



*Criminal Investigation's Firearms
Training and Qualification Policies
Need to Be Clarified*

September 6, 2012

Reference Number: 2012-30-104

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.



HIGHLIGHTS

CRIMINAL INVESTIGATION'S FIREARMS TRAINING AND QUALIFICATION POLICIES NEED TO BE CLARIFIED

Highlights

Final Report issued on
September 6, 2012

Highlights of Reference Number: 2012-30-104 to the Internal Revenue Service Chief, Criminal Investigation.

IMPACT ON TAXPAYERS

In performing the IRS's law enforcement mission, Criminal Investigation (CI) special agents may be called upon to execute search warrants and arrest those suspected of violating the U.S. tax laws and other Federal statutes over which the IRS has jurisdiction. When performing their duties, special agents carry firearms and are authorized to use deadly force to protect themselves and the public. Suspected criminals, who face the prospect of incarceration, may violently resist arrest regardless of how minor the crime may seem. CI special agents must be fully prepared to respond with force when necessary. Special agents not properly trained in the use of firearms could endanger the public, as well as their fellow special agents, and expose the IRS to possible litigation over injuries or damages.

WHY TIGTA DID THE AUDIT

This audit is part of TIGTA's Fiscal Year 2012 Annual Audit Plan and addresses the major management challenges of Tax Compliance Initiatives and Achieving Program Efficiencies and Cost Savings. The overall objective was to determine whether CI has effective internal controls to ensure special agents are adhering to procedures regarding the required training and qualifications in the use of firearms. This included evaluating the potential impact on CI's program if special agents failed to qualify.

WHAT TIGTA FOUND

CI's firearms training and qualification requirements generally met or exceeded those

of other Federal law enforcement agencies. However, TIGTA found that some CI special agents did not meet all firearms training and qualification requirements. Field office management did not always take consistent and appropriate actions when a special agent failed to meet the requirements because the guidance is vague. In addition, there is no national-level review of firearms training records to ensure that all special agents meet the qualification requirements. TIGTA also found that firearm discharge incidents were not always properly reported and that remedial training was not always required after accidental discharges due to special agent negligence. Lastly, procedures for securing a firearm after a discharge are not adequate.

WHAT TIGTA RECOMMENDED

TIGTA made several recommendations to the Chief, CI, to update the Internal Revenue Manual to clarify firearm qualification requirements and nontraining-related discharge procedures. TIGTA also recommended that CI either enforce the Internal Revenue Manual requirement that special agents who do not meet training requirements surrender their firearm or modify the Internal Revenue Manual to reflect revised consequences of not meeting training requirements. In addition, TIGTA recommended the establishment of a process for CI Headquarters to monitor and periodically review special agent firearms training and qualification records.

IRS management agreed with our recommendations, and corrective actions are planned to address the recommendations.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 6, 2012

MEMORANDUM FOR CHIEF, CRIMINAL INVESTIGATION

FROM: Michael E. McKenney
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Criminal Investigation’s Firearms Training and Qualification Policies Need to Be Clarified (Audit # 201130049)

This report presents the results of our review to determine whether Criminal Investigation has effective internal controls to ensure special agents are adhering to procedures regarding the required training and qualifications in the use of firearms. This included evaluating the potential impact on Criminal Investigation’s program if special agents failed to qualify. This audit is included in our Fiscal Year 2012 Annual Audit Plan and addresses the major management challenges of Tax Compliance Initiatives and Achieving Program Efficiencies and Cost Savings.

Management’s complete response to the draft report is included as Appendix V.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or Frank Dunleavy, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (213) 894-4470 (Ext. 128).



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Abbreviations

CI	Criminal Investigation
FY	Fiscal Year
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
NCITA	National Criminal Investigation Training Academy
OI	Office of Investigations
TIGTA	Treasury Inspector General for Tax Administration
UFC	Use of Force Coordinator



Criminal Investigation's Firearms Training and Qualification Policies Need to Be Clarified

Background

Criminal Investigation's (CI) primary mission is to serve the American public by investigating potential criminal violations of the Internal Revenue Code¹ and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law. CI's special agents are law enforcement officers who investigate complex financial crimes associated with issues such as tax evasion, money laundering, narcotics, organized crime, and public corruption.

In conducting their duties, special agents must meet firearms training and qualification standards regarding the use of weapons owned by the Internal Revenue Service (IRS). Specifically, according to the Internal Revenue Manual (IRM),² special agents must meet the following firearms training³ and qualification requirements each fiscal year or must surrender their firearms until these requirements are met.

All special agents are expected to successfully meet firearms qualification requirements each fiscal year in order to carry or use an IRS-owned weapon.

- Engage in handgun firing training at least once each quarter.
- Shoot at least the minimum of 75 percentage points on the firearms qualifying test using the issued handgun during two nonconsecutive quarters; *i.e.*, the first and third quarters or the second and fourth quarters (hereafter referred to as biannual standard qualification).
- Participate in biannual firearms building entry exercises.
- Participate in an annual briefing on firearms safety and security policies (requiring the completion of the CI Mandatory Briefings Certification form) and CI's directives and procedures regarding the safe handling and storage of firearms.
- Participate in a briefing each quarter regarding the policy of discharging a firearm at a moving vehicle.

The IRM⁴ also requires special agents to qualify at least once a year by firing a qualifying score of 75 percentage points while wearing warrant service apparel and equipment, *i.e.*, ballistic vest,

¹ See Appendix IV for glossary of terms.

² IRM 9.2.1.8 (Mar. 7, 2012).

³ In addition to the IRM training requirements, CI requires that special agents participate in various firearms training exercises such as requiring the special agent to fire while moving, engaging more than one target while firing, and shooting a firearm during various judgment drills.

⁴ IRM 9.2.1.8 (Mar. 7, 2012).



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optional tactical holster, and raid jacket, and firing a handgun concealed under normal business attire. However, the IRM⁵ does not stipulate that special agents must surrender their handgun for failing to meet these two requirements.

In addition, special agents are required to participate in semiannual shotgun training. Only those special agents who fire the shotgun and demonstrate proficiency by scoring a minimum of 75 percentage points within the prior six-month period are allowed to carry a shotgun on enforcement operations.

CI's National Criminal Investigation Training Academy (NCITA) is responsible for developing and monitoring the formalized firearms training and qualification program nationwide. This responsibility includes developing the training special agents will undergo and the firearm qualification requirements they are expected to meet. The NCITA is also responsible for maintaining year-end summary qualification and training records.

According to the IRM,⁶ the Chief, CI, will ensure that each special agent has met the requirements to carry firearms. Furthermore, according to the IRM,⁷ the Director of Field Operations and each special agent in charge is to ensure that each special agent in his or her office has met the requirements to carry firearms. Each of CI's 26 field offices has a Use of Force Coordinator (UFC) who is responsible for administering his or her field office's firearms training and qualification program.⁸ This oversight includes ensuring that the required firearms training sessions are scheduled and conducted and that special agents meet qualification requirements. The UFCs also ensure firearms safety guidelines are followed on the firing range.

This review was performed at CI's NCITA in Glynco, Georgia, and the CI field offices in Los Angeles, California; Chicago, Illinois; New York, New York; and Washington, D.C., during the period August 2011 through April 2012. We also contacted the Treasury Inspector General for Tax Administration's (TIGTA) Office of Investigations (OI) in Washington, D.C., and reviewed its procedures. Additionally, we contacted four Federal law enforcement agencies that responded to a questionnaire or provided copies of guidance regarding their firearms training and qualification.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

⁵ IRM 9.2.1.8 (Mar. 7, 2012).

