

# ENSURING THE INTEGRITY OF SOCIAL SECURITY PROGRAMS

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## HEARING BEFORE THE SUBCOMMITTEE ON SOCIAL SECURITY OF THE COMMITTEE ON WAYS AND MEANS HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

MAY 10, 2001

**Serial No. 107-30**

Printed for the use of the Committee on Ways and Means



U.S. GOVERNMENT PRINTING OFFICE

74-224

WASHINGTON : 2001

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For sale by the Superintendent of Documents, U.S. Government Printing Office  
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**ENSURING THE INTEGRITY OF SOCIAL  
SECURITY PROGRAMS**

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**THURSDAY, MAY 10, 2001**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
SUBCOMMITTEE ON SOCIAL SECURITY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:07 a.m., in room B-318 Rayburn House Office Building, Hon. E. Clay Shaw, Jr. (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

# ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS  
SUBCOMMITTEE ON SOCIAL SECURITY

## SUBCOMMITTEE ON SOCIAL SECURITY

FOR IMMEDIATE RELEASE  
May 3, 2001  
No. SS-2

CONTACT: (202) 225-9263

### Shaw Announces Hearing on Ensuring the Integrity of Social Security Programs

Congressman E. Clay Shaw, Jr., (R-FL), Chairman, Subcommittee on Social Security of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on ensuring the integrity of Social Security programs. **The hearing will take place on Thursday, May 10, 2001, in room B-318 Rayburn House Office Building, beginning at 10:00 a.m.**

Oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

#### BACKGROUND:

Nearly \$430 billion in Social Security and Supplemental Security Income (SSI) benefits were paid last year to about 45 million retired and disabled workers and their families, and to more than 6 million SSI recipients. These benefits represent the largest expenditure in the Federal budget today. Moreover, benefit amounts will continue to increase during this decade due to increasing workloads caused by the aging Baby Boom generation.

Ensuring the integrity of Social Security programs remains an important goal of the Social Security Administration (SSA). Agency objectives supporting this goal include making accurate benefit payments, reducing the backlogs of continuing disability reviews, improving accuracy and timeliness in posting earnings, increasing debt collections, and aggressively deterring, identifying, and resolving fraud.

Yet, despite SSA's efforts, certain Social Security and SSI program activities continue to be subject to abuse. Examples include prisoners, fugitive felons, and the deceased continuing to receive benefits they are not entitled to, along with benefit payments being misused by representative payees (individuals or organizations who have been designated by SSA to receive benefit payments directly from the agency on the recipient's behalf). During the 106<sup>th</sup> Congress, the Administration and SSA's Office of Inspector General submitted draft legislation to enhance the agency's ability to address these and other program abuses. Many of the provisions submitted were included in H.R. 4857, the "Social Security Number Privacy and Identity Theft Prevention Act of 2000," which was approved by the Committee on Ways and Means at the end of last year. However, the bill was not considered by the full House of Representatives before the end of the session, due to its referral to other committees of jurisdiction that did not take action on the bill.

In announcing the hearing, Chairman Shaw stated: "We must be certain Social Security is doing everything it can to protect the integrity of Social Security programs—*before* massive numbers of Baby Boomers start to qualify for benefits. Ef-

forts to stop benefits to those who are not entitled must increase as must efforts to protect Social Security beneficiaries who depend on representative payees to handle their affairs. I look forward to hearing more about action being taken, how these efforts can be improved, and how proposed legislation will help.”

#### **FOCUS OF THE HEARING:**

The hearing will examine the SSA’s efforts to stop benefits from being paid to those who are ineligible for benefits and to prevent misuse of benefits by representative payees. Witnesses will also comment on legislative proposals aimed at improving the agency’s ability to ensure the integrity of Social Security programs.

#### **DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Any person or organization wishing to submit a written statement for the printed record of the hearing should *submit six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, with their name, address, and hearing date noted on a label*, by the close of business, Thursday, May 24, 2001, to Allison Giles, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Social Security office, room B-316 Rayburn House Office Building, by close of business the day before the hearing.

#### **FORMATTING REQUIREMENTS:**

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, typed in single space and may not exceed a total of 10 pages including attachments. **Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.**

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at “[HTTP://WWW.HOUSE.GOV/WAYS\\_MEANS/](http://WWW.HOUSE.GOV/WAYS_MEANS/)”.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman SHAW. Good morning. Welcome to today's hearing. It will be on ensuring the integrity of the Social Security programs. This past year, Social Security paid out about \$430 billion in Social Security and supplemental security income benefits to nearly 50 million people who are unable to work due to age or to disability. We must be certain that Social Security is doing everything it can to protect the integrity of the Social Security programs before massive numbers of baby boomers start to qualify for benefits. Getting those payments right is a huge task in and of itself. In addition, we must have smart aggressive measures to prevent fraud and recover misspent money.

This Committee has worked closely with the Social Security Administration (SSA) to address waste and fraud in the Social Security programs. Welfare reform included landmark legislation insuring that checks go to the right people, preventing prisoners from getting cash benefits, and helping the agency better recover overpayments.

These efforts have saved literally billions of dollars boosting taxpayers confidence that their money is being spent wisely and as it should be spent. During the 106th Congress, the Subcommittee held several hearings on the integrity of the Social Security programs. We examined SSA's and the Office of Inspector General's policies to combat fraud and abuse in Social Security programs, SSA's oversight of representative payee programs and proposed changes to the law submitted by the agency to address these very issues. Many of the legislative proposals considered at these hearings were included as part of H.R. 4857, the Social Security Number Privacy and Identity Theft Prevention Act of 2000.

Although this Act was approved by the full Committee, it was not considered by the full House before the end of the session due to its referral to other committees with jurisdiction that did not take action on the bill. Today we continue what we started last Congress. We begin with an update from SSA and the Inspector General on their efforts to ensure program integrity.

We will also hear their recommendations for legislation that they support to improve their effectiveness as stewards of the Social Security programs. We will then hear from our final panel. They are individuals on the frontline who represent claimants and who enforce the law. Their real life experience will shed light on the true value of the proposed legislation. Soon I intend to reintroduce common sense legislation to combat waste and fraud in Social Security programs.

Like last year, I intend to work closely with my friend and colleague, Mr. Matsui, and all of the colleagues on the Subcommittee in a very bipartisan way to ensure that this bill continues to have the bipartisan support that it enjoyed last year.

Mr. Matsui.

[The opening statement of Chairman Shaw follows:]

**Opening Statement of the Hon. E. Clay Shaw, Jr., M.C., Florida, and  
Chairman, Subcommittee on Social Security**

Welcome to today's hearing on ensuring the integrity of Social Security programs.

This past year, Social Security paid about \$430 billion in Social Security and Supplemental Security Income benefits to nearly 50 million people who are unable to work due to age or disability.

We must be certain Social Security is doing everything it can to protect the integrity of Social Security programs—*before* massive numbers of Baby Boomers start to qualify for benefits. Getting those payments right is a huge task by itself. In addition, we must have smart, aggressive measures to prevent fraud and recover misspent money.

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Although H.R. 4857 was approved by the full Committee, it was not considered by the full House before the end of the session due to its referral to other committees of jurisdiction who did not take action on the bill.

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We will then hear from our final panel. They are individuals on the front line who represent claimants and who enforce the law. Their real life experiences will shed light on the true value of proposed legislation.

Soon, I intend to reintroduce common sense legislation to combat waste and fraud in Social Security programs. Like last year, I intend to work with Mr. Matsui and all of my colleagues on the Subcommittee to ensure the bill has bipartisan support.

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Mr. MATSUI. Thank you very much, Chairman Shaw. I would like to thank and acknowledge you for calling the hearing and obviously to welcome our witnesses today. One of the most important services the Social Security Administration provides is the delivery of benefits to the critically ill and severely disabled through designated representative payees. The representative payee system can be improved to deliver better services and obviously to reduce fraud.

The Social Security Administration needs to speed up compensation to beneficiaries who were defrauded by these representative payees and the Office of Inspector General (IG) needs statutory law enforcement authority, thereby enhancing the IG's ability to investigate alleged cases of fraud.

The Subcommittee must ensure that the Social Security Administration is funded at an adequate level to meet future workload demands, including continued prevention and deterrence of program fraud. The Independent Social Security Advisory Board concluded in one of its reports earlier this year, and I quote, "the Social Security Administration's administrative budget shortfall, which is undermining its ability to provide appropriate level of services to the American people needs to be addressed." The board further argued that the Congress and the administration should provide the agency with a budget that fits the needs of Social Secu-

rity's contributors and beneficiaries. I wholly agree with that statement.

Given the testimony that this Subcommittee has heard about the staffing and administrative challenges that Social Security Administration faces as part of the aging of the baby boom population, this Subcommittee should ensure the Social Security Administration has the resources for its needs.

I am hopeful we will be able to continue to work as we have, Mr. Chairman, in a bipartisan fashion and obviously meet the needs of Social Security Administration in the coming years. Thank you.

Chairman SHAW. Thank you, Bob. I have a statement that Mr. Wally Herger has asked be placed in the record at this time, and without objection I will do so.

[The information follows:]

**Statement of Hon. Wally Herger, a Representative in Congress from the State of California**

I congratulate Chairman Shaw for calling this hearing today on ensuring the integrity of Social Security programs. Given the importance of Social Security and related benefits to millions of families across America, there's hardly a more important topic that comes before us.

I especially would like to commend the Social Security Subcommittee, and the Human Resources Subcommittee I now chair, for their past efforts to ensure the right benefits go to the right people in keeping with the law and just plain common sense.

That hasn't always been the case. When Republicans became the majority party in the House in 1995, one of the first things we did was end the eligibility of drug addicts and alcoholics for Supplemental Security Income (SSI) cash benefits. Before then, the law provided if someone was disabled from working because they drank too much or took drugs, they were entitled to a government check.

It's hard to imagine a more perverse, irresponsible, and anti-work policy. Taxpayers perceived it as a waste of their money, it perpetuated rather than solved beneficiaries' addictions, and it undermined the entire SSI Program. Incredible as it may seem, the number one reason drug addicted or alcoholic beneficiaries left the program was not because they got treatment and recovered, or went to work despite their addictions, but because they died. We were literally subsidizing addicts to death. Some even had their government checks sent straight to their favorite liquor store or corner bar. That is now changed, and today no one qualifies for SSI disability checks only on the basis of drug addiction or alcoholism.

Other important changes involved ending benefits for prisoners. Some people were shocked to learn prisoners kept getting means tested benefits behind bars. But while the law long provided that those on SSI should not receive benefits while in jail, it was left to the beneficiary to report his or her incarceration so benefits would end. Naturally, few did. But working with Sheriff Mick Grey of Butte County, California in my Congressional District and the Social Security Inspector General, I drafted legislation that resulted in the "bounty" system that now encourages local jails to report prisoner lists for matching against SSI rolls. The result has been tens of thousands of inmates no longer getting benefits.

Still another program integrity step that is working involves fugitive felons. The welfare reforms we made in 1996 ended the eligibility of fugitive felons and probation and parole violators for SSI benefits. According to testimony submitted for today's hearing by the Social Security Inspector General, some 28,000 fugitives have been identified and removed from the SSI rolls since then. That is a tremendous result in itself. However, we also took the step of directing the Social Security Commissioner to provide State and local law enforcement officials with locator information about fugitives so they could be apprehended, starting with the most dangerous ones.

I understand the Inspector General proposes in his testimony to expand the fugitive felon prohibition to include Social Security as well as SSI benefits. This is an excellent suggestion that would result in additional savings to taxpayers. To their credit, the Social Security Administration testifies they are willing to explore this change as well. Other improvements, such as Social Security's tapping additional sources of fugitive information, may result in even greater savings for taxpayers.

Chairman SHAW. And any of the members that have an opening statement they wish to include in the record, I'll be glad to include that also.

Our first witness this morning is Mr. Streckewald, who is acting assistant deputy commissioner of the Office of Disability Income and Security Programs. Welcome. We have your entire—the text of your entire statement, which will be placed into record. You may feel free to summarize in any way you feel comfortable.

**STATEMENT OF FRITZ STRECKEWALD, ACTING ASSISTANT DEPUTY COMMISSIONER, DISABILITY AND INCOME SECURITY PROGRAMS, SOCIAL SECURITY ADMINISTRATION**

Mr. STRECKEWALD. Chairman Shaw, Congressman Matsui and Members of the Subcommittee, thank you for inviting me to discuss SSA's efforts to ensure the integrity of the Social Security programs. I welcome the opportunity to talk about our efforts to prevent misuse of benefits by representative payees and our efforts to stop the payment of benefits to those who are ineligible. I also want to discuss legislative proposals that, if enacted, would allow the Social Security Administration to do a better job of ensuring the integrity of our programs.

As you know, we place great importance on our role as the steward for the Old Age Survivors and Disability Insurance (OASDI) program and the Supplemental Security Income (SSI) program. In fact, \$1 out of every \$4 in SSA's administrative budget is dedicated to program stewardship and program integrity. One area to which we have devoted particular attention is our representative payee program. We are deeply committed to protecting the 6.5 million beneficiaries who are paid \$30 billion per year through their representative payees. Our goal is to select the most qualified individual or organization to serve as payee for our most vulnerable beneficiaries: those who cannot manage their own funds. We investigate all payees before they are selected and we provide detailed information to payees as to their responsibilities and their duties to the beneficiary.

SSA requires annual accounting by these representative payees of all the benefits received and how they were spent. In general, the representative payee program works well. Misuse of funds occurs in less than 1/100th of 1 percent of all cases. However, when problems occur, the result is almost always hardship on the beneficiary. Therefore, we are constantly working to strengthen the representative payee program.

Last year, we described to you our plans for improving the administration of our representative payee program, and I would like to take just a moment today to update you on some of these initiatives. We began a triennial on-site review program of all 825 fee-for-service payees, all organizational payees who serve 100 or more beneficiaries, and all individual payees serving 20 or more beneficiaries. In the past year approximately 540 of these reviews have been conducted. I am pleased to report that the incidence of misuse found has been minimal.

Currently, nongovernmental, fee-for-service organizations must be either licensed or bonded to serve as representative payees. Beginning last June we began a program to systematically verify on an annual basis that the bonding or licensing requirement continues to be met.

Beginning with fee-for-service payees newly appointed in January 2000, we began site visits 6 months after their initial appointment as payee. This visit ensures that they fully understand their duties and responsibilities as payees.

Each year SSA will conduct a random sample of 30 percent of volume payees and fee-for-service payees that have not already been selected for the triennial review.

SSA also continues to conduct reviews of payees in response to third party reports of misuse, complaints from vendors for failure to receive payments and similar reports. While we are proud of our progress, we also recognize that administrative actions alone are not sufficient to address all the issues and concerns that have been identified with our representative payee program.

Last year, the Ways and Means Committee adopted H.R. 4857, the bill that would strengthen our recovery of misused funds by payees, and more importantly, restore misused funds to our beneficiaries. The provision requiring SSA to reissue benefits when an organizational payee misuses payments would provide an important protection to those most vulnerable beneficiaries, beneficiaries who have no family or friends able to serve as payee.

Another stewardship issue you asked me to discuss today relates to the reporting of death information. As you know, SSA processes over 2 million death reports each year. Our agency compiles and maintains a comprehensive data base that contains death information. We receive reports from family members, funeral homes, all 50 States and many other sources. We independently verify reports from third parties such as the States and other governmental agencies, for example, the Veterans Administration, before we terminate benefits.

Last year you considered a proposal that would have required States to report death information to SSA within 30 days of when they receive it. Timely reports of death help prevent overpayments. We want to continue to work with the Subcommittee to explore ways to improve our death termination process.

The last subject I want to discuss today is what we call the Fugitive Felon Project. Under current law, it is illegal for fugitive felons to collect SSI payments. Working with the IG, we identified over 22,000 fugitives receiving SSI during fiscal years 1998 to 2000. Using information provided by SSA, the IG, and other law enforcement agencies apprehended more than 2,800 of these fugitives. In an August 2000 report, the IG recommended that SSA pursue legislation prohibiting payment of OASDI benefits to fugitive felons. That recommendation is worth exploring. There are obvious benefits to law enforcement if the prohibition on paying benefits to fugitive felons were extended to OASDI beneficiaries, and we would be happy to work with the Subcommittee to develop such a proposal.

In conclusion, let me emphasize that we are committed to our roles as vigilant stewards of the OASDI and SSI Programs, and we

look forward to working with the Subcommittee to strengthen our performance.

My written testimony discusses the issues I have raised with you today in greater detail. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Streckewald follows:]

**Statement of Fritz Streckewald, Acting Assistant Deputy Commissioner, Disability and Income Security Programs, Social Security Administration**

Mr. Chairman, Congressman Matsui, members of the Subcommittee, thank you for inviting me here today to talk to you on a variety of issues that affect Social Security programs. I want to discuss some recent improvements we have made to strengthen our representative payee program as well as some legislative changes the subcommittee has considered that would improve protections for beneficiaries with payees. Additionally, I want to provide our perspective on legislative proposals that would:

- Require States to report death information to SSA in a more timely manner; and
- Apply the current Supplemental Security Income (SSI) fugitive felon provisions to the Old Age, Survivors, Disability Insurance (OASDI) program.

The Social Security Administration places great importance on our role as stewards of the OASDI and SSI programs and in ensuring that only those who are entitled to benefits receive them for any given month. The public's trust in the Social Security program is vitally important to us. Because of the importance of this trust, we have devoted significant resources and attention to strengthening and maintaining the integrity of the Social Security program; \$1 out of every \$4 in SSA's administrative budget is dedicated to program stewardship and program integrity.

**Representative Payments**

SSA is deeply committed to protecting the 6.5 million Social Security and SSI beneficiaries who are paid \$30 billion per year through representative payees. Our goal is to select the most qualified individual or organization to serve as representative payee. All payees are investigated before being selected. If an interested family member or friend cannot be found (or willing to serve), SSA will ask a qualified organization willing to perform the duties of representative payee.

When appointed, all payees receive information on their responsibilities and duties as payees. Further, to provide additional support for organizational payees, we recently revised a publication (*Guide for Organizational Payees*) that we developed and sent last year to all organizational payees. The newly revised version will be distributed in June and will also be available on our web site. When a suitable payee has been appointed, we also provide the beneficiary with information explaining why they have a payee, how we selected their payee, what to do if they want to appeal our selection of payee, what they should expect of their payee and what they should tell their payee.

Once selected, all payees must maintain records of the beneficiary's income and expenses. SSA requires annual accounting of all of the benefits received and how they were spent for every beneficiary. If this information is not received or is incomplete, we follow up with the payee. If SSA has cause to believe that an organization is not using benefits properly, we have an additional review procedure that focuses on the organization's records and includes contact with the beneficiary and staff of the organization, as well as vendors.

We believe this oversight process works well; misuse of funds occurs in less than one-hundredth of one percent of all cases. However, we are constantly seeking ways to improve the process.

**MONITORING INITIATIVES**

Last year, we described to you our plans for improving safeguards for our most vulnerable beneficiaries—those who need assistance from a representative payee. We have made great strides towards implementing those representative payee program improvements. Let me briefly describe our initiatives and then provide you with the status.

*Triennial Onsite Reviews of all Fee-for-Service and Volume Payees*

We have begun a review of the approximately 825 fee-for-service representative payees on a triennial cycle. We are also performing triennial reviews of all organiza-

tional payees serving 100 or more beneficiaries, which we refer to as “volume” payees, and of all individual payees serving 20 or more beneficiaries. This review includes an assessment of the payee’s record keeping, and we interview a sample of beneficiaries in order to assess whether their needs are being met. Expenses may be corroborated with providers of services. In addition, we contact vendors to ensure that beneficiaries’ bills are being paid. Over the last year, approximately 540 of these reviews have been conducted. While the incidence of misuse found has been minimal, we have found problems with commingling of funds and incorrect titling of accounts. We have taken corrective actions in those cases.

#### *Annual Verification of Bonding or Licensing*

Currently, in order to collect a fee from a beneficiary’s check, the non-governmental fee-for-service organization must be either licensed or bonded to serve as representative payee. This is a statutory requirement. Beginning in June 2000, we began an annual re-certification of these organizations to ensure the bonding or licensing requirement continues to be met. To date, we have completed 693 re-certifications of the 825 fee-for-service payees.

For those fee-for-service payees that are bonded, there is no requirement that specifies the minimum amount of the bond that would be paid in the event of misuse (e.g., \$600 of coverage for each beneficiary). However, we are drafting a regulation that will give guidance on the level of bonding needed by fee-for-service organizations. We anticipate publishing this regulation in early 2002.

#### *A 6-Month Review for All Newly Appointed Fee-for-Service Payees*

Beginning with fee-for-service payees newly appointed in January 2000, we began site visits 6 months after their initial appointment as payee. This visit ensures that they fully understand their duties and responsibilities, and are on the right track with respect to record keeping and reporting. We focus on their accounting procedures so that they are able to account for beneficiaries’ funds as well as comply with our requests for review. To date, 17 visits have been made for those fee-for-service payees newly appointed since January 2000.

#### *Random Reviews of Volume and Fee-for-Service Payees*

Each year SSA will conduct a random sample of 30 percent of volume payees and fee-for-service payees that have not already been selected for review. Of the cases selected, we will review a sample of beneficiary records for compliance with our policies and procedures. We issued instructions needed to implement this initiative in December 2000, and this program began this Spring.

In addition, we continue to monitor for “trigger” events. That is, we conduct reviews of payees in response to third-party reports of misuse, complaints from vendors of failure to receive payment, and similar reports. Over the last year, we have done 26 reviews due to trigger events.

We believe that our expanded onsite review program will:

- protect vulnerable beneficiaries by quickly reacting to questionable indications;
- deter payee misconduct;
- provide a strong oversight message to payees;
- ensure that fee-for-service payees continue to be qualified under the law; and
- establish good lines of communication and promote good payee practices.

#### CONTRACTS RELATING TO MONITORING INITIATIVES AND BACKGROUND CHECKS

We are currently developing a contract proposal for an independent audit firm to review the revised monitoring process and offer suggestions for improvement. This includes a review of instructional materials as well as onsite review processes. The contractor will provide a report with any recommendations for corrective changes as deemed appropriate. We expect to obtain bids by this Summer and start the audit in the Fall of 2001.

We are also in the process of awarding a contract to obtain the assistance of an expert consultant to explore options available for criminal and credit background checks for fee-for-service payee organizations. This effort is consistent with OIG’s suggestion that we put more emphasis on the selection of our representative payees. Contractor bids were due by April 16 and we expect to award the contract by early June. We expect the contractor to complete its work in about 6 months and hope to have a final report of recommendations by the end of the year.

#### DEMONSTRATION PROJECT

We have undertaken a demonstration project to obtain expert assistance in our onsite reviews in two regions. We have contracted with an accounting and management firm to provide support to our review teams when they conduct site reviews. This support will continue through September 2001. The purpose of this demonstra-

tion is to assess the value of using contractors with expertise in accounting practices to assist the SSA teams in conducting the site reviews. To date, the contractor has assisted our field review teams in 35 site reviews in our Chicago and Philadelphia Regional Office areas, and is on schedule under the terms of the contract. While no misuse of benefits was found in these reviews, they revealed record keeping problems and that some of the organizational payees have a weak financial position. We will continue to monitor these payees.

#### RECRUITMENT AND EDUCATION CAMPAIGN

We have new projects either well underway or completed to help our field offices recruit and educate new and existing organizational payees. As previously noted, we revised our "Guide for Organizational Representative Payees" and we expect distribution by June. This booklet provides guidelines and suggestions to assist organizations in understanding the principles of the representative payment program and their responsibilities.

We have produced a training video which can be used by the field offices when training organizational payees. Both the video and the guide will become part of a "training kit" which includes a lesson plan for training organizational payees, a power point presentation, and CDs. We plan to release this kit to our regions in June. These educational products will assist our field offices when providing training for organizational payees and also serve as tools for payees to refer to when questions arise or when the organizational payee has staffing changes.

#### CHANGES TO REPRESENTATIVE PAYEE SYSTEM AND RELATED SYSTEMS

The Representative Payee System (RPS) is an integral part of the representative payee application process as well as a centralized computer file containing information about individuals and organizations providing representative payment services and the beneficiaries that they serve. While there have been some problems with the RPS, especially with regard to the way the RPS interacts with other SSA systems, it has been useful for investigating fraud, suitability of payee applicants, and identifying trends.

The RPS contains a number of investigative features, for example, the RPS:

- Automatically verifies the representative payee's Social Security number against SSA's Numident file;
- Automatically checks the database for a history of misuse/fraud;
- Does not permit the selection of a person convicted of a violation under section 208 or Section 1632 of the Social Security Act (penalties for fraud) to serve as payee.

