

Audit Report

The Social Security Administration's
Accounting for, and Monitoring of,
Court-ordered Restitutions



MEMORANDUM

Date: September 24, 2019 **Refer To:**

To: The Commissioner

From: Inspector General

Subject: The Social Security Administration's Accounting for, and Monitoring of, Court-ordered Restitutions (A-04-18-50633)

The attached final report presents the results of the Office of Audit's review. The objective was to determine the effectiveness of the Social Security Administration's controls to account for and monitor court-ordered restitutions.

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 "Gail S. Ennis".

Gail S. Ennis

Attachment

The Social Security Administration's Accounting for, and Monitoring of, Court-ordered Restitutions

A-04-18-50633



September 2019

Office of Audit Report Summary

Objective

To determine the effectiveness of the Social Security Administration's (SSA) controls to account for and monitor court-ordered restitutions.

Background

Courts may order individuals convicted of Social Security fraud to serve a period of probation and/or pay SSA restitutions for illegally obtained funds in addition to any fees assessed. Such orders for repayment are known as court-ordered restitutions. The Department of Justice collects payment of Federal debts, including court-ordered restitutions.

Once SSA receives court-ordered restitutions documentation from the SSA Office of the Inspector General's Office of Investigations, its employees are to account for and monitor collection of the restitutions. If an individual begins receiving benefits after he/she is convicted of fraud and ordered to pay restitutions, SSA must withhold the full monthly benefit payment until the court-ordered restitutions is recovered.

In a 2007 audit, we determined SSA did not always monitor or account for the collection of court-ordered restitutions after a fraud conviction. For this audit, we identified 394 individuals whom the courts ordered in Fiscal Year 2017 to pay SSA restitutions of \$10,000 or more, totaling approximately \$52.7 million. We selected 65 records for review.

Findings

Of the 394 individuals the courts ordered in Fiscal Year 2017 to pay SSA \$52.7 million in restitutions, we estimate SSA did not properly account for, and monitor the collection of, approximately \$9.4 million:

- \$1.6 million from 4 individuals with restitutions of \$300,000 or more and
- \$7.8 million from an estimated 136 individuals with restitutions between \$10,000 and \$299,999.

Our review of the 65 court-ordered restitutions found that SSA did not record in its systems the restitutions for 5 individuals. We also found no evidence that SSA took required follow-up actions to collect restitutions from 20 individuals.

This occurred because SSA does not have adequate controls to ensure it records and monitors the collection of court-ordered restitutions. For example, SSA does not reconcile its records with the Office of Investigations' monthly reports to ensure it records all restitutions.

Recommendations

We made four recommendations for SSA to take appropriate actions to improve its accounting for, and monitoring of, court-ordered restitutions.

SSA agreed with our recommendations.

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ABBREVIATIONS

| | |
|------------|---|
| C.F.R. | Code of Federal Regulations |
| DOJ | Department of Justice |
| FLU | Financial Litigation Unit |
| Form OI-68 | <i>Report of Court Ordered Restitution/Judgment</i> |
| OI | Office of Investigations |
| OIG | Office of the Inspector General |
| POMS | Program Operations Manual System |
| ROAR | Recovery of Overpayments, Accounting and Reporting |
| SSA | Social Security Administration |
| U.S.C. | United States Code |

OBJECTIVE

Our objective was to determine the effectiveness of the Social Security Administration's (SSA) controls to account for and monitor court-ordered restitutions.

BACKGROUND

Courts may order individuals convicted of Social Security fraud to serve a period of probation¹ and/or pay SSA for illegally obtained funds in addition to any fees assessed. Such orders for repayment are known as court-ordered restitution.² The Department of Justice (DOJ) collects payment of Federal debts, including court-ordered restitution, through its Financial Litigation Unit (FLU).³ FLU also litigates and enforces debt collection for Federal agencies.⁴

After a court convicts an individual of Social Security fraud and issues a judgment and commitment order,⁵ the SSA Office of the Inspector General's (OIG) Office of Investigations (OI) prepares and electronically submits a Form OI-68,⁶ *Report of Court Ordered Restitution/Judgment*, to SSA for each individual.⁷ OI also provides SSA a report of all court-ordered restitutions processed each month. Once SSA receives the appropriate documents from OI, its employees establish the court-ordered restitution in its systems.⁸ SSA employees must take the following steps.⁹

¹ The individual may also serve a period of incarceration.

² *Social Security Act*, 42 U.S.C. § 1383b (govinfo.gov 2016); SSA, *POMS*, GN 02201.055, A-B (December 24, 2014).

