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General Accounting Office

State Field Offices Are Not Protecting Social Security Beneficiary Information From Potential Abuse And/Or Misuse

Social Security gives personal beneficiary information to States for their use in administering federally financed public assistance programs. State field offices are not adequately protecting such information, and the Department of Health and Human Services (HHS) has not developed a consistent and comprehensive security program for States to use in protecting it. GAO recommends that the Secretary of HHS do so.



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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

MAN RESOURCES
DIVISION

B-200202

The Honorable Max Baucus
United States Senate

The Honorable Orrin Hatch
United States Senate

The Honorable Charles Rose
House of Representatives

On June 5, 1978, we issued a report entitled "Procedures to Safeguard Social Security Beneficiary Records Can and Should Be Improved" (HRD-78-116). Our report identified security and management weaknesses which could lead to potential loss, destruction, abuse, or misuse of beneficiaries' automated and hard copy records maintained by offices using the Social Security telecommunications network--Social Security District Offices, State Disability Determination Services, and certain Medicare contractors. We recommended that Social Security correct the weaknesses.

You subsequently asked a number of questions, some of which were related to our June 5 report. The questions addressed, among other things, (1) Social Security's actions on our recommendations to correct weaknesses in offices using the telecommunications network, (2) security safeguards over beneficiary data provided to State agencies (other than State Disability Determination Services) through the Social Security data exchange programs (not the Social Security telecommunications network), and (3) several matters relating to Social Security beneficiary data given to other Federal agencies.

During a series of meetings with your offices, it was agreed that we would respond to your request by (1) answering the questions relating to Social Security's actions on our recommendations, beneficiary data exchanged with other Federal agencies, and certain other questions in one report; (2) answering questions relating to safeguards over beneficiary information given to State agencies

through data exchange programs in a second report; and (3) briefing your offices on the results of our efforts regarding the other questions. A briefing addressing the other questions (3) was held on March 18, 1981. This report addresses the questions (2) concerning State agencies. In another report, we are responding to the matters raised by questions in (1)--SSA's actions to implement our June 1978 recommendations and data exchanged among Federal agencies.

In accordance with instructions from your offices and because we had requested and subsequently received formal agency comments (dated June 24, 1981) regarding its responsibilities for providing security over personal Social Security beneficiary information given to States, we did not obtain formal agency comments on our draft report. However, we discussed the contents of this report with agency officials and have incorporated their comments where appropriate.

As arranged with your offices, unless you publicly announce its contents earlier, no further distribution of this report will be made until 30 days from the date of the report. At that time, we will send copies to the Department of Health and Human Services and other interested parties and make copies available to others upon request.



Gregory J. Ahart
Director

REPORT BY THE U.S. GENERAL
ACCOUNTING OFFICE

STATE FIELD OFFICES ARE NOT
PROTECTING SOCIAL SECURITY
BENEFICIARY INFORMATION FROM
POTENTIAL ABUSE AND/OR MISUSE

D I G E S T

WHY THE REVIEW WAS MADE

In June 1978, GAO issued a report which identified security weaknesses in protecting beneficiary records maintained in field offices under the stewardship of the Social Security Administration (SSA). GAO recommended that the weaknesses be corrected, and SSA agreed and began action to correct the weaknesses. The report also noted that SSA gives personal beneficiary information to States for their use in administering federally financed public assistance programs. The report stated that GAO's work did not extend to States, and thus, GAO could not comment on whether States provided adequate security over personal beneficiary information. Subsequently, several Members of Congress requested that GAO review the extent of protection over beneficiary information given to States.

FINDINGS AND CONCLUSIONS

GAO found that personal beneficiary data supplied to States are generally not being adequately protected.

For example, data in claimant files were not being controlled by State offices. Access to claimant files by employees in State welfare offices is unlimited and is not based on a "need-to-know." There was poor control over the files--i.e., log-out and log-in procedures were not being used to identify the location of a file during processing.

Photocopy machines are not usually secured during nonworking hours--an employee or an outside intruder could select claimant files, copy the desired information in the files, and remove it from the office without anyone noticing. Claimant files are generally not secured in lockable cabinets, but are stacked around the offices in various locations during working and nonworking hours.

Access to welfare offices is not restricted. Most offices are leased and the landlords generally retain the keys; in addition, persons providing janitorial services also have keys. In many offices there was little control over who had keys to the offices.

Many offices did not have instructions on how to dispose of documents containing personal information. Managers relied on the discretion of employees when disposing of wastepapers containing sensitive data. Some employees tear them up (shred) before putting them in wastebaskets, while others do not. In addition to unmutilated personal information being placed in wastebaskets, copies of computer printouts containing personal information were stacked in hallways, on loading platforms, and in dumpsters located in parking lots. In one State, an employee was selling unmutilated computer printouts for scrap paper to supplement his income; office officials did not know where or to whom the printouts were being sold (see ch. 3).

The Department of Health and Human Services had not developed a consistent and comprehensive security program to be used by States in protecting beneficiary information (see ch. 4).

RECOMMENDATIONS TO THE SECRETARY
OF HEALTH AND HUMAN SERVICES

GAO recommends that the Secretary formulate and establish a firm, consistent, and comprehensive security program for protecting data supplied to State and local entities. Also, the Secretary should, if deemed necessary, seek the advice of the Department of Justice to resolve any legal problems encountered in formulating and establishing such a program.

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ABBREVIATIONS

AFDC Aid to Families with Dependent Children
BENDEX Beneficiary and Earnings Data Exchange
GAO General Accounting Office
HCFA Health Care Financing Administration
HHS Department of Health and Human Services
SDX State Data Exchange
SSA Social Security Administration
SSI Supplemental Security Income

CHAPTER 1

INTRODUCTION

In June 1978, we issued a report entitled "Procedures to Safeguard Social Security Beneficiary Records Can and Should Be Improved" (HRD-78-116). This report identified weaknesses in the security over the Social Security Administration (SSA) beneficiary records maintained in field offices under the stewardship of SSA, a component agency in the Department of Health and Human Services (HHS). We recommended that the identified weaknesses be corrected. In August 1978, SSA formally agreed with our recommendations and stated that corrective action was underway.

The June 1978 report noted that SSA submits personal beneficiary information from SSA beneficiary records to States for their use in administering a number of federally financed public assistance programs. We stated that our work did not extend to the actions of the States, and thus, we did not know whether States provided adequate security for beneficiary information. We also stated that SSA officials told us that they too had not extended their review of data security to include State practices.

Subsequently, several Members of Congress asked a number of questions concerning, among other things, the privacy and security of personal beneficiary information in records maintained by SSA. The questions generally involved providing information on (1) what actions SSA had taken in response to the recommendations in our June 1978 report and (2) the protection of beneficiary information turned over to Federal and State agencies. 1/

This report responds to questions focusing on the nature and extent of security safeguards over SSA beneficiary information given to State agencies. The specific questions are:

1/We agreed with the requestors that we would (1) respond to the questions on what actions SSA had taken on our recommendations, the beneficiary data exchanged among Federal agencies, and additional specific information on overall beneficiary records in one report, (2) determine and report on the extent of security safeguards over beneficiary information given to State agencies in a second report, and (3) brief the requestors on the results of our work on the remaining questions. The briefing took place on March 18, 1981.

--"Under the routine use provisions, [1/] what data on individuals is being given by SSA to individual State and local governments?

--"How is the data treated in terms of security and privacy?"

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to answer the above-quoted questions. Our review was performed at (1) the headquarters for HHS, SSA, and the Health Care Financing Administration (HCFA); (2) HHS regional offices in 8 Federal regions; (3) the headquarters for welfare agencies in 14 State governments; and (4) 80 State government field installations. The States visited were California, Connecticut, Colorado, Florida, Georgia, Illinois, Maryland, Massachusetts, Pennsylvania, New Jersey, Texas, Utah, Wisconsin, and Wyoming. These States were located in 8 of the 10 Federal regions and included about 47 percent of the 33.4 million people receiving public assistance benefits. The selection of the States was in accordance with the requestors' instructions, and they were satisfied that the coverage was adequate.

We interviewed officials to identify the flow of beneficiary information in data exchange processes being used by SSA and HCFA, observed security practices, obtained copies of related studies and local laws, and examined records concerning security matters at each of these locations. We evaluated selected technical, administrative, and physical security measures for both manual and automated systems to determine if beneficiary information supplied to State and local entities is properly safeguarded from potential abuse and/or misuse. We did not attempt to identify and evaluate every potential security problem at each location visited.

