

Congressional Response Report

Payment of Social Security Benefits
to Individuals Who May Have
Participated in Nazi Persecution

OIG

Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

May 29, 2015

The Honorable Carolyn B. Maloney
House of Representatives
Washington, DC 20515-3212

Dear Ms. Maloney:

In an October 20, 2014 letter, you asked that we review issues related to benefits the Social Security Administration (SSA) paid to individuals who participated in Nazi persecution during World War II.

My office is committed to combating fraud, waste, and abuse in SSA's operations and programs. Thank you for bringing your concerns to my attention. The report highlights facts pertaining to the issues raised in your letter. To ensure SSA is aware of the information provided to your office, we are forwarding a copy of this report to the Agency.

If you have any questions concerning this matter, please call me or have your staff contact Kristin Klima, Congressional and Intragovernmental Liaison at (202) 358-6319.

Sincerely,



Patrick P. O'Carroll, Jr.
Inspector General

Enclosure

cc:
Carolyn W. Colvin

Payment of Social Security Benefits to Individuals Who May Have Participated in Nazi Persecution

A-09-15-50013



May 2015

Office of Audit Report Summary

Objective

To determine the amount of benefits the Social Security Administration (SSA) paid to individuals who may have participated in Nazi persecution. We also determined whether SSA properly stopped benefits to individuals who participated in Nazi persecution in accordance with the *No Social Security for Nazis Act*.

Background

The *Social Security Act* prohibits paying retirement and/or disability benefits to individuals who are placed under a final order of deportation or removal from the United States for participating in Nazi persecution or committing crimes of genocide.

On October 20, 2014, we received a request from Representative Carolyn Maloney to review the payment of Social Security benefits to individuals who participated in Nazi persecution during World War II.

On December 18, 2014, the President signed the *No Social Security for Nazis Act* into law. The law terminates the payment of Social Security benefits to additional individuals who participated in Nazi persecution.

For our review, we obtained information from SSA and the Department of Justice (DOJ) to determine that 133 individuals who may have participated in Nazi persecution received Social Security benefits.

Conclusions

Between February 1962 and January 2015, SSA paid \$20.2 million in benefits to 133 individuals alleged, or found, to have participated in Nazi persecution. This occurred because the *Social Security Act* did not prohibit the payment of most of these benefits when they were paid. The \$20.2 million in payments included \$14.5 million paid to 95 beneficiaries who were not deported and \$5.7 million paid to 38 beneficiaries who were deported.

Of the \$20.2 million in benefits, SSA improperly paid four beneficiaries \$15,658 because it did not timely suspend benefits the month after it received the final order of deportation or removal from DOJ. SSA established overpayments for two of the four beneficiaries; however, none of these overpayments was recovered.

When the *No Social Security for Nazis Act* became law, four beneficiaries were affected by the new legislation. We found that SSA properly stopped payments to the four beneficiaries who were in current pay status as of January 2015. SSA continued payments to one beneficiary identified by DOJ because he was not subject to the provisions of the *No Social Security for Nazis Act*. This beneficiary lived in Germany and received payments until SSA terminated his benefits in May 2015 because of his death in March 2015.

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ABBREVIATIONS

DHS	Department of Homeland Security
DOJ	Department of Justice
H.R.	House Resolution
MBR	Master Beneficiary Record
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
Pub. L. No.	Public Law Number
SSA	Social Security Administration
SSI	Supplemental Security Income
SSR	Supplemental Security Record
Stat.	United States Statutes at Large

OBJECTIVE

Our objective was to determine the amount of benefits the Social Security Administration (SSA) paid to individuals who may have participated in Nazi persecution.¹ We also determined whether SSA properly stopped payments to individuals who participated in Nazi persecution in accordance with the *No Social Security for Nazis Act*.

BACKGROUND

The *Social Security Act* prohibits paying retirement and/or disability benefits to individuals who are placed under a final order of deportation or removal from the United States for participating in Nazi persecution or committing crimes of genocide.² Unlike other removal situations, these individuals do not need to be physically removed from the United States for their benefits to be suspended. Benefits are not payable beginning with the month after the month DOJ notifies SSA of the final deportation or removal order even though the individual may have never left the United States.³ However, if a final deportation or removal order is not issued, individuals who may have participated in Nazi persecution would continue receiving Social Security benefits.⁴

On October 20, 2014, we received a request from Representative Carolyn Maloney to review the payment of Social Security benefits to individuals who participated in Nazi persecution during World War II (see Appendix A). Specifically, the request cited an Associated Press article⁵ that estimated SSA had paid millions in benefits to suspected Nazi war criminals. The article noted that Nazi war criminals had continued receiving Social Security benefits because a final order of deportation or removal from the United States was never issued.

