



*Declining Resources Have Contributed to  
Unfavorable Trends in Several Key Criminal  
Investigation Business Results*

**September 13, 2017**

**Reference Number: 2017-30-073**

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

### DECLINING RESOURCES HAVE CONTRIBUTED TO UNFAVORABLE TRENDS IN SEVERAL KEY CRIMINAL INVESTIGATION BUSINESS RESULTS

## Highlights

**Final Report issued on  
September 13, 2017**

Highlights of Reference Number: 2017-30-073 to the Internal Revenue Service Chief, Criminal Investigation.

### IMPACT ON TAXPAYERS

Criminal Investigation's (CI) primary resource commitment is to develop and investigate tax cases. The prosecution of these cases is key to supporting the IRS's overall compliance goals, enhancing voluntary compliance with the tax laws, and promoting fairness and equity in our tax system. In addition, CI uses media and other outreach opportunities to deter financial crime and enhance voluntary tax compliance.

### WHY TIGTA DID THE AUDIT

This audit was initiated as part of TIGTA's Fiscal Year (FY) 2017 Annual Audit Plan and addresses the major management challenge of Improving Tax Compliance. The overall objective of this review was to provide statistical information and trend analyses of CI's enforcement activities for FYs 2012 through 2016.

### WHAT TIGTA FOUND

Since FY 2011, reductions in staffing and available funding for CI activities contributed to a decrease in the number and size of CI field offices throughout the United States. While managing its core mission tax work with declining resources, the IRS continued to work general fraud, international, and Bank Secrecy Act (BSA) cases as well.

For FY 2016, CI was budgeted approximately \$576 million to fund programs that investigate potential criminal violations of the Internal Revenue tax laws and certain other laws, and recommend prosecution as warranted. Since

FY 2012, the attrition of field special agents resulted in a decline in the number of cases initiated and completed. In FY 2016, CI initiated 3,395 cases, an overall decrease of 34 percent compared to the 5,125 cases initiated in FY 2012.

Overall, special agents have consistently maintained inventory levels over an average of 5.30 cases per field special agent. Special agent inventories included a focus on international cases. In FY 2016, international cases resulting in sentencing improved approximately 33 percent from FY 2012.

CI relies on a variety of internal and external sources to initiate cases. The percentage of cases initiated from functions within the IRS has decreased 5 percent from FY 2012 to FY 2016. The percentage of cases initiated from the United States Attorney's Offices and other Government agency sources increased, representing 64 percent of the 3,395 initiations.

Between FY 2012 and FY 2016, CI implemented policy changes that affected the BSA and identity theft cases. CI will no longer pursue seizure and forfeiture of funds related to legal source structuring cases under the BSA unless justified by exceptional circumstances. In September 2012, the Department of Justice implemented an expedited and parallel review of proposed indictments arising from stolen identity refund fraud cases resulting in a spike of initiations and completions for FY 2012 through FY 2013 of identity theft cases.

TIGTA identified a trend of special agent inventory taking longer to turnover because of the increased time it takes for special agents to determine a case did not contain prosecution potential. In FY 2016, it took an average of 540 days (1.5 years) to determine that there was no prosecution potential, while it took an average of 422 days in FY 2012.

### WHAT TIGTA RECOMMENDED

Due to the nature of this audit, TIGTA made no recommendations. IRS officials were provided an opportunity to review the draft report and their comments are in Appendix VIII to the report.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

September 13, 2017

**MEMORANDUM FOR CHIEF, CRIMINAL INVESTIGATION**

A handwritten signature in blue ink that reads "Michael E. McKenney".

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

**SUBJECT:** Final Audit Report – Declining Resources Have Contributed to Unfavorable Trends in Several Key Criminal Investigation Business Results (Audit # 201730025)

This report presents the results of our review to provide various statistical information and data trends related to Criminal Investigation's enforcement activities for Fiscal Years 2012 through 2016. This review is included in our Fiscal Year 2017 Annual Audit Plan and addresses the major management challenge of Improving Tax Compliance.

Although we made no recommendations in this report, we provided Internal Revenue Service officials an opportunity to review the draft report. Management's complete response to the draft report is included as Appendix VIII.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report findings. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).



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*Abbreviations*

BSA	Bank Secrecy Act
BPR	Business Performance Review
CI	Criminal Investigation
CIMIS	Criminal Investigation Management Information System
DOJ	Department of Justice
FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
QRP	Questionable Refund Program
RPP	Return Preparer Program
TIGTA	Treasury Inspector General for Tax Administration
U.S.C.	United States Code



## Declining Resources Have Contributed to Unfavorable Trends in Several Key Criminal Investigation Business Results

### Background

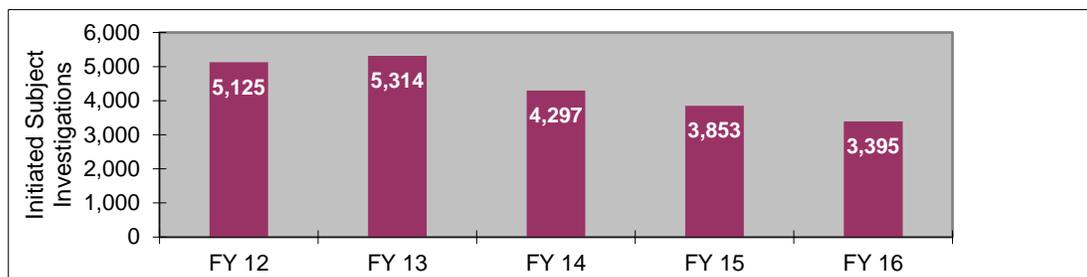
The mission of the Internal Revenue Service's (IRS) Criminal Investigation (CI) is as follows:

*Criminal Investigation serves the American public by investigating potential criminal violations of the Internal Revenue Code (I.R.C.)<sup>1</sup> and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law.<sup>2</sup>*

CI pursues its mission by conducting investigations and referring the findings of these investigations to the Department of Justice (DOJ) for recommended prosecution. In pursuing its mission, CI's internal procedures provide that it has four general strategies: compliance, international, money laundering, and terrorism.<sup>3</sup> CI's highest priority is to enforce our country's tax laws and support tax administration to combat fraud and ensure compliance with the law. CI's role helps to ensure the integrity and fairness in the tax system.

CI initiated 5,125 subject investigations in Fiscal Year (FY) 2012 and 5,314 subject investigations in FY 2013 which was the highest number of initiations during the period from FY 2012 to FY 2016, followed by three consecutive fiscal years of decreases. CI also performs primary investigations. A primary investigation is preliminary in nature and is elevated to a subject investigation when there is sufficient proof that an individual or entity has engaged in criminal conduct and there is prosecution potential. In FY 2016, CI initiated 3,395 subject investigations which was an overall decrease of 34 percent compared to the 5,125 subject investigations initiated in FY 2012. Figure 1 shows the total number of subject investigations initiated from FY 2012 through FY 2016.

**Figure 1: Number of Subject Investigations Initiated Each Fiscal Year**



Source: Criminal Investigation Management Information System (CIMIS) Report INV002 (Summary by Program Area).

<sup>1</sup> See Appendix VII for a glossary of terms.

<sup>2</sup> Internal Revenue Manual 9.1.1.2 (Mar. 6, 2017).

<sup>3</sup> Internal Revenue Manual 9.1.1.3 (Nov. 4, 2004).



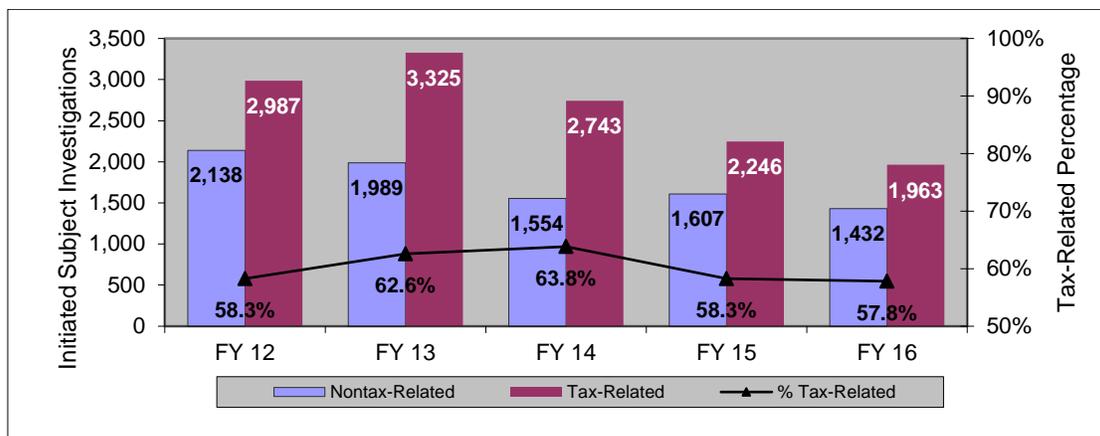
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### Tax-related investigations and nontax-related investigations

CI investigations can involve crimes that are tax-related or nontax-related. Tax-related investigations are investigations that involve an alleged tax violation under the I.R.C. (Title 26). Nontax-related investigations include all other investigations.

While the volume of subject investigations initiated steadily declined each fiscal year after FY 2013, the percentage of tax-related investigations remained above 57 percent of total investigations. However, FY 2016 had the lowest percentage of tax-related investigations at 57.8 percent. Figure 2 shows the number of subject investigations initiated each fiscal year for tax-related and nontax-related violations and the percentage of total initiations that were tax-related.

**Figure 2: Number of Subject Investigations Initiated Each Fiscal Year for Tax-Related or Nontax-Related Violations and the Percentage That Is Tax-Related**



Source: CIMIS Report INV002 (Summary by Tax or Nontax).

### Compliance strategy programs

All of CI's investigations fall into three independent categories called compliance strategies.

1. **Legal source tax crimes:** Crimes involving legal industries and occupations and legally earned income associated with the violation of Title 26 (tax violations) and Title 18 (tax-related violations) of the United States Code (U.S.C.). CI is generally the sole investigative agency in legal source cases.
2. **Illegal source financial crimes:** Crimes involving all tax and tax-related violations, as well as money laundering and currency violations under the following statutes: Title 26 (tax violations); Title 18 (tax-related and money laundering violations); and Title 31 (currency violations) of the U.S.C. CI may investigate tax, nontax, or a combination of charges, and may be the sole investigative agency or may be working with one or more other Federal agencies in illegal source cases. The use of forfeiture statutes to deprive



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individuals and organizations of illegally obtained assets is also linked to the investigation of criminal charges within this category.

Within the legal and illegal source crimes compliance strategy programs are 15 program areas.<sup>4</sup> Four of the 15 program areas for FY 2016 represent 79 percent (2,061 of a total of 2,607 cases) of the legal and illegal source crime cases initiated. The characteristics that define program areas do not necessarily determine to which legal or illegal compliance strategy program the subject investigation belongs. Figure 3 shows the number of subject investigations initiated for FY 2012 through FY 2016 for legal and illegal source crimes for four program areas.

**Figure 3: Number of Initiated Subject Investigations by Program Area for the Legal and Illegal Source Tax Crimes Compliance Strategies Programs for Each Fiscal Year**

Program Areas	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Employment Tax	148	140	120	102	137
General Fraud	1,863	1,554	1,358	1,202	1,177
Questionable Refund	921	1,513	1,028	775	495
Return Preparer	443	309	305	266	252
<b>Subtotal Program Areas</b>	<b>3,375</b>	<b>3,516</b>	<b>2,811</b>	<b>2,345</b>	<b>2,061</b>
<b>Total Legal and Illegal Source Crimes</b>	<b>4,171</b>	<b>4,323</b>	<b>3,451</b>	<b>2,898</b>	<b>2,607</b>
<b>Percentage of Total</b>	<b>81%</b>	<b>81%</b>	<b>81%</b>	<b>81%</b>	<b>79%</b>

Source: CIMIS Report INV002 (Summary by Program Area).

- Narcotics-related financial crimes:** Crimes involving tax and money laundering related to narcotics and drug trafficking.<sup>5</sup> CI derives authority for this category from Title 26 (tax violations); Title 18 (tax-related and money laundering violations); and Title 31 (currency violations) of the U.S.C. CI also devotes resources to high-level multiagency narcotics investigations warranting Organized Crime Drug Enforcement Task Force designation in accordance with Organized Crime Drug Enforcement Task Force Program reimbursable funding.

Figure 4 shows the number of subject investigations initiated from FY 2012 through FY 2016 by compliance strategy program. While the volume of investigations initiated steadily declined

<sup>4</sup> See Appendix IV, Figure 1 for a breakdown of all the legal and illegal source tax crimes compliance strategies cases initiated for FY 2012 through FY 2016.

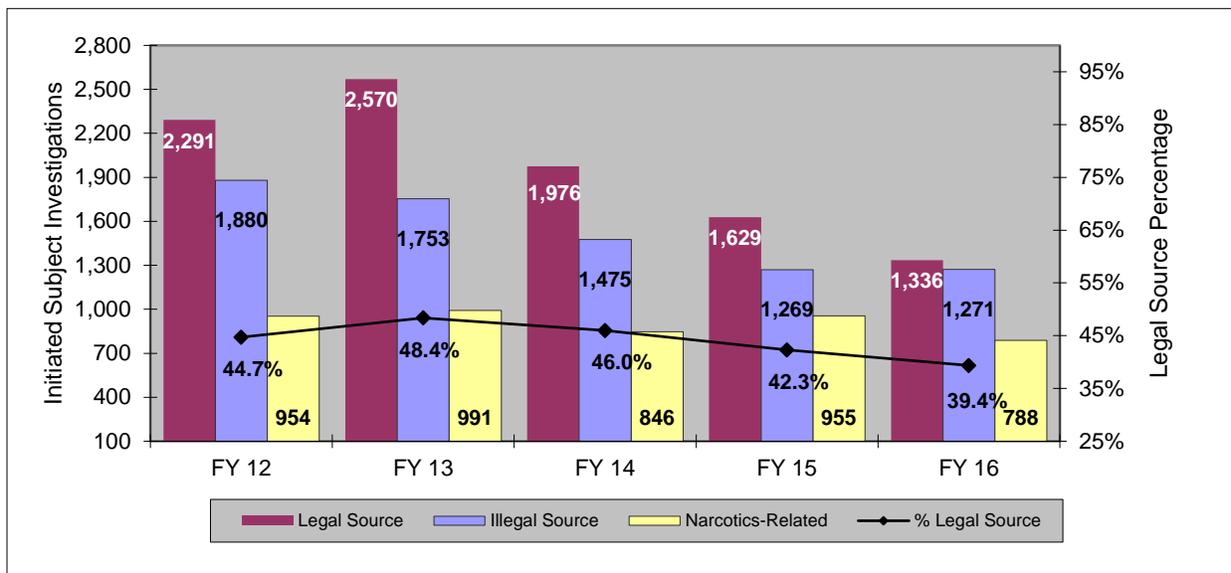
<sup>5</sup> See Appendix IV, Figure 2 for a breakdown of all the legal and narcotic-related financial crimes compliance strategy cases initiated for FY 2012 through FY 2016.



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each fiscal year after FY 2013, the percentage of tax-related investigations remained above 55 percent. Accordingly, the percentage of legal source cases—traditionally those involving only tax crimes and investigated solely by CI—declined to the lowest level of 39.4 percent during FY 2016.

**Figure 4: Number of Subject Investigations Initiated Each Fiscal Year by Compliance Strategy Programs and the Percentage That Is Legal Source Tax Crimes**



Source: CIMIS Report INV002 (Summary by Program Area).

**Emphasis areas**

Emphasis areas are additional categories given to investigations with certain characteristics that provide CI leadership with additional information about the investigations being worked. Approximately 64 percent of CI’s subject investigations initiated in FY 2016 involved one or more of CI’s emphasis areas. Figure 5 shows the emphasis areas as of FY 2016. The characteristics that define emphasis areas do not necessarily determine to which compliance strategy program the investigation belongs.

Emphasis areas can span multiple compliance strategy programs and can overlap each other. An example of an emphasis area spanning multiple program areas is international investigations. The international component of an investigation can belong to any subprogram area. For example, an investigation into foreign banks assisting U.S. taxpayers to evade their U.S. taxes would fall into the financial institutions fraud program area. However, because there is an international component, the investigation also satisfies the international emphasis area.



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An example of emphasis areas overlapping each other may involve an investigation into members of a criminal enterprise that traffics narcotics. The investigations were derived from a lead identified in a Suspicious Activity Report.<sup>6</sup> During the investigation, the CI agents may discover that some of the members were using stolen identities to file false returns and claim refunds to which they were not entitled. Certain characteristics of these investigations could make them appear in the Bank Secrecy Act (BSA), identity theft, and money laundering emphasis areas.<sup>7</sup> Figure 5 shows subject investigations initiated for the FY 2012 through FY 2016 for all CI emphasis areas.

