

Union Calendar No. 388

94th Congress, 2d Session

House Report No. 94-786

DEPARTMENT OF HEALTH, EDUCATION,  
AND WELFARE  
(PREVENTION AND DETECTION OF FRAUD  
AND PROGRAM ABUSE)

TENTH REPORT

BY THE

COMMITTEE ON GOVERNMENT  
OPERATIONS



JANUARY 26, 1976.—Committed to the Committee of the Whole House  
on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976

57-006

63790

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## LETTER OF TRANSMITTAL

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HOUSE OF REPRESENTATIVES,  
*Washington, D.C., January 26, 1976.*

HON. CARL ALBERT,  
*Speaker of the House of Representatives,*  
*Washington, D.C.*

DEAR MR. SPEAKER: By direction of the Committee on Government Operations, I submit herewith the committee's tenth report to the 94th Congress. The committee's report is based on a study made by its Intergovernmental Relations and Human Resources Subcommittee.

JACK BROOKS, *Chairman.*

(III)

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**NCJRS**

DEC 26 1979

ACQUISITIONS

## Union Calendar No. 388

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } No. 94-786

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### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE (PREVENTION AND DETECTION OF FRAUD AND PROGRAM ABUSE)

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JANUARY 26, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. Brooks, from the Committee on Government Operations  
submitted the following

#### TENTH REPORT

#### BASED ON A STUDY BY THE INTERGOVERNMENTAL RELATIONS AND HUMAN RESOURCES SUBCOMMITTEE

On January 22, 1976, the Committee on Government Operations approved and adopted a report entitled "Department of Health, Education, and Welfare (Prevention and Detection of Fraud and Program Abuse)." The Chairman was directed to transmit a copy to the Speaker of the House.

#### I. INTRODUCTION

Under the Rules of the House of Representatives, the Committee on Government Operations has responsibility for studying the operation of government activities at all levels from the standpoint of economy and efficiency. This responsibility, insofar as it relates to the Department of Health, Education, and Welfare (HEW), has been assigned by the committee to the Intergovernmental Relations and Human Resources Subcommittee. In accordance with this assignment, the subcommittee is examining the resources and procedures utilized by HEW to prevent and detect fraud and abuse in its programs.

Fraud can be defined briefly as the obtaining of something of value through intentional perversion of the truth. The term "program abuse" covers a wide variety of program violations and improper practices not involving actual fraud.

The subcommittee initiated this investigation because of its concern that fraud and abuse in HEW programs may be responsible for the unwarranted and unnecessary expenditure of huge amounts of tax dollars and its further concern that fraud and abuse may be seriously impairing the effectiveness of the programs involved by diverting resources from intended purposes and beneficiaries.

Specific areas being examined by the subcommittee in its inquiry include:

1. the nature and extent of major fraud and abuse problems involving HEW programs;
2. the extent and effectiveness of overall planning, direction, and coordination by the Department of Health, Education, and Welfare of activities designed to prevent and detect fraud and program abuse;
3. the effectiveness of working procedures utilized to prevent and detect fraud and program abuse and to insure appropriate corrective action when fraud or program abuse is discovered; and
4. the adequacy of personnel and other resources utilized to combat fraud and program abuse.

As part of the current phase of its investigation, the subcommittee held public hearings on April 22 and 30, May 15 and 22, and June 24, 1975,<sup>1</sup> taking testimony from the following Federal officials:

*Department of Health, Education, and Welfare*

OFFICE OF THE SECRETARY

Office of the Assistant Secretary for Administration and Management

John R. Ottina, Assistant Secretary.

Nathan D. Dick, Director, Office of Investigations and Security.

Richard M. Campbell, Chief, Operations Branch, Office of Investigations and Security.

Office of the Assistant Secretary, Comptroller

Edward W. Stepnick, Director, HEW Audit Agency.

Office of the Assistant Secretary for Legislation

Richard A. Hastings, Acting Deputy Assistant Secretary for Legislation (Education).

Special Assistant

Charles M. Cooke, Jr., Special Assistant to the Secretary for Student Assistance.

Office of the General Counsel

Peter Bouxsein, Chief, Higher Education Division.

OFFICE OF EDUCATION

Office of Management

Edward T. York, Jr., Deputy Commissioner for Management.

Office of Guaranteed Student Loans

Kenneth Kohl, Associate Commissioner.

Robert Carmody, Director, Division of Program Development.

Edwin Parker, Director, Division of Program Systems.

<sup>1</sup> Hearings before a subcommittee of the Committee on Government Operations, HEW Procedures and Resources for Prevention and Detection of Fraud and Program Abuse, April 22, 30; May 15, 22; June 24, 1975; hereafter cited as "hearings."

## SOCIAL AND REHABILITATION SERVICE

## Medical Services Administration

Keith Weikel, Ph. D., Commissioner.

John D. Rice, Director, Division of Program Monitoring.

Barbara Johnson, Acting Chief, Fraud Branch, Division of Program Monitoring.

Margaret J. Copernoll, Chief, Policy and Legislation Branch, Division of Program Planning and Evaluation.

## Office of Legislation

Ron Schwartz, Assistant Administrator for Legislation.

## SOCIAL SECURITY ADMINISTRATION

## Office of Management and Administration

Frank D. DeGeorge, Associate Commissioner for Management and Administration.

Pete Wheeler, Acting Director, Office of Quality Assurance.

John Neely, Chief, Investigations Branch, Division of Administrative Appraisal and Planning.

## Bureau of Health Insurance

Robert O'Connor, Assistant Director (Program Review).

Alfred E. Shpiegelman, Chief, Program Integrity Branch.

## Bureau of Retirement and Survivors Insurance

Pete DiRito, Social Insurance Specialist, Division of Technical Services.

*Justice Department*

Robert Mahony, Attorney, Fraud Section, Criminal Division.

*General Accounting Office*

John Gibbons, Deputy Director, Claims Division.

Testimony at the hearings was supplemented by data furnished for the record and by additional information obtained by the subcommittee staff.

This report discusses some of the more significant findings which have become apparent at this point in the subcommittee's investigation and makes recommendations for urgently needed action to correct very serious deficiencies in the resources and procedures utilized by HEW to prevent and detect fraud and abuse in its programs. The subcommittee's inquiry is continuing, and it is anticipated that legislation for the establishment of an Office of Inspector General for the Department of Health, Education, and Welfare will be considered in the near future.

## ACKNOWLEDGMENT

The committee wishes to express its appreciation for the assistance provided to the subcommittee in its inquiry by the General Accounting Office, and to acknowledge particularly the contribution made by Mr. David Sapp of the GAO staff.

## II. SUMMARY

Expenditures on programs of the Department of Health, Education, and Welfare during fiscal year 1976 are expected to total \$118 billion—over one-third of the Federal budget. More than 129,000 full-time, permanent employees are responsible for operation of about 300 separate programs, many of which are directly administered by non-Federal entities such as States, localities, educational institutions, fiscal agents, intermediaries, carriers and grantees.

Ten HEW programs involved Federal expenditures of more than \$1 billion each during fiscal 1975; together, these major programs accounted for nearly 90% of all HEW expenditures. Six of the ten programs—Retirement, Hospital, Medical, Disability and Survivors Insurance, and Supplemental Security Income payments—are under the Social Security Administration (SSA).

Three programs—Medicaid and two public assistance programs—are supervised by the Social and Rehabilitation Service. The tenth and smallest program, administered by the Office of Education, provides assistance to educationally-deprived children through local educational agencies.

HEW officials were unable to provide the subcommittee with meaningful estimates of the extent of losses through fraud and abuse in programs of the Department, advising that no attempt had been made to evaluate the overall extent of the problem. There is no central source of data on fraud and abuse; some statistical information is available, but much of it is incomplete and considered unreliable.

The available statistics left no doubt that fraud and program abuse are causing enormous losses. HEW's tiny investigative unit is handling cases involving total fraud allegations amounting to \$20 million. Suspected fraud cases reported in the Social Security and public assistance programs alone have totaled more than 40,000 per year. Some States had heavy concentrations of fraud and abuse cases while others with similar operations reported very few, a circumstance which strongly suggests that a great deal of fraud and abuse is not being detected and reported.

A number of HEW units were identified by the Department as having significant responsibility for the prevention, detection and/or investigation of fraud and program abuse; the list probably should not be regarded as either precise or complete, since there is evidence of confusion in the manner in which the units were selected and classified.

Two of the units identified—the Office of Investigations and Security (OIS) and the Audit Agency—are in the Office of the Secretary and have been officially assigned department-wide responsibilities.

The Audit Agency carries out its duties through a staff of auditors located in ten regional and approximately fifty branch offices, all of whom report to the Agency Director. However, the Audit Agency's primary responsibility is the auditing of expenditures; it plays a secondary role in combating fraud and abuse by calling attention to possible irregularities disclosed in its audits and providing specialized assistance in investigations.

The OIS charter calls for it to exercise broad responsibility for HEW investigations and investigative policy; however, the unit's department-wide authority has been effectively nullified by an informal agreement removing all SSA programs from its jurisdiction. OIS has experienced, professional investigators at its Washington headquarters and five of the ten HEW regional offices; all field personnel are under the supervision and control of the OIS Director.

Although both the Audit Agency and OIS are in the Office of the Secretary, the two units are under the supervision of different assistant secretaries.

HEW reported only two other non-SSA units as having significant fraud and abuse responsibility—the Medical Services Administration's Fraud and Abuse Surveillance Branch and the Office of Guaranteed Student Loans (OGSL), which is a part of the Office of Education. These units have responsibilities involving the Medicaid program and the Guaranteed Student Loan Program, respectively. Neither had been fully established or staffed at the time of the subcommittee's hearings.

Evidently in response to disclosure of serious problems involving the guaranteed loan program, a Special Assistant to the Secretary for Student Assistance was appointed during the subcommittee's hearings. The stated reason for this appointment was to provide a staff member to keep the Secretary informed about problems in this area and to insure that expeditious action would be taken to correct them. It was not clear from testimony at the hearings how the responsibilities of the Special Assistant differed from those of OGSL officials.

No fraud and abuse units were reported for other programs outside the Social Security Administration, including such multi-billion dollar activities as public assistance and all education programs other than those involving student aid.

The Social Security Administration listed its four program bureaus and its Investigations Branch as fraud and abuse units. It was apparent from the information furnished, however, that only a small percentage of the 24,000 employees in the four bureaus—the program integrity personnel—are working exclusively or primarily in the fraud and abuse area. As reported, three program bureaus—the Bureaus of Retirement and Survivors Insurance (BRSI), Disability Insurance (BDI), and Supplemental Security Income (BSSI)—each had jurisdiction over the program indicated. The fourth bureau—the Bureau of Health Insurance—is responsible for the Medicare program.

The Social Security Administration also has a central fraud and abuse unit, the Investigations Branch of the Office of Management and Administration. This unit has a small staff of experienced, professional investigators, all headquartered in Baltimore. The Investigations Branch does not initiate cases or establish policies; it handles only matters referred to it by other SSA units.

Two of the four program bureaus—BHI and BSSI—had program integrity personnel working in field offices when the subcommittee investigation began; the other two did not. Under an announced reorganization, program integrity personnel of all bureaus except BHI were to be transferred to a newly-established Office of Quality Assurance (OQA), which would have no program responsibilities. However, except for the transfer of BSSI program integrity activities to OQA, the reorganization has not been implemented.

