

September 2002

WELFARE REFORM

Implementation of Fugitive Felon Provisions Should Be Strengthened



G A O

Accountability * Integrity * Reliability

Contents

Letter		1
	Results in Brief	2
	Background	4
	Programs Vary in How Aggressively They Implement PRWORA's Fugitive Felon Provisions	9
	Since PRWORA, Thousands of Fugitive Felons Have Been Identified and Denied Benefits, with Some Resulting Cost Savings and Arrests	14
	Aggressive Implementation of the Law Poses a Number of Challenges for Programs	19
	Conclusions	21
	Matters for Congressional Consideration	23
	Recommendations for Executive Action	23
	Agency Comments	24
Appendix I	Scope and Methodology	28
Appendix II	PRWORA's Amendments to Authorizing Legislation of SSI, TANF, Food Stamp, and Housing Assistance Programs	31
Appendix III	SSA's Computer Matching Process for Implementing PRWORA's Fugitive Felon Provisions	33
Appendix IV	Number of SSI Recipients in Fiscal Year 2001 Arrested by Offense on Warrant	39
Appendix V	Warrants Issued for Fugitive Felons Residing in Federally Funded Housing	40

Appendix VI	Comments from the Department of Health and Human Services	41
<hr/>		
Appendix VII	Comments from the Department of Housing and Urban Development	47
<hr/>		
Appendix VIII	Comments from the Social Security Administration	51
<hr/>		
Appendix IX	GAO Contacts and Staff Acknowledgments	52
	GAO Contacts	52
	Staff Acknowledgments	52

Tables

Table 1: Total Erroneous Payments Reported by Federal Agencies, Benefits Paid, and Caseload by Program	7
Table 2: Scope of Arrest Warrants Matched with Program Recipient Databases in State Food Stamp and TANF Programs	11
Table 3: Fugitive Felons Identified in the SSI Program and Estimated Overpayments and Projected Savings, Fiscal Years 1997-2001	15
Table 4: Scope and Results of State Initiatives That Matched Automated State Program Recipient and Warrant Files To Identify Fugitive Felons on the Rolls	16

Figures

Figure 1: Law Enforcement Officers' Requests to SSA or Its OIG for Information on SSI Recipients Who Are Fugitive Felons, Fiscal Years 1997-2001	18
Figure 2: SSA's Process for Identifying and Terminating SSI Benefits to Fugitive Felons and Providing Information about Them to Law Enforcement Agencies	35

Abbreviations

ACF	Administration for Children and Families
FBI	Federal Bureau of Investigation
FNS	Food and Nutrition Service
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
ITC	International Technology Center
NCIC	National Crime Investigation Center
OIG	Office of Inspector General
OMB	Office of Management and Budget
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security number
TANF	Temporary Assistance for Needy Families
USDA	U.S. Department of Agriculture



United States General Accounting Office
Washington, DC 20548

September 25, 2002

The Honorable Rick Santorum
United States Senate

Dear Senator Santorum:

In response to concerns that individuals wanted in connection with a felony or violating terms of their parole or probation could receive benefits from programs for the needy, the Congress added provisions to the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 that prohibit these individuals from receiving Supplemental Security Income (SSI), Food Stamp benefits, and Temporary Assistance to Needy Families (TANF) and make fugitive felon status grounds for the termination of tenancy in federal housing assistance programs.¹ In addition, PRWORA directs these programs to provide law enforcement officers with information about program recipients for whom there are outstanding warrants to assist in their apprehension.

In response to your request for information on the implementation and impact of PRWORA's fugitive felon provisions, this report provides information on: (1) what has been done in these four programs to implement PRWORA's fugitive felon provisions, (2) the extent to which their actions have resulted in the denial of benefits to fugitive felons and their arrest, and (3) issues that keep programs from aggressively implementing the provisions.

We used a number of data collection and analysis techniques to obtain this information. Because Food Stamp and TANF programs are administered at the state or county level, we conducted a telephone survey of state TANF and food stamp officials in all 50 states and the District of Columbia to learn how they were implementing the provisions and the results of these efforts. We also conducted an e-mail survey of those state programs that do not screen their rolls for fugitive felons by conducting computerized file matches. Because we could find no data on the extent to which fugitive felons participate in federal housing programs, we compared Ohio

¹For this report, when we refer to fugitive felons, we are also referring to probation and parole violators.

and Tennessee arrest warrant records as of January 2002 with the Department of Housing and Urban Development (HUD) data on federally subsidized housing tenants to determine the number nationwide who may have been wanted for arrest from January 2001 through January 2002 in those two states. We chose Ohio and Tennessee because their warrant files were readily available from the Social Security Administration (SSA) and because they had prior experience in matching warrant records with SSI, Food Stamp, and TANF recipient files. We also visited with officials in Delaware's Department of Health and Social Services, fraud unit, as well as law enforcement officials from that state to discuss Delaware's initiatives for implementing PRWORA's fugitive felon provisions in TANF and Food Stamp programs. Finally, we reviewed existing regulations and agency policies related to these provisions and interviewed officials from SSA, the Department of Agriculture's (USDA) Food and Nutrition Service (FNS), the Department of Health and Human Services' (HHS) Administration for Children and Families (ACF), and HUD—federal agencies that oversee the SSI, Food Stamp, TANF, and federal housing programs, respectively. We conducted our work between October 2001 and August 2002 in accordance with generally accepted government auditing standards. Appendix I provides details on our methodology.²

Results in Brief

Actions taken to implement PRWORA's fugitive felon provisions have varied substantially by program. In implementing provisions to prohibit benefits to fugitive felons, all but housing assistance programs include, at a minimum, a question about fugitive felon status in their applications. SSI and some state Food Stamp and TANF programs also seek independent verification of fugitive felon status by using computer matching to compare arrest warrant and program recipient files. In this regard, SSA conducts the most comprehensive computerized matching effort, comparing data from its entire file of applicants and recipients on a monthly basis to warrant data it obtains from various federal, state, and local law enforcement agencies. Less than one-third of the state agencies administering the TANF and Food Stamp programs use periodic computer

²This is the second report we have issued related to PRWORA's fugitive felon provisions. While this review examined and compared the implementation of these provisions and their impact across all four programs, our earlier review (U.S. General Accounting Office, *Social Security Administration: Fugitive Felon Program Could Benefit from Better Use of Technology and Increased Management Accountability*, GAO-02-346, (Washington, D.C.: Sept. 6, 2002)) focused on SSA's use of information technology to identify fugitive felons on the SSI rolls and assist law enforcement authorities in apprehending them.

matching to varying degrees, while the housing assistance programs do not use matching at all. With regard to PRWORA's requirement that program officials provide law enforcement agencies with information on program recipients when they request it, SSA and USDA have issued guidance to program staff on how to respond. HHS and HUD have issued no such guidance, although most of the state TANF programs indicate that, in fact, they have issued written guidance. Meanwhile, the Office of Inspector General (OIG) in the SSI and Food Stamp programs have frequently taken the lead in both responding to and facilitating arrangements with law enforcement for file matches to identify and apprehend fugitive felons.

To date, about 110,000 beneficiaries have been identified as fugitive felons and dropped from the SSI, Food Stamp, and TANF rolls. Many have been apprehended. Computerized file matching has been responsible for the identification of most of these fugitive felons. About 80 percent of all fugitive felons dropped from the SSI rolls, for example, were identified when SSA began its computerized matching process in 2000. While HUD has not attempted to match arrest warrants with its nationwide tenant file, our own match turned up nearly 1,000 housing assistance recipients for whom there were arrest warrants in Ohio and Tennessee, alone. The passage of PRWORA and subsequent initiatives to match files have also led to the reported arrest of some 18,678 fugitive felons—largely on the SSI, Food Stamp, and TANF rolls. This figure may understate the actual number, because law enforcement agencies do not always apprise program officials of arrests.

Aggressive implementation of PRWORA's fugitive felon provisions poses a number of challenges for programs. First, centralized and complete national and statewide arrest warrant data for computer matching are not readily available. Even the most comprehensive database available contains only about 30 percent of the state and local warrants issued nationwide. Second, because direct access to arrest warrants and criminal records is limited to law enforcement personnel, computer matching requires what many state TANF and Food Stamp officials view as a burdensome and complex negotiation process to obtain access to these records. Third, the absence of information and guidance about how to conduct file matching and overcome its logistical challenges has also hindered aggressive implementation of the law. Finally, there is evidence that individuals with outstanding warrants for felonies, or probation or parole violations, may continue to collect benefits because there may be differences in the interpretation of what constitutes a fugitive felon within the Food Stamp and TANF programs.

In this report, we suggest that the Congress consider amending the Housing Act of 1937 to explicitly make fugitive felons ineligible for housing benefits. We also make a number of recommendations to HHS, USDA, and HUD for actions to better implement PRWORA's fugitive felon provisions, which include encouraging the use of computer matching.

USDA's FNS officials generally agreed with our recommendations, but believed that a fuller discussion of the legal and procedural complexities involved in implementing the law was needed. We added information to the report to better reflect these complexities. HHS's Administration for Children and Families acknowledged that the report provided new and useful information. However, ACF did not concur with our recommendations for a variety of reasons, including concern that implementing the recommendations would infringe on the flexibility that PRWORA granted states in administering TANF programs. After evaluating ACF's comments, we continue to believe our recommendations are warranted and can be implemented within PRWORA's framework. HUD concurred with our recommendation to issue guidance on providing information to law enforcement officers. HUD did not concur with our recommendation that it test the feasibility and effectiveness of matching its nationwide tenant file with arrest warrant data to identify fugitive felons receiving housing assistance. HUD said that it lacked the legal authority to do so. We believe HUD has such authority. SSA reviewed the draft report and had no comments.

Background

PRWORA amended the authorizing language in statutes governing SSI, TANF, Food Stamp, and housing assistance programs by prohibiting fugitive felons³ and probation and parole violators from receiving benefits under these programs. To assist law enforcement agencies in apprehending fugitive felons, PRWORA also amended the authorizing legislation for each of these programs to require program officials to disclose the information they maintain on individuals to law enforcement officers when they request it.

Oversight and administration of the SSI, TANF, Food Stamp, and federal housing assistance programs are the responsibility, respectively, of four federal agencies: SSA, HHS, USDA, and HUD. Through the SSI program,

³Examples of crimes that are felonies include murder, rape, or burglary and other serious crimes that are usually punishable by imprisonment for more than 1 year.

SSA oversees the provision of monthly cash payments to people who are blind, disabled, or age 65 or older and have limited income and resources. HHS oversees the TANF program, which provides cash assistance and other work-related services to needy individuals. USDA oversees the Food Stamp Program, which helps low-income individuals purchase food. HUD provides housing assistance to low-income families, including the elderly and persons with disabilities. PRWORA's fugitive felon provisions apply to eligibility for HUD's public housing program and to most Section 8 programs.⁴ The public housing program provides housing units whose operation, maintenance, and modernization is subsidized with federal funds. Section 8 programs provide needy families with rental assistance through vouchers that can be used in privately owned housing or by occupying government-subsidized housing units.

While SSA directly administers the SSI program nationwide, the Food Stamp and TANF programs are generally administered at the state or local level, albeit with federal money in the case of the Food Stamp Program, and a combination of federal and state funds in the case of TANF. Depending on the state, the same staff at local offices may determine eligibility and benefit levels for both Food Stamp and TANF programs. HUD relies on local public housing agencies to administer its public housing and Section 8 programs.⁵ Public housing agencies manage and operate local public housing units and enforce tenant compliance with the lease.⁶ Low-income individuals and families often participate in more than one of the above public programs.⁷

The federal agencies that oversee these programs work with their OIG to meet their responsibility to ensure program integrity. In addition to helping to identify fraud, waste, and abuse in these programs, the OIGs

⁴Specifically, PRWORA's fugitive felon provisions apply to the following assisted housing programs: Public Housing, Section 8 New Construction/Substantial Rehabilitation, Section 8 Property Disposition, Section 8 Loan Management Set-Aside, Section 8 Certificate/Vouchers, Public Housing, HOPE VI, and the HOME Investment Partnerships Program.

