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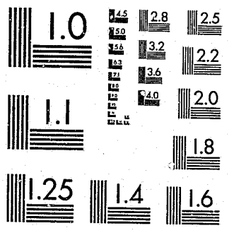

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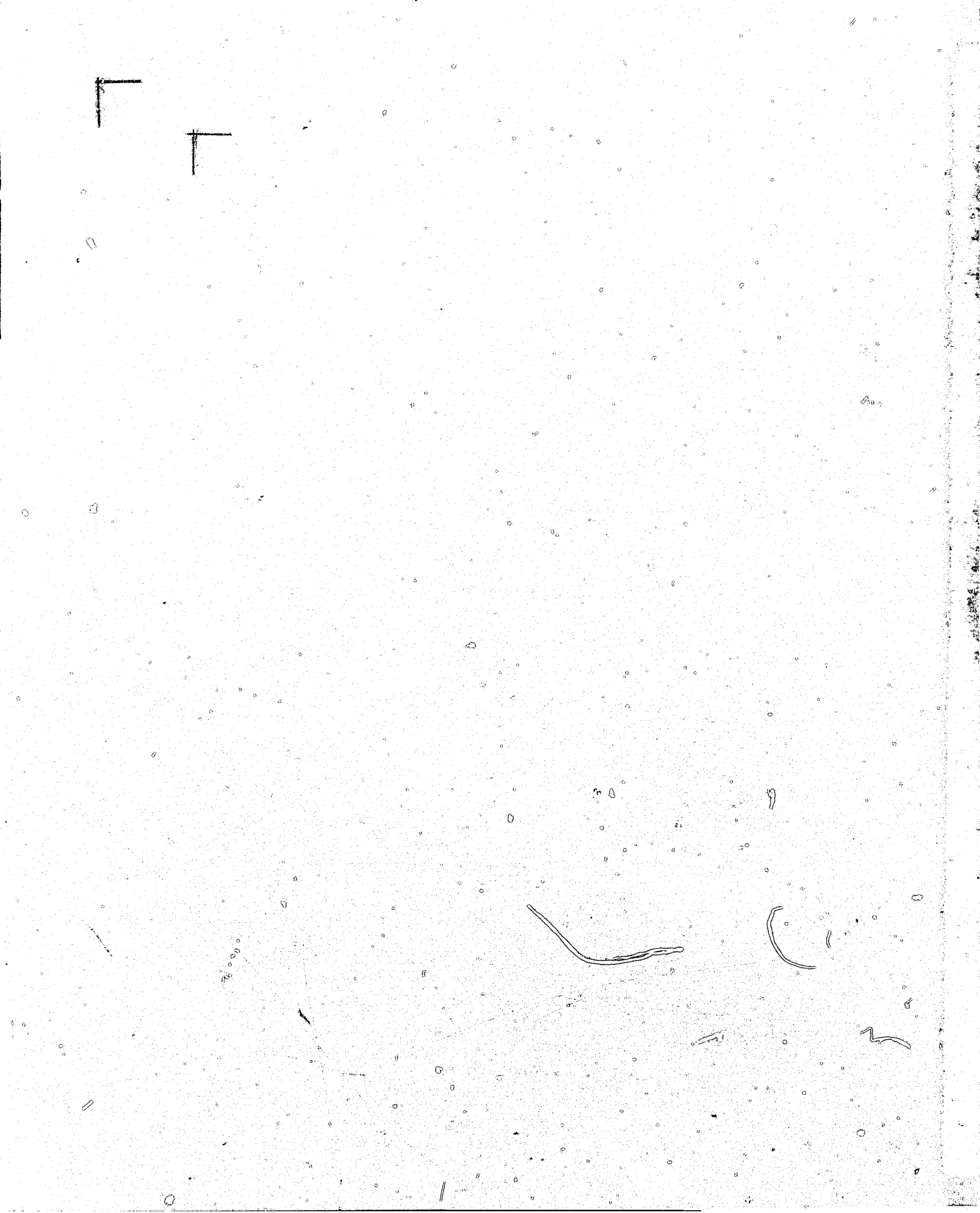

