

**IRS: REVIEWING ITS LEGAL OBLIGATIONS,
DOCUMENT PRESERVATION, AND DATA SECURITY**

HEARING

BEFORE THE

**COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTEENTH CONGRESS**

SECOND SESSION

—
FEBRUARY 11, 2016
—

Serial No. 114-93

Printed for the use of the Committee on Oversight and Government Reform



Available via the World Wide Web: <http://www.fdsys.gov>
<http://www.house.gov/reform>

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U.S. GOVERNMENT PUBLISHING OFFICE

22-591 PDF

WASHINGTON : 2016

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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IRS: REVIEWING ITS LEGAL OBLIGATIONS, DOCUMENT PRESERVATION, AND DATA SE- CURITY

Thursday, February 11, 2016

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

The committee met, pursuant to call, at 1:02 p.m., in Room 2154, Rayburn Office Building, Hon. Jason Chaffetz [chairman of the committee], presiding.

Present: Representatives Chaffetz, Mica, Jordan, Walberg, Amash, DesJarlais, Gowdy, Massie, Meadows, DeSantis, Buck, Walker, Blum, Hice, Russell, Carter, Grothman, Hurd, Palmer, Cummings, Maloney, Norton, Connolly, Kelly, Watson Coleman, Plaskett, DeSaulnier, Boyle, and Welch.

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will come to order. Without objection, the chair is authorized to declare a recess at any time.

We are here today because the IRS' current leadership has proven irresponsible and negligent. The IRS cannot seem to properly preserve documents or ensure both privacy and security in accepting electronic tax returns. The Agency is in desperate need of new leadership to put it on a better course. There are already a number of examples of IRS incompetence and neglect in the past few years, but several incidents in recent weeks have made it clear for the need for further serious oversight and meaningful reform.

As millions of individuals and companies prepare to file tax returns, the IRS must ensure its data systems are secure. Last summer, the IRS suffered a massive hack, leaving the tax information of 300-plus thousand individuals exposed. The hackers used that information to file fraudulent returns totaling something in the neighborhood of \$50 million in refunds before the IRS figured out what was happening. But it has been well documented billions of dollars have inappropriately gone out the door.

And the facts surrounding the recent events appear very similar. On January 25th, 2016, the IRS detected unusual IP traffic on its network. This turned out to be a coordinated bot attack or botnet aimed at the e-file system. The hackers' goal was to recover taxpayer e-PINs, electronic pins, which would allow them steal refunds of innocent taxpayers. Roughly 450,000 unique social security numbers were used by hackers in at least 950,000 attempts to obtain these electronic PIN numbers. All told, the hackers are estimated to have stolen more than 101,000 of these electronic PIN numbers.

This latest breach raises serious concerns about the security of the system overall as well as the potential for paying out fraudulent claims, but none of this should surprise the IRS. In the last evaluation of the IRS' information security, the inspector general in September of 2015 determined, "Until the IRS takes steps to improve its security program deficiencies and fully implement all security program areas in compliance with FISMA requirements, taxpayer data will remain vulnerable to inappropriate and undetected use, modification, and disclosure." It probably does not get any worse or dire in terms of a warning. This level of incompetence is intolerable for an agency where millions of individuals file their most personal financial information.

We are also here to discuss the failure of the IRS to properly preserve documents subject to lawsuits, and/or internal preservation orders, as well as FOIA requests. We take FOIA very seriously. The Freedom of Information Act is the public's right to know. It also allows companies and other organizations to access data so they can defend themselves.

On January 15th of 2016, the Department of Justice disclosed in a Federal court filing that the IRS had erased a hard drive belonging to a former senior Agency employee named Samuel Maruca. And if this story sounds similar to things we have heard about with Lois Lerner and others, it is, and that makes us sick. It is disgusting. It has to stop. We are doing everything we can to highlight. It is inappropriate, and yet it continues.

The hard drive contained information subject to FOIA litigation. Despite the lawsuit, an internal preservation order, and the legal obligation to preserve related documents to the IRS, the IRS wiped the hard drive and scheduled it for recycling. This involved a multi-billion-dollar issue relating to Microsoft. The hard drive likely sat in queue and was wiped up to 4 months after the internal preservation was ordered. Again, after. Internal preservation in place, then the wiping of a hard drive.

We cannot say for sure to pinpoint the date because the IRS does not know when the hard drive was wiped clean. Hard drives. You go to Best Buy, you can buy them for less than a hundred bucks. In a multibillion-dollar situation, this is what we are talking about, but, again, this continues to be familiar.

In March of 2014, the IRS destroyed backup tapes containing Lois Lerner's emails which were subject to investigation by Congress, the inspector general, the Department of Justice. There were five open investigations, two duly issued subpoenas, and the IRS wiped the data. Here we have another case where people properly filed FOIA requests, and they wiped it again. This is just 1 month after the Agency learned that a significant portion of the Lerner emails were missing, and, again, it happened. As it turns out in the Maruca case, the IRS, by sheer luck, already copied the hard drive because of a different lawsuit. It was not because of competence. It was just sheer luck.

So if you look at the IRS, they have roughly \$2.4 billion they spent on IT, and it is worthless. Absolutely worthless. 60 to 70 percent of those funds are spent on legacy systems, preserving old things like COBOL and other types of things, but there are still billions of dollars in fraud running through the system.

We have a situation we are going to talk about today where there was a reported hardware failure. The story we got is that there was a power outage, but then the redundant power, the backup power, it also went out. How does that happen? Why do you have redundant power if it also goes out? When we asked through questioning about a breach, I put out a tweet pretty quick and said, you know, this so-called hardware failure maybe was a breach. We start to go and probe and have an investigation. We have a bipartisan staff talking to the IRS, and then they say, oh, we should probably tell you about the breach. What breach?

If you look at the timeline of this, let us go through this because this is just days ago. Our committee, Oversight and Government Reform, a week ahead email to the press confirmed that there would be a hearing on February 11th relating to IRS document destruction and data security. On February 8th, majority and minority committee staff has a call with the IRS regarding the e-filing outage and the status of the Maruca hard drive. The IRS gives an update on how it planned to recover the hard drive and confirmed it had been wiped. After that date, our staff asked about the breach referring to the e-filing issue. Mr. Milholland, who is here with us today, begins describing the previously unreported and undisclosed breach. The IRS legal staff intervened and said that he was talking about a different event, so we asked for more information about that.

The next day, February 9th, miraculously in the Wall Street Journal, the IRS releases further details regarding the breach in another phone call with the majority and minority committee staff, and shortly thereafter the IRS releases a statement to the Wall Street Journal regarding the breach. If we had not been asking about another incident, we would not have known about this incident, and it affects over 100,000 people.

This is a recurring theme. It is totally unacceptable. We look forward to peppering you with questions, and we expect answers.

With that I will yield back, and now recognize the ranking member, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I always try to start out hearings by stating what I think we can all agree on. Today I think we can agree that the IRS should have strong systems in place to properly preserve Federal records and to protect its computer systems from cyberattacks. I think we can agree on that, and those are valid goals, and I know that the IRS agrees with them.

However, I do not believe this committee has been serving its intended purpose when it comes to the IRS generally. Unfortunately, Republicans have become obsessed with investigating any and every allegation relating to the IRS, no matter how small. I believe this is because Republicans were not able to find any evidence to support their baseless accusations that the White House conspired with Lois Lerner to target conservative groups for political reasons. They also were not able to identify any evidence that Commissioner Koskinen or any IRS employees destroyed evidence in order to obstruct our investigation.

For the record, this is our 23rd hearing on the IRS. The 23rd. 23rd. That is amazing. We have now interviewed 54 witnesses. The

IRS commissioner has testified six times, more than any other agency has over the past 3 years. The IRS had produced more than 1.3 million pages of documents from 88 custodians in response more than 80 requests for documents. Yet despite this exhaustive multi-agency, multi-committee, multiyear investigation, this wild goose chase continues, and it has come up empty.

Last year, the inspector general issued his report and identified no evidence to substantiate Republican claims of political motivation by the White House or intentional destruction of evidence. Specifically, the report found, "No evidence was uncovered that any IRS employee had been directed to destroy or hide information from Congress, the DOJ, or TIGTA."

The Justice Department also conducted an investigation and concluded that, "Not a single IRS employee reported any allegation, concern, or suspicion that the handling of tax exempt applications or any other IRS function was motivated by political bias, discriminatory intent, or corruption." The Justice Department also found, "no evidence that any official involved in the handling of tax exempt applications or IRS leadership attempted to obstruct justice, and no evidence of any deliberate attempt to conceal or destroy information." Amazingly, none of these findings stopped the Republicans from trying to impeach the IRS commissioner, despite the fact that there is no evidence that he intentionally obstructed our work or destroyed documents.

The problem now is that our committee is in a mindset where we are just trying to get the IRS, and unfortunately the public does not always get a complete or accurate picture as a result. For example, the impetus for today's hearing was a press report that an IRS employee, who was leaving the Agency, had his hard drive erased in violation of a court order. However, we received a letter from the IRS last week explaining that, in fact, the IRS copied this employee's hard drive first. Another example is the outage the IRS experienced last week. The chairman stated that his gut reaction was that the outage was, "It really does smell like a hack." However, the IRS has now briefed our committee that, in fact, it was due to a mechanical device failure, and there is, "zero percentage chance that this was a cyberattack."

Yet another example Republicans have focused on is the incident involving PIN numbers that occurred in January. What is not mentioned is that, in fact, the IRS successfully blocked the IP addresses from which this attack was initiated. As a result, this week the IRS confirmed, "No personal taxpayer data was compromised or disclosed by our IRS systems." These are critical facts, and I hope that the public understands them and any press that are here will repeat them. As I said earlier, this is our 23rd hearing on these types of allegations against the IRS.

Imagine instead if we had held 23 hearings on the issue that actually matters to the American people. Imagine if we had held 23 hearings where we brought in drug company officials to explain their skyrocketing prices. Now, that is something that we could really help our fellow citizens on and would make a big difference. Going forward, I hope we will use the resources and the authority of this great committee to serve the interests of our constituents.

I want to thank our witnesses for being with us today. I look forward to your testimony. And with that, Mr. Chairman, I yield back.

Chairman CHAFFETZ. I thank the gentleman. I will now recognize Mr. Jordan of Ohio as the chairman of the Subcommittee on Healthcare Benefits and Administrative Rules, and recognize him for 5 minutes.

Mr. JORDAN. Thank you, Mr. Chairman. The ranking member said Republicans have had 23 hearings where they are “trying to get the IRS.” We are not trying to get the IRS. The IRS is trying to get conservative Americans who are exercising their 1st Amendment free speech rights. 23 hearings is a pretty small price to pay when you are trying to protect fundamental liberties in the Constitution, for goodness sake. So I want to thank the chairman for this hearing on document preservation, data security. If anyone needs it, certainly the IRS needs a lesson in how to preserve documents.

Let me give you a quick little history here. Several years back, Brian Downing orders destruction of documents that TIGTA needs in their audit. The person who was ordered to destroy the document comes forward as we want whistleblowers to come forward when something wrong is going on, comes forward and tells Stephen Whitlock, the then acting director of the Office of Professional Responsibility, and he says just keep destroying the documents.

Fast forward to 2013. Again, the IRS gets caught with their hand in the cookie jar. Lois Lerner’s now famous speech, May 10th, 2013, where she goes to the Bar Association, lies to the American people, says it was not us, it was just those folks in Cincinnati. Complete lie. It was folks in Washington orchestrating this targeting against conservative groups. Later that year, later in 2013, Mr. Koskinen is brought in to clean up the mess. In fact, the President himself said, “He’s the expert at turning around institutions.”

So what has the turnaround been? The chairman just talked about it, right? What has the turnaround been? We had this case with Microsoft where an IRS employee, Sam Maruca, his hard drive is wiped clean when there is a preservation order in place not to destroy any records relative to that court case and that investigation. And, of course, the one that I think is most important, Mr. Koskinen, brought in as the turnaround expert, learns that Lois Lerner’s hard drive has had problems. He waits 2 months before he tells Congress and the American people, and, more importantly, under his watch, 422 backup tapes are destroyed after there are three preservation orders. Three orders, one from Mr. Milholland himself, do not destroy anything. And what does the IRS do? Three preservation orders, one from the IRS themselves, one from TIGTA, one from the Justice Department doing a criminal investigation, and two subpoenas from this committee, what does the IRS do? They destroy 422 backup tapes containing potentially 24,000 emails relevant to a congressional investigation and a criminal investigation. So there is a pattern here.

Now, finally, Mr. Chairman, just to add insult to injury, guess what the Internal Revenue Service did? That very first example I gave you about Mr. Whitlock who said, no, keep destroying the documents that the whistleblower came forward and said we are doing. Guess what happens? I guess at the IRS if you destroy docu-

ments, you get a promotion. Mr. Whitlock was just named head of the Office of Professional Responsibility.

So to the ranking member, I think a 24th hearing with that kind of history at this organization is more than warranted, for goodness sake. There is a pattern of destroying records, a pattern of destroying documents, and, frankly, a pattern of destroying records and documents when you have been told not to. Preservation orders and whistleblowers coming forward, and yet it continues, and when that happens, some people get promoted at the IRS. Of course we need this hearing, and I look forward to hearing from our witnesses.

Chairman CHAFFETZ. I thank the gentleman. I will now recognize the gentleman from Virginia, Mr. Connolly, for 5 minutes.

Mr. CONNOLLY. Thank you, Mr. Chairman, and thank you, Mr. Ranking Member. 23 hearings on the IRS. You know, when you cannot prove it, charge it anyhow. Repeat it. Do it louder. Try to suborn the TIGTA to make sure that his audit is limited with direct advice from you and your staff. Accuse people without facts. Hammer it home on your favorite network, and hopefully it will sink in and become true even if the facts belie it.

Chairman CHAFFETZ. Will the gentleman yield?

Mr. CONNOLLY. No. I am tired of these hearings. I am tired of insinuation. I am tired, frankly, of what looks to a lot of people like demagoguery.

Chairman CHAFFETZ. Will the gentleman yield?

Mr. CONNOLLY. No, Mr. Chairman, sadly I will not. I will finish my statement. We need the IRS. We need it to be functional. The same people that want to pillory you here today for your performance do not want to take responsibility for the fact they have starved the beast. They have cut a billion dollars from the IRS budget, degrading service, making it very difficult for the IRS to actually do its job. We leave \$350 billion on the table every year, taxes owed, but not collected. That could make a big dent in the debt. We could reduce the debt over 10 years by \$3 and a half trillion without raising anyone's taxes and without cutting any essential services, but we do not want to do that.

We do not want to do that because illogically the IRS is such a juicy target for our base and making the case that you represent the hard knell booted government on our necks. And why in the world would we want to do anything to strengthen you? And as a result, we have IT systems, according to John Koskinen, that go back to the Kennedy Administration. That is 53 years ago. And we wonder why things are not totally functional? We wonder why IRS is not fully efficient? We wonder why hard drives crash when the average age of a computer at IRS with 91,000 employees is 7 years plus. In the private sector it is 2 to 3 years.

So to archive stuff, we have to print and save because we cannot trust aging legacy technology systems, and this Congress will not reinvest in you to bring you up to the 21st century because that would make you more efficient. That actually might make you be able to better do your job, and dysfunctionality serves our purposes illogically and politically.

So, yeah, that is why we have 23 hearings, and we demonize people, and we deny them their 5th Amendment rights, and make

charges that turn out to be without foundation. It does a disservice to this committee, in my opinion, and I have sat through every one of these hearings.

