

Audit Report

Individuals Barred from Serving as
Representative Payees

A-03-16-50156 / August 2017



MEMORANDUM

Date: August 3, 2017 **Refer To:**

To: The Commissioner

From: Acting Inspector General

Subject: Individuals Barred from Serving as Representative Payees (A-03-16-50156)

The attached final report presents the results of the Office of Audit's review. The objective was to determine whether the Social Security Administration assigned individuals as representative payees who were convicted of crimes that should have barred them from serving.

If you wish to discuss the final report, please call me or have your staff contact Rona Lawson, Assistant Inspector General for Audit, 410-965-9700.

A handwritten signature in black ink that reads "Gale Stallworth Stone".

Gale Stallworth Stone

Attachment

Individuals Barred from Serving as Representative Payees

A-03-16-50156



August 2017

Office of Audit Report Summary

Objective

To determine whether the Social Security Administration (SSA) assigned individuals as representative payees (payees) who were convicted of crimes that should have barred them from serving.

Background

The *Social Security Act* and SSA policy contain provisions to prevent individuals who have been convicted of certain crimes from serving as payees. Individuals convicted under sections 208, 811, or 1632(a) of the *Social Security Act* are permanently barred from serving as payees, and there is no exception to this rule. Effective February 2014, SSA permanently prohibits individuals from serving as payees if they were convicted of fraud directly related to their payee duties. Additionally, SSA policy bars individuals convicted of committing, or attempting to commit, serious felonies—such as fraud, robbery, and homicide—from serving as payees unless they meet certain exclusions (such as being the custodial parent of a minor child).

SSA learns about a person's criminal activity from several sources, including our Office of Investigations, self-reporting, or PayeeWiz—a tool designed to conduct background checks on payee applicants.

Findings

Of the cases we reviewed, 51 individuals were serving as payees for 70 beneficiaries although the payees had been convicted of violating criminal sections of the *Social Security Act*, payee fraud, or other criminal felonies. SSA paid the 51 payees about \$1.3 million in beneficiaries' benefit payments after their convictions. There were 39 individuals convicted of payee fraud or other criminal felonies, of which 34 were assigned as payees before SSA implemented its criminal bar policy in February 2014. Under SSA policy, the 34 payees were not automatically barred from serving at the time of their appointment. SSA assigned the remaining five payees after the criminal bar policy was implemented. As of May 2017, SSA had removed or was removing the 46 individuals as payees because they had a criminal history or the beneficiaries were no longer eligible for SSA benefits. Further, PayeeWiz could not provide Federal crime information that could bar individuals from serving as payees.

Additionally, until April 2016, SSA did not have a system to automatically prevent 936 individuals convicted of barred crimes from being selected as payees in the future. Although the 936 individuals were not serving as payees as of January 2016, they were convicted of crimes that permanently barred them from serving as payees. The blocking feature was added with the implementation of the Electronic Representative Payee System, and it should prevent the future selection of an individual convicted of a barred crime. Based on our referral, the Agency added fraud indicators to eRPS for the 936 individuals to prevent these individuals from being selected as payees in the future.

Recommendations

We recommended that SSA (i) review the remaining five payees who were convicted of criminal offenses that should have barred them from serving and either select a new payee or consider direct payment; and (ii) consider the feasibility of identifying a source to access Federal criminal information when conducting criminal background checks for payee applicants to prevent individuals convicted of barred crimes from serving as payees.

SSA agreed with our recommendations.

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ABBREVIATIONS

DOJ	Department of Justice
eRPS	Electronic Representative Payee System
MBR	Master Beneficiary Record
OI	Office of Investigations
OIG	Office of the Inspector General
Payee	Representative Payee
POMS	Program Operations Manual System
RPS	Representative Payee System
SSA	Social Security Administration
SSI	Supplemental Security Income
SSR	Supplemental Security Record

OBJECTIVE

Our objective was to determine whether the Social Security Administration (SSA) assigned individuals as representative payees (payees) who were convicted of crimes that should have barred them from serving.