³ DOJ, *U.S. Attorneys' Manual*, 3-9.000 Financial Litigation Policy, justice.gov (last visited May 1, 2019).

⁴ DOJ, *Financial Litigation Unit*, justice.gov (last visited May 1, 2019).

⁵ The court documentation generally includes the court ruling on the convicted individual, sentencing information, and restitution amount.

⁶ Form OI-68 contains claimant information and the restitution amount.

⁷ SSA, *POMS*, GN 02201.055, C.1 (December 24, 2014).

⁸ SSA can record the court-ordered restitution in the Manual Adjustment Credit and Award Data Entry or the Debt Management Systems. SSA, *POMS*, GN 02201.003, G (October 18, 2017); GN 02201.055, C.1-2 (December 24, 2014).

⁹ SSA, *POMS*, GN 02201.055, C (December 24, 2014).

- “Establish a Recovery of Overpayments, Accounting and Reporting (ROAR) diary control.”¹⁰
- “Contact the FLU . . .” and “. . . the assigned Probation Office . . .” if sufficient time¹¹ has passed and SSA has not received any payments.¹²
- “Document all contacts with the FLU and the Probation Office . . .”¹³
- “Determine if the case should be returned to the court for non-compliance of the restitution order . . .” if the individual does not repay the overpayment.¹⁴

SSA policy further states that, if an individual begins receiving benefits¹⁵ after a fraud conviction, SSA must withhold “. . . the full monthly benefit payment until the overpayment is recovered.”¹⁶ If the individual is not receiving monthly benefit payments, SSA should use its normal collection methods, including installment repayment agreements,¹⁷ cross-program recovery,¹⁸ tax refund offset,¹⁹ or administrative wage garnishment, to recover these court-ordered restitutions.²⁰ Policy also states that, when the probationary period expires and the individual is not repaying the court-ordered restitution, SSA should “Contact DOJ to request civil action against the convicted individual to collect the debt ordered by the court.”²¹ For the full description of SSA’s responsibilities, see Appendix A.

¹⁰ SSA uses ROAR to track the recovery and collection of overpayments. SSA, *Privacy Program: Recovery of Overpayments, Accounting and Reporting System*, ssa.gov (last visited July 17, 2019). SSA, POMS, GN 02201.055, C.2 (December 24, 2014). These diaries are reminders with due dates that alert employees when to follow up on the collection status.

¹¹ SSA defines sufficient time to be 90 days.

¹² SSA, POMS, GN 02201.055, C.3-4 (December 24, 2014).

¹³ SSA, POMS, GN 02201.055, C.3-4 (December 24, 2014).

¹⁴ SSA, POMS, GN 02201.055, C.4.a (December 24, 2014).

¹⁵ Benefits can be either Old-Age, Survivors and Disability Insurance and/or Supplemental Security Income. SSA, 20 C.F.R. §§ 404.301; 416.110, (govinfo.gov 2018).

¹⁶ SSA, POMS, GN 02201.055, C.6 (December 24, 2014); SI 02220.036, C.3 (April 19, 2012).

¹⁷ Installment payments are acceptable if the debtor is financially unable (or unwilling) to make a full refund in a single payment, and benefit withholding from the debtor is not available. Installments are typically scheduled for payment on a monthly basis. SSA, POMS, GN 02210.180 A (July 1, 2016).

¹⁸ Cross-program recovery allows SSA to recover an overpayment from a debtor by decreasing any amount payable to that debtor under another SSA program. SSA, POMS, GN 02210.008 A (April 25, 2013).

¹⁹ SSA has the authority to recover delinquent Old-Age, Survivors and Disability Insurance overpayments from former beneficiaries by offsetting their Federal income tax refunds. SSA, POMS, GN 02201.030, A.1 (February 11, 2014).

²⁰ Federal agencies use administrative wage garnishment to order an employer to withhold amounts from the pay of employees who owe the agency a debt, and the employer pays those amounts to the agency. SSA, POMS, GN 02201.040, B (May 25, 2012).

²¹ SSA, POMS, GN 02201.055, C.5 (December 24, 2014).

In a 2007 audit, we determined SSA did not always monitor or account for the collection of court-ordered restitutions after a fraud conviction. Of the 488 court-ordered restitution cases reviewed, SSA had not recorded, or monitored the collection of, 406 (83 percent), totaling approximately \$19 million. We made five recommendations, which included that SSA record and pursue collection efforts for the court-ordered restitutions and work with DOJ to ensure all court-ordered restitution recoveries are being pursued. SSA agreed with our recommendations.²²

From an OI list of individuals convicted of Social Security fraud, we identified 394 individuals who had court-ordered restitutions of \$10,000 or more, totaling approximately \$52.7 million, in Fiscal Year 2017.²³ We selected 65 records for review. This included the 15 individuals with court-ordered restitutions of \$300,000 or more and a random sample of 50 from the remaining population of 379 court-ordered restitutions between \$10,000 and \$299,999.

