

**Chapter 3**

**Systems Modernization and  
Related Issues, 1986-90**

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# Systems Modernization and Related Issues, 1986-90

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The likelihood of success in systems modernization for the Social Security Administration depends in part on the support of its employees, its clients, its overseers in Congress, and other institutions with which it interacts. To the extent that SSA succeeds in modernizing both its information systems and its management, this will change the way the agency does its business, and will affect its relationships with Congress, its clients, its employees, and with other institutions, such as State government. This chapter explores some of these relationships now and in the next 5 years.

It surveys, first, two issues in SSA relationship to Congress: the monitoring and oversight of SSA, and SSA'S ability to respond effectively to changes mandated by Congress in social security programs, coverage, and benefits. Next it considers SSA'S relationships with

its own employees, in the context of systems modernization. Third, it considers SSA'S response to a major Federal initiative, improved debt collection and financial management, which significantly affected SSA relationships with its clients.

Fourth, the chapter discusses SSA relationships with the Administration and with the private sector, in terms of possible major changes in SSA status, such as making it an independent agency, or privatizing part of SSA operations. Finally, the chapter looks at a growing issue in SSA'S relationships with the general public: concerns about the confidentiality and security of data as affected by advanced information technologies and current practices of data-sharing and computer-matching, capabilities that are likely to be facilitated by systems modernization.

## SSA AND CONGRESS: ACCOUNTABILITY AND RESPONSIVENESS

### Monitoring and Oversight of SSA

SMP has already had both positive and negative impacts on SSA relations with Congress and the White House. SMP has been regarded by most Congressmen as good news and Congress has responded with generous funding. However, there is continuing concern over the wisdom and cost-effectiveness of some of the basic SMP decisions, and over SSA'S procurement procedures. In addition, there is congressional concern over whether SMP-related employment reductions and office closings will result in poorer service to clients. Congressional oversight committees have been particularly critical of SSA apparent lack of assessment of the impacts of systems modernization on service levels. Finally, there have been seri-

ous charges of irregularities and improprieties in at least one SMP contract award.<sup>1</sup>

<sup>1</sup> U.S. Congress, *Hearings: Contract Irregularities and Mismanagement Plague SSA's Systems Modernization Program*, Legislation and National Security Subcommittee of the House Committee on Government Operations, Nov. 6 and Nov. 20, 1985.

Recently a General Accounting Office investigation alleged that the Commissioner who initiated SMP, John Svahn, improperly allowed employees of his own former employer, Deloitte Haskins & Sells (DHS) to use SSA office space next to his own office for a number of months just when SMP contracts were being developed, in which DHS had an interest as potential contractors. Svahn was also accused, along with other SSA employees, of improperly accepting restaurant meals from Deloitte Haskins & Sells during this period. Deloitte Haskins & Sells, a Big Eight accounting firm, has since become the largest subcontractor in the SMP Program and was a major force in recommending EDS as the major integration contractor.

Because of SSA'S size and importance, and the large share of Federal expenditures that it administers, a small army of people is committed to monitoring and auditing SSA to assist either Congress or the Administration in oversight. A significant amount of SSA management time is spent in answering detailed requests for information from oversight bodies. SMP has added to the volume and complexity of these activities.

There are inherent difficulties involved in congressional oversight of a program like SMP. Several committees have an interest in different aspects of it. The House Committee on Government Operations maintains a stern eye on information technology procurement and other aspects of its management. The House Ways and Means Subcommittee on Social Security has broad responsibility for administrative performance, but does not have the technical expertise to evaluate information systems and their management. Other committees focus on service delivery, and the interests of special groups in society such as the aged and disabled.

This tends to separate consideration of technological issues from consideration of service quality issues. In addition, the critical problem of software development or procurement has probably received less attention than other aspects of information technology use and management.

The difficulty of achieving effective oversight is one factor in a growing movement to split SSA off from the Department of Health and Human Services (DHHS) and make it a separate, independent agency. (This option will be examined further below.) Many Congressmen and staff people suspect that they do not get complete or accurate information from SSA about its resource needs, particularly on questions of its ability to respond effectively to changing legislative mandates and changes in benefits programs, because the agency's answers must be "vetted" through DHHS and the Office of Management and Budget (OMB), which may manipulate them to suit the Administration's policies and priorities (i.e., bud-

getary control). Thus emerging problems like those of the 1970s can become unmanageable before Congress is able to come to grips with them.

Some political scientists and some computer enthusiasts have argued that computer technology will facilitate congressional oversight by making information more readily available, and by allowing Congress to demand reports tailored to its oversight needs. However, it appears at least equally likely that computerization of data may make oversight more difficult. In the short term, it is very difficult, for example, to compare SSA'S performance today with that of several years ago; as work is reorganized and automated, measures of performance have necessarily been redefined. More importantly, and in the longer term, oversight becomes more difficult because administrative decisions become more highly technical and involve issues of technological capability, multi-year investments, and systems management strategy that laymen—which includes most congressional representatives and their staff—find difficult to understand. Seeking and comparing the judgments of technical experts and working to comprehend these evaluations is extremely demanding of time, effort, and attention; it is all the more difficult because systems experts constitute a highly concentrated community of people with a great many potentially overlapping vested interests in the actions of SSA, a major purchaser of computer systems.

The temptation—some would argue, the duty (given the imperative of administrators for institutional survival and maintenance) -to select and manipulate data related to organizational performance when justifying programs and budgets, is and has always been strong for agency officials. When those budgets include multiyear and no-year investments in equipment for which a favorable return on investment is years away, and for which there are many irreducible uncertainties in cost-benefit analysis, that temptation is much stronger. When the performance data is embedded in voluminous computerized databases

and can be endlessly recategorized, combined, and disaggregated by sophisticated management information systems, it becomes much easier to present a favorable picture—or an unfavorable one, if the object is to demonstrate a need for further modernization of systems.

Thus the task of oversight of a huge organization whose mission performance is entirely dependent on advanced technology that is seemingly describable only in esoteric language, becomes much more difficult.

This difficulty is also a problem for agency officials, who must struggle to explain their technological resource needs to congressional committees in ways that do not oversimplify and distort them and yet do not conceal the technological and administrative problems involved in meeting congressional mandates. Responding to a large volume of oversight inquiries also reduces the time that administrators can spend in solving problems within their organizations.

#### SSA'S Ability To Implement Changes Mandated by Congress

Social Security as a national program was born in a period of strong party cleavages over having such a federally managed function in our society, but over the next five decades, social security achieved a virtually nonpolitical and bipartisan status. Since the late 1970s, however, there have been a series of debates over the size, scope, and organization of Social Security. It is likely that this debate will continue during the next 5 years, both before and after the 1988 elections.

Some believe that current budget deficits and economic limitations make it essential to cut back on the system of Federal retirement, disability, and welfare programs. Suggested solutions range from turning social security over to the private sector or creating a worker option to select among competing private and public retirement plans, to cutting programs back in scope, benefits, and costs. Others see the Federal program of retirement, disability, and income-support as the hallmark of a just

social order and seek to expand social security into areas such as national health insurance, a wholly nationally administered disability program, or a Federal program for covering catastrophic health care of the elderly. These positions are not necessarily related to party affiliation. Some additional responsibilities have been considered for SSA; for example, a role in proposed immigration regulation.

Most national policy makers, however, probably expect that Social Security will be maintained generally in its present form during the next 5 years, with at most some relatively minor changes in programs or some realignment of SSA'S various administration responsibilities for non-SSA programs. The spectrum of possible changes that might be required of SSA, ranging from no change to radical change in agency status, and their relationship to SMP, are discussed below.

#### Moratorium on Program Changes or Adjustments

One option is to conclude that SSA needs a breathing spell in its operational and systems-development work. As recently as September 1985, a GAO report concluded that SMP software development was not yet improving SSA'S ability to implement legislative changes in programs, although this may no longer be true, since SSA has at least reduced or eliminated most of its backlogs. It has been suggested that Congress avoid making changes for the next 2 years, or until systems modernization is further advanced.

