
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**THE SOCIAL SECURITY
ADMINISTRATION'S PROCEDURES
FOR ADDRESSING
EMPLOYEE-RELATED ALLEGATIONS
IN REGION II**

June 2004

A-02-04-14007

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.

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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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- 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.



SOCIAL SECURITY

MEMORANDUM

Date: June 24, 2004

Refer To:

To: Bea Disman
Regional Commissioner
New York

From: Assistant Inspector General
for Audit

Subject: The Social Security Administration's Procedures for Addressing Employee-Related Allegations in Region II (A-02-04-14007)

OBJECTIVE

Our objectives were to evaluate the adequacy of the Social Security Administration's (SSA) policies and procedures in Region II for addressing employee-related allegations, determine how well Region II complied with these policies and procedures, and determine whether Region II referred all employee-related allegations that should have been referred to the Office of the Inspector General (OIG).

BACKGROUND

Region II receives various types of allegations related to its programs, employee conduct and the misuse of Social Security numbers (SSN). The allegations can originate from SSA employees, the public, congressional inquiries, internal security reviews, or the OIG, and can be initially received by different offices within the Office of the Regional Commissioner (ORC).

Some examples of employee-related allegations include standards of conduct violations, ethics violations, potential criminal violations, the theft of Government property, and allegations of rude, discourteous, or poor service where a specific employee is named. Allegations concerning SSA employees are significant because of the potential losses to SSA's programs and the corresponding negative public impact.

In determining the validity of allegations, Region II is required to conduct sufficient development to support or remove suspicion that criminal violations may have been committed.¹ SSA's policy states,

Prior to referral to the Office of the Inspector General, Office of Investigations Field Division, each potential violation and allegation must be developed by the field office, processing center, or other SSA office to the point where enough evidence has been secured to either remove suspicion or substantiate the violation.²

In Region II, the ORC, Center for Security and Integrity (CSI), Center for Human Resources (CHR), and Office of Public Affairs (OPA) all receive and review employee conduct and program-related allegations. Each of these components has separate processes and procedures for reviewing the allegations it receives. See Appendix C for a description of the procedures used by each component.

RESULTS OF REVIEW

The New York Regional Office (NYRO) had policies and procedures in place to address employee-related allegations and generally complied with them. We identified some cases in need of further action and opportunities to improve the procedures used to address employee-related allegations.

- The NYRO did not refer two potential criminal cases to the OIG for investigation.
- There was inadequate case documentation to support whether allegations were properly developed for 26 cases.
- The CSI, CHR, and OPA did not retain complete control logs used to document the receipt, review, and clearance of employee-related allegations.
- There was inadequate documentation to support that the 90-day requirement for clearing OIG Hotline referrals was met for 15 cases.
- There was a lack of consistency in disciplinary actions for absence without official leave (AWOL) cases.

REFERRALS TO THE OFFICE OF THE INSPECTOR GENERAL

SSA policy states that allegations backed by evidence and information, *either directly or circumstantially*, that establishes that a potential violation may have been committed are

¹ Program Operations Manual System (POMS), GN 04110.010 A.

² POMS, GN 04110.010 B.

to be forwarded to the OIG.³ Allegations should be forwarded to the OIG even if additional information is being developed. In our review, 23 employee-related cases received and processed in Region II were potential violations and should have been referred; 21 were referred. We identified two CSI cases that should have been forwarded to the OIG, but were not.

- An SSA employee obtained a Detailed Earnings Query (DEQY) and a Numident Query on another SSA employee. These queries were not in any way related to the employee's job duties. The employee initially denied performing these queries and then later admitted it. Although the employee was suspended for 2 days, the case was not referred to the OIG. The DEQY involved accessing confidential tax information that was unrelated to this employee's job duties. Reviewing tax information is considered a potential criminal violation.⁴
- An SSA employee requested several Alphident Queries to obtain the SSN of an individual and requested DEQYs on a friend. The employee was suspended for 7 days, but the case was not referred to the OIG. Similar to the case discussed above, the DEQYs involved accessing confidential tax information that was unrelated to this employee's job duties and reviewing tax information is considered a potential criminal violation.

RETENTION OF CASE DOCUMENTATION

In determining the validity of allegations, SSA is required to conduct sufficient development to support or remove suspicion that criminal violations may have been committed.⁵ Twenty-six of the 189 allegations we reviewed lacked adequate documentation to come to a conclusion that Region II had taken sufficient corrective action. For 4 of these allegations, we were unable to locate any documentation. These 4 cases were OIG Hotline referrals to the ORC.

