



*The Office of Chief Counsel's Disciplinary  
Process Is Generally Effective*

**December 23, 2015**

**Reference Number: 2016-10-010**

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.

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## HIGHLIGHTS

### THE OFFICE OF CHIEF COUNSEL'S DISCIPLINARY PROCESS IS GENERALLY EFFECTIVE

## Highlights

Final Report issued on  
December 23, 2015

Highlights of Reference Number: 2016-10-010  
to the Internal Revenue Service Chief Counsel.

### IMPACT ON TAXPAYERS

As the IRS's legal advisor, the IRS Office of Chief Counsel (hereafter referred to as Chief Counsel) plays an important role by providing legal guidance and representing the IRS in litigation. Although Chief Counsel employees are part of the Department of the Treasury but not the IRS and are thus not subject to IRS conduct and discipline policies, their conduct may have a negative effect on the IRS's or Chief Counsel's mission and the public's confidence in the tax system.

### WHY TIGTA DID THE AUDIT

The overall objective of this review was to determine whether Chief Counsel has an effective process for administering employee disciplinary actions.

### WHAT TIGTA FOUND

Chief Counsel has an effective process for responding to allegations of misconduct for its employees. In the last three fiscal years, the IRS and TIGTA forwarded more than 600 allegations of potential employee misconduct to Chief Counsel. Through a review of selected case files, TIGTA found that Chief Counsel appropriately documented the allegations received and the investigation conducted by Chief Counsel management and Chief Counsel Labor and Employee Relations function personnel. Case files showed evidence of the facts and circumstances considered and provided a rationale for whether or not disciplinary action was necessary.

TIGTA found that allegations of credit card misconduct had initially gone unaddressed, but

delays in responding to credit card misconduct were addressed during Fiscal Year 2015. By May 2015, Chief Counsel had responded to more than 91 percent of all reported credit card misconduct cases. In addition, Chief Counsel could improve its management of employee misconduct cases by consolidating its employee misconduct files into one central location so that an employee's entire conduct history could be considered when reviewing alleged misconduct.

In a few cases, TIGTA found that disciplinary actions imposed did not appear to be commensurate with the substantiated misconduct. While Chief Counsel documented its actions in these cases, the disciplinary action imposed appeared to be too lenient given the egregious nature of the substantiated misconduct. Specifically, for several instances of sexually related misconduct, employees were given suspensions of five days or less.

### WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS Chief Counsel implement a centralized database that includes all employee misconduct cases in one location. In its response, Chief Counsel agreed with the recommendation and stated that it will implement a centralized system by March 2016.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

December 23, 2015

**MEMORANDUM FOR CHIEF COUNSEL**

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

**SUBJECT:** Final Audit Report – The Office of Chief Counsel’s Disciplinary  
Process Is Generally Effective (Audit # 201510003)

This report presents the results of our review to determine whether the Internal Revenue Service Office of Chief Counsel has an effective process for administering employee disciplinary actions. This audit was included in our Fiscal Year 2015 Annual Audit Plan and addresses the major management challenge of Human Capital.

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

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. If you have any questions, please contact me or Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations).



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*Abbreviations*

CSIRC	Computer Security Incident Response Center
FY	Fiscal Year
IRS	Internal Revenue Service
OI	Office of Investigations
TIGTA	Treasury Inspector General for Tax Administration



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## *Background*

The *Standards of Ethical Conduct for Employees of the Executive Branch*<sup>1</sup> states: “Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.” Employees of the Internal Revenue Service (IRS) Office of Chief Counsel (hereafter referred to as Chief Counsel) are held to a high ethical standard of conduct with regard to their official duties and personal activities that are deemed to have a negative effect on the IRS’s or Chief Counsel’s mission and the integrity of its operations or the public’s perception of and confidence in the IRS and Chief Counsel. As the IRS’s legal advisor responsible for providing legal guidance to the IRS Commissioner, representing the IRS in litigation, and providing all other legal support needed by the IRS to carry out its mission of helping America’s taxpayers understand and meet their tax responsibilities and applying the tax law with integrity and fairness to all, Chief Counsel employees must be particularly conscientious about compliance in tax matters. Consequences for Chief Counsel employee misconduct can range from an advisory letter to termination based on the individual aggravating and mitigating circumstances of each misconduct case.

