
OFFICE OF
THE INSPECTOR GENERAL

SOCIAL SECURITY ADMINISTRATION

IDENTIFYING REPRESENTATIVE
PAYEES WHO HAD THEIR OWN
BENEFITS SUSPENDED UNDER THE
FUGITIVE PROVISIONS OF
PUBLIC LAW 104-193

October 2002 A-01-02-12073

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: October 10, 2002

Refer To:

To: The Commissioner

From: Inspector General

Subject: Identifying Representative Payees Who Had Their Own Benefits Suspended Under the Fugitive Provisions of Public Law 104-193 (A-01-02-12073)

Our objective was to identify fugitives whose Supplemental Security Income (SSI) payments were stopped under Public Law (P.L.) 104-193 but who continued to serve as representative payees (Rep Payee) and manage Social Security funds for other beneficiaries.

BACKGROUND

Some individuals cannot manage or direct the management of their finances because of their youth or mental and/or physical impairments. Congress granted the Social Security Administration (SSA) the authority to appoint Rep Payees to receive and manage these individuals' Social Security benefit payments.¹ A Rep Payee is a person, agency, organization, or institution selected to receive and manage benefits on behalf of an incapable beneficiary. Rep Payees are responsible for using Social Security benefits to serve the beneficiary's best interests. Their duties² include:

- using benefits to meet the beneficiary's current and foreseeable needs;
- conserving and investing benefits not needed to meet the individual's current needs;
- reporting any changes in circumstances that would affect their performance as a Rep Payee;
- reporting events to SSA that may affect the individual's entitlement or benefit payment amount; and
- completing *Representative Payee Reports* for all beneficiaries and recipients annually.

¹ Social Security Act §§ 205(j) and 1631(a)(2); 42 U.S.C. §§405(j) and 1383(a)(2).

² 20 CFR §416.635.

The decision to make payment through a Rep Payee is serious since it deprives the beneficiary of direct control over his or her finances and may affect his or her manner of living. Recognizing the potential for a Rep Payee to mishandle benefits, Congress requires that SSA exercise extreme care in determining that a Rep Payee is needed, selecting a Rep Payee, and monitoring the Rep Payee's performance.

SSA has a legal obligation to review the performance and continued suitability of all those appointed to serve as Rep Payees.³ While having a criminal history is not an absolute bar to serving as a Rep Payee, it is a strong indication the individual may no longer be suitable to act in that capacity.⁴ Furthermore, according to SSA's policies and procedures, if the Rep Payee applicant is a convicted felon, SSA staff should look for an alternative Rep Payee and/or make direct payment to the beneficiary unless direct payment is prohibited.⁵

With the enactment of section 202 of P.L. 104-193 in August 1996, fugitive felons and parole and probation violators are no longer eligible to receive SSI payments. To identify SSI recipients who are fugitives, SSA matches Federal, State, and local law enforcement fugitive data against its SSI payment records. When SSI recipients are found to be fugitives, SSA stops their payments and assesses an overpayment for the amount of SSI payments incorrectly paid.

SSA periodically matches its Prisoner Update Processing System with its Master Representative Payee File (MRPF) to identify unsuitable Rep Payees and protect the most vulnerable beneficiaries and recipients from potential abuse by these Rep Payees who have become prisoners. However, SSA does not have a similar program to identify and replace fugitives who are Rep Payees.

Although SSA staff informed us they perform suitability checks when there is any activity or change in the status of a beneficiary who is also a Rep Payee, the Agency does not have a specific policy in place that prohibits a fugitive from acting as another beneficiary's Rep Payee.⁶

³ Program Operations Manual System (POMS), section EM-01208 section I.

⁴ POMS, section EM-01208 section II.

⁵ POMS, section GN 00502.133.

⁶ POMS, section GN 00504.100 provides instructions on when to consider the need for a new Rep Payee. However, fugitive status is not specifically identified as a reason to replace a Rep Payee.

