
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**REPRESENTATIVE PAYEES
REPORTING CRIMINAL CONVICTIONS**

June 2010

A-13-09-19145

**EVALUATION
REPORT**



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- 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.

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- Access to all information necessary for the reviews.
- Authority to publish findings and recommendations based on the reviews.

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SOCIAL SECURITY

MEMORANDUM

Date: June 17, 2010

Refer To:

To: The Commissioner

From: Inspector General

Subject: Representative Payees Reporting Criminal Convictions (A-13-09-19145)

OBJECTIVE

Our objective was to determine whether individuals accurately reported their criminal history to the Social Security Administration (SSA) when completing representative payee applications. Specifically, we reviewed applicants' responses about being convicted of an offense that resulted in imprisonment for longer than 1 year.

BACKGROUND

Some individuals, because of their age or mental and/or physical impairments, are incapable of managing their finances. Congress granted SSA the authority to appoint representative payees to receive and manage these beneficiaries' benefit payments.¹ A representative payee is the person, agency, organization, or institution selected to receive and manage benefits on behalf of an incapable beneficiary.

The decision to make payment through a representative payee is serious since it deprives a beneficiary of direct control over personal finances and may affect the beneficiary's manner of living. In recognizing the potential for a representative payee to mishandle benefits, Congress requires that SSA exercise care in determining that a representative payee is needed, in selecting a representative payee, and monitoring a representative payee's performance.

Certain individuals convicted of criminal offenses are prohibited from serving as representative payees. The *Social Security Protection Act of 2004* (SSPA) generally disqualifies individuals from serving as payees if they are convicted of an offense that results in imprisonment for more than 1 year.² However, SSPA also allows SSA to make exceptions to allow such individuals to serve as representative payees. SSA policy states that an exception may be made after SSA considers information about the

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

² Pub. L. No. 108-203 § 103, the *Social Security Act* § 205(j)(2), 42 U.S.C. § 405(j)(2).

crime, such as the nature of the crime and when it occurred. The Agency also considers whether the applicant has custody of the beneficiary, the applicant's relationship to the beneficiary, whether the applicant poses a risk to the beneficiary, and whether there are more suitable applicants to be the payee.³

We used a two-step process to identify certain individuals whose records indicated they did not accurately report their criminal history when completing applications for selection as payees. When an individual completes the *Request to be Selected as Payee*, Form SSA-11-BK, he or she must answer the question, "Have you ever been convicted of any offense under federal or state law which resulted in imprisonment for more than one year?" We identified payees whose records showed they were not truthful in responding to this question.

First, we identified payee applicants who answered "no" to the question and were selected to serve as payees between April 1, 2005 and March 15, 2007.⁴ We then determined whether the applicants (1) had dates recorded in SSA's Prisoner Update and Processing System (PUPS)⁵ indicating beginning and ending imprisonment periods; (2) had imprisonment periods recorded in PUPS beginning at least 1 year before being selected to serve as a payee; and (3) were serving as payees as of March 25, 2009. Based on these criteria, we identified and reviewed 92 individual representative payees.

Second, we identified payee applicants who met the same prior screening requirements except they did not have imprisonment end dates recorded in PUPS. Based on these selection criteria, we identified 9,183 individual representative payees. We placed these payees in 2 groups: one group comprised 8,672 payees who were family members (relatives) of the beneficiaries they served; the second group comprised 511 payees who were not related to the beneficiaries. We randomly selected for review, 250 relative payees and 50 non-relative payees for a total of 300 payees. For our sample cases, in addition to PUPS data, we searched LexisNexis Risk Management Solutions database (LexisNexis)⁶ to determine whether incarceration data

³ Program Operations Manual System (POMS) GN 00502.132 Selecting a Qualified Representative Payee.

⁴ We did not review applicants who answered "yes" to the imprisonment question. The Agency already has a process to determine suitability when an applicant responds "yes" to the imprisonment question.

⁵ Under the *Social Security Act*, SSA is prohibited from paying benefits to certain incarcerated beneficiaries. To determine whether beneficiaries should be paid, SSA obtains incarceration data from prisons and retains that information in a database called PUPS.