BACKGROUND

Congress granted SSA the authority to appoint payees to receive and manage payments of individuals who cannot manage or direct the management of their Social Security benefits because of their youth or mental and/or physical impairments.¹ Payees are responsible for using payments in the beneficiaries' best interests.²

The *Social Security Act* and SSA policy contain provisions to prevent individuals convicted of certain crimes from serving as payees. Individuals convicted under sections 208, 811, or 1632(a) of the *Social Security Act* are permanently barred from serving as payees, and there is no exception to this rule.³ Crimes described under these statutes are (i) making any false statement or representation about earnings, factors of entitlement to or payment of benefits, and factors in determining disability; (ii) concealing knowledge of events affecting entitlement to, or payment of, benefits; (iii) misusing benefits; (iv) committing Social Security number fraud; and/or (v) violating disclosure laws.⁴ Further, the Act prohibits certain fugitive felons from serving as payees while they have an outstanding felony warrant.⁵

In February 2014, SSA issued a new policy barring individuals from serving as payees if they have been convicted of fraud directly related to their payee duties. Further, SSA policy prohibits individuals convicted of committing, attempting to commit, or conspiring to commit any of 12 serious felonies—including certain fraud, robbery, and first-degree homicide—from serving as payees unless they meet certain exclusions, such as being the custodial parent of a minor child for whom the individual applies to serve.⁶ The policy also requires that the Agency monitor current payees to determine whether they have been convicted of a barred crime. The policy states that, if the Agency learns that a current payee has been convicted of fraud related to his/her payee duties or any of 12 serious felonies, and did not meet an exception, staff must remove the payee and identify a new payee or consider direct payment to the beneficiary.⁷

¹ *Social Security Act* §§ 205(j) and 1631(a)(2). SSA, POMS, GN 00502.010 (February 25, 2003).

² SSA, POMS, GN 00502.114 A (February 27, 2014).

³ *Social Security Act* §§ 208(d), 811, and 1632(c), 42 U.S.C §§ 408, 1011, and 1383. SSA, POMS, GN 00502.133 A.1 (April 15, 2016).

⁴ *Social Security Act* §§ 208(a), 811(a), and 1632(a), 42 U.S.C §§ 408, 1011, and 1383.

⁵ Pub. L. No. 108-203 §103 and *Social Security Act* §§ 205(j)(2) and 1631(a)(2).

⁶ See Appendix B for more details about the conviction information.

⁷ SSA, POMS, GN 00502.133 A.3, A.4, and D (April 15, 2016).

SSA uses the electronic Representative Payee System (eRPS) to take and process payee applications. The eRPS was implemented in April 2016, and it replaced the prior Representative Payee System (RPS). The eRPS helps the Agency fulfill its legal duty to investigate applicants to determine whether their payee appointments are in the beneficiaries' best interest by providing known information about payee applicants so the Agency can make well-informed payee selection decisions. Additionally, SSA documents in eRPS whether a person was convicted of violating certain sections of the *Social Security Act* or has a history of criminal activity, poor payee performance, or misuse.

SSA may learn about criminal histories from our Office of Investigations (OI), which provides the Agency with monthly reports of individuals convicted under sections 208, 811, or 1632(a) of the *Social Security Act* and payee fraud. SSA staff receives the two lists from OI and forwards them to regional staff to create a fraud alert in eRPS to prevent the selection of applicants or develop information for new payees.

SSA may also learn about a person's criminal activity from fugitive felon data,⁸ prisoner data,⁹ self-reporting,¹⁰ or PayeeWiz. In February 2014, SSA implemented PayeeWiz to conduct criminal background checks to determine whether payee applicants committed any of 12 barred crimes. SSA designed PayeeWiz to provide staff a screening tool that displays an applicant's comprehensive case facts and criminal history. The Agency combines data from its systems as well as public records to provide users with data for review. The tool does not save or store information. The information must be queried each time a user runs PayeeWiz to obtain the most current information from agency or public records. The Agency runs a criminal background check through PayeeWiz after the applicant gives permission. SSA will not select an applicant if he/she does not give permission for a background check. As shown in Table 1, in 2014 and 2015, SSA ran at least 119,000 SSNs through PayeeWiz, annually. In both years, over 20 percent of payee applicants had criminal histories.

⁸ To identify active payees who become fugitive felons, SSA matches fugitive felon data against eRPS to detect those persons who have an unsatisfied felony warrant and are serving or have a pending payee application before SSA. Effective April 4, 2009, only outstanding felony warrants for offense codes 4901 (escape from custody), 4902 (flight to avoid prosecution, confinement, etc.), and 4999 (flight-escape or equivalent) are passed against eRPS. SSA, POMS, GN 00504.102 A. (April 15, 2016).

⁹ SSA receives prisoner information from prisons and stores the information in the Prisoner Update Processing System. If the payee applicant is on the Prisoner Update Processing System database and was incarcerated for longer than 1 year, this information is documented in eRPS. SSA, POMS, GN 00502.132 (June 7, 2016).

¹⁰ During the application process, SSA ask applicants whether they have ever been convicted of a felony.

