
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**FUGITIVE FELONS SERVING AS
REPRESENTATIVE PAYEES**

March 2009 A-01-08-18021

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: March 31, 2009

Refer To:

To: The Commissioner

From: Inspector General

Subject: Fugitive Felons Serving As Representative Payees (A-01-08-18021)

OBJECTIVE

Our objective was to assess the Social Security Administration's (SSA) controls to prevent fugitive felons from serving as representative payees.

BACKGROUND

Some individuals cannot manage their finances because of their youth, mental, and/or physical impairments. Consequently, Congress granted SSA the authority to appoint representative payees to receive and manage these individuals' Social Security benefit payments.¹

In a March 2003 report, we concluded that SSA should use fugitive warrant information to screen representative payees because a fugitive felon may not be in the best position to manage a beneficiary's funds.² After our report was issued, the *Social Security Protection Act of 2004* was signed into law. This law, which took effect in April 2005, contains a provision that disqualifies fugitive felons from serving as representative payees.³

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

A representative payee is a person or organization selected by SSA to receive and manage benefits on behalf of an incapable beneficiary. Payees are responsible for using Social Security benefits to serve the beneficiary's best interests.

² SSA OIG, *Screening Representative Payees for Fugitive Warrants* (A-01-02-12032), March 2003.

³ Pub. L. No. 108-203 § 103. See also *Social Security Act* §§ 205(j)(2)(B)(i)(V), 202(x)(1)(A)(iv), 1631(a)(2)(B)(ii)(V), (iii)(V), and 1611(e)(4)(A), 42 U.S.C. §§ 405(j)(2)(B)(i)(V), 402(x)(1)(A)(iv), 1383(a)(2)(B)(ii)(V), (iii)(V), and 1382(e)(4)(A).

THE FUGITIVE FELON PAYEE IDENTIFICATION PROCESS

SSA obtains the names, dates of birth, and Social Security numbers of individuals with outstanding warrants from law enforcement agencies. After SSA verifies the individuals' identities through its Enumeration Verification System and the Office of the Inspector General (OIG) confirms the warrants are still valid, the information is sent to the Agency's Fugitive Felon SSA Control File (FFSCF).⁴

SSA began matching data in FFSCF and the Agency's Representative Payee System (RPS) in November 2005.⁵ Each day, the data in FFSCF are compared to RPS to identify fugitive felons who are payees or fugitive felons who have an application pending to serve as a representative payee.⁶ If data match at the first attempt, RPS is annotated and the addresses of the payees or applicants are returned to FFSCF to be shared with law enforcement agencies.

If there is a match, an alert is generated in RPS indicating the payee is a fugitive felon. After 60 days,⁷ the OIG will confirm and return unresolved open warrants to FFSCF for a second comparison to RPS. If the data match a second time—indicating the payee or applicant still has an outstanding felony warrant—an alert is sent to the local SSA field office and the issue is annotated in RPS. Then, SSA field office staff will find a more suitable payee and/or consider direct payment, if appropriate.⁸ (See Appendix B for a flowchart that illustrates this process.)

METHODOLOGY

To conduct our review, we obtained a file of fugitive records from our Office of Investigations and identified 14,594 individuals for whom arrest warrants had been issued and who were representative payees for SSA beneficiaries as of July 2007. We randomly selected 275 individuals from this population for detailed analysis. (See Appendix C for our Scope, Methodology and Sample Results.)

⁴ The FFSCF is used to establish, monitor and control warrant information SSA receives from warrant sources and ensure SSA reacts timely to the warrant information.

⁵ RPS is a computer system containing information about individuals who have applied to be representative payees and who have been selected as representative payees, as well as the beneficiaries in their care.

⁶ Unverified felony warrants and warrants for probation or parole violators are not matched to RPS.

⁷ OIG provides Law Enforcement agencies with information regarding the individual's current address to aid in apprehending the fugitive felon and allows 60 days for Law Enforcement agencies to complete their action. See SSA, Program Operations Manual System (POMS), GN 02613.100.

⁸ SSA performs this screening for individuals when they apply to serve as a representative payee, as well as to individuals already serving as representative payees. See SSA, POMS, GN 00502.133 and GN 00504.102.