Department of Justice

STATEMENT

OF

JAMES I. K. KNAPP
DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

BEFORE

THE

SUBCOMMITTEE ON CRIME
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 3299, THE COMPREHENSIVE DRUG PENALTY ACT OF 1983

ON

JUNE 23, 1983

U.S. Department of Justice
National Institute of Justice

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ACQUISITIONS

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before the Subcommittee to discuss H.R. 3299, the "Comprehensive Drug Penalty Act of 1983." The goals of this legislation, strengthening the use of forfeiture as a weapon in attacking drug trafficking and increasing the fines available for serious drug offenses, are ones which this Administration regards as of the highest priority, for they are essential to our efforts in combatting one of the gravest crime problems facing our country: the importation and distribution of dangerous drugs. Indeed, two of the titles of the President's comprehensive crime legislation, introduced in the House as H.R. 2151, are similarly designed to improve forfeiture and increase drug offense fines.

In comparing H.R. 3299 and the Administration's analogous proposals, it is clear that we are largely in agreement about the major concepts set forth in this legislation. In addition to increasing the now unacceptably low maximum fines for drug crimes, these objectives include creating a strong criminal forfeiture statute that would be applicable in all felony drug trafficking cases, providing authority for the civil forfeiture of real property used in the commission of major drug crimes, providing a funding mechanism whereby amounts realized in forfeiture cases can be used to defray the mounting costs associated with forfeitures, and amending the forfeiture provisions of the Tariff Act of 1930 -- a statute which governs civil forfeitures under both the customs and drug laws -- to increase the use of efficient administrative forfeiture procedures in

uncontested cases. While our approaches to each of these issues differ somewhat, I believe the areas of agreement far outweigh the differences, and we would be pleased to work with the Subcommittee to resolve these differences in a mutually acceptable way.

Let me begin by outlining the particular subjects on which my testimony will touch. First, I will address the major differences between H.R. 3922 and the Administration's forfeiture proposal. One such difference is scope. While H.R. 3922 is confined to improvements in the forfeiture of drug related assets, the Administration's forfeiture proposal also amends the RICO criminal forfeiture statute (18 U.S.C. 1963). A second major difference concerns the question of including a substitute assets provision in criminal forfeiture legislation. Our proposal contains such a provision; H.R. 3299 does not. Another difference, although not of the magnitude of the RICO and substitute assets issues, is that H.R. 3299's provision for the civil forfeiture of real property used in serious drug crimes does not permit the forfeiture of land used for the domestic cultivation of marihuana.

In addition to addressing these differences between H.R. 3299 and the Administration's forfeiture proposal, my statement will stress the importance of the Tariff Act amendments to our civil forfeiture efforts since these amendments were not before the Subcommittee in its consideration of forfeiture legislation in the last Congress. I will also take this opportunity to inform the Subcommittee of a change in the Justice

Department's policy with respect to petitions for remission and mitigation, a change that we believe necessitates a revision in the hearing procedure set out in the criminal forfeiture provisions of H.R. 3299. Finally, at the request of the Subcommittee's staff, I will briefly discuss the concept of lowering the standard of proof in criminal forfeiture cases.

RICO Criminal Forfeiture

An important part of the Administration's forfeiture legislation focuses on strengthening the criminal forfeiture provisions of the Racketeer Influenced and Corrupt Organization or RICO statute (18 U.S.C. 1961 et seq.). H.R. 3922's forfeiture amendments are confined to those applicable to drug offenses. The authority to reach the profits and financial underpinnings of organized criminal activity through forfeiture is a necessary part of effective law enforcement in this area. This is the very reason that in 1970 the Congress included criminal forfeiture as one of the sanctions applicable to violations of RICO. In our view combatting racketeering is a top priority of federal law enforcement, and depriving those involved in organized criminal activity of the financial resources they amass and use in this crime is an integral part of that enforcement effort. To be successful in this effort, however, we must improve existing forfeiture authority under the RICO statute.

Briefly, the need to improve the RICO criminal forfeiture provisions arises in two areas. First, the forfeitability of profits of racketeering should be clarified. Whether the RICO statute now encompasses such profits is a question currently before the Supreme Court in Russello v. United States (No. 82-472, cert. granted, Jan. 10, 1983). The property at issue in Russello is more than $300,000 in fraudulently obtained insurance proceeds from an arson-for-profit scheme. We believe it is essential that such profits be subject to forfeiture under the RICO statute. Should the Congress fail to address this issue and Russello is decided against the government, the effectiveness of the RICO forfeiture provisions will be severely limited.