SCOPE AND METHODOLOGY

We obtained a data extract of 10,598 recipients whose SSI payments were stopped under the fugitive provisions of P.L. 104-193 as of December 2001. We then matched the Social Security numbers from this extract against SSA's MRPF to identify fugitives who were Rep Payees. The MRPF is a file of all Rep Payees, and it contained 5.25 million individual Rep Payees as of June 2001.⁷

The match between our fugitive data extract and the MRPF, as well as our subsequent analysis of these data files, identified 121 Rep Payees whose own SSI payments were stopped because they were fugitive felons or parole or probation violators.

For these 121 fugitive Rep Payee cases, we performed the following analysis.

- Obtained the Master Beneficiary Records (MBR) and/or Supplemental Security Records (SSR) for the beneficiaries who had fugitives acting as their Rep Payees. Using these records, we confirmed that the beneficiaries' Old Age, Survivors and Disability Insurance (OASDI) benefits and/or SSI payments were paid to a fugitive Rep Payee.
- Calculated the amount of benefits managed by the fugitive Rep Payee and the number of months they were paid (as of January 2002).
- Calculated the amount of benefits each fugitive will manage over the next 12 months if SSA does not take action to replace the Rep Payee.
- Compared the addresses on the SSI fugitive records with the Rep Payee records to determine whether they were the same—to identify possible leads for referral to our Office of Investigations, which assists Federal, State, and local law enforcement officials with the location and arrest of fugitives.
- Determined whether the fugitives were selected to be Rep Payees before or after their SSI payments were suspended.
- Ascertained the relationship between the Rep Payees and their beneficiaries.
- Requested and analyzed case folders to determine whether SSA conducted Rep Payee suitability reviews.
- Requested and analyzed the Rep Payee accounting reports for those beneficiaries who had the fugitives as their Rep Payees for more than 1 year.

⁷ Although a Rep Payee can be an individual or organization, we only included the 5.25 million individual Rep Payees in our analysis—not the organizational Rep Payees.

In addition, we:

- Obtained 2 data extracts of 1,195 terminated Rep Payee records for recipients whose own SSI payments were stopped for being fugitives. (See Appendix B for details of our data files and our sampling methodology.)⁸
- Researched SSA's policies and procedures related to Rep Payee suitability.

We are also performing an audit entitled, *Screening Representative Payees for Fugitive Warrants* (A-01-02-12032), in which we are assessing the use of fugitive warrants as a screening tool for Rep Payees. This audit includes all fugitive felons and parole or probation violators who are Rep Payees—regardless of whether the Rep Payees were also receiving SSI payments. For this audit, we matched 10 State fugitive files—which were obtained during Fiscal Years 1999 and 2000—against SSA's MRPF. This match resulted in 3,473 records in which a fugitive appears to be a Rep Payee for another beneficiary.⁹

We conducted our audit between January and June 2002 in Boston, Massachusetts. The entities audited were SSA's Office of Program Benefits under the Deputy Commissioner for Disability and Income Security Programs and SSA's field offices under the Deputy Commissioner for Operations. We conducted our audit in accordance with generally accepted government auditing standards.

RESULTS OF REVIEW

We identified 121 fugitives whose SSI payments were stopped under P.L. 104-193, but who continued to serve as Rep Payees and managed over \$1.4 million in Social Security funds for 161 beneficiaries. Specifically, these 121 fugitives managed Social Security funds totaling

- \$650,307 for 62 SSI recipients,
- \$606,451 for 86 OASDI beneficiaries, and
- \$163,790 for 13 concurrent beneficiaries.¹⁰

⁸ The data extracts contained 722 and 473 records, respectively, for a total of 1,195 records.

⁹ Based on our sample of 368 of the 3,473 records, we will be able to estimate nationwide the number of fugitives who are Rep Payees for other beneficiaries—regardless of whether or not the Rep Payees are also SSI recipients.

¹⁰ Concurrent beneficiaries are individuals entitled to receive benefit payments under both the OASDI and SSI programs.