⁶ IRM 9.1.4.6 (Mar. 2, 2011).

⁷ IRM 9.1.4.6 (Mar. 2, 2011).

⁸ Some of the larger or more geographically disbursed field offices have two or more UFCs.



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Results of Review

In performing the IRS's law enforcement mission, CI special agents may be called upon to execute search warrants and arrest fugitives and others suspected of violating the U.S. tax laws and other Federal statutes over which the IRS has jurisdiction. When performing their duties, special agents carry firearms and are authorized to use deadly force to protect themselves and the public. Suspected criminals, who face the prospect of incarceration, may violently resist arrest regardless of how minor the crime may seem. CI special agents must be fully prepared to respond with force when necessary. Special agents not properly trained in the use of firearms could endanger the public, as well as their fellow special agents, and expose the IRS to potential litigation over injuries or damages.

Our review found that CI's firearms training and qualification requirements generally met or exceeded those of other Federal law enforcement agencies. However, we found that some special agents did not meet all of the firearms training or qualification requirements. Field office management did not always take consistent and appropriate actions when a special agent failed to meet the requirements because the guidance is vague. In addition, there is no national-level review of firearms training records to ensure that all special agents meet the qualification requirements. We also found that firearm discharge incidents were not always properly reported, and remedial firearms training was not always required after accidental discharges due to special agent negligence. Lastly, procedures for securing a firearm after a discharge are not adequate.

CI should improve procedures to ensure consistent and appropriate actions are taken and that special agents participate in all aspects of the required firearms training. Improved oversight could help to ensure compliance with the requirements. Finally, procedures related to nontraining-related firearm discharges could be improved.

Criminal Investigation's Firearms Training and Qualification Requirements Generally Met or Exceeded Those of Other Federal Law Enforcement Agencies

We compared CI's firearms training and qualification policies and procedures to those in use by the TIGTA OI and four other Federal law enforcement agencies. CI's training and qualification policies and procedures generally met or exceeded those of the other Federal agencies. For example, CI's minimum handgun qualifying score is comparable to the minimum score required by other Federal agencies. In addition, CI's training that incorporates tactical scenarios such as firing under low light conditions, using multiple targets, and using horizontal and vertical cover is also comparable to the training provided by other Federal agencies. Figure 1 compares the



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various training and qualification policies and procedures between CI, the TIGTA OI, and the four other Federal agencies we contacted.

Figure 1: Comparison of Firearms Training and Qualification Policies and Procedures Among Federal Law Enforcement Agencies

Type of Policy or Procedure	Federal Agency (X = agency has this policy)					
	CI	Agency #1	Agency #2	Agency #3	Agency #4	Agency #5
Number of times a special agent <u>must</u> qualify with a handgun each year.	2	4	4	2	4	2
Minimum handgun qualifying percentage points.	75	70	80	70	80	70
Special agent <u>must</u> qualify wearing a ballistic vest each year.	X	X	X	X		
Special agent <u>must</u> relinquish handgun upon failure to qualify. ⁹	X	X			X	X
Special agent <u>must</u> relinquish handgun while on restricted duty. ¹⁰		X			X	
Special agent <u>must</u> participate in additional training upon failure to qualify.	X	X	X			X
Special agent <u>must</u> qualify with a shotgun.		X	X		X	X
Training includes tactical situations that a special agent may encounter. Examples can include judgment shooting, multiple targets, support hand drills, reduced light/flashlight techniques, <i>etc.</i>	X	X	X	X	X	X

Source: CI, the TIGTA OI, and four other Federal agencies' responses to TIGTA questionnaire and analysis of agencies' policies and procedures.

⁹ Agency #3 indicated that agents who fail to qualify are allowed to retain their firearms but are not allowed to carry them. Agency #4 indicated that the division head has the discretion of whether or not the firearm(s) will be relinquished upon failure to qualify.

¹⁰ CI, Agency #2, Agency #3, and Agency #4 indicated that there was some discretion over whether or not the firearm can be retained while on restricted duty.



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Where the Federal agencies differ most are the requirements to qualify with a shotgun and the requirement to relinquish the handgun while on restricted duty. CI does not require that every special agent qualify with a shotgun, but does require special agents to become familiar with its use. According to CI officials, special agents are generally required to relinquish their firearms when placed on restricted duty, but there are instances when the special agent may be able to retain the weapon. According to the Special Agent Medical Handbook, the decision to restrict a special agent's firearm while on restricted duty will be based on considerations that take into account the safety of the special agent, his or her colleagues, and the general public, as well as on input from the Medical Review Officer and the special agent in charge.

Procedures Need Improvement to Ensure Appropriate Actions Are Taken When Special Agents Do Not Meet Firearms Qualification Requirements

We selected a judgmental sample¹¹ of four CI field offices that contained the highest number of special agents during Fiscal Year (FY) 2011. We reviewed FY 2011 firearms training and qualification records for 597 special agents and found evidence that most met the firearms biannual standard qualification by firing at least a qualifying score of 75 as required by the IRM.¹² However, we identified that 27 (4.5 percent) of the 597 special agents did not meet the biannual standard qualification requirement due to reasons such as being on temporary restricted duty, not attending one or more of the qualification dates, or on a temporary assignment to another office.

We also identified 24 special agents who did not meet the requirement to qualify with the weapon concealed and 48 special agents who did not qualify while wearing warrant service apparel.¹³ A total of 13 special agents did not meet both those requirements, while nine of the 13 also did not meet the biannual standard requirement. Figure 2 shows the results of our review of firearms qualification records at the four field offices.

¹¹ The judgmental sample is a nonstatistical sample, the results of which cannot be used to project to the population.

¹² IRM 9.2.1.8 (Mar. 7, 2012).

¹³ A total of 21 of these special agents were also included in the count of 27 who did not meet the biannual standard qualification requirement.



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Figure 2: Number of Special Agents Who Met Firearms Qualifications in FY 2011

	Chicago	Los Angeles	New York	Washington, D.C.	Total
Number of Special Agents Tested at Each Field Office	125	169	204	99	597
Pistol Qualification Requirements Met:					
Biannual Standard Qualification	120 (96.0%)	157 (92.9%)	198 (97.1%)	95 (96.0%)	570 (95.5%)
Concealed Qualification	112 (89.6%)	165 (97.6%)	202 (99.0%)	94 (94.9%)	573 (96.0%)
Warrant Service Apparel Qualification	97 (77.6%)	156 (92.3%)	198 (97.1%)	98 (99.0%)	549 (92.0%)

Source: TIGTA analysis of CI field office records.

We found that the field offices did not always take consistent and appropriate actions when a special agent failed to meet firearm qualification requirements because the IRM did not clearly detail the actions that should be taken. For example, the IRM¹⁴ requires special agents to qualify at least once each year with the firearm while wearing warrant service apparel and once with the firearm concealed, but it does not indicate the steps to be taken when those requirements are not met. The ambiguity in the IRM procedures could lead to field office personnel taking different, and sometimes incorrect, actions when special agents do not meet firearm qualification requirements. When we asked the UFCs for the four visited field offices what actions they would take, they provided the following inconsistent responses in regard to special agents who failed to fire a qualifying score under the following requirements:

- *Warrant service apparel and optional tactical holster* – Two of the UFCs stated that the special agents would be restricted from wearing the warrant service apparel and from participating in enforcement actions; a third UFC stated it would only impact the special agent’s ability to use the tactical holster, but the special agent would be allowed to wear the ballistic vest; and the fourth UFC stated there would be no consequences. An NCITA official stated that failure to qualify wearing the warrant service apparel would result in the special agent not being allowed to participate in enforcement actions that require such equipment.

