

U.S. House of Representatives
Committee on Oversight and Government Reform
Darrell Issa (CA-49), Chairman



**Debunking the Myth that the IRS Targeted Progressives:
How the IRS and Congressional Democrats Mised America about
Disparate Treatment**

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Executive Summary

In the immediate aftermath of Lois Lerner’s public apology for the targeting of conservative tax-exempt applicants, President Obama and congressional Democrats quickly denounced the IRS misconduct.¹ But later, some of the same voices that initially decried the targeting changed their tune. Less than a month after the wrongdoing was exposed, prominent Democrats declared the “case is solved” and, later, the whole incident to be a “phony scandal.”² As recently as February 2014, the President explained away the targeting as the result of “bone-headed” decisions by employees of an IRS “local office” without “even a smidgeon of corruption.”³

To support this false narrative, the Administration and congressional Democrats have seized upon the notion that the IRS’s targeting was not just limited to conservative applicants. Time and again, they have claimed that the IRS targeted liberal- and progressive-oriented groups as well – and that, therefore, there was no political animus to the IRS’s actions.⁴ These Democratic claims are flat-out wrong and have no basis in any thorough examination of the facts. Yet, the Administration’s chief defenders continue to make these assertions in a concerted effort to deflect and distract from the truth about the IRS’s targeting of tax-exempt applicants.

The Committee’s investigation demonstrates that the IRS engaged in disparate treatment of conservative-oriented tax-exempt applicants. Documents produced to the Committee show that initial applications transferred from Cincinnati to Washington were filed by Tea Party groups. Other documents and testimony show that the initial criteria used to identify and hold Tea Party applications captured conservative organizations. After the criteria were broadened in July 2012 to be cosmetically neutral, material provided to the Committee indicates that the IRS still intended to target only conservative applications.

A central plank in the Democratic argument is the claim that liberal-leaning groups were identified on versions of the IRS’s “Be on the Look Out” (BOLO) lists.⁵ This claim ignores significant differences in the placement of the conservative and liberal entries on the BOLO lists

¹ See, e.g., The White House, Statement by the President (May 15, 2013) (calling the IRS targeting “inexcusable”); *The IRS: Targeting Americans for their Political Beliefs*: Hearing before the H. Comm. on Oversight & Gov’t, 113th Cong. (2013) (statement of Ranking Member Elijah E. Cummings) (“The inspector general has called the action by IRS employees in Cincinnati, quote, “inappropriate,” unquote, but after reading the IG’s report, I think it goes well beyond that. I believe that there was gross incompetence and mismanagement in how the IRS determined which organizations qualified for tax-exempt status.”); Press Release, Rep. Nancy Pelosi, Pelosi Statement on Reports of Inappropriate Activities at the IRS (May 13, 2013) (“While we look forward to reviewing the Inspector General’s report this week, it is clear that the actions taken by some at the IRS must be condemned. Those who engaged in this behavior were wrong and must be held accountable for their actions.”).

² *State of the Union with Candy Crowley* (CNN television broadcast June 9, 2013) (interview with Rep. Elijah E. Cummings); *Fox News Sunday* (Fox News television broadcast July 28, 2013) (interview with Treasury Secretary Jacob Lew).

³ “*Not even a smidgeon of corruption*”: Obama downplays IRS, other scandals, FOX NEWS, Feb. 3, 2014.

⁴ See, e.g., Lauren French & Rachael Bade, *Democratic Memo: IRS Targeting Was Not Political*, POLITICO, July 17, 2013.

⁵ See *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013).

and how the IRS used the BOLO lists in practice. The Democratic claims are further undercut by testimony from IRS employees who told the Committee that liberal groups were not subject to the same systematic scrutiny and delay as conservative organizations.⁶

The IRS's independent watchdog, the Treasury Inspector General for Tax Administration (TIGTA), confirms that the IRS treated conservative applicants differently from liberal groups. The inspector general, J. Russell George, wrote that while TIGTA found indications that the IRS had improperly identified Tea Party groups, it "did not find evidence that the criteria [Democrats] identified, labeled 'Progressives,' were used by the IRS to select potential political cases during the 2010 to 2012 timeframe we audited."⁷ He concluded that TIGTA "found no indication in any of these other materials that 'Progressives' was a term used to refer cases for scrutiny for political campaign intervention."⁸

An analysis performed by the House Committee on Ways and Means buttresses the Committee's findings of disparate treatment. The Ways and Means Committee's review of the confidential tax-exempt applications proves that the IRS systematically targeted conservative organizations. Although a small number of progressive and liberal groups were caught up in the application backlog, the Ways and Means Committee's review shows that the backlog was 83 percent conservative and only 10 percent were liberal-oriented.⁹ Moreover, the IRS approved 70 percent of the liberal-leaning groups and only 45 percent of the conservative groups.¹⁰ The IRS approved every group with the word "progressive" in its name.¹¹

In addition, other publicly available information supports the analysis of the Ways and Means Committee. In September 2013, *USA Today* published an independent analysis of a list of about 160 applications in the IRS backlog.¹² This analysis showed that 80 percent of the applications in the backlog were filed by conservative groups while less than seven percent were filed by liberal groups.¹³ A separate assessment from *USA Today* in May 2013 showed that for 27 months beginning in February 2010, the IRS did not approve a single tax-exempt application filed by a Tea Party group.¹⁴ During that same period, the IRS approved "perhaps dozens of applications from similar liberal and progressive groups."¹⁵

The IRS, over many years, has undoubtedly scrutinized organizations that embrace different political views for varying reasons – in many cases, a just and neutral criteria may have

⁶ See, e.g., Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013); Transcribed interview of Stephen Daejin Seok, Internal Revenue Serv., in Wash., D.C. (June 19, 2013); Transcribed interview of Lucinda Thomas, Internal Revenue Serv., in Wash., D.C. (June 28, 2013).

⁷ Letter from J. Russell George, Treasury Inspector Gen. for Tax Admin., to Sander M. Levin, H. Comm. on Ways & Means (June 26, 2013).

⁸ *Id.*

⁹ *Hearing on the Internal Revenue Service's Exempt Organizations Division Post-TIGTA Audit: Hearing before the Subcomm. on Oversight of the H. Comm. on Ways & Means*, 113th Con. (2013) (opening statement of Chairman Charles Boustany) [hereinafter "Ways and Means Committee September 18th Hearing"].

¹⁰ *Id.*

¹¹ *Id.*

¹² See Gregory Korte, *IRS List Reveals Concerns over Tea Party 'Propaganda,'* USA TODAY, Sept. 18, 2013.

¹³ *Id.*

¹⁴ Gregory Korte, *IRS Approved Liberal Groups while Tea Party in Limbo,* USA TODAY, May 15, 2013.

¹⁵ *Id.*

been fairly utilized. This includes the time period when Tea Party organizations were systematically screened for enhanced and inappropriate scrutiny. But the concept of *targeting*, when defined as a systematic effort to select applicants for scrutiny simply because their applications reflected the organizations' political views, only applied to Tea Party and similar conservative organizations. While use of term "targeting" in the IRS scandal may not always follow this definition, the reality remains that there is simply no evidence that any liberal or progressive group received enhanced scrutiny because its application reflected the organization's political views.

For months, the Administration and congressional Democrats have attempted to downplay the IRS's misconduct. First, the Administration sought to minimize the fallout by preemptively acknowledging the misconduct in response to a planted question at an obscure Friday morning tax-law conference. When that strategy failed, the Administration shifted to blaming "rogue agents" and "line-level" employees for the targeting. When those assertions proved false, congressional Democrats baselessly attacked the character and integrity of the inspector general. Their attempt to allege bipartisan targeting is just another effort to distract from the fact that the Obama IRS systematically targeted and delayed conservative tax-exempt applicants.

Findings

- The IRS treated Tea Party applications distinctly different from other tax-exempt applications.
- The IRS selectively prioritized and produced documents to the Committee to support misleading claims about bipartisan targeting.
- Democratic Members of Congress, including Ranking Member Elijah Cummings, Ranking Member Sander Levin, and Representative Gerry Connolly, made misleading claims that the IRS targeted liberal-oriented groups based on documents selectively produced by the IRS.
- The IRS's "test" cases transferred from Cincinnati to Washington were exclusively filed by Tea Party applicants: the Prescott Tea Party, the American Junto, and the Albuquerque Tea Party.
- The IRS's initial screening criteria captured exclusively Tea Party applications.
- Even after Lois Lerner broadened the screening criteria to maintain a veneer of objectivity, the IRS still sought to target and scrutinize Tea Party applications.
- The IRS targeting captured predominantly conservative-oriented applications for tax-exempt status.
- Myth: IRS "Be on the Lookout" (BOLO) entries for liberal groups meant that the IRS targeted liberal and progressive groups. Fact: Only Tea Party groups on the BOLO list experienced systematic scrutiny and delay.
- Myth: The IRS targeted "progressive" groups in a similar manner to Tea Party applicants. Fact: The IRS treated "progressive" groups differently than Tea Party applicants. Only seven applications in the IRS backlog contained the word "progressive," all of which were approved by the IRS. The IRS processed progressive applications like any other tax-exempt application.
- Myth: The IRS targeted ACORN successor groups in a similar manner to Tea Party applicants. Fact: The IRS treated ACORN successor groups differently than Tea Party applicants. ACORN successor groups were not subject to a "sensitive case report" or reviewed by the IRS Chief Counsel's office. The central issue for the ACORN successor groups was whether the groups were legitimate new entities or part of an "abusive" scheme to continue an old entity under a new name.
- Myth: The IRS targeted Emerge affiliate groups in a similar manner to Tea Party applicants. Fact: The IRS treated Emerge affiliate groups differently than Tea Party

applicants. Emerge applications were not subjected to secondary screening like the Tea Party cases. The central issue in the Emerge applications was private benefit, not political speech.

- Myth: The IRS targeted Occupy groups in a similar manner to Tea Party applicants.
Fact: The IRS treated Occupy groups differently than Tea Party applicants. No applications in the IRS backlog contained the words “Occupy.” IRS employees testified that they were not even aware of an Occupy entry on the BOLO list.

Coordinated and misleading Democratic claims of bipartisan IRS targeting

As the IRS targeting scandal grew, the Administration and congressional Democrats began peddling the allegation that the IRS targeting was not just limited to conservative tax-exempt application, but that the IRS had targeted liberal-leaning groups as well. These assertions kick-started when Acting IRS Commissioner Daniel Werfel told reporters that IRS “Be on the Look Out” lists included entries for liberal-oriented groups. Congressional Democrats seized upon his announcement and immediately began feeding the false narrative that liberal groups received the same systematic scrutiny and delay as conservative applicants. In the ensuing months, the IRS even reconsidered its previous redactions to provide congressional Democrats with additional fodder to support their assertions. Although TIGTA and others have rebuffed the Democratic argument, senior members of the Administration and in Congress continue this coordinated narrative that the IRS targeting was broader than conservative applicants.

The IRS acknowledges that portions of its BOLO lists included liberal-oriented entries

On June 24, 2013, Acting IRS Commissioner Daniel Werfel asserted during a conference call with reporters that the IRS’s misconduct was broader than just conservative applicants.¹⁶ Werfel told reporters that “[t]here was a wide-ranging set of categories and cases that spanned a broad spectrum.”¹⁷ Although Mr. Werfel refused to discuss details about the “inappropriate criteria that was [*sic*] in use,” the IRS produced to Congress hundreds of pages of self-selected documents that supported his assertion.¹⁸ The IRS prioritized producing these documents over other material, producing them when the Committee had received less than 2,000 total pages of IRS material. Congressional Democrats had no qualms in putting these self-selected documents to use.

Virtually simultaneous with Mr. Werfel’s conference call, Democrats on the House Ways and Means Committee trumpeted the assertion that the IRS targeted liberal groups similarly to conservative organizations.¹⁹ Ranking Member Sander Levin (D-MI) released several versions of the IRS BOLO list.²⁰ Because these versions included an entry labeled “progressives,” Ranking Member Levin alleged that “[t]he [TIGTA] audit served as the basis and impetus for a wide range of Congressional investigations and **this new information shows that the**

¹⁶ See Alan Fram, *Documents show IRS also screened liberal groups*, ASSOC. PRESS, June 24, 2013.

¹⁷ *Id.*

¹⁸ See Letter from Leonard Oursler, Internal Revenue Serv., to Darrell Edward Issa, H. Comm. on Oversight & Gov’t Reform (June 24, 2013).

¹⁹ Press Release, H. Comm. on Ways & Means Democrats, New IRS Information Shows “Progressives” Included on BOLO Screening List (June 24, 2013).

²⁰ *Id.*

foundation of those investigations is flawed in a fundamental way.”²¹ (emphasis added). These documents would initiate a sustained campaign designed to falsely allege that the IRS engaged in bipartisan targeting.

Ways and Means Committee Democrats allege bipartisan IRS targeting

During a hearing of the Ways and Means Committee on June 27, 2013, Democrats continued to spin this false narrative, arguing that liberal groups were mistreated similarly to conservative groups. Ranking Member Levin proclaimed during his opening statement:

This week we learned for the first time the three key items, one, the screening list used by the IRS included the term “progressives.” Two, progressive groups were among the 298 applications that TIGTA reviewed in their audit and received heightened scrutiny. And, three, the inspector general did not research how the term “progressives” was added to the screening list or how those cases were handled by a different group of specialists in the IRS. The failure of the I.G.’s audit to acknowledge these facts is a fundamental flaw in the foundation of the investigation and the public’s perception of this issue.²²

Other Democratic Members picked up this thread. While questioning the hearing’s only witness, Acting IRS Commissioner Werfel, Representative Charlie Rangel (D-NY) raised the specter of bipartisan targeting. He stated:

Mr. RANGEL: You said there’s diversity in the BOLO lists. And you admit that conservative groups were on the BOLO list. Why is it that we don’t know whether or not there were progressive groups on the BOLO list?

Mr. WERFEL: Well, we do know that – that the word “progressive” did appear on a set of BOLO lists. We do know that. When I was articulating the point about diversity, I was trying to capture that the types of political organizations that are on these BOLO lists are wide ranging. But they do include progressives.²³

Similarly, Representative Joseph Crowley (D-NY) alleged that the IRS mistreated progressive groups identically to Tea Party groups. He said:

As the weeks have gone on, we have seen that there is a culture of intimidation, but not from the White House, but rather from my Republican colleagues. **We know for a fact that there has been targeting of both tea party and**

²¹ *Id.*

²² *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013) (statement of Ranking Member Sander Levin).

²³ *Id.* (question and answer with Representative Charlie Rangel).

progressive groups by the IRS. . . . Then, as we see, the progressive groups were targeted side by side with their tea party counterpart groups.²⁴
(emphasis added).

Acting IRS Commissioner volunteers to testify at the Oversight Committee's July 17, 2013 subcommittee hearing

On July 17, 2013, the Oversight Committee convened a joint subcommittee hearing on ObamaCare security concerns, featuring witnesses from the federal agencies involved in the law's implementation.²⁵ The Chairmen invited Sarah Hall Ingram, the Director of the IRS ObamaCare office, to testify.²⁶ Prior to the hearing, however, Acting IRS Commissioner Werfel personally intervened and volunteered himself to testify as the IRS witness in Ms. Ingram's place. Committee Democrats used Mr. Werfel's appearance as an opportunity to continue pushing their false narrative of bipartisan IRS targeting.

During the hearing, Ranking Member Elijah Cummings (D-MD) used the majority of his five-minute period to question Mr. Werfel not on the subject matter of the hearing, but rather on the IRS's treatment of liberal tax-exempt applicants. They engaged in the following exchange:

Mr. CUMMINGS. I would like to ask you about the ongoing investigation into the treatment of Tea Party applicants for tax exempt status. During our interviews, we have been told by more than one IRS employee that there were progressive or left-leaning groups that received treatment similar to the Tea Party applicants. As part of your internal review, have you identified non-Tea Party groups that received similar treatment?

Mr. WERFEL. Yes.

Mr. CUMMINGS. We were told that one category of applicants had their applications denied by the IRS after a 3-year review; is that right?

Mr. WERFEL. Yes, that's my understanding that there is a group or seven groups that had that experience, yes.²⁷

²⁴ *Id.* (question and answer with Representative Joseph Crowley).

²⁵ "Evaluating Privacy, Security, and Fraud Concerns with ObamaCare's Information Sharing Apparatus": *J. Hearing before the Subcomm. on Energy Policy, Health Care and Entitlements of the H. Comm. on Oversight and Gov't Reform and the Subcomm. on Cybersecurity, Infrastructure Protection, and Security Technologies of the H. Comm. on Homeland Security*, 113th Cong. (2013) [hereinafter "July 17th Hearing"].

²⁶ See Letter from James Lankford, H. Comm. on Oversight & Gov't Reform, & Patrick Meehan, H. Comm. on Homeland Security, to Sarah Hall Ingram, Internal Revenue Serv. (July 10, 2013).

²⁷ July 17th Hearing, *supra* note 25.

It is certain that Ranking Member Cummings would not have had the opportunity to ask these questions had Ms. Ingram testified as originally requested.

The circumstances of Mr. Werfel's statements are striking. He volunteered to replace the undisputed IRS expert on ObamaCare at a hearing focusing on ObamaCare security, after being at the IRS for less than two months. He volunteered to testify at a subcommittee the day before the Committee convened a hearing that would feature testimony about the IRS's targeting of conservative applicants. By all indications, Mr. Werfel's testimony allowed congressional Democrats to continue to perpetuate the myth of bipartisan IRS targeting.

Democrats attack the Inspector General during the Oversight Committee's July 18, 2013 hearing

Unsurprisingly, Democrats on the Oversight Committee highlighted Mr. Werfel's assertions as their main narrative during a Committee hearing on the IRS targeting the following day. During his opening statement, Ranking Member Cummings criticized Treasury Inspector General for Tax Administration J. Russell George, accusing him of ignoring liberal groups targeted by the IRS.²⁸ Ranking Member Cummings stated:

I also want to ask the Inspector General why he was unaware of documents we have now obtained showing that the IRS employees were also instructed to screen for progressive applicants and why his office did not look into the treatment of left-leaning organizations, such as Occupy groups. I want to know how he plans to address these new documents. Again, we represent conservative groups on both sides of the aisle, and progressives and others, and so all of them must be treated fairly.²⁹

Representative Danny Davis (D-IL) utilized Mr. Werfel's testimony from the day before to also criticize the inspector general. Representative Davis said:

Yesterday, the principal deputy commissioner of the Internal Revenue Service, Danny Werfel, testified before this committee that progressive groups received treatment from the IRS that was similar to Tea Party groups when they applied for tax exempt status. In fact, Congressman Sandy Levin, who is the ranking member of the Ways and Means Committee, explained these similarities in more detail. He said the IRS took years to resolve these cases, just like the Tea Party cases. And he said the IRS, one, screened for these groups, transferred them to the Exempt Organizations Technical Unit, made them the subject of a sensitive case report, and had them reviewed by the Office of Chief Counsel. According to the information provided to the Committee on Ways and Means, some of these progressive groups actually had their applications denied

²⁸ *"The IRS's Systematic Delay and Scrutiny of Tea Party Applications": Hearing before the H. Comm. on Oversight & Gov't Reform, 113th Cong. (2013) (statement of Ranking Member Elijah E. Cummings) [hereinafter "July 18th Hearing"]*.

²⁹ *Id.*

after a 3-year wait, and the resolution of these cases happened during the time period that the inspector general reviewed for its audit.³⁰ (emphasis added).

Inspector General George testified at the hearing to defend his work and debunk Democratic myths of bipartisan targeting. Committee Democrats took the opportunity to harshly interrogate Mr. George, using Mr. Werfel’s testimony. Representative Gerry Connolly (D-VA) said to him:

Well, so I want to make sure—you’re under oath, again—it is your testimony today, as it was in May, but let’s limit it to today, that at the time you testified here in May you had absolutely no knowledge of the fact that in any screening, BOLOs or otherwise, the words “Progressive,” “Democrat,” “MoveOn,” never came up. You were only looking at “Tea Party” and conservative-related labels. You were unaware of any flag that could be seen as a progressive—the progressive side of things.³¹

Similarly, Representative Jackie Speier (D-CA) told Mr. George:

Now, that seems completely skewed, Mr. George, if you are indeed an unbiased, impartial watch dog. It’s as if you only want to find emails about Tea Party cases. These search terms do not include any progressive or liberal or left-leaning terms at all. Why didn’t you search for the term “progressive”? It was specifically mentioned in the same BOLO that listed Tea Party groups.³²

Representative Carolyn Maloney (D-NY) said:

How in the world did you get to the point that you only looked at Tea Party when liberals and progressives and Occupy Wall Street and conservatives are just as active, if not more active, and would certainly be under consideration. That is just common plain sense. And I think that some of your statements have not been—it defies—it defies logic, it defies belief that you would so limit your statements and write to Mr. Levin and write to Mr. Connolly that of course no one was looking at any other area.³³

Armed with self-selected IRS documents and Mr. Werfel’s testimony, congressional Democrats vehemently attacked TIGTA in an attempt to undercut its findings that the IRS had targeted conservative tax-exempt applicants. Their *ad hominen* attacks on an independent inspector general sought to distract and deflect from the real misconduct perpetrated by the IRS.

