

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Improvements Are Needed to Ensure Effective and Timely Processing of Post-Appointment Arrest Notifications

November 29, 2023

Report Number: 2024-100-010

HIGHLIGHTS: Improvements Are Needed to Ensure Effective and Timely Processing of Post-Appointment Arrest Notifications

Final Audit Report issued on November 29, 2023

Report Number 2024-100-010

Why TIGTA Did This Audit

Many IRS employees have access to the personal information of taxpayers or other sensitive information. As a basic obligation of public trust, each employee has a responsibility to protect such information. During employment, IRS employees are to avoid any actions creating the appearance of violating the law or ethical standards. The IRS has a Post-Appointment Arrest Program that receives notifications from the Office of Personnel Management when an IRS employee is arrested.

This audit was initiated to assess the effectiveness of the IRS's Post-Appointment Arrest Program in timely and consistently adjudicating notifications of employee arrests.

Impact on Tax Administration

The Post-Appointment Arrest Program is designed to give the IRS the necessary assurances that employees remain suitable and fit for employment by addressing unfavorable conduct and taking the appropriate administrative action. A post-appointment issue that is not identified and addressed or not addressed timely or consistently could lead to irreparable harm to the IRS's mission and reputation as well as heighten the risk of insider threats.

What TIGTA Found

For the post-appointment arrest cases closed between Fiscal Years 2019 and 2021, TIGTA found that, overall, the identified disciplinary actions taken were within the IRS's recommended guidelines. However, the processing and closure of cases in the IRS's system used to track post-appointment arrest cases were not always timely. TIGTA determined that the IRS took an average of 448 calendar days to close its post-appointment arrest cases. This is due to the IRS not having specific timeliness guidelines for the overall post-appointment arrest process. However, for the adjudication portion of this process, the IRS's internal guidance directs Labor/Employee Relations and Negotiations Field Operations to close its cases as quickly as possible, with a maximum of 180 calendar days for closure, absent any extenuating circumstances. While Labor/Employee Relations and Negotiations Field Operations averaged only 133 calendar days to close adjudicated cases, TIGTA determined that 42 (20 percent) of the 209 cases reviewed exceeded the 180-day case closure time frame. Some cases took over two years to resolve.

TIGTA also determined that due to a lack of internal controls, the IRS's system used to track post-appointment arrest cases contained duplicate records and records for non-IRS employees. The system contained 119 (13 percent) duplicate records out of the total 925 records entered between Fiscal Years 2019 and 2021. The IRS also did not remove 1,278 (66 percent) of the 1,940 post-appointment arrest records closed between Fiscal Years 2019 and 2021 that involved non-IRS employees from its tracking records.

What TIGTA Recommended

TIGTA recommended that the Human Capital Officer: 1) develop overall timeliness goals to promote efficient processing of post-appointment arrest cases from initiation to final adjudication; 2) establish a quality review process to measure the Ethics and Investigations Support (EIS) Branch's success in achieving post-appointment arrest case processing timeliness goals, including the routine review of cases exceeding established timeliness goals to determine the cause of any delays; and 3) modify case tracking procedures to enable the EIS Branch to eliminate the creation of duplicate cases and remove non-IRS employees from the system used to track post-appointment arrest cases. The IRS agreed with our recommendations and has developed timeliness goals to promote efficient processing of post-appointment arrest cases, established a quality review process to measure success in achieving post-appointment arrest case processing timeliness goals, and transitioned from tracking cases in the e-Trak system to eliminate the creation of duplicate cases and to remove non-IRS employees from the IRS systems when tracking post-appointment arrest cases.



The average time it took the IRS to close cases regarding the disciplinary actions was 448 calendar days.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20024

November 29, 2023

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

A handwritten signature in black ink, appearing to read "M. Weir", is positioned above the typed name.

FROM: Matthew A. Weir
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Improvements Are Needed to Ensure Effective and Timely Processing of Post-Appointment Arrest Notifications
(Audit # 202210011)

This report represents the results of our review to assess the effectiveness of the Internal Revenue Service's (IRS) Post-Appointment Arrest Program in timely and consistently adjudicating notifications of employee arrests. This review was part of our Fiscal Year 2023 Annual Audit Plan and addresses the major management and performance challenge of *Protecting Taxpayer Data and IRS Resources*.

Management's complete response to the draft report is included as Appendix III. If you have any questions, please contact me or Bryce Kisler, Assistant Inspector General for Audit (Management Services and Exempt Organizations).

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Background

Many Internal Revenue Service (IRS) employees have access to the personal information of taxpayers or other sensitive information, which is needed to perform their duties to administer and enforce Federal tax laws. As a basic obligation of public trust, each employee has a responsibility to protect this information. Therefore, individuals applying for employment at the IRS must meet specific employment suitability requirements and undergo a background investigation.

