselves for fear of interfering with that matter.

Mrs. MALONEY. Well, is it clear from this training manual that they were asking them to look at progressives, too?

Mr. GEORGE. I am not sure. I really——

Mrs. MALONEY. Well, I think you should look at it and study it—it says progressive real big—and get back to us on whether you think the training manual included progressives.

And, Mr. George, you've been in politics a long time. You know that there are Democrats and Republicans out there. You know that there's liberals and conservatives. It's hard for me to believe in my—I am—it's beyond belief that you would conduct an audit that only looked at Tea Party. That makes no sense whatsoever.

I know that I wrote a letter of recommendation in support of you, even though you were Republican, because we worked together and I respected your work. Yet I cannot believe that you called for an audit that only looked at Tea Party when you know that there's a whole array of political activity. That's called targeting. That's called going after people.

Some Republicans in their public statements, and I have a list of them, have tried to smear the President and said he did this and he did that. I would say that your audit tried to smear, to smear I don't know who, someone, or tried to blame someone by excluding a whole swath of the political establishment. I think an eighth-grade class that was asked to do an audit of what was happening politically for people asking for status would look at both sides. That's common sense.

How in the world did you get to the point that you only looked at Tea Party when liberals and progressives and Occupy Wall Street and conservatives are just as active, if not more active, and would certainly be under consideration. That is just common plain sense. And I think that some of your statements have not been—it defies—it defies logic, it defies belief that you would so limit your statements and write to Mr. Levin and write to Mr. Connolly that of course no one was looking at any other area.

It's common sense if they have certain regulations that they thought was the law—I think the law should be changed, I don't think there should be any exemption or tax deduction for political activity. But you know that there's political activity on both sides, right? Why wouldn't you look at both sides? That would be the fair thing to do. That would be the commonsense thing to do. That would be an appropriate audit. It's like saying look for wrongdoing in the bank but only look at overdraft fees. Everybody knows there are a lot, a whole swath of areas that you could look at.

So to limit it defies logic, defies—I am mystified that a distinguished professional would put forth an audit that looks at only a very thin sliver when the training documents, when the letters, when plain common sense dictates that there is a whole array of political activity in our great country.

Chairman ISSA. I thank the gentlelady.

And I know there wasn't a question there, but, Mr. George, I think you've got an answer.

Mr. GEORGE. Yes, thank you, sir, I appreciate this.

Mrs. Maloney, first of all, we received allegations from Members of Congress and from media reports about a particular activity that was occurring, all right? And it wasn't just Tea Parties, it was patriots, it was 9/12. So we were charged, you know, both through a request from Congress, as well as through our audit process, and this was in our audit plan, to look at how tax-exempt organizations were treated.

Now, never once did I ever indicate that we would limit our review to just how these particular groups were treated.

Mrs. MALONEY. But you did.

Mr. GEORGE. Well, ma'am, it takes a year. This audit took a year. And, yes, if you wanted us to wait another year before completing, you know, a fuller audit, we can, but that doesn't serve the American people, it doesn't serve the IRS well. Once we find the IRS is engaged in inappropriate behavior—and there are many examples of this—we alert them so that they can stem that behavior so that American taxpayers aren't unduly harmed and that the IRS can take corrective action.

And so now I hope this discussion obviously will benefit any other group that might be inappropriately targeted, for lack of a better word, or treated by the Internal Revenue Service. And you would, I think, acknowledge, groups, 501(c)(4)s, regardless of their political persuasion, should not have had to wait 3 years to get their status approved. That was wrong. I don't care what political party or political view they hold, Mrs. Maloney. I don't care. I do care that the IRS does the job it's supposed to do, and it didn't. It was gross mismanagement and it was poorly handled, and it was released before our report was——

Mrs. MALONEY. I would say that your audit was mismanagement. And I would say that it——

Chairman ISSA. The gentlelady's time has——

Mrs. MALONEY. —had the effect of smearing——

Chairman ISSA. The gentlelady's time has expired.

Mrs. MALONEY. Point of personal privilege to respond.

Chairman ISSA. To respond to, after your time is finished, to making another attack on the witness?

Mrs. MALONEY. No, no, no. To make a request of information for this committee that will help us get to the bottom of this.

Chairman ISSA. I look forward to seeing that in writing. Thank you.

Mrs. MALONEY. Okay.