RESULTS OF REVIEW

SSA's controls need to be improved to prevent fugitive felons from serving as representative payees. Based on our sample, we estimate that since the law took effect in April 2005 through September 2008, about \$75.8 million in Social Security funds was paid to about 6,527 fugitive felons. These payees received benefits for about 8,384 SSA beneficiaries.

Of the \$75.8 million, we estimate that approximately \$47.6 million (63 percent) in benefits was paid to about 2,070 representative payees whose warrants remained unsatisfied through September 2008. Additionally, about \$19.4 million will be paid over the next 12 months if these warrants remain unsatisfied and the fugitive felons continue serving as representative payees.

SAMPLE RESULTS

We sampled 275 individuals for whom arrest warrants had been issued and who served as representative payees. We found that

- 123 (45 percent) were representative payees for 158 beneficiaries and received \$1,429,103 while they had outstanding felony warrants;⁹
- 96 (35 percent) were not representative payees with active felony warrants;¹⁰ and
- 56 (20 percent) were issued warrants for violating conditions of probation or parole.¹¹

Benefits Received by Fugitive Felons Serving as Payees

Of the 123 payees in our sample who had received \$1.4 million in benefits even though they had outstanding arrest warrants, 84 had satisfied their warrants or were no longer serving as representative payees before the start of our audit; whereas the remaining 39 payees still had active warrants. As of September 2008:

⁹ The 158 beneficiaries are comprised of 88 Title II beneficiaries, 66 Title XVI recipients, and 4 beneficiaries who received both Title II and Title XVI benefits.

¹⁰ For example, in some cases, the payees satisfied their warrants within 30 days; and in some other cases, the warrants were for misdemeanors.

¹¹ SSA does not conduct computer matching for representative payees who have warrants outstanding for probation or parole violations. We plan to conduct a review to quantify the dollars received by probation or parole violators serving as representative payees.

- 73 representative payees had satisfied their warrants. Before satisfying their warrants, these 73 representative payees received \$402,787 on behalf of 95 beneficiaries for an average of 9 months while the warrants were still outstanding.
- 11 fugitive felons were no longer representative payees because (a) they or the beneficiaries they served were deceased; (b) the beneficiaries were no longer entitled to benefits; (c) more suitable payees were selected; or (d) direct payment to the beneficiaries was established. These 11 representative payees received \$129,262 on behalf of 11 beneficiaries for an average of 22 months (almost 2 years) while the warrants were still outstanding.
- 39 representative payees still had outstanding felony warrants at the time of our audit, but SSA took corrective action because of our request that it review the cases. These 39 representative payees received \$897,054 on behalf of 52 beneficiaries for an average of 32 months (or over 2 ½ years).

Table 1 shows the number of months the 123 fugitive felons served as representative payees while their warrants remained unsatisfied. On average, these 123 fugitive felons served as payees for 17 months.¹²

Table 1	
Number of Months the Fugitive Felons Served as Representative Payees¹³	Number of Representative Payees
1 to 12 months	61
13 to 24 months	21
25 to 36 months	18
37 to 42 months	23
Total	123

For example, one individual in our sample was selected as representative payee for her children in July 1998. In February 2006, an outstanding felony warrant for forgery was issued for the representative payee, but the warrant was not satisfied until June 2007. Therefore, this individual was considered a fugitive felon while serving as a representative payee for 17 months (from February 2006 through June 2007), and during this time, she was paid a total of \$30,822 in benefits on behalf of her children.

¹² The median period was 13 months.

¹³ This represents the time elapsed from April 2005 or the date the fugitive felon was selected to serve as representative payee if after April 2005, through the earlier of the date the warrant was satisfied, the date the fugitive felon stopped serving as payee, or September 2008.