⁶ To help identify resources that may affect eligibility and payments, SSA provides its field office staff access to the LexisNexis database. LexisNexis is an Internet database that can be used to obtain personal information. The LexisNexis Group is a global company that provides information to Government, corporate, legal, and academic markets. Per POMS, SI 01140.105.D, information from the LexisNexis database cannot be used to deny or suspend payments. However, the information can be used to establish a lead, which should be developed accordingly.

were present and indicated the payees were incarcerated for longer than 1 year. See Appendices B and C for our Scope and Methodology, and Sampling Methodology and Results, respectively.

RESULTS OF REVIEW

Some individuals had records that indicated they did not accurately report their criminal history to SSA when completing representative payee applications. Our review of information in PUPS found 92 individual representative payees—76 relatives and 16 non-relatives—were incarcerated for longer than 1 year even though they did not disclose this information on their applications to serve as payees.

In addition, a comparison of information in PUPS⁷ with data in LexisNexis⁸ for the 300 sampled representative payees found 28 payees who were incarcerated for longer than 1 year. Based on our sample results, we estimate 867 relative and 31 non-relative payees were incarcerated for longer than 1 year and did not inform SSA of their criminal histories.

PUPS RESULTS

Based on information recorded in PUPS, we found indications that individual representative payees did not accurately report their criminal history to SSA. Limiting our review to PUPS data, we found 92 individual representative payees with records that showed an incarceration of more than 1 year. Of the 92 payees reviewed, 76 were related to the beneficiaries they served (see Table 1).

Table 1: Review of PUPS Records for Representative Payees

Type of Representative Payee	Number of Payees	Percent
Relatives		
Mother	37	43
Father	20	23
Grandparent	6	7
Other Relative	9	11
Spouse	3	3
Stepfather	1	1
Subtotal	76	83
Non – Relatives	16	17
Total	92	100

⁷ SSA's PUPS data in many cases did not contain a release date from prison.

⁸ LexisNexis data do not contain Department of Correction information for the following nine States: Alaska, California, Delaware, Hawaii, Massachusetts, North Dakota, South Dakota, Vermont, and Wyoming.

SAMPLE RESULTS

For the random samples of payees, we reviewed imprisonment data recorded in PUPS and LexisNexis records. Of the 300 payees reviewed, we found 28 were imprisoned for longer than 1 year. Of the 28 individual representative payees, 25 were relatives (see Table 2).

Table 2: PUPS and LexisNexis Records for Representative Payees Related to the Beneficiaries

Type of Representative Payee	Number of Payees in Sample	Records Indicated Imprisonment for More Than 1 Year	Percent of Sample
Relatives			
Mother	148	14	9
Father	68	8	12
Child	5	1	20
Other Relative	29	2	7
Total	250	25	10

Of the 8,672 relative payees identified, we estimate about 867 were imprisoned for longer than 1 year. We estimate about 31 of the 511 non-relative payees identified were also imprisoned for longer than 1 year. Because of the low number of payees we identified, we do not believe that using PUPS and third party data to screen potential payee responses would be a significant drain on the Agency's resources. We estimate about 5,000 applicants a year would require follow-up to determine suitability. If this work were spread evenly among SSA's about 1,300 field offices, it would only require additional follow-up for about 4 applicants a year per field office.

We also found information pertaining to the type of crimes recorded in LexisNexis for some payees. For the 28 payees with records that indicated imprisonment for longer than 1 year, we found information pertaining to the type of crimes for 11. For example, one payee received a 5-year prison sentence for assault in 1988, and a sentence of about 9 years for sexual abuse in 1996. In another instance, a representative payee received a 5-year prison sentence for robbery in 1997. See Table 3 for information about the crimes committed by the 11 payees we identified.

Table 3: Information in LexisNexis Records for Crimes Committed by Representative Payees

Type of Crime Committed	Number of Payees
Theft, Robbery, Grand Larceny	5
Sexual Assault, Sexual Abuse, Assault	3
Possession of Controlled Dangerous Substance	2
Intentional Maltreatment Causing Bodily Harm	1
TOTAL	11

On November 20, 2009, we met with staff from SSA's Office of Retirement and Disability Policy, Office of Income Security Programs, to discuss the payees we identified who were imprisoned for longer than 1 year. Staff reported SSA did not use PUPS information to verify payee applicant responses. Also, SSA staff stated that they recognize "self-reporting" of information on the payee application—especially criminal history—is not always reliable.

