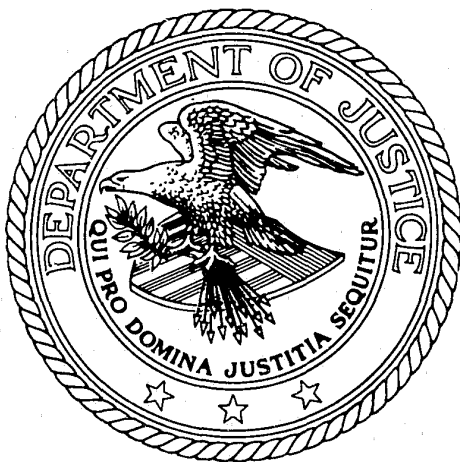


U.S. Department of Justice  
Office of the Attorney General

---

# Annual Report of the Department of Justice Asset Forfeiture Program 1990

130956



---

# Annual Report of the Department of Justice Asset Forfeiture Program

130956

U.S. Department of Justice  
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this ~~copyrighted~~ material has been granted by

Public Domain/Office of the Attorney  
General/U.S. Dept. of Justice

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the ~~copyright~~ owner.

Fiscal Year 1990

***"We intend to continue destroying the very infrastructure of these criminal conglomerates by seizing the immense profits and proceeds that are derived from these illegal activities. The scope is enormous."***

*Attorney General Dick Thornburgh  
Speech before the Kansas City Crime Commission  
October 25, 1990*



## Office of the Attorney General

Washington, D.C. 20530

### FOREWORD

To the Senate and the House of Representatives  
of the United States of America in Congress Assembled:

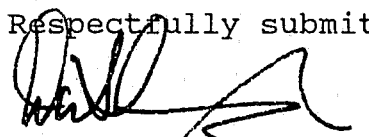
Asset forfeiture has proven to be one of the most powerful new weapons available in the war on crime. Forfeiture laws date back centuries, but it was the Comprehensive Crime Control Act of 1984 which enabled the effective seizure and forfeiture of the profits and instruments of drug trafficking and other crimes.

The United States Department of Justice has made asset forfeiture a top priority and offers the following Annual Report on our progress, accomplishments, and ongoing initiatives. This Report expands upon that required by 28 U.S.C. 524(c)(6) and notes, for example, that we have confiscated a total of more than \$1.5 billion from drug traffickers and other criminals over the past six years. Another 35,000 parcels of real and personal property worth more than \$1.3 billion have been seized and are pending forfeiture.

It is poetic justice that these assets are re-invested in law enforcement. Since the program began, more than \$560 million in forfeited cash and property have been shared with state and local law enforcement agencies, over \$200 million in Fiscal Year 1990 alone. Another \$491 million is being used to build federal prison cells. Still another \$268 million has helped finance the anti-crime efforts of the Drug Enforcement Administration, the Federal Bureau of Investigation, the U.S. Marshals Service, and other federal law enforcement agencies.

We are proud of our asset forfeiture program. It cripples drug syndicates and saves taxpayers hundreds of millions of dollars a year by supplementing law enforcement budgets out of the pockets of criminals. I hope the following expanded Annual Report will provide useful information to you and the general public in your review of this important and expanding law enforcement program.

Respectfully submitted,



Dick Thornburgh  
Attorney General

# Table of Contents

	PAGE
<b>Executive Summary</b> .....	1
<b>Introduction</b> .....	3
<b>Chapter I</b>	
<b>Background</b> .....	5
Creation of New Executive Office for Asset Forfeiture .....	5
Forfeiture Components .....	6
Drug Enforcement Administration .....	9
Federal Bureau of Investigation .....	9
Immigration and Naturalization Service .....	10
United States Attorneys .....	10
U.S. Marshals Service .....	11
Asset Forfeiture Office, Criminal Division .....	13
Postal Inspection Service .....	13
Internal Revenue Service .....	14
Bureau of Alcohol, Tobacco and Firearms .....	14
<b>Chapter II</b>	
<b>The Forfeiture Process</b> .....	17
Administrative Forfeiture .....	17
Civil Judicial Forfeiture .....	17
Criminal Judicial Forfeiture .....	17
Safeguards in the Forfeiture Process .....	18
<b>Chapter III</b>	
<b>Capsule History of American Forfeiture Law</b> .....	19
<b>Chapter IV</b>	
<b>Priority One: Law Enforcement</b> <b>The First Priority of the Asset Forfeiture Program</b> .....	23

**Chapter V**

**Priority Two: Enhanced Cooperation** ..... 27  
    **Federal, State, Local and International Law Enforcement and  
    Equitable Sharing of Federal Forfeiture Proceeds**

**Chapter VI**

**Priority Three: Revenues for the War on Crime** ..... 31

**Chapter VII**

**Program Accomplishments** ..... 35

**APPENDICES**

**Appendix A: Department of Justice Assets Forfeiture Fund --  
Fiscal Year 1990 Statement of Income and Expenses** ..... 39

**Appendix B: Real Properties on Hand as of September 30, 1990  
Valued at or Above \$1.0 Million** ..... 42

**Appendix C: Estimated Value of Property Forfeited and  
Not Deposited to the Fund** ..... 52  
**Money Seized for Forfeiture Being Held as Evidence**

**Appendix D: Assets Forfeiture Fund -- Fiscal Year 1989 Audited Financial Statement** ..... 53

**Appendix E: Seized Asset Deposit Fund -- Fiscal Year 1989 Audited Financial Statement** ..... 54

**Appendix F: Bibliography of Asset Forfeiture Resources** ..... 55

## EXHIBITS

Exhibit 1.1:	Executive Office for Asset Forfeiture Organizational Chart .....	6
Exhibit 1.2:	Coordination of Department of Justice Forfeiture Program .....	7
Exhibit 1.3:	Drug Enforcement Administration Forfeitures - Fiscal Year Comparison .....	8
Exhibit 1.4:	Drug Enforcement Administration - Federal Sharing - Fiscal Year Comparison .....	9
Exhibit 1.5:	Federal Bureau of Investigation Number of Administrative Seizures and Forfeitures .....	10
Exhibit 1.6:	Estimated Value of Total Properties Under Seizure - Fiscal Year Comparison .....	11
Exhibit 1.7:	Total Number of Properties Under Seizure - Fiscal Year Comparison .....	11
Exhibit 1.8:	End of Year Seized Asset Inventory .....	11
Exhibit 1.9:	End of Year Seized Asset Inventory .....	12
Exhibit 1.10:	U.S. Postal Inspection Service Forfeitures - Fiscal Year Comparison .....	13
Exhibit 1.11:	Internal Revenue Section 981 Seizures - Fiscal Year Comparison .....	14
Exhibit 5.1:	Total Equitable Sharing .....	28
Exhibit 6.1:	Fiscal Year 1990 Federal Forfeitures: What Happened to Forfeited Assets .....	32
Exhibit 6.2:	Operation of Department of Justice Assets Forfeiture Fund .....	33

# Executive Summary

This Annual Report provides a detailed explanation of the Department of Justice Asset Forfeiture Program's operational structure, the roles of the individual components in the Program, and an explanation of the Program's mission and achievements. Fiscal year 1990 was a landmark year in the history of this relatively new program. Attorney General Dick Thornburgh, recognizing the critical importance of asset forfeiture to the overall goal of identifying and destroying the financial infrastructures of criminal enterprises, placed forfeiture among the Department's highest priorities.

In October 1989, the Attorney General created the Executive Office for Asset Forfeiture within the Office of the Deputy Attorney General to provide overall management direction and oversight to the Program. This new Office was specifically charged with performing those tasks necessary to develop this highly successful but informal and compartmentalized program into an effective, unified Departmental program.

Forfeiture of the instrumentalities of illegal activity has been a part of the legal system since Biblical times and a part of American jurisprudence since the Colonial period. However, the use of asset forfeiture as an integral part of the war on crime is new.

The Comprehensive Crime Control Act of 1984 gave the Department of Justice some of the necessary legal tools to institute an aggressive national forfeiture program. In addition to broadening the Department's forfeiture authorities, this legislation created the Assets Forfeiture Fund and authorized the equitable sharing of federal forfeiture proceeds with State and local law enforcement agencies. The creation of the Fund allowed the proceeds of forfeitures to be reinvested into law enforcement. Through equitable sharing, the Federal Government was now able to transfer forfeited property such as vehicles and monies to law enforcement agencies that assist in criminal investigations. Since the Fund began, the Asset Forfeiture Program has generated over **\$1.5 billion** for the Forfeiture Fund. The Department has shared over **\$474 million** in cash and almost **\$70 million** worth of tangible property with State, local, and foreign law enforcement agencies.

Asset forfeiture has grown explosively. At the end of Fiscal Year 1985, the inventory of seized assets consisted of just under 3,700 properties worth approximately **\$313.2 million**. By the end of Fiscal Year 1990, the inventory of seized assets was valued at approximately **\$1.36 billion**.

The Department's forfeiture program consists of six Department of Justice components, the investigative agencies: the Drug Enforcement Administration, the Federal Bureau of Investigation, and the Immigration and Naturalization Service; the U.S. Marshals Service which is responsible for managing and disposing of property; the United States Attorneys who litigate forfeiture cases; and the Asset Forfeiture Office, Criminal Division, which provides litigation and legal support, to the other components of the Program.

Three non-Justice seizing agencies are also important participants in the Program. These include the U.S. Postal Inspection Service, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco and Firearms.

The U.S. Customs Service, which is not a part of the Justice Program, operates its own asset forfeiture program and maintains its separate Customs Forfeiture Fund.

The investigative agencies currently have authority to administratively forfeit monetary instruments without regard to value and other property valued up to **\$500,000**. If any person files a claim and cost bond, the case must then proceed in federal district court. As a matter of policy, forfeiture of all real property is handled judicially.

Recognizing that forfeiture is a powerful weapon, the Department employs this tool with discretion. Although the law does not require it, Department policy specifies that seizures should be pursuant to a federal seizure warrant issued by a neutral and detached judicial officer upon a determination of probable cause. An exception to this requirement can be made in exigent circumstances (*e.g.*, danger to health and safety of the public or law enforcement officials). A pre-seizure determination of judicial probable cause is always required in cases of real property. As another safeguard, Department of



Justice policy requires Headquarters approval prior to forfeiture of assets claimed as necessary to pay attorneys' fees.

The Department's Asset Forfeiture Program has three primary goals as set forth by the Attorney General's Guidelines on Seized and Forfeited Property (July 1990):

- (1) Law enforcement -- "to punish and deter criminal activity by depriving criminals of property used or acquired through illegal activities"
- (2) Enhanced cooperation among law enforcement at all levels: domestically and internationally.
- (3) The production of revenue for the war on crime is the natural by-product of the first two goals of the Program.

The benefits of the forfeiture program to law enforcement at all levels have been outstanding. In 1988, the Attorney General was authorized to transfer surpluses from the Assets Forfeiture Fund to the Bureau of Prisons for prison construction. Since 1988, a total of \$491.6 million has been used to help expand federal prison facilities. This is in addition to the more than one-half billion dollars transferred to State and local agencies, along with hundreds of millions of dollars reinvested in nine federal law enforcement agencies.

In sum, the Department of Justice Asset Forfeiture Program is a success story. Since the creation of the Executive Office for Asset Forfeiture in October 1989, considerable improvements have been made in management and operations of the forfeiture program. An aggressive program of analysis and assessment has been undertaken, including a wide-ranging program audit by the Office of the Inspector General.

Issuance of numerous Departmental policies and procedures has done much to standardize the program. Policies on issues ranging from pre-seizure judicial review and federal payment of State and local taxes to a prohibition against purchase and use of forfeited property by Departmental personnel have been issued.

The development of an integrated information system for the Program is underway. Detailed design and development is proceeding and funding has been committed. This system will tie together the various components of the forfeiture program and dramatically enhance management capability.

The future of the Asset Forfeiture Program is very bright. As the coordination and uniformity among the participating components increases, a unified, efficient and effective forfeiture effort will have an even greater impact on the narco-traffickers and other crime syndicates.

# Introduction of the Fiscal Year 1990 Annual Report

This is the Annual Report for the Department of Justice Asset Forfeiture Program. Its purpose is to fulfill the statutory reporting requirements set out below and to expand upon those requirements by providing additional information on the Program; its operations and results. This expanded Report includes an explanation of the Program mission as well as the individual components' functions and achievements.

The emphasis of the Fiscal Year 1990 Annual Report is on the Department's progress in developing and executing of a multi-faceted strategy to improve forfeiture. This strategy, which builds on initiatives already underway, is designed to identify and resolve conflicts and omissions in existing policy and procedures, to expedite case processing and eliminate case backlogs, to strengthen program integrity, to improve the quality of operational and management information, to consolidate and refine internal controls procedures for the program, and to establish a system for recurring assessment of performance.

## Methodology

This Annual Report draws on information provided by the agencies and components that participate in the Department of Justice forfeiture program and the Department's Assets Forfeiture Fund. In addition to the Justice components (the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, the United States Attorneys, the U.S. Marshals Service and the Asset Forfeiture Office, Criminal Division), three non-Justice agencies are a part of the Program. These include the U.S. Postal Inspection Service, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco and Firearms.

Statistical information provided by the participating agencies is also included in this Report. Analysis of various aspects of the program was done by the Executive Office for Asset Forfeiture, Office of the Deputy Attorney General.

## Statutory Reporting Requirement

Pursuant to 28 U.S.C. 524(c)(6), the Attorney General shall transmit to the Congress, not later than four months after the end of each fiscal year, detailed reports as follows:

- (A) A report on --
- (1) The estimated total value of property forfeited under any law enforced or administered by the Department of Justice with respect to which funds were not deposited in the Fund; and
  - (2) The estimated total value of all such property transferred to any State or local law enforcement agency;
- (B) A report on --
- (1) The Fund's beginning balance;
  - (2) Sources of receipts (seized cash, conveyances, and others);
  - (3) Liens and mortgages paid and amount of money shared with State and local law enforcement agencies;
  - (4) The net amount realized from the year's operations, amount of seized cash being held as evidence, and the amount of money legally allowed to be carried over to next year;
  - (5) Any defendant's equity in property valued at \$1,000,000 or more; and
  - (6) Year-end Fund balance.
- (C) A report for such fiscal year, containing audited financial statements, in the form prescribed by the Attorney General in consultation with the Comptroller General, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions (by type of disposition).

**Note:** Audited Financial Statements for the Assets Forfeiture Fund and the Seized Asset Deposit Fund for Fiscal Year 1989 are attached to this report as Appendices D and E, respectively. Preparation of audited financial statements of these accounts for Fiscal Year 1990 are underway.

# I

## Background Forfeiture Components

---

### Background

Although forfeiture has been a part of American jurisprudence since the Colonial period, the concept of asset forfeiture as an integral part of the war on crime is new. Beginning with the enactment of the Comprehensive Crime Control Act of 1984, the Department of Justice began acquiring the necessary legal tools to mount an aggressive, broad-based Asset Forfeiture Program.

At the end of Fiscal Year 1985, the Department had on hand an inventory of approximately 3,700 seized properties valued at \$313.2 million. At the end of Fiscal Year 1990, our inventory is in excess of 35,700 properties valued at more than \$1.3 billion. This inventory of seized property includes over 3,800 real properties and businesses as well as over 9,200 cash cases.

From 1985 to 1990, the number of asset seizures grew at an average rate of 59 percent annually. In 1985, our components deposited \$27.2 million into the Department of Justice Assets Forfeiture Fund. In Fiscal Year 1990, Fund receipts approached \$460 million, an increase of 28 percent over Fiscal Year 1989. (Fiscal Year 1989 figures exclude Drexel Burnham Lambert case).

Equitable sharing transfers to State and local law enforcement agencies increased dramatically from \$22.5 million (cash and property) in Fiscal Year 1986 to over \$200 million (cash and property) in Fiscal Year 1990.

Since 1984, the Asset Forfeiture Program has generated over \$1.5 billion for the Assets Forfeiture Fund. The Department has shared over \$474 million in cash and almost \$70 million worth of property with State, local, and foreign law enforcement agencies.

This phenomenal growth has presented the Department with a number of significant management challenges. The Asset Forfeiture

Program quickly outgrew the informal systems and control processes that were adequate when the Program was small.

### Creation of New Executive Office for Asset Forfeiture

At the beginning of Fiscal Year 1990, Attorney General Dick Thornburgh designated asset forfeiture a top priority of the Department of Justice and established the Executive Office for Asset Forfeiture to oversee all aspects of the Department's Asset Forfeiture Program. The Executive Office is located in the Office of the Deputy Attorney General.