The RPS is our most effective investigative tool in assisting our field office employees in making appropriate representative payee selections. While the RPS provides many benefits, it needs to be strengthened. An internal systems workgroup undertook a comprehensive review of the RPS and related systems and developed a project that includes a number of improvements to the RPS and the accounting processes. The project will result in:

- A redesign of the accounting systems,
- Additional systems' support for an expanded monitoring process, and
- A comparison of databases to assure payee suitability.

We plan to implement improvements for both the RPS and the accounting processes in three phases. The improvements will provide additional information for use in determining the suitability of the payee, additional information for use in monitoring payee performance, and additional control and consistency of the Title II and Title XVI accounting processes. For the RPS, the first phase, targeted for implementation at the end of 2001, will involve database record clean-ups (including the updating of the RPS to reflect terminated benefit records involving prior payees) and the collection of additional data for fee-for-service payees (e.g., license or bonding information such as the amount of the bond and expiration dates). The next phase, targeted to begin towards the end of 2002, will develop and/or improve several alert processes and provide additional representative payee data. The final phase will be a complete redesign of our current accounting process. The timing of that redesign depends on the completion of Phases 1 and 2 and the availability of resources.

By the fall of 2001, we also expect the RPS to contain additional information needed to assist the expanded monitoring program. For example, we plan to store the date of our site visit, the date and reason why an organization is no longer authorized to charge a fee and information regarding bonding and licensing of the organization. We will have the capability of updating the information and storing it. This will provide a historical record on each of the fee-for-service organizations.

## LEGISLATION

We recognize that administrative actions alone are not sufficient to address all of the issues and concerns that have been identified with our representative payee program. Last year the Ways and Means Committee adopted H.R. 4857, a bill that would strengthen our recovery of misused funds by payees and, more importantly, restore misused funds to our beneficiaries.

Currently, when *any* payee has been determined to have misused an individual's benefits, SSA can reissue the benefits only in cases where there has been negligent failure on our part to investigate or monitor the payee. In virtually all other cases, the individual loses his or her funds unless SSA or the beneficiary can obtain restitution of the misused benefits from the payee. Additionally, SSA can seek restitution only through a civil action if the representative payee refuses to return the misused funds.

To facilitate restitution of misused funds to beneficiaries, provisions contained in H.R. 4857 would require SSA to reissue benefit payments (including any respective fees for fee-for-service payees) in all cases when an organizational payee is found to have misused a beneficiary's funds, without either a finding of negligence on SSA's part or restitution from the organizational payee. Requiring re-issuance of such misused benefit payments, including any fees that were deducted from the beneficiary's benefit, would provide important protection to the most vulnerable of beneficiaries—those who have no family or friends willing or able to be a payee.

Such authority would enable us to restore benefits that have been misused by an organizational representative payee, thereby reducing the hardship that can be caused by such a loss. SSA would, through all available avenues of legal recourse, continue to seek restitution of the misused funds from the former representative payee.

In addition to this change, provisions such as those found in H.R. 4857 would provide increased safeguards for beneficiaries with representative payees. Although SSA does not have a formal position on these provisions, they would:

- Require non-governmental fee-for-service organizational payees to be bonded *and* licensed, provided that licensing is available under State or local law. (The requirement under current law is bonding *or* licensing.) State licensing provides some oversight by the State into the organization's business practices, and bonding provides some assurance that a surety company has investigated the organization and approved it for the level of risk associated with the bond. The proceeds from redeemed bonds would reduce the costs to the program when re-issuing benefits in cases of representative payee misuse.
- Require SSA to conduct periodic onsite reviews of all non-governmental fee-for-service representative payees, any other organization serving 50 or more beneficiaries, and individual payees serving 15 or more beneficiaries.
- Provide that when an organization has been found to have misused an individual's benefits, the organization shall not qualify for the fee from that individual's benefits for months the payee misused the funds. Requiring payees to return the fees charged for periods of misuse is reasonable because the payee was clearly not properly performing the service for which the fee was paid. Permitting the organization to retain the fees is tantamount to rewarding the payee for violating his or her responsibility to use the benefits for the individual's current and future needs.
- Provide that misused benefits (including any respective representative payee fees) would be treated as an overpayment to the organizational or individual representative payee and, therefore, subject to current SSA overpayment recovery authority. Although SSA has been given expanded authority in the recovery of overpayments (such as tax refund offset, referral to contract collection agencies, notifying credit bureaus, and administrative offset of future federal benefit/payments), these tools cannot be used to recoup benefits misused by a representative payee. Providing that benefits misused by any representative payee would be an overpayment to the payee would provide SSA with additional means for recouping the misused payments.
- Extend civil monetary penalty provisions to representative payees that misuse benefits. As it pertains to representative payees, this provision would allow SSA to impose administrative penalties and assessments against representative payees who misuse benefits. This would improve our ability to ensure that individuals who commit this type of fraud against SSA are penalized, even if such individuals are not prosecuted criminally.
- Disqualify an individual from serving as representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment,

unless the Commissioner of Social Security determines such certification to be appropriate notwithstanding such conviction.

- Provide authority to redirect Social Security benefits to field offices when the representative payee fails to provide an annual accounting of benefits. Notifying the payee of this possibility, and redirecting benefits to the field office, would provide an extremely effective tool for increasing the number of payees who return the annual accounting form, while providing the field offices the flexibility to take the most appropriate action in a particular case.

SSA supports the Subcommittee's efforts to provide increased safeguards for beneficiaries with representative payees and will work with the Subcommittee staff to bolster the other efforts SSA has initiated to help prevent misuse by payees.

#### STATUS OF OIG RECOMMENDATIONS

In the mid-1990s, SSA requested the OIG to review and make recommendations to improve the representative payee program. We requested these reviews in order to better meet the needs of the changing demographics of our representative payee population.

OIG made several recommendations—from how to select a representative payee to the kind of monitoring program needed. SSA evaluated the recommendations within the framework of our competing priorities and resource limitations. We have implemented several recommendations including:

- Issuing instructions to field offices to screen payees more thoroughly.
- Conduct periodic reviews of selected payees.
- Changing the focus of the current process from accounting to monitoring and compliance.

In addition, we have the following OIG recommendations in process:

- Develop an accounting form tailored to organizational payees.
- Expand our automated Representative Payment System.
- Improve the ability to retrieve accounting forms when they are needed for subsequent review.

#### Deceased Beneficiaries

Another important area I want to discuss is timely termination of benefits to deceased beneficiaries. We process over 2 million death reports annually. Our agency compiles and maintains a comprehensive database, the death master file (DMF), which contains death information. We receive reports from family members, funeral homes, all 50 States, the District of Columbia, some territories, the Department of Veterans Affairs, the Health Care Financing Administration, the postal authority, financial institutions, and other sources. We independently verify reports from third parties (such as other government agencies) before we terminate benefits.

We are always looking for ways to strengthen and improve our death termination process and we are interested in ways to improve the timeliness with which we receive and process death reports. Last year you considered a proposal that would have required States to report death information to SSA within 30 days of when they receive it. Overpayments may occur when a spouse or a representative payee negotiates a check after the Social Security beneficiary has died, or when the benefit is electronically deposited into a joint or payee account. Timely reports of death help prevent such overpayments. We will continue to work with the subcommittee to explore ways to improve our death termination process.

SSA has identified ways to improve its death report processing. These improvements will be implemented through system enhancements, such as modifying the Death Alert, Control and Update System and, when completed, will strengthen the processes we use to terminate deceased beneficiaries' benefits.

Within the next two months, we will pilot a project on Electronic Death Registration under an agreement with the State of New Jersey. This project will enable us to cooperatively test a process designed to provide SSA with more accurate and up-to-date death data.

#### Fugitive Felons

Under current law, it is illegal for fugitive felons to collect SSI payments. A fugitive felon is an individual who is:

- Fleeing to avoid prosecution for a crime which is a felony under the laws of the place from which a person flees;
- Fleeing to avoid custody or confinement after conviction of a crime which is a felony under the laws of the place from which the person flees; or
- Violating a condition of probation or parole imposed under Federal or State law.

Working with the IG on what we call the Fugitive Felon Project, we have identified over 22,000 fugitives receiving SSI during FY 1998–2000. Using information provided by SSA, the IG and other law enforcement agencies apprehended more than 2,800 of these fugitives. While the monetary savings have been significant, just as important, is the positive impact on public safety resulting from the apprehension of these individuals.

This Fugitive Felon Project utilizes a multi-faceted approach that requires extensive and cooperative efforts of many law enforcement agencies throughout the United States. SSA and our IG are actively involved in this project by identifying and taking action against fugitive felons collecting SSI payments.

This project identifies individuals who are prohibited under the law from receiving SSI benefits by conducting computer matches with available sources of warrant information, which include the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC) and the States. The NCIC is a major national repository for information on felons and other offenders. We also have signed agreements with the U.S. Marshals Service and the FBI, giving us access to all federal warrants.

Unfortunately only about 30 percent of all outstanding warrants are reported to the NCIC because the reporting of such information is voluntary and selective. Eleven States report all of their warrants to the NCIC. These States are Connecticut, Maine, New Hampshire, Alabama, Florida, Georgia, North Carolina, Arkansas, New Mexico, Kansas, and Missouri. The remaining 39 States report some, but not all warrant information to the NCIC.

In a joint effort to develop comprehensive sources of warrant information, SSA and the IG are actively pursuing matching agreements with those States that only provide some of their warrants to the NCIC. SSA currently has signed matching agreements with Alaska, California, Colorado, Delaware, Kentucky, Nebraska, Massachusetts, New Jersey, New York, Rhode Island, South Carolina, Tennessee, and Washington to obtain the additional warrant information that is not reported to the NCIC. In addition, we have agreements with four major metropolitan police departments, New York City, Baltimore City, Baltimore County, and Philadelphia.

Negotiating these individual State and local agreements is a major undertaking. We need to address State and local variations in records, incompatible formatting of data, privacy concerns, and the lack of State and local central reporting repositories. Our regional fugitive coordinators and field office staff are working to negotiate matching agreements with all State and local authorities. We expect to have negotiated matching agreements with all outstanding States within the year. Every effort is being made to automate the matching operations necessary to identify SSI recipients that have outstanding warrants.

One of the difficulties with such matches is that law enforcement agencies frequently do not have accurate identifying information for fleeing felons. Felons often use aliases and the law enforcement agency may not have an accurate Social Security Number (SSN). Therefore, their correct identification may be difficult. Unlike prisoners, fugitive felons are not incarcerated and may not have been convicted of a crime. For these reasons our matching operations are carefully designed to determine that the person being sought by law enforcement is the same individual receiving SSI. In order to protect individuals from unwarranted invasions of their privacy resulting from collections and use of information about them, all of our data matches and exchanges are done pursuant to agreements that comply with Privacy Act requirements, and we take security measures to limit access to the data.

When we obtain warrant information from the NCIC or from any other source, these records are first matched against SSA's files to verify identity information, such as name, date of birth, and SSN. Once the records are verified then a second match is conducted against our SSI recipient files to determine which of the fugitives are receiving SSI benefits. The results of the second match are then forwarded to the IG for processing. The two-step matching process performed by SSA takes four to ten days, from the time the warrant information is obtained from a participating federal, State or local agency until the information is forwarded to the IG.

The IG must conduct thorough investigations of the warrant information matches to ensure that the fugitive felon warrants are valid and that the appropriate individuals are brought to justice. The IG works with the FBI Information Technology Center (ITC) to verify that the felony, probation or parole violation warrant is active. The ITC provides the address information about each SSI recipient to the appropriate law enforcement agency so that they can apprehend the individual.

After action by the appropriate law enforcement agency, the IG refers their findings to SSA for appropriate action. SSA also provides feedback to the IG reflecting the actions taken and any overpayment that may have occurred.

Even though SSA is working to expand the number of matches through agreements with local authorities, much of the investigative process cannot be automated. Verification of warrant information requires direct contact with the local law enforcement personnel who issued the warrant. If the felon is no longer in the jurisdiction of the originating law enforcement agency, then additional contacts must be made with law enforcement personnel in the new jurisdiction in order to facilitate the fugitive's apprehension.

SSA needs to be very careful when reviewing warrants to make sure they are accurate, up-to-date, and that it pertains to the correct person. To arrest or to suspend benefits of the wrong individual would have severe consequences.

In their report dated August 2000, the IG recommended that SSA pursue legislation prohibiting payment of OASDI benefits to fugitive felons. That recommendation is worth exploring. We would be happy to work with the Subcommittee to develop a fugitive felon provision for the OASDI program.

#### **Conclusion**

SSA continues to strive to improve our programs through procedural and technology changes and by supporting and proposing legislative solutions. We are committed to our role as stewards of the trust funds. We look forward to working with this subcommittee to assure public confidence in our programs.

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Chairman SHAW. Yes, sir. On the first page of your testimony, you point out that you spent \$1 out of every 4 in SSA's administrative budget that is dedicated to program stewardship and program integrity. I am reading from your statement. What is the return you are getting for the amount of money we are spending to—

Mr. STRECKEWALD. The return varies by the initiative. For some, the return or investment ratio is 3-to-1. For others, 5-to-1 and some are much higher than that. SSI redeterminations, of which we are going to do 2.2 million this year, give us an approximate 5-to-1 return on investment, and the Continuing Disability Reviews (CDR) project, which we are able to do with the funding from support from this Subcommittee, gave us an 11-to-1 return on this investment in fiscal year 1999.

Chairman SHAW. What if we spent more money on that? At what point would we get a diminishing return?

Mr. STRECKEWALD. We have charts that show the point of diminishing return. What we try to do is fund the initiatives just prior to when the diminishing return curve begins. So we are looking at them very closely and making sure we get the biggest bang for the buck.

Chairman SHAW. Mr. Matsui.

Mr. MATSUI. Thank you, Mr. Chairman. The testimony of the Inspector General, which will come after you indicate that SSA paid about \$31 million in benefits to 881 deceased beneficiaries. You have indicated in the past, and I know that others have suggested that you get your information about whether a beneficiary is alive or not through various sources, obviously through a surviving spouse, through funeral homes, and obviously obituary notices and those kind of things. How good is that? Do you have any systematic approach on how you deal with this \$31 million? That may be a lot in terms of the overall budget, but it is certainly a lot of in terms of beneficiaries.

Mr. STRECKEWALD. We strive for perfection in this area. We receive over 2 million reports of death a year. Most of those, 90 percent of them, come from family Members and funeral homes. GAO

reports, and the IG have said that the funeral home and family member reports are 99 percent accurate. So we consider them primary evidence of death. We immediately input these reports into the system to stop the payments.

The other 10 percent is where most of the problems are. These reports come from many sources. The States, as you know, give us information. We receive information from other Federal benefits from overseas, and those information sources we have to verify. It can be somewhat of a lengthy process. But we verify it before terminating benefits.

Mr. MATSUI. So you don't do anything then in terms of outreach? It is always input coming in?

Mr. STRECKEWALD. We have relationships with funeral homes all over the country. They are usually the first source. There is a form they fill out, and they send it directly to Social Security. We check to make sure it is the right person by verifying that the Social Security number matches the name that we have, and then we terminate benefits.

Mr. MATSUI. Is there any thought about how you might be able to use a system—I mean, it is obviously kind of a hit-and-miss approach, but you get a lot of them. We are only talking about 881, but on the other hand, it seems to me that if a person is deceased people would—

Mr. STRECKEWALD. Certainly receiving the death reports from the States sooner would help. Right now it takes 90 to 120 days to get the information from the States.

Mr. MATSUI. Is that what the problem is?

Mr. STRECKEWALD. It is a timing issue, right. Because we normally verify the death with the family to make sure that these other sources are correct. So I think primarily it is a timing issue.

Mr. MATSUI. You get reimbursement normally.

Mr. STRECKEWALD. Yes, we do. I don't know the exact figure, but we recover a huge percentage of the over payments that occur after death. Because those are generally not fraudulently obtained, they are simply checks that go out before we are able to verify the death and we receive that money back from the family.

Mr. MATSUI. Why is it that \$31 million has been lost?

Mr. STRECKEWALD. That is probably the fraction of the total payments that go out to these 2 million people that is not recovered immediately.

Mr. MATSUI. But you said that you usually get the money back.

Mr. STRECKEWALD. I don't know if the 31 million represents an overpayment. Its a snapshot in time, and then if you were to track that, we would end up recovering it. I am not sure what that number represents.

Mr. MATSUI. So we don't know whether or not it is all recovered or not. Maybe—

Mr. STRECKEWALD. We will be glad to submit that information for you if we can get hold of that and show you how much of the overpayment after death is recovered. We would be glad to submit that for the record.

[The following was subsequently received:]

SSA recently conducted a study of payments after death in 1998, including a longitudinal study of the resolution of incorrectly paid benefits. Preliminary data from

the study indicate that, for payments made to a deceased individual with their own bank account, the collection rate is more than 90 percent and recovery efforts are continuing. Although not part of that study, This finding is similar to the broader fiscal year-end data which shows SSA data indicate that in 2000 SSA paid out approximately \$84 million after the death of the beneficiary to spouses and representative payees. In that same year collection of these types of overpayments totaled approximately \$74 million, or about 88 percent.

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Mr. MATSUI. OK. In terms of last year we talked a little bit about, you know, obviously you have 6-month reviews of representative payees and things of that nature to try to make sure that they are on the up and up and no fraud is committed. But you are also looking at the possibility of background checks and criminal background checks, credit and otherwise, before a representative payee can be designated as such. How is that program coming along and where are you on it, and obviously this is only pertaining to the fee-for-service payees, it doesn't pertain to those that are relatives and others that don't receive these?

And I would like a comment from you about the latter as well as to how you want to deal with background checks on those folks.

Mr. STRECKEWALD. You are right, we feel that the fee-for-service and large organizational payees represent the most risk simply because of the number of beneficiaries that they represent. We are awarding a contract to look at the feasibility of conducting background checks and credit checks for all fee-for-service payees.

On the individual payees—when a person files to be payee, first of all, we have to verify their identity, and we check our records to make sure it is the same person that matches with that name and number, and then we look in our records to see if they have ever been found to have misused benefits for anybody else. If that is the case, we do not select them as payee.

We also verify their income source to make sure that they have means to support themselves so they wouldn't be tempted to use the beneficiary's money. So we do a fairly complete questioning and review of the potential applicants before appointing them as payee.

Mr. MATSUI. Is your program on this fully in place now, or is there still more work to be done? I was under the impression that more had to be done.

Mr. STRECKEWALD. On the background checks, the actual credit checks and criminal history checks, we have not implemented that change yet. What we are doing is getting a contract together to look at the feasibility of the cost of doing that. The other one that I described is already in place. It is part of a standing procedure when we identify the person, we check to see if they have been found to have misused benefits in the past and we ask them their income source.

Mr. MATSUI. When do you think you will have the other part of the program in place?

Mr. STRECKEWALD. We expect to award the contract, I believe, this June, and we hope to have the findings from that contract later in the year.

Mr. MATSUI. Last, the non fee-for-service, do you have any plans on how you might want to deal with that? I know there is some

fraud involved there as well. But obviously, it is probably of less concern because it is usually family members or others, but in many cases it is not. There are some that are friends, so to speak. And that obviously poses potential problems.

Mr. STRECKEWALD. Most of them are family members. There is a list that field office employees are supposed to follow. It is a priority list that provides that a family member with custody, like a parent, obviously gets highest priority. They move through that list that they never get to a remote relative or an organization until they have made sure that there isn't a family member, or a spouse or a parent with custody that would make the best payee.

So we try to have strict adherence to that prioritization list, and that cuts down a lot on any kind of misuse because family members generally feel committed to providing for the beneficiary more so than a person that does not have a close relationship.

Mr. MATSUI. What do you think in terms of your funding? Do you need more or what? Obviously you need more, but—

Mr. STRECKEWALD. Well, additional funds.

Mr. MATSUI. Will you come here and say you have got the problem solved?

Mr. STRECKEWALD. Additional funds can always help us, but I think that right now our current budget has us funded to be able to take on the initiatives that we have committed to, the contracts I have talked about, the increased monitoring and the other things we do on the representative payee system. Our current budget allows us to do that.

Mr. MATSUI. So you feel it is adequate at this moment.

Mr. STRECKEWALD. We do.

Mr. MATSUI. Thank you.

Chairman SHAW. Mr. Doggett.

Mr. DOGGETT. Thank you. I think it would be helpful to have the response back on \$231 million, whether it is a net figure after you have collected any payments that were made that were not due and whether it is just one snapshot at a point in time or reflective necessarily of a longer term experience.

Could you comment though now—not on the electronic death registry that you are getting in place in the State of New Jersey and any other initiatives that you have, to try to assure that that \$31 million, net or gross in most people who hear about it, think it is gross in another sense, but to see that it is cut as near to zero as possible.

Mr. STRECKEWALD. The electronic death registration project, as you mentioned, has a lot of promise for solving and addressing some of the traditional problems in the death process. The death process today is a paper-based process. It includes coroners, funeral home directors, physicians, family members, hospitals, providers. There are a lot of people involved in that. And if we can have a process which we are piloting in New Jersey next month that would allow every step of the process to be input electronically and instantly transferred to the next step, we would actually be receiving death information, I believe within 7 days. That is a significant acceleration of what we currently experience. So that has a lot of promise. We hope to test it, get the results in by the end of the

year, and then if expansion is appropriate, that is what we will aim for.

Mr. DOGGETT. Thank you very much.

Chairman SHAW. Mr. Cardin.

Mr. CARDIN. Thank you, Mr. Chairman. I want to follow up on Mr. Matsui's point for a moment if I might, and that is on the budget support issues. One of the responsibilities of our Committee is to work with the Budget Committee and Appropriations Committee on appropriate support for your mission. And I know that on other hearings that we have had before this Committee on Social Security Disability Insurance (SSDI) and other issues, the amount of administrative support has been at issue in order to be able to do the type of work on the integrity of the system that all of us expect.

Today we are talking about the representative payees and we are talking about those people who are not entitled to benefits, receiving benefits. But I just want to make it clear, at least from your testimony, as to whether Congress is providing adequate resources for you to, in a reasonable way, carry out the mission that we expect. And I think it is important that if you need additional help, that that information be made available. We know the realities of the budget process, but I think it is important for this Committee to know from you whether there are additional resources that are needed in order for you to be held accountable to carry out your mission.

Mr. STRECKEWALD. As I said, the additional resources always help. We are currently funded for what we are trying to do in the representative pay program. If I may, can we get back to the Committee and with any type of further suggestions along this line.

[The following was subsequently received:]

**Resources Necessary to Address Program Integrity and Improper Payments**

The Social Security Administration places great importance on our role as stewards of the OASDI and SSI programs and in ensuring that only those who are entitled to benefits receive them for any given month. Improper payments are minimized by having adequate staffing levels and providing the staff with the tools and resources necessary to avoid making improper payments and to discover and recover overpayments and to detect and pay underpayments. For any given level of resources, SSA must allocate those resources to provide the best balance between the need to provide services, such as the posting of wages to a worker's record or making disability determinations for new disability applicants, and the need to reduce improper payments, just as such allocations must be made for the government as a whole by the President and the Congress.

Currently, SSA devotes \$1 out of every \$4 of its budget explicitly to minimizing improper payments. Given the government-wide budget priorities and the balance that must be struck within SSA's own budget, SSA believes that the current level and allocation is appropriate.

One way to conceptualize the utility of devoting a given level of resources to minimizing improper payments is to consider the ratio of improper payments detected, recovered or avoided for each dollar of administrative cost invested. All other things being equal, one would want to devote resources first to those efforts that would lead to a greater amount of improper payments being detected or recovered for each dollar invested. On the other hand, some categories of improper payments have larger aggregate dollar amounts than other categories and may have a greater effect on overall program integrity and the public perception of fairness. Resources could be directed to those categories even if the return on investment is lower than other categories.

For instance, the most powerful tool SSA has to reduce improper payments in the SSI program, both underpayments and overpayments, is to perform more redeter-

minations. In FY 2000, SSI redeterminations detected \$2.1 billion in overpayments and \$933 million in underpayments. Under the President's budget, redeterminations will increase by 10 percent in FY 2002 over the FY 2001 level to 2,255,000. There will be an estimated 6.4 million SSI recipients in FY 2002, so approximately one of every three SSI recipients will be redetermined that year.

The table below provides SSA's best estimate of the ratio (rounded to the nearest whole dollar) of improper payments (both overpayments and underpayments) detected, recovered, or avoided for each \$1 invested for particular activities.