During employment, IRS employees are to avoid any actions creating the appearance of violating the law or ethical standards.¹ The importance of ethical conduct among Federal employees has been emphasized over the years in executive orders. For example, one order states that individuals should be loyal to the United States, reliable, trustworthy, and of good conduct and character.² The *IRS Ethics Handbook* also encourages IRS employees to maintain the highest ethical standards to create an environment in which IRS business can be carried out with the utmost impartiality and integrity.³

The IRS established the Post-Appointment Arrest Program to provide the necessary assurances that its employees remain suitable and fit for employment by addressing unfavorable conduct and taking appropriate administrative actions, as necessary. Through this program, the IRS receives notifications from the Office of Personnel Management (OPM) when an IRS employee is arrested. Once the IRS is notified of an employee's arrest, it determines when the arrest occurred, whether the arrest has been previously addressed, and the appropriate disciplinary measures, if applicable, necessary to bring the incident to adjudication.⁴ A post-appointment issue that is not identified and addressed, or not addressed timely and consistently, could lead to irreparable harm to the IRS's mission and reputation as well as increases its exposure to insider threats.⁵

Process for investigating and tracking post-appointment arrest incidents

When an IRS employee is arrested, the Federal Bureau of Investigation notifies the OPM, which then sends the employee arrest notification (Federal Investigations Processing Center's Form 402, *Agency Adjudicative Action on Federal Bureau of Investigation Post Appointment Arrest*) to the IRS for further investigation. A Human Resources (HR) specialist in the Human

¹ Executive Order 12731, *Principles of Ethical Conduct for Government Officers and Employees* (1990).

² Executive Order 13764, *Amending the Civil Service Rules, Executive Order 13488, and Executive Order 13467 To Modernize the Executive Branch-Wide Governance Structure and Processes for Security Clearances, Suitability and Fitness for Employment, and Credentialing, and Related Matters* (2017).

³ IRS, Document 12011, *IRS Ethics Handbook* (Feb. 2019).

⁴ An examination of a person's character or conduct over time, resulting in a favorable or unfavorable determination of their employment suitability, eligibility for access to classified information, materials, or areas, or for their retention in Federal employment.

⁵ Any employee, contractor, or vendor with authorized access, or who once had such access, to IRS assets including personnel, facilities, information, equipment, networks, or systems, who uses their access to commit, wittingly or unwittingly, an act that results in harm to the public's trust in the IRS. An insider threat may involve theft of information or physical property, workplace violence, security compromise, espionage, terrorism, fraud, or sabotage.

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Capital Office's Ethics and Investigations Support (EIS) Branch⁶ receives this notification via mail and scans the form and any supporting documents into the e-Trak system, which is used to manage and track the case.⁷

The HR specialist also reviews the Treasury Integrated Management Information System database to determine the employee's current employment status with the IRS before sending the post-appointment arrest case to the Treasury Inspector General for Tax Administration (TIGTA) Office of Investigations (OI).⁸ If the HR specialist cannot verify that an individual is employed by the IRS, the case is returned to the OPM. For cases concerning current IRS employees, TIGTA OI researches the allegations of misconduct referred by the IRS and inputs them into the Criminal Results Management System as a complaint.⁹ When TIGTA OI receives a post-appointment arrest, it verifies that the arrest occurred and determines whether to initiate an investigation based upon an evaluation of whether the allegation falls within TIGTA's jurisdiction.

If TIGTA OI decides to open an investigation, it assigns the post-appointment arrest case to a special agent in the field to collect documents and related records pertaining to the incident outlined in the post-appointment arrest notification. Once the investigation is concluded, TIGTA OI summarizes the facts of the arrest and then forwards the information collected to IRS management to adjudicate the case. TIGTA OI only submits the results of the investigation; it does not include recommendations for potential corrective actions. As part of its responsibilities, the Labor/Employee Relations and Negotiations Division's Field Operations (hereafter referred to as Field Operations) provides advice and guidance to IRS management in disciplinary matters, including TIGTA reports of investigation and other conduct allegations, such as post-appointment arrests, referred for appropriate corrective action(s). According to the IRS, when Field Operations and IRS management complete the adjudication process and close the case in the Automated Labor and Employee Relations Tracking System (ALERTS), Field Operations should notify the EIS Branch that the case has been adjudicated.¹⁰ Once notified, the EIS Branch will update the case's status in the e-Trak system. Figure 1 provides a graphical description of the post-appointment arrest process.

⁶ On April 9, 2023, the Employee Issues Branch was reorganized to the new EIS Branch under the new Employee Claims and Compliance Office.

⁷ A web-based servicewide document tracking application. It includes several modules and submodules of case management and case tracking capabilities, covering multiple IRS business operating divisions. The system serves as the EIS Branch's primary tracking and retention database for all reports of investigations and post-appointment arrests.