⁵Public housing agencies are typically municipal, county, or state agencies created under state law to develop and manage public housing units.

⁶Public housing agencies also determine and approve eligibility for Section 8 payments and ensure that private housing units meet safety and health standards.

⁷For example, about 75 percent of TANF recipients also receive food stamps, and about 25 percent of individuals who receive federal housing assistance are also on the TANF rolls.

participate in federal, state, and local law enforcement agencies' pursuit and apprehension of individuals wanted for criminal offenses, including felonies. State governments can also play a role in ensuring the integrity of federal programs, particularly TANF and Food Stamp because states or counties administer them. The governments do so through fraud units in state human services departments and state inspectors or auditors general. To illustrate the size of these programs and their potential for fraud, waste, and abuse, table 1 compares the total benefits paid, erroneous payments, and caseload size reported by federal agencies in a single year by program.

Table 1: Total Erroneous Payments Reported by Federal Agencies, Benefits Paid, and Caseload by Program

Program	Program purpose	Total erroneous payments reported in FY 2000 (in billions)	Total federal benefits paid (in billions)	Caseload, nationwide
SSI	To provide income support to low-income people who are 65 and older, blind, or disabled.	\$1.64	\$30.8 in FY 2000.	6.4 million recipients as of 12/01.
TANF	To provide temporary assistance to needy families. In general, able-bodied TANF recipients must participate in work or work-related activities after receiving assistance for a maximum of 24 months, and there is a 5-year time limit on federal assistance.	Not available	\$15.7 in FY 2000.	2.1 million families on average per month; 5.5 million recipients on average per month in FY 2001.
Food Stamp ^a	To help needy households and those making the transition from welfare to work buy the food they need for a nutritionally adequate diet.	\$1.1	\$15.0 in FY 2000.	7.3 million households on average per month in FY 2000.
Public housing and Section 8 housing assistance programs	Public housing programs assist communities in providing decent, safe, and sanitary dwellings for low-income families. It provides housing units whose operation, maintenance, and modernization is subsidized with federal funds. Section 8 programs provide needy families with rental assistance through vouchers that can be used in privately owned housing or by occupying government-subsidized housing units.	\$1.25	\$22.0 in FY 1999.	4.0 million renter households in FY 1999.

^aAccording to USDA, in fiscal year 2001 the total erroneous payments reported for the Food Stamp program were \$1.0 billion; total federal benefits paid were \$15.5 billion; and caseload nationwide was 7.4 million households on average per month.

Source: Erroneous payment information for the Food Stamp program from USDA. All other information prepared by GAO for its report *Financial Management: Improper Payments Reported in Fiscal Year 2000 Financial Statements*, GAO-02-131R, (Washington, D.C.: Nov. 2, 2001).

Under PRWORA, the focus of the language affecting fugitive felons in each programs' authorizing language differs somewhat. The use of federal funds by fugitive felons is specifically prohibited in the SSI, TANF, and Food Stamp programs. For the SSI and Food Stamp programs, individuals identified as fugitive felons are ineligible for benefits for any period in which they are considered to be a fugitive felon, or probation or parole violator. For the TANF program, states are prohibited from using any portion of their federal funding to assist any individual considered to be a

fugitive felon.⁸ For public housing and Section 8 programs, PRWORA states that fugitive felon and probation or parole violation status "...shall be cause for immediate termination of the tenancy...."

PRWORA's provisions also require the SSI, Food Stamp, and housing assistance programs to disclose information about felons to law enforcement. Upon request from any federal, state, or local law enforcement officer, program officials must furnish the current address, Social Security number (SSN), and photograph (if applicable) of any benefit recipient. The officer must furnish the name of the recipient, and other identifying information to establish the unique identity of the recipient, and also attest that the request is made in conjunction with the officer's official duties. For the TANF program, the law also states that no "safeguards" a state has established "...against the...disclosure of information about applicants or recipients...." are to prevent the program from furnishing this information to law enforcement officers. Appendix II provides the language by program of PRWORA's provisions in the authorizing legislation with regard to the eligibility of fugitive felons and probation and parole violators for benefits and the release of recipient information to law enforcement officers.

It is difficult to estimate the number of fugitive felons who could be receiving SSI, TANF, Food Stamp, or housing assistance benefits, or the amount of erroneous payments made to such individuals, because there is no comprehensive data on the total number of people, nationwide, for whom there are outstanding arrest warrants for felonies or probation or parole violations. The Federal Bureau of Investigation (FBI) does compile arrest warrant data from a number of sources, nationwide, in its National Crime Investigation Center (NCIC) database. The NCIC is a repository for arrest warrants that federal agencies and state and local law enforcement authorities submit to it on a voluntary basis. According to an FBI official, there were about 825,000 outstanding warrants for felonies, serious misdemeanors, and parole and probation violations filed in the NCIC database as of August 2002. NCIC does not report the total number of

⁸In addition to the TANF block grant states receive from the federal government, state TANF programs receive state funding because PRWORA includes a maintenance-of-effort provision that requires states to contribute to their TANF program at least 75 to 80 percent of their historic level of funding under Aid to Families with Dependent Children, the predecessor to TANF. Thirty-four states indicated that they have laws or regulations that make fugitive felons, and probation and parole violators, ineligible for state-funded TANF benefits. Two states did not have similar laws, and three states provided no information in this regard.

warrants for felonies alone, nor does it know if all the warrants in the database are outstanding. There is some data available on the number of adults in the United States on probation or parole. According to the Department of Justice, there were 3,839,500 on probation in December 2000 and another 725,500 on parole.⁹

Programs Vary in How Aggressively They Implement PRWORA's Fugitive Felon Provisions

The extent to which PRWORA's fugitive felon provisions have been implemented in SSI, TANF, Food Stamp, and housing assistance programs varies. To help ensure that fugitive felons do not receive benefits for which they are ineligible, during the application and recertification processes, most programs ask applicants about their fugitive felon status. A number of programs also match recipient files and arrest warrant data to identify and terminate benefits to fugitive felons who are already on the rolls, but the scope and frequency of such matching activity varies widely. All programs also are responding in some way to PRWORA's requirement that they make information on recipients available to law enforcement when requested. In the Food Stamp and SSI programs, federal OIGs play a critical role in providing law enforcement agencies with this information directly assisting them at times in the apprehension of those fugitive felons on the rolls. HUD and HHS, on the other hand, have done little to ensure their programs' disclosure of information from recipient records to law enforcement agencies.

SSI and Most State TANF and Food Stamp Programs Require Applicants To Certify That They Are Not Fugitive Felons

Officials in 49 state TANF and 47 state Food Stamp programs reported that they require applicants to answer questions about whether there is a warrant outstanding for their arrest, although there is little evidence available on the degree to which this practice deters fugitive felons from applying for benefits or the number of applicants identified as fugitive felons in this way. In 39 TANF and 43 Food Stamp programs, recipients are also required to respond to these questions when their continuing

⁹According to the Department of Justice, slightly more than half of those on probation had been convicted of a felony.

eligibility is assessed.¹⁰ Two state TANF and 4 state Food Stamp programs reported doing nothing to determine fugitive felon status at the time an individual applies for benefits.

In the Food Stamp and SSI programs, procedures require staff to ask individuals when they apply for benefits whether or not they are fugitive felons. Staff also must ask recipients about their fugitive felon status when their continuing eligibility for benefits is reassessed. At the completion of the application interview, applicants also are asked to sign the application form, which contains a statement certifying that the information they provide is true and that they understand that any misrepresentation of the truth may constitute a crime.¹¹

In housing assistance programs, according to HUD officials, PRWORA's provisions do not make fugitive felons who apply for assistance ineligible. PRWORA states only that fugitive felon status shall be cause for immediate termination of tenancy. To implement this provision, HUD's regulations state that the lease must provide that the public housing authority may terminate the tenancy during the term of the lease if a tenant is a fugitive felon. Although HUD lacks requirements for systematic methods to prevent fugitive felons from successfully applying for assistance, the agency's regulations do state that housing agencies have authority to screen out applicants they determine to be unsuitable for admission under public housing authority standards.¹² Officials from HUD, however, indicated that they were not aware of which, if any, housing agencies engage in screening for fugitive felons.

¹⁰In the Food Stamp program, households are certified to be eligible for periods ranging from 1 to 24 months. Households with stable incomes are generally given longer certification periods than households with fluctuating incomes. When the certification period ends, to continue receiving benefits, clients must reapply and prove they are still eligible to participate. This is known as the recertification process. Unlike the Food Stamp program, in SSI the time between scheduled eligibility redeterminations varies depending on the likelihood that the recipient's situation may change in a way that affects eligibility. In housing assistance programs, most families' incomes and composition are reexamined once a year. In the TANF program, while recipients can receive federally funded benefits for only 60 months, there are no federal requirements related to how often eligibility is recertified.

¹¹USDA and SSA began to require this procedure to effectively support a determination that payments made in error to fugitive felons could be recouped from these individuals.

¹²24 C.F.R. §5.851(a).

SSA and Some State Programs Also Match Recipient and Arrest Warrant Data

In addition to the practice of asking applicants to report their fugitive felon status when they apply for benefits, SSI and some state Food Stamp and TANF programs identify and remove fugitive felons already on the rolls by comparing entire recipient files with a law enforcement agency's arrest warrant data. The scope and frequency of computerized matching can vary. SSI and some state Food Stamp and TANF programs use databases containing arrest warrants city or countywide, statewide, or nationwide. The FBI's NCIC database, for example, is a repository of arrest warrant information the FBI receives on a voluntary basis from states and from local jurisdictions.¹³ In 2002, the FBI expressed its willingness to compare state Food Stamp and TANF recipient files with warrants in the NCIC database and initiated an information campaign regarding its service.

Fifteen state Food Stamp and 15 state TANF programs reported that they periodically matched their recipient files with arrest warrant data. Most have done these matches on an ongoing basis—in most cases monthly, but the scope of the matches varied by state and program. (See table 2.)

Table 2: Scope of Arrest Warrants Matched with Program Recipient Databases in State Food Stamp and TANF Programs

Recipient database matched with:	Number of state Food Stamp programs	Number of state TANF programs
Local arrest warrants only	1	1
Statewide arrest warrants only	9	10
NCIC and statewide arrest warrants	3	2
NCIC arrest warrants only	2	2
Total	15	15

Note: Thirteen states reported conducting a match using both TANF and Food Stamp recipients.

Source: GAO's survey of state Food Stamp and TANF programs.

SSA currently matches its nationwide SSI applicant and recipient file with arrest warrant data from the FBI's NCIC database, the U.S. Marshals Service, and 11 states,¹⁴ usually on a monthly basis.¹⁵ SSA's current

¹³According to SSA, as of June 2002, the NCIC database received complete arrest warrant information on all felonies and parole and probation violations from 17 states and D.C., Another 6 states reported all felonies, but not all parole and probation violations.

¹⁴SSA also receives arrest warrant information from Baltimore County, Md.; Montgomery County, Pa.; and New York City and Philadelphia.

matching process, which covers all SSI applicants and recipients nationwide, has evolved from attempts by its OIG to verify the fugitive felon status of SSI recipients on an ad hoc basis in certain geographic areas. SSA officials said that systematic computer matching of the SSI file and arrest warrant data, although a complex process requiring considerable resources, is the most efficient and comprehensive way to ensure that fugitive felons do not receive SSI benefits. See appendix III for a detailed description of SSA's monthly matching process.

