

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL

STATEMENT OF THE HONORABLE PHYLLIS K. FONG
INSPECTOR GENERAL

Before the
Committee on Oversight and Government Reform
U.S. House of Representatives
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Good morning, Chairman Issa, Ranking Member Cummings, and Members of the Committee. Thank you for the opportunity to testify about our office's work to protect the integrity of the Supplemental Nutrition Assistance Program (SNAP).

SNAP is the Department of Agriculture's (USDA) largest program, both in terms of participants and budget, which at present totals \$75 billion annually. In my testimony today, I will highlight the work of the Office of Inspector General (OIG) to help the Food and Nutrition Service (FNS) oversee SNAP and protect the program from individuals and businesses seeking to exploit it.

While it is ultimately FNS' responsibility to take administrative action against bad actors and keep such persons from reentering the program, OIG devotes considerable resources to helping FNS ensure the integrity of SNAP as part of our mission to promote the economy, efficiency, and effectiveness of USDA programs and operations. So far this fiscal year, we have directed 48 percent of our investigative resources to the program. In the last 5 years, we have completed 779 SNAP investigations that have resulted in 1,356 indictments, 944 convictions, and 792 sanctions against individuals and businesses.¹ During that time, our monetary results have totaled more than \$186 million.²

OIG also conducts audits designed to ascertain if programs like SNAP are functioning as intended, if allocated funds are reaching intended recipients, and if funds are achieving their intended purposes. When we find problems, we provide recommendations to help the agency better fulfill its mission. By responding to our recommendations and taking administrative

¹ We refer to investigations conducted from fiscal year (FY) 2007 through February 29, 2012.

² Investigation monetary results come from recoveries, court-ordered fines, restitutions, administrative penalties, and asset forfeitures.

action against those we prosecute, FNS can help ensure that every Federal dollar spent on SNAP is spent wisely.

Investigations of Disqualified SNAP Retailers

When FNS determines that a retailer is abusing the program, the agency places it on the disqualified vendor list which, in theory, should prevent that retailer from reentering the program. While FNS is active in disqualifying abusive retailers from the program, some disqualified retailers have found ways around this particular control.

Our investigations have shown that one of the most common ways a disqualified retailer can circumvent FNS' efforts to keep them out of the program is by enlisting a "straw owner," often a family member, acquaintance, or employee, as the alleged owner. By reapplying to the program using the name of this "straw owner," the disqualified retailer sets up the business again and continues criminal activities. A recent news article drew attention to an OIG case that exposed such a scheme in Hartford, Connecticut.³ In that case, a store owner was deported after being convicted of food stamp trafficking fraud. A few years later, however, he illegally reentered the United States and opened several stores using other individuals' names. The false owners of these stores signed their names on FNS documents to obtain authorization to accept SNAP benefits, but the owner, his wife, and his brother actually operated these stores and used them to defraud the Government of about \$2 million. As a result of our investigation, the store owner and his brother were ordered to pay restitution and serve a total of 78 months of incarceration.

³ A February 20, 2012 *Scripps Howard News Service* article reported on retailers who had been removed from SNAP but managed to reenter the program and continue their fraudulent activity.

One of our investigations has even shown that a group of criminals in Florida voluntarily withdrew their store from SNAP in order to avoid detection for trafficking. The group then resubmitted an application with a different name and ownership, and continued defrauding SNAP at the same location. They executed this scheme successfully three times. On their fourth try, OIG investigative efforts led to their prosecution, and FNS removed them from the program. Our investigation disclosed that this group trafficked approximately \$6.2 million in benefits. Between March and May 2010, four defendants pled guilty to wire fraud and SNAP fraud, and were each sentenced to prison terms ranging from 8 to 48 months along with restitution orders ranging from about \$350,000 to \$2.2 million.

When we identify schemes of this sort, OIG works with FNS so that agency officials can evaluate their program and seek ways to strengthen it. Presently, we are working with FNS to better address straw ownership and other fraudulent schemes affecting SNAP.

Audits of SNAP Retailers

While our investigations highlight how dishonest individuals take advantage of the system to defraud the Government, OIG audits have reviewed FNS' system to authorize retailers and made recommendations to prevent proven bad actors from reentering SNAP and committing additional fraud.

