



*Statistical Portrayal of the  
Criminal Investigation Division's  
Enforcement Activities for  
Fiscal Years 2000 Through 2008*

**March 26, 2009**

**Reference Number: 2009-30-053**

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.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

March 26, 2009

**MEMORANDUM FOR CHIEF, CRIMINAL INVESTIGATION**

*Michael R. Phillips*

**FROM:** Michael R. Phillips  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Statistical Portrayal of the Criminal Investigation Division’s Enforcement Activities for Fiscal Years 2000 Through 2008 (Audit # 200930022)

This report presents the results of our review of statistical information that reflects activities of the Criminal Investigation Division (the Division). The overall objective of this review was to provide statistical information and trend analyses for the Division’s enforcement activities for Fiscal Years (FY) 2000 through 2008. We conduct this review each year and it is included in our FY 2009 Annual Audit Plan under the major management challenge of Improving Performance and Budget Data for Financial and Performance Decisions.

*Impact on the Taxpayer*

We reviewed information from Criminal Investigation Management Information System<sup>1</sup> reports to analyze trends and changes in the major areas of criminal enforcement. During FY 2008, some key performance measures declined, such as the number of subject investigations initiated, the number completed, and direct investigative time. Continued progress in the enforcement of criminal tax and tax-related violations is important to enhancing voluntary compliance and fostering confidence in the integrity of the tax system.

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



## *Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008*

### Synopsis

We previously reported that the Division showed improvements in several key performance areas from FYs 2006 through 2007. For example, the numbers of subject investigations initiated, completed, and recommended for prosecution all showed improvement.

In FY 2008, the Division continued to demonstrate efficiencies processing investigations. For example, the Division decreased the number of days needed to close legal and illegal source investigations by 2.9 percent from the previous year. However, some key performance measures that had improved the previous year declined: the number of subject investigations initiated decreased nearly 11 percent; the number of subject investigations completed decreased 5.3 percent; and direct investigative time showed a slight decrease.

We believe that one of the causes for the decreases in the numbers of subject investigations initiated and subject investigations completed was the continued rise in pipeline inventory and the resources needed to address it. Pipeline inventory has steadily increased over the past 6 years and now stands at a 9-year high of 4,118 subject investigations. FY 2008 is the second consecutive year that the Division had more investigations in the pipeline than open subject criminal investigations. The Division is spending more direct investigative time to prepare investigations in the pipeline for adjudication instead of initiating new investigations. Division management believes this is a positive trend since successful prosecutions generate publicity, foster deterrence, and enhance voluntary compliance. For FY 2009, the Division indicated that it would place a greater emphasis on the reduction of the pipeline inventory. This may result in even fewer investigations being initiated and completed during the upcoming year. We are currently conducting a separate review to evaluate the growth in pipeline inventory and to identify any potential actions the Division can take in the future to reduce the resources devoted to this area.<sup>2</sup>

We believe another cause for the decreases in subject investigations initiated and completed is that the Division continues to lose experienced special agents to attrition faster than they can be replaced. The number of special agents is currently at its lowest level in 30 years. The Division attributes this to its budgets being relatively flat in recent years, which have put pressure on its ability to replace agents lost through attrition because of the need to fund yearly salary increases. Our concern noted last year about the net loss of experienced special agents negatively impacting the Division's productivity was realized during FY 2008. During FY 2009, the Division plans to hire 192 special agents, but the new, inexperienced agents may not have a significant impact on the Division's FY 2009 performance goals.

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<sup>2</sup> *Impact of the Growth in Prosecution Pipeline Inventory on the Criminal Investigation Program* (Audit Number 200810008).



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*Recommendations*

We made no recommendations in this report. However, key Criminal Investigation Division management officials reviewed the report prior to its issuance and agreed with the facts and conclusions presented.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report information. Please contact me at (202) 622-6510 if you have questions or Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (202) 622-8510.



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*Abbreviations*

BPR	Business Performance Review
CIMIS	Criminal Investigation Management Information System
FY	Fiscal Year
IRS	Internal Revenue Service
U.S.C.	United States Code



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## *Background*

In February 2006, the Internal Revenue Service (IRS) released updated compliance estimates, showing that the gross tax gap was \$345 billion in Tax Year 2001. A 2008 taxpayer attitude survey conducted by the IRS Oversight Board<sup>1</sup> indicated that 9 percent of the surveyed population believed that it was acceptable to cheat on their taxes, while 89 percent said it was not at all acceptable. The current IRS Commissioner, while emphasizing a balanced program between taxpayer service and tax enforcement, stressed the need for an aggressive enforcement program for those who understand their tax obligations, but fail to comply.

The Criminal Investigation Division (the Division) prepared a Strategic Assessment document for Fiscal Years (FY) 2007 to 2012 to supplement and implement the goals in the IRS' Strategic Plan. The compliance, business, and communication strategies of the Division include:

- Maintain focus on legal source tax investigations, partnering with the IRS operating divisions to deploy a successful Fraud Referral Program.
- Work effectively with the Department of the Treasury, the Department of Justice, and other law enforcement partners to combat corporate fraud, terrorism, and the financial aspects of other criminal activity and to enhance Bank Secrecy Act compliance efforts.
- Increase workforce productivity through improvements in recruitment, retention, and strengthened leadership.
- Increase efficiency through improvements in business systems and the reduction of investigative cycle time.

Since FY 2004,<sup>2</sup> we have been presenting an annual statistical portrayal of the Division's enforcement activities. The objective of the initial audit was to provide statistical information and trend analyses of the Division's statistics since the issuance of the Webster Report<sup>3</sup> in April 1999. The Webster Report concluded that the Division had drifted away from its primary mission of investigating criminal violations of the Internal Revenue Code and, as such, recommended that the Division refocus on its mission.

Since then, the Division has created a revised mission statement, developed a compliance strategy designed to guide in developing and investigating cases that fostered confidence in the tax system, reduced narcotics-related investigations resources, publicized its investigations

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

<sup>2</sup> For more information, see Appendix VI, report 1.

<sup>3</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, and conducted an empirical study to determine the effect investigations have on voluntary compliance. The Division's executives continue to emphasize the importance of developing and investigating cases that have the greatest effect on tax administration, whether the sources of income in those cases are derived from legal or illegal activities.

We initiated this review as part of our FY 2009 Annual Audit Plan coverage. While the overall trend information presented covers FYs 2000 through 2008, our report concentrates on 1) analyzing program performance for the last 5 years, and 2) providing an indepth perspective on program activities for the 2 most current fiscal years.

Our data analyses were performed in the Treasury Inspector General for Tax Administration's Chicago, Illinois, office during the period December 2008 through February 2009. We used national reports from the Division's management information system during our review. Because of time and resource constraints, we did not audit the Division's systems to validate the accuracy and reliability of its information. Also, we did not assess internal controls because it was not applicable within the context of our audit objective. Otherwise, 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. A glossary of terms is included in Appendix IV. Detailed charts and tables referred to in the body of the report are included in Appendix V. Much of the data included in this report updates prior audit reports on criminal enforcement trends. See Appendix VI for a list of those reports.



## *Results of Review*

### ***Although the Division Continues to Show Efficiencies, Some Key Performance Measures Declined in Fiscal Year 2008***

In FY 2008, some of the key performance measures which previously showed improvements declined. For example, direct investigative time showed a slight decrease to 64.1 percent in FY 2008 from the 65 percent reported in FY 2007.<sup>4</sup> In addition, in FY 2008 the number of subject investigations initiated decreased nearly 11 percent, compared to an increase of 7.8 percent in FY 2007.<sup>5</sup> The Division also did not meet its planned goal of initiating 4,100 subject investigations. The Division did achieve its goal for subject investigation completions; however, the number completed decreased 5.3 percent from FY 2007.<sup>6</sup> Among the causes of the decreases in initiations and completions is the increase in time applied to address pipeline inventory and staffing shortages. If these trends continue, we are concerned the results will be that the Division becomes more selective in the cases it investigates.

The Department of Justice acceptance rate for the Division's prosecution cases slightly decreased to 93.6 percent from 94.6 percent in FY 2007. Similarly, the United States Attorneys' Offices acceptance rate decreased to 89.2 percent from 90.2 percent in FY 2007. We are not concerned with these declines since both of the acceptance rates are higher than the rates the Division achieved in FY 2006.

The Division continued to demonstrate efficiencies in the average length of time needed to close an investigation. In 2003, the Commissioner raised concerns about the length of time it took to recommend an investigation for prosecution. Since then, the Division has emphasized reduction of cycle time and reported that elapsed days to recommend an investigation for prosecution decreased 5.5 percent from FY 2007, and has decreased 11.1 percent since FY 2003.<sup>7</sup>

### ***As the Division Continued to Apply Resources to Pipeline Inventory, Initiations and Completions Decreased***

In our past two statistical portrayals, we expressed concern with the increase in pipeline inventory and the risk that it would affect future productivity levels.<sup>8</sup> In FY 2008, as previously

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<sup>4</sup> See Appendix V, Figure 2.

<sup>5</sup> See Appendix V, Figure 4.

<sup>6</sup> See Appendix V, Figure 15.

<sup>7</sup> See Appendix V, Figure 16.

<sup>8</sup> See Appendix VI, Reports 4 and 6.



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stated, the number of subject investigations initiated declined 11 percent from FY 2007. Further, the number of subject investigations completed decreased 5.3 percent from FY 2007. We believe one of the causes for these decreases is the continued rise in the pipeline inventory and the resources needed to address it. The Division acknowledges that its increase in resources being devoted to pipeline inventory will result in subject investigation initiations, completions, and prosecution recommendations numbers becoming flat or decreasing in the near term. However, Division management also believes that devoting resources to pipeline inventory is a positive trend since successful prosecutions generate publicity, foster deterrence, and enhance voluntary compliance. We are currently conducting a separate review to evaluate the growth in pipeline inventory and to identify any potential actions the Division may take to reduce the resources devoted to this area in the future.<sup>9</sup>

Pipeline inventory (investigations referred to the Department of Justice for prosecution) has steadily increased over the past 6 years and now stands at a 9-year high. FY 2008 ended with 4,118 subject investigations in the pipeline, a 1.4 percent increase over FY 2007, and a 34 percent increase since FY 2003.<sup>10</sup> This is the second consecutive year that the Division had more investigations in the pipeline than open subject criminal investigations (3,691). The ratio of pipeline inventory to open subject criminal investigations has increased to 112 percent compared to a ratio of 67 percent at the end of FY 2003.

In FY 2008, the amount of direct investigative time devoted to pipeline investigations increased to 23.2 percent from 15.4 percent in FY 2003. According to the Division, a minimum number of hours are required every quarter to manage the pipeline inventory. As more time and investigative resources are expended on the pipeline inventory, fewer resources will be available to initiate and complete investigations.

According to data reported in the Division's Business Performance Review (BPR) documents, the number of investigations at the Department of Justice Tax Division awaiting the authorization of prosecution on tax charges has increased 6.8 percent since FY 2003, from 438 to 468 in FY 2008. However, the number of investigations in pre-indictment and post-indictment status at the United States Attorneys' Offices increased at a more significant rate. Investigations in pre-indictment status have increased 60.3 percent, from 1,007 in FY 2003 to 1,614 in FY 2008, and investigations in post-indictment status increased 25.1 percent, from 1,627 to 2,036 during the same period. A FY 2006 study by the Division's Office of Planning and Strategy concluded that the United States Attorneys' Offices operational priorities were not optimally aligned with the Division's priorities. The continued increases in pipeline investigations awaiting adjudication by the United States Attorneys' Offices may reflect that optimal alignment may still be an issue.

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<sup>9</sup> *Impact of the Growth in Prosecution Pipeline Inventory on the Criminal Investigation Program* (Audit Number 200810008).

<sup>10</sup> See Appendix V, Figure 11.



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In FY 2008, the Department of Justice requested \$5.2 million for its Tax Division to enhance “Operation Continued Follow-Through,” a tax law enforcement initiative that supports the President’s focus on reducing tax fraud. We had hoped that additional funding would alleviate some of the delays the Division is experiencing with the Department of Justice. However, as we have shown, the growth in pipeline inventory persists.

For FY 2009, the Division indicated that it would place a greater emphasis on the reduction of the pipeline inventory. In addition, the FY 2009 performance goal for subject investigation initiations was lowered 2.4 percent to 4,000 from the FY 2008 performance goal of 4,100. The FY 2009 goal for completions was lowered 2.5 percent to 3,900 from the FY 2008 goal of 4,000. We are concerned that the Division will not meet these goals due to the increased resources it is applying to reduce the pipeline inventory coupled with the loss of experienced special agents in recent years (as discussed in the following section).

### ***Challenges Remain to Increase the Number of Special Agents***

Total special agent staffing<sup>11</sup> has decreased 6.5 percent since FY 2003, with the number of field special agents decreasing 10.7 percent over the same period. According to the Division, the number of special agents is currently at its lowest level in the past 30 years. The number of field special agents decreased almost 7 percent from 2,435 in FY 2007 to 2,271 in FY 2008.<sup>12</sup> The Division attributes this to its budgets being relatively flat in recent years, which have put pressure on its ability to replace agents lost through attrition because of the need to fund yearly salary increases.

