



SOCIAL SECURITY

MEMORANDUM

Date: September 5, 2003

Refer To:

To: The Commissioner

From: Inspector General

Subject: Assessment of the Supplemental Security Income Fugitive Felon Project
(A-01-03-23070)

The attached final report presents the results of our audit. Our objectives were to quantify the actual savings achieved and determine the final outcome for Supplemental Security Income recipients identified as fugitive felons.

Please comment within 60 days from the date of this memorandum on corrective action taken or planned on our recommendations. If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.

A handwritten signature in blue ink, appearing to read "James G. Huse, Jr.".

James G. Huse, Jr.

Attachment

**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**ASSESSMENT OF THE
SUPPLEMENTAL SECURITY
INCOME FUGITIVE
FELON PROJECT**

September 2003

A-01-03-23070

AUDIT REPORT



Mission

We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the Congress, and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

Vision

By conducting independent and objective audits, investigations, and evaluations, we are agents of positive change striving for continuous improvement in the Social Security Administration's programs, operations, and management and in our own office.

Executive Summary

OBJECTIVE

Our objectives were to quantify the actual savings achieved and determine the final outcome for Supplemental Security Income (SSI) recipients identified as fugitive felons.

BACKGROUND

Section 1611(e)(4) of the Social Security Act prohibits SSI payments to individuals for any month during which they are considered fugitive felons or parole/probation violators. This change to the Social Security Act—prohibiting SSI payments to fugitives—took effect in August 1996.

Although the fugitive provisions took effect in August 1996, the Social Security Administration (SSA) usually limits its overpayment assessments to fugitives to the 24 months before the date the Agency discovered the warrant under its rules of administrative finality (unless fraud or similar fault is involved).

SSA processes most SSI cases through its Modernized Supplemental Security Income Claims System—including the reinstatement of payments after fugitive warrants are satisfied.

RESULTS OF REVIEW

We estimate the SSI payments issued to about 51,258 fugitives between August 1996 and February 2003—plus the SSI payments that were withheld while the warrants were outstanding—totaled \$448.4 million. Based on our review of 300 sample cases, we estimate that SSA

- Saved the SSI program \$83.4 million between August 1996 and February 2003. This included \$74.1 million in SSI payments that might otherwise have been paid had SSA not taken administrative action to suspend the monthly payments to fugitives and \$9.3 million in SSI overpayments recovered from fugitives.
- Has the potential to save an additional \$206.9 million through recovery of fugitive overpayments for months up to and including February 2003. This includes \$98.3 million in SSI overpayments that were in active recovery plans, and \$108.6 million in SSI overpayments for which SSA had not made recovery decisions.
- Did not save/recover \$158.1 million in SSI payments issued to fugitives, despite their outstanding warrants. This included \$20.3 million for which SSA granted repayment waivers or deemed uncollectible; and \$125.9 million in SSI payments issued to recipients for months during which they were fugitives, but SSA did not

pursue recovery because the Agency applied its administrative finality rules. Finally, it included \$11.9 million—identified based on our audit—which SSA did not detect but will not attempt to recover because of its administrative finality rules.

Additionally, we estimate that SSA saved \$19.5 million by withholding the continuing monthly SSI payments from fugitives who were subsequently apprehended and incarcerated.

CONCLUSIONS AND RECOMMENDATIONS

SSA realized savings to the SSI program by (1) suspending SSI payments to fugitives and (2) recovering a portion of overpayments resulting from fugitive ineligibility. However, additional savings could be realized through earlier detection of outstanding warrants and more diligent efforts to recover payments incorrectly issued to fugitives.

To improve SSA's debt recovery performance and assist the Agency in meeting its strategic objective to increase the percent of outstanding debt that is in a collection arrangement, we make several recommendations that are discussed in detail in this report.

AGENCY COMMENTS

SSA agreed with our recommendations.

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Acronyms

| | |
|--------|---|
| CFR | Code of Federal Regulations |
| FFAP | Fugitive Felon Automated Process |
| FO | Field Office |
| IVT | Interactive Video Training |
| MSSICS | Modernized Supplemental Security Income Claims System |
| NCIC | National Crime Information Center |
| OASDI | Old-Age, Survivors and Disability Insurance |
| OIG | Office of the Inspector General |
| SSA | Social Security Administration |
| SSI | Supplemental Security Income |
| SSR | Supplemental Security Record |
| U.S.C. | United States Code |

OBJECTIVE

Our objectives were to quantify the actual savings achieved and determine the final outcome for Supplemental Security Income (SSI) recipients identified as fugitive felons.¹

BACKGROUND

SSI is a nationwide Federal cash assistance program administered by the Social Security Administration (SSA) that provides a minimum level of income to financially needy individuals who are aged, blind or disabled.²

Effective August 1996, an individual is ineligible for SSI payments for any month during which he/she is

- fleeing to avoid prosecution for a crime which is a felony (or in New Jersey, a high misdemeanor) under the laws of the place from which the person flees;
- fleeing to avoid custody or confinement after conviction for a crime which is a felony (or in New Jersey, a high misdemeanor) under the laws of the place from which the person flees; or
- violating a condition of probation or parole imposed under Federal or State law.³

SSA revised its application and redetermination forms on October 23, 2000 to ensure that all potential SSI recipients are advised of the effect that fugitive status or parole/probation violations have on eligibility for payments. These new forms solicit specific information from individuals to determine whether fugitive ineligibility applies.

To identify SSI recipients who did not report their outstanding warrants to SSA, the Agency—in partnership with the Office of the Inspector General (OIG)—entered into agreements with the United States Marshals Service, the National Crime Information Center, and several State and local law enforcement agencies to obtain fugitive data. (See Appendix A for details on the fugitive data SSA receives from law enforcement.)

¹ Throughout this report, we use the term “fugitives” to include parole/probation violators as well as fugitive felons.

² Title XVI of the Social Security Act; §§ 1601, et seq. of the Social Security Act, (42 U.S.C. §§ 1381, et seq.); 20 CFR § 416.110.

³ § 1611(e)(4) of the Social Security Act (42 U.S.C. § 1382(e)(4)).

THE SSI FUGITIVE PROCESS

SSA processes the names, dates of birth, and Social Security numbers provided by law enforcement through its Enumeration Verification System. Fugitive records with verified Social Security numbers are then compared to the Supplemental Security Record (SSR)—SSA’s master file of SSI information—to screen for SSI eligibility that could be affected by the warrants.

Next, the warrants are confirmed with law enforcement.⁴ For those warrants that remain outstanding, the Agency is authorized to provide address information to law enforcement.⁵ Under current procedures, law enforcement is afforded 60 days to apprehend the fugitives. After 60 days, OIG refers the cases to the servicing SSA field offices (FO) to take the appropriate administrative actions (for example, suspending SSI payments and assessing overpayments as necessary).⁶ See Appendix B for a flowchart of the fugitive process.

In April 2003, SSA implemented the Fugitive Felon Automated Process. This program was designed to automate the suspension and overpayment notice actions for most SSI fugitive cases.

ADMINISTRATIVE FINALITY

Once SSA makes determinations regarding SSI eligibility or payment amounts, those determinations may be reopened and revised under certain conditions. The discretionary rules that SSA uses to reopen and revise determinations are known as the rules of administrative finality.

SSA’s administrative finality rules—when applied—generally limit the Agency to reopening and revising SSI eligibility determinations made within the last 24 months based on new evidence (for example, an outstanding warrant). Therefore, when SSA discovers warrants issued more than 24 months in the past, retroactive SSI ineligibility is normally limited to 2 years. SSA does not consider SSI payments issued for any earlier months while the warrants were outstanding to be overpayments, and recovery is not pursued.⁷ (See Appendix C for more information on SSA’s administrative finality rules.)

⁴ Law enforcement agencies may contact SSA directly. In these situations, SSA may suspend SSI payments based on the information provided by law enforcement without involving the OIG.

⁵ § 1611(e)(5) of the Social Security Act (42 U.S.C. § 1382(e)(5)).

⁶ SSA uses code N25 on the SSR to indicate fugitive ineligibility.

⁷ These payments are not recorded on SSA’s financial statements as debts owed the Agency.

ESTABLISHING AND RESOLVING OVERPAYMENTS TO FUGITIVES

Once SSA takes action to suspend SSI payments and calculate any resulting overpayments, written notices must be sent to the overpaid individuals advising them of their repayment obligations and appeal rights. In addition, SSA must take action to resolve the overpayments.⁸ Overpayments to fugitives may be recovered, waived, or deemed uncollectible.

Recovery of Overpayments

The Social Security Act requires that SSA recover overpayments when they are discovered.⁹ One of the Agency's strategic objectives is to improve debt management. To meet this objective, SSA plans to increase the percent of outstanding debt that is in a collection arrangement.¹⁰

SSA acknowledges that promptly resolving overpayments maximizes the amount of debt recovered.¹¹ Overpayments may be recovered through

- withholding a portion of current SSI payments to recipients whose eligibility was restored after their warrants were satisfied;¹²
- withholding a portion of Old-Age, Survivors and Disability Insurance (OASDI) benefits paid to the individuals;¹³
- refunds made to SSA;¹⁴ and
- administrative offset of other Federal payments, including tax refunds.¹⁵

⁸ SSA's Program Operations Manual System, section SI 02201.005.

⁹ § 1631(b)(1)(A) of the Social Security Act (42 U.S.C. 1383(b)(1)(A)).

¹⁰ Social Security Administration, *Strategic Plan, 2003-2008*, pp. 21-22.

¹¹ SSA's Program Operations Manual System, section SI 02201.005.

¹² § 1631(b)(1)(A) of the Social Security Act (42 U.S.C. § 1383(b)(1)(A)).

¹³ § 1147 of the Social Security Act (42 U.S.C. § 1320b-17) pursuant to § 1631(b)(6) of the Social Security Act (42 U.S.C. § 1383(b)(6)). OASDI benefits are authorized under title II of the Social Security Act, §§ 201 et seq. of the Social Security Act (42 U.S.C. §§ 401, et. seq.), and are administered by SSA.

¹⁴ § 1631(b)(1)(A) of the Social Security Act (42 U.S.C. § 1383(b)(1)(A)).

¹⁵ § 1631(b)(4) of the Social Security Act (42 U.S.C. § 1383(b)(4)).