³⁰ *Id.* (question and answer with Representative Danny Davis).

³¹ *Id.* (question and answer with Representative Gerry Connolly).

³² *Id.* (question and answer with Representative Jackie Speier).

³³ *Id.* (question and answer with Representative Carolyn Maloney).

The IRS reinterprets legal protections for taxpayer information to bolster Democratic allegations

The IRS was not an unwilling participant in spinning this false narrative. Section 6103 of federal tax law protects confidential taxpayer information from public dissemination.³⁴ Under the tax code, however, the IRS may release confidential taxpayer information to the House Ways and Means Committee and the Senate Finance Committee.³⁵ The IRS cited this provision of law to withhold vital details about the targeting scandal from the American public. The prohibition did not stop the IRS from releasing information helpful to its cause.

In August 2013, the IRS suddenly reversed its interpretation of the law. In a letter to Ways and Means Ranking Member Levin – who already had access to confidential taxpayer information – Acting IRS Commissioner Werfel wrote: “Consistent with our continuing efforts to provide your Committee and the public with as much information as possible regarding the Service’s treatment of tax exempt advocacy organizations, we are re-releasing certain redacted documents that had been previously provided to your Committee.”³⁶ Mr. Werfel explained the reversal as the result of “our continuing review of the documents” and “a thorough section 6103 analysis.”³⁷ The reinterpretation allowed the IRS to release information related to “ACORN Successors” and “Emerge” groups.³⁸

Congressional Democrats embraced the IRS’s sudden reversal. Releasing new IRS documents, Ranking Member Levin and Ranking Member Cummings issued a joint press release announcing that “**new information from the IRS that provides further evidence that progressive groups were singled out for scrutiny in the same manner as conservative groups.**”³⁹ (emphasis added). Ranking Member Levin proclaimed: “These new documents make it clear the IRS scrutiny of the political activity of 501(c)(4) organizations covered a broad spectrum of political ideology and was not politically motivated.”⁴⁰ Ranking Member Cummings similarly intoned: “This new information should put a nail in the coffin of the Republican claims that the IRS’s actions were politically motivated or were targeted at only one side of the political spectrum.”⁴¹

The IRS’s sudden reinterpretation of section 6103 allowed congressional Democrats to continue their assault on the truth. Again using documents self-selected by the IRS, these defenders of the Administration carried on their rhetorical campaign to convince Americans that the IRS treated liberal applicants identically to Tea Party applicants.

³⁴ I.R.C. § 6103.

³⁵ *Id.* § 6103(f).

³⁶ Letter from Daniel I. Werfel, Internal Revenue Serv., to Sander Levin, H. Comm. on Ways & Means (Aug. 19, 2013), *available at* <http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/IRS%20Letter%20to%20Levin%20August%2019%2C%202013.pdf>.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov’t Reform Democrats, *New Documents Highlight IRS Scrutiny of Progressive Groups* (Aug. 20, 2013).

⁴⁰ *Id.*

⁴¹ *Id.*

Recent Democratic efforts to perpetuate the myth of bipartisan IRS targeting

Democratic efforts to spin the IRS targeting continue through the present. On January 29, 2014, Senator Chris Coons raised the allegation while questioning Attorney General Eric Holder about the Administration's investigation into the IRS's targeting. Senator Coons stated:

Well, thank you, Mr. Attorney General. I -- I join a number of colleagues in urging and hoping that the investigation into IRS actions is done in a balanced and professional and appropriate way. And I assume it is, unless demonstrated otherwise. **And what I've heard is that there were progressive groups, as well as tea party groups, that were perhaps allegedly on the receiving end of reviews of the 501(c)(3) applications.** And it's my expectation that we'll hear more in an appropriate and timely way about the conduct of this investigation.⁴² (emphasis added).

On February 3, 2014, during his daily briefing, White House Press Secretary Jay Carney echoed the Democratic line that the IRS targeted liberal groups in the same manner in which it targeted conservative groups. In defending the President's comments about "not even a smidgeon of corruption," Mr. Carney said:

Q Jay, in the President's interview with Bill O'Reilly last night, he said that there was "not even a smidgen of corruption," regarding the IRS targeting conservative groups. Did the President misspeak?

A No, he didn't. But I can cite – I think have about 20 different news organizations that cite the variety of ways that that was established, including by the independent IG, who testified in May and, as his report said, that **he found no evidence that anyone outside of the IRS had any involvement in the inappropriate targeting of conservative – or progressive, for that matter – groups in their applications for tax-exempt status.** So, again, I think that this is something –⁴³ (emphasis added).

During debate on the House floor on H.R. 3865, the Stop Targeting of Political Beliefs by the IRS Act of 2014, Ways and Means Committee Ranking Member Levin spoke in opposition to the bill. He said:

On a day when the Chairman of the Ways and Means Committee, Mr. Camp, is unveiling a tax measure that requires serious bipartisanship to be successful, we are here on the floor considering a totally political bill in an attempt to resurrect an alleged scandal that never existed. . . . **And what have we learned? That**

⁴² "Oversight of the U.S. Department of Justice": Hearing before the S. Comm. on the Judiciary, 113th Cong. (2014) (question and answer with Senator Chris Coons).

⁴³ The White House, Press Briefing by Press Secretary Jay Carney, 2/3/14, <http://www.whitehouse.gov/photos-and-video/video/2014/02/03/press-briefing#transcript>.

both progressive and conservative groups were inappropriately screened out by name and not by activity.⁴⁴ (emphasis added).

As recently as early March 2014, Democrats have been spreading the myth that liberal-oriented groups were targeted in the same manner as conservative organizations. Appearing on *The Last Word with Lawrence O'Donnell*, Representative Gerry Connolly continued the Democratic allegations of bipartisan targeting. Representative Connolly said:

You know, that's true, but I think we need to back up. This is not an honest inquiry. This is a Star Chamber operation. **This is cherry picking information, deliberately colluding with a Republican idea in the IRS to make sure the investigation is solely about tea party and conservative groups even though we know that the tilt is included progressive titles as well as conservative titles and that they were equally stringent.** It was a foolish thing to do. And it's wrong, but it was not just targeted at conservatives. But Darrell Issa wants to make sure that information does not get out.⁴⁵ (emphasis added).

The Democratic myth of bipartisan IRS targeting simply will not die. Working hand in hand with the Obama Administration's IRS, congressional Democrats vigorously asserted that the IRS mistreated liberal tax-exempt applicants in a manner identical to Tea Party groups. The IRS – the very same agency under fire for its actions – assisted these efforts by producing self-selected documents and volunteering helpful information. The result has been a fundamental misunderstanding of the truth about the IRS's targeting of conservative tax-exempt applicants.

The Truth: The IRS engaged in disparate treatment of conservative applicants

Contrary to Democratic claims, substantial documentary and testimonial evidence shows that the IRS systematically engaged in disparate treatment of conservative tax-exempt applicants. The Committee's investigation shows that the initial applications sent to the Washington as "test" cases were all filed by Tea Party-affiliated groups. The IRS screening criteria used to identify and separate additional applications also initially captured exclusively Tea Party organizations. Even after the criteria were changed, documents show the IRS intended to identify and separate Tea Party applications for review.

No matter how hard the Administration and congressional Democrats try to spin the facts about the IRS targeting, it remains clear that the IRS treated conservative tax-exempt applicants differently. As detailed below, the IRS treated Tea Party and other conservative tax-exempt applicants unlike liberal or progressive applicants.

⁴⁴ Press Release, H. Comm. on Ways & Means Democrats, Levin Floor Statement on H.R. 3865 (Feb. 26, 2014).

⁴⁵ *The Last Word with Lawrence O'Donnell* (MSNBC television broadcast Mar. 5, 2014) (interview with Representative Gerry Connolly).

The Committee's evidence shows the IRS sought to identify and scrutinize Tea Party applications

To date, the Committee has reviewed over 400,000 pages of documents produced by the IRS, TIGTA, the IRS Oversight Board, and others. The Committee has conducted transcribed interviews of 33 IRS employees, totaling over 217 hours. From this exhaustive undertaking, one fundamental finding is certain: the IRS sought to identify and scrutinize Tea Party applications separate and apart from any other tax-exempt applications, including liberal or progressive applications.

The initial “test” cases were exclusively Tea Party applications

From documents produced by the IRS, the Committee is aware that the initial test cases transferred to Washington in spring 2010 to be developed as templates were applications filed by Tea Party-affiliated organizations. According to one document entitled “Timeline for the 3 exemption applications that were referred to [EO Technical] from [EO Determinations],” the Washington office received the 501(c)(3) application filed by the Prescott Tea Party, LLC on April 2, 2010.⁴⁶ The same day, the Washington office received the 501(c)(4) application filed by the Albuquerque Tea Party, Inc.⁴⁷ After Prescott Tea Party did not respond to an IRS information request, the IRS closed the application “FTE” or “failure to establish.” The Washington office asked for a new 501(c)(3) application, and it received the application filed by American Junto, Inc., on June 30, 2010.⁴⁸

Testimony provided by veteran IRS tax law specialist Carter Hull, who was assigned to work the test cases in Washington, confirms that they were exclusively Tea Party applications. He testified:

Q Now, sir, in this period, roughly March of 2010, was there a time when someone in the IRS told you that you would be assigned to work on two Tea Party cases?

A Yes.

Q Do you recall when precisely you were told that you would be assigned two Tea Party cases?

A When precisely, no.

Q Sometime in –

⁴⁶ Internal Revenue Serv., Timeline from the 3 exemption applications that were referred to EOT from EOD. [IRSR 58346-49]

⁴⁷ *Id.*

⁴⁸ *Id.*

A Sometime in the area, but I did get, they were assigned to me in April.

Q Okay, and just to be clear, April of 2010?

A Yes.

Q And sir, were they cases 501(c)(3)s, or 501(c)(4)s?

A One was a 501(c)(3), and one was a 501(c)(4).

Q So one of each?

A One of each.

Q What, to your knowledge, was it intentional that you were sent one of each?

A Yes.

Q Why was that?

A I'm not sure exactly why. I can only make assumptions, but those are the two areas that usually had political possibilities.

Q The point of my question was, no one ever explained to you that you were to understand and work these cases for the purpose of working similar cases in the future?

A All right, I -- I was given -- they were going to be test cases to find out how we approached (c)(4), and (c)(3) with regards to political activities.

Q Mr. Hull, before we broke, you were talking about these two cases being test cases, is that right? Do you recall that?

A I realized that there were other cases. I had no idea how many, but there were other cases. And they were trying to find out how we should approach these organizations, and how we should handle them.

Q And when you say these organizations, you mean Tea Party organizations?

A The two organizations that I had.⁴⁹

Hull's testimony also confirms that the Washington IRS office requested a similar 501(c)(3) application to replace the Prescott Tea Party's application. He testified:

Q Did you send out letters to both organizations the 501(c)(3) and 501(c)(4)?

A I did.

Q Did you get responses from both organizations?

A I got response from only one organization.

Q Which one?

A The (c)(4).

Q (C)(4). What did you do with the case that did not respond?

A I tried to contact them to find out whether they were going to submit anything.

Q By telephone?

A By telephone. And I never got a reply.

Q Then what did you do with the case?

A I closed it, failure to establish.

Q So at this time, when the (c)(3) became the FTE, did you begin to work only on the (c)(4)?

⁴⁹ Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013).

A I notified my supervisor that I would need another (c)(3) if they wanted me to work one of each.

Q How did you phrase the request to Ms. Hofacre? Was it -- were you asking for another (c)(3) Tea Party application?

A I was asking for another (c)(3) application in the lines of the first one that she had sent up. I'm not sure if I asked her for a particular organization or a particular type of organization. I needed a (c)(3) that was maybe involved in political activities.

Q And the first (c)(3), it was a Tea Party application?

A Yes, it was.⁵⁰

⁵⁰ Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013).

Fig. 1: IRS Timeline of Tea Party “test” cases⁵¹

A. Timeline for the 3 exemption applications that were referred to EOT from EOD		
<p>1. Prescott Tea Party, LLC</p> <p>The Applicant sought exemption under §501(c)(3) formed to educate the public on current political issues, constitutional rights, fiscal responsibility, and support for a limited government. It planned to undertake this educational activity through rallies, protests, educational videos and through its website. The organization also intended to engage in legislative activities. The case was closed FTE on May 26, 2010.</p>	<p>2. American Junto, Inc.</p> <p>The organization applied for exemption under §501(c)(3), stating it was formed to educate voters on current social and political issues, the political process, limited government, and free enterprise. It also indicated it would be involved in political campaign intervention and legislative activities. The case was closed FTE on January 4, 2012.</p>	<p>3. Albuquerque Tea Party, Inc.</p> <p>The organization applied for exemption under §501(c)(4) as a social welfare organization for purposes of issue advocacy and education. A proposed adverse is being prepared on the basis that the organization’s primary activity is political campaign intervention supporting candidates associated with a certain political faction, its educational activities are partisan in nature, and its activities are intended to benefit candidates associated with a specific political faction as opposed to benefiting the community as a whole.</p>
<p>Timeline:</p> <p>2009</p> <ul style="list-style-type: none"> • 11/09/2009 → Application received by EOD. • 12/18/2009 → Case assigned to EOD specialist. <p>2010</p> <ul style="list-style-type: none"> • 3/08/2010 → <u>Date the case was referred to EOT.</u> Case pulled from 	<p>Timeline:</p> <p>2010</p> <ul style="list-style-type: none"> • 2/11/2010 → Application was received by EOD. 	<p>Timeline:</p> <p>2010</p> <ul style="list-style-type: none"> • 1/4/2010 → Application was received by EOD.
<p>EOD files to send to EOT for review.</p> <ul style="list-style-type: none"> • 3/11/2010 → EOD prepared a memo to transfer the case to EOT as part of EOT’s review of some of the “advocacy organization” cases being received in EOD. • 4/02/2010 → Case assigned to EOT. • 4/14/2010 → 1st development letter mailed to Taxpayer (Response due by 5/06/2010). • 5/26/2010 → Case closed FTE (90-day suspense date ended on 8/26/2010). 	<ul style="list-style-type: none"> • 4/11/2010 → Case assigned to a specialist in EOD. • 4/25/2010 → EOD emailed EOT (Manager Steve Grodnitzky) regarding who EOD should contact for help on “advocacy organization” cases being held in screening. • 5/25/2010 → EOT requested a §501(c)(3) “advocacy organization” case be transferred from EOD to replace Prescott Tea Party, LLC, a §501(c)(3) advocacy organization applicant that had been closed FTE. • 6/25/2010 → Memo proposing to transfer the case to EOT was prepared by EOD specialist. • 6/30/2010 → <u>Date the case was referred to EOT.</u> • 7/7/2010 → 1st development letter sent (Response due by 7/28/2010). • 7/28/2010 → EOT received Taxpayer’s response to 1st development letter. 	<ul style="list-style-type: none"> • 2/22/2010 → Case assigned to EOD specialist. • 3/11/2010 → EOD prepared memo to transfer the case to EOT as part of EOT’s help reviewing the “advocacy organization” cases received in EOD. • 4/02/2010 → Case assigned to EOT. • 4/21/2010 → 1st development letter sent (Response due by 5/12/2010). • 4/29/2010 → Taxpayer requested extension for time to respond to 1st development letter. TLS granted extension until 6/11/2010. • 6/8/2010 → EOT received the Taxpayer’s response to 1st development letter.

⁵¹ Internal Revenue Serv., Timeline from the 3 exemption applications that were referred to EOT from EOD. [IRSR 58346-49]

The initial screening criteria captured exclusively Tea Party applications

Documents and testimony provided to the Committee show that the IRS's initial screening criteria captured only conservative organizations. According to a briefing paper prepared for Exempt Organizations Director Lois Lerner in July 2011, the IRS identified applications and held them if they met any of the following criteria:

- "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
- Issues include government spending, government debt or taxes
- Education of the public by advocacy/lobbying to "make America a better place to live"
- Statements in the case file criticize how the country is being run.⁵²

Based on these criteria, which skew toward conservative ideologies, the IRS sent applications to a specific group in Cincinnati.

Fig. 2: IRS Briefing Document Prepared for Lois Lerner⁵³

<p>Background:</p> <ul style="list-style-type: none">• EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.• EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:<ul style="list-style-type: none">○ "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file○ Issues include government spending, government debt or taxes○ Education of the public by advocacy/lobbying to "make America a better place to live"○ Statements in the case file criticize how the country is being run
--

Testimony presented by the two Cincinnati employees shows that the initial applications in the growing IRS backlog were exclusive Tea Party applications. Elizabeth Hofacre, who oversaw the cases from April 2010 to October 2010, testified during her transcribed interview that "we were looking at Tea Parties." She testified:

Q And you mentioned the Tea Party cases. Do you have an understanding of whether the Tea Party cases were part of that grouping of organizations with political activity, or were they separate?

A That was the group of political cases.

Q So why do you call them Tea Parties if it includes more than –

⁵² Justin Lowe, Internal Revenue Serv., Increase in (c)(3)/(c)(4) Advocacy Org. Applications (2011). [IRSR 2735]

⁵³ *Id.*

A Well, at that time that's all they were. That's all that we were -- that's how we were classifying them.

Q In 2010, you were classifying any organization that had political activity as a Tea Party?

A No, it's the latter. I mean, we were looking at Tea Parties. I mean, political is too broad.

Q What do you mean when you say political is too broad?

A No, because when -- what do you mean by "political"?

Q Political activity -- if an application has an indication of political activity in it.

A I mean, I was tasked with Tea Party, so that's all I'm aware of. So I wasn't tasked with political in general.

Q Was there somebody who was tasked with political in general?

A Not that I'm aware of.⁵⁴ (emphasis added).

During the Committee's July 2013 hearing about the IRS's systematic scrutiny of Tea Party applications, Hofacre specifically rejected claims that liberal-oriented groups were part of the IRS backlog. She testified:

Mr. MICA. Okay, the beginning of 2010. And you—this wasn't a targeting by a group of your colleagues in Cincinnati that decided we're going to go after folks. And most of the cases you got, were they "Tea Party" or "Patriot" cases?

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

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

Ms. HOFACRE. **Sir, I was on this project until October of 2010, and I was only instructed to work "Tea Party"/ "Patriot"/"9/12" organizations.**⁵⁵ (emphasis added)

Ron Bell, who replaced Hofacre in overseeing the growing backlog of applications in Cincinnati, similarly testified during a transcribed interview that he only received Tea Party applications from October 2010 until July 2011. He testified:

⁵⁴ Transcribed interview of Elizabeth Hofacre, Internal Revenue Serv., in Wash., D.C. (May 31, 2013).

⁵⁵ July 18th Hearing, *supra* note 28.

Q Okay. So at this point between October 2010 and July 2011, were all the Tea Party cases going to you?

A Correct.

Q And to your knowledge, during this same time period, was it only Tea Party cases that were being assigned to you or were there other advocacy cases that were part of this group?

A Does that include 9/12 and Patriot?

Q Yes, yes.

A Yes.

Q Okay. So it was just those type of cases, not other type of advocacy cases that maybe had a different -- a different political -- a liberal or progressive case?

A Correct.

Q Okay. And to your knowledge, when you were first assigned these cases in October 2010 and through July 2011, do you know what criteria the screening unit was using to identify the cases to send to you?

A Yes.

Q And what was that criteria?

A It was solicited on the Emerging Issues tab of the BOLO report.

Q And what did that say? What did that Emerging Issue tab on the BOLO say?

A In July 20 --

Q In October 2010 we'll start.

A I don't know exactly what it said, but it just -- Tea Party cases, 9/12, Patriot.

Q And do you recall how many cases you inherited from Ms. Hofacre?

A 50 to 100.

Q And were those only Tea Party-type cases as well?