Increasing special agent staffing remains a challenge as the Division continues to lose experienced special agents to attrition faster than they can be replaced. According to its BPR report for FY 2008, the Division indicated that it hired 149 special agents during the year. However, this was not enough to offset the attrition of 166 special agents. The Division indicated it plans to hire 192 special agents during FY 2009 and expects the attrition of 150 special agents.

Our concern noted last year about the net loss of experienced special agents negatively impacting the Division’s productivity has been realized. The Division initiated and completed fewer subject investigations during the year, in part due to the loss of special agents. The Division’s FY 2009 goals for subject investigations initiated and completed is lower than the goals set for FY 2008. As previously stated, we believe the Division may have trouble meeting these goals even with its plans to hire 192 special agents during the year. These new, inexperienced agents

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<sup>11</sup> Includes new recruits, part-time special agents, field and Headquarters Office managers and program analysts, and Lead Development Center and Fraud Detection Center special agents.

<sup>12</sup> See Appendix V, Figure 1.



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may not have a significant impact on the Division's performance goals during FY 2009 because of the training they must undergo.

### ***Time Spent on Legal Source Tax and Tax-Related Investigations Increased, but Several Trends Declined***

Last year, we reported increasing trends in several areas, including more time being spent on legal source tax and tax-related investigations and increases in the number of those investigations being initiated.<sup>13</sup> The Division's Annual Business Plans have consistently described legal source tax investigations as a top investigative priority, and we believe these investigations are an important component of all tax-related investigations. We previously challenged the Division's efforts to show progress towards increasing the level of legal source tax investigations, despite its articulation of a focus on these types of investigations in its strategic documents.<sup>14</sup>

The Division has established a goal for the minimum amount of direct time spent on legal source tax and total tax investigations.<sup>15</sup> The Division's goal for FY 2008 was to maintain a minimum of 48 percent direct time on legal source tax investigations and 70 percent on total tax investigations. The Division achieved its goal, spending 51.2 percent of its time on legal source tax and 70.8 percent on total tax investigations, both at a 9-year high.<sup>16</sup>

The Division increased the percentage of direct investigative time spent on legal source tax and total tax investigations despite also applying more time to narcotics-related investigations. We previously raised a concern that a FY 2008 budget initiative to increase the direct investigative time on narcotics-related cases, from 9.6 percent in FY 2006 to a range of 12 to 14 percent, would affect the Division's ability to investigate legal source tax and tax-related crimes. In FY 2008, the amount of time spent on narcotics-related investigations was 12.3 percent. However, the time spent on legal source tax and total tax investigations both increased. The FY 2009 budget contains funding to continue the narcotics-related case initiative, and we expect direct investigative time to remain at current levels.

In FY 2008, the number of legal source tax investigation initiations decreased by 8 percent, and the number of tax-related initiations decreased by 9.3 percent. However, the percentage of all initiations that were legal source tax and tax-related increased by 1.3 and 1.2 percentage points,

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<sup>13</sup> See Appendix VI, Report 6.

<sup>14</sup> See Appendix VI, Report 2.

<sup>15</sup> During FY 2008, the Division changed how it calculates direct investigative time devoted to legal and illegal source tax cases. The Division now calculates "total tax," which is the percentage of direct investigative time devoted to legal source and illegal source tax cases, in lieu of "tax and tax-related" because it is more representative of the total resources the Division commits to its tax enforcement mission. This new computation includes time spent on legal source general investigations that are a source of tax subject investigations.

<sup>16</sup> See Appendix V, Figure 3.



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respectively.<sup>17</sup> Case completions also showed decreases. The number of legal source tax investigations referred for prosecution decreased 8.5 percent from FY 2007, but overall has increased 8.5 percent since FY 2003. Tax-related investigations referred for prosecution also decreased 9.3 percent since FY 2007 and has overall decreased 4.6 percent since FY 2003.<sup>18</sup>

Elapsed days on completed legal and illegal source investigations continue to show improvements. The Division's benchmark figure for legal and illegal source investigation completions is 415 to 425 days. In FY 2008, the Division reported an average of almost 400 elapsed days for legal and illegal source investigation completions, 3.7 percent below the benchmark range and 2.9 percent below the FY 2007 average of 412 days. The average elapsed days to recommend a legal or illegal source investigation for prosecution were unchanged from the average days of 407 in FY 2007, while the average of 386 days to discontinue a legal or illegal source investigation improved 8.1 percent from the FY 2007 average days of 420.

The total open subject investigation inventory decreased 7.3 percent from FY 2007, and has decreased substantially by 20 percent in the 5 years since FY 2003.<sup>19</sup> The legal source tax open inventory decreased slightly (0.9 percent) from FY 2007, and has decreased 9.1 percent since FY 2003.<sup>20</sup> Tax-related investigations in open inventory decreased about 2.5 percent from FY 2007, and have decreased 17 percent since FY 2003.<sup>21</sup>

In addition, the number of subjects convicted of legal source tax crimes decreased 9 percent from FY 2007, but has increased 39 percent since FY 2003. Similarly, the number of subjects sentenced for legal source tax crimes also decreased 4.7 percent from FY 2007, but has increased 36.1 percent since FY 2003.<sup>22</sup> The number of subjects sentenced for a tax-related crime decreased 8.6 percent from FY 2007. However, the percentage of all sentences that were for tax-related crimes was at 51.9 percent, the second highest percentage in 9 years and a slight decrease (0.5 percentage points) from last year's all-time high.<sup>23</sup>

### **Measuring the Division's impact on voluntary compliance**

In an effort to enhance voluntary compliance, the Division continued to emphasize publicizing the results of tax prosecutions resulting from its tax investigations. The overall publicity rate for prosecutions in FY 2008 was 81.6 percent—an all-time high, and 2.4 percent higher than the publicity rate in FY 2007. The 88.5 percent publicity rate for legal source tax investigations is also at an all time high.<sup>24</sup> This increased exposure indicates the Division frequently receives

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<sup>17</sup> See Appendix V, Figures 5 and 6.

<sup>18</sup> See Appendix V, Figures 17 and 18.

<sup>19</sup> See Appendix V, Figure 11.

<sup>20</sup> See Appendix V, Figure 13.

<sup>21</sup> See Appendix V, Figure 12.

<sup>22</sup> See Appendix V, Figures 24 and 27.

<sup>23</sup> See Appendix V, Figure 26.

<sup>24</sup> See Appendix V, Figure 30.



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media attention, and in our belief, sends a message to taxpayers that violations of the Internal Revenue Code and related financial crimes are investigated and prosecuted.

Research suggests that higher levels of criminal sentences lead to greater tax compliance. The average number of months a subject is incarcerated has increased since FY 2003. The percentage increase in the number of months a subject is incarcerated for legal source tax investigations rose 12.5 percent (from an average of 16 to 18 months) between FYs 2003 and 2008, even though it was unchanged from FY 2007 to FY 2008. The incarceration time increased 18.8 percent (from an average of 32 to 38 months) for illegal source investigations and 6.5 percent (from an average of 77 to 82 months) for narcotics-related investigations between FYs 2003 and 2008. Both these categories showed increases in months served from FY 2007 to FY 2008.<sup>25</sup>

Further, the Division achieved its goals for measuring progress towards impact on compliance and the quality of the Division's work. Even though the number of convictions decreased slightly from FY 2007, it still met the Division's goal of 2,135.<sup>26</sup> In addition, the conviction rate increased to 92.3 percent in FY 2008, meeting the stated goal. The Division also recorded a lower cost per conviction than the planned rate of \$317,625.

### **Trends related to the number of investigations per special agent**

As measures of its business results, the Division uses the average inventory of subject investigations per special agent<sup>27</sup> and the average total inventory per special agent. The average inventory calculation includes only open subject investigations, whereas the total inventory calculation includes primary investigations, open subject investigations, and pipeline subject investigations.

In FY 2008, the average inventory of subject investigations per special agent was 1.75, a 3.3 percent decrease from 1.81 in FY 2007, and a 12.5 percent decrease from 2 in FY 2003. Likewise, the total inventory per special agent, which we believe is a better barometer of a special agent's workload, decreased slightly to 4.64, a 1.7 percent decrease from 4.72 in FY 2007, and 3.73 percent decrease from 4.82 in FY 2003.<sup>28</sup> However, this was the third consecutive year in which the total inventory per special agent has decreased, from the recent high of 5.19 in FY 2005. This has occurred because since FY 2005 the total inventory has decreased at a higher rate (14.3 percent) than the number of special agents considered in this calculation (4.3 percent).

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<sup>25</sup> See Appendix V, Figure 29.

<sup>26</sup> See Appendix V, Figure 23.

<sup>27</sup> The Division only considers those special agents that were actively working on investigations in these calculations.

<sup>28</sup> See Appendix V, Figure 10.



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### ***Investigations Initiated From External Sources Were Unchanged***

The Division initiates investigations from many different sources, from both within and outside of the IRS. The Division's primary sources from within include fraud referrals from the compliance divisions and investigations from the Questionable Refund and Return Preparer Programs. Sources of investigations from outside the IRS include the United States Attorneys' Offices and other Government agencies, both Federal and State. In addition, the Division initiates investigations based on information received from public sources, including the media and informants.

During FY 2008, 54.9 percent of the 3,749 subject investigations initiated came from the United States Attorneys' Offices or other Government agencies. The same percentage was initiated from these sources in FY 2007. Almost 24 percent of the investigations initiated came from the United States Attorneys' Offices alone. The percentage of subject investigations initiated from a public source remained about the same, slightly increasing to 12.8 percent of total investigations initiated from 12.7 percent in FY 2007. Also, the percentage of subject investigations initiated that originated from within the IRS remained about the same at 32.3 percent in FY 2008 compared to 32.5 in FY 2007. The percentage of cases originating from within the IRS has remained relatively consistent since FY 2003, ranging from a low of 30.1 percent in FY 2004 to a high of 36.2 percent in FY 2005.<sup>29</sup>

The Division's FY 2009 Annual Business Plan states it will continue to commit significant investigative resources to high-impact legal and illegal source tax investigations and will work closely with the IRS operating divisions to develop and investigate cases on significant tax violators. This will help the IRS' overall efforts to reduce the tax gap (the difference between taxes paid and taxes owed). We continue to believe that because investigations generated from internal sources are likely to be legal source tax investigations, the Division should remain vigilant when evaluating whether the level of cases initiated from sources external to the IRS maintains a proper balance with stated priorities.

### ***Trends related to fraud referrals declining***

In response to our prior report on its legal source income tax program,<sup>30</sup> the Division committed to several steps to enhance and increase the awareness of the Fraud Referral Program. However, the Division received only 583 fraud referrals in FY 2008, a 4.7 percent decrease from the 612 received in FY 2007 and a 6.7 percent decrease since the recent high of 625 received in FY 2005. Likewise, the acceptance rate of fraud referrals decreased slightly in FY 2008, by 1.6 percentage points, but has increased over 16 percentage points from FY 2000.<sup>31</sup> Prosecution

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<sup>29</sup> See Appendix V, Figure 8.

<sup>30</sup> See Appendix VI, Report 1.

<sup>31</sup> See Appendix V, Figure 9.



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recommendations for fraud referrals increased 1.4 percent in FY 2008 from FY 2007. However, the number of subjects sentenced for a crime decreased 18.2 percent for the same period.

The Division's FY 2009 Annual Business Plan indicates that it will continue to strengthen the Fraud Referral Program by working closely with the Small Business/Self-Employed, Large and Mid-Size Business, Tax Exempt and Government Entities, and Wage and Investment Divisions to promote fraud awareness and to facilitate fraud training. The FY 2007 and FY 2008 Annual Business Plans also contained similar language. Since fraud referrals remain a viable and important source of legal source tax investigations, we are concerned by the recent results of the Fraud Referral Program with the number of fraud referrals received trending downward since FY 2005. The Division and the other operating divisions need to continue to emphasize the importance of these types of investigations as they relate to tax administration and the IRS' efforts to improve voluntary compliance.



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## **Appendix I**

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

The overall objective of this review was to provide statistical information and trend analyses of the Criminal Investigation Division's enforcement activities for Fiscal Years 2000 through 2008.

To accomplish our objective, we relied on information accumulated by the IRS and the Division in established reports and from the Criminal Investigation Management Information System (CIMIS), and did not verify the accuracy of the information. The major issues we focused on included:

- Special Agent<sup>1</sup> Staffing.
- Investigations:
  - a. Initiated.
  - b. Open.
  - c. In pipeline.
  - d. Closed.
  - e. Referred for Prosecution.
- Subsequent Legal Actions.
- Compliance Strategy Programs.

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<sup>1</sup> See Appendix IV for a glossary of terms used in this report.