Repayment Waivers

SSA may relieve recipients from their obligations to repay SSI debts—including overpayments resulting from fugitive ineligibility—if the individuals were not at fault in causing the overpayments and recovery would

- defeat the purpose of the SSI program;
- be against equity and good conscience; or
- impede efficient or effective administration of the program because of the small amount involved.¹⁶

REESTABLISHING SSI ELIGIBILITY

SSI recipients whose payments were suspended because of outstanding warrants may reestablish their eligibility once they satisfy their warrants. Recipients must provide SSA with documentation that the warrants were satisfied and—provided all other SSI eligibility factors are met—payments resume.¹⁷

In most cases, SSA uses its Modernized Supplemental Security Income Claims System (MSSICS) to electronically process SSI claims—including the reinstatement of payments after fugitive warrants are satisfied. Specifically, SSA staff enters the date the warrant was satisfied into MSSICS for the system to resume SSI payments the month after the warrant was resolved.

If law enforcement issues a warrant in error (for example, for the wrong person because of identity theft), MSSICS needs to be updated with this information. Specifically, MSSICS contains the following question for SSA staff to answer—“Warrant rescinded or withdrawn (Y/N).” When the question is answered “yes,” the system treats the warrant as if it never existed, and fugitive ineligibility is removed from the SSR. Further, any overpayments that were assessed based on the erroneous warrant are removed.

SCOPE AND METHODOLOGY

To accomplish our objective, we:

- Researched the Social Security Act and SSA’s regulations, policies and procedures related to fugitive felons and parole/probation violators.
- Obtained an extract from the OIG’s Allegation and Case Investigative System of fugitives identified through January 28, 2003.

¹⁶ § 1631(b)(1)(B) of the Social Security Act (42 U.S.C. 1383(b)(1)(B)); 20 CFR § 416.550.

¹⁷ SSA Policy Instruction EM-00010, section (E)(3)(e), February 17, 2000.

- Submitted the names, Social Security numbers, and dates of birth of the fugitives contained in OIG's Allegation and Case Investigative System to SSA's Enumeration Verification System. For the 88,208 individuals resulting from this verification process, we obtained SSI data from the SSR and separated them into 2 groups: (1) those whose records did not reflect fugitive ineligibility, despite their warrants (51,456 individuals) and (2) those whose records reflected SSI ineligibility because of their outstanding warrants (36,752 individuals).¹⁸
- Conducted a stratified random sample—150 records from each of the 2 groups described above—from our population of 88,208 individuals. See Appendix D for our sampling methodology and results.
- Worked with the OIG's Office of Investigations and SSA's Fugitive Felon Coordinators.
- Determined whether all SSI recipients—whose payments were suspended because they were fugitives—were recorded in OIG's Allegation and Case Investigative System.

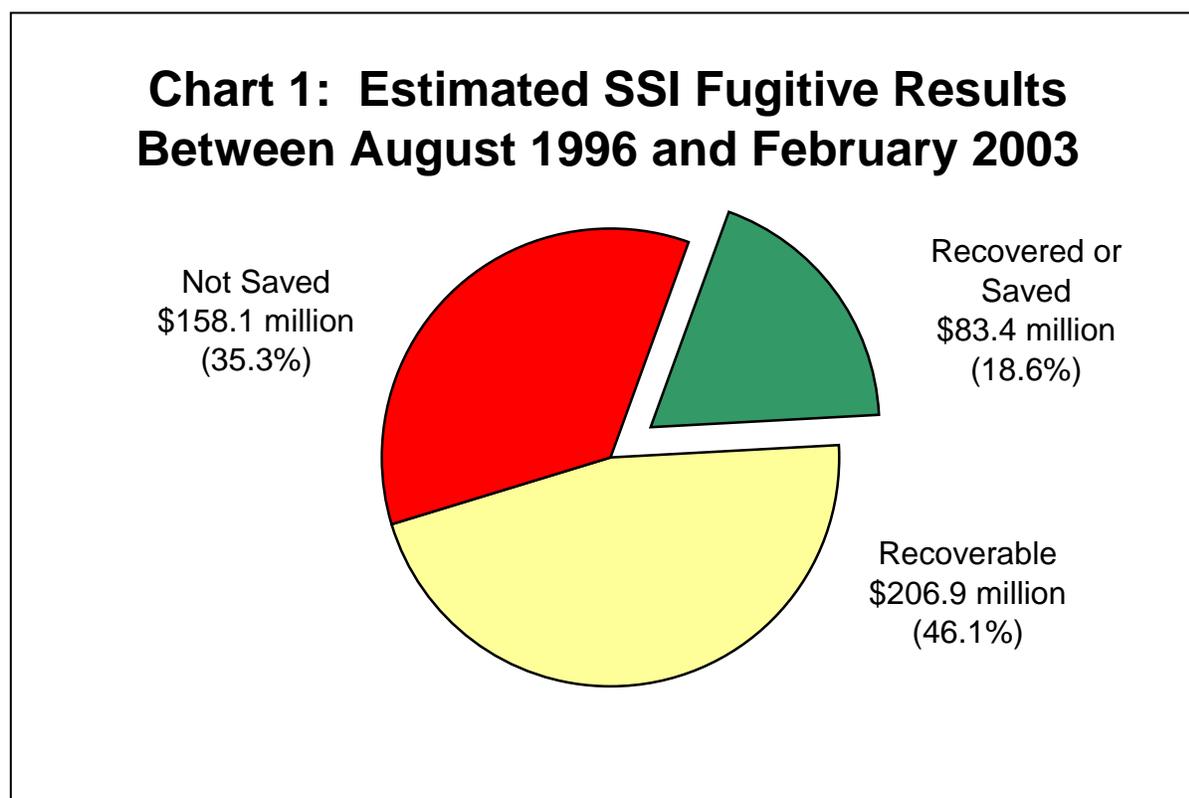
We conducted our audit between January and July 2003 in Boston, Massachusetts. We tested the fugitive data obtained for our audit for accuracy and completeness and determined it to be sufficiently reliable to accomplish our objectives. The entities audited were the Office of Income Security Programs under the Deputy Commissioner for Disability and Income Security Programs and SSA's FOs under the Deputy Commissioner for Operations. We conducted our audit in accordance with generally accepted government auditing standards.

¹⁸ The fugitive data were extracted from the Allegation and Case Investigative System as of January 28, 2003. We obtained the SSR data (code N25) used to separate the 88,208 records into the two groups in February 2003.

Results of Review

SSA realized savings to the SSI program by (1) suspending SSI payments to fugitives and (2) recovering a portion of overpayments resulting from fugitive ineligibility. However, additional savings could be realized through earlier detection of outstanding warrants and more diligent efforts to recover incorrect payments to fugitives.

We estimate the SSI payments issued to about 51,258 fugitives between August 1996 and February 2003—plus the SSI payments that were withheld while the warrants were outstanding—totaled \$448.4 million (as shown in the chart below).¹⁹



¹⁹ We assessed SSA's recovery efforts as of May 30, 2003 for overpayments that existed for the period August 1996 to February 2003.

SAVINGS ACHIEVED

Of the 300 cases we sampled,

- 192 (64 percent) had their SSI payments suspended due to outstanding warrants;²⁰ and
- 108 (36 percent) did not have their SSI payments suspended due to outstanding warrants. (See Appendix E for additional details on these 108 cases.)

Based on the results of our review of these 300 sample cases, we estimate that SSA

- Saved the SSI program \$83.4 million between August 1996 and February 2003. This included \$74.1 million in SSI payments that might otherwise have been paid had SSA not taken administrative action to suspend the monthly payments to fugitives and \$9.3 million in SSI overpayments recovered from fugitives.²¹
- Has the potential to save an additional \$206.9 million through recovery of fugitive overpayments for months up to and including February 2003. This includes \$98.3 million in SSI overpayments that were in active recovery plans, and \$108.6 million in SSI overpayments for which SSA had not made recovery decisions.²²
- Did not save/recover \$158.1 million in SSI payments issued to fugitives, despite their outstanding warrants. This included \$20.3 million for which SSA granted repayment waivers or deemed uncollectible; and \$125.9 million in SSI payments issued to recipients for months during which they were fugitives, but SSA did not pursue recovery because the Agency applied its administrative finality rules. Finally, it included \$11.9 million—identified based on our audit—which SSA did not detect but will not attempt to recover because of its administrative finality rules.

In addition to the overpayments/savings that resulted from fugitive ineligibility, SSA achieved savings to the SSI program by sharing address information with law enforcement—which resulted in the arrest and imprisonment of some fugitives. We

²⁰ Of these 192 fugitives, 180 were previously eligible for SSI payments because they were disabled. Further, 106 of these 180 disabled individuals (59 percent) had mental disabilities, including mental retardation and schizophrenic disorders.

²¹ For example, in March 2002, SSA stopped SSI payments to a recipient and assessed an overpayment totaling \$13,137, which included all SSI payments previously issued while he was considered a fugitive. Additionally, SSA saved \$4,360 by not issuing the monthly SSI payments from April 2002 through November 2002, while the individual's warrant remained outstanding.

²² Because these individuals previously qualified for SSI payments based on their limited income and resources, they may not have the ability to repay their debt. Therefore, although a significant portion of overpayments to fugitives are technically subject to recovery efforts, the actual recovery of these overpayments may never be realized.

estimate that SSA saved approximately \$19.5 million by withholding the continuing monthly SSI payments from these individuals from the time they were incarcerated through February 2003.

CASES WITH SSI INELIGIBILITY RESULTING FROM OUTSTANDING WARRANTS

A total of 192 individuals in our sample were ineligible for SSI payments because of their outstanding warrants.²³ SSA took action to suspend SSI payments an average of 41 days after the OIG's Office of Investigations sent the fugitive information to the responsible FOs.²⁴ These fugitives received a total of \$1.4 million in SSI payments while they were fugitives.²⁵ Of this amount,

- \$514,448 (36 percent) was not subject to recovery efforts by SSA because the Agency applied its administrative finality rules, and
- \$898,165 (64 percent) was subject to recovery efforts by SSA.