1/Routine use means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

CHAPTER 2
SUBSTANTIAL AMOUNT OF
PERSONAL BENEFICIARY INFORMATION
IS GIVEN TO STATES AND LOCAL GOVERNMENTS

SSA provides the States, which in turn provide local governments with a considerable amount of personal beneficiary information from its own files and the files SSA maintains for HCFA. The information is then used by the States and local governments to more effectively administer a number of federally financed or assisted programs. These data constitute a large national resource that should be safeguarded against alteration, destruction, abuse, or misuse. For example, SSA and HCFA rely on these data bases for (1) managing their respective programs and (2) assuring that timely and correct benefit payments are made to beneficiaries. In addition to the value of these automated files to the Federal Government, the personal information within each of these files is sensitive and valuable to individuals and their families. A brief discussion of the major responsibilities of the two agencies to provide some perspective of their roles in information management and exchange follows.

Social Security Administration

SSA is responsible for implementing a wide range of income security and public assistance programs. For example, SSA is responsible for administering:

- Retirement and Disability Insurance programs - to provide cash benefits to replace, in part, earnings that are lost to individuals and families when earnings stop or are reduced because a worker retires, becomes disabled, or dies.
- Supplemental Security Income (SSI) programs - designed to provide cash benefits to the needy aged, blind, and disabled.

SSA maintains records for each person with covered earnings who is assigned a social security number, so that earnings histories are readily available when it comes time to establish a person's eligibility and amount of benefits to be received. Nearly 240 million personal earnings records are maintained by SSA. An additional 73 million beneficiary records are maintained by SSA for managing benefits paid on programs authorized by the Social Security Act.

Health Care Financing Administration

HCFA--another component of HHS--makes payments on behalf of individuals entitled to benefits under the Medicare program. This

program provides partial protection against the cost of health care for the aged (65 and over) and disabled. SSA provides several support functions for HCFA including maintenance of files for the Medicare and Medicaid programs. (Medicaid is a Federal and State program that pays for services provided to eligible low income persons.)

MILLIONS OF BENEFICIARY RECORDS ARE
EXCHANGED WITH STATE GOVERNMENTS

Many public assistance programs financed by the Federal Government, such as Aid to Families With Dependent Children (AFDC), Food Stamps, SSI, assistance for refugees, Medicaid, etc., are administered by State governments under separate arrangements for each program.

As discussed below, much of the personal beneficiary information collected by SSA and HCFA to administer their own programs is exchanged with States to assist them in administering federally financed programs. For example, over 70 million personal beneficiary files are being exchanged with State governments annually.

We have consistently advocated greater use of beneficiary information exchanges between organizations to reduce payment errors and to enhance the integrity and effectiveness of public assistance programs. For example, on October 16, 1979, we reported that SSA recognized \$257.4 million in payment errors that were made during fiscal year 1978 because SSI beneficiaries (1) provided inaccurate or incomplete information to SSA and (2) failed to report changes in their circumstances. 1/ Better exchanges of beneficiary information might have avoided many of the overpayment errors.

In another report, we recommended that State governments use beneficiary information in the State Data Exchange (SDX) system for identifying potential boarding homes for needy aged, blind, and disabled persons receiving benefits from the SSI program. This information would provide States with a starting point for establishing, maintaining, and ensuring enforcement of standards for facilities, such as boarding homes, in which a significant number of SSI recipients reside. 2/

THE SSA DATA EXCHANGE PROGRAM

SSA provides most of the personal beneficiary information included in its automated beneficiary files to States for their use

1/ "Social Security Should Obtain and Use State Data to Verify Benefits For All Its Programs," HRD-80-4, Oct. 16, 1979.

2/ "Identifying Boarding Homes Housing the Needy Aged, Blind, and Disabled: A Major Step Toward Resolving a National Problem," HRD-80-17, Nov. 19, 1979.

in administering public assistance programs. The types of information being disclosed through formal data exchange processes include the name of the beneficiary, address, home telephone number, social security number, types and amounts of benefits being paid by SSA, beneficiary income data, assets owned by the beneficiary and immediate family members, and personal living arrangements. (See app. III for a list of personal data being disclosed to States by SSA and HCFA.)

SSA uses several independent formal systems for exchanging personal beneficiary information on a routine basis with State governments. Examples of these systems include:

--Beneficiary and Earnings Data Exchange (BENDEX) system -

An automated system which provides personal beneficiary information from the SSA Master Beneficiary Records to inform State governments of basic and changed social security entitlements for recipients and applicants under Federal grant-in-aid programs.

--SDX system - An automated system which provides detailed records to States needing data on beneficiaries receiving SSI payments. The information for this system is obtained from SSA's Supplemental Security Record.

--Federal Parent Locator Service - A system which provides State welfare agencies with the last-known address of absent parents for the AFDC title IV-D program. The sources of information for this system include most personal files maintained by the Federal departments and agencies--i.e., the Internal Revenue Service, the Veterans Administration, the Department of Defense, and SSA.

These and other formal beneficiary data exchange systems are discussed in appendix II.

When States need additional information on a beneficiary, or a beneficiary not yet included in a formal data exchange system, several innovative approaches have been used for obtaining such data from SSA's files. For example, one State field office uses a State coordinator to work directly with SSA district offices for obtaining personal beneficiary information not yet available from the routine data exchange system. Caseworkers in the welfare office route their requests for Federal data through the coordinator. Often personal data are obtained via a telephone inquiry with an SSA district office official who uses the SSA telecommunications system to obtain information needed to respond to the requests. We were told that these telephone requests are generally honored by SSA district offices because of the close working relationships that are established through use of the coordinator approach. Such telephone requests are later

documented through preparation of SSA Form 1610 (Social Security-Public Assistance Agency Information Request and Report) which is placed in a beneficiary case folder.

Welfare employees in another State's field office use the SSA telecommunications system when obtaining Federal beneficiary data from SSA. These employees had copies of the user manuals and mark sensing cards that are used for obtaining data from SSA's automated beneficiary records. We were told that they prepare coded queries on mark sensing cards, place these cards in the telecommunications card reader located at the local SSA district office, and return to pick up hard copies (computer printouts) of the requested beneficiary information. Accordingly, these State welfare field offices have full and complete access to all the information in the SSA automated beneficiary files that is accessible by the SSA district office.