A To the best of my knowledge.⁵⁶

The IRS continued to target Tea Party groups after the BOLO criteria were broadened

From material produced to the Committee, it is apparent that Exempt Organizations Director Lois Lerner began orchestrating in late 2010 a “c4 project that will look at levels of lobbying and pol[itical] activity” of nonprofits, careful that the effort was not a “*per se* political project.”⁵⁷ Consistent with this goal, Lerner ordered the implementation of new screening criteria for the Tea Party cases in summer 2011, broadening the BOLO language to “advocacy organizations.” According to testimony received by the Committee, Lerner ordered the language changed from “Tea Party” because she viewed the term to be “too pejorative.”⁵⁸ While avoiding *per se* political scrutiny, other documents obtained by the Committee suggest that Lerner’s change was merely cosmetic. These documents show that the IRS still intended to target and scrutinize Tea Party applications, despite the facial changes to the BOLO criteria.

An internal “Significant Case Report” summary chart prepared in August 2011 illustrates that Lerner’s change was merely cosmetic (figures 3A and 3B). While the name of entry was changed “political advocacy organizations,” the description of the issue continued to reference the Tea Party movement.⁵⁹ The issue description read: “Whether a tea party organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4).”⁶⁰

⁵⁶ Transcribed interview of Ronald Bell, Internal Revenue Serv., in Wash., D.C. (June 13, 2013).

⁵⁷ E-mail from Lois Lerner, Internal Revenue Serv., to Cheryl Chasin et al., Internal Revenue Serv. (Sept. 16, 2010). [IRSR 191030]

⁵⁸ Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013).

⁵⁹ Internal Revenue Serv., Significant Case Report (Aug. 31, 2011). [IRSR 151653]

⁶⁰ *Id.*

Fig. 3A: IRS Significant Case Report Summary, August 2011⁶¹

A. Open SCs:									
	Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action	Being Elevated to TEGE Commissioner This Month
1.	Political Advocacy Organizations	T2/Ron Shoemaker	[REDACTED]	4/2/2010	Whether a tea party organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4)	Chip Hull & Hilary Goehausen	3/31/2011 (Org) 05/31/2011 (Rev) 07/31/2011 (Rev) 10/30/2011 (Rev) 12/31/2011 (Rev)	Developing both a (c)(3) and (c) (4) cases. Proposed (c)(4) favorable is currently being reviewed. Proposed denial currently being reviewed on (c)(3). Cases were discussed with Judy Kindell on 04/06/11. Judy requested staff to get additional information from taxpayers regarding certain activities. Development letters were sent. Proposed favorable (c)(4) ruling forwarded to Chief Counsel for comments on 05/04/11. Information from (c)(3) organization regarding activities due on 05/18/2011. Waiting on taxpayer response. Met with Director EO on June 29, 2011. Met with Counsel on 8/10/11 to discuss the cases; Counsel recommended further development of the cases by getting information on the organizations' 2010 activities. Counsel gave us directions on the type of information needed. Next Action: [REDACTED]	No

Fig. 3B: IRS Significant Case Report Summary, August 2011 (enlarged)⁶²

	Name of Org/Group	Group #/Manager	EIN	Received	Issue
1.	Political Advocacy Organizations	T2/Ron Shoemaker	[REDACTED]	4/2/2010	Whether a tea party organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4)

Likewise, in comparing the individual sensitive case report prepared for the Tea Party cases in June 2011 with the report prepared in September 2012, it is apparent that the BOLO criteria changed was superficial. The reports' issue summaries are nearly identical, except for replacing "Tea Party" with "advocacy organizations."⁶³ The June 2011 sensitive case report (figure 4A) identified the issue as: "The various 'tea party' organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The 'tea party' organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis."⁶⁴

⁶¹ *Id.*

⁶² *Id.*

⁶³ Compare Internal Revenue Serv., Sensitive Case Report (June 17, 2011) [IRSR 151687-88], with Internal Revenue Serv., Sensitive Case Report (Sept. 18, 2012). [IRSR 150608-09]

⁶⁴ Internal Revenue Serv., Sensitive Case Report (June 17, 2011). [IRSR 151687-88]

Fig. 4A: IRS Sensitive Case Report for Tea Party cases, June 17, 2011⁶⁵

CASE OR ISSUE SUMMARY:

The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.

The September 2012 sensitive case report (figure 4B) identified the issue as: "These organizations are 'advocacy organizations,' and although are separately organized, they appear to be part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are followed closely in national newspapers (such as The Washington Post) almost on a regular basis."⁶⁶

Fig. 4B: IRS Sensitive Case Report for "Advocacy Organizations," Sept. 18, 2012⁶⁷

CASE OR ISSUE SUMMARY:

These organizations are "advocacy organizations," and although are separately organized, they appear to be part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati has in its inventory a number of applications from these types of organizations that applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations that applied for recognition of exemption under section 501(c)(4) as social welfare organizations.

Reading these items together, it is clear that although the BOLO language was changed to broader "political advocacy organizations," the IRS still intended to identify and single out Tea Party applications for scrutiny. Ron Bell testified that after the BOLO change in July 2011, he received more applications than just Tea Party cases. He testified:

Q And do you recall when that – when the BOLO was changed after – you said it was after the meeting [with Lerner], they changed the BOLO after the meeting, do you recall when?

A July.

Q Of 2011?

A Yes, sir.

⁶⁵ *Id.*

⁶⁶ Internal Revenue Serv., Sensitive Case Report (Sept. 18, 2012). [IRSR 150608-09]

⁶⁷ *Id.*

Q And you were going to say the BOLO became more, and then you were cut off. What were you going to say?

A It became more – they had more the advocacy, more organizations to the advocacy, like I mentioned about maybe a cat rescue that’s advocating for let’s not kill the cats that get picked up by the local government in whatever cities.⁶⁸

Bell also stated that while he could not process the Tea Party applications because he was awaiting guidance from Washington, he could process the non-Tea Party applications. He testified:

Q Mr. Bell, in July 2011, when the BOLO was changed where they chose broad language, after that point, did you conduct secondary screening on any of the cases that were being held by you?

A You mean the cases that I inherited from Liz are the ones that had already been put into the whatever timeframe, Tea Party advocacy, slash advocacy?

Q Other type, yes.

A No, these were new ones coming in that someone thought that they perhaps should be in the advocacy, slash, Tea Party inventory.

Q Okay.

A They were assigned to Group 7822, and I reviewed them, and you know, maybe some were, but a vast majority was like outside the realm we were looking for.

Q And so they were like the . . . cat type cases you were discussing earlier?

A Yes.

Q After the July 2011 change to the BOLO, how long did you perform the secondary screening?

A Up until July 2012.

Q So, for a whole year?

A Yeah.

⁶⁸ Transcribed interview of Ronald Bell, Internal Revenue Serv., in Wash., D.C. (June 13, 2013).

- Q And you would look at the cases and see if they were not a Tea Party case, you would move that either to closing or to further development?
- A Yeah, and then the BOLO changed about midway through that timeframe.
- Q Okay.
- A To make it where we put the note on there that we don't need the general advocacy.
- Q And after the BOLO changed in January 2012, did that affect your secondary screening process?
- A There was less cases to be reviewed.
- Q Okay. **So during this whole year, the Tea Party cases remained on hold pending guidance from Washington while the other cases that you identified as non-Tea Party cases were moved to either closure or further development; is that right?**
- A **Correct.**⁶⁹ (emphasis added).

The IRS's own retrospective review shows the targeted applications were predominantly conservative-oriented

In July 2012, Lerner asked her senior technical advisor, Judith Kindell, to conduct an assessment of the political affiliation of the applications in the IRS backlog. On July 18, Kindell reported back to Lerner that of all the 501(c)(4) applications, having been flagged for additional scrutiny, at least 75 percent were conservative, "while fewer than 10 [applications, or 5 percent] appear to be liberal/progressive leaning groups based solely on the name."⁷⁰ Of the 501(c)(3) applications, Kindell informed Lerner that "slightly over half appear to be conservative leaning groups based solely on the name."⁷¹ Unlike Tea Party cases, the Oversight Committee's review has received no testimony from IRS employees that any progressive groups were scrutinized because of their organization's expressed political beliefs.

⁶⁹ *Id.*

⁷⁰ E-mail from Judith Kindell, Internal Revenue Serv., to Lois Lerner, Internal Revenue Serv. (July 18, 2012). [IRSR 179406]

⁷¹ *Id.*

Fig. 5: E-mail from Judith Kindell to Lois Lerner, July 18, 2012⁷²

From: Kindell Judith E
Sent: Wednesday, July 18, 2012 10:54 AM
To: Lerner Lois G
Cc: Light Sharon P
Subject: Bucketed cases

Of the 84 (c)(3) cases, slightly over half appear to be conservative leaning groups based solely on the name. The remainder do not obviously lean to either side of the political spectrum.

Of the 199 (c)(4) cases, approximately 3/4 appear to be conservative leaning while fewer than 10 appear to be liberal/progressive leaning groups based solely on the name. The remainder do not obviously lean to either side of the political spectrum.

Documents and testimony obtained by the Committee demonstrate that the IRS sought to identify and scrutinize Tea Party applications. For fifteen months beginning in February 2010, the IRS systematically identified, separated, and delayed Tea Party applications – and only Tea Party applications. Even after the IRS broadened the screening criteria in the summer of 2011, internal documents confirm that that agency continued to target Tea Party groups.

The IRS treated Tea Party applications differently from other applications

Evidence obtained by the Committee in the course of its investigation proves that the IRS handled conservative applications distinctly from other tax-exempt applications. In February 2011, Lerner directed Michael Seto, the manager of Exempt Organizations Technical Unit, to put the Tea Party test cases through a “multi-tier” review.⁷³ Lerner wrote to Seto: “This could be the vehicle to go to court on the issue of whether Citizen’s [sic] United overturning ban on corporate

⁷² *Id.*

⁷³ Transcribed interview of Michael Seto, Internal Revenue Serv., in Wash., D.C. (July 11, 2013).

pending applies to tax exempt rule. Counsel and Judy Kindell need to be in on this one please.”⁷⁴

Carter Hull, an IRS specialist with almost 50 years of experience, testified that this multi-tier level of review was unusual. He testified:

Q Have you ever sent a case to Ms. Kindell before?

A Not to my knowledge.

Q This is the only case you remember?

A Uh-huh.

Q Correct?

A This is the only case I remember sending directly to Judy.

Q Had you ever sent a case to the Chief Counsel’s office before?

A I can’t recall offhand.

Q You can’t recall. So in your 48 years of experience with the IRS, you don’t recall sending a case to Ms. Kindell or a case to IRS Chief Counsel’s office?

A To Ms. Kindell, I don’t recall ever sending a case before. To Chief Counsel, I am sure some cases went up there, but I can’t give you those.

Q Sitting here today you don’t remember?

A I don’t remember.⁷⁵

Similarly, Elizabeth Hofacre, the Cincinnati-based revenue agent initially assigned to develop cases, told the Committee during a July 2013 hearing that the involvement of Washington was “unusual.”⁷⁶ She testified:

I never before had to send development letters that I had drafted to EO

⁷⁴ E-mail from Lois Lerner, Internal Revenue Serv., to Michael Seto, Internal Revenue Serv. (Feb. 1, 2011). [IRSR 161810]

⁷⁵ Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013).

⁷⁶ “*The IRS’s Systematic Delay and Scrutiny of Tea Party Applications*”: *Hearing before the H. Comm. on Oversight & Gov’t Reform*, 113th Cong. (2013) (statement of Elizabeth Hofacre).

Technical for review, and I never before had to send copies of applications and responses that were assigned to me to EO Technical for review. I was frustrated because of what I perceived as micromanagement with respect to these applications.⁷⁷

Hofacre's successor on the cases, Ron Bell, also told the Committee that it was "unusual" to have to wait on Washington to move forward with an application.⁷⁸ He testified:

Q So did you see something different in these Tea Party cases applying for 501(c)(4) status that was different from other organizations that had political activity, political engagement applying for 501(c)(4) status in the past?

A I'm not sure if I understand that.

Q I guess what I'm getting at is you said you had seen previous applications from an organization applying for 501(c)(4) status that had some level of political engagement, and these Tea Party groups are also applying for 501(c)(4) status and they have some level of political engagement. Was there any difference in your mind between the Tea Party groups and the other groups that you'd seen in your experience at the IRS?

A No.

Q So, do you think that Tea Party groups are treated the same as these other groups from your previous experience?

A No.

Q In your experience, was there anything different about the way that the Tea Party 501(c)(4) cases were treated that was as opposed to the previous 501(c)(4) applications that had some level of political engagement?

A Yes.

Q And what was different?

A Well, they were segregated. They seemed to have been more scrutinized. I hadn't interacted with EO technical [in] Washington on cases really before.

Q You had not?

⁷⁷ *Id.*

⁷⁸ Transcribed interview of Ronald Bell, Internal Revenue Serv., in Wash., D.C. (June 13, 2013).

A Well, not a whole group of cases.⁷⁹

Another Cincinnati employee, Stephen Seok, testified that the type of activities that the conservative applicants conducted made them different from other similar applications he had worked in the past. He testified:

Q And to your knowledge, the cases that you worked on, was there anything different or novel about the activities of the Tea Party cases compared to other (c)(4) cases you had seen before?

A **Normal (c)(4) cases we must develop the concept of social welfare, such as the community newspapers, or the poor, that types. These organizations mostly concentrate on their activities on the limiting government, limiting government role, or reducing government size, or paying less tax. I think it[']s different from the other social welfare organizations which are (c)(4).**

Q **So the difference between the applications that you just described, the applications for folks that wanted to limit government, limit the role of government, the difference between those applications and the (c)(4) applications with political activity that you had worked in the past, was the nature of their ideology, or perspective, is that right?**

A **Yeah, I think that's a fair statement.** But still, previously, I could work, I could work this type of organization, applied as a (c)(4), that's possible, though. Not exactly Tea Party, or 9-12, but dealing with the political ideology, that's possible, yes.

Q **So you may have in the past worked on applications from (c)(4), applicants seeking (c)(4) status that expressed a concern in ideology, but those applications were not treated or processed the same way that the Tea Party cases that we have been talking about today were processed, is that right?**

A **Right.** Because that [was] way before these – these organizations were put together. So that's way before. If I worked those cases, way before this list is on.⁸⁰ (emphases added).

⁷⁹ *Id.*

⁸⁰ Transcribed interview of Stephen Daejin Seok, Internal Revenue Serv., in Wash., D.C. (June 19, 2013).

This evidence shows that the IRS treated conservative-oriented Tea Party applications differently from other tax-exempt applications, including those filed by liberal-oriented organizations. Testimony indicates that the IRS instituted new procedures and different hurdles for the review of Tea Party applications. What would otherwise be a routine review of an application became unprecedented scrutiny and delays for these Tea Party groups.

Myth versus fact: How Democrats' claims of bipartisan targeting are not supported by the evidence

In light of the evidence available to the Committee and under close examination, each Democratic argument fails. Despite their claims that liberal-leaning groups were targeted in the same manner as conservative applicants, the facts do not bear out their assertions. Instead, the Committee's investigation and public information shows the following:

- IRS BOLO entries for liberal groups and terms only appear on lists used for awareness and were never used as a litmus test for enhanced scrutiny;
- Some liberal-oriented organizations were identified for scrutiny because of objective, non-political concerns, but not because of their political beliefs;
- Substantially more conservative-leaning applicants than liberal-oriented applicants were caught in the IRS's backlog;
- The IRS treated Tea Party applicants differently from "progressive" groups;
- The IRS treated Tea Party applicants differently from ACORN successor groups;
- The IRS treated Tea Party applicants differently from Emerge affiliate groups; and
- The IRS treated Tea Party applicants differently from Occupy groups.

When carefully examined, these facts refute the myths perpetrated by congressional Democrats and the Administration that the IRS engaged in bipartisan targeting. The facts show, instead, that the IRS targeted Tea Party groups for systematic scrutiny and delay.

Perhaps most telling is the IRS's own actions. When Lois Lerner publicly apologized for the IRS's targeting of Tea Party applicants, she offered no such apology for its targeting of any liberal groups. When asked if the IRS had treated liberal groups inappropriately, Lerner responded: "I don't have any information on that."⁸¹ This admission severely undercuts Democratic *ex post* allegations of bipartisan targeting.

BOLO entries for liberal groups and terms only appear on lists used for awareness and were never used as a litmus test for enhanced scrutiny

Congressional Democrats and some in the Administration claim that the IRS targeted liberal groups because some liberal-oriented organizations appeared on entries of the IRS BOLO

⁸¹ Aaron Blake, 'I'm not good at math': The IRS's public relations disaster, WASH. POST, May 10, 2013.

lists.⁸² This claim is not supported by the facts. The presence of an organization or a group of organizations on the IRS BOLO list did not necessarily mean that the IRS targeted those groups. As the Ways and Means Committee phrased it, “being on a BOLO is different from being targeted and abused by the IRS.”⁸³ A careful examination of the evidence demonstrates that only conservative groups on the IRS BOLO lists experienced systematic scrutiny and delay.

The Democratic falsehood rests on a fundamental misunderstanding of the structure of the BOLO list. The BOLO list was a comprehensive spreadsheet document with separate tabs designed for information intended for different uses. For example, the “Watch List” tab on the BOLO document was designed to notify screeners of potential applications that the IRS has not yet received.⁸⁴ The “TAG Issues” tab listed groups with potentially fraudulent applications. The “Emerging Issues” tab, contrarily, was designed to alert screeners to groups of applications that the IRS has *already received* and that presented special problems.⁸⁵ Therefore, whereas the Watch List tab noted hypothetical applications that could be received and TAG Issues tab noted fraudulent applications, the Emerging Issues tab highlighted non-fraudulent applications that the IRS was actively processing.

The Tea Party entry on the IRS BOLO appears on the “Emerging Issues” tab, meaning that the IRS had already received Tea Party applications. The liberal-oriented groups on the BOLO list appear on either the Watch List tab, meaning that the IRS was merely notifying its screeners of the potential for those groups to apply, or the TAG Issues tab, indicating a concern for fraud. In effect, then, whereas the appearance of Tea Party groups on the BOLO signifies the *actuality* of review and subsequent delay, the appearance of the liberal groups on the BOLO signifies either the *possibility* that some group may apply in the future or the potential for fraud in a group’s application.

The differences in where the entries appear on the BOLO document manifests in the IRS’s differential treatment of the groups. According to evidence known to the Committee, only Tea Party applications appearing on the Emerging Issues tab resulted in systematic scrutiny and delay. Although some liberal groups appeared on versions of the BOLO, their mere presence on the document did not result in systematic scrutiny and delay – contrary to Democratic claims of bipartisan IRS targeting.

The IRS identified some liberal-oriented groups due to objective, non-political concerns, but not because of their political beliefs

Where the IRS identified liberal-oriented groups for scrutiny, evidence shows that it did so for objective, non-political reasons and not because of the groups’ political beliefs. For

⁸² See, e.g., *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013); The White House, Press Briefing by Press Secretary Jay Carney, 2/3/14, <http://www.whitehouse.gov/photos-and-video/video/2014/02/03/press-briefing#transcript>.

⁸³ H. Comm. on Ways & Means, *Being on a BOLO is Different from Being Targeted and Abused by the IRS* (June 24, 2013), <http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=340314>.

⁸⁴ Internal Revenue Serv., *Heightened Awareness Issues*. [IRSR 6655-72]

⁸⁵ *Id.*

instance, the IRS scrutinized Emerge America applications for conveying impermissible benefits to a private entity, which is prohibited for nonprofit groups.⁸⁶ The IRS scrutinized ACORN successor groups due to concerns that the organizations were engaged in an abusive scheme to rebrand themselves under a new name.⁸⁷ Likewise, the IRS included an entry for “progressive” on its BOLO list out of concern that the groups’ partisan campaign activity “may not be appropriate” for 501(c)(3) status, under which there is an absolute prohibition on campaign intervention.⁸⁸ Unlike the Tea Party applications, which the IRS scrutinized for their social-welfare activities, the Committee has received no indication that the IRS systematically scrutinized liberal-oriented groups because of their political beliefs.

Substantially more conservative groups were caught in the IRS application backlog

Another familiar refrain from the Administration and congressional Democrats is that the IRS targeted liberal groups because left-wing groups were included in the IRS backlog along with conservative groups. Ways and Means Ranking Member Sander Levin (D-MI) alleged that the IRS engaged in bipartisan targeting because some “progressive groups were among the 298 applications that TIGTA reviewed in their audit and received heightened scrutiny.”⁸⁹ Similarly, Representative Gerry Connolly (D-VA) said that “the tilt . . . included progressive titles as well as conservative titles and that they were equally stringent.”⁹⁰ These allegations are misleading. Several separate assessments of the IRS backlog prove that substantially more conservative groups than liberal groups were caught in the IRS backlog.