Chief Counsel reports to the General Counsel of the Department of the Treasury, and thus its employees are not IRS employees. Although Chief Counsel employees are subject to Federal and Department of the Treasury standards of ethical conduct, they are not bound by Section 1203 of the IRS Restructuring and Reform Act of 1998,<sup>2</sup> which states that the IRS shall terminate the employment of any IRS employee if there is a final determination that the employee committed certain acts of misconduct, including willful violations of tax law, unless the penalty is mitigated at the discretion of the IRS Commissioner. While Chief Counsel is considered separate from the IRS, it does share some of the same policies as the IRS, such as the rules governing the use of Government purchase and travel cards, and it also uses some of the services that IRS business units provide to detect potential employee misconduct.

Instances of potential Chief Counsel employee misconduct are brought to the attention of Chief Counsel’s Labor and Employee Relations function from several sources. The primary

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<sup>1</sup> Title 5, Code of Federal Regulations § 2635.101(a) (2014).

<sup>2</sup> 26 U.S.C. § 7804 note.



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offices that report to Chief Counsel are the IRS Employee Tax Compliance Branch,<sup>3</sup> IRS Credit Card Services Branch,<sup>4</sup> IRS Computer Security Incident Response Center (CSIRC),<sup>5</sup> Treasury Inspector General for Tax Administration's (TIGTA) Office of Investigations (OI),<sup>6</sup> and internal referrals from Chief Counsel's management or employee self-reporting. Figure 1 briefly describes the types of cases that each office reports.

**Figure 1: Potential Misconduct Reported to Chief Counsel**

Reporting Office	Type of Potential Misconduct
IRS Employee Tax Compliance Branch	Federal tax noncompliance
IRS Credit Card Services Branch	Travel card and purchase card misuse
IRS CSIRC	Computer security incidents
TIGTA OI	On- and off-duty conduct <sup>7</sup>
Chief Counsel	On- and off-duty conduct <sup>8</sup>

Source: Chief Counsel.

The Chief Counsel Labor and Employee Relations function evaluates disciplinary cases against its employees internally by working with the employee's manager to administer discipline, if necessary. Chief Counsel's discipline process is outlined in its agreement with the National Treasury Employees Union. Chief Counsel does not use a table of penalties to set parameters on appropriate discipline for different offenses; rather, it considers each case on its merits by

<sup>3</sup> The Employee Tax Compliance Branch of the Employee Conduct and Compliance Office administers the Employee Tax Compliance Program that identifies IRS employees' potential tax noncompliance issues, researches and resolves issues within given thresholds, and refers technical/complex issues to management for further adjudication.

<sup>4</sup> The Credit Card Services Branch of the Agency-Wide Shared Services' Employee Support Services function is responsible for managing and providing oversight for the travel and purchase card programs. In addition, the Credit Card Services Branch is responsible for tracking and reporting to the Labor and Employee Relations function instances of alleged inappropriate travel and purchase card use as part of the process for determining and implementing the appropriate disciplinary action.

<sup>5</sup> The CSIRC is positioned to be proactive in preventing, detecting, and responding to computer security incidents targeting the IRS's enterprise information technology assets. The CSIRC provides assistance and guidance in incident response and provides a centralized approach to incident handling across the IRS enterprise.

<sup>6</sup> TIGTA OI addresses threats arising from lapses in IRS employee integrity, violence directed against the IRS, and external attempts to corruptly interfere with Federal tax administration. This includes investigating allegations of criminal violations and administrative misconduct by IRS employees. TIGTA's oversight extends to the IRS, IRS Chief Counsel, and the IRS Oversight Board.

<sup>7</sup> TIGTA investigates employee misconduct allegations including extortion, bribery, theft, taxpayer abuses, false statements, and financial fraud.

<sup>8</sup> Examples of Chief Counsel internal management conduct cases include absence without leave, inappropriate conduct on and off duty, and failure to follow instructions.



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weighing aggravating and mitigating *Douglas* factors,<sup>9</sup> considering prior cases similar in nature, and applying progressive discipline for repeat offenders. Figure 2 overviews the *Douglas* factors that Chief Counsel considers.