**Figure 5: Number of Subject Investigations Initiated by Emphasis Area for Each Fiscal Year**

Emphasis Area	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
BSA	923	922	809	613	504
Identity Theft	898	1,492	1,063	776	573
International	211	284	226	186	221
Money Laundering	1,663	1,596	1,312	1,436	1,201
Nonfiler	320	279	269	223	206
<b>Total Emphasis Areas</b>	<b>4,015</b>	<b>4,573</b>	<b>3,679</b>	<b>3,234</b>	<b>2,705</b>
Unique Investigation With One or More Emphasis Area <sup>8</sup>	<b>3,208</b>	<b>3,686</b>	<b>2,935</b>	<b>2,663</b>	<b>2,179</b>
Total Initiations	<b>5,125</b>	<b>5,314</b>	<b>4,297</b>	<b>3,853</b>	<b>3,395</b>
<b>Percentage of Emphasis Area</b>	<b>63%</b>	<b>69%</b>	<b>68%</b>	<b>69%</b>	<b>64%</b>

Source: CIMIS Report INV002 (Summary by Program Area).

With the exception of international investigations, investigations initiated by emphasis areas decreased from FY 2012 to FY 2016. For this five-year period, the number of both identity theft and international investigations spiked in FY 2013. CI initiated 1,492 identity theft investigations in FY 2013, an increase of 594 investigations from FY 2012 (66 percent). Initiation of international investigations increased by 73 (35 percent) in FY 2013. See Appendix V for further comparison of emphasis area activity in FY 2012 and FY 2016.

From FY 2004 to FY 2011, we conducted audits that presented an annual statistical portrayal of CI's enforcement activities. The objective of the FY 2004 audit was to provide statistical

<sup>6</sup> Treasury Regulation § 1020.320 Reports by banks of suspicious transactions.

<sup>7</sup> 31 U.S.C § 5311 et seq.

<sup>8</sup> The total identifies the count of unique investigations with one or more emphasis areas. The emphasis areas may include investigations that overlap and allow potential double- and triple-counting.



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information and trend analyses of CI's statistics since the issuance of the Webster Report<sup>9</sup> in April 1999, which concluded that CI had drifted away from its primary mission of investigating criminal tax violations. Our subsequent reports (this report included) focused on year-to-year statistical comparisons including details of some enforcement results, as well as looking at trends over a protracted period, to provide perspective on CI's enforcement activities. While this report provides a year-to-year statistical comparison, it analyzed the data further to determine trends pertaining to specific categories of investigations by fiscal year. This is our ninth report; Appendix VI lists the prior audit reports.

Our data analyses were performed in the Treasury Inspector General for Tax Administration's (TIGTA) office in Atlanta, Georgia, during the period of November 2016 through May 2017. We used national reports from the CIMIS during our review. Because of time and resource constraints, we did not audit CI's system to validate the accuracy and reliability of information. Also, we did not assess internal controls because doing so was not applicable within the context of our audit objective. Our analyses were limited to identifying changes and trends in IRS data. 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. Detailed charts and tables referred to in the body of the report are included in Appendices IV and V. A glossary of terms is included in Appendix VII.

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<sup>9</sup> *Review of the Internal Revenue Service's Criminal Investigation Division* (Publication 3388; 4-1999), also known as the Webster Report.



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*Results of Review*

Since FY 2011, reductions in staffing and available funding for criminal investigation activities contributed to a decrease in the number and size of CI field offices throughout the United States. While managing its core mission tax work with declining resources, the IRS continued to work general fraud, international, and BSA cases. Some emphasis areas were affected by policy changes, and there was also an increase in days elapsed on discontinued cases. Overall, we found that:

- Budget challenges resulted in attrition of field special agents and a decline in the number of investigations initiated and completed.
- Overall CI case initiations and completions have declined due to resource limitations, though CI increased focus on international investigations.
- CI relies on a variety of internal and external sources to initiate subject criminal investigations.
- Sentencing for refund fraud investigations increased.
- Bank Secrecy and identity theft cases worked by special agents were affected by policy changes.
- CI management should assess the trend of increased time for determining whether to discontinue investigations.

***Budget Challenges Resulted in Attrition of Field Special Agents and a Decline in the Number of Investigations Initiated and Completed***

CI's budget has fluctuated over the last five fiscal years, with the highest amount of \$593 million in FY 2012 and the lowest amount of \$576 million in FY 2016. Figure 6 shows the budget allocated to CI over the last five fiscal years.



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**Figure 6: CI Budget for FYs 2012 Through 2016 (in millions)**

FY	Budget	Dollar Change From Prior Fiscal Year
2012	\$593	---
2013	\$577	(\$16)
2014	\$586	\$9
2015	\$586	\$0
2016	\$576	(\$10)
	<b>N/A</b>	<b>(\$17)</b>

Source: IRS Chief Financial Officer.

CI can also request reimbursement from the Treasury Forfeiture Fund. Reimbursements can include mandatory expenses of the Asset Seizure and Forfeiture Program or discretionary uses including requests from the Secretary of the Treasury’s Enforcement Fund and Super Surplus Funds.<sup>10</sup> The dollars reimbursed from the Treasury Forfeiture Fund to CI fluctuated over the last five fiscal years, with the highest amount of \$57 million reimbursed for FY 2012 and the lowest amount of \$40 million reimbursed for FY 2015. The FY 2016 reimbursable amount of \$48 million was \$9 million less than FY 2012’s reimbursable amount. Figure 7 shows the type of funds reimbursed over the last five fiscal years.

**Figure 7: Amounts Reimbursed From the Treasury Forfeiture Fund to CI During FYs 2012 Through 2016 (in millions)**

FY	Reimbursable Resources	Dollar Change From Prior Fiscal Year	Dollar Amount of Mandatory Reimbursements	Dollar Amount of Discretionary Reimbursements
2012	\$57	---	\$23	\$34
2013	\$45	(\$12)	\$27	\$18
2014	\$59	\$14	\$26	\$32
2015	\$40	(\$19)	\$26	\$14
2016	\$48	\$8	\$25	\$23
<b>Total</b>	<b>\$249</b>	<b>(\$9)</b>	<b>\$127</b>	<b>\$121</b>

Source: IRS Chief Financial Officer and TIGTA’s analysis of data provided by CI.

<sup>10</sup> Represents the remaining unobligated balance after an amount is reserved for Treasury Forfeiture Fund operations in the next fiscal year. Super Surplus Funds can be used for authorized law enforcement purposes as prescribed within the particular Federal law enforcement agency’s policies.



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CI management explained several factors contributed to the amount of funding allocated to CI and the declines in FY 2013 and FY 2015. CI and the Treasury Executive Office for Asset Forfeiture define both the Secretary’s Enforcement Fund and the Super Surplus Fund as discretionary funding. The Secretary’s Enforcement Fund is based on Reverse Asset Sharing received from the DOJ within a given fiscal year. The Super Surplus Fund is based on prior year’s surplus funding declared by the Treasury Executive Office for Asset Forfeiture once the prior fiscal year has been completed. Fund allocations are determined by the Treasury Executive Office for Asset Forfeiture with the approval of Treasury (for the Secretary’s Enforcement Fund) or Office of Management and Budget/Congress (for the Super Surplus Fund). Decreases in funding are a result of projected Reverse Asset Sharing proceeds for the fiscal year (Secretary’s Enforcement Fund), available surplus funding (Super Surplus Fund), and planning by the Treasury Executive Office for Asset Forfeiture. In addition, the declines from FY 2013 through FY 2015 were a result of congressional actions on the Treasury Forfeiture Funding in which Congress set aside Treasury Forfeiture Funding proceeds for non-law enforcement budget items. These actions, known as rescissions, prevented the Treasury Executive Office for Asset Forfeiture from allocating significant amounts of Treasury Forfeiture Funding proceeds to member agencies for law enforcement use.

Because of continual IRS budget constraints, CI had limited special agent hiring authority. Figure 8 shows the net loss of special agents due to attrition from FY 2012 through FY 2016.<sup>11</sup>

**Figure 8: Agent Net Loss Due to Attrition for FYs 2012 Through 2016**

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	Total
<b>Agents Lost to Attrition</b>	(125)	(128)	(129)	(151)	(148)	(681)
<b>Agent Hiring</b>	50	5	53	2	49	159
<b>Net Gain/(Loss)</b>	(75)	(123)	(76)	(149)	(99)	(522)
<b>Total Special Agents at End of Fiscal Year<sup>12</sup></b>	2,664	2,541	2,465	2,316	2,217	
<b>Field Special Agents at End of Fiscal Year</b>	2,336	2,263	2,139	2,053	1,911	

Source: IRS Chief Financial Officer.

<sup>11</sup> Attrition is any loss from the 1811 job series: retirement, separation, termination, change to another job series, etc.

<sup>12</sup> The number of total special agents each fiscal year includes the number of field special agents each fiscal year.



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With limited ability to hire behind these attrition losses, CI lost 522 (19 percent) of the special agents who were working in FY 2012. In FY 2016, there were 49 newly hired agents compared to the loss of 148 experienced agents. Overall, between FY 2012 and FY 2016, the number of CI special agents declined steadily from 2,664 to 2,217, resulting in a decrease of 447 (17 percent) special agents and a decrease of 425 field special agents.<sup>13</sup> This includes a decrease of 142 (7 percent) field special agents since FY 2015. However, replacing experienced field special agents lost to attrition with newly hired special agents presents challenges for CI. CI management stated that the full benefit of new hires is generally not realized for two years because academy training lasts for approximately six months and on-the-job training lasts six to 18 months.<sup>14</sup> In addition, once the new special agents are sent to a post of duty, they are assigned an on-the-job instructor, which takes an experienced field special agent offline part-time and potentially decreases their workload.

Declines in field special agent staffing continues to present concerns regarding CI's ability to sustain efficient and effective operations and enforcement results. Since FY 2010, CI merged 24 (11 percent) of its 225 special agent groups, and 12 (48 percent) of CI's 25 field offices lost one or more groups during the same period. Approximately 25 (11 percent) CI posts of duty have just one special agent and about 35 (15 percent) have only two. As such, more than 25 percent of the 230 CI posts of duty are staffed by only one or two special agents.

### ***With fewer special agents available to work inventory, the number of investigations initiated and completed declined***

As previously discussed, CI initiated 3,395 investigations during FY 2016, which was a 34 percent decrease from the FY 2012 total of 5,125.<sup>15</sup> CI completed 3,721 investigations during FY 2016, a 25 percent decrease from the FY 2012 total of 4,937. Figure 9 shows the trend in the number of CI subject investigations initiated and the number completed over the last five fiscal years.

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<sup>13</sup> See Appendix IV, Figure 3.

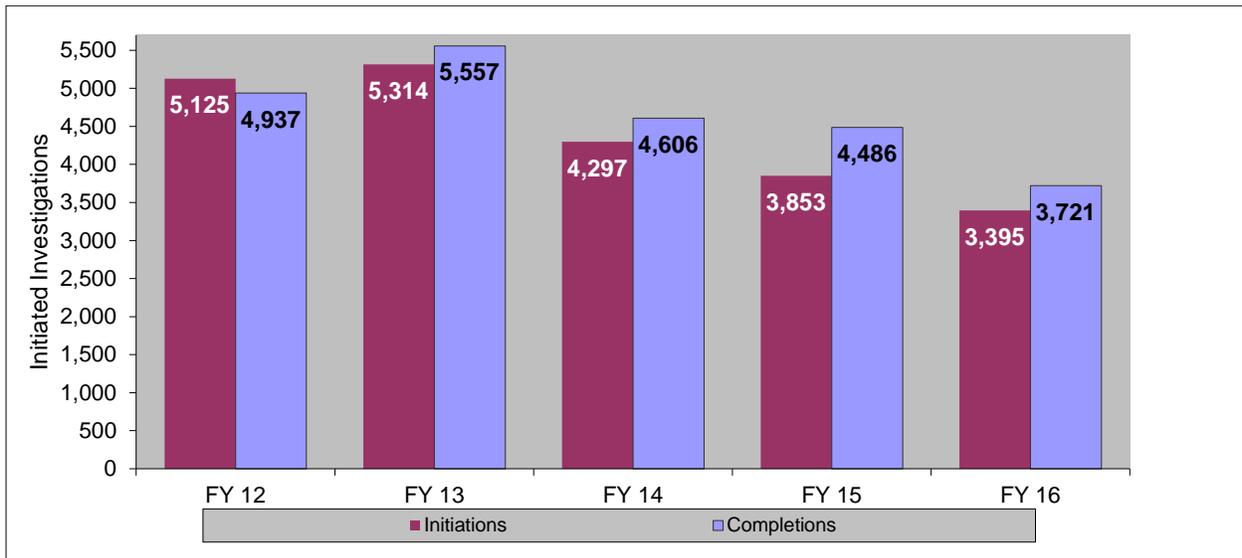
<sup>14</sup> IRS special agents complete training at the Federal Law Enforcement Training Centers, Glynco, Georgia.

<sup>15</sup> See Appendix IV, Figure 5.



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**Figure 9: Number of Subject Investigations Initiated and Those that were Completed for Each Fiscal Year**



Source: CIMIS Report INV001 (CI Summary Statistics).

According to CI management, the reduction in field special agent staffing contributed significantly to the decrease in cases initiated and completed during FYs 2012 through 2016. CI management added that CI continues to focus on larger, more sophisticated investigations that have a broader impact.

**Overall Criminal Investigation Case Initiations and Completions Are Declining Due to Resource Limitations, Though Focus on International Investigations Increased**

Compliance with the tax laws in the United States depends heavily on taxpayer self-assessment of the amount of tax, voluntary filing of tax returns, and remittance of any tax owed. There are individuals from all facets of the economy, whether corporate executives, small business owners, self-employed or wage earners, who through willful noncompliance do not pay the true amount of taxes that they owe. CI special agents use their financial investigative skills to uncover and quantify many different schemes.

While the trends in overall CI case initiations and completions declined, the current staff of field special agents maintained consistent inventory levels. CI uses the average inventory of open subject investigations per special agent<sup>16</sup> and the average total inventory per special agent to measure the quantity of work performed by special agents. The average inventory calculation

<sup>16</sup> CI considers only those special agents who were actively working on investigations in these calculations.

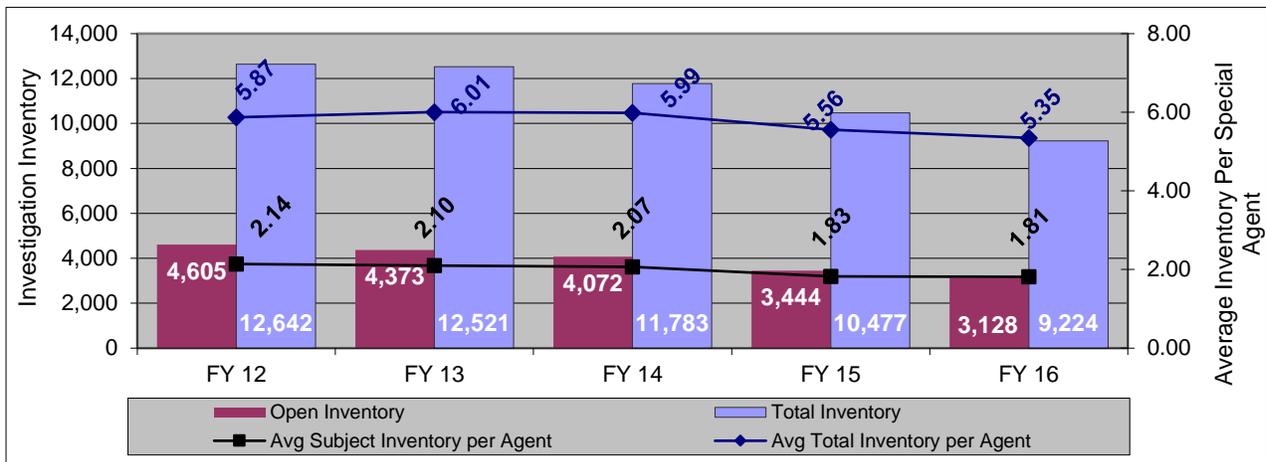


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includes only open subject investigations, whereas the total inventory calculation includes primary investigations, open subject investigations, and judicial process inventory. As referenced earlier in this report, a primary investigation is an evaluation of an allegation that an individual or entity is in noncompliance with the Internal Revenue laws and related financial crimes. Primary investigations are elevated to subject investigations when it is determined the case has prosecutorial potential. The judicial process (pipeline) inventory includes cases where CI has made criminal prosecution recommendations and the DOJ has either: 1) not declined the case for prosecution or 2) not yet completed the legal process to arrive at a conviction, acquittal, or dismissal in court. Figure 10 shows the average open subject inventory and the total inventory per special agent<sup>17</sup> has remained steady, varying by less than one case, from FY 2012 and FY 2016.

As shown in Figure 10, the average open subject investigations in special agent inventories in FY 2016 (1.81 investigations per agent) decreased less than one case compared to the average in FY 2012 (2.14 investigations per agent). Likewise, the FY 2016 average total inventory cases in special agent inventories of 5.35 decreased less than one case when compared to the average of 5.87 cases in FY 2012.

