

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

November 16, 2018

The Honorable J. Russell George
Inspector General
U.S. Treasury Inspector General for Tax Administration
1401 H Street, N.W., Suite 469
Washington, DC 20005

Dear Inspector General George:

I write to request information about the Treasury Inspector General for Tax Administration's (TIGTA) review of potential wrongdoing by two Internal Revenue Service (IRS) employees featured in an online video released by Project Veritas.¹ Committee staff earlier requested a briefing about this matter. I am disappointed that TIGTA insisted—without legal basis and contrary to the spirit of the IG Act—on a formal letter.

In the video released by Project Veritas on September 25, 2018, two IRS employees spoke favorably about the IRS's targeting of conservative non-profit groups.² One employee said that he thought it was "cool" that former IRS Commissioner John Koskinen "deleted all the emails, so they could not hold any evidence against him."³ He also said that conservative groups should receive higher scrutiny "because a lot of them are . . . fronts for the Koch brothers."⁴ The second employee, an attorney, acknowledged that "mistakes were made" in the targeting scandal by "liberal leaning" officials who "required [conservative groups] to produce more documentation."⁵

On October 18, in part to examine TIGTA's response to these allegations, Committee staff requested a briefing about these allegations.⁶ TIGTA refused to provide any information

¹ *Deep State Unmasked: IRS Officials*, PROJECT VERITAS (Sept. 25, 2018), <https://www.projectveritas.com/video/deep-state-unmasked-irs-officials-you-should-give-increased-scrutiny-to-conservative-groups-i-dont-give-a-st-if-that-is-a-crime/>; see also STATECRAFT LAW, COMPLAINT ADDRESSING CONSPIRACY AGAINST THE U.S. GOVERNMENT—18 U.S.C. § 371 BY THE DEMOCRATIC SOCIALISTS OF AMERICA (Sept. 25, 2018), <https://www.projectveritas.com/wp-content/uploads/2018/09/Deep-State-Conspiracy-Complaint-Final.pdf>.

² *Deep State Unmasked: IRS Officials*, PROJECT VERITAS (Sept. 25, 2018), <https://www.projectveritas.com/video/deep-state-unmasked-irs-officials-you-should-give-increased-scrutiny-to-conservative-groups-i-dont-give-a-st-if-that-is-a-crime/>.

³ *Id.* (this employee also spoke about engaging in political activity while on paid time off and sick leave—potentially violating the Hatch Act). See also *Hatch Act: Federal Employees*, OFF. OF SPECIAL COUNS., <https://osc.gov/pages/hatchact-affectsme.aspx> (last visited Oct. 22, 2018) (I understand TIGTA is coordinating with the Office of Special Counsel about this allegation).

⁴ *Id.*

⁵ *Id.*

⁶ Telephone Interview with TIGTA staff (Oct. 18, 2018).

other than cursory details about its review, asserting that its internal policies prohibited it.⁷ TIGTA, however, could not cite or provide any such written policies.⁸ Instead, TIGTA shared a 2001 letter from the Justice Department’s Office of Legal Counsel to the Treasury Department that concerned an entirely different subject matter and legal question—namely, the authority of a committee’s ranking minority member to request information covered by the Privacy Act.⁹

The Privacy Act expressly and unambiguously authorizes federal agencies to disclose private information to committees of Congress “to the extent of matter within its jurisdiction.”¹⁰ The Committee is the chief oversight committee on the Senate with jurisdiction granted by Senate Rules and Senate resolutions—and TIGTA has not challenged the Committee’s jurisdiction here.¹¹ TIGTA’s insistence on a formal letter has no basis in statute or regulation. At least one court has held that an agency’s disclosure of information to a committee—when done in response to a request made by congressional staff—does not violate the Privacy Act.¹²

As an office of inspector general, TIGTA has an obligation under the IG Act to keep Congress “fully and currently informed.”¹³ I am disappointed that TIGTA has refused to comply with the Committee’s informal request for a briefing, which has needlessly delayed and hindered the Committee’s work. I respectfully request that you provide the following information and materials:

1. Please produce all documents and communications between TIGTA and the IRS referring or relating to TIGTA’s review of the statements or actions of IRS employees in the Project Veritas video released September 25, 2018, including but not limited to all personnel documents relating to Thomas Sheehy and Jerry Semasek.
2. Please produce all reports, notes, interview summaries and transcripts, or written work products related to TIGTA’s review of the statements or actions of IRS employees in the Project Veritas video released September 25, 2018.
3. Please produce TIGTA’s policies, procedures, guidance documents, training materials, or other documents referring or relating to the applicability of the Privacy Act to requests from committees of Congress.
4. Please explain what TIGTA is doing to investigate any allegations of misconduct relating to the statements made by Thomas Sheehy and Jerry Semasek in the Project Veritas video released September 25, 2018.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* (citing Letter from Jay S. Bybee, Assistant Attorney Gen., Off. of Legal Counsel, Dep’t of Justice, to David D. Aufenhausser, Esq., General Counsel, Dep’t of Treasury (Dec. 5, 2001)).

¹⁰ The Privacy Act, 5 U.S.C. § 552a(b)(9).

¹¹ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004); S. Res. 62 § 12(e)(1)(A), 115th Cong. (2017).

¹² *Chang v. Dep’t of Navy*, 314 F. Supp. 2d 35, 45, 48 (D.D.C. 2004).

¹³ MORTON ROSENBERG, WHEN CONGRESS COMES CALLING 101-103 (2017); Pub. L. No. 95-452, 92 Stat. 1101 (1978), as amended, codified at 5 U.S.C. App. 3 § 2(3) (Inspector General Act).

5. Please explain whether TIGTA has found Thomas Sheehy or Jerry Semasek in violation of any IRS policies, and if so, what TIGTA has done with these findings.

Please provide this material as soon as possible but no later than 5:00 p.m. on November 30, 2018. Additionally, I ask that TIGTA be prepared to provide a staff-level briefing on this matter at the appropriate time. When delivering production sets, please produce to Majority staff in room 340 of the Dirksen Senate Office Building and to Minority staff in room 442 of the Hart Senate Office Building.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”¹⁴ Additionally, S. Res. 62 (115th Congress) authorizes the Committee to examine “the efficiency and economy of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices”¹⁵

If you have any questions about this request, please ask your staff to contact Reily Inman or Brian Downey of Committee staff at 202-224-4751. Thank you for your prompt attention to this matter.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Claire McCaskill
Ranking Member

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service

Enclosure

¹⁴ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

¹⁵ S. Res. 62 § 12(e)(1)(A), 115th Cong. (2017).