For the remaining 22 cases, the NYRO provided some documentation, but it was insufficient to determine if the cases were fully developed. For example, one ORC case only had an internal control log cover sheet in the case file but no other evidence of any investigation or the required response to the Allegation Management Division (AMD). While the ORC later provided us with a written statement from the Field Office Manager about the investigation and sending a letter to the complainant, it was unable to provide us with a copy of this letter or any other documentation of its investigation. In a CSI case, we found that the file did not contain a description of the evidence, if any, that led the CSI to conclude that there had not been systems misuse or other offenses by the employee. The file only contained a brief note stating "...management does not think it

³ POMS, GN 04110.010 C.2.

⁴ Public Law No. 105-35, Section 7213a.

⁵ POMS, GN 04110.010 A.

materialized into anything." The file's very brief notes of telephone conversations between the CSI and other SSA staff were not sufficient for us to conclude whether CSI took the appropriate action in this case.

Seven of the 22 cases were allegations of possible criminal violations. Given the lack of evidence, we were unable to conclude whether the allegations were substantiated or proven false. Accordingly, we could not conclude if these cases should have been referred to the OIG for further investigation.

RETENTION OF CONTROL LOGS

Federal internal control standards call for policies, procedures, techniques and mechanisms to help enforce management's directives, address risks and to record, properly classify and account for transactions and events.⁶ Additionally, SSA's policy requires that control logs be retained for 2 years.⁷ We found that the ORC maintained an internal control log, which tracked employee-related allegations. We could not identify complete logs for cases processed by the CSI, CHR or OPA.

Center for Security and Integrity

The CSI did not have a process, either manually or electronically, for tracking all of its employee-related allegations. As a result, we could not independently verify that the total number of CSI cases of employee-related allegations that we reviewed represented the total population of all CSI cases during our audit period. The CSI had a database for cases that have been referred to the OIG due to potential criminal misconduct. The CSI did not log or track other types of employee-related allegations.

Center for Human Resources

The CHR did not maintain a control log system to track the receipt, review, and results for all the employee-related allegations it investigated which resulted in an adverse action. The CHR's Personnel Policy Team maintained an informal spreadsheet of current cases that were being worked, but these cases were purged from the spreadsheet as they were concluded and closed.

Office of Public Affairs

The OPA's case files of allegations were kept on a rolling basis for 1 year and filed by month and claimant's last name. Files were not kept for any longer than 1 year. The OPA did not maintain any log or database to track the complaints received, the nature of the complaint, or the outcome.

⁶ Standards for Internal Control in the Federal Government, General Accounting Office, GAO/AIMD-00-21-3-1 p. 11, 12 and 15.

⁷ Operational and Administrative Records Schedules, CMS-02.01.00, Control Logs, 09-01-92.

COMPLIANCE WITH THE 90-DAY TIME REQUIREMENT TO COMPLETE HOTLINE REFERRALS

The OIG requires the SSA component receiving an allegation referral from the OIG Hotline to respond with the results of its findings within 90 days. For 15 of the 52 cases received by the ORC from the Hotline, the Region did not respond to AMD staff within the required 90-day period. Of these 15 cases, 2 were subsequently cleared. However, 13 cases still had not been cleared as of February 2004. These cases had been open for an average of 649 days, ranging from a low of 459 to a high of 870 days. In 7 of the 13 open cases, the ORC had not responded to the AMD, but it provided documentation demonstrating that it took action to sufficiently resolve the cases. Two additional cases had some evidence of corrective action, but the documentation was insufficient. Four cases had no evidence of any corrective action.

CONSISTENCY OF DISCIPLINARY ACTION

The Douglas Factors establish a set of standards for disciplinary and adverse action cases. The Douglas Factors were developed by the U.S. Merit Systems Protection Board as a result of a court case, *Douglas v. Veterans Administration*.⁸ According to New York Regional Office management guidance for disciplinary and adverse actions, each of the Douglas Factors, if applicable, is to be considered in selecting an appropriate penalty for an offense. The Douglas Factors recommend that penalties should be consistent with those imposed on other employees for the same or similar offenses and consistent with the applicable agency table of penalties.

We found that the NYRO's decisions were generally administered in a consistent manner for most types of misconduct cases. However, we found a lack of consistency with AWOL cases in the number of AWOL occurrences and amount of AWOL hours that were permitted to accumulate prior to being referred to the CHR for disciplinary action. We found that some managers made referrals to the CHR for disciplinary action after a few occurrences of AWOL, while other managers made referrals after numerous AWOL infractions. There is no established policy on the amount of AWOL that can be permitted before managers are required to refer it for administrative action.