**Figure 10: The Number of Open Subject Investigations, the Total of All Investigations, and the Average Inventory Per Special Agent for Each Fiscal Year**



Source: CI's analysis of the CIMIS. Average inventory numbers calculated by 1) dividing open inventory by number of special agents used for beginning of fiscal year inventory and 2) dividing total inventory by number of special agents used for beginning of fiscal year inventory.

<sup>17</sup> As previously stated, the total inventory calculation includes primary investigations, open subject investigations, and judicial process (pipeline) inventory. For instance, the total inventory (9,224) in FY2016 includes: primary investigations (1,920), open subject investigations (3,128), and judicial process (pipeline) inventory (4,130), which totals 9,178 investigations or a difference of 46 cases. The difference relates to 46 armed escort cases which CI started tracking in FY 2012.



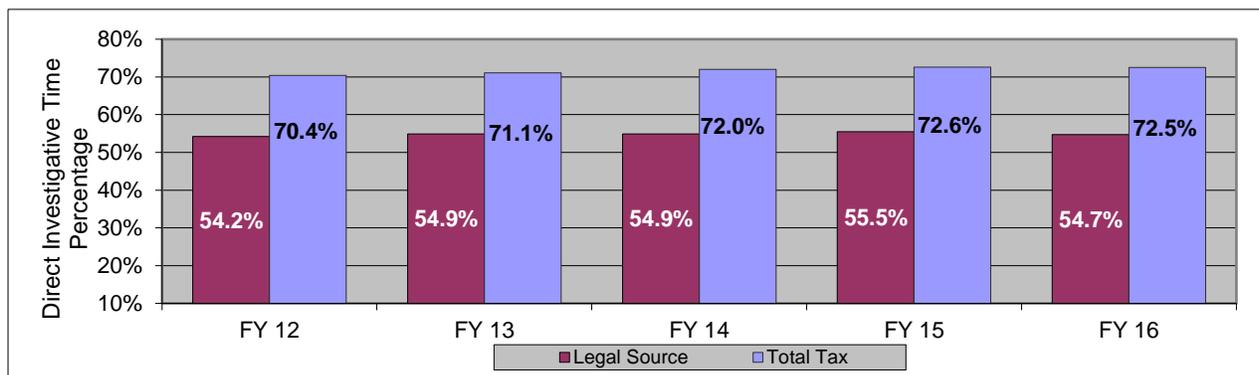
## *Declining Resources Have Contributed to Unfavorable Trends in Several Key Criminal Investigation Business Results*

As can be expected considering the decline in the number of special agents available to work investigations, the number of open subject investigation inventory and total open inventory decreased by 32 percent and 27 percent, respectively, during the same period.

Despite trends in overall CI case initiations and completions declining, the current staff of special agents maintained consistent levels of direct time spent on legal source tax and tax-related investigations. CI's Annual Business Plans have consistently reported that legal source tax investigations are an important component of all tax-related investigations and a top investigative priority. Accordingly, general fraud investigations are the backbone of CI's enforcement program. These investigations address tax evasion and tax fraud schemes and have a direct influence on the taxpaying public's compliance with the tax laws. In FY 2012, general tax fraud investigations initiated made up 36 percent of all initiations, and in FY 2016, general tax fraud investigations accounted for 35 percent of all initiations. As a percentage of all investigations, general fraud is the highest.

From FY 2012 through FY 2016, CI direct investigative time goals for total tax-related investigations and legal source tax investigations were 68 percent and 50 percent, respectively. As shown in Figure 11, CI exceeded these two goals in all five of these fiscal years. Specifically, in FY 2016, special agents devoted 72.5 percent of their direct time to total tax investigations while 54.7 percent of their direct time was spent on legal source tax investigations. Also in FY 2016, special agents spent 11.6 percent of their direct time on narcotics-related investigations. One of the key factors for CI to continue exceeding its total tax-related and legal source tax direct time goals is for special agents to maintain their narcotics-related direct investigative time at or below 11.6 percent.

**Figure 11: Percentage of Direct Investigative Time Expended on Legal Source Tax and Total Tax Investigations for Each Fiscal Year**



Source: CI's Business Performance Review (BPR) reports.

However, the number of legal source tax investigation initiations decreased by 18 percent, and the number of tax-related initiations decreased by 12.6 percent for FY 2016 when compared to FY 2015. Also, as a percentage of all investigative case initiations, legal source tax and



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## *Declining Resources Have Contributed to Unfavorable Trends in Several Key Criminal Investigation Business Results*

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tax-related cases decreased by 2.9 and .5 percentage points, respectively.<sup>18</sup> This trend, if it continues, appears to reflect a decreasing emphasis on pursuing legal source tax and tax-related investigations as a top investigative priority.

### **Increased focus resulted in advances in international investigations**

International tax compliance is a top priority of the IRS. In March 2010, CI established a definition for international investigations to more effectively identify and track these types of cases in the CIMIS, such as:

- Any investigation containing international transactions and/or international components that are a substantial part of the investigation or substantially enhance the outcome of the investigation.
- Any person or entity that directs, promotes, or is used to promote a tax evasion scheme of which international transactions are an integral part of the scheme.

CI's Office of International Operations disseminated procedures and policies designed to enhance investigation support and international case development. These include the use of an online international assistance process to enhance and streamline investigative support. The CI Office of International Operations promotes a comprehensive international strategy in responding to global financial crimes and provides support in combating offshore tax evasion. In support of CI's mission, the Office of International Operations' purpose is to ensure international law enforcement cooperation between foreign governments and CI field offices as it relates to investigating potential criminal violations of the I.R.C. and related financial crimes.

CI management explained that although no specific "baseline" has been established for international investigations, the International Business Performance Results and Narcotics Performance Results are used to monitor the Office of International Operations' impact and performance within CI. Beginning in FY 2014, the Office of International Operations established several performance measures that are included in the CI BPR. The performance measures are compared from the current fiscal year to the prior fiscal year and monitor fluctuations in: open inventory, subject criminal investigations initiated, completions, prosecution recommendations, indictments, convictions, conviction rates, incarceration rates, and average months served. Figure 12 shows that CI's volume of international investigations initiated and completed has fluctuated during the FY 2012 to FY 2016 period.

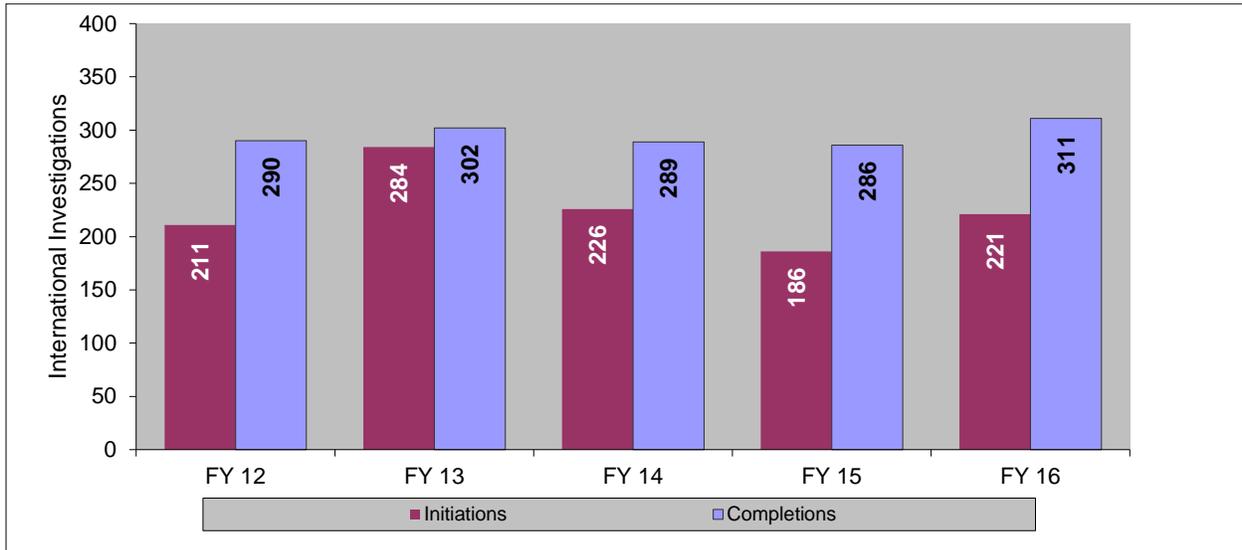
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<sup>18</sup> See Appendix IV, Figures 6 and 7.



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**Figure 12: Comparison of the Volume of International Investigations Initiated and Completed for Each Fiscal Year**



Source: CIMIS Report INV002 (Summary by Program Area).

The increase in FY 2016 followed two years of decreases in the number of completed international investigations. CI management attributed the fluctuations in international initiations and completions to resource allocations, program reassignments, and case progression.

As a percentage of all emphasis area investigations recommending prosecution, international investigations increased from 8 percent in FY 2012 to 12 percent in FY 2016. In FY 2016, international investigations resulting in sentencing improved approximately 33 percent from FY 2012, an increase of 38 international investigations.

Overall, CI initiated 211 international investigations in FY 2012 which represented 4.1 percent of the total 5,125 initiations. This percentage was similar to the 221 investigations initiated in FY 2016, which represented 6.5 percent of the total 3,395 initiations.

- For the 211 international investigations pursued by CI in FY 2012, 113 (54 percent) of the investigations were initiated from three sources: 52 (25 percent) investigations from United States Attorney's Offices, 39 (18 percent) investigations other Federal agencies, and 22 (10 percent) investigations from suspicious activity reports.
- For the 221 international investigations pursued by CI in FY 2016, 162 (73 percent) of the investigations were initiated from three sources: 84 (38 percent) investigations from United States Attorney's Offices, 55 (25 percent) investigations from other Federal agencies, and 23 (10 percent) from suspicious activity reports. This represents an overall increase of 19 percentage points, of which 13 percentage points came from United States



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Attorney's Offices and 6 percentage points came from other Federal agencies while the initiations from suspicious activity reports remained consistent.

Additionally, the crimes that resulted in initiation of the international investigations were mainly covered by Title 26 (tax violations); Title 18 (tax-related and money laundering violations); and Title 31 (currency violations) of the U.S.C.

- In FY 2012, the primary statutes investigated for the 211 international initiations were 105 (50 percent) Title 18 investigations, 92 (44 percent) Title 26 investigations, and 11 (5 percent) Title 31 investigations.
- In FY 2016, the primary statutes investigated for the 221 international initiations were 147 (67 percent) Title 18 investigations, 64 (29 percent) Title 26 investigations, and 5 (2 percent) Title 31.

This represents an overall 17 percentage point increase in Title 18 investigations, and a 15 percentage point and 3 percentage point decrease in Title 26 and Title 31 investigations respectively.

If CI special agents in the field need assistance from a foreign country, they can fill out an online request form that is routed to the Office of International Operations. The Office reviews and assigns the request to CI attachés around the world. CI attachés work the requests through appropriate channels and provide resources to the field agents.

With the recent offshore banking cases and the Foreign Account Tax Compliance Act, the international nature of the cases CI works is increasing.<sup>19</sup> Accordingly, there will be a greater need for CI to increase the number of special agents stationed abroad. However, the current budget trends referenced earlier in this report may make that difficult.

### ***A more focused strategy may be needed on employment tax investigations***

Employers are required to pay certain employment taxes on their own behalf and also collect and remit certain payroll taxes on behalf of their employees.<sup>20</sup> The portion collected on behalf of employees is held by employers in trust and the willful failure to remit these funds can be a criminal offense. In March 2017, TIGTA reported that employment tax noncompliance is a serious crime that requires a more focused enforcement strategy.<sup>21</sup> TIGTA recommended that the IRS Collection function expand the criteria used to refer potentially criminal employment tax

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<sup>19</sup> To improve U.S. taxpayer compliance with reporting foreign financial assets and offshore bank accounts, Congress passed the Foreign Account Tax Compliance Act in March 2010 as part of the Hiring Incentives to Restore Employment Act of 2010 (Pub. L. No. 111-147, 124 Stat. 71 (2010)).

<sup>20</sup> I.R.C. §§ 3102 and 3402(a) require employers to withhold certain Social Security and income taxes from employees' wages. I.R.C. § 7202 provides that funds withheld from others for payment to the United States are held in trust.

<sup>21</sup> TIGTA, Ref. No. 2017-IE-R004, *A More Focused Strategy Is Needed to Effectively Address Egregious Employment Tax Crimes* (Mar. 2017).



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cases to CI to include any egregious cases, not only those in which a firm indication of fraud is present. The IRS disagreed with the portion of our recommendation that the Collection function should expand the criteria used to refer potentially criminal employment tax cases to CI to include any egregious cases (not only those in which a firm indication of fraud is present) citing the need to balance several factors by a number of stakeholders and limited Government resources, including limitations on the number of criminal tax cases the United States Attorneys and the U.S. Courts can accommodate.

Figure 13 shows the changes in FY 2012 and FY 2016 for certain CI employment tax investigation performance metrics. In line with the decline in CI resources and decreased number of investigation initiations, CI employment tax investigations initiated have decreased from FY 2012 to 2016. During the same period, there were decreases in prosecutions recommended by 10.5 percent and in average months served by 41.7 percent, while there was an increase of 10.1 percent in criminals sentenced.

**Figure 13: Comparison of Results of Employment Tax Subject Investigations for FY 2012 and 2016**

<b>Employment Tax Investigations and Enforcement Results</b>	<b>FY 2012 Results</b>	<b>FY 2016 Results</b>	<b>Change Between FYs 2012 and 2016</b>
Investigations Initiated	148	137	-7.4%
Prosecution Recommendations	86	77	-10.5%
Sentenced	79	87	10.1%
Incarceration Rate	81.0%	70.1%	-10.9%
Average Months to Serve	24	14	-41.7%

*Source: Our analysis of CIMIS data provided by CI.*

Incarceration is the most significant sanction provided by Congress for tax noncompliance. I.R.C. Section (§) 7202, *Willful Failure to Collect or Pay Over Tax*, stipulates that any person required to collect, account for, and pay over tax who willfully fails to do so shall, in addition to other penalties provided by law, be guilty of a felony punishable by a fine of up to \$10,000, up to five years in prison, or both. The incarceration rate decreased nearly 11 percent in FY 2016 when compared to FY 2012. Average months served also decreased 10 months or 41.7 percent, from 24 months to 14 months.

### **Criminal Investigation Relies on a Variety of Internal and External Sources to Initiate Subject Criminal Investigations**

Unlike other IRS compliance functions, CI initiates investigations stemming from many different sources both from within and from outside of the IRS. CI's primary sources from within the IRS include fraud referrals from the operating divisions and investigations from CI's Questionable Refund Program (QRP) and Return Preparer Program (RPP), as well as investigations developed



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by CI from currency transaction documents. The percentage of investigations initiated from functions within the IRS has decreased 5 percent from FY 2012 to FY 2016.<sup>22</sup> Figure 14 shows that investigations based on referrals from the IRS’s operating divisions, QRP, RPP, and currency transactions represented 32.4 percent of initiations in FY 2012 and 27 percent in FY 2016.

**Figure 14: Comparison of CI Initiations by Source for  
FY 2012 and FY 2016**

<b>FY 2012 Subject Criminal Investigations Initiated by Source</b>	<b>Count of Initiations</b>	<b>% of Total Initiations</b>	<b>FY 2016 Subject Criminal Investigations Initiated by Source</b>	<b>Count of Initiations</b>	<b>% of Total Initiations</b>
United States Attorney’s Offices and Other Government Agencies	2902	56.6%	United States Attorney’s Offices and Other Government Agencies	2173	64.0%
IRS	1092	21.3%	IRS	631	18.6%
Currency Transactions	571	11.2%	Currency Transactions	286	8.4%
Public	333	6.5%	Public	253	7.5%
Not Listed	227	4.4%	Not Listed	52	1.5%
Total Initiations by Source	5,125	100.0%	Total Initiations by Source	3,395	100.0%

Source: Our analysis of CIMIS data provided by CI.

Figure 14 also shows that sources of investigations developed by CI from outside the IRS include the United States Attorney’s Offices and other Government agencies, both Federal and State. In addition, CI initiates investigations based on information received from public sources, including the media and informants. During FY 2012, 56.6 percent of the 5,125 subject investigations initiated came from the United States Attorney’s Offices or other Government agencies. The percentage of investigations initiated from these sources in FY 2016 increased 7 percent and represented 64 percent of the 3,395 initiations. The percentage of the investigations initiated from a public source slightly increased to 7.5 percent in FY 2016 from 6.5 percent in FY 2012.

**Fraud referrals declined**

Both CI and its civil counterparts in other IRS functions continue to rely on the fraud referral program. However, since FY 2012, the number of fraud referrals from various IRS functions has decreased. CI received 328 fraud referrals in FY 2016, a 44.3 percent decrease from the 589 received in FY 2012.<sup>23</sup> The decline in IRS compliance function employees over the past few fiscal years has likely contributed to this decrease in fraud referrals. Despite the decrease in

<sup>22</sup> See Appendix IV, Figure 8.