For the past 16 months, this Office has been staffed by a Director, three attorney Assistant Directors (who are on detail from the Executive Office for United States Attorneys, the Federal Bureau of Investigation, and the Justice Management Division) and three other staff members. While the basic operational responsibilities within the forfeiture program will remain with each of the various Departmental components, some adjustments are under consideration.

The Executive Office for Asset Forfeiture was specifically charged by the Attorney General with resolution of forfeiture policy issues, establishment of uniform procedures for documenting and processing forfeiture actions, improvement of financial controls, and implementation of a single Departmental forfeiture information system. Organization charts depicting the Office's structure and oversight responsibilities are attached.

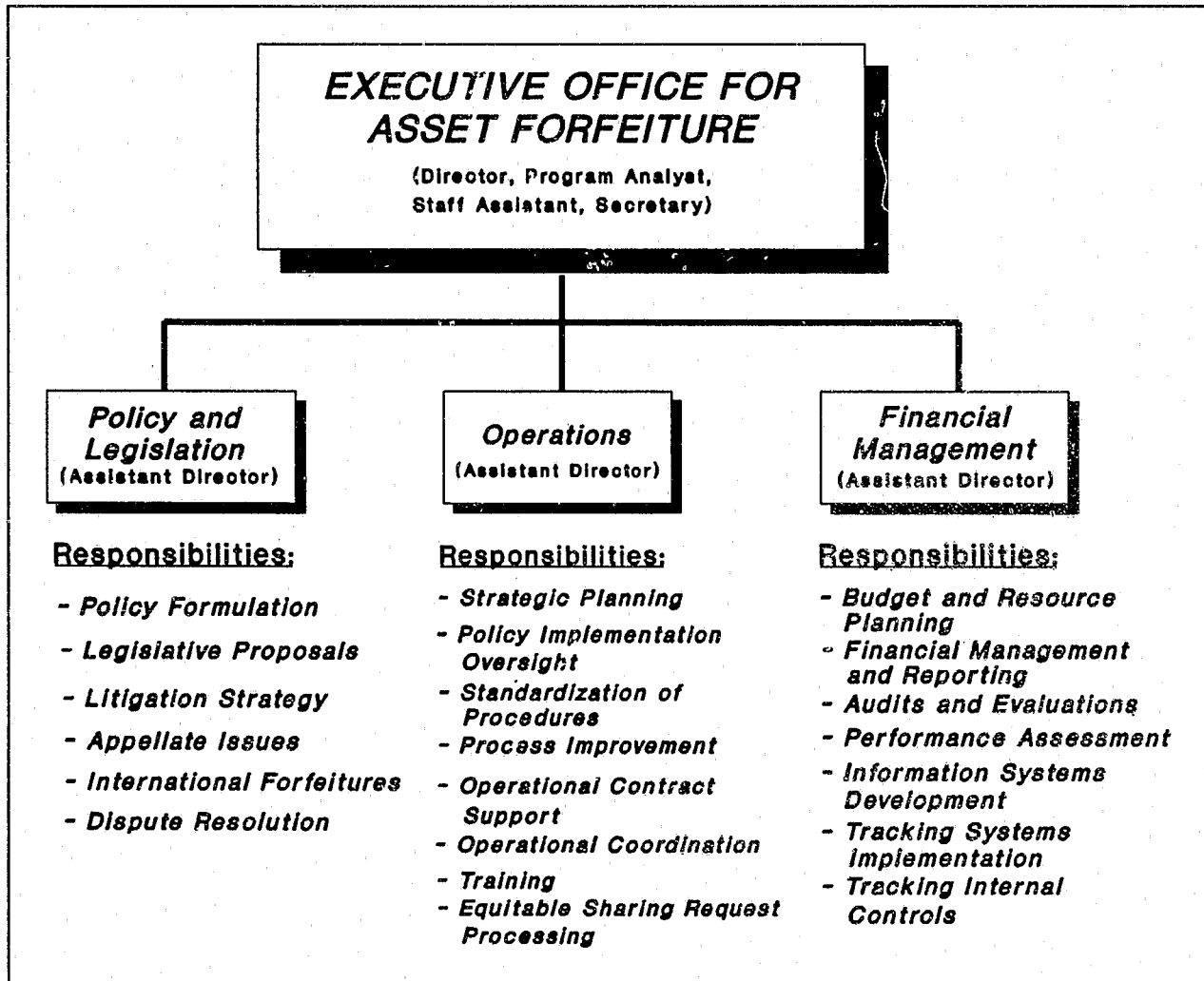


Exhibit 1.1

## Forfeiture Components

The Executive Office for Asset Forfeiture oversees six Departmental components involved in asset forfeiture. There are three Justice agencies -- the Drug Enforcement Administration, the Federal Bureau of Investigation and the Immigration and Naturalization Service that are responsible for criminal investigations that result in the identification and seizure of forfeitable assets. The "seizing agencies" also process administrative forfeiture cases that fall within their authority.

The U.S. Marshals Service conducts many seizures of forfeitable properties and is primarily responsible for the maintenance and management of the vast majority of seized properties as well as disposition of these properties following forfeiture.

The United States Attorneys' offices are primarily responsible for the litigation of forfeiture cases that must proceed judicially as either criminal or civil cases. In addition, each United States Attorney serves as the LECC chairperson of the Law Enforcement Coordinating Committee in his or her judicial district. These LECCs are made up of law enforcement officials from all levels of government. The primary goal of these Committees is to enhance cooperative law enforcement -- a goal that is furthered through the equitable sharing of forfeited assets.

The Asset Forfeiture Office, Criminal Division, provides litigative, legal training and other support to the United States Attorneys. This Office coordinates with other sections of the Criminal Division on narcotics, fraud, money laundering and racketeering related forfeiture matters. The Asset Forfeiture

Office, in conjunction with the Executive Office for United States Attorneys, has presented numerous training seminars for asset forfeiture attorneys, law enforcement agents, paralegals and support staff. In Fiscal Year 1990, 757 federal attorney personnel were trained in asset forfeiture law and procedure.

Three non-Justice agencies are also important components of the Department of Justice's Asset Forfeiture Program: the U.S. Postal Inspection Service, a component of the U.S. Postal Service, and the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms from the Department of the Treasury. The proceeds from their judicial forfeiture cases go into the Department of Justice Assets Forfeiture Fund and these agencies receive monies from the Fund to support their asset forfeiture and law enforcement work.

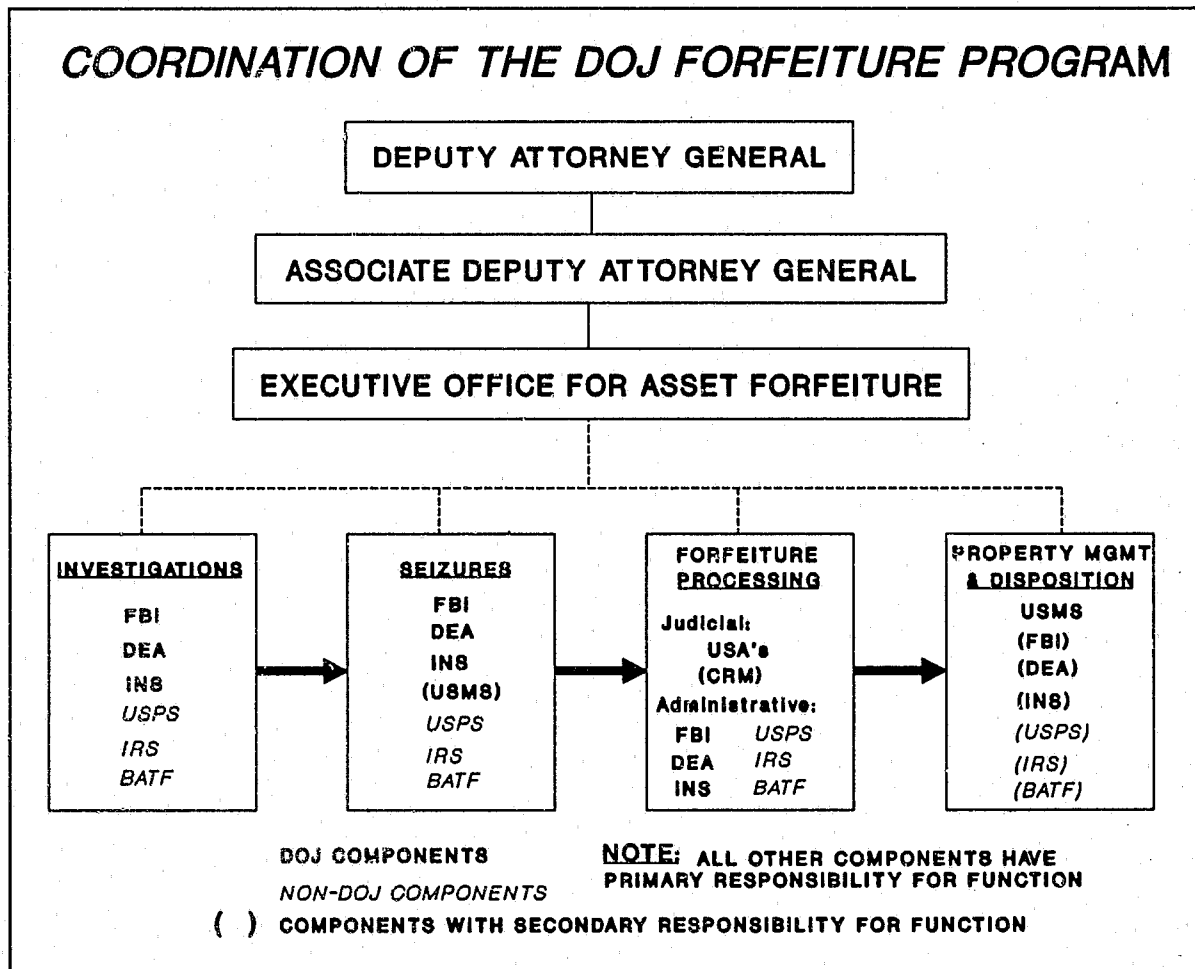


Exhibit 1.2

# ADMINISTRATIVE FORFEITURES

## Fiscal Year Comparisons

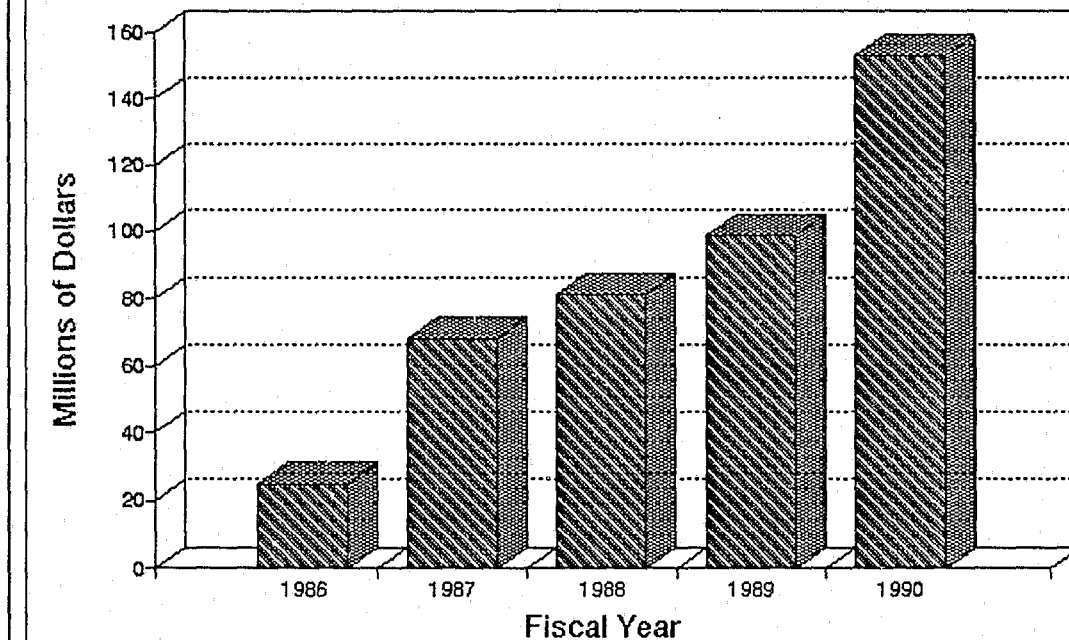


Exhibit 1.3

### **The Role of the Federal Investigative Agencies in the Asset Forfeiture Program**

The field units of the federal investigative agencies in coordination with the United States Attorneys and the U.S. Marshals Service are responsible for the identification and seizure of forfeitable property during the course of their criminal investigations. In the broadest sense, all agents are involved in forfeiture when they identify and seize property. However, it has been the development of expert forfeiture teams in several of these agencies that has been instrumental in the success of the Department's program. These forfeiture specialists provide assistance to the other investigative units in their field offices in order to fully realize the forfeiture potential of all cases.

When no claim is filed for a seized property, the investigative agencies may forfeit it administratively subject to the following limitations: monetary instruments regardless of value, conveyances of any value used to transport drugs, and personal property valued at \$500,000 or less. The agencies are also responsible for ruling on petitions for remission and mitigation of these forfeitures. It is often through the petition process that legitimate ownership claims of innocent parties are recognized.

The agencies also determine the amount of equitable sharing that will be made with cooperating State and local law enforcement agencies in cases of administrative forfeiture. In a tight fiscal environment, the monies received from the forfeiture of criminal assets are especially critical to State and local law enforcement agencies.

**Note:** The agents of the U.S. Customs Service also seize and forfeit property. The Customs Service operates a separate asset forfeiture program and the

proceeds of forfeitures in which the Customs Service seizes or maintains custody of the property go to the Customs Forfeiture Fund pursuant to 19 U.S.C. 1613(b).

The Department of Justice has entered into a Memorandum of Understanding with the Customs Service and approximately 1,000 Customs agents are currently cross-designated by the Drug Enforcement Administration to investigate drug cases. Cash and proceeds in these cases will normally be deposited into the Department of Justice Assets Forfeiture Fund with an appropriate portion of the net proceeds shared with the Customs Forfeiture Fund.

## Drug Enforcement Administration

The Drug Enforcement Administration (DEA) places a high priority on asset forfeiture as an integral part of its drug law enforcement work. In 1986, management of the asset forfeiture program within DEA was centralized in the Office of Chief Counsel. In the field, there are 19 Divisional Asset Removal Teams (DART) that are responsible for the identification, seizure and reporting of forfeitable property. The Asset Forfeiture Section in the Office of Chief Counsel is responsible for the processing of administrative forfeiture actions, petitions for remission and mitigation and equitable sharing requests, as well as for providing administrative, computer and legal support to DEA field units.

Each of these "DARTs" is supervised by a DEA Special Agent Group Supervisor and staffed by DEA Special Agents, Intelligence Analysts and Division Investigators. The "DARTs" are principally responsible for directing and supporting the asset removal efforts within each divisional office.

In Fiscal Year 1990, DEA processed 14,142 administrative forfeitures valued at over \$152.7 million in cash and personal property. Due to an infusion of resources since 1988, including 312 contract employees, DEA has dramatically expedited its processing of administrative forfeiture cases.

In Fiscal Year 1990, DEA made recommendations on equitable sharing requests valued at \$181.6 million. The importance of these payments to the State and local law enforcement agencies that cooperate with DEA and the other federal agencies can not be overstated.

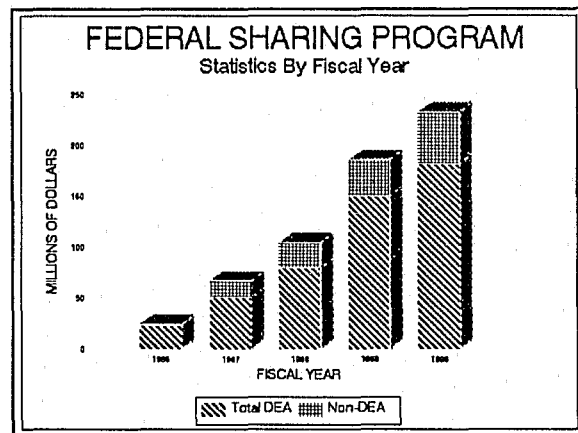


Exhibit 1.4

## Federal Bureau of Investigation

The Federal Bureau of Investigation (FBI) asset forfeiture program was established in 1984. It is an outstanding program and has served as a model for other federal agencies. Every FBI field office has full-time forfeiture personnel and 14 of these offices have Forfeiture Asset Seizure Teams (FAST). These teams of agents and support personnel specialize in forfeiture work exclusively, providing assistance to the other criminal investigative units. "FAST" will be established in additional offices in 1991.

The Bureau currently has 49 Special Agents and 123 support personnel assigned full-time to forfeiture matters and approximately 60 additional support persons perform forfeiture work on a part-time basis. In addition, they are authorized 84 contract employees for forfeiture; 70 percent of whom are currently on board.