Chairman ISSA. We now go to the gentleman from California, Mr. Cardenas.

Mr. CARDENAS. Thank you very much, Mr. Chairman.

Mr. George, you testified earlier that your approach is to call balls and strikes. I'd like to ask that you do that right now. Mr. George, there has been a lot of discussion today about whether you found any White House involvement or political motivation in your report. I believe the statement on page 9 of your written testimony made clear that you found nothing of the kind—no documents, no witnesses, nothing. Is that right?

Mr. GEORGE. That is correct.

Mr. CARDENAS. Okay. So given your clear statement, I'd like to ask you about a number of statements our Republican colleagues have made, especially since they are presumably based on your report, and I want to ask you whether you have identified any evidence to support their claims.

First, on May 14, 2013, Chairman Issa went on national television and said this: "This was the targeting of the President's political enemies effectively and lies about it during the election year so that it wasn't discovered until afterwards."

So my question is, during the course of your audit, have you identified any evidence whatsoever that the IRS was targeting the President's political enemies?

Mr. GEORGE. While we don't have access to the information that the committee may have, our audit—and again please, sir, it needs to be stressed that it was an audit, it was nothing beyond that, although now there is an ongoing review, but our audit did not find anything.

Mr. CARDENAS. So, so far in the activities that you've been engaged in, you haven't found any evidence?

Mr. GEORGE. That is correct.

Mr. CARDENAS. Okay.

Mr. GEORGE. Well, as it related to the audit. We have an ongoing matter that we're working with the Justice Department as well as the FBI, and I am not privy to all of the information that they have gathered.

Mr. CARDENAS. So that's why I clarified my question. What you're privy to, the activities that you've engaged in, in your audit.

Mr. GEORGE. Yes, I have not thus far been informed of anything that's untoward in that regard.

Mr. CARDENAS. All right. On June 3, 2013, House Appropriations Committee Chairman Hal Rogers stated, "Of course the enemies list out of the White House that IRS was engaged in shutting down or trying to shut down the conservative political viewpoint across the country, an enemies list that rivals that of another President some time ago."

So my question is this: During the course of your audit have you identified any evidence relating to an enemies list that came out of the White House?

Mr. GEORGE. No.

Mr. CARDENAS. Okay. On June 19, 2013, Senator Ted Cruz said this, "President Obama needs to tell the truth. When Richard Nixon tried to use the IRS to target his political enemies it was wrong, and when the Obama administration does it, it's still wrong."

My question to you is this: During the course of your investigation, have you identified any evidence that the administration tried to use the IRS to target the President's political enemies?

Mr. GEORGE. We have not found anything to that effect, sir.

Mr. CARDENAS. Okay. Senator Mitch McConnell recently issued a video paid for by his political campaign in which he said this, "I don't know about you, but I think that the leader of the free world and his advisers have better things to do than dig through other people's tax returns. What they are trying to do is intimidate donors to outside groups that are critical of the administration."

The question is this: During the course of your investigation, have you identified any evidence that the President or any of his advisers were digging through other people's tax returns?

Mr. GEORGE. Not about the President. And as to his other advisers, I'm not in a position to give you a definitive answer, but we found no evidence thus far.

Mr. CARDENAS. Okay. I think my point's clear, the Republicans are engaged in a sustained campaign to falsely smear the White House, and your report contradicts all of their unsubstantiated accusations so far.

But also what I'd like to point out for the public, this is a public hearing of a committee of the United States Congress, and it appears that 298 applications were investigated and only 72 were Tea Party applications. What I would prefer as a member of this committee, that I become to a committee and have witnesses and be asking them questions about all 298 applications, not just the Tea Party applications, as the title of this committee hearing is "The IRS' Systematic Delay and Scrutiny of Tea Party Applications."

Therefore, I state for the record, the only organization that clearly and blatantly focused on one type of application is this committee. The title of this hearing, I'll say again, is to investigate Tea Party applications, not all 298. And with all due respect, when you look at 72 applications out of 298, it is a small subset compared to the entire number of applications.

So it's unfortunate that I'm called to a committee that I'm a member of and yet I'm to participate in some kind of bias toward what we should be asking.

I yield back my time.

Chairman ISSA. Mr. George, do you want to respond to any of the numbers or characterizations?