<sup>23</sup> See Appendix IV, Figure 9.



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special agents, the CI acceptance rate of fraud referrals has remained steady for each of the past five fiscal years, averaging just over 65 percent. The lowest acceptance rate of 62.7 percent was in FY 2015 and increased 3.5 percentage points in FY 2016.

In FY 2016, Small Business/Self-Employed Division revenue officers (151 referrals) and revenue agents (145 referrals) accounted for 90 percent of total fraud referrals received. CI accepted 71 percent of these fraud referrals which accounted for 95 percent of the 221 accepted referrals. Figure 15 provides a comparison of the number of fraud referrals received and some of the enforcement results for FY 2012 and FY 2016.

**Figure 15: Comparison of CI Fraud Referral Results for FY 2012 and FY 2016**

<b>Fraud Referrals Received and Enforcement Results</b>	<b>FY 2012 Results</b>	<b>FY 2016 Results</b>	<b>Change Between FYs 2012 and 2016</b>
Fraud Referrals Received	589	328	-44.3%
Acceptance Rate	66.7%	66.2%	-0.5%
Prosecution Recommendations	266	174	-34.6%
United States Attorney's Offices Acceptance Rate	90.7%	89.3%	-1.4%
Convictions	236	206	-12.7%
Incarceration Rate	81.1%	77.6%	-3.5%

*Source: Our analysis of CI's BPR reports.*

Overall, CI experienced a decline of 34.6 percent in the prosecution recommendations to the United States Attorney's Offices from 266 investigations in FY 2012 to 174 investigations in FY 2016. The decline in convictions was 12.7 percent, with a decrease from 236 investigations in FY 2012 to 206 investigations in FY 2016.

In FY 2016, Small Business/Self-Employed Division revenue officers (128 investigations) and revenue agents (123 investigations) accounted for 94 percent of total fraud referrals that became investigations. More than 93 percent of the investigations initiated from revenue officer fraud referrals were accepted by the United States Attorneys' Office for prosecution. More than 87 percent of the investigations initiated from revenue agent fraud referrals were accepted by the United States Attorneys' Office for prosecution.

Also in FY 2016, investigations initiated from revenue officer fraud referrals resulted in a conviction rate over 97 percent and an incarceration rate over 81 percent, with those incarcerated serving an average of 21 months. More than 92 percent of the investigations initiated from revenue agent fraud referrals resulted in convictions; nearly 74 percent were incarcerated and served an average of 19 months.

CI's 2017 Annual Business Plan continues the commitment to collaborate with IRS civil divisions to promote fraud awareness and maximum use of the fraud referral program. This will



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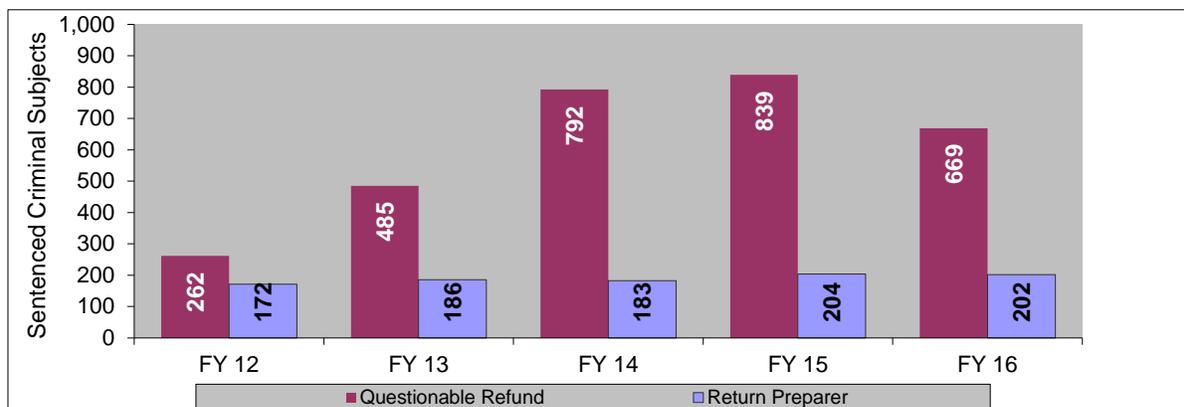
help the IRS's overall efforts to reduce the Tax Gap (the difference between taxes paid and taxes owed). CI and the operating divisions need to continue to emphasize the importance of these types of investigations as they relate to tax administration and the IRS's efforts to improve voluntary compliance.

### Sentencing for Refund Fraud Cases Increased

Refund fraud poses a significant threat to the tax system. The filing of a fraudulent tax return to criminally receive money from the Government can result in the loss of funds needed for vital Government programs, and affect taxpayers' confidence in the tax system and taxpayers' willingness to voluntarily meet tax filing obligations.

CI's Refund Fraud Program includes the QRP and the RPP. The primary focus of CI's QRP is to identify and prosecute those that file fraudulent claims for tax refunds. Some of the schemes involve individuals filing multiple false tax returns supported by false information or using the identifiers of other individuals knowingly or unknowingly. CI's RPP investigations can involve the preparation and filing of false income tax returns by dishonest preparers who may claim inflated personal or business expenses, false deductions, excessive exemptions, and/or unallowable tax credits. The preparers' clients may or may not be aware of the false information included on their returns. In FY 2012, CI initiated 921 QRP investigations that represented 22 percent of the legal and illegal source initiations, and 443 RPP initiations that represented 11 percent of the legal and illegal source tax investigations. In comparison to FY 2012, the percentage of criminals sentenced in FY 2016 increased by 155.3 percent (from 262 to 669) as the result of QRP investigations and by 17.4 percent as the result of RPP investigations. Figure 16 shows the volume of subjects of QRP and RPP investigations that were convicted and sentenced.

**Figure 16: Number of Subjects Sentenced for a Crime Each Fiscal Year for QRP and RPP Violations**



Source: CIMIS Report INV002 (Summary by Program Area).



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CI management explained that the increase in sentencing relates to the increased volume of identity theft investigations worked in FYs 2012 and 2013. The majority of identity theft investigations fall into the QRP and the RPP, so they were most affected by the increase. CI saw significant increases in identity theft initiations and prosecution recommendations starting in FY 2012. Typical CI investigations take months or years to move through the judicial process, but identity theft cases can take as little as a few days to move through the judicial process, so the increases in sentencing seen in recent years were directly related to the identity theft increases in FYs 2012 and 2013. Figure 17 shows enforcement activity results for QRP and RPP investigations for FYs 2012 and 2016.

**Figure 17: Comparison of QRP and RPP Enforcement Activity Results for FYs 2012 and 2016**

<b>Questionable Refund Investigations and Enforcement Results</b>	<b>FY 2012 Results</b>	<b>FY 2016 Results</b>	<b>Change Between FYs 2012 and 2016</b>
Investigations Initiated	921	495	-46.3%
Prosecution Recommendations	574	514	-10.5%
Sentenced	262	669	155.3%
Incarceration Rate	85.5%	84.6%	-0.9%
Average Month to Serve	35	34	-2.9%
Publicity Rate	88.5%	86.7%	-1.8%

<b>Return Preparer Investigations and Enforcement Results</b>	<b>FY 2012 Results</b>	<b>FY 2016 Results</b>	<b>Change Between FYs 2012 and 2016</b>
Investigations Initiated	443	252	-43.1%
Prosecution Recommendations	276	174	-37.0%
Sentenced	172	202	17.4%
Incarceration Rate	84.3%	72.8%	-11.5%
Average Month to Serve	29	22	-24.1%
Publicity Rate	91.9%	88.6%	-3.3%

*Source: Our analysis of CIMIS data provided by CI.*

Although the QRP and RPP investigations represented around 30 percent of the legal and illegal tax investigations initiated in FYs 2012 and 2016, CI had changes of more than 10 percentage points in the number of prosecutions recommended and criminals sentenced.



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**Bank Secrecy and Identity Theft Cases Worked by Special Agents  
Were Affected by Policy Changes**

Between FY 2012 and FY 2016, CI implemented policy changes that affected BSA and identity theft investigations emphasis areas.

**CI will no longer pursue seizure and forfeiture of funds related to legal source structuring cases**

CI reviews BSA data to identify significant illicit financial criminal activity.<sup>24</sup> CI initiated 923 BSA investigations in FY 2012 which represented 18 percent of the total 5,125 investigations. This percentage was similar to the 504 investigations initiated in FY 2016 which represented 14.8 percent of the 3,395 initiations. While there was an overall decrease of 45.4 percent of BSA investigations due to staffing decreases, we also found that CI shifted its focus more on Titles 18 and 26 violations instead of Title 31, due to a policy change.

On October 17, 2014, a new policy was issued by CI indicating that CI will no longer pursue the seizure and forfeiture of funds related to legal source structuring cases (31 U.S.C. § 5324)<sup>25</sup> unless exceptional circumstances justify it. CI officials indicated that there were a number of reasons for the change, including reputational risk and the desire to focus resources in a more strategic manner. A similar policy announcement followed from the U.S. DOJ in March 2015.<sup>26</sup> CI's policy change resulted in a 13 percent point reduction of Title 31 cases compared to FY 2014 (21 percent) to FY 2016 (8 percent).<sup>27</sup> Figure 18 provides a comparison of the violations pursued by statute based on BSA data for FYs 2012 through 2016.

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<sup>24</sup> The BSA mandates the reporting of certain transactions conducted with a financial institution, the disclosure of foreign bank accounts, and the reporting of the transportation of currency across U.S. borders.

<sup>25</sup> Pursuant to 31 U.S.C. § 5324, it is unlawful to knowingly structure currency transactions to avoid a financial institution's obligation to file a Currency Transaction Report for transactions in excess of \$10,000.

<sup>26</sup> U.S. DOJ, Press Release 15-400, *Attorney General Restricts Use of Asset Forfeiture in Structuring Offenses* (Mar. 31, 2015).

<sup>27</sup> TIGTA, Ref. No. 2017-30-025, *Criminal Investigation Enforced Structuring Laws Primarily Against Legal Source Funds and Compromised the Rights of Some Individuals and Businesses* (Mar. 2017). TIGTA audited the 28 cases during FY 2015 that took place after the policy change related to structuring cases and found that for eight cases, we believe that the actions taken by the Government were inconsistent with the new policy or we did not find evidence that CI conformed to the new policy in making those seizures for structuring violations. However, CI contends that for three of the cases, the seizure was either not related to structuring or there was reason to believe that the source of the structured funds was the result of illegal activity.



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**Figure 18: Number of Investigations on Bank Secrecy Act Data and the Statute Violations Pursued for Each Fiscal Year**

Violations Pursued by Statute	FY 2012	%	FY 2013	%	FY 2014	%	FY 2015	%	FY 2016	%
Title 18	424	46%	495	54%	403	50%	309	50%	292	58%
Title 26	254	28%	221	24%	239	29%	208	34%	174	34%
Title 31	242	26%	206	22%	167	21%	96	16%	38	8%
<b>Total</b>	<b>920</b>	<b>100%</b>	<b>922</b>	<b>100%</b>	<b>809</b>	<b>100%</b>	<b>613</b>	<b>100%</b>	<b>504</b>	<b>100%</b>

Source: Our analysis of CIMIS data provided by CI.

In responding to the structuring audit, the IRS stated that it does not believe that the Taxpayer Bill of Rights applies to its employees when those employees are enforcing provisions other than the tax laws in Title 26.<sup>28</sup> Of the 3,771 investigations initiated based on BSA data in Figure 18, 2,016 investigations were nontax-related and 1,755 were tax-related.<sup>29</sup> Accordingly, 47 percent of CI’s BSA work is related to tax violations of Title 18 or 26 indicating that 53 percent of CI’s BSA work is not subject to the Taxpayer Bill of Rights.

During this same period, the number of completed BSA investigations decreased 37.3 percent from 931 to 584. As a percentage of all emphasis area investigations recommending prosecution, BSA cases decreased from 28 percent in FY 2012 to 22 percent in FY 2016.<sup>30</sup> In FY 2016, BSA investigations resulting in sentencing increased 31.3 percent from FY 2012, an increase of 107 BSA investigations. Figure 19 shows enforcement activity results for BSA investigations for FYs 2012 and 2016.

**Figure 19: Comparison of BSA Enforcement Activity Results for FYs 2012 and 2016**

BSA Investigations and Enforcement Results	FY 2012 Results	FY 2016 Results	Change Between FYs 2012 and 2016
Investigations Completed	931	584	-37.3%
Prosecution Recommendations	683	411	-39.8%
Sentenced	342	449	31.3%
Incarceration Rate	76.6%	74.8%	-1.8%
Average Month to Serve	40	36	-10.0%

Source: Our analysis of CIMIS data provided by CI.

<sup>28</sup> Pub. L. No. 104-168, 110 Stat. 1452 (1996) (codified as amended in scattered sections of 26 U.S.C.).

<sup>29</sup> The tax and nontax initiations data are based on the BSA investigations initiated and will not reconcile to the breakdown of the statute violations pursued as shown in Figure 18, because some tax violations are in Title 18 but not all Title 18 violations are tax violations.

<sup>30</sup> See Appendix V, Figure 2.



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At a March 2017 tax conference, CI leadership described CI’s core mission [tax] cases as not including BSA-related work or certain other types of cases.<sup>31</sup> This may indicate even further reductions in BSA-related work in the future.

**CI identity theft investigations were affected by DOJ policies**

The IRS website explains that tax-related identity theft normally occurs when someone uses a stolen Social Security Number to file a tax return claiming a fraudulent refund. The Bureau of Justice Statistics announced that an estimated 17.6 million persons, or about 7 percent of U.S. residents age 16 or older, were victims of at least one incident of identity theft in 2014, which was similar to the statistics in 2012. Figure 20 shows identity theft incidents and taxpayers affected during Calendar Years 2012 through 2016.

**Figure 20: Identity Theft Incidents and Taxpayers Affected During Calendar Years 2012 Through 2016**

Calendar Year	IRS-Identified		Taxpayer-Initiated		Total	
	Incidents	Taxpayers	Incidents	Taxpayers	Incidents	Taxpayers
2012	1,508,375	985,843	277,491	233,365	1,785,866	1,219,208
2013	2,542,488	2,106,932	376,996	309,841	2,919,484	2,416,773
2014	2,992,035	2,671,897	321,793	257,008	3,313,828	2,928,905
2015	2,086,863	1,901,049	281,556	249,970	2,368,419	2,151,019
2016	1,777,251	1,580,220	142,709	113,699	1,919,960	1,693,919

Source: IRS Identity Protection Incident Tracking Statistics Reports.

The Federal Trade Commission protects consumers and has a role in tracking identity theft complaints. In Calendar Year 2014, the Federal Trade Commission reported that identity theft complaints totaling 332,646 represented 13 percent of its complaints which topped its national ranking of consumer complaints for the 15<sup>th</sup> consecutive year. Additionally, in Calendar Year 2016, the last year the results are available, identity theft complaints represented 13 percent of the consumer complaints received with 29 percent of the 2016 consumers reporting that their data were used to commit tax fraud. Figure 21 shows the Federal Trade Commission annual ranking for identify theft between Calendar Years 2012 and 2016.

<sup>31</sup> The [then] Deputy Chief, CI, described at the Federal Bar Association Tax Section CI’s core mission [tax] cases as “not including identity theft – so no money laundering, no Bank Secrecy Act, no identity theft.” Tax Notes, *Criminal Tax Attorneys Suggest CI Refocus on Traditional Cases*, May 29, 2017.



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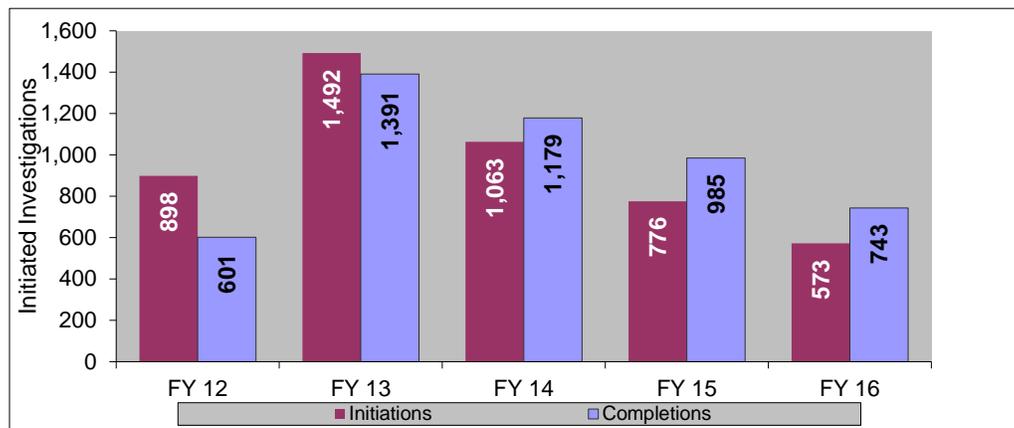
**Figure 21: Federal Trade Commission Annual Ranking for Identity Theft Consumer Complaints in Calendar Years 2012 Through 2016**

Calendar Year	Identity Theft Complaints	Annual Ranking in Total Complaints Per Calendar Year
2012	369,132	Highest
2013	290,056	Highest
2014	332,646	Highest
2015	490,220	Second Highest
2016	399,225	Third Highest

Source: Federal Trade Commission Consumer Sentinel Network Data Book for Calendar Years 2012 through 2016.

