



July 27, 2015

The Honorable Ron Johnson
Chairman, Committee on Homeland Security and Governmental Affairs
U.S. Senate
Washington, DC 20510

The Honorable Thomas R. Carper
Ranking Member, Committee on Homeland Security and Governmental Affairs
U.S. Senate
Washington, DC 20510

Dear Chairman Johnson and Ranking Member Carper:

Recently, representatives of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Legislative Committee had the opportunity to meet with your staff to review and discuss S. 1073, the *Stopping Improper Payments to Deceased People Act*. The legislation amends section 205(r) of the Social Security Act, 42 U.S.C. § 405(r), to provide access to the Social Security Administration's (SSA's) entire death data, not just the death data provided to the public. We appreciate the openness of the discussion and value our continued interaction and cooperation on the important issues facing this Committee and the OIGs as we work to promote fiscal integrity in the Federal community. During the meeting we were asked to provide input on several issues. This letter provides our response to these issues.

The CIGIE community believes that access to all of SSA's death data is extremely valuable to our oversight work. It will enhance OIG's ability to combat fraud and waste within agency programs and operations. For example, access to all of SSA's death data would allow OIG auditors and investigators to identify potential fraud, waste, and improper payments in vulnerable payroll and benefit programs. Several OIGs indicated that they currently have access through their agencies, while several indicated that they do not currently have access to SSA's death data; therefore, if they need the information, they have to obtain it through a commercial vendor. As you are aware, the information that SSA shares with the public is not the entire list of deaths that SSA receives each year. Thus, those OIGs that do not currently have access may not be receiving the complete data set and are unable to verify the reliability of SSA death data from commercial vendors.

The following are specific comments that we believe will better enable OIGs to access and use SSA's death data to combat fraud, waste, and improper payments.

SECTION 2. DISTRIBUTION OF DEATH INFORMATION FURNISHED TO OR MAINTAINED BY THE SOCIAL SECURITY ADMINISTRATION

S. 1073 would provide access for all OIGs to all of SSA's death data. In doing so, proposed new section 205(r)(3)(A)(i) provides that SSA would be reimbursed "...for the reasonable cost of carrying out such arrangement, including the reasonable costs associated with the collection and maintenance of information regarding deceased individuals furnished to the Commissioner...."

Some OIGs currently have access to SSA's death data through their agencies. One concern expressed is that the legislation appears to require the OIG to pay SSA for the information. This would be duplicative if one component of an agency is paying for the information. In addition, the cost to OIG's for access to SSA's death data may be prohibitive for some smaller OIGs who may need access only on an intermittent basis. If this occurs, the concern is that this could limit their ability to fulfill their mission. In the interest of good government and combatting fraud, waste, and improper payments, CIGIE believes that it would be more cost-effective for SSA to provide their death data to all OIGs at no additional cost to the OIGs.

A concern has also been expressed over the applicability of the Computer Matching and Privacy Protection Act (CMPPA) to SSA death data sought by OIGs. Generally, deceased individuals are not included in the definition of "individual" in the Privacy Act and therefore do not have Privacy Act rights.¹ However, concerns over individuals on the list not deceased or survivors' rights have been raised as impediments to sharing information absent a CMPPA agreement. Some OIGs have entered into Memorandums of Understanding with other agencies that provide access over a specific subset of records pertaining to deceased individuals. We agree that such agreements are not subject to CMPPA. However, given that many OIGs do not have access to SSA's death data through their agency, and the aforementioned concerns, CIGIE suggest that the Committee consider expressly exempting such matches in order to allow all OIGs to maximize their ability to use the SSA death data information in an effective and timely manner. As we have discussed with your Committee in the past, the computer matching agreement process, even with the "streamlined process" of section 5(e) of the *Improper Payments Elimination and Recovery Improvement Act of 2012*, Pub. L. 112-248, 126 Stat. 2390, 2394, remains cumbersome and time consuming.

Section 2(a)(2) of the legislation repeals these amendments five years after the date of enactment, restoring the current provisions of section 205(r) of the Social Security Act. CIGIE is

¹ See OMB Guidelines, 54 Fed. Reg. 25818, 25822 (June 1989). Additionally, OMB guidance explains that the matching requirements of the Privacy Act shall apply to all matching activities that involve a subset of records from a system of records when the subset of records itself would meet the definition of "system of records" in the Privacy Act. A "record" is defined in the Privacy Act as an item of information about an individual (which includes identifier information such as a name), and a "system of records" is defined as a collection of records, from which an agency retrieves information by reference to an individual identifier. Id.

concerned that repealing these amendments could have a detrimental effect on those OIGs who prior to these amendments did not have access to SSA's full death data. If an alternative, affordable, source for the information is not available, OIGs will be placed back into their current situations, several having to obtain the information from commercial vendors. This could have an adverse effect on OIG's oversight capabilities. In addition, an alternative single source may be so costly as to adversely affect OIGs.

SECTION 4. PLAN FOR ENSURING THE ACCURACY AND COMPLETENESS OF DEATH DATA MAINTAINED AND DISTRIBUTED BY THE SOCIAL SECURITY ADMINISTRATION

Section 4 directs the Commissioner of Social Security to submit to Congress a plan "to ensure the accuracy and completeness of the death data including data regarding individuals who are not eligible for or receiving benefits under titles II or XVI of the Social Security Act." You asked for our feedback on ways to help ensure the accuracy and completeness of the death data maintained and distributed by SSA. While CIGIE does not comment on specific agency programs, the experts in the community suggest that following be considered as part of the plan required by section 4:

1. A procedure for an agency to advise an individual who asserts that the information in SSA's death data is incorrect. This procedure should advise an individual to contact SSA to have the SSA record corrected and what information SSA requires.
2. A procedure to advise all users of an error in SSA's death data.
3. A procedure for SSA to tag a Social Security Account Number as "death report potentially in error" or "associated with known fraud."

Thank you again for the opportunity to meet with your staff and to provide technical comments on S. 1073, the *Stopping Improper Payments to Deceased People Act*. We look forward to continuing to discuss these important issues with Committee staff. Should you have any questions or need more information, please do not hesitate to contact me directly at 202-692-2900.

Sincerely,



Kathy A. Buller
Inspector General
Peace Corps

Chair, Legislation Committee
Council of the Inspectors General on Integrity
and Efficiency

The Honorable Ron Johnson and The Honorable Thomas R. Carper

cc: The Honorable Jason Chaffetz
Chairman, Committee on Oversight and Government Reform

The Honorable Elijah E. Cummings
Ranking Member, Committee on Oversight and Government Reform