

Hearing on Protecting Small Businesses from IRS Abuse (Part II)

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
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Hearing on Protecting Small Businesses from IRS Abuse (Part II)

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

The subcommittee met, pursuant to call, at 9:40 a.m., in Room B-318, Rayburn House Office Building, Hon. Peter Roskam [chairman of the subcommittee] presiding

Chairman Roskam. The subcommittee hearing will come to order.

Welcome to the Ways and Means Oversight Subcommittee hearing on protecting small businesses from IRS abuse. This is version 2.0.

There is a line in "Les Mis," one of the adaptations of Victor Hugo's novel, where Inspector Javert, the guy that everybody hates, he says this: "Right or wrong, the law is the law and it must be obeyed." Yet, the author comes up with a better approach, and he says: "Actually, the highest law is conscience."

I agree that the law must be obeyed. But in a just government, and in a government that has a department named the Department of Justice, and a government of limited resources, we know that Federal agents and prosecutors must choose which violations to pursue, and when that decision is made they must examine the situation closely to decide if there has been a violation at all.

This is our subcommittee's second hearing this Congress on the IRS' use of its civil asset forfeiture authorities, and during our hearing last year, we heard testimony about how the IRS has used a law that is meant to catch drug runners and terrorists, and instead they have used it to punish farmers and small-business owners.

And the law I am talking about prohibits people from structuring their financial transactions to keep them below \$10,000 to avoid reporting requirements. Sometimes it may look like someone is structuring their bank deposits to avoid the reporting requirement, but as we heard from a Georgia store owner last year, Andrew Clyde, some businesses have insurance policies that only protect cash on hand up to \$10,000. So every time he got close to \$10,000, he would deposit his money.

Because the IRS thought that looked suspicious, they seized his entire bank account, \$900,000. They didn't investigate whether Mr. Clyde was trying to avoid the reporting requirement before they took the savings. And after they seized the money, he explained the insurance policy to them and the IRS didn't give the money back. And when Mr. Clyde took the matter to court, the government lawyer from the Department of Justice said that if he wouldn't settle and give \$50,000, the government lawyer would try to prosecute him on criminal charges.

That is unethical, that is wrong, and it has happened in more than one case, lest we think that this is an aberration.

In other cases, we have seen sworn testimony that a bank teller asked a customer to keep deposits under \$10,000 to avoid additional paperwork for the bank. You can imagine this. This is not speculative. You can just imagine a bank teller saying: "Hey, it is a big hassle if you bring in \$10,000. Why don't you bring in less money?" And in that instance, the customer didn't know that it was illegal, or just thought that they were helping out the bank teller.

Other people didn't want to be reported, they didn't want to be reported to the IRS -- by the way, who does -- and they didn't know it is illegal to avoid those reports.

The IRS knew that seizing money from farmers and store owners who appeared to be structuring their transactions wasn't right unless they were doing it to come up to cover up other crimes. And that is why the IRS announced a new policy in October of 2014 that it wouldn't seize money unless it was derived from an illegal source. Great news. Good policy change. It is a better policy than what the IRS was doing before, and we were pleased to hear about the acknowledged need to do better.

Now, a year and a half later, we want to know how things are going under that policy. And indeed, a new policy doesn't right all the wrongs. Those people whose assets were seized under the old policy were not treated fairly. Several of them have sent petitions to the IRS and the Department of Justice asking for justice and asking for their money back, the money that the IRS has acknowledged they shouldn't have taken in the first place. The IRS granted one of those petitions and gave \$154,000 back. From all accounts, the IRS did this because it was the right thing to do.

However, the Department of Justice has not provided any relief, either financially or procedurally, to those who have petitioned for return of their funds. Let's remember what we are talking about. It is not the government's money. It is, by everybody's acknowledgment, the money that belongs to these taxpayers. The petitioners deserve a fair, transparent review process and an answer.

Furthermore, every single member of this subcommittee -- every single member of this subcommittee -- has called upon the Department of Justice to review and the IRS to review all IRS civil asset forfeiture cases brought solely on the allegations of structuring. We have sent two letters asking for that review. I met with Mr. Weber -- who we are going to hear from in the second panel, who is not here to hear, interestingly, apparently, although they were invited to

attend, to hear from these witnesses, we will hear from Mr. Weber later -- and the Department of Justice's representatives back in February and I reiterated that request in this room. And while we received letters in response, we haven't received answers.

And despite our request for a review of those cases brought under the previous policy and now the corrected policy, it doesn't appear that any comprehensive review has taken place. And I hope we get those answers today.

I would like to yield now to my friend and the distinguished gentleman from Georgia, the ranking member, Mr. Lewis.

Mr. Lewis. Good morning. Good morning, Mr. Chairman, and members of the committee. I regret that I was running a little late, but I am sure Mr. Rangel and Mr. Davis were prepared to sit in. They know something about sitting down or sitting in and standing up. Thank you.

Mr. Chairman, I would like to thank you for holding this hearing. Thank you. I am pleased to have the Commissioner testifying before us today. I appreciate his hard work on behalf of the American people. The Commissioner brings truth and honesty to this key government agency. He is a thoughtful, hard-working public servant.

I would also like to thank the other witnesses for taking the time to be here today.

Under the law -- under the law -- banks are required to report deposits of more than \$10,000. As many of you know, taxpayers are barred from structuring their deposits of income earned from legal or illegal sources in a manner that seems to avoid the reporting requirement. When small businesses appear to structure their deposits to evade bank reporting laws, the government can seize their bank accounts.

The press reports on these matters in 2014 brought this important oversight matter to the subcommittee's attention. In response, we held a hearing on this topic last February. In that hearing, we learned how many small businesses were simply making cash deposits from their daily operations. They were not engaged in any illegal activity, but were unintentionally captured by the law.

During the hearing, all subcommittee members agreed that while allowed under the law, the government should not seize the bank accounts of taxpayers where the cash being deposited was not earned from criminal activity.

In October 2014, the Federal Government changed its policy and agreed that in the future it will only seize assets where the deposits were earned from illegal sources. Since the hearing, the subcommittee members have written a number of letters requesting updates on the policy change. Together, we asked what can be done for those taxpayers whose assets were seized before the change.

I understand that the witnesses on the first panel have had their asset seized before the policy changed and both filed petitions to have their assets returned. I look forward to hearing more about their experiences.

Mr. Chairman and members, we must do more to resolve this issue for small businesses. It is the right thing to do. It is the just thing to do. I hope that we will be successful in securing a timely, fair, and bipartisan resolution of this important matter.

Again, I want to thank all of the witnesses for being here.

And again, Mr. Chairman, I want to thank you for holding this hearing.

Chairman Roskam. Thank you, Mr. Lewis. You have admonished this committee to do more and we intend to do more. And to help us do more we are going to hear from our witnesses in the first panel.

Calvin Taylor and Randy Sowers are both farmers in Maryland. The IRS seized thousands of dollars from each of them and they have both petitioned the government to get their money back. We will also hear from Rob Johnson, an attorney at the nonprofit law firm the Institute of Justice who has represented a number of individuals and small businesses whose assets have been seized.

Gentlemen, the committee has your written remarks, and I would like to now recognize you each for 5-minutes each.

So, Mr. Taylor, if we could start with you.

STATEMENT OF CALVIN TAYLOR, TAYLOR FARMS

Mr. Taylor. Thank you very much. I have here with me my wife, my lawyer --

Chairman Roskam. There is a button that says push down on the lower part of that mike. There, go.

Mr. Taylor. Okay. I don't use these on the farm.

With me today are my wife, my lawyer, Steve Gremminger, from the Gremminger Law Firm. We operate a diversified family farm on the Eastern Shore.

In 1984, when my wife was pregnant with our third child, we decided we wanted her to stay home and I needed more income. It didn't seem like much, but I planted four 1-acre boxes of silver queen sweet corn. Over the next few years that grew to almost 100 acres of hand-picked sweet corn, four produce stands of our own, other vegetables, and about 20 teenagers to get things harvested and sold, which can be a circus. We take seriously our role as a first employer, trying to teach them to be good employees. We try to help them understand the business, the fact

that all of the money coming in is not profit, that we have invested money long before they get there to start working for us.

When they come in June, late June, we have about a 12-week window to get our income. I was surprised, September 16, 2011, my wife called and said IRS agents were at the house and wanted to talk to me. I went straight home.

When I got there, they told me the same thing they told her when she invited them into the house and offered them ice tea, that they didn't think we were in trouble, they didn't think we had done anything wrong, but they had some questions to ask about our banking practices. I have always felt like if you are running your business honest and above board, you should be able to sit down and talk to anybody about what you are doing and get it straightened out.

So we sat down. They asked questions and we answered questions all about our bank deposits. I had heard years ago from a friend that was in the automobile business, and I have heard since then from businesspeople, that if you deposit over \$10,000 there is a form filed to the IRS. Nobody wants their name reported to the IRS, even if you are as honest as you can be. So we had kept deposits under \$10,000.

They then told us that we were under investigation for structuring. We didn't know what structuring was or smurfing. They briefly explained it. Then they told us that they had already been to our bank and seized all of the money in our bank account, which left us with nothing. I thought of the bills that needed to be paid, the teenagers that hadn't cashed their checks yet. What kind of employer bounces checks off employees? My wife gasped because we just sent the invitations to my daughter's wedding the day before.

We called around. We got a recommendation. We hired Mr. Gremminger.

As those guys were leaving, one of them said, you need to hire a lawyer, and if you are innocent, you may get part of your money back. We were just dumbfounded after they left.

Mr. Gremminger then met with the attorney from that point on, the prosecutor. They wanted 4 years of financial information. We got that to them in the required time. He said, if they found anything wrong with our taxes, that we would be prosecuted.

After a few weeks, there was another meeting. The agents said they could find no evidence of wrongdoing on our taxes. And they also added that, "We don't think the Taylors knew they were doing anything wrong." And then the prosecutor turned and said, "Well, we won't prosecute if you will sign a civil forfeiture, asset forfeiture."

We are not just talking about the expense of defending myself against the government or the fact that jail time would very much likely be involved. I was just realistically looking at losing what I worked my life for and what my father worked his life for.

So there was no choice. I had to sign. We signed it. We went home. We went back to work. We tried to put it behind us.

Last February, we read of the meeting that you had here in 2015. We thought maybe this is a chance for justice. We sent letters to the Department of Justice and the IRS and we recently filed a petition. One thing that is really upsetting to me is we have a letter from the U.S. Attorney's Office after we sent our initial letter. The sentence that jumped out at me was when they told me they could still prosecute me for this.

Thomas Jefferson said something about a government being so big that it could take everything you have. It just seems very, very real to me right now.

Thank you for having me. If any of you ever want to visit us on the farm, you come on down.

Chairman Roskam. We will take you up on it. Thank you, Mr. Taylor.

Mr. Sowers.

STATEMENT OF RANDY SOWERS, SOUTH MOUNTAIN CREAMERY

Mr. Sowers. Good morning. Mr. Chairman, thank you for inviting me back for a second time. My story is about the same as Mr. Taylor's. We have been over this a lot of times.

My wife Karen is here today, and we have been working 35 years for this business that we have. It is a tough business. Just to get here this morning, I milked cows this morning at 12:30. We left home and came down here at 4 o'clock because I didn't want to miss the meeting and didn't want to get into traffic. I don't like driving in traffic, so we slept in the garage for 2 hours just to make sure we got here on time.

But we work every day. I mean, in 35 years we get very few days off. And we haven't had a day off since November except I was in the hospital, I had appendicitis that busted the other day and I got 4 days off. It is a nice vacation. They wouldn't let me out of the hospital.

But the same thing, I mean, these people come into your business, place of business. And farmers always try to do things the way we are supposed to do it. We don't need more trouble than we already have. The regulations change so often, you never know when you might be doing something wrong.

I don't disagree with the government coming in and looking at things, but they need to be more -- like Mr. Taylor said. I mean, they come in. They make demands. They don't come in like they are just in there to check on you or to make sure you know what is going on and how to do it to keep yourself out of trouble.

And they do it in front of your employees, flashing their badges, demanding this and demanding that, instead of calling ahead and saying, "Look, this is what is going on. We need this information. Get it together. You know, we will meet and we will talk about it." But that is just not the way it happens.

And we were scared. We were scared from the beginning about being thrown in prison. I mean, we didn't know what to do. My lawyer didn't know anything about it. And how we got ahold of Paul Kamenar, I don't know. I mean, just an act of God, I guess, that he dealt with this kind of stuff before.

Our agent said too, I mean, you could tell they were besides themselves. They didn't, you know, want to be out there doing what they were doing, but it was their job. And they said this has gone this far, you know, you are going to have to continue this through the process.

So our lawyers called Cassella, who was the prosecutor, and he kind of walked through things and said this is the way it is going to happen. And that is the way we figured it was going to happen. I mean, we already had a date set for a grand jury. I mean, if we wanted to present our case we had to go to the grand jury. But they had what they needed. I mean, the bank teller told my wife to put the keep it under 10. That is what she did. We never had over 10 too often. Once in a while she did, and that day she actually did have more than 10.

So she had no clue of what she was doing. We process milk, we do farmers markets, so we get a lot of cash. I mean, we just handle a lot of cash. And every Monday she deposits whatever it was, minus what she needed for what she had to have cash for her farmers market. So she couldn't deposit it all.

I wanted to tell everybody about it and I did tell everybody at the farmers markets, whoever I talked to, because I was upset and I wanted other people to be upset too. So I told everybody. But my lawyers told me I should keep my mouth shut, except for Paul.

And Paul, he is a go-getter like I am, wanted to tell everybody and do something about it. And everybody said, "Well, you know, you do that, they are going to send every agent they got in there to harass you. If you are going to do this, make sure you understand that that is what is going to happen."

So I really didn't do anything until we get the call from Baltimore City Paper, wanted to do a story, and I said, "You know, I really would love to tell you. I can't tell." He said, "Well, you know, I am going to do a story. It is not going to look good on your part."

So the reporter did a beautiful job. He just did a beautiful job. He put it just the way it was. And I think that is what started a lot of this rolling, because he did a good job.

We didn't have any choice but to take the \$29,000 settlement. I mean, I couldn't have hired lawyers and defended myself for less money than that. But when the paperwork came through, it wasn't the same as the Taylor's. We already knew what the Taylor's was and we asked, "Well, why is ours different?" And they said, "Well, because you went to the press." And we have an email from Cassella to my lawyer that it is because you went to the press, is why, you know, we are going to be tougher on you.

Like I say again, we scared to death. I mean, to think that they could throw my wife in jail for depositing cash in a bank. I mean, it was just unbelievable. Unbelievable.

We continue today to try to pay the bills. I mean, I am paying bills this week with money I am depending on getting for tonight's deliveries yet.

You know, farming is a tough job. Any business you run on your own, it is a tough job. I mean, this government needs, this country needs people like us. That is why the country is in bad shape. And they just need to let us do our jobs. I mean, we need some, you know, once in a while we need some guidance and we don't mind that, but it has got to come different than what this has come.

We filed to get our money back because they changed their mind and said, "Yeah, we were wrong." That is why we filed petitions. I haven't heard anything. I mean, I could use the \$29,000 right now for sure.

Chairman Roskam. Mr. Sowers, thank you. We are going to have a chance to have many members that want to inquire of you, so why don't we leave it there for now.

Let me turn to Mr. Johnson.

STATEMENT OF ROBERT JOHNSON, INSTITUTE FOR JUSTICE

Mr. Johnson. Good morning. Chairman Roskam, Ranking Member Lewis, thank you for inviting me here to testify about the IRS' use of civil forfeiture to take money from small businesses that are accused of nothing more than doing business in cash.

My name is Robert Johnson. I am an attorney at the Institute for Justice. It is a nonprofit law firm that litigates cases across the country to protect property rights.

As the committee is aware, there has been a series of cases where the IRS has taken money, often entire bank accounts from small businesses, simply because they deposited cash in the bank in amounts under \$10,000. The IRS calls this structuring and it treats these businesses like criminals. But these are legitimate businesses that have done nothing wrong.

In October 2014, the IRS announced a policy change where they said they would no longer apply the structuring laws to these kinds of legitimate businesses. Henceforth, they would only apply the laws to real criminals engaged in real criminal activity. And in February of 2015, the IRS Commissioner appeared before this committee and actually apologized to people who had their money taken before that policy change.

Despite all of that, the IRS continues to hold money that was seized from property owners before these policy changes. Between 2007 and 2013, the IRS seized about \$43 million from over 600 people in cases where they alleged no criminal activity apart from the mere act of under-\$10,000 bank deposits or withdrawals. Those people are still waiting to get their money back.

One of those people is Randy Sowers, who is here to testify today, and you heard his story about how the IRS took \$29,500 from his business for no real reason. Randy joined with the Institute for Justice in July of 2015 to file a petition demanding the return of that money. Ten months

have gone by. That petition is still pending with the Department of Justice and we have received no answer apart from a letter stating that they received the petition and are considering it.

Now, the IRS would not take that money today. They admitted they were wrong when they changed their policies. Now they need to do the right thing and they need to give that money back.

At the same time, the IRS also is continuing to take money and to try to force small businesses to forfeit money under the structuring laws. Just yesterday, the Institute for Justice announced a new lawsuit on behalf of Vocatura's Bakery, a third-generation family business in Norwich, Connecticut, that had \$68,000 seized for structuring in May 2013.

For the 3 years that followed that time, the IRS and Department of Justice held possession of that money and they did nothing to bring their case before a court. They didn't file criminal charges. They didn't file civil charges. They did nothing. But what they did do was attempt to pressure the Vocaturas to agree to the voluntary forfeiture of those funds.

The structuring issue received significant attention in the press and the government dropped the issue for 18 months. But then in February of 2016, they sent the Vocaturas a proposed plea agreement demanding that they plead guilty to criminal structuring charges. And that is just earlier this year. And under this proposed plea, the Vocaturas would have agreed to forfeit \$68,000 that was seized from the bakery, as well as an additional \$160,000 in personal assets, and they would have faced between 3 to 4 years' time in prison.