According to the IRS, tax-related identity theft normally occurs when someone uses a stolen Social Security Number to file an income tax return claiming a fraudulent refund. On September 18, 2012, the DOJ Tax Division implemented an expedited and parallel review of proposed indictments arising from stolen identity refund fraud cases. This resulted in a spike of initiations and completions for FY 2012 through FY 2013 of identity theft cases. Starting in FY 2014, however, CI shifted some resources back to non-identity theft investigations as well as investigative efforts focused on the existing inventory of cases that were in the judicial process, which caused decreases to occur in initiations for FY 2015 through FY 2016. Figure 22 shows that CI's volume of identity theft investigations initiated and completed have trended down, starting in FY 2014 and continuing through FY 2016.

**Figure 22: Comparison of Volume of Identity Theft Investigations Initiated and Completed Each Fiscal Year**



Source: CIMIS Report INV002 (Summary by Program Area).



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## *Declining Resources Have Contributed to Unfavorable Trends in Several Key Criminal Investigation Business Results*

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Overall, identity theft investigations initiated in FY 2016 were 36.2 percent lower than in FY 2012, while identity theft investigations completed in FY 2016 were 23.6 percent higher than in FY 2012. As a percentage of all emphasis area investigations recommending prosecution, identity theft cases increased from 23 percent in FY 2012 to 30 percent in FY 2016.<sup>32</sup> In FY 2016, identity theft investigations resulting in sentencing improved 20 percentage points from FY 2012, an increase of 390 identity theft investigations.

CI's FY 2017 Investigative Priorities memorandum provides that case selection is critically important to ensuring that its employees' time is used efficiently and in support of CI's mission. Identity theft is listed as one of CI's investigative priorities. While special agents are trained to conduct complex financial investigations, pursuing relatively less complicated identity theft investigations helps address the significant threat to tax administration which identity theft presents and creates a deterrent to those who engage in identity theft.

Although identity theft is listed as a priority in its Investigative Priorities memorandum, CI leadership described at a Federal Bar Association Tax Section meeting CI's core mission [tax] cases as "not including identity theft – so no money laundering, no Bank Secrecy Act, no identity theft."<sup>33</sup> The outgoing Chief, CI, described how identity theft refund fraud offenses now involve more cybercrime and how improved data filters have reduced the need for CI to devote resources to the tax refund identity theft cases. Because of the new safeguards that the IRS implemented, the number of identity theft complaints has fallen 46 percent from Calendar Year 2015 (698,700) to Calendar Year 2016 (376,500). The Chief, CI, also said that while CI spent 18 percent of its time on identity theft cases in previous years, "that number has dropped to 14.5 percent this year" which suggests a shift away from pursuing identity theft cases.<sup>34</sup>

### ***The Time to Determine Whether to Discontinue Investigations Has Increased***

#### ***Special agent inventory is taking longer to turnover***

A trend not related to the decline in resources that may also be contributing to the lower number of initiations and completions is the time it takes for special agents to complete investigations. During an investigation, special agents determine if there is sufficient evidence of criminal acts. The reasons why CI discontinues investigations may include insufficient tax losses for prosecution, insufficient evidence or witnesses to prove all criminal elements, and the inability to prove intent. Figure 23 compares the average number of days to discontinue an investigation or recommend an investigation for prosecution.

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<sup>32</sup> See Appendix V, Figure 2.

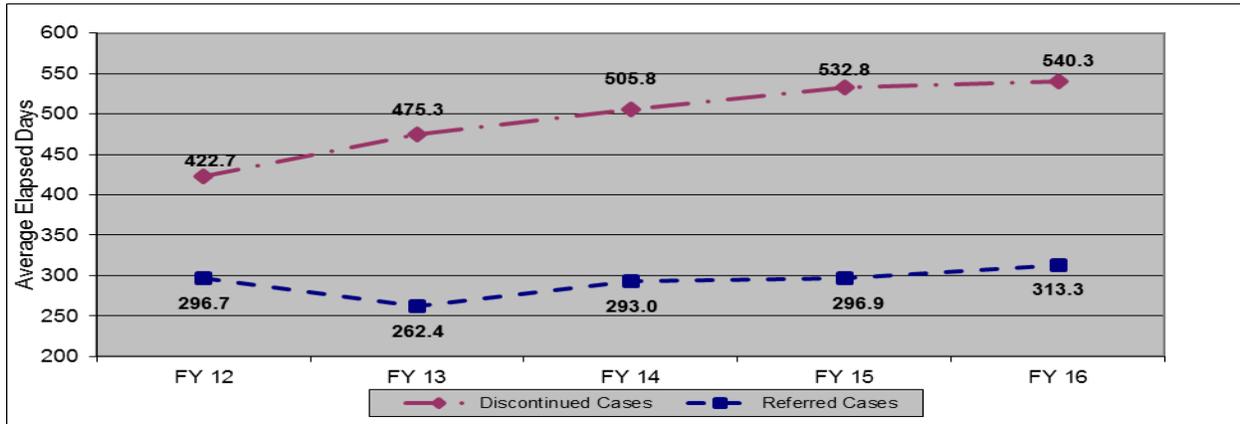
<sup>33</sup> Tax Notes, *Criminal Tax Attorneys Suggest CI Refocus on Traditional Cases*, May 29, 2017.

<sup>34</sup> Tax Notes, *Criminal Tax Attorneys Suggest CI Refocus on Traditional Cases*, May 29, 2017.



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**Figure 23: Average Number of Days to Discontinue an Investigation or Recommend an Investigation for Prosecution Each Fiscal Year**



Source: CIMIS Report INV003 (Cycle Time Summary).

The average number of days for special agents to determine a case did not contain prosecution potential steadily increased. In FY 2016, it took an average of 540 days (1.5 years) to determine there is no prosecution potential while it took an average of 422 days in FY 2012. The average number of days for special agents to refer a case for prosecution was 313 days in FY 2016 compared to an average of 296 days in FY 2012. The investigative resources expended on discontinued cases are significant as it took an average of 227 more days than for cases referred for prosecution.<sup>35</sup> Overall, the average elapsed days increased as CI reduced identity theft cases and increased its focus on legal income and tax-related cases.

### Conclusion

Since FY 2011, reductions in staffing and available funding for CI activities contributed to a decrease in the number and size of CI field offices throughout the United States. The attrition of field special agents resulted in a decline in the number of cases initiated and completed. However, special agents have consistently maintained inventory levels over an average of 5.30 cases per field special agent. Special agent inventories included a focus on international cases. In FY 2016, international cases resulting in sentencing improved approximately 33 percent from FY 2012. CI management should analyze the causes for the increased time it takes for agents to discontinue investigations.

<sup>35</sup> For FY 2016, special agents discontinued 977 investigations.



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CI's FY 2017 Investigative Priorities memorandum provides that case selection is critically important to ensuring that its employees' time is used efficiently and in support of CI's mission. Identity theft is listed as one of CI's investigative priorities. However, CI leaders stated they will be reducing their focus on money laundering, BSA, and identity theft cases. A trend not related to the decline in resources shows that field special agent inventory is taking longer to turnover. The time it takes for special agents to determine a case does not contain prosecution potential has steadily increased. In FY 2016, it took an average of 540 days (1.5 years) to determine no prosecution potential, while it took an average of 422 days in FY 2012.



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## **Appendix I**

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

The overall objective of this review was to provide a statistical portrayal with trend analyses of CI's enforcement activities for FYs 2012 through 2016. To accomplish our objective, we relied on information accumulated by the IRS and CI in established reports and from the CIMIS.<sup>1</sup> We did not verify the accuracy of the information. The major issues we focused on included:

- Special Agent Staffing.
- Investigations:
  - a. Initiated.
  - b. Open.
  - c. In Judicial Process.
  - d. Closed.
  - e. Referred for Prosecution.
- Subsequent Legal Actions.
- Compliance Strategy Programs.

#### **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 did not assess internal controls because doing so was not applicable within the context of our objective.

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<sup>1</sup> See Appendix VII for a glossary of terms.



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**Appendix II**

*Major Contributors to This Report*

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Christina Dreyer, Director  
Timothy Greiner, Audit Manager  
Gwendolyn Green, Lead 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  
Chief of Staff, Criminal Investigation  
Deputy Director, Operations Policy and Support, Criminal Investigation  
Director, Office of Audit Coordination



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**Appendix IV**

*Detailed Charts of Statistical Information*

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**Figure 1: Number of Initiated Subject Investigations by Program Area for the Legal and Illegal Source Tax Crimes Compliance Strategies for Each Fiscal Year**

Legal and Illegal Program Areas	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Abusive Tax Schemes	149	119	79	68	56
Bankruptcy	23	28	44	28	29
Corporate Fraud	80	60	88	75	62
Employment Tax	148	140	120	102	137
Excise Tax	22	18	15	25	20
Financial Institution Fraud	159	156	108	84	66
Gaming	62	115	58	26	32
General Fraud	1,863	1,554	1,358	1,202	1,177
Healthcare Fraud	136	122	100	122	127
Insurance	21	22	13	10	4
Public Corruption	104	93	106	68	84
Questionable Refund	921	1,513	1,028	775	495
Return Preparer	443	309	305	266	252
Telemarketing	5	41	12	29	24
Terrorism	35	33	17	18	42
<b>Total Program Area</b>	<b>4,171</b>	<b>4,323</b>	<b>3,451</b>	<b>2,898</b>	<b>2,607</b>
<b>Total Initiations</b>	<b>5,125</b>	<b>5,314</b>	<b>4,297</b>	<b>3,853</b>	<b>3,395</b>
<b>Percentage of Legal and Illegal Source Crimes Compliance Strategies</b>	<b>81.39%</b>	<b>81.35%</b>	<b>80.31%</b>	<b>75.21%</b>	<b>76.79%</b>

Source: CIMIS Report INV002 (Summary by Subprogram Area).



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**Figure 2: Number of Initiated Subject Investigations by Program Area for the Narcotic-Related Financial Crimes Compliance Strategy for Each Fiscal Year**

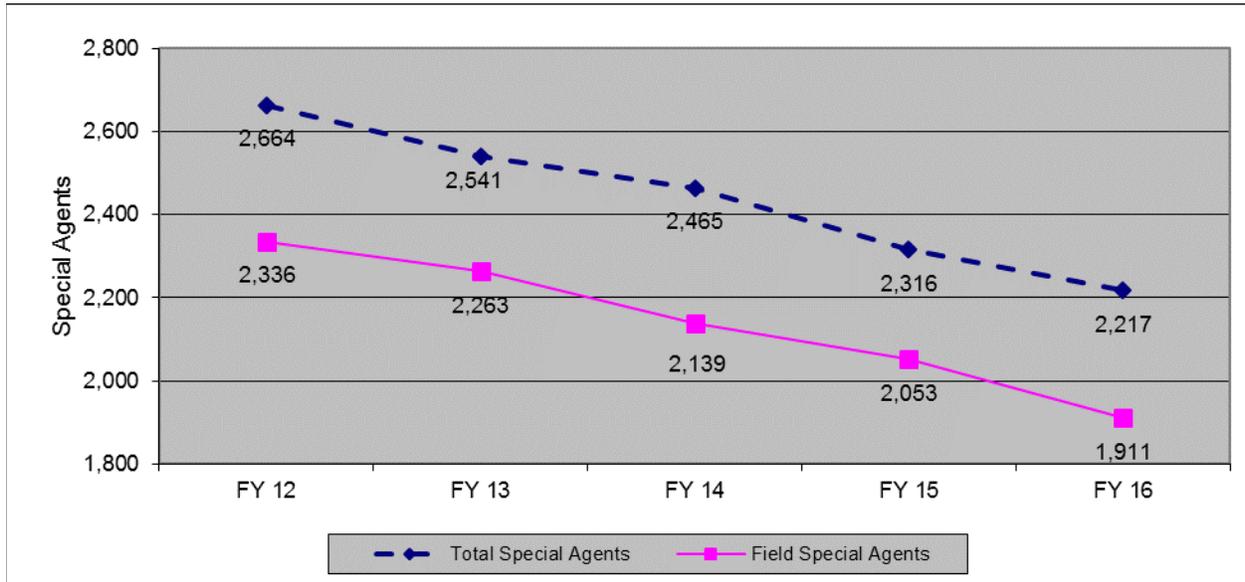
Narcotic Program Areas	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
High Intensity Drug Traffic Area	22	19	17	25	12
High Intensity Drug Traffic and Organized Crime Drug Enforcement Task Force	173	178	151	122	137
Narcotics – Other	62	58	46	52	36
Organized Crime Drug Enforcement Task Force and Terrorism	697	736	632	756	603
<b>Total Narcotics-Related Financial Crimes Compliance Strategy</b>	<b>954</b>	<b>991</b>	<b>846</b>	<b>955</b>	<b>788</b>
Total Initiations	<b>5,125</b>	<b>5,314</b>	<b>4,297</b>	<b>3,853</b>	<b>3,395</b>
<b>Percentage of Narcotics-Related Financial Crimes Compliance Strategy</b>	<b>18.61%</b>	<b>18.65%</b>	<b>19.69%</b>	<b>24.79%</b>	<b>23.21%</b>

Source: CIMIS Report INV002 (Summary by Subprogram Area).



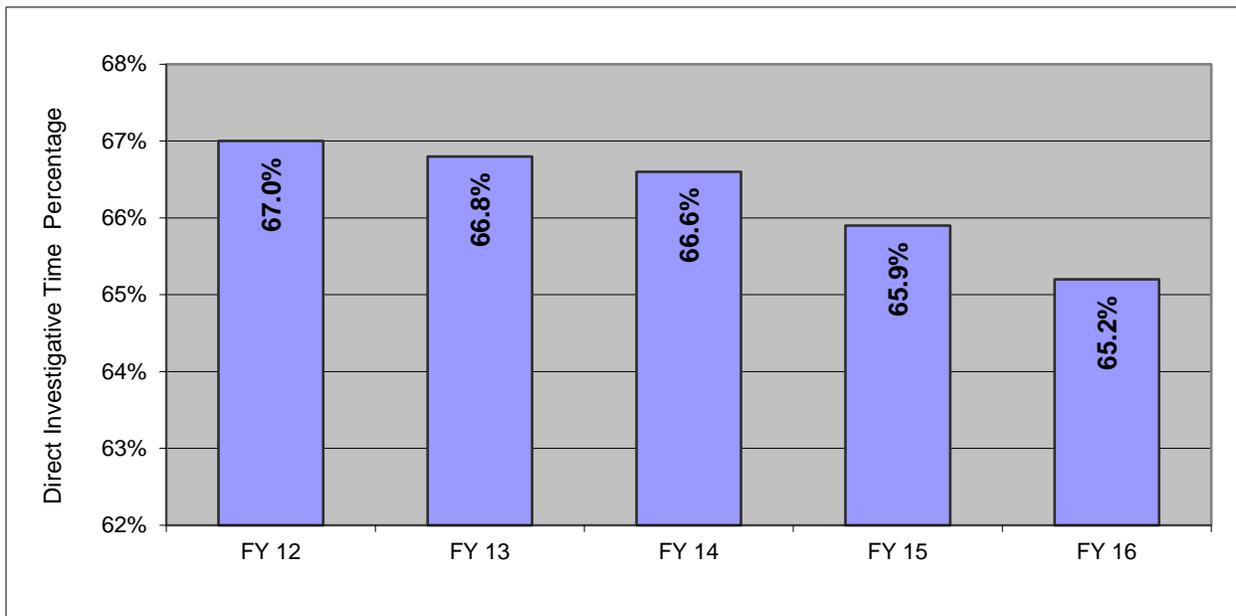
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**Figure 3: Total Special Agent and Field Special Agent Staffing at the End of Each Fiscal Year**



Source: CI's analysis of staffing information.

