

**INVITING FRAUD: HAS THE SOCIAL SECURITY
ADMINISTRATION ALLOWED SOME PAYEES TO
DECEIVE THE ELDERLY AND DISABLED?**

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BEFORE THE
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INVITING FRAUD: HAS THE SOCIAL SECURITY ADMINISTRATION ALLOWED SOME PAYEES TO DECEIVE THE ELDERLY AND DISABLED?

TUESDAY, MAY 2, 2000

**U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC.**

The committee met, pursuant to notice, at 10:05 a.m., in room SD-562, Dirksen Senate Office Building, Hon. Charles E. Grassley, (Chairman of the Committee) presiding.

Present: Senators Grassley, Burns, Santorum, Breaux, Wyden, and Lincoln.

OPENING STATEMENT OF SENATOR CHARLES E. GRASSLEY, CHAIRMAN

The CHAIRMAN. While I am waiting for my colleagues, I am going to advise everybody of a few administrative housekeeping matters that are important for every committee.

No. 1, for every witness, whether private citizen or Government official, who is before us, my staff has advised you of the 5-minute time limit. Beyond that, though, we will incorporate all statements in their totality in the committee record, so you can be assured that every point that you want to make on this issue will be included in the printed record.

The second thing is that even when some colleagues show up, with 20 people on this committee, particularly on a Tuesday, Wednesday, or Thursday, there are so many other committee meetings going on at the same time that many of my colleagues cannot attend. If this happens sometimes they will submit questions for response in writing that they would have asked if they had been present. So if you are the recipient of some questions from members who cannot be here, we would ask that those be, first of all, submitted by members by the end of the week and sent out to the various participants for their response in about a 2-week period of time. If any of you who are not familiar with such a process, my staff here will be glad to help with the process and with the responses as well.

I want to welcome everybody to our hearing, and I particularly want to thank my fellow members who have been able to attend. I am sure we all agree that it is very important for the Special Committee on Aging to do oversight of the bureaucracy generally. But, with the issues of aging, since the Social Security Administra-

tion is in the middle of most of these, we from time to time conduct oversight of the agency.

So today, the committee will examine the misuse of benefits by those serving our most vulnerable citizens, the elderly and the disabled. Hundreds of these individuals have lost these benefits to really bad actors. Many more are potential victims. That is because the Social Security Administration may not be doing enough to protect them.

The situation is like this. As you can see from this first chart, 45 million Americans received Social Security and Supplemental Security Income benefits in 1998. Of that 45 million, 6.5 million people need help managing their money. For those folks, the Social Security Administration then appoints someone to manage their benefits. The managers are called "representative payees."

Most of the time, the payees happen to be family members or family friends, but some beneficiaries have no one who will serve in this capacity. In those cases, the Social Security Administration appoints an organization to handle their benefit checks.

The next chart that we are putting up shows that approximately 750,570 beneficiaries have an organization handling their monthly checks. These organizations include social service agencies, banks, and hospitals. The majority of these organizations provide much-needed help to beneficiaries without abusing their payee responsibilities.

However, the Social Security Administration's Office of Inspector General has recently investigated several instances of misuse. An example would be a payee in West Virginia who pled guilty just a few weeks ago to using his clients' benefits for his own purposes. This man, Greg Gamble, agreed to pay back \$303,314. One of his victims will testify today about the hardship that she endured at his hands.

Another payee will tell us how she embezzled money from her disabled clients in Washington State. She agreed to pay back \$31,757. She has come from prison today to testify.

A payee serving 320 beneficiaries in Phoenix and Denver agreed to pay back \$274,000. She used that money for a down payment on a car, home furnishings, and art work.

There may be many more horror stories to come. The Inspector General expects the number of abuse cases to increase as the Social Security Administration increases its review of payee records.

The abuses I have described, along with others, are completely unacceptable. First, the victims have fixed incomes. They rely on monthly benefit checks to pay the rent and to buy their groceries. If their money disappears, they will obviously suffer. They may end up hungry and homeless. We will hear a devastating story along these lines from one of our witnesses.

Second, and very important to the Congress of the United States, because we represent the taxpayers, this is taxpayers' money. Working Americans pay into Social Security. Their money is intended to serve them when they can no longer work. Stealing Social Security benefits is stealing from the taxpayers.

Senator Breaux and I have taken steps to nip these abuses in the bud, and we do it specifically so that our country, our Government, our people are ready for the baby boomer retirement which is just

a few short years away. So the two of us have introduced S. 2477, the Social Security Beneficiaries' Protection Act. This bill would require greater accountability from organizations that handle Social Security benefits. It would restore benefits to wronged beneficiaries much more quickly than under present law and practice of the Social Security Administration.

So I want to thank Senator Breaux for his support of this investigation and his cosponsorship of this legislation, and I will yield to him at this time for an opening statement.

STATEMENT OF SENATOR JOHN B. BREAUX

Senator BREAUX. Thank you very much, Mr. Chairman, once again for having hearings in which we take the opportunity to look at how the most vulnerable in our society are sometimes taken advantage of.

It is very clear that any time you have millions and millions of dollars involved in a Federal program that too often, that money leads to fraud, waste, and abuse and, in too many instances, actual criminal activity as we have discovered in this particular Social Security program.

I think the Aging Committee has done a great service in letting people know about the problems. Whether in telemarketing fraud or in misuse of Medicaid nursing home funding or in pharmaceutical fraud, we have found people who are willing to take advantage of those who are the least able to take care of themselves in society. And certainly when you are talking about someone who is disabled to the point of not being able to manage their own financial affairs, and the fact that there are people who would take advantage of them is something that I think we in the Government must do everything we can to make sure this does not continue.

Whether it is the defense program or the agriculture program or the Medicare program or the Social Security program, any time you have a program that spends billions of dollars annually, the potential for illegal activity is there. But I think this committee has an opportunity to make recommendations to the Congress to see how we can tighten up the rules and regulations to make sure it does not happen.

Finally, Mr. Chairman, the legislation that we have sponsored says to the innocent victims that the Government will not leave them hanging, that if they have been taken advantage of, they do not have to wait until the court system runs its course before they can get any compensation. The Social Security Administration which approves the people who take care of these funds also has the responsibility to make sure the innocent victim is protected.

Clearly, people who engage in these activities, which in many cases are very necessary, should be licensed, they should be bonded, and they should follow the law, and hopefully, our hearing today will find ways to ensure that that in fact is done.

Thank you.

The CHAIRMAN. Thank you, Senator Breaux.

Now, Senator Burns, then Senator Lincoln, and then Senator Santorum. And I would invite all of my colleagues, if they have not cosponsored our bill, to do so.

Senator BREAUX. Yes—better late than never.

STATEMENT OF SENATOR CONRAD BURNS

Senator BURNS. Do I get a message there, Mr. Chairman? Do I have to commit before I can speak? [Laughter.]

The CHAIRMAN. No.

Senator BURNS. Thank you, Mr. Chairman, and I think you can add my name to the list of cosponsors on this legislation.

I do not have a formal statement for this hearing, but I appreciate the work that you have done and that our good friend from Louisiana has done on this. As long as there are old people around, I guess they will always fall prey to those folks who would exploit a situation.

I just went through a situation with an elderly aunt of mine, and whether it be phone scams, marketing fear, HCFA, home health care—Mr. Chairman, you had hearings on fraud and abuse in our home health care industry, and these stories are almost unspeakable—we are going to continue to have these problems. We can pass laws, but it still seems like they do not do anything in the way of prevention.

This legislation at least accepts the fact that we will have the problems, but it also accepts the fact that we have to make the adjustments if people are taken advantage of.

So I appreciate your work on this, and I look forward to working with you as it makes its way through the Senate.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Lincoln.

STATEMENT OF SENATOR BLANCHE L. LINCOLN

Senator LINCOLN. Thank you, Mr. Chairman.

Today we have a chance to examine a piece of the Social Security program that not many people may be aware of but which impacts approximately 10 million Americans.

The representative payee program was established for those Social Security beneficiaries who are unable to manage money on their own. These individuals are some of the most vulnerable in our society, as my colleagues have stated, and certainly it is our responsibility to ensure that the Government is acting correctly on their behalf.

For this reason, when I think of the term “representative payee,” I envision a trusting, caring, loyal person who acts on behalf of a Social Security, SSI, or SSDI beneficiary. Unfortunately, we are here today because representative payee are not always honest and do not always act in the best interest of those who rely on them.

In a letter to Chairman Grassley, the Social Security Administration’s Inspector General acknowledged that since FY98, the IG’s office has opened 1,352 cases of representative payee fraud and abuse, which has led to 313 convictions. As a result, American taxpayers lost \$7.5 million.

As an advocate for older Americans and the disabled, I am most concerned by the harm that is done to Social Security beneficiaries who are cheated and betrayed. This must be a terrifying and devastating experience for older, frail, and disabled persons. If money earmarked for food, shelter, clothing and medical care is stolen or misused, beneficiaries can literally be turned out on the street and

left to fend for themselves. This is unfair and dangerous for their physical and mental health until the situation can be fixed.

While we all recognize that abuse by representative payees is not widespread, fraud and abuse could increase as more baby boomers retire and the demand for representative payees increases. That is why I am pleased to hear that the Social Security Administration has already begun to put measures in place to weed out fraud and abuse by representative payees. That is why I also plan, and will certainly tell the chairman right now that I plan to cosponsor the legislation that the distinguished chairman of this committee and the ranking member have introduced—the Social Security Beneficiaries' Protection Act—to prevent further abuse and to protect beneficiaries who are preyed upon by unscrupulous persons. It is the least we can do to try to ensure that Government is running efficiently and effectively, especially on behalf of the most vulnerable in our society.

So Mr. Chairman, I appreciate your leadership and Senator Breaux' leadership on this issue and I look forward to working with you.

The CHAIRMAN. Thank you for your cooperation not only on that point but throughout a long period of time of membership on this committee; and the same for Senator Santorum.

You may proceed, Senator Santorum.

STATEMENT OF SENATOR RICK SANTORUM

Senator SANTORUM. Thank you, Mr. Chairman, and as my rite of passage, I too will sponsor your legislation, so you can add my name to the list.

The CHAIRMAN. Good.

Senator SANTORUM. I know how things work around here. [Laughter.]

My comments will be brief, also. I do not have any formal remarks, but I will say that this is an issue that I have been involved with actually from my days back in the House when I was the ranking member on the Human Resources Subcommittee of Ways and Means, and we dealt with the issue of individual representative payees and some of the problems associated with that. There were several famous cases out there at the time that we needed to address, and we were successful working with Senator Moynihan over here in passing some things that have hopefully been appropriate in the area of individual representative payees, and now we are back on the issue of organizational representative payees.

I just want to commend the chairman for getting right on top of this issue and for working it. I think Senator Breaux said it right. The fact of the matter is the beneficiaries here are the people in need, and they have to have the confidence in the system that we are going to be overseeing the people who are representative payees to make sure those benefits properly get to the people who are in desperate need of those resources.

This is a very important oversight of this committee and a very important hearing to make sure there is confidence in the system for the people who participate in it.

With that, I join in your legislation and I thank you for this hearing.

The CHAIRMAN. Thank you, Senator Santorum.

Before we turn to the witnesses, we are going to have a 5-minute shortened version of the "20/20" television program entitled, "When Nobody is Looking, People Robbed of Life Savings by a Man Recommended by the Social Security Administration." I think it has been properly edited; I did not want to play the whole thing because we did not have time, but we will now see the most important parts.

Please proceed.

[Videotape shown.]

The CHAIRMAN. I thank "20/20" for the use of that tape and also as a broad picture of what our hearing is all about today.

Our witnesses today will be divided into two panels. On the first panel, we will hear from a convicted former organizational payee, Theresa King. Ms. King served as an organizational representative from March 1994 through 1996 to over 200 Social Security beneficiaries. On May 21, 1999, she pleaded guilty to fraudulently obtaining Social Security benefits and was sentenced to 30 months in jail, 3 years probation and was ordered to \$31,757 in restitution. Ms. King is serving her sentence at the Federal prison in Tallahassee, Florida.

Also on the first panel is Betty Byrd, a senior citizen who was victimized by a convicted payee in West Virginia.

Our second panel will consist of Susan Daniels, Deputy Commissioner, Disability and Income Security Programs with the Social Security Administration, and Jim Huse, Jr., Inspector General of the Social Security Administration.

I will ask Ms. King and then Ms. Byrd to give their testimony, and then we will have questions of you at the end of your testimony.

Please proceed, Ms. King. Thank you for coming.

STATEMENT OF THERESA KING, CONVICTED FELON, FEDERAL CORRECTIONS INSTITUTION, TALLAHASSEE, FL

Ms. KING. Thank you. Good morning.