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**Appendix II**

*Major Contributors to This Report*

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**Appendix III**

*Report Distribution List*

Commissioner C  
Office of the Commissioner – Attn: Chief of Staff C  
Deputy Commissioner for Services and Enforcement SE  
Director, Operations Policy and Support, Criminal Investigation SE:CI:OPS  
Director, Strategy, Criminal Investigation SE:CI:S  
Chief Counsel CC  
National Taxpayer Advocate TA  
Director, Office of Legislative Affairs CL:LA  
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Audit Liaison: Director, Planning and Strategy, Criminal Investigation SE:CI:S:PS



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## **Appendix IV**

### *Glossary of Terms*

**Business Performance Review** – A quarterly review by the Criminal Investigation Division (the Division) to report on its performance measures, business results, employee and customer satisfaction, and other items of importance.

**Compliance Strategy Program** – The Division's organizational strategy comprised of three interdependent program areas: Legal Source Tax Crimes, Illegal Source Financial Crimes, and Narcotics-Related Financial Crimes.

**Criminal Investigation Management Information System** – A database that tracks the status and progress of criminal investigations and the time expended by special agents.

**Cycle Time** – Elapsed calendar days on completed investigations.

**Direct Investigative Time** – Time spent by special agents conducting investigations and other law enforcement activities.

**Discontinued Investigation** – A subject investigation that resulted in a determination that there was no prosecution potential.

**Elapsed Days** – The number of days between the initiation of a subject investigation to another date, such as the date discontinued or date referred for prosecution.

**Field Special Agent** – A special agent in one of the Division's 26 field offices.

**Fraud Referral Program** – A program designed as a partnership between the Division and the IRS Operating Divisions to promote fraud awareness and assist with fraud training.

**Grand Jury Investigation** – Investigation conducted through the use of a Federal grand jury to determine if a subject should be charged with a crime. The use of the Federal grand jury to investigate the potential crime(s) may be initiated by the Division or by an attorney for the Federal Government.

**Gross Tax Gap** – The difference between the amount of tax that taxpayers should pay under the tax law and the amount they actually pay on time.

**Illegal Source Financial Crimes** – Crimes involving illegally earned income including crimes involving money laundering, 18 United States Code (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.



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*Statistical Portrayal of the Criminal Investigation Division's  
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**Inventory per Special Agent** – 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.

**IRS Data Book** – A publication that provides information on activities conducted by the IRS such as taxes collected, enforcement, taxpayer assistance, budget, workforce, and other selected activities.

**IRS Oversight Board** – A nine-member independent body charged to oversee the IRS in its administration, management, conduct, direction, and supervision of the execution and application of the Internal Revenue laws. The IRS Oversight Board provides experience, independence, and stability to the IRS so it may move forward in a cogent, focused direction.

**Legal Source Tax Crimes** – Crimes involving legal industries and occupations and legally earned income.

**Narcotics-Related Financial Crimes** – Crimes involving tax and money laundering related to narcotics and drug trafficking.

**Pipeline Inventory** – A subject investigation that has been recommended for prosecution and the subject has not been convicted or acquitted, or the investigation has not been dismissed. It excludes investigations where the subject became a fugitive after indictment.

**Primary Investigation** – An evaluation of an allegation that an individual or entity is in noncompliance with the Internal Revenue laws and related financial crimes.

**Questionable Refund Program** – An IRS nationwide, multifunctional program designed to identify fraudulent returns, stop the payment of fraudulent refunds, and refer identified fraudulent refund schemes to the Division's field offices.

**Referred for Prosecution** – A subject investigation that resulted in the determination of prosecution potential referred to the Department of Justice or to a United States Attorney's Office.

**Return Preparer Program** – 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.

**Special Agent** – A Division law enforcement employee who investigates potential criminal violations of the Internal Revenue laws and related financial crimes.

**Subject Investigation** – An investigation of an individual or entity alleged to be in noncompliance with the laws enforced by the IRS and having prosecution potential.

**Subject Seizure Investigation** – An investigation to locate and seize assets that are subject to seizure or forfeiture under various U.S.C. titles and sections such as 26 U.S.C. § 7302 or 18 U.S.C. §§ 981, 982 or 984.



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**Tax-Related Violation** – 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.

**Title 18** – U.S.C. Title 18, Crimes and Criminal Procedure. Various sections of Title 18 apply to violations that are within the jurisdiction of the Division. Examples include § 286, Conspiracy to Defraud the Government with Respect to Claims; § 287, False, Fictitious, or Fraudulent Claims; § 371, Conspiracy to Commit Offense or to Defraud United States; and §§ 1956 and 1957, Laundering of Monetary Instruments and Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity. The most common section investigated under this statute is money laundering.

**Title 26** – U.S.C. Title 26, Internal Revenue Code.

**Title 31** – U.S.C. Title 31, Money and Finance. Several sections of Title 31 apply to violations that are within the jurisdiction of the Division. Examples include § 5322, Criminal Penalties (for willful violations of Title 31 sections), and § 5324, Structuring Transactions to Evade Reporting Requirement Prohibited.

**Title 33** – U.S.C. Title 33, Taxation and Finance–Virgin Islands. Several sections of Title 33 apply to violations that are within the jurisdiction of the Division. Examples include § 1521, Attempt to Evade or Defeat Tax; § 1522, Conspiracy to Evade or Defeat Tax; and § 1523, Willful Failure to Collect or Pay Over Tax.



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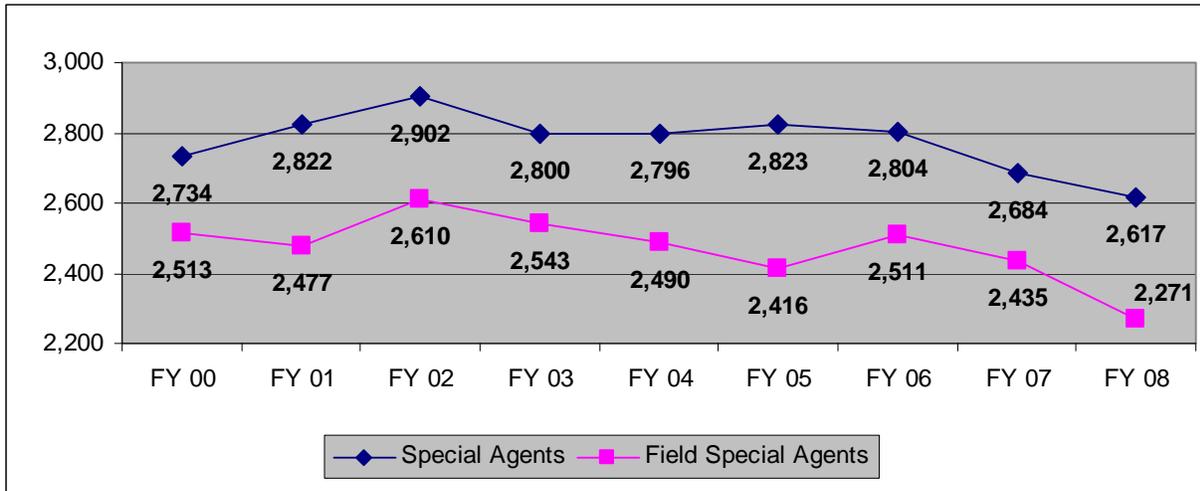
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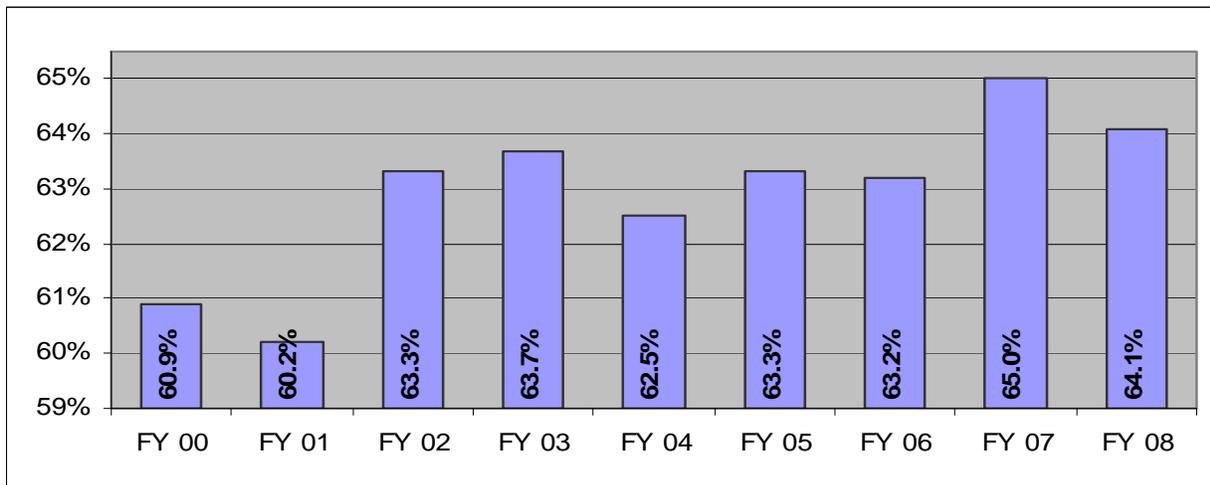
*Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008*

**Figure 1: Special Agent and Field Special Agent Staffing at the End of Each Fiscal Year.**



Source: The Criminal Investigation Division's (the Division) analysis of staffing information.

**Figure 2: Special Agent Direct Investigative Time Expended Each Fiscal Year.<sup>1</sup>**



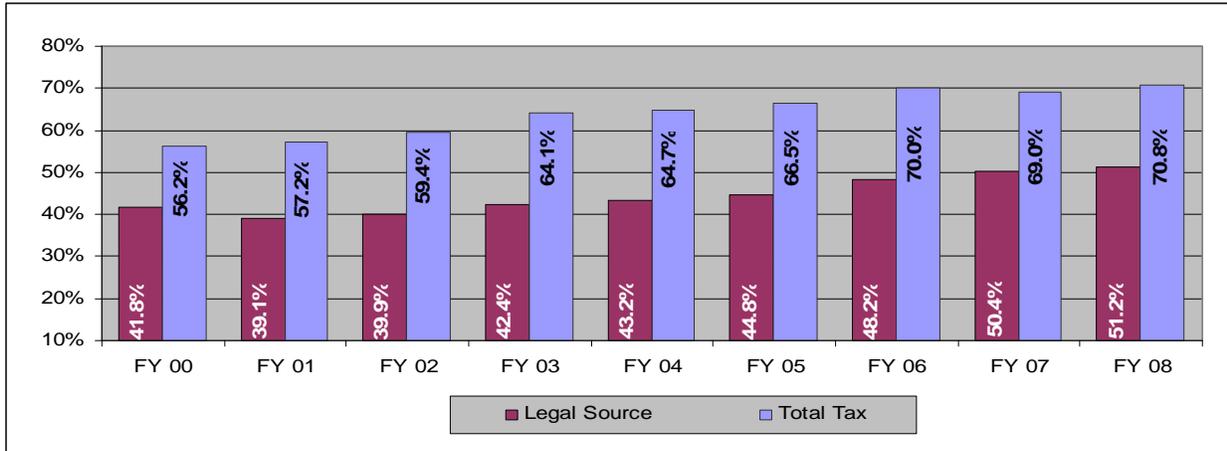
Source: The Division's analysis of direct investigative time information for FYs 2000 through 2002 and CIMIS Report INV001 (Criminal Investigation Summary Statistics) for FYs 2003 through 2008.

<sup>1</sup> In FY 2006, the Division revised its calculation formula for direct investigative time on tax and tax-related investigations; therefore, the numbers reflected in this figure may not agree with prior reports.



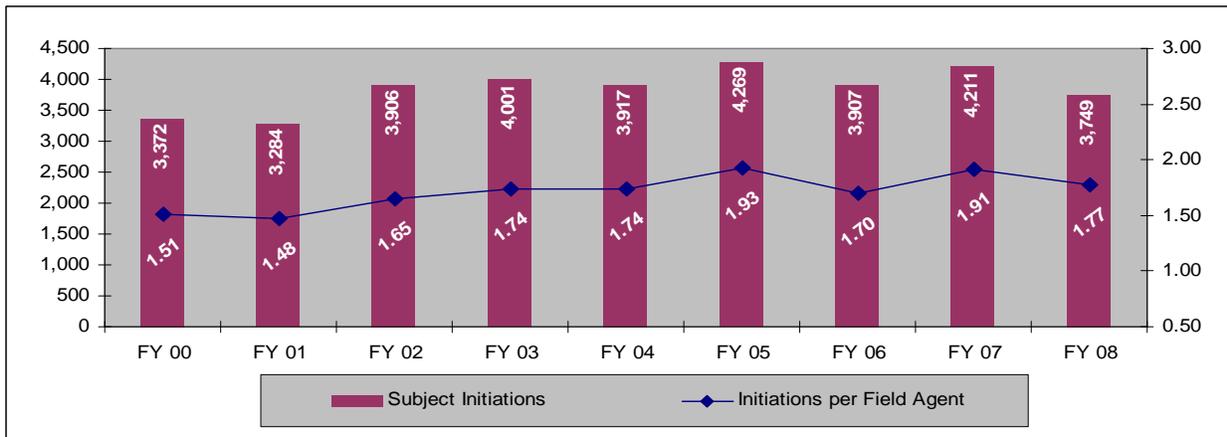
*Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008*

**Figure 3: Percentage of Direct Investigative Time Spent on Legal Source Tax and Total Tax<sup>2</sup> Investigations Each Fiscal Year.**



Source: The Division's BPR reports for FYs 2000 through 2006 and CIMIS Report INV001 (Criminal Investigation Summary Statistics) for FY 2007 and FY 2008 legal source data. The Total Tax computation for FYs 2004 through 2008 was from the Division's BPR report for FY 2008. The Total Tax computation for FYs 2000 through 2003 was from the Division's analysis of the CIMIS.