An internal IRS analysis conducted for Lois Lerner in July 2012 found that 75 percent of the 501(c)(4) applications in the backlog were conservative, “while fewer than 10 [applications] appear to be liberal/progressive leaning groups based solely on the name.”⁹¹ The same analysis found that “slightly over half [of the 501(c)(3) applications] appear to be conservative leaning groups based solely on the name.”⁹² A Ways and Means examination conducted in 2013 similar found that the backlog was overwhelmingly conservative: 83 percent conservative and only 10 percent liberal.⁹³

In September 2013, *USA Today* independently analyzed a list of about 160 applications in the IRS backlog.⁹⁴ This review showed that conservative groups filed 80 percent of the

⁸⁶ Transcribed interview of Amy Franklin Giuliano, Internal Revenue Serv., in Wash., D.C. (Aug. 9, 2013).

⁸⁷ Transcribed interview of Robert Choi, Internal Revenue Serv., in Wash., D.C. (Aug. 21, 2013).

⁸⁸ *See, e.g.*, Internal Revenue Serv., Be on the Look Out List (Nov. 9, 2010). [IRS 1349-64]

⁸⁹ *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013) (statement of Ranking Member Sander Levin).

⁹⁰ *The Last Word with Lawrence O’Donnell* (MSNBC television broadcast Mar. 5, 2014) (interview with Representative Gerry Connolly).

⁹¹ E-mail from Judith Kindell, Internal Revenue Serv., to Lois Lerner, Internal Revenue Serv. (July 18, 2012). [IRSR 179406]

⁹² *Id.*

⁹³ Ways and Means Committee September 18th Hearing, *supra* note 9.

⁹⁴ *See* Gregory Korte, *IRS List Reveals Concerns over Tea Party ‘Propaganda,’* USA TODAY, Sept. 18, 2013.

applications in the backlog while liberal groups filed less than seven percent.⁹⁵ An earlier analysis from *USA Today* in May 2013 showed that for 27 months beginning in February 2010, the IRS did not approve any tax-exempt applications filed by Tea Party groups.⁹⁶ During that same period, the IRS approved “perhaps dozens of applications from similar liberal and progressive groups.”⁹⁷

Testimony received by the Committee supports this conclusion. During a hearing of the Subcommittee on Economic Growth, Job Creation, and Regulatory Affairs, Jay Sekulow – a lawyer representing 41 groups targeted by the IRS – testified that substantially more conservative groups were targeted and that all liberal groups targeted eventually received approval.⁹⁸ In an exchange with Representative Matt Cartwright (D-PA), Sekulow testified:

Mr. CARTWRIGHT. And Mr. Sekulow, you were helpful with some statistics this morning, and I wanted to ask you about that. **You mentioned 104 conservative groups targeted. Was that the number?**

Mr. SEKULOW. This is from the report of the IRS dated through July 29th of 2013 – **104 conservative organizations in that report were targeted.**

Mr. CARTWRIGHT. Thank you. **And then seven progressive targeted groups?**

Mr. SEKULOW. **Seven progressive targeted groups, all of which received their tax exemption.**

Mr. CARTWRIGHT. Does it give the total number of applications? In other words, 104 conservative groups targeted. How many – how many applied? How many conservative groups applied?

Mr. SEKULOW. In the TIGTA report there was – I think the number was 283 that they had become part of the target. But actually, applications, a lot of the IRS justification for this, at least purportedly, was an increase in applications, and there was actually a decrease in the number.

Mr. CARTWRIGHT. Right. And does it give the number of progressive groups that applied for tax-exempt status?

⁹⁵ *Id.*

⁹⁶ Gregory Korte, *IRS Approved Liberal Groups while Tea Party in Limbo*, USA TODAY, May 15, 2013.

⁹⁷ *Id.*

⁹⁸ “*The IRS Targeting Investigation: What Is the Administration Doing?*”: Hearing before the Subcomm. on Economic Growth, Job Creation, and Regulatory Affairs of the H. Comm. on Oversight & Gov’t Reform, 113th Cong. (2014) (question and answer with Rep. Matt Cartwright).

Mr. SEKULOW. No, the only report that has the progressive –

Mr. CARTWRIGHT. No, no?

Mr. SEKULOW. The one that I have just is the – the report I have in front of me is the one through the – which just has the seven.

Mr. CARTWRIGHT. OK. All right, thank you.

MR. SEKULOW. None of those have been denied, though.⁹⁹ (emphases added).

Contrary to the Democratic claim that the IRS targeting of liberal groups was “equally stringent” to conservative groups,¹⁰⁰ the overwhelming majority of applications in the IRS backlog were filed by conservative-leaning organizations. This evidence further demonstrates that the IRS did not engage in bipartisan targeting.

The IRS treated Tea Party applicants differently than “progressive” groups

Democrats in Congress and the Administration argue that the IRS treated “progressive” groups in a manner similar to Tea Party applicants. Because the IRS BOLO list had an entry for “progressives,” Democrats allege that “progressive groups were singled out for scrutiny in the same manner as conservative groups,”¹⁰¹ and that “the progressive groups were targeted side by side with their tea party counterpart groups.”¹⁰² Again, the evidence available to the Committee does not support these Democratic assertions. Rather, the evidence clearly shows that the IRS did not subject “progressive” groups to the same type of systematic scrutiny and delay as conservative applicants.

Perhaps the most significant difference between the IRS’s treatment of Tea Party applicants and “progressive” groups is reflected in the IRS BOLO lists. The Tea Party entry was located on the tab labeled, “Emerging Issues,” meaning that the IRS was actively screening for similar cases.¹⁰³ The “progressive” entry, however, was located on a tab labeled “TAG historical,” meaning that the IRS interest in those cases was dormant.¹⁰⁴ Cindy Thomas, the manager of the IRS Cincinnati office, explained this difference during a transcribed interview with Committee staff.¹⁰⁵ She told the Committee that unlike the systematic scrutiny given to the

⁹⁹ *Id.*

¹⁰⁰ *The Last Word with Lawrence O’Donnell* (MSNBC television broadcast Mar. 5, 2014) (interview with Representative Gerry Connolly).

¹⁰¹ Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov’t Reform Democrats, New Documents Highlight IRS Scrutiny of Progressive Groups (Aug. 20, 2013).

¹⁰² *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013) (question and answer with Representative Joseph Crowley).

¹⁰³ See Internal Revenue Serv., Heightened Awareness Issues. [IRSR 6655-72]

¹⁰⁴ *Id.*

¹⁰⁵ Transcribed interview of Lucinda Thomas, Internal Revenue Serv., in Wash., D.C. (June 28, 2013).

conservative-oriented applications as a result of the BOLO, “progressive” cases were never automatically elevated to the Washington office as a whole. She testified:

Q Ms. Thomas, is this an example of the BOLO from looks like November 2010?

A I don’t know if it was from November of 2010, but –

Q This is an example of the BOLO, though?

A Yes.

Q Okay. And, ma’am, under what has been labeled as tab 2, TAG Historical?

A Yes.

Q Let’s turn to page 1354.

A Okay.

Q Do you see that, it says -- the entry says progressive?

A Yes.

Q This is under TAG Historical, is that right?

A Yes.

Q So this is an issue that hadn’t come up for a while, is that right?

A Right.

Q And it doesn’t note that these were referred anywhere, is that correct? What happened with these cases?

A This would have been on our group as – because of – remember I was saying it was consistency-type cases, so it’s not necessarily a potential fraud or abuse or terrorist issue, but any cases that were dealing with these types of issues would have been worked by our TAG group.

Q **Okay. And were they worked any different from any other cases that EO Determinations had?**

A **No. They would have just been worked consistently by one group of agents.**

Q Okay. And were they cases sent to Washington?

A I'm not – I don't know.

Q Not that you are aware?

A I'm not aware of that.

Q As the head of the Cincinnati office you were never aware that these cases were sent to Washington?

A There could be cases that are transferred to the Washington office according to, like, our [Internal Revenue Manual] section. I mean, there's a lot of cases that are processed, and I don't know what happens to every one of them.

Q Sure. But these cases identified as progressive as a whole were never sent to Washington?

A Not as a whole.¹⁰⁶

The difference in where the entries appeared in the BOLO list resulted in disparate treatment of Tea Party and “progressive” groups. Unlike the systematic scrutiny given to Tea Party applicants, “progressive” cases were never similarly scrutinized.

The House Ways and Means Committee, with statutory authority to review confidential taxpayer information, concluded that the IRS treated conservative tax-exempt applicants differently than “progressive” groups. The Ways and Means Committee's review found that while the IRS approved only 45 percent of conservative applicants, it approved 100 percent of groups with “progressive” in their name.¹⁰⁷ Likewise, Acting IRS Commissioner Daniel Werfel testified before the Way and Means Committee:

Mr. REICHERT. Mr. Werfel, isn't it true that 100 percent of tea party applications were flagged for extra scrutiny?

Mr. WERFEL. I think that – yes. The framework from the BOLO. It's my understanding, the way the process worked is if there's “tea party” in the application it was automatically moved into -- into this area of further review, yes.

¹⁰⁶ *Id.*

¹⁰⁷ *Hearing on the Internal Revenue Service's Exempt Organizations Division Post-TIGTA Audit: Hearing before the Subcomm. on Oversight of the H. Comm. on Ways & Means, 113th Con. (2013) (opening statement of Chairman Boustany).*

Mr. REICHERT. OK, and you – you know how many progressive groups were flagged?

Mr. WERFEL. I do not have that number.

Mr. REICHERT. I do.

Mr. WERFEL. OK.

Mr. REICHERT. Our investigation shows that there were seven flagged. Do you know how many were approved?

Mr. WERFEL. I do not have that number at my fingertips.

Mr. REICHERT. All of those applications were approved.¹⁰⁸

The IRS’s independent inspector general has repeatedly confirmed the Ways and Means Committee’s assessment. During the Oversight Committee’s July 2013 hearing, TIGTA J. Russell George told Members that “progressive” groups were not subjected to the same systematic treatment as Tea Party applicants. He testified:

With respect to the 298 cases that the IRS selected for political review, as of the end of May 2012, three have the word “progressive” in the organization’s name; another four were used—are used, “progress,” none of the 298 cases selected by the IRS, as of May 2012, used the name “Occupy.”¹⁰⁹

Mr. George also informed Congress that at least 14 organizations with “progressive” in their name were not held up and scrutinized by the IRS.¹¹⁰ “In total,” Mr. George wrote, **“30 percent of the organizations we identified with the words ‘progress’ or ‘progressive’ in their names were process as potential political cases. In comparison, our audit found that 100 percent of the tax-exempt applications with Tea Party, Patriots, or 9/12 in their names were processed as potential political cases during the timeframe of our audit.”**¹¹¹ (emphasis added).

Documents produced by the IRS support the finding of disparate treatment toward Tea Party groups. Notes from one training session in July 2010 reflect that the IRS ordered screeners to transfer Tea Party applications to a special group for “secondary screening.”¹¹² The same notes show that the screeners were asked to “flag” progressive groups.¹¹³ But multiple

¹⁰⁸ *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013) (question and answer with Representative Dave Reichert).

¹⁰⁹ *“The IRS’s Systematic Delay and Scrutiny of Tea Party Applications”*: *Hearing before the H. Comm. on Oversight & Gov’t Reform*, 113th Cong. (2013) (statement of J. Russell George).

¹¹⁰ Letter from J. Russell George, Treasury Inspector Gen. for Tax Admin., to Sander M. Levin, H. Comm. on Ways & Means (June 26, 2013).

¹¹¹ *Id.*

¹¹² Internal Revenue Serv., Screening Workshop Notes (July 28, 2010). [IRSR 6703-04]

¹¹³ *Id.*

interviews with IRS employees who worked individual cases have yielded no evidence that these “flags” or frontline reviews for political activity led to enhanced scrutiny – except for Tea Party organizations. One sentence on the notes explicitly reminds screeners that “progressive” applications are not considered “Tea Parties.”¹¹⁴ These notes confirm testimony from Elizabeth Hofacre, the “Tea Party Coordinator/Reviewer,” who told the Committee that she only worked Tea Party cases.¹¹⁵

Fig. 6: IRS Screening Workshop Notes, July 28, 2010¹¹⁶

<p>Screening Workshop Notes - July 28, 2010</p> <ul style="list-style-type: none"> • The emailed attachment outlines the overall process. • Glenn deferred additional statements and/or questions to John Shafer on yesterday’s developments; how they affect the screening process and timeline. • Concerns can be directed to Glenn for additional research if necessary. <p>Current/Political Activities: Gary Muthert</p> <ul style="list-style-type: none"> • Discussion focused on the political activities of Tea Parties and the like—regardless of the type of application. • If in doubt Err on the Side of Caution and transfer to 7822. • Indicated the following names and/or titles were of interest and should be flagged for review: <ul style="list-style-type: none"> ○ 9/12 Project, ○ Emerge, ○ Progressive ○ We The People, ○ Rally Patriots, and ○ Pink-Slip Program. • Elizabeth Hofacre, Tea Party Coordinator/Reviewer <ul style="list-style-type: none"> ▪ Re-empathize that applications with Key Names and/or Subjects should be transferred to 7822 for Secondary Screening. Activities must be primary. ▪ “Progressive” applications are not considered “Tea Parties” 	2
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Despite creative interpretations of this individual document, the full evidence rebuts the Democratic claim that the IRS targeted “progressive” groups alongside Tea Party applicants. Although “progressive” groups were referenced in the IRS BOLO lists and internal training documents, Democrats in Congress and the Administration have repeatedly ignored critical distinctions that qualify their meaning. A careful evaluation of facts in context reveals one conclusion: the IRS treated Tea Party groups differently than “progressive” groups.

¹¹⁴ *Id.*

¹¹⁵ Transcribed interview of Elizabeth Hofacre, Internal Revenue Serv., in Wash., D.C. (May 31, 2013).

¹¹⁶ Internal Revenue Serv., Screening Workshop Notes (July 28, 2010). [IRSR 6703-04]

The IRS treated Tea Party applicants differently than ACORN successor groups

Democratic defenders of the IRS misconduct also argue that the IRS treated Tea Party applicants similar to ACORN successor groups. ACORN endorsed President Barack Obama in his election campaign and had established deep political ties before its network of affiliates delinked and rebranded themselves following scandalous revelations about the organization in 2009.¹¹⁷ To support allegations about ACORN being targeted, Democrats have pointed to BOLO lists and training documents that “instructed [IRS] screeners to single out for heightened scrutiny . . . ACORN successors.”¹¹⁸

But allegations of targeting fall flat. First, ACORN successor groups appear on the “Watch List” tab of the BOLO list, unlike Tea Party groups, which appear on the “Emerging Issues” tab.¹¹⁹ According to IRS documents, the Watch List tab was intended to include applications “not yet received,” or “issues [that] are the result of significant world events,” or “organizations formed as a result of controversy.”¹²⁰ The Emerging Issue tab was created to spot groups of applications *already* received by the IRS. An internal IRS training document specifically cites “Tea Party cases” as an example of an emerging issue; it does not similarly cite ACORN successor groups.

Second, Robert Choi, the director of EO Rulings and Agreements until December 2010, testified to several differences between how the IRS treated ACORN successors and how the IRS treated Tea Party applicants. He told the Committee that unlike the Tea Party “test” cases, he did not recall the ACORN successor applications being subject to a “sensitive case report” or worked by the IRS Chief Counsel’s office.¹²¹ Most importantly, he explained that the IRS had objective concerns about rebranded ACORN affiliates that had nothing to do with the organization’s political views. The primary concern about the ACORN successor groups, according to Choi, was whether the groups were legitimate new entities or part of an “abusive” scheme to continue an old entity under a new name.¹²² Mr. Choi testified:

Q You said earlier in the last hour there was email traffic about the ACORN successor groups in 2010; is that right?

A That’s correct, yes.

Q But the ACORN successor groups were not subject to a sensitive case report; is that right?

¹¹⁷ Stephanie Strom, *On Obama, Acorn and Voter Registration*, N.Y. TIMES, Oct. 10, 2008; Stanley Kurtz, *Inside Obama’s Acorn*, NAT’L REVIEW ONLINE, May 29, 2008.

¹¹⁸ Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov’t Reform Democrats, *New Documents Highlight IRS Scrutiny of Progressive Groups* (Aug. 20, 2013).

¹¹⁹ See Internal Revenue Serv., *Be on the Look Out list*, “Filed 112310 Tab 5 – Watch List.” [IRSR 2562-63]

¹²⁰ Internal Revenue Serv., *Heightened Awareness Issues*. [IRSR 6655-72]

¹²¹ Transcribed interview of Robert Choi, Internal Revenue Serv., in Wash., D.C. (Aug. 21, 2013).

¹²² *Id.*

- A I don't recall if they were listed in there, in the sensitive case report.
- Q So you don't recall them being part of a sensitive case report?
- A I think what I'm saying is they may be part of a sensitive case report. I do not have a specific recollection that they were listed in a sensitive case report.
- Q But you do have a specific recollection that the Tea Party cases were on sensitive case reports in 2010.
- A Yes.
- Q To your knowledge, did any ACORN successor application go to the Chief Counsel's Office?
- A I am not aware of it.
- Q Are you aware of any ACORN successor groups facing application delays?
- A I do not know if – well, when you say “delays,” how do you –
- Q Well –
- A I mean, I'm aware of successor ACORN applications coming in, and I am aware of email traffic that talked about my concern of delays on those cases and, you know, that there was discussion about seeing an influx of these applications which appear to be related to the previous organization.
- ***
- Q And the concern behind the reason that they weren't being processed was that they were potentially the same organization that had been denied previously?
- A Not that they were denied previously. **These appeared to be successor organizations, meaning these were newly formed organizations with a new EIN, employer identification number, located at the same address as the previous organization and, in some instances, with the same officers. And it was an issue of concern as to whether or not these were, in fact, the same organizations just coming in under a new name;** whether, in fact, the previous organizations, if they were, for example, 501(c)(3) organizations, properly disposed of their assets. Did they transfer it to this new organization? Was this perhaps an abusive

scheme by these organizations to say that they went out of business and then not really but they just carried on under a different name?

Q And that's the reason they were held up?

A Yes.¹²³ (emphasis added).

Choi's testimony shows that the inclusion of ACORN successor groups on the BOLO list centered on a concern for whether the new groups were improperly standing in the shoes of the old groups. As the Committee has documented previously, ACORN groups received substantial attention in 2009 and 2010 for misuse of taxpayer funds and other fraudulent endeavors.¹²⁴ In fact, Congress even cut off funding for ACORN groups given widespread concerns about the groups' activities.¹²⁵ Six Democratic current members of the Oversight Committee and seven Democratic current members of the Ways and Means Committee voted to stop ACORN funding.¹²⁶ The IRS included ACORN successor groups on a special watch list, according to Choi, due to concern "as to whether or not these were, in fact, the same organizations just coming in under a new name."¹²⁷

This information undercuts allegations by congressional Democrats that the IRS's placement of ACORN successor groups on the BOLO list signified that those groups were targeted by the IRS in the same manner as Tea Party cases. Unlike the Tea Party applicants, ACORN successor groups were placed on the IRS BOLO out of specific and unique concern for potentially fraudulent or abusive schemes and not because of their political beliefs. Once identified, even ACORN successor groups were apparently not subjected to the same systematic scrutiny and delay as Tea Party applicants.

The IRS treated Tea Party applicants differently than Emerge affiliate groups

Congressional Democrats attempt to minimize the IRS's targeting of Tea Party applicants by alleging a false analogy to the IRS's treatment of Emerge affiliate groups. Emerge touts itself as the "premier training program for Democratic women" and states as a goal, "to increase the number of Democratic women in public office."¹²⁸ In particular, citing IRS training documents, Ranking Member Sander Levin and Ranking Member Elijah Cummings argued that "the IRS

¹²³ *Id.*

¹²⁴ See H. COMM. ON OVERSIGHT & GOV'T REFORM MINORITY STAFF, IS ACORN INTENTIONALLY STRUCTURED AS A CRIMINAL ENTERPRISE? (July 23, 2009).

¹²⁵ See H. COMM. ON OVERSIGHT & GOV'T REFORM MINORITY STAFF, FOLLOW THE MONEY: ACORN, SEIU AND THEIR POLITICAL ALLIES (Feb. 18, 2010).

