



**U.S. OFFICE OF SPECIAL COUNSEL**  
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**The Special Counsel**

August 5, 2024

The Honorable Janet L. Yellen  
Secretary of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Re: OSC File No. DI-24-000971  
Request for Investigation—5 U.S.C. § 1213(c)

Dear Secretary Yellen:

I am referring to you for investigation a whistleblower disclosure that officials at the U.S. Department of the Treasury, Internal Revenue Service (IRS), Criminal Investigation (CI), Office of Strategy, National Criminal Investigations Training Academy (NCITA) in Glynco, Georgia, engaged in conduct that may constitute a violation of law, rule, or regulation; gross mismanagement; and a gross waste of funds. A report of your investigation on these allegations and any related matters is due to the U.S. Office of Special Counsel (OSC) by October 4, 2024.

The whistleblower, Criminal Tax Attorney [REDACTED], who consented to the release of his name, has been a certified legal instructor at NCITA periodically for over 25 years, but permanently since 2017, and has trained over 2,700 new IRS special agents. The whistleblower alleges that, since the beginning of NCITA Director [REDACTED] tenure in September 2021, she has instituted changes to IRS-CI Special Agent training that violate agency rules, undercut IRS-CI's ability to fulfill its mission, and result in excessive and unjustifiable costs.

The allegations to be investigated include:

- Contrary to the Internal Revenue Manual (IRM),<sup>1</sup> curriculum changes to the Special Agent Investigative Techniques (SAIT) portion of NCITA's Special Agent Basic Training program have not undergone review by the CI Training Council (Council) since at least October 2022, but likely since September 2021, when Director [REDACTED] assumed her role.
- Due to the cumulative impact of the following actions by, or during the tenure of, Director [REDACTED], new IRS-CI Special Agents are inadequately prepared to investigate

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<sup>1</sup> IRM 9.2.1.1 (Oct. 13, 2023).

financial crimes, thus imperiling IRS-CI's mission to enforce tax and other financial laws under IRS's purview:

- Failing to convene the Council to approve NCITA curriculum changes as required by the IRM, mentioned above;
- Reducing core financial investigative lessons by 45 classroom hours for incoming IRS-CI Special Agents in the SAIT training program;<sup>2</sup>
- Weakening academic standards to pass a greater number of Special Agent Trainees, so that the failure rate of students in recent years is artificially low compared to its historical average;
- Hiring more Special Agents without preexisting accounting or tax backgrounds; and
- Hiring IRS-CI Special Agents at greater numbers due to approved funding under the Inflation Reduction Act, approved in August 2022.<sup>3</sup>
- Core financial investigative hours have been replaced by 38 hours of general law enforcement lessons duplicative of those taught by the Federal Law Enforcement Training Center (FLETC) in its Criminal Investigator Training Program (CITP), which all IRS-CI Special Agent Trainees must complete prior to SAIT.<sup>4</sup> Because the classes are redundant, the expenditure is out of proportion to the benefit reasonably expected to accrue to the government.
- Any additional, related allegations of wrongdoing discovered during the investigation of the foregoing allegations.

The core mission of CI is “[to] investigat[e] 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.”<sup>5</sup> To that end, CI’s Office of Strategy ensures that “all CI employees are properly trained to fulfill their mission.”<sup>6</sup> Within CI’s Office of Strategy, NCITA is the branch responsible for “[d]eveloping and delivering CI Law enforcement training consistent

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<sup>2</sup> A sampling of these reductions are as follows: Reduction of the Tax Credits lesson from 6 to 4 hours, Tax Refund Fraud lesson from 6 to 4 hours, Forensic Accounting lesson from 9.5 to 4 hours, Property Transactions lesson from 4 to 2 hours, Net Worth lesson from 10 to 4 hours, and Bank Deposits lesson from 6 to 5 hours.

<sup>3</sup> The allegation is not that increased hiring is problematic but, rather, that inadequate training combined with increased hiring will, with attrition, have a detrimental effect on the composition of the IRS-CI workforce.

<sup>4</sup> IRM 9.2.1.3, 9.2.1.3.2 (Aug. 22, 2013); IRS, <https://www.jobs.irs.gov/resources/job-descriptions/irs-criminal-investigation-special-agent> (June 17, 2024).

<sup>5</sup> IRM 1.1.19.1(Aug. 2, 2019). See also IRS, IRS Spotlights Criminal Investigation Law Enforcement (Mar. 18, 2022) <https://www.irs.gov/newsroom/irs-spotlights-criminal-investigation-law-enforcement> (“It is the only federal law enforcement agency authorized to investigate federal criminal tax violations and pursue[] related financial crimes, such as money laundering, currency violations, and terrorist financing.”)