Fugitive Felons Replaced as Representative Payees Due to Audit

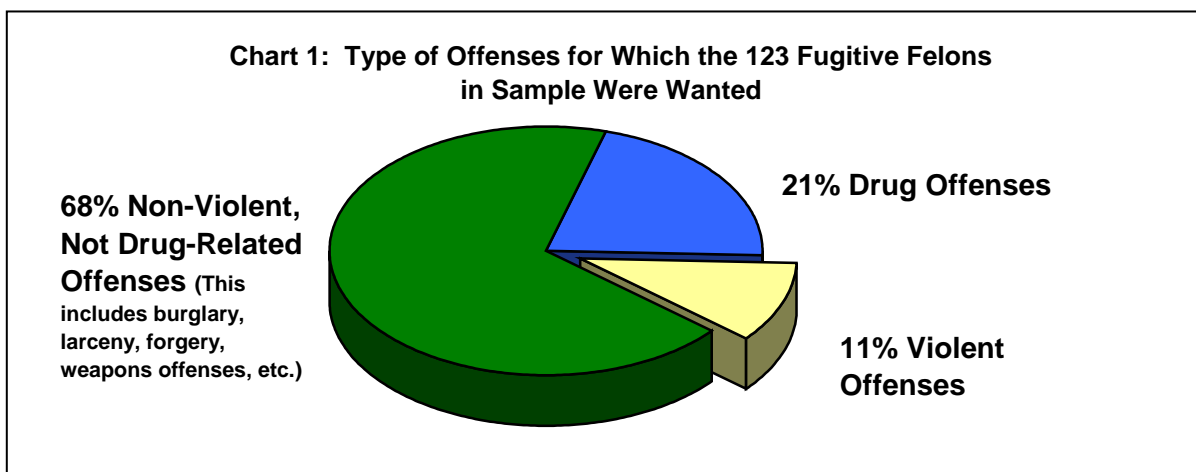
Of the 123 fugitive felons who served as representative payees, 39 (32 percent) were not replaced as representative payees until we requested that SSA review the cases as part of our audit. We referred these 39 cases to SSA in June and July 2008. These 39 fugitive felons received \$897,054 (of the \$1.4 million in benefits) while their warrants were outstanding. If not for our referral, these 39 fugitive felons would have received an average of about \$9,352 in benefits over the next year.

For example, one representative payee with an unsatisfied drug-related felony warrant received \$23,684 in benefits for more than 2 ½ years. This fugitive felon was selected as a representative payee in April 2001 and was still a representative payee when the warrant was issued in October 2005. SSA removed this individual as representative payee in June 2008 after we referred the case to the Agency. If not for our referral, this individual would have received about \$9,400 in benefits over the next year.

As of September 2008, the Agency had either replaced the representative payees or suspended benefits to find new representative payees. These 39 fugitive felons served as representative payees for periods ranging from 13 to 42 months—on average, more than 2 ½ years.¹⁴

Offenses Committed by Fugitive Felons Serving as Payees

The fugitive felons in our sample were wanted for various crimes while serving as representative payees, including larceny, fraud, and drug-related offenses. Chart 1 summarizes the types of offenses for which the fugitive felons in our sample were wanted.¹⁵



¹⁴ The median period was 38 months (over 3 years).

¹⁵ We grouped offenses into violent and non-violent categories per POMS, GN 02613.900.

BENEFICIARIES WHOSE REPRESENTATIVE PAYEES WERE FUGITIVE FELONS

The 123 individuals who had outstanding felony warrants in our sample served as representative payees for 158 beneficiaries.¹⁶ For these beneficiaries, we found that

- 77 (49 percent) were receiving benefits because they were disabled (including 47 who had mental disorders);¹⁷ and
- 81 (51 percent) were not disabled.

Table 2 summarizes the relationship between the representative payee and each beneficiary.

Table 2		
Relationship of Payee to Beneficiary	Number of Beneficiaries	Percent
Mother	88	56%
Father	31	20%
Relative	14	9%
Child	10	6%
Other ¹⁸	10	6%
Spouse	2	1%
Stepfather	2	1%
Grandparent	1	1%
Total	158	100%

For example, a beneficiary was receiving a Title XVI disability benefit for mental retardation, and his representative payee was selected to manage the benefits in December 1993. The representative payee was a relative of the beneficiary and had an outstanding warrant for burglary that was issued in 1991. The fugitive felon continued to serve as representative payee until we referred the case to SSA in June 2008. From April 2005, when the law went into effect prohibiting fugitive felons from serving as representative payees, this fugitive received \$25,019 in benefits on

¹⁶ The ages of these beneficiaries varied from 1 to 93 years. As of September 2008, the average age for these beneficiaries was 20 years; and 115 of the 158 beneficiaries were age 18 or younger.