And I began truly concerned. Was this, in fact, going on? Did IRS, in fact, target a particular group or philosophy? As the ranking member said, all of the facts tell us no. Was there ineptitude? Was there political tone deafness? Yes. Was there a deliberate attempt by a Federal agency to target a particular political group or set of groups because of their political philosophy? No. And you can charge to the contrary all you want, but the evidence trail does not tell us that. But it makes for good television, and it riles up the base, and it probably raises money, but it is not worthy of the Oversight and Government Reform Committee.

And as the ranking member said, had we spent 23 hearings looking at price gouging on pharmaceuticals, we actually might have improved someone's life. We might have actually helped some seniors better afford the drugs they need. We might have made a contribution to bettering government. But this is a charade. This is not about making government better, and it is not even really about holding you accountable. I wish it were. It is to pillory you for political purpose, and I regret that.

Now, Mr. Chairman, I do yield.

Chairman CHAFFETZ. For you to suggest and try to assign a motivation to our attempt here to get at the truth is beneath the gentleman from Virginia. Name one thing that I said in my opening statement that is not true. Name it. You do not have anything.

Mr. CONNOLLY. You do not have anything, Mr. Chairman.

Chairman CHAFFETZ. Yes, I do.

Mr. CONNOLLY. I reclaim my time.

Chairman CHAFFETZ. Will the gentleman yield?

Mr. CONNOLLY. No.

Chairman CHAFFETZ. I have a point I want to make about IT.

Mr. CONNOLLY. The chairman can use his own time because he has got plenty of it, and he is more than prepared to use it. I reverse it. I echo what the ranking member said. I do not think you have proof.

Chairman CHAFFETZ. The gentleman's time has expired. The gentleman's time has expired.

Mr. CONNOLLY. Okay, thank you.

Chairman CHAFFETZ. With the concurrence with the ranking member, I would like to make a point about IT because I think that is part of the heart of why we are here today. Is the gentleman okay with that?

Mr. CUMMINGS. Go ahead.

Chairman CHAFFETZ. I was elected at the same time as President Obama, so use that as a marker. The Federal government has spent more than \$525 billion on IT, and it is worthless. One of the questions I have here with an operating budget for the IT sector roughly \$2.4 billion a year, why is it that we have such poor systems? Why is it that we have DOS, and COBOL, and other things? We have got good hardworking, patriotic people that work at the IRS. We have 4,000 of them in the State of Utah, and they are using an old dilapidated system. I do not know how they do it.

They try to patch and Band-Aid this thing together, and they cannot seem to have enough resources.

The President puts out a thing saying I need \$3 billion more? We were only \$3 billion short? What happened to the other \$525 billion? That is a legitimate bipartisan question. It is part of the reason I am here today. How is it that the IRS goes via the Department of Justice and tells a judge that they do not have these records? And it is not until this committee in a bipartisan way with the staff says where is this information that miraculously they said, oh, we actually do have it.

That is a legitimate question. It is why we have another hearing. I did not even start the week before last thinking we were doing an IRS hearing. I yield to the gentleman from Maryland.

Mr. CUMMINGS. Questions have been raised by the chairman. I would hope that you would address those. One of the things that all of us, and I know the gentleman from Virginia is one who is an expert in IT and has spent a phenomenal amount of time trying to make sure our government properly functions effectively and efficiently. And the question that the chairman just raised with regard to the use of old systems when we should be in the modern age are questions that, I think, are legitimate questions.

And so, I look forward to your responses. Does the gentleman

Mr. CONNOLLY. I would just add to my friend from Maryland, I could not agree more that those are legitimate lines of inquiry, but they have to be balanced with what has happened to your budget so that you can make those investments. Has it gone up or down? Has Congress shown a commitment to try to modernize your IT systems so that we do not have this kind of problem? Presumably we could find common ground. That is non-partisan agreement.

Chairman CHAFFETZ. It is in my set of questions and why we are having this hearing today.

Mr. CONNOLLY. Except that it is not.

Mr. CUMMINGS. Reclaiming my time, Mr. Chairman, I yield back.

Chairman CHAFFETZ. I just have to say, and I will give you equal time here. For the gentleman to suggest those are not my questions and to impugn the motive of any member is totally inappropriate.

Mr. CONNOLLY. I would simply say I did not impugn anybody's motive. I characterized this hearing and this process, and if the gentleman wishes to take exception to that or offense by that —

Chairman CHAFFETZ. Oh, I take deep exception to it.

Mr. CONNOLLY. Well, I regret —

Chairman CHAFFETZ. It is bipartisan. We get equal time, and there is a legitimate reason to understand why they go to the Department of Justice, represent that they do not have the documents. We ask for them, and then they miraculously say, oh, yes, I guess we do have them.

Mr. CONNOLLY. I think that the chairman can certainly appreciate questioning the process and the 23rd hearing on the IRS without necessarily personalizing it. The chairman knows I do respect him, and I certainly made no attempt to try to personalize it. But would I characterize this process negatively? Yes. I have made no secret of that, and I do not apologize for it, and I do not retract it.

And it is not impugning you or any other individual to call into question that process. That is my right as a member of this committee, and I will not be silenced by deliberating trying to personalize it so that the critique somehow is diluted. The critique stands. You do not have to agree with it, Mr. Chairman.

Chairman CHAFFETZ. I do not.

Mr. CONNOLLY. But I stand by it.

Chairman CHAFFETZ. Let us move on. Let us move on.

Mr. CONNOLLY. Fine, let us move on.

Chairman CHAFFETZ. I am pleased to welcome Mr. Terry Milholland, chief technology officer at the Internal Revenue Service, Mr. Jeff Tribiano, deputy commissioner of Operations at the Internal Revenue Service, and Mr. Ed Killen, Director of Privacy, Government Liaison, and Disclosure at the Internal Revenue Service. I appreciate you all being here today.

If you will, please rise and raise your right hands.

[Witnesses rise.]

Chairman CHAFFETZ. Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

[Chorus of ayes.]

Chairman CHAFFETZ. Thank you. You may be seated. Let the record reflect that the witnesses all answered in the affirmative.

In order to allow time for discussion, we would appreciate it if you would limit your oral presentation to 5 minutes. Your entire written statement will be made part of the record. Mr. Milholland, you are now recognized for 5 minutes.

WITNESS STATEMENTS

STATEMENT OF TERENCE MILHOLLAND

Mr. MILHOLLAND. Chairman Chaffetz, Ranking Member Cummings, members of the committee, my name is Terence Milholland. I am the IRS chief technology officer and chief information officer. I appreciate the opportunity to testify today.

In my role at the IRS, I'm responsible for all aspects of the systems and data that operate our tax infrastructure. We have a 7,000-person information technology organization that maintains 500-plus systems and data, and supports the processing of 200 million tax returns annually.

Before joining the IRS 7 years ago, I spent 3 decades in the private sector and held a number of information technology leadership positions. My experiences included as executive vice president and chief technology officer of Visa International. I was also the chief information officer and chief technology officer for Electronic Data Systems Corporation, and before that the chief information officer for the Boeing Company.

It is an honor for me to serve the public as the IRS CTO, and to support the tax system by helping the Service modernize its IT systems.

This concludes my opening statement, and I'd be happy to take your questions.

[Prepared statement of Mr. Milholland follows:]

**WRITTEN TESTIMONY OF
THE INTERNAL REVENUE SERVICE
BEFORE THE
HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
ON IRS RECORDS MANAGEMENT PROCEDURES
FEBRUARY 11, 2016**

Chairman Chaffetz, Ranking Member Cummings and Members of the Committee, thank you for the opportunity to discuss the IRS's records management procedures.

The IRS has been working for more than a year to revamp our records retention practices in regard to emails and other electronic records. While we have made significant progress in this area, we recognize the need to continue improving upon these efforts, which are described in more detail below.

The IRS has long been challenged in this area, because for many years our operations have relied on extremely outdated technology. In fact, despite more than a decade of upgrades to the agency's core business systems, we still have very old technology running alongside our more modern systems. As a result, some agency practices are not up to the level of those of a typical modern organization. A case in point is the IRS's document retention program for electronic records, which historically has relied on individual employees either archiving information on their computer hard drives and network drives, or printing records and storing them in paper files.

While these methods are in compliance with National Archives and Records Administration (NARA) standards, there are still risks and vulnerabilities inherent in such a system. Searching individual hard drives to fulfill a document request is a labor-intensive, time consuming process. This type of system poses an additional complication for the IRS, involving the need to safeguard any taxpayer data contained in electronic records created by employees who leave the agency. Additionally, computer hard drives are prone to equipment failure resulting in data loss, and the management of a large hard-drive inventory presents significant logistical challenges, even in the best of circumstances. Our standard practice has been to erase departed employees' hard drives prior to reusing or scrapping them.

The IRS considered putting a more modern electronic records storage system in place in 2012, but was unable to do so because of budget constraints. Since then, the unprecedented volume and scope of the document requests made by Congress and the public in 2013 in regard to the processing of applications for tax exempt status highlighted the need for the IRS to continue improving its

maintenance of federal records that are in electronic form, to the extent our limited funding will allow.

A key part of our current effort to improve the management and storage of electronic records began in October 2014. In this effort, we have been in close consultation with NARA to ensure the best approach. Our interim solution has been to adopt a process created by NARA, termed the “Capstone” approach, to secure the email records of all senior officials in the agency by copying them to the network. This process for senior IRS executives was initiated in late 2014 and completed for all existing executives in April 2015. As additional executives are hired, promoted, or appointed, their email records are saved on the network.

While adoption of the Capstone approach was an important step forward, it is not the ultimate solution for the preservation of electronic records of the agency. We need to end any reliance on individual hard drives as an archival records store, and instead use network databases to preserve all official records that are electronically generated by our workforce – frontline employees as well as executives. To reach that end, we are working toward having systems in place by the end of Calendar Year (CY) 2016 that will allow us to copy material off the hard drive of every employee who leaves the agency, and store that information in a digital format.

As we have continued making improvements for the long term, we recently realized the need for additional interim measures, to ensure we are doing everything possible to retain official electronic records until we have implemented the more comprehensive solution and tested it to ensure it is working as intended.

This need became apparent when an issue arose in connection with the Service’s collection and production of documents related to a Freedom of Information Act (FOIA) case captioned *Microsoft v. IRS*. This document collection effort has included analyzing the computer hard drives of current and former IRS employees who were identified as potentially having information pertinent to the case. In December 2014 the IRS implemented a “litigation hold” that covered many of the topics and custodians identified by Microsoft. We took this action as a proactive measure – not in reaction to a court-issued document preservation order or Congressional investigative request – to preserve information that was relevant or could become relevant in the future.

In January of this year, as the IRS was producing information responsive to Microsoft’s FOIA request, we advised the Court that we had discovered an issue regarding the computer hard drive of Samuel Maruca, a former IRS employee whom we identified in this litigation hold effort, but who had separated from the Service on August 1, 2014. Shortly after he left the IRS, Mr. Maruca’s hard drive was designated for erasure, so that it could be securely reused or scrapped, in line with standard IRS procedures. Because Mr. Maruca’s hard drive was

designated for erasure before the issuance of our litigation hold, the hold did not prevent the erasure of this hard drive, which occurred in late 2014 or early 2015.

However, we believe the erasure of Mr. Maruca's hard drive will have minimal effect on our ability to complete the necessary document production in this instance. We now know that Mr. Maruca's hard drive was copied on July 16, 2014, in connection with a document collection being undertaken for separate litigation. We have therefore determined that the data stored on his computer hard drive as of July 16, 2014, has been preserved. We are in the process of searching this data set for information responsive to the Microsoft document request, and to fulfill any related obligations. We are also searching emails that we copied from Mr. Maruca's network account in July 2014. Particularly given that we have the aforementioned copy sets, we do not know, at this point, if we will need to access back-up tapes or disaster recovery tapes in order to produce documents in the future, but we are prepared to do so if necessary. Backup tapes have been preserved for periods after November 2012.

Although we were fortunate in this instance to have had overlapping litigation holds and taken redundant document collection measures, we nonetheless recognize that this situation reflected a shortcoming in our document controls. Therefore, pending further review of the IRS's litigation hold procedures, Commissioner Koskinen has ordered a halt to the erasure and recycling of all employee devices, including computer hard drives and mobile devices, for all departing employees. This is in addition to the halt on erasure and reuse of disaster recovery tapes backing up our network server, which began in 2013 and remains in effect.

We are also broadening our litigation hold procedures, to ensure that hold instructions are provided not only to the pertinent employees, but also to the employees' supervisors. In addition, we will update our procedures for processing employees who leave the Service, to ensure that appropriate personnel are advised of pending litigation holds and document collection efforts involving records in the custody of departing employees.

It is important to note that the timing of Mr. Maruca's departure was the main issue in this situation, given that it occurred before the IRS began phasing in the Capstone approach for the preservation of IRS executives' emails. Indeed, were Mr. Maruca an IRS executive now, his emails would have been copied to the network and preserved pursuant to the Capstone approach prior to his departure.

Longer term, we need to continue making improvements in our processes for searching for and producing relevant information. Our goal is to develop enhanced search capability for various types of documents, which will allow us to respond to Congressional inquiries and FOIA requests more timely, and put us in a better position to support e-discovery within civil litigation or government investigations.

The President's Fiscal Year (FY) 2017 Budget request for the IRS includes \$18.5 million in additional funding to improve electronic enterprise records management, which includes funds to further improve our document search capability. The IRS urges Congress to approve this funding, so that we can move forward on this critically important initiative.

Chairman Chaffetz, Ranking Member Cummings and Members of the Committee, this concludes the IRS's statement.

Chairman CHAFFETZ. I thank the gentleman. Mr. Tribiano, you are now recognized for 5 minutes.

STATEMENT OF JEFF TRIBIANO

Mr. TRIBIANO. Chairman Chaffetz, Ranking Member Cummings, and members of this committee, my name is Jeff Tribiano, and I am the deputy commissioner for Operations Support for the IRS. I appreciate this opportunity to testify today.

In my position at the IRS, I oversee internal operations, which includes information technology, human capital, finance, privacy, procurement, planning, facilities, and security. Prior to joining the IRS in June of 2015, I served as the associate administrator and chief operating officer of the Department of Agriculture's Food Nutrition and Consumer Services. And prior to joining the Federal government in 2010, I held a number of key leadership positions with Fortune 500 companies. In addition, for more than 22 years I have served and continue to serve our country as a captain in the United States Navy Reserves, to include three mobilizations and deployments to the Middle East.

My experiences in the public sector, private sector, and military have given me a deep understanding of the importance of public service. I'm especially proud to be part of the leadership team at the IRS and to work for an agency with such an important mission. In my 8 months at the Agency, I have found this team to be an amazing organization filled with dedicated and talented people, and I'm privileged to work alongside of them.

Turning to the subject of today's hearing, the IRS has been working for more than a year to modernize our records retentions practices in regard to emails and other electronic records. We are implementing the National Archives and Records Administration's Capstone approach to managing email, and are working towards full implementation by the end of Calendar Year 2016. At that point, our systems will permanently preserve the email records of all employees in electronic format.

Our ultimate goal is to end the reliance on computer hard drives of individual employees as an archive records store, and instead use network databases to preserve all records that are electronically generated by the workforce. As we make these improvements for the long term, we recognize we need additional interim measures to ensure we are doing everything possible to retain official records until a more comprehensive solution is in place.

This need became apparent when an issue arose in connection with the Service's collection and production of documents related to a Freedom of Information Act case captioned Microsoft v. the IRS. In January of this year, the IRS advised the Court that we had discovered an issue regarding the computer hard drive of Samuel Maruca, a former IRS employee who we identified in a litigation hold effort undertaken in December of 2014 in connection with the case.

