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EXECUTIVE SESSION

MARKUP OF REFERRAL TO THE HONORABLE ERIC H. HOLDER, JR., ATTORNEY GENERAL, OF FORMER INTERNAL REVENUE SERVICE EXEMPT ORGANIZATIONS DIVISION DIRECTOR LOIS G. LERNER FOR POSSIBLE CRIMINAL PROSECUTION FOR VIOLATIONS OF ONE OR MORE CRIMINAL STATUTES BASED ON EVIDENCE THE COMMITTEE HAS UNCOVERED IN THE COURSE OF THE INVESTIGATION OF IRS ABUSES

Wednesday, April 9, 2014

House of Representatives,
Committee on Ways and Means,
Washington, D.C.

The committee met, pursuant to call, at 9:46 a.m., in Room 1100, Longworth House Office Building, Hon. Dave Camp [chairman of the committee] presiding.

Present: Representatives Camp, Johnson, Brady, Ryan, Nunes, Tiberi, Reichert, Boustany, Roskam, Gerlach, Price, Buchanan, Smith, Schock, Jenkins, Paulsen, Marchant, Black, Reed, Young, Kelly, Griffin, Renacci, Levin, Rangel, McDermott, Neal, Becerra, Doggett, Thompson, Larson, Blumenauer, Kind, Pascrell,

Crowley, Davis, and Sanchez.

Chairman Camp. The committee is now in executive session. Under House Rule XI, clause 2(k)(7), evidence taken in an executive session may not be released or used in public sessions without authorization of the committee. We are in executive session because the matters and materials under discussion contain confidential tax return information protected by section 6103 of the Internal Revenue Code. Pursuant to section 6103(f)(4)(A), as chairman I have designated the members and staff in this room as my agents for the duration of this executive session.

Today, we will be discussing a referral of former IRS official Lois Lerner to the Attorney General for possible prosecution of criminal actions uncovered during the committee's investigation of the IRS' targeting of taxpayers on the basis of their political beliefs.

After consultation with House Counsel, the Joint Committee on Taxation, and the House Parliamentarian, it has been determined that the most responsible course of action is for this committee to mark up the letter to the Attorney General. This markup will allow us to consider whether to submit this letter to the House of Representatives as described by section (f)(4)(A) of section 6103 of the Internal Revenue Code. Should the committee vote to submit the letter to the House, it will enter the public record and members will be free to discuss its contents publicly.

For nearly a year, staff from this committee on a bipartisan

basis have conducted 23 and soon to be 24 transcribed 6103 interviews with the IRS, Treasury Department, and Federal Election Commission staff. They have participated in many more transcribed interviews and worked closely with staff from the Senate Finance Committee, Committee on House Administration, and Committee on Oversight and Government Reform to perform these interviews. Staff has also reviewed roughly a half a million documents, including internal IRS emails.

While the IRS has yet to produce all key documents, the evidence the committee has received to date strongly suggests that Lois Lerner, former director of Exempt Organizations at IRS, violated the law in three distinct ways. One, by using her authority to improperly direct audits, denials, and adversely affect appeals of conservative groups. Two, Ms. Lerner knowingly misled the Inspector General. And three, potentially exposing confidential taxpayer information in violation of section 6103.

I want to be clear: This referral is about Lois Lerner and only Lois Lerner and makes no attempt to show any involvement from the Treasury Department or the White House. The referral letter utilizes internal IRS emails, testimony from transcribed interviews, and other evidence to show that Ms. Lerner took the initiative to use her position to subject specific conservative groups to increased scrutiny and audits, including the potential denial of exempt status in violation of internal controls.

Mr. Doggett. Mr. Chairman, parliamentary inquiry.

Chairman Camp. One minute, please. If the gentleman will just suspend for a minute

Mr. Doggett. Surely.

Chairman Camp. We are waiting right now to make sure the audio feed is turned off

Mr. Neal. I understand.

Chairman Camp. All right. I want to be clear: This referral is about Lois Lerner and only Lois Lerner. It makes no attempt to show any involvement from the Treasury Department or the White House. As soon as I finish my opening statement and then Mr. Levin makes his opening statement, then why don't we open it up to discussion at that point.

Mr. Doggett. Mine is not a discussion. It really is a parliamentary inquiry before Levin speaks.

Chairman Camp. Yes.

Mr. Doggett. Before Mr. Levin speaks.

Chairman Camp. Why don't I finish and then before Mr. Levin speaks.

Mr. Doggett. Sure.

Chairman Camp. The referral letter utilizes internal IRS emails, testimony from transcribed interviews, and other evidence to show that Ms. Lerner took the initiative to use her position to subject specific conservative groups to increased scrutiny and audits, including the potential denial of exempt status in violation of internal controls. In accordance with House rules,

all of these materials have been made available to you 24 hours in advance of this meeting.

Ms. Lerner circumvented the IRS' internal political action review committee and improperly directed the audit of Crossroads GPS, a well known conservative group. The review committee, composed of three nonpolitical career staff in the IRS' Dallas office, exists to ensure that no one individual has the authority to take action against a group on the basis of their political activity. Ms. Lerner took it upon herself to override the committee and direct both the Crossroads GPS' audit and a proposed denial for tax-exempt status.

Ms. Lerner repeated these activities with other conservative groups, but never left-leaning organizations which were also referred to the IRS. Ms. Lerner also attempted to improperly influence the independent appeals process by writing to the chief of IRS appeals about upcoming cases, these being the Tea Party applications that had begun receiving denials. These actions may have violated the constitutional rights of these groups, which can be prosecuted as a crime.

Second, Ms. Lerner knowingly misled the Treasury Inspector General when she falsely claimed that the cause for the IRS' additional scrutiny of Tea Party groups was the result of an uptick in the number of applications for 501(c)(3) or 501(c)(4) status.

Ms. Lerner also concealed her knowledge of the Tea Party targeting. Emails in the committee's possession establish that

she knew as early as April 2010, but she later denied knowledge until a July 2011 briefing. These appear to be false statements to law enforcement and ones that Ms. Lerner knew were false when she made them, which is against the law.

Third and finally, Ms. Lerner sent or directed her subordinates to send taxpayer information to her personal email. On several occasions, Ms. Lerner sent confidential taxpayer information to her home email account in violation of IRS policy. This action risked exposing and potentially disclosed confidential taxpayer information in apparent violation of section 6103.

Contrary to reports that IRS' Administrative Review Board found no political bias or willful misconduct by Lois Lerner, the committee's thorough investigation has in fact uncovered such evidence. Whether the Justice Department decides to investigate and prosecute is up to the Attorney General. The constitution gives that power to the executive branch, but as the House committee of jurisdiction over the IRS it is our responsibility to provide the Attorney General with the facts that the investigation has uncovered.

By submitting this letter to the House we will make these facts known to the American people. This will provide transparency into the actions of the Internal Revenue Service officials at the center of the targeting and hold the Justice Department accountable for whether it acts based on these facts.

[The statement of Chairman Camp follows:]

***** COMMITTEE INSERT *****

Chairman Camp. And before I yield to the ranking member for an opening statement, I ask that all member opening statements be included in the record, and without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Chairman Camp. Mr. Doggett.

Mr. Doggett. Thank you, Mr. Chairman.

The time to debate the merits of this will occur, as you have indicated, later in this proceeding. These really are intended as nonargumentative inquiries since this is an unusual proceeding.

Chairman Camp. Yes.

Mr. Doggett. First, I see that a stenographer is present.

Chairman Camp. Yes.

Mr. Doggett. And our words are being recorded. Will the transcript of these proceedings be released at some point in the future?

Chairman Camp. Yes, the stenographer has also been designated as 6103, and this is being recorded. That is something I am willing to consider. I would want, of course, to review the transcript to make sure that there is no extraneous 6103 material in that before it is released, but I expect that it will be released publicly.

The reason this is so important is this is not an intent statute, and I know you have been practicing as a lawyer and a judge in the past, and it is a felony. Any release is a felony, and it is not whether you intended to do it. So I am being very cautious. And you are right, this is a unique circumstance, but so is the targeting somewhat unique in the history of this country.

So that is why it so important that we do this in accordance

with the way House Counsel has advised us, which is that it is a committee action to release the letter, and that then, after this hearing, allows the notebooks, you will be able to take them to your offices, and that will then all be -- the material contained in that will be able to be discussed as soon as the gavel is dropped at the end of this hearing. You will be able to talk about what is in that letter.

But the transcript I would very much want to go through just to protect the members of this committee from something that might have been inadvertently discussed because you have had access. Your members have had access to all of the materials, all the 6103 materials, and all of the interviews, and have been present in all the interviews, or had access to the transcriptions of all the interviews.

Mr. Doggett. I have a further inquiry about that, but I believe your staff member has some other advice on it.

So the emphasis that you place on the fact that improper disclosure is a felony --

Chairman Camp. Yes.

Mr. Doggett. -- gives rise to my further inquiries, to be sure that each of us is fully complying with the law. Are we, by your understanding of this, able, even if the transcript is not immediately released, to freely discuss anything that happens in this closed proceeding?

Chairman Camp. Yes. The committee has to vote to submit

this letter and the materials, backup materials to the House. If the committee votes to submit this to the House, yes, at that time then you are free to discuss anything contained in the notebook.

Mr. Doggett. And anything that is said in this proceeding?

Chairman Camp. Well, I wouldn't go so far because if something inadvertently is 6103, that is why before there is a release of the transcript, I want to go through that. But certainly anything in this notebook and certainly process issues would be able to be discussed.

Mr. Doggett. Your intention is if the letter is approved in whatever form it is approved, that this notebook with the criminal liability warning on the cover will be a matter of public record --

Chairman Camp. Yes

Mr. Doggett. -- at that time?

Chairman Camp. Yes, because it will then become what they call a document of the House, and once the gavel -- now, it may take a day or two before it is filed in the House -- but the minute this hearing is concluded, if the committee votes to release this, it will all -- you can talk about anything in this notebook --

Mr. Doggett. And concerning your comment --

Chairman Camp. -- publicly.

Mr. Doggett. -- about precedent, with the exception of the somewhat different circumstance of the committee acting in 1974

on the release of the audit of the tax return that President Nixon requested Joint Tax to audit, is there any precedent for what we are doing today?

Chairman Camp. That was the Joint Committee on Taxation that you referred to?

Mr. Doggett. Right.

Chairman Camp. The statute -- okay. We need to suspend.

Okay. I am just testing the microphone to make sure that everything is turned off. Testing, 1, 2, 3. We live in an advanced technological age, and it is always a challenge. Testing, 1, 2, 3. Testing, 1, 2, 3.

Okay. I am not exactly sure where we left off.

Mr. Doggett. You were responding to the precedent question.

Chairman Camp. Yes. No, that you referred to in the 1970s was Joint Committee on Taxation, so the statute does provide for this process, and in consultation with House Counsel they recommended this procedure. But both the parliamentarians, Joint Committee on Taxation and House Counsel were consulted with how to do this.

And we have never really had this allegation that taxpayers have been affected in this way, so it is a case of first impression, if you will, for the IRS and for the committee. But this is our oversight function and this is what the statute provides for, so when they passed this as a result of sort of the Nixon era violations, they passed the statute to protect taxpayer

confidentiality, but also to give the committee a role in it.