<sup>6</sup> IRM 1.1.19.1(4)(f) (Aug. 2, 2019).

with national enforcement strategies and recognized training accreditation standards.”<sup>7</sup> After completing generalized federal law enforcement training through CITP, IRS-CI Special Agent trainees enter SAIT, during which they “learn how to investigate the specific violations of Federal law under CI’s jurisdiction,” including “tax law training with an emphasis on criminal violation of the tax law” and “developing the skills necessary to investigate potential criminal violations of Internal Revenue laws and related offenses.”<sup>8</sup> According to the whistleblower, under Director ██████ leadership, there have been significant changes to the training of new IRS-CI Special Agents in SAIT that create the risk of undercutting CI’s core mission of criminal tax enforcement.<sup>9</sup>

Apart from concerns regarding the ineffective training of agents, which runs contrary to CI’s core mission, the whistleblower alleges that Director ██████ has also instituted changes that are wasteful. NCITA has replaced core financial classes with coursework that the whistleblower describes as “basic street cop” topics.<sup>10</sup> These courses are an added cost for NCITA because they must be taught by FLETC staff, which bills CI for both facilities’ usage and the salaries of its instructors, which includes overtime pay for two nighttime labs that accompany the High-Risk Traffic Stop course. Also, additional costs are incurred because of the frequency of the classes, which are estimated at 10 or more per year. The whistleblower believes that these courses duplicate material taught in CITP and thus that the cost cannot reasonably be justified.

Please note that the specific allegations are not intended to be exclusive. If, during your investigation, you discover additional violations, please include your findings on these additional matters in the report to OSC. As previously noted, your agency must investigate these matters and produce a report, which must be reviewed and signed by you. Per statutory requirements, I will review the report for sufficiency and reasonableness before sending copies of the agency report, along with the whistleblower’s comments and any comments or recommendations I may have, to the President and congressional oversight committees and making these documents publicly available.

Additional important requirements and guidance on the agency report are included in the attached Appendix, which can also be accessed at <https://osc.gov/Documents/Public>

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<sup>7</sup> IRM 1.1.19.2.5(1), (2), (5) (Aug. 2, 2019).

<sup>8</sup> IRM 9.2.1.3.3 (Aug. 22, 2013). As explained by the Federal Law Enforcement Training Accreditation (FLETA) website, “[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’s finest financial investigators. FLETA, <https://www.fleta.gov/programacademy/national-criminal-investigation-training-academy> (last visited June 17, 2024).

<sup>9</sup> IRM 1.1.19.1 (1) (Aug. 2, 2019).

<sup>10</sup> The courses include: High-Risk Traffic Stop lesson and labs (26 hours); Peak Performance for Law Enforcement Officers lesson (4 hours); De-escalation lesson (2 hours); and Active Threat Response Tactics lesson (8 hours).

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[Files/1213 Appendix.pdf](#). If your investigators have questions regarding the statutory process or the report required under section 1213, please contact Alejandra Dove, Chief, Retaliation and Disclosure Unit, at (202) 804-7037 or [adove@osc.gov](mailto:adove@osc.gov) for assistance. I am also available for any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Hampton Dellinger". The signature is written in a cursive style with a large initial "H".

Hampton Dellinger

Special Counsel

Enclosure

cc: The Honorable Heather M. Hill, Acting Treasury Inspector General for Tax Administration

## **APPENDIX**

### **AGENCY REPORTS UNDER 5 U.S.C. § 1213**

#### GUIDANCE ON 1213 REPORT

- OSC requires that your investigators interview the whistleblower at the beginning of the agency investigation when the whistleblower consents to the disclosure of his or her name.
- OSC will consider extension requests in 60-day increments when an agency evidences that it is conducting a good faith investigation that will require more time to complete.
- Identify agency employees by position title in the report and attach a key identifying the employees by both name and position. The key identifying employees will be used by OSC in its review and evaluation of the report. OSC will place the report without the employee identification key in its public file.
- Do not include in the report personally identifiable information, such as social security numbers, home addresses and telephone numbers, personal e-mails, dates and places of birth, and personal financial information.
- Include information about actual or projected financial savings as a result of the investigation as well as any policy changes related to the financial savings.
- Reports previously provided to OSC may be reviewed through OSC's public file, which is available here: <https://osc.gov/Pages/Resources-PublicFiles.aspx>. Please refer to our file number in any correspondence on this matter.

#### RETALIATION AGAINST WHISTLEBLOWERS

In some cases, whistleblowers who have made disclosures to OSC that are referred for investigation pursuant to 5 U.S.C. § 1213 also allege retaliation for whistleblowing once the agency is on notice of their allegations. The Special Counsel strongly recommends the agency take all appropriate measures to protect individuals from retaliation and other prohibited personnel practices.

#### EXCEPTIONS TO PUBLIC FILE REQUIREMENT

OSC will place a copy of the agency report in its public file unless it is classified or prohibited from release by law or by Executive Order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs. 5 U.S.C. § 1219(a).

#### EVIDENCE OF CRIMINAL CONDUCT

If the agency discovers evidence of a criminal violation during the course of its investigation and refers the evidence to the Attorney General, the agency must notify the Office of Personnel Management and the Office of Management and Budget. 5 U.S.C. § 1213(f). In such cases, the agency must still submit its report to OSC, but OSC must not share the report with the whistleblower or make it publicly available. See 5 U.S.C. §§ 1213(f), 1219(a)(1).