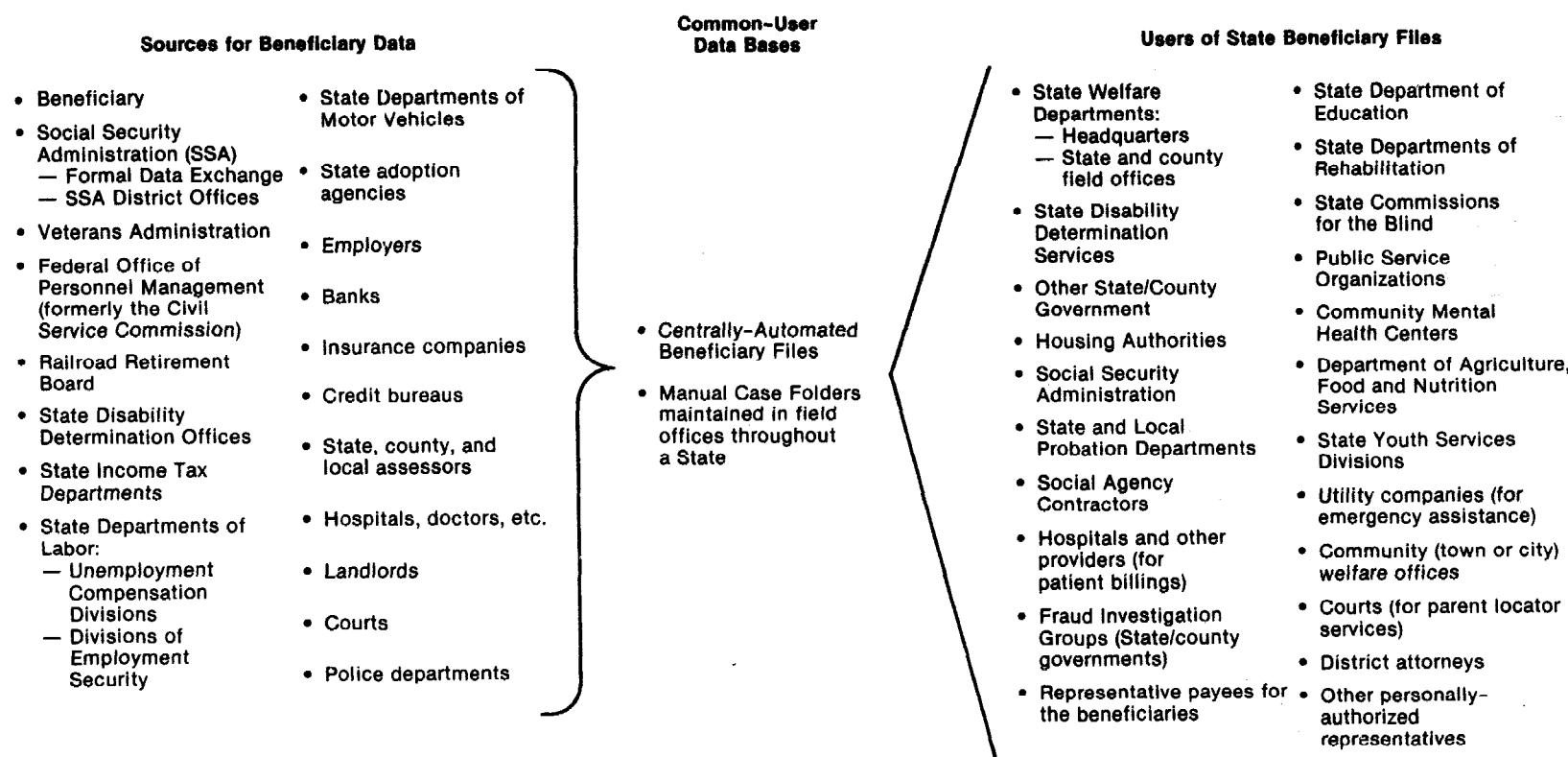
A SINGLE AUTOMATED FILE IS CREATED
AND USED BY SOME STATES

Many States have established single automated files for personal beneficiary information used in managing public assistance programs. Some States have developed on-line computerized systems with computer terminals located in each State field office having direct access to State beneficiary files. Other States use a lesser degree of sophistication through maintaining centralized automated files on beneficiary data and distributing a hard copy to each State or local field office periodically. In both approaches, the personal information in automated files, as well as the manual beneficiary case folders, are maintained and stored at the State or local field offices servicing the beneficiary.

In its June 18, 1979, report, "Administration of the AFDC Program," the House Committee on Government Operations recommended, among other things, that HHS encourage States to make optimum use of computerized information systems for determining eligibility and for managing cases on public assistance programs. The Committee further recommended that HHS determine whether the higher Federal reimbursement rate for use of automated systems in Medicaid programs had produced favorable results, and if so, whether the same incentive would be beneficial for the AFDC program.

Most State governments use Federal beneficiary data received from SSA and HCFA to update their own beneficiary files and/or as a reference to validate personal information obtained from many other sources, including the beneficiary. Although the beneficiary is usually the primary source for personal information, States obtain personal data from many other Federal and non-Federal organizations--including SSA and HCFA--to update and/or to validate existing information when establishing a person's eligibility

TYPICAL FLOW OF PERSONAL BENEFICIARY DATA IN STATES



for benefits. The exhibit on page 7 shows the typical flow of personal beneficiary data at the State level including the various sources of data, how stored, and the types of users of such data.

We found that personal information obtained from organizations both within and outside the Federal Government is often merged or commingled by the States into a single automated data base. In such instances, the source of the personal data is no longer identifiable. Information extracted or generated from these State data bases is generally filed in a beneficiary's case folder and retained by the field office which has personal contact with the beneficiary. According to State officials, using automated data bases is the only logical way of consolidating and controlling large volumes of beneficiary data used in administering public assistance programs on a statewide basis. Moreover, the single file concept has been recognized by State officials as a valuable resource when establishing an applicant's eligibility for benefits under any one of many interrelated State-administered public assistance programs.

CHAPTER 3

PERSONAL DATA SUPPLIED TO STATES

ARE NOT BEING ADEQUATELY PROTECTED

Our review in selected States showed that the personal beneficiary information given to States by SSA is not being adequately protected. Most field locations did not have written physical security procedures. In some locations, guard services, burglar alarms, and central fire alarm systems were used, while others did not have these services. It appears that security procedures are installed as a result of specific problems as they occur. For example, some offices found it necessary to employ guards during working hours because of large and sometimes hostile crowds of claimants. Other offices had not experienced such problems and relied upon local police protection.

At the time of our fieldwork, only 3 of the 14 States visited had designated security officers in their respective field offices, and only 1 State had provided any training for these officers on physical security matters. In most of the other field offices, the local manager assumed responsibility for security as well as for administering all other office functions. Consequently, and understandably, most management emphasis was devoted to administering the offices, managing caseworkers, and servicing client needs, rather than attending to security matters.

In most offices, we observed a lack of controls over the use and storage of personal information in claimant files. This lack of control can be attributed to (1) placing emphasis on productivity rather than safeguarding files and (2) relying on other physical security measures for the offices rather than using locked filing cabinets or other methods for protecting claimant files.

INFORMATION IN CLAIMANT FILES IS NOT ADEQUATELY CONTROLLED BY STATE OFFICES

We found that, for the most part, employees within State welfare offices have unlimited access to claimant files. Access to these files is not based on a "need to know."

Generally, control exercised over claimant files was poor-- i.e., log-out and log-in procedures are not being used by most offices to identify the location of a claimant's file during the various stages of processing in field offices. According to officials, at times claimant files cannot be located when needed to process claims. In a separate review of the AFDC program, we sampled 121 case folders in one State and were unable to locate 26 of these folders for use during our audit. This situation

is not uncommon in many State field offices. We were told that, in many instances, lost files show up at a later time after the immediate need no longer exists, and in some cases, files must be recreated when they cannot be found for a long time period.

It should be noted that adequate control of case files is feasible. Two counties which administer welfare programs within one State visited, assign cases to specific caseworkers and use a small computer to keep track of case assignments and use of claimant files. These offices appeared to have good control over the location of case folders--a condition that is not widespread.

Most offices have photocopy machines. Field office officials told us that these machines are not usually secured during non-working hours. These machines are generally located throughout working areas within an office and available for use by most employees. Should an employee or some outside intruder decide to obtain claimant information, copies of pertinent documents could be made and removed from the office without any indication that someone had tampered with a file.

Some States are using microfiche and microfilm techniques for providing beneficiary information (to be used as reference material when administering public assistance programs) throughout their many field offices. HCFA's central office also reproduces certain eligibility information from Federal beneficiary records--e.g., the Carrier Alphabetic State List data exchange system described in appendix II--onto microfiche/microfilm monthly. States receive copies of these records pertaining to beneficiaries living within their geographic areas. These microfiche/microfilm records are again reproduced and distributed by the States to their field offices for use in administering public assistance programs. Many offices have reader/printers capable of reproducing individual claimant records from microfilm/microfiche in hard copy. These records can be interpreted by using a manual provided by SSA's and by State welfare departments' central offices. We observed that these user manuals were not secured and were generally stored next to microfiche readers.

In some States, field offices with high volume caseloads have more than one set of microfilm/microfiche files. At one State field office visited, we observed that a copy of the microfiche files was stored on a receptionist's desk for use in screening applicants and beneficiary's problems before they were routed to caseworkers for resolution. The receptionist in this office left these files unattended during normal working hours, and they were not locked up during nonworking hours. Although this office had a policy for storing this beneficiary information in a secure area when not in use during working and nonworking hours, most offices do not have such a policy. Thus, these microfiche files are, for the most part, readily available for potential abuse or misuse by employees as well as by intruders.

State field offices have generally been furnished with file cabinets for storage of claimant folders. Some of these cabinets have been equipped with locks and others have not. However, in most cases, only employee personnel records and claimant folders on "Very Important People" and on employees or their immediate relatives were stored in locked cabinets with controlled access. Other claimant files were stored in "unlocked" file cabinets, in cardboard transfer boxes, and on employee desks and tabletops (the pictures on pp. 12 and 13 illustrate how claimant files were stored during nonworking hours in many State offices visited). In one instance, where lockable file cabinets were used to store claimant files, we observed that keys had been removed and tape had been placed over the locks so they could not be easily used. The local office official told us that tape had been placed on the locks because the keys had been lost.

Most field offices visited did not use a clean-desk policy whereby claimant folders had to be returned to central files or stored within desks during nonworking hours. We were told by local management officials that such a policy was not used because of the impact on productivity that would be experienced if case workers were required to put claimant files away at the end of the working day and then to retrieve them the following day for further processing. Management officials in the limited number of offices that used a clean-desk policy told us, however, that the use of such a policy had not had an adverse effect on the productivity of their employees.