So this require a committee vote to move this to the House. And once this is moved to the House, the entire notebook is going to go to the House, so you will be able to talk about anything within this notebook --

Mr. Doggett. With reference to the --

Chairman Camp. -- publicly.

Mr. Doggett. With reference to the notebook, I spent some time yesterday, as I am sure other members did, reviewing the documents. In some cases there is one page out of a deposition or interview that is included. If a member of the committee wants to look at other pages to understand the context of those statements, is it possible for us to do that or are we limited to these documents?

Chairman Camp. Well, certainly, Mr. Levin and his staff have had access to all of that all along, but I would certainly be willing to work with any member who wants to dig deeper into this. It would mean designating, you know, potentially 6103 for that particular member. And that is why this is all in a locked room, and that is why I was very careful on sort of the chain of custody about who had access to the book so that we could establish that we have taken every precaution to make sure that taxpayer information is protected.

Mr. Doggett. With reference to the letter draft, is it your intent to request that prosecution of Ms. Lerner occur or simply

to transmit the information that you have gathered in the binder for the consideration of the Attorney General?

Chairman Camp. Yeah. The letter is that they -- it makes clear it is their decision. And as I said in my statement, it is an executive branch decision, and we refer to this to the Justice Department for their view. It is prosecutorial discretion, which you are well aware of.

Mr. Doggett. Under 6103, is there another statutory method by which you can transmit the same documentation to the Attorney General without making the private documents public?

Chairman Camp. No.

Mr. Doggett. Isn't there a method by which you can declare the Attorney General your agent under 6103 and transmit the documents to him, these documents or any others that you are concerned he does not already have for prosecution, and thereby preserve privacy fully instead of disclosing the documents?

Chairman Camp. Well, we know the Attorney General probably alone isn't going to be looking at this by himself, and I would have to designate every one of his staff and anyone potentially at Justice who would look at that. And that has never been done before. And actually, in working with the parliamentarians, they felt this was the best way because now it is public, now there is transparency, it is not secret, I am not sending a secret letter to the Attorney General, which I am sure your side might complain about if I were to do it that other way. This is not a secret letter.

It is going to be public after this hearing.

So in trying to balance the public's right to know with our responsibilities to protect taxpayer information, this was what was determined to be the best course of action.

Mr. Doggett. Okay. I will debate the merits with you later.

Chairman Camp. Yeah.

Mr. Doggett. But there is another method that could be used under 6103 to get the same information to the Attorney General and his staff without making this documentation public.

Chairman Camp. That would be a secret letter. They would not be able to use that information in any public way. So any investigator, they would have to ask me who they were and I would have to then personally designate them. And I would --

Mr. Doggett. Which you would do.

Chairman Camp. I would be responsible for any violations of 6103 potentially.

Mr. Doggett. Yes

Chairman Camp. So that is not a path. Maybe you have --

Mr. Doggett. That you wish to follow. But it is an alternative that could be --

Chairman Camp. I don't accept that as a viable alternative path because then a secret letter would be going over to Justice.

Mr. Doggett. Thank you for your --

Chairman Camp. And let me go to Mr. Levin to make his opening statement.

Mr. Doggett. Surely. Thank you.

Chairman Camp. Then we will have a lot of time --

Mr. Thompson. Mr. Chairman, I have a point of parliamentary --

Mr. Doggett. Thank you, Mr. Chairman, for your answers.

Chairman Camp. You have a parliamentary inquiry?

Mr. Thompson. Yes, just briefly. You mentioned the House Counsel's involvement. Was it in your determination to do this or was it in an advisory capacity as to how to do it?

Chairman Camp. The parliamentarians decided that we should take this course of action, so it was ultimately a parliamentary decision as well.

Mr. Thompson. But the House Counsel's involvement in this was just to advise you procedurally how to do this?

Chairman Camp. Legally what -- you know, there is different roles for different entities here, and the parliamentarians were the process and the procedures in the House, committee vote, but it is the House Counsel who looked at the criminal liability potentially in the statute and advised us on that regard.

Mr. Thompson. So he was advising that there is criminal liability and this is the way that it should go?

Chairman Camp. Yes, it is very clear on the statute, if you have had a chance to look at the statute. Have you read the statute, by any chance?

Mr. Thompson. Pardon me?

Chairman Camp. Have you read the statute?

Mr. Thompson. Yes.

Chairman Camp. Okay. It is very clear on the statute.

Mr. Thompson. Will we have an opportunity to hear from House Counsel?

Chairman Camp. No.

Mr. Thompson. Thank you.

Chairman Camp. Did you have a parliamentary inquiry?

Mr. McDermott. I have a parliamentary inquiry. We sign an oath not to tell when we go to a secret briefing in the Intelligence Committee.

Chairman Camp. Right.

Mr. McDermott. The Ethics Committee has the same sort of thing.

Chairman Camp. Right.

Mr. McDermott. So what I am trying to figure out is, what is it that I am precluded from or anyone here is precluded from saying once this meeting is over? If I don't name a taxpayer, I can say anything else?

Chairman Camp. Once this meeting is over, if we vote the letter to go to Justice, you can say anything that is in this letter or book. You can say taxpayer names. You can say details about what is contained.

Mr. McDermott. I can say taxpayer names?

Chairman Camp. You can after this. You cannot before. The

taxpayer information isn't a tax return in this case or financial information. It is who it was and what happened to them. Whether you have applied for 501(c)(3) status or (c)(4) status is confidential information. Whether you have been delayed or whether you have been audited, that is confidential taxpayer information.

Mr. McDermott. But it no longer will be --

Chairman Camp. No longer will be with regard to these --

Mr. McDermott. The specific people mentioned in the letter?

Chairman Camp. Once the committee votes to send it to the House.

Mr. Levin, do you want to make your opening statement?

Mr. Levin. I do.

Chairman Camp. I just want to make this clear: Whatever is in the binder, if we vote this to go to the Attorney General, you can talk about it. If it is not in the binder, I do not recommend you talking about it. That could potentially be private taxpayer information. There is a lot in the binder, so I think there is going to be a lot for you to talk about.

Mr. McDermott. The other 700,000 pages are exempt.

Chairman Camp. Mr. Levin and his staff have had access to all of those other pages all the way along.

Mr. Doggett. To further inquire just on that narrow point, the only thing that can't be discussed is confidential taxpayer information.

Chairman Camp. Yes.

Mr. Doggett. Your binder contains --

Chairman Camp. Both.

Mr. Doggett. -- news clips --

Chairman Camp. Yes.

Mr. Doggett. -- discussion of the processes of the IRS.

Chairman Camp. Yes.

Mr. Doggett. So the relationship of appeals to other sections. All of those are open to discussion.

Chairman Camp. Yes.

Mr. Doggett. It is only the disclosure of information about a specific taxpayer outside of this binder.

Chairman Camp. Well, there is material that we gained from the results of the investigation, and then there is 6103 material. And generally 6103 material is that material which identifies a particular taxpayer or what happened to them. And the problem is, if you talk too much about something and people can conclude who that taxpayer was, you are in a very gray area.

So I am trying to make sure that we are all doing this absolutely by the book and that we are protected, yet we are also satisfying the public's right to know about what we are doing. So as soon as this concluded the public will know what we did in this room. And as I have said, I have made a commitment that I want to review the transcript to make sure that there isn't anything extraneous in it, but I anticipate that being released. I just

am not going to commit to releasing it -- to agreeing to release it immediately. Is that clear?

Mr. McDermott. Parliamentary inquiry then.

Chairman Camp. Yes.

Mr. McDermott. Why was an executive session necessary if we are going to discuss it --

Chairman Camp. Okay.

Mr. McDermott. What was the parliamentary requirement of an executive session if we are going to discuss it and then release it?

Chairman Camp. Okay. Let me just go through this one more time. This contains taxpayer information that is confidential. There is a statute preventing the release of taxpayer information. Anything in this letter or in this notebook, after this hearing, if we vote this, this committee votes this out, you will be able to talk about.

I would not suggest that you talk about anything not in this notebook or not in the attachments. So we have to be very clear on this, and I am willing to spend as much time as it takes on this.

Mr. Doggett. You are releasing the footnotes that were in the separate binder also.

Chairman Camp. The footnotes, the entire notebook will go to the House.

Mr. Doggett. Thank you.

Chairman Camp. Because obviously it doesn't make much sense to read the letter for the Attorney General's staff if they can't read the footnotes and understand what that is.

So I would keep my remarks directed to the letter and the attachments to the letter, and that is why I said, this is about Lois Lerner and these groups. Does that make sense now? I mean, I want to make sure everybody understands this. And then we will go to Mr. Levin for his opening statement if everybody gets that part.

Mr. Doggett. When you say it is about Lois Lerner and whether she has violated federal law, it is also about -- and, again, I will save my argumentation about this for later -- but it is also about Crossroads GPS, which is throughout this, and Karl Rove.

Chairman Camp. There are several groups that are involved. That is one of them.

Mr. Doggett. That seems to be the principal one, it figures in your letter. Is it your view that to discuss what has ultimately, if anything, happened to Crossroads GPS at the IRS, that that is 6103 material?

Chairman Camp. Why don't we save all that for after Mr. Levin's opening statement and we get into the back and forth.

Mr. Doggett. Okay. I just want to be sure. I am asking only a question about disclosure. And, again, I will make my argument --

Chairman Camp. Yeah. And it is a legitimate question, and I will make sure --

Mr. Doggett. Thank you.

Mr. Thompson. Mr. Chairman.

Chairman Camp. Yes.

Mr. Thompson. To further clarify, you stated that anything in the notebook we can talk about. How about --

Chairman Camp. After we vote it out.

Mr. Thompson. I understand. I understand. How about anything that is said within this closed environment?

Chairman Camp. Well, that is why we are in executive session, because I don't know what people are going to say. And as I have said, your side has had access to a lot of 6103 material that is not the subject of this meeting today. So I don't know what people are going to say, and so that is why I don't know what is going to end up in the transcript, but I can tell you that I will review it, and if possible we will make the transcript available. But this is about this right now, so.

All right. Mr. Levin.

Mr. Levin. Thank you, Mr. Chairman.

I was among the first to call for Lois Lerner to resign and for her to be relieved from her duties. This executive session isn't about any of us condoning the mismanagement at the IRS Tax Exempt Division, and it certainly isn't about any of us condoning potential criminal activity. Indeed, the Justice Department is investigating the entire matter to determine whether there should be criminal charges.

The Justice Department has access to all of the same documents as we do. They have the ability to conduct interviews of all involved and to compel testimony.

Nearly a year ago the investigation by this committee started with a bipartisan request for documents on May 14. It quickly got off those tracks with a declaration by you, Mr. Chairman, on May 17 that the IRS matter was, and I quote, "the latest example of a culture of coverups and political intimidation in this administration," end of quote.

That started a year-long effort to pursue a failed effort to prove White House involvement, pursuit of an enemies list, or targeting of only conservative groups. All of those claims were false. I saw John Boehner, the Speaker, on Fox News on Monday night, and Chairman Issa is having an Oversight and Government Reform meeting on Thursday to hold Lois Lerner in contempt of Congress.