**Figure 4: Percentage of Special Agent Direct Investigative Time Expended Each Fiscal Year**

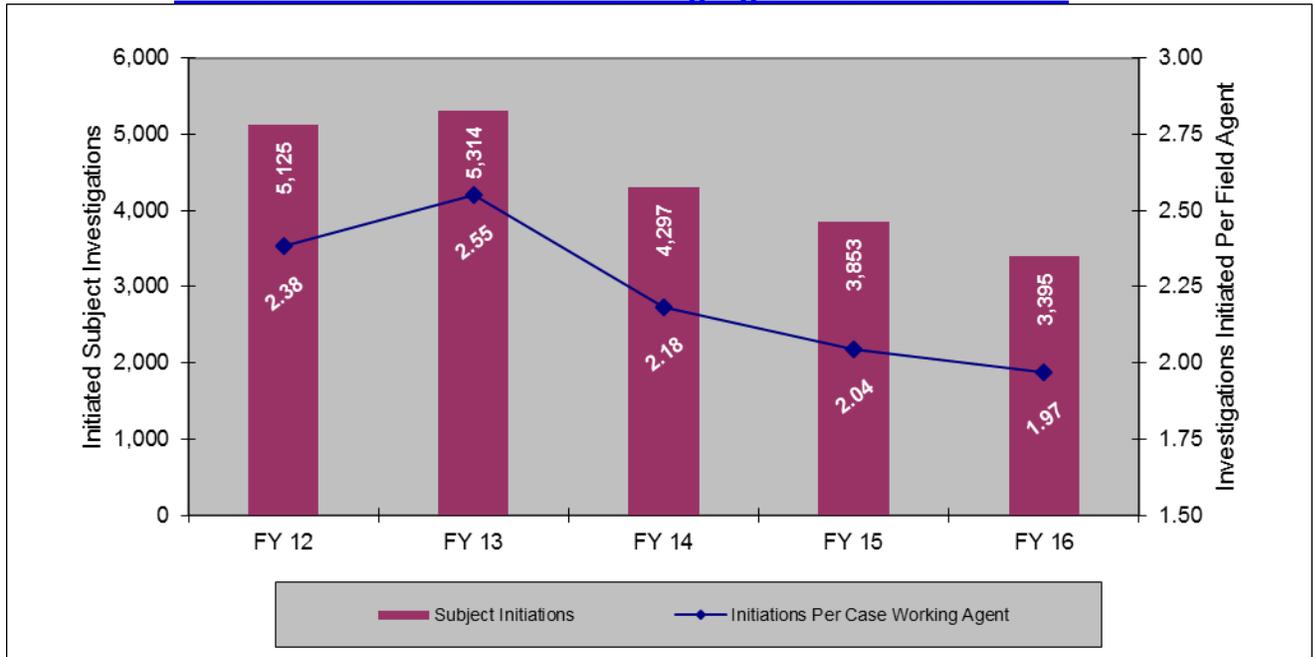


Source: CIMIS Report INV001 (Criminal Investigation Summary Statistics).



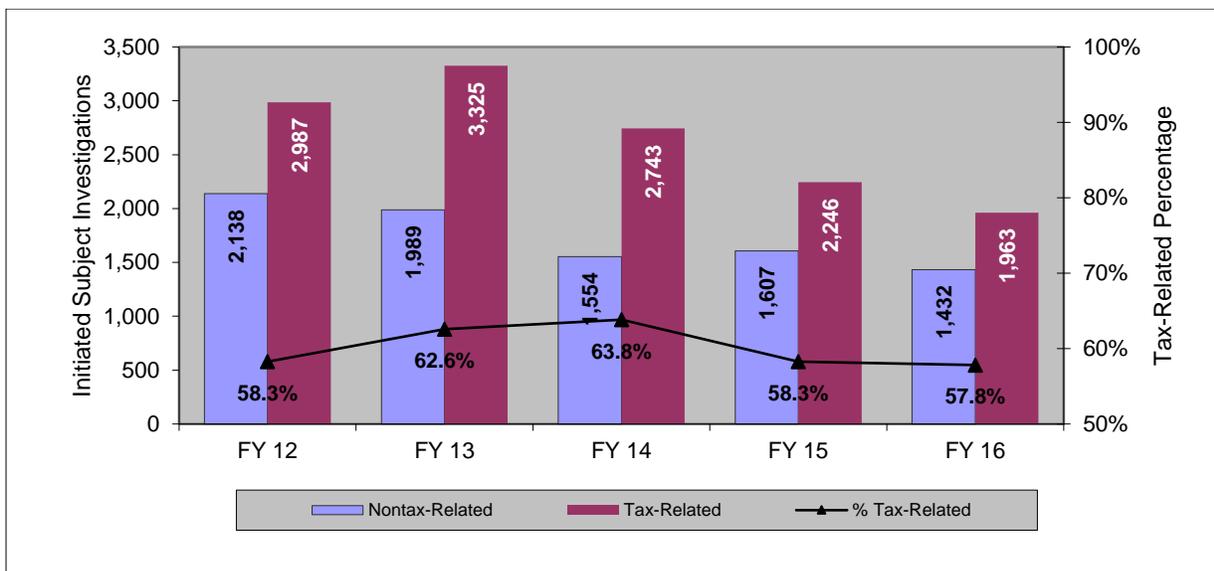
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**Figure 5: Number of Subject Investigations Initiated and the Number Initiated Per Case Working Agent Each Fiscal Year**



Source: CIMIS Report INV002 (Summary by Program Area) and our analysis based on the number of field special agents provided by CI.

**Figure 6: Number of Subject Investigations Initiated Each Fiscal Year for Tax-Related or Nontax-Related Violations and the Percentage That Is Tax-Related**

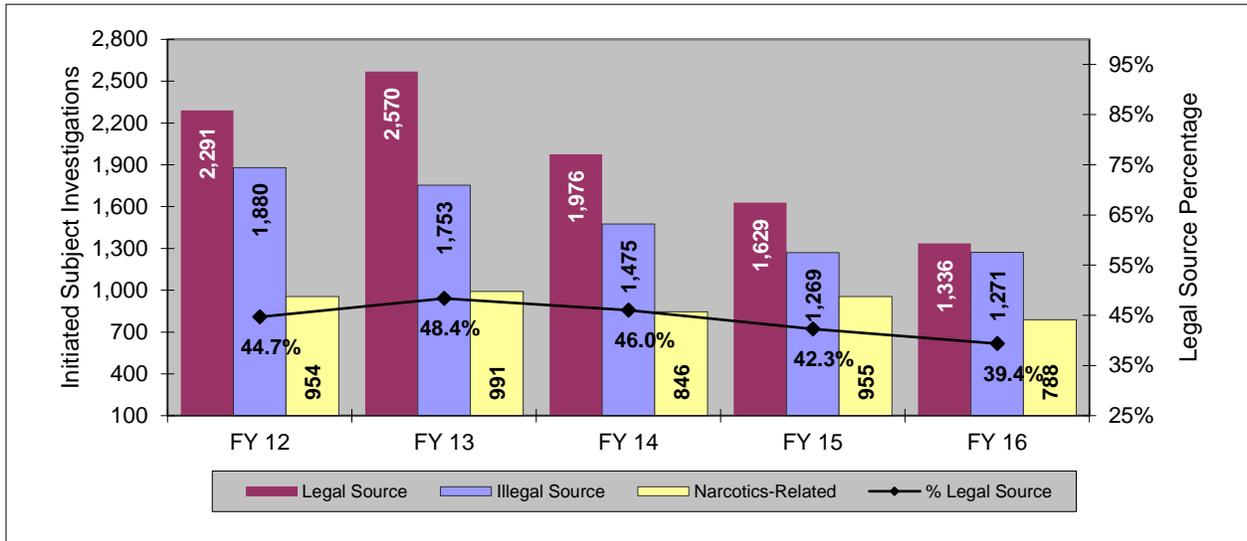


Source: CIMIS Report INV002 (Summary by Program Area).



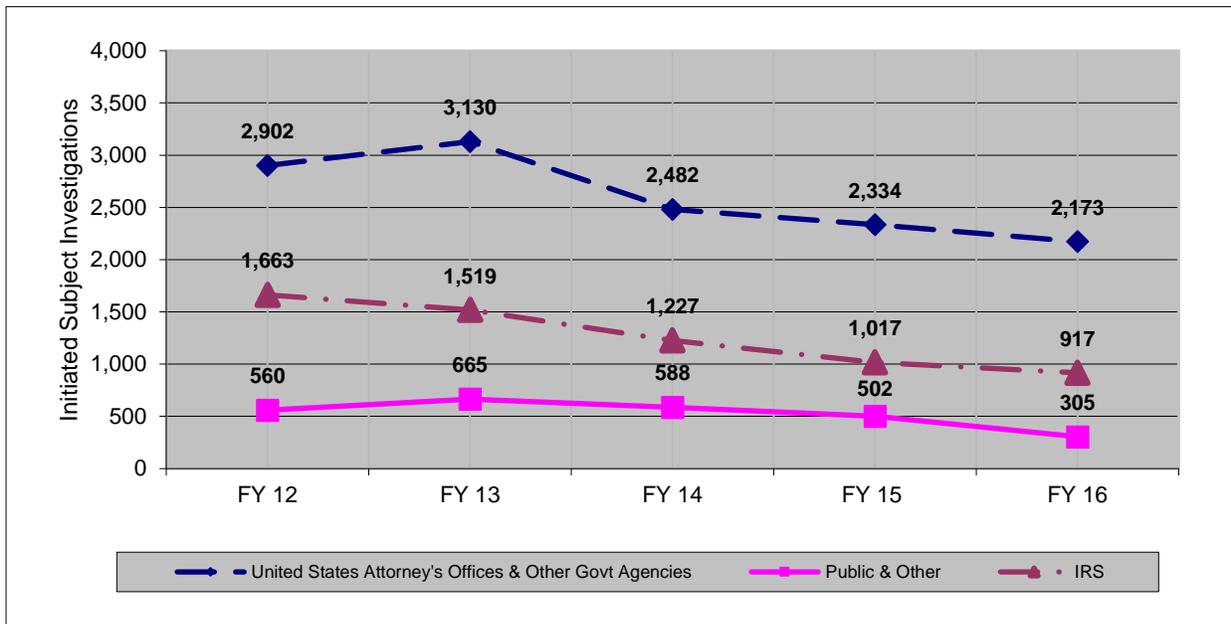
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**Figure 7: Number of Subject Investigations Initiated Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes**



Source: CIMIS Report INV002 (Summary by Program Area).

**Figure 8: Number of Subject Investigations Initiated Each Fiscal Year by Source of the Allegation or Information.** IRS sources include fraud referrals from the compliance divisions, investigations developed by the Fraud Detection Centers, and currency transactions.

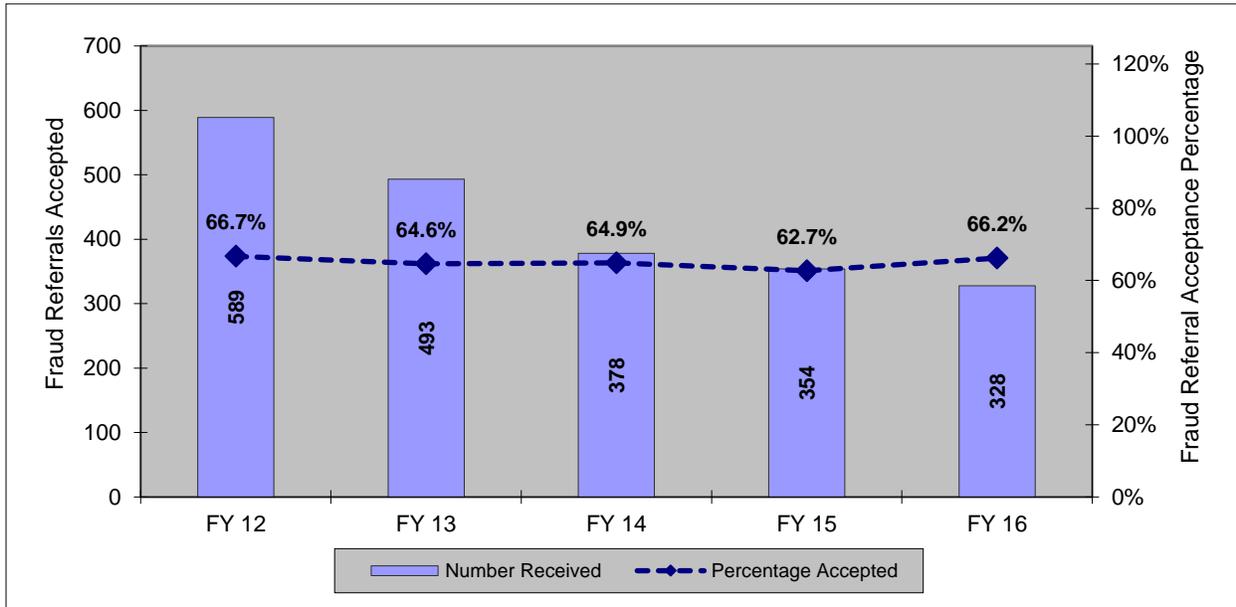


Source: CI's analysis of the CIMIS.



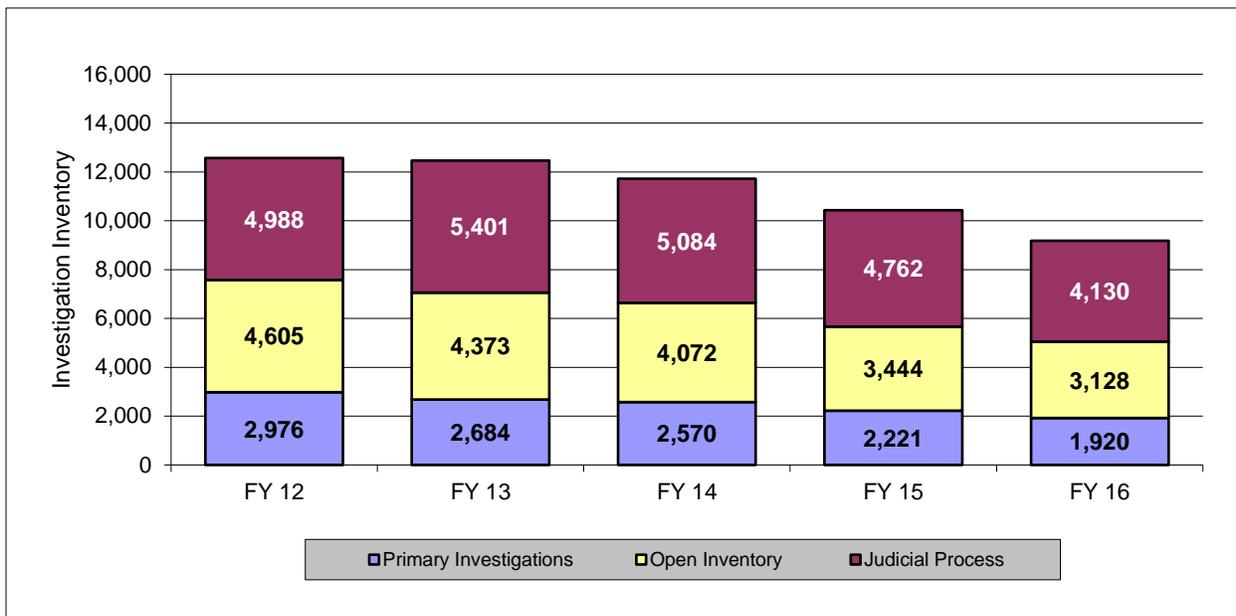
*Declining Resources Have Contributed to Unfavorable Trends in Several Key Criminal Investigation Business Results*

**Figure 9: Number of Fraud Referrals Received Each Fiscal Year and the Percentage Accepted**



Source: CI's BPR reports.

**Figure 10: Number of All Types of Investigations Open at the End of Each Fiscal Year**

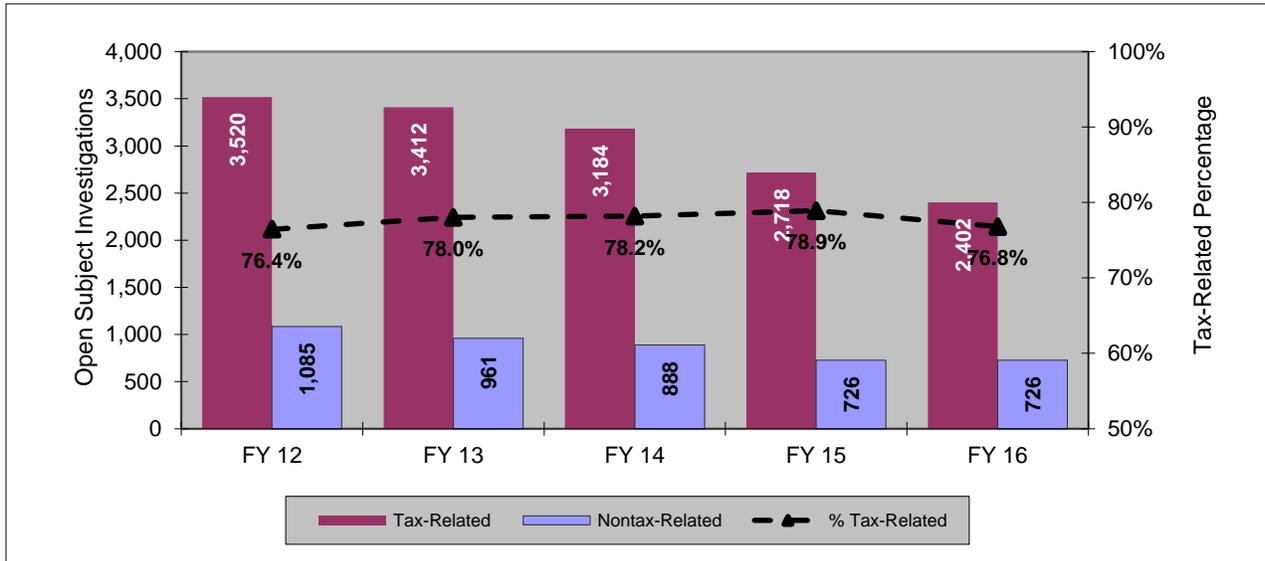


Source: CI's analysis of the CIMIS.