The second problem posed by the RICO forfeiture statute is one that arises from the distinctive nature of criminal forfeiture. In criminal forfeiture, unlike civil forfeiture, the government cannot obtain control of the assets until after a judgment of forfeiture is entered. As a result, a defendant has ample opportunity to conceal or transfer his forfeitable assets in advance of trial, and such pre-conviction transfers can render the sanction of forfeiture an illusory one. This is the greatest problem posed in using criminal forfeiture effectively, and in the case of RICO violations, in contrast to many drug violations, there is no alternative remedy of civil forfeiture; criminal forfeiture is the sole procedure available.

Presently, under the RICO statute, the only mechanism to address the problem of pre-conviction transfer or disposition of assets is a restraining order, and that remedy is available only after indictment. As is recognized in the drug felony criminal forfeiture statute proposed in H.R. 3299, the authority to obtain a restraining order should be extended, under certain limited circumstances, to the pre-indictment period. This additional authority should apply to RICO forfeitures as well. The Administration also urges that the RICO criminal forfeiture provisions, and the proposed drug felony criminal forfeiture statute proposed in H.R. 3299, be amended to include a substitute assets provision to address those cases where a restraining order cannot be obtained or is ineffective. In short, with isolated exceptions, we see no reason why the basic language, concepts, remedies, and procedures under the RICO and drug offense criminal forfeiture statutes should not be parallel.

Substitute Assets

As noted above, it is the position of the Department of Justice that a substitute assets provision would greatly enhance the effectiveness of criminal forfeiture. Briefly, a substitute assets provision works as follows. The government must prove in the criminal trial that specified property of the defendant was used or obtained in such a way as to render it subject to forfeiture under the applicable statute. If after the entry of the special verdict of forfeiture, however, it is found that those specified assets have been removed, concealed, or transferred by the defendant so that they are no longer available to

satisfy the forfeiture judgment, the court may order the defendant to forfeit other of his assets in substitution. Thus, by applying a substitute assets provision, defendants would not be able to avoid the criminal forfeiture sanction simply by making their forfeitable assets unavailable at the time of conviction.

Substitute assets is a novel concept. It departs from the traditional concept of forfeiture upon which civil forfeitures are based. In civil forfeitures, it is the property that is "guilty," and indeed, with the exception of a few of the most recently enacted civil forfeiture provisions, the guilt or innocence of the owner of the property is irrelevant. Thus, in civil forfeiture, a nexus between the property forfeited and a violation of law is essential. It is in this respect that a substitute assets provision of a criminal forfeiture statute would differ. Although the government would have to prove that the original asset did have the necessary nexus to the offense, an asset ordered forfeited in substitution (where the original asset was no longer available) would not have to bear a "tainted" relationship to the offense.

The nexus requirement applicable in civil forfeiture, however, should not bar application of a substitute assets provision in the context of criminal forfeiture. Criminal forfeiture differs from civil forfeiture in two important ways. The first is a practical one to which we have already alluded: in civil forfeiture, the action is commenced with the government's seizure of the property. In criminal forfeiture, on the other hand, the government cannot obtain custody of the property until

after conviction. Therefore, the very procedural nature of criminal, as opposed to civil, forfeiture creates greater opportunities for a defendant to transfer or dispose of his forfeitable assets.

The second difference between criminal and civil forfeiture is a conceptual one. As noted above, in civil forfeiture, it is the property itself which is the defendant, and the government has a right to the property because it is contraband, or a fruit or instrumentality of a crime. Criminal forfeiture, however, is a punitive sanction imposed against a convicted person. Where, prior to conviction, a defendant transfers his forfeitable property or removes it from the jurisdiction of the court, he can effectively avoid this sanction. A substitute assets provision, therefore, would preserve the sanction of criminal forfeiture in such cases.