- First suspensions for AWOL violations – There were 5 employees who were suspended for the first time for varying AWOL violations. For example, one employee had accumulated 12.75 hours of AWOL in 3 occurrences over a 4-day period and was referred to CHR for a first suspension for AWOL offenses, while another employee accumulated 167.25 hours of AWOL in 33 occurrences over an 11-month period before being referred to CHR for a first suspension for AWOL.
- Third suspensions for AWOL violations – There were 4 employees who received their third suspensions for AWOL violations. The amount of AWOL that

⁸ *Douglas v. Veterans Administration*, 5 M.S.P.R. 280 (1981), p. 38.

accumulated prior to referral to the CHR for disciplinary action varied greatly. One employee was referred to the CHR for the third suspension after accumulating 31.5 hours of AWOL in 45 occurrences over a 7-month period. Another employee was allowed to accumulate 159.75 hours in 22 occurrences over a 3-month period before being referred to the CHR for a third AWOL suspension, while another accumulated 190.5 hours of AWOL in 79 occurrences over a 41-day period. The fourth employee accumulated 67.75 hours of AWOL in 5 occurrences over a 5-month period.

CONCLUSIONS AND RECOMMENDATIONS

While SSA's policies and procedures in Region II for addressing employee-related allegations were generally adequate, further action is needed for some cases and there are opportunities to improve the policies and procedures related to these allegations.

Accordingly, we recommend that the NYRO:

1. Ensure allegations with potential employee criminal violations are referred to the OIG.
2. Maintain evidence (that is, case development, documentation, and control logs) that supports the clearance of employee-related allegations.
3. Clear any OIG referrals that are still open beyond the 90-day requirement and report back findings to the OIG.
4. Provide guidance to regional staff on referring AWOL cases for disciplinary action to ensure consistency in the handling of these cases.

AGENCY COMMENTS

The NYRO disagreed with our first recommendation. In response to the first recommendation on the referral of cases to the OIG, it stated that it was not required to refer the two DEQY cases cited in the report since there wasn't a national SSA policy in place at the time the cases were processed directing such cases to be referred to the OIG. Additionally, the NYRO stated that to refer all such DEQY cases to the OIG could prolong the timeframe needed to address them through administrative action, which could be problematic if the administrative action were contested in arbitration.

The NYRO partially agreed with our second recommendation. It will establish control logs and maintain evidence on all employee allegations, except for CHR cases related to a disciplinary action that was not imposed. It stated that this position is consistent with the Agency's Personnel Policy Manual, section 293-1, Appendix C, which provides for the removal of such material from the In Process Working File. The In Process Working File is a temporary file used to house an administrative action while it is being processed.

The NYRO agreed with our third and fourth recommendations. In agreeing to our fourth recommendation, the NYRO stated that there are many factors that managers consider prior to referring AWOL cases for disciplinary action other than the number of occurrences and hours of AWOL. It stated that managerial discretion plays a significant role since each case presents unique circumstances and that the Agency does not have a table of penalties that prescribes specific disciplinary actions in AWOL cases.

OIG RESPONSE

We appreciate the NYRO's comments on our report. We are pleased that it fully agreed with two of our four recommendations and has already begun to take action to address several identified weaknesses.

While the NYRO disagreed with our first recommendation, the Agency and the OIG have subsequently agreed to a pilot program related to the referral of systems violations, such as the unauthorized queries we highlighted in the report. Under the pilot program, all systems violations will be referred to the OIG. Category two and three violations, the most serious of violations, will be referred to the OI as they are identified. Category one violations will be referred for OI review on a quarterly basis. As a result of this pilot program, all systems violations, including DEQY cases, will be referred to the OIG.

In regards to the NYRO's response to our second recommendation, we believe that all employee-related allegations should be part of an allegation control process that documents the receipt, development, and disposition of all allegations. The Agency's Personnel Policy Manual, section 293-1, Appendix C discusses the removal of a copy of the proposal and employee's reply related to disciplinary and adverse actions that are not imposed. It does not prohibit the tracking of these cases in an allegation control process.

Concerning our fourth recommendation, we understand that managerial discretion plays a significant role in AWOL cases, as each case may present unique circumstances. Granting this point, the circumstances in the cases we reviewed did not explain the great variation in the number of occurrences and hours of AWOL permitted to accumulate before they were referred for disciplinary action. We are hopeful that the NYRO's training on good leave management practices will improve the processing of AWOL cases.



Steven L. Schaeffer

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Description of the Procedures Used to Address
Employee-Related Allegations in Region II

APPENDIX D – Flowcharts

APPENDIX E – Agency Comments

APPENDIX F – OIG Contacts and Staff Acknowledgments

Acronyms

AD	Area Director
AMD	Allegation Management Division
AWOL	Absence Without Official Leave
CHR	Center for Human Resources
CIRP	Comprehensive Integrity Review Program
CSI	Center for Security and Integrity
DEQY	Detailed Earnings Query
ESS	Executive Support Staff
IPFT	Integrity and Program Fraud Team
NYRO	New York Regional Office
OI	Office of Investigations
OIG	Office of the Inspector General
OPA	Office of Public Affairs
ORC	Office of the Regional Commissioner
POMS	Program Operations Manual System
RCACS	Regional Commissioners Action Control System
SFPT	Security and Fraud Prevention Team
SSA	Social Security Administration
SSN	Social Security Number

Scope and Methodology

We reviewed employee-related allegation cases in Region II for Fiscal Years (FY) 2001 and 2002. (We did not review cases referred to or processed by the Northeast Program Service Center in Region II.) These cases included referrals received directly from the Office of the Inspector General (OIG) Hotline; cases processed by the Center for Security and Integrity (CSI); cases processed by the Center for Human Resources (CHR); and cases processed by the Office of Public Affairs (OPA).

