

**The Criminal Investigation Function
Substantially Accomplished Organizational
Stand-Up**

June 2001

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This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

June 7, 2001

MEMORANDUM FOR CHIEF, CRIMINAL INVESTIGATION

Pamela J. Gardiner

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - The Criminal Investigation Function
Substantially Accomplished Organizational Stand-Up

This report presents the results of our review of the Criminal Investigation (CI) function's stand-up activities. The objective of the review was to determine whether the CI function's stand-up process was effectively completed.

In summary, we found that the CI function was successful in substantially completing the minimum requirements for operation when it stood up on July 2, 2000. However, we found some areas that require additional actions to ensure the overall accomplishment of the CI mission. For example, to accomplish its modernization efforts, the CI function prepared new delegation orders but needs to provide additional oversight to ensure consistent treatment of referrals to the Department of Justice (DOJ). In addition, continuing managerial attention is needed to resolve staffing and office space needs.

In its comments on a draft of this report, CI management disagreed with our recommendation that additional oversight is needed to ensure consistent treatment of referrals to the DOJ. CI management believes that the reviews conducted by the DOJ Tax Division and the IRS' Criminal Tax Counsel, Centralized Case Review, Review and Program Evaluation, and Directors of Field Operations are adequate to identify potential inconsistent treatment of taxpayers. However, we believe some of these reviews are technical in nature and will not readily identify any geographical trends of inconsistent treatment of taxpayers. Also, the reviews may not include investigations that are not forwarded by the Special Agents-in-Charge. CI management agreed with our recommendation to develop a Memorandum of Understanding with the Agency Wide Shared Services to address the resolution of support staffing and space needs. Management's comments have been incorporated in the report where appropriate, and the full text of their comments is included as an appendix.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions, or Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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The Criminal Investigation Function Substantially Accomplished Organizational Stand-Up

Executive Summary

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)¹ directed that the IRS modernize to improve operations and to better serve its customers. In early 1998, the IRS Commissioner had outlined a program to modernize the IRS, offering more efficient work processes and better service to American taxpayers. The Criminal Investigation (CI) function began to work on its preliminary modernization design in April 1999, after the conclusion of a comprehensive review led by Judge William H. Webster.² The challenge for the CI function was to design a new organization that included recommendations from the Webster Report while ensuring that the redesigned CI function would fit into the new vision of the IRS.

The IRS organization design plan included a process called “standing up,” which means the new function has met the minimum requirements for operation. These requirements include filling key management positions, completing actions to realign positions, establishing a finance office and a separate budget, ensuring necessary business authorities are in place, and ensuring workarounds³ are functional.

Our overall objective was to determine whether the CI function’s stand-up process was effectively completed.

Results

The CI function was successful in substantially completing the minimum requirements for operation when it stood up on July 2, 2000. Specifically, the Chief, CI, and most key managers were in place, employees were realigned to the new organization, the finance and budget office was in place, delegations of authority were prepared, and workarounds were developed. Although the CI function substantially stood up as a new organization, some areas require additional actions to ensure the overall accomplishment of the CI mission. For example, to accomplish its modernization efforts, the CI function prepared new delegation orders but needs to provide additional oversight to ensure consistent treatment of referrals to the Department of Justice (DOJ). In addition, continuing

¹ Pub. L. No. 105-206, 112 Stat. 685.

² *Review of the Internal Revenue Service’s Criminal Investigation Division* (dated April 9, 1999) is commonly known as the Webster Report.

³ A workaround is a temporary solution to a problem that allows a new organization to be operational until a final solution can be developed and implemented.

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managerial attention is needed to resolve staffing and office space issues in order for the CI function to meet its modernization vision.