¹ This includes individuals who were alleged, or found, to have participated in Nazi persecution. According to the Department of Justice (DOJ), information about these individuals was generally not known until the 1990s, when former Soviet Union archives first became accessible for on-site review. Also, there was no court decision issued in some cases and the alleged or suspected individuals have continued to deny any involvement in Nazi-sponsored acts of persecution.

² The *Social Security Act*, § 202(n), 42 U.S.C. § 402(n).

³ SSA, POMS, RS 02635.001.D.2 (April 26, 2012).

⁴ SSA may suspend benefits before a final deportation order is issued if the beneficiary is not a United States citizen or national, and lives outside of the United States for 6 consecutive months. The *Social Security Act*, § 202(t), 42 U.S.C. § 402(t).

⁵ David Rising, Randy Herschaft, and Richard Lardner, *Millions in Social Security for Expelled Nazis*, Associated Press, October 20, 2014.

On November 19, 2014, Representative Sam Johnson introduced legislation to terminate Social Security benefits for Nazi persecutors.⁶ On December 18, 2014, the President signed the *No Social Security for Nazis Act* into law.⁷ The Act (1) terminates the retirement and disability benefits of individuals who, because of their participation in Nazi persecution, had their citizenship revoked and set aside or voluntarily renounced their status as a U.S. national pursuant to a settlement agreement;⁸ (2) prohibits such individuals from receiving Old-Age, Survivors and Disability Insurance (OASDI) benefits based on the earnings record of another individual and Supplemental Security Income (SSI) payments; and (3) requires that DOJ or the Department of Homeland Security (DHS) notify SSA within 7 days after an individual's removal, revocation and setting aside, or renunciation of nationality based on participation in Nazi persecution.⁹

For our review, we obtained information from SSA and DOJ to determine that 133 individuals who may have participated in Nazi persecution received Social Security benefits between February 1962 and January 2015.

RESULTS OF REVIEW

SSA paid \$20.2 million in benefits to 133 individuals alleged, or found, to have participated in Nazi persecution.¹⁰ This occurred because the *Social Security Act* did not prohibit the payment of most of these benefits when they were paid. The \$20.2 million in benefits included \$14.5 million paid to 95 beneficiaries who were not deported and \$5.7 million paid to 38 beneficiaries who were deported. Of the \$20.2 million in benefits, SSA improperly paid four beneficiaries \$15,658 because it did not timely suspend benefits the month after it received the final order of deportation or removal from DOJ.

When the *No Social Security for Nazis Act* became law, four beneficiaries were affected by the new legislation. We found that SSA properly stopped payments to four beneficiaries who were in current pay status as of January 2015. SSA did not stop payments to one additional beneficiary who allegedly participated in Nazi persecution because he left the United States before a deportation action was filed and did not have U.S. citizenship or a settlement agreement with DOJ. As such, the beneficiary who lived in Germany was not subject to the provisions of the new law and received payments until SSA terminated his benefits in May 2015 because of his death in March 2015.

⁶ H.R. 5739, the *No Social Security for Nazis Act*.

⁷ Pub. L. No. 113-270, 128 Stat. 2948.

⁸ These individuals are required by the legislation to be considered removed under the *Immigration and Nationality Act* as of the date of the revocation, setting aside, or renunciation.

⁹ Pub. L. No. 113-270, 128 Stat. 2948; SSA, POMS, RS 02635.040 (January 13, 2015).

¹⁰ Of these, 132 individuals received OASDI benefits only, and 1 individual received both OASDI and SSI payments.

Beneficiaries Not Deported

Before the *No Social Security for Nazis Act* became law, DOJ generally notified SSA of individuals who were found to have participated in Nazi persecution after a final order of deportation had been issued. DOJ was not required to notify SSA about individuals who revoked and set aside their citizenship on grounds of participation in Nazi persecution or who, pursuant to a settlement agreement, admitted their participation in Nazi persecution and renounced their status as a U.S. national.