Activity	Ratio
SSI Redeterminations	7 to 1
Continuing Disability Reviews	7 to 1
Windfall Elimination/Gov't Pension Offset match with OPM	6 to 1
Disability Preeffectuation Reviews	13 to 1
Tax Refund Offset	34 to 1
OCSE match	3 to 1

Savings as a result of Continuing Disability Reviews (CDRs) are based on a 10-year life-cycle estimate. In FY 1999, SSA estimated \$6.1 billion in savings from CDRs performed that year. This represents a return of \$11 to \$1 for that year. However, SSA expects the return to decline in future years to \$7 to \$1. SSA has benefited from an adjustment to the discretionary budget caps to allow it to become current with its CDR workload. The cap adjustment expires at the end of FY 2002.

The determination of the level of resources that should be devoted to minimizing improper payments and how to allocate those resources among various activities is complex. SSA has, of course, developed a plan for using its existing level of resources. Any plans for the use of additional resources would depend on the level of those resources, when they might be available, and whether Congress directs that the resources be used in any specific area, such as was done with the discretionary cap adjustment for continuing disability reviews. SSA would be happy to work with the Committee on these issues.

Mr. CARDIN. That would be helpful. Thank you, Mr. Chairman.  
Chairman SHAW. Mr. Pomeroy.

Mr. POMEROY. No questions.

Chairman SHAW. I have just a couple others. The witness on our final panel, Zelenske, she says in her testimony that in some cases an institution is chosen as payee even when there are willing family and friends. Could you explain in what situations an institution would be chosen over family or friends, and could you explain whether the agency is required to contact the family or friends before choosing an institution as the payee?

Mr. STRECKEWALD. As I mentioned before, we have a priority list that starts off with close family members with custody as the highest priority. Our field people work through that list. Now, if they happen to come across a family member with custody who has been convicted of a felony that we think is material to their ability to be a good payee, that person will be passed over. If they come across a family member who has misused benefits in the past, that person will be passed over.

So we move down the list. If it turns out that between the family members with custody, other family members and friends, there is nobody who is suitable because of past convictions or misuse, then, yes we might get to an organizational payee. But we always start

with the family and move down the list to the organizational payees.

Chairman SHAW. And one other question, you have been questioned somewhat about reports of death. The States are required to make that report, is there anything we can do to—or anything you think that you should be doing in that area to see that the States do live up to that responsibility? They are the ones that keep the records.

Mr. STRECKEWALD. Last year you supported the legislation that would have had the States report to us much sooner than they currently do. And I think that obtaining State reports sooner would serve certainly be helpful.

Chairman SHAW. Well, anything we can do to make that happen? What would you suggest specifically what should we do to make that happen?

Mr. STRECKEWALD. I believe the provisions that were proposed last year would be in line with our thinking in terms of what would be useful to speed up the process.

Chairman SHAW. I guess what I am trying to get to is what did we propose that hasn't been done and what we can do to see that it is done.

Mr. STRECKEWALD. Right now the States are only required to provide the information, but they are not required to provide it on time.

Chairman SHAW. I know within 30 days they have to report it. But how can we put teeth into it? Is that a problem we should be concerned about?

Mr. STRECKEWALD. It can be a problem quite honestly, because some of the States don't have the ability to report it as soon as we like. So they may be looking for funds with which they can automate some of their records and put them in an electronic format. But right now it takes 90 to 120 days before we get it from the States. So if there is legislation to help us get it sooner, I think it would help a lot.

Chairman SHAW. That 30 days, did that pass or did it not pass?

Mr. STRECKEWALD. It didn't pass.

Chairman SHAW. I see. I was misunderstanding. I know we had talked about it. Well, thank you very much, sir. We appreciate your testimony.

[Questions submitted from Chairman Shaw to Mr. Streckewald, and his responses follow:]

SOCIAL SECURITY ADMINISTRATION  
Baltimore, Maryland 21235-0001

**1. During your testimony you spoke of several initiatives aimed at monitoring organizational fee-for-service payees and institutional payees. What percent of beneficiaries with a payee have volume/institutional payees versus private individual payees? What are your plans for improving oversight of representative payees who are responsible for one or only a few beneficiaries?**

*Response*

For those SSA beneficiaries that need a payee, about 12% are served by an organizational/institutional payee; about 88% are served by individuals. Because of the increasing number of problems in payee performance involving volume/institutional payees, we have been focusing our efforts in improving the monitoring for these payees. The current oversight process for all other payees, including those who are responsible for one or only a few beneficiaries, is the annual payee reporting process,

which is required by the *Jordan*<sup>1</sup> court decision and by the Social Security Act. If the payee does not respond to SSA's request for the annual reporting, or the response indicates improper use of benefits, we investigate and take the appropriate action based on our review. We continue to seek improvements in the annual process by refining the form used to report by payees, and by streamlining the handling and tracking of the payee reports when they are received.

SSA also investigates and develops completely any allegation or indication of misuse immediately, so as to protect the interests of the beneficiary.

**2. In your testimony you said beginning in January 2000 you began site visits for fee-for-service representative payees 6 months after their initial appointment. To date, you said you have conducted 17 visits to newly appointed fee-for-service payees. How many new fee-for-service payees have been appointed since January 2000? What percentage of the total number of fee-for-service payees does this represent?**

*Response*

To date our records show 47 fee-for-service organizations were newly appointed since January 2000. Thus, the percentage of new fee-for-service organizations would be approximately 6% (47 of the 824). We are making visits to these organizations on schedule. The primary purpose of this initial visit is to ensure that the payee understands his or her duties and responsibilities. We also want to make sure the payee is able to provide us with the information that will be required on how benefits are used.

**3. In your testimony you mentioned that the Inspector General made several recommendations for improving the representative payee program and that the Social Security Administration was either in the process of implementing some of these recommendations or planned to implement them. Were there any recommendations that you decided not to implement? If so, why?**

*Response*

The following recommendations were not implemented:

a. SSA should exempt from annual accounting those payees who are required to report to other officials, e.g., legal guardians. Because the law requires that we obtain accountings from these payees, we have not implemented this change.

b. SSA should conduct suitability checks only for those payee applicants that we intend to select. We did not adopt this approach because it presupposes the result, and we want to ensure that we select the best applicant based on all the evidence presented.

c. SSA should revise the accounting form to focus on events that payees commonly fail to report. The purpose of the forms is to determine if the benefits are properly accounted for and if there have been any changes in the beneficiary's custody. We believe the forms accomplish this. An expansion of the form to collect more information could be considered. However, a more complicated form would increase not only the burden on the payee but would detract from the forms' intent, accounting for the use of benefits. The forms do reinforce reporting requirements and we encourage payees to tell us when an event that may affect benefits occurs and not to wait for the accounting form.

**4. Ms. Zelenske mentioned in her testimony that the Social Security Administration does not require State and Federal institutions to submit annual representative payee accounting forms. Why is this the case, and do you believe there is a need to change this?**

*Response*

In 1970, SSA implemented the Representative Payee Onsite Review Program. This program replaced the yearly individual accounting reports for Social Security

<sup>1</sup>The *Jordan* court decision (U.S. District Court for the Western District of Oklahoma) requires universal annual accounting of all payees (except some Federal and State institutions which are subject to a different monitoring process), including parents and spouses with custody of the beneficiaries they serve. Prior to implementation of the court decision, parents with custody of their children, and husbands and wives with custody of their spouses were exempt from annual accounting and only required to verify custody. The court's decision for universal accounting was based on the constitutional standards of due process and equal protection. The Omnibus Budget Reconciliation Act 1990 subsequently codified the *Jordan* court requirement for universal annual accounting except for State and Federal mental institutions participating in the onsite review program. Therefore, any change to the accounting requirements would require a change in the law.

beneficiaries who reside in State mental institutions and for whom the institution is the representative payee. Each participating institution in every State is reviewed at least once every 3 years. If there are indications of unsatisfactory performance, additional reviews are conducted. The Onsite Review Program is intended to decrease the burden on State mental institutions by eliminating the need to complete the annual accounting paperwork for each beneficiary for whom it serves as representative payee.

The *Jordan* court decision recognized the onsite review program as an exception to annual accounting; this exception was subsequently codified by the Omnibus Budget Reconciliation Act 1990. We believe that this program continues to be an effective way to assess payee performance and, in fact, we have shaped our expanded monitoring program after it.

**5. You provided us with examples in your testimony of projects to recruit and educate new and existing organizational payees. Have you found it difficult to recruit new organizational payees? When you recruit an organization what concerns do they have about serving as payee? For example, too much oversight, too many reports, unfounded complaints by beneficiaries to the Social Security Administration, the police, etc.?**

*Response*

While SSA has not experienced problems in recruiting new representative payees, we are undertaking a recruitment program in order to ensure that we have a wide range of payees to choose from. At present, if new organizational payees have concerns, we are usually able to resolve them during the interview. We would caution, however, that an increase in due diligence for selecting payees (e.g., requiring bonding and licensing, conducting background checks, and so forth.) may make payee recruitment more difficult and increase the concerns of those organizations considering acting as payee.

**6. You indicated in your testimony that currently no minimum bond is required to be maintained by a fee-for-service payee and that you are drafting regulations that will provide guidance on the level of bonding needed for fee-for-service organizations. Will you require a minimum bond? What impact will this have on your ability to recruit representative payees?**

*Response*

We are considering establishing a minimum bond amount of \$600 for each beneficiary served and the minimum coverage would be based upon the number of SSA clients the organization served. For example, minimum coverage for 5 beneficiaries would be a \$3,000.00 bond, for 100 beneficiaries—\$60,000.00. The average bond in these situations would cost approximately 2 percent of the face value of the bond, although there are numerous variables that would have a substantial affect on the cost. We expect to publish regulations on bonding and licensing issues in calendar year 2002.

Concerning the impact on recruitment, we expect that some organizations may not be able to afford the cost of large bonds and we could lose payees or preclude new ones from applying.

**7. You mentioned in your testimony the annual reports filed by representative payees. Is every representative payee required to file an annual report? If not, why not?**

*Response*

All representative payees, except for Federal and State mental institutions participating in an alternative onsite review program, are required by law to report annually on the use of benefits by completing a Representative Payee Report. For those institutions not required to report annually, SSA conducts onsite reviews every 3 years to ensure compliance with representative payment policies and procedures.

**8. You mention in your testimony that misuse occurs less than one-hundredth of 1 percent of all cases. If certain representative payees were to have a proven record of effective service, have you given any thought to lessening their reporting requirements or reducing the number of onsite reviews?**

*Response*

Yes, we have considered lessening the reporting requirements for certain payees. However, the current representative payee monitoring process has been shaped to a large extent by the *Jordan* court decision. That decision requires universal annual accounting of all payees (except some Federal and State institutions which are sub-

ject to a different monitoring process), including parents and spouses with custody of the beneficiaries they serve. Prior to implementation of the court decision, parents with custody of their children, and husbands and wives with custody of their spouses were exempt from annual accounting and only required to verify custody. The court's decision for universal accounting was based on the constitutional standards of due process and equal protection. The Omnibus Budget Reconciliation Act of 1990 subsequently codified the *Jordan* court decision requirement for universal annual accounting except for State and Federal mental institutions participating in the onsite review program. (The onsite review program for State and Federal mental institutions is a triennial review.) Therefore, a change to lessen the accounting requirements or the onsite reviews would require a change in the law.

**9. The Inspector General in his testimony suggested 4 legislative proposals. While I recognize you are not prepared to take an official position on these proposals, I would be interested in hearing your agency's perspectives and ask that you provide the pros, cons, and issues you believe the Congress should consider regarding each of the following proposals.**

**(1) Trial Work Provision—As I understand it, an individual may work for up to 9 months during a 60 month period and still receive benefits, no matter how much the individual earns working. Right now an unscrupulous beneficiary who feigned their disability or concealed the fact they were working would, when caught, be permitted to keep the benefits they received during the Trial Work Period. The Inspector General believes this loophole should be closed.**

*Response*

The Social Security Act provides a trial work period (TWP) as an incentive for personal rehabilitation efforts for Social Security Disability Insurance beneficiaries who work. The TWP allows them to perform services and receive full benefits regardless of how high their earnings might be if their impairment does not improve. The duration of the TWP is 9 months (not necessarily consecutive) of services performed within a rolling 60-consecutive-month period. "Services" means any activity, although it is not SGA, you do in employment, or self-employment for pay or profit or of the kind normally done for pay or profit. We currently consider work to be services if an individual earns more than \$530 a month. This \$530 criterion exists solely for controlling the duration of the trial work period.

The IG has recommended that this trial work period not be available to anyone who fraudulently conceals work activity. In other words, if we find that a beneficiary had fraudulently concealed earnings, we would, when considering the amount of overpaid benefits, include the 9 months of the trial work period. He provides a two-fold rationale for this proposal. First, the IG believes this would result in considerable program savings to the trust funds. Secondly, the IG believes that there is frustration in the Department of Justice with the current law, and that certain U.S. Attorneys' Offices have stated a reluctance to prosecute these cases given the current law, which allows beneficiaries who have been found to have fraudulently concealed their work activity to keep the 9 months' worth of benefits.

While no one at SSA would want the U.S. Attorneys to be reluctant to prosecute fraud cases, there are some concerns about the proposal. We need to ensure that in imposing new sanctions on those who conceal earnings that we do not discourage the attempts of beneficiaries who want to return to work and abide by SSA's rules.

The IG's proposal could result in lengthy retroactive cessations after many months of legitimate entitlement despite only a few months of concealed work activity. In the case of someone who fraudulently establishes disability, we have always been able to go back and overturn that decision and consider *all benefits as having been overpaid*.

We believe that the current civil monetary penalties and other existing requirements and sanctions in the law, which encourage reporting of wages, are generally sufficient to deter fraud in this area, although we are exploring the possibility of imposing civil monetary penalties in cases of fraud by omission.

**(2) Allowing the Inspector General to share information—Right now, if a law enforcement officer is trying to determine whether he has the right suspect, and there is no allegation that the individual has committed a crime against Social Security, the Inspector General cannot confirm whether an individual's name and Social Security number match SSA records. The Inspector General is proposing that they be allowed to share this information with law enforcement, whether there is an allegation of a crime against Social Security or not.**

*Response*

SSA is primarily a social insurance agency and the information the Agency collects, including the SSN, is for the purpose of administering its programs under the Social Security Act. The Commissioner is responsible for establishing the Agency's policy concerning the disclosure of SSA program records for law enforcement activities. Vesting this authority with the IG through legislation could negatively affect SSA's ability to obtain the often highly personal and sensitive information needed to administer its programs.

This is an aggressive law enforcement proposal that goes well beyond the core mission of the Agency, removing any nexus between SSA's purpose in gathering the information and the disclosure of information. There is currently in place a Memorandum of Understanding (MOU) that permits IG employees' to verify the names and Social Security number (SSN) information to Federal, State, and local law enforcement officials. That MOU allows for the disclosure when the individual about whom information is sought is suspected of misusing a SSN or of committing crime against a Social Security program.

The proposed changes would allow IG staff to verify SSNs without any allegation of fraud on Social Security programs. At times, law enforcement officials may be engaging in "fishing expeditions," or may be interested in individuals who may only be witnesses to or marginally involved with an alleged offense where there is absolutely no connection with an SSA program. SSN verification under these circumstances could easily result in serious erosion of individuals' personal privacy rights and put them in positions of having to defend themselves where they have not committed a crime.

As a result of increasing the access to SSA's information, fields offices and the 800 number could be swamped with overflow requests and possible complaints from the public diverting valuable and increasing scarce resources from the agency's programs. Moreover, SSA has a reputation for the vigorous defense of its program records. This proposal is not consistent with that reputation.

Under current law and policy, the IG has full authority to disclose information in connection with alleged violations of SSA programs. In recent years, the Agency's law enforcement disclosure policy has been expanded to allow SSN verifications for Federal, State, and local law enforcement agencies where there may be allegations of SSN fraud or misuse that could constitute felony violations of the Social Security Act, even though the law enforcement agency pursuing an investigation may not have the authority to investigate or prosecute a violation occurring under the Act. The Commissioner has delegated authority to the IG to make these disclosures under such circumstances.

This is a reasonable and balanced policy that allows SSA to provide assistance to the law enforcement community, while at the same time protect individuals' privacy rights. Providing SSN verification to advance the broader national law enforcement agenda can only be done at great risk to SSA's core mission.

***(3) Control by the Office of Inspector General over their own investigative files and records—As I understand it, currently, the SSA Freedom of Information Officer may determine whether or not an SSA record may be released to the public under the Freedom of Information Act, this would include the records of the Office of Inspector General. The Inspector General would like to be able to make their own decisions on whether their information should be released.***

*Response*

OIG has proposed legislation to give them control over FOIA requests for their investigative files and records. To our knowledge, the current statutory and regulatory scheme has worked well to manage all of the Agency's documents, including those of the Inspector's general (IG). We are unaware of any instances in which the Agency has impaired the investigative function or the statutory mandate of the IG through the administration of its information disclosure program.

Further, the Commissioner of Social Security can delegate to the IG the ability to review and administer Freedom of Information Act requests should that become necessary. Also, if SSA wants to establish additional FOIA officers, this can be done by regulation. A legislative fix to this problem, should there be a problem at all, would be unnecessarily time-consuming and complex solution.

We believe there are compelling reasons for establishing a single FOIA Officer for the Agency. To list just a few:

The processing of requests for records is only one of FOIA's requirements. There are also publication and indexing requirements, and the EFOIA amendments require agencies to post certain information to their web sites. Agencies must also

complete an annual report to the Attorney General on FOIA activities. A separation of the function for OIG will not be workable unless OIG takes on these functions as well.

FOIA requests often raise conflict of interest issues. It is sometimes necessary to release documents that may be embarrassing to a component or an individual. A FOIA Officer with no direct interest in the matters involved in a request is in a better position to apply the law equitably.

Many requests involve "crosscutting" documents—more than one component has records responsive to the request or the request involves correspondence between components. Often more than one component has copies of the same documents. Control by one FOIA Officer helps ensure consistency in the processing of the request.

**(4) Title II fugitive felons—We changed the law so that fugitive felons would no longer be eligible to receive Supplemental Security Income benefits. The Inspector General is suggesting that fugitive felons also not be eligible to receive Social Security benefits.**

*Response*

While we believe this proposal has merit we need to proceed carefully. We would be happy to work with the Committee on addressing the issues that expanding the provision presents.

Even though the OASDI program is an entitlement program into which beneficiaries have paid, we understand the argument that SSA should not pay OASDI benefits to fugitive felons, as these benefit payments may finance a potentially dangerous fugitive's flight from justice. The expansion of the fugitive non-payment provisions to the OASDI program would assist SSA in presenting a consistent policy with respect to fugitives. At the same time it will increase public safety resulting from the arrests brought about by our cooperation with law enforcement.

There are obvious benefits to law enforcement if the prohibition on paying benefits to fugitive felons included OASDI beneficiaries; however, there are issues that expanding the provision presents. As with all changes in law, there would be policy, legal and operational issues that must be addressed as well as an evaluation of the programmatic or administrative costs and savings that would result from this proposal.

Sincerely,

FRITZ STRECKEWALD  
*Acting Assistant Deputy Commissioner  
for Disability and Income Security Programs*

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Chairman SHAW. We have a vote on the floor, but Mr. Huse, we will get your testimony to begin with and we will come back for the questioning. Jim Huse is the Inspector General of the Office of the Inspector General. Certainly no stranger to this Committee, and we appreciate your testimony and appreciate your coming back.

**STATEMENT OF HON. JAMES G. HUSE, JR., INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION**

Mr. HUSE. Thank you, Mr. Chairman, members of the Subcommittee. I want to thank you for the opportunity to be here today to discuss ensuring the integrity of Social Security programs and identify some of the challenges we still face and some of areas in which legislation could help us in those efforts.

In 1996, Congress enacted legislation prohibiting SSI payments to fugitive felons and directed SSA to provide State and local law enforcement officials with information needed to locate and apprehend these fugitives. Together with SSA, we have now identified some 28,000 fugitives saving more than 34 million in fiscal year 2000 alone. But perhaps even more important is the removal of po-

tentially violent criminals from the streets. Unfortunately, this 1996 law does not extend to those fugitives receiving Social Security benefits under Title II.

An audit report issued by my office found that the trust fund would have saved at least \$108 million had the 1996 legislation included both Title 16 and Title II benefits in its prohibition. The time has come to turn our attention to these government financed fugitives. We also face continuing challenges in the representative payee program. It is critical that legislation be enacted to enable us to pursue those representative payees who steal the benefits they handle. And SSA must be authorized to reissue stolen benefits to the beneficiary without declaring itself negligent.

It is grossly unfair to punish the victims of representative payee fraud while allowing the perpetrator to profit from his or her crime. Payment of benefits to deceased beneficiaries also remains a significant problem. A draft report prepared by our Office of Audit revealed significant error rates in SSA's death master file, and another draft report examines the system SSA uses to keep its death records up to date and ensure that benefits are terminated as soon as possible after a beneficiary's death.

Both audits indicate that while progress has been made, much remains to be done. There are other areas in which legislation would help my office in its fight against Social Security fraud and I would like to point out just a few of these. First and foremost, my office continues to seek statutory law enforcement authority, including the authority to cross-designate State and local law enforcement officers in joint operations.

Second, the epidemic of identity fraud has resulted in a wave of calls to my office by State and local law enforcement officers seeking to verify the name and Social Security number of those suspected of committing a felony crime. We have a restrictive agreement in place with SSA to respond to some of these requests, but our authority to thwart identity fraud in its earliest stages should be made explicit by statute.

Third, we must protect the integrity of our sensitive investigative documents. Under SSA's regulations, my office does not have the authority to respond to the Freedom of Information Act (FOIA) requests for our own records. This is in conflict with our statutory independence.

Fourth, we have seen frustration among judges and United States attorneys officers with respect to what is known as the trial work period. Designed to encourage valid attempts at vocational rehabilitation, this program has become a jackpot to those who receive disability benefits fraudulently. When caught and prosecuted, these unscrupulous individuals are permitted to keep thousands of dollars in stolen benefits.

Fifth, while the Social Security Act provides for incarceration and fines for those who commit fraud, it does not permit judges to order these criminals to repay the money they stole from SSA.

Finally, our civil monetary penalty program has been highly successful, but is in need of legislative attention. Under section 1129, we need authority to pursue payees for conversion. We also need explicit authority to treat an omission of material fact as if it were an affirmative false statement. And under section 1140, two fixes

are needed. First, we need to clarify that any company which provides a fee-for-service, which SSA provides free of charge, must conspicuously state this on their advertisements.

And second, we must be permitted to continue our successful efforts in eliminating misleading advertising using SSA's good name through a statutory delegation of authority under section 1140 to the Inspector General.

The OIG, the Social Security Administration, and the Congress have made enormous progress in combating fraud waste and abuse there the few years since SSA's independence. And these efforts will continue and endure. Hearings such as this are evidence that more work remain to be done, and that we all remain committed to this critical mission.

Thank you and I will be happy to answer any questions.  
[The prepared statement of Mr. Huse follows:]

**Statement of the Hon. James G. Huse, Jr., Inspector General, Office of the Inspector General, Social Security Administration**

Good morning, Chairman Shaw and members of the Subcommittee. Let me first thank you for the opportunity to appear today and address issues related to fraud, waste and abuse in Social Security programs and operations. As you know, my office has been working to preserve Social Security resources for almost six years now, since our inception in 1995. In that time, we have made great strides in reducing fraud, but there remains much work to be done, and I welcome this Subcommittee's help in performing this critical task.

I'd like to talk very briefly about a few areas in which we have been particularly successful, then address a few areas in which fraud and waste continue to pose challenges. Finally, I'd like to suggest a number of ways in which the Subcommittee can help us in our mission.

*Anti-Fraud Efforts and Challenges*

One of the first issues we explored as an organization was the payment of benefits to prisoners. In an audit report issued less than a year after SSA independence, we estimated that the annual cost to SSA in erroneous payments to prisoners was \$48.8 million, and we recommended that SSA seek legislation to facilitate the exchange of information with Federal, state, and local prison authorities. Such legislation was enacted in 1999, removing the need for computer matching agreements between SSA and prison authorities to be renewed every 18 months. The elimination of this time-consuming process had an overwhelming effect; according to SSA statistics, payments to more than 69,000 prisoners were suspended in FY 2000, based on more than 260,000 prisoner alerts that were received in large part because of that legislation. Progress has been promising and the efficiency of this program should continue to improve.