Of the \$1.4 million paid to fugitives, \$121,030 (8.6 percent) was discovered as a result of our audit. One reason for the undetected overpayments concerns the action SSA took once fugitives satisfied their warrants. Law enforcement agencies use the terms "rescinded" or "withdrawn" to indicate that warrants were satisfied. However, SSA staff may interpret this to mean that the warrants were nullified as if they never existed when in fact, the warrants were valid from the dates of issuance to the dates they were satisfied.

For example, an SSI recipient in our sample had a warrant issued on February 29, 2000. SSA took administrative action in November 2002 to suspend SSI payments and assess overpayments for prior months incorrectly paid to the fugitive. On November 25, 2002, the individual satisfied her warrant. As a result, SSA updated the SSR using the MSSICS program by indicating the warrant was "rescinded/withdrawn." This action removed prior SSI ineligibility determinations and overpayment assessments from the SSR. Because the overpayments were effectively deleted, SSA did not pursue recovery of the funds.

However, our review of this case found that the individual's warrant was active from February 2000 to November 2002, and she was therefore ineligible for SSI payments. As a result of our audit, SSA reevaluated this case and assessed overpayments totaling \$14,874 that might otherwise have gone undetected.

²³ Eleven of these individuals appealed SSA's determinations of fugitive ineligibility. In all 11 cases, the appeal decisions were unfavorable for the fugitives.

²⁴ According to SSA instruction EM-02046 (dated April 22, 2002), "SSA field office personnel are to handle these incoming receipts as a priority workload. Processing of this workload must occur within 30 days of receipt from OIG."

²⁵ This includes all SSI payments issued between August 1996 (or the month in which the warrant was issued, if later) and February 2003 (or the month in which the warrant was satisfied, if earlier).

Based on the results of our sample cases, we estimate that SSA incorrectly removed ineligibility determinations for approximately 2,205 fugitives when those individuals satisfied their warrants. (See Appendix F for additional reasons why SSA did not identify some fugitive cases.)

SSI PAYMENTS TO FUGITIVES NOT SUBJECT TO RECOVERY EFFORTS

Although 54 individuals in our sample received \$514,448 in SSI payments for months during which they had outstanding warrants, SSA may not recover these amounts due to the Agency's application of its administrative finality rules.

Administrative Finality's Impact on the Identification and Recovery of SSI Payments to Fugitives

In 42 cases, SSA discovered the warrants more than 24 months after they were issued. Because SSA determined fraud or similar fault did not exist, the Agency limited its retroactive reopening of eligibility determinations to the 24 months prior to the date the Agency discovered the warrants. In total, \$446,288 in SSI payments to these fugitives was not recorded as overpayments and recovery was not pursued.

If SSA had discovered these 42 warrants within 24 months of their issuance, administrative finality would not have been applied and all SSI payments issued while the warrants were outstanding could have been assessed as overpayments and recovery could have been pursued. For example, in June 2002, SSA took action on an SSI recipient's record based on a warrant that was issued for him on June 24, 1994. Because SSA determined fraud or similar fault did not exist, the Agency limited the overpayment period to 24 months—July 2000 to June 2002. Therefore, SSA only assessed \$13,450 in recoverable overpayments. In July 2002, the warrant was satisfied and the individual began receiving SSI payments again.²⁶ All other SSI payments issued prior to July 2000—totaling \$15,219—were not assessed as overpayments and recovery was not pursued.²⁷

Since SSA is still in the process of obtaining comprehensive fugitive data from law enforcement, the Agency has determined it will continue to apply its administrative finality rules and limit the amount of overpayments that are assessed to fugitives.²⁸ However, the effects of administrative finality should diminish with time once SSA regularly receives and processes fugitive data from most law enforcement agencies.

For instance, the first warrant file SSA receives from a particular law enforcement agency may include warrants issued back to August 1996 (or earlier)—but SSA will

²⁶ SSA did not adjust this individual's SSI payment to recover the overpayment until January 2003.

²⁷ This includes all SSI payments issued between December 1997 (the first month for which an SSI payment was issued to this individual) and June 2000.

²⁸ SSA Policy Instruction EM-00010, section (E)(3)(f), February 17, 2000.

apply administrative finality rules and limit retroactive SSI ineligibility and overpayment assessments to 24 months. Subsequent files received from this law enforcement agency and processed by SSA would include recent warrant data—allowing SSA to recognize fugitive ineligibility as of the dates the warrants were issued. As a result, SSA will be able to assess overpayments for all months during which warrants were outstanding.

Consistent Application of Administrative Finality Rules for Fugitives

In 9 cases, SSA did not timely recognize additional months as overpayments even though such action would have been permissible under the Agency's administrative finality rules. However, as of the date of our audit, more than 24 months had elapsed and the reopening of these prior determinations was precluded under SSA's application of its administrative finality rules. Consequently, SSA lost the opportunity to recover \$30,904 in SSI payments that were issued to these fugitives over an average period of 6 months.

For example, in one case, SSA confirmed that a warrant—issued on October 23, 1997 for an SSI recipient—remained outstanding as of July 1998. SSA suspended payments in July 1998 but did not assess an overpayment for the period October 1997 to June 1998. However, since we discovered this case in February 2003 as a result of our audit, more than 24 months had elapsed and—because of SSA's application of its administrative finality rules—the Agency lost the opportunity to recover the \$5,824 in SSI payments issued between October 1997 and June 1998.

Consistent Application and Impact of Administrative Finality Rules for Fugitives

The remaining 3 cases had overpayments in both categories described above. SSA did not recognize a total of \$25,732 in SSI payments as overpayments because of its administrative finality rules. In addition, \$11,524 was not assessed as overpayments, even though such action would have been permissible under SSA's application of administrative finality rules.

Administrative Finality Limits

We found that the Agency's administrative finality rules were not consistently applied in all cases. We confirmed with SSA staff that seven individuals in our sample—identified during our audit—were assessed overpayments (totaling \$53,700) that exceeded the time periods allowed under the Agency's administrative finality rules. Based on our sample, we estimate that \$13.2 million in SSI overpayments was charged to fugitives in excess of administrative finality limits.

If SSA does not detect cases in which overpayments have been assessed beyond the time periods allowed under its administrative finality rules, these overpayments are included on the Agency's records as overpayments subject to recovery efforts.

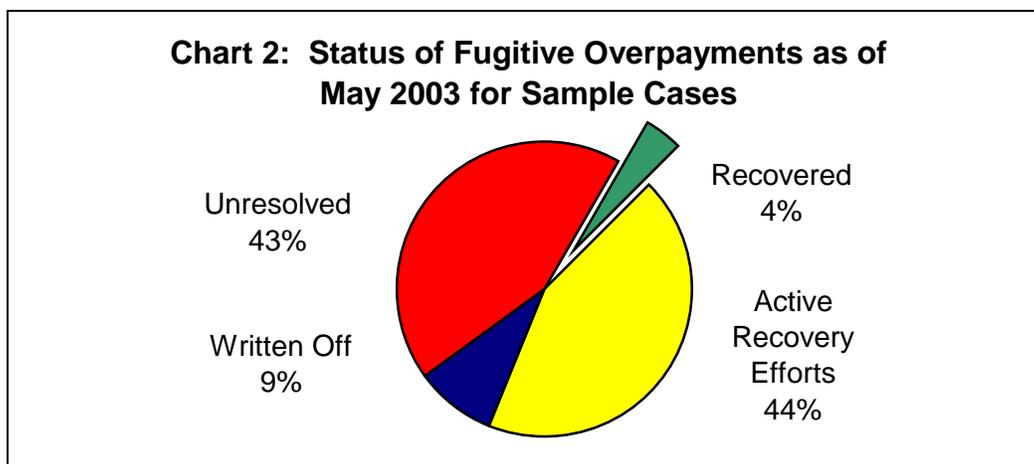
Inconsistent application of administrative finality rules can result in inequity among SSI recipients. Even if SSA has not determined that fraud or similar fault exists, some recipients may be held responsible for repayment of SSI overpayments, while others are not assessed overpayments for periods before the prior 24 months.

SSI PAYMENTS TO FUGITIVES SUBJECT TO RECOVERY EFFORTS

For our sample cases, we quantified the amount of overpayments charged to fugitives. We found that SSA paid \$898,165 in SSI payments to 171 fugitives in our sample through February 2003 that were subject to recovery efforts.²⁹ This included

- \$866,396 in overpayments that were recorded on the SSR as of May 30, 2003, and
- \$31,769 in overpayments for periods up to February 2003 that were discovered and posted to the SSR after May 30, 2003.³⁰

Chart 2 shows the status of the \$866,396 in recoverable overpayments that existed on the SSR as of May 30, 2003.



SSA notified the fugitives of their overpayments and initiated recovery efforts an average of 32 days after the Agency recorded the overpayments on the SSR. As of May 30, 2003:

²⁹ Although 192 individuals in our sample were ineligible for SSI payments because of their fugitive status, only 171 were overpaid SSI funds subject to recovery efforts. The remaining 21 individuals were not overpaid—despite their outstanding warrants—for various reasons. For example, some individuals had their SSI applications denied once SSA discovered the warrants, and others were already ineligible for reasons unrelated to their outstanding warrants. As a result, SSA did not issue any payments incorrectly.

³⁰ Of this amount, \$7,101 in overpayments (22 percent) was detected and assessed as a result of our audit. The remaining \$24,667 (78 percent) in fugitive overpayments assessed after May 30, 2003 was the result of routine processing of fugitive cases that were ongoing during our audit.

- SSA had successfully recovered \$37,082 (4 percent) incorrectly paid to fugitives. This included \$29,690 recovered by withholding a portion of current SSI payments and \$4,222 recovered by withholding a portion of current OASDI benefits. An additional \$3,170 was refunded to SSA.
- SSA was actively pursuing recovery of \$376,859 (44 percent) incorrectly paid to fugitives. This included \$267,129 scheduled for recovery from future SSI payments, \$52,014 scheduled for recovery from future OASDI benefits, and \$13,545 scheduled for recovery through repayment agreements with the overpaid fugitives.³¹ Finally, it included \$44,171 in fugitive overpayments for which SSA was actively pursuing recovery as of May 30, 2003 by issuing billing notices to the individuals.
- SSA wrote off \$76,455 (9 percent) incorrectly paid to fugitives. This included \$36,329 that SSA deemed uncollectible and \$40,126 in which SSA waived the fugitives' repayment obligations.
- A total of \$376,000 (43 percent) incorrectly paid to fugitives remained unresolved.