Although initially the emphasis was on drug-related crime, seizure of ill-gotten assets and instrumentalities of illicit activities is an essential component of FBI criminal investigations in areas ranging from child pornography and organized crime to drugs and white collar matters. In 1991, forfeiture training will concentrate on savings and loan violations. Over 260 white collar crime agents have already been trained in the forfeiture provisions of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989.

The dollar value of property pending forfeiture by the FBI has increased approximately 20 percent each



year. In Fiscal Year 1990, the FBI processed 1,915 administrative forfeitures valued at approximately \$3.9 million.

The FBI actively works to foster cooperative law enforcement efforts. The Bureau frequently provides forfeiture training to State and local authorities. The Bureau's training programs have included participants from the Royal Canadian Mounted Police, the Toronto and Canadian Police Departments as well as prosecutors from England, Italy, Japan, Canada, and Australia.

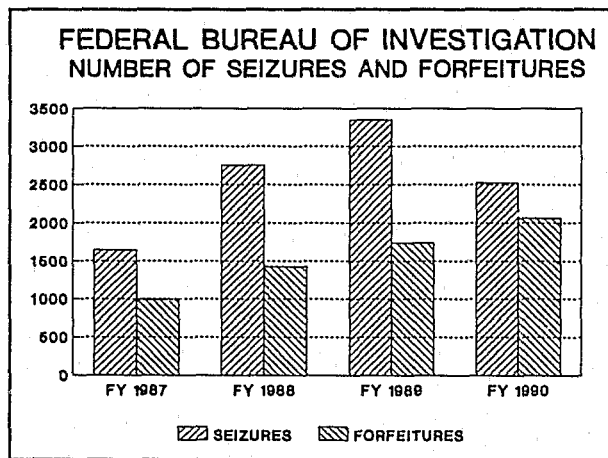


Exhibit 1.5

The FBI made equitable sharing recommendations for State and local agencies in FBI administrative forfeiture cases in excess of \$11 million in Fiscal Year 1990.

## Immigration and Naturalization Service

The Immigration and Naturalization Service (INS) asset forfeiture program provides support to the primary INS enforcement missions. These primary missions involve preventing illegal entry to the United States, detecting fraudulent documents used to gain entry, and locating, apprehending, and removing aliens who remain here illegally. In recent years, these enforcement activities have also resulted in increasingly larger volumes of illicit drug seizures, to the extent that INS is now considered a principal player in our Nation's War on Drugs.

The INS forfeiture program provides guidance, oversight, and management in the areas of seizure and forfeiture of conveyances used in violating

immigration laws. In Fiscal Year 1990, INS seized 23,077 conveyances, valued in excess of \$70 million. This represents a 60% increase in seizure volume over Fiscal Year 1989.

Following recent recommendations by the Office of the Inspector General to improve management, the Commissioner elevated the program, and created a new Director position and made it a discrete, accountable unit. He also directed a thorough internal program review to assess workloads and resource distribution, and mandated close liaison with the Executive Office for Asset Forfeiture to ensure total INS involvement in the integrated asset forfeiture system.

Responsibility for management of the Program now resides with the Director, who reports to the Associate Commissioner, Office of Enforcement. The headquarters staff currently consists of three personnel. Another six positions have been approved in the Fiscal Year 1992 budget. These additional personnel will be critical to improved management and oversight of the Program. The initial goals are to implement plans for greater centralized control and to ensure compliance with recommendations of the Office of the Inspector General.

Each INS field office involved in conveyance seizures has assigned personnel either full-time or collateral responsibility to manage the program locally, dependent upon workload. There are 28 contract employees authorized to supplement the INS workforce, and 16 of those are currently on duty.

In Fiscal Year 1990, INS approved 27 equitable sharing requests for conveyances valued at \$52,625. These forfeited conveyances were shared with State and local law enforcement agencies that assisted INS in the investigation and apprehension of aliens who were illegally transported into or within the United States.

## United States Attorneys

Increased forfeiture resources provided by the Anti-Drug Abuse Act of 1988 have allowed the United States Attorneys' offices to become a significant force in the increasing momentum of the Department's forfeiture program. Each office has now established an Asset Forfeiture Unit to handle civil and criminal forfeiture cases.

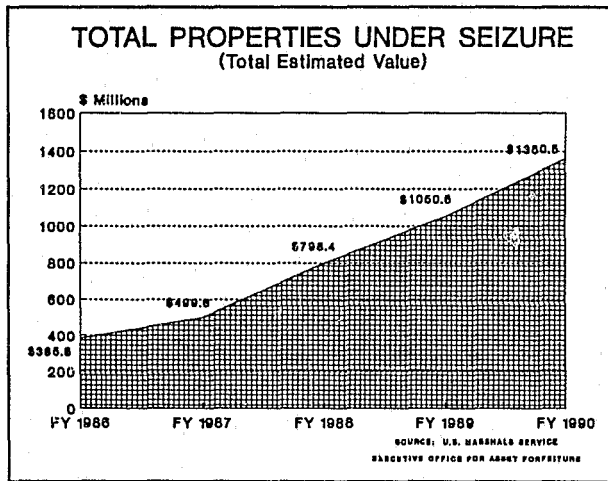


Exhibit 1.6

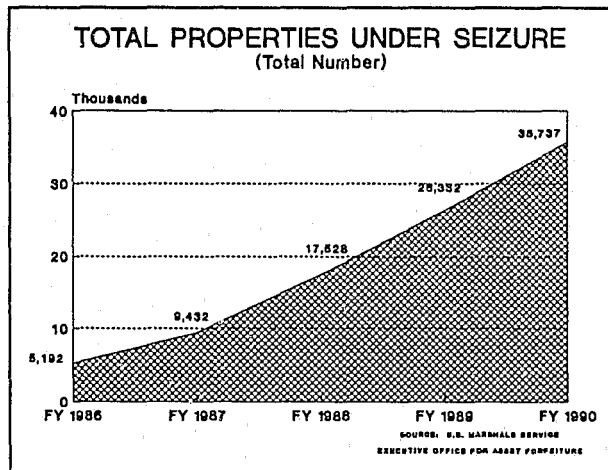


Exhibit 1.7

The Law Enforcement Coordinating Committee (LECC) coordinators located in each United States Attorney's office support the LECC in fostering improved cooperation among law enforcement officials at all levels of government. United States Attorney's, who chair the LECCs have been directed to ensure that their coordinator is actively involved in facilitating equitable sharing with State and local agencies. In addition, coordinators in 25 districts sponsored over 40 seminars which trained more than 3,200 federal, State, and local law enforcement officials in Fiscal Year 1990 in asset seizure and forfeiture.

In addition to litigation of judicial forfeiture cases, the United States Attorney's offices coordinate with State, local, and federal forfeiture components in administrative cases by serving as a liaison and providing legal advice when necessary.

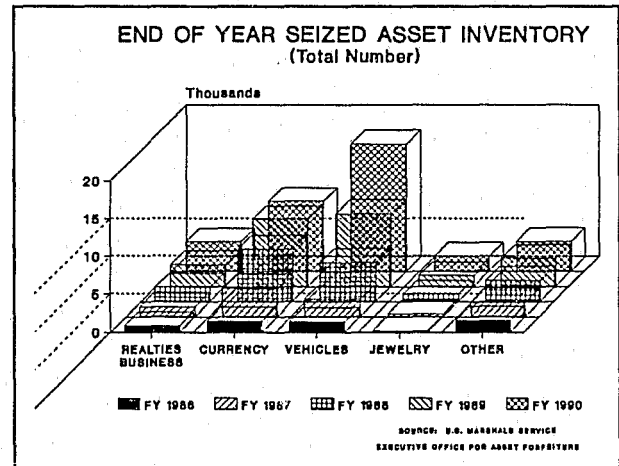


Exhibit 1.8

As most forfeiture litigation is civil in nature, in most districts the Asset Forfeiture Unit is located within the Civil Division of the United States Attorney's office. The Unit is staffed with Assistant United States Attorneys, paralegals and other support staff. In addition, contract employees are assigned to many asset forfeiture units to assist in support functions.

In some United States Attorney's offices, the asset forfeiture unit, although a part of the Civil Division, is physically located within the Organized Crime Drug Enforcement Task Force, or other Criminal Division entity. This has added the benefit of bringing the forfeiture litigators into each case at the investigative stage, thus further enhancing the ability to seize and forfeit assets.

## U.S. Marshals Service

The U.S. Marshals Service is the primary custodian of seized property for the Department of Justice Asset Forfeiture Program. Because it maintains and disposes of the vast majority of properties seized for forfeiture, it is in a very real sense the "hub" of the Asset Forfeiture Program. The activities of the Marshals Service are perhaps the most challenging and difficult of any component. Certainly, they are essential to the profitability of the Program and are the most visible and thus the most frequently inspected and audited.

The Marshals Service must procure and administer

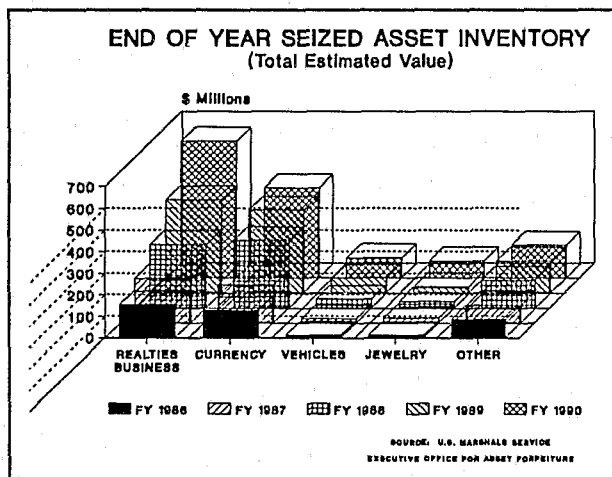


Exhibit 1.9

contracts necessary for property management services for real property under seizure as well as for goods and services. They must also ensure that the seized property inventory is accurately accounted for and reported. Following the forfeiture of property, either administratively by the investigative agency or judicially through the efforts of the United States Attorney, the Marshal must sell or otherwise dispose of the property.

The U.S. Marshals Service currently has 240 positions nationwide dedicated to perform all functions related to maintaining and disposing of seized and forfeited property. These positions are located in the 94 judicial district offices, eight regional offices and at Headquarters in Washington. Every district office has at least one person assigned to seized property functions as a collateral duty. Districts with significant seizure activity have dedicated seized property units. These resources will be augmented substantially in Fiscal Year 1991.

The Department's Asset Forfeiture Program is a law enforcement program that must be run in a business-like fashion. Careful coordination among the forfeiture components is necessary to achieve the maximum law enforcement impact as well as the maximum monetary return for the taxpayer.

Even before taking custody of seized property, the Marshals Service works closely with the seizing agencies and the United States Attorneys. Pre-seizure planning is a critical step in a forfeiture case in which decisions are made with respect to the scope and targets of the seizure.

Real property seizures sometimes pose a variety of legal and practical problems including environmental contamination concerns; historic preservation and other use restrictions; title insurance issues; and safety concerns both for law enforcement officials and the public. Approximately one-half of the value of all assets in the Marshals Service custody is in real property which is currently valued at approximately \$630 million.

Almost one-third of all seizures, both in terms of numbers and value, involve the seizure of currency. Cash forfeitures account for almost five times as much income to the Assets Forfeiture Fund as do the proceeds of property sales. The Marshals Service is responsible for the accounting and deposit of seized and forfeited cash.

Seized businesses are managed or monitored by the U.S. Marshals Service while in its custody. Businesses currently under seizure range from a \$120,000 car wash to the world's largest card casino located in Los Angeles with an estimated value of \$150 million.

The Marshals Service has regional contracts for the transportation, storage, maintenance and disposal of seized aircraft. Comprehensive car care contracts are in place in the Southwest border area where Marshals are responsible for the custody of thousands of motor vehicles seized by the Immigration and Naturalization Service at the Mexican border.

Once property is forfeited, it is disposed of in several different ways. In Fiscal Year 1990, about \$43 million worth of forfeited property (primarily motor vehicles, aircraft, vessels, and radios) were transferred to federal, State and local agencies for official law enforcement use. Sales of property by the Marshals produced about \$89 million in Fiscal Year 1989. This represents a 50 percent increase over Fiscal Year 1989.

Forfeited real estate is usually listed with a private real estate brokerage firm in the area where it is located. Forfeited aircraft are sold through one of two private aircraft sales firms which operate on contract to the Marshals Service. Motor vehicles are usually sold at auction, often along with surplus government vehicles being disposed of by the General Services Administration. Most such auctions are held in the areas of the nation where seizures most frequently occur: along the Southwest

Border and in large metropolitan areas. The Marshals Service is negotiating a contract with a jewelry sales firm to sell all forfeited jewelry.

Citizens can learn of significant sales of forfeited property by obtaining a copy of USA TODAY, a newspaper which is distributed nationally. Notices of sale are placed in the classified section of that newspaper on the third Wednesday of each month. Despite public perceptions to the contrary, forfeited properties usually sell for prices at or near their fair market value. Stories of incredible bargains are usually just that -- incredible. Prices paid for forfeited property at Marshals auctions are comparable to those paid in similar settings such as estate sales and bank auctions of repossessed property.

During 1990, the U.S. Marshals Service conducted a ten-week drug fugitive manhunt that resulted in the arrest of 3,743 criminals and the seizure of more than \$5.5 million in cash and property in five major metropolitan areas. Guns, drugs and other contraband valued at over \$7.2 million were also seized during the operation. The success of the operation was due to the coordinated work of 28 State and local law enforcement agencies and the U.S. Marshals Service offices in Miami, Houston, San Antonio, San Diego and Los Angeles.

## The Asset Forfeiture Office, Criminal Division

This Office provides legal and litigation training support to the forfeiture program. Its fifteen Trial Attorneys, ten support staff members, and contract personnel, are devoted exclusively to forfeiture matters. The Asset Forfeiture Office decides petitions for remission and mitigation of forfeiture, and processes all requests for equitable sharing in judicial forfeiture cases. It also reviews settlements over \$200,000, requests to appeal, applications for *ex parte* restraining orders, attorney fee forfeitures, and substitute asset cases. The Asset Forfeiture Office publishes a monthly update of forfeiture case law, and a bimonthly newsletter. It coordinates with other sections of the Criminal Division on forfeitures related to narcotics, organized crime and racketeering, obscenity, fraud, money laundering, and international affairs. The Asset Forfeiture Office, in conjunction with the Executive Office for United States Attorneys, has organized and presented numerous training seminars on asset forfeiture for attorneys, law enforcement agents, and support staff personnel. In Fiscal Year 1990, the Department trained 757 persons in 9 seminars. Ten seminars are planned for Fiscal Year 1991.

## U.S. Postal Inspection Service

The U.S. Postal Inspection Service was the first non-Justice agency to participate in the Department's forfeiture Fund. The Postal Inspection Service's initial participation was in connection with the enforcement of the child pornography provisions of the Child Protection Act, 18 U.S.C. 2251, *et. seq.* as amended October 12, 1984.

The Anti-Drug Abuse Act of 1988 gave the Postal Inspection Service statutory jurisdiction over postal-related drug offenses and certain money laundering offenses. Since Fiscal Year 1986, the number of seizures for forfeiture in Inspection Service cases has increased by 350 percent while the number of forfeitures has increased by 1,120 percent. In Fiscal Year 1990, over 1,000 Postal Inspectors and Forfeiture Specialists received training on forfeiture law, policy and procedures. This training included heavy emphasis on applying principles and procedures of forfeiture provisions for money laundering violations. The Postal Inspection Service is moving aggressively to implement these new authorities. As a result, there is significant potential

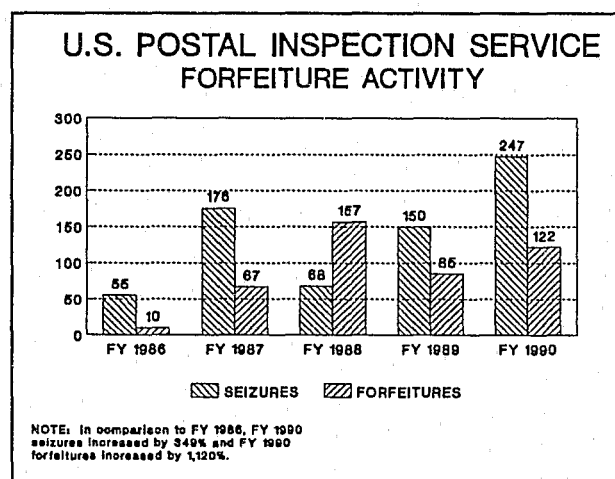


Exhibit 1.10

for continued growth in the Service's forfeiture program.