¹⁷ The other beneficiaries receiving disability benefits were for the following disorders: neurological, digestive, hematological, growth impairment, respiratory, musculoskeletal, and other various disabilities.

¹⁸ The relationship classified as "Other" could include, but is not restricted to (1) a friend; (2) an unrelated volunteer payee; (3) an unrelated guardian; or (4) a room and board provider.

behalf of the mentally disabled beneficiary.¹⁹ We referred this case to SSA in June 2008, and the Agency replaced the fugitive with a more suitable representative payee. Had we not referred this case to SSA, the fugitive felon would have received \$7,644 over the next 12 months.

WHY FUGITIVE FELONS WERE NOT REPLACED AS REPRESENTATIVE PAYEES

SSA began matching between FFSCF and RPS in November 2005. If a match is found, an alert is supposed to be generated in RPS indicating the representative payee is a fugitive felon. However, our analysis of the sample cases showed that SSA's matching process did not identify all payees who were fugitive felons, and alerts were not generated in RPS.²⁰ Therefore, it appears the matching between FFSCF and RPS is incomplete. We notified SSA's Office of Systems of this issue in September 2008. As of February 2009, Systems staff were reviewing the matching process to determine why it was not identifying all cases.

If the matching process does not generate alerts and annotate RPS, SSA field office employees cannot determine whether a representative payee has an outstanding warrant, and fugitive felons continue to serve as payees.

CONCLUSION AND RECOMMENDATIONS

Although SSA implemented a computer match in November 2005 to identify fugitive felons serving as representative payees and established procedures for addressing the identified cases, we estimate that about 6,527 fugitive felons received about \$75.8 million in Social Security funds while serving as representative payees for others. Additionally, we estimate about \$19.4 million will be paid over the next 12 months if the individuals who still have unsatisfied felony warrants continue to serve as representative payees.

We recommend SSA:

1. Conduct a match between FFSCF and RPS to identify all representative payees with unsatisfied felony warrants (including those representative payees who were selected before November 2005) and determine whether more suitable representative payees are needed.
2. Review its current computer matching process to ensure that, in the future, alerts are generated and resolved for all representative payees with outstanding felony warrants.

¹⁹ The payee received \$68,276 before the *Social Security Protection Act of 2004*—between December 1993 when he was selected as payee while having an outstanding felony warrant until April 2005 when the law took effect.

²⁰ The representative payees for 121 of the 158 beneficiaries were selected before November 2005 and the payees for the remaining 37 beneficiaries were selected after November 2005.

AGENCY COMMENTS

SSA agreed with the recommendations (see Appendix D).

A handwritten signature in black ink, appearing to read "Pat P. O'Carroll, Jr.", with a stylized flourish at the end.

Patrick P. O'Carroll, Jr.