Another area in which we have focused a great deal of our energy, and in which we have seen dramatic results, is the fugitive felon program. In 1996, Congress enacted legislation making fugitive felons ineligible for Supplemental Security Income, or SSI, payments. The legislation also directed the Commissioner to provide state and local law enforcement officials with locator information about such fugitives to facilitate their apprehension. The Commissioner asked my office to perform this function, and we began working with SSA immediately. To date, we have identified some 28,000 fugitives receiving SSI. We have provided law enforcement officials with the necessary information to locate and apprehend these individuals, and have ourselves participated in more than a thousand of these arrests. Agreements are in place with the U.S. Marshals Service, the FBI, the National Crime Information Center, twelve states, and three cities to improve the volume and accuracy of the information that we act upon. More agreements are pending, and we continue to expand and refine the processes by which we receive and utilize fugitive information. The primary result is savings—more than \$34 million in FY 2000 alone. But perhaps even more important is the removal of potentially violent criminals from the streets, such as the California man we recently arrested, who was wanted for assault with a deadly weapon on a police officer. This is a program in which everyone wins but the felons, and it's limited only by the resources available for this important mission.

Unfortunately, while the law prohibits felons from receiving title XVI payments, it continues to permit fugitives to use title II benefits to finance their flight from justice. This is where we turn from success stories to areas where more can be done. An audit report issued by my office found that the Trust Fund would have saved at least \$108 million dollars had the legislation prohibited payment of *both* title XVI *and* title II benefits to fugitives from its enactment in 1996 to the audit period in August of 2000. In addition, the report estimated that as of May, 2000, the Trust Fund was paying at least \$39 million a year in title II benefits to fugitive felons. As I stated earlier, this waste of Federal funds goes to the heart of our mission, and our inability to stop these payments is frustrating. What is more frustrating to us as a law enforcement organization is that these benefits were paid to some 17,300 fugitives, many of whom could have been apprehended had my office been able to provide law enforcement agencies with felons' addresses. The time has come to turn our attention to these government-financed fugitives.

The representative payee program, the mechanism by which individuals or organizations receive benefits on behalf of those beneficiaries who cannot manage their own funds, has improved, but remains a problem area. A year ago, I testified before this Subcommittee and pointed out weaknesses detected by our audit and investigative efforts. Those weaknesses covered the full spectrum of Agency responsibilities in the representative payee program. We found that the Agency's initial selection and screening process was deficient because it failed to verify the accuracy of the identification, financial, and security information provided by prospective representative payees. We found that the Agency's monitoring and oversight of representative payees also was deficient in that many representative payees failed to submit annual accounting forms and SSA failed to retain necessary documentation when such forms were submitted. And, we found that when fraud did occur, there was insufficient statutory authority to repair the damage already done. I told you about a father who was appointed representative payee for his disabled minor son in 1996, and how two years later, when the child's mother also applied to be the child's representative payee, SSA learned that the father never had custody of the boy. I told you that the more than \$10,000 in benefits that the father received was never used for the child's benefit, and that the amount stolen fell below the U.S. Attorney's Office's minimum for criminal or civil action. Finally, I told you that because the child was entitled to the benefits, we could not pursue the father under our existing Civil Monetary Penalty authority, as the father's crime was deemed to be against the child, not against SSA. Moreover, since the benefits were properly paid on the child's account, SSA could not re-issue the stolen benefits, nor could it charge the father's account for the stolen funds. So, the father was able to keep the money he stole, and the child's only recourse would have been to privately sue his own father.

SSA has made strides in this area in the past year, based in part on our recommendations, but much remains to be done, and part of that burden rests with Congress. It is critical that legislation be enacted to enable us to pursue individuals such as the father I just described. Our Civil Monetary Penalty authority must be expanded to include conversion of benefits by a representative payee as a covered offense. And SSA's ability to recoup such converted benefits, and any penalties or assessments, must be expanded to make the representative payee liable to SSA for the converted funds. Finally, SSA must be authorized to reissue stolen benefits to the beneficiary without declaring itself negligent. It is grossly unfair to punish the victims of representative payee fraud, while allowing the perpetrator to profit from his crime. Most representative payees are honest, and act only in the best interests of these most vulnerable beneficiaries, but when this is not the case, we must have the tools we need to act.

We have also identified problems with payment of benefits to deceased beneficiaries. In a draft report issued by our Office of Audit, we matched all 11.7 million auxiliary beneficiaries against SSA's Death Master File and found that SSA had paid an estimated 881 deceased auxiliary beneficiaries \$31 million in OASDI benefits after their dates of death. On average, these deceased individuals continued to be paid for some 63 months after death. This study also revealed significant error rates in SSA's death matching process, and another draft report examines the system SSA uses to keep its death records up-to-date. Both audits indicate that while progress has been made, much remains to be done in ensuring that benefits do not continue to be paid to the deceased. We are pleased that SSA is proactively addressing other systems deficiencies identified by our independent auditor, PricewaterhouseCoopers, by doing more than what is minimally required under the Federal Financial Management Improvement Act of 1996 and the Government Information Security Reform Act. Our recently awarded contract for the FY2001 financial statements provides for our independent auditor to provide opinion-level assurance on the Agency's compliance with FFMIA and GISRA. We believe that providing

this opinion will assist the Agency to identify and address critical vulnerabilities within its systems environment.

These areas—prisoners, fugitive felons, representative payees, and payments to deceased beneficiaries—represent four areas in which the OIG and SSA are working together to improve payment accuracy and minimize fraud and waste. All but the first are areas in which the additional legislation I have already described would prove invaluable. But there are other areas in which legislation could be a boon to my office in its fight against Social Security fraud, and I'll close by pointing out just a few of these areas.

#### *Legislative Needs*

First and foremost, my office has been seeking statutory law enforcement authority almost from the moment we were established. For six years, we've operated under a discretionary, revocable, and limited deputation agreement from the Department of Justice. This tenuous authority does not include the authority to cross-designate state and local law enforcement officers, and carries with it a time-consuming and unnecessary administrative burden. Our Special Agents have conducted themselves with the same degree of professionalism and devotion to duty as any other Federal law enforcement officers, and the time has come to grant them the same legal status.

In the same vein, our unique status as an independent law enforcement organization that is tied to a Federal agency creates occasional conflicts in laws and regulations. Two of these conflicts concern the treatment of SSA records, which are tightly controlled by the Privacy Act and SSA's own privacy statute. While I am adamant that my employees observe all applicable laws and regulations and even take additional policy steps to protect Americans' private information, my office is also charged with waging the war against Identity Theft. When a law enforcement official is investigating an individual for the commission of a felony, he or she will frequently contact my office to determine if the suspect's name and Social Security number match SSA's records. SSA agreed with us that it was in everyone's best interests to use this early detection tool to prevent Identity Theft, but under current law, SSA could only agree to permit us to provide law enforcement with this information if the individual in question was suspected of committing a crime *involving* a Social Security number. Our authority to assist in the investigation of all felony crimes, while at the same time detecting Identity Theft in its earliest stages, should be a statutory authority and a statutory obligation.

Similarly, as an independent law enforcement organization, my office must have control over its own investigative files and other records. Under regulations promulgated by the Social Security Administration, only the SSA Freedom of Information Officer may determine whether or not an SSA record is released to the public—that includes investigative and other records of my office. While we have worked together with SSA to ensure the integrity of our records for the past six years without significant incident, we have not been able to convince SSA to amend the regulations to give the OIG final control over its own records. This is contrary to the OIG's statutory independence and at odds with the practices of many Federal departments and agencies.

Turning to the program area, judges and United States Attorneys' Offices have expressed frustration with respect to the Trial Work Period provision of the Social Security Act. Under existing law, disability beneficiaries may return to work and continue to receive benefits while working for nine months or more. Designed to encourage rehabilitation, and in most cases accomplishing just that, the Trial Work Period becomes an unexpected jackpot for those individuals whose very receipt of benefits is fraudulent. Under current law, there is no way to avoid paying benefits during the Trial Work Period to unscrupulous beneficiaries who feigned their disability or concealed the fact that they were working. When caught, they are permitted to keep thousands of dollars in stolen benefits because of this loophole in the law. Prosecutors rightfully regard this with disdain and in some instances, refuse to prosecute such cases. That loophole must be closed.

We would also like to see judicial restitution authority added to the felony provisions of the Social Security Act. Under existing law, a Court may find an individual guilty of stealing Social Security benefits, but cannot, as part of that individual's criminal sentence, order her to repay the benefits she has stolen.

Finally, our civil monetary penalty program has been highly successful. We have completed 66 successful cases under Section 1129 of the Social Security Act for making false statements in connection with benefit determinations, imposing over \$2 million in penalties and assessments. We have penalized 8 companies under Section 1140 for using SSA's good name in misleading advertising campaigns, imposing over \$1.85 million in penalties. Both programs need a legislative boost. Under Section

1129, as I discussed earlier, we need authority to pursue representative payees for conversion—the current system allows far too many of them to fall through the cracks. We also need explicit authority to treat an omission of a material fact as if it were an affirmative false statement. And under Section 1140, two fixes are needed. First, we need to require any company that charges a fee for performing a service that SSA provides free of charge to conspicuously state this on their advertisements. And second, we would suggest a technical change to Section 1140 to ensure that the OIG has the critical tools and permanent authority to wipe out deceptive mailers who target SSA beneficiaries.

The Office of the Inspector General, the Social Security Administration, and the Congress have made enormous progress in combating fraud, waste, and abuse in the few years since SSA independence. Hearings such as this are evidence that more work remains to be done, and that we all remain committed to this critical mission. Thank you, and I'd be happy to address any questions.

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Chairman SHAW. Thank you. We have one vote on the floor. The Committee will stand in recess for approximately 15 minutes so that the Members can vote, and then we will return for questions. Mr. Huse, thank you.

Mr. HUSE. Thank you, Mr. Chairman.

[Recess.]

Chairman SHAW. Thank you. Mr. Huse, in your testimony you recognize SSA for increasing the number of matching agreements they have entered into, which will result in more fugitive felonies being identified. In your audit report issued last August your findings appeared to be critical of the SSA for not moving fast enough. Based upon your understanding of what SSA has accomplished since your audit report, are you satisfied with the progress that they are making and could you enlarge upon what is working and what is not?

Mr. HUSE. I would be glad to, Mr. Chairman. We are satisfied with the progress we are making now with respect to these matching agreements across the country. As a matter of fact, we now have matching agreements with 12 States and three cities. It is a very difficult prospect because the Computer Matching Act, of course, requires that we have these matching agreements before we exchange data. Some of the States have different computer systems, incompatible computer systems, so there are some technical issues that need to be overcome. And, of course, some States and jurisdictions don't even have electronic records. But we are getting there. And the commitment is there. We are only limited in all of this by the amount of resources that we are able to apply to it. And with the resources we have now, we are 100 percent behind this effort.

Chairman SHAW. How many States do not have electronic reporting equipment? That is a little bit surprising to me.

Mr. HUSE. I am not certain. Off the top of my head, I think there are several, but we will be glad to get that for the record. About four. We will give you the names of those States.

Chairman SHAW. Could you supply that for the record?

Mr. HUSE. I would be glad to.

[The following was subsequently received:]

SOCIAL SECURITY ADMINISTRATION  
 OFFICE OF THE INSPECTOR GENERAL  
 Baltimore, Maryland 21235-0001  
 June 15, 2001

Hon. E. Clay Shaw, Jr.  
 Chairman, Subcommittee on Social Security  
 Committee on Ways and Means  
 House of Representatives  
 Washington, D.C. 20515

Dear Chairman Shaw:

I am responding for the record in reference to a question you asked me during my May 10, 2001 testimony before your Committee on the subject entitled: "Ensuring the Integrity of Social Security Programs."

Your question is repeated as stated and accompanied by the following reply:

**Question: How many States do not have electronic reporting equipment?**

I answered that approximately 4 States do not have electronic reporting equipment. I would like to clarify for the record that all states have some type of electronic equipment. However, not all States' data systems are compatible or can meet SSA's reporting requirements.

SSA's Office of Systems requires all reporters to follow a strict format. Although several States have tried to comply, we have encountered problems with the files received. As an example of these problems, the El Paso Sheriffs Department sent us 3 separate files and despite the best efforts on the part of our computer specialists, these files remain unreadable. El Paso has not been able to revamp their computer systems to meet the specifications mandated by SSA. Another example is the Baltimore City Sheriffs Department. After several unsuccessful attempts to format data to SSA's specifications, this jurisdiction continues to furnish our Baltimore office with paper reports.

Jurisdictions at the State level have similar problems. For example, according to a report prepared by SSA:

- The State of Vermont indicated that it "does not have the resources to prepare files to submit remaining parole probation violators" to SSA.
- The State of Indiana declined to participate in the Fugitive Felon Program because it is unable to separate felony records from misdemeanor records. SSA specifies that records must contain felony warrants only.
- The State of Iowa currently reports quarterly on paper. SSA states (in part) that Iowa finds "the matching agreement reporting requirements burdensome. ..." Again, this clearly indicates problems with electronic reporting equipment.
- The State of Utah declined to participate "due to resource issues."

Prior to SSA agreements with State and local jurisdictions, the OIG contacted several law enforcement agencies. Although many agencies indicated a willingness to provide data, several indicated that they lacked the electronic reporting equipment needed to comply with SSA's specifications. Still others indicated that meeting SSA systems requirements would not be a problem, but the test files received were unusable.

Should you have any further questions, or if you would like a clarification of the above comments, please contact my Special Agent-in-Charge of External Affairs, Mr. Rich Rohde at (410) 966-1722.

Sincerely,

JAMES G. HUSE, JR.  
 Inspector General of Social Security

Chairman SHAW. I suppose one of them is not Florida.

Mr. HUSE. No, Florida has electronic records. All of America knows that.

Chairman SHAW. We are going to vote that way now too, I guess. Mr. Pomeroy.

Mr. POMEROY. Thank you, Mr. Chairman. Inspector General Huse, you indicate two areas with the problem of preventing fraud within the representative payee program that SSA has been a little

deficient in the past relative to the initial verification and screening process as well as failing to verify the accuracy of information provided by perspective representative payees. Also that SSA failed to retain essential supporting documentation when payees submitted their annual reports. What progress has been made in these areas? Or what is the state of resources within the agency to deal with those particular issues?

Mr. HUSE. As the agency testified before me, in their view, they are adequately funded now to carry out some of these responsibilities, but they are essentially in mid passage. For example, we still haven't settled on a definitive process yet to verify the credentials of a prospective representative payee in terms of fiduciary history or criminal history, and which one would be subject to that check. That is being developed now, so that there is progress there.

I know the agency is working on regulations and a process to take into account the annual review, or the periodic review of rep payees around the country in terms of the benefit payments and their, you know, viability; are the benefits getting to the beneficiaries? That, too, is being worked out. We are working with them on that in terms of providing some kind of check on the process so that it fulfills our responsibilities to report on that, but also giving advice where we can in terms of what kind of a—it is not truly an audit that can be done, but what type of review would be done individually with these rep payees to get us to where we have to go so we have a better handle on these people.

Mr. POMEROY. So generally are you—resources are there, the plans in implementation, things on track?

Mr. HUSE. It is on track with all of what—I have to qualify that by saying with all of what is done, of course, these resources are balanced against other workloads. So while—the theoretical effort is there in terms of the policy and the commitment to do it. Any of these other workloads can cause this progress to be slower or faster. Right now it is a priority. But there are other things that can interfere. So I am not saying that it is done, nor am I saying that the speed is correct. I am just saying that they are involved in the effort. But resources do influence the speed with which they are accomplished.

Chairman SHAW. Mr. Ryan.

Mr. RYAN. No questions.

Chairman SHAW. Mr. Brady.

Mr. BRADY. No, sir.

Chairman SHAW. Mr. Hulshof.

Mr. HULSHOF. Thank you, Mr. Chairman. Mr. Huse, I want to focus on some of the things you have suggested on pages three and four of your written testimony as far as investigate legislative proposals and legislative needs; and, of course, that is where we come into play to some degree to a great degree. And in your testimony, really two separate areas if I have time to get to them.

You requested tort to have final control over Inspector General reports as far as freedom of information requests. I guess I am a little bit unclear as to how the process works now. You indicate in your testimony, for instance, that this is, your situation is contrary or at odds with the practices of many Federal departments or Federal agencies. Could you elaborate on that for me?

Mr. HUSE. We are a relatively new office of the Inspector General. In fact, we are just about 6 years old, from SSA Independence Act. And when we came out of Health and Human Services, a lot of underpinning that would normally take place with respect to an IG was done very quickly, the structure was set up. And some things weren't entirely worked through. So in this particular context, we actually are subjected to the agencies regulations and their final review of FOIA material. This is contrary to the practice in most of the government where the view of the Inspector General includes all audit material generated by the IG.

Mr. HULSHOF. Have you had some discussions with SSA about this?

Mr. HUSE. I have.

Mr. HULSHOF. What has been their response?

Mr. HUSE. I would say that the agency's position is they see there as an area where they feel that they need to exercise their control over what we do. And that is in conflict, we believe, with the Inspector General Act. These things happen where these conflicts come up. And we are seeking a legislative relief because, quite frankly, I think we could go on for some length of time without any amending regulatory change inside the agency.

Mr. HULSHOF. Mr. Huse, would you care to comment on any instance—not asking a specific fact pattern, but has Social Security Administration ever released records in a way that may have caused interference with the Inspector General's work or was contrary to the IG's best interest.

Mr. HUSE. I know we have had high dialogue and difference of opinions over release of some records, but I don't know of any specific instance where I would sit here and say we have had some damage.

Mr. HULSHOF. Let me shift gears a little. I do have a few moments left, and I know that the Chairman has been very strong about getting to the root of identity theft. We have had a series of hearings on that. So I want to focus on your testimony regarding that instance which was enlightening to me. Again, as I understand it, you are unable to share certain information, name, Social Security number with outside law enforcements unless there is an allegation of crime against Social Security.

Mr. HUSE. That is correct. There is one narrow exception that is provided for Presidential threats and acts of terrorism; but other than that, the prohibition is pretty restrictive.

Mr. HULSHOF. In your testimony, you recommend that the Inspector General be authorized to assist outside law enforcements in the investigation of all felonies by seeing whether their suspect's name and Social Security number match. Is that your request?

Mr. HUSE. That is almost the standard request that is made to us day in and day out by local, State, county law enforcement around the United States; and we believe that is something we should be able to do.

Mr. HULSHOF. Again, let me ask. You had conversation with the Social Security Administration about this aspect, and what was their reaction?

Mr. HUSE. In the last administration, we were able to strike a compromise and work out a process where it allowed us to provide

some latitude here as long as we could identify a violation that Social Security has jurisdiction over, and we have looked at identity fraud as expanding that a little bit. So we are part of the way there with you. We are not all the way. We have to be to really, to really participate in this identity fraud fight the way we should.

Mr. HULSHOF. I see my time has expired. Thanks, Mr. Huse. Thanks, Mr. Chairman.

Chairman SHAW. Mr. Lewis.

Mr. LEWIS. Mr. Huse you have indicated that you have provided the Social Security Administration with the recommendation to improve its error rates in their death-matching process and the time limits of their death records. Could you provide us with some examples of those recommendations which are being implemented by SSA.

Mr. HUSE. Off the top of my head—if I could, could I provide those to you in a written response?

[The following was subsequently received:]

SOCIAL SECURITY ADMINISTRATION  
Baltimore, Maryland 21235-0001

The Honorable Ron Lewis  
House of Representatives  
Washington, DC 20515

Dear Mr. Lewis:

I am writing in response to your question asked during the Social Security hearing on "Ensuring the Integrity of Social Security Programs," held on May 10, 2001. You asked for examples of recommendations issued by the Office of the Inspector General that were being implemented by the Social Security Administration (SSA) to improve the accuracy and timeliness of its death-matching process.

During this hearing I cited two reports, one report entitled "Old-Age, Survivors and Disability Insurance Benefits Paid to Deceased Auxiliary Beneficiaries" was issued by our Office of Audit June 19, 2001 (enclosed) and the other report entitled "Unresolved Death Alerts Over 120 Days Old" is expected to be issued by early September. In both reports, we provided SSA with recommendations to improve its procedures for (1) detecting unreported and misreported deaths, and (2) preventing improper payments to deceased beneficiaries. The first report recommended that SSA periodically match its payment records against its Death Master File, a repository of death information from third-party sources such as Medicare and State vital statistics agencies. SSA agreed to conduct the match in July 2001 and evaluate the need for subsequent matches. This report also recommended that SSA resolve discrepancies for 2,721 beneficiaries identified by the audit. SSA agreed to complete its review of these cases by September 2001.

The second report recommended that SSA improve its controls to ensure that discrepant death data identified by its automated system are resolved in a timely manner. By June 2001, SSA agreed to develop procedures, including timeframes, to take corrective action on all cases outstanding for over 120 days. In addition, SSA agreed to monitor these cases on a nationwide basis and follow up with its field offices. This report also recommended that SSA implement a number of systems modifications to enhance its death-matching process. SSA agreed to implement such enhancements as resources permit.

If you have any questions concerning our response, please call me or have your staff contact Douglas Cunningham, Special Assistant to the Inspector General, at (202) 358-6319.

Sincerely,

JAMES G. HUSE, JR.  
*Inspector General of Social Security*

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Mr. LEWIS. Sure that would be fine. In your audit, did you find instances of individual payers on the death record, but still alive?

Mr. HUSE. Yes we did. We have conducted the audits that I have mentioned in my testimony, and we found that we had out of the universe of auxiliary beneficiaries, now these are people who, after the beneficiary died they were auxiliary beneficiaries. There was an original beneficiary, and then they have—the benefits went to them. That in that universe, 800 some-odd beneficiaries were deceased, but we had paid \$31 million in benefits to them nevertheless. Now in the months involved, there were anywhere from 19 months to 154 months that the payments continued. That averaged out to be about 63 months through that particular piece to the debt collected back from them, and these are rough figures; and I would ask if we could correct them, but basically we only get back about 10 percent of what has been paid out. And the rest of it is written off as uncollectible. There is a window in there where you get more back if you identify the death within the first 20 minutes or so or even a lesser period of time. There is more of an opportunity, the likelihood there. If it goes beyond that, those funds are pretty much difficult to get back.

Mr. LEWIS. Now there is a proposal that was submitted last year that requires States to report death information to the agency within 30 days from when they receive it. Would that help improve the accuracy and the timeliness of terminating the benefits for those who have died?

Mr. HUSE. Well timely reporting is the key to this particular business process, of course. But we are up against the same problem there that we get into with some of these other efforts to collect information from other jurisdictions, State, local, county, that all of these are not uniform in the way they aggregate the data and report it to us. So the ideal today with information technology is we reach this place where all of this is done electronically and in real time. But we are a long way from that. I think that is important to understand. That also applies to the fugitive felon issue too. We are not there yet. And to glibly state that we are is not correct.

Mr. LEWIS. If we imposed on the States this reporting requirement, do you think that would help?

Mr. HUSE. I think if it gave them some bench marks that they really ought to strive for, that would certainly help to improve the situation now where those don't exist.

Mr. LEWIS. Thank you.

Chairman SHAW. Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. I am interested in your remarks about not being able to function in a law enforcement capacity as easily as you would like to and you tell us that we need to change some of the laws but tell me how you would propose to do that.

Mr. HUSE. Well, right now the office of the Inspector General has its actual police powers, it has law enforcement powers provided by a deputation from the United States Marshall Service. Our agents are special deputy United States marshals. And we do not sneer at that. That is a pretty good status. But as an OIG, we lead all of the inspector generals in government in terms of arrests, in terms of what we do in our investigative activities.

Ninety-seven percent of the work we do involves external crime. That is very different from most inspectors general. We are, in ful-

filling some of plan dates we have on the street with local law enforcement around the country, just as any of the other traditional law enforcement agencies are. By being special deputies though, we are limited in our ability to organize task forces with local county, States' law enforcement to accomplish some of these tasks like particularly with fugitive felons, which really has great potential.

Mr. JOHNSON. Yes, but how would you envision changing that relationship with the Justice Department?

Mr. HUSE. It has to be by statutory—

Mr. JOHNSON. I understand, but what are you asking for?

Mr. HUSE. We are asking those powers to be included in the Social Security Act.

Mr. JOHNSON. But are we establishing another separate law enforcement agency when we do that?

Mr. HUSE. Well the law enforcement agency already exists. It exists as the OIG now, but it doesn't have the full range of powers it needs to do the job as well as it can.

Mr. JOHNSON. Well part of the problem with our system out there is the courts and attorneys won't accept cases for something unless it is 10,000 or even \$100,000. If it is not a big number, they do not want to go to court over that. How do you propose to handle that because a lot of yours are smaller amounts, aren't they?