HUD officials said that the agency has never matched its nationwide database of housing assistance recipients with arrest warrant data from any law enforcement agency to identify program participants who are fugitive felons, even though PRWORA makes fugitive felon status grounds for termination of tenancy. The agency has left the implementation of this provision up to the individual public housing agencies, leaving it to them to identify fugitive felons. HUD regulations give public housing agencies and other landlords the option to evict those identified as fugitive felons, but do not require them to do so. However, HUD has not determined the extent to which public housing agencies have implemented the fugitive felon provisions in accordance with its regulations. In addition to its regulations, in July 2002, HUD issued revised model lease language stating that the tenancy of fugitive felons may be terminated.

All Programs Are Responding to Law Enforcement Agency Requests for Assistance

To help law enforcement officials apprehend fugitive felons, PRWORA calls for programs to provide information from SSI, Food Stamp, TANF, and housing assistance recipient records to law enforcement officers under certain circumstances. Law enforcement agencies can request such information directly from program staff, or indirectly from federal OIGs. In the case of state Food Stamp and TANF programs, they can request information from program officials, fraud units in state program departments, or from auditors general in state government.

In the SSI and Food Stamp programs, there are written procedures that must be followed when responding to these requests. USDA has issued regulations for state Food Stamp programs that mirror the PRWORA provisions and require states to provide household addresses, SSNs, and photographs, if available, to law enforcement officials when they make a request, and 44 state Food Stamp programs reported also having their own

¹⁵As of July 2002, SSA had signed memorandums of understanding with 20 states not providing complete data to NCIC, but 9 of these states had not provided data since January 2002.

written guidelines. In the absence of any guidance from HHS, officials from 44 state TANF programs reported that their programs had their own written guidelines for what program staff and others should do, under PRWORA, when a request for information from recipient records is received from law enforcement officers. Both SSA and its OIG have comprehensive procedural guidelines for handling law enforcement requests for information about SSI recipients. These guidelines include specific instructions on confirming the identity of the person named on an arrest warrant before information from recipient records can be released. HUD, like HHS, has not issued guidance, thus they have left it up to public housing agencies and other landlords to determine whether and under what circumstances they will respond to such requests from law enforcement officers. HUD has no information on how public housing agencies are handling such requests.

OIGs and State Auditors Have Taken the Lead in Providing Law Enforcement Agencies with Information about Program Recipients

Because of their own law enforcement authority, federal OIGs and state fraud units have often acted as intermediaries between outside law enforcement agencies and program staff to facilitate the exchange of recipient and arrest warrant information. Federal OIGs and state auditors have also played a major role in assisting in law enforcement's apprehension of fugitive felons on program rolls. Both USDA's and HHS's OIG have conducted such efforts. In both cases, the OIG matched recipient files and arrest warrant data and provided law enforcement officials with the matches. USDA's efforts, known as Operation Talon, began in 1997 in Kentucky, and expanded to include operations in 30 states and D.C. According to USDA's Inspector General, Operation Talon activities slowed beginning in 2001 when OIG priorities shifted to other areas. HHS's OIG conducted one initiative in a metropolitan area in Nebraska that ended in the apprehension of a very small number of fugitive felons.

SSA's OIG has also played a key role in the exchange of arrest warrant and SSI recipient information. SSA's monthly matching process is not only designed to identify and terminate benefits to fugitive felons on the SSI rolls, but also to provide law enforcement agencies with information from SSI recipients' records that will assist them in apprehending fugitive felons. SSA and its OIG worked together to negotiate agreements with federal, state, and local law enforcement agencies to provide them with arrest warrant information. Once SSA staff match arrest warrants with the SSI file, the OIG helps ensure that the law enforcement agencies that issued the warrants receive the information from SSI records they need to apprehend those identified as fugitive felons. Finally, the OIG tracks and

compiles data on the apprehension and termination of benefits to SSI recipients determined to be fugitive felons. See appendix III for a detailed description of SSA's monthly matching process.

In addition, SSA's OIG has assisted law enforcement officials in their pursuit and arrest of SSI recipients who are fugitive felons. For example, the OIG has participated in joint investigations with the New York State Division of Parole, the New York State Welfare Inspector General, and the New York City Department of Corrections to identify and apprehend SSI recipients who were parole violators.

To assist law enforcement in locating criminals, HUD's OIG indicated that it has responded to requests from law enforcement for information, usually on a case-by-case basis. As with SSA's OIG, HUD's and USDA's OIGs also have assisted law enforcement agencies in the pursuit and arrest of fugitive felons.

Since PRWORA, Thousands of Fugitive Felons Have Been Identified and Denied Benefits, with Some Resulting Cost Savings and Arrests

The SSI, Food Stamp, and TANF programs have identified over 110,000 beneficiaries who are fugitive felons—largely through the matching of warrant and enrollee files. When SSA and states have taken the initiative or been in a position to match recipient and warrant data, there have been a significant number of fugitive felons identified. The results from our own comparison of arrest warrant from just two states and the HUD nationwide tenant database suggest that many fugitives in housing assistance programs go unidentified. Total cost savings to date are hard to ascertain, however, in part, because not all state Food Stamp and TANF programs keep records or make such calculations. SSA's OIG has reported 5-year cumulative savings of more than \$81 million in overpayments and \$133 million in projected future savings from the SSI recipients identified as fugitive felons. Since passage of PRWORA, law enforcement officials also have been making thousands of requests for program information to help them apprehend fugitive felons, either for specific case information or for file matches. At least 18,678 arrests from this effort have occurred. This may be a conservative figure because programs do not always receive feedback from law enforcement on the outcome of cases.

Comprehensive Data Matching Accounts for Most Identifications; Program Savings Have Also Been Realized

Of the more than 110,000 beneficiaries identified as fugitive felons across all programs since 1996,¹⁶ 45,000 have been identified on the SSI rolls through matching. SSA’s experience strongly suggests that matching SSI and arrest warrant data produces better results than less comprehensive methods of identifying fugitive felons such as case-by-case inquiries. Also, the more comprehensive the warrant database drawn from, the higher the yield. SSA’s access to the NCIC database together with its array of agreements with states and municipalities has given the agency a large database of warrants against which to compare its own national recipient file. Although SSA efforts to identify fugitive felons on the rolls increased steadily prior to 2000, the agency’s identification process up until that time was largely confined to manual checks for specific case inquiries and one-time ‘sweeps’ initiated by law enforcement, the OIG, or state fraud units. In 2000, however, after SSA secured a memorandum of understanding with the FBI to provide it with arrest warrant data, SSA began performing monthly matches with its SSI file. This more comprehensive approach resulted in some sharp yearly increases in the numbers of fugitive felons identified. (See table 3.)

Table 3: Fugitive Felons Identified in the SSI Program and Estimated Overpayments and Projected Savings, Fiscal Years 1997-2001

Estimates of:	1997	1998	1999	2000	2001	Total
Fugitive felons identified	23	1,172	7,421	13,817	22,638	45,071
Overpayments	\$333,000	\$1,360,000	\$17,219,000	\$20,895,000	\$41,843,000	\$81,650,000
Projected savings ^a	\$450,000	\$9,208,000	\$27,087,000	\$34,474,000	\$61,727,000	\$132,946,000

Note: The volume of fugitives identified should increase as additional agreements with state law enforcement agencies are negotiated.

^aSSA calculates savings by multiplying the monthly SSI payment by 24 months.

Source: SSA and SSA’s Office of Inspector General.

Increased savings accompanied the increases in the number of fugitive felons identified. SSA estimates that since the passage of PRWORA, it has identified more than \$81 million in overpayments. It has projected future savings on fugitive felons removed from the SSI rolls of about \$133 million. Table 3 shows substantial annual increases in those savings beginning in 1999 with SSA’s initial computer matching efforts.

¹⁶Because individuals may participate in more than one of these programs, this number may overstate the number of fugitive felons identified.

State Food Stamp and TANF administrators have identified many fugitive felons on their program rolls, as well. Based on the estimates we received from state officials, in total, over 65,000 have been identified in these programs across all states since 1997. Identification strategies and results varied considerably across states, but those state programs that identified large numbers of felons usually did so by matching their automated recipient files and files of arrest warrants nationwide and/or statewide.¹⁷ For example, sizeable numbers of fugitive felons on TANF and Food Stamp rolls in Missouri, Ohio, and Tennessee were identified using large warrant databases. (See table 4.)

Table 4: Scope and Results of State Initiatives That Matched Automated State Program Recipient and Warrant Files To Identify Fugitive Felons on the Rolls

State and year of initiative	Benefit populations	Scope of warrants	Number of fugitive felons identified	Estimated amount of erroneous payments
Tennessee (1998)	Statewide TANF and Food Stamp rolls combined	Statewide and NCIC	1,678	\$7,000,000 ^a
Ohio (1999)	Statewide TANF and Food Stamp rolls combined	Statewide	1,082	\$1,056,028
Missouri (2000)	Statewide TANF and Food Stamp rolls combined	Statewide	802	\$672,640

^aAmount includes estimated future payments.

Source: State auditors' reports from Missouri and Ohio and a state law enforcement agency report from Tennessee.

Very few state TANF or Food Stamp programs could provide precise estimates of cost savings, but the initiatives in Missouri, Ohio, and Tennessee found that millions of dollars could be saved using matching at the state-level.

¹⁷Five states queried the NCIC database.

GAO's Computerized Match of Arrest Warrants with HUD Tenant Files Identified Nearly 1,000 Fugitive Felons in Housing Assistance Programs

Because HUD has no data on the numbers of housing assistance recipients whose tenancy could be subject to termination under PRWORA, we conducted our own match of arrest warrants in two states—Ohio and Tennessee—with HUD's national, tenant database. Nationally, we found 927 adults who were living in public housing or Section 8 housing between January 2001 and January 2002 while there were outstanding warrants for their arrests from those two states for felonies, or parole or probation violations.¹⁸ These adults were wanted for a wide range of crimes, including possession of or selling dangerous drugs; larceny, such as bank robbery; and assault. (See app. V.) About 65 percent were living in public housing or Section 8 housing outside of Ohio and Tennessee. If the leases on the housing units where these fugitive felons lived or the Section 8 voucher had been terminated, we estimate HUD could have saved \$4.2 million annually in program costs – or made housing available to some of the 9 million eligible families waiting for units nationwide.¹⁹ See appendix I for a detailed description of our matching process.

Law Enforcement Agency Requests for Recipient Information Have Led to Thousands of Arrests

Law enforcement officers have requested information about thousands of recipients since PRWORA gave them access to program information. With the exception of SSA and a few state human service agencies, however, most do not track or record requests.²⁰ Collectively, human service agencies in Arizona, Indiana, and Texas reported receiving 29,408 requests from law enforcement for recipient information from fiscal years 1997 through 2001. SSA's OIG was able to report the number of requests it has received each year from law enforcement since implementation of PRWORA. (See fig 1.) Although requests increased during the first few years after the law was passed, there was a noticeable decrease in 2000 after the agency began to implement routine file matching.

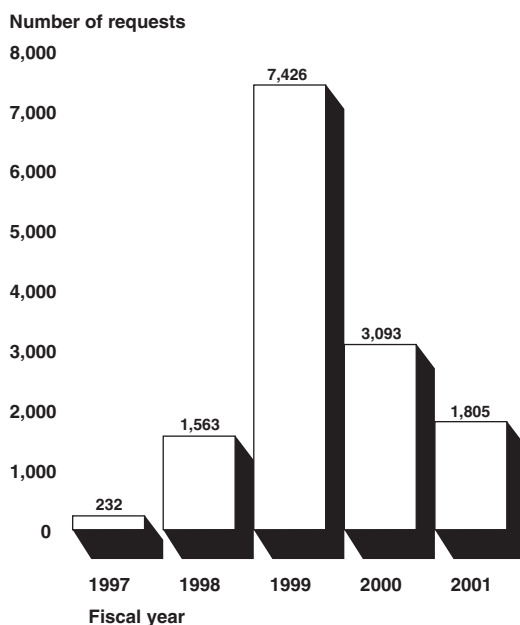
¹⁸The tenant data we used in this match included individuals participating in public housing, Section 8 Certificate/Vouchers, and Section 8 Moderate Rehabilitation Programs. These three programs accounted for about 88 percent of the housing units in HUD programs covered by PRWORA nationally in fiscal year 1999.

