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THE IRS: TARGETING AMERICANS FOR THEIR POLITICAL BELIEFS

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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THE IRS: TARGETING AMERICANS FOR THEIR POLITICAL BELIEFS

Wednesday, May 22, 2013

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

The committee met, pursuant to call, at 9:30 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, Clay, Lynch, Cooper, Connolly, Speier, Cartwright, Pocan, Duckworth, Kelly, Davis, Welch, Cardenas, Horsford, Lujan Grisham.

Staff Present: Ali Ahmad, Communications Advisor; Alexia Ardolina, Assistant Clerk; Kurt Bardella, Senior Policy Advisor; Brian Blase, Senior Professional Staff Member; Molly Boyl, Parliamentarian; Lawrence J. Brady, Staff Director; David Brewer, Senior Counsel; Caitlin Carroll, Deputy Press Secretary; Sharon Casey, Senior Assistant Clerk; Steve Castor, General Counsel; Drew Colliatie, Professional Staff Member; John Cuaderes, Deputy Staff Director; Brian Daner, Counsel; Adam P. Fromm, Director of Member Services and Committee Operations; 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; Michael R. Kiko, Staff Assistant; Justin LoFranco, Digital Director; Mark D. Marin, Director of Oversight; Tegan Millspaw, Professional Staff Member; Kristin L. Nelson, Senior Counsel; Ashok M. Pinto, Chief Counsel, Investigations; Laura L. Rush, Deputy Chief Clerk; Scott Schmidt, Deputy Director of Digital Strategy; Jonathan J. Skladany, Deputy Chief Counsel, Investigations; Matthew Tallmer, Investigator; Rebecca Watkins, Deputy Director of Communications; Jedd Bellman, Minority Counsel; Meghan Berroya, Minority Counsel; Claire Coleman, Minority Counsel; Kevin Corbin, Minority Professional Staff Member; Susanne Sachsman Grooms, Minority Chief Counsel; Devon Hill, Minority Research Assistant; Adam Koshkin, Minority Research Assistant; Elisa LaNier, Minority Deputy Clerk; Dave Rapallo, Minority Staff Director; and Donald Sherman, Minority Counsel.

Chairman ISSA. The committee will come to order.

We exist 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 Committee is to protect these 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 and the IG community to deliver the facts to the American people and bring genuine reform to the Federal bureaucracy.

I would note today that what we read at the opening of every committee hearing is particularly questionable today—or appropriate today, when it says "government accountable to taxpayers." Our democracy was created by people and for the people. When government power is used to target Americans for exercising their constitutional rights, there is nothing we as Representatives should find more important than to take it seriously, get to the bottom of it, and eradicate the behavior.

Since 2010, there appears to have been a targeting of people based on their beliefs. These people, particularly those who use "Tea Party" in their name, were mocked by the liberal media, mocked by late-night television, and referred to by this administration regularly with disdain. Even here in the hallows of Congress, people would talk about who the Tea Partyers were, who was Tea-Party supported, when, in fact, there is no Tea Party. As the evidence has shown, there are hundreds and hundreds of organizations as independent as any single American who simply wanted to live up to the Constitution, to have their freedom, and have it protected by our country.

So last year when we received troubling complaints by groups across the country who were receiving what appeared to be inappropriate and unnecessary questions, in many cases after more than a year, sometimes 2 years, of inaction by the IRS, we went to the inspector general, who is here with us today.

In March of last year, upon the request of our staff and later in a formal letter from Mr. Jordan, the subcommittee chairman, and myself, the IG launched a formal investigation. We knew then that something seemed to be wrong. We knew then that there was smoke. We knew then that, in fact, something just didn't seem to be right. But we didn't know what was really wrong, and we could have never suspected an organized and pervasive denying of hundreds of applications, not by a reject stamped and sent back, but by deliberate inaction.

So our suspicions were just that. Only in the last few weeks have we begun to realize that this was, at least within the IRS, vast, because every single person who looked at one of these applications could have and should have been a whistleblower; could have and should have realized there was something wrong.

During this period of time of more than a year, we had an intervening election. Many people want to talk about this relative to the election. I will not do that here today. This is more important than any one election. We need to look at this relative to our democracy.

The power to tax is the power to destroy. The power to grant tax status is, in fact, an enhancement of the right and liberties of our speech. That is what was at stake here. And it wouldn't matter one bit if a different group was targeted. It is wrong.

Congress produces laws, many of them complex. We may hear in the weeks and months to follow that it was the complexity of these applications that caused this. Complexity is created all more often than it exists. The IRS finds complexity when it is convenient, and simplicity when it is convenient. That is what we have begun to find out.

During the same period of time, at least two investigations were going on, one by the IG, and one internal. Congress was misled. The American people were misled. Just yesterday the committee interviewed Holly Paz, the Director of Exempt Organizations, Rulings and Agreements Division of the IRS. While a tremendous amount of attention centered about the inspector general report, or investigation, the committee has learned that—from Ms. Paz that she, in fact, participated in an IRS internal investigation that concluded in May of 2012, May 3rd of 2012, and found essentially the same thing that Mr. George found more than a year later.

Think about it. For more than a year, the IRS knew that it had inappropriately targeted groups of Americans based on their political beliefs, and without mentioning it, and, in fact, without honestly answering questions that were the result of this internal investigation.

Many people believe that the IRS is an independent agency. Nothing could be further from the truth. We define it deliberately as less political. It has only two political appointees. It is carefully scrutinized to have limited visibility to Congress, limited visibility because we are protecting American people's rights. But, in fact, Commissioner, former Commissioner, who is with us today will tell us he reports to the deputy of Treasury. In fact, he is a subordinate of a subordinate of a Cabinet officer. It is not an agency that gets to do what it wants to do or that cannot be challenged by Treasury.

As a result, when we discover that not only did Ms. Paz know about this, learn about this, and participate in the IRS's internal investigation, but she also played an integral role in the IG's report, or investigation.

We were shocked to find that Ms. Paz participated in virtually every one of the interrogations or interviews with her own subordinates. In those, of course, one of the questions the IG had to ask was, did anyone tell you to do this? If that question was asked, their own superior was in the room. Although it appears as though this was signed off by the IG, this committee finds it inappropriate, inappropriate for any inspector inspecting wrongdoing within an agency to include individuals in the agency who, in fact, could be and we now believe participated willingly in this activity.

It is also unclear why the inspector general did not inform the committee of his substantive findings when he first became aware of the targeting no later than July of 2012. And here is where I take a liberty of this committee, a liberty of the Congress. Despite numerous requests from the committee for information and updates, including an August 3rd letter, a request for the IG to inform Congress about serious or flagrant problems quickly, the IG

failed to do that. Ladies and gentlemen, that is existing law. That is under the IG Act. That has been a responsibility of IGs across the board since the '70s. And we, in fact, on this committee both support, defend, and promote the IGs, but we must also insist, particularly after situations like the GSA scandal that this committee dealt with, that we not wait 10 months to find out that there is a "there" there. That, in fact, is perhaps the greatest failing of an otherwise well-regarded inspector.

Today we will be looking at how things went so wrong, how multiple wrongdoings occurred, how no one in position of authority seems to know anything about it. And within the administration, there seemed to be a culture of insulation that puts higher priority on deniability than addressing blatant wrongdoing.

The American people don't expect perfection. Men and women, many of them working very hard and trying to do the best within government, make mistakes. A few make wrongdoings and do so deliberately. But the buck has to stop somewhere, so in this investigation the buck will stop with this committee. This committee will not stop this investigation until we know that the IRS is fixed.

In a one-on-one interview with the IG shortly after his report, I asked the inspector general a simple question that I expected to have a mixed answer on. The question was: Is this the only time? Could this happen again? In fact, his answer to me in an unambiguous way is, the internal controls are not there for me to say that it isn't happening somewhere else in the IRS, meaning the American people today should not have confidence that this is an isolated incident. But rather, like the days of Enron and WorldCom, you ask the question, has Congress made this organization auditable, and accountable the way they make us auditable and accountable? I paid a lot of taxes in my life; most people on the dais have. We know one thing: You cannot just say you are doing the right thing and expect the IRS to take your word and the check you send in. Documentation, the ability to verify it, is essential when dealing with the IRS. We can expect no less when we deal with the IRS.

Chairman ISSA. And I will recognize the ranking member for his opening statement.

Mr. CUMMINGS. Mr. Chairman, I thank you for calling this very important hearing.

Mr. Chairman, you are absolutely right. This is more important than one election. The revelations that have come forward so far provides us with a moment pregnant with transformation; Not transformation for a moment, but for generations to come and generations yet unborn. That's why this hearing must be about two essential things: truth and trust.

The American people expect the IRS to exercise its responsibilities in a fair and nonpartisan manner. When the IRS breaches that trust, it damages the ability of the agency to implement the Nation's tax laws effectively and efficiently.

The inspector general has called the actions by IRS employees in Cincinnati, quote, "inappropriate," unquote, but after reading the IGs report, I think it goes well beyond that. I believe that there was gross incompetence and mismanagement in how the IRS deter-

mined which organizations qualified for tax-exempt status. Again, this is about truth and trust.

By now we have all heard how IRS employees used terms like "Tea Party" and "Patriots" to single out conservative groups for enhanced scrutiny. But the IG report also discusses how some cases took more than 3 years to resolve. Ladies and gentlemen, we are better than that. We are simply better than that. IRS staff stopped working for more than a year, from October 2010 through November 2011, while they waited for guidance from supervisors on how to process these applications. This is simply unacceptable. When the IRS finally got to processing applications, employees with little or no oversight sent overly extensive requests for information to many of these groups, which understandably angered them.

New processes have been put in place to prevent these abuses in the future, but much more needs to be done. According to the IG audit, at least part of the reason—of the reason for this mismanagement is inadequate guidance on how to process these cases. The original statute passed by Congress requires 501(c)(4) organizations engage exclusively in social welfare activities, but in 1959, the Treasury Department issued a regulation that requires these entities only to be primarily engaged in social welfare activities. As a result, many groups now believe they can spend up to 49 percent of their funds on campaign-related activities.

Significant concerns also have been raised about groups that have already qualified for tax-exempt status, or whose applications are still pending, and are now openly engaging in campaign-related activities and spending millions of dollars with little or no IRS oversight of their activities. These concerns are not limited to just one political party, by the way. For example, good government groups like Democracy 21 and others have written to the IRS about Crossroads GPS, which was created by Karl Rove, as well as Patriots USA, which was created by former Obama administration officials.

I'm encouraged that the IG has already announced that he will be examining this issue in more detail in the upcoming audit, but it is also time to revisit a 1959 regulation and consider returning to the original standard set forth in the statute that bans political activity by these groups altogether, which is what Congress originally intended.

As we investigate the actions of IRS employees, I urge my colleagues to avoid making the investigation into a partisan attack.

Let me pause here to say that there are many great employees in the IRS. I'm sure the chairman would agree with me that it is not our intention to take a broad brush and say negative things about all of the employees at IRS, because there are many hard-working people who are probably looking at this event right now wondering, you know, why are they talking about me? Well, we say to all of those employees, we appreciate what you are doing, but we are trying to make sure that this organization is straightened out.

Mr. Shulman, who was the head of the IRS when all of these actions occurred, was appointed by President Bush. There is no evidence to suggest that he directed IRS employees to intentionally delay or harass Tea Party groups. Similarly, the inspector general

and all IRS officials who have appeared before Congress to date have agreed that no one outside the IRS participated in these activities or was aware of them when they occurred. These facts were confirmed again yesterday when the committee conducted a transcribed interview of Holly Paz, who served as manager of the Rulings and Agreements Office in Washington, D.C., which oversees the Cincinnati unit that processed these applications.

I share the chairman's very serious questions about why Mr. Shulman and Ms. Lerner failed to inform Congress about these problems. Again, ladies and gentlemen, we're talking about truth and trust. To me, this is one of their most significant failures, and I do not believe their answers to date have been sufficient. Truth and trust.

As the committee continues in what I hope will be a bipartisan and thorough investigation, I want to make a request of the chairman. Now that the President has designated Danny Werfel as the new Acting Director of the IRS, I believe the committee should hear from him about his plans to address the recommendations in the IG report and other steps he intends to take to restore the public trust in the IRS. That said repeatedly, to do our jobs on this committee, we must focus on oversight and reform. And reform. Holding a hearing with Mr. Werfel will allow us to do both.

Finally, Mr. Chairman, I would like to say a brief word about Ms. Lerner. Her attorney has written to the committee to inform us that she intends to invoke her Fifth Amendment right against self-incrimination. Of course, I am disappointed that we will not be able to ask her questions today. I believe that she could share much light on what we are trying to find, the truth. But every member of this committee takes an oath to support the Constitution of the United States of America, and this is Ms. Lerner's right under the Constitution. So I will honor her decision, and I respectfully urge all of my colleagues to do the same.

I ask unanimous consent to place into the record written answers that Ms. Lerner provided in response to questions posed by the inspector general, as well as similar answers provided by her boss Joseph Grant.

Chairman ISSA. They will not be accepted at this time. They have not been provided to us by the IG on a bipartisan basis, I have been informed. So at this time we will take them under advisement. They will be—I will take back my reservation if—after Mr. George has viewed them and agreed that, in fact, they are true, or someone else from the IG. And I must mention, I'm shocked that I'm finding things that we want delivered now.

Mr. CUMMINGS. They were provided last night, I understand.

Chairman ISSA. They were not provided to us.

The committee has respectfully requested all of these transcribed interviews from the IG. Mr. George, am I to assume that this was the only one provided, or were all of them provided to the minority?

Mr. GEORGE. Mr. Chairman, I have been informed that they were provided to both sides last night.

Chairman ISSA. Well, there is a way to get them to us to where we know they are there. Can we—no, that's all right. That's all right.

Will we expect to receive all transcribed interviews or only this one? We have asked for all of them equally.

Mr. GEORGE. We prioritized them, sir. We are still working on the requests.

Chairman ISSA. Can we get an estimate of times as long as we are at this point, this juncture?

By the way, I will take back my reserve.

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

Mr. GEORGE. Sir, we are working on the request. We prioritized them as requested by the committee. I cannot give you at this very moment a definitive time for receiving—for your receipt of them.

Chairman ISSA. I trust it will be no greater time than we give taxpayers to respond.

With that, I ask—unanimous consent is accepted and will be placed in the record.

Mr. CUMMINGS. Mr. Chairman, let me just make one comment very briefly on what just happened.

Chairman ISSA. Sure.

Mr. CUMMINGS. Mr. Chairman, we would not submit—we were under the impression that you all had the document. And I would——

Chairman ISSA. And I fully understand that. It wasn't you blindsiding me, I assure you.

Mr. CUMMINGS. Very well.

And as I close, I want this committee to be very careful, and I have said it many times. This committee should act on the level of a Federal court. And I think we need to be very, very careful not to let partisanship undermine the integrity not only of the committee, but of our investigation and our work product.

The American people are depending upon us, and I have full faith and confidence in the chairman, and all of our Members, that we will do as I just said. And so I certainly look forward to our witnesses' answers to our questions today. I look forward to your opening statements. And with that, Mr. Chairman, I yield back.

Chairman ISSA. I thank you, Mr. Cummings.

We now go to the chairman of the subcommittee Mr. Jordan.

Mr. JORDAN. Thank you, Mr. Chairman.

Two rogue agents. That's what the White House tells us were the people responsible for this. In fact, I got a news report from May 15th that says, White House said two rogue IRS employees from Cincinnati were responsible for investigating conservative groups. Two employees in Cincinnati responsible for the systematic targeting of conservative groups over 2 years.

This administration would have us believe that. This administration, this agency, the very agency charged with enforcing Obamacare, systematically targeted groups who came into existence because they opposed Obamacare, and they started the targeting the very month, March 2010, that Obamacare became law, expects us to believe it was just the work of two rogue agents.

This administration, this agency, which, according to Mr. George's report, found out about this practice certainly as early as June of 2011, and after that date Ms. Lerner had 14 opportunities in direct and distinct interactions with the Ways and Means Committee and with this committee, 14 different occasions where she

could have set the record straight, and she chose not to do it. And yet they expect us to believe that the systematic targeting of conservative groups was just the work of two rogue agents in Cincinnati.

This administration, this agency, which was so calculating that they planted the question 12 days ago when Ms. Lerner gave the news that the IRS was engaged in this targeting before the IGs report came out, so calculating they all got together and said, let's do this, let's plant the question and break this story, and yet they expect us to believe it was just the work of a couple of employees, two rogue agents in Cincinnati.

And finally, Mr. Chairman, I would say this: The subject of this committee knows something about. This administration, this administration, which told us and told the American people that the attack that killed four Americans in Benghazi was the work—was caused by a video, is now the same administration who expects us to believe that this scandal was just a result of two rogue agents in Cincinnati.

Mr. Chairman, the people don't buy it. The American people get it, and they just want—they just want this administration to give them the truth. And that's why this hearing is so important.

And I yield back.

Chairman ISSA. I thank the gentleman.

I understand Mr. Lynch will—on behalf of the ranking member, Mr. Lynch is recognized.

Mr. LYNCH. Thank you very much, Mr. Chairman. I want to thank you and the ranking member for holding this timely hearing, I would also like to thank the witnesses for coming forward and helping the committee with its work.

Mr. Chairman, each year the State Department releases its Country Report on Human Rights and Practices. It is a comprehensive assessment of human rights conditions across the world. Notably the overview of the country report released this year provides that sustainable democracy means more than just elections, and includes a quote from President Obama's remarks at the United Nations in September of 2012 defining true democracy as dependent on the freedom of citizens to speak their minds and assemble without fear and on the rule of law and due process that guarantees the rights of all people. The country report goes on to conclude that these elements of democracy, particularly the freedom of expression and the freedom of speech, faced serious threats around the globe in 2012.

I just want to point to a couple of these examples offered by our own State Department. While the law in the People's Republic of China provides for freedom of speech and freedom of the press, the report states that authorities generally do not respect these rights in practice. In particular, those who made politically sensitive comments in public speeches, academic discussions and comments to the media remain subject to punitive measures. And the government frequently monitored gathering of intellectual scholars and dissidents where political or sensitive issues were discussed.

And similarly in the Republic of Belarus, the national Constitution provides for freedom of speech and freedom of press, but the authoritarian regime in place also does not respect the rights in

practice. Specifically it says, individuals could not criticize the government publicly or discuss matters of general public interest without fear of reprisal. Authorities videotape political meetings, conducted frequent identity checks, and used other forms of intimidation.

In my view, these and other blatant violations of individual freedom of expression serve to illustrate exactly what is at stake when a Federal agency, for whatever reason, targets U.S. citizens based on their political beliefs. Such a practice compromises one of the bedrock principles of our democracy: the commitment to ensure that all citizens are free to exercise their freedom of speech without fear of retribution from their government. And it constitutes a significant infringement on human rights in this country.

It is why the facts set forth in the audit report issued by the Treasury IGs are deeply troubling and reveal an IRS practice that is unacceptable. According to the inspector general, the criteria used by the IRS Determinations Unit in Cincinnati to identify tax-exempt applications for further review include specific organization names, such as "Tea Party" and "Patriots"; as well as policy positions, such as government spending, and any case file—and this is what gets me—any case file statements that criticize how the country is being run. Anything that criticizes the government on how this country is being run. That was subject to enhanced investigation by the IRS.

The inspector general has also reported that many of these organizations had not received an approval or denial letter from the IRS for more than 2 years after submitting their applications, and in some instances remained open as long as over 1,000 calendar days.

Moreover, the audit report notes that the same Determinations Unit sent out burdensome request letters for additional information, 58 percent of which the inspector general has characterized as unnecessary.

In light of these and other reports, it's my hope that today's hearing will serve to build upon the investigation conducted by Inspector General George by—and assist our committee in determining how we can better ensure that such practices are never repeated within the Federal Government.

But there's something else at play here. If we don't get, if this committee is prevented by obstruction or by refusal to answer the questions that we need to get to the bottom of this, you will leave us no alternative but to ask for the appointment of a special prosecutor or appointment to special counsel to get to the bottom of this. This is a very serious matter. We would like to handle it in this committee, but if—I watched the last hearing where the witness for the IRS had no names and no direction as to who led these investigations, who chose the terms to be used, and basically stonewalled the committee. That cannot continue. We know where that will lead. It will lead to a special prosecutor. It will lead to special counsel being appointed to get to the bottom of this. So I hope that is not the approach of the IRS going forward, because there will be hell to pay if that's the route that we chose to go down.

Thank you, Mr. Chairman. I yield back the balance of my time.

I thank the gentleman.

All Members will have 7 days in which to place their opening statements in the record.

We now recognize our panel of witnesses. Mr. Russell George is the Treasury IGs for the Tax Administration. Mr. Douglas Shulman is the former Commissioner of the Internal Revenue Service. Miss Lois Lerner is the Director of Exempt Organizations at the Internal Revenue Service. Mr. Neal S. Wolin is the Deputy Secretary at the Department of Treasury, as I previously noted, essentially the report 2 of the Commissioner.

Pursuant to the rules of the committee, all witnesses will be sworn. Would you please rise, raise your right hand to take the oath.

Do you solemnly swear that the testimony you will give will be the truth, the whole truth, and nothing but the truth?

Let the record indicate all witnesses answered in the affirmative.

Please take your seats.

For all of the witnesses, your entire opening statements will be placed in the record. We understand sometimes you are obligated to stay with your opening statement. If so, keep it within 5 minutes. If you would like to use the time to either add to or to summarize, that can be very helpful for the Members.

Mr. George, you are up first. Welcome.

WITNESS STATEMENTS

STATEMENT OF J. RUSSELL GEORGE

Mr. GEORGE. Thank you, Mr. Chairman.

Chairman Issa, Ranking Member Cummings, members of the committee, thank you for the opportunity to discuss our recent report concerning the Internal Revenue Service's treatment of groups that applied for tax-exempt status. As you noted, and as you are aware, Mr. Chairman, our audit was initiated based on concerns that you expressed due to taxpayer allegations that they were subjected to unfair treatment by the IRS.

The three allegations considered during our review were proven true. The IRS targeted specific groups applying for tax-exempt status. It delayed the processing of these groups' applications, and requested unnecessary information, as well as subjected these groups to special scrutiny.

It is important to note that the IRS conducted an audit that—rather, that we, TIGTA, conducted an audit of the IRS and not an investigation. Pursuant to the Inspector General Act, TIGTA is authorized to conduct both audits as well as investigations in our oversight of IRS programs and operations. Audits are generally reviews of IRS programs designed to identify systemic problems and recommend corrective actions, whereas investigations are focused on a person or persons and are usually undertaken in response to reports or complaints of misconduct. Investigations may be criminal or administrative in nature and can result in referral for prosecution or referral for management for administrative action.

Once again, the report we are discussing today is an audit of the IRSs processing of tax-exempt applications. It is not uncommon for audits to present specific issues that lead to additional reviews or

investigations. The inappropriate criteria discussed in this audit were the IRSs targeting for review Tea Party and other organizations based on their names or policy positions, a practice started in 2012, and which was not fully corrected until May 2012. Actually the practice was started in 2010 and not fully corrected until May of 2012. These criteria were inappropriate in that they did not focus on tax-exempt laws and Treasury regulations. They remained in effect for approximately 18 months.

The organizations selected for review for significant political campaign intervention experienced substantial delays in the processing of their applications. In addition, many of these organizations received requests for unnecessary information, including lists of donors.

In closing, our overall assessment is that the IRS demonstrated poor judgment and gross mismanagement in the implementation of this program. The substantiated allegations are troubling and raise many questions.

Chairman Issa, Ranking Member Cummings, members of the committee, thank you for the invitation to appear.

Chairman ISSA. Thank you.

[Prepared statement of Mr. George follows:]

TESTIMONY
OF
THE HONORABLE J. RUSSELL
GEORGE
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION
before
the
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

"The IRS: Targeting Americans for Their Political Beliefs"

May 22, 2013

Chairman Issa, Ranking Member Cummings, and Members of the Committee, thank you for the invitation to provide testimony on the subject of the Internal Revenue Service's (IRS) processing of certain applications for tax-exempt status. The Treasury Inspector General for Tax Administration, also known as TIGTA, has provided ongoing oversight of the IRS's Tax Exempt and Government Entities Division, Exempt Organizations' (EO) customer service and compliance efforts, including those related to political activities. For example, several reviews have covered the IRS's political activities compliance initiative,[1] as well as the processing of political action committees' returns.[2] My testimony today focuses on the results of our most recently issued report.[3] In this report, TIGTA determined whether allegations were founded that the IRS: 1) targeted specific groups applying for tax-exempt status, 2) delayed processing targeted groups' applications for tax-exempt status, and 3) requested unnecessary information from targeted groups. Our report is included as an attachment to the testimony, and I will provide highlights of our key findings.

Organizations, such as Internal Revenue Code (I.R.C.) Section (§) 501(c)(3)[4] charities, seeking Federal tax exemption are required to file an application with the IRS. Other organizations, such as I.R.C. § 501(c)(4)[5] social welfare organizations,[6]

[1] TIGTA, Ref. No. 2005-10-035, *Review of the Exempt Organizations Function Process for Reviewing Alleged Political Campaign Intervention By Tax-Exempt Organizations* (Feb. 2005);
TIGTA, Ref. No. 2008-10-117, *Improvements Have Been Made to Educate Tax-Exempt Organizations and Enforce the Prohibition Against Political Activities, but Further Improvements Are Possible* (June 2008).
[2] TIGTA, Ref. No. 2005-10-125, *Additional Actions Are Needed to Ensure Section 527 Political Organizations Publicly Disclose Their Actions Timely and Completely* (Aug. 2005);
TIGTA, Ref. No. 2010-10-018, *Improvements Have Been Made, but Additional Actions Could Ensure That Section 527 Political Organizations More Fully Disclose Financial Information* (Feb. 2010).
[3] TIGTA, Ref. No. 2013-10-053, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (May 2013).
[4] I.R.C. § 501(c)(3) (2012).
[5] I.R.C. § 501(c)(4) (2012).

may file an application but are not required to do so. The IRS's EO function's Rulings and Agreements office, which is based in Washington, D.C., is responsible for processing applications for tax exemption. Within the Rulings and Agreements office, the Determinations Unit in Cincinnati, Ohio, is responsible for reviewing applications as they are received to determine whether the organization qualifies for tax-exempt status. If the Determinations Unit needs technical assistance[7] processing applications, it may call upon the Technical Unit in Washington, D.C., which is within the Rulings and Agreements office.

Most organizations requesting tax-exempt status must submit either a Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, or Form 1024, *Application for Recognition of Exemption Under Section 501(a)*,[8] depending on the type of tax-exempt organization.

The I.R.C. section under which an organization is granted tax-exempt status affects the activities it may undertake. For example, I.R.C. § 501(c)(3) charitable organizations are prohibited from directly or indirectly participating in or intervening in any political campaign on behalf of or in opposition to any candidate for public office (hereinafter referred to as political campaign intervention).[9] However, I.R.C. § 501(c)(4) social welfare organizations, I.R.C. § 501(c)(5)[10] agricultural and labor organizations,[11] and I.R.C. § 501(c)(6)[12] business leagues[13] may engage in limited political campaign intervention.

The IRS receives thousands of applications for tax-exempt status annually. Between fiscal years 2009 and 2012, the IRS received approximately 60,000-65,000 applications for I.R.C. § 501(c)(3) status each year. In addition, receipts for

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[6] Organizations that promote social welfare primarily promote the common good and general welfare of the people of the community as a whole, such as a nonprofit organizations providing financial counseling, youth sports, and public safety.

[7] Assistance such as interpretation of the tax law or guidance on issues that are not covered by clearly established precedent.

[8] Form 1024 is used by organizations seeking tax-exempt status under a number of other I.R.C. sections, including I.R.C. § 501(c)(4) social welfare organizations, I.R.C. § 501(c)(5) agricultural and labor organizations, and I.R.C. § 501(c)(6) business leagues.

[9] Political campaign intervention is the term used in Treasury Regulations §§ 1.501(c)(3)-1, 1.501(c)(4)-1, 1.501(c)(5)-1, and 1.501(c)(6)-1. I.R.C. § 501(c)(3) defines political campaign intervention as directly or indirectly participating in or intervening in any political campaign on behalf of or in opposition to any candidate for public office.

[10] I.R.C. § 501(c)(5) (2012).

[11] Agricultural organizations promote the interests of persons engaged in raising livestock or harvesting crops, and labor organizations include labor unions and collective bargaining associations.

[12] I.R.C. § 501(c)(6) (2012).

[13] Nonprofit organizations such as chambers of commerce, real estate boards, and boards of trade that promote the improvement of business conditions.

I.R.C. § 501(c)(4) applications increased between fiscal years 2009 and 2012 from approximately 1,700 to more than 3,300 annually.

During the 2012 election cycle, some Members of Congress raised concerns to the IRS about its selective enforcement efforts and reemphasized its duty to treat similarly situated organizations consistently. In addition, several organizations applying for I.R.C. § 501(c)(4) tax-exempt status made allegations that the IRS: 1) targeted specific groups applying for tax-exempt status, 2) delayed the processing of targeted groups' applications for tax-exempt status, and 3) requested unnecessary information from targeted organizations. Lastly, several Members of Congress requested that the IRS investigate whether existing social welfare organizations are improperly engaged in a substantial, or even predominant, amount of campaign activity.[14]

We initiated this audit based on concerns expressed by the Committee on Oversight and Government Reform and reported in the media regarding the IRS's treatment of organizations applying for tax-exempt status. We focused our efforts on reviewing the processing of applications for tax-exempt status and determining whether allegations made against the IRS were founded. Over 600 tax-exempt application case files were reviewed by TIGTA. We did not review whether specific applications for tax-exempt status should be approved or denied.

Results of Review

In summary, we found that all three allegations were substantiated. The IRS used inappropriate criteria that identified for review Tea Party and other organizations applying for tax-exempt status based upon their names or policy positions instead of indications of potential political campaign intervention. Because of ineffective management by IRS officials: 1) inappropriate criteria were developed and stayed in place for a total of more than 18 months, 2) there were substantial delays in processing certain applications, and 3) unnecessary information requests were issued to the organizations.

Inappropriate Criteria Were Used to Identify Potential Political Cases

The IRS developed and began using criteria to identify tax-exempt applications for review by a team of specialists that inappropriately identified specific groups applying for tax-exempt status based on their names or policy positions, instead of developing

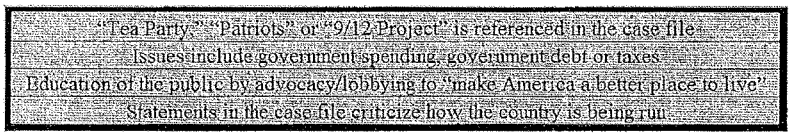
[14] A second audit is planned to assess how the EO function monitors I.R.C. §§ 501(c)(4)–(6) organizations to ensure that political campaign intervention does not constitute their primary activity.

criteria based on tax-exempt laws and Treasury Regulations. The criteria evolved during 2010.

- In early Calendar Year 2010, according to an IRS Determinations Unit specialist, the IRS began searching for applications with "Tea Party," "Patriots," or "9/12" in the organization's name as well as other "political-sounding" names (hereinafter referred to as potential political cases).
- In May 2010, a Determinations Unit specialist and group manager began developing a spreadsheet that would become known as the "Be On the Look Out" listing (hereinafter referred to as the "BOLO" listing), which included the emerging issue of Tea Party applications.
- In June 2010, Determinations Unit managers and specialists began training Determinations Unit specialists on issues to be aware of, including Tea Party cases.
- By July 2010, Determinations Unit management stated that it had requested its specialists to be on the lookout for Tea Party applications.

In August 2010, the Determinations Unit distributed the first formal BOLO listing. The criteria in the BOLO listing were stated as "Tea Party organizations" applying for I.R.C. § 501(c)(3) or I.R.C. § 501(c)(4) status.

EO function officials in Washington, D.C. stated that Determinations Unit specialists interpreted the general criteria in the BOLO listing and developed expanded criteria for identifying potential political cases. By June 2011, these criteria included:



The Director, EO, stated that the expanded criteria were a compilation of various Determinations Unit specialists' responses on how they were identifying Tea Party cases. We asked the Acting Commissioner, Tax Exempt and Government Entities Division; the Director, EO; and Determinations Unit personnel if the criteria were influenced by any individual or organization outside the IRS. All of these officials stated that the criteria were not influenced by any individual or organization outside the IRS. Instead, the Determinations Unit developed and implemented inappropriate criteria due to insufficient oversight provided by management and other human capital challenges.

Specifically, first-line management in Cincinnati, Ohio approved references to the Tea Party in the BOLO listing criteria. As a result, inappropriate criteria remained in place for more than 18 months.[15] Determinations Unit managers and employees also did not consider the public perception of using these criteria when identifying these cases. Moreover, the criteria developed showed that the Determinations Unit specialists lacked knowledge of what activities are allowed by I.R.C. § 501(c)(3) and I.R.C. § 501(c)(4) organizations.

However, developing and using criteria that focus on organization names and policy positions instead of the activities permitted under the Treasury Regulations does not promote public confidence that tax-exempt laws are being applied impartially. The IRS's actions regarding the use of inappropriate criteria over such an extended period of time has brought into question whether the IRS has treated all taxpayers fairly, which is an essential part of its mission statement.[16]

After being briefed on the expanded criteria in June 2011, the Director, EO, immediately directed that the criteria be changed. In July 2011, the criteria were changed to focus on the potential "political, lobbying, or advocacy" activities of the organization and references to these cases were changed from "Tea Party cases" to "advocacy cases." These criteria were an improvement over using organization names and policy positions because they were more consistent with tax-exempt laws and Treasury Regulations.

However, the team of Determinations Unit specialists subsequently changed the criteria in January 2012 without senior IRS official approval because they believed the July 2011 criteria were too broad. The January 2012 criteria again focused on the policy positions of organizations, instead of tax-exempt laws and Treasury Regulations. After three months, the Director, Rulings and Agreements, in Washington, D.C. learned the criteria had been changed by the team of specialists and subsequently revised the criteria again in May 2012. The May 2012 criteria more clearly focus on activities permitted under the Treasury Regulations. We are not aware of any additional changes to the criteria during our audit. We are continuing to look into whether any violations of

[15] The 18 months were not consecutive. There were two different time periods when the criteria were inappropriate (May 2010 to July 2011 and January 2012 to May 2012).
[16] The IRS's mission is to provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

the Internal Revenue Service Restructuring and Reform Act of 1998[17] (RRA 98) have occurred and if any political influence caused the change in criteria.[18]

Potential Political Cases Experienced Significant Processing Delays

The organizations that applied for tax-exempt status and that had their applications forwarded to the team of specialists for additional review experienced substantial delays. As of December 17, 2012, many organizations had not received an approval or denial letter for more than two years after they submitted their applications. Some cases have been open during two election cycles (2010 and 2012).

Potential political cases took significantly longer than average to process due to ineffective management oversight. Once cases were initially identified for processing by the team of specialists in February 2010, the Determinations Unit Program Manager requested assistance via e-mail from the Technical Unit to ensure consistency in processing the cases. However, the Determinations Unit waited more than 20 months (February 2010 to November 2011) to receive draft written guidance from the Technical Unit for processing potential political cases.

The team of specialists stopped working on potential political cases from October 2010 through November 2011, resulting in a 13-month delay, while they waited for assistance from the Technical Unit. Many organizations waited much longer than 13 months for a decision while others have yet to receive a decision from the IRS. For example, as of December 17, 2012, the IRS had been processing several potential political cases for more than 1,000 calendar days (approximately 3 years). Some of these organizations received requests for additional information in Calendar Year 2010 and then did not hear from the IRS again for more than a year while the Determinations Unit waited for assistance from the Technical Unit. For the 296 potential political cases we reviewed, as of December 17, 2012, 108 applications had been approved, 28 were withdrawn by the applicant, none had been denied, and 160 cases were open from 206 to 1,138 calendar days (some crossing two election cycles).

[17] Pub. L. No. 105-206, 112 Stat. 685, 1998 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

[18] For example, it is a violation of RRA 98 § 1203(b)(3) for IRS employees to violate a taxpayer's civil rights, a violation of RRA 98 § 1203(b)(4) to falsify or destroy documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative, and a violation of RRA 98 § 1203(b)(6) for IRS employees to violate the Internal Revenue Code, Treasury Regulations, or policies of the IRS for purposes of retaliating against or harassing a taxpayer. Proven violations of Section 1203 require the termination of the offending IRS employee.