Additional Oversight Is Needed to Ensure the Consistent Treatment of Referrals to the Department of Justice

To meet the minimum requirements for standing up as a new organization, the CI function completed several new delegation authorities. One of the major new changes to the CI function policies involves the Special Agents-in-Charge (SAC) having the authority to refer non-sensitive investigations to the DOJ. The CI function has not established a process to ensure SACs are consistent when referring cases to the DOJ. Without a national process to monitor prosecution referrals, the CI function cannot be assured that the various SACs are consistently referring cases to the DOJ. This could place the CI function at risk of inconsistent treatment of taxpayers.

Continual Managerial Attention to Resolve Staffing and Office Space Issues Is Needed to Ensure the Criminal Investigation Function's New Mission Is Attained

The CI function's staffing and space needs have not been adequately addressed and timely resolved. This condition exists because the CI function did not develop a Memorandum of Understanding (MOU) with the Agency-Wide Shared Services (AWSS) function. Without increased managerial oversight and an effective MOU with the AWSS function, the CI function cannot be assured that staffing needs and space requirements are timely resolved, thereby jeopardizing the CI function's ability to fulfill its modernization vision.

Summary of Recommendations

The Chief, CI, should establish a process requiring more frequent reviews of investigations to ensure consistent treatment of taxpayers. Also, the Chief, CI, should develop an MOU with the AWSS function that appropriately addresses the resolution of staffing and space needs. The MOU should also be properly monitored to ensure quality customer service.

Management's Response: CI management disagreed with our recommendation that a process should be established requiring more frequent reviews of investigations to ensure consistent treatment of taxpayers. CI management believes that the reviews conducted by the DOJ Tax Division and the IRS' Criminal Tax Counsel, Centralized Case Review, Review and Program Evaluation (RPE), and Directors of Field Operations (DFO) are adequate to identify potential inconsistent treatment of taxpayers.

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CI management agreed with our recommendation to develop an MOU with the AWSS to appropriately address the resolution of support staffing levels and space needs. The AWSS has an action plan and is taking the lead on obtaining MOUs with all of the business units to cover support staffing and space requirements. CI management will work with the AWSS to ensure the CI MOU is implemented according to the AWSS' action plan.

Management's complete response to the draft report is included in Appendix IV.

Office of Audit Comment: We do not concur with the CI function's conclusion that the reviews conducted by the DOJ and Centralized Case Review will be adequate to identify inconsistent treatment of taxpayers between geographical areas. The reviews are technical in nature and will not identify any geographical trends of inconsistent treatment of taxpayers. Also, these reviews may not include investigations that are not forwarded by the SACs for prosecution.

The CI function also mentioned that the RPE reviews began in February 2001. These reviews are conducted every 3 years; therefore, we do not believe they will be performed often enough to timely identify potential inconsistent treatment of taxpayers. As an alternative, we believe the CI function can address any potential inconsistencies by ensuring the issue is addressed in the scope of the DFO's reviews and the results shared among the DFO.

The Criminal Investigation Function Substantially Accomplished Organizational Stand-Up

Objective and Scope

The overall objective was to determine whether the CI function's stand-up process was effectively completed.

The overall objective of this review was to determine whether the Criminal Investigation (CI) function's stand-up process was effectively completed. The stand-up process is defined as the establishment of a new organization with at least the minimum requirements for operation. These requirements include filling key management positions, completing actions to realign positions, establishing a finance office and separate budgets, ensuring necessary business authorities are in place, and ensuring workarounds¹ are functional.

The Internal Revenue Service (IRS) modernization includes a multi-year time schedule to accomplish full implementation. The Treasury Inspector General for Tax Administration identified the modernization of the IRS as one of the major challenges facing the IRS. Our review of the CI function's stand-up process was part of our Fiscal Year 2001 audit program coverage.

We evaluated various modernization design and implementation documents and held interviews with National Headquarters executives and officials in the CI function. We also interviewed the Directors of Field Operations and representatives of the Management Support Program Management Team, Strategic Human Resources, and the Commissioner's Complaint Processing and Analysis Group.