It now seems clear that Republican members of the Ways and Means Committee have decided that they do not want to be left behind in the Republican campaign to declare this a scandal and keep it going until November. Making this committee an arm of any campaign committee does a deep disservice to the proud traditions and legacy of this committee.

Mr. Chairman, this action we are embarking on causes us tremendous concern and deep distress about the reputation of our committee. Look around. This is the prestigious Ways and Means

Committee. I don't understand why you are doing this, Mr. Chairman. You have selected information that you believe proves your case from the about 700,000 documents provided during this investigation. You have given members 24 hours to look at it, and you have not provided them the necessary authority to look at any other documents beyond what is included in the notebooks so that members could reach a conclusion on their own.

Today you are asking the members of this committee to approve a letter urging that the Department of Justice pursue a criminal investigation of Lois Lerner, one that is already going on, one that her lawyers have indicated she has already been interviewed as part of, and you are doing so in a manner that makes public previously protected taxpayer information.

Indeed, Mr. Chairman, this committee enacted these taxpayer protections to prevent the use of taxpayer information for any other use than the administration of our tax laws. The provision under which you claim authority to release this information, section 6103(f), was enacted in response to the inappropriate use of taxpayer information by the Nixon administration. The very disclosure that you put to a vote today violates the very taxpayer protections this committee meant to create.

And when was the only time on record that this committee has taken this unprecedented step? In 1974, Chairman Mills, after an audit by the Joint Tax Committee of President Nixon's tax returns, which was requested by President Nixon, made a bipartisan report

to the House of the President's tax returns, thus making them public. It should give us all serious concern that we are taking our committee down this road today.

You claim that the only way you can point out to the Attorney General that you think you have found specific evidence that criminal activity has taken place by Ms. Lerner is to make all of this material previously considered protected taxpayer information public. Mr. Chairman, that is not accurate. The Department of Justice has access to all of the same information.

If you are afraid they might have missed something, you can designate the Attorney General or his designee with your 6103 authority as chair of the Ways and Means Committee just as you did for the other members of this committee for him to review it. You certainly do not need to erode the prestige of this committee by having us use, for political purposes, this sacred obligation we have to safeguard taxpayer information. I wish I could come up with some other rationale for what you are doing, but I cannot. I hope you and other members will reconsider.

[The statement of Mr. Levin follows:]

***** COMMITTEE INSERT *****

Chairman Camp. The committee will now proceed to consideration of referral to the Honorable Eric H. Holder, Jr., Attorney General, of former Internal Revenue Service Exempt Organizations Division Director Lois G. Lerner for possible criminal prosecution for violations of one or more criminal statutes based on evidence the committee has uncovered in the course of investigating the IRS abuses. The letter and exhibits have been available for members to review in the committee office since yesterday morning at 9:30 in accordance with House rules.

Mr. Brady.

Mr. Brady. This is the first for me since I have been on the committee, but then this is the first time since I have been in Congress that I have seen this type of behavior and actions out of the IRS.

A couple things I think are absolutely true. One is that this investigation has been very thorough and very deliberate, and done in a way that seeks, through a lot of documents and a lot of emails, to get to the truth of this issue. And I think, to the chairman's credit, every member of this committee, including our Democrat friends, have had complete and full access to the investigation, to the witnesses, to the documents, and any member could go read the transcripts from those investigations, as I did.

I believe there is clear and compelling evidence here. I think this referral is critically important. You have the right

to disagree. That is absolutely fair. You have the right to try to block this letter of referral, if you choose. But I guess I would ask every member maybe to take a longer review of this.

One, Sandy has suggested that we abdicate our responsibility of oversight of the IRS. I think that is a mistake, whoever is sitting in that chairman's seat in the future. This is tax law, this is our jurisdiction, we have oversight of the IRS. We ought never curtail our own authority to conduct this type of oversight in the future.

And secondly, up until last year whenever the IRS Commissioner sat in that seat I never thought of them as Republican or Democrat, never did. They were seen as the head of an independent agency. And the truth is, the power of that agency is so vast, they can destroy lives, they can destroy families, they can destroy businesses. And so that person, in my view, was never seen as part of the administration.

That has changed now, and I think that is a real problem going forward for both parties. I want to get back to the point where that person is not viewed as being part of the White House or not. I think the real purpose of doing a thorough investigation is to make sure this never happens again.

Something is very wrong at the IRS, and my point is, I guess my respectful request in a setting I have not been in before, is to take a longer view of this issue. Every taxpayer, regardless of their political beliefs, ought to know they are protected from

the IRS targeting. And it may be conservatives today, it may be liberals tomorrow, my point is we need to stop this now.

This is actually, I think, an area where we ought to agree the importance of this, of sending this clear signal, making sure this agency is no longer part of any political agenda today or in the future. I think that overrides almost everything we are doing.

Chairman Camp. All right. I will now turn to Mark Epley, staff director for the Oversight Subcommittee, to provide a brief description of the referral letter. I would ask that members hold their questions until after his presentation.

Mr. Epley.

Mr. Epley. Thank you, Mr. Chairman.

As members know, last May the Treasury Inspector General for Tax Administration released his audit report which found that certain applicants for exempt status were subject to extra scrutiny by the IRS, subject to inordinate delay and inappropriate document requests.

After the release of that report, the committee commenced a bipartisan investigation that is still ongoing. Over the last 10 months, with a review of over half a million documents and more than two dozen daylong transcribed interviews, we sought to accomplish two things.

First, we wanted to do a deep dive and examine the TIGTA findings. But we also wanted to take a broader view of the agency

to better understand the policies and procedures, the internal controls, the chain of command, how it is that the agency makes decisions or fails to make its decisions.

It is that broad review, which is very different than a law enforcement kind of inquiry, that actually gave rise to a number of important material facts, some of which are reflected in the letter that you have before you. That letter is narrowly tailored to the question, did the former director of the Exempt Organizations unit, Lois Lerner, engage in intentional wrongdoing for which she needs to be held accountable. And we think that the facts, when applied to the law, the answer is yes.

The three charges are as follows. First, Ms. Lerner acting under color of law. What does that mean? Essentially, in her official capacity, in defiance of internal controls. These were internal controls that she wasn't just aware of, she actually wrote. These were internal controls that she sent the Commissioner out before this committee to say there is no worry that the American people should have that this agency is not evenhanded because all decisions for audit selection are made by a three-person, career senior employees, no one person can ever select an organization for audit on their own.

So these were internal controls she put in place and spoke of publicly as a way of commending her agency that people should have faith in the agency. But in defiance of these internal controls, the processes did not get the result that she wanted.

She reached into her organization and directed that Crossroads GPS be subject to an audit. She reached into her organization and directed that that organization receive a proposed denial. That action deprived those citizens of their rights and privileges that they deserve under the Constitution and the laws.

Second, Lerner knowingly and willfully sought to mislead TIGTA, the Treasury Inspector General for Tax Administration. In July of 2012, in preparation for Steve Miller to come and testify before this committee, Lerner and others worried that maybe Miller would get questions about delays associated with Tea Party applications for exempt status.

So Lerner proposed a talking point for Miller if the question came up. She proposed to say that Cincinnati observed an uptick in political activity represented in the applications that were being filed. She wrote that up and sent it around to others to vet.

One of her subordinates wrote back with particularity, it is reflected in one of the exhibits, said that particular statement is not true, you cannot say that, and proposed an alternate statement that she could use. Just 2 months later, TIGTA sent Ms. Lerner a questionnaire pursuant to its audit, and Lois Lerner, in an effort to minimize her role in the Tea Party targeting, gave the exact same answer that her subordinate said was factually incorrect.

Now, we know from the U.S. Attorney's Manual and from case

law that when you are a person in authority and you are asked questions by law enforcement, you actually have a duty to find out the truth. You can't just rely upon your memory. She had a duty. If she forgot in the intervening 2 months, she had a duty to check and make sure that that which she was saying to law enforcement was true. But the facts tend to show that she intentionally misled the investigator.

And finally, we found evidence to show that in the regular course, the ordinary course of business, Lois Lerner would send confidential taxpayer information to a personal email account in defiance of internal IRS controls. We suggest in the letter that she may have violated taxpayer confidentiality because we don't know who else may have had access to that account. The name on the account was Toby Miles. The last name "Miles" is her husband's last name. And we don't know, and we need the benefit of the FBI and their computer forensic capacity to look into the question of who had access to that email at any given time and whether it was accessed by someone other than Lois Lerner to determine whether there was a violation of section 7213, which essentially makes it a crime to release 6103 material.

So with that brief overview, I will yield back to the chairman.

Chairman Camp. All right. We will now move into questions.

Mr. Ryan.

Mr. Ryan. I think, listening to the ranking member, and I

say this with great respect, I think you are making a mistake. The reason I think you are making a mistake is we are the legislative branch. It is our job, when we swear to uphold the Constitution every 2 years when we are sworn in, to represent the legislative branch and not to delegate our powers to the executive branch.

And so when this committee, the committee in charge of the Tax Code, sees credible evidence of criminal wrongdoing by a member of the executive branch, a career member of the executive branch, not a political appointee, violating a citizen's constitutional rights to due process, to equality under the law, as members of the legislative branch it is our job to hold the executive branch accountable.

The separation of powers is a deeply held tradition that makes our government work in a way that gives confidence to the citizens of this country that they are being treated fairly, that we have equality under the law, that we have due process. And so I think you are making a mistake by suggesting that this is somehow political, especially this committee, which could you imagine if we don't do this and we make this political, that it is just a Republican versus Democrat thing, what citizens will think of the IRS, of tax compliance when they are trying to voluntarily submit their private information to pay their taxes?

This is precedent setting. We understand that. This is very serious. We have all had access to this information. We

have all been able to go read about this. We all see what this is. And so I think it is a mistake to politicize this because let's think about the long term here.

Just like Mr. Brady said, tomorrow it could be liberals, today it is conservatives, but they are all citizens. And we see abuse of power by the executive branch over citizens, and we, as their representatives, the people's House, the legislative branch of government, have a duty to protect them when we see their rights being violated and to hold the executive branch accountable because that is the job of the legislative branch.

So I think we should take a breath here and think this through and do our jobs as Members of Congress, of the legislative branch, not as Republican Members of Congress, not as Democrat Members of Congress, but Members of Congress, and try and maintain respect for the IRS code that we are in charge of overseeing in this committee and keep the separation of powers that we think are very important for keeping confidence in this Constitution and in the application of our laws.

Mr. Doggett. Mr. Chairman.

Chairman Camp. I will go in seniority right now.

Mr. McDermott.

Mr. McDermott. Mr. Chairman, I just have a -- again, it is a process question in a way. I would like to hear on the record that you have thought about this. In 1993 charges were made against the chairman of this committee, and they were sent to

the Ethics Committee. And the Ethics Committee, as you know, is 4 and 4 at that point. I don't know what it is today, 5 and 5, or something. And they discussed this whole issue for a considerable period of time.