In understanding the importance of a substitute assets provision, we must be realistic about the sophistication of many drug traffickers and organized crime figures. Concealing the extent of their financial assets is not uncommon; rather it is a common practice, for such individuals must fear not only the prospect of forfeiture, but also the fact that exposure of their financial dealings would subject them to liability for tax and currency law violations. This is one reason the use of offshore banks has been such a boon to drug traffickers and such a problem to law enforcement officials. These banks serve both as safe

depositories for illicit drug profits and as money laundering facilities that can thwart our efforts to trace "tainted" sources of a trafficker's stateside assets.

By way of illustration you may recall the recent guilty plea of one of the defendants in the DeLorean case. As part of the plea, he agreed to forfeit hundreds of thousands of dollars in an account in the Cayman Islands. Had this case gone to trial, this money would not have been available for forfeiture, and no forfeiture of substitute assets could have been ordered under current law.

A 1982 prosecution of a large-scale hashish smuggling operation, United States v. Ashbrook, provides a similar example. The primary defendant was apprehended leaving the country with $170,000 intended as partial payment on a two million dollar hashish deal. This defendant had operated for several years. He would deposit the proceeds of his drug trafficking in a Cayman Islands bank account in the name of a fictitious corporation. Amounts needed for new drug deals would be transferred from the Caymans to Lebanon. In this case, not only were substantial forfeitable drug proceeds in a bank outside the jurisdiction of a United States court, but a $300,000 boat used to smuggle the hashish was in Italy, also outside the reach of the government. Fortunately, by virtue of a plea agreement, a substantial forfeiture was obtained. Again, however, had this case gone to trial, it is doubtful that, absent a substitute assets provision,

a forfeiture of much significance could have been assured, despite the fact that the defendant had a number of extremely valuable stateside assets.

The need for a substitute assets provision is not confined to cases involving the use of offshore banks. For example, in United States v. Webster, 639 F.2d 174 (4th Cir. 1981), modified on rehearing, 669 F.2d 185 (1982), a defendant used a bar as a front in a heroin dealing operation. The bar was clearly subject to forfeiture under the RICO or Continuing Criminal Enterprise (21 U.S.C. 848) statutes. However, it was sold a month before indictment. Without a substitute assets provision, there could be no forfeiture.

It is argued that the imposition of substantial fines would be an effective alternative to a substitute assets provision. Certainly, the two remedies serve the same purpose of imposing an economic sanction on a defendant, and we strongly support the increased drug fines proposed in H.R. 3299. Nonetheless, we do not view fines as an adequate alternative to a substitute assets provision for two reasons. First, the imposition of a fine is not mandatory. Moreover, in H.R. 3299, a new procedure is set out to allow the court to excuse all or part of the fine imposed on a drug trafficker. A special verdict of criminal forfeiture, however, is binding on the court, and under our proposal this would extend to cases in which forfeiture of substitute assets was appropriate. Second, collection of criminal fines is difficult. Once a fine is imposed, the United States must pursue collection remedies in State court in the same manner as an

ordinary creditor. In the case of criminal forfeiture, the government is authorized by the trial court to seize specific assets. Furthermore, under the Administration's forfeiture proposal, after conviction the government could obtain a strong restraining order pending its actual seizure of the property. For these reasons, we believe that forfeiture through a substitute assets provision can prove a substantially more effective sanction than the possibility of imposition of fines.

In addition to addressing the problem of pre-conviction transfers through application of a substitute assets provision, we believe there should also be specific statutory authority to void these transfers where they are sham transactions or undertaken with the intent to avoid forfeiture, except where the transferee is an innocent bona fide purchaser for value.

Civil Forfeiture of Real Property

Section 102 of H.R. 3299 adds a new provision to allow the civil forfeiture of real property used to store controlled substances or equipment used in the illegal manufacture or distribution of drugs. This provision, which would, for the first time, give clear authority for the forfeiture of "stash houses" and illicit drug laboratories, is one the Administration strongly supports. We are concerned, however, that it does not allow us to reach land used in the domestic, commercial cultivation of marihuana -- a problem of increasing dimensions.

We have no firm figures on the quantities of marihuana produced domestically, although an inter-agency effort has been recently initiated to provide sound estimates in this area.

