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Asset Forfeiture: Opportunities
to Improve Program Administration

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Before the
Subcommittee on Intellectual Property and
Judicial Administration
Committee on the Judiciary
House of Representatives



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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our recently completed work involving the Justice and Customs asset forfeiture programs. As you know, in January 1990, the Comptroller General designated these programs as high risk areas warranting special audit attention. We are pleased to report that there have been considerable improvements in the management of both programs.

On the legislative front, several important changes have also occurred. Legislation was enacted permitting administrative forfeiture of uncontested seized cash, regardless of the amount. This should reduce the court system's burden, permit more efficient use of U.S. Attorney resources, and allow the money to be put to use sooner. Also, your committee was instrumental in passing legislation allowing the Attorney General to warrant clear title to forfeited real properties, and requiring that each year Justice produce audited forfeiture fund financial statements. These changes should speed up real property dispositions and improve program oversight.

CONSOLIDATION COULD SAVE
MONEY AND PROMOTE EFFICIENCY

Today I would like to focus on what we see as additional opportunities to improve the asset forfeiture programs. Essentially, we believe that efficiency could be improved and

substantial dollars saved if Justice's and Customs' noncash seized assets were consolidated in one agency for post-seizure management and disposition. Of the two agencies, we believe, Justice, working through the Marshals Service, is better equipped to run a consolidated program. The Marshals Service has a staff of over 240 persons who are experienced in managing property seized by other agencies, and a dedicated regional infrastructure for performing program oversight and providing technical assistance to its field offices. Also, as shown on chart 1, the estimated value of Justice's noncash seized asset inventory is almost five times larger than Customs'.

Under the existing system, Justice and Customs independently operate seized property programs. This results in duplication of effort because the properties seized by the two agencies are generally located in the same geographic areas. Further, as shown on chart 2, over 50 percent of Justice's and Customs' seized vehicles, vessels, and general property were located in 10 geographic areas. In fact, sometimes both agencies use the same vendor to handle them. For example, they used the same vendors to manage 16 percent of the 7,600 vehicles included in our review.

By operating independently, resources are wasted. Under the current arrangement, the two agencies separately contract with vendors, separately monitor vendor performance, and separately perform program oversight. During fiscal year 1989, the two

agencies spent about \$22 million for program administration. We believe about \$3 million, or 14 percent, could have been saved had the administration of seized properties been consolidated.

Also, additional savings should accrue from lower vendor costs in a consolidated program. During fiscal year 1989, these two agencies spent about \$33 million on vendor services. While we are not able to quantify the potential savings from lower vendor costs, we believe it could be substantial. For example, as shown on chart 3, we found the prices paid for the same vehicle management services varied substantially. At one location the Marshals Service was paying 62 percent more than Customs. At another, Customs was paying 155 percent more than the Marshals Service. In most cases, the rate differences were attributable to the number of vehicles being handled.

Limited Progress in Developing
Consolidation Plan

The Anti-Drug Abuse Act of 1988 directed the Attorney General and Secretary of Treasury to develop a plan to consolidate the post-seizure administration of properties seized for drug-related violations. Little headway has been made in developing such a plan. Shortly after the legislation was passed, both agencies drafted proposals which were rejected by the other agency. Limited discussions followed and eventually broke down in February 1990.

But, after we sent Justice and Treasury our draft report for comment in February 1991, the two agencies resumed discussions.

Suggested Actions

In our soon to be issued report, we recommend that Congress amend the existing consolidation requirement to

- include noncash properties seized for non-drug violations;
- designate the Marshals Service as the property custodian;
- have Justice lead the development of the plan;
- require a plan within 6 months;
- require an implementation timetable; and
- have the plan address program deficiencies.

Recent discussions with both agencies indicate that Justice is generally supportive of consolidation, but Customs has some concerns. Customs believes that consolidation could hurt their relationship with state and local law enforcement groups, their property will not receive adequate attention, and Justice's information systems cannot accurately track income and expenses. We believe that these concerns, as well as other known management deficiencies, should be addressed as part of the consolidation plan, but should not be impediments to consolidation. Our recently completed review of the Marshals Service's management of commercial real property seizures--which I will discuss next--is

one example where existing deficiencies could be addressed as part of the consolidation plan.

STRONGER OVERSIGHT OF COMMERCIAL

REAL PROPERTY NEEDED

First, I would like to highlight, however, that the problems associated with commercial real property seizures should have minimal impact on any consolidation because real properties are already essentially consolidated in Justice. Customs only has 1 percent of the total seized real property inventory.

We reviewed the management of 42 commercial properties valued at \$1 million or more. These properties equal about 1 percent of all Justice real property seizures by number and 25 percent by value. We found that the Marshals Service districts were not always complying with asset forfeiture policy in managing these properties. Specifically, district officials did not always:

- document legal owners and encumbrances of the properties,
- maintain up-to-date and accurate property information,
- prepare decision documents outlining management approach,
- obtain property appraisals, and
- provide effective oversight of property managers.

The inconsistent application of Marshals Service policies is linked to several interrelated factors. First, district officials

told us that they did not have enough staff to complete all program activities in a timely manner. Also, many staff are law enforcement officers with limited property management backgrounds. The Marshals Service has received approval for an additional 132 positions in the forfeiture program for fiscal year 1991. This 55 percent increase in staff, coupled with specialized training in property management for district staff, should help get program activities done.