¹²⁶ See 155 Cong. Rec. H9700-01 (Sept. 17, 2009). The Democratic Members who opposed ACORN funding were Representatives Maloney (D-NY); Tierney (D-MA); Clay (D-MO); Cooper (D-TN); Speier (D-CA); Welch (D-VT); Levin (D-MI); Doggett (D-TX); Thompson (D-CA); Larson (D-CT); Blumenauer (D-OR); Kind (D-WI); and Schwartz (D-PA). *Id.*

¹²⁷ Transcribed interview of Robert Choi, Internal Revenue Serv., in Wash., D.C. (Aug. 21, 2013).

¹²⁸ Emerge America, www.emergeamerica.org (last visited Apr. 2, 2014).

instructed its screeners to single out for heightened scrutiny ‘Emerge’ organizations.”¹²⁹ The evidence, once more, fails to support their contention. The IRS did not target Emerge affiliate groups in any similar manner to Tea Party applicants.

The same training documents cited by congressional Democrats as proof of bipartisan IRS targeting clearly show differences between the treatment of Tea Party applications and those filed by Emerge affiliate. The IRS ordered its screeners to transfer Tea Party applications to a special group for “secondary screening,” but it asked the screeners to merely “flag” Emerge groups.¹³⁰ While another training document specifically offers the Tea Party as an example of an emerging issue, the Emerge affiliate groups were not referenced on the document.¹³¹

Democrats cite testimony from IRS employee Steven Grodnitzky to support their argument that the IRS engaged in bipartisan targeting. Ranking Member Cummings referenced this testimony when questioning Acting IRS Commissioner Daniel Werfel during his unsolicited testimony before the Committee on July 17, 2013.¹³² Although Grodnitzky did testify that some liberal applications experienced a three-year delay,¹³³ he also gave testimony that contradicts the Democrats’ manufactured narrative. Grodnitzky testified that unlike the Tea Party cases, which were filed by unaffiliated groups with similar ideologies, the Emerge cases were affiliated entities with different “posts” in each state.¹³⁴ He also testified that unlike the Tea Party applications, where the IRS was focused on political speech, the central issue in the Emerge applications was that the groups were conveying an impermissible private benefit upon the Democratic Party.¹³⁵ Finally, Grodnitzky testified that there were far fewer Emerge cases than Tea Party applications.¹³⁶ While Grodnitzky’s testimony supports a conclusion that specific and objective concerns at the IRS led to scrutiny and delayed applications from Emerge affiliates, it does not support a parallel between these organizations and what the IRS did to Tea Party applicants.

Emerge existed as a series of affiliated organizations. One IRS employee testified that whereas the Tea Party applicants waited years for IRS action, some of the Emerge applications were approved by Cincinnati IRS employees in a “matter of hours.”¹³⁷ But the IRS eventually reversed course, out of concern about impermissible private benefit. Because Emerge affiliates were seen as essentially the same organization, the IRS wanted to flag new affiliates to ensure that these new applications were considered in a consistent manner. Testimony from IRS employee, Amy Franklin Giuliano, explains why the Emerge applicants “were essentially the same organization.”¹³⁸ She testified:

¹²⁹ Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov’t Reform Democrats, New Documents Highlight IRS Scrutiny of Progressive Groups (Aug. 20, 2013).

¹³⁰ Internal Revenue Serv., Screening Workshop Notes (July 28, 2010). [IRSR 6703-04]

¹³¹ Internal Revenue Serv., Heightened Awareness Issues. [IRSR 6655-72]

¹³² See July 17th Hearing, *supra* note 25.

¹³³ Transcribed interview of Steven Grodnitzky, Internal Revenue Serv., in Wash., D.C. (July 16, 2013).

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Transcribed interview of Amy Franklin Giuliano, Internal Revenue Serv., in Wash., D.C. (Aug. 9, 2013).

¹³⁸ Transcribed interview of Amy Franklin Giuliano, Internal Revenue Serv., in Wash., D.C. (Aug. 9, 2013).

Q The reason that the other five cases would be revoked if that case the Counsel's Office had was denied, was that because they were affiliated entities?

A It is because they were essentially the same organization. I mean, every – the applications all presented basically identical facts and basically identical activities.

Q And the groups themselves were affiliated.

A And the groups themselves were affiliated, yes.¹³⁹

Giuliano also told the Committee that the central issue in these cases was not impermissible political speech activity – as it was with the Tea Party applications – but instead private benefit. She testified:

Q The issue in the case you reviewed in May of 2010 was private benefit.

A Yes.

Q As opposed to campaign intervention.

A We considered whether political campaign intervention would apply, and we decided it did not.¹⁴⁰

Most striking, Giuliano told the Committee that the career IRS experts recommended *denying* an Emerge application, whereas the experts recommended *approving* the Tea Party application.¹⁴¹ Even then, despite the recommended approval, the Tea Party applications still sat unprocessed in the IRS backlog.

Documents and testimony received by the Committee demonstrate that the IRS never engaged in systematic targeting of Emerge applicants as it did with Tea Party groups. IRS scrutiny of Emerge affiliates appears to have been based on objective and non-controversial concerns about impermissible private benefit. Taken together, this evidence strongly rebuts any Democratic claims that the IRS treated Emerge affiliates similarly to Tea Party applicants.

The IRS treated Tea Party applicants differently than Occupy groups

Finally, congressional Democrats defend the IRS targeting of Tea Party organization by arguing that liberal-oriented Occupy groups were similarly targeted.¹⁴² Contrary to these claims, evidence available to the Committee indicates that the IRS did not target Occupy groups.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² July 18th Hearing, *supra* note 28

TIGTA found that none of the applications in the IRS backlog were filed by groups with “Occupy” in their names.¹⁴³ Several IRS employees interviewed by the Committee testified that they were not even aware of any Occupy entry on the BOLO list until after congressional Democrats released the information in June 2013.¹⁴⁴ Further, there is no indication that the IRS systematically scrutinized and delay Occupy applications, or that the IRS subjected Occupy applicants to burdensome and intrusive information requests. To date, the Committee has not received evidence that “Occupy Wall Street” or an affiliate organization even applied to the IRS for non-profit status.

Conclusion

Democrats in Congress and the Administration have perpetrated a myth that the IRS targeted both conservative and liberal tax-exempt applicants. The targeting is a “phony scandal,” they say, because the IRS did not just target Tea Party groups, but it targeted liberal and progressive groups as well. Month after month, in public hearings and televised interviews, Democrats have repeatedly claimed that progressive groups were scrutinized in the same manner as conservative groups.¹⁴⁵ Because of this bipartisan targeting, they conclude, there is not a “smidgeon of corruption” at the IRS.

The problem with these assertions is that they are simply not accurate. The Committee’s investigation shows that the IRS sought to identify and single out Tea Party applications. The facts bear this out. The initial “test” applications were filed by Tea Party groups. The initial screening criteria identified only Tea Party applications. The revised criteria still intended to identify Tea Party activities. The IRS’s internal review revealed that a substantial majority of applications were conservative. In short, the IRS treated conservative tax-exempt applications in a manner distinct from other applications, including those filed by liberal groups.

Evidence available to the Committee contradicts Democrats’ claims about bipartisan targeting. Although the IRS’s BOLO list included entries for liberal-oriented groups, only Tea Party applicants received systematic scrutiny because of their political beliefs. Public and nonpublic analyses of IRS data show that the IRS routinely approved liberal applications while holding and scrutinizing conservative applications. Even training documents produced by the IRS indicate stark differences between liberal and conservative applications: “‘progressive’ applications are not considered ‘Tea Parties.’”¹⁴⁶ These facts show one unyielding truth: Tea Party groups were target because of their political beliefs, liberal groups were not.

¹⁴³ “*The IRS’s Systematic Delay and Scrutiny of Tea Party Applications*”: *Hearing before the H. Comm. on Oversight & Gov’t Reform*, 113th Cong. (2013) (statement of J. Russell George).

¹⁴⁴ *See, e.g.*, Transcribed interview of Elizabeth Kastenberg, Internal Revenue Serv., in Wash., D.C. (July 31, 2013); Transcribed interview of Sharon Light, Internal Revenue Serv., in Wash., D.C. (Sept. 5, 2013); Transcribed interview of Joseph Grant, Internal Revenue Serv., in Wash., D.C. (Sept. 25, 2013); Transcribed interview of Nancy Marks, Internal Revenue Serv., in Wash., D.C. (Oct. 8, 2013); Transcribed interview of Justin Lowe, Internal Revenue Serv., in Wash., D.C. (July 23, 2013).

¹⁴⁵ Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov’t Reform Democrats, *New Documents Highlight IRS Scrutiny of Progressive Groups* (Aug. 20, 2013).

¹⁴⁶ Internal Revenue Serv., *Screening Workshop Notes* (July 28, 2010). [IRSR 6703-04]

A. Timeline for the 3 exemption applications that were referred to EOT from EOD

<p>1. Prescott Tea Party, LLC</p> <p>The Applicant sought exemption under §501(c)(3) formed to educate the public on current political issues, constitutional rights, fiscal responsibility, and support for a limited government. It planned to undertake this educational activity through rallies, protests, educational videos and through its website. The organization also intended to engage in legislative activities. The case was closed FTE on May 26, 2010.</p>	<p>2. American Junto, Inc.</p> <p>The organization applied for exemption under §501(c)(3), stating it was formed to educate voters on current social and political issues, the political process, limited government, and free enterprise. It also indicated it would be involved in political campaign intervention and legislative activities. The case was closed FTE on January 4, 2012.</p>	<p>3. Albuquerque Tea Party, Inc.</p> <p>The organization applied for exemption under §501(c)(4) as a social welfare organization for purposes of issue advocacy and education. A proposed adverse is being prepared on the basis that the organization's primary activity is political campaign intervention supporting candidates associated with a certain political faction, its educational activities are partisan in nature, and its activities are intended to benefit candidates associated with a specific political faction as opposed to benefiting the community as a whole.</p>
<p><u>Timeline:</u></p> <p><u>2009</u></p> <ul style="list-style-type: none"> • 11/09/2009 → Application received by EOD. • 12/18/2009 → Case assigned to EOD specialist. <p><u>2010</u></p> <ul style="list-style-type: none"> • 3/08/2010 → <u>Date the case was referred to EOT.</u> Case pulled from 	<p><u>Timeline:</u></p> <p><u>2010</u></p> <ul style="list-style-type: none"> • 2/11/2010 → Application was received by EOD. 	<p><u>Timeline:</u></p> <p><u>2010</u></p> <ul style="list-style-type: none"> • 1/4/2010 → Application was received by EOD.

<p>EOD files to send to EOT for review.</p> <ul style="list-style-type: none"> • 3/11/2010 → EOD prepared a memo to transfer the case to EOT as part of EOT's review of some of the "advocacy organization" cases being received in EOD. • 4/02/2010 → Case assigned to EOT. • 4/14/2010 → 1st development letter mailed to Taxpayer (Response due by 5/06/2010). • 5/26/2010 → Case closed FTE (90-day suspense date ended on 8/26/2010). 	<ul style="list-style-type: none"> • 4/11/2010 → Case assigned to a specialist in EOD. • 4/25/2010 → EOD emailed EOT (Manager Steve Grodnitzky) regarding who EOD should contact for help on "advocacy organization" cases being held in screening. • 5/25/2010 → EOT requested a §501(c)(3) "advocacy organization" case be transferred from EOD to replace Prescott Tea Party, LLC, a §501(c)(3) advocacy organization applicant that had been closed FTE. • 6/25/2010 → Memo proposing to transfer the case to EOT was prepared by EOD specialist. • 6/30/2010 → <u>Date the case was referred to EOT.</u> • 7/7/2010 → 1st development letter sent (Response due by 7/28/2010). • 7/28/2010 → EOT received Taxpayer's response to 1st development letter. 	<ul style="list-style-type: none"> • 2/22/2010 → Case assigned to EOD specialist. • 3/11/2010 → EOD prepared memo to transfer the case to EOT as part of EOT's help reviewing the "advocacy organization" cases received in EOD. • 4/02/2010 → Case assigned to EOT. • 4/21/2010 → 1st development letter sent (Response due by 5/12/2010). • 4/29/2010 → Taxpayer requested extension for time to respond to 1st development letter. TLS granted extension until 6/11/2010. • 6/8/2010 → EOT received the Taxpayer's response to 1st development letter.
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	<p><u>2011</u></p> <ul style="list-style-type: none">• 4/27/2011 → 2nd development letter sent (Response due by 5/18/2011).• 5/18/2011 → EOT received Taxpayer's response to 2nd development letter.• 8/10/2011 → EOT met with Chief Counsel to discuss the "advocacy organization" cases pending in EOT, including American Junto (and Albuquerque Tea Party, discussed next). EOT and Counsel determined that additional development should be conducted on both.• 11/18/2011 → 3rd development letter sent (Response due by 12/9/2011).• 12/16/2011 → TLS left voicemail with Taxpayer to determine if the organization had responded or planned to respond to 3rd development letter.• 12/22/2011 → TLS again contacted the Taxpayer to determine if the organization was going to respond to 3rd development letter. The Taxpayer indicated it was not going to respond and that the organization had	<p><u>2011</u></p> <ul style="list-style-type: none">• 5/13/2011 → File memo forwarded to Guidance for review.• 6/27/2011 → The case file and file memo were forwarded to Chief Counsel for review and comments regarding EOT's proposed recognition of exemption.• 8/10/2011 → EOT met with Chief Counsel to discuss the "advocacy organization" cases pending in EOT including Albuquerque Tea Party (and American Junto, discussed previously). EOT and Counsel determined additional development should be conducted on both.• 11/16/2011 → 2nd development letter sent to the Taxpayer (Response due by 12/7/2011).• 11/30/2011 → TLS spoke with Taxpayer and granted a 30-day extension to respond to the 2nd development letter. Extension was granted until 1/6/2012.
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	dissolved. An FTE letter was prepared.	
	<u>2012</u> <ul style="list-style-type: none">• 1/4/2012 → FTE letter mailed to the Taxpayer (90-day suspense date ends 4/4/2012).	<u>2012</u> <ul style="list-style-type: none">• 1/11/2012 → EOT received Taxpayer's response to 2nd development letter.• 1/24/2012 → After review of file, TLS recommended a proposed denial. The TLS is currently drafting a proposed denial.

B. Timeline for informal technical assistance which was provided by EOT Personnel to EOD between May 2010 to October 2010

- 5/17/2010 → EOD personnel (Liz Hofacre) contacted and referred 2 proposed development letters to an EOT personnel (Chip Hull) for informal review.
- Between May, 2010 to October 2010, EOT personnel (Chip Hull) informally reviewed approximately 26 case exemption applications and development letters on behalf of EOD. Mr. Hull provided feedback on most of the 26 exemption applications.

C. Timeline for preparation of the Advocacy Organization Guide sheet

- Late July 2011 - started drafting the guide sheet to help EOD personnel working advocacy organization cases in differentiating between the different types of advocacy and explaining the advocacy rules pertaining to various exempt organizations.
- Early November 2011 - forwarded to EOD for comments. No comments were received.

Increase in (c)(3)/(c)(4) Advocacy Org. Applications

Background:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
 - “Tea Party,” “Patriots” or “9/12 Project” is referenced in the case file
 - Issues include government spending, government debt or taxes
 - Education of the public by advocacy/lobbying to “make America a better place to live”
 - Statements in the case file criticize how the country is being run
- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved.
- Two sample cases were transferred to EOT, a (c)(3) and a (c)(4).
 - The (c)(4) stated it will conduct advocacy and political intervention, but political intervention will be 20% or less of activities. A proposed favorable letter has been sent to Counsel for review.
 - The (c)(3) stated it will conduct “insubstantial” political intervention and it has ties to politically active (c)(4)s and 527s. A proposed denial is being revised by TLS to incorporate the org.’s response to the most recent development letter.
- EOT is assisting EOD by providing technical advice (limited review of application files and editing of development letters).

EOD Request:

- EOD requests guidance in working these cases in order to promote uniform handling and resolution of issues.

Options for Next Steps:

- Assign cases for full development to EOD agents experienced with cases involving possible political intervention. EOT provides guidance when EOD agents have specific questions.
- EOT composes a list of issues or political/lobbying indicators to look for when investigating potential political intervention and excessive lobbying, such as reviewing website content, getting copies of educational and fundraising materials, and close scrutiny of expenditures.
- Establish a formal process similar to that used in healthcare screening where EOT reviews each application on TEDS and highlights issues for development.
- Transfer cases to EOT to be worked.
- Include pattern paragraphs on the political intervention restrictions in all favorable letters.
- Refer the organizations that were granted exemption to the ROO for follow-up.

Cautions:

- These cases and issues receive significant media and congressional attention.
- The determinations process is representational, therefore it is extremely difficult to establish that an organization will intervene in political campaigns at that stage.

**EO Technical
Significant Case Report
(August 31, 2011)**

- 21 open SCs

A. Open SCs:

	Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action	Being Elevated to TEGE Commissioner This Month
1.	Political Advocacy Organizations	T2/Ron Shoemaker	6103 [REDACTED] 61... [REDACTED]	4/2/2010	Whether a tea party organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4)	Chip Hull & Hilary Goehausen	3/31/2011 (Orig) 05/31/2011 (Rev) 07/31/2011 (Rev) 10/30/2011 (Rev) 12/31/2011 (Rev)	Developing both a (c)(3) and (c) (4) cases. Proposed (c)(4) favorable is currently being reviewed. Proposed denial currently being reviewed on (c)(3). Cases were discussed with Judy Kindell on 04/06/11. Judy requested staff to get additional information from taxpayers regarding certain activities. Development letters were sent. Proposed favorable (c)(4) ruling forwarded to Chief Counsel for comments on 05/04/11. Information from (c)(3) organization regarding activities due on 05/18/2011.Waiting on taxpayer response. : Met with Director EO on June 29, 2011. Met with Counsel on 8/10/11 to discuss the cases; Counsel recommended further development of the cases by getting information on the organizations' 2010 activities. Counsel gave us directions on the type of information needed. [REDACTED] Next Action: [REDACTED]	No

CASE NAME: (1) [REDACTED] (501(c)(3) applicant), (2) [REDACTED] [REDACTED] (501(c)(4) applicant), (3) [REDACTED] (501(c)(3) applicant) TIN/EIN: [REDACTED] and [REDACTED] POA: None	TAX PERIODS: [REDACTED] EARLIEST STATUTE DATE:
FUNCTION REPORTING: POD: Washington, D.C.	INITIAL REPORT X FOLLOW-UP REPORT FINAL REPORT
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers Potentially involves large dollars (\$10M or greater) Other (explain in Case Summary)	
FORM TYPE(S): (1) Form 1023. (2) Form 1024	START DATE: 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > \$10M) : Unknown	CRIMINAL REFERRAL? Unknown IF YES, WHEN? Freeze Code TC 914 (Yes or No)
CASE OR ISSUE SUMMARY: The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Met with J. Kindell to discuss organizations (2) and (3) and Service position. Ms. Kindell recommended additional development re: activities, then forward to Chief Council. Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – proposed favorable 501(c)(4) ruling forwarded to Chief Council for comment on 06/16/2011. Organization (3) – additional information was received. Proposed denial was revised and forwarded for review 07/19/2011. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	

<p>SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) – Wait on comments from Counsel. Organization (3) Await the results of review on the revised proposed denial. .Continue coordinated review of applications in EO Determinations.</p>	<p>ESTIMATED CLOSURE DATE: July 31 , 2011</p>
<p>BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.</p>	
<p>SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2</p>	<p>MANAGER: RONALD SHOEMAKER, SE:T:EO:RA:T:2</p>
<p>DATE: June 17, 2011</p>	

CASE NAME: (1) [REDACTED] 6103 (501)(c)(3) applicant), Closed FTE. (2) [REDACTED] 6103 (501)(c)(4) applicant) Open. (3) [REDACTED] 6103 (501)(c)(3) applicant) Closed FTE TIN/EIN: [REDACTED] 6103 and [REDACTED] 6103 POA: None	TAX PERIODS: 2009 and forward EARLIEST STATUTE DATE:
FUNCTION REPORTING: POD: Washington, D.C.	INITIAL REPORT X FOLLOW-UP REPORT FINAL REPORT
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers Potentially involves large dollars (\$10M or greater) Other (explain in Case Summary)	
FORM TYPE(S): (1) Form 1023 (2) Form 1024	START DATE: 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > \$10M) : Unknown	CRIMINAL REFERRAL? Unknown IF YES, WHEN? Freeze Code TC 914 (Yes or No)
CASE OR ISSUE SUMMARY: These organizations are "advocacy organizations," and although are separately organized, they appear to be part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati has in its inventory a number of applications from these types of organizations that applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations that applied for recognition of exemption under section 501(c)(4) as social welfare organizations.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – [REDACTED] 6103 - [REDACTED] Organization (2) – [REDACTED] 6103 [REDACTED] 501(c)(4) [REDACTED] [REDACTED]	

[REDACTED]

SIGNIFICANT NEXT STEPS, IF ANY: Organization (2): [REDACTED] 6103 - 501(c)(4) - [REDACTED] [REDACTED]	ESTIMATED CLOSURE DATE: December 31, 2012
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BARRIERS TO RESOLUTION, IF ANY:
Concerns are whether the organizations are primarily involved in political activities and whether substantial private benefit exists.