The audit was performed primarily in the National Headquarters between September 2000 and February 2001, in accordance with *Government Auditing Standards*. Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

¹ A workaround is a temporary solution to a problem that allows a new organization to be operational until a final solution can be developed and implemented.

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Background

The United States Congress passed the RRA 98, mandating that the IRS modernize to improve operations and to better serve its customers.

The United States Congress passed the IRS Restructuring and Reform Act of 1998 (RRA 98),² mandating that the IRS modernize to improve operations and to better serve its customers. In early 1998, the IRS Commissioner had outlined a program to modernize the IRS, offering more efficient work processes and better service to America's taxpayers.

The IRS is reorganizing into four operating divisions that will focus on serving specific taxpayer groups with similar needs. The IRS will also be comprised of a number of other functions and organizations essential to support its overall mission. The CI function is one of these essential organizations. The divisions, functions, and organizations were designed and will be implemented in a phased-in approach that will take 2 to 3 years. The last phase of modernization is the implementation of the new organization. Stand-up of the new organization takes place in this phase. However, stand-up is not the end product of creating a new organizational unit. Additional efforts are required to accomplish the transfer of functions and resources into the new organization.

The CI function's mission is to serve the American public by investigating potential criminal violations of the Internal Revenue Code in a manner that fosters confidence in the tax system and compliance with the law.

The CI function's mission is to serve the American public by investigating potential criminal violations of the Internal Revenue Code in a manner that fosters confidence in the tax system and compliance with the law. The goal of modernization is to equip the CI function with the necessary tools to deliver its mission.

² Pub. L. No. 105-206, 112 Stat. 685.

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The challenge for the CI function design teams was to deliver a new organization that included recommendations in the Webster Report while ensuring that the redesigned CI function would fit into the new vision of the IRS.

The CI function began its preliminary design phase in April 1999, after the conclusion of a comprehensive review led by Judge William H. Webster.³ The challenge for the CI function design teams was to deliver a new organization that included recommendations in the Webster Report while ensuring that the redesigned CI function would fit into the new vision of the IRS. In the modernized IRS, the Chief, CI, reports directly to the IRS Commissioner.

Results

The CI function substantially accomplished organizational stand-up on July 2, 2000.

Overall, the CI function substantially accomplished organizational stand-up on July 2, 2000, by completing the requirements of the IRS definition for standing up a new organization. Specifically:

- The Chief, CI, and most key managers were in place.
- Employees were realigned.
- The finance and budget office was in place.
- Delegations of authority were prepared.
- Workarounds were developed.

Although the CI function substantially accomplished the IRS definition for standing up a new organization, some areas require additional actions to ensure the overall accomplishment of the CI modernization efforts.

Although the CI function substantially accomplished the IRS definition for standing up a new organization, some areas require additional actions to ensure the overall accomplishment of the CI modernization efforts. For example, even though the CI function prepared new delegation orders, additional actions are needed to monitor the referrals of cases to the Department of Justice (DOJ) by Special Agents-in-Charge (SAC). Also, continuing managerial attention is needed to resolve staffing and office space needs.

³ *Review of the Internal Revenue Service's Criminal Investigation Division* (dated April 9, 1999) is commonly known as the Webster Report.

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Additional Oversight Is Needed to Ensure the Consistent Treatment of Referrals to the Department of Justice

Without a national process to monitor prosecution referrals, the CI function can not be assured that the various SACs are consistently referring cases to the DOJ.

To meet the minimum requirements for standing up as a new organization, the CI function completed several new delegation authorities. One of the major new changes to the CI function policies involves the SACs having the authority to refer non-sensitive investigations to the DOJ. However, the CI function has not established a process to ensure SACs are consistent when referring cases to the DOJ. Without a national process to monitor prosecution referrals, the CI function cannot be assured that the various SACs are consistently referring cases to the DOJ. This could place the CI function at risk of inconsistent treatment of taxpayers.