This option is not likely to be acceptable to those who believe that substantive changes are necessary. As one experienced congressional aide put it:

We gave SSA a huge bundle of money for SMP precisely so that it could handle the changes that Congress is going to make in basic social programs. We expect the agency to keep up with us; that's what 'modernization' is all about.

<sup>2</sup>U.S. Congress, General Accounting Office, *Social Security Administration's Computer Systems Modernization Effort May Not Achieve Planned Objectives*, GAO 1 XITEC-85-16, Sept. 30, 1985.

### Another aide added:

We don't forego tax reform because IRS may have computer problems, and we aren't going to lose timely opportunities to improve social security just because SSA has a backlog.

It should be noted that SSA has not asked for such a legislative moratorium. The agency says that progress with SMP has already significantly increased its capacity to fulfill legislative directives.

### Program Simplification

Major and minor program simplifications are possible that could make both computer and field operations easier; for example, simplification of the formulas for recomputing benefits or changes in the earnings test for eligibility. SSA has been working for several years on concepts for formula readjustments to simplify benefits calculations, but is not ready to suggest them. One problem is that they might require compensatory or transition payments to soften the losses to various categories of beneficiaries. Proposals for program simplification changes may however surface in the next 5 years.

### Program Modifications

Several congressional and administration sources provided a "shopping list of program modifications that various interest groups or Members would like to see enacted. These included restoring eliminated benefits to student dependents of deceased, retired, or disabled workers; expanding retirement coverage to State and local employees; including partial disability under SSA coverage or expanding rehabilitative or work-reconnection efforts; addressing women's equity problems through measures such as earning-sharing between husband and wife; and correcting the "notch" or "inequity" problem that arose between beneficiaries born pre- and post-1916, as an unanticipated consequence of formula changes made by the 1977 amendments. Such new or expanded programs would produce a temporary burst of additional work to make necessary changes in benefits formulas, and might

delay ongoing redesign of processes or require further redesign. Each proposed change should be carefully studied in advance to determine what resources SSA would need to make the changes, in the context of already scheduled work force reductions.

One major program change recently under discussion is that of complete federalization of disability programs, instead of the current arrangement under which States make disability determinations.<sup>4</sup> State determination of disability (Disability Determination Services, DDS) shows great variability in quality and accuracy, in procedures and organizational structure, and in physician participation. In the recent effort to purge disability rolls (see below) some States refused to do reexamination under SSA guidelines. GAO has advised the Congress' that:

From a purely operational perspective, a totally federal structure for disability determination appears to be the preferred option.

It would give SSA direct control and accountability; eliminate State political influence; provide greater organizational uniformity; assure standardized salary and qualifications for personnel; eliminate the time spent in negotiating with States on compliance; allow closer working relationships between district offices and determination units; and allow SSA to select the number, location, and size of offices.

GAO has advised Congress that federalization of determinations would be likely to add a large number of employees to Federal rolls (11,000, according to GAO assumptions about productivity). It could also cause the loss of some trained and experienced examiners who chose not to work for the Federal Government, and would make the determination process vulnerable to Federal hiring freezes or other budgetary measures. Claims processing might be

<sup>4</sup>Under the Disability Insurance Program of 1954 and the Supplemental Security Income Program of 1972 Congress mandated State responsibility for determinations of disability, with oversight by SSA.

<sup>5</sup>U.S. Congress, General Accounting Office, *Current Status of the Federal/ State Arrangement for Administering the Social Security Disability Programs*, Report to the Honorable Jim Sasser, U.S. Senate, HRD-85-71, Sept. 30, 1985.

disrupted during the changeover period, and a new policy and system for purchasing medical services might have to be developed.

GAO did not address the possibility of incorporating the determination process into existing SSA field offices, rather than maintaining separate facilities; thus it did not speak explicitly about the effects of federalization of the process on the level of demand on SSA computer and telecommunication systems, or the effect of these systems capabilities on productivity of determination examiners and support personnel. These questions would have to be addressed in further analysis of the effects of this program change on SSA technological and personnel resources, and on the quality of future disability determination services.

## Non-Social Security Program Developments

SSA could be asked to take over administrative responsibilities for new non-SSA programs, as has happened repeatedly during its history. Under national immigration reform, for example, employer access to SSA for verification of job applicant identities could be mandated. If SSA were given this role, there would be pressure to enhance the accuracy of SSA records, such as matching accounts with death records to detect invalid accounts, and identifying accounts used by more than one person. This could represent a significant volume of additional work for SSA, especially without an integrated database in place; it would probably require the development of entirely new software systems.

## SSA AND ITS EMPLOYEES: LABOR-MANAGEMENT RELATIONS

SSA began its SMP with hostile labor relations, in large part due to the deteriorating working conditions and heavy overtime demands of the 1970s. In the early 1980s labor and management refused to negotiate a contract for 18 months, and ultimately accepted some compromises (December 1981) only with great bitterness on both sides. Since then, the union has filed up to 800 unfair labor practice charges each year. Until 1983, the labor relations management of SSA would not even call the union, for fear of being misquoted or maligned.

Both SSA and its union agree that SMP will lead to new levels of productivity. The question is whether this will be used to enhance service levels, improve the quality of worklife, and raise the skill levels of workers; or whether the productivity gains will be used solely to reduce the size of the work force, speed up work, and lower skills requirements and status of jobs.

This debate is not merely between SSA and the union. Also involved are Administration policies, congressional interests, the stakes that other unions have in office automation issues, the interests of SSA'S contractors and

vendors and those who would compete for awards if SSA operations were contracted out, and the interests of those who depend on SSA'S services—the beneficiaries.

The relationship between the union and SSA is buffeted by the maneuvering of all of these parties. OMB pressure on SSA to drop 17,000 employees over 6 years, and to privatize operations equivalent to 8,600 jobs, as discussed below, are good examples. As SSA managers readily acknowledge, in the recent past, only the extraordinary efforts and commitment of SSA workers have allowed the agency to surmount repeated crises in its operations. But SSA must of course respond to the Administration and Congress as they look for a return on what will by 1990 be the billion dollar investment in SMP. Under these circumstances the management is under great tension, and many employees are resentful and suspicious.

A union official estimated as early as mid-1984, that SSA workers were facing a net reduction of 10,000 field office jobs, one-third of this work force, with virtual elimination of the position of data review technician and changes in the claims representative job (some

managers were calling for its elimination and replacement by clerical staff).<sup>s</sup>

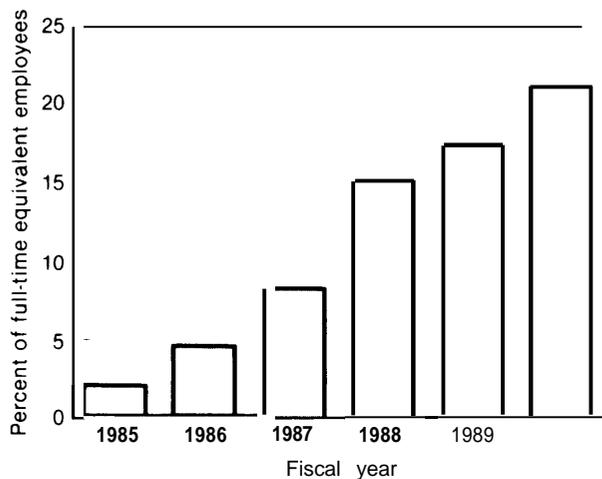
These expectations proved justified; the net job loss in 1985, as reported by SSA field offices to GAO, was 949 full-time equivalent jobs, or 2.4 percent of all 1984 jobs<sup>t</sup> (see figure 6). This included 297 data review technicians, 275 clerical positions, 329 claims representatives, 86 service representatives, and 140 nonceiling employees or other positions. This was a total of 1,127 jobs eliminated, but 178 "other positions" were created, including 123 joint data review technician/service representative positions.

On the other hand, it was also predicted that many of the 1,386 SSA field offices would be closed. SSA is reviewing the status of these offices, but as of February 1986, the 228 reviews that had been conducted had not resulted in any closings.

<sup>s</sup>According to a letter from John Harris, Special Assistant to the National President of the American Federation of Government Employees (AFGE), July 1984.