SUBMITTED BY: Hilary Goehausen, SE:T:EO:RA:T:1	MANAGER: LIZ KASTENBERG, SE:T:EO:RA:T:2
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DATE: September 18, 2012

From: Kall Jason C
Sent: Tuesday, January 10, 2012 9:09 PM
To: Lerner Lois G
Cc: Ghougasian Laurice A; Fish David L; Paz Holly O; Downing Nanette M
Subject: Workplan and background on how we started the self declarer project

Lois,

I found the string of e-mails that started us down the path of what has become the c-4, 5, 6 self declarer project. Our curiosity was not from looking at the 990 but rather data on c-4 self declarers.

Jason Kall

Manager, EO Compliance Strategies and Critical Initiatives
[REDACTED]

From: Chasin Cheryl D
Sent: Thursday, September 16, 2010 8:59 AM
To: Lerner Lois G; Kindell Judith E; Ghougasian Laurice A
Cc: Lehman Sue; Kall Jason C; Downing Nanette M
Subject: RE: EO Tax Journal 2010-130

That's correct. These are all status 36 organizations, which means no application was filed.

Cheryl Chasin

[REDACTED] (phone)
[REDACTED] (fax)

From: Lerner Lois G
Sent: Thursday, September 16, 2010 9:58 AM
To: Chasin Cheryl D; Kindell Judith E; Ghougasian Laurice A
Cc: Lehman Sue; Kall Jason C; Downing Nanette M
Subject: Re: EO Tax Journal 2010-130

Ok guys. We need to have a plan. We need to be cautious so it isn't a per se political project. More a c4 project that will look at levels of lobbying and pol. activity along with exempt activity. Cheryl- I assume none of those came in with a 1024?
Lois G. Lerner-----
Sent from my BlackBerry Wireless Handheld

From: Chasin Cheryl D
To: Lerner Lois G; Kindell Judith E; Ghougasian Laurice A
Cc: Lehman Sue; Kall Jason C; Downing Nanette M
Sent: Wed Sep 15 14:54:38 2010
Subject: RE: EO Tax Journal 2010-130

It's definitely happening. Here are a few organizations (501(c)(4), status 36) that sure sound to me like they are engaging in political activity:

[REDACTED]

I've also found (so far) 94 homeowners and condominium associations, a VEBA, and legal defense funds set up to benefit specific individuals.

Cheryl Chasin

[REDACTED] (phone)
[REDACTED] (fax)

From: Lerner Lois G
Sent: Wednesday, September 15, 2010 1:51 PM
To: Kindell Judith E; Chasin Cheryl D; Ghougasian Laurice A
Cc: Lehman Sue; Kall Jason C; Downing Nanette M
Subject: RE: EO Tax Journal 2010-130

I'm not saying this is correct--but there is a perception out there that that is what is happening. My guess is most who conduct political activity never pay the tax on the activity and we surely should be looking at that. Wouldn't that be a surprising turn of events. My object is not to look for political activity--more to see whether self-declared c4s are really acting like c4s. Then we'll move on to c5,c6,c7--it will fill up the work plan forever!

Lois G. Lerner
Director, Exempt Organizations

From: Kindell Judith E
Sent: Wednesday, September 15, 2010 1:03 PM
To: Lerner Lois G; Chasin Cheryl D; Ghougasian Laurice A
Cc: Lehman Sue
Subject: RE: EO Tax Journal 2010-130

My big concern is the statement "some (c)(4)s are being set up to engage in political activity" - if they are being set up to engage in political campaign activity they are not (c)(4)s. I think that Cindy's people are keeping an eye out for (c)(4)s set up to influence political campaigns, but we might want to remind them. I also agree that it is about time to start looking at some of those organizations that file Form 990 without applying for recognition -whether or not they are involved in politics.

From: Lerner Lois G
Sent: Wednesday, September 15, 2010 12:27 PM

To: Chasin Cheryl D; Ghougasian Laurice A; Kindell Judith E
Cc: Lehman Sue
Subject: FW: EO Tax Journal 2010-130

Not sure you guys get this directly. I'm really thinking we do need a c4 project next year

Luis J. Lerner
Director, Exempt Organizations

From: paul streckfus [REDACTED]
Sent: Wednesday, September 15, 2010 12:20 PM
To: paul streckfus
Subject: EO Tax Journal 2010-130

*From the Desk of Paul Streckfus,
Editor, EO Tax Journal*

Email Update 2010-130 (Wednesday, September 15, 2010)
Copyright 2010 Paul Streckfus

Yesterday, I asked, "Is 501(c)(4) Status Being Abused?" I can hardly keep up with the questions and comments this query has generated. As noted yesterday, some (c)(4)s are being set up to engage in political activity, and donors like them because they remain anonymous. Some commenters are saying, "Why should we care?", others say these organizations come and go with such rapidity that the IRS would be wasting its time to track them down, others say (c)(3) filing requirements should be imposed on (c)(4)s, and so it goes.

Former IRSer Conrad Rosenberg seems to be taking a leave them alone view:

"I have come, sadly, to the conclusion that attempts at revocation of these blatantly political organizations accomplish little, if anything, other than perhaps a bit of *in terrorem* effect on some other (usually much smaller) organizations that may be contemplating similar behavior. The big ones are like balloons -- squeeze them in one place, and they just pop out somewhere else, largely unscathed and undaunted. The government expends enormous effort to win one of these cases (on very rare occasion), with little real-world consequence. The skein of interlocking 'educational' organizations woven by the fabulously rich and hugely influential Koch brothers to foster their own financial interests by political means ought to be Exhibit One. Their creations operate with complete impunity, and I doubt that potential revocation of tax exemption enters into their calculations at all. That's particularly true where deductibility of contributions, as with (c)(4)s, is not an issue. Bust one, if you dare, and they'll just finance another with a different name. I feel for the IRS's dilemma, especially in this wildly polarized election year."

A number of individuals said the requirements for (c)(4)s to file the Form 1024 or the Form 990 are a bit of a muddle. My understanding is that (c)(4)s need not file a Form 1024, but generally the IRS won't accept a Form 990 without a Form 1024 being filed. The result is that attorneys can create new (c)(4)s every year to exist for a short time and never file a 1024 or 990. However, the IRS can claim the organization is subject to tax (assuming it becomes aware of its existence) and then the organization must prove it is exempt (by essentially filing the information required by Form 1024 and maybe 990). Not being sure of the correctness of my understanding, I went to the only person who may know more about EO tax law than Bruce Hopkins, and got this response from Marc Owens:

"You are sort of close. It's not quite accurate to state that a (c)(4) 'need not file a Form 1024.' A (c)(4) is not subject to IRC 508, hence it is not required to file an application for tax-exempt status within a particular period of time after its formation. Such an organization is subject, however, to Treas. Reg. Section 1.501(a)-1(a)(2) and (3) which set forth the general requirement that in order to be exempt, an organization must file an application, but for which no particular time period is specified. Once a would-be (c)(4) is formed and it has completed one fiscal year of life, and assuming that it had revenue during the fiscal year, it is required to file a tax return.

move things along. the 'clean" sheet doesn't give me any sense unless I go back to previous SCR's.

I've added Sharon so she can see what kinds of things I'm interested in.

Lois G. Lerner

Director, Exempt Organizations

From: Paz Holly O
Sent: Wednesday, February 02, 2011 11:02 AM
To: Lerner Lois G; Seto Michael C
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
Subject: RE: SCR Table for Jan. 2011

Tea Party - Cases in Determs are being supervised by Chip Hull at each step - he reviews info from TPs, correspondence to TPs, etc. No decisions are going out of Cincy until we go all the way through the process with the c3 and c4 cases here. I believe the c4 will be ready to go over to Judy soon.

HMO case (██████████) - When you say to push for the next Counsel meeting, with whom in Counsel are you referring? The plan had been for Sarah to meet with Wilkins and Nan on this. We think this has not happened but have not heard directly (unless Sarah has responded to your recent email on this case). I don't know that we at this level can drive that meeting.

██████████ - I will reach out to Phil to see if Nan has seen it. She was involved in the past but I don't know about recently.

On ██████████ (religious order), proposed denials typically do not go to Counsel. Proposed denial goes out, we have conference, then final adverse goes to Counsel before that goes out. We can alter that in this case and brief you after we have Counsel's thoughts.

██████████ was not elevated at Mike Daly's direction. He had us elevate it twice after the litigation commenced but said not to continue after that unless we are changing course on the application front and going forward with processing it.

██████████ - Our general criteria as to whether or not to elevate an SCR to Sarah/Joseph and on up is to only elevate when there has been action. ██████████ was elevated this month because it was just received. We will now begin to review the 1023 but won't have anything to report for sometime. We will elevate again once we have staked out a position and are seeking executive concurrence.

We (Mike and I) keep track of whether estimated completion dates are being moved by means of a track changes version of the spread sheet. When next steps are not reflected as met by the estimated time, we follow up with the appropriate managers or Counsel to determine the cause for the delay and agree on a due date.

From: Lerner Lois G
Sent: Tuesday, February 01, 2011 6:28 PM
To: Seto Michael C
Cc: Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
Subject: RE: SCR Table for Jan. 2011

Thanks--a couple comments

1. Tea Party Matter very dangerous. This could be the vehicle to go to court on the issue of whether Citizen's United overturning the ban on corporate spending applies to tax exempt rules. Counsel and Judy Kindell need to be in on this one please needs to be in this. Cincy should probably NOT have these cases--Holly please see what exactly they have please.
2. We need to push for the next Counsel meeting re: the HMO case Justin has. Reach out and see if we can set it up.
3. ██████--has that gone to Nan Marks? It says Counsel, but we'll need her on board. In all cases where it says Counsel, I need to know at what level please.
4. I assume the proposed denial of the religious or will go to Counsel before it goes out and I will be briefed?
5. I think no should be yes on the elevated to TEGE Commissioner slot for the Jon Waddel case that's in litigation--she is well aware.
6. Case involving healthcare reconciliation Act needs to be briefed up to my level please.
7. SAME WITH THE NEWSPAPER CASES--NO GOING OUT WITHOUT BRIEFING UP PLEASE.
8. The 3 cases involving ████████████████████ should be briefed up also.
9. ██████████ case--why "yes-for this month only" in TEGE Commissioner block?

Also, please make sure estimated due dates and next step dates are after the date you send these. On a couple of these I can't tell whether stuff happened recently or not.

Question--if you have an estimated due date and the person doesn't make it, how is that reflected? My concern is that when Exam first did these, they just changed the date so we always looked current, rather than providing a history of what occurred. perhaps it would help to sit down with me and Sue Lehman--she helped develop the report they now use.

From: Seto Michael C
Sent: Tuesday, February 01, 2011 5:33 PM
To: Lerner Lois G
Cc: Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L
Subject: SCR Table for Jan. 2011

Here is the Jan. SCR summary.

Heightened Awareness Issues



OBJECTIVES

- What Are The Heightened Awareness Issues
- Definition and Examples of Each
- Issue Tracking and Notification
- What Happens When You See One?

What are Heightened Awareness Issues?

- TAG
- Emerging Issues
- Coordinated Issues
- Watch For Issues



Your Role

- Per IRM 1.54.1.6.1, a Front Line Employee Should Elevate the Following Matters Concerning Their Work:
 1. Unusual Issues that Prevent them from Completing Their Work.
 2. Issues Beyond Their Current Level of Training.
 3. Issues that Require Elevation in Accordance with Statute, Revenue Procedure, or Field Directive.

What are TAG Issues ?:

- Involves Abusive Tax Avoidance Transactions:
 1. Abusive Promoters
 2. Fake Determination Letters
- Activities are Fraudulent In Nature:
 1. Materially Misrepresented Operations or Finances.
 2. Conducting Activities Contrary to Tax Law (e.g. Foreign Conduits).
- Issues Involving Applicants with Potential Terrorist Connections:
 1. Cases with Direct Hits on OFAC
 2. Substantial Foreign Operations in Sanctioned Countries
- Processing is Governed by IRM 7.20.6

What Are Emerging Issues?

- Groups of Cases where No Established Tax Law or Precedent has been Established.
- Issues Arising from Significant Current Events (Doesn't Include Disaster Relief)
- Issues Arising from Changes to Tax Law
- Other Significant World Events

Emerging Issue Examples

- Tea Party Cases:
 1. High Profile Applicants
 2. Relevant Subject in Today's Media
 3. Inconsistent Requests for 501(c)(3) and 501(c)(4).
 4. Potential for Political/Legislative Activity
 5. Rulings Could be Impactful

Emerging Issue Examples Continued:

- Pension Trust 501(c)(2):
 1. Cases Involved the Same Law Firm
 2. High Dollar Amounts
 3. Presence of an Unusual Note Receivable

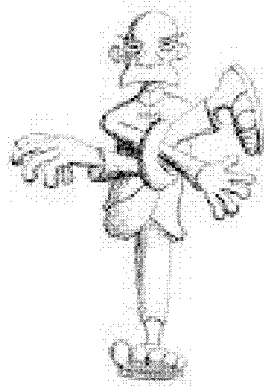


Emerging Issues Examples Continued

- Historical Examples:
 1. Foreclosure Assistance
 2. Carbon Credits
 3. Pension Protection Act
 4. Credit Counseling
 5. Partnership/Tax Credits
 6. Hedge Funds

What Are Coordinated Processing Issues?

- Cases with Issues Organized for Uniform Handling
- Involves Multiple Cases
- Existing Precedent or Guidance Does Exist



Coordinated Examples

- Break-up of a Large Group Ruling Where Subordinates are Seeking Individual Exemption.
- Multiple Entities Related Through a Complex Business Structure (e.g. Housing and Management Companies)
- Current Specialized Inventories

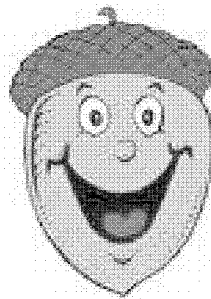
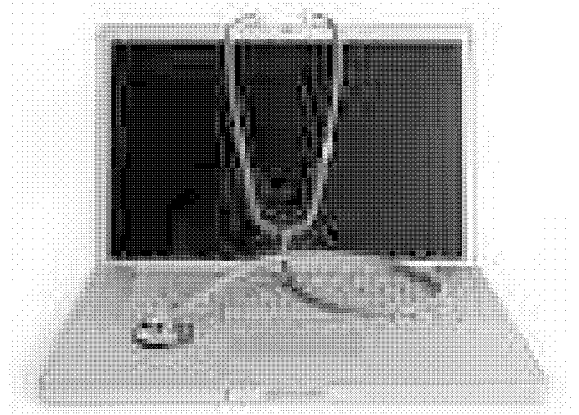
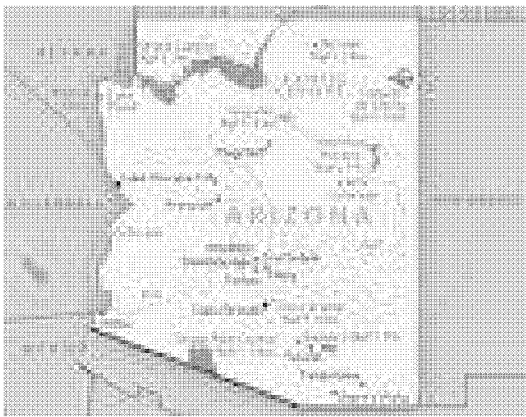
What is a Watch For Issue?



Watch For Issues:

- Typically Applications Not Yet Received
- Issues are the Result of Significant Changes in Tax Law
- Issues are the Result of Significant World Events
- Special Handling is Required when Applications are Received

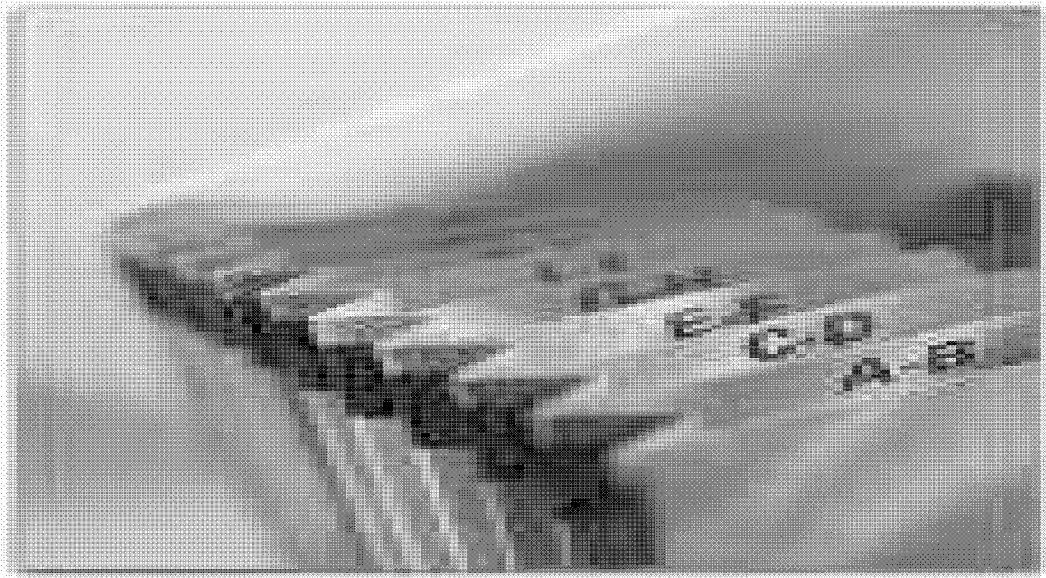
Watch For Examples



Watch For Examples Continued

- Successors to Acorn
- Electronic Medical Records
- Regional Health Information Organizations
- Organizations Formed as a Result of Controversy---- Arizona Immigration Law
- Other World Events that **Could** Result in an Influx of Applications

Tracking and Notification



Combined Excel Workbook

- Will Include Tabs for TAG, TAG Historical, Emerging Issues, Coordinated, and Watch For
- Tabs Will Include the Various Issues, Descriptions, and Guidance.
- A Designated Coordinator Will Maintain the Workbook and Disseminate Alerts in One Standard E-Mail.
- Mailbox: *TE/GE-EO-Determinations Questions

When You Spot Heightened Awareness Issues

- If a TAG Issue, follow IRM 7.20.6.
- If an Emerging Issue or Coordinated Processing Case, Complete the Required Referral Form and Submit to your Manager
- Watch For Issue Cases are Referred to your Manager

File 11 9 10

Tab 1 - TAG

ID	Transaction Name	Issue 1	Issue 2	Issue 3	Tax Law Issue	Name(s) of Organization	Address(es)	POA Name and Address	Promoter Name and Address	Person to Contact (Organization)	Related Organization(s)	TAG Group Contact Name	Open Cases	Category ID	Disposition
1	Corporation Sole	The AOI and application will refer to "corporation sole" or "corporate sole". Form 1023 may show only one person involved with the applicant. Titles like Overseer, Elder, Patriarch, Matriarch, Administrator, Pastor, etc.	The applicant may or may not request foundation status as a church.		Potentially abusive scheme										
3	fictitious exemption letter	If you run across a fictitious exemption letter, take the issue to your group manager so that it can be forwarded through management channels to the TAG Coordinator.			Fraud indications.										
4	Puerto Rico	Applicant usually has a Puerto Rico address. involve elderly housing for the very low income, operating a school.	and head-start programs. The return address on the original or photocopy of the envelope is usually of completes 1023 free of charge.	Federal government grants is listed as the primary source of income. We have also identified 4 cases where	Not yet determined.										