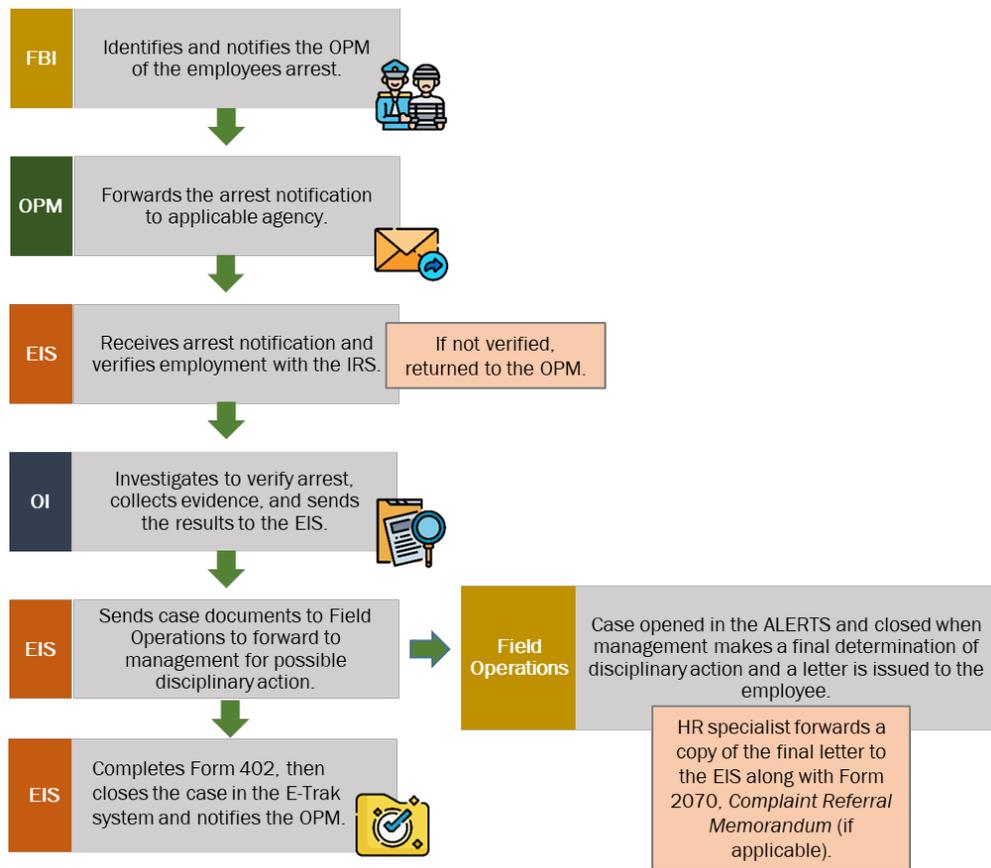
⁸ An official automated system for storing and tracking the Department of the Treasury's employee personnel and payroll data. It is outsourced to the Department of Agriculture's National Finance Center and managed by the Department of the Treasury.

⁹ A management information system that provides TIGTA OI the ability to manage and account for complaints received, including congressional inquiries, investigations initiated, and leads developed from local and national investigative initiatives.

¹⁰ A system that tracks Labor/Employee Relations and Negotiations case data. It uses a single, standardized record format that is the repository of all case data, other than the originating documents. It also provides the capability to establish and track Labor/Employee Relations and Negotiations Division activities, unfair labor practice charges, and events for negotiation processes, grievances, and arbitration proceedings.

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Figure 1: Post-Appointment Arrest Process Workflow



Source: TIGTA analysis of the post-appointment arrest process workflow provided by the EIS Branch. FBI = Federal Bureau of Investigation.

Roles and responsibilities for administering the Post-Appointment Arrest Program

The EIS Branch manages the Post-Appointment Arrest Program, which processes all IRS post-appointment arrest incidents received from the OPM. The EIS Branch will track the interactions between it and the OPM, TIGTA, and other IRS business operating divisions as they relate to IRS employee arrests. In addition, the Labor/Employee Relations and Negotiations Division administers the internal ethics program and provides ongoing support to management in areas related to labor and employee relations, including addressing employees' misconduct issues by providing procedural guidance on taking non-disciplinary, disciplinary, and adverse actions. Minor violations of ethics rules may result in counseling while more significant violations may result in discipline or removal from the IRS. The IRS penalty guide suggests removal for a first offense for serious off-duty misconduct where there is a connection between the misconduct and the efficiency of the IRS. However, according to IRS policy, use of the penalty guide is not mandatory, and the ultimate decision lies with management.

Managers are responsible for ensuring that their employees abide by the ethics standards and for taking disciplinary action(s), as appropriate, for violations of those standards. Employees are responsible for complying with the ethics rules and are directed to refer to them throughout their employment with the IRS.

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The OPM, as a member of the Security, Suitability, and Credentialing Performance Accountability Council, is working to reform personnel vetting under the Trusted Workforce 2.0 initiative, which aims to better support agencies' missions by reducing the time required to bring new hires onboard, enabling mobility of the Federal workforce, and improving insight into workforce behaviors. Trusted Workforce 2.0 is a whole-of-Government approach to reform the personnel security process and establish a single vetting system for the U.S. Government. Once implemented, Trusted Workforce 2.0 will include continuous vetting, which is a process that involves regularly reviewing a cleared individual's background to ensure that they continue to meet security clearance requirements and should continue to hold positions of trust. Implementation of continuous vetting for Federal employees Governmentwide has begun and is expected to be completed in Fiscal Year (FY) 2026.¹¹

Results of Review

Post-Appointment Arrest Case Personnel Actions Were Consistent With IRS Guidelines

