



## Treasury Inspector General for Tax Administration Office of Audit

### IMPROVEMENTS ARE NEEDED TO ENSURE THAT THE SEARCH AND SEIZURE WARRANT PROCESS IS ADEQUATELY DOCUMENTED AND THAT EVIDENCE IS PROPERLY SECURED

Issued on September 19, 2014

## Highlights

Highlights of Report Number: 2014-30-081 to the Internal Revenue Service Chief, Criminal Investigation.

### IMPACT ON TAXPAYERS

Each IRS Criminal Investigation (CI) special agent has the authority to perform all duties under all laws and regulations administered by the IRS, including the authority to conduct searches and issue search and seizure warrants. However, this authority needs to be exercised in accordance with the Fourth Amendment to the United States Constitution, which protects individuals against unreasonable searches and seizures by the Federal Government.

### WHY TIGTA DID THE AUDIT

This audit was initiated to determine whether CI is properly processing search and/or seizure warrants and following the policies for maintaining the chain of custody for any evidence obtained.

### WHAT TIGTA FOUND

TIGTA requested 152 closed search and/or seizure warrant cases from the IRS to review. However, CI management did not provide 91 of these cases. According to CI management, these cases contained grand jury information, were part of an ongoing investigation, or had been sealed by the court.

For 70 of these cases, CI management could not provide any documentation to support that these cases contained grand jury information, were part of an ongoing investigation, or were sealed. As such, TIGTA had to rely on CI management's verbal statements. This constitutes a significant scope impairment because it prevented TIGTA from fully evaluating CI's processing of search and seizure warrants and from determining whether the IRS is following established legal requirements to prevent the abuse of taxpayer rights.

TIGTA reviewed the remaining 61 closed search and/or seizure warrant cases provided by the IRS and found that 14 cases were either missing documentation of the Criminal Tax Counsel's post-search warrant inventory

review, were missing signed affidavits, and/or contained errors on their search warrants.

TIGTA also identified that procedures were not always followed to ensure that seized evidence was properly stored and/or controlled. Without maintaining proper documentation and following evidence procedures, evidence may be inappropriately disclosed, lost, tampered with, or stolen.

### WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS ensure that required documentation is maintained in the case files, including the Criminal Tax Counsel's post-search warrant inventory reviews as well as signed copies of the affidavits. TIGTA also recommended that the IRS reinforce the need for physical controls over seized evidence, study the physical space needs for evidence storage, and improve access controls over evidence.

In its response to the report, the IRS agreed with all five recommendations and plans to take corrective actions on four of them. While the IRS agreed with the fifth recommendation, IRS officials stated that they do not have the capability to have a designated evidence custodian in each post-of-duty due to resource constraints. Instead, the IRS will issue a reminder to managers and special agents of the proper procedures for preserving the chain of custody.

### READ THE FULL REPORT

To view the report, including the scope, methodology, and full IRS response, go to:

<http://www.treas.gov/tigta/auditreports/2014reports/201430081fr.pdf>.