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\$ MILLIONS IN SEIZED CASH
CAN BE DEPOSITED FASTER

Statement of
Gene L. Dodaro, Associate Director,
General Government Division

Before the
Subcommittee on Federal Spending,
Budget and Accounting, U.S. Senate



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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our review of the Customs Service's and the Drug Enforcement Administration's (DEA) management of seized cash, which was undertaken at Chairman Chiles' request. As you know, Senator Chiles, GAO has previously reviewed federal asset seizure and forfeiture programs, including, at your request, reviews of Customs' management of seized cars, boats, and planes. Our prior work, which is listed in appendix I, identified deficiencies in agencies' management of seized assets, which, in part, were expected to be resolved by enactment of the Comprehensive Crime Control Act of 1984. However, as we will discuss this morning, the growth and complexity of seizures has risen in recent years, and poor internal controls have resulted in millions of dollars in seized and forfeited cash not being deposited promptly.

WHAT IS FORFEITURE?

Forfeiture law allows the government to take property, including cash, that has been illegally used or acquired, without compensating the owner. In cases of \$100,000 or less, forfeiture can be handled administratively by the seizing agencies. For amounts above \$100,000, the cases are handled judicially by U.S. Attorney offices and the courts. Also, cases under \$100,000 are handled judicially if the defendant or other involved parties request it.

Identifying, seizing, and forfeiting assets of drug traffickers and organized crime figures has become a key part of federal efforts to curb such crime and economically punish criminals. The Comprehensive Crime Control Act of 1984 expanded the government's seizure authority and established Asset Forfeiture Funds to finance the management and disposal of seized and forfeited assets. This has resulted in increases in the volume of assets, including cash, being seized, and heightened

the importance of good internal controls and oversight in properly managing and disposing of seized and forfeited assets.

Our review, however, shows that such controls over seized and forfeited cash were either not in place or were inadequate. Consequently, millions of dollars are being held unnecessarily in vaults and safety deposit boxes before being deposited into designated U.S. Treasury accounts. The delays prevent the government from obtaining economic benefits from the idle cash and increase the administrative costs and risks in handling, storing, accounting for, and safeguarding the cash from theft and abuse. Customs and DEA have begun to take corrective action but more needs to be done to prevent the problems from recurring.

SCOPE OF GAO REVIEW

Our review covered the Customs Service and DEA because, with an estimated \$220 million of seized cash on hand, these agencies have, by far, most of the cash seized by the Departments of Treasury and Justice. My testimony will focus first on our review of Customs' cash seizure program and follow with a discussion of DEA's program.

Our review of Customs was conducted in its Miami and Los Angeles Districts, which accounted for 60 percent of the estimated \$96 million in seized cash Customs had on hand. We began our field work in these locations in July 1986. Our review included analysis of cash seizures which were deposited July 1 to October 14, 1986 and cases on hand when we began our detailed examination of case files in October 1986. We excluded fiscal year 1986 on hand cases from our detailed examination because certain administrative and legal requirements must be satisfied in many seizure cases before the cases are closed.

From a total of 231 such cases amounting to about \$43.4 million, we reviewed 129 cases equalling about \$39.1 million. We selected a stratified random sample for review except that we reviewed all cases in Los Angeles that met our criteria. The results of our case analyses are unweighted and cannot be projected. (See app.II for a detailed discussion of our methodology.)

TABLE 1
Scope of GAO Review
Customs Service

Where is the cash?	45 Districts
How much?*	\$96 million
GAO audit locations:	<u>Millions</u>
Miami	\$38
Los Angeles	<u>20</u>
Total	<u>\$58</u>
Audit location cash as percent of total	<u>60</u>

* Estimated August-September, 1986.

CUSTOMS SERVICE DELAYS IN DEPOSITING CASH

Of the 129 cash seizures we reviewed, 107 experienced unnecessary delays in depositing cash into the Asset Forfeiture Fund or interest bearing commercial bank accounts. Customs had no established standard for depositing seized and forfeited cash. Department of the Treasury procedures for federal agencies, however, require deposits to a Treasury account when collections total \$1,000 or once a week, which ever comes first (6 TFM 8030.30). However, due to insufficient information, we were unable to determine the exact day that should have been used to measure compliance with the Treasury procedures. Therefore, to insure that our computation of delays was conservative, we allowed 14 days after forfeiture or 14 days after the decision to deposit preforfeited cash before identifying deposit delays.