**Figure 2: *Douglas* Factors**

(1) The nature and seriousness of the offense and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.
(2) The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.
(3) The employee's past disciplinary record.
(4) The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.
(5) The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties.
(6) Consistency of the penalty with those imposed upon other employees for the same or similar offenses.
(7) Consistency of the penalty with any applicable agency table of penalties.
(8) The notoriety of the offense or its impact upon the reputation of the agency.
(9) The clarity with which the employee was on notice of any rules that were violated in committing the offense or had been warned about the conduct in question.
(10) The potential for the employee's rehabilitation.
(11) Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice, or provocation on the part of others involved in the matter.
(12) The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Source: U.S. Office of Personnel Management.

This review was performed at the IRS National Headquarters in Washington, D.C., in coordination with the Agency-Wide Shared Services, Chief Counsel, Human Capital Office, and

<sup>9</sup> The Merit Systems Protection Board in its landmark decision, *Douglas vs. Veterans Administration*, 5 M.S.P.R. 280 (1981), established criteria that supervisors must consider in determining an appropriate penalty to impose for an act of employee misconduct.



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Information Technology offices, and in Chief Counsel's Regional Labor and Employee Relations functions in San Francisco, California; Atlanta, Georgia; and New York, New York, during the period December 2014 through July 2015. 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.



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*Results of Review*

***Chief Counsel's Disciplinary Process Was Effective in Responding to  
Alleged Employee Misconduct in Most Cases***

**Chief Counsel effectively responded to reported employee misconduct**

IRS and TIGTA offices reported to Chief Counsel 627 cases of potential Chief Counsel employee misconduct from Fiscal Years (FY) 2012 to 2014. Of the 627 reported cases, 67 resulted in discipline ranging from admonishment to removal, 209 resulted in non-disciplinary<sup>10</sup> action such as oral counseling, 69 were still pending at the date of our request, 279 were closed with no action because Chief Counsel found no misconduct or the employee separated, and three did not have a recorded disciplinary action because of delays in Chief Counsel receiving the reported case. IRS and TIGTA offices forwarded potential Chief Counsel employee misconduct to Chief Counsel, and employee cases also originated internally from Chief Counsel management or self-reporting. Figure 3 indicates the source of the information regarding the reported employee misconduct and the number of cases from each source that resulted in clearance,<sup>11</sup> non-disciplinary actions, and disciplinary actions.<sup>12</sup>

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<sup>10</sup> A non-disciplinary action may be issued at the manager's discretion when the misconduct is not serious or recurring and an informal action, such as written or oral counseling or an advisory letter, is what management deems necessary to correct a minor problem and prevent recurrence.

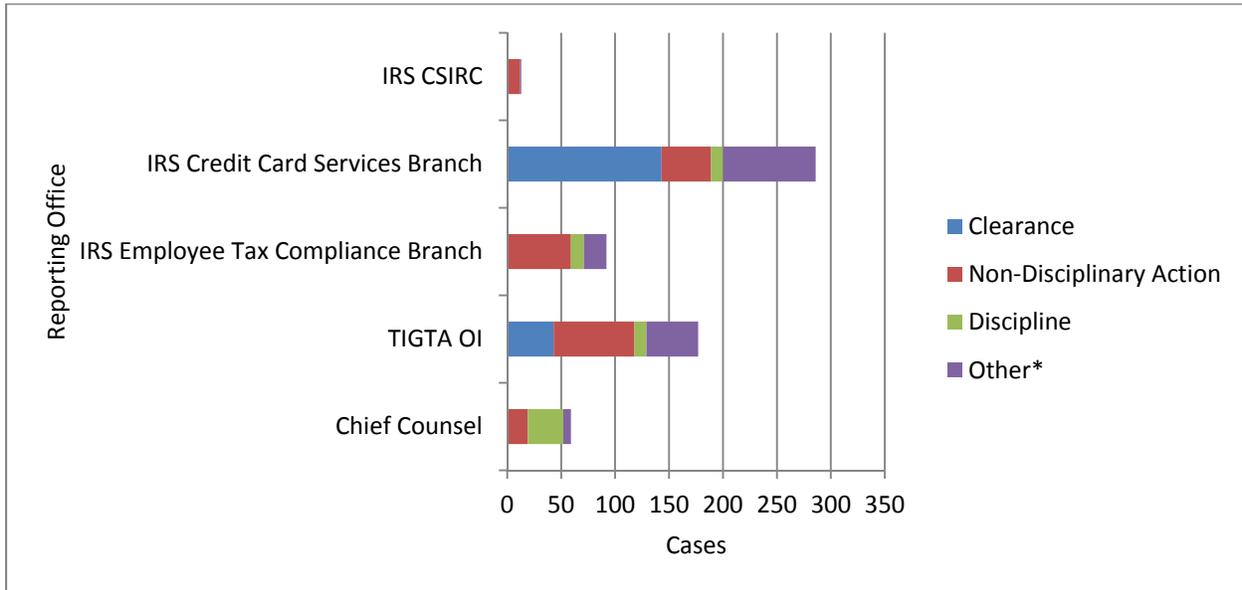
<sup>11</sup> A clearance is used when there is no credible evidence to support an allegation or the evidence clearly establishes the employee's innocence.