I was first introduced to payee services through Mr. Dale Parsons, who was the owner of Ace Payee Services in Tacoma, WA. I was a resident of a work release facility seeing employment and responded to an ad in the newspaper for a secretary. When I interviewed for the position, I informed Dale that I was a convicted felon, residing in a halfway house, and that my counselor from that facility would call to verify employment as well as visit the office.

I worked for Dale for a little over a year. For the first few months, Dale would always be present for the mail delivery on the first and the third of each month to personally deposit the Social Security checks we received. He would give me a copy of certain checks that came in; I would post them to the client accounts and then disburse the funds for the expenses of each client—for example, their rent, their utilities, spending checks, et cetera. I did not realize at the time that I was only receiving copies of certain checks and that Dale was actually receiving back payment awards, benefits for people who had died, and benefits for people who were hospitalized or incarcerated.

When a Social Security recipient receives benefits through a representative payee service, the payee service can have all correspondence sent directly to the payee office. In other words, the person receiving the benefits never has any contact directly with the Social Security Administration.

For example, a letter sent notifying the recipient of an award for back payment, unless the representative payee shows that letter to the recipient, the recipient never knows of the award or the amount of the award. Dale would never show award letters to clients, and if he was ever questioned about the amount of an award, he would simply lie.

Many of the clients received welfare, which in our State were called GAU benefits, while waiting for approval from Social Security. Dale would tell them that their back awards were sent directly to the State of Washington and that there was nothing left. It was true that the State of Washington was repaid for GAU benefits received while individuals were waiting to be approved by Social Security, but that amount was usually much lower than the amount of the Social Security benefits. I personally saw checks in excess of \$7,000, \$9,000, and in one case, a check for over \$18,000. The recipients for whom these checks were intended never saw these funds. Several of them did not even know they existed.

The State of Washington reviews GAU benefits every 6 months. There were many times when the Social Security Administration would approve a recipient for benefits just after the State had approved them for 6 months. Dale would keep the Social Security checks and not tell the client that they had been approved until the first month when the GAU check was not received. Then he would inform the client that the Social Security Administration had approved them just in time. In the meantime, he had kept several months' worth of Social Security checks—benefits the clients did not know they were entitled to.

When a person who is receiving benefits dies, it is the responsibility of the representative payee to notify the Social Security office and to return all remaining funds left in the recipient's account. Dale would continue to receive benefits for people who had died. After several months, he would contact the Social Security office and tell them that he had not seen the person for a few weeks, and what should he do with this month's check. He would then return one check to the Social Security office and keep the balance of the funds.

When a Social Security recipient is hospitalized or incarcerated for over 30 days, the benefits are suspended. Again, it is the responsibility of the representative payee to notify the Social Security Administration. Unfortunately, this leaves the recipient without funds to maintain their monthly expenses like rent and utilities. Upon their discharge or release, it takes approximately 30 to 60 days to be reinstated for benefits. Dale simply would not notify the Social Security Administration and would continue to receive checks. Sometimes he would continue to pay the monthly expenses of some of the clients, but mostly he would not.

When the recipient would come to the payee office upon discharge or release, Dale would tell them not to contact the Social Security office, that he would handle all the paperwork for them;

and of course, their checks would show up again on the first or the third of the following month. The recipient never knew that the checks had never been stopped and that Dale had continued to receive them.

After working with Dale for a little over a year, I quit. I was the one who worked with these people and their limited funds every day. I spent countless hours trying to find low-cost or subsidized housing, food banks, utility programs, and even shelters. Dale was stealing thousands of dollars monthly for his own extravagant expenses, and some of these people were without shelter or heat in the dead of winter.

I would come to work some mornings, and Dale had written numerous checks from the account for personal expenses. Dale would ask me at the end of every month to list the clients and their account balances and compare them to the actual funds that were in the bank. The account was always short thousands of dollars. I can remember the shortages exceeding \$10,000 on more than one occasion. The following month, the shortages would be made up with new deposits.

I opened CLC Payee Services in the spring of 1994. The only requirements the Social Security Administration required of me were that I was a nonprofit corporation and that I had to have been a representative payee for a certain number of people before. Having worked for Ace Payee Services for over a year and being in constant contact with the local Social Security office, I had no problem getting approved. I was not asked to produce any type of insurance bond, prove any formal education, required to give fingerprints, or even asked about a criminal history. I was not even personally interviewed; all of this was done over the telephone.

Unfortunately, after a few months of starting and stopping benefits, I also found it easier not to report hospitalizations and incarcerations. I continued to receive benefits for recipients who were not legally entitled to them. I would continue to pay their monthly expenses and would send money to the institutions where they were hospitalized or incarcerated. Because I was the representative payee, and I was the person responsible for reporting to the Social Security Administration any change of circumstances, I was the one charged with defrauding the Social Security Administration.

The Social Security Administration has no way to verify whether a representative payee is actually stealing an elderly or disabled person's benefits. There is an audit form sent once a year for the payee to fill out. The recipient never sees this form. It asks very minimal questions and requests no verification of actual expenses. The payee signs on behalf of the recipient as their representative, and this is the only form of checking the Social Security Administration does. As long as the audit forms are returned in the time allotted, there is no further contact.

There are many, many ways in which to take money from Social Security recipients and never be questioned. The job as representative payee for numerous clients is demanding and stressful. It can get to even the most well-intentioned person. As you are aware, I am currently serving a 30-month sentence for defrauding the Social Security Administration. I am a minimum/out custody inmate and

will be transferred to a halfway house in September. I will be released in March.

I believe that theft of Social Security benefits is much more widespread than is commonly known. I have seen recipients living on the streets while payees kept their monthly benefit checks. I have seen bar owners receive checks as a payee and kept them to pay monthly bar tabs. I have seen group homes receive checks, giving the recipient less than \$20 of those funds and keeping the balances every month. And I saw Dale Parsons steal thousands and thousands of dollars from people without shelter or food. There has to be a better way.

The CHAIRMAN. Thank you, Ms. King.

Ms. Byrd.

[The prepared statement of Ms. King follows:]

TESTIMONY OF THERESA KING

I was first introduced to payee services through Mr. Dale Parsons, the owner of Ace Payee Services in Tacoma, Washington in early 1993. I was a resident of a work-release facility seeking employment and responded to an ad in the newspaper for a secretary. When I interviewed for the position I informed Dale that I was a convicted felon, residing in a halfway house and my counselor at the facility would call to verify employment as well as visit the office.

I worked for Dale for a little over a year. For the first few months Dale would always be present for the mail delivery on the 1st and 3rd of each month to personally deposit the Social Security checks. He would give me a copy of certain checks that came in, I would post them to the client accounts and then disperse the funds for the expenses of each client. (i.e., rent, utilities, personal spending checks, etc.) I did not realize at this time that I was only receiving copies of certain checks and that Dale was actually receiving back payment awards, benefits for people who had died and benefits for people who were hospitalized or incarcerated.

When a Social Security recipient receives their benefits through a representative payee service the payee service can have all correspondence sent directly to the payee office. In other words, the person receiving benefits never has any contact directly with the Social Security Administration. For example, a letter is sent notifying the recipient of an award for back benefits, unless the representative payee shows the letter to the recipient, the recipient never knows of the award or of the amount of the award. Dale would never show award letters to the clients and if he was ever questioned about the amount of an award, he would lie. Many of the clients received welfare (GAU benefits) while waiting for approval from Social Security. Dale would tell them that their back awards were sent directly to the State of Washington and there was nothing left. It was true that the State of Washington was repaid for GAU benefits, but that amount was usually much lower than the amount of the Social Security benefits that were received. I personally saw checks in excess of \$7,000.00, \$9,000.00 and in one case a check for over \$18,000.00. The recipients for whom these checks were intended never saw the funds. They were not even aware of them.

The State of Washington reviews GAU benefits every six months. There were many times when the Social Security Administration would approve a recipient for benefits just after the State had approved them for six months. Dale would keep the Social Security checks and not tell the client that they had been approved until the first month a GAU check was not received. Then he would inform the client that the Social Security Administration had approved them just in time. In the mean time, i.e. had kept several months worth of Social Security benefits without the client knowing.

When a person who is receiving benefits dies, it is the responsibility of the representative payee to notify Social Security and to return all remaining funds left in the recipient's account. Dale would continue to receive benefits for people who had died. After several months he would contact Social Security and tell them that he had not heard from a person and have the benefits suspended.

When a Social Security recipient is hospitalized or incarcerated for over thirty days, the benefits are to be suspended. Again, it is the responsibility of the representative payee to notify the Social Security Administration. Unfortunately, this leaves the recipient without funds to maintain their monthly

expenses such as rent and utilities. Upon their discharge or release it takes approximately 30 to 60 days to be reinstated for benefits. Dale simply would not notify the Social Security Administration and would continue to receive checks. Sometimes he would continue to pay the monthly expenses of some clients, but mostly he would not. When the recipient would come to the payee office upon discharge or release, Dale would tell them not to contact the Social Security Administration that he would handle all the paperwork for them. And of course their checks would show up on the 1st or 3rd of the following month. The recipient never knew the checks had never been stopped and that Dale had continued to receive them.

After working with Dale for over a year, I quit. I was the one who worked with these people and their limited funds everyday. I spent countless hours trying to find low-cost or subsidized housing, food banks, utility programs and even shelters. Dale was stealing thousands of dollars monthly for his own extravagant expenses and some of these people were without shelter or heat in the dead of the winter. I would come to work some mornings and Dale had written numerous checks from the account for personal expenses. Dale would ask me at the end of every month to list the client account balances and to compare that to the actual funds in the bank. The account was always short thousands of dollars. I can remember the shortage exceeding \$10,000.00 on more than one occasion. The following month the shortages would be made up with the new deposits.

I opened CLC Payee Services in the spring of 1994. The only requirements the Social Security Administration required of me was a non-profit corporation and that I had to have been a representative payee for a certain number of people before. (I cannot remember if that number was three or five.) Having worked for Ace Payee Services for over a year and being in constant contact with the local Social Security office, I had no problems getting approved. I was not asked to produce any type of insurance bond, prove any formal education, required to give fingerprints or even asked about a criminal history. I was not even personally interviewed. All of this was done over the telephone.

Unfortunately, after a few months of starting and stopping benefits, I also found it easier not to report hospitalizations and incarcerations. I continued to receive benefits for recipients who were not legally entitled to them. I would continue to pay their monthly expenses and would send money to the institutions where they were hospitalized or incarcerated. Because I was the representative payee and I was the one responsible for reporting to the Social Security Administration any change of circumstances, I was the one charged with defrauding the Social Security Administration.

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I believe theft of Social Security benefits is much more widespread than is commonly known. I have seen recipients living on the streets while payees kept their monthly benefit checks. I have seen bar owners receive checks as a payee and keep them to pay monthly bar tabs. I have seen "group homes" receive checks giving the recipient less than \$20.00 of those funds and keeping the balances every month. And I saw Dale Parsons steal thousands and thousands of dollars from people without shelter or food. There has to be a better way.

STATEMENT OF BETTY BYRD, MARTINSBURG, WV

Ms. BYRD. Thank you. Good morning.

The CHAIRMAN. Good morning.

Ms. BYRD. My name is Betty Byrd. I am 70 years old, and I have lived in Berkeley County, WV since 1975. During my life, I was employed primarily in secretarial positions. I retired from the workforce and started receiving Social Security benefits in 1992. I worked approximately 15 years contributing to the Social Security fund. Presently, I am drawing from my deceased husband's contribution; that is the way that I have my money coming in now.

In 1996, Greg Gamble and the Aurora Foundation were referred to me with the understanding that they were approved to be representative payee to handle my Social Security benefits. I needed a representative payee because I was hospitalized over 100 miles from my home. After I was hospitalized, I was then placed in an assisted living facility. Mr. Gamble and Aurora still acted as payee for my Social Security benefits. When he received my Social Security benefits, he was required to pay my electric bill, phone bill, the lot rent for my trailer, my medical expenses, and my prescription bills.

In 1998, Mr. Gamble stopped paying my lot rent. As a result, I was forced to sell my trailer to satisfy the rent arrangement. He also stopped paying the utility bills for the trailer, and the power was turned off.

In 1999, I heard from my care facility that Mr. Gamble was several months behind in making nursing home payments. The facility threatened to evict me for nonpayment. Not only was I going to be homeless as a result of the payee's action, I was also placed at medical risk because Mr. Gamble did not pay for my medications, and of course, I could not get medications if I was not paying for them.

As a result of the action of Social Security not monitoring Mr. Gamble, I was left almost homeless, without medical care, and in serious financial trouble.

If it were not for the generous people in our community, I would not be alive today.

Thank you.

The CHAIRMAN. Thank you, Ms. Byrd.

We are not used to such short testimony, so I was a little surprised at your brevity.

I am going to ask some questions, and we will proceed in the order in which members arrived at the committee, and we will follow a 5-minute rule. And if I ask Ms. Byrd a question, and Ms. King has something she wants to say about it, please respond as well, but otherwise I will direct my questions to specific people.