The organizational structure of HEW's fraud and abuse units, as disclosed by the subcommittee investigation, can best be described as fragmented and confused. No single unit has the overall responsibility and authority necessary to provide effective leadership; fraud and abuse units apparently have been established or not established on the basis of individual decisions by program managers, rather than as part of any overall plan to meet the Department's most pressing needs.

It is fundamental that auditors and investigators should not be under the supervision and control of officials directly responsible for the programs involved. However, under current organizational arrangements, most HEW fraud and abuse units report to officials with direct responsibility for the program to which the unit is assigned.

This is less of a problem for OIS and the SSA Investigations Branch, since the officials to whom they report are responsible for only a relatively small percentage of the programs the unit may be called upon to investigate. However, these units have other restrictions on their independence. OIS may not initiate any investigation without the specific approval of the Secretary or the Under Secretary, while the Investigations Branch investigates only those matters referred to it.

Although HEW has more than 129,000 full-time employees, its central investigative unit, OIS, had only ten investigators. The Department of Agriculture, whose programs involve expenditures less than one-tenth the size of HEW's, has more than 200 investigators in its central unit.

When the subcommittee began its investigation, OIS had a four-year backlog of uninvestigated cases. By June 30, 1975, its backlog of uninvestigated cases had grown to approximately ten years.

HEW has had some difficulty in the past in obtaining Congressional approval for additional OIS investigative personnel. However, the subcommittee investigation indicated that HEW had never informed the Congress fully and accurately about its extremely serious fraud and abuse problems or made realistic requests for resources to deal with them. Within the past few weeks, Congress approved funds for thirty additional investigators which had not even been requested by HEW.

The subcommittee investigation also indicated that HEW had failed to make effective use of the resources it had. While OIS had a ten-year backlog, the SSA Investigations Branch was so underutilized that it had no significant backlog, and had not filled eight vacant positions.

In addition to approximately 25 experienced, professional investigators in OIS and the Investigations Branch, HEW has about 100 more persons in its fraud and abuse units who actually make investigations. While some of these individuals may be well qualified, the training and experience of others is less impressive; there is some evidence that this has caused problems in the prosecution of fraud cases.

The subcommittee investigation disclosed that changes in program regulations to correct known deficiencies or implement legislative mandates sometimes involved delays of as long as five years or even more.

### III. FINDINGS AND CONCLUSIONS

The findings and conclusions in this report are based on an comprehensive review by the subcommittee of procedures and resources used by the Department of Health, Education, and Welfare to prevent and detect fraud and abuse in its programs. This inquiry is continuing and is expected to include consideration, early this year, of legislation to establish an Office of Inspector General for the Department.

On August 6, 1975, after completion of the hearings which provided the documentary base for this report, the subcommittee chairman wrote HEW Secretary Mathews to alert him to the serious problem being disclosed by the subcommittee investigation and to urge that corrective action be initiated as soon as possible.

While no formal reply to the August 6 letter has yet been received, it is known that HEW is taking actions related to matters discussed in the letter. A copy of the letter is in the Appendix to this report.

On the basis of the subcommittee investigation to this date, the Committee reached the following specific findings and conclusions:

1. The Department of Health, Education, and Welfare currently is responsible for about 300 separate programs involving expenditures in excess of \$118 billion annually—more than one-third of the entire Federal budget. Because of the magnitude and complexity of its activities, aggravated in many instances by lack of direct control over expenditures, HEW's operations present an unparalleled danger of enormous loss through fraud and program abuse.

2. HEW officials responsible for prevention and detection of fraud and abuse have little reliable information concerning the extent of losses from such activities.

There is no central source of data concerning fraud and abuse nor, evidently, has any meaningful attempt been made to evaluate the overall extent of the fraud and abuse problem. Statistics which are available are often incomplete and unreliable.

HEW officials were unable to provide such basic information as an accurate count of the number of HEW programs until more than five months after the information was initially requested. During this period, at least four different figures on the number of HEW programs were supplied to Congressional committees, ranging from a low of 250 to as many as 320.

Without adequate information, neither HEW officials nor Congress can accurately measure either the need for or the effectiveness of action to prevent and detect fraud and program abuse, nor can priorities for use of available resources be determined on a rational basis.

3. Fraud and abuse in HEW programs are undoubtedly responsible for the loss of many millions of dollars each year. The committee has not attempted to name a specific figure at this time because HEW officials could not provide information on which a reliable estimate of such losses could be based.

4. HEW units charged with responsibility for prevention and detec-

tion of fraud and program abuse are not organized in a coherent pattern designed to meet the overall needs of the Department.

There is no central unit with the overall authority, responsibility and resources necessary to insure effective action against fraud and abuse. Under its charter, the Office of Investigations and Security has departmentwide responsibility for leadership, policy direction, planning, coordination and management of investigations. However, its authority over operations of the Social Security Administration has been effectively nullified as the result of agreement made by non-OIS officials; moreover, OIS could not possibly carry out its assigned responsibilities with the hopelessly inadequate resources it now has.

Fraud and abuse units other than OIS and the Audit Agencies are scattered throughout HEW in a haphazard, fragmented and often confusing pattern. Some major programs have no fraud and abuse unit, while other units exist mostly on paper. Some units have no personnel in field offices; in other instances, field personnel are not subject to the direction and control of the unit's headquarters. Personnel of most units work exclusively and continuously on a single program, and are not available to help correct more serious problems elsewhere.

5. Personnel of most HEW fraud and abuse units lack independence and are subject to potential conflicts of interest because they report to officials who are directly responsible for managing the programs the unit is investigating. Under these circumstances, employees may be inhibited in making an honest and thorough report that could embarrass their superiors.

The independence of the Office of Investigations is restricted in another way. Under current arrangements, OIS may not initiate any investigation without specific approval of the Secretary or Under Secretary. In addition to the obvious restriction on the independence of OIS, this procedure creates an unnecessary burden for the Secretary or Under Secretary and places them in the undesirable position of having to decide personally whether or not suspected irregularities are to be investigated. Any safeguards necessary to insure that inappropriate investigations are not conducted should be imposed through carefully adopted procedures and guidelines, rather than individual decisions by the Secretary or Under Secretary.

6. Under current organizational arrangements, there is little assurance that the Secretary will be kept informed of serious fraud and abuse problems, or that action necessary to correct such problems will be taken. The OIS charter does not provide for guaranteed access to the Secretary or Under Secretary. Most other fraud and abuse units report to program officials, usually at a relatively low level. Since those receiving reports of fraud and abuse problems are likely to be responsible for the programs involved, there may be little incentive for such officials either to call problems to the attention of the Secretary or to initiate prompt and aggressive corrective action which could result in public laundering of their own dirty linen.

7. Resources devoted by HEW to prevention and detection of fraud and program abuse are ridiculously inadequate. Although HEW has more than 129,000 full-time employees, the Office of Investigations and Security has had only ten investigators.

At least partially because of its fragmented organizational structure, HEW has failed to make effective use of the resources it has. As a

result, OIS has a ten-year backlog of uninvestigated cases; at the same time, the 11 investigators in the SSA Investigations Branch have been so underutilized that the unit has no significant backlog and has left 8 investigative positions unfilled.

Although the total number of persons reported assigned to fraud and abuse units is about 300, more than 180 of them work exclusively on the Medicare program, and most of the remainder are assigned to other programs of the Social Security Administration. Individuals working in OIS and the SSA Investigations Branch are qualified investigators, but personnel assigned to other units may have no substantial investigative training or experience.

8. There are serious deficiencies in the procedures used by HEW for the prevention and detection of fraud and program abuse. Until recently, HEW had not advised employees of the Department that they had an obligation to call information indicating possible fraud or abuse to the attention of appropriate officials. Moreover, there is no departmentwide policy for or centralized supervision of the referral of possible fraud cases for prosecution.

The subcommittee's investigation disclosed instances in which it took as long as five years or more for HEW to take corrective action after deficiencies in its regulations became known. Part of the blame can be attributed to cumbersome procedures for changing regulations; however, some delays were so lengthy as to indicate the almost total lack of any sense of urgency.

#### IV. RECOMMENDATIONS

The committee recommends that the Secretary of Health, Education, and Welfare carefully review this report with a view to taking corrective action concerning the deficiencies disclosed herein. Specific recommendations follow:

1. It is expected that the subcommittee will give further attention to deficiencies in the organizational structure of HEW fraud and abuse units early next year in connection with its consideration of legislation to establish an Office of Inspector General for the Department of Health, Education, and Welfare. In the meantime, the committee recommends that the Secretary take appropriate steps to place the HEW Audit Agency, the Office of Investigations and Security, and the SSA Investigations Branch under the overall direction of a single official who reports directly to the Secretary and has no program responsibilities. To the extent feasible, other HEW investigative personnel should be included in this organizational arrangement.

Such action could be taken without affecting the status of OIS and the Audit Agency as separate units, nor would it require reassignment of personnel to work on different programs. However, it would place overall responsibility for coordination and leadership of auditing and investigative activities in a single individual reporting directly to the Secretary. This official should be held directly responsible for informing the Secretary of serious problems disclosed by audits and investigations and of the progress or lack of progress in correcting such problems.

2. The committee recommends that the Secretary immediately discontinue the requirement that OIS obtain prior clearance from the Secretary or Under Secretary before initiating investigations.

3. The committee recommends that the Secretary initiate an immediate review of HEW fraud and abuse problems and the personnel and resources being used to combat such problems. This review should include an effort to determine:

(a) The nature and magnitude of fraud and abuse problems confronting HEW and the extent, to which prompt and effective action is or is not being taken to correct them;

(b) The extent and nature of resources presently available to HEW which might be effectively used for the prevention and detection of fraud and program abuse;

(c) The extent to which additional resources are needed, taking into account any improvements which can be made through more efficient use, organization or reassignment of available personnel; and

(d) The manner in which responsibility for combating fraud and abuse is presently allocated between HEW and State governments and the effectiveness of such arrangements.

The committee requests that the Secretary provide it with a report on the results of this review as soon as feasible.

4. The committee recommends that the Secretary take prompt action to correct procedural deficiencies discussed in this report. In particular, the committee recommends that the strongest possible action be taken to insure that serious deficiencies known to exist in program regulations are corrected promptly.

## DISCUSSION OF INVESTIGATION

### V. NATURE AND EXTENT OF HEW PROGRAMS

#### MAGNITUDE AND COMPLEXITY OF HEW OPERATIONS

In testimony at the subcommittee's hearings, John R. Ottina, HEW's Assistant Secretary for Administration and Management, acknowledged that the Department's operations present "a vast potential for fraud and program abuse."<sup>2</sup>

The danger of enormous loss through fraud and program abuse is clearly apparent in the sheer magnitude of HEW's operations. Expenditures on HEW programs during fiscal year 1976 are expected to total \$118 billion—more than one-third of the entire national budget. HEW has more than 129,000 full-time, permanent employees, housed in 5,290 buildings. During fiscal year 1974, the Department awarded over 52,000 grants and 14,000 contracts.<sup>3</sup>

Another factor contributing to the danger of fraud and abuse in HEW's operations is that the Department does not have direct control over a substantial percentage of its expenditures. Billions of dollars of HEW funds are disbursed annually by non-Federal entities such as States, localities, educational institutions, fiscal agents, intermediaries, carriers and grantees.<sup>4</sup>

Information developed by the subcommittee amply documents the obvious complexity of HEW's operations. The subcommittee's investigation also disclosed that HEW officials were apparently poorly informed about such seemingly basic details as the number of HEW programs and how many are administered by outside agencies.