UNRESOLVED OVERPAYMENTS TO FUGITIVES

Overpayments totaling \$376,000 remained unresolved as of May 30, 2003. This included

- \$283,183 for which recovery efforts have been unsuccessful because the individuals were unable or unwilling to repay their debts;
- \$85,796 for which SSA had not made recovery decisions (or made inappropriate decisions); and
- \$7,021 for which SSA's decisions on waiver requests were pending.

Recovery Unsuccessful

In our sample, 50 individuals were unable or unwilling to repay \$283,183 in overpayments that resulted from fugitive ineligibility. This included

- 21 individuals with overpayments totaling \$120,423 whose records reflected "unable/unwilling to repay;"
- 17 individuals with overpayments totaling \$99,878 whose records reflected repayment agreements, but more than 90 days had elapsed since the

³¹ At the established rates of recovery for our sample cases (an average of \$34 per month), it will take SSA an average of about 157 months (13 years) to fully recover the debts. The time periods required to recover the debts ranged from 4 months to 75 years, with a median of 7 years.

agreements were recorded on the SSR and no payments were remitted to SSA as of May 30, 2003;

- 10 individuals with overpayments totaling \$61,622 who had not responded to SSA's billing notices and contact attempts; and
- 2 individuals with overpayments totaling \$1,260 who were residing in nursing facilities and were unable to repay their overpayments.

No Recovery Decisions

For 23 individuals in our sample—with overpayments totaling \$85,796—SSA had not initiated recovery decisions as of May 30, 2003.

- 5 individuals satisfied their warrants and regained eligibility for SSI payments as of May 30, 2003. SSA could pursue recovery of the \$13,045 overpaid to these individuals by withholding a portion of their current SSI payments. On average, these overpayments were 3 months old.
- 18 individuals were not eligible for SSI payments as of May 30, 2003. However, 6 individuals—whose overpayments were an average of 13 months old—were receiving OASDI benefits from which SSA could pursue recovery of \$12,516 in overpayments. For the remaining 12 individuals (whose overpayments were an average of 11 months old), SSA had not initiated collection activity as of May 30, 2003 to recover the \$60,235 incorrectly paid to them.

Pending Requests for Waivers

Two fugitives in our sample requested that SSA waive their obligations to repay a total of \$7,021 incorrectly paid to them. As of May 30, 2003, the Agency had not made decisions to approve or deny these waiver requests. One overpayment was 6 months old and the other was 5 months old.

FUNDS SAVED THROUGH CONTINUED SUSPENSION OF SSI PAYMENTS

In addition to the SSI funds the Agency determined were incorrectly paid to fugitives, SSI program savings were achieved by withholding the recurring monthly SSI payments from fugitives while their warrants remained outstanding.

Through February 2003, we estimate that approximately \$290,728 in SSI funds would have been paid to 81 individuals in our sample if SSA had not suspended their SSI payments based on their outstanding warrants. This is approximately \$3,589 per individual for an average period of 8 months.

FINAL OUTCOME OF FUGITIVE CASES

Although SSA achieves program savings by suspending payments to fugitives, we found that 61 of the 192 sample cases (with fugitive ineligibility) satisfied their warrants

and were receiving monthly SSI payments as of February 2003. Projecting our sample results to the population, we estimate that 16,220 fugitives—whose SSI payments were previously suspended—satisfied their warrants and were again receiving SSI payments as of February 2003. Table 2 summarizes the SSI payment status of the 192 cases in our sample for which SSI ineligibility occurred because of outstanding warrants.

| Table 2 | |
|--|------------------------------|
| Status as of February 2003 | Number of Individuals |
| Ineligible due to Outstanding Warrants | 86 |
| Currently Receiving SSI Payments | 61 |
| Ineligible for Other Reasons ³² | 30 |
| Ineligible due to Imprisonment | 15 |
| TOTAL | 192 |

SSI Funds Subject to Recovery Efforts

The 61 individuals who were receiving monthly SSI payments as of February 2003 were overpaid \$339,917 because of prior fugitive ineligibility. As of May 30, 2003, SSA

- established recovery arrangements by withholding a portion of current SSI payments to recover \$262,088 (77 percent);
- recovered \$26,309 (8 percent);
- deemed \$21,469 was uncollectible (6 percent); and
- had not made collection decisions for \$10,626 (3 percent).

The remaining overpayments—\$19,425 (6 percent)—were not detected and recorded on the SSR until after May 30, 2003.

SSI Funds Not Subject To Recovery Efforts

In addition to the SSI payments that were subject to recovery efforts by SSA, 19 of the 61 individuals (who satisfied their warrants and were collecting SSI payments in February 2003) received an additional \$194,551 while they were fugitives that may not be recovered. This included

- 16 cases in which SSA discovered the warrants more than 24 months after they were issued. Under its administrative finality rules, the Agency limited its retroactive reopening of eligibility determinations to the 24 months prior to the dates the Agency discovered the warrants. In total, \$162,571 in SSI payments to

³² Other reasons include ineligibility due to excess income or resources, and findings that the individuals were not disabled.

these fugitives was not determined to be overpayments and recovery was not pursued.

- 2 cases in which SSA did not timely recognize additional months as overpayments even though such action would have been permissible under the Agency's application of its administrative finality rules. However, as of the date of our audit, more than 24 months had elapsed and the reopening of these prior determinations was precluded under the application of SSA's administrative finality rules. Consequently, SSA lost the opportunity to attempt recovery of \$6,764 in SSI payments issued to these fugitives.
- 1 case in which both situations above occurred. In total, \$17,086 in SSI payments to this fugitive was not determined to be an overpayment and recovery was not pursued. In addition, because SSA did not timely recognize additional months as overpayments, the Agency lost the opportunity to attempt recovery of \$8,130 in SSI payments because of its application of administrative finality rules.

Projecting the results of our sample to the population, we estimate that approximately 5,047 fugitives—who regained eligibility for monthly SSI payments as of February 2003—were not considered by SSA to have been overpaid a total of \$50 million issued to them while their warrants were outstanding. Although these individuals were receiving SSI payments in February 2003 from which SSA could have pursued recovery, SSA applied its administrative finality rules and did not consider the \$50 million to be incorrect payments subject to recovery efforts.

OFFENSES COMMITTED BY THE FUGITIVES

SSI recipients, found ineligible for payments because of their outstanding warrants, were wanted for serious crimes—including burglary, robbery and assault. Additionally, 39 of the 63 recipients in our sample whose payments were suspended for parole or probation violations were also wanted for serious crimes.

Table 3 summarizes the types of offenses for which the individuals in our sample (for whom SSI payments were suspended) were wanted, and Table 4 summarizes the crimes of the parole and probation violators. Combining the statistics in these two tables shows that 130 of the 192 fugitives (68 percent) were wanted for serious crimes.

| Table 3 | |
|---|------------------------------|
| Offense For Sample Cases | Number of Individuals |
| Burglary, Larceny, Theft, Robbery, Drugs, Forgery, Fraud, and Assault | 91 |
| Probation/Parole Violation | 63 |
| Obstructing Justice | 20 |
| Other Offenses | 10 |
| Unknown Felonies | 5 |
| Traffic Offenses ³³ | 3 |
| TOTAL | 192 |

For the 63 individuals whose warrants were the result of parole/probation violations, we attempted to determine the original offenses for which they were on parole or probation. If we could not determine the original offense, we attempted to determine the offense for which the individual was considered in violation of parole or probation. For example, one SSI recipient was placed on probation based on an initial charge of assault; whereas another recipient violated his probation by committing robbery (but we could not determine the original offense for which the individual was placed on probation).

| Table 4 | |
|---|--|
| Offense Committed by Parole or Probation Violators | Number of Parole or Probation Violators |
| Burglary, Larceny, Theft, Robbery, Drugs, Forgery, Fraud, and Assault | 39 |
| Unknown | 13 |
| Traffic Offenses | 9 |
| Obstructing Justice | 1 |
| Public Peace | 1 |
| TOTAL | 63 |

³³ Traffic offenses can include charges of driving under the influence of drugs/alcohol, and/or hit-and-run.

Conclusions and Recommendations

Overall, SSA has achieved savings by detecting, recovering and preventing SSI payments to fugitives. However, to improve SSA's debt recovery performance and assist the Agency in meeting its strategic goal of increasing the percent of outstanding debt that is in a collection arrangement, we recommend that SSA

1. Encourage staff to resolve overpayments to fugitives when they are recorded on the SSR.
2. Provide guidance, training and oversight of administrative finality decisions to ensure the rules are applied uniformly to all fugitives.
3. Revise MSSICS to clarify the distinction between a satisfied warrant and a rescinded/withdrawn warrant.
4. Re-evaluate fugitive cases that appear to have been improperly coded in MSSICS.
5. Continue to work with State law enforcement agencies to obtain comprehensive fugitive data to process through SSA's systems on a routine basis.

AGENCY COMMENTS

SSA agreed with our recommendations. Specifically, SSA will issue new POMS instructions and provide additional training regarding fugitive processing. The Agency agreed to re-evaluate cases that appeared to have been improperly coded in MSSICS. Also, SSA will continue to follow-up with States that are not fully reporting warrant data to the Agency. (See Appendix G for the Agency's comments.)

OASDI BENEFITS TO FUGITIVES

Although section 1611(e)(4) of the Social Security Act (42 U.S.C. § 1382(e)(4)) prohibits SSI payments to fugitives, there is currently no prohibition for OASDI benefits under Title II of the Social Security Act.³⁴ As a result, individuals may receive OASDI benefits even though they are fugitives wanted by law enforcement. In August 2000, we recommended that SSA pursue legislation prohibiting payment of OASDI benefits to fugitives.³⁵

Twenty-nine fugitives in our sample were ineligible for SSI payments in February 2003 but remained eligible for OASDI benefits. In total, these 29 fugitives were paid \$14,557 in OASDI benefits for February 2003. Projecting our results to the population of 88,208 fugitives, we estimate that approximately 7,988 individuals were ineligible for SSI payments in February 2003, but were eligible for OASDI benefits totaling \$4 million. If the Social Security Act were amended to preclude payment of OASDI benefits to fugitives, SSA could save approximately \$48 million over the next year by withholding the monthly OASDI benefits to these 7,988 fugitives.