I will start with you, Ms. Byrd. First of all, let me tell you how much we appreciate your willingness to come and testify before the committee. What happened to you obviously should not happen to anyone.

In your testimony, you state that Greg Gamble and the Aurora Foundation were "referred" to you. Could you explain in more detail to the committee how you came to have the Aurora Foundation named as your representative payee?

Ms. BYRD. Through the Berkeley County courts. They said that they had just one that handled these accounts, and they said it was the Aurora Foundation and Mr. Gamble. I had no one else to turn it over to at that time.

The CHAIRMAN. So the answer is that a court recommended the Aurora Foundation.

Ms. BYRD. Yes, they did.

The CHAIRMAN. Ms. King, you seemed to say in your testimony that there was no concern on the part of your employer, representative payee Dale Parsons, about your past as a convicted felon. Do you believe that a convicted felon should be permitted to serve as a representative payee for Social Security recipients?

Ms. KING. Within limitations. I do not believe anyone who has been convicted for fraud, larceny, embezzlement, any type of conviction like that should be allowed. As far as a personal representative payee, there are some family members who have prior convictions, and I believe that a family member should be a payee before an agency if that is possible.

The CHAIRMAN. Do you know whether any paperwork was filed with the Social Security Administration about you as a new employee and what it told the Government about you?

Ms. KING. To the best of my knowledge, no, there was none.

The CHAIRMAN. Betty, what was your relationship with Mr. Gamble and the Aurora Foundation on a daily, weekly, monthly, or annual basis? For instance, did Mr. Gamble or anyone from the Aurora Foundation visit with you periodically?

Ms. BYRD. They did not visit with me, but I did contact them on the first of the month and gave them my bills, which usually would consist of enough to take up most of the money that was in the account. So that was the only contact I had, unless the bills started being late; then I would call them and contact them to find out why it had not been paid when the money was there for it.

The CHAIRMAN. Were there any other responsibilities that Mr. Gamble and the Aurora Foundation had in your case, other than paying the electric bill, phone bill, trailer lot rental, as well as medical and prescription expenses?

Ms. BYRD. Just to pay the bills on time; that was all.

The CHAIRMAN. Ms. King, when you described how Mr. Parsons was always present on the first and third of the month to personally deposit the Social Security checks, did you find it unusual that he only gave you a copy of the checks to post to the clients' accounts?

Ms. KING. Not at first. We were dealing with large sums of money. There was \$100,000 a month coming in through the account. I thought he was being responsible. I thought he was making the bank deposits, giving me copies of all checks that had come in. I did not realize there were checks coming in for people whom I had never heard of.

The CHAIRMAN. How did you come to realize that Mr. Parsons was pocketing back payment awards and benefits for people who had died or were hospitalized or incarcerated, and did you ever discuss it with him?

Ms. KING. It was not so much that I first realized that he was pocketing the payments. What would happen was all of these

checks were out of the general account for personal expenses—American Express bills; restaurants; motels; Las Vegas trips. All of these funds were coming out of the account. Well, obviously, they could not come out of the account, or the account would run out of money. So when the monthly bank statements would come in, there were deposits there that I did not know about. I did not know those deposits had been made. I had never seen copies of those checks.

This went on for several months until Mr. Parsons was busy with his girlfriend, was taking more extended vacations, and he missed the first of the month, and all these checks showed up for people I had never heard of. These were not people I was seeing weekly. These were not people whose expenses I was paying. I did not know who the checks belonged to.

The CHAIRMAN. You stated in your testimony that Mr. Parsons never showed award letters to clients. How do you know that he lied about it to the clients who asked, and did you personally observe him lying about it, and can you describe what happened?

Ms. KING. Yes. He would ask me to lie. That is what he would do. I saw many award letters come in. I saw checks for \$7,000, \$9,000, \$18,000. These people did not know this money came in. If they did not know it was coming, he would not tell them. If they asked about a back payment or an award, he would simply tell them that money was spent to pay back welfare, or he would lie about the amount. If they received a \$10,000 check, he would tell them their check was for \$1,700. He just bald-faced lied, and there was no way for these people to verify that. We had received the award letters, and we received the funds. They and no way to know there was any more money than what we told them.

The CHAIRMAN. Do you believe that beneficiaries should also receive their own copy of award letters so they would be informed about such awards, maybe like sending out notices to the payee and the beneficiary, would cut down on the type of fraud?

Ms. KING. Absolutely. I think they should also be signed and returned to the Social Security office.

The CHAIRMAN. Senator Breaux.

Senator BREAUX. Thank you, Mr. Chairman. I apologize for having to step out to take a phone call.

I want to thank both of the witnesses. For both of you, I think it is difficult to come here and tell your stories from completely opposite directions, obviously. I appreciate you telling your story, Ms. Byrd, so that others will not have to tell the same story perhaps in the future. And Ms. King, I think that for you, it also is good that you are here, and I know it is not easy for you as well. I think your appearance can be very helpful in helping us understand what happened to make sure we take steps that ensure it does not happen again from your standpoint as well.

I have to think it is naturally suspicious to have a company named "Ace" Payee Services. Sort of a red flag goes up when you hear, "Hire Ace Payee Services" to handle your mother's business or anything of that nature.

Where is Dale today?

Ms. KING. To my understanding just here recently, Dale was finally indicted, and Dale is serving a 33-month sentence. I believe

there was in excess of \$300,000 that he embezzled. I believe he did plea agreement that down. But he is currently serving time just as of recently, the last few months.

Senator BREAUX. I was interested in your testimony about how, when you started your own business, you said you had no problems getting approved.

Ms. KING. No, sir.

Senator BREAUX. And that is a Government problem there, because you were approved by the Social Security Administration, and you were not licensed, you were not bonded; and you had a prior conviction.

Ms. KING. Yes, sir.

Senator BREAUX. What did you tell them when you walked in? Simply, "I want to do this business"?

Ms. KING. I did not even walk in; I did it over the telephone.

Senator BREAUX. So you never even had an interview with Social Security?

Ms. KING. No.

Senator BREAUX. And they stamped that you were approved as a payee?

Ms. KING. Yes, sir.

Senator BREAUX. If you are looking for a problem, it seems to me that that is it. I mean, to get a permit to dig a ditch in Louisiana, you have to go through a lot more red tape and bureaucracy to get approved, certainly, than you did to be approved to handle people's money, and large sums of money at that.

Well, obviously, I think that gives credibility to the fact that we have legislation now that is cosponsored, I think, by everyone here which would place some responsibility on the Social Security Administration.

You were never bonded at all?

Ms. KING. No, sir.

Senator BREAUX. Tell me a little bit about—I understand that you continued to accept money from Social Security which was probably in excess of what the person was entitled to because of a stay in a hospital.

Ms. KING. That is correct.

Senator BREAUX. But did you pay the hospital with the money, or did you give some to the hospital, and you kept some?

Ms. KING. No. When they were incarcerated or hospitalized, mostly my problem was that these people had gone to jail for things. I paid their rent, sent their wives the money; I continued to pay their utilities. And it does not sound like a whole lot, but when you have several clients who are in jail for 3 or 4 months at a time, that money adds up. That is how I wound up with the \$30,000 in restitution. I am responsible. I should not have done it.

Senator BREAUX. I think I am missing something. You got the person's check from Social Security which was earmarked for payment of their bills—

Ms. KING. Right.

Senator BREAUX [continuing.] And you actually paid their bills.

Ms. KING. Yes.

Senator BREAUX. Who are you referring to as the people who were incarcerated at that time?

Ms. KING. Clients who were incarcerated. They would go to jail for 90 days for a DWI. Well, as the representative payee, I am supposed to stop their benefits. They are no longer eligible once they are incarcerated.

Senator BREAUX. Oh, I see. OK.

Ms. KING. I continued to receive them.

Senator BREAUX. What did you do with the money—did you keep some yourself?

Ms. KING. No.

Senator BREAUX. You paid the bills?

Ms. KING. I paid their bills, and I sent them money in the hospital and in the county jails. In one case, one gentleman was in prison.

Senator BREAUX. Now, the hospital—did they ever say, “Wait a minute—you are giving us money that we are not entitled to, because this person’s time in the hospital is no longer covered by Medicare”?

Ms. KING. No. The hospital I am referring to was Western State. I had several clients who were mentally unstable. Their stays in the hospital were covered under Medicaid, Medicare or State. I would send them spending checks.

Senator BREAUX. Did none of the people to whom you were paying the moneys ever raise a red flag of concern that perhaps they were not entitled to receive the money that you were paying them?

Ms. KING. No, sir; they did not know that.

Senator BREAUX. You think they did not know, or just did not care about the difference?

Ms. KING. I think it was my responsibility to know.

Senator BREAUX. Well, I thank you.

Ms. Byrd, I am asking Ms. King the questions, but in order to find out how we can make sure this does not happen again, we have to first learn how it happened the first time, and that is what we are trying to do. Your contribution, Ms. King, is very important, and we thank you for it.

Ms. Byrd, we are sorry you have had the problem. We are trying to make sure nobody else ever has to go through that again.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Breaux.

Senator Burns.

Senator BURNS. Thank you, Mr. Chairman.

I think Senator Breaux has taken us down the same road that I had already drawn a conclusion to, that maybe “the enemy is us.”

I have no questions for these witnesses. However, I would ask, Mr. Chairman, that I be permitted to ask some questions of Ms. Daniels and Mr. Huse, and I will do that in writing and would expect a response from them, because it is a no-brainer that you do not just haul off and authorize anybody to collect money and be responsible for handling the money without some sort of interview or qualification.

I cannot even sell an auction without a bonded account. My accounts have to be bonded. If I take money from people, and I am supposed to pay the consignors, I have to have a bonded account. I cannot trade cattle; I cannot buy cattle on order or ship them to Iowa for Chuck Grassley’s customers unless I have a bonded ac-

count—and I am audited every year. I am expected to submit reports to the packers and stockyards, and if they do not like what my audit looks like when I mail it in, then they come walking through my door, and they will audit me.

I do not understand—it seems like we are our own worst enemy. So I think that probably both of your problems could have been avoided had there been some requirements on both of you. So I will ask some questions of them in writing, Mr. Chairman, if you do not mind, because I have an obligation at 11 o'clock, and I will expect some sort of response.

I can write them a rule book right now and do it on one page, which would have prevented the problems for both of you.

I thank you, Mr. Chairman, for this hearing, and I will submit those questions through the committee.

The CHAIRMAN. We thank you very much, and I have already announced that we will take questions by Friday for written response and will give people a couple of weeks to respond.

I have no further questions. I thank both of you for coming, particularly you, Ms. Byrd, for taking time out of a busy schedule to tell us about your traumatic experience.

Ms. King, we thank you for coming, too, and for being very candid with us and helpful to us in this process. And for you, if you will allow me to say it: This is the first day of the rest of your life. I think you probably have much that you can contribute to society above and beyond just being a productive citizen, and I hope you will do that; so, go and steal no more.

Thank you.

I will now call the second panel forward. I have already announced who the witnesses are on the second panel, so I will not repeat that.

We will start with you, Dr. Daniels, and would you please introduce the gentleman who is accompanying you?

STATEMENT OF SUSAN M. DANIELS, DEPUTY COMMISSIONER, DISABILITY AND INCOME SECURITY PROGRAMS, SOCIAL SECURITY ADMINISTRATION, WASHINGTON, D.C.; ACCOMPANIED BY LARRY MASSANARI, REGIONAL COMMISSIONER, PHILADELPHIA REGION

Ms. DANIELS. It would be my pleasure. I am accompanied today by Larry Massanari, the Regional Commissioner from the Philadelphia Office, and my colleague for a long time.

The CHAIRMAN. Thank you. Please proceed with your testimony, and then we will hear from Mr. Huse. Did Mr. Massanari want to speak?

Ms. DANIELS. Larry will help with questions and answers.

The CHAIRMAN. OK. Thank you.

We will hear from you and then ask questions after the panel has completed. So please go ahead with your statement.

Ms. DANIELS. Thank you.

Mr. Chairman, Senator Breaux, members of the committee, thank you for inviting me here today to talk about SSA's Representative Payee Program, particularly as it relates to organizational payees.

Today I will discuss a few general features of the program, the recent changes we have implemented in order to strengthen the payee program, the legislation that we sent to you and that you so graciously sponsored in order to improve the program, and of course, I will be delighted to take your questions at the end.

We have a remarkably successful Representative Payee Program. Almost all representative payees provide much-needed help to beneficiaries, carefully, compassionately, and on a totally volunteer basis. Eighty-four percent of the payees are family or friends. Only one in 10,000 representative payees cases result in some misuse.

I can truthfully tell you that millions of Americans are being assisted mostly by volunteers in a way that we can all be proud of.