Shortly after Mr. Maruca left the Service on August 1st, 2014, his hard drive was designated for erasure so it could be securely reused or scrapped in line with the standard IRS procedures. Because Mr. Maruca's hard drive was designated for erasure before the issuance of the litigation hold, the hold did not prevent the era-

sure of this hard drive, which occurred in late 2014 or in early 2015.

However, we do believe the erasure of Mr. Maruca's hard drive will have minimal effect on our ability to complete document production in this instance. We know that Mr. Maruca's hard drive was copied on July 16th, 2014 in connection with the document collection being undertaken for a separate litigation. We have, therefore, determined that the data stored on his computer hard drive up to July 16th, 2014 has been preserved. We also have emails copied on Mr. Maruca's network account in July of 2014, and if necessary, we also can access our backup tapes or disaster recovery tapes in order to produce documents.

Even so, we recognize the situation will reflect a shortcoming in our document controls. Therefore, pending further review of the IRS' litigation hold procedures, the Commissioner has ordered a halt to the erasure and recycling of employees' devices, including computer hard drives and mobile devices, for all departing employees. We'll now copy material off the hard drive of every employee who leaves the Agency, and store that information in a digital format in addition to retaining the physical hard drive.

We are also broadening our litigation hold procedures to ensure that hold instructions are provided not only to the pertinent employees, but also to the employee's supervisor. We'll also update our procedures for processing employees who leave the Service to ensure that appropriate personnel are advised of pending litigation holds and document collection efforts involving the records of custody for departing employees.

In closing, I want to assure the committee that the IRS is committed to building on these efforts and to make further improvements, and continue focusing on serving the Nation's taxpayer.

This concludes my statement, and I'll be happy to answer any questions.

Chairman CHAFFETZ. Thank you. Mr. Killen, you are now recognized for 5 minutes.

STATEMENT OF EDWARD KILLEN

Mr. KILLEN. Chairman Chaffetz, Ranking Member Cummings, and members of the committee, my name is Edward Killen, and I am the director of Privacy, Governmental Liaison, and Disclosure at the IRS. I appreciate the opportunity to testify today.

In my role at the IRS, I represent the Agency's interests in multiple aspects, including records management, information protection, disclosure, data sharing, and combatting identity theft. My office manages relationships with Federal, State, and local agencies by facilitation and oversight of various data sharing programs and initiatives. We also work to ensure the protection of Federal tax information in the custody of our data exchange partners.

The bottom line for my office is that we're working every day to protect taxpayers, safeguard their personal data, and promote both privacy and transparency principles, including the appropriate availability of Agency records.

I've spent my career in public service, beginning as a presidential management fellow with an appointment to the Social Security Administration. In 2003, I joined the IRS as a policy analyst in our

Wage and Investment Division. Since then, I've had the opportunity to carry out a wide range of assignments in different areas at the Service, including leadership positions as the director of Governmental Liaison, Disclosure, and Safeguards, and senior advisor to the deputy commissioner of Operations Support. I have also engaged in numerous and diverse detail assignments across the IRS, including stints within our Chief Counsel's Office and the 2008 economic stimulus team.

I'm proud of the years I've spent in public service and grateful for the chance to continue to serve the American taxpayer.

This concludes my statement, and I would be happy to take your questions.

Chairman CHAFFETZ. Thank you. You all seem like decent individuals. The question is, why do we have to keep coming back and asking for the same basic information? The IRS advice to individuals in businesses is that they should hold their own personal business and tax information for how long? How long are you supposed to hold onto your own personal information? Mr. Tribiano?

Mr. TRIBIANO. Sir, that is not my area. I am with Operations Support, so I —

Chairman CHAFFETZ. Mr. Killen, how long? How long does the IRS advise you to hold onto your own personal information?

Mr. KILLEN. Well, I think it would depend on the particular circumstances. But, you know, as a general matter, probably 7 years or so is probably —

Chairman CHAFFETZ. 7 years. I mean, that is what I have generally heard as well, 7 years. So how long does the IRS hold onto its own data and information? Mr. Maruca leaves the employment. Why the swift erasure of everything that he has? Why does that happen? Mr. Killen?

Mr. KILLEN. Well, I think in the particular case of Mr. Maruca, as the written testimony shows and as I think we will probably talk through the day, that was largely a factor of sequencing and of particular circumstances. But I think the thing that I would reiterate about that is that essentially we have found the file, the data

Chairman CHAFFETZ. Okay, but, yes, you did find the file because we pushed the issue, forced the issue. But on January 15th of this year, the Department of Justice on the behalf of the IRS actually filed a notice with the Federal court that they had erased Mr. Maruca's hard drive.

Here is the fundamental problem. You require us, the people, to hold onto their information for 7 years. The IRS erases their information. There is no consequence. Nobody is held accountable. There was an internal preservation order, but it was ignored, and there is no consequence for that, right? Who issued the internal preservation order?

Mr. TRIBIANO. That came from our legal department.

Chairman CHAFFETZ. How does that process not hold that information?

Mr. TRIBIANO. The internal preservation order came, it was actually a litigation hold order, came after Mr. Maruca left the Agency.

Chairman CHAFFETZ. What originally happened is Microsoft filed a Freedom of Information Act request. That was not complied with,

so they had to go to court and wait to get a court date, and then get to the court to try to say where is this information, and you had already erased it in less than a year. I do not understand why the IRS asks us to hold information for 7 years, and you do not even hold it for 7 months. How does that happen? Why does that happen?

Mr. TRIBIANO. Well, Mr. Chairman, it was a timing issue. Again, Mr. Maruca left the Agency on August 1st.

Chairman CHAFFETZ. But if we have to hold our information for 7 years, how come the IRS does not have to hold its information for 7 years?

Mr. TRIBIANO. The information from Mr. Maruca's system is backed up with our backup tapes. It is just harder to get into that system, and Mr. Milholland can walk through that. It is the hard drive that is easier to access, and that —

Chairman CHAFFETZ. Right now today, how long does the IRS preserve its own internal documents? How long?

Mr. TRIBIANO. It depends on the documents. Mr. Killen can walk you through that.

Mr. KILLEN. That is true. You know, there are various records, disposition schedules for different types of records, both across the Federal government as a general matter, but certainly within IRS, so it is largely fact dependent. But —

Chairman CHAFFETZ. Give me a range. What is the shortest amount of time, what is the longest amount of time.

Mr. KILLEN. Oh, it can really vary.

Chairman CHAFFETZ. You have a \$1.7 billion dispute, and you have the person who is working on the issue, they leave employment for whatever reason. I am sure it was a legitimate reason. But why is all that information suddenly erased, and how do you go in front of a judge and say we no longer have that information? How does that happen?

Mr. KILLEN. Well, I mean, so certainly we —

Chairman CHAFFETZ. Because neither—sorry—neither of those things were true, right? Neither of those things were true. You actually did have the information, but you represented to the Department of Justice that you did not have it. But it was erased even though there was an internal preservation order.

Mr. TRIBIANO. At the time that the Department of Justice was notified, we thought that there was information saved. When we went back to take a look at it and to go through the records, we found that we did back it up for another litigation hold up through July 16th of 2014. Mr. Maruca left the Agency on August 1st.

Chairman CHAFFETZ. Can you help detail for us, and you are not going to be able to get through it verbally now. My time has expired. I have two things that I would love to understand. How do preservation orders internally work, and why are they not adhered to because we had that happen in the Lois Lerner case. We have that happening in the Microsoft case. How does that happen? And then the second thing is I would like to know what documents you do and do not retain and for how long? And I fundamentally do not understand why it is not the same for the IRS as it is for the American people.

Could you between the three of you get back to the committee on those two topics? Is that fair?

Mr. TRIBIANO. Yes, sir.

Chairman CHAFFETZ. Let the record reflect all three of them thought it was fair. All right.

Chairman CHAFFETZ. My time has expired. I will now recognize the gentleman from Virginia, Mr. Connolly, for 5 minutes.

Mr. CONNOLLY. And let the record show this member has felt the chairman has always conducted himself fairly. We do not always agree, but I think he has always been fair.

I want to talk a little bit about investments and capacity. Mr. Tribiano, is it true that the Agency's inflation-adjusted budget has been cut by 17 percent since 2010?

Mr. TRIBIANO. Yes, sir.

Mr. CONNOLLY. Is it further true that by Fiscal Year 2015 we whittled down your funding and your budget to the lowest level in 5 years?

Mr. TRIBIANO. Yes, sir.

Mr. CONNOLLY. Is it also true that, in effect, when you count inflation, that means that your budget has the buying power of the budget of 1998?

Mr. TRIBIANO. Yes, sir.

Mr. CONNOLLY. That is a long time ago. The reduction has been about \$1.2 billion?

Mr. TRIBIANO. Yes, sir.

Mr. CONNOLLY. And in Fiscal Year 2015 alone, the budget was cut another \$346 million from the previous year funding. Is that correct??

Mr. TRIBIANO. Yes, sir.

Mr. CONNOLLY. Well, let me see. Because of these cuts, as I understand it, the workforce has been cut by 17,000 since 2010. Is that correct??

Mr. TRIBIANO. Yes, sir.

Mr. CONNOLLY. Two-thirds of your top managers have left in the last 5 years. Is that correct??

Mr. TRIBIANO. Yes, sir.

Mr. CONNOLLY. 40 percent of your workforce, by the way, on top of that is eligible to retire by 2019 largely because of the baby boom generation. Is that correct?

Mr. TRIBIANO. Yes, sir.

Mr. CONNOLLY. Well, do these cuts and reductions have an impact on productivity, customer service?

Mr. TRIBIANO. Yes, sir, it has a direct impact.

Mr. CONNOLLY. Does it impact your audit capability?

Mr. TRIBIANO. It impacts our audit capability and our revenue collection of capability as well.

Mr. CONNOLLY. Well, Mr. Milholland, do these cuts have any impact at all on the IT budget?

Mr. MILHOLLAND. Yes, sir.

Mr. CONNOLLY. How so? Do you want to elaborate a little?

Mr. MILHOLLAND. It affects people, processes, and technology. For example, in the people area, we know that we have 67 people who are the single points of failure, so to speak, for particular systems. If they left, we would not have any knowledge to deal with

an issue in that particular system they support. That is how thin we have become is that we now can identify the places where we are truly thin, so we have to deal with risk mitigations for those particular systems.

Mr. CONNOLLY. So Mr. Koskinen was quoted last week as saying we have got systems that go back to the Kennedy Administration. What was he talking about?

Mr. MILHOLLAND. What he was referring to are systems like the individual master file or the business master file, where these systems were literally designed and architected in the 1960s and rolled out in the 1970s. Those systems are where literally your tax returns, the master file record of your tax returns, are kept. We have been —

Mr. CONNOLLY. Let me interrupt you one second there. So my tax returns might be kept on a system that goes back to the 1960s and 1970s?

Mr. MILHOLLAND. That was architected in the 1960s and 1970s. That is correct, sir.

Mr. CONNOLLY. What could go wrong with that?

Mr. MILHOLLAND. Well, that is one of the many issues that we deal with is the sustainability of those long-lasting legacy systems so that every year we can have a smooth filing season.

Mr. CONNOLLY. So when we talk sometimes about retrieving information, archiving information, being able to produce documents or evidence with respect to a court case, we are relying in many cases on technology to be our friend that goes back 40, almost 50 years.

Mr. MILHOLLAND. Obviously depending on the case, so to speak, if individual taxpayer data is being accessed, that architecture is that old. The access mechanisms might be more current.

Mr. CONNOLLY. Right.

Mr. MILHOLLAND. But the fundamental underlying structure is reliant upon systems that were built in that era.

Mr. CONNOLLY. Okay. You come from private sector?

Mr. MILHOLLAND. Yes, sir.

Mr. CONNOLLY. You are now the CTO for a public sector entity. Real quickly in the time I have got left, what would you do and what would it cost to do what you do to modernize and upgrade the IRS so it is functioning as a modern technology-oriented entity in 2016?

Mr. MILHOLLAND. Yes, sir. I will try to be very brief. We built a technology roadmap. We did that a few years ago and have been executing against it for the future state; that is, to bring the IRS so it looks like a digital company in the financial area; that is, comparable to the way a large financial institution would operate. That means that we have to upgrade a number of the underlying processes which are based in these, as I say, the 1960s architecture, bring them into a 21st century architecture, and implement the technology that allows that.

We have standardized on modern programming languages, for example. All new developments since I have arrived, they are in Java, for example, rather than the more ancient languages like assembly language, or COBOL, or these, I will just say, simply legacy programming languages. We have standardized on a different oper-

ating system, in our case, Linux, for example, a very modern operating system environment that is very common across all of private enterprise.

And we have been slowly and steadily migrating new systems of what we have had to invest in to support things like FATCA, the Affordable Care Act, the Revenue Return Program, our fraud detection system, all are built, I will say, the right way so that we can slowly remove ourselves from dependencies on these older systems.

And then the last comment I would make, we have plans to get off, so to speak, of that dependency. The Congress has supported us in our business systems modernization program in a program called CADE 2, Customer Account Data Engine. The second transition state of that is underway in which we are converting off of that master file system into a modern relational database program, at the same removing the financial material weakness of the older individual master file systems.

Let me stop there because I could certainly go on and on and on.

Chairman CHAFFETZ. I thank the gentleman. I would simply ask that the digital roadmap that you are talking about, if you could provide this committee that copy of this roadmap, I think we would both like to look at it. When you can provide that to this committee?

Mr. MILHOLLAND. As soon as our release mechanism allows us. Soon if I can get away with that.

Mr. CONNOLLY. Mr. Chairman, if we could also to that request the cost. What would it cost?

Chairman CHAFFETZ. Yes, that would be great because —

Mr. CONNOLLY. Thank you.

Chairman CHAFFETZ.—the IRS has had over the last 5 years more than \$11 billion in just IT expenditures. It is a significant amount of money. We would appreciate you sharing that plan with us.

Mr. MILHOLLAND. Mr. Chairman, could I add one other thing?

Chairman CHAFFETZ. Sure.

Mr. MILHOLLAND. The roadmap does not stand by itself. It goes along with a business plan which we call a future state vision, in which all of the businesses as outlined, how do they want to actually operate in the next 3 to 5 years, and then that roadmap supports that plan. So you would actually need to understand both.

Chairman CHAFFETZ. If you could provide both, that would be appreciated.

Mr. MILHOLLAND. All right.

Chairman CHAFFETZ. Fair enough? And I appreciate it.

Chairman CHAFFETZ. I thank the gentleman for his questions, and I am surprised after 23 hearings you still have questions.

Mr. CONNOLLY. It was a struggle, Mr. Chairman.

Chairman CHAFFETZ. Yes. Yeah, you still have questions, and so do we. We will now recognize the gentleman from Ohio, Mr. Jordan, for 5 minutes.

Mr. JORDAN. Thank you, Mr. Chairman. Mr. Milholland, in May of 2013, the country learns that the IRS has been targeting conservative groups. Congressional investigations are announced. The President has a big press conference. The Attorney General announces that there is a criminal investigation that will be fol-

lowing. As the chief information officer, did you take any action to preserve information data and documents?

Mr. MILHOLLAND. Yes, sir.

Mr. JORDAN. And what action was that?

Mr. MILHOLLAND. We issued a directive to my staffs down through every level of management and individuals to hold onto every piece of information.

Mr. JORDAN. Was your order clear?

Mr. MILHOLLAND. I certainly thought it was clear.

