

FOIA Administrative Appeal
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Attn: Chief Counsel G. Hernandez, Dep. Chief Counsel L. Creswell, Heather Hill, ,
Drew Clark, Brady J. Kiehm, Alexis B. Turner, Trevor Nelson, C. Lemelin, *et al.*
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April 23, 2026

Expedited Administrative Appeal of TIGTA Response 2026-TFOI-02311 in Re: the unnumbered, off-record “investigation” by TIGTA Administrators of their joint refusal to take any action to end the IRS record falsification program despite conducting FOUR separate investigations over TWELVE years.

This is an “**expedited**” administrative appeal due to the ongoing Ninth Circuit cause involving the attempted theft by IRS/DoJ of Mr. Ben Howe’s home, (25-2584), which was paused pending the outcome of the unnumbered, off-record self-investigation by TIGTA Administrators into their refusal to take any action to help end the IRS record falsification program, despite TIGTA’s completions of four separate investigations over TWELVE years.

Introduction

On or after December 29, 2025, each TIGTA Administrator Hill, Nelson, Hernandez and the Special Investigations Unit (SIU) received a copy of a Complaint concerning the failure of the Administrators to take any step to end the IRS record falsification program,¹ despite completing FOUR separate investigations into the program.²

¹ See attached White Paper detailing the scheme with Exhibits supplied only by IRS and DoJ.

² Those investigations include 55-1402-0077-C (January 23, 2014), 64-1405-0096, (May 21, 2014), TRN-2410-0361, (October 2024) and TRN-2410-0364, (October 2024).

The Complaint may have been initially assigned to TIGTA Deputy Inspector General of Investigations John M. Kirk, but the Administrators never assigned a Treasury Report Number to it, which was kept off-record by labeling it only “Complaint of Michael Ellis.”

The Administrators never investigated their joint refusal to take any steps to end the IRS program such as by referring a report to IRS of the findings of their investigations.³ Restated, there was no investigation by TIGTA of their Administrators’ refusal to take any step to end the IRS record falsification program, in response to the “Complaint of Michael Ellis.”

Instead, to conceal their refusal to investigate themselves, on April 15, 2026 TIGTA Chief Disclosure Officer Hernandez and subordinates concocted, then issued, a purported FOIA Final Report “disclosure” (2026-TFOI-02311) of their pretended investigation, claiming they withheld documents in TIGTA’s control concerning the Administrators’ conduct. To justify themselves, the attorneys cited four exemptions, each fraudulent on its face. By so doing, TIGTA Administrators and attorneys Brady J. Kiehm and Alexis B. Turner provided evidence of the joint deliberate refusal to help end the IRS program, in an open collusion to obstruct justice and destroy the rights of victims to secure redress of their grievances from the Agency charged with oversight of IRS.⁴

³ No report will be made to Congress, to the Secretary of the Treasury nor will any report be forwarded to IRS concerning the unnumbered, pretended investigation of the “Complaint of Michael Ellis” concerning TIGTA Administrators’ refusal to help end the IRS record falsification program.

⁴ No Vaughan index of documents withheld was provided by the Administrators and attorneys blocking disclosure; no such documents exist.

Four Claimed Exemptions Destroyed⁵

The inapposite exemptions purveyed by the Administrators and their staff attorneys are addressed in the order presented in their “final response” of April 15, 2026.

First Claimed Exemption: Deliberative Process privilege (b)(5)

Traditionally, courts have established two fundamental requirements, both of which must be met, for the “deliberative process privilege” to be invoked to cloak refusals to disclose documents. First, the communication must be pre-decisional, i.e., “antecedent to the adoption of an agency policy.” Second, the communication must be deliberative, i.e., “a direct part of the deliberative process in that it makes recommendations or expresses opinions on legal or policy matters.” **The burden is upon the agency to show that the information in question satisfies both requirements.**

Application to Claimed Exemption

All attorneys involved in issuing their “final response” of April 15, 2026, i.e. Hill, Hernandez, Kiehm, Turner, Creswell, Nelson, Kirk, *et al.*, failed to carry their burden to show that their decision to withhold documents was both pre-decisional and deliberative. Their claimed Deliberative Process exemption fails.⁶

⁵ Since all involved Administrators and the subordinate attorneys involved all have access to Lexis, Westlaw, etc., no citation to authority is necessary to support this objection to their misconduct.