Appendices

[APPENDIX A](#) – Acronyms

[APPENDIX B](#) – Representative Payee Fugitive Felon Alert Process

[APPENDIX C](#) – Scope, Methodology and Sample Results

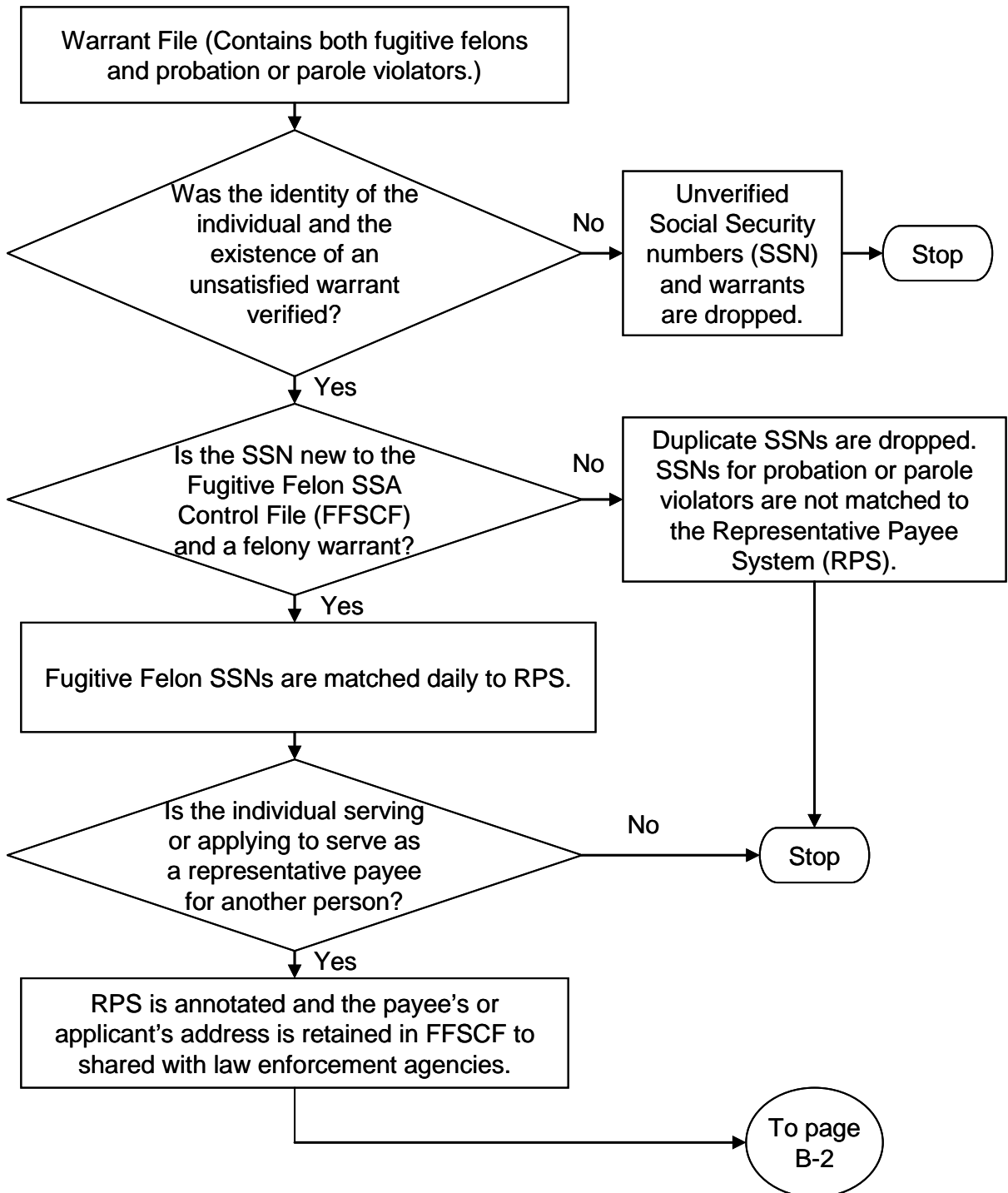
[APPENDIX D](#) – Agency Comments

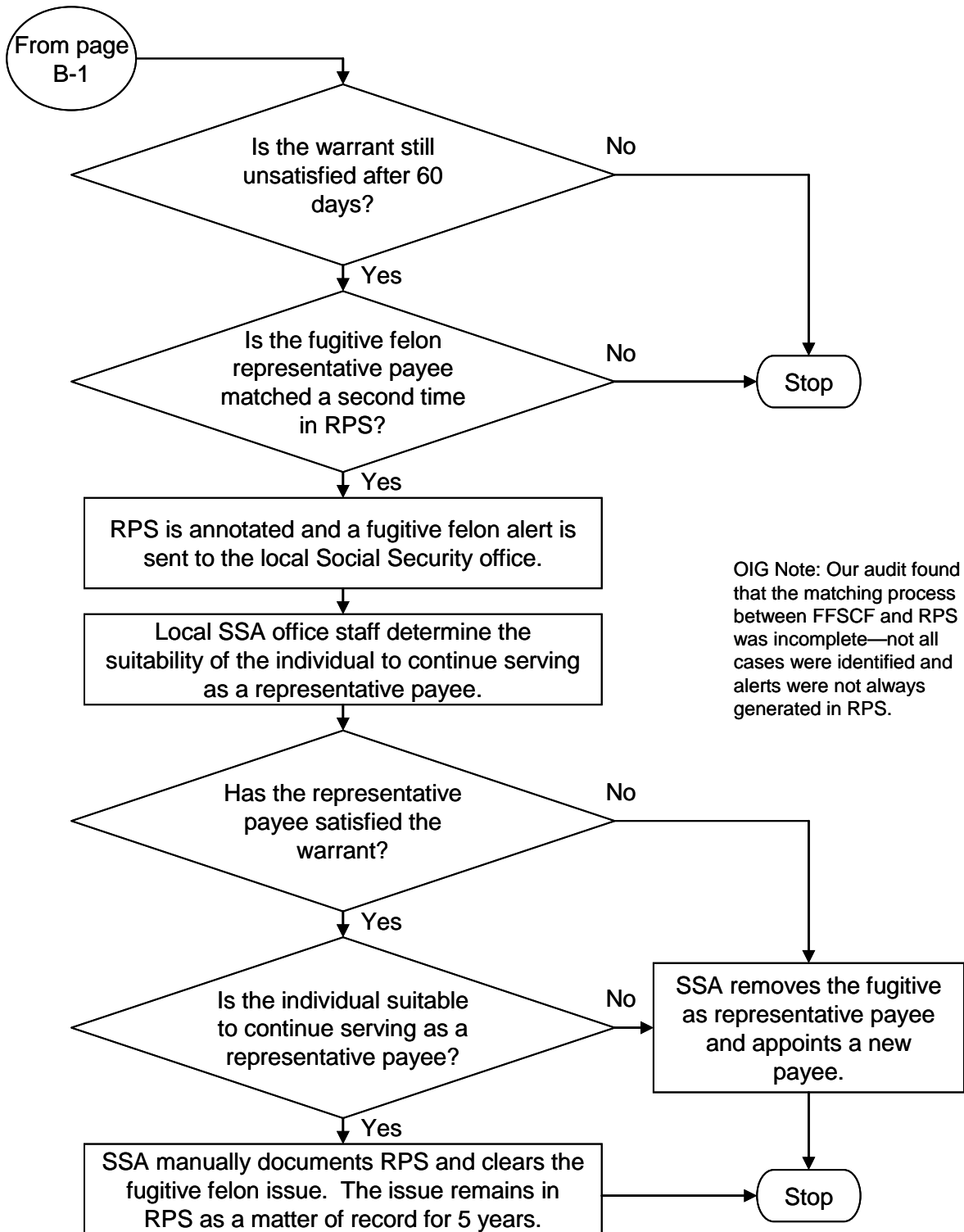
[APPENDIX E](#) – OIG Contacts and Staff Acknowledgments

Acronyms

AMFED	Allegation Management and Fugitive Enforcement Division
FFSCF	Fugitive Felon SSA Control File
OIG	Office of the Inspector General
POMS	Program Operations Manual System
Pub. L. No.	Public Law Number
RPS	Representative Payee System
SSA	Social Security Administration

Representative Payee Fugitive Felon Alert Process





Scope, Methodology and Sample Results

To accomplish our objective, we:

- Researched the *Social Security Act* and the *Social Security Protection Act of 2004*; as well as the Social Security Administration's (SSA) regulations, policies and procedures related to fugitive felons and representative payees.
- Obtained a file of fugitive records from the Office of the Inspector General's Office of Investigations as of June 2007. Through computer analysis, we identified 14,594 individuals with warrants who were representative payees for Title II and XVI beneficiaries as of July 2007. We randomly selected 275 individuals from this population for detailed analysis. Specifically, we
 - ✓ calculated the funds paid to fugitive felons while serving as representative payees;
 - ✓ confirmed with the Office of the Inspector General's Allegation Management and Fugitive Enforcement Division (AMFED) the warrant's status (such as whether the warrant was still outstanding);
 - ✓ confirmed that AMFED had referred these cases to SSA for action; and
 - ✓ referred to the Office of Operations cases in our sample that had fugitive felons serving as representative payees for corrective action.
- Obtained information from SSA's Offices of Systems and Operations concerning the representative payee fugitive felon alert process.
- Consulted with SSA's Office of General Counsel and the Office of the Inspector General's Office of the Counsel to the Inspector General concerning parole and probation violators.