Mr. JORDAN. I am going to read from it. "Do not reuse, or refresh, or wipe information from any personal computer that is being reclaimed, returned, refreshed, updated from any employee or contractor of the IRS. Effective immediately, the email retention policy for backups is to be indefinite rather than 6 months." Pretty clear, right?

Mr. MILHOLLAND. Yes, sir.

Mr. JORDAN. You go on in that email to say this, "In other words, retain everything." Now, "everything" is a pretty big universe, so I do not know how you could be more clear. So the chairman has asked this a couple times. How in the world did the IRS end up destroying, with that clear directive, end up destroying 422 backup tapes that were extremely relevant to the investigation?

Mr. MILHOLLAND. As you are undoubtedly aware having that email, TIGTA did their report out. They looked at every step of the process along the way of how did we end up doing that. In fact, I think I was quoted in there when they interviewed me as I was literally blown away by the fact that it had happened because, again, I thought the instructions were remarkably clear.

Mr. JORDAN. So I think they are clear, too, if I could just interrupt, Mr. Milholland. So I think they were pretty clear, too. So did you do anything else? Did you just send this email out or this directive out that says keep everything and then that was it? Is that all you did?

Mr. MILHOLLAND. Within IT, the information technology organization, we discussed it with staff and with the executive team that we needed to do this. We were also in the midst of consolidating all the email servers that were sitting around the country into our two primary data —

Mr. JORDAN. Let me interrupt again. I only got 5 minutes here. Were there other preservation orders that came to the Internal Revenue Service, other orders to preserve documents, not just the one you sent out internally, but were there others that come in from the outside?

Mr. MILHOLLAND. I really do not know. You would have to ask the chief counsel about that.

Mr. JORDAN. Yeah, well, there were two, right? There was one from the Justice Department and one from TIGTA that said, hey, they want to just reinforce and preserve documents. So did you take any action relevant to those other orders to preserve all information?

Mr. MILHOLLAND. I do not recall seeing those orders, so —

Mr. JORDAN. When the legal staff got the order from the Justice Department to preserve all the information, they did not say, hey, you better make sure we do not destroy anything. They did not

communicate it to you, and then you did not communicate another email like the one we were just talking about.

Mr. MILHOLLAND. I am totally unfamiliar with the order that you are discussing. We always have a practice generally when a request comes in that counsel needs us to hold onto items, they send an email around to the responsible individuals —

Mr. JORDAN. Okay.

Mr. MILHOLLAND.—and tell them to literally—sorry. Go ahead.

Mr. JORDAN. What about the subpoenas? This committee sent two subpoenas. Did that warrant or did that trigger you taking any further action than this one email that you sent?

Mr. MILHOLLAND. No, sir.

Mr. JORDAN. So the two subpoenas and the other two preservation orders, the IRS chief information technology officer, that did not trigger you to do anything else. You sent this one email that I think is pretty clear, but that is all you did.

Mr. MILHOLLAND. As I tried to express earlier, Congressman, we discussed the request to hold on to all of those items that were in that email throughout our staffs so the executive team, the management team, would understand how serious this was. And, therefore, to protect —

Mr. JORDAN. So there is —

Mr. MILHOLLAND.—basically the retention of information.

Mr. JORDAN. I got it, yeah.

Mr. MILHOLLAND. So it was reinforced constantly to do so.

Mr. JORDAN. So then why was it not? So there are two key questions. There are two questions, and I have got 30 seconds here. Two questions. One, when you say “keep everything” and then 422 tapes, 24,000 emails are destroyed, I want to know how that happened and why that happened. Second, this is the question I get all the time from folks back home. Who is held responsible? So there is an order given from the chief technology officer to keep everything, and it is not kept. In fact, it is destroyed. Who was disciplined? Who was held accountable? That is what we would like to know.

Mr. MILHOLLAND. I will answer the second question first. I held myself accountable as it was reported in the TIGTA report that it starts at the top. I was at the top, and, therefore, myself and my management chain were held to be accountable. That was part of our performance plans and such and was discussed appropriately when we discovered this particular incident when it happened.

Mr. JORDAN. Let me just ask one other question. Did you get a raise the last few years? Have you had a raise in your salary?

Mr. MILHOLLAND. Because I am in the senior critical, I got an adjustment because of this senior critical pay.

Mr. JORDAN. Did your pay go up?

Mr. MILHOLLAND. Yes, it did.

Mr. JORDAN. The last 2 years?

Mr. MILHOLLAND. I think only once in the last 2 years.

Mr. JORDAN. Who is your direct boss? Who do you report to? When I look at your chain of command, it looks to me like you report to Mr. Tribiano.

Mr. MILHOLLAND. Mr. Tribiano.

Mr. JORDAN. And, Mr. Tribiano, your office is a direct report to the commissioner of the IRS. Is that right?

Mr. TRIBIANO. Yes, sir.

Mr. JORDAN. All right. So what happened there? You find out this guy does an order, and that is as clear as it gets, retain everything. It is not followed. Tapes are destroyed, 24,000 emails. That information comes to you. What did you tell Mr. Koskinen?

Mr. TRIBIANO. Well, sir, I was not part of the IRS during that time.

Mr. JORDAN. What did your office tell Mr. Koskinen?

Mr. TRIBIANO. I do not know what my office told Mr. Koskinen.

Mr. JORDAN. You come to the hearing, you know we are talking about record retention, and you do not know what happened?

Mr. TRIBIANO. I did not say that, sir. I said I was not responsible, and I was not there.

Chairman CHAFFETZ. The gentleman's time has expired.

Mr. JORDAN. Thank you, Mr. Chairman.

Chairman CHAFFETZ. We will now recognize the gentlewoman from the District of Columbia, Ms. Norton, for 5 minutes.

Ms. NORTON. Thank you, Mr. Chairman. I understand that we are here talking about what we loosely call data preservation and security, but we are doing so for the IRS, where the data that we most want to keep to ourselves is to be found. I have often wondered how the IRS is able to attract the advance technical professional employees to do what needs to be done. You know, it is easy enough for us to tell you what you should do.

So I am interested in exploring what we can do to make it possible for you to do what you are supposed to do. Now, what intrigued me was this notion of critical pay authority that allows the IRS—other agencies have it, too—to hire people who it would be very difficult to attract to the public service otherwise. Do I understand, Mr. Milholland, that you are a critical pay employee?

Mr. MILHOLLAND. Yes, ma'am.

Ms. NORTON. Is it fair to say that in order to come to the IRS, you took a pay cut?

Mr. MILHOLLAND. Yes, ma'am.

Ms. NORTON. Would that have been a significant pay cut?

Mr. MILHOLLAND. Yes, ma'am.

Ms. NORTON. So when we look at how important this data is, I wanted to see how many people were in this position. I understand that you are authorized in these critical positions, that the IRS is authorized only for 168, only for 40 at one time. I am quite amazed at that. And even they can only serve 4 terms. You would be lucky to keep them for 4 years. You would be lucky to keep them for 4 years when you consider how critical these people are. We do H-B1 visas that are so critical in our own country.

Is my information correct that here are only 19, Mr. Milholland, of these critical technical people at the IRS at this point?

Mr. MILHOLLAND. I can answer for the number in information technology. There are 11. I believe Mr. Tribiano can cover the rest.

Mr. TRIBIANO. Yes, ma'am, we have 14. And I would just like to note, ma'am, that we do not have that authority anymore. That authority expired.

Ms. NORTON. Well, that was going to be my next question. I understand that this number, since they can only stay 4 years, that that number is depleted every time you get to the end of the 4-year term. And that critical person, even if they have not already left to go to some high tech company, has to go then.

Mr. TRIBIANO. Yes, ma'am.

Ms. NORTON. And you have had no authority for at least 2 years

Mr. TRIBIANO. Yes, ma'am.

Ms. NORTON.—to hire people. That is why you are down to 19.

Mr. TRIBIANO. 14 in total.

Ms. NORTON. 14 for you, Mr. Tribiano, and —

Mr. TRIBIANO. No, 14 in total for the Agency, ma'am.

Ms. NORTON. Oh, for the entire Agency out of 168 that are authorized.

Mr. TRIBIANO. Yes, ma'am. We lose one this year, and then the remaining 13 next year.

Ms. NORTON. This is malfeasance it seems to me, but it is on our part. I do not know how we could have gotten without at least authorizing. I do not know if there is enough funds even if authorized, but if you were able to even attract such people, you deserve our congratulations. But if we can continue to reprimand you for things you do not do in data collection while we do not recognize our responsibility to authorize you to have what I regard as a very small number of technical professionals on board, then there is a disparity here that I think the government has to take account of.

Chairman CHAFFETZ. Would the gentlewoman yield?

Ms. NORTON. Yes, sir.

Chairman CHAFFETZ. My understanding of this process is that the Office of Management and Budget has the opportunity to offer 800 people within the Federal government critical pay authority in consultation with the Office of Personnel Management. Of the 800 available slots for critical pay authority, they are only using 4. Not 400, 4 of the 800 that are already —

Ms. NORTON. Where is this, in this Agency?

Chairman CHAFFETZ. Well, throughout government. So if the IRS commissioner needs critical pay authority, for instance, for IT specialists, which I would probably actually agree with, there is already a process and authorization in place where OMB with OPM goes and gets that authorization.

Ms. NORTON. Well, I understand they do not even have to go through OPM. Is this authority authority that you think the Agency needs?

Mr. TRIBIANO. Yes, ma'am. Streamlined critical pay is very important to us, and if we are able —

Ms. NORTON. But do you think you have the authority? The chairman thinks you already have the authority.

Mr. TRIBIANO. Not under what we had before, which is streamlined critical pay. What the chairman is referring to, I believe, is, if I understood right, is an OMB, I mean, an OPM process that exists for critical IT.

Ms. NORTON. But the people we are talking about do not have to go through that process, do they?

Mr. TRIBIANO. Streamlined critical pay, no, ma'am. We would recruit directly from the private sector into the top IT positions.

Chairman CHAFFETZ. If the gentlewoman would yield, if the IRS has a case, the mechanism that Congress previous to me had set up is that they make the case to the Office of Personnel Management or through the OMB. In concurrence, they can grant that all within the executive branch without having to come to Congress.

Ms. NORTON. But it expired 2 years ago.

Chairman CHAFFETZ. No. Well, I will work with the gentlewoman to help clarify this, but I do believe it is currently available. The gentlewoman's time has expired, but I will work with the gentlewoman on this topic.

Ms. NORTON. I wish you would because the testimony has been pretty direct here that it has expired, and our own research shows it has expired.

Chairman CHAFFETZ. Okay. Well, again, we will be happy to work with you. We now recognize the gentleman from Michigan, Mr. Walberg, for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman. And just in reference to statements made earlier by a member of our committee concerning several senior-level administrators leaving under the guise of the challenges of doing the job here, remember some of those left under a rather dark cloud pleading the 5th under potential impeachment, et cetera. So we do not need to forget that also.

Mr. Milholland, you mentioned that when finding out that your direct orders for preservation were disregarded, you were blown away. Coming from your experience in the private sector, extensive experience and background in the private sector, I would assume that orders like that would not have been disregarded clearly without significant consequence. So I do want to go back to a question made by a colleague of mine, Mr. Jordan, and just get a more direct answer. Do you know of anyone who was reprimanded for not following the preservation notice? Reprimanded or worse.

Mr. MILHOLLAND. The way we handled the situation was waiting until the TIGTA report was in where basically, as I say, the TIGTA concluded there was no criminal wrongdoing, which was peace of mind. Someone did not deliberately set out to do this. And then, in reading through their report, what conclusion do you come to?

As I say, management—me—took accountability for our management chain's failure to see that the instruction was followed. That then was dealt with through performance reviews and feedback to people for their whole entire performance through the appropriate chain and such. We did not penalize or punish anyone on the floor because they thought they were doing what they were supposed to do. They had received instructions. They were following a process, and —

Mr. WALBERG. But the leadership team, any one reprimanded?

Mr. MILHOLLAND. In the sense of in their performance review feedback, yes.

Mr. WALBERG. But no other consequences beyond that.

Mr. MILHOLLAND. No other consequences, no, sir.

Mr. WALBERG. I doubt that in the private sector it would have been as simple as that. Let me move on. Let me move on. The taxpayer advocate recently released a report on the IRS future state

plan that stated the IRS's intent to move all taxpayer filing and help systems to an online platform.

In the last 9 months, the IRS has experienced at least two electronic data breaches surrounding taxpayer P-2s. This includes the May 2015 breach that exposed more than 100,000 taxpayers' sensitive information. The taxpayer advocate also found that roughly 1 in 5 taxpayers who were victims of taxpayer identity theft had their IRS files closed. Despite unresolved issues remaining, taxpayers, in other words, still had to wait an average of 6 months before the negative impact of taxpayer identity theft was addressed.

Mr. TRIBIANO, in light of these breaches, why does IRS feel that now is the best time to roll out a more expansive and pervasive online tax system?

Mr. TRIBIANO. Well, sir, if I can just add one thing to that. We are not abandoning and going everything to digital or to online. We still have to take care of the taxpayers that still want to file paper returns and go that route. But the customers in this case, the taxpayers, have advocated for us, or for the IRS, to operate more as a large multinational type of bank to be able to do things online. As you can imagine, they would rather deal with us online more so than deal with us in person, so we are shifting.

It is a 3- to 5-year process to go to where we want to go, what we call future state. And that is to be able to have interactions with the taxpayers electronically the way they are asking for it.

Mr. WALBERG. How do you propose to protect them, though, online?

Mr. TRIBIANO. As we build out the technology, we are changing and adapting it, and I think Mr. Milholland can walk you through some of the things —

Mr. WALBERG. Walk me through that, some of the means by which you can stop the breaches that could very clearly come that has taken place in person, but it could take place extensively online.

Mr. MILHOLLAND. Yes, sir. We have an initiative we call the eAuthentication Authorization and Access Initiative. The first part of this is what we are doing to get transcripts back online. If you recall, with that original issue from last May and June, we took it offline until we could get it right; that is, the underlying authentication. Can we really identify that the individuals coming in are who they say they are. That work is underway. We hope to roll that application back up some time this spring.

But we also have done other things that we started changing the way that we handle, I will say, the online environment. The particular technologies we, in fact, deployed as a result of the "Get Transcript" incident were, in fact, what allowed us to stop this bot attack from 2 weeks ago explicitly. The ability to capture and see that this attack was ongoing is a direct result of us improving that environment.

A number of other tools and such are built into our cyber investment plan. It is what we are going to use some of the monies that are now made available to us from the Congress through an extra \$290 million. About \$100 million of that has been assigned to IT specifically for cyber. That is where the investments will be made. The President has certainly recognized it in his Fiscal Year 2017

budget submission for what he wants to do across the Administration. And then part of those monies will be used to improve aspects of the IRS online presence.

There are a number of specific tools I could talk about here, Congressman. I do not know exactly —

Mr. WALBERG. I appreciate this getting on record of what you are doing, and that down the road we will not be blown away by mistakes that come, but I want to make sure that this is taken care of. That is part of our oversight, and we want to make sure that you are doing oversight as well. I yield back.

Chairman CHAFFETZ. The gentleman's time has expired. If Mr. Milholland can continue to provide the committee with what they are doing in that regard, we would appreciate it.

I will now recognize the gentlewoman from New Jersey, Ms. Watson Coleman, for 5 minutes.

Ms. WATSON COLEMAN. Thank you, Mr. Chairman. Mr. Milholland, it has been almost 4 years since the committee launched its investigation of the IRS, and to date IRS has produced more than 1.3 million pages of documents from 88 custodians in response to over 80 document and information requests. According to the information I have, on June the 3rd, 2015, the IRS' senior privacy official testified before this committee. Is that you, Mr. Killen? Is that you?