File 11 9 10

Tab 2 – TAG Historical

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
1	ID	Transaction Name	Issue	Issue 1	Issue 2	Issue 3	Tax Law Issue	Name(s) of Organization	Organization Address(es)	POA Name and Address	Promoter Name and Address	Person to Contact (Organization)	Related Organization Contact (G)	TAG Group Name	Open Cases	Tag Category ID	Disposition
2																	
3																	
4																	
5																	
6																	

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	
1	ID	Transaction Name	Issue	Issue 1	Issue 2	Issue 3	Tax Law Issue	Name(s) of Organization	Organization Address(es)	POA Name and Address	Promoter Name and Address	Person to Contact (Organization)	Related Organization (s)	TAG Group Contact Name	Open Cases Category ID	Tag	Disposition	
7	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
8	[REDACTED]	Testamentary Trusts (aka 63 Trusts)	[REDACTED]	Forms 1023 submitted by various banks including [REDACTED]. All are testamentary trusts. Some paid \$150 user fee and may or may not owe more - depends on how long ago the trust was funded.	These cases are basically NECTs but all of them have not filed Forms 990-PF as they are required to do. Some trusts filed Form 1041 and some did not. [REDACTED]	PF status is being requested. Case grade should be 12. Contributions paid out may exceed \$10,000 even though a \$150 user fee was paid.	Questionable financial data.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	2
9	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
10	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
1	ID	Transaction Name	Issue	Issue 1	Issue 2	Issue 3	Tax Law Issue	Name(s) of Organization	Organization Address(es)	POA Name and Address	Promoter Name and Address	Person to Contact (Organization)	Related Organization (s)	TAG Group Name	Open Cases	Category ID	Disposition
11	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
12	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
13	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
14	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
15	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
16	170	Progressive	Political activities	Common thread is the word "progressive". Activities appear to lean toward a new political party. Activities are partisan and appear as anti-Republican. You see references to "blue" as being "progressive".			Applicants submit Form 1023. Their "progressive" activities appear to show that (c)(3) may not be appropriate.										2
17	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
18	185	Cases	TAG Category: Same address. 176 cases using same address. Promoter was [REDACTED]. Addl info letter used by agents was coordinated with Headquarters and was received from Area Counsel. Some organizations dissociated themselves with [REDACTED]														5
19	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R
1	ID	Transaction Name	Issue	Issue 1	Issue 2	Issue 3	Tax Law Issue	Name(s) of Organization	Organization Address(es)	POA Name and Address	Promoter Name and Address	Person to Contact (Organization)	Related Organization (s)	TAG Group Contact Name	Open Cases	Category ID	Tag	Disposition
20																		

File 11 9 10

Tab 3 – Emerging Issues

	A	B	C	D	E	F	G	H
1	Issue Name	Issue Description	Issue Number		Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)	
2	501(c)(2)	These cases involve a commingled pension trust holding title to a high dollar note receivable secured by real estate. The application appear to be prepared from a template. The fund manager is usually [REDACTED]	x	x		Any future cases may be closed on merit if applicable. EOT determined these applications qualify under 501(c)(2). A referral was completed to address any EP concerns.	Closed	
3	Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).	EI-1	x		Any cases should be sent to Group 7822. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT.	Open	

File 11 9 10

Tab 4 – Coordinated Processing

	A	B	C	D	E	F	G
	Issue Name	Brief Issue Description	Issue Number		Actions Taken	Current Status (Opened or closed)	
1		[REDACTED]			[REDACTED]		
2		[REDACTED]			[REDACTED]		
3		[REDACTED]	2		[REDACTED]		

File 11 9 10

Tab 5 – Watch List

	A	B	C	D	E	F	G	H
1	Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)		
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software.		1 x	The is no specific guidance at this point. If you see a case, elevate it to your manager.	Open		
3	RHIO's	Organization's setup to electronically exchange healthcare data, called Regional Health Information Organizations (RHIOs), are requesting exemption under 501(c)(3).		2 x	These cases should be transferred to EOT.	Open		
4		[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]		
5	Healthcare legislation	Per Rob Choi email dated April 20, 2010, cases impacted by the Patient Protection and Affordable Care Act (Public Law 111-148) (PPACA) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (HCERA) are being coordinated with EOT.		4 2010 - #1	New applications are subject to secondary screening in Group 7821. Wayne Bothe is the coordinator.	Open-4/20/10		
6		[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]		

	A	B	C	D	E	F	G	H
1	Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)		
7	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
8	Medical Marijuana	Email dated 7/15/10. Look for cases involving Medical Marijuana		7 2010 - #1	Forward cases to processing who will forward the cases to Denise Tamayo, group 7888	Open-7-15-10		
9	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
10	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
11	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

	A	B	C	D	E	F	G	H
1	Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)		
12	Occupied Territory Advocacy	Email dated 8/6/10. Applications deal with disputed territories in the Middle East. Examples may be organizations named or connected with [REDACTED].XXXX (XXXX = a particular city). [REDACTED] Applications may be inflammatory, advocate a one sided point of view and promotional materials may signify propaganda.		11 2010 - #1	If you see these cases, please forward to the TAG Group, 7830.	Open- 8/6/10		
13	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]		
14	Accountable Care Organization (ACO)	Email dated 8/12/10. An ACO is a an entity created by the Affordable Care Act. These consist of groups of healthcare providers (hospitals and doctors) who have entered into an agreement with Medicare to have Medicare patients assigned to them. The amounts charged to Medicare for the ACO's patients are compared to certain benchmark levels set by Medicare. Medicare pays the ACO a percentage difference of the difference as incentive to cost savings. ACO's are not required to be tax exempt.		13 2010 - #1	These cases should be forwarded to Group 7821	Open- 8/12/10		
15	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]		
16	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]		

	A	B	C	D	E	F	G	H
	Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)		
1								
17								
18								

From: Kindell Judith E
Sent: Wednesday, July 18, 2012 10:54 AM
To: Lerner Lois G
Cc: Light Sharon P
Subject: Bucketed cases

Of the 84 (c)(3)

cases, slightly over half appear to be conservative leaning groups based solely on the name. The remainder do not obviously lean to either side of the political spectrum.

Of the 199 (c)(4)

cases, approximately 3/4 appear to be conservative leaning while fewer than 10 appear to be liberal/progressive leaning groups based solely on the name.

The remainder do not obviously lean to either side of the political spectrum.

File 112310
Tab 5 – Watch List

20101123

	A	B	C	D	E	F	G	H
1	Issue Name	Watch Issue Description	Issue Number		Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)	
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software.			1 x	The is no specific guidance at this point. If you see a case, elevate it to your manager.	Open	
3	RHIO's	Organization's setup to electronically exchange healthcare data, called Regional Health Information Organizations (RHIOs), are requesting exemption under 501(c)(3).			2 x	These cases should be transferred to EOT.	Open	
4								
5	Healthcare legislation	Per Rob Choi email dated April 20, 2010, cases impacted by the Patient Protection and Affordable Care Act (Public Law 111-148) (PPACA) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (HCERA) are being coordinated with EOT.			4 2010 - #1	New applications are subject to secondary screening in Group 7821. Wayne Bothe is the coordinator.	Open-4/20/10	
6								
7								
8	Medical Marijuana	Email dated 7/15/10. Look for cases involving Medical Marijuana			7 2010 - #1	Forward cases to processing who will forward the cases to Denise Tamayo, group 7888	Open-7-15-10	

- The emailed attachment outlines the overall process.
- Glenn deferred additional statements and/or questions to John Shafer on yesterday's developments; how they affect the screening process and timeline.
- Concerns can be directed to Glenn for additional research if necessary.

Current/Political Activities: Gary Muthert

- Discussion focused on the political activities of Tea Parties and the like-regardless of the type of application.
- If in doubt Err on the Side of Caution and transfer to 7822.
- Indicated the following names and/or titles were of interest and should be flagged for review:
 - 9/12 Project,
 - 6103
 - Progressive
 - 6103
 - Pink-Slip Program.
- Elizabeth Hofacre, Tea Party Coordinator/Reviewer
 - Re-empathize that applications with Key Names and/or Subjects should be transferred to 7822 for Secondary Screening. Activities must be primary.
 - "Progressive" applications are not considered "Tea Parties"

Disaster Relief: Renee Norton/Joan Kiser

- Advise audience that buzz words or phrases include:
 - "X" Rescue
 - References to the Gulf Coast, Oil Spills,
- Reminded screeners that Disaster Relief is controlled by 7838, and then forwarded to Group 7827, for Secondary Screening.
- Denied Expedites worked by initial screener:
 - Complete Expedite Denial CCR, place on left side of file.
 - Email Renee or Joan with specific reason why expedite was denied and disposition (i.e. AP, IP, 51).
 - Place Post-It on Orange Folder advising Karl
 - "Denied Expedite / Fwd to M Flammer."

Power of Attorneys: Nancy Heagney

- Form 2848 that references 990, 941 or the like should be
 - Printed and annotate on the bottom per procedures
 - Documentation on TEDS should be made.
 - See Interim Guidance located on Public Folders.

Closing Sheets: Gary Muthert

- Closing Sheets should not cover pertinent info on the AIS sheet or EDS' 8327.
- Case Grade and Data (e.g. NTEEs) must be correctly presented and accurately depict the case's complexity and purpose.
 - Inaccurate presentations create processing delays.
 - Steve Bowling, Mgr 7822 "Volumes of cases are graded incorrectly."
 - EDS and TEDS must Agree to achieve desire business results

Credit Counseling (CC)

Stephen Seok

- Re-stressed impact that section 501(q) had on purely educational cases.
 - Cases are fully developed as 501(q) Credit Counseling Cases.
 - Key analysis is whether financial education and/or counseling activities are "substantial".
 - Cases with financial education and/or financial counseling- substantial or insubstantial are still subject to Secondary Screening until further notice.
 - Continue to document the analysis as "Substantial" or "Insubstantial" on the CC Check-sheet.
 - Feedback on cases received is in process.

TAG

Jon Waddell

- The New List will be completed and issued this week- approximately 7/30/10.
- Sharing a Drive on the Server has created the delay/dilemma.
- Monthly Emails will restart shortly after the List's distribution.
- Listing will include the following:
 - Touch and Go, Emerging Issues and Issues to Watch For.
 - **6103** Cases* (Puerto Rico based low-income housing) are considered "Potential Abusive Cases".
 - **6103** Cases (Las Vegas, NV) should continue to be sent to TAG Group for re-screening

*LCD referrals are in process since both have questionable practices.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

June 26, 2013

The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515-6348

Dear Representative Levin:

This letter is in response to letters dated June 24, 2013 and June 26, 2013 regarding our recent audit report entitled "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review." We appreciate the opportunity to clarify our recent report in response to your questions.

TIGTA's audit report focused on criteria being used by the Internal Revenue Service (IRS) during the period of May 2010 through May 2012 regarding allegations that certain groups applying for tax-exempt status were being targeted. We reviewed all cases that the IRS identified as potential political cases and did not limit our audit to allegations related to the Tea Party. TIGTA concluded that inappropriate criteria were used to identify potential political cases for extra scrutiny – specifically, the criteria listed in our audit report. From our audit work, we did not find evidence that the criteria you identified, labeled "Progressives," were used by the IRS to select potential political cases during the 2010 to 2012 timeframe we audited. The "Progressives" criteria appeared on a section of the "Be On the Look Out" (BOLO) spreadsheet labeled "Historical," and, unlike other BOLO entries, did not include instructions on how to refer cases that met the criteria. While we have multiple sources of information corroborating the use of Tea Party and other related criteria we described in our report, including employee interviews, e-mails, and other documents, we found no indication in any of these other materials that "Progressives" was a term used to refer cases for scrutiny for political campaign intervention.

Based on the information you flagged regarding the existence of a "Progressives" entry on BOLO lists, TIGTA performed additional research which determined that six tax-exempt applications filed between May 2010 and May 2012 having the words "progress" or "progressive" in their names were included in the 298 cases the IRS identified as potential political cases. We also determined that 14 tax-exempt applications filed between May 2010 and May 2012 using the words "progress" or "progressive" in their names were not referred for added scrutiny as potential political cases. In total, 30 percent of the organizations we identified with the words "progress" or "progressive" in their names were processed as potential political cases. In

comparison, our audit found that 100 percent of the tax-exempt applications with Tea Party, Patriots, or 9/12 in their names were processed as potential political cases during the timeframe of our audit.

The following addresses the specific questions presented in your June 24, 2013 letter:

- Please describe in detail why your report dated May 14, 2013 omitted the fact that "Progressives" was used.

Our audit did not find evidence that the IRS used the "Progressives" identifier as selection criteria for potential political cases between May 2010 and May 2012. The focus of our audit was on whether the IRS: 1) targeted specific groups applying for tax-exempt status, 2) delayed processing of targeted groups' applications, and 3) requested unnecessary information from targeted groups. We determined the IRS developed and used inappropriate criteria to identify applications from organizations with the words Tea Party in their names. In addition, we found other inappropriate criteria that were used (e.g., 9/12, Patriots) to select potential political cases that were not included in any BOLO listings. The inappropriate criteria used to select potential political cases for review did not include the term "Progressives." The term "Progressives" appears, beginning in August 2010, in a separate section of the BOLO listings that was labeled "TAG [Touch and Go] Historical" or "Potential Abusive Historical." The Touch and Go group within the Exempt Organizations function Determinations Unit is a different group of specialists than the team of specialists that was processing potential political cases related to the allegations we audited.

- Did you investigate whether the criteria "Progressives" in the BOLO lists was developed in the same manner as you did for "Tea Party"? If not, why?

TIGTA did not audit how the criteria for the "Progressives" identifier were developed in the BOLO listings. We did not audit these criteria because it appeared in a separate section of the BOLO listings labeled as "Historical" (as described above) and we did not have indications or other evidence that it was in use for selecting potential political cases from May 2010 to May 2012.

- Please also explain why footnote 16 on page 6 was included in the audit report.

Footnote 16 was included in our report because TIGTA was aware of other named organizations being on BOLO listings that were not used for selecting cases related to political campaign intervention. TIGTA added this footnote to disclose that we did not audit whether the use of the other named organizations was appropriate. Following the publication of our audit report, we communicated information

regarding other names on the BOLO listings to Acting Commissioner Daniel Werfel, and, to the extent authorized by Title 26 U.S.C. § 6103, the Senate Committee on Finance and the House Committee on Ways and Means.

- If your organization overlooked the existence of the "Progressives" identifier, please describe in detail the process by which your organization investigated the BOLO lists created and circulated by the EO Determinations Unit.

As part of our audit, we reviewed the section of the BOLO listings that related to the specific criteria that the IRS stated were used to identify potential political cases for additional scrutiny. TIGTA also found that certain criteria (e.g., Patriots, 9/12, education of the public by advocacy/lobbying to "make America a better place to live," etc.) used to select potential political cases were not in any BOLO listings.

- Your report states that TIGTA "reviewed all 298 applications that had been identified as potential political cases as of May 31, 2012." (See page 10 of your report.) Your report includes the following breakdown of the potential political cases by organization name: (1) 96 were "Tea Party," "9/12," or "Patriots" organizations; and (2) 202 were "Other." Why did your report not identify that liberal organizations were also included among the 298 applications you reviewed?

TIGTA did not make any characterizations of any organizations in its audit report as conservative or liberal and believes it would be inappropriate for a nonpartisan Inspector General to make such judgments. Instead, our audit focused on the testing of 296 of the 298 potential political cases (two case files were incomplete) to determine if they were selected using the actual criteria that should have been used by the IRS from the beginning to screen potential political cases. Those criteria were whether the specific applications had indications of significant amounts of political campaign intervention (a term used in Treasury's Regulations). For 69 percent of the 296 cases, TIGTA found that there were indications of significant political campaign intervention, while 31 percent of the cases did not have that evidence. We also reviewed samples of 501 (c)(4) cases that were not identified as potential political cases to determine if they should have been. We estimate that more than 175 applications were not appropriately identified as potential political cases.

TIGTA's audit report determined that certain cases were referred for potential political review because their names used terms in the IRS selection criteria. We could not tell why other organizations were selected for additional scrutiny because the IRS did not document specifically why the cases were forwarded to a team of specialists. TIGTA recommended that the IRS do so in the future.

- Why did your testimony before the Committee on Ways and Means, the Oversight and Government Reform Committee, and the Senate Finance Committee not include a discussion of this aspect of the 298 applications?

When I testified, I attempted to convey that our report did not characterize organizations as conservative or liberal and I believe it would be inappropriate for a nonpartisan Inspector General to make such judgments.

- In the course of your audit, what did you discover about the processing of cases with the "Progressives" identifier? Were the cases processed in the same manner as the cases with the "Tea Party" and associated terms identifiers? Or were they processed differently?

TIGTA's audit did not review how TAG Historical cases (including the "Progressives" identifier) were processed because we did not find evidence that the IRS used the TAG Historical section of the BOLO listings as selection criteria for potential political cases between May 2010 and May 2012.

- If you are now auditing or investigating the processing of tax-exemption applications with the "Progressives" identifier, please provide the date that you started the audit or investigation and documentation to support this assertion. We also would like to know if you have briefed and alerted anyone at the IRS or Department of Treasury of such audit or investigation.

TIGTA's Office of Audit made a referral to our Office of Investigations on May 28, 2013 stating that our recently issued audit report noted the use of other named organizations on the BOLO listings that were not related to potential political cases reviewed as part of our audit. TIGTA's Office of Audit requested the Office of Investigations investigate to determine: 1) whether cases meeting the criteria on the "watch list" [a particular section of the BOLO listings] were routed for any additional or specialized review, or were simply referred to the same group for coordinated processing; 2) how many (if any) applications were affected by use of these criteria; 3) who was responsible for the inclusion of these criteria on the BOLO lists; and 4) whether these criteria were added to the BOLO for an improper purpose.

TIGTA also discussed the BOLO listings with the Acting Commissioner of the IRS on May 28, 2013, and expressed our concerns and the importance of the IRS following up on this matter. We notified the Acting Commissioner of our review of this matter on that date. In addition, I informed the Department of the Treasury's Chief of Staff and General Counsel about this matter.

Pursuant to authorization under Title 26 U.S.C. § 6103, we also provided these BOLO listings to House Ways and Means Committee Majority staff and the Senate Finance Committee Majority and Minority staff on June 7, 2013. We spoke to staff from House Ways and Means Committee Majority staff on the BOLOs on June 6 and June 11, 2013, and Senate Finance Committee Majority and Minority staff on June 10, 2013. We informed the staff we met with of our ongoing review of this matter.

Because of Privacy Act and Title 26 U.S.C. § 6103 restrictions, TIGTA cannot comment specifically on the status of any ongoing investigation. TIGTA will continue its efforts to provide independent oversight of IRS activities and accomplish its statutory mission through audits, inspections and evaluations, and investigations of criminal and administrative misconduct.

In your June 26, 2013 letter, you raised concerns about statements attributed to TIGTA sources by members of the media. Many of the press reports are not accurate. Please rely on our statements in this letter, my testimony, and our published materials for an accurate portrayal of our position.

We hope this information is helpful. If you or your staff has any questions, please contact me at 202-██████████ or Acting Deputy Inspector General for Audit Michael E. McKenney at 202-██████████.

Sincerely,

A handwritten signature in black ink that reads "J. Russell George". The signature is written in a cursive style with a large, prominent "J" and "G".

J. Russell George
Inspector General



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUN 24 2013

June 24, 2013

The Honorable Darrell Edward Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am responding to your request for documents relating to the screening and review process for applicants for tax-exempt status. I am providing copies of "Be on the Lookout" (BOLO) spreadsheets from which IRC section 6103 information has been redacted.

We are committed to providing you with as full a response as possible and to full cooperation with you and your staff to address this matter.

Our efforts to gather documents related to the TIGTA report 2013-10-053, dated May 14, 2013, are ongoing. These documents are being produced from the set that been reviewed to date. To the extent our continuing searches reveal additional BOLO lists responsive to your request, we will provide them.

The attached documents are indexed by Bates stamped numbers IRS0000001349 to IRS0000001537 and numbers IRS0000002479-IRS0000002591 and numbers IRS0000002705 to IRS0000002717.

I hope this information is helpful. If you have questions, please contact me or have your staff contact me at 202-██████████

Sincerely,

Leonard Oursler
Area Director

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Testimony of Carter Hull
Tax Law Specialist in EO Technical Unit
June 14, 2013

Q. Okay. Now, sir, in this period, roughly March of 2010, was there a time when someone in the IRS told you that you would be assigned to work on two Tea Party cases? 23

A. Yes.

Q. Do you recall when precisely you were told that you would be assigned two Tea Party cases?

A. When precisely, no.

Q. Sometime in –

A. Sometime in the area, but I did get, they were assigned to me in April.

Q. Okay, and just to be clear, April of 2010?

A. Yes.

Q. And sir, were they cases 501(c)(3)s, or 501(c)(4)s?

A. One was a 501(c)(3), and one was a 501(c)(4).

Q. So one of each?

A. One of each.

Q. What, to your knowledge, was it intentional that you were sent one of each?

A. Yes.

Q. Why was that?

A. I'm not sure exactly why. I can only make assumptions, but those are the two areas that usually had political possibilities.