PHYSICAL SECURITY AT STATE FIELD
OFFICES TO PROTECT BENEFICIARY
INFORMATION NEEDS IMPROVEMENT

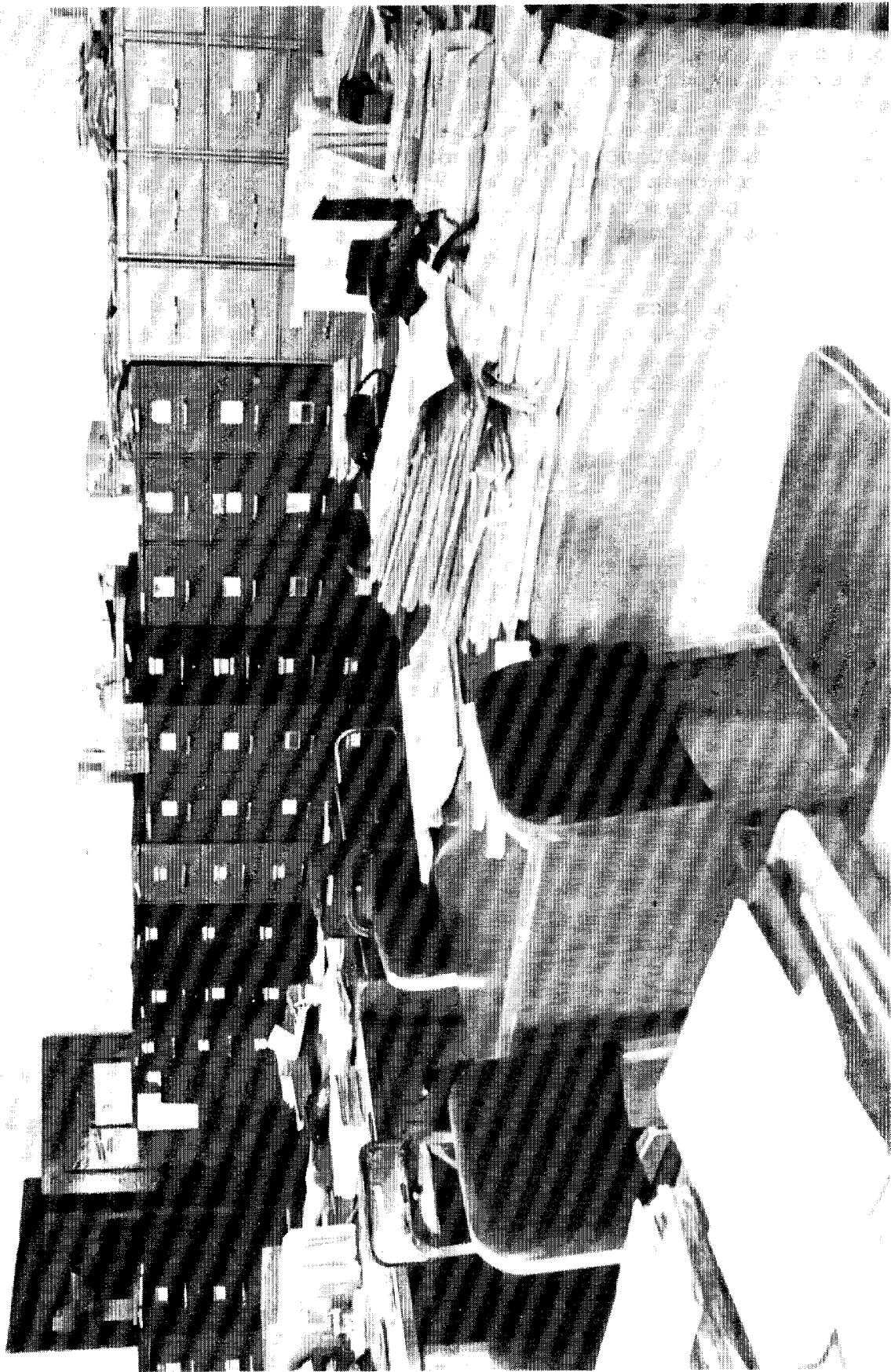
The implementation of physical security measures is generally the responsibility of each local office manager. We found little evidence that any of the field offices visited had formally studied the need for physical security measures, or had developed formalized contingency plans to back up their operations if a loss or disaster should occur.

Access to field offices
is not restricted

Many welfare offices are located in space not owned by their respective State governments. Landlords for such space generally retain keys to the offices. In one office visited, we noted that a landlord retained control over all keys to the office. The field office was opened daily by the landlord before the start of each working day, and welfare employees left the premises at the end of the day without locking the doors to the office. An hour or more elapses each day between the time that employees leave the premises and the time that maintenance crews arrive to clean



Storage of files in one corner of a State welfare office.
Note the storage of claimant files next to an open window during nonworking hours



Storage of claimant files on top of file cabinets and desks.
Note the open door during nonworking hours.

the office. Local management officials at this office told us that they had experienced losses of office supplies and small equipment items, but had not lost any personal beneficiary information. We determined, however, that these local management officials would have no way of knowing whether or not personal information had been photocopied or extracted from claimant files by intruders and removed from the office for other uses. Janitorial services in many other offices also have keys to provide access to the offices during nonworking hours.

Most of the local field offices visited use receptionists and waiting rooms as their method of controlling visitors. In several offices, however, side and rear entrances were left unlocked and unguarded during working hours. We observed people entering these doors--in lieu of the main entrance--and wandering throughout the office. In one office, we entered by an unlocked side entrance at lunch time and could find no State employees in the entire wing of the building to observe or challenge our entrance.

Security background checks are not done for field office employees

Security background checks on employees are not normally made by field offices or by State welfare departments. Many potential employees are hired to work in State welfare departments and field offices based on interviews and on limited followup on prior employment references shown on employees' application forms. This approach may not always assure an adequate degree of integrity of potential employees who will be working with personal and sensitive information.

Unlimited use of photocopying equipment

Photocopying equipment was mainly located centrally within State welfare field offices for easy access by most office employees. In 10 of the 14 States visited, employees had unrestricted access to and use of photocopying equipment for their day-to-day activities.

Field office employees use this equipment to photocopy personal information provided by clients as evidence when applying for or validating a continuing need for public assistance benefits. Often extra copies of documents are made and not used by caseworkers. During a tour of one field office, we took some photocopies from a trash can located next to the photocopying equipment which would have been emptied into a dumpster for city trash collection at the end of the workday. These documents included: (1) a photocopy of five social security cards, (2) documents showing a complete profile of the beneficiary and the benefits being received, (3) a "Report of Confidential Social

Security Benefit Information," (4) an electric bill, (5) a rent receipt, and (6) a food stamp worksheet which sets forth earnings and demonstrated financial need for food stamps. Similar observations were also made at other field offices visited during our review.

Disposal of beneficiary data
is not always safeguarded

Instructions concerning disposal of documents containing personal beneficiary information have not been issued by many local welfare field offices. Supervisors and managers rely primarily on the discretion of individual employees when disposing of wastepaper containing sensitive personal information. Employees who are aware of documents containing this type of information generally tear them up before throwing them away; however, others do not do this. Most offices visited had trash disposal services that picked up trash periodically. Some office managers were not aware of the method of disposal (incineration, landfills, dumps, etc.) once the trash was removed from the office.

In addition to the unmutilated documents containing personal information observed in wastebaskets, we saw copies of computer printouts containing personal information stacked in hallways outside offices, on loading platforms, and in dumpsters located in parking lots. In one office, we were told that an employee had been given permission to sell computer printouts for scrap paper to supplement his personal income. These printouts were not mutilated before giving them to the employee before sale. Office officials did not know where or to whom the computer printouts were being sold.

The disposition of aged inactive beneficiary folders varied among State welfare departments and offices visited. For example, some offices shipped the folders to permanent storage centers within their respective States, while others incinerated or buried them. In one State, officials witnessed each of these processes. However, problems can arise in handling these folders. For example, as reported in a newspaper, hundreds of client records were accidentally placed on a sidewalk outside a local welfare field office, apparently by the maintenance staff. It was not until a reporter inquired during the late afternoon as to why these case folders had been left out for public inspection that they were taken back into the local welfare office. Most of the records involved dated back less than 1 year.

CHAPTER 4

HHS NEEDS TO DEVELOP A COMPREHENSIVE PROGRAM FOR PROTECTING PERSONAL DATA SUPPLIED TO STATE AND LOCAL ENTITIES

Despite an extensive Federal role in maintaining and supplying personal beneficiary data to States, there apparently has not been a corresponding amount of effort devoted to defining the nature and extent of statutory protections over such data when provided to organizations outside the Federal community. Our review showed that HHS has not developed a consistent and comprehensive security program to be used by States in protecting beneficiary data.