Furthermore, in our August 2000 audit report, we noted that about 40 percent of the fugitives in that review were concurrently receiving benefits under both the SSI and OASDI programs. We also reported that although the OASDI program is an entitlement program in which beneficiaries have paid into the Social Security trust funds, we believe that SSA should not provide OASDI benefits to fugitive felons. These benefit payments may finance a potentially dangerous fugitive's flight from justice. Thus, under the current statutory provisions, fugitives are prohibited from receiving one type of benefit payment administered by SSA but can continue to receive a second type of benefit payment. Further, both OASDI and SSI benefit payments are suspended for prisoners. As a result, a prisoner cannot receive OASDI benefits, but a fugitive felon can.

³⁴ On April 2, 2003, the House of Representatives passed H.R. 743, the Social Security Protection Act of 2003. Section 203 of this legislation would deny OASDI benefits to fugitives. However, the legislation was still pending in the Senate as of September 2, 2003.

³⁵ *Old-Age, Survivors and Disability Insurance Benefits Paid to Fugitives* (A-01-00-10014), August 2000.

Appendices

Fugitive Data Received from Law Enforcement

As of November 2002, the Social Security Administration (SSA) received fugitive and parole/probation violation data for 37 States. This included

- 12 States that reported fugitive data directly to SSA based on agreements established with the Agency, and
- 25 States (including the District of Columbia) that reported fugitive data to the National Crime Information Center (NCIC). Subsequently, SSA obtained this data through its agreement with the NCIC.¹

For the remaining 14 States, SSA did not obtain complete fugitive data. The following table illustrates the status of fugitive warrant reporting for each State (and the District of Columbia) as of November 2002.

| State | Fugitive Data Reported to NCIC | Fugitive Data Reported to SSA | Fugitive Data Not Reported to SSA |
|----------------------|--------------------------------|-------------------------------|-----------------------------------|
| Alabama | | | ✓ |
| Alaska | | ✓ | |
| Arizona | | | ✓ |
| Arkansas | ✓ | | |
| California | | ✓ | |
| Colorado | ✓ | | |
| Connecticut | | | ✓ |
| Delaware | | ✓ | |
| District of Columbia | ✓ | | |
| Florida | ✓ | | |
| Georgia | ✓ | | |
| Hawaii | | | ✓ |
| Idaho | ✓ | | |
| Illinois | | ✓ | |
| Indiana | | | ✓ |
| Iowa | | ✓ | |
| Kansas | ✓ | | |
| Kentucky | ✓ | | |
| Louisiana | ✓ | | |
| Maine | ✓ | | |
| Maryland | | | ✓ |
| Massachusetts | | ✓ | |

¹ Additionally, SSA received data from 4 local law enforcement agencies (New York City, New York; Baltimore, Maryland; Philadelphia, Pennsylvania and Montgomery County, Pennsylvania).

| State | Fugitive Data Reported to NCIC | Fugitive Data Reported to SSA | Fugitive Data Not Reported to SSA |
|----------------|--------------------------------|-------------------------------|-----------------------------------|
| Michigan | | | ✓ |
| Minnesota | | | ✓ |
| Mississippi | ✓ | | |
| Missouri | ✓ | | |
| Montana | | | ✓ |
| Nebraska | ✓ | | |
| Nevada | | | ✓ |
| New Hampshire | ✓ | | |
| New Jersey | | ✓ | |
| New Mexico | ✓ | | |
| New York | | ✓ | |
| North Carolina | ✓ | | |
| North Dakota | ✓ | | |
| Ohio | | ✓ | |
| Oklahoma | ✓ | | |
| Oregon | | | ✓ |
| Pennsylvania | | ✓ | |
| Rhode Island | ✓ | | |
| South Carolina | | | ✓ |
| South Dakota | | | ✓ |
| Tennessee | | ✓ | |
| Texas | ✓ | | |
| Utah | ✓ | | |
| Vermont | ✓ | | |
| Virginia | ✓ | | |
| Washington | | ✓ | |
| West Virginia | ✓ | | |
| Wisconsin | | | ✓ |
| Wyoming | ✓ | | |
| TOTAL | 25¹ | 12 | 14 |

Note 1: Five States—Idaho, Maine, North Dakota, Vermont, and West Virginia—provided NCIC with a portion of their warrant data. For example, warrants related to felony charges were provided, but parole/probation violations were not.

FUGITIVE DATA NOT OBTAINED BY SSA

Although 14 States did not provide fugitive data to SSA directly as of November 2002, these States reported some of their fugitive data to NCIC. SSA was attempting to obtain complete fugitive data from these States, as follows:

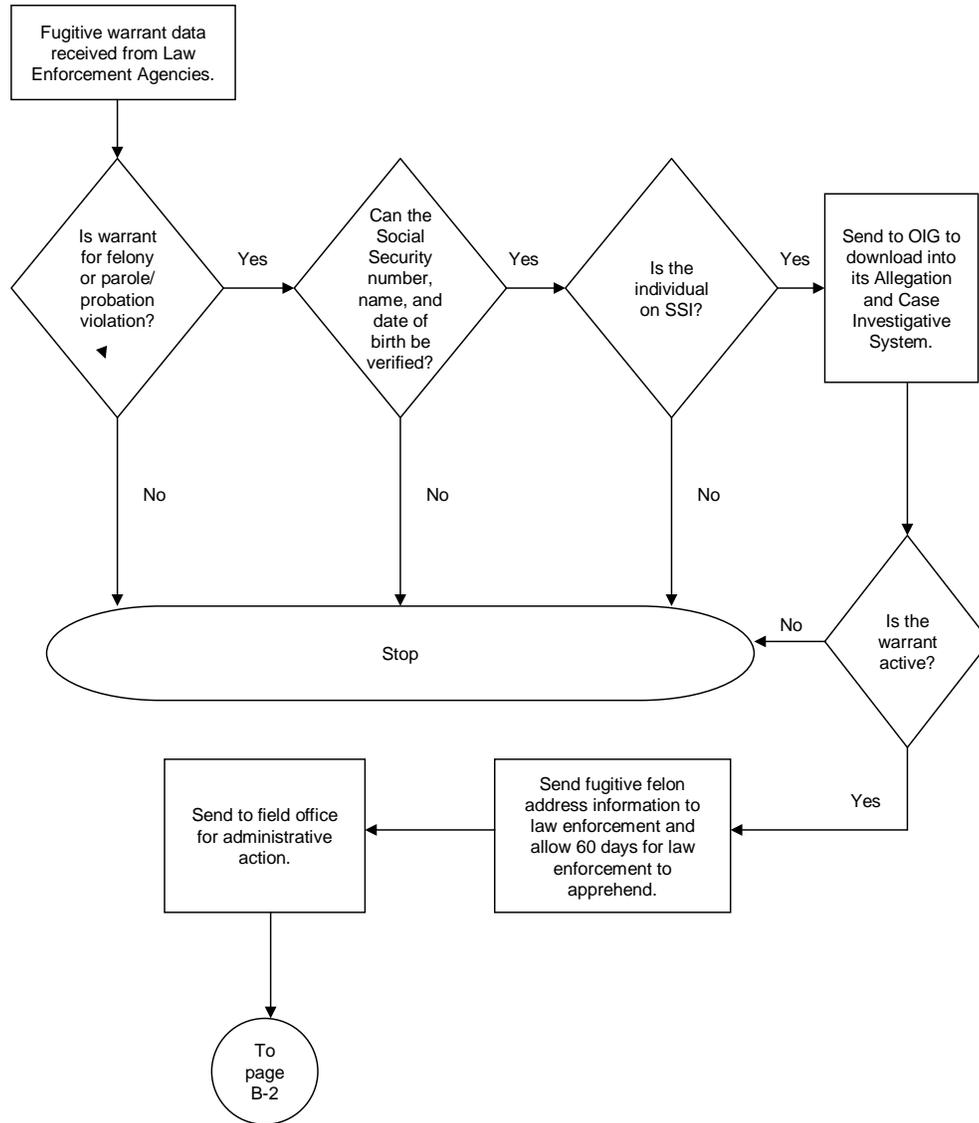
- 10 States (Alabama, Connecticut, Hawaii, Indiana, Maryland,² Michigan, Oregon, South Carolina, South Dakota, and Wisconsin) had agreements to provide fugitive data to SSA, but had not yet done so;
- 3 States (Arizona, Montana, and Nevada) were in negotiations with SSA to establish reporting agreements; and
- 1 State (Minnesota) was unable to provide data because State laws prohibit the release of information to non-law enforcement agencies.

Based on our analysis of SSI recipient data, we estimate that SSA had not received up to 16 percent of nationwide fugitive data.³