At the same time the Justice Department was doing a criminal investigation, and the U.S. Attorney at that point from D.C. was a guy named Eric Holder, who requested a meeting between myself and Fred Grandy and I -- or Fred Grandy and I met with him and he asked us to not to proceed so as not to screw up his case -- I mean, that is not a legal term, I guess I should think of another term -- but not to do something that is going to undo what is being done by the Justice Department. We decided not to move forward in the Ethics Committee on that issue.

So I assume that you are confident that you are doing nothing here that will destroy the ability of the Attorney General to deal with this issue and come to a resolution that her defense is now that Congress got into it and started spreading stuff all over the newspapers and making a big political thing. When we walk out of here there will be press up to your armpits. We all know that. And so that is the situation you are creating here.

And I want to hear you say you have thought about it and you are sure that you will not create a problem for the Attorney General by this process.

Chairman Camp. I have, and let me just say this. You were a longtime member of the Ethics Committee. I did my time on the

Ethics Committee. There is much more coordination between the Justice Department and Ethics over these matters. I don't know what the Justice Department has. I don't know what they know. We are operating not as an Ethics Committee but as an oversight committee of the executive branch itself.

Because this is 6103, this has been available to the members of this committee only. So it isn't exactly comparable to an ethics investigation, having done those, having chaired those myself on the Ethics Committee. This is a very different role. But I appreciate what you are trying to say, but it is not the same thing.

Mr. McDermott. And it is your judgment that nothing that we are doing here will derail or make a problem for the efforts of the Justice Department in dealing with this issue.

Chairman Camp. I think not only will it not be a problem, I think it would be an obligation to let the Justice Department know what we have found because, and I know that, you know, this has been said by others, what a serious concern this is about what we are doing and why, but as others have said, it is a serious matter to violate people's constitutional rights. And we believe, given what we have seen that, that may have occurred.

And because we are not prosecutors, we are not the law enforcement arm, we need to have them take a look at this to ensure that this never happens again under anybody's watch. It hasn't happened before, it doesn't appear to be, since the Nixon era,

but it is so important that this not ever happen again that I think we have a duty, an obligation to come forward for all the reasons that have been already articulated.

Mr. Neal.

Mr. Neal. Thank you, Mr. Chairman.

Chairman Camp. Then I will go to Mr. Boustany. I will alternate.

But I will go to you now, Mr. Neal.

Mr. Neal. Thank you, Mr. Chairman. And I share Mr. McDermott's concerns precisely as he has described them.

In reference to Mr. Ryan's comments about the Constitution, I hope that you will apply the same logic to the line item veto and to the Balanced Budget Amendment to the Constitution about the representation of the first branch of the government here, the legislative branch, because I have watched over many years a steady usurpation by the executive branch of priorities and prerogatives that were set out clearly in the name of the Constitution, which I hear frequently referenced on the floor.

So I hope you will take that into consideration down the road, and I hope the more conservative Members of the Congress who throw around the term "the Constitution" and then willfully turn that authority over to Presidents time and again.

And with that, I would like to yield my time to Mr. Doggett.

RPTS JANSEN

DCMN HOFSTAD

[10:41 a.m.]

Mr. Doggett. Thank you, Mr. Neal and Mr. Chairman.

Mr. Epley, are you the member of the majority staff who coordinated and directed the investigation of the matters that are before us today?

Mr. Epley. Yes.

Mr. Doggett. And as that director, I note and would ask, with Mr. Levin's permission, to make a part of the record a letter from the Department of Treasury dated today to him from the National Director for Legislative Affairs, saying that the IRS, in cooperating with you and other investigation here, has had more than 250 people work more than a total of 100,000 hours to produce 660,000 pages of unredacted documents for your consideration.

Can you give us an idea of the extent of the effort in the majority staff, at its end, how many hours or how many people have been involved for what period of time in doing this investigation that leads to today's proceeding?

Mr. Epley. Sir, I am -- pardon me. Is this the letter -- is it actually addressed to me? I don't -- I'm not familiar --

Mr. Doggett. No, I'm describing -- I'm not asking you about whether this is accurate.

Mr. Epley. Okay.

Mr. Doggett. I am simply contrasting.

Chairman Camp. Will the gentleman suspend for a second?

Mr. Doggett. Yes.

Chairman Camp. I'm just getting handed the letter. Can you tell me the background on this letter?

Mr. Doggett. I don't know the background. I just saw it myself.

Chairman Camp. When was it requested?

Mr. Doggett. I don't know the --

Chairman Camp. Mr. Levin, when was this letter requested?

Mr. Doggett. -- details of the letter. I am just asking, at this point, him to tell me about the degree of effort that has been put on at this end.

Chairman Camp. I haven't even had chance to read the letter. So let me just say that --

Mr. Doggett. Well, then, let me just ask the question directly, and I will ask that the letter be made part of the record.

Chairman Camp. I would like an opportunity to review the letter. I would object to that being made part of the record at this time until I have had a chance to read it.

Mr. Doggett. Okay.

Chairman Camp. You have had all the documents for 24 hours. You are giving me a document as we are in the hearing.

Mr. Doggett. Well, it is little more than a one-page letter, but I will withdraw that question and simply ask him to tell me

about the extent of the investigation, how long it has gone on, approximately how many people have been involved, and any estimate he might have of the total number of hours devoted to this investigation.

Mr. Epley. Mr. Doggett, for the majority side, I think that we had, generally speaking, over the last 9 to 10 months, four people working nearly full-time on the investigation. There is other business, of course.

And I am not sure, I can't speak to the minority. I know that a similar number of staff were designated by the chairman as his agents, and they participated in nearly 2 dozen day-long, transcribed interviews.

I wouldn't want to hazard a guess, but I would say that, you know, for the last 9 months --

Mr. Doggett. Four people working full-time.

Mr. Epley. I think that is correct, yes, sir.

Mr. Doggett. Okay.

And Exhibit 9 in the notebook is a statement taken by the Subcommittee on Oversight -- well, excuse me. I guess that is on this committee. Have you considered statements taken by any other committees of the Congress, such as the Committee on Oversight or the Committee on Government Reform, Mr. Issa's committee?

Mr. Epley. Could you just ask that one more time, sir?

Mr. Doggett. Yes, sir. Have you considered any of the

information gathered by Mr. Issa's committee as a part of your work?

Mr. Epley. Yes.

Mr. Doggett. And has anyone on Mr. Issa's committee been designated to examine any of the documentation that we have before us today?

Mr. Epley. No.

Mr. Doggett. And do you have any estimate of how much time they have devoted to this, similar to the four people full-time for 9 or 10 months?

Mr. Epley. I really have no way to estimate how many staff they have dedicated to it, though I will say that we participated in 2 dozen day-long transcribed interviews with the Committee on Oversight and Government Reform, at which both the minority staff of this committee and the minority staff of that committee were present.

Likewise, we did nearly as many transcribed interviews with the Senate Finance Committee. Those were done behind closed doors. We considered those to be 6103 transcribed interviews.

I really can't guess how many hours the Committee on Oversight and Government Reform has --

Mr. Doggett. Are there any other committees of the Congress, other than those you just referenced, that have been involved in the investigation?

Mr. Epley. So, other than Senate Finance, the Committee on

Oversight and Government Reform, the Ways and Means Committee, I believe the Permanent Select Committee -- or Subcommittee on Investigations, the Senate. I really don't know the scope of their inquiry, though.

Mr. Doggett. In your testimony to the committee just now, you indicated that Ms. Lerner had put internal controls in place and then reached in, demanding an audit of Crossroads GPS. Has that audit occurred?

Mr. Epley. I don't know [REDACTED]
[REDACTED] [REDACTED]

Mr. Doggett. Has the --

Chairman Camp. Dr. Boustany is recognized for 5 minutes.

Mr. Boustany. Thank you, Mr. Chairman.

Mr. Ryan made some very eloquent statements about the role of oversight and the responsibilities we have. And in the modest role I have played as chairman of the Oversight Subcommittee, I can tell you, I spent a lot of time trying to understand IRS procedure. And we were told repeatedly by Schulman, by Miller, by Werfel, that there were adequate controls in place, procedural safeguards in place. And I can tell you, I spent interminable amounts of time in discussions with them, letters back and forth reviewing this.

And what is really disturbing to me is the allegation and the evidence that Lerner sought to influence the appeals process.

And on page 9 in the letter, we have, "The Appeals Division

is independent of the Exempt Organizations Division and, thus, outside the Exempt Organization Director's chain of command. Furthermore, as a matter of law and not just IRS policy, ex parte communications between appeals officers or settlement officers and other IRS employees, to the extent that those communications appear to compromise the independence of appeals, are prohibited."

And I know Mr. Epley, as staff director of Oversight, has worked very closely with me to help me understand this process. And we have been told repeatedly by one after another at the head of IRS that safeguards were in place. They went into great length to assure this committee that these types of abusive actions could not occur.

So I would like to give Mr. Epley a little time to explain further what we found here and why this is so disturbing from an oversight standpoint. Because this committee has an obligation to ensure that the Tax Code is adjudicated fairly, without partiality based on religious or political briefs or whatever. And the fact of the matter is, if we are going to do our job, whether it is from a legislative or an oversight standpoint, we need to get these facts clarified.

So, Mr. Epley, if you could use some of the time I have to further expound on this.

Mr. Epley. So, in 1998, Congress acted to pass the IRS Restructuring Act, which gave TIGTA, for example, powers it didn't

have before and undertook other changes in the administration of the tax laws. And one of those changes was to set up an independent appeals office. And I will just read the enacting statute in that regard.

"The Commissioner of the Internal Revenue Service shall ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeal officers and other Internal Revenue Service employees to the extent that these communications appear to compromise the independence of the appeals officers."

So we felt this was material to show Ms. Lerner's state of mind. Not unlike a trial court judge, she renders an opinion upon which she worked very hard. It would be unethical, inappropriate to make contact with the appellate court judge and say, "Hey, I worked really, really hard on this. We developed the facts. They're all locked down. The law and the facts are all locked down here. There's really nothing to look at here."

So, in the same way, we felt it was important to include this to give visibility into Ms. Lerner's willingness to defy internal controls.

Mr. Boustany. And Ms. Lerner is a civil servant. She is not a political appointee. And so this raises additional questions about the functioning and the safeguards in place. And it also points to the fact that she clearly was abusive in her approach, which led to some of these violations.

Mr. Epley, would you want to comment further on that?

Mr. Epley. Would you just rephrase that question, please?

Mr. Boustany. All right. The fact that Ms. Lerner is a civil servant employee and not a political appointee, per se, the fact that this type of abuse could occur is a serious matter. And I would like you to further expound on that.

Mr. Epley. So we believe the law -- the facts that we have developed through the course of the investigation and the law, when those facts are applied to the law, do raise very serious concerns that intentional wrongdoing was committed by Lois Lerner.

Mr. Boustany. And that is why we have an obligation to ensure that no one within the structure of the Federal Government can take on these abuses and perpetrate these kind of abuses. We need to send a very strong signal.

And I believe, by referring this letter to the U.S. Attorney General, we will be doing that.

Chairman Camp. All right. Time has expired.

Mr. Becerra?

Mr. Becerra. Mr. Chairman, thank you.