¹⁹This estimate is based on the assumption that in all 927 cases (1) the tenant received housing assistance beginning in January 2001 and ending in January 2002, (2) the tenant was the person named on the warrant, (3) the warrant was issued in January 2001 and was in effect only through January 2002, and (4) housing assistance to the tenant's entire household was terminated. The actual savings in program costs could be lower or higher depending on the degree to which each of these assumptions is accurate.

²⁰Thirty-four state Food Stamp officials noted that since PRWORA, law enforcement officials have actively sought out information, but only 5 states maintain data on those requests. According to our survey of state TANF programs, 13 states routinely provided this information to law enforcement.

According to SSA officials, the recipient information SSA now routinely provides to law enforcement agencies as part of its monthly matching process most likely reduced the need for law enforcement agencies to request this information.

Figure 1: Law Enforcement Officers' Requests to SSA or Its OIG for Information on SSI Recipients Who Are Fugitive Felons, Fiscal Years 1997-2001



Source: SSA's Office of Inspector General.

Since PRWORA was enacted, the information that law enforcement has received from programs about their recipients has resulted in the arrest of at least 18,678 fugitive felons through March 2002, a conservative figure in that law enforcement does not always report arrests to programs, state auditors, or OIGs. SSA, USDA, and some state TANF and Food Stamp officials were able to provide selected statistics. USDA's Operation Talon—carried out in 30 states and D.C.—resulted in 5,165 arrests for felonies and probation and parole violations between early 1997 and March 2002.²¹ SSA reported 5,019 fugitive felons apprehended through 2001.²² Among states that have screened both TANF and Food Stamp

²¹Including warrants for misdemeanors, the OIG reported 7,981 total arrests for all offenses for this period.

²²See appendix IV for data on the offenses charged on these warrants.

recipients, two were able to report total arrests since 1997: Texas reported 791; New York, 6,980. Finally, using matching, a state audit of Food Stamp and TANF programs in Tennessee in 1998 resulted in 403 arrests for offenses as serious as

Law enforcement officials do not arrest all recipients who are identified as fugitive felons. Most fugitive felons found on the SSI rolls, for example, were not arrested. SSA, which has a follow-up reporting system in place, received reports on over 5,900 matched warrants from law enforcement agencies in 2001, indicating that over 2,000 fugitive felons had been arrested. According to SSA, there are many reasons why providing law enforcement with information from recipients identified as fugitive felons may not lead to their arrest: (1) The fugitives could not be located; (2) the recipient was not the person for whom the warrant was issued; and (3) the law enforcement agency that issued the warrant refused to extradite the recipient when he or she was living in another jurisdiction.

Aggressive Implementation of the Law Poses a Number of Challenges for Programs

There are a number of reasons why the law is not aggressively implemented by all programs that are required to deny benefits to fugitive felons. First, centralized arrest warrant databases are not readily available to programs. Second, programs need the assistance of law enforcement agencies to achieve their goal of removing fugitive felons from the rolls. Third, a lack of information about how to conduct computerized matching and where to find assistance hampers many state program officials. Finally, in the Food Stamp and TANF programs, the lack of criteria for what constitutes a fugitive may interfere with states' ability to act decisively to deny benefits to those wanted for felonies or probation or parole violations.

Centralized and Complete Arrest Warrant Databases Are Not Readily Available

There is no single database that contains information on all wanted persons throughout the United States. Local law enforcement agencies, states, judicial agencies, and federal government agencies all maintain various warrant records. The only database that compiles federal, state, and local warrants is the FBI's National Crime Information Center, or NCIC, established to support criminal justice agencies throughout the country. Yet, according to SSA's OIG, in August 2000 this file contained only about 30 percent of local and state warrants issued across the nation. For this reason, SSA has found it necessary to negotiate with many states and even municipalities for access to their local warrants. Among the

75 state-administered Food Stamp and TANF programs that do not perform computer matching to identify fugitive felons, nearly half cited the lack of a statewide repository for warrants as a reason.²³ For the Food Stamp program, alone, 16 states reported lacking a central source for statewide or interstate warrant data. Five reported that existing warrant data are outdated and unreliable.

Matching Requires Collaboration and Close Coordination with Law Enforcement

Because computer matching involves using criminal records to which only law enforcement agents are authorized access, program officials must negotiate specific terms with each relevant agency for access to that information. Nearly half of the TANF and Food Stamp programs that have not conducted computer matching noted that the burden and complexity of negotiating for access to statewide or NCIC arrest warrant records was a reason why they did not match. In addition to accessing warrant files, law enforcement's assistance is needed to verify the accuracy of the warrant once a match it made.²⁴ Officials from USDA's FNS pointed out that such verification is critical to ensuring that Food Stamp benefits are not improperly denied to otherwise eligible individual. Consequently, they are dependent on law enforcement agencies to determine if warrants are valid. Over a third of state officials from TANF and Food Stamp programs that have not matched indicated that they did not because law enforcement agencies are unwilling to verify the results.

Lack of Knowledge about Matching and How to Define a Fugitive Felon Hinders Implementation of the Law

State program officials do not necessarily have knowledge about how to design a file matching process, how to enlist the help and cooperation of law enforcement agencies, or where to find centralized sources of warrant data. Nearly two-thirds of the TANF and Food Stamp officials surveyed whose programs do not use computerized matching said that information about file matching from HHS or USDA would help them assess its feasibility. Over half of these program officials said that information about how matching is performed by other programs or guidance testing its feasibility would be a moderate to very great help. About half indicated that guidance on federal laws governing either access to arrest warrants, or due process prior to terminating benefits under computerized matching would be a moderate to very great help. Many survey respondents also

²³This includes TANF and Food Stamp programs in the District of Columbia.

²⁴Under the Computer Matching and Privacy Protection Act of 1988, the accuracy of the warrants naming program recipients and the identity of the persons named on these warrants must be verified before these recipients can be removed from the rolls.

indicated that information about the rules governing use of and access to the NCIC arrest warrant database would be helpful.

There is also evidence that a fugitive felon is defined differently across, and perhaps within, programs. FNS, for example, has directed state Food Stamp programs to deny benefits to individuals with outstanding arrest warrants only when the program has verified that these individuals are aware of the warrants. In contrast, SSA guidelines make no mention of this as criteria for denying SSI benefits. They state that SSI benefits should be denied to applicants and recipients with outstanding arrest warrants, whether or not the law enforcement agencies that issued the warrants have acted on them.

FNS headquarters officials told us that they believed the definition of a fugitive under PRWORA is open to interpretation and that, without further guidance, state Food Stamp programs may be defining it differently as well. They pointed out a number of questions that need to be addressed when deciding whether or not to deny benefits to those with arrest warrants. For example, should individuals with outstanding warrants be considered fugitive felons if they are not aware of the warrants, or if law enforcement agencies have not acted on the warrants within a certain timeframe? HHS officials also indicated that, based on the language in the law, it is not clear whether the Congress intended to deny benefits when law enforcement officials lack the resources, jail space, or court time to execute arrest warrants. They contend that the most significant challenge programs face when implementing the law is how to define a “fleeing” felon.

Responses to our survey confirm that there may be different definitions of what constitutes a fugitive felon across state programs as well. For example, one state program official indicated that the existence of a warrant, alone, was not proof that a recipient was fleeing. Consequently, recipients in that state who were fugitive felons were reportedly not removed from the benefit rolls unless they were arrested. An official from another state further questioned whether those who are not aware of warrants for their arrest could be considered fleeing.

Conclusions

There has been some progress in implementing the fugitive felon provisions of PRWORA. Where there has been leadership from program officials, OIGs or state auditors, large numbers of fugitive felons have been removed from the rolls and apprehended, mostly through the use of matching. However, the law has not been implemented aggressively in all programs. Most strikingly, HUD has done little to ensure that fugitive

felons do not receive housing assistance. This could be because the law, as it applies to housing assistance programs, states that fugitive felon status is only grounds for termination of tenancy and not that fugitive felons are ineligible for housing assistance. Therefore, according to HUD officials, while public housing agencies and landlords have the authority to evict fugitive felons, they are not required to do so. Furthermore, even though HUD maintains its own national database of tenants, it has made no attempt to match it with information from centralized arrest warrant databases such as the NCIC. Such matching, even when done on a limited basis, would be an effective way to identify potentially large numbers of fugitive felons in federal housing assistance programs that landlords have the authority to evict.

As demonstrated in SSI and a few state TANF and Food Stamp programs, matching recipient and arrest warrant data can be an effective tool for implementing the fugitive felon provisions. However, expanding the use of matching is not an easy task. In this respect, state program officials indicated that they could benefit from the experience of others. Information about how other programs and states have obtained access to and used centralized arrest warrant data, collaborated with law enforcement agencies, and conducted matching could help state TANF and Food Stamp programs plan and develop their own matching procedures.

Increased use of computer matching alone will not ensure that the law is fully implemented in state TANF and Food Stamp programs. The law's overall effectiveness could be seriously undermined if it is not applied consistently, and there appears to be some question about what constitutes a fugitive felon within TANF and Food Stamp programs. Without knowing how state programs are defining fugitive felons, there is no way for HHS or USDA to determine if the law is being applied consistently and, if not, how to ensure that it is.

Finally, neither HHS nor HUD has issued instructions on the circumstances under which information about benefit recipients is to be released to law enforcement agencies when they request it. As a result, state TANF programs, and HUD public housing agencies and other landlords in this highly decentralized system, may be implementing this provision inconsistently. As a result, law enforcement agencies may not be receiving the information they request and legally have access to.

Matters for Congressional Consideration

The Congress should consider amending the Housing Act of 1937 to make fugitive felons ineligible for federal housing assistance.

Recommendations for Executive Action

To better implement PRWORA's fugitive felon provisions, we recommend that the Secretary of Housing and Urban Development

- test the feasibility and effectiveness of routinely matching its nationwide tenant file with the NCIC arrest warrant database as a means of identifying tenants in housing assistance programs nationwide who are fugitive felons and subject to eviction and
- issue guidance on the circumstances under which federal housing programs are required to provide information about residents in federally subsidized housing to law enforcement agencies.

To oversee and better implement these provisions in the TANF program, we recommend that the Secretary of Health and Human Services

- encourage states to test the feasibility and effectiveness of routinely matching TANF applicant and recipient records with arrest warrants by providing them with information on the matching activities of other state TANF programs and their results and on accessing available arrest warrant databases such as NCIC;
- monitor states' computerized matching efforts to identify fugitive felons and their results;
- determine what criteria state TANF programs are using to remove recipients wanted for felonies or probation or parole violations from the TANF rolls, and if these criteria differ across states, provide TANF programs with clear guidance on the circumstances under which benefits to fugitive felons should be terminated; and
- issue guidance on the circumstances under which TANF programs are required to provide information about TANF recipients to law enforcement agencies.