**Figure 4: Number of Subject Investigations Initiated and the Number Initiated per Field Agent Each Fiscal Year.**



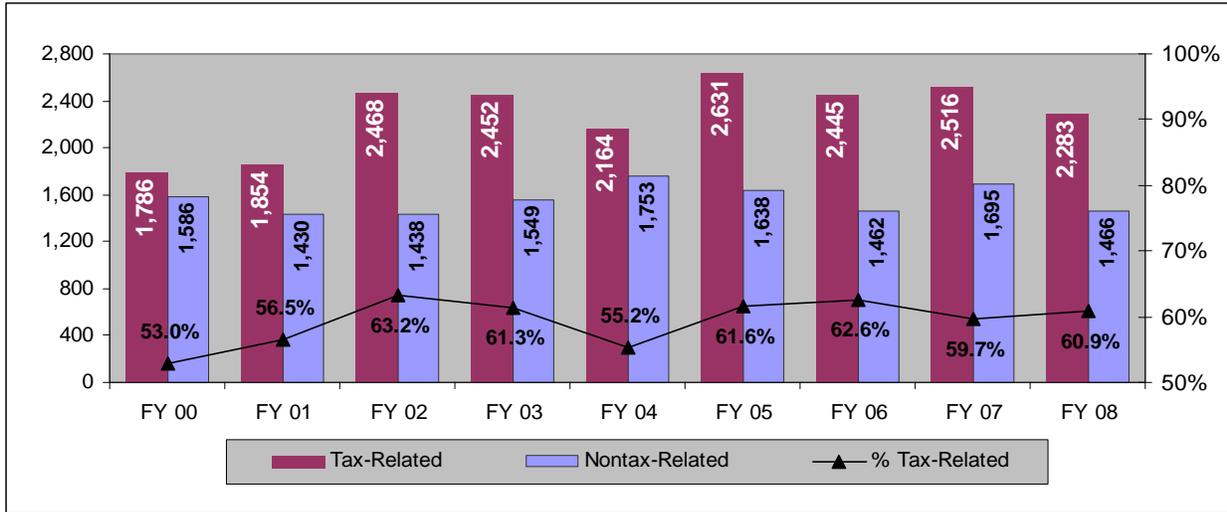
Source: The IRS Data Books (Publication 55B) for FYs 2000 through 2005, CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008, and our analysis based on the number of field special agents provided by the Division.

<sup>2</sup> During FY 2008, the Division changed how it calculates direct investigative time devoted to legal and illegal source tax cases. The Division now calculates "total tax," which is the percentage of direct investigative time devoted to legal source and illegal source tax cases, in lieu of "tax and tax-related" because it is more representative of the total resources the Division commits to its tax enforcement mission. This new computation includes time spent on legal source general investigations that are a source of tax subject investigations.



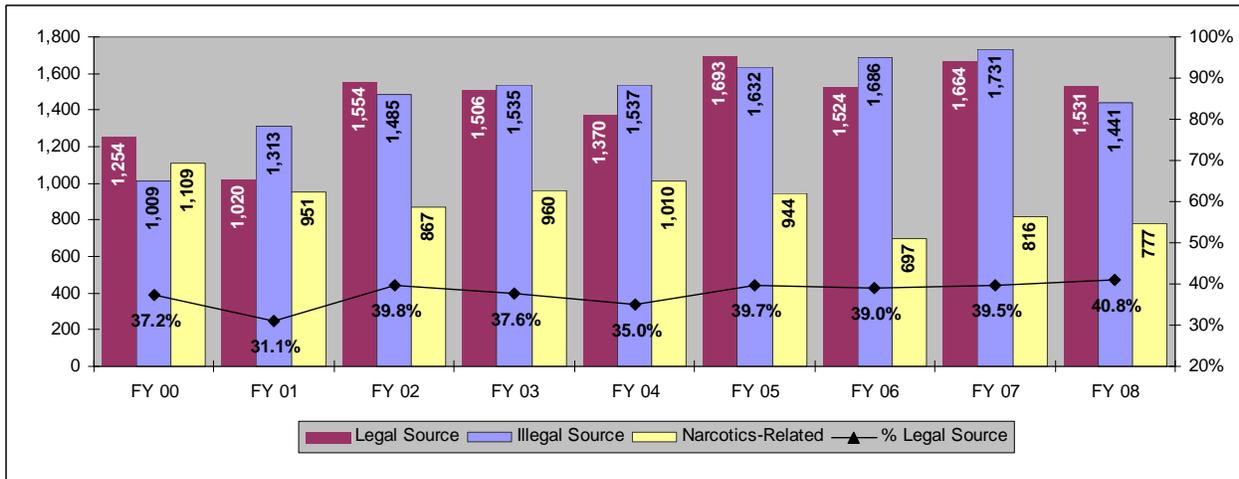
*Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008*

**Figure 5: Number of Subject Investigations Initiated Each Fiscal Year for Tax-Related or Nontax-Related Violations and the Percentage That Is Tax-Related.**



Source: The Division's BPR reports for FYs 2000 through 2005 and CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.

**Figure 6: Number of Subject Investigations Initiated Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes.**

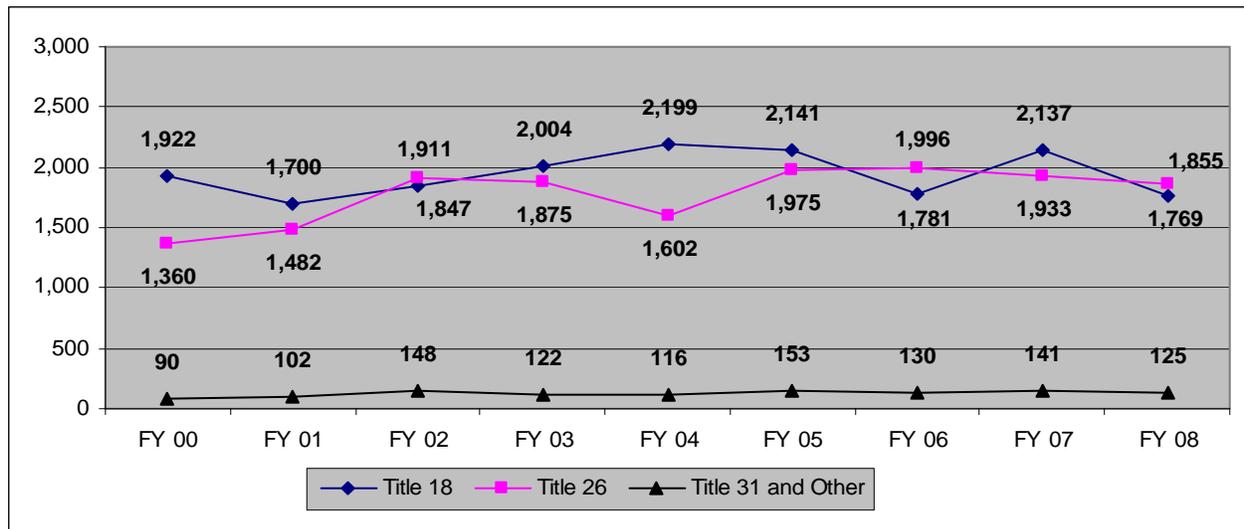


Source: The IRS Data Books (Publication 55B) for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.



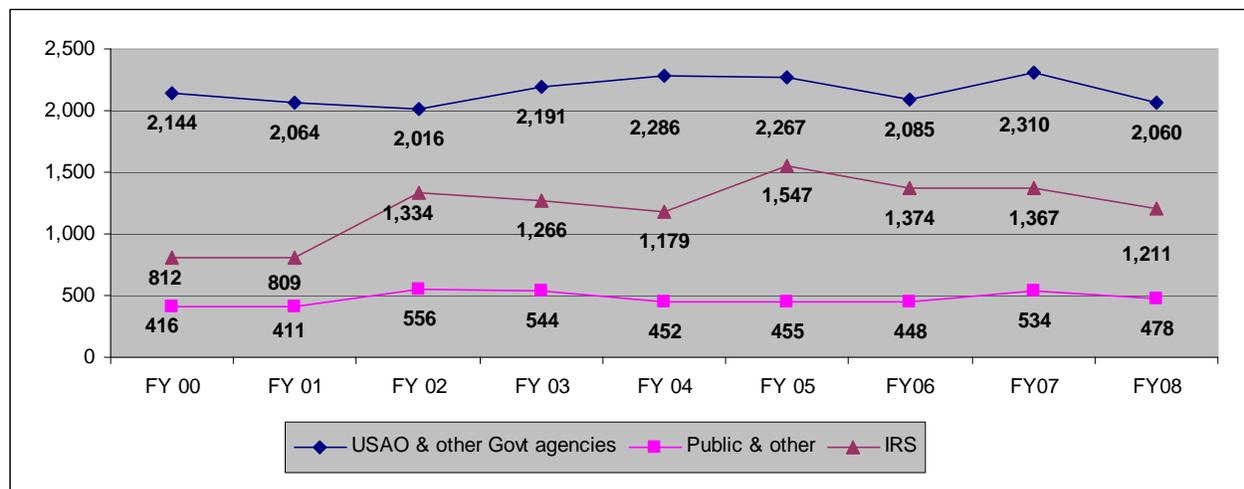
*Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008*

**Figure 7: Number of Subject Investigations Initiated Each Fiscal Year by Principle United States Code Title.**



Source: CIMIS Report 11 (Program Summary Analysis) and the Division's analysis of the CIMIS.

**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.

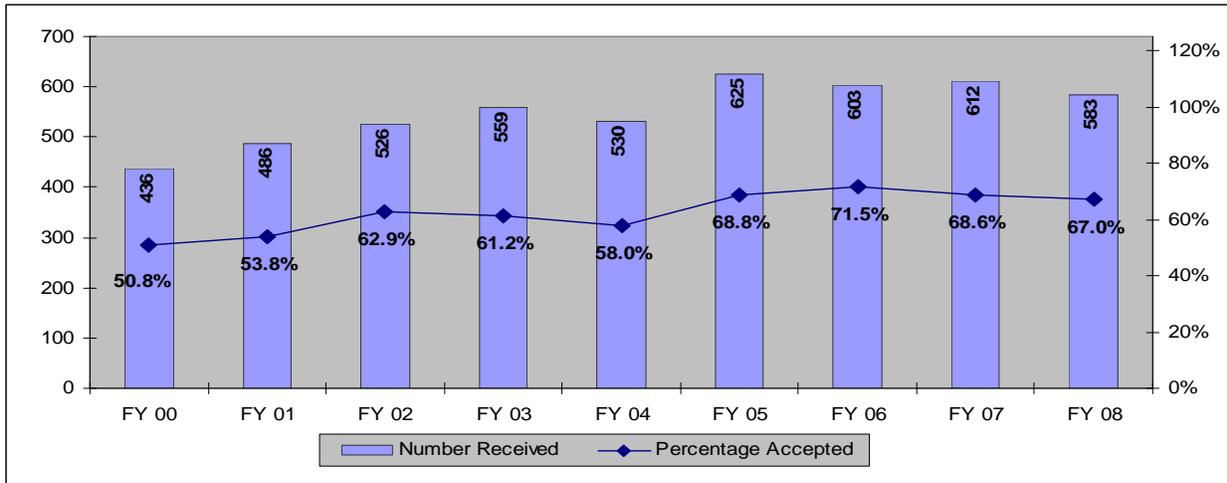


Source: Our analysis of the CIMIS and CIMIS Report 11 (Program Summary Analysis) for FYs 2000 through 2005 and the Division's analysis of the CIMIS for FYs 2006 through 2008. USAO = United States Attorney's Offices



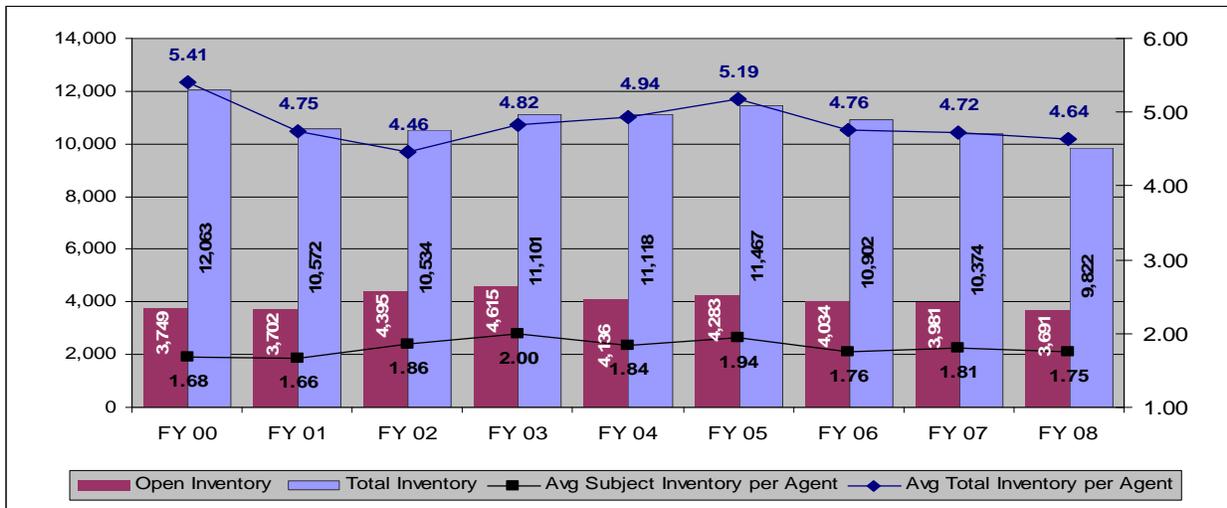
*Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008*

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



Source: The Division's BPR reports for FYs 2000 through 2005 and CIMIS Report INV001 (Criminal Investigation Summary Statistics) for FYs 2006 through 2008.