For each individual, we determined whether SSA established the court-ordered restitution in its systems²⁴ and monitored DOJ's collection of the court-ordered restitutions, as required.²⁵ For the 406 cases identified in our 2007 audit, SSA provided us with an update of its collection efforts.²⁶ See Appendix B for our scope and methodology.

RESULTS OF REVIEW

Of the 394 individuals the courts ordered in Fiscal Year 2017 to pay SSA \$52.7 million in restitution, we estimate SSA did not properly account for, and monitor the collection of, approximately \$9.4 million (17.8 percent) from 140 individuals (35.5 percent):

- \$1.6 million from 4 individuals with restitutions of \$300,000 or more and
- \$7.8 million from an estimated 136 individuals with restitutions between \$10,000 and \$299,999 (see Appendix C).

²² SSA, OIG, *The Social Security Administration's Collection of Court-ordered Restitution*, A-02-06-26019, pp. 3 and 7 (March 2007).

²³ The file obtained from OI consisted of 409 individuals ordered by the court in Fiscal Year 2017 to pay SSA restitution. We removed 15 court-ordered restitutions below \$10,000, totaling \$85,677.

²⁴ For each convicted individual, we reviewed the ROAR and Supplemental Security Record for any indication of the court-ordered restitution. We also reviewed the wage earner's and/or the victim's Master Beneficiary and Supplemental Security Records.

²⁵ SSA, POMS, GN 02201.055, C (December 24, 2014).

²⁶ For our 2007 audit's error cases, SSA did not have data readily available to link the convicted individual, victim, and wage earner's records to the court-ordered restitution.

Our review of the 65 court-ordered restitutions found that SSA did not record in its systems the restitutions for 5 individuals. We also found no evidence that SSA took required follow-up actions for collecting restitutions from 20 individuals. This occurred because SSA does not have adequate controls to ensure it records and monitors collection of court-ordered restitutions. For example, SSA does not reconcile its records with OI's monthly reports to ensure it records all restitutions.

Court-ordered Restitutions \$300,000 or More

Of the 15 individuals with court-ordered restitutions of \$300,000 or more, totaling approximately \$24 million, SSA did not record the restitutions in its systems for 2, and there was no evidence it took required follow-up actions to monitor the collection of restitutions for 2. However, SSA recorded or effectively monitored the remaining 11 individuals' restitutions totaling \$22.3 million. Table 1 summarizes the results of our review of the 15 individuals' court-ordered restitutions.

Table 1: Court-ordered Restitutions of \$300,000 or More

| Status | Number of Cases | Restitution Amount | Amount Collected | Percent Collected |
|--|-----------------|---------------------|--------------------|-------------------|
| Not Recorded in SSA Systems | 2 | \$663,036 | \$700 | 0.1 |
| Recorded but Not Monitoring Collection | 2 | 956,965 | 425 | 0.04 |
| Recorded and Monitoring | 11 | 22,260,803 | 1,532,315 | 6.9 |
| Total | 15 | \$23,880,804 | \$1,533,440 | 6.4 |

Recording Court-ordered Restitutions

SSA had not recorded two individuals' court-ordered restitutions, totaling \$663,036, on its ROAR or Supplemental Security Records. For example, DOJ had collected \$300 and the individual had remitted \$400 toward her court-ordered restitution; however, SSA had not recorded the \$313,564 restitution.²⁷ Because SSA did not record the court-ordered restitutions in its systems, it cannot effectively monitor the collection of these restitutions, as required,²⁸ including setting up the diary control²⁹ or sending overpayment notices.³⁰

²⁷ There were four payments totaling \$700 from one individual. DOJ recovered three payments totaling \$300 and one remittance totaling \$400 was paid to SSA.

²⁸ SSA, *POMS*, GN 02201.055, A (December 24, 2014).

²⁹ SSA, *POMS*, GN 02201.055, C.2 (December 24, 2014).

³⁰ SSA, *POMS*, GN 02201.055, C.1 (December 24, 2014).