The brothers rejected that plea agreement because they believed they had done nothing wrong, and immediately after they rejected the plea agreement the IRS served them with a subpoena, a criminal grand jury subpoena, demanding 8 years of financial records for the business, practically every record that has been generated by this business since January of 2008.

Yesterday, after the Institute for Justice filed suit on behalf of the Vocaturas, the IRS announced within hours that they were giving back the \$68,000 that they had seized, but they are continuing to go forward with their grand jury investigation.

In short, this is a problem that is far from solved. The IRS' change in policy needs to be codified in statute so that it is judicially enforceable and so that property owners, like the Vocaturas, can actually rely on it when their rights are not respected, and the IRS needs to give back money back that it took before its policy change. Again, this is money that the IRS would not take today if it was following its policy and it needs to give that money back.

Thank you again for the opportunity to testify.

Chairman Roskam. Thank you all for your testimony.

We will now turn to member questions. Mr. Meehan is recognized.

Mr. Meehan. Thank you, Mr. Chairman.

And I want to thank each of the witnesses here for your testimony.

Mr. Sowers, your explanation of just your day today and what you have already done, it appears to me you worked harder in 1 day than the United States Senate has done in the month of May.

But I am grateful for your being here with Mr. Taylor and telling your story. It is also a very revealing story. And you run a small business. Is this a family business?

Mr. Sowers. Yes.

Mr. Meehan. How many generations have been associated with this?

Mr. Sowers. We are the first.

Mr. Meehan. First generation, but this is farming. When you are working during the course of the week, it is using other students? You have produce stands and other kinds of things along the side of the road?

Mr. Sowers. We are dairy farmers. We have a processing plant and home deliver milk in the tristate area here.

Mr. Meehan. Okay.

Mr. Sowers. So it is something we started -- we started farming in 1981, but we started processing 15 years ago.

Mr. Meehan. During the course of each week is it likely that you will generate more than \$10,000 that will be --

Mr. Sowers. It is still cash in that neighborhood. It is not normally over 10. It can be, depending on what is going on and --

Mr. Meehan. Well, that is an important point. So you were dealing in an economy which is a local economy, which by tradition is a cash-based economy. Is it not?

Mr. Sowers. Well, the farmers markets are cash based. Now, we do home delivery. Home delivery is mostly through credit card, so that is not --

Mr. Meehan. But that is not part of it. But at the end of the week, the point being, with this cash business that is what is --

Mr. Sowers. We do farmers markets and we have a store on the farm, and a lot of that money is cash.

Mr. Meehan. But in many weeks will you have proceeds that will be less than \$10,000.

Mr. Sowers. Most weeks it is less than 10.

Mr. Meehan. Most weeks. And so even if you want to, you wouldn't be able to put in more than \$10,000?

Mr. Sowers. No. It just happened that day. We had a festival and we had extra cash.

Mr. Meehan. Had you ever heard of structuring before?

Mr. Sowers. Never in my life, no.

Mr. Meehan. When they agents came to your home, did they ever talk to you about representation of an attorney?

Mr. Sowers. Our attorney actually had just left, and I tried to call him and he didn't answer the phone. I didn't think it was a problem because I just wondered how long it would be before they show up wanting to know where all of the cash came from.

So I didn't have any problem talking to them. But they kind of shut down the investigation when I said, "Well, you know, sometimes I have \$12- or \$15,000 in cash." And then they kind of didn't talk anymore and showed me the paperwork that they had already seized my account.

Mr. Meehan. Mr. Taylor, you run a similar kind of business? You are a small farmer with produce stands?

Mr. Taylor. Yes, sir.

Mr. Meehan. And would it be your experience during the course of each week that you would generally generate more than \$10,000 worth of income to be deposited?

Mr. Taylor. Generally, yes, sir.

Mr. Meehan. Generally.

Mr. Taylor. During the summer, in the 12 weeks of the summer, I do generate a lot of cash.

Mr. Meehan. Okay. You generate the cash. But your interest then in depositing in the bank is to get it in there on a timely basis. But were you aware of structuring laws prior to that point in time?

Mr. Taylor. I had never heard of structuring laws, no.

Mr. Meehan. Okay. So this is, once again, you deal on a cash basis, which is generally the economy of the region?

Mr. Taylor. Yes.

Mr. Meehan. Mr. Taylor, when you were confronted with this and your money was seized, what kind of impact did that have on you and your business?

Mr. Taylor. Well, my daughter paid for more of her wedding than she should have.

Mr. Meehan. So you had a wedding coming up but you did not have the resources?

Mr. Taylor. Yes.

Mr. Meehan. What did it do to your reputation in the community?

Mr. Taylor. I believe it hurt -- it didn't hurt it with people that really know me, but the general public that I deal with, we had a family member in a restaurant and heard a comment from the booth next door: "Well, I used to think those Taylors were pretty honest, but I guess not."

Mr. Meehan. So there is a presumption, if the government is looking at, there must be doing something that you are doing wrong.

Mr. Taylor. You get known as the people that had the problem with the IRS.

Mr. Meehan. Have you ever had any problem before that with any governmental entity or any other criminal justice issue in your lifetime?

Mr. Taylor. No, sir.

Mr. Meehan. So this is the first time that you found out, is when the agents from the IRS walk into your -- meet your wife, she offers them ice tea?

Mr. Taylor. Yes, sir.

Mr. Meehan. Did you ever have any opportunity to consult a lawyer prior to the questioning by these agents?

Mr. Taylor. No, sir.

Mr. Meehan. Did they ever at any point in time suggest to you that you ought to consult a lawyer?

Mr. Taylor. As they were leaving.

Mr. Meehan. As they were leaving. You had spoken to them for some period of time.

Mr. Taylor. We talked to them for over an hour. When they let us know that they had seized our money already, then we stopped answering questions and we said we need to get a lawyer.

Mr. Meehan. But by that point in time they had told you that they had seized your money and you now need a lawyer in order to be able to deal with them?

Mr. Taylor. Yes.

Mr. Meehan. Mr. Taylor, Mr. Sowers, thank you for your testimony, and I regret that you are in this situation.

Mr. Taylor. Thank you.

Mr. Sowers. Thank you.

Chairman Roskam. Mr. Lewis.

Mr. Lewis. Thank you very much, Mr. Chairman.

I want to thank you for being here.

I grew up on a farm. Farming is hard work. It is very difficult. It can depend on the weather, whether you produce, what type of living you make. I am very sympathetic toward what has happened to the two of you.

Mr. Taylor, I want to know, how has this affected not just your business, but your life and your family, the life of your family?

Mr. Taylor. Well, you are always looking over your shoulder. When you think you are doing the right thing you are still wondering, "Am I going to hear from somebody that I am doing the wrong thing?"

I have always tried to be very honest and upright in everything I do. And I just really -- well, I don't have much faith in the government.

Mr. Lewis. You have lost faith?

Mr. Taylor. In the government.

Mr. Lewis. Really?

Mr. Taylor. Yes, sir.

Mr. Lewis. You feel like you have been mistreated, that you have been wronged?

Mr. Taylor. Yes. They took my money with no notice and then they kept it, even though they found nothing wrong. They just kept it because they could. It is just not right.

Mr. Lewis. What is the total amount that you feel like --

Mr. Taylor. They kept from me \$41,790. They seized \$93,000 that day. They kept \$41,790. My son quit taking wages for the rest of the year. He lived on some savings that he had built up. We didn't have any cash to start the next year with. We had to start using an operating loan which adds \$5,000 to \$8,000 to my interest expense each year. And I just this year got my son reimbursed for the wages he gave up in 2011.

Mr. Lewis. Mr. Sowers, you testified before the subcommittee some time ago. Was it last year?

Mr. Sowers. In February.

Mr. Lewis. February.

Mr. Sowers. Yes.

Mr. Lewis. Has anything changed, anything you would like to tell us today that you didn't tell us before? Have there been any changes?

Mr. Sowers. Well, I still think sometimes I am being harassed by the government when Department of Labor showed up the day before Christmas, you know, same thing, flashing their badges to my employees and demanding things. Those records are public record. I mean, there is nothing like we could hide anything. I mean, again, we weren't doing anything wrong, we didn't think.

But it has been 4 months, and the last thing we got out of them was they show up 1 day and say, "Here is the settlement that we think you ought to take, and if you don't agree to do this today, then we are going to start proceedings against you."

Mr. Lewis. How long have you been farming?

Mr. Sowers. Thirty-five years.

Mr. Lewis. Mr. Taylor, how long have you been in business?

Mr. Taylor. Well, officially, about 40 years. I have been there all my life.

Mr. Lewis. So it has been a way of life, and this is the first time something like this happened to you in 35 years or to you in 40 years?

Mr. Taylor. Yes, sir.

Mr. Sowers. First time, yes.

Mr. Lewis. So you are reaching out to your government for help.

Mr. Sowers. Yes. I mean, we shouldn't be afraid of the government. We should depend on you. I mean, like I say, we don't do things wrong to do things wrong. Sometimes we do and we

have to be told about it. But when they come out and fine you and don't care whether they put you out of business or not with what they are doing, it is not right.

Mr. Lewis. Thank you both for being here. Thank you.

I yield back, Mr. Chairman.

Chairman Roskam. Thank you, Mr. Lewis.

Mr. Holding.

Mr. Holding. Thank you, Mr. Chairman.

Mr. Johnson, I understand that Mr. Sowers and Mr. Taylor and others have submitted petitions to get their money back, even though their cases have been closed. Is that correct?

Mr. Johnson. That is correct.

Mr. Holding. So would you explain the process by which they are trying to get their money back now? How does this work?

Mr. Johnson. These are called petitions for remission or mitigation. There is a statute that actually dates back to the first Congress that has been on the books for a long time that says that the government can give back money that was taken through civil forfeiture. This is a very well-established process. It is kind of like a pardon petition. It allows, even if you have a case where a case has been settled or decided by a court, just as the President may decide to pardon somebody who has been convicted, the agencies or government entities that have forfeited money can, as a matter of grace, return money to people that should not have been taken.

Mr. Holding. So, I mean, to be absolutely clear here, the IRS and DOJ have the authority to return these funds, correct?

Mr. Johnson. There is no question that they have the authority and there is also no question that they have the means. In 2015, the IRS put out a report saying that the Treasury Forfeiture Fund, the fund where these funds are deposited, currently holds about \$6.1 billion.

Mr. Holding. And we know of a case where the IRS has, indeed, returned these funds, correct?

Mr. Johnson. That is correct.

Mr. Holding. Can you explain a little bit about that case for me?

Mr. Johnson. Yes. So that was another petition that was filed by the Institute for Justice on behalf of a property owner named Khalid Quran, who runs a convenience store in North Carolina, and he had over \$150,000 taken by the IRS, permanently forfeited. We filed a petition

saying that in light of the policy change, this money should be returned, and they did so. The IRS returned in full all the \$150,000.

And yet, what is surprising is that although the IRS has done the right thing for Ken and returned his \$150,000, the Department of Justice still has not done the right thing for Randy. And there are many other property owners who are still waiting for justice as well.

Mr. Holding. Mr. Johnson, you are probably aware that under this administration the guideline sentences for certain drug offenses have been revised down, particularly the crack cocaine sentencing guidelines. You know, if you are convicted today for possession or distribution of crack cocaine, your sentence is going to be much lower than it would have been in times past. You are aware of that, aren't you?

Mr. Johnson. Yes.

Mr. Holding. Are you also aware that U.S. Attorney's Offices around the country are spending a tremendous amount of time going through, finding convicted criminals who are in prison serving sentences and seeing if those new guidelines will apply, thereby reducing their sentences and letting them out of prison early?

Mr. Johnson. Yes.

Mr. Holding. So, obviously, the Department of Justice has the time and bandwidth to do that. But we are wondering here today whether the Department of Justice has the time and bandwidth to go back and return the funds that have been seized under rules that they have now disavowed, correct?

Mr. Johnson. Yeah, I think that is a great point. I mean, all we are asking in Randy's case or in the Taylors' case is for them to give back money to people who have actually gone ahead and filed a petition. But what the Department of Justice really should be doing is much more. They should be identifying people who are eligible to file a petition and they should be sending those people notice, informing them that they have the right to try to get their money back.

Mr. Holding. Thank you Mr. Johnson.

Mr. Chairman, I yield back.

Chairman Roskam. Mr. Rangel.

Mr. Rangel. Thank you, Mr. Chairman, for holding this hearing.

And I am so embarrassed in being part of a government -- I am proud to be an American and being a Member of Congress, but these horror stories, it is hard to believe that this could happen in our country. The whole idea that the Justice Department is taking time out to right the wrong for people that have been in prison for committing crimes -- it doesn't justify it -- has absolutely

nothing to do with them not fulfilling their moral responsibilities to treat Americans and taxpayers with the dignity that they deserve.

Mr. Chairman, it is painful for me to see that this torture continues without coming to a shrieking halt, finding out who is responsible for it, and we, as Members of Congress and the Ways and Means Committee, not being able to guarantee these citizens that this should not have happened and we are going to correct it.

I am a former prosecutor. The law makes a lot of sense when you are dealing with criminals, drug dealers, with millions of dollars in cash and not being held accountable so they put it in the bank. It is less than \$10,000 so they don't have to report it. We are talking about criminals.

The opposite side of that coin are hard-working Americans that make us proud to have a family of people who do different things to make the country greater, and, historically, the farmers have been the heart of this great Nation.

Mr. Johnson, you have a list of American taxpayers that have been almost criminally treated by the Federal Government. As a lawyer, what have you done besides cause these people to be able to come here and to tell us, what are you suggesting, because, to me, we should as a committee and as a Congress bring the Treasury Department here with a list of these names and not ask for justice between now and the next hearing, but to have justice now and return of these funds with the penalties that are involved, with the inconvenience and the pain it has caused to your business and your reputation, and more importantly, to find out who made these decisions.

You don't have to be a lawyer or a lawmaker to know this is morally wrong. This amounts to stealing somebody's property by using coercion and the power of government. Just because it is the government doesn't mean that it is right. It makes it even worse.

So, Mr. Chairman, I hope that we have enough self-esteem in terms of our influence to be able to tell these gentlemen they don't have to worry about this happening to them or anybody else, that we feel the obligation, because it is our reputation that is tarnished, we are part of this government, and that we have to exonerate ourselves in finding out who caused this horrible thing to happen to you two and the members of the list.

And I promise you, Mr. Chairman, that these heroes that have gone through all of this pain on behalf of the people that don't have the time and cannot come here with likeable stories.

So thank you for your courage. This is what makes you great Americans. And I can assure you that as I leave this Congress, I cannot think of anything that I would want to do except to set this record straight and to have you, Mr. Taylor, to restore your confidence in the government. As we say in the neighborhood, we just screwed up. And someone should pay for this. And you should be proud at the end of the day that we dedicated ourselves to restore your dignity as well as that of our great country.

And thank you for these hearings, Mr. Chairman.

Chairman Roskam. Thank you, Mr. Rangel.

Mr. Smith.

Mr. Smith. Thank you, Mr. Chairman.

Mr. Chairman, thank you for hosting this hearing.

Wow. That is the most I can say. But we have uncovered a lot of disturbing items in this subcommittee, but this one definitely tops the icing on a lot of items.

One of the things that is the most troubling to me is that in these cases it looks like government attorneys handling the forfeitures have threatened to bring criminal charges to the businesses, to the business owners, if they did not agree to forfeit your money.

Mr. Taylor, did that happen to you?

Mr. Taylor. Yes, I believe it did.

Mr. Smith. Mr. Sowers, did that happen to you?

Mr. Sowers. Yes, definitely. And if I wouldn't have taken the settlement, they said they would have gone after the whole amount that we deposited for that summer, which was somewhere around \$300,000. So --

Mr. Smith. And Mr. Sowers, in your situation, is it true that the U.S. attorney even tried to push harder settlement agreements because you spoke to the media?

Mr. Sowers. Yes, that is true.

Mr. Smith. Mr. Chairman, I would like to submit into the record the email that documents that from the U.S. attorney in this situation.

Chairman Roskam. Without objection, so ordered.

[The information follows: [The Honorable Jason Smith 1](#)]

Mr. Smith. Thank you.

It is absolutely unacceptable. It is absolutely ridiculous. And no American should ever be treated that poorly by their government in any situation.

Mr. Johnson, have you heard of government attorneys threatening criminal charges in other cases like this?

Mr. Johnson. I absolutely have. As I was mentioning earlier, we recently launched a lawsuit on behalf of Vocatura's Bakery, whose owners, the Vocatura family, were threatened with criminal structuring charges bringing a criminal forfeiture of over \$200,000, as well as up to 4 years in prison. And David Vocatura, one of the Vocatura brothers, is here with me today. He is in the audience. This is shocking, it is wrong, and it is still going on today, and it has to stop.

Mr. Smith. Have there been threats of IRS audits of people's businesses if they don't settle the cases?

Mr. Johnson. Again, in the Vocatura case, this is shocking, but the day that they refused to agree to this plea agreement, to plead guilty to structuring, they were told that they would be subjected to a criminal tax investigation of their business.

Mr. Smith. Can you think of any others?

Mr. Johnson. So one case that I found shocking, it is slightly different, but in the Ken Quran case, for instance, after they got their money back, the day after they got their money back, they received a letter from the IRS saying that they were being subjected to a money laundering audit for their compliance with money laundering laws.

Mr. Smith. Thank you.

Mr. Chairman, this is absolutely egregious. It is horrible. I look forward to asking the IRS some further questions in the second panel. I yield back.

Chairman Roskam. Mr. Davis of Illinois.

Mr. Davis. Thank you, Mr. Chairman. And I, too, want to thank you for calling the hearing. And I want to thank our witnesses for coming.

Yes, we are indeed a part, if only a small part, of this government. And I, for one, want to apologize to both of you on behalf of that part of the government that I am. Your experiences should have never happened.