**Table 1: PayeeWiz Counts
2014 Through 2015**

Year	Number of SSNs Processed	Criminal History Requested	Criminal History Data Existed	Percent with Criminal History
2014	119,099	70,658	25,180	21
2015	119,000	75,954	28,207	24

For the period October 2009 to January 2016, we obtained from OI a list of 13,126 records that included conviction information for 5,325 individuals who were convicted of barred crimes, see Table 2.¹¹ We matched the data to SSA's benefit records in January and March 2016 to identify individuals serving as payees who had been convicted of barred crimes.¹²

Table 2: Office of Investigations Convictions October 2009 to January 2016

Criminal Information	Payees	Not Payees	Total
Sections 208 or 1632(a) of the <i>Social Security Act</i>	12	1,381	1,393
Representative Payee Fraud	11	640	651
Other Criminal Felonies	28	3,253	3,281
Total	51	5,274	5,325

RESULTS OF REVIEW

As of January 2016, 23 individuals were serving as payees for 35 beneficiaries although the payees had been convicted of violating criminal sections of the *Social Security Act* or payee fraud. As of March 2016, 28 individuals who were convicted of 1 of the 12 criminal felonies were serving as payees for 35 beneficiaries. The 51 payees received about \$1.3 million in benefit payments after they were convicted (see Table 3). There were 39 individuals convicted of payee fraud or other criminal felonies, of which 34 were assigned as payees before SSA implemented its criminal bar policy in February 2014. SSA assigned the remaining five payees after the criminal bar policy was implemented. Further, PayeeWiz could not obtain Federal crime information that could bar individuals from serving as payees.

¹¹ The scope of our information was based on the date the information was entered into OI's National Investigative Case Management System.

¹² We reviewed the benefits in January 2016 to identify individuals convicted under sections 208, 811, or 1632(a) of the *Social Security Act* or who had committed payee-related fraud, and in March 2016, to identify individuals serving as payees who had been convicted of other barred crimes. See Appendix A for more details.

Table 3: Payees with Barred Criminal Offenses

Findings	Payees	Beneficiaries	Benefit
Social Security Act Violations	12	14	\$286,700
Representative Payee Fraud	11	21	\$211,657
Other Criminal Felonies	28	35	\$752,217
Total	51	70	\$1,250,574

Additionally, until April 2016, SSA did not have a system to automatically prevent 936 individuals convicted of barred crimes from being selected as payees in the future. Although the 936 individuals were not serving as payees as of January 2016, they were convicted of crimes that should have permanently barred them from serving as payees. The blocking feature was added with the implementation of eRPS, and it should prevent the future selection of an individual convicted of a barred crime. Based on our referral, the Agency added fraud indicators to eRPS for the 936 individuals to prevent these individuals from being selected as payees in the future.

Convictions Under Sections 208 or 1632 of the *Social Security Act*

Twelve individuals were serving as payees for 14 beneficiaries even though they had violated sections 208 or 1632(a) of the *Social Security Act*. The 12 payees had been convicted of such felonies as concealing information (for example, death or living situation) that affected benefit payments; making false statements or representations; and committing Social Security number fraud. Their fraudulent activity caused 6 of the 12 payees to be overpaid about \$139,000 that the court ordered them to repay. These overpayments ranged from about \$12,000 to \$40,000.

As of February 2016, SSA had paid the 12 payees about \$287,000 in benefits after they were convicted. For 10 of the 12 payees,¹³ SSA staff had documented the payees' criminal information in eRPS as required.¹⁴ This action was intended to prevent the selection of an applicant who had criminal violations, which we discuss later in the report. However, since the 10 payees were appointed before they were convicted, this action did not result in their removal. We estimate SSA paid these 10 payees approximately \$77,841 in 2016 on behalf of 12 beneficiaries despite their convictions.

SSA staff must manually remove existing payees convicted of violating sections 208 or 1632(a) and develop information for new payees or consider paying the beneficiaries directly. For example, a payee concealed household income to keep her minor child eligible for Supplemental Security Income (SSI). OI found the payee told SSA her husband lived in a separate home when, in fact, they lived together and shared income and resources. These resources affected the child's SSI eligibility, resulting in the payee receiving about \$40,000 in overpayments for the

¹³ The criminal information for two cases was not documented in eRPS because the payee's Social Security number was not provided to the Agency or the case had not been included on the monthly report sent to the Agency.