As shown in Table 2, \$32 million of the funds we reviewed experienced deposit delays.

Of the 107 cases with deposit delays, 81 involved delays in depositing forfeited cash into the Customs Forfeiture Fund. As shown in Table 3, the delays occurred on large and small seizures, ranging from a low of \$3 to \$4.2 million and varied from a delay of 2 days to 1,807 days.

TABLE 3

Length of Deposit Delays After Forfeiture*
Miami and Los Angeles Combined

<u>AMOUNT</u> <u>(000)</u>	<u>DAYS</u>			<u>TOTAL</u>
	<u>2 to 182</u>	<u>183 to 365</u>	<u>366 to 1,807</u>	
\$1,000 to 4,203	5	0	0	5
500 to 999	2	2	1	5
100 to 499	6	5	6	17
50 to 99	9	5	2	16
< 49	<u>11</u>	<u>9</u>	<u>18</u>	<u>38</u>
Totals	<u>33</u>	<u>21</u>	<u>27</u>	<u>81</u>

* After allowing 14 days after forfeiture or, in one case, after the decision to return the cash to its owner less a penalty assessed for nonreporting of the money.

The remaining 26 cases with deposit delays were undergoing forfeiture processing at the time of our review. Cash that is not yet forfeited to the government should be deposited before forfeiture if the government determines that the cash is not needed as evidence or there is a court order or written agreement with the petitioner allowing deposit of the cash. Although one of these conditions was present in the 26 cases we identified, there were delays exceeding 14 days before the cash was deposited.

Another delay which results in losses to the government occurs when monetary instruments, such as personal checks, are not converted within a reasonable time. Checks can become "stale-dated" and returned unpaid by banks. In two of the cases we reviewed, checks totaling \$30,500 were returned unpaid by the banks because the items were too old.

EFFECTS OF DELAYS

The economic benefits foregone because of the delay in depositing cash is substantial. For example, of the 107 cases with deposit delays, 81 involved cash that had been forfeited to the government. We estimate that for the 81 forfeited cases, \$518,849 could have been earned on the money during the time the cash sat idle in Customs vaults or in interest bearing accounts. (See table 4.)

TABLE 4

Economic Benefits Foregone Due to Delay*
In Depositing Seized Cash After Forfeiture

<u>Location</u>	<u>No. of cases</u>	<u>Amount (millions)</u>	<u>Total Benefits Foregone**</u>
Miami	60	\$17.7	\$345,043
Los Angeles	<u>21</u>	<u>6.5</u>	<u>173,806</u>
Totals	<u>81</u>	<u>\$24.2</u>	<u>\$518,849</u>

*After allowing 14 days after forfeiture or penalty assessment.

**We selected 7 percent as an approximation of the rate earned on funds invested in the Treasury Tax and Loan account.

CAUSE OF DELAYS

There were several causes for the delays in depositing seized and forfeited cash. There was no national policy or oversight over seized cash management and information to account for the cash and to adequately monitor case status was inadequate.

For example, at the Miami and Los Angeles district offices, delays in notifying the appropriate units of a change in case status and failure to act when notified of such change were among the reasons for the delays in the cases we analyzed. Table 5 summarizes the frequency of the reasons we identified for those cases.

TABLE 5

Reasons for Deposit Delay

<u>Causes</u>	<u>Number of Cases</u>
1. Custodian did not deposit cash when notified	33
2. FPF* delayed or took no action after being notified of forfeiture or non-evidentiary decision	22
3. No record of case	6
4. Regional counsel delayed notifying FPF of change in case status	2
5. Combination of above	28
6. Lack of justification to support evidentiary need	16
7. No delays	<u>22</u>
Total	<u>129</u>

* Fines, Penalties and Forfeitures Unit

Neither Miami nor Los Angeles had readily available inventory information which would allow personnel to know how much cash was on hand or to routinely monitor and follow up on cash seizure cases. Local officials said that on hand cash could only be determined by tabulating the amounts listed in a card file. The card file, however, was inaccurate. For example, we inventoried the cash on hand in Miami and identified 12 cases, totaling \$1.2 million, listed in the file which had already been disposed of or cases which were on hand but not listed.

