**REPORT ON THE
AUDITED FISCAL YEAR 1998
FINANCIAL STATEMENTS
OF THE
TREASURY FORFEITURE FUND**

OIG-99-076 APRIL 5, 1999

Office of Inspector General

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United States Department of the Treasury

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220
April 5, 1999

OFFICE OF
INSPECTOR GENERAL

MEMORANDUM FOR RAYMOND M. DINEEN, ACTING DIRECTOR
EXECUTIVE OFFICE FOR ASSET FORFEITURE

FROM: Dennis S. Schindel
Assistant Inspector General for Audit

SUBJECT: Report on the Audited Fiscal Year 1998 Financial Statements of the Treasury Forfeiture Fund

I am pleased to transmit the attached report on the audited Fiscal Year 1998 financial statements of the Treasury Forfeiture Fund (TFF). Gardiner, Kamya, & Associates, P.C., an independent public accountant (IPA), performed the audits and issued the following reports, which are included in the attachment:

- Independent Auditor's Report on Financial Statements;
- Independent Auditor's Report on Compliance with Laws and Regulations; and
- Independent Auditor's Report on Internal Control.

The IPA rendered an unqualified opinion on the TFF's Balance Sheets as of September 30, 1998 and 1997, and the related Statements of Net Cost, Changes in Net Position, Budgetary Resources, and Financing for the year ended September 30, 1998. However, the Independent Auditor's Report on Internal Control cited four material weaknesses related to: (1) accounting records that are primarily maintained on a cash basis (repeat finding); (2) all balances and transactions that comprise the TFF are not captured by the general ledger (repeat finding); (3) the United States Customs Service's (Customs Service) inadequate asset tracking system (repeat finding); and (4) the Internal Revenue Service's inadequate accounting and reporting of seized and forfeited property transactions (new finding).

In addition, the Independent Auditor's Report on Internal Control cited the following six reportable conditions which pertained to: (1) differing asset tracking systems (repeat finding); (2) improper timing for valuation of forfeited property (repeat finding); (3) lack of control over assets (repeat finding); (4) lack of sales revenue reconciliations (repeat finding); (5) inadequate property management functions (new finding); and (6) improper recording of remissions/returns (new finding).

The Independent Auditor's Report on Compliance with Laws and Regulations cited one (repeat) instance of noncompliance with applicable laws and regulations. The Budget and Accounting

Procedures Act of 1950 (Act), as amended, Section 3512, *Executive Agency's Accounting System*, requires Federal agencies to establish an internal control structure which ensures the safeguarding of assets and the proper recording of revenues and expenditures. As summarized above, the TFF's internal control structure has certain material weaknesses which signify noncompliance with this Act.

Furthermore, the Customs Service, which acts as the executive agent for certain TFF operations and is responsible for accounting and financial reporting for the TFF, did not comply with the Federal Financial Management Improvement Act of 1996. In a separate report, the Office of Inspector General noted instances where the Customs Service's financial management systems do not substantially comply with Federal Financial Management Systems Requirements.

These issues, some of which were identified during prior year audits, will remain of continuing significance until the necessary internal control improvements and systems changes are implemented.

The IPA will issue a management letter discussing matters that were identified during the audit which are not required to be included in the audit reports.

As in the prior year, my staff monitored the conduct of these audits and performed a quality control review of the IPA's working papers. The audit was performed in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States, and met the requirements of Office of Management and Budget Bulletin No. 98-08, *Audit Requirements for Federal Financial Statements*, as amended.

Should you have any questions, please contact me at (202) 927-5400, or a member of your staff may contact William H. Pugh, Deputy Assistant Inspector General for Audit (Financial Management) at (202) 927-5430.

Attachment

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TREASURY FORFEITURE FUND

ANNUAL REPORT
FISCAL YEAR 1998

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

Gardiner, Kamya & Associates, P.C.

Management Consultants and Certified Public Accountants
Washington, D.C.

DEPARTMENT OF THE TREASURY FORFEITURE FUND
ANNUAL REPORT
FISCAL YEAR 1998

Table of Contents

SECTION I

OVERVIEW

Chapter 1:

FORFEITURE PROGRAM GOALS AND ACTIVITIES

The Asset Forfeiture Fund of the Department of the Treasury (the Fund) came into being in fiscal year (FY) 1993 with the passage of the Treasury Forfeiture Fund Act of 1992, Public Law 102-393. That statute brought all of Treasury's diverse law enforcement organizations under a single forfeiture fund program. Prior to that time, the United States Secret Service (Secret Service), the Bureau of Alcohol, Tobacco and Firearms (ATF) and the Criminal Investigation Division of the Internal Revenue Service (IRS) were all members of the Asset Forfeiture Fund of the Department of Justice. Before FY 1993, the Treasury Department's Customs Service (Customs) had its own forfeiture fund which received forfeitures of Customs and the United States Coast Guard (Coast Guard).

Today, the Fund serves the forfeiture program needs of all of the Department's law enforcement organizations. It stands as the repository for the value of all of the non-tax forfeitures made pursuant to laws enforced or administered by the Department of the Treasury (Treasury) and the Coast Guard. In turn, its monies are invested in various ways to support law enforcement at all levels of government.

In the half dozen or so years of its existence, it has become an increasingly valuable resource for America's law enforcement community. The funding it provides is used to defray the direct expenses of seizure and forfeiture that are incurred each day as the men and women of Treasury law enforcement pursue their agencies' missions. Besides covering these direct costs, the resources of the Fund are also applied to more generally support the Treasury forfeiture program. Additionally, important statutory authorities of the Fund allow it to share forfeited assets with other law enforcement organizations, both in the United States and overseas, that have assisted Treasury investigations leading to forfeiture.

Although forfeiture has been a Customs law enforcement tool since the earliest days of our Republic, it is only in the last two decades that expanded federal seizure and forfeiture authorities have been coupled with the mechanisms of forfeiture funds to create a formidable challenge to modern, sophisticated criminal organizations.

Goals of the Treasury Forfeiture Program

The effectiveness of asset forfeiture rests fundamentally upon public confidence in the integrity of the program. To be worthy of that confidence, the Treasury forfeiture program has set for itself four principal goals. These goals are:

(i) To safeguard the due process rights of affected persons;

(ii) To deter criminal activity by depriving criminals of property used in or acquired through illegal activity;

(iii) To enhance cooperation among federal, state, local and foreign law enforcement agencies through the equitable sharing of assets obtained through joint efforts; and

(iv) To produce revenues to cover the costs of seizures and forfeitures and generally strengthen law enforcement.

While criminal forfeitures pursued within the court system proceed against an individual and afford him or her the protections of the criminal courts, civil forfeitures proceed against property rather than persons and must be particularly sensitive to the due process rights of those with any interests in the property. Civil forfeiture actions, whether they are processed administratively by the seizing agency or judicially in court, always go through a very structured process that comprehensively notifies affected parties, invites arguments against the intention to forfeit, accommodates the indigent and offers opportunities to achieve compromise resolutions. The Fund, in its *Secretary's Guidelines*, its *Guide to Equitable Sharing* and its various policy directives aims to always support the process that safeguards the rights of individuals.

Some sense of how the Fund contributes to attaining its other three goals of deterring criminal activity, promoting cooperation and strengthening law enforcement, may be gleaned from a look at some representative program activities during FY 1998.

Significant Program Activities

Operation Casablanca

In May 1998, Customs concluded the largest, most comprehensive narcotics money laundering investigation in the history of U.S. law enforcement. Known as Operation Casablanca, the investigation linked twelve of the nineteen largest Mexican banks and their officials to the laundering of the drug profits generated by the Cali and Juarez cartels. Coordinated from Los Angeles, this Customs effort was able to identify and disrupt essential financial functions of these two notorious international criminal enterprises.

Operation Casablanca was responsible for the seizure of over $66 million in currency as well as more than two tons of cocaine and four tons of marijuana. Its success was due to the support of Customs offices throughout the country and abroad as well as state, local and foreign law enforcement agencies.

Spy Factory, Inc.

In June 1998, Customs agents from the New York office seized $49,000 to comply with a criminal order of forfeiture against Ronald Kimball and his company, Spy Factory, Inc. This seizure was applied toward a $2.3 million judgment ordered by the court.

Fifteen months earlier, Kimball had entered a guilty plea of smuggling for the illegal importation of bugging and wiretapping devices into the United States. He also entered a corporate guilty plea on behalf of the company for conspiracy, smuggling, money laundering and sending these devices through the mail. The guilty pleas came after Kimball and his co-defendants interrupted their criminal trial after a week of testimony to enter into a plea agreement. The agreement called for Kimball to forfeit all assets of Spy Factory, Inc., which at the time of his indictment was the nation's largest chain of this type of shop. The assets were valued at over $2 million.

Asset Sharing with the Swiss

During FY 1998, all necessary approvals were received for an international asset sharing with the Government of Switzerland related to an IRS criminal investigation case involving a Raymond Whelan who had started selling marijuana as a college student in New England in the 1970s. By 1984, Whelan had made sizeable profits not only from trafficking but also from serving as a courier of currency from drug smugglers to Colombian sources.

As his profits grew, Whelan began putting his money in Swiss accounts in Zurich and Geneva. He pled guilty to a marijuana charge in New Orleans in 1984 and served nine months. When he got out, he worked at legitimizing his criminal proceeds, marrying and moving funds from account to account. Money under the control of his wife was used to purchase resort property in Sun Valley, Idaho, and when it was sold, the proceeds went back into Whelan's accounts in Switzerland.

Swiss authorities assisted IRS agents during the investigation and prosecution of this case by tracing and accounting for over $4 million that was moved into and through Swiss bank accounts. The Swiss froze several of the accounts for almost four years while United States prosecutors were proving their case. Thanks to this restraint on the accounts, a large portion of the funds Whelan laundered was recovered. The amount shared with the Government of Switzerland came to just over $900,000.

Medicaid Fraud Yields Sharing

The Secret Service was able to present the Georgia Bureau of Investigation (GBI) with a large motor home to be used as a mobile command post as a result of a fourteen month long Medicaid fraud investigation. The vehicle, a 1990 Fleetwood Model K, was slated to be used by the GBI's special operations unit in high risk situations such as those involving hostage takers or barricaded gunmen.

The investigation that led to the forfeiture was a multi-agency effort led by the Secret Service's West African Fraud Task Force, involving the Georgia Department of Medical Assistance as well as the state's health care fraud control unit. The investigation focused on a company known as S&S Convalescent Transportation, a non-emergency transport company in Atlanta. The defendants, all family members, billed the state Medicaid system for over $1.3 million in fraudulent claims during the first half of 1994. Arrested during the first quarter of FY 1998, the defendants later pled guilty to fraud and conspiracy charges.

The Joker Poker Case

In the summer of 1998, Harvey Metzger, a New York City schoolteacher and guidance counselor was sentenced to fifteen months in prison and ordered to forfeit to the United States $2.5 million of gambling proceeds. The dual existences of Harvey Metzger – as city schoolteacher and criminal entrepreneur - were finally brought to light thanks to the efforts of the Criminal Investigation Division of the IRS.

Metzger had operated his illicit business for over ten years when the IRS learned about it through a cooperating government defendant. During this time, he had collected nearly $3 million from the illegal electronic gambling devices commonly known as Joker Poker machines. In an undercover IRS operation, Metzger discussed the methods he used to launder his gambling business proceeds and how he smuggled over a million dollars in bearer bonds out of the United States and into offshore accounts. He placed his gambling devices in the poorer neighborhoods of New York City. To hide these profits from his wife, children and employer, he rented a one room unfurnished apartment in Queens from which he directed his operations.

In October of 1997, federal agents arrested Metzger at his Queens location and executed six search warrants. Metzger tried to hide the existence of a safe deposit box by shredding its rental receipts, but careful investigators put together the torn pieces and were able to seize over half a million dollars from information in that one box alone. In all, IRS was able to seize close to $3 million in assets including brokerage accounts in California and New York, a Swiss bank account, a vehicle and exclusive real property on Skidaway Island in Georgia.

In their investigative work on this case, IRS was assisted by both the Nassau and Suffolk county police departments.

Aiding Tobacco Smugglers Results in Forfeiture

At the end of 1998, Northern Brands International, a Canadian affiliate of the American tobacco giant, R.J. Reynolds, pled guilty to aiding and abetting smuggling and agreed to pay $10 million into the Treasury Forfeiture Fund as well as a $5 million fine. Northern Brands International had conspired with two export companies to send cigarettes they made into the United States, while falsely claiming that they were ultimately destined for shipment to Estonia and Russia. These cigarettes were then sold to wholesalers on the Akwesasne Mohawk reservation in northern New York who smuggled them back across the border into Canada where they were re-sold on the black market. The scheme thereby avoided excise taxes in both Canada and the United States.

The case that led to this forfeiture began in 1993 when the Buffalo and Albany field offices of ATF began to look into the illegal diversions. ATF first identified the two companies who were initially bringing the cigarettes into the United States and then soon identified Northern Brands International as the supplier. The federal case for the prosecution of the co-conspirators was perfected through the cooperative efforts of ATF, the IRS, the Customs, the U.S. Border Patrol, the Federal Bureau of Investigation and the New York State Police.

Equitable Sharing Highlights

Equitable sharing continues to be one of the most visible operations of the Treasury Forfeiture Program. State and local law enforcement agencies and foreign governments derive valuable benefits from equitable sharing proceeds, which serve to enhance law enforcement cooperation in combating drug trafficking and other violent crimes.

The increased cooperation that the equitable sharing program has fostered among federal, state, local, and foreign law enforcement agencies has been highly successful and is a major factor in the dramatic growth of federal forfeitures. Since the Treasury Forfeiture Fund became operational in FY 1993, $1.2 billion in forfeiture revenue has been deposited into the Fund. In FY 1998 alone, $235 million of regular revenue, exclusive of transfers, was deposited into the Fund.

The first equitable share from the Fund occurred in FY 1993. That year, $67 million in federally forfeited cash and proceeds were shared with foreign countries and state and local law enforcement agencies. Since FY 1993, more than $282.7 million in cash and proceeds have been reinvested into law enforcement efforts of foreign governments and state and local agencies.

FY 1998 marked the highest equitable sharing year in the history of the Treasury forfeiture program with a 71% increase in equitable sharing expenses over FY 1997. During FY 1998, a total of $81.6 million in forfeited cash and proceeds were expensed as follows: $1.2 million to foreign countries, $71.9 million to state and local agencies, and $8.5 million to other federal law enforcement agencies. International sharing expenses of FY 1998 included the presentation of $900,000 to the Government of Switzerland for their contributions to a Treasury drug and money laundering investigation.

Treasury is committed to promoting international and domestic law enforcement cooperation as a means to combat serious financial crimes, money laundering, and drug trafficking. To that end, our equitable sharing program will be strengthened so that it continues to be an effective tool in enhancing cooperation between federal, state, local and foreign law enforcement agencies.

Chapter 2:

PROGRAM PERFORMANCE AND FINANCIAL HIGHLIGHTS

PROGRAM PERFORMANCE

The Fund has had performance measures in place for the past four years. Results from FY 1998 allowed for comparison with results from FY 1997 as a means of monitoring forfeiture program operations. For FY 1998, the performance measures selected for monitoring were: (1) processing time for equitable sharing payments for currency assets with a target time frame of 8.42 months; (2) time elapsing between forfeiture of real property and disposal through sale with a target time frame of 7.3 months; (3) timely processing of the administrative seizure inventory with a target time frame of 69 percent being processed in a timely fashion; and (4) extent to which mandatory operational costs of the asset forfeiture program are funded by current year regular revenue. The latter performance measure represents a new measure introduced during FY 1998.

Although we did not achieve performance targets in most of our performance measures, we came very close. Given the circumstances associated with certain key measures, Fund management considers this year's performance to be largely satisfactory. Data on the timely processing of equitable sharing payments for currency assets indicates that performance eroded from 8.4 months in FY 1997 to 8.9 months in FY 1998. The timely disposal of real property, taking 13.8 months on average after forfeiture, eroded by 2.8 months from the level achieved in FY 1997 of 11 months. Sixty-eight percent of open administrative seizure cases at the end of the year were within prescribed time frames versus seventy two percent at the end of FY 1997. The tracking of this information and the availability of comparison data are of significant benefit to Fund management.