The EIS Branch received 1,940 post-appointment arrest cases from the OPM between FYs 2019 and 2021. We reviewed a judgmental sample of 29 randomly selected post-appointment arrest cases from 281 cases closed in the ALERTS between FYs 2019 and 2021 and found that, overall, the identified disciplinary actions taken were within the recommended guidelines.¹²

Out of the 281 closed cases listed in the ALERTS for our audit period, 72 cases were not forwarded to TIGTA OI for further review or were not found in the e-Trak system.¹³ However, not all cases received by the IRS are required to be sent to TIGTA OI for review. For example, arrests which have already been addressed or arrests which occurred before an employee entered on duty. The EIS Branch referred 209 (74 percent) of the 281 closed post-appointment arrest cases to TIGTA OI for further review. Of the 209 referred cases, 156 (75 percent) were closed without action or adjudication.¹⁴ Figure 2 lists the personnel actions taken by the IRS in response to the TIGTA OI reviews.

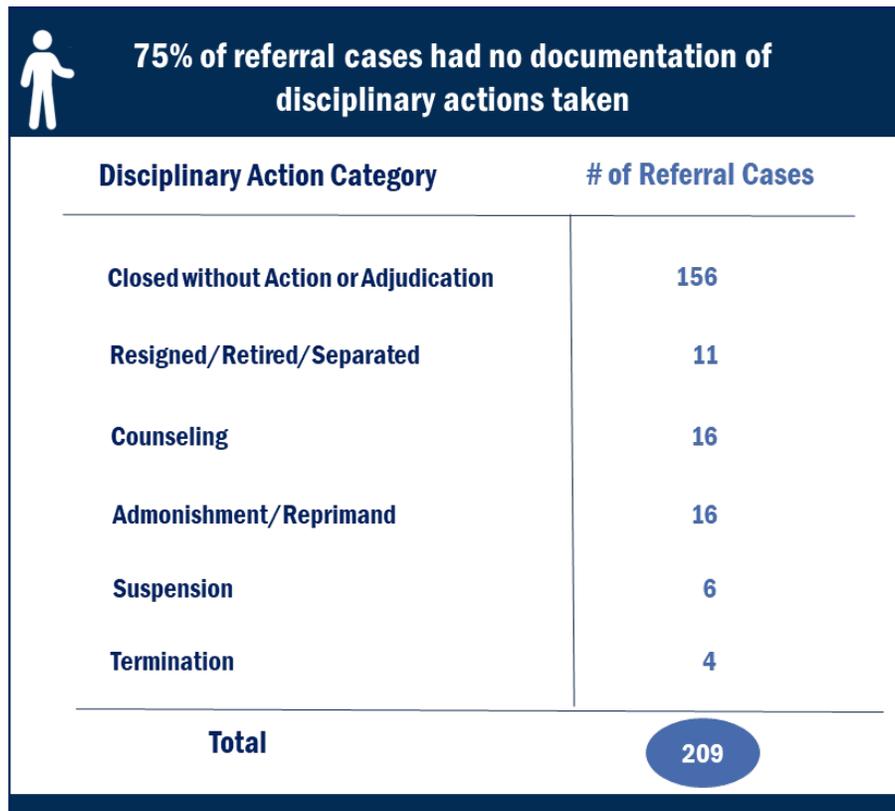
¹¹ Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

¹² A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population. Due to the time to process a case not all post-appointment notifications received between FYs 2019 and 2021 were closed during that time. We limited our sample to 29 cases based on available resources.

¹³ Out of the 281 closed cases listed in the ALERTS for our audit period, 58 cases were not found in the e-Trak system due to one of the following reasons: the case did not pass through the EIS Branch, more than one ALERTS case was associated with the same individual identified in the e-Trak system (duplicate case), the case is still open in the e-Trak system, or the case was closed outside of the scope of our audit. An additional 14 cases located in the e-Trak system were not forwarded to TIGTA OI for further review.

¹⁴ A case can be closed with a non-disciplinary action such as a closed without action letter when no connection between the specific off-duty misconduct and impact to the efficiency of the IRS can be proven.

**Figure 2: Number of Referral Cases by
Disciplinary Action Category**



Source: TIGTA analysis of the ALERTS and the e-Trak system.

IRS guidelines state that no standard schedule of offenses and penalties will be used.¹⁵ The guidelines note that each case must be considered individually and issues such as willfulness, prior offenses, and mitigating factors must be considered. The IRS does provide to its managers a *Guide to Penalty Determination*, while noting that penalties contained in it are suggested guidelines only and not mandatory.

IRS guidelines also allow management to close cases without taking non-disciplinary or disciplinary action when the evidence fails to clearly establish wrongdoing occurred and further investigation could not resolve the issue. A variety of non-disciplinary and disciplinary actions are also provided for management to take when wrongdoing has been confirmed, ranging from counseling (non-disciplinary) to suspensions and removal.

Post-Appointment Arrest Case Processing Needs Timeliness Goals

The IRS’s processing and closure of cases in the e-Trak system was not always timely. Our review of the 209 referral cases determined that the full adjudication, or the time it takes for the IRS to research a case and come to a decision regarding potential disciplinary actions, took an average of 448 calendar days between receipt of the case from the OPM to closure of the case

¹⁵ Internal Revenue Manual 6.751.1, *Discipline and Disciplinary Actions: Policies, Responsibilities, Authorities, and Guidance* (Nov. 4, 2008).