Mr. KILLEN. Not at the time.

Ms. WATSON COLEMAN. Okay, thank you. Well, let me read to you what was said. "More than 250 IRS employees have spent more than 160,000 hours working directly on complying with investigations at a cost of \$20 million, which also includes the cost of adding capacity to our limited information technology systems to accommodate the voluminous information requests." And that figure does not include that at least \$2 million additional have been spent by the inspector general. Mr. Milholland, what sort of capacity has been added to the IRS information technology system in order to accommodate this information and this investigation?

Mr. MILHOLLAND. There is an investment plan to build out the entire process of record retention. This ranges from saving all of the email and all of its attachments, the archiving of information that are on hard drives in turn being saved. And the first elements of this, if we are able to complete our project, would start to roll out at the end of December, beginning of January.

Ms. WATSON COLEMAN. Do you have the resources and the personnel to be able to accommodate this effort?

Mr. MILHOLLAND. At the current moment we do not. We have what we need to implement toward the end of this year, but for the long-term needs of the record retention initiative, to do everything that is being asked in the sense of build a system that can search for anything and do it instantly, that has not yet been, I will say, completely planned out, nor staffed, nor resourced.

Ms. WATSON COLEMAN. You have made some improvements because you were able to detect some suspicious behavior most recently in the system. And you do not have any reason to believe that that was anything terrorist related or anything of that nature or —

Mr. MILHOLLAND. Ma'am, are you referring to the bot attack that was 2 weeks ago?

Ms. WATSON COLEMAN. Mm-hmm.

Mr. MILHOLLAND. I cannot speak to who it was. There is an investigation going on right now by the investigative side of TIGTA. This was done from international sites using malware placed on individual machines and servers that attacked the IRS attempting to get these e-file PINs, no other taxpayer data. In fact, the e-file PIN is not taxpayer data, so I cannot characterize who they were. They were, you know, more than likely criminals, but I cannot really say.

Ms. WATSON COLEMAN. After Mr. Maruca's file was detected, after there was this belief that it did not exist and then you found out that you had a backup to it, you all have done something that would ensure that this problem does not occur in the future until you can take care of it in a more technologically savvy way? You have made decisions that no information gets erased until after something happens, right? Until after what happens, and when would that happen?

Mr. MILHOLLAND. Is that a question toward me? I just was not sure.

Ms. WATSON COLEMAN. Well, to whomever can answer it.

Mr. MILHOLLAND. I was not sure if it was to the deputy commissioner.

Ms. WATSON COLEMAN. Well, if the deputy commissioner is the one that should answer it, I am fine with that. Thank you.

Mr. MILHOLLAND. Okay.

Mr. TRIBIANO. The answer to that, ma'am, is yes. We put a non-destruct order in for all hard drives and devices for all employees of the IRS when they depart the IRS, and we immediately back up the hard drive itself electronically so we would have two copies until we get to the long-term solution that Mr. Milholland was talking about.

Ms. WATSON COLEMAN. So minimally, would you say that you have a future desire to hold this information as long as we are responsible as citizens to hold our information at 7 years, that incredible 7 years that we are talking about, or is there something other that you all would be presenting?

Mr. TRIBIANO. Well, I think that is a question for Mr. Killen.

Ms. WATSON COLEMAN. Mr. Killen?

Mr. KILLEN. Thank you for the question. We are working vigorously to ensure that we migrate our records management practices from sort of the current state to where we need to get to, you know, in the future in order to be compliant with all of the respective guidances out there from NARA and from OMB.

So principally, we have taken, you know, really a multi-pronged approach at that. Mr. Milholland and Mr. Tribiano both talked about various aspects of that, but I think, you know, first and foremost, again, ensuring that we no longer wipe or —

Ms. WATSON COLEMAN. Erase.

Mr. KILLEN.—sanitize existing hardware, ensuring that we have copies that are in place on the machines. But we are, in addition to that, we have put a process in place for our senior-most Agency officials throughout IRS at the executive level because those are

the individuals most likely to create Federal records. And so, we have an approach that we have implemented called the Capstone approach to ensure that we maintain and appropriately archive those records of our senior-most officials. At the same time, we are currently in the process of implementing a plan for December 2016 where all IRS employees' email accounts will be archived electronically. And that is per directives that we have —

Ms. WATSON COLEMAN. Thank you, Mr. Killen.

Chairman CHAFFETZ. The gentlewoman's time has expired. How convenient. December of 2016, then we will start that process. There we go.

All right. I will now recognize the gentleman from Tennessee, Mr. DesJarlais, for 5 minutes.

Mr. DESJARLAIS. Thank you, Mr. Chairman. Mr. Milholland, did the IRS hire a new director of the Office of Personal Responsibility in the past year?

Mr. MILHOLLAND. I actually do not know.

Mr. DESJARLAIS. Mr. Tribiano?

Mr. TRIBIANO. We transferred an individual into that office.

Mr. DESJARLAIS. Who was that?

Mr. TRIBIANO. That is Mr. Whitlock.

Mr. DESJARLAIS. Mr. Whitlock. Okay. And that is basically the director of the IRS ethics department, correct?

Mr. TRIBIANO. It could be categorized as that, yes, sir.

Mr. DESJARLAIS. Okay. Did they review this individual's history with the Department?

Mr. TRIBIANO. With the Department of Treasury? I am not aware, sir.

Mr. DESJARLAIS. Do you know why the individual's record would not be reviewed prior to hiring someone for this position?

Mr. TRIBIANO. Why it was not sent to the Department of Treasury?

Mr. DESJARLAIS. Why they would not review his record before hiring someone to oversee the IRS' ethics department.

Mr. TRIBIANO. The Executive Resources Board would have reviewed the record before making the recommendation of the movement of that individual into that position.

Mr. DESJARLAIS. Okay. Mr. Milholland, did that ring any bells? Are you aware of Mr. Whitlock?

Mr. MILHOLLAND. Not at all, sir.

Mr. DESJARLAIS. No knowledge of him?

Mr. MILHOLLAND. No, sir.

Mr. DESJARLAIS. That was not run by you, Mr. Killen?

Mr. KILLEN. No, sir.

Mr. DESJARLAIS. No. Okay. So the IRS hires a new director to head up their personal ethics program. And, Mr. Tribiano, are you aware that he has a history of illegally shredding documents?

Mr. TRIBIANO. Sir, well, first, let me say I cannot discuss. There is an IG investigation. But our internal review that was done in 2005 found that Mr. Whitlock, there was no intent from that office, and that there was no wrongdoing in that process.

Mr. DESJARLAIS. Okay. I have seen different reports. Mr. Milholland, would you be blown away if you learned that you hired an ethics director that had illegally shredded documents?

Mr. TRIBIANO. Just for the record, this position does not report to Mr. Milholland. The position reports to the deputy commissioner for Service and Enforcement.

Mr. DESJARLAIS. Okay. So you have not reviewed the TIGTA audit of the OPR that was completed while the individual was destroying taxpayer records, or you have not read the investigation record, or the record destruction, or whistleblower retaliation?

Mr. TRIBIANO. No, sir. What I reviewed was our internal review of the process that happened. Again, I cannot discuss the TIGTA investigation, and our internal review showed that there was no wrongdoing by that individual. That individual did not order the destruction that was done by the acting director at that time.

Mr. DESJARLAIS. Okay. I guess I am just kind of shocked that, you know, this is a person that the IRS hired to be the head of their Office of Personal Responsibility, and he has got this history, and no one on the panel today seems to know anything about him.

Mr. TRIBIANO. He was transferred, sir. He has been part of the IRS. He was in there as the deputy director of that office, was transferred to head up another office for us, and then was transferred back in.

Mr. DESJARLAIS. Is this typical of how the IRS handles new hires?

Mr. TRIBIANO. He was a transfer, sir, not a new hire who has been with the IRS —

Mr. DESJARLAIS. So when somebody gets in trouble, they transfer him around. Is that how it works?

Mr. TRIBIANO. I am not saying that, sir.

Mr. DESJARLAIS. Okay.

Chairman CHAFFETZ. Will the gentleman yield?

Mr. DESJARLAIS. Yes.

Chairman CHAFFETZ. Mr. Tribiano, you said there is a new non-destroy policy. When did that come into place?

Mr. TRIBIANO. That came into place right after we found out that we had that gap with Mr. Maruca.

Chairman CHAFFETZ. That you had destroyed things. So can you give me a specific time?

Mr. TRIBIANO. January, sir. I do not know the exact date, but it was in January.

Chairman CHAFFETZ. So just in the last 30 days?

Mr. TRIBIANO. Yes, sir. When we realized we had the gap when Mr. Maruca before the —

Chairman CHAFFETZ. Why did you not put this in a policy when Mr. Milholland put this into place into 2013? Did you ever lift that non-destruction order, Mr. Milholland?

Mr. MILHOLLAND. I have never lifted the non-destruct order for the tapes, the backup tapes, which we were dealing with at the time.

Chairman CHAFFETZ. The gentleman from Ohio.

Mr. JORDAN. The chairman asked my question. When was the order rescinded that you wrote in 2013 which says effective immediately, email retention policy for backups is to be indefinite? So if it is indefinite, is that still in place?

Mr. MILHOLLAND. Yes, sir. Email is saved indefinitely.

Mr. JORDAN. Well, but the key question is, what about the backup tapes. They are saved indefinitely?

Chairman CHAFFETZ. If the gentleman will yield, it says, "Do not destroy, wipe, or reuse any of the existing backup tapes for email or archiving of other information for IRS personal computers."

Mr. JORDAN. Okay. And our question is, was that rescinded in any way.

Mr. MILHOLLAND. If I understand your question correctly, sir, no. What we have, we still back up email and —

Mr. JORDAN. Okay. Good.

Mr. MILHOLLAND. Excuse me. I am sorry. I am interrupting you.

Mr. JORDAN. No, if it was not rescinded, then why did you have to issue a new order that Mr. Tribiano just referenced?

Mr. TRIBIANO. I believe what Mr. Milholland was saying is that

Mr. JORDAN. Is it so that you could have another one that people will not follow? I mean, that is our point. If you have one in place, obviously it was not followed. You said nothing is being rescinded, and Mr. Tribiano said just last month we issued a new order to preserve all documents and not destroy anything. Why was that necessary?

Mr. TRIBIANO. The order that Mr. Milholland was referring to, the one that he did that was about backup tapes and disaster recovery tapes. What we are talking about is the cleaning of hard drives for recycling back into the IRS system for computers or for destruction when they go out. And the reason that is in place is because some of those hard drives contain 6103 data, so we cannot leave them around now for a longer period, so we have to secure them. So now with the new order we have to secure those hard drives, put them in a secure location, document them, and put them away because it has information on them.

Chairman CHAFFETZ. And the time has expired. We are going to recognize Ms. Kelly here. But that is not what Mr. Milholland's memo of May 22nd, 2013. It says, "Do not destroy, wipe, reuse any of the existing backup tapes or email or archiving of other information from IRS computers. Further, do not reuse, or refresh, or wipe information from any personal computer that is being reclaimed, returned, refreshed, updated from any employer or contractor of the IRS." I mean, it could be not be more explicit.

Mr. MILHOLLAND. Again, Chairman, if I may, that was referring to our backup tapes of the email systems and all the information

Chairman CHAFFETZ. You can dance around this all the time. You had a preservation order in place. You had a do not destroy, and you continued to destroy them. You have represented to the Department of Justice, and to the courts, and to the United States Congress that you are not doing this. This issue has never been fixed, and that is why we continue to have these hearings.

We have gone way past your time. We will recognize the gentleman from Illinois, Ms. Kelly, for 5 minutes.

Ms. KELLY. Thank you, Mr. Chairman. Mr. Killen, I wanted to talk about what the IRS is doing to ensure that document and preservation measures are being implemented so that we do not end up here again, which no one wants. It seems strange that we

are having a full committee hearing because of one employee's hard drive, especially since all but 2 weeks of his emails were preserved. What is the current IRS policy with respect to document preservation for departing employees, and how long are their emails kept?

Mr. KILLEN. Thank you for the question. As I stated a little earlier, we have essentially a multi-pronged strategy and approach that we are taking with respect to email. First and foremost, we have implemented the Capstone approach, which is an approach that has been developed by National Archives that is focused on your role within the organization, because you want to ensure that the senior-most officials in an organization who are most likely to create records, that those records are preserved.

And so, about a year ago we implemented that process across IRS to ensure that our senior executives all across IRS, that we had the appropriate electronic preservation of those emails. And so, that has been in place for the last year, and that was really one of the significant early pieces of the strategy.

Ms. KELLY. And how long are they kept?

Mr. KILLEN. They will be kept, there are ranges. But for our most senior executives, they will be kept permanently. For sort of our second tier of executives on down, they will be kept for 15 years. And that is very consistent with a role-based approach because you want to ensure that you have the preservation of records, you know, in the most appropriate fashion.

So the second piece of that strategy related to email is that by the end of this calendar year, by December 2016, consistent with the directives that we have received from OMB that applies across the government, not just to IRS employees, we will ensure that all of our employee email is available in an electronically accessible environment. And then we are also taking a variety of other steps to shore up our other processes and procedures with regards to records retention for separating employees and for, you know, an entire gamut of issues that we are working towards. So we are making significant progress.

Ms. KELLY. Okay. What is the IRS doing right now to ensure that an instance such the Maruca case does not occur again?

Mr. KILLEN. Thank you for that question. So, again, as part of sort of the multi-pronged strategy that we have, because, you know, the key issue with Mr. Maruca is he separated from the Service.

Ms. KELLY. Right.

Mr. KILLEN. And so, we have a process in place now where if an employee separates from the Service, we are ensuring that we do not wipe the machine. In addition, we are making the copies of the machine. So really, you know, our whole approach around records management and retention is first and foremost ensuring that we follow the relevant guidance and directives that are out there. But then secondly, trying to, you know, build in multiple layers of redundancy so that we do what we can to reduce, you know, the likelihood of the human element where people make mistakes as well.

Ms. KELLY. So would you look at this as your longer-term solution, or do you have other long-term solutions as it relates to hard drive inventory management?

Mr. KILLEN. There is a very long-term solution because, you know, you can imagine the volume of records, and particularly as just in all walks of life, as we move more towards a digital environment. And so, you know, our first focus and emphasis is on email. We have paper records, as you might imagine, that we do a pretty good job of maintaining, but we have improvement opportunities there as well. But longer term, you know, there is guidance that talks about by 2019 the Federal government should be able to migrate to a place where all records are stored in that, you know, accessible electronic medium. Our focus is initially on email, but that will extend to, you know, all of the various avenues of record creation towards that 2019 directive.

Ms. KELLY. And once you get there, this will allow you to answer inquiries from Congress faster or FOIA requests? Do you feel like you will be faster at that?

Mr. KILLEN. It will certainly help. It will certainly help because, you know, the first thing is that the documents have to be available certainly. But when you get beyond the actual availability of the documents, and when you talk in terms of document production, you also need to have the ability to search. And ideally you would want to have the ability to do key word searches because those are things that allow you to have, you know, very efficient document production.

So my answer to your question is that having the documentation retained is a necessary predecessor first step, but there is also the need to have the ability to do, you know, adequate search, find, and redaction capability. And that will be a separate effort, but it certainly is one that we have our eye on as well.

Ms. KELLY. I am out of time. Thanks.

Chairman CHAFFETZ. I thank the gentlewoman. I will now recognize the distinguished and always dapper gentleman from South Carolina, Mr. Gowdy, for 5 minutes.