Processing Time for Equitable Sharing Payments

Equitable sharing of Fund revenue continues to be one of the most visible operations of the Treasury forfeiture program. The reason this measure is important to management is that equitable sharing payments represent fully one-third of all mandatory expenses of the Fund every year. Performance delays in this measure can distort financial data needed for resource management planning. State and local law enforcement agencies derive a valuable benefit from equitable sharing proceeds that assist them in ongoing operations to combat drug trafficking and violent crime. Delayed payments can damage critical working relationships with state and local law enforcement agencies that work hard in partnership with the federal sector in the fight against crime.

Data indicates that the average time to make an equitable sharing payment for a currency asset increased from 8.4 months in FY 1997 to **8.9 months** in FY 1998. Although performance against this measure eroded slightly, FY 1998 was a banner year for equitable sharing with state and local law enforcement partners. FY 1998 financial statements indicate equitable sharing with state and local enforcement agencies of nearly $72 million as compared to just over $42 million in FY 1997. The associated transaction volume increased to a remarkable 4,883 separate payment transactions, up from about 2,100 in FY 1997, more than double the volume without an increase in the staff processing these payments.

In addition, the program completed sharing on a number of very long-standing equitable sharing commitments, with the conclusion of the associated case work. Problems in the functionality of the Customs' Seized Asset Case Tracking System (SEACATS) upon deployment in November 1996 impacted the equitable sharing payment process through FY 1998.

In summary, although the program's performance against this measure deteriorated during FY 1998, significantly more transactions were processed toward a significantly higher expense level than in previous years. Fund management will resume vigilance in this important program performance area and work with participating bureaus to ensure that any unnecessary or avoidable delays in the processing of equitable sharing are identified and corrected.

The Average Time Between Forfeiture and Disposal of Real Property

The processing of real property through forfeiture is the most complex function encountered by the Treasury law enforcement bureaus and has required Fund management to develop special procedures to dispose of this property. Fund management has made a decision that all forfeited real property offered for sale by Treasury will possess a clear title. The issuance of clear title benefits the purchaser by allowing the buyer to obtain a mortgage on the property. The process of issuing clear title requires the government to resolve all outstanding issues regarding the property including outstanding taxes, liens, building violations and environmental issues. This requirement increases the time the property is held in a forfeited status, but not sold.

While the process of providing clear title increases the timeframe by which property is held by the government, and, as a result, increases the holding costs per property, the difference is more than made up by allowing the Fund to sell the property at market value and thus increase the revenue per property. By implementing this process, the Fund has been able to realize for FY 1998, 98% of the fair market value (FMV) in terms of revenue on real property. Given the complexities of selling real property versus other types of assets, it is Fund management's opinion that the best achievable performance target for this measure is nine months. During FY 1998, the average time between forfeiture and disposal of real property was **13.8 months,** a deterioration from FY 1997's disposal period of 11 months. Performance against this measure reflects continuing program initiatives designed to eliminate "problem" properties from inventory, which on average, take considerably longer to dispose of than routinely processed properties. In addition, the statistics include properties for which private title insurance was unavailable, preventing would-be purchasers from obtaining loans. Fund management's initiative to issue Special Warranty Deeds for such properties should prevent this type of property problem from skewing future performance against this measure.

Nevertheless, the disposal of real property is one of the more complicated activities associated with the forfeiture program. The very fact that the government must resolve any potential issues against a real property that was created by a violator whose sole intent was to cover either the existence or proceeds of illegal activities complicates the closing of a forfeited property sale. These issues burden the government to ensure due process to the original violator and/or legally interested parties, including possible innocent family members, payment of all outstanding encumbrances against the property, and the legal resolution of any complications that could harm a potential purchaser. The resolution of these types of issues takes time and varies on a case by case basis. Through close coordination with the national seized property contractor, Customs, the seizing agency, and the U.S. Attorneys, Fund management continues to provide oversight to identify ways and procedures to ensure that forfeited property is disposed of in a timely manner.

Age of Administrative Seizure Inventory

Administrative forfeitures are those in which an asset is forfeited without judicial involvement. To ensure that the due process rights of citizens are protected and that revenue is collected in a timely manner, a goal of the forfeiture program is to process administrative cases quickly. A by-product of this management initiative is a more efficient equitable sharing process which serves to reinforce the working relationship between federal, and state and local law enforcement. Fund management established nine months for Customs and six months for all other Treasury enforcement bureaus as a reasonable period to process administrative seizure cases.

The timely processing of administrative cases within the prescribed times decreased from 72 percent in FY 1997 to **68 percent** in FY 1998, just under the target goal of 69 percent for FY 1998. Referenced figures exclude weapons cases for ATF because ATF does not administratively forfeit firearms and ammunition until judicial activities are completed as required by the Gun Control Act. Also excluded from the performance statistic are two unusual investigations of the IRS that date back to the early 1990s and include more than 1,300 lines of investigative tracking that would distort the routine administrative case processing performance of the IRS.

Extent to which Regular Revenue Covers Mandatory Expenses

The objective of this measure is to manage the Treasury forfeiture program in a way that maintains the vitality and continuity of the Fund to meet expenses of the asset forfeiture program in the current year and in the future. The annual performance target of 100 percent is calculated by dividing total regular revenue for the current fiscal year by total mandatory expenses for the current fiscal year. Fund management does not intend to establish a performance goal in excess of 100 percent for this measure to avoid "speed trap" problems in the program or other conflicts of interest between our program and the due process rights of citizens. For FY 1998, Fund management successfully achieved the 100 percent target. A similar analysis reconstructed for FY 1997, for which this measure was not established, also indicates that Fund management achieved the 100 percent "coverage" ratio of regular revenue to mandatory expenses of the Fund.

FINANCIAL HIGHLIGHTS

The following provides a brief explanation for each major section of the audited financial statements accompanying this report for the fiscal year ended September 30, 1998. These statements have been prepared to disclose the financial position, results of operations and changes in net position pursuant to the requirements of the *Chief Financial Officers Act of 1990* and the *Government Management Reform Act of 1994 (GMRA).* For comparison purposes only, Fund management has extracted data from audited 1997 financial statements.

Statement: Changes in Net Position

A comparison of revenues and financing sources for the current and prior fiscal years is presented in the following table:

Total Financing Sources
(Dollars in millions)

	1998	1997
Public - Sources		
Forfeited currency and monetary instruments	$167	$203
Sale of forfeited property	37	23
Value of property transferred in equitable sharing	5	2
Payment in lieu of forfeiture	2	7
Reimbursed costs	2	1
Other miscellaneous	1	1
Subtotal, financing from public sources	214	237

Total Financing Sources (Continued)	**1998**	**1997**
Intragovernmental - Sources		
Proceeds from participation with other Federal agencies	13	11
Interest	21	14
Transfer(s) from ONDCP	36	67
Subtotal, financing from intragovernmental sources	70	92
Total, Gross Revenues and Transfers In	$284	$329
Less: Applied Financing		
Public		
Equitable Sharing - State and local law enforcement	(72)	(42)
Equitable Sharing - foreign countries	(1)	(*)
Victim Restitution	(1)	(33)
Subtotal, Revenues applied to Public	(74)	(75)
Intragovernmental		
Equitable Sharing - other federal agencies[a]	(8)	(6)
Total, Applied Financing	(82)	(81)
Equals:		
Total Financing Sources	$ 202	$ 248

(*) Less than $500,000;

[a] Pursuant to Title 31 U.S.C. 9703(n).

Currency and Monetary Instruments

The Fund's primary source of revenue is forfeited currency and monetary instruments. For FY 1998, revenue from forfeited currency and monetary instruments totaled $167 million, or 78 percent of total revenues from public sources, versus $203 million, or 86 percent of public source revenue in FY 1997.

Sale of Forfeited Property

The revenue from forfeited property was $37 million in FY 1998 and $23 million in FY 1997.

Proceeds from Participating with Other Federal Agencies

Pursuant to Title 28 U.S.C. 524(c), the Department of Justice is authorized to share forfeited proceeds with the Department of the Treasury reflecting the degree of Treasury law enforcement in the effort leading to seizure of the forfeited asset. Funding from these sources is available to the Secretary of the Treasury, without fiscal year limitation, for any Treasury law enforcement purpose. For FY 1998, these "reverse asset sharing" transactions totaled over $13 million, as compared to $11 million for FY 1997.

Interest

The Fund is authorized to invest cash balances not currently needed for operational purposes in Treasury securities. On September 30, 1998, investments totaled $591 million. This amount included $248 million invested from balances of the Fund and $343 million invested from seized balances not yet forfeited. Interest income earned on these investments totaled $21 million, as compared to $14 million for FY 1997. The increase reflects improved investment strategies, larger invested balances, and higher Treasury securities interest rates.

Transfers from ONDCP

Through FY 1997, one-half of all Super Surplus declarations were required for transfer to the Special Forfeiture Fund (SFF) of the Office of National Drug Control Policy (ONDCP). However, Congress mandated that the SFF be funded from the General Fund of the Treasury beginning in FY 1997. As a result, forfeiture balances, required by existing statute to be transferred to ONDCP at the end of FY 1996 and FY 1997, were authorized by FY 1998 and FY 1999 Treasury Department Appropriations Acts, respectively, to be transferred back to the Treasury Forfeiture Fund. Balances transferred to the Fund during FY 1998 are restricted to use in FY 1999 and will be issued in accordance with the Fund's Super Surplus authority, 31 U.S.C. 9703(g)(4)(B). Super Surplus balances are available to the Secretary, without fiscal year limitation, for the law enforcement activities of any federal agency or Treasury law enforcement organizations.

Applied Financing

The total financing applied from the Fund increased to $82 million in FY 1998 from $81 million in FY 1997. The FY 1998 figure includes a banner year for equitable sharing with our state and local law enforcement partners, and FY 1997 includes a large victim restitution expense recorded as the Bull Dog Medical Case. Treasury policy restricts the use of shared funds by the state and local law enforcement agencies to law enforcement purposes. In this manner, the federal asset forfeiture program intends to encourage the continued, significantly important, cooperation of state and local law enforcement with federal law enforcement.

Statement: Net Cost

A comparison of costs for the current and prior fiscal years is presented in the following table.

Program Costs

After equitable sharing expenses, the Fund's remaining finances support the law enforcement activities and pays for the storage of seized and forfeited property and sales associated with the disposition of forfeited property. Non-discretionary costs increased to nearly $123 million in FY 1998, up $43 million from the FY 1997 level, an increase of 54 percent. This is largely due to non-discretionary funding provided to Treasury's Year 2000 (Y2K) automation initiative. Over $50 million of non-discretionary resources were approved towards this critical initiative in FY 1998. These resources were provided to Treasury bureaus or entities, specifically to ensure that asset seizure and forfeiture automation operations will be functional when the year 2000 turns over a few short months away.

The national asset forfeiture program is heavily automated and failure of the program's widely-cast automation network to function in the year 2000 would have damaging effects on the program's ability to properly track nationwide seized and forfeited assets of the program. To help ensure against catastrophic problems in this regard, significant resources totaling $55 million were authorized from the Fund in FY 1998 for automation-related purchases designed to correct Y2K deficiencies identified by Treasury. A portion of these resources were expensed during FY 1998 and are counted among the increased programs costs this year.

In addition, a 1997 Super Surplus allocation proposal, totaling in excess of $14 million, held in abeyance during FY 1997 by Congress, was released for obligation during FY 1998. Lastly, non-discretionary funding was provided to the "Computer Investigation Specialist (CIS) 2000 program." The program is intended to enhance Treasury's capability to glean evidence about forfeitable assets from computer data bases.

Program Costs
(Dollars in millions)

	1998	1997
Non-discretionary		
Costs paid to the Public		
National seized property contractor	$28	$26
State and local law enforcement joint operations	3	--[a]
Subtotal non-discretionary costs paid to the Public	31	26
Intra-governmental costs		
Seizure investigative cost asset management	55	29
Other asset related contract services	2	1
Awards to informer (moiety payment)	1	1
Other, ADP, training and program expenses	12	16

Program Costs (Continued)	1998	1997
Super Surplus	17	(*)
Secretary's Enforcement Fund	5	6
Subtotal, non-discretionary intra-governmental costs	92	53
Discretionary[b]		
Intra-governmental		
Purchase of evidence or information	(*)	1
Federal law enforcement conveyance	1	2
Data systems, training and others	7	(*)
Other	-	1
Subtotal, discretionary intra-governmental costs	8	4
Equals:		
Total Program Costs	$131	$83

*Less than $500,000

[a] *FY 1997 financial statements did not break out this expense category separately. Amounts for this authorized purpose were included under the Intra-governmental cost category, "Others" for purposes of FY 1997 statements.*

[b] *Although the Fund did not have discretionary authority in FY 1998, these expenses represent obligations of prior years, the purchases of which were delivered during FY 1998, and, therefore, expensed during FY 1998.*

National Seized Property Contractor

The single largest program expense of the Fund is for the storage, maintenance and disposal of real and personal property. This function is performed by EG&G Dynatrend, under contract to Customs. EG&G provides coverage for Treasury's forfeiture program through a nationwide system of 17 warehouse facilities with a capacity in excess of 470,000 square feet, as well as supplemental facilities provided by over 200 active vendors under contract to EG&G. In FY 1998 EG&G expenses were approximately $28 million, as compared to $26 million for FY 1997.

Super Surplus and the Secretary's Enforcement Fund

Super Surplus expenses totaled $17 million in FY 1998 as compared to less than 0.5 million in FY 1997. The Super Surplus is one of the Fund's permanent spending authorities, authorized under 31 U.S.C. § 9703(g)(4)(B). At the end of each fiscal year, through the end of FY 1997, after reserving the Fund's authorized retained capital for start-up expenses, one-half of the remaining Funds could be declared Super Surplus available to the Secretary of the Treasury for any federal law enforcement activity and available until expended.

Expenses of the Secretary's Enforcement Fund (SEF) totaled $5 million in FY 1998, a decrease of $1 million from FY 1997. As with the Super Surplus, the SEF is another one of the Fund's permanent spending authorities. The SEF is authorized under 31 U.S.C. § 9703(b)(5) and is derived from asset sharing revenue received from the Justice Department and the U.S. Postal Service. Such revenue represents Treasury's share of forfeitures with these agencies that resulted from joint investigations with these departments. The SEF is available for any Treasury law enforcement purpose.

Statement: Balance Sheet

(Entity and Non-Entity Assets)

A summary of the assets of the Fund as of September 30, 1998 is presented in the following table. As shown, the total of both entity and non-entity assets, i.e. forfeited and seized assets, increased from $618 million at the end of FY 1997, to a total of $862 million at the end of FY 1998, an increase of $244 million or nearly 40 percent.

Entity Assets (Forfeited Assets)

Cash and Other Monetary Assets totaled $137 million on September 30, 1998, as compared to a balance of $106 million on September 30, 1997. This balance fluctuates based on the timing of deposits of forfeited currency into the Fund and distributions of forfeited currency shared with local, state and foreign law enforcement agencies. On September 30, 1998 the Fund had **investments and related interest** in Treasury securities of $248 million. The balance for **accounts receivable** totaled $2 million on September 30, 1998, and is mostly associated with funds that are due from other law enforcement agencies. The value of **forfeited property, held for sale, net of liens payable** on September 30, 1998, was $24 million, as compared to $37 million on September 30, 1997. **Advances** totaled $28 million and represent advances to Treasury's Working Capital Fund for Y2K automation initiatives to meet contracts obligated during FY 1998 but not delivered by the end of FY 1998.

Non-Entity Assets (Seized Currency)

Finally, the total for **seized currency and related investments** on September 30, 1998, was $423 million, as compared to $207 million on September 30, 1997, an increase of $216 million from FY 1997.