Mr. GEORGE. Well, Mr. Chairman, with all due respect, you know, again, and I alluded to this earlier——

Chairman ISSA. And please stay above the partisan portion of his statement if you don't mind.

Mr. GEORGE. No, no, no, no. It's just that being an inspector general is one of the most difficult jobs in the Federal Government, okay? Because, believe me, when you're walking into the Secretary's office or the Deputy Secretary or whomever or the agency

head, you are normally not coming in with good news. You're coming in with bad news. You're identifying ways that the function of the organization is not operating well or, if you're lucky, you're coming in with ways that they can operate in a better manner.

And I have to admit, I am a little concerned that this type of forum could have a chilling effect on the operations of inspectors general. I mean, again, I have been around for, you know, a while, and so I've seen this before, but not to this extent. And believe me, we shall be issuing some reports shortly that's going to show a lot more of not the best behavior on the part of the Internal Revenue Service, just as we recently did with their $50, you know, million dollars' worth of conferences and a few other things that we have recently reported about.

And so those reports will be coming out. They have no nexus to this at all. But I took an oath to uphold the law. I intend to do so as long as I'm in this position. And we have to rely on—believe me, when I was sitting in that back row as the staff director under Steve Horn, we relied tremendously on both GAO as well as IGs to help us do our jobs, and we could not with a staff of five people have done it on our own.

So, believe me, I know the role of the IG. You know, Mr. Horn, we never treated an IG office like this. I mean, if it were an allegation of personal wrongdoing on my behalf or on my organization's behalf, that's one thing, but to just try to suggest that an audit could have been done differently, you know, this is—you know, this is unprecedented, sir, too. This is unprecedented.

Chairman ISSA. I thank you. And I remember the late Steve Horn. I served with him. There was nobody who worked harder and looked more for the facts. And, quite frankly, Professor Horn came to Congress with almost no politics, and we on the Republican side always asked couldn't he be more Republican, and the answer is, I can't be more honest. And I miss—I miss Steve.

It's now the ranking member's opportunity to close.

Mr. CUMMINGS. You know, I was feeling pretty good until your last statement. I want you to be very clear, Mr. George. You call balls and strikes. We call balls and strikes, too. The 700,000 people who sent me to this Congress did not send me here just to sit and listen. They didn't do that. And if I have questions, I'm going to ask them. The chairman, when he has questions, he asks. When he has questions, where there's a question of whether we can get a document, he asks. He represents 700,000 people, I represent 700,000 people.

And I will—I—when I put up my hand to protect the American people and uphold the Constitution every 2 years, I mean it. I don't care whether the person is Republican, Democrat, whatever. That's my job. That's my duty.

And so, you know, the mere fact that you were asked some questions about a report that even you say, looking at it in retrospect, you might have done things a little different, you know, hello, welcome to the club.

And so, you know, I am—I've got to tell you, I'm glad you came. I'm glad you brought your two associates. And I think you all have done a very good job of answering the questions. But give us some credit, too. On almost every single show I have been on they have

asked me, do you trust the IG? And you can go back and check, and every single time I said, I want to get information.

I'm a lawyer. I am trained to do this. Not necessarily to attack anybody, but get answers. And any IG, if they present to me something and I'm wondering, well, did I miss something or is everything not here, I'm going to ask the questions.

And as I said, I don't have a monopoly on this one. Mr. Issa would do the same thing. And so folks come and said, oh, you know, the IG, we should never ask, you know, an IG, don't ask him a question, don't question. No, no, no, no, no, no, no, no. That's not how it operates.

And then there's another piece of this. I believe that, this committee must be about not only oversight, but reform, and in order to reform you've got to have good information. It's got to be transparent. It's got to be complete, the whole truth, nothing but the truth, so help me God. So the mere fact that a question is asked, please, don't get insulted. I think you should be grateful that we asked you to come back to clarify, and you did it.

And so just like Chairman Issa asked you a minute ago about how you looked at your role, well guess what? And you gave a great answer, and I was pleased to hear it, but guess what? I expect the young lady who was here, Ms. Hofacre, and Mr. Hull, who is now retired, I believe that they're the same way. I've actually said it over and over again that I think that what—as I read the transcripts, it seems that people came in, they were hard-working Americans, giving their blood, sweat, and tears, not making a whole lot of money, put their party hats to the side and walked in there and tried to obey the law as best they could. Then that means that maybe if the law was not right or we need to change something, maybe we need to do that. You said that there were management problems. Maybe we need to do that.