We reviewed the following criteria:

- Office of Management and Budget Circular A-123, *Management Accountability and Control*.
- United States General Accounting Office, *Standards for Internal Control in the Federal Government*.
- Office of Personnel Management, *Standards of Ethical Conduct for Employees of the Executive Branch*.
- Social Security Administration (SSA), *Program Operations Manual System*
- SSA, *Administrative Instructions Manual System*.
- SSA, *Operational and Administrative Records Schedules*.
- SSA, *Annual Personnel Reminders*.
- SSA, *Memorandum on Sanctions for Unauthorized Systems Access Violations*.
- SSA, *Personnel Policy Manual*.
- SSA, New York Regional Office, *Disciplinary Actions and Adverse Actions: A Training Guide for Managers and Supervisors*.
- Additional polices and laws related to the processing of employee-related allegations.

Our steps included the following:

- We obtained the database of allegations identified as employee-related that were processed by the OIG Allegations Management Division (AMD) and referred to the New York Office of the Regional Commissioner (ORC) during FYs 2001 and 2002. The database listed 60 cases. We later confirmed with the AMD that 7 of those cases were never referred to the ORC, and 1 other case was referred, but it should not have been since it involved an Office of Hearings and Appeals employee.¹ We reviewed the remaining 52 cases.

¹ Of the 7 cases not referred: 2 were duplicate allegations that were previously referred under different allegation numbers and were closed by the AMD; 1 was closed by AMD management without referral because it was determined that no violation occurred; 3 were not referred by AMD to Region II due to AMD processing error; and 1 case was a Boston Regional Office case that was identified in error as a New York Region case on the OIG database.

- We compiled a list of 95 employee-related allegations handled by the CSI from review of CSI and CHR case files. We eliminated 30 of the 95 cases that were outside the scope of our review because they were either outside of our audit period of FY 2001 and FY 2002, detected by the Comprehensive Integrity Review Program (CIRP), related to an employee stationed at the Northeast Program Service Center, or was part of an open OIG investigation.
- We reviewed 232 cases processed by the OPA between January 2002 and September 2002. (Cases processed between October 1, 2000 and December 31, 2001 had been discarded.) We determined that 20 of the 232 cases involved employee-related allegations and included those 20 cases in our review.
- We determined that 45 of the 65 cases processed by the CSI were referred to the CHR and 33 of these resulted in adverse actions. We reviewed the CHR's handling of these cases and reviewed an additional 52 adverse actions processed by the CHR Employee Relations Staff to identify potential employee-related allegations. We did not review any cases identified through CIRP reviews or those being investigated and pending with the OIG. We also did not review CHR cases that did not result in an adverse action. It is CHR's policy to destroy any documentation for cases that do not result in an adverse action.²
- We interviewed officials within the ORC, CSI, CHR, and OPA.
- We reviewed ORC, CSI, CHR, and OPA documentation related to allegations received from the OIG and other sources.
- We compared similar types of employee violations to determine if Region II processed cases in a consistent manner.

We performed our review at the SSA regional office in New York, New York from May 2003 through February 2004. The entity reviewed was the Office of the Regional Commissioner, New York Regional Office. We conducted our review in accordance with generally accepted government auditing standards.

² Social Security Administration, Personnel Policy Manual, Chapter S293-1, Appendix C (General Series).

Description of the Procedures Used to Address Employee-Related Allegations in Region II

The Office of the Regional Commissioner (ORC)

The ORC receives employee-related allegations from multiple sources. For example, the ORC receives allegations from the Office of the Inspector General (OIG) Fraud Hotline, telephone calls or letters from the public to the Regional Commissioner and inquiries from congressional offices. The calls and letters to the Regional Commissioner and the congressional inquiries directly received by the ORC are referred to the Office of Public Affairs (OPA) for processing. The ORC directly manages the employee-related allegations that originate with the OIG Fraud Hotline, a toll-free phone number and e-mail address established to allow the public to forward information on suspected cases of fraud, waste, and abuse within the Social Security Administration (SSA).