Let me first begin, Mr. Chairman, by saying that you have set in motion an unprecedented procedure for this committee in which you now ask members of this committee to consent to a charge for which we have only been informed of for 24 hours and without any meaningful opportunity or time during those 24 hours to

examine the information and the complaint that was drafted by the majority.

You have set in motion this procedure which asks us to allow -- allow us to vote or ask us to vote for this complaint even though you have allowed us only to review the information you wish us to see. You ask us to vote to consent to make confidential information public. And you ask us to inject ourselves in an investigation under way by the Department of Justice.

If we are so concerned about the confidentiality of 6103 information, of protecting the names and informations of individuals who have complied with or participated in providing the IRS with tax information, I would think that we would want to continue to engage in a process that allows us to continue to respect 6103, Section 6103 of the Internal Revenue Code.

The process that you have set in motion, to me, seems the most crude way of conveying information and this complaint to the Department of Justice because, by undertaking this action, Mr. Chairman and those who vote for it, you are voting to make public all of this information that you intend to convey to the Department of Justice. You could easily convey this information to the Department of Justice without making any of it public at this stage.

And so it does call into the question the motives in trying to move in this direction. And I think, again, as I said, it is

a very crude way to try to continue to move forward with any investigation to come out with the facts about what may have happened with regard to the IRS's actions on 501(c)(4) committees and organizations.

To a point that Mr. Brady previously made, when he stated that every one of us can read the transcripts in this case and see the evidence and information in this case, that is not true. We have only access to 6103 information which the chairman has made available to us.

Of the 660,000 pages of documents that have been conveyed to this committee by the administration, the Internal Revenue Service, of the 60-plus transcribed interviews that have occurred, we have a total of 28 exhibits that we have been provided to make the case for this complaint -- 28 exhibits, some exhibits less than a page long, out of the more than 660,000 pages of documents and transcripts that are available.

And so it is not true that we have been able to review all the information and evidence that would lead to this complaint.

Mr. Epley, let me ask this. You had a chance to review the 668,000 pages of documents and the transcripts of the more than 60 people interviewed?

Mr. Epley. Yes.

Mr. Becerra. And if I am correct, the complaint that we have before us contains 28 exhibits?

Mr. Epley. Yes.

Mr. Becerra. Can you make an estimate of how many pages you think are represented in those 28 exhibits?

Mr. Epley. I don't know.

Mr. Becerra. Is it more than 1,000 pages?

Mr. Epley. It is not.

Mr. Becerra. Is it more than 500 pages?

Mr. Epley. No.

Mr. Becerra. Would you say it is -- well, so it is less than 500 pages.

Mr. Epley. Yes.

Mr. Becerra. And you have reviewed over 660,000 pages.

Mr. Epley. Yes.

Mr. Becerra. Okay. As far as you know, have members of this committee had an opportunity to review the same pages and information that you have?

Mr. Epley. I know that the chairman has designated the ranking member and members of his staff to review the material.

Mr. Becerra. Have members of this committee been able to review the 660,000 pages that you have?

Mr. Epley. No.

Mr. Becerra. Excuse me?

Mr. Epley. No.

Mr. Becerra. No. So whatever you convey to us is based on information gleaned not just from the 28 exhibits but from the 660,000-plus pages of documents and transcripts, correct?

Chairman Camp. Time has expired, if you want to just -- but, look, let me just say this.

Mr. Levin and his designated staff that he has asked me to designate, I have designated. The minority and the minority staff have had access to every 6103 document that the majority has had.

Mr. Becerra. Mr. Chairman, let me clarify --

Chairman Camp. Now, let me just say -- let me just say also, if you have come across in your investigation additional information that you would like to amend this letter with -- but, you know, you have all been a part of this all the way along.

And let me also say, the subcommittee --

Mr. Becerra. Mr. Chairman, that is not true.

Chairman Camp. Let me complete --

Mr. Becerra. That is not true, Mr. Chairman.

Chairman Camp. Your time has expired.

Mr. Becerra. But, Mr. Chairman --

Chairman Camp. It is true.

Mr. Becerra. -- if we are out of order, then --

Chairman Camp. No -- would the gentleman suspend and let me conclude my remarks? And if you want to seek time, you can seek from it somebody else. But let's try to keep order in this committee.

Mr. Becerra. But right now, Mr. Chairman, we are --

Chairman Camp. The gentleman will suspend.

Mr. Becerra. Mr. Chairman, parliamentary inquiry?

Chairman Camp. What is it?

Mr. Becerra. Are we proceeding under order?

Chairman Camp. We have the 5-minute rule, and you have had your 5 minutes.

Mr. Becerra. And, Mr. Chairman, I think every single member of this committee operates under the 5-minute rule.

Chairman Camp. Yes. But the chairman of the committee is responding to some things in your statements that are inaccurate.

Mr. Becerra. But, Mr. Chairman, you are responding out of order.

Chairman Camp. No, the chair is not out of order. The chair has the discretion to respond after each Member.

Mr. Becerra. Parliamentary inquiry: Is the chairman yielding himself time?

Chairman Camp. The chair has the discretion to respond after each Member speaking.

But let me just say, look, 6103 provides for this. The statute provides that when the committee, in its oversight role, finds egregious information, we have the authority to release confidential taxpayer information.

Now, there have been numerous subcommittees on this subject, as well. There has been a lot of public discussion about this. And the minority has had access to all the 6103 information contained in this book.

So I just want to say that --

Mr. Becerra. Would the chairman yield?

Chairman Camp. I will not yield, because the gentleman's time has expired.

Is there anyone else --

Mr. Becerra. Then, Mr. Chairman, I am going to insist on regular order as we conduct business.

Chairman Camp. Well, this is regular order. You can find a Member to yield to you --

Mr. Becerra. Mr. Chairman, parliamentary inquiry? Could the chairman please state where in the rules it provides that the chairman is allowed to comment outside of the regular order?

Chairman Camp. We will provide that to you in the rules. But the gentleman will suspend at this time.

Is there anyone else seeking recognition who has not already been recognized?

Mr. Doggett. Yes, Mr. Chairman.

Chairman Camp. You have been recognized.

Mr. Doggett. Mr. --

Chairman Camp. You two have both been recognized.

Mr. Doggett. Parliamentary inquiry. I took Mr. -- the rest of Mr. --

Chairman Camp. Okay. Mr. Doggett, you are recognized for 5 minutes.

Mr. Doggett. Thank you, Mr. Chairman.

Mr. Epley, you have raised and answered the question, did she engage in intentional wrongdoing, with the answer, yes. Is that correct?

In your prior testimony to the committee, you said, did she engage in intentional wrongdoing, and answered yourself, yes.

Mr. Epley. I think, sir, that I said that when the facts are applied to the law, that the answer is she engaged in intentional --

Mr. Doggett. You believe she did engage in intentional wrongdoing.

Mr. Epley. We believe there is probable cause to believe that she did.

Mr. Doggett. Yes. And what I am puzzled about is why you don't say that in the letter. Because the letter refers to an apparent violation, number one; an apparent violation, number two; and that she may have actually disclosed in number three. Nowhere in the letter is your conclusion that she violated the law made evident. Is there a reason for that?

Mr. Epley. So the chairman had made a judgment that the facts applied to the law show probable cause to believe that there were criminal violations. And we have simply set out the evidence in the letter and refer it to Justice.

Mr. Doggett. So if the idea is to refer it to Justice, there is a method that I discussed in this proceeding previously with the chairman by which someone at Justice could be designated to

receive this information and, if they thought it was important to her prosecution, to share it with someone else at Justice to ask you for designation of that individual or individuals and thereby give them everything you think is important to their investigation without this public disclosure.

There is such a procedure, isn't there?

Mr. Epley. I am not a subject matter expert on 6103.

Mr. Doggett. You are not?

Mr. Epley. No.

Mr. Doggett. You have been doing in investigation for 10 months full-time, but you are not an expert on 6103?

Mr. Epley. I would say I am not a subject matter expert on 6103.

Mr. Doggett. You are not aware of whether the clear terms of this statute provides an alternative means to designate someone at the Justice Department to receive this information and protect taxpayer confidentiality?

Mr. Epley. I am familiar with the provision to which you refer, which is the power of the chairman to appoint agents. I am prepared to talk about the law as it relates to this -- as reflected in the letter and the facts that pertain to the letter --

Mr. Doggett. All I am asking, Mr. Epley, is, if the only goal here is to transmit information to fulfill our responsibilities here to be sure that the Justice Department has everything that they need to see that our laws are properly

enforced, as distinguished from the important policy work of this committee to ensure that the Internal Revenue Service has --

Chairman Camp. If --

Mr. Doggett. -- proper internal controls, isn't there a method for doing that that 6103 provides?

Mr. Epley. There is no method, per se, for conveying --

Chairman Camp. If I might help on that.

Mr. Epley. Yes.

Chairman Camp. You know, I made the determination that that was not a workable or practical way to approach it. And so I sought the advice of the Joint Committee on Taxation, House Counsel, and the Parliamentarian on the best recommendations they had to proceed on this, understanding the sensitivities of 6103.

And, as a result, they recommended that the committee vote, we have a public debate about the letter -- which we are having in the committee, and the transcript ultimately will be made public, assuming there is no other extraneous material in that -- and that the committee vote, and the documents become part of the public record.

That is the approach we are taking.

Mr. Doggett. Okay. And I accept your decision to do that but respectfully disagree with it.

And when you inject the House Counsel, the House Counsel described to you a method through which 6103 could be complied, but that does not mean that there aren't alternate methods that

would protect taxpayer confidentiality and privacy, which you say --

Chairman Camp. Well, yes. We could do nothing, and that --

Mr. Doggett. Well, I am not suggesting that we do nothing. I am asking if there isn't in the clear text of 6103 a provision by which you could designate someone at the Justice Department to receive all this information and anything else that you think might be relevant.

Chairman Camp. The only other way to do it would be to send a secret letter to Justice, and I was not willing to do that. That is the answer.

Mr. Doggett. You could send a public letter to Justice and provide that you are sending some confidential taxpayer information under seal.

If you were to do that with this binder, for example, you could take all of the taxpayer confidential information and probably reduce to it about two pages, because most of this is newspaper articles and emails about the internal operations of the Internal Revenue Service and has absolutely nothing --

Chairman Camp. No, that is not -- that is not the case at all.

Mr. Doggett. -- to do with private taxpayer information. I yield back.

Chairman Camp. I would disagree completely with that. Any other questions?

Mr. Rangel. Yes, Mr. Chairman.

Chairman Camp. Mr. Rangel is recognized.

Mr. Rangel. Mr. Epley, were you consulted as to the options other than the procedure that we are following here? The chairman said he went to the joint committee. I asked you whether you were consulted.

Mr. Epley. Yes. We reviewed the law and, not judging ourselves to be subject matter experts, sought outside counsel.

Mr. Rangel. So it is not true that you didn't fully understand the alternative to the process that we are going through this morning.

Mr. Epley. No, sir. I simply said I was not a subject matter expert and we sought outside help.

Mr. Rangel. Well, you are a lawyer.

Mr. Epley. Yes, sir.

Mr. Rangel. But you are not an expert on this particular subject, except the process that we are following? Aren't you just as much an expert on the alternative as you are here? Yes, you are.