Q. The point of my question was, no one ever explained to you that you were to understand and work these cases for the purpose of working similar cases in the future?

A. All right, I -- I was given -- they were going to be test cases to find out how we approached (c)(4), and (c)(3) with regards to political activities.

Q. Mr. Hull, before we broke, you were talking about these two cases being test cases, is that right? Do you recall that?

A. I realized that there were other cases. I had no idea how many, but there were other cases. And they were trying to find out how we should approach these organizations, and how we should handle them.

Q. And when you say these organizations, you mean Tea Party organizations?

A. The two organizations that I had.

Testimony of Carter Hull
Tax Law Specialist in EO Technical Unit
June 14, 2013

Q. Did you send out letters to both organizations the 501(c)(3) and 501(c)(4)?

A. I did.

Q. Did you get responses from both organizations?

A. I got response from only one organization.

Q. Which one?

A. The (c)(4).

Q. (C)(4). What did you do with the case that did not respond?

A. I tried to contact them to find out whether they were going to submit anything.

Q. By telephone?

A. By telephone. And I never got a reply.

Q. Then what did you do with the case?

A. I closed it, failure to establish.

Q. So at this time, when the (c)(3) became the FTE, did you begin to work only on the (c)(4)?

A. I notified my supervisor that I would need another (c)(3) if they wanted me to work one of each.

Q. How did you phrase the request to Ms. Hofacre? Was it -- were you asking for another (c)(3) Tea Party application?

A. I was asking for another (c)(3) application in the lines of the first one that she had sent up. I'm not sure if I asked her for a particular organization or a particular type of organization. I needed a (c)(3) that was maybe involved in political activities.

Q. And the first (c)(3), it was a Tea Party application?

A . Yes, it was.

Testimony of Elizabeth Hofacre
Revenue Agent in Determinations Unit
May 31, 2013

Q. And you mentioned the Tea Party cases. Do you have an understanding of whether the Tea Party cases were part of that grouping of organizations with political activity, or were they separate?

A. That was the group of political cases.

Q. So why do you call them Tea Parties if it includes more than –

A. Well, at that time that's all they were. That's all that we were -- that's how we were classifying them.

Q. In 2010, you were classifying any organization that had political activity as a Tea Party?

A. No, it's the latter. I mean, we were looking at Tea Parties. I mean, political is too broad.

Q. What do you mean when you say political is too broad?

A. No, because when -- what do you mean by "political"?

Q. Political activity -- if an application has an indication of political activity in it.

A. I mean, I was tasked with Tea Party, so that's all I'm aware of. So I wasn't tasked with political in general.

Q. Was there somebody who was tasked with political in general?

A. Not that I'm aware of.

Testimony of Ron Bell
Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. Okay. So at this point between October 2010 and July 2011, were all the Tea Party cases going to you?

A. Correct.

Q. And to your knowledge, during this same time period, was it only Tea Party cases that were being assigned to you or were there other advocacy cases that were part of this group?

A. Does that include 9/12 and Patriot?

Q. Yes, yes.

A. Yes.

Q. Okay. So it was just those type of cases, not other type of advocacy cases that maybe had a different -- a different political -- a liberal or progressive case?

A. Correct.

Q. Okay. And to your knowledge, when you were first assigned these cases in October 2010 and through July 2011, do you know what criteria the screening unit was using to identify the cases to send to you?

A. Yes.

Q. And what was that criteria?

A. It was solicited on the Emerging Issues tab of the BOLO report.

Q. And what did that say? What did that Emerging Issue tab on the BOLO say?

A. In July 20 –

Q. In October 2010 we'll start.

A. I don't know exactly what it said, but it just -- Tea Party cases, 9/12, Patriot.

Q. And do you recall how many cases you inherited from Ms. Hofacre?

A. 50 to 100.

Q. And were those only Tea Party-type cases as well?

A. To the best of my knowledge.

Testimony of Carter Hull
Tax Law Specialist in EO Technical Unit
June 14, 2013

- A. I'm not sure who mentioned Tea Party, but at that point Lois I remember breaking in and saying no, no, we don't refer to those as Tea Parties anymore. They are advocacy organizations.
- Q. And what was her tone when saying that?
- A. Very firm.
- Q. Did she explain why she wanted to change the reference?
- A. She said that the Tea Party was just too pejorative.

Testimony of Ron Bell
Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. And do you recall when that – when the BOLO was changed after – you said it was after the meeting [with Lerner], they changed the BOLO after the meeting, do you recall when?

A. July.

Q. Of 2011?

A. Yes, sir.

Q. And you were going to say the BOLO became more, and then you were cut off. What were you going to say?

A. It became more – they had more the advocacy, more organizations to the advocacy, like I mentioned about maybe a cat rescue that's advocating for let's not kill the cats that get picked up by the local government in whatever cities.

Testimony of Ron Bell
Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. Mr. Bell, in July 2011, when the BOLO was changed where they chose broad language, after that point, did you conduct secondary screening on any of the cases that were being held by you?

A. You mean the cases that I inherited from Liz are the ones that had already been put into the whatever timeframe, Tea Party advocacy, slash advocacy?

Q. Other type, yes.

A. No, these were new ones coming in that someone thought that they perhaps should be in the advocacy, slash, Tea Party inventory.

Q. Okay.

A. They were assigned to Group 7822, and I reviewed them, and you know, maybe some were, but a vast majority was like outside the realm we were looking for.

Q. And so they were like the . . . cat type cases you were discussing earlier?

A. Yes.

Q. After the July 2011 change to the BOLO, how long did you perform the secondary screening?

A. Up until July 2012.

Q. So, for a whole year?

A. Yeah.

Q. And you would look at the cases and see if they were not a Tea Party case, you would move that either to closing or to further development?

A. Yeah, and then the BOLO changed about midway through that timeframe.

Q. Okay.

A. To make it where we put the note on there that we don't need the general advocacy.

Q. And after the BOLO changed in January 2012, did that affect your secondary screening process?

A. There was less cases to be reviewed.

Q. Okay. So during this whole year, the Tea Party cases remained on hold pending guidance from Washington while the other cases that you identified as non-Tea Party cases were moved to either closure or further development; is that right?

A. Correct.

Testimony of Michael Seto
Manager of EO Technical Unit
July 11, 2013

Q. -- about the cases? What about Miss Lerner, did you ever talk to Miss Lois Lerner about the cases at this point in time, January-February 2011?

A. No, I have not talked to her verbally about it.

Q. But did you talk to her nonverbally about these cases in that period of time?

A. She sent me email saying that when these cases need to go through multi-tier review and they will eventually have to go to Miss Kindell and the chief counsel's office.

Q. Miss Lerner told you this in an email?

A. That's my recollection.

Testimony of Carter Hull
Tax Law Specialist in EO Technical Unit
June 14, 2013

Q. Have you ever sent a case to Ms. Kindell before?

A. Not to my knowledge.

Q. This is the only case you remember?

A. Uh-huh.

Q. Correct?

A. This is the only case I remember sending directly to Judy.

Q. Had you ever sent a case to the Chief Counsel's office before?

A. I can't recall offhand.

Q. You can't recall. So in your 48 years of experience with the IRS, you don't recall sending a case to Ms. Kindell or a case to IRS Chief Counsel's office?

A. To Ms. Kindell, I don't recall ever sending a case before. To Chief Counsel, I am sure some cases went up there, but I can't give you those.

Q. Sitting here today you don't remember?

A. I don't remember.

Testimony of Ron Bell
Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. So did you see something different in these Tea Party cases applying for 501(c)(4) status that was different from other organizations that had political activity, political engagement applying for 501(c)(4) status in the past?

A. I'm not sure if I understand that.

Q. I guess what I'm getting at is you said you had seen previous applications from an organization applying for 501(c)(4) status that had some level of political engagement, and these Tea Party groups are also applying for 501(c)(4) status and they have some level of political engagement. Was there any difference in your mind between the Tea Party groups and the other groups that you'd seen in your experience at the IRS?

A. No.

Q. So, do you think that Tea Party groups are treated the same as these other groups from your previous experience?

A. No.

Q. In your experience, was there anything different about the way that the Tea Party 501(c)(4) cases were treated that was as opposed to the previous 501(c)(4) applications that had some level of political engagement?

A. Yes.

Q. And what was different?

A. Well, they were segregated. They seemed to have been more scrutinized. I hadn't interacted with EO technical [in] Washington on cases really before.

Q. You had not?

A. Well, not a whole group of cases.

Testimony of Stephen Seok
Group Manager of EO Determinations Unit
June 19, 2013

Q. And to your knowledge, the cases that you worked on, was there anything different or novel about the activities of the Tea Party cases compared to other (c)(4) cases you had seen before?

A. Normal (c)(4) cases we must develop the concept of social welfare, such as the community newspapers, or the poor, that types. These organizations mostly concentrate on their activities on the limiting government, limiting government role, or reducing government size, or paying less tax. I think it[']s different from the other social welfare organizations which are (c)(4).

Q. So the difference between the applications that you just described, the applications for folks that wanted to limit government, limit the role of government, the difference between those applications and the (c)(4) applications with political activity that you had worked in the past, was the nature of their ideology, or perspective, is that right?

A. Yeah, I think that's a fair statement. But still, previously, I could work, I could work this type of organization, applied as a (c)(4), that's possible, though. Not exactly Tea Party, or 9-12, but dealing with the political ideology, that's possible, yes.

Q. So you may have in the past worked on applications from (c)(4), applicants seeking (c)(4) status that expressed a concern in ideology, but those applications were not treated or processed the same way that the Tea Party cases that we have been talking about today were processed, is that right?

- A. Right. Because that [was] way before these – these organizations were put together. So that's way before. If I worked those cases, way before this list is on.

Testimony of Robert Choi
Former Director of IRS Rulings and Agreements
August 21, 2013

Q. You said earlier in the last hour there was email traffic about the ACORN successor groups in 2010; is that right?

A. That's correct, yes.

Q. But the ACORN successor groups were not subject to a sensitive case report; is that right?

A. I don't recall if they were listed in there, in the sensitive case report.

Q. So you don't recall them being part of a sensitive case report?

A. I think what I'm saying is they may be part of a sensitive case report. I do not have a specific recollection that they were listed in a sensitive case report.

Q. But you do have a specific recollection that the Tea Party cases were on sensitive case reports in 2010.

A. Yes.

Q. To your knowledge, did any ACORN successor application go to the Chief Counsel's Office?

A. I am not aware of it.

Q. Are you aware of any ACORN successor groups facing application delays?

A. I do not know if – well, when you say “delays,” how do you –

Q. Well –

A. I mean, I'm aware of successor ACORN applications coming in, and I am aware of email traffic that talked about my concern of delays on those cases and, you know, that there was discussion about seeing an influx of these applications which appear to be related to the previous organization.

Q. And the concern behind the reason that they weren't being processed was that they were potentially the same organization that had been denied previously?

A. Not that they were denied previously. These appeared to be successor organizations, meaning these were newly formed organizations with a new EIN, employer identification number, located at the same address as the previous organization and, in some instances, with the same officers.

And it was an issue of concern as to whether or not these were, in fact, the same organizations just coming in under a new name; whether, in fact, the previous organizations, if they were, for example, 501(c)(3) organizations, properly disposed of their assets. Did they transfer it to this new organization? Was this perhaps an abusive scheme by these organizations to say that they went out of business and then not really but they just carried on under a different name?

Q. And that's the reason they were held up?

A. Yes.

Testimony of Lucinda Thomas
Program Manager of EO Determinations Unit
June 28, 2013

Q. Ms. Thomas, is this an example of the BOLO from looks like November 2010?

A. I don't know if it was from November of 2010, but –

Q. This is an example of the BOLO, though?

A. Yes.

Q. Okay. And, ma'am, under what has been labeled as tab 2, TAG Historical?

A. Yes.

Q. Let's turn to page 1354.

A. Okay.

Q. Do you see that, it says -- the entry says progressive?

A. Yes.

Q. This is under TAG Historical, is that right?

A. Yes.

Q. So this is an issue that hadn't come up for a while, is that right?

A. Right.

Q. And it doesn't note that these were referred anywhere, is that correct? What happened with these cases?

A. This would have been on our group as – because of – remember I was saying it was consistency-type cases, so it's not necessarily a potential fraud or abuse or terrorist issue, but any cases that were dealing with these types of issues would have been worked by our TAG group.

Q. Okay. And were they worked any different from any other cases that EO Determinations had?

A. No. They would have just been worked consistently by one group of agents.

Q. Okay. And were they cases sent to Washington?

A. I'm not – I don't know.

Q. Not that you are aware?

A. I'm not aware of that.

Q. As the head of the Cincinnati office you were never aware that these cases were sent to Washington?

A. There could be cases that are transferred to the Washington office according to, like, our [Internal Revenue Manual] section. I mean, there's a lot of cases that are processed, and I don't know what happens to every one of them.

Q. Sure. But these cases identified as progressive as a whole were never sent to Washington?

A. Not as a whole.

Testimony of Elizabeth Hofacre
Revenue Agent in EO Determinations Unit
May 31, 2013

- Q. In 2010, you were classifying any organization that had political activity as a Tea Party?
- A. No, it's the latter. I mean, we were looking at Tea Parties. I mean, political is too broad.
- Q. What do you mean when you say political is too broad?
- A. No, because when -- what do you mean by "political"?
- Q. Political activity -- if an application has an indication of political activity in it.
- A. I mean, I was tasked with Tea Party, so that's all I'm aware of. So I wasn't tasked with political in general.
- Q. Was there somebody who was tasked with political in general?
- A. Not that I'm aware of.

Testimony of Steven Grodnitzky
Manager in EO Technical Unit
July 16, 2013

Q. So these Democratic-leaning organizations, their applications took approximately 3 years to process?

A. On or around. I mean, if they came in at the end of 2008, for example, and were resolved in the beginning of 2011, it may be a little over 2 years. But I mean, on or around that time period.

Q. Did those 2008 Democratic-leaning applications involve potential political campaign activity as well?

A. Yes, we had -- the organizations were related in the sense that they were -- how can I say this? -- sort of like an -- I am going to call it, for lack of a better term, like when you have in a veterans-type organization, you have posts, and there is one in each State. And that is sort of what it was like. So they were very similar in the sense that the main difference that I recall was that they were just from one State to the next. And we found in those particular cases that the organization was benefiting the Democratic Party, and there was too much private benefit to that particular party. And the organization was denied.

Testimony of Amy Franklin Giuliano
Attorney Advisor in IRS Chief Counsel's Office
August 9, 2013

Q. And you said that some of those five progressive applications were approved in a matter of hours; is that right?

A. Yes.

Q. The reason that the other five cases would be revoked if that case the Counsel's Office had was denied, was that because they were affiliated entities?

A. It is because they were essentially the same organization. I mean, every – the applications all presented basically identical facts and basically identical activities.

Q. And the groups themselves were affiliated.

A. And the groups themselves were affiliated, yes.

Q. The issue in the case you reviewed in May of 2010 was private benefit.

A. Yes.

Q. As opposed to campaign intervention.

A. We considered whether political campaign intervention would apply, and we decided it did not.

Testimony of Sharon Light
Senior Technical Advisor
September 5, 2013

Q Were you aware that there was an entry for Occupy organizations in the BOLO by the May 2012 time frame?

A I don't think I was. My understanding of Determinations at that point was if you saw an organization or issue that you thought Determinations should be on the watch for, you would -- I would send an email to Cindy and say, hey, can you tell your screeners to keep an eye out for this, so it didn't slip through and get approved without someone looking at it.

Q Did you become aware of the entry on the BOLO for Occupy organizations at a later date?

A Yes, I did at some point.

Q And why did you become aware of the entry on the BOLO for the Occupy organizations -- or, rather, how?

A I believe I became aware of it the summer after it hit the news that groups were -- well, I became aware of it after it was reported that only conservative groups were being singled out by the IRS.

Testimony of Joseph Grant
Commissioner, Tax Exempt and Government Entities
September 25, 2013

Q Were you aware that for a period of time the IRS also specifically referenced "Occupy" on a BOLO?

A I subsequently became aware of that. I was not aware of that at the time.

Testimony of Nancy Marks
Senior Technical Advisor to the Commissioner, Tax
Exempt and Government Entities
October 8, 2013

Q Were you aware in the spring 2012 timeframe that there was a "Be on the Look Out" list entry specifically identifying Occupy groups by name?

A I don't think I knew that in the spring of 2012. At some point, I became aware that that was one of the things on the "Be on the Look Out" list.

Testimony of Elizabeth Kastenburg
Tax Law Specialist in EO Technical Unit
July 31, 2013

Q. Do you recall if progressive or Occupy groups were among those listed on the BOLO?

A. No, I don't know.

Q. Do you know how Occupy groups, as in Occupy Wall Street groups, were processed by the IRS?

A. No, I do not know.

Testimony of Justin Lowe
Technical Advisor, Tax Exempt and Government Entities
July 23, 2013

Q. ...Do you recall whether as a tax law specialist in EO Guidance you referred cases related to Occupy organizations?

A. It's a pretty broad descriptor, so I don't know exactly.
I don't think so, but I couldn't tell you definitively one way or the other...

Testimony of Ron Bell
Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. Okay. And is it normal procedure for EO Technical to have to -- for you -- for you to have to wait for approval from EO Technical to move these cases?

A. Not in my personal experience.

Q. Okay. So this was something that was unusual that you were having to wait on Washington?

A. In -- from -- in my experience.

Q. In your experience. Okay.

Testimony of Steven Grodnitzky
Manager in EO Technical Unit
July 16, 2013

Q. Is it fair to say that those Democratic organizations that were grouped together in the 2008 time frame were treated similarly to the Tea Party cases that you saw in the 2010 time frame?

A. Sure. I mean, it is fair to say that they were treated similarly. It is -- there were fewer of them. Unlike the Tea Party, my understanding is that there are more -- as far as quantity there is more of them.

Testimony of Amy Franklin Giuliano
Attorney Advisor in IRS Chief Counsel's Office
August 9, 2013

Q. Did you ever speak to Mr. Griffin about these cases around the time they were assigned to you, or the one assigned to you?

A. Yes. He handed the case that was assigned to me to me directly.

Q. And what did he say to you?

A. He said, "This is a (c)(4) case that presents the question of political advocacy. It seems to be conservative-leaning."

Q. Prior to you receiving this case in June of 2011, do you know if it was worked by IRS officials in Washington?

A. Yes. On top of the case file were three memos, all by D.C. employees.

Q. Who were the memos from?

A. Janet Gitterman, Siri Buller, and Justin Lowe.

Q. And what was the substance of these memos?

A. The memo from Janet was first because I believe she was, sort of, their docket attorney. I don't know what they call it. And she explained that she had looked through the file, that some of the ads seemed to verge on political campaign intervention, and it wasn't an election year. She raised that the group leased space from a Republican group. But she said that it seemed that the amount of political activity did not preclude exemption.

There was a memo from Siri Buller as sort of a concurring -- I think she was kind of asked to review what Janet had done. And Siri's

memo is much longer and listed about 15 instances of what could be considered political campaign intervention and said that there is political campaign intervention here but maybe not enough to preclude exemption.

And then Justin Lowe had about a one-page memo that sort of said, you know, the ads seem to be propaganda, they don't seem to be informative, but not sure that that's a reason to deny, so I concur.

Q. So all three of them, Ms. Gitterman, Ms. Buller, and Mr. Lowe, all concurred in the recommendation to approve exemption?

A. Yes.

Q. And Ms. Gitterman and Ms. Buller, are they in EO Technical, do you know?

A. I don't know. It's either Technical or Guidance, and I don't really understand the difference.

Q. So, you're aware of some coordination between EO Technical or EO Guidance and Cincinnati regarding the treatment of this group of progressive cases?

A. Yes. I mean, I was aware of it because I knew that enough communication had happened to get three like cases to one person in D.C.

Q. And it sounded like there was concern about the way the cases had been developed in Cincinnati; is that fair?

A. I think there was concern that -- that a -- yeah. That it looked like maybe they should be denials, yet already the five favorables had gone out. There was a concern that we were going to be treating the taxpayers inconsistently.

Q. In this case, the -- did you state that the ultimate outcome was a recommendation for denial?

A. Yes, that was our recommendation.