Entity and Non-Entity Assets of the Fund End of Year
(Dollars in millions)

	1998	1997
Entity Assets (Owned by the Fund)		
Cash/Monetary Assets	$ 137	$106
Investments	248	261
Accounts receivable, net	2	4
Advances	28	3
Forfeited property, net of liens payable	24	37
Subtotal, Entity Assets as of the end of the year	439	411
Non-Entity Assets (In Custody, not owned by the Fund)		
Seized currency and related investments (*)	423	207
Equals:		
Total Balance Sheet Assets	$862	$618

*Under the Statement of Financial Accounting Standards (SFFAS) No. 3, effective September 30, 1994, and thereafter, seized currency is reported as a custodial asset upon seizure. The amount cited here represents currency held in the Fund's suspense account, invested, or on hand at field office locations.

Liabilities and Net Position

A summary of the liabilities and net position of the Fund as of September 30, 1998, as compared with September 30, 1997 is presented in the following table. The large increase in **total liabilities covered by budgetary resources** is principally associated with the large increase in FY 1998 seized currency balances.

Revenue from forfeited property held for sale is deferred until the property is sold. When compared to FY 1997, less forfeited property was held for sale on September 30, 1998, which accounts for the decrease in **deferred revenue from forfeited assets** of $14 million. **Accounts payable** to both intra-governmental accounts and public related accounts totaled $30 million on September 30, 1998, as compared to $28 million on September 30, 1997.

Seized currency totaled $423 million on September 30, 1998, forming the largest **liability** of the Fund, and is covered in full by deposits in the Customs Suspense Account, investments in Treasury securities, cash on hand, and seized bank accounts. The **liability** for **seized currency** compares to a total on September 30, 1997, of $207 million. The **net position** of the Fund on September 30, 1998, totaled $344 million, as compared to $273 million on September 30, 1997, an increase of $71 million or 26 percent. However, only the **unobligated balance** portion of the **net position** represents unencumbered cash available for "investment" in program needs by Fund management. At the end of FY 1998, the **unobligated balance** totaled $188 million as compared to $227 million at the end of FY 1997, a reduction of $39 million, or 17 percent. FY 1997 was an unusual year, in which long-idle balances of ONDCP's Special Forfeiture Fund of over $67 million were transferred to the Fund, resulting in a large increase to the end of year unobligated balance portion of the net position.

Liabilities and Net Position
End of Year
(Dollars in millions)

	1998	1997
Liabilities		
Distributions payable		
Other federal agencies/victim restitution	$34	$32
ONDCP	-	35
State and local agencies and foreign governments	7	5
Accounts payable		
Intragovernmental	25	19
Public	5	9
Deferred revenue from forfeited assets	24	38
Seized currency	423	207
Total Liabilities	518	345
Net Position		
Unobligated balance	188	227
Unliquidated obligations	156	81
Distributions to ONDCP	-	(35)
Total Net Position	$344	$273
Equals:		
Total Balance Sheet Liabilities and Net Position	$862	$618

SUMMARY OF FINANCIAL HIGHLIGHTS

In summary, Fund management concluded FY 1998 with sufficient resources necessary to commence the important business of the next fiscal year, FY 1999, and enough resources to declare Super Surplus funds at the end of the year. While Fund management works to ensure this type of outcome, management also acknowledges that doing so is a credit to the hard-working program people across the country who make countless decisions everyday that affect the program and its financial well-being. Without close attention to a myriad of details by everyone involved in the unique, complex and dynamic program, the forfeiture program could be damaged significantly and/or irreparably. The dedicated individuals assigned to the national asset forfeiture program are to be commended for a job well done.

Policy

During FY 1998, Fund management continued to identify incremental improvements in operational processes and financial management operations. Recognizing the close connection between field operations and proper financial management, Fund management continued the process of reviewing and updating the policy guidelines disseminated by the office. Additionally, extensive training continued throughout FY 1998. The purpose of the training was to ensure that the field staff of the four Treasury law enforcement bureaus involved in forfeiture are fully aware of the Fund's policies and the proper practices associated with the asset seizure and forfeiture process.

Title Insurance - Improved Efficiency, Real Property Sales

In FY 1998, the Executive Office for Asset Forfeiture issued Directive No. 32 - *Use of Special Warranty Deed and Indemnification Agreement for the Sale of Real Property.* From time to time, the expeditious sale of forfeited real property is hampered by what is referred to as a "cloud on the title." This refers to the inability of a title company to satisfy itself that all liabilities surrounding the property are properly identified and resolved.

In order to resolve this issue, effective July 9, 1998, it became the policy of the Department of the Treasury to issue a Special *Warranty Deed* and an *Indemnification Agreement*, if necessary, for those properties being sold without title insurance. Fund management hopes that this will expedite the sale of those properties that heretofore have been subject to long delays in offerings for sale as the result of clouded title issues.

Performance Indicators

Performance indicators are a tool for ensuring that a program's operations are functioning as intended and that the mission is being achieved. In FY 1995, the Fund began tracking several performance measures through a manual data collection and calculation process. This effort continued during FY 1998, and, as a result, the Fund's auditors were able to review and validate the information. Additionally, the Fund identified another measurement appropriate to gauge Fund efficiency and effectiveness during FY 1998.

FY 1998 Audit

The Fund's independent auditors rendered an Unqualified Opinion on the FY 1998 financial statements.

Program Performance

Finance and Program Performance - What is needed and planned as prescribed by OMB Bulletin No. 97-01, *Form and Content of Agency Financial Statements,* as amended, requires that agencies include an explanation of what needs to be done and what is planned to be done to improve financial or program performance. In that regard, Fund management provides the following information with regard to material weaknesses and reportable conditions identified by auditors during the FY 1998 financial statement audit.

Material Weaknesses

The following material weaknesses were identified in the FY 1998 audit report:

(i) Accounting records are maintained on a cash basis;

(ii) The Fund's general ledger does not record all balances and transactions that comprise the Fund;

(iii) Customs' Seized Assets and Case Tracking System (SEACATS) does not contain accurate and sufficient data that can be relied upon to prepare the analysis of changes in forfeited and seized currency and property without substantial manual manipulation and reconciliation; and

(iv) The IRS Analysis of Changes in Seized and Forfeited Property provided at year-end did not account for and properly report property transactions for financial reporting purposes. Year-end balances presented on the analysis were incorrect, and in other instances had not been captured. Consequently, substantial manual procedures and reconciliations were undertaken to correct the analysis in order for it to be usable for year end financial reporting purposes.

Reportable Conditions

The following reportable conditions were identified in the FY 1998 audit report:

(i) Customs, the IRS, the Secret Service and the ATF use different asset tracking systems to prepare the required analysis of changes in forfeited and seized property schedules which support the Fund's financial statements. These systems collect and account for seized and forfeited assets differently and used different date definitions. As a result, manual manipulations and reconciliations are required at year end to produce Rollforwards for the Fund;

(ii) Forfeited property is not recorded in the subsidiary system during the year at its fair value at the time of forfeiture;

(iii) The Fund does not adequately monitor property placed with the national seized property contractor, EG&G Dynatrend (EG&G) during the year. Consequently, the Fund is unable to independently report the quantity and value of property held by EG&G at any particular time during the year.

(iv) The Fund does not adequately monitor the sale of property by EG&G during the year. It does not reconcile properties which it has recorded as sold to EG&G reports of properties sold. Also, it does not reconcile proceeds received from EG&G for sale of properties to EG&G sales reports. Consequently, the Fund is unable to assess, from time to time, whether it has received an accurate and complete accounting of all properties disposed of by EG&G, or whether it has received all proceeds from the sale of properties during the year.

(v) The Fund's property management functions require improvement to ensure that: (i) funds, property, and other assets are safeguarded against loss from unauthorized use or disposition; and (ii) transactions are properly recorded and accounted for to permit the preparation of reliable financial statements and to maintain accountability over the assets; and, asset specific revenue and expenses are recorded and accounted for accurately by the Fund in the various property management systems.

(vi) All or part of amounts related to remissions/returns of seized and forfeited currency to individuals who have successfully challenged the Government's right to seizure were recorded by the Fund as revenue, thereby overstating the revenue of the Fund. In other instances, significant delays existed between the order to remit as per the disposition instructions and the time of payment.

Additionally, although disposition instructions were clear as to the distribution of the Funds, these instructions were not adhered to for the processing of these transactions.

Fund Management's Plan Regarding Material Weaknesses

Background - Material Weakness (i),(ii) and (iii)

We have previously reported that the first three material weaknesses would be corrected with the complete deployment of the Seized Asset and Case Tracking System (SEACATS). SEACATS was intended to serve as the financial system of record for the Fund and as a single repository for all inventory and case information related to seized and forfeited property, fines, penalties or liquidated damages of Customs. The development of this system was intended to replace several non-integrated tracking systems operated by Customs and would, once fully operational and interfaced with the general ledger, rectify all three of the prior year's material weaknesses identified in the Fund's FY 1998 audit report.

Recent Activity

SEACATS was approved under Treasury Directive 32-02, which requires that the development of revenue and financial management systems be sanctioned by the Assistant Secretary for Management.

In November 1996, the SEACATS system was implemented by Customs. The system was beset with a number of start-up problems, including data conversion difficulties. Assisting Customs with resolution of these problems was among the highest priorities for Fund management during FY 1997 and FY 1998. Fund Management has recommended for approval all recent funding requests by Customs to meet SEACATS performance problem correction, and will continue to work diligently with Customs to identify and resolve SEACATS performance requirements needed to support Fund financial statements.

In FY 1998, Customs initiated improvements to SEACATS which improved the processing of seized and forfeited currency. In FY 1999, Customs is enhancing SEACATS reports that will provide the information to prepare the required analysis of changes in seized and forfeited currency directly from SEACATS information. In addition, enhancements to SEACATS that will allow for tracking liens and mortgage payables, and the interface between SEACATS and the Fund's general ledger are currently in the testing phase. Both enhancements are expected to be implemented in FY 1999.

Short Term Plans

In the interim, in November 1998, Fund management formally proposed to deploy a version of the IRS' inventory tracking system, AFTRAK, to the two smaller bureaus of Treasury's asset forfeiture program that are currently using the Department of Justice Consolidated Asset Tracking System (CATS). Implementation of that initiative is underway. In this manner, Fund management intends to relieve the use of two separate systems used among the three non-Customs bureaus to one system used by the three. Fund management has commenced the AFTRAK contracting work which will continue throughout FY 1999. AFTRAK performance related to additional accrual information will be deferred pending further management review.

Longer Term Plans

Before the Fund's general ledger can automatically record all accrual transactions associated with Fund's financial statements, it will be necessary to integrate all inventory systems supporting the Fund's financial statements with Customs' Asset Information Management System (AIMS). Only in this manner can fully automated accrual transaction accounting occur through the general ledger. However, until we are confident in SEACATS' ability to document inventory, we consider it imperative that IRS' AFTRAK system be diversified and further deployed to the Secret Service and ATF to ensure their inventory is tracked in a manner that will support their inventory reporting.

Until SEACATS performance issues are fully resolved, Fund management takes the position that the current priority is the ability to document the inventory of all our bureaus in a manner that can be substantiated through audit, and that the general ledger can be properly, if manually, adjusted from there. Fund management sees no benefit to an automated transaction-level general ledger if the automated data is so flawed that it cannot be substantiated through audit. Currently, both SEACATS and AFTRAK are integrated with AIMS only through manual re-entry of select data. A considerable effort is required to link these systems. At this time, it is impossible to identify a realistic date concerning the expected resolution of this problem.

Material Weakness (iv)

The Analysis of Changes in Seized and Forfeited Property of the IRS provided to support FY 1998 balances did not account for and properly report property transactions needed for the preparation of the Fund's financial statements. Year-end balances presented in the analysis were incorrect, and in other instances had not been captured. Consequently, substantial manual procedures and reconciliations were necessary to correct the analysis in order to make it usable for financial statement purposes. Instructions issued by Fund management for compiling year-end inventory information were not followed.

Fund management concurs with the audit recommendation that we request IRS management to re-examine and revise procedures and training necessary to ensure proper collection, processing, maintenance, transmission and reporting of data about seized and forfeited property involved in the IRS asset forfeiture program. Additionally, Fund management agrees that such procedures must include the regular reconciliation between financial accounting transactions shown by the Fund's reports and the financial information reported by AFTRAK. The AFTRAK inventory system itself appears sound. Therefore, Fund management fully expects that this material weakness can be resolved with IRS' attention to improved management function associated with the use of the system.

Fund Management's Plan Regarding Reportable Conditions

Resolution of seized and forfeited property inventory systems deficiencies will significantly eliminate the reportable conditions identified by the auditors in FY 1998. However, with regard to the re-valuation of property at the time of forfeiture, this will require inventory systems capability currently not available. In the interim, Fund management will re-value property upon forfeiture using the current approach of modeling an adjustment factor to be applied to the ending forfeited property balance. Fortunately, the majority of assets are cash assets which are not affected by the re-valuation issue. Fund management will work with the Accounting Services Division of Customs (ASD) regarding the handling of accounting transactions associated with either the Suspense Account or the Forfeiture Fund to ensure that revenue and expenses are recorded properly.

Reporting Year 2000 (Y2K) Issues

Regarding Year 2000 (Y2K) readiness, it appears to Fund management that the majority of systems required to support the forfeiture program in the year 2000 will be Y2K compliant. The local area network used by the Executive Office for Asset Forfeiture is compliant with Year 2000 requirements. Other systems which support information included in the Fund's financial statements are owned by the various participating bureaus or by other Federal Agencies, i.e., the Department of Justice. Although these systems are vital to the Fund's financial reporting capability, Fund management can only influence progress with Y2K compliance.

With regard to costs, Fund management worked to ensure compliance through the provision of essential funding in FY 1998. Fund management provided over $54 million toward Treasury's Y2K compliance requirements, including $26 million to Customs' needs in this area. Information made available from Customs, the Fund's most significant bureau in terms of overall forfeiture activity, is that they are well ahead of most federal agencies. Customs reports that it has fixed, tested and implemented all of its mission-critical information technology (IT) systems for Y2K compliance. Fund management is currently working with the IRS to ensure that their Y2K compliance requirements are up to date for the AFTRAK system. The remaining system, the Consolidated Asset Tracking System (CATS) of the Department of Justice supports minor portions of the Fund's inventory. Fund management is working to move the two bureaus, ATF and Secret Service, which use CATS onto the IRS AFTRAK system or successor system. Costs of executing the move of Secret Service and ATF to AFTRAK will cover Y2K compliance.

Given the Customs and IRS compliance with Y2K, potential impact to the Fund of non-compliant systems appears minimal. By FY 2000, the national property contractor should have the Customs' SEACATS system available for purposes of documenting all property received in the program. This capability will help to minimize any risks associated with potential non-compliance of the Justice CATS system in the event that the Secret Service and ATF inventory is still supported by CATS for part or all of FY 2000.

Fund management does not have a contingency plan of its own, but rather must rely on the contingency plans of the bureaus which own the pertinent systems.

Look Forward

Fund management will refresh attention to the Department's national asset forfeiture program during FY 1999, as it continues to work to relieve inventory system issues and financial systems compliance issues. The Executive Office for Asset Forfeiture (Fund management) will shortly publish an Action Plan for FY 1999-2000 which will bring new resolve to properly managing the needs of the Fund, as well as establishing a "roadmap" to higher levels of efficiency.

Limitations of the Financial Statements

As required by OMB Bulletin 97-01, *Form and Content of Agency Financial Statements,* as amended, Fund management makes the following statements regarding the limitations of the financial statements:

The financial statements have been prepared to report the financial position and results of operations of the entity, pursuant to the requirements of 31 USC 3515(b).

While the financial statements have been prepared from the books and records of the Fund in accordance with the formats prescribed by the Office of Management and Budget, the statements are different from the financial reports used to monitor and control budgetary resources that are prepared from the same books and records and are subsequently presented in federal budget documents. Therefore, it should be noted that direct comparisons are not possible between figures found in this report and similar financial figures found in the FY 2000 and FY 1999 *Appendix, Budget of the United States Government*. Further, the notes to the financial statements and the independent auditor's opinion and report on internal controls are also integral components to understanding fully the financial highlights of Fund operations described in this chapter.