The staff of the Hotline, which is operated by the Office of Investigation's (OI) Allegation Management Division (AMD), forwards allegations involving potential employee-related misconduct, fraud, abuse, and service-related complaints to ORC. Once received, allegations are reviewed by the Regional Commissioner and the Executive Assistant to the Commissioner and then passed to an ORC staff member for input into the Regional Commissioners Action Control System (RCACS), a computerized allegation tracking system. The RCACS assigns a systems-generated control number to each allegation. Once entered, allegations are forwarded to the appropriate Area Director (AD) for further development.

Each allegation forwarded to an AD is accompanied with instructions to prepare a fact sheet of the results of the related investigation and a draft response letter to the complainant. The Area Director reviews the allegation and forwards it to the appropriate field office manager that has direct supervisory responsibilities for the employee in question. The manager investigates the allegation, assembles any documents deemed necessary and prepares a summary of the main facts of the case. The AD forwards the completed Fact Sheet and any other relevant documents back to the ORC. The New York Region sends its response to the allegation to AMD via e-mail. Hard-copies of case file documents are maintained at the Regional Office.

We reviewed 52 employee-related allegations referred by the Hotline to the ORC during the period of our review. Almost all of the allegations received by the ORC that we reviewed were service-related complaints; none involved allegations of criminal misconduct.

Center for Security and Integrity - Security and Fraud Prevention Team (CSI)¹

The CSI is primarily responsible for reviewing those employee-related allegations related to internal security. The CSI reviews all allegations that appear to involve fraud or employee misconduct related to systems misuse that may result in an adverse action. It is responsible for supporting field office managers in developing potential fraud issues by using computer system analysis and providing other technical support. The CSI receives its cases through internal systems reviews, referrals from Field Offices or Teleservice Center managers, and requests from the Center for Human Resources (CHR) and OI for assistance.

The CSI primarily investigates systems sanctions cases that involve activities, such as unauthorized access to SSA systems, unusual queries or other forms of systems misuse that would be grounds for disciplinary action. Depending on the evidence collected, CSI determines if the case should be closed or referred to OI for further investigation or to CHR for possible administrative action. Most of the systems sanctions cases are not referred to OI for further investigation since they are non-criminal in nature. During the period of our review, the CSI processed 65 employee-related allegations.²

Center for Human Resources

The CHR reviews cases of employee misconduct allegations that are being considered for adverse actions. (Adverse actions are disciplinary actions that may result in suspension, loss of pay, or removal from Federal employment.) The types of issues reviewed by the CHR can involve leave abuse, credit card abuse, performance issues, inappropriate conduct to SSA customers or other SSA employees, and unauthorized use of SSA systems. If a case involves any potential unauthorized use of systems or criminal activity, it is referred to the CSI. In these cases, the CHR determines whether administrative action is necessary only after the CSI and, if necessary OI, have concluded their investigations. If criminal charges are filed against an employee that could result in a prison sentence, CHR may take administrative action to indefinitely suspend the employee.

The CHR's Personnel Policy Team plays a primary role in helping to prepare guidance and recommendations for managers for disciplinary actions in cases of employee misconduct. One of the unit's functions is to ensure that disciplinary penalties are

¹ The CSI in Region II is comprised of two components: the Security and Fraud Prevention Team (SFPT), which performs security reviews of all employees in the New York Region with the exception of the Northeast Program Service Center; and the Integrity and Program Fraud Team (IPFT), which performs security reviews of employees at the Northeast Payment Services Center. This audit only reviewed the SFPT component; the IPFT was excluded from the scope of this audit. All references to CSI in this report refer only to the SFPT component.

² This number was comprised of the cases that we actually reviewed. It did not include cases that were excluded from our audit because they were either identified through CIRP (Comprehensive Integrity Review Program) reviews or were still being investigated and pending with OI. CIRP reviews are an automated SSA process for monitoring higher-risk and potentially improper computer transactions on SSA's systems.

