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IRS' Progress on Integrity and Ethics Issues

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IRS' PROGRESS ON ETHICS AND INTEGRITY ISSUES

SUMMARY OF STATEMENT BY
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GAO believes that, although much remains to be done, IRS has made progress in its long-term effort to effect cultural change and improve its ethics and integrity climate.

IRS' major accomplishment thus far has been to communicate and highlight to employees the importance of ethical issues. At IRS' National Office and the 10 field locations GAO visited, IRS has distributed information on employees' ethical responsibilities, ways to report misconduct, and protections available to employees for reporting misconduct without fear of reprisal. IRS has also provided ethics awareness training to 13,000 managers and executives and plans to deliver a full-day ethics awareness briefing to the remaining employees.

IRS has made some progress in its efforts to dispel negative perceptions about its willingness to take appropriate disciplinary actions. However, GAO found that IRS still is unable to fully use its management information system as a tool to help ensure that sanctions are adequately and equitably applied. GAO believes that IRS needs to move quickly in its efforts to improve the system so that IRS can use it to do periodic reviews of its disciplinary actions.

GAO interviewed 40 IRS employees in various locations throughout the country. These employees were aware of and generally positive about IRS' efforts to strengthen ethics programs. Almost all said they were willing to report misconduct and were familiar with IRS' Inspection Service. Fewer (27) said they had heard of the Treasury IG's role in investigating misconduct at IRS. And 28 had positive views about IRS' willingness to protect them from retaliation for reporting misconduct.

At the Subcommittee's request, GAO's statement also discusses IRS' undercover operations and GAO's recommendations to strengthen the management and oversight of this sensitive law enforcement technique. IRS has agreed to make changes to respond to GAO's recommendations. However, GAO believes that IRS needs to make a continuing commitment to oversee undercover operations and ensure adherence to controls. This should help reduce the risk of potential misuse of funds and operational breakdowns during future undercover operations.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the progress of the Internal Revenue Service in responding to the Subcommittee's concerns about ethics and integrity issues. At your request, we have continued to monitor the IRS efforts in the area following your hearings last year on senior employee misconduct. We conclude that IRS is continuing to make progress in responding to concerns about ethics and integrity matters, but it will necessarily take several years to effect cultural change.

EMPLOYEE COMMUNICATION AND ETHICS AWARENESS

IRS' major accomplishment in the area of employee communication and ethics awareness has been to communicate and highlight to employees the importance of ethical issues. Our testimony last year recommended that IRS focus attention on improving communication with employees and encouraging ethics awareness.[1] In a December 1991 report, we summarized IRS' substantial attention to implementing this recommendation.[2] For instance, IRS published hotline numbers and informed employees of their

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[1]IRS' Efforts to Deal With Integrity and Ethics Issues (GAO/T-GGD-91-58, July 24, 1991).

[2]INTERNAL REVENUE SERVICE: Status of IRS' Efforts to Deal With Integrity and Ethics Issues (GAO/GGD-92-19, December 31, 1991).

rights under the Whistleblower Protection Act of 1989.[3] By December, IRS had set up a network of functional and regional ethics coordinators to facilitate the flow of information to employees. Further, IRS had provided at least 8 hours of ethics awareness training to almost 13,000 IRS executives and managers.

Since December, IRS has continued to work on improving communication. For example:

- IRS has developed and pilot tested an all-employee Ethics Awareness Briefing. The briefings, scheduled to begin in September 1992, are designed to give information on such things as the rights of employees to protection from retaliation. The full-day briefings are to be job-specific so that employees can relate ethical decision-making to actual job situations and are to be supplemented with discussions between employees and managers.

- IRS is developing an Ethics Resources Guide to be delivered to employees during Ethics Awareness Briefings. The guide, expected to be ready in September 1992, will contain ethics materials and guidance as well as information about the

[3]The WhistleBlower Protection Act of 1989 established the Office of Special Counsel to protect federal employees, especially whistleblowers, from prohibited personnel practices and to act in the interest of employees seeking assistance.

Inspection Hotline and the role of the Office of Inspector General.