The financial statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources to do so.

SECTION II
FINANCIAL STATEMENTS

Gardiner, Kamya & Associates, P.C.
Management Consultants and Certified Public Accountants
1717 K Street, N.W., Suite 601 Washington, D.C. 20036
Phone: 202 857-1777
Fax: 202 857-1778

Independent Auditor's Report on Financial Statements

The Inspector General
United States Department of the Treasury
Washington, D.C.:

We have audited the accompanying balance sheets of the Department of the Treasury Forfeiture Fund (the Fund) as of September 30, 1998 and 1997, and the statement of net cost, statement of changes in net position, statement of budgetary resources and statement of financing for the year ended September 30, 1998. These financial statements are the responsibility of the Fund's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 98-08, *Audit Requirements for Federal Financial Statements*, as amended. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

These financial statements were prepared in conformity with the hierarchy of accounting policies described in Note 2 to the financial statements, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Fund as of September 30, 1998 and 1997, and the net costs, changes in net position, budgetary resources and the reconciliation of net costs to budgetary obligations for the year ended September 30, 1998, on the basis of accounting described in Note 2.

In accordance with *Government Auditing Standards*, we have also issued a report dated January 15, 1999, on our consideration of the Fund's internal control structure and a report dated January 15, 1999, on its compliance with laws and regulations.

GKA

Our audits were conducted for the purpose of forming an opinion on the financial statements referred to in the first paragraph of this report as a whole. The information presented in management's Overview of the Fund and the Supplemental Financial and Management Information sections is not a required part of the financial statements but is supplementary information required by OMB Bulletin No. 97-01, *Form and Content of Agency Financial Statements*, as amended, or the *Treasury Forfeiture Fund Act of 1992*. Although we have read the information presented, such information has not been subjected to the auditing procedures applied in the audits of the financial statements and, accordingly, we express no opinion on it.

This report is intended for the information and use of the management of the Fund, the U.S. Department of the Treasury, OMB, and Congress. However, this report is a matter of public record and its distribution is not limited.

Bradley Kanga - Asemotes

January 15, 1999

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Department of the Treasury Forfeiture Fund
Balance Sheets
September 30, 1998 and 1997
(Dollars in thousands)

Assets

Entity Assets:	1998	1997
Intragovernmental assets		
Cash and other monetary assets (note 3)	$ 137,115	$ 105,777
Investments and related interest (note 4)	248,131	261,502
Accounts receivable (note 5)	1,037	3,858
Advances (note 6)	28,059	3,142
Total intragovernmental assets	414,342	374,279
Accounts receivable (note 5)	53	238
Forfeited property (note 7)		
Held for sale, net of mortgages, liens and claims	24,034	36,131
To be shared with federal, state or local, or foreign governments	186	418
Total forfeited property, net of mortgages, liens and claims	24,220	36,549
Total entity assets	438,615	411,066
Non-Entity Assets:		
Intragovernmental assets		
Seized currency		
Cash and other monetary assets (note 3)	79,920	60,264
Investments (note 4)	343,247	146,249
Total intragovernmental assets	423,167	206,513
Total non-entity assets	423,167	206,513
Total Assets	$ 861,782	$ 617,579

The accompanying notes are an integral part of the financial statements.

Department of the Treasury Forfeiture Fund
Balance Sheets
September 30, 1998 and 1997
(Dollars in thousands)

Liabilities and Net Position

Liabilities:	1998	1997
Intragovernmental liabilities covered by budgetary resources:		
Distributions payable		
Other Federal agencies	$ 1,390	$ 345
ONDCP Special Forfeiture Fund (note 10)	-	35,679
Accounts payable	24,757	19,181
Total intragovernmental liabilities	26,147	55,205
Seized currency (note 9)	423,167	206,513
Distributions payable		
State and local agencies and foreign governments	7,225	4,537
Victim restitution (note 12)	32,075	32,075
Accounts payable	5,095	9,065
Deferred revenue from forfeited assets	24,460	37,471
Total liabilities covered by budgetary resources	492,022	289,661
Liabilities not covered by budgetary resources:		
Commitments and contingencies (note 15)	-	-
Total liabilities not covered by budgetary resources	-	-
Total liabilities	518,169	344,866
Net Position (note 10)		
Cumulative results of operations	343,613	272,713
Total net position	343,613	272,713
Total Liabilities and Net Position	$ 861,782	$ 617,579

The accompanying notes are an integral part of the financial statements

Department of the Treasury Forfeiture Fund
Statement of Net Cost
For the year ended September 30, 1998
(Dollars in thousands)

Non-discretionary:	
Intragovernmental	
Seizure investigative costs and asset management	$54,663
Other asset related contract services	1,530
Awards to informer	650
Data systems, training and others	12,259
Super Surplus	17,150
Secretary's Enforcement Fund (note 14)	5,160
Total intragovernmental	91,412
With the public:	
National seized property contract services	28,323
Joint operations	3,255
Total with the public	31,578
Total non-discretionary	122,990
Discretionary:	
Intragovernmental	
Awards for information or assistance	84
Federal law enforcement conveyance	726
Data systems, training and others	6,704
Total intragovernmental	7,514
Total program Costs	130,504
Less earned revenues	-
Net Cost of Operations	$130,504

The accompanying notes are an integral part of the financial statements

Department of the Treasury Forfeiture Fund
Statement of Changes in Net Position
For the Year Ended September 30, 1998
(Dollars in thousands)

Net Cost of Operations	$130,504
Financing Sources:	
Non-exchange revenues	
Intragovernmental	
Investment interest income	21,221
Public	
Forfeited currency and monetary instruments	167,183
Sales of forfeited property net of mortgages and claims	36,656
Value of property transferred in equitable sharing	5,528
Payments in lieu of forfeiture, net of refund	1,754
Reimbursed costs	1,997
Others	857
Total gross non-exchange revenues	235,196
Less:	
Equitable sharing	
State and local agencies	(71,934)
Foreign countries	(1,179)
Victim restitution	(1,473)
	(74,586)
Total non-exchange revenues, net	160,610
Transfers-in	
Intragovernmental	
Transfer from ONDCP	35,679
Proceeds from participating with other federal agencies	13,569
Total transfers-in	49,248
Transfers-out	
Intragovernmental	
Equitable sharing	(8,454)
Total transfers-out	(8,454)
Total Financing Sources	201,404
Net Results of Operations	70,900
Net Position-Beginning of Year	272,713
Net Position-End of Year	$343,613

The accompanying notes are an integral part of the financial statements

Department of the Treasury Forfeiture Fund
Statement of Budgetary Resources
For the Year Ended September 30, 1998
(Dollars in thousands)

Budgetary Resources:	
Budget authority	$ 295,014
Unobligated balance - beginning of year	204,121
Adjustments	8,375
Total budgetary resources	$ 507,510
Status of Budgetary Resources:	
Obligations incurred	$ 341,922
Unobligated balance - available	165,588
Total, status of budgetary resources	$ 507,510
Outlays:	
Obligations incurred	$ 341,922
Less: adjustment	(8,375)
Obligated balance, net - beginning of year	141,155
Less: obligated balance, net - end of year	(200,905)
Total Outlays	$ 273,797

The accompanying notes are an integral part of the financial statements

Department of the Treasury Forfeiture Fund
Statement of Financing
For the Year Ended September 30, 1998
(Dollars in thousands)

Obligations and Non-Budgetary Resources	
Obligations incurred	$341,922
Less: Spending authority from offsetting collections and adjustments	(8,375)
Transfers-in/(out)	(44,133)
Total obligations and non-budgetary resources	289,414
Resources That Do Not Fund Net Cost of Operations	
Changes in amount of goods, services, and benefits ordered but not yet received or provided	(73,530)
Financing sources that do not fund cost of operations:	
Mortgages and claims	(5,207)
Refunds	(5,587)
Equitable sharing (federal, state/local and foreign)	(73,113)
Victim restitution	(1,473)
Total resources that do not fund net cost of operations	(158,910)
Costs Not Requiring Resources	-
Financing Sources Yet to be Provided	-
Net Cost of Operations	$130,504

The accompanying notes are an integral part of the financial statements

Note 1: Reporting Entity

The Department of the Treasury Forfeiture Fund (Treasury Forfeiture Fund or the Fund) was established by the Treasury Forfeiture Fund Act of 1992, Public Law 102-393 (the TFF Act), and is codified at 31 U.S.C. 9703. The Fund was created to consolidate all Treasury law enforcement bureaus under a single forfeiture fund program administered by the Department of the Treasury (Treasury). Treasury law enforcement bureaus fully participating in the Fund are: the U.S. Customs Service (Customs); the Internal Revenue Service (IRS); the United States Secret Service (Secret Service); the Bureau of Alcohol, Tobacco and Firearms (ATF); the Financial Crimes Enforcement Network (FinCEN); and the Federal Law Enforcement Training Center (FLETC). FinCEN and FLETC contribute no revenue to the Fund and receive relatively few distributions from the Fund. The U.S. Coast Guard (Coast Guard), part of the Department of Transportation, also participates in the Fund. However, all Coast Guard seizures are treated as Customs seizures because the Coast Guard lacks seizure authority.

Prior to the establishment of the Fund, ATF, IRS, and Secret Service participated in the Assets Forfeiture Fund of the Department of Justice. Customs had its own forfeiture fund into which deposits of all Customs and Coast Guard forfeitures were made. The Fund basically transformed the Customs Forfeiture Fund into a Departmental fund serving the needs of all Treasury law enforcement bureaus. FinCEN and FLETC did not previously participate in any forfeiture fund. Prior to Fiscal Year 1994, only Customs and Coast Guard participated in the Fund.

The Fund is a special fund that is accounted for under Treasury symbol number 20 x 5697. From this no-year account, expenses may be incurred consistent with 31 USC 9703, as amended. A portion of these expenses, referred to as discretionary expenses, are subject to annual appropriation limitations. Others, referred to as non-discretionary (mandatory) expenses, are limited only by the availability of resources in the Fund. Both expense categories are limited in total by the amount of revenue in the Fund. The Fund is managed by the Treasury's Executive Office for Asset Forfeiture (EOAF).

The principal goals of the Treasury forfeiture program are to: (i) punish and deter criminal activity by depriving criminals of property used in, or acquired through, illegal activities; (ii) be cognizant of the due process rights of affected persons; (iii) enhance cooperation among foreign, federal, state, and local law enforcement agencies through the equitable sharing of assets forfeited; and (iv) produce revenues to enhance the forfeiture program and strengthen law enforcement.

Under a Memorandum of Understanding (MOU) with Treasury, Customs acts as the executive agent for certain operations of the Fund. Pursuant to that executive agency role, the Customs Accounting Services Division (ASD) is responsible for accounting and financial reporting for the Fund, including timely and accurate reporting and compliance with Treasury, the Comptroller General and the Office of Management and Budget (OMB) regulations and reporting requirements.

Note 2: Summary of Significant Accounting Policies

Basis of Accounting

The Fund began preparing audited financial statements in fiscal year 1993 as required by the Fund's enabling legislation 31 U.S.C. 9703(f)(2)(H), and the Chief Financial Officers Act of 1990. Beginning with the Fiscal Year 1996 report, the Government Management Reform Act of 1994 (GMRA) required executive agencies, including the Treasury, to produce audited consolidated annual financial statements and related footnotes for all activities and funds.

The Fund's financial statements are presented in accordance with the following hierarchy of federal accounting standards, as prescribed by OMB Bulletin 97-01, *Form and Content of Agency Financial Statements,* as amended:

- Individual standards agreed to by the Director of OMB, the Comptroller General, and the Secretary of the Treasury, and published by OMB and the General Accounting Office;
- Interpretations related to the Statements of Federal Financial Accounting Standards (SFFAS) issued by OMB in accordance with the procedures outlined in OMB Circular A-134, "Financial Accounting Principles and Standards;"
- Requirements contained in OMB's Form and Content Bulletin in effect for the period covered by the financial statements;
- Accounting principles published by other authoritative standard setting bodies and other authoritative sources: (i) in the absence of other guidance provided in this hierarchy; and, (ii) if the use of such accounting principles improves the meaningfulness of the financial statements.

The Fund's entity and non-entity financial statements with respect to the balance sheet, the statement of net cost, and the statement of changes in net position are reported using the accrual basis of accounting. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred without regard to receipt or payment of cash. The Fund's statement of budgetary resources is reported using the budgetary basis of accounting. Budgetary accounting facilitates compliance with legal constraints and controls over the use of federal funds. The Fund's statement of financing is reported on both an accrual (i.e. authorization and depreciation) and budgetary basis of accounting (i.e. obligations and unfilled customer orders) as a means to facilitate an understanding of the differences between these bases of accounting.

Financial Statements Presented

The financial statements are provided to meet the requirements of the Chief Financial Officers Act of 1990, and the Government Management Reform Act of 1994. They consist of the balance sheet, the statement of net cost, the statement of changes in net position, the statement of budgetary resources, and the statement of financing, all of which are prescribed by OMB Bulletin 97-01, as amended.

The form and content of the balance sheet, as suggested by OMB, has been adjusted to present non-entity assets (and offsetting liabilities) to reflect the custodial/fiduciary nature of these activities.

These financial statements should be read with the realization that they are for a component of a sovereign entity, that liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and that the payment of all liabilities other than for contracts can be abrogated by the sovereign entity.

Because OMB prescribed new financial statement formats in fiscal year 1998, comparative information for fiscal year 1997 is only provided on the balance sheet.

Reclassification of Balance Sheet as of September 30, 1997

In order to present the balance sheets as of September 30, 1998 and September 30, 1997 on a consistent basis, the balance sheet as of September 30, 1997 was reclassified in accordance with OMB Bulletin 97-01, as amended. No adjustments were made to the data presented as of September 30, 1997.

Allowable Fund Expenses

The majority of the revenue recorded by the Fund is utilized for operating expenses or distributed to state and local law enforcement agencies, other federal agencies, foreign governments, and the Office of National Drug Control Policy (ONDCP), in accordance with the various laws and regulations governing the operations and activities of the Fund. These activities reflect the custodial/fiduciary responsibilities that the Fund has been authorized by law to meet.

Under the TFF Act, the Fund is authorized to pay certain discretionary and non-discretionary expenses.

Discretionary expenses include purchases of evidence and information related to smuggling of controlled substances; equipment to enable vessels, vehicles, or aircraft to assist in law enforcement activities; reimbursement of private persons for expenses incurred while cooperating with a Treasury law enforcement organization in investigations; and publication of the availability of awards.

Discretionary expenses are subject to an annual, definite Congressional appropriation from revenue in the Fund. Under the Act, non-discretionary expenses are subject to a permanent indefinite Congressional appropriation and financed through the revenue generated from forfeiture activities without congressional appropriation limitation.

Non-discretionary expenses include all proper expenses of the seizure (including investigative costs and purchases of evidence and information leading to seizure, holding costs, security costs, etc.), awards of compensation to informers, satisfaction of liens against the forfeited property, and claims of parties with interest in forfeited property. Expenses incurred by state and local law enforcement agencies in joint law enforcement operations with a Treasury law enforcement organization are also recognized as non-discretionary expenses. Under the enabling legislation, non-discretionary expenses are authorized by permanent indefinite authority and limited only by revenue generated from forfeiture activities.

The Fund's expenses are either paid on a reimbursement basis or paid directly on behalf of a participating bureau. Reimbursable expenses are incurred by the respective bureaus participating in the Fund against their appropriation and then submitted to the Fund for reimbursement. The bureaus are reimbursed through Inter-Agency Transfers (SF-1081) or Online Payments and Collections (OPAC). Certain expenses such as equitable sharing, liens, claims and state and local joint operations costs are paid directly from the Fund.

Further, the Fund is a component unit of the Treasury and as such, employees of the Treasury perform certain operational and administrative tasks related to the Fund. Payroll costs of employees directly involved in the security and maintenance of forfeited property are also recorded as expenses in the financial statements of the Fund (included in the line item "seizure investigative costs and asset management" in the statement of net cost).