<sup>t</sup>U.S. Congress, General Accounting Office, *Social Security: Actions and Plans To Reduce Agency Staff*, briefing report to congressional requesters, HRD-86-76BR, March 1986.

**Figure 6.—Cumulative Percentage Reduction of Full-Time Equivalent Employees From 1984<sup>a</sup> to 1990 in the Social Security Administration Staff by Fiscal Year**



<sup>a</sup> In 1964 there were 83,588 employees in SSA

SOURCE U S Congress, General Accounting Office, *Social Security Actions and Plans To Reduce Agency Staff*, USGAO/HRD.8(76BR, March 1986

Under the Civil Service Reform Act (CSRA), management retains the right to introduce new technology and to change jobs and work methods. The union cannot force SSA to bargain on technology adoption or work standards. But the CSRA does require management to announce its plans and give the union an opportunity to bargain over the means and conditions of proposed changes. The union can force management to pay attention to working conditions, health and safety concerns, retraining, skill levels, and job classification.

Some observers say that this gives the union a way to slow down, impede, and even prevent SMP from proceeding if it so chose, at least long enough to stir up the ire of Congress and the public and bring the whole project down. On the other hand, the union has not opposed new technology nor does it want SSA to fail. Workers have generally not complained about the advent of new technology; rather, they complained about the terrible workloads imposed by new programs for which the agency was unprepared, the lack of technology with which to handle this workload, and the demands on workers to work overtime.

These tensions led management and labor to try a new approach, in the common recognition that both union and management need to make SMP a success. In 1985 SSA and the union reached an unusual agreement, which mirrors the recent agreement between the UAW and General Motors in GM's Saturn Car Division in Tennessee. The similarity is more than superficial; key advisors to SSA and the American Federation of Government Employees were also key advisors to UAW and GM.<sup>†</sup>

"The Joint Statement of Common Purpose," was signed at SSA in September 1985. Its objectives are to avoid the degradation of work, to enhance the quality of working life, and to create a three-tiered management-labor structure for future shared decisions. It explicitly avoids trying to change the statutory requirements of the relationship between manage-

<sup>†</sup>They were: Irving Bluestone, retired Vice President of UAW; and Dutch Landon, retired Quality of Work Life Director at General Motors.

ment and labor, although the CSRA did not envisage labor-management cooperation at this level. In other words, the agreement will permit both collective bargaining and cooperation of a new kind.

As the union president described the agreement:

... both sides put away "business as usual" and go into a partnership, a joint action based on common interests and objectives, to look at what is going to happen to the workplace, the work, and the worker as this automation is brought about. . . . [W]here collective bargaining is the best remedy to the problem, we shall do it. But we will seek in the main to solve our problems together as co-equals and not as adversaries.

The three-tiered structure consists of an executive committee level (which will include the SSA Commissioner and the head of AFGE, a project level, and a workplace level.

The Joint Policy Committee agreed on the following guidelines:

- the process (development, implementation, and oversight) will be joint and co-equal,
- employee participation at the workplace level will be completely voluntary,
- innovations that result from the joint process will not result in the loss of job or pay of any employee,
- the joint process is independent of the labor agreement and is not a replacement for collective bargaining or the grievance procedure,
- training and resources will be provided,
- the joint process will not be used as a bargaining chip, and
- either party may withdraw from the joint process.

The policy committee chose three projects to work on immediately; including the effects of the claims modernization process, issues related to use of visual display terminals (VDTS), ergonomic furniture (i.e., desks and chairs espe-

cially designed for comfortable support while working), and related workplace issues. Each of these projects was to be developed project team with links to working teams of management and labor at the operating level and to make recommendations to the policy committee.

Most observers feel that the success of this agreement is essential to carrying out SM P. But in spite of the agreement, the union expects "displacement and disruption to be the norm in the implementation of SM P. A union official notes that:

A rupture of the work force such as widespread job loss or reassignment can be avoided. But only if a comprehensive program is adopted to re-design field offices, one which starts with the premise that all workers will be given useful jobs with similar skills or will be retrained and no one will be laid-off or downgraded. With such a program the phasing in of automation will be conducted with the worker in mind, not as an after-thought. . . . This is the greatest challenge to the union and management because it puts both into a new relationship at a time when neither trusts the other. 9 (Emphasis added.)

It is clear, however, that this objective, interpreted literally, conflicts directly with the objective of reducing the work force to justify investment in information technology. The joint agreement could in theory provide a mechanism for compromise on this issue while cooperatively working toward other goals such as improved quality of the workplace. But by May of 1986 the joint agreement appeared to be breaking down. According to workers, announcement of appointment of a new commissioner weakened the influence of managers who supported the mechanisms and thereafter there were no meetings of the committees. Union members believe that the appointment signals a new determination by OMB to force drastic job eliminations, and they charge SSA managers with "passive acquiescence."

<sup>9</sup>Letter of Kenneth Blaylock, President, to the union locals, June 3, 1985, quoted by permission.

<sup>9</sup>Harris, letter, op. cit.

## SSA AND ITS CLIENTS: ISSUES OF DEBT COLLECTION AND FINANCIAL MANAGEMENT

SSA'S relationships with its clients, and its public image, have been adversely affected by its response to the government initiative for improved debt collection and financial management. As information technology allows the agency to become more efficient in this area, more judicious management techniques will be necessary to avoid unnecessarily eroding the trust that beneficiaries still have in the agency's operations.

In 1981, the President ordered tough enforcement of the Disability Amendments Act of 1980, which led to summary termination of over 1 million disability beneficiaries, causing a huge backlog of work for SSA. Rigorous enforcement, by the Administration, of this act and the later Debt Collection Act of 1982 subjected SSA to bitter criticism in the press and among its constituents and traditional supporters. Continuing and future efforts to improve debt collection and financial management, and reduce fraud and waste, are likely to be affected by the resentment that resulted from this initiative.

During this period the political climate for SSA was complicated by the fact that the two Houses of Congress were controlled by different parties, and thus oversight committees emphasized somewhat different priorities and directives. Members of some oversight committees were pressing for greater assurance that service levels would be improved as a justification for investment in systems modernization. Members of other committees wanted greater assurance that no effort was being spared to reduce costs. Members of both parties and both Houses emphasized the need for better management, greater efficiency, and strict accountability. These pressures affected SSA'S response to the President's initiative, at a policy level; at the operational level, there were further difficulties. While the Disability and Debt Collection Acts were increasing the workload, a hiring freeze was imposed on SSA, as well as other agencies, in 1982.

Under Public Law 96-265, Social Security Disability Amendments of 1980, the Secretary of HHS was required to review the status of all nonpermanently disabled DI beneficiaries every 3 years, beginning in 1982. Until then SSA had reviewed only a small percentage (about 150,000) each year, primarily those expected to recover from their disability and those voluntarily reporting either improvement or gainful employment. But GAO had estimated that as many as 20 percent of those on the rolls might not meet the legal definition of disability.<sup>10</sup> The Administration therefore ordered stringent actions to purge the rolls.

In order to spread the workload on the States (which make the original disability determinations), SSA began implementing the reviews 9 months earlier than the statute required. Of 1.2 million cases reviewed, 500,000 beneficiaries were summarily dropped from the rolls. This brought about a flood of protests and appeals, which only increased when 200,000 of the 500,000 were reinstated by appeal to administrative law judges, the first level of appeal. Many congressional hearings were held to consider these developments.<sup>11</sup>

Those who had been dropped from the rolls stopped receiving benefits, until Congress passed stopgap legislation in 1982 (Public Law 97-455) to allow them to continue receiving benefits while they appealed. About two-thirds of those who had been dropped from the DI rolls were eventually reinstated. The courts, and the

<sup>10</sup>For background, see Social Security Administration, office of Legislative and Regulatory Policy, *Social Security Disability Amendments of 1980: Legislative History and Summary of Provisions*, Social Security Bulletin, April 1981; and "Social Security Disability Benefits Reform Act of 1984: Legislative History and Summary of Provisions," Social Security Bulletin, April 1985 (both listed as SSA Pub. No. 13-1 1700); HHS News Release of Apr. 13, 1984, no title; and *New York Times*, Dec. 6, 1985.