Let me ask you, did you feel any sense of concern for you on the part of those who were investigating or interacting with you in telling you what your situation was?

Mr. Taylor.

Mr. Taylor. No, sir, no. When we expressed concern about the bills that were due, the checks that were outstanding, the wedding coming up, they said it politely, but they said, "That is none of our concern."

Mr. Davis. Mr. Sowers.

Mr. Sowers. Well, the bank that sent the money to the IRS, I mean, we had checks bouncing, and we tried to get some answers from them on what are we supposed to do about that. And we couldn't find anybody that could give us an answer. So we were just like in limbo. We didn't know what to do.

Mr. Davis. And after it was determined that you had not committed any kind of criminal offense, did anybody ever express any sense of discomfort or any sense of, "We are sorry this has happened," or, "It is unfortunate that this has happened"? Did you ever get any of that from anybody?

Mr. Sowers. I mean, from the first two agents that showed up, and, like I say, you could tell that they weren't really interested in being there, it was just their job. And they knew that it was wrong, they knew what we were going to have to go through. But there wasn't anything they could do about it.

Mr. Davis. Well, at least that is one feeling, that they were doing their job.

Mr. Sowers. Yeah.

Mr. Davis. And that is what they had to do.

Mr. Taylor.

Mr. Taylor. No, sir, I did not hear any concern of anyone involved about what had happened.

Mr. Davis. You expressed that you had lost some confidence in the government. Is there any way that that breach can be repaired, in your mind?

Mr. Taylor. Well, certainly, if I get my money back, I would feel a lot better about it. If you see that there is a problem and it gets corrected, that would serve to restore your confidence in the government as a whole.

Mr. Davis. Well, I certainly hope that you are going to be able to get your money back. And I can assure you that anything I can be supportive of or can do to help make sure that that would happen for not only the two of you, but others who have fallen into this situation, we would do it. I certainly empathize with you in terms of just the feeling, and I am sure there are others who have had that feeling, that somehow or another you have been unjustifiably treated. And the only way that justice can be restored is that you do, in fact, get your money back, as you say.

And, Mr. Chairman, again, I thank you for the hearing, and I yield back.

Chairman Roskam. Mr. Reed.

Mr. Reed. Thank you, Mr. Chairman.

And thank you to our witnesses here today. As echoed by my colleagues, I share the anger, the frustration that has been put on evidence here today.

I join with my colleague from New York, Mr. Rangel, in saying we should join together and find justice for these individuals and the thousands that they represent across America.

And I hope you stick around, Mr. Sowers and Mr. Taylor, because we have the IRS Commissioner come in right after you are done, and we will ask him this question. So we are going right to the top to see if we can't get justice for at least you here today.

And, Mr. Johnson, I look forward to getting that list also from you so that we can go after other folks and get justice in this situation.

I think it is important to read this email that was entered into the record and take a moment to reflect on what is being said here. So, Mr. Sowers, this is an email between your attorney, David Watt, and Stefan Cassella, who was the U.S. attorney who was in charge of your case, Correct?

Mr. Sowers. Yes.

Mr. Reed. And in working with Mr. Cassella from the U.S. Attorney's Office, your attorney is trying to work out the terms of your agreement, et cetera, and finalizing the agreement. That is correct?

Mr. Sowers. Yes.

Mr. Reed. All right. So he says, "I have obtained" -- this is Mr. Watt talking on your behalf -- "I have obtained a settlement in the Taylor case" -- which is Mr. Taylor's case, Taylor Produce case -- "attached to this email, which is very similar to the Sowers case and there is no language regarding the Taylors' acknowledgement that there was reasonable cause for the seizure. We would even be satisfied with the same 'whereas' clause as those in the Taylor agreement. I have a hard time" -- and your attorney put this in bold and underlined -- "I have a hard time explaining to my client why he is being treated differently."

Mr. Cassella's response is very telling, because in that email, it says, in bold and underlined in response to your attorney, "As a representation of the United States Government," this U.S. attorney has the audacity to use the power of his office to tell you, Mr. Sowers, "Mr. Taylor did not give an interview to the press."

So when you heard that, is that your government telling you to shut your mouth, don't exercise your freedom of speech rights? Is that your government with a badge and a weapon telling you to shut your mouth as we will take more of your money away? Is that how you interpret it? Because that is the way I interpret it.

Mr. Sowers. That is exactly the way I interpreted it.

Mr. Reed. That is appalling in this day and age that we have got people in power abusing that power like that.

So I am going to give the benefit of the doubt to maybe some of these agents that were there who said that they didn't want to be there. It sounds like you treated them kindly. You opened your home to them.

Mr. Sowers. That is what God taught me to do.

Mr. Reed. Amen.

So when you were having that conversation did you ever ask them, "Then why are you here?"

Mr. Sowers. They have a job to do. They have families too.

Mr. Reed. So did they tell you who told them to be there?

Mr. Sowers. They were from the Treasury is all I knew. They didn't say anything else about it.

Mr. Reed. Did they give you any indication as to why they were coming after you, why they were there in the room, even though they didn't want to be there?

Mr. Sowers. Well, they never gave me an indication of what they really were after until the comment about the \$12,000 to \$15,000, and then I learned what they were there for.

Mr. Reed. Okay.

Mr. Taylor, how about that hour conversation that you had in your testimony to them? Did the agents give you any indication as why they were there, what they were trying to do?

Mr. Taylor. No, sir, they were just asking questions. As I say, they started off by saying I was not in trouble hadn't done anything wrong, they just had some questions.

Mr. Reed. So these agents who we are trying to believe are just innocent participants in this, just doing their job, there was no pressure. You don't think these guys were under any pressure maybe from their higher-ups to achieve something there by coming into your home to take your money? Any speculation as to maybe why they were there?

Mr. Sowers. I think that it is not the first time they did it so they knew exactly what was going to happen.

Mr. Reed. Are you aware that when they take your money where that money goes?

Mr. Sowers. Well, I have heard stories.

Mr. Reed. What have you heard?

Mr. Sowers. Some of it goes into local --

Mr. Reed. Goes right back in their budget, doesn't it?

Mr. Sowers. That they don't have to go through a lot of loopholes to get money. They just can get it and use it.

Mr. Reed. Mr. Taylor, are you aware where the money goes when they seize it?

Mr. Taylor. I have read articles.

Mr. Reed. What is your understanding of it?

Mr. Taylor. It is used for police departments, for their budget, for items they can't get from the government.

Mr. Reed. How about those same agents? How about the same IRS that is coming after you to take your money? Are you aware that that money goes right back to the IRS to a large degree --

Mr. Taylor. Yes, sir.

Mr. Reed. -- for them to do this to other people?

Mr. Taylor. Yes, sir.

Mr. Reed. Do you think that is right?

Mr. Taylor. No.

Mr. Reed. Do you think that creates an incentive maybe for the IRS to be in your room to take your money?

Mr. Taylor. Definitely.

Mr. Reed. Think we should do something about that as policymakers here in Washington, D.C.?

Mr. Reed. With that, I yield back. Thank you.

Chairman Roskam. Mr. Crowley.

Mr. Crowley. Thank you, Mr. Chairman. Thank you for holding this hearing, as well, today.

Mr. Sowers, we have met before, the last time you were here before the hearing. And I would say welcome back, but I know you are not here to discuss a good experience -- well, welcome back despite that -- but, rather, quite frankly, a bad experience that you have gone through. I

hope to get your situation resolved as soon as possible, because law-abiding citizens like yourself should not have the experience that you have had with your government, with our government.

All of us up here are on the same page on this issue of fixing and preventing these seizures from happening to law-abiding citizens like yourself -- and, Mr. Taylor, that would go for you as well; I don't mean to exclude you -- making sure that you get full restoration and restitution of your assets.

The policy of the government seizing assets and never charging people with a crime turns the basic principles of American justice of innocent until proven guilty on its head. I believe the IRS needs to go through its old files and return all the funds wrongly seized from Americans. And I would work with any and all of my colleagues on both sides to see that that actually does take place.

I have a quick question about -- is it "Vocatura's" Bakery?

Mr. Johnson. "Vocatura's" Bakery.

Mr. Crowley. Vocatura's Bakery. And that is in Norwich in Connecticut?

Mr. Johnson. That is correct.

Mr. Crowley. When did the government seize their assets?

Mr. Johnson. The assets in that case were seized in 2013, before the policy change.

Mr. Crowley. So the policy changed in October of 2014, correct?

Mr. Johnson. Yes.

Mr. Crowley. And that is my understanding, as well, that the policy did change in 2014.

What I would suggest, again, is we'll get to the bottom of this and see to it that those moneys are restored to their rightful place with the citizen of the United States.

So, with that, Mr. Chairman, I will just yield back the balance of my time.

Chairman Roskam. Thank you, Mr. Crowley.

Mr. Rice.

Mr. Rice. Thank you, Mr. Chairman.

Mr. Johnson, I want to start with you. This institute that you work with, are you limited to tax controversies?

Mr. Johnson. No. The Institute for Justice is a nationwide public interest law firm that litigates in a number of areas, one of which is property rights, which is what brings us to this particular issue.

Mr. Rice. Yeah. With the cascade of scandals that have arisen in the Federal Government and the level of incompetence and outright wrongdoing over the last 5 years, I am not surprised that Mr. Taylor has lost some faith in the government. I sure as hell have.

How about you? You deal with the government all the time.

Mr. Johnson. It is very difficult dealing with Federal prosecutors, in particular, in these cases, who have sworn an oath to uphold the law and are supposed to be enforcing the law but come across more like schoolyard bullies than law enforcement officers.

Mr. Rice. You know, these folks, to my understanding, have admitted that the money was taken wrongfully from these people. Is that correct? With this change in policy, they have admitted that.

Mr. Johnson. Exactly.

Mr. Rice. And what is their justification for holding the money?

Mr. Johnson. Well, I would say, in these cases, they would say that it is too late, that it is already over. But we have filed petitions, and we have asked to get the money back. So, really, they have no justification.

Mr. Rice. If these folks here had withheld money from the IRS for the last few years and the IRS discovered it was their money and they came to them and said, "Too late," what do you think the IRS would do?

Mr. Johnson. I don't think the IRS would be too keen on that.

Mr. Rice. Let me ask you this. Mr. Taylor, when they came to you, did they ask you to produce records to show that you didn't have any underlying criminal activity?

Mr. Taylor. No, sir.

Mr. Rice. They didn't? They didn't want to look at your receipts and your expenses to prove your income and all that kind of stuff?

Mr. Taylor. Not the gentleman that came to the house.

Mr. Rice. Okay.

Mr. Taylor. But the prosecuting attorney did want 4 years of financial records.

Mr. Rice. Okay.

Mr. Taylor. Which we got it there by the time that they asked for it.

Mr. Rice. What do you think they would have done if you had said, "No, I'm not going to give you those records"?

Mr. Taylor. I might not be sitting here today.

Mr. Rice. Probably in prison, wouldn't you?

What do you think they would have done if you would have said, "Well, I lost them"?

Mr. Taylor. I don't know what they would do.

Mr. Rice. What do you think they would have done if you just said, "Oh, well, I destroyed my hard drive. It crashed"?

Mr. Taylor. I have heard that before.

Mr. Rice. You probably wouldn't be sitting here, would you?

Mr. Taylor. No.

Mr. Rice. You know, these public officials, they are supposed to operate on a higher plane, right? They are not supposed to abuse the public trust. But, by their own admission, they are stealing from you.

Is it any wonder why people have lost faith in the government? This level of -- it is not incompetence. I mean, it is certainly incompetent, but it is way beyond that. It is not negligence, is it, Mr. Johnson? It is far beyond that. How would you characterize this?

Mr. Johnson. I would say that the IRS is taking people's money because the IRS wants that money to fund its own budgets.

Mr. Rice. It is malicious. It is wrongdoing. It is criminal. Our government is acting as the criminal here. It is amazing that people have what faith they do in the government. And it is not just the IRS. Look across all these bureaucracies. Look at the VA, for God's sake.

So, my friends, I sure am sorry for what you had to deal with, and I will do my part, if offered the opportunity, to fix this problem.

Thank you very much. I yield back.

Chairman Roskam. Mr. Marchant.

Mr. Marchant. Thank you, Mr. Chairman.

Mr. Sowers, Mr. Taylor, since this has happened to you, did you get any guidance from these agents or the agency on how you should conduct your business going forward? Did they say, "Wait till you have \$10,000 saved up and make your deposits"? Did they offer any -- for all those people listening out there now that are conducting their business the way you guys have, I mean, did you change the way that you did business?

Mr. Taylor. I have changed. I have a cash transaction report filed every week when I deposit money.

Mr. Marchant. Yeah.

Mr. Taylor. The only advice I got was from a lawyer and reading what I could about the whole idea of what I had done and what I should be doing.

Mr. Marchant. So, now, most of your transactions are over \$10,000 so they get put into the system?

Mr. Taylor. I sometimes save it until I do have over \$10,000.

Mr. Marchant. Yeah. Yeah, that is what I was asking.

Mr. Taylor. Right.

Mr. Marchant. I mean, this has made you conscious, and it has been something that now, every day, you have to think about.

Mr. Taylor. I have had more tellers learn how to do a cash transaction report.

Mr. Marchant. Yeah. Yeah. I would imagine.

How about you, Mr. Sowers?

Mr. Sowers. I really hate to say, but I don't deposit cash anymore. I am afraid to do it.

Mr. Marchant. Yeah.

Just for my information, if somebody gives you a check, do they treat that differently than cash?

Mr. Sowers. Checks don't make any difference. It is just the cash.

Mr. Marchant. Yeah. So, on that deposit slip, they pick up just the cash number. They don't treat a check as cash.

Mr. Sowers. Yes. That is all. I mean, the cash is the only thing they are concerned about.

Mr. Marchant. Yeah. Because I think there are millions of Americans out there that are conducting their business innocently, thinking that they are complying with every single law, and, still, just an innocent mishandling or making a deposit the way they don't want you to make it is subjecting them to some criminal action.

Mr. Johnson, how many petitions are currently pending before the government for reimbursement or forgiveness or return the money?

Mr. Johnson. So I am aware of two, the Taylor and the Sowers petitions. There was a third, the Quran petition. The IRS granted that petition. And, again, it raises the question, if they can grant one, why can't they grant the other two.

Mr. Marchant. So of the thousands of -- how many billion dollars did you say was in the fund?

Mr. Johnson. So there are \$6.1 billion in the fund as of the close of the 2015 fiscal year.

Mr. Marchant. Yet there are only three petitions pending to get their money back?

Mr. Johnson. Well, so, in terms of the structuring cases, we know that there are about 600 cases that fall into this category of people who had their money taken who wouldn't have it taken today. The problem is we don't know who those people are. We know that they exist, but the records are anonymized so that we can't identify them and speak to them, and they may not know that they have the right to try to get their money back.

Mr. Marchant. And this fund where the money goes, is it a general revenue fund or is it a dedicated fund that can't be touched by anybody?

Mr. Johnson. It is the Treasury Forfeiture Fund, which is available to the IRS to fund its own activities, its own law enforcement activities. So what the IRS is doing here is it is taking money from people and then it is using that money to fund its own budget without having to come to Congress to ask for an appropriation of funds.

Mr. Marchant. You suggested that there was a way for Congress to statutorily stop this. Would you repeat that?

Mr. Johnson. Yeah, I think Congress needs to do two things.

One is it needs to codify the policy change that the IRS has announced, to change the definition of "structuring" so that in order to be convicted or have your money taken for structuring you have to actually have been engaged in some other crime.

The other thing that Congress can do is actually direct the IRS to return funds in cases that don't meet the policy so that people have a judicial right to get that property back rather than depending on the petition procedure that we currently are pursuing.

Mr. Marchant. Mr. Chairman, I hope that that is the goal of our committee, to do that. And thank you.

Chairman Roskam. It absolutely is, and legislation is imminent.

Mr. Kelly, bring us home.

Mr. Kelly. Thank you, Mr. Chairman. And thanks for holding this hearing today and allowing me to be here.

To both Mr. Taylor and Mr. Sowers, thank you for standing up and actually talking about your story. I am an automobile dealer, and every time I get the chance to talk about the IRS, my son calls me and says, "Dad, please be careful. I don't want them coming in the store."

I know one thing for sure: The issue that we are talking about today should be a national outrage. It just shouldn't be a concern of this committee. The whole country should be standing up and staying, "Not in our country, not at this time, not on our watch."

It is stunning to me, the arrogance of the IRS. Now, I know that we have to have a way of collecting revenue. And I am not painting everybody with the same brush. But for you to sit where you are sitting -- and we have a form called the 8300 Form, where, if it is 10-grand or more, we have to report it.

So I am talking to the garage today, and I said to Stephanie, "So tell me -- for us to be in compliance." She goes, "You know what? I even watch for any other signs that may look like somebody is structuring." And I am saying, you are talking about guys that make steel down the street for us, guys that make railroad cars, guys that stand on their feet all day and girls that do stuff all day long to make a living, and those are the people we are really worried about?

Just from where you are, Mr. Taylor and Mr. Sowers, talk about the loss that you have incurred, not just in the fact that they could shut you down, but you are not paid interest on that money that was frozen. You don't have -- your loss in your communities of your reputation and how you have to go back and try to repair that. This is the part, I think, that we are missing. Because we are talking about people -- real people, people who get up every day with one reason and one reason only, and that is to take care of their kids, their community, their churches, and their schools. And then we have an agency that comes in and says, "Yeah, you're the guys we're looking for because you don't know how to deposit money. You're the bad guys."

Mr. Taylor, tell me how that has affected you in your community -- Mr. Sowers, you in your community -- and the arrogance that this agency could come in to do it.

I don't give a damn if they said they were sorry or not. They knew exactly what they were doing to you, and they knew exactly where it was leading. And you know what else they knew? They knew you didn't have the money to ante up to fight them, and that is why you would settle.