- IRS' Inspection Service has used a video during briefings to emphasize employee responsibilities for reporting misconduct and to explain Inspection's role in investigating employee misconduct. In the year ending June 30, 1992, Inspection presented the briefing to over 25,000 IRS employees. Inspection has also publicized its hotline in various IRS publications and distributed hotline posters. Between August 1989, when the hotline was first activated, through June 30, 1992, it generated allegations concerning 552 individuals. Of that number, 85 (15 percent) were referred to the Treasury IG and the remainder were handled by Inspection or referred to management for appropriate action.

Managers at the 10 field locations we visited had also tried to improve communication and ethics awareness. They had developed plans, assigned ethics coordinators, and used memoranda, newsletters, articles and face-to-face discussions to make employees aware of their ethical responsibilities and ways to report misconduct. For instance:

- The San Francisco and Los Angeles District Directors wrote letters to all employees about ethics as it relates to filing tax returns, employee conduct, and the IRS Inspection Hotline.

- The Buffalo District Director sent a memo to remind all district employees of their responsibility to report misconduct along with examples of misconduct involving bribery, conflicts of interest, and misuse of sick leave.

- The Atlanta, Buffalo, Manhattan, and Birmingham District Offices published articles in their local newsletters that discussed examples of misconduct, employee protection from retaliation for reporting misconduct, and reporting through IRS' Inspection Hotline.

- Birmingham and Atlanta District managers held monthly staff meetings to discuss ethics and integrity issues, while Atlanta held focus group sessions to ask for ideas on ways to improve communication about ethical matters between managers and employees.

PERCEPTIONS ABOUT DISPARATE TREATMENT AND DISCIPLINARY ACTIONS

IRS has made some progress in its efforts to dispel negative perceptions about its willingness to take appropriate disciplinary actions, but still is unable to fully use its management information system to review disciplinary actions to help ensure that sanctions are adequately and equitably applied. During last year's hearing, we made three recommendations to help improve the perception that IRS' decisions on sanctions for misconduct are fair and equitable, regardless of employee grade or position. IRS has implemented two of the recommendations and is working on the third.

Our first recommendation concerned IRS' handling of senior employee misconduct cases investigated by the Department of Treasury's Office of Inspector General. In our statement, we pointed out that, once an investigation was completed by the IG, some senior employee cases were resolved by IRS at the National Office and others were resolved by the alleged offender's manager at the local level. Because this dual-path process could lead to perceptions of disparate treatment, we recommended that IRS' Human Resources Division oversee all cases returned by the IG. In January 1992, IRS consolidated the adjudication process, and now all decisions concerning senior IRS officials are coordinated by the National Office Human Resources staff.

Our second recommendation was to publicize summary information about misconduct cases and sanctions taken against employees at all levels, protecting the privacy of the individual employees. IRS worked to resolve the legal issues associated with publishing case-specific information. In March 1992, IRS published an agency-wide newsletter, Practicing Ethics, which provides sanitized examples of improper activities by employees, managers, and executives and the sanctions imposed. The first issue cites a case where an executive was suspended and reassigned for several offenses, including using his position to further his own private interests. Another case cites the removal of a revenue agent for soliciting employment from a taxpayer being audited. IRS plans to publish case-related summaries in future editions of Practicing Ethics, which will be sent to all employees every six months.

Our third recommendation involved IRS' Automated Labor Employee Relations Tracking System (ALERTS). IRS developed ALERTS to help manage employee conduct cases and provide comparative information on similar cases and actions taken. We had concluded that, if ALERTS worked as intended, the system had the potential to be a useful tool for overseeing the equity of adjudicative actions taken against all IRS employees. Thus, we recommended that IRS periodically review these actions to provide assurances that sanctions are adequately and equitably applied.

ALERTS is not yet working as intended. While IRS generally agrees that ALERTS might be used in the future to review disciplinary actions, neither IRS nor the Treasury IG believe ALERTS is ready to facilitate such a review. In an April 1992 report, the Treasury IG found that about 19 percent of IRS' regional and district offices were not entering or updating ALERTS data. The IG concluded that ALERTS was unable to provide accurate and comprehensive reports for management to use in assessing consistency of discipline.

