

TESTIMONY
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OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

“Recovery of e-mails of former IRS employee Lois Lerner”

February 26, 2015

Chairman Chaffetz, Ranking Member Cummings, and members of the full committee, I've been requested to come here today to provide an update on my agency's efforts thus far in attempting to recover the missing e-mails of former IRS employee Lois Lerner.

On June 13, 2014, in a letter to the Senate Finance Committee, the IRS reported that as it was completing its document production for Congress concerning allegations that the IRS targeted certain 501c (4) applicants, the IRS realized that the production of the e-mails of Lois Lerner, the former director of the IRS Exempt Organizations division, had gaps in the e-mail production. The IRS reported that in its attempts to find missing e-mails, they realized that in June 2011, Lerner's IRS laptop computer suffered a hard drive crash, and therefore some of her e-mails could not be recovered.

The following Monday, on June 16, 2014, TIGTA initiated an investigation into the circumstances surrounding the missing e-mails and the hard drive crash. One week later, on June 23, 2014, TIGTA received a letter from then Chairman Ron Wyden and then Ranking Member Orrin Hatch of the Senate Finance Committee, that requested TIGTA to formally investigate the matter including “perform its own analysis of whether any data can be salvaged and produced to the committee.”

The circumstances surrounding the loss of data, the hard drive crash and the manner in which the IRS handled its electronic media, are still under investigation; however, we have periodically updated certain Committees of Congress, including this Committee, concerning our progress in recovering the e-mails, but we have not discussed the investigation itself.

There are two parts of my mission here. One part is attempting to recover the e-mails and second part is to investigate the circumstances surrounding the missing e-mail. Until the investigation is completed, the facts and circumstances as we understand them can and have changed on a daily basis. To avoid speculating and reaching

conclusions that later turn out to be false, as investigators we must avoid drawing any conclusions until all of the facts are in. I owe it to the American people to ensure that we continue to thoroughly and impartially investigate this matter gathering all of the facts and evidence in order to get to the truth. That said, at this time I cannot provide any information on the investigation surrounding the IRS's loss of data and hard drive crashes as that could negatively impact our ability to complete the investigation as well as raise questions into the integrity of the investigative process, but at this time I will provide a progress report on our efforts to recover missing e-mails.

The IRS manages its e-mail for its 91,000 employees by routing the e-mails through Microsoft Exchange Servers that are backed up periodically by using backup tapes. These Microsoft Exchange Servers, also referred to as e-mail servers, are comprised of hundreds of hard drives that are placed into server racks. Up until May 2011, the e-mail server that handled Lois Lerner's e-mail traffic was located at the New Carrollton, Maryland Federal Building. During 2011, the IRS migrated from the e-mail server at the New Carrollton to a new e-mail server located at the IRS' Martinsburg, West Virginia Computing Center. After the IRS migrated its e-mail system to Martinsburg, the IRS turned off the e-mail server at New Carrollton; however, it was left in place, possibly as a precautionary measure should the new e-mail server at Martinsburg fail. IRS employees reported that the New Carrollton e-mail server hard drives were removed from the server, erased, and destroyed.

On June 30, 2014, TIGTA demanded that the IRS provide all backup tapes used to backup Lerner's IRS e-mail account, specifically all backup tapes used for e-mails during the time period of Jan 1, 2008 through Dec 31, 2011. These date ranges were selected to ensure that we obtained any overlap e-mails or accounted for mid-year equipment changes. As a result of this demand, on July 1, 2014, the IRS identified the 744 backup tapes that met this criterion and TIGTA took possession of all of the identified 744 backup tapes.

With regard to nine of the 744 backup tapes, based on how they were configured in the backup machine, the IRS was unable determine the dates they were used. Because of this, IRS technicians believed it was possible the nine tapes had been untouched for years and thus could contain clear data relevant to the investigation. Because TIGTA did not have the unique necessary hardware, these nine tapes were provided to the Federal Bureau of Investigation in order to determine if the tapes contained any data and if they did, to retrieve it. After the FBI analyzed the nine tapes and validated their equipment by reviewing other random backup tapes, they reported their equipment was functioning properly and they reported the nine tapes were blank. TIGTA then provided those same nine tapes to a recognized industry leader on electronic data recovery, and they confirmed the nine tapes were in fact blank.