Look at this up on the board. You know, we call it a shakedown back home, but this is what I think they are doing. If you can just take a look at -- extortion is the practice of obtaining money, property, or services through coercion, force, or threats. It is synonymous with "shakedown."

Do either of feel like you got a shakedown?

Mr. Sowers. Certainly I got a shakedown.

And I guess the biggest impact it had on me was a story the local paper did that makes you sound like you are a criminal. And my daughter just the other day told me, "You know, you must be doing something wrong; you're always in trouble." But she has known me for 40 years, and she knows I have a big mouth and I don't stand back when somebody is doing something wrong, to tell everybody.

And that is what happened. I told everybody that walked up to my table at the farmer's market what happened. And those people are upset. I mean, people are upset.

Mr. Kelly. Yeah. Yeah.

Mr. Sowers. I mean, I know I do everything the way I should do it or -- and I don't really care what other people think. But, you know, that is just the way it is. I mean, people think --

Mr. Kelly. So let me ask you, because I know how badly you were hurt, but so -- now, checks were bouncing, right?

Mr. Sowers. Yes.

Mr. Kelly. Okay. I live in a small town too. You bounce a check, and I guarantee you those tellers say, "You hear what happened up at Kelly's? Their checks are bouncing." That goes through that community like wildfire. I bet in your community a guy that been an upstanding citizen -- you and your wife raised a wonderful family, a wonderful business. I bet your name went through that community so fast.

You know who couldn't give a damn about it? People in the IRS. They don't care how much they crush you. They don't care how much they demean you. They don't care what the grinder is they put you through. You know why? Because they have absolute power to do it, and it has corrupted them absolutely.

If you can, Mr. Taylor, tell me how this has affected you. And, please, this is your day to tell your story to America of what is happening right now on our shores. This is not Germany with the Gestapo coming in or Russia with the KGB coming in. This is right here in America, right here with our own government.

So, Mr. Taylor, how much has this hurt you?

Mr. Taylor. I am not sure I can quantify how much it has hurt me.

Mr. Kelly. And I know you can't.

Mr. Taylor. And all I know is I just have to live my life the way I know how to live it, trying to do things right. And, sooner or later, people will realize that something went wrong there and it wasn't with me. I can't fight it. I just have to move on.

Mr. Kelly. Okay. Well, I just want to offer you something -- and, Chairman, I want to thank you so much for this.

Because you know what? The truth of the matter is you can't go in that arena and fight for yourself. But you know what you can do? You can elect people to go and represent you in this government that is looking out for your best interests. You need champions that are going to rise up to say, "You have hurt our people. You have done terrible wrong to our people, and it has to be remedied."

The fact that we have a hearing is one thing. There is no way we can go back and repair your reputations. There is no way we can go back and repair the damage we have done to you just as a person. Your wives are with you today. It hurts not just you, your business, your family, but your grandchildren and your children. It affects you in the community.

And this is all because of somebody thinking that you structured a deposit in order to hoodwink the IRS. That is absolutely preposterous, and it is not allowed to stand in America, especially not at this time and certainly not on our watch.

Thank you guys for having the gumption and the courage to stand up and tell your story.

Chairman Roskam. Thank you, Mr. Kelly.

You know, as I have been listening and watching you both and watching your wives here and just the chance to visit with you before the hearing and so forth, your presence and your willingness to tell your story is very encouraging, actually, because what you are doing is you are bearing witness to a deeper virtue of this country. In other words, you are standing up for American ideals. And whether you realize it or not, you are holding on to an American ideal and you are reflecting that back to a lot of other people, saying, "This isn't right. There is something that is off about this."

And, you know, when you were talking a minute ago, Mr. Sowers, about trouble and one of your kids teasing you about being in so much trouble, Mr. --

Mr. Sowers. Oh, she wasn't teasing.

Chairman Roskam. Well, I take your point.

But Mr. Lewis kind of nudged me and -- there was a hashtag that he had yesterday; it is called "good trouble." And he knows something about good trouble. And you are sort of in good trouble, in a way. And I am not trying to be dismissive or cavalier about that or dismissive about the pain and the difficulty that you are going through, but what I am telling you is the strength that you are reflecting to us is a good thing, and it is encouraging.

There is another thing that is important. We are on your side. We are rooting for you. We are on your team. And we are going to hear from the other team in a couple minutes. Stick around. It is going to be an interesting discussion.

And, Mr. Johnson, I have a question for you, just to go into a little bit more detail. You mentioned in your testimony that, you know, there is data and so forth on lists and others who have been impacted by this. Can you walk us through -- because we have to get to this. We need to sort this out, and your insight on what is available and so forth is very important.

So, in terms of scope and scale, I have heard you discuss generally three numbers. One number was the number of people that you have reason to believe have been similarly situated as the Taylors and the Sowers. And that number was about 600 people, 600 cases?

Mr. Johnson. That is correct.

Chairman Roskam. How did you come to that number? How have you come to that conclusion?

Mr. Johnson. So we came to that through a FOIA request to the IRS where they provided us with access to some data about structuring forfeitures. We sought additional data that could help us to identify, you know, more information about what the IRS is doing with civil forfeiture and to have even greater information. And the IRS responded to us and said that, before they could turn over all of the data that they would have, we would have to pay a fee of a quarter-million dollars for access to that data. They basically said that the Institute for Justice, which is a nonprofit organization, falls within the commercial-use category of FOIA requests, which is complete nonsense.

And then when we tried to appeal that decision, they said to us, "Well, it is not final because we haven't actually denied you access to the data, so you have no right to appeal."

Chairman Roskam. Good grief. I mean, the pattern that they have run these folks through, they are just overlaying this pattern on FOIA requests. Good grief. Judas, man.

So, by not giving you an answer, they deny you the capacity to appeal. Is that right?

Mr. Johnson. Right. By saying that, "Well, we will give you the information, but you have to pay us this outlandish amount of money," then they are claiming --

Chairman Roskam. Who lays awake at night at the IRS thinking about this stuff? Who lays awake at night thinking about, "Hmm, how can we stick it to people and not give them information to which they are entitled?"

Okay. That is new information for me. It is probably new information for this entire panel. And we need to deal with it. So that is the --

Mr. Rangel. Mr. Chairman?

Chairman Roskam. Yes.

Mr. Rangel. Could you inquire as to what information he actually has?

Chairman Roskam. I will yield to Mr. Rangel.

Mr. Rangel. Thank you.

I know what you can't get. And I agree with the chairman, that is outrageous. But this 600 people have cases in front of the IRS. Do you have that information for us?

Mr. Johnson. We know that there are --

Mr. Rangel. No, no, no, no.

Mr. Johnson. Right, but we don't --

Mr. Rangel. You know. But how can we know what you know? Do you have a list of names?

Mr. Johnson. So we don't have a list of names. What --

Mr. Rangel. What do you have?

Mr. Johnson. What we know is that the IRS' database identified 600 cases between 2007 and 2013 where there is no allegation of any criminal wrongdoing apart from structuring and that, in those cases, they took about \$43 million from those people.

Mr. Rangel. Well, you stick around too, because --

Chairman Roskam. That is right.

Mr. Rangel. -- it is very difficult for us to ask for information when we cannot identify wrongdoing. But this committee will be able to give you -- without paying a fee, we will get access to whatever you can help us to get that information from. But we need your help in order to determine whether these 600 cases -- because what we have here, Mr. Chairman, are two different cases. We have the Justice Department, which we have cases that we have to call on them separately, but we can handle the IRS part of it this morning.

Thank you.

Chairman Roskam. Mr. Johnson, to echo, then, on Mr. Rangel's inquiry, so we have that 600 cases. Then the \$43 million figure is the number that you came to understand was captured by the IRS as a result of those 600 cases.

Mr. Johnson. Exactly.

Chairman Roskam. And then you mentioned a fund. And so I just don't want us to be thinking that there is \$6 billion out there. So there is a fund generally at the IRS that has \$6 billion in it that is what?

Mr. Johnson. That is called the Treasury Forfeiture Fund. And that is the fund into which the Treasury Department puts all of its forfeitures under the civil and criminal forfeiture --

Chairman Roskam. Could be cases that we would be very sympathetic to. In other words, it could be drug forfeiture cases; it could be, you know, mafia front groups and all that sort of stuff. So that would be also within that fund, that \$6 billion?

Mr. Johnson. Right. That is all forfeitures by the entire Treasury Department.

Chairman Roskam. I understand. So, for our purposes, we want to focus in -- based on your representation, we want to focus in on the cases and the \$43 million. Is that right?

Mr. Johnson. The point of mentioning the \$6.1 billion is that that is money that is available to the IRS to return assets to people. The amount of money that needs to be returned is by no means \$6.1 billion.

Chairman Roskam. I understand. So, if we were to hear, for example -- so your point in raising that is, if we were to hear, for example, from the Federal Government, DOJ or anybody else, that we don't have the money, your point is, yes, you do have the money, and that is an obtuse argument. Is that right?

Mr. Johnson. Exactly.

Chairman Roskam. Okay.

We have been joined by Mr. Renacci.

Mr. Rice. Mr. Chairman, can I ask one question?

Chairman Roskam. I will yield quickly, and then -- yes. Quickly.

Mr. Rice. Mr. Johnson, the 600 cases that you have identified where there is no allegation of wrongdoing, how did you identify those?

Mr. Johnson. So, again, what we requested from the IRS through FOIA is data from what they call their AFTRAK database, which just tracks the forfeitures of assets by the IRS --

Mr. Rice. And you specifically asked for those that had no allegation of wrongdoing?

Mr. Johnson. So one thing that the database includes is a box that they can either check or not check where it says that they suspect criminal wrongdoing in addition to structuring. And so we know that there are about 600 cases where they did not check that box. In other words, they themselves indicated in their own database that the only reason they were pursuing those funds was because there was structuring.

Mr. Rice. But there very well could be, and probably are, thousands of other cases that, like in these guys' cases, they signed these agreements to avoid criminal prosecution, but there could be no validity to it.

Chairman Roskam. Let me reclaim the time. We will keep moving. And this is a line of inquiry that we will have with the second panel.

Mr. Renacci has joined us.

Mr. Renacci?

Mr. Renacci. Thank you, Mr. Chairman. I am just going to yield at this time.

Chairman Roskam. Okay.

Thank you all.

Mr. Crowley. Mr. Chairman, can I -- just one more --

Chairman Roskam. I will yield.

Mr. Crowley. -- followup just in terms of the 600 cases.

Just following up Mr. Rangel's queries as well, do you have a list of the 600 cases?

Mr. Johnson. So the data that we obtained from the IRS is anonymized. So we don't know --

Mr. Crowley. No. Okay.

Mr. Johnson. -- who those people are. We just know that they exist.

Mr. Crowley. Okay.

Well, Mr. Chairman, I think, if that is the case, we should inquire as to how we can access that information.

Chairman Roskam. Yes.

Mr. Crowley. Because I think, if that is the case, we would like to have that information in terms of who those individuals are.

Mr. Johnson. Absolutely.

Chairman Roskam. Perfect segue to the second panel.

Mr. Lewis. Mr. Chairman?

Chairman Roskam. Mr. Lewis.

Mr. Lewis. Before we leave these two witnesses, I just want to take a moment to thank you for being brave and courageous, joining Mr. Johnson to come before us today. I think we learned a great deal that could be helpful not just to you but to taxpayers all across our country. So thank you.

Chairman Roskam. I know that every member reflects Mr. Lewis's sentiment.

And, Mrs. Sowers and Mrs. Taylor, thank you for your role in this as well.

Thank you to the witnesses.

And we will reconvene shortly with the second panel.

[Recess.]

Chairman Roskam. Thank you.

We would now like to invite the second panel of witnesses to the table.

Our second panel is comprised of three witnesses from the government who are responsible for the IRS' use of its civil asset forfeiture authority and who handle these cases when they go to court. So it obviously doesn't start and end with the IRS. These cases have started with the IRS, but they obviously are turned over to the Department of Justice to be pursued. And that is the nature of this inquiry today.

IRS Commissioner John Koskinen is with us; IRS Civil Investigation Chief Rich Weber is with us -- I am sorry, Criminal Investigation Chief Richard Weber is with us; and DOJ Department Assistant Attorney General Kenneth Blanco.

The committee has received your written remarks.

A little bit of the back story: We had hoped that you were able to hear the testimony of the prior panel, and it is my understanding that you were able to hear the overwhelming majority of it. That was important to us.

And I also just want to clear up one thing, and that is, in terms of the Commissioner's participation today, there was a press story that was involving the other committee of interest right now. There was a press story that sort of put this committee in a position of taking a disproportionate amount of time and attention.

We had invited Mr. Weber to come as a witness. Commissioner Koskinen, you had said you would like to come. You are always welcome, obviously, as the Commissioner of the IRS, to come here. I just wanted it clear that it was at your request that you are here today, and you are always welcome.

And, at that, let's open it up for 5 minutes. And I am pleased to recognize you, Commissioner Koskinen.

STATEMENT OF JOHN KOSKINEN, COMMISSIONER, INTERNAL REVENUE SERVICE

Mr. Koskinen. Thank you, Mr. Chairman.

First, yeah, we talked about this a couple weeks ago, about this hearing. So my only point was I had committed to be here. I am delighted to be here. You are our oversight committee, and when you hold a hearing, I am anxious to be here as we go.

I am sorry for the miscommunication about whether we should be here or not. Your staff was very helpful, and so we were able to hear about an hour and 10 minutes of the first panel. So we got, I think, the bulk of the issue. And we do take this very seriously, and I am delighted to have the opportunity to testify here again before this committee.

As you know, over a year ago, about a year and a half ago, we changed our policy in this area and made it clear that there would -- even though structuring still remains a crime on the books, if you have structured your deposits in a way that avoids the reporting requirement but it is not with illegal source funding, as of a year and a half ago, there are no more seizures by the IRS. And I think that is important to know, that we have reached out to do that.

As I said when I testified here last February, I guess it was, we apologize to anybody who had innocently gotten themselves into the middle of this and committed that we would do whatever we could to work this forward. And I am delighted to do that.

I would clarify one other thing before I get into my statement, which is: There has been a lot of talk about the forfeiture fund. Those funds don't come directly to the IRS. We get less than 2 percent of those funds. It is about, on average, over the last 5 years, it has been \$20 million or \$22 million, you know, out of an \$11 billion budget. So we don't have a direct incentive that if

we get more money it comes to us. We don't see the money at all. And if it goes to the TEOAF fund, we get a very small percentage of it, and it goes to law enforcement purposes.

So I think it is important to understand IRS agents don't have a financial incentive. They are not measured in any way under the Restructuring Act, either on the civil or criminal side, according to whatever collections are taken as a result of their activities. Those are not performance measures anywhere. I sign a quarterly authorization and statement that no one is measured by the amount of money they collect in any part of the IRS.

So we do take this very seriously. The need to support the Federal Government's efforts against financial crimes, such as money laundering and terrorist financing, are important. And in our efforts, though, we strive for a balanced approach designed to ensure fairness and respect for the rights of individuals under the law.

The balanced approach extends to our efforts in regard to the crime of structuring, in which cash transactions are intentionally manipulated so they fall below the \$10,000 reporting threshold established under the Bank Secrecy Act. This reporting requirement is one of several used by law enforcement agencies to uncover illegal activities in the U.S. and abroad.

Structuring may occur for any number of reasons. Individuals may want to conceal cash generated from illegal activities, such as drug dealing, or the cash may come from a legal source but the person is trying to evade taxes. Whatever the reason, the law is clear that structuring cash transactions to evade the reporting requirements is a crime.

Under the law, the IRS and every other Federal law enforcement agency has the authority in structuring cases to investigate criminally and seize assets involved in the structuring. But the law also includes procedures we must follow to safeguard the rights of individuals and ensure that the seizure action is appropriate.

Before any action can go forward, before any IRS agent can take an action, Federal agents must first prepare a seizure warrant affidavit that is reviewed by the appropriate U.S. attorney's office, and then the warrant is presented to a Federal judge who approves or denies it. Only if the judge authorizes the warrant and the activity by finding there is probable cause to believe the property is involved in a crime can the seizure and forfeiture proceedings take place.

As I noted, after reviewing our activities, we did a year and a half ago change the policy and note we would no longer pursue the seizure and forfeiture of funds, while illegal under the structuring act, that were solely legal-source structuring cases, not derived from illegal sources, unless there were exceptional circumstances, and there haven't been any since the policy.

By concentrating on illegal-source structuring violations, we are now able to devote more of our resources, obviously, to investigating the most egregious Federal violations, including those cases where structuring activity is indicative of more serious crimes.

The change in policy doesn't render prior seizures unlawful, as structuring is still today a Federal felony regardless of the source of funds. We will continue to investigate structuring violations as

they relate to other financial crimes, including tax and money laundering violations. But we believe that our policies change will help ensure consistency in how IRS structuring investigations and related seizures are conducted and ensure, to the extent we can, fairness to the taxpayers.

As I noted earlier while I was here a year and a half ago, we have apologized to anyone innocently caught up in this, and we are doing our best, going forward, to make sure that we remediate those conditions.

The question has arisen as to how the IRS is treating cases where legal-source funds were seized prior to the October 17 policy. And, since that date, we have considered approximately 75 cases, including petitions from property owners for mitigation.

In administrative cases, where we have control, where it did not actually go -- the taxpayer didn't take it to court, we make a decision at the senior level within our Criminal Investigation Division, not at the level of the IRS agent involved in the case, on the merits of whether to return the funds to the property owner. In judicial cases -- that is, where the seizure went to court for one reason or another -- the Department of Justice has control. And, in those cases, we make recommendations after reviewing the case to the Department of Justice about how the case should be handled.

We recognize that seizure and forfeiture, as noted, are powerful law enforcement tools and must be administered in a fair and appropriate manner. We understand we have a duty not only to uphold the law but to protect the rights of individuals as well.

We look forward to working with property owners who come forward and file petitions -- we are processing those to this day -- and will continue working to ensure that we handle all the cases with fairness and respect for taxpayers' rights in every instance.