¹⁴ IRM 9.2.1.8 (Mar. 7, 2012).



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- *Concealed* – The responses from the four UFCs varied widely on this requirement. One UFC stated that the special agent would be subject to remedial training, a second stated there would be no consequences, a third UFC stated the special agent would need to surrender his or her firearm, and the fourth stated that the special agent would be restricted from participating in any enforcement actions until he or she is qualified. An NCITA official stated that field office management has discretion over the resulting actions when a special agent fails to qualify with his or her handgun concealed. The NCITA official added that, unless there were extenuating circumstances, he would expect the special agent to be placed on restricted duty.
- *Biannual standard* – Two of the four UFCs stated that the special agent would be required to surrender the weapon before leaving the firing range. However, the other two UFCs stated that the special agent would retain the weapon until the qualifying period ended because they believed the special agent remained qualified through the end of that period and had the rest of the period to fire a qualifying score. An NCITA official stated that the special agent would have until the end of a qualifying period before being required to surrender his or her firearm, but should qualify in every other quarter each year.

In regard to the biannual standard qualification, one UFC stated that a special agent could retain his or her weapon without participating in scheduled biannual standard qualification for nearly a full year because the UFC interpreted the IRM as stipulating that a special agent must qualify twice in a calendar year. The UFC explained his interpretation of this requirement was that a special agent could qualify in the first quarter of the fiscal year and, as long as the special agent qualified again before the end of the first quarter of the following fiscal year, he or she would remain qualified. This interpretation resulted in some special agents in this field office only qualifying once under the biannual standard during the fiscal year. Because field office management believed these special agents were in compliance, they did not require the firearm to be surrendered in these instances.

In addition, controls did not ensure that special agents on temporary assignment to another field office met the firearm qualification requirements. We could not determine if two special agents in our sample met firearm qualification requirements because the field office where they were permanently assigned did not coordinate with the temporary assignment location to request documentation or ensure that the special agents participated in the required training. An NCITA official stated that the special agent's permanent field office is responsible for ensuring that he or she met the qualification requirements.

Finally, controls did not ensure that CI personnel properly secured firearms when special agents failed to meet the biannual standard qualification requirement. CI was only able to provide evidence that firearms were surrendered in nine of the 27 instances when special agents did not qualify. The Criminal Investigation Management Information System was only updated to reflect the custody change in four of those nine instances. Even though the lack of firearm



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surrender could have been partly due to misinterpreted procedures as previously noted, CI's guidance also did not specifically indicate how the field office should document the surrender of the firearms. For example, two visited field offices updated firearm custody records in the Criminal Investigation Management Information System inventory records, while another field office had just instituted procedures to annotate the change in a comment field in the system. The other field office did not have any procedures in place to reflect custody changes. Without adequate inventory documentation, CI runs the risk of losing control over these firearms.

Considering the gravity of carrying and using a firearm, there should be no margin for error in the firearms training and certification program. By not having effective procedures to ensure special agents are qualified to carry and use a firearm when needed, CI risks endangering other special agents and the public. In addition, the IRS could be held liable for injuries or damage resulting from special agents using a firearm who have not met the required qualifications.

Recommendations

The Chief, CI, should:

Recommendation 1: Ensure revisions are made to the IRM to clarify the inconsistencies or ambiguities regarding the actions to be taken when special agents:

- Do not meet one or more of the qualification requirements, including the biannual standard, concealed, or warrant service apparel qualifications. The revision should specify the point in time that special agents should surrender their firearms when they do not meet qualification requirements. This change should address whether a special agent's firearm should be surrendered before leaving the firing range or when a special agent does not participate in the required qualification testing.
- Are on temporary assignment away from their permanent office. The current guidance is silent on where the responsibility lies with regard to ensuring all special agents maintain their qualifications to carry and use a firearm. The field office where a special agent is permanently assigned may be in the best position to ensure its special agents meet qualification requirements.

Management's Response: IRS management agreed with this recommendation. Currently, the IRM addresses the consequences of failure to qualify with the duty holster, but leaves the consequences up to the special agent in charge when an agent fails to qualify in other situations such as concealed carry, low light familiarization, and using tactical equipment. The IRM revision will require weapon removal for all situations where an agent fails to qualify with duty gear and concealed carry. Tactical equipment, ballistic vest use, low-light, and alternative holster training will be familiarization and/or proficiency demonstrations. Regarding the failure to participate in training, the consequences will continue to be determined based upon the justification and approval



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for missing the designated training and the timeline for when the agent is in noncompliance with IRM 9.1.8.2(3). Any unjustified absences will be addressed with the appropriate disciplinary actions.

Regarding agents on temporary assignment away from their permanent office, the expectation is that the permanently assigned office has the responsibility to ensure its special agents meet qualification requirements. Guidance will be provided to the UFCs to ensure this is clear and consistently applied.

Recommendation 2: Ensure revisions are made to the IRM to clarify the requirement to qualify in nonconsecutive quarters if the intent is that special agents are to qualify, at a minimum, every six months.

Management's Response: IRS management agreed with this recommendation and will update the IRM to clarify this requirement. Currently, IRM 9.2.1.8(3)(b) states that field offices should schedule firearms qualification during the first and third quarters or the second and fourth quarters, which is consistent with the recommendation. However, the auditors did note some confusion from at least one of the UFCs. The IRM revision will require biannual qualifications in nonconsecutive quarters, not specifically every six months. There is no "six month certification." Agents must meet requirements in IRM 9.2.1.8(3).

Recommendation 3: Issue guidance on the steps to be taken when the custody of a firearm changes because of a failure to meet qualification requirements. This guidance should address updating applicable inventory records and the importance of maintaining adequate supporting documentation.

Management's Response: IRS management agreed with this recommendation. IRM sections 9.10.1.3, 9.10.1.6, 9.10.1.7, and 9.10.1.9 govern Criminal Investigation Management Information System equipment assignments, documentation, and temporary custody. When a firearm changes custody for any reason, the field office must prepare a custody receipt for Government property and make an appropriate Criminal Investigation Management Information System entry, regardless of the anticipated length of temporary custody. Guidance will be provided to the UFCs and special agents in charge to ensure this is clear and consistently followed.

When Special Agents Do Not Meet Firearms Training Requirements, Criminal Investigation Is Put at Risk

Before the start of each fiscal year, the NCITA usually provides the training requirements to each field office in the form of a checklist. However, the NCITA did not distribute a checklist for FY 2011 because the training program was being revised. An NCITA official stated that the



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training requirements for FY 2011 did not differ from the prior year. As a result, we used the FY 2010 checklist as guidance in our review of the firearms training certifications.

We requested the FY 2011 firearms-related training records for all of the special agents assigned to each of the four visited field offices. However, we could not always determine if the field offices conducted the required training or if all special agents participated in the necessary training because field office supporting documentation varied among the locations. For example, two locations did not always document that they conducted training or which special agents attended. This lack of documentation was the main reason we could only verify that 78 (13.1 percent) of the 597 special agents in our judgmental sample met all of their training requirements during FY 2011.¹⁵

Figure 3 provides the various types of required training, per the IRM and other CI guidance, as well as the results of our review of the FY 2011 training records for the 597 special agents.

¹⁵ We did not review any training related to undercover activities.