**Figure 10: Number of Open Subject Investigations and the Total of All Investigations at the End of Each Fiscal Year and the Average Number of Each per Special Agent.<sup>3</sup>**



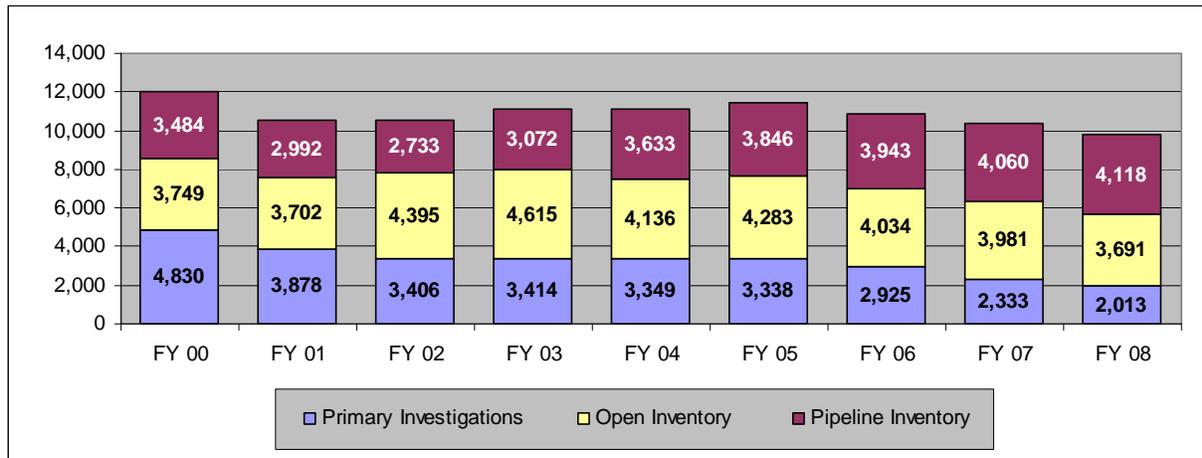
Source: The Division's analysis of the CIMIS.

<sup>3</sup> During FY 2006, the Division revised its formula for determining total inventory. The new formula does not include subject seizure investigation information or open primary investigations if they had a corresponding subject investigation. As a result, the inventory numbers reported in Figure 10 for prior FYs changed and may not agree with our prior reports. Total inventory includes primary investigations not yet elevated to subject investigations, open subject investigations currently being worked in field offices, and subject investigations referred for prosecution (pipeline).



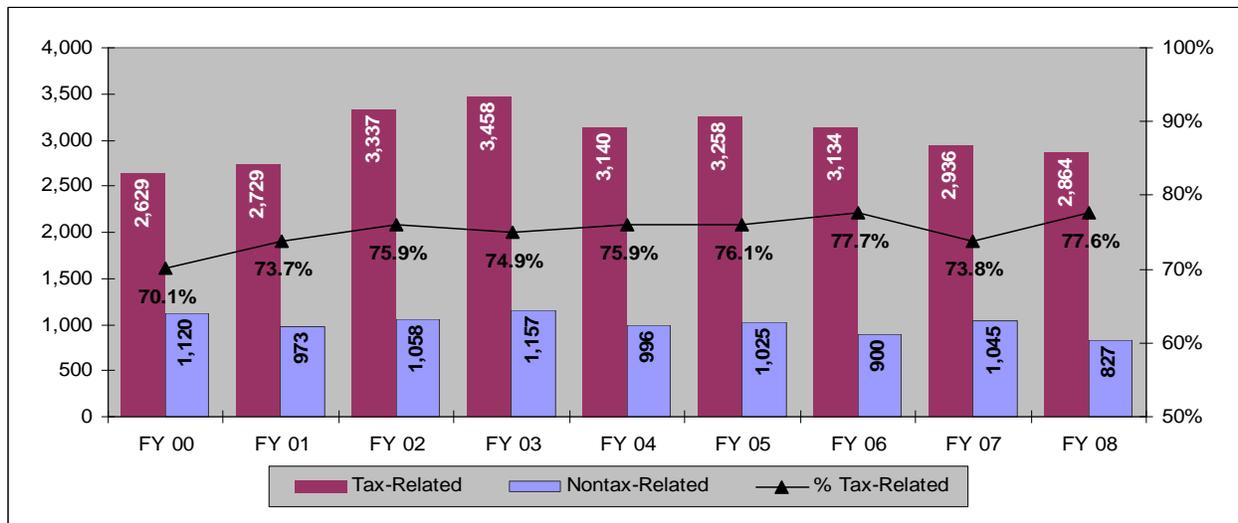
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**Figure 11: Number of All Types of Investigations Open at the End of Each Fiscal Year.<sup>4</sup>**



Source: The Division's analysis of the CIMIS.

**Figure 12: Number of Open Subject Investigations Each Fiscal Year for Tax-Related or Nontax-Related Violations and the Percentage That Is Tax-Related.**



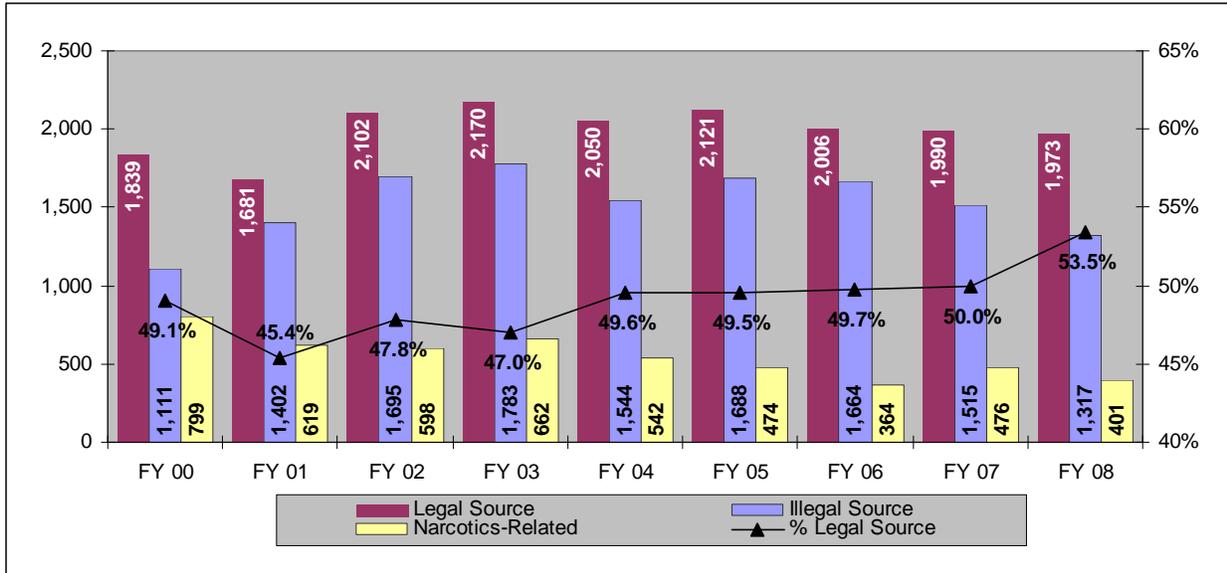
Source: The Division's BPR reports for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.

<sup>4</sup> During FY 2006, the Division revised its formula for determining total inventory. The new formula does not include subject seizure investigation information or open primary investigations if they had a corresponding subject investigation. As a result, the inventory numbers reported in Figure 11 for the prior FYs changed and may not agree with our prior reports. Total inventory includes primary investigations not yet elevated to subject investigations, open subject investigations currently being worked in field offices, and subject investigations referred for prosecution (pipeline).



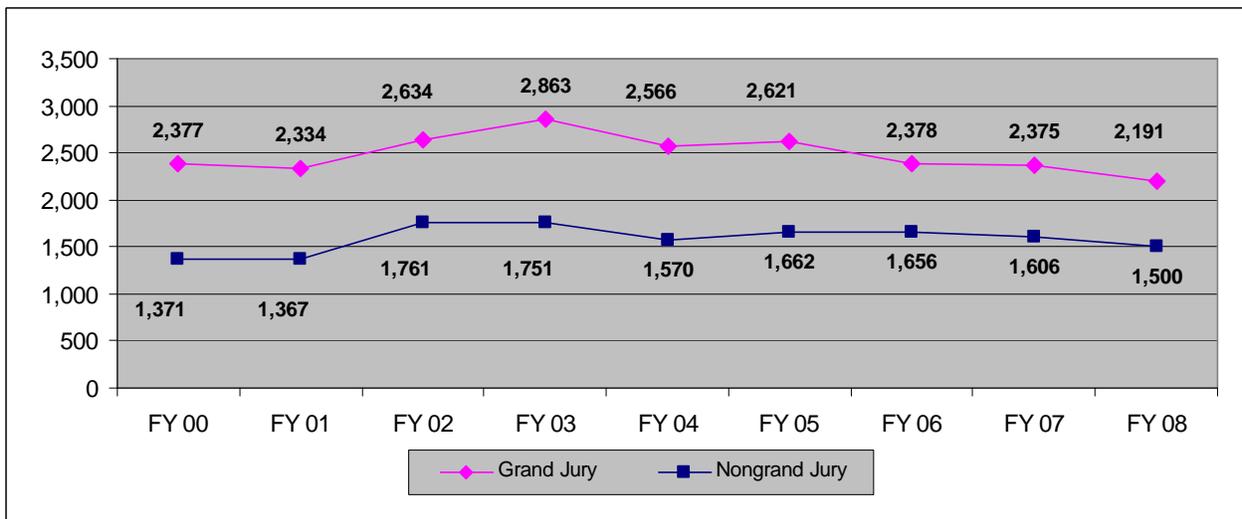
Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008

**Figure 13: Number of Open Subject Investigations Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes.**



Source: The Division's BPR reports for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.

**Figure 14: Number of Open Subject Investigations at the End of Each Fiscal Year by Type of Investigation (Grand Jury or Nongrand Jury).**

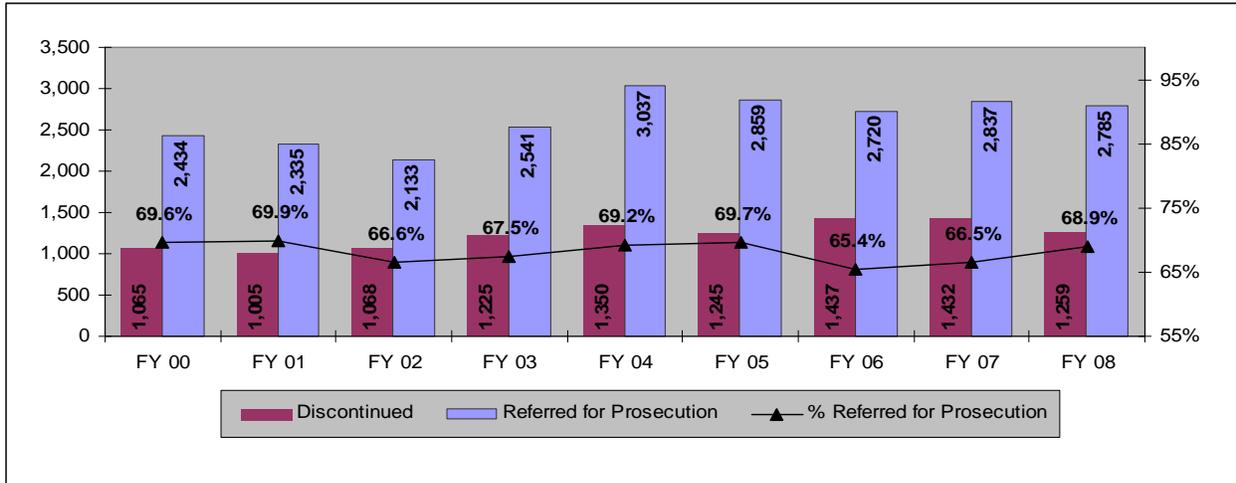


Source: CIMIS Report 11 (Program Summary Analysis) for FYs 2000 through 2007 and the Division's analysis of the CIMIS for FY 2008.



