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IRS permanently destroyed up to 24,000 Lerner emails after subpoena

BY SARAH WESTWOOD AND BARBARA BOLAND | JUNE 25, 2015 | 4:33 PM

Eight months after Congress requested emails from embattled IRS official Lois Lerner, tax agency employees "magnetically erased" hundreds of backup tapes.

"The IRS did not put forth an effort to locate and preserve the backup tapes," said Timothy Camus, deputy inspector general for investigations with the Treasury Inspector General for Tax Administration. He said 422 backup tapes were destroyed.

The new details about the IRS watchdog's year-long efforts to uncover Lerner's missing emails emerged during a hearing Thursday before the House Oversight and Government Reform Committee.

Rep. Elijah Cummings, D-Md., blasted inspector general officials for leaking speculative numbers of Lerner emails to the press as the investigation unfolded.

"In February, officials from the IG's office briefed our committee and others reporting that they had found 80,000 emails from Ms. Lerner, a fact that was leaked to the press with great fanfare," Cummings said.

"The IG will testify that the total has plummeted to a little more than 1,000 emails that Congress didn't already have," he added. "Well, that's a hell of a drop." Cummings added later that, "time and time again, your numbers were just wrong."

He was joined by Republicans in their anger toward the IRS.

"The truth is not being told," said Rep. Jody Hice, R-Fl. "The directive to not destroy tapes could not have been more clear."

Camus noted his investigation "found no purposeful destruction by employees."

"I'm not alleging that the Commissioner [Koskinen] willfully gave any information that he knew at the time he gave it not to be true," said Camus.

"But [his testimony] wasn't true, was it?" asked Chaffetz.

"We found emails that they did not," said Camus haltingly.

"That they did not what?" shot back Chaffetz.

"That they did not find them, and our investigation showed that they did not look for them," admitted Camus. Then he added carefully: "But I am not alleging that the Commissioner made false statements, at this point."

"How could you say that was anything other than willful?" said Rep. Mark Meadows, R-N.C., of the destruction

of potential evidence in the early days of a scandal over the tax agency's discrimination against conservative nonprofits.

"You almost have to have the smoke coming out of the end of the gun" for such destruction of records to be characterized as "willful," Meadows noted.

Rep. Elijah E. Cummings, D-Md., said from his point of view "there was nobody who did anything intentionally to hinder [the IRS] investigation" and he harped on the word "willful." The new revelation does not yet show any evidence of criminality, he said.

"IRS Commissioner Koskinen has not done anything to get Congress what we've asked for," said Representative Ron DeSantis, R-Fl.

"If I give this to a 5th grader... to not destroy backup tapes, I don't know how much simpler it could be," said De Santis, in response to testimony from Camus that IRS officials were "confused" by the directive they received.

"I couldn't agree with you more," answered Camus.

Both Camus and Russell George, the IRS inspector general, detailed the difficulties they faced in collecting Lerner's emails after the records had been requested through a subpoena.

"Let's remember why we're here," said Rep. Jason Chaffetz, chairman of the Oversight Committee. "There was a subpoena in place. They never complied with it. They destroyed evidence."

The Utah Republican questioned the "magical" nature of the "coincidence" of Lerner's disappearing emails as the congressional probe closed in.

Committee members served IRS Commissioner John Koskinen with a subpoena in February of last year. The following month, Koskinen assured the Oversight Committee that his agency would provide all of Lerner's emails.

However, the IRS said in June 2014 that it had "lost" two years worth of emails after Lerner's computer crashed.

TIGTA soon launched an investigation into the circumstances surrounding the hard drive failure. The watchdog scoured Lerner's Blackberry phone, her crashed hard drive, backup tapes, a decommissioned IRS server and its disaster recovery tapes, and several "loaner" computers that the IRS official may have used while her laptop was being repaired.

Investigators discovered Lerner's hard drive was shredded at a recycling center in April 2012, rendering TIGTA unable to determine how it had crashed.

The watchdog attempted to check who had entered Lerner's office before the June 2011 computer failure in an effort to determine whether anyone had accessed the hard drive.

But the security logs that were supposed to track entry into the building around that time had been destroyed, Camus and Russell said.

Russell and Camus said the Blackberry Lerner used prior to February 2012 was also destroyed.

The TIGTA officials said they planned to release a final report on their efforts to recover the "lost" Lerner emails by Tuesday.

Lerner became embroiled in the congressional firestorm after a TIGTA report acknowledged her office, which oversaw the agency's certification of tax-exempt organizations, had targeted conservative groups for additional scrutiny.