We provided these two cases to SSA and Agency staff confirmed the court-ordered restitutions were not recorded in its systems.³¹ According to SSA, it did not receive the relevant court document for these individuals. However, we confirmed that OI electronically transmitted the Form OI-68 and/or the monthly report to SSA for these two individuals.³² An average of 20 months³³ had elapsed from the time OI transmitted these documents to SSA to the time of our review. SSA needs to record and begin monitoring collection of these two restitutions.

Monitoring Recovery of Court-ordered Restitutions

There was no evidence that SSA had monitored the collection of two court-ordered restitutions, totaling \$956,965. Of these, \$425 has been collected.³⁴ SSA did not document its attempts to contact DOJ or the probation officer, as required.³⁵ The following explains the current status of these two restitutions.

- One individual with a court-ordered restitution totaling \$471,582 was under probation and will remain under probation for an additional 3 years. Longer than 3 months had elapsed from when SSA recorded the last collection in its systems and the time of our review. SSA records did not show evidence its employees contacted the FLU or probation officer, although policy requires that they do so when the diary matures and DOJ has not made any collection.³⁶
- One individual with a court-ordered restitution totaling \$485,383 was under probation and will remain under probation for up to an additional 20 months. Approximately 9 months had elapsed from the time SSA recorded the last collection in its systems to the time of our review. SSA records did not show evidence that its employees contacted the FLU or probation officer, although policy requires that they do so when the diary matures and DOJ has not made any collection.³⁷

SSA should monitor collection and attempt all methods of recovery, when appropriate. SSA should also contact, and document its contact with, the FLU and probation officer for the individual under probation.

³¹ These court-ordered restitutions were not recorded on the ROAR or Supplemental Security Record.

³² OI prepares and submits a monthly report for SSA that includes the court-ordered restitutions processed for the month as well as its Form OI-68 for each convicted individual. OI submitted its Form OI-68 and/or monthly report to SSA for these two individuals.

³³ The mean and median were 20 months.

³⁴ For these restitutions, collections resulted from DOJ recovery.

³⁵ SSA, POMS, GN 02201.055, C.3-4 (December 24, 2014).

³⁶ SSA, POMS, GN 02201.055, C.3-4 (December 24, 2014).

³⁷ SSA, POMS, GN 02201.055, C.3-4 (December 24, 2014).

Court-ordered Restitutions Between \$10,000 and \$299,999

For the sample of 50 individuals with court-ordered restitutions between \$10,000 and \$299,999, totaling approximately \$4.1 million, SSA did not record the restitution in its systems for 3 individuals, and there was no evidence it monitored the collection of 18 individuals' restitutions. However, SSA recorded or effectively monitored the remaining 29 individuals' restitutions, totaling \$2.8 million. Table 2 summarizes the results of our review of the 50 individuals' court-ordered restitutions.

Table 2: Court-ordered Restitutions Between \$10,000 and \$299,999

| Status | Number of Cases | Restitution Amount | Amount Collected | Percent Collected |
|--|-----------------|--------------------|------------------|-------------------|
| Not Recorded in SSA Systems | 3 | \$165,275 | \$210 | 0.1 |
| Recorded but Not Monitoring Collection | 18 | 1,114,843 | 91,390 | 8.2 |
| Recorded and Monitoring | 29 | 2,806,160 | 797,589 | 28.4 |
| Total | 50 | \$4,086,278 | \$889,189 | 21.8 |

Recording Court-ordered Restitutions

SSA had not recorded three individuals' court-ordered restitutions, totaling \$165,275, in its ROAR or Supplemental Security Record. For two of these individuals, DOJ had collected, or the individuals had remitted, \$210 of their court-ordered restitutions; however, SSA did not record their restitutions totaling \$135,476.³⁸ Because SSA did not record the court-ordered restitutions in its systems, it cannot effectively monitor the collection of these restitutions, as required,³⁹ including setting up the diary control⁴⁰ or sending overpayment notices.⁴¹

³⁸ There were four payments totaling \$210 from two of the three individuals. DOJ recovered two payments totaling \$60 and two remittances totaling \$150 were paid by one individual to SSA.

³⁹ SSA, *POMS*, GN 02201.055, A (December 24, 2014).

⁴⁰ SSA, *POMS*, GN 02201.055, C.2 (December 24, 2014).

⁴¹ SSA, *POMS*, GN 02201.055, C.1 (December 24, 2014).

We provided these three cases to SSA, and Agency staff confirmed the court-ordered restitutions were not recorded in its systems.⁴² According to SSA, it did not receive the relevant court documents for these individuals. However, we confirmed OI electronically transmitted the Form OI-68 and/or monthly report to SSA for these three individuals. An average of 19 months⁴³ had elapsed between when OI transmitted these documents to SSA and the time of our review. SSA needs to record and begin monitoring collection of these three court-ordered restitutions.