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**Figure 3: Number of Special Agents in the Four Visited Field Offices
Who Met Each Training Requirement for FY 2011**

Training Requirement Met	Chicago (125)	Los Angeles (169)	New York (204)	Washington, D.C. (99)	Total (597)
Use of Firearms Policy	102	132	174 ¹⁶	78	486
Off-Range Safety	115	169 ¹⁶	199	92	575
Post Use of Force Procedures	118	159	199	92	568
Weapons Maintenance	115	Could Not Determine ¹⁷	199 ¹⁶	92	406
Shotgun Training	96	120	15 ¹⁸	84	315
Pistol Malfunctions	Could Not Determine ¹⁷	129	179	85	393
Multiple Targets	108	129	179	88	504
Judgment Shooting	63	167	200	95	525
Use of Vertical and Horizontal Cover	87	129	179	87	482
Moving While Shooting	91	167	188	92	538
Support Hand Drills	97 ¹⁶	167 ¹⁶	179 ¹⁶	85	528
Reduced Light and Use of Flashlights¹⁹	104	159	191	78	532
Building Entry Exercises	113	159	182	92	546

Source: TIGTA analysis of CI field office training records.

¹⁶ CI could not provide supporting documentation for all instances of the training. However, CI officials stated that these items are reviewed every time a special agent attends handgun firing training or qualification attempts.

¹⁷ Could Not Determine. The UFC stated that this training was conducted. However, we could not always determine from our review of field office supporting documentation if the training was conducted or if all special agents participated.

¹⁸ The UFC stated that special agents only attempted to qualify on the shotgun once during FY 2011 partly because a firing range was being renovated and was unavailable for live fire.

¹⁹ According to the CI checklist, this training was required to be conducted twice during FY 2011. CI officials stated that this was a typographical error and that this training was only to be conducted once per year. However, one of the field offices we visited conducted this training twice during the fiscal year.



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In addition to the training requirements reviewed in Figure 3, we selected a judgmental sample of 25 of the 597 special agents to determine if they participated in the annual briefing on firearms safety and security policies during FY 2011. This annual briefing includes reviews of CI's use of firearms policy and off-range safety procedures and requires special agents to complete and sign a CI Mandatory Briefings Certification form. We found that all 25 special agents in our judgmental sample completed the certification.

There were justifiable reasons why some special agents could not attend firearms training, such as required court appearances or being on restricted duty. There were also instances where required firearms training was not conducted due to range availability or weather issues. However, there were numerous unexplained absences as well as other absences due to the special agent being on annual leave or having a personal scheduling conflict. In addition, an NCITA official indicated that the revision of the training program during FY 2011 may have confused the field offices on the training to be conducted. Managers at all four field offices indicated that they schedule multiple firearms training sessions each quarter and make efforts to reschedule training for any special agents who miss the training. In other instances, the UFCs could not always provide documentation or other evidence that the field office provided all required training to the special agents.

The IRM²⁰ requires special agents to surrender their weapons when they fail to participate in required training such as briefings on firearms safety policies. However, there is currently little consequence for special agents who fail to meet the training requirements listed on the checklist. The responses of field office management and the UFCs from the four field offices varied as to the actions taken after a special agent missed such training. The responses included:

- The UFC will try to schedule makeup training, but the special agent needs to at least qualify to keep the firearm.
- Management will speak to the special agent personally if there is a pattern of unexcused absences.
- Depending on the circumstances, the special agent may have to surrender the firearm if management concludes that the reason for missing the training was not sufficient.
- Management will discuss the circumstances with the supervisory special agent and emphasize the importance of training attendance. However, missed training would not result in the surrender of the firearm.

Four of the other Federal agencies polled indicated that the special agent could face disciplinary actions, which included rescinding the special agent's authority to carry a firearm or restricting him or her from participating in enforcement actions if required training was missed.

²⁰ IRM 9.2.1.8 (Mar. 7, 2012).



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For FY 2012, CI made changes to the delivery of the firearms training. Firearms training and the defensive tactics training were combined to more efficiently use available training time. An NCITA official stated that the integrated program encompasses an increased use of scenario-based tactics incorporating special agent judgment and reaction in aspects of the firearms, defensive tactics, and building entry exercises in each training quarter. In addition, the NCITA developed a standardized field office reporting spreadsheet that each field office is required to submit to the NCITA at the end of FY 2012. The spreadsheet will document each special agent's firearms training and qualification results for the fiscal year. We believe that this is a positive step towards ensuring that the field offices maintain proper documentation.

It is widely recognized that most firearms qualification courses do not fully represent real-world situations that law enforcement agents may encounter. However, we believe that CI's training curriculum does a good job in meeting these challenges. Therefore, it is important that special agents attend firearms training and that this training is properly documented. Court decisions in the past have held law enforcement entities liable because their law enforcement agents did not have training that reflected the environment that they would likely encounter, such as training involving moving targets and low-light conditions. Other court decisions underscored the importance of properly documenting firearms training. One decision dismissed the claims against a law enforcement entity that maintained thorough records that showed the law enforcement personnel had been trained. Another decision upheld a jury's conclusion that undocumented police training did not constitute adequate training.

Recommendation

Recommendation 4: The Chief, CI, should either enforce the IRM requirement that special agents who do not meet training requirements surrender their firearm or modify the IRM to reflect revised consequences of not meeting training requirements. The policy should include the types of absences that will be excused and how the excused absences should be documented at the field office level.

Management's Response: IRS management agreed with this recommendation. The Chief, CI, will issue a memorandum emphasizing the importance of following the current IRM requirements. The current IRM requires agents to surrender their weapon when they do not meet the training requirements per IRM 9.2.1.8(3). The IRS agreed that any absences from scheduled firearms/use of force training events require approval from the agent's supervisor, which should be documented by the UFC in the use of force training records for that particular agent. However, it would not be appropriate to include specific types of excused absences in the IRM, when each absence would stand on its own merits and be approved by the local management officials.



*Criminal Investigation's Firearms Training
and Qualification Policies Need to Be Clarified*

Monitoring Procedures Are Needed to Ensure Special Agents Meet Firearms Training and Qualification Requirements

As discussed in the previous sections of this report, our review of field office documentation showed that appropriate actions were not always taken when special agents failed to qualify. We also found that special agents did not always meet training requirements and that field offices did not always properly document the training provided. Improved oversight could help ensure that special agents meet firearms training requirements and that field office management takes appropriate actions.

According to the IRM,²¹ all special agent qualification scores and other related firearms training information are recorded and maintained by the UFCs at each field office. These records are forwarded at the end of each fiscal year to the NCITA. NCITA personnel stated that once they receive the information, they do not conduct a review to determine whether special agents met training and qualification requirements or whether the field office took appropriate actions when the requirements were not met. NCITA personnel indicated that this would be the field office's responsibility. Our review, though, determined that the field offices did not ensure that special agents met firearms training and qualification requirements or that proper actions were taken.

While the NCITA has developed a standardized spreadsheet to document firearms training and qualification results, these efforts would be pointless if the results are not periodically reviewed to ensure that special agents meet the firearms qualification requirements. The *Standards for Internal Control in the Federal Government* requires that activities need to be established to monitor performance measures. Internal controls should be designed to assure that ongoing monitoring occurs in the course of normal operations. Monitoring is performed continually and is ingrained in the agency's operations. It includes regular management and supervisory activities, comparisons, reconciliations, and other actions employees take in performing their duties.²²

CI could ensure adequate oversight by requiring a periodic review of firearms training and qualification records by the NCITA or the Director of Field Operations or as part of the Review and Program Evaluation of each field office. If there is insufficient oversight, special agents in possession of firearms who are not properly trained and qualified could endanger other special agents and the public.

²¹ IRM 9.2.1.8 (Mar. 7, 2012).

²² Government Accountability Office (formerly known as the Government Accounting Office), GAO/AIMD-00-21.3.1, *Standards for Internal Control in the Federal Government*, pp. 14 and 20 (Nov. 1999).