<sup>11</sup>Most recently: U.S. Congress, *Government Representatives: Advocates or Adversaries?* Hearing Before the House Select Committee on Aging, 99th Cong., 1st sess., Mar. 18, 1985, Boston, MA.

States, raised serious concerns about the criteria used for “medical improvement,” and especially the criteria used in mental impairment cases and in evaluation of pain. The Administration adopted a policy of “nonacquiescence” in certain cases; in other words, SSA would not apply court decisions about its criteria and procedures in other judicial districts but defended its practices district by district, case by case. (This policy was rescinded in early 1985.)

By 1984, the disability review process had all but collapsed, with half of the States either refusing to administer the reviews or under court order not to do so. In April, HHS Secretary Margaret Heckler ordered suspension of the disability reviews ‘until new disability legislation is enacted and can be effectively implemented.’ She also ordered SSA to resume benefit payments to those in the process of appealing.

SSA had suffered a severe blow to its esteem with the public. An internal SSA memo acknowledged that “the agency’s credibility before the Federal courts is at an all-time low.” The official SSA position is that the harshness of its administration of the amendments was inadvertent and a startup problem; it says:

... a great many administrative changes were made beginning in 1982 to deal with these criticisms. Thus the disability legislation as finally enacted, in 1984, reflects, in part, the evolution of the CDII administrative process since 1981.<sup>11</sup>

The congressional response to the problem was the Social Security Disability Benefits Reform Act of 1984 (Public Law 98-460). It per-

<sup>11</sup>Social Security Administration, Office of Legislative and Regulator Policy, “Social Security Disability Benefits Reform Act of 1984: Legislative History and Summary of Provisions,” *Social Security Bulletin*, April 1985, SSA Pub. No. 13-11 700.

mits termination of Disability Insurance benefits only if there is “substantial evidence of medical improvement sufficient to allow the beneficiary “substantial gainful activity,” or new medical evidence that vocational therapy or technology makes him or her able to work, or that the original impairment was not as disabling as it was originally considered, or the original determination of eligibility was in error.<sup>13</sup>

In 1983, similarly tough enforcement of the Debt Collection Act led to withholding all social security payments to beneficiaries who had received overpayments, as opposed to the accustomed procedure of withholding no more than 25 percent of benefits until overpayments were repaid. In addition, the U.S. Treasury used direct electronic debiting of beneficiary bank accounts with no prior notice (‘Treasury recovery’). This could seriously jeopardize recipients with no other resources.

These actions kept telephones ringing in congressional offices as beneficiaries complained, and the flood of inquiries and protests to SSA district offices resulted in reduced attention to servicing other clients. It also caused distortion in SSA management behavior, because local administrators were given pay raises or promotions based on the amount of debt they collected.

The controversy over these enforcement procedures appears to have added to the fierceness of the controversy over systems modernization, even though there is little logical relationship between the two. Critics repeatedly point to these episodes as illustrating a commitment to efficiency at the cost of socially desirable service to the public.

<sup>13</sup>On Dec. 6, 1985, the Administration announced that SSA would again begin the review of all 2.6 million disability benefits accounts. *New York Times*, Dec. 6, 1985.

## **SSA AND THE ADMINISTRATION: INDEPENDENT STATUS AND PRIVATIZATION**

### Possible Independent-Agency Status for SSA

On July 22, 1986, the House of Representatives voted 401-0 to make SSA an independent agency, as it was in its first few years of existence ( H.R. 5050). This bill was referred to the Senate Finance Committee 2 days later.

Making SSA an independent agency with only the core functions of retirement, disability, SSI, and possibly Medicare was recommended by the National Commission on Social Security in 1981. The National Commission on Social Security Reform, in 1983, called for a congressional study of how this could be accomplished, and a panel headed by former Comptroller-General Elmer Staats conducted a study of this recommendation for Congress.

In June 1984, the panel outlined a design for a new Social Security agency, which would have SSA headed by a single administrator appointed for 4 years, with a nine-member bipartisan advisory board. The administrator and board would have greatly strengthened management authority, including delegated authority over personnel, facilities, and computer systems.

Hearings on the Staats Plan were held in July 1984. Support for the plan came from some influential members of Congress, AFGE union leaders, SSA local and regional office managers and pro-social-security interest groups. Opposition was registered by Acting Commissioner Martha McSteen<sup>1</sup> and former SSA Commissioner Ross. In late 1984 the independent agency proposal appeared unlikely to pass. But unexpected political impetus for the proposal arose in the House in the summer of 1985, in reaction to the Administration's proposed reduction in the SSA work force and the closing of some local offices.

<sup>1</sup> Former HEW Secretary Wilbur Cohen commented that her position was "that of OMB, not necessarily her own."

Hearings were held on H.R. 825, a bill to make social security "off budget" and place it within an independent agency, in September 1985.<sup>1</sup> (The Social Security Trust Fund has since been moved off budget.) Advocates of an independent SSA argued that independence would help shield SSA from the full force of OMB demands for a cutback and help it resist demands for excessive contracting out of work. Some hoped that the threat of such legislation would itself soften OMB pressure, since removing SSA from DHHS would take away about 60 percent of DHHS'S budget and staff and leave some social programs related to core SSA functions in DHHS without coherent administration.

An "independent SSA" bill with 165 cosponsors was reported out by the House Ways and Means Committee and unanimously passed by the House in late July of 1986. (The measure is now before the Senate Finance Committee.) This Budget and Administrative Reorganization Act differs only slightly from the Staats Panel recommendations. It would separate SSA from DHHS; the agency would be governed by a three-member Board, nominated by the President and confirmed by the Senate. The board would be responsible for the Trust Fund, make budget recommendations to Congress, and make policy recommendations to Congress and the President. The members of the board would serve staggered 6-year terms, and no more than two could be of the same political party.

There would be a similarly appointed Commissioner as chief operating officer, who would serve a 5-year term, and who would be specifically charged with developing and implementing a long-range plan for advanced automated data-processing systems. There would also be an Inspector General, and a Public Ombudsman to represent client/beneficiary interests.

<sup>1</sup> U. S. Congress, *Back to Basics: Social Security Off-Budget and Independent*, Hearing Before the House Select Committee on Aging, 99th (Tong., 1st sess., Sept. 9, 1985).

As the Staats Panel recommended, the proposed SSA would (initially for an 18-month demonstration period) have broad delegated authority over personnel management, facilities management, and ADP contracting and management. SSA would carry out only its primary programs: old age, survivors and disability insurance, and supplemental security income programs.

Opponents of independent-agency status for SSA say that it is unnecessary since Congress has now helped clarify SSA responsibilities and provided solid appropriations for SMP. SSA, they argue, needs a period to consolidate organizational changes, provide personnel stability, and restore the confidence of beneficiaries and account holders in SSA services, Cutting Medicare and Medicaid loose while access to SSA records remains vital to determinations of eligibility, would be disruptive. Taking SSA out of DHHS, according to opponents, would:

1. remove policy coherence for the different Federal social-welfare programs;
2. deprive SSA of representation and advocacy within the Cabinet; and
3. by removing essential oversight from DHHS and the General Services Administration (GSA), potentially allow SSA to drift back to its old "hardware orientation."

Supporters see independent status as a means of recognizing social security's special status as a trust program, and giving SSA management freedom from alleged DHHS interference, GSA neglect, and OMB constraints that do not accord with congressional priorities. With "extraneous" social welfare programs removed, SSA would be able to concentrate on its major programs the professional resources that have frequently been tapped to support "non-Social Security programs." A bipartisan board could concentrate on long-range planning, policy development, and liaison with Congress and the executive branch, while the Commissioner concentrates on administration and information systems.