¹⁴ SSA, POMS, GN 00502.133 B.1 and D (April 15, 2016).

child. In December 2012, the payee was convicted of SSI fraud and theft of Government funds and ordered to pay about \$40,000 in restitution. Although eRPS reflected the payee was convicted of violating the *Social Security Act* and payee fraud, SSA allowed her to remain the payee for her two children. SSA appointed her as the children's payee in 2002 and 2005 but did not immediately remove her as payee or disclose in RPS why she was not removed after she was convicted of a crime that permanently barred her from serving. This appeared to have been an oversight. SSA removed her as payee in March 2017.

We referred the 12 cases to SSA for review. As of May 2017, SSA had terminated or was in the process of removing 10 payees. One payee was removed because the beneficiary was no longer eligible for Social Security benefits, and one payee was still serving as a payee.

Representative Payee Fraud Convictions

SSA had assigned or did not remove 11 payees convicted of representative payee fraud. The 11 payees were serving 21 beneficiaries and had received about \$212,000 in benefits for them. The payees were convicted of misusing benefits intended for another person,¹⁵ failing to disclose information to SSA that affected beneficiaries' eligibility for benefits, or providing false statements. Their fraudulent activity caused SSA to overpay the beneficiaries in their care about \$375,000. The courts ordered the payees to repay the \$375,000. We estimate SSA paid approximately \$101,484 in benefit payments in 2016 to the 11 payees who were serving 21 beneficiaries because the Agency had not removed them from serving as payees.

We found 10 of the 11 payees were not removed because they were assigned as payees before SSA implemented its new criminal bar policy in February 2014. Therefore, under SSA policy, these payees were not automatically barred from serving at the time of their appointment. Before February 2014, SSA prohibited the appointment of a payee applicant who had a criminal past, unless the Agency determined a more suitable payee was not available, and the applicant did not pose a risk and would act in the beneficiary's best interests.¹⁶ Additionally, the policy stated that staff should consider a payee applicant's history of criminal behavior (self-reported or otherwise) when making the payee decision because criminal behavior casts doubt on the applicant's character. For example, a payee intentionally failed to notify SSA of an SSI recipient's hospitalization so she could keep the SSI payments for herself. SSA determined her actions caused a fraud loss of \$13,466. In July 2010, she was convicted of theft of Government funds and sentenced to 24 months' incarceration and 2 years' supervised release and ordered to make restitution of \$13,466. In October 2013, SSA selected her as the payee for her minor child, even

¹⁵ The law defines misuse of benefits by a payee as "... any case in which the representative payee receives payment . . . for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person." *Social Security Act* as amended Pub. L. No. 108-203, Section 205(j), 1631(a), 20 C.F.R. 404.2041, 20 C.F.R. 416.641.

¹⁶ SSA, POMS, GN 00502.133 D.1 (February 16, 2010).

though eRPS reflected that she had been convicted of payee fraud, but she was convicted before SSA implemented its new criminal bar policy. SSA removed her as payee in May 2017.

In February 2014, SSA modified its criminal bar policy to prohibit individuals from serving as payees if they were convicted of fraud directly related to their payee duties. There is no exception to this rule.¹⁷ SSA established the new policy after a case of fraud and abuse exposed flaws in its selection policy.¹⁸ The policy stated that, if the Agency learns an existing payee was convicted of payee-related fraud, the payee must be removed, and staff must develop a new payee or consider direct payment to the beneficiary.¹⁹ It was unclear whether the person had to have been convicted before or after the new policy's effective date. SSA staff stated the criminal bar policy applied to all individuals who committed payee fraud. The Agency implemented the criminal bar policy prospectively, meaning it only conducted criminal background checks on individuals who applied to be a payee in February 2014 or later. SSA will remove existing payees only if it comes to the Agency's attention that the payees were convicted of an offense that bars them from serving. Agency staff stated that, because of budgetary constraints, it did not have the resources to conduct criminal background checks on all existing payees. For example, the Agency would need to request and obtain permission from every existing payee before it conducts a background check on the payee.

SSA appointed the remaining payee after it implemented its new criminal bar policy. In this case, the payee knowingly failed to report her marriage, living arrangements, and resources to SSA, which caused her to receive SSI payments for her children for which they were not eligible. The fraud loss to SSA was about \$28,000. In January 2013, the payee pleaded guilty to making false statements to a Government agency. In April 2013, she was sentenced to 3 months' incarceration, 6 months' home confinement, and 3 years' probation. In August 2013, before the Agency implemented the new criminal bar policy, SSA appointed her as the payee for the same children and a stepchild. In February 2015, SSA appointed her as payee for another child even though it had documented her fraud conviction in RPS. In May 2017, SSA removed her as payee.