We estimate that these fugitives will manage an additional \$634,306 in Social Security funds as Rep Payees over the next 12 months if they are not replaced with more suitable payees.¹¹

On average, these fugitives managed the funds for 8 months after SSA was notified of their fugitive status and suspended the fugitives' own SSI payments. Additionally, 13 of the 161 beneficiaries' payments were being managed by fugitives who were selected as Rep Payees after their own SSI payments were suspended for being fugitives.¹² For example, one SSI recipient had her own SSI payments suspended in April 2001 for being a fugitive in connection with a drug charge. She was then appointed by SSA as Rep Payee for her son's SSI and OASDI benefit payments in November 2001—7 months after SSA identified her as a fugitive. This fugitive Rep Payee was paid \$2,717 in benefit payments between November 2001 and January 2002 on her son's behalf. Even though the fugitive is the beneficiary's mother, we believe SSA should not allow her to serve as a Rep Payee unless the Agency re-assesses her suitability and determines that she will manage the funds in her son's best interest.

Types of Rep Payees and Beneficiaries

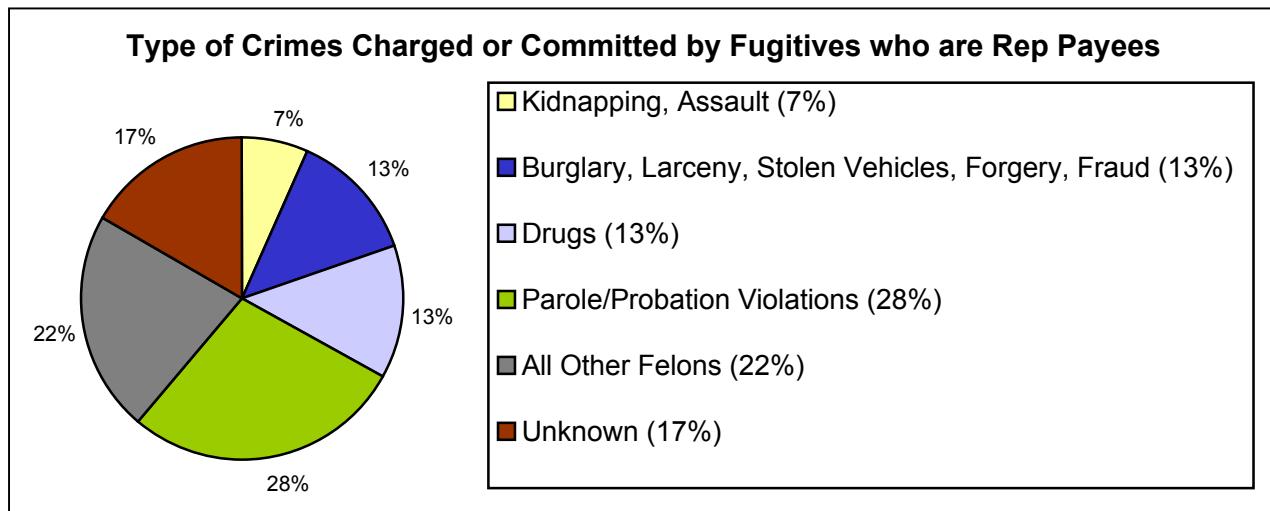
Of the 161 beneficiaries whose Social Security funds were managed by fugitives, 44 were adults and 117 were children under age 18. The chart below shows the relationship between the Rep Payees and the beneficiaries whose funds were managed by the fugitives.

Relationship of Rep Payee to the Beneficiary	Number of Beneficiaries
Mother	84
Father	42
Stepfather	2
Grandparent	4
Other Relative	11
Spouse	5
Child	1
Other	12
Total	161

¹¹ This estimate was calculated by multiplying the January 2002 SSI payment amount times 12 months—and it presumes no change in other eligibility factors during this time period.

¹² For the remaining 148 beneficiaries, the Rep Payees were selected before SSA's (1) notification from law enforcement that the individuals were fugitives and (2) subsequent suspension of the fugitives' own SSI payments.

Additionally, the Rep Payees were wanted for various types of felony warrants, as shown in the figure below.



Note: The unknown category (17 percent) represents cases whose offense codes were not recorded electronically in the OIG's Allegation and Case Investigative System. However, the type of crime should be recorded in the paper documentation associated with the confirmation of the warrant for these cases.