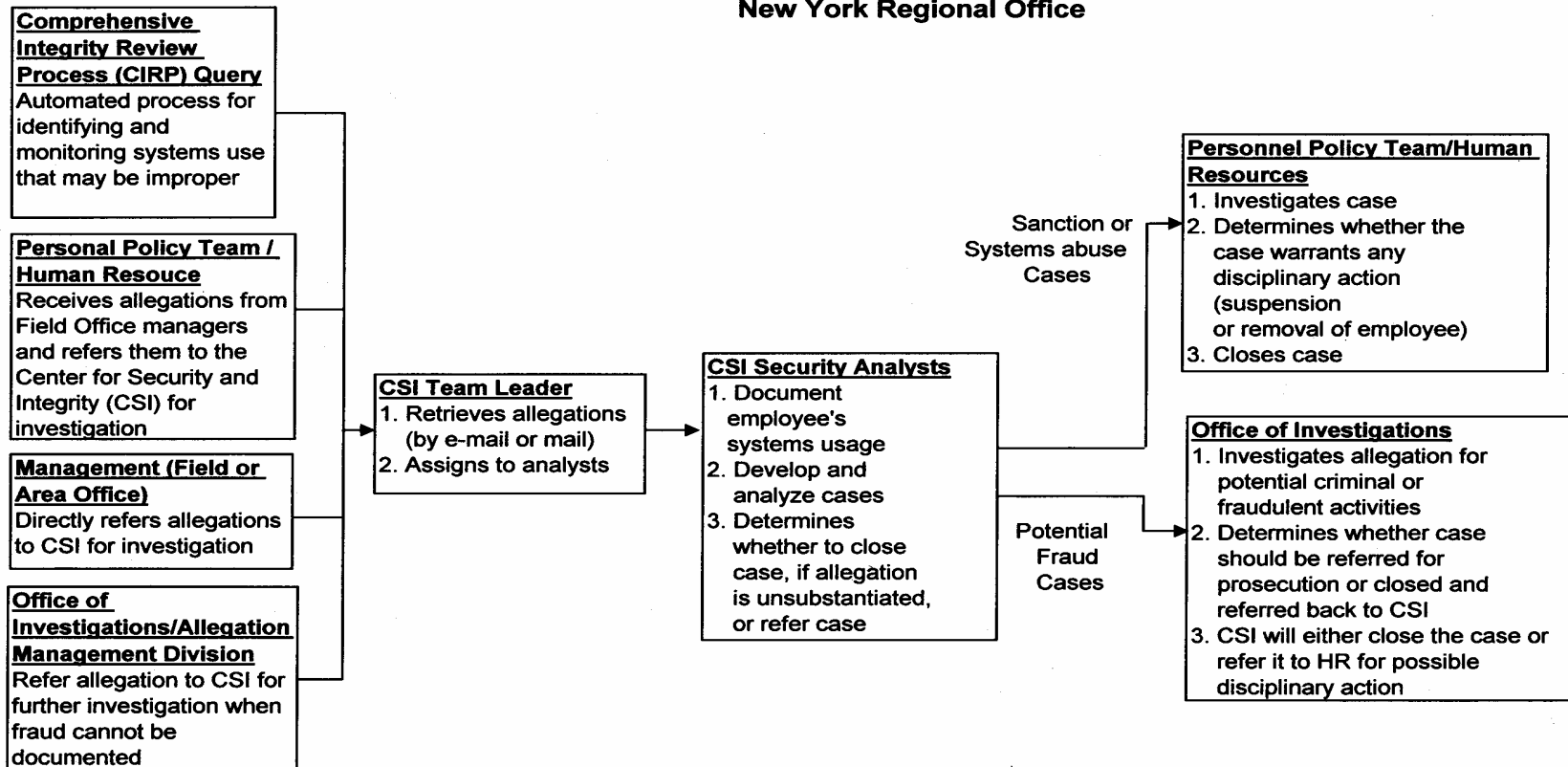
applied consistently throughout Region II. It also assists managers in preparing the Proposal Letter and Decision Letter that are issued to employees when adverse actions are being considered. During the period of our review, the CHR processed 52 employee-related allegations. It also assisted in the processing of 45 of the 65 cases that originated in the CSI. The majority of the CHR cases that we reviewed involved unauthorized systems access violations and standards of conduct issues.