In a prepared statement presented at the subcommittee's initial hearing on April 22, 1975, Assistant Secretary Ottina told the subcommittee that HEW "operates approximately 320 programs specifically authorized under current law."<sup>5</sup> During the hearing, Mr. Ottina was asked how many of the 320 programs were administered by outside entities, rather than being directly controlled by HEW itself; he was unable to answer the question. In a statement subsequently submitted for the record, the number of programs was given as 287 instead of 320.<sup>6</sup> On July 30, 1975, Mr. Ottina was asked to provide a list identifying each separate program;<sup>7</sup> when the requested information was finally provided to the subcommittee on October 8, 1975, 289 programs were listed.<sup>8</sup>

To add to the confusion, another top official of the Department apparently uses still a different count of the number of HEW programs.

<sup>2</sup> Hearings, p. 7.

<sup>3</sup> Hearings, p. 5. Budget of the United States Government, fiscal year 1976, pp. 6, 247.

<sup>4</sup> Hearings, pp. 14-15.

<sup>5</sup> Hearings, p. 5.

<sup>6</sup> Hearings, pp. 14-15.

<sup>7</sup> Letter from James R. Naughton, counsel, Intergovernmental Relations and Human Resources Subcommittee, to John R. Ottina.

<sup>8</sup> Summary of DHEW Domestic Assistance Programs, October 1975, p. 2.

In material presented to a House Appropriations subcommittee on April 28, 1975, John D. Young, Assistant Secretary, Comptroller, indicated that HEW has 250 programs.<sup>9</sup>

Confusion about the total number of HEW programs is compounded by apparent uncertainty as to the number being administered by outside entities. In his written submission responding to a question at the April 22 hearing, Mr. Ottina indicated that 44 programs out of a total of 287 were administered by outside agencies.<sup>10</sup> In a chart in the October 8 report, however, the number of such programs was changed to 72 out of 289.<sup>11</sup>

#### MAJOR HEW PROGRAMS

In its July 30, 1975, request for a listing of HEW programs, the subcommittee also asked for figures showing the approximate amount spent on each program during fiscal year 1975. In response, HEW supplied figures showing the estimated obligations for each program for fiscal 1975. (Obligations consist of commitments to make either immediate or future payments; they may differ somewhat from expenditures, since obligations can provide for resultant expenditures to be made in a later fiscal period.)

Estimated obligations for fiscal 1975, as shown by HEW's report, totaled approximately \$111 billion. The report listed 34 separate programs with estimated FY 1975 obligations of \$100 million or more. Ten of the programs involved estimated obligations in excess of \$1 billion each; the ten programs are shown in the following table:<sup>12</sup>

<i>Program</i>	<i>Estimated fiscal year 1975 obligations (Millions)</i>
1. Social security—Retirement insurance.....	\$49, 189
2. Medicare—Hospital insurance.....	10, 659
3. Social security—Disability insurance.....	7, 975
4. Social security—Survivors insurance.....	7, 254
5. Medical assistance program (medicaid).....	*6, 944
6. Public assistance—Maintenance assistance.....	*5, 136
7. Supplemental Security income.....	*4, 693
8. Medicare—Supplementary medical insurance.....	4, 184
9. Public assistance—Social services.....	*1, 952
10. Educationally deprived children—Local educational agencies (title I, ESEA—part A).....	1, 587

\*Significant State and/or local expenditures are also made under this program, but are not included in this total.

The ten programs listed in the preceding table accounted for about 90 percent of total estimated HEW obligations in FY 1975.

The Social Security Administration (SSA) has administrative responsibility for six of the ten programs, the Social and Rehabilitation Service (SRS) for three, and the Office of Education (OE) for the remaining one. Two of the SSA programs (the Medicare Hospital and Supplementary Medical Insurance programs), are administered primarily by intermediaries and carriers, respectively. All three SRS programs are administered primarily by State and/or local governments.

<sup>9</sup> Hearings before a subcommittee of the Committee on Appropriations, Departments of Labor, Health, Education, and Welfare Appropriations for 1976, Part 4, p. 632.

<sup>10</sup> Hearings, pp. 14-15.

<sup>11</sup> Summary of DHEW Domestic Assistance Programs, October 1975, p. 2.

<sup>12</sup> Source of Data: Summary of DHEW Domestic Assistance Programs, October 1975.

## VI. EXTENT OF FRAUD AND PROGRAM ABUSE

### HEW OFFICIALS' LACK OF INFORMATION

Despite the obvious danger of large-scale fraud and program abuse, HEW officials apparently have little or no reliable information concerning the actual losses resulting from such activities.

Assistant Secretary Ottina told the subcommittee it would be "almost impossible" to estimate the amount lost because of fraud and abuse in HEW programs during fiscal year 1975.<sup>13</sup> When asked about published reports that fraud and abuse losses in the Medicare and Medicaid programs alone might total \$3 billion annually, HEW witnesses expressed some doubt but indicated they had no information which would enable them to categorically deny the accuracy of the figure.<sup>14</sup> In response to a request for his best estimate of the total dollar amount of fraud and program abuse involving the Medicare program each year, Robert O'Connor, Assistant Director for Program Review of the Bureau of Health Insurance, replied "... I really don't know."<sup>15</sup> When asked for an estimate of the amount lost through fraud and abuse in Office of Education programs, Edward T. York, Jr., OE's Deputy Commissioner for Management, responded: "I am not in a position to provide that type of information..."<sup>16</sup>

Assistant Secretary Ottina told the subcommittee that, in his opinion, the individual HEW programs presenting the greatest potential danger of loss from fraud and abuse are "... public assistant, medic-aid and student aid, in that order."<sup>17</sup> However, Nathan D. Dick, Director of HEW's Office of Investigations and Security, acknowledged that "There is little reliable data from which to formulate an estimate of the amount of fraud and abuse in any of DHEW's programs."<sup>18</sup>

According to Assistant Secretary Ottina, the Secretary is ultimately responsible for keeping track of fraud and abuse in HEW programs.<sup>19</sup> However, Ottina admitted that no attempt had been made to evaluate the overall extent of the fraud and abuse problem.<sup>20</sup>

In contrast to the almost complete lack of data concerning the total amount of fraud and abuse—detected and undetected—in HEW programs, some information is available concerning alleged fraud which has actually been reported. However, the quality of this information leaves much to be desired. As indicated by the previously cited testimony of Mr. Dick, there apparently is no central source of data concerning fraud in HEW programs. Quarterly reporting by States concerning fraud and abuse surveillance was described by an HEW

<sup>13</sup> Hearings, pp. 15-16.

<sup>14</sup> Hearings, pp. 17-18.

<sup>15</sup> Hearings, p. 95.

<sup>16</sup> Hearings, p. 210.

<sup>17</sup> Hearings, p. 26.

<sup>18</sup> Hearings, p. 28.

<sup>19</sup> Hearings, p. 16.

<sup>20</sup> Hearings, p. 53.

witness as "known to be unreliable."<sup>21</sup> The Bureau of Health Insurance (BHI) was unable to supply information concerning property transactions disallowed by intermediaries.<sup>22</sup>

#### EVIDENCE OF LARGE-SCALE FRAUD AND PROGRAM ABUSE

While the testimony of HEW witnesses cast little light on the total losses being incurred through fraud and abuse, it left no doubt that such losses are very substantial. Assistant Secretary Ottina commented that "... it would be safe to say we are turning over literally millions and millions of dollars in this area."<sup>23</sup> Mr. Dick told the subcommittee that allegations of fraud totaling some \$20 million were involved in the approximately 100 cases being investigated by his office.<sup>24</sup> The Social Security Administration reported receipt of 11,659 cases involving allegations of fraud during calendar year 1974 alone.<sup>25</sup> More than 30,000 cases of suspected fraud involving HEW public assistance programs were referred to law enforcement officials by State agencies during fiscal year 1973.<sup>26</sup>

Assistant Secretary Ottina cited a number of examples of fraud and abuse problems in his testimony. Allegations of fraud and abuse involving the Medicare program, according to Mr. Ottina, include "... billing for unnecessary medical services by doctors and hospitals; kickbacks from drug stores; excess charges for treatment; overpayments to hospitals; unlicensed personnel dispensing medication; nursing homes using untrained, unlicensed staff; overdrugging of patients; hidden concentration of ownership in the nursing home industry which crosses State lines; and other alleged financial irregularities dealing with questionable leasing arrangements of nursing homes and inflated values through sale and resale of properties."<sup>27</sup> Similar abuses involving the Medicaid program were also described.<sup>28</sup>

In commenting on problems involving the guaranteed student loan program, Mr. Ottina stated: "... students completed and signed documents which they believed were grants, but which were, in fact, loan agreements; students who dropped out of school were never informed that they were due partial refunds; students were recruited for courses without sufficient background to successfully complete the course; and students have been recruited in such numbers that they exceed the seating capacity of the school. . . . We have a number of schools that have gone bankrupt owing substantial amounts of unearned tuition to students."<sup>29</sup>

Despite the enormous amount of fraud and abuse involving HEW programs which has come to light, testimony of HEW witnesses strongly indicated that a great deal more has not been reported or detected. Assistant Secretary Ottina told the subcommittee that 87% of 1,005 Medicaid fraud cases pending in State agencies as of January 1, 1975, had been reported by only three States.<sup>30</sup> The subcom-

<sup>21</sup> Hearings, p. 160.

<sup>22</sup> Hearings, pp. 131-132.

<sup>23</sup> Hearings, p. 16.

<sup>24</sup> Hearings, p. 48.

<sup>25</sup> Hearings, p. 12.

<sup>26</sup> Hearings, p. 70.

<sup>27</sup> Hearings, p. 7.

<sup>28</sup> Hearings, pp. 6-7.

<sup>29</sup> Hearings, pp. 5-6.

<sup>30</sup> Hearings, p. 10.

mittee's inquiry also disclosed that there had been approximately 17 times as many public assistance fraud prosecutions in California during fiscal year 1973 as in New York, even though program expenditures were larger in New York.<sup>31</sup> HEW witnesses offered no explanation for this particular discrepancy; however, Mr. Ottina indicated it was his belief that agencies reporting large amounts of fraud and abuse did not have more serious problems than others, but were simply doing a better job of detecting and reporting them.<sup>32</sup>

Nathan Dick, Director of the Office of Investigations and Security, indicated that the amount of fraud reported might have little or no relationship to the amount which was actually occurring. Mr. Dick also stated that "One trend present in many programs is that an increase in detection resources leads to an increase in the amount of fraud detected..."<sup>33</sup>

<sup>31</sup> Hearings, pp. 72-73.

<sup>32</sup> Hearings, p. 28.

<sup>33</sup> Ibid.