We referred the 11 cases to the Agency for review. As of May 2017, the Agency had terminated or was removing eight payees, and one payee was no longer serving because the beneficiary was not eligible for Social Security benefits. Further, one payee was not serving because the beneficiary's benefits were suspended, and one payee was still serving as a payee even though eRPS showed she was terminated because she was convicted of a barred crime.

¹⁷ SSA, POMS, GN 00502.133 A.3 (April 15, 2016).

¹⁸ In October 2011, the Philadelphia police department charged a payee and two other individuals with holding four mentally challenged adults in the cellar of an apartment house. The payee had six individuals in her care when she was arrested, three of whom were victims in the cellar. In response to this case, SSA reviewed its payee selection procedures to identify ways of improving and strengthening the selection process. SSA developed a new selection policy to help identify payee applicants who should be prevented from serving as payees because they have committed certain serious crimes.

¹⁹ SSA, POMS, GN 00502.133 D (April 15, 2016).

Other Criminal Felony Convictions

SSA's new policy bars individuals convicted of committing, attempting to commit, or conspiring to commit any of the 12 criminal felonies from serving as payees unless certain exceptions are met (for example, the individual is a custodial parent serving as payee for a minor child).²⁰ Further, the policy states that, if the Agency learns a current payee has been convicted of fraud related to his/her payee duties or any of 12 serious felonies, and did not meet an exception, staff must remove the payee and identify a new payee or consider direct payment to the beneficiary.²¹ As stated previously, SSA implemented the criminal bar policy prospectively, meaning it only conducted criminal background checks on individuals who applied to be a payee in February 2014 or later. SSA will remove existing payees only if it comes to the Agency's attention that the payees were convicted of an offense that barred them from serving.

We found that 28 individuals who were convicted of 1 of the 12 criminal felonies and did not meet an exception were serving as payees. SSA paid them about \$752,000 on behalf of 35 beneficiaries after their convictions. We estimate SSA paid \$264,000 of those benefit payments in 2016 to 25 of the 28 payees who were serving 32 beneficiaries. The payees were convicted of such crimes as bank fraud, mail or wire fraud, and theft of Government funds. For 24 payees, the fraudulent activity resulted in SSA overpaying them about \$1.2 million, ranging from about \$7,000 to \$176,000.

We determined that 23 of the 28 payees were appointed before the criminal bar policy was implemented, thus the Agency may not have been aware of the criminal convictions. Under SSA policy, these payees were not automatically barred from serving when they were appointed. The remaining five payees were appointed after the policy was implemented.²² SSA did not receive the conviction information for the five payees because the Agency's policy only requires that OI provide conviction information related to sections 208, 811, or 1632(a) of the *Social Security Act* and fraud related to payee duties. However, some of these barred crimes related to Social Security program-related fraud OI investigated.

We referred the 28 cases to SSA for review. As of May 2017, the Agency had terminated or was in the process of removing 22 payees, and 3 were no longer serving because the beneficiaries' benefits were terminated. The remaining three payees were still serving because they were appointed before the criminal bar policy was implemented, but eRPS showed that one of these payees was terminated because they were convicted of a barred crime.

In February 2014, the Agency implemented PayeeWiz to assist with determining whether an applicant committed 1 of the 12 barred crimes by accessing criminal information via a public records database. However, this database did not disclose Federal criminal information. The

²⁰ SSA, POMS, GN 00502.133 A.4 (April 15, 2016).

²¹ SSA, POMS, GN 00502.133 A.3, A.4, and D (April 15, 2016).

²² One of the 28 payees was serving more than 1 beneficiary, and SSA assigned them both before and after the criminal bar policy was implemented.

Agency was limited to only receiving State-level criminal information from 41 States via PayeeWiz. Because of this limitation, PayeeWiz would not disclose Federal criminal violations related to 24 of the 28 payees who were convicted under Federal statutes. Of these 24 payees, 4 were convicted after the policy was implemented in February 2014.²³ For example, one case involved an SSI recipient who failed to report her true living arrangements, family income, and resources to SSA. Her false statements and concealment of material information caused SSA to overpay her about \$176,000 from September 2000 to February 2014. In December 2015, after the criminal bar policy was implemented, she was convicted of theft of Government funds. As this was a Federal crime, had SSA conducted a background check on her, PayeeWiz would not have detected her conviction.²⁴ The court sentenced her to 3 years' probation and ordered her to pay SSA about \$100,000 in restitution. In October 2012, SSA appointed her as the payee for an SSI recipient for whom she was not a legal guardian. As of March 2017, SSA had not removed her as payee because OI did not refer her case to the Agency since it did not meet the Agency referral criteria. Since her conviction, she had received about \$3,000 in payments on the recipient's behalf. After referring the case to SSA, the Agency added the fraud indicator to eRPS and removed her as payee in April 2017.