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in the e-Trak system.¹⁶ This is due to the IRS not having specific timeliness guidelines for the overall post-appointment arrest process.

However, for the adjudication portion of this process, the IRS's internal guidance directs Field Operations to close its cases as quickly as possible, with a maximum of 180 calendar days to close, absent any extenuating circumstances.¹⁷ While Field Operations averaged 133 calendar days to close adjudicated cases, we determined that 42 (20 percent) of the 209 referral cases we reviewed exceeded the 180-day case closure time frame. Some cases took more than two years to resolve.

According to the IRS, several factors exist that may affect case processing including the nature of the case, whether the case has more than one misconduct issue, and/or whether the employee has prior misconduct related cases. Further, Field Operations guidelines, establishing the 180-day case closure goal, do not include instructions to identify any underlying causes of processing delays to improve case timeliness.¹⁸

Timeliness goals for the overall post-appointment arrest process would enable the IRS to identify processing delays. Similarly, within the EIS Branch, goals regarding the post-appointment arrest notifications could help to better determine the time and resources being spent on the post-appointment arrest cases prior to forwarding them to Field Operations. According to the Government Accountability Office's *Standards for Internal Control in the Federal Government*, effective and efficient operations within an internal control system includes specific and measurable goals.¹⁹ Having no internal goals can lead to an inability to identify and address risks to program performance, resulting in ineffective and inefficient use of resources. The extended time frames to close a case can also allow employees to continue to exhibit poor behavior outside of the IRS that negatively affects their work performance and can even lead to an escalation of their actions.

The Human Capital Officer should:

Recommendation 1: Develop overall post-appointment arrest timeliness goals to promote efficient processing of post-appointment arrest cases from initiation to final adjudication.

Management's Response: The IRS agreed with this recommendation. Effective October 1, 2023, the EIS Branch developed timeliness goals to promote efficient

¹⁶ The EIS Branch and Field Operations define the average cycle time of a case differently. In the EIS Branch, it is defined as the number of calendar days between when the EIS Branch receives the case and when the EIS Branch refers the case to Field Operations. This is also when the EIS Branch considers the case to be closed. However, Field Operations defines the average cycle time as the number of days between when the case is received in Field Operations to the final adjudication of the closing action. Field Operations considers a case to be closed when the final action is taken, *i.e.*, issuance of the disciplinary letter.

¹⁷ Internal Revenue Manual 6.751.1, *Discipline and Disciplinary Actions: Policies, Responsibilities, Authorities, and Guidance* (Nov. 4, 2008).

¹⁸ The e-Trak system does not automatically populate dates of entry. According to EIS Branch management, the date of the activity must be selected for the system to populate the date in the required field. This kind of activity date selection may result in the system's ability to overwrite a previously entered date based on what is selected when a case is closed. Therefore, we were unable to determine how long it took for completion of the EIS Branch stage of case processing.

¹⁹ Government Accountability Office, GAO-14-704G, *Standards for Internal Control in the Federal Government*, p. 12 (Sept. 2014).

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processing of post-appointment arrest cases from the date the case is received in the EIS Branch until it is referred to Field Operations for adjudication.

Recommendation 2: Establish a quality review process to measure the EIS Branch's success in achieving post-appointment arrest case processing timeliness goals, including the routine review of cases exceeding established timeliness goals to determine the cause of any delays.

Management's Response: The IRS agreed with this recommendation. Effective October 1, 2023, the EIS Branch established a quality review process to measure its success in achieving post-appointment arrest case processing timeliness goals, including the routine review of cases exceeding established timeliness goals to determine the cause of any delays.

The Tracking of Post-Appointment Arrest Case Information Needs Improvement

We determined that the IRS's system to track post-appointment arrest cases contained duplicate records and irrelevant data for individuals who were not IRS employees. Out of 925 cases listed in the e-Trak system as closed between FYs 2019 and 2021, the e-Trak system contained 119 (13 percent) duplicate records.²⁰ Our review also determined that the EIS Branch did not remove 1,278 (66 percent) of the 1,940 post-appointment arrest records that involved non-IRS employees from its tracking records.²¹ The OPM sent arrest cases to the IRS for employees whom had never been employed by the IRS because the Federal post-appointment arrest process only provided results based on fingerprints of individuals previously submitted by the IRS.²² As a result, the OPM cannot determine who is or is not a current IRS employee. A Governmentwide approach to reform the personnel security process (*e.g.*, Trusted Workforce 2.0), including post-appointment arrest notifications, should address these erroneous notifications.

The Government Accountability Office's *Standards for Internal Control in the Federal Government* state, in part, management is directly responsible for all activities of an entity. This includes the operating effectiveness of the entity's internal control system and the reliability of the information the system contains.