To oversee and ensure better implement these provisions in the Food Stamp program, we recommend that the Secretary of Agriculture

-
- encourage states to test the feasibility and effectiveness of routinely matching Food Stamp applicant and recipient records with arrest warrants by providing them with information on the matching activities of other state Food Stamp programs and their results and on accessing available arrest warrant databases such as NCIC;
 - monitor states' computerized matching efforts to identify fugitive felons and their results; and
 - determine what criteria state Food Stamp programs are using to remove recipients wanted for felonies, or probation or parole violations from the Food Stamp rolls and, if these criteria differ across states, provide Food Stamp programs with clear guidance on the circumstances under which benefits to fugitive felons should be terminated.

Agency Comments

Officials from the Department of Agriculture's Food and Nutrition Service, the Department of Health and Human Services' Administration for Children and Families, and the Department of Housing and Urban Development provided comments on our report. The full text of the comments from HHS and HUD, appears in appendixes VI and VII, respectively. The Director of FNS Program Development Division and other FNS headquarters officials, provided oral comments, some of which were technical and incorporated into the report where appropriate. Officials from the Social Security Administration reviewed the report and had no comments. (See app. VIII.)

In general, FNS officials agreed with our recommendations, but voiced concern that the report needed to more fully discuss the legal and procedural complexities involved in implementing the fugitive felon provisions. They said that because what constitutes a fugitive under PRWORA is open to interpretation, eligibility criteria for benefits may vary within and across programs. They indicated their intention to re-evaluate their current definition, which defines fugitives as only those who are aware that warrants have been issued for their arrest. Nevertheless, they noted that there may be room for flexibility in how state agencies respond to the individual circumstances of fugitive felons, just as states have flexibility when enforcing certain other Food Stamp program requirements.

FNS officials cautioned against viewing the implementation of PRWORA's fugitive felon provisions outside the context of a program's administrative structure and its quality assurance procedures and standards. They noted,

for example, that the Food Stamp program is administered by the states, making it more difficult to ensure uniform implementation of the law than in the SSI program, where control is centralized at the federal level.

FNS officials noted that, in order to enhance compliance with the law in the Food Stamp program, they recently obtained information from SSA about its fugitive felon procedures and processes and were now working with their OIG to clarify issues related to fugitive felon ineligibility for food stamps. They have also begun to plan pilot projects in several states of procedures that would allow law enforcement time to apprehend fugitive felons before state food stamp agencies take action on their eligibility. These projects will build due process protections into these procedures.

ACF acknowledged that the report provided new and useful information on this topic. However, it expressed concern that the report did not adequately portray the full significance of the challenges associated with implementation of the fugitive felon provisions. In particular, ACF highlighted the challenges associated with defining a fleeing felon. Furthermore, ACF did not concur with our recommendations for a variety of reasons. It believed that implementing our recommendations would infringe on the authority and flexibility PRWORA gives states to establish their own TANF eligibility rules and procedures and calls for federal action not authorized under PRWORA. We believe that issuing guidance is permissible under PRWORA and can be done in a manner that allows for state flexibility. Guidance simply provides states with a means to make more reasoned judgments about the actions they choose to take.

ACF further argued that neither the Office of management and Budget's (OMB) single state compliance audits, nor feedback it has received from state agencies have identified problems with the implementation of the fugitive felon provisions. The absence of evidence of problems in either case, however, does not mean that problems do not exist, nor that the monitoring and guidance we recommend would not be useful. ACF also appears to have interpreted our recommendations for monitoring and encouraging computer matching more narrowly than intended. We do not prescribe how ACF should accomplish these tasks. Our recommendations would not require the creation of new data collection procedures or systems. The mechanisms that ACF and HHS's Office of Family Assistance have in place for communicating and interacting with state and local agencies could be used to effectively implement these recommendations within the limits PRWORA places on federal authority.

ACF disagreed with the recommendation for national guidance describing the circumstances, under PRWORA, in which TANF programs should provide information to law enforcement agencies, noting that 44 state TANF agencies had already developed their own guidance. Our point remains that all state agencies should have established guidance. Furthermore, our review of selected states' guidance showed that it may not always be consistent with PRWORA's fugitive felon provisions. Consequently, we continue to believe that national guidance is justified.

In its comments, HUD did not concur with our recommendation to test the feasibility and effectiveness of routinely matching its nationwide tenant file with NCIC arrest warrant data. HUD said that PRWORA does not require, nor does it give, the department the authority to conduct computer matching to screen for fugitive felons, and parole or probation violators. We disagree with HUD's assertion that it lacks the authority to conduct computer matching. In our view, HUD does not need any specific statutory authority to conduct computer matching, but any matching it does conduct must comply with the Computer Matching and Privacy Protection Act of 1988. We also note that, even though HUD contended that it lacked the authority to computer match, it did agree to examine computer matching as a possible option for implementing the fugitive felon provisions.

HUD did concur with our recommendation to issue guidance on the circumstances under which federal housing programs are required to provide information about residents to law enforcement agencies. HUD said that its Office of General Counsel was working with its Office of Public Housing and Multifamily Housing to determine the appropriate method (by notice or regulation) to implement PRWORA's requirement that public housing agencies provide law enforcement with information about tenants who are fugitive felons, or parole or probation violators. HUD also described other actions it was taking to better implement PRWORA's fugitive felon provisions.

Finally, HUD expressed concern about our estimate of the savings that could result from matching its national tenant file with warrants from Ohio and Tennessee. HUD indicated that the assumptions upon which this estimate is based, are not likely to hold true in every case. We agree and had already recognized this qualification in the draft report. We continue to believe that our analysis produced a reasonable estimate that has been appropriately qualified.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies of this report to appropriate congressional committees and other interested parties. Copies will also be made available to others upon request. In addition, this report will be available at no charge on GAO's Web site at <http://www.gao.gov>. If you have any questions about this report, please contact me at (202) 512-9889. Other contacts and staff acknowledgments are listed in appendix IX.

Sincerely yours,

A handwritten signature in black ink that reads "Robert Robertson". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Robert E. Robertson
Director, Education, Workforce, and
Income Security Issues

Appendix I: Scope and Methodology

In order to determine the extent to which actions have been taken to ensure that fugitive felons do not receive Supplemental Security Income (SSI), Food Stamp, Temporary Assistance to Needy Families (TANF), or housing assistance benefits, we interviewed federal officials in the Social Security Administration (SSA), the Department of Agriculture (USDA), the Department of Health and Human Services (HHS), and the Department of Housing and Urban Development (HUD) and reviewed regulations and other documents that provide policy on handling fugitive felons as applicants or beneficiaries. We also gathered data from the Office of the Inspector General (OIG) for SSA, USDA, HUD, and HHS on the number of program participants identified as fugitive felons through their initiatives.

We conducted telephone and e-mail surveys with state officials who administer TANF and Food Stamp programs in each of the states and the District of Columbia. In our telephone survey, we collected data on the actions these programs had taken to implement the fugitive felon provisions in the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. We also collected information on the extent to which law enforcement agencies have asked for or used beneficiary information from these programs to locate and apprehend fugitive felons and asked states for any estimates they had of the number of fugitive felons identified on the rolls and the amount of overpayments to these recipients. In our e-mail survey, we asked state programs that were not conducting matching what prevented them from doing so and what federal agencies could do to assist them in using matching to implement the PRWORA's fugitive felon provisions.

We obtained information about SSA's process for identifying fugitive felons through interviews with and documents provided by its OIG, systems, and program staff involved with the fugitive felon program. Appendix III contains a detailed description of SSA's fugitive felon matching process. We visited state officials in Delaware to gather information about their initiatives in the Food Stamp and TANF programs and issues surrounding their efforts to establishing a data matching process.

To determine the extent to which fugitive felons may be receiving federal housing benefits, we conducted a one-time computer match using HUD's national data on housing tenants and arrest warrant data from Ohio and Tennessee. We chose these two states because their warrant files were readily available from SSA and because of their prior experience in matching warrant records with SSI, Food Stamps, and TANF recipient files. In addition, both states agreed to participate in our pilot. For

computer matching, HUD provided us with national information from its database containing persons in public housing, persons receiving Section 8 tenant based assistance, and persons in the Section 8 Moderate Rehabilitation program for the period January 2001 through January 2002.¹ The Ohio and Tennessee warrant records were all current as of January 2002. SSA screened the warrant records for us through its automated Enumeration Verification System to verify the Social Security number (SSN) and other pertinent data provided by the law enforcement agency on the warrant matched with data from SSA's records.² Using SSA guidelines, we screened the approximate 7.3 million tenant records and deleted records with invalid SSNs, that is numbers that SSA never issued. Also, if we found multiple persons using the same SSN, we removed their records. After the screening process, we computer-matched the SSNs of 7.1 million tenant records nationally with the numbers of 31,493 persons with fugitive felon warrants issued by Ohio and Tennessee.³ Our SSN comparisons identified 927 individual fugitive felons with one or more arrest warrants issued by Ohio or Tennessee who resided in public housing or Section 8 housing. As a final check, we compared the matched individual's name and date of birth from the warrant and tenant records and found minor inconsistencies which, in our opinion, would not change the results.

To estimate cost savings, we analyzed agency data collected for a 1998 HUD report.⁴ The report showed data by state on the average annual per unit cost for each housing type. Using these data, we multiplied the number of resident fugitive felons by their applicable average annual per unit cost. If the leases on the housing units in which these 927 individuals

¹HUD provided us with tenant data reported by public housing agencies on the "HUD-50058" form. This form contains the name, SSN, date of birth, gender, and other information of individuals participating in public housing, Section 8 tenant-based assistance (certificates and vouchers), and Section 8 moderate rehabilitation programs.

²SSA's systems are also capable of identifying an individual's correct SSN when it is missing from the warrant, or when the SSN provided by the law enforcement agency does not match with other pertinent information such as name and date of birth.

³Of the 31,493 warrant records, 95 percent were Ohio's and 5 percent were Tennessee's.

⁴*A Picture of Subsidized Households in 1998: United States Summaries*, U.S. Department of Housing and Urban Development, Washington, D.C.; August 28, 1998.

lived had been terminated, we estimate that about \$4.2 million⁵ annually in federal funds could have been made available to others who are eligible for, but could not find, public housing or Section 8 housing.⁶

⁵This estimate is based on the assumption that in all 927 cases (1) the tenant received housing assistance beginning in January 2001 and ending in January 2002, (2) the tenant was the person named on the warrant, (3) the warrant was issued in January 2001 and was in effect only through January 2002, and (4) housing assistance to the tenant's entire household was terminated. The actual savings in program costs would be lower or higher depending on the degree to which each of these assumptions is accurate.

⁶If the average national annual cost, per unit, based on 1999 budget estimates were used, cost savings associated with our 927 resident fugitive felons would be \$4.4 million.