And so nobody is trying to attack you or anybody else. Just trying to get to the facts. This is our watch. This is it. I've said over and over again, we don't know how long we are going to be here. But in this time, in this period, this is our watch to be the very best that we can be, and we are better than what we have been so far. You said it in so many words just a moment ago: The IRS can be better.

And what I'm doing, Mr. Chairman, as I close, I am reaching out trying to get to that better world, to that more perfect IRS. That's what this is all about. Nothing less. Nothing less, nothing more. It is simply that. And I want—I do not want to see the IRS destroyed. I want it to be the very best that it can be. And so with your help and the help of God we will accomplish that.

Thank you, Mr. Chairman.

Chairman ISSA. Thank you, Mr. Cummings.

I think Mr. Cummings is right, we don't know how long we're going to be here. I lost one of my friends, Gideon Goren, today suddenly after only 80 years on this Earth and 50 good years of marriage.

So without further lamenting some parts of the day, I have just a closing question for you, Mr. George. With what you and your organization know today, do you know that there was special scrutiny on organizations lumped together as the term Tea Party, but

obviously 9/12 and the other search terms, do you know there was special scrutiny of those organizations and that it was, in your opinion, inappropriate in—at least in the time of delay?

Mr. GEORGE. Yes.

Chairman ISSA. And as of what you know today, from what you've been able to ascertain, I know it's ongoing, do you know of similar treatment of specific scrutiny because of their key name and delay for groups other than those? In other words, do you know of progressive groups that as of today were scrutinized for being progressive advocacy groups and delayed?

Mr. KUTZ. We don't know that. The 202 names, as we mentioned, we don't know who was what, okay?

Chairman ISSA. Okay. So as this committee continues to look, we will close today knowing that Tea Party groups, patriot groups, 9/12 groups are held to have been—held up to special scrutiny here in Washington, delay, including perhaps the office of Lois Lerner and certainly individuals in the Office of the Counsel caused an unreasonable delay to Tea Party groups, and to this day we know of no specific equivalent among groups, specifically left-wing groups, progressives, and so on.

That is what we have learned today. We certainly charge you as our representatives with eyes and ears where we cannot look, to continue looking, to use all your resources, and to leverage other resources at the IRS to find this and other areas within the IRS.

Now, many people have characterized today what I believe and what I say. In closing, I believe that, in fact, Mr. George, you and your team have done an excellent job. When I look at the speed of your work, I wish for faster. When I look at the quality of your work, I certainly want to send you back to do more in many areas.

But I certainly know this: The IRS is an agency in crisis. They cannot get their procurement right. We've seen that. They cannot get their conference spending, at least in the past, anywhere under control, and they used funds which were inappropriate to fund those conferences.

This special scrutiny raises major concerns about whether or not they even understand the criteria under the law of 501(c)(4)s in what they asked and how they asked, including asking for donor information, including asking for the specifics of political activity rather than the balance of eligibility.

That and other areas give you, your three and others not here today, a huge job, and I for one have confidence that you will do that job, as all of our IGs work hard to do. And this committee will continue, as it did with Steve Horn, to leverage heavily the hard work and the 12,000 or so men and women that work for IGs.

So I want to thank you. I want to make one closing statement, and that is, hopefully we will stop asking people in public or using in public what their political persuasion is unless we're speaking to activities that they did, that those activities may compromise their objectivity. Otherwise every American has a right to belong to or not belong to any party, to believe what they want to believe, and we want them to be able to do that and exercise that.

So, again, I'm going to be the first to say, every one of you, I'd like to get more out of you. I encourage you to work both jointly and, quite frankly, I encourage you to meet with the ranking mem-

ber's staff any time you want, huddle with them, listen to their concerns, and do the same, because this committee charges you often from one side or the other, but we charge knowing that your work is nonpartisan, your results are given to both of us on a consistent basis, and by the way, also to other committees of jurisdiction, without us asking. You make the decision of who needs to know, and we appreciate that. And with that——

Mr. CUMMINGS. Will the gentleman yield——

Chairman ISSA. Of course.

Mr. CUMMINGS. —for just one question?

Chairman ISSA. Of course.

Mr. CUMMINGS. My staff tells me that in the interviews your staff always asks the party affiliation. Can we then stop within the interviews asking for party affiliation?