We found that SSA paid \$14.5 million in benefits to 95 individuals who had not been deported but were alleged, or found, to have participated in Nazi persecution. Based on a December 2008 DOJ draft report and information DOJ provided SSA in October 2014,¹¹

- 21 individuals who received \$2.4 million in benefits died before their denaturalization or deportation case was adjudicated;
- 21 individuals who received \$4.1 million in benefits left the United States before their denaturalization or deportation case was adjudicated;
- 17 individuals who received \$2.3 million in benefits settled their case with the Government and were allowed to remain in the United States for medical or litigative reasons;
- 14 individuals who received \$2.1 million in benefits settled their case with the Government and agreed to give up their citizenship and leave the United States;
- 10 individuals who received \$1.1 million in benefits had court cases that the Government dismissed or lost;
- 2 individuals who received \$120,294 in benefits were extradited to another country;
- 1 individual who received \$127,641 in benefits renounced his citizenship before his denaturalization case was adjudicated;
- 1 individual who received \$147,700 in benefits did not have a denaturalization case filed by the Government because of a lack of evidence; and
- 1 individual who received \$412,436 in benefits was denaturalized for participation in Nazi persecution but was later adjudged to be recognized as a U.S. citizen from birth and was allowed to remain in the United States.

¹¹ DOJ draft report, Criminal Division, *The Office of Special Investigations: Striving for Accountability in the Aftermath of the Holocaust*, December 2008, pages 570 through 609; available at <http://www.justice.gov/criminal/foia/elect-read-room.html>.

The DOJ draft report did not state why the remaining seven individuals, who received \$1.7 million in benefits, had not been deported.

For example, in August 1989, a beneficiary who had served as a guard at several Nazi concentration camps began receiving retirement benefits. The beneficiary left the United States in August 1989 after he learned DOJ had planned to file a denaturalization action against him. According to DOJ, the Government could not bar the beneficiary's departure. Because of his departure, the immigration court did not retain jurisdiction and DOJ had no legal basis to seek the beneficiary's deportation. The beneficiary's citizenship was subsequently revoked in November 1989. However, the beneficiary received \$399,505 in benefits from August 1989 until January 2015.

Beneficiaries Deported

According to the *Social Security Act*, retirement and disability benefits are not payable to individuals who are placed under a final order of deportation or removal for participating in Nazi persecution or committing crimes of genocide.¹² SSA must suspend benefits beginning the month after it receives notice from DOJ of the beneficiary's final order of deportation or removal.¹³

We found that SSA paid \$5.7 million in benefits to 38 individuals who were found to have participated in Nazi persecution and had been deported, including \$5.6 million paid to 38 beneficiaries before they were deported. SSA stopped one beneficiary's retirement benefits but did not stop her widow benefits because the *Social Security Act* did not prohibit the payment of dependent and survivor benefits to deported beneficiaries.¹⁴ As a result, the beneficiary received \$119,937 in widow benefits after she was deported in November 2006 until January 2015.

We also found that SSA improperly paid four beneficiaries \$15,658 because it did not timely suspend benefits the month after it received the final order of deportation or removal from DOJ. SSA established overpayments for two of the four beneficiaries; however, none of these overpayments was recovered.

For example, effective March 1987, a beneficiary who was found to have participated in Nazi persecution during World War II began receiving retirement benefits. DOJ filed a denaturalization action against the beneficiary in October 1979, revoked his citizenship in March 1982, and initiated deportation proceedings in June 1984. In April 1987, SSA received the final order of deportation from DOJ. SSA should have suspended his benefits in May 1987. However, it continued paying the beneficiary monthly benefits totaling \$3,630 through

¹² The *Social Security Act*, § 202(n), 42 U.S.C. § 402(n).

¹³ SSA, POMS, RS 02635.001.D.2 (April 26, 2012).

¹⁴ SSA, POMS, RS 02635.001.D.4 (April 26, 2012).

November 1987. SSA did not establish an overpayment to recover the improper payments. The beneficiary died in November 2003.

Implementation of the No Social Security for Nazis Act

On December 18, 2014, the President signed the *No Social Security for Nazis Act* into law.¹⁵ The law terminates Social Security benefits to additional individuals who participated in Nazi persecution. It also clarifies the timeframe in which DOJ or DHS must notify SSA of certain actions involving these individuals. Specifically, the law does the following.