There has been much congressional and public concern over the potential for abuse or misuse of personal information being processed and stored in large computer-based systems by Federal, State, and local governments. For example, a national data center was proposed during the mid-1960s when substantial growth occurred in automatic data processing technologies for managing masses of data. This proposal was not well received by the Congress or the public because proper technology had not been developed to assure adequate privacy for personal information being processed on large-scale centralized computer systems.

In 1974, the General Services Administration began working with the U.S. Department of Agriculture on a joint computer procurement program to centralize and consolidate Federal data processing operations. The concept proposed included the use of separate automated data bases by Federal departments and agencies that could communicate with each other electronically through interfacing large-scale computer systems. Opposition to use of central data banks or an electronic network of data banks containing personal information became extensive. The proposed project was then scaled down considerably so that it was no longer viewed as a Government-wide concept.

The fate of these two proposals demonstrates that strong confidentiality guarantees are essential to the basic design of any successful Federal information network. In its July 1977 report, the Privacy Protection Study Commission recommended that the Federal Government defer any action to foster further development of central data bases for Government-wide use until technology could be developed to assure proper security and confidentiality for personal information. As an alternative to the use of a single data base concept, such agencies as SSA and HCFA have opted to exchange personal beneficiary data with State governments for their use in carrying out agency missions and in achieving a greater degree of effectiveness in public assistance programs.

From July 1979 through February 1980, SSA conducted a risk assessment on SSA data being provided to States and local entities. The assessment presented the following questions and issues to SSA for resolution and clarification:

- Does SSA data legally become State data once received by the State, at any point in their processes, or when combined with data collected by the State? If so, at what point do the data become State data?
- If it is determined that SSA data legally become State data at some point in time, at that time, does SSA continue to have any responsibility for the confidentiality and privacy of the data?
- Does SSA have the legal authority to perform a complete risk assessment of all State processes that use SSA data? What are the limitations, if any, of such risk assessments?
- If SSA remains responsible for the security and confidentiality of data after receipt by the State, can SSA require State and local agencies to implement specified safeguards to protect the data? Can sanctions be imposed on State and local agencies for noncompliance?

In view of our observations and the issues identified by the SSA study, we wrote to HHS in April 1980 and posed a number of questions focusing on data exchanges and privacy protection. Our purpose was to elicit a statement of the role, responsibilities, and policy of a major Federal repository of personal data. On June 24, 1981, HHS responded to our questions. (See app. I.)

HHS' responses to these questions indicate that there is a lack of a consistent and comprehensive security program for the protection of data given to States. We believe this condition may exist because current legislation may not provide sufficiently detailed guidance for protecting beneficiary records at State and local levels. Extracts from our April 1980 questions and HHS' June 1981 responses follow:

--GAO Question: How much information disclosed to States or private contractors do you consider to be tax return information as defined in 26 U.S.C. 6103?

Department Response: "Title 26 U.S.C. 6103--the Tax Reform Act of 1976--defines 'return information' in terms of data filed with, and prepared or collected by the Secretary of the Treasury (Internal Revenue Service). Many of the items of information identified in the Act as 'return information' are, and always have been, normally obtained by the Social

Security Administration (SSA) directly from the individual members of the public it and the Health Care Financing Administration (HCFA) serve, or from other 'non-return' sources--e.g., from his employer at the individual's request. We do not consider such information to be 'return information' within the Tax Reform Act definition. Furthermore, it appears that a document which would be a 'return' if obtained from IRS records does not have that character when obtained directly from another source--e.g., the taxpayer's own retained copy of a self-employment income return he filed with Internal Revenue which is provided to us by the taxpayer for a non-tax purpose.

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"It is arguable that earned income data transmitted by the State Data Exchange (SDX) system under some circumstances derives from return information that is sometimes found in the SSI claims folder. IRS has not yet addressed the issue, insofar as we know."

GAO Observation: We think adequate time has passed to allow HHS to obtain the views of IRS [the Internal Revenue Service] and to develop a policy on the treatment of SDX or other SSA system information embracing tax return data.

--GAO Question: Does Section 1106 (Social Security Act) authorize you to limit disclosures or otherwise protect beneficiary information once it has been exchanged with States and private contractors?

Department Response: "Section 1106 provides that no disclosure of any information obtained from the Secretary or any officer or employee of the Department by any person shall be made except as the Secretary prescribes by regulations. For decades regulations issued pursuant to this statutory authority--notably, Regulation No. 1 under the Social Security Act--safeguarded the confidentiality of data thus disclosed. We believe that the disclosure limitation authority under Section 1106 was severely curtailed by the March 1977 amendment of the Freedom of Information Act. See the recent revision of Regulation No. 1, published at 45 Fed. Reg. 74906 - 74908 (November 13, 1980)."

GAO Observation: We think HHS has had sufficient time to reconcile Section 1106 with the latest amendment to the Freedom of Information Act.

--GAO Question: What specific provisions of the Privacy Act authorize you to improve security requirements on routine disclosures and redisclosures?

Department Response: "The Privacy Act (5 U.S.C. 552(e)(10) requires all Federal agencies to establish appropriate safeguards. However, our understanding is that, with one exception, these provisions cannot be imposed on entities which are not Federal agencies. Under 5 U.S.C. 552a(m) HHS must impose Privacy Act requirements on certain State agencies and contractors. For example, the agreement with Medicare contractors (carriers), contracts for research and statistical work, and agreements with States covering the Disability Determination Service (DDS) function impose Privacy Act requirements on State agencies and contractors."

GAO Observation: HHS, in conjunction with advice obtained, if necessary, from the Department of Justice, should resolve whether the Privacy Act "reaches" federally obtained data supplied to non-Federal agencies.

--GAO Question: In your view, does the source of personal beneficiary information have any relationship to the extent that such information should be safeguarded from potential abuse or misuse?

Department Response: "Clearly, the source of personal beneficiary information does determine the applicability of Tax Reform Act safeguards--see discussion of the first question. What should be the relationship of source to safeguarding--while a matter for conjecture--probably depends upon (1) the linkage between the source and the probable sensitivity of the data and/or (2) the original provider's reasonable expectations as to confidential treatment of the original information provided the collecting source. While source, thus, provides a clue to the extent information should be safeguarded, the type or nature--i.e., sensitivity--bears a more direct relationship. For example, SSA considers medical evidence to be very sensitive and provides elaborate safeguards against its unwarranted release, but the source may be a medical practitioner, but because disclosure of information in medical record can be embarrassing or even harmful to the individual."

GAO Observation: Department response self-explanatory.
No GAO comment necessary.

--GAO Question: Do you believe there is a need for legislation that would provide a stronger basis to safeguard confidential personal beneficiary information being disclosed to States and private contractors? (Note: We recognize that Section 411 of the Social Security Act does already provide specific bases for confidentiality provisions on data exchanges specifically for the AFDC program.)

Department Response: "We anticipate additional and modified legislation in this area of strong public and policy interest to continue to be developed, debated, and enacted as the 'information revolution' and the use of computers continue to evolve. Perhaps the need at present is for greater uniformity of safeguarding requirements and reduction of the complexity in administering the various applicable statutes."

GAO Observation: The HHS response in our view underscores the problem as we perceive it--the need for 'greater uniformity' of data protection developed in the context of a consistent and comprehensive HHS security program.

CONCLUSIONS

SSA gives millions of personal beneficiary records to States to assist them in carrying out their responsibilities in administering federally financed public assistance programs.

These personal beneficiary records are not being adequately protected by the States in part because HHS has not formulated a consistent and comprehensive security program for the protection of data given to States.

While we are sympathetic to the magnitude and complexity of the problem facing HHS regarding data exchanges of personal information, we nevertheless believe that HHS should have, by this time, more aggressively attempted to obtain advice (both legal and policy) on the nature and extent of protection needed over such information at State and local levels. In this regard, as of September 1981, the issues and questions raised by SSA's risk assessment study had not yet been resolved.

RECOMMENDATIONS TO THE SECRETARY OF HHS

The Secretary should formulate and establish a firm, consistent, and comprehensive security program for providing adequate protection of data shared with States and local entities. Also, the Secretary should, if deemed necessary, seek the advice of the Department of Justice to resolve any legal problems encountered in formulating and establishing such a program.



THE COMMISSIONER OF SOCIAL SECURITY
BALTIMORE, MARYLAND 21235

June 24, 1981

Mr. Morton Henig
Senior Associate Director
Human Resources Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Henig:

Enclosed is our response to your inquiry regarding safeguards for HHS beneficiary information in the hands of States and contractors. I regret the delay in responding to you. However, I understand that the information in the response has been discussed in detail with members of your staff.

