



**COMMITTEE ON WAYS AND MEANS**

**SUBCOMMITTEE ON SOCIAL SECURITY**

**UNITED STATES HOUSE OF REPRESENTATIVES**

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**STATEMENT FOR THE RECORD**

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SOCIAL SECURITY ADMINISTRATION**

Chairman Johnson, Ranking Member Becerra, and Members of the Subcommittee:

Thank you for this opportunity to continue discussing our anti-fraud efforts and our partnership with the Office of the Inspector General (OIG) to root out disability fraud wherever it may occur. I am Carolyn Colvin, the Acting Commissioner of Social Security (SSA).

At our last hearing on this topic, you asked us to review and report on our practices in light of the recent fraud cases in New York and Puerto Rico and to discuss with you any changes to those practices. Today, I will share with you the highlights of our review.<sup>1</sup>

### **Our Anti-Fraud Efforts**

We are committed to preserving the public's trust in our programs. We have no tolerance for fraud, and I reiterate to those who would defraud Social Security: We will find you; we will prosecute you; we will seek the maximum punishment allowable under the law; and we will fight to restore the money you've stolen to the American people. We have expended significant resources in our anti-fraud efforts and in support of the Inspector General, who is responsible for "provid[ing] leadership and coordination ... to prevent and detect fraud and abuse."<sup>2</sup> Our efforts are working: The indictments in the New York City and Puerto Rico fraud cases likely would not have occurred without the vigilance of our dedicated SSA and Disability Determination Service (DDS) employees.

It is regrettable that people will try to take advantage of our programs; however, that is the reality. Thus, we have developed expertise on fraud identification and referral through comprehensive training. All SSA field office and DDS employees receive extensive training on fraud detection. This training includes identifying fraud scenarios--including "middleman fraud" such as what allegedly occurred in Puerto Rico and New York City. Because of this training, our dedicated frontline DDS employees in New York City and Puerto Rico were able to identify suspicious patterns regarding certain disability claims, and we referred these cases to the OIG for investigation. In fiscal year (FY) 2013, we made over 22,500 disability fraud referrals to the OIG; the OIG opened about 5,300 cases based on these referrals. To date, the OIG has referred over 100 of these cases to United States Attorneys' Offices for criminal prosecution.

We work closely with the OIG to support its anti-fraud activities. Each SSA regional office has a Regional Anti-Fraud Committee – chaired by an OIG Special Agent-in-Charge and the Regional Commissioner– that meets to discuss and promote anti-fraud initiatives. In addition, we have dedicated resources and staff, including experienced disability examiners and medical consultants, to support the OIG, law enforcement, and prosecutors with their investigation of possible fraud cases. For example, following the fraud referrals in Puerto Rico, our New York Regional Office established a unit responsible for helping the OIG and prosecutors analyze disability cases and identify other disability claims in Puerto Rico that potentially were

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<sup>1</sup> See [www.ssa.gov/legislation/other.html#a0=2](http://www.ssa.gov/legislation/other.html#a0=2).

<sup>2</sup> See Inspector General Act of 1978, Pub. L. 95-452, § 2.

connected to the alleged conspiracy. Our partnership with the OIG and others was instrumental in facilitating the indictments.

Our most successful collaboration with the OIG is the Cooperative Disability Investigation (CDI) program – our premier disability fraud investigation and prevention tool. Each CDI Unit consists of an OIG Special Agent who serves as the Team Leader, State DDS and SSA employees who are programmatic experts, and State or local law enforcement officers. CDI units investigate individual disability applications to identify applicants, beneficiaries, and third parties who participate in disability fraud. CDI units may present the results of these investigations to Federal or State prosecutors for criminal prosecution or civil action, as well as to the Office of the Counsel to the OIG for the imposition of civil monetary penalties. Currently, we have 25 CDI units. The New York CDI unit – established in 1998, and one of our first units established – played a critical role in investigating the New York City fraud conspiracy. In 2008, as a result of a number of investigations stemming from referrals by the alert DDS employees, the New York CDI unit identified the potential conspiracy involving third-party facilitators. That CDI unit worked closely with SSA’s New York regional office to uncover the vast, longstanding criminal conspiracy.