- Terminates the retirement and disability benefits of individuals who have revoked and set aside their citizenship on grounds of participation in Nazi persecution or pursuant to a settlement agreement, has admitted their participation in Nazi persecution, and has renounced their status as a U.S. national.
- Prohibits such individuals from receiving SSI payments and OASDI benefits based on another individual's earnings record.
- Clarifies the timeframe in which DOJ or DHS must notify SSA of an individual's "removal, revocation and setting aside, or renunciation of nationality" based on his/her participation in Nazi persecution from "as soon as practicable after the removal" to no later than 7 days after such removal, revocation, and setting aside or renunciation of nationality. Also, it requires that DOJ or DHS notify SSA of such actions that occurred before the law was enacted.
- Requires that, within 30 days of each notification from DOJ or DHS, the Commissioner of Social Security certify to the House Committee on Ways and Means and Senate Finance Committee that the individual's benefits have been terminated.
- Is effective for benefits payable for months beginning after enactment of the law.¹⁶

In January 2015, SSA issued instructions to implement the *No Social Security for Nazis Act*.¹⁷ In May 2015, DOJ provided us the names of 81 individuals who (1) were denaturalized by U.S. courts for participating in Nazi-sponsored persecution, (2) were ordered removed by U.S. courts for participating in Nazi-sponsored persecution, (3) renounced U.S. citizenship and admitted participating in Nazi-sponsored persecution pursuant to a settlement agreement with the U.S. government, or (4) were extradited from the United States and were subsequently convicted by foreign courts of Nazi crimes.

We found that four individuals who were found to have participated in Nazi persecution were in current pay status as of January 2015. In accordance with the *No Social Security for Nazis Act*,

¹⁵ Pub. L. No. 113-270, 128 Stat. 2948.

¹⁶ Pub. L. No. 113-270, 128 Stat. 2948; Social Security Legislative Bulletin 113-28 (December 3, 2014).

¹⁷ SSA, POMS, RS 02635.040 (January 13, 2015).

SSA stopped payments to these four beneficiaries effective January 2015. SSA did not stop payments to one additional beneficiary who allegedly participated in Nazi persecution because he left the United States before the deportation action was filed and did not have U.S. citizenship or a settlement agreement with DOJ. As such, the beneficiary who lived in Germany was not subject to the provisions of the new law and received payments until SSA terminated his benefits in May 2015 because of his death in March 2015.

CONCLUSIONS

Between February 1962 and January 2015, SSA paid \$20.2 million in benefits to 133 individuals alleged, or found, to have participated in Nazi persecution.¹⁸ This occurred because the *Social Security Act* did not prohibit the payment of most of these benefits when they were paid. The \$20.2 million in benefits included \$14.5 million paid to 95 beneficiaries who were not deported and \$5.7 million paid to 38 beneficiaries who were deported.

Of the \$20.2 million in benefits, SSA improperly paid four beneficiaries \$15,658 because it did not timely suspend benefits the month after it received the final order of deportation or removal from DOJ. SSA established overpayments for two of the four beneficiaries; however, none of these overpayments was recovered.

When the *No Social Security for Nazis Act* became law, four beneficiaries were affected by the new legislation. We found that SSA properly stopped payments to four beneficiaries who were in current pay status as of January 2015. Also, SSA continued payments to one beneficiary identified by DOJ because he was not subject to the *No Social Security for Nazis Act*. This beneficiary lived in Germany and received payments until SSA terminated his benefits in May 2015 because of his death in March 2015.

AGENCY COMMENTS AND OIG RESPONSE

We received informal comments from SSA and DOJ to our draft report. SSA and DOJ commented the 133 individuals included individuals who were not deported and may not have participated in Nazi persecution. DOJ requested that our report only include information on the 81 individuals whose names it provided us in May 2015.

We declined SSA and DOJ's request to exclude some of the 133 individuals in our report. The scope of our review was not limited to those individuals who were found to have participated in Nazi persecution. Representative Carolyn Maloney requested that we review the payment of Social Security benefits to all individuals who participated in Nazi persecution, including those who left the United States before they were officially deported.

¹⁸ Of these, 132 individuals received OASDI benefits only, and 1 individual received both OASDI and SSI payments.