IRS agrees that some field offices had not been using ALERTS and has announced several actions to enhance the system and ensure that ALERTS is fully utilized. For example, IRS is planning technical enhancements to make ALERTS easier to use and more useful as a case tracking and research system. The enhancements are scheduled to be completed by October 1992 after which IRS intends to conduct comprehensive training on the use of the system. IRS has also emphasized to field offices that ALERTS usage is mandatory and that information entered in the system must be timely, complete, and accurate. In addition, to ensure that ALERTS is used as intended, the National Office has completed field reviews of ALERTS usage and is working with regions to ensure prompt and adequate ALERTS input.

In the past, IRS did not develop guidance on disciplinary actions to be taken by type of misconduct because the circumstances of each case were thought to be too varied to develop a fair guideline. In the absence of such guidance, ALERTS is especially important because it provides managers a framework for imposing penalties for misconduct. Thus, we believe it is important that IRS continue its efforts to ensure that all field offices use ALERTS and enter information in the system in a timely, complete, and accurate fashion. Furthermore, IRS needs to move quickly to implement system enhancements and provide comprehensive training for system users. By doing so, IRS should be in a better position to use ALERTS as a case tracking and research system.

EMPLOYEES' VIEWS ON ETHICS AND INTEGRITY ISSUES

We interviewed 40 IRS employees; they generally had positive attitudes about IRS' efforts to deal with ethics and integrity issues.

Last year, we mailed a questionnaire to over 2700 IRS employees' homes to obtain their views on integrity and willingness to report misconduct.[4] Because IRS' efforts to strengthen its ethics and integrity climate necessarily involves long-term change, we did not believe that enough time had elapsed to warrant a repeat of last year's survey. However, we did interview 40 employees at their workplace to get a sense for how employees viewed IRS' efforts thus far.[5] We used many of the same questions that we used last year and, in some instances,

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[4] Employee Views on Integrity and Willingness to Report Misconduct (GAO/GGD-91-112FS, July 24, 1991).

[5] We interviewed 27 randomly selected employees in grades 12 through 14 at 6 District Offices, 3 Regional Offices, one Service Center, and the National Office. We also interviewed 13 selected employees in grade 15 and above at the same locations. The results of our interviews cannot be generalized to all IRS employees.

asked the employees to provide some insights about their responses.

Almost all of the employees we interviewed (39 of 40) said that they knew of IRS' overall efforts to strengthen awareness of ethics, integrity, and conduct matters, and 35 of 40 said that the level of integrity at IRS is generally high or very high. In addition,

- Almost all of the employees interviewed (38 of 40) told us they were generally or very willing to report misconduct if they became aware of it.

- Almost all of the employees (35 of 40) said that they were familiar with IRS' Office of Inspection, and 33 of 40 knew of the Inspection Hotline as a place to report misconduct. In contrast, only 27 of 40 employees said that they had heard of the Treasury IG's role in investigating misconduct at IRS, and 24 of 40 said they knew of the Treasury IG hotline as a place to report misconduct.

Most employees we interviewed also said that they had positive views about IRS' willingness to protect them from retaliation and most did not consider preferential treatment for senior managers to be a problem.

- Twenty-eight of the forty employees interviewed this year said that they believe IRS is willing to protect them from retaliation for reporting misconduct.

- Three of the 40 employees interviewed said that, to a great or very great extent, upper-level managers receive preferential treatment when IRS acts to correct misconduct.

Appendix I provides examples of the comments the 40 employees gave us in response to some of our questions.

MANAGEMENT OF IRS UNDERCOVER OPERATIONS

As you requested, our statement today also discusses IRS' management of its undercover operations. After this Subcommittee's May 1990 hearings, Senators Reid and Bryan of Nevada, asked us to examine the management of IRS undercover operations. The Senators, along with Congressman Bilbray of Nevada also asked that we review a specific undercover bookmaking operation, Project Layoff, which was carried out in Las Vegas in 1984 and 1985. Both reviews were prompted by concerns about operational breakdowns and the potential for misuse of funds associated with Project Layoff, during which IRS criminal investigators set up an illegal bookmaking business.