The IRS Requested Unnecessary Information for Many Potential Political Cases

After receiving draft guidance in November 2011 from the Technical Unit on processing potential political cases, a different team of specialists in the Determinations Unit began sending requests for additional information in January 2012 to organizations that were applying for tax-exempt status. For some organizations, this was the second letter received from the IRS requesting additional information, the first of which had been received more than a year before this date. These letters requested that the information be provided in two or three weeks (as is customary in these letters) despite the fact that the IRS had done nothing with some of the applications for more than one year. After the letters were received, organizations seeking tax-exempt status, as well as Members of Congress, expressed concerns about the type and extent of questions being asked.

After this media attention, the Director, EO, stopped issuance of additional information request letters and provided an extension of time to respond to previously issued letters. EO function headquarters Washington, D.C. office employees reviewed the additional information request letters prepared by the team of specialists and identified seven questions that they deemed unnecessary, including requests for donor information, position on issues, and whether officers have run for public office. Subsequently, the EO function instituted the practice that all additional information request letters for potential political cases be reviewed by the EO function headquarters office before they are sent to organizations seeking tax-exempt status. In addition, EO function officials informed us that they decided to destroy all donor lists that had been sent in for potential political cases which the IRS determined it should not have requested.

The Determinations Unit requested unnecessary information because of a lack of managerial review, at all levels, of these information requests before they were sent to organizations seeking tax-exempt status. Additionally, as mentioned earlier, we concluded that Determinations Unit specialists lacked knowledge of what activities are allowed by I.R.C. § 501(c)(3) and I.R.C. § 501(c)(4) tax-exempt organizations. In May 2012, a two-day workshop was provided to the team of specialists to train them on what activities are allowable by I.R.C. § 501(c)(4) organizations, including lobbying and political campaign intervention.

IRS's Response to Our Recommendations

TIGTA made nine recommendations to provide more assurance that applications are processed in a fair and impartial manner in the future without unreasonable delay. The IRS agreed to seven of our nine recommendations and proposed alternative

corrective actions for two of our recommendations. However, we do not agree that the alternative corrective actions will accomplish the intent of the recommendations. One of these recommendations was that the IRS should clearly document the reason applications are chosen for further review for potential political campaign intervention. The second was that the IRS should develop specific guidance for specialists processing potential political cases and publish the guidance on the Internet. Further, the IRS's response also states that issues discussed in the report have been resolved. We disagree with this assertion. Until all of our recommendations are fully implemented and the numerous applications that were open as of December 2012 are closed, we do not consider the concerns in this report to be resolved. In addition, as part of our mission, TIGTA will also determine whether any criminal activity or administrative misconduct occurred during this process. The attached TIGTA report includes additional information on all nine recommendations and the IRS's planned corrective actions and completion dates.

We at TIGTA are committed to delivering our mission of ensuring an effective and efficient tax administration system and preventing, detecting, and deterring waste, fraud, and abuse. As such, we plan to provide continuing audit and investigative coverage of the IRS's efforts to administer the tax-exempt laws.

Chairman Issa, Ranking Member Cummings, and Members of the Committee, thank you for the opportunity to update you on our work on this tax administration issue and to share my views.

Chairman ISSA. Mr. Shulman.

STATEMENT OF DOUGLAS SHULMAN

Mr. SHULMAN. Chairman Issa, Ranking Member Cummings, members of the committee, thank you for the opportunity to appear before the Committee on Oversight and Government Reform to discuss the Treasury IGs findings.

I was the Commissioner of the Internal Revenue Service from March 2008 until November 2012, and during that time the agency was called upon to tackle a number of challenges. The agency played a key role in stimulus and economic recovery efforts during the economic downturn, aggressively addressed offshore tax evasion, and completed a major modernization of its core technology database. The agency also continued to deliver on its core mission of collecting the revenue to fund the government.

The IRS is a major operation with more than 90,000 employees who work on issues ranging from processing individual tax returns to building complex technology, to ensuring compliance with businesses, to educating the public about tax law changes, to administering a very complex set of rules governing tax-exempt organizations.

I have now read the Treasury IGs report. I was dismayed and saddened to read the inspector general's conclusions that actions had been taken creating the appearance that the Service was not acting as it should have; that is, as a nonpolitical, nonpartisan agency. Utilizing a list with keywords to select applicants for review based on organizations' names or policy positions is, in my view, inappropriate and damaging.

The IRS serves a critical function for our Nation. It collects the taxes necessary to run the government. Because of this important responsibility, the IRS must administer and must be perceived to administer our tax laws fairly and impartially. Given the challenges that the agency faces, it does its job in an admirable way the great majority of the time. And the men and women of the IRS are hard-working, honest public servants.

While the inspector general's report did not indicate that there was any political motivation involved, the actions outlined in the report have justifiably led to questions about the fairness of the approach taken here. The effect is bad for the agency and bad for the American taxpayer.

I'm happy to answer questions.

Chairman ISSA. Thank you.

[Prepared statement of Mr. Shulman follows:]

Doug Shulman Statement for House Oversight and Reform Committee
May 20, 2013

My name is Doug Shulman. Thank you for the opportunity to appear before the Committee on Oversight and Government Reform to discuss the findings of the May 14, 2013 report by the Treasury Inspector General for Tax Administration entitled "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review."

I was Commissioner of the Internal Revenue Service from March 2008 until November 2012, and during that time the agency was called upon to tackle a number of challenges. The agency played a key role in stimulus and recovery efforts during the economic downturn, aggressively addressed offshore tax evasion and completed a major modernization of its core technology database. The agency also continued to deliver on its core mission of collecting the revenue to fund the government. The IRS is a major operation with more than 90,000 employees who work on issues ranging from processing individual tax returns, to building complex technology, to ensuring compliance with businesses, to educating the public about tax law changes, to administering a very complex set of rules governing tax exempt organizations.

I have read the recent Treasury Inspector General for Tax Administration's report entitled: "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review." I was dismayed and saddened to read the Inspector General's conclusions that actions had been taken creating the appearance that the Service was not acting as it should have – that is, as a non-political, non-partisan agency. Utilizing a list with keywords to select applications for review based upon the organizations' names or policy positions is, in my view, inappropriate and damaging.

The IRS serves a critical function for our nation: It collects the taxes necessary to run the government. Because of this important responsibility, the IRS must administer—and be perceived to administer—our tax laws fairly and impartially. Given the challenges that the agency faces, it does its job in an admirable way the great majority of the time—and that the men and women of the IRS are hard working, honest public servants. While the Inspector General's report did not indicate that there was any political motivation involved, the actions outlined in the report have justifiably led to questions about the fairness of the approach taken here. The effect has been bad for the agency and bad for the American taxpayer.

I am happy to answer any questions the Committee may have.

Chairman ISSA. Ms. Lerner, I note that you have not provided a written testimony for the committee. Do you wish to make an opening statement?

Ms. LERNER. Yes, sir, I do.

Chairman ISSA. Please proceed.

STATEMENT OF LOIS G. LERNER

Ms. LERNER. Good morning, Mr. Chairman and members of the committee. My name is Lois Lerner, and I'm the Director of Exempt Organizations at the Internal Revenue Service.

I have been a government employee for over 34 years. I initially practiced law at the Department of Justice and later at the Federal Election Commission. In 2001, I became—I moved to the IRS to work in the Exempt Organizations office, in 2006, I was promoted to be the Director of that office.

Exempt Organizations oversees about 1.6 million tax-exempt organizations and processes over 60,000 applications for tax exemption every year. As Director I'm responsible for about 900 employees nationwide and administer a budget of almost $100 million.

My professional career has been devoted to fulfilling responsibilities of the agencies for which I have worked, and I am very proud of the work that I have done in government.

On May 14th, the Treasury IGs released a report finding that the Exempt Organizations field office in Cincinnati, Ohio, used inappropriate criteria to identify for further review applications from organizations that planned to engage in political activity which may mean that they did not qualify for tax exemption. On that same day, the Department of Justice launched an investigation into the matters described in the inspector general's report. In addition, members of this committee have accused me of providing false information when I responded to questions about the IRS processing of applications for tax exemption.

I have not done anything wrong. I have not broken any laws. I have not violated any IRS rules or regulations, and I have not provided false information to this or any other congressional committee.

And while I would very much like to answer the committee's questions today, I've been advised by my counsel to assert my constitutional right not to testify or answer questions related to the subject matter of this hearing. After very careful consideration, I have decided to follow my counsel's advice and not testify or answer any of the questions today.

Because I'm asserting my right not to testify, I know that some people will assume that I've done something wrong. I have not. One of the basic functions of the Fifth Amendment is to protect innocent individuals, and that is the protection I'm invoking today. Thank you.

Chairman ISSA. Thank you for your testimony.

Chairman ISSA. Ms. Lerner, earlier the ranking member made me aware of a response we have that is purported to come from you in regards to questions that the IG asked during his investigation. Can we have you authenticate simply the questions and answers previously given to the inspector general?

Ms. LERNER. I don't know what that is. I would have to look at it.

Chairman ISSA. Okay.

Would you please make it available to the witness?

Ms. LERNER. This appears to be my response.

Chairman ISSA. So it's your testimony that as far as your recollection, that is your response?

Ms. LERNER. That's correct.

Chairman ISSA. Ms. Lerner, the topic of today's hearing is the IRS improper targeting of certain groups for additional scrutiny regarding their application for tax-exempt status. As Director of Exempt Organizations of the Tax-Exempt and Government Entities Division of the IRS, you were uniquely positioned to provide testimony to help this committee better understand how and why the IRS targeted these groups. To that end, I must ask you to reconsider, particularly in light of the fact that you have given not once, but twice testimony before this committee under oath this morning. You have made an opening statement in which you made assertions of your innocence, assertions you did nothing wrong, assertions you broke no laws or rules. Additionally, you authenticated earlier answers to the IG.

At this point I believe you have not asserted your rights, but, in fact, have effectively waived your rights. Would you please seek consult for further guidance on this matter while we wait?

Ms. LERNER. I will not answer any questions or testify about the subject matter of this committee's meeting.

Chairman ISSA. We will take your refusal as a refusal to testify.

The witness and counsel are dismissed.

Mr. GOWDY. Mr. Chairman, a point of order.

Chairman ISSA. The gentleman will state a point of order. Please wait.

Mr. GOWDY. Mr. Issa, Mr. Cummings just said we should run this like a courtroom, and I agree with him. She just testified. She just waived her Fifth Amendment right to privilege. You don't get to tell your side of the story and then not be subjected to cross examination. That's not the way it works. She waived her right of Fifth Amendment privilege by issuing an opening statement. She ought to stay in here and answer our questions.

Mr. CUMMINGS. Mr. Chairman.

Chairman ISSA. Mr. Cummings.

Mr. CUMMINGS. I—first of all, with all respect for my good friend Mr. Gowdy, I said I would like to see it run like a Federal court. Unfortunately, this is not a Federal Court, and she does have a right, and I think—and we have to adhere to that.

Chairman ISSA. Thank you.

We'll pause for a moment.

Ms. Lerner, I'll ask you just a couple of additional questions.

Is it possible that we could narrow the scope of questions, and that there are some areas that you would be able to answer any questions on here today?

Ms. LERNER. I will not answer any questions or testify today.

Chairman ISSA. Ms. Lerner, would you be willing to answer questions specifically related to the earlier statements made under oath before this committee?

Ms. LERNER. I decline to answer that question for the reasons I have already given.

Chairman ISSA. For this reason I have no choice but to excuse the witness subject to recall after we seek specific counsel on the questions of whether or not the constitutional right of the Fifth Amendment has been properly waived. Notwithstanding that, in consultation with the Department of Justice as to whether or not limited or use of unity could be negotiated, the witness and counsel are dismissed. The clerk will please rearrange the seating.

For all of the Members on both sides of the dais, I think it is important that we take a moment, though I think I speak for Mr. Cummings and myself. This is a committee that is investigating more than anything else the ultimate right of free speech and the First Amendment. So as we go on with the rest of this hearing, I would admonish all of us to remember that it is not the First Amendment, or the Second Amendment, or the Fifth Amendment, or the 10th amendment in a vacuum. We have to respect them all.

The gentlelady who has departed was entitled to assert her Fifth Amendment. Although there is some questions about how it was done, there could be no question that we have to respect it; additionally, that her assertion is not to be viewed or used during this hearing to make any determination, plus or minus, as to actions that were taken.

We have the inspector general with us today, we have other fact witnesses, and this committee has more than 10 additional witnesses that will be called either to hearings or to interviews already on the schedule.

I believe that this committee has a long history of very few, during my tenure of 12 years, of these occasions, and we should not use this either for political gain or for any indication that it is anything other than somebody's right.

It is the committee's work to find out what went terribly wrong. I will take one liberty mentioning Mr. Cummings' earlier statement. At this point this committee is not investigating wrongdoing for political purposes by high-ranking individuals in or out of this government. We are investigating something which has now been entered as fact that wrongdoing occurred, and occurred over a group, and that group happened to be keyworded things that are generally called conservative.

In my research on this, and I think Mr. Cummings would agree, this is not new to government. This has happened before, and it has not always been conservative groups. So as we go through this, I would ask all of us to avoid talking about who was liked by President Bush, who is liked by President Obama, who is liked by Republicans or Democrats. Let's all be "Republicrats" and "Democans" today.

Mr. Cummings.

Mr. CUMMINGS. Mr. Chairman, first of all, I appreciate you saying what you just said. And I agree with what you just said, and I would associate myself with your words.

Mr. JORDAN. Mr. Chairman.

Chairman ISSA. Thank you.

For what purpose does the gentleman seek recognition?

Mr. JORDAN. If the gentleman will just yield for 1 minute.

Chairman ISSA. A fraction thereof.

Mr. JORDAN. Okay. I just want to say the same. I appreciate what the chairman said, I think he is right on target, but the irony is inescapable. Ms. Lerner gets to exercise her constitutional rights, but she won't stay here and answer questions about the constitutional rights of thousands of Americans who were denied by their action.

Chairman ISSA. I thank the gentleman. It is this committee's goal to get to the truth. If we have to go circuitous routes, we will eventually get there. The dots will be connected.

With that, Mr. Wolin, would you move over? It will be less distracting, and we will remove the other chair.

Actually I'll take note of the gentlelady's opening statement. She made it very obvious, with 90,000 IRS individuals, 900 working for her, and more or less 9 out of 900 involved in this, or maybe slightly more, we're talking about a fraction of 1 percent of the IRS. And I join with the gentleman in recognizing that this is not to disparage the men and women of the IRS.

Mr. Wolin, you're recognized for 5 minutes.

STATEMENT OF NEAL S. WOLIN

Mr. WOLIN. Thank you, Mr. Chairman.

Chairman Issa, Ranking Member Cummings, members of the committee, thank you for the opportunity to appear before you today.

Last week the Treasury Inspector General for Tax Administration Mr. George published a report on the Internal Revenue Service's use of inappropriate criteria to identify tax-exempt applications. Like President Obama and Secretary Lew, I believe that the activities described in the report are absolutely unacceptable and inexcusable. The IRS must operate without bias or even the perception of bias. It must act in an utterly nonpartisan manner. It must act with the utmost integrity.

The IRS did not do that here. Upon learning of the IGs findings, President Obama and Secretary Lew took immediate action. First, within 24 hours of receiving the IGs report, Secretary Lew asked for and accepted the resignation of the Acting Commissioner. The next day the Acting Commissioner for Tax Exempt and Government Entities tendered his resignation. The day after that the President appointed Danny Werfel to be the new IRS Acting Commissioner and charged him with holding accountable anyone responsible for improper conduct.

Second, Secretary Lew instructed Mr. Werfel to implement fully and promptly all nine of the recommendations in the IG report. Secretary Lew also directed Mr. Werfel to examine and correct any failures in the system that allowed this behavior to happen.

Third, the Secretary asked Mr. Werfel to conduct a broader review to see whether the inexcusable conduct reflects larger management failures and cultural issues at the IRS that require systematic change.

Mr. WOLIN. Secretary Lew directed Mr. Werfel to take action and implement the necessary changes. Within 30 days Mr. Werfel will report back to Secretary Lew and the President on his progress and on any future actions he expects to take.

Before I describe Treasury's interactions with the IG related to this audit, it is important to underscore two critical points. First, there is no indication that Treasury was involved in the improper conduct at the IRS. The IG report did not find any evidence that Treasury or others outside the IRS had any role. Mr. George confirmed this point in his testimony before the Ways and Means Committee last Friday and before the Senate Finance Committee yesterday.

Second, the improper conduct already had ended by the time Mr. George informed Treasury of the facts of his audit. Mr. George's report states that the improper conduct ended in May, 2012. Mr. George has testified that he first notified Treasury of the fact that he was conducting an audit in June of 2012. At some point in 2012, though I do not recall precisely when, Mr. George notified me at his initiative that he had undertaken an audit of the IRS' review of tax-exempt applications. He told me only of the fact that he had undertaken such an audit and did not provide any findings. That is my recollection, and that is what Mr. George testified before the Ways and Means Committee last Friday and before the Senate Finance Committee yesterday.

In that conversation, I told him that he should follow the facts where they lead. I told him that our job is to stay out of the way and let him do his work. I told him to let us know if he wanted our help and otherwise to let us know when he had more to tell us. I understand that Mr. George also notified this committee in July 2012 that he had begun his review. And similarly in October 2012, he provided a notice on his public Web site that he was conducting his review.

Again, to be clear, Mr. George told me that he was conducting an audit. And I told him to follow the facts wherever they lead. Our core principle is that we do not interfere in any way with the independent review of an Inspector General. When an Inspector General tells us he is conducting a review, we step back and leave him to do his work. That is how the process functions, that is how the process should function, and that is how the process functioned here.

Let me reiterate that there is no indication that Treasury was involved in the inexcusable behavior at the IRS and Treasury only learned of the fact that the IG was conducting a review after the unacceptable conduct had already ended. It is important in this context to make clear that Treasury's longstanding practice, spanning Republican and Democratic administrations, is not to involve itself in the details of the IRS' administration and enforcement of the Nation's tax laws. It is critical that the Nation's tax laws are administered and enforced in a way that neither involves political influence nor the perception of political influence. This is particularly true with respect to decisions affecting specific taxpayers.

Over the past 12 days, President Obama and Secretary Lew have taken decisive act to address what happened at the IRS. The President named a new Acting Commissioner and we charged him with holding parties, responsible parties accountable and with taking immediate actions to prevent these inexcusable acts from happening again.

Treasury is committed to taking all measures to restore the public's confidence in the IRS, and toward that end we have asked the IG for its continued assistance, and we are operating fully with this committee and with the Congress.

Thank you again for the opportunity to appear before you today.

[Prepared statement of Mr. Wolin follows:]

EMBARGOED UNTIL 9:30 A.M. 5/22/13

Statement of Neal S. Wolin
Deputy Secretary of the Treasury
before the
Committee on Oversight and Government Reform
United States House of Representatives
May 22, 2013

Chairman Issa, Ranking Member Cummings, members of the Committee, thank you for the opportunity to appear before you today.

Last week the Treasury Inspector General for Tax Administration (TIGTA), J. Russell George, published a report on the Internal Revenue Service's (IRS) use of inappropriate criteria to identify tax-exempt applications. Like President Obama and Secretary Lew, I believe that the activities described in the report are absolutely unacceptable and inexcusable. The IRS must operate without bias or even the perception of bias. It must act in an utterly nonpartisan manner. It must act with the utmost integrity. The IRS did not do that here.

Upon learning of TIGTA's findings, President Obama and Secretary Lew immediately took action.

First, within twenty-four hours of receiving the TIGTA's report, Secretary Lew asked for and accepted the resignation of the Acting Commissioner. The next day, the Acting Commissioner for Tax Exempt and Government Entities tendered his resignation. The day after that, the President appointed Daniel Werfel to be the new Acting Commissioner and charged him with holding accountable anyone responsible for the improper conduct.

Second, Secretary Lew instructed Mr. Werfel to implement, fully and promptly, all nine of the recommendations in the TIGTA report. Secretary Lew also directed Mr. Werfel to examine and correct any failures in the system that allowed this behavior to happen.

Third, the Secretary asked Mr. Werfel to conduct a broader review to see whether the inexcusable conduct reflects larger management failures and cultural issues at the IRS that require systemic change. Secretary Lew directed Mr. Werfel to take action and implement the necessary changes.

Within 30 days, Mr. Werfel will report back to Secretary Lew and the President on his progress and any future actions he expects to take.

Mr. Werfel is ideally suited for his charge. He is a career public servant. He has worked in both Democratic and Republican administrations. He is an effective leader who serves with the kind of professionalism, integrity, and skill that the American people deserve. He has our full support. Today is his first day, and we are confident that he will hit the ground running.

Before I describe Treasury's interactions with TIGTA related to this audit, it is important to underscore two critical points.

First, there is no indication that Treasury was involved in the improper conduct at the IRS. The TIGTA report did not find any evidence that Treasury or others outside the IRS had any role. Mr. George confirmed this point in his testimony before the House Ways and Means Committee last Friday and before the Senate Finance Committee yesterday.

Second, the improper conduct already had ended by the time Mr. George informed Treasury of the fact of his audit. Mr. George's report states that the improper conduct ended in May 2012. Mr. George testified that he first notified Treasury of the fact that he was conducting the audit – but not any results – in June 2012.

At some point in 2012, though I do not recall precisely when, Mr. George notified me, at his initiative, that he had undertaken an audit of the IRS's review of tax-exempt applications. He told me only of the fact that he had undertaken such an audit, and he did not provide any findings. That is my recollection, and that is what Mr. George testified before the House Ways and Means Committee last Friday and before the Senate Finance Committee yesterday.

In that conversation, I told him that he should follow the facts wherever they lead. I told him that our job is to stay out of the way and let him do his work. I told him to let us know if he wanted our help and otherwise to let us know when he had more to tell us.

I understand that Mr. George also notified this Committee in July 2012 that he had begun his review. Similarly, in October 2012, he provided a notice on his public website that he was conducting his review.

Again, to be clear, Mr. George told me that he was conducting an audit, and I told him to follow the facts wherever they lead. Our core principle is that we do not interfere in any way – or do anything to create the perception of interference – with the independent review of an inspector general. When an inspector general tells us he is conducting a review, we step back and leave him to do his work. That is how the process functions. That is how the process should function. And that is how the process functioned here.

On March 15, 2013, Mr. George had a short introductory meeting with Secretary Lew. At that meeting, Mr. George informed Secretary Lew of a number of matters TIGTA was reviewing. He also indicated that this audit report would be forthcoming. Mr. George did not describe any details of his audit findings. This was also in line with standard practice.

Let me reiterate that there is no indication that Treasury was involved in the inexcusable behavior at the IRS. And Treasury only learned of the fact that TIGTA was conducting a review after the unacceptable conduct already had ended.

It is important in this context to make clear that Treasury's longstanding practice – spanning Republican and Democratic administrations – is not to involve itself in the details of the IRS's administration and enforcement of the nation's tax laws. It is critical that the nation's tax laws are administered and enforced in a way that neither involves political influence, nor the perception of political influence. This is particularly true with respect to decisions affecting

specific taxpayers. That is how the process functions. That is how the process should function. And that is how the process functioned here.

Over the past twelve days, President Obama and Secretary Lew have taken decisive action to address what happened at the IRS. The President named a new Acting Commissioner, and we charged him with holding responsible parties accountable and with taking immediate action to prevent these inexcusable acts from happening again.

Treasury is committed to taking all measures to restore the public's confidence in the IRS. Toward that end, we have asked TIGTA for its continued assistance, and we are cooperating fully with this Committee and this Congress. Thank you again for the opportunity to appear before you today.

Chairman ISSA. Thank you, Mr. Wolin.

I'm going to comment that I've never heard a defense of not knowing and I'm disappointed.

Let me go through a line of questioning primarily with Mr. George.

Mr. George, before the Ways and Means Committee you told Representative Danny Davis the following: Our audit, sir, began with the request of Congressional staff in what I want to give you, I want to give you the exact date, sir, I do not have it here, March 1st of 2012 is when there was an initial contact with the Government Reform and Oversight Committee and our audit began or roughly, and then you go on with May or March et cetera et cetera.

So essentially this began in your mind when you were made aware of it in March of 2012 by members of my committee, staff members of my committee correct?

Mr. GEORGE. Yes.

Chairman ISSA. So, oddly enough, we have with us and put it up on the board from Holly Paz a document just released to us yesterday, I guess in preparation for yesterday's interview, that says forward TIGTA document request, the following are issues that could indicate a case to be considered a potential Tea Party case and sent for secondary screening, one Tea Party Patriots of 9/12 project, two or Number 4 statements in the case file that are critical of how the country is being run.

Now, that's May 20th of 2013. To your knowledge, is that—and that's from, that is essentially a result of an internal investigation done by the IRS not your investigation.

I'm sorry, that's July 23rd, I'm looking at emails which unfortunately are this year, but that's July 23, 2012. Is your understanding that the IRS concluded that they had wrongdoing through their own internal investigation by July, 2012.

Mr. GEORGE. I have no information on that, but let me consult with my counsel.

I have been informed that they conducted an internal review, sir, that was completed before that period.

Chairman ISSA. Okay. So it's your testimony that, in fact, independent of your activity, Mr. Shulman's report conducted and concluded wrongdoing and could have, in fact, reported that up the chain and taken appropriate action independent of your activities?

Mr. GEORGE. That is certainly an option, sir.

Chairman ISSA. So Mr. Shulman, before I go back to Mr. George, it was your watch, your people did an internal review. How is it you did not know that things were rotten in your shop in time to not only make sure it stopped and stayed stopped, but, in fact, that Treasury, your boss sitting next to you, was aware of it?

Mr. SHULMAN. I've said that I learned about this some time in the spring and by this, I mean I learned the fact that there was a list and the fact that Tea Party was on it.

Chairman ISSA. Okay. So you knew at that time that you had mistreated Americans within your organization and saw no need to report it up the chain, is that your testimony?

Mr. SHULMAN. My testimony is that I at that point I had had a preliminary verbal report. I had been told at that same point that

the activity was being stopped, and I was told that the IG was looking into the matter.

Chairman ISSA. Okay. Stop there. I don't really care about the IG right now. The IG probably prompted the internal report. The IG, in fact, has been the reason that we didn't hear about this until long after the election, until months or actually a year had gone by. I'm asking you a question. It was your job to make sure people weren't abused. It was your job to stop abuse but also to report it. Americans had been injured by the activity, wrongful activity, of your organization. You say you got it vocal, I don't care that the IRS doesn't keep paperwork. I know when I have to pay my taxes, I don't do it based on what I say I made or what I say my deductions are that I need paper, however, you knew, you did not report it or did you report it to anyone else within your chain?

Mr. SHULMAN. I had some of the facts, not all of the facts. I had no idea of the scope and severity. I didn't know the full list. I didn't know who was on the list. And I did not report it up the chain.

Chairman ISSA. I'm not going to belabor that because "I don't know" has been your answer previously.

I'm going to move back to the IG.

Mr. George, September 24, 2012, committee staff mentioned, you mentioned your report would be ready in September. Now, these are exchanges we're putting up here that are back and forth. They are not all personally with you.

So September 24, 2012, the answer to our request about this IG report was, field work for this audit is still ongoing, meaning we don't get an answer. December 18, 2012, any update on this? Sorry for the delayed response. I was studying for a final.

Okay, that's when it was pushed off to March. These are staff.

Committee staff, just wanted to know, to check on the progress of this—this is February 12, 2013—of this, are you at a point where you can schedule a briefing?

From your organization. We are leaving no stone unturned. This is February 22nd of 2013. We won't be able to provide a detailed, substantive briefing until late April, early May.

My time is limited, so I'll put the rest in for the record.

Mr. George, I could go on, as late as May 19th, I'm sorry, May 9th, where the committee staff had said on the 8th, can we go ahead and schedule a briefing? May 9th, I'll get back to you. And it goes on.

Mr. George, this committee and the entire Congress has existing laws. Yesterday I spoke before all of your fellow IGs. Under existing law, you have a peer level report, a peer level report of substantial misconduct or problems, including waste, fraud and abuse. The act describes your establishment, which means in this case the IRS, and Congress in the same sentence. On August 3rd, this committee, I sent you a letter explaining the 7-day rule, explaining the statute as it has been written for decades. You have a responsibility to keep us continuously and, according to statute, equally informed. In this case, it appears as though you certainly did not. Would you agree with that?

Mr. GEORGE. No actually.

Chairman ISSA. So when you conducted day after day after day with Mr. Shulman's subordinates, Ms. Paz, one after another inter-

views in which she's in the room, she's listening to all of these, you're doing that. You know at some time, and I'm going to close with just a question, on what day did you know over this year period, did you know personally that, in fact, the IRS had abused Americans in the process of approval? What was that day? What was the aha moment and didn't you have an obligation to report that to Congress at that time?

Mr. GEORGE. Mr. Chairman, I have a detailed timeline which goes from almost month to month as to the interactions that we had with your staff and then the subsequently with the Commissioner as well as with officials at the Department of the Treasury, and I would appreciate the opportunity to give you a sampling of that.

Chairman ISSA. We're are going to accept that and I just want to close and then I'll let you take as much time as you need. If your timeline essentially says you kept us informed so we knew that, in fact, there was a pattern and could speak to Ways and Means to find out that hundreds of people, hundreds of organizations still languished not being approved even after "the abusive behavior began," they still didn't get their answer in a timely fashion. And if you're saying that you informed Mr. Wolin so that he would understand what was going on or others at Treasury and you informed us and Mr. Shulman, here's my problem: Mr. Shulman has already said under oath he didn't know. Mr. Wolin has already said they didn't know, and although I'm not under oath, I have reviewed my committee staff documents and of course it's a bipartisan relationship, we certainly did not have the information in any way, shape or form that could be understood so that Congressional action could occur until practically today.

Mr. GEORGE. Mr. Chairman, there are established procedures for conducting an audit and once again this is an audit. And to ensure fairness and to ensure that we are completely accurate with the information that we convey to Congress, we will not report information until the IRS has had an opportunity to take a look at it to ensure that we're not misstating facts.

Chairman ISSA. Mr. George, that is not the statute. That is not the statute.

Mr. GEORGE. Sir, but it would be impractical for us to give you impartial information which may not be accurate. It would be counterproductive, sir, if we were to do that.

Chairman ISSA. Well, I appreciate that. I've taken a lot of time and I will give the same amount of time of course to my ranking member. But this committee last August made it very clear that the statute, as written, does not give you the ability to—or any IG—to use us as a whipping boy when you want to and, in fact, keep us in the dark until in fact an investigation is completed.

Mr. Shulman, I will admonish you as best I can as one member of government to a former member of government that, in fact, there was a "there" there. People in your own internal operation knew, if you didn't know you were derelict in your duty or your management style was such that you didn't get informed. Either way, that is certainly not something you should be proud of.

To the extent that you did know or suspected Mr. Wolin is standing here, sitting here implying that Treasury didn't know is astounding.

Mr. George, the fact is if these individuals did not know then you did not allow them in a timely fashion to take corrective action even while you continued with what could be a criminal investigation/audit.

In the case of Congress, I will work with the ranking member to reiterate with clarity Congress' absolute right to have, according to the statute, continuous information and that is not waiting for the final conclusion. The act did not say audits and investigations shall upon their conclusion 7 days after being given to the principal be delivered. That is not the portion that we referred to in August of last year. I give you the last word.

Mr. GEORGE. Sir, I would welcome the opportunity to work with you and other Members of Congress to clarify exactly what the, quote/unquote, 7-day rule is under the Inspector General Act. But, once again, I think it would behoove all of us to ensure that accurate information is given to Congress so that we don't act precipitously. And as you I'm sure are aware, many times when information is conveyed to the Hill it is sometimes not retained in the Hill, on the Hill rather, and that is not fair to the people who are investigating or——

Chairman ISSA. I apologize, I said I would give you a last word but right now we are seeing an awful lot leaking out of the administration and the IRS leaked in this particular case. This organization maliciously leaked this information.

Mr. Wolin, the only other thing, and I apologize, Mr. Cummings, I'm going way past where I normally would, it is our understanding that today as we speak dozens if not hundreds of applicants who have been waiting years are still being essentially denied justice. If they continue to be denied justice every clock tick is a clock tick of your not meeting your obligation. Mr. Shulman has left office. He left office without making sure that those "Tea Party" groups and others had a legitimate adjudication in a timely fashion which means they were already overdue because of the prior abuse, to the extent that there is one applicant that comes forward to this committee that today has not been approved or denied for cause, you are now derelict in your duty.

Mr. Cummings.

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

Mr. Shulman, I want to pick up where the chairman left off with you. You were the head of the IRS from 2008 to 2012. All of this activity happened on your watch. The development of these terms, the use of the terms and the targeting of conservative groups, the IG called this activity inappropriate but I think it's far worse than that. And it undermines the public trust in the IRS and that is very, very unfortunate.

I want to ask you about two major issues. First, I'd like you to address the allegation that the administration was engaged in some kind of effort to use the IRS to target its political enemies. So I want to walk through this very quickly with you. Who nominated you to be the head of IRS?

Mr. SHULMAN. President Bush.

Mr. CUMMINGS. Are you biased against conservative groups?

Mr. SHULMAN. No.

Mr. CUMMINGS. Do you think they deserve more scrutiny than liberal or progressive groups?

Mr. SHULMAN. No.

Mr. CUMMINGS. Did you ever order IRS employees to target conservative groups?

Mr. SHULMAN. No.

Mr. CUMMINGS. Did you ever encourage or prompt them to do so in any way?

Mr. SHULMAN. No.

Mr. CUMMINGS. Did you ever receive instructions from anyone at Treasury to target conservative groups?

Mr. SHULMAN. No.

Mr. CUMMINGS. Did you ever receive instructions from anyone at the White House to target conservative groups?

Mr. SHULMAN. No.

Mr. CUMMINGS. So these misguided actions, Mr. Shulman, were initiated by IRS employees, they were not part of any administration conspiracy, and you had no knowledge of them before 2012, is that right?

Mr. SHULMAN. I personally don't remember ever hearing about this until the spring of 2012.

Mr. CUMMINGS. Now we've dispensed with that issue.

I want to address the very serious question of why you failed to inform Congress about these activities last year when you learned of them. And I must tell you, Mr. Shulman, I want to remind you that you are under oath. And I tell you when I watched your testimony the other day, I was, it was very troubling, as a matter of fact, some of your testimony this morning has been troubling. So I want you to give us your answers and I know you will be truthful.

Members of Congress wrote numerous letters to you expressing concern that conservative groups were being targeted by the IRS. When asked about these allegations at a hearing before the Ways and Means Committee in March, 2012, you answered, "there is absolutely no targeting."

Even if you did not know it was going on when you testified, you learned about it soon after but you never corrected the record. You were the head of IRS. Why didn't you ever come back to the Congress to explain that you were mistaken?

Mr. SHULMAN. So, what I can recall is that I learned about the list after that testimony. And when I learned about the list, I learned two other things. First, I learned that the activities were stopped, so by the time it got to me, the list was no longer being used with inappropriate criteria. And I also learned that the matter was in the hands of the IG. And my standard procedure as head of the IRS is when I knew something that sounded of concern, as the chairman called smoke, that, and I didn't have all the facts, I didn't know what was on the list, exactly how it was used, were there liberal groups as well as conservative groups, I didn't have the facts that—and it was in the hands of the IG, that the IG would do a thorough review of the matter, and when he had all of the facts, would report that to the IRS, to the Treasury and to Congress. And so, at that point, I didn't have anything concrete. I

didn't have a full set of facts to come back to Congress or the committee with.

Mr. CUMMINGS. That answer would be more acceptable if you had not given the answer that you did in March, 2012.

When Congress asked you a question, and then you say these words, there's absolutely no targeting, it seems to me that even given what you just said you knew that Congress was concerned about this issue, you knew then that the information, you just said it had been corrected, but it seems to me that if you say to the Congress, absolutely not, absolutely no targeting, it seems to me that you would come back even if it was a phone call, a letter, or something, I mean common sense. People, I mean a reasonable person would expect you as the head of the IRS communicating with Congress to come back and do that. You didn't feel that way though?

Mr. SHULMAN. I mean I guess I would repeat——

Mr. CUMMINGS. I don't want you to repeat. I don't want you to repeat. I just, I take it that you disagree with what I just said.

Mr. SHULMAN. At the time I learned about this list I felt I was taking the appropriate actions and that my course was the proper one, and I still feel that way today.

Mr. CUMMINGS. Well, I'm sorry. That's simply not good enough. It's simply not good enough, Mr. Shulman. The IRS conducted an internal investigation of his own, not the IG investigation, but your own investigation. You personally knew there was a target list. You knew it said Tea Party on it. You put new processes in place and you took personnel actions. You reassigned at least one individual back in 2012.

Come on, Mr. Shulman. I mean help us. Help us help the taxpayers. Am I missing something? Did you have an investigation? Was there an internal investigation?