According to an SSA publication on Rep Payees,¹³ almost all children under age 18 have Rep Payees, and it is usually a parent. However, in our opinion, parents who are fugitives should not be allowed to serve as their child's Rep Payee unless the Agency has re-evaluated their suitability and determined they are still in the best position to manage the child's Social Security funds.

For example, one recipient had her SSI payments stopped in January 2002 because she had an outstanding felony warrant for fraud. The warrant was dated February 2000, and SSA assessed an overpayment from February 2000 through December 2001. This fugitive was also a Rep Payee for her two sons and managed a total of \$22,691 in Social Security funds for them over a 24-month period. As of May 2002, the fugitive was still a Rep Payee despite the fact that (1) her own SSI payments were stopped because of her fugitive status and (2) SSA field office staff noted that the mother "...will not listen [to her Rep Payee] reporting responsibilities..." and was "uncooperative."

¹³ SSA Publication No. 05-10076, *A Guide For Representative Payees*, April 1997.

SSA's Monitoring of Rep Payees

Our review of SSA's case folders and Rep Payee accounting reports for the fugitive Rep Payees and their beneficiaries revealed the following.

- Only one case folder contained information regarding a Rep Payee suitability review after SSA was notified of the Rep Payee's status as a fugitive felon. In this case, SSA contacted the fugitive Rep Payee in January 2002 regarding her felony conviction. However, SSA did not terminate her as a Rep Payee even though the Agency stopped her own SSI payments because she was a fugitive. SSA staff documented in the case folder that the Rep Payee should continue to serve the beneficiary because the crime was a misdemeanor. However, our audit verified the Rep Payee's own SSI payments were stopped under P.L. 104-193 for either a felony or parole/probation violation¹⁴—not a misdemeanor.
- Only 82 of the 150 beneficiaries who were required to have annual Rep Payee reports submitted to SSA by their Rep Payees appeared to have done so.¹⁵ SSA did not have a record of the required report being submitted by the remaining 68 beneficiaries. Therefore, it appears the fugitive Rep Payees for these 68 beneficiaries either (1) did not file the required reports in accordance with their Rep Payee responsibilities or (2) filed the reports, but SSA could not locate them. According to the SSA Operations Division staff who retrieved the Rep Payee reports for us, if the report was submitted as required, the Agency would most likely have a copy of it; therefore, the staff concluded that these Rep Payees did not file the reports, as required.

Cases Appropriately Handled by SSA

In our opinion, SSA should not allow fugitive felons and parole or probation violators to serve as Rep Payees unless SSA has re-evaluated their suitability and determined they should be allowed to continue to serve as Rep Payees. However, SSA does not specifically have a policy requiring re-evaluations of fugitives serving as Rep Payees.

To determine whether SSA replaced Rep Payees who were fugitives, we examined SSA's files of terminated Rep Payees. Based on our review, we estimate SSA replaced 67 Rep Payees upon learning the Rep Payees were fugitives. (See Appendix B for details of our sampling methodology.) Specifically, our review of two samples of terminated Rep Payee records found that a total of eight Rep Payees were terminated immediately after SSA became aware of their fugitive status. For the remaining 142 terminated Rep Payee records in both samples:

¹⁴ Parole or probation violators may have initially been charged with misdemeanors.

¹⁵ We did not request the Rep Payee accounting report if the fugitive was a Rep Payee for the beneficiary for less than a year.

- 58 were listed in the MRPF as being terminated as Rep Payee for themselves—and had not actually served as another beneficiary's Rep Payee; and
- 84 were not terminated as a result of being fugitives—most were terminated before the individuals became fugitives.

Additionally, we notified SSA that 121 fugitives were Rep Payees.¹⁶ Since we notified SSA, the Agency:

- replaced 15 of the fugitives with more suitable Rep Payees;
- took no action to replace 10 fugitives whose own SSI payments were reinstated since their fugitive warrants were resolved after January 2002; and
- did not replace the remaining 96 Rep Payees, who remained fugitives as of July 2002.