At headquarters, although Customs has established policies and accountability for seized property management, seized cash was inadvertently overlooked. Consequently, there has been a lack of policy and clear line of responsibility for seized cash management. For example, headquarters had no information on how much seized cash was on hand or where it was located, and oversight of seized cash management was nonexistent. A description of these and related internal control breakdowns at the time of our review follow:

1. There is no national policy or organizational unit ultimately responsible for seized cash management.
2. There is no national inventory of seized cash, including information on amount and location of cash deposited in interest bearing bank accounts.
3. The accounting system for seized property is substandard. In its Federal Managers' Financial Integrity Act Report, Customs identified instances of nonconformance with the Comptroller General's Accounting Principles and Standards. The Federal Manager's Financial Integrity Act (P.L. 97-255) requires agency internal control and accounting systems to comply with standards specified by the Comptroller General. Under the act, agency heads must report to the President and Congress by December 31 each year as to whether their systems fully comply with the act.

Although Customs identified system weaknesses in accounting for seized property, none were identified for seized cash in its Fiscal Year 1986 Integrity Act report to the Secretary of the Treasury. For example, there is no accounting of seized cash until it has been deposited into the Customs Forfeiture Fund. We

subsequently discussed the Customs omission with Treasury officials and, at our suggestion, the Secretary of the Treasury included the seized cash management problems in his Integrity Act report.

4. There were no audits of seized cash nationally and, other than cash counts, there were no local audits of seized cash in Miami and Los Angeles.

Also, Customs' practice of depositing non-evidentiary cash pending forfeiture into interest bearing commercial bank accounts differs from the practice followed by the Department of Justice which deposits such cash into its Seized Asset Deposit Fund -- a U.S. Treasury Account. We favor Justice's practice because it gets the money more quickly into a U.S. Treasury account, thus providing better control and higher economic benefits to the government. Customs' lack of a Treasury Deposit account has led to sporadic depositing of pre-forfeited cash into commercial bank accounts at below-Treasury interest rates. For example, as of October 1, 1986, Miami had \$19.4 million deposited in three banks at interest rates varying from 3.6 to 5.4 percent. As of October 15, 1986, Los Angeles had about \$1.7 million deposited in various banks at rates varying from 5.25 to 7.75 percent over the life of the accounts. The U. S. Treasury rate during the applicable period varied from 6 to 19 percent.

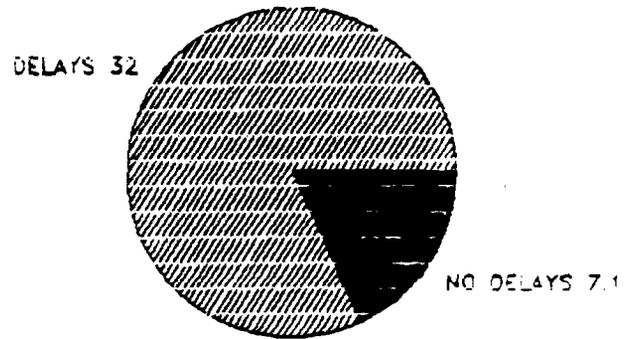
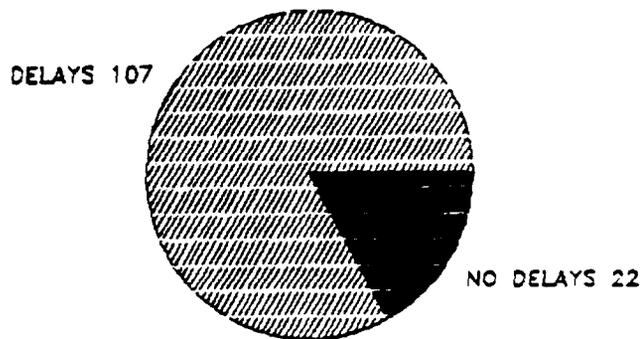
CORRECTIVE ACTIONS BEING TAKEN

Customs has cooperated fully in our review, both at the district and headquarters offices, and has begun to take action as a result of our audit. For example, the Los Angeles and Miami districts are now reviewing the case files and depositing cash when appropriate. Table 6 shows that Customs deposited \$27.0 million during the 6 month period ending December 31, 1986, the