Mr. SHULMAN. I never understood that word of internal investigation.

Mr. CUMMINGS. Did you ever assign, reassign at least one person back in 2012?

Mr. SHULMAN. Not that I was aware of.

Mr. CUMMINGS. You don't know that?

Mr. SHULMAN. To best of my knowledge I was not involved in the reassignment of people in the Determinations Unit. I have no recollection of that.

Mr. CUMMINGS. So when you heard, when you learned about the targeting, apparently you made some kind of inquiry because you said you found out that it had been resolved.

Who did you go to and who told you that it had been resolved and what did they say the resolution was? You were the head of the IRS.

Mr. SHULMAN. I was the head of the IRS.

Mr. CUMMINGS. And you've got Congress people that were upset about targeting. They had been asking questions. You had come and said there was absolutely no targeting. And so help me with this.

Mr. SHULMAN. First of all, let me express this is a very serious matter and I fully recognize that. This was a 90,000-person agency, and this was a unit that was working on applications by definition for organizations that had political activity. My general operating

style as the only one of two Presidential appointees in the building was to have the responsible career officials be the hands-on people in sensitive case matters that involve political activity. So my deputy informed me of this.

Mr. CUMMINGS. And who was your deputy?

Mr. SHULMAN. Steve Miller.

Mr. CUMMINGS. Okay.

Mr. SHULMAN. And at or about the same time he informed me that we found this list that had Tea Party on it. I have no memory of having knowledge of what was on the list, what else was on the list, to the best of my understanding, didn't know how it was being used, didn't know if it also had the target word "progressive" on it. He said, look, it's not being used any more. It's being stopped. The IG is looking into it. And I was aware that some of these cases were languishing because we had gotten letters from Congress and he said and we put extra people on there and we're moving cases. That's my memory of this.

And as I said, once the IG has this, my practice was to support IG reviews and investigations but not interfere with the full confidence that he would get the information.

Mr. CUMMINGS. But this has nothing to do with interfering with an IG investigation. This is merely coming back to Congress. You have to understand why I'm getting to this. Remember in my opening statement I said two words just two—two—two: truth and trust. And we need, we want to be able to trust the IRS. But for this moment on this day, we need to be able to trust your word. And what I'm saying to you, you keeping telling me, you almost, you act as if something that was of paramount concern to the Congress, paramount concern to the chairman of the top investigative committee in the Congress, and you find out information and you know it's a concern, did you get upset when you heard this from Miller?

Mr. SHULMAN. Yeah, I had concern. I didn't know the scope and severity of it. As head of the IRS, I felt comfort that the IG was going to look into it, find the scope and severity and report it back to Congress at the appropriate time.

Mr. CUMMINGS. Mr. Shulman, as I close, you know, you headed up an organization, you were responsible for that organization, you don't even know that an employee was reassigned back there, and you did not come back to Congress and let Congress know what you knew. You didn't have to give us a lot of details, it's just that, if I had said something to Congress and it was just the opposite of what it was, it seems like just logic would tell me to go back and say, look, I thought that, I acted on certain information that I didn't have, now I have it, this is what it is, I have limitations, there's an IG investigation going on but at least I want to set the record straight.

I take it that you disagree with what I just said.

Mr. SHULMAN. I told you before I think I took the proper course.

Mr. CUMMINGS. Very well. Thank you, Mr. Chairman.

Chairman ISSA. Thank you, Mr. Cummings. I now recognize the gentleman from Florida, Mr. Mica.

Mr. MICA. Thank you, Mr. Chairman, and as I look around I end up being the most senior member of this panel and having seen a

number of scandals and also participated in various investigations, I don't think I've ever seen any investigation or review by this committee or subject that has so riveted and shocked the American people. Going home last weekend, almost to a person everyone asked me about this. Maybe it's because, what Mr. Cummings said, you know, people expect truth and trust in government. Everyone, just about everyone that I deal with or talk to pays taxes or has to deal with the IRS. So this has really come home to them in a very personal way. They want us to get to the bottom of this.

And Mr. George, you know, so far IRS would have us believe that this is a bunch of lower level IRS employees who got around the water cooler one day in Cincinnati and said who do we target this week and they sort of got out of hand and that's the end of the story. Do you think that's the end of the story?

Mr. GEORGE. I do not, Congressman.

Mr. MICA. And neither do the American people.

What's disturbing, too, is—I made this little chart that morning. Sort of a pattern, this isn't very fancy, the staff not highly paid graphics here, but this all started back in 2010. Here's long lists, Mr. Shulman, of Members of Congress who contacted you, and I see Sarah Hall Ingram, I see Lerner, on and on, not just people like Mr. Issa and myself of this committee but Senators and everyone else asking questions here, here, here, here, all the way through, and for 27 months you said you did all you could to expedite those requests for 27 months from here to here, nothing got done, none of those were approved were they? Not one. Not one.

Mr. SHULMAN. I defer to Mr. George who has looked into the details——

Mr. MICA. I'm just telling you, we checked, not in 27 months, none. So what you're saying doesn't hold true.

Now, the thing, too, and you may disagree with the Tea Party or conservative groups or whether you're liberal or conservative, Americans under the right of this little document, the Constitution, you know, maybe not in the framework of the Constitution but right at the beginning you have 10 amendments, the Founding Fathers to pass it put it in there, the first is the freedom of speech. You closed down or gagged for 27 months people, folks who work for IRS, closed them down for 27 months between 2010 and we're discussing policies of expanding government of health care important to the American people, of a whole host of issues, plus the election coming up, for 27 months you gagged or closed down the legitimate rights of those folks to participate in the process under the Constitution.

Do you disagree with that?

Mr. SHULMAN. Let me premise that I was, because, on purpose, I was not heavily involved in—let me finish—in tax exempt organizations but my best understanding is people were not closed down during this time.

Mr. MICA. You said you knew this was going on——

Mr. SHULMAN. No. No. My best understanding though is that people were operating at that time, and there's also my best understanding is——there is a whole other option—

Mr. MICA. Did you know Mr. Miller——

Mr. SHULMAN. There's a whole other option for someone to be a——

Mr. MICA. Did you know Mr. Miller——

Mr. SHULMAN. A 501(c)(4). They don't need to apply——

Mr. MICA. Did you know Mr. Miller had sent or had you sent approved of sending Ms. Lerner down to look at this?

Mr. SHULMAN. Mr. Miller informed me that some time in the spring that he was going to look into the matter further and find out what was going on——

Mr. MICA. You do.

Mr. SHULMAN. Down in the determination unit.

Mr. MICA. But did you know Ms. Lerner was doing it?

Mr. SHULMAN. My interactions on this were directly with my deputy.

Mr. MICA. Well, did you know, for example, Ms. Lerner, who's the head of it, got a total of $740,000 between 2009 and 2012, over $42,000 in bonuses, would you check off on bonuses? And she—and this is the one that used to sit there and was going to testify but didn't.

Do you check off on bonuses?

Mr. SHULMAN. That number does not sound familiar. I did not individually make decisions but I probably signed off on overall agency compensation.

Mr. MICA. And have you participated in the political process? Could you tell the committee of your political participations, donations?

Mr. SHULMAN. My whole life.

Mr. MICA. Well, yes. I don't know your background, I heard you were an appointee of one of the administrations but what is your history of participation?

Mr. SHULMAN. My full life history of participation in politics, I don't want to mislead——

Chairman ISSA. The gentleman's time is soon to expire. We could take a short version, please.

Mr. MICA. Have you donated for example, to parties and groups?

Mr. SHULMAN. Have I in the past? To the best of my recollection I have.

Mr. MICA. You have.

Mr. SHULMAN. Yeah, I mean, sorry. To the best of my recollection I have. I haven't in a long time, didn't make any contributions while I was IRS Commissioner.

Mr. MICA. Thank you. Thank you, Mr. Chairman.

Chairman ISSA. The chair now recognizes the gentlelady from New York, Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman. I believe we are united in this committee in being outraged at the alleged targeting of Americans for their political beliefs by the IRS.

Mr. George, is it illegal to target Americans in the IRS for their political beliefs? Is it illegal activity?

Mr. GEORGE. The way in which the Internal Revenue Service exercised their authority in this matter at this stage, Congresswoman, we do not deem it illegal. We do not believe that it was illegal what they did.

Mrs. MALONEY. Do you believe it should be illegal to target Americans in the IRS for their political beliefs?

Mr. GEORGE. Well, the IRS currently has policies which state that if there are willful actions taken that would violate civil rights of the taxpayer which would in other ways falsify documents, destroy documents, there are illegal activities that the Internal Revenue Service employee can engage in. But I have to note, Congresswoman, that the Secretary has delegated tax policy questions to the Assistant Secretary for Tax Policy and I have to defer to him.

Mrs. MALONEY. I personally believe it should be illegal. And I find it very troubling the allegation that the IRS not only targeted Americans for their political beliefs but also withheld information from this committee.

And specifically, Mr. George, in roughly March of 2012, Chairman Issa and Representative Jordan sent you, or rather Ms. Lerner asking for information about the potential targeting of Tea Party organizations by the Exempt Organization office, is that true?

And that in response to that letter and media reports and requests from this committee that you started an investigation of and reviewing the applications for tax-exempt status, is that correct?

Mr. GEORGE. Actually it is correct but we have had conversations with staff of this committee prior to the receipt of that letter and——

Mrs. MALONEY. But you did begin an investigation?

Mr. GEORGE. Yes, we did.

Mrs. MALONEY. And your staff informed us, Chairman Issa and this committee, about that investigation, correct?

Mr. GEORGE. That is correct.

Mrs. MALONEY. Mr. Shulman, in March of 2012, the IRS began conducting its own internal review of the Tax Exempt Organization Division. Is that true? Did that happen? And is that a common occurrence? Why did the IRS start their own internal review when you have an IG whose job it is to do the internal review and he had notified Congress that he was doing the review?

Mr. SHULMAN. Look, I don't have a direct recollection of the timeframe, but I read the report and saw that in the report in late March at least in the report it said that my deputy asked someone to go take a look, and I think that's what you're talking about——

Mrs. MALONEY. Absolutely——

Mr. Shulman. My understanding at the time—I'm sorry.

Mrs. MALONEY. What I'm talking about is you did not inform the committee that you were doing an internal review, which is the process, the IG——

Mr. SHULMAN. I don't remember it ever being called an internal review. I remember somebody coming to me and saying hey people from headquarters are going to go down and talk to the folks in Cincinnati and find out what's going on. And so I don't, I don't remember it being——

Mrs. MALONEY. Specifically the IRS not only chose not to alert Congress and this committee about the internal review or looking into it, whatever you want to call it, but on April 26th of 2012, Ms. Lerner responded to a letter from this committee with her own letter stating that information was gathered from these organizations,

"in the ordinary course of the application process to obtain the information as the IRS deems necessary to make a determination whether the organization meets the legal requirements for tax-exempt status."

And at no point in the letter did Ms. Lerner mention that IRS officials were conducting their own internal review. Mr. Shulman, why did she admit that fact?

Mr. SHULMAN. I'm not familiar with that letter. I'm sorry.

Mrs. MALONEY. And in fact Ms. Lerner never informed the committee of what was happening in the IRS tax-exempt status in any way. And I would just like to ask you do you think it's appropriate for the IRS to send such a misleading response back to this committee?

Mr. SHULMAN. I'd have to look at the whole response and, if it came from Ms. Lerner it's very unlikely that I knew about it or reviewed it.

Mrs. MALONEY. Well, I would say that we're all outraged but it's not too early to start talking about what we can do to fix it. And in your report, Mr. George, you mentioned that it needs to be clarified what is tax exempt, what is not, what is political activity, what is not. What is the status of changing it so that this doesn't happen in the future?

Mr. GEORGE. Once again, Congresswoman, that is a tax policy question. I don't know the answer to that and that would fall into the ambit of the Assistant Secretary for Tax Policy.

But if I may, may please just elaborate on my earlier response to your question. We are still in the process of looking at this matter. It is possible that criminal activity may have occurred. But it is too early at this stage to make that determination, Ma'am.

Mrs. MALONEY. My time is expired.

Chairman ISSA. Thank you. Mr. George, just to clarify in the gentlelady's question, you did talk about the complexity about the system but in no way did you say that this misconduct was the result of a lack of clarity, in other words, targeting these individuals is not because of complexity but rather something that was inappropriate whether it was complex or simple.

Mr. GEORGE. It's a combination, Mr. Chairman. The Determinations Unit did have some technical questions which they submitted along the chain to the appropriate people in Washington. It took over 13 months before they received a response. That was a cause of some of the delay in addressing some of the exempt issues. But I would attribute it mostly to a lack of training, sir, that there was very inadequate training of the people who were handling these applications, and I do fault the IRS for that.

Chairman ISSA. I thank the gentleman. We now go to the gentleman from Ohio, Mr. Turner.

Mr. TURNER. Thank you, Mr. Chairman. I appreciate your holding this hearing. There are a number of investigations, congressional, internal IRS, Department of Justice, the IG, all targeting the issue of who knew what when, who was involved, who directed these targeting actions, and who is complicit? And the answer to all these questions we will find out. Through all these investigations we will find out who at the IRS, who, if any, at the White

House, and who for political reasons, targeted conservative groups, Tea Party groups and constitutional groups.

There are those who would have us believe that this was just spontaneous, that this just erupted in the organization, but I don't think anybody believes that.

Someone did this. Someone directed this, someone orchestrated this, and someone was complicit in this.

But that's not my focus today. My focus today is wanting to make certain that this never happens again. I was absolutely shocked when Ms. Lerner from the IRS made her statement of, we made mistakes, for that we apologize. I was shocked. And I think the American people were shocked because they were thinking that's it? An apology? That the actions of the Federal Government using its investigative arm to prosecute American citizens based upon their political beliefs and their affiliations, their membership, their activities and they get an apology?

Now, Ms. Lerner has invoked her constitutional right not to answer our questions about her involvement or the IRSs involvement ironically about denying others their constitutional rights. I believe that that should be a crime.

Mr. Shulman, it's reported in my community that you and I hail from the same hometown community. So I have a question of you, and it's not about what you knew when, it's about what you know now.

Do you believe that the actions of the IRS in targeting individuals based upon their political beliefs represents the values of our hometown community or our country or even our democracy?

Mr. Shulman.

Mr. SHULMAN. I've read this report and its use of the criteria used by the IRS was inappropriate. It's something that I'm incredibly sad about, I'm sad for, that it happened, I'm sad that it's cast a shadow over the rest of the good work of the agency, and——

Mr. TURNER. You would agree it doesn't represent our democratic values, correct, Mr. Shulman?

Mr. SHULMAN. So far, look, I didn't——

Mr. TURNER. Mr. Shulman, do you agree that it doesn't represent our democratic values to have the government persecute people based upon their political beliefs? Surely you can give me that one.

Mr. SHULMAN. I did not see those words in the report, Mr. Turner, and so——

Mr. TURNER. That's fine. Mr. George, you've been subject to criticism for the timing of the report but I want to thank you because but for your answers and your work we still would not know. If we waited for the IRS to tell us, we still would not have any understanding of what has occurred. Now you answered Carolyn Maloney from New York that you do not have any evidence of a crime and you have not concluded that a crime has occurred, is that correct, Mr. George?

Mr. GEORGE. As of this time, yes, sir.

Mr. TURNER. Mr. Shulman, if you had directed this, according to the United States Code, this would have been a crime. You would have been subject to 5 years of incarceration and $5,000 in a penalty. I personally believe that whether this happens from someone under you or by you, it should be the same.

I've introduced H.R. 1950 that would make this a crime for anyone in the IRS to target someone based upon their political beliefs or their religious beliefs. We have over 80 cosponsors, Marco Rubio has entered it into the Senate. I think this is an important step to say this will never happen again because no one should have a supervisor walk in their office and tell them to target Americans based on their political beliefs and have that employee do it without an understanding that not only are they violating somebody's Constitutional rights but they're violating the United States Code and they will go to jail.

Now, I happen to believe that even without this that there are people who are going to go to jail and that there were constitutional rights violated and I think there were laws violated and I think it's why we have to continue these investigations.

Mr. Wolin, you've continued to answer the question as to when you knew things based upon the assumption that the question that you're being asked is when did you know about the IG report?

I don't want to know when you knew about the IG report. I want to know when you knew that the IRS was targeting people based on their political beliefs and their statements such as Tea Party or constitutionally directed organizations. When did you know what was happening in the IRS, not when did you know what Mr. George was doing?

Mr. WOLIN. Congressman, I learned that when Lois Lerner made her public statement and then consequently a few days later when the Inspector general released his report. I did not know any of the findings or the details or the substance of what Mr. George looked into in his audit until then.

Mr. TURNER. Mr. Shulman, one more thing. You said that you are a political appointee and that if the employees beneath you had gotten political that you were not taking actions, I think it's is a travesty that you would have had a constitutional oath to execute your duties, and as a political appointee you decided that if the organization decided to take political actions against people, it was not within your responsibility because it absolutely was. And we're going to get to the bottom of this, and I certainly hope that in the future this is criminal and no one at the IRS is just subject to merely termination.

Thank you.

Mr. SHULMAN. Mr. Turner, you have misstated what I said.

Mr. JORDAN. [presiding.] Before yielding to Mr. Lynch, Mr. Wolin, just to follow up Mr. Turner's question, when did you learn of the internal investigation the IRS was conducting?

Mr. WOLIN. I learned through whatever testimony over the last few days, I hadn't heard of it before then.

Mr. JORDAN. You didn't know about it earlier?

Mr. WOLIN. No.

Mr. JORDAN. Thank you. Mr. Lynch, you're now recognized for 5 minutes.

Mr. LYNCH. Thank you, Mr. Chairman.

Mr. Shulman, I want to go back over your testimony before Congress. On March 27, 2012, you testified before the Committee on Ways and Means. Did you have a chance to talk to Mr. Miller prior to your testimony?

Mr. SHULMAN. On March 22?

Mr. LYNCH. March 22, 2012, any time prior to that did you have a chance to talk with—now you're testifying before Congress. Obviously you prepare for that. Did you speak to Mr. Miller before your testimony?

Mr. SHULMAN. To the best of my knowledge I did.

Mr. LYNCH. You did. Okay. How about Ms. Lerner, did you speak with Ms. Lerner prior to your testimony?

Mr. SHULMAN. I don't remember speaking with Ms. Lerner before my testimony.

Mr. LYNCH. I want to just describe what Chairman Boustany said to you in a dialogue.

You said, we have seen some recent press allegations that the IRS is targeting certain Tea Party groups across the country requesting what had been described as onerous document requests, delaying approval for tax-exempt status and that kind of thing. Can you elaborate—this is his question to you—can you elaborate on what is going on with that? Can you give us assurances that the IRS is not targeting particular groups based on political leanings?

In response to that question you answered: "there is absolutely no targeting."

Now, what was the basis of your answer?

Mr. SHULMAN. So I had received letters from Members of Congress I believe——

Mr. LYNCH. I know that. You received a lot of them.

Mr. SHULMAN. Excuse me?

Mr. LYNCH. You received quite a few.

Mr. SHULMAN. On this issue I believe I had received two but I'm not sure of the exact number before that testimony.

And I said no targeting in the sense, and if you read the full testimony, that there's two ways for a social welfare group or a 501(c)(4) to start operating——

Mr. LYNCH. Well, I'm not going to let you use up my time on that. Your answer was, the operative language was there is absolutely no targeting.

What was the basis for that statement?

Mr. SHULMAN. So——

Mr. LYNCH. Obviously you're the——

Mr. SHULMAN. I can give you my explanation and to the best of my recollection what is in my mind if you would like me to.

Mr. LYNCH. Yes.

Mr. SHULMAN. So I said there was no targeting in the sense that there's two ways——

Mr. LYNCH. No. You said there was absolutely no targeting. It was more affirmative than that. What I'm getting at is you definitely gave Congress the impression there was absolutely no targeting. Absolutely no targeting. That's what you said.

Mr. SHULMAN. If you give me a minute I can actually explain this.

Mr. LYNCH. Well, I only have a short amount of time. If you can explain it quickly.

Mr. SHULMAN. Well, first, let me just say I answered truthfully based on the information I had at the time.

Mr. LYNCH. That's what I'm getting at. That's what I'm getting at. What was the basis of the information you had at the time? How could you sit there under oath, testify before Congress and say there's no, absolutely no targeting going on and put Congress in that position to believe that you're telling the truth? What was the basis of your understanding when you, when you led Congress to believe that there was absolutely no targeting going on?

Mr. SHULMAN. That's what I'm actually trying to say, Congressman.

Mr. LYNCH. Okay.

Mr. SHULMAN. So I said there was no targeting in the sense that a 501(c)(4) had two options to operate. They could apply or they could start operating, there's no need to go through this application process. You can be a 501(c)(4), do your business and file a tax return at the end of the year. I said there was no targeting in the sense that in, from conversations that I had had that these people had voluntarily come in. And so the question that had been posed to me was why are they getting all these questions? And I had said that it's normal to have this kind of back and forth. So that was one piece of my understanding.

The second is my understanding at the time was that conservative groups, and this is to the best of my recollection——

Mr. LYNCH. I want to take back my time. I understand.

Mr. SHULMAN. My understanding was that conservative groups were not the only ones getting these questions. That was my memory.

Mr. LYNCH. So progressive groups were also being targeted?

Mr. SHULMAN. And finally I certainly don't——

Mr. LYNCH. Wait a minute. I want to back you up on that. Now you're saying they weren't being targeted because other groups were also being targeted for their political views. Is that what you're saying?

Mr. SHULMAN. No. That's not what——

Mr. LYNCH. Well, that's interesting because that's just what I heard.

Mr. SHULMAN. Well, I would love to explain it to you, Congressman.

Mr. LYNCH. Please.

Mr. SHULMAN. My understanding at the time was complaints had come in about letters, I had conversations about are these questions normal? Are these questions legitimate? Are these things we should be asking? At no time, to the best of my memory, did I, was I ever given the impression that these were only being asked of conservative groups.

Mr. LYNCH. All right. You've gobbled up most of my time. I just want to close with this. So after leading Congress to believe there's no absolutely no targeting going on, you learn later on that there's a list, there's a list of people being targeted. After telling Congress that no one, absolutely no one is being targeted, you learn that there's a list, a list of people being targeted. Tea Party, patriots, people who are critical of how the government is being run.

And what did you do after that point? You did nothing. You did nothing to straighten out the impression that you had left by your testimony before Congress.

Sir, you misled Congress. You misled Congress. Make no question about it. You told us one thing, when you learned, when you learned that our suspicions were true, when you learned that there was a list, you did nothing. You did nothing. You abdicated your responsibility, and you allowed Congress to proceed under your prior information that was false, that was untrue, and you never came back. You never notified Congress to say, sir, I gave you the wrong information. I misled you. You never came back to Congress to straighten out that impression. That's inexcusable. It really is.

I yield back the balance of my time.

Mr. JORDAN. I thank the gentleman for his questions.

The gentleman from Tennessee, Mr. Duncan, is recognized.

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

It was primarily conservative groups that were targeted but people of all political persuasions are very upset about this. President Obama said on May 15th, he said it's inexcusable and Americans are right to be angry about it, and I am angry about it, I will not tolerate this kind of behavior in any agency but especially in the IRS given the power that it has and the reach that it has into all of our lives, and as I said earlier it should not matter what political stripe you're from. The highest official of the ACLU here in this city said that even the appearance, "even the appearance of playing partisan politics with the Tax Code is about as constitutionally troubling as it gets." With the recent push to grant Federal agencies broad new powers, to mandate donor disclosure for advocacy groups on both the left and right, there must be clear checks in place to prevent this from ever happening again?

Mr. George, will you promise us or commit to us at this time that you will make it a high priority and make sure that something like this never happens again?

Mr. GEORGE. Sir, we will, I make a commitment to you to do our level best to work with the Internal Revenue Service and others involved to help establish procedures to help identify and avoid this from occurring. I cannot, obviously, sir, control what happens within the approximately 100 offices of the IRS.

Mr. DUNCAN. Mr. Shulman, on March 22, 2012, you testified that there was absolutely no targeting when asked this by Congressman Boustany at the Ways and Means hearing and that's been covered several times already this morning. But there was an internal IRS review that was completed in early May, just a little over a month later. And you said that when you met with Mr. Miller, you were assured that this activity had stopped. Was that—and so you took no further action. Did you ever discuss this with anybody at the Department of the Treasury, any Treasury official at all?

Mr. SHULMAN. I had—definitely had no substantive conversations with anyone at Treasury and did not report that that there was a list and that kind of thing.

Mr. DUNCAN. Mr. Wolin, when you learned that this had gone on, who did you discuss this with at the Department?

Mr. WOLIN. Well, I learned the details, Congressman, when the report was made public a week or 10 days ago and obviously at the Department at that point we discussed it with the Secretary and General Counsel and others to make sure that we began to put in place both the accountability with respect to people who were re-

sponsible for this misconduct but also to make sure that we put in policies and procedures that would make sure this wouldn't happen again, not just the implementation and the recommendations that the IG included within his audit report, but also to charge, as the Secretary of the Treasury has done, the new Acting Commissioner of IRS with a broader agenda to make sure this was looked at carefully and to make sure he had a broader review to make sure that this didn't happen again.

Mr. DUNCAN. Let me ask you this. Apparently, one of these groups called Coalition for Life was asked in their, was asked by IRS officials about prayer meetings that they had held and how much of their time was spent on prayer meetings and what went on at those prayer meetings.

Mr. DUNCAN. Do you think that questioning like that is proper?

Mr. WOLIN. No, Congressman. I think that the conduct that is outlined in the—in the IGs report obviously is inexcusable, deplorable. I can't be more clear than that. It's absolutely outrageous.

Mr. DUNCAN. Mr. Shulman, do you think that those types of questions should be asked in this situation about——

Mr. SHULMAN. It certainly sounds inappropriate to me.

Mr. DUNCAN. —about religious beliefs?

Mr. SHULMAN. No, I don't. It sounds inappropriate to me.

Mr. DUNCAN. Now, a few moments ago, you said that there was another method, that there's the 501(c)(3) and then there's the 501(c)(4). And you said that there are situations where people don't have to apply. What were you talking about there?

Mr. SHULMAN. My best understanding is that none of these groups, of the 300 that are talked about, or the 298 in the report, actually have to apply for 501(c)(4) status; that a 501(c)(4) can start operating, can hold itself out, can do all of its business, and then can file what's called a Form 990, which is the equivalent of a tax return for a tax-exempt organization. So I think that's an option that organizations have.

Mr. DUNCAN. That's what I thought you meant, but I wanted to be clear on that. Thank you very much.

I yield back.

Mr. JORDAN. I thank the gentleman for his questions.

I now recognize the gentlelady from the District of Columbia, Ms. Holmes Norton.

Ms. NORTON. Thank you very much, Mr. Chairman.

Even granted that the seed was planted for something bad to happen when somehow the interpretation of a law was changed from "exclusively" to "primarily," that's a terrible thing to put on civil servants, that they somehow have to take the unclear words of the statute that's now been changed in a way that I'm not sure how you're going to enforce that.

But one thing is clear, that we see here something—at least terrible incompetence and the absence of the normal kind of managerial oversight you'd expect in any Federal agency and certainly in the IRS. And I'm particularly troubled that the problems persisted for, it looks like, a year and a half because of what seems to have been very little oversight from management at the headquarters. So, you know, these civil servants are doing their incompetent best, I suppose.

But I want to make sure that's what it was. I'd like to ask Mr. George, because I saw something of your testimony in the Senate where you testified that your audit did not uncover any evidence that the Treasury suggested the use of screening criteria or approved of the screening criteria that was used.

Is that your—is that the case? Would you indicate whether you asked that question?

Mr. GEORGE. We did pose that question, Congresswoman. And, again, the response was that there was no direction from the Department itself to those in the determinations unit in Cincinnati, nor their affiliate office in Washington.

Ms. NORTON. Well, I ask these questions because the incompetence and the terrible handling of this, which has shaken confidence in the IRS, is bad enough, but it would be far worse if there were any evidence that there was outside influence outside the IRS.

And did you find any evidence that anyone in the White House, in particular, suggested that the IRS target conservative organizations or that they played any role whatsoever in selecting the criteria?

Mr. GEORGE. No, Congresswoman. But, in all honesty, we didn't look at the White House, we didn't question anyone as to whether or not they'd received any direction from the White House, and——

Ms. NORTON. So that specific question was not asked?

Mr. GEORGE. That's correct.

Ms. NORTON. Now, in the investigation, which continues, do you intend to ask that question?

Mr. GEORGE. And, again, if I may—and, again, this may seem like semantics. I want to be clear. At this stage, it is an audit still. And so——

Ms. NORTON. Well, it was an audit then, but you asked questions that——

Mr. GEORGE. Yes, yes. But, again—and even there, it was——

Ms. NORTON. Well, I'm asking you, in the continuing audit, do you intend to ask that question?

Mr. GEORGE. At this stage, I am not in a position to say whether or not, because as it's going to be continued, we will go wherever the facts lead us, Mrs. Norton, or Congresswoman. But I have to say that I'll just have to leave it at that. We'll go wherever the facts take us.

Ms. NORTON. Well, let me suggest, Mr. George, that it would be appropriate to ask whether anyone outside of the IRS, without fingering any particular agency or any particular individual, anyone outside of the IRS. The record needs to be clear on that.

Mr. GEORGE. May I clarify my answer then? We did ask if anyone outside of the IRS——

Ms. NORTON. And so you take that to imply the White House and anybody else we can think of?

Mr. GEORGE. At this stage, yes, we do.

Ms. NORTON. I want to—I guess it is Mr. Wolin I ought to ask, the Deputy Secretary.

Did you, yourself, ever suggest or did you, yourself, ever propose that IRS personnel use screening criteria of any kind to target conservative organizations?

Mr. WOLIN. Absolutely not, Congresswoman.

Ms. NORTON. Or other organizations?

Mr. WOLIN. Absolutely not, Congresswoman.

Ms. NORTON. Did you order or did you approve the inappropriate screening criteria used by the IRS personnel in Cincinnati, Ohio?

Mr. WOLIN. I did not, Congresswoman.

Ms. NORTON. Well, Mr. Chairman, I very much think the committee is pursuing the appropriate investigation and believe that, before it is all over, we get direct answers from all those involved. We will know what needs to be done next.

And I do want to say, Mr. Chairman, that, whatever we do, the difference between "exclusively" and "primarily" has to be clarified so that I think there is proper direction from the Congress so that the IRS can, in turn, give the proper direction.

Thank you very much.

Mr. JORDAN. Thank you.

Mr. Shulman, you've testified yesterday and today, and you said last spring you had a partial set of facts, you didn't have the full story, didn't fully understand what took place until you read the Inspector General's report. Is that accurate?

Mr. SHULMAN. That sounds accurate.

Mr. JORDAN. All right. In the 2 years that this targeting was taking place, did any Member of Congress contact you, write to you about this particular subject? Did you get any letters from Congress?

Mr. SHULMAN. Yes.

Mr. JORDAN. All right. Do you know how many?

Mr. SHULMAN. I do not.

Mr. JORDAN. We got some information from you all yesterday, a list of correspondence regarding 501(c)(4)s. And we counted them up: 132 different Members of Congress contacted you over the approximate time period.

Did you read any of those letters?

Mr. SHULMAN. The letters that I remember about this set of facts around the Attorney General——

Mr. JORDAN. No, did you read any of them?

Mr. SHULMAN. —started coming in in February of 2012.

Mr. JORDAN. Well, this is from the IRS. We got 132 Members of Congress contacted you about 501(c)(4) status.

Did you ever read newspaper articles about this issue in the time period in question, Mr. Shulman?

Mr. SHULMAN. To the best of my knowledge, yes.

Mr. JORDAN. Do you know how many news stories, could you hazard a guess, took place in the time period that we're focused on?

Mr. SHULMAN. I wouldn't guess.

Mr. JORDAN. Your staff—in our office, we have, like, a Google alert, and if my name comes up, they find out what the press is saying about me, and they let me know. Do you have that when you were at the IRS? Do you have, like, a Google alert? When stories about the IRS or Doug Shulman come up, did they let you know about those stories?

Mr. SHULMAN. IRS has press clippings that I saw on a regular basis when I was there.

Mr. JORDAN. Would you hazard a guess about how many major news stories took place in this time period that is in question when the targeting was going on, before you said you knew?

Mr. SHULMAN. No, I wouldn't.

Mr. JORDAN. Forty-two. We just did a quick search—42 major news stories.

So here's what everyone wants to know. You've got 132 Members of the United States Congress contacting you about this issue, 42 major news stories about this issue in the time period in question, and you never checked it out. You never researched it.

I mean, are you sure you're being square with us today, Mr. Shulman?

Mr. SHULMAN. I'm absolutely telling you the truth today.

Mr. JORDAN. Absolutely. Well, that's interesting because Mr. Lynch just cited your testimony from a year ago, and you used similar language when in front of the Ways and Means Committee.

"Can you give us assurances that the IRS is not targeting particular groups?"

"Thanks for bringing this up because I think there has been a lot of press about this"—there was, we found out—"and a lot of moving information, so I appreciate the opportunity to clarify. First, let me start by saying, yes, I can give you assurances." I don't think you can say it any stronger. "We pride ourselves on being a nonpolitical, nonpartisan organization."

And that's why people are wondering if you're being square with us today, because you said you could assure everyone, the American people and the Congress, then that nothing was going on. And the gentleman sitting besides you just issued a report last week that says what you told the Congress, what you told the American people a year ago is absolutely wrong.

And you're sure you're being square with us?

Mr. SHULMAN. Excuse me?

Mr. JORDAN. Did you ever talk to anyone at the White House about this issue?

Mr. SHULMAN. About this issue? Not that I remember.

Mr. JORDAN. Did you ever go to the White House? As IRS Commissioner, did you ever go to the White House for meetings?

Mr. SHULMAN. Yeah, I had a number of occasions to go to the White House.

Mr. JORDAN. How many times did you go to the White House?

Mr. SHULMAN. Many times around budget and policy matters of tax and other things like that.

Mr. JORDAN. Got a number? Any idea?

Mr. SHULMAN. I don't have a number.

Mr. JORDAN. We just looked at—we just look at the White House log. Now, we couldn't get 2012, but in 2010 and 2011, 118 times you were at the White House. I mean, that's a lot. I bet these Democrat Members of Congress in this administration haven't been there close to that many times.

A hundred and eighteen times you were at the White House; 132 Members of Congress contact you about this information; 42 major news stories about this very subject. And you told Congress a year ago, I can give you assurances, nothing is going on, everything's wonderful, we're not targeting conservative groups.

I mean, that's why the American people are—they're like, this is unbelievable.

Are you sure you didn't talk to anyone at the White House about this, Mr. Shulman?

Mr. SHULMAN. About singling out conservative groups for special scrutiny?

Mr. JORDAN. Well, that's what we are talking about, isn't it?

Mr. SHULMAN. I'm absolutely sure I did not talk to anyone at the——

Mr. JORDAN. In 118 visits, it didn't come up in a casual conversation after 132 Members of Congress contacted you about it? Are you sure you didn't bring it up with anybody at the White House?

Mr. SHULMAN. Not to my memory. And it wouldn't be appropriate. And so I certainly believe I did not have any conversations.

Mr. JORDAN. I recognize the—Mr. Lynch I think is—or, excuse me, Mr. Connolly is next up for questioning.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Mr. Shulman, you were appointed by President Bush when?

Mr. SHULMAN. I was nominated in 2007, confirmed in 2008.

Mr. CONNOLLY. And you served until?

Mr. SHULMAN. November 2012.

Mr. CONNOLLY. So you served both in the last year of the Bush administration and through the first term of the Obama administration. Is that correct?

Mr. SHULMAN. Correct.

Mr. CONNOLLY. There might be many reasons you would be at the White House. What would be some of the reasons you might be at the White House?

Mr. SHULMAN. The Easter Egg Roll with my kids——

Mr. CONNOLLY. Well——

Mr. SHULMAN. —questions about the administerability of tax policy they were thinking of, our budget. I was helping the Department of Education streamline application processes for financial aid.

Mr. CONNOLLY. I just want to be clear. You're very aware of the fact that you're under oath today?

Mr. SHULMAN. Yeah, very aware of that.

Mr. CONNOLLY. And your testimony, to be very clear, in response to Mr. Jordan's question is that you have never had any conversation with respect to this subject, the subject of this hearing, with anybody at the White House though you were at the White House 118 times. Is that——

Mr. SHULMAN. Yeah, I mean, just so I'm—just so I'm clear, I have no memory. It wouldn't have been appropriate—would not have been appropriate to have a conversation with the White House, with anyone at the White House, about the subject of discriminating against conservative groups in any part of our operation.