## VII. HEW UNITS WITH SIGNIFICANT FRAUD AND PROGRAM ABUSE RESPONSIBILITIES

### FRAUD AND ABUSE UNITS IDENTIFIED

In a questionnaire sent to the Secretary on March 14, 1975, the subcommittee asked HEW to identify each unit of the Department which has significant responsibility for prevention, detection and/or investigation of fraud and other serious irregularities or abuses involving HEW programs. The Department was also asked to identify any governmental units outside HEW which have been assigned or delegated such responsibilities. In addition, the subcommittee requested identification of any other governmental units—whether within or outside HEW—which make significant contributions to the prevention, detection and/or investigation of fraud or abuse involving HEW programs.<sup>34</sup>

A response to the subcommittee questionnaire, dated April 9, 1975, was supplied on April 21, 1975. It included a summary identifying HEW units considered to have significant responsibility for prevention, detection and investigation of fraud involving HEW programs.<sup>35</sup> In addition, individual replies to the questionnaire were supplied by the Office of Investigations and Security (OIS),<sup>36</sup> the Audit Agency,<sup>37</sup> the Medical Services Administration (MSA),<sup>38</sup> the Social Security Administration (SSA),<sup>39</sup> the National Institutes of Health (NIH),<sup>40</sup> and the Food and Drug Administration (FDA).<sup>41</sup> A reply from the Office of Education was received several weeks later.<sup>42</sup>

The HEW summary identified five units as having significant responsibilities for prevention, detection and investigation of fraud in HEW programs. Two of these units, the Office of Investigations and Security and the Audit Agency, report to the Assistant Secretary for Administration and Management<sup>43</sup> and the Assistant Secretary, Comptroller,<sup>44</sup> respectively. Another unit, the Office of Guaranteed Student Loans, is a part of the Office of Education. A fourth unit, the Fraud and Abuse Surveillance Branch of the Medical Services Administration, is in the Social and Rehabilitation Service. The fifth unit, the Investigations Branch of the Office of Administration, was a part of the Social Security Administration.<sup>45</sup>

Three governmental units outside HEW were also named in the summary as having significant responsibility for combating fraud—

<sup>34</sup> Hearings, pp. 291-292.

<sup>35</sup> Hearings, p. 293.

<sup>36</sup> Hearings, pp. 293-309.

<sup>37</sup> Hearings, pp. 310-311.

<sup>38</sup> Hearings, pp. 311-326.

<sup>39</sup> Hearings, pp. 326-335.

<sup>40</sup> Hearings, pp. 335-336.

<sup>41</sup> Hearings, pp. 336-338.

<sup>42</sup> Hearings, pp. 379-383.

<sup>43</sup> Hearings, p. 293.

<sup>44</sup> Hearings, p. 310.

<sup>45</sup> Hearings, p. 293.



UNITED STATES DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
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WASHINGTON, D.C. 20531

December 11, 1979

U.S. House of Representatives  
Committee on Government Operations  
Washington, D.C. 20515

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the Federal Bureau of Investigation (FBI), the Program Fraud Unit of the Justice Department's Criminal Division and the Civil Fraud Division of the Department of Justice.<sup>46</sup>

A number of additional governmental units were listed as contributing to the anti-fraud effort. Within HEW, they were the Division of Management Survey and Review of the National Institutes of Health, the Policy Management Staff of the Food and Drug Administration, and the Program Integrity Staffs of the various Bureaus of the Social Security Administration. Units outside HEW were identified as the U.S. Postal Service, Investigative Units of other Executive Departments and Agencies, the Internal Revenue Service, the General Accounting Office and State Attorneys General.<sup>47</sup>

The individual questionnaire reply from the Social Security Administration names a number of units not included in the summary. The four SSA program bureaus (rather than just their program integrity staffs) were listed as having significant responsibilities in the fraud and abuse area. Additional SSA units listed as making contributions to the prevention and detection of fraud and abuse were claims adjudication personnel in district and branch offices, and operational personnel in the Bureau of Data Processing. Additional units outside SSA listed as having responsibilities relating to fraud involving social security programs included HEW's Office of General Counsel, the Secret Service, the Federal Trade Commission, State insurance commissioners, State disability determination sections and Medicare intermediaries and carriers.<sup>48</sup>

A further unit, the Office of the Special Assistant to the Secretary for Student Assistance, was established during the subcommittee's hearings.<sup>49</sup>

#### INCONSISTENCIES IN LISTING OF UNITS

The inclusion by SSA of four entire program bureaus in its listing of fraud and abuse units<sup>50</sup> is rather puzzling inasmuch as those bureaus have a total of more than 24,000 employees<sup>51</sup> who are charged with overall administrative responsibility for programs involving expenditures in excess of \$83 billion annually.<sup>52</sup> Classification of program integrity staffs of the bureaus, with a total of around 200 employees, as fraud units is much more understandable.<sup>53</sup>

Further confusion was created by the statement of Assistant Secretary Ottina that:<sup>54</sup>

... DHEW has only two operational units with jurisdiction to investigate fraud and program abuse—OIS and one in SSA. We are currently requesting staffing to establish a third unit in SRS. . . .

Mr. Ottina's reference to the Office of Investigations and Security and the SSA's Investigations Branch is hardly surprising, since those

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Hearings, pp. 326-327.

<sup>49</sup> Hearings, pp. 7-8, 197-198.

<sup>50</sup> Hearings, p. 326.

<sup>51</sup> Social Security Administration Personnel Data, Fiscal Year 1975.

<sup>52</sup> Hearings, p. 90.

<sup>53</sup> Hearings, pp. 293, 331.

<sup>54</sup> Hearings, p. 12.

units are staffed by professional investigators and the direct investigation of fraud allegations is one of their primary responsibilities. However, it is hard to see why the SRS unit referred to—the Fraud and Abuse Surveillance Branch of the Medical Services Administration—should be regarded as a third such unit. The primary mission of this unit, according to another part of Mr. Ottina's own testimony,<sup>55</sup> is to provide technical assistance for and maintain surveillance over State efforts to combat fraud in the Medicaid program. Moreover, Mr. Ottina stated with reference to the MSA unit that:<sup>56</sup>

It is not currently envisioned that direct investigations will be carried out, as is now the case in OIS.

There is reason to believe that some HEW organizations which were not named might merit inclusion in the list of fraud and abuse units; these would include the SRS Division of Quality Control Management<sup>57</sup> and the HEW Office of Grants and Procurement.<sup>58</sup> However, after a further review requested by the subcommittee chairman, Assistant Secretary Ottina advised that HEW considered the list complete as submitted.<sup>59</sup>

Further details concerning the major fraud and abuse units listed are discussed below.

<sup>55</sup> Hearings, p. 10.

<sup>56</sup> Ibid.

<sup>57</sup> Hearings, pp. 71-72.

<sup>58</sup> Hearings, p. 44.

<sup>59</sup> Hearings, p. 73.

## VIII. ORGANIZATION OF MAJOR FRAUD AND ABUSE UNITS

### OFFICE OF INVESTIGATIONS AND SECURITY

Under its charter,<sup>60</sup> responsibilities of the Office of Investigations and Security include executive leadership, policy direction, planning, coordination and management of the investigations programs of the Department. OIS is also charged with providing centralized investigative services to the Office of the Secretary, the regional offices, and the operating agencies at headquarters and in the field.

The charter, which was published in the Federal Register in April 1973, clearly provides for OIS to have department-wide investigative jurisdiction. However, the subcommittee investigation disclosed that provisions of the charter relating to jurisdiction have not been observed. Under an agreement reportedly entered into by two former HEW officials, OIS has not investigated fraud matters involving programs of the Social Security Administration.<sup>61</sup> SSA programs account for approximately 70% of HEW's employees and over 80% of its expenditure.<sup>62</sup>

OIS is under the general direction of the Assistant Secretary for Administration and Management.<sup>63</sup> It has no operating responsibilities for any of the programs it investigates,<sup>64</sup> but must obtain specific approval from the Secretary or Under Secretary before initiating any investigations.<sup>65</sup>

In addition to personnel at its headquarters in Washington, OIS has investigators at five of the ten HEW regional offices. Field personnel are under the supervision and control of OIS headquarters, rather than regional office program officials.

### AUDIT AGENCY

The HEW Audit Agency is responsible for performing comprehensive audits of all Department programs, including those conducted through grantees and contractors, in order to determine whether Department programs are operated economically and efficiently and to provide a reasonable degree of assurance that funds are expended properly and for the purpose for which appropriated. The Audit Agency's role in combating fraud and program abuse, although very important, is a byproduct of its basic audit function. Simply stated, it consists primarily of referring indications of possible fraud disclosed during audit work to OIS and providing specialized assist-

<sup>60</sup> Hearings, pp. 339-340.

<sup>61</sup> Hearings, pp. 61, 109-110.

<sup>62</sup> Hearings, p. 91.

<sup>63</sup> Hearings, p. 339.

<sup>64</sup> Hearings, p. 50.

<sup>65</sup> Hearings, pp. 63-64.

ance in investigations.<sup>66</sup> Regular audits also help to deter fraud and to strengthen internal controls and administrative procedures for the prevention and detection of fraud.<sup>67</sup>

The Audit Agency is located organizationally within the Office of the Assistant Secretary, Comptroller. It has field staffs at each of HEW's ten regional offices and at about 50 branch offices; all employees report to the Agency director, regardless of location.<sup>68</sup>

Most Audit Agency employees are available to work on audits of all departmental programs, rather than being restricted to a specific program or programs. According to testimony of the Agency Director, Edward W. Stepnick, clearance from the Secretary or Under Secretary is not required for initiation of audits.<sup>69</sup>

#### OFFICE OF GUARANTEED STUDENT LOANS

The only unit identified by the Office of Education in response to the subcommittee's questionnaire was the Office of Guaranteed Student Loans (OGSL). OGSL has jurisdiction over the Guaranteed Student Loan Program, which is one of 65 OE programs listed in HEW's summary report on its domestic assistance programs. OGSL's jurisdiction is limited to the guaranteed loan program, and does not extend to other OE student assistance programs. Estimated obligations for the Guaranteed Student Loan Program during FY 1975 were approximately \$500 million; total estimated obligations for all OE programs during the same period were more than \$6 billion.<sup>70</sup>

OGSL field examiners stationed at HEW regional offices review activities of lenders, schools and guarantee agencies for conformance with applicable statutes, regulations and procedures, reporting serious problems identified to regional officials and the OGSL Washington office. The field examiners are under the supervision of Regional Commissioners of Education, and do not report to the OGSL director.<sup>71</sup>

At the time of the subcommittee hearings, OGSL was in the process of establishing a compliance unit to review activities of OGSL personnel, lenders, schools and guaranty agencies when serious problems are identified.<sup>72</sup>

The OGSL director reports to Edward T. York, Jr., deputy commissioner of education for management. Mr. York also has supervisory responsibility for guaranteed loan program operations.<sup>73</sup>

#### SPECIAL ASSISTANT TO THE SECRETARY FOR STUDENT ASSISTANCE

Establishment of the OGSL compliance unit was not the only new step taken by HEW with respect to fraud and abuse in the guaranteed loan program during the subcommittee's hearings. In May 1975 HEW announced the appointment of Charles M. Cocke, Jr., as Special Assistant to the Secretary for Student Assistance. Mr. Cocke had pre-

<sup>66</sup> Hearings, p. 310.

<sup>67</sup> Hearings, p. 54.

<sup>68</sup> Hearings, pp. 54-55, 310.

<sup>69</sup> Hearings, p. 55.

<sup>70</sup> Summary of DHEW Domestic Assistance Programs, October 1975.

<sup>71</sup> Hearings, p. 379.

<sup>72</sup> Hearings, pp. 201-202, 379.

<sup>73</sup> Hearings, pp. 208-209.

viously served as Deputy Assistant Secretary for Legislation with special responsibility for legislation involving education programs.<sup>74</sup>

Mr. Cooke testified that his appointment was prompted by disclosure of serious problems involving the Dallas OGSL office and the operations of a large Chicago correspondence school which had initiated approximately \$135 million in guaranteed student loan paper. According to Mr. Cooke:<sup>75</sup>

. . . the combination of these two events led the Secretary to determine that he, indeed, had to have somebody reporting directly to him on these particular areas so that he could be kept informed as well as insuring that expeditious action would be taken to correct the problem.