The Postal Inspection Service has 52 Forfeiture Specialists dedicated to asset forfeiture work. They are located in 38 divisions and five regional offices. All of the approximately 2,000 Postal Inspectors have the authority to investigate cases with forfeiture potential.

In Fiscal Year 1990, the Postal Inspection Service made 234 seizures resulting in forfeitures valued at \$8,140,859. Approximately 70 percent of these cases were the result of their drug interdiction program and 30 percent of the cases were related to money laundering. Administrative forfeitures in child pornography cases are temporarily suspended pending a law suit against the Federal Government.

The Department of Justice Assets Forfeiture Fund has been the recipient of forfeiture proceeds from two high-profile white collar crime cases involving Drexel Burnham Lambert and Michael Milken. From these two cases alone, the Postal Inspection Service and the United States Attorney's Office, Southern District of New York, have deposited over \$420 million into the forfeiture Fund.

## Internal Revenue Service

The Internal Revenue Service (IRS) became a part of the Department's Forfeiture program in Fiscal Year 1987. The IRS has authority under Title 26 to seize and forfeit any property intended for use in violating the provisions of the Internal Revenue laws. However, it was the passage of the Anti-Drug Abuse

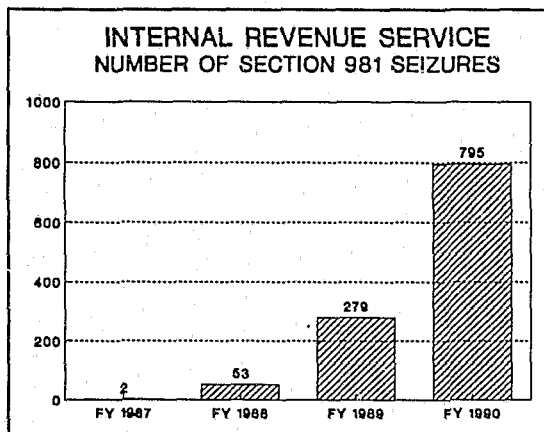


Exhibit 1.11

Act of 1986 that gave IRS broad authority to seize property relating to violations of the money laundering laws.

The IRS has devoted a considerable amount of its resources to combatting money laundering activities. In 1990, approximately 30 percent of the cases investigated by the IRS Criminal Investigation Division involved violations of the money laundering statutes. In addition, the number of IRS civil seizures under the money laundering statutes has also increased dramatically over the past four years from two seizures in 1987 to well over a thousand in 1990. The total dollar value of these seizures exceeds \$107 million.

The IRS has also been actively involved in the equitable sharing program and has shared millions of dollars in cash, vehicles and other property with State and local law enforcement agencies.

Money laundering forfeiture training has been made mandatory for all IRS Special Agents for the past several years and this has translated into a remarkable increase in the number of money laundering cases being investigated. As IRS agents increase their skill in this area, the number of criminal cases, as well as the number of civil seizures, should increase dramatically. IRS agents are generally recognized as the world's premier financial investigators.

## Bureau of Alcohol, Tobacco and Firearms

The newest participant in the Department of Justice Assets Forfeiture Fund, the Bureau of Alcohol, Tobacco and Firearms (BATF), joined the Program in August 1990. BATF, a Treasury Department agency, is actively involved in combatting narcotics trafficking and violent crime through the enforcement of the federal firearms laws.

18 U.S.C. 924(c) is the primary statute utilized by BATF in its drug law enforcement work. BATF has authority to seize and forfeit firearms, ammunition, explosives, alcohol, tobacco, conveyances and currency. BATF has 1,079 positions dedicated to the Armed Career Criminal Project which targets armed career criminals and drug traffickers who are utilizing firearms. All of the BATF's law enforcement districts participate in this project.

Many of the investigations involving BATF are conducted jointly with other federal, State and local law enforcement agencies. BATF has established 19 formal task forces in major metropolitan areas and is an active participant in the Organized Crime Drug Enforcement Task Force (OCDETF) Program.

As BATF does not currently have authority to forfeit drug assets identified during their investigations, such property, when seized by BATF, is referred to the Drug Enforcement Administration for forfeiture processing. The Department of Justice is supportive of BATF's desire to maximize its impact on drug trafficking by increasing its forfeiture authorities.

#### **Organized Crime Drug Enforcement Task Force**

The Organized Crime Drug Enforcement Task Force (OCDETF) program, the goals of which are to identify, investigate and prosecute members of high-level drug trafficking enterprises, and to destroy their operations, was initiated in 1982. While not a separate forfeiture program component, the OCDETF Program includes the Justice agencies and the United States Coast Guard, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, and the U. S. Customs Service. The nine OCDETF federal agencies, in concert with numerous State and local agencies, have been enjoined to "think financial" as they go about their work.

During Fiscal Year 1990, Assistant United States Attorneys who are members of OCDETF as well as Department trial attorneys from Narcotics and Dangerous Drug Section, Criminal Division, attended asset forfeiture training programs. These seminars were presented jointly by the Executive Office for United States Attorneys and the Asset Forfeiture Office, Criminal Division.

Seizures and forfeitures can serve various law enforcement goals. Seizure of the profits and tools often serves as a way to gain intelligence about the people who traffic in drugs. The ability and willingness of the Task Forces to use all the tools of financial investigation and asset seizure has grown dramatically since the program began. Asset seizures have increased steadily since 1983.

The OCDETF member agencies have increasingly improved the effectiveness of agency coordination within the program. The experience that the Task Forces gained in financial investigations led to the

founding of the Financial Enforcement Committee (FEC) in 1987. FEC has become an active coordinating body for national programs that attack drug traffickers' financial operations, their financial infrastructures and the financial assets generated by their illegal trade. Besides the OCDETF member agencies, the FEC includes representatives from the Departments of Defense and State, the intelligence community, and INTERPOL.

#### **Office of Justice Programs**

The Office of Justice Programs (OJP), through its components, the National Institute of Justice, Bureau of Justice Assistance and the Bureau of Justice Statistics, provides a number of grants to such groups as the Police Executive Research Forum to fund forfeiture demonstration projects in Arizona, Colorado and Maryland to train prosecutors and police in State forfeiture law and to develop asset forfeiture reference materials for State and local law enforcement. The American Prosecutors' Research Institute also receives OJP support to disseminate State drug prosecution curricula and to coordinate development of a Model State Asset Forfeiture Statute. Similarly, the Jefferson Institute for Justice Studies receives support to provide a directory of federal and national resources to aid State and local asset forfeiture programs.

(This page intentionally left blank)

# II

## Forfeiture

---

### The Forfeiture Process

Governments long ago recognized the need to protect their citizens against persons outside of their borders who sought to smuggle contraband into their country. The First Congress of the United States authorized forfeiture of vessels for violations of United States Customs laws. Since then, more than 200 federal forfeiture statutes have been enacted for items ranging from contaminated food and drugs to pelts of endangered species to the instruments and proceeds of drug trafficking.

Federal investigative agencies, often with the assistance of State and local law enforcement agencies, are responsible for identifying forfeitable property during the course of their criminal investigations. There are three basic methods by which these properties may be forfeited.

### Administrative Forfeiture

The federal investigative agencies may forfeit property administratively. Pursuant to 19 U.S.C. 1607, the agencies have authority to forfeit administratively cash and other property valued at \$100,000 or less and conveyances (e.g. cars, boats, airplanes) used to transport controlled substances without regard to value. In August 1990, the Customs and Trade Act raised the dollar caps on this authority. More cases will thus be brought administratively. The new levels permit administrative forfeiture of monetary instruments without regard to value and of other property valued up to \$500,000. By Departmental policy, all forfeitures of real property proceed judicially.

In administrative forfeiture cases, notices are mailed to all persons known to have any ownership interest in the property and notice of intent to forfeit is published in newspapers. In 20 days, if no one has come forward to claim an interest in the property, it is forfeited to the United States without court action.

### Civil Judicial Forfeiture

If a claimant does step forward to file a claim and cost bond or if the property is real estate or valued in excess of the statutory limits, the property must generally be forfeited through a civil court proceeding.

In civil judicial forfeitures, like other civil lawsuits, the plaintiff (the Federal Government) has the burden of persuading a United States District Court that the property is forfeitable. The claimant then has the opportunity to contest the government's evidence or to assert defenses to the forfeiture. The final decision rests with the court.

The legal theory of federal civil judicial forfeiture is that the property which violates the law can be forfeited to the United States. These cases proceed *in rem* against the property and are not contingent on the conviction of the owner. As owners of forfeitable property are often drug traffickers and money launderers who reside outside the United States, civil forfeiture is extremely important. If a criminal conviction were required for all forfeitures, international criminals could ply their illicit trade with impunity by remaining outside our borders and operating their criminal enterprises through agents and intermediaries in the United States.

### Criminal Judicial Forfeiture

A criminal judicial forfeiture is done in conjunction with the criminal prosecution of the defendant. The criminal *in personam* action requires that the property used or derived from the crime be indicted along with the defendant. If the defendant is found guilty of the crime charged, then the indicted property can be forfeited as a part of the final judgment in the criminal case. Any claimant other than the defendant can contest the forfeiture in a hearing after the conviction and before the final order of forfeiture.



## Safeguards in the Forfeiture Process

No property may be seized unless the government has probable cause to believe that it is subject to forfeiture. Probable cause is a legal term that has been defined as existing when the facts and circumstances, based on trustworthy information, are such that a person of reasonable caution would believe that the property was involved in the illegal activity. The determination of probable cause must be made on a case-by-case basis.

Probable cause is the same legal standard that the United States Constitution requires for the arrest and jailing of a person prior to trial; the search of a person's home; or the indictment of a person by a Grand Jury.

Although the law does not require it, Department of Justice policy specifies that seizures should not be made until a neutral and detached judicial officer has made an independent finding of probable cause and has issued a federal seizure warrant. Exceptions are made in exigent circumstances where law enforcement and safety concerns (e.g. flight risk, potential destruction of the property, danger to health and safety of the public and law enforcement officers) are present. Departmental policy permits no exception to the warrant requirement for the seizure of real property.

Probable cause is reviewed once again by the Headquarters office of the federal investigative agency when the case is initially submitted for forfeiture processing. Further investigation of the facts and circumstances can continue throughout the administrative process.

Once property is seized, either by a federal investigative agency or by a State or local law enforcement agency in a case that is adopted for federal forfeiture, various safeguards come into play to protect the rights of any claimants to the property. By statute, if property is seized for a violation involving personal use quantities of a controlled substance, and in all cases where a conveyance is seized, the person in possession of the property at the time of seizure is given a notice explaining the procedures whereby he or she may petition for an expedited release of the property.

In all cases, notice of seizure is sent by certified mail

to the person(s) in possession of the property at the time of seizure and also to anyone known to have an ownership interest in the seized property. In addition, the government must publish in a newspaper a notice of its intent to forfeit the property. These notices set forth the applicable regulations and explain how a person claiming an interest in the seized property may contest the seizure and forfeiture.

Anyone claiming a legal interest in the seized property may file a claim for it upon the posting of a bond of \$5,000 or ten percent of the value of the property, whichever is less. The posting of the bond affords the claimant an opportunity to challenge the forfeiture in court. The government must file a complaint in the United States District Court and, as in other civil litigation, procedures exist by which each side can use discovery, compel attendance of witnesses, etc.

In a criminal forfeiture, seizure of the property generally does not occur until conviction. However, a court may order the property to be restrained prior to seizure. In cases where the court finds that a restraining order will not assure the availability of the property for forfeiture, seizure occurs only after a warrant is issued.

The Department of Justice has historically maintained a policy whereby forfeitures of assets claimed as attorneys' fees are carefully reviewed in advance by Headquarters to ensure fair and uniform application of the forfeiture provisions.

Federal forfeiture law expressly provides protection to the "innocent owner", a party with an interest in the property subject to forfeiture who can demonstrate that, as the law requires, he had no knowledge of the illegal activity giving rise to the forfeiture, did not consent to the activity, and/or took all reasonable steps to prevent the activity.

Even after forfeiture of the property, federal law authorizes the Attorney General to "remit" or "mitigate" the forfeiture if it would be unduly harsh. The Department of Justice routinely grants petitions for remission or mitigation of forfeiture, primarily to innocent lienholders and innocent family members. It is the Department's policy to liberally grant such petitions as a means of avoiding harsh results. This exercise of administrative authority affords innocent claimants a means of recovering property without incurring the expense of attorneys' fees.

# III Capsule History of American Forfeiture Law

---

## American Colonial Period

British and Colonial *in rem* civil forfeiture laws were enforced in the common law courts of the Colonies and later in the States under the Articles of Confederation.

## First Congress

The First Session of the First Congress enacted laws subjecting vessels and cargoes to *in rem* civil forfeiture for violations of the Customs laws; *i.e.* Act of July 31, 1789, Secs. 12 and 36, 1 Stat. 39 and 47. Further civil forfeiture laws were enacted in the second Session of the First Congress.

## Later Enactments

Vessels involved in the slave trade were subject to *in rem* civil forfeiture by the Act of March 22, 1794, 1 Stat. 347 and later statutes. Over the years, more than 200 different civil forfeiture laws have been enacted.

## Criminal Forfeiture Laws

The Racketeer Influenced and Corrupt Organizations ("RICO") Act of 1970 and the Controlled Substances Act of 1970 were the first federal laws to authorize criminal forfeitures for racketeering and Continuing Criminal Enterprise ("CCE" or "drug kingpin") offenses respectively.

## Comprehensive Crime Control Act of 1984

This statute revolutionized federal forfeiture, paving the way for large-scale seizures and forfeitures. The more important forfeiture provisions of that law were as follows:

- (a) Clarified ability under RICO to forfeit proceeds of racketeering including real estate and both tangible and intangible personal property;
- (b) Strengthened ability under RICO to secure restraining orders to "freeze" forfeitable property pending forfeiture;
- (c) Authorized criminal forfeitures for any drug felony (previously just "drug kingpin" offenses were covered);
- (d) Broadened range of property subject to criminal forfeiture and strengthened ability to "freeze" property in place for drug felonies as was done for RICO forfeitures;
- (e) Codified "relation back" doctrine for both criminal and civil forfeitures so that government title to forfeited property "relates back" to the date when the offense occurred giving rise to the forfeiture;
- (f) Authorized equitable sharing of forfeited property with participating State and local law enforcement agencies in both Title 21 and Title 19 forfeitures;
- (g) Authorized payment of awards of the lesser of \$150,000 or 25 percent of the net proceeds of the forfeiture for information leading to a forfeiture;
- (h) Established Department of Justice Assets Forfeiture Fund to hold proceeds of Department of Justice forfeitures and to

fund forfeiture-related expenses as well as certain law enforcement activities including purchase of evidence, equipping of conveyances, and payment of awards; similar fund created for U.S. Customs Service;

(i) Increased statutory cap on administrative forfeitures from \$10,000 to \$100,000 (hauling conveyances were made subject to administrative forfeiture without regard to value);

(j) Increased maximum claim and cost bond from 10 percent of the value of the property or \$250 to 10 percent of the value or \$2,500; and

(k) Authorized discontinuance of federal forfeiture proceedings in favor of State forfeiture.

#### Anti-Drug Abuse Act of 1986

This statute included many further improvements in federal forfeiture laws including the following:

(a) Authorized forfeiture of the proceeds of money laundering crimes;

(b) Authorized criminal forfeiture of "substitute assets" in RICO and drug felony cases i.e., if the proceeds of the offense have been put beyond the reach of law enforcement, lawfully acquired property of equivalent value can be substituted for the missing proceeds and forfeited;

(c) Authorized sharing of forfeited property with cooperating foreign governments pursuant to treaty;

(d) Authorized forfeiture of drug paraphernalia;

(e) Made Assets Forfeiture Fund permanent and expanded uses of the Fund to include authority to pay awards for information related to criminal drug felonies; to pay for forfeiture-related data processing equipment, training, printing and contract assistance; repealed provision requiring transfer of Fund surpluses to General Receipts of the Treasury; and

(f) Improved forfeiture procedures including authority to secure court-ordered seizure warrants; increased the cap on claim and cost bonds from \$2,500 to \$5,000; and clear authority summarily to forfeit and destroy Schedule I drugs.

#### DOJ Appropriations Act for Fiscal Year 1988

This authorized the Attorney General to transfer Fund surpluses to the Bureau of Prisons for federal prison construction.