<sup>12</sup> A disciplinary action is a measure taken by management that is intended to correct employee misconduct and encourage conduct in compliance with established rules.



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Figure 3: Sources of Reported Chief Counsel Employee Misconduct and Resulting Action



Source: Our analysis of five Chief Counsel databases of potential employee misconduct from FYs 2012 to 2014. \*The Other category represents cases in which the employee resigned or retired prior to final adjudication or in lieu of termination and cases that remained open at the time we received the data or that were omitted from Chief Counsel's database.

Our review of selected cases found that Chief Counsel followed its procedures for evaluating potential employee misconduct and that case files contained evidence to support Chief Counsel management's decision about whether the employee's conduct issue was substantiated and whether disciplinary action was necessary. Chief Counsel management considers each case on its merits by weighing aggravating and mitigating circumstances, including the employee's prior discipline for similar offenses and the level of discipline administered to other Chief Counsel employees for similar misconduct.

We reviewed a judgmental sample<sup>13</sup> of 71 employees with 92 adjudicated conduct issues from FYs 2012 to 2014. We selected the most serious allegations from the categories of TIGTA OI referrals, employee tax compliance, travel and purchase card misuse, and internal management issues. Each of the 92 case files included evidence and rationale to support Chief Counsel management's decision concerning whether or not the allegation of employee misconduct was substantiated and whether disciplinary action was necessary. We also evaluated all 42 cases of TIGTA OI referrals that Chief Counsel indicated were for information only in order to determine the reason the case was referred to Chief Counsel and evaluate Chief Counsel's rationale for determining that no action was necessary. For each of the 42 cases, TIGTA OI either forwarded

<sup>13</sup> A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.



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the case to Chief Counsel indicating that it was for information only or Chief Counsel made a reasonable determination that the case did not require any further action.

**There were delays in addressing potential employee purchase card and travel card misuse**

The Credit Card Services Branch forwarded 286 cases of potential purchase card and travel card misuse to Chief Counsel between FYs 2012 and 2014. We found that Chief Counsel had not addressed 161 (56.3 percent) of 286 cases as of December 2014. The number of days from the time that Chief Counsel received the referral to the date of case closure ranged from six calendar days to 1,231 calendar days (more than three years). However, Chief Counsel was able to address the majority of the remaining open cases by May 2015, when it reported that 262 (91.6 percent) of the 286 cases from FYs 2012 to 2014 were closed.

Chief Counsel employees are required to follow the same rules as IRS employees with regard to their purchase and travel cards. The Credit Card Services Branch identified potential issues of personal travel card use, travel card delinquency, purchase card split purchases, and purchase card purchases from the restricted purchase list. Chief Counsel did not evaluate these cases when they were forwarded from the Credit Card Services Branch due to a shortage of staff until it hired a new employee in August 2014 whose primary responsibility is to handle the cases. During the period of delay in processing the cases, some Chief Counsel employees misused their purchase and travel cards multiple times before Chief Counsel addressed the misuse. Seventy-two Chief Counsel employees were referred to Chief Counsel two or more times during our audit period for potential purchase card and travel card misuse.<sup>14</sup> Nine Chief Counsel employees had five or more referrals during our audit period, including two employees with 10 referrals during the audit period. Seventeen of the 72 Chief Counsel employees with multiple referrals had multiple instances of substantiated misconduct.