Monitoring Recovery of Court-ordered Restitutions

There was no evidence SSA had monitored the collection of 18⁴⁴ court-ordered restitutions totaling approximately \$1.1 million. Of this, \$91,390 had been collected. However, SSA did not document its attempts to contact DOJ or the probation officer, as required.⁴⁵ Below, we discuss the status of these 18 restitutions.

- One individual was receiving Supplemental Security Income payments; however, SSA had not initiated withholding from his payments to collect his \$51,561 court-ordered restitution. Approximately 26 months had elapsed from when SSA recorded the court-ordered restitution in its systems and the time of our review, but no collections had been made.
- Six individuals were no longer under probation and therefore DOJ no longer had the authority to enforce collection of their court-ordered restitutions, totaling \$214,694.⁴⁶ An average of 15 months⁴⁷ had elapsed from when SSA recorded the last collection in its systems and the time of our review. SSA records did not show evidence that its employees contacted DOJ for civil action, as required,⁴⁸ or had made efforts to recover the restitution by using other collection methods.⁴⁹

⁴² These court-ordered restitutions were not recorded on the ROAR or Supplemental Security Record.

⁴³ The mean and median were 19 months.

⁴⁴ For 4 of the 18 individuals, DOJ and SSA were unable to recover any of the court-ordered restitutions, totaling approximately \$185,000, and 22.5 months had elapsed between when SSA recorded the court-ordered restitution in its systems and the time of our review.

⁴⁵ SSA, *POMS*, GN 02201.055, C.3-4 (December 24, 2014).

⁴⁶ DOJ and SSA were unable to recover one of the six individuals' court-ordered restitutions totaling approximately \$18,000; and 22 months had elapsed from when SSA recorded the court-ordered restitution in its systems and the time of our review.

⁴⁷ The mean was 15 months and median was 17 months.

⁴⁸ SSA, *POMS*, GN 02201.055, C.5 (December 24, 2014).

⁴⁹ Examples of normal collection methods are installment repayment agreements, cross-program recovery, tax refund offset, and administrative wage garnishment.

- Eleven individuals with court-ordered restitutions totaling \$772,369 were under probation and will remain under probation for up to 3 more years.⁵⁰ An average of 7 months⁵¹ had elapsed from when SSA recorded the last collection in its systems to the time of our review. SSA records did not show evidence its employees contacted the FLU or probation officer, although policy requires that they do so when the diary matures and DOJ has not made any collection.⁵²

Based on our sample results, we estimate there was no evidence SSA monitored the collection of approximately \$7.8 million in court-ordered restitutions from 136 individuals.⁵³ SSA should monitor collections of court-ordered restitutions and attempt all methods of recovery, as appropriate. SSA should also contact and document its contacts with the FLU and probation officers, as required.

Status of Court-ordered Restitutions from Previous OIG Audit

In our 2007 audit, we identified 147 (36 percent) individuals whose court-ordered restitutions SSA had not recorded in its systems and 259 (64 percent) individuals for whom SSA did not monitor DOJ's collection of their court-ordered restitutions.⁵⁴ In April 2019, SSA stated the following for the 406 court-ordered restitutions.

- It could not locate documentation for 120 (30 percent),⁵⁵ totaling approximately \$6.4 million, and did not have their restitutions recorded in its systems.
- It was not monitoring collection of 143 (35 percent). Specifically, SSA determined DOJ was not collecting 58 (14 percent) court-ordered restitutions, totaling approximately \$1.6 million. SSA was determining the status of DOJ's collection efforts for the remaining 85 (21 percent), totaling approximately \$1.4 million, and which methods of recovery it should use to collect these restitutions.⁵⁶

⁵⁰ DOJ and SSA were unable to recover any of the court-ordered restitutions, totaling approximately \$116,000, for 2 of the 11 individuals; and an average of 21 months had elapsed from when SSA recorded the restitutions in its systems to the time of our review.

⁵¹ The mean was 7 months and median was 4 months.

⁵² SSA, *POMS*, GN 02201.055, C.3-4 (December 24, 2014).

⁵³ See Appendix C for our sampling results.

⁵⁴ For our 2007 audit, we reviewed the convicted individuals' ROAR, Payment History Update System, Supplemental Security Record, and Supplemental Security Income Display to determine whether SSA recorded the court-ordered restitutions. SSA, OIG, *The Social Security Administration's Collection of Court-ordered Restitution*, A-02-06-26019, p. B-1 (March 2007).