#### Anti-Drug Abuse Act of 1988

This statute contained still further forfeiture modifications as follows:

(a) Authorized forfeiture of the proceeds of trafficking in pornography;

(b) Expanded money laundering forfeiture authority to encompass the *corpus* of the money being laundered in addition to the proceeds thereof;

(c) Authorized sharing of forfeiture proceeds with foreign governments pursuant to international agreement rather than a formal treaty;

(d) Restricted ability of the Department of Justice to share forfeited property with State and local law enforcement agencies in "adopted" drug cases; and

(e) Created a new "Special Forfeiture Fund" to be financed by surpluses of up to \$150 million per year from the forfeiture Fund for use by the Director of the Office of National Drug Control Policy; terminated authority to transfer Fund surpluses to Bureau of Prisons after Fiscal Year 1989.

### **1989 Forfeiture Enactments**

Two statutes enacted in 1989 affected the forfeiture program:

(a) The savings and loan bill authorized civil and criminal forfeiture for bank-related crime; and

(b) The Department of Defense Authorization Act included a provision effectively repealing the 1988 restriction upon sharing with State and local law enforcement agencies in "adoptive" forfeiture cases.

### **1990 Forfeiture Enactments**

Two statutes enacted in 1990 affected the forfeiture program:

(a) The Customs and Trade Act of 1990 authorized administrative forfeiture of property valued up to \$500,000 and of monetary instruments without regard to value; and

(b) The Crime Control Act of 1990 authorized international sharing pursuant to executive agreements rather than cumbersome treaties; clarified the Attorney General's authority to warrant clear title and authorized civil forfeiture of firearms used to facilitate criminal drug activity.

In 1991, the Department intends to seek forfeiture authority as a sanction for 14 federal fraud offenses. This legislation will attack "gross proceeds" in an effort to move quickly to provide victims a better chance of recovering monies lost through fraud.

**(This page intentionally left blank)**

# IV

## Priority One: Law Enforcement

---

### Law Enforcement The First Priority of the Asset Forfeiture Program

Today, forfeiture is an old concept with a new vitality. New law enforcement problems call for new solutions. Trafficking in illegal drugs is a multi-billion dollar, international business. Its participants are unfazed by even the harshest mandatory minimum jail sentences. The criminal justice system has turned to forfeiture as one answer to stopping financially motivated crime; whatever profits the crime generates -- the Federal Government will take them away.

"Operation Polar Cap" was a lengthy investigation of the Medellin cocaine cartel involving the Drug Enforcement Administration, the Federal Bureau of Investigation, the Internal Revenue Service and the U.S. Customs Service. In this investigation not only were drug traffickers and drug contraband targeted, but also their lifeblood: money. One hundred and twenty-seven persons were indicted, over one ton of cocaine and 19,000 pounds of marijuana, and over \$100 million in cash, jewelry and real estate were seized or restrained.

Through cooperative international law enforcement efforts, international drug cartels suffered serious blows. "Operation White Mare," a major multi-year undercover investigation targeting several Asian heroin and cocaine importing organizations operating in the United States, Canada, Hong Kong, Singapore, and Thailand, resulted in the arrests of 55 suspects and the seizure of \$4.5 million in cash and 900 pounds of heroin and 50 pounds of cocaine.

Forfeiture is a critical adjunct to criminal prosecution. Both the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986 provided for greater authority to seize the profits and proceeds of illegal drug activity as well as the currency and property used in connection with money laundering and drug violations. While there are hundreds of federal statutes that authorize forfeiture of property,

the laws most frequently used by the Department of Justice are the drug laws, the money laundering laws, and the racketeering laws.

---

*"In this district, we intend to enforce the forfeiture laws to the maximum possible extent. We hope to strip drug dealers and others of their ill-gotten gains and then put that money into law enforcement. The drug problem is so bad in this country that there is almost no limit to what the taxpayers could be asked to pay for law enforcement. But by vigorous use of the forfeiture laws the drug war can be waged at a cost acceptable to the taxpayers."*

*Thomas J. Ashcraft  
United States Attorney  
April 26, 1990*

---

The number one priority of the Department of Justice Asset Forfeiture Program is to "punish and deter criminal activity by depriving criminals of property used or acquired through illegal activities." Attorney General's Guidelines on Seized and Forfeited Property (July 1990).

Money is the lifeblood of all domestic and international organized crime groups regardless of the criminal activity giving rise to the proceeds. It is the flow of this money through the domestic and international banking systems that sustains these operations by providing the criminal enterprise with a constant source of new capital needed to pay operating expenses and to buy goods and services. If this flow of money can be cut off, the criminal enterprise will die -- no matter how great the demand for its illegal product or services.

In one significant case with wide-spread international involvement, Luxembourg officials initiated an investigation of suspected money-launderer Jose Franklin Jurado-Rodriguez, a Colombian national.

---

*"The belief is that this (forfeiture of real property used to grow marijuana) had a serious impact on the growing activities... We have found the price of marijuana to have increased 100%...the asset forfeiture of the Hayes property, although not a large monetary return to the federal government, had an impact in our area that cannot be measured in dollars and cents."*

*James Jacobson, Investigator  
Bayfield County Sheriff's Department  
November 20, 1990*

---

Further investigation with extensive cooperation between the United States, Luxembourg and law enforcement officials in other countries led to the conclusion that Jurado was laundering money on behalf of the Cali Colombian cocaine cartel through numerous European banks.

In June 1990, Jurado and two Colombian associates were arrested. Luxembourg officials requested the freezing of accounts in Luxembourg, Germany, Great Britain, Denmark, Finland, France, Israel, Italy, Monaco, The Netherlands, Austria, Sweden and Hungary. The Drug Enforcement Administration subsequently requested the freezing of these accounts and others in the United States, Panama, Uruguay, Spain, the Cayman Islands and Montserrat. Over \$70 million has been frozen. Jurado and his associates are awaiting trial in Luxembourg in 1991.

The criminal's predilection for dealing in cash and the imperative to get that cash into the legitimate economy so that it can be translated into goods and services is a characteristic that pervades the organized drug trafficking organization. The need to launder large amounts of "dirty" money is in fact the "Achilles' heel" of these criminal enterprises.

In June 1986, "Operation Man," a cooperative effort between American and British Virgin Islands law enforcement, began as a result of the seizure of voluminous financial records in Tortola, British Virgin Islands, by detectives of New Scotland Yard. All of the financial records were related to offshore corporations which had been set up by a British accountant at the instruction of United States based attorneys. These attorneys were acting as representa-

tives of United States drug traffickers in a scheme to launder drug proceeds.

Initially, the investigations of five separate United States based narcotics organizations were commenced. Law enforcement officials, with the cooperation of a British accountant, were able to identify the actual beneficial owners of the offshore corporations, as well as their attorney-conspirators. As of October 1, 1990, the five investigations of "Operation Man" had reported massive asset seizures.

The Bell Garden Bicycle Club in Los Angeles is among the assets seized as a result of these investigations. The Club is valued at \$150 million with an annual net income of approximately \$290 million. As this investigation continues, it is anticipated that an additional \$6.8 million in assets will be seized in Fiscal Year 1991.

---

*" The investigations handled today are larger and more complex than ever, not only in terms of the volume of drugs seized and the number of arrests, prosecutions, and convictions, but more important, in the Government's ability to get to the international kingpins -- wherever they are -- and to dismantle entire organizations by destroying their financial base through asset seizure and forfeiture."*

*Attorney General Dick Thornburgh  
Drug Trafficking: A Report to the  
President of the United States  
August 3, 1989*

---

Uncovering the financial networks of these illegal operations is an invaluable tool in piecing together the details of organizational relationships in the drug trafficking world.

Evidence is often found in the course of the financial investigation which allows for the immediate seizure of a kingpin's assets. Often the search for a criminal's assets can provide the basis for bringing currency and tax violation charges as well.

Federal agents in the Los Angeles area supported by a task force of local police departments raided a warehouse which resulted in the seizure of over \$12 million in cash, 21 metric tons of cocaine, assorted vehicles, equipment and records. Based upon the confiscated records, the Drug Enforcement Administration was able to seize real property in El Paso, Texas and Las Cruces, New Mexico valued at over \$5 million. This seizure represented the largest cocaine seizure on record.



**(This page intentionally left blank)**

# V

## Priority Two: Enhanced Cooperation

Federal, State, Local and International Law Enforcement  
and

Equitable Sharing of Federal Forfeiture Proceeds

---

The very reason that drug traffickers and money launderers are in business is to make a profit. The dismantling of the financial networks that support criminal enterprises is essential to stopping their illegal activities.

The concept behind the Department of Justice's equitable sharing program is that State, local, and international law enforcement agencies that assist the United States in securing the forfeiture of criminal assets deserve to share equitably in the fruits of those forfeitures. It has been clearly demonstrated that equitable sharing fosters improved cooperation among law enforcement at all levels. The increased assistance of State, local, and foreign law enforcement is a major factor in the dramatic increase in federal forfeitures.

The Department equitably shares both funds as well as tangible property (e.g. vehicles and equipment for official use) with cooperating agencies. These shared assets represent the "financial justice" component of the comprehensive effort to attack drug trafficking and other crimes.

The sharing of federal forfeiture proceeds with cooperating law enforcement agencies has been a dramatic success. In the last five years, more than **one-half billion dollars** has been shared. Sharing has increased eight-fold over the Fiscal Year 1986 level of \$22.5 million. In Fiscal Year 1990, equitable sharing was over \$200 million. The prospects for continued growth in the program are excellent.

---

*"The timeliness of the asset information provided by the Government of Colombia, its completeness and the speed of transmittal, was exemplary."*

*European Governments and their various banks have responded to our call as never before. Swift and decisive action -- not bureaucratic delay -- was the order of the day."*

*Attorney General Dick Thornburgh  
Press Release  
December 6, 1989*

---

### Background

In 1984, The Administration's Comprehensive Crime Control Act of 1983 was enacted. This legislation, proposed by the Department of Justice, authorized federal seizing agencies to share forfeited property with State and local law enforcement agencies that participated in the investigation resulting in the forfeiture.

Equitable sharing has fostered unprecedented cooperation of law enforcement at all levels.

## Equitable Sharing Procedures Joint Investigations

In joint investigations, the amount of the equitable share for each agency is determined on a case-by-case basis based on the overall level of participation of each agency.

The Department's ability to share is circumscribed by the statutory requirement that the share reflect the "degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort, with respect to the violation of law on which the forfeiture is based" 21 U.S.C. 881(e)(3).

In addition to the amount of manpower committed to the investigation, there are other factors which must be considered when determining the amount of the State or local agency's share. Federal decision makers must consider such things as: whether the agency originated the information that led to the seizure; whether the information was obtained fortuitously or by use of the agency's investigative resources; whether the agency initially identified the asset for seizure; whether the agency provided unique or indispensable assistance; and whether the agency could have achieved forfeiture under State law, with favorable consideration given to any agency that could have forfeited the asset on its own but which joined forces with the United States to make a more effective investigation.

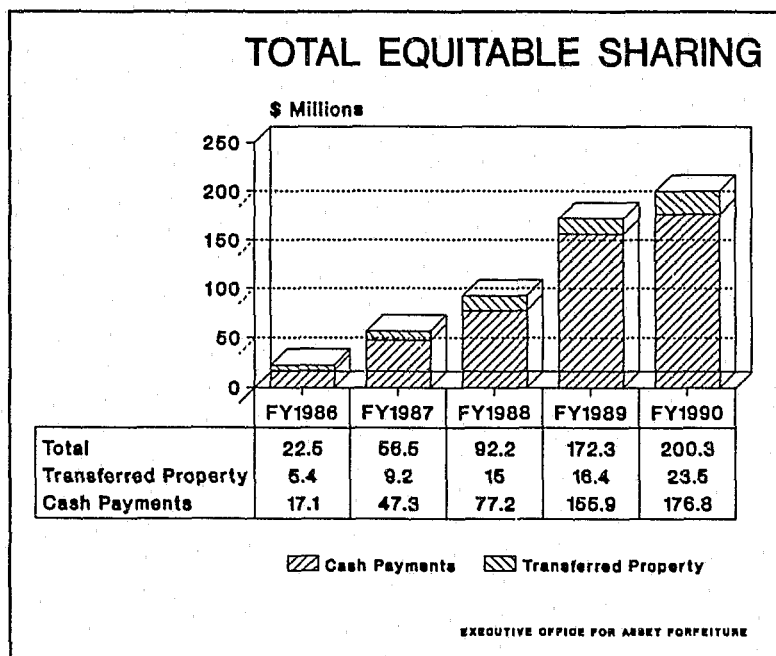
In a simple case where a local police department works with a federal investigative agency (e.g. the Drug Enforcement Administration) and both the police department

and the federal agency contribute an equal amount of time and effort to the case, the net proceeds of the forfeiture are divided evenly between the local police and the Department of Justice's Assets Forfeiture Fund.

## "Adoptive" Forfeiture Case

The second way in which a State and local agency can qualify for equitable sharing is to bring property it has seized under State law to a federal agency for federal forfeiture. Although the 1984 Crime Bill brought federal forfeiture into the modern era, many States still have ineffective forfeiture laws. To assist State and local agencies in their law enforcement efforts, the Department of Justice established a policy of "adopting" State and local seizures and using federal law to forfeit the property. If a violation of federal law as well as State law exists and the property is forfeitable under federal law, a federal seizing agency may "adopt" the State or local seizure.

Following federal forfeiture, the United States returns 85 percent of the net proceeds of the forfeiture in all "adoptive" cases to the State or local agency that seized the property. Fifteen percent is retained by the United States to cover its forfeiture costs. In the rare "adoptive" seizure that is forfeited in a contested judicial proceeding, the United States retains 20 percent of the net proceeds to help cover its costs.



## International Sharing

In 1986 and 1988, Congress passed and then strengthened legislation authorizing the United States to share forfeited property with cooperating foreign governments that assist in a case leading to a forfeiture. The United States has entered into several international agreements and Mutual Legal Assistance Treaties which encourage the international sharing of forfeited property.

The first equitable sharing arrangements with foreign countries involved Canada and Switzerland which assisted United States law enforcement efforts by freezing the assets belonging to Banco de Occidente, which was laundering drug profits. The bank pled guilty to money laundering and forfeited \$5 million. Each country received \$1 million in equitable sharing.

Numerous cases with international sharing potential are in progress. Altogether, field investigators and prosecutors have identified hundreds of millions of dollars of potentially forfeitable property located in foreign countries. Recovery, forfeiture and sharing of these properties is being aggressively sought.

**(This page intentionally left blank)**

# VI

## Priority Three: Revenues for the War on Crime

---

### Background

During the 1970's, Congress enacted several major statutes -- Racketeer Influenced and Corrupt Organizations (18 U.S.C. 1961 *et seq.*), Continuing Criminal Enterprise (21 U.S.C. 848), and civil forfeiture (21 U.S.C. 881) -- that enabled the Federal Government to attack the economic base of criminal organizations. However, there were few forfeitures by early 1980.

In May 1983, the Deputy Attorney General commissioned a study of the Department's forfeiture program. Among the study's findings was that the lack of a suitable funding mechanism for forfeiture-related expenses was the most far-reaching problem affecting the program. It was recommended that a special fund be established that would pay for storage, security, and other asset management expenses.

In July 1983, the General Accounting Office also recommended the creation of a special fund to pay costs of maintenance of seized property. This fund would remove the economic disincentive to seize property, *i.e.* to spend agency operating funds to protect assets from depreciation while in custody. It would also avoid diverting agency funds from law enforcement activities.

The Department of Justice Assets Forfeiture Fund was created by Section 310 of Title II of the Comprehensive Crime Control Act of 1984. The original statutes have been amended several times to add special uses. The authority for the Fund was rewritten entirely by Section 6072 of Title VI of the Anti-Drug Abuse Act of 1988, primarily to remove any appropriations limitation on the "business expenses" of the forfeiture program.

### Forfeitures in Fiscal Year 1990

In Fiscal Year 1990, \$460 million was deposited into the Department of Justice Assets Forfeiture Fund. Another \$43 million in forfeited property was pressed into official use by federal, State, and local law enforcement agencies. The deposits to the Forfeiture Fund represent forfeited cash and the proceeds from the sale of forfeited property and income from investment of Fund balances. Of the over \$500 million forfeited in Fiscal Year 1990, approximately \$376 million was from seizures of cash, bank accounts and other financial instruments. The balance was from seizures of other property.

Because property purchased with certain criminal proceeds is subject to forfeiture, there is a wide variety of forfeited items -- including motor vehicles, aircraft, boats, jewelry, businesses, art objects and even livestock and exotic animals -- in the U.S. Marshals Service inventory.

