Justice in Aging (formerly known as the National Senior Citizens Law Center) is a national organization that advocates for the interests of low income older Americans. Ever since our founding in 1972 this has included a strong focus on the Social Security and Supplemental Security Income (SSI) programs which provide the core financial support for older Americans.

We submit this statement to express our concern about H.R. 2504, the “Control Unlawful Fugitive Felons (CUFF) Act” and the inevitable harm that would result to hundreds of thousands of seniors and people with disabilities if it were to become law. The bill would essentially legalize the former policy of the Social Security Administration (SSA) to suspend or deny benefits to anyone with an outstanding warrant for a felony or for an alleged violation of probation or parole.

Justice in Aging was counsel to plaintiffs in several successful court challenges to SSA’s former policy including Martinez v Astrue and Clark v Astrue, the two class actions that required the agency to change its policy. It is important to look closely at the results of this litigation. There are two parts to the legislation that established the so-called “fugitive felon” program. One part allows SSA to provide information to law enforcement on the whereabouts of people with outstanding warrants. When we filed these cases we decided not to challenge this part of the legislation as we had no interest in hampering the work of law enforcement and were only interested in preventing the loss of essential benefits for people who, for the most part, had few other resources. That part of the law is still in effect and, as far as we know, the SSA Office of Inspector General is still doing the data match and forwarding information to law enforcement when it makes the match.

1 Most of the affected individuals are neither fugitives nor felons.
The other part of the law, as currently written, provides for benefits suspension when someone is fleeing to avoid prosecution for a felony or is in violation of probation or parole. In *Martinez*, we agreed to exclude three National Crime Information Center (NCIC) warrant codes from the settlement because each of these NCIC codes involved an element of “escape” or “flight” and were thus the ones that were likely to be fugitives.

The CUFF act would do nothing to assist law enforcement, while at the same time it would result in a significant increase in administrative costs for SSA. It would do nothing for law enforcement because the only people who would lose benefits would be those who law enforcement has decided not to pursue after being told where the individual resides. That means they tend to be people accused of minor offenses or offenses from many years ago or for which it is clear that law enforcement does not have sufficient evidence. A significant number of those whose benefits would be suspended are people who don’t have the money to pay a fine or increasingly common probation supervision fees. They are also often in distant jurisdictions. Cutting off essential benefits will not help people resolve these outstanding warrants.

In addition to our work in *Martinez* and *Clark* we provided important advice and support to attorneys all across the country who were representing individuals in similar cases. We also came to be contacted directly by many affected individuals, especially in connection with our representation in *Martinez* and *Clark*. In this role we learned something much more important than our legal expertise. We came to see the terrible human impact that this policy has.

There were the multiple calls from a homeless veteran in Nevada wondering when his benefits would be restored so he could find a place to live.

There was the single father in Florida who was working and raising two children on his own until he was stuck by a car while crossing the street and left paralyzed. He ended up in a nursing home. Fortunately his parents were available to take care of his children and he received a monthly Social Security Disability Insurance (SSDI) benefit that he was able to give to his parents to pay for part of the cost of caring for the children. This was hard enough for all concerned, but the situation became far worse when his SSDI was stopped because of an old warrant he knew nothing about, dating back to when he was a college student in Massachusetts. In this instance the result was catastrophic for three generations, two young
children, the father and the grandparents who thought they were going to have a financially secure retirement.

In another case Judge Mary Morgan of San Francisco County Superior Court reported a case brought before her involving a 50 year old AIDS patient for whom a bench warrant had been routinely issued when he failed to appear for a court date. Medical records indicated that he had been in a coma not long before the warrant was issued. He was able to breathe only with a long plastic tube surgically inserted in his throat and connected to an oxygen tank attached to his wheelchair. By time the case was brought before her his SSI and his SSI-linked Medicaid had been suspended for several months and the medical supply company indicated they would no longer supply the equipment if he was not able to pay for it.

JH is a young man in California with an intellectual disability and other mental impairments whose SSI benefits were stopped because of an Ohio warrant issued when he was 12 years old and running away to escape an abusive stepfather. The 4'7" tall, 85 pound boy was charged with assault for kicking a staff member at the detention center where he was being held until his mother could pick him up. He had no recollection of the incident.

In another case in California, a man in San Francisco had his SSI benefits stopped because of an old warrant from South Carolina for the “crime against nature.”

Some of the warrants are extremely old. TG in Oregon had his Social Security Old Age benefits suspended because of a warrant issued in Los Angeles when he was a teenager for unauthorized possession of a motor vehicle. The underlying offense had actually been cleared up years ago. In another case, a Los Angeles man faced loss of his Social Security benefits because of an Ohio warrant from the 1950s.

A common scenario was where benefits were suspended because a warrant was issued after criminal charges were filed for a bounced check. In these cases, the individual was usually unaware that the charges had been filed until many years later when their Social Security or SSI benefits were suspended. In one such case an Arkansas woman reported that her SSI benefits were stopped because of a bounced check written in Washington State in the 1970s on a joint account with her ex-husband. Her SSI-linked Medicaid benefits were also stopped and her
inability to receive medical care may have contributed to her becoming blind in one eye. She too knew nothing about the criminal charges.

In another case, MD, a Connecticut resident had her SSI benefits stopped because of an 18 year old warrant she knew nothing about which had been issued when she was in a Job Corps program in Massachusetts. The charge was “assault with a shod foot” for kicking a Job Corps counsellor who was trying to restrain her.

In short the result of passage of the CUFF Act would be irreparable injury to some of the very people that the Social Security and SSI programs were designed to benefit. At the same time there would be no benefit to law enforcement which already gets the information it needs to pursue people if it is interested. In the meantime considerable additional administrative expenses would be placed on an already overburdened Social Security Administration.

An Appendix is attached with additional examples illustrating the impact of suspending benefits on the basis of an outstanding arrest warrant. This was previously submitted as an appendix to a statement submitted to the Senate Committee on Finance when it was considering the Social Security Protection Act (HR 743) in 2003.