We brought this issue to the attention of Agency staff and the vendor for PayeeWiz. After SSA contacted the vendor, it was determined the vendor could not provide Federal crime data to SSA through the vendor's Web service for PayeeWiz. Thus, the Agency cannot incorporate Federal crime data into PayeeWiz through this vendor at this time.

Fraud Indicators in eRPS

SSA did not add fraud indicators to eRPS to prevent 936 individuals convicted of barred crimes from being selected as payees in the future. As of January 2016, these individuals were not serving as payees, but they had been convicted of crimes that permanently barred them from serving. We found that 854 individuals were convicted of violating sections 208 or 1632(a) of the *Social Security Act*, and 82 were convicted of payee fraud.

The eRPS enables staff to add a fraud indicator for individuals convicted of violating sections 208, 811, or 1632(a) of the *Social Security Act* and payee fraud to prevent them from being selected as payees in the future. SSA staff is required to add the fraud indicator to eRPS using the monthly conviction reports provided by OI. This action automatically blocks an applicant from being selected as a payee in the future. The eRPS did not include fraud indicators for the 936 individuals because they were convicted when RPS was operational, and RPS could not capture criminal information for non-applicants. We referred the 936 cases to SSA, and it added fraud indicators to eRPS to prevent these individuals from being selected as payees in the future.

²³ Of the 24 payees convicted under Federal statutes, 19 were assigned before the criminal bar policy was implemented and 5 were assigned after.

²⁴ SSA would not have used PayeeWiz to run a background check because she was appointed as payee in October 2012 prior to the implementation of the criminal bar policy.

CONCLUSIONS

SSA improved and enhanced its policy and systems to detect and prevent individuals convicted of violating certain criminal statutes from serving as payees. However, improvements are still needed to ensure staff removes or does not appoint individuals who should not be serving as payees. Our review showed that 51 individuals convicted of violating criminal sections of the *Social Security Act*, payee fraud, or other criminal felonies were serving as payees for 70 beneficiaries. Thirty-four individuals were assigned as payees prior to SSA implementing its criminal bar policy. SSA paid the 51 payees about \$1.3 million after they were convicted. As of May 2017, SSA had removed or was removing the 46 individuals as payees because they had a criminal history or the beneficiaries were no longer eligible for SSA benefits. Further, SSA did not add fraud indicators to its eRPS to prevent 936 convicted felons from being selected as payees in the future. The Agency has since corrected this issue. Lastly, SSA was unable to obtain Federal criminal conviction information from PayeeWiz that could bar individuals from serving as payees. The vendor for criminal information was unable provide SSA with Federal crime data through its Web service for PayeeWiz.

RECOMMENDATIONS

We recommend SSA:

1. Review the remaining five payees who were convicted of criminal offenses that should have barred them from serving and either select a new payee or consider direct payment.
2. Consider the feasibility of identifying a source to access Federal criminal information when conducting criminal background checks for payee applicants to prevent individuals convicted of barred crimes from serving as payees.

AGENCY COMMENTS

SSA agreed with our recommendations. The full text of SSA's comments is included in Appendix C.



Rona Lawson
Assistant Inspector General for Audit

APPENDICES

Appendix A – SCOPE AND METHODOLOGY

- Reviewed the *Social Security Act*, applicable Federal regulations, and the Social Security Administration's (SSA) policies and procedures pertaining to representative payees.
- Reviewed prior Office of the Inspector General (OIG) and Government Accountability Office and National Academy of Sciences work on the payee program.
- Obtained data extracts from SSA's Master Beneficiary (MBR) and Supplemental Security Records (SSR) as of January 2016 to identify individuals convicted sections 208, 811, or 1632(a) of the *Social Security Act* or committed payee-related fraud and March 2016 to identify individuals serving as payees who had been convicted of other barred crimes.
- Obtained data extracts from SSA's Representative Payee System (RPS) as of September 2015.
- Obtained from our Office of Investigations (OI) a conviction report that included 13,126 individuals convicted of felonies from October 2009 to January 2016. We obtained from the population 5,325 individuals convicted of crimes that barred them from serving as payees.
 - 1,393 individuals convicted under sections 208, 811, or 1632(a) of the *Social Security Act*;
 - 651 individuals convicted of payee-related fraud (meaning the person was convicted or admitted responsibility for a fraud directly related to his/her payee duties); and
 - 3,281 individuals convicted of any of the 12 barred criminal felonies (for example, certain fraud or robbery).
- Compared conviction information from OI to the MBR, SSR, and RPS data to identify individuals convicted of criminal offenses that would bar them from serving as payees.
- Of the 5,325 individuals, we determined that 51 were serving as payees as of January 2016. For the 51 payees, we
 - reviewed the MBR, SSR, and RPS to determine whether the payees were serving beneficiaries;
 - determined whether the payee selections occurred before or after SSA's implementation of the criminal bar policy;
 - determined whether the payees met one of SSA's exclusions from being barred from serving as a payee;
 - reviewed OI fact sheets to gain an understanding of the crimes the payees committed and sentencing information ordered by the courts;