**Data management needs improvement**

Chief Counsel maintains five separate databases containing the referred potential conduct issue—one from each of the four referring IRS and TIGTA offices and one with Chief Counsel's internal referrals. The management and location of these databases are decentralized. IRS and TIGTA offices reported to Chief Counsel 627 cases of potential employee misconduct from FYs 2012 to 2014. However, Chief Counsel's four databases from the reporting offices did not contain 13 of the referrals.<sup>15</sup> Chief Counsel addressed 10 of the 13 cases, but it did not enter the cases into its data systems. Chief Counsel management stated that they did not receive the

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<sup>14</sup> The Credit Card Services Branch forwarded some cases of potential purchase and travel card misuse to Chief Counsel multiple times before Chief Counsel took corrective action.

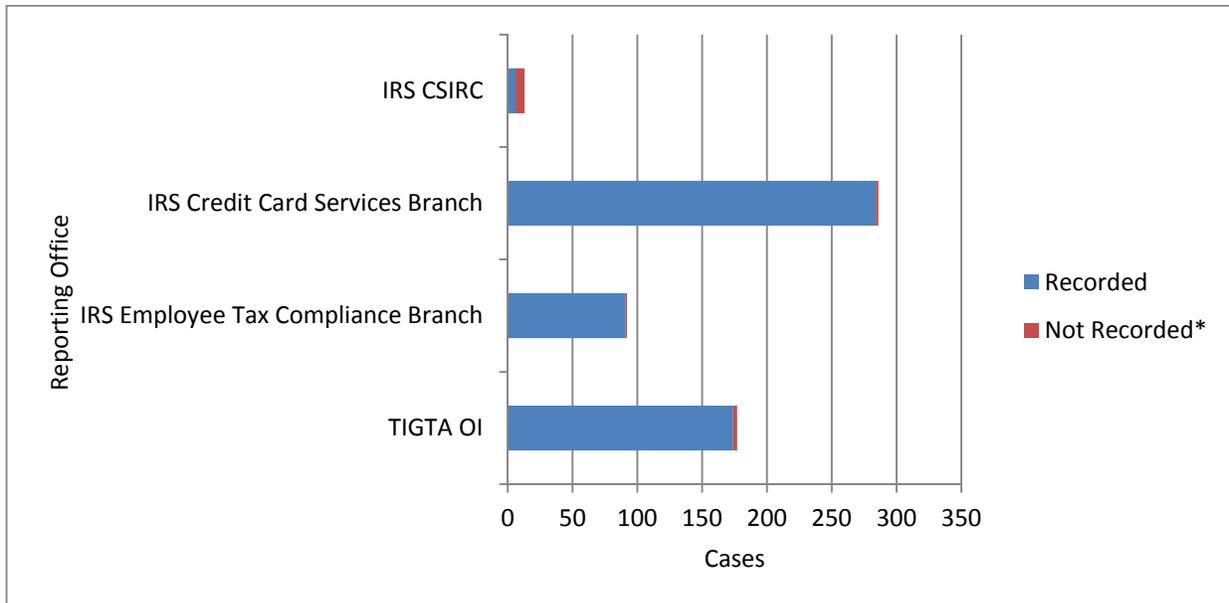
<sup>15</sup> We did not determine whether Chief Counsel accurately documented its own internal management referrals or self-reported conduct issues in its database.



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remaining three of 13 cases during our audit period. Figure 4 depicts the number of cases from each reporting office that were not recorded in Chief Counsel's databases.

**Figure 4: Reported Cases Not Recorded in Chief Counsel Databases, Displayed by Reporting Office**



Source: Our comparison of four of five Chief Counsel databases of potential employee misconduct from FYs 2012 to 2014 to data obtained from referring IRS and TIGTA offices. \*Not Recorded cases include seven IRS CSIRC cases, two IRS Credit Card Services Branch cases, one IRS Employee Tax Compliance Branch case, and three TIGTA OI cases.