Chairman ISSA. I appreciate that, and it's a fair question. I believe that my—they have asked routinely whether somebody describes or not, they've asked about political contributions and even volunteering. I have instructed my people not to use that as criteria for decision process.

We do have some people who actually campaigned for a particular candidate and made contributions, but we have not and did not use it today, I don't believe I heard it one time. You know, I believe interviews need to ask all the questions extensively, if appropriate, and we did do that. Candidly, it's the reason I was happy not to hear it asked by my side of the aisle today.

And with that, I thank the ranking member. This has been a long day for you. You were here for the first panel, and I know you could have accomplished a lot of what we're asking for today if we let you have this day in the office.

And with that we stand adjourned.

[Whereupon, at 5:23 p.m., the committee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

JOHN L. MICA, FLORIDA
MICHAEL R. TURNER, OHIO
JOHN J. DUNCAN, JR., TENNESSEE
PATRICK T. MCHENRY, NORTH CAROLINA
JIM JORDAN, OHIO
JASON CHAFFETZ, UTAH
TIM WALBERG, MICHIGAN
JAMES LANKFORD, OKLAHOMA
JUSTIN AMASH, MICHIGAN
PAUL A. GOSAR, ARIZONA
PATRICK MEEHAN, PENNSYLVANIA
SCOTT DESJARLAIS, TENNESSEE
TREY GOWDY, SOUTH CAROLINA
BLAKE FARENTHOLD, TEXAS
DOC HASTINGS, WASHINGTON
CYNTHIA M. LUMMIS, WYOMING
ROB WOODALL, GEORGIA
THOMAS MASSIE, KENTUCKY
DOUG COLLINS, GEORGIA
MARK MEADOWS, NORTH CAROLINA
KERRY L. BENTIVOLIO, MICHIGAN
RON DESANTIS, FLORIDA

LAWRENCE J. BRADY
STAFF DIRECTOR

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Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
STEPHEN F. LYNCH, MASSACHUSETTS
JIM COOPER, TENNESSEE
GERALD E. CONNOLLY, VIRGINIA
JACKIE SPEIER, CALIFORNIA
MATTHEW A. CARTWRIGHT, PENNSYLVANIA
MARK POCAN, WISCONSIN
L. TAMMY DUCKWORTH, ILLINOIS
ROBIN L. KELLY, ILLINOIS
DANNY K. DAVIS, ILLINOIS
PETER WELCH, VERMONT
TONY CÁRDENAS, CALIFORNIA
STEVEN A. HORSFORD, NEVADA
MICHELLE LUJAN GRISHAM, NEW MEXICO

Opening Statement
Rep. Elijah E. Cummings, Ranking Member

Hearing on "The IRS's Systematic Delay and Scrutiny of Tea Party Applications"

July 18, 2013

Eight weeks ago, on May 22, we met in this room to hear testimony about a report from the Inspector General about the IRS's review of groups applying for tax exempt status. At the time, there was justifiable outrage, including from me, about the inappropriate search terms used to screen these groups and the unacceptable delays they endured.

Since that hearing, Republican politicians and commentators have engaged in a sustained and coordinated campaign to accuse the President and the White House of using the IRS to target Tea Party groups for partisan political purposes—without any evidence to support their claims.

Our Chairman led the charge, saying this was the "targeting of the President's political enemies." Other Republicans followed suit. They cited "the enemies list out of the White House." They argued that President Obama "doesn't have clean hands." And they invoked the specter of disgraced former President Richard Nixon.

The fact is that there is no evidence before this Committee to support these claims—none. Two days ago, I issued a memo finding that since the Chairman and other Republicans first began making these accusations, the Committee has identified no evidence whatsoever—documentary, testimonial, or otherwise—to substantiate them. I ask that this memo be entered into the record at this time.

Committee staff have now conducted 16 transcribed interviews of IRS employees in Cincinnati and Washington D.C.—we did another one on Tuesday—and none of them reported any White House involvement or political motivation, including the six who identified themselves as Republicans and who the Chairman chose not to invite today.

To the contrary, these employees indicated that they sought guidance on how to process these applications in a consistent manner according to the law. For example, a Tax Law Specialist in Washington, D.C.—one who identifies herself as a Republican—called the accusations made by the Chairman "laughable." She explained:

> This is purely cases that, unfortunately, Cincinnati didn't have enough guidance on. That (c)(4) area is a very, very difficult area, and there's not much guidance. And so the lingering length of time, unfortunately, was just trying to apply the law to the specific facts of each case.