Revenue and Expense Recognition

Revenue from the forfeiture of property is deferred until the property is sold or transferred to a state, local or federal agency. Revenue is not recorded if the forfeited property is ultimately destroyed or cannot be legally sold.

Revenue from currency is recognized upon forfeiture. Payments in lieu of forfeiture (mitigated seizures) are recognized as revenue when the payment is received. Revenue received from participating with certain other federal agencies is recognized when the payment is received. Operating costs are recorded as expenses when goods are received or services are performed.

As provided for in the TFF Act, the Fund invests seized and forfeited currency that is not needed for current operations. Treasury's Bureau of the Public Debt invests the funds in obligations of, and guaranteed by, the United States Government. Interest is reported to the Fund and recorded monthly as revenue in the general ledger.

Assets Distributed

Forfeited property, currency, or proceeds from the sales of forfeited property may be shared with federal, state and local law enforcement agencies or foreign governments, which provided direct or indirect assistance in the related seizure. In addition, the Fund may transfer forfeited property to other federal agencies, which would benefit from the use of the item. A new class of asset distribution was established for victim restitution in 1995. These distributions include property and cash returned to victims of fraud and other illegal activity. Upon approval by EOAF management to share or transfer the assets, both revenue from distributed forfeited assets and distributions are recognized for the net realizable value of the asset to be shared or transferred, thereby resulting in no gain or loss recognized. Liabilities are recognized when EOAF approves payments. Revenue and or expenses are recognized for property and currency which are distributed to or shared with non-federal agencies, per SFFAS No. 7, *Accounting for Revenue and Other Financing Sources.*

Entity Assets

Entity assets are used to conduct the operations and activities of the Fund. Entity assets consist of cash or other assets, which could be converted into cash to meet the Fund's current or future operational needs. Such other assets include investments of forfeited balances, accrued interest on seized balances, receivables, and forfeited property, which are held for sale or to be distributed.

- **Cash and Other Monetary Assets** - This represents amounts on deposit with Treasury, including forfeited cash on hand not yet deposited.

- **Investments and Related Interest Receivable** - This includes forfeited cash held by the Fund that had been invested in short term U.S. Government Securities.

- **Receivables** - Intragovernmental receivables principally represent monies due from the law enforcement agencies participating in the Fund. The values reported for other receivables are primarily funds due from the national seized property contractor for properties sold; the proceeds for which have not yet been deposited into the Fund.

- **Advances** - This primarily represents cash transfers in the current fiscal year to Treasury or law enforcement bureaus participating in the Fund for orders to be delivered.

- **Forfeited Property and Currency** - Forfeited property and currency is recorded in the accounting system at the estimated fair value at the time of seizure. However, based on historical sales experiences for the year, properties are adjusted to reflect the market value at the end of the fiscal year for financial statement reporting purposes. Direct and indirect holding costs are not capitalized for individual forfeited assets. Forfeited currency is included as part of Cash and Other Monetary Assets in the accompanying Balance Sheet.

  Further, mortgages and claims on forfeited property are recognized as a valuation allowance and a reduction of deferred revenue from forfeited assets when the asset is forfeited. The allowance includes mortgages and claims on forfeited property held for sale and a minimal amount of claims on forfeited property previously sold. Mortgages and claims expenses are recognized when the related asset is sold and is reflected as a reduction of sales of forfeited property.

  Additionally, SFFAS No. 3, *Accounting for Inventory and Related Property*, requires certain additional disclosures in the notes to the financial statements, including an analysis of changes in forfeited property and currency, for both carrying value and quantities, from that on hand at the beginning of the year to that on hand at the end of the year. These analyses are disclosed in notes 8 and 9.

Non-entity Assets

Non-entity assets are not considered as financing sources (revenue) available to offset operating expenses, therefore, a corresponding liability is recorded and presented as governmental liabilities in the balance sheet to reflect the custodial/fiduciary nature of these activities.

- **Seized Currency and Property** - Seized Currency is defined as cash or monetary instruments that are readily convertible to cash on a dollar for dollar basis. OMB issued SFFAS No. 3 which requires that seized monetary instruments (cash and cash equivalents) be recognized as an asset in the financial statements and a liability be established in an amount equal to the seized asset value due to: (i) the fungible nature of monetary instruments; and (ii) high level of control that is necessary over these assets; and (iii) the possibility that these monies maybe returned to their owner in lieu of forfeiture.

  Seized property is recorded at its appraised value at the time of seizure. The value is determined by the seizing entity and is usually based on a market analysis such as a third party appraisal, standard property value publications or bank statements.

  Seized property other than monetary instruments is disclosed in the footnotes in accordance with SFFAS No. 3.

- **Cash and Other Monetary Assets** - This balance represents the aggregate amount of the Fund's suspense account balances on deposit with Treasury, seized cash on deposit held with other financial institutions, and, cash on hand in vaults held at field office locations.

- **Investments** - This balance includes seized cash on deposit in the Fund's suspense account which has been invested in short term U.S. Government Securities.

Liabilities Covered by Budgetary Resources

Liabilities covered by budgetary resources represent liabilities incurred, which are covered by available budgetary resources. The components of such liabilities for the Fund are as follows:

- **Distributions Payable** - Distributions payable to federal and non-federal agencies is primarily related to equitable sharing payments and payments to be made by the Fund to the victims of fraud.

- **Accounts Payable** - Amounts reported in this category are mainly accrued expenses authorized by the TFF Act (see "Allowable Fund Expenses") for which reimbursement was pending at year-end.

- **Seized Currency** - Amounts reported in this category represents the value of seized currency that is held by the Fund which equals the amount of seized assets.

- **Deferred Revenue from Forfeited Assets** - At year-end, the Fund held forfeited assets, which had not yet been converted into cash through sale and deposit. The amount reported here represents the value of these assets, net of mortgages and claims.

Liabilities Not Covered by Budgetary Resources

These amounts represent liabilities of the Fund, which are not covered by available budgetary resources. Such liabilities consist of contingencies, which is disclosed in note 15.

Net Position

The components of net position are classified as follows:

- **Retained Capital** - There is no cap on amounts that the Fund can carry forward into FY 1999. The cap was removed by the fiscal year 1997 Omnibus Appropriations Act (PL 104-208).

- **Unliquidated Obligations** - This category represents the amount of undelivered purchase orders, contracts and equitable sharing requests which have been obligated with current budget resources or delivered purchase orders and contracts that have not been invoiced. An expense and liability are recognized and the corresponding obligations are reduced as goods are received or services are performed. For equitable sharing, the expense and liability are recognized and the corresponding obligations are reduced when final management approval for payment is given.

- **Results of Operations** - This category represents the net difference, for the activity during the year, between: (i) financing sources including transfers, revenues, and gains; and (ii) expenses and losses.

- **Distributions to ONDCP's Special Forfeiture Fund** - This category represents the balance to be transferred to ONDCP or received from ONDCP.

(See "Transactions with the Office of National Drug Control Policy (ONDCP) at Note 10").

Note 3: Cash and Other Monetary Assets

Cash and Other Monetary Assets as of September 30, 1998 and 1997, respectively, consists of the following (dollars in thousands):

	1998		1997	
	Entity	Non-Entity	Entity	Non-Entity
Cash	$137,115	$ 79,920	$105,777	$60,264

Cash and Other Monetary Assets held by Treasury on behalf of the Fund, and on hand include forfeited currency, as well as forfeited currency held as evidence, which amounted to approximately $17 million and $18 million at September 30, 1998 and 1997, respectively.

Note 4: Investments and Related Interest

All investments are intragovernmental short-term (31 days or less) non-marketable par value federal debt securities issued by, and purchased through Treasury's Bureau of the Public Debt. Investments are always purchased at a discount and are reported at acquisition cost (market value), net of discount. The discount is amortized into interest income over the term of the investment. The investments are always held to maturity. They are made from cash in the Fund and from seized currency held in the Customs' Suspense Account. The Customs' Suspense Account became the depository for seized cash for the Fund following enactment of the TFF Act. The investment, net, represents the required market value. The following schedule presents the investments on hand as of September 30, 1998 and 1997, respectively (dollars in thousands):

Entity Assets

Description	Cost	Unamortized Discount	Investment, Net
September 30, 1998:			
Treasury Forfeiture Fund - 28 days 4.44% U.S. Treasury Bills	$248,038	$(857)	$247,181
Interest Receivable - on entity investments			396
- on non-entity investments			554
Total Investment, Net, and Interest Receivable			$248,131
September 30, 1997:			
Treasury Forfeiture Fund - 28 days 4.65% U.S. Treasury Bills	$261,815	$(947)	$260,868
Interest Receivable - on entity investments			406
- on non-entity investments			228
Total Investment, Net, and Interest Receivable			$261,502

Non-entity Assets

Description	Cost	Unamortized Discount	Investment, Net
September 30, 1998:			
U.S. Customs Suspense Account - 28 days 4.44% U.S. Treasury Bills	$334,436	$(1,189)	$343,247
September 30, 1997:			
U.S. Customs Suspense Account - 28 days 4.65% U.S. Treasury Bills	$ 146,780	$ (531)	$146,249

Interest receivable includes interest earned on seized currency investments (non-entity investments) which belongs to the Fund once it is earned.

Note 5: Accounts Receivable

No allowance has been made for uncollectible amounts as the accounts recorded as a receivable at year-end is considered to be fully collectible.

Note 6: Advances

Of the $28,059,000 identified as "advances," in fiscal year 1998, over $26 million represents undelivered orders of the Treasury's Working Capital Fund for Year 2000 (Y2K) expenses for which the Fund has agreed to provide the funding through its various authorities. The remainder represents cash transfers to the Treasury's Working Capital Fund for which no obligations have been recorded as of September 30, 1998. In the latter instance, Treasury's Working Capital Fund management requested that cash be transferred in advance of expenses pursuant to authorized reimbursements that would be processed through the Treasury's Working Capital Fund in the future.

Advances of $3,142,000 in fiscal year 1997 represents advances paid to a law enforcement bureau participating in the Fund for which orders have yet to be delivered.

Note 7: Forfeited Property

The following summarizes the components of forfeited property (net), as of September 30, 1998 and 1997, respectively (dollars in thousands):

	1998	1997
Held for Sale	$25,632	$38,794
To be shared with federal, state or local, or foreign government	186	418
Total forfeited property (note 8)	25,818	39,212
Less: Allowance for mortgages and claims	(1,598)	(2,663)
Total forfeited property, net	$24,220	$36,549

Forfeited property held for sale, net of allowance for mortgages and claims as of September 30, 1998 and 1997 was $24,034,000 and $36,131,000, respectively, and is reported in the Balance Sheet.

Note 8: Analysis of Changes in Forfeited Property and Currency

The following schedule presents the changes in the forfeited property balances from October 1, 1997 to September 30, 1998. The detail of this schedule by bureau, is presented in the notes to the financial statements of each bureau. Dollar value in thousands.

	10/1/97 Financial Statement Balance		Fair Value Adjustment		10/1/97 Carrying Value		Forfeitures		Deposits/Sales		Disposals/Transfers	
	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number
Currency	$18,103	-	-	-	$18,103	-	$157,825	-	($165,593)	-	($35)	-
Other Monetary Instruments	1,236	-	170	-	1,406	-	5,297	-	(6,009)	-	(198)	-
Real Property	24,629	212	2,784	-	27,413	212	14,956	94	(20,448)	(131)	(1,400)	(19)
General Property	7,701	3,954	28,427	-	36,128	3,954	25,293	12,282	(33,960)	(3,301)	(2,036)	(1,661)
Vessels	797	53	468	-	1,265	53	1,501	121	(1,230)	(67)	(954)	(26)
Aircraft	138	4	(10)	-	128	4	384	6	(344)	(7)	(40)	(2)
Vehicles	4,710	1,001	500	-	5,210	1,001	14,816	6,379	(10,569)	(5,683)	(3,758)	(220)
Sub-Total	39,211	5,224	12,339	-	71,550	5,224	62,247	18,882	(72,560)	(9,189)	(8,386)	(1,928)
Grand Total	$57,314	5,224	$12,339	-	$89,653	5,224	$220,072	18,882	($238,153)	(9,189)	($8,421)	(1,928)

	Destroyed		Other Adjustment		Value Change		09/30/98 Carrying Value		Fair Value Adjustment		9/30/98 Financial Statement Balance	
	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number
Currency	-	-	$7,200	-	$38	-	$17,538	-	-	-	$17,538	-
Other Monetary Instruments	(6)	-	47	-	(212)	-	325	-	(66)	-	259	-
Real Property	-	-	(1,152)	(15)	(563)	-	18,806	141	(2,399)	-	16,407	141
General Property	(1,192)	(7,379)	(4,036)	475	(2,904)	-	17,293	4,370	(13,591)	-	3,702	4,370
Vessels	(26)	(44)	422	8	(214)	-	764	45	(191)	-	573	45
Aircraft	-	-	37	-	-	-	165	1	25	-	190	1
Vehicles	(23)	(15)	(243)	26	(80)	-	5,353	1,488	(666)	-	4,687	1,488
Sub-Total	(1,247)	(7,438)	(4,925)	494	(3,973)	-	42,706	6,045	(16,888)	-	25,818	6,045
Grand Total	($1,247)	(7,438)	$2,275	494	($3,935)	-	$60,244	6,045	($16,888)	-	$43,356	6,045

Adjustments to opening forfeited property balances are necessary to reverse fair value adjustments made in Fiscal Year 1997 and to restate forfeited property held at the beginning of the year back to the appraised values. The fair value adjustments at 9/30/98 are necessary to convert forfeited property from appraised value (market value at the time of seizure) to an estimate of the fair value at the end of the fiscal year, which is the amount recorded in the financial statements. Other adjustments above primarily represent property forfeited in prior fiscal year but reversed to seized status during the current fiscal year. Due to the varied mix of specific types of assets within each asset category, the number of items presented for each class of property represents the number of seizure line items recorded regardless of the unit of measure or unit quantity.

Note 9: Analysis of Changes in Seized Property and Currency

Seized property and currency result primarily from enforcement activities. Such property is not legally owned by the Fund until judicially or administratively forfeited. Because of the fungible nature of currency, the high level of control that is necessary over these assets and the possibilities that these monies may be returned to their owners in lieu of forfeiture, seized currency is reported as a custodial asset upon seizure. Seized property other than currency is reported as a custodial asset upon forfeiture. The det by bureau, is presented in the notes to the financial statements of each bureau. Dollar value is in thousands.

	9/30/97 Financial Statement Balance		Seizures		Remissions		Forfeitures		Adjustments		Value Change		9/30/98 Financial Statement Balance	
	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number
Currency	$206,512	-	$447,636	-	($53,054)	-	($157,825)	-	($19,940)	-	($162)	-	$423,167	-
Other Monetary Instruments	29,579	-	9,989	-	(11,746)	-	(5,297)	-	(7,177)	-	150	-	$15,498	-
Real Property	44,072	289	67,791	188	(14,563)	(39)	(14,956)	(94)	7,102	8	(642)	-	$88,804	352
General Property	144,617	10,640	183,685	22,429	(111,980)	(10,716)	(25,293)	(12,282)	(6,900)	590	(50,473)	-	$133,656	10,661
Vessels	3,933	145	11,774	180	(7,617)	(62)	(1,501)	(121)	(550)	(17)	(304)	-	$5,735	125
Aircraft	2,029	19	28,356	35	(26,819)	(27)	(384)	(6)	(888)	(1)	(27)	-	$2,267	20
Vehicles	15,080	2,834	56,859	10,962	(36,892)	(4,168)	(14,816)	(6,379)	(1,006)	(184)	(675)	-	$18,550	3,065
Sub-Total	239,310	13,927	358,454	33,794	(209,617)	(15,012)	(62,247)	(18,882)	(9,419)	396	(51,971)	-	264,510	14,223
Grand Total	$445,822	13,927	$806,090	33,794	($262,671)	(15,012)	($220,072)	(18,882)	($29,359)	396	($52,133)	-	$687,677	14,223

Due to the varied mix of specific types of assets within each asset category, the number of items presented for each class of property represents the number of seizure line items recorded regardless of the unit of measure or unit quantity.