Our work culminated in two reports, issued in April 1992--one on the management of Project Layoff and the other on IRS' current management of undercover operations in general.[6] Taken together, our reports trace IRS' management of its undercover activities from Project Layoff through the present. They also point out the need for a strong and continuing commitment on the part of IRS to ensure that this sensitive and risky law enforcement technique is appropriately managed and subject to continual oversight.

Our report on Project Layoff showed that IRS initiated the operation in 1984 to gather information about organized crime and illegal bookmaking in Las Vegas and other cities throughout the United States. The operation, which cost the government about $376,000, excluding salaries, was terminated in 1985 before IRS could link nationwide bookmaking operations and organized crime. However, information from Project Layoff led to a second investigation that netted nine criminal prosecutions, $300,000 in fines, and about $1.2 million in taxes, penalties, and interest.

Project Layoff contributed to tangible results, but the operation was costly in terms of IRS' credibility because IRS could not keep track of about $22 million in wagers and $2.5 million in

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[6] UNDERCOVER OPERATIONS: IRS' Management of Project Layoff (GAO/GGD-92-80, April 21, 1992) and TAX ADMINISTRATION: IRS Undercover Operations Management Oversight Should Be Strengthened (GAO/GGD-92-79, April 21, 1992).

cash that flowed through the operation. Basically, IRS was not fully prepared to execute an undercover bookmaking operation of the magnitude of Project Layoff because

- IRS lacked specific guidelines for accounting for business receipts and disbursements at the time of the operation,

- IRS undercover agents did not develop or use an adequate recordkeeping system or controls to track wagers and cash, and

- IRS managers did not adequately oversee the operation's business activities.

In addition to Project Layoff, we reviewed 183 other undercover operations that IRS completed during fiscal years 1988 through 1990. None were as costly or as problematic as Project Layoff. We found that IRS had extensive controls to help minimize the risks associated with conducting undercover operations. But, the procedures were often not observed. For example, in 1986, after IRS' Internal Audit identified shortcomings with Project Layoff's recordkeeping, IRS required that agents audit each undercover operation quarterly and all operations at their conclusion. Our review showed that IRS had not done quarterly financial audits in 12 of 23 of the largest operations in which funds had been expended. Closing financial audits had not been done in almost half of all operations (75 of 156) in which funds had been expended.

As with Project Layoff, IRS did not adequately oversee the more costly and sensitive operations for which the Assistant Commissioner (Criminal Investigation) is accountable. Thus, the National Office had little assurance that these projects were being carried out so as to minimize the potential for operational breakdowns and misuse of funds. For example, the Assistant Commissioner's oversight staff infrequently participated in planning meetings and operational reviews of the larger operations, thereby losing the opportunity to affect the planning and implementation of these operations.

We recommended several changes to strengthen the management and oversight of IRS' undercover activities including reaffirming the importance of monitoring and auditing operations; evaluating completed operations so that lessons learned can be applied to future operations; requiring that IRS' Controller be involved in planning financial recordkeeping for all business-type undercover operations; and involving the National Office in planning and overseeing how intelligence gathered during large-scale operations will be used after the operations are completed. IRS generally agreed with all of our recommendations and has taken steps or plans to take steps to improve the management of its undercover activities.

CONCLUSIONS

Since last year's hearings, IRS has devoted substantial attention to initiatives to change its ethics and integrity climate. IRS appears to be making some headway developing and implementing its ethics and integrity awareness programs but much remains to be done. IRS has also taken steps to dispel negative perceptions about its willingness to take actions that are appropriate, regardless of employee grade or position. However, IRS is still without a tool to help ensure adequate and equitable disciplinary actions because ALERTS has not been consistently used by field offices. Planned technical enhancements, combined with improved system implementation, should make ALERTS easier to use and may facilitate improved case tracking and research capabilities.

IRS agrees that the management and oversight of its undercover operations needs to be strengthened. Although there is no guarantee that problems like those that occurred during Project Layoff will not occur again, we believe that IRS needs to make a continuing commitment to management and oversight to ensure adherence to established undercover guidelines and controls. By doing so, IRS can reduce the risk of potentially embarrassing problems like those associated with Project Layoff.