Clearly, the primary source for marihuana remains foreign. The Drug Enforcement Administration's 1980 estimates for illicit marihuana availability limited the domestic supply to about seven percent. Nonetheless, there is a consensus in the drug enforcement community, both state and federal, that domestic cultivation of marihuana for commercial distribution is significant and growing. Part of this growth, we believe, is a response to successes in interdicting foreign shipments. Moreover, the mere quantities of marihuana produced within the country do not fully indicate the seriousness of this problem, for domestic cultivation operations appear increasingly to concentrate on production of sinsemilla, an extremely powerful type of marihuana that can command prices in excess of $1,000 a pound. For example, in hearings last September before the Senate Subcommittee on Forestry, Water Resources, and Environment, the Sheriff of Mendocino County, California, stated that over a three year period, his county's eradication program resulted in the confiscation and destruction of more than 100,000 pounds of sinsemilla. Just this month, the United States Attorney in Sacremento successfully prosecuted a case involving cultivation of more than 4,000 high-grade marihuana plants on both public and private land. (United States v. Corey Wright, et al.)

The United States Attorney for the Eastern District of Oklahoma indicates that he is receiving reports of large amounts of marihuana cultivation in his district, and has successfully prosecuted two marihuana growing operations in the last year. (United States v. Warhop and United States v. Barnard.) One of

these cases involved the transportation, on a regular basis, of marihuana from southeastern Oklahoma to Kansas City and Chicago. In another case, a cooperating witness provided information that he and two partners moved from California to Oklahoma specifically for the purpose of buying a farm to grow sinsemilla. This operation included not only the cultivation of plants but also irrigation and drying facilities. Additional examples provided by the Drug Enforcement Administration of large scale marihuana growing operations in other states are attached at the end of our statement.

Right now, we can combat large-scale growing operations only through prosecution and eradication efforts. In our view, forfeiture of the land used in these lucrative commercial operations should be added to the arsenal of enforcement resources. Therefore, we strongly urge the Subcommittee to augment H.R.3299's provisions for forfeiture of real property by including the authority to reach land used in commercial cultivation operations. The present provision's limitation to felony offenses, coupled with its specific protection of any innocent owners of misused real property, provide adequate assurances against unfair application of the use of this land forfeiture authority.

Tariff Act Amendments

Title II of H.R. 3299, like the Administration's forfeiture legislation, sets forth extremely important amendments to the forfeiture provisions of the Tariff Act of 1930. These provisions govern civil forfeitures under both the customs and drug

laws. By far the most significant of these amendments are those that would increase the availability of more efficient administrative forfeiture procedures.

Under current law, civil forfeitures may be the subject of either judicial or administrative proceedings. Administrative proceedings, which are applicable only in uncontested cases, can be used now, however, only if the property at issue is valued at less than $10,000. As you can imagine, assets in drug trafficking cases frequently exceed this $10,000 ceiling. For example, cash seized in a large drug transaction will often exceed this amount, as will the value of most boats and airplanes used to smuggle illicit drugs. Yet many forfeiture cases involving these valuable assets go uncontested. The problem posed by the requirement in current law that these uncontested cases be the subject of judicial, rather than administrative, proceedings is one of tremendous inefficiency in terms of both time and money.

As the members of the Subcommittee are no doubt aware, the number of civil cases filed in the United States District Courts is staggering. As of June, 1982, more than 200,000 civil cases were pending. This huge backlog of civil cases means that periods of more than a year can elapse between the time a civil forfeiture case is filed and the time it is decided. During this period, seized property is subject to deterioration, and in the case of property requiring considerable maintenance, such as a boat, this deterioration can be significant. Moreover, during these periods of delay, the expenses to the government in

storing, safeguarding, and maintaining the property mount. Thus, depreciation of the property coupled with huge expenses incurred by the government while awaiting judgment can often mean that the sale of the property ultimately results in little or no return to the government. The interests of third parties can be jeopardized as well in such cases, for there may be inadequate sale proceeds to satisfy liens against the forfeited property.

To address this problem, H.R. 3299 would allow the use of far more efficient administrative forfeiture proceedings with respect to any cars, boats, and planes used in the illegal transport of dangerous drugs and with respect to any other property of a value up to $100,000. As under current law, administrative proceedings would be available only when, after notice, no party comes forward to post bond and require a judicial resolution of the forfeiture.