Nevertheless, it is no comfort to a beneficiary who has lost his or her benefits as a result of misuse, nor is it acceptable to us at Social Security. SSA knew that the nature of our beneficiaries was changing over time, so we chartered an advisory committee, a panel of experts, to review our Representative Payee Program, and in 1995 and 1996, this committee met and held hearings and conducted research on key issues in the Representative Payee Program. We also asked the Office of the Inspector General to review and make recommendations to improve the Representative Payee Program.

Both the advisory committee and the Office of Inspector General made several recommendations, from how to select a representative payee to the kind of monitoring program we needed. SSA evaluated those recommendations within the framework of our competing priorities and the resources that we had. We have implemented many of these recommendations, including the development and distribution of a handbook for organizational payees; issuing instructions to the field to screen payees more thoroughly; conducting onsite reviews for fee-for-service and volume payees; developing and distributing pamphlets to beneficiaries informing them of their rights and responsibilities; and changing the focus of our current accounting system to a monitoring and compliance system.

In addition, we have the following initiatives under way: developing an accounting form tailored for organizational payees; expanding our automated system for keeping track of payees; developing and distributing a handbook for individual payees; and instructing our field offices to improve the way we control our documentation.

As a result of our review of the recent criminal enterprise you heard about today, SSA has strengthened our oversight of the payee process. Our new initiatives include triennial onsite review of all fee-for-service and volume payees. SSA has begun to review the approximately 855 fee-for-service payees on a triennial cycle. SSA will also perform triennial reviews of all volume organizational payees—that is, those serving more than 100 beneficiaries and of all individual payees serving more than 20 individuals. Three hundred of these reviews have already been conducted, and the rest are on a schedule for completion beginning this summer.

Second, we will have annual verification of bonding or licensing. Nongovernmental fee-for-service organizational payees must either be bonded or licensed as long as they serve as a payee. Beginning in June, SSA will require them to annually show that they continue to meet this requirement.

Third, we will conduct a 6-month review of all newly appointed fee-for-service payees. SSA will visit fee-for-service payees 6 months after their initial appointment as a payee to ensure that they fully understand their duties and responsibilities and are on the right track in recordkeeping and reporting.

Fourth, random reviews of volume and fee-for-service payees. Each year, SSA will conduct a random sample of 30 percent of our volume payees and fee-for-service payees. We will review a sample of beneficiary records for compliance with policies and procedures.

In addition, of course, SSA will continue to conduct reviews when trigger events such as third-party reports of misuse or complaints from vendors are made. This review will have an emphasis on compliance.

SSA will also continue to work in conjunction with the U.S. Attorneys, to assist in their prosecution of SSA criminal fraud, including representative payee misuse.

In February, we sent, and recently, you introduced, legislation to improve safeguards for beneficiaries. Currently, when any payee is determined to have misused an individual's benefits, SSA can re-issue those benefits only in cases where we can obtain restitution of the misused benefits or where we declare that we were negligent. We are asking in this legislation that SSA be allowed to reinstate those benefits for any beneficiary whose funds were misused by an organizational payee even if negligence is not declared on the part of SSA. We will, of course, continue to seek restitution as a safeguard and for its deterrent effect.

In addition, the legislation that you have proposed requires that nongovernmental fee-for-service organizational payees be bonded and licensed, not just licensed or bonded, and that they not be allowed to take a fee for any of the services that they provide if they are found to have misused benefits.

Finally, in the case of misuse of benefits, those benefits will be treated as an overpayment to the payees themselves on their own account.

Additionally, we are seeking civil monetary penalties for individuals who misuse SSA funds.

We urge the Congress to support your bill, Mr. Chairman, and we will certainly work closely with you to make that happen.

In conclusion—because I can see I am already out of time—let me convey to you our enormous gratitude to the millions of payees around this country who voluntarily assist our beneficiaries, and let me also convey our special concern for our beneficiaries with organizational payees, who are the most vulnerable because they do not have family and friends to serve as their payees.

Finally, we are very eager to work with you to strengthen the economic security of Americans who use payees through this legislation.

I will be delighted to take your questions at the end. Thank you, Mr. Chairman.

[The prepared statement of Ms. Daniels follows:]

PLEASE UPON DELIVERY

REPRESENTATIVE PAYEES



STATEMENT BY

**SUSAN M. DANIELS
DEPUTY COMMISSIONER**

for

**DISABILITY AND INCOME SECURITY PROGRAMS,
SOCIAL SECURITY ADMINISTRATION**

**Before The
STATE SPECIAL COMMITTEE ON AGING**

May 2, 2000

**Testimony of Susan Daniels, Deputy Commissioner
for Disability and Income Security Programs,
Social Security Administration,
before the Senate Special Committee on Aging –
May 2, 2000**

Mr. Chairman, Senator Breaux, members of the Committee, thank you for inviting me here today to talk to you about SSA's representative payee program – particularly as it relates to organizational payees. Today, I will outline for you the Social Security Administration's representative payee program as it applies to organizations, the problems we have faced (including resource constraints), recent changes that we have implemented and legislation we have sent to Congress in order to improve our program. Then, of course, I would be happy to respond to your questions.

History of Representative Payments

Congress passed legislation in 1939 which granted SSA broad discretionary authority to appoint representative payees to receive and disburse benefits for those beneficiaries who were found to be incapable of managing or directing the management of their benefits. The appointment of a payee was intended to ensure that SSA's most vulnerable beneficiaries receive the full support and benefit that their payments are intended to deliver. In this same 1939 legislation, Congress extended benefits to wives of retired workers, and widows and dependent children of deceased workers. Accordingly, the representative payee program was initially designed with the needs of the elderly and children in mind.

Subsequent events, including the enactment of disability benefits in 1956, the enactment of Supplemental Security Income (SSI) in 1972, and demographic and political changes in American society -- such as the de-institutionalization of the mentally ill, and the increase in substance abusers -- have all contributed to the change in the nature of the beneficiary population served by representative payees. Thirty years ago, 5.2 percent of the Social Security population were paid through representative payees. Since the implementation of SSI, this has risen to about 13.3 percent of our 49 million beneficiaries have representative payees -- 6.5 million beneficiaries served by about 4.2 million payees. About 42 percent of beneficiaries who are paid through a representative payee today are disabled.

The Social Security and SSI disability rolls typically include people with special needs, such as the mentally ill and homeless, many of whom are substance abusers. (However, individuals whose sole medical disability is drug or alcohol addiction, no longer qualify for benefits.) Many years ago, these same individuals might have been institutionalized, with the institution serving as their payee. Today, these individuals are not institutionalized and often have no close family willing or able to serve as payee. When such beneficiaries need help in the management of their financial affairs, institutions and organizations, or sometimes acquaintances, have stepped in to act as payees. Many times, in addition to money management, these payees must address social service issues, such as finding shelter for the habitually homeless, dealing with medical decisions, and encouraging beneficiaries to seek treatment for substance abuse or mental illness.

We cannot over-emphasize the valuable role that representative payees serve. When an individual agrees to be a payee for a beneficiary, he or she takes on an important responsibility. Sometimes the task of managing another person's benefits can be a difficult one—especially if the beneficiary is not always cooperative—and payees deserve a lot of recognition for volunteering their time and effort. As I mentioned earlier, many representative payees go beyond fulfilling their basic responsibilities as a payee and provide other valuable services to the beneficiary.

Organizational Payees

As I mentioned earlier, about 6.5 million Social Security and SSI beneficiaries require representative payees. Family members serve as representative payees for about 84 percent of these beneficiaries. Payees for the remaining 16 percent are friends or institutions of various types, such as government or social service agencies, financial organizations and fee-for-service organizations. (Fee-for-service organizations meet the qualifications and are authorized to collect a fee from the beneficiary's payment for their services as representative payee.) Currently, about 45,000 organizational representative payees serve approximately 750,000 Social Security and SSI beneficiaries. Among those, there are approximately:

- 855 fee-for-service payees serving almost 60,000 SSA beneficiaries;
- 1,000 entities (excluding fee-for-service organizations), which we call "volume payees," serving 250,000 beneficiaries. (A "volume payee" is an organization that serves 100 or more beneficiaries.); and

- 360 State mental hospitals serving 80,000 beneficiaries.

In order to qualify to collect a fee, an organization must serve at least 5 beneficiaries and be a:

- State or local government agency whose mission is to carry out income maintenance, social service or health-care related activities;
- State or local government agency with fiduciary responsibilities, or
- Community-based, non-profit social service agency which is bonded or licensed in the state that it serves.

Determining the Need for Representative Payment

The law provides that if the Commissioner determines that it is in the interest of the individual, benefits may be paid to a representative payee. Generally, we appoint a payee if we determine that the beneficiary is not able to manage or direct the management of benefit payments in his or her interest. If the beneficiary is under age 18, payment is usually made to a representative payee. (Emancipated minors can receive benefits directly.) In the case of an adult beneficiary, benefits will be paid to a representative payee if the individual is legally incompetent, or mentally or physically incapable of managing or directing the management of his or her benefit payments.

To decide if an individual has a mental or physical impairment that prevents him or her from receiving benefits directly, we look at:

- medical evidence;
- the beneficiary's living situation (such as whether he/she lives alone, if anyone helps him/her manage their funds);
- how the beneficiary is handling money now; and
- what his/her needs are and how they are being met (whether they can obtain their own food, clothing and shelter or if he/she is dependent on others to supply those needs).

Once we determine that an individual needs a payee, SSA identifies persons who are willing and best able to serve in this capacity. Whenever possible, the preferred payee is a family member or friend who has shown interest in the well-

being of the beneficiary. When such persons cannot be found, SSA turns to certain organizations that have agreed to perform the duties of a representative payee.

SSA closely reviews all applications for representative payment before selecting a payee. Individuals must show their relationship and interest in the beneficiary. Plus, the beneficiary is given the opportunity to protest the selection of a prospective payee. We notify the beneficiary that someone has applied to be their payee and who that person or organization is. We ask the beneficiary to contact our field office if they disagree with either the fact that they need a payee or if they would prefer that someone else serve as their representative payee.

Representative Payee Responsibilities

The representative payee is to use the benefit payments only for the beneficiary's current and foreseeable needs or save and invest them, if the beneficiary's current needs are being met. We believe that the representative payment program best accomplishes this when we have a collaboration with the payee and the beneficiary. To that end, we strive for a payee program that:

- preserves the rights of beneficiaries and treats them with respect and dignity;
- keeps beneficiaries well-informed about their benefits;
- prepares new representative payees with a clear understanding of their role and our expectations of them;
- furnishes continuing support to payees as they execute their duties;
- ensures that benefits are used in the best interest of the beneficiary; and
- monitors the use of benefits in an effective and productive manner.

SSA informs the representative payee of his or her responsibilities at the time he/she files to be representative payee and also mails a more extensive guide to the payee once he/she has been selected. Once selected, all representative payees are required to:

- determine the beneficiary's needs and use his/her payments to meet those needs;
- conserve any money left after meeting those needs;
- report any changes or events which could affect the beneficiary's eligibility for benefits;
- help the beneficiary get medical treatment when necessary;

- maintain records of the money received on behalf of the beneficiary and records of all expenditures; and
- complete written reports accounting for the use of the funds.

Annually, SSA requires each representative payee – whether an individual who represents only one beneficiary or an organization that represents hundreds—to give an accounting of the benefits received for each beneficiary and how they were spent. More specifically, the accounting form asks how much of the benefits were spent on food, housing, personal items and how much was saved and in what type of account the money was conserved. (The only exception to this annual accounting process is for State mental institutions which undergo an onsite visit every 3 years.) Each accounting request is controlled to make sure it is completed. All returned forms are reviewed to ensure that responses are complete and acceptable. If incomplete, or if the accounting form raises questions, SSA will contact the payee to resolve the issue. If the representative payee fails to return the accounting form, our local field office conducts a face-to-face interview with the payee, the beneficiary and, if different from the payee, the custodian (e.g., the nursing home if a relative is the payee).

SSA Initiatives to Deter Misuse of Benefits by Organizational Payees

Almost all representative payees provide much needed help to beneficiaries without abusing this responsibility. Unfortunately, there have been some instances of misuse by representative payees. Misuse of benefits occurs when the payee neither uses benefits for the current and foreseeable needs of the beneficiary, nor conserves benefits for the beneficiary. Of the 6.5 million beneficiaries with representative payees, there are only about 650 instances of misuse confirmed per year, or only about 1 in every 10,000 representative payee cases. The amount of benefits misused by payees is a small percentage of the total benefits paid – about \$3 million per year of the \$30 billion in annual benefits for beneficiaries with payees. However, that is no consolation to a beneficiary who has lost his or her much needed benefits. Nor is it acceptable to those of us charged with administering the Social Security and SSI programs.