Appendix II: PRWORA's Amendments to Authorizing Legislation of SSI, TANF, Food Stamp, and Housing Assistance Programs

SSI	TANF	Food Stamps	Housing Assistance
Denial of benefits to fugitive felons and probation or parole violators			
Section 1611 of the Social Security Act	Section 408 of the Social Security Act	Section 6 of the Food Stamp Act	Sections 6 and 8 of the Housing Act of 1937
<p>No person shall be considered an eligible individual or eligible spouse for purpose of this title with respect to any month if during such month the person is</p> <p>(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or</p> <p>(B) violating a condition of probation or parole imposed under Federal or State law.</p>	<p>In general. – A State to which a grant is made under section 403 of the Social Security Act shall not use any part of the grant to provide assistance to any individual who is</p> <p>(i) fleeing to avoid prosecution , or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or</p> <p>(ii) violating a condition of probation or parole imposed under Federal or State law.</p> <p>The preceding sentence shall not apply with respect to conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.</p>	<p>(k) Disqualification of Fleeing Felons — No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is</p> <p>(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or</p> <p>(2) violating a condition of probation or parole imposed under a Federal or State law.</p>	<p>It shall be cause for immediate termination of the tenancy of a tenant if such tenant</p> <p>(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or</p> <p>(2) violating a condition of probation or parole imposed under a Federal or State law.</p>

**Appendix II: PRWORA's Amendments to
Authorizing Legislation of SSI, TANF, Food
Stamp, and Housing Assistance Programs**

SSI	TANF	Food Stamps	Housing Assistance
Provision of program recipient information to law enforcement officers			
Section 1611 of the Social Security Act	Section 408 of the Social Security Act	Section 11 of the Food Stamp Act	Section 27 of the Housing Act of 1937
Notwithstanding any other provision of law (other than section 6103 of the Internal revenue Code of 1986), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the Commissioner with the name of the recipient, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the recipient, and notifies the Commissioner that (ii) the recipient has information that is necessary for the officer to conduct the officer's official duties; and (B) the location or apprehension of the recipient is within the officer's official duties.	If a State to which a grant is made under section 403 establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that (i) the recipient has information that is necessary for the officer to conduct the official duties of the officer; and (ii) the location or apprehension of the recipient is within such official duties.	Notwithstanding any other provision of law, the address, social security number, and, if available, photograph of any member of a household shall be made available, on request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that (i) the member (I) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or attempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under Federal or State law; or (II) has information that is necessary for the officer to conduct an official duty. (ii) Locating or apprehending the member is an official duty; and (iii) the request is being made in the proper exercise of an official duty; and (E) the safeguards shall not prevent compliance with paragraph (16)	Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 6 or 8 of this Act with Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this Act, if the officer (1) furnishes the public housing agency with the name of the recipient; and (2) notifies the agency that (A) such recipient (i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or (ii) is violating a condition of probation or parole imposed under Federal or State law; or (iii) has information that is necessary for the officer to conduct the officer's official duties; (B) the location or apprehension of the recipient is within such officer's official duties; and (C) the request is made in the proper exercise of the officer's official duties.

Note: The language for Sections 6 and 8 of the Housing Act of 1937 is substantially identical except the word "immediate" is omitted in Section 8.

Appendix III: SSA's Computer Matching Process for Implementing PRWORA's Fugitive Felon Provisions

PRWORA's fugitive felon provisions have two objectives: (1) to ensure that fugitive felons do not receive SSI benefits and (2) to ensure that law enforcement agencies receive the information they need about SSI applicants and recipients to apprehend fugitive felons. To implement the law, SSA has designed a single process that can accomplish both objectives. By matching arrest warrant information it receives from federal, state, and local law enforcement agencies with its national SSI file, SSA is not only preventing fugitive felons from receiving SSI benefits, but also providing information about those in the SSI file it identifies as fugitive felons to law enforcement agencies so those individuals can be apprehended. SSA's matching process requires the active involvement of its OIG as well as the involvement and cooperation from federal, state, and local law enforcement agencies.

In developing this process, SSA and its regional offices as well as its OIG have had to locate sources of arrest warrant information, assess the adequacy of arrest warrant information from each source, and negotiate agreements with the law enforcement authorities that maintain this information to release it to SSA. SSA began to explore the potential for conducting such computer matching when it approached the U.S. Marshals Service and the Federal Bureau of Investigation (FBI) with proposals to match its SSI file with their arrest warrant information. The FBI's National Crime Information Center (NCIC) database is the nation's most extensive computerized criminal justice information system. NCIC consists of millions of records in several files, including files on wanted persons. As such, law enforcement agencies at the federal, state, and local levels may voluntarily submit their law enforcement information, including arrest warrants, to the FBI for inclusion in the NCIC database. SSA and its OIG secured memorandum of understanding with the FBI in March 2000 to provide SSA with monthly warrant information on fugitive felons from its NCIC Wanted Person File. Submission of information to the NCIC Wanted Person File is voluntary; however, so the file does not include complete arrest warrant data on fugitive felons, nationwide. According to SSA, as of June 2002, 17 states and the District of Columbia submit warrant data on all felonies and parole and probation violators to the FBI. Another 6 states report felonies but not parole and probation violators. However, because the other 27 states told SSA that the majority of their warrant information is not entered into the NCIC database, SSA has pursued negotiating agreement with these 27 states to obtain their warrant information. As of June 2002, 20 of the 27 states had agreed to provide SSA with their fugitive

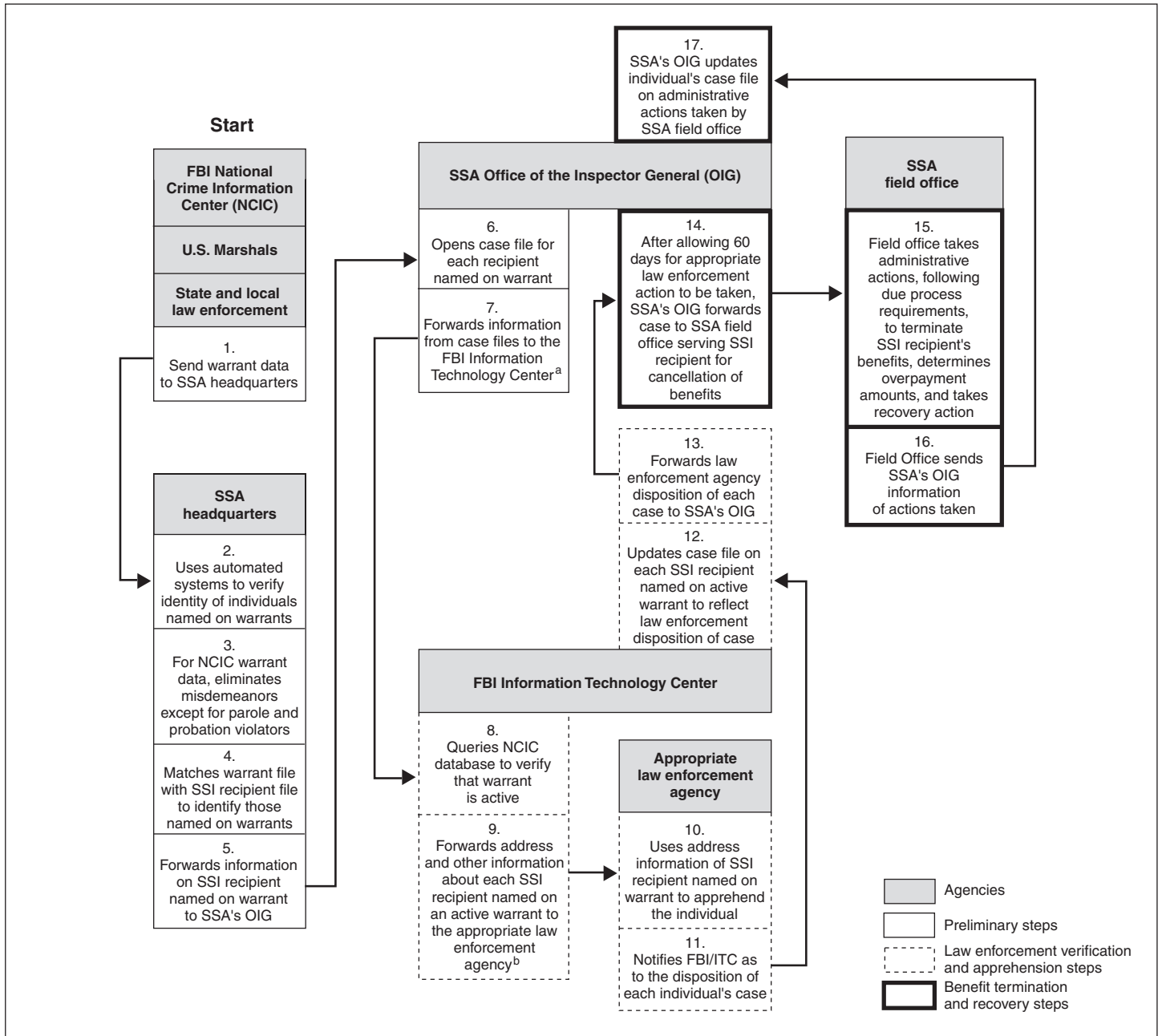
**Appendix III: SSA's Computer Matching
Process for Implementing PRWORA's Fugitive
Felon Provisions**

felon files.¹ In exchange, once SSA has matched information from warrants with its SSI file, it provides the addresses of those in the file it finds with arrest warrants to the law enforcement agencies that have issued those warrants, so they can be apprehended. This matching and exchange process includes a number of SSA offices, such as its Office of Telecommunications and Systems Operations, its regional and field offices, and its OIG. To successfully implement this process requires cooperation and commitment from the FBI's NCIC staff and its Information Technology Center (ITC), as well as law enforcement agencies at the state and local level. Figure 2 illustrates the steps in the process and those involved.

¹SSA also has agreements to receive warrant information from Baltimore County, Md.; Montgomery County, Pa.; Philadelphia; and New York City.

**Appendix III: SSA's Computer Matching
Process for Implementing PRWORA's Fugitive
Felon Provisions**

Figure 2: SSA's Process for Identifying and Terminating SSI Benefits to Fugitive Felons and Providing Information about Them to Law Enforcement Agencies



**Appendix III: SSA's Computer Matching
Process for Implementing PRWORA's Fugitive
Felon Provisions**

^aThe process is different for about 10 percent of the cases in which the SSI recipient's name, Social Security number, date of birth, and gender from records SSA maintains on individuals do not match the warrant information. These cases are forwarded to one of the OIG's field offices for additional verification and, if the identity can be verified, are referred by the OIG to the appropriate law enforcement authorities.

^bFor warrants not in the NCIC database, ITC forwards them to appropriate law enforcement agencies to verify that these warrants are active.

Source: SSA and SSA's OIG.

Usually every month, SSA receives automated arrest warrant information from a variety of sources (step 1 in fig. 2). SSA had found that the information on arrest warrants is not always accurate. Fugitive felons frequently use aliases or provide law enforcement agencies with inaccurate Social Security numbers or dates of birth. In addition, SSA noted that law enforcement agencies tend to rely on fingerprints for identification because the Social Security numbers individuals report are often unreliable. As a result, law enforcement agencies do not always enter a Social Security number on a warrant. With the exception of the FBI, law enforcement agencies have agreed to provide SSA with arrest warrants that exclude misdemeanors, except in cases of probation or parole violations. To ensure that the misdemeanors are screened out, SSA's OIG checks the warrant files the first time SSA receives them to verify that the misdemeanors have been removed. However, the FBI did not agree to screen out misdemeanors from its NCIC Wanted Person File, so an initial step in SSA's process is to screen out warrants for misdemeanors in this file.

Using its automated systems, SSA confirms the identity of the individual named on each warrant by comparing information on each warrant (including the individual's name, Social Security number, date of birth, and gender) with information on the automated records SSA maintains on individuals. If there is no SSA record for a name on a warrant,² or if there is no Social Security number in SSA's records for the name on the warrant, the warrant is eliminated from the file (step 2). When the Social Security number on a warrant is incorrect, according to SSA's records, or is missing from the warrant, SSA uses its automated systems to attempt to locate the correct or missing Social Security number. Finally, SSA uses its automated systems to eliminate misdemeanors from the warrants it obtains from FBI's NCIC database, except in cases where the warrant is for a probation

²SSA accepts names that may not be spelled correctly as long as the misspelling falls within an acceptable tolerance range.

or parole violation (step 3).³ These steps help to ensure that SSI recipients are not mistakenly identified as fugitive felons.

