



Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

Office of Investigations

MANAGEMENT ADVISORY REPORT

Removable Alien Project

May 12, 2017

MEMORANDUM

Date: May 12, 2017

To: Bea Disman
Acting Chief of Staff

From: Rob Childress /s/
Acting Assistant Inspector General for Investigations

Subject: Management Advisory Report – Removable Alien Project

The Office of Investigations (OI) is providing the attached Management Advisory Report (MAR) for your review in furtherance of the Office of the Inspector General's (OIG) mission to protect the integrity and security of the Social Security Administration's (SSA) programs and operations. Our objective in writing this MAR is to provide you with information relative to our investigative work to identify aliens, whom an immigration judge has ordered removed from the United States, who are receiving Retirement, Survivors and Disability Insurance (RSDI) benefits and Supplemental Security Income (SSI) payments to which they are not entitled.

OI, working in conjunction with the Department of Homeland Security (DHS), Immigration and Customs Enforcement, Enforcement and Removal Operations (DHS/ICE/ERO) and DHS, Homeland Security Investigations (HSI), identified 10 cases in the Boston Region involving individuals receiving benefits and payments administered by SSA who were also the subjects of final orders of removal. In none of the cases did we find that the beneficiaries/recipients disclosed to SSA or that SSA was otherwise aware that DHS had ordered these individuals removed from the United States, making them ineligible for SSA benefits and/or payments.

OVERVIEW OF INITIAL INVESTIGATION

The OI's Boston Field Division (BFD) received information from the SSA District Office in (b) (7)(E) [REDACTED], which alleged, in part, that a Supplemental Security Income (SSI) disability recipient might be an illegal alien receiving SSI payments to which he was not entitled, due to his status as an alien whom an immigration judge had ordered removed from the United States. The subsequent OIG investigation found that the subject failed to disclose to SSA that he was residing in the United States unlawfully after an immigration judge had ordered his removal from the United States, which affected his continued eligibility for SSI payments. Furthermore, our investigation determined that DHS did not notify the SSA of this subject's status via the Disability, Railroad, Alien, and Military Service Database (DRAMS), the database DHS uses to notify SSA of aliens whom DHS has deported or removed from the United States.

Our investigation identified a potential vulnerability in the existing data matching mechanism between DHS and SSA. Therefore, OI proposed the Removable Alien Project to ascertain if there were additional cases of unlawfully present alien beneficiaries/recipients receiving benefits/payments to which they were not entitled, due to their status as aliens whom an immigration judge had ordered removed from the United States.

FINDINGS/SYSTEMIC ISSUES IDENTIFIED

During the course of our initial investigation and subsequent investigative project, OI learned that aliens whom DHS has actually deported from the United States and aliens whom an immigration judge has ordered deported or removed are not eligible for SSA benefits/payments. Currently, DHS electronically transmits to SSA information regarding individuals whom DHS has recorded as having been removed from the United States, via the DHS/SSA I-157¹ data match agreement.² However, we did not find a notification process through which DHS transmits to SSA, on a recurring and consistent basis, information pertaining to individuals recorded in DHS records as subjects of final orders of removal from the United States, but whom DHS has not yet removed.

¹ "I-157" makes reference to Form I-157, Notice of Deportation, which, according to historical SSA Program Operations Manual System Section RS 02635.005, was used by the legacy Immigration and Naturalization Service to report deportations to SSA until 1993, when computer listings were provided.

² Our Office of Audit is conducting the review *Old-Age, Survivors and Disability Insurance Benefits to Individuals Removed from the United States (A-13-17-34105)*, using DRAMS data. The objective of the review is to determine whether SSA improperly paid benefits to Old-Age, Survivors and Disability Insurance beneficiaries whom DHS had reported as removed from the United States. The review focuses on individuals whom DHS recorded as having been removed and who appeared in the DRAMS file.