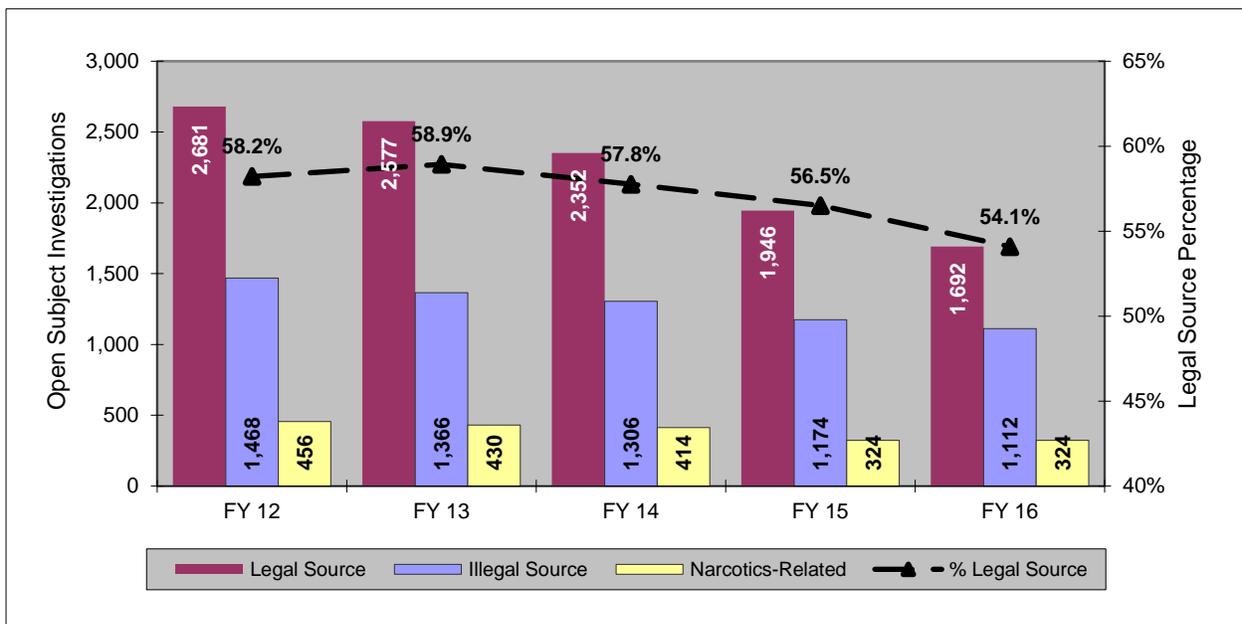
*Declining Resources Have Contributed to Unfavorable Trends in Several Key Criminal Investigation Business Results*

**Figure 11: Number of Open Subject Investigations Each Fiscal Year for Tax-Related or Nontax-Related Violations and the Percentage That Is Tax-Related**



Source: CIMIS Report INV002 (Summary by Program Area).

**Figure 12: Number of Open Subject Investigations Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes**

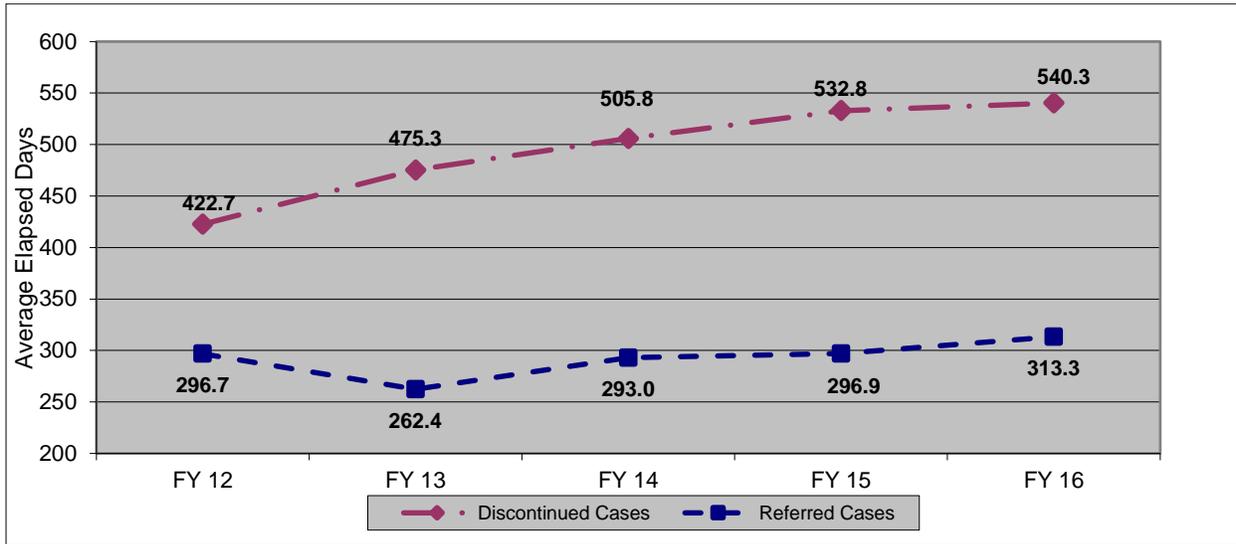


Source: CIMIS Report INV002 (Summary by Program Area).



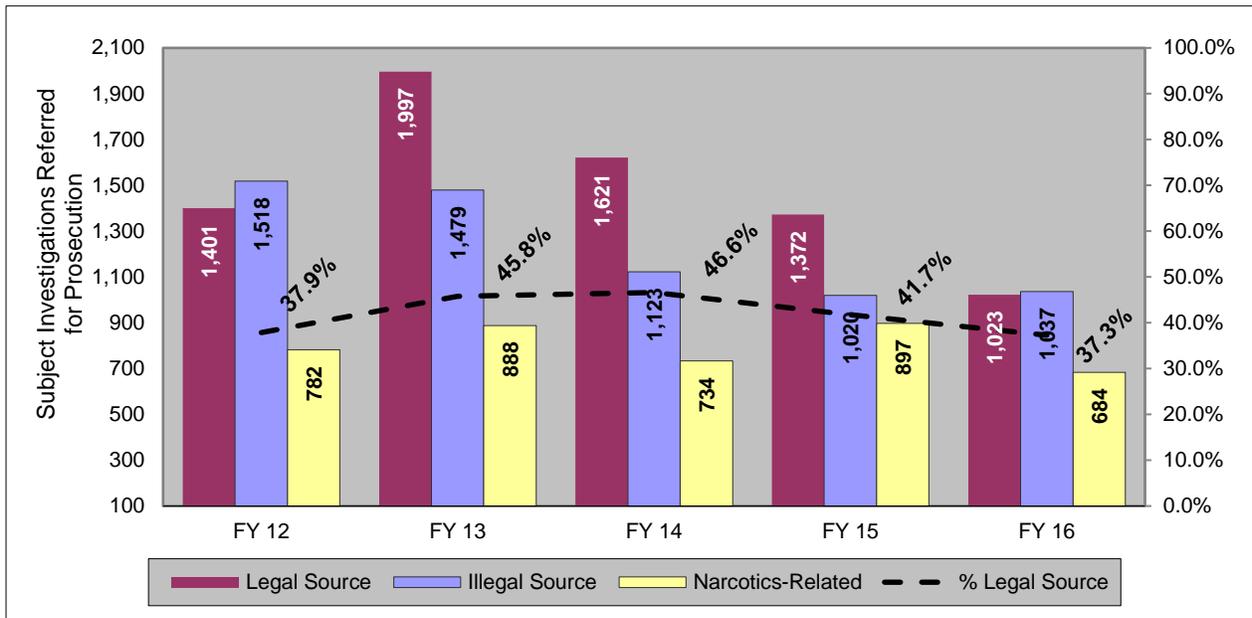
*Declining Resources Have Contributed to Unfavorable Trends in Several Key Criminal Investigation Business Results*

**Figure 13: Average Elapsed Days of Subject Investigations Discontinued and Referred for Prosecution Each Fiscal Year**



Source: CIMIS Report INV003 (Cycle Time Summary).

**Figure 14: Number of Subject Investigations Referred for Prosecution Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Income Tax Crimes**

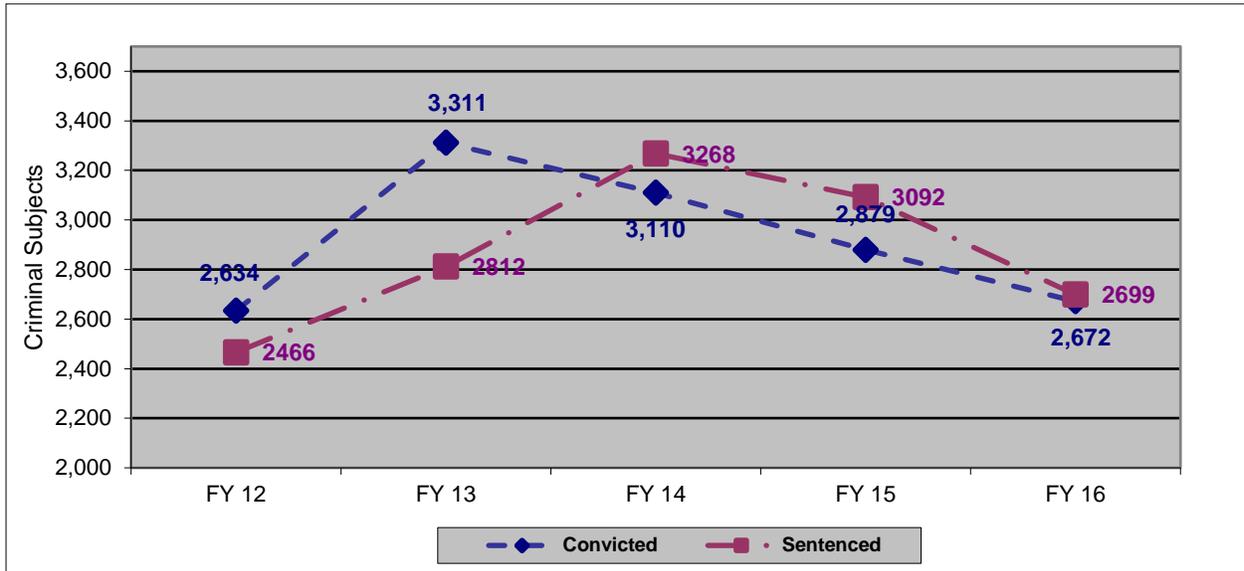


Source: CIMIS Report INV002 (Summary by Program Area).



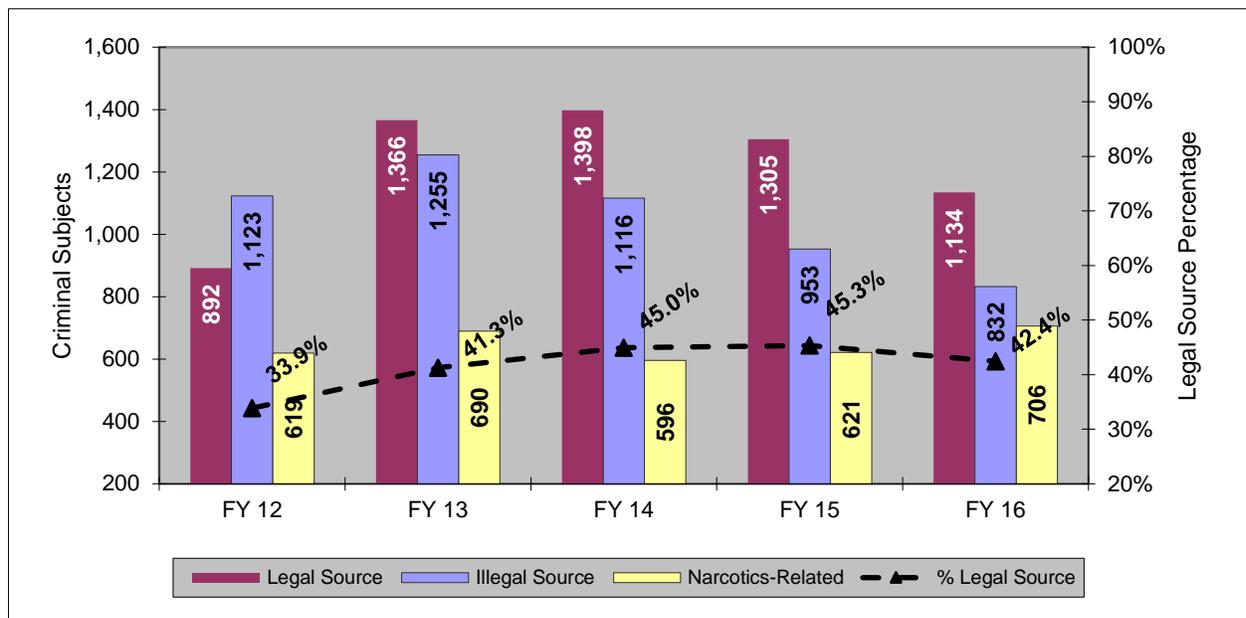
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**Figure 15: Number of Subjects Convicted and Sentenced for a Crime Each Fiscal Year**



Source: CIMIS Report INV002 (Summary by Program Area).

**Figure 16: Number of Subjects Convicted of a Crime Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes**

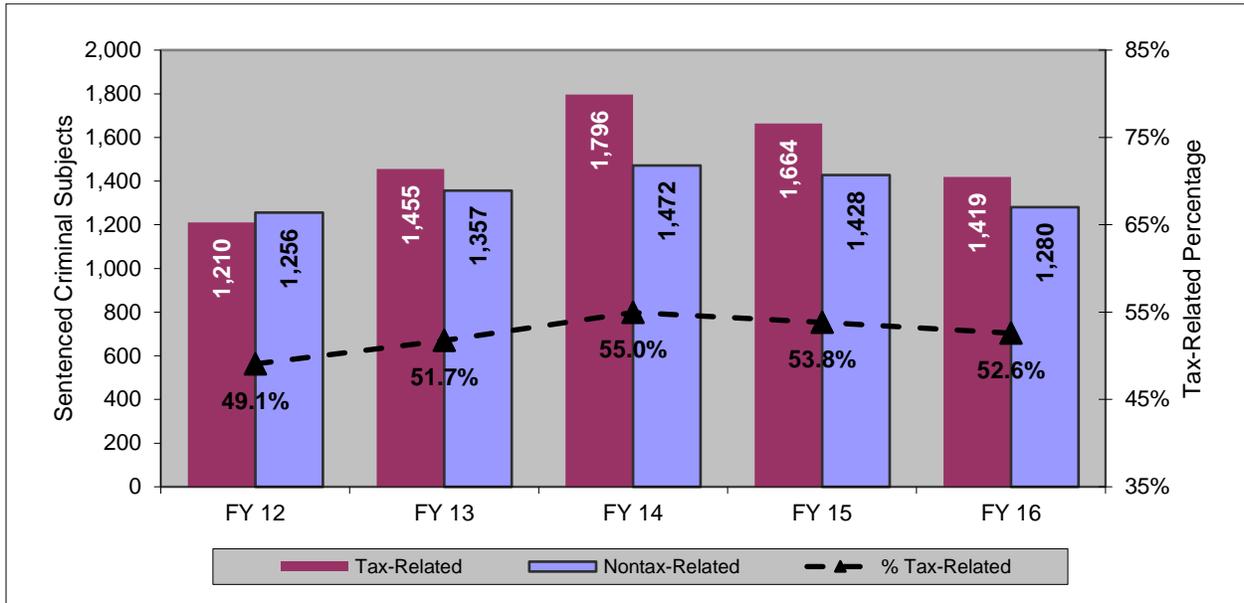


Source: CIMIS Report INV002 (Summary by Program Area).