Mr. Cooke indicated that his duties were to look into possible program abuse and fraud, to recommend necessary changes in legislation or program rules and regulations, to maintain coordination and be in consultation with other Federal agencies involved and to keep in touch with various interest groups concerning their stands on various issues.<sup>76</sup>

When asked to explain the difference between his responsibilities and those of Deputy Commissioner York and OGSL Director Kenneth Kohl, Mr. Cooke responded, ". . . I don't know exactly what the difference is."<sup>77</sup>

However, with respect to fraud and abuse in student aid programs, Mr. Cooke stated that:<sup>78</sup>

. . . I am the final person within the Department before the Secretary. Of course, the Secretary is the final authority. However, I am the next one in this particular area. . . .

Although Mr. Cooke's area of responsibility includes other student assistance programs, he told the subcommittee that he was spending approximately 85 percent of his time on the guaranteed loan program.<sup>79</sup>

#### MSA FRAUD AND ABUSE SURVEILLANCE BRANCH

The Fraud and Abuse Surveillance Branch, a part of the Division of Program Monitoring in the Medical Services Administration (MSA), is being established to combat fraud and abuse in the Medicaid program. The division director reports to the MSA Commissioner, who in turn is responsible to the Administrator of the Social and Rehabilitation Service. MSA has program responsibility at the Federal level for Medicaid.<sup>80</sup>

When the subcommittee hearings began, the Fraud and Abuse Surveillance Branch had a staff of one individual, with plans for addition of ten more.<sup>81</sup> More than 100 additional positions were being requested for assignment to regional offices. The regional office per-

<sup>74</sup> Hearings, pp. 233-234.

<sup>75</sup> Hearings, p. 234.

<sup>76</sup> Hearings, p. 231.

<sup>77</sup> Hearings, p. 232.

<sup>78</sup> Hearings, p. 233.

<sup>79</sup> Hearings, p. 235.

<sup>80</sup> Hearings, p. 311.

<sup>81</sup> Ibid.

sonnel, under present arrangements, would work under the direction of the SRS Regional Commissioners and would report to MSA only indirectly.<sup>82</sup>

MSA indicated that it expects to recommend that approximately 60% of the regional staff be used to monitor State performance to insure compliance with Federal regulations, to keep track of fraud and abuse cases and to assist States in improving their techniques for combating fraud and abuse. Another 30% of the regional staffs, according to MSA's recommendation, would be used to conduct systematic surveillance of providers of Medicaid services, while the remaining 10% would be used to support regional attorneys in investigation of cases declined or neglected by States.<sup>83</sup>

#### BUREAU OF RETIREMENT AND SURVIVORS INSURANCE

The first of five major units listed by the Social Security Administration in its response to the subcommittee questionnaire was the Bureau of Retirement and Survivors Insurance (BRSI). BRSI, according to the SSA reply, has policy responsibility for the overall Social Security Administration fraud deterrence program and lead responsibility for policy and procedures relating to processing of fraud cases involving more than one social security program (except for disability and health insurance cases). This responsibility is centered in the Confidentiality and Compliance Branch of the Division of Technical Services. The Division of Technical Services reports to the Bureau Director through the Assistant Bureau Director for Policy.<sup>84</sup>

Compliance analysts in the Reconsideration Branches of the six Retirement and Survivors Insurance Payment Centers initiate and/or direct the development by SSA district offices of allegations of fraud involving retirement and survivors insurance cases. These analysts may also refer cases to SSA's Investigations Branch for special investigation and to United States attorneys for prosecution. Reconsideration Branches report to regional BRSI officials, rather than to a central unit in Baltimore.<sup>85</sup>

Although BRSI personnel may direct investigations, they do not conduct them.<sup>86</sup>

#### BUREAU OF DISABILITY INSURANCE

The Technical Appraisal Branch of the Bureau of Disability Insurance (BDI) is responsible for maintaining information and identifying trends in fraud and irregularities involving the disability insurance program and for monitoring the investigation and resolution of potential fraud cases involving the disability areas of social security programs. The branch is a part of the Division of Appraisal, which reports to the Bureau Director through the Assistant Bureau Director, Administration.<sup>87</sup>

<sup>82</sup> Hearings, pp. 168-169.

<sup>83</sup> *Ibid.*

<sup>84</sup> Hearings, p. 328.

<sup>85</sup> *Ibid.*

<sup>86</sup> Hearings, p. 331.

<sup>87</sup> Hearings, p. 328.

The Court Case Staff, Division of Reconsideration, has jurisdiction for the handling of any case where fraud pertains to the question of disability and/or where the claim is currently serviced by BDI. This staff initiates and/or directs development of fraud allegations by personnel of SSA district offices, and may refer cases to the SSA Investigations Branch for special investigation or to United States attorneys for prosecution. The Division of Reconsideration reports to the Bureau Director through the Assistant Bureau Director, Operations.<sup>88</sup>

BDI personnel apparently do not conduct investigations, although they may direct that investigations be made.<sup>89</sup>

#### BUREAU OF HEALTH INSURANCE

According to SSA, the Program Integrity Branch of the Bureau of Health Insurance (BHI) develops overall plans and coordinates BHI activities for insuring the integrity of the health insurance program. The branch works to develop guidelines for identifying overutilization; prepares instructions for developing possible fraud cases; develops health insurance fraud prevention, detection, reporting and processing systems; and works to improve the effectiveness of carrier, intermediary, and regional office activities in the areas of fraud and improper overutilization. It also provides technical advice and assistance to regional personnel in the development of potential fraud and program abuse cases, and reviews reports on such cases.<sup>90</sup>

Regional Program Evaluation personnel evaluate Medicare contractor program integrity activities; identify patterns of program abuse or fraud; investigate and direct carrier investigations of possible fraud or program abuse; and refer cases to United States attorneys for prosecution.<sup>91</sup> Personnel of the Program Integrity Branch, which is located in Baltimore, do not conduct investigations.<sup>92</sup>

The Program Integrity Branch reports to the Bureau Director through the Assistant Bureau Director, Program Review. Regional Program Evaluation personnel are supervised by regional officials and do not report directly to the Program Integrity Branch.<sup>93</sup>

#### BUREAU OF SUPPLEMENTAL SECURITY INCOME

In its reply to the subcommittee questionnaire, the Social Security Administration reported that the Bureau of Supplemental Security Income (BSSI) had program integrity field staffs located at the six BRSI Payment Centers. These staffs had responsibility for directing development by SSA district offices of possible fraud cases involving the SSI program. They could also refer cases to the SSA Investigations Branch for special investigation and to United States attorneys for prosecution. Although these staffs had not conducted investigations in the past, it was reported that they are now undertaking them on a trial basis.<sup>94</sup>

<sup>88</sup> Ibid.

<sup>89</sup> Hearings, p. 331.

<sup>90</sup> Hearings, pp. 328-329.

<sup>91</sup> Hearings, p. 329.

<sup>92</sup> Hearings, p. 331.

<sup>93</sup> Hearings, p. 329.

<sup>94</sup> Hearings, pp. 329, 331.

During the hearings, Frank D. DeGeorge, Acting Associate Commissioner for Management and Administration of the Social Security Administration, told the subcommittee that responsibility for the SSI program integrity function had been transferred from BSSI to a new Office of Quality Assurance. DeGeorge further stated that SSA planned to consolidate program integrity responsibility for all SSA programs except health insurance in the new office.<sup>95</sup>

#### SSA INVESTIGATIONS BRANCH

The Investigations Branch of the Social Security Administration has had a small staff of experienced professional investigators located at SSA's Baltimore headquarters. The branch also maintained a Documents Analysis Laboratory to handle matters involving questioned documents. The branch reported to the Associate Commissioner, Management and Administration, through the Office of Administrative Appraisal and Planning.<sup>96</sup>

The Investigations Branch did not initiate cases, handling only matters referred to it by program bureaus or district offices. Cases requiring investigative capability considered beyond the capability of other SSA units could be referred to the branch; cases involving alleged collusion on the part of SSA employees were required to be referred there. The branch did not refer cases to United States attorneys for prosecution, making reports on its investigations to the program units involved.<sup>97</sup>

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<sup>95</sup> Hearings, p. 83.

<sup>96</sup> Hearings, p. 329.

<sup>97</sup> Ibid.

## IX. DEFICIENCIES IN ORGANIZATIONAL STRUCTURE

### FRAGMENTED AND CONFUSED ORGANIZATIONAL STRUCTURE

The subcommittee investigation showed clearly that HEW has no single unit which has the overall responsibility and authority necessary to lead an effective fight against fraud and program abuse.

Two units—the Audit Agency and the Office of Investigations and Security—have been officially granted department-wide jurisdiction by their charters.<sup>99</sup> However, the primary role of the Audit Agency is in the field of economy and efficiency, and its fraud and abuse activities are only a byproduct of its basic mission.<sup>99</sup> Furthermore, the Audit Agency does not have trained investigators<sup>100</sup> and its potential audit workload already exceeds its resources.<sup>101</sup>

Under its charter, OIS has very broad department-wide responsibility for investigations and investigative policy.<sup>102</sup> However, the department-wide jurisdiction provided for by the OIS charter has been effectively nullified by an agreement, reportedly unwritten, excluding SSA programs,<sup>103</sup> which account for most of HEW's expenditures.<sup>104</sup> Moreover, as a later section of this report documents, OIS' resources are far from adequate for even its present limited area of operations.

Although both organizations are technically part of the Office of the Secretary, the Audit Agency and OIS report to different Assistant Secretaries, a circumstance hardly likely to insure the maximum possible degree of coordination and cooperation in the operations of the two units. With respect to the desirability of having auditors and investigators report to the same official, it is interesting to note the comments made by former Secretary of Agriculture Orville Freeman, concerning his experience with such an arrangement. In March 1968, after Agriculture Department auditors and investigators had been reporting for several years to an Inspector General, then Secretary Freeman told the General Accounting Office that:<sup>105</sup>

... the consolidation of the professional talents of internal auditors and investigators in the Department has been of outstanding significance. The consolidation of these skills into one organizational unit has provided a capability we believe not otherwise obtainable for identifying areas in need of corrective attention and for assuring that something is done about them.

<sup>99</sup> Hearings, pp. 339-342.

<sup>99</sup> Hearings, pp. 53-54.

<sup>100</sup> Hearings, p. 9.

<sup>101</sup> Hearings, p. 311.

<sup>102</sup> Hearings, pp. 339-340.

<sup>103</sup> Hearings, p. 110.

<sup>104</sup> Hearings, p. 91.

<sup>105</sup> Report to the Congress by the Comptroller General of the United States, Review of Activities of the Office of the Inspector General, Department of Agriculture, May 8, 1968, p. 24.

A similar lack of effective centralized responsibility for combating fraud and abuse exists at the Social Security Administration. SSA has a central investigative unit whose area of jurisdiction clearly extends to all SSA programs.<sup>106</sup> However, the SSA Investigations Branch does not initiate cases, and its role is limited to handling matters referred by program bureaus.<sup>107</sup> Moreover, the Investigations Branch has no regional personnel and its small staff of investigators is located entirely at SSA's Baltimore headquarters.<sup>108</sup>

Each of the four SSA program bureaus has had one or more units specializing in fraud and abuse matters.<sup>109</sup> Policy responsibility for the overall Social Security Administration fraud deterrence program is assigned, along with other responsibilities, to the Confidentiality and Compliance Branch of the Bureau of Retirement and Survivors Insurance.<sup>110</sup> At the time of the subcommittee's hearings, this branch had one full-time professional employee.<sup>111</sup> A proposed reorganization under which most SSA fraud and program abuse activities would be consolidated in a single office has evidently not yet been implemented; it is discussed in greater detail below.