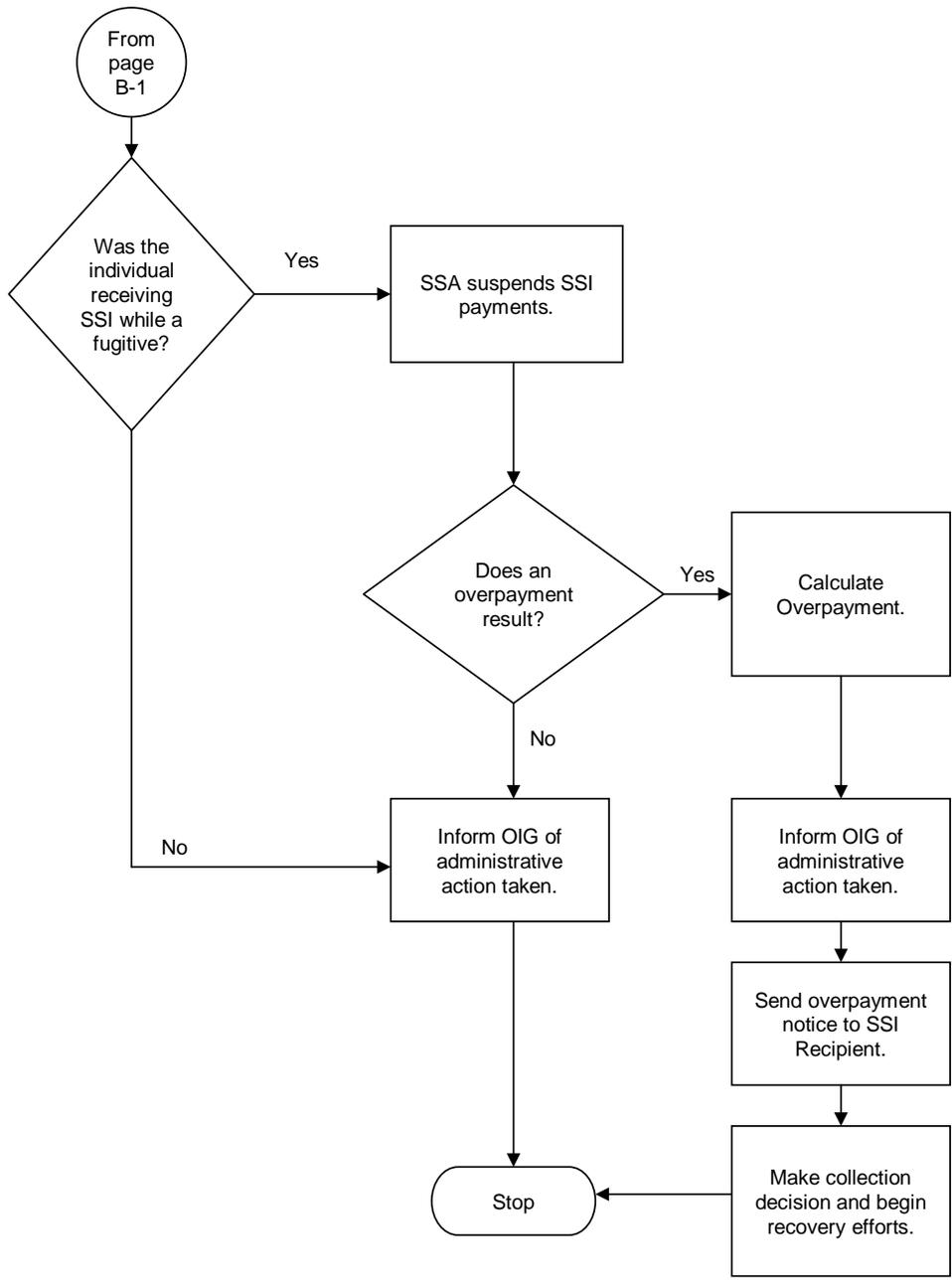
² Although SSA did not receive State-wide fugitive data from Maryland, the Agency did receive data for Baltimore, Maryland.

³ Using the data in Table 7.B1 of the Annual Statistical Supplement-Social Security Bulletin-2002, we determined that, as of December 2001, (a) 1.07 million individuals were receiving SSI payments in the 14 States from which SSA did not obtain fugitive data and (b) 6.69 million individuals were receiving SSI payments nationwide. Therefore, 16 percent of SSI recipients lived in States which did not report fugitive data. Our estimate that SSA did not obtain up to 16 percent of the fugitive data assumes the proportion of fugitive warrants in these 14 States to all States is comparable to the proportion of SSI recipients residing in these States to the total SSI population. This estimate also assumes the 14 States did not provide any fugitive warrant data to NCIC.

Flowchart of Fugitive Process¹



¹ The flowchart illustrates the steps performed in the SSI fugitive suspension process. The flowchart does not include steps performed in the Fugitive Felon Automation Program which was implemented in April 2003. (See acronym list at beginning of report, if necessary.)



Administrative Finality

Under the Social Security Administration's (SSA) regulations, determinations/decisions made by the Agency that affect a Supplemental Security Income (SSI) recipient's eligibility and/or payment amount are final when they are made.¹ These regulations—which outline a concept referred to as administrative finality—restrict when determinations can be reopened and revised.

When SSA obtains new information about an SSI recipient, the Agency considers its rules of administrative finality to determine the extent to which past periods may be changed. Administrative finality allows a determination made under the SSI program to be reopened and revised

- within 1 year of the initial determination for any reason;
- after 1 year—but within 2 years—upon a finding of "good cause;" or
- at any time, if the determination or decision was procured by fraud or "similar fault."

GOOD CAUSE

Good cause exists when

- new and material evidence is submitted that shows facts which could result in a conclusion different from that previously reached;
- there is a clerical error that resulted in an incorrect decision; or
- there is an error on the face of the evidence which resulted in an incorrect decision.

FRAUD AND SIMILAR FAULT

Fraud exists when any person knowingly, willfully and with intent to defraud makes or causes a false statement to be made, or conceals a fact material to payment amount or eligibility. Fraud investigations are conducted by SSA's Office of the Inspector General, Office of Investigations.²

¹ 20 CFR §§ 416.1487-1489.

² SSA's Program Operations Manual System, section SI 04070.020(A)(1).

Similar fault is comparable to fraud, except that the intent to defraud cannot be established. In contrast to fraud determinations, SSA personnel determine whether similar fault exists. The criteria to establish similar fault are:³

- the changed event is material and will create a new or additional overpayment;
- a wide discrepancy exists between the new data and the data reported;⁴
- the SSI recipient knowingly concealed events or changes, or knowingly neglected to report events or changes that affect payments;
- the event can and will be verified; and
- the case does not involve fraud.

DILIGENT PURSUIT

Under the Agency's application of its administrative finality rules, SSA may reopen and revise a prior determination within the time periods described above. Also, reopening may be possible after those time periods have expired, if the Agency began an investigation into whether to revise the determination before the applicable time period expires. The investigation is a process of gathering facts after a determination has been reopened to determine if a revision of the determination is applicable.

If SSA diligently pursued the investigation to its conclusion, the Agency may revise the determination—regardless of whether the revision is favorable or unfavorable to the recipient. "Diligently pursued" means that in light of the facts and circumstances of a particular case, the necessary action was undertaken and carried out as promptly as the circumstances permitted. Diligent pursuit will be presumed to have been met if the Agency concludes the investigation and (if necessary) revises the determination within 6 months from the date the investigation began.

Conversely, if SSA did not diligently pursue the investigation to its conclusion, the Agency will only revise the determination if a revision is applicable and if it will be favorable to the recipient.⁵

³ SSA's Program Operations Manual System, section SI 04070.025(A)(2).

⁴ Per SSA's Program Operations Manual System, section SI 04070.025(A)(2), the term "wide discrepancy" cannot be defined in terms of monetary amount. It is a matter of judgment that depends on how recently the reported event occurred, how long it went unreported or under-reported as well as the amount and frequency.

⁵ 20 CFR § 416.1491.

PRIOR OIG AUDIT

OIG issued its report, *Performance Measure Review: Reliability of the Data Used to Measure the Dollar Accuracy of Old-Age and Survivors Insurance Payment Outlays* (A-02-98-01001) in December 1999. Although the report is concerned with Old-Age and Survivors Insurance benefits, it contains information relating to administrative finality which SSA also applies to SSI payments.⁶

In the report, we noted that SSA's payment accuracy rate excludes payment errors subject to administrative finality. We recommended that SSA "Include all error cases in the calculation of the accuracy rate." In response, Agency officials stated

SSA's regulations on administrative finality provide that determinations and decisions made by the Agency can be reopened and revised only for certain reasons and within certain periods of time. Since these determinations are the final decisions of the Commissioner, they are presumed to be correct and payments subject to administrative finality cannot be adjusted. No overpayment exists or should be computed for the period. If these cases were counted as an error there would be a presumption that SSA would take corrective action.

We believe there is little utility to reporting situations that are not subject to correction and including these cases as a measure of accuracy would distort the validity of the data. OQA [Office of Quality Assurance and Performance Assessment] data show that inclusion of administrative finality would have virtually no impact on the underpayment dollar accuracy rate and minimal impact on the overpayment dollar accuracy rate. It should be noted that OQA does track these cases to establish trends and make recommendations for improvement.

In this prior report, we responded that "The purpose of the Stewardship Review is to provide an assessment of the accuracy of payments in the Title II program. Although payments subject to administrative finality cannot be adjusted, they are erroneous payments. These payments should be included in the calculation of the Title II rate since their inclusion would result in a better representation of the accuracy of Title II payments."

⁶ Old-Age and Survivors Insurance benefits—administered by SSA—are authorized under Title II of the Social Security Act, §§ 201 et seq. of the Social Security Act (42 U.S.C. §§ 401 et seq.).

Sampling Methodology and Results

METHODOLOGY

We obtained an extract from the Office of the Inspector General, Office of Investigations' Allegation and Case Investigative System of 88,208 fugitives with Social Security numbers that verified through the Social Security Administration's (SSA) Enumeration Verification System. These 88,208 fugitives were identified through January 28, 2003.

From SSA, we obtained Supplemental Security Record (SSR) data for these 88,208 individuals to determine whether Supplemental Security Income (SSI) ineligibility occurred because of the outstanding warrants. We separated the results into 2 groups, sampling 150 cases from each (for a total sample size of 300 cases).

- Stratum A consisted of 51,456 individuals whose records did not reflect fugitive ineligibility (code N25), despite their warrants.
- Stratum B consisted of 36,752 individuals whose records reflected SSI ineligibility because of their outstanding warrants.

For the sampled records, we:

1. Determined the number of individuals who were overpaid SSI funds because of their outstanding warrants.
2. Determined whether the fugitive suspensions were processed accurately.
3. Calculated the average length of time that elapsed from (a) the dates the cases were sent to SSA field offices for action to the dates the field offices made determinations of ineligibility, and (b) the dates SSA determined retroactive fugitive ineligibility occurred to the dates SSA took action to notify the individuals of the overpayments.
4. Quantified the amount of overpayments charged to fugitives and determined the disposition of those overpayments.
 - For overpayments that were unresolved, we calculated the age of these unresolved overpayments. We also determined whether recovery was available—but not pursued—from Old-Age, Survivors and Disability Insurance (OASDI) benefits or SSI payments.