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Recommendation

Recommendation 5: The Chief, CI, should establish monitoring procedures to review training and qualification information that is currently maintained at the field office level. The purpose of this review should be to ensure that special agents are meeting all established firearm training requirements.

Management's Response: IRS management agreed with this recommendation and the need to improve monitoring procedures to review training and qualification information that is maintained at the field office level. There are procedures currently in place under which the field offices are reviewed by the Review and Program Evaluation section. The IRS will review ways to make the current Review and Program Evaluation review of firearms training in the field offices more comprehensive. In addition, the NCITA will begin monitoring the field office use of force reports as they are received from the field offices to identify anomalies and any other indications of training-related issues and inconsistencies.

Procedures Related to Nontraining Firearm Discharges Can Be Improved

The use of deadly force is one of the most serious actions a special agent can take in carrying out CI's law enforcement mission. Special agents may use force to establish and maintain lawful control of a situation. In deciding whether to use force, special agents must give paramount consideration to the preservation of life and prevention of physical injury. Although nontraining firearm discharges are infrequent, the IRM²³ requires that every nontraining discharge be reported, investigated, and reviewed.

We assessed whether CI was properly reporting discharge incidents and the adequacy of the actions taken after an incident. We found that the guidance on reporting intentional discharges is clear. However, the guidance on reporting accidental discharges is contradictory. In addition, we found that the procedures for actions to be taken after a discharge could be improved. As a result, the lack of specificity in the procedures has resulted in various interpretations and actions.

Discharge incidents were not always properly reported

When a special agent discharges his or her firearm in any situation other than training, CI management is required to be notified of the incident. According to the IRM, CI must notify the TIGTA OI, which is responsible for investigating the discharge. Depending on the circumstances, intentional discharges may also need to be reported internally to the NCITA, the

²³ IRM 9.2.3.6 (October 14, 2011).



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Director of Field Operations, and the Chief, CI. CI must report all accidental discharge incidents externally to the TIGTA OI and internally to the NCITA and the Director of Field Operations.

According to documentation provided by all 26 CI field offices, the NCITA, and the TIGTA OI, there were a total of eight firearm discharges classified as intentional use of force incidents²⁴ and 11 discharges classified as accidental²⁵ during FYs 2009 through 2011. We assessed whether the 19 discharge incidents were properly reported to the TIGTA OI and whether the 11 accidental discharges were also reported internally to the NCITA. Using the applicable version of the IRM for the different time periods, we found that four accidental discharges were not properly reported. This included two that were not reported to both to the TIGTA OI and the NCITA, one that was not reported to the TIGTA OI, and one that was not reported internally to the NCITA. In three of the four accidental discharges that were not reported, the accidental discharges may have resulted in property damage or personal injury. The incidents that were not reported are as follows:

- A special agent accidentally discharged a firearm at a firing range while preparing the weapon for cleaning. (Not reported to either the TIGTA OI or the NCITA.)
- During a search of a suspect's residence, special agents found several firearms. While assessing whether one of the firearms was loaded, a special agent pulled the firearm hammer back in place and the firearm accidentally discharged. (Not reported to either the TIGTA OI or the NCITA.)
- A special agent accidentally shot himself or herself while transitioning from using a handgun to a shotgun during a training exercise. (Not reported to the TIGTA OI.)
- A special agent accidentally discharged his or her firearm while practicing weapon drawing and aiming skills at home. (Not reported to the NCITA.)

These cases were not reported because CI management did not ensure that proper actions were taken after an accidental discharge and because the IRM regarding accidental and nontraining discharges contains conflicting or unclear information. The IRM²⁶ requires that all nontraining discharges be reported to the TIGTA OI. Three of the four UFCs we spoke with stated that a nontraining discharge would be any discharge occurring outside of the training environment. The remaining UFC stated that any intentional or accidental discharge should be reported to both the field office special agent in charge and to the TIGTA OI. These varying interpretations could have resulted in unreported accidental discharges at a shooting range.

²⁴ Intentional discharges include instances where a special agent is defending himself or herself or protecting the public safety.

²⁵ Accidental discharges include instances where a special agent did not intend to discharge the firearm but, either through a voluntary or involuntary action, the firearm did discharge.

²⁶ IRM 9.2.3.6 (Oct. 14, 2011).



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In August 2011, the Chief, CI, issued a memorandum to all special agents emphasizing the reporting procedures regarding firearm discharges. This memorandum clarified that all intentional discharges are to be reported to the TIGTA OI and the NCITA, and that only accidental discharges involving misconduct needed to be reported to the TIGTA OI. However, one section of the IRM continues to state that all nontraining discharge incidents must be reported to the TIGTA OI, while another part of the same IRM section indicates that accidental discharges will be reported to the TIGTA OI only if those are determined to involve misconduct.

When discharge incidents are not properly reported, there is an increased risk that an appropriate review will not be conducted and disciplinary action will not be taken when warranted. This could leave the IRS vulnerable if subsequent use of firearms by those special agents results in injuries, death, or property damage. By not reporting all accidental discharge incidents to the NCITA, there is an added risk that preventative measures may not be taken to prevent similar incidents from reoccurring.

Remedial training was not required after accidental discharges due to special agent negligence

We found that the four visited field offices did not always provide remedial training when an accidental discharge occurred due to special agent negligence. Specifically, two of the four UFCs stated that they may require the special agent to participate in some type of remedial training, one stated that the special agent would be counseled, and one stated that there would be no additional training required.

Three of the five Federal agencies polled during this review require remedial training, while the other two indicated that such decisions would be based on the recommendations of the agency's officials. CI does not mandate that field office management provide remedial training when accidental discharges occur due to special agent negligence. However, field office management may take disciplinary action and require the special agent to attend additional training.

At the beginning of FY 2012, CI conducted a firearms safety briefing in response to an increase in the number of firearms discharges. This briefing was mandatory for all special agents and presented several case studies of examples of intentional and accidental discharges. The case studies included group discussion to identify the firearms safety rules or protocols that were violated, as well as corrective actions that should be followed to avoid similar situations. An NCITA official stated that the content of this briefing is now included in the annual firearms training.

Incorporating the firearms safety briefing into the annual training is a positive step. However, we believe requiring additional remedial training after an accidental firearms discharge that is considered negligent would further stress the importance of firearm safety and the consequences of that negligence. In these situations, CI can take proactive steps to minimize the future risk of special agents accidentally discharging their weapons and potentially protect the Federal Government in the case of a subsequent law suit.



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Procedures for securing a firearm after a discharge are not adequate

The IRM²⁷ provides guidance on securing a firearm after a discharge only if the discharge was a use of force incident resulting in injury or death. The guidance states that special agents are to relinquish their firearms (through their supervisory special agent or the senior special agent on site) to the local law enforcement entity. The IRM is silent on the actions to be taken by CI management in securing a weapon after any other type of discharge. However, the weapon may need to be surrendered as a result of disciplinary actions taken by CI management. Responses from the four field office representatives varied widely as to when a firearm would need to be secured. The field office representatives stated the following different circumstances:

- Only after discharges due to negligence or misconduct.
- After all intentional or accidental discharges.
- Local law enforcement would secure the firearm after an intentional discharge, but uncertain as to whether the firearm should be secured after an accidental discharge.
- Dependent on the situation, but the firearm may be secured after all intentional discharges or an accidental discharge which involved misconduct.

Three of the five Federal agencies polled during this review indicated the firearms would be secured by a supervisor after an intentional or accidental discharge. The other two Federal agencies would secure the weapon after an intentional discharge or after the request of an investigating law enforcement entity.