⁶ By invoking that inapposite privilege while refusing to produce a single word justifying its application, TIGTA’s Administrators and attorneys provide evidence speaking to more than incompetence. They are involved in a conspiracy against rights, in joint commission of misprision of both the underlying felonious IRS program, and of the TIGTA Administrators felonious refusal to take any action to end it. [Misprision of felony](#), under 18 U.S.C. § 4, is

Second Claimed Exemption: FOIA (b)(6)

To properly assert this exemption, an agency must weigh a certain, identified individual's privacy interests against the public's interest in understanding government operations. Restated: invocation of this exemption requires a balancing test between an identified individual's rights to personal privacy, and the public interest in disclosure. Agencies cannot just say "it's personal" and deny a request. They must weigh both sides. That is, the law requires that the Agency must

1. Identify the Privacy Interest of a specifically identified person: How intrusive would releasing this information be?
2. Identify the Public Interest: Does releasing this *specific* information actually help the public understand government actions?
3. Balance: If the privacy interest is high and the public interest is low, the information is redacted. If the public interest in knowing what the government did is high, that interest can outweigh any claimed privacy interest.

Additionally, the U.S. Supreme Court has stated that the *only* relevant public interest under FOIA is "shedding light on an agency's performance of its statutory duties."

Application to Claimed Exemption

As all attorneys involved are aware, TIGTA's core mission is to identify and help end all fraud occurring in the context of IRS proceedings. TIGTA Administrators CAN NEVER REFUTE the evidence coming from IRS manuals and documentary support,

defined as a federal crime involving the active concealment of a known federal felony. It requires both knowledge of a felony and an affirmative act to hide it, plus failure to report it to authorities. Penalties include fines, up to three years imprisonment, or both. Falsifying federal (IRS) records is a felony.

fully available to TIGTA, proving IRS has been operating a systematic record falsification program to enforce the income tax. [See White Paper, appended.]

If any individual falsified records in regard to the income tax, the evidence of such crime would unarguably cast light on that individual's conduct. By analogy, disclosure of the investigation report concerning the failure of TIGTA administrators to help end the institutionalized IRS record falsification program would UNARGUABLY "cast light on TIGTA's performance of its statutory duties."

Further, TIGTA's Administrators/attorneys, citing the (b)(6) exemption, failed to identify EVEN ONE individual whose right to privacy supposedly outweighs the public's interest in understanding the failure of TIGTA Administrators to take any step to end the institutionalized IRS record falsification program. The asserted FOIA (b)(6) exemption fails, fraudulent on its face.

Third Claimed Exemption: FOIA (b)(7)(C)

With respect to exemption 7(C), courts have noted that "the Government has long interpreted the phrase 'personal privacy'" as "'pertain[ing] to the privacy interests of individuals.'" Courts also have found that a "privacy interest exists not only for those who are suspects in an investigation, but also for third parties mentioned in the documents, such as witnesses, informants, and investigators." Courts have also held that a requester CAN present a public interest (as I, Complainant Ellis have presented), that outweighs the privacy rights of the individuals mentioned in the investigative files at issue. However, courts have noted that "more than bare

allegations of federal malfeasance are required before the public interest becomes significant enough to overcome the privacy concerns embodied in Exemption 7(C)."⁷

Application to Claimed Exemption

First, unarguably there is an overwhelming public interest in "the revelation of wrongdoing" demonstrated by the existence of the institutionalized IRS record falsification machine, which NO GOVERNMENT ATTORNEY has denied nor ever can deny. Moreover, there is an undeniable public interest in the wrong-doing of TIGTA Administrators concealing and perpetuating the outrageous IRS program. **Second**, the Administrators failed to identify the putative "personal interest" of any one, let alone describing how it supposedly outweighs the interest of the public in disclosing all documents requested related to the unnumbered "investigation" by the Administrators into their failure to take any step to end the IRS record falsification program.

Third, the involved TIGTA Administrators and subordinate attorneys are fully aware of the overwhelming interest the public has in the underlying IRS program, which is demonstrated by their joint refusal to assign a Treasury Report Number (TRN) to the "Complaint of Michael Ellis" against themselves. By that gambit, the involved attorneys seek to ensure the results of their misconduct and the related FOIA request are never provided to the public in the mandated semi-annual reports

⁷ To ensure all involved are aware of the precise contours of the IRS record falsification program, we have appended a White Paper with six Exhibits attached. Therein we detail the IRS program TIGTA Administrators are so viciously, relentlessly concealing. The White Paper and Exhibits are incorporated herein fully by reference.

to Congress and to the Secretary. Nor will any report be forwarded to IRS concerning the TIGTA Administrators' conduct to conceal and prolong the IRS program.

In sum of this claimed Exemption, since there is undeniable, irrefutable evidence long available to TIGTA of the existence of the IRS record falsification program, which has been prolonged by the refusal of TIGTA's top Administrators to take any step to help end it for TWELVE YEARS, the public interest in the "investigation" by TIGTA Administrators of their failure to take such step outweighs the lawyers' baseless assertion of privacy rights of some unnamed, mythical, assumed third person. The claimed (7)(C) exemption fails, fraudulent on its face.