We conducted our audit in Boston, Massachusetts, between May and October 2008. We tested the data obtained for our audit and determined them to be sufficiently reliable to meet our objective. The entity audited was SSA's Office of Systems under the Deputy Commissioner for Systems.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

SAMPLE RESULTS AND ESTIMATES/PROJECTIONS

Table 1: Population and Sample Size	
Population Size	14,594
Sample Size	275

FUGITIVE FELONS SERVING AS REPRESENTATIVE PAYEES

Table 2: Fugitive Felons Who Served as Representative Payees	Number of Fugitive Felons	Number of Beneficiaries	Dollars
Sample Results	123	158	\$1,429,103
Point Estimate	6,527		\$75,841,193
Projection Lower Limit	5,797		\$60,494,624
Projection Upper Limit	7,270		\$91,187,762

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

To estimate the number of beneficiaries, we conducted the following ratio analysis: 158 beneficiaries divided by 123 fugitive felons equals 1.2845. Multiplying 1.2845 by 6,527 (the point estimate) provides an estimate of 8,384 beneficiaries who had their funds received by fugitive felons.

Table 3: Fugitive Felons Who Served as Representative Payees that Need to be Replaced	Number of Fugitive Felons	Number of Beneficiaries	Dollars
Sample Results	39	52	\$897,054
Point Estimate	2,070		\$47,605,817
Projection Lower Limit	1,587		\$33,285,637
Projection Upper Limit	2,638		\$61,925,997

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

To estimate the number of beneficiaries, we conducted the following ratio analysis: 52 beneficiaries divided by 39 fugitive felons equals 1.3333. Multiplying 1.3333 by 2,070 (the point estimate) provides an estimate of 2,760 beneficiaries who had their funds received by fugitive felons and still need the payee replaced.

Funds Received Over the Next 12 Months by Payees Who Have Outstanding Felony Warrants as of September 2008

Within our sample, 39 fugitive felons will receive an average of \$9,352 in funds over the next 12 months if not replaced as payees. Therefore, we estimate that approximately \$19,358,640 will be received by about 2,070 fugitive felons (from Table 3 above) over the next 12 months if not replaced with new payees.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: March 25, 2009 **Refer To:** S1J-3

To: Patrick P. O'Carroll, Jr.
Inspector General

From: James A. Winn /s/
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Fugitive Felons Serving As Representative Payees (A-01-08-18021)"—INFORMATION

Thank you for the opportunity to review and comment on the draft report. We appreciate the comprehensive work that the OIG auditing team did on this report and the prior related audit. Our response to the report findings and recommendations is attached.

Please let me know if we can be of further assistance. Staff inquiries may be directed to Candace Skurnik, Director, Audit Management and Liaison Staff, at (410) 965-4636.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL'S DRAFT REPORT,
FUGITIVE FELONS SERVING AS REPRESENTATIVE PAYEES (A-01-08-18021)**

We agree that it is important to identify all representative payees (rep payees) with unsatisfied felony arrest warrants to determine whether or not we need to replace them. We will change our current computer matching process to ensure that we generate and resolve alerts. We expect, however, that we will have to modify the way in which we process fugitive felon information in the near future depending on the settlement of a nationwide class action lawsuit that is currently pending; *Martinez v. Astrue*, No. 08-4735 (N.D. Cal.).

Recommendation 1

Conduct a match between the Fugitive Felon SSA Control File and the Representative Payee System to identify all rep payees with unsatisfied felony warrants (including those rep payees who were selected before November 2005) and determine whether more suitable rep payees are needed.

Comment

We agree. We will conduct a match for the offense codes specified in the final settlement and then work to determine whether or not we need a more suitable rep payee.

Recommendation 2

Review our current computer matching process to ensure that, in the future, we generate and resolve alerts for all rep payees with outstanding felony warrants.

Comment

We agree. We will review our computer matching process to ensure that, in the future, we generate and resolve alerts for all rep payees with outstanding felony arrest warrants for the offense codes specified in the final settlement.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Judith Oliveira, Director, Boston Audit Division

Jeffrey Brown, Audit Manager

Acknowledgments

In addition to those named above:

Kevin Joyce, IT Specialist

N. Brennan Kraje, Statistician

Frank Salamone, Senior Auditor

David York, Program Analyst

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