The IRS included duplicate records and erroneous records of non-IRS employees in its tracking of post-appointment arrest cases due to lack of internal controls. There are currently no steps in the EIS Branch's standard operating procedures that direct HR specialists to verify whether a record is already in the e-Trak system for the IRS employee associated with an OPM notification. Alternatively, although the EIS Branch's procedures for arrest notifications of non-IRS employees includes returning the case to the OPM if the HR specialist cannot verify that an individual is employed by the IRS, this occurs after the IRS creates a record of the case and there is no

²⁰ A record was considered a duplicate if it contained the same employee name and arrest number as another record.

²¹ The e-Trak system contained 134 arrest records of these non-IRS employees, while the remaining 1,144 were part of a new process to maintain non-IRS employee arrest notifications separately in a spreadsheet outside of the e-Trak system.

²² This may include individuals who applied to work at the IRS, but either withdrew their application after being fingerprinted or were rejected due to failing a background investigation prior to them starting work at the IRS.

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direction to remove the record once the HR specialist verifies that an individual is not employed by the IRS. Additionally, the EIS Branch does not have any formal managerial review standards.

EIS Branch management stated that they are in the process of developing procedures that would decrease the number of duplicate cases, including the replacement of the e-Trak system as the system with which to monitor processing of post-appointment arrest cases. Duplicate cases can negatively impact management when making key decisions and leads to ineffective and inefficient internal controls. Maintaining arrest information of non-IRS employee leads to unnecessary access to personally identifiable information of these individuals to which the IRS should not have access. The duplicate and erroneous data impact the accuracy, validity, and relevance of the post-appointment arrest tracking system, therefore limiting the information available to IRS management to monitor and report on post-appointment arrest cases.

Recommendation 3: The Human Capital Officer should modify case tracking procedures to enable the EIS Branch to eliminate the creation of duplicate cases and remove non-IRS employees from the system used to track post-appointment arrest cases.

Management's Response: The IRS agreed with this recommendation. Since April 26, 2023, the EIS Branch transitioned from tracking cases in the e-Trak system to the ALERTS to eliminate the creation of duplicate cases and to remove non-IRS employees from the IRS systems when tracking post-appointment arrest cases.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to assess the effectiveness of the IRS's Post-Appointment Arrest Program in timely and consistently adjudicating notifications of employee arrests. To accomplish our objective, we:

- Evaluated the IRS's procedures and controls established to identify and address employee post-appointment arrests.
- Measured the scope of the Post-Appointment Arrest Program through review of the e-Trak system and ALERTS data and determined the population size used for sampling through the assessment of IRS employee post-appointment arrest cases. We reviewed a randomly selected judgmental sample of 29 cases from the population of 281 cases closed in the ALERTS between FYs 2019 and 2021, based on TIGTA's contracted statistician's recommendation, limited staffing resources, and the volume of data to be reviewed.¹
- Determined the average amount of time it took the IRS to address employee post-appointment arrests.
- Determined whether disciplinary actions to address employee post-appointment arrests were consistently applied in accordance with the established guidelines.

Performance of This Review

This review was performed with information obtained from the Human Capital Office's Office of HR Strategy located in Atlanta, Georgia, during the period December 2021 through September 2023. 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.

Major contributors to the report were Bryce Kisler, Assistant Inspector General for Audit (Management Services and Exempt Organizations); LaToya George, Director; Brian Foltz, Acting Director; Melinda Dowdy, Acting Director; Seth Siegel, Audit Manager; Lindsay Steward, Audit Manager; and Trisa Brewer, Lead Auditor.

Validity and Reliability of Data From Computer-Based Systems

We performed tests to assess the reliability of the data from the ALERTS including review of the data dictionary, interviews with knowledgeable staff, and electronic testing for missing data and obvious errors. The system was found to be sufficiently reliable for the purposes of this report.

We performed tests to assess the reliability of the data from the e-Trak system including interviews with knowledgeable staff, review of training modules, and electronic testing for

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

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missing data and obvious errors. We determined that the data were sufficiently reliable for the purposes of this report; however, the e-Trak system was missing some data elements since this information is not always entered into the system.

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: IRS policies and procedures, and the e-Trak system as they relate to the Post-Appointment Arrest Program. We evaluated the policies and procedures by comparing them to current industry standards (*e.g.*, Executive Orders, OPM guidance, interviews with the applicable IRS and TIGTA personnel) and tracing the post-appointment arrest notifications to the ALERTS.

Outcome Measure

This appendix presents detailed information on the measurable impact that our recommended corrective action will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Reliability of Information – Potential; 119 duplicate records and 1,278 erroneous records in the systems that the IRS used for tracking post-appointment arrests. (See Recommendation 3).

Methodology Used to Measure the Reported Benefit:

We reviewed the e-Trak system and a spreadsheet used to separately track information about post-appointment arrest notifications and identified 119 duplicate records and 1,278 erroneous records closed between FYs 2019 and 2021.¹ We considered a record duplicated if the additional record(s) had the same individual's first and last name and the arrest number was the same. We considered a record erroneous if the individual was never an IRS employee. The duplicate and erroneous data impact the accuracy, validity, and relevance of the post-appointment arrest tracking system, therefore limiting the information available to IRS management to monitor and report on post-appointment arrest cases.