TABLE 2
FREQUENCY OF DEPOSIT DELAYS 1/
MIAMI AND LOS ANGELES

129 CASES

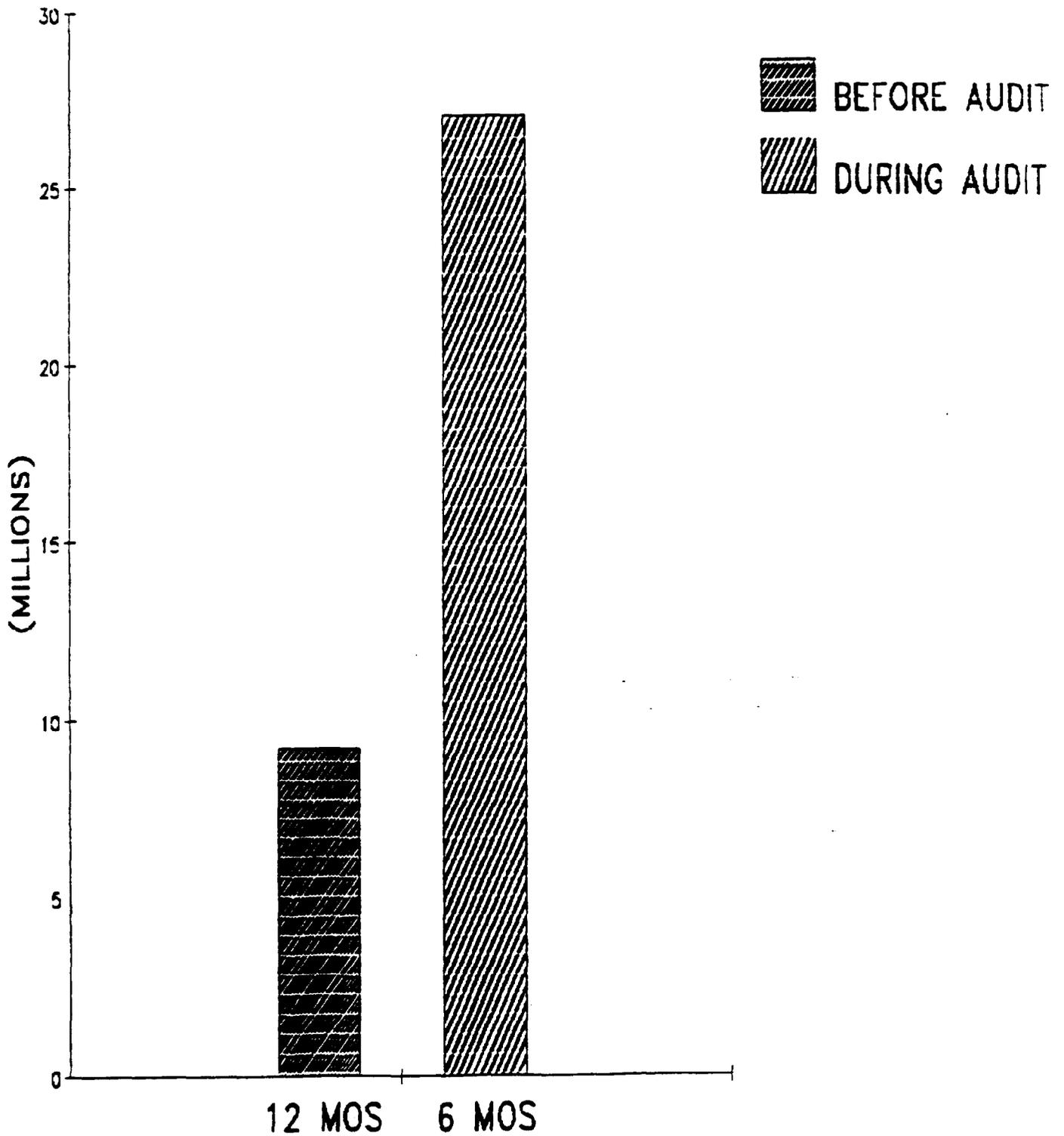
\$39.1 MILLION



1/ 14 DAY GRACE PERIOD

timeframe since we began our field work, as compared to \$9.1 million for the entire year ending June 1986.