Mr. Chairman, that concludes my statement, and I would be happy to take questions.

Chairman Roskam. Mr. Weber?

Mr. Weber. No statement, sir.

Chairman Roskam. Mr. Blanco?

STATEMENT OF KENNETH BLANCO, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE

Mr. Blanco. Good morning, Chairman Roskam, Vice Chairman Meehan, Ranking Member Lewis, and members of the subcommittee. Thank you for the opportunity to appear today to discuss the important topic of civil asset forfeiture and structuring.

As a 27-year veteran prosecutor and Deputy Assistant Attorney General overseeing a variety of areas, including asset forfeiture and money laundering, I am honored to represent the Department

of Justice today and to address the Department's commitment to ensuring the Federal asset forfeiture laws are appropriately and effectively used and consistent with the civil liberties and the rule of law.

Asset forfeiture and the structuring laws are a critical tool that serves a number of compelling law enforcement purposes, including detecting and deterring other illegal activity. The Bank Secrecy Act assists law enforcement in the detection of criminal conduct by requiring financial institutions to file reports concerning financial transactions in excess of \$10,000.

The criminal structuring laws, as enacted by Congress, are intended to prevent individuals from evading these important reporting requirements. The government is required to prove three elements for a structuring charge, namely that the defendant structured his transactions, knew of the reporting requirements, and intended to evade the reporting requirements.

It is important to note that structuring is not a strict liability crime, and an individual who inadvertently divvies up his money to deposit or withdraw cannot be liable simply for structuring because he lacks the intent to evade the reporting requirement.

Congress has authorized a variety of sanctions, both civil and criminal, for structuring violations, including forfeiture of the structured funds. In a civil action to forfeit property linked to crime, including a structuring violation, the government has the burden to prove by a preponderance of the evidence that a crime occurred and that the seized property was connected to that crime.

Even after the government has proven its case, the law entitles any individuals with standing to assert a claim that they are innocent owners of the property at issue and defeat the government's claim.

After a forfeiture is completed, a petitioner can seek the return of property by filing a petition for remission or mitigation. Remission and mitigation do not contest the forfeiture. In effect, those petitions are tools to request a pardon for the forfeited property. The Department has procedures in place for considering and fairly resolving each of these petitions.

Those who commit structuring violations do not qualify for remission because they are not innocent owners under the terms of the law. Such petitions might, however, qualify for mitigation, which is a decision to pardon some portion of the forfeited property based on a holistic view of the case.

The factors the Department considers when evaluating mitigation include: the existence of a prior record or evidence of similar conduct; whether the violation includes a drug offense or drug crime; the violator's cooperation with law enforcement on the related matter; was the violation isolated and not part of a larger scheme; and the necessity of the forfeiture to achieve a legitimate forfeiture purpose.

In order to protect and maintain the integrity of the work our career prosecutors and career agents do, I cannot comment on any pending litigation or specific case today. But I can tell you the

Department continues to thoroughly review and appropriately rule on any current and newly filed petitions for remission or mitigation, including those involving structuring violations.

I would also like to highlight the Department's ongoing and comprehensive review of forfeiture practices and policies over the past 18 months. As part of that review, on March 31, 2015, the Department issued a policy limiting the use of asset forfeiture to authorities in connection with structuring offenses in most cases to instances where a defendant has been criminally charged or there is evidence of additional criminal activity beyond the crime of structuring.

The new policy also imposes important protections after a seizure has taken place, including a directive to return the funds if the prosecutor at any time determines there is insufficient evidence to prevail at trial and imposing a deadline for filing a criminal indictment or civil complaint against the forfeited funds.

This policy is a significant change that exceeds the requirements of the law, and it underscores the Department of Justice's commitment to fighting crime and returning money to victims while protecting civil liberties and ensuring due process.

I thank the subcommittee for their interest in this matter. I look forward to fielding any questions from the committee.

Chairman Roskam. Thank you both for your statements.

Just as a little bit of a prelude -- and I will come to Mr. Meehan very, very quickly, but we are having this hearing because of a briefing that I found just incredibly dissatisfying in February of this year. And, you know, the Internal Revenue Service made a decision that I think is a fantastic decision, and that was, look, don't treat these underlying offenses that are not criminal cases in this way. And they made a good decision, and people said, "Terrific." Mr. Weber made the announcement. It was in The New York Times and so forth. And, across the aisle, there was a sense of, "This is a good thing."

Then I asked for a briefing. Because, you know, it just sort of occurs to one, well, what happens if that was then and this is now? So, in other words, somebody is caught up in this, and are they just going to go through the legal meat grinder of getting caught up? And isn't there a way out for people who wouldn't -- this wouldn't apply to them in the future?

And in this room in February, I thought it was going to be a 15-minute meeting. I thought it was going to be, "Hey, Mr. Roskam, you know, we've disposed of these cases, and here's this process, and it's all done, and all is good," and that I was going to get on my plane and go home to Chicagoland and that was it.

But it was just one of these meeting that I came out of an hour and a half later, and I was completely dissatisfied. And I told the three representatives from the IRS and I told the three representatives of the Department of Justice, I said, "I am more fearful of you now than I was when I walked into the room." And the fear that I was manifesting was kind of reflected in my own constituency, and that is: Look, there is no pursuit of justice here. And it was obtuse. It

was this -- it was like a weird Kafka novel script, frankly. I thought, "We can do a lot better than that."

And so, if you listened to the first round of questions, what you are hearing is a wide range of political opinion, a wide range of life experience, a wide range of geography that is all saying one thing: "Do justice. And pursue it and make it happen and be aggressive about it."

And there is always, you know, sort of one reason or another, or we can't talk about this, and we can't talk about that. And we are not asking anybody here to do anything that they don't have the authority to do. But you have the authority to fix this, and you have the authority to do something extraordinarily great here.

And the extraordinary greatness would be to restore the confidence of Mr. and Mrs. Sowers, to restore the confidence of Mr. and Mrs. Taylor, and all kinds of people out there, where they say, "You know what? This government, it responded. And when it was brought to a level where people said this is an important thing, the government responded."

And we have to get this done. There is an urgency to this. Because if we don't, then what happens? The government becomes delegitimized in people's eyes. Really, it becomes very, very, very corrosive. So this is something we have to deal with.

And I am convinced that we can do some good here. I am convinced that our subcommittee and those in the executive branch with authority have the capacity together to do justice.

I yield to Mr. Meehan.

Mr. Meehan. Thank you, Mr. Chairman.

Mr. Blanco, you cannot comment on specific cases, but we can. And we sat here and listened to the testimony of two farmers. And as you go through the litany of the kinds of issues -- whether there was prior conduct, whether it is drug proceeds, whether they were cooperating, whether it may be an isolated incidence, whether it is necessary to effectuate a criminal purpose -- I purposely elicited testimony from them about their experience, and on every factor there is a complete absence of the kind of aggravating circumstances associated with their matter.

Now, we are going to talk about policies moving forward, but we are in this gap of time in which the Department of Justice, which has been handed a great percentage of the responsibility to deal with these issues, it now lies with you and those who work with you.

Now, you talk about cases in which there is a preponderance of the evidence. We have also heard testimony from the individual who was here before about some 618 cases in which the Department of Justice, by its own identification, from the Freedom of Information request, identified that that file contained by the DOJ's failure to check off the box that they had no suspicion of criminal activity. That is \$43 million worth of dollars that have been seized from American citizens, small-business owners, in which IRS agents showed up.

Now, I am aware today because of public information which was made about the extreme activity going on in the Department of Justice as we speak. Whether it is a policy decision, others can argue about. But there are scores of attorneys, maybe more, throughout the Department of Justice voraciously going through the records of convicted criminals, who are currently sitting in prisons, trying to find ways in which we can suggest that somehow those convictions weren't completely just and we have to undo some percentage of that.

We will let that issue go. What I want to stand for is the fact that, as we speak today, there is significant effort going on in this Department of Justice to go through the records of convicted criminals to see if we can change their load. And yet we have before us people, no criminal suspicion, assets which have been seized, 618 cases. What is being done to look at the cases for those 618? Because in the same case, justice delayed is justice denied. We are looking at years of delay for some of these individuals.

Mr. Blanco, what do you know about the efforts looking into the 618 cases for individuals who have not been suspected of criminal activity, one of the criteria that you have for a seizure?

Mr. Blanco. Congressman, my understanding is, with the testimony this morning, is those cases were IRS cases. Not all of these cases would have come to the Department of Justice. Some of those cases could have been handled administratively. So I don't think all those cases are ours.

And, also, the \$43 million would have gone into the TEOAF and not necessarily to the Department of Justice.

Mr. Meehan. That is not what I am -- where it goes, the money, I am not interested in. Well, maybe we will have -- since we have Mr. Weber, Mr. Koskinen, the three of you can sit and resolve this issue.

But, Mr. Koskinen, you testified that you have had 75 cases, but that falls woefully short of the 618 which have been reported, and those only because we have been able to have a FOIA request to identify those. 75, 618. What do you know about what efforts have been undertaken to fairly and appropriately resolve these outstanding issues?

Mr. Koskinen. My understanding of the 618 is the box hasn't been checked, therefore they are going to be criminally prosecuted. But they doesn't mean that those cases don't have illegal sourcing being used as part of the structuring.

And our files don't distinguish, at this point, looking backwards, is which of those would in fact meet the criteria we are talking about here and which of them actually, while there is not a criminal prosecution, did have evidence of --

Mr. Meehan. But why wouldn't somebody be required to identify the potential criminal nature for the seizure in the record?

Mr. Koskinen. Remember, these were cases that were filed before our policy was changed. And, ultimately, the Department of Justice files --

Mr. Meehan. Well, I know that. This is why this is of concern. I go back to the point, justice delayed, justice denied. That is fine, we move forward, and we can talk about the policy moving forward. But you see we are talking about cases from 2007 to 2013.

We have a farmer here who is looking to pay for a wedding. We have somebody, the bills have not stopped coming in for the \$49,000 that this farmer is looking to get back which has been wrongfully seized.

Mr. Koskinen. Yes. And as I have noted, we have looked at -- we have received petitions, more than just the couple that were referred to. As noted, as I said, if they were administrative -- that is, they didn't go into the court system -- we have control. If they went into --

Mr. Meehan. My time is up, but I know --

Mr. Koskinen. I would be happy to answer the question, though. I think we can --

Mr. Meehan. Well, but IRS is blaming it on Justice, Justice is blaming it on IRS. Let's --

Mr. Koskinen. I am not blaming it on anybody. I am just telling you what we can do. And what we can do is we have reviewed 75 cases either with petitions or that were caught in the middle and --

Mr. Meehan. Can you get back to us on the status of 618 which are part of our record correctly?

Mr. Koskinen. I would be delighted to do that to the extent we have that information.

Mr. Meehan. Thank you.

Chairman Roskam. Mr. Lewis.

Mr. Lewis. Thank you very much, Mr. Chairman.

Let me thank the witnesses for being here today.

I have been on this committee for some time, and I have never, ever seen in a very long time this degree, this spirit of togetherness. On this issue, we are on one accord.

Citizens, taxpayers, landowners, farmers coming, pleading with their government to help them. They feel like they have been wronged. This is not their first time coming in to testify before us. They have invested their livelihood, everything they have. And they have been told by their government, by the IRS, Department of Justice, by somebody that we are coming to get you. They feel like they haven't done any wrong.

So I understand that both the IRS and the DOJ updated their policies for assets being seized without proving criminality. In general, is it fair to say that, unless there is evidence of criminal

activity, that your agency would not bring seizure charges that are solely based on structure of bank deposit?

Mr. Koskinen. That is correct.

Mr. Lewis. Well, Mr. Commissioner, DOJ, tell me, how do you inform these people that are hurting, that are suffering? How do you inform them? When do you make it right for them? How long does it take? How long must people wait?

Mr. Blanco. Is your question directed to me?

Mr. Lewis. Any member of the panel.

Mr. Blanco. Great.

Congressman, prior to a petition for mitigation, a couple of things have already occurred. And what has already occurred is that agents, prosecutors, and a judge has found that the individual has structured funds and that those funds were structured to a crime of structuring.

So, at this point, when somebody comes for mitigation, what we are looking at is evaluating the case under the factors that I have seen. And what ends up happening, Congressman, is it is not just one person making that decision. There are career --

Mr. Lewis. But how long does it take for one person or two or three people to make the decision?

Mr. Blanco. Good question, Congressman.

What I have seen in my 27 years is, with respect to Justice and all matters of law enforcement, it does take time. There is a thorough review of the matter to make sure that we are doing the right thing, as the Congressman has mentioned earlier. It is about doing the right, and it is always about doing the right thing.

Clearly, the government should never be in the business of taking money from people who have never violated the law. That is very clear. And I think everybody in this room believes the same thing.

But it is a process that we must go through. There are career agents who are looking at cases that are pending before the Department of Justice, career prosecutors. And it will be made -- the decision will be made by a career prosecutor. And there are layers.

Mr. Lewis. When we find out that the people didn't do anything wrong, do we amend? Do we say we are sorry? How do you make them whole again?

Mr. Blanco. Congressman, at the point that we are at right now in many of these pending cases, there has already been a finding that there was probable cause that the funds used were attached to a crime, and this crime was the crime of structuring. It is still a Federal crime.

And so, given that, there is mitigation in this process. And what we are talking about is pardoning the rest of the money that was not already given back to the individual. And that takes some time.

Mr. Lewis. Well, I don't want to get involved in maybe a particular case, but I am not sure -- maybe, Mr. Chairman, you can help me out here somewhat -- that a letter, an email was sent to someone saying we are treating you different because you did an interview. Is that right in America? Don't we have -- people are free to say what they want to say during an interview with a member of the press? Because you did an interview, so we are going to go after you. I mean, we are not going to be -- we are going to be hard on you.

Mr. Blanco. Congressman, I will tell you this. My family are immigrant exiles in this country, and my grandmother always said one thing to me: "We didn't come to this country to be silent." So nobody believes stronger in the ability of U.S. citizens or anybody else to speak up against their government. And I think everybody in this room feels the same way.

I am not going to comment on any particular case that is standing before the Department of Justice. You know I can't do that. But I can tell you that people have a right to be able to say what they want when they want and to whom they want in this country. And I think that is something that we all can stand by.

Mr. Lewis. Mr. Chairman, I yield back. Thank you.

Chairman Roskam. Mr. Blanco, just for your benefit, Mr. Lewis and I wrote to the Attorney General, brought this to the Attorney General's attention, the issue that Mr. Reed raised. And it is part of this, you know, larger contours of these people who are just run roughshod by this process. And so we will have an opportunity to inquire further --

Mr. Blanco. Okay.

Chairman Roskam. -- after we hear from all the members.

Mr. Holding?

Mr. Holding. Thank you, Mr. Chairman.

Mr. Weber, will you restate your title, please?

Mr. Weber. Sure. Chief of Criminal Investigation at the IRS.

Mr. Holding. And you are a sworn law enforcement officer, correct?

Mr. Weber. I am not a law enforcement officer. As Chief, I am not an 1811 special agent.

Mr. Holding. Okay. But the agents that work for you are sworn --

Mr. Weber. They are, yes.

Mr. Holding. They are 1811s, which -- an 1811 in kind of the parlance of the law enforcement community means that you have a badge, carry a gun, serve warrants, and so forth, correct?

Mr. Weber. That is correct. I have a badge. I don't have a gun.

Mr. Holding. Got it.

So the actions of your department, you know, IRS Criminal Investigations, who is ultimately responsible for your actions?

Mr. Weber. Well, as Chief of CI, I would be responsible for the actions of my agents. I report up to a deputy commissioner and then to the Commissioner, who ultimately oversees the entire IRS.

Mr. Holding. But you, as Chief, report to a deputy commissioner, correct?

Mr. Weber. I do.

Mr. Holding. So that is your direct report.

Mr. Weber. Yes, sir.

Mr. Holding. This deputy commissioner, does he have any law enforcement background?

Mr. Weber. I don't believe so. I believe he was with the IRS for 30-plus years on the civil side, but he may have had some supervisory responsibility over the criminal side before the Restructuring Act.

Mr. Holding. So this deputy commissioner is a longtime IRS employee, but he is not a Presidential appointee, is he?

Mr. Weber. No.

Mr. Holding. Can you think of any other Federal law enforcement agency that directly reports to a non-Presidential appointee other than you?

Mr. Weber. I am not aware of one.

Mr. Holding. So how often do you have to report to this deputy commissioner?

Mr. Weber. Often, in terms of meetings, in terms of communication --

Mr. Holding. Let me ask, what is the protocol?

Mr. Weber. I have a monthly meeting with the Deputy Commissioner. I have a monthly meeting with the Commissioner. I routinely report on the activities of everything that is going on within CI.

Mr. Holding. So if you need additional resources for your department, what do you do? Who do you talk to?

Mr. Weber. That would be the Deputy Commissioner and the Commissioner. And, actually, the entire senior executive team is involved in decisions regarding budget appropriations.

Mr. Holding. So have you had any difficulty getting additional resources when you have asked for them?

Mr. Weber. That is probably a difficult question for me to answer. You know, I think the budget cycle for the IRS has been especially difficult during the 4 years that I have been here. So I think it has been difficult for every part of the IRS, not just Criminal Investigations.

Mr. Holding. So, I mean, your criminal investigation department, it competes for resources with the rest of the IRS and the other things that they do, correct?

Mr. Weber. We do.

Mr. Holding. So how much of your work, your criminal investigations, are on tax-related investigations versus, you know, other types of investigations?

Mr. Weber. Approximately 70, 73 percent of our work is related to tax investigations. The other work would be on the money-laundering side, public corruption, terrorist financing, money laundering connected to drug trafficking, identity theft, cyber crimes.

Mr. Holding. And I can speak from personal experience that, you know, the agents of the IRS Criminal Investigations, you know, are top agents. I mean, when I was a United States attorney, we always wanted to have an IRS CI agent, you know, on our most difficult cases, whether it is a corruption case, terrorism case. They are very, very capable agents.

