



Written by [Bob Adelman](#) on June 19, 2014

## Lois Lerner's E-mails: Gone Forever?

Earlier this week Darrell Issa, Chairman of the House Oversight and Government Reform Committee, [subpoenaed](#) the hard drive from Lois Lerner's computer that allegedly crashed — along with those of six other IRS personnel — in August 2011. He wanted everything, including “all hard drives, external drives, thumb drives and computers” plus “all [other] electronic communications devices the IRS issued to Lois G. Lerner.”



When asked about the matter, an IRS “spokesman” told Politico:

We believe the standard IRS protocol was followed in 2011 for disposing of the broken hard drive. A bad hard drive, like other broken Information Technology equipment, is sent to a recycler as part of our regular process.

That led to cries of frustration and outrage which will no doubt be visited on John Koskinen, the current IRS commissioner, who will be quizzed closely about the matter at a hearing on Friday morning. Lawmakers were particularly annoyed when they were told that the crash allegedly occurred back in August 2011 but they weren't told about it until just this week.

What Issa and his committee are hoping to find is the “smoking gun” — the hard evidence that Lerner was acting under direct orders from the White House deliberately to delay and frustrate efforts of various conservative groups seeking to obtain tax-exempt status following the Supreme Court ruling in *Citizens United*. Although thousands of e-mails have already been retrieved, those from 2009 through the summer of 2011 are especially relevant to Issa's investigation.

In March, 2010, following the court's decision which declared that laws prohibiting “electioneering communications” by non-profit groups were unconstitutional under the First Amendment, the IRS began scrutinizing much more closely those groups applying for tax-exempt status with certain words in their names — names such as “Tea Party” and “Patriots” and “912 Project” and others.

Between April 2010 and April 2012 the IRS essentially put those applications, estimated at more than 300, on hold. During that “hold” period, however, many of those groups were asked for further information that Rep. Bill Flores (R-Texas) called “overreaching and impossible to comply with.”

Following the report on the matter by the Treasury inspector general in May 2013 that confirmed that the IRS had used “inappropriate criteria” to identify and harass these groups, Lerner appeared before Issa's committee. She claimed that the “Be On the Lookout For” guidelines had been issued by lower-level “front line” people in the Cincinnati IRS office and added:

I have not broken any laws. I have not violated any IRS rules or regulations. And I have not provided false information to this or any other congressional committee.

Lerner then invoked her privilege against self-incrimination under the Fifth Amendment, and refused to testify further. The House voted her to be in contempt of Congress in May 2014 and the investigation



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into her involvement in targeting those groups continues.

The public reaction to the disclosures was massive, crossing party lines and seeping into commentary by Rachel Maddow (such scrutiny is “not fair”), Comedy Central’s Jon Stewart (it vindicated “conspiracy theorists”) and Tom Brokaw (“It’s time for action”). However, the comment from *ABC News* host Terry Moran was most telling: “[This is] a truly Nixonian abuse of power by the Obama administration.”

Lerner just happens to be a past president of an outfit called, ironically, the Council on Governmental Ethics and Laws (COGEL), which, also ironically, traces its origins to a December 1974 conference on governmental ethics following the Watergate scandal which it held, appropriately, at the Watergate Hotel in Washington, D.C.

The parallels between Lerner and the key player in the Watergate scandal, Rose Mary Woods, are uncanny. In a grand jury investigation, Woods, President Nixon’s personal private secretary, testified that she had made a terrible mistake in erasing some parts of a tape recording of a conversation between Nixon and one of his aides about the Watergate break-in. She demonstrated just how the “accident” happened by stretching to reach the controls of the tape machine while typing and pressing her foot to the machine’s operating mechanism. This came to be known as the “Rose Mary Stretch” and was met with skeptics who thought the erasures of the potentially damning evidence were deliberate.

History may record a similar “stretch,” perhaps calling the computer crash the “Lerner stretch,” when it is finally determined what happened not only to the hard drive in question but, more particularly, the information contained in the e-mails stored on it. Lerner isn’t likely to get off as easily as Woods, as the information on the 18-minute “gap” in 1972 was never recovered.

Herculean efforts were made by *Washington Post* writer Philip Bump to explain that the potentially damning information is probably gone forever:

The bad news: In 2011, Lerner’s computer crashed. She requested that the IRS’ information technology division try and recover the data from her hard drive. It was unable to do so, and it appears that individual machines like hers weren’t backed up....

The whole set, it seems, is gone.

This simply isn’t so, however, according to Nancy Flynn, executive director of ePolicy Institute. Her company helps businesses establish e-mail protocols and safety measures, and she said that even if Lerner’s hard drive has been obliterated and turned into corned beef hash, those potentially damaging e-mails are still out there on offsite e-mail servers, in separate files kept by other IRS employees, or by the recipients of her e-mails.

John Hinderaker, a fellow at Claremont Institute, agrees:

The Obama administration’s claim that the IRS has “lost” two years of Lois Lerner’s emails is implausible to anyone who understands how email systems work. The Obama administration is lying.

This was confirmed for this writer in a personal conversation with his own computer manager who told him that there is an entire industry dedicated to data retrieval and that every e-mail sent hits at least two or more offsite computer servers. He told of an example where his own company suffered a power surge causing its main computer to crash, wiping out the master boot program and erasing the data on the disk which had encrypted files on it. After he spent \$4,000 with a local data retrieval company, all the data on the hard drive had been retrieved. He also added: “The chances of six computers at the IRS



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office crashing at the same time are astronomically small.”

At the moment two things are certain: On Friday the IRS commissioner is going to be grilled by skeptics over the “convenient” loss of Lerner’s e-mails at the very time the agency was targeting conservative groups, and those missing and potentially damaging files are out there somewhere. As Carl Cannon noted at Real Clear Politics, “nothing digital ever dies.”

*Photo of Lois Lerner: AP Images*

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