The bill would also raise the current bond amount, now set at $250. This amount dates from 1844 when the limit on property subject to administrative forfeiture was only $100. In H.R. 3299, the bond is to be set at ten percent of the value of the property up to a maximum of $2,500. The Administration's bill would specify a maximum of $5,000, a figure we prefer. However, even a maximum of $2,500 would be a vast improvement over the current bond which is so low as to provide no disincentive to the filing of clearly frivolous claims and which bears no relationship to the costs to the government in pursuing a successful forfeiture.

Another of the Tariff Act amendments would clarify our authority to discontinue a federal forfeiture action in favor of state forfeiture proceedings. This would enhance cooperation with state and local law enforcement agencies in our drug forfeiture investigations. We believe this cooperation would be further enhanced by the addition of an amendment included in the Adminstration's proposal, but not in H.R. 3299, that would allow the direct transfer of forfeited property to state and local agencies who assisted in the case leading to the forfeiture.

Also included in the Tariff Act amendments is a Customs Forfeiture Fund which would make available for appropriation the proceeds of profitable customs forfeitures to defray expenses incurred by the Customs Service in storing, maintaining, and disposing of forfeitable property. This fund for the Customs Service is analogous to the Drug Enforcement Fund appearing in the first part of H.R. 3299 and approved in the last Congress. The Administration's bill contains two similar funds. Again, the basic conceptual framework of the funds in H.R. 3299 and those in the Administration's bill is the same, and to the extent that our approaches differ, we would be pleased to work with the Subcommittee to resolve these matters as quickly as possible.

Resolution of Third Party Claims

Until recently, the Department entertained a variety of petitions for relief from an order of criminal forfeiture in what is known as the remission and mitigation process. These petitions included not only requests for relief which did not challenge the validity of the forfeiture itself, but also claims made by third parties which by their very nature were inconsis-

tent with the order of forfeiture. In essence, this latter category of claims includes those in which a third party asserts that the order of forfeiture is improper because the property was his rather than the defendant's or because his legal interest in the property was superior to that of the defendant. It is now our position that this latter category of claimants -- those asserting a legal interest in forfeited property that cannot be co-extensive with the order of forfeiture -- are entitled to a judicial resolution of their claims, and that it is improper and arguably even unconstitutional for the remission and mitigation process, which has traditionally been viewed as solely a matter of executive discretion, to be used as the forum for resolution of their asserted interests.

H.R. 3299 now includes a procedure whereby third parties may obtain a judicial hearing after the close of the criminal case to adjudicate their claims to property which has been the subject of a special verdict of criminal forfeiture. However, all third parties are required, in the first instance, to seek relief from the Attorney General through the remission and mitigation process. This aspect of the hearing procedure was designed to accommodate our former policy concerning the remission and mitigation process. In light of our new policy, however, we now firmly believe that true third party claimants (as opposed to persons asserting merely equitable grounds for relief) should not be required to pursue the remission and mitigation process. While we apologize for the fact that in the last Congress the Subcommittee shaped the hearing procedure to accommodate the very

policy which we have now changed, this change should allow a more even-handed and expeditious adjudication of third party interests, an issue about which, Mr. Chairman, I understand you and other members of the Subcommittee have had strong concerns.

If it is acceptable to the Subcommittee, the Department would be pleased to submit draft amendments to H.R. 3299's hearing procedure that reflect our change in position.

Standard of Proof for Criminal Forfeiture

Subcommittee staff has requested the Department's views on changing H.R. 3299's standard of proof for criminal forfeiture from one of beyond a reasonable doubt to one of preponderance of the evidence. The standard of proof issue is not addressed in current criminal forfeiture statutes, and to our knowledge, no court has ever ruled on this matter. From a procedural standpoint, criminal forfeiture is treated in the same manner as an element of an offense. It must be alleged in the indictment, is the subject of a special verdict by the jury in the criminal trial, and as with an element of the offense, it has been the practice in the courts to require proof beyond a reasonable doubt.