On July 17, 2000, the authority to refer all criminal matters involving non-sensitive investigations to the DOJ was delegated to the SACs. Also, referral of all criminal matters involving sensitive investigations was delegated to the SACs with the written concurrence of their Directors of Field Operations (DFO).⁴

Currently, the IRS Criminal Tax Counsel reviews and provides an independent legal assessment and prepares a criminal evaluation memorandum for each Special Agent Report relating to an investigation for which the CI function has referral authority. The Criminal Tax Counsel is involved early in the investigation and maintains an ongoing partnership with the Special Agent, Supervisory Special Agent, and SAC throughout the investigation. The Centralized Case Review function reviews all of the CI function prosecution recommendations. However, these reviews are designed to ensure only evidentiary requirements are met.

⁴ DFOs are responsible for the daily operation of the SAC offices under their jurisdiction.

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In addition to the Criminal Tax Counsel and Centralized Case Reviews, the CI function has plans to perform Review and Program Evaluation (RPE) reviews every 3 years. Also, the DFOs will be required to perform a follow-up review 6 months after the RPE review. However, since the Criminal Tax Counsel reviews are focused on individual investigations and the RPE reviews are performed infrequently, the potential for inconsistent treatment of taxpayers exists among taxpayers located in different geographic areas.⁵ In our opinion, these reviews should be performed more frequently to give the CI function the assurance that taxpayers in the various geographic areas are treated consistently.

Recommendation

1. The Chief, CI, should establish a process requiring more frequent program evaluation reviews of investigations to ensure the SACs are consistently referring cases to the DOJ.

Management's Response: Management disagreed with this recommendation. CI management believes that the DOJ Tax Division's review of prosecution recommendations, the involvement of Criminal Tax Counsel and Centralized Case Reviews, and RPE and DFO reviews are adequate to identify potential inconsistent treatment of taxpayers.

Office of Audit Comment: We do not concur with the CI function's conclusion that the DOJ and Centralized Case Review will be adequate to identify inconsistent treatment of taxpayers between geographical areas. These reviews are technical in nature and will not identify any geographical trends of inconsistent treatment of taxpayers. Also, these reviews may not include investigations that are not forwarded by the SACs for prosecution.

⁵ The 35 SACs are divided among the 6 Area Offices. Each Area Office is responsible for a specific area in the country.

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The CI function also mentioned that the RPE reviews began in February 2001. These reviews are conducted every 3 years; therefore, we do not believe these reviews are often enough to timely identify any potential inconsistent treatment of taxpayers. As an alternative, we believe the CI function can address any potential inconsistencies by ensuring the issue is addressed in the scope of the DFOs' reviews and the results shared among the DFO.

Continuing Managerial Attention to Resolve Staffing and Office Space Issues Is Needed to Ensure the Criminal Investigation Function's New Mission Is Attained

The CI function's staffing and space needs have not been adequately addressed and timely resolved.

The CI function's staffing and space needs have not been adequately addressed and timely resolved. This condition exists because the CI function did not pursue a Memorandum of Understanding (MOU) with the Agency-Wide Shared Services (AWSS) function to ensure that staffing and space needs would be timely provided. Without continual managerial oversight and an effective MOU with the AWSS function, the CI function cannot be assured that staffing needs and space requirements are timely resolved, thereby jeopardizing the CI function's ability to fulfill its modernization mission.

The CI function has taken steps to resolve some of its staffing issues. It has hired 17 temporary employees to assist in processing personnel actions for the 10 Fraud Detection Centers (FDC). These employees were responsible for assisting in processing the 393 transition employees⁶ to permanent FDC positions. As a result, the CI human resources unit was flooded with FDC support work. CI management expects that backlogs

⁶ A transition employee is an employee being placed from an existing organization position to a position in the new restructured organization.