Mr. CONNOLLY. And let me be real clear about that. Because you answered a series of interrogatories from the ranking member, Mr. Cummings, a little earlier. And, again, in listening to your answers, I want to be clear, neither—no one from the Bush White House and no one from the Obama administration White House ever called you and said, there's a little list of groups or there's an

umbrella of titles I want you to be particularly sensitive about it if they apply for a nonprofit status.

Mr. SHULMAN. No. Nobody ever talked to me about——

Mr. CONNOLLY. That never happened. Is that correct?

Mr. SHULMAN. Right.

Mr. CONNOLLY. Thank you.

Mr. George, I'm looking at your report, and I want to make sure I understand it. I mean, we're talking about this like it happened in a vacuum. You know, some sinister plot was hatched by normally kind of, you know, colorless bureaucrats in Cincinnati to get somebody for their political beliefs.

Now, was there a triggering event that flooded the IRS with new applications between 2010 and 2012?

Mr. GEORGE. We have had some difficulty, Congressman, getting a definitive answer as to exactly how this began, the genesis of this program.

Mr. CONNOLLY. Well, can I just help you a little bit? I'm looking at your own report——

Mr. GEORGE. Uh-huh.

Mr. CONNOLLY. —and what seems to be the triggering event is the Supreme Court ruling, Citizens United. The number of applications between 2009 and 2012 for a 501(c)(4), even though Mr. Shulman points out, actually, it's sort of redundant, but doubled from 1,751 to 3,357. That's in your report.

Mr. GEORGE. There is no question that that event, the ruling of the Supreme Court, came down——

Mr. CONNOLLY. Yeah. Did IRS resources expand? Did Congress rush to IRSs aid here, saying, well, since you're flooded with new responsibilities, here's some more resources to help you hire up or to train—because you cited bad training—so you can handle this volume of applications? Did that happen?

Mr. GEORGE. I would have to defer to Mr. Shulman.

Mr. CONNOLLY. Mr. Shulman?

Mr. SHULMAN. Could you repeat the question?

Mr. CONNOLLY. Yes. Were you flooded with resources after Citizens United to deal with the volume that the inspections——

Mr. SHULMAN. Were we given resources?

Mr. CONNOLLY. Yes.

Mr. SHULMAN. No.

Mr. CONNOLLY. No.

All right. Mr. George, again, I'm looking at your report, and there's a pie chart I want to make sure I understand. Here's the pie chart. And we're focused particularly on conservative groups. And, of course, I think all of us feel, as Americans, irrespective of your political beliefs, nobody should be targeted, you know, in the proper exercise of their right to express themselves politically.

Now, you've got a pie chart with 298. Is that 298 cases you looked at?

Mr. GEORGE. That is correct.

Mr. CONNOLLY. Now, if I'm reading this right, 72 of those were Tea Party, had the name "Tea Party" in them. Is that right?

Mr. GEORGE. That is correct.

Mr. CONNOLLY. And 11 had "9/12." Is that right?

Mr. GEORGE. That is correct.

Mr. CONNOLLY. Thirteen had "patriots," correct?

Mr. GEORGE. Correct, sir.

Mr. CONNOLLY. But 202 are listed as "other." Were those all conservative groups, or could some of them have been progressive groups?

Mr. GEORGE. We were unable to make that determination, sir, because in many instances the names were neutral and that you couldn't necessarily attribute it to one particular affiliation or another.

Mr. CONNOLLY. And I know I have very limited time left, but I know the chair has been indulgent with my colleagues because this is so important, and all of us, as Americans, don't want the chilling effect of any government agency suppressing the expression of thought or the right of every American to express themselves politically irrespective of those beliefs.

To what do you attribute this, what seems to be kind of a rogue element in Cincinnati? It was told once to stop and ignored it, or returned to this activity. Is it just a natural perversion in Cincinnati? Or, I mean, what were they doing that they thought was proper, apparently?

Mr. GEORGE. It was—the conclusion that I can give you today, Congressman, is that it was a lack of oversight from management, both in—in Washington, primarily, and the fact that they did not go back to ensure that the directions, the instructions that were given to the determinations unit within Cincinnati were being complied with.

Once they found out that the initial inappropriate action had occurred, attempted to make corrective action and did direct a corrective action, they failed to go back to ensure, to follow up to make sure that those actions were being complied with.

So it was mismanagement. It was a lack of fulfilling the responsibility that they have, sir.

Mr. CONNOLLY. Uh-huh. Thank you very much, Mr. George, for your testimony, and Mr. Shulman.

And thank you, Mr. Chairman.

Mr. JORDAN. Thank you.

Mr. Shulman, a real quick follow-up. The 118 times you were in the White House in 2010 and 2011, who were you meeting with?

Mr. SHULMAN. First of all, I'm not familiar with that——

Mr. JORDAN. Straight from the White House log.

Mr. SHULMAN. —number, and I'm assuming that it counts when I go to OMB, which is, you know, the budget office, for resources, et cetera.

Mr. JORDAN. No, it counts when you go to the White House. That's what it was, the times you've been at the White House. That's when it counts.

So who did you meet with?

Mr. SHULMAN. I met with a variety of people——

Mr. JORDAN. Is there somebody—or what was the main subject you talked about? Did you talk about 118 different things, or were there just kind of some themes and focus?

Mr. SHULMAN. The themes of things I would've talked to people at the White House about would've been our budget; would've been about tax policy, fiscal cliff; would've been about streamlining the

FAFSA, the financial aid application; would've been when the tax for airport——

Mr. JORDAN. Did you talk about the implementation——

Mr. SHULMAN. —and——

Mr. JORDAN. Did you talk about the implementation of the Affordable Care Act?

Mr. SHULMAN. Implementation of the Affordable Care Act would've been one of the themes. And there could've been more. I'm not prepared to give you an exhaustive——

Mr. JORDAN. Which one—which one consumed the most of your time, of those subjects you just listed?

Mr. SHULMAN. Probably budget, general tax policy, and the Affordable Care Act.

Mr. JORDAN. So the Affordable Care Act was pretty important. You talked about it a lot.

Mr. SHULMAN. The IRS has a major role in the money flows of the Affordable Care Act.

Mr. JORDAN. Exactly. Exactly. And you started targeting the very groups who came into existence because they opposed what you were talking about in the White House 118 different visits there. You started targeting them the very month that the Affordable Care Act became law. And yet you didn't have any conversations about the subject matter at hand today on those 118 visits, when many of those visits were about implementation of the Affordable Care Act and the groups you were targeting were opposed to the Affordable Care Act.

That's a question.

Mr. SHULMAN. I'm sorry, but what is the question?

Mr. JORDAN. You went to the White House 118 times. One of the key subjects you talked about was the implementation, the enforcement of the Affordable Care Act. Going on in your administration at the time you acted as Commissioner, targeting of groups who came into existence because they opposed the Affordable Care Act.

And you never brought it up in any of those conversations and all those visits to the White House, when this is a major topic of conversation?

Mr. SHULMAN. No, I did not.

Mr. JORDAN. Okay. All right.

Mr. SHULMAN. I operated as——

Mr. JORDAN. That's all I wanted to know.

Mr. SHULMAN. —a nonpartisan, nonpolitical person trying to implement the laws that were on the books. It would have been inappropriate, and nobody ever asked me——

Mr. JORDAN. Well, that would——

Mr. SHULMAN. —nor did I ever——

Mr. JORDAN. —that would all be well and good, Mr. Shulman, but Mr. George issued a report that said just the opposite. That's the whole point. That's why we're here. And you said you'd give assurances that it wasn't happening. Mr. George issued a report that said it was. And you were at the White House 118 times talking about the Affordable Care Act. And you never had any conversations about the targeting that was going on of groups who opposed the Affordable Care Act. And the American people are supposed to believe that.

The gentleman from Utah?

Mr. CHAFFETZ. Thank you, Chairman.

Mr. Shulman, in your confirmation hearing on January 29th, 2008, you were asked by Senator Wyden, he said, "What do you intend to do to make sure that the IRS on your watch is not used as a political tool?" And your response, Mr. Shulman, was, "That's a great question. I believe that it is incredibly important that the IRS is seen as fair, is seen as a nonpolitical, nonpartisan, that really is a public service organization. I would be a public servant serving all American taxpayers and really the government."

How would you—based on that standard, based on the answer you gave, what letter grade would you give yourself in your tenure and what you did there?

Mr. SHULMAN. Look, I tried every day to be a good leader and public servant.

Mr. CHAFFETZ. I'm asking you for a letter grade on your assessment of how you did there.

Mr. SHULMAN. There was clearly a breakdown in our——

Mr. CHAFFETZ. I know that you know——

Mr. SHULMAN. —determinations process.

Mr. CHAFFETZ. I know that you know what letter grades are. You don't——

Mr. SHULMAN. I'm not going to grade myself.

Mr. CHAFFETZ. These 118 visits to the White House, did you ever have a discussion about 501(c)(4)s?

Mr. SHULMAN. First of all, you know, this is the first I've had an accounting of this 118——

Mr. CHAFFETZ. Did you ever go to the White House——

Mr. SHULMAN. So I just don't accept the, you know, the premise of there were 118 visits to the White House. It may or may not be true. So let me just stipulate that for the record broadly, if there's more questions about that.

Mr. CHAFFETZ. Did you ever talk about 501(c)(4)s at the White House?

Mr. SHULMAN. About our——

Mr. CHAFFETZ. Yes or no?

Mr. SHULMAN. —either determinations process or——

Mr. CHAFFETZ. Anything about 501(c)(4)s. Did you ever talk about the Citizens United case?

Mr. SHULMAN. Not that I remember.

Mr. CHAFFETZ. You never had a discussion?

Mr. SHULMAN. Not that I remember.

Mr. CHAFFETZ. No discussion around 501(c)(4)s?

Mr. SHULMAN. Not that I remember.

Mr. CHAFFETZ. It was a major thing. It was a big deal. And you never had one conversation.

Mr. SHULMAN. Not that I remember.

Mr. CHAFFETZ. You said you first heard about this problem in spring of 2012, correct?

Mr. SHULMAN. I heard that—I first heard about the BOLO list in spring of 2012.

Mr. CHAFFETZ. When did you first hear that there was a concern about the targeting of—based on political beliefs and political speech? When did you first hear that?

Mr. SHULMAN. To the best of my recollection, it was in the February-March time frame of 2012. And then——

Mr. CHAFFETZ. Okay, but——

Mr. SHULMAN. —there were also—can I——

Mr. CHAFFETZ. No. No. You can't.

On June 3rd, 2011, the chairman of the Ways and Means Committee, Dave Camp, sent you a letter, June of 2011. Second paragraph, "Now, with no warning, the IRS appears to have selectively targeted certain taxpayers who are engaged in political speech." And he goes on.

How is it that he, the chairman of Ways and Means, sends you, the head of the IRS, a letter like this and you say you know nothing about it?

Mr. SHULMAN. So that's where I was going to go. This is a very separate matter——

Mr. CHAFFETZ. No, you weren't.

Mr. SHULMAN. —about—this is a very——

Mr. CHAFFETZ. No, you weren't.

Mr. SHULMAN. —separate matter. That's a gift tax matter that I'm—that I'm aware of.

Mr. CHAFFETZ. This is exactly about political speech, and it continues to go on.

Then you hear from Charles Boustany, who sends a letter on October 6th requesting information about the tax-exempt sector. How is it that it takes you so long and you say you don't know this?

And, Mr. Wolin, you said you took immediate action. What happens with all of these letters?

Mr. Shulman, when you get a letter from a Member of Congress, who else is copied on that? Who else do you give it to?

Mr. SHULMAN. Who do I——

Mr. CHAFFETZ. You're not the only one that sees this letter.

Mr. SHULMAN. Who do I give it to? Letters, usually, as far as I know the process, go into our Congressional Affairs Office. They get farmed out to the appropriate staff who are subject-matter experts to try to get the best answer. And that's——

Mr. CHAFFETZ. Does Mr. Wolin get copied on these?

Mr. SHULMAN. Not that I'm aware of.

Mr. CHAFFETZ. Does anybody at the Treasury Department get these, outside of the IRS?

Mr. SHULMAN. I really don't know.

Mr. CHAFFETZ. Does anybody get—does anybody get these letters at the White House?

Mr. SHULMAN. At the White House?

Mr. CHAFFETZ. At the White House.

Mr. SHULMAN. Not that I'm aware of.

Mr. CHAFFETZ. So when you get a letter from the chairman of the Ways and Means Committee or the chairman of this committee, chairman of any, you're telling me that you don't—you have no idea where it goes and what happens to it.

Mr. SHULMAN. To the best of my knowledge, it goes into our Congressional Affairs shop; someone in the organization answers it.

Mr. CHAFFETZ. And who do they——

Mr. SHULMAN. If it comes up—if it's for my signature, the return, that would come up to me for review most of the time.

Let me also just note, of all the letters people are talking about, there's a lot of individual constituent mail that comes into the IRS, much of which I don't——

Mr. CHAFFETZ. So you get a lot of mail.

Mr. SHULMAN. —much of which I don't see.

Mr. CHAFFETZ. But do you see all the letters from Members of Congress?

Mr. SHULMAN. To the best of my knowledge, I do, the ones to me.

Mr. CHAFFETZ. So you got 132 Members of Congress——

Mr. SHULMAN. Let me actually repeat. If it's something that someone else is going to take care of, I might not have seen it. But the ones you are referring to, Mr. Boustany's, Mr. Camp's——

Mr. CHAFFETZ. Mr. Hatch, the 12 Senators, did you see that letter?

Mr. SHULMAN. Yes.

Mr. CHAFFETZ. When he says this is a lie by omission, how do you respond to that?

Mr. SHULMAN. You know, my belief is that—well, first of all, the letter in question was not under my signature. And, second of all——

Mr. CHAFFETZ. He's made a very serious charge.

Mr. SHULMAN. —second of all, I——

Mr. CHAFFETZ. I want to know what you think of this idea of lie by omission.

Mr. SHULMAN. I disagree with it.

Chairman ISSA. [Presiding.] And——

Mr. CHAFFETZ. I yield back.

Chairman ISSA. —that will have to conclude.

We now go to the gentlelady from California, Ms. Speier.

Ms. SPEIER. Mr. Chairman, thank you.

Mr. Shulman, you have been the head of the IRS for over 5 years. You're in charge of the Internal Revenue Service, correct?

Mr. SHULMAN. I was head of the IRS for 4 years and about 8 months.

Ms. SPEIER. All right, 4 years and 8 months. You get 132 letters from Members of Congress concerned about targeting, and you send them to Leg Affairs to deal with.

Did you feel any responsibility to go to the Cincinnati office and find out for yourself what was going on? Did you ever make a visit to the Cincinnati office?

Mr. SHULMAN. I guess I don't accept the premise that I got 132 letters about targeting. I certainly wasn't aware of that number until now. I knew about two questions——

Ms. SPEIER. Well, regardless, when Congress contacts you, whether it's 12 Senators or members of this committee, I mean, doesn't it alert you to the fact that, you know, if there's smoke, maybe there's fire?

So did you ever visit the Cincinnati office?

Mr. SHULMAN. I visited early in my tenure the Cincinnati office, which has, you know, many different operations. But I don't believe I went to Cincinnati, you know, during this 2012 time frame.

Ms. SPEIER. Do you take responsibility for what happened in the Cincinnati office?

Mr. SHULMAN. Do I take responsibility for the list——

Ms. SPEIER. Yes.

Mr. SHULMAN. —being done? You know, I don't take personal responsibility for there being a list with criteria put on it, but I do accept the fact that this did happen on my watch.

Ms. SPEIER. So you don't take responsibility, but you recognize the fact that it happened under your watch.

Mr. SHULMAN. I recognize that this happened on my watch. And I'm very sorry that this happened while I was at the Internal Revenue Service.

Ms. SPEIER. You know, one of the problems we have here is people are unwilling to take responsibility for actions that happened under their command.

And you had a duty, as far as I'm concerned, to find out what was going on in the Cincinnati office when Members of Congress, 132 of them or 50 of them or 10 of them, inform you that they think that there's some kind of targeting going on. And if that doesn't elevate your concern and interest, then something is fundamentally wrong between the way Congress interacts with the administration and the bureaucracy.

Now, Mr. George, the law is that a 501(c)(4) must operate exclusively for the social welfare. That's what the law says, correct?

Mr. GEORGE. That is my—yes, that's correct, ma'am.

Ms. SPEIER. Exclusively for social welfare purposes.

Mr. GEORGE. Yes.

Ms. SPEIER. And somewhere along the line, the IRS came out with a regulation that reduced it to "primarily." Is that correct?

Mr. GEORGE. That's my understanding.

Ms. SPEIER. So does the regulation trump the statute?

Mr. GEORGE. Well, I'm not here to give legal advice, but——

Ms. SPEIER. But in your——

Mr. GEORGE. —as an attorney, that is my understanding, that a regulation does not trump a statute. But a regulation can be used to elaborate on the intent of the statute and to help——

Ms. SPEIER. So if we just look at those two words, "exclusively" and "primarily," there is a dramatic difference, correct?

Mr. GEORGE. Yes, in my view.

Ms. SPEIER. And if regulation can't trump statute, then everything that's been going on here relative to authorizing 501(c)(4)s if they're not exclusively being used for social service purposes is violative of the law, correct?

Mr. GEORGE. I would say yes, but we have to keep in mind there may have been court interpretations between the passage of the legislation and the implementation of the—the passage of the statute and the implementation of the regulation. And I don't have the history of that, Congresswoman.

Ms. SPEIER. All right. In your review of this situation, have you identified in Cincinnati the individuals who have developed this BOLO list?

Mr. GEORGE. We have not yet, ma'am.

Ms. SPEIER. And why not?

Mr. GEORGE. We have had some difficulty in terms of getting clarity from some of the IRS employees we've interviewed.

Keep in mind, this is an audit. The people we have been interacting with were not under oath. And so, if this matter develops

further and changes its character, that might change the willingness of people to be more forthcoming with the information.

Ms. SPEIER. Now, the committee yesterday interviewed Holly Paz, who is the manager of the Rulings and Agreements Office in Washington, D.C. And for at least part of the time period in question, she oversaw approximately 300 employees in the Cincinnati unit that determines whether organizations qualify for tax-exempt status.

She said that she was the first person in the Washington office to learn about the use of inappropriate criteria in June of 2011. Do you agree with that? Is that consistent with your report?

Mr. GEORGE. I have no information on that, but if you'll—I beg your indulgence for 1 minute.

Chairman ISSA. The gentlelady's time has expired, but you can continue to answer.

Mr. GEORGE. We do not have any information on that, Congresswoman.

Ms. SPEIER. I yield back.

Chairman ISSA. I thank the gentlelady.

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

Would you give me just 2 seconds of yielding?

Mr. WALBERG. Two seconds, I certainly will.

Chairman ISSA. For the gentlelady, my colleague from California, the Center for American Progress and Organize for American Action and others are 501(c)(4)s. This is not new. President Obama uses a 501(c)(4).

Ms. SPEIER. Will the gentleman yield?

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

Mr. WALBERG. I will yield briefly.

Ms. SPEIER. Thank you.

Mr. Chairman, regardless of whether it's a Democratic, a progressive, a conservative, or Republican organization, laws we have should be enforced. And a statute was trumped by a regulation, and we should all be concerned about that.

I yield back.

Chairman ISSA. And if I can clarify for all of us, this changed in 1959, there's a whole lot of water over the dam since 1959. And I think that it's important today to realize that, without congressional action, trumping a 1959 by the IRS would be legislating, without a doubt. And I think the IG, in including it in his audit, told all of us essentially that the Ways and Means Committee has, in fact, a challenge to deal with, which is, do we really want it the way it is, as it has evolved in use? But, ultimately, the decision since 1959 has caused organizations that perhaps all of us have grown to like—the 501(c)(3)s, like the American Lung Association, endorses legislative initiatives, as you know, in California. They promote initiatives and so on. They do it as a minority of what they do.

So I think one of the challenges for this committee—and I would only ask us all to think about it in these terms—is, Ways and Means has authority to change the law or to essentially trump a regulation. In our case, we have primary responsibility to ask questions like: Should the IG have known sooner and we have been reported? Should Mr. Shulman have been a better manager than he

was? And if so, how do we ensure in the future that Mr. Wolin, for example, would, in fact, have known and known with specificity sooner?

I think that's our lane, and I only would say that as chair, because our lane is not unlimited. The jurisdiction of the Ways and Means as to laws governing the IRS does not belong in this committee. And I know all of us on this committee are very proud that we do a lot of work. The one thing we don't do is we don't pass tax law. Although we all have opinions on it, let me assure you.

The gentleman is recognized.

Mr. WALBERG. I thank the chairman. And I'd ask unanimous consent to have my full 5 minutes restored.

I mean, it's been interesting listening to the counts here of 118 visits to the White House by Mr. Shulman; no talk about this specific issue, no talk about related issues during those 118 visits; 132 letters coming from Members of Congress; 42 articles in newspapers. And, frankly, we just had the opportunity now of having the press really get engaged with it, but 42 over that course of time.

I also looked at a train of events: September 2010, Senate Finance Committee Chairman Baucus wrote a letter to the IRS asking the IRS to survey tax-exempt organizations to ensure that political campaign activity is not the organization's primary activity.

October 2010, Senator Durbin wrote to the IRS to review the purposes and activities of several tax-exempt organizations.

February 2012, Senators Bennett, Franken, Merkley, Schumer, Shaheen, Udall, and Whitehouse wrote to the IRS about the issue.

Thirty-two Democrats in March of 2012, House Democrats, wrote to the IRS and the White House to ask that political activity of tax-exempt organizations be investigated.

July and August of 2012, Senator Levin sent letters to the IRS and said that the IRS appears to be passively standing by while organizations clearly ignore the Tax Code with no apparent consequences.

Now, this, to me, seems like a significant amount of requests for information and concerns that private citizens, organizations seeking tax-exempt status who happened to be of the conservative side would be checked on and questioned.

Now, I find it difficult, Mr. Wolin, to understand how that didn't come across your train of reference and responsibility earlier on.

Did you ever discuss congressional interest in the way the IRS was handling political nonprofits with the President?

Mr. WOLIN. I did not, Congressman. Never.

Mr. WALBERG. Did you ever discuss it with anyone at the White House or any agency outside the IRS?

Mr. WOLIN. I did not, Congressman.

Mr. WALBERG. Why didn't you discuss this, when you knew it was of such interest to Congress and you knew Congress was apparently not satisfied with whatever actions the agency had taken thus far on either side of the issue?

Mr. WOLIN. Frankly, Congressman, the correspondence to which you refer did not come to me. I think it was, in general, as you suggested, addressed to the IRS. And I, frankly, was unaware of this—of the concern until——

Mr. WALBERG. But Treasury has intense responsibility and ought to have intense scrutiny over the IRS, correct?

Mr. WOLIN. Well, Congressman, I think it's important for me to reiterate that, with respect to the details of tax administration and tax enforcement, it's been the longstanding practice of Treasury Departments, spanning administrations of Republican and Democratic Presidents, not to get involved in those details, specifically because we don't want—we don't want to have political influence over those kinds of detailed activities with respect to tax administration. I think this is a hearing and a subject matter that makes clear why that's not a good idea.

Mr. WALSH. Not a good idea.

Mr. Shulman, when did you learn about the second BOLO again and the failure of employees to follow explicit directions from their superiors?

Mr. SHULMAN. About the fact that there was a BOLO and then a second BOLO and that employees hadn't followed directions?

Mr. WALBERG. Yes.

Mr. SHULMAN. That I didn't learn about until, you know, this last week when the report came out.

Mr. WALBERG. Wow. Were you involved in any discussions about disciplining people who were being insubordinate in the Cincinnati office?

Mr. SHULMAN. Not that I remember.

Mr. WALBERG. In Politico today, I see this headline here: "Heads Won't Roll at the IRS." "Heads Won't Roll at the IRS." "Labor rules give workers protection."

The amount of ineptitude—and it's assuming that a Fifth Amendment was requested by Ms. Lerner, who is not here. We have to assume that there's some concern about criminality, as well.

What does it take for someone to get disciplined at the IRS?

Mr. SHULMAN. There's—you know, at the IRS, there's, you know, procedures that people follow that, you know, workers have——

Mr. WALBERG. And people don't follow, I would guess.

Mr. SHULMAN. And there's a union, so it depends if it's somebody in the union or not. The best of my knowledge, it's the kind of procedures you would think about in any organization, which is that——

Mr. WALBERG. Well, specifically, while you were Commissioner——

Mr. SHULMAN. —people go over it——

Mr. WALBERG. I only have 4 seconds. While you were Commissioner, for what reasons did you discipline some individuals at the IRS while you were Commissioner?

Mr. SHULMAN. Inappropriate conduct, not doing their job, those kinds of things.

Mr. WALBERG. Wow. And we missed all of this.

I yield back.

Chairman ISSA. I thank the gentleman.

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

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

Gentlemen, I want to say I am deeply troubled, and I know I speak for the entire panel, we are all deeply troubled by what has

happened at the IRS. And perhaps the most troubling part is that the IRS has been revealed to have targeted groups for their political beliefs, their political leanings. It's an outrage if this is true.

And I want to drill down a little bit with you, Mr. George. You're the Inspector General. Last week, you testified in front of the House Ways and Means Committee to the effect that, from your looking into this matter, whether you call it an audit or an investigation, from your looking into this matter, you saw no evidence that IRS employees were politically motivated in their creation or use of the inappropriate screening criteria.

Was that essentially your testimony?

Mr. GEORGE. That we received no evidence during the course of our audit to that effect, yes, sir.

Mr. CARTWRIGHT. All right. So that doesn't really square with the headline that the groups were targeted by the IRS for their political beliefs and political leanings.

And I want to ask you, I mean, isn't it true, people do things for a reason? If people at the IRS came up with improper ways of going about their business, improperly triaged groups with political-sounding names to the top of the list for extra scrutiny, if they did those things and it wasn't for political reasons, why did they do it?

Mr. GEORGE. Congressman, there are reasons for the IRS to issue "be on the lookout" types of directives and without violating any, I don't want to say secrets, but without giving the bad guys a way of avoiding detection.

I will point out that, in the case of terrorists, terroristic activities, both domestic and international, there may be a reason for the IRS to be on the lookout for a particular type of application or something of the like.

Mr. CARTWRIGHT. Well, one thing that Mr. Connolly mentioned earlier this morning was the doubling of the applications that we saw after the Supreme Court's decision in January of 2010 in Citizens United. And that's true; is that correct?

Mr. GEORGE. It is correct, but I want to make sure that I'm clear about that. I did—our audit did not say this was as a direct result of that.

Mr. CARTWRIGHT. Right.

Mr. GEORGE. It was coincidental.

Mr. CARTWRIGHT. And you're anticipating my next question. Whether or not we know there was a direct relation, we don't want to engage in, post hoc propter hoc reasoning, but whether or not we know what the cause was, we know that the applications doubled starting in 2010, right?

Mr. GEORGE. That's my understanding.

Mr. CARTWRIGHT. So we've got the workload doubling. We've also established that there were no additional resources given to the IRS to do this work.

Is one of the possible explanations that the staffers who were not acting for political reasons were actually acting to streamline their own work and try to get through a twice-as-high pile of work in a streamlined fashion so that they could actually get the work done?

Mr. GEORGE. Congressman, there are certainly valid reasons for the Internal Revenue Service to try to become more efficient in the

way they identify these types of cases. However, it is entirely inappropriate for them to use certain categories in which to accomplish that.

Mr. CARTWRIGHT. Exactly.

Now, one thing I want to ask you is, I think you've testified that you haven't really zeroed in on individuals because you've done an audit, not an investigation. Is that right?

Mr. GEORGE. That is correct, sir.

Mr. CARTWRIGHT. Why, Mr. George? In your testimony, you said that you were asked by several Members of Congress to do an investigation. Why have you not done one so far?

Mr. GEORGE. Many of our activities, sir, are covered by Privacy Act rules. And, again, in some instances, during the course of an audit, if an investigation were initiated, the audit would have to cease because of conflicts and a variety of other reasons.

Mr. CARTWRIGHT. So you do an audit first, finish that, and then move to an investigation. And I hope you will do that.

And I want to finish with this question: Did the IRSs improper prioritizing of certain groups for extra scrutiny, did that lead to any actual incorrect determinations of the tax-exempt eligibility of any groups?

And I'll open that up to all three of you gentlemen. Do any of you know, did this improper conduct lead to improper decisions?

Mr. GEORGE. I will say that this action led to the fact that not a single application for this status, this tax-exempt status, was denied. They were delayed, they were delayed for years at times, but not a single one of the ones that we examined were denied. So it does raise questions in that regard.

Mr. CARTWRIGHT. Mr. Shulman?

Mr. SHULMAN. Not that I'm aware of. But I defer to the Inspector General, who has done the—done the review.

Mr. CARTWRIGHT. Mr. Wolin?

Mr. WOLIN. I have no knowledge of this, Congressman. I, too, defer to the Inspector General, who has looked at this.

Mr. CARTWRIGHT. Thank you.

And I yield back.

Chairman ISSA. Thank you.

Just to clarify what the gentleman was asking, none were denied, but, by definition, not granting them is, in fact, not allowing them to happen. So you can actually deny better by not denying. Because if you deny, they have a right of appeal. If you just let them sit in limbo, they're screwed. And some are still screwed today; isn't that correct?

Mr. GEORGE. That's——

Chairman ISSA. A term of art.

Mr. GEORGE. Well, I was going to say I wouldn't use, necessarily, that word.

Chairman ISSA. But if you were a Tea Party organization, you'd use that term.

Mr. GEORGE. I would be very frustrated, sir, yes.

Chairman ISSA. Two quick things to clarify, because the gentleman made a very good point. This doubling—isn't it true that they began targeting Tea Party before there was any doubling, that your own testimony shows between 2009 and 2010 there was not

a marked increase and they began targeting with just one Tea Party application and then expanded it?

Mr. GEORGE. They did, yes, sir.

Chairman ISSA. Thank you. I think that makes it clear.

Oh, one more thing. There were 479 or so of these Tea Party groups that were targeted in total. Were there any BOLOs issued for progressive groups, liberal groups?

Because I'm assuming that your investigation—we can't see them—but your investigation showed liberal groups that flew right through during the same time and got their 501(c)(4)s. They were not stopped; isn't that correct?

Mr. GEORGE. Sir, this is a very important question. Please, I beg your indulgence.

Chairman ISSA. Of course.

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. For 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 is there because it's still incomplete—that we've uncovered, rather, because it's still incomplete.

And there are 6103 issues——

Chairman ISSA. Of course.

Mr. GEORGE. —involved here, too. I hope that provides context——

Chairman ISSA. So, clearly, it's fair to say, though, that there was a BOLO for Tea Party but not a BOLO for MoveOn or Progressive?

Mr. GEORGE. I'm not in a position to give you a definitive response on that question at this time, Mr. Issa—Mr. Chairman.

Chairman ISSA. So are you saying today that there were other 501(c)(4)s, not specific, so much as one other 501(c)(4) not previously identified during your IG audit that were, in fact, targeted and held in a similar way?

Mr. GEORGE. I cannot give you a definitive answer, sir, at this time. But I certainly will when——

Chairman ISSA. I only asked you 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?

I'm not asking for privileged information. I'm asking——

Mr. GEORGE. No, no, no.

Chairman ISSA. —for one.

Mr. GEORGE. Under the report, the review—the purposes of the audit that we conducted, which was to determine whether they were looked for in the context of political campaign intervention, there were no others.

Chairman ISSA. Thank you.

As I recognize the gentleman from Oklahoma, I want to express my deep condolences for the losses. I realize you flew through the night to come back and that you'll be leaving as soon as votes conclude. But, again, I think all of us on the dais would offer our heartfelt condolences.

Mr. LANKFORD. Thank you, Mr. Chairman. Tough day for the folks in Oklahoma, a tough—very tough time for a long time.

Mr. George, I want to clarify several things. One of them, you made the comment that, so far, none of them have been turned down. They just had this inordinately large amount of paperwork, and additional questions applied to them, and it's a long delay with no response, and it's basically, "We'll get back to you at some point." Is that correct.

Mr. GEORGE. That is correct, sir.

Mr. LANKFORD. Man, that sounds like the Keystone pipeline to me. But that's a whole different issue.

You had mentioned under your audit, people under investigation are not under oath. They're not under investigation, or audit—are not under oath and that the IRS staff has not been forthcoming on some of the things. Is that the statement that you used?

Mr. GEORGE. That's the inference that——

Mr. LANKFORD. Is that both staff and management that you've had conversations with? Or has staff and management been in that conversation where you feel like they've not been completely forthcoming on all the questions you've asked?

Mr. GEORGE. I'm sorry, is your question, is it because management has——

Mr. LANKFORD. No, staff and management both. When you say IRS personnel have not been completely forthcoming on some of the issues you've asked about.

Mr. GEORGE. That is an inference that can be made from the fact that we have not gotten clear answers.

Mr. LANKFORD. So that's what I'm trying to ask you, is staff, management, so two different levels of individuals. You're not getting completely full answers that you expect when you ask——

Mr. GEORGE. While I am not in those interviews personally, sir, that is my understanding.

Mr. LANKFORD. Okay.

Mr. Wolin, did you ever ask anyone at the IRS—because you had to—you had to hear about all these reports, as well, that possibly political activity was happening within the IRS. It's been mentioned before, already 42 different major news stories were out there that there was potential targeting.

Did you have a conversation with anyone anywhere in the IRS where you asked the question, "Is this true," or "Is this happening," sometime after May the 3rd, 2012?

Mr. WOLIN. I did not, Congressman. Again, with respect to the details of how the IRS administers the Tax Code, especially——

Mr. LANKFORD. No, I understand. I'm just asking, did you have that conversation where you asked someone, is this true, is this happening? Because there were a lot of media reports before this came out.

Mr. WOLIN. I didn't—the first I was aware of this, Congressman, is when the Inspector General came to me at some point in 2012

and said on the basis of some congressional inquiries he was going to begin an audit. And that was the first I'd learned it.

Mr. LANKFORD. Okay, so you didn't see any of the media reports over the group that you oversee?

Mr. WOLIN. I did not.

Mr. LANKFORD. Okay.

Mr. WOLIN. Not that I recall.

Mr. LANKFORD. Wow.

Mr. Shulman, in my office, before a letter goes out, there are four different people, including myself, that go through that letter as it goes through the process of edits and review and fact-checks and all those things. I assume it's very similar in your office, as well, that you're not actually penning every letter. There are multiple people that are involved in the process on it.

I am one of many that wrote a letter in 2012 to your office and received a response back from Steve Miller. In that response that I got back from Steve Miller about this exact issue, he said, "In those cases where the application raises issues for which there is no established published precedent"—I assume that's the Tea Party groups and everything else—"or no uniformity, EO Determinations may refer the application to EO Technical. At EO Technical, the applications are very reviewed by tax law specialists, whose job it is to interpret and provide guidance on the law and to work closely with IRS chief counsel attorneys on the issues." That's a lot of folks when there's new ground to be broken.

Now, from my district, this is one of those letters that came in from someone in my district that specifically contacted me and had a whole series of questions that came back to them with what is, in my area, the Oklahoma City Patriots in Action group. They were asked questions such as, "Have any candidates running for public office"—"Have any candidates running for public office spoken or will they speak at your function or organization? If so, include a transcript of any speeches given by candidates." Which is remarkable to be able to ask.

"Do you directly or indirectly communicate with members of legislative bodies?" And there is no definition for what indirect communication is given on that. It's just, have you had—I don't even know what that would mean.

My favorite question: "Who developed the Web site and has control over the data generated by the Web site?" Not only is that an insane question to ask, it's not even grammatically correct.

19A: "Provide all copies of your corporate minutes from inception to the present." This was asked—and at the beginning of the first page, it says, "Under penalty of perjury, I declare that I have examined this information," and goes through this long statement.

My issue is, this is new ground. And based on the letter that we received when I wrote the letter to you, it lists a long list of people that have to be involved in the formation of this. How do we get the list of individuals that were involved or at least the process of how these questions were done?

Because this assumption that this is a couple rogue agents does not match up with the letter and how we were told this was actually created. This includes technical folks, attorneys, chief counsel, EO. This is a pretty large list of people that are involved in cre-

ating this. Someone knew—in fact, a lot of someones knew about this, because you can't form this without this.

How do we get that information? Ms. Lerner is obviously the best person to ask. She's chosen not to answer questions. How do we get that?

Mr. SHULMAN. Look, as you said, there's probably other people who work on the details of that who you could ask. I would presume you ask it directly. I'd presume that the IG, who now has a better understanding of this, would be able to be helpful. And I would presume that the committee investigative staff will take letters like that and your questions and ask, you know, who was involved.