As our response notes, safeguarding the confidentiality of records has been a traditional concern of this Department. Now, applying the Tax Reform Act, the Privacy Act and other legislation of the last few years to our programs is a major effort that is continuing, as you will note from our replies to your individual questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Svahn".
John A. Svahn
Commissioner of Social Security

Enclosure

RESPONSE OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO GENERAL ACCOUNTING OFFICE INQUIRY REGARDING SAFEGUARDS FOR BENEFICIARY INFORMATION IN THE HANDS OF STATES AND CONTRACTORS

General

This Department certainly shares GAO's concern for good security practices covering personal data wherever the operations of HHS programs require that the data be processed or maintained. For us this is not, of course, a concern of recent origin. While applying the Tax Reform Act, the Privacy Act and other legislation of the last few years to our programs has been a major recent effort--and not all issues have been resolved, as you will note from our responses to the individual questions--safeguarding the confidentiality of records has been a traditional concern. In the social security programs, for example, regulatory and procedural safeguards of personal data have been established and administered for 40 years.

Implementing arrangements for recent legislation dealing with disclosure of earnings information to the States for Child Support Enforcement and Food Stamp program purposes under Public Law (P.L.) 96-265 (June 9, 1980), section 408, and P.L. 96-249 (May 26, 1980), section 127(a), are still under development in consultation with the Internal Revenue Service and are not treated by our response.

Before commenting on GAO's questions, the following clarification or explanation of various systems discussed is perhaps in order.

--Beneficiary and Earnings Data Exchange (BENDEX) Systems - An automated system which provides personal beneficiary information from the SSA Master Beneficiary Records to inform State governments on basic and changed social security and Medicare entitlements for recipients or applicants under income maintenance or health maintenance programs. Earnings data on applicants for Aid to Families with Dependent Children (AFDC) is also being supplied through BENDEX from the Earnings Record and Self-Employment Income system of records.

--State Data Exchange (SDX) System - An automated system which provides detailed records to States needing data on beneficiaries receiving Supplemental Security Income (SSI) payments. The information for this system is derived from SSA's Supplemental Security Record. In some instances, this information is sent by the State immediately to private contractors administering the States' health maintenance programs after being forwarded to the respective State governments.

--SSI/Financial Accounting Exchange (FAX) System - An automated system developed by SSA to provide case-by-case accounting data

to those States which have agreed to Federal administration of SSI payments and have requested such detailed data. The payment data in this system is obtained from the Supplemental Security Record.

--State Buy-In System - State buy-in records are maintained on the Third Party Master (TPM) System. This is an automated system maintained by HCFA (not SSA as indicated in the letter) to control the Supplementary Medical Insurance (SMI or Part B) enrolling, accounting, and billing of people who are (or were) in State buy-in status, i.e., the State Government pays SMI premiums for needy individuals enrolled in Medicaid and other State assistance programs. Sources of information in the system include: (1) State agency programs, (2) the SSA MBR, (3) SSA SSI record, and (4) the HCFA Medicare Health Insurance Master Record (not maintained by SSA for HCFA as indicated in the letter).

The TPM record uses the beneficiary name and claim number (not necessarily the individual's social security number). None of the sources is IRS; and no earnings or income information is used or exchanged with the States.

--Interjurisdictional Data Exchange (IDEX) System - This is a generalized matching system to compare recipient allegations of earned or unearned income in State AFDC files with other sources of earned or unearned income.

--Interim Assistance Reimbursement Process (IARP) - A data exchange process whereby SSA notifies State governments of adjudicated beneficiary applications for SSI payments. The States or applicant notify SSA of the application for State assistance and the States make benefit payments to new applicants until their SSI applications have been approved or denied by SSA. A computerized turnaround (SSA Form 8125) is routinely prepared by SSA to apprise the States on the adjudication of an application; and the States use this same document to advise SSA on the benefit payments made to the beneficiary.

--Carrier Alphabetic State Tape (CAST) - The CAST file is an alphabetic 16MM roll microfilm and 105MM microfiche listing of health insurance beneficiaries currently existing on the health insurance master file. The programming process segregates and lists all beneficiaries for a State and/or other entity in strict alphabetical sequence. Semiannually, CAST files are produced for each of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, Canada, and Mexico. The purpose of the file is to assist Medicare contractors in resolving beneficiary identification problems encountered in processing health insurance claims and in maintaining the State buy-in rolls.

--Beneficiary State Tape (BEST) System - The BEST is a magnetic tape file identical in content to the Carrier Alphabetic State Tape (CAST) file discussed above. BEST is prepared by reformatting the tape file from which CAST is created. The BEST file is prepared semiannually. Unlike CAST, the BEST file is distributed to a somewhat more restricted group of about 52 intermediaries, carriers, and State welfare agencies.

--Form SSA-1610 System (Social Security - Public Assistance Agency Information Request and Report) - The form SSA-1610 is not a form designed specifically for the Medicare Program. The blank forms are retained by State and local welfare offices who enter the name and social security number of a welfare claimant and forward to the servicing social security office to obtain information. This information is required by welfare in order to determine the welfare client's correct grant amount. The purpose of the form is to provide a uniform means of exchanging social security, Medicare, and public assistance information between State governments and SSA offices in situations which cannot be resolved by contacting the beneficiary or by using the BENDEX system.

--Advanced Records System (ARS) - The States do not have access to the ARS system in the Medicare program. At the present time, several--but not most--Medicare contractors are tied into the ARS system to enable them to query the Health Insurance Master Record for purposes of processing Medicare claims. There is no capability for these contractors to access the SSA systems for non-Medicare purposes.

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GAO Question 1: How much information disclosed to States or private contractors do you consider to be tax return information as defined in 26 U.S.C. 6103?

Department Response: Title 26 U.S.C. 6103--the Tax Reform Act of 1976 --defines "return information" in terms of data filed with, and prepared or collected by the Secretary of the Treasury (Internal Revenue Service). Many of the items of information identified in the Act as "return information" are, and always have been, normally obtained by the Social Security Administration (SSA) directly from the individual members of the public it and the Health Care Financing Administration (HCFA) serve, or from other "non-return" sources--e.g., from his employer at the individual's request. We do not consider such information to be "return information" within the Tax Reform Act definition. Furthermore, it appears that a document which would be a "return" if obtained from IRS records does not have that character when obtained directly from another source--e.g., the taxpayer's own retained copy of a self-employment income return he filed with Internal Revenue which is provided to us by the taxpayer for a non-tax purpose.

Earnings information--i.e., wage reports including wages, employer's name, address and employer identification number, and self-employment income reports--and personal residence/mailing address information are return information and subject to Tax Reform Act safeguards when obtained by SSA through the combined annual wage reporting process, or when obtained directly or indirectly from IRS. The following types of earnings information and address information provided to States and contractors in the course of HHS program operations could be defined as "return information" under the Tax Reform Act:

- a. Earnings information on specific AFDC applicants/recipients provided by SSA to States through the BENDEX System. Section 411 of the Social Security Act provides for this disclosure.
- b. Information on the addresses of employers of absent parents from the SSA Earnings Record and Self-Employment Income System provided to the Office of Child Support Enforcement's Federal Parent Locator Service (PLS) and by the Federal PLS to State PLSs. Tax return information supplied by IRS is encrypted at IRS's insistence while in the hands of the contractor that operates the Federal PLS and is not identifiable by the contractor. The disclosure to States is pursuant to Section 453 of the Social Security Act.
- c. Work history information on individual title II and title XVI disability applicants/recipients is disclosed to State disability determination services (DDSs) that make determinations with respect to the disability of such individuals. No ADP system is involved. Claims folders sent to the DDS may contain work history compiled by SSA from the Earnings Reference File (ERF). The relevant documentation stays in the folder at all times and is returned to SSA when the folder is returned, after the disability decision has been made. IRS has considered this disclosure and has expressed the opinion that it is permissible under the Tax Reform Act.
- d. It is arguable that earned income data transmitted by the State Data Exchange (SDX) system under some circumstances derives from return information that is sometimes found in the SSI claims folder. IRS has not yet addressed the issue, insofar as we know.

GAO Question 2: To what extent do you consider yourself bound to preserve the confidentiality of any information disclosed to States and private contractors that is considered tax return information?

Department Response: Of course we are bound by existing laws including the Tax Reform Act. We are also bound by Section 1106 of the Social Security Act and our own regulations which require SSA and HCFA data to be kept confidential and disclosed only as prescribed by regulations.

GAO Question 3: To what extent do you document and control State agency or private contractor practices concerning safeguards and redisclosures of any tax return information as prescribed by 26 U.S.C. 6103 (p)(3) and (p)(4)?