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Acquiring office space continues to be a problem for the CI function. Many of the CI function employees are temporarily located in different buildings.

and delays will subside as implementation of the new CI function is completed and normal hiring activities return. However, without sufficient support from the AWSS function, the CI function will be unable to timely address critical staffing needs.

Acquiring office space continues to be a problem for the CI function. Many of the CI function employees are temporarily located in different buildings. Availability of space for the Lead Development Centers (LDC) may soon become an issue as they are ready for implementation. Additionally, workaround space for some new SACs and DFO offices is also considered poor or inadequate for conducting business.

The CI function has taken steps to address its space concerns. For example, two CI officials were monitoring space requirements and working closely with IRS Facilities Operations to minimize space problems. The two CI officials have now been reassigned to other positions. Also, in October 2000 the Chief, CI, appointed a modernization executive responsible for overseeing modernization issues. Although these actions have been taken, it is critical for CI management to continue their efforts to address space concerns.

The AWSS function has developed a model MOU for Fiscal Year 2001 that describes the types of services it will provide and the measures that can be used to monitor the delivery of these services. For example, it defines timeliness and customer (business unit/organization) satisfaction as measures for personnel services related to recruitment and hiring and as measures for facilities services related to space acquisition, alteration or realignment of space, movement of furniture, and coordination with the Information Systems Division. Nonetheless, the CI function has not developed an MOU with the appropriate AWSS function to address staffing and space needs.

The Space Governance Board allocates modernization funds for all the business unit space needs. The Chief, CI, is on the board and has assigned an employee to act

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as a liaison to the board. Space readiness may become a bigger concern since space redesign projects are backlogged and there is a shortage of funds, estimated at \$2.2 million, for the LDC build-outs.

Recommendation

2. The Chief, CI, should develop an MOU with the AWSS function that appropriately addresses the resolution of staffing and space needs. The MOU should be properly monitored to ensure quality customer service.

Management's Response: CI management agreed with the recommendation. Currently, the AWSS has an action plan and is taking the lead on obtaining MOUs with all of the business units to cover support staffing and space requirements. CI management will work with the AWSS to ensure the CI MOU is implemented according to the AWSS' action plan.

Conclusion

The CI function substantially accomplished organizational stand-up on July 2, 2000. Although the CI function substantially stood up as a new organization, some areas require additional actions to ensure the overall accomplishment of the CI modernization vision. The CI function needs to provide additional oversight to ensure consistent treatment of referrals to the DOJ. Also, continuing managerial attention is needed to resolve staffing and office space concerns.

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the Criminal Investigation (CI) function's stand-up process was effectively completed. We evaluated whether the CI function effectively and timely completed all critical stand-up milestones and developed workarounds¹ for those milestones not completed by the stand-up date. We also addressed milestones critical for operations and administrative issues necessary to support the delivery of these milestones. To accomplish our objective, we:

- I. Ascertained if the Chief, CI, was in place and key management positions were filled.
 - A. Identified the related milestones and reviewed related documentation to determine whether the milestones were effectively completed.
 - B. Reviewed bi-weekly status reports and other pertinent documentation to evaluate the timeliness of the implementation of the milestones and the resolution of problems encountered during the implementation.
 - C. Interviewed selected Internal Revenue Service (IRS) and the CI function executives and personnel to solicit feedback on the delivery of milestones and problems encountered with the implementation of milestones.
 - D. Identified applicable workarounds and evaluated the status of workarounds to determine whether milestones were being monitored to provide for final solutions.
- II. Evaluated whether most personnel actions had been completed to non-competitively and competitively realign employees to the new organization.
 - A. Identified the related milestones and reviewed related documentation to determine whether the milestones were effectively completed.
 - B. Reviewed bi-weekly status reports and other pertinent documentation to evaluate the timeliness of the implementation of the milestones and the resolution of problems encountered during the implementation.
 - C. Interviewed selected IRS and the CI function executives and personnel to solicit feedback on the delivery of milestones and problems encountered with the implementation of milestones.