In order to achieve law enforcement goals, assets of little or no monetary value to the government, such as crack houses, are sometimes seized in order to shut down "drug supermarkets." The forfeiture of public housing leases used by drug dealers to conduct their illegal activities also serves a significant law enforcement purpose. In 1990, the United States Attorneys nationwide, in cooperation with Public Housing Authorities, sought to implement the provision in 21 U.S.C. 881(a)(7) which authorizes forfeiture of leasehold interests. Forfeiture can never replace the eviction process and there is no monetary gain as a result of these forfeitures. However, forfeiture is another method to remove drug dealers from public housing, and it is an important weapon in the government's anti-drug arsenal.

## Properties Under Seizure

At the close of Fiscal Year 1990, the U.S. Marshals Service had custody of over \$1.3 billion in seized property pending forfeiture. Of this amount, over \$348 million was in the form of cash deposited in the Seized Asset Deposit Fund Account, a special holding account in the U.S. Treasury. Another \$65 million was on deposit in other accounts or being held as evidence. Over \$630 million was in the form of real estate and businesses, and the remainder consisted of other forms of personal property.

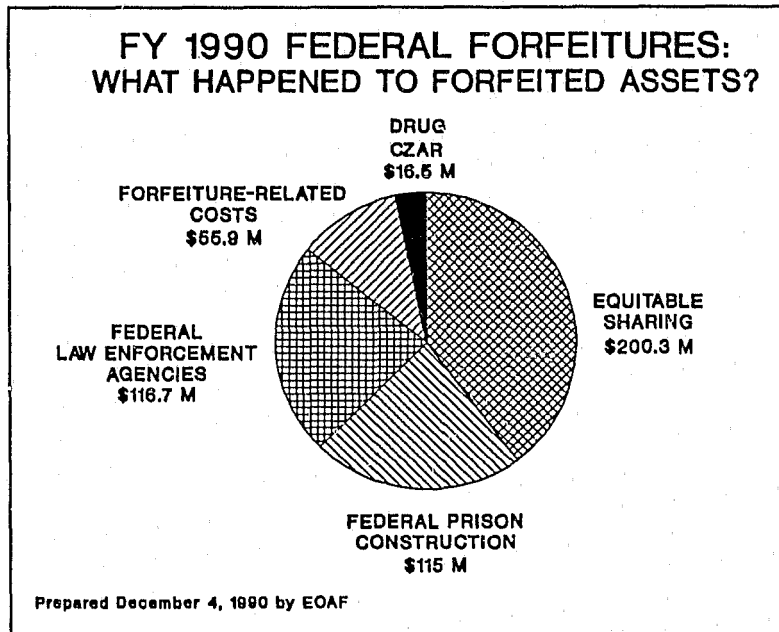


Exhibit 6.1

## Uses of the Assets Forfeiture Fund

Pursuant to 28 U.S.C 524(c), the Attorney General has discretion to use the Fund to pay any necessary expense associated with the seizure, detention, management, forfeiture, and disposal of seized property.

Payments and reimbursements are permitted in six general categories. The categories, listed in order of priority, are:

1. Asset Management Expenses: These are expenses incurred in connection with the seizure, inventory, appraisal, packaging, movement, storage, maintenance, security and disposition of property (including destruction of contraband). Asset management expenses can also include payments for contract services to operate and manage properties.
2. Case Related Expenses: These are expenses that are incurred in connection with normal forfeiture proceedings. They include fees, costs of advertising, court reporting, expert witness fees, courtroom exhibit services, travel and subsistence related to a specific proceeding. If the case involves real property, employment of

attorneys or other specialists in State real property law are covered in this category. In addition, the Deputy Attorney General can approve expenses for retention of foreign counsel.

3. Payment of Qualified Third-Party Interests: Valid liens, mortgages and debts owed to qualified general creditors are paid from the Fund. Claimants having an "innocent ownership" interest in property can recover their interest without incurring attorneys' fees by using the Department of Justice's petition for remission or mitigation process.

4. Equitable Sharing Payments: These payments are amounts paid to State, local, or foreign law enforcement agencies for their assistance in the forfeiture case. Equitable sharing payments must reflect the degree of direct participation in the law enforcement effort resulting in the forfeiture.

5. Program Management Expenses: Automated data processing, contract services for processing and accounting for assets and cases, training, and printing are included in this category.

6. Investigative Expenses: These include expenses incurred in the identification of assets subject to forfeiture, awards for certain types of information, equipping of conveyances for law enforcement functions, money for purchase of evidence, and expenses of the storage and destruction of controlled substances.

Monies from the Assets Forfeiture Fund are not meant to supplant but to augment appropriations for the same purposes and to fund forfeiture program expansion or unanticipated and emergency expenses. Program management and investigative expenses cannot exceed the amount specified in the annual appropriation limitation on the Fund.

## Transfers from the Assets Forfeiture Fund to the Federal Prison System 1988-1990

Public Law 100-690, the Anti-Drug Abuse Act of 1988, allows the Attorney General to transfer surplus deposits from the Assets Forfeiture Fund to the Federal Prison System's (FPS) Buildings and Facilities account for the construction of correctional institutions. In an austere budget environment, the Assets Forfeiture Fund has provided critical resources with which to continue the federal prison capacity expansion program. These Fund transfers have reduced the need for both new budget authority and supplemental appropriations.

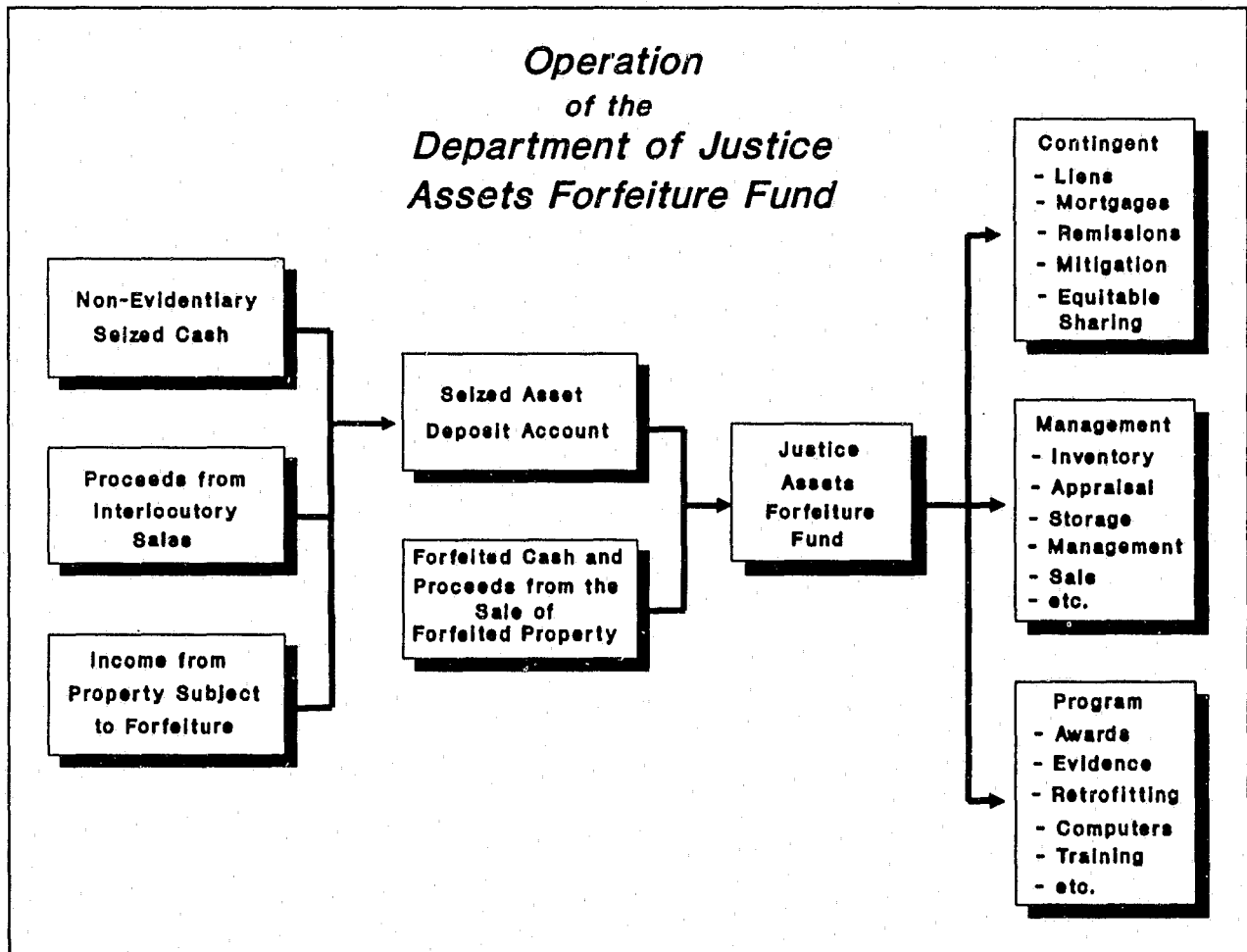


Exhibit 6.2



Since 1988, a total of \$491.5 million has been produced by the Asset Forfeiture Program for FPS' Buildings and Facilities appropriation. This represents nearly 20 percent of the funding the Bureau received in the Buildings and Facilities account from Fiscal Year 1988 to Fiscal Year 1990.

o Of this amount, a total of \$396.1 million was received to construct a total of 4,460 beds for sentenced offenders. This includes 1,400 beds at the Federal Prison Complex, Allenwood, Pennsylvania; 1,960 beds at the Federal Prison Complex, Florence, Colorado; and 1,100 beds at a Federal Prison Complex in Ohio.

o In addition, a total of \$40 million was received to construct a total of 650 beds to enable FPS to further assist the U.S. Marshals Service in housing federal detainees. This funding will construct 350 beds at the Puerto Rico Federal Detention Center and 150 beds each at the Detention Units at Tallahassee, Florida and Fort Worth, Texas.

o Also, \$49.4 million was transferred from the Fund in 1988 to restore funds which had to be reprogrammed to reconstruct the U.S. Penitentiary, Atlanta, Georgia, and the Federal Detention Center, Oakdale, Louisiana, following the Mariel Cuban riots in November and December 1987.

o Finally, \$6 million of Fund resources was used to upgrade the Lompoc, California camp from a Security Level 1 to a Security Level 2 facility.

---

*"It is truly satisfying to think that it is now possible for a drug dealer to serve time in a forfeiture-financed prison, after being arrested by agents driving a forfeiture-provided automobile, while working in a forfeiture-funded sting operation."*

*Attorney General Dick Thornburgh  
Speech before the City Club Forum Luncheon  
Cleveland, Ohio  
May 11, 1990*

---

# VII

## Program Accomplishments

---

### Program Accomplishments

In Fiscal Year 1990, the Department made considerable improvements to the forfeiture program's management and operations. The following represent the most significant actions:

#### Assessment of the Asset Forfeiture Program in its Entirety

- ◆ A revised assessable unit structure was established for the Asset Forfeiture Program to strengthen management control and to support an aggressive program of analysis and assessment.
- ◆ A continuous program of assessment was pursued involving all components.
- ◆ A wide-ranging program audit was conducted by the Office of the Inspector General.

#### Institution of Improvements through Changes in Policy or Procedure

- ◆ The Attorney General's Guidelines on Seized and Forfeited Property, the basic policy document for the Asset Forfeiture Program, were extensively revised and reissued in July 1990.
- ◆ A number of other policies and procedures were issued to improve program integrity and uniformity, including:
  - Policy regarding pre-seizure judicial review and uniform forms of process.
  - Policy encouraging the federal "adoption" of seizures made by State and local law enforcement agencies to assist them in their

anti-crime efforts and encourage cooperation.

- Policy regarding the seizure and forfeiture of potentially contaminated property.
- Policy regarding payment of State and local taxes on seized property.
- Policy regarding equitable sharing of proceeds of federal forfeitures.
- Policy regarding seizure of occupied real property.
- Procedures regarding the handling of seized financial instruments.
- Regulations prohibiting Departmental employees from purchasing or using property purchased by a spouse or dependent that was forfeited to the United States and offered for sale by the Department of Justice or its agents.
- Procedures regarding repatriation of foreign assets and international equitable sharing.

- ◆ Standard operating procedures were strengthened in the components.

#### Enhanced Oversight and Direction of the Assets Forfeiture Fund

- ◆ The first independent financial audits of the Assets Forfeiture Fund and the Seized Asset Deposit Fund were conducted by a certified public accounting firm, under contract to the Department's Office of the Inspector General, in accordance with generally accepted auditing standards. (See: Appendices D and E)

◆ A rigorous review of the Assets Forfeiture Fund allocation requests was conducted to ensure that all approved uses of the Fund were consistent with applicable law and regulation.

## Program Organization

◆ The assignment of functions between the Criminal Division's Asset Forfeiture Office and the Executive Office for United States Attorneys has been clarified.

◆ The Criminal Division's Asset Forfeiture Office has been reorganized.

◆ Drug Enforcement Administration established Asset Removal Teams in the field.

◆ Recommendations have been made regarding reorganizing the permanent management structure of the forfeiture program.

## Development and Implementation of an Integrated Asset Forfeiture Information System

◆ Access to accurate, timely, and complete information on all seized assets and the status of these properties in the forfeiture process is necessary to effectively manage and operate the forfeiture program. Recognition that critical data was unavailable through current automated information systems resulted in the Attorney General's mandate to the Executive Office for Asset Forfeiture to evaluate the existing information management capabilities and to propose and develop a departmental information system for the forfeiture program.

◆ The requirements analysis, feasibility study, preliminary technical design, project schedule, and funding proposals were completed for the new integrated asset forfeiture information system. Specific milestones were established to permit aggressive monitoring of system development to assure that the project will be satisfactorily completed on time.

◆ This new integrated system will replace the individual and disparate asset forfeiture systems currently in use in each of the agencies participating in the program. This system will eliminate the significant redundancy of data entry and asset tracking. The

new system will include features that facilitate electronic communication and exchange of information between agencies. The main focus will be to satisfy all of the agencies' operational information requirements in a single system which will ensure that cross-organizational information will be available to fulfill management requirements.

◆ The decision to proceed with detailed design and development has been made and initial project funding has been committed. It is currently estimated that the development and implementation of this system will take 30 months at an overall cost of \$24 million.

## Other program improvements

◆ The total number of properties under seizure rose by 35 percent.

◆ Assets Forfeiture Fund deposits increased from \$358 million (excluding the \$222 million from the Drexel Burnham Lambert case) to \$460 million in Fiscal year 1990, a 28 percent increase.

◆ The backlog of Drug Enforcement Administration administrative forfeitures older than 120 days was reduced by 65 percent.

◆ The average processing time for administrative forfeitures in Drug Enforcement Administration was reduced by over 60 percent to 92 days.

◆ Deposits to the Assets Forfeiture Fund from U.S. Marshals Service property sales increased by 49 percent, from \$58.9 million in Fiscal Year 1989 to \$87.9 million in Fiscal Year 1990.

◆ The backlog of pre-1988 judicial equitable sharing requests in judicial cases was reduced by 29 percent.

◆ The number of Immigration and Naturalization Service seizures increased by 60 percent from Fiscal Year 1989 to Fiscal Year 1990.

◆ Instituted multi-component training programs whereby representatives of each participating agency are cross-trained.

◆ A project to make asset forfeiture forms used by all components as uniform as practicable is underway.

## Utilization of Contract Employees

◆ In July 1988, the Department of Justice entered into a contract through the Small Business Administration with EBON Research Systems to provide supplemental support personnel to perform asset forfeiture work for the participating components of the Department's Asset Forfeiture Program. EBON was a minority owned small business located in Washington, D.C.

◆ Contract personnel perform data analyst work, reviewing forfeiture case files to ensure accuracy and completeness of the materials; data entry work; and paralegal work, researching legal issues and financial information. The general prohibition against "personal services" contracts necessitated that contract employees serve under an EBON "project supervisor" who both oversees the work under the contract and does forfeiture work. The supervisor acts as liaison between government personnel and the EBON employees.

◆ Pursuant to Office of Management and Budget regulations, EBON recruits, tests, hires, trains, assigns, pays and provides benefits and leave, addresses performance problems, and when necessary terminates contract employees.

◆ In Fiscal Year 1990, EBON contract employees were on board in offices of the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, the U.S. Marshals Service, the United States Attorneys, and the Criminal Division. Approximately \$17.7 million was spent to provide contract employees to these components. By the end of the Fiscal Year, approximately 500 employees were on-board.