Department Response: Except for disclosure to the contractor operating the Federal PLS and the contractor involved in the annual wage reporting process, tax return information is not provided by the Department to private contractors. Documentation and control of State agency practices concerning safeguards and redisclosures--including some redisclosures to private contractors by the States--of tax return information are incorporated into overall provisions and practices for monitoring and ensuring State agency compliance with the terms of agreements and regulations--incorporated by reference in agreements and manual issuances--issued pursuant to various provisions of the Social Security Act listed in response to Question 7 below.

GAO Question 4: May Federal tax information, with personal identifiers, be disclosed to outside contractors engaged by SSA to carry out its program responsibilities? Or, must it be disclosed only in a form which cannot be associated with or otherwise identify, directly and indirectly, specific taxpayers? (See IRS letter regarding "Use and Disclosure of Federal Tax Information by SSA" (SSA reference SRR-5), dated February 12, 1980, which states that only unidentifiable personal taxpayer information may be disclosed to those outside the Federal government.)

Department Response: According to an opinion provided by the Internal Revenue Service, return information with personal identifiers may not be disclosed to outside contractors, with the exception of processing the annual wage reports noted in response to Question 3. Therefore, as noted above, SSA does not disclose Federal tax information with taxpayer identifiers directly to outside contractors engaged to carry out its program responsibilities. The only disclosures are to States, as described above. Unless the particular disclosure is approved by IRS, information with taxpayers' identities removed is not released to outside contractors.

GAO Question 5: Does Section 1106 authorize you to limit disclosures or otherwise protect beneficiary information once it has been exchanged with States and private contractors?

Department Response: Section 1106 provides that no disclosure of any information obtained from the Secretary or any officer or employee of the Department by any person shall be made except as the Secretary prescribes by regulations. For decades regulations issued pursuant to this statutory authority--notably, Regulation No. 1 under the Social Security Act--safeguarded the confidentiality of data thus disclosed. We believe that the

disclosure limitation authority under Section 1106 was severely curtailed by the March 1977 amendment of the Freedom of Information Act. See the recent revision of Regulation No. 1, published at 45 Fed. Reg. 74906 - 74908 (November 13, 1980).

GAO Question 6: What specific provisions of the Privacy Act authorize you to improve security requirements on routine disclosures and redisclosures?

Department Response: The Privacy Act (5 U.S.C. 522(e)(10)) requires all Federal agencies to establish appropriate safeguards. However, our understanding is that, with one exception, these provisions cannot be imposed on entities which are not Federal agencies. Under 5 U.S.C. 552a(m) HHS must impose Privacy Act requirements on certain State agencies and contractors. For example, the agreement with Medicare contractors (carriers), contracts for research and statistical work, and agreements with States covering the Disability Determination Service (DDS) function impose Privacy Act requirements on State agencies and contractors.

GAO Question 7: What is your authority to use agreements in order to protect information disclosed to States and private contractors?

Department Response: Various provisions of the Social Security Act permit or require the Secretary to enter into agreements with States or contractors for purposes of exchanging data, either in connection with State or contractor roles in the administration of Department programs or for research/statistical purposes. Some provisions are general and give the Secretary authority to establish procedures for carrying out administration of the Act--e.g., §§ 205(a), 454(13), 702, 703, 1631(d)(1), and 1871. Other provisions relate specifically to agreements and/or disclosure safeguards--e.g., §§ 221, 402(a)(9), 411(b), 453, 1106, 1616, 1631(g), 1633, 1634, 1902(a)(7).

GAO Question 8: Do these agreements extend to information that is merged with other data in data bases generated by States and contractors?

Department Response: None of the agreements exempt DHHS-provided data that has been merged with other State or contractor data from continuing under the controls and safeguards agreed to. For example, safeguards required by agreements under Section 411(b) with State Welfare agencies extend to wherever the SSA-provided wage data is located within the State agency. Regulations restricting the use and disclosure of information in AFDC and

Child Support Enforcement case files apply to all information in those files, without regard to its source. See 45 C.F.R. 205.50 and 302.18. Under the Child Support Enforcement program, regulations require the States to establish and use written procedures, which OCSE approves and audits, that assure the safeguarding of information concerning applicants or recipients of Child Support Enforcement Services.

GAO Question 9: To what extent can you enforce those agreements? For example, would you have authority to refuse to finance public assistance programs being administered by the States if they are not complying with security requirements set forth in the agreement?

Department Response: Enforcement options include withholding of data of the kind that had been subject to abuse, non-renewal or termination of contracts with contractors, termination of agreements with States, and even--in the case of a State found to be out of compliance with the data safeguarding provisions required in its State Plans--a funding penalty provision.

From a practical standpoint, none of these actions would be desirable in most circumstances from the points of view of client/beneficiary service, Federal/State relationships, or costs of program administration. We monitor, we conduct reviews and audits, we negotiate and persuade under ordinary conditions when an out of compliance situation exists. We might add that the various automated data exchanges benefit the programs to which they relate--they benefit SSA and HCFA by reducing paperwork and streamlining processing; they benefit the publics served by reducing redundant requests to individuals for information they have already supplied elsewhere.

Finally, it should be noted that we have no record of any significant past abuse or misuse of data by a third party recipient of SSA or HCFA data.

GAO Question 10: Are routine redisclosures presently addressed in the agreements between SSA and State governments?

Department Response: Those agreements and State plan requirements which address redisclosure place restrictions upon it. Depending upon the particular agreement or State involved, redisclosures which could be classed as routine might include redisclosures to the client/beneficiary in appropriate circumstances or to his or her representative, redisclosures to other public programs identified in HHS regulations, redisclosures covered by the so-called Jenner Amendment described below and redisclosures to medical and vocational consultants by State DDS agencies.

GAO Question 11: If so, to what extent are third party recipients of such routine redisclosures of personal information required to safeguard privacy and integrity of data against potential abuse or misuse?

Department Response: Only the agreements for the performance of the DDS function and some contracts for research and statistical work place safeguard requirements on third party recipients of redisclosure--e.g., consultative physicians, vocational experts and subcontractors.

GAO Question 12: As a practical matter, would you modify the provisions of your basic agreements on confidentiality matters for those States whose laws conflict with Federal confidentiality standards?

Department Response: To the extent that this is a hypothetical question, we would make every effort to work out the problem and correct any misunderstanding. However, since our confidentiality standards are based on Federal statute, the Federal statute would be the ultimate controlling factor where it is in point. We could not compromise in violation of Federal law. You should also bear in mind that adversary relationships between Federal and State instrumentalities would not ordinarily be conducive to the effective management and operation of Federal/State programs.

We do not view State legislation pursuant to Section 618 of the Revenue Act of 1951, known as the Jenner Amendment, as in conflict with Federal confidentiality standards. As you know, this provision prohibits HHS from withholding grant-in-aid funds, otherwise payable to the States, solely because they enact legislation permitting public access to the names and addresses of public assistance recipients and the amount of the assistance payments. However, such legislation must prohibit the use of any lists or names for commercial or political purposes. States electing to have a Jenner provision also have in their legislation penalties for misuse of this information. The States also decide the conditions of access to this information. Statutes which comply with the Jenner Amendment would not likely cover disclosure of the type of information which HHS furnishes to the States under the arrangements noted in the above responses.

GAO Question 13: If no modifications are made to the basic agreements on confidentiality matters, would SSA decline to share information with States which have statutes requiring publication of beneficiary data?

Department Response: At present, 31 States have statutes under the Jenner Amendment. Since these States are believed to be in compliance with Federal requirements under its provisions there would not be any reason for DHHS to decline to share information with them. With respect to Questions 12 and 13, should implementation of States' statutes appear to conflict with Federal

confidentiality requirements and the Jenner Amendment, these States would be considered out of compliance with Federal law. Negotiations between Regional staff and States would be pursued in an attempt to resolve the compliance issue.

GAO Question 14: In your view, does the source of personal beneficiary information have any relationship to the extent that such information should be safeguarded from potential abuse or misuse?

Department Response: Clearly, the source of personal beneficiary information does determine the applicability of Tax Reform Act safeguards--see discussion of the first question. What should be the relationship of source to safeguarding--while a matter for conjecture--probably depends upon (1) the linkage between the source and the probable sensitivity of the data and/or (2) the original provider's reasonable expectations as to confidential treatment of the original information provided the collecting source. While source, thus, provides a clue as to the extent information should be safeguarded, the type or nature--i.e., sensitivity--bears a more direct relationship. For example, SSA considers medical evidence to be very sensitive and provides elaborate safeguards against its unwarranted release, not because the source may be a medical practitioner, but because disclosure of information in the medical record can be embarrassing or even harmful to the individual.