¹ A workaround is a temporary solution to a problem that allows a new organization to be operational until a final solution can be developed and implemented.

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- D. Identified applicable workarounds and evaluated the status of workarounds to determine whether milestones were being monitored to provide for final solutions.
- III. Ascertained if the budget for the new organization had been created and financial management responsibilities had been transferred to the Chief, CI.
 - A. Identified the related milestones and reviewed related documentation to determine whether milestones were effectively completed.
 - B. Reviewed bi-weekly status reports and other pertinent documentation to evaluate the timeliness of the implementation of the milestones and the resolution of problems encountered during the implementation.
 - C. Interviewed selected IRS and the CI function executives and personnel to solicit feedback on the delivery of milestones and problems encountered with the implementation of milestones.
 - D. Identified applicable workarounds and evaluated the status of workarounds to determine whether milestones were being monitored to provide for final solutions.
- IV. Evaluated whether the new CI function had delegated authority to fulfill its mission.
 - A. Identified the related milestones and reviewed related documentation to determine whether milestones were effectively completed.
 - B. Reviewed bi-weekly status reports and other pertinent documentation to evaluate the timeliness of the implementation of the milestones and the resolution of problems encountered during the implementation.
 - C. Interviewed selected IRS and the CI function executives and personnel to solicit feedback on the delivery of milestones and problems encountered with the implementation of milestones.
 - D. Identified applicable workarounds and evaluated the status of workarounds to determine whether milestones were being monitored to provide for final solutions.
- V. Determined whether management systems or workarounds had been developed and were in place to allow the new organization to function.
 - A. Identified the related milestones and reviewed related documentation to determine whether milestones were effectively completed.
 - B. Review bi-weekly status reports and other pertinent documentation to evaluate the timeliness of the implementation of the milestones and the resolution of problems encountered during the implementation.
 - C. Interviewed selected IRS and the CI function executives and personnel to solicit feedback on the delivery of milestones and problems encountered with the implementation of milestones.

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- D. Identified applicable workarounds and evaluated the status of workarounds to determine whether milestones were being monitored to provide for final solutions.
- VI. Determined whether milestones critical for operations and administrative issues necessary to support the delivery of these milestones were adequately addressed.
 - A. Identified the milestones critical for operations and administrative issues not formally classified as milestones or workarounds.
 - B. Interviewed selected IRS and the CI function executives and personnel to ascertain the status of the milestones critical for operations and to solicit feedback on any additional issues not addressed by the milestones and workarounds.
 - C. Reviewed bi-weekly status reports and other pertinent documentation and procedures related to the milestones critical for operations and administrative issues not identified by the CI function as critical milestones or workarounds.

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Appendix II

Major Contributors to This Report

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)

Joseph W. Edwards, Director

Daniel Cappiello, Audit Manager

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Frank Maletta, Auditor

Britt Molitoris, Auditor

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Appendix III

Report Distribution List

Commissioner N:C
Criminal Investigation Modernization Executive CI:M
Chief Counsel CC
Director, Field Operations, Pacific Area CI:FO:P
Director, Finance CI:S:F
Director, Human Resources CI:S:HR
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis N:ADC:RIO
Director, Research CI:S:R
Director, Strategy CI:S
National Taxpayer Advocate TA
Office of Management Controls N:CFO:F:M
IRS' GAO and TIGTA Liaison CI:S:PS

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Appendix IV

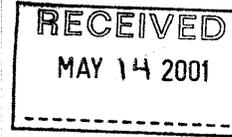
Management's Response to the Draft Report



Criminal Investigation

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

MAY 14 2001



MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Mark E. Matthews
Mark E. Matthews
Chief, Criminal Investigation

SUBJECT:

Response To Draft Audit Report - The Criminal Investigation
Function Substantially Accomplished Organizational Stand Up
(AR #200010037) ECMS IR No. 0104-4VULDPYC

Thank you for the opportunity to respond to the above draft report. Your report evaluated whether Criminal Investigation (CI) effectively and timely completed all critical stand up milestones and developed alternatives for those milestones not completed by the stand up date. In addition, it addressed milestones critical for operations and administrative issues necessary to support the delivery of the stand up milestones.