Next (step 4), SSA matches the remaining arrests warrant records with its computerized SSI file to identify SSI applicants and recipients named on warrants for felonies, or probation or parole violations. The results of this match are then forwarded to the SSA's OIG (Office of Investigations) (step 5), which establishes its own investigative case file for each individual named on a warrant (step 6). Then, to provide information to law enforcement authorities for the apprehension of fugitive felons, the OIG forwards information from SSI records about those named on warrants to the FBI's ITC (step 7).⁴ ITC screens out duplicate files and verifies the address and status of each individual named in the NCIC match warrant records to determine whether the warrant is active (step 8) and forwards these to the law enforcement agency that issued the warrant (step 9) so that it can locate and apprehend the individual (step 10). If warrants cannot be found in the NCIC database, ITC forwards them to the applicable law enforcement agency for verification and (step 9) so they can locate and apprehend the individual (step 10).

After the appropriate law enforcement agency receives the addresses of individuals named on warrants, it has up to 60 days⁵ to notify ITC of the actions taken, if any, on the disposition of each individual's case (step 11). Next, ITC updates the case file on each individual named on the active warrant to reflect the actions taken by law enforcement (step 12). Then, ITC forwards the information on the actions taken, if any, by law enforcement on each case to the OIG (step 13). Once SSA's OIG has been notified or the 60 days have expired, whichever comes first, OIG reports those cases that require termination or recovery of SSI benefits to the appropriate SSA field office (step 14). The field office then takes whatever administrative actions, including due process safeguards, are required

³PRWORA requires SSA to suspend SSI benefit payments to those wanted for felonies, but not to those wanted for misdemeanors. SSI benefits to parole and probation violators, however, must be suspended whether the original offense was a felony or misdemeanor.

⁴The process is different for about 10 percent of the cases in which the SSI recipient's name, Social Security number, date of birth, and gender from records SSA maintains on individuals do not match exactly with the warrant information. These cases are forwarded to one of the OIG's field offices for additional verification and, if the identity can be verified, are referred by the OIG to the appropriate law enforcement authorities.

⁵SSA uses the 60-day period to avoid letting fugitives know that their status and whereabouts have been revealed before law enforcement authorities can arrest them.

**Appendix III: SSA's Computer Matching
Process for Implementing PRWORA's Fugitive
Felon Provisions**

(step 15) and reports this back to SSA's OIG (step 16). The OIG uses the information provided by the SSA field office on the administrative actions taken to update the individual's case file (step 17).

Although the matching process is complex and requires considerable cooperation and assistance from law enforcement authorities, that is, the FBI, U.S. Marshals Service, state, county, and local law enforcement authorities as well as SSA's OIG, SSA believes that it is the most efficient and effective method for implementing both requirements of PRWORA's fugitive felon provisions.

Appendix IV: Number of SSI Recipients in Fiscal Year 2001 Arrested by Offense on Warrant

Offense on warrant	Number of fugitive felons arrested	Percent of total offenses
Homicide	4	
Kidnapping	4	
Sexual assault	28	1.3
Robbery	32	1.5
Assault	75	3.5
Arson	8	
Burglary	78	3.7
Stolen vehicles	10	
Forgery or fraud	22	1.0
Receiving stolen or damaged property	9	
Dangerous drugs	240	11.2
Sex offense	17	1.0
Family offense	2	
Flight - escape	22	1.0
Parole violation	251	11.8
Probation violation	311	14.6
Failure to appear	137	6.4
Obstructing Judiciary, Congress, Legislature, or a Commission	45	2.1
Weapon offenses	24	1.1
Public peace - disorderly conduct	1	
Traffic offenses	11	
Smuggling	2	
Juvenile offenders	3	
Not recorded	799	37.4
Total	2,135	100.0

Source: SSA's Office of Inspector General based on the FBI's Uniform Offense Classifications.

Appendix V: Warrants Issued for Fugitive Felons Residing in Federally Funded Housing

Offense on warrant	Number of warrants issued
Abscond while on probation ^a	226
Dangerous drugs (possess, sell, smuggle opium, cocaine, heroin, hallucinogens, etc.)	132
Larceny (shoplifting, postal, U.S. government, banking, etc.)	129
Failure to appear	124
Forgery and fraud (forgery of checks, counterfeiting, confidence game, swindle, mail fraud, etc.)	111
Receiving stolen or damaged property	36
Burglary	33
Other obstructing Judiciary, Congress, Legislature, or a Commission ^b	25
Assault	22
Stolen vehicles	18
Family offense (cruelty toward child or wife, bigamy, nonpayment of alimony, etc.)	16
Abscond while on parole ^a	13
Robbery	13
Property crimes	9
Sex offense	9
Weapon offenses	8
Kidnapping	5
Traffic offenses	5
Crimes against a person	4
Juvenile offender	4
Flight - escape	3
Smuggling	3
Other offenses (arson, material witness, morals-decency, obstructing police, public disorder, disorderly conduct, or sexual assault)	9
Unknown offenses	4
Total^c	961

^aRecords do not indicate the original offense.

^bParole violation, probation violation, and failure to appear are shown separately; they are not included in this category.

^cTotal is larger than number of fugitive felons identified because some had more than one warrant outstanding.

Source: GAO computer match using the FBI's Uniform Offense Classifications.

Appendix VI: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

SEP 16 2002

Mr. Robert E. Robertson
Director, Education, Workforce and Income Security Issues
United States General
Accounting Office
Washington, D.C. 20548

Dear Mr. Robertson:

Enclosed are the department's comments on your draft report entitled, "Welfare Reform: Implementation of Fugitive Felon Provisions Should be Strengthened." The comments represent the tentative position of the department and are subject to reevaluation when the final version of this report is received.

The department appreciates the opportunity to comment on this draft report before its publication.

Sincerely,

Michael Mangano
for Janet Rehnquist
Inspector General

Enclosure

The Office of Inspector General (OIG) is transmitting the department's response to this draft report in our capacity as the department's designated focal point and coordinator for General Accounting Office reports. The OIG has not conducted an independent assessment of these comments and therefore expresses no opinion on them.

Appendix VI: Comments from the Department
of Health and Human Services



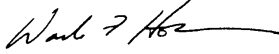
DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

SEP 11 2002

DATE:

TO: Janet Rehnquist
Inspector General

FROM: Wade F. Horn, Ph.D. 
Assistant Secretary
for Children and Families

SUBJECT: Comments on the General Accounting Office's (GAO) Draft Report
"Welfare Reform: Implementation of Fugitive Felon Provisions Should Be
Strengthened" (GAO-02-716)

Attached are the Administration for Children and Families' comments on the GAO Draft Report "Welfare Reform: Implementation of Fugitive Felon Provisions Should Be Strengthened" (GAO-02-716).

If you have any questions regarding our comments, please contact Mack Storrs, National Expert/Policy Advisor, Office of Family Assistance, at (202) 401-9289.

Attachment

Comments of the Department of Health and Human Services on the General Accounting Office's Draft Report, "Welfare Reform: Implementation of Fugitive Felon Provisions Should Be Strengthened" (GAO-02-716)

The Department of Health and Human Services (department) appreciates the opportunity to comment on the General Accounting Office's (GAO) draft report, which addresses an important topic.

General Comments

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 includes provisions that prohibit fugitive felons and probation and parole violators from receiving assistance under the Temporary Assistance for Needy Families (TANF) Program, the Food Stamp (FS) Program and the Supplemental Security Income (SSI) Program and make their status grounds for termination of tenancy in Federal housing assistance programs. The legislation also requires these programs to provide information on recipients with outstanding warrants upon the request of law enforcement officials.

Based primarily on surveys and interviews, the report provides information on how these "fugitive felon" provisions have been implemented in the four programs and the results in denials and arrests. The report provides the department with new and useful implementation information including these major findings.

Programs vary in how aggressively they implement the PRWORA fugitive felon provisions:

- The SSI and most state TANF and Food Stamp programs require applicants to certify that they are not fugitive felons;
- Social Security Administration (SSA) and some state programs also match recipient and arrest warrant data (less than one-third of the state agencies administering TANF and Food Stamps use periodic computer matching);
- All programs are responding to law enforcement agency requests for assistance; and
- Office of Inspector General and state auditors have taken the lead in providing law enforcement agencies with information about program recipients.

Since PRWORA, thousands of fugitive felons have been identified and denied benefits, with some resulting cost savings and arrests:

- Comprehensive data matching of warrant and enrollee files accounts for the identification of most of the 110,000 fugitive felons in the TANF, Food Stamps and SSI Programs;

- Program savings have also been realized. Of the 45,000 SSI clients whose benefits have been terminated, SSA estimates \$133 million in overpayment and projected costs avoided. Very few state TANF or Food Stamp Programs could provide precise estimates of savings; and
- Law enforcement agency requests for recipient information have led to thousands of arrests.

The report also addresses several issues that impede aggressive implementation of the fugitive felon provisions. The challenges identified in the report include:

- Centralized and complete arrest warrant databases are not readily available;
- Matching requires close collaboration among agencies and verification by law enforcement agencies of match results;
- While program officials need to notify recipients of their ineligibility, they also need to provide time for law enforcement to act without provoking flight; and
- Lack of knowledge about matching, confidentiality and how to define a “fleeing” fugitive hinders implementation of the law.

With respect to these issues, GAO’s report does not adequately portray the full significance of these challenges. First and foremost is how to define a “fleeing” felon. Generally, the report treats individuals with an outstanding arrest warrant as a “fleeing” felon. However, the statutory prohibition on providing TANF assistance applies to any individual who is “fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime...” It is not clear from this language that Congress intended to deny benefits with respect to an individual with an outstanding warrant who continues to maintain a residence in the jurisdiction of the felony, and whose address is openly listed in telephone directories, schools and other public records. If local law enforcement officials lack the resources, jail space or court time to execute arrest warrants on felons with known addresses residing within its jurisdiction, should benefits be denied? Case law has not entirely answered this question, but Federal courts have generally required that an individual must be acting with “intent” to avoid prosecution and knowledge of a warrant to be “fleeing.”

To make sure that “intent” was established before terminating benefits in the Food Stamp Program, the Food and Nutrition Service (FNS) issued guidance to states requiring the agency to verify knowledge of the warrant by advising the client of the warrant and an opportunity to satisfy it. However this procedure provides the necessary advance notice to some felons, leading directly to flight and the inability of law enforcement officials to locate and arrest the individual. Resolution of this issue and effective implementation of the fleeing felon provision occurs when state and local welfare and law enforcement officials coordinate their efforts and work effectively together on accurate information, on complete databases, and the timing of procedures and efforts. Thus the department believes it is appropriate to leave these issues to the

discretion of state and local officials who have direct, first-hand knowledge within their jurisdictions.

GAO Recommendation:

To oversee and better implement these provisions in the TANF Program, we recommend that the Secretary of Health and Human Services:

- encourage states to test the feasibility and effectiveness of routinely matching TANF applicant and recipient records with arrest warrants by providing them with information on the matching activities of other state TANF Programs and their results and on accessing available arrest warrant databases such as National Crime Information Center (NCIC);
- monitor states' computerized matching efforts and their results;
- determine what criteria state TANF Programs are using to remove recipients wanted for felonies or probation or parole violations from the TANF rolls, and if these criteria differ across states, provide TANF programs with clear guidance on the circumstances under which benefits to fugitive felons should be terminated; and
- issue guidance on the circumstances under which TANF Programs are required to provide information about TANF recipients to law enforcement agencies.

Department Comment

The department does not agree with this four-part recommendation for a variety of reasons.

In enacting TANF, Congress specified that the purpose was to "increase the flexibility of states in operating the program." The legislation contains an explicit limitation on Federal regulation and, specifically, gave states very broad authority to establish eligibility rules and procedures. Under the statute, states and localities are free to choose how they will meet these fugitive felon requirements within the overall context of how they choose to implement the program. As this Administration has emphasized, much of the success of welfare reform can be attributed to state and local innovation resulting from this flexibility.