GAO Question 15: Does ownership of a file--i.e., Federal agencies such as IRS, HHS, Veterans Administration; State governments; private organizations; etc.--containing the same basic elements of personal information justify differing security standards for safeguarding personal data from potential abuse or misuse.

Department Response: The question seems unclear. If the files cited are separately maintained, or the "ownership" of specific items of information identified, different statutes, regulations, agreements, undertakings, etc., may apply to the use of the data from one "file" than apply to the use of data from the other. See discussion of Question 14.

GAO Question 16: Do you believe there is a need for legislation that would provide a stronger basis to safeguard confidential personal beneficiary information being disclosed to States and private contractors?

(Note: We recognize that Section 411 of the Social Security Act does already provide specific bases for confidentiality provisions on data exchanges specifically for the AFDC program).

Department Response: We anticipate additional and modified legislation in this area of strong public and policy interest to continue to be developed, debated and enacted as the "information revolution" and the use of computers continue to evolve. Perhaps the need at present is for greater uniformity of safeguarding requirements and reduction of the complexity in administering the various applicable statutes.

EXAMPLES OF SYSTEMS USED BY SSA TO EXCHANGEPERSONAL INFORMATION WITH STATES

Many public assistance programs financed by the Federal Government are administered by State governments. To assist States in administering these programs and to help validate beneficiaries' eligibility, several systems for exchanging personal beneficiary information with State governments are used. Examples of these systems include:

- Beneficiary and Earnings Data Exchange (BENDEX) system.
- State Data Exchange (SDX) system.
- Federal Parent Locator Service.
- Financial Accounting Exchange System.
- State Buy-In System.
- Interim Assistance Reimbursement Process.
- Carrier Alphabetic State List System.
- Beneficiary State Tape System.

The BENDEX system

The BENDEX system is a system which provides personal beneficiary information from the SSA Master Beneficiary Records to inform State governments on basic social security entitlements for recipients under Federal grant-in-aid programs.

The SDX system

The SDX system is an automated process which provides detailed records to States needing personal data on beneficiaries receiving SSI payments. The beneficiary information for this system is obtained from SSA's automated Supplemental Security Record.

The SDX system was designed to provide personal data to State governments for administering Medicaid, State supplementations of Federal SSI benefits, and for interim assistance reimbursements. The system is national in scope and is not modified by SSA to satisfy the unique needs of one State government to the detriment of those of other States. All States and the District of Columbia received their initial SDX magnetic tape files during December 1973. They all have since received monthly and weekly transmissions to update their respective files.

Federal Parent Locator Service

This service is an information-sharing system authorized by Public Law 93-647 to assist State welfare agencies in obtaining information on the whereabouts of absent parents for enforcing parental support obligations within the AFDC program.

HHS has developed an automated system for this service which provides State officials with information on the last reported residence or employer's address on absent parents. The most common sources of information for this system include files and records maintained by SSA, the Internal Revenue Service, and the Department of Defense.

Financial Accounting Exchange System

This system is an automated system developed by SSA to provide case-by-case accounting data to State governments which have agreed to Federal administration of SSI payments for State supplements to the Federal SSI program. The payment (payroll) data in this system are obtained from automated SSI master records.

The system accounts for and supports all Federal payment and collection activities within the State SSI supplementation program. It provides State governments with a list of recipients for whom a payment/collection transaction was processed by SSA during the reporting month and allows the States an opportunity for assuring that their funds are disbursed properly.

State Buy-In System

The State Buy-In System is an automated system maintained by SSA to identify all people who are in a State buy-in status--i.e., the State government pays Medicare health insurance premiums for needy beneficiaries enrolled in its Medicaid program.

Initial data inputs for this system came from State governments (1) in 1966 when the buy-in system was established and (2) in 1974 when the Federal SSI program was implemented. Monthly updates to the buy-in system are accomplished through automated exchanges of data between the States and SSA. Current sources of information in this system include: (1) eligibility determinations made by State welfare agencies administering Medicaid programs, (2) the SSA Master Beneficiary Record, (3) the SSA Supplemental Security Record, and (4) the Health Insurance Master File maintained on SSA's computers for HCFA.

Files in the Buy-In System are updated monthly and are forwarded to the States for their use between the 5th and 10th day of the following month.

Interim Assistance Reimbursement Process

This is a data exchange process whereby SSA notifies State governments of pending beneficiary applications for SSI payments. The States, in turn, make interim assistance payments to beneficiaries to cover their basic needs between the time that their application for benefits is filed with and approved by SSA.

Carrier Alphabetic State List System

This system is an automated process which generates alphabetic lists of people receiving benefits from the Federal health insurance (Medicare) program on a State-by-State basis. These lists are made on microfilm and/or microfiche, and distributed to Medicare contractors responsible for claims-processing activities within each State for HCFA. These lists are also distributed to State governments for use in administering their respective Medicaid programs.

Beneficiary State Tape System

This system is an automated system which develops lists of Federal health insurance (Medicare) beneficiaries residing in specific States and U.S. territories.

TYPES OF PERSONAL INFORMATION BEING EXCHANGED WITH STATES

As discussed in appendix II, several systems are used for exchanging personal beneficiary information with States for use in administering federally financed programs. The list below identifies types (elements) of personal information being disclosed from SSA/HCFA files to States by those systems.

DESCRIPTION OF PERSONAL INFORMATION
BEING DISCLOSED TO STATES

Name

Address

Telephone number

Social security number

- Beneficiary
- Spouse
- Essential person (includes dependents)
- Identification of multiple social security numbers
- Beneficiary identification number
- Claim account number for Title II benefits
- Health insurance claim number for beneficiary
- State welfare identification number
 - Beneficiary
 - Spouse
 - Essential person

Sex

Race

National origin

Date of birth

Date of residency

Student identification

Marital status

Head of household status

Date of application for benefits

Date of death

Most current transaction processed

- Type
- Date

Identification of local SSA district office

Payment of benefits by direct deposit

- Indicator
- Bank address

Representative payee

- Name
- Address
- Effective date
- Custody of beneficiary
- Competency of beneficiary
- Type of payee

Categories of assistance

- Supplemental Security Income (SSI)
 - Aged
 - Blind
 - Disabled
- Aid to Families with Dependent Children (AFDC)
- Medicare program
 - Part A
 - Part B
- State Buy-In Program
- Medicaid program
- Drug/alcohol addiction

Identification of beneficiary's personal resources

- House
- Automobile
- Life insurance
- Income-producing property
- Other

Beneficiary's income

- Period covered
- Employer's identification number
- Employer's name and address
- Countable earned income
 - Amount of wages
 - Self-employment
 - Work expenses (for the blind only)
 - Income exclusions
- Countable unearned income
 - Type
 - Start date
 - Stop date
 - Amount
 - Frequency of amounts
 - Realized
 - Validation of amounts
 - Countable income
 - Income overflow

Type of living arrangements**Data of program denial****Beneficiary appeals**

- Status
- Results
 - Awarded
 - Denied

SSI program

- Claim status
 - Pending
 - Awarded
 - Denied
- Indicator showing that benefits are being paid
- Date of eligibility
- Amount of eligibility
- Office originating claim
- Amount of monthly benefits
 - Federal
 - State
- Conditional benefit payments
- Advanced benefit payments
- Special needs identified
- Date of termination

State supplementation for the SSI program

- Effective date
- Eligibility amount
- Amount of payment

AFDC program

- Date of entitlement
- Amount of monthly payment

Medicare program

- Option code for participation
- Date of entitlement
- Amount of premiums collectable
- Premium payer

Medicaid program

- Date of eligibility
- Effective date for coverage
- Identification of third party
- Extent of retroactive coverage

State Buy-In Program

- Eligibility of beneficiary
- Coverage

Status for benefits from the Railroad Retirement Board**Status for benefits from the Federal Black Lung Program****Disability benefits received**

- Date of onset
- Benefit payment code

Forced benefit payment status

- Amount of Federal benefits paid
- Amount of State benefits paid
- Number of checks issued

Histories of benefit payments

- Number of checks issued
- Number of quarterly payments made
- Detail on payments made during 9 quarters

Status of collection of overpayments of benefits

- Federal payments
- State payments

Status of returned benefit checks and direct deposit**Refunds on overpayments to beneficiaries**

- Number of checks issued and amount of payment made to Government
- Current year
- Prior years

Status of advanced payments for emergencies

- Amounts paid by Federal Government
- Amounts paid by State governments
- Advances recovered
 - Federal money
 - State money

Status of one-time manual payments to beneficiaries

- Number of payments made
- Sources and amounts of money used for each payment
 - Federal money
 - State money

Status of cash refunds by beneficiaries

- Federal payments
 - Current year
 - Prior years
- State payments
 - Current year
 - Prior years

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