Although poorly organized, SSA has at least one unit with specific fraud and abuse responsibility for each of its major programs. The same cannot be said of other HEW agencies. With the exception of the SSA programs, the Audit Agency and OIS, HEW reported only two units with significant fraud and abuse responsibilities—the Office of Guaranteed Student Loans and the MSA Fraud and Abuse Surveillance Branch.<sup>112</sup>

A further effort to combat fraud and abuse was initiated during the subcommittee investigation through the appointment of a Special Assistant to the Secretary for Student Assistance, whose primary area of operations also involves the guaranteed student loan program. As a result of this appointment, HEW has three specialized fraud and abuse units, two of which are concentrating their efforts on a program involving less than 1% of the Department's current annual expenditures. The third unit, the MSA Fraud and Abuse Surveillance Branch, has responsibility for fighting fraud and abuse in the Medicaid program. Although Medicaid involves annual expenditures many times greater than the guaranteed student loan program, this unit had a staff consisting of just one individual at the time of the subcommittee hearings.<sup>113</sup>

No fraud and abuse units were reported for the public assistance programs or for programs of the Office of Education other than those involving student aid,<sup>114</sup> even though these activities account for expenditure of substantially more than \$10 billion annually.<sup>115</sup>

Except for auditors and investigative units, HEW personnel working in the fraud and abuse area are normally assigned to units which

<sup>106</sup> Hearings, p. 329.

<sup>107</sup> Hearings, p. 34.

<sup>108</sup> Hearings, p. 332.

<sup>109</sup> Hearings, pp. 328-329.

<sup>110</sup> Hearings, p. 323.

<sup>111</sup> Hearings, p. 331.

<sup>112</sup> Hearings, p. 293.

<sup>113</sup> Hearings, p. 311.

<sup>114</sup> Hearings, p. 293.

<sup>115</sup> Summary of DHEW Domestic Assistance Programs, October 1975.

have responsibility for a single program or group of programs. In most instances, regional personnel report to the regional program chief rather than to the director of the central fraud and abuse unit.

#### LACK OF INDEPENDENCE

In a report on the Agriculture Department Office of Inspector General, the General Accounting Office stated that:<sup>116</sup>

A fundamental principle of internal audits, as well as investigations, is that the placement of the internal auditor or investigator in an organization should be such that he is independent of the officials who are directly responsible for the operations he reviews.

Frank DeGeorge, Acting Associate Commissioner for Management and Administration of the Social Security Administration, stated the same principle during subcommittee hearings in the following words:<sup>117</sup>

. . . there is a basic management tenet involved. I think from an audit or program evaluation viewpoint, one should not monitor himself.

The HEW Audit Agency reports to the Assistant Secretary, Comptroller. In a 1969 report, the General Accounting Office pointed out that the Comptroller was also responsible for coordinating financial management activities, including budget planning and administration, fiscal policy and procedures, operations analysis, grant administration policy and accounting, and for providing central payroll services and data processing services. The report then commented that:<sup>118</sup>

All the above activities are subject to internal audit; therefore, employees of the Audit Agency assigned to such internal audits are placed in the position of reviewing and reporting deficiencies in activities of the Assistant Secretary, Comptroller, who is also responsible for the activities of the Audit Agency.

Most HEW and SSA fraud and abuse units are part of the same organization responsible for managing the program involved;<sup>119</sup> as a result, personnel of these units are placed in a position where an honest report disclosing deficiencies might embarrass their own boss.<sup>120</sup>

In testimony on May 15, 1975, Acting Associate SSA Commissioner DeGeorge told the subcommittee that for all major programs except health insurance:<sup>121</sup>

. . . we intend to consolidate responsibility for overall direction in a new Office of Quality Assurance. The Supplemental Security Income program integrity function has already been transferred, and we are working now on the other bureaus. This will have the effect of separating the

<sup>116</sup> Review of Activities of the Office of Inspector General, May 8, 1968, p. 5.

<sup>117</sup> Hearings, p. 110.

<sup>118</sup> Observations on Development and Status of the Audit Function at the Department of Health, Education, and Welfare, May 9, 1969, p. 18.

<sup>119</sup> Hearings, p. 50.

<sup>120</sup> Hearings, p. 51.

<sup>121</sup> Hearings, p. 83.

program review, program integrity, and investigative activities from the jurisdictional authority of the unit responsible for program administration.

According to Mr. DeGeorge, one intent of the reorganization is "to achieve a stronger central focus and direction for program integrity and investigative responsibilities."<sup>122</sup> Although the reorganization was announced in the Federal Register on January 30, 1975,<sup>123</sup> it had still not been implemented in mid-November.<sup>124</sup>

#### LACK OF HIGH LEVEL REPORTING ARRANGEMENTS

According to Assistant Secretary Ottina, the Secretary of Health, Education, and Welfare is charged with the ultimate responsibility for keeping track of fraud and abuse in the Department's programs.<sup>125</sup> However, the subcommittee's investigation disclosed little evidence that the Secretary has been kept informed of fraud and abuse problems throughout the Department on a regular basis. Assistant Secretary Ottina testified that, so far as he was aware, an overall summary of the Department's fraud and abuse problems and what might be done to prevent them had never been prepared for the Secretary.<sup>126</sup>

As previously discussed, the HEW Audit Agency and the Office of Investigations are part of the Office of the Secretary, but report to different assistant secretaries. The charter of the Audit Agency specifically provides that "The Director shall have direct access to the Secretary . . . when he deems this necessary to the fulfillment of his responsibilities."<sup>127</sup> The Audit Agency, it should be noted, does not have primary responsibility in the field of fraud and abuse. The OIS charter contains a section relating to the making of periodic reports to the Secretary, "as appropriate"; however, there is no provision guaranteeing direct access to the Secretary.<sup>128</sup>

Other HEW fraud and abuse units, as discussed previously, report for the most part to program officials, usually at a relatively low level. As a result, there is little assurance that information concerning serious problems will become known to the Secretary in a timely fashion. Moreover, since those receiving the information may be responsible for the programs involved, there is likely to be very little incentive for taking prompt and aggressive corrective action which may necessitate public exposure of their own deficiencies.

<sup>122</sup> Ibid.

<sup>123</sup> Hearings, p. 103.

<sup>124</sup> Information obtained from SSA by subcommittee staff.

<sup>125</sup> Hearings, p. 16.

<sup>126</sup> Hearings, p. 53.

<sup>127</sup> Hearings, p. 340.

<sup>128</sup> Ibid.

## X. PERSONNEL IN FRAUD AND ABUSE UNITS

### NUMBER OF HEW EMPLOYEES WITH FRAUD AND ABUSE RESPONSIBILITIES

In its March 14, 1975, questionnaire, the subcommittee asked the Department of Health, Education, and Welfare to provide a listing of the number of people assigned to each unit with significant responsibility for fraud and program abuse.<sup>129</sup> Replies to the questionnaire indicated that, apart from the Audit Agency and the Social Security Administration, only 48 individuals were working in such units before the subcommittee began its hearings—13 in the Office of Investigations and Security,<sup>130</sup> one in the MSA Fraud and Abuse Surveillance Branch,<sup>131</sup> and 34 in the Office of Guaranteed Student Loans.<sup>132</sup>

Eleven of the 13 OIS personnel reported were trained criminal investigators;<sup>133</sup> a subsequent resignation reduced the total to 10.<sup>134</sup> The Medical Services Administration advised the subcommittee that it had plans for an 11-member central staff, with an additional 100 persons reporting to SRS regional commissioners.<sup>135</sup>

The 34 OGSL employees identified in the questionnaire reply were field examiners under the supervision of OE regional offices, who do not report to the OGSL director.<sup>136</sup> Establishment of a compliance unit in OGSL's Washington headquarters was recommended a few days after the subcommittee sent its questionnaire<sup>137</sup> and five employees had been assigned to this activity on a temporary basis by June 1975.<sup>138</sup> A Special Assistant to the Secretary for Student Assistance was also appointed during the subcommittee investigation; no specific figures were provided concerning his staff, but it apparently is not large.<sup>139</sup>

SSA's four program bureaus, according to its reply, had a total of 187 individuals working full-time on fraud and program abuse and 9 more spending part of their time on this activity.<sup>140</sup> An additional 13 persons were listed for the Investigations Branch of the Office of Management and Administration.<sup>141</sup> The 200 full-time employees listed for SSA fraud and abuse units were located as follows:<sup>142</sup>

<sup>129</sup> Hearings, p. 292.  
<sup>130</sup> Hearings, p. 295.  
<sup>131</sup> Hearings, p. 311.  
<sup>132</sup> Hearings, p. 379.  
<sup>133</sup> Hearings, p. 295.  
<sup>134</sup> Hearings, p. 8.  
<sup>135</sup> Hearings, p. 312.  
<sup>136</sup> Hearings, p. 379.  
<sup>137</sup> Hearings, pp. 381-383.  
<sup>138</sup> Hearings, p. 202.  
<sup>139</sup> Hearings, p. 234.  
<sup>140</sup> Hearings, p. 331.  
<sup>141</sup> Hearings, p. 332.  
<sup>142</sup> Hearings, pp. 331-332.

	Total	Baltimore	Field offices
Bureau of Health Insurance.....	122	24	98
Bureau of Supplemental Security Income.....	45	15	30
Bureau of Retirement and Survivors Insurance.....	19	1	18
Bureau of Disability Insurance.....	1	1	0
Investigations Branch.....	13	13	0
Total.....	200	54	146

In addition to those listed above, BDI has seven and BRSI has two part-time employees, all in Baltimore.<sup>143</sup>

Although the SSA questionnaire reply submitted in April 1975 showed a total regional office staffing of 98 persons for BHI's Program Integrity Branch, a table furnished in May showed 157 full-time regional office positions, plus 9 part-time employees.<sup>144</sup> BHI personnel advised the subcommittee staff that the discrepancy in the April and May figures was caused primarily by discontinuance of the regional Offices of Program Validation and reassignment of the staff involved to program integrity activities. Program validation personnel had previously made reviews of the operations of health care providers to identify the degree to which program provisions were being properly observed. The recently added staffing brings the total number of BHI program integrity personnel to 181, with 77 of the 157 regional personnel reported to be conducting Medicare fraud and abuse investigations.<sup>145</sup>

The Audit Agency, which has jurisdiction over all HEW programs, reported that it had 884 authorized positions, with all of its professional staff accounting or business oriented in education and experience. The Agency staff has been supplemented by use of public accountants and State audit staffs equivalent to approximately 2,150 man-years of effort. However, the Agency still regards itself as substantially understaffed, since it considers its workload to be equal to 3,600 man-years.<sup>146</sup>

The Audit Agency's staff is located at ten regional and fifty branch offices throughout the country; the entire staff, regardless of location, reports to the Agency Director.<sup>147</sup> According to Edward W. Stepnick, Director of the Audit Agency, most Agency staff members are not limited to working on a single program, but can be used wherever their services are most needed.<sup>148</sup> As previously noted, Audit Agency personnel assist in fraud investigations on request, but do not conduct such investigations.

By contrast, according to testimony at subcommittee hearings, SSA program integrity employees working in field offices (except for a recent change involving the SSI program) are under control of program officials in such offices and are not subject to the direction of program integrity unit directors.<sup>149</sup> A similar situation evidently will exist in

<sup>143</sup> Hearings, p. 331.

<sup>144</sup> Hearings, p. 123.

<sup>145</sup> Information obtained from BHI by subcommittee staff.