As the challenges discussed above illustrate, state flexibility and local collaboration may be even more important for the effective implementation of the fugitive felon provisions. When FNS issued guidance to state agencies about necessary actions before terminating individuals, the guidance required alerting fleeing felons that law enforcement knew their whereabouts and served as a disincentive to the participation of law enforcement in the program. State and local governments can better ascertain how to address the needs and interests of both law enforcement and TANF programs through innovative and collaborative practices.

The Administration for Children and Families (ACF) has an active and effective system for states to request guidance through both our regional and central offices. States are in regular communication with ACF when policy concerns arise. Also, the Office of Family Assistance provides technical assistance directly through conferences, publications and a Peer Technical Assistance Network that allows states and localities to directly request information on the success of another agencies' practices. The fugitive felon provision and how other states address the requirement have not been a topic of concern or requests from state agencies.

With respect to providing guidance on the circumstances in which TANF Programs should provide information to law enforcement officials, the report shows that 44 TANF agencies have already provided written guidelines for how staff should respond to requests. In addition, the report does not indicate that law enforcement agencies have had any problems with TANF agencies failing to respond to their requests for information. As a result, it is not clear why national guidance is needed.

To monitor state implementation of the fugitive felon provisions within the statutory framework, ACF has included this requirement in the compliance supplement guidelines for the single state audits. Through three complete cycles of annual audits, no findings with respect to the fugitive felon provision have been reported. Monitoring state computerized matching efforts would be difficult because ACF lacks the authority to collect data not authorized in the statute. The report also notes that the reason many TANF and Food Stamp Programs do not routinely use computer matching is due to the unwillingness of local law enforcement agencies to verify the results. The ACF does not see what purpose would be served by additional ACF monitoring or encouraging computer matching in situations when state or local agencies cannot coordinate efforts and procedures for computer matching. Contrary to GAO's recommendation, ACF believes the responsibility for effective implementation of computer matching and enforcement of the fugitive felon provisions rests at the state and local levels.

Appendix VII: Comments from the Department of Housing and Urban Development



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-0003

OFFICE OF DEPARTMENTAL OPERATIONS
AND COORDINATION

SEP - 9 2002

Mr. Robert E. Robertson
Director
Education, Workforce and Income Security Issues
United States General Accounting Office
Washington, DC 29548

Dear Mr. Robertson:

Thank you for the opportunity to respond to the draft report Welfare Reform Implementation of Fugitive Felon Provisions Should Be Strengthened (GAO-02-716), hereinafter called "the GAO report". These comments provide a summary of the actions the Department has taken, clarify the respective roles and responsibilities of the Department and its partners in program delivery, and delineate HUD's plans for future compliance related activities.

There are two requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) that apply to HUD. Section 903 makes status as a fugitive felon, and parole and probation violator cause for immediate termination of tenancy; and it amends Title I of the U. S. Housing Act of 1937 (42 USC 1437 et. seq.) by adding a new section 27¹ that requires that public housing agencies provide, upon the legitimate request from a law enforcement officer, the name, address, social security number and photograph of any recipient who is a fugitive felon, parole or probation violator.

On May 24, 2001, the Department published, in the Federal Register, a final rule entitled Screening and Eviction for Drug Abuse and Other Criminal Activity². The rule gives Public Housing Authorities (PHAs) and assisted housing owners the tools for adopting and implementing fair, effective and comprehensive policies for screening out program applicants who engage in illegal drug use or other criminal activity and for evicting or terminating assistance of persons who engage in such activity. The changes in the rule incorporate Section 903 of the PRWORA which amended sections 6(l) and 8(d)(1)(B) of the Housing Act of 1937 concerning cause for terminating tenancy for fleeing to avoid prosecution, custody or confinement after commission of a felony.

¹ Section 27 is section 28 of the U.S. Housing Act of 1937

² Final Rule on Screening and Eviction for Drug Abuse and Other Criminal Activity 66 FR 28783, May 24, 2001

**Appendix VII: Comments from the
Department of Housing and Urban
Development**

HUD does not directly provide housing assistance to recipients, and such assistance cannot be automatically terminated. Housing assistance is provided through Public Housing Agencies (PHAs) and private owners and/or operators of multifamily housing. PHAs or owners enter into contracts with the Department to provide housing assistance funds to eligible applicants. They are required to comply with the statutes, regulations and other HUD requirements. Under the terms of these contracts PHAs or owners are responsible for applicant eligibility screening (including criminal background checks) and the enforcement of provisions of the lease (including prohibitions on criminal activities) in local courts. HUD uses various methods to monitor PHAs and private owners compliance with the applicable statutes, rules and regulations, including those governing applicant screening and eviction policies.

Although HUD has oversight responsibilities for its PHAs and owners, PHAs and owners exercise discretion in how they enforce mandatory lease provisions. The Department recognized this fact in the preamble to the final rule on Screening and Eviction for Drug Abuse and Other Criminal Activity in its response to a comment, by a PHA concerning its discretion. In response to the comment, HUD states: "...HUD agrees that conferring discretion on PHAs does not require them to take action, and that HUD's conferral of discretion on PHAs in deciding whether to terminate tenancy in each case does not constitute a conferral of discretion upon local courts to consider factors other than those under the lease. **Of course, by the same logic, it should be noted that, insofar as PHAs possess discretion to determine for themselves when to initiate eviction proceedings, they are neither required by law nor encouraged by HUD to terminate leaseholds in every circumstance in which the lease would give the PHA grounds to do so...**"(emphasis added).

In addition, the United States Supreme Court's March 26, 2002 decision in the case of the Department of Housing and Urban Development v. Rucker et al. 122 S. Ct. 1230 (2002) upheld the constitutionality of a mandatory lease provision required by Title 42 U. S. C. §1437(d)(1)(6). This provision states that any drug-related criminal activity on or off the premises, by the tenant, any member of the tenant's household, or guest or person under the tenant's control "shall be cause for termination of tenancy." In upholding that provision, the Court also held that 42 U. S. C. §1437(d)(1)(6), unambiguously requires lease terms that vest public housing authorities with the discretion to decide how they will enforce those mandatory provisions. This means that the Department could not take punitive action against a housing provider who chose to exercise its discretion to not evict a tenant who violated a mandatory lease provision. This would include PWRORA provisions regarding fugitive felons, parole and probation violators.

The draft report correctly states that HUD has never matched its nationwide database of housing assistance recipients with arrest warrant data from any law enforcement agency. HUD's regulations at 24 CFR Part 5 Subpart B grant the Department and public housing agencies the authority to utilize computer matching to verify the income eligibility of applicants and participants in Section 8 and public housing programs and establish procedures for the termination, denial, suspension, or reduction of assistance based on information obtained from State Wage Information Collection Agencies (SWICA) or Federal Agencies. PRWORA does not require, nor does it give the Department authority to conduct computer matching to screen for fugitive felons, parole or probation violators. Further, PWRORA does not provide for

**Appendix VII: Comments from the
Department of Housing and Urban
Development**

procedures to address the termination, denial, suspension, or reduction of assistance based on information obtained from such matches.

Also, since the Department has not yet had an opportunity to review the data or findings of the GAO computer matching pilot, we are unable to determine how effective it would be as a compliance strategy. HUD must consider the costs, administrative and regulatory burden and potential legal liability that could be imposed on the Department, its PHAs and owners, in considering computer matching or any other compliance strategy.

GAO's estimated annual savings, based on the computer matching pilot of \$ 4.2 million to \$4.4 million, cannot be fully supported by the Department. It is not likely that all of the assumptions upon which the estimates are based will hold true in each case. Further, PRWORA does not state that fugitive felon, parole or probation violator status shall be cause for termination of tenancy for the entire household, only that status as a fugitive felon, parole or probation violator shall be cause for termination of tenancy of that individual. However, PHAs and owners have the discretion to evict entire households for lease violations. It should be noted that under the Department's current policies, if the amount of the initial housing subsidy was based, in part, on the income of a fugitive felon, the removal of that source of income could result in an increase in the family's housing assistance.

Although, as recommended, the Department will examine other possible options, we are taking the following steps to complete our compliance with the provisions of PWRORA:

- On July 18, 2002, the Department issued Handbook 4530.3 CHG-30, which revised HUD's model leases for Subsidized Multifamily Housing programs. The revised leases contain the provisions of PWRORA that provide that the landlord may terminate the lease if the tenant is a fleeing felon, parole or probation violator;
- As a revision to current occupancy and eviction requirements, the Office of Public Housing is preparing a notice to Public Housing Agencies, Resident Management Corporations and HUD's Public Housing Program Managers entitled, Instructions for Obtaining FBI Criminal History Record and Admissions Screening, Lease Enforcement, and Eviction Policies and Procedures. This notice, planned for issuance in during the first quarter of fiscal year 2003, will incorporate the provisions of PRWORA Section 903 regarding PHA's discretion to terminate the tenancy of fleeing felons, parole and probation violators; and
- Finally, HUD's Office of General Counsel is working with both the Office of Public Housing and Multifamily Housing to determine the appropriate method, (by notice or regulation) to implement PWRORA Section 27 requirements on the Exchange of Information with Law Enforcement Agencies.

**Appendix VII: Comments from the
Department of Housing and Urban
Development**

The Department and its PHAs and owners take seriously the need to provide a safe and crime free living environment for the tenants of assisted housing. However, PHAs and owners may exercise their discretion in the enforcement of lease termination provisions (including those making fugitive felon status cause for termination) against individuals or household members. To that end we appreciate GAO's comments and recommendations.

Sincerely,



Frank L. Davis
Director
Office of Departmental Operations
and Coordination

Appendix VIII: Comments from the Social Security Administration



SOCIAL SECURITY

The Commissioner

September 5, 2002

Mr. Robert E. Robertson
Director, Education, Workforce, and
Income Security Issues
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Robertson:

Thank you for the opportunity to review the draft report, "Welfare Reform: Implementation of Fugitive Felon Provisions Should Be Strengthened" (GAO-02-716). While we do not have any comments, as the report did not include any recommendations directed to the Social Security Administration (SSA), we do appreciate the report's complimentary discussion of the Agency's fugitive felon program. As indicated in the report, SSA has done quite a lot of work in this area and will continue to work with States to obtain information about Supplemental Security Income recipients who are fugitive felons.

Please let us know if we can be of further assistance. If you have questions, please have your staff contact Odessa J. Woods at (410) 965-0378.

Sincerely,

A handwritten signature in black ink that reads "Jo Anne B. Barnhart".

Jo Anne B. Barnhart

SOCIAL SECURITY ADMINISTRATION BALTIMORE MD 21235-0001

Appendix IX: GAO Contacts and Staff Acknowledgments

GAO Contacts

Clarita A. Mrena, Assistant Director (202) 512-3022
George Erhart, Analyst-in-Charge (202) 512-7026

Staff Acknowledgments

The following people also made significant contributions to this report:
William Hutchinson, Laura Luo, Susan Pachikara, Susan Bernstein,
Jonathan Barker, Jay Smale, Vanessa Taylor, and Elsie Picyk.

GAO's Mission

The General Accounting Office, the investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through the Internet. GAO's Web site (www.gao.gov) contains abstracts and full-text files of current reports and testimony and an expanding archive of older products. The Web site features a search engine to help you locate documents using key words and phrases. You can print these documents in their entirety, including charts and other graphics.

Each day, GAO issues a list of newly released reports, testimony, and correspondence. GAO posts this list, known as "Today's Reports," on its Web site daily. The list contains links to the full-text document files. To have GAO e-mail this list to you every afternoon, go to www.gao.gov and select "Subscribe to daily E-mail alert for newly released products" under the GAO Reports heading.

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. General Accounting Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000
 TDD: (202) 512-2537
 Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Public Affairs

Jeff Nelligan, managing director, NelliganJ@gao.gov (202) 512-4800
U.S. General Accounting Office, 441 G Street NW, Room 7149
Washington, D.C. 20548