Mr. LANKFORD. If I can have the luxury here, Mr. George, is there any way to know about how many people? Has that been a part of your audit, to try to determine how many people went into creating this and how many different offices? Because this lists at least three different offices and multiple groups of people that were referenced just in their response to me in creating one of these surveys.

Mr. GEORGE. My understanding is we have not made that determination, sir.

Mr. LANKFORD. Well, that might be something we need to know.

Mr. GEORGE. We will take that under advisement, Congressman.

Mr. LANKFORD. I yield back.

Chairman ISSA. I thank you.

The gentleman from Wisconsin, Mr. Pocan.

Mr. POCAN. Thank you, Mr. Chair.

And, you know, in Wisconsin, we try to find silver linings. And in this one, Mr. Chairman——

Chairman ISSA. If you find one, then you can find a sunny day in a snowstorm.

Mr. POCAN. Well, I found a small one. You know, the inept, inexcusable actions of the IRS have done more to unify Democrats and Republicans than I've seen in my 5 months here so far. So that's what I'm going with. I'm going to try to work off of that.

Chairman ISSA. I'd use it until we lose it, and hopefully we won't.

Mr. POCAN. Exactly.

Let me drill down a little bit in a different area because I think a lot has been talked about, really, the ineptitude of what had happened.

But specifically, Mr. George, one of your recommendations, I think, that stands out the most is the better guidance to determine whether organizations are properly qualifying for the tax-exempt status, 501(c)(4).

Not related to the groups that have, but to the future, the fact that since the 2 years previous to Citizens United there's a pretty even number of applications and now in the last year that has more than doubled, so we're clearly seeing more activity in this area, if we really want to make sure, not through this sad way that was done through the IRS to try to find this out, but some other way, you in your report say that we need the Acting Commissioner for the Tax-Exempt/Government Entities Division to work with the IRS chief counsel and Department of Treasury to improve guidance

to help determine the primary activity of social welfare organizations. Is that correct?

Mr. GEORGE. That is correct, sir.

Mr. POCAN. Okay. And, to be clear, if a group's primary activity is political, they do not qualify for the 501(c)(4), correct?

Mr. GEORGE. Again, as long as they pass that test of, you know, not being their primary activity.

Mr. POCAN. All right. And the IRS, in your opinion, from the report, does not have adequate guidance so its employees can figure out this question. Was that your point?

Mr. GEORGE. That is definitely my point, sir, yes.

Mr. POCAN. Okay.

Mr. Shulman, you're no longer there, so I'm not going to ask you this question, but I am going to put it to Mr. Wolin.

You know, the Treasury oversees implementing regulations for the Tax Code passed by Congress. In this specific area, do you expect Treasury to come out with some guidelines measuring the primary activity of 501(c)(4) organizations so we can actually have some clear and concrete guidance for IRS employees?

Mr. WOLIN. Congressman, the existing guidance, as you know, is very old. This is a very complicated area. But as the IG report recommends and as this matter makes clear, we need to have some new guidance in this area. That's what the IG has recommended, and we have adopted all of his recommendations.

So we will work with the new Acting Commissioner, Mr. Werfel, to see what additional guidance we can provide so that we can bring better clarity to this area and help avoid the kinds of things that we've just learned were happening.

Mr. POCAN. And do you have a timeline on that?

Mr. WOLIN. Well, I think we're going to get to our work as soon as possible, but I don't have a specific timeline for you, Congressman, other than to say that the Secretary has charged the new Acting Commissioner with a report in 30 days that includes, among other things, how we're progressing with respect to the implementation of the various recommendations that Mr. George has put forward and that we have accepted.

Mr. POCAN. Okay. I just think this is probably one of the areas, you know, we can look at the problems that occurred, and they were significant. And, as you can see, there's complete unanimity in the room here, looking at this thing, this was inept and inexcusable.

Mr. POCAN. But I think the next step is how do we make sure that because of Citizens United the growth of these applications that we have are fair and level process to work off of. So as soon as you can do that, that would be much respected. And then finally, Mr. Chairman, I would just close in saying, I think this has been really great to have this in the open so everyone can see this and it's been a very good hearing. I would hope you would still consider tomorrow perhaps opening the Thomas Pickering hearing so that we could try to indeed have as I think he has requested a chance to do that.

Mr. JORDAN. Would the gentleman from Wisconsin yield?

Mr. CONNOLLY. Would my colleague yield?

Chairman ISSA. You've got so much yielding to do, I may have to give you more time.

Mr. JORDAN. Would the gentleman yield?

Mr. CONNOLLY. I thank my colleague.

Mr. George, in response to Mr. Cartwright, you said something that I don't think you're competent to say, and that is when looking at your own report that shows the doubling of applications of 501(c)(4)s you said, well, that's just coincidental to Citizens United. You don't know that. We don't know if it's causal or coincidental based on your analysis, and I want to give you an opportunity to acknowledge that.

Mr. GEORGE. I agree with your statement, but my point was that we did not indicate in our report that because of Citizens United, there was a doubling.

Mr. CONNOLLY. I understand. And is it not also true that a 501(c)(4), one benefit of that versus a 501(c)(3) is the donors don't have to be revealed, is that correct?

Mr. GEORGE. That is my understanding sir.

Mr. CONNOLLY. Thank you, Mr. George, and I thank my colleague.

Mr. JORDAN. Will the gentleman yield the last 15 seconds?

Mr. POCAN. He can have the last 10 seconds.

Mr. JORDAN. Mr. Wolin, yesterday Mr. Lew said senior aides at the White House, the Treasury Department and the IRS debated the best way to break this news when Ms. Lerner gave the speech and you had the planted question, how you were going to spin this, how you were going to bring this forward. Were you involved in those discussions on how this story was going to break to the American people?

Mr. WOLIN. No, I was not involved——

Mr. JORDAN. You weren't one of the people at Treasury involved, even though it's your responsibility to oversee the IRS?

Mr. WOLIN. Congressman, there were, and I think there's been press reporting on these conversations among folks in the chiefs of staff's office and among lawyers about these questions. And I was not directly involved in those conversations, no.

Mr. JORDAN. Who at Treasury was?

Mr. WOLIN. Again, we will work with you to get the names, Congressman, but there were people in the Chief of Staff's office——

Mr. JORDAN. Do you know the name Celia Roady? She was the person who planted the question. Do you know how she was chosen and why she was chosen?

Mr. WOLIN. Congressman, I had no involvement, no knowledge of that until we learned about it probably together when there was testimony from Mr. Miller on that question. I have no knowledge about.

Chairman ISSA. Thank you.

I just, Mr. George, following up on Mr. Pocan, just one quick thing. I had our staff check, and Citizens United was decided and announced on 21 January, 2010, and the IRS began targeting Tea Party groups in March of 2010. Isn't that correct?

Mr. GEORGE. I'm not sure of the date of the——

Chairman ISSA. Well, the first file pulled, according to Ms. Paz, would have been that less than 2 months later.

Mr. GEORGE. I'm not sure of the date of the issuance of the Supreme Court ruling.

Chairman ISSA. We can all get that at Google. That's a fact online. But essentially, if there's a coincidence, the coincidence the IRS began targeting less than 60 days Tea Party groups after Citizens United was started, I would assume that it's awful hard to have this supposed exponential increase in applications in less than 60 days, especially since they targeted, they had gathered starting with application one, isn't that essentially, without exceeding what Mr. Connolly would agree to, if there's a coincidence, isn't that the coincidence that it happened so close to the deciding of a Supreme Court not to the increase in applications?

Mr. GEORGE. It does seem coincidental, sir.

Chairman ISSA. Thank you. With that we go to the gentleman from Arizona, Mr. Gosar.

Mr. GOSAR. Thank you, Mr. Chairman.

Mr. Shulman, are you familiar with any examples in which confidential information relating to the application for tax-exempt status of groups was leaked to any entity outside of the IRS?

Mr. SHULMAN. I'm familiar with some press reports and vague recollection of things happening.

Mr. GOSAR. We're going to pick up one in particular. Media reports asserts that Austan Goolsbee, then the President's Chairman of the Council of Economic Advisors, disclosed confidential tax information about Koch Industries to reporters on August 27, 2010.

Do you have any idea how Mr. Goolsbee obtained that information?

Mr. SHULMAN. Two things, one is, if I remember from the time, it wasn't confirmed that he had confidential information. And to the extent he did, if that's your premise, I have no idea——

Mr. GOSAR. It should have alerted you because that's something very, very important. It kind of hit the screen it's a pretty big deal.

So did you ask your staff at the IRS how this happened? And did you find out if anyone at the IRS provided Mr. Goolsbee with that information, because it caused you, I just saw you with your caution, it caused you to think about it and somebody in your nature should have gone back and asked. Did you ask anybody, yes or no, in the IRS looked into how he got that information?

Mr. SHULMAN. It was several years ago, but my best memory is, and I have a recollection that the Inspector General was, actually did an investigation to see if something had happened. But that's my best memory.

Mr. GOSAR. At that time?

Mr. SHULMAN. It's very vague.

Mr. GOSAR. Is that true, Mr. George? I didn't think you were at that time investigating.

Mr. GEORGE. Congressman this is one of the most frustrating aspects of implementing or overseeing the Internal Revenue Service, and those are some of the restrictions that the Tax Code places on me and my ability to communicate information to people outside of the Ways and Means Committee. The IRS has strict confidentiality rules which we actually enforce, and which I'm not allowed to provide you, sir.

Mr. GOSAR. I appreciate that. I want to keep going here.

So, Mr. Shulman, how would that information be obtained? From your understanding of the IRS, you're the head, you're the guy. How would that be obtained? It had to come from a leak, right?

Mr. SHULMAN. It shouldn't be obtained. Section 6103 prohibits IRS employees from disclosing specific taxpayer answers.

Mr. GOSAR. Thank you. You gave me my answer.

So, Mr. Shulman, 6 months after Mr. Goolsbee made that public information, you went to the White House and met with him according to the White House records on February 3rd 2011. Did you ask Mr. Goolsbee then or at any other time how he obtained that information?

Mr. SHULMAN. Not to my recollection.

Mr. GOSAR. Why not?

Mr. SHULMAN. Because there's lots of things that happen in the press that involve the IRS. I don't remember that meeting, but I do remember——

Mr. GOSAR. But my understanding is this is a very important piece, particularly as a Director, that you should have looked at because—by the way, sir, did you take an oath of office?

Mr. SHULMAN. I did take an oath of office.

Mr. GOSAR. Let's keep going. Are you familiar with the news organizations a propolitica publication of pending tax exempt applications from conservative leaning organizations?

Mr. SHULMAN. I'm sorry, could you repeat the question?

Mr. GOSAR. Are you familiar with those publications? The news——

Mr. SHULMAN. ProPublica?

Mr. GOSAR. Yes.

Mr. SHULMAN. I'm familiar with the organization, ProPublica.

Mr. GOSAR. And it is my understanding based on reports from that publication that your office provided that publication with the applications that were still pending which were confidential. Is that your understanding?

Mr. SHULMAN. That my office?

Mr. GOSAR. Mmh hmm.

Mr. SHULMAN. I saw news reports of issues around ProPublica that I remember, and I don't remember the time stamp, and again, my best recollection is when those news reports broke, that it was referred to the IG to look at, is my best memory.

Mr. GOSAR. So what contributed to the confidential pending applications making it through the internal review process and being provided to the publication?

Mr. SHULMAN. I don't have any knowledge of the premise that it happened. I saw news reports.

Mr. GOSAR. Well, but it should have alerted you because I mean, as the head person with these big things happening, you should have followed up. Give us the detail. I've watch you all day. You're really good at certain parts of detail, and then you obscure the rest. There's a disease going on in America. I see it in trials all over the country. We feign because somebody gets in our face that we don't acknowledge something.

I want to go further. Are you aware that in July 2012 Senator Harry Reid claimed Mitt Romney hadn't paid taxes for the last 10

years and claimed to have the information supporting that? Are you aware of that? I'm sure you are.

Mr. SHULMAN. I have a recollection of reading that in the paper.

Mr. GOSAR. Do you know how Mr. Reid obtained that information? Did you look into this?

Mr. SHULMAN. I have no idea.

Mr. GOSAR. Doesn't that alarm you that all of a sudden, this pertinent information comes up, you're the head of this agency and you're not asking questions? Shame on you. Absolutely shame on you.

Did you ask for any other leaks of any other information, confidential information, on anybody else? I mean, I've just now illustrated you three different incidences where for private information, and yet you did nothing. So did you—let me ask you again.

Chairman ISSA. If the gentleman would conclude his questioning?

Mr. GOSAR. Yes. Did you faithfully take this oath, and I want to highlight it, that I will bear true faith and allegiance to the same and that I will well and faithfully discharge the duties of the office of which I am about to enter. Did you take that oath?

Mr. SHULMAN. Yes, I took the oath of office, yes.

Chairman ISSA. Thank you. The gentleman has concluded. Mr. Wolin, do you want to answer the same set of questions? I think they were directed to Mr. Shulman as a former agency head, but you were his superior and still would be the superior to each of those questions.

Were you involved? Did you investigate? Did you have concerns, particularly for sensitive IRS information?

Mr. WOLIN. I would say a couple things, Mr. Chairman, one I was not involved in any of those things. I remember reading news accounts of the—is it ProPublica—when it happened. I want to be sensitive as to the Inspector General has sort of instructed us to 6103 issues. But the only thing I learned about one of those issues was from the Inspector General who said he was looking into it and, of course, I did as I always do, I said follow the facts where they may lead, and otherwise stay out of the matter.

Chairman ISSA. Mr. George.

Mr. GEORGE. Mr. Chairman, we at TIGTA do have exclusive jurisdiction to review these types of allegations and again, I——

Chairman ISSA. But you have no authority to go to the White House, go to here on the Hill or go anywhere else for that investigation, you're extremely limited, you can't, as I understand, you can't leave Treasury for your investigation.

Mr. GEORGE. No. That is not true. We do have the authority to go beyond Treasury, including the White House.

Chairman ISSA. Thank you.

Mr. CUMMINGS. Mr. Chairman, for further clarification, is it, some agencies, if they read something in the newspaper, as a matter of fact, Members of Congress, we can be subjected to an ethics investigation just by somebody reading something in the paper or hearing about it. How does that work there with the IRS? Some mention was made of Senator Reid and others. How does that work there? Maybe you can answer that so that we can all be clear, briefly.

Mr. GEORGE. I can assure you, TIGTA has exclusive jurisdiction to investigate unauthorized disclosures of return information, tax return information. Now these, again, these provisions prevent me from discussing in any detail other than what the chairman of the Ways and Means Committee and the chairman of the Senate Finance Committee, I can't even discuss these matters with the ranking member of the Ways and Means Committee nor the ranking member of the Senate Finance Committee. But also the member, the chairman of the Joint Committee on Tax.

So if a matter is in the newspaper and if it's publicized, and if they name names, if I were to repeat the names publicly, I'm in violation of 26, section 61 of the—notwithstanding the fact that is——

Mr. CUMMINGS. Could you do an investigation? That is the question I'm asking.

Mr. GEORGE. Yes certainly, certainly we could.

Mr. CUMMINGS. Thank you.

Chairman ISSA. The gentlelady from Illinois, Ms. Duckworth.

Ms. DUCKWORTH. Thank you, Mr. Chairman. Americans have a good reason to be outraged by the actions of the IRS and I share their outrage. I'm just frustrated today listening to you, beyond the mismanagement and the miscommunication that is well documented at this point, what troubles me most is the violation of public trust. It's clear that at several levels, from the misguided actions of the IRS staff in Washington, the IRS employees in Cincinnati, to yourself, Mr. Shulman, in your failure to disclose information to Congress, I just feel that you've really violated the public trust, and it's troubling because the IRS has such an awesome responsibility, and such an incredibly important job to do, one that is central who to how well our government operates.

And as our Tax Code gets more and more complicated and IRS employees face furloughs and pay freezes which, by the way, Presidential appointees are exempt from, it is an increasingly difficult job to do.

So I want to get at your comments in yesterday's Senate finance hearing, and again today in response to my colleague, the gentlewoman from California, Ms. Speiers, you denied personal blame for inappropriate criteria used by the IRS.

So what will you accept personal responsibility for? How about the lack of training of the staff as identified by the IG? Will you accept personal responsibility for the failure to properly train the staff?

Mr. SHULMAN. Look, I wouldn't go down a long list. I was the leader of the IRS at the time that this happened. I accept the fact that this happened on my watch, and I'm very sorry that this happened while I was at the IRS. I feel horrible about this for the agency, for the people there, for the great public servants. I'm not sure what else I can say.

Ms. DUCKWORTH. Were you responsible for the training of the IRS personnel on your leadership?

Mr. SHULMAN. I did not hands-on decide the training of 90,000 people.

Ms. DUCKWORTH. So you will not accept responsibility for the training of the personnel under the IRS at your time there?

Mr. SHULMAN. I accept that this happened on my watch.

Ms. DUCKWORTH. So, yesterday, you said, talking about when someone found out about this problem, and you said when someone spotted it, they should have run it up through the chain, why they didn't, I don't know.

Do you accept responsibility for the forward reporting process up the chain all the way to you as you yourself have identified happened?

Mr. SHULMAN. As I said yesterday, it should have been brought up the chain earlier so that it could have been addressed. There was clearly a breakdown in this one unit of the IRS and of the chain that moved up, and I accept that this happened on my watch.

Ms. DUCKWORTH. So you won't accept responsibility that some sort of a process needed to be in place or a check and balance to make sure that if there was a breakdown that that would be corrected and if it were properly trained on how to report up the chain. No need to answer.

Now, do you accept responsibility for your failure to correct the public record once you found out your testimony was not accurate?

Mr. SHULMAN. I answered truthfully with the information I had, and I said before, when I found out that a list existed I did not have all the facts at that time. The Inspector General was going to investigate, and I feel very comfortable that the actions I took were appropriate.

Ms. DUCKWORTH. Mr. George, your report indicated that after Ms. Lerner discovered the IRS employees in Cincinnati were using inappropriate criteria, she stopped them immediately, is that correct?

Mr. GEORGE. Well, I don't know how you define immediately. She did halt that behavior, yes.

Ms. DUCKWORTH. Thank you. But then the employees started using slightly different but still inappropriate practices a few months later?

Mr. GEORGE. Correct.

Ms. DUCKWORTH. How were these employees allowed to resume these activities after management stopped them the first time?

Mr. GEORGE. That is the heart of the question, Congresswoman, which we still do not have a definitive answer to. My response is, at this stage would be a lack of oversight, a lack of follow-up on the part of Ms. Lerner and people within her immediate chain of command. No one went back to make sure that what was being told by them to do in Cincinnati was being done, and that is inexcusable.

Ms. DUCKWORTH. Mr. Shulman, do you accept responsibility for Ms. Lerner's failures as your employee to follow up and provide the oversight necessary?

Mr. SHULMAN. I have the same answer. This happened on my watch. I do not accept responsibilities for all the actions taken by all of the people outlined in the report.

Ms. DUCKWORTH. Well, I am deeply disappointed in your answer because right now, in forward operating bases in Afghanistan all over the world, we have 25-year-old buck sergeants and second lieutenants who know you can delegate authority, you can never delegate responsibility and that you're always responsible for the

performance, the training and the actions of the men and women under you. And I hope that you remember that in the next position you go to. Thank you, Mr. Chairman.

Chairman ISSA. If the gentlelady would yield, I'm going to work with the ranking member, and we are going to either formally or informally ask the designate to be the next Commissioner who has been the director of the Office of Management and Budget to come before us so that we can perhaps see in advance whether the management skills are there, and the plan is there for what has clearly been a dysfunctional period of time.

Mr. CUMMINGS. Mr. Chairman, I just want to thank you. I made that request in my opening statement and I thank you because I think that's a major move.

Chairman ISSA. Absolutely. And with that, we go to the gentleman from Pennsylvania who has been patiently waiting, Mr. Meehan.

Mr. MEEHAN. Thank you Mr. Chairman. Mr. Chairman I would like to begin to follow up a little bit on some of the information that was generated by my colleague from Oklahoma, because I'm standing and holding in my hand as well a questionnaire for one of the organizations that made an application. Their application was made in 2009. It's now 2013, and they still have not gotten a response, and yet here we are 39 questions that are being asked. This is the second level of questioning.

Now, we hear some of this is all being done for efficiency purposes and other kinds of things and yet we have people that have 39 questions that they're asking on subsequent organizations. So the issue I have for you is, is there an ability to have these questions resolved as was stated by your successor, by a few people down in Cincinnati, or is there another level of questioning that these matters are vetted? Mr. Shulman.

Mr. SHULMAN. I guess I'm not sure I understand your question but——

Mr. MEEHAN. The testimony—the testimony of Mr. Miller the other day, your successor, was that this matter was contained, it was his specific language, this was the result contained by a couple of low-level employees in Cincinnati. I'm having trouble really understanding where this is all coming from. And it was his testimony that it was a couple of low level people in Cincinnati.

And now I'm seeing 39 questions that are sophisticated and complicated. And the question becomes, is there somebody else beyond Cincinnati that is participating in the vetting of these questionnaires?

Mr. SHULMAN. So, the best of my understanding, I really don't know who approves all of the questions. It's pretty well outlined. I have made myself familiar with the IG report about requests for guidance and those kinds of things.

Mr. MEEHAN. Mr. George, what do you know about this?

Mr. GEORGE. Actually, Congressman, one of our recommendations which the administration has agreed would be——

Mr. MEEHAN. Mr. George, I'm not asking about a recommendation about what would be. I'm asking about what has happened because the testimony of Mr. Miller was this was contained to a couple of people back in Cincinnati.

Mr. GEORGE. Yeah, I'm not able to give——

Mr. MEEHAN. Let me give you a little bit of information because I have from the application. Now this is the attorney who has actually made the application and this is the words of the attorney, "Indeed more than one agent in Cincinnati has advised me that the instructions regarding the processing of the Tea Party related organization clients were coming from the Washington, D.C. office."

Were there other levels beyond Pittsburgh, I mean Cincinnati, as was testified by Mr. Shulman's successor?

Mr. GEORGE. That is still to be determined sir.

Mr. MEEHAN. What ambiguity is there? What have you looked at? What questions have you asked to determine that?

Mr. GEORGE. I have not been personally involved in the interviews but I do know that there have been conflicting information provided to, again, auditors not my investigators, sir, but my auditors as to how this came about.

Mr. MEEHAN. Did you ask the question specifically whether there was anybody asking or involved in these evaluations beyond the Cincinnati office back in Washington?

Mr. GEORGE. Yes. Yes.

Mr. MEEHAN. And what was the answer?

Mr. GEORGE. I beg your indulgence.

Sir, can I get——

Mr. MEEHAN. No, you can't get back to me. Your counsel just whispered something in your ear. What did he say?

Mr. GEORGE. I didn't hear.

Apparently, again, the determinations unit on a number of occasions not, obviously I don't know the instant matter you're discussing, had made requests to the technical unit in Washington for guidance on how to handle certain matters. The technical unit in Washington took 14 months——

Mr. MEEHAN. So you're saying that this was a request that was made from the floor that went up and asked the technical unit, there was no involvement from anybody in Washington in the form of participating or directing in which things came up?

Mr. GEORGE. The answer is yes, but in this matter——

Mr. MEEHAN. There was involvement in Washington in which these came up?

Mr. GEORGE. Yes, because the technical units——

Mr. MEEHAN. That contradicts the testimony of Mr. Miller, but please explain.

Mr. GEORGE. Well, the technical unit is located in Washington, and as I discussed much earlier at this hearing, the technical unit took an enormous amount of time to respond to many of the requests from the——

Mr. MEEHAN. Five years, 4–1/2 for this applicant.

Mr. GEORGE. Sir, but it's very important for me to point out the administration has agreed to our recommendations, our recommendations that they curb all, excuse me, all the backlogs such as the ones that you're referring to. And so, if they follow through on those recommendations, hopefully this matter that you're referring to now will be addressed.

Mr. MEEHAN. Well, I will have a series of other questions, but this is just so frustrating to me. The whole question here is we've

heard this from time to time just about accountability, and all the scandals we hear the same thing from time after time by the government officials that are involved—Benghazi, IRS, AP reporters, Fast and Furious, time after time we're hearing people, it wasn't my job. I don't know. It was the other office. I recused. I didn't find out about it until you found out about it.

Where does the accountability begin? People's lives are on the line, and these things overseas, people's constitutional rights are at stake here.

Where does the accountability begin?

I'll close with one comment. This was the President of the United States himself. These were his words on June 21, 2009, in the memorandum, "Governments should be transparent. Transparency promotes accountability and provides information for citizens about what their government is doing." Then he spoke to the heads of the organizations, and these were his words, Let me say it as simply as I can, transparency and the rule of law will be the touchstones of this Presidency. Don't let this President and this Nation down.

Mr. GEORGE. Thank you.

Mr. JORDAN. Mr. Chairman, point of order.

Chairman ISSA. The gentleman from Ohio seeks recognition.

Mr. JORDAN. I hope what Mr. Meehan says, I hope the chairman will look at calling in groups of the victims, 4–1/2 years, I would love to have them in front of us explaining what took place and what they had to go through. I hope we do at a subsequent date.

Chairman ISSA. I will direct staff to attempt to vet groups that can come before as witnesses. As the gentleman knows, and I think has been said here, there is tremendous sensitivity as to personal information, but we certainly would welcome those groups asking us and then vet an appropriate panel.

Mr. George, in my opening statement, I did talk about something we talked about personally which was that you could not rule out that there were other problems because of questions about internal controls, that discussion we had.

I assume, in response to Mr. Meehan, the same is true, today you may not be able to speak to intervention that came from above or any other place, but you can't rule out that there was some at some time?

Mr. GEORGE. That is correct, sir.

Chairman ISSA. Thank you.

We now go to the gentlelady from Illinois, Ms. Kelly.

Ms. KELLY. Thank you, Mr. Chairman.

Mr. George, I want to ask about you a report that the IRS disclosed taxpayer information that it should not have. Section 6104 A of the Tax Code allows public disclosure of an application for tax-exempt status only after an organization has been recognized by the IRS as exempt.

Last November, ProPublica reported that they requested from the IRS applications for 67 different nonprofits. In response, the Cincinnati IRS office sent ProPublica applications or documentations for 31 groups. Nine of those applications were still pending and had not yet been approved, meaning they were not supposed to be made public.

Mr. George, during the committees's transcribed interview with Ms. Paz, committee staff asked her how this happened, and she explained that an administrative employee in Cincinnati who is supposed to check each application to ensure that it had been approved before disclosing it had made a mistake. Ms. Paz also told us that when the IRS discovered this disclosure, they referred the matter to your office. Is that correct?

Mr. GEORGE. I cannot even acknowledge the existence of an investigation, Congresswoman, pursuant to title 26 section 6103 of the United States Code.

Ms. KELLY. Well, can I read to you what she told us.

Ms. Paz told our investigators that your office determined that this disclosure was inadvertent. And I will read about the IGs review, and I quote, they found that there was no evidence that the employee had done it for any political reason, that there was no reason to believe that it was anything other than a mistake.

Can you tell us, Mr. George, did you, in fact, find any evidence that this release was intentional or that it was motivated by any political considerations?

Mr. GEORGE. Notwithstanding the fact that the victim is in a position to disclose his or her or its status, Congresswoman, I'm not able to comment on it, pursuant to law, and I don't want to go to jail.

Ms. KELLY. I don't want you to go to jail either. Can you recommend taking any actions even if it's generic? And you're not talking about a specific case.

Mr. GEORGE. If there is a matter that was sent to us for investigation I can assure you that we did investigate it ma'am. We have initiated over 143 unauthorized disclosure cases last year and counting.

Ms. KELLY. Okay. Also we do have a new acting Commissioner, and he's tasked with addressing problems and restoring faith in the IRS. What would be your best advice for the acting commissioner? And what are things you think he should undertake quickly in the next 30 days?

Mr. GEORGE. Thank you for asking that question. Mr. Werfel has reached out to me already and has requested a meeting as soon as this week to discuss some of the problems confronting the Internal Revenue Service. And I've made a commitment to work with him to help him become familiar with the problems within the IRS that we've identified and ways to hope in the future to avoid them, obviously to address the problems that currently exist and to avoid future problems.

Ms. KELLY. And do you foresee this meeting taking place within the next 30 days?

Mr. GEORGE. It's happening next week, ma'am.

Ms. KELLY. Thank you. I yield back.

Mr. CUMMINGS. Would the gentlelady yield? Let me just add just following up on what the gentlelady just asked you about. When Mr. Werfel comes in to meet with you, how much latitude do you have with regard to disclosure? You just cited, and rightfully so, things that you can't disclose and whatever, how much information can you provide him?

Mr. GEORGE. I have the ability to provide him, the Deputy Secretary and the Secretary of the Treasury, again, along with the chairman of the Ways and Means Committee, the chairman of the Senate Finance Committee and the chairman of the Joint Committee on Tax any and all information, sir.

Mr. CUMMINGS. So you'll be able to tell him about ongoing investigations and what you have found to date, is that correct?

Mr. GEORGE. That is correct, sir.

Mr. CUMMINGS. So he would be in a position therefore to—I'm not saying he will, but I hope he will—to be able to make corrections and try to create a better situation and correct some of the things that we've been hearing and reading about, is that right?

Mr. GEORGE. That is correct. But he is also confined by title 26 section 6103, so he'll be limited in terms of what he can publicly disclose but——

Mr. CUMMINGS. But the most important thing he will be supplied with adequate information so that he can begin to deal with this immediately because I think all of us want that trust restored with regard to the American people as soon as possible, so I'm hoping that you will disclose everything.

Mr. GEORGE. I certainly will sir.

Mr. CUMMINGS. Thank you.

Chairman ISSA. Thank you. Now we now go to the gentleman from North Carolina who has been in and out of here but who has been active on this issue. The gentleman is recognized.

Mr. MCHENRY. Thanks so much. Thank you, Mr. Chairman.

So, Mr. Wolin, so, do you have meetings with Mr. Shulman and his then-deputy Commissioner Miller? Did you do that on a fairly regular basis?

Mr. WOLIN. I had, Congressman, quarterly management review meetings where we looked at broad issues with respect to the budget and to how their IT refresh was going and so forth, again, taking full cognizance of this relationship with the IRS where we didn't engage in discussions, didn't work in the details of tax administration or tax enforcement.

Mr. MCHENRY. Right. Right, but, so, okay, roughly four times a year you sit down, go over the budget, talk things through, that's good. And in terms of report stream you are the appropriate person for that to happen in Treasury. I understand that.

So you are regularly have this meeting and you discuss budget issues. But this issue about IRS employees' targeting conservative groups, did that ever come up in any of these meetings?

Mr. WOLIN. It did not. I have no recollection of that at all, Congressman.

Mr. MCHENRY. So knowing what you now know, do you think there might have been a concerted effort to kind of prevent the report stream, I mean prevent this from coming to you?

Mr. WOLIN. I don't know, Congressman, exactly what was going on within the IRS on this. What I know is that, in general, and this is Treasury-IRS relationships with many administrations now of both political parties——

Mr. MCHENRY. No, no. I understand. I'm not saying that the IRS is a venerable organization but certainly not as bad as what we have come to find out in this problem. So, in May of 2012, the IRS

had completed an internal review and investigation. Were you informed of that internal review and investigation?

Mr. WOLIN. No, Congressman as I testified earlier this morning, I learned of that just in the last few days.

Mr. MCHENRY. But were you informed—you were informed in June 2012 that the IG was undertaking their audit or review right?

Mr. WOLIN. I'm not sure precisely, Congressman, when it was but at some point Mr. George came to me and said he was undertaking an audit.

Mr. MCHENRY. May, June, July, summer of 2012?

Mr. WOLIN. Some point in 2012.

Mr. MCHENRY. Some point in 2012? Was it perhaps before the first Tuesday after the first Monday in November? Just establish as a fact here.

Mr. WOLIN. It may have been, Congressman. Again, I don't precisely recall when it was.

Mr. MCHENRY. Mr. George, do you have some further vague recollection, was it perhaps hot outside or were you wearing an overcoat, some time frame for me? Not to be glib about it.

Mr. GEORGE. No, no, no, sir. It was in the summer of 2012.

Mr. MCHENRY. Thank you. So in summer 2012, you are informed the IG is undertaking its review. Does this raise any sort of concern with you?

Mr. WOLIN. Well, what it raises for me is what I said earlier which is once the IG is looking at an issue, we——

Mr. MCHENRY. I understand. I understand. I'm separate from that. I'm not saying you go to Mr. George and try to manhandle him and say don't do this. I'm not making that accusation okay. Just to be clear. What I'm saying is he brings this very serious matter to you, you've received letters from the left and the right in Congress to the Department of Treasury, among various other administration officials, right, they send letters to the Treasury and to the IG, there are press reports in the spring of that year, there is some concern your IG comes forward and says, look, we're going to take this review, don't you go, this is kind of a good thing, bad thing? Come on, give me some sort of sense of your emotions. You're a human person too.

Mr. WOLIN. Congressman, I did not have an awareness of this issue before. I don't believe——

Mr. MCHENRY. No, no, no, I'm not talking about your learning. I'm talking about your feelings. Let's talk about your feelings then when you heard the IG is going to do this. You're serving a President, the President appointed you, you're Senate confirmed, a very important position. You're there from the beginning of the administration. The IG comes to you and says we're looking into this very damning thing. It's a Presidential election year. You don't say for a minute this is kind of frightening?

Mr. WOLIN. He didn't come to me with conclusions, Congressman, he came to me with the fact of the audit. So what I said to him was, this is important and you should follow the facts where they lead.

Mr. MCHENRY. So then take me from there. Do you tell anybody?

Mr. WOLIN. No, not until much, much later.

Mr. MCHENRY. When? Like when?

Mr. WOLIN. I can't remember, but at some point later, I came to learn that the IG had also told the facts of his audit to some other folks.

Mr. MCHENRY. No, no, no, we're talking about summer of 2012. The election is coming up, it's unclear who's going to win, your guy that nominated you and I assume you still support him, but in 2012, you're looking at this election year and you don't pick up the phone and say to your contacts at the White House, which, you know, say, just as a heads up, this could actually hit the fan in a Presidential year.

Mr. WOLIN. I did not, Congressman.

Mr. MCHENRY. Okay. And you don't tell anybody in the Office of Counsel at the White House?

Mr. WOLIN. I did not.

Mr. MCHENRY. So the first time you'd learned about conservative groups being targeted by the IRS was when this report came out?

Mr. WOLIN. The first time I learned that there was, before the report came out, a draft of the report was shared with IRS and IRS staff, as I think is now public, I had conversations with some people at the Treasury Department. I didn't have any understanding of the details. But I understood from Mr. George I think at some point in the last 7 weeks that this was going to be a report that was going to reach a very damning conclusion, but I didn't have any understanding at that point——

Mr. MCHENRY. So did you give a heads up to the White House chief of staff?

Mr. WOLIN. I did not.

Mr. MCHENRY. Okay. Thank you, Mr. Chairman. Thanks for your indulgence. The absurdity of this is that when a huge accusation is being undertaken by an Inspector General in a Presidential year, I just, it is beyond me to think that an administration official wouldn't have made—let me ask another question. Did you contact Chicago about it?

Chairman ISSA. The gentleman's time is expired. Make it very quick.

Mr. MCHENRY. Did you contact the campaign about it?

Mr. WOLIN. I never had any contact with the campaign.

Chairman ISSA. Mr. George, just for the record, the date that the draft was shared to your recollection? I think it's on your timeline.

Mr. GEORGE. A draft was shared with whom, sir.

Chairman ISSA. With the Treasury.

Mr. GEORGE. Well, it would have been shared with the—we don't share drafts with the Treasury. We share them with the IRS.

Chairman ISSA. I'm sorry you share them with the IRS. And I thought there was a date you shared with the consult for Treasury. I don't have that draft in front of me. You shared an unofficial draft. I just want to know if you have an official date on that one event. I just want it in the record.

Mr. GEORGE. March 28, 2013, a discussion draft report was shared with the Internal Revenue Service.

Chairman ISSA. So that's the date with the IRS. And the 27th was the Acting Commissioner?

Mr. GEORGE. Yeah, I have monthly meetings with the Acting Commissioner, just principal deputy as we indicated——

Chairman ISSA. So outside of the Office of the Inspector General, before or after March 27, 28, were any other drafts or portions of drafts circulated outside of your direct reports?

Mr. GEORGE. If the question is whether TIGTA, my office, shared drafts, we would have shared drafts with the IRS, I believe.

Chairman ISSA. But in this discussion draft, or this set of timelines you gave us, we only had the IG function head briefing, including the Acting Commissioner and discussion draft issued to the IRS the next day.