The strongest motivation for some supporters of independent status for SSA is their suspicion that information about SSA resource needs, progress in modernization, and ability to carry out congressional mandates, is filtered through executive branch agencies that want to justify budget cuts, possibly at the cost of reduced services. They argue that independent status would make possible more effective congressional oversight,

Meanwhile, the whole concept of independent agencies has come into renewed dispute as an indirect result of the Gramm-Rudman-Hollings Act and the February 7, 1986, ruling by the U.S. Court of Appeals. The Court struck down key provisions of the act on the grounds that:

. . . the powers conferred upon the Comptroller General . . . are executive powers, which cannot constitutionally be exercised by an officer removable by Congress. . . .

This has been interpreted by some commentators as applying to independent agencies, particularly since the court observed in passing that:

It is not as obvious today as it seemed in the 1930's that there can be such things as genuinely "independent" regulatory agencies, bodies of impartial experts whose independence from the President does not entail correspondingly greater dependence upon the committees of Congress to which they are then immediately accountable; or indeed that the decisions of such agencies so clearly involve scientific judgment rather than political choice that it is even theoretically desirable to insulate them from the political process.<sup>16</sup>

<sup>16</sup>United States District Court for the District of Columbia, order filed Feb. 7, 1986, in Civil Action No 85-3945 and others, p. 40.

The first independent agency was the Interstate Commerce Commission, in 1887; since then a number of agencies, primarily of a regulatory nature, have been created with this status. Although executive branch agencies, they report to both the President and Congress, and their heads serve fixed terms, and can be removed only "for wrongdoing." Their constitutional-ity was upheld in 1933 (11 Humphrey's Executor). The Office of Legal Counsel, in the Department of Justice, has several times raised the issue of the constitutionality of independent agencies.

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The District Court did not say that all independent agencies whose heads have fixed terms and are not removable by the President were unconstitutional. It based its ruling on the fact that the law governing the Comptroller General's removal from office before the expiration of his fixed term says that it may be done by joint resolution of Congress (for certain listed causes), as well as by impeachment, which applies to all U.S. officials. Nevertheless, this ruling, if confirmed by the Supreme Court, will probably strengthen the opposition to independent status for the Social Security Administration, a nonregulatory agency which clearly performs executive (administrative) duties. (Under H.R. 5050 both the Social Security Board and the Commissioner are to serve for fixed terms and cannot be removed by the President. )

Regardless of the outcome of this issue, the questions will remain as to:

1. the justification for giving independent status to SSA,
2. whether this would make congressional oversight more or less difficult, and
3. whether it would solve basic management problems within SSA.

Independent-agency status would not solve the problems associated with systems modernization and congressional oversight. First, some factors or constraints would remain, or be only partly removed. OMB would still exercise oversight on behalf of Presidential policies. Recruitment of expert staff would still depend on improving the professional climate for programmers and systems staff, and as civil servants they would still be subject to Federal pay scales. Legislation designed to assure competitiveness in procurement would still apply.

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cies. Theodore Olson, who headed this office during President Reagan's first term, has filed suit challenging the constitutionality of the Federal Trade Commission. These challenges turn on the point of the constitutional principle of separation of powers and the President's inability to dismiss the heads of independent regulatory agencies although they are within the executive branch. In 1976 the Supreme Court ruled that the composition of the Federal Elections Commission was unconstitutional for this reason.

Secondly, Congress would not necessarily be assured of better information about SSA information technology management, since executive branch constraints on SSA statements to Congress have not been the only factor in oversight problems, as already discussed.

It is clear from SSA'S recent history that the extreme instability of leadership during the 1970s contributed greatly to SSA'S difficulties in solving its internal problems; it is less clear that frequent changes in leadership (and the frequent reorganizations related to them) caused the problems. They could be viewed, alternatively, as unsuccessful efforts to solve those problems. At least as strong a case can be made that the long stability, insularity, and defensiveness of SSA'S middle and upper management caused SSA to fall behind in meeting the technological imperatives with which all large data-handling organizations were struggling.

It is also clear from SSA recent history that it has suffered from conflicts in priorities, if not policies, set by the Administration on the one hand and Congress on the other; and to some extent from conflicts in priorities of the various oversight committees. This is however a problem that is inherent in our form of government (indeed, was deliberately built into our Constitution), and it becomes acute for nearly every agency at some time or other. Independent status cannot be practical as a general solution, and in each specific instance it carries with it the risk of introducing unnecessary incoherence and irrational variation in policy formulation and administrative procedures. SSA may also have suffered from lack of a strong direct voice in Administration policymaking (since DHHS must speak for many disparate and quasi-independent components); independent status would not solve this problem but instead would worsen it.

Finally, at times, SSA communications to Congress about problems or resource needs were constrained by considerations of Administration policy and political initiatives. However, this has not been the sole source of oversight problems. SSA defensiveness and fragmented congressional oversight responsi-

bility have also played a part, as have the inherent uncertainties in technological development. Under these circumstances, it seems that independent status for SSA would not in itself greatly facilitate the oversight process.

However, Congress may conclude that reduction of SSA work force and/or closing of field offices at this stage of systems modernization would degrade service to clients to an unacceptable degree, or would cause the re-appearance of the problems of the late 1970s, or would render SSA unable to respond satisfactorily to congressional mandates—any of which outcomes would discredit the Systems Modernization Plan and discourage further efforts to carry it to completion. In that case, independent status would be a more attractive option.

#### Privatization of or Contracting Out Major SSA Operations

The Administration is currently pressing executive agencies to implement OMB's policy directive, Circular A-76, instructing agencies to contract to private sector organizations those Federal operations that could be done more cheaply outside of government. In a memorandum dated July 25, 1985, DHHS directed SSA to develop a plan to contract out the equivalent of 8,600 full-time positions. Those under consideration include the processing of Annual Wage Reporting now done at SSA Data operation Centers; the filing and mail work done in handling SSI folders; and the operations of SSA'S National Computer Center where the central beneficiary records are maintained.

There are serious management issues to be considered. It is likely that much time and money would be needed for a private firm to learn the operations and functional requirements of the SSA system. Particularly with functional requirements still poorly defined, computer services firms would incur a significant risk in bidding without assured funding up front for startup operations. Government contracts must be recompleted regularly, and any change in contractors would mean an additional learning period.

The size of the social security programs is also a concern. Relatively few contractors might be in a position to successfully deliver systems/capabilities of this magnitude; and therefore the level of competition might be low.

The union that represents SSA workers, AFGE, is of course bitterly opposed to the concept and is calling on labor organizations to oppose any such 'despoiling' of the public social security system. Adding further to the strong perception of job insecurity} would further erode morale among SSA employees and increase management problems.

There is a broader concern over whether the competence and the commitment of SSA workers can be matched by those of contractor organizations. The valuable experience that SSA workers have built up over many years has often been the saving grace that allowed the agency to cope with a sudden~ expanded volume of data processing or repeated systems failures. In a crisis, SSA often calls on loyalty and dedication over and above the call of duty to get the work done, and dismissal of these Federal workers now would be unwelcome to many in Congress, as well as to many SSA managers.

There are major concerns about the wisdom and long-term effects of having an essential and highly visible Federal function such as administering the SSA database in private hands. Turning over sensitive and privacy act protected records on 160 million Americans to a private contractor would probably be sharply resisted by bipartisan groups in Congress who see the social security system as a public trust and would not trust these records in private hands. SSA is responsible for a significant fraction of all Federal expenditures—roughly 15 percent. The question of public trust in the accountability of the Administration of these expenditures must be considered, as well as the quality of services that can be assured, when the temptations of for-profit operations are combined with the possibilities for fraud inherent in government contracting.

On the other hand, OMB and GAO have found that in many cases privatization of gov-

ernment services results in significant savings to the taxpayer and/or improved services. OMB Circular A-76 requires that a function that is not inherently governmental must be put into a description capable of being bid on by private companies. In some cases, the government agency is able to show that its costs for providing the services is as low as, or lower than, those in the private sector, in which case the services are not contracted out. This necessity has provided a new and powerful incentive for government agencies to make their operations cost-effective.

SSA'S management maintains that applying Circular A-76 to SSA operations will not necessarily result in contracting out these services, because the systems modernization has, or will eventually, make the agency's performance so highly efficient that SSA could become the lowest possible bidder. SSA officials profess not to believe that they would lose a competition for carrying out their data center, program service center or National Computer Center operations, and thus do not see the requirement of conducting an A-76 exercise as leading inevitably to contracting out. Some observers, however, fear that some companies in the private sector, paying low wages and anxious to get SSA operations as a high-visibility advertisement, would underbid SSA.