In 2008, for example, we found that FNS does not verify SNAP retailers' criminal records and therefore cannot comply with its own requirement to deny SNAP authorization to any retailer with a criminal history (i.e., embezzlement, theft, forgery, etc.) reflecting on the business

integrity of the owner.⁴ We recommended that FNS begin reviewing retailers' criminal records, but FNS concluded that our recommendation would need a regulatory change and may not be cost beneficial. We accepted this decision on the condition that FNS continue to seek other options to better ensure the integrity of retailers applying to participate in the program. In response to our second recommendation for FNS to improve the retailer authorization process so that it would enable the successful prosecution of SNAP traffickers, FNS generally agreed.

FNS is also not making use of one of the most powerful tools available to keep bad actors away, not only from SNAP, but from other Federal programs they might exploit. "Suspension and debarment" is a legal tool that Federal agencies can use to protect programs from repeat abusers and ensure that the Government does business only with responsible parties. If FNS took steps to debar retailers with a proven record of dishonesty, those individuals would be prevented from abusing other Federal programs.

However, in a recent audit, we determined that FNS did not debar any of the 615 wholesalers and retailers convicted in relation to 208 OIG cases, even though a conviction is adequate grounds for debarment.⁵ While we contend that FNS should consider disqualified SNAP retailers for suspension or debarment, it is not FNS' policy to do so. FNS asserts that it can exclude retailers under the Food Stamp Act, that disqualified retailers are unlikely to pursue other business with the Federal Government, and that debarring these individuals is costly. Rather than issuing a blanket rule that would exclude disqualified retailers from being suspended or debarred, FNS should consider suspension and debarment on a case-by-case basis. By doing

⁴ Audit 27601-0015-At, *Food Stamp Program Retailer Authorization and Store Visits* (September 28, 2008).

⁵ Audit 50601-0014-At, *Effectiveness and Enforcement of Suspension and Debarment Regulations in the U.S. Department of Agriculture* (August 16, 2010).

so, FNS can help protect the entire Government by preventing convicted program abusers from entering into transactions with other agencies.

SNAP Vulnerabilities beyond Disqualified Retailers

OIG has focused significant work on disqualified retailers who reenter the program and continue to exploit it. We are, however, responsible for providing broad oversight for the entire program, and we have found fraud and program inefficiencies in other aspects of SNAP as well.

In terms of fraud, we have seen many types of trafficking in SNAP benefits. By giving a recipient \$50 in cash for \$100 in benefits, an unscrupulous retailer can make a significant profit; recipients, of course, are then able to spend the cash however they like. In some cases, recipients have exchanged benefits for drugs, weapons, and other contraband. When trafficking occurs unchecked, families do not receive the intended nutritional assistance, and unscrupulous retailers profit at the expense of the American public.

OIG also has been looking at recipients who misrepresent themselves to receive benefits.

Recently, OIG has conducted a series of audits of 10 States to assess how they used participant databases to identify potentially fraudulent recipients, and we have completed work in 5 States.⁶

Our analysis of the databases that States check as part of their role in ensuring recipient eligibility revealed that a total of 8,594 recipients in the 5 States were receiving potential improper payments. Some of these recipients were using the social security numbers of

⁶ The 10 States are Alabama, Florida, Kansas, Louisiana, Massachusetts, Mississippi, Missouri, New Jersey, New York, and Texas. We have issued reports for Alabama, Florida, Kansas, Louisiana, and Mississippi. Audit 27002-0004-13, *Analysis of Alabama's Supplemental Nutrition Assistance Program (SNAP) Eligibility Data* (January 31, 2012); Audit 27002-0002-13, *Analysis of Florida's Supplemental Nutrition Assistance Program (SNAP) Eligibility Data* (November 29, 2011); Audit 27002-0001-13, *Analysis of Kansas' Supplemental Nutrition Assistance Program (SNAP) Eligibility Data* (November 23, 2011); Audit 27002-0003-13, *Analysis of Louisiana's Supplemental Nutrition Assistance Program (SNAP) Eligibility Data* (January 31, 2012); and Audit 27002-0005-13, *Analysis of Mississippi's Supplemental Nutrition Assistance Program (SNAP) Eligibility Data* (January 31, 2012).

deceased individuals, or otherwise invalid social security numbers, while others were receiving benefits in more than one State. In total, we estimate that these recipients could be receiving about \$1.1 million a month.

In our reports, we have recommended that FNS require State agencies to ensure they use a national database to perform death matches and social security number verifications, and that they perform checks to make sure information is entered correctly. Generally, FNS has agreed with our recommendations and is taking corrective action.