Mr. HUSE. They are, but we have some other remedies. We have the Social Security Act civil money penalty powers, which allow us to find folks that commit fraud against Social Security.

Mr. JOHNSON. Without going to court?

Mr. HUSE. Without going to court.

Mr. JOHNSON. OK.

Mr. HUSE. But those civil money penalty actions depends on the work of our investigators. And we have built up some great traction the last few years using these tools which I think are very good tools that take some of the burden off of the Department of Justice folks so that they can concentrate those bigger number crimes.

Mr. JOHNSON. But specifically, how do you recommend that we try to fix it in law?

Mr. HUSE. With your statutory authority in adjusting the civil money penalty.

Mr. JOHNSON. Or you want to be an independent agent; don't you?

Mr. HUSE. We do.

Mr. JOHNSON. So you would still be under justice, I presume?

Mr. HUSE. We still would be subjected to the Federal rules of criminal procedure and the Justice Department's requirement enforcement production of quality criminal investigations. But we would be subject to the authority of the Commissioner of Social Security in terms of law enforcement powers. So we are answerable just like any Federal law enforcement agency would be answerable to the head of the agency or to the cabinet secretary if it is a Treasury agency.

Mr. JOHNSON. Right. Are your guys trained as law enforcement officials? Do they carry weapons?

Mr. HUSE. They do now, and they are trained exactly the same as any other Federal agent with the same requirements and main-

tain the same standards of physical fitness and firearms prowess. I would submit that in the past 5 years, we have become one of the best and most professional pieces of Federal law enforcement there is.

Mr. JOHNSON. Thank you, sir.

Mr. HUSE. Thank you, sir.

Mr. JOHNSON. Thank you, Mr. Chairman.

Chairman SHAW. What would be the consequences if you were moved to Justice?

Mr. HUSE. Well, I think we belong where we are because of the relationship we have with Social Security Administration to do this job. When you look at how much—

Chairman SHAW. You keep talking about independent.

Mr. HUSE. Well, there is no artful answer to the IG independence versus the being a part of the agency. I think Congress never wanted that to be completely answered as a dynamic tension there that is always present. I don't find that to be insurmountable, and it is healthy. But we would be independent as we are now in the conduct of our investigative and audit activities. What we are asking for is to strengthen that though, with the ability to be able to do more in terms of our law enforcement activities with those partners we have to have at the local, State, and county level to get things done.

Chairman SHAW. OK. Thank you. Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman. Mr. Huse, thank you for being here. Let me see if I can ask a couple of questions. I followed—you have discussed a little about the process of trying to collect information of death, and I know that is always a difficult process and sometimes cumbersome and in some cases very delayed.

Is there some way to try to streamline the process that has been suggested to you? And has the suggestion ever been received to try to perhaps ask the physician who writes, who makes note of death on a death certificate been proposed to you as an idea of trying to first get information about death to the Social Security Administration?

Mr. HUSE. It sounds to me like a reasonable proposition. I wouldn't, I don't know that that is under consideration. That is a policy area that the agency would probably be better able to answer for you. But, I think there would have to be some kind of incentive here, but that is certainly a good way.

Mr. BECERRA. But in your investigation no one ever brought that out about a way of trying to streamline the process of trying to collect death?

Mr. HUSE. I think that is one of the recommendations we made. The key is the timeliness. I remember when I was responding to the earlier question, same issue, if we can get notification timely it is vastly easier to get these benefits back. Because in a lot of cases they are just sitting there in a stack of checks or in a terms of electronic funds transferred, it is easier to catch them before they have been withdrawn from an account.

Mr. BECERRA. And right now there is no uniform method of checking this information that SSA has.

Mr. HUSE. Pretty much the standard method is to receive notification from loved ones or funeral homes. And that works pretty well. But this would be an added dimension to cover. My colleague from Social Security testified, the 10 percent of instances where we do have a problem with the early reporting.

Mr. BECERRA. And the difficulty with receiving notification from loved ones or perhaps even a funeral home is that there is no legal requirement that those individuals pass on that information.

Mr. HUSE. I am not sure I know the answer to that.

Mr. BECERRA. Some of the fraud we do see occurs that some people do report individuals dead that aren't. And it would seem to me that if a physician signing a death certificate goes beyond an enforcement, that is a very formal, official act. And you are right, it probably would need some kind of incentive for the physicians to want to do that, but if that physician has to be receiving Federal funding for some of the services he or she provides folks, Medicare, Medicaid, there might be some type of way to provide the connection for that physician to require to have to do that.

Mr. HUSE. Certainly.

Mr. BECERRA. What of the question of OASDI benefits. I know there has been a recommendation that we prohibit felons from receiving those benefits as well. In what you have seen, is it possible for SSA to take on that task of also trying to preclude benefits from going to felons under OASDI without additional resources.

Mr. HUSE. Well, we use all of the resources we have right now just to do the title 16 fugitive felons. But the issue is one of equity here. These, the title two beneficiaries certainly, we shouldn't be funding their fugitive status with these benefit payments. The issue of resources is difficult.

Mr. BECERRA. You have just mentioned you have used up all your resources.

Mr. HUSE. We do. And testify point, we can't even address the universe we have completely in title 16. So perhaps some other type of a funding mechanism might be appropriate here such as scoring giving us our administrative costs back from the savings we bring in and thus allowing us to staff up to the point where we could really get to the full potential of the savings here that Congress intended that we go after.

Mr. BECERRA. And I believe you indicated in your report you would probably need about 128 additional full-time employees to cover the work of going after or trying to stop benefits from being received by fugitive felons.

Mr. HUSE. I think our latest number may even be more than 120. I think it is about 182.

Mr. BECERRA. So if we would pass legislation to prohibit or stop funding from OASDI funding from going to a fugitive felon without giving—you have the resources to do the work. We are really passing laws that can't be implemented.

Mr. HUSE. Well, I think we would be in the same situation we are now where we would have to prioritize and take what we could get from that triaging effort to try to make a demonstration at least in both violation areas that the law is being followed and fulfilled. But, no, the answer is we can't go to the universe either way without more resources.

Mr. BECERRA. Mr. Chairman, thank you. Mr. Huse, thank you for your testimony.

Chairman SHAW. Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman. Mr. Huse, in your statement, you make the comment that while we have worked together with SSA to ensure the integrity of our record for the past 6 years without significant incident, we have not been able to convince SSA to amend the relations regulations to give the OIG final control over its record. Evidently there have been some minor instances or you foresee the possibility of problems. What would be some of those problems or a probable?

Mr. HUSE. Well the worst problem would be where a record that was released that revealed some of our investigative techniques or the identity of someone who had provided us information which we are bound to protect by law or statute. And that is really what we are talking about is that our final review of what should be released should be the final review. It shouldn't go to someone else and have them second guess our decisions which is the case today. It is needless bureaucracy.

Mr. COLLINS. You say without significant incident. What have been some of the insignificant instances. Is that an example of what has happened in the past?

Mr. HUSE. That is the example of the type of arguments we have. That is, quite honestly, what we have disagreements over, what is releasable and what isn't. And with law enforcement record, there are charges that you protect the identity of those citizens who come forward to give us—I mean, that is the basis of any good case any way is someone giving an indicator that the crime has been committed and who done it.

Mr. COLLINS. Another area, we suggest a technical change to section 1140 to ensure that the OIG has the critical tools and permanent authority to wipe out deceptive mailers who target SSA beneficiaries. Inform us of a couple of examples of deceptive mailers.

Mr. HUSE. We have had some great cases here. We had a case in New York where the literature sent out by this company literally was charging citizens for services that Social Security provides for free. And we put them down. We investigated them and served an injunction on them and put them out of business. And that is basically what we have done around the country. I am getting a nod from our chief counsel who is in charge of this, but we have had great successes.

Mr. COLLINS. Well then you have the tools and the authority. It must be something somewhere.

Mr. HUSE. What this is all about, and I am going to make this straight forward, there is too much bureaucracy. We do their work. It was delegated to us by the commissioner. It is in the Social Security Act, but because of the little bit of ambivalence in the notice legislative language, we have too many cooks involved in this process, too many lawyers actually. And the agencies office of general counsel gets in—what we are trying to do is get do this in a more efficient way. The other problem is if you give it, if you delegate something that the IG—by statute, we are independent from the agency so that the concept of the agency's general counsel directing

us is in opposition to the IG act. So we are just trying to clean that up with a change in the wording of the 1140 piece.

Mr. COLLINS. Good. Thank you. That is all I have, Mr. Chairman.

Chairman SHAW. Thank you. Mr. Huse, we are going to get more into the question of deceptive mailings at a future hearing and perhaps you will come back and visit us.

Mr. HUSE. I would be delighted.

[Questions submitted from Chairman Shaw to Mr. Huse, and his responses follow:]

SOCIAL SECURITY ADMINISTRATION  
OFFICE OF THE INSPECTOR GENERAL  
Baltimore, Maryland 21235

**1. Both you and the Social Security Administration indicated that more agreements are pending to allow you to find more fugitive felon warrants. Is your goal to expand agreements to the remainder of the states, and will those include agreements with more local law enforcement entities?**

The goal of the Social Security Administration (SSA) is to enter into agreements with the remainder of the States that do not report all felony warrants and persons wanted for violation of Federal or State probation and parole to the National Crime Information Center. SSA will also enter into agreements with local law enforcement jurisdictions in circumstances where they do not report felony warrants to a central State repository.

**2. You indicated in your testimony that agreements are in place with several Federal law enforcement authorities, 12 States and 3 cities to improve the volume and accuracy of the information that you act upon. What inaccuracies have been found in the information you have received?**

Warrant files have been received that contain misdemeanor as well as felony warrants. SSA is working very closely with State reporters to ensure warrant files include only records of felonies and parole/probation violators, as specified in the enabling legislation. Additionally, SSA continues to work with the States to ensure files are received in a format suitable for automated use.

**3. Your office works with Federal, State and local law enforcement agencies to apprehend fugitive felons who receive SSI benefits. From Chief Dough's testimony, we saw that one of the ways you work with these agencies is through joint fugitive felon task forces. Could you explain for the Subcommittee how a task force works? Who would be involved? What type of information would the Office of Inspector General provide to secure the apprehension of fugitive felons? What involvement would an Office of Inspector General Special Agent have in the arrest of the fugitive?**

A task force is a team that may be comprised of individuals from Federal, State, local agencies, the private sector, (i.e., bank, credit card, and insurance fraud investigators) or any combination thereof. The task forces serve to combine the resources, talents and jurisdictional authority of the individual components in a way that increases efficiency in pursuing objectives of mutual interest. One example of this symbiotic relationship is the pooling of intelligence data from various sources that separately have little value, but when combined, provide excellent investigative leads.

OIG would provide information indicating the address where a fugitive receives SSI payments or a parole/probation violator receives payments or benefits. In those task forces where the OIG is an active member, we would participate to the extent of our authority, including arrest situations, resources permitting.

**4. You indicated in your testimony that the Social Security Administration has made great strides in the representative payee program. Could you elaborate as to what the Social Security Administration has done in the past year? What, in your view, is left to be done by the Social Security Administration? By Congress?**

Last year, SSA established a Representative Payee (Rep Payee) Task Force to perform a comprehensive review of the features and vulnerabilities of the current Program. The Task Force is comprised of three subgroups concentrating on:

- Monitoring Representative Payees
- Systems Support for the Representative Payee Program
- Bonding and Licensing of Representative Payees

SSA has completed approximately 540 on-site reviews of Rep Payees, verified that 693 organizational fee-for-service Rep Payees continue to have the required bond or

license, and performed 26 random reviews of Rep Payees. In addition, SSA has contracted with an accounting firm to conduct financial reviews of 60 Rep Payees.

However, much is left for SSA to do to address the vulnerabilities and weaknesses in the Rep Payee Program. This work includes the following:

*Selection of Rep Payees*—SSA is yet to determine whether and how they will stop the selection of those Rep Payees who are most likely to commit misuse. Currently, SSA does not perform a background check of Rep Payees to determine whether they have financial problems, bad credit, have been convicted of a felony, and so forth. However, SSA is planning to award a contract for research options concerning criminal and financial background checks.

*Bonding and Licensing of Rep Payees*—SSA's policy specifies neither the amount of bond necessary to adequately protect beneficiaries nor the type or nature of licenses that are permitted. To date, SSA has not made any revisions to its policy to address these vulnerabilities.

*Rep Payee System*—SSA is working to correct a number of systems weaknesses we previously identified. Some of the items SSA has not yet implemented follow:

- SSA systems do not effectively track Rep Payees who do not respond to and complete the Rep Payee Reports.
- SSA cannot always locate and retrieve completed Rep Payee Reports when needed.
- SSA systems do not include information on all Rep Payees and beneficiaries that have Rep Payees as required by law.
- SSA needs to develop a systems match to identify deceased Rep Payees.
- SSA needs to develop a system to control and monitor the processing of alerts that have identified Rep Payees who have been incarcerated.

As to congressional action, we support legislative efforts to strengthen SSA's oversight of Rep Payees. In particular, the provisions in H.R. 4857 provide important safeguards that would protect Social Security beneficiaries from unscrupulous Rep Payees. The provisions of the legislative proposal we support addressed:

- The re-issuance of Social Security benefits in cases of misuse by individual or organizational Rep Payees;
- Requirements to conduct periodic on-site reviews of certain Rep Payees;
- Disqualification of individuals from serving as Rep Payees who have been convicted of an offense resulting in more than 1 year in prison;
- The treatment of misused benefits by a Rep Payee as overpayments to the Rep Payee, subject to current overpayment recovery authorities; and
- The imposition of civil monetary penalties for offenses involving misuse of Social Security benefits received by a Rep Payee on behalf of another individual.

**5. According to both yours and the Agency's testimony, the Social Security Administration has added many new procedures to its representative payee oversight program, including annual verification of bonding or licensing and random reviews of volume and fee-for-service payees. What is your office's role in this process? What audits, reviews, investigations are planned?**

Our role is to provide an independent assessment of SSA's stewardship over the Rep Payee Program and to identify vulnerabilities to fraud, waste or abuse. In addition, we investigate all allegations of Rep Payee fraud and/or misuse. As you know, since 1996, we have made several recommendations to improve SSA's Rep Payee Program. These recommendations addressed many of the areas SSA is now working to correct. For example, we recommended that SSA more thoroughly screen potential Rep Payees, change the focus of its Program to increase the monitoring of Rep Payees, and determine why Rep Payees do not complete and return Rep Payee Reports.

In FY 2001 we performed six financial-related audits of Rep Payees. Our audit results showed that Rep Payees did not always meet their responsibilities to the beneficiaries they served. We identified deficiencies with the financial management of, and accounting for, benefit receipts and disbursements; vulnerabilities in the safeguarding of beneficiary payments; poor monitoring and reporting to SSA of changes in beneficiary circumstances; and inappropriate handling of beneficiary conserved funds.

We continue to identify problems with SSA's oversight of Rep Payees. For example, in March 2001, we alerted SSA to a condition whereby individuals were serving as Rep Payees who also had a Rep Payee to manage their own Social Security benefits. SSA subsequently identified several thousand instances where this had occurred. We also recently identified an instance where a Rep Payee continued to serve as a Rep Payee while incarcerated.

In FY 2002, we will conduct an additional six financial-related audits of Rep Payees. In addition, we will perform audits/reviews of SSA's oversight of the Rep Payee Program. They include audits/reviews of Rep Payees who have committed misuse,

SSA's on-site reviews of Rep Payees, SSA's Rep Payee System, and Rep Payees who are fugitive felons. Finally, will continue to investigate allegations of Rep Payee fraud and/or misuse.

**6. Both you and Ms. Zelenske mentioned that the Civil Monetary Penalty authority should be expanded to include conversion of benefits by a representative payee as a covered offense. Would you agree with Ms. Zelenske's suggestion that this should be limited to cases of "misuse" of benefits or should it be broader?**

We agree with Ms. Zelenske that expansion of the OIG's civil monetary penalty authority to include conversion of benefits by a representative payee should be limited to instances of misuse. We also agree with Ms. Zelenske that there is a significant distinction to be made between "misuse" and "improper use" of benefits by a representative payee. Thus, we do not foresee a need for broader authority at this time. We would note, however, that the language in section 406 of H.R. 4857 pertaining to representative payee conversion is consistent with the definition of misuse contained in section 401.

Therefore, we do not believe that any change in the language of the legislation is necessary to address Ms. Zelenske's concerns. The expanded authority proposed in the draft legislation would significantly enhance the OIG's efforts to reduce this type of fraud against SSA's most vulnerable clients while continuing to recognize that representative payees play a vital role in the administration of SSA's programs and should not be unnecessarily or unfairly sanctioned.

THE HONORABLE JAMES G. HUSE, JR.  
*Inspector General*

Chairman SHAW. Thank you very much. We now have a panel. If they would come to the witness table. Ms. Ethel Zelenske, who is the cochair on the Task Force on Social Security Consortium For Citizens With Disabilities; Philip Burnett, who is an accountant for Hennepin County Children, Family, and Adult Service Department, Minneapolis, Minnesota; Eljay Bowron, who is the executive vice president of Vance International, Inc., Oakton, Virginia; and, yes, there is a John Dough. John D. Dough is the chief of Essex County Sheriff's Department, Newark, New Jersey. And I am sure, Mr. Dough, you have some wonderful testimony to give us about how hard it is to get a credit card if your name is John Dough.

Mr. DOUGH. Or to get a pizza delivered.

Chairman SHAW. When ordering pizza, I would use another name. Ms. Zelenske, as always, we have everyone's full testimony made part of the record; and you may summarize as you see fit.

**STATEMENT OF ETHEL ZELENKE, CO-CHAIR, TASK FORCE ON SOCIAL SECURITY, CONSORTIUM FOR CITIZENS WITH DISABILITIES**

Ms. ZELENKE. Thank you for inviting me to testify this morning. One of our task force's key priorities is to ensure that SSA's representative payee program adequately protects beneficiaries. A recent court decision from Illinois captures the problems faced by beneficiaries under the current system. In the case Cannon v. Apfel, Ms. Cannon's uncle, her payee, spent more than \$23,000 of her past due SSI benefits when she was a minor.

SSA determined that the uncle had, in fact, misused nearly all of the money. She was able to recover some of the funds from him but sought the remainder from SSA alleging that the agency was negligent in selecting her uncle as her payee and in monitoring him.

What happened in that case? Well, first of all, the uncle claimed that he had never been convicted of a felony. In fact, he had been convicted of three felonies, none of them under the Social Security Act. The court found that SSA did not have the benefit of this information because of its lack of diligence in engaging in a thorough investigation of the uncle. The court also noted there was nothing in the Social Security Act requiring SSA to conduct a criminal background check in this case.

The uncle also failed to promptly respond to the requested annual accounting, although he did eventually. The court, in response to that issue, said that the tardiness was not so unusual, relying on SSA's policy allowing up to 6 months to respond before further action is taken. In the court's words, SSA came to its own defense in determining that it had not been negligent and thus was not liable for restitution to Ms. Cannon. Seven years after the misuse occurred, the court reluctantly affirmed Social Security's finding of no negligence.

What lessons can be learned from this case? First, there is a need to have adequate protections in place to prevent misuse. Second, if the misuse occurs, there is a need for viable remedies to make the beneficiary whole again.

The best way to prevent misuse is to hold Social Security accountable in carrying out its duties. However over the past decade, we have found that Social Security's workers have been unable to keep up with hands-on work, like issues involving representative payees. The task force is concerned about the long-term downsizing of the Social Security work force which we feel, in part, has affected the integrity of the Social Security and SSI Programs.

The task force strongly supports efforts to provide SSA with adequate resources to meet its responsibilities including the required oversight of the representative payee program.

Regarding specific proposals to prevent misuse, there is a need for increased oversight. SSA must be vigorous in its oversight of all payees, not just volume providers and fee-for-service payees but also individuals and governmental agencies. In response to what SSA said earlier, there are problems with responsible family members being passed over as payees. It is not just when they have a criminal background or have been found to misuse benefits. There are situations where families are pressured into allowing an agency to be the payee. I know from my own experience there were cases where tearful elderly mothers had been removed as payees because they used benefits for clothing or for trips home on the weekends for their adult children who were in institutions rather than turning over all of the check to the institution.

Second, there is a need to pay closer attention to the background of payee applicants. There needs to be more thorough background checks of the criminal record and disqualification for conviction and imprisonment for any offense. In the Cannon case, you can see how this lack of a background check led to problems.

Third, there is a need for better monitoring through the annual accounting process and follow up more promptly when accounting forms are not returned. For instance, in the Cannon case, 5 to 6 months is simply too long. A lot of mischief can ensue in that amount of time. Also, redirecting delivery of benefits for failure to

provide the form is a good option. However, you need to ensure that benefits are not interrupted to the beneficiary.

The other issue I want to address is providing further protection when benefits are misused. Last year's bill, H.R. 4857, did talk about reissuing benefits by SSA in limited situations by eliminating the negligent failure requirement for certain payees. Also, it designated misused benefits as an overpayment which triggers a wider variety of remedies.

I wanted to focus on the reissuance provision. The case that I described, the Cannon case, is a good example of the problems that a beneficiary encounters in being made whole where the payee misuses benefits. Obtaining restitution from SSA is extremely difficult under the existing law because the individual must show that SSA engaged in negligent failure.

As I said, H.R. 4857 would have eliminated this requirement for misuse by any payee that is not an individual or an individual who serves 15 or more beneficiaries. This would not have helped in the case I just described to you. We ask the Subcommittee to consider expanding the types of representative payees where the negligent failure requirement could be eliminated.

We understand the concerns about fraudulent claims of misuse, but the Cannon case is a good example where everyone agreed, including the agency, that benefits had been misused. In addition, H.R. 4857, as introduced last year, would have eliminated the negligent failure requirement for individual payees serving a smaller number of beneficiaries. Thank you for allowing me to testify this morning.

[The prepared statement of Ms. Zelenske follows:]

**Statement of Ethel Zelenske, Co-Chair, Task Force on Social Security,  
Consortium for Citizens with Disabilities**

My name is Ethel Zelenske and I want to thank the Subcommittee for inviting me to testify at today's hearing on proposals to prevent misuse of benefits by representative payees. I am submitting this testimony on behalf of the undersigned members of the Consortium for Citizens with Disabilities Task Force on Social Security.

I am the Director of Government Affairs for the National Organization of Social Security Claimants' Representatives and serve as co-chair of the Consortium for Citizens with Disabilities (CCD) Task Force on Social Security. The Consortium for Citizens with Disabilities is a coalition of approximately 100 national disability organizations working together to advocate for national public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The Task Force on Social Security monitors Social Security and Supplemental Security Income issues affecting individuals with disabilities. One of our key priorities is to ensure that the Social Security Administration's representative payee program protects beneficiaries who have payees.

Previously, I spent many years representing hundreds of individuals who received disability benefits. A number of my clients, residing both in institutions and in the community, had issues regarding representative payees, so I am familiar with the problems that exist in the program.

Millions of beneficiaries have payees, with the vast majority performing their duties admirably under difficult circumstances. However, a small percentage of payees have misused benefits and violated their fiduciary duties. Provisions like those included in H.R. 4857, which was passed by the full Ways and Means Committee in the last session with broad bipartisan support, would provide needed protections to vulnerable beneficiaries.

In general, the CCD Task Force on Social Security supports provisions that protect beneficiaries. However, these protections, while foremost in importance, should not be implemented in such a way as to deter responsible individuals and organiza-

tions from serving as payees. In my experience, it was often extremely difficult to recruit payees and this problem has grown worse over the years.

My testimony will address the provisions that were included in H.R. 4857, with recommendations for additional protections.

#### **AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL PAYEES**

##### ***A. Reissuance of benefits***

Under the Social Security Act, SSA will provide restitution of misused benefits only “where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee  $\frac{1}{4}$ .” 42 U.S.C. §§ 405(j)(5), 1383(a)(2)(E). This standard places an onerous burden of proof on the beneficiary which, in practical terms, makes it extremely difficult to obtain restitution from the agency. First, the beneficiary must prove SSA’s “negligent failure” to investigate. Under SSA’s policies, this means that there must be a showing that SSA failed to follow established procedures for investigating payee applicants and monitoring payees. Second, the beneficiary must show a causal connection between SSA’s “negligent failure” and the payee’s misuse of benefits.

Because of the difficulties that the current statute poses regarding restitution from SSA, we support legislation similar to Section 401 of H.R. 4857 which would eliminate the “negligent failure” requirement where misuse has occurred by any payee that is not an individual or is an individual who serves 15 or more beneficiaries.