APPENDICES

Appendix A – CONGRESSIONAL REQUEST

CAROLYN B. MALONEY
12TH DISTRICT, NEW YORK

2308 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3212
(202) 225-7944

COMMITTEES:
FINANCIAL SERVICES

GOVERNMENT REFORM

JOINT ECONOMIC COMMITTEE
[SENIOR HOUSE DEMOCRAT]



Congress of the United States House of Representatives Washington, DC 20515-3212

October 20, 2014

Patrick P. O’Carroll, Jr.
Inspector General
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Dear Inspector General O’Carroll:

I write to request an immediate investigation into the payment of Social Security benefits to individuals who participated in Nazi persecution during World War II. After the conclusion of the war, we now know that thousands of people who participated or were complicit in the atrocities of the Holocaust fled to the U.S. and lied about their pasts to become American citizens. According to the results of an Associated Press investigation published on October 19 (article enclosed), it is estimated that these individuals were paid millions of dollars in federal benefits (i.e. Social Security) even after the Department of Justice Office of Special Investigations (OSI) identified them as Nazi war criminals. Due to varying circumstances, it seems that several dozen criminals left the U.S. without completing trial before an immigration judge and were never issued a final order of removal. Without this order of removal, Social Security benefits were never terminated. I am deeply concerned about these reports, and believe that an investigation into the matter is appropriate and should be launched immediately.

In a letter dated September 15, 2014, I wrote to the Social Security Administration Acting Commissioner Carolyn Colvin requesting information, including amounts paid to living and deceased Nazi criminals who left the U.S. before being officially deported. To my disappointment, I was only provided with a list of individuals who had been deported and therefore had received no benefits after their removal (see my letter and response enclosed). I am particularly troubled by the notion that there is no mechanism to terminate benefits for individuals OSI identified as Nazi war criminals for whom a denaturalization process had started. In Acting Commissioner Colvin’s response, she states that SSA does “not track information on individuals who voluntarily depart from the United States.” It seems to me that appropriate allocation of Social Security benefits and a full assessment of payments made to Nazi war criminals – a class expressly defined in Social Security laws as ineligible for benefits – should be top priorities for the agency.

As a co-author of the Nazi War Crimes Disclosure Act which created the Nazi War Crimes and Japanese Imperial Government Records Interagency Working Group (IWG), I

DISTRICT OFFICES:
 1651 THIRD AVENUE
SUITE 311
NEW YORK, NY 10128
(212) 860-0606

31-19 NEWTOWN AVENUE
ASTORIA, NY 11102
(718) 932-1804

619 LORIMER STREET
BROOKLYN, NY 11211
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strongly support the release of all records documenting the involvement of the U.S. Government with Nazi war criminals. An Inspector General investigation into this matter will make transparent the total amount paid and number of Nazi war criminals who received or continue to receive Social Security benefits. This information is vital to determine the best remedy for the situation and ensure that we make informed policy decisions going forward. Thank you for your attention to this very important matter.

Sincerely,


CAROLYN B. MALONEY
Member of Congress

Appendix B – SCOPE AND METHODOLOGY

We obtained information from the Social Security Administration (SSA) and Department of Justice (DOJ) for 138 individuals who may have participated in Nazi persecution during World War II. Based on the information provided by SSA and DOJ, we determined that 133 of these individuals received Social Security benefits between February 1962 and January 2015. The remaining five individuals did not receive Social Security benefits.

To accomplish our objective, we

- reviewed the applicable sections of the *Social Security Act*, the *No Social Security for Nazis Act*,¹ and SSA’s Program Operations Manual System;
- reviewed the DOJ draft report, *The Office of Special Investigations: Striving for Accountability in the Aftermath of the Holocaust*, December 2008;
- interviewed employees from DOJ and SSA’s Offices of Operations and Retirement and Disability Policy;
- reconciled the information from SSA and DOJ to identify the population of individuals who may have participated in Nazi persecution. However, we did not independently verify whether these individuals were Nazi persecutors;
- reviewed queries from SSA’s Master Beneficiary Record (MBR), Supplemental Security Record (SSR), Payment History Update System, and Numident;
- reviewed the information the DOJ report had on beneficiaries who were not deported and determined the reasons why they were not deported; and
- determined the total amount of benefits paid to the 133 individuals who may have participated in Nazi persecution through January 2015 or until they stopped receiving benefits.

We determined the computer-processed data from the MBR and SSR were sufficiently reliable for our intended purpose. However, we did not review the internal controls to determine whether SSA and DOJ identified the entire population of individuals who may have participated in Nazi persecution and received Social Security benefits.

We conducted audit work in Richmond, California, and Baltimore, Maryland, between November 2014 and May 2015. The entity audited was the Office of Operations under the Office of the Deputy Commissioner for Operations.

¹ Pub. L. No. 113-270, 128 Stat. 2948.

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 objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix C – MAJOR CONTRIBUTORS

James J. Klein, Director, San Francisco Audit Division

Jack H. Trudel, Audit Manager

Vickie Choy, Senior Auditor

MISSION

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