Fourth Claimed Exemption: FOIA (b)(7)(E)

Courts have found that agencies barring FOIA disclosures of investigatory techniques under 7E must (1) identify specific "techniques" or "procedures" used for law enforcement investigations, and (2) provide evidence that release of documents regarding such techniques "would risk circumvention of the law by individuals who seek to violate laws", i.e., risk "exposing vulnerabilities to potential criminals". Moreover, *evidence of bad faith* on the part of the Government can prevent withholding under Exemption 7E.

Application to Claimed Exemption

As an initial matter, since IRS' entire digital record-keeping falsification apparatus has been available for TIGTA investigators' in-depth review for at least the last TWELVE years, involved TIGTA Administrators and Disclosure attorneys have never refuted, and can never refute the existence of the felonious IRS program used

to destroy the lives of unsuspecting Americans. But that program and its “investigative techniques” are not the subject of Disclosure request 2026-FOIA-02311, which seeks only documentation held by TIGTA concerning the Administrators’ alleged “investigation” of their joint failure to take any step to end the IRS program,⁸ pursuant to the “Complaint of Michael Ellis.”

In a first direct response to the attorneys’ claimed 7E exemption, we note that they failed to identify any “techniques” or “procedures” used for law enforcement investigations justifying exemption from disclosing any documents related to the TIGTA Administrators’ failure to take any action to end the IRS record falsification program. Restated, no investigatory techniques were sought in the complaint filed by Ellis concerning the Administrators’ investigation into their refusal to take any steps to end the IRS record falsification program. Nor were any specific techniques identified or claimed by the Administrators in their “final response”/pretended disclosure. The claimed 7E exemption fails on that ground alone.

But further, the attorneys failed to make any showing that disclosure of documentation proving IRS systematically falsifies federal records, would risk circumvention of the law, i.e., that "release of the redacted information would risk circumvention of the law because targets of investigations could alter their behavior."

On the contrary, the only persons violating the law are IRS staff (falsifying federal records) and TIGTA attorneys (now including Alexis B. Turner and Brady J. Kiehm,

⁸ From the bankrupt exemptions claimed in the Administrators Final Response dated April 15, 2026, it is clear that “investigation” never began. The “Complaint of Michael Ellis” filed in December 2025 was ignored and a fraudulent “Final Report” was concocted to conceal it.

all committing misprision of the underlying felonies committed by IRS), in order to extend/conceal the underlying IRS program. And NO allegation was made, *nor can be made*, that disclosure of documentation sought concerning the investigation of the Administrators' failure to take any step to help end the program, would risk circumvention of any law.

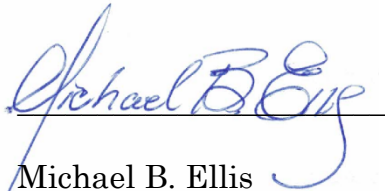
Finally, the undenied, undeniable existence of the IRS program and the TIGTA Administrators' refusal to help end it, show the requisite "bad faith" necessary to eliminate their attempt to claim the 7E exemption, which is fraudulent on its face.

Summary Statement

No investigation was ever undertaken in response to the unnumbered "Complaint of Michael Ellis" concerning the failure of TIGTA officers to take any steps to end the IRS record falsification program, existence of which no involved Government paid attorney can controvert. In their April 15th "final response", the TIGTA Administrators attempted to conceal the fact they failed to investigate their refusal to take any steps to end the IRS program.

Moreover, the citation of the Administrators (now including staff attorneys Turner and Kiehm) to four facially fraudulent asserted exemptions appears to constitute acts of misprision to conceal the underlying IRS program and to conceal the failure of TIGTA to take any steps to help end it. Thus, their April 15, 2026 final response appears to constitute evidence of a conspiracy against rights by TIGTA Administrators, Alexis Buckhannon Turner and Brady J. Kiehm.

Respectfully,



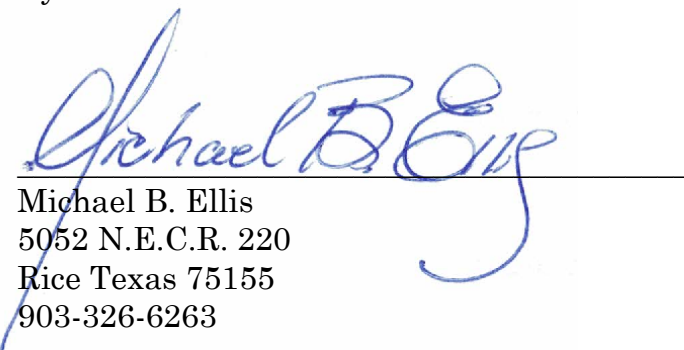
Michael B. Ellis
903-326-6263

Declaration

Comes now Michael B. Ellis, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746 that the facts stated in the foregoing “**Expedited Administrative Appeal of TIGTA Response 2026-TFOI-02311.....**” are material, I have personal knowledge thereof and am qualified to testify concerning the accuracy thereof, and do declare that ALL facts stated above are absolutely true and correct, So HELP ME GOD.

Executed on: April 23, 2026

By:



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