It has recently been proposed that determination of disability status, which is now done not by SSA directly but by the States, be privatized. GAO found that privatization of Disability Determination Services (DDS) would make the determination process less vulnerable to budgetary restrictions and hiring freezes, would improve Federal control and eliminate State political and governmental influences, and provide greater flexibility in selection of location and size of offices.<sup>17</sup> These functions

<sup>17</sup>See U.S. Congress, General Accounting office, *Current Status of the Federal/State Arrangement for Administering the Social Security Disability Programs*, Report to the Honorable Jim Sasser, U.S. Senate, HRD-85-71, Sept. 30, 1985. In establishing the Disability Insurance Program, in 1954, and the Supplemental Security Income Program, in 1972, Congress provided that the States should make determinations related to disability (Disability Determination Services, or DDS). There has always been great variability among the States in terms of rates

would also probably cost less than alternatives (either the current arrangements, or complete federalization), if the productivity levels of the 10 most productive State DDS organizations were assumed to apply. However if the average State productivity now is assumed to apply, personnel costs would be \$13 million higher than current costs.

In addition, GAO pointed to some disadvantages: the time necessary to get contracts planned, awarded, and operational, the possible loss of expertise developed by (current) DDS examiners, and possible disruption of claims processing during the changeover. Finally, GAO noted that there is a potential conflict of interest if a contractor also administers private disability plans tied to SSA determinations; and that it may be difficult to find competent contractors who are not already administering such plans. If more than one contractor were involved—for example, a different one for each State—there would inevitably be disparities in costs and quality of performance. Further, the necessity of recompleting the contract periodically would imply recurring periods of potential discontinuity, disruption, changes in procedures and very likely in quality, and investment in contractor learning and experience.

GAO did not, in this report, address the question of whether the level of competition for such contracts would be adequate to assure high performance and achievement of other congressional objectives, although the GAO report did ask, but did not attempt to answer: "Are there enough private entities able to process the disability cases?" GAO also raised but did not discuss the significant policy question: "Should a major federal program with a very complicated process and the obligation to pay about \$23.5 billion a year in benefits, be operated by the private sector?"

— of accuracy, medical consultative examination procedures, physician participation, employee standards and salaries, etc. During the initiative to purge disability rolls (described above, also see ch.7), some States refused to cooperate. The Social Security Act of 1980 strengthened SSA control and oversight of DDS. There have subsequently been proposals both to fully federalize it and to privatize it.

These issues argue that the question of whether SSA operations should remain in the public service or be contracted out should be

seen as a matter of social policy, rather than as a narrow question of competitive bids and cost-effectiveness.

## SSA AND THE PUBLIC: ISSUES OF DATA PRIVACY AND SECURITY

SNIP has not had a direct effect on privacy or on freedom of information, but it raises many issues for the immediate future, and exacerbates some older issues. Congress and the Administration are currently emphasizing the efficient collection and sharing of information to reduce fraud and waste. SSA accordingly is participating in many data-sharing and computer-matching programs. It is anticipated that SMP, when implemented, will affect these programs by: 1) increasing their number, by making them easier or less costly; 2) encouraging their use for front-end verification (that is, original determinations of eligibility for benefits programs); and 3) facilitating the electronic exchange of information, including "hits" or successful matches, over long-distance wires, cables, or satellite transmissions. Civil libertarians are concerned because data-sharing and computer-matching capabilities increase the opportunities for inadvertent or deliberate violations of privacy, and could be misused for government surveillance of individuals.

Throughout its history, SSA has had an excellent record of respect and care for the privacy of its clients. Recently, however, the increased emphasis on reduction of fraud and improved debt collection sometimes comes into conflict with the letter or the intent of legislation designed to protect the privacy of citizens. For example, the privacy of tax information is protected by the Internal Revenue Code, Section 6103, 26 U.S.C., which permits disclosure only by consent of the individual, and clearly spells out the meaning of consent as "voluntary action." The following notice, taken from an SSI application form, preemptorily demands from the client tax information to be used in making Supplemental Security Income benefit determinations:

You have a choice about signing this form. But we must have accurate information about your income and what you own to pay your Supplemental Security Income check. If you do not sign the form, your Supplemental Security Income Checks may be affected.

The provision of this information, under the implied duress, is of greater concern to civil libertarians because of the data-sharing and computer-matching activities described below, which means that the information (and errors that it might include) can become widely disseminated, through channels and to destinations that the citizen does not even know about.

### New Information Policy Directives for the SSA

During the 1970s three major themes governed Federal information policy: defining the privacy rights of individuals, defining rights to government information, and defining the rights of individuals to access to and participation in government decisionmaking through eight major pieces of legislation.<sup>18</sup>

The information policy legislation of the 1980s is concerned with different concerns and subjects: reduction of fraud in Federal programs, efficient management of information resources, and reduction of debt owed to government by releasing information to debt collection agencies.

The computer-matching activities of SSA, and the continual sharing of SSA data with other Federal agencies and with State agen-

<sup>18</sup>Fair Credit Reporting Act of 1970, Crime Control Act of 1973, Family Educational Rights and Privacy Act of 1974, The Privacy Act of 1974, Tax Reform Act of 1978, Protection of Pupil Rights Act of 1978, Privacy Protection Act of 1980, Electronic Funds Transfer Act of 1980.

cies, reflects these new priorities. These procedures are a departure in spirit if not in law or administrative procedure from SSA'S traditional policies regarding personal data, set out first in 1935, as described in chapter 5. While these traditional rules allowed data-sharing under some circumstances at the agency's 'discretion,' SSA historically did so only rarely and with reluctance until recent years.<sup>19</sup>

The Privacy Act included an ambiguous provision that agencies should share information only for a purpose compatible with the purpose for which it was originally collected—the "routine use clause. The implied limitation against sharing data was never seriously enforced by OMB.

In the 1970s, GAO reports tended to reflect congressional concerns with invasion of privacy; by the mid- 1980s GAO reports encourage the sharing of information among government programs at Federal, State, and local levels in order to reduce fraud, waste, and costs. Six major GAO reports recommended use of computer-matching and tax return information to reduce fraud and abuse in Federal entitlement and benefits programs (these reports did not focus exclusively or directly on SSA).<sup>20</sup> The sharing of information among agencies was encouraged by OMB interpretation of the routine use clause as covering any use published in the *Federal Register*. The President Council on Integrity and Efficiency (PCIE) and the Grace Commission were established in 1980 to assure that Federal agencies

use modern business methods to reduce costs. PCIE was, in particular, designed to increase the use of government computer matching programs.

These new initiatives have put pressure on SSA to engage in aggressive debt collection practices, and caused SSA to move strongly to establish a Federal parent locator system and a series of data exchanges with other Federal and State programs.

Concerns about privacy, confidentiality, and freedom of information are likely to grow in the next 5 years, although at present they are overshadowed by concerns about efficiency and productivity, with a resulting emphasis on sharing of Federal data. Legislative proposals to protect due process rights of individuals who are the subject of Federal computer-matching programs and related programs are nevertheless a possibility, within the next 5 years. The need for security, data quality control, and system integrity will continue to grow, and may well be made more acute by the threat of political terrorism. New legislation in this area is possible, especially if there are significant lapses in security or discoveries of fraud.

The major thrust of information policy in the near future, however, may be additional requirements for SSA to share information with other Federal, State, and local agencies. Active political support in both parties for maximizing government use of information will put additional demands on SSA information systems.

### SSA'S Data-Sharing Programs

SSA has important reporting and data exchange relationships with States and localities, other Federal programs and institutions, and private insurers (through its continued administration of Medicaid/Medicare). These relationships are a function of policy and statutorily defined programs. SSA'S major data-sharing relationships are:

- *The Beneficiary and Earning Data Exchange (BENDEX)*, created in 1968 to provide Title 2 information to States for administration of the AFDC programs. This

<sup>19</sup>Many Federal agencies have felt the pressure for increased sharing of data and lessened emphasis on privacy and security concerns; but for a contrasting viewpoint, see Sherry Courtland, "Census Confidentiality: Then and Now," *Government Information Quarterly* 2:4, 1985, pp. 407-418.