Mr. Weber. Thank you. Thank you, Congressman. I have worked with all of the agencies as a former Federal prosecutor. I have a lot of respect for the other agencies, but I do believe that IRS CI special agents are the best financial investigators in the world. So I appreciate that comment.

Mr. Holding. Well, it is borne out by a lot of experience and results.

Mr. Chairman, I will tell you, this investigation of IRS' civil asset forfeiture authorities has brought to light to me some problems that I didn't know of with IRS CI regarding the resources they have and the supervision and so forth. And I don't think that housing a criminal investigative agency that investigates a wide variety of crimes, as we have heard here -- everything from tax crimes to public corruption, terrorism -- under the IRS makes much sense.

And as this committee and this Congress examine ways to improve the Tax Code and the structure of the IRS, you know, I think it is important to give the Criminal Investigations of the IRS the resources it needs, as well as accountability. And I don't think this can be done in an agency, like the IRS, that is scandal-ridden, that is plagued with a bureaucracy that seems to be somewhat unaccountable.

And that is why I have introduced the CI Realignment Act, which would create an independent bureau of criminal investigation housed under main Treasury, taking the criminal investigations out from under the IRS. So I look forward to working on that.

Thank you.

Chairman Roskam. Mr. Rangel.

Mr. Rangel. Thank you, Mr. Chairman.

I thank all of you for giving us your understanding of the law, but, quite frankly, that is not the problem we have today, Mr. Blanco. We all understand the law. We, together, are a part of government. We answer to constituents. They are our political family. And when one of them are mistreated, they come to us for a solution to that problem.

You are part of this family. So to say that it takes a long time to right a wrong -- no, it doesn't. Because we are the political structure of that government, and we have a 2-year contract. And so, therefore, it is not your love and respect for a person's right to speak out against government. We have a problem. And the best way we can handle it is to come together to share it and not to talk about how long it takes to resolve it.

I would like to believe that this is one of the things, the terrible things, that fell between the cracks because some agent, some person misunderstood and made one big mistake. But no. Someone said there are 600 cases, and then I think the answer was, "Not exactly." Someone said that this is happening to millions of people, and they said, "Well, that's the different between IRS and Treasury."

You know, as a former assistant U.S. attorney, when a judge asks, was the government ready, they don't ask whether IRS is ready or whether Justice is ready. They say the United States Government. That is us.

So please don't talk about how long it is going to take in the regular course of procedure to determine whether or not our government committed a crime, made a mistake, or that you need our help in order to change the law.

So when someone asks how long does it take and you knew we were coming, why wasn't this put on the special detail? No, don't take away agents -- people away from those that are trying to bring some justice to the statutory situation. That is not what we are talking about. But when you know we have a problem and you know you are coming before this committee, why in God's heaven didn't you have somebody get on these 600 cases?

Are there 600 cases, Mr. Blanco, or do you know?

Mr. Blanco. Congressman, I don't know. That is --

Mr. Rangel. Did you hear that there was an accusation that it could be 600 cases?

Mr. Blanco. I heard that today during the testimony.

Mr. Rangel. That is the first time you heard about it?

Mr. Blanco. First time I heard about it.

Mr. Rangel. Did anyone, did you ever hear that there was accusation that what happened today with these two witnesses was the tip of the iceberg and that some people got caught in this before you changed the policy? Did you know that there was this accusation?

Mr. Koskinen. I noted, when we changed the policy -- and we were the first law enforcement agency that changed that policy -- a year and a half ago, we understood that there would be some cases that were in process.

Mr. Rangel. Did you go out of your way to pull out those cases because you felt that the policy was wrong, an injustice has been done, not to these 2 people, but to -- I think you used 70.

Mr. Koskinen. Seventy-five.

Mr. Rangel. Seventy-five.

Mr. Koskinen. And we looked at all the cases that were caught where they had not --

Mr. Rangel. As far as those 75, aren't you in a position to come before this committee and say that, "Yes, some mistakes were made, we changed our policy, 75 people we looked into, and this is our report," without violating any -- can't you tell us that -- you know, I cannot believe that two farmers had deposits less than \$10,000, and someone reported it or someone found out about it, they technically violated the old law, they milked cows and whatever farmers do -- pray to chickens -- and someone said that we are going to have to look into this from a criminal or even a civil thing.

Now, you and I know why we have this structure. Law is for people who want to avoid the law. And so, if you know that we have 75 cases, why don't we have 75 explanations of what happened? Why can't you make us feel like we made a mistake and we are correcting it?

And this 600 figure, Mr. Blanco, is that we are supposed to have -- and, Mr. Chairman, you may have to help me -- 600 cases that the forfeiture bureau said that they have and where they have checked off a box that is saying that, to their knowledge, there is no criminal activity involved to refer it to be prosecuted. And no one seems to know where these cases -- you don't know about these 600 cases?

Mr. Koskinen. As I noted, of those 600, there is a box that is whether they are going to be criminally prosecuted. The box does not explain to you whether, in fact, there is illegal sourcing as part of that.

Mr. Rangel. Listen, you have 600 cases --

Mr. Koskinen. Right.

Mr. Rangel. -- that are in question. You know where they are. And Mr. Lewis said, how long, how long, how long is it going to take? Now, let me make it abundantly clear. This is not going to take as long as you think it is going to take. I have never seen the bipartisanship on this committee on anything, and I am going to take advantage of it. I am going to take advantage of it. It is not going to take the regular length that it takes to investigate the so-called 600 cases, period. And we are not going to do injustices to other investigations that Justice has.

Now, you may come and throw up your hands and say, "We don't have resources to do it." This is just one of those things. Six hundred cases is bigger than you ever would think. But you have to tell us something. You have to find those 600 cases. You are going to find out which one of these people were suggested to be a drug dealer.

You know, you couldn't pull these farmers out of central casting in terms of representing what America wants to look like, you know. And so they didn't come from my neighborhood, I know that. Because I could understand why you would be giving them a hard time for that. But we have a case now for America. We could not have done better in picking out two Americans that got a bad deal from our government. That is our government.

And so, whoever follows me, you tell them what you are going to do. Don't tell us what the law is. It is good law.

Mr. Koskinen. We can give you the exact response to all 75.

Mr. Rangel. What happened to the 600?

Mr. Koskinen. The 600, as I noted, a number of those do not meet these criteria. A number of those were people where there was not enough evidence to convict them of crimes --

Mr. Rangel. Okay.

Mr. Koskinen. -- but there was clear indications that the money was illegal-sourced.

Mr. Rangel. Okay. Somebody just told us that they have to pay you to find out whether or not there is evidence of criminality. This committee doesn't have to pay you to find that out, do we?

Mr. Koskinen. No.

Mr. Rangel. No, right?

Mr. Koskinen. The FOIA --

Mr. Rangel. No, no, no. We don't want to know the names, but someone is going to say that it may not be a sufficient violation of the law for it to be prosecuted, but there is sufficient evidence that some wrongdoing is there. We want to know. Someone else wanted to know, and they said that you told them that, in order to get the 600, they had to pay a quarter of a million dollars. Now, we don't have to pay for that, right?

Mr. Koskinen. No. And nor does --

Mr. Rangel. Forget him.

Mr. Koskinen. -- most people.

Mr. Rangel. Us. We don't have to pay for it.

Mr. Koskinen. You don't have to pay for that.

Mr. Rangel. So we are going to be able to determine, with your help, how many of these 600 people have some evidence of wrongdoing, right?

Mr. Koskinen. Right. It will be, as I say, because the file -- you will have to go through every file --

Mr. Rangel. I understand that.

Mr. Koskinen. -- because a number of -- our experience is --

Mr. Rangel. Listen, if this was our grandkids that was going through this, we will find some way to expedite it. These are our grandkids. They vote, you know?

Mr. Koskinen. Our experience is the hearings that this committee held a year and 14 months ago, the work that has gone, the visibility, the visibility that has gone when we remitted, there aren't many people out there who don't know that, in fact, we are entertaining petitions. And so the people who have any claim at all --

Mr. Rangel. We are not waiting for them to petition.

Mr. Koskinen. We can --

Mr. Rangel. We want to know how many of these cases there is some evidence of wrongdoing, whether it is criminal or not. And we want, categorically, immediately, the disposition of the 75 cases.

Mr. Koskinen. We can give you that.

Mr. Rangel. And we are going to have a press conference. We will do all of the notification. And you are not going to embarrass us any further. Because we have to find some way to get the weight off of us. You know that.

So please help us to help our constituents, to help our country. And then on the question as to whether you don't have the resources to do it, because we know how badly the Congress has treated you, talk about that. But don't say it can't be done. We expect for it to be done.

Thank you for your patience.

Chairman Roskam. Thank you, Mr. Rangel.

Just for the record, people don't know that money is being remitted. We had to tell some of our own witnesses about this process. So there is work to be done, to Mr. Rangel's point.

And, Mr. Blanco, just for the record, every member of this subcommittee wrote to the Department of Justice in March of this year and requested a complete and thorough review. So, at the end, one of the inquiries I will make of you is what is happening on that.

So I would like to yield to Mr. Smith.

Mr. Smith. Thank you, Mr. Chairman.

Like the chairman said, in October 2014, the IRS announced a new policy, that it would only seize structured assets that came from an illegal source.

During our hearing last year, Mr. Koskinen, you agreed with Congressman Holding that, if the IRS seizes assets of a person, they could go to court and argue the government doesn't have cause if the document doesn't show the funds came from an illegal source. You said, and I quote, "Private citizens should have the ability to do that."

A few weeks later, though, you said in a letter to the committee that, quote, "Decisions above what specific evidence is included within a warrant affidavit ultimately falls within the discretion of the U.S. Attorneys Office, in consultation with law enforcement agents. In the interest of operational considerations, the assistant U.S. attorney and case agents may have sound reason for not including certain evidence in a seizure warrant affidavit involving illegal-source

investigations. So the evidence of a legal source may not be included in every seizure warrant affidavit."

I would like to enter your letter and the letter that the committee sent in response into the record, Mr. Chairman.

Chairman Roskam. Without objection, so ordered.

[The information follows: [The Honorable Jason Smith 2](#)]

Mr. Smith. Thank you.

I take it that your revised version is correct?

Mr. Koskinen. The revised version is correct, but I think the original statement was correct. What I said was, under the process, no matter what the evidence is in there, anyone whose assets are seized has the right to, in fact, go to court.

And, in fact, that is the distinction of, if they come to us and it is an administrative proceeding, we can, when they make a petition, remit the funds directly. If they have gone to court or the process has gone to court, it is within the U.S. attorney's jurisdiction.

And that is what my letter says, that it is up to the U.S. attorney as to how much evidence is in the case. But the citizen, as I said at my hearing, has the right to come to court and challenge the validity of the seizure, challenge any other claims that are being made.

Mr. Smith. Citizens have due process, of course.

Mr. Koskinen. Yes, of course.

Mr. Smith. Absolutely. Thank goodness for the Constitution.

But, Mr. Weber, this question is for you. You are the one implementing this policy. If the IRS does not include evidence that money came from an illegal source in an affidavit, shouldn't the property owner be able to argue that the affidavit was deficient and his property shouldn't have been seized?

Mr. Weber. So it is not required, Congressman, for the specific allegations of illegality of the source of funds to be in the affidavit. So there are circumstances where the agent and the prosecutor make a determination that the source of funds is tied to an illegal activity. And those are the only cases and investigations that my agents are allowed to work with respect to structuring seizures now.

But there may be a decision by the prosecutor working that case that they are not going to include certain evidence and information with respect to the illegality within the affidavit. That doesn't necessarily mean that that case is not an illegal-source structuring case.

Mr. Smith. So, without requiring that information, you all can present an affidavit to any citizen without proof or documenting that it came from an illegal source. So that is what you are saying.

Mr. Weber. Under our current policy --

Mr. Smith. Under your current policy, you could go after any citizen and not provide in the affidavit that it is from solely an illegal source?

Mr. Weber. Under the current policy, yes, there is no requirement that --

Mr. Smith. Unacceptable.

Mr. Weber -- that information would be detailed in the affidavit.

Mr. Koskinen. I am not a law enforcement person, but there are cases --

Mr. Smith. The question is to Mr. Weber.

Mr. Koskinen. Okay.

Mr. Smith. That is interesting.

Okay. I have another question then. The IRS' October 2014 policy includes an exception for exceptional circumstances. What happened to due process? What counts as exceptional?

Mr. Weber. So a couple things, Congressman.

So, in the year and a half that that policy has been implemented, we have had not -- we haven't had one situation where a special agent in charge has requested from headquarters the exception to be applied in their case. So we have not had one of those cases.

In my view, what we have told our field offices -- we have 25 field offices across the country, and we have told our SACs that it would be in the rarest of situations that we would approve -- and that has to be approved by Washington, in executive and headquarters -- under the rarest of situations.

If it was a case that hypothetically could be connected to terrorism, where there is information or evidence where the property may be going overseas, we may not have the specific evidence or proof that it is tied to terrorism or illegal activity, they have committed the crime of structuring, but that property is going to be heading over to another country, that may be a situation -- with the approval of the U.S. Attorneys Office and the approval of a headquarters executive, that may be approved.

We haven't had a single case in the 1-1/2 years that the policy has been implemented.

Mr. Smith. Okay.

Mr. Weber. And I don't think there will be any of those --

Mr. Smith. One quick question for Mr. Blanco. In my prior questioning of the folks that testified, I submitted into the record an email that showed that a U.S. attorney, it seemed like, was giving harsher penalties in a settlement agreement because an individual went and spoke to the media.

Is there any policy in the Justice Department that makes harsher penalties to anyone that you are investigating or researching if they speak to the media?

Mr. Blanco. Not that I am aware of.

Mr. Smith. Okay. Thank you.

Chairman Roskam. Mr. Crowley.

Mr. Crowley. I appreciate especially Mr. Smith's last question, because I think that pertains to two of the witnesses in the first panel that made that allegation.

It wasn't as definitive. It is just, to your knowledge, you don't know of that. But you don't know if that does -- that that may very well happen within the Justice Department is what you may have also suggested.

Mr. Blanco. Without commenting on any pending case in any part of the Department of Justice, in my 27 years I am not aware of any policy that would treat any citizen or noncitizen in this country differently because their voice was heard in a publication.

Mr. Crowley. I will yield.

Chairman Roskam. Mr. Blanco, in light of that, what would your recommendation be to the Department of Justice if it came to your attention that somebody did something like that that shouldn't have ever happened in your 27 years of experience?

Mr. Blanco. Congressman, you are really close to me commenting on a particular --

Chairman Roskam. I am not asking you to comment on a particular case.

Mr. Blanco. Congressman, I can't comment on that. You know that.

Chairman Roskam. I yield back.

Mr. Crowley. I would suggest not in any case, but if you became aware, hypothetically, that someone in your department had done that or made that statement, would you believe that they were in violation of the law, that they themselves were being oppressive?

Mr. Blanco. You are putting me in a bad spot, Congressman. You know I can't talk about those issues.

What I can tell you is the following. I can say this, that no citizen or noncitizen should ever been treated differently because their voices were heard. That is what I will tell you. You can take from that --

Mr. Crowley. That is interesting. That is interesting.

For a point of information, just to clarify for the committee's sake, Mr. Johnson requested a FOIA request with the IRS and not with the Justice Department. Is that correct?

Chairman Roskam. I think that is right, yes.

Mr. Crowley. Mr. Johnson, you are nodding yes.

Okay. So I don't necessarily expect that you would have that request before you, et cetera. Because Commissioner Koskinen has mentioned 75 cases. They may very well be a part of the 600 that Mr. Johnson is speaking of. Is that correct?

Mr. Koskinen. I am reasonably confident that they are.

Mr. Crowley. That they are.

In terms of when a case is deemed as being structure alone, with no criminal intent, just that a person who is a farmer has \$8,000 sitting in their house, they are not comfortable with that, they will bring it to their bank, and it happens a couple of times, and the bank reports it, therefore that is what brings the attention and focus, so there is no -- they are not drug dealers, they are not terrorists, not doing anything else, and it is a structure -- you could be deemed as structuring, but that is not the intent, they don't have that intent --

Mr. Blanco. May I just quickly, Congressman?

Mr. Crowley. Uh-huh.

Mr. Blanco. You wouldn't be a structurer, because you would have to have the intent to evade.

Mr. Crowley. Understood. But what they may be doing and what your interpretation of what they were doing may be two different things.

But you then deem that it is not really criminal activity, and they are pardoned, right? You mentioned something about pardoning?

Mr. Blanco. There is a procedure that we use. It is a petition to file, and it is called mitigation.

Mr. Crowley. Do they get all their money back?

Mr. Blanco. It depends. They could. They could get nothing back. They could get part of it back. They could get all of it back.

Mr. Crowley. So, if they did nothing -- if they had no criminal intent, what they were doing was they just simply were uncomfortable having the money in their house, putting it in a bank so it is more secure -- but they could potentially be found -- they could be pardoned for it because there was no criminal intent, but they may not get any money back. So the question of do they get their money back with interest is not even a -- shouldn't even be in query at this point, I suppose.

The key job of this committee is to determine wrongs or injustices and use all of our abilities address those wrongs and injustices. And I think, in the spirit of Mr. Lewis, I haven't seen it done in such a bipartisan way as I have today, myself. So I want to thank my colleagues on the other side of the aisle.

A lot has happened since we last met on this topic back in February, as was mentioned earlier. I still think that a lot more needs to be done.

At our last hearing, I think we were all disturbed to learn that the IRS, as well as the U.S. attorney and the Federal judges, had the ability to seize American's bank accounts while never charging the account holders with a particular crime. This policy turns the basic principle of American justice of innocent until proven guilty, as I mentioned earlier, on its head.