On December 1, 2011, we presented the early results of this work to the Subcommittee on Department Operations, Oversight, and Credit of the House Agriculture Committee. Based on the feedback we received, we expanded the scope of our audit work to include evaluating whether the States and FNS are using available data analysis tools effectively, and identifying and evaluating the integrity of amounts reported for recipient and retailer fraud.

We have also completed an audit of the Anti-Fraud Locator EBT Retailer Transactions (ALERT) system, which FNS uses to track SNAP recipient transactions for signs of fraud, waste, and abuse.⁷ Although FNS compiles a “watch list” of stores with suspicious transactions, we found that FNS did not have the information it needed to determine if stores on the list were violating requirements. Further, the agency was not categorizing stores to maximize its ability to identify patterns of fraud. We recommended that FNS enhance the system to provide additional data, and develop plans to better compare stores. FNS agreed with our recommendations.

Our ongoing work includes looking at FNS’ methodologies for determining its rate of SNAP trafficking (which it estimates at 1 percent) and its rate of improper payments (estimated at about

⁷ Audit 27099-0032-SF, *ALERT Watch List* (July 28, 2006).

3.8 percent). We are also looking at whether FNS has data related to the level of recipient fraud in the program, which the agency does not report. Finally, OIG is planning to revisit issues related to how FNS screens new retailer applications to prevent proven bad actors from entering SNAP; our auditors are currently evaluating how to best approach this issue so that we can provide timely results to FNS.

Conclusion

This concludes my written testimony. Thank you again for inviting me to testify today before the Committee. I would be pleased to address any questions you may have.

Phyllis K. Fong
Inspector General
U.S. Department of Agriculture

Phyllis K. Fong was sworn in as Inspector General for the U.S. Department of Agriculture (USDA) on December 2, 2002. USDA is one of the largest and most diverse departments in the Federal Government. Its mission includes the management of traditional farm programs, private lands conservation, domestic food assistance, the National Forest System, agriculture research and education, agricultural marketing, international trade, meat and poultry inspection, and rural development programs. Ms. Fong was nominated by President George W. Bush and confirmed by the U.S. Senate.

As Inspector General (IG), Ms. Fong is the senior official responsible for audits, investigations, and law enforcement efforts relating to USDA's programs and operations. The Office of Inspector General (OIG) provides leadership in promoting economy and effectiveness in USDA programs and preventing fraud, waste, and abuse.

Ms. Fong's priorities as IG have been to focus OIG's resources on the protection of public health and safety related to USDA's mission and operations, and to improve the financial integrity of the Department's beneficiary programs.

In November 2008, Ms. Fong was elected by the Inspector General community as the first Chairperson of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), which was established by Congress in the Inspector General Reform Act of 2008. CIGIE's members include 73 Federal Inspectors General, and its mission is to promote economy and effectiveness in Federal programs through coordinated Governmentwide activities. She is currently serving her second term as Chairperson of CIGIE.

Ms. Fong also serves as a member of the Recovery Accountability and Transparency Board, which was established by Congress to oversee Federal spending under the American Recovery and Reinvestment Act of 2009.

Previously, Ms. Fong served as Chair of the IG community's Legislation Committee during its extensive efforts to provide information and community perspectives to the Congressional committees seeking to strengthen the IG Act. This work on behalf of the President's Council on Integrity and Efficiency (PCIE) during 2005-2008 assisted Congress in the development of the IG Reform Act. Ms. Fong was also a member of the PCIE Audit Committee and served as the PCIE representative to the Comptroller General's Advisory Council on Government Auditing Standards.

Prior to her appointment at USDA, Ms. Fong was nominated by President Bill Clinton and confirmed by the U.S. Senate to be Inspector General of the U.S. Small Business Administration (SBA). Ms. Fong served as SBA's Inspector General from April 1999 until December 2002. A career member of the Senior Executive Service, she held several senior management positions at SBA OIG, including Assistant Inspector General for Management and Legal Counsel, and Assistant Inspector General for Management and Policy. She also served as Assistant General Counsel for the Legal Services Corporation and as an attorney with the U.S. Commission on Civil Rights.

Ms. Fong was born in Philadelphia, Pennsylvania, and raised in Honolulu, Hawaii. She graduated from Pomona College with a B.A. degree in Asian studies and earned her J.D. degree from Vanderbilt University School of Law. Ms. Fong is a member of the Tennessee and District of Columbia bars. She and her husband have two children.