To identify additional cases, OI, BFD requested ICE/ERO to provide a listing of aliens with last known addresses in Massachusetts who were the subjects of final orders of removal, but remained in the United States without authorization. OI is aware that some aliens whom DHS orders removed from the United States continue to remain in the country unlawfully. For example, an alien whom DHS serves with a “Notice to Appear” charging removability is not always held in custody pending removal proceedings. If the alien subsequently fails to appear for his/her removal hearing, an immigration judge may order the alien removed in absentia, potentially rendering him/her unlawfully present if he/she remains in the United States. Another example of an unlawfully present alien is that of an alien whom an immigration judge grants a Voluntary Departure; however, the alien fails to depart the United States within the prescribed time. Pursuant to existing SSA regulations and guidance, individuals determined to be unlawfully present are not typically eligible for RSDI benefits and SSI payments.

Pursuant to the Removable Alien Project, OI reviewed the list of aliens and other information ICE/ERO provided and identified 10 aliens receiving SSA benefits and/or payments whom an immigration judge had ordered removed from the United States. In these 10 cases, OI reviewed the controlling immigration file (A-File) with the assistance of ICE/ERO and obtained documentation of each claimant’s immigration status including, but not limited to, the immigration charging document, Order of the Immigration Judge, and Warrant of Removal/Deportation. In conjunction with ICE/ERO and/or HSI, OI conducted or attempted to conduct interviews of all subjects believed to be residing in the United States unlawfully and receiving benefits and/or payments from SSA to which they were not entitled.

The OI BFD investigations determined that all 10 aliens received benefits/payments to which they were not entitled due to their immigration status as aliens under final orders of removal. We further determined that seven of the 10 aliens received Title II benefits; one alien received Title XVI payments and two of the aliens received concurrent benefits (both Title II and Title XVI). As a result of the Removable Alien Project:

- SSA retroactively suspended RSDI benefits and SSI payments to eight subjects due to their unlawful presence in the United States, effective on the date reflected on their final order of removal.
- OI BFD learned that two of the subjects received RSDI benefits while residing outside of the United States. SSA suspended benefits to these two subjects based upon their status as deported aliens after ICE/ERO updated agency records to reflect that the aliens had actually departed the United States. DHS communicated these records updates made by ICE/ERO to SSA through the DHS/SSA I-157 data match agreement via the DRAMS database

- Eight of the beneficiaries/recipients were eligible for SSA benefits/payments when they applied for these benefits/payments, but SSA subsequently determined them to be ineligible due to material changes in their immigration status (i.e. unlawfully present in the United States). SSA found that two of the beneficiaries/recipients were ineligible at the time of their application for SSA benefits/payments due to their immigration status.
- The SSA's North Eastern Payment Service Center in Jamaica, NY posted an Operations Bulletin (#14-014) to provide guidance to SSA employees on processing RSDI cases involving unlawfully present aliens.
- OI recorded total program savings of \$333,904.
- OI recorded a total fraud loss of \$260,707.
 - Aliens received improper payments ranging from \$230 to \$67,000.

OI BFD presented its investigative findings in two of the cases to the United States Attorney's Office (USAO), which declined the cases for criminal prosecution. (b) [REDACTED]

(7) [REDACTED]

(E) [REDACTED]

ICE/ERO reviewed each of the 10 cases for appropriate administrative action. ICE/ERO administratively arrested, or placed under Orders of Supervision, five of the subjects. ICE/ERO closed two subjects' immigration cases based, in part, on information developed by OI that the subjects had departed the United States. ICE/ERO and OI agents could not determine the whereabouts of one subject. ICE/ERO did not pursue administrative immigration enforcement action relative to two of the subjects, as they did not meet enforcement priorities at that time.

CONCLUSION

Through the DHS/SSA I-157 data match agreement, DHS electronically transmits to SSA information regarding individuals whom DHS has recorded as having been removed from the United States. SSA should pursue the extension of that agreement to include individuals whom an immigration judge has ordered removed from the United States but have remained in the country without authorization.

In the absence of an expanded data match between SSA and DHS, we believe SSA will continue to pay aliens who are unlawfully present in the United States benefits and payments to which they are not entitled.