SSA is committed to protecting beneficiaries from benefit misuse. The recently televised representative payee misuse case, the Aurora Foundation, Inc., in Martinsburg, West Virginia, has resulted in the president of that organization pleading guilty to the embezzlement of Social Security and SSI beneficiary funds. As a result of our review of this criminal enterprise, SSA has strengthened our

oversight process. To that end, we have several new initiatives underway that will help prevent misuse by organizational payees.

1. Triennial Onsite Reviews of all Fee-for-Service Payees.

SSA has begun a review of the approximately 855 fee-for-service payees on a triennial cycle. SSA will also perform triennial reviews of all volume organizational payees – those serving 100 or more beneficiaries – and of all individual payees serving 20 or more beneficiaries. SSA's Office of the Inspector General will participate, as necessary, in these reviews. This review will ensure payee compliance through a face-to-face meeting with the payee and examination of a sample of beneficiary records. The review includes an assessment of the payee's record keeping, and SSA will interview a sample of beneficiaries in order to assess whether their needs are being met. Expenses may be corroborated with providers of the services. In addition, we will contact vendors to ensure that bills are being paid. We believe that an added benefit of this initiative will be that the lines of communication between SSA and the payee will be improved. Over the last year, approximately 300 of these reviews have already been conducted as part of a pilot process, and a regular ongoing schedule will begin this summer.

2. Annual Verification of Bonding or Licensing.

Currently, in order to collect a fee from a beneficiary's check, non-governmental fee-for-service organizational payees must be either licensed or bonded as long as they serve as payee. This is a statutory requirement. Beginning June of this year, SSA will require all non-governmental fee-for-service organizations to annually show that they continue to meet those requirements.

3. A 6-Month Review for All Newly Appointed Fee-for-Service Payees.

SSA will visit fee-for-service payees 6 months after their initial appointment as payee to ensure that they fully understand their duties and responsibilities, and are on the right track with respect to record keeping and reporting. We will focus on their accounting procedures so that, they will be able to account for beneficiaries' funds as well as comply with our requests for review. This initiative is now in place and applies to all new fee-for-service payees appointed on or after January 1, 2000.

4. Random Reviews of Volume and Fee-for-Service Payees.

Each year SSA will conduct a random sample of 30 percent of volume payees (serving 100 or more beneficiaries) and fee-for-service payees. We will review a sample of beneficiary records for compliance with our policies and procedures. We are developing guidelines and instructions needed to implement this initiative. The instructions provide our reviewers with information that includes: how to conduct the interview, the interviewing forms, how to review the record keeping (bank statements, cancelled checks, bills, contracts, etc.), and how to document our database with the findings from the review. This initiative is scheduled for implementation in Fiscal Year 2001.

In addition, SSA continues to monitor for "trigger" events. That is, we conduct reviews of payees in response to certain "trigger" events, such as third-party reports of misuse and complaints from vendors of failure to receive payment. This review has an emphasis on addressing the complaints.

Finally, we are looking at tightening up the investigation of potential payees. This is consistent with OIG's suggestion that we put more emphasis on the selection of representative payees.

I believe that these measures will help to ensure that organizational representative payees appointed by SSA will carry out their duties and responsibilities in accordance with the policies and procedures that are designed to protect our beneficiaries. This improved organizational payee monitoring process will:

- Provide the oversight necessary to ensure that payees fulfill their duties to our beneficiaries;
- Deter potential misuse by regular site visits coupled with random reviews;
- Provide an opportunity for ongoing education by SSA for these payees about their duties and responsibilities;
- Improve lines of communication between the payee and SSA; and
- Ensure that the payee continues to be qualified under the law to charge a fee for its services.

Further, Social Security attorneys are working in conjunction with several U.S. Attorneys' offices to assist in the prosecution of Social Security program fraud, including representative payee misuse cases.

Legislation

We recognize that administrative actions alone are not sufficient to address all of the problems we identified as a result of our analysis of the Aurora misuse case. We believe that some of these problems can only be resolved through legislation. Therefore, in February, we sent to Congress a legislative proposal for consideration that would provide additional safeguards for beneficiaries with representative payees.

Currently, when *any* payee has been determined to have misused an individual's benefits, SSA can reissue the benefits only in cases where there has been negligent failure on our part to investigate or monitor the payee. In virtually all other cases, the individual loses his or her funds unless SSA or the beneficiary can obtain restitution of the misused benefits from the payee. Additionally, SSA can seek restitution only through civil processes if the representative payee refuses to return the misused funds.

To facilitate restitution of misused funds to beneficiaries, our legislative proposal would require SSA to reissue benefit payments (including any respective fees for fee-for-service payees) in all cases when an organizational payee is found to have misused a beneficiary's funds, without either a finding of negligence on SSA's part or restitution from the organizational payee. Requiring re-issuance of such misused benefit payments, including any fees that were deducted from the beneficiary's benefit, would provide additional protection to the most vulnerable of beneficiaries.

This new authority would enable us to promptly restore benefits that have been misused by an organizational representative payee, thereby avoiding the hardship that can be caused by such a loss. SSA would, through all available avenues of legal recourse, continue to seek restitution of the misused funds from the former representative payee. We would do so for two reasons. First, for the deterrent effect and, second, to offset the additional costs incurred by the Social Security trust funds or the general fund in restoring misused benefits to the beneficiary.

In addition to this change, the legislative proposal would include other provisions designed to increase the safeguards for beneficiaries with representative payees. Specifically, it would:

- Require non-governmental fee-for-service organizational payees to be bonded *and* licensed, provided that licensing is available under State or local law. (The requirement under current law is bonding *or* licensing.) This proposed requirement would add further safeguards to a beneficiary's funds. State licensing provides some oversight by the state into the organization's business practices, and bonding provides some assurance that a surety company has investigated the organization and approved it for the level of risk associated with the bond. The proceeds from redeemed bonds would reduce the costs to the program when re-issuing benefits in cases of representative payee misuse.
- Provide that when an organization has been found to have misused an individual's benefits, the organization shall not qualify for the fee from that individual's benefits for months the payee misused the funds. Requiring payees to return the fees charged for periods of misuse is reasonable because the payee was clearly not properly performing the service for which the fee was paid. Permitting the organization to retain the fees is tantamount to rewarding the payee for violating his or her responsibility to use the benefits for the individual's current and future needs.
- Provide that misused benefits (including any respective representative payee fees) would be treated as an overpayment to the representative payee and, therefore, subject to current SSA overpayment recovery authority. Although SSA has been given expanded authority in the recovery of overpayments (such as tax refund offset, referral to contract collection agencies, notifying credit bureaus, and administrative offset of future federal benefit/payments), these tools cannot be used to recoup benefits misused by a representative payee. Providing that benefits misused by any representative payee would be an overpayment to the payee would provide SSA with additional means for recouping the misused payments. This proposal would also permit re-issuance of the recovered amounts to the beneficiary (unless already re-issued by SSA). This change would improve the protection of all beneficiaries with payees, not just those with organizational payees.

Also, in September 1999, we sent a legislative proposal to Congress that, in addition to other provisions, would extend civil monetary penalty provisions to representative payees that misuse benefits. As it pertains to representative payees, this legislative proposal would allow SSA to impose administrative penalties and assessments against representative payees who make false statements to obtain or retain benefits. This would improve our ability to ensure that individuals who

commit this type of fraud against SSA are penalized, even if such individuals are not prosecuted criminally. We urge Congress to give these proposals their prompt attention.

Advisory Committee & Inspector General Recommendations Implemented

To address the evolving needs of the beneficiaries and the payees that assist them, SSA chartered an advisory committee (AdCom) -- a panel of external experts -- to review the representative payee program. In 1995 and 1996, the committee held hearings and conducted research into key representative payment issues. SSA also requested its Office of the Inspector General (OIG) to review and make recommendations to improve the representative payee program. SSA requested these reviews in order to better meet the needs of the changing demographics of our representative payee population.

Both the AdCom and OIG made several recommendations -- from how to select a representative payee to the kind of monitoring program needed. SSA evaluated the recommendations within the framework of our competing priorities and resource limitations. We have implemented several recommendations including:

- The development and distribution of a handbook for organizational payees. (OIG)
- Issuing instructions to field offices to screen payees more thoroughly. (OIG)
- Conducting onsite reviews of fee-for-service and volume payees. (AdCom/OIG)
- Developing and distributing a pamphlet for beneficiaries informing them of their rights and responsibilities. (OIG)
- Changing the focus of the current process from accounting to monitoring and compliance. (OIG)

In addition, we have the following initiatives in process:

- Develop an accounting form tailored to organizational payees. (AdCom/OIG)
- Expand our automated Representative Payment System. (OIG)
- Develop and distribute a handbook for individual payees. (AdCom)
- Instruct field offices to improve controls over retention of supporting documentation of non-responder alerts and accounting forms. (OIG)

Advisory Committee & Inspector General Recommendations Not Implemented

There were some recommendations that we have not adopted. For example, it was suggested that SSA require a high level of case management (such as social services) from organizations that collect a fee (fee-for-service payees). We do encourage organizations to provide extra services (e.g., negotiating the beneficiary's rental agreement with the landlord). However, we did not adopt this suggestion because we believe that **requiring** extra services would discourage the organization from providing the basic payee services that some individuals would not have otherwise. Another example is the recommendation that SSA only accept a challenge of a beneficiary's capability from those in a position to know. While we agree that a finding of incapability is a serious matter, and we are wary of spurious allegations, our policy is to respond to third party reports of beneficiary incapability by conducting an investigation, regardless of the nature of the source. Only then can we be assured that the beneficiary receives the full benefit of their funds.

Conclusion

In conclusion, let me convey our special concern for beneficiaries who need a representative payee because these are the most vulnerable of our beneficiaries. We will not tolerate misuse of benefits by representative payees and we will continue to strive for ways to strengthen our representative payee program. Recognizing this, we have looked outside of our agency (AdCom) and within (OIG) for improvements. We have implemented some of the recommendations and, as resources permit, we will implement others. We have recently set in motion plans to improve our monitoring and oversight process. In addition, we have met with representatives of organizations that support the interests of beneficiaries with payees and, at their request, we are working with them to develop a statutory definition of misuse. Finally, we believe with the help of Congress, we will be able to improve the package of protections for our beneficiaries with payees when funds have been misused.

The CHAIRMAN. Before Mr. Huse speaks, I should thank the Social Security Administration for their cooperation with our drafting of the legislation and their cooperation in preparation for this hearing as well.

Ms. DANIELS. You are certainly welcome.

The CHAIRMAN. General Huse.

**STATEMENT OF JAMES G. HUSE, JR., INSPECTOR GENERAL,
SOCIAL SECURITY ADMINISTRATION, WASHINGTON, DC**

Mr. HUSE. Good morning, Mr. Chairman, Senator Wyden.

Thank you for the opportunity to discuss Social Security's Representative Payee Program. This critical program is designed to protect the interests of some of the most vulnerable members of our society. However, recent events have demonstrated that this program is sometimes abused by those entrusted with this great responsibility.

Today, I would like to summarize my full statement for the record, but first, I need to emphasize that the vast majority of representative payee are honest, trustworthy people. However, recent events have exemplified that this program needs tighter controls to prevent abuses.

Since FY98, we have opened 1,352 representative payee investigations, obtained 313 convictions, and identified over \$7.5 million in losses. Several of our cases represent severe abuses where hundreds of individuals were victimized.

Today you heard from Theresa King, who was convicted after misusing more than \$31,000 of her client's funds. In my written statement, I have also highlighted our investigation of IVY's Social Services, Incorporated, whose owner misused about \$274,000 worth of beneficiaries' funds for personal purchases over a 15-month period while serving as a fee-for-service representative payee for 330 individuals.

Our Aurora Foundation Investigation is our most recognized investigation. Aurora was an organizational fee-for-service representative payee that served over 140 disabled individuals. The president of Aurora embezzled over \$300,000 over a 4-year period, of which almost half represented payments issued by Social Security. Even though Aurora had been a fee-for-service representative payee since 1995, no onsite review had been conducted. However, at the time of our investigation, Social Security notified Aurora of a pending site visit based on the numerous complaints against Aurora.

Currently, when Social Security determines an individual is incapable of managing his or her own benefits, it searches for a suitable representative payee. To determine suitability, Social Security interviews individuals and conducts a limited review of documents supplied by the potential payee.

Please keep in mind that it is not an investigation, but in essence serves as a means for Social Security to verify information already within its own system. Social Security generally does not verify the accuracy of the information unless there is a reason to question suitability; nor does the agency perform credit or security background checks.

We believe that the agency needs to strengthen its selection process. This presents Social Security with the best opportunity to prevent misuse. Social Security also needs to strengthen its representative payee monitoring program. We have recommended that Social Security implement additional safeguards to ensure that representative payees do not misuse benefits.