The failure to properly secure a firearm after a discharge could adversely impact the integrity of an investigation and could unnecessarily expose the IRS to legal liability. Clear IRM guidance relating to the circumstances surrounding when to secure a firearm after any discharge would ensure that any needed technical and ballistic tests are conducted, which would maintain the integrity of any potential investigation. In addition, an examination of the firearm after an accidental discharge would identify any possible mechanical issues.

Recommendations

The Chief, CI, should:

Recommendation 6: Delete the contradictory section from the IRM regarding the reporting of nontraining discharge incidents to the TIGTA OI. In addition, reiterate to field office management the definition of a nontraining discharge and clarify the parties to be notified when nontraining discharges occur.

²⁷ IRM 9.2.3.5 (Oct. 14, 2011).



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Management's Response: IRS management agreed with this recommendation and the conflicting section of the IRM will be deleted. CI recently updated the policy for firearm discharges and clarified the reporting requirements. However, IRM 9.2.3.6.2 was not updated, causing inconsistencies with the updated policy in IRM 9.2.3.6.3, which states that only accidental discharges involving misconduct should be reported to the TIGTA. Interim guidance will be provided to the field offices and incorporated into the next IRM update.

Recommendation 7: Require remedial training when accidental discharges occur due to special agent negligence.

Management's Response: IRS management agreed with this recommendation. They agreed that in most cases remedial training is generally appropriate and should be required when accidental discharges occur due to special agent negligence. When an accidental discharge occurs, the appropriate Director of Field Operations, in consultation with the special agent in charge, will review the specific circumstances surrounding each incident to determine whether the accidental discharge was due to special agent negligence. The Chief, CI, will issue a memorandum to all senior leaders notifying them of this procedure and that remedial training is generally appropriate in cases involving special agent negligence.

Recommendation 8: Modify IRM procedures to specifically define the circumstances surrounding firearm surrender after a discharge to provide proper examination of the firearm and to ensure appropriate and consistent actions are taken.

Management's Response: IRS management agreed with this recommendation. They agreed that it is important to have clear guidance regarding firearm surrender after a discharge. Regarding intentional discharges, IRM 9.2.3.5.3 provides policy and procedures for reporting and surrendering weapons when the use of the weapon results in injury, property damage, or death. Regarding all other discharges, the appropriate Director of Field Operations, in consultation with the special agent in charge, will review the specific circumstances surrounding each incident to determine whether, after a discharge, the firearm should be surrendered and examined. The Chief, CI, will issue a memorandum to all senior leaders notifying them of this procedure. The IRS is concerned that to attempt to codify in the IRM or other guidance the specific circumstances requiring firearm surrender after a discharge would lead to a narrow interpretation of the IRM or other guidance which would result in a lack of appropriate review of other circumstances that are not listed.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective was to determine whether CI has effective internal controls to ensure special agents¹ adhered to procedures regarding training and qualification in the use of firearms. This included evaluating the potential impact on CI's program if special agents failed to qualify. To accomplish our objective, we:

- I. Determined if CI management oversight and internal controls were effective and provided assurance that all special agents were properly trained and qualified to carry and use firearms by reviewing related policies and guidelines and interviewing the Director of the NCITA.
- II. Determined if CI's policies and procedures ensured that special agents were adequately trained and properly qualified to carry firearms by reviewing records and interviewing officials at four judgmentally selected² field offices.
 - A. Judgmentally selected the following four of the 26 field offices for site visits: Los Angeles, California; Chicago, Illinois; New York, New York; and Washington, D.C. These offices were selected because they had the highest number of special agents assigned during FY 2011. We identified 597 special agents who were assigned to these four field offices during FY 2011 according to Treasury Integrated Management Information System records on the TIGTA Data Center Warehouse. These were identified from the population of 2,396 special agents who were assigned to CI field offices nationwide during the first and last quarters of FY 2011. The sample of 597 special agents was validated to field office training records. The TIGTA Data Center Warehouse was also used to validate record counts to ensure that all records were received.
 - B. Interviewed a CI management official and the UFC at each of the four selected field offices and discussed the procedures used to ensure special agents met firearms training and qualification requirements.
 - C. Determined if the sample of special agents met training and qualification requirements by reviewing supporting documentation. For each special agent who did not meet the biannual standard requirement, we determined if the special agent surrendered the firearm as required.

¹ See Appendix IV for glossary of terms.

² A judgmental sample is a nonstatistical sample, the results of which cannot be used to project to the population. We used judgmental sampling because we did not intend to project any of our results.



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- D. Determined if a judgmental subsample of 25 special agents selected from the 597 special agents completed the CI Mandatory Briefings Certification form during FY 2011 by requesting the certificate from CI.
- III. Determined if CI properly reported all instances of special agents discharging their firearms in nontraining situations.
 - A. Obtained and reviewed all CI policies and guidance that were effective during FYs 2009 through 2011 for reporting nontraining firearm discharges. We interviewed a CI management official and the UFC at each of the four field offices and discussed the procedures required when nontraining firearms discharges occur.
 - B. Obtained documentation from CI's Headquarters and field offices for the eight intentional use of force and 11 accidental discharge incidents that occurred during FYs 2009 through 2011. We determined if the accidental discharge incidents were properly reported to the NCITA.
 - C. Determined if the 19 discharge incidents identified in Step III.B. were properly reported to the TIGTA OI by confirming the existence of discharge reports with TIGTA OI management.
- IV. Determined firearms-related policies and practices of five other Federal law enforcement agencies by interviewing representatives, reviewing responses to a questionnaire, and reviewing applicable guidance for the other Federal agencies.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined the following internal controls were relevant to our audit objective: CI's policies, procedures, and practices for ensuring that special agents are properly trained and qualified to carry firearms and for ensuring that firearm discharges are properly reported and investigated. We evaluated these controls by interviewing CI staff, analyzing firearms training and qualification procedures and special agent training and qualification records, and reviewing CI and TIGTA OI documentation related to firearms discharge incidents.



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Appendix II

Major Contributors to This Report

Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Frank Dunleavy, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Frank W. Jones, Director
Bryce Kisler, Director
Doris J. Hynes, Audit Manager
Jeff K. Jones, Lead Auditor
Todd Anderson, Senior Auditor
Shalin R. B. Basnayake, Auditor
Charles S. Nall, Auditor
Victor A. Taylor, Auditor



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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Deputy Chief, Criminal Investigation SE:CI
Director, Operations Policy and Support, Criminal Investigation SE:CI:OPS
Director, Strategy, Criminal Investigation SE:CI:S
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaison: Chief, Criminal Investigation SE:CI:S:PS



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Appendix IV

Glossary of Terms

Building Entry Exercises – Building entry and room clearing exercises and scenarios requiring that special agents wear warrant service apparel and equipment.

Concealed Qualification – Special agents must fire a qualifying score at least once during the fiscal year wearing a pistol that is completely concealed when holstered. All retention devices such as thumb snaps must be in use before the draw. The holster must be the standard strong-side hip concealment holster.

Criminal Investigation Management Information System – A database used by the IRS to track CI investigative equipment, such as firearms. This system allows management to track where the equipment is and to whom it is assigned and to generate reports on the use of the equipment. The system is also used to track the status and progress of investigations and the time expended by special agents.

Criminal Investigation Mandatory Briefings Certification – As part of the CI Mandatory Briefings, special agents are to be briefed on the Department of the Treasury Firearms Safety and Security Policy and CI's directives and procedures on the safe handling and storage of firearms. Special agents are required to sign a certification document upon completion of the briefings. The UFCs are to maintain copies of the certifications.

Data Center Warehouse – A collection of IRS databases containing various types of taxpayer accounts and IRS and TIGTA employee information that is maintained by the TIGTA for the purpose of analyzing data for ongoing audits.