After confirming the initial nine tapes were blank, and fearing that the remaining 735 tapes were overwritten, TIGTA interviewed the IRS e-mail expert and identified the specific backup tapes that would have contained the earliest copies of Lois Lerner's e-mail box. The backup tapes consisted of five sets of tapes. These five backup sets were created in sequential weeks from November 20, 2012 through December 25,

2012. The five backup sets were expected to produce a total of five separate copies of Lois Lerner's e-mail boxes, or one copy for each week of the backup.

We hand carried three of the five sets of these backup tapes to the industry expert for data recovery and extraction and after their examination and extraction of data, they provided TIGTA with Exchange Database files from this set of tapes. On November 13, 2014, TIGTA searched the database files and identified the first Lois Lerner e-mail box. This mailbox contained Lois Lerner e-mails that date back as far as 2001. The result of this effort validated that the tapes have not been over written and that they contained e-mails that are relevant to the requested time range search for e-mails. TIGTA then processed the remaining sets of backup tapes in the same manner later finding that each of the five backup sets contained one Lerner e-mail box, for a total of five mailboxes, exactly as expected. At the conclusion of the process, TIGTA identified 79,840 Lois Lerner e-mails of which almost 60 percent were duplicates. Removing the duplicates resulted in 32,774 Lois Lerner unique e-mails. It is critically important to note that these 32,774 e-mails need to be compared with the e-mails and documents the IRS has already produced to Congress in order to determine if there are any newly identified e-mails. Currently, we are finalizing the procurement of software to accomplish this match.

As I noted earlier in my testimony, the IRS e-mail system routes e-mail messages through e-mail servers that comprised of hundreds of hard drives. I just completed testimony about the status of our examination of backup tapes associated with the e-mail system, and now I want to discuss the status of the hard drives that were in the e-mail server in May 2011, one month prior to when Lois Lerner's laptop hard drive crashed.

On July 11, 2014, TIGTA discovered that the hard drives from the decommissioned New Carrollton e-mail server were not destroyed as previously reported by the IRS. On the same day, TIGTA secured the 760 hard drives that are believed to be part of the old New Carrollton e-mail server. TIGTA conducted a preliminary examination of a limited selection of the hard drives and determined that based on information that could be seen from these hard drives, these drives are more than likely from the e-mail server that processed Lois Lerner's e-mails in 2011 and prior. It is important to note that the e-mail servers process and keep copies of e-mail traffic on the hundreds of drives that are specifically positioned in server racks. The IRS did not retain a record of the layout indicating where each of the specific hard drives was positioned in the racks. Without understanding the exact order in which the hard drives were placed in the server racks, finding any complete and relevant e-mails would be very difficult and labor intensive, if not impossible. In addition, if any of the hard drives are damaged, it could potentially be impossible to recover any usable e-mails. We recently determined that we are unable to do anything further with the hard drives and we have initiated the process to contract for an initial feasibility analysis of the 760 hard drives by the recognized industry expert in electronic data recovery.

Less than two weeks ago we also learned that there may have been backup tapes older than the original 744 backup tapes we obtained in July 2014. We have taken possession of an additional 424 tapes and we are in the early stages of understanding if

they have been erased and if any of these older tapes contain e-mails or data of interest to the investigation.

In summary, to date we have found 32,774 unique e-mails that were backed up from Lois Lerner's e-mail box. We are in the process of comparing these e-mails to what the IRS has already produced to Congress to determine if we did in fact recover any new e-mails. We are also in the process of having the e-mail server hard drives analyzed to determine if there are any readable e-mails that can be recovered from these hard drives. And finally, we are continuing to determine if there are any other sources that may contain Lois Lerner e-mails.

As I noted earlier, this is an ongoing investigation and I have provided the information that I believe will not hinder our ability to continue our investigation while simultaneously providing the Congress with the progress on the e-mail search.

Thank you.