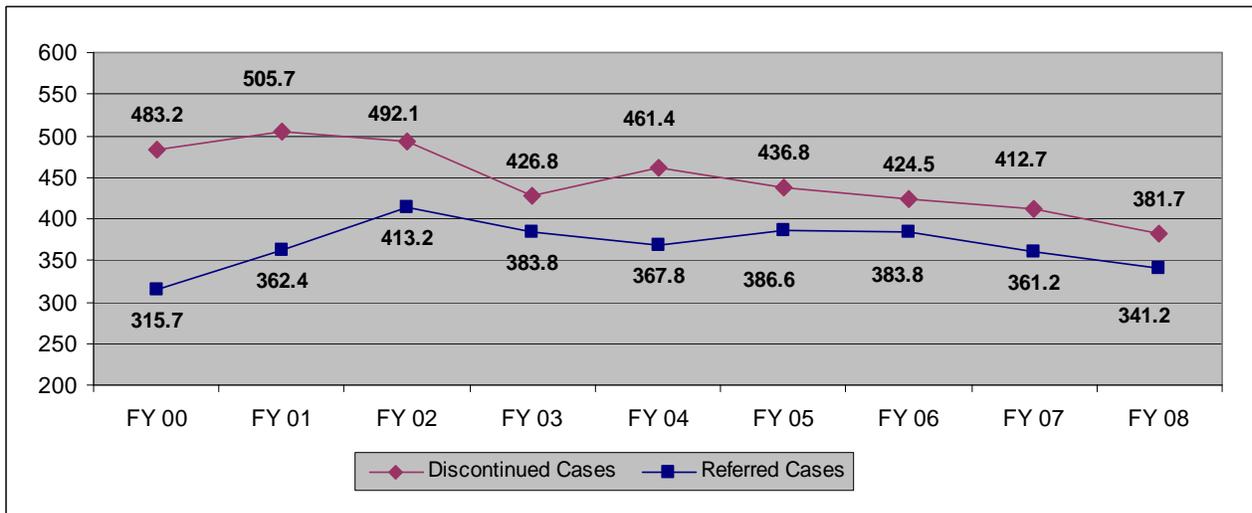
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**Figure 15: Number of Subject Investigations Discontinued or Referred for Prosecution Each Fiscal Year and the Percentage Referred for Prosecution.**



Source: *The IRS Data Books (Publication 55B) for FYs 2000 through 2004, the CIMIS Report 11 (Program Summary Analysis) for FY 2005, and the CIMIS Report INV001 (Criminal Investigation Summary Statistics) for FYs 2006 through 2008.*

**Figure 16: Average Elapsed Days of Subject Investigations Discontinued and Referred for Prosecution Each Fiscal Year.<sup>5</sup>**



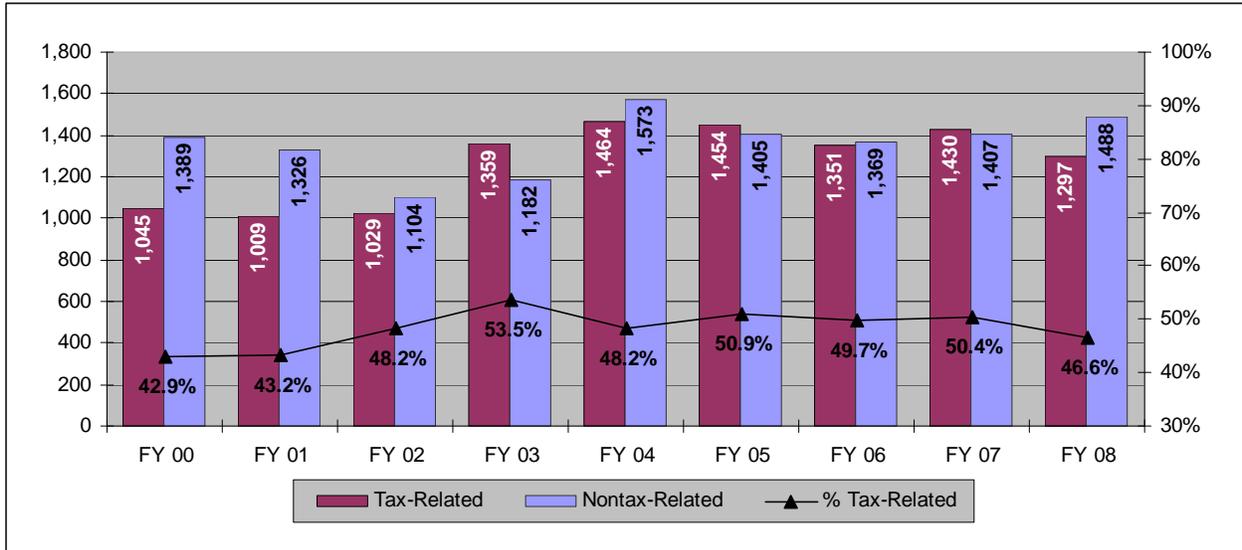
Source: *The Division's analysis of the CIMIS for FYs 2000 through 2007 and the Division's BPR report for FY 2008.*

<sup>5</sup> The Division revised its calculation formula in FY 2006 to include discontinued investigations that had been closed because of lack of resources. As a result, the numbers reported in Figure 16 for prior FYs may have changed and may not agree with our prior reports.



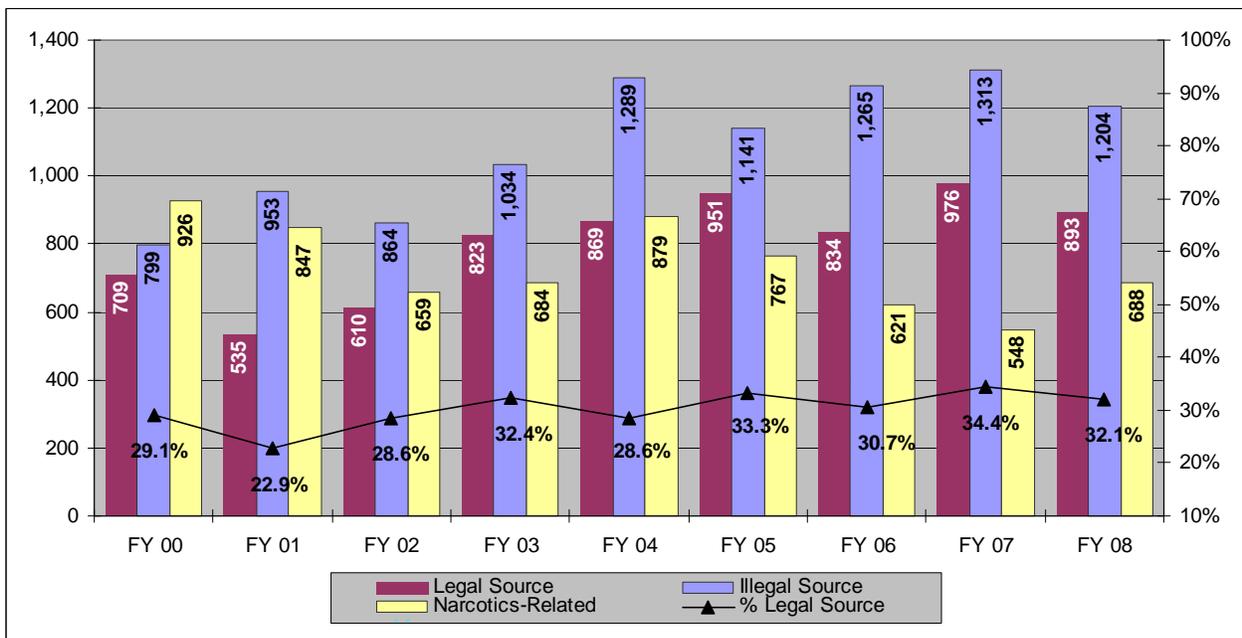
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**Figure 17: Number of Subject Investigations Referred for Prosecution Each Fiscal Year for Tax-Related or Nontax-Related Violations and the Percentage That Is Tax-Related.**



Source: The Division's BPR reports for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.

**Figure 18: Number of Subject Investigations Referred for Prosecution Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes.**

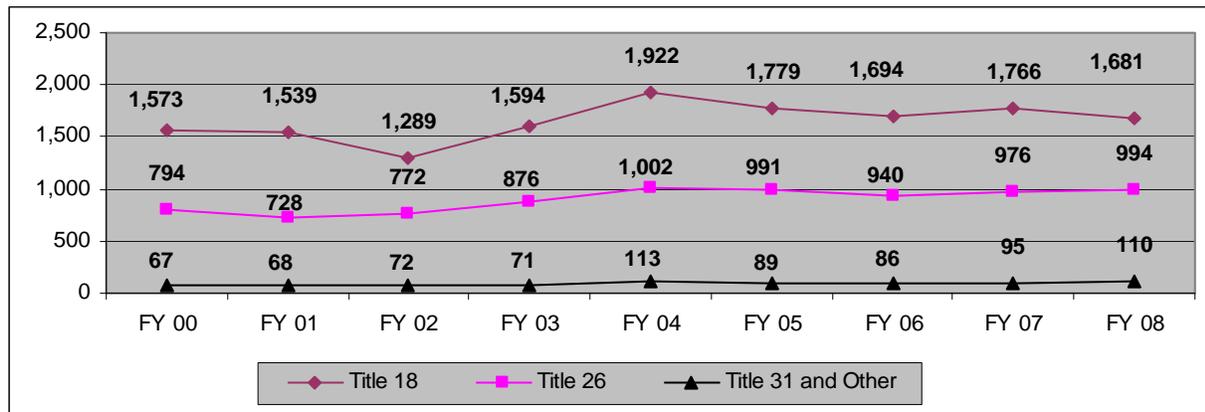


Source: The IRS Data Books (Publication 55B) for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.



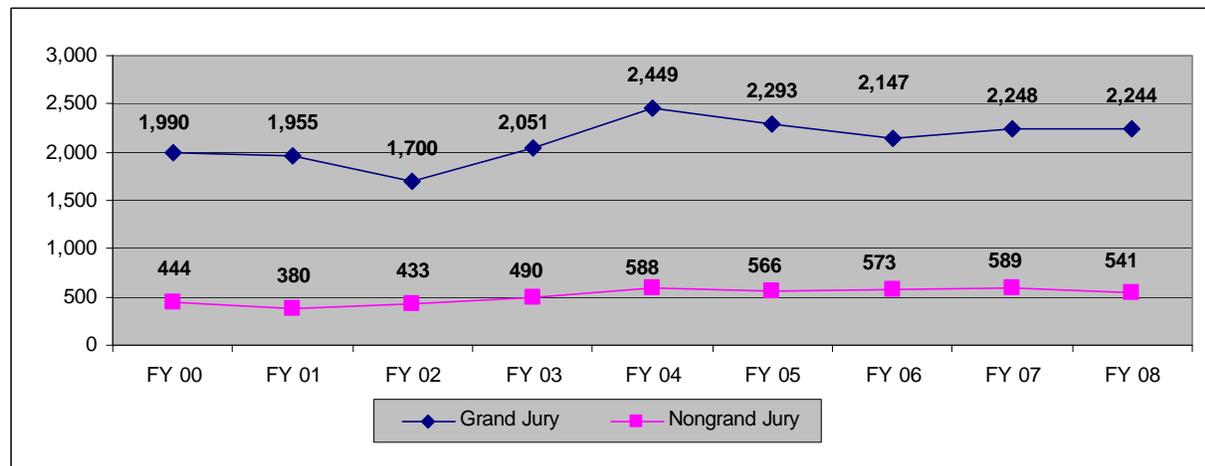
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**Figure 19: Number of Subject Investigations Referred for Prosecution Each Fiscal Year by Principle United States Code Title.**



Source: CIMIS Report 11 (Program Summary Analysis) for FYs 2000 through 2005, the Division's analysis of the CIMIS for FYs 2006 and 2007, and CIMIS Report INV011 (Selected Statistical Summary) for FY 2008.