Chief Counsel's policy is to use progressive discipline for repeat offenses,<sup>16</sup> so the records maintained in the databases are essential to determine whether an employee had a prior disciplinary action. Due to the way that Chief Counsel maintains its records in a decentralized manner, Labor and Employee Relations function specialists cannot go to a single location to identify and consider all prior or concurrent employee cases of misconduct resulting in all levels of non-disciplinary and disciplinary action when reviewing an active referral. In addition, management oversight of disciplinary issues is more difficult with a decentralized system of multiple databases.

<sup>16</sup> Chief Counsel does not typically consider prior or concurrent cases of different types of misconduct as an aggravating factor when determining the level of discipline.



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**In certain cases, Chief Counsel discipline did not appear to be commensurate with the substantiated misconduct**

Despite effective processes for responding to reported misconduct and documenting the rationale for whether disciplinary action was necessary, in certain cases, discipline administered by Chief Counsel did not appear to be commensurate with the substantiated misconduct. In four instances of substantiated sexually related misconduct,<sup>17</sup> employees received suspension of five days or less. These cases included:

- A supervisor engaged in inappropriate sexual misconduct with a subordinate in the form of sexually explicit e-mails, text messages, and telephone calls over an 11-month period and received a five-day suspension.
- A General Schedule-14 attorney viewed sexually explicit material on his or her Government computer for two-to-three hours per day for a period of four months and received a three-day suspension.

Chief Counsel adjudicates each conduct case on its own merits by applying aggravating and mitigating *Douglas* factors in order to reach a conclusion on the appropriate level of discipline. For these cases, Chief Counsel documented its process and rationale and provided additional explanations to TIGTA to support the level of discipline. However, TIGTA concluded that given the egregious nature of the substantiated conduct, the rationale provided was insufficient to support suspensions of five days or less.

***Recommendation***

**Recommendation 1:** Chief Counsel should develop a centralized database of all types of open and closed Chief Counsel employee misconduct allegations and management actions in response.

**Management's Response:** Chief Counsel agreed with this recommendation and stated that they are evaluating which application should hold the centralized database. The data will be migrated and users trained before March 15, 2016.

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<sup>17</sup> Examples of sexually-related misconduct include sexual harassment, inappropriate sexual relationship with a subordinate, and viewing pornography on a Government-issued computer.



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## **Appendix I**

### *Detailed Objective, Scope, and Methodology*

The overall objective of this review was to determine whether IRS Chief Counsel has an effective process for administering employee disciplinary actions. To accomplish our objective, we:

- I. Obtained an overall understanding of the controls IRS Chief Counsel has in place to respond to conduct issues (employee tax noncompliance, purchase and travel card misuse, cybersecurity incidents, TIGTA OI referrals, and other conduct issues) for IRS Chief Counsel employees.
  - A. Identified and reviewed Federal laws and Treasury regulations that apply to employee conduct issues.
  - B. Identified and reviewed IRS Chief Counsel internal policies and guidance that apply to conduct issues.
  - C. Interviewed IRS Chief Counsel staff and IRS officials who are responsible for identifying potential conduct issues and responding to the cases to identify how disciplinary actions are administered.
- II. Evaluated the IRS Chief Counsel's process for responding to employee conduct issues.
  - A. Obtained source data on potential employee conduct issues identified by offices within the IRS and TIGTA and referred to IRS Chief Counsel for FYs 2012 to 2014. This included:
    1. Data files of potential employee tax noncompliance from the IRS Employee Tax Compliance Branch.
    2. Data of potential purchase and travel card misuse from the IRS's Agency-Wide Shared Services Employee Support Services function.
    3. Data of cybersecurity incidents from the CSIRC.
    4. TIGTA OI referrals of complaints and investigations.
  - B. Obtained IRS Chief Counsel's databases of all employee conduct issues for FYs 2012 to 2014. We assessed the reliability of IRS Chief Counsel's conduct data by tracing each record to its corresponding record in the data referred from IRS and TIGTA offices, and we determined that the data were sufficiently reliable for purposes of this report.