Office of Public Affairs

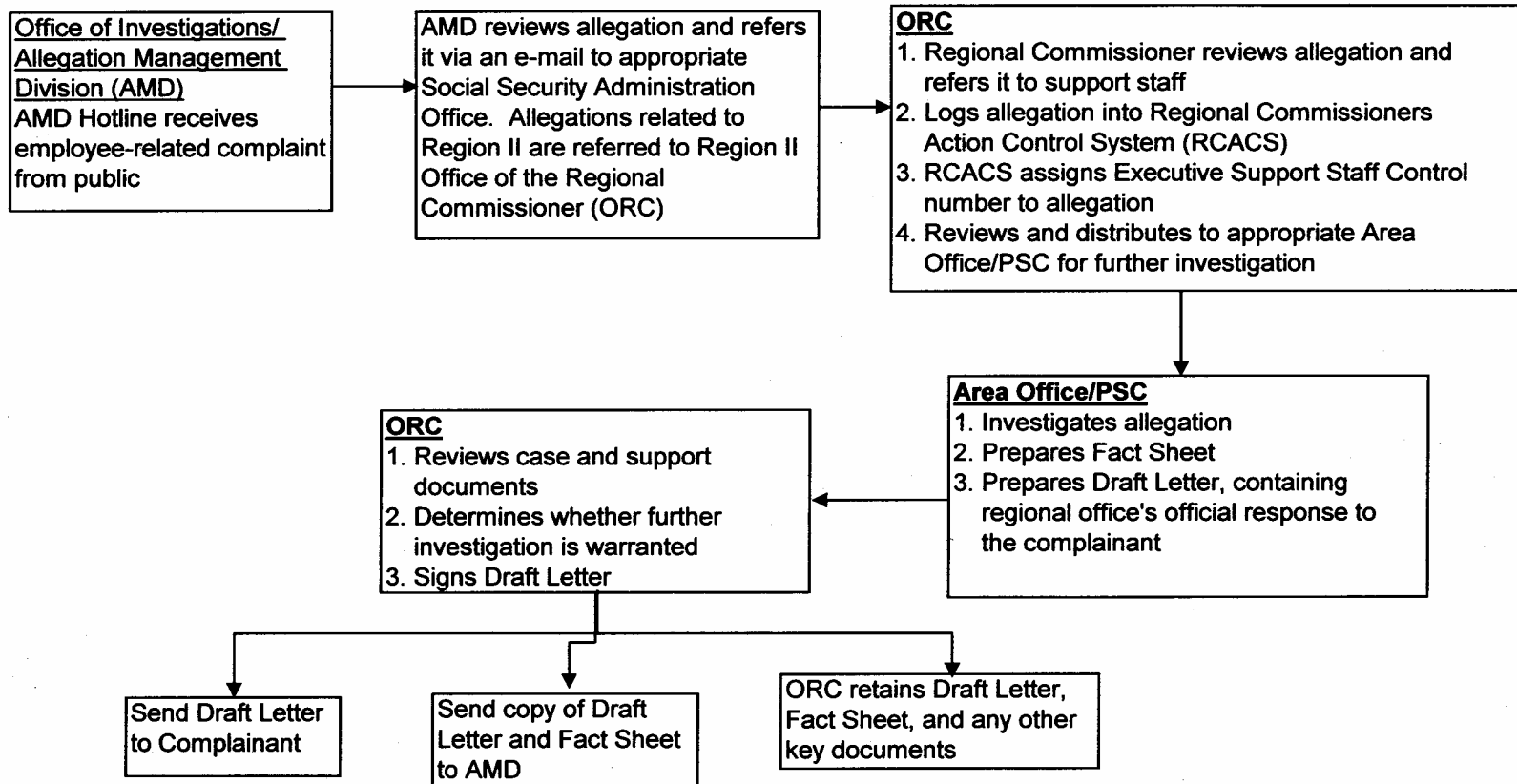
The OPA receives a broad variety of inquiries. Very few involve an allegation identifying a specific employee. The majority of inquiries are service-related, such as complaints about the time it takes for a decision on an appeal or about a Disability Determination Services determination. The unit receives complaints or inquiries from various sources, including the general public, congressional representatives, or referrals from the Regional Commissioner or from SSA Headquarters. The OPA responds to each complaint or inquiry with an investigation and a response letter to the complainant. Between January 2002 and September 2002, the OPA processed 232 cases. We determined that 20 of these were employee-related allegations, most involving poor service or rude or inappropriate behavior by an SSA employee.

Flowcharts

**Employee-Related Allegation Referral Process
Center for Security and Integrity
Security and Fraud Prevention Team
New York Regional Office**



**Employee-Related Allegation Referral Process
Office of the Regional Commissioner
New York Regional Office**



Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: May 28, 2004

Refer To:

To: Steven L. Schaeffer
Assistant Inspector General
for Audit

From: Regional Commissioner
New York

Subject: The Social Security Administration's Procedures for Addressing Employee-Related Allegations in Region II (A-02-04-14007) -- REPLY

We reviewed the draft audit report on the above subject and strongly disagree with some of the findings throughout the report. Our arguments and comments regarding the Conclusions and Recommendations follow.

1. Ensure allegations with potential employee criminal violations are referred to the OIG.

We believe the Region's current practices do ensure that potential employee criminal violations are referred to the Office of the Inspector General, Office of Investigations (OIG-OI). In addressing this issue, the report states that two cases, both involving employees who queried earnings records (DEQY) improperly and who were disciplined for their offenses, should have been referred to OIG-OI for investigation. The report maintains that the employees' unauthorized queries of records containing federal tax information were potential violations of federal law and SSA policy required that these cases should have been forwarded to OIG-OI.

We disagree with OIG's interpretation of SSA policy as it applied to these specific cases at the time our administrative action was taken. In summarizing these cases, the report infers that a clear policy concerning unauthorized access to federal tax information (FTI)

was in place at the time these cases were discovered and investigated. In fact, subsequent to the processing of these cases, on August 14, 2002, the Office of Systems Security Operations Management issued a Systems Security Bulletin entitled *Handling and Use of Federal Tax Information*, stating, “The SSA Chief Security Officer... [has] undertaken the task of making the agency aware of the IRS requirements regarding the use of FTI.” SSA employees were advised that “it is unlawful to disclose or browse FTI.” Prior to the issuance of this bulletin, the policy in SSA was not as clearly enunciated as the audit report suggests.