<sup>146</sup> Hearings, pp. 310-311.

<sup>147</sup> Hearings, pp. 54, 310.

<sup>148</sup> Hearings, p. 55.

<sup>149</sup> Hearings, p. 335.

the case of regional personnel of the MSA Fraud and Abuse Surveillance Branch.<sup>160</sup>

The number of individuals reported by HEW to be working in fraud and abuse units, including the additional personnel transferred to BHI program integrity activities, totaled just over 300; however, many of these individuals do not actually make investigations. According to SSA, only 11 of the 54 persons assigned to fraud and abuse unit central offices in Baltimore conduct investigations; all eleven are employees of the Investigations Branch.<sup>161</sup> The other individuals said to participate in investigations are 77 of 157 BHI regional office program integrity employees and all 30 field personnel of the BSSI unit.<sup>162</sup> It was not clear from the OGSF reply whether field examiners of that unit should be considered as engaging in investigations.<sup>163</sup>

#### QUALIFICATIONS AND TRAINING

Professional investigators in OIS and the Investigations Branch appear to be well qualified. According to testimony at the hearings, OIS investigators average 22 years experience as criminal investigators.<sup>164</sup> Personnel of the Investigations Branch include five lawyers and two accountants; all have specialized investigative experience.<sup>165</sup> Audit Agency personnel, as previously indicated, are not trained to conduct criminal investigations.<sup>166</sup>

BHI regional personnel who conduct Medicare investigations include some lawyers, accountants and others with obvious investigative qualifications; however, most have less impressive credentials.<sup>167</sup>

The subcommittee questionnaire asked for information about any specialized investigative experience and/or training required by fraud and abuse units.<sup>168</sup> Except for OIS<sup>169</sup> and the Investigations Branch,<sup>170</sup> no mandatory experience requirements were reported.

The Investigations Branch reported that it uses an eight-week course in criminal investigation given by the U.S. Treasury Consolidated Law Enforcement Officers Training School as a basic training requirement.<sup>171</sup> BHI has a 40-hour training course for its program integrity personnel, followed by training conferences.<sup>172</sup> SSA reported it has no formal training program for district and branch office personnel for investigation of fraud and abuse matters, although these offices do make such investigations.<sup>173</sup>

<sup>160</sup> Hearings, pp. 168-169.

<sup>161</sup> Hearings, pp. 331-332.

<sup>162</sup> Hearings, p. 331.

<sup>163</sup> Hearings, p. 379.

<sup>164</sup> Hearings, p. 39.

<sup>165</sup> Hearings, pp. 122-123.

<sup>166</sup> Hearings, p. 8.

<sup>167</sup> Hearings, pp. 124-128.

<sup>168</sup> Hearings, p. 202, number 3(b).

<sup>169</sup> Hearings, p. 295.

<sup>170</sup> Hearings, p. 332.

<sup>171</sup> Ibid.

<sup>172</sup> Hearings, pp. 104-107.

<sup>173</sup> Information obtained from SSA by subcommittee staff.

## XI. ADEQUACY OF FRAUD AND ABUSE PERSONNEL

### NUMBER OF QUALIFIED INVESTIGATORS RIDICULOUSLY INADEQUATE

Although HEW has more than 129,000 full-time employees and is responsible for programs with expenditures approaching \$120 billion annually,<sup>164</sup> the Secretary's office had only ten qualified professional investigators to look into allegations of fraud and program abuse.<sup>165</sup> By comparison, the Department of Agriculture has more than 200 investigators in its central investigative unit, even though its programs involve expenditures less than one-tenth the size of HEW's;<sup>166</sup> moreover, according to Civil Service Commission figures, the Justice Department had 11,369 criminal investigators and the Treasury Department 6,736 as of October 31, 1973.<sup>167</sup>

The backlog of uninvestigated cases in the Office of Investigations and Security gives some idea of the dimensions of the problem. When the subcommittee began its hearings in April 1975, OIS reported a four-year backlog.<sup>168</sup> By the end of June, the backlog of uninvestigated cases had grown to approximately ten years and would have been even larger if OIS had not declined to accept a number of lower-priority matters.<sup>169</sup>

The existence of the SSA Investigations Branch, with eleven trained investigators,<sup>170</sup> did not alleviate the OIS problem, since the SSA unit was limited to Social Security Administration matters and the OIS backlog does not include SSA cases.

There is little basis, moreover, for any realistic expectation that HEW can depend on resources of the Federal Bureau of Investigation for large-scale assistance in handling its investigative workload. Witnesses from both HEW and the Department of Justice confirmed that the FBI does not usually take jurisdiction of Medicare or social security cases. Furthermore, although arrangements are apparently being discussed under which the FBI would handle certain selected welfare fraud cases, a Justice Department witness told the subcommittee that any significant involvement in such investigations would severely strain FBI resources.<sup>171</sup>

### UNEVEN DISTRIBUTION OF OTHER FRAUD AND ABUSE PERSONNEL

As previously indicated, the combined total of about 25 individuals working for OIS and the SSA Investigations Branch is far overshadowed by the approximately 280 persons reportedly available to

<sup>164</sup> Hearings, p. 5.

<sup>165</sup> Hearings, p. 47.

<sup>166</sup> Hearings, p. 60.

<sup>167</sup> Civil Service Commission manpower statistics obtained for the subcommittee by the General Accounting Office.

<sup>168</sup> Hearings, p. 40.

<sup>169</sup> Information obtained from HEW by subcommittee staff.

<sup>170</sup> Hearings, p. 332.

<sup>171</sup> Hearings, pp. 76-77.

other fraud and abuse units outside the Audit Agency. However, their availability hardly compensates for the lack of an adequate central investigative staff to combat fraud and abuse in all Departmental programs.

Nearly two-thirds of these individuals—181 people—are part of a single unit, the BHI program integrity operation, working only on the Medicare program. It is likely that far greater resources have been devoted to combating fraud and abuse involving Medicare than is the case for any other major HEW program. However, the clear superiority of the Medicare effort does not necessarily mean that the program is effective, since the resources devoted to controlling fraud and abuse in other major programs in the past have ranged from inadequate to nonexistent.

When the subcommittee began its investigation, as previously noted, HEW reported that it had no fraud and abuse unit or units to monitor more than \$10 billion in total annual expenditures for public assistance and for Office of Education programs not involving student assistance. Only one individual was assigned to guard against fraud and abuse in the Medicaid program, which accounted for nearly \$7 billion in Federal expenditures alone in fiscal 1975.

The Audit Agency, it should be noted, has substantially greater personnel resources than all other fraud and abuse units combined. However, as earlier sections of this report have pointed out, the Agency's primary responsibility is in the field of economy and efficiency and its role in fighting fraud and program abuse is a secondary one. Moreover, the Agency advised the House Appropriations Subcommittee in April 1975 that its audit workload exceeded its authorized resources by more than 500 man-years.<sup>172</sup>

Some States are, no doubt, making aggressive efforts to prevent and detect fraud and abuse in the HEW programs they help to administer. However, the unevenness of such efforts is demonstrated by the fact that 87% of some 1,000 Medicaid cases pending in State agencies as of January 1, 1975, were reported by only three States,<sup>173</sup> while 21 States were listed by HEW as inactive in fraud and abuse detection and investigation.<sup>174</sup>

#### CONGRESSIONAL ROLE IN OIS STAFFING

There was testimony at the subcommittee hearings which might be interpreted as suggesting that refusal by Congress to approve additional personnel is largely responsible for HEW's inadequate investigative staffing.<sup>175</sup>

HEW unquestionably had difficulty in obtaining approval by a Senate Appropriations subcommittee of requests for additional OIS investigators; this was apparently due at least in part to concern about a 1973 investigation ordered by the Secretary relating to the identity of an employee allegedly responsible for "leaking" draft legislation to a Senator.<sup>176</sup> However, it seems inconceivable that additional per-

<sup>172</sup> Hearings before a subcommittee of the Committee on Appropriations, Departments of Labor, and Health, Education, and Welfare Appropriation for 1976, part 4, p. 633.

<sup>173</sup> Hearings, p. 10.

<sup>174</sup> Hearings, p. 160.

<sup>175</sup> Hearings, pp. 36-40.

<sup>176</sup> Hearings, pp. 36, 39-40; Senate hearings before the Committee on Appropriations, Departments of Labor, Health, Education, and Welfare and Related Agencies Appropriations, fiscal year 1976, part 3, pp. 2820-2821.

sonnel would not have been approved if HEW had informed the Congress fully and accurately about its extremely serious fraud and abuse problems and its almost total lack of resources to correct them. This is demonstrated by the recent action of the House of Representatives approving funds for 30 additional investigative positions which HEW had not even requested.<sup>177</sup>

HEW requests for additional personnel fell far short of the number obviously needed. Assistant Secretary Ottina acknowledged that the number of additional investigators requested by OIS had been cut at the Departmental level before being presented to Congress.<sup>178</sup> Consequently, at a time when the OIS backlog of uninvestigated cases had reached four years and was growing rapidly, HEW was asking Congress for only 12 additional investigators, plus reprogramming of ten more.<sup>179</sup> The modest nature of this request can be fully appreciated by noting that, on a previous occasion, HEW asked Congress for 12,000 additional employees, including 11,000 for a single program.<sup>180</sup>

Failure of HEW to inform Congress of the true dimensions of its fraud and abuse problems and to present a strong case for additional personnel is reflected in testimony before the Senate Appropriations Committee by Assistant Secretary, Comptroller, John D. Young, on May 9, 1975. Mr. Young's prepared testimony in support of a request for 12 additional OIS investigators consisted of two sentences, which follow:<sup>181</sup>

Twelve positions would permit timely investigation of allegations of program fraud especially in the areas of Medicaid payments and the Guaranteed Student Loan program. For example, one Medicaid case involves investigation of over 100 doctors, several medical facilities and numerous drug stores.

#### FAILURE TO MAKE EFFECTIVE USE OF AVAILABLE RESOURCES

Serious problems attributable to HEW's lack of adequate investigative personnel were aggravated by the Department's failure to make effective use of the resources it had.

For example, HEW witnesses acknowledged at hearings in April 1975 that OIS had a four-year backlog of uninvestigated cases.<sup>182</sup> By June, the OIS backlog had reached approximately 10 years.<sup>183</sup> At the same time, so little use was being made of the SSA Investigations Branch that it had no significant backlog<sup>184</sup> and had not filled eight investigative positions which had become vacant.<sup>185</sup>

<sup>177</sup> Supplemental Appropriations Bill, 1976, Congressional Record, November 13, 1975, pp. H11080-11082.

<sup>178</sup> Hearings, p. 40.

<sup>179</sup> Hearings, p. 47.

<sup>180</sup> Hearings before a subcommittee of the Committee on Appropriations, House of Representatives, Departments of Labor, and Health, Education, and Welfare Appropriations for 1975, March 19, 1974, part 2, p. 163.

<sup>181</sup> Hearings, pp. 36, 39-40; Senate hearings before the Committee on Appropriations, Departments of Labor, Health, Education, and Welfare and Related Agencies Appropriations, fiscal year 1976, part 3, pp. 2820-2821.

<sup>182</sup> Hearings, p. 40.

<sup>183</sup> Information obtained from HEW by subcommittee staff.

<sup>184</sup> Hearings, p. 129.

<sup>185</sup> Information obtained from SSA by subcommittee staff.