In our work, we identified problems with representative payees who did not respond to Social Security's annual request for an accounting of how benefits were used for individuals they represented. We are pleased that Social Security is proposing to conduct quick response checks when representative payees do not respond.

Onsite reviews are another part of the monitoring program. State institutions that participate in this program are reviewed every 3 years. Social Security may also conduct onsite reviews if a problem is brought to its attention. Unfortunately, these reviews are detective rather than preventive. We believe that Social Security should conduct periodic reviews of selected payees and focus more on monitoring and compliance issues.

Finally, in another review, we found that payments were often made to deceased representative payees. We estimated that since July 1998, about \$17 million in payments were issued to 2,091 deceased payees. We recommended that Social Security conduct routine computer matches to ensure that it promptly identifies payees who are deceased and quickly selects new payees.

Social Security has acknowledged the need to address representative payee oversight issues, and we have agreed to work together with the agency to provide our expertise.

Finally, I appreciate that this committee recognizes the need to expand the civil monetary penalty authority to include representative payees who misuse benefits. With the is additional authority, we can make sure that representative payees who abuse the system are punished, even when they are not criminally prosecuted.

Mr. Chairman, we look forward to working with the agency and this committee to improve this vital program and protect Social Security's vulnerable beneficiaries.

I will be happy to answer any questions that you might have at this time.

Thank you.

[The prepared statement of Mr. Huse follows.]

OFFICE OF THE INSPECTOR GENERAL

Organizational Representative Payee Program

**HEARING BEFORE THE
SENATE SPECIAL COMMITTEE ON AGING**

United States Senate

May 2, 2000



**JAMES G. HUSE, JR.
INSPECTOR GENERAL
SOCIAL SECURITY ADMINISTRATION**

Representative Payee Testimony
Senate Special Committee on Aging – May 2, 2000

Good morning, Mr. Chairman and members of the Special Committee. Thank you for the opportunity to discuss the Social Security Administration's Representative Payee (Rep Payee) Program. While the Agency's Rep Payee Program is designed to protect the most vulnerable members of our society, recent events have demonstrated that these laudable goals are sometimes abused. Today, I would like to focus on some practical solutions that would strengthen the Agency's Rep Payee Program. In particular, I would like to highlight several recent audit recommendations that offer solutions to prevent and detect rep payee abuses. Additionally, I would like to discuss several OIG investigations that have highlighted weaknesses in the Rep Payee Program. We are working closely with the Agency to rapidly address these vulnerabilities, and to implement sensible solutions.

The Rep Payee Program – A Brief Overview

SSA provides title II and title XVI benefits to the most vulnerable members of our society--the young, the elderly, and the disabled. Congress granted SSA the authority to appoint rep payees for those individuals that SSA determines to be incapable of managing their own benefit payments. Each representative payee has a legal responsibility to use SSA's benefit payments for the use and benefit of the beneficiary only. There are two major types of rep payees -- individual rep payees and organizational rep payees. Individual rep payees are typically relatives of the beneficiary, who are entrusted to utilize such funds in the best interest of the beneficiary. Although individual rep payees are permitted to provide service to numerous beneficiaries, they are prohibited

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from charging fees for such services. Some organizational rep payees are large institutions that provide care and treatment for beneficiaries residing in such institutions (e.g., Department of Veterans Affairs hospitals, State psychiatric institutions, nursing homes, extended care facilities, and nonprofit institutions). Other types of organizational rep payees may include community groups, charitable organizations, and other nonprofit agencies. The Social Security Act permits authorized qualified organizational rep payees to collect a fee for providing rep payee services.

Rep Payee Program Vulnerabilities

While the vast majority of rep payees are honest, trustworthy people, several recent cases have exemplified that the application of key controls could have prevented major fraud cases.

No case better exemplifies this point than the Aurora Foundation case, which was the subject of a television news magazine segment in January 2000, entitled "When Nobody's Looking." Aurora Foundation, Inc. was a high-volume, organizational rep payee that served over 140 disabled individuals in West Virginia. Although Aurora had been a fee-for-service rep payee since 1995, SSA had not yet performed an on-site review. However, SSA notified Aurora by mail of a pending review based on complaints.

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Our investigation revealed that the head of the Aurora Foundation, Gregory Gamble, had embezzled over \$300,000 between April 1995 through May 1999. The majority of these diverted funds were SSA benefit payments. Mr. Gamble has since pleaded guilty to embezzlement of Social Security benefits, Veterans Affairs benefits, and private funds. Mr. Gamble is scheduled for sentencing on June 5, 2000.

During the course of our investigation, my office asked SSA to retrieve all of the financial accounting forms submitted by Aurora. SSA was only able to secure 12 of the accounting forms that were submitted by the Aurora Foundation during its final year of operation. The missing forms reflect a lack of program oversight on behalf of SSA. It still remains unclear as to whether the remaining accounting forms were submitted and subsequently misplaced, or never submitted in the first place by the Aurora Foundation. We continue to believe that SSA needs to conduct regular inspections and reviews of organizational rep payees, especially those rep payees who do not submit the required financial accounting forms.

From November 1996 to February 1997, a SSA Field Office (FO) received approximately 45 complaints of funds being mismanaged by Ivy's Social Services, Incorporated (Ivy's), a fee-for-service rep payee located in Phoenix, Arizona and Denver, Colorado. Upon receiving this information from the FO, my office promptly opened an investigation. Our investigation revealed that Ivy's was an organizational rep payee for 330 individuals from March 1996 to May 1997. During this short period of time, the

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head of Ivy's spent approximately \$274,000 of the beneficiaries' money to make personal purchases. In addition to paying off \$65,000 in personal credit card debt, the subject of the investigation also used the funds to furnish, and pay the rent for, three personal residences. In May 1999, the head of Ivy's was sentenced to 18 months imprisonment, and ordered to pay full restitution of \$274,000 to SSA.

Another similar example involved Theresa L. King, an organizational rep payee who served more than 200 beneficiaries in the State of Washington. Our investigation revealed that Ms. King misused more than \$31,000 in SSA benefits that were earmarked for her clients. However, the exact loss could not be determined due to commingling of funds and incomplete financial records. Many of the victims had mental disabilities, and could not communicate effectively when interviewed by our agents. Ultimately, Ms. King was convicted on charges involving SSA fraud, and was sentenced in May 1999 to 30 months imprisonment and restitution of over \$30,000. It is our belief that adequate monitoring would have detected financial discrepancies in the rep payee's accounting records.

Since Fiscal Year 1998, our office has opened 1,352 rep payee cases, which have led to 313 convictions and identification of fraud losses totaling over \$7,500,000. Fortunately, the vast majority of such investigations have involved individual rep payees, as opposed to large organizational rep payees such as the ones described above.

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Early Warning Signs

As noted above, there have been several warning signs that may have gone unheeded by the Agency. These warning signs can be detected at either the point of organizational rep payee selection or during post-selection monitoring.

Screening and Selection of Representative Payees

When SSA determines a beneficiary is incapable of managing his or her own benefit payments, SSA searches for a suitable rep payee. SSA regulations give preference to family members over friends, third parties, and organizational rep payees.

To determine suitability, SSA interviews prospective rep payees. This usually consists of a review of documents supplied by the prospective payee. It is not an investigation, but rather as a means to conduct an SSA records verification. Some of the documents that SSA reviews for individual applicants include:

- Drivers licenses;
- State Identification cards;
- Credit cards; or
- Bank books/check books

However, SSA generally does not verify the accuracy of the information presented, unless it has a reason to question the applicant's suitability. SSA does verify the accuracy of the payee's income by comparing the information on the rep payee application to SSA's records. SSA also verifies that the prospective rep payee has not been convicted of a felony against Social Security programs.

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For organizational payees, SSA verifies the Employer Identification Number (EIN) of the payee by comparing the EIN on the rep payee application to the EIN on SSA's records. SSA does not perform credit or security background checks on prospective individual or organizational payees. Based on existing regulations, SSA does not determine if the individual or organizational rep payee may have financial problems, credit problems, or if employees have been convicted of any other felony.

We believe that the selection process, specifically the suitability determination, should be strengthened. This presents SSA with the best opportunity to prevent improper benefit payments before issuance. In a March 1997 evaluation report entitled, *Monitoring Representative Payee Performance: Roll-Up Report*, we recommended that SSA conduct a more thorough screening of potential rep payees. Recently, SSA included a number of measures in its FY 2000 legislative proposal, which was introduced on April 27, 2000, by Senators Grassley and Breaux as the *Social Security Beneficiaries Protection Act*. This Act proposes to improve the selection process of rep payees. For example, it would require non-governmental fee-for-service organizational rep payees to be bonded and licensed by State and/or local agencies to assure that due diligence is performed.

Representative Payee Monitoring and Oversight Activities

SSA has some basic safeguards in place to ensure that rep payees do not misuse benefits. SSA requires an annual accounting report from all rep payees, for each beneficiary under

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their care. Additionally, SSA has the ability to conduct on-site reviews of organizational rep payees.

Annual Accountability Reports

An annual accounting report form, the "Representative Payee Report", is sent to every rep payee. The form elicits information concerning the dispensation of SSA funds that the organizational rep payee has received, on behalf of each beneficiary.

In our December 1996 report entitled, *Monitoring Representative Payee Performance: Nonresponding Payees*, we identified several problems with rep payees who did not respond to these annual accounting reports. We recommended that SSA determine (1) why rep payees do not complete and return these accounting reports; and (2) whether SSA staff are properly processing systems-generated alerts for rep payees who do not respond. In the intervening 3-year period, there were several organizational rep payee fraud cases, described above, in which such accounting forms could not be located. Thus, we are extremely pleased that SSA is proposing to conduct Quick Response checks when rep payees do not return these financial accounting reports.

On-site Reviews of Representative Payees

Another part of SSA's oversight and monitoring of rep payees is the on-site reviews. State institutions that participate in the on-site review program are reviewed once every 3

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years. In addition, SSA may conduct an on-site review if a problem with a payee is brought to its attention. On-site reviews are visits with the rep payee or the administrators of such organizations, and they consist of an examination of the relevant accounting records. Additionally, interviews with beneficiaries are conducted to determine if their needs are being met. Unfortunately, these reviews may not identify rep payee abuses until after the fraud has occurred. Further, many beneficiaries are incapable of communicating any problems due to their mental impairments – the basis of their need for a rep payee in the first place.

Again, in our March 1997 report, we made several recommendations to improve the efficiency and effectiveness of SSA's rep payee monitoring program. Included in the report were recommendations for SSA to conduct periodic reviews of selected payees and to change the focus of the current process from accounting to monitoring and compliance.

Finally, in our September 1999 report, *The Social Security Administration's Procedures to Identify Representative Payees Who Are Deceased*, we reported that benefit payments were sometimes made to deceased rep payees. In some cases, SSA could not be sure that the funds were ever used on behalf of the beneficiaries for which they were intended. We also reported that SSA does not ensure that new rep payees are selected when former rep payees have died. In July 1998, from a review of SSA's Death Master File, we estimated that 2,091 deceased rep payees received about \$17 million in Old-Age, Survivors and Disability Insurance and Supplemental Security Income payments. We recommended

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that SSA conduct routine computer matches to ensure that SSA promptly identifies rep payees who are deceased and selects new payees in a more timely manner. SSA agreed with our assessments and plans to implement our recommendations.

Working Together to Find Common Sense Solutions

As SSA has acknowledged the need to address rep payee oversight issues, we have agreed to work together with the Agency and to provide our expertise and assistance. Specifically, over the next several months, we will assist SSA to:

- Identify and recommend appropriate improvements to the program;
- Provide assistance to SSA staff during on-site reviews of selected rep payees;
- Conduct periodic audits of the program, including Agency adherence to program policies and procedures; and
- Evaluate, on an ongoing basis, the need for revised policies and procedures.

We hope that this type of fraud, which so often victimizes the most vulnerable in our society, will be more quickly discovered and referred to us for investigation and prosecution.

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We appreciate that the Committee recognized the need to expand the civil monetary penalty program (CMP) to include all rep payees who convert or misuse benefits. We also believe that with additional CMP authority our Office can make sure that rep payees who abuse the system are punished, even when they are not criminally prosecuted. In other areas, the CMP program has proved to be enormously valuable both in preventing fraud from occurring, and in recovering monies stolen from SSA.

However, there are currently limitations to using CMPs in the Rep Payee Program. I would like to illustrate this point by telling you about a father who applied to be the rep payee for his disabled minor son. He received approximately \$10,713 in SSI disability payments for his son's benefit and care. In July 1998, the child's mother applied to be his rep payee. It quickly became apparent that the father never had custody of the child, and that he used the payments designated for his son for his personal use for almost 2 years. The father refused to repay the funds to SSA. Because the dollar loss fell below the prosecutive threshold, both the criminal and civil divisions of the U.S. Attorneys Office declined the case for prosecution. At that point, our Office of Investigations referred the case to our Office of Counsel for possible action under the CMP program. We could take no action in this case. The son was eligible for the payments, so under existing law, the funds were properly paid despite the fact the child most likely never benefited from them. The father's wrongful conversion of those benefits did not constitute a false statement made in order to obtain or retain the benefits—as I said, the

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benefits themselves were proper. In the absence of specific language, the father's theft of his disabled child's benefits goes unpunished.