However, criminal forfeiture is not an element of an offense. Instead, it is a special sanction, applicable only after criminal conviction, and based on a factual showing of a specified connection between the criminal offense and the property to be forfeited. In at least one other context, the dangerous special offender (18 U.S.C. 3575) and dangerous special drug offender (21 U.S.C. 849) statutes, proof of circumstances to

support imposition of a special sanction need only meet a preponderance of the evidence standard. Moreover, even though civil forfeiture has, in certain contexts, been said to be quasi-criminal in nature, a preponderance test applies in all civil forfeiture cases, and so it could be said that there is nothing about forfeiture per se, whether pursued in civil or criminal proceedings, that requires a beyond a reasonable doubt standard. Thus, a good argument could be made that since criminal forfeiture is not in the nature of a determination of criminal liability but rather is an assessment of a special penalty following a finding of guilt, a preponderance of the evidence standard would be sufficient.

While, therefore, an argument can be made for the preponderance standard, we question whether such a change in the law would, on balance, be beneficial. To date, meeting the beyond a reasonable doubt test in our criminal forfeiture cases does not appear to have been particularly troublesome. This may well be due to the fact that most of the essential elements supporting a forfeiture concern the criminal violation itself and will have to be proven beyond a reasonable doubt in any event before conviction can be obtained. Nonetheless, were the standard of proof lowered, there may well be cases where the government would prevail while under the current standard we would not. On the other hand, however, changing the standard of proof will inevitably invite years of litigation. Moreover, since criminal forfeiture is determined by the jury, there may be considerable confusion if they must assess guilt according to one standard of

proof and criminal forfeiture according to another. Thus, our concerns about this change stem not from the legal merits of the proposal, but rather from the potential problems of jury confusion and additional litigation such a revision may generate.

In closing, I again stress the importance the Department of Justice places on the drug enforcement improvements in H.R. 3299 and our willingness to work with the Subcommittee to resolve any of our differences and suggest amendments to further strengthen this legislation. Mr. Chairman, that concludes my prepared statement, and I would be pleased at this time to respond to questions you or the members of the Subcommittee may have.

EXAMPLES OF MARIHUANA CULTIVATION ON PRIVATE LANDS WITH OWNER KNOWLEDGE/PARTICIPATION

1. Case Number: IF-82-X078
   File Title: Hill, Lloyd et al
   Date of Raid: September 18, 1982
   Place: Monroe County, Missouri
   Arrested: Lloyd Hill and wife Jane

   Circumstances: Execution of the search warrant on a farm owned by the defendants revealed approximately 1½ acres of the farm under cultivation in marihuana with a potential estimated yield of 6-7000 pounds. Defendants were tried and sentenced in state court on June 6, 1983. Lloyd Hill received seven years in jail. His wife Jane was given one year probation. The property was not seized.

2. Case Number: IF-82-X063
   File Title: Doty William J.
   Date of Raid: August 25, 1982
   Place: Phelps County, Missouri
   Arrested: William J. Doty

   Circumstances: Execution of the search warrant on the Doty's farm revealed marihuana cultivation over a two acre area, which yielded 9,360 lbs. of product. Defendant was tried and sentenced in Federal court on December 23, 1982. He received five years for manufacturing marihuana and five years for possession with intent to distribute. The property was not seized.

3. Case Number: IF-83-X004/DCM1
   File Title: Melvin Shaw et al
   Date of Raid: October 5, 1982
   Place: Randolph County, Illinois
   Arrested: Melvin Shaw

   Circumstances: Execution of the search warrant on Shaw's farm turned up 4200 lbs. of dried marihuana, which had been grown over a five acre area on the farm. Also found was a large quantity of seeds. Seized were 21 weapons, a tractor and five trash compactors used to press the marihuana. The farm was not seized, however, on December 15, 1982, Shaw was fined $1,106,320 in state court and given three years probation. Shaw's farm was sold to pay the fine. Ten thousand dollars of the fine was for the growing violation. The remainder was for the estimated street value of the seized marihuana which can be levied under Illinois state law.

4. Case Number: MM-83-0002
   File Title: Powers, Howard
   Date of Raid: September 29, 1982
   Place: Roosevelt County, New Mexico
   Arrested: Howard Powers and five others

   Circumstances: Execution of the search warrant on Mr. Powers farm revealed as estimated 62.5 acres of land cultivated in marihuana and milo (corn). The plants were in rows, which alternated a row of corn and a row of marihuana. A harvest of 600,000 pounds of marihuana was estimated for the field. Disposition in state court is pending. The land was not seized.

END