While we recognize the problems with SSA providing restitution to beneficiaries for misuse by individual payees serving fewer individuals, we ask the Subcommittee to further analyze whether there is a way to extend this protection while, at the same time, creating procedures that would limit fraudulent claims of misuse. For instance, H.R. 4857, as introduced last year, included individuals who served as payees for at least ten, rather than fifteen, beneficiaries. In addition, it should be made clear that restitution from SSA for misuse would remain available where “negligent failure” exists, regardless of the type of payee.

##### ***B. “Misuse” of benefits defined***

Section 401 of H.R. 4857 defined “misuse” by a representative payee as converting benefits “to a use other than for the use and benefit of such other person.” The Committee Report accompanying H.R. 4857 explained that the Committee did not intend for the definition of misuse “to include a conversion of benefits that is not exclusively for the ‘use and benefit’ of the beneficiary.” The example given is where the payee uses the benefits to help pay the rent for an apartment shared with the beneficiary. We support this interpretation and urge that similar language be included.

In addition, there should be a distinction between “misuse” and “improper use” of benefits. In “misuse,” benefits are not used for the benefit of the individual. In “improper use,” benefits are not used in necessarily the wisest manner but are still used for the benefit of the individual. “Improper use” should not trigger the penalties associated with “misuse.”

Existing regulations and SSA policies give payees a fair amount of discretion in determining the use of benefits so long as it is for “the use and benefit” of the beneficiary. This is defined as using the benefits for the individual’s “current maintenance,” i.e., food, clothing, shelter, medical care, and personal comfort items. In order to encourage individuals to serve as payees, they should be able to enter into that capacity knowing that their judgment will not be continually questioned, while understanding that SSA has the duty to monitor their actions.

#### **OVERSIGHT OF REPRESENTATIVE PAYEES**

We support changes that would require additional oversight of representative payees, similar to those included in Section 402 of H.R. 4857, such as requiring nongovernmental fee-for-service organizational payees to certify that they are both bonded *and* licensed and requiring SSA to conduct periodic onsite reviews of certain payees. The onsite review requirement in H.R. 4857 is limited to: (1) any individual who serves as payee for 15 or more beneficiaries; (2) a nongovernmental fee-for-service agency payee; and (3) any other agency serving as payee for 50 or more beneficiaries.

H.R. 4857 provided no standards for the onsite reviews. However, the Committee Report accompanying H.R. 4857 does recommend that “appropriate auditing and accounting standards be utilized.” We also suggest that onsite reviews include interviews with beneficiaries, to the extent that they are able to participate, or if unable to participate, with a family member where possible. Beneficiaries and their family

members can provide important information about the quality of the services provided by the payees. In addition, interviews would also allow the auditors/investigators to make their own judgments about whether the payees are using benefits for the “use and benefit” of the beneficiaries, e.g., does the individual have adequate food, clothing and shelter? are other needs of the individual being met?

#### **DISQUALIFICATION FOR CONVICTION AND IMPRISONMENT FOR MORE THAN ONE YEAR**

Current law disqualifies an individual from acting as a representative payee if convicted of criminal violations of the Social Security Act. We support expansion of this provision, similar to Section 403 of H.R. 4857, that would disqualify individuals convicted of any crime resulting in more than one year of imprisonment. However, we also support including an exception that gives the Commissioner discretion to allow the individual to be payee where “appropriate notwithstanding such conviction.” Such an exception, if proper protections for the beneficiary are in place, would allow family members or friends to be payees where they can otherwise show their suitability, e.g., the imprisonment occurred long ago, the offense was unrelated to fraud or other financial crimes.

#### **FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY PAYEES**

We support a legislative change, similar to Section 404 of H.R. 4857, that would require forfeiture of the fee by the payee where misuse has occurred. The payee should not be able to benefit further from taking advantage of the beneficiary.

#### **LIABILITY OF PAYEES FOR MISUSED BENEFITS**

Section 405 of H.R. 4857 established that, following a determination of misuse, the payee would be liable for the misused amount and that any amount not repaid would be treated as an overpayment by SSA. We support a provision similar to Section 405.

Over the years, there have been conflicting court decisions regarding SSA’s ability to recover misused benefits from the representative payee’s own Social Security benefits. This provision would clarify that SSA is authorized to recoup the misused benefits from the payee’s own benefits. In addition, Congress has expanded SSA’s debt collection authority over the past few years, providing other avenues for recovery of overpayments, e.g., tax refund intercepts, offsets from other federal benefits.

Recovery under this provision would provide the payee with due process rights in case of an improper misuse determination. By treating the misused amount as an overpayment, the statutory and regulatory protections would apply, such as notice of the overpayment, the opportunity to contest the overpayment, and to appeal adverse determinations.

We would expect that a provision similar to Section 405 would lead to increased restitution for beneficiaries, especially for those still required to show “negligent failure” to obtain restitution from SSA. However, on the other hand, if there was no ability to recover the misused benefits from the payee under a provision similar to Section 405, restitution should still be available from SSA by showing the agency’s “negligent failure.”

#### **EXTENSION OF CIVIL MONETARY PENALTY AUTHORITY**

Section 406 of H.R. 4857 would add civil monetary penalty authority with respect to payees who misuse benefits. The intent of this provision, according to the Committee Report, is to provide SSA with an additional way to address misuse by payees. We support this provision but recommend that it incorporate the definition of misuse set forth in Section 401 to ensure that it is applied consistently with the other penalties for misuse. One approach would be to require a determination of “misuse” before a civil monetary penalty could be triggered.

#### **REDIRECT DELIVERY OF BENEFITS FOR FAILURE TO PROVIDE REQUIRED ACCOUNTING**

Current law requires most payees to submit annual accounting reports, or at any time specifically requested, to SSA regarding the use of payments they have received. 42 U.S.C. § 405(j)(3). Section 407 of H.R. 4857 would give SSA the authority to redirect payment of benefits to a local Social Security office if the representative payee fails to provide the required accounting report. After providing notice and an opportunity for hearing to the payee and the beneficiary, the payee would be required to collect the payments in person at an SSA field office. The intent of this provision is to increase the number of payees who return the accounting form.

The accounting reports are an effective tool in monitoring representative payees’ use of benefits. While recognizing this need, we are concerned that this provision could further harm beneficiaries by interrupting receipt of benefits, leading to crit-

ical situations such as loss of housing and basic utilities, lack of food, and loss of other basic necessities. In addition, given the stretched resources in field offices, SSA workers might inadvertently delay processing these cases. Further, there may be payees who do not promptly appear at a field office after benefits have been redirected.

Proposed legislation should include some protection for beneficiaries to ensure that their receipt of benefits is not interrupted and that an alternative payment procedure is provided.

#### **ADDITIONAL RECOMMENDATIONS**

##### **1. *Additional oversight of governmental payees***

Governmental agencies and institutions often act as representative payees for children committed to their care and custody and for adults with mental impairments. These are some of the most vulnerable beneficiaries since many do not have family and friends to act in their best interests. Too frequently, a fiduciary/creditor conflict arises in these cases. As representative payee, the governmental agency or institution has a fiduciary duty to act in the individual's "best interest." However, the payee is also a creditor, seeking to reimburse itself for the cost of care. Unfortunately, in too many cases, the creditor, and not the fiduciary, wins out.

While payment for shelter and food is a priority use of benefits, "current maintenance" for persons in state institutions includes expenditures for items that will aid in the beneficiary's recovery or release from the institution or personal needs items to improve the individual's conditions while in the institution. 20 C.F.R. § 404.2040(b). Based on my personal experience, these needs often are not provided, raising questions about whether the benefits are being used in the individual's best interest.

While recognizing that there is no one else to act as payee for these individuals, there still is a need to provide closer oversight of governmental agencies and institutions. For instance, current law, 42 U.S.C. § 405(j)(3)(B), does not require State or Federal institutions to submit annual accounting reports. While institutions are subject to onsite reviews once every three years, we see no reason why they should be exempted from submitting annual reports.

Another problem is that in some cases, a governmental agency or institution is selected as representative payee even where family or friends are available and willing to serve as payee. In my experience, there often would be a "race" to the Social Security district office. This is inconsistent with SSA's preference list, embodied in its regulations, that ranks governmental institutions and agencies after family or friends. We believe that this is a serious problem in certain jurisdictions and we recommend that the Subcommittee use its oversight authority to monitor this problem.

##### **2. *Report to Congress***

Because of the large number of beneficiaries who have representative payees and the history of problems with the program, Congress should play a role in providing oversight. Amendments passed in 1990 required SSA to provide, on an annual basis, information regarding the representative payee program, including the number of cases where payees were changed, the number of cases where benefits were misused and how SSA dealt with those cases, and the final disposition of those cases. The statutory provision requiring this information, 42 U.S.C. § 405(j)(6), states that it be included in the annual report submitted to Congress under section 704 of the Social Security Act. However, section 704 was substantially revised by Pub. L. No. 103-296, the law that made SSA an independent agency, and the annual report requirement was eliminated.

We recommend that an annual reporting requirement be reinstated for the information described in 42 U.S.C. § 405(j)(6).

On behalf of the CCD Task Force on Social Security, thank you for the opportunity to testify today.

ON BEHALF OF:

Adapted Physical Activity Council  
 American Association of University Affiliated Programs  
 American Association on Mental Retardation  
 Brain Injury Association  
 Epilepsy Foundation  
 International Association of Psychosocial Rehabilitation Services  
 NISH  
 National Association of Protection and Advocacy Systems  
 National Organization of Social Security Claimants' Representatives  
 National Senior Citizens Law Center

Research Institute for Independent Living  
The Arc of the United States  
United Cerebral Palsy Associations, Inc.

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Mr. JOHNSON. [Presiding.] Thank you. We appreciate your testimony. Burnett, you may proceed.

Mr. BURNETT. Chairman and other Subcommittee Members. Excuse me while I—

Mr. JOHNSON. Pull it over closer if you want to, and then you won't have to struggle with it.

**STATEMENT OF PHILLIP BURNETT, ACCOUNTANT, HENNEPIN COUNTY CHILDREN, FAMILY AND ADULT SERVICES DEPARTMENT, MINNEAPOLIS, MINNESOTA**

Mr. BURNETT. I have a visual difficulty so it will take me a while to read the testimony. Hennepin County, in the State of Minnesota, under the Children, Family and Adult Services serves as representative payee to over 2000 recipients of governmental benefits. We have provided this service for more than 35 years to a population who may be disabled persons, children in out-of-home placement, or people with chemical or mental health behavior difficulties.

We process an average of 14 thousand transactions per month for the purpose of these accounts. The staffing required to handle these functions is as follows:

Three accounting staff, who are responsible for maintaining the account transactions and provide service desk coverage; 180 social financial or case aid workers, who establish case and payment plans on. On an average, these workers spend 4 to 6 hours monthly performing duties for their clients with rep payee accounts. Two social security liaisons, these are county-paid individuals who coordinate a flow of information and reporting requirements between Social Security Administration, the workers, and the accounting department.

Fraud and misuse of funds. During my 22 years as supervisor of the accounting area, there have been no more than eight allegations of fraud or misuse. Once an allegation is received, the matter is to be referred to our county attorney's office, internal audit division, and the sheriff's departments for investigation. Of those reported cases, only three were substantiated. In these three cases, action taken was the dismissal of the guilty employee.

County administration dollars, at that time, this was many years ago, but county administration dollars were used to replace the misused funds to the clients' accounts. An additional safeguard is also in place. If satisfaction by the claimant is not reached, we have neighboring county agreements to conduct independent investigations if necessary. To ensure benefits are more properly used and well accounted for, we are required by Social Security Administration to complete manual reporting. Also there is a periodic audit conducted by Social Security Administration on a sample of our accounts. Monthly, the county reconciles the total of account books balances against the bank balance. These reconciliations are then submitted to the internal and external audit annually.

Relationship with other payee agencies represent payee services. When closing a client's social service case at the county and if continued representative payee services are required, we refer the recipient and or Social Security Administration to an agency payee. We refer to local agencies which are community based or private fee for the purpose of service. These agencies are required in the State of Minnesota to have bonding and licensing.

Relationship with Social Security Administration in Hennepin County. With Hennepin County being one of the largest providers of payee service in the nation, we have developed a very good and close working relationship. Our two liaison staff meet with Social Security service staff twice a week to deliver repayment and obtain receipts. Also the liaisons have daily phone contact with Social Security Administration representatives for a variety of reasons.

A couple of ongoing problems are the following: Repayment of funds for deceased clients. Since the benefits are directly deposited to our bank account, the Federal Treasury has and exercises the right to attach our bank account for the reclamation; at the same time, the Social Security Administration is requesting the county to return the funds via check.

There needs to be a set procedure so that we are not paying twice and having to seek refunds for one of the payments. A possible solution may be a better communication link between the Social Security Administration and the Federal Treasury. Another problem is other payments made directly to Social Security. When the county hand-delivers and receives checks for conserved funds or overpayments, there is a 3 to 5 week delay in the Social Security Administration in cashing the payments. The delay locks up our ability to close our accounts from our book. It probably costs time, effort, and money to the Social Security Administration also.

Pertaining to H.R. 4857, title four, from the 106th Congress. Although the language in these sections does not specifically apply to government agencies, we feel the amendments put forth are reasonable. There is a trust we accept in taking on the role as representative payee or custodian for others. And that trust should not be broken. Too often the recipients are people with limited resources and many needs and to have them deprived of basic needs because of fraud or misuse of their funds should be addressed harshly. Thank you very much.

[The prepared statement of Mr. Burnett follows:]

**Statement of Phillip Burnett, Accountant, Hennepin County Children, Family and Adult Services Department, Minneapolis, Minnesota**

Hennepin County, in the State of Minnesota, under the Children, Family and Adult Services Department serves as Representative Payee (Rep Payee) to over 2,000 recipients of governmental benefits. We have provided this service for more than 35 years to a population who may be disabled persons, children in out-of-home placement or people with chemical or mental health behavioral difficulties. We process an average of 14,000 transactions per month for these accounts. The staffing required to handle these functions is as follows:

- 3 Accounting staff who are responsible for maintaining the account transactions and provides service desk coverage.
- 180 Social, Financial or Case Aide Workers who establish case and payment plans. On average these workers spend 4 to 6 hours monthly performing duties for their clients with Rep Payee accounts.

- 2 Social Security Liaisons (County paid staff) who coordinate a flow of information and reporting requirements between the Social Security Administration (SSA), the workers and the Accounting Department.

#### **Fraud and Misuse of Funds**

During my 22 years of supervising the Accounting area, there have been no more than 8 allegations of fraud or misuse of benefits. Once an allegation is received the matter is referred to the County's Attorney's Office, Internal Audit Division and the Sheriffs Department for investigation. Of these reported cases only 3 were substantiated. In these 3 cases the resulting action taken was the dismissal of the guilty employee. County Administration dollars were used to replace the misused funds to the client accounts. An additional safeguard is also in place if satisfaction by the claimant is not reached. We have neighboring County agreements to conduct independent investigation, if necessary.

To ensure benefits are properly used and accounted for, we are required by the (SSA) to complete annual reporting. Also there is a periodic audit conducted by the SSA on a sampling of our accounts. Monthly the County reconciles the total of account book balances against the bank account balance. These reconciliations are then submitted to Internal and External Audit annually.

#### **Relationship with Other Agency Representative Payee Services**

When closing a client's social service case at the County and if continued Rep Payee services are required, we refer the recipient and/or SSA to an agency payee. Referrals to local agencies are community based or private fee-for-service. These agencies are required to have bonding and licensing.

#### **Relationship with Social Security Administration and Hennepin County**

With Hennepin County being one of the largest providers of payee services in the nation, we have developed a very close and good working relationship. Our 2 liaison staff meet with SSA service staff twice a week to deliver repayments and obtain receipts. Also the liaison staff have daily phone contact with the SSA representatives for a variety of reasons.

A couple of on-going problems are the following:

- *Repayment of funds for deceased clients*—Since the benefits are directly deposited to our bank account the Federal Treasury *has and exercises the right* to attach our bank account for the reclamation. At the same time the SSA is requesting the County to return the funds via a check. There needs to be a set procedure so we are not paying twice and then having to seek refund of one of the payments. A possible solution may be a better communication link between the SSA and the Federal Treasury Department.
- *Other Payments made directly to the SSA*—When the County hand delivers and receipts checks for conserved funds or overpayments there is a 3 to 5 week delay in the SSA in cashing the payments. This delay locks up our ability to close the accounts from our books. It probably costs time, effort and money for the SSA, too.

#### **Pertaining to H.R. 4857—Title IV from the 106th Congress**

Although the language in these Sections does not specifically apply to government agencies, we feel the amendments put forth are reasonable. There is a trust we accept in taking on the role as representative payee or custodian for others and that trust should not be broken. Too often the recipients are people with limited resources and many needs and to have them deprived of basic need because of fraud or misuse of their funds should be addressed harshly.

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Chairman SHAW. [Presiding.] Mr. Bowron.

#### **STATEMENT OF ELJAY BOWRON, EXECUTIVE VICE PRESIDENT, VANCE INTERNATIONAL, INC., OAKTON, VIRGINIA**

Mr. BOWRON. Good morning, Mr. Chairman, and thank you, members of the Subcommittee, for the opportunity to be here today to discuss extending statutory law enforcement authority to special agents of the Social Security Administration Office of Inspector General. I am currently the executive Vice President of Vance

International, a worldwide security firm, but more importantly, for our purposes here today, prior to joining Vance, I held several Federal Government positions, including Inspector General for the Department of Interior, Assistant Comptroller General of the United States for the Office of Special Investigations, and I also served as the director of the United States Secret Service.

For a time, a brief time, I served as the Deputy Inspector General of the Social Security Administration. These responsibilities afford me a perspective of the unique needs for criminal investigators of SSA's Office of Inspector General, or OIG, as it is called to derive permanent law enforcement authority from the Social Security Act rather than their present authority, which is a delegation of special deputy marshal status granted from the Department of Justice.

I am familiar with the professional standards that must be met and the performance record that must attest to a law enforcement agency's standing in order to be granted such permanent authority. I am also familiar with the training and recruitment issues involved. I believe that this OIG is qualified and prepared for that high level of trust. Its demonstrated record of success for the past 6 years speaks to the quality of this outstanding investigative organization. The deputation under which this OIG has operated is burdensome, both in the limitations of the authority it imposes and in the administrative toll that it takes.

With respect to the former, while the deputation grants the authority to execute warrants and to make arrests and carry a weapon, it limits the OIG in failing to provide cross-designation authority. That is the OIG's ability to cross-designate State and local law enforcement agencies as special agents for the purposes of specific joint operations and task forces. This poses a particular hardship to an organization that has limited resources and relies so heavily on cooperative efforts with other law enforcements agencies.

With respect to the administrative burden, the agreement under which the Department of Justice has deputized the OIG special agents must be renewed periodically requiring the attention of two organizations. Further, each year the OIG is required to make a written report to the criminal division of the Justice Department detailing the investigative and prosecutive activities of the persons employed by the OIG who have received special deputations.

The report must contain information on the number of occasions on which the authority conferred by the deputation was used in connection with arrests, searches, execution of restraining orders, protection of witnesses, dangerous surveillance of investigative subjects, interview under hazardous circumstances, temporary custody of Federal prisoners, support for undercover operations, the service of subpoenas under hazardous circumstances and in assisting in electronic surveillance.

Tracking and reporting every such instance in which the delegated enforcement authority is used creates an administrative burden on two agencies. The OIG, and its management structure in particular, are fully prepared and capable of ensuring the professionalism and qualifications of its agents without doubling the work involved by requiring a second Federal agency to perform essentially the same function. Statutory law enforcement for an OIG is not a unique concept. The Offices of Inspector General for the

Department of Agriculture and the Department of Defense and the Treasury Inspector General for Tax Administration all have such authority, as does the Inspector General for the U.S. Postal Service.

Unsurprisingly, these are the inspectors general with a high volume of investigations and a high concentration in external investigation. The SSA/OIG is similarly situated. The bulk of its considerable investigative activity is external, investigating those who perpetrate crimes against Social Security programs. Much of this office's law enforcement activities involves fugitive felons and other violent criminals.

In fulfilling these missions, the SSA/OIG works with law enforcement agencies at the State and local levels and often on task forces. Permanent law enforcement authority would enhance this cooperative effort. It would reduce the administrative burden on the two agencies and would enable the OIG to better execute its statutory duties. Proposals have been made in the past to grant all offices of Inspector General such authority. They should each be considered individually. Some offices conduct almost exclusively investigations of Federal employees, contract matters and other internal issues. The SSA's Office of Inspector General, on the other hand, investigates almost exclusively external crimes.

I would close with a few words as to the qualification of this organization for the trust and responsibility that it seeks from this Subcommittee. As the director of the Secret Service, I supervised many of the managers of this Office of Inspector General during their tenure with the Secret Service. The men and women in whose hands you would place your trust are among the finest law enforcement officials in this country, or any other country for that matter. Their integrity and sense of duty is unassailable and unmatched. Your trust and faith could not be in better hands.

A Federal law enforcement organization with special agents who are highly trained, fully qualified and uniquely skilled has grown under their tutelage. Every new special agent undergoes rigorous training at the Federal Law Enforcement Training Center. The same training required by most Federal statutory law enforcement agencies as well as the additional training administered by the Inspector General Academy, specific and exhaustive training in SSA programs, annual training conferences and quarterly firearms qualifications.

In its 6 years of operation, this OIG has conducted itself professionally and with distinction. It is an organization in need of permanent law enforcement status and an organization that has earned that responsibility.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Bowron follows:]

**Statement of Eljay Bowron, Executive Vice President, Vance International, Inc., Oakton, Virginia**

Good morning, Mr. Chairman, and thank you for the opportunity to be here today to discuss extending statutory law enforcement authority to the Special Agents of the Social Security Administration's Office of the Inspector General. I am currently the Executive Vice President of Vance International, Inc., a worldwide security firm. Prior to joining Vance, I held several Federal government positions, including Inspector General of the Department of the Interior, Assistant Comptroller General of the United States for Investigations, and Director of the United States Secret

Service. I also served for a time as Deputy Inspector General of the Social Security Administration.

These responsibilities afford me a perspective on the unique need for the Criminal Investigators of SSA's Office of the Inspector General, or OIG, to derive permanent law enforcement authority from the Social Security Act, rather than from their present authority, which is a delegation of Special Deputy United States Marshal status from the Department of Justice. I am familiar with the professional standards that must be met and the performance record that must attest to a law enforcement agency's standing in order to be granted such permanent authority, and I am also familiar with the training and recruitment issues involved. I believe that this OIG is qualified and prepared for that high level of trust. Its demonstrated record of success for the past six years speaks to the quality of this outstanding investigative organization.

The deputation under which this OIG has operated is burdensome, both in the limitations of authority it imposes and in the administrative toll that it takes. With respect to the former, while the deputation grants the authority to execute warrants, make arrests, and carry a weapon, it limits the OIG in failing to provide cross-designation authority, the ability to designate qualified State and local law enforcement officials as Special Agents for the purposes of specific joint operations or task forces. This poses a particular hardship to an organization with limited resources that relies so heavily on cooperative efforts with other law enforcement agencies.

With respect to the administrative burden, the agreement under which the Department of Justice has deputized the OIG's Special Agents must be renewed periodically, requiring the attention of two organizations. Further, each year, the OIG is required to make a written report to the Criminal Division of the Department of Justice detailing the investigative and prosecutive activities of the persons employed by the OIG who have received special deputations. The report must contain information on the number of occasions on which the authority conferred by the deputation was used in connection with arrests, searches, execution of restraining orders, protection of witnesses, dangerous surveillance of investigative subjects, interviews under hazardous circumstances, temporary custody of federal prisoners, support for undercover operations, service of subpoenas under hazardous circumstances, and assisting in electronic surveillance. Tracking and reporting of every such instance in which the delegated law enforcement authority is used creates an administrative burden on two agencies. The OIG, and its management structure in particular, are fully prepared and capable of ensuring the professionalism and qualifications of its Special Agents without doubling the work involved by requiring a second Federal agency to perform essentially the same function.

Statutory law enforcement for an OIG is not a unique concept. The Offices of Inspector General for the Department of Agriculture and the Department of Defense, and the Treasury Inspector General for Tax Administration all have such authority, as does the Inspector General for the U.S. Postal Service. Unsurprisingly, these are the Inspectors General with a high volume of investigations and a high concentration in external investigations. The SSA's OIG is similarly situated. The bulk of its considerable investigative activity is external—investigating those who perpetrate crimes against Social Security programs. Much of this office's law enforcement activity involves fugitive felons and other violent criminals. In fulfilling these missions, the SSA's OIG works with law enforcement agencies at the State and local levels, often on task forces. Permanent law enforcement authority would enhance this cooperative effort, reduce the administrative burden on two agencies and enable the OIG to better execute its statutory duties.