Yet even today—this very morning—the Chairman is still peddling this claim. In an op-ed appearing in USA Today, he asks ominously: "Was the targeting of Tea Party applicants directed from the White House or somewhere else outside the IRS? As our investigation is ongoing, the responsible answer is that judgment should be withheld."

This is unsubstantiated nonsense. It undermines the Committee's integrity, and it destroys the Committee's credibility. The Chairman certainly did not withhold judgment—he rushed to it with no evidence whatsoever. The responsible answer is that we have no evidence at all to back up that claim.

Since our previous hearing eight weeks ago, we have also obtained new documents that raise serious questions about the Inspector General's report. And I am encouraged that he has agreed to come back today in order to address them directly.

For example, the Inspector General failed to disclose to this Committee that he tasked his top investigator with reviewing 5,500 emails from IRS employees. After conducting this review, this official concluded: "There was no indication that pulling these selected applications was politically motivated." I want to ask the Inspector General why he did not disclose this significant information when he testified on May 22.

I also want to ask the Inspector General why he was unaware of documents we have now obtained showing that IRS employees were also instructed to screen for progressive applicants and why his office did not look into the treatment of left-leaning organizations such as Occupy groups. I want to know how he plans to address these new documents.

Finally, I want to ask the Inspector General about some very troubling testimony we heard yesterday from the acting head of the IRS, Daniel Werfel. He testified that the IRS was about to produce unredacted documents to the Committee last week that include references to additional categories of non-Tea Party groups, but the Inspector General personally intervened to block the IRS from producing this information to this Committee. According to Mr. Werfel, no IRS officials he consulted with ever recalled such an unprecedented intervention.

Mr. Chairman, I am not here today to attack anyone. I am here to get the truth—not a partial or selective truth, but the whole truth. And I believe that should be the goal of everyone in this room. We need to stop making baseless accusations, and we need to get full information about the treatment of all of these groups, conservative, liberal, and everyone in between. I sincerely hope we can do that today.

Jennifer Hoffman, Communications Director, 202-226-5181

Opening Statement
Congressman Gerald E. Connolly (VA-11)
Ranking Member of the Subcommittee on Government Operations
Hearing
Examining the Skyrocketing Problem of Identity Theft Related Tax Fraud at the IRS

August 2, 2013

Thank you Mr. Chairman for holding today's hearing on this critically important issue. As a member of the Subcommittee on Government Organization in the 112th Congress, I was able to review this issue alongside Chairman Platts and Ranking Member Towns and look forward to doing more review in partnership with Chairman Mica in this subcommittee.

Identity theft is a serious problem, as is tax-related identity theft. According to the IRS Taxpayer Advocate, tax-related identity theft jumped more than 650 percent between 2008 and 2012. Last year alone, there were 1.8 million incidents of identity theft and fraudulent refunds.

In my own District, a gentleman and his wife who filed their 2010 tax returns electronically in April of 2011 fell victim to tax-related identity thieves. Their tax filing was rejected because someone else had used his Social Security Number and received a refund before he had filed his legitimate return. My constituent tried for two years to resolve the theft of his tax refund. He spoke with six different individuals at the IRS between April and August of 2011 and was given six different time lines for the issue to be resolved, ranging from 6-8 weeks to a year. Further, the IRS provided conflicting information about forms to fill out, where to send the forms, and whether he should follow up with the IRS or wait for the IRS to contact them. In November of 2011, they received their refund and thought the issue was resolved.

In May 2012, two of my constituents tried to refinance their home and were rejected by their mortgage company because the company was using fraudulent IRS documents. When my constituent called the IRS, they stated "Everything looks fine here. I can't explain it and if there is a problem, I cannot do anything about it." After many ill-fated pursuits at clearing up the situation, the gentleman eventually gave up in frustration; his problem left unsolved.

This is simply unacceptable.

To be fair, the IRS recognizes this fact, and is implementing reforms to enhance its efforts to combat identity theft by adopting a three-pronged approach.

The first prong is prevention, which means stopping this type of tax fraud from being successful in the first place. Clearly, given the prevalence of this crime, much more work needs to be done in this area.