⁵⁵ SSA contacted OIG to obtain the court document; however, because of our records retention policy, the court documents are no longer available. SSA, *OIG Administrative Policy and Procedures Manual*, Chapter 5, p. 12 (July 2006).

⁵⁶ As of July 2019, SSA had not provided a status for these 85.

- DOJ was collecting or had collected in full, or the convicted individual was deceased, for 143 (35 percent) totaling approximately \$857,000.

CONCLUSIONS

As determined by our current and previous audits, SSA needs to improve its controls to account for and monitor court-ordered restitutions. Our review found that SSA did not always have evidence that its employees established the restitutions or that it had monitored their collections. Finally, SSA employees did not always ensure they used all methods of recovery when DOJ was not collecting the restitutions. SSA should develop a tracking system to ensure it records court-ordered restitutions and to reconcile with OI's monthly reports of restitutions. SSA should also use the tracking system to determine the appropriate action it needs to take to recover the restitutions, including pursuing civil action.

RECOMMENDATIONS

We recommend SSA:

1. Reconcile all available OI documentation for court-ordered restitutions to SSA's records to ensure the Agency has recorded all restitutions in its systems.
2. Use the reconciled list, mentioned in Recommendation 1, to ensure DOJ is collecting the court-ordered restitutions, and if not being collected, use all methods of recovery and/or contact DOJ, as required by policy, to determine whether civil actions should be taken.
3. Develop a tracking system to record and monitor court-ordered restitutions.
4. Determine the status of DOJ's collection efforts for the 85 court-ordered restitutions identified in our prior audit and use available collection methods to recover these court-ordered restitutions.

AGENCY COMMENTS

SSA agreed with our recommendations. The Agency's comments are included in Appendix D.



Rona Lawson
Assistant Inspector General for Audit

APPENDICES

Appendix A – AGENCY POLICY ON COURT-ORDERED RESTITUTIONS

After a court convicts an individual for Social Security fraud and issues a judgment and commitment order,¹ the Social Security Administration’s (SSA) Office of the Inspector General’s (OIG) Office of Investigations (OI) prepares and electronically submits a Form OI-68,² *Report of Court Ordered Restitution/Judgment*, to the Agency.³ OI also provides SSA a monthly report of all court-ordered restitutions processed each month. Once SSA receives the appropriate documents from OI, it should establish the court-ordered restitution in its systems.⁴ SSA employees must take the following steps to account for and monitor court-ordered restitutions.⁵

- “. . . send an overpayment notice reflecting the full amount of the overpayment . . .”⁶
- “Establish a Recovery of Overpayments, Accounting and Reporting (ROAR) diary control.”⁷
- “Contact the Financial Litigation Unit (FLU) . . .” if SSA has not received any payments when the set diary reminder is due. If FLU indicates it has not received any payments “. . . and sufficient time⁸ from the sentence date has elapsed, contact the assigned Probation Office to determine if a repayment schedule has been established with the individual.”⁹
- Reset the diary reminder for 60 days “. . . until the Probation Officer has established the schedule of payments and the court has received the first payment. Document all contacts with the FLU and the Probation Office, including names and telephone numbers.”¹⁰

¹ The court documentation generally includes the court ruling on the convicted individual, sentencing information, and restitution amount.

² Form OI-68 contains claimant information and the restitution amount.

³ SSA, *POMS*, GN 02201.055, C.1 (December 24, 2014).

⁴ SSA can record the overpayments in the Manual Adjustment Credit and Award Data Entry or Debt Management Systems. SSA, *POMS*, GN 02201.003, G (October 18, 2017), GN 02201.055, C.2 (December 24, 2014).

⁵ SSA, *POMS*, GN 02201.055, C (December 24, 2014).

⁶ SSA, *POMS*, GN 02201.055, C.1 (December 24, 2014).

⁷ SSA uses the ROAR system to track the recovery and collection activity of court-ordered restitutions. SSA, *Privacy Program, Recovery of Overpayments, Accounting and Reporting System*, ssa.gov (last visited July 17, 2019). SSA, *POMS*, GN 02201.055, C.2 (December 24, 2014). These diaries are set reminders with due dates that alert employees when to follow-up on the collection status.

⁸ SSA defines sufficient time to be 90 days.

⁹ SSA, *POMS*, GN 02201.055, C.3-4 (December 24, 2014).

¹⁰ SSA, *POMS*, GN 02201.055, C.3 (December 24, 2014).