Finally, I would like to take the opportunity to provide a few comments on the *Social Security Beneficiaries Protection Act* as it relates to the Representative Payee Program. In February 2000, SSA submitted for consideration a draft bill to provide additional safeguards for Social Security beneficiaries and Supplemental Security Income recipients with rep payees. I applaud the SSA's efforts in this area; however, legislative remedies should not be limited to either the individual or organizational rep payee program, but should encompass both. I also feel that unless PREVENTION and front-end remedies are installed to prevent the misuse of these funds, we are still one step behind. We have already begun to work with SSA to build a process that will screen out unworthy individuals and organizations that wish to be rep payees. Additionally, a rigorous oversight program will be put in place.

Mr. Chairman, we look forward to working together with the Agency and this Committee to improve this process. We need to make sure that from the time of selection, up until the time benefits are disbursed, the organizations that provide this service are honest and capable.

Thank you for holding this hearing. At this time I will be happy to answer any questions that you may have.

The CHAIRMAN. I want to also thank you for the cooperation and help that you gave our committee in preparing for this hearing and for the valuable work you do as Inspector General not only in your agency, but in most agencies, we find it very helpful to have some independence to see that the bureaucracy is doing what Congress intended.

I recognize that we are focusing today on organizational payees as opposed to individual payees. However, in your testimony, you state that, and I quote: "The vast majority of representative payees are honest, trustworthy people." And we all want to believe that since they represent so many vulnerable people.

How do we know that individuals and organizations serving as payees are serving the best interests of their beneficiaries, and can that be determined from existing data?

Mr. HUSE. I think we need to strengthen our internal controls so that we have a system of checks and balances, as we have discussed through testimony here this morning, that get to that point where we know how not only organizational representative payees are performing, but also the many individual representative payees who serve multiple beneficiaries. That is an area of concern for us also, Mr. Chairman.

The CHAIRMAN. Ms. Daniels, the committee recognizes also, as I indicated to General Huse, the valuable role that our representative payees serve, and of course, that takes with it a tremendous responsibility to manage other people's benefits. Because of this responsibility, the Social Security Administration should ensure that those serving our most vulnerable citizens are trustworthy and responsible. However, I am concerned over a recent Inspector General's criminal investigative report that indicates that the Social Security Administration needs to more thoroughly review payee backgrounds. I am very concerned that the Social Security Administration is not doing enough background research on payees.

What type of credit or security background check does the Social Security Administration perform on representative payees?

Ms. DANIELS. At the present time, we gather the information about a prospective payee in accordance with what we are authorized in the legislation to do. We verify that the person is who they say they are and that they have not defrauded the Social Security Administration previously.

So I think I have to agree with you, Senator Grassley, that we could do more. And we have sent to our field offices notification that they need to look more carefully at the background documentation. But there are occasional criminal enterprises that will lie or falsify documents to us, and that is the reason why it is very important for us to cooperate strenuously and vigorously with law enforcement agencies when these kinds of things occur.

The CHAIRMAN. General Huse, you gave a surprising description of the Social Security Administration's screening and selection process. It seems very easy to be named so, and I agree with you that screening is best—that is pretty much common sense. What prevents the Government from doing a better job at this important task?

Mr. HUSE. My response to that, I actually would probably give back to Dr. Daniels, because we know from where we sit at Social

Security that all of these issues come down to the expenditure of resources. They make the decisions based on the law as it is written now where to apply those.

I know that from an accounting standpoint, you cannot really call this a strong program, and our audit work has indicated that and reported that. How those are implemented, though, does come down to a policy decision, so I would defer to the agency to answer your question.

The CHAIRMAN. If you want to fill in on that, Ms. Daniels, you are welcome to.

Ms. DANIELS. I think it is true that in a certain sense, we are balancing three priorities at the same time—the careful administration of the representative payee program itself; the resources we have to do that; and the desperate need we have for payees.

For many, many people, and more and more as people are no longer institutionalized and live in the community, there are no payees available. So we have to balance burdening a payee or a potential payee and not being able to find one because of the considerable burden, or going in the other direction of being too lax and allowing anybody to be a payee who should not be.

So it is a very difficult balancing act. Payee work is very difficult, and you cannot get rich being a payee. So we are really mostly relying on volunteers, so we have to make it easy enough for ordinary citizens to be payees, and at the same time careful enough not to allow criminal enterprises to develop.

So I have to admit we are making a balancing act here with our resources as well.

The CHAIRMAN. What do you do if you cannot find one when one is necessary?

Ms. DANIELS. We keep looking; we really do. We just keep looking and asking the individuals who might know the person—we end up with an organizational payee as a last resort. We look for family members. We ask, do you have a cousin; are your children available to serve. So we keep digging into their background to try to find a family member, a friend, or a member of their church. We ask an organizational payee as a last resort.

The CHAIRMAN. General Huse, the Social Security Administration checks to make sure that a payee does not have a felony committed against the Social Security Administration. Does that imply that other felonies if they know about them are OK?

Mr. HUSE. That is correct. We know from the data that Social Security supplies that a number of representative payees are prior convicted felons. That sounds very provocative, I realize that, but in the communities that they serve, some of these people are the only representative payees that are available.

It is an issue as to whether their previous criminal experience should be examined to see if it bears on fiduciary crimes, but that is not done now. We have made recommendations that it be included, but that is again another issue for the agency.

The CHAIRMAN. Mr. Massanari wants to add something, and then I will go to Senator Breaux.

Mr. MASSANARI. Just a comment in terms of the screening that is currently done for prospective payees. There is an application form that a prospective payee is asked to complete. There is typi-

cally a face-to-face interview with someone in our field office, and one of the specific questions is: Have you been convicted of a felony in the past?

And certainly, the applicant can be deceitful on that score. But back in the early nineties, based upon direction from the Congress, we actually undertook a pilot to do criminal background checks for representative payees and found that it simply was not cost-effective based on the administrative burden on the potential payee, as well as, the administrative burden on the agency.

So it was tried, and after analysis, it was determined not to be cost-beneficial.

The CHAIRMAN. Thank you.

Senator Breaux.

Senator BREAU. Thank you, Mr. Chairman, and I thank the members of the panel for their presentations.

Ms. Daniels, thank you for being with us. Tell me how an Ace Payee and a Theresa King slip through the system.

Ms. DANIELS. They lied.

Senator BREAU. She did not have to lie very much.

Ms. DANIELS. Well, she did lie when she answered a question whether she had been convicted of a felony.

Senator BREAU. It says here—and maybe she is lying again, I guess is what you are saying—“I was not asked to produce any type of insurance bond, to prove any formal education, or required to give fingerprints or even asked about a criminal history. I was not even personally interviewed; all this was done by telephone.” She did not have to answer a lot of questions.

Ms. DANIELS. Well, she did answer whether or not she had been convicted of a felony, however, she indicated that she had not been convicted of a felony.

Senator BREAU. So she was lying this morning when she said that she was not asked about that?

Ms. DANIELS. Well, she was not required to answer that question because she was filing as an organization, not as an individual. But she did answer that question.

Senator BREAU. So she was lying this morning.

Ms. DANIELS. I suppose she may have forgotten that she answered that question on some of her payee applications.

Senator BREAU. Why didn't they tell her to come down to the office and talk about whether she qualified to be a representative payee?

Ms. DANIELS. Senator Breaux, I cannot look into the minds of the people at the time they approved her. I do not really know what their motivations were. I am pretty sure they were desperate to find some payees in that community.

But let me say this. It could be that they already knew her, and that they had worked with her in order to get bills paid or issues resolved.

Senator BREAU. Sure—she was working for Ace Payee, who is now getting ready to go to prison himself.

Ms. DANIELS. That is right.

Senator BREAU. They should have had whistles and bells going off when they asked “Where do you work?” and she said, “I work for Ace Payee.” Whoops.

Ms. DANIELS. I agree. I think it was a terrible thing that happened that this woman ended up being a payee and that she did not perform her duties as they were indicated.

Senator BREAUX. Well, I think there were two people not performing their duties. Theresa King was not, and the Social Security person who called her up and approved her was not. So it is not just all Theresa King. I mean, it was an easy situation for her to abuse the process, and she was not asked the right questions and not even personally interviews. Now that is the past, and as bad as it is, I am worried about the future and how we correct it.

It would seem to me that the situation would be greatly resolved if we just required that anybody who is handling someone else's money for the Government be licensed and bonded. It takes the responsibility off of you having to go out there and do all these interviews, which you probably do not have the time to do. If they walk in with a license by a reputable operation and a bond that protects the payee, protects the beneficiary, and protects that Government so we will get our money back if the person runs off with the money, wouldn't that go a long way toward solving this problem?

Ms. DANIELS. Yes it would.

Senator BREAUX. Then, let us do it. What does it take to do that?

Ms. DANIELS. It takes——

Senator BREAUX. Does it take an act of Congress? Do not tell me. Do not tell me you have to wait for Congress and "20/20" to do all this before we can resolve this problem.

Ms. DANIELS. It would not hurt.

Mr. MASSANARI. That is a provision, of course, in the proposed legislation——

Senator BREAUX. Do you need an act of Congress to say that somebody who is going to handle the Government's money has to be bonded?

Mr. MASSANARI. The current statute provides that a fee-for-service payee has to be either bonded or licensed in the State that they are serving.

Senator BREAUX. So you do not need an act of Congress?

Mr. MASSANARI. Well, we need an act of Congress, because what we are proposing and what your legislation proposes is that you need both licensing and bonding.

Senator BREAUX. Wait a minute. Are you telling me you cannot require that a payee be bonded today?

Mr. MASSANARI. We can require that a fee-for-service organization be bonded or licensed, but not bonded and licensed.

The CHAIRMAN. Our bill corrects that.

Ms. DANIELS. Yes. Your bill corrects that.

Senator BREAUX. No wonder people have somewhat of a distrust of Government when they have to figure that out.

So you can require them to be bonded right now, or you can require them to be licensed right now, but you cannot require them to do both?

Mr. MASSANARI. We cannot require them to do both, although many are both licensed and bonded.

Senator BREAUX. Theresa was not.

Mr. MASSANARI. Well, in that case, she should have been one or the other; you are quite correct.

Senator BREAUX. I think, Mr. Chairman, that we have really outlined the problem, and we can talk about the past and whose fault it was, and I think there is a lot of fault to go around. But the purpose of the hearing is not to do that; the purpose of the hearing is to figure out how to clear this up and go forward from here.

I honestly think it would make a lot of sense just to require that people who handle the Government's money on behalf of somebody else be bonded and licensed to do so. I guarantee you an insurance company that is going to bond this person is going to ask a million questions, and they are going to make sure they do not have a felony conviction for something else and that they have adequate financial security to handle somebody else's money, because they are not going to want to get stuck on the hook for that kind of money.

If you have a bond from a reputable bonding firm, I think you can rely on that with a great deal of accuracy that this is a person you ought to sign off on. It takes away from you having to do all of this. You do not have to go out and do all these checks on these people—but somebody ought to be doing it.

Thank you all very much.

The CHAIRMAN. Thank you, Senator Breaux.

Senator Wyden.

Senator Wyden. Thank you, Mr. Chairman.

I think that you and Senator Breaux are performing a great service, Mr. Chairman, going after this problem. We have seen this for years, and it really goes back to the days when I was director of the Gray Panthers and saw this at home in Oregon.

I take a little bit of an exception to what I have been hearing at the table, because I do not think this is just a question of resources nor do I think it is just a question of these legal gymnastics about bonding and licensing. I think this is a question of Social Security priorities. If the agency makes it clear on a sustained basis that it is going to come down on these ripoffs with hobnail boots, I think this problem can be remedied, and this swamp will get drained.

So I am very hopeful that we will pass the Grassley-Breaux legislation, but frankly, even more important than the statute is for the Social Security Administration to send a message that you are drawing a line in the sand, and you are just not going to tolerate these ripoffs.

The only real substantive question I have for you, Ms. Daniels, is this. Is the agency so anxious to find payees at this point that you all are not screening carefully enough? Is that part of the problem?

Ms. DANIELS. We are very concerned to get good payees for our beneficiaries. That is our primary goal—and primarily to get family or friends, people who know the individual's needs. That is always our highest priority.

But there is a small number, as I think you saw from the charts, of individuals for whom we can find no legitimate family, friends, or close associates to serve as the payee. So we use fee-for-service and organizational payees as a payee of last resort.

