

PREPARED WRITTEN TESTIMONY OF

Toby Marie Walker, Waco Tea Party

**U.S. Senate Committee on the Judiciary, Subcommittee on Oversight,
Agency Action, Federal Rights and Federal Courts**

July 29, 2015

“Revisiting IRS Targeting: Progress of Agency Reforms and Congressional Options”

My name is Toby Marie Walker, I am the co-founder and president of the Waco Tea Party in Waco, Texas.

I am a grandmother, mother, wife, and friend, I am not a victim. I am, however, a target. I have been targeted by one of the most powerful agencies in the United States Government, the Internal Revenue Service. I may never know exactly who decided to harass me and others, I may never know why, all I know is that despite what President Obama claims: We were targeted!

I never planned on my life involving participation in setting up a non-profit social welfare organization; I was aware of issues in my community but not actively involved in policy or issue advocacy. I was an ordinary citizen who trusted my government; I exercised my right to vote and paid my taxes. I raised my children and led a normal life.

In October of 2008, I sat in my living room at watched Congress pass the TARP Act. I was shocked and stunned that no one seemed worried about what was actually in the bill. I was angry that my elected officials decided to put my country in debt to bail out bad actors. My husband told me to stop crying about it and do something, so a few months later I did.

I was watching the news one morning in February of 2009 when I heard Rick Santelli suggest that Americans throw a tea party in Chicago. I followed the topic online, and watched the birth of a movement. There were various websites to sign up and help organize a tea party in our local community. I had no idea that one submission on a website would change my life in a positive way with new friends and a new passion for community involvement. I also had no idea that instead of encouraging the freedom of expression of my first amendment rights of free speech and assembly, my government would instead treat these freedoms of mine as a taxable event. This misuse of tax law to first discourage, and later to disparage, demoralize, and ultimately disallow my participation in the public square was very troubling.

Within a week about a dozen of local citizens who never met before came together to plan our first tea party in Waco. We had no idea what we were doing; none of us had ever organized protests or rallies. We just wanted our voices to be heard.

After our first event people kept asking us “What’s next” and we didn’t know. We didn’t have a long game plan; we didn’t know it would lead to anything significant. We quickly realized that we needed a way to raise money to pay for expenses like websites, meeting venues, trainings, and other items.

We talked it over and met with accountants and attorneys. We formed a non-profit and filed for a 501(c)(4) tax-exempt status. We raised the money to pay for the application fee, and then filed with the IRS in July of 2010. We received a letter from the IRS confirming that they had received our application and payment, and that we could expect further contact within a few months. When we didn’t hear from anyone at the IRS by the winter of 2010, we attempted to contact someone at the IRS office but were never given a clear, much less complete answer as to why it was taking so long.

In early 2012 we finally received a letter from the IRS. We were relieved to finally get a response and excited to move forward. Then we opened it and were shocked. The questions we were asked were not anything like what we had heard the process would be like. The IRS wanted every social media post we had ever made on Facebook and Twitter, and literally thousands of copies of our website pages, blog articles, newsletters, and web postings.

They wanted complete transcripts of ALL our Internet radio shows and videos; hundreds of hours of programming. They wanted us to provide copies of all stories and articles that had been published about us - whether we participated in an interview or not, they demanded it. When we Googled “Waco Tea Party” we came up with thousands results. There was no way we could possibly look at each one of those “hits” to determine if it really pertained to us. There was also no way we could possibly comply with the demand to be complete, in that we simply had no way to be certain that we could know about everything that had been said about us in publications we were not even aware of.

Even more incredible, the IRS wanted us to tell them what we planned to do in the future. For example they wanted us to list any events we might hold in the future, including the dates of those events we might hold. Under penalty of perjury, we were being asked to predict the future. Any change in schedule, beyond our control or not, raised the issue of whether or not we were incurring legal risk.

The IRS wanted a list of every candidate we knew and if we had a “close” relationship with them. We called to ask them for clarification of the meaning of “close relationship.” They refused to explain what that meant. Instead the agent told us “that is subjective” and to send a list of every candidate we knew and describe the relationship.

Many of the questions were vague and impossible to answer, or were egregiously inappropriate. All totaled it would literally have taken a U-Haul truck filled to the brim to answer all the questions, and I believe that we still would have missed something somewhere that they wanted.

It seemed at best as if they were trying to bury us in paperwork, and at worst as if they were trying to entrap us.

We were shocked and discouraged. We didn't know how we could possibly answer all the questions let alone pay for the paper and postage to respond. We didn't know what to do or who to go to for help. That evening I spoke with a good friend who suggested that I call my Representative Bill Flores, who was also a certified public accountant and might be able to tell us if this was normal.

Congressman Flores did not think the letter was normal. He was concerned and promised to look into the matter. When his first letter to the IRS director went unanswered he rounded up some colleagues and sent a second letter to the IRS. The director's response was a boilerplate bureaucratic denial of any wrongdoing.

Keep in mind, calling us a small organization is an overstatement. We are a group of working-class friends with limited funds and limited resources. We are a "mom & pop" outfit, just average citizens trying to make a difference in our community. We are not funded by the government. We are not funded by wealthy individuals or special interest organizations. We operate on what we raise locally. Our budget is small, less than \$10,000 a year. Contrary to popular belief, we are funded by blue-collar workers, retired soldiers, and schoolteachers, stay-at-home mothers who save up a little extra money by skipping Starbucks. We don't have high paid consultants, and we don't have any "dark money" from corporations or wealthy lobbyists. We do not have paid staff; we don't even have an office! We work out of our homes and garages. Yet, the most powerful agency in the Federal government was clearly using the application process to intimidate our supporters, scare our donors, and suppress our activity by delaying our tax status. We believe the evidence is clear that the wrongdoing by the IRS goes further than that. They were trying to tarnish our name, or worse, by entrapping us with complexity and ambiguity.

