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IRS Loses Emails Of 5 More Key Employees, Including Lois Lerner's Aide

The IRS announced that it lost emails from five more IRS workers relevant to the ongoing investigation into whether the IRS targeted conservative groups. It's a new black eye for an agency that has had many. It was only a few months ago that the IRS revealed that Lois Lerner's emails were gone.

Lerner remains the key figure at the heart of the controversy. Now, in another belated announcement, the "we lost five more too" raises new questions why no one seems to know very much. Or maybe they won't say. When the whole mess came to light, Mr. Lerner refused to testify and was held in [contempt of Congress](#). She could be prosecuted and face jail, though that's unlikely.

The five employees include a senior aide to Ms. Lerner. Two of the latest 5 IRS employees with "computer crashes" worked in the Cincinnati IRS office processing applications for tax-exempt status. The Cincinnati office, it's worth remembering, was where those "rogue" employees of the IRS were off supposedly doing their own thing without the say-so of their bosses at the headquarters of the IRS in DC.

DEMAND AN IRS INDEPENDENT PROSECUTOR



PETITION

*(Demand an IRS Independent Prosecutor Petition available at <http://grassfire.com/2014/06/irs-independent-prosecutor/>.
Image credit: grassfire.com)*

Again blaming computer crashes, the IRS said it found no evidence that anyone deliberately destroyed evidence. But Rep. **Darrell Issa** (R., Calif.), chairs the House Oversight and Government Reform Committee, and he isn't so sure.

"First it was only Lois Lerner," Rep. Issa said. "Now we learn there are 5 others, several months after the administration supposedly came clean about email losses. To the contrary.... each of the five hard drive issues resulting in a probable loss of emails substantially predates the onset of the investigations in 2013."

The IRS had a backup tape system, but officials have said the agency routinely recycled the tapes. Besides, some of the real juice may be in text or instant messages. In 2013 when the IRS targeting

scandal was already brewing, Ms. Lerner asked an IRS IT specialist if the IRS saved texts. No, they are not automatically saved, came back the response. The IT person went on to say that saving them was *possible*, though, so be careful.

“Perfect,” came Ms. Lerner’s reply. Congressional investigators, Judicial Watch and others doubtless *want* emails and texts, especially since it now appears that there was a little more off-the-grid mentality when it came to texts. Many Republicans think former IRS official Lois Lerner knows a lot.

But IRS Commissioner Koskinen was not even aware of the instant-messaging system, he testified. In any case, the IRS wants to let the Inspector General finish his investigation of the computer failures. Then, the IRS can decide what further steps it should take.

Ms. Lerner’s lawyer continues to state that his client did nothing wrong. She is retired now on a government pension, but conceivably could still face prosecution. She refused to testify on multiple occasions. After making a statement in which she said she had done nothing wrong, Ms. Lerner invoked her constitutional right against self-incrimination. Her case was turned over to the U.S. Attorney for the District of Columbia.

Meanwhile, the slow wheels of government grind along. But some taxpayers going through audits are probably a little less likely to trust the IRS these days.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.