<sup>20</sup>U. S. Congress, General Accounting office, *Federal Information Systems Remain Highly Vulnerable to Fraudulent, Wasteful, Abusive, and Illegal Practices*, NASA D-82-18, April 1982; *Actions Needed To Reduce, Account for, and Collect Overpayments to Federal Retirees*, AFMD-83-29, June 1983; *Computer Matches Identify Potential Unemployment Benefit Overpayment*, GGD-83-99, August 1983; *GAO Observations on the Use of Tax Return Information for Verification in Entitlement Programs*, HRD-84-72, June 1984; *Better Wage-Matching Systems and Procedures Would Enhance Food Stamp Program Integrity*, RCE 1-84-1 12, September 1984; and *Eligibility Verification and Privacy in Federal Benefit Programs: A Delicate Balance*, HRD-85-22, March 1985.

is a monthly batch system with transmissions occurring at the request of specific States (not all States are members of the system). There are on average 3 million inquiries per month.

- *The State Data Exchange (SDX)*, developed in 1974 at the time of implementation of Title 16 (the Supplemental Security Income Program), to advise States of the amount of SSI payments, eligibility for Medicaid, and other information to assist in administration of income, health, and food programs. Data is exchanged (usually by magnetic tape) weekly or monthly depending on agreements with a State. There are about 2 million exchanges per month.
- *The State Income and Eligibility Verification System (SIEVS)*. The Deficit Reduction Act of 1984 required the States to develop a verification system for administering federally assisted programs such as unemployment insurance, food stamps, Medicaid, and AFDC. SSA will provide data to the SIEVS from SDX and BENDEX and will respond to State requests for assistance. SIEVS will also be used in social security number verification. SSA in turn will be able to receive information from the States to aid in administration of SSA programs and avoid overpayments.
- *The Tennessee Data Exchange (Model Program)*. This is a pilot on-line data exchange between a Tennessee State welfare agency and SSA; it was designed to speed the provision of SSA data to the State for eligibility determinations.

The upgrade of the SSA systems so far has substantially increased the ability to respond to batch requests from State agencies. Whether in the future SSA capacity will be sufficient to support on-line response to State agency inquiries is still uncertain. The SIEV program in particular will place an additional workload on SSA; when fully implemented, SMP will increase SSA efficiency in meeting the requirements of this system.

## SSA'S Computer-Matching Activities

In modern society, most persons leave a trail of transactions with various institutions—governmental, retail, financial, educational, professional, criminal justice, and others—as discussed in a recent OTA report on surveillance.<sup>3</sup> Before the widespread use of computer-communication systems, linking various kinds of transactions was very difficult, if not impossible, since transactions were paper based and the cost of matching or linking paper records was prohibitive. In addition, the time delay inherent in paper linkages would negate much of the potential surveillance value. The advent of large fully computerized, easily accessible databases, and the ability to exchange and compare data between them, creates a much larger risk of violations of privacy. At present, some government uses of data for purposes other than those for which they were collected, albeit for legitimate government functions of law enforcement and investigation, are being challenged.

Because SSA collects, stores, and uses a large amount of data about individuals—earnings and income, employment records, dependents, home and work addresses, etc.—and matches these data with data about the same individuals from other sources (e. g., State prison systems and welfare agencies), its policies and procedures with regard to individual privacy are of special concern.

Computer-matching is a technique whereby a computer compares two databases to identify overlaps, e.g., individuals for whom both databases have records. The rolls of recipients under one public assistance program, for ex-

<sup>3</sup>Privacy, security, and surveillance issues are a primary focus of a series of OTA assessments known collectively as the Federal Government Information Technology Assessments. Three reports from this study have been published: *Electronic Surveillance and Civil Liberties*, October 1985; *Management, Security, and Congressional Oversight*, February 1986; and *Electronic Record Systems and Individual Privacy*, June 1986. The next few paragraphs draw liberally on these reports, and on responses to a Federal Agency Data Request which was sent out to assist the OTA staff in collecting information for use in these assessments.

ample, may be matched with the rolls of another such benefits program to identify people who are getting multiple benefits. Both databases may include several kinds of information about the person; the match will or can aggregate this information, thus potentially allowing the user to know or deduce a great deal about the subject person. Although the purposes of computer-matching are generally legitimate and justifiable, it also opens the door for misuses of such personal information by government, or by persons who have access to the information and may use it for unauthorized purposes.

There are several questions to be asked about such programs, in addition to the broad issue of whether they are inherently an unjustifiable intrusion on privacy or an unacceptable risk to civil liberties. These include:

- How are computer-matching programs authorized and who is responsible for their use?
- Is the data used strictly and solely for the purpose for which it was collected, as required under the Privacy Act?
- Are these activities cost-effective?
- What assurance is there that the matches, or “hits, are valid, that is, accurate and verifiable?
- What safeguards does the individual have against incorrect “matches” that penalize him or her in some way?

SSA makes liberal use of computer-matching techniques. These matching programs are not specifically mandated by law, but are often recommended to SSA by GAO to increase the accuracy of its determinations of eligibility and benefits amounts. In other cases SSA allows its data to be used by other agencies—Federal or State—for their own purposes. Table 2 shows the major computer-matching programs.

SSA computer-matching is undertaken under OMB guidelines and the conditions are spelled out in written agreements with the cooperating (matching) Federal or State agency. When SSA allows other Federal or State agencies to use its data for matching, these agreements typically contain a set of safeguards:

the files that are used remain the property of SSA and must be returned or destroyed, as appropriate, after use; they may not be duplicated or disseminated without written permission; they must not be used to extract information about “nonhit individuals” (i.e., those who appear only on SSA records); they must be used only by authorized employees under supervision, and those users must be explicitly informed about Privacy Act requirements and OMB guidelines as to protection of privacy.

As can be seen in table 2, SSA generally uses computer-matching to verify the status of claimants or their dependents with regard to benefits programs or to determine whether an individual is collecting a paycheck or another form of assistance. For example, is a beneficiary’s surviving dependent in full-time attendance at a legitimate school or university, in order to qualify for students’ benefits? Is a recipient of disability benefits in prison (in which case benefits are suspended)? Under a pilot program, SSA is matching data with State agencies about interest payments from financial institutions, to assess individuals’ income and resources, for use in Supplemental Security Income determinations. SSA data, conversely, is shared with several Federal and State agencies, including IRS, the Veterans Administration, and the State of California.

SSA does not, as yet, use computer-matching in the original determination of eligibility for a program for new applicants (“front-end verification”). It may do so in the future; no decision on this point has been reached as yet.

The computer-matching programs, it can be argued, are a significant departure from the spirit if not the letter of SSA’S famed Regulation No. 1, issued in 1935, which expressed the agency’s commitment to safeguarding the confidentiality of personal data (see ch. 5). There have, however, been no court challenges to SSA on the grounds of privacy in computer-matching.