At that hearing, the Commissioner did apologize for the past abuses of the agency, abuses that did not occur on his watch, and took quick and early action in his tenure as the Commissioner of the IRS to reverse the rules used by the agency in civil asset forfeitures. And for that, we are very, very grateful. But we also learned that Congress must also get involved to change the underlying laws that allowed these past seizures of legally acquired funds to happen.

Yesterday, Mr. Roskam and I, Chairman Roskam and I, introduced bipartisan legislation to fix the law and prevent the seizures of bank accounts of law-abiding citizens. Our bill would prohibit the IRS from undertaking any civil asset forfeiture related to structuring unless the funds were derived from an illegal source or the funds were structured to conceal other criminal activity, which got to my initial question to you, Mr. Blanco.

We also require the IRS to notify an account holder of a seizure within 30 days of that seizure and guarantee a post-seizure hearing within 30 days to see if there was justification to seize the assets and, if not, to return them forthwith to the account holder.

But passage of this bill won't solve all of the problems particularly for the past victims of asset seizures, such as the people as we had with us in panel 1 or behind you today. The people in panel 1 are victims and not criminals. And they need to be made whole of any funds that were wrongly seized and, I would suggest, with interest.

That is why this subcommittee also needs to make sure the IRS goes through its old files and returns all the funds wrongly taken from law-abiding citizens in these civil asset forfeitures, and done swiftly and quickly.

Civil asset forfeiture is an important tool, as we have all recognized, that the IRS and other Federal agencies need in order to go after ill-gotten funds from drug dealers, human traffickers, terrorists, and other criminals. But we need strong protections in place to ensure that these seizures never target law-abiding citizens. It has become oppressive. We also need to correct past seizures. And I look forward to hearing from you in the future as to how we can further strengthen the law to make sure that law-abiding American citizens are not put through this oppression in the future.

I would like to ask specifically, or just real quickly, in terms of the bakery issue in Connecticut. I have been in communication with Congressman Joe Courtney. He has assured me that he will address this issue, adding his weight to make sure that full restitution takes place.

And, finally, Mr. Chairman, I want to also address the larger issue that is outside the purview of this committee but not of our Congress: the need for comprehensive criminal justice reform overall.

You know, this is just another portion of it that doesn't get as much highlight in terms of the media today. As this hearing shows, the government can seize your money without pressing charges. But there are too many cases of the government seizing not only people's money but their freedoms as well.

We need to address and clean up the problems in civil asset forfeiture. Representative Roskam and I have a bill that would do that. But we also need to enact comprehensive criminal justice reform across the board, both civilly as well as criminally.

And, with that, I yield back the balance of my time.

Chairman Roskam. Mr. Reed.

Mr. Reed. Thank you, Mr. Chairman.

And, Commissioner, you and I go way back, and I have always given you the benefit of the doubt.

And, first of all, Mr. Taylor is behind you, over your right shoulder. Mr. Sowers I think you have already apologized to, if I got your testimony at the last hearing correct. You may want to have a conversation with Mr. Taylor. An apology goes a long way still in America. So maybe, on behalf of the IRS, you may have that conversation.

Second, I appreciate you taking the bait. When I talked about the financial incentive of the IRS, you made it perfectly clear in your testimony that that had in no way influenced any of your agents or any of your activities in the IRS. Now, I don't concede that point. I think that may still be there. And I haven't been in D.C. that long, but \$22 million, as you testified to, that 2 percent of those recovery funds going into the agency's budget, is still a lot of money to a lot of Americans. \$22 million is a lot of money. Maybe you have been in D.C. quite some time and to you that is chump change, but I will tell you, to most Americans, that is a lot of money.

And, at the end of the day, that leads me to the conclusion that, if there is not a rational reason why the agents are doing this for financial purposes for the budget, that I still believe is potentially there, then what you are conceding is that these agents are abusing their authority, they are abusing their position.

And so I want to go to one thing here. Because after the last testimony, or last hearing, there was an additional exchange. And I would like to offer in preparation for my testimony an email that was between Steve West, Assistant United States Attorney, and a Michael Petty, who represented an individual in the prior testimony.

And so I seek unanimous consent to enter that into the record.

Chairman Roskam. Without objection, so ordered.

[The information follows: [The Honorable Tom Reed](#)]

Mr. Reed. So this is the attorney for one of the other individuals that was involved in the last hearing. And this was after the hearing, and this is from Mr. West, United States attorney, to Michael Petty, the attorney for the individual involved in that case.

And what it says in here was -- they were sharing some information about the hearing. And Mr. West indicates, "My intent was for you and your clients to be able to actually know the facts so you could review them and have an intelligent discussion with me. Whoever made it public may serve their own interests, but it will not help this particular case. Your client needs to resolve this or litigate it, but publicity about it doesn't help. It just ratchets up feelings in the agency. My offer is to return 50 percent of the money."

That is the exact email from one of your U.S. attorneys, Mr. Blanco.

Mr. Blanco. I would imagine it is an assistant U.S. attorney.

Mr. Reed. Assistant U.S. attorney.

When it says "ratchets up feelings" because someone is talking about their case publicly -- and you heard my questioning previously and Mr. Smith's questioning about the email that was sent in the other case. These are two different cases, but it seems like there is a theme developing here.

So if it is not for financial purposes, as I may think -- and my opinion is still there, but the Commissioner doesn't believe it is going on -- it sounds like a U.S. attorney is a little upset people are talking about their situation publicly.

And I know, as you indicated in your response to testimony, that puts you in a bad spot. And you know what? I don't give a damn.

Mr. Blanco. Not a bad spot. An inappropriate spot, Congressman.

Mr. Reed. Inappropriate. No, I think your testimony was a bad spot.

Mr. Blanco. Okay. It is inappropriate.

Mr. Reed. Inappropriate.

So if a U.S. attorney is chastising someone from a previous congressional hearing that discussed their case publicly, would you say that is appropriate behavior by the United States Attorneys Office?

Mr. Blanco. So I am not going to comment on that. I don't know where that is in --

Mr. Reed. Not about this case. But just publicly talking about it.

Mr. Blanco. I am not going to comment on that.

Mr. Reed. Not going to answer the question. Not going to answer the question to the American people.

Mr. Blanco. As I mentioned earlier, I think when people speak up they should not be punished. That is what I told you.

Mr. Reed. So if someone is using their position to go after somebody for speaking up publicly, your official testimony to this is that is not appropriate. Right?

Mr. Blanco. Congressman, if that is the way you want to interpret it, that is fine. I don't think power of the government should be used against anybody if they speak up. I think I have been pretty clear about that.

Mr. Reed. And if you uncover that, if we uncover that, what would you recommend we do about that?

Mr. Blanco. I can't recommend on behalf of the Department, Congressman. That is something that I will take back with me now that you have mentioned it today.

Mr. Reed. Mr. Commissioner, how about your IRS agents? Would you feel that is an appropriate action by some of your IRS agents dealing with these cases?

Mr. Koskinen. No. And I have no evidence that there is a case of that. And if there is a case of that, it is inappropriate. I think Mr. Blanco is right. We spend a lot of time training, in particular, as Congressman Holding knows, our revenue agents, officers, and criminal investigators about the importance of their work and the seriousness of protecting taxpayers' rights.

Mr. Reed. One last point, if I could, Chairman.

Chairman Roskam. Sure.

Mr. Reed. The other thing that is frustrating here is you all are hiding behind due process and saying that individuals can take their case to court. But you understand; these are hardworking Americans. It is going to cost them tens of thousands of dollars to hire a lawyer, go win their day in court and stand with you. And you know what your agents are telling them? I will give you 50 cents on the dollar.

Mr. Koskinen. I have not --

Mr. Reed. That is legal? That is a shakedown.

Mr. Koskinen. I have not suggested these people need to go to court. As I say, we have entertained petitions and will continue to entertain them and treat them quickly and efficiently.

Mr. Reed. No, but you said that is what is available to them and they can pursue that as their avenue of recourse. But you understand, these people have to pay money to lawyers. They have to take time away from their farms. They have to come here to D.C. to meet with you. And then what you guys do -- what you guys do is you have their cash. And what you say to them is, "You know what? I'll be kind to you today. I'll give you 50 cents on your dollar."

Mr. Koskinen. That is not --

Mr. Reed. You don't have a right to the money. You don't have a right to the money.

Mr. Koskinen. That --

Mr. Reed. Because as what is indicated here, you don't have an illegal basis -- or you don't have a basis in law where you can say these guys are engaged in illegal acts. Mr. Taylor and Mr. Sowers, they are just farming.

Mr. Koskinen. Right. We do not have --

Mr. Reed. And what you are doing is telling them, "We'll settle it up with you."

Mr. Koskinen. We don't have a position of giving people 50 percent of their money back. That is not our case.

Mr. Reed. With that, I yield back.

Mr. Koskinen. And I would also state, just to make sure the record is clear as to why we may have a disagreement, of that \$6 billion, the vast majority of that is illegal funds from drug traffickers, money launderers, terrorists trying to finance it. The vast majority of that is there. It has been seized so that it would not continue to be used for --

Mr. Reed. But \$22 million goes back into your coffers.

Chairman Roskam. Mr. Rice.

Mr. Koskinen. And \$22 million of that comes to us subject to the jurisdiction of the Treasury Department, about 2 percent of those funds. So it is clearly not what we are chasing.

Mr. Rice. Thank you, Mr. Chairman.

These 600 cases where the box hasn't been checked that there is any -- I am speaking to you, Mr. Commissioner -- the box hadn't been checked there is any underlying criminal activity --

Mr. Koskinen. That is not what the box is. The box is checked that there is a not a criminal prosecution. It doesn't tell you what the underlying circumstances are.

Mr. Rice. Okay. Is there an ongoing process where you are reviewing those 600 cases right now?

Mr. Koskinen. No. The ongoing process we have had is we have reached out and reviewed any case that was decided before the policy was implemented and has not been concluded. And there are a number of those. And then we have reviewed the petitions that have come in, of which there have been a number. And all of those reviews --

Mr. Rice. Okay.

Mr. Koskinen. -- have been handled --

Mr. Rice. But the 75 cases you mentioned, that is the petitions?

Mr. Koskinen. That 75 is, in effect, included -- we didn't make -- those aren't new cases. Those are part of the inventory.

Mr. Rice. So how many of these 600 cases has the IRS taken upon itself to review, determined that they were in the wrong, that the taxpayer's money was taken illegally, and has returned the money to the taxpayer?

Mr. Koskinen. We have reviewed, as I say, the ones that were pending before and not concluded.

Mr. Rice. Okay.

Mr. Koskinen. There are about 50 of those. We have reviewed those and either made remissions or recommendations.

Mr. Rice. Okay. So those were already pending, or the taxpayers brought them to your attention. How many, again -- let's ask the question again --

Mr. Koskinen. No, we reached out to the bulk of those.

Mr. Rice. How many of these 600 cases that weren't pending, okay --

Mr. Koskinen. All right.

Mr. Rice. -- that were decided before this policy change, has the IRS taken it upon itself to go on and check and make sure we didn't take these people's money illegally and decided that we were wrong and returned the money to the taxpayer? How many?

Mr. Koskinen. At this point, the 75 are part of that 600, those are the cases --

Mr. Rice. Those were the ones that were already pending. Let's throw those out.

Mr. Koskinen. No, those are actually some reasonable number of petitions. So anyone who has petitioned we have taken and given an appropriate response.

Mr. Rice. Okay, I understand if they are petitions, but --

Mr. Koskinen. Beyond the 75 that we have reviewed, we have not reviewed the other part of that inventory.

Mr. Rice. Okay. Is there a plan to start? I mean, are we going to start that soon? Or are we going to -- are we just going to wait until these taxpayers come to us, realize, figure it out, I don't know, somehow, by magic, that we have changed our policy and wait for them to come to us? Or are we going to aggressively go out and try to locate where we have taken these people's money inappropriately?

Mr. Koskinen. At this point, again, these are part of the reason the FOIA request for the entire files is there, massive files. A big chunk of them, a majority of them, are initially, when we looked at them, as cases come in, criminal sourcing. So we do not have a plan at this point.

Mr. Rice. Mr. Johnson here from the Institute for Justice, he is worried about these 600 files, and he has filed a FOIA request, and you have told him, "Yeah, we'll give you the information if you pay us a quarter of a million dollars."

Mr. Koskinen. The FOIA charges -- the media pay no charges. The FOIA charges, we are obligated to charge the cost of production. So I don't know what his FOIA request was, but for the amount to be that much, that large, he must have asked for a lot of material. Because it is just simply a question of what does it cost to produce. We actually --

Mr. Rice. All right. So what we have done here -- he has identified 600-plus cases where there is apparently no underlying criminal activity, that people's money has been seized. I think the Fourth Amendment says that you can't seize people's money without probable cause.

Mr. Koskinen. Yes, that is correct. And probable cause was --

Mr. Rice. And before your policy change, I guess you were relying for probable cause on the act of structuring in itself and not any underlying crime. But we have decided that is wrong. So maybe what we should do is kind of reverse the presumption here and say, if we don't have probable cause to seize based on some underlying crime, these people need to be getting their money back. And we need to be notifying these 600 people that, hey, perhaps we acted wrongfully here.

Because I will tell you -- how long have you been the Commissioner of the IRS now?

Mr. Koskinen. Two and a half years.

Mr. Rice. Uh-huh. And we had this discussion last time you were here, that we just continue to see scandal after scandal after scandal after scandal.

Mr. Johnson, I believe it was, said earlier -- you know, whose faith in the government has been eroded. I think that is absolutely justifiable. I think the American people's faith in the government has been eroded. I think that is a lot of the frustration you see in the election, in the primaries in both parties right now. People are sick of it.

And you guys, particularly you guys with the badges, you have an elevated level of duty to the public. You hold the public's trust, and you are eroding that trust.

How long does it take, Mr. Koskinen, to stop the scandals? You have been there 2-1/2 years. How much longer is it going to take?

Mr. Koskinen. Again, as the chairman noted, we changed the policy on our own a year and a half ago dealing with this.

Mr. Rice. Yeah.

Mr. Koskinen. It has not been a scandal. The law is clear. If you intentionally structure deposits, it is a violation of the law. The issue here is not that that is not a violation of law. The issue here --

Mr. Rice. These fellows have been trying to get their money back longer than that. I mean, we have 600 people who we are sitting here saying today we don't know if we took their money wrongfully or not. And we are not actively going out to try to determine that.

Mr. Koskinen. We will pursue that, but I would stress that it was not wrongfully taken at the time. The law is clear -- the law is clear today -- that if you intentionally structure your deposits you are violating the criminal law.

The fact that the policy before that allowed a seizure when no illegal source of the funding has been changed does not mean that structuring is no longer a crime. Now what we are saying is, if you intentionally structure but the source of the funds is legal, so you are simply hiding the assets

or trying to protect yourself or avoiding taxes, we won't seize the funds. That doesn't mean intentionally violating the law is no longer a violation of the law.

Chairman Roskam. Mr. Marchant.

Mr. Marchant. Commissioner, what is the conduit that the --

Chairman Roskam. I am sorry, Mr. Marchant. I made an error. It is Mr. Davis' turn, of Illinois. I regret that.

Mr. Davis, I apologize. I recognize you.

Mr. Davis. That is quite all right, Mr. Chairman.

And thank you, gentlemen, very much.

Commissioner, the policy was changed because of recognition that there were individuals who might be unduly penalized. And now we are hoping that, with this policy change, individuals who fit that category will no longer have this problem.

But we also have the problem of trying to retrieve the assets that individuals have already had forfeited, taken from them. And I guess, no matter what it is that we do in the future, those individuals are still going to feel that their money was taken from them without just cause.

And so I guess we are trying to figure out a way --

Mr. Koskinen. Right.

Mr. Davis. -- how do we legally -- how do we get their money back in their pockets, back in their family accounts.

We have indicated that, of course, the courts are a refuge of last resort, that you can end up in court.

Mr. Blanco, let me ask you, is it not true that prosecutors oftentimes make recommendations to the court? And so it occurred to me that there might be a way that the agency, through its prosecutors, makes some recommendations to the court that might get these individuals their money back, and, at the very least, they would feel a different way or a greater sense of not having been violated.

Does that sound like any kind of possibility that prosecutors could take in court situations?

Mr. Blanco. Congressman, we actually have a process where the agencies, in particular the IRS, and also the U.S. attorneys offices get together to decide whether or not those factors that I mentioned earlier exist in mitigation cases, whether or not the money should be returned.

Those recommendations come to the Asset Forfeiture Section of the Criminal Division of the Department of Justice, where a career prosecutor makes the decision whether or not the mitigation -- taking into account the recommendation -- whether or not these funds should be mitigated.

So there is that process in place, and we are working that process in every matter or every petition that we receive, whether from the IRS or other agencies. So there is that possibility, yes.

Mr. Davis. Could that also include court costs, in terms of expenses for the individuals who have had to come into court to try and get the matter resolved?

Mr. Blanco. Congressman, I am unaware of us doing that in the past. But let me look into that and see whether we have done that in the past, and I can get back with you on that.

Mr. Davis. It seemed to me that all of us are actually in agreement that there are two things we want to do. One, we want to prevent these instances from ever reoccurring or from happening again; and find a way to compensate the individuals who have been or, at the very least, feel that they have been violated.

And I think, if there is -- I have been told, if there is righteousness in the heart, there is beauty in the character. And I think the character of our government should be that we would find a way to make sure that we don't leave any citizens with the feeling that they have been violated by their government.

I thank you gentlemen and yield back.

Chairman Roskam. Mr. Marchant.

Mr. Marchant. Thank you, Mr. Chairman.

Before we leave the issue of how a person files a petition, Commissioner, do you know how many people are actively filing petitions now to get their money back, of this group? It might be 600, it might be 1,000, or it might be 75.

Mr. Koskinen. As I was saying, the 75 include people who have filed petitions as well as those that we actually reached out ourselves to review out of that 600.

Mr. Marchant. And then, so that I understand exactly how the process works, it never gets to the U.S. Attorneys Office until you have gone through that complete process?