- Monitor the receipt of restitution funds. When the diary date is due, “. . . review the overpayment record . . .” to ensure the court-ordered restitution is being repaid. “Continue to re-diary every 6 months for the duration of the probation period.” If collections are not being made, “. . . contact the FLU . . .” and “. . . the Probation Officer . . .” again. If the individual does not repay the court-ordered restitution, SSA should “Determine if the case should be returned to the court for non-compliance of the restitution order . . .”¹¹

SSA policy further states that, if an individual begins receiving benefits after a fraud conviction, SSA must withhold “. . . the full monthly benefit payment until the overpayment is recovered.”¹² If the individual is not receiving monthly benefit payments, SSA should use its normal collection methods to recover these court-ordered restitutions, including installment agreements,¹³ cross-program recovery,¹⁴ tax refund offset,¹⁵ or administrative wage garnishment.¹⁶ SSA policy advises staff to “. . . fully monitor court-ordered restitution refunds during the probation period because collecting the overpayment becomes more difficult after the court has no further influence over the individual.”¹⁷ Policy also states that, when the probationary period expires and the individual is not repaying the court-ordered restitution, SSA should “Contact DOJ to request civil action against the convicted individual to collect the debt ordered by the court.”¹⁸

¹¹ SSA, *POMS*, GN 02201.055, C.4.a (December 24, 2014).

¹² SSA, *POMS*, GN 02201.055, C.6 (December 24, 2014).

¹³ Installment payments are acceptable if the debtor is financially unable (or unwilling) to make a full refund in a single payment, and benefit withholding from the debtor is not available. Installments are typically scheduled for payment each month. SSA, *POMS*, GN 02210.180 A (July 1, 2016).

¹⁴ SSA has the authority to conduct cross-program recovery for an overpayment from a debtor by decreasing any amount payable to that debtor under another SSA program. SSA, *POMS*, GN 02210.008 A (April 25, 2013).

¹⁵ SSA has the authority to recover delinquent Old-Age, Survivors and Disability Insurance court-ordered restitutions from former beneficiaries by offsetting their Federal income tax refunds. SSA, *POMS*, GN 02201.030, A.1 (February 11, 2014).

¹⁶ Federal agencies use administrative wage garnishment to order employers to withhold amounts each pay day from employees who owe a debt to the agency, and the employer pays those amounts to the agency. SSA, *POMS*, GN 02201.040, B (May 25, 2012).

¹⁷ SSA, *POMS*, GN 02201.055, C.4.b (December 24, 2014).

¹⁸ SSA, *POMS*, GN 02201.055, C.5 (December 24, 2014).

Appendix B – SCOPE AND METHODOLOGY

To accomplish our objective, we:

- Reviewed applicable Federal laws and sections of the Social Security Administration’s (SSA) policies and procedures related to SSA’s controls over monitoring its court-ordered restitutions.
- Obtained from the SSA Office of the Inspector General’s (OIG) Office of Investigations (OI) a list of 409 individuals who were issued court orders in Fiscal Year 2017 to pay SSA restitution.¹ Of these individuals, we identified 394 who had a court-ordered restitution amount of \$10,000 or more. These individuals’ court-ordered restitutions totaled approximately \$52.7 million.
 - For the 394 individuals, 15 had court-ordered restitutions of \$300,000 or more, and 379 had court-ordered restitutions between \$10,000 and \$299,999.²
 - We reviewed all 15 individuals who had court-ordered restitutions of \$300,000 or more and reviewed a random sample of 50 individuals from the population of 379 with court-ordered restitutions between \$10,000 and \$299,999.
- For each of the 65 sampled cases, we reviewed the available defendant’s, wage earner’s, and victim’s Recovery of Overpayments, Accounting and Reporting system and Supplemental Security Record to determine whether SSA recorded and was monitoring the court-ordered restitution.
- For the 25 court-ordered restitutions we determined SSA did not record or effectively monitor DOJ’s collections, we reviewed the available defendant’s, wage earner’s, and victim’s Debt Management System, Claims File Records Management System, Online Retrieval System, Payment History Update System, and Paperless and Modernized Supplemental Security Income Claims System, as needed, for documentation of why their court-ordered restitutions were not recorded in SSA’s systems or why SSA was not monitoring DOJ’s collections as of January 29, 2019. We also reviewed the Form OI-68,³ *Report of Court Ordered Restitution/Judgment*, for each case.
- For the five individuals whose court-ordered restitutions were not recorded in SSA systems, we obtained the Form OI-68 and other supporting documentation from OI of the court-ordered restitution to SSA.