We have established procedures to handle cases if we have reason to believe that fraud was involved in obtaining benefits. Upon indictment, we immediately suspend benefit payments to indicted beneficiaries (or auxiliaries collecting on the beneficiaries’ earnings records). In New York City and Puerto Rico, we suspended benefit payments to over 170 disability beneficiaries and their auxiliaries. In addition, we will redetermine entitlement to disability benefits of individuals implicated in the fraud scheme and disregard the tainted medical evidence. In connection with the Puerto Rico case, we are redetermining approximately 7,400 disability applications. We expect to undertake a similar review of the New York cases as well.

Each of these activities played a critical role in support of the OIG’s fight against fraud and helped bring about the indictments of the conspirators. We know that we simply cannot prevent all fraud schemes any more than we can stop all crime in our communities. We can, however, deter and prosecute it. As these cases show, we tirelessly seek to find and bring to justice anyone who attempts to defraud Social Security. I am very proud of our employees for working cooperatively with the OIG to detect and refer the alleged fraud cases in Puerto Rico and New York City. While any level of fraud is unacceptable, the low level of disability fraud in our programs speaks to our efforts; the best available evidence shows that the level of actual disability fraud is below 1 percent.<sup>3</sup>

### **Our Planned Immediate Enhancements to Our Anti-Fraud Efforts**

Fighting fraud is an ongoing and evolving process. We use fraud cases to identify ways to combat fraud more successfully, and continually strive to build upon our successful anti-fraud efforts. I want to share with you several activities that we will implement immediately or in the very near future.

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<sup>3</sup> See OIG, *Overpayments in the Social Security Administration’s Disability Programs*, Appendix A, pp. 6-7 (providing a point-in-time estimate of potential fraud cases out of a sample of over 1,500 cases).

Working with the OIG, we will expand the number of CDI units and expand the capacity of existing units. According to the OIG, CDI units have produced savings of more than \$860 million over the last 3 years. We provide most of the funding for these units, and in collaboration with the OIG, we plan to expand the CDI program by seven additional units beginning in 2014. We anticipate these seven units will be fully operational in 2015, increasing the total number of units to 32 nationwide. We will also expand the capacity of existing CDI units by increasing the number of law enforcement investigators in a number of current units.

As I mentioned earlier, all SSA field office and DDS employees receive fraud detection training. They remain our first and best line of defense against those seeking to cheat the system. We will expand training to *all* SSA employees during FY 2014 with specific focus on lessons learned from Puerto Rico and New York City.

We are establishing a central, specialized fraud unit comprised of disability examiners dedicated to reviewing and acting on potential fraud cases. This unit will be located in the New York Program Service Center, where disability examiners have developed considerable expertise due to the New York City and Puerto Rico cases. These examiners will be our national experts in working disability fraud cases, and we plan to compile data from the cases that will help us to develop further analytical tools to identify potential fraud.

We are also establishing a National Anti-Fraud Committee, which will be co-chaired by the Inspector General and our Deputy Commissioner for Budget, Finance, Quality, and Management. Building off the model of our successful Regional Anti-Fraud Committees, the National Anti-Fraud Committee will lead and support enterprise-wide strategies to combat fraud, waste, and abuse. It will also collaborate with private insurers and other Federal agencies to learn new ways to combat complex and sophisticated fraud schemes.

In addition, we will expand our Fraud Prosecution project. For more than a decade, in partnership with the DOJ, we have placed a number of attorneys from our Office of General Counsel in several Federal districts to serve as fraud prosecutors. These Special Assistant United States Attorneys are dedicated to Social Security fraud cases and have increased the number of prosecutions. Since FY 2003, our fraud prosecutors have secured over \$60 million in restitution and more than 1,000 convictions. We plan to hire or designate 12 additional attorneys to serve as Special Assistant U.S. Attorneys. We already have an attorney on the ground in Puerto Rico working with the U.S. Attorney.