I mean, the whole thing is political, so it is no big question. As a lawyer for the majority, you found that that is the way you were going to go, and you did. But you are just as much of an expert, I would like to believe if you were my lawyer, in alternatives as you are in the final decision.

Having said that, Mr. Chairman, I would like to yield the

balance of my time to Mr. Becerra.

Chairman Camp. The gentleman has yielded his time.

Mr. Becerra. I thank the gentleman for yielding.

Mr. Epley, I am not sure if you had a chance to respond to the question that I had asked previously. Let me pose it again.

You indicated that you had a chance to review the more than 660,000 pages of documents and the more than 60 transcribed interviews.

And I asked -- let me ask this question, preliminary question. You indicated previously, you are in charge of this investigation for the committee staff?

Mr. Epley. Yes. At a staff level, yes, I am.

Mr. Becerra. Staff level, yeah.

Mr. Epley. Yes.

Mr. Becerra. And you have been the custodian or have, in charge of the investigation, it is one of your responsibilities to act as a custodian of these documents for their safekeeping, I would imagine?

Mr. Epley. Yes.

Mr. Becerra. Okay. And so you have some idea of who has had an opportunity to examine all of these documents that are protected and private.

Mr. Epley. Yes.

Mr. Becerra. And, to your knowledge, before yesterday, had Members aside from the chairman had an opportunity to review the

various documents, the 660,000 page of documents or 60 transcribed interviews that you had had an opportunity to examine?

Mr. Epley. Other than Mr. Levin, no.

Mr. Becerra. So, other than the chairman -- and my understanding is that Mr. Levin had not reviewed the documents --

Chairman Camp. Pardon me. He responded Mr. Levin had.

Mr. Epley. I thought I understood you to ask whether he had the opportunity. I didn't --

Mr. Becerra. Okay. So -- but Mr. Levin -- that is a good clarification. Mr. Levin had the right to examine those documents. Whether he did or did not is not what I am asking.

But in terms of who actually examined the documents, as far as you know, as the person directing this investigation and as someone who has a custodial responsibility for these private documents, are you aware of any other members of this committee who have had an opportunity to examine the 660,000-plus pages of documents and interview transcripts, besides the chairman, before 24 hours ago?

Mr. Epley. Besides the chairman and Mr. Levin, no.

Mr. Becerra. No. Okay.

And you indicated that this investigation has been ongoing on your part for the last 9 months?

Mr. Epley. I'm sorry, sir. Pardon me?

Mr. Becerra. How long have you been conducting this investigation?

Mr. Epley. This immediate investigation, since May 14th, I think? May 10th? May 10th?

Mr. Becerra. So, over 9 months.

Mr. Epley. Yes.

Mr. Becerra. Okay.

660,000-pages-plus, that is a lot of documents to go through. Were you able to speed-read that stuff?

Mr. Epley. So it is a lot of material to go through. My staff and designated members of the minority staff could review the material.

And, in truth, there is a lot of duplicate material in it. For example, there is draft Internal Revenue manual provisions they are discussing about how the Exempt Organizations Unit is to function. So it is a lot of material, for sure, but there are some duplicate documents that were produced.

Mr. Becerra. Okay. I appreciate that.

Mr. Chairman, I would yield back the balance my time.

Chairman Camp. All right.

Mr. McDermott. Parliamentary inquiry.

Chairman Camp. Yes?

Mr. McDermott. Is it your opinion -- my parliamentary inquiry is, is the transcript of this hearing available to the Justice Department? Can they subpoena it? Do they have the power to get --

Chairman Camp. No.

Mr. McDermott. They do not?

Chairman Camp. No.

Mr. McDermott. And on what basis --

Chairman Camp. The committee has to vote to make the transcript public. And, as I have said, I am not prepared to agree to that until I have had a chance to review the transcript. But I would hope that I could do that. And it is my expectation that the transcript will be made public, and then, of course, they would have access to it through that.

Mr. McDermott. My further parliamentary inquiry: Then the Congress can have a secret meeting that the executive branch cannot access without a vote of the House to release it?

Chairman Camp. Well, let me just say, the statute provides that we have access to confidential information. We are a separate branch of government, as Mr. Ryan articulately described. And I will want to make certain that there are no 6103 violations in the transcript before it is released.

But that is why it is so important to give the executive branch not only the letter but the backup and supporting documents for the letter, so that they actually have the information. And as some on your side have suggested that I send a secret letter to Justice, I think that would be worse.

I think, given the public nature of the potential violation of constitutional rights -- and you and I were here when the victims testified; it was fairly compelling testimony -- I think

it is important that we try to find a way to move this into the public sphere. And that is what we are trying to do today.

All right. I have next Mr. Thompson.

Mr. Thompson. Thank you, Mr. Chairman.

Mr. Epley, this action that we are voting on today, if this passes, this binder will go to the Attorney General?

Mr. Epley. We will deliver the materials to the Justice Department, yes, sir.

Mr. Thompson. It will go to the administration.

Mr. Epley. It will be delivered to the Justice Department, yes, sir. I -- yes.

Mr. Thompson. And does the Attorney General have to do anything with this?

Mr. Epley. There is no legal -- other than the charge, the pledge that he made upon swearing-in that he will faithfully uphold and defend the laws, there is no particular requirement --

Mr. Thompson. He is under no mandate, so he could just put it on the shelf and do nothing.

Mr. Epley. I don't know of any mandate that would require him to --

Mr. Thompson. Are we asking him, with this letter and this vote today, to take an action, to prosecute Ms. Lerner?

Mr. Epley. That is the Attorney General's decision. The letter --

Mr. Thompson. That wasn't my question. Are we asking -- is

this committee action tantamount to asking him to prosecute Ms. Lerner?

Mr. Epley. Well, we believe that the facts when applied to the law show probable cause that she committed a crime --

Mr. Thompson. No, no. But are we asking -- does this constitute a request for the Attorney General to take any type of action or to prosecute Ms. Lerner?

Mr. Epley. I don't understand what --

Mr. Thompson. It is just --

Mr. Epley. Okay. So I will refer to the letter, the last page of the letter.

Mr. Thompson. Yeah.

Mr. Epley. "The committee requests that you act on the findings within this letter and the attached documentation to assure that the rights of law-abiding taxpayers are protected."

Mr. Thompson. But you don't ask to prosecute.

Chairman Camp. Not specifically, no.

Mr. Thompson. Okay.

I think the whole IRS thing was a terrible situation, and I believe that we need to do something about it. And I believe we need to do it in a way that preserves the integrity of this committee. I am not sure that this is, in fact, the way to do it.

Much has been said about 660,000 documents that our staff has been able to review. And, Mr. Chairman, I don't know about

your side, but I can tell you, on our side, our staff are tax experts; they are not criminal attorneys. And to expect that they should be able to pour through 660,000 pages of documents and determine if there was a criminal activity I think is a real reach. The attorney who is in charge of this has already said that this isn't his expertise.

I think it is a serious issue, and I think we should seriously do the right thing. But, again, we should do it in a way that preserves the integrity of this important committee. I don't think this is it.

And I yield back.

Chairman Camp. Right. Which is precisely why we are referring this matter to the Department of Justice, because we aren't prosecutors, but yet we do have enough information to think that there has been some wrongdoing.

Mr. Thompson. Mr. Chairman, reclaiming my time, we have already talked about the process and the direction that you got from House Counsel. It wasn't the best way to do it. It wasn't the way to do -- it wasn't necessarily a way do it that would preserve a bipartisan effort.

You just got instructions on a method by which to do it and, by your own admission, a method by which we could bring this more into the public light. And we have been doing a lot of that "more into the public light" stuff, and I am just not sure that it is the best thing for the institution of representative government.

Chairman Camp. Well, there are really two things. One is to make sure we protect the integrity of 6103. And second is to not send a secret letter, yes.

Mr. -- have you --

Mr. Thompson. But we can do that. It has already been discussed. Mr. Doggett brought that up, as to how it could be done, the protecting of 6103 --

Chairman Camp. I don't believe it can be done that way. I don't agree -- I don't subscribe to that assertion.

Mr. Thompson. Well --

Chairman Camp. You can assert that all you want. I don't agree with that.

Mr. Thompson. All we can do is assert, because you are the one that got the counsel from -- the direction from the House Counsel.

Chairman Camp. And, as you know --

Mr. Thompson. We should have the House Counsel in here to answer these questions.

Chairman Camp. You have about 30 seconds left.

Mr. Thompson. I yield to Mr. Levin.

Chairman Camp. Mr. Levin is recognized for 30 seconds.

Mr. Levin. Mr. Chairman, is there a letter from House Counsel to you regarding this procedure?

Chairman Camp. Any other questions? I will refer to that later.

Mr. Levin. No, no.

Chairman Camp. I am not going to respond right now.

Mr. Levin. Well, could you answer the question?

Chairman Camp. I am not going to answer that question right now.

Mr. Levin. Mr. Epley --

Chairman Camp. It is not relevant.

Mr. Levin. Mr. Epley, do you know of a letter from the House Counsel to anyone on this committee regarding this procedure?

Chairman Camp. That is outside the purview of this letter, and I would direct Mr. Epley not to answer that.

All right, Mr. Griffin is recognized.

Mr. Griffin. Thank you, Mr. Chairman.

With all due respect to the staff, I would point out that the members of this committee are not potted plants. And there are people on this committee who have been prosecutors. In fact, there are some that would call themselves prosecutors.

In my particular case, Mr. Chairman, I served 3 years as a counsel on the Government Reform and Oversight Committee and am intimately familiar with the process that is going on here. This is precisely what needs to be done, particularly when there is a need for the public to be involved in this discussion. As a former prosecutor, Army prosecutor, and counsel on a House committee, I think this is precisely what we should be doing.

And the idea that our decision as to what we should be doing

depends on what staff tells us, and that alone, is ridiculous. We all have brains here; we all bring our experiences to this committee. And applying my experience, I am absolutely, positively convinced that this is precisely what we should be doing, and the other alternatives that may exist are not the proper route in this case.

So I thank you, Mr. Chairman. And I am not sure why there has been so much confusion today. I have never seen so many people on this committee confused as to why we are here and what we are doing. This is pretty darn simple.

And I appreciate your leadership, Mr. Chairman.

Chairman Camp. All right.

Mr. Kind?

Mr. Kind. Thank you, Mr. Chairman.

Mr. Chairman, I am troubled on a couple of fronts with what is taking place today.

First of all, this is unprecedented action that you are asking this committee in a very short period of time to be taking. The last time the United States Congress acted in an affirmative fashion to publicly release taxpayer information was back in 1974 during the Nixon administration.

Now, it seems here to me that there is another way of accomplishing what you are trying to do in providing what you view as relevant information to DOJ but without the disclosure publicly of what is taking place. And I specifically cite

6103(4)(a) that I think this committee should take more time to explore so that we get the DOJ pertinent information based on this investigation but without the public release of this information. And I would hope the chair would consider delaying the action today until we explore that alternative method.