Mr. Koskinen. Yeah. They can petition to Justice if they like. As I said, if the process itself initially, in the past, before the policy, was one where the taxpayer came to us to mitigate or negotiate, that is an administrative case, and we have total control of that, and those are the ones we have mitigated.

To the extent that the taxpayer went to court or the case went to court and became judicial, handled by the U.S. attorney, who originally has to obviously review it to allow the seizure, that then is a case where we will make a recommendation but the case is within the control of the Justice Department.

Mr. Marchant. But Mr. Blanco testified earlier that, in the cases that get to you, it is strictly a mitigation. It is strictly, you used the word "pardon." It is assumed that the party was guilty of structuring, and it is purely a pardon/forgiveness mitigation, not -- we are no longer trying the fact that they didn't structure.

Mr. Blanco. That is correct, Congressman. And making a very short version, because there is also remission that has to do with victims and innocent owners. But what we are talking about today is mitigation, and you are right about that.

Mr. Marchant. So the people that actually prevail at the end, if they can afford it or have the perseverance to do it, still are very stigmatized. Because the assumption going into your department was that they were guilty of structuring --

Mr. Blanco. Congressman, there was a --

Mr. Marchant. -- in the strictest terms.

Mr. Blanco. There was a finding that there was probable cause that the person did the structuring and did it knowing that there was a rule against structuring and did it to evade that rule. So there is that probable cause that was found. So you are right. They do come into that process, and, in coming into the process, those funds have already been seized and forfeited.

Mr. Marchant. And getting past that filter, coming to your filter, is it 10 cases, is it 20, I mean, out of the United States --

Mr. Blanco. Well, I don't know that yet. We will see. We have petitions that are already in place for mitigation. Some of them are pending positions that we are looking at. This process has been in place for a number of years. This is nothing new. And we will see how many petitions we get.

Mr. Marchant. But to obviously address the concerns of this committee, both sides, it isn't 600 or 700 cases that are immediately before you. I mean, it is a manageable number of cases that are before you that can be looked at in a reasonable amount of time. And I know there are way different definitions of "reasonable amount of time" in the government, but --

Mr. Blanco. Right.

Mr. Marchant. And you heard me ask the previous witnesses, you know, how have they altered their way of doing business now. And, to me, the government actually puts itself at a disadvantage when law-abiding citizens decide to alter their way of doing business so that they don't fall into this great filter, this funnel.

You know, we have this conduit that was -- I mean, we don't have IRS agents driving up and down rural roads in Virginia and Maryland looking for people selling stuff on the side of the road. That isn't the way they got into the system, right?

Mr. Koskinen. No. And, in fact --

Mr. Marchant. The system captured them --

Mr. Koskinen. -- they can continue to do business the way they did. What has to be filed simply is a simple bank report. Structuring is if you intentionally avoid the reporting. If you want to continue to deposit \$10,000, \$8,000 regularly, you can simply have the bank file the report.

So it is not as if you have to change the way you have done the business. You can keep doing the business the way you did. The question here is whether the report is being filed.

Mr. Marchant. And we appreciate the policy change. My concern, with the chairman's, is that the next IRS Commissioner, the next administration, can change that policy and can go back to this kind of activity.

And, Mr. Chairman, I know that is a great concern of yours, it is of mine, it should be of every American, that before we end this subject, we have to kind of -- we have to make sure that this is just not a policy decision. It has to be the law.

Thank you.

Chairman Roskam. Mr. Kelly.

Mr. Kelly. Thank you, Mr. Chairman.

Mr. Koskinen, do you think a legal doctrine that allows law enforcement officials at either the Federal or State level to confiscate a family's cash, car, home, or business without ever being charged with a crime is a good thing? It is just a yes or no.

Mr. Koskinen. That is what the law is. The law says, if you violate the --

Mr. Kelly. You don't need to build me a watch. Just tell me what time it is. Is it a yes or a no?

Mr. Koskinen. I am sorry, the question --

Mr. Kelly. All right. Here is my point. We are seizing people's assets because we think they may have done something wrong. We are talking about due process here --

Mr. Koskinen. There has to be a probable cause finding by a U.S. attorney, and --

Mr. Kelly. Somebody selling corn and tomatoes isn't the same as a member of a terrorist group, okay?

Now, if you look up on the wall here -- because this is what I believe is going on. This is extortion. The practice of obtaining money, property, or services through coercion, force, or threats is synonymous with a shakedown.

Now, I know that really rankles the IRS. And it should. But it should not just rankle the IRS; it should rankle every single American. Because you know what? We all work for the same people. We are all trying to get to the same end.

This isn't grilling you for the sake of grilling you. This is a fact that Americans' rights have been taken from them by an agency that somehow equates a guy who gets up at 12:30 in the morning to milk cows is the same as a guy who structures some type of a scheme in order to be a terrorist.

Mr. Koskinen. And that is why we have changed the policy.

Mr. Kelly. Listen, I am not asking you about that.

Mr. Koskinen. We have changed the policy.

Mr. Kelly. I am going to ask Mr. Weber.

So when you sit down, Mr. Weber, with the people you work with, do you all sit down and say, sometimes we look at what we do and I think that we are really far from where we are supposed to be?

Mr. Weber. Yeah. That is why I changed the policy a year and a half ago.

Mr. Kelly. Okay. But, now, all those folks that you have deemed under a possible structure, you seized their assets, right?

Mr. Weber. We don't seize based upon a possible structuring, Congressman. What we do is we work with the U.S. Attorneys Office --

Mr. Kelly. They haven't been convicted of anything, though.

Mr. Weber. And they don't have to be, pursuant to the law that has been on the books for 30 years.

Mr. Kelly. I understand.

Mr. Weber. So what we do is --

Mr. Kelly. I understand.

Mr. Weber. -- we go to the U.S. Attorneys Office --

Mr. Kelly. I understand.

Mr. Weber. -- there, we get a warrant signed by a judge --

Mr. Kelly. Mr. Weber, I understand. It is wrong. It is wrong. You can say it is -- hey, just because it is the law doesn't make it right.

Mr. Weber. Right.

Mr. Kelly. It is wrong. You know it is wrong, and the people you work with know it is wrong.

So what I would suggest is you do the same type of a look inside that Congress does of what is it that we are doing that is actually hurting people, how are we keeping people from reaching the American Dream, and shouldn't we maybe turn around and fix it.

I am not coming after you because I don't like you. I am coming after you because this is absolutely insane, that we have to have a committee meeting to talk about people who are being wronged. Their assets are being seized. You keep their money. In some cases, they get some of it back. In some cases, they get none of it back. Who determines that? In some cases, we say to them, "Hey, you know what? Give me 50 cents on the dollar, and you can go away."

You are seizing money from real people. Real people. Americans. These are not people who are terrorists. These are not people who are running some kind of a drug chain. And you know it. You know it.

There is an article in The Washington Post I would like to put in, Mr. Chairman, and it does have to do with the asset seizures fueling police spending.

[The information follows: [The Honorable Mike Kelly](#)]

Mr. Kelly. And I know, Mr. Koskinen, it was only \$22 million or \$23 million. And, honest to God, back where I am from, that is a lifetime of ultimate success, okay? So it is not peanuts. But here is --

Mr. Koskinen. It is a very different situation than --

Mr. Kelly. -- what I want to get to though. Listen, I want to tell you something. When we can get to the point that we look at each other and decide we are going to do what is right for the American people, not that somehow people are going to ask you "gotcha" questions -- because I know that is what happened to the Taylors and the Sowers. It was all "gotcha" stuff.

These people come in, sit down at your kitchen table, have a glass of iced tea, talk a little bit about this, a little bit about that. The next thing you know, you better have a lawyer the next time we talk. And the meter starts to run. And it continues to run, and it continues to run. And you know the people who don't have to worry about picking up the tab on the bill? You all. The

same people that fund you fund all the different legal activity. Every single penny comes from hardworking American taxpayers.

Mr. Weber, please, I am talking to you. I know you don't want to look at me on this. And, listen, I understand that. I understand that. But here is what I want to get to. There has to be some point in time that we do the right thing for the American people because that is basically who we are. That is the very fabric of who we are as a people.

Just as a biblical reference, you know why David went in to fight the Philistines? Do you know why David went to fight the Philistines? Because he went to feed his army, the Israelite army that was afraid to go into the valley against Goliath because Goliath was so big, Goliath was so intimidating. Nobody would go out. David -- his dad says, "Hey, take corn, take water. They need your help."

He goes there, and you know what he finds? Nobody in the army is willing to go into the valley. Nobody. You know what David says? He goes out himself. You know what he declares? "Is there not a just cause? Is there not a cause?"

And I would hope that each member of the IRS understands that we are not painting you all as being bad people. But you are having a dramatic effect and a negative effect on the American people. And I think, as Kenny just talked about, when we, as a government, no longer stand up for the rights of individuals and freedom, we have turned our back on 1.4 million people in uniform that gave their lives that we could practice our type of government today.

This is not coming at the IRS because we don't like you. This is coming after the IRS because you have hurt our people -- our people, together, all of us. And I think that is the thing that we have to start understanding. It is not a me-versus-you. It is not you versus the American people. But, at some point, doesn't somebody say, is there not a cause? And can we not take a wrong and make it a right?

You don't pay them for loss of income. You don't pay them interest. You don't pay them for damage to their reputation. What you do is say, "Hey, we may give you some of it back. Maybe we won't. Depends how I'm feeling." Okay.

And I am so sick and tired of hearing about it is legal. There is a hell of a difference between what is legal and what is right. You all know that. I know it. I have suffered it in my personal business life.

And that is why we are here. This is America's House, representing every single American, including every member of the IRS, by the way. I do appreciate your service. But I think, when we realize -- when we realize that we are doing the wrong thing, stand up and just say, "We were wrong, and we're going to make it right." That is so basic and what we believe as Americans. It just is so fundamental. And there truly is a cause.

Mr. Chairman, I yield back.

Chairman Roskam. Thank you, Mr. Kelly.

I want to thank the panel for your testimony today. I want to thank our witnesses for your journey and your willingness. As I said before, you really do exemplify and reflect some things that are very, very powerful. And you evoke a very strong feeling in all of us, and we are trying to sort out how it is that we get to the right place.

I want to thank my members on this committee, who have really risen to an occasion to try and do a right thing.

Let me just close by asking a couple of questions.

Mr. Blanco, I am trying to size you up, and I can't quite figure it out, which is maybe, you know, part of one of your gifts, but you are fairly sphinx-like. I can't figure out if you are playing straight with me or if you are hustling me. And I will continue to be mystified by it, and part of it is some of your answers.

But here is a question that you can answer as it relates to the allegations of misconduct. Mr. Lewis and I wrote to the Department in March of 2015. We brought these questions to the attention of the Attorney General. We made representations that were really echoed by a number of other members today.

And way down deep, you know this stuff is wrong, but you can't -- you know, you have to put your game face on, and I get that. But here is a question that you can answer. Have these cases that we have brought to your attention, have they been reviewed? The attorney misconduct cases, have they been reviewed?

Mr. Blanco. Let me say two things.

Yes. One is that we have our review process, which is an independent part of the Department of Justice, our OPR section, Office of Professional Responsibility. I know via letter that you have been informed that at least one of those cases that you spoke about, maybe two -- I am not certain, and I don't want to say that they all have or they haven't been referred to OPR for review.

I can tell you this -- and you are going to size me up, which is great. I can tell you that every allegation of misconduct by any employee of the Department of Justice is taken very seriously.

Chairman Roskam. Okay. That is not my question.

Mr. Blanco. And I can tell you that OPR is going to do their review of cases that you have referred to Department of Justice.

Chairman Roskam. Okay. That is why I can't figure you out. Because I have given you a complete opportunity to say, "Congressman Roskam, I've got good news for you. Every

allegation, everything that you've brought to the attention with Mr. Lewis has been reviewed and disposed of and we have dealt with it." And you can't give me a straight answer on that.

Mr. Blanco. I will tell you this. I can get back to you on those answers. I just don't want to give you the information that is inaccurate.

Chairman Roskam. All right. That is fair.

Mr. Blanco. And I am happy to do that.

Chairman Roskam. Can we have the answer by the end of the week?

Mr. Blanco. You can have it probably by the end of the day.

Chairman Roskam. Fantastic. Thank you. That is helpful, and I appreciate that.

So this is a question now, just more broadly. You have heard that the Sowers' are pending for 10 months. And, listen, there is not a person here that is going to -- if you are asked to describe the Sowers' case -- and you don't have to acknowledge this, but I just know intuitively. If you are describing the Sowers' case in other circumstances and the Taylors' case in other circumstances, you are going to be pretty sympathetic to it, upon the telling of this case.

And so the question then is, if you are sympathetic to it -- and I think you are, and you want this to go away -- it doesn't make any sense to me that this should take 10 months, that they should just be hanging out there for 10 months.

So is there a date certain or can you make a representation to this subcommittee about when you can have these cases, not the process but the individual cases, reviewed so that they can be disposed of?

Mr. Blanco?

Mr. Blanco. You want a specific date? I can't give you a specific date.

Chairman Roskam. Give me a frame of reference. Give me a season of the year. Give me an epoch. You know, give me a -- you know what I am saying.

Mr. Blanco. I do know what --

Mr. Rangel. Mr. Chairman, would you yield?

Chairman Roskam. I will yield.

Mr. Rangel. I am trying to be a friend, but maybe if they can't --

Chairman Roskam. Turn your mike on.

Mr. Rangel. If they can't give us any idea how long it would take to repair this emergency situation -- which stains the government, it stains the executive branch, and it stains us -- maybe we should set a date for our next hearing. I hope they don't want that. But we can have a press conference and let the whole world know that we are having a hearing over 600 taxpayers. I don't know how many taxpayers we have, but that is an infinitesimal number for the integrity of the Service.

So I just say that I hope they can come up with some answer, but I will be encouraging the chair to help them thinking -- if they can't come up with an answer, "I don't know," we can tell them when they come back to tell us again they just don't know.

Chairman Roskam. Mr. Blanco, what can you tell us about how long this will take?

Mr. Blanco. I can tell you that we are looking at those matters that have been referred to us. We have, as I mentioned, a process. We are working as expeditiously as possible. Nobody wants to give an answer as quickly as I do, and we are trying to work there as quickly as we can.

One thing I will say, Congressman -- and I feel very deeply about this -- you know, justice should not be rushed. It is a very thorough process. It is a process that I think is a fair process and a just process. And, at the end of the day, we will use those factors, we will follow the facts where they take us, and we will make a decision.

Chairman Roskam. Okay, that is just not good enough. Do you understand that? So let me just -- because you are not going to give me an answer today. What I am communicating to you, on behalf of this whole subcommittee: That is not good enough. It is obtuse, it is evasive, it is condescending -- not to us, but it is condescending to these people.

And can I just tell you that when we had the briefing with DOJ and the IRS in February in this room, when I asked where was the money, for example, for the people to whom everybody agrees the money should be restored, by the way, I was told, "Well, Congressman, the money has been dissipated into the system." I said, "Dissipated into the system? What does that mean?" Because if my constituents spend tax money that they owe the government, what does the government do? The government takes their house and puts them in prison. That is what happens.

So do you understand the level of frustration? Sort of these non-answers, obtuse briefings, the passive-aggressive nature about trying to get information from your staff. We are basically stiff-armed. You tell the chairman, you tell the ranking member, you tell basically the entire subcommittee, "We're not that interested in what you have to say." You pat us on the heads. You say, "Off with you. Be lively. We're going to do our business."

And now what you have done is you have brought a subcommittee together that can't agree about what time of day it is. We can't agree on the Affordable Care Act. We cannot agree on the Iran sanctions deal. We cannot agree on tort reform and tax reform and entitlement reform. But we are all together in thinking you are the problem and they are the good guys and that you are not bringing your game.

The same sense of urgency -- Mr. Rangel said it best. If this were our kids or our grandkids, if this was one of your kids or my kids, we would be scandalized, we would be outraged, and this wouldn't happen.

And so the capacity to treat people in the dismissive way in which the departments have treated them is the part that all of us really find just jarring, actually, just really, really jarring.

And so it is very unsatisfying, the nature of where this stands. The Internal Revenue Service made a decision to change this policy, and we as a group said that is a good thing. Now, it only goes to show that the review process

needs to be reevaluated, but not just the process, not just that feeling of, "Oh, we've got really sharp people working on this, Congressman Roskam, we've got our A team all over this," because the A team is not all over this. It has clearly been completely dismissed. It is off to the sidelines.

And, sort of, the subtext or the notion that everybody is going to lawyer up and come running? You wouldn't come running back in if you got your head kicked in by a Federal agency that is stomping all over your property and giving you a hard time and threatening criminal prosecution. It is scandalous, it is outrageous, and yet the remedy of this is, "Make it go away."

Do the right thing. Do the right thing according to the Rangel standard. Go through case by case by case. Don't be passive-aggressive and jerking the guys around who are told this is a commercial enterprise. This is not a commercial enterprise, their FOIA request. It is a group that is trying to bring justice. They are not making any money. They are a 501(c)-something, and they deserve this information. And, as I said, we are going to get to this information.

So why don't we do the right thing? And that is restore the confidence in these people, where they go, "You know what? Yeah, it was a bummer. We really got jerked around by the Federal Government. But we were able to bring attention to things, and things were made right."

And your disposition, in particular, as it relates to the DOJ, is just completely unsatisfying. And so I find it simply amazing that the simple response of, "Hey, we're reviewing every case, here's the date certain when they will be reviewed, and we're going to give you an answer, and we're going to get this disposed of and get it off our backs" -- just let's be done with this. But the simple remedy is let's do it and let's do it with dispatch.

So, again, I want to thank the members for their participation today.

To the Taylors and to the Sowers, we are sticking with you. And you reflect a larger group. And we are going to do our best to make sure that a coequal branch of government is held to account, what we think is an abuse.

And, with that, the committee is adjourned.

[Whereupon, at 12:53 p.m., the subcommittee was adjourned.]

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