As outlined in your draft report, I agree CI accomplished the requirements for operation when it stood up on July 2, 2000. Also, I am aware that stand up is not the end product of creating a new organizational unit. We have to accomplish much to complete the transition to the new organization. Criminal Investigation is taking its post stand up activities very seriously; therefore, I have assigned a Modernization Executive the responsibility of ensuring we accomplish these activities expeditiously. Our Modernization Executive developed a tracking system to monitor the remaining items and ensure planned activities are on schedule.

Regarding the recommendation that the Chief, CI, establish a review to ensure that, "the Special Agents in Charge (SACs) are consistently referring cases to DOJ," we not only took measures to ensure that consistency, but our current procedures ensure far more consistency than those in place before the change in referral authority. Before July 10, 2000, when referral authority transferred from Chief Counsel (Counsel) to CI, District Counsel attorneys made the decision to refer non-sensitive cases. Those attorneys were multi-functional, handling both civil and criminal tax matters. Consequently, the attorneys making independent decisions to refer criminal cases did not practice criminal tax law full-time and were not uniformly trained in criminal tax law policy and procedure. These attorneys reported to local District Counsels, and did not have any standard nationwide review or evaluation of their referrals. Furthermore, they were involved in the process only after the investigation was complete and had minimal input in the case during the investigation. Because they did not have specialized experience in criminal matters, and only became involved in the cases after CI had

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invested extensive resources in the investigation, the attorneys felt pressure to refer most of the cases without regards for policy or consistency. Hence, they referred approximately 98 percent of all cases to the Department of Justice, Tax Division (DOJ) for review.

The Webster Report, which brought about the plan for the CI reorganization, also recommended a structural change in Counsel to address, among other things, the inconsistency of case referrals. Together, the Criminal Tax Counsel (CT) and CI stood up their new organizational structures. Now the attorneys advising the CI agents are fully dedicated experts in criminal tax law:

- They are actively involved in investigations from the beginning.
- They are involved in a comprehensive legal and policy review instead of a limited legal or evidentiary review. (This is contrary to your draft report.)
- They attend extensive training, including two Counsel-sponsored training sessions per year, to keep current with criminal tax law and policy.

The CT attorneys in the field report to area managers located with the CI Directors of Field Operations (DFOs), to ensure effective communication and consistency of referred cases. Furthermore, all CT attorneys report directly to the Associate Chief Counsel/Division Counsel (Criminal Tax) based at headquarters who ensures the CT attorneys apply consistent policy and legal standards to all cases nationwide. Criminal Tax managers in the field and the national office review all advice from the field attorneys regarding referrals to ensure consistency.

Criminal Tax is also active in CI training to ensure we communicate case referral policies effectively to the field. In addition to participating in CI continuing professional education courses, CT has held two national joint training sessions since stand up with all of the SACs and Assistant Special Agents in Charge (ASACs) to ensure they apply CI national policy consistently. These training sessions, which are interactive, focus on legal policy issues related to referrals.

In addition to the guidance of CT attorneys, the Centralized Case Reviewers (CCRs) also play a significant role in reviewing investigations. The CCRs review all cases and report any cases that do not meet nationally established policies.

In addition, CI's policies and compliance strategy are regularly communicated at:

- Bimonthly staff meetings with the DFOs.
- DFO meetings with the SACs.
- SAC staff meetings with the ASACs and Supervisory Special Agents (SSAs).
- National SAC/ASAC semi-annual meetings conducted by the Chief and Deputy Chief, CI.