Proposals have been made in the past to grant all Offices of Inspectors General such authority—this is not necessary. Many such offices conduct, almost exclusively, investigations of Federal employees, contract matters, and other internal issues. The SSA's OIG, on the other hand, investigates almost exclusively *external crimes*.

I would close with a few words as to the qualification of this organization for the trust and responsibility it is seeking from the Subcommittee. As the Director of the Secret Service, I supervised many of the managers of this OIG during their tenure with the Secret Service. The men and women in whose hands you would place your trust are among the finest law enforcement officials in this, or any, country. Their integrity and sense of duty is unassailable and unmatched. Your trust and faith could not be in better hands. A Federal law enforcement organization with Special Agents who are highly trained, fully qualified, and uniquely skilled, has grown under their tutelage. Every new Special Agent undergoes rigorous training at the Federal Law Enforcement Training Center—the same training required by most Federal statutory law enforcement agencies—as well as the additional training administered by the Inspector General academy, specific and exhaustive training in

SSA programs, annual training conferences and quarterly firearms qualifications. In its six years of operation, this OIG has conducted itself professionally and with distinction. It is an organization in need of permanent law enforcement status, and an organization that has earned that responsibility.

Thank you, and I would be happy answer any questions.

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Chairman SHAW. Chief Dough.

**STATEMENT OF JOHN D. DOUGH, CHIEF, ESSEX COUNTY  
SHERIFF'S OFFICE, NEWARK, NEW JERSEY**

Mr. DOUGH. Chairman Shaw, it is my privilege to address you today on behalf of Sheriff Armando B. Fontoura, who is currently hosting local police week ceremonies in Newark New Jersey. The Essex County Sheriff's Department wholeheartedly supports and endorses the efforts of the Social Security Administration and its Inspector General in maintaining the integrity of Social Security. More specifically, the assistance that the IG's Office offers local law enforcement in general, and our department, in particular, is invaluable in our efforts to identify, locate and arrest fleeing felons. The population of Essex County is over 800,000, rising to 1 million daily. The State's largest city, Newark, is within the county, and we are just 5 miles from New York City.

Unfortunately, the county has a high level of violent crimes. In fact, one out of every four violent crimes in the State of New Jersey occurs in Essex County. As successful as law enforcement in Essex County has been in arresting violent offenders, our criminal justice system is flooded with criminal warrants for those who have failed to appear, skipped bail or have been indicted and not apprehended.

Consequently we have over 20,000 warrants still outstanding, of which over half are criminal warrants. My department receives 1,100 warrants monthly. Felons are notorious for not being truthful in their bail information as to their address and next of kin. And while the fugitive is doing his or her best to keep his or her whereabouts from law enforcement, that same fugitive is also doing his or her best to maintain contact with Social Security in order that their SSI payments continue.

The Essex County Sheriff's Department is active partner in the IG's New York regional task force. Since July of 2000, our department has received information from SSA on 185 fugitive criminal felons, of which we arrested 97. Most of these cases were at a dead end. We had exhausted all local means of finding these individuals. Without the vital information supplied by SSA, 97 criminal fugitives would still be at large and living in Essex County. Two recent arrests have exemplified the success of this partnership that has been forged with the IG's Office.

Within the past few weeks SSA information was forwarded to the Essex County Sheriff's Department on a suspect wanted by our agency for nearly a decade on aggravated arson charges. He had previous charges of arson dating back to 1985. Quite frankly, gentlemen, our investigation was at a dead end. On a recurring basis, this case was frequently reopened only to have it reach a standstill due to lack of fresh information. Days within receiving information

from Social Security, the fugitive was found, put in custody and the illegal benefits stopped.

In another case, a person wanted for shooting was wanted since 1992. Through the information provided by Social Security, this individual was located in Virginia. Before we could even send officers down to extradite, he put himself on a bus and surrendered to our officers in Newark. The suspension of his SSI benefits was that strong of an encouragement. The partnership that Social Security and law enforcement has developed has proven to be a tremendous success, both in terms of taking hardened criminals off our streets and saving our taxpayers' hard-earned money.

Sheriff Fontoura of the Essex County Sheriff's office and I urge you to continue and expand this information partnership between law enforcement and Social Security Administration. The 52 percent clearance rate that our Department has achieved with the information supplied by SSA is notable only in that it underscores the potential for further success in expanding the mandate to use Title II information.

There are those who would portray horror stories of law enforcement that bring wheel-chaired elderly into custody for minor infractions using Title II information. Let me assure the Committee that this is farthest from the truth. The thrust of our efforts is locating the violent offender who is a fugitive from justice, not the incarceration of somebody for traffic tickets.

The laws associated with the use of this information, local protocols and our professionalism will protect this from happening. Expansion of using Title II information will allow for a broader base of information to be shared, and the success stories that I mentioned before will increase 100-fold. Government should not underwrite a legal sanctuary of information to protect fleeing felons. The people of Essex County, New Jersey and this Nation deserve better. Thank you.

[The prepared statement of Mr. Dough follows:]

**Statement of John D. Dough, Chief, Essex County Sheriff's Office, Newark, New Jersey**

Good morning, Chairman Shaw, Ranking Member Matsui and Committee members. My name is John D. Dough and I am the Chief of the Essex County (New Jersey) Sheriff's Office. It is my privilege to address you today on behalf of Sheriff Armando Fontoura who is currently hosting "National Police Week" ceremonies in Newark, New Jersey.

The Essex County Sheriff's Department wholeheartedly supports and endorses the efforts of the Social Security Administration and its Office of the Inspector General in maintaining the integrity of Social Security. More specifically, the assistance that the Inspector General's Office offers local law enforcement in general, and our department in particular, is invaluable in our efforts to identify, locate and arrest fleeing felons.

The population of Essex County is over 800,000 rising to over 1,000,000 during workdays. The state's largest city—Newark—is within the County and we are just 5 miles from New York City. Unfortunately, the County has a high level of violent crime; in fact, one out of every four violent crimes in the State of New Jersey occurs in Essex County. As successful as law enforcement in Essex County has been in arresting violent offenders, our criminal justice system is flooded with criminal warrants for those who have failed to appear, skipped bail or who have been indicted but not apprehended. Consequently, we have over 20,000 warrants still outstanding of which half are criminal warrants. The Department receives over 1,100 warrants monthly from the courts.

Felons are notorious for not being truthful in their bail information as to their addresses and next of kin. And, while the fugitive is doing his or her best to keep

his or her whereabouts hidden from law enforcement, that same fugitive is also doing his or her best to remain in contact with Social Security in order that their SSI payments continue.

The Essex County Sheriff's Department is an active partner of the Inspector General's New York regional task force. During the first quarter of 2001, based upon information provided to us by the Social Security Administration, New York/New Jersey metropolitan law enforcement agencies made 95 fugitive felon arrests, saving an estimated \$3 million in illegal SSI payments. Since July of 2000, our Department has received information on 185 fugitive criminal felons, which led to the arrest of 97 fugitives. Most of these cases were at a dead end, we had exhausted all local means of locating these felons. Without this vital information 97 fugitives would still be at large and still living within Essex County. Where the fugitive was discovered not to be living at an address to which an SSI check was delivered, arrests have been made for fraudulently cashing the fugitive's SSI check. At the very minimum, there was a suspension of benefits.

During recent months, the Essex County Sheriff's Office and other law enforcement agencies have greatly benefited from information supplied to us by the Social Security Administration. Two recent arrests exemplify the success of this partnership that has been forged by the Inspector General's Office of the Social Security Administration.

Within the past few weeks, Social Security Administration information was forwarded to the Essex County Sheriff's Office on a suspect wanted by our agency for nearly a decade on aggravated arson charges. He had previously been convicted of arson in 1985. Quite frankly gentlemen, our investigation was at a dead end. On a recurring basis this case was frequently re-opened only to have the investigation come to a complete standstill, due to a lack of fresh information. Days after receiving information from Social Security the fugitive was in custody and illegal benefits checks stopped.

In another case a person was wanted for a shooting that occurred in 1992. Through the information supplied by Social Security this felon was located in Virginia. Before we could send officers down to extradite, he put himself on a bus and surrendered to our office in Newark. The suspension of his SSI was that strong of an encouragement.

The partnership that Social Security and law enforcement has developed has proven to be a tremendous success both in terms of taking hardened criminals off our streets and terms of saving our taxpayers hard-earned dollars illegally paid out to fugitives.

Sheriff Fontoura, the Essex County Sheriff's Office and I urge you to continue and expand this information partnership between law enforcement and the Social Security Administration. The 52% clearance rate our Department has achieved with the information supplied by the Social Security Administration is notable only in that it underscores the potential for further successes in expanding the mandate to use Title II information.

There are those that will portray horror stories of law enforcement agencies bringing the wheelchair elderly into custody for minor infractions using Title II information. Let me assure the Committee this is farthest from the truth. The thrust of our efforts is in locating the violent offender who is a fugitive from justice, not the incarceration of someone for traffic tickets. The laws associated with the use of this information, local protocols and our professionalism will protect this from happening. Expansion of using Title II information will allow for a broader base of information to be shared and the success stories I mentioned before will increase one hundred fold. Government should not underwrite a legal sanctuary of information to protect fleeing felons. The people of Essex County, New Jersey and this nation desire better.

Thank you for this opportunity to address you on this very important issue. I would be happy to answer any questions the committee might have.

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Chairman SHAW. Thank you.

Mr. Bowron, it appears from your testimony that you are in complete agreement with Mr. Huse as to how the law enforcement should be expanded in his office.

Mr. BOWRON. Yes, sir I am. Based on the previous discussion on this subject, I think I would just want to note that it is not un-

charted water. There are other offices of Inspector General that have had this authority conveyed to them.

Chairman SHAW. What offices do not?

Mr. BOWRON. I believe the Office of Personnel Management, IG does not; the Department of Interior Inspector General does not, the Department of Labor, I couldn't name all of them off the top of my head, but there are a number that do not.

Chairman SHAW. All right. Thank you. Mr. Brady.

Mr. BRADY. Thank you Mr. Chairman. All that was excellent testimony, and my experience is everything looks perfect on paper in Washington, D.C. How it works in real life is a whole different matter, and it is very valuable to get that perspective, your perspective.

Chief Dough, I know people ask you this, but there is no chance your wife is Jane?

Mr. DOUGH. Actually, my sister is Mary Jane.

Chairman SHAW. Your parents must have one hell of a sense of humor.

Mr. DOUGH. That is true.

Mr. BRADY. In your testimony, you talked about the authority provided by the Office of Inspector General would be a positive effect for you, and I talked about the success you have had, and the two questions I have for you is based on the fugitive felons that you have caught. Do you believe the Social Security benefits that they received were a major source of income helping them to evade capture? And second, you hope to share more information, expand the information-sharing partnership between yourself and the Social Security Administration. How would you expand that? So did the benefits make a big difference? How do you expand the information?

Mr. DOUGH. As far as the benefits they were receiving, those figures are maintained.

Mr. BRADY. From your experience in dealing with them, did you think that was a sole source of income, a major participant of their income?

Mr. DOUGH. Besides their own criminal endeavors, it is probably a major source of income to them, yes. As far as how we would efficiently exchange the information, it was testified before by Mr. Huse is that we are just getting into the electronic age, so consequently, a more efficient way for us to submit our warrants that we are looking for in exchange if they fit in with the Inspector General's parameters to find out their addresses. It is all labor intensive right now. We have to manually present them to the Inspector General. They, in turn, have to search through the National Crime Information Center's (NCIC) database and their own databases, and then return it to us.

Electronically, a more efficient way of moving the data back and forth will help immensely. Everything is labor intensive. We mentioned I have 20,000 warrants. I only have 30 investigators. At any one time, four of my investigators are somewhere in the United States on extradition, much of it coming hopefully from more information from Social Security.

Mr. BRADY. So sharing the information faster and more efficiently, you are not thinking that there need to be expanding information shared between—

Mr. DOUGH. No. All I want—believe it or not, I am just looking for another little piece of critical information, where the check is going so that I can at least establish the validity that the individual may or may not be living there. Just give me another lead so I can do better.

Mr. BRADY. Thank you for your testimony.

Chairman SHAW. Mr. Hulshof.

Mr. HULSHOF. Ms. Zelenske, I have a couple questions. If you could pull the mike closer to you. Really, just a couple points of clarification. One of the suggestions—first of all, thanks for being here on behalf of Consortium, and I want to talk a little bit about oversight. First of all, you suggest additional oversight of representative payees, and I guess we have lumped them into two categories, that is, those individuals that pay, the nongovernmental entities and then the governmental entities. On your suggestion on the nongovernmental entities, you suggest that we include a provision that they be both licensed and bonded; is that right? Is that for each and every one or is that for just those that may represent more than 15 beneficiaries? Do you provide such a cutoff?

Ms. ZELENSKE. I think it was the provision that was in H.R. 4857, which I think referred to organizational fee-for-service payees, not individuals who served 15 or more. And I think it would just be that there would be a requirement that they be licensed and bonded. However, I am not familiar with State laws. I don't know that individuals who serve as payees for a number of beneficiaries (volume providers) can or should be bonded as well. It seems like it would probably be a good idea. I just don't know enough about State law.

Mr. HULSHOF. Let me ask you about your position on additional oversight of rep payees, and especially now the institutional rep payees. You have indicated that you have support, more SSA oversight for government rep payees, especially government institutions. In addition to requiring annual reports, what other measures might you recommend for us?

Ms. ZELENSKE. In my written statement, I talked about this conflict between the government institution acting as a fiduciary in the individual's best interest, and then acting as a creditor. The financial agents of the institutions are looking to be reimbursed. There seems to be a breakdown often, even among staff within the institution.

I know that under SSA's current procedures, they do not require annual accounting from State institutions, but they do require an onsite review every 3 years. I am not sure what really goes on in that review, and whether it is a real quality review where they aren't doing anything more than looking at the books, which I would suspect in most of these situations are handled well. There should be interviews with beneficiaries, for instance, actually going and looking at the wards where they are living and seeing what kind of conditions they are living under, and talking to family members as well.

Mr. HULSHOF. You mention, and started out of our testimony, with the one particular case that was recently decided in your testimony, you also support the extension of the ability of the commissioner to reissue benefits for misuse and thanks for making a good strong clarification for misuse and improper use in your testimony. Is 15 the correct number?

Ms. ZELENSKE. That is the big question. As I said, in last year's bill when it was originally introduced, it did have the number 10. I don't know what happened, why it ended up 15 at the time the Committee passed it. I assume you are talking about aggregate amounts and having it just be large enough amounts of money. But I don't know what went into that. Again, in the Cannon case, even if you reduced it to 10, it wouldn't have helped her in that situation where everyone agreed that there was misuse.

Mr. HULSHOF. Do you have any other suggestions as to what procedures we might employ to limit fraudulent claims?

Ms. ZELENSKE. Of misuse?

Mr. HULSHOF. Yes.

Ms. ZELENSKE. It would seem if SSA makes a misuse determination, it requires them to do an investigation and get some kind of supporting documentation for it. I don't know what you would need beyond that. Again, you get into the administrative issues. You want to make sure if SSA is investigating these allegations and if they are going to have to reissue benefits, that their own misuse determination is supported.

I don't think they go out of their way to make misuse determinations, but I just think that you want to make sure they are doing an adequate investigation themselves.

Mr. HULSHOF. My time is about to expire, so let me yield back. Chairman SHAW. Mr. Becerra.

Mr. BECERRA. Let me see if I can follow along those lines. You mentioned your concern in the instance that you mentioned the case of the individual who would not have been able to collect Social Security payments as a result of the activity of the payee, representative payee. And you mentioned bonding and licensing, or less than the 15 for an individual who acts as a representative payee for 15 or more individuals. You mentioned, I think in your testimony, response to Mr. Hulshof's questions that perhaps it should be done for individuals who have fewer than 15 representatives, or agency's representative for the fewer than 15 individuals. I am wondering if that was your testimony I want to make sure that is clear on the record.

Ms. ZELENSKE. Without looking at the existing legislation, I think the requirement is that fee-for-service organizations only are required to be either licensed or bonded. I think it is just limited to that group.

Mr. BECERRA. Right.

Ms. ZELENSKE. I think what I said in response to Mr. Hulshof's question was that individuals who are payees for a number of individuals should be bonded.

Mr. BECERRA. That is much farther along than just requiring fee-for-service?

Ms. ZELENSKE. Right.

Mr. BECERRA. Bonded or licensed.

Ms. ZELENSKE. And I am only saying that if you are bonded, it means there is some guarantee about repaying the individual, which is where my focus is. I know, for instance, with attorneys who do wrong things with their clients' money, that most States have established some way of providing restitution to the individual. And I guess that is where my focus is here.

Mr. BECERRA. I think there is a compelling argument to make, if someone wishes to act as the representative payee, support an individual, that certainly that person wants to look after that individual's needs and should be willing, you would think, to prepare to be bonded or licensed, if that were the case.

Now chances are there are a lot of individuals who would not be able to act as a representative payee if we required a bond of that individual or asked them to get licensed, whatever the requirements for the license might be. But I am wondering, because you speak from the perspective of someone on the ground who works with a lot of these individuals, we just get to legislate. The numbers we follow are on paper. Whether they work or not is something else. And while I think it is clearly appropriate under the law to ask for a fee-for-service agency to be licensed and bonded, I would love to hear more from folks like you who know on the ground how this works, if it would be appropriate to consider extending it further, because there is fraud, there is abuse. And it is even abuse that occurs within a family.

And as much as it would pain us to think that we may want to require a family member to be bonded and licensed, we have to do something about this fraud, because otherwise it does endanger the entire program. It is like welfare, every time you find a welfare cheat, it destroys the opportunities for someone who really does need some welfare benefits for a short time to get back on his or her feet.

So I am wondering if could you continue to stay in touch with the Committee on your perspective on that, because we do need to find a way to make sure that we do rid ourselves of the abuse and the fraud, and although I don't believe any of us wish to diminish the opportunities for good people to serve as representative payees, we do have to find a way, short of having to prosecute or go after a repayment, to figure out how we can curtail the amount of abuse that does occur. So I thank you for that testimony.

If I could ask Chief—is it Bowron? Mr. Bowron, as well, their thoughts on what Inspector General Huse said about expanding the prohibition on fugitive felons to the OASDI portion. I believe, Mr. Bowron, you agreed with that, right?

Mr. BOWRON. I do agree with the Inspector General's comments, yes, sir.

Mr. BECERRA. Chief, do you also agree we should extend the prohibition on fugitive felons.

Mr. DOUGH. Yes, without a doubt.

Mr. BECERRA. OK. If we do that, the Inspector General has indicated that it had would be tough to implement a good law that extends the prohibition to fugitive felons when it comes to OASDI, unless there are additional resources so they can actually have the agents and so forth to do the work.

Do you agree with their statement that they would probably need more resources to implement that new law?

Mr. DOUGH. Well, I am not going to speak for the Inspector General but there are—there are some ways that that may allow us to reduce the amount of labor intensive investigators out there just exchanging information, and that may be some restricted access to either verify an address of the criminal felon directly into a database. And with the proper audit and audit capabilities, there could be a lot of other types of restrictions that could be put on local law enforcement. So just give me access, audit me and if I violate it, then, you know, take care of business.

Mr. BOWRON. I also can't speak specifically to the manpower requirements for the Offices of Inspector General, but I am familiar enough with programs there, the size and the breadth of the benefit programs to know that they are completely tasked and taken with what they have to do right now. So certainly to undertake additional responsibilities, you know, to just, you know, use a colloquialism, I guess, something has to give. And there are only so many resources and they can only be spread so far.

Mr. BECERRA. Thank you all for your testimony. Mr. Chairman, thank you very much.

Chairman SHAW. Mr. Johnson.

Mr. JOHNSON. No questions.

Chairman SHAW. I have one last question that I would like to direct to Mr. Burnett, the Consortium for Citizens for Disabilities recommended in their testimony additional oversight of the government payees. Could you comment on that recommendation?

Mr. BURNETT. Yes, I strongly believe in Minnesota. We as I stated before, the representative payees have to be bonded and licensed. I am—the short notice that I had before the hearing in contacting three of those pay services that we utilize, though have not had any fraud or misuse of funds. They do have, say, same required reporting mechanisms in place. Throughout the Nation, though, we believe that that is not the case, that this is something that should be in place as stronger languages and stronger penalties for the misuse of funds.

Chairman SHAW. Yes, sir. Thank you. And thank this entire panel for a very fine testimony. We will be going forward. This will be the first of a series of hearings having to do with this particular subject as we start to build legislation. Thank you very much. And we are adjourned.

[Whereupon, at 12:18 p.m., the hearing was adjourned.]

[Questions submitted from Chairman Shaw to the panel, and their responses follow:]

NATIONAL ORGANIZATION OF SOCIAL SECURITY  
CLAIMANTS' REPRESENTATIVES  
Washington, DC 20005  
*June 19, 2001*

E. Clay Shaw, Jr.  
Chairman  
Subcommittee on Social Security  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Shaw:

This letter responds to the questions in your letter dated June 6, 2001, requesting additional information following the May 10, 2001 hearing on the integrity of the Social Security programs. I am submitting these answers in my capacity as co-chair of the Consortium for Citizens with Disabilities Social Security Task Force. Each question is answered as follows:

1. What legal or agency procedures discourage representative payee participation and what changes would you recommend to encourage individuals to become representative payees without eliminating safeguards to deter abuse?

*Answer*

Responsible individuals who might be interested in becoming representative payees are discouraged by a lack of practical information regarding: their role as a payee; their authority as a payee; how to handle funds; SSA's role in monitoring their activities; and their potential liability. These issues may become particularly acute where the beneficiary is not always cooperative and challenges the payee's use of benefits.

SSA needs to provide better information and ongoing support for representative payees. Suggestions include:

- Clarifying the scope of the representative payee's authority. Information should make sure that payees understand their role; explain the fiduciary relationship between the beneficiary and payee; and make clear the authority of the payee so long as benefits are used in the payee's best interest.
- Providing general guidelines regarding handling of funds, e.g., setting up bank accounts; separation of funds where possible; documentation of expenditures.
- Providing training and ongoing support. This could be provided by periodic trainings and orientation sessions and be made available in alternative formats, e.g., in person, videos, Web site, printed materials. While acknowledging the budgetary and staffing constraints, it would be extremely useful if there was an identified person in each field office with particular expertise in representative payee issues.

2. You recognize the need for annual accounting reports by the representative payee, while acknowledging the representative payee may not report promptly, delaying benefits payments to the recipient. Do you have any suggestions as to how we might resolve this problem? Should representative payees be required to report to the Social Security Administration offices within a limited number of days and if they fail to do so, risk being replaced by a substitute representative payee?

*Answer*

As noted in my written statement, we generally support a provision that would redirect delivery of benefits if the payee fails to return the required accounting report, so long as adequate protections exist to ensure that the beneficiary's receipt of benefits is not interrupted and that an alternative payment procedure is provided. There is precedent in current law for direct payment of benefits to the beneficiary pending selection of a representative payee, 42 U.S.C. §§ 405(j)(2)(D). In the Conference Report accompanying the 1990 legislation that contained this provision, Congress explained that it was not intended that SSA be encouraged to withhold benefits from a beneficiary who needs a payee. This was especially true if the benefits were being used to meet immediate needs such as shelter, food and clothing.

Replacing the payee is one way to address the failure to submit forms on a timely basis. However, there is a need to provide adequate opportunity to explain why the form was not submitted. In addition, from a practical point of view, finding a new payee may be difficult. Thorough, initial screening of representative payee applicants is the best way to prevent subsequent problems. In addition, SSA needs to explain clearly its expectations regarding accounting of benefits. Also, SSA should consider ways to make reporting easier for payees such as electronic reporting or a dedicated fax line. The availability of a field office staff person to answer questions would be helpful.

3. In his testimony, the Inspector General recommended that we close the loophole with respect to the Trial Work Period that allows unscrupulous beneficiaries to keep the moneys paid by SSA during their Trial Work Period. In your opinion, what are the pros and cons to the Inspector General's recommendation and would you alter any of the Inspector General's proposals?

*Answer*

The integrity of the Social Security and SSI disability programs must be protected and cases of true fraud should be uncovered. However, we are very concerned about creating additional penalties based on work activity. There is a particular need to

be cautious about imposing new penalties just as the 1999 work incentives law is being implemented. For the reasons described below, we do not support the OIG's recommendation at this time.