**(This page was intentionally left blank)**

# Appendix A

## Department of Justice Assets Forfeiture Fund Statement of Income and Expenses Fiscal Year 1990

(October 1, 1989 through September 30, 1990)

<u>BALANCE, START-OF-YEAR</u>		\$ 18,598,045
<u>DEPOSITS:</u>		
From forfeited cash	\$376,441,512	
From sale of forfeited property	87,918,713	
From investment of balances	<u>8,487,926</u>	
Gross deposits	472,848,151	
Less refunds	<u>(13,285,318)</u>	
Net deposits - FY 1990	459,562,833	<u>459,562,833<sup>1</sup></u>
Total available for appropriation		478,160,878
<u>EXPENSES OF PRODUCTION:</u>		
Asset Management and Disposal	(36,186,968)	
Payments to Third Parties	(12,698,054)	
Forfeiture Case Prosecution	(7,068,137)	
ADP Equipment	(12,401,000)	
Special Contract Services	(17,688,000)	
Forfeiture Training & Printing	(4,128,127)	
Other Program Management	<u>(657,000)</u>	
Total forfeiture program expenses	(90,827,286)	(90,827,286)
<u>EXCESS OF REVENUES OVER EXPENSES:</u>	368,735,547	
<u>DISTRIBUTIONS OF EXCESS REVENUES:</u>		
Equitable sharing payments	(176,780,412)	
Awards for information	(25,431,873)	
Purchase of evidence	(10,839,000)	
Contracts to identify assets	(500,000)	
Equipping of conveyances	(24,568,000)	
Storage, protection & destruction of drugs	(885,000)	
Transfer to Special Forfeiture Fund	<u>(131,524,039)</u>	
Total distributions	(370,528,324)	(370,528,324)
Adjustments to prior years - net	<u>(1,170,408)</u>	<u>(1,170,408)</u>
Change in Fund balance - FY 1990	(2,963,185)	
FUND BALANCE, END-OF-YEAR		\$15,634,860

<sup>1</sup>Department of Justice accounting reports reflect late deposits of \$731,185 not captured by the Treasury Department, for total income of \$460,294,018.

# FINANCIAL STATEMENT

## FISCAL YEAR 1990

### Summary of Financial Activity for Fiscal Year 1990

The financial statement on page 39 summarizes financial activity for Fiscal Year 1990, the highlights of which are described below.

**Sources of receipts (\$459,562,833).** Forfeited cash accounted for \$376.4 million, or 80 percent of income to the Fund; receipts from forfeiture sales accounted for \$87.9 million, or 18 percent of income to the Fund; and receipts from investment income accounted for \$8.5 million, or 2 percent of income to the Fund. Refunds totaled \$13.3 million.

**Liens and mortgages (\$12,698,054).** The total amount of liens and mortgages paid from the Fund may appear low in comparison to total receipts. This is because, as a general rule, valid liens or mortgages are deducted from gross sales proceeds before the proceeds are deposited to the Fund.

Also included in the amount reported are payments from the Fund in connection with the remission or mitigation of a forfeiture, in accordance with procedures outlined at 28 C.F.R. Part 9.

**Equitable sharing payments (\$176,780,412).** Equitable sharing payments represent the transfer of portions of federally forfeited cash and sale proceeds to State and local law enforcement agencies that assisted in targeting or seizing the property. Most task force cases, for example, result in property forfeitures whose proceeds are shared among the participating agencies. Of the \$176.8 million obligated for equitable sharing payments, \$165.7 million had been disbursed by September 30, 1990.

**The estimated value of property forfeited in FY 1990 with respect to which funds were not deposited in the Fund.** In addition to the authority to sell property forfeited under laws enforced or administered by the Department of Justice, the Attorney General is also authorized to retain forfeited property for official use, and to transfer forfeited property to another federal agency or to any State or local law enforcement agency that participated directly in the seizure or forfeiture of the property.

In Fiscal Year 1990, federally forfeited conveyances and other tangible personal property worth approximately \$23.5 million were transferred to State and local law enforcement agencies that assisted in targeting or seizing the property through equitable sharing.

Approximately \$18.1 million worth of conveyances and personal property were retained for official use by the Drug Enforcement Administration, Federal Bureau of Investigation, Immigration and Naturalization Service, Internal Revenue Service, United States Postal Service, and the U.S. Marshals Service (see Appendix B). While the Internal Revenue Service, the United States Postal Service, and the Bureau of Alcohol, Tobacco and Firearms are non-Justice agencies, they have entered into reimbursement agreements with the Department allowing for reimbursement of expenses incurred in the seizure and forfeiture of property under certain statutes enforced by these agencies.

Approximately \$1.4 million in forfeited property was transferred to non-participating federal agencies by the Department of Justice.

**Defendants' equity in property valued at \$1,000,000 or more.**

Forty-seven properties, each valued at more than \$1,000,000, were in custody at the end of fiscal year 1990 (September 30, 1990). The potential government equity in these properties is \$95.8 million, or 62 percent of the total appraised value of \$153.8 million.

Appendix B provides a listing of these 47 properties; identifies known claimants' and lienholders' interests in the properties; and identifies the resulting potential "net equity" if the properties are forfeited and sold.

**Amount of seized cash being held as evidence.** Most of the cash seized by the Department of Justice was used in or derived from violations of the Controlled Substances Act. The Department of Justice has custody of the cash until the seizing agency, through internal administrative procedures, or a federal district court, through a civil or criminal proceeding, determines if the money should be forfeited to the United States or must be returned to the person from whom it was seized or to another innocent party.

Department of Justice policy requires that, unless there are compelling reasons to retain seized cash as evidence in a criminal proceeding, it must be deposited in the U.S. Treasury's Seized Asset Deposit Fund (SADF) account.

In Fiscal Year 1990, the balance in the SADF increased by 24 percent, from \$282.2 million on September 30, 1989 to \$348.8 million on September 30, 1990.

On September 30, 1990, the amount of seized cash subject to forfeiture being held by seizing agencies totalled \$28.1 million. Of this amount, \$22.0 million was being held by the Internal Revenue Service in judicial forfeiture cases. A significant portion of this total represents recent seizures awaiting processing for deposit. Therefore, the participating agencies are doing an exceptional job in managing cash seizures.



# Appendix B

---

## Real Properties on Hand as of September 30, 1990 Valued at or Above \$1,000,000.00 U.S. Marshals Service

### Northern District of Georgia 89-CV-2108

Heart of Decatur Motel  
245 Trinity Place, Decatur, Georgia

Appraised Value: \$1,200,000  
Liens: \$1,000,000

Status: An Order for Interlocutory Sales has been issued and the property has been listed for sale. No viable offers have been received to date.

### Northern District of Illinois

On Leong Chinese Merchants Association  
2216 South Wentworth  
Chicago, Illinois

Appraised Value: \$2,100,000  
Liens: None

Status: The property was forfeited 1/18/90, an appeal of the forfeiture was made and on 11/14/90 the Seventh Circuit Appeals Court upheld the forfeiture. Sales preparations are proceeding and an updated appraisal has been ordered. Claimants still have the option to appeal to the Supreme Court or ask for rehearing. The United States Attorney's Office will advise when to proceed with sale. To date, all management expenses have been covered by rentals.

### Middle District of Florida 82-3-CR-OC

Dovetail Villas Apartment Complex  
Orlando, Florida

Appraised Value: \$3,420,000  
Liens: None

Status: A sealed bid sale was conducted on June 8, 1990, to dispose of subject property. Minimum bid requirement was \$3.2 million. No acceptable offers were received. A significant Seized Property Decision is being prepared to sell property.

**District of Puerto Rico S-87-CR-593(NY)**

Tower Plaza Mall  
Puerto Rico

Appraised Value: \$5,600,000  
Liens: \$4,000,000

Status: Defendant appealed sentence to the Circuit Court on one count of the sentence. Circuit Court remanded case back to District Court for resentencing on one count. Until resentencing of defendant and expiration of appeal period, the U.S. Marshal cannot dispose of this property.

**Southern District of Florida 87-6812**

Mobile Home Sales  
Ft. Lauderdale, Florida

Appraised Value: \$1,953,000  
Liens: \$1,400,000

Status: This property was forfeited on February 27, 1989 and has been marketed for sale. To date, no viable offers have been received.

**Southern District of Florida 88-12081**

Ranch Rt. 27  
The Peoples Ranch  
Lake Placid, Florida

Appraised Value: \$2,000,000  
Liens: None

Status: This property is pending forfeiture.

**Southern District of Florida**

Ft. Apache Marina  
Miami, Florida

Appraised Value: \$4,200,000  
Liens: \$3,344,836

Status: This property was sold on April 27, 1989 for \$4,130,000 by Interlocutory Sale, pending forfeiture.

**Southern District of Florida 88-12082**

SJ&W Ranch  
Morehaven, Florida

Appraised Value: \$4,000,000  
Liens: None

Status: Pending forfeiture.

**Middle District of Florida 89-772-CIV**

1,100 acres  
Lake County, Florida

Appraised Value: \$3,000,000  
Liens: None

Status: United States Attorney is in process of dismissing this case.

**Southern District of Florida 809-1210**

3500 NW 79th Avenue  
Miami, Florida

Appraised Value: \$1,000,000  
Liens: \$650,000

Status: This property is pending forfeiture.

**Southern District of Florida 90-0306**

85 Grand Canal Drive  
Miami, Florida

Appraised Value: \$1,600,000  
Liens: Defendant Martinez has cross-collateralized all of his property. Property estimated value in this and the criminal case \$22 million. Liens are \$18 million. Resolution Trust has one lien in these cases.

Status: This four-story office building was seized on February 5, 1990. This property is pending forfeiture.

**Middle District of Florida 90-294-FTM**

HWY 80 W (Rancho Santa Barbara)  
Clewiston  
Hendry County, FL

Appraised Value: \$3,500,000 (Estimated)  
Liens: Unknown

Status: Pending forfeiture. Seized 10-17-90

**Middle District of Florida 90-418-T**

6490 Erie Road  
Parish  
Manatee County, Florida

Appraised Value: \$4,510,000  
Liens: Unknown

Status: Pending forfeiture. Seized 4-13-90

**Southern District of Florida 89-0341C**

7020 Mira Flores Avenue  
Dade County  
Coral Gables, Florida

Appraised Value: \$2,250,000  
Liens: \$400,000

Status: Pending forfeiture. Seized 5-8-90

**Southern District of Florida 89-0341C**

Leomar Homes (Excl Phase I)  
Miami, Florida

Appraised Value: \$20,000,000  
Liens: \$18,000,000

Status: Pending forfeiture. Seized 6-14-90

**Southern District of Florida 90-1250**

Tract C, Less N. 629.74 feet  
Miami, Florida

Appraised Value: \$1,190,000  
Liens: None

Status: Pending forfeiture. Seized 6-18-90

**Southern District of Florida 90-1831**

485 W. Matheson Drive  
Key Biscayne  
Dade County, Florida

Appraised Value: \$4,000,000  
Liens: \$2,005,000

Status: Pending forfeiture. Seized 8-9-90

**Southern District of Florida 90-2253**

12300-12316 S.W. 131st Avenue  
Dade County  
Miami, Florida

Appraised Value: \$1,140,000 (Estimated)  
Liens: None

Status: Pending forfeiture. Seized 10-25-90

**Southern District of Florida 90-6192**

7260 Lago Drive  
West Coral Gables  
Dade County, Florida

Appraised Value: \$1,250,000  
Liens: None

Status: Pending forfeiture. Seized 4-9-90

**Western District of Texas**

Alta Mesa II Shopping Mall  
6600 North Mesa  
El Paso, Texas

Estimated Value: \$3,400,000  
Liens: \$3,227,241

Status: An order for Compromise and Settlement was filed 11-18-90 in which the mall will be returned to the claimant within 90 days upon receipt of \$167,000.

**Western District of Texas**

Residential and Undeveloped Land  
1070 Gardner Road and 6636 Gato Road  
El Paso, Texas

Estimated Value: \$1,215,000  
Liens: \$2,000

Status: Pending Settlement Agreement.

**Eastern District of Texas**

Parcel of Land Known as the ND-20 Ranch  
Collin County  
Plano, Texas

Estimated Value: \$5,200,000  
Liens: \$927,740

Status: Pending forfeiture.

**District of Connecticut H-89CV0605**

Hotel  
470-478 E. Main Street  
Brandford, Connecticut

Appraised Value: \$4,000,000  
Liens: \$3,384,020  
Status: Pending forfeiture.

**District of Massachusetts 87-0459**

Office Building  
384-390 W. Broadway  
Boston, Massachusetts

Appraised Value: \$1,000,000  
Liens: \$650,000

Status: Forfeited to Government subject to interest of claimants. United States Attorney working to resolve claims of interested parties.

**District of Massachusetts CA-88-398**

Fish Processing Plant  
Greene & Wood Pier  
New Bedford, Massachusetts

Appraised Value: \$1,100,000  
Liens: \$500,000

Status: Court action has been stayed pending criminal prosecution of a companion case.

**Eastern District of New York CA-89-3470**

Restaurant  
26 Bowery Street  
New York, New York

Appraised Value: \$2,000,000  
Liens: \$850,000

Status: This property was forfeited on December 14, 1989. Contract for sale pending. Contract sale amount \$2.2 million. Problem with closing, cannot get title insurance for purchaser.

**Southern District of New York 89-2370**

Four Guys Shopping Center  
New Windsor, New York

Appraised Value: \$1,400,000  
Liens: \$700,000

Status: Pending forfeiture.

**Southern District of New York 89-5809**

38 Griffin Avenue  
Scarsdale, NY

Appraised Value: \$1,010,000  
Liens: None  
Status: Pending forfeiture.

**Middle District of Pennsylvania CA-90-0120**

2,724.36 Acres  
Lackawaxen Pike

Appraised Value: \$3,024,346 (Estimated Value)  
Liens: Unknown

Status: Pending forfeiture.

**District of Rhode Island CA-89-0603**

Great Harbor Neck  
New Shoreham, New York

Appraised Value: \$1,854,000  
Liens: None

Status: Pending forfeiture.

**Eastern District of Virginia CR-85-00010-A**

Shelburne Glebe Estate  
Loudon County, Va.

Appraised Value: \$6,8000,000 (10 Parcels)  
Liens: None

Status: Seven out of ten parcels auctioned off December 1, 1990 for \$2.75 million. Pending closing.

**District of Hawaii 90-1031-1-1**

Greenback Property

Estimated Value: \$1,265,000  
Liens: \$240,000 (Unvalidated)

Status: Pending forfeiture.

**District of Hawaii N-89-397-1-1**

3457 Waikomo Road  
Hawaii

Estimated Value: \$1,750,000  
Liens: \$66,000

Status: Pending forfeiture.

**Central District of California**

Casino  
Bell Gardens, California

Appraised Value: \$24,000,000  
Liens: None

Status: This property was seized as a result of a criminal case in the Southern District of Florida, although the property is located in Central California. The government has 66 percent interest in this property. The United States Attorney's Office in Southern Florida is currently going through the ancillary hearing process.

**Eastern District of California N-89-397-5**

6668 W. Lake Blvd.  
Homewood, California

Appraised Value: \$1,100,000  
Liens: \$52,000

Status: Forfeited November 13, 1990, pending sale.

**Eastern District of California N-89-397-6**

1695 Squaw Summit  
Squaw Valley, California

Appraised Value: \$2,200,000  
Liens: \$600,000

Status: Forfeited November 13, 1990, pending sale.

**Eastern District of California N-89-397-9**

Hidden Lake Properties  
Lake Tahoe, California

Appraised Value: \$2,000,000  
Liens: Unknown

Status: Will be released, per court order, during the week of December 3, 1990.



**Northern District of California**

Ark Distributing Company  
Martinez, California

Appraised Value: \$1,460,000

Liens: \$48,489

Status: This property was criminally forfeited. Working with the Army Corps of Engineers for a contamination analysis in preparation of listing for sale. The final analysis is due mid-December.

**Central District of California 89-1124**

420 Lexington Dr.  
Los Angeles, California

Appraised Value: \$3,500,000

Liens: \$3,100,000

Status: Pending forfeiture.

**Central District of California 89-1694**

36780 Esplanade Ave.  
San Jacinto, California

Appraised Value: \$4,690,000

Liens: \$30,000

Status: Pending forfeiture.

**Central District of California 89-3560**

22 Santa Barbara Dr.  
Los Angeles, California

Appraised Value: \$1,300,000

Liens: \$350,000

Status: Forfeited January 2, 1990, awaiting escrow to close.

**Central District of California 89-5683**

9465 Hidden Valley Road  
Los Angeles, California

Appraised Value: \$2,000,000

Liens: None

Status: Pending forfeiture.

**Central District of California 90-0381**

82290 Avenue 61  
Thermal, California

Appraised Value: \$2,000,900

Liens: \$250,000

Status: Forfeited August 1, 1990, listed on market.

**Central District of California 90-3287**

1155 Kennymead St.  
Orange, California

Appraised Value: \$1,100,000

Liens: None

Status: Awaiting interlocutory sale order.

