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House votes to find IRS's Lois Lerner in contempt of Congress

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By [Stephen Dinan](#) - The Washington Times

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Nearly a year to the day after she revealed the [IRS\(/topics/internal-revenue-service/\)](#) gave inappropriate scrutiny to some groups applying for tax-exempt status, the House voted Wednesday to declare [Lois G. Lerner\(/topics/lois-g-lerner/\)](#) in contempt of [Congress\(/topics/congress/\)](#) for blocking its investigation, sending her case to the legal system.

Six Democrats joined Republicans in voting for the citation, underscoring the deep political divisions over the way Republicans have handled their probe into her activities.

SEE ALSO: House Republicans find 10% of tea party donors audited by IRS ([/news/2014/may/7/house-republicans-find-10-of-tea-party-donors-audi/](#))

But minutes later, more than two dozen Democrats joined Republicans to vote on a resolution asking the Justice Department to name a special prosecutor to look into the question of [IRS\(/topics/internal-revenue-service/\)](#) targeting more broadly. That vote underscored the political danger some Democrats believe they face back home from the [IRS\(/topics/internal-revenue-service/\)](#) scandal.

The request for a prosecutor is nonbinding and is likely to be dismissed by the Obama administration, which has denied any political motivation in the tax agency's missteps and argues that the Republican probes are off base.

Republicans, though, said the votes sent a signal that the [IRS\(/topics/internal-revenue-service/\)](#) is not above the law and that [Ms. Lerner\(/topics/lois-g-lerner/\)](#) in particular must be made to answer for her role in the targeting.

"The American people are owed a government they can trust, not a government that they fear," said House Majority Leader Eric Cantor, Virginia Republican. "The only way to rebuild this trust is to investigate exactly how these abuses occurred and to ensure they never happen again."

William W. Taylor III, [Ms. Lerner\(/topics/lois-g-lerner/\)](#) 's attorney, said the vote was part of a Republican effort "to keep the baseless [IRS\(/topics/internal-revenue-service/\)](#) 'conspiracy' alive through the midterm elections."

"[Ms. Lerner\(/topics/lois-g-lerner/\)](#) has not committed contempt of [Congress\(/topics/congress/\)](#) . She did not waive her Fifth Amendment rights by proclaiming her innocence," he said. "We provided our legal analysis to the committee and the House, and we received no response. It is unfortunate that the majority party in the House has put politics before a citizen's constitutional rights."

SEE ALSO: IRS employees deny tea party bias (/news/2014/may/6/irs-employees-deny-tea-party-bias/)

The vote on finding [Ms. Lerner\(/topics/lois-g-lerner/\)](#) in contempt of [Congress\(/topics/congress/\)](#) was 231-187. The vote on asking for a special prosecutor was 250-168.

[Ms. Lerner\(/topics/lois-g-lerner/\)](#) was head of the [IRS\(/topics/internal-revenue-service/\)](#) division responsible for approving applications for tax-exempt status at the time that employees were subjecting tea party and other conservative groups' applications to improper scrutiny, according to an internal audit.

[IRS\(/topics/internal-revenue-service/\)](#) officials repeatedly denied politically motivated targeting, but faced with the impending audit, [Ms. Lerner\(/topics/lois-g-lerner/\)](#) planted a question at an American Bar Association conference on May 10 last year to try to get ahead of the story. She acknowledged that the agency had engaged in inappropriate scrutiny but blamed employees in a Cincinnati office dealing with a flood of applications and said the problem had been fixed.

[Ms. Lerner\(/topics/lois-g-lerner/\)](#) retired from the [IRS\(/topics/internal-revenue-service/\)](#) in September.

Republicans say nobody has been fired for the agency's missteps.

The contempt finding isn't the final word. [Congress\(/topics/congress/\)](#) ' vote is a referral to the Justice Department, where Attorney General Eric H. Holder Jr. and the U.S. attorney for Washington will have to decide how to pursue it.

"Unfortunately, we don't expect the attorney general to move forward with this case," said Jay Sekulow, chief counsel at the American Center for Law and Justice, which represents 41 tea party groups caught up in the targeting. "Sadly, he has put politics above the enforcement of the law on numerous occasions and unfortunately that is likely to occur again."

If the matter does reach the courts, judges will have to sort out the thorny issue of whether [Ms. Lerner\(/topics/lois-g-lerner/\)](#) waived her right against self-incrimination last year when she delivered a brief statement to the House Oversight and Government Reform Committee asserting her innocence — before refusing to answer questions beyond that.

Republicans argue that statement effectively waived her rights against testifying. They said a defendant in court wouldn't be allowed to proclaim his evidence but refuse to answer questions from prosecutors. The House oversight committee voted to reject [Ms. Lerner\(/topics/lois-g-lerner/\)](#) 's claim.

Committee Chairman Darrell E. Issa, California Republican, said [Ms. Lerner\(/topics/lois-g-lerner/\)](#) was using the Fifth Amendment not as a shield for herself but "as a sword" to foil the committee's investigation.

He also acknowledged that House investigators have not uncovered any evidence that top White House aides ordered the targeting, but he said that is all the more reason to hear from [Ms. Lerner\(/topics/lois-g-lerner/\)](#) .

"Our evidence does not lead to the Oval Office. At this point, it leads to [Lois Lerner\(/topics/lois-g-lerner/\)](#)," he said. "We have an individual that is at the center of it all. I have never alleged it went to the president."

Democrats say Mr. Issa botched the committee proceedings and that [Ms. Lerner\(/topics/lois-g-lerner/\)](#) has a credible claim under the Fifth Amendment.

"Let me be clear that I am not defending [Ms. Lerner\(/topics/lois-g-lerner/\)](#). I wanted to hear from her. I have questions about why she was unaware of the inappropriate criteria for more than a year after they were created," said Rep. Elijah E. Cummings of Maryland, the top Democrat on the oversight committee. "But I cannot vote to violate an individual's Fifth Amendment rights just because I want to hear what she has to say. A much greater principle is at stake here today: the sanctity of Fifth Amendment rights for all citizens in this country."

Democrats also said the investigations into the [IRS\(/topics/internal-revenue-service/\)](#) have wasted taxpayers' money. The [IRS\(/topics/internal-revenue-service/\)](#) has spent at least \$14 million to upgrade computers and detail staffers to process documents to turn over to [Congress\(/topics/congress/\)](#).