Finally, after a case is reviewed by the CCRs, CT attorneys in the field and their managers, it undergoes a second, equally thorough review at the Department of Justice (DOJ), Tax Division. The Tax Division reviews all proposed prosecutions in Washington, D.C. to ensure the CT attorneys apply criminal tax laws consistently nationwide.

In addition to the reviews, the Review and Program Evaluation Section (RPE) have

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been conducting field office peer reviews since February 2001. The Chief, Deputy Chief, and DFO hold formal review close-out meetings. Field offices conduct follow-up reviews at 6 and 18 months intervals following these reviews. The DFOs also visit field offices regularly to discuss cases and programs. The RPE Section conducts another peer review 18 months after the DFO review. With one third of the field offices undergoing peer reviews each year, we can easily detect nationwide trends and resolve problems.

Criminal Investigation has enough processes to ensure cases referred meet national standards and are consistent. No other Federal law enforcement agency's work product is reviewed as extensively as CI's. Criminal Investigation prosecution recommendations are reviewed by:

- The CI management
- The CT,
- The DOJ
- The local Assistant United States Attorney
- The RPE.

In addition, we offer the subject of the investigation two separate conferences, one with CI and the other with Tax Division, to present additional information that would or should prevent criminal prosecution. Finally, CI's high Legal Acceptance Rate and Conviction Rate indicate only the highest quality investigations reach the United States Attorney's Office for criminal prosecution.

Agency Wide Shared Services (AWSS) has an action plan and is taking the lead on obtaining Memoranda of Understanding (MOUs) with all of the business units to cover support staffing levels and space requirements. We anticipate these to occur late in Fiscal Year (FY) 2002.

Our comments on the specific recommendations in this report are as follows:

IDENTITY OF RECOMMENDATION #1--The Chief, CI function should establish a process requiring more frequent reviews of investigations to ensure SACs are consistently referring cases to DOJ.

ASSESSMENT OF CAUSE (S)--in the reorganization blueprint, RPE will formally review each field office every 36 months. This extended period between formal peer reviews could lead to disparate treatment of taxpayers if SACs use different standards when deciding on which cases to refer to the DOJ for criminal prosecution.

CORRECTIVE ACTION (S)--We believe the DOJ, Tax Division's review of prosecution recommendations, the involvement of CT and CCR, and our reviews by RPE and the DFO offices are adequate. Review and Program Evaluation reviews began in February 2001. The DFOs have begun field visitations. Criminal Tax and CCR are continuing to review cases recommended for prosecution.

IMPLEMENTATION DATE--None

RESPONSIBLE OFFICIAL (S)--None

The Criminal Investigation Function Substantially Accomplished Organizational Stand-Up

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CORRECTIVE ACTION (S) MONITORING PLAN--None

IDENTITY OF RECOMMENDATION #2--The Chief, CI function should develop an MOU with the AWSS that appropriately addresses the resolution of support staffing levels and space needs. The MOU should also be properly monitored to ensure quality customer service.

ASSESSMENT OF CAUSE (S)--The Chief, AWSS has a timetable for implementing MOUs during FY 2002.

CORRECTIVE ACTION (S)--Agency Wide Shared Services (AWSS) has an action plan and is taking the lead on obtaining MOUs with all of the business units to cover support staffing and space requirements. We expect this to occur late in Fiscal Year 2002. Criminal Investigation will work with AWSS to ensure we implement CI's MOU according to AWSS' action plan.

IMPLEMENTATION DATE--October 1, 2002

RESPONSIBLE OFFICIAL (S)

Chief, Criminal Investigation

Chief, Agency Wide Shared Services

CORRECTIVE ACTION (S) MONITORING PLAN--Criminal Investigation has assigned senior program analyst to monitor CI's space needs. The CI Director, Human Resources will monitor personnel support staffing levels and quality of service from AWSS.

if you have any questions, please call me at (202) 622-3200 or a member of your staff can call Tyrone G. Barney, Director, Strategy at (202) 622-5876.