Note 10: Net Position

Cumulative Results

The following summarizes the components of the cumulative results for the years ended September 30, 1998 and 1997, respectively, (dollars in thousands):

	1998	1997
Retained Capital	$116,290	$63,310
Unliquidated Obligations	156,423	81,362
Results of Operations	35,221	96,844
Transfers from ONDCP	35,679	66,876
Distributions to ONDCP	-	(35,679)
	$343,613	$272,713

Unliquidated Obligations

The following summarizes the components of unliquidated obligations as of September 30, 1998 and 1997, respectively, (dollars in thousands):

	1998	1997
Discretionary	$2,432	$12,016
Equitable Sharing	42,473	38,380
Non-Discretionary	111,518	30,966
	$156,423	$81,362

Transfers to and from ONDCP

The Fund did not transfer and was not liable to transfer any amounts to the ONDCP in fiscal year 1998, as existing statutes, specifically the FY 1998 and FY 1999 Treasury Department Appropriations Acts authorized balances with ONDCP to be transferred back to the Fund. A liability of approximately $35,679,000 million to the ONDCP Special Forfeiture Fund was recognized in

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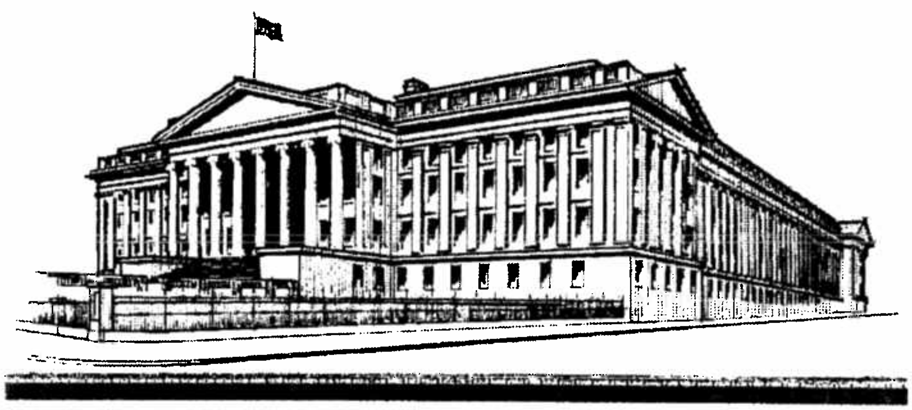
TREASURY FORFEITURE FUND

ANNUAL REPORT FISCAL YEAR 1996



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

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Independent Auditor's Report on Compliance

The Inspector General
United States Department of the Treasury
Washington, D.C.:

We have audited the financial statements of the Department of the Treasury Forfeiture Fund (the Fund) as of September 30, 1996, and for the year then ended, and have issued our report thereon dated January 17, 1997.

We conducted our audit in accordance with generally accepted auditing standards; *Government Auditing Standards*, issued by the Comptroller General of the United States; and the Office of Management and Budget (OMB) Bulletin No. 93-06, *Audit Requirements for Federal Financial Statements.* Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Compliance with laws and regulations applicable to the Fund is the responsibility of the management of the Fund. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatements, we performed tests of the Fund's compliance with certain provisions of laws and regulations that may directly affect the financial statements, including the following:

- Budget and Accounting Procedures Act of 1950, as amended
- Chief Financial Officers Act of 1990
- Federal Manager's Financial Integrity Act of 1982 (FMFIA)
- Anti-Deficiency Act, Prompt Payment Act
- 31 USC 9703, Treasury Forfeiture Fund Act of 1992
- 19 USC 1300 Series
- 19 USC 1500 Series
- 19 USC 1600 Series
- 18 USC 981, 21 USC 881
- Customs and Trade Act, Trade and Traffic Act
- Comprehensive Crime Control Act
- Section 90205 of the Violent Crime Control and Law Enforcement Act of 1994
- Section 112 of the Treasury/Postal Appropriations Bill

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As part of our audit, we also obtained an understanding of the process by which the Fund identifies and evaluates weaknesses required to be reported under the FMFIA and related Treasury implementing procedures as it relates to the Fund. However, the objective of our audit of the financial statements was not to provide an opinion on overall compliance with such laws and regulations. Accordingly, we do not express such an opinion.

The results of our tests disclosed the following instance of noncompliance that is required to be reported herein under *Government Auditing Standards.*

> The Budget and Accounting Procedures Act of 1950 as amended, Section 3512, *Executive Agency's Accounting System* requires federal agencies to establish an internal control structure which ensures the safeguarding of assets and the proper recording of revenues and expenditures. As described in our Report on Internal Controls dated January 17, 1997, the Fund's internal control structure has certain material weaknesses which result in noncompliance with this Act. Most of the material weaknesses require significant computer system improvements to correct. Until the system enhancements can be implemented, management has developed year-end manual procedures to compensate for many of the system weaknesses.

In accordance with *Government Auditing Standards,* we have also issued reports dated January 17, 1997 on our audit of the Fund's financial statements and on our consideration of the Fund's internal control structure.

This report is intended for the information and use of the U.S. Congress, the management of the Fund, and the U.S. Department of the Treasury. However, this report is a matter of public record and its distribution is not limited.

Gardiner Kamya & Associates, P.C.

January 17, 1997

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Independent Auditor's Report on Internal Control Structure

The Inspector General
United States Department of the Treasury
Washington, D.C.:

We have audited the financial statements of the Department of the Treasury Forfeiture Fund (the Fund) as of September 30, 1996, and for the year then ended, and have issued our report thereon dated January 17, 1997.

We conducted our audit in accordance with generally accepted auditing standards; *Government Auditing Standards*, issued by the Comptroller General of the United States; and the Office of Management and Budget (OMB) Bulletin No. 93-06, *Audit Requirements for Federal Financial Statements.* Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

The management of the Fund is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgements by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that:

- transactions including those related to obligations and costs, are executed in compliance with applicable laws and regulations that could have a direct and material effect on the financial statements and any other laws and regulations that the OMB, Fund management, or the Inspector General have identified as being significant for which compliance can be objectively measured and evaluated;

- funds, property, and other assets are safeguarded against loss from unauthorized use or disposition;

- transactions are properly recorded and accounted for to permit the preparation of reliable financial statements and to maintain accountability over the assets; and

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- data that support reported performance indicators are properly recorded and accounted for to permit preparation of reliable and complete performance information.

Because of inherent limitation in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audit of the financial statements of the Fund as of and for the year ended September 30, 1996, we obtained an understanding of the internal control structure. With respect to the internal control structure, we obtained an understanding of the design of significant internal control structure policies and procedures, determined whether they have been placed in operation, assessed control risk and performed tests of the Fund's internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide an opinion on the internal control structure. Accordingly, we do not express such an opinion. Our consideration included obtaining an understanding of the significant internal control structure policies and procedures and assessing the level of control risk relevant to all significant cycles, classes of transactions, or account balances.

With respect to the performance measure control objective described above, we obtained an understanding of relevant internal control structure policies and procedures designed to achieve this control objective and assessed control risk.

We noted certain matters involving the internal control structure and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants and OMB Bulletin No. 93-06. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure over financial reporting that, in our judgement, could adversely affect the Fund's ability to ensure that the objectives of the internal control structure, as previously defined, are being achieved.

A material weakness is a reportable condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited, or material to a performance indicator or aggregation of related performance indicators, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses as defined below. However, we noted two matters involving the internal control structure and its operation that we consider to be material weaknesses as defined below. These conditions were considered in determining the nature, timing and extent of the procedures to be performed in our audit of the financial statements of the Fund as of and for the year ended September 30, 1996.

The identified material weaknesses and reportable conditions, as defined above, are summarized below with further explanation in Exhibits I and II of this report.

Material Weaknesses

- **Accounting records are primarily maintained on a cash basis** - The Fund's accounting records are primarily maintained on the cash basis of accounting, rather than the accrual basis. Accordingly, most transactions are reflected in the accounting system when the cash is received or disbursed rather than when the transactions occur. Financial information and transactions from each bureau are not received timely to accurately record the Fund's activities during the year. Hence, year-end manual procedures were developed in order to produce accrual basis financial statements that could be substantiated through an audit.

- **General ledger** - The Fund's general ledger does not record all balances and transactions that are reflected in the financial statements. Financial information needed from each bureau to accurately record the Fund's activities are not sent timely. Rather, procedures were developed to identify and capture information manually from other bureaus' systems in order to compile the financial statements.

The above material weaknesses were identified in the prior year's Independent Auditor's Report on Internal Control Structure and are of continuing significance.

Reportable Conditions

- **Inventory property tracking systems** - The four Treasury law enforcement bureaus used four different inventory tracking systems to prepare the required analysis of changes in forfeited and seized property schedules. The four systems collect and account for seized and forfeited assets differently and used slightly different data definitions. As a result, manual manipulation and reconciliation are required to produce the analysis of change in forfeited and seized property schedules.

- **Forfeited property valuation** - Forfeited property is not recorded in the subsidiary system during the year at its fair value at the time of forfeiture. An adjustment is made to the financial statements as of September 30, 1996 and 1995, to record forfeited property at an estimate of fair value.

The above reportable conditions were identified in the prior year's Independent Auditor's Report on Internal Control Structure and are of continuing significance.

Although in preparing the financial statements, the Fund's management uses year-end manual procedures to compensate for the above identified conditions and weaknesses, these conditions and weaknesses existed throughout the year and therefore information obtained from the accounting system during the year may not be reliable and management of the Fund should not place reliance on the information as the sole basis on which to base decisions.

Because these conditions and weaknesses impact many functions and lines of authority between the Treasury bureaus, we recommend the Fund's management, together with the other Treasury bureaus, develop a joint plan to implement the recommendations included in Exhibits I and II.

We also noted other matters involving the internal control structure and its operation that we have reported to the management of the Fund in a separate letter dated January 17, 1997.

In accordance with *Government Auditing Standards*, we have also issued reports dated January 17, 1997 on our audit of the Fund's financial statements and its compliance with laws and regulations.

This report is intended for the information and use of the U.S. Congress, the management of the Fund, and the U.S. Department of the Treasury. However, this report is a matter of public record and its distribution is not limited.

Gardiner Kamya & Associates, P.C.

January 17, 1997

SECTION III
INDEPENDENT AUDITOR'S REPORTS ON COMPLIANCE AND INTERNAL CONTROL STRUCTURE

EXHIBIT I
MATERIAL WEAKNESSES

ACCOUNTING RECORDS ARE PRIMARILY MAINTAINED ON A CASH BASIS

CONDITION

The Treasury Forfeiture Fund's (the Fund) general ledger as well as Customs, Secret Service, IRS and ATF's supporting systems are maintained primarily on a cash basis. In addition, these supporting computer systems maintained by each enforcement bureau do not interface with one another or with the Fund's general ledger to ensure that all transactions are accurately and timely recorded. To produce accrual basis financial statements that can be substantiated through an audit, year end manual procedures for each enforcement bureau were developed. The Fund's management provided each bureau representative with year end close out procedures to identify the amounts which should be accrued in the financial statements at year end.

Accounts Payable and Accrued Liabilities - The Fund does not follow accrual accounting whereby a liability and an expense is recognized when the underlying goods have been received or the services have been performed. Furthermore, during the fiscal year, reimbursement requests were not submitted regularly and on a timely basis.

Mortgage and Claims payable - The issue of how to determine a lien liability and when to reduce it has been addressed by EOAF in the updated directive number 14, "Expeditious Payment of Liens, Mortgages and Taxes by the Department of the Treasury", effective October 1995. However, the updated directive does not provide clear instructions as to when the liability is to be recorded. Therefore, implementation of the instructions, while resolving other issues will not ensure that a liability is recorded for claims and mortgages throughout the year. In fact, the directive requires that upon EOAF's approval of payment, the appropriate accounting strip data be affixed to the paperwork authorizing the obligation and disbursement of funds which is then to be forwarded to the Accounting Services Division (ASD) for processing. Also, the directive requires ASD to disburse the approved payments within 14 calendar days from the date of EOAF's approval of payment. These requirements do not provide for a complete accrual of all liens and mortgages that would provide reliable information throughout the year, because ASD cannot record the liability unless EOAF's approval with the accompanying accounting strip is received allowing recordation of a liability only for claims and mortgages that have been approved for payment.

Forfeited Currency - Currently, a time lag exists between when the Field Officers are notified of the forfeiture and when ASD, is notified of the forfeiture and therefore records revenue in the general ledger.

Distributions Payable - The Fund, under certain laws and regulations, has the authority to share forfeited property and currency with federal, state, and local agencies or foreign countries who participate either directly or indirectly in a related seizure. In addition, the Fund may transfer forfeited property to other federal agencies with appropriate approval. Currently the Fund does not record the transfer of property to other federal agencies during the fiscal year. Instead, the Fund makes an adjustment to record this information on the financial statements as part of the year end manual procedures.

Accounts Receivable - Customs Service maintains a contract with EG&G Dynatrend (EG&G) whereby EG&G stores property seized by any agency participating in the Fund, conducts auction sales of forfeited property, and collects storage costs reimbursed by violators. Cash collections made by EG&G on behalf of the Fund are deposited into various bank accounts in the name of EG&G and, within one week, are accumulated and transferred to the U.S. Treasury account at the Federal Reserve Bank of New York. The money collected by

EG&G represents a significant portion of the revenues earned by the Fund. However, the ASD only records revenue upon receipt of a validated deposit slip, which is approximately one week later.

CRITERIA

The Statement of Federal Financial Accounting Standards (SFFAS) No. 1, *Accounting for Selected Assets and Liabilities*, requires federal agencies to maintain accounts of the agency on the accrual basis. If the difference between the results of cash and accrual basis of accounting are insignificant, the cash basis of accounting may be followed.

The accrual basis of accounting contributes significantly to effective financial control over resources and costs of operations and is essential to the development of meaningful cost information. The accrual basis of accounting involves identifying and recording costs and revenues in the period in which the revenue is earned or the cost is incurred, rather than in the period revenue is collected or the cost is disbursed. This position is further supported by the Office of Management and Budget (OMB) Bulletin 94-01, *Form and Content of Agency Financial Statements*, which recommends the use of accrual basis of accounting by federal agencies.

CAUSE

In order for ASD to accurately record the Fund's activities on an accrual basis of accounting, financial transactions received from each bureau must be current and timely. Currently, the financial statement information received from the bureaus for accounts payable and accrued liabilities, mortgages and claims payable, and forfeited currency is not current. For example, ASD is not notified timely of the forfeiture of currency because: (1) the Field Offices are not monitoring and updating the system timely to reflect the change in the currency status; and (2) a standardized procedure for documenting the forfeiture date in the system has not been implemented. ASD is unable to identify that the forfeiture has occurred prior to year end unless the system is updated or proper notification is given, because the forfeiture date is entered into the system by the field and the supporting documentation is maintained by the field.

EFFECT

The Fund's maintenance of the general ledger on a cash basis and the untimely recordation of transactions distorts the information reported in the financial statements on a monthly basis and results in the unavailability of accrual-basis financial information on which to rely for management's daily decision making procedures and evaluating the achievement of the Fund's objectives.

RECOMMENDATION

Although the necessary adjustments are made each September 30 to convert the cash basis financial data to the accrual basis, in order to comply with the requirements of SFFAS No. 1 and to improve financial information on which daily decisions are based, we recommend that the following specified procedures be implemented to properly account for transactions on the accrual basis of accounting throughout the year.

Accounts Payable and Accrued Liabilities - Customs, Secret Service, IRS and ATF should submit requests for reimbursement monthly to provide more timely results of operations for the Fund and thereby allow for more timely analysis of the financial position of the Fund. The reimbursement requests submitted by each law enforcement bureaus, but not yet paid by the Fund should be accrued as liabilities at each month end. Also, any direct payment requests which have been received but not paid at month end should be accrued as liabilities.

Mortgages and Claims Payable - We recommend that agencies record lien and mortgage information in their tracking systems. We also recommend that the updated lien and mortgage information obtained from the national seized property contractor be used in the agencies' tracking systems.