- reviewed vendor reports to determine whether PayeeWiz would detect payees' conviction information when SSA staff conduct criminal background checks; and
- reviewed the RPS as of June 2016 and electronic Representative Payee System (eRPS) as of January 2017 to determine whether SSA established fraud indicators for the 936 individuals who were not serving as payees as of January 2016 but were convicted of barred crimes under sections 208 or 1632 of the *Social Security Act* (854 individuals) or representative payee fraud (82 individuals).

We found the computer-processed data from the MBR, SSR, and RPS used in this review to be sufficiently reliable to meet our objective. We conducted our review between June 2016 and April 2017 in Philadelphia, Pennsylvania. The entities reviewed were the Offices of the Deputy Commissioners for Operations and Systems. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix B – CRIMES THAT BAR INDIVIDUALS FROM SERVING AS PAYEES

Crime	Definitions	Exclusion ⁽¹⁾
<i>Social Security Act</i> , section 208	Crimes described under these statutes are (i) making any false statement or representation about earnings, factors of entitlement to or payment of benefits, and factors in determining disability; (ii) concealing knowledge of events that affect entitlement to, or payment of, benefits; (iii) misusing benefits; (iv) committing Social Security number fraud; and/or (v) violating disclosure laws.	No
<i>Social Security Act</i> , section 811		No
<i>Social Security Act</i> , section 1632(a)		No
<i>Social Security Act</i> , section 1136	A representative or a health care provider convicted of any violation under Title XVIII of the United States Code may not participate in Social Security programs and therefore may not serve as a representative payee. The violations relate to <ul style="list-style-type: none"> • initial application for benefits; • continuing entitlement to benefits; • amount of benefits under Title II or XVI; and • an individual assessed with a Civil Monetary Penalty under section 1129 (a) (1) of the Act. 	No
Representative Payee Fraud	Person was convicted of fraud directly related to his/her representative payee duties, such as misuse, conversion of benefits, perjury, and theft.	No
Felony 1: Human Trafficking	Human trafficking is the act of recruiting, transporting, transferring, harboring, or receiving a person through a use of force, coercion, or other means, for exploiting the person.	Yes
Felony 2: False Imprisonment	False imprisonment is the illegal confinement of one individual against his/her will by another individual in such a manner as to violate the confined individual's right to be free from restraint of movement.	Yes
Felony 3: Kidnapping	Kidnapping is the unlawful and non-consensual seizure of a person to gain a ransom or reward, facilitating the commission of a felony or a flight after the commission of a felony, terrorizing or inflicting bodily injury on the victim or a third person, or interfering with a government or political function.	Yes

Crime	Definitions	Exclusion ⁽¹⁾
Felony 4: Rape and Sexual Assault	<p>Rape is a type of sexual assault usually involving sexual intercourse, initiated by one or more persons against another person without that person's consent. The act may be carried out by physical force, by coercion, by abuse of authority, or with a person who is incapable of valid consent.</p> <p>Sexual assault is an involuntary sexual act in which a person is threatened, coerced, or forced to engage in a sexual act against his/her will or any sexual touching of a person who has not consented. This includes rape, inappropriate touching, forced kissing, child sexual abuse, or the sexual torture of the victim.</p>	Yes
Felony 5: First-Degree Homicide	First-degree homicide is an unlawful killing that is both willful and premeditated, meaning it was committed after planning or "lying in wait" for the victim.	Yes
Felony 6: Robbery	Robbery is theft or larceny of property or money through the offender's use of physical force or fear against the victim where a deadly weapon, such as a gun, is used or the victim suffers injury. The robbery may be "armed" or "aggravated." Unlike burglary, the crime of robbery requires the presence of a victim who suffers actual injury, or is threatened with harm.	Yes
Felony 7: Fraud to Obtain Access to Government Assistance	<p>Fraud to obtain access to government assistance is intentional misrepresentation, concealment, or withholding of information to get any, or increased, public assistance or food stamp benefits.</p> <p>If someone intentionally signs any papers (application for benefits, questionnaire, or recertification) in which the information in the papers is not true, they have committed fraud. This is true even if they never receive any public assistance or food stamps.</p>	Yes
Felony 8: Fraud by Scheme	<p>Fraud schemes typically include three major elements: fraud objective, fraud method, and execution. Some common fraud schemes are</p> <ul style="list-style-type: none"> • telemarketing fraud; • investment-related scams; • Internet scams; • credit card fraud; • counterfeit prescription drug; and • reverse mortgage scams. 	Yes