Another example of misplaced priorities involves the Department's Manpower Management Program. One of the objectives of this program, which has been in effect for several years, is to insure that manpower levels are matched with current program priorities.<sup>186</sup> Inquiries by the subcommittee staff disclosed no evidence that the Manpower Management Program had either detected or done anything to alleviate the severe shortage of OIS investigators. However, it is interesting to note that—in contrast to the ten investigators available to OIS—the Manpower Management Program involved more than 100 man-years of effort during fiscal year 1975 alone.<sup>187</sup>

#### QUALIFICATIONS OF PERSONNEL MAKING INVESTIGATIONS

As noted earlier in this report, the subcommittee investigation indicated that investigators in OIS and the SSA Investigations Branch are well qualified. However, the 21 investigators working for these two units at this writing constitute only a fraction of the total number of HEW personnel who actually conduct investigations.

According to information provided to the subcommittee, discussed in a prior section of this report, HEW had a total of 128 employees in its major fraud and abuse units actually engaged in conducting investigations. With the exception of the 10 OIS investigators, all of them worked for the Social Security Administration. (The Office of Guaranteed Student Loans reported that it had 34 field examiners, but their work is probably more appropriately classified as making examinations, rather than investigations.)

Eleven of the SSA personnel who make investigations were assigned to the Investigations Branch. The Bureau of Supplemental Security Income reported that it had 30 individuals in its field offices who are just starting to make investigations "... on a controlled trial basis."<sup>188</sup> However, by far the largest number of persons reported to be conducting investigations worked for the program integrity unit of the Bureau of Health Insurance; with a total of 77, BHI reported more persons making investigations than all other major fraud and abuse units combined.

Since many—if not most—of the 77 individuals making Medicare investigations for BHI have not had substantial investigative training or experience,<sup>189</sup> an obvious question arises as to whether they are qualified to perform such work.

Acting SSA Associate Commissioner Frank DeGeorge told the subcommittee that it was not necessary for program integrity personnel to be trained or experienced criminal investigators, since cases requiring these skills could be referred to the Investigations Branch.<sup>190</sup> DeGeorge added, presumably with reference to BHI's 40-hour training course,<sup>191</sup> that "... program integrity personnel are trained in a vast

<sup>186</sup> Hearings before a subcommittee of the Committee on Appropriations, House of Representatives, Departments of Labor, and Health, Education, and Welfare Appropriations for 1976, part 4, p. 563.

<sup>187</sup> *Ibid.*

<sup>188</sup> Hearings, p. 331.

<sup>189</sup> Hearings, pp. 124-128.

<sup>190</sup> Hearings, p. 85.

<sup>191</sup> Hearings, pp. 104-107.

body of program-related procedures, including extensive information on how to handle potential fraud cases."<sup>192</sup> Despite these assurances, Mr. DeGeorge acknowledged that he was unaware of any effort by SSA to analyze the qualifications of program integrity personnel to see how well their skills fit the work they were doing.<sup>193</sup>

The subcommittee sought further information concerning the quality of HEW investigative work from United States Attorneys, who are responsible for criminal prosecutions resulting from such investigations.<sup>194</sup> Some of the responses to the subcommittee's inquiry expressed satisfaction with the quality of HEW investigative work; others, however, indicated a belief that HEW personnel needed more training and experience. An example is the following comment, from a southern State, concerning assistance provided in a number of Medicare fraud cases:

... the assistance provided by HEW personnel was inadequate. It is our experience that the HEW personnel has been most cooperative and has tried to fulfill every request made by our office. However, they did not have the proper training and experience to provide the assistance needed in criminal investigations. It should be noted that it is our belief that they have done remarkably well considering their inadequate training in criminal investigation.

While the above comments relate to program integrity personnel, it should be noted that employees of the Social Security Administration's 2,600 district and branch offices also make fraud and abuse investigations.<sup>195</sup> There is no investigative training program for these individuals, nor are they required to have prior investigative experience.<sup>196</sup>

<sup>192</sup> Hearings, p. 85.

<sup>193</sup> Hearings, p. 121.

<sup>194</sup> Letter from L. H. Fountain, chairman, Intergovernmental Relations and Human Resources Subcommittee, to United States Attorneys, August 13, 1975.

<sup>195</sup> Hearings, p. 84.

<sup>196</sup> Information obtained from SSA by subcommittee staff.

## XII. FRAUD AND ABUSE PROCEDURES

In its March 14, 1975, questionnaire, the subcommittee asked specifically about procedures for referral to fraud and abuse units of information indicating possible irregularities.<sup>197</sup> On April 11, a few days before the subcommittee's initial hearings, the Secretary issued a memorandum to HEW employees advising them they had an obligation to report information concerning actual or suspected irregularities in the handling of HEW funds.<sup>198</sup> Testimony at the hearing confirmed there had been no previous departmentwide requirement for referral of such information.<sup>199</sup>

The Social Security Administration, on the other hand, does have detailed referral procedures. In general terms, SSA procedures call for SSA district and branch offices to make preliminary investigations of complaints or other information suggesting fraud. If a potential fraud case is disclosed, the matter is referred to program integrity personnel. Further investigation of cases involving the Disability, Retirement or Survivors Insurance programs is normally handled by district office personnel under the direction of program integrity specialists. If Medicare or, to some extent, the SSI program are involved, further investigations are usually conducted by program integrity personnel.<sup>200</sup>

Some suspected fraud situations are relatively uncomplicated and hardly require use of highly trained investigators. In 1974, more than 25% of all BRSI investigations involved failure to report a marital status change,<sup>201</sup> while 40% of the Disability Insurance matters were concerned with failure to report cessation of disability.<sup>202</sup>

According to SSA, cases which appear to be "extra sensitive or complicated" are to be referred to the Investigations Branch.<sup>203</sup> Because they involve providers of services rather than individual beneficiaries, Medicare fraud and abuse cases are much more likely to be complicated than those relating to other SSA programs. However, only four<sup>204</sup> of some 3,928 Medicare cases were referred to the Investigations Branch in 1974.<sup>205</sup>

According to testimony at subcommittee hearings, HEW does not have uniform guidelines for referral of cases to the Justice Department for prosecution.<sup>206</sup> For non-SSA programs, such referrals are handled by the Office of Investigations and Security.<sup>207</sup> In the Social Security Administration, referral decisions are made by the program bureaus rather than the Investigations Branch.<sup>208</sup>

<sup>197</sup> Hearings, p. 292.

<sup>198</sup> Hearings, p. 309.

<sup>199</sup> Hearings, p. 17.

<sup>200</sup> Hearings, pp. 84, 331.

<sup>201</sup> Hearings, p. 332.

<sup>202</sup> Hearings, p. 333.

<sup>203</sup> Hearings, p. 85.

<sup>204</sup> Hearings, p. 129.

<sup>205</sup> Hearings, p. 89.

<sup>206</sup> Hearings, pp. 74-75.

<sup>207</sup> Hearings, p. 294.

<sup>208</sup> Hearings, pp. 85, 334-335.

The subcommittee investigation disclosed that changes in program regulations to correct known deficiencies or implement legislative mandates sometimes involved almost incredible delays. During the hearings, one instance was cited in which SRS regulation changes took five years or more.<sup>209</sup> Another witness stated that, prior to Congressional action in 1972, the Office of Education operated many programs without any regulations whatever.<sup>210</sup>

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<sup>209</sup> Hearings, p. 175.

<sup>210</sup> Hearings, p. 258.

## APPENDIX

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LETTER FROM HON. L. H. FOUNTAIN TO HON. F. DAVID MATHEWS.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
*Washington, D.C., August 6, 1975.*

Hon. F. DAVID MATHEWS,  
*Secretary-Designate, Department of Health, Education, and Welfare,  
Washington, D.C.*

DEAR MR. SECRETARY: As I indicated in my letter of August 5, I am writing to call to your attention some specific problems in HEW's operations which appear to me to call for urgent remedial action.

As you may know, the Intergovernmental Relations and Human Resources Subcommittee is reviewing the resources and procedures utilized by the Department of Health, Education, and Welfare to prevent and detect fraud and abuse in its programs. In connection with this inquiry, the subcommittee requested background information in March of this year and held public hearings in April, May and June.

A formal report on the subcommittee's continuing investigation is now being prepared and is expected to be ready in the near future. It is also my expectation that the subcommittee will give consideration in the near future to the establishment of a statutory Office of Inspector General for the Department of Health, Education, and Welfare.

The report now being prepared will contain a detailed account of the subcommittee's findings, conclusions and recommendations. However, in view of very serious deficiencies disclosed by the subcommittee's investigation, I thought it advisable to write to you in advance of the report to urge that corrective action be initiated as soon as possible.

Since the subcommittee's report has not yet been completed, it would be inappropriate for me to try to speak for other members of the subcommittee at this time. However, in my judgment, the subcommittee's investigation clearly disclosed that:

1. Fraud and abuse in HEW programs are causing enormous losses and greatly reducing the effectiveness of HEW programs. Resources used to combat fraud and abuse are so inadequate and disorganized that HEW officials have little or no reliable information concerning the actual amount of such losses.

2. According to its charter, as published in the Federal Register, the Office of Investigations and Security has departmentwide responsibility and authority for policy direction, planning, coordination and management of investigations. However, HEW has not complied with this stated policy. Instead, there evidently is an unwritten agreement that OIS shall take no part in investigative matters involving the Social Security Administration, even though SSA programs account for more than 80% of all HEW expenditures.

3. The Office of Investigations and Security is responsible for reporting directly to the Secretary on fraud and abuse in HEW programs. However, even though HEW programs involve more than 129,000 employees and expenditure of \$118 billion annually, OIS has only 10 investigators to investigate allegations of fraud. Five of HEW's ten regional offices do not have a single professional investigator assigned. When the subcommittee began its hearings in April, OIS had a four-year backlog of uninvestigated cases; that backlog has now grown to approximately ten years.

4. There are thirteen additional professional investigators working for HEW, who do not report to the Secretary. These investigators are assigned to the Investigations Branch of the Social Security Administration's Office of Administration, and work only on cases referred to them by SSA program units. These investigators currently have no backlog—primarily because very few cases are being referred to them.

5. There are also a number of quasi-investigative units which report to the administrators of some HEW programs. These units do not report to the Secretary, and apparently were established on an individual basis rather than as part of a coherent and coordinated overall plan to help provide the Secretary with information needed to combat fraud and abuse in HEW programs. There has been little or no coordination between units working on such closely related programs as Medicare and Medicaid.

The subcommittee's report will undoubtedly go into considerably more detail, but I am sure the above points are more than sufficient to illustrate the basis for my concern.

Pending issuance of the subcommittee's report, I want to urge that you give immediate personal attention to strengthening the procedures and resources used by HEW to prevent and detect fraud and program abuse, and to suggest specifically that:

1. Immediate action be taken to make the SSA Investigations Branch a part of OIS, thereby bringing HEW's investigative operations into compliance with the Department's stated policy. This would also make presently underutilized investigative resources available to meet the pressing needs of the Department.

2. An immediate review be made of personnel and resources being utilized for the prevention and detection of fraud and program abuse with a view to evaluating Departmental needs and available resources, and taking appropriate action to insure a high degree of cooperation and coordination among auditors, investigators and program managers.

3. Immediate action be taken to assign at least one qualified investigator to each regional office; if necessary, this could be accomplished by transferring qualified investigators from program units to OIS.

I hope these comments and suggestions will be helpful to you. If you would like any additional information concerning any of the matters discussed above, please feel free to have the appropriate member of your staff contact the subcommittee Counsel, Mr. Naughton.

Best personal regards.

Sincerely,

L. H. FOUNTAIN, *Chairman.*

**END**