

Written Statement
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“Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen,
Part I”
Committee on the Judiciary
United States House of Representatives
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The first exposure I had to the IRS targeting scandal occurred long before that day in May 2013 when Lois Lerner publicly revealed the existence of improper targeting by the IRS. That she did this by infamously planting a question at a legal conference in order to preempt a forthcoming TIGTA report was a clear indication that the IRS had improperly treated American citizens who were doing nothing more than seeking to exercise their first amendment rights.

Once this news broke, I immediately thought back to the previous year -- I was running for office for the first time and, as is customary in campaigns, I made a point to speak before as many groups as I could find. In one instance, the leaders of a group dedicated to educating fellow Americans on the virtues of constitutional government grew apprehensive when I showed up and requested to speak. As a candidate for office, they explained, my speaking before the group could cause them problems with the IRS, an agency that they felt had mistreated their group by refusing to grant them tax-exempt status.

I was in disbelief. It seemed to me that these folks were being paranoid. Why would the IRS care about a small group seeking tax-exempt status?

It turned out, my reaction was wrong and there was good reason to be concerned about the behavior of the IRS.

As a member of the Oversight Committee, I joined my colleagues in seeking to ascertain the truth about the conduct of the IRS and its employees like Lois Lerner. Chairman Chaffetz has done a good job of outlining the extent to which the IRS, under Commissioner John Koskinen, has stonewalled and obstructed attempts by the Congress to find out the truth about the conduct of the IRS:

- Koskinen pledged to be transparent and to alert the Congress and the American people about problems with the investigation as soon as he knew about them, yet he failed to alert the Congress about the gap discovered in Lois Lerner's emails for four months.
- Koskinen testified that every email had been preserved since the start of the investigation, yet the IRS destroyed over 400 backup tapes containing as many as 24,000 of Lois Lerner's emails in March of 2014. These emails were the subject of an internal preservation order and two congressional subpoenas.
- Koskinen testified that the backup tapes from 2011 had been recycled pursuant to normal IRS policy, yet the 400 backup tapes weren't destroyed until March of 2014. Moreover,

the inspector general was able, by doing a basic investigation, to identify some backup tapes that had not been recycled.

- Koskinen testified that the IRS had gone through "great lengths" to make sure that all emails were produced, yet it failed to even look at Lerner's mobile devices, the email server, the backup email server, the loaner laptop, and the IRS backup tapes -- all of which were examined by the inspector general.

In this matter there really is no dispute about the facts: the IRS destroyed up to 24,000 of Lois Lerner's emails under two congressional subpoenas, Commissioner Koskinen made several statements in testimony before the Congress that are false, the IRS failed to produce all of the emails it had in its possession, and the IRS failed to do basic due diligence by not looking in obvious places for Lerner's emails. This is cut and dry.

This sorry train of false statements and dereliction of duty represents an affront to the authority of this house. The American people had a right to get the facts regarding IRS targeting, and the IRS had a duty to comply with the congressional investigation. Instead, the IRS stonewalled. As thousands of emails have been destroyed, the American people may very well never get the entire truth as it relates to this scandal.

It would be unthinkable for a taxpayer to treat an IRS audit the way that the IRS has treated the congressional investigation. If a taxpayer destroyed documents subject to a summons by the IRS, the taxpayer would be in a world of hurt. If a taxpayer made demonstrably false statements to the IRS in response to an investigation, it is safe to say that the taxpayer would not get away with it. If the taxpayer shirked basic compliance with an IRS investigation, it's a good bet that the investigation would not simply end.

So the question is: is it acceptable for the head of one of the powerful agencies in government to operate under a lower standard of acceptable conduct than that which is applied to the taxpayers the Commissioner is charged with auditing?

I have no doubt that American taxpayers find such an arrangement to be intolerable.

Surely, this House should find it intolerable. As of today, not a single individual has been held accountable in any real way for what happened with the IRS. If Commissioner Koskinen can get away with his conduct, then other executive branch agencies will have a blue print for how to stymie the Congress when it conducts legitimate oversight. This will further erode the power of the Congress, which is arguably at its historical nadir.

The Constitution contains mechanisms for self-defense that can be used to check abuses by civil officers in the executive branch. We in this body should use them. This is a matter of fairness for the American people, accountability for the executive branch, and self-respect for this institution.