Under current law, work activity at the time of application does not, *per se*, preclude a finding of disability. In addition, work activity often changes while an application is pending or after entitlement. We are concerned that the OIG's proposal assumes that the individual is fraudulently concealing work activity if SSA does not have the information on file. In fact, there are a number of reasons, unrelated to fraud, why SSA does not have the information. At the application stage, the SSA worker taking the application may not have asked specific enough questions or the questions may have been misunderstood by the claimant, a distinct possibility in light of the complicated rules regarding work. Also, if the SSA worker completes the application for the claimant, the information may not have been transcribed exactly. Further, as detailed below, SSA does not have procedures in place that can promptly and accurately track changes in work activity.

The CCD Social Security Task Force has been concerned about SSA's longstanding inability to track and document earnings properly or to promptly adjust benefits when individuals report earnings. SSA's failure to address this problem poses a serious threat to the agency's efforts to enable individuals to return to work. Until SSA is better able to document and track earnings, we do not support the creation of additional penalties, such as elimination of the trial work period.

Currently, there is no uniform, reliable and beneficiary-friendly method of collecting and recording, in a timely manner, information regarding a worker's earnings. As the system now operates, beneficiaries are fearful of overpayments. Frequently, these fears are justified as beneficiaries receive belated notices of overpayments that may amount to tens of thousands of dollars.

Further, even where earnings are properly recorded, it appears that SSA workers and OIG officials are unfamiliar with many of the existing work incentives deductions. A member of the National Organization of Social Security Claimants' Representatives recently reported about two clients who were charged *criminally* due to work activity. In one case, the attorney found that SSA had failed to provide the beneficiary with a number of work-related deductions which, when applied to her earnings, placed her well below the SGA level. Eventually, the criminal charges were dropped and benefits were resumed. However, this low-income beneficiary with severe disabilities was faced with possible criminal penalties for years because SSA and OIG were unfamiliar with how to apply the proper earnings deductions.

In the other case, an individual received both SSDI and employer-related disability benefits. SSA terminated benefits based on a criminal investigation by the Federal agency employer. SSA did not act on a request for reconsideration because of the pending criminal matter. The individual's attorney met with the U. S. Attorney assigned to the case who was unfamiliar with the SGA level, trial work period, and other work incentives. The criminal matter was eventually dropped after the investigation concluded there was no fraud. Nevertheless, the Social Security reconsideration was denied and a request for hearing is pending.

We raise these issues to highlight the problems with referring cases due to work activity and do not mean to minimize the need to investigate cases of true fraud.

Thank you for inviting me to testify on behalf of the CCD Social Security Task Force.

Sincerely,

ETHEL ZELENKE  
Co-Chair, Social Security Task Force  
Consortium for Citizens with Disabilities

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HENNEPIN COUNTY CHILDREN, FAMILY AND ADULT SERVICE DEPARTMENT  
Minneapolis, Minnesota 55487

Is Hennepin County required to submit annual accounting reports to the Social Security Administration and is this overly burdensome?

**Yes, Hennepin County is required by the Social Security Administration (SSA) to submit "Representative Payee Report—Form SSA-623-OCR-SM" for each recipients account, annually. We have electronic downloading of the annual line item amounts that are filled onto the report. For this reason, the process is no longer burdensome.**

Can you briefly describe the situations in which Hennepin County applies to be a representative payee when there are family or friends available? Why is this done and does it put the local Social Security Administration office in a difficult decision-making situation?

**This question will be address in two parts:**

**Adults—Hennepin County only becomes Representative Payee for Adults when the County has an open Social Service case and where there are no other persons willing to be payee or if the previous payee was not responsibly handling the client's funds. In many cases we seek to have other family members or payee agencies be the representative payee.**

**Children—When a child is placed in out-of-home-placement the County becomes payee to ensure the benefits are properly used for that child's care. Once the County applies, the Social Security Administration notifies the current payee and allows 10 days for appeal of this decision before the transfer occurs.**

A more responsive reply to the question posed by Congressman Shaw regarding the concerns by the Consortium for Citizens with Disabilities. The Consortium recommends additional oversight of the government agency payees because of the dual role of fiduciary/creditor. Of the 2,000 Representative Payee accounts within Hennepin County there are 210 accounts (children in placement) where the County acts as the fiduciary/creditor. For ALL of these accounts the State of Minnesota mandates either monthly personal needs payments from the Rep Payee account or the personal needs amount must be included in the rate paid the provider of services. The State and the County ensure these costs are met:

- Shelter
- Food
- Medical
- Clothing
- Personal Needs

**If other governmental agencies are not doing the same, then "yes," there should be additional controls put in place to ensure the funds first meet the needs of the beneficiary before the funds are taken by the creditor.**

From your perspective, can you think of any way the Social Security Administration could change its procedures to make the representative payee accounting process less onerous while still ensuring that benefits are used appropriately?

**With Hennepin County's electronic accounting system design it is not burdensome to maintain the accounts. We feel there's nothing further needed from the SSA in this area. If other agencies providing Rep Payee services to multiple recipients are not using an electronic system then it should be these organizations which should adopt some sort of electronic book-keeping system.**

Your testimony said local agencies that are community based or private fee-for-service representative payees are currently required to have bonding and licensing in Minnesota? Would such a recommendation at the Federal level in your view be wise, in your view—being mindful of the fact that we do not want to create a more burdensome program for all the participants?

**Bonding and licensing ensure there is a way to obtain restitution in cases of fraud or misuse of recipient's funds. The requirements might deter groups from becoming payee. This question might be better answered by some of the outside agency payee services. On the last page of this document a few agencies providing Rep Payee services in Hennepin County are listed.**

You have raised a problem involving the repayment of benefits made to a deceased beneficiary. Could you explain the process you go through when a beneficiary, for whom you are a representative payee, dies? Do you advise the Social Security Administration of the death? Who advises the Treasury? Does the Treasury attach your bank account to reclaim the money before SSA requests repayment? What are the complications and costs to the county of this system and do you have any recommended changes?

**As soon as the County learns of a client's death the County worker does notify the SSA directly or through our County liaison staff. At the present time the County does not inform the Federal Treasury. The account is locked to avoid any additional disbursements until determination can be made of what should be done with the balance. After the hearing on May**

**10, 2001, I learned the County can ask our back to transmit the electronic funds received after date of death back to the Federal Treasury via the PAR/TRACER number. This, in turn, would lock up their system from taking any further reclamation(s). This may be the solution to the problem mentioned in my oral testimony. If SSA request repayment, we would inform them of our action.**

Your testimony contained references to several internal and external audits and controls Hennepin County has in place. How do these controls help you and your beneficiaries? I am particularly interested in your testimony regarding safeguards for situations in which the claimant and the county can not reach agreement. Give us an example of such a case and what procedures would you follow to attempt to satisfy the claimant? If you did not satisfy the claimant, what happens?

**Annually, the County is required to report all County bank account balances and reconciliations to our Internal Audit Department. This includes the accounts in Rep Payee. The County also arranges for an external auditing firm to review our books. These reconciliations and audits simply determine our book to bank account values. The accounts are available for the SSA to review to ensure payments are made to rightful providers of service.**

**There has not been a case within the Rep Payee accounts where the County has had the necessity to contact another County to investigate or examine a claimant's complaint of fraud or misuse of funds. In my testimony I was only providing this information to illustrate the County's desire to do everything possible to ensure compliance and openness.**

Since your county has served the community for 35 years, can you provide any suggestions for improvement based on your long experience and the experience of the organizations you work with?

**Speaking toward the accounting aspects for Representative Payee, the County has designed its system with what Social Security Administration has in place. Mainly the direct deposits of the benefits to our bank account. As stated during the testimony, there is the need for timely cashing of payments by the SSA and a set procedure for reclaiming funds for deceased recipients. The main problem we hear from the new Representative Payee when closing our account is the time delay between the County returning the conserved funds and when those funds are sent to the new payee. In some cases the recipient does not have financial resource for weeks and may have to go without needs for this period.**

#### REPRESENTATIVE PAYEE SERVICES

ENTITLEMENT MAINTENANCE  
PO BOX 582832  
MINNEAPOLIS MN 55458—PHONE ... 612 420 6000

JT KITT SOCIETY  
PO BOX 68036  
MINNEAPOLIS MN 55418—PHONE ... 612 781 6255

CHURCH OF ST. STEPHEN  
ALLIANCE OF THE STREETS  
1829 PORTLAND AVE SO  
MINNEAPOLIS MN 55404 1812—PHONE ... 612 870 0529  
DIRECTOR: HERB FREY

PHILLIP BURNETT

VANCE INTERNATIONAL, INC.  
Oakton, Virginia 22124-2700  
*June 14, 2001*

1. How do the Special Agents of the Social Security Inspector General's office differ from those of other Inspector General Offices? Is their training different? Are their duties different?

Many of the other Inspector General's Offices investigate almost exclusively internal issues—investigations of Federal employees, contract matters, and so forth. The majority of the investigative activity of the Social Security Administration Office of

the Inspector General's (SSA OIG) Special Agents is external—investigating those people who perpetrate crimes against the Social Security programs. Much of their law enforcement activity involves fugitive felons and other violent criminals. In order to accomplish their mission, the SSA OIG Special Agents work with State and local law enforcement agencies, often on task forces.

SSA OIG Special Agent training differs from other OIG Special Agents training in that after the basic Criminal Investigative Training Program and the Inspector General (IG) Investigator Training Program the SSA OIG Special Agents receive additional follow on training specific to SSA. This training includes a course in the SSA Title II program (Benefit Basics and Retirement Insurance Benefits, Disability Benefits, Health Insurance Benefits) and Title XVI program (Supplemental Security Income Benefits).

The next part of the training is a weeklong program where agents receive training that includes:

- Field Perspective in Program Fraud
- Computer System Inquiries
- Program Fraud Investigation
- Employee Fraud
- Hotline Briefing
- Computer Requests from Treasury
- Computer Requests on the SSA System
- Administrative Case Management System
- OIG Automated Forms
- Representative Payee Investigation
- Undercover SSN Process
- Identification Theft
- Strategic Enforcement Division Overview
- Additional Agency Resources
- Special Programs
- Fugitive Felons
- Cooperative Disability Investigations Unit
- Psychology of Officer Safety
- Technical Investigative Equipment
- Ethics

The Office of the Counsel to the Inspector General also instructs agents in the following specific legal topics: Agent Authority, OIG Administrative Subpoena Process, Employee Cases, Privacy Law, and SSA's disclosure policy.

2. You mentioned the increased paperwork burden the Inspector General currently has under the Memorandum of Understanding regarding Special Agents. Can you tell me more about this? Would this burden be reduced if the Inspector General were granted statutory law enforcement authority, and if so, how?

The Memorandum of Understanding under which the Department of Justice (DOJ) deputizes the SSA OIG's Special Agents must be renewed periodically; currently this renewal is every 3 years. This requires the participation of two agencies: SSA and DOJ. Furthermore, each year the SSA OIG is required to make a written report to DOJ's Criminal Division detailing the investigative and prosecutive activities of all of the SSA OIG's Special Agents. The report contains information on the number of occasions on which the authority conferred by the deputation was used in connection with arrests, searches, execution of restraining orders, protection of witnesses, dangerous surveillance of investigative subjects, interviews under hazardous circumstances, temporary custody of Federal prisoners, support for undercover operations, services of subpoenas under hazardous circumstances, and assisting in electronic surveillance. The tracking and reporting of each instance in which the delegated law enforcement authority is used creates an administrative burden on both SSA and DOJ.

If statutory law enforcement authority were granted to the SSA OIG Special Agents, the Memorandum of Understanding, the periodic deputation renewals, and the annual written deputation activities report would be eliminated. The elimination of these requirements would reduce the paperwork burden currently experienced by the SSA OIG.

Respectfully,

ELJAY B. BROWN  
*Executive Vice President*

ESSEX COUNTY SHERIFF'S DEPARTMENT  
Newark, New Jersey 07102

E. Clay Shaw, Jr., Chairman  
Congress of the United States  
House of Representatives  
Committee on Ways and Means  
Washington, D.C. 20515

Dear Chairman Shaw,

In reference to my testimony before the Subcommittee regarding the integrity of Social Security programs, I have provided the following answers to the questions in your letter of May 21, 2001.

**Question #1**

"You have provided two examples of the types of fugitive felons you have apprehended with the assistance of the Inspector General. Of the fugitives you have apprehended, have most been found to still live in the Newark area? After you captured the fugitive felons, were you able to determine whether they had committed other crimes while they were fugitives?"

**Answer**

Part 1—Yes, most of the fugitives were found to live in the Newark area.

Part 2—No, most fugitives had no new charges pending.

**Question #2**

"You indicated in your testimony that you have received information on 185 fugitive criminal felons since July 2000. Can you tell us how many fugitive felon warrants you have submitted to the Inspector General?"

**Answer**

Of the 185 fugitive felon warrants this office submitted to the Inspector General, 97 were closed out by arrest.

Sincerely,

JOHN D. DOUGH  
*Chief*

[Submissions for the record follow:]

**Statement of Michael A. Steinberg, Michael Steinberg & Associates, Tampa, Florida**

Mr. Chairman and Members of the Subcommittee on Social Security, thank you for the opportunity to present a written statement for the printed record of the above referenced hearing.

Since the focus of the hearing is:

- a) to examine the Social Security Administration's efforts to stop benefits being paid to those who are ineligible for benefits and;
- b) to prevent misuse of benefits by representative payees, I will limit my comments to these two concerns.

**BACKGROUND**

I am an attorney who has been practicing in the area of Social Security Disability law for almost 19 years. I have written articles for periodicals and have lectured at national Social Security disability law conferences.

In my practice I have represented claimants who have been overpaid benefits and assisted them in applying for a waiver of overpayment or setting up a repayment plan. I have also served as a representative payee on a number of occasions and have been involved with issues pertaining to other representative payees' regarding misuse of funds and fraud.

### WHO IS BEING OVERPAID BENEFITS?

There are several categories of claimants who are generally overpaid:

- 1) SSI claimants who underreport income and/or resources;
- 2) Disability Beneficiaries who have received workers compensation or some other benefit and the Social Security Administration erroneously failed to offset that income;
- 3) Disability Beneficiaries whose benefits were terminated, but elected to have those benefits continued while their appeal was pending, and eventually a final decision was rendered finding them ineligible for benefits;
- 4) Persons who are incarcerated, but did not report their incarceration and continued to receive benefits.

Attached hereto are samples of letters clients of mine have received from the Social Security Administration regarding overpayment of benefits. Their names are deleted to protect their privacy. I don't know the numbers of these payments nationwide, but considering the fact that I have an average size practice and there are about 3,500 attorneys around the country who handle primarily Social Security Disability matters, if my clients are representative of claimants nationwide, the overpayment figures are enormous.

Ironically, in most of these cases, the claimant is without fault in causing the overpayment. The claimants have no idea what information the Social Security Administration requires or how much money they should have been receiving. More often than not, it is the Social Security Administration's mistakes that cause the overpayment and, by the time the mistake is caught, the claimant has no funds with which to repay the money.

### SOLUTION

As you know, the Social Security Administration has a limited budget. If the budget was unlimited, sufficient personnel could be hired to calculate benefits and monitor cases so that very few overpayments occur. However, the cost to hire these workers may exceed the savings from preventing the overpayments; therefore, a cost benefit analysis must be performed. Ideally, the Social Security Administration will hire enough trained workers to reduce the number of overpayments to a tolerable level, but not to a point of overkill. (Economics 101—Law of diminishing returns). A study should be conducted by the administration to determine this optimal number. The Social Security budget should be expanded if by doing so there is a savings in an amount greater than the expansion of the budget.

### MISUSE OF BENEFITS BY REPRESENTATIVE PAYEES

Basically there are three types of representative payees.

- 1) Family or friends of claimant;
- 2) Parent or guardian of children;
- 3) Non-profit organizations, such as Lutheran Social Services, Jewish Family Services, etc.

### REPRESENTATIVE PAYEES FOR ADULTS

With respect to adults, representative payees are usually appointed, because the claimant has a severe mental impairment which prevents him or her from being able to handle funds. Often alcohol or drug abuse is involved.

Many times a mentally ill claimant has difficulties finding a payee to handle his funds, because a family member or friend cannot legally be compensated for acting as representative payee. Furthermore, this type of claimant usually is difficult to deal with, making the job of representative payee even more undesirable. As a result, some persons reluctantly agree to be representative payees, only to quit a few months later due to badgering by the beneficiary. Other payees simply turn over the check to the beneficiary without ensuring that the money is used for appropriate purposes. Still others illegally convert a portion of the beneficiary's check to their own use.

As an illustration of the perversity in the Representative Payee Program, I once had a client who was a drug addict, alcoholic, and prostitute. She was receiving benefits herself due to being HIV positive. Her boyfriend was also an alcoholic and drug addict and was awarded Disability Insurance Benefits due to a mental disorder. Social Security proceeded to appoint his girlfriend as the payee. It is needless to say what happened to the money.

In another case, a client was an alcoholic with a bipolar mental disorder. He had a history of violence as well. He was found disabled by an Administrative Law

Judge, but the judge put in her decision that the claimant's wife was not to be the payee. The claimant appealed to the Social Security Administration, the order of the Administrative Law Judge regarding the appointment of a representative payee, and the Social Security Administration capitulated and allowed the wife to be the payee. A few months later I received a call from the claimant's father advising that his son was in jail on second degree murder charges for murdering his wife. (Perhaps the judge was correct in being concerned that the claimant would act violently if the wife tried to perform her duties as a representative payee appropriately).

#### **REPRESENTATIVE PAYEES FOR CHILDREN**

Representative payees are always appointed for children. Usually parents or guardians are appointed representative payees. The Social Security Regulations has strict guidelines as to how SSI funds for children are to be deposited and used. These guidelines are almost never followed and the Social Security Administration almost never enforces these regulations.

In the best case scenario, representative payees simply use the SSI money as an additional resource to pay household expenses. In the worst case scenario, the SSI money is used to pay for the parent's drug or alcohol habit.

#### **NON-PROFIT ORGANIZATIONS**

On occasion, a claimant for Disability or SSI Benefits will not be able to find anyone to act as his representative payee and a non-profit organization is selected to act as his or her representative payee. Under appropriate circumstances, these organizations can charge a small fee to a beneficiary to act as representative payee, but usually don't.

The aforesaid non-profit organizations generally make sure the claimant's funds are used for appropriate purposes and, because there is no familiarity between the organization and the claimant, the claimant is unable or less able to pressure the payee to improperly turn over the funds.

#### **SOLUTION**

The Social Security Administration should attempt to use non-profit organizations to act as payees, if at all possible. Funds should be paid to these organizations to insure proper training and incentive to do this. This funding can come from claimants or other resources.

#### **CONCLUSION**

The overpayment of benefits by the Social Security Administration is apparently at an intolerable level. This is not due to rampant fraud on the part of beneficiaries but, more often than not, due to inadvertence or mistake on the part of the agency.

Possibly the Social Security Administration is underfunded to the point that it is impossible to reduce the amount of overpayments. Perhaps the agency is mis-managed and/or employees are under-trained.

This subcommittee may not be able to improve the integrity of the Social Security Disability Program without help from the Appropriations subcommittee and the President.

Regarding representative payees, it is essential that professional, paid representative payees be appointed, where a beneficiary cannot handle his or her funds. This would insure that funds are being used for the purposes intended, and also, may reduce some of the overpayments as well.

Thank you for your consideration of the above and the attached.

[Attachments are being retained in the Committee files.]

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#### **Statement of Sue Heflin, President, National Association of Disability Examiners, Salem, Oregon**

Chairman Shaw and members of the Subcommittee, on behalf of the National Association of Disability Examiners (NADE), thank you for providing this opportunity to comment on efforts needed to ensure the integrity of Social Security programs.

NADE is a professional organization whose mission is to advance the art and science of disability evaluation. Our membership is strongly committed to ensuring the integrity of the Social Security and Supplemental Security Income (SSI) disability programs. Although the majority of our members are employed in the state

Disability Determination Service (DDS) offices, our membership also includes Social Security Headquarters staff and Field Office personnel, attorneys, claimant advocates and physicians. It is the diversity of our membership, combined with our “hands on” experience, which we believe provides us with a unique understanding of the issues facing the Social Security and SSI disability programs. We recognize the need for ongoing vigilance to ensure the integrity of those programs. We believe it is essential that the Administration and Congress provide the resources necessary to administer these programs in such a way that those who are entitled to disability benefits receive them and that those who are not, do not.

While traditionally the Social Security retirement program has received high grades in terms of public confidence and support, the disability programs have not. In part this is due to lack of public understanding of these programs, their more subjective nature and the public perception that benefits are often fraudulently obtained and/or are being misused.

We agree with the Social Security Advisory Board that, “Consistency and fairness should be fundamental goals of the disability programs.” The integrity of these programs—and the public’s confidence in them—has been threatened by the significant, poorly explained, differences in decisions between states and regions and between different levels in the appeals process. The differences in decisional outcomes between the DDSs and the Administrative Law Judges has led to a pervasive public perception that “everyone” is denied by the DDS and must request a hearing before an Administrative Law Judge in order to receive the “right” decision. The difference in decisional outcomes between states and regions has received a great deal of press coverage in recent weeks. This, again, reduces public confidence in the consistency and fairness of the disability programs. NADE believes, and has stated in previous testimonies, that these inconsistencies can be corrected only through maintenance of the *appropriate staffing levels, on-going, joint training for all decision makers; uniform policies, binding on both the DDSs and the ALJs; and clear and consistent feedback from quality assurance reviewers.* To do this, however, requires adequate resources. NADE believes that in order to provide the resources necessary to efficiently administer the disability program, SSA’s administrative budget must be removed from the discretionary spending cap.

To help ensure that benefits are not fraudulently obtained, NADE strongly supports the Cooperative Disability Investigations (CDI) teams currently operating in several states. These teams combine the resources and talents of Office of Inspector General (OIG) special agents with State and local law enforcement officers, and SSA and DDS professionals to prevent individuals from fraudulently receiving benefits. These efforts have successfully prevented millions of dollars in benefits from being disbursed. While it is more efficient to prevent benefits from being awarded than to try to obtain restitution once benefits have been disbursed, it is equally important to stop disability payments if those benefits have been fraudulently obtained. The CDI units do both. NADE supports continued expansion of this project which has thus far produced excellent results and is an effective way to address disability fraud.

Accurate initial disability decisions, with benefits granted expediently *and appropriately*, are essential to maintaining program integrity and to restoring and maintaining public confidence in the disability program. However, maintaining program integrity also requires that individuals who are no longer disabled should not be receiving benefits. We commend the Congress and SSA for the progress made in reducing the backlog of continuing disability reviews (CDRs). This initiative has resulted in significant program savings. It makes sound financial sense for Congress to continue to fund the Continuing Disability Reviews independently from other SSA programs so the CDR backlog can be kept current. Unfortunately, however, staffing levels in many DDSs are such that even with those funds, administrators must choose between processing CDRs or processing initial claims.

It is essential that the Field Offices and the DDSs maintain sufficient staff to process all current and future workloads. The Social Security Advisory Board, in their February 2001 report, *Challenges For The New Congress And The New Administration*, stated, “. . . under SSI the fact and degree of eligibility can change from month to month based on changes in income, resources, individual living arrangements and place of residence.” It is important, both to ensure program integrity and to restore and retain public confidence, that the Social Security Field Offices have sufficient resources to monitor those changes. In addition, because those receiving disability benefits are among the country’s most vulnerable population, it is equally important that the Field Offices have sufficient resources to monitor Representative Payees and to ensure that funds are being used in the beneficiary’s best interest.

The Social Security and Supplemental Security Income disability programs are a vital part of America’s “safety net.” *It is essential that the Congress appropriate suf-*

*efficient resources to ensure that these programs are administered efficiently, that fraud and abuse are eliminated, that those who are entitled to benefits receive them as early in the process as possible and that those benefits are used appropriately.*

We believe, however, that any initiatives by SSA to maintain public confidence and ensure the integrity of its programs are hampered by the fact that the Agency does not have a permanent, confirmed Commissioner. Regardless of how competent or respected he or she is, an Acting Commissioner lacks the authority to initiate change or to provide the level of leadership needed to manage an agency as important as Social Security. SSA needs a confirmed Commissioner, respected by both parties, with broad management experience and a true understanding of the critical issues the agency is facing.

Thank you for allowing NADE the opportunity to present this statement for the record. We appreciate the oversight initiatives this Subcommittee has consistently undertaken and remain committed to assist in any efforts to improve the Social Security and Supplemental Security Income disability programs.