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Mr. Chairman, that concludes my testimony. We will be pleased to answer any questions.

SELECTED COMMENTS BY IRS UPPER-LEVEL MANAGERS AND MID-LEVEL EMPLOYEES ABOUT ETHICS AND INTEGRITY ISSUES

During our interviews with the 40 IRS upper-level managers and mid-level employees, we asked them to explain their answer to selected questions on ethics and integrity issues at IRS. The following are examples of their comments.

A. Question: In your opinion, how high or low is the current level of integrity at IRS, and why did you come to this conclusion?

Responses:	Number
Generally high or very high	35
Neither high nor low	4
Generally or very low	1
Total	40

1. One employee said that the current level of integrity was high because of all the recent discussion and training that has taken place.

2. Another employee said that the level of integrity was improving due to recent emphasis and training and growing awareness among managers and employees.

3. Another employee commented that the integrity level was low and said that management promotes and rewards people based on personal grounds, not on merit.

B. Question: In your opinion, one year ago, was the level of integrity at IRS higher, lower or about the same as today, and do you have any examples/evidence?

Responses:	Number
Generally or much higher	5
About the same	30
Generally or much lower	5
Total	40

1. One respondent said that awareness is certainly higher. The employee told us that the definition of ethics and integrity has moved beyond bribery and into doing what's right with employees, taxpayers, etc.

2. Another said that the level of integrity was about the same as last year and was high a year ago. The employee said that people don't change that much, and employees are trained from the beginning to have a high level of integrity.

C. Question: <u>Currently, if you become aware of serious misconduct at IRS, how willing or unwilling would you be to report it, and why?</u>

Responses:	Number
Generally or very willing	38
Generally or very unwilling	1
No basis to judge	1
Total	40

1. One respondent said that there is a need to be very willing to report misconduct to ensure that high ethical standards are maintained.

2. Another employee said that reporting misconduct is the "right thing to do."

3. One employee who said no basis to judge commented that employees distrust management so it is doubtful if misconduct would be reported.

D. Question: <u>In your opinion, to what extent, if at all, is IRS willing to ensure that IRS employees who report misconduct will not be retaliated against, and can you provide any examples?</u>

Responses:	Number
Great or very great extent	28
Moderate extent	6
Some or little or no extent	2
No basis to judge	4
Total	40

1. One employee was unaware of any retaliations. However, the employee did not know if IRS employees are convinced that retaliation will not take place. The employee added that with the hotline, employees should be more comfortable reporting misconduct without fear of retaliation.

2. Another respondent said that if someone gets transferred, it could be that the person requested the transfer or it could be retaliation.

3. One interviewee said that management seems to retaliate against certain classes - primarily minorities. The employee added that there is more retaliation against minority males than there is against minority females for the same offense.

E. Question: <u>To what extent, if any, does senior IRS management give preferential treatment (such as not taking corrective actions for misconduct) to GM/GS-15s and above, and do you have any comments?</u>

Responses:	Number
GM/GS-15 and above	
Great or very great extent	3
Moderate extent	2
Some or little or no extent	24
No basis to judge	11
Total	40

1. One employee responded that there is little or no preferential treatment because managers are taking actions on very minor infractions.

2. Another employee said that management tends to watch out for each other.

F. <u>General comments about IRS' efforts to enhance employees' awareness of ethics, integrity or misconduct issues.</u>

1. One employee suggested that IRS should have on-going training initiatives on ethics and integrity and that real life examples should be part of the training.

2. Another employee said that ethics and integrity issues need to be addressed more abundantly in the hiring procedures and orientation programs for new employees.

3. One employee said that training needs to be more function specific to get into real life situations that employees encounter at work--getting people talking about issues that are not clear cut.

4. One employee said that it is difficult to teach ethics. The employee added that, if you keep the corporate culture one that is driven by ethics or is concerned about ethics, then you can influence ethical behavior.

5. One interviewee said that heightened awareness goes beyond the boundary of misconduct. The employee said that it goes into how IRS treats taxpayers, makes decisions, and develops plans and added that ethics and integrity issues are spilling over to the day-to-day life in IRS.