Mr. GOWDY. Chairman Chaffetz, I appreciate your leadership on this issue as I do Chairman Jordan's. And for that reason, I would like to yield to the gentleman from Ohio, Mr. Jordan.

Mr. JORDAN. I thank the gentleman. Mr. Milholland, who told you to issue the May 22nd, 2013 order, or I think "directive" is what you called it.

Mr. MILHOLLAND. The email we talked about earlier, sir?

Mr. JORDAN. Preserve all documents. In other words, retain everything. That email.

Mr. MILHOLLAND. That was a request that came from Chief Counsel's Office, and the way to do it was to send an email out as quick as we could to the people involved dealing with the backup tapes and such.

Mr. JORDAN. And when you did that, did you like have just a couple people you were sending it to, or was it like send to everyone, send all?

Mr. MILHOLLAND. Principally directed to the operations team who deal with the backup tape processes and such, but the IT staffs all knew about it.

Mr. JORDAN. And the chart that I see, you got five agencies or five groupings that answer to Mr. Tribiano. Were the heads of all

five of those groupings sent your email plus all your staff, or just within your area?

Mr. MILHOLLAND. It was just within IT.

Mr. JORDAN. Okay. Okay. I just want to be clear. And do you know if the commissioner at the time, Commissioner Werfel, knew about your directive to preserve all documents?

Mr. MILHOLLAND. I am pretty sure he did because this was one of the subjects we were talking about, how we were going to protect

Mr. JORDAN. Okay. And then when Mr. Koskinen came on board, do you know if he knew about the directive that was in place and, as you have testified today, still in place? Did Mr. Koskinen know about that, and does he know that it is still in place today?

Mr. MILHOLLAND. I cannot testify to that, but can I add one correction to my earlier statement?

Mr. JORDAN. Sure.

Mr. MILHOLLAND. Okay. As I tried to say earlier—I may not have been very clear—that was intended to cover backup tapes for email and anything to do with anyone's information that dealt with attachments, calendars, and such. At the same time, we also were not allowing hard drives to go anywhere. We, in fact, locked up all of the TEGE employees' hard drives in a cabinet, so to speak, so they would not go anywhere and such.

During the Windows 7 implementation 2 years ago and such, basically because of budgetary problems, we went and asked, hey, if we copy all the hard drives we have been saving, can we now reuse them so that we can implement Windows 7. And we got permission to do that, so in that sense those non-TEGE hard drives were reused. So in that sense, they were rescinded. I hope that is clear.

Mr. JORDAN. I mean, it is not, a lot of the stuff you said there. But nowhere in there did you talk about still how the backup tapes, which you said your order applied to, were actually ultimately destroyed. So that did not cover what he just described, at least I did not think so.

Mr. MILHOLLAND. No, sir. I responded earlier describing how that happened through employee mistakes.

Mr. JORDAN. Okay. Well, we obviously know there were mistakes because you gave an order, and it was not followed, and tapes were destroyed, and information and data that is important to the investigation was lost. I am going to go back to the question I asked you in the first round. I want to be clear. So you received a bonus this year and last year?

Mr. MILHOLLAND. No, sir.

Mr. JORDAN. You said your pay went up. So it was not a bonus?

Mr. MILHOLLAND. I am capped salary wise. I do not receive a bonus.

Mr. JORDAN. How about this management team you referred to when I asked, you know, how this could happen that tapes were destroyed in light of your order, in light of your directive? Anyone on your management team, did they receive a bonus this past 2 years?

Mr. MILHOLLAND. Yes, sir.

Mr. JORDAN. They did?

Mr. MILHOLLAND. Yes, sir.

Mr. JORDAN. And do you okay that, or does that go up through Mr. Tribiano and then up to the commissioner?

Mr. MILHOLLAND. It certainly comes through me. I believe it goes to a committee Mr. Tribiano sits on called the Executive Review Board.

Mr. JORDAN. Mr. Tribiano?

Mr. TRIBIANO. Yes, sir. It starts at the division head area, so Mr. Milholland would gather up performance awards, not bonuses, and they would make those recommendations coming forward. I would get them. Either I agree or disagree.

Mr. JORDAN. Performance awards. If you get a performance award, that results in additional pay?

Mr. TRIBIANO. It results in a performance awards, so, yes, sir, your pay. Not your pay salary pay, but your cash.

Mr. JORDAN. You get more money.

Mr. TRIBIANO. Yes, sir, but it is not on a continuous basis. It is a one-time performance award.

Mr. JORDAN. Mr. Milholland said he takes responsibility for the fact he was blown away when this happened after his directive. His pay is topped out. He cannot go any higher. And the people on his management team who were responsible for the directive not being carried and for the backup tapes being destroyed all got performance pay increases. Is that accurate?

Mr. TRIBIANO. I have to ask Mr. Milholland if he put them forward in that fashion.

Mr. MILHOLLAND. Not all the managers and executives who report to me got pay increases or bonuses. I do not recall explicitly in the chain that led down to where this incident occurred what the actuals were.

Mr. JORDAN. But many of them did.

Chairman CHAFFETZ. Will the gentleman —

Mr. MILHOLLAND. Probably, but I really do not know, sir.

Mr. JORDAN. I would be happy yield back.

Chairman CHAFFETZ. The gentleman's time has expired. Will you provide that to this committee, Mr. Milholland?

Mr. MILHOLLAND. If I am allowed to legally. I do not know if I am allowed to release personal information.

Chairman CHAFFETZ. Well, when the United States Congress asks you, you have legal authority to provide that information to Congress. There is nothing classified about people's compensation and bonuses. Would you agree?

Mr. MILHOLLAND. Not to me, sir, but I am not a lawyer, so.

Chairman CHAFFETZ. Well, there are some positive qualities. I appreciate that. That is a real plus in your column. I get it. I am asking you all to provide this information to this committee.

Mr. MILHOLLAND. Yes, sir.

Chairman CHAFFETZ. Thank you.

Chairman CHAFFETZ. I will now recognize the gentlewoman from New York, Ms. Maloney, for 5 minutes.

Ms. MALONEY. I thank the gentleman for yielding. And I would like to talk about another outage that was treated differently than one recently at the IRS, and that was one that many New Yorkers were concerned about. It concerned the New York Stock Exchange on July 9th of 2015, and a number of my constituents work there

and suffered an outage that completely suspended all of financial trading for roughly 4 hours. And this committee sent letters to the SEC and to the Stock Exchange trying to understand the circumstances surrounding the outage. And they briefed our staff in July, and they told us that a software problem—it was basically a glitch—caused them to go offline in order to respond and to solve the problem.

Now, the Department of Homeland Security in response to questioning by this committee reported that there was no suspicious activity, and the FBI saw absolutely no reason for any type of enforcement action. And since the committee received those briefings, we saw no reason to hold a public hearing or to hold an investigation since everybody involved said that it was merely a glitch.

Yet we are going after the IRS today for a similar temporary and subsequently resolved website outage. And I just feel that there is a little bit of an unequal treatment, and I think we should not have unequal treatment. I mean, I will not suggest that the New York Stock Exchange should come in for a hearing. I am suggesting that we should not be having a hearing on a technical outage for any organization, and the IRS seems to be getting a little unequal treatment on this.

And I would like to elaborate, Mr. Milholland, to ask you about an incident earlier this month when portions of the IRS website were shut down for roughly 30 hours. And I understand that some members of Congress thought, and questioned, and rightfully so, I think, in the world we live in that it was a cyberattack. But the IRS briefed our staff earlier this week, and they told us that this was definitely not a cyberattack. They told us, in fact, that it was just a mechanical hardware failure similar to what happened at the Stock Exchange, a glitch, a hardware failure.

Now, is my description of what happened to the IRS somewhat correct?

Mr. MILHOLLAND. Yes, ma'am.

Ms. MALONEY. So this was not a failure of an IRS information system, but just the failure of a singular piece of mechanical equipment, correct?

Mr. MILHOLLAND. That is correct, ma'am.

Ms. MALONEY. And can you describe what sort of hardware we are talking about?

Mr. MILHOLLAND. Yes, ma'am. Our Enterprise server is the primary engine for processing tax returns. It is made up of various components, including a storage subsystem, which has voltage regulators in it. Now, while the root cause analysis is still underway, it was those voltage regulators that failed. They are mechanical components that are under somewhat high stress conditions when the computer is operating. And over time, one of the modules that held the voltage regulators literally said I'm failing, called for an alert to the mechanic—that is, the technician—to come and fix it.

During the process of attempting to fix the mechanical device, the redundant voltage regulator module also failed. Then it took time to restore the equipment to its natural state, bring the system back up so tax returns could be processed. Total outage time was roughly about 30 hours.

No software was involved. No micro code. This was with absolute certainty not a cyberattack. It was a failure of mechanical device. What we are most interested is the root cause analysis as to why did the two fail relatively close together. That work is going on. I expect to have the root cause analysis, you know, within a week. I have a draft root cause analysis now, but it is not done. We have working questions with the supplier on this. But no question that this was a mechanical failure.

Ms. MALONEY. So mechanical failure, such as what the IRS experienced, is not unique to the IRS. It happens to many organizations. In fact, there was a highly publicized mechanical failure with the New York Stock Exchange which was similar. They went off-line for a while to repair it. So I feel that there is a little bit of an unfair or unequal treatment, and maybe a little bit of a major focus on the IRS and questioning of the IRS for a long time that is not the same treatment that other organizations that handle a great number of filings experience. So I just wanted to point that out. The failures were very similar for the Stock Exchange and the IRS of mechanical equipment failure.

In any event, my time has expired, and thank you for your testimony today.

Chairman CHAFFETZ. Thank the gentlewoman. We will now recognize the gentleman from North Carolina, Mr. Walker, for 5 minutes.

Mr. WALKER. Thank you, Mr. Chairman. Thank you, Panel. I appreciate you being here today.

I want to go back to something that I heard a little bit earlier. First of all, I want to talk about something that Commissioner Koskinen has said repeatedly. His quote says, "I believe that the underfunding of the Agency is the most critical challenge facing the IRS today." He has made this comment pretty much in several different speeches whether it is the Tax Policy Conference or other places where he is pretty adamant that that is a major issue.

But something said earlier by one of my colleagues, I want to go back talking about the systems that you said that were dating back to John F. Kennedy time, I believe was the comment. It was not so much the application as it was the system. Would you repeat a little bit earlier and go into that for me just a minute?

Mr. MILHOLLAND. Certainly. What they built back in the 1960s for implementation in the 1970s was a system designed based around the technology that was available to them then.

Mr. WALKER. Sure.

Mr. MILHOLLAND. That design still exists. Even though we are running the application now with much more modern underpinning—that is, this Enterprise server that we just discussed with the congresswoman —

Mr. WALKER. Sure.

Mr. MILHOLLAND.—the actual design of the application is still built upon that 1960s approach.

Mr. WALKER. And I appreciate you clearing that up, but that is not what Commissioner Koskinen said. What he said in his ploy to try to get more funding, more than the \$11 billion already, he said, "We have many applications that were running when John F. Kennedy was president." Is that an untruthful statement?

Mr. MILHOLLAND. No, I think that is true. The application, individual master file, and the business master file, and a number of those other clearly legacy applications, while some of the platforms they run on have changed and the code has been updated numerous times due to legislation, the programming language is still the one that we had then.

Mr. WALKER. Well, he seems to be disagreeing with you on the code as well because he said, "The code has been out of date so long, it has the unintended effect to keep hackers from hacking in." So is that just something he is not technologically current with that? I mean, are you running code from John F. Kennedy because it seems 50-something years ago we are still running those kinds of systems, and we are still operating with that code? Is that correct?

Mr. MILHOLLAND. There are elements of the code that exist back that far, but the —

Mr. WALKER. COBOL? FORTRAN? What are we talking about here?

Mr. MILHOLLAND. COBOL, yes. COBOL programming language code. Assembly language code is the principle engine. While we have modified it numerous times with particularly legislation, the fact of the matter is that system was designed and built in the 1960s to start running in the 1970s. And so, you know, I believe that the commissioner is correct.

Mr. WALKER. Okay. Let me transition while I have got some time left. I am going to go back to Form 3210 that was filled out authorizing the destruction of Mr. Maruca's hard drive. If so, if that was ordered, who authorized the destruction of that hard drive?

Mr. MILHOLLAND. What would have happened would be that—I must say "presumed happened"—was whoever was checking out Mr. Maruca from the IRS would have called the IT organization, filled out a request to say take his IT assets and follow the normal disposition procedures.

Mr. WALKER. Did you assume that would have happened? Why was Mr. Maruca's hard drive not covered by the litigation hold the IRS put in place? Why did that not cover that?

Mr. MILHOLLAND. At the time, I mean, he had left before that particular litigation hold was put into place.

Mr. WALKER. Well, did he take his stuff with him? Did he take the information with him?

Mr. MILHOLLAND. It had already been entered into the process of disposition.

Mr. WALKER. Well, so what happens when he leaves? When an employee leaves, do their records get destroyed like this? I mean, what happened? Who made the decision? Who authorized that, to destroy what he was working on?

Mr. MILHOLLAND. I am sorry. I really am not understanding your question.

Mr. WALKER. His hard drive, okay?

Mr. MILHOLLAND. Pardon me?

Mr. WALKER. Mr. Maruca's hard drive.

Mr. MILHOLLAND. Yes, sir.

Mr. WALKER. Who destroyed it? Who authorized it?

Mr. MILHOLLAND. That would have followed the normal IT process of dispositioning of old equipment. And in that sense, the authorization is the IRS process.

Mr. WALKER. Is there a timeline for how long an employee leaves that hard drives are destroyed? Is there a standard on it?

Mr. MILHOLLAND. No, there is not. It follows —

Mr. WALKER. So it is up to discretion.

Mr. MILHOLLAND. There is a lot discretion. There are a number of steps that are followed as to where it goes. Because we have had shortfalls in our staffing, oftentimes machines can sit around before they are disposed of. They may oftentimes even get so stacked up until someone gets to it.

Mr. WALKER. But his did not get stacked up. Mr. Chairman, my time has expired.

Chairman CHAFFETZ. I thank the gentleman. I recognize the gentleman from Alabama, Mr. Palmer, for 5 minutes.

Mr. PALMER. Mr. Chairman, I only have one question. According to a September 2015 inspector general report, the IRS spent \$139 million in 4 years on upgrading its workstations from the outdated Microsoft XP to Windows 7, but you still missed the Microsoft April 2014 end of life deadline. I think you understand that using a supported version of Windows is critical to securing data. Yet according to a TIGTA report from September 28th, 2015, you have got approximately 1,300 workstations that you either cannot locate or you confirmed are running an old operating system.

My question is, where are you on locating those workstations and getting them updated?

Mr. MILHOLLAND. I think there are a number of questions in your statement, sir, and I will try answering each one.

Mr. PALMER. Well, just answer the one where you are on the status of locating those workstations and updating the software.

Mr. MILHOLLAND. We got support from Microsoft to go beyond the original expiration of XP so we were not taking a risk with those particular workstations. Second, we took them off the network so they would be isolated, and would not, therefore, be possible to hack into them through, I will say, anyone having access to the network. Where we are with the actual remaining numbers, if I recall correctly, we are complete. I would have to double check that, sir, if I can get back to you.

Mr. PALMER. Could you inform the committee where you are on that, and I would like to have that answer in 7 days. Can we do that?

Mr. MILHOLLAND. Sure.

Mr. PALMER. Mr. Chairman, I will yield the balance of my time to the chair.