Crime	Definitions	Exclusion ⁽¹⁾
Felony 9: Theft of Government Funds/Property	Theft of government funds/property is an act by which an individual embezzles, steals, misappropriates, or knowingly converts to his/her use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof. This offense also applies to someone who receives, conceals, or retains the same with intent to convert it to his/her use or gain, knowing it to have been embezzled, stolen, misappropriated, or converted.	Yes
Felony 10: Abuse or Neglect	Abuse or neglect is any act, or failure to act, on the part of a parent, caretaker, or spouse that results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act, or failure to act, that presents an imminent risk of serious harm.	Yes
Felony 11: Forgery	Forgery is the act of making, drawing, or altering a document to deceive. This includes filling in blanks on a document containing a genuine signature or materially altering or erasing an existing instrument. Instruments may include bills of exchange, promissory notes, checks, bonds, receipts, mortgages, deeds, public records, account books, and tickets or passes for transportation or events. An underlying intent to defraud, based on knowledge of the false nature of the instrument, must accompany the criminal <i>act</i> .	Yes
Felony 12: Identity Theft or Identity Fraud	Identity theft or identity fraud refer to all types of crime in which someone wrongfully obtains and uses another person's personal data in some way that involves fraud or deception, typically for economic gain. Personal data may include a Social Security number, bank account or credit card number, telephone calling card number, or other valuable identifying information that someone can use for profit.	Yes

Note (1): Individuals convicted under sections 208, 811, or 1632(a) of the *Social Security Act* are permanently barred from serving as payees, and there is no exception to this rule. Individuals convicted of 1 of the 12 criminal felonies are barred from serving as a payee unless they meet an exception (for example, a custodial parent of a minor child for whom the individual applies to serve, etc.). See SSA, POMS, GN 00502.133 A.1 and A.4.

Appendix C – AGENCY COMMENTS



SOCIAL SECURITY

MEMORANDUM

Date: July 28, 2017

Refer To: S1J-3

To: Gale S. Stone
Acting Inspector General

From: Stephanie Hall/s/
Acting Deputy Chief of Staff

Subject: The Office of the Inspector General Draft Report, “Individuals Barred from Serving as Representative Payees” (A-03-16-50156)--INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Gary S. Hatcher at (410) 965-0680.

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) Draft Report,
"INDIVIDUALS BARRED FROM SERVING AS REPRESENTATIVE PAYEES"
(A-03-16-50156)**

Thank you for the opportunity to comment on the draft report. We are committed to selecting the most qualified representative payees for our beneficiaries and recipients. There are more than eight million individuals receiving monthly Social Security or Supplemental Security Income, who also need help in managing their payments. We thoroughly investigate those who apply to be representative payees. Enhancements to our controls over recent years have been successful in preventing individuals convicted of barred crimes from serving as representative payees. Most notably, we implemented a policy in February 2014 that bars individuals convicted of committing, attempting to commit, or conspiring to commit certain criminal felonies from serving as a representative payee. We also implemented a policy that bars applicants convicted of representative payee related fraud. In order to avoid delays in payment, we permit exceptions in certain circumstances.

We note the objective of this audit was to determine if we appointed payee applicants convicted of barred crimes. However, there are references in the report to payees appointed before the implementation of the February 2014 bar policies. We believe the report should make clear that the appointment of these payees was not contrary to policy in effect at the time.

Recommendation 1

Review the remaining five payees who were convicted of criminal offenses that should have barred them from serving and either select a new payee or consider direct payment.

Response

We agree. We have completed necessary corrective action on the majority of these cases and are in the process of completing action on the remaining cases identified.

Recommendation 2

Consider the feasibility of identifying a source to access Federal criminal information when conducting criminal background checks for payee applicants to prevent individuals convicted of barred crimes from serving as payees.

Response

We agree.

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