Why was the IRS so concerned about a tiny organization in Waco, Texas? What was so wrong about encouraging others to speak out about the over-regulation of citizens and businesses by our government? Encouraging and demanding that our elected officials be more fiscally responsible with our hard earned tax dollars isn't a crime, it is a right! Reminding the public to vote, giving them opportunities to meet candidates that they normally would never have a chance of speaking to about their concerns is part of our duty as good citizens. Holding town hall meetings where anyone can attend regardless of background or socioeconomic standing, and giving people an opportunity to address the issues most important to them should be encouraged not discouraged! We simply wanted people to engage with their representatives in government at all levels on the issues that they care about.

We had joked about "being on a list" during the first two years of the tea party movement. We never dreamed the IRS actually had one and that our names were on it.

We contacted the ACLJ and asked for their assistance, and thankfully they took our case. During the next year we worked on our response to the IRS, hoping to get our determination letter. We spent hundreds of man hours working on what should have been a very simple response. I know we would have received treatment more favorable if we had been an organization more friendly to the current Administration.

The stress it put on us, our families, and friends was more than some of our board members were prepared for. Some have since resigned. Our donors were afraid to donate. Our volunteers were afraid to have their names associated with us for fear of reprisals or personal audits. Our supporters stopped commenting as much on our social media sites.

When the IRS delayed our determination they cast a shadow of doubt on our organization. They effectively decimated our ability to fundraise. When you have a small donor base of local citizens - when one person stops donating - it hurts your bottom line. Every penny counts.

I have a hard time describing the emotional distress this has caused me. I am a pretty optimistic person; I can always see a light at the end of the tunnel. I'm strong willed and determined, I'm a fighter and a survivor, I don't give up or give in easily. I'm passionate and focused, and I took it very personally when we didn't get the tax-exempt status in a timely manner, as though I was letting down all my friends and supporters. My husband's job is our main income now. He is, rightly, worried about being audited, not because of anything we did wrong, but because of the cost of defending ourselves in a situation where we are guilty until proven innocent. Could we afford to prove our innocence? God bless him, he never asked me to give up, he stood by me, but there were times that I could tell he was angry at the situation our government had put us in.

In February of 2013 I ended up in the hospital for a heart issue, in March I had a minor heart surgery. My doctors made it clear to me: my stress level was mounting and it was taking a toll on my health.

On May 10th of 2013 I learned that Lois Lerner had admitted to the targeting of tea party groups, and gave a quasi-apology while blaming some low level workers in their Cincinnati offices. We knew that was untrue from the moment she said it.

Lois Lerner's admission vindicated in the sense that we now could point to evidence that we were in fact targeted, but it also made things even harder for fundraising. People now knew that we were right, but they were more frightened than relieved. What we had joked about we learned was now true. If you speak out, the government will come after you. If the IRS can do this to a small group in Waco, Texas, they obviously could go after our donors or supporters.

Since that day we have learned the IRS was sharing taxpayer information and our organization's information with other agencies. We learned that Lois Lerner wasn't satisfied with just delaying our determination; she wanted people to be prosecuted. For what, we still can't figure out, but the fact that she involved the FBI and DOJ is intimidating and unsettling.

We have also learned that members of Congress were encouraging the IRS to target citizens. The shameful actions of certain Senators have destroyed the faith I once had in our system. When the ruling class can treat the rest of us as pawns in their corrupted game, we are no longer a free society. When a Senator can use the IRS as a weapon, they have too much power. When a letter to the right bureaucrat in the IRS can cause the trust of the American people in their government to be shattered, it has lasting effects on a free society. We won the Cold War to stop that kind of oppression from being thrust upon us by foreign powers. We should not have to tolerate it now just because it is home grown.

Senators, you need us. You need our money to keep our government running. You forget that it isn't yours. You didn't earn it. You are not entitled to it.

You have no right to tax our right to assemble. You have no right to TAX our speech! You have no right to force the most powerful agency in the federal government on us because you don't like a Supreme Court ruling. Gentlemen, you have forgotten the basic principle of our government – it's supposed to be government OF, BY, AND FOR THE PEOPLE. You have forgotten that your duty is to protect our freedoms, not use government power to suppress it. Some have failed their oath of office. Our country suffers for it.

The very government that I trusted to protect its citizens - engaged in a scheme to harass and intimidate me and my organization. We did nothing more than apply for a tax-exempt status in order to educate and engage our community on the issues that mattered most to us. Citizens working together to improve our communities, educate its citizens, and empower them is not only good for the individuals, it is necessary in our republic. Yet, because the name of our organization included "tea party" we were put on an Orwellian list of the less-equal by an unelected and overzealous bureaucrat at the IRS. Why that list existed in the first place is something the American People deserve to know.

The American people deserve answers, they deserve to know that this will never happen again. They deserve to be protected from people who will use their power and influence to destroy lives. If we allow this to pass today, it stands as precedent for tomorrow. I do not want my children to live in such a country. I will never stop fighting to keep it from becoming that way.

We need legislation that will protect the taxpayers and their information. Most of all, we must have legislation that prohibits misuse of government office to reward friends and punish enemies. Such is the very definition of tyranny. It is explicitly un-American. Any elected official or bureaucrat or government employee who does such a thing should be subject to harsh and swift justice. No retirement plan, no paid vacation, no bonuses. They must face severe civil and criminal penalties. The punishment must be so onerous that no one would even consider violating the law this way.

When is Congress going to act? When are you going to hold those responsible for the targeting accountable? When will we see justice for the improper sharing of our information? When will

you demand that action be taken against those that violated our rights? I suspect you won't, I hope I am wrong.

If you cannot protect our citizens from our government, who can?