Are there any other days in which discussion drafts or preliminary or portions were shared with anyone outside of your direct reports as the IG?

Mr. GEORGE. Sir, during the course of an audit, there is a back and forth sharing of information between the subject of the audit and our——

Chairman ISSA. The reason I ask is Mr. Shulman knows nothing. Mr. Wolin knows nothing in almost any of these areas, either he doesn't remember or he didn't know, so can you make available to us, to the greatest extent possible, those back and forth discussions that occurred with anyone including Ms. Paz and others so that we have a complete record of sort of who knew what when?

Mr. GEORGE. We will provide that.

Chairman ISSA. Because as you know, we didn't know any of this until long after the 28th of March.

Mr. GEORGE. Very good. We will provide that.

Chairman ISSA. Thank you. We now go to gentleman from Illinois. We are on a roll with the Illinois folks, Mr. Davis.

Mr. DAVIS. Mr. Chairman, thank you very much for holding these hearings. Mr. George, let me commend you for your stamina and composure. It seems to me that you've been testifying around the clock all week. This is my second encounter with you from another committee.

Let me ask you, according to your report, about one-third of the organizations selected for further review were groups with the words Tea Party, Patriots, and 9/12 in their names. Is that correct?

Mr. GEORGE. Yes. Yes, it is sir.

Mr. DAVIS. Your report also found that as of December 2012, none of the applications submitted by these targeted groups had been denied, is that correct?

Mr. GEORGE. That is correct, sir.

Mr. DAVIS. Several progressive groups have now come forward to say that they were also included in this enhanced review process. According to these groups, they also received requests for additional information similar to those sent to conservative groups. The IRS asked them for detailed information about the meeting minutes, officers and board members and specific activities they conducted. These groups also experienced substantial delays in the processing of their applications, and in some cases, were denied tax-exempt status.

Mr. George, how is it that these progressive groups were included in the enhanced review if their names did not have the words Tea Party or other designated words.

Mr. GEORGE. Mr. Davis, first of all, in the course of this review, we were looking at political intervention and that was the exclusive

charge that we had. I have subsequently received information that what you're indicating may have occurred. And as a result, we will be conducting a follow-up review to determine whether or not that is the case and if so, the extent of it.

Mr. DAVIS. Thank you. You testified yesterday that in conducting the audit, your office did not give further review to any of the more than 200 501(c)(4) applications in your statistical sample, and did not have Tea Party, 9/12, or Patriots in their title. Is that correct?

Mr. GEORGE. We looked, sir, I beg your indulgence——

Two hundred and two non-Tea Party cases and so, the various groups that you just enumerated, were reviewed for indications of significant political campaign intervention which was our key criteria, again, in this exercise, in this review, Congressman, we did not evaluate whether or not they were conservative groups or progressive groups or liberal groups or whatever term you want to use, because those groups did not again have the be-on-the-look-out terms, Tea Party, Patriot or 9/12 in their names.

Mr. DAVIS. But then it is true that conservative sounding groups, or with the names that some people would associate with being conservative were not the only groups who went through this process and were treated essentially the same way?

Mr. GEORGE. We were unable—we did not make that determination, sir, for fear of not being able to determine what groups did for what position. But it is a possibility.

Mr. DAVIS. Thank you very much. And I have one question, Mr. Wolin. What is your title?

Mr. WOLIN. I'm the Deputy Secretary of the Treasury, Congressman.

Mr. DAVIS. And the Internal Revenue Service reports up through you?

Mr. WOLIN. It does.

Mr. DAVIS. And did—when they encountered these applications, did anyone come to you for advice or come to you and say we're getting all of these applications, we're not sure what to do with them, what do you suggest or recommend?

Mr. WOLIN. No, they did not, Congressman.

Mr. DAVIS. Thank you very much. Mr. Chairman, I yield back.

Chairman ISSA. I thank the gentleman. And I would like to let everyone know that the intent of the chair is not to stop during the upcoming votes. So as we get close to the votes, if some folks that are not in the queue want to go, there will be two votes, they can go to either one of them or both of them and then return. My expectation is that I will continue until concluded. If you are not here and we pass you by, and we get to the end, we will dismiss our witnesses. So do your best to get back quickly.

Immediately following the hearing, we will go into a markup. This is a bipartisan markup but we still want a quorum, so please make sure you're here. With that, we go to the gentleman from Tennessee, Mr. DesJarlais.

Mr. DESJARLAIS. Thank you, Mr. Chairman, and I thank the witnesses for appearing here today. We start a lot of these hearings saying we don't want this to turn political, but we're almost in kind of a strange parallel universe today where Democrats and Repub-

licans alike are in agreement that what has happened here just shakes the very foundation of what this country was built on.

People are here today to get answers about what the outcome of this is going to be, and who's going to be held responsible. We all trotted off to our high school government classes and history classes, and we were told what a great country we are because of the freedom we have, the freedom of the First Amendment, freedom of speech, the right to hold elections without fear of tyranny or being oppressed. But now we have a Federal agency that has admittedly targeted, in this case, conservative groups, and I think both sides are equally concerned because this could go either way.

And I think what people want to know is who is going to be held accountable and how they're going to be held accountable, how high up this went or didn't go. And so we're here today to find those answers.

Now, Mr. Shulman, do you consider yourself a good leader?

Mr. SHULMAN. Excuse me?

Mr. DESJARLAIS. Do you consider yourself a good leader?

Mr. SHULMAN. I do.

Mr. DESJARLAIS. So you're, as an American, outraged like the President over what's happened within your agency; is that correct?

Mr. SHULMAN. I'm deeply saddened and dismayed that this happened at the agency.

Mr. DESJARLAIS. What would be justice to you? What would restore the faith in the American people in the IRS in your opinion? What should be done?

Mr. SHULMAN. I don't have all the facts, and I'm not in a position to, I'm outside of the government at this point, so it's not my decision what should be done.

Mr. DESJARLAIS. But you admit that people were targeted and you found out about that over a year ago. You knew that conservative groups were targeted?

Mr. SHULMAN. No, I, over a year ago, was informed that there was a list. I did not know the details I didn't know the severity——

Mr. DESJARLAIS. A list of people who were targeted? This is really hard for you to say. Everyone else is saying it, but you can't say that there were groups targeted.

Mr. SHULMAN. As of May 2013, so sitting here today, you can call it what you want——

Mr. DESJARLAIS. A year ago you didn't know people were targeted. Did Mr. Miller, your predecessor, did he know groups were being targeted?

Mr. SHULMAN. I can't tell you what he knew, I can tell you what he told me.

Mr. DESJARLAIS. What did he tell you?

Mr. SHULMAN. What I said that he told me there was a list, that the word Tea Party was on it, we didn't know what else——

Mr. DESJARLAIS. And when did you know this? You knew this before the election?

Mr. SHULMAN. What's that?

Mr. DESJARLAIS. You knew this before the election?

Mr. SHULMAN. Some time in the spring of 2012.

Mr. DESJARLAIS. Okay, that would be before the election I believe. You did know there was an election going on that year?

Mr. SHULMAN. I'm aware that there was an election last year.

Mr. DESJARLAIS. Do you think that that type of information could potentially harm the President in an election year? Did that cross your mind?

Mr. SHULMAN. No. That did not cross my mind. I was the Commissioner of the Internal Revenue Service, and when I got a piece of information of concern, I viewed my obligation not to think about elections, but to think about was—once information came to me, was it being handled properly, and as I've said before, I've been told that it had been stopped or was in the process of being stopped and that the——

Mr. DESJARLAIS. As a good leader, that was good enough for you?

Mr. SHULMAN. Excuse me?

Mr. DESJARLAIS. As a good leader that was good enough for you?

Mr. SHULMAN. I feel very comfortable with my actions.

Mr. DESJARLAIS. What about the credibility of the IRS moving forward with implementing the health care law? A year or so ago you and I had a conversation in this room about the IRS' readiness to implement the health care law. You felt that even though it took 55 minutes for a person calling about a tax question to talk to a human being to get an answer, that you felt comfortable that we would ready to implement this health care law, how do you feel about that today? I know this won't be your responsibility, do you still think the IRS is ready and has the confidence of the American people to share their most personal information with them? To go ahead and implement the new health care law?

Mr. SHULMAN. I think a couple of things. I think one, the last couple of years, Congress has not been funding the IRS sufficiently, and I would defer to the Inspector General who's done some look, at least when I left, had been looking at is the IRS ready to implement its portion——

Mr. DESJARLAIS. Are they competent to do it? Are they trustworthy enough? This is personal information people are going to have to share. We have to restore the confidence, and we don't even know what we're going to do in this case where our most basic freedom of speech has been violated, and you don't know whether anyone should go to jail, you don't know who should be held accountable.

Mr. SHULMAN. Look, I feel very confident in the men and women of the IRS to do the task they gave them. There was clearly a serious breakdown in this unit, and in the topic here, and it's very serious and the committee should be looking at it, et cetera. But I feel very confident in the capability of the IRS broadly and generally.

Mr. DESJARLAIS. We'll see if America shares your views. And I yield back.

Chairman ISSA. I thank the gentleman.

The gentleman from Vermont is recognized.

Mr. WELCH. I thank the gentleman for this hearing and support the aggressive investigation.

Mr. Chairman, you're known to be aggressive, you're known to be persistent and those are qualities that are going to serve us well in this effort.

There's really two issues. The first is vitally important, is has the principle of equal protection and equal enforcement of the law been violated? And the second question is whether First Amendment rights have been infringed? Those are the focus of this hearing. And I support the aggressive efforts of this committee led by our chairman and ranking member to, A, determine the facts and, B, follow the facts wherever they lead.

America deserves an answer, and the fundamental question here is whether or not at the end of this investigation the conclusion is, this was poor judgment and mismanagement or what really is actions politically directed and politically motivated by politically powerful people?

That's our oversight function. And you're pursuing that as you've said aggressively and we support that, both of you.

But there is an oversight function, as Mr. Cummings said, and the oversight question asks us the question as to what is going on in the campaign finance world that we all live in?

It also raises the question as to whether or not America's institutions are failing the American people that they serve. This was a failure by the IRS, whichever conclusion the facts lead us to. Just the conduct that raises legitimate questions as to whether or not there's been selective enforcement and politically motivated action compromises the ability of that institution, the Internal Revenue Service, to have credibility to do the job that the law requires it to do.

But this mess goes back to a decision by the United States Supreme Court in Citizens United. In that case, in my view, the court made what I think is an absurd decision. They said a corporation is a person. Corporations have rights and they should be protected. Corporations serve a very important function in our economy, and those should be promoted. But a person like you or like me? That's just nutty.

You know, when it comes to this question of personhood, Mr. Chairman, and I'm talking about this because of our oversight function where I hope we do find some common ground, the Supreme Court gets it wrong.

In 1857, in the Dred Scott decision, the Supreme Court said an African American was not a person. That is a stain on the court, it's a stain on our history. That was corrected by this Congress in 1868 with the 14th Amendment.

And one of the challenges we face as a Congress is whether or not we're going to acknowledge what has happened in campaign finance since Citizens United. And let me just give a few facts because this is really, I think, my view, a threat to the access to democracy by everyday people. Last Presidential election, our candidate spent 1.1 billion between what he raised and what outside groups——

Chairman ISSA. Put a B on that one, if you would. Billion.

Mr. WELCH. Thank you. And the Republican candidate spent about the same. And in the quaint old days when President Clinton ran for his first race, he spent about $42 million, that's an M, and Mr. Dole spent about $44 million. And the Congressional races that we've all been engaged in, the House races were $1.1 billion, and

the Massachusetts Senate race $82 million. The House race in Florida, $23 million.

And what has happened with all of this money coming into the political process—and I think we've all experienced this because I've talked to my colleagues, there's more 30-second attack ads they do nothing to elevate the debate or explain the sharp divisions we have on a legitimate issue of taxing and spending. There's less control that each of us as a candidate have over what it is we're promoting to the people we're trying to represent because outside groups are starting to spend more than the individual candidate does.

There's more despair by citizens that we all represent that this political system has anything to do with anything they care about. And this is something I've noticed as a Member of Congress, there's less ability for us to try to find common ground and make compromises that are in the public interest because some loopy billionaire on your side or ours, can flood the airwaves with an avalanche of cash criticizing us because we actually dare to make some compromises.

So this campaign finance system, in my view, Mr. Chairman, is in dire need of reform.

So, yes, let's get to the bottom of this situation. But let's also acknowledge that this money that is coming into the political system is the very threat to our ability of this institution to do the job that the people expect it to do and the Constitution requires us to do. I yield back.

Chairman ISSA. I thank the gentleman. We now go to a gentleman who got here based on his ability as an attorney, not on based on being a billionaire, Mr. Gowdy.

Mr. GOWDY. Thank you, Mr. Chairman.

Mr. Shulman, when you learned that conservative groups were being targeted by the IRS for discriminatory treatment, what did you do?

Mr. SHULMAN. When I learned of the existence of a BOLO list, in that same conversation, or right around that time, I also learned a couple of things. One, that it was being stopped so that——

Mr. GOWDY. All right, and who told you it was being stopped?

Mr. SHULMAN. That was Steve Miller, my deputy.

Mr. GOWDY. All right, and did you investigate further; can you give me the name of a single person who was involved in the original decision to target conservative groups for disparate treatment?

Mr. SHULMAN. I'm not aware of those names.

Mr. GOWDY. Why can't you give me a name?

Mr. SHULMAN. The same time that I learned and that it was being stopped, I was also told that the Inspector General was aware of it.

Mr. GOWDY. Mr. Shulman, is the Inspector General the only person who can investigate wrongdoing within the IRS?

Mr. SHULMAN. My general practice——

Mr. GOWDY. Can you answer my question and then you can explain? Is the Inspector General the only entity who can investigate wrongdoing?

Mr. SHULMAN. Congress can investigate.

Mr. GOWDY. How about you? Can you do it?

Mr. SHULMAN. The practice at the Internal Revenue Service that I inherited, and the one that I operated——

Mr. GOWDY. So if there is inappropriate conduct being done in your watch at the IRS, then that inappropriate conduct can last as long as the Inspector General's investigation lasts, is that what you are telling me? That you are not going to step in and stop it?

Mr. SHULMAN. No, I'm—what I'm telling you——

Mr. GOWDY. If there is someone wielding a knife in the parking lot, are you going to call the Inspector General? Are you going to wait until his or her investigation is over before you stop it?

Mr. SHULMAN. When I was told about this, these allegations, I was also told that they were being stopped, and so that the inappropriate criteria were not being used anymore.

Mr. GOWDY. Despite the seriousness and potential criminality of that conduct, you didn't investigate it yourself at all?

Mr. SHULMAN. So the procedure is that I inherited and that my general practice was——

Mr. GOWDY. Mr. Shulman, this is going to go much quicker if you will answer yes or no, and then you can explain.

Did you do anything to verify that the practice as insidious as it was, was stopped?

Mr. SHULMAN. The Inspector General was going to be looking into it. And that's where the investigation——

Mr. GOWDY. If you can, say yes or no, or are you just choosing not to say yes or no? Can you answer the question? Did you do anything, personally, to make sure that this insidious discriminatory practice was stopped? Yes or no?

Mr. SHULMAN. At the time that I learned about it, I also learned two things. The first was that it was being stopped, and the second was that the Inspector General——

Mr. GOWDY. And what did you do to verify that it was being stopped?

Mr. SHULMAN. The responsible deputy of the Internal Revenue Service told me it was being stopped. I had no reason to believe otherwise. I think it is borne——

Mr. GOWDY. Did you investigate why conservative groups were being targeted?

Mr. SHULMAN. Excuse me?

Mr. GOWDY. Did you investigate? So you can't give me a single name. You can't answer the who. Can you tell me the why? Why were conservative groups, why was the culture such that under your watch that an employee felt comfortable targeting conservative groups? Did you investigate that?

Mr. SHULMAN. You know, from my reading of the report, I can't tell if it was political motivation, or if it was tone deaf, somebody trying to expedite a way to get——

Mr. GOWDY. You still don't know that this was political?

Mr. SHULMAN. Excuse me?

Mr. GOWDY. You still don't know that this was political?

Mr. SHULMAN. I defer to the Inspector General.

Mr. GOWDY. Well, I will tell you this, Mr. Shulman, your predecessor said that he wasn't sure if it was partisan, and that requires the listener to be as stupid as the speaker, to utter a comment like

that. He just testified that policy positions dictated this. What does that mean to you if it is not partisan? What does that mean?

Mr. SHULMAN. I'm not sure I heard that testimony.

Mr. GOWDY. Well, we will be sure and get you a copy of the transcript and you can supplement your testimony. How is that?

Mr. SHULMAN. I would be happy to answer the committee's questions.

Mr. GOWDY. Do you agree with Dan Pfeiffer that the law is irrelevant, or do you think it is relevant?

Mr. SHULMAN. I think the law is always relevant.

Mr. GOWDY. Do you think 26 USC 7214 which provides for criminal penalties for this conduct would be relevant, and did you refer the matter to someone with law enforcement investigative jurisdiction?

Mr. SHULMAN. I'm—A, I'm not going to speculate what is appropriate legally in this matter, and Mr. George, I knew his operation was looking at it, I believe.

Mr. GOWDY. I thought it was an audit. I thought he just testified it was an audit, not an investigation. Did you refer it for criminal investigation?

Mr. SHULMAN. I didn't refer it. It was already being looked into at the time that it was brought to my attention.

Mr. GOWDY. So I want to be real clear because my time is up. The only recourse you have when there is an allegation of wrongful conduct on your watch, the only thing you feel comfortable doing is waiting on an Inspector General to finish his or her report?

Mr. SHULMAN. The general practice is to make sure the Inspector General will look into it.

Mr. GOWDY. No matter how insidious the conduct. If it were an allegation of racial discrimination, you would have waited until Mr. George finished his investigation? Is that your testimony?

Mr. SHULMAN. I'm really not going to answer hypotheticals.

Mr. GOWDY. I tell you what, instead of answering my hypothetical, why don't you answer the case at bar today? If there is an allegation that groups are being discriminated against based on political ideology, are you really going to wait until an Inspector General finishes his or her report before you take corrective remedial action?

Mr. SHULMAN. When I have a fact, but I don't have all of the facts, and I don't know the scope and——

Mr. GOWDY. Did you investigate the facts, Mr. Shulman? Did you lift a finger to identify the facts?

Mr. SHULMAN. I felt very comfortable with the facts, the Inspector General was going to run down the facts and once he had it, it would be reported out.

Mr. GOWDY. Let the record reflect that's a no. I yield back.

Mr. JORDAN. [Presiding.] I thank the gentlemen. I know you guys have been here a long time. We appreciate your patience. We are—we have to give you time to use the men's room, so we are going to take a short recess, 5 minutes. The chairman is headed over to votes—have the votes been called? Votes just got called, so in 5 minutes we are going to bring you back and when the chairman gets back from voting, and I'm going to try to run—we are not going to recess. We are just going to give you a restroom break.

[Recess.]

Mr. JORDAN. Take your seats, members who are still here. I want to thank our witnesses, and appreciate the time commitment and their patience. The gentleman from Nevada, Mr. Horsford, is recognized for 5 minutes.

Mr. HORSFORD. Thank you, Mr. Chairman. I agree with a number of my colleagues here today that the behavior of the IRS has been inexcusable in regard to this situation. You know, no group or person should be inappropriately scrutinized because of their political affiliation, and the bottom line, unfortunately, is that this is not the first time that this has happened. Focusing on groups because of their political beliefs was wrong when the IRS did it to Greenpeace. It is wrong when the IRS did it to the NAACP, and it is wrong now when they have done it to the 501(c)(4) applicants. Regardless of which party holds power, this behavior has to stop. What I would like to focus on is how we can reform this process so that it never happens again.

Following up on the ranking member, and Representative Speier's line of questioning, the Inspector General's report found that the IRS employees in Cincinnati: "Lacked knowledge of what activities are allowed by tax-exempt organizations." It explained in the report that we believe this could be due to a lack of specific guidance on how to determine the primary activity of an IRC 501(c)(4) organization.

Treasury regulations state that IRC 501(c)(4) organizations should have social welfare as their: "primary activity." However, the regulations do not define how to measure whether social welfare is in an organization's primary activity.

So Mr. Shulman, as the past agency head, in judging whether a 501(c)(4) has conducted an impermissible level of political activity, the IRS applies a wide-ranging, multi-factor facts and circumstances test, is that correct?

Mr. SHULMAN. Yeah. First of all, I'm not an expert in 501(c)(4) law and the details of how individual applications are reviewed, but, yes, I mean, the—broadly, they look, the IRS looks for—to see if political activity is the primary activity, which would disqualify an organization from being a 501(c)(4), and the inquiry's done, or at least should be done, is broadly done on a facts and circumstances basis.

Mr. HORSFORD. Okay. Well, someone who is an expert, Professor Ellen April, has explained that the IRS's facts and circumstances test: "reach broadly, gives discretion to the administrators, and leaves many organizations and their advisers with little certainty on how to conduct their activity day to day."

So, Mr. George, do you believe a clear, bright line test for what is permissible level of political activity would be helpful to the IRS specialist?

Mr. GEORGE. Well, again, I'm going to have to preface my response by saying that the Secretary has delegated tax policy to the Assistant Secretary for Tax Policy. There is no question that clarity in how—in the law and how to implement it would certainly help anyone who's trying to apply the law, in this instance——

Mr. HORSFORD. Has you—has your office made that recommendation?

Mr. GEORGE. We have. And one of the recommendations in this report is that the Internal Revenue Service work with the Department of the Treasury for clarity in this area, sir.

Mr. HORSFORD. Well, I think it's imperative, particularly since primary activity isn't even the standard. It is, according to the Federal law, exclusively. "Exclusively" is stated twice. In 501(c)(4)(a) of the Federal Tax Code, it is stated nowhere primary activity, and yet that is what the standard is that's being used by IRS, and that standard is not even clearly defined. So this is a major loophole that must be addressed.

Mr. Wolin, are you intending to revisit these regulations so that taxpayers are on notice of what legal requirements are and how auditors can enforce the rules fairly?

Mr. WOLIN. Congressman, the IGs report makes clear that additional guidance in this area is necessary, and we will work with the new Acting Commissioner to do just that. This is very old guidance, it's in a very complicated area, but we will endeavor to make sure that we can provide as much clarity as possible.

Mr. HORSFORD. Well, again, I would just hope, based on what the chair and the ranking member indicated, with the new Commissioner coming in, you're right, for years we have had this ambiguity. Tax and campaign finance experts have urged the IRS and the Treasury Department to better define electoral advocacy beyond the ambiguous facts and circumstances test and to set clear limits for how much political advocacy is too much, but the agencies have failed to respond. So I hope that based on the leadership of this committee within our oversight and reform role—this is a reform policy that cannot wait, because it did not just happen to this group or set of groups, it's happened before, and it must stop.

Thank you, Mr. Chairman.

Chairman ISSA. I thank the gentleman. We now recognize the gentleman from Texas, Mr. Farenthold.

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

Mr. George, earlier on you testified that some of the questions that were asked to some of these groups included a request for their list of donors. Do we know what happened to those lists of donors? Do we have any insurance that—or assurances that those lists weren't made public or somebody snapped a picture with their cell phone and sent it to an opposing group or a political candidate or somebody?

Mr. GEORGE. Very good question, Congressman. We were told by the IRS, the office that collected this information, that they did destroy the information. However, again, they were not under oath, we weren't there when it happened, but we have to take them at their word.

Mr. FARENTHOLD. Yes. But we have no conclusive evidence that somebody wasn't trying to create an enemies list or something like that.

Mr. GEORGE. That's correct, sir.

Mr. FARENTHOLD. All right. Let's talk a little bit about the IRS procedure. There was a Fox News report today that the President's brother, I think, got his 501(c)(4) approved in a matter of days, and we've got conservative groups and possibly other groups that are waiting multiple years.

Is there a standard of time within the IRS that these are expected to be handled? Are there some processes and procedures in place?

Mr. GEORGE. Addressed to me?

Mr. FARENTHOLD. I'll start with you, Mr. George.

Mr. GEORGE. Well, first of all, I cannot under—pursuant to Title 26.6103 make any comment that would in any way make——

Mr. FARENTHOLD. No. I'm asking about the procedures of the IRS.

Mr. GEORGE. Yes. Go ahead.

Mr. FARENTHOLD. There is a procedure in place to——

Mr. GEORGE. Yes.

Mr. FARENTHOLD. So after a certain amount of time, the computer says, what happened to this?

Mr. GEORGE. I don't know if—exactly how it works, but they do have target deadlines or dates for processing these. However——

Mr. FARENTHOLD. Mr. Shulman, are you aware?

Mr. SHULMAN. I don't know the specifics. Generally there's goals for processing of any sort of cases. Those goals generally in the last couple of years have been very difficult to meet, you know, with the budget——

Mr. FARENTHOLD. All right. You know, I practiced law for a while. We had a tickler system that when something came in, it got entered into the computer, and if after a certain number of days, it flagged it, and after a few more days, it would flag the boss.

Mr. George, you're indicating you——

Mr. GEORGE. Congressman, thank you. I was just informed by staff that the standard is 121 days for the processing of these, but unfortunately they average over 574 days.

Mr. FARENTHOLD. So when they get behind, does the—do the supervisors get notice? Are you aware of an escalation procedure? Again, you know, I've never managed an organization the size of the IRS. I think the most people I've ever supervised is around 50, but I had procedures and technology in place to where when somebody was screwing up, it moved up the chain of command.

Mr. George, Mr. Shulman, are either of you all familiar with any procedures like that?

Mr. GEORGE. I'm going to defer to Mr. Shumer—Shulman, rather, on this one.

Mr. SHULMAN. I'm—I don't have detailed knowledge of this specific unit handling these 300 cases.

Mr. FARENTHOLD. Well, a news station in Cincinnati obtained an employee directory for the IRS indicating who reports to whom. And of the six identified employees, they report to different managers, and then above them even to different territory managers. This sounds like a reasonable and, you know, rational organization. You know, I mean, the government, we love our chain of command here.

I guess my question is how in any sort of rigid chain of command do these extraordinary delays not move out of one department and get up to a supervisory level within that department and then on up within the chain of command to Washington, D.C.? It just seems

unfathomable to me that that wouldn't happen. Do either of you gentleman like to comment?

Mr. GEORGE. Unfortunately, Congressman, and it's not just in this context, but if you look at the processing of FOIA requests, Freedom of Information Act requests, many times, because agencies are overwhelmed by the number of those requests and the limited number of resources that they have to address those requests, they fall behind.

Mr. FARENTHOLD. Okay. And if I don't file my tax return or extension by April 15th, is there any chance it will fall through the cracks and get ignored for 3 years?

Mr. GEORGE. I'm going to yield to Mr. Shulman on that one.

Mr. SHULMAN. And I'll yield back to Mr. George.

Chairman ISSA. Why don't we go to Mr. Wolin, who is still involved.

Mr. FARENTHOLD. Yeah. I will address those questions to you. Is there not—the command structure is the one I want to get at. Isn't there—isn't there or shouldn't there be a command structure when this gets escalated to a level that this should have been caught long before it was?

Mr. WOLIN. I would say this, Congressman: I think the IGs report includes an important series of recommendations that speak to some of these management issues and training and making sure that these cases are handled in an appropriate way and in a way that's within the time frames that are meant to be. What we have done is we've asked the new Acting Commissioner, who started this morning, to be on top of that to make sure that these things get implemented quickly and to report back.

Mr. FARENTHOLD. And let's get some automation in there. Trust but verify is a good move.

Chairman ISSA. I thank the gentleman from Texas and admonish him to go vote. I now recognize the gentleman from Georgia for 5 minutes.

Mr. WOODALL. Thank you, Mr. Chairman. I appreciate the witnesses being with us for so long today. I appreciate the chairman's generosity in allowing that last restroom break to make—give you the ability to focus on my questions. They're fairly simple, and I wish Ms. Learner was here, because I think she explained part of it in her opening testimony.

Mr. George, about how many applications are we talking about in a year on 501(c)(3), (c)(4) categories?

Mr. GEORGE. It's approximately 60 to 65,000.

Mr. WOODALL. 60 to 65,000. And this problem, isolated in a Cincinnati office, but about how many of those 60 or 65,000 applications flow through the Cincinnati office?

Mr. GEORGE. It's my understanding that all of them do.

Mr. WOODALL. 100 percent of these ap-—so it——

Mr. GEORGE. Yes.

Mr. WOODALL. When we're talking about what our—what our challenge is, it's not that it's some—a couple of rogue employees in one small branch somewhere. We're talking about a problem that exists in the center that processes 100 percent of all of these 501(c)(3), (c)(4) applications. Is that correct?

Mr. GEORGE. It's my understanding there may be one or two, you know, offices out in the field that might have a smaller role to play, but the vast majority are——

Mr. WOODALL. Vast majority are here.

Mr. GEORGE. Yes.

Mr. WOODALL. Mr. Shulman, I don't envy the job you had at all. In full disclosure, I have a bill that moves us away from an income tax to a consumption tax. I don't know how an agency can have the kind of responsibility and authority that the IRS have—has and not have really bad mistakes happen. It's just an—it's an awesome responsibility and it's one that I would argue that no agency ought to be entrusted with, but you took on that—that challenge. Mr. George has told me that virtually 100 percent of all of these tax exempt applications are handled in this one facility in Cincinnati.

I go back to your testimony in March of 2012 where Chairman Boustany said, can you give us assurances that the IRS is not targeting particular groups based on political leanings?

And your response is, thanks for bringing this up. There has been a lot of press on this and a lot of moving information. I appreciate the opportunity to clarify. First let me start by saying, yes, I can give you assurances.

We have 100 percent of these applications being processed in this one office in Cincinnati, where this problem was discovered and widespread. Who did you contact in order to give yourself the confidence to give the chairman of the subcommittee your assurances that this was not happening?

Mr. SHULMAN. Well, first of all, I'd note that that hearing, the focus was on the budget and our appropriations. This was a question that came. The chairman had written to me—or members to Congress had written to me in the month before——

Mr. WOODALL. Well, with due respect, I just—I just have limited time. Again, serious question——

Mr. SHULMAN. Serious question.

—off topic, granted, for the hearing, but you gave your assurances. Mr. George has several times said today, I can't give you an answer to that. I have to go back and reference more information. We're not prepared to give you a definitive answer on that today. But you said, in response to, can you give me assurances, yes, I can give you assurances. I'm just wondering from whom—from what research did you arrive at that conclusion?

So I said targeting in the sense that 501(c)(4) applicants did not need to apply. The ones that had applied had come in voluntarily, and my understanding was that there were questions being asked, that those questions were within the realm of authority of the IRS, and that those questions were not only being asked——

Mr. WOODALL. Understanding that that was your understanding——

Mr. SHULMAN. That was my understanding——

Mr. WOODALL. And, again, going on——

Mr. SHULMAN. —of the testimony——

Mr. WOODALL. And you, in fact, made that testimony. You said further in your testimony, there is absolutely no targeting. This kind of back and forth happens when people apply for 501(c)(4) status.

Knowing now what you know about that back and forth, would that still be your testimony? There is no targeting? This is the kind of back and forth that happens?

Mr. SHULMAN. In May 2013 sitting here before you today, I would have answered differently.

Mr. WOODALL. And that's my concern for folks. We saw a press conference with Jay Carney on this very issue. He—the reporter asked, can you categorically deny the White House had any involvement in this?

He said, yes, I can categorically deny it.

He said, well, how do you know? Have you done any investigation?

And Jay Carney said, no, I've done no investigation whatsoever. I just feel like it's probably true.

Here you are giving congressional testimony, your assurance. You could have said, I don't know, you could have said, it's outside the purview of this hearing. I haven't prepared, but you said, Mr. Chairman, there is absolutely no targeting.

As you sit here today, you would say there absolutely was targeting. But this line of questioning was absolutely inappropriate at that time, and yet with 100 percent of these applications being approved in one office, the office that has these problems, you contacted no one there before making these assurances, not just to this Congress, not just to the chairman of the subcommittee, but to the American people. That's my concern.

Whatever the truth is, we'll bring the truth out, but we can't bring it out if folks treat the truth in that cavalier fashion. Again, I don't envy you in your awesome responsibility, I would just encourage folks if the answer's no, say, I don't know. Being on the record about something as serious as this and being wrong does a great deal to undermine the trust in our government. And I thank the table.

Mr. SHULMAN. No. I appreciate your concern. If I could just say, I answered that question truthfully based on the information I had at the time.

Mr. WOODALL. But to be clear, you asked no one. The information you had was no information.

Mr. SHULMAN. I had had——

Mr. WOODALL. All of this office work goes on in one office in one city, in Cincinnati, but the chain of command of which runs directly to your office. You called no one in that chain of command. You asked no one in that chain of command. I'm not saying you were lying. I'm saying you were derelict in inquiring about what the truth was. It was a straight question about 501(c)(4) applications, all of which are processed in Cincinnati, and you made not one inquiry before testifying before Congress about what the truth of that is, a truth that now Mr. George says is not the truth whatsoever. That's troubling.

Thank you, Mr. Chairman.

Chairman ISSA. I thank the gentleman.

Mr. George, on May 3rd—May 10th of 2013 committee staff sent the following. This is paraphrased—or not paraphrased. It's a portion in quotes. The fact that this information is now public and we have not been briefed, despite my repeated requests over the many

months, is completely unacceptable. And that was from my committee staff based on the release by the IRS of your audit information in an appropriate fashion.

Your ticked response was, and I believe it's one of your staff again, staff to staff on May 10th also, the IRS issued a press statement without our knowledge, consent or even advance notice.

Are you familiar with this exchange?

Mr. GEORGE. I am not familiar with that exchange, sir.

Chairman ISSA. Is it correct, though, that the IRS issued a press statement without our knowledge, consent or even advance notice?

Mr. GEORGE. And I want to make sure that we have the dates correct. If this is the event in which Ms. Lerner gave a speech and responded to a question——

Chairman ISSA. A planted question, we now know.

Mr. GEORGE. Yes.

Chairman ISSA. So she created a press release by planting a question which she was prepared to answer, and there appears to be an audit trail of that plan.

Mr. GEORGE. I had absolutely no inkling that that was going to occur, sir.

Chairman ISSA. I don't want you to overly go past the hypothetical, but release of this kind of information, advance information, is in fact not legal, right, roughly? It may be criminal.

Mr. GEORGE. You know, I cannot give you a definitive answer there, sir, but I can say it has never happened before.

Chairman ISSA. Okay. Will you agree to research this under your authority so that we may all know all of the details without us having to go and ask for those many, many papers that often take a long time to come?

Mr. GEORGE. Yes, but in all—let's see. Yes, because she's within IRS, so we do have the authority to do so. Yes, we will.

Chairman ISSA. Okay. I appreciate that. Yesterday I made—well, Ms. Lummis has arrived, so I'm going to cut short. I only have one quick question for Mr. Shulman.

The 5-year term that you received is, in fact, statutory. Isn't that correct?

Mr. SHULMAN. Yeah. The term is statutory.

Chairman ISSA. So you're appointed by a President to be a nonpartisan effectively, because you're a term appointee, so by definition, you and the President and the Senate come to an agreement on somebody who will normally transcend their—at least their one term—or always transcend at least one of their terms. Correct?

You're—the requirement for your position is management skills, isn't it? In other words—and this is not a—this is not just any political hack kind of a deal. This is one in which you're supposed to possess management, administrative skills. That's how you're chosen in an agency that only gets two political appointees, one who's the Commissioner and the other who is the Counsel to the Commissioner, as I understand it. So you have one lawyer and one manager. Is—am I just setting the tone correctly for the record?

Mr. SHULMAN. Generally the goal is to have a Commissioner who has a 5-year term to run the agency.

Chairman ISSA. Were you selected, in your opinion, because of your management skills?

Mr. SHULMAN. Yeah, I—yes, in my opinion.

Chairman ISSA. Okay. That was all I—that was what I was trying to get to for the record.

We now recognize the gentlelady from Wyoming for 5 minutes.

Mrs. LUMMIS. Thank you, Mr. Chairman.

Mr. Wolin, I want to go back to something Mr. Shulman said. He testified earlier that he inherited the practice of deferring to the IG for audits and investigations when problematic issues arise at the IRS. Mr. Wolin, did Mr. Shulman have the authority to change the management practices he inherited at the IRS? Yes or no.

Mr. WOLIN. Sure.

Mrs. LUMMIS. In this circumstance, do you think he should have changed the practice of deferring to the IG and looked into the targeting on his own?

Mr. WOLIN. Oh, if the question is—well, Congresswoman, I think that once an IG begins work, it's very important to stay clear of it. If a political appointee, for example, involves themself in the work of an IG or in topics that the IG is looking at, I think they run the very big risk, that's understandable, that that will be seen as interference, and that is why for many administrations for the longest time that I can recall, it has been a core principle of ours that when an IG begins their work, we stay clear.