¹ From the 409 individuals who were issued court orders in Fiscal Year 2017 to pay SSA restitution, we removed 15 restitutions that were below \$10,000, totaling \$85,677.

² The 394 restitutions, totaling \$52.7 million, represented approximately 96 percent of the cases and 99 percent of the total restitution amount.

³ OI prepares the Form OI-68, which contains claimant information and the restitution amount.

- For the 406 cases identified in our prior review,⁴ SSA provided an updated status of each case as of April 2019.⁵

The principal entity reviewed was the Office of the Deputy Commissioner for Operations. We conducted our audit in Atlanta, Georgia, between November 2018 and June 2019. We determined the data used were sufficiently reliable given our review objective and its intended use. 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 findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

⁴ SSA, OIG, *The Social Security Administration's Collection of Court-ordered Restitution, A-02-06-26019*, (March 2007).

⁵ For the error cases from our 2007 audit, SSA did not have data readily available to link the convicted individual, victim, and wage earner's records to the court-ordered restitution, which limited our ability to provide an update to the cases. Therefore, we requested SSA's assistance with providing an update on the status of these cases. In recent years, SSA began linking all the individuals involved with each restitution case, which provides the reviewer with all the parties involved in the case.

Appendix C – SAMPLING METHODOLOGY AND RESULTS

Sampling

We obtained from the Social Security Administration’s (SSA) Office of the Inspector General’s (OIG) Office of Investigations a list of 409 individuals who were issued court orders in Fiscal Year 2017 to pay SSA restitution. Of these individuals, we identified 394 who had a court-ordered restitution of \$10,000 or more.¹ These individuals’ court-ordered restitutions totaled approximately \$52.7 million.

- For the 394 individuals, 15 had court-ordered restitutions of \$300,000 or more, and 379 had court-ordered restitutions between \$10,000 and \$299,999.²
- We reviewed all 15 individuals who had court-ordered restitutions of \$300,000 or more and reviewed a random sample of 50 individuals from the population of 379 with court-ordered restitutions between \$10,000 and \$299,999.

Sampling Results and Projections

We determined SSA did not always monitor the Department of Justice’s efforts to collect the individual’s court-ordered restitution for 18 of the 50 restitutions. Specifically, SSA recorded 18 court-ordered restitutions with outstanding balances totaling approximately \$1.1 million in its systems. However, it did not effectively monitor the Department of Justice’s collections toward the court-ordered restitution, and the Department of Justice had few or no collections toward the restitutions. As such, we estimate SSA did not effectively monitor the Department of Justice’s collections toward 136 court-ordered restitutions totaling approximately \$7.8 million.

Table C–1 provides our population and sample size for those court-ordered restitutions between \$10,000 and \$299,999. See Table C–2 for our sampling projections.

Table C–1: Population and Sample Size

| Description | Count |
|-----------------|-------|
| Sample Size | 50 |
| Population Size | 379 |

¹ From the 409 individuals who were issued court orders in Fiscal Year 2017 to pay SSA restitution, we removed 15 restitutions that were below \$10,000, totaling \$85,677.

² The 394 restitutions, totaling \$52.7 million, represented approximately 96 percent of the cases and 99 percent of the total restitution amount.

**Table C–2: Court-ordered Restitutions Between \$10,000 and \$299,999
Not Monitored by SSA**

| Description | Number of Court-ordered Restitutions SSA Did Not Monitor | Amount |
|------------------------|--|--------------|
| Sample Results | 18 | \$1,023,453 |
| Point Estimate | 136 | \$7,757,770 |
| Projection-Upper Limit | 181 | \$10,581,551 |
| Projection-Lower Limit | 97 | \$4,933,989 |

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

Appendix D – AGENCY COMMENTS



SOCIAL SECURITY

MEMORANDUM

Date: September 23, 2019 Refer To: S1J-3

To: Gail S. Ennis
Inspector General

Stephanie Hall

From: Stephanie Hall
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, “The Social Security Administration’s Accounting for, and Monitoring of, Court-ordered Restitutions” (A-04-18-50633) -- INFORMATION

Thank you for the opportunity to review the draft report. We agree with all four recommendations.

We are updating our policy to underscore the importance of monitoring court-ordered restitution payments. Additionally, we are engaged in a multi-year initiative to develop a comprehensive debt management system that will improve our control of these payments and enable us to post, track, collect, and report overpayment activity more effectively. In the interim, we will continue to explore additional controls to ensure timely processing and collection of court-ordered restitution payments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Trae Sommer at (410) 965-9102.

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