Defensive Tactics Training – Designed to promote the effective and efficient use of bodily impact weapons and to promote techniques for self-protection. This includes training on proper techniques for handcuffing, searching, and removal of visible weapons.

Director of Field Operations – CI is divided into two geographic areas throughout the United States. A Director of Field Operations in each area has functional coordination and program oversight responsibilities over criminal investigation activities for that area.

Field Office – Offices within the two CI geographical areas throughout the country, with boundaries that range from a portion of a single State to multi-State areas.

Firearm Hammer – The function of the hammer is to strike the firing pin in a firearm, which in turn detonates the impact-sensitive cartridge primer. The hammer of a firearm was given its name for both the resemblance and functional similarity to the common tool.



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Fiscal Year – A 12-consecutive-month period ending on the last day of any month, except December. The Federal Government's fiscal year begins on October 1 and ends on September 30.

Internal Revenue Code – Federal tax law begins with the Internal Revenue Code, enacted by Congress in Title 26 of the United States Code. It is the main body of domestic statutory tax law of the United States organized topically, including laws covering the income tax, payroll taxes, gift taxes, estate taxes, and statutory excise taxes. Its implementing agency is the IRS.

Judgment Shooting Training – Live-fire and simulator exercises where the special agent does not know in advance whether or not to use deadly force. The exercises are intended to evaluate hits as well as judgment.

Medical Review Officer – IRS physician responsible for determining if a special agent is medically qualified to perform the full range of duties.

Moving While Shooting Training – Requires that the special agent fire while moving, rather than stopping to fire. Moving from point to point and stopping to fire does not fulfill this requirement.

Multiple Targets Training – Any firearms training where a special agent must engage more than one target during a string of fire.

Nontraining Discharge – According to the NCITA, this would be any intentional or accidental discharge of a firearm including accidental discharges occurring at training facilities.

Off-Range Safety Training – Discussion of proper firearms procedures when not on the range. This includes home and office safety, cleaning, discreet wearing, and Treasury Firearms Safety and Security Policy measures.

Pistol Malfunctions Training – Training where misfires of a firearm are addressed by the special agent.

Post Use of Force Procedures Training – Review of the procedures to be followed after use of force is used in an official capacity.

Reduced Light and Use of Flashlight Training – Physiology of low-light shooting and exercises that require a special agent use a flashlight to identify and illuminate potential threats.

Review and Program Evaluation – Independent review conducted by CI's Office of Strategy and field personnel to assess CI operations and managerial effectiveness. These reviews are to ensure alignment with CI's Compliance Strategy and IRS internal standards.

Shotgun Training – Special agents must fire the CI shotgun course at least twice annually.

Special Agent – A law enforcement employee who investigates potential criminal violations of the tax laws and related financial crimes.



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Special Agent in Charge – A law enforcement employee responsible for directing, monitoring, and coordinating the criminal investigation activities within a field office's area of responsibility.

Supervisory Special Agent – A supervisory law enforcement employee who oversees special agents and the overall criminal investigation.

Treasury Integrated Management Information System – Supports payroll and personnel processing and reporting requirements for the IRS. The files contain data for IRS employees as well as TIGTA employees, including job series, grade, assigned location, *etc.*

Use of Firearms Policy Training – Review of the policy on the use of force and the use of firearms by special agents. This may also be addressed with practical exercises.

Use of Force Coordinator – Each of CI's 26 field offices has a UFC who is responsible for overseeing the office's firearms training and qualification program. This includes ensuring that the required firearms training is scheduled and conducted and ensuring that special agents meet qualification requirements. The UFCs also ensure that firearms safety guidelines are followed while on the firing range.

Warrant Service Apparel and Equipment Qualification – Special agents must fire a qualifying score at least once each year wearing tactical equipment, including ballistic vests, tactical holsters, and raid jackets.

Weapons Maintenance Training – Review of cleaning, lubricating, and proper storage of firearms.



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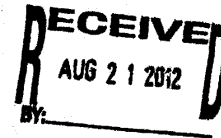
Appendix V

Management's Response to the Draft Report



Criminal Investigation

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



August 20, 2012

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Richard Weber 
Chief, Criminal Investigation (SE:CI)

SUBJECT:

Response to Draft Audit Report - Criminal Investigation's
Firearms Training and Qualification Policies Need to Be Clarified
(Audit #201130049)

Criminal Investigation's (CI) primary mission is to serve the American public by investigating potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law. To accomplish its mission, CI special agents may be called upon to execute search warrants and arrest those suspected of violating the United States tax laws and other federal statutes over which the IRS has jurisdiction. When performing their duties, special agents carry firearms and are authorized to use deadly force to protect themselves and the public. Criminal Investigation's special agents must be fully prepared to respond with force when necessary.

Criminal Investigation Strategy has primary oversight responsibility for the National CI Training Academy (NCITA). NCITA's primary focus is in training new special agents in the fundamentals of financial investigations, including elements of tax offenses, methods of proof unique to Federal tax investigations, and all of the requisite knowledge, skills, and abilities to be Federal law enforcement investigators, which includes use-of-force training courses at the Federal Law Enforcement Training Center (FLETC) and supporting use of force training conducted in each field office.

The overall objective for the audit was to determine whether CI has effective internal controls to ensure special agents are adhering to procedures regarding the required training and qualifications in the use of firearms. This included evaluating the potential impact on CI's program if special agents failed to qualify. The report also addresses the policies and procedures for reporting firearm discharges.

The Treasury Inspector General for Tax Administration (TIGTA) found that CI's firearms training and qualification requirements generally met or exceeded those of other Federal law enforcement agencies. However, TIGTA also found that some CI special



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agents did not meet all of the firearms training or qualification requirements and improvement is needed in the reporting and procedures regarding accidental firearm discharges.

During this past year and prior to the current audit, CI worked to consolidate the Firearms, Defensive Tactics, and Building Entry Training into an Integrated Use-of-Force Training Program—bringing more consistency, quality, and effectiveness to training, while at the same time reducing the overall time applied from an average of eight days to three days a year. This integrated approach to use of force training is also consistent with the use of force training strategies at FLETC, which is taught to approximately 90 Federal partner organizations.

Criminal Investigation also developed a safety briefing/lesson plan that was delivered to all special agents in early FY 2011. The briefing was developed due to an increase in accidental discharges that occurred over the past couple years. Subsequent to the required safety briefing being completed, no additional accidental discharges have been reported.

I want to assure you that although CI's firearms and qualification requirements meet or exceed other Federal agencies, the suggestions and recommendations in your report will be used to further improve and clarify our firearms training and qualification policies.



Criminal Investigation's Firearms Training and Qualification Policies Need to Be Clarified

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

RECOMMENDATION #1

Ensure revisions are made to the Internal Revenue Manual (IRM) to clarify the following inconsistencies or ambiguities regarding the actions that are to be taken when special agents:

- Do not meet one or more of the qualification requirements, including the biannual standard, concealed or warrant service apparel qualifications. The revision should specify the point in time that special agents should surrender their firearms when they do not meet qualification requirements. This change should address whether a special agent's firearm should be surrendered before leaving the firing range or when a special agent does not participate in the required qualification testing.
- Are on temporary assignment away from their permanent office. The current guidance is silent on where the responsibility lies with regard to ensuring all special agents maintain their qualifications to carry and use a firearm. The field office where a special agent is permanently assigned may be in the best position to ensure its special agents meet qualification requirements.