Mrs. LUMMIS. What kind of activity do you think it would take to change the practice of deferring to the IG for audits and investigations?

Mr. WOLIN. Well, I'm not sure I understand your hypothetical, Congresswoman. I would say this, that here, of course, the—by the time, for example, I learned of the fact that the IG was conducting an audit, the offending conduct, we now learn, was no longer taking place.

I would expect that if the IG were looking at something and he determined that there was something that was ongoing that needed quick action, that he would raise that and that we would have a conversation so as specifically not to be either interfering with an IGs work or being seen to be interfering with an IGs work.

Chairman ISSA. Would the gentlelady yield for just 1 minute?

Mrs. LUMMIS. Yes, Mr. Chairman.

Chairman ISSA. I think it's important, Mr. Wolin, you keep saying, and Mr. Shulman kept saying that by the time you learned about it, the offending activity had finished. The offending activity is two parts. It's the abusive behavior of questions, inappropriate questions, questions that are probative that, in fact, make us doubt whether or not that information leaked. Let's leave that aside. I think the IG has determined a cutoff date. But are you here today to tell us that no entity has been denied approval or denial in a timely fashion, because I believe Mr. George will testify that as far as he knows people are still in limbo today.

Mr. WOLIN. No, sir.

Chairman ISSA. On your watch.

Mr. WOLIN. Not at all, Mr. Chairman. I think you're exactly right. The IG has made that clear. Now that we know that, we learned that last week, this needs to be fixed quickly, absolutely, and that's part of the charge that Mr. Werfel has, absolutely.

Chairman ISSA. But he's not—but he is the acting director at this time.

Mr. WOLIN. He's the Acting Commissioner as of this morning.

Chairman ISSA. Commissioner as of this morning. So we would expect that in spite of these Draconian budget cuts, that these hundred or more potential entities will, in fact, get a prompt and accurate adjudication, meaning days now that it's been years?

Mr. WOLIN. Well, I can't—I don't want to speak for Mr. Werfel in setting a precise timeline, Mr. Chairman, but——

Chairman ISSA. Well, you're his boss. You speak from the President, to the Secretary, to yourself, to him. What the heck appropriate timeline should we expect when you've been drowning these people for 3 years or more in some cases? What is the timeline today? If you're not accountable today, then you're not ever accountable. Could you give us a timeline? In your opinion, what would be the maximum time somebody should have to wait when they've waited for years?

Mr. WOLIN. Well, as we've—as I said, Mr. Chairman, what we've charged Mr. Werfel with is coming back within 30 days and to fully and promptly implement the various recommendations in the IGs report, of which this is one.

Chairman ISSA. Mr. George, and I'm taking a lot of gentlelady's time, but 3 years you wait. If you're sitting in that pile after 3 years, is 30 days to find out what the plan is to have you come out of that pile, when in fact other entities that were submitted 2 years after you also involved in this, quote, category have been approved? Is 30 days, in your estimation, before a plan is submitted, is a new Acting Commissioner the reason—first of all, none of these commissioners knew anything, apparently, or asked anything, so why is a new one important? If you could answer.

And I apologize to the gentlelady, give her back her time.

Mr. GEORGE. Yeah. If you will allow, Mr. Chairman, I believe—I've made a commitment to work with Mr. Werfel, and he realizes the high priority the President and that I and my organization have placed on the Secretary of the Treasury on this issue. I can't give you a definitive timeline, a date, but I will commit to you that we will work to expedite these—and help him, rather, expedite these applications, sir.

Chairman ISSA. I thank you.

And the gentlelady will be given 2 additional minutes. Thank you.

Mrs. LUMMIS. Thank you very much, Mr. Chairman.

And reclaiming my time, I want to take issue with one thing that our esteemed ranking member of our committee said earlier. He said that the trust in the IRS has been undermined. And the issue I would take with that is that trust has not been eroded or undermined, but it's been destroyed. That trust is gone. My constituents, the people I represent believe the Federal Government is out to get them. And when things like Watergate were going on, you had a battle of Titans. You had the politically powerful going after the politically powerful. But in this matter, you have the politically empowered going after the people who hired them, and people who don't have the weapons of the imprimatur of the Federal Govern-

ment to turn to. You have people who are relying on trust, and that trust is absolutely gone.

I have no idea how we can restore the trust that has been destroyed as a result of this. The IRS has let down the very people that they were employed to serve. In fact, the people think the IRS has turned against them, and it is on a stack of other concerns where they believe the Federal Government has turned against them. This is Goliath against David. These are the people who hired Goliath and empowered Goliath, and Goliath has turned against those very people. It's moms and dads at kitchen tables who are taking kids to soccer games who want to have a political organization like a tea party. It's people who believe they're patriots, and their own government is telling them, we will not allow you to exercise your patriotism in this way because we don't like your brands of patriotism.

This is far worse than anything we've seen in Watergate or that the government has done to the government, because this is the government turned against the very people who hired them, who trusted them, and who have destroyed that trust.

Mr. Chairman, I yield back.

Chairman ISSA. The gentlelady yields back. We now go to the gentleman from Washington, Mr. Hastings.

Mr. HASTINGS. Thank you very much, Mr. Chairman. I think the tone of this hearing is the reputation of the IRS being at stake, but I recognize that may be an oxymoron, to be very honest with you.

Mr. Wolin, in response to a question by Mr. Lankford, you stated that you were not aware of the complaints of conservative and Tea Party groups that received extra scrutiny from the IRS until you were informed by Mr. George of the Inspector General's audit. Is that correct?

Mr. WOLIN. That's correct.

Mr. HASTINGS. And once again, when were you informed of that audit?

Mr. WOLIN. Well, I don't recall precisely, but I'm prepared to accept the IG——

Mr. HASTINGS. Well, give me a ballpark. Give me a ballpark.

Mr. WOLIN. The IG, I think——

Mr. HASTINGS. I thought it was the summer of last year, right?

Mr. WOLIN. That's right. 2012.

Mr. HASTINGS. Summer of two—2012. So do you not see any of the letters from Members of Congress about this matter?

Mr. WOLIN. I don't think there were many letters, if any.

Mr. HASTINGS. I didn't ask you that. I asked you if you were aware of them, not how many.

Mr. WOLIN. No. No, we're not aware.

Mr. HASTINGS. Did you—so you didn't see any news articles about this before that date. Is that correct?

Mr. WOLIN. I was not aware of this.

Mr. HASTINGS. Did you—I asked you if you did not see.

Mr. WOLIN. I don't recall seeing any news articles.

Mr. HASTINGS. Okay. And you had no conversations with anybody about the extra scrutiny of the Tea Party groups before that date?

Mr. WOLIN. I had no conversations about that.

Mr. HASTINGS. Okay. Good.

Mr. Shulman, just to clarify, when you get a letter from a Member of Congress, that goes to your personal attention or at least your signature when you respond. Is that—did I hear you correctly when Mr. Chaffetz asked you that questions?

Mr. SHULMAN. We get a lot of letters. Some——

Mr. HASTINGS. I didn't ask you that. I asked you questions from Members of Congress, if you personally sign those letters if they're addressed to you.

Mr. SHULMAN. Some come to me——

Mr. HASTINGS. Okay. Did Mr.——

Mr. SHULMAN. —I respond to and some come to me that other people respond to and sign.

Mr. HASTINGS. Would Mr.—would a letter from Mr. Camp, Chairman of the Ways and Means Committee, get your personal attention?

Mr. SHULMAN. If Mr. Camp wrote to me? Generally, yes.

Mr. HASTINGS. Generally yes. Well, he wrote you—he wrote to you in June 2011 about the Tea Party issue. So if you—now, does somebody sign your letters other than you?

Mr. SHULMAN. I don't, but to the best of my knowledge, that—in my memory is that was not about the same issue.

Mr. HASTINGS. Okay. Well, according to the records we have, he sent you a letter in June 2011 regarding this particular issue.

Mr. SHULMAN. That's not my memory. In June 2011?

Mr. HASTINGS. Well, that—that's our records. Let me ask this: When you testify in front of Congress, do you have a preparation prior to testifying before Congress?

Mr. SHULMAN. Yes.

Mr. HASTINGS. You do? Who participates in that preparation.

Mr. SHULMAN. It can depend on subject matter, but it was generally people in my direct office.

Mr. HASTINGS. Generally your Chief of Staff, probably your top aides?

Mr. SHULMAN. Yes.

Mr. HASTINGS. Does it change from subject to subject?

Mr. SHULMAN. It can change——

Mr. HASTINGS. It can.

Mr. SHULMAN. —from subject to subject.

Mr. HASTINGS. Okay. When you testified in front of the Ways and Means Committee, and this has already been brought up, where Mr. Boustany asked you the question and you—and then you had an exchange with Mr. Lynch. Let me see. Where is that? That is on—well, at any rate, the question was can you assure us, and you told Mr. Boustany that you could assure him that nothing was going on. Then you had an exchange with Mr. Lynch. Do you recall that brief conversation with Mr. Lynch earlier today?

Mr. SHULMAN. Yeah. I don't recall the exact words, but I recall the conversation.

Mr. HASTINGS. Well, let me—this is what you—this is what you said. And the issue was you can give—the phrase that you used in response was you can give assurances that there was no targeting. That's what you said in testimony.

Now, you said then in response, because he interrupted you, and you said, let me answer the question, and so you then said—in responding to Mr. Lynch, you said that—that those assurances of no targeting came from conversations. Who were those conversations with?

Mr. SHULMAN. I had—my understanding at the time in March of 2012——

Mr. HASTINGS. No. Who—no. The question was, the question Mr. Lynch said that is there no targeting, and you said I—you know, in conversations, that's what—you know, that's what I believe. Okay. Who—I'm asking you who those conversations were with.

Mr. SHULMAN. So I can't tell you these are the exhaustive conversations, but when the letters came in, I know I had——

Mr. HASTINGS. I'm talking about—yeah. I'm talking about the testimony from the question——

Mr. SHULMAN. Sure.

Mr. HASTINGS. —of Mr. Boustany.

Mr. SHULMAN. And in my mind was the letters that I had received about extensive questioning, and those conversations were most likely, my memory is not clear on this, but my deputy, with his deputy, with my Chief of Staff——

Mr. HASTINGS. Who are those by name?

Mr. SHULMAN. I would have most likely had conversations with Steve Miller.

Mr. HASTINGS. Steve Miller. Who else?

Mr. SHULMAN. Nicole Flack.

Mr. HASTINGS. Who?

Mr. SHULMAN. Nicole Flack.

Mr. HASTINGS. Nicole Flack.

Mr. SHULMAN. Who was deputy at the time?

Mr. HASTINGS. All right. Who else?

Mr. SHULMAN. Those are the two with the most knowledge of tax exempt organizations that I relied on the most.

Mr. HASTINGS. Okay. Now——

Mr. SHULMAN. Including other people on my staff as well. I just don't have a clear recollection.

Mr. HASTINGS. Which other people on your staff?

Mr. SHULMAN. My Chief of Staff was an obvious person that I have conversations, but didn't have knowledge of tax exempt organizations.

Mr. HASTINGS. Now, with your indulgence, Mr. Chairman, you said, in conversations, this is how you drew that conclusion. Now, you prepare for these hearings. Did you anticipate that question prior to this Ways and Means hearing?

Mr. SHULMAN. I didn't anticipate the precise question, but I generally familiarized myself with the letters and the questions about donors were the main things that were on my mind at that time.

Mr. HASTINGS. Okay. So that means that, then, you—prior to that question, when you gave assurances there was no targeting, because when you give assurance, that's—you know, that's pretty hard stuff, no targeting. So in preparation, you had discussions about this, and yet you answered to Mr. Boustany that gave assurances there was no targeting.

Now, the issue, of course, that we are concerned about is that you haven't apologized for not stating that correctly. You just now said that in preparation, you anticipated at least the subject of this question.

I have to say, Mr. Chairman, that I find once again, you know, the—I won't say non-answers or vague answers here, trying to find out who in fact did all of this is pretty hard to come by when we get, frankly, Mr. Shulman, answers like this. You prepare for these meetings, you—at least the subject of this question, and then you respond to questions here today that in conversations with people, you know, I feel very comfortable. There's something missing here, I have to say, in my mind, Mr. Shulman. I—and I suppose I'm sure that this committee will try to find those answers, but leave me in the dark on that.

Thank you, Mr. Chairman. I yield my time.

Chairman ISSA. Thank you, Mr. Hastings. I will note that this is a committee that was told that Justice didn't let guns walk at the ATF. So sometimes it's their definitions versus the common-sense real definitions.

At this time I'm asking unanimous consent that the page 16 from the GAO report from—which is entitled, Budget Data Fiscal Year 2008 to 2012, be placed in the record for the purpose of authenticating that Mr. Shulman, in addition to being detached from the running of his business, also is unaware that the fiscal 2008 budget of the IRS, $11.6 billion, rising to $11.9 billion, rising to $12.6 billion and roughly stable at $12.6 billion in fiscal year 2011.

Mr. Shulman, there are no budget cuts during the period of time in which you're claiming you don't have enough money to do your job.

Without objection, so ordered.

We now go to the gentlemen from Missouri, Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman. And let me thank Mr. George for being here and thanks also to your staff. They have given our committee staff several briefings now, and we appreciate their work.

I understand that you're—from your staff, that your office was not particularly happy about the way Lois Lerner at the IRS essentially tried to get out ahead of your audit. She basically orchestrated a question and answer at an ABA meeting on Friday, May the 10th. In your experience, have you ever seen an IRS official do something like that or was that a first?

Mr. GEORGE. It was a first during my tenure, Mr. Clay.

Mr. CLAY. And your audit was not finalized yet at that point. Is that right?

Mr. GEORGE. That is correct, sir. Well, let me double—that is correct. There's a clearance process, sir, that has to occur to ensure that any Title 26, Section 6103 information is not premature—is not released, period, and that clearance process had not been completed by then.

Mr. CLAY. So you hadn't completed your—your job yet, but—just to play devil's advocate, you had already briefed them on your findings, so what was the problem with them going public before the report was final?

Mr. GEORGE. They're privy to all of the information that we find, because they have, again, access to information under the Tax Code, Title 26 for the most part, but there is a provision within the Tax Code, again, Section 6103, which provides for potentially criminal results if you release information, sensitive return information is what they call it, but the bottom line is that it's taxpayer information, without the approval of the taxpayer. And a lot of the reports that we issue, this report included, contained information that would have been violative of the law had it been prematurely released.

Mr. CLAY. And the White House was informed about your audit on April the 24th, according to Jay Carney, the White House Press Secretary, but the White House took what I view as the more responsible approach. They were waiting until your report was final. To me that seems much more in keeping with how draft inspector general reports should be treated.

In fact, let me read a quote from our chairman, Mr. Issa, who said this, "this is one of those things where it's been in a sense an open secret, but you don't accuse the IRS until you've had a nonpartisan deep look. That's what the IG has done. That's why the IGs in fact exist within government, to find this kind of waste and fraud and abuse of power."

And on this rare occasion, I do agree with Chairman Issa's statement. Do you, Mr. George?

Chairman ISSA. You know.

Mr. CLAY. I'm asking the witness. Do you agree with the chairman's statement?

Mr. GEORGE. And I'm sorry, sir. I didn't—I missed the chair—what—the quote you were attributing to the chairman.

Mr. CLAY. Okay. I can read it again for you.

Mr. GEORGE. Thank you, sir.

Mr. CLAY. "This is one of those things where it's been in a sense an open secret, but you don't accuse the IRS until you've had a nonpartisan deep look, and that's what the IG has done. That's why the IGs in fact exist within government, to find this kind of waste and fraud and abuse of power."

And I agree with the chairman's statement in this instance.

Mr. GEORGE. I do also, sir.

Mr. CLAY. Okay. There has been a lot of discussion recently about why the White House did not come out publicly as soon as they knew about the IG report in late April instead of waiting for the final IG report to be issued. And I think the terrible way the IRS handled this proves the point. And thanks to the IGs hard work, we now have precisely the type of nonpartisan deep look Chairman Issa was talking about, so I want to thank you, Mr. George, for your hard work in this area.

And, Mr. Chairman, I will yield back.

Chairman ISSA. I ask the gentleman to yield briefly.

Mr. CLAY. I yield.

Chairman ISSA. Mr. George, exactly in that line of questioning, based on the timeline you gave us, on May 29th, 2012, the audit briefed the IG in advance of the IRS Commissioner's meeting. May 30th, IG and function heads briefed the IRS Commissioner, Doug Shulman, and the Deputy Commissioner, Steve Miller, and Beth

Tucker on the audit, comma, specifically that criteria targeting Tea Party Patriots or 9/12, another tea word, and other policy issues were being used to—used, too, in reviewing applications for tax exempt status.

You briefed, and that's your notes.

Mr. GEORGE. Yes. That's correct, sir.

Chairman ISSA. And so what you say on May 30th is, yeah, they're targeting these groups. That's a confirmation you reached a conclusion they're targeting using these key words.

Mr. GEORGE. Yes. Now, just to be clear, I didn't take these notes up, but these are accurate, sir.

Chairman ISSA. Right. And, I mean, I'm just using these because they were delivered to us from your staff. So on May 30th, there was a there there and you briefed Mr. Shulman and two others.

On June 4th, you went on to brief the IG—or you, the IG, briefed Treasury General Counsel Chris Mead on the same thing, correct?

Mr. GEORGE. That is correct, sir.

Chairman ISSA. So, in fact, the General Counsel at Treasury was aware that, in fact, these groups were being targeted in a conclusion that you made on May 30th and then again briefed them on June 4th, correct?

Mr. GEORGE. That is correct, sir.

Chairman ISSA. Mr. Wolin, were you also aware that, in fact, this conclusion has been reached by June 4th?

Mr. WOLIN. No. No, I was not, Mr. Chairman. I think that the——

Chairman ISSA. So this bypassed you and went to your General Counsel?

Mr. WOLIN. Well, I was not briefed on any findings when the Inspector General came to me. I think his testimony under oath in the Finance Committee and in the Ways and Means Committee was he briefed merely on the fact of the commencement of an audit.

Chairman ISSA. No. That is not what the IG just testified to here, Mr. Wolin. I walked him through his own notes—or these briefing notes that were given to us. The briefing was on the conclusion that specifically that criteria targeting Tea Party Patriots or 9/12 and other policy issues were being used in a reviewing—in review—too, in reviewing applications for tax exempt status.

That's a conclusion that they were being used. Mr. George.

Mr. GEORGE. Mr. Chairman, I may have to clarify my earlier response to you. On the 4th of June, I have a—I had a meeting, and I regularly meet with the General Counsel, Chris Mead, or whomever the General Counsel is at the Department of the Treasury. At that meeting, I certainly made him aware of the audit. I do not keep notes of those discussions. I don't recall verbatim what it is that I discussed with him. I may have characterized the overall object—audit, rather, but I certainly—to the best—I did not have findings then, because the audit obviously wasn't concluded.

Chairman ISSA. No. You had findings that you gave. And I'm calling them findings. Now, I'm—I have to remember I'm not an IG, that the term "finding" may be more technical, but you had reached a conclusion that criteria targeting Tea Party Patriots, 9/12 and other policy issues were being used in reviewing applica-

tions. That's a conclusion that these criteria, these key words were being used and that ultimately we now understand how horrific this is on the face of it, correct?

Mr. GEORGE. I would say, sir, that I would have characterized part of the audit looking at those issues. And so we obviously had not concluded the audit, so we did not have final determinations at that time, so I don't—and again, sir, I'm operating from memory here and it was a while ago, I had no idea this issue would come up in this manner, but the bottom line is I cannot say that—with certainty that I said to him this was definitively happening. I said we are—this is the allegation, this is what we're looking at, and——

Chairman ISSA. Right, but essentially you told Mr. Shulman sitting next to you that shots were fired, to use an analogy, that there was a there there. Now, a question of who fired them, what caliber it was, whether somebody was hit, you do a lot of detail in an IG report. As a matter of fact, it took a year.

So a year ago Mr. Shulman was told that in fact there had been targeting. Mr. Shulman has already testified that essentially the reason there wasn't further action was that it was over as far as he was concerned, in that although you were briefing him that they had targeted, I believe Mr. Shulman testified effectively, and I'm paraphrasing you, sir, so correct me if I'm wrong, that basically your reason for not doing anything further was although you now knew that they had inappropriately targeted people, that in fact it was now no longer happening. Is that correct?

Mr. SHULMAN. I said that—you know, to the best of my knowledge, earlier today, to be clear, I mean, when I learned, I learned that the IG was going to be looking into it and that the practice was being stopped.

Chairman ISSA. Okay. And the May 30th—what I read to you about that targeting, the May 30th briefing in 2012, the IGs briefing of you, Mr. Miller and Miss Tucker all occurred and you were in that meeting?

Mr. SHULMAN. Yeah, but the language you used there that there was a conclusion of targeting is not my recollection of the meeting. My recollection——

Chairman ISSA. Well, this is not my language. This is the IGs.

Mr. SHULMAN. No. I hadn't seen that language.

Chairman ISSA. Okay.

Mr. SHULMAN. But my recollection is, you know, that Mr. George said they were looking into the allegations.

Chairman ISSA. Thank you.

Mr. Massie

Mr. MASSIE. Mr. Chair—Mr. Chairman. Today we are here to repair the trust of the governed in their government, but to repair the public trust we have to fix the problem, and before we can fix the problem we have to define the scope and the type of problem that we have.

Mr. Shulman, how many employees work for the IRS?

Mr. SHULMAN. About—over 90,000.

Mr. MASSIE. So over 90,000 employees work for the IRS. And how many work for Ms. Lerner?

Mr. SHULMAN. She stated 900 today. I don't know the exact number, but that sounds about right.

Mr. MASSIE. Now, the behavior of some of those 900 employees has been described by Mr. Wolin today as inexcusable and deplorable. Do you accept responsibility for that behavior of those employees?

Mr. SHULMAN. I've said before that I am incredibly saddened by this event, that it occurred on my watch——

Mr. MASSIE. I heard that answer before. So I'm asking do you accept responsibility for their behavior?

Mr. SHULMAN. I don't accept responsibility for——

Mr. MASSIE. Okay.

Mr. SHULMAN. —putting a——

Mr. MASSIE. Thank you.

Mr. SHULMAN. —a name on a list with an appropriate——

Mr. MASSIE. Mr. George, did I hear you refer to some of the behavior as gross mismanagement earlier in your testimony?

Mr. GEORGE. That is correct, Congressman.

Mr. MASSIE. And that was at the Cincinnati office?

Mr. GEORGE. That's correct, sir.

Mr. MASSIE. Would you have been referring to either or both Ms. Paz and Ms. Lerner?

Mr. GEORGE. I wasn't referring to any individual in particular, but I—and I just want to actually revise what I just said. The gross mismanagement was not limited solely to Cincinnati. It extended to Washington and——

Mr. MASSIE. Okay. Mr. Shulman, realizing that you do not accept the responsibility for the behavior of all the employees at the IRS, do you accept the responsibility for the mismanagement that occurred at the IRS?

Mr. SHULMAN. Look, I'm very sorry that this happened while I was at the agency.

Mr. MASSIE. I understand you're sorry. You said that before. Can you answer that question?

Mr. SHULMAN. I don't know generally what you're talking about. I don't accept the responsibility for every single action of every single employee of the IRS, but——

Mr. MASSIE. Understood. Thank you.

Mr. SHULMAN. —this did happen on my watch and I accept that.

Mr. MASSIE. Mr. George, you mentioned before that there were lists that were used as triggers, they were called be-on-the-look-out lists, but some of these were used as triggers to refer cases to the Fraud Division or to State and local governments. Is that correct?

Mr. GEORGE. That is correct, sir.

Mr. MASSIE. Okay. So my constituents, whose trust has been damaged in their government, are now asking me were they audited because of lists.

And, Mr. Shulman, can you guarantee to us here today that there were practices in place in management such that none of these audits would have been triggered by a list such as we've seen the lists today?

Mr. SHULMAN. For your constituents?

Mr. MASSIE. Yes.

Mr. SHULMAN. Look, I don't believe that audits were triggered because of it. I have——

Mr. MASSIE. Can you guarantee that they were not?

Mr. SHULMAN. No, I can't.

Mr. MASSIE. Okay. That concerns me. We've got to fix that before we can fix the trust in the government.

Mr. George, you stated there were 143 unauthorized disclosure cases that were started in the last year?

Mr. GEORGE. That we looked at last year, yes.

Mr. MASSIE. And I know you can't comment on the particular cases, but would you expect some of those to be confirmed leaks from the IRS of confidential information? In the past have you ever——

Mr. GEORGE. Unfortunately, I'm being instructed by counsel that I cannot acknowledge the results of those investigations, Congressman.

Mr. MASSIE. Okay. Can you acknowledge prior results of investigations? Can you acknowledge that a leak has ever been confirmed, that anybody's private information has ever been released?

Mr. GEORGE. I don't—we don't have an answer to that, sir.

Mr. MASSIE. Okay. Mr. Chairman, we need more hearings, we need more investigations. We need to get to the bottom of this. I think people working for the government right now need to be fired for abusing the public trust. But let's not delude ourselves. We're just treating a symptom of the disease, and the disease is a bloated, abusive government that has become self-serving.

We've seen that Mr. Shulman has stated he can't be held responsible for 90,000 employees. I doubt any man or woman could be held responsible for a bureaucracy that's 100 years old that has that many employees. We sit here comfortably on the dais questioning three men here today, but I think Congress created this monster. We need to look inward. We have 70,000 pages of Tax Code, 90,000 employees that work for this bureaucracy. And a lot of these—this Tax Code is open to interpretation. I think it's ripe for corruption and abuse. And I think in order to restore trust, the public trust, we're going to have to address this issue and I think Congress needs to take it upon itself after today to shrink the size of the IRS, to simplify the Tax Code, and to restore the public trust.

Thank you, and I yield back.

Chairman ISSA. We now go to the gentlelady from New Mexico, Ms. Lujan Grisham.

Ms. LUJAN GRISHAM. Thank you, Mr. Chairman. Certainly the tone of this hearing in a bipartisan fashion has been that any government agency targeting in any way any inappropriate investigations or information is deeply disturbing, and the fact that it's the IRS just makes that even more troubling. And I don't think there's a member on this committee who doesn't also agree that we want a thorough and complete investigation, and we want all those held accountable, and then we want steps implemented there and everywhere in government to make sure that this never happens again. And I certainly want to be on the record echoing those statements, and am deeply troubled as well. But I do want to talk about 501(c)(4)'s.

Now, Mr. George, your report explains the lack of clear guidance on how groups are determined to be eligible for tax exempt status, but were one factor that contributed to the terrible decisions made by IRS personnel. But one key reason, in my mind, that this problem even exists is because of the difference between the original statute Congress passed and the regulation the Treasury Department subsequently issued.

The original statute passed by Congress provides that any—that organizations may qualify under a 501(c)(4) only if they engage exclusively in social welfare activities. That seems fairly clear that political activities are not allowed at all. But in 1959 a regulation was issued provided that entities could qualify under 501(c)(4) as long as they engaged primarily in social welfare activities. These groups now believe they can spend up to 49 percent of their funds on campaign-related activities.

Now, this goes to Mr. Wolin. Requiring organizations to be primarily engaged in social welfare activities is significantly different than requiring them to be exclusively engaged in social welfare activities. Wouldn't you agree?

Mr. WOLIN. It is, Congresswoman.

Ms. LUJAN GRISHAM. All right. Mr. Shulman, would you agree?

Mr. SHULMAN. Yes.

Ms. LUJAN GRISHAM. And, Mr. George, would you also agree?

Mr. GEORGE. About whether or not clarification is necessary, most definitely.

Ms. LUJAN GRISHAM. And would the three of you support that maybe Congress should make this even clearer? It seems to me that this issue, this regulation was issued fairly arbitrarily.

Mr. WOLIN. Well, Congresswoman, as I said earlier, I think that this is an area that requires additional clarity. The IGs report recommends that we at Treasury, working with the IRS, provide that clarity, and we will get to that right away working with the new Acting Commissioner.

Ms. LUJAN GRISHAM. Mr. Wolin, while you do that, it is now my understanding that in addition, that the Treasury Department plans to start investigating further 501(c)(4)'s to determine if they have spent more than the 49 percent on political activity.

Now, if a 501(c)(4) in this review violated the law and used more than 49 percent for political activity, will the names of those donors who donated to those 501(c)(4)'s be released?

Mr. WOLIN. Well, Congresswoman, the Treasury will not be investigating 501(c)(4)'s. That's not within our purview. And, again, it's important, I think, just to reiterate that the Treasury not involve itself in matters that relate to the administration of the Tax Code, and in particular, ones that have these kinds of political overtones.

Ms. LUJAN GRISHAM. Well, and then maybe it's my understanding that this—or Mr. George?

Mr. GEORGE. Actually, yes, it will be my office. We have committed to doing just that type of an examination.

Ms. LUJAN GRISHAM. And will those donors' names be released?

Mr. GEORGE. It's highly unlikely because of, again, privacy and confidentiality restrictions that are placed upon us.

Ms. LUJAN GRISHAM. But the issue would be that those donors would then be required, if there's a violation, to pay taxes on those donations, would they not?

Mr. GEORGE. I cannot give that analysis.

Chairman ISSA. Will the gentlelady yield? If you go to Organizing for Action, President Obama's 501(c)(4), you will note that it says contributions are not tax deductible. This is about the entity not paying taxes, as I understand it. If you're declined a 501(c)(4) status, some of these organizations 3 years, under certain circumstances you then have to pay corporate taxes on this as though it was income, you then could even have your officers and directors personally responsible. But it's not a (c)(3). These are (c)(4)'s. And I'm sure that we have people here that could define the difference, but it's real important to understand this is about—if you, for example, were determined to be a 527, nothing would change except, as you said, the potential names. 501(c)(4)'s, 527's, the difference is not really a taxable event.

Ms. LUJAN GRISHAM. Mr. Chairman, I appreciate that clarification; however, if—if, though—I'm not clear that some of these organizations provide the right disclosures, I'm not clear that folks who are providing donations to those organizations are clear about those rules, I'm not clear, based on the scope of this investigation to date, that we've got clarity about whether folks really are qualified as a 501(c)(3) or a 501(c)(4). And as we uncover more information about those donors, those differences, those investments and the engagement of activity of these organizations, it seems to me if there are violations made, the disclosure of donors in a violation and taxes be recovered if they so apply should be done by the IRS.

Chairman ISSA. I appreciate the gentlelady's comments.

Would somebody clarify for the record the taxation policy so that that can be clear, because I think there's a—Mr. Shulman, you certainly know the difference. There's obviously a huge misunderstanding as to the taxability and the ramifications, what you really get on a 501(c)(4) versus 527.

Mr. SHULMAN. There's a chart actually in the Inspector General's report, I think, that has the different taxable entities and the difference——

Chairman ISSA. Right. I mean, 501(c)(3) is a big deal; 501(c)(4) less.

Mr. George? To the extent that you can answer to clarify for the lady.

Mr. GEORGE. Yes. Oh, certainly. A 501(c)(3) may do the following. They may receive tax deductible charitable contributions. They may engage—they may not engage in political campaign intervention. They must publicly disclose the identity of their donors. I'm sorry. They may not disclose the identity of their donors. They may engage in lobbying, limited, but must not be substantial. They may engage in general advocacy not related to legislation or the election of candidates, but it has to be as an educational activity. And they must apply with the Internal Revenue Service for their 501(c)(3) status.

Now, as to 501(c)(4), (5) and (6)'s, no, none of their contributions are tax deductible. They may engage in limited political campaign intervention, but again, it may not be their primary activity. They

do not have to disclose the identity of their donors. They may engage in lobbying, but it has to be in—actually, they have an unlimited amount of ability to do that if it's in furtherance of the taxes—purpose for which they were established. And as it relates to general advocacy, they may also do so in an unlimited way as long, again, as it is in furtherance of their tax exempt status. And they do not need to apply to the Internal Revenue Service for this status.

Chairman ISSA. Thank you.

The gentlelady, I presume, is satisfied?

Ms. LUJAN GRISHAM. I am not, Mr. Chairman.

Chairman ISSA. Well, we'll make additional information available, but I think it is——

Ms. LUJAN GRISHAM. Can I make one statement, Mr. Chairman?

Chairman ISSA. Of course.

Ms. LUJAN GRISHAM. Thank you so much.

To the issue that in a 501(c)(3), which I'm clear about the differences between—and I appreciate doing that for the record, sir—501(c)(3)s and 501(c)(4)s, donors are not required—the 501(c)(4) doesn't have to disclose the donors.

Chairman ISSA. Correct.

Ms. LUJAN GRISHAM. If they have violated that political activity premise, just like a 501(c)(3), I'm making the argument here that they should have to then disclose those donors. And now that they're disclosed, I want to make sure that appropriate taxes have applied to that person's personal income as a result of knowing that they've made contributions that were not disclosed in any form so that there is a double-check, in the same way that the IRS receives independent information about my income, what I receive and what I don't receive.

That's my point here, Mr. Chairman.

Chairman ISSA. Well, the gentlelady may turn the Tax Code upside down if she would like. I suggest you find cosponsors.

But the fact is that these individuals give money post-tax. They pay their taxes, and then they give the money out. And they do not control the organization. So the idea that they would take on personal responsibility for their contributions and somehow be double-taxed, perhaps the gentlelady would reconsider the chilling effect, whether it's a 501(c)(3) or a 501(c)(4).

And, with that, we go to the gentleman from Georgia, Mr. Collins.

Oh, I'm terribly sorry. We're going to Mr. Meadows. I'm reading a list. I should look at the gentleman first.

Mr. MEADOWS. That's all right. Thank you, Mr. Chairman. And I want to follow up on some of your line of questioning there.

And it relates to—and I want to make sure that I understand you, Mr. George. On May 29th of 2012, almost a year before the official report came out, you were briefed. And it is my understanding you specifically knew at that particular point that there was a criteria that was being used to target the Tea Party, Patriots, 9/12 group. Is that correct?

Mr. GEORGE. Actually, sir, I—that was my final briefing on this matter. During the course of the audit——

Mr. MEADOWS. Okay, but this is—this is May 29th, 2012. Is that correct?

Mr. GEORGE. That's correct.

Mr. MEADOWS. All right. And so, on May 30th, the day after that, you actually briefed Mr. Shulman, Deputy Commissioner Steve Miller, and Beth Tucker on this new audit, using that same criteria, that it was being used against Tea Parties. Is that correct?

Mr. GEORGE. Sir, I——

Mr. MEADOWS. That's what your notes say.

Mr. GEORGE. Yes, but, you know, my colleagues behind me, who were in attendance at the meeting——

Mr. MEADOWS. Right. It said "function heads," so I assume that they were your function heads.

Mr. GEORGE. And they indicated—we had some indication at the time that the allegations had merit, but we did not characterize—we cannot—I'm not in a position now to characterize the level of detail that we had at that point.

Mr. MEADOWS. I'm not asking about detail. Was there a separate criteria used for those groups, a separate criteria used for Tea Party groups that you just admitted to just a few seconds ago?

Mr. GEORGE. You know, again, sir, I'm not certain as to exactly——

Mr. MEADOWS. Well, as your function heads, are y'all familiar with it? We have notes that would indicate that, that there was a separate criteria used.

Mr. GEORGE. Yes, sir. I was just informed that we knew there was a criteria; we didn't know the nature of the extensiveness of it, sir.

Mr. MEADOWS. So we know that it was separate, though.

Mr. GEORGE. Yes.

Mr. MEADOWS. And you, the gentleman to your left, you did notify him of that on May 30th of 2012?

Mr. GEORGE. That is my recollection, sir.

Mr. MEADOWS. Okay.

Then on June the 4th, this note says that you briefed the general counsel, Mr. Chris Meade. So you briefed him of a separate criteria in the Treasury Department on June the 4th, 2012.

Because all of a sudden, you know, all of this is supposedly, it's just happened, but this is well over a year ago. So you briefed the general counsel, the chief general counsel of the Treasury Department well over a year ago.

Mr. GEORGE. I did. But I have to acknowledge that in the briefings that we hold with the Commissioner of the Internal Revenue Service I have my subject-matter experts in the room.

Mr. MEADOWS. So you went by yourself to the general counsel——

Mr. GEORGE. That's correct.

Mr. MEADOWS. —and so you may not have given him the complete story.

Mr. GEORGE. I'm certain that I did not give him the level of——

Mr. MEADOWS. Why would you have not given him the complete story if you had just done it a few days before?

Mr. GEORGE. Well, because the Commissioner is the person who we directly oversee. I actually have——

Mr. MEADOWS. So this was a courtesy call.