There has been concern expressed that claimants withhold medical evidence that could be unfavorable to their claims. This withholding of evidence could result in improper findings of disability. We engaged with the Administrative Conference of the United States (ACUS) to review and analyze the Social Security Act and our regulations regarding the duty of candor and the submission of all evidence in disability claims. ACUS surveyed the requirements of other administrative tribunals, as well as the Federal Rules of Evidence, Federal Rules of Civil Procedure, and other applicable authority, regarding the duty of candor and submission of all evidence and then issued a report recommending certain improvements. After carefully studying the report and conducting internal analyses, on February 20, 2014, we published a Notice of

Proposed Rulemaking that proposed to revise our regulations to require claimants to inform us about or to submit *all* medical evidence known to them that relates to their disability claim--both favorable and unfavorable. This requirement would be subject to two exceptions, which are for attorney-client privilege and attorney work product. We would also extend the protections afforded by these privileges to non-attorney representatives.

We are undertaking similar efforts with outside experts to update some of our policies in the disability determination process. While these efforts are primarily designed to improve the consistency of our disability determinations, they also may help deter fraud. For example, we have contracted with the Institute of Medicine (IOM) to conduct a comprehensive review of psychological testing including symptom validity testing; and determine the relevance of such testing to disability determinations in claims involving physical or mental impairments. In another ongoing project, ACUS is reviewing our rules and policy regarding how SSA adjudicators at all levels evaluate claimants' symptoms in disability claims, and we anticipate recommendations from them on how we can improve consistency in disability determinations.

Lastly, with the FY 2014 appropriations, Congress provided us with funding to significantly increase the number of medical continuing disability reviews (CDR) that we are able to conduct. We estimate that the money spent on CDRs saves, on average, \$9 per every dollar invested, including savings accruing to Medicare and Medicaid, yet we have a backlog of 1.3 million CDRs due to budgetary shortfalls. While the primary purpose of CDRs is to determine whether a beneficiary is no longer entitled to benefits because his or her condition has medically improved, our ability to significantly increase CDRs may allow us to detect increased numbers of potentially fraudulent or suspicious activities.

While we recognize the importance of combatting fraud wherever we can, we are only too aware that all of these enhancements require substantial resources. Without adequate, sustained funding, we will not be able to achieve all that we can in our anti-fraud activities. Due to budgetary constraints, we have been unable to replace nearly 11,000 employees who retired or left our agency for other reasons from FY 2011 through FY 2013. The New York DDS, which identified the New York City fraud conspiracy in 2008, now has approximately 22 percent less staff than it did then. We have fewer frontline employees standing as the first line of defense against fraud. While the FY 2014 appropriations may allow us to replace some of our staffing losses, we need your support in FY 2015 and beyond to ensure that we have adequate staffing and resources to continue and enhance our robust anti-fraud efforts. Please also understand that much of our work is complex and it takes time for us to train employees fully and for them to gain experience.

## **Data Analytics**

We fully appreciate that criminals continually look for an edge against potential victims. They are likely to devise more complex and sophisticated methods in their efforts to defraud Social Security. Consequently, in addition to what I have described above, we have begun a substantial effort to develop and use new logical analysis tools to support the OIG's efforts to combat fraud. SSA has a long, successful history of developing online applications, electronic tools, and predictive models to efficiently process benefits claims, enhance decisional quality, and target

limited resources toward those program integrity reviews most likely to return savings to the taxpayer.