In July 2002, SSA established a workgroup to develop an official policy pertaining to fugitives who are serving as Rep Payees.

CONCLUSIONS AND RECOMMENDATIONS

SSI recipients—whose own payments were suspended because they were fugitives—continued to serve as Rep Payees for other Social Security beneficiaries. Although we estimate that SSA terminated approximately 67 Rep Payees because of their fugitive status, SSA needs to identify and re-assess all fugitives who are acting as Rep Payees. We believe a Rep Payee who is a fugitive for a felony or parole/probation violation is not in the best position to ensure that Social Security funds are used appropriately and in the beneficiary's best interests. Therefore, we recommend that SSA:

1. Evaluate the 96 fugitives who continue to serve as Rep Payees to determine whether they are still suitable.
2. Assess the 10 Rep Payees who are no longer considered fugitives to determine whether they are still suitable to serve as Rep Payees.
3. Establish and implement a policy to query data bases, such as the MRPF, whenever SSI payments are suspended due to a recipient's fugitive status to ensure a suitability review is performed when the fugitive is also a Rep Payee.

¹⁶ In February 2002 we notified SSA of 79 fugitive Rep Payees. Then, in July 2002, we notified SSA of an additional 42 Rep Payees—for a total of 121 Rep Payees.

AGENCY COMMENTS

In response to our draft report, SSA agreed with all of our recommendations. Specifically, SSA will review the cases cited in Recommendations 1 and 2 by the end of October 2002 and establish a workgroup to develop processing instructions for handling this workload. (See Appendix C for SSA's comments.)



James G. Huse, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Sampling Methodology and Results

APPENDIX C – Agency Comments

APPENDIX D – OIG Contacts and Staff Acknowledgments

Appendix A

Acronyms

MBR	Master Beneficiary Record
MRPF	Master Representative Payee File
OASDI	Old-Age, Survivors and Disability Insurance
P.L.	Public Law
POMS	Program Operations Manual System
Rep Payee	Representative Payee
SSA	Social Security Administration
SSI	Supplemental Security Income
SSR	Supplemental Security Record

Appendix B

Sampling Methodology and Results

To determine how many Supplemental Security Income (SSI) recipients suspended due to their fugitive status had also been terminated as representative payees (Rep Payee), we conducted two matches. First, we matched our data extract of 6,129 recipients whose SSI payments were *terminated*¹ as of January 2002 because of their fugitive status against the file of terminated Rep Payees. This match resulted in 722 records. We selected a random sample of 100 cases from this population.

Sample Results and Attribute Projection	
Population size	722
Sample size	100
Sample cases where the Rep Payees were terminated because of their fugitive status	4
Point estimate - projection of cases in the population where the Rep Payees were terminated due to their fugitive status	29
Projection lower limit	10
Projection upper limit	62

Note: All projections are at the 90-percent confidence level.

Secondly, we matched our data extract of 4,417 SSI recipients whose SSI payments were *suspended* as of January 2002 because they were fugitives against SSA's file of terminated Rep Payees. This match resulted in 473 records. We selected a random sample of 50 cases from this population.

Sample Results and Attribute Projection	
Population size	473
Sample size	50
Sample cases where the Rep Payees were terminated because of their fugitive status	4
Point estimate – projection of cases in the population where the Rep Payees were terminated due to their fugitive status	38
Projection lower limit	14
Projection upper limit	80

Note: All projections are at the 90-percent confidence level.

For reporting purposes, we added the point estimates from our 2 samples for a total of 67 cases where the Rep Payees were replaced due to their fugitive status.

¹ A fugitive's SSI payment record is placed in suspense when SSA first stops the SSI payments. If the fugitive's payment record remains in suspense for 12 months, the record is then automatically terminated.