TABLE 6
CUSTOMS' SEIZED CASH DEPOSITS
AT MIAMI AND LOS ANGELES



Also, in February 1987, Customs officials in Los Angeles established a policy of depositing forfeited cash into the Customs Asset Forfeiture Fund within 7 calendar days. Further, the Customs' Special Agent-in-Charge "assigned an Agent Coordinator position" to respond to the Fines, Penalties and Forfeitures unit's inquiries on the status of evidentiary cash.

Headquarters is also taking corrective action. For example, Customs has drafted a national policy on seized cash and has established the National Finance Center as the focal point for seized cash management. Officials told us that the policy will include a time standard for depositing forfeited cash and for periodically reassessing any cash that is being held as evidence. As discussed earlier, Treasury procedures require that deposits be made when collections total \$1,000. If Customs cannot comply with this requirement, it should begin the necessary preparations for depositing the cash when it is seized so that the deposit can be made promptly when deposit approval is received.

Customs is also implementing national inventory capabilities in its automated commercial accounting system with oversight by National Finance Center officials. Finally, Customs is considering establishment of a Seized Asset Deposit Fund similar to Justice's.

GAO RECOMMENDATIONS

We recommend that the Customs Commissioner:

1. Ensure that the following ongoing corrective actions are completed:
 - a. Establishment of a National Policy on seized cash
 - b. Establishment of a seized cash national inventory information system

2. Require periodic audits of seized cash.
3. Establish a Seized Asset Deposit Fund to be used for depositing non-evidentiary cash pending forfeiture instead of depositing it in interest-bearing bank accounts.
4. Insure that identified seized cash and accounting system weaknesses are corrected, including prompt depositing of non-evidentiary cash and periodic reassessments of the evidentiary need for cash being held as evidence.
5. Report the seized cash weaknesses under the Integrity Act until the corrective actions have been substantially completed.

SCOPE OF DEA REVIEW

We intended to conduct our DEA review in the Miami, Los Angeles and New York Field Divisions because they accounted for 53 percent of the estimated \$124 million DEA had on hand in January 1986. Because the cases were still open, DEA wanted to first review the files before we reviewed them to remove sensitive information. According to DEA officials, sensitive information included agents and defendants names, inspection reports, and law enforcement techniques and practices used in developing and prosecuting a case.

DEA later requested that we cancel or suspend our review because it had established a task force to review and eliminate a backlog of 9,500 seizure cases. Consequently, we have not developed case file information on the extent of DEA delays in depositing seized cash, economic benefits foregone, and the causes of any delays. However, as the following information

shows, DEA has problems similar to those we identified in Customs' program.

INFORMATION SHOWING DEA HAS SEIZED CASH MANAGEMENT PROBLEMS

During the July through October 1986 period of our audit, the Los Angeles Field Division had \$35 million in vaults and safety deposit boxes. Los Angeles officials told us that they recognized much of this money should be deposited, and they had begun to do so. They said further that 90 percent of their seized cash is never used as evidence. As of February 28, 1987, \$25.9 million of the \$35 million had been deposited with the U.S. Treasury.

As of October 1986, the New York Field Division had an estimated \$26 million on hand. Vault records showed hundreds of cases which are at least one year old, including cash seized as far back as 1970. Correspondence between local DEA officials and the U.S. Attorney (Southern District) reveals that the current status of this cash is unknown.

DEA also lacks accurate seized cash inventory information. For example, in visiting DEA's New York and Los Angeles Field Divisions we noticed the following illustrations of inventory inaccuracies.

1. In October 1986, New York reported \$26 million on hand versus \$36 million reported by DEA headquarters. According to New York officials, the headquarters inventory omitted some cases, included double entry of some cases, and had other inaccuracies because

of keypunch errors in entering the data into the system.

2. There were \$5.4 million in inventory discrepancies between Los Angeles and headquarters. Also, in reviewing cash on deposit, we noted additional discrepancies of \$731,717 between Los Angeles and bank records.

We also requested DEA to provide us with its national inventory of seized cash. Although DEA has an automated inventory, it did not use this data to respond to our request. Instead, on October 30, 1986, DEA requested its Special-Agents-In-Charge to provide headquarters with the inventory information requested so it could respond to our request.

DEA inspection findings have identified continuing violations of seized cash policies and procedures as shown in table 7. Inspection identified 118 control weaknesses during the 3-year period ending July 1986. At least 10 of DEA's 19 Field Divisions had weaknesses in each of the five categories listed in the table.