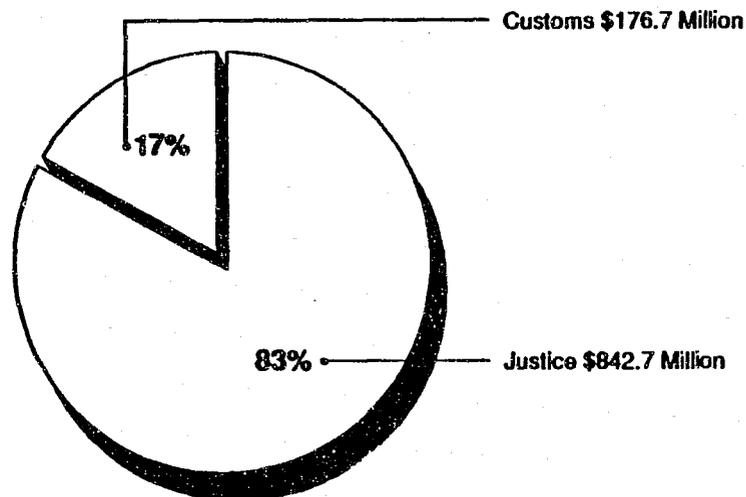
A second factor is inadequate guidance regarding the management of commercial real property. For example, Marshals Service policy states that the districts are to conduct periodic reviews of contracts, however, no guidance was issued to tell staff how this was to be done.

Finally, oversight of the districts' forfeiture programs has been limited. Within the Marshal Service, a regional infrastructure dedicated to the seized asset program exists and has the potential of providing an important link between the district operations and headquarters. But, until recently, the regional offices have not had a well defined oversight role, and did little oversight of the districts' programs. In October 1990, the regions were tasked with formally evaluating and reporting on the districts' performance in the asset forfeiture program. This process should improve compliance by district offices.

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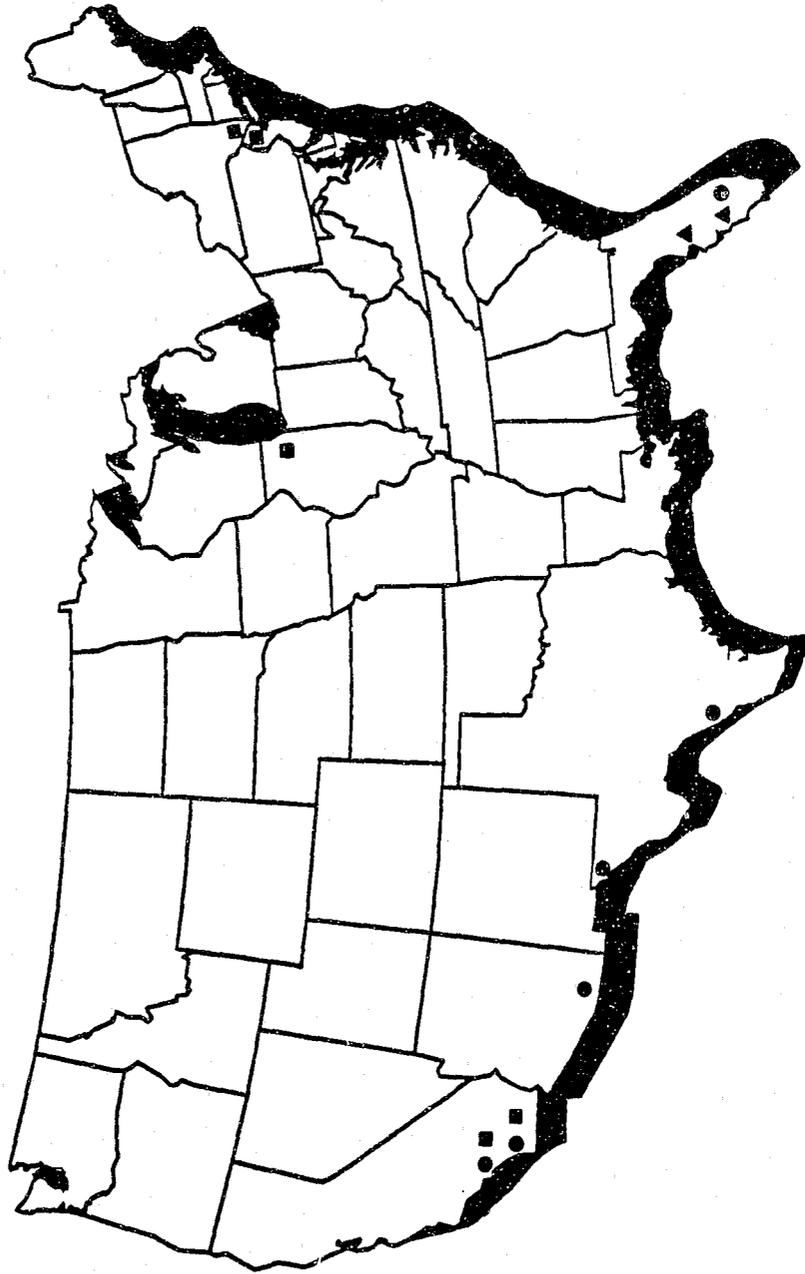
This concludes my prepared testimony, Mr. Chairman; I will be pleased to answer any questions that you or Members of the Subcommittee may have.

GAO Noncash Seized Property Inventories as of 6/30/90



Note: Estimated Value: \$1 Billion

GAO Major Seized Property Locations as of 6/30/90



- 69 percent of seized vehicle inventory
- ▲ 50 percent of seized vessel inventory
- 53 percent of the value of seized general property inventory

GAO Varying Prices Paid for Managing Seized Vehicles

CHART 3