Forfeited Currency - ASD performed a reconciliation of forfeited currency between the revenue recorded in Automated Commercial System (ACS) and the forfeited currency balance reported in the "Analysis of Changes in Forfeited Property" schedule required by the Statement of Federal Financial Accounting Standards No. 3 (SFFAS No. 3), *Accounting for Inventory and Related Property*. However, if the system is not timely updated, this reconciliation cannot provide the information necessary to capture the recognition of revenue for currency that was forfeited prior to year end.

In accordance with SFFAS No. 3, we recommend that forfeited currency be recognized as revenue at the time of forfeiture. The Seized Currency Tracking System (SCTS) is designed to account for Customs seized currency from the point of seizure (at which time it is recorded in a Customs' Fund) until the seized currency is either returned to the violator or forfeited. The F-13 report, produced from the SCTS, includes information for all currency seizures presently maintained in security vaults, bank suspense accounts, and safe deposit boxes at Customs locations and banks throughout the country. If the status of seizures are timely updated in SCTS by the Field Offices and the system is modified to record the forfeiture date, a forfeited currency receivable could be recorded by ASD based on the F-13 report.

However, in November 1996, Customs implemented a new tracking system, Seized Assets and Case Tracking System (SEACATS), that eliminates SCTS. SEACATS is supposed to perform all the functions previously performed by SCTS and will also interface with the Fund's general ledger. We recommend that: (1) Customs remind the field that the forfeiture date should be entered into SEACATS immediately after forfeiture, and (2) check SEACATS to ensure that it has been designed properly to recognize revenue upon input of the forfeiture date.

While it may be less efficient, an alternative method to implement these recommendations is to require, at each month end, each district coordinator to submit a signed letter to the appropriate individual at the ASD indicating all seizures forfeited during the current month. A journal entry could then be recorded in the general ledger to recognize the forfeited currency as revenue.

Distributions Payable - We recommend that the Fund establish and implement policies and procedures to ensure the recordation of property distributed to federal, state, and local agencies or foreign countries during the fiscal year. The procedures may require that each law enforcement bureau submit, on a monthly basis, a list of all property distributed to federal, state, and local agencies or foreign countries for accrual in the general ledger.

Accounts Receivable - Due to the significance of the revenues collected by EG&G and the average two week lapse between receipt of funds by EG&G and the recordation of revenue by the ASD, we recommend that EG&G provide the Fund with details of cash held as of month-end indicating the composition of revenue (that is sales, reimbursed storage costs, etc.). Based on this information, we recommend that the ASD accrue revenues not collected.

Until the necessary system changes can be implemented, the manual year-end procedures will continue to be necessary to prepare subsequent year financial statements. Therefore, we recommend that the law enforcement bureaus be reminded of the importance of properly following the year-end procedures. We also recommend that procedures be again reviewed with the law enforcement bureaus to identify any possible misunderstandings or refinements to the procedures.

GENERAL LEDGER

CONDITION

The Asset Information Management System (AIMS), which is the general ledger system maintained by Customs, processes, groups and summaries transactions into account balances for all Custom funds and the Fund. The general ledger is currently not used to track all balances and transactions that comprise the Fund, such as accounts receivable, liens and mortgages payable, forfeited property and deferred revenue, and seized currency and its offsetting liability due to the lack of interface between the systems. Rather, information is identified and captured manually, at the end of the fiscal year, from other systems in order to properly compile financial statements.

CRITERIA

The Budget and Accounting Procedures Act of 1950, Section 3512, *Executive Agency's Accounting System* requires federal agencies to establish an internal control structure which ensures the safeguarding of assets and the proper recording of revenues and expenditures. It is further reinforced by the Federal Manager's Financial Integrity Act of 1982 (FMFIA) which requires that internal accounting and administrative controls be established to provide reasonable assurance that revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets. Finally, the Federal Accounting Standards Advisory Board (FASAB) has recommended certain standards, which have been issued by the OMB, requiring the use of the accrual basis of accounting (SFFAS No. 1) and accounting and reporting requirements for inventory and related property (SFFAS No. 3).

CAUSE

The Fund's general ledger is maintained on the cash basis. Accordingly, accrual basis accounts are not maintained during the year. In addition, the inventory subsidiary systems maintained by each of the Treasury law enforcement bureaus do not interface with the Fund's general ledger. Accordingly, inventory related transactions that are non-cash generated are not recorded in the Fund's general ledger.

EFFECT

The combined effect of the use of cash-basis accounting and the lack of interface among the relevant subsidiary systems and the general ledger precludes the capturing of all transactions related to the Fund on a regular (monthly) basis. Therefore, complete financial statements cannot be produced using the general ledger balances. Seized and forfeited property, related liabilities, and various other accrual accounts are not captured in the general ledger during the year. As a result, financial statements produced during the year do not correctly present the results of operation and net position of the Fund.

RECOMMENDATION

We recommend that all accrual basis accounts, seized currency and its offsetting liability, and forfeited property and the related revenue, be recorded in the Fund's general ledger in a timely manner. We recommend that existing procedures, be followed requiring each law enforcement bureaus' staff to forward the forfeiture information as authorized, to the appropriate personnel for updating the bureaus' inventory tracking system and, if held by the contractor, to EG&G, to update SEACATS to reflect changes in property status.

Alternatively, the Fund should develop and implement an integrated system which will capture all transactions in the general ledger, including accounts receivable, liens and mortgages payable, forfeited property, deferred revenue, and seized currency and its offsetting liability.

EXHIBIT II
REPORTABLE CONDITIONS

INVENTORY PROPERTY TRACKING SYSTEMS

CONDITION

Customs, IRS, Secret Service, and ATF maintain seized and forfeited property, the value of which is included in the Fund's financial statements. In the previous fiscal year, each bureau prepared an analysis of changes in forfeited and seized property, including the dollar amounts and quantities of property. However, no reliance was placed on the quantities presented because uniform measurements were not consistently used. In the current fiscal year, each bureau prepared an analysis of changes in forfeited and seized property, which included the dollar amounts of property and numbers of seizure case records.

The four Treasury law enforcement bureaus use four different inventory tracking systems to prepare the required analysis of changes in forfeited and seized property schedules. The four systems collect and account for seized and forfeited assets differently and use slightly different data definitions. As a result, manual manipulation and reconciliation are required to prepare the analysis in forfeited and seized property schedules. Additionally, since these inventory tracking systems do not tie to the Fund's system of record, it is necessary to perform substantive reconciliations between the Fund's records and the bureaus' records to give assurance that all transactions are being properly realized.

CRITERIA

SFFAS No. 3 requires disclosure of an analysis of changes in forfeited and seized property. The standard requires presentation of both dollar amounts and quantity changes. Therefore, each of the law enforcement bureaus' inventory property tracking systems should provide all data necessary to produce the analysis of changes in forfeited and seized property, with minimal manual intervention and reconciliation, and to provide management with meaningful information.

CAUSE

Customs - The Customs' tracking system, Customs Property Tracking System (CPTS), maintains no historical data. The system overwrites data when changes are made and leaves no audit trail of when, how or why the changes were made. Specifically, any CPTS user can make changes to the system data to disguise a loss or theft of seized property, without a record of who made the change. Additionally, the system does not periodically generate a log of changes made, for supervisory review. Unauthorized changes would not likely be detected during seized property inventories since Custom's inventory instructions require only that quantity differences between CPTS and on-hand amounts be investigated.

ATF - In order to produce the SFFAS No. 3 exhibits, ATF printed a variety of standard reports and manually manipulated them to meet the reporting requirements. ATF's system, Consolidated Asset Tracking System (CATS), does not automatically perform the required reconciliation between seized currency and deposits to the Customs suspense account, or the reconciliation between forfeited currency and deposits to the Fund. ATF manually reconciled this information based on printed reports generated from the CATS system.

Also, difficulties were encountered in obtaining accurate reports of forfeited items. ATF staff were often aware that an item had been forfeited because they were in possession of a Final Order of Forfeiture. However, the CATS system did not recognize this item as forfeited and ATF staff were not allowed to enter a forfeiture date into the CATS system if the asset had been forfeited judicially. Consequently, manual adjustments were required in order to prepare the SFFAS No. 3 exhibits.

Secret Service - The Secret Service's tracking system known as Asset Tracking System (ATS), does not provide historical data on cases which have had subsequent activity. For example, if the Secret Service staff were to produce a schedule on October 31 requesting information as of September 30, but an event occurred during the period of September 30 to October 31, the system would produce a schedule which would include all activities through October 31. Manual adjustments and reconciliations would have to be performed to reflect only activity as of September 30. In essence, ATS produces reports as of the request date. As a result, to produce the SFFAS No. 3 exhibits, the Secret Service staff compared two or more schedules and made significant manual adjustments to complete the analysis of changes in forfeited and seized property SFFAS No. 3 exhibits.

EFFECT

The difficulties encountered in preparing the changes in forfeited and seized property analysis by the agencies referred to above indicate that the Fund lacks the ability to properly, fully and accurately account for seized and forfeited property.

The number of non-integrated systems makes reconciliation extremely difficult and seriously diminishes the quality of the data available for financial reporting.

The current policies and procedures were developed piecemeal and independently of any one systems initiative, and, as a result, the systems do not effectively support the policies and procedures.

Because the current systems were developed prior to the recognized need for consistent, timely and accurate financial management data and strict financial management controls, little or no system functions (e.g., beginning and ending balances, audit trails, etc.) exist to support these areas.

RECOMMENDATION

We understand that a major systems development effort which focuses on the design, development and implementation of a new inventory system has been approved and is underway for Customs. This system, as purported by the Fund's management, will provide a cradle-to-grave system for tracking all property from case initiation to final financial resolution and will meet all SFFAS No. 3 requirements for seized and forfeited property. Implementation of the system by the Fund's management will be used to help produce the audited financial statements starting in fiscal year 1997. This system will be made available to the other enforcement bureaus. Prior to final implementation during the development life cycle, we recommend that each bureau produce the SFFAS No. 3 analysis requirements for seized and forfeited property in order to evaluate and update any shortfalls in the new system. We also recommend post conversion audits to ensure that the system works as purported. We recommend that the Fund eventually have only one inventory system with consistent data definitions. This will allow the law enforcement bureaus to recognize and correct any problems encountered in a more timely manner as well as alerting the staff to issues that might need to be considered in the development of the new system.

In fiscal year 1995, the Assistant Secretary for Management (Treasury) approved the development of the Seized Asset and Case Tracking System (SEACATS). The development of this system was intended to replace several non-integrated tracking systems operated by the Customs. SEACATS was also intended to serve as the financial system of record for the Fund and as the single repository for all inventory and case information related to seized and forfeited property, fines, penalties or liquidated damages of Customs. In November 1996, Customs implemented SEACATS. However, there have been a considerable number of start-up problems, including systems conversion problems. Consequently, the difficulties encountered by SEACATS could ultimately affect the ability of the Fund to record and track revenues, expenses and changes in the seized and forfeiture inventory during fiscal year 1997.

FORFEITED PROPERTY VALUATION

CONDITION

Forfeited property is not recorded in the subsidiary system during the year at its fair value at the time of forfeiture. Rather, the value of forfeited property is currently recorded in the law enforcement bureaus' inventory tracking systems at appraised value (fair market value), determined at the seizure date, by the seizing agent, import specialist or independent appraiser.

To develop year end value of forfeited property for inclusion in the Fund's 1995 and 1996 financial statements, management performed a historical analysis by property category of sales values compared to the initial appraised amounts. These ratios were applied to the ending forfeited property value to determine the financial statement value of forfeited property.

CRITERIA

Statement of Federal Financial Accounting Standards (SFFAS) No. 3 requires forfeited property to be stated at fair market value at the time of forfeiture, in the bureaus' general ledger (inventory tracking systems).

CAUSE

The Fund does not perform an appraisal to determine fair market value of property at the date of forfeiture.

EFFECT

Carrying forfeited property at fair values as of seizure date, in particular, for financial reporting purposes can be misleading because the values are often overstated and therefore does not present an accurate picture of the net realizable value to the Fund.

RECOMMENDATION

We recommend that the Fund's management evaluate the accuracy of fair market values assigned to forfeited property. Accordingly, the fair market value should be determined by performing an appraisal at the date of forfeiture. We also recommend that the Fund's management continue reviewing the methodology used to arrive at fair market value to refine its accuracy and ease in preparation. As the process is refined, it wi become easier to prepare the monthly analysis t properly value and record month-end forfeite property balances.

SECTION IV
SUPPLEMENTAL FINANCIAL AND MANAGEMENT INFORMATION

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Equitable Sharing Summarized by State and U.S. Territories
For the year ended September 30, 1996
(Dollars in thousands)
(Unaudited)

State/U.S. Territories	Currency Value	Property Value
Alabama	$ 87	$ --
Alaska	56	--
Arizona	1,138	262
Arkansas	--	1
California	5,685	69
Colorado	131	2
Connecticut	58	--
D.C. Washington	--	60
Delaware	46	--
Florida	8,764	315
Georgia	264	19
Guam	13	--
Hawaii	15	--
Idaho	11	--
Illinois	1,541	13
Indiana	--	--
Iowa	160	--
Kansas	10	2
Kentucky	6	1
Louisiana	5	--
Maryland	45	17
Massachusetts	325	17
Michigan	152	--
Minnesota	10	--
Mississippi	101	11
Missouri	418	1
Montana	28	5
Nebraska	--	--
Nevada	--	--
New Jersey	2,430	96
New Hampshire	--	--
New Mexico	357	36
New York	12,339	29
North Carolina	552	69
North Dakota	--	4
Ohio	345	6
Oklahoma	135	--
Oregon	41	--
Pennsylvania	572	--
Puerto Rico	--	--
Rhode Island	2	--
South Carolina	98	1
South Dakota	--	--
Tennessee	57	--
Texas	10,988	27
Utah	24	--
Vermont	--	--
Virgin Islands	--	--
Virginia	329	17
Washington	103	5
West Virginia	123	9
Wisconsin	38	10
Wyoming	--	--
Total	$47,602	$1,104

Summarized above are the currency and property values of assets forfeited and shared with state and local agencies and U.S. territories participating in the seizure. This supplemental schedule is not a required part of the financial statements of the Department of the Treasury Forfeiture Fund. Information in this schedule represents assets physically transferred during the year and therefore does not agree with total assets shared with state and local agencies in the financial statements. In addition, the above numbers do not include the adjustment to present property distributed at net realizable value.

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Uncontested Seizures of Currency and Monetary instruments Valued Over $100,000, Taking More Than 120 Days from Seizure to Deposit in Fund
For the year ended September 30, 1996
(Dollars in thousands)
(Unaudited)

State/U.S. Territory	Total Number of Cases	Forfeited Being Held as Evidence	Uncontested Cash
United States Customs Service			
Florida	10	$155	$6,680
New York	11	200	4,332
Puerto Rico	8	121	1,915
California	6	--	1,852
Texas	2	--	985
Illinois	1	--	138
Total	38	$476	$15,902
Internal Revenue Service			
Missouri	3	--	612
North Carolina	1	--	150
Total	4	- --	762
Grand Total	42	$476	$16,664

31 U.S.C. 9703(f)(2)(E) requires the Secretary of Treasury to report annually to Congress uncontested seizures of currency or proceeds of monetary instruments over $100,000, which were not deposited in the Department of the Treasury Forfeiture Fund within 120 days of the seizure date.