TABLE 7
Seized Cash DEA Inspection Findings
For Three Year Period Ending July 1986

<u>Control weaknesses</u>	<u>No. of Weaknesses</u>	<u>Field Divisions</u>	<u>Percent With Weaknesses</u>
Inadequate physical security or not in compliance with agency requirements.	19	11	58
Inaccurate inventory	29	12	63
Inadequate separation of duties	14	10	53
Inadequate/inaccurate case documentation and control reports, ledgers, and records.	39	18	95
Delays in processing cases	<u>17</u>	<u>16</u>	<u>84</u>
Total	<u>118</u>		

In March 1986, we reported that 1983 problems with DEA's asset seizure and forfeiture case tracking and inventory systems still existed. The systems did not readily provide data on the total amount, type, or value of seized assets. We also reported problems with DEA's accounting system. For example, in DEA's Los Angeles divisional office, reconciliations of headquarters and field records for seized money, obligations, and expenditures were found to be backlogged as much as 2 years.

DEA has acknowledged that its seized property program has extensive problems. In Integrity Act reporting for fiscal year

1986, both DEA and Justice reported weaknesses in DEA's seized property program. In complying with the Integrity Act, DEA reported to the Attorney General in November 1986 that "significant management and internal control improvements are still required in the areas of processing forfeiture actions, recordkeeping, and the maintenance and disposal of property seizures". According to DEA, the backlog in recording and disposing of assets prevented DEA from promptly contributing funds to the Asset Forfeiture Fund and led to additional storage costs, erosion of asset value and deprived participating state and local law enforcement agencies of their share of asset proceeds.

In January 1987, a DEA task force began reviewing and eliminating a backlog of 9,500 seizure case files. According to DEA, there were (1) about 5,000 files dated from April 24, 1986, to October 30, 1986, on which no action had been taken other than notifying interested parties, including advertising, and review for referral of claim and cost bonds and (2) about 4,500 files which predated April 24, 1986, on which no action subsequent to notice and advertisement had been taken. This backlog applies to seized cash as well as other property seizures. DEA could not provide us with an estimate of the cash associated with this processing backlog.

On November 20, 1986, the Deputy Attorney General announced a comprehensive study of seizure/forfeiture which is designed to identify areas where improvements are needed. We have briefed the study team on our review.

All of the above information indicates that more progress needs to be made to resolve the lack of accurate and reliable asset seizure and forfeiture information to monitor the program nationally, a problem which we first identified in 1983 and again in 1986.

GAO RECOMMENDATIONS

To assure that the problems in DEA's seized property program are resolved, we recommend that the DEA Administrator:

1. Provide the Subcommittee with the results of the Task Force's review in eliminating DEA's 9,500 case backlog.
2. Assure that the identified seized property and accounting system weaknesses, including resolving inspection findings, are corrected.
3. Include the seized property and accounting system weaknesses in DEA's Integrity Act report until they are substantially corrected.

In closing, I want to point out that numerous persons within Customs Service and Justice are working to improve seized property management. With their efforts and the continued support of this Subcommittee, we anticipate substantial progress in resolving the problems discussed today.

This completes my prepared remarks. My colleagues and I will be happy to answer any questions.

GAO REPORTS AND TESTIMONIES ON
ASSET SEIZURE AND FORFEITURE

- | | |
|--|------------------------------------|
| 1. Drug Enforcement Administration's
Use of Forfeited Personal Property | GAO/GGD-87-20
December 10, 1986 |
| 2. Statement of Arnold P. Jones Before
the Committee on the Budget,
United States Senate, On
Customs' Management of Seized
and Forfeited Cars, Boats, and Planes | Statement
April 3, 1986 |
| 3. Improved Management Processes
Would Enhance Justice's Operations | GAO/GGD 86-12
March 14, 1986 |
| 4. Better Care and Disposal of Seized
Cars, Boats, and Planes Should
Save Money and Benefit Law
Enforcement | GAO/PLRD-83-94
July 15, 1983 |
| 5. Asset Forfeiture - A Seidom
Used Tool In Combatting Drug
Trafficking | GAO/GGD-81-51
April 10, 1981 |

OBJECTIVES, SCOPE AND METHODOLOGY

Our objectives were to determine if seized cash was deposited timely and whether relevant internal controls complied with Federal Managers' Financial Integrity Act requirements. The goal of this legislation is to reduce fraud, waste and abuse in government operations by strengthening internal control and accounting systems.