SSA has not done any formal cost-benefit analysis of the computer-matching programs, either before or after the matching is run. However, there is usually a pilot run, which gives

Table 2.—SSA Computer-Matching Activities

**SSA data "matched for SSA purposes:***(continuing, annually, unless otherwise indicated)*

Agency matched with	Type of data	For SSA determination
U.S. Department of Education	Full-time attendance status	Eligibility for student benefits
U.S. Department of Education	Student marital status	Continuing benefits
U.S. Department of Defense	Military payments	SSI overpay ments <sup>a</sup>
U.S. Office of Personnel Management	OPM payments	SSI computation
Railroad Retirement Board	RRB payments	SSI computation
U.S. Veterans Administration	VA payments	SSI computation
Various State and Federal agencies	Workers' compensation, State pensions, AFDC, general assistance benefits	Benefit computational
Federal and State prison systems	List of felons	Precluding payments of benefits (Public Law 96-473) <sup>1</sup>
U.S. Office of Personnel Management	OPM payments	Prevention of overpay ments <sup>b</sup>
U.S. Department of Labor	Black Lung reports	Overpayment of Part C Black Lung benefits <sup>a</sup>
Various State agencies	Annual interest income from financial institutions	Overpayments from under-reporting of income/resources (pilot) <sup>a</sup>
State and Federal agencies	Workers' compensation	Overpayments (pilot) <sup>a</sup>
U S. Internal Revenue Service	Income data	Overpayments because of unreported income/resources

**SSA data matched by other institutions for their purposes:**

User agency	Data	Agency's purpose
U.S. General Services Administration	SSA master files	Social Security number validation e
U.S. Internal Revenue Service	SSA data	Administration of Elderly Tax Credit <sup>a</sup>
State of California	SSA data	Eligibility for Medicaid benefits <sup>a</sup>
U.S. Veterans Administration	SSA data	VA offset of SSA Black Lung payments <sup>1</sup>

<sup>a</sup>As needed<sup>b</sup>Twice a year<sup>c</sup>Three times a year<sup>d</sup>Quarterly<sup>e</sup>One time<sup>f</sup>Monthly

SOURCE Office of Technology Assessment, 1986

some indication of whether the matching will be productive, and there is a calculation of systems costs in running a program. The agency says that in preparation for expanded computer-matching when its systems modernization has progressed further, procedures are being developed for systematic prerun and postrun cost-benefit analysis.

Some individuals do lose their benefits, or have them reduced, as a result of computer-matching; otherwise there would be no benefit to the agency (and OMB) in using the technique. SSA goes to some length to verify "hits"; they are checked against the original data on SSA'S tapes or disks, and the subject individual, who has not of course given con-

sent to or been notified of the matching procedure, is given an opportunity to challenge and refute the results.

Benefits that an individual may “lose” as a result of these computer-matching activities are (assuming that the information is accurate) unlawful benefits, that is, benefits to which he or she was not entitled. The real concern of civil libertarians is the possibility that such techniques, and the databases on which they operate, might be used for other purposes, such as surveillance.

### Future Information Systems and Possibilities for Abuse

In 1985, OTA issued a report on the use of computer and telecommunication technology by the Federal Government for surveillance and monitoring of individual behavior.<sup>22</sup> The report said that many new and emerging electronic technologies can be used for monitoring individual behavior, and the use of other electronic technology, such as telecommunication systems, can be easily monitored or recorded for investigative, competitive, or personal reasons. The existing statutory framework and judicial interpretations, OTA pointed out, do not adequately cover new electronic surveillance applications; the law has not kept pace with technological change.

The basic public law for protection of oral and wire communications is Title III of the Omnibus Crime Control and Safe Streets Act of 1968, which predates most of these technologies. Digital communications between computers is not covered by existing statutes, and policy on database surveillance—the monitoring of transactions on computerized record systems and data communication linkages is not clear. The courts have on several occasions noted that the law has not kept pace with these technological changes. Congress in legislating in this area attempts to strike a balance between civil liberties and the needs of domestic

law enforcement and various investigative functions of government.

The technologies that OTA considered include for example, satellite communication systems, digital switching and transmission technology, computer databases, electronic mail, and integrated services digital networks, many of which SSA uses or will be using. Others are less likely to be of use to SSA, although their use at some time in the future is possible. 23 SSA expects to use, but does not now use, teleconferencing, expert systems, voice mail, and optical disks. There are pilot projects now underway to explore some of these techniques. SMP does offer the potential, in the future, of giving people access to their own SSA records through home computers. SSA is not planning for this but several States are considering such plans with selected State record systems.

SSA is not an enforcement or investigative agency, but it is responsible for certain functions such as entitlement determination and debt collection, that could involve surveillance, as well as for safeguarding its data and its transactions, which involves monitoring the use of its equipment and the behavior of its employees. Much sensitive SSA data will flow over leased lines between headquarters and interactive terminals in field offices when the new claims modernization project becomes operable. Satellite communication links are also possible. The new systems that SSA plans to develop to assure the integrity and confidentiality of its data are not yet fully developed.

### Security of SSA Systems

Data in computers and telecommunication systems are vulnerable not only to misuse but to inadvertent loss through systems failure, to theft, or to manipulation or destruction through sabotage or terrorism. The security of information systems against internal or external violations is of primary importance.

<sup>22</sup>U.S. Congress, office of Technology Assessment, *Electronic Surveillance and Civil Liberties* (Washington, DC: U.S. Government Printing office, October 1 1985).

<sup>23</sup>Electronic eavesdropping technology, optical/imaging technology for visual surveillance, sensor technology, civilian band radios and vehicle location systems, polygraphs, voice stress analyzers, voice recognition, laser interception, and cellular radio.

The security procedures at SSA'S National Computer Center are those common at most large ADP centers. Physical security for the facility and for separate rooms and floors is thorough; and data security is safeguarded with standard techniques of personnel screening, restrictions on dial-up access, passwords, and audit trails. Backup battery power and generators are available to keep the computers going for 3 days in case of power outages. SSA says that all records are backed up.

The DHHS Inspector General warned SSA in early 1984 that:

SSA is not prepared for a disaster in the NCC. . . . SSA'S ADP systems are highly centralized in its NCC and operate without adequate backup in the event of critical damage, or worse—a catastrophe. Although there have been attempts made to plan for contingencies, efforts to date have been inadequate. Further, off site backup of data and software is incomplete and untested.<sup>24</sup>

The audit report said that responsibility for contingency planning had not been focused at a high level, SSA had not performed necessary risk analyses, and SSA components "whose expertise is necessary to develop a workable plan" had not contributed to the effort. Subsequently SSA agreed to establish a new security planning work group and assign greater importance to contingency planning. A risk analysis study for the National Computer Center had been done in 1982; but subsequently there have been several additional contractor studies of risk as well as top secret access procedures and audit controls.

None of these security measures apply to the use of microcomputers, outside of the National Computer Center, for example in headquarters and operations buildings, and there are no established security policy or procedures for microcomputer users. While the integrity of data is fairly well assured, privacy may not be.

<sup>24</sup>U.S. Department of Health and Human Services, office of Inspector General, Memorandum to Martha A. McSteen, Acting Commissioner of Social Security, "Audit Report — SSA's Planning for Contingencies in the New Computer Center, ACN 15-42624, Mar. 22, 1984.

As interactive terminals and personal computers are added to field offices, these concerns will become pressing. Access controls are being reviewed and revised as part of SMP, but this work is not complete.

There have been a number of cases of internal sabotage and computer-related crime at SSA, as is perhaps inevitable.<sup>25</sup> SSA says, however, that no known instances of computer crime involved data processors; they occurred earlier in the work process. A typical case is a field office employee inventing a fictitious claimant, or altering information about a beneficiary or a payment amount.

SSA has long been criticized for having inadequate safeguards against unauthorized access to its data. Specifically, it has lacked programmer security controls, internal access controls, and audit trails. Though no computer programmer at SSA has ever been found guilty of fraud against the agency, it has been quite possible for programmers to make changes to pay themselves benefits; unauthorized people could log onto systems; data review technicians in District Offices could enter claims for themselves without leaving an audit trail.

The SMP will: create an audit trail for computer program changes, assign personal identification numbers to claims representatives and local workers, create an audit trail for all transactions, and employ a central security systems package like those used by the military to handle log-on commands and records. However the very rationalization of SSA procedures and the existence of schematics and diagrams mapping the system, pose a threat to security that does not exist now, in that more people may be able to discover how to get into the databases.

<sup>25</sup>In the 4 years before the SMP began, there were at least 46 known cases of vandalism in sensitive data-processing areas, and former SSA officials told Congress of other threats of sabotage that had been received. See U.S. Congress, *Mismanagement of SSA's Computer Systems Threatens Social Security Programs*, 33d Report by the House Committee on Government Operations, Sept. 30, 1982, p. 9. The SSA response to OTA's Federal Agency Data Request acknowledged some (presumably recent) "known instances of crime and abuse" but specified that they did not involve data-processing people.