The second element that I am troubled by is we are dealing with a real life here, people. As a former special prosecutor, I appreciated what individuals were up against and the full weight and power of a State going after them in a criminal prosecution. Now, what we are asking DOJ to do is to bring the full weight and power of the Federal Government down on one person who used to work for the IRS based on 28 documents that we want to submit, out of 660,000 documents that have been submitted.

I haven't had the opportunity to review 660,000 documents. I don't know if there is exculpatory information that is not a part of this document, this package that we want to send to DOJ. You may have designated Mr. Levin and our staff to do it, but the staff doesn't have a vote today; only we have a vote. There is a lot of information I think we need to be privy to and be considering, rather than a 24-hour review.

And I did take time yesterday to look at this, and what shocked me was how paltry the information was -- 28 documents out of 660,000. Most of them are just one page. What is going on here? What is out there that perhaps we should be privy to and should be looking at?

And, quite frankly, I am a bit troubled by the representation that Mr. Epley has given to this committee so far. I know on any element of a criminal offense there are certain causes of action that have to be established -- proof. And intent is an element in a criminal matter. The representations Mr. Epley has made is he is convinced that there was intent by Ms. Lerner involved.

But that is not what is in this charge in the letter. It says "may have." And in the second cause, "Lerner impeded official investigation by providing misleading statements." There is no -- there is no indication of intent here in order to prove a criminal case against us. In the third element, "Lerner risked exposing," "may actually have disclosed." There is no element of intent that was laid out here, as well.

And yet, listening to Mr. Epley in the short period of time that we have had to digest this, he seemed clear that there was intent behind all this. And I don't see that in any of the documents that we have before us today.

So, on that front, too, I think we should pause the proceedings, go back to the transcripts, see what was represented to this committee, before we are asked to take such an important vote -- an unprecedented vote that we are being asked to take.

This is big stuff. We are dealing with a real life here. And she is under the gun. She may have done things that were not lawful, but I think she deserves the time from this committee to be able to do a more thorough job before, within 24 hours,

we are being asked to turn around and make a decision of this magnitude in establishing this precedent for this Congress and for this committee in particular, Mr. Chairman.

Chairman Camp. All right.

Mr. Roskam?

Mr. Roskam. So Lois Lerner is the victim. So we are supposed to restrain the full weight --

Mr. Kind. Peter, that is not what I said.

Chairman Camp. The gentleman from Illinois has the time.

Mr. Kind. I don't want my --

Mr. Roskam. -- the full weight --

Chairman Camp. I would ask Mr. Kind to suspend. The gentleman from Illinois has the time.

Mr. Roskam. So we are supposed to restrain the full weight and authority of the Federal Government in deference to Lois Lerner, the victim. I think that is a mistake. I think that is avoiding the plain facts here.

And I think the chairman has been measured and deliberate and considerate, and I don't question his motives, as, like, our friend from California. I don't think that this approach is crude. I think that this approach is very somber and very sober.

The idea somehow that Lois Lerner gets the benefit of a process that she denied, apparently, others is just the height of irony. And I think that we should avoid this trap.

Look, we have a responsibility here. The responsibility for

us is to look at the facts. The chairman has designated the ranking member and the minority staff, given them all the information that they need to go through things. It is 66,000 pages, not a half-a-million pages, and they have had the chance over the 10-plus months to go through these things.

The nature of the letter itself is a letter that says to the Attorney General, here is your responsibility now to look at this. We have come to these things, but the verbs are all in place. They don't make conclusions here. They say, here is the weight of this evidence, and the plain weight of the evidence convinces us that this is now the subject -- or should be the subject of the review by the Department of Justice.

So somehow Lois Lerner getting the raw end of the deal in this? It is an over-characterization. It is not true. Lois Lerner has been the beneficiary of law. She has been the beneficiary of not wanting to incriminate herself. She has been the beneficiary of 10 months of careful review and now a very careful, measured approach to the Department of Justice. So Lois Lerner is no victim in this process. Lois Lerner has been the beneficiary of every constitutional protection.

And now I have will make an argument, and I will conclude. Based on what we have seen here and the commonsense world of politics that we have all experienced, we know exactly what Lois Lerner was doing. She was targeting people.

Now, does that rise to the subject of criminal prosecution?

It is a bad act, as far as I am concerned, but to the point, I am not the prosecutor, I am not the DOJ. But we know now, at least, these are facts that we are referring to the DOJ and saying, "Okay, it is up to you. Now run with this. You are going to make a decision, Department of Justice. It is not our decision to make."

But we are not going to sit here and just look away. We are going to give this the imprimatur of the Ways and Means Committee to say, this is so egregious on the part of this employee of the Federal Government, it appears to us she took it upon herself to target people, to release information, to obstruct an ongoing investigation that we all rely on. I would say, look, this is not about donkeys and elephants; this is about the assertion of this committee and our responsibility to call balls and strikes.

So let's not get hung up here, and let's not question motives. I think in the great scheme of things the chairman has been really disciplined and really careful. And he has protected this committee, and he is determined to protect this committee as it relates to the release of information moving forward, going so far as to review the transcript so that we don't trip an intent statute that has no intent and we get ourselves in hot water because of a disclosure that we didn't mean.

So it is all coming full circle. And if we don't stand up for taxpayers and we don't recognize that we have a responsibility to protect the voluntary compliance system that we have, then we have abrogated our responsibility.

But I don't for a second believe that Lois Lerner is a victim. I don't for a second believe that this committee is giving her a raw deal.

And I think the unprecedented action that we need to focus on here is not the unprecedented action of this committee. This committee is being provoked to act based on the unprecedented action of employees at the Internal Revenue Service.

I yield back.

Chairman Camp. All right.

I have Mr. Larson and then Mr. Tiberi.

Mr. Larson?

Mr. Larson. Thank you, Mr. Camp. I thought you overlooked me earlier because of the way that the University of Connecticut manhandled Michigan State and went on to be national champs, but --

Chairman Camp. Well, if you're going to lose, lose to the champs.

Mr. Larson. -- I forgive you for that.

Mr. Becerra. You are going to lose your time if you don't hurry up.

Mr. Larson. No, because I am yielding --

Chairman Camp. The gentleman's time will be protected.

Mr. Larson. I am going to yield my time to Mr. Becerra, but I do want to make a statement about --

Chairman Camp. As long as he has it.

Mr. Larson. -- all the egregious notions that are going back

and forth here. And I fully admit that I am not an attorney.

I remember how egregious it was when I heard over and over, even though there was more than a year of debate, about the 2,000-plus pages of the Affordable Care Act. So, somehow, when you hear about 660,000 pages, you are struck a little bit by that fact and that we are asked to make a vote on that.

Seems to me -- and I wish this legislative body, when we talk about the fidelity to the Constitution and to the legislative process, if we had, like most State legislators, an Administrative Procedures Act, we would have known, because passage of regulations would have to come back before the Congress so you review them. And what her apparent act was is that she did not carry out what the legislature wanted her to perform.

And that is what I think makes this -- Mr. Levin's statements, I think, are accurate about the sentiment and the feeling about Lois Lerner. But there is a due process here.

And, with that, I yield to Mr. Becerra.

Mr. Becerra. I thank the gentleman for yielding.

Actually, Mr. Chairman, may I just begin by asking, do you have a sense of how long it might take before the members of this committee can have access to the transcript of this closed hearing?

Chairman Camp. I am going to review it, and I am going to try to do it in a timely manner. But it won't be instantaneous.

Mr. Becerra. Yeah, no, I understand that. But is there a

timeframe?

Chairman Camp. I am not going to commit to a timeframe, but, as I have said, I will -- it is my expectation that that will be made public, and I am going to go through it.

Mr. Becerra. But I am asking most specifically about this transcript.

Chairman Camp. I understand the interest in having it being made public, by both sides, frankly, because I think there have been some fairly good points made, why we shouldn't wait.

Mr. Becerra. And, Mr. Chairman, I am not asking to make it public. I just want to know at what point Members might have access to the transcript of this proceeding.

Chairman Camp. It has to be, you know, printed. There are some administrative sides to this that normally aren't something people care about. So we would have to make sure that they can type it up and --

Mr. Becerra. Is there --

Chairman Camp. So there will be some, you know, delay out of our control.

Mr. Becerra. That is understood. I am just trying to get a sense, is the transcript going to be available before anything from this hearing would become public?

Chairman Camp. No, because the notebooks are public the minute the gavel goes down after we vote on the matter.

Mr. Becerra. Understood.

Chairman Camp. And if we vote to refer the letter to Justice, the notebooks are public at that time.

Mr. Becerra. Understood. Appreciate the response.

And I think on this side of the aisle, again, our concern, as Mr. Larson expressed, is that we are being asked to drink water from a fire hydrant and make a decision -- pretty momentous decision for this committee, since it has never been done before. And I think some Members would like to understand why we would take such an action for the first time in the history of this committee unless it is absolutely necessary.

Mr. Epley, I think we have established that you are the committee staff member in charge of this investigation, that you have been one of those who has judiciously acted as custodian of the records, of some many protected confidential and private documents.

Can you give us a sense of how familiar you are with the Internal Revenue Code, Section 6103?

Mr. Epley. I am familiar with the provision. I am familiar with the provision, yes.

Mr. Becerra. Okay. So do you feel comfortable speaking about what it provides?

Chairman Camp. I would just say that his knowledge of 6103 is not a matter before this committee.

Mr. Becerra. Well, and the reason I inquire is because Mr. Epley has represented and the chairman has also indicated

that we are taking this course of action because we want to pursue this for purposes of justice. And I think a lot of us on this side of the aisle believe that there is another course of action which 6103 does provide, which would not have us take the step of doing something we have never done before, and that is to publish protected information under 6103, by using 6103(f)(4)(a), which allows the committee to designate or appoint someone to inspect the classified information, which could include the Attorney General or his or her designees.

And, Mr. Chairman, I think it is a question that has not been answered, why we would take this step when there are other means available.

Chairman Camp. All right. Time has expired.

And I think we have one last speaker, Mr. Tiberi, and then we are prepared to go to a vote.

Mr. Tiberi. Thank you, Mr. Chairman.

I think we should all take this seriously. We should take seriously what has happened at the IRS over the past several years.

I think it is important to remind what the chairman said at the beginning of this meeting. He said he sought outside advice from the nonpartisan Parliamentarian, from the nonpartisan Joint Tax, nonpartisan House Counsel. He has gone overboard in making sure this was nonpartisan.

We should all be concerned about the seriousness of this and about the seriousness of which the IRS violated my

constituents' and many of yours' constitutional rights.

And the amazing thing about this is the letter which I read and, by the way, the information behind the letter. Our staff, five members of your staff, and Mr. Levin had access to the same information that Mr. Epley had access to. And if you want to amend it or if your staff wants to amend it, let's amend it. But, ladies and gentlemen, this shouldn't be a partisan issue. We should all be scared to death about what the IRS has done here.

And this letter is merely saying to the Department of Justice, we have this evidence, we think it is serious, we believe you should investigate.

This chairman has gone overboard in trying to be responsible and nonpartisan. Many on our side, not necessarily on this committee, think that he hasn't been tough enough. I mean, this is kind of ironic. He has tried so darn hard to be balanced. Thank God he has, for the future of this committee.