Management's Response: The IRS acknowledged that use of the e-Trak system to track post-appointment arrests resulted in data inaccuracies as stated in the potential outcome measure. The IRS also agreed that there were duplicate records; however, they were unable to validate that there were 119 duplicate records. Furthermore, the IRS disagreed with TIGTA's determination that the 1,278 records are erroneous because the IRS is unable to determine if a record is for an IRS employee until after the individual record is researched.

Office of Audit Comment: TIGTA previously provided Human Capital Office staff with the opportunity to provide comment and support for any disagreement with the list of 119 duplicate records. For the 1,278 erroneous records, TIGTA acknowledged that the EIS Branch's procedures for arrest notifications of non-IRS employees includes creating a record of the case so that the HR specialist can verify if an individual is employed by the IRS or not, prior to returning the case to the OPM. TIGTA believes that there should be written direction to remove the record once the HR specialist verifies that an individual is not employed by the IRS. However, the IRS's commitment to transition from tracking cases in the e-Trak system to the ALERTS to eliminate the creation of duplicate cases and

¹ The e-Trak system contained 134 arrest records of these non-IRS employees, while the remaining 1,144 were part of a new process to maintain non-IRS employee arrest notifications separately in a spreadsheet outside of the e-Trak system.

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to remove non-IRS employees from the IRS systems when tracking post-appointment arrest cases should reduce the risk of these occurrences.

Management's Response to the Draft Report



HUMAN CAPITAL OFFICE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

November 2, 2023

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Traci M. DiMartini Traci M. DiMartini
IRS Human Capital Officer DiMartini

Digitally signed by Traci M. DiMartini
Date: 2023.11.02 08:37:39 -0400

SUBJECT: Draft Audit Report – Improvements Are Needed to Ensure Effective and Timely Processing of Post-Appointment Arrest Notifications (Audit # 202210011)

Thank you for the opportunity to review the draft report on Improvements Are Needed to Ensure Effective and Timely Processing of Post-Appointment Arrest Notifications (Audit # 202210011).

The IRS is fully committed to ensuring that its employees abide by the Agency's ethical standards and will continue to impose corrective actions, as appropriate, for violations of those standards. Employees are subject to the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635), the Department of the Treasury Supplemental Standards of Ethical Conduct (C.F.R. Part 3101), the Department of the Treasury Employee Rules of Conduct (31 C.F.R. Part 0), and the Employee Responsibility and Conduct provisions (5 C.F.R. Part 735). Employees are responsible for complying with ethics rules according to the *IRS Ethics Handbook* and are reminded of this responsibility throughout their employment with the IRS.

The Ethics and Investigations Support (EIS) Branch of the Employee Claims and Compliance Office in the Labor Employee Relations and Negotiations (LERN) division, serves as a control point for a variety of employee and outside customer complaints and issues regarding alleged employee misconduct, including post-appointment arrest notifications from the Office of Personnel Management, along with referrals from Congress, the Commissioner, or the Treasury Inspector General for Tax Administration (TIGTA).

The IRS is pleased that TIGTA acknowledged that of the 209 cases that EIS referred to the TIGTA Office of Investigations for further review, 156 cases, or 75 percent of those cases, did not require disciplinary actions to be taken. As noted in TIGTA's report, the IRS investigated and took appropriate disciplinary actions for the remaining 25 percent of the cases. The IRS concurs that timeliness and quality goals for case processing in EIS need to be developed.

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The current process is dependent upon a 30-day period for TIGTA to determine whether the post-appointment arrest allegation falls within TIGTA's jurisdiction to conduct a formal investigation. The case cannot be processed by EIS or referred to LERN Field Operations Office for adjudication until the investigation determination is received from TIGTA.

We are pleased to report that effective October 1, 2023, EIS updated its procedures to establish timeliness standards and a quality review process to measure EIS' success in achieving case processing goals. The EIS will continue to track case processing cycle times, which is defined as the number of calendar days from when the case is received in EIS, until it is referred to LERN Field Operations for adjudication. Once the case is referred to LERN Field Operations, the EIS case is considered closed. Following the implementation of these updated case processing procedures, EIS will establish baseline measures by the end of Fiscal Year 2024.

The LERN Field Operations will continue to track cycle times for case adjudication, which is defined as the number of calendar days from when the case is received in LERN Field Operations from EIS, to final adjudication in the Automated Labor and Employee Relations Tracking System (ALERTS). The case is considered closed once the final action is taken, i.e., issuance of disciplinary letter. In fact, our records show, LERN Field Operations adjudicated 228 post-appointment arrest cases during the period reviewed, and 198 cases or 87 percent were adjudicated timely (within 180 days).

The IRS would like to call TIGTA's attention to Internal Revenue Manual 6.751.1.8(2)(d), which states LERN Field Operations staff should ensure that Labor Relations case management progresses in a timely manner to achieve the goal of closing cases as quickly as possible, with a maximum of 180 calendar days, absent extenuating circumstances. It should be noted that the 180 calendar days to close cases, absent extenuating circumstances, only applies to LERN Field Operations as stated in IRM 6.751.1.18, Case Processing for LR/ER Field Operations Specialists, and remains a goal.