The second prong is providing taxpayer services for those who have been the victims of identity theft. This is a significant focus of the IRS, but it appears that the agency is falling short in some instances.

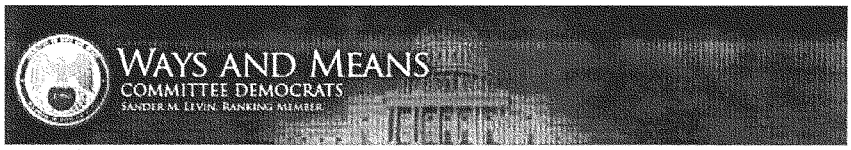
For example, an audit by TIGTA sampled 17 different identity theft cases and found that the average time it took for these cases to be resolved was 414 days.

The third prong of the IRS's approach is catching and convicting the criminals who have committed these crimes. This is a critically important step. If we can step up enforcement, it will deter the amount of tax-related identity theft that we have been seeing increase over the years.

I am interested in learning more about the IRS's efforts to expand upon this three-pronged approach, including examining IRS successes, as well as challenges they still face. I also would like to hear more about how customer service is being improved to prevent the bureaucratic nightmare that my constituent, as well as millions of other Americans, face every year.

This year, as with every year, taxpayers face a number of issues and obstacles as they try to file their returns. I look forward to working with the IRS to implement corrective actions that will strengthen taxpayer assistance initiatives during what can be a very difficult time for many citizens. I hope today we can have a productive discussion as to how to achieve that goal.

Contact: Jennifer Hoffman, Communications Director, (202) 226-5181.



Ways and Means Committee Democrats
July 17, 2013

TIGTA Preventing Release of Information Relevant to IRS Congressional Investigations

WASHINGTON – New information produced in the Congressional investigation shows that the IRS used key search terms to identify organizations that support the Democratic Party for scrutiny – yet the Treasury Inspector General for Tax Administration is claiming that releasing the search term would violate taxpayer confidentiality laws, contrary to the opinion of the IRS. At least one separate broad group of organizations that are Democratic-leaning have been identified but not released to the public, despite the IRS believing that confidentiality laws do not prohibit its disclosure to the public. While the Treasury Inspector General for Tax Administration ("TIGTA") found it appropriate to release the search term "Tea Party," it is preventing release of similar terms used on the other side of the political spectrum.

The group of Democratic-leaning organizations was denied tax-exempt status after their applications were pending for over three years. These denials happened during the period of TIGTA's audit, but they were not disclosed by the Inspector General in the audit report or during his testimony before Congress. These applications were processed in the same manner as the Tea Party cases were processed, outlined in TIGTA's audit report released on May 14:

- the cases were identified and screened for political activities;
- they were transferred to Exempt Organizations Technical Unit;
- they were the subject of a Sensitive Case Report;
- they were subject to multiple levels of review within the IRS; and
- they were reviewed by IRS Chief Counsel.

This group of organizations shares a common term in their name that the IRS used to identify the organizations. This search term – which appeared alongside 9/12 Project and Patriots on IRS training materials used to process tax-exemption applications – was redacted from those training materials based on TIGTA's assertion that release of the information would violate the law. In its May 14 audit report, TIGTA released the common search term "Tea Party" used by the IRS.

Ranking Member Sander Levin: "At the outset, I said that singling out organizations by name was wrong. This new development does not excuse the gross mismanagement of the IRS in processing tax-exemption applications. It appears as if mismanagement of this issue is not limited to the IRS. It is imperative that the Inspector General operate in a non-partisan manner and be completely forthcoming with the Congress and the American people."

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Medina Cheryl J TIGTA

From:	Medina Cheryl J TIGTA
Sent:	Tuesday, July 16, 2013 12:47 PM
To:	Medina Cheryl J TIGTA
Subject:	FW: BOLO Advocacy Cases - Iterations
Attachments:	BOLO Iterations Sheet.xls

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Thursday, May 17, 2012 4:56 PM
To: Medina Cheryl J TIGTA; Seldell Thomas F TIGTA
Subject: BOLO Advocacy Cases - Iterations

Cheryl and Tom,

Attached is a document summarizing the language used in the BOLO over time to describe the advocacy cases. I will also send you the full July 11, 2011 version.