Chairman CHAFFETZ. I thank the gentleman. Mr. Milholland and Mr. Tribiano, it is May 2013. TIGTA issues its audit, and you issue an internal preservation order that is extensive. It is capped with “in other words, retain everything to do with email or information that may have been stored locally on a personal computer.” It is pretty broad, but also very definitive. Did you ever rescind that order? That is a yes or no question. Did you ever reverse that order?

Mr. MILHOLLAND. I changed the order with, as I tried to explain earlier with a TEGE situation where we had to start using some of the hard drives that we were saving —

Chairman CHAFFETZ. Can you provide that —

Mr. MILHOLLAND.—in order to implement Windows —

Chairman CHAFFETZ. Can you provide that to this committee?

Mr. MILHOLLAND. Provide which list, sir?

Chairman CHAFFETZ. When you rescinded that, send that to this committee. Fair enough?

Mr. MILHOLLAND. I will, yes.

Chairman CHAFFETZ. Thank you.

Mr. MILHOLLAND. Yes, sir.

Chairman CHAFFETZ. Mr. Tribiano, did the IRS ever change that or rescind the order that Mr. Milholland put out to preserve?

Mr. TRIBIANO. Not to my knowledge, sir.

Chairman CHAFFETZ. After the issuance of that audit, did the IRS put any new procedures or policies in place regarding the preservation of emails, hard drives, or anything to do with people's interaction with the computers?

Mr. TRIBIANO. That was during the time period where we initially started the Capstone Project, sir.

Chairman CHAFFETZ. Okay. You started a project, but was there any change to the internal functionality of the preservation of computers, hardware, emails, that sort of thing? What changed?

Mr. TRIBIANO. Sir, I was not there. I would have to go back and look at —

Chairman CHAFFETZ. Mr. Killen, what changed?

Mr. KILLEN. So, following those events, again, in late calendar year 2014, early calendar 2015, we implemented the Capstone approach for our senior-most Agency officials. And so, that —

Chairman CHAFFETZ. All government records. You do not have to be a senior-most official at the IRS to generate a record that needs to be in compliance with the Federal Records Act or to be in compliance with FOIA. I want to know after TIGTA had issued their report in May of 2013, what did the IRS do internally to preserve and protect the records that they should have been protecting in the first place?

Mr. KILLEN. Well, Mr. Chairman, I think that does represent a fairly substantive change, and —

Chairman CHAFFETZ. What does?

Mr. KILLEN. Well, first of all, implementing the Capstone approach, you know. We had significant consultation with the National Archives —

Chairman CHAFFETZ. Do you feel it was fully implemented?

Mr. KILLEN. The Capstone process that we initiated with our senior officials, yes, that has been fully implemented.

Chairman CHAFFETZ. If the policy is in place, why was Mr. Maruca's information destroyed?

Mr. KILLEN. Fair question. It is an issue of timing because we implemented the Capstone approach in actually late December 2014. Mr. Maruca had already left the Service by that point.

Chairman CHAFFETZ. So it takes you more than a year and a half to implement a new policy. How hard is it to just save a hard

drive? I mean, how hard is that? How expensive is that? How much does a hard drive cost, do you know?

Mr. KILLEN. I will defer to Mr. Milholland on that.

Chairman CHAFFETZ. How much is a hard drive? You want two gigs.

Mr. MILHOLLAND. \$100 to \$250, depending on the —

Chairman CHAFFETZ. Yeah, we are talking about a hundred bucks here. You got a \$1.7 billion issue with Microsoft, and you all went out and destroyed something that is maybe a hundred bucks. Mr. Tribiano, you had to issue a new policy in 2016, correct?

Mr. TRIBIANO. A new policy was issued in 2016.

Chairman CHAFFETZ. What does that policy do?

Mr. TRIBIANO. We will not destroy any hard drives or mobile devices for any departing IRS employees, and we will copy the hard drives digitally to a server.

Chairman CHAFFETZ. Congress has been investigating the IRS since 2011, and you are just now getting the memo to start preserving things in 2016? Why does it take almost 5 years to get the message that you should not be destroying things? Why does it take so long?

Mr. TRIBIANO. Well, sir, I mean, we have a records retention policy —

Chairman CHAFFETZ. Yeah, but you did not follow it. You did not follow it. Mr. Maruca's stuff was destroyed, and it should not have been. And you are misstating the facts, by the way, because there was another case that they actually copied Mr. Maruca's, and then they happened to find that. I mean, I find it totally unbelievable. It truly is an unbelievable set of circumstances. 24 to 48 hours after this committee issues a bulletin that we are going to have a hearing, and then suddenly you find the information?

And the Department of Justice had gone to the courts and said this stuff had been inadvertently destroyed, but then you actually did find it. Do you see why we have zero confidence in the record retention policy and the ability to execute on it?

Mr. TRIBIANO. Well, sir, you said that I misled you, and if that is the case, that was not the intent, so I just want to clarify that. We did find those records, and we found it because of another litigation hold. I thought I made that clear in my opening statement. It was not because there was some other thing. It was pure coincidental that we had another litigation, and we —

Chairman CHAFFETZ. And coincidental and 24 hours after I issue a notice that you are going to have to come appear here, suddenly you do find them. That is what is unbelievable. You had gone to the courts via the Department of Justice and put it on the record that you did not have them. That was not true, was it?

Mr. TRIBIANO. At that time that, that was true, yes, sir.

Chairman CHAFFETZ. It was not true.

Mr. TRIBIANO. Well, in hindsight it is not, but at the time that we went to them and said we might have an issue, it was true. When it was found that we did copy it for another litigation hold, we corrected it. We found that there was another litigation hold.

Chairman CHAFFETZ. Okay. The gentlemen's time has expired. I now recognize myself or recognize Mr. Carter for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman. Mr. Milholland, help me out here. I am just trying to educate myself. What is the timeline between when an employee leaves the IRS and when their hard drive is erased?

Mr. MILHOLLAND. Yeah, that timeline can vary from immediate to 6 months.

Mr. CARTER. What determines that? What determines the variation?

Mr. MILHOLLAND. Where the person is when they leave. For example, if you are in —

Mr. CARTER. I mean, what hallway they are in?

Mr. MILHOLLAND. What office they are in. For example, the equipment, if it is picked up by IT, has to be shipped to another location. But if you are in the D.C. area, for example, it might happen very quickly and such. We typically send these devices to a particular data center for the degaussing once we separate the hard drive from the rest of the PC.

Mr. CARTER. Okay. When was Mr. Maruca's hard drive erased? What day?

Mr. MILHOLLAND. The deputy commissioner can answer the details, but —

Mr. CARTER. Okay.

Mr. TRIBIANO. Well, we do not know the date, and I think that is what the problem is. We know we sent it or consolidated it on August 5th. We picked it up from the manager. We consolidated it with other hard drives and other laptops, and we sent it to our Memphis facility. It arrived in —

Mr. CARTER. Now, where was Mr. Maruca because you said, Mr. Milholland, that it depended on what office he was in. Which office was Mr. Maruca in?

Mr. TRIBIANO. Go ahead.

Mr. MILHOLLAND. He was in D.C. as I —

Mr. CARTER. He was in D.C. So you just said if he is in D.C., it ought to be pretty quick.

Mr. MILHOLLAND. It could be depending, again, on the process being followed and the staff that we have to do that work. If there was an intent that we say, hey, we could reuse this device very quickly, then at that point we would separate the hard drive from the rest of the platform and put a new hard drive in.

Mr. CARTER. But in the case of Mr. Maruca, you do not know what day it was destroyed?

Mr. TRIBIANO. No, sir. It was sent down to the Memphis facility, and it was stored down there with other laptops and other computers that were marked for disposal.

Mr. CARTER. Okay. So where it was sent down to, do they have a record of it? Can you call them and find out? I mean, surely they keep a record to tell you, okay, we destroyed this hard drive this day, this one this day.

Mr. MILHOLLAND. No, sir. What we keep a record of is the asset. Once we separate the hard drive from the rest of the computer, the rest of the computer is sent off for salvage by an outside contractor.

Mr. CARTER. I am not worried about the rest of the computer.

Mr. MILHOLLAND. Yeah, you are saying —

Mr. CARTER. I am worried about what gets erased. It would just occur to me or it would appear to me that you would have a day on there, somebody would keep a day that said that this is the day it was erased.

Mr. MILHOLLAND. Not necessarily, sir, because we do not view it as a major asset at that point. Its disposition, we have flagged for destruction. It is sent into the system. Okay, this —

Mr. CARTER. Do you ever consider it to be an asset, an important asset?

Mr. MILHOLLAND. Once it is flagged for disposition to be destroyed, no.

Mr. CARTER. Okay. And this is even after we have had the experience with Ms. Lerner and with her hard drive being destroyed and being wiped out. Even after that we still do not have in place when exactly we destroyed it. We still do not know. So you are telling me that is a matter of policy?

Mr. MILHOLLAND. It is a matter of the workload and the resources we have to do that task.

Mr. CARTER. The workload and the resources.

Mr. MILHOLLAND. Yes, sir.

Mr. CARTER. So everything is determined by the workload and the resources, not by its importance.

Mr. MILHOLLAND. Well, the importance is that we had already decided that this particular drive could be, in fact, be destroyed. At that point it is deemed worthless, so it is stacked up with other hard drives.

Mr. CARTER. I just find it to be a very poor excuse about resources. I mean, it would seem to me like that you would have been really on your toes, especially in light of what has happened in the past. It would seem to me that you would want to absolutely know when a hard drive was destroyed or wiped out. I mean, you see where I am going here.

I am just getting the impression from where I am sitting, it looks like the IRS is just taking the attitude, hey, we are above the law here. I mean, that is what it looks like to me, and I can imagine what it looks to a regular citizen who is being audited by the IRS. It is really confounding to me that we do not keep better records than this. It would appear to me the IRS, in light of everything that has happened in the way of hard drives being wiped out, that your policy would be better and that you would be keeping better records. So you can understand why the general public thinks, well, they think they are above the law here.

I am just flabbergasted by this. Mr. Chairman, I do not know what to say except that I hope that you will take it as a lesson and understand that, you know, there are people out there who are being audited by the IRS who feel like they are being targeted, feel like they are being treated unfairly, and feel like the IRS thinks they are above the law. And in instances like this, you can understand why they feel that way. This is unacceptable.

Mr. Chairman, I yield back.

Chairman CHAFFETZ. I thank the gentleman. Myself and Mr. Jordan have just a couple of other questions, and we are going to wrap up the hearing. And members are advised we have votes on the floor soon.

Since when has the IRS preserved all of its internal emails? When did they start to do that?

Mr. KILLEN. So our internal email, again, there are nuances to it. So —

Chairman CHAFFETZ. You are either saving them all or not. Do you save all the emails?

Mr. KILLEN. All our internal emails—all—are not being saved, but we have the plan in place in order to get there. All of our emails for our senior-most officials are saved. We have actually had substantial interaction with NARA, so I do want to get this point across that NARA —

Chairman CHAFFETZ. Hold on. I want to get to this point. You still to this day do not preserve all of the IRS emails internally. You do not save those.

Mr. MILHOLLAND. May I answer that question, Mr. Chairman?

Chairman CHAFFETZ. Yeah.

Mr. MILHOLLAND. The answer is we save them on our backup tapes and have since that original email that Representative Jordan was referring to.

Chairman CHAFFETZ. Then why did Mr. Killen just tell me that we do not do that?

Mr. MILHOLLAND. I think he was referring to all the —

Chairman CHAFFETZ. No, no. He can tell you what he is referring to.

Mr. MILHOLLAND. I am sorry, sir.

Chairman CHAFFETZ. Mr. Killen, you just told me that they do not preserve all the emails.

Mr. KILLEN. I think there is a distinction between what we have preserved on the network and what we have preserved via backup and disaster recovery process. And I think that is the distinction that Mr. Milholland was going to make.

With respect to, because I do want to be clear about this point. The directive that we are under is that all email should be in an electronically accessible format by the end of calendar year 2016. That is the plan that we have implemented. That is the plan that we are on a trajectory to meet. But in the interim, and, again, this has all been a process that we have worked with NARA on. In the interim, our senior-most Agency officials' emails are being preserved, and that is sort of, I talked about this multi-pronged approach that we have implemented. That is —

Chairman CHAFFETZ. Is there anything, Mr. Milholland, that you would disagree with that he just said?

Mr. MILHOLLAND. No, sir. We are going to be NARA compliant.

Chairman CHAFFETZ. Here is the problem, okay? Here is the problem with the testimony. This is testimony from John Koskinen of June 23rd, 2014, and here is what he says: "I would note, however, since the investigations into the application process for 501(c)(4) organizations began in May of last year, the IRS"—here it is—"the IRS has saved backup tapes for all emails on the IRS' servers, which includes tapes for the 6 months preceding May of 2013." And you are telling me that is not true, and that is why we keep coming after the IRS, and that is why we are not going to let go of this.

I recognize the gentleman from Ohio.

Mr. MILHOLLAND. Sir, could I make one statement, please?

Chairman CHAFFETZ. The gentleman from Ohio.

Mr. JORDAN. If I could, Mr. Chairman, this will be my third time, and the right fine gentleman from North Carolina has not went. I just have two questions anyway, Mr. Chairman.

Mr. MEADOWS. I will yield to the gentleman from Ohio for two questions, and then take up the balance. How about that?

Mr. JORDAN. Okay. So, Mr. Milholland, on March 4th when you discovered the tapes are destroyed, March 4th, 2014, the backup tapes are destroyed. You testified in the TIGTA investigation that you were blown away by the fact that your directive was not followed. What did you do then? And I guess specifically what I am asking is, did you have any conversations with your direct report, Mr. Tribiano's office, or the person who runs Mr. Tribiano's office, and/or Mr. Koskinen?

Mr. MILHOLLAND. At that particular time, the TIGTA investigation was still going on, so I was not allowed to talk about the conversation I had with TIGTA until after the report was released.

Mr. JORDAN. Okay. So when you learned that the tapes had been destroyed, your directive was not followed, you had no conversation with the commissioner?

Mr. MILHOLLAND. No.

Mr. JORDAN. Subsequent to when it became public, have you had conversations with the commissioner?

Mr. MILHOLLAND. Yes, sir.

Mr. JORDAN. About this specific issue.

Mr. MILHOLLAND. The general conversation around backup tapes, yes, sir, and that is what I was trying to correct earlier. We have retained backup tapes for indefinitely since that email was issued. Those are off of the exchange system, which is the primary email system of the Enterprise.

Mr. JORDAN. I get that, but I am asking more specific. Did you have a conversation with Mr. Koskinen and say, look, I gave a directive. It was not followed. 422 backup tapes were destroyed. We no longer have those records at all. Did you have that conversation with Mr. Koskinen?

Mr. MILHOLLAND. No, I did not specifically.

Mr. JORDAN. Okay. One final one here. In your opening statement, this is Mr. Maruca's situation. His hard drive was designated for erasure before the issuance of the litigation hold. Is that right?

Mr. TRIBIANO. Yes, sir.

Mr. JORDAN. Okay. Yet you said later that his data was, in fact, though, backed up because you had another litigation hold.

Mr. TRIBIANO. Yes, sir.

Mr. JORDAN. So why didn't the previous litigation hold prevent you from destroying the hard drive?

Mr. TRIBIANO. Because the data was backed up, and it was sent to the digital. What happens is when the attorneys request the information, it goes into their—I might be calling it the wrong thing—their e-Discovery system where they can access the data and do whatever they need to do for discovery purposes.

Mr. JORDAN. And just to be clear, a litigation hold does not trigger preservation of hard drives. That only triggers it goes to a backup?

Mr. TRIBIANO. No, sir. It preserves the records for use in the litigation.