In the anti-fraud arena, we are undertaking a special initiative to expand our use of data analytics to enhance our ability to detect possible fraud. We will apply logical analysis to determine common characteristics and patterns of fraud based on data from past allegations and known cases of fraud. We will apply these tools to look for potential fraud or other suspicious behavior when we review initial applications or existing data on beneficiaries. With these diagnostic tools, we anticipate increasing our ability to identify questionable patterns of activity in disability claims and prevent fraudulent applications from being processed. During the remainder of FY 2014, we will develop and begin testing some of these tools.

We have invited the OIG to participate in this initiative, as it possesses valuable information on actual fraud cases that will inform our development of analytics software. We will keep you apprised of our progress as we develop and pilot potential tools and applications.

### **Other Anti-Fraud Initiatives**

Our anti-fraud efforts have not been limited to Social Security matters. In the past several years, we have worked with other Federal agencies and the Administration in developing legislative proposals designed to combat fraud in other programs. For example, we helped develop a legislative proposal for the President's FY 2014 Budget that would eliminate the public's ability to use the Freedom of Information Act (FOIA) to access our recent death records. The proposal would restrict immediate access to a deceased individual's information on the Death Master File (DMF) to those users who legitimately need the information for fraud prevention purposes and delay the release of the DMF to all other users for three years after the individual's death. This provision was designed to reduce opportunities for identity theft and to eliminate the ability of criminals to use our publicly available death records to file fraudulent tax returns. The Congress enacted a legislative provision similar to the one proposed in the President's Budget in the Bipartisan Budget Act of 2013.

We are also working with other Federal agencies. The Bipartisan Budget Act of 2013 includes another Administration proposal to expand both the data we collect from correctional facilities about incarcerated individuals, and the entities with which we can share that information. We are working with the Department of the Treasury (Treasury) to develop the necessary agreement to send them our prisoner information, so they can incorporate it into their Do Not Pay initiative, thereby allowing other agencies to use it to help prevent and detect improper payments. We are also working to find the best ways to collect additional information, such as the actual or anticipated release date, and to get that information to the Do Not Pay portal. In addition, the Bipartisan Budget Act of 2013 also provided Prisoner Update Processing System (PUPS) access for the Internal Revenue Service.

### **Huntington, West Virginia Hearing Office**

There has also been some Member interest relating to a former situation in our Huntington, West Virginia hearing office. Given the nature of certain ongoing investigations, we are limited in

sharing information about the investigation in this report.<sup>4</sup> As we are permitted, we are willing to privately brief the Committee in more detail, if requested.

We would emphasize, however, that we have taken significant actions to strengthen our hearings process. Over the last three years, we have implemented procedural changes, implemented new controls, implemented electronic system changes, implemented new management practices, improved data collection, and improved data analysis. While these improvements are paying off, we remain vigilant and continue to review national data for trends and fact patterns that suggest policy non-compliance or fraud.

## **Conclusion**

In short, we have long been committed to combating fraud in our programs. Although there is a low level of fraud in our disability programs, no amount of fraud is tolerable. Fighting fraud is an ongoing and evolving process. Therefore, in collaboration with the OIG, we are continuing to enhance our anti-fraud efforts.

Alleged criminal conspiracies like those in Puerto Rico and New York City may mislead the public into overestimating the level of fraud in our disability programs. Hearings like these are a chance for us to correct these distortions and remind the public that we are keeping vigilant watch over these programs.

We appreciate this Committee's assistance in these efforts and stand ready to work with Congress to maintain the public's trust and confidence in our very important social insurance programs.

Rooting out a fraud is a team effort. We need people who suspect something to say something. If you suspect that someone is trying to cheat us, please contact OIG at 1-800-269-0271.

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<sup>4</sup> For a general discussion of SSA's improvements in its hearing process, and our specific actions resulting from the Huntington, West Virginia investigation, *see* Written Testimony of SSA Chief Administrative Law Judge Debra Bice before the Senate Committee on Homeland Security and Government Affairs Committee, Oct. 7, 2013. Also available at [http://ssa.gov/legislation/testimony\\_100713.html](http://ssa.gov/legislation/testimony_100713.html).