CORRECTIVE ACTION

We agree with this recommendation. Currently, the IRM addresses the consequences of failure to qualify with the duty holster, but leaves the consequences up to the Special Agent in Charge (SAC) when an agent fails to qualify in other situations such as concealed carry, low light familiarization, and using tactical equipment. The revision will require weapon removal for all situations where an agent fails to qualify with duty gear and concealed carry. Tactical equipment, ballistic vest use, low-light, and alternative holster training will be familiarization and/or proficiency demonstrations. Regarding the failure to participate in training, the consequences will continue to be determined based upon the justification/approval for missing the designated training and the timeline for when the agent is in non-compliance with IRM 9.1.8.2(3). Any unjustified absences will be addressed with the appropriate disciplinary actions.

Regarding agents on temporary assignment away from their permanent office, the expectation is that the permanently assigned office has the responsibility to ensure its special agents meet qualification requirements. Guidance will be provided to the Use of Force Coordinators to ensure this is clear and consistently applied.

IMPLEMENTATION DATE

August 15, 2013

RESPONSIBLE OFFICIAL

Director, Strategy



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CORRECTIVE ACTION (S) MONITORING PLAN

The IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION #2

Ensure revisions are made to the IRM to clarify the requirement to qualify in non-consecutive quarters if the intent is that special agents are to qualify, at a minimum, every six months.

CORRECTIVE ACTION

We agree with the recommendation and will update the IRM to clarify this requirement. Currently, IRM 9.2.1.8(3)(b) states that field offices should schedule firearms qualification during the 1st and 3rd quarters or the 2nd and 4th quarters, which is consistent with the recommendation noted above. However, the auditors did note some confusion from at least one of the Use-of-Force Coordinators. The manual revision will require bi-annual qualifications in non-consecutive quarters, not specifically every six months. There is no "six month certification." Agents must meet manual requirements in IRM 9.2.1.8(3).

IMPLEMENTATION DATE

August 15, 2013

RESPONSIBLE OFFICIAL

Director, Strategy

CORRECTIVE ACTION MONITORING PLAN

The IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION #3

Issue guidance on the steps to be taken when the custody of a firearm changes because of a failure to meet qualification requirements. This guidance should address updating applicable inventory records and the importance of maintaining adequate supporting documentation.

CORRECTIVE ACTION (S)

We agree with this recommendation. Internal Revenue Manual sections 9.10.1.3, 9.10.1.6, 9.10.1.7, and 9.10.1.9 govern Criminal Investigation Management Information System (CIMIS) equipment assignments, documentation and temporary custody. When a firearm changes custody for any reason, the field office must prepare a custody receipt for government property and make an appropriate CIMIS entry, regardless of the anticipated length of temporary custody. Guidance will be provided to the Use of Force Coordinators and SACs to ensure this is clear and consistently followed.



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IMPLEMENTATION DATE

February 15, 2013

RESPONSIBLE OFFICIAL

Director, Strategy

CORRECTIVE ACTION (S) MONITORING PLAN

The IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION #4

The Chief, CI should either enforce the current IRM requirement that special agents who do not meet training requirements surrender their firearm or modify the existing IRM to reflect revised consequences of not meeting training requirements. The policy should include the types of absences that will be excused and how the excused absences should be documented at the field office level.

CORRECTIVE ACTION

We agree with this recommendation. The Chief, CI will issue a memorandum emphasizing the importance of following the current IRM requirements. The current IRM requires agents to surrender their weapon when they do not meet the training requirements per IRM 9.2.1.8(3). We agree that any absences from scheduled firearms/use-of-force training events require approval from the agent's supervisor, which should be documented by the Use-of Force Coordinator in the use-of-force training records for that particular agent. However, it would not be appropriate to include specific types of excused absences into the IRM, when each absence would stand on its own merits and be approved by the local management officials.

IMPLEMENTATION DATE

February 15, 2013

RESPONSIBLE OFFICIAL

Director, Strategy

CORRECTIVE ACTION (S) MONITORING PLAN

The IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION #5

The Chief, CI should establish monitoring procedures to review training and qualification information that is currently maintained at the field office level. The purpose of this review should be to ensure that special agents are meeting all established firearm training requirements.



*Criminal Investigation's Firearms Training
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CORRECTIVE ACTION

We agree with the need to improve monitoring procedures to review training and qualification information that is maintained at the field office level. There are procedures currently in place under which the field offices are reviewed by the Review and Program Evaluation (RPE) section. We will review ways to make the current RPE review of firearms training in the field offices more comprehensive. In addition, NCITA will begin monitoring the field office use-of-force reports as they are received from the field offices to identify anomalies and any other indications of training related issues and inconsistencies.

IMPLEMENTATION DATE

November 15, 2012

RESPONSIBLE OFFICIAL

Director, Strategy

CORRECTIVE ACTION (S) MONITORING PLAN

N/A

RECOMMENDATION #6

Delete the contradictory section from the IRM regarding the reporting of non-training discharge incidents to the TIGTA OI. In addition, reiterate to field office management the definition of a non-training discharge and clarify the parties to be notified when non-training discharges occur.

CORRECTIVE ACTION

We agree with this recommendation and the conflicting section of the IRM will be deleted. Criminal Investigation recently updated the policy for firearm discharges and clarified the reporting requirements. However, IRM 9.2.3.6.2 was not updated causing inconsistencies with the updated policy in IRM 9.2.3.6.3 which states that only accidental discharges involving misconduct should be reported to TIGTA. Interim guidance will be provided to the field offices and incorporated into the next IRM update.

IMPLEMENTATION DATE

August 15, 2013

RESPONSIBLE OFFICIAL

Director, Strategy

CORRECTIVE ACTION MONITORING PLAN

The IRS will monitor this corrective action as part of our internal management system of controls.



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RECOMMENDATION #7

Require remedial training when accidental discharges occur due to special agent negligence.

CORRECTIVE ACTION

We agree that in most cases remedial training is generally appropriate and should be required when accidental discharges occur due to special agent negligence. When an accidental discharge occurs, the appropriate Director Field Operations, in consultation with the Special Agent in Charge, will review the specific circumstances surrounding each incident to determine whether the accidental discharge was due to special agent negligence. The Chief, CI will issue a memorandum to all Senior leaders notifying them of this procedure and that remedial training is generally appropriate in cases involving special agent negligence.

IMPLEMENTATION DATE

February 15, 2013

RESPONSIBLE OFFICIAL

Director, Strategy

CORRECTIVE ACTION MONITORING PLAN

The IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION #8

Modify IRM procedures to specifically define the circumstances surrounding firearm surrender after a discharge to provide proper examination of the firearm and to ensure appropriate and consistent actions are taken.

CORRECTIVE ACTION

We agree that it is important to have clear guidance regarding firearm surrender after a discharge. Regarding intentional discharges, IRM 9.2.3.5.3 provides policy and procedures for reporting and surrendering weapons when the use of the weapon results in injury, property damage, or death. Regarding all other discharges, the appropriate Director Field Operations, in consultation with the Special Agent in Charge, will review the specific circumstances surrounding each incident to determine whether, after a discharge, the firearm should be surrendered and examined. The Chief, CI will issue a memorandum to all Senior leaders notifying them of this procedure. We are concerned that to attempt to codify in the IRM or other guidance the specific circumstances requiring firearm surrender after a discharge would lead to a narrow interpretation of the IRM or other guidance which would result in a lack of appropriate review of other circumstances that are not listed.

IMPLEMENTATION DATE

February 15, 2013



*Criminal Investigation's Firearms Training
and Qualification Policies Need to Be Clarified*

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RESPONSIBLE OFFICIAL
Director, Strategy

CORRECTIVE ACTION MONITORING PLAN
The IRS will monitor this corrective action as part of our internal management system of controls.