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Analysis of Revenues, Expenses, and Distributions
For the year ended September 30, 1996
(Dollars in thousands)
(Unaudited)

Revenues and expenses and distributions by asset category:

	Revenues	Expenses and Distribution
Vehicles	$ 8,699	$ 17,130
Vessels	2,416	21,826
Aircraft	2,416	7,031
General Property	7,732	69,275
Real Property	27,062	2,713
Currency and monetary instruments	138,586	49,211
	186,911	167,186
Less:		
Mortgages and claims	(4,062)	(4,062)
Refunds	(6,677)	(6,677)
Add:		
Allocation of revenue to ONDCP Special Forfeiture Fund	--	16,388
Excess of net revenues and financing sources over total program expenses	--	3,337
	$176,172	$176,172

Revenues and expenses and distributions by type of disposition:

	Revenues	Expenses and Distribution
Sales of property and forfeited currency and monetary instruments	$127,620	$ 31,739
Reimbursed storage costs	1,773	17,214
Assets shared with state and local agencies	47,683	47,683
Assets shared with other federal agencies	6,774	6,774
Assets shared with foreign countries	111	111
Victim Restitution	2,950	2,950
Destructions	--	19,826
Pending disposition	--	40,889
	186,911	167,186
Less:		
Mortgages and claims	(4,062)	(4,062)
Refunds	(6,677)	(6,677)
Add:		
Allocation of revenue to ONDCP Special Forfeiture Fund	--	16,388
Excess of net revenues and financing sources over total program expenses	--	3,337
	$176,172	$176,172

This supplemental schedule "Analysis of Revenues, Expenses and Distributions" is required under the Treasury Forfeiture Fund Act of 1992. The allocations in the schedule were determined from information obtained from a U.S. Customs Service information system. This system maintains revenue and expenses by each seizure for property held at the contractor. The percentages of revenue and expenses from this system were applied to revenue and expenses and distributions as reflected in the statement of operations and changes in net position. Because the Fund does not have a cost accounting system, the method used does not provide reliable information in the analysis of revenue and expenses and distributions by type of disposition. The information is presented to comply with the requirements of the Treasury Forfeiture Fund Act of 1992.

DEPARTMENT OF THE TREASURY FORFEITURE FUND
Information Required by 31 U.S.C. 9703(f)
For the year ended September 30, 1996
(Unaudited)

The Treasury Forfeiture Fund Act of 1992, 31 U.S.C.9703(f), requires the Secretary of the Treasury to transmit to Congress, not later than February 1, of each year, certain information. The following summarizes the required information.

(1) A report on:

(A) The estimated total value of property forfeited with respect to which funds were not deposited in the Department of the Treasury Forfeiture Fund during the preceding fiscal year under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993.

At September 30, 1996, the Fund had forfeited currency of $9,048,000 held as evidence. These amounts are reported as undistributed funds with Treasury and cash in the audited financial statements.

As reported in the audited financial statements, at September 30, 1996, the Fund had forfeited property held for sale of $32,747,000. The proceeds will be deposited in the Fund when the property is sold.

Upon seizure, currency, and other monetary instruments not needed for evidence in judicial proceedings are deposited in a Customs suspense account. Upon forfeiture, it is transferred to the Treasury Forfeiture Fund. At September 30, 1996, there was $379,000 of forfeited currency and other monetary instruments that had not yet been transferred to the Fund. This is reported as a part of - "Intragovernmental accounts receivables" in the audited financial statements.

(B) The estimated total value of all such property transferred to any state or local law enforcement agency.

The estimated total value of all property transferred to any state or local law enforcement agency is summarized by state and U.S. territories. Total currency transferred was $47,602,000 and total property transferred was $1,104,000 at appraised value.

(2) A Report on:

(A) The balance of the Fund at the beginning of the preceding fiscal year.

The total net position of the Treasury Forfeiture Fund on September 30,1995, which became the beginning balance for the Fund on October 1, 1995, as reported in the audited financial statements is $157,917,000.

(B) Liens and mortgages paid and the amount of money shared with federal, state, local and foreign law enforcement agencies during the preceding fiscal year.

Mortgages and claims expense as reported in the audited financial statements were $4,062,000. The amount actually paid on a cash basis was not materially different.

The amount of forfeited currency and property shared with federal, state, local and foreign law enforcement agencies as reported in the audited financial statements was as follows:

State and local agencies	$47,683,000
Foreign countries	$111,000
Other federal agencies	$6,774,000

(C) The net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year.

The net amount realized from the operations of the Fund as shown in the audited financial statements is $3,337,000.

The amount of seized currency not on deposit in the Fund's suspense account at September 30,1996, was $20,171,000. This amount includes some funds in process of being deposited at year end; cash seized in August or September 1996, that is pending determination of its evidentiary value from the U.S. Attorney; and the currency seized for forfeiture being held as evidence.

On a budgetary basis, unobligated balances as originally reported on the Office of Management and Budget Reports, SF-133, "Report on Budget Execution," was approximately $72,775,000 for fiscal year 1996. As provided by the Omnibus Crime Control Act of 1995, $40 million and one half of the excess unobligated balances of $16,388,000 in fiscal year 1996, are retained in the Fund.

(D) Any defendant's property, not forfeited at the end of the proceeding fiscal year, if the equity in such property is valued at $1 million or more.

The total approximate value of such property for the Treasury Forfeiture Fund, at estimated values determined by Agency and contractor officials, and the number of seizures is as follows:

Customs Service	$159,761,000	52 seizures
IRS	$66,831,000	22 seizures
Secret Service	$1,037,000	1 seizure

(E) The total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Fund within 120 days after the seizure, as of the end of the preceding fiscal year.

The total dollar value of such seizures is $16,664,000. A separate schedule is presented on page 58.

(F) The balance of the Fund at the end of the preceding fiscal year.

The total net position of the Fund at September 30, 1996, as reported in the audited financial statements is $144,672,000.

(G) The net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for federal law enforcement related purposes.

In fiscal year 1996, $40 million was allowed to be retained in the Fund. One half of the excess unobligated amounts were to be transferred to the ONDCP Special Forfeiture Fund. In addition, on a budgetary basis, the Fund was allowed to retain the remaining $16,388,000 of the excess unobligated amounts.

(H) A complete set of audited financial statements prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990.

The audited financial statements, including the Independent Auditor's Report, is found in Section II.

(I) An analysis of income and expense showing revenue received or lost (i) by property category (such as general property, vehicles, vessels, aircraft, cash, and real property); and (ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with state and local agencies, and destruction).

A separate schedule is presented on page 59.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

UNDER SECRETARY

Department of the Treasury
Office of the Under Secretary
Washington, DC

TO TREASURY LAW ENFORCEMENT:

Fiscal year 1996 marked the fourth year of operation for the Department of the Treasury's Forfeiture Fund. During these years, the Fund has taken in hundreds of millions of dollars in receipts and disbursed comparable amounts according to the various payment categories authorized by law. In doing this, the Fund has served a very valuable purpose. It has taken profit out of crime and turned it back to constructive societal use. It has provided significant resources not only for Treasury law enforcement but also for federal, state and local police agencies throughout the United States and for those foreign governments who have assisted our international investigations.

We have a double obligation to manage wisely the costs related to our forfeiture program. First, these expenses are paid from the public monies of the Fund and American citizens deserve sound financial management. Second, holding down direct costs leaves additional monies available to support and strengthen law enforcement. The financial statements of the Fund, along with their notes and accompanying reports and exhibits, are a measure of how we have performed in meeting that obligation.

This annual report also looks at the four goals of the Treasury forfeiture program and some related occurrences and achievements. Protecting individual rights, deterring crime, promoting cooperation and strengthening law enforcement guide the actions of forfeiture program personnel each day. All the Fund has accomplished in the past fiscal year and since its inception is a tribute to all the women and men of Treasury law enforcement, to their dedication, to their service and to their sacrifice. It merits the public's trust and my gratitude.

RAYMOND W. KELLY
Under Secretary (Enforcement)

DEPARTMENT OF THE TREASURY FORFEITURE FUND
ANNUAL REPORT
FISCAL YEAR 1996

Table of Contents

SECTION I
OVERVIEW

CHAPTER 1
SAFEGUARDING INDIVIDUAL RIGHTS

The Department of the Treasury's Forfeiture Fund (Treasury Forfeiture Fund or the Fund) was established by the Treasury Forfeiture Fund Act of 1992, also known as Public Law 102-393 and codified at 31 USC 9703. With its creation, all Treasury law enforcement organizations were consolidated under a single forfeiture fund program administered by the Department of the Treasury. Before the Treasury Forfeiture Fund came into being, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service and the United States Secret Service were members of the Asset Forfeiture Fund of the Department of Justice. The U.S. Customs Service had had its own forfeiture fund, into which deposits of all Customs and U.S. Coast Guard forfeitures were made. Today, the Treasury Forfeiture Fund is a Departmentwide fund servicing the forfeiture program needs of all Treasury enforcement bureaus.

As a repository for the value of all non-tax forfeitures made pursuant to laws enforced or administered by the Department of the Treasury, the Fund has become an increasingly valuable source of resources for law enforcement efforts. Its monies are invested in a variety of ways to support law enforcement at all levels of government. The funding provided is used to defray the direct expenses of seizure and forfeiture incurred by Treasury law enforcement in the daily pursuit of its mission, or more generally used to support the Treasury forfeiture program. Additionally, the statutory authorities of the Fund permit it to serve law enforcement agencies and police departments throughout the United States and internationally as well.

Forfeiture has been an authority of law enforcement that dates back to the earliest days of the American Republic. In the last dozen years, however, Congress has developed and expanded forfeiture to address the many varied manifestations of sophisticated, modern and financially profitable crime. By enabling federal law enforcement to go after the proceeds and instrumentalities of crime asset forfeiture has evolved to the point where it strikes at the very core of criminal organizations and has become an essential part of an overall law enforcement strategy. By relentlessly focusing on the profitability of crime, it is a very powerful enforcement tool keeping pace with evermore well-financed and internationalized criminal groups.

Despite this recent and accelerated evolution, the effectiveness of asset forfeiture still rests fundamentally upon public confidence in the integrity of the program. In this vein, safeguarding individual rights has been a goal in the administration of the Treasury Forfeiture Fund since its inception. That asset forfeiture not transgress upon rights guaranteed by the Constitution of the United States is essential, if this law enforcement resource is to merit the public trust. In 1996, a most significant issue involving civil asset forfeiture and the matter of double jeopardy was addressed by the Supreme Court of the United States.

Prelude to the Supreme Courts Ruling on Double Jeopardy

Civil forfeitures proceed against property rather than persons. Often they are the only available means by which the government can confiscate the instrumentalities of crime. When the leaders of drug cartels are outside of the United States and beyond the reach of extradition laws, when a pilot smuggles drugs in a plane owned by another, when tenants use a residence for the sale and consumption of drugs with the knowledge of the landlord, civil forfeiture is the law enforcement tool that allows the properties involved to be taken by the government. Criminal forfeiture, on the other hand, proceeds against a person and requires a criminal trial and a conviction. It can only target property that is owned by the defendant. If the aircraft's pilot, the vessel's captain, or the drug courier carrying the satchel full of cash is not the owner, then criminal forfeiture is not effective by itself. Together, civil and criminal forfeitures complement each other and provide for a comprehensive response to the modern criminal challenge.

This traditional working together of civil and criminal forfeiture as effective law enforcement resources was seriously questioned by rulings of the United States Court of Appeals for the Sixth and Ninth Circuits, holding that a criminal prosecution and a civil forfeiture action for the same offense violated the double jeopardy clause of the fifth amendment to the United States Constitution. In the Sixth Circuit case, *United States v. Ursery,* the defendant had agreed to pay cash in lieu of forfeiting real property that had been involved in the production of marijuana. Afterwards, the defendant was convicted on criminal drug charges and sentenced to prison. The Court of Appeals for the Sixth Circuit held that any civil forfeiture under the federal drug statute in this case was punishment for double jeopardy purposes. In the Ninth Circuit case, *United States v. $405,089.23 in United States Currency,* the government had obtained indictments against the defendants for trafficking in methamphetamines and money laundering when it filed a separate civil forfeiture action against the proceeds of the narcotics offenses. That civil action was stayed until the conclusion of the criminal case, when the district court entered a summary judgement of forfeiture for the government. Similar to the *Ursery* case, the Court of Appeals for the Ninth Circuit held that all civil forfeitures constitute punishment and, therefore, are barred by an earlier criminal prosecution of the property owner.

Treasury law enforcement bureaus would have been faced with significant difficulties enforcing the forfeiture provisions under their jurisdictions if the determination that a civil forfeiture action and a criminal prosecution for the offense violated the double jeopardy clause was allowed to stand. Forfeiture as a critical enforcement tool in the battle against narcotics and weapons trafficking, smuggling, financial institution fraud and money laundering would have been severely limited. The Department of Justice's Solicitor General filed a petition for certiorari on August 28th, 1995, and just over four months later the Supreme Court agreed to review these rulings of the Sixth and Ninth Circuit Courts of Appeals.

The Government's Case

The government based its case that parallel criminal convictions and civil *in rem* forfeitures do not violate the double jeopardy clause of the fifth amendment on five key arguments:

- Civil *in rem* forfeiture, that is a forfeiture against the thing or the property, does not place a defendant in jeopardy. As a civil sanction, it does not violate the prohibition against multiple prosecutions.

- Although defendants should have an expectation of finality in a criminal judgement, such an expectation is not disturbed by a civil forfeiture proceeding because the government is not seeking to increase a sentence with which it is dissatisfied. Since the defendants were not in double jeopardy in the civil forfeiture, there can be no double jeopardy situation in a subsequent criminal prosecution.

- All forfeitures are not punishments and to categorically declare them so is incorrect. Forfeiting property that facilitates criminal activity serves a traditional remedial purpose, encouraging owners to take care of the use of their property. Forfeiting other property that represents the proceeds of crime is designed to take the profit out of criminal activity, prevent unjust enrichment, and serves a remedial rather than a punitive goal.

- Double jeopardy becomes an issue if a defendant is prosecuted and punished more than once for the same crime. This key element of sameness is lacking in this case, Even if one grants that civil forfeiture involves an offense, it is not the same offense that leads to a conviction in the related criminal case because the elements of the involved offenses differ. In the civil forfeiture, it is only necessary to prove that the property played a role in the commission of the crime, while in the criminal case, it is necessary to prove that the property owner knowingly committed the crime to obtain a conviction.

- Even if forfeitures constitute punishment, the civil and criminal sanctions should be considered as part of a single proceeding for purposes of the double jeopardy clause. Because the government does not seek further punishment, the defendant's legitimate expectation of finality in the criminal judgement is not infringed. The conduct of the government reveals a design to seek civil and criminal sanctions in parallel and contemporaneous proceedings.

The Decision of the Court

By the end of June of 1996, the Supreme Court had delivered an 8-1 opinion, written by Chief Justice Rehnquist, reversing the earlier decisions of both the Sixth Circuit in *U.S. v. Ursery* and the Ninth Circuit in *U.S. v. $405,089.23 in United States Currency.* This decision that civil forfeitures do not constitute punishment for the purposes of the double jeopardy clause ended some two years of uncertainty over just how double jeopardy arguments would affect the most commonly used civil forfeiture statutes.

One foundational point that the Court noted in its opinion, was that the United States has had a long history of proceeding against property through civil *in rem* forfeiture while still bringing criminal charges against the person alleged to have committed the underlying crime. When the Court referred to this historical practice of the United States, mentioning a statute enacted as early as 1789, it was referencing the civil forfeiture authorities used by the Customs Service and Treasury law enforcement since the very founding of our constitutional Republic. This evidence of what the Court called a "longstanding legislative practice" went far towards proving that it was not violative of the protection the Constitution affords individuals against double jeopardy.

Safeguarding the Rights of Individuals

The Supreme Court's decision in this case endorsed federal forfeiture laws as well as federal law enforcement practices in conformity with those law A serious challenge to federal forfeiture wa overcome partly because of the lengthy history o forfeiture in the United States but also partl because modern federal law enforcement ha carefully applied these substantial authorities t achieve their Congressionally intended purpose - t take the profit out of crime.

The Department of the Treasury's forfeitur program, with its additional support from th resources of the Treasury Forfeiture Fund recognizes its obligation to observe and respect th rights of affected persons in matters of seizure an forfeiture. That forfeiture authorities always b applied in a fair and even manner, that innocen parties not be deprived of their property, and that n one with a legitimate interest in property be denied the opportunity to protect that interest, are all constant considerations in the administration of the program. In 1996, this goal continued to fundamentally guide Treasury forfeiture activities while the nation's highest court reached a key decision on the suitability of this law enforcement tool in a constitutionally protected society.