**Figure 20: Number of Subject Investigations Referred for Prosecution Each Fiscal Year by Type of Investigation (Grand Jury or Nongrand Jury Investigation).**

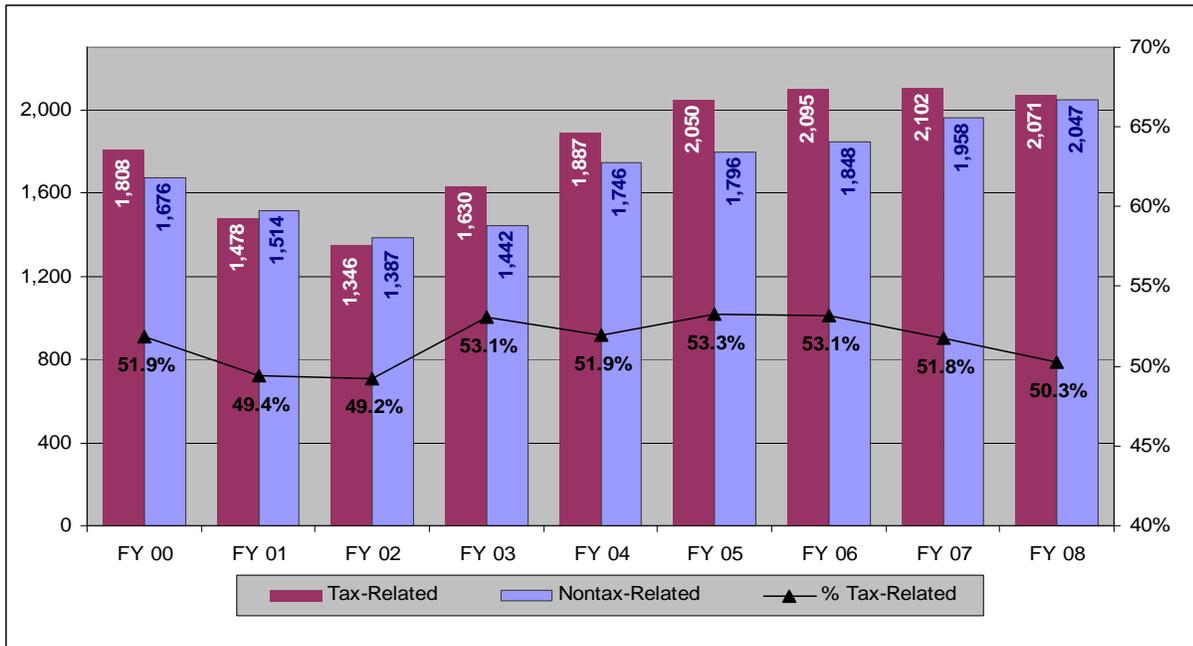


Source: CIMIS Report 11 (Program Summary Analysis) for FYs 2000 through 2005 and the Division's analysis of the CIMIS for FYs 2006 through 2008.



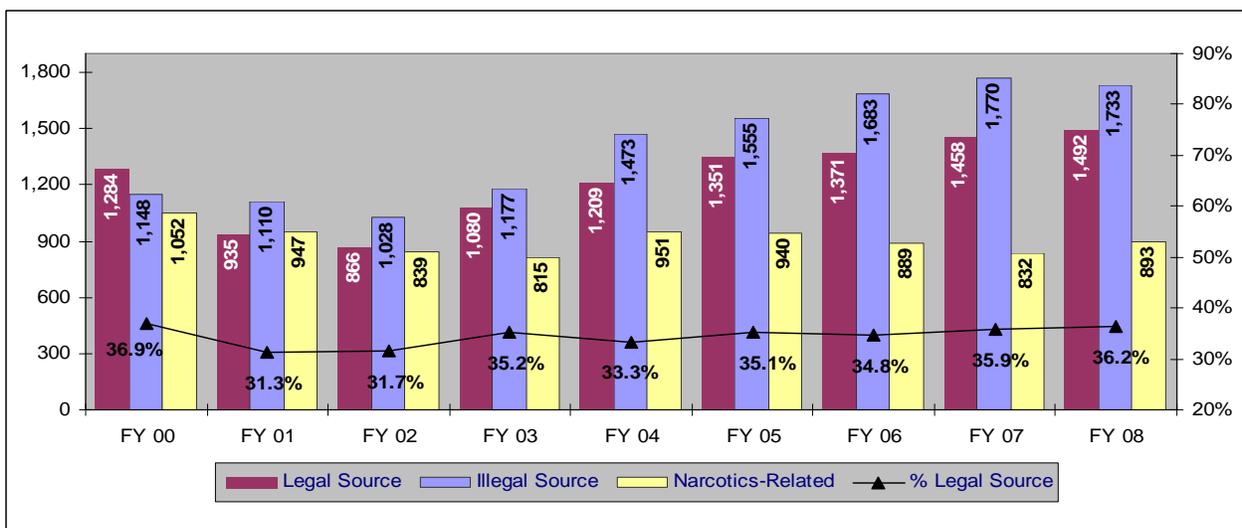
*Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008*

**Figure 21: Number of Tax-Related and Nontax-Related Subject Investigations in the Pipeline Each Fiscal Year and the Percentage That Is Tax-Related.**



Source: The Division's BPR reports for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.

**Figure 22: Number of Subject Investigations in the Pipeline Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes.**

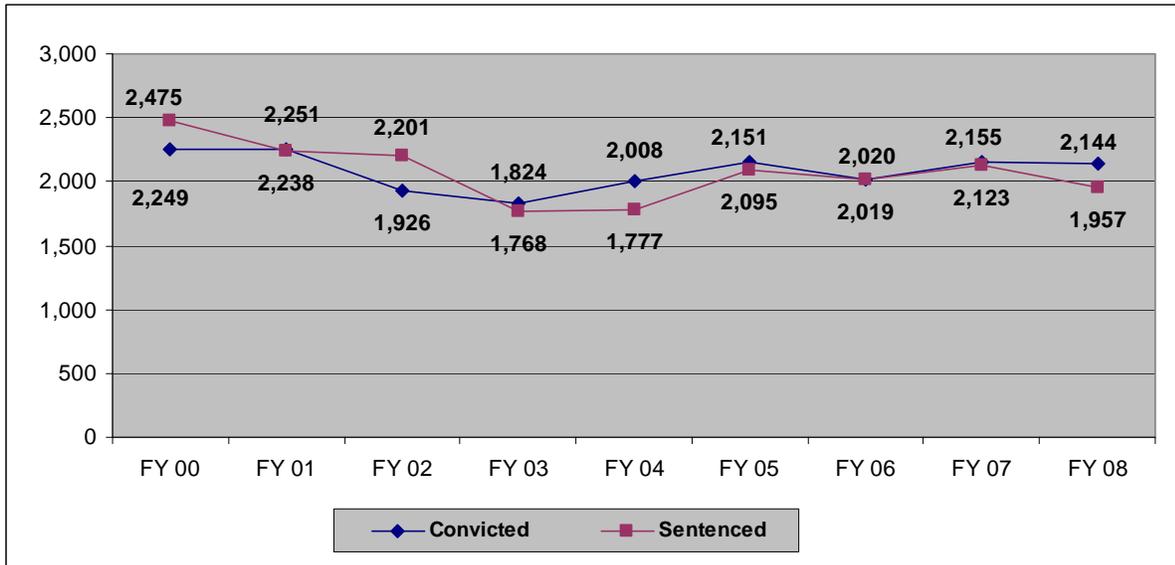


Source: The Division's BPR reports for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.



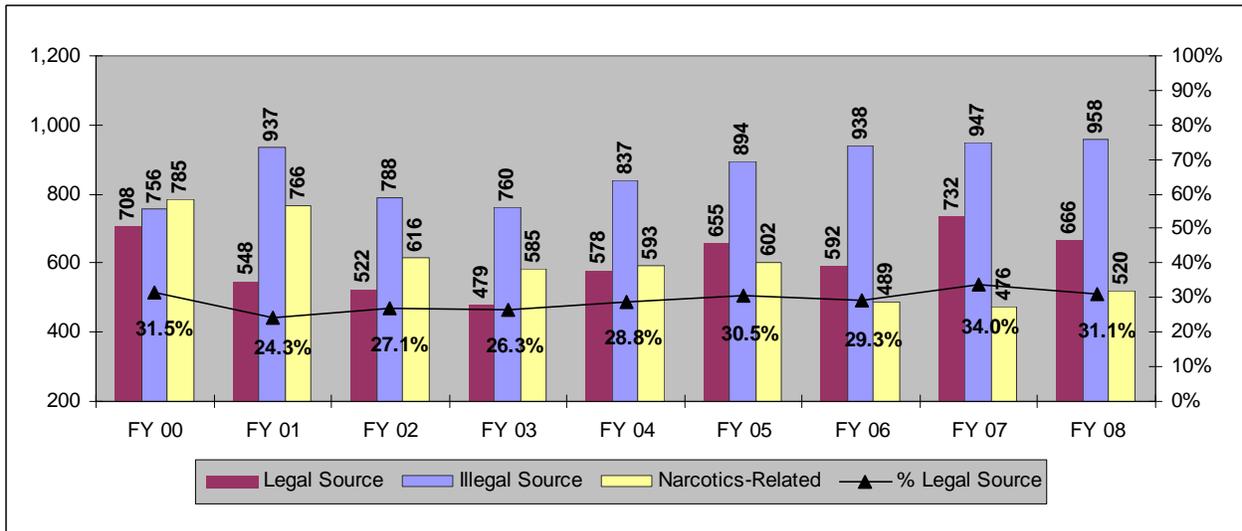
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**Figure 23: Number of Subjects Convicted and Sentenced for a Crime Each Fiscal Year.**



Source: *The IRS Data Books, Publication 55B, for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.*

**Figure 24: Number of Subjects Convicted of a Crime Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes.**

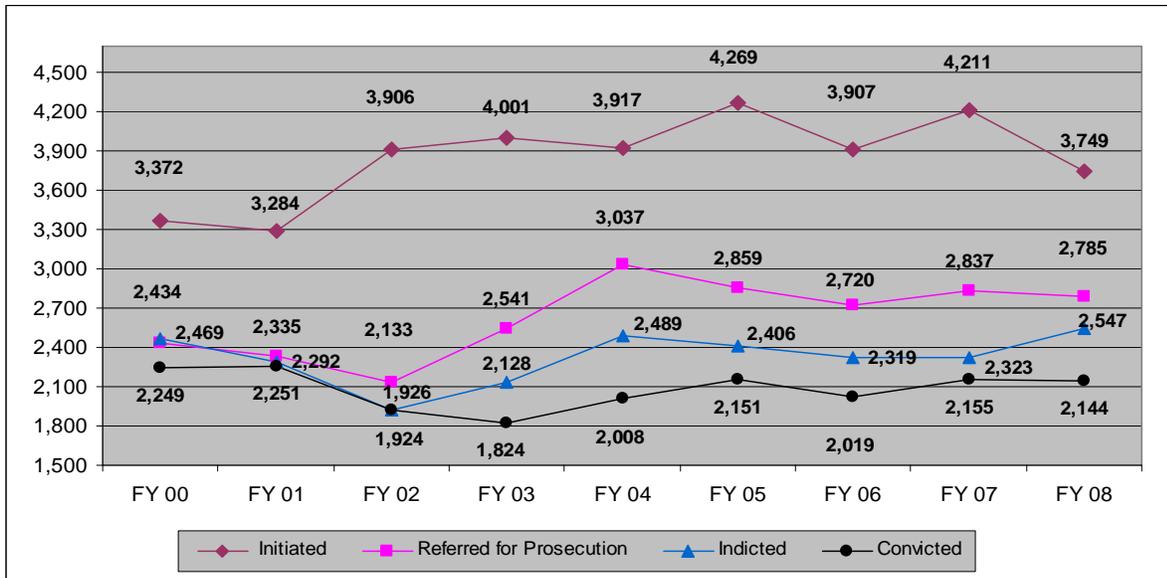


Source: *The IRS Data Books (Publication 55B) for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.*



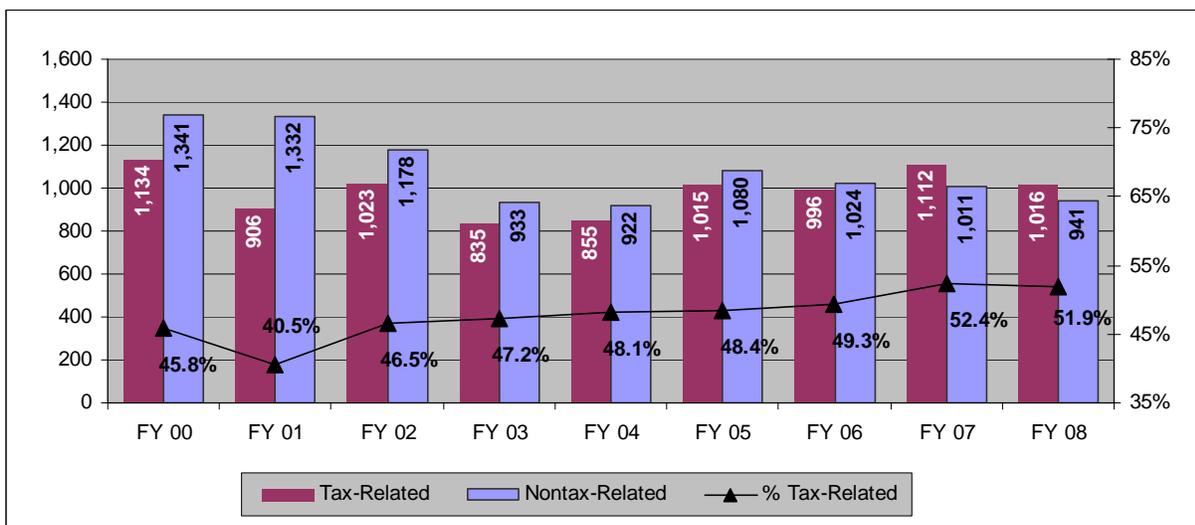
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**Figure 25: Number of Subject Investigations Initiated, Referred for Prosecution, Indicted, and Convicted Each Fiscal Year.** Because actions on a specific investigation may cross fiscal years, the data shown in investigations initiated may not always represent the same universe of investigations shown in other actions within the same fiscal year.