Mr. GEORGE. It is a courtesy call, sir.

Mr. MEADOWS. So a courtesy call to the general counsel.

Mr. GEORGE. Yes, it is.

Mr. MEADOWS. All right.

Let me go a little bit further, because I'm troubled by some of the things that have been said. We've got Lois Lerner. Why would she have been privy to all the interviews and know exactly what the interviews were going on during this process? Why would she have known that?

Mr. GEORGE. I'm glad you raise that, sir, because it was raised much earlier. My understanding—and, again, I was not privy to those meetings. I was not in attendance at those——

Mr. MEADOWS. Okay. But let me ask you another question, because my time is running out.

Mr. GEORGE. Sure.

Mr. MEADOWS. Holly Paz, why was she in all—almost all the interviews that you conducted?

You talked about original and proper protocol from an audit standpoint. She was in these meetings with her subordinates and other people. Why would you have somebody from the IRS in all of those meetings?

Mr. GEORGE. You know, well, first of all, in some instances, they——

Mr. MEADOWS. Is that proper protocol?

Mr. GEORGE. In some instances, it may——

Mr. MEADOWS. Well, I know when you get audited you keep people separate. Why would you do this and put them together?

Mr. GEORGE. Well, because in some instances—they have collective bargaining units.

Mr. MEADOWS. So this was all because of collective bargaining?

Mr. GEORGE. Well, no. I was just told that Holly was requested to leave when we were querying of the IRS staff about——

Mr. MEADOWS. Yeah, but she was in 36 of 41 interviews, Mr. George. Requested to leave? She was in 36 of 41 interviews.

Mr. GEORGE. I'm unaware of it. This is the first time I'm hearing this.

Mr. MEADOWS. So are you gentlemen aware of it? I mean, just talk to him. You've been going back and forth. So this is the first you're aware of it?

Mr. GEORGE. Well, none of the gentlemen here would have conducted those interviews directly, sir, and so——

Mr. MEADOWS. Well, this—I just was passed this. It was in the document that you've given us. It was in the document that you've given us. So are you just giving us stuff that you're not aware of, Mr. George?

Mr. GEORGE. I don't know which document you're referring to, sir.

Mr. MEADOWS. Well, I'll be glad to give it to you.

Mr. GEORGE. Okay. Thank you.

Mr. MEADOWS. I just find it highly inappropriate.

Mr. GEORGE. Sir, this was put together by auditors, as you can see, of—some of whom are in—many of whom are in Washington, but some of whom are not. These are, you know, level——

Mr. MEADOWS. Well, that's my point. This is not isolated to two people in Cincinnati. This has a whole lot of people in Washington, D.C.

And why would she have been part of it? Would you normally conduct an audit in that manner?

Mr. GEORGE. You know——

Chairman ISSA. The gentleman's time has expired. You may answer, though.

Mr. GEORGE. Congressman, I would respectfully request the opportunity to look further into this and to report back to the committee, because this is the first time that I was made aware of this, and I really don't have information about it.

Mr. MEADOWS. I thank the chairman.

Chairman ISSA. Thank you. And we will allow the gentleman time to do the research and get back with us.

Mr. GEORGE. Thank you.

Chairman ISSA. We now go to the gentleman from California, Mr. Cardenas.

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

TIGTA made nine recommendations detailing how the IRS can improve its process for reviewing applications for 501(c)(4) organizations.

Mr. Wolin, who at the Treasury is working with the IRS to ensure that these recommendations are fully implemented?

Mr. WOLIN. Well, most of them, Congressman, are focused on actions for the IRS to take, and so the new Acting Commissioner, Mr. Werfel, will be quick at work on those.

There's one that we've discussed here in this hearing that relates to better guidance with respect to this question of whether entities are meant to be 501(c)(4)s or not, and that has a role for Treasury as well as the IRS on that guidance.

But, in any event, the Secretary of the Treasury, Mr. Lew, has charged Danny Werfel with getting back to him within 30 days to report on his progress in implementing the recommendations from the IG report, plus whatever other steps he feels are necessary to make sure that this misconduct does not happen again.

Mr. CARDENAS. Okay.

And, Mr. George, what can you say about that?

Mr. GEORGE. Mr. Werfel reached out to me last week, Congressman, and requested my assistance in helping address many of the issues that we identified—actually, all of the issues that we identified in our audit report. And I have committed to doing just that to assist him. So we are going to do our level best to help guide him as he is attempting to address our recommendations.

Mr. CARDENAS. And what has the Tax-Exempt Division, regarding this implementation, what have they shared with you?

Mr. GEORGE. I have had no discussions with the Tax-Exempt Organizations Division thus far. I don't know whether my colleagues have. And if you'll—I beg your indulgence.

Mr. CARDENAS. Sure, please.

Mr. GEORGE. Apparently not yet, sir.

Mr. CARDENAS. Okay.

Mr. GEORGE. But we will, starting——

Mr. CARDENAS. That was my next question. When you say you will, is there an intended timeline? Is there a goal?

Mr. GEORGE. Mr. Werfel and I committed to meeting next Monday—or, I'm sorry, Tuesday. Monday is a holiday.

Mr. CARDENAS. So as early as next week?

Mr. GEORGE. Yes.

Mr. CARDENAS. Okay.

Eight of TIGTAs nine recommendations were directed towards the Exempt Organizations office and the Tax-Exempt and Government Entities Divisions of the IRS. In a few cases, the Exempt Organizations office and TIGTA did not see eye-to-eye on the specifics of some given recommendations.

Can you share with us what the disagreement was and why?

Mr. GEORGE. They—in a couple—well, first of all, it's overtaken by events, actually, Congressman, since—because when they initially provided us with their response to our recommendations, it was before the President directed them, and then through—and then the Secretary subsequently, to adopt all of our recommendations.

But to answer your question directly, in some instances, they indicated that they had already addressed the problems that we identified, on one or two, like posting information on the Internet for the public. I do have the detailed response, but it's not before me. Again, with the chairman's permission, I would like to submit that for the record.

Mr. GEORGE. But the bottom line is, they have subsequently now agreed to adopt all of our recommendations. And that's, I think, the ultimate goal.

Mr. CARDENAS. Including posting the process online so that people could understand what's going on behind that IRS curtain with their applications?

Mr. GEORGE. Now, if they come back with an extraordinarily plausible reason, again, citing confidentiality or security or what have you, we would obviously take that into consideration. That was not their initial objection, but, you know, so we're—but they have committed to adopting all of our recommendations, sir.

Mr. CARDENAS. So I anticipate this is not the last hearing we're going to have on this. So as you progress and have that dialogue and you have that back-and-forth, is there any reason that you anticipate that you could not share with this committee what their responses are and what their intended cooperation with these implementations are?

Mr. GEORGE. I will commit to doing so, but we've also committed to conducting a follow-up audit to ensure that they have accomplished the goal of reaching, of achieving these recommendations that we established.

Mr. CARDENAS. Okay.

And you mentioned that the President directed the Treasury to implement all of your recommendations. And so, as far as you can tell, there hasn't been any resistance to—since then?

Mr. GEORGE. I haven't, but I yet have had my meeting with Mr. Werfel. But I assume they're going to follow the President's instructions.

Mr. CARDENAS. Yes? Please.

Mr. WOLIN. Congressman, there will be no resistance. We accept the nine recommendations from the IG as they were written. I think the President and the Secretary and I have all made that clear to Mr. Werfel, and I think he is 100 percent on board.

Mr. CARDENAS. Well, I'm sure that with an organization like the IRS there's probably never going to be 100 percent contentment with every American with this particular department. Yet, at the same time, I think that the timeliness of you being able to—all of you being able to do your part and to restore confidence, at least around this issue, that we can do that as expeditiously as possible.

I yield back the balance of my time. Thank you.

Chairman ISSA. I thank you.

And I'll note to gentlemen, we have two additional Members to ask questions. Then we're going to go to 5 minutes a side as the limited second round. And then we'll dismiss our witnesses for today.

At this time, we go to the gentleman from Michigan.

Mr. BENTIVOLIO. Thank you, Mr. Chairman.

Mr. Shulman, I've got to hand it to you, 5 hours under all this questioning, and you've been able to maintain some coolness, calm. But, at any time, did you ever feel uncomfortable, intimidated by questioning going on?

Mr. SHULMAN. Congressman, my goal today is to try to answer your questions.

Mr. BENTIVOLIO. Okay, so you didn't feel the same thing my constituents feel when they get a letter from the IRS or that I felt when I was reading a memo that said how the IRS deemed educating on the Constitution and Bill of Rights to be a political act?

Does the IRS still believe that educating about the Constitution and Bill of Rights is a partisan political act?

Mr. SHULMAN. I don't know what the IRS believes, but if you're referring to the criteria in the report, I would agree it's inappropriate.

Mr. BENTIVOLIO. It's inappropriate. You know, can you imagine how I felt as a former schoolteacher teaching the Constitution and the Bill of Rights and thinking about, wow, I could be subject to an IRS audit simply because I'm doing my job?

Do IRS agents take a class on learning about the Constitution and Bill of Rights before joining one of the most powerful agencies in the Federal Government?

Mr. SHULMAN. I don't know the answer to that question.

Mr. BENTIVOLIO. Okay. You do teach ethics, correct?

Mr. SHULMAN. I do——

Mr. BENTIVOLIO. Or the IRS requires ethics training?

Mr. SHULMAN. Yes, there's a——

Mr. BENTIVOLIO. But not—but not the Constitution?

Mr. SHULMAN. I don't know the answer to that question.

Mr. BENTIVOLIO. Yeah, the answer is no. I understand that they take training classes in ethics, but specifically about the Constitution and Bill of Rights, you don't know that.

Given their power to destroy businesses and audit individuals, do you think it would be useful for the IRS to require all of its employees to take a class studying the Constitution and Bill of Rights in

order to make positively sure that they understand the concept of government restraint created at our founding?

Mr. SHULMAN. I think it's very important that IRS personnel be well-trained.

Mr. BENTIVOLIO. Did you study the Constitution? You're a lawyer, are you not, or an attorney?

Mr. SHULMAN. I went to law school.

Mr. BENTIVOLIO. You went to law school. Did you study the Constitution?

Mr. SHULMAN. I believe I took constitutional law, but I'm not prepared to take an exam at this time. Meaning I'll answer any of your questions, but I can't promise, you know, I'm an expert.

Mr. BENTIVOLIO. An expert. Well, you know the First, Second Amendment, and one of my favorites, the 19th, right? You know those?

Mr. SHULMAN. Excuse me?

Mr. BENTIVOLIO. You know those——

Mr. SHULMAN. I told you, I'm not a——

Mr. BENTIVOLIO. Excuse me. The constitutional amendments, you know the First, you know the Second, and you know the 19th.

Mr. SHULMAN. I don't necessarily have the Constitution memorized, sir.

Mr. BENTIVOLIO. Okay. Well, they're pretty general, I mean, you know, in what each one is. Like, the First Amendment is freedom of the press, freedom of religion, and freedom to petition the government for redress of grievances. The First Amendment, right?

Mr. SHULMAN. I really can't recite the Constitution, sir.

Mr. BENTIVOLIO. Okay. Do you understand what—do you know what the word "tea" in "Tea Party" stands for?

Mr. SHULMAN. I do not.

Mr. BENTIVOLIO. It stands for "taxed enough already." That's contrary to what the IRS wants, I think. Because they want to tax as much as possible, don't they?

Mr. SHULMAN. The IRSs job is to administer the tax laws that are on the books.

Mr. BENTIVOLIO. Mr. Chairman, I yield back my time.

Chairman ISSA. Would the gentleman yield?

Mr. BENTIVOLIO. Yes.

Chairman ISSA. Just briefly, I want to make sure this gets properly in the record. Yesterday we had a transcribed interview, and I'm going to ask unanimous consent to place, at this time, pages 189 and 190 in the record.

Without objection, so ordered.

Chairman ISSA. And I would just read very briefly from it.

This was to Ms. Paz. When we asked her about, did you ever accompany any other employees to their interviews with TIGTA? And she said, "Yes. I sat in on all the interviews, but they—the arrangement were—we had worked out with TIGTA was that I would leave the—at the end of the interview so they could ask anyone interviewed any questions they wanted to ask without anyone else present. So that was done."

That's correct, her testimony that she was in at least what she thought was all the interviews and that she left for a short time at the end?

Mr. GEORGE. I have been informed by staff that that is accurate, sir.

Chairman ISSA. Thank you.

And we went on with Mr. Hixon, one of my staff attorneys, asked—and he is an attorney; he didn't just go to law school—"How did that arrangement come about when TIGTA approached you about conducting their audit? Did you request that you be present at all of the interviews?"

Ms. Paz answered, "Yes, I believe—I can't remember if I made the request or Lois Lerner made the request. But we discussed that in order for the IRS to be able to respond to the report, we had to understand what information TIGTA had and what they were being told."

Mr. George, you're a seasoned investigator. Those individuals who did that on your behalf, is that routine, to basically let the target of an investigation/audit sit in so they know the questions and answers, when they later may be a target of misconduct?

Mr. GEORGE. You—the operative word, Mr. Chairman, is "audit."

Chairman ISSA. Okay, so I'm going to stop you there. Because this was an audit, it was conducted much more, if you will, like people coming in and just going through the books to find out, you know, how much more taxes you owe. Right? It wasn't conducted as an investigation.

Mr. GEORGE. That's correct. It was not conducted as an investigation.

Chairman ISSA. Okay. I'm going to conclude later during the last 5 minutes.

Mr. CUMMINGS. Can I ask one question?

Chairman ISSA. Sure. Go ahead, Mr. Cummings.

Mr. CUMMINGS. Let me make sure—this is for clarification and truth. Usually, when you are conducting an investigation—and I know this was an audit, I got that—you want to keep your witnesses separate because you're in search of the truth and you're trying to make sure that there is no advantage of a person hearing what somebody else says. As a matter of fact—I mean, that's just pretty standard procedure.

And can you tell us what the difference is and why there is—if there is a difference with the way you all proceed with regard to audit—that is, allowing somebody to listen to testimony? I think that would be clarifying for all of us.

Because, you know, maybe an audit is conducted differently, but it would seem to me that even in an audit you're in search of truth and accuracy. And then where there is a—if there is a conflict, then you figure out who's inaccurate or maybe who's lying, but then you figure out how to get to the truth. But when—do you follow me?

Mr. GEORGE. I do, Congressman. And, again, each case is different. I am not privy yet to the details of these interviews, and I just learned about this. But I have to say that, again, the operative word that you used is the "truth." And we want to make sure that the information that we receive and act upon is accurate.

And sometimes it is beneficial to have more than one person in the room who may have worked on the same matter so that, in case some person doesn't recall a particular decision, action, activ-

ity, the other person might, and that might click the memory of the person who we were originally questioning. So it really depends on the circumstances.

Now, in hindsight, given this matter, obviously, this seems somewhat unusual. I need to do a little more research——

Mr. CUMMINGS. This is just 30 seconds. Based on what the chairman just read, it sounded like Ms. Paz was—she felt like she needed to be in the room because she wanted to be able to defend herself, or the agency, I don't know, based on what may have been said or information gathered in that interview. And that seems like it goes against what you just said.

Mr. GEORGE. Well, again, hindsight is 20/20, sir.

Mr. CUMMINGS. Okay. All right.

Chairman ISSA. Thank you. I thank you for your comments.

We now go to the gentleman from Florida.

Mr. DESANTIS. Thank you, Mr. Chairman.

Thanks to the witnesses for toughing this out.

I'm just a little still stunned by the beginning of this hearing. We are investigating the IRS targeting groups who, among other things, educate about the Constitution and the Bill of Rights, and yet we have one of the officials potentially responsible for that invoking one of those constitutional rights. So it was—it was a startling thing.

Let me ask Mr. Wolin, just so I get this right, IRS reports essentially to the leadership of the Treasury Department and then the President? Is that the proper chain of command, so to speak?

Mr. WOLIN. It is, Congressman.

Mr. DESANTIS. Okay.

And, Mr. Shulman, I notice that you've made, obviously, a lot of trips to the White House. That was discussed. You also have met with the President in 2010, one occasion, and then twice in 2011; is that correct?

Mr. SHULMAN. Sorry,I don't—I don't know the exact dates of meetings, so——

Mr. DESANTIS. Well, I didn't ask you dates, but is that—about three times during that period, is that—I mean, that's—we just have the log. That's what it says. June 29th, 2010; February 3rd—or, excuse me, June 6th, 2011; and December 2nd, 2011.

Mr. SHULMAN. I have memory of two of the meetings. I'm not sure I have a memory of the——

Mr. DESANTIS. Now, we don't yet have the log for 2012, but did you ever meet with the President in the White House during 2012?

Mr. SHULMAN. Was the last date—could you give me the last date?

Mr. DESANTIS. The last date that we have is December 2nd, 2011.

Mr. SHULMAN. I'm sorry. I was referring to a December 2012, where I had a photo taken with my family.

Mr. DESANTIS. Is that the only date you remember from 2012?

Mr. SHULMAN. So, my memory, that's the only date I have any memory of with the President in 2012, except for perhaps a holiday party or some such.

Mr. DESANTIS. Okay. So when you were going there, were those discussions—or what were those discussions about? The Affordable Care Act? 501(c)(4)s?

Mr. SHULMAN. The discussions with——

Mr. DESANTIS. With the President.

Mr. SHULMAN. I don't remember having extensive conversations with the President. The first conversation that you referenced was about the tax gap and tax collection in general and how the IRS works and how to collect the proper amount of revenue for the government. That's my best recollection.

Mr. DESANTIS. So that is the extent of the substantive conversations you had, or were there other topics discussed? I mean, you know, I understand you're busy, I understand you meet a lot of people, but most people probably remember when they meet with the big guy.

Mr. SHULMAN. Yeah. No, I—that's the extent of my memory. And I also, now that you bring this up—I haven't looked at these dates. You know, I'm not at the agency anymore. I also had a discussion once where he convened a number of agency heads, talking about how to improve the government, generally.

Mr. DESANTIS. Now, according to these logs, it was pointed out that there were over 100 times where you visited the White House, generally, having 118. And there are 46 of them where there is a purpose of health care. And it looks like it started in April of 2010 and really continued throughout 2010.

So when you were going to discuss health care, was that specifically to discuss the Affordable Care Act, a.k.a. Obamacare?

Mr. SHULMAN. The IRS was tasked by Congress to have, you know, a role in the Affordable Care Act, and I had a number of conversations with—you know, at OMB and the White House about that.

Mr. DESANTIS. One of your predecessors, Commissioner Everson, he testified about this issues with the Affordable Care Act. He said that he didn't really recall ever going to the White House for policy discussions. I think he said he may have gone one time.

And he said that he worried about the IRS being this intimately associated with kind of a signature initiative, that it may actually hurt the IRSs ability to conduct its core function of tax collection.

Do you believe that there's a danger in that?

Mr. SHULMAN. You know, I believe the IRS is part of the executive branch, and when it's tasked with a major job of implementation, it needs to have proper coordination.

Mr. DESANTIS. Well, that didn't really answer the question. I mean, putting this new, which could be a very intrusive burden in terms of American citizens having their health care being involved with the IRS, to be able to do that is obviously going to require resources and manpower. And I guess my question is, is there a danger that that could take away from the traditional functions of the agency?

Mr. SHULMAN. The IRS is—when people think about the IRS, they think about collecting taxes. They don't think about figuring out application for tax-exempt status. They don't think about a lot of things.

So, over the years, Congress has loaded the Tax Code with many, many different functions, all within the Tax Code. And the job of the IRS is to administer the Tax Code. So I really—you know, the IRS is going to do what Congress asks it to do.

Mr. DESANTIS. All right. I would just note that that still didn't really answer the question, but I will yield back to the chairman. Thank you.

Chairman ISSA. I thank the gentleman.

We're now going to go for this last 5 minutes that I mentioned, each side.

Mr. Cummings?

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

I'm going to be very brief. I—and this is something that we have not talked about yet, and it's something that I just want to get you all's opinions on.

Mr. George, there are some organizations that, if the test for tax exemption under these circumstances were administered fairly, might not meet the test. Is that a fair statement?

Do you understand what I'm saying? In other words, there's a law, there are standards. And some organizations—I'm not talking about the ones here, but I'm talking about generally—might not meet the test.

Mr. GEORGE. I guess in——

Mr. CUMMINGS. For tax-exempt status.

Mr. GEORGE. I'm sure, in theory——

Mr. CUMMINGS. Yeah, I'm talking about in theory.

Mr. GEORGE. —you're right. Yes.

Mr. CUMMINGS. Let me tell you what I'm really concerned about, in addition to all the other things that I've said. I'm concerned that all of this may have a chilling effect on employees, where they say, you know, when normally we would, you know, look at certain criteria fairly, not targeting anyone, but say, "Uh oh, I'm worried because I better let this go."

Let's say, for example, we were talking about audits. And they say, uh oh, I'm not going to do this because I may be called in and told that I didn't do things properly.

Are you following what I'm saying?

Mr. GEORGE. Yes.

Mr. CUMMINGS. And so then you—then the organization does not do what it's supposed to do. Are you following me?

Mr. GEORGE. And not only am I following you, sir, there is evidence to that effect. With the passage of the Restructuring and Reform Act of 1998 and with the deadly sins, top 10 deadly sins, there was a steep fallout in IRS enforcement because IRS employees were afraid to be very aggressive as it relates to trying to recover money.

Mr. CUMMINGS. And I'm just—I'm just wondering, you know, how do we strike that balance?

I know one thing, Mr. Wolin, is making sure the law is clear. Another thing is making sure that there's some kind of guidelines that are consistent with fairness. What else can we do?

Because we've got to have that balance. We cannot have employees who are sitting there shaking like a leaf on a windy day, believing that if they fail to properly do what they're supposed to do, they

may get in trouble. But they also have to know that they—you know, what their guidelines are.

And I'm just curious. Now, you said that you're going to have a conversation with Mr. Werfel, the new Commissioner, Acting. And I'm just telling you, I'm trying to figure out, how does all that—taking what I just said into consideration, how do we help him to create an atmosphere where the employees can still do what they are supposed to do in the way they are supposed to do it without feeling like—feeling threatened? Does that make sense?

Mr. GEORGE. It makes complete sense. And just to be clear, it's more than a conversation, Congressman. We are going to work with Mr. Werfel. If he has the ability to make sure that his employees are trained, if they know that they have his confidence and he has their back, I think it will help address some of the concerns that you're alluding to, sir.

Mr. CUMMINGS. Mr. Wolin, do you have a comment?

Mr. WOLIN. Congressman, I think that it starts with leadership. He has, I think, an impeccable record, Mr. Werfel, and is very well-suited to hit the ground running to make sure that he starts the path toward restoration of not just the public's confidence in the IRS but also, as you're pointing out rightly, sir, the employees' capability to do the job, the important job, they need to do.

And I think that that partly is about holding people accountable for misconduct that occurred, and it's partly about putting in place procedures and policies and a culture that makes sure that these kinds of things don't happen again, that people are appropriately trained, that there's clarity about what the rules are, and so forth. And that's a process that he has begun today and will really move forward with, focus on, and with our full support.

Mr. CUMMINGS. As I said at the beginning of the hearing, this is about trust and truth. And I want to thank all of you for being here today. This is an ongoing process.

But I want us never to forget that it's not enough to just investigate. We've got to bring about reform. And this is a—I think there are moments that come in life, as I close, Mr. Chairman, there are moments in life where incidents happen. And, at that moment, we must take advantage of the moment, because the moment will tell us that we need to change things and do something in a different way. But if we let that moment pass, usually things only get worse.

And so I'm hoping that you all will—I know you left, Mr. Shulman, but I hope that we can get your cooperation in any way that you may be able to do it. Mr. Wolin, Mr. George, I hope we can—you'll keep that in mind. Because the American people are very concerned about this.

And, Mr. Chairman, I want to thank you for I think what has been a very good hearing.

Chairman ISSA. Thank you, Mr. Cummings.

Out of the 5 minutes, I'll yield 1 minute to the gentleman from North Carolina.

Mr. MEADOWS. Thank you, Mr. Chairman.

Mr. Shulman, with this internal investigation that was done originally, am I correct in the person that headed that up, that left from Washington, D.C., and went to Cincinnati, was actually the

special adviser to Sarah Hall, who is now over our health care. Is that correct? Mr. Miller employed her to go and do this internal investigation?

Mr. SHULMAN. As I stated earlier, I don't know it to——

Mr. MEADOWS. So you have no idea what happens below you at all?

Mr. SHULMAN. Congressman, that's not what I'm stating. I actually didn't know it and didn't—to be an internal investigation. But——

Mr. MEADOWS. But you agree that it was her, and she is the special adviser to Sarah Hall, who is now over our health care?

Mr. SHULMAN. To the best of my understanding—and I've read the report. That's where I see it was special——

Mr. MEADOWS. Did you ever talk to Mr. Miller about that, who was going to head it up?

Mr. SHULMAN. I think that——

Mr. MEADOWS. Do you know who Ms. Marks is?

Mr. SHULMAN. Yes, Nancy——

Mr. MEADOWS. Okay. Okay. Was she the special adviser to Sarah Hall?

Mr. SHULMAN. I don't know. I think, at the time, my best recollection is she was special adviser——

Mr. MEADOWS. You know, there's two C's here. Either there is a coverup, or it's an extreme lack of curiosity on your part.

I yield back.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Ohio, Mr. Jordan.

Mr. JORDAN. I thank the chairman.

And I want to direct my questions to Mr. George. And let me first—putting aside the fact that I do think the audit was compromised by what both the chairman and the ranking member asked you about and talked about earlier with the interviews being conducted in the way they were with Ms. Paz present in almost all of them, but what I want to go to is the timeline you gave us, the TIGTA timeline.

And on March 8th, you all meet with Oversight and Government Reform staff. You meet with the folks back here. And we talk about—you talk about this issue. Then you decide to do an audit. That meeting took place March 8th, 2012, when you first met with Oversight staff. Then you decide to do an audit. On May 29th, you brief the IRS—excuse me, May 30th, you brief the IRS about some preliminary findings. You give them a heads-up, but it's not just a heads-up about we're doing an audit. It's a heads-up, we're doing an audit, and, oh, by the way, we have discovered that "Tea Party," "Patriots," "9/12" identifiers were used in groups applying for tax-exempt status.

Looks like 4 days, 5 days later, June the 4th, you give the same kind of heads-up to the Treasury general counsel, Chris Meade.

So I really only have one question. Why didn't you give us the heads-up?

Mr. GEORGE. Actually, Congressman, if you look closer to the top of the timeline, it was March 1st that my office was contacted by staff of this committee.

Mr. JORDAN. Right.

Mr. GEORGE. And we were—and requested by this staff to look into the matter.

Mr. JORDAN. No, no, no, I get that.

Mr. GEORGE. All right.

Mr. JORDAN. We asked you to—but a few months later, you're telling both the IRS and the Treasury Department that, so far in this investigation, we have uncovered that "Tea Party," "Patriots," and "9/12" were used to identify groups and single them out for different kind of treatment.

Why didn't you tell us the same—we'd have liked to have known that information. All we knew from you was, okay, we're doing an audit. In fact, we hadn't formally requested the audit. Mr. Issa and I sent a letter to you on June 28th. You've already given those guys, the IRS and the Treasury, the guys sitting besides you, you've already given them a heads-up about some initial findings. We didn't—the first time we heard about that in any public way was a few weeks ago.

So all I'm asking you is, why didn't you afford us——

Mr. GEORGE. Yeah.

Mr. JORDAN. —the same opportunity you gave them and say, "Oh, you know what, we are doing an audit, and we have found that these terms were being used"?

Mr. GEORGE. But, again, sir, if you look through the timeline, there have been communications between——

Mr. JORDAN. No, no, I—yeah, but you have never once told us what you just wrote in writing you told them.

I think it makes sense for people to ask the question. You're giving a heads-up to the Democrat administration about the terms "Tea Party," "Patriot," and "9/12" being used, but you're not going to give a heads-up to the Oversight Committee, the very committee who oversees the inspector generals in our government, the very committee who asked for the audit, and you don't give us the same heads-up, which includes those identifier terms. You don't think that is unusual in an election year?

Chairman ISSA. The gentleman's time has expired. Please go ahead, Mr. George.

Mr. GEORGE. Sir, I was not at these briefings, so I'm not certain as to exactly what information was communicated——

Mr. JORDAN. This is your stuff. You lay it out. You tell them those terms, and you don't tell us? And somehow that's fair? And we're the ones asking for the audit?

Mr. GEORGE. But, once again, sir, this is not exhaustive in terms of what was communicated, and—but those were——

Mr. JORDAN. So are you telling us—you told this committee about the terms "Tea Party," "Patriot," and "9/12" being used in 2012. You instructed this committee that those things were being used in 2012. Did you ever communicate with anyone on the Oversight Committee or any Member of Congress about that?

Mr. GEORGE. I——

Chairman ISSA. The gentleman may answer, but that will be the end.

Mr. GEORGE. Yes, I did not have discussions with——

Mr. JORDAN. Of course you didn't. You just talked to them.

Mr. GEORGE. —but my staff did, sir.

Chairman ISSA. Thank you.

I really have no time left from the 5 minutes, so I will close this by saying that we will work—I've directed my staff to work, along with the minority staff, on an analysis with your office of the timeline of the initial audit period and, quite frankly, to come up with some future guidelines as to when an audit should turn into an investigation.

Now, I understand from your earlier testimony that when an investigation begins an audit ends. It is the consideration of this chair that there was a time during this audit in which the knowledge was sufficient of the primary activities that did occur that an audit at least possibly should have been converted into an investigation, which I think would've changed a great deal of the procedures that we've had a discussion about here today.

I'm not going to make any further judgment at this time. I'm going to ask my staff to work with your staff and the minority staff so that we can sort of put this together into a package and not be doing any—not limiting it to this preliminary timeline, if that's acceptable with you, Mr. George.

Mr. GEORGE. It is. But, again, sir—and we can speak offline because——

Chairman ISSA. Thank you.

Mr. GEORGE. —there are certain protocols. These are criminal versus civil——

Chairman ISSA. Right. And that's the reason I think this hearing is not the place to flesh it out further.

And, with that, at the beginning of this hearing, I called four witnesses. Pursuant to a subpoena, Ms. Lois Lerner arrived. We had been previously communicated by her counsel—and she was represented by her own independent counsel—that she may invoke her Fifth Amendment privileges.

Out of respect for this constitutional right and on advice of committee counsel, we, in fact, went through a process that included the assumption which was—which I did, which was that she would not make an opening statement. She chose to make an opening statement.

In her opening statement, she made assertions under oath in the form of testimony. Additionally, faced with the interview notes that we received at the beginning of the hearing, I asked her if they were correct, and she answered yes.

It is—and it was brought up by Mr. Gowdy that, in fact, in his opinion as a longtime district attorney, Ms. Lerner may have waived her Fifth Amendment rights by addressing core issues in her opening statement and the authentication afterwards.

I must consider this. So, although I excused Ms. Lerner, subject to a recall, I am looking into the possibility of recalling her and insisting that she answer questions in light of a waiver.

For that reason and with your understanding and indulgence, this hearing stands in recess, not adjourned.

[Whereupon, at 3:28 p.m., the committee recessed, subject to the call of the chair.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Statement for the Record
Congressman Matt Cartwright
Full Committee Hearing on: "The IRS: Targeting Americans for Their Political Beliefs"
May 22, 2013

Thank you Mr. Chairman and Ranking Member Cummings.

I am deeply troubled, like the rest of the nation, by the recent revelations that the IRS used inappropriate criteria to subject certain groups to special screening. As the Ranking Member of the House Oversight Panel's Subcommittee on Economic Growth, Job Creation and Regulatory Affairs, I believe that we should use the committee's investigatory role to get to the bottom of why this happened and determine how to prevent it from ever happening again, instead of arriving with predetermined opinions and using this committee to score political points.

To that end, I look forward to finding out answers, today and in the coming weeks, to the reasons behind the IRS's conduct.

What we do know is that the recent Inspector General's report sheds some light on the situation.

As the report details, from 2010 onwards, there was a significant rise in the number of applications for tax-exempt status. In 2011, the IRS received almost 60,000 applications for tax-exempt status as 501(c)3 charities and more than 2,000 as 501(c)4 social-welfare organizations.

The Inspector General's staff reviewed almost 300 applications that the IRS field office had tagged as potential political cases and reported, '[i]n the majority of cases, we agreed that the applications submitted included indications of significant political campaign intervention.' In the end, of the 298 applications they flagged for further review, 207 were from organizations that actually did appear to be political groups.

In this context, I believe the following questions suggest themselves, I'd like answers to them, and I believe the American people are entitled to the answers:

1. Why did the IRS receive an extraordinarily high number of applications in 2010, 2011 and 2012? Was this affected by the Citizens United decision?
2. During this period, was the IRS provided with the proper staffing and funding to handle the increased workload? What would have helped the IRS cope with the influx of applications? Clearer regulations? More guidance from Congress?
3. Did the IRS's improper prioritizing of political groups lead to any actual incorrect determinations regarding their eligibility for tax-exempt status?
4. Did the IRS's improper targeting affect the 2012 election in any way? If so, specifically how?

The purpose of this committee is to find solutions, not engage in partisan bickering.

I look forward to having such a discussion and I yield back.

Budget Data, FY 2008 through FY 2012

Table 1: FY 2008 through FY 2010 Enacted Amounts, FY 2011 Requested, FY 2011 Annualized CR Levels, and FY 2012 Budget Request for IRS by Appropriation (in millions)

Appropriation	FY 2008 enacted	FY 2009 enacted	FY 2010 enacted	FY 2011 requested	FY 2011 annualized CR	FY 2012 requested [a]	Percentage change FY 2010 enacted through FY 2012 requested
Enforcement	4,780	5,117	5,504	5,797	5,504	5,967	8.4%
Taxpayer Services	2,191	2,293	2,279	2,322	2,279	2,345	2.9%
Operations Support	3,841	3,867	4,084	4,108	4,084	4,621	13.1%
BSM	267	230	264	387	264	334	26.4%
HITCA	15	15	16	19	16	18	12.5%
Subtotal	11,095	11,523	12,146	12,633	12,146	13,284	9.4%
Other resources available for obligation	566	390	539	444	526	384	(29%)
Total funding available for obligation	11,661	11,913	12,686	13,077	12,672	13,668	7.7%

Source: FY 2008 through FY 2012 IRS Congressional Budget Justifications.

Note: Dollars are nominal and not adjusted for inflation and numbers may not add due to rounding.

[a] Includes an approximately $402 million adjustment to reach the FY 2011 President policy level, minus salary increases.

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RPTS BLAZEJEWSKI

DCMN ROSEN

[1:35 p.m.]

BY MR. BREWER:

Q Ms. Paz, I want to turn to the TIGTA audit. Were you interviewed as part of this audit?

A Yes, I was.

Q How many times were you interviewed?

Mr. Campos. Approximately.

Ms. Paz. At least once. I met with them on several occasions. I think myself was interviewed once, but did meet with them on more than one occasion to discuss various aspects of the investigation documents that they needed or additional individuals that they needed to talk to.

BY MR. BREWER:

Q Okay. And were you interviewed alone or with other people?

A Alone.

Q So once alone and then other times it was the document --

A We had meetings. I mean, as you can see, they did an analysis of the cases, of a sample of cases, and we met to discuss the results of their review.

Q Okay. Did you ever accompany any other employees to their interview with the TIGTA folks?

A Yes. I sat in on all the interviews, but they, the arrangement we had worked out with TIGTA was that I would leave at the

end of the interview so they could ask everyone interviewed any questions that they wanted to ask without anyone else present, so that was done.

Mr. Hixon. How did that arrangement come about? When TIGTA approached you about conducting their audit, did you request that you be present for all the interviews?

Ms. Paz. Yes, I believe -- I can't remember if I made the request, or if Lois Lerner made the request, but we had discussed that in order for the IRS to be able to respond to the report, we had to understand what information TIGTA had and what they had been told, but, you know, obviously they did want to allow for employees to provide any information that they were uncomfortable, for example, of explaining in front of someone in the management chain, so we did provide for that. They had a period of time at the end of the interview where I was not present.

Mr. Hixon. And did every interview, did you leave the room at the end and the employee stayed and continued to speak with TIGTA?

Ms. Paz. Yes, unless I think there may have been a few times where TIGTA concluded that they didn't need -- they didn't have any questions that they wanted to ask without me present, and that was really a decision that was made by the two individuals from TIGTA who were conducting the interviews.

Mr. Hixon. Did any employee ever express concerns or reservations about, you know, being interviewed in that manner?

Ms. Paz. Not to my knowledge.

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