When we are down to that level of looking for payees, we are working very hard to find someone who is licensed or bonded that we can work with. In some communities, it is easier than others—

I have to tell you the truth—but for some of our inner city beneficiaries, it is very hard. Some of them are even homeless, and it is very hard to find someone who would be willing to not only pay their bills monthly and take care of that money, but in some cases deal with folks who may not be very easy to deal with.

So this is a problem. Now, we are not so anxious to find a payee that we would use a criminal or someone who is irresponsible. I think it is very important to know that when we notice anything going wrong, we go in for an audit, and we bring in the Inspector General, and we cooperate with law enforcement to shut down those operations. In fact, it was because we said we were going to come in and audit Aurora that Mr. Gamble turned himself in.

So I think that our controls need to be beefed up, and as I said in my testimony, we are implementing many more random reviews and many more onsite reviews to be sure we can catch as much as we can.

On the other hand, defeating criminal enterprise is a very difficult business, and we have to balance that with actually serving the beneficiary and trying to find someone to serve as payees.

Senator Wyden. I just hope the Senate Committee on Aging is not going to be back here in 5 years dealing with exactly the same kinds of issues. From my experience—I ran the legal aid program for seniors in Oregon for a number of years before I was elected to Congress—we knew about these problems, and the National Senior Citizens Law Center has been after this for years, yet it has gone on and on and on.

The Grassley-Breaux bill is important, but what is even more important in my view is that you make it clear that business as usual is over with respect to this and that you are going to go after these ripoffs, as I said, with hobnail boots.

Mr. Chairman, I thank you. I think your legislation is important, and we ought to get it enacted.

The CHAIRMAN. Thank you for your historical perspective working with the Gray Panthers and understanding that this has been a problem before it was brought to our attention by the Inspector General.

I have about four questions left, but before I ask those, Ms. Daniels, you were speculating that perhaps Theresa King was quickly approved because maybe they had a hard time finding payees. In that particular case, Dale Parsons' Ace Payee Services handled the clients that Theresa King took with her when she was approved, so in that particular case, the Social Security Administration was not desperate for a payee.

Now I will ask you a question unrelated to that statement. The Representative Payment Advisory Committee and the Inspector General have been making recommendations for improvement of this program since at least 1996. Why has it taken so long to address these problems that affect so many of our elderly and vulnerable citizens?

Ms. DANIELS. Senator Grassley, shortly after we received their recommendations, we began to implement many of the recommendations. Some of them have been implemented, and some of them are in the process of being implemented. So I think we

learned a great deal from the advisory committee and from the OIG's report.

I can give you a quick list of the ones that we did implement if you would like.

The CHAIRMAN. All right.

Ms. DANIELS. Would you like me to do it verbally or in writing?

The CHAIRMAN. Verbally, please.

Ms. DANIELS. OK. We developed and distributed a pamphlet informing beneficiaries of their rights and responsibilities. We issued instructions to our field offices to screen payees more thoroughly. We developed and distributed a handbook for organizational payees. We conducted onsite reviews for fee-for-service and other volume payees. And we developed a new accounting form tailored to the organizational payee.

We have several of the other recommendations in process, including much-needed improvements in our automated representative payee system where we can get data and keep data and make it available for use in managing the program.

We are pursuing the legislative proposals that we sent to your committee and that you introduced, and we are developing a handbook for individual representative payees. In addition to that, we are monitoring all volume payees and all fee-for-service payees on a triennial basis and doing spot checks and random visits so that we can keep a high set of alertness on the part of these payees whose activities we will be monitoring.

So I think we have implemented a great many of the recommendations that the Advisory Committee and the Inspector General put forward, and we really appreciate the fine work they did to help us rethink how we run the payee program.

The CHAIRMAN. Thank you.

General Huse, I am very concerned that your testimony stated that \$17 million in payments went to deceased representative payees in just 1998 alone. As Ms. King testified earlier, some payees pocket the money that is sent to deceased beneficiaries until they have to report their deaths. What is the Social Security Administration doing to prevent and recover the loss of these funds?

Mr. HUSE. I know that for us, this is an indication of an area that needs some focus, and here, as in other things, the benefit of some of our computer matching capability is in order. They are working on that to improve that death file information not only on the receiving end but on the way we process it and then get it out to our field so these payments can be corrected.

That is a work in progress, and I think that everyone is well aware that we need to improve that area.

The CHAIRMAN. Let me go back to Dr. Daniels. You noted that State institutional payees are not required to file annual accounting forms. Why are beneficiaries who reside in institutions an exception?

Ms. DANIELS. Because we do onsite reviews of those particular payees. When an individual is in an institution, we do onsite, not paper, audits of their payee situation.

The CHAIRMAN. My last question will be to you, General Huse. With regard to monitoring and oversight of payees, what kind of review of the annual accounting report does the Social Security Ad-

ministration conduct, and is the information on the report corroborated by other evidence, or does the Social Security Administration accept the information at face value?

Mr. HUSE. We do not have a particular audit report focused on that particular activity other than generally recommending that this become a more robust process. We would be willing to look into that in the future in an audit. We do know anecdotally that in some instances, those reports are—well, the process varies from region to region depending on workloads. Again, although this is not an excuse, the resources issue comes in here. This is not a workload that has a performance measure in Social Security. I have learned that if you have a performance measure that tends to elevate the interest in seeing that these things are done, and because we have so many other performance measures focused on customer service, perhaps there are decisions made, daily decisions, to defer some of these reviews or analysis of this accounting form.

That is more or less a very general response, but I would be pleased to initiate some audit work.

The CHAIRMAN. I will not tell you to do that right now, but I will consult with my staff and get back to you if that is necessary.

Mr. HUSE. We know this is a crucial process, and I think in the general awareness since we have done these reviews, we know this is a key area where we can get early warning on trouble—and I say “we” meaning the IG and the agency.

The CHAIRMAN. Thank you.

I am going to close the meeting now. As I mentioned earlier, I will leave the record open for 3 weeks, and I would like to receive any additional questions from my colleagues by Friday. I will allow a response from the Social Security Administration and any other submissions an additional 2 weeks before we close the record.

I thank all the witnesses, but particularly you two, as I have already thanked the first panel. And thank you, Larry, for participating as well.

We have heard how organizational payees can misuse benefits entrusted to their care. We have also heard how such misuse directly affects beneficiaries. And of course, we are glad to hear that the Social Security Administration and the Social Security Administration Office of the Inspector General will work to prevent the misuse of funds in the future. With increased monitoring by the Social Security Administration, it seems to me that organizational representative payees will be more accountable for the benefits that they manage and will be less likely to misuse those benefits.

I want to stress that the committee understands that this is a small problem within the scope of benefits that the Social Security Administration disburses, but we obviously have to focus on the fact that this small problem for the Social Security Administration has a really huge impact on the beneficiaries, the disabled, and our senior citizens who are unable to receive their proper benefits, as articulated by one of our first witnesses today, Ms. Betty Byrd.

Yet, as the population of aging baby boomers increases, it is essential that we address and correct this problem and do it now, because it may seem like 2010 is a long way off, but in the life of Congress, it is just around the corner. Consequently, we need to make sure that as 77 million baby boomers go into retirement, we

do not have this problem because it could compound itself many times over. We also would otherwise risk revisiting this problem on a much larger scale. We cannot have our elderly and our disabled sleeping in cars and living without food and shelter because a sanctioned payee has stolen these meager funds, as we saw in the replay of the "20/20" program.

The committee will continue to oversee the successful implementation of the Social Security Administration's expanded monitoring program for organizational payees. When payees are responsible for serving many beneficiaries at a time, the Social Security Administration should ensure that those payees have adequate staff and equipment to properly account for the benefits being issued. These problems have to be addressed.

I have already referred to Senator Breaux' and my legislation S. 2477 the "Social Security Beneficiaries Protection Act". This bill has the primary purpose of immediately making beneficiaries whole when the Social Security Administration finds misuse of benefits by payees. This bill also provides for additional accountability by payees to the Social Security Administration. I hope the Social Security Administration will tell the leadership of the Congress how important this legislation is and that it is actually needed, and you see the need for it.

Senator Breaux and I believe this is a very good bill, and I have already asked Members to cosponsor it and hope others will agree to do that.

Thank you all very much. The meeting is adjourned.

[Whereupon, at 11:40 a.m., the committee was adjourned.]

APPENDIX

SOCIAL SECURITY RESPONSES TO SENATOR GRASSLEY'S QUESTIONS

Question. What is SSA's position on conducting background checks of individual payees who serve more than ten beneficiaries who are not related to the payee?

Answer. For all individual (not organizational) payee-applicants, we currently ask the applicant whether or not they have been convicted of a felony. We maintain a computer database that automatically checks the history of a payee applicant for misuse/fraud. The system will not permit the selection of a person convicted of a violation of Social Security or SSI program fraud (under section 208 or section 1632 of the Social Security Act) or a person who was previously a payee and was found to have misused benefits. We also verify an individual applicant's identity and Social Security number, and the applicant's source of income. And we conduct a face-to-face interview to ascertain the applicant's qualifications and to judge the applicant's ability to carry out the responsibilities of a payee. In addition, we plan to perform triennial reviews of all individual payees serving 20 or more beneficiaries.

We share the Committee's concern in ensuring that we appoint well qualified, reliable payees. The Commissioner has appointed a Task Force to consider ways to further improve the representative payee program. As part of that group's effort, it will examine the issue of conducting background checks of individual payees who serve ten or more unrelated beneficiaries as a part of our review of the representative payee program now underway.

Question. What are SSA's bonding requirements of community-based nonprofit social service agencies?

Answer. SSA does not require community-based nonprofit social service agencies to be bonded unless they are filing to become a fee-for-service representative payee (and are not licensed by the State). The requirement for bonding only affects organizations that wish to collect a fee for serving as a payee. If an organization files to become a fee-for-service payee, the requirements is to be bonded or licensed in the State which it serves. If the organization is bonded, the bonding agreement must be an insurance contract guaranteeing payment to the organization or a third party on behalf of the organization in the event of unforeseen financial loss by the action or inaction of an employee. When there is misuse of benefits by an employee, the organization typically makes the beneficiary whole and the bond funds go to the organization to replace its loss.

Chairman Shaw also inquired during the hearing about extending bonding requirements to charitable organizations and non-family members that are not fee-for-service payees. One of the issues that the recently appointed task force is considering is the extension of bonding to other organizational payees and to payees who serve a significant number of beneficiaries. We need additional information about bonding requirements and the effect that required bonding would have on volunteer nonprofit organizations that serve SSA beneficiaries. We need to evaluate the extent to which imposing mandatory bonding on these organizations would burden them with additional cost and how it would affect our ability to recruit payees.

Question. What is the timetable for improvements to be made to the Representative Payee System (RPS)?

Answer. The new task force on representative payment is also working to identify and plan for the implementation of critical changes needed to the RPS to better safeguard our beneficiaries and eliminate potential fraud and abuse by those serving as representative payees. One of the main objectives of this task force will be to develop an implementation plan of the needed changes including a timeline for completion of this work. The task force will need to consider the resource requirements needed to implement these changes against those needed for other Agency priorities. Because this task force is just beginning this assignment, we are unable to provide you with an anticipated completion date at this time. We will keep you informed once these dates have been determined.

Question. What will be the effective date, and the costs associated with the date, if S. 2477, the "Social Security Beneficiaries Protection Act," was amended so that SSA could reissue benefits to those beneficiaries who were served by organizational representative payees who were found to misuse their benefits, since SSA OIG began its investigation in this area in 1998?

Answer. As you know, the provision of S. 2477 that requires SSA to reissue benefits misused by organizational representative payees would be effective for misuse determinations made after the date of enactment. If the effective date were changed to be effective with respect to misuse determinations made in 1998 and later, the cost for each of the Title II and Title XVI programs is estimated to remain negligible—less than \$2.5 million over the period 2001–2005.

Alternatively, this provision could be made effective with respect to misuse determinations made since enactment of the Omnibus Reconciliation Act of 1990 (P.L. 101–508, enacted November 5, 1990). That legislation made a number of significant changes to the representative payee program, including allowing certain organizations to collect a fee from the beneficiary for their representative payee services. This effective date would allow SSA to reissue benefits in misuse cases involving organizational representative payees even if the misuse determinations have already been made since enactment of P.L. 101–508. Included among such cases would be beneficiaries whose benefits were misused by Dale Parsons of Ace Payee Services, who was Theresa King's prior employer (as mentioned during the hearing), as well as some of the beneficiaries whose benefits were misused by Ivy Services—a misuse case mentioned in Inspector General Huse's testimony. Misuse determinations were made in each of these cases in 1997.

SSA's Office of the Chief Actuary advises that whether the effective date for S. 2477 remains unchanged or is made effective retroactive to November, 1990, the bill is still estimated to have a negligible effect on outlays from the OASDI trust funds or from general revenues (SSI).