**District of Colorado 90-2411**

Rugs, Weavings, Textiles, Indiana Artifacts, Art objects

Appraised Value: \$2,717,279

Liens: Unknown

Status: Pending court order to return all property.

# Appendix C

---

## Estimated Value of Property Forfeited and Not Deposited to the Fund

1. Equitable Sharing Transfers -- \$23.5 million
2. Transferred to non-participating federal agencies -- \$1,420,468
3. Placed into official use by agency:
  - U.S. Marshals Service - \$1,432,056
  - Drug Enforcement Administration - \$8,681,413
  - Immigration and Naturalization Service - \$1,868,479
  - Federal Bureau of Investigation - \$6,074,076
  - U.S. Postal Service - \$91,543

### Money Seized for Forfeiture being held for Evidence

Drug Enforcement Administration - \$4,224,059  
Federal Bureau of Investigation - \$1,888,879  
Internal Revenue Service - 21,999,369  
U.S. Postal Service - \$0

**TOTAL - \$28,112,307**

# Appendix D

---

## Assets Forfeiture Fund Audited Financial Statement Fiscal Year 1989

DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND  
AUDITED FINANCIAL STATEMENTS  
YEAR ENDED SEPTEMBER 30, 1989

### TABLE OF CONTENTS

	<u>PAGE</u>
INDEPENDENT AUDITOR'S REPORT .....	1
EXHIBIT A - BALANCE SHEET .....	3
EXHIBIT B - STATEMENT OF REVENUE, EXPENSES AND CHANGES IN FUND BALANCE .....	4
EXHIBIT C - STATEMENT OF CASH FLOWS .....	5
NOTES TO FINANCIAL STATEMENTS .....	6

## INDEPENDENT AUDITOR'S REPORT

U.S. Department of Justice  
Washington, D.C. 20530

We have audited the accompanying balance sheet of the Department of Justice Assets Forfeiture Fund (AFF) as of September 30, 1989, and the related statements of revenue and expenses, changes in fund balances, and cash flows for the year then ended. These financial statements are the responsibility of the Department of Justice. Our responsibility is to express an opinion on these financial statements based on our audit.

Except as explained in the following paragraph, we conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards (1988 revision). Those standards require that we plan and perform the audit 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 audit provides a reasonable basis for our opinion.

As discussed in Notes 1 and 2, the AFF is managed by the United States Marshals Service which has entered into reimbursable agreements with various component organizations of the Department of Justice as well as the U.S. Postal Service. For the fiscal year ended September 30, 1989, these governmental organizations billed the AFF for expenses totalling approximately \$62,000,000 which are included in the accompanying financial statements. We were unable to examine the underlying documentation which supports the billed expenses.

In our opinion, except for the effects of such adjustments, if any, as might have been determined to be necessary had we been able to examine evidence regarding the expenses reported pursuant to the reimbursable agreements, the financial statements referred to in the first paragraph above present fairly in all material respects, the financial position of the Department of Justice Assets Forfeiture Fund as of September 30, 1989, and the results of its operations and its cash flows for the year then ended in conformity with generally accepted accounting principles.

*Brown & Company*

May 30, 1990  
Washington, D.C.

DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND  
BALANCE SHEET  
SEPTEMBER 30, 1989

ASSETS

Fund balance with U.S. Treasury - Cash	\$ 68,111,268
Investment, Less Discount (Note 2d)	67,247,511
Advances to Contractors	<u>10,413</u>
Total Current Assets	135,369,192
Equipment (Note 2e)	<u>3,003,681</u>
TOTAL ASSETS	\$138,372,873 =====

LIABILITIES AND FUND BALANCES

Liabilities:	
Accounts Payable - Public (Note 4a)	\$ 66,128,924
Accounts Payable - Federal (Note 4b)	<u>420,204</u>
Total Current Liabilities	<u>66,549,128</u>
Fund Balances:	
Undesignated (Note 5)	67,121,232
Designated-Undelivered Orders	<u>1,698,832</u>
	68,820,064
Investment in Equipment	<u>3,003,681</u>
Total Fund Balances	<u>71,823,745</u>
TOTAL LIABILITIES AND FUND BALANCES	\$138,372,873 =====

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

DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND  
STATEMENT OF REVENUE, EXPENSES AND CHANGES IN FUND BALANCE  
FOR THE YEAR ENDED SEPTEMBER 30, 1989

REVENUE

Assets Forfeited to the U.S. Government	\$ 576,139,510
Interest on Investments	<u>4,484,859</u>
Total Revenue	<u>580,624,369</u>

EXPENSES

Operating Program Costs	273,784,738
Interest on Late Payments (Note 3)	<u>1,180</u>
Total Expenses	<u>273,785,918</u>
Excess Revenue Over Expenses	306,838,451
Transfers (Note 1g)	<u>(261,232,000)</u>
Net Revenue, after transfers	<u>45,606,451</u>
Fund Balance, September 30, 1988	24,579,658
Adjustment of Fiscal Year 1988 Income	<u>(1,366,045)</u>
Fund Balance, September 30, 1988, restated	<u>23,213,613</u>
FUND BALANCE, SEPTEMBER 30, 1989	<u>\$ 68,820,064</u> =====

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



DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED SEPTEMBER 30, 1989

## Cash Flows from Operating Activities:

Cash from Forfeited Assets, Net	\$ 574,773,465
Interest Received	4,484,859
Cash Paid to Vendors and Other Agencies	(240,753,701)
Cash Transferred to Other Agencies	<u>(261,232,000)</u>

Net Cash provided by Operating Activities 77,272,623

## Cash Flows from Investing Activities:

Purchase of Investment Securities, Net (67,247,511)

Net Increase in Cash 10,025,112

Cash, September 30, 1988 58,086,155

CASH, SEPTEMBER 30, 1989 \$ 68,111,267

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

DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND  
NOTES TO FINANCIAL STATEMENTS  
SEPTEMBER 30, 1989

Note 1 BACKGROUND INFORMATION

The Department of Justice Assets Forfeiture Fund (the AFF) was established pursuant to the Comprehensive Crime Control Act of 1984 (Public Law 98-473) and became operational after approval of the Supplemental Appropriation Act of 1985 (Public Law 99-88) on August 15, 1985. The Assets Forfeiture Fund is essentially a revolving fund financed by forfeited cash and forfeited assets seized by the federal government. Its primary purpose is to ensure a source of funding for seizure and forfeiture-related expenses which would otherwise be funded by taxpayer dollars.

The AFF is available to the U.S. Attorney General without fiscal year limitation for the following purposes of the Department of Justice:

- a. Payments of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property;
- b. Payments of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;
- c. Payments of awards for information or assistance leading to a civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention & Control Act of 1970 or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations Statute.
- d. Compromise and payments of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice and the employment of attorneys and other personnel skilled in state real estate law as necessary;
- e. Disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice;

DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND  
NOTES TO FINANCIAL STATEMENTS  
SEPTEMBER 30, 1989

- f. Equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration & Naturalization Service, or the United States Marshals Service;
- g. Purchases of evidence of any violation of the Controlled Substances Act, and the Controlled Substances Import & Export Act;

After all reimbursements and program-related expenses have been met at the end of fiscal year 1989, the Attorney General may transfer deposits from the AFF to the building and facilities account of the Federal Prison System for the construction of correctional institutions. During the year ended September 30, 1989, \$229 million was transferred to the Bureau of Prisons, \$30 million was transferred to the United States Attorney's Office, and \$2.2 million was rescinded under a Department of Treasury appropriation warrant pursuant to Public Law 101-45.

NOTE 2 SIGNIFICANT ACCOUNTING POLICIES

- a. Entity  
The accompanying balance sheet and related financial statements of the Department of Justice Assets Forfeiture Fund include the accounts of all forfeited funds under the direct control of the United States Marshals Service. They do not include funds subject to forfeiture currently held in the Seized Asset Deposit Fund.
- b. Revenue and Expenditure Recognition  
Revenue is recognized when cash has been forfeited or forfeited property has been sold under (a) any criminal forfeiture proceeding; (b) any civil judicial forfeiture proceeding; or (c) any civil administrative forfeiture proceeding conducted by the Department of Justice. No revenue recognition is given to any cash deposited in the Seized Asset Deposit Fund which is still subject to forfeiture. Expenditures are recognized on the accrual basis of accounting whereby expenses are accrued when goods have been delivered or when services have been rendered.

DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND  
NOTES TO FINANCIAL STATEMENTS  
SEPTEMBER 30, 1989

- c. Fund Balance With U.S. Treasury  
This amount represents the cash balance in the Assets Forfeiture Fund (86 x 5042) at September 30, 1989.
- d. Marketable Securities  
At September 30, 1989, this amount represents 13-day, 6.88 percent interest bearing U.S. Treasury bills, held by the U.S. Bureau of Public Debt.
- e. Property & Equipment  
Property and Equipment additions are valued at cost. Expenditures of \$5,000 and over and certain expenditures under \$5,000 for computer equipment are capitalized. Normal repairs and alterations are expensed as incurred.

NOTE 3 INTEREST ON LATE PAYMENTS

This amount represents payments made pursuant to Public Law 97-177, as amended (The Prompt Payment Act), which requires Federal agencies to pay interest on payments for goods and services made to business concerns after the due date.

NOTE 4 ACCOUNTS PAYABLE

- a. Accounts Payable - Public  
This balance at September 30, 1989, includes payments due to vendors contracted to perform services relative to maintaining seized assets, equitable sharing payments due to local law enforcement agencies, and amounts due to contractors which will be reimbursed to the various component organizations of the Department of Justice pursuant to reimbursable agreements.
- b. Accounts Payable - Federal  
This balance represents reimbursements to a governmental organization which were transferred by the U. S. Marshals Service but not by the Treasury.

NOTE 5 UNDESIGNATED FUND BALANCE

At September 30, 1989, \$67,121,232 of the AFF was unencumbered and available for obligation or transfer.

DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND  
NOTES TO FINANCIAL STATEMENTS  
SEPTEMBER 30, 1989

NOTE 6 SUBSEQUENT EVENTS

- a. During the first quarter of fiscal year 1990 an additional \$52,121,232 was transferred from the AFF to the Bureau of Prisons.
- b. Title 28 of the United States Code, paragraph 524 provides that at the end of each of fiscal years 1990, 1991, and 1992, unobligated amounts not to exceed \$150,000,000 remaining in the Assets Forfeiture Fund shall be deposited into the Special Forfeiture Fund. Monies in the Special Forfeiture Fund may be used for any purposes necessary for the accomplishment of the National Drug Strategy, as authorized in annual appropriation Acts.

# Appendix E

---

## Seized Asset Deposit Fund Audited Financial Statement Fiscal Year 1989

DEPARTMENT OF JUSTICE SEIZED ASSET DEPOSIT FUND  
AUDITED FINANCIAL STATEMENT  
YEAR ENDED SEPTEMBER 30, 1989

### TABLE OF CONTENTS

	<u>PAGE</u>
INDEPENDENT AUDITOR'S REPORT .....	1
BALANCE SHEET .....	2
NOTES TO FINANCIAL STATEMENT .....	3

INDEPENDENT AUDITOR'S REPORT

U.S. Department of Justice  
Washington, D.C. 20530

We have audited the accompanying balance sheet of the Seized Asset Deposit Fund as of September 30, 1989. This financial statement is the responsibility of the Department of Justice. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards (1988 revision). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the balance sheet is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the balance sheet. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall balance sheet presentation. We believe that our audit of the balance sheet provides a reasonable basis for our opinion.

In our opinion, the balance sheet referred to above presents fairly, in all material respects, the financial position of the Seized Asset Deposit Fund as of September 30, 1989, in conformity with generally accepted accounting principles.

*Brown & Company*

May 30, 1990  
Washington, D.C.

DEPARTMENT OF JUSTICE  
SEIZED ASSET DEPOSIT FUND  
BALANCE SHEET  
SEPTEMBER 30, 1989

ASSETS

Fund Balance with U.S. Treasury (Note 2)	\$281,245,592
Receivable/In Transit (Note 3)	<u>1,002,560</u>
TOTAL ASSETS	<u>\$282,248,152</u> =====

LIABILITIES

Funds Held on Deposit (Note 1)	<u>\$282,248,152</u>
TOTAL LIABILITIES	<u>\$282,248,152</u> =====

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



DEPARTMENT OF JUSTICE  
 SEIZED ASSET DEPOSIT FUND  
 NOTES TO FINANCIAL STATEMENT  
 SEPTEMBER 30, 1989

Note 1 BACKGROUND INFORMATION

The Seized Asset Deposit Fund is a holding account established for the temporary storage of cash subject to forfeiture and includes seized cash, proceeds from pre-forfeiture sales of seized property, and income from property under seizure. The funds are held in this account until the U.S. Marshals Service receives a declaration of forfeiture order or orders from the courts directing the Marshals Service to refund the seized cash to the owner. Upon forfeiture, the funds are transferred to the Assets Forfeiture Fund.

Listed below is a summary of the balances, by state, at September 30, 1989 held by the U.S. Marshals Service.

<u>State</u>	<u>Seized Cash</u>
Alabama	\$ 2,516,520
Alaska	525,559
Arizona	5,055,368
Arkansas	637,784
California	59,549,806
Colorado	1,352,295
Connecticut	1,344,080
Delaware	1,515,533
District of Columbia	1,462,933
Florida	32,877,553
Georgia	10,502,190
Hawaii	13,156,729
Idaho	277,970
Illinois	7,034,361
Indiana	1,521,036
Iowa	717,713
Kansas	642,130
Kentucky	1,820,827
Louisiana	2,848,040
Maine	156,544
Maryland	2,390,708
Massachusetts	2,613,126
Michigan	4,591,067
Minnesota	1,177,759
Mississippi	968,655
Missouri	4,232,940

DEPARTMENT OF JUSTICE  
 SEIZED ASSET DEPOSIT FUND  
 NOTES TO FINANCIAL STATEMENT  
 SEPTEMBER 30, 1989

NOTE 1

(CONTINUED)

Montana	139,280
Nebraska	327,383
Nevada	9,001,375
New Hampshire	404,611
New Jersey	1,809,787
New Mexico	1,258,267
New York	46,236,508
North Carolina	4,875,878
North Dakota	66,033
Ohio	2,194,417
Oklahoma	1,815,119
Oregon	4,212,253
Pennsylvania	6,037,557
Puerto Rico	167,818
Rhode Island	1,118,081
South Carolina	620,222
South Dakota	5,734
Tennessee	3,122,330
Texas	29,277,245
Utah	318,263
Vermont	695,342
Virginia	1,613,863
Washington	3,455,820
West Virginia	450,711
Wisconsin	1,447,692
Wyoming	77,471
Guam	5,000
Virgin Islands	4,861
Unidentified	5
	<u>\$282,248,152</u>
	=====

NOTE 2

FUND BALANCE WITH U.S. TREASURY

This amount represents the cash balance in the Seized Asset Deposit Fund (86 x 6874) at September 30, 1989 held by the U.S. Treasury.

DEPARTMENT OF JUSTICE  
SEIZED ASSET DEPOSIT FUND  
NOTES TO FINANCIAL STATEMENT  
SEPTEMBER 30, 1989

NOTE 2

(CONTINUED)

Cash transactions for fiscal year 1989 were as follows:

Balance with Treasury -  
September 30, 1988 \$234,892,174

Net Receipts (Disbursements):

October 1988	(20)
November 1988	1,738,449
December 1988	17,169,042
January 1989	31,188,773
February 1989	(2,502,775)
March 1989	(11,109,572)
April 1989	15,844,632
May 1989	7,829,767
June 1989	19,597,134
July 1989	4,511,365
August 1989	(11,381,578)
September 1989	<u>(26,531,799)</u>

Balance with Treasury-September 30, 1989 \$281,245,592  
=====

NOTE 3 RECEIVABLE/IN TRANSIT

At September 30, 1989, Receivable/In Transit items included \$997,000 thousand inadvertently transferred to the Drug Enforcement Administration.

# Appendix F

---

## **Bibliography of Asset Forfeiture Resources**

The Attorney General's Guidelines on Seized and Forfeited Property (July 1990)

Federal Forfeiture of the Instruments and Proceeds of Crime: The Program in a Nutshell (September 1990)

A Guide to Equitable Sharing for State and Local Law Enforcement Agencies (December 1990)

Accounting for Federal Asset Forfeiture Funds: A guide for State and Local Law Enforcement Agencies (December 1990)

Video Tapes: The Department of Justice Equitable Sharing Program  
Pre-Seizure Planning

These materials are available from:

The Executive Office for Asset Forfeiture  
Office of the Deputy Attorney General  
10th and Constitution Avenue, NW.  
Room 6324  
Washington, DC 20530