The report also does not address the probable disposition when cases such as these are referred to OIG. When employees have queried earnings records of friends, co-workers, celebrities, etc., improperly, but without disclosing the information to a third party and without substantial benefit to the employee and/or an accomplice, it is extremely unlikely that OIG-OI will invest resources in an investigation given the prosecutorial guidelines applied by the U.S. Attorneys’ Offices. The limited acceptance of referrals by OIG-OI and the U.S. Attorneys is reflective of SSA’s current policy that an inappropriate DEQY query does not routinely result in a referral to OIG-OI.

Requiring referral to OIG every time an employee inputs at least one unauthorized DEQY, as the draft suggests, would result in delaying the administrative action process until the case is inevitably declined for investigation and returned to the Regional Office. Protracting the timeframe in this way can be problematic if the administrative action is contested in arbitration.

Given the facts pertinent to the cases cited, we strongly dispute any inference that criminal charges could have been sustained in either case. We assert that there is no SSA policy requiring every inappropriate DEQY to be referred to OIG-OI.

2. Maintain evidence (that is, case development, documentation, and control logs) that supports the clearance of employee-related allegations.

Two references have been offered in support of the requirement for control logs (see footnotes 6 and 7 on page 4 of the draft report). The first is GAO’s *Standards for Internal Control in the Federal Government*. Although we agree that internal controls in SSA must meet these standards, the cited document is very general in terminology and does not represent detailed guidance as to the specific procedures agencies must employ to do so.

Regarding the Retention of Case Documentation, the first paragraph on page 4 refers to a case in which CSI documentation is insufficient. We disagree with that assessment. The file documents a number of telephone conversations in which a manager consulted an experienced member of the CSI staff. Based on the manager’s concerns, audit trail data appropriate to the situation were obtained and provided for the manager’s analysis.

Subsequently, the manager and CSI specialist again discussed the case. It was decided that the data obtained did not support a finding of fraud or abuse and precluded the need for further investigation. Although OIG opines a statement in file is “not sufficient”, the material in file collectively indicates a judgment was exercised that further analysis of this case would not be productive.

Subsequent to the audit, we reviewed our internal control procedures and are now establishing control logs and maintaining evidence on all employee allegations, consistent with the recommendation above. The only exception is that the Human Resources Center will not maintain material related to a disciplinary action that was not imposed. This is consistent with the Personnel Policy Manual, 293-1, Appendix C which provides for the removal of such material from the In Process Working File (The In Process Working File is a temporary file used to house an administrative action while it is being processed.)

3. Clear any OIG referrals that are still open beyond the 90-day requirement and report back findings to OIG.

We are working on resolving the open cases and will report our findings to OIG.

4. Provide guidance to regional staff on referring AWOL cases for disciplinary action to ensure consistency in the handling of these cases.

In your discussion of AWOL (p.5), you note a lack of consistency in the referrals by managers (i.e., number of occurrences and hours). Although we recognize the importance of consistency of penalties in disciplinary actions, AWOL is the one area where managerial discretion plays a significant role as each case presents unique circumstances and there is no table of penalties. Managers seek guidance from the Disciplinary Actions and Adverse Actions guide, Personnel Policy Manual Chapter S630-1, Article 31 of the National Agreement and the Personnel Policy Team.

As you state, there is no established policy that requires managers to refer AWOL cases for administrative action when a specified amount of AWOL is reached. The cases you cite range from AWOL for no leave available, tardiness, chronic illness or failure to follow rules to episodic occurrences. Managers used their discretion to assess each situation before deciding to impose discipline. Many factors were considered - the reason for the absence, the employee’s personal situation and efforts to improve, time between actions, time between occurrences of AWOL, length of service, etc.

Nevertheless, the Region has been proactive in training management personnel on good leave management practices. This topic, including AWOL situations, is covered in the *Nuts and Bolts* class that is required training for all new Supervisors and Management Support Specialists. In 2002, a cadre of regional experts began conducting *Managerial Training* throughout the Region. Leave management is one of the topics. Area

Directors, Managers, Supervisors and Management Support Specialists attend the training, regardless of how long they have been in their positions. The goal of this training is to review SSA policies, share information and experiences, and to provide the Region's position in given situations. In July 2004, *New Mid-Level Managers Training* will begin. This course has been designed for new mid-level managers on a wide range of topics relevant to their new roles, and it includes leave management.

All of these training efforts are ongoing for regional management staff. In addition, when apprised of specific AWOL situations, the Personnel Policy Team continues to provide guidance to individual managers consistent with the tenets of progressive discipline.

We thank you for the opportunity to present our views on your *Conclusions and Recommendations*. If you have any questions about this reply, please call Bernie Bowles, Executive Officer, at 212-264-4007.

/s/

Beatrice M. Disman

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