When the Agency does not evaluate the suitability of such individuals to serve as payees, it may be placing the beneficiaries and their payments at risk. According to SSA staff, our work will be used in the Agency's long-term plans to redesign its Representative Payment System.

CONCLUSION AND RECOMMENDATIONS

We identified individuals serving as representative payees who did not accurately report their criminal history when completing the representative payee application. In addition to the 92 payees identified using PUPS data, we identified 28 additional payees using LexisNexis data. We found about 10 percent of the relative payees and about 6 percent of the non-relative payees reviewed were imprisoned for longer than 1 year. These payees may not be suitable representative payees because the Agency did not know of their criminal histories before selecting them to serve as payees. As a result, these payees may pose a risk to the beneficiaries they serve.

We recommend SSA:

1. Determine and implement a cost-effective method to use PUPS incarceration data and/or third party database information to assess individuals applying to serve as representative payees and use this information to determine the suitability of the payee applicants.
2. Review the 120 payees we identified to determine their suitability to continue to serve as representative payees.

AGENCY COMMENTS

The Agency agreed with our recommendations. See Appendix D for the full text of the Agency's comments.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Sampling Methodology and Results

APPENDIX D – Agency Comments

APPENDIX E – OIG Contacts and Staff Acknowledgments

Acronyms

Lexis-Nexis	LexisNexis Risk Management Solutions Database
OIG	Office of the Inspector General
POMS	Program Operations Manual System
Pub. L. No.	Public Law Number
PUPS	Prisoner Update Processing System
SSA	Social Security Administration
SSPA	<i>Social Security Protection Act of 2004</i>
U.S.C.	United States Code

Scope and Methodology

To accomplish our objective, we:

- Reviewed applicable laws and Social Security Administration (SSA) policies and procedures.
- Reviewed prior Office of the Inspector General reports.
- Interviewed SSA personnel in the Office of Retirement and Disability Policy, Office of Income Security Programs.
- Used a two-step process to identify certain individuals who did not accurately report their criminal history to SSA when completing applications for selection as payees. When an individual completes the *Request to be Selected as Payee*, Form SSA-11-BK, he or she must answer the question, “Have you ever been convicted of any offense under federal or state law which resulted in imprisonment for more than one year?” A March 15, 2007 data extract of individual representative payees with specific attributes was used to identify the payees we reviewed.
 1. We identified payee applicants who answered "no" to the imprisonment question. We then determined whether the applicants (1) were selected between April 1, 2005 and March 15, 2007 to serve as payees; (2) had dates recorded in SSA’s Prisoner Update Processing System (PUPS) indicating beginning and ending imprisonment periods; (3) had imprisonment periods recorded in PUPS beginning at least 1 year before being selected to serve as payees; and (4) were serving as payees as of March 25, 2009. Based on these selection criteria, we identified and reviewed all 92 individual representative payees who met these criteria.
 2. We identified 9,183 individual representative payees using the screening requirements above but who did not have imprisonment end dates recorded in PUPS. These payees were placed into two groups: one group comprised 8,672 payees who were family members (relatives) of the beneficiaries they served; the second group comprised 511 payees who were not related to the beneficiaries. A total of 300 payees were randomly selected for review—250 were related to the beneficiaries they served and 50 were non-relatives. See Appendix C for detail information on our Sampling Methodology and Results.
- Reviewed imprisonment information recorded in PUPS and/or the LexisNexis Risk Management Solutions Database (LexisNexis) for the individual representative payees to determine whether the payees were imprisoned for longer than 1 year.

We were not always able to determine whether payee applicants accurately reported their criminal history to SSA when completing payee applications because SSA¹ and/or third party² data did not contain the necessary information to determine whether applicants were in prison for more than 1 year. As such, there may be additional payees with criminal histories who we did not identify. We did not independently verify the accuracy of payees' criminal history information with criminal justice entities.

The entity reviewed was the Office of the Deputy Commissioner for Retirement and Disability Policy. We performed our review in Baltimore, Maryland, from April to November 2009. We conducted our review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspections*.

¹ In many cases, SSA's PUPS data did not contain a release date from the prison.

² LexisNexis data does not contain Department of Correction information for the following nine States: Alaska, California, Delaware, Hawaii, Massachusetts, North Dakota, South Dakota, Vermont, and Wyoming.