During the audit, the IRS acknowledged that use of the e-Trak system to track post-appointment arrests resulted in data inaccuracies as stated in the potential outcome measure. We also agree that there were duplicate records, however we are unable to validate that there were 119 duplicate records. Furthermore, the IRS disagrees with TIGTA's determination that the 1,278 records are erroneous, because the IRS is unable to determine if a record is for an IRS employee until after the individual record is researched.

Additionally, on April 26, 2023, the Human Capital Officer modified the IRS case tracking procedures by transitioning the tracking of all TIGTA case referrals from the e-Trak system to ALERTS. As a result, ALERTS is more efficient than e-Trak for tracking

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case processing activities and eliminates the potential of creating duplicate cases. To ensure continuity and end-to-end accountability, EIS will open post-appointment arrest cases in ALERTS and, upon closure, transfer the cases to the servicing LERN Field Operations office to ensure timely adjudication of any discipline, if appropriate. The IRS agrees with the three recommendations in the Draft Report.

Attached is a detailed response outlining the corrective action(s) that the Human Capital Office and Labor/Employee Relations and Negotiations will take to address your recommendations. If you have any questions, please contact me at (202) 317-3174, or a member of your staff may contact Geralda Larkins, Director, Labor/Employee Relations and Negotiations, at 954-849-1436.

Attachment

Improvements Are Needed to Ensure Effective and Timely Processing of Post-Appointment Arrest Notifications

Attachment

RECOMMENDATION 1:

The Human Capital Officer should develop overall post-appointment arrest timeliness goals to promote efficient processing of post-appointment arrest cases from initiation to final adjudication.

CORRECTIVE ACTION:

The IRS agrees with this recommendation. Effective October 1, 2023, the Human Capital Office, Labor Employee Relations and Negotiations (LERN), Employee Claims and Compliance Office, Ethics and Investigations Support (EIS) Branch developed timeliness goals to promote efficient processing of post-appointment arrest cases from the date the case is received in EIS until it is referred to LERN Field Operations for adjudication. Once the case is referred to LERN Field Operations, the EIS case is considered closed. Consistent with IRM 6.751.1.8(2)(d), upon receipt of the case in LERN Field Operations, staff will continue to ensure case management progresses in a timely manner to achieve the goal of closing cases as quickly as possible, with a goal of a maximum of 180 calendar days, absent extenuating circumstances.

IMPLEMENTATION DATE:

This process has been implemented since October 1, 2023

RESPONSIBLE OFFICIAL(S):

Director, Labor/Employee Relations and Negotiations

CORRECTIVE ACTION(S) MONITORING PLAN:

The LERN Director will continue to monitor the internal management system of controls to modify case tracking procedures as necessary.

RECOMMENDATION 2:

The Human Capital Officer should establish a quality review process to measure the EIS Branch's success in achieving post-appointment arrest case processing timeliness goals, including the routine review of cases exceeding established timeliness goals to determine the cause of any delays.

CORRECTIVE ACTION:

The IRS agrees with this recommendation. Effective October 1, 2023, the Human Capital Office, LERN, EIS Branch established a quality review process to measure the EIS Branch's success in achieving post-appointment arrest case processing timeliness goals, including the routine review of cases exceeding established timeliness goals to determine the cause of any delays.

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IMPLEMENTATION DATE:

This process has been implemented since October 1, 2023

RESPONSIBLE OFFICIAL(S):

Director, Labor/Employee Relations and Negotiations

CORRECTIVE ACTION(S) MONITORING PLAN:

The LERN Director will continue to monitor the internal management system of controls to modify case tracking procedures as necessary.

RECOMMENDATION 3:

The Human Capital Officer should modify case tracking procedures to enable the EIS Branch to eliminate the creation of duplicate cases and remove non-IRS employees from the system used to track post-appointment arrest cases.

CORRECTIVE ACTION:

The IRS agrees with this recommendation. Since April 26, 2023, the Human Capital Office, LERN, EIS Branch transitioned from tracking cases in e-Trak to the Automated Labor Employee Relations Tracking System (ALERTS) to eliminate the creation of duplicate cases and to remove non-IRS employees from the IRS systems when tracking post-appointment arrest cases.

IMPLEMENTATION DATE:

This process has been implemented since April 26, 2023.

RESPONSIBLE OFFICIAL(S):

Director, Labor/Employee Relations and Negotiations

CORRECTIVE ACTION(S) MONITORING PLAN:

The LERN Director will continue to monitor the internal management system of controls to modify case tracking procedures as necessary.

Abbreviations

ALERTS	Automated Labor and Employee Relations Tracking System
EIS	Ethics and Investigations Support
FY	Fiscal Year
HR	Human Resources
IRS	Internal Revenue Service
OI	Office of Investigations
OPM	Office of Personnel Management
TIGTA	Treasury Inspector General for Tax Administration



**To report fraud, waste, or abuse,
contact our hotline on the web at www.tigta.gov or via e-mail at
oi.govreports@tigta.treas.gov.**

**To make suggestions to improve IRS policies, processes, or systems
affecting taxpayers, contact us at www.tigta.gov/form/suggestions.**

Information you provide is confidential, and you may remain anonymous.