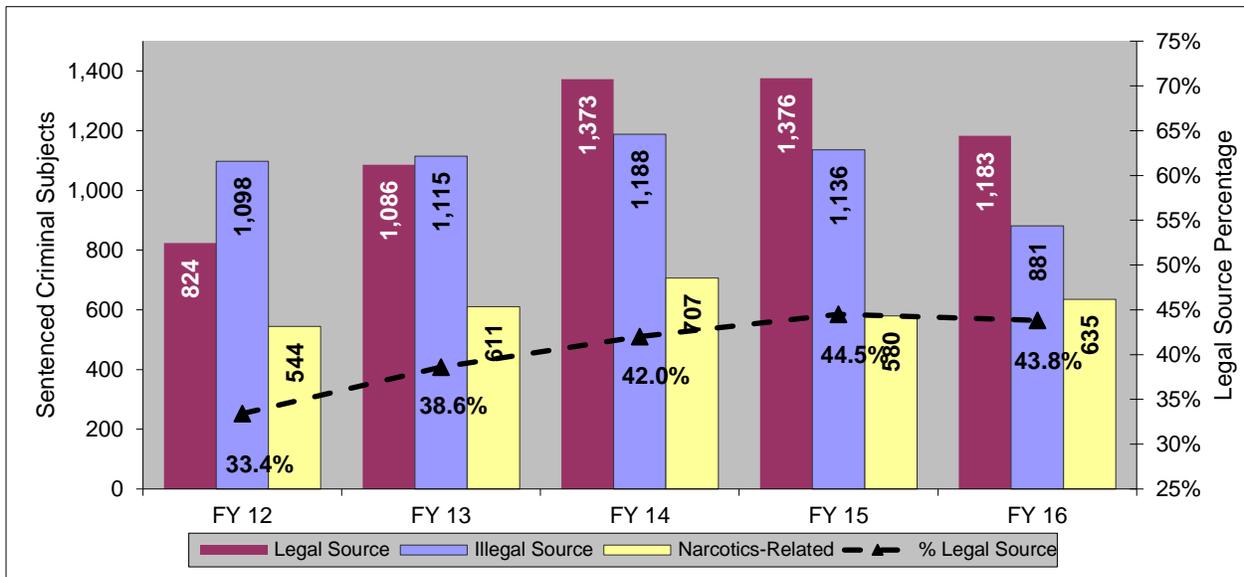
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**Figure 17: Number of Subjects Sentenced for a Crime Each Fiscal Year for Tax-Related or Nontax-Related Violations and the Percentage That Is Tax-Related**



Source: CIMIS Report INV002 (Summary by Program Area).

**Figure 18: Number of Subjects Sentenced for a Crime Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes**

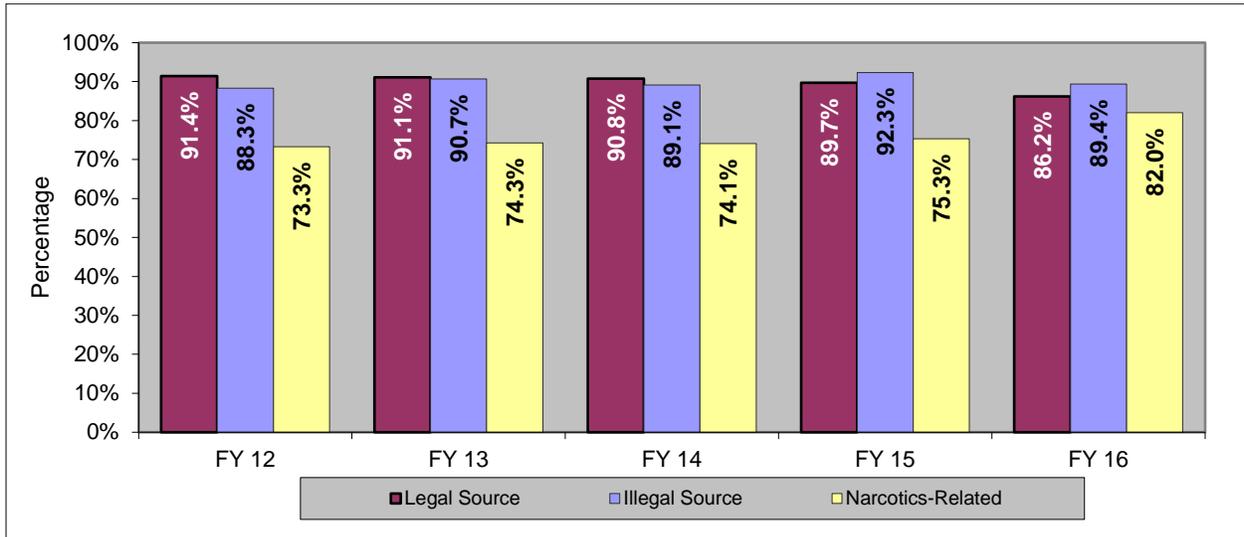


Source: CIMIS Report INV002 (Summary by Program Area).



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**Figure 19: Percentage of Investigations That Received Publicity Each Fiscal Year by Compliance Strategy Program**



Source: CI's BPR reports.



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**Appendix V**

*Emphasis Areas Activity in Fiscal Year 2012 and Fiscal Year 2016*

Our comparison of emphasis area activity in FY 2012 and FY 2016 shows some improvement in emphasis area initiations, recommended prosecutions, and sentencing. This is despite having fewer special agents initiating fewer investigations overall (see Figures 1, 2, and 3).

Figure 1 shows that overall, as a percentage of all CI investigation initiations, the initiation of emphasis area investigations increased 1 percent from FY 2012 to FY 2016. As a percentage of total emphasis area initiations, BSA and identity theft decreased while international and money laundering increased. Nonfiler investigations remained steady in regards to the number of initiated investigations.

**Figure 1: Initiations of Investigations in the Emphasis Areas<sup>1</sup>**

Emphasis Areas	FY 2012		FY 2016	
	Number of cases	Percentage of Unique Investigations	Number of cases	Percentage of Unique Investigations
BSA	923	29%	504	23%
Identity Theft	898	28%	573	26%
International	211	7%	221	10%
Money Laundering	1,663	52%	1,201	55%
Nonfiler	320	10%	206	9%
<b>Total Emphasis Areas</b>	<b>4,015</b>		<b>2,705</b>	
<b>Unique Investigations With One or More Emphasis Area</b>	<b>3,208</b>		<b>2,179</b>	
<b>Total Initiations</b>	<b>5,125</b>	<b>63%</b>	<b>2,179</b>	<b>64%</b>

Source: The CIMIS.

<sup>1</sup> There are some unique investigations with one or more emphasis areas. Emphasis areas may include investigations that overlap and allow potential double- and triple-counting.



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Figure 2 shows that overall, as a percentage of all CI investigations that recommend prosecution, emphasis area investigations that recommended prosecution increased 3 percentage points from FY 2012 to FY 2016.

**Figure 2: Recommended for Prosecution of Investigations in the Emphasis Areas<sup>2</sup>**

Emphasis Areas	FY 2012		FY 2016	
	Number of cases	Percentage of Unique Investigations	Number of cases	Percentage of Unique Investigations
BSA	683	28%	411	22%
Identity Theft	544	23%	566	30%
International	196	8%	221	12%
Money Laundering	1,411	59%	1,010	54%
Nonfiler	225	9%	137	7%
<b>Total Emphasis Areas</b>	<b>3,059</b>		<b>2,345</b>	
<b>Unique Investigations With One or More Emphasis Area</b>	<b>2,400</b>		<b>1,875</b>	
<b>Total Prosecution Recommendations</b>	<b>3,701</b>	<b>65%</b>	<b>2,744</b>	<b>68%</b>

Source: The CIMIS.

Recommended prosecutions for identity theft and international investigations increased. The BSA emphasis area decreased which is due partly to the decrease in the number of initiated BSA investigations.

Figure 3 shows that overall, as a percentage of all CI investigations that resulted in sentencing, emphasis area investigations that resulted in sentencing improved by 5 percentage points from FY 2012 to FY 2016.

<sup>2</sup> There are some unique investigations with one or more emphasis areas. Emphasis areas may include investigations that overlap and allow potential double- and triple-counting.



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**Figure 3: Sentencing of Investigations in the Emphasis Areas<sup>3</sup>**

Emphasis Areas	FY 2012		FY 2016	
	Number of cases	Percentage of Unique Investigations	Number of cases	Percentage of Unique Investigations
BSA	342	22%	449	25%
Identity Theft	223	14%	613	34%
International	116	7%	154	8%
Money Laundering	803	52%	668	37%
Nonfiler	217	14%	159	9%
<b>Total Emphasis Areas</b>	1,701		2,043	
<b>Unique Investigations With One or More Emphasis Area</b>	1,554		1,829	
<b>Total Sentencing</b>	2,466	63%	2,699	68%

*Source: The CIMIS.*

As a percentage of all sentencing within emphasis areas, money laundering and nonfiler sentencings decreased by 15 percentage points and 5 percentage points, respectively, while sentencing within the other emphasis areas increased.

<sup>3</sup> There are some unique investigations with one or more emphasis areas. Emphasis areas may include investigations that overlap and allow potential double- and triple-counting.



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**Appendix VI**

*Related Treasury Inspector General  
for Tax Administration Audit Reports*

1. TIGTA, Ref. No. 2004-10-115, *Statistical Portrayal of the Criminal Investigation Function's Enforcement Activities From Fiscal Year 1999 Through Fiscal Year 2003* (June 2004).
2. TIGTA, Ref. No. 2005-10-081, *Statistical Portrayal of the Criminal Investigation Function's Enforcement Activities From Fiscal Year 1999 Through Fiscal Year 2004* (May 2005).
3. TIGTA, Ref. No. 2006-10-074, *Statistical Portrayal of the Criminal Investigation Function's Enforcement Activities From Fiscal Year 2000 Through Fiscal Year 2005* (May 2006).
4. TIGTA, Ref. No. 2007-10-083, *Statistical Portrayal of the Criminal Investigation Function's Enforcement Activities From Fiscal Year 2000 Through Fiscal Year 2006* (June 2007).
5. TIGTA, Ref. No. 2008-10-133, *Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2007* (July 2008).
6. TIGTA, Ref. No. 2009-30-053, *Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008* (Mar. 2009).
7. TIGTA, Ref. No. 2010-30-074, *Trends in the Criminal Investigation Division's Enforcement Activities Showed Improvements; However, Some Goals Were Not Attained* (July 2010).
8. TIGTA, Ref. No. 2011-30-068, *Trends in Criminal Investigation's Enforcement Activities Showed Improvements for Fiscal Year 2010, With Gains in Most Performance Indicators* (July 2011).



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**Appendix VII**

*Glossary of Terms*

Term	Definition
<b>Appropriation</b>	A provision of law (not necessarily in an appropriations act) authorizing the expenditure of funds for a given purpose. Usually, but not always, an appropriation provides budget authority.
<b>Business Performance Review</b>	A quarterly review by an IRS operating division to report on its performance measures, business results, employee and customer satisfaction, and other items of importance.
<b>Compliance Strategy Program</b>	CI's organizational strategy comprised of three interdependent program areas: Legal Source Tax Crimes, Illegal Source Financial Crimes, and Narcotics-Related Financial Crimes.
<b>Criminal Investigation Management Information System</b>	A database that tracks the status and progress of criminal investigations and the time expended by special agents.
<b>Cycle Time</b>	Elapsed calendar days on completed investigations.
<b>Direct Investigative Time</b>	Time spent by special agents conducting investigations and other law enforcement activities.
<b>Discontinued Investigation</b>	A subject investigation that resulted in a determination that there was no prosecution potential.
<b>Elapsed Days</b>	The number of days between the initiation of a subject investigation to another date, such as the date discontinued or the date referred for prosecution.
<b>Field Special Agent</b>	A special agent in one of CI's 25 field offices.
<b>Fraud Referral Program</b>	A program designed as a partnership between CI and the IRS operating divisions to promote fraud awareness and assist with fraud training.



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Term	Definition
<b>Illegal Source Financial Crimes</b>	Crimes involving illegally earned income, including crimes involving money laundering, 18 U.S.C. Sections (§§) 1956 and 1957; Sections of U.S.C. Title 31, Money and Finance; and U.S.C. Title 26 violations investigated in conjunction with other agencies.
<b>Internal Revenue Code</b>	The codified collection of U.S. laws on income, estate and gift, employment, and excise taxes, plus administrative and procedural provisions.
<b>Inventory Per Special Agent</b>	The number of open subject investigations divided by the number of field special agents whose salary grade level is 13 or below and having various position descriptions, including those of coordinator and reviewer.
<b>Judicial Process (Pipeline) Inventory</b>	Cases in which the IRS CI has made criminal prosecution recommendations and the DOJ has either 1) not declined the case for prosecution or 2) not yet completed the legal process to arrive at a conviction, acquittal, or dismissal in court.
<b>Legal Source Tax Crimes</b>	Crimes involving legal industries and occupations and legally earned income.
<b>Narcotics-Related Financial Crimes</b>	Crimes involving tax and money laundering related to narcotics and drug trafficking.
<b>Primary Investigation</b>	An evaluation of an allegation that an individual or entity is in noncompliance with the Internal Revenue laws and related financial crimes.
<b>Questionable Refund Program</b>	An IRS nationwide, multifunctional program designed to identify fraudulent returns, stop the payment of fraudulent refunds, and refer identified fraudulent refund schemes to CI's field offices.
<b>Referred for Prosecution</b>	A subject investigation that resulted in the determination of prosecution potential and referred to the DOJ or to a United States Attorney's Office.
<b>Reimbursable Resources</b>	Funds received by CI as the result of agreements with other Federal agencies for which CI performs certain types of work, generates expenditures, and in turn the other agency reimburses CI.



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Term	Definition
<b>Return Preparer Program</b>	A program that pursues unscrupulous return preparers who knowingly claim excessive deductions and exemptions on returns prepared for clients. The clients may or may not have knowledge of the false claims.
<b>Special Agent</b>	CI law enforcement employee who investigates potential criminal violations of the Internal Revenue laws and related financial crimes.
<b>Subject Investigation</b>	An investigation of an individual or entity alleged to be noncompliant with the laws enforced by the IRS and having prosecution potential.
<b>Tax Gap</b>	The difference between the amount of tax that taxpayers should pay under the tax law and the amount they actually pay on time.
<b>Tax-Related Violation</b>	A violation involving Title 26, Title 33 sections, or one of the following Title 18 sections: § 286, § 287, § 371, or § 514 associated with a Title 26 violation, or § 371 associated with a Title 26 and a Title 31 violation.



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**Appendix VIII**

*Management's Response to the Draft Report*



CHIEF  
CRIMINAL INVESTIGATION

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

August 17, 2017

MEMORANDUM FOR MICHAEL MCKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Don Fort   
Chief, Criminal Investigation

SUBJECT: Response to Draft Audit Report - 201730025  
Declining Resources Have Contributed to Unfavorable Trends  
in Several Key Criminal Investigation Business Results

We appreciate the opportunity to review and respond to your report which describes in detail the adverse effects resulting from the continual decline in resources available to the IRS in general and Criminal Investigation (CI) in particular. (CI) is the only part of the federal government that can investigate and recommend prosecution of criminal tax violations. The IRS's tax enforcement program relies heavily on the ability of CI to investigate and recommend prosecution of criminal tax violations to the Department of Justice (DOJ). Criminal tax cases which are prosecuted and publicized provide a strong deterrent message to would-be tax evaders, helping to ensure the integrity and fairness in the tax system.

We have reviewed the draft report in the above entitled audit and agree with most of the conclusions, including "since FY 2012, the attrition of field special agents resulted in a decline in the number of cases initiated and completed. In FY 2016, CI initiated 3,395 cases, an overall decrease of 34 percent compared to the 5,125 cases initiated in FY 2012." CI fears a continued trend in this direction will negatively impact our mission and IRS's ability assure the integrity and fairness in the tax system.

As noted in the draft report, CI has pursued strategies to maximize the impact of our resources through conduct of investigations and support of the resulting DOJ prosecutions. CI has ensured in excess of 70% of direct investigative time is expended on tax-related charges, while continuing to meet our commitment to the nation's counter-narcotics and counter-terrorism programs; consistently maintained average case inventory levels; focused on international cases; and changed policies regarding investigation of Bank Secrecy Act and Identity Theft cases.

CI's 90% or higher prosecution referral and conviction rates, among the highest in federal law enforcement, further maximizes the impact of CI resources to help ensure the integrity and fairness of the U.S. tax system.



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Some clarification of one item in the report regarding the importance of Identity Theft and Bank Secrecy Act (BSA) cases will be helpful to the readers of this report.

### Identity Theft and Bank Secrecy Act Cases Are No Longer Part of CI's Core Mission

Citing a Tax Notes Today article, the report states that CI no longer considers Identity Theft and BSA cases part of our core mission. This conclusion is based upon short quotes by former Chief Weber and me, reported by Tax Notes in summary of larger, more detailed statements made during presentations at a Federal Bar Association Tax Section meeting.

The distinction made in the article was between "core mission tax cases," which comprise about 72% of CI's activities and non-traditional tax cases such as identity theft and BSA cases. The exclusion of those areas from "core tax cases" does not mean that they are not an important part of CI's mission. Identity Theft and BSA cases are not what CI, IRS and the Department of Justice generally consider cases which address traditional tax crimes such as income or employment tax evasion and the use of offshore tax havens. This distinction is also discussed in your report.

As the article cited notes, the decline in resources devoted to identity theft was the not result of a policy change about core mission but reflects the great success the IRS and its partners have had in reducing the number of taxpayers reporting themselves as victims of identity theft by over 60%. The article is largely devoted to experts commenting on where the resources freed up by this success should be applied.

Resources devoted to identity theft and BSA cases may be reduced, continuing the trends presented in the report, and re-allocated to other core mission programs such as tax evasion, employment tax and international tax enforcement cases, but they still remain part of CI's core mission.

If you have any questions, please contact me or a member of your staff may contact Kathy Hout at (336) 690-6265.