Source: *The IRS Data Books (Publication 55B) for FYs 2000 through 2005 and the CIMIS Report INV001 (Criminal Investigation Summary Statistics) for FYs 2006 through 2008.*

**Figure 26: Number of Subjects Sentenced for a Crime Each Fiscal Year for Tax-Related or Nontax-Related Violations and the Percentage That Is Tax-Related.**

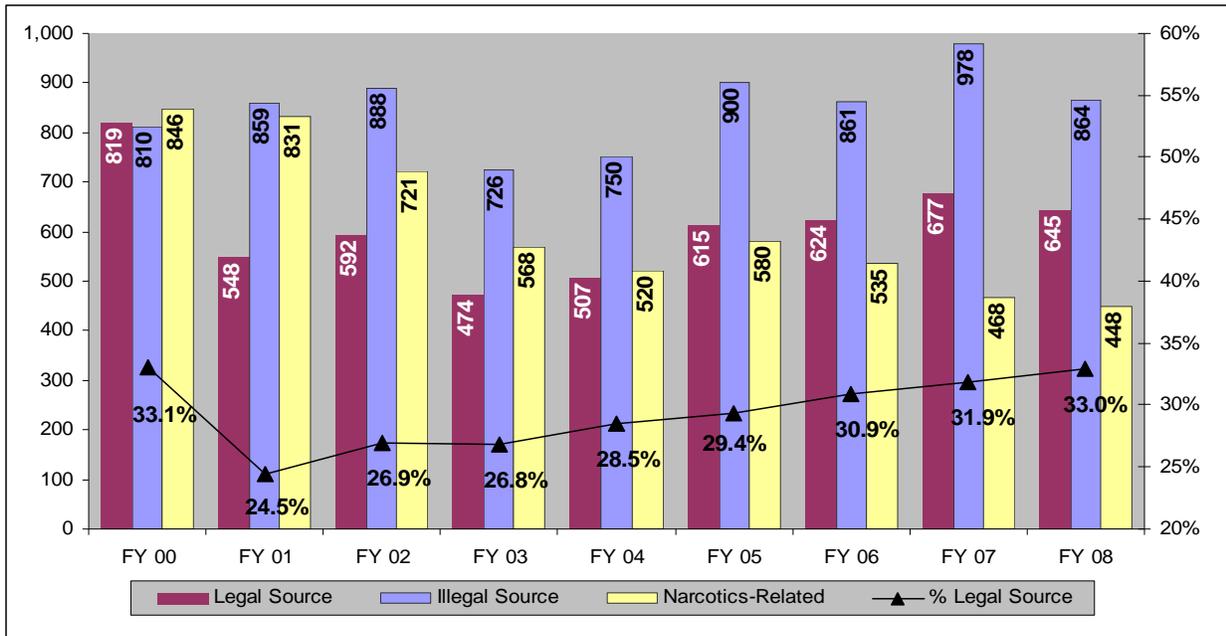


Source: *The Division enforcement statistics from the IRS internet web site for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.*



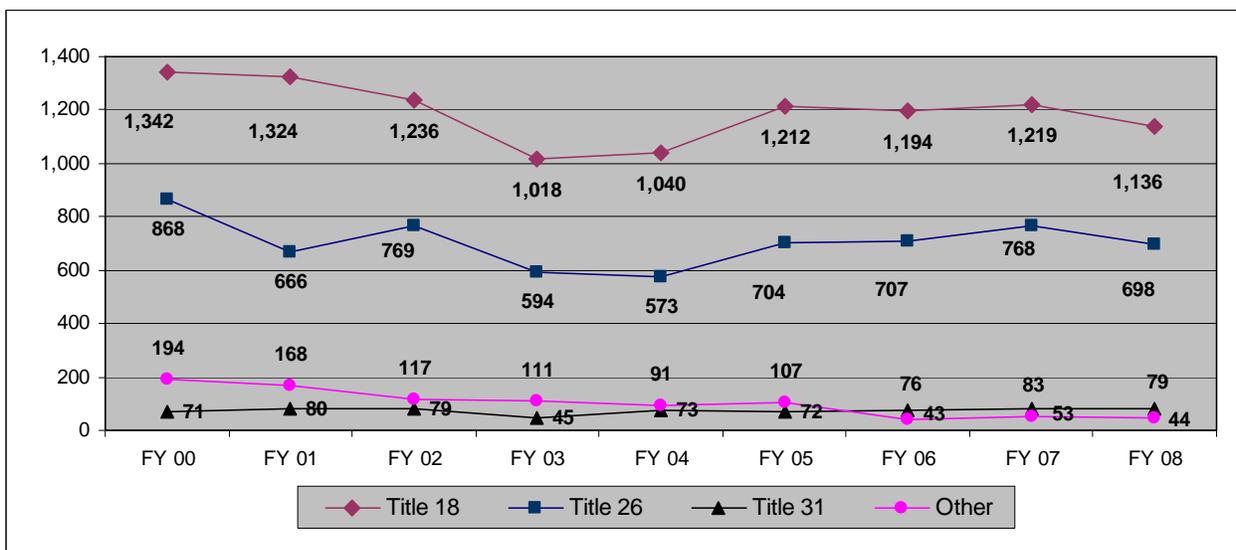
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**Figure 27: Number of Subjects Sentenced for a Crime Each Fiscal Year by Compliance Strategy Program and the Percentage That Is Legal Source Tax Crimes.**



Source: The IRS Data Books (Publication 55B) for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.

**Figure 28: Number of Subjects Sentenced for a Crime Each Fiscal Year by Principle United States Code Title.**

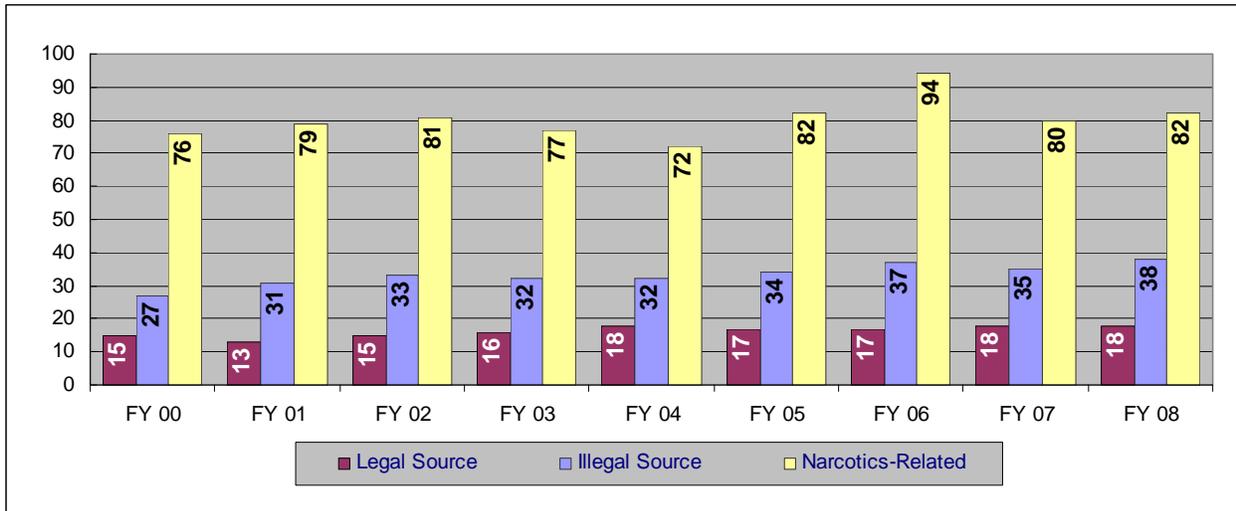


Source: CIMIS Report 11 (Program Summary Analysis) for FYs 2000 through 2005 and the Division's analysis of the CIMIS for FYs 2006 through 2008.



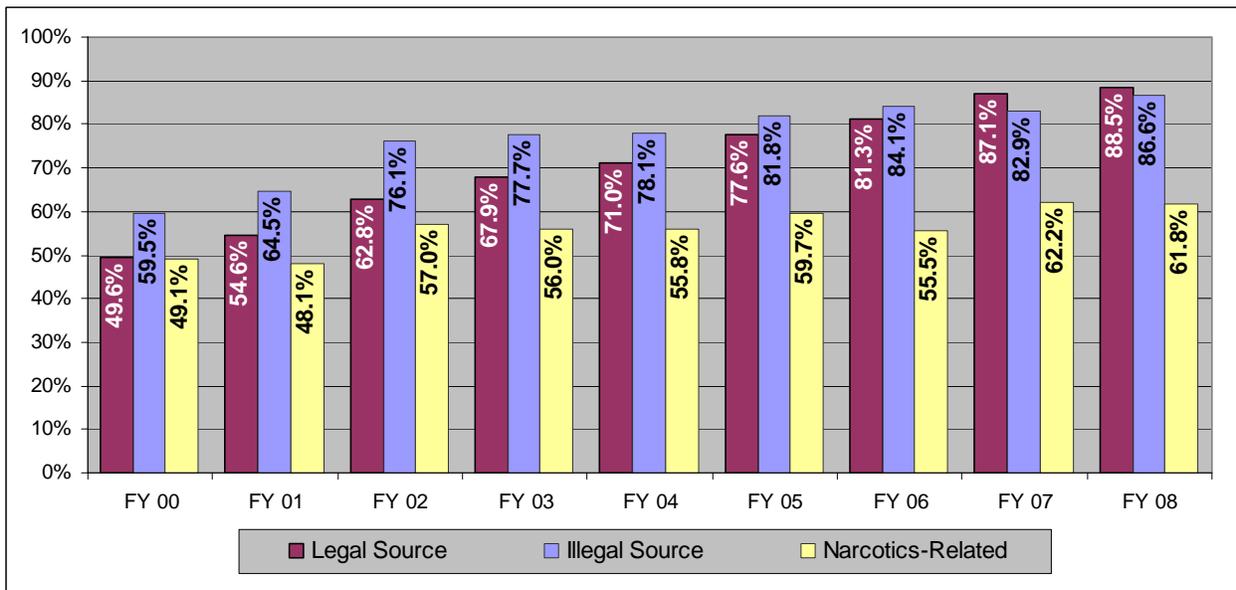
*Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2008*

**Figure 29: Average Number of Months a Subject Is Incarcerated Each Fiscal Year by Compliance Strategy Program.** Incarcerated may include prison time, home confinement, electronic monitoring, or a combination thereof.



Source: The Division's analysis of the CIMIS for FYs 2000 through 2005 and the CIMIS Report INV002 (Summary by Program Area) for FYs 2006 through 2008.

**Figure 30: Percentage of Investigations That Received Publicity Each Fiscal Year by Compliance Strategy Program.**



Source: The Division's BPR reports.



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*Statistical Portrayal of the Criminal Investigation Division's  
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## **Appendix VI**

### *Related Treasury Inspector General for Tax Administration Audit Reports*

1. *Statistical Portrayal of the Criminal Investigation Function's Enforcement Activities From Fiscal Year 1999 Through Fiscal Year 2003* (Reference Number 2004-10-115, dated June 29, 2004).
2. *The Criminal Investigation Function Has Made Progress in Investigating Criminal Tax Cases; However, Challenges Remain* (Reference Number 2005-10-054, dated March 31, 2005).
3. *Statistical Portrayal of the Criminal Investigation Function's Enforcement Activities From Fiscal Year 2000 Through Fiscal Year 2005* (Reference Number 2006-10-074, dated May 12, 2006).
4. *Statistical Portrayal of the Criminal Investigation Function's Enforcement Activities From Fiscal Year 2000 Through Fiscal Year 2006* (Reference Number 2007-10-083, dated June 6, 2007).
5. *While Renowned for Its Forensic Capabilities, the Digital Evidence Program Faces Challenges and Needs More Controls* (Reference Number 2008-10-106, dated April 30, 2008).
6. *Statistical Portrayal of the Criminal Investigation Division's Enforcement Activities for Fiscal Years 2000 Through 2007* (Reference Number 2008-10-133, dated July 9, 2008).