Our review focused on DEA and Customs Service because the majority of seized cash subject to forfeiture is in their custody. However, we also interviewed other Justice Department officials who participate in the government's seizure/forfeiture activities, including officials from the U. S. Marshals Service, Office of the Deputy Attorney General, Office of Associate Attorney General, Criminal Division, and Justice Management Division.

We used July 1986 vault/safety deposit records at Customs in Miami and Los Angeles to identify the amount of on hand cash and year of seizure for each cash seizure case. We stratified this data by dollar size and year of seizure to select cases for detailed case file review. We analyzed cash seizures which were (1) deposited during the July through October 14, 1986 period and (2) seizures on hand as of October 1986 when we began our review of case files. We included the July-October deposited cases in our review because the deposits occurred after we first brought the problem of untimely deposits to Customs attention but before we began our detailed review of case files.

In reviewing the files, we used a uniform data collection instrument to collect information, including (1) dates of seizure and forfeiture, (2) causes for deposit delay, if

applicable, and (3) whether a determination that cash was needed as evidence had been made.

The Customs Miami and Los Angeles Districts had 357 cases totaling \$73.1 million on hand in October 1986. We excluded from our review all on hand cases that were seized in fiscal year 1986 because certain administrative and legal requirements must be satisfied in many seizures before the cases are closed. This reduced the on hand cases available for review to 136 which totaled \$24.7 million. In addition, Miami and Los Angeles had 95 cases totaling \$18.7 million which had been deposited during the July-October 14, 1986 period. We selected for review a stratified, random sample of these on-hand and deposited cases except that we reviewed all of Los Angeles cases meeting our criteria. Tables 8 and 9 summarize our selection of cases for review.

TABLE 8

Scope of GAO Review AfterExcluding Fiscal Year 1986 On Hand Cases

<u>Location</u>	<u>On Hand*</u>		<u>Deposits**</u>		<u>Totals</u>	
	<u>Number</u>	<u>Amount</u> (millions)	<u>Number</u>	<u>Amount</u> (millions)	<u>Number</u>	<u>Amount</u> (millions)
Miami	105	\$18.1	85	\$14.2	190	\$32.3
Los Angeles	<u>31</u>	<u>6.6</u>	<u>10</u>	<u>4.5</u>	<u>41</u>	<u>11.1</u>
Totals	<u>136</u>	<u>\$24.7</u>	<u>95</u>	<u>\$18.7</u>	<u>231</u>	<u>\$43.4</u>

*Miami on hand inventory information as of October 1, 1986.
Los Angeles on hand inventory information as of October 15, 1986.

**Miami deposits during the period July 1 through September 30, 1986.
Los Angeles deposits during the period July 1 through October 14, 1986.

TABLE 9

Actual Seizure Cases Reviewed by GAO

<u>Location</u>	<u>On Hand*</u>		<u>Deposits**</u>		<u>Totals</u>	
	<u>Number</u>	<u>Amount</u> (millions)	<u>Number</u>	<u>Amount</u> (millions)	<u>Number</u>	<u>Amount</u> (millions)
Miami	49	\$14.6	39	\$13.4	88	\$28.0
Los Angeles	<u>31</u>	<u>6.6</u>	<u>10</u>	<u>4.5</u>	<u>41</u>	<u>11.1</u>
Totals	<u>80</u>	<u>\$21.2</u>	<u>49</u>	<u>\$17.9</u>	<u>129</u>	<u>\$39.1</u>

*Miami on hand inventory information as of October 1, 1986.
Los Angeles on hand inventory information as of October 15, 1986.

**Miami deposits during the period July 1 through September 30, 1986.
Los Angeles deposits during the period July 1 through October 14, 1986.

We also assessed the adequacy of internal controls, including (1) the adequacy of physical inventories (2) the separation of duties among responsible personnel and (3) compliance with policies and procedures governing the sealing and safeguarding of cash evidence.

We agreed to headquarters officials accompanying us on several of our field visits so that corrective actions could be initiated before the completion of our work.

Our audit work was performed in Washington, D.C.; Miami, Florida; New York, New York; and Los Angeles, California. We made our review from April 1986 to February 1987 in accordance with generally accepted government auditing standards.