



Written by [Raven Clabough](#) on March 5, 2014

Tensions Flare During House Hearing as Former IRS Official Pleads Fifth

Former IRS official Lois Lerner once again rested on her Fifth Amendment right not to testify on her role in the IRS scandal during a house hearing on Wednesday. The hearing quickly lapsed into a heated dispute between top Democratic Rep. Elijah Cummings and top Republican Rep. Darrell Issa. The incident is just the latest in the long saga of the investigation into the IRS scandal, wherein the IRS targeted conservative groups.



The IRS scandal involves the Tax Exempt and Government Entities Division of the IRS openly targeting Tea Party and other conservative groups that applied for tax-exempt 501(c)(4) “social welfare” organization status between 2010 and 2012. Those groups faced additional audits and scrutiny by the agency. The audits cost the organizations tens of thousands of dollars and thousands of employee hours, and ultimately delayed the groups from receiving tax-exempt status.

Lois Lerner has been at the center of much of the investigation. According to *National Review*, Lerner exchanged e-mails with an attorney at the Federal Election Commission’s general counsel on two separate occasions wherein Lerner influenced the agency before the FEC’s vote in the case of a conservative non-profit organization:

The correspondence suggests the discrimination of conservative groups extended beyond the IRS and into the FEC, where an attorney from the agency’s enforcement division in at least one case sought and received tax information about the status of a conservative group, the American Future Fund, before recommending that the commission prosecute it for violations of campaign-finance law.

Likewise, further investigation into the scandal by the House Ways and Means Committee revealed that the Obama administration’s Treasury Department and Lerner conspired to create new 501(c)(4) regulations to restrict the activity of conservative groups.

The online Daily Caller reported, “The Treasury Department and Lerner started devising the new rules ‘off-plan,’ meaning that their plans would not be published on the public schedule. They planned the new rules in 2012, while the IRS targeting of conservative groups was in full swing, and not after the scandal broke in order to clarify regulations as the administration has suggested.”

The proposed rules would impose stricter standards on what qualifies as political activity, which would ultimately limit the practices of a number of non-profit groups.

“Don’t know who in your organizations is keeping tabs on c4s, but since we mentioned potentially addressing them (off-plan) in 2013, I’ve got my radar up and this seemed interesting,” Treasury official Ruth Madrigal wrote in a June 14, 2012 e-mail to Lerner and others obtained by Ways and Means and provided to the Daily Caller.



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The new rules would prohibit activities that were once acceptable for nonprofit groups and redefine them as “candidate-related political activity.” Some of the activities now classified as such include voter registration drives and publishing voter guides.

Lerner has failed to answer for her actions at the IRS, invoking her Fifth Amendment right to remain silent on the subject. Last year, she refused to answer questions on the matter, but Republicans argued that she waived that right by giving a statement during the last hearing, and therefore called her back to appear before the House Oversight and Government Reform Committee on Wednesday.

It seems, however, Lerner didn’t see it that way and once again called upon her Fifth Amendment rights on Wednesday. “On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question,” she said in response to several questions.

Prior to Lerner’s appearance, Issa and Lerner’s attorneys debated whether Lerner is still protected from having to testify under the Fifth Amendment. Issa contends that Lerner’s testimony is critical to the investigation. “Ms. Lerner is uniquely positioned to provide testimony that will help the committee better understand how and why the IRS targeted conservative groups,” he said.

Both Issa and House Speaker John Boehner have publicly entertained the notion of holding Lerner in contempt if she continues to stay quiet. Last month, Lerner’s attorney, William Taylor, made public a letter he wrote in which he told the committee that Lerner would testify only if she is compelled to do so by a federal court, or if she is given immunity for her testimony.

After Lerner asserted her Fifth Amendment rights, a heated clash between Rep. Elijah Cummings (D-Md.) and Chairman Darrell Issa (R-Calif.) ensued. Issa tried to adjourn the hearing, but Cummings insisted upon asking a “procedural question.”

“Mr. Chairman, you cannot run a committee like this,” Cummings said.

According to Fox News, Cummings’ microphone was then turned off, and then flipped back on again. Issa sat down for a moment but then quickly told Lerner she was “released,” concluding, “We’re adjourned; close it down.”

Cummings reportedly continued to shout, with his microphone turned off, and complained about the Republicans’ “one-sided investigation.”

“I am a member of the Congress of the United States. I am tired of this,” he shouted.

As noted by Fox News, the argument “bared long-running tensions between the Democratic and GOP members of the committee over the IRS probe.”

Earlier this year, Rep. Issa criticized the Justice Department for its “sham” investigation into the IRS scandal involving the IRS’ targeting of conservative groups. Democrats pointed to the Justice Department’s findings in the investigation as evidence that they should not pursue charges against the IRS after the DOJ’s investigation allegedly found no evidence. Republicans, however, contested the findings, stating that the investigation had been nothing more than a façade.

Rep. Issa expressed a lack of confidence in the investigation in a letter sent to Attorney General Eric Holder that voiced concerns over Barbara Bosserman, the DOJ trial attorney who is leading the investigation. According to Issa, Bosserman “has donated at least \$6,750” to the Democratic National Committee and to Obama’s election campaign. Issa claims “politically motivated” leaks further discredit the FBI investigation into the scandal.



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“Anonymous — and apparently politically motivated — leaks from unnamed law enforcement officials further undermine the public assurances by the current and former FBI directors that this is a legitimate investigation. These leaks come after the Justice Department, citing the confidential nature of the investigation, refused to brief Congress on its progress and congressional investigators independently discovered that a high dollar contributor to the Obama Administration failed to recuse herself,” Issa wrote in the letter. “These revelations further undermine the credibility of the Attorney General Holder and the Justice Department under his leadership. Given the circumstances, there is little reason for the American people to have confidence in this investigation,” Issa wrote.

The FBI investigators have spent more than half a year investigating the scandal without contacting any of the 41 conservative groups that were victimized by the IRS actions.

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