Sample Methodology and Results

To accomplish our objective, we obtained a data extract of 9,183 payees as of March 15, 2007 who were still serving as payees as of March 25, 2009 and met the screening criteria outlined in Appendix B. Of the 9,183 payees, we established 2 sampling frames. One sampling frame consisted of 8,672 payees who were family members (relatives) of the beneficiaries they served according to the Social Security Administration's (SSA) records. The second sampling frame was 511 payees who were not related (non-relative) to the beneficiaries they served. Of the 8,672 relatives, we selected a random sample of 250 payees for review. Of the 511 non-relative payees, we selected a random sample of 50 payees for review. In total, we selected 300 payees for review.

We reviewed information recorded in the LexisNexis Risk Management Solutions Database (LexisNexis) to determine period(s) of imprisonment. Each payee's Social Security number, name, and date of birth were searched in LexisNexis to determine whether incarceration information could be located for the payee. When a payee was found in LexisNexis, we examined the record for information pertaining to a sentence that resulted in imprisonment of longer than 1 year. In addition, we examined the database record for dates that showed the imprisonment was before the individual was selected as a payee.

Based on our 2 samples, we determined that 28 of the 300 payees were imprisoned for longer than 1 year. Of the 28 payees, 25 were payees who were family members of the beneficiaries they served. The remaining three payees were not related to the beneficiaries they served.

Projecting the results of our review to the applicable sampling frame, we estimate 867 (10 percent) relative payees (1) had periods of imprisonment that began at least 1 year before selection to serve as payees and (2) were imprisoned for longer than 1 year. Table C-1 provides details of our sample results and statistical projection.

Table C-1: Number of Relative Representative Payees with Information Indicating Imprisonment of Longer Than 1 Year	
Population Size	8,672
Sample Size	250
Number of relative representative payees with information indicating imprisonment of more than 1 year	25
Projection of relative representative payees found to have information indicating imprisonment of more than 1 year	
Point Estimate	867
Lower Limit	615
Upper Limit	1,182

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

Using a straight-line estimation methodology, we estimate that 31 (6 percent) non-relative payees (1) had periods of imprisonment that began at least 1 year before selection to serve as payees and (2) were imprisoned for more than 1 year. Table C-2 provides details of our estimate.

Table C-2: Number of Non-Relative Representative Payees with Information Indicating Imprisonment of Longer Than 1 Year	
Population Size	511
Sample Size	50
Number of non-relative representative payees found to have information indicating imprisonment of longer than 1 year	3
Estimate of non-relative representative payees found to have information indicating imprisonment of longer than 1 year	31

Agency Comments



MEMORANDUM

Date: June 7, 2010

Refer To:

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

From: James A. Winn /s/
Executive Counselor

Subject: Office of the Inspector General Draft Report, Representative Payees Reporting Criminal Convictions (A-13-09-19145)

This provides our revised comments on the subject report; it replaces our original comments of May 7, 2010. We apologize for the error in our first set of comments.

Please let me know if I can be of further assistance. You may direct staff questions to Candace Skurnik, Director, Audit Management and Liaison Staff, at extension 54636.

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
"REPRESENTATIVE PAYEES REPORTING CRIMINAL CONVICTIONS"
A-13-09-19145**

Below are our responses to the two recommendations in the subject report.

Recommendation 1

Determine and implement a cost-effective method to use Prisoner Update Processing System (PUPS) incarceration data and/or third party database information to assess individuals applying to serve as representative payees and use this information to determine the suitability of the payee applicants.

Comment

We agree. We will pursue enhancements to our PUPS/Representative Payee System data match to improve screening of current representative payees and new applicants. We must note, however, that any actions we take in this area will require us to modify existing systems' processes. As with any information technology (IT) project, we will compare this requirement with all potential uses of our limited IT resources to determine which investments will provide the greatest return to the agency, the public, and our stakeholders.

Recommendation 2

Review the 120 payees we identified to determine their suitability to continue to serve as representative payees.

Comment

We agree. We will review the 120 payees identified and determine their suitability to continue to serve as payees. We plan to complete our review by June 18, 2010.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Shirley Todd, Director, Evaluation Division

Randy Townsley, Audit Manager

Acknowledgments

In addition to those named above:

Parham Price, Auditor

Brennan Kraje, Statistician

Charles Zaepfel, IT Specialist

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