Appendix C

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: September 27, 2002

Refer To: S1J-3

To: James G. Huse, Jr.
Inspector General

From: Larry W. Dye /s/
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Identifying Representative Payees Who Had Their Own Benefits Suspended Under the Fugitive Provisions of Public Law 104-193"
(A-01-02-12073)—INFORMATION

We appreciate OIG's efforts in conducting this review. We agree that those cases where a fugitive felon is serving as a representative payee warrant the scrutiny that OIG recommends. As we noted in the exit conference for this review, section 103 of H.R. 4070, which the Agency supports, provides that fugitive felons will not be allowed to serve as representative payees. (This bill has passed the House of Representatives and was sent to the Senate Finance Committee on June 27, 2002.)

Our comments on the report content and recommendations are attached.

Please let us know if we can be of further assistance. Staff questions can be referred to Dan Sweeney on extension 51957.

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT,
"IDENTIFYING REPRESENTATIVE PAYEES WHO HAD THEIR OWN BENEFITS
SUSPENDED UNDER THE FUGITIVE PROVISIONS OF PUBLIC LAW 104-193"
(A-01-02-12073)

Recommendation 1

Evaluate the 96 fugitives who continue to serve as representative payees (Rep Payee) to determine whether they are still suitable.

Comment

We agree and will refer the cases to the appropriate regional offices for their necessary action. We will request that the regions complete the reviews and provide feedback on each case by the end of October 2002.

Recommendation 2

Assess the 10 Rep Payees who are no longer considered fugitives to determine whether they are still suitable to serve as Rep Payees.

Comment

We agree and will refer the cases to the appropriate regional offices for their necessary action. We will request that the regions complete the reviews and provide feedback on each case by the end of October 2002.

Recommendation 3

Establish and implement a policy to query data bases, such as the Master Representative Payee File, whenever Supplemental Security Income payments are suspended due to a recipient's fugitive status to ensure a suitability review is performed when the fugitive is also a Rep Payee.

Comment

We agree. We have policy in place that provides for considering a replacement payee when the existing payee "is otherwise no longer suitable to act as payee." In addition, we have established an intercomponent workgroup to develop field office processing instructions for handling this workload. We expect to release the instructions before the end of the calendar year.

Appendix D

OIG Contacts and Staff Acknowledgments

OIG Contacts

Rona Rustigian, Director, Northern Audit Division, (617) 565-1819

Judith Oliveira, Deputy Director, (617) 565-1765

Staff Acknowledgments

In addition to those named above:

Kevin Joyce, Auditor

David Mazzola, Auditor

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Chairman, Committee on Finance	1
Ranking Minority Member, Committee on Finance	1
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Chairman, Senate Special Committee on Aging	1
Ranking Minority Member, Senate Special Committee on Aging	1
President, National Council of Social Security Management Associations, Incorporated	1
Treasurer, National Council of Social Security Management Associations, Incorporated	1
Social Security Advisory Board	1
AFGE General Committee	9
President, Federal Managers Association	1
Regional Public Affairs Officer	1
Total	96

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The Office of Executive Operations (OEO) supports the Office of the Inspector General (OIG) by providing information resource management; systems security; and the coordination of budget, procurement, telecommunications, facilities and equipment, and human resources. In addition, this office is the focal point for the OIG's strategic planning function and the development and implementation of performance measures required by the *Government Performance and Results Act*. OEO is also responsible for performing internal reviews to ensure that OIG offices nationwide hold themselves to the same rigorous standards that we expect from SSA, as well as conducting investigations of OIG employees, when necessary. Finally, OEO administers OIG's public affairs, media, and interagency activities, coordinates responses to Congressional requests for information, and also communicates OIG's planned and current activities and their results to the Commissioner and Congress.

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The Office of Investigations (OI) conducts and coordinates investigative activity related to fraud, waste, abuse, and mismanagement of SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, physicians, interpreters, representative payees, third parties, and by SSA employees in the performance of their duties. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Counsel to the Inspector General

The Counsel to the Inspector General provides legal advice and counsel to the Inspector General on various matters, including: 1) statutes, regulations, legislation, and policy directives governing the administration of SSA's programs; 2) investigative procedures and techniques; and 3) legal implications and conclusions to be drawn from audit and investigative material produced by the OIG. The Counsel's office also administers the civil monetary penalty program.