- For overpayments that were in recovery arrangements (by withholding a portion of current SSI payments or OASDI benefits, or through repayment agreements with the debtors), we calculated the length of time required to fully recover the debts.
5. Calculated the length of time in which fugitive ineligibility—and any corresponding overpayments—was not recognized because SSA applied its administrative finality rules. We calculated the amount of overpayments that could not be recognized (and therefore were not subject to recovery) because SSA did not diligently take action based on the warrant information.
 6. Determined the number of fugitives whose payments remained suspended after SSA took administrative action based on the warrant information (resulting in savings to the SSI program) and the length of time that suspension applied. We also estimated the amount of SSI payments that would have been paid had payments to these individuals not been withheld because of their outstanding warrants.
 7. Determined the number of recipients found ineligible for SSI payments because of incarceration after fugitive suspension occurred—and the number of months they were ineligible.
 8. Determined whether reinstatements were processed accurately and were supported by documentation from law enforcement certifying that the warrants were satisfied.
 9. Determined the SSI eligibility status as of February 2003 (for example, the number of cases that resumed eligibility for SSI payments).
 10. Summarized the offenses for fugitive felons.
 11. Determined—for parole and probation violators—the original offenses for which they were on parole or probation (or the offenses that caused their parole or probation violations) by contacting law enforcement agencies.

RESULTS

The following tables reflect our sample results and projections.

| Sample Results and Projections | | | |
|---------------------------------------|------------------|------------------|--------------|
| | Stratum A | Stratum B | Total |
| Population size | 51,456 | 36,752 | 88,208 |
| Sample size | 150 | 150 | 300 |

RESULTS BASED ON SSA’S HANDLING OF THE FUGITIVE WORKLOAD—FOR THE PERIOD AUGUST 1996 THROUGH FEBRUARY 2003

| Table D-1: Total SSI Overpayments Due to Fugitive Ineligibility That SSA Identified and Assessed | Attribute | Dollars |
|---|------------------|----------------|
| Stratum A Sample Results | 25 | \$120,041 |
| Stratum B Sample Results | 134 | \$695,391 |
| Total Sample Results | 159 | \$815,432 |
| Point Estimate | 41,408 | \$211,558,848 |
| Projection lower limit | 38,410 | \$183,791,188 |
| Projection upper limit | 44,405 | \$239,326,509 |

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

| Table D-2: Savings Realized By SSA Withholding Monthly SSI Payments to Fugitives Through February 2003 | Attribute | Dollars |
|---|------------------|----------------|
| Stratum A Sample Results | 2 | \$29,099 |
| Stratum B Sample Results | 79 | \$261,629 |
| Total Sample Results | 81 | \$290,728 |
| Point Estimate | 20,042 | \$74,084,709 |
| Projection lower limit | 17,450 | \$53,486,728 |
| Projection upper limit | 22,634 | \$94,682,691 |

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

| Table D-3: SSI Overpayments To Fugitives that SSA Had Recovered as of May 30, 2003 | Attribute | Dollars |
|---|------------------|----------------|
| Stratum A Sample Results | 2 | \$2,378 |
| Stratum B Sample Results | 50 | \$34,704 |
| Total Sample Results | 52 | \$37,082 |
| Point Estimate | 12,937 | \$9,318,780 |
| Projection lower limit | 10,475 | \$6,206,730 |
| Projection upper limit | 15,398 | \$12,430,830 |

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

| Table D-4: SSI Overpayments to Fugitives with Active Recovery Efforts Underway by SSA as of May 30, 2003 | Attribute | Dollars |
|---|------------------|----------------|
| Stratum A Sample Results | 11 | \$60,965 |
| Stratum B Sample Results | 61 | \$315,894 |
| Total Sample Results | 72 | \$376,859 |
| Point Estimate | 18,719 | \$98,311,818 |
| Projection lower limit | 15,694 | \$75,079,470 |
| Projection upper limit | 21,744 | \$121,544,165 |

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

| Table D-5: SSI Overpayments to Fugitives that were Written Off as Uncollectible or Waived by SSA | Attribute | Dollars |
|---|------------------|----------------|
| Stratum A Sample Results | 3 | \$15,913 |
| Stratum B Sample Results | 16 | \$60,542 |
| Total Sample Results | 19 | \$76,455 |
| Point Estimate | 4,949 | \$20,292,464 |
| Projection lower limit | 3,142 | \$8,672,422 |
| Projection upper limit | 6,757 | \$31,912,506 |

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

| Table D-6: SSI Overpayments to Fugitives that are Unresolved (SSA did not make recovery decisions as of May 30, 2003) | Attribute | Dollars |
|--|------------------|----------------|
| Stratum A Sample Results | 14 | \$59,200 |
| Stratum B Sample Results | 60 | \$316,799 |
| Total Sample Results | 74 | \$375,999 |
| Point Estimate | 19,503 | \$97,927,976 |
| Projection lower limit | 16,354 | \$75,900,595 |
| Projection upper limit | 22,653 | \$119,955,357 |

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

| Table D-7: SSI Overpayments to Fugitives Not Recorded to the SSR as of May 30, 2003 | Attribute | Dollars |
|--|------------------|----------------|
| Stratum A Sample Results | 7 | \$29,626 |
| Stratum B Sample Results | 1 | \$2,143 |
| Total Sample Results | 8 | \$31,769 |
| Point Estimate | 2,646 | \$10,687,878 |
| Projection lower limit | 1,132 | \$2,258,009 |
| Projection upper limit | 4,161 | \$19,117,747 |

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

| Table D-8: SSI Savings Through Withholding Payments to Prisoners (Fugitives Subsequently Incarcerated) | Attribute | Dollars |
|---|------------------|----------------|
| Stratum A Sample Results | 2 | \$2,221 |
| Stratum B Sample Results | 24 | \$76,382 |
| Total Sample Results | 26 | \$78,603 |
| Point Estimate | 6,566 | \$19,476,637 |
| Projection lower limit | 4,588 | \$11,036,965 |
| Projection upper limit | 8,545 | \$27,916,310 |

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

| Table D-9: SSI Payments SSA Did Not Recognize as Fugitive Overpayments Because of Administrative Finality | Attribute | Dollars |
|--|------------------|----------------|
| Stratum A Sample Results | 10 | \$104,228 |
| Stratum B Sample Results | 35 | \$367,792 |
| Total Sample Results | 45 | \$472,020 |
| Point Estimate | 12,006 | \$125,868,294 |
| Projection lower limit | 9,294 | \$88,039,161 |
| Projection upper limit | 14,717 | \$163,697,428 |

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

| Table D-10: Fugitives Whose SSI Payments Had Resumed as of February 2003 | Attribute |
|---|------------------|
| Stratum A Results | 13 |
| Stratum B Results | 48 |
| Total Sample Results | 61 |
| Point Estimate | 16,220 |
| Projection lower limit | 13,202 |
| Projection upper limit | 19,238 |

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

| Table D-11: Fugitives Whose SSI Payments Had Resumed as of February 2003—SSI Payments Not Considered Overpayments Because of Administrative Finality | Attribute | Dollars |
|---|------------------|----------------|
| Stratum A Sample Results | 4 | \$23,775 |
| Stratum B Sample Results | 15 | \$170,775 |
| Total Sample Results | 19 | \$194,550 |
| Point Estimate | 5,047 | \$49,998,141 |
| Projection lower limit | 3,192 | \$26,442,720 |
| Projection upper limit | 6,903 | \$73,553,563 |

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

| Table D-12: Fugitives Ineligible for SSI Payments but Receiving OASDI Benefits as of February 2003 | Attribute | Dollars |
|---|------------------|----------------|
| Stratum A Sample Results | 9 | \$4,441 |
| Stratum B Sample Results | 20 | \$10,116 |
| Total Sample Results | 29 | \$14,557 |
| Point Estimate | 7,988 | \$4,001,893 |
| Projection lower limit | 5,637 | \$2,751,686 |
| Projection upper limit | 10,338 | \$5,252,099 |

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

| Table D-13: Individuals Who Were Ineligible for SSI Payments Because They Were Fugitives | Attribute |
|---|------------------|
| Stratum A Results | 43 |
| Stratum B Results | 149 |
| Total Sample Results | 192 |
| Point Estimate | 51,258 |
| Projection lower limit | 48,101 |
| Projection upper limit | 54,414 |

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

RESULTS BASED ON THE OFFICE OF THE INSPECTOR GENERAL'S AUDIT—FOR THE PERIOD AUGUST 1996 THROUGH FEBRUARY 2003.

| Table D-14: Overpayments to Fugitives Detected Based on Audit that are Now Barred from Recovery Efforts Because of Administrative Finality¹ | Attribute | Dollars |
|---|------------------|----------------|
| Stratum A Sample Results | 3 | \$15,417 |
| Stratum B Sample Results | 9 | \$27,010 |
| Total Sample Results | 12 | \$42,427 |
| Point Estimate | 3,234 | \$11,906,504 |
| Projection lower limit | 1,712 | \$4,232,133 |
| Projection upper limit | 4,756 | \$19,580,875 |

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

¹ These overpayments could have been assessed and recovery efforts initiated if SSA had worked the original fugitive cases appropriately (prior to our audit). However, at the time of our audit, more than 24 months had elapsed since the fugitive status was discovered and—under SSA's application of its rules of administrative finality—the Agency will not assess the overpayment (unless fraud or similar fault is involved).

| Table D-15: SSI Overpayments to Fugitives Identified Based on Our Audit | Attribute | Dollars |
|--|------------------|----------------|
| Stratum A Sample Results | 11 | \$48,042 |
| Stratum B Sample Results | 9 | \$34,691 |
| Total Sample Results | 20 | \$82,733 |
| Point Estimate | 5,979 | \$24,980,067 |
| Projection lower limit | 3,826 | \$11,073,304 |
| Projection upper limit | 8,132 | \$38,886,830 |

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

| Table D-16: Overpayments SSA Charged to Fugitives Despite Administrative Finality Rules² | Attribute | Dollars |
|--|------------------|----------------|
| Stratum A Sample Results | 0 | \$0 |
| Stratum B Sample Results | 7 | \$53,700 |
| Total Sample Results | 7 | \$53,700 |
| Point Estimate | 1,715 | \$13,157,201 |
| Projection lower limit | 673 | \$1,404,359 |
| Projection upper limit | 2,758 | \$24,910,044 |

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

| Table D-17: Cases in Which SSA Incorrectly Deleted Overpayments When Fugitives Satisfied Their Warrants | Attribute |
|--|------------------|
| Stratum A Results | 5 |
| Stratum B Results | 2 |
| Total Sample Results | 7 |
| Point Estimate | 2,205 |
| Projection lower limit | 839 |
| Projection upper limit | 3,571 |

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

² These overpayments were assessed in error based on SSA's administrative finality rules. Although fraud or similar fault was not found, SSA assessed overpayments beyond the 24 months allowable under the Agency's application of its administrative finality rules.