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- C. Compared the data files obtained in Step II.A to the data received in Step II.B and, for any missing cases, requested an explanation.
- D. For conduct documented in the IRS Chief Counsel's databases, determined whether IRS Chief Counsel responded effectively and determined whether discipline was consistent with applicable Federal law, Treasury guidance, and Chief Counsel policy.
  1. Reviewed a judgmental sample<sup>1</sup> of 92 employee conduct cases out of a population of 627 conduct cases that were closed in FYs 2012 to 2014 to determine if disciplinary action was administered appropriately. For the judgmental sample, we selected the most serious allegations from the categories of TIGTA OI referrals, employee tax compliance, travel and purchase card misuse, and internal management issues.
  2. For the 92 selected cases, obtained the position description, promotions, awards, and quality step increase information as well as Consolidated Lead Evaluation and Reporting information for the associated employee to determine the other facts and circumstances associated with the employee.

**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 that the following internal controls were relevant to our audit objective: Chief Counsel policies, procedures, and practices for administering the Chief Counsel discipline program. We evaluated these controls by interviewing management responsible for executing the program, reviewing applicable documentation, and analyzing selected employee misconduct case details.

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<sup>1</sup> A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.



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**Appendix II**

*Major Contributors to This Report*

Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations)  
Jonathan T. Meyer, Director  
Deanna G. Lee, Audit Manager  
LaToya R. Penn, Audit Manager  
Gene A. Luevano, Lead Auditor  
Sharon M. Downey, Senior Auditor  
Sylvia S. McPherson, Senior Auditor  
Meghann L. Noon-Miller, Auditor



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**Appendix III**

*Report Distribution List*

Commissioner  
Office of the Commissioner – Attn: Chief of Staff  
Deputy Commissioner for Services and Enforcement  
Deputy Commissioner for Operations Support  
Chief Counsel  
Chief, Agency-Wide Shared Services  
Director, Office of Audit Coordination



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**Appendix IV**

*Management's Response to the Draft Report*



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

DEC - 9 2015

MEMORANDUM FOR MICHAEL E. MCKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: WILLIAM J. WILKINS   
CHIEF COUNSEL

SUBJECT: Draft Audit Report - The Office of Chief Counsel's Disciplinary  
Process Is Generally Effective (Audit # 201510003)

Thank you for the opportunity to review and provide comments on the subject draft audit report. An effective and responsive disciplinary system is an essential element of good management. We appreciate your insight and recommendations on our disciplinary process.

Determining the appropriate level of discipline is a significant responsibility. While rational individuals can disagree on the exact level of discipline, the Office considers each case individually and gives due consideration to any relevant mitigating or aggravating factors. Additionally, an employee's past disciplinary record, the discipline of other employees with similar offenses, and the likelihood a third-party would sustain the punishment if the employee chose to challenge the discipline can be important aspects in setting the level of discipline. In light of the necessary interaction of all these factors, we ensure all our actions are well reasoned and, as you noted, clearly documented.

As you also noted in the report, reductions in the Office's budget negatively impacted Labor & Employee Relations (LER) ability to efficiently investigate and act on alleged travel card and purchase card abuse. Adequate staffing is essential to the process of determining and implementing appropriate disciplinary action. The ability to hire a qualified person via the Pathways Program has now allowed us to address the backlog of cases so that over ninety-one percent of cases have been closed. Further, a more robustly staffed LER section should result in alleged incidents being addressed more timely, avoiding multiple violations by the same employee.

Attached are our comments to your recommendations. If you have any questions, please contact me, or a member of your staff may contact Dustin Starbuck, Associate Chief Counsel, Finance & Management, at 202-317-6930.

Attachment



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Attachment

**Recommendations**

**RECOMMENDATION 1**

Chief Counsel should develop a centralized database of all types of open or closed Chief Counsel employee misconduct allegations and management actions in response.

**CORRECTIVE ACTION**

We agree with this recommendation. We are having users test Excel, MS Access, and SharePoint to determine which application should hold the centralized database. Data will be migrated and users trained before March 15, 2016.

**IMPLEMENTATION DATE**

March 15, 2016

**RESPONSIBLE OFFICIAL**

Associate Chief Counsel, Finance & Management

**CORRECTIVE ACTION MONITORING PLAN**

We will monitor this corrective action as part of our internal management controls