Holly

[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
01/25/12	Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, $ocial economic reform / movement. **Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria unless they are also involved in activities described above.**	EI-1	x	Forward case to Group 7822. (b)(6),(b)((b)(6), is the (b)(6),(b)(7)(C)	Open
07/27/11	Advocacy Orgs	Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Forward case to Group 7822. (b)(6),(b) is coordinating cases with EO Tech- (b)(6),(b)(7)(C)	Open
07/11/11	Advocacy Orgs	Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Forward case to Group 7822. (b)(6),(b) is coordinating cases with EO Tech- (b)(6),(b)(7)(	Open
02/02/11	Tea Party	Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Forward case to Group 7822. (b)(6),(b) (b)(6),(b)(7)(C) Cases are being coordinated with EO Tech- (b)(6),(b)	Open
11/16/10	Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Any cases should be sent to Group 7822. (b)(6),(b) is (b)(6),(b)(7) These cases are currently being coordinated with EOT.	Open
08/12/10	Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Any cases should be sent to Group 7822. (b)(6),(b)(7) is (b)(6),(b)(7) These cases are currently being coordinated with EOT.	Open

Pre BOLO Spread Sheet						
07/27/10	Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Any cases should be sent to Group 7825. (b)(6),(b)(7) is coordinating. These cases are currently being coordinated with EOT.	Open

Pre BOLO Spread Sheet						
05/06/10	Tea Parites		2010-1		Coordinate with group 7825	Opened

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Increase in (c)(3)/(c)(4) Advocacy Org. Applications

Background:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.

- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
  - "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
  - Issues include government spending, government debt or taxes
  - Education of the public by advocacy/lobbying to "make America a better place to live"
  - Statements in the case file criticize how the country is being run

- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, 26 U.S.C. § 6103

- 26 U.S.C. § 6103

- EOT is assisting EOD by providing technical advice (limited review of application files and editing of development letters).

EOD Request:

- EOD requests guidance in working these cases in order to promote uniform handling and resolution of issues.

Options for Next Steps:

- Assign cases for full development to EOD agents experienced with cases involving possible political intervention. EOT provides guidance when EOD agents have specific questions.

- EOT composes a list of issues or political/lobbying indicators to look for when investigating potential political intervention and excessive lobbying, such as reviewing website content, getting copies of educational and fundraising materials, and close scrutiny of expenditures.

- Establish a formal process similar to that used in healthcare screening where EOT reviews each application on TEDS and highlights issues for development.

- Transfer cases to EOT to be worked.

- Include pattern paragraphs on the political intervention restrictions in all favorable letters.

- Refer the organizations that were granted exemption to the ROO for follow-up.

Cautions:

- These cases and issues receive significant media and congressional attention.

- The determinations process is representational, therefore it is extremely difficult to establish that an organization will intervene in political campaigns at that stage.

Comment [C1]: Document: Briefing document for June 2011 meeting with EO Director, Lois Lerner

Purpose: To document the development of the advocacy issue.

Source: Holly Paz, Director R&A

[redacted]

From: Head of Investigations [redacted]
Sent: Friday, May 03, 2013 3:34 PM
To: Principal Deputy IG; Head of Audits [redacted]; TIGTA Chief Counsel; Tax Exempt Audit Head
TIGTA
Cc: [redacted] TIGTA; [redacted] TIGTA
Subject: Review of E-Mails

Gentlemen,

As a result of our meeting with Russell a couple of weeks ago, we agreed to pull e-mails from identified staff members of the EO organization in Cincinnati to find out 1). If an e-mail existed that directed the staff to "target" Tea Party and other political organizations and 2). If there was a conspiracy or effort to hide e-mails about the alleged directive.

Audit provided us with a list of employees in question, key word search terms and a timeframe for the e-mails. We pulled the available IRS e-mails, which resulted in 5,500 responsive e-mails.

Review of these e-mails revealed that there was a lot of discussion between the employees on how to process the Tea Party and other political organization applications. There was a Be On the Lookout (BOLO) list specifically naming these groups; however, the e-mails indicated the organizations needed to be pulled because the IRS employees were not sure how to process them, not because they wanted to stall or hinder the application. There was no indication that pulling these selected applications was politically motivated. The e-mail traffic indicated there were unclear processing directions and the group wanted to make sure they had guidance on processing the applications so they pulled them. This is a very important nuance.

[redacted]

[redacted]
Deputy Inspector General for Investigations