Reasons Why Sample Cases Did Not Result in Fugitive Ineligibility

For 108 cases, in our sample of 300, Supplemental Security Income (SSI) payments were not stopped under the fugitive provisions in section 1611(e)(4) of the Social Security Act. As of February 2003,

- 32 individuals were neither fugitives wanted on felony charges nor parole/probation violators (based on the warrant confirmation process);
- 25 individuals did not receive SSI payments while they were fugitives;
- 16 individuals did not have their cases analyzed further because the warrants could not be verified;
- 12 individuals were already ineligible for reasons unrelated their fugitive status;
- 8 individuals were already ineligible for SSI payments due to incarceration;
- 6 individuals were still undergoing the warrant verification process;
- 6 individuals died; and
- 3 individuals were victims of identity theft and were not the same individuals wanted by law enforcement.

Reasons Why SSA Did Not Identify Some Fugitive Overpayments

During our audit, we discovered \$125,160 in Supplemental Security Income (SSI) overpayments to fugitives the Social Security Administration (SSA) did not detect. SSA staff did not identify and assess overpayments for these cases for the following reasons:

- Issues involving the Modernized Supplemental Security Income Claims System (MSSICS).
 1. SSA staff answered the “warrant rescinded or withdrawn” question in MSSICS improperly; and, as a result, removed months of fugitive ineligibility and overpayments from the Supplemental Security Record (SSR).

There seems to be confusion among SSA staff in interpreting the terms “rescinded,” “withdrawn,” and “satisfied.” A rescinded or withdrawn fugitive warrant should reflect that the warrant was issued in error (that is, for the wrong person or identity theft) and therefore no overpayment should be assessed. A satisfied warrant is one that was issued for a person who was a fugitive for a period of time. However, the warrant was cleared by the fugitive being arrested, plea bargaining, etc.—and an overpayment should be assessed for the time the individual was a fugitive. In some of our sample cases, the warrant was satisfied—not rescinded or withdrawn—but SSA staff answered “yes” to the rescinded or withdrawn question in MSSICS when the answer should have been “no.”

SSA has long-range plans to re-word the fugitive question in MSSICS to prevent this problem from occurring in the future. However, we believe resources should be assigned to improve MSSICS sooner to prevent the removal of overpayments that were correctly assessed, so recovery can be pursued.

2. SSA staff replaced old warrant data with new warrant data in MSSICS, and as a result, incorrectly removed fugitive ineligibility and overpayments for prior warrants.
3. SSA staff worked one case outside of MSSICS—which required manual processing—and never posted the fugitive ineligibility information to the SSR.

4. SSA staff removed overpayments for a prior period of fugitive ineligibility during an SSI redetermination.¹
- Staff did not follow through with the suspension of all (or a portion of) SSI payments once we notified the Agency the warrant was valid. For example, SSA staff:
 1. Responded to us on its feedback form that payments were suspended. However, our review of the case found that SSI payments were not stopped and overpayments were not assessed for the period of fugitive ineligibility.
 2. Posted fugitive ineligibility to the SSR and assessed overpayments for only a portion of the months permissible under the rules of administrative finality.
 3. Overlooked payments on a previous SSR that should have been assessed as overpayments.²

¹ A redetermination is a review of a recipient's non-medical eligibility factors to ensure the individual is still eligible for and receiving the correct SSI payment. SSA's Program Operations Manual System, section SI 02305.001, et seq.

² Once an SSR is terminated, a new record is created when an individual reapplies for payments.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

31-24-1027

Date: August 29, 2003

Refer To: S1J-3

To: James G. Huse, Jr.
Inspector General

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

Subject: Office of the Inspector General (OIG) Draft Report, "Assessment of the Supplemental Security Income Fugitive Felon Project (A-01-03-23070)—INFORMATION

We appreciate the OIG's efforts in conducting this review. Our comments on the report content and recommendations are attached.

Please let us know if we can be of further assistance. Staff questions can be referred to Trudy Williams at extension 50380.

Attachment:
SSA Response

S1J-3:FColpo 8/28/03
22003032DI

COMMENTS OF THE SOCIAL SECURITY ADMINISTRATION (SSA) ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, “ASSESSMENT OF THE SUPPLEMENTAL SECURITY INCOME FUGITIVE FELON PROJECT” (A-01-03-23070)

Thank you for the opportunity to review and comment on the subject draft report. Our response to the specific recommendations is provided below.

The findings of the report are consistent with our assessment of the processing of fugitive felon cases by field operations. Prior to this audit report, significant efforts were already underway to improve our processing of this workload. Specifically:

- To address all steps involved in processing fugitive felon cases, including such items as similar fault and administrative finality, SSA wrote a new subchapter in Program Operations Manual System (POMS) SI 00530. The new subchapter encompasses all Fugitive Felon Emergency Messages issued to the field over the past several years. The new POMS subchapter will be released to field office employees this month. To reinforce the new subchapter, individualized video training (IVT) sessions, "Refresher Fugitive Felon Processing" will take place on September 26, 2003.
- SSA developed an automated fugitive felon process, which removed approximately 60-70 percent of the fugitive felon workload from our field operations. The software is referred to as Fugitive Felon Automated Process (FFAP). The automation activity has been gradually expanded across the country since January of this year, with the final regions being included in the automation on August 4, 2003. The software eliminates significant manual handling and serves to ensure consistent processing for these cases. It has provided better control and timelier processing of fugitive felon cases.
- SSA's Office of Operations benefited from OIG centralizing the fugitive felon workload. OIG enters field office decisions into the Allegation Controls Investigation System in a more timely fashion. In addition, OIG streamlined the workflow process by establishing a Fugitive Felon e-mail response box so that field office employees can reply to the OIG via e-mail, reducing overall case processing time.
- In June 2002, SSA made changes to the Modernized Supplemental Security Income Claims System (MSSICS) AWRP (the "Help Screen") that clarifies for staff the definition of a warrant that is either rescinded or withdrawn.
- Finally, SSA is working to automate Fugitive Felon overpayment notices.

Recommendation 1

SSA should encourage staff to resolve overpayments to fugitives when they are recorded on the Supplemental Security Record.

SSA Comment

We agree. The resolution of *all* overpayment issues is an important function for SSA's field offices and is of high priority. Overpayments are not unique just to the Fugitive Felon population receiving Supplemental Security Income (SSI) benefits.

POMS SI 02201.005A.2.b states, "Prompt initiation of the overpayment resolution process will maximize the amount of debt recovered."

To the degree that workload priorities allow, SSA staff makes overpayment and suspension action decisions simultaneous. As stated above, the FFAP reduced the field office fugitive felon workload. The Agency is combining the FFAP with the automation of the Fugitive Felon overpayment notices in the future. We expect the overall fugitive felon processing time to improve with the combination of the automated process, along with the centralization of the workload.

Recommendation 2

SSA should provide guidance, training and oversight of administrative finality decisions to ensure the rules are applied uniformly to all fugitives.

SSA Comment

We agree. We will be issuing a rewrite of POMS SI00503, "Fugitive Felons and Parole and Probation Violators" by the end of August 2003 which will include information on administrative finality. In addition, refresher training is scheduled for a nationwide IVT broadcast on September 26, 2003, which will include a reminder about the administrative finality rules.

Recommendation 3

SSA should revise MSSICS to clarify the distinction between a satisfied warrant and a rescinded/withdrawn warrant.

SSA Comment

We agree with the intent of this recommendation and will address misunderstandings regarding the distinction between a satisfied warrant and a rescinded/withdrawn warrant through additional training and the issuance of a reminder item.

We note that Modernized Systems Operation Manual 109-1, Felony Warrant, describes what information must be completed on the MSSICS screens. The AWRP screen on MSSICS has drop down help screens. AWRP provides explanations for all entries in detail, including the distinction between satisfied warrants and rescinded warrants.

The Regional Fugitive Felon Coordinators advised that they receive very few questions about warrant terminology since the "Help" screen was revised. However, to make sure that our technicians fully understand the distinction between a rescinded/withdrawn warrant and a satisfied warrant, we will cover this item in our upcoming Fugitive Felon Refresher IVT training. We will continue to monitor the staff for proper completion of the warrant status and assess whether we need to expend resources to change to the terminology on the AWRP screen.

Recommendation 4

SSA should re-evaluate fugitive cases that appear to have been improperly processed in MSSICS.

SSA Comment

We agree. We appreciate your detection of those cases that were possibly processed improperly. We will re-examine them for appropriate action and/or correction.

Recommendation 5

SSA should continue to work with State law enforcement agencies to obtain comprehensive fugitive data to process through SSA's systems on a routine basis.

SSA Comment

We agree. SSA continues to follow-up with the States that are not reporting or are only partially reporting warrant data to SSA. However, the States continue to cite the lack of funds and/or resources available within the States to prepare the files for SSA.

[SSA provided additional technical comments which we incorporated into this report as appropriate.]

OIG Contacts and Staff Acknowledgments

OIG Contacts

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For additional copies of this report, please visit our web site at <http://www.ssa.gov/oig> or contact the Office of the Inspector General's Public Affairs Specialist at (410) 966-1375. Refer to Common Identification Number A-01-03-23070.

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Social Security Advisory Board

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The Office of Audit (OA) conducts comprehensive financial and performance audits of the Social Security Administration's (SSA) programs and makes recommendations to ensure that program objectives are achieved effectively and efficiently. Financial audits, required by the Chief Financial Officers' Act of 1990, assess whether SSA's financial statements fairly present the Agency's financial position, results of operations and cash flow. Performance audits review the economy, efficiency and effectiveness of SSA's programs. OA also conducts short-term management and program evaluations focused on issues of concern to SSA, Congress and the general public. Evaluations often focus on identifying and recommending ways to prevent and minimize program fraud and inefficiency, rather than detecting problems after they occur.

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

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

Counsel to the Inspector General

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