Mr. JORDAN. And the best record would be the hard drive, not the backup. But under this situation, you did not do that.

Mr. TRIBIANO. The records are what was on the hard drive and backed up at that point in time.

Chairman CHAFFETZ. Will the gentleman yield?

Mr. JORDAN. Sure.

Chairman CHAFFETZ. Then why did the Department of Justice on behalf of the IRS go to the court and say these records had been destroyed?

Mr. TRIBIANO. Because at that time that we notified the Department of Justice, we did not know that we had the backup of that hard drive for that other litigation. So we told the Department of Justice that we did not have the hard drive.

Chairman CHAFFETZ. And you have no records of what you destroy and when you destroy it, correct?

Mr. TRIBIANO. That is correct. What we know is that on 10/27, it was received in Memphis, and between that period and the period of April 16th, I believe, when the shell of the computer was delivered to the third party vendor, it was during that time period.

Chairman CHAFFETZ. How convenient. You have no records of what is destroyed and when, and yet you require every American to keep all their records. That is what so fundamentally wrong and screwed up with the IRS. That is just wrong. And there a lot of good people that work at the IRS, but you know what? You go after Americans, but you do not take care of business at the IRS. It is just wrong. It is just wrong.

And it causes mess. We are talking about a \$1.7 billion case, and you guys cannot keep track of what you destroy and when you destroy it. How hard is it to put a log in there, "destroyed this one at this time?" How long does that take? I mean, you can go to Best Buy and buy something off the shelf for like 50 bucks. I just do not understand that. Do you have an answer for that?

Mr. TRIBIANO. I do not think it would be that difficult, sir.

Chairman CHAFFETZ. Then why is it not done?

Mr. TRIBIANO. I can turn that over to the Mr. Milholland who runs the IT shop and runs those procedures, and ask what that would mean from a staffing perspective and from a documentation perspective. But I think what Mr. Milholland alluded to was that it is an asset, and it is kept into the assets, and it is kept into the system up to the point where it is marked for disposal. And at that point it stops.

Chairman CHAFFETZ. I yield back to the gentleman from North Carolina.

Mr. MEADOWS. Thank you, Mr. Chairman. Mr. Milholland, let me tell you the issue that most Americans have with this. Storage is cheap. I mean, we have gotten to a point where even storage of millions of records is really cheap. We have gotten to a situation where it would have been so much easier when the first hearing happened, not 24 hearings later, but the first hearing, to say, you

know what? Gosh, we are going to have this problem. We had better preserve everything. What precluded you from doing that, from preserving everything at that point? When Lois Lerner first came in here and took the 5th, what stopped you from saying let us just preserve everything?

Mr. MILHOLLAND. I cannot recall the subject ever coming up, sir.

Mr. MEADOWS. Now, you cannot recall the subject coming up. It was in the headlines, I mean, almost every major newspaper, and the subject did not come up about keeping it? And yet your testimony today says that you are NARA compliant. Would you care to revise your statement, because I do not believe that you are NARA compliant at this point. Having the National Archives underneath my subcommittee, I would probably beg to differ with that. So would you like to revise your —

Mr. MILHOLLAND. I would ask that Mr. Killen to respond to whether or not we are NARA compliant since that is his area of expertise.

Mr. MEADOWS. All right. So are you NARA compliant?

Mr. KILLEN. We are generally NARA compliant.

Mr. MEADOWS. No, there is a “yes” or “no.” “Generally” is if I am speeding and I generally go below the speed limit I do not get a ticket. But only those couple of times that I go beyond the speed limit I actually do get a speed limit ticket. Tell me, are you compliant or not?

Mr. KILLEN. Well, I have to speak to the wording of the report, I mean, because we have had NARA reviews. And so, certainly we have opportunities for improvement, and —

Mr. MEADOWS. Then you are not NARA compliant.

Mr. KILLEN. But on the whole, NARA has opined that we are generally —

Mr. MEADOWS. You are making progress I think is what they are saying.

Mr. KILLEN. We are certainly making progress, and we have opportunities —

Mr. MEADOWS. But today you are not NARA compliant, which means that all communication would be preserved, would it not?

Mr. KILLEN. We certainly have work to do.

Mr. MEADOWS. Okay. So if you have work to do, then you can revise your statement that you are NARA compliant because obviously you are not.

Mr. MILHOLLAND. In that sense, you are correct, sir.

Mr. MEADOWS. All right. So let me go a little bit further, and I am going to piggyback on what the chairman talked about. Mr. Killen, why is it taking so long? I mean, why is this taking so long for us to get it right? Why December of 2016?

Mr. KILLEN. Well, I think that the 2016 date is predicated on the OMB directive. That does not extend to just IRS.

Mr. MEADOWS. So it is OMB’s fault.

Mr. KILLEN. No, no, it is not an issue of fault. It is an issue of what is the origin of the December 2016 date. And the origin of that December 2016 date is the OMB directive that says that all Federal agencies should have email in an electronically accessible format.

Mr. MEADOWS. So it would not have anything to do with the change of Administration.

Mr. KILLEN. I could not speak on that. I do not —

Mr. MEADOWS. Well, do you not find it curious that December 2016 and Administration change would happen within 20 days of that date?

Mr. KILLEN. I really cannot speak on that.

Mr. MEADOWS. Okay. All right. So let me go on a little bit further because part of this whole hearing process has been other types of communications. And you all have been very careful to say “email communications,” but there are a number of other electronic communications that go on the system and go back and forth. Is that correct, Mr. Milholland?

Mr. MILHOLLAND. Are you referring to instant messaging, sir?

Mr. MEADOWS. Yeah. I mean, do you not have substantial communications among some senior-level people at the IRS that happens outside of email?

Mr. MILHOLLAND. Yes, sir. There are obviously phones. There are —

Mr. MEADOWS. Okay. How about on text messages or instant messaging?

Mr. MILHOLLAND. Actually I do not actually —

Mr. MEADOWS. You do not. Does anybody there use instant messaging?

Mr. TRIBIANO. I do not, sir. It is on our system.

Mr. MEADOWS. Yeah. You know, our gray hair probably throws this away, but I will go to the end. Mr. Killen, I am sure you do, do you not?

Mr. KILLEN. I certainly do.

Mr. MEADOWS. I figured you would, so it may be a general thing. But, Mr. Killen, do you use that instant messaging to do anything more than “is it time to go to lunch or a coffee break?” I mean, do you conduct business on instant messaging?

Mr. KILLEN. Generally speaking, I do try to be careful about what I —

Mr. MEADOWS. Has there ever been a case where you have used instant messaging for business?

Mr. KILLEN. I am sure there probably has been.

Mr. MEADOWS. Yeah. And so, here is the issue, Mr. Milholland, and I am going to finish with this. Storage has become cheap. Backup tapes are becoming a thing of the past. I remember backup tapes, and I do not understand why with the amount of money that we are spending that we are still using backup tapes, unless they are just such legacy programs that we have to use the backup tapes for storage.

We are committed to providing the resources. What we have not seen is the commitment to really get serious about preserving everything like Commissioner Koskinen has said he would do. And until we see that, we are going to take issue. Does that make sense?

Mr. MILHOLLAND. I understand you, sir.

Mr. MEADOWS. All right. I will yield back.

Chairman CHAFFETZ. I thank the gentleman. The committee stands adjourned.

[Whereupon, at 3:18 p.m. the committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD



DEPUTY COMMISSIONER

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

The Honorable Jason Chaffetz
The Honorable Elijah Cummings
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Chaffetz and Ranking Member Cummings:

Thank you for the recent opportunity to appear before your Committee and testify on our legal obligations, document preservation, and data security practices and policies along with my colleagues, the IRS Chief Information Officer Terence Milholland and Edward Killen, Director of our Privacy, Government Liaison & Disclosure office.

Many of the Committee's questions at the hearing pertained to our notice to a federal district court in connection with pending litigation that we inadvertently erased a former employee's hard drive that contained data pertinent to the litigation. Although we were not certain at that time whether the e-mails that were the subject of the litigation hold were permanently irretrievable, we promptly made this disclosure to the court in the interest of transparency. Shortly thereafter, we located an earlier collection from the former employee's hard drive that contained nearly all of the employee's e-mails that were saved to the hard drive.¹ In addition, as we have advised your staff, we recently identified a hard drive used by that employee, which appears to contain all of the employee's e-mails that were saved to the hard drive.² In sum, based on what we know at this time, there does not appear to be any data lost from this former employee's hard drive. Of course, if we discover otherwise, we will promptly advise the district court.

During the hearing, there were several exchanges in which we committed to provide additional information. I discuss these each in turn below.

¹ With respect to the earlier collection, we previously indicated the data stored on the former employee's hard drive was copied on July 16, 2014. To be precise, the data was collected on July 10, 2016, and the encryption certificates required to access the data were collected on July 16, 2014.

² Apparently, the erased hard drive referenced above was identified in error. It does not, in fact, appear to have been used by the former employee in question.

First, Chairman Chaffetz and Representative Norton asked us to provide information about the now-expired Streamlined Critical Pay (SCP) authority. Enclosed please find an explanation of SCP and how it is different from OPM's Critical Position Pay (CPP). The SCP authority allows for a flexible recruitment and hiring process, which was the primary benefit of that authority. CPP, on the other hand, requires additional levels of approval that slow down the hiring process substantially. The enclosed explanation highlights how SCP is significantly more useful for the IRS than OPM's CPP.

Second, Chairman Chaffetz asked how IRS internal preservation orders work. The response to this question, entitled "Internal Preservation," is enclosed. The response references Chief Counsel Notice 2016-005, which is also enclosed.

Third, Chairman Chaffetz asked what documents the IRS retains and for how long. IRS employees maintain and use records for the organization's mission-critical work in accordance with over 2,000 National Archives and Records Administration (NARA)-approved records disposition authorities published in Document 12990 (enclosed), at IRS Records Control Schedules (RCS) 8 through 37. Temporary dispositions range from "destroy when no longer needed" (that is, minimal one-day retention) to "destroy after 75 years" based on business need. Under limited circumstances, we appraise some records as permanent and transfer them to NARA after they have met our business need.

One of our primary recordkeeping responsibilities concerns individual and corporate tax return files. Individual return files (including related correspondence, audit reports, work papers, and other documents attached to the return or considered a part of the administrative file) are scheduled as seven-year records under RCS 29, item 56. Corporate return files (including related work papers, forms, schedules, and exhibits) are 50-year records under RCS 29, item 58.

In its Records Management Inspection Report for the Department of the Treasury and the Internal Revenue Service dated June 30, 2015, NARA stated the IRS Records and Information Management Program "was sufficiently compliant with the statutes and regulations" covered by the inspection. Consistent with NARA requirements for all federal agencies, we also maintain personnel, administrative, and other housekeeping records in accordance with NARA's General Records Schedules (GRS). We publish the GRS in IRS Document 12829 (enclosed).

Fourth, Chairman Chaffetz asked when the order to "retain everything to do with e-mail or information that may have been stored locally on a personal computer" was rescinded or modified.

The order Chairman Chaffetz referenced was the Chief Information Officer's instruction, delivered by e-mail dated May 22, 2013, "to retain everything to do with email or information that may have been stored locally on a personal computer," in light of the investigations then recently initiated regarding IRC section 501(c)(4) applications for tax-exempt status. The CIO modified this order on June 25, 2013, in conjunction with

the Deputy Commissioner, Operations Support, and upon consultation with the Office of Chief Counsel. This modification was to exclude hard drives for employees who were not in any way related to the matters then under investigation. The reason for resuming the routine wiping of non-investigation related hard drives was to accommodate the agency's need to reuse hard drives to meet our business and operational needs. The May 22, 2013 order remained in full effect for disaster recovery tapes.

As of January 14, 2016, we have re-instituted a halt, agency-wide, to the erasure and recycling of all employee devices, including hard drives, indefinitely.

Fifth, Chairman Chaffetz and Congressman Connolly asked us to provide a copy of the technology road map (including costs), as well as more information on the IRS Future State Vision. Enclosed please find the following documents:

- IRS Technology Roadmap
- Building a Bridge to the Future of Taxpayer Service at the IRS

In addition, per your staff's request, we have provided a briefing on the IRS Future State. We are happy to provide additional information on this matter if requested.

At this stage, we do not yet have a finalized cost estimate for fully implementing the multi-year IRS Technology Roadmap. When we finalize the estimate, we will gladly provide it to you.

Sixth, Congressman Walberg asked about the means by which the IRS can prevent data breaches that may take place either online or in person. We are committed to the security and privacy of taxpayer information and manage the security risks in IT infrastructure as required by the Federal Information Security Management Act (FISMA), National Institute of Standards and Technology (NIST) guidance, and other appropriate standards. The IRS Cybersecurity Program is designed to provide proactive defense in depth and breadth by implementing world-class security practices in planning, implementation, management, and operations involving people, processes, and technologies.

Many of the specific techniques we use to prevent data breaches would be vulnerable to exploitation by criminals if we were to disclose them. However, I can tell you that we take the following steps to safeguard taxpayer data:

- We provide our employees with mandatory cybersecurity and IT security training, as appropriate.
- The IRS Information Security Continuous Monitoring (ISCM) program manages information security risk on a continuous basis, monitoring security controls in IRS information systems and the environments in which those systems operate on an ongoing basis and maintaining ongoing awareness of information security, vulnerabilities, and threats to support organizational risk management decisions.

- We aggressively protect taxpayer data by applying layered security technologies, including:
 - Encryption of taxpayer data for any transmission externally
 - Internet proxy systems for all external web and email communications with SSL/TLS inspection, required user authentication, content filtering, URL inspection and reputation enforcement, media type restriction, vendor and custom category blocking, application filtering, and foreign country code top level domain blocking
 - Multiple levels and types of firewalls with strict content filtering firewall policies
 - Network security monitoring
 - Network and host-based intrusion detection/prevention with custom signatures
 - Antivirus at perimeter web and email gateways and endpoints
 - Custom tools and scripts for detection of advanced persistent threats, emerging threats, and restricting internet access to prevent Internet misuse
 - Implementation of key initiatives including configuration management and vulnerability management tools
 - Implementation of data loss prevention technologies to prevent losses of both Personally Identifiable Information and Sensitive but Unclassified information (for example, passwords)

Seventh, Congressman Jordan asked whether certain IT managers received bonuses in the past two years. As part of our investment in our workforce, we recognize qualifying employees who do exceptional work. Performance awards are a necessary incentive to motivate the workforce and to retain highly qualified employees who are important to the achievement of our mission. In that regard, I firmly believe that appropriate performance awards provide the agency and taxpayers with a good return on the dollar. This investment ensures that highly qualified employees have an incentive to stay with the agency and to perform at a high level.

To be clear, we do not issue awards to employees that have engaged in misconduct. And, all in all, only about 50-60 percent of the entire IRS workforce will receive a performance award.

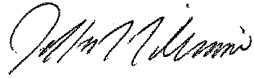
In response to this request, enclosed please find a document entitled "Performance Awards," which lists the IT employees discussed and identifies whether those individuals received bonuses in each of the last two years. Please note that with regard to the employees that Congressman Jordan referenced, Treasury Inspector General for Tax Administration (TIGTA) and Department of Justice (DOJ) investigators did not find misconduct. TIGTA and DOJ agreed there was no intention on the part of any IRS employee to either destroy documents or to interfere in any way with the then-pending investigations.

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I hope this information is helpful. If you have questions, please contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey J. Tribiano".

Jeffrey J. Tribiano

Enclosures (8)

cc: The Honorable Eleanor Holmes Norton
The Honorable Gerald Connolly
The Honorable Tim Walberg
The Honorable Jim Jordan