Thank you, Mr. Chairman, for protecting this committee, protecting this institution, and, most importantly, protecting our constituents and their rights, their constitutional rights.

This is chilling. I look at my four kids, and I don't want an IRS, whether a Republican administration or Democrat, a Republican bureaucrat or a Democrat bureaucrat, to do what I read in that letter.

I yield back.

Chairman Camp. All right.

I think we have one last speaker, and then I am prepared to move to a vote.

Mr. Blumenauer is recognized.

Mr. Blumenauer. Mr. Chairman, I would yield to Mr. Kind.

Chairman Camp. Mr. Kind?

Mr. Kind. Thank you, Mr. Chairman.

And I would associate myself with Mr. Tiberi's remarks 100 percent. And I don't want anyone under the impression that I am questioning the chairman's motives today. I don't. I think he has been trying to do an honest approach to it.

But, Mr. Chairman, my question is, just for the sake of clarification: Do you know if there is an ongoing criminal investigation out of DOJ involving Ms. Lerner?

Chairman Camp. I do not know.

Mr. Kind. Does Mr. Epley know that?

Mr. Epley. I don't know what the status is, other than media reports.

Mr. Kind. Mr. Chairman, I also want to know, does DOJ have access to the documents that we have in this committee, the 660,000 or so that have been collected?

Chairman Camp. I don't know what Justice has access to.

Mr. Kind. But would they have access to our documents if they wanted it?

Chairman Camp. You know, I don't know that answer.

Mr. Kind. Well, my question, why are we just sending over

29 documents to them? Why are we selecting just 29 documents, given the hoard of information that has been collected in the course of our own committee investigation and the hearings that we have had?

Chairman Camp. Let me clarify. They don't have access to the documents that we have compiled, which we have gotten from IRS. And those are locked in a room that Mr. Levin and his staff and the majority and the staff that have been designated have access to.

Mr. Kind. Will they have --

Chairman Camp. But they have not got access to that.

They are conducting their own investigation, at least -- I don't know the status of it. And the President promised quick action on this.

But IRS has been making documents available not only to this committee but to Senate Finance, to Oversight. I don't know what they have made available to the IRS -- to the Treasury -- to Justice.

Mr. Kind. So now I am confused, with your response. Now I am hearing that they are, in fact, conducting an ongoing investigation in this matter.

Chairman Camp. When he mentioned that there was a press report on it, I remember seeing that. I have no idea if they have pursued that. I have no idea of the status of it. The President mentioned that they would do that, but --

Mr. Kind. Well, Mr. Chairman, will DOJ have access to the documents that we have, as well? Because, again, I haven't had a chance --

Chairman Camp. They have not asked me for access to any of our documents, by the way. And so -- they would have to ask.

Mr. Kind. Well, I haven't had a chance and I am sure other members of the committee haven't had a chance to review all these documents. Again, I am not sure if there is some exculpatory information that might be in there that could be relevant to a DOJ criminal investigation. I don't know that. And I am just wondering if they would have access to those.

Chairman Camp. My sense is, down the road, we would probably have to vote as a committee to allow them to have access to any further documents. They will, as a result of the vote today, have access to this. And that is something we can -- and, certainly, if they choose to pursue this, that is something the committee may want to undertake.

Mr. Kind. Well, Mr. Chairman, just in conclusion, listen, I have opinions in regard to this matter. You know, Mr. Roskam has his opinions in regards to matter. I respect people's opinions.

I know we operate in a political world here, and we have the luxury of being judge, jury, and executioner. But individual citizens of this country have certain protections under the Constitution to protect them against kangaroo courts and a rush

to judgment.

And if we start releasing this stuff publicly so the entire world can make up their mind, that is a very troubling precedent that this committee is starting to walk down, not just today but in the future.

And I, again, would just caution the rush right now, when there are a lot of, I think, questions now that some of us had a chance for 24 hours to start focusing on this and the implications that are being done. But it doesn't seem as if we are going to have that ability.

Chairman Camp. I guess we have another speaker.

Mr. Reichert?

Mr. Reichert. Thank you, Mr. --

Chairman Camp. Oh, are you --

Mr. Doggett. He still has time.

Chairman Camp. Oh, okay. Continue.

Mr. Doggett?

Mr. Doggett. Mr. Epley, are you aware of anything in writing from the House Counsel, the House Parliamentarian, or Joint Tax concerning today's proceeding and the appropriate method by which these documents should be transmitted to the Justice Department?

Chairman Camp. Yeah, that is outside the purview of this letter, but let me respond to you, Mr. Doggett. And we do have an email from the House Parliamentarian that I will make part

of this record, without objection.

Mr. Doggett. Thank you.

Chairman Camp. Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Doggett. Is that the sole document of the type that I am asking about? That is the only thing --

Chairman Camp. Yes.

Mr. Levin. May I see it?

Chairman Camp. Yes.

Mr. Doggett. Thank you.

Chairman Camp. All right. I think we -- are you --

Mr. Blumenauer. Mr. Pascrell.

Chairman Camp. Mr. Pascrell, 20 seconds.

Mr. Pascrell. We did not have any input into this letter that is here.

But let me ask you a question, Mr. Epley. Did Ms. Lerner have proper cause to deliberate on the Crossroads application?

RPTS KERR

DCMN CRYSTAL

[11:40 a.m.]

Mr. Epley. I am sorry?

Mr. Pascrell. Yeah. Did she have reason to look into that application, that there is a criteria for which they look when somebody applies? Did she have the right to do that? I am talking from page 5.

Mr. Epley. Right. Sir, I would refer you to the letter and the actual email from Lois Lerner saying that she had -- she said, I asked for every document --

Mr. Pascrell. Right.

Mr. Epley. -- that had sent in over the last several years.

Mr. Pascrell. Did she have reason to do that, Mr. Epley?
In your examination --

Chairman Camp. Time has expired.

Mr. Reichert.

Mr. Pascrell. Well, can't he even answer the question?

Chairman Camp. We have been answering questions for several hours now. Time has expired. I have been very generous with the clock.

Mr. Reichert.

Mr. Pascrell. Baloney.

Mr. Reichert. Thank you, Mr. Chairman.

I first want to say, too, I am not an attorney like Mr. Larson.

I do want to follow up very briefly with some comments made by Mr. Griffin. I fail to see the confusion here. As an old law enforcement officer on the other side of the prosecutor's office, this is a very simple process. Law enforcement has the authority and responsibility to investigate a case. This committee has the authority and responsibility to conduct an investigation, which we did.

When you conduct an investigation, you gather evidence, which has happened. That evidence then, in the law enforcement world, is presented to the prosecutor's office. In this case, from our committee, that evidence is now being presented to the prosecutor's office.

The prosecutor has three ways that he or she can go. One, they can choose to file a case and file charges. Two, they can come back to the investigating authority and they can say -- and in this situation, the investigation is ongoing anyway -- but they come back to the law enforcement agency and they can say, conduct a further investigation, collect further evidence, so the investigation continues. Or they can say, you know what, you don't have a case here, we are not going to file charges, and end of story.

The issue with the 660,000 pages is not before us today. It is the affidavit that is in front of us. Law enforcement files a search warrant affidavit or an arrest warrant affidavit and we provide a summary facts, some facts, not all the facts, to

the prosecutor, which they base their decision upon. Once the decision has been made to file charges, then the defense attorney can say, I want discovery, I want all 660,000 pages of information, plus whatever else exists, to defend my client. It is that simple.

Mr. Pascrell. No, it is not.

Mr. Reichert. I think i am talking. Thank you, Mr. Pascrell.

It is that simple. The process is that simple. Yes, we can talk about whether or not we should be releasing this information to the public -- which I think, by the way, Mr. Chairman, thank you, is the right thing to do because the American people deserve to know that this committee is standing up for their rights. We are protecting their constitutional rights.

And I yield back

Chairman Camp. All right. Are there any further questions?

Mr. Doggett. Mr. Chairman, parliamentary inquiry. When would be an appropriate time to offer a motion in writing to the chair?

Chairman Camp. An amendment?

Mr. Doggett. A motion in writing, no, about the proceeding. It is not a secret. I am glad to tell you what the motion is and ask to be recognized on it.

Chairman Camp. What is it?

Mr. Doggett. Which is simply -- it is in writing. Mr. Chairman, I move that upon completion of this executive session,

the transcript of this session --

Chairman Camp. That will be at the end.

Mr. Doggett. All right.

Chairman Camp. Let's keep going.

There being no further questions, are there any amendments to the referral letter? There being no amendments, I will now recognize Mr. Boustany for the purpose of offering a motion.

Mr. Boustany. Thank you, Mr. Chairman.

Mr. Chairman, I move that the committee submit the referral to the Honorable Eric H. Holder, Jr., Attorney General, of former Internal Revenue Service Exempt Organizations Division Director Lois G. Lerner for possible criminal prosecution for violations of one or more criminal statutes based on evidence the committee has uncovered in the course of the investigation of IRS abuses to the House of Representatives.

Chairman Camp. Mr. Doggett, your motion will be offered at the appropriate time.

Mr. Doggett. Thank you. Thank you, Mr. Chairman

Chairman Camp. We will vote first.

As all debate has been extinguished -- why don't you offer your motion now.

Mr. Doggett. Mr. Chairman, I believe the motion has been distributed. But, Mr. Chairman, I move that upon completion of this executive session the transcript of this session be made public as soon as possible after review by the chairman and ranking

member. The review shall be conducted only to ensure that no taxpayer protected information, as protected under Internal Revenue Code section 6103, is contained in the document to be publicly released and that the transcript --

Chairman Camp. Will the gentleman suspend? Will the gentleman suspend?

Mr. Doggett. Surely.

Chairman Camp. I have had a chance to read the motion, and I am prepared to accept the motion.

Mr. Doggett. I thank you, Mr. Chairman.

Chairman Camp. By unanimous consent.

Mr. Doggett. And only one other inquiry, which is to this point it would not appear to me that there has been any discussion of section 6103 private information other than what is contained in the binder. I am not asking for any final conclusion from you, I know you are going to review the transcript, but each of us is clearly concerned about complying with the law and not engaging in any violation.

Is there any particular that Mr. Epley or anyone can advise us is a matter that should be avoided that goes outside of the binder?

Chairman Camp. I would just say this. Anything contained within the binder, once the gavel goes down and the vote is out, you are free to talk about. I will move as expeditiously as possible on the transcript to make that available, but I don't

really want to make any conclusions off the cuff, and I have not done that at any point in this whole process, and I am not going to start right now.

Mr. Doggett. I accept that. I would just say for the record, as best I can determine, trying to fully comply with the law, there has not been anything said here that goes outside the binder that constitutes the disclosure of information protected by 6103. And I plan to discuss the proceeding, as I am sure other members will, and comment on it fully, but trying to do so in compliance with 6103.

Chairman Camp. That may very well be. I just want to double-check. And I think the members would not expect anything less.

Mr. Doggett. I appreciate that.

Chairman Camp. As all debate has been expired, pursuant to the motion offered by the gentleman from Louisiana, the committee will return to open session to take the vote. Please reopen the committee doors.

[Whereupon, at 11:48 a.m., the committee returned to open session.]