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STATEMENT OF  
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BEFORE THE  
SUBCOMMITTEE ON CRIME  
COMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES  
ON  
THE CARE AND DISPOSAL OF  
FORFEITED CONVEYANCES  
BY LAW ENFORCEMENT AGENCIES



Mr. Chairman and Members of the Subcommittee:

I welcome this opportunity to appear before you today to discuss our recent report on the care and disposal of cars, boats, and planes seized by Federal agencies in their efforts to enforce the law.

As you know, the Customs Service, the Immigration and Naturalization Service (INS), and the Drug Enforcement Administration (DEA) are constantly involved in the increasingly more difficult struggle against the importation and transportation of illegal aliens, narcotics, and various other forms of contraband. These agencies nearly doubled the number of conveyances

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seized from fiscal year 1979 to 1980. As of April 1982, we identified over 4,500 conveyances, valued at \$82.1 million, that were held by seven law enforcement agencies. This included 3,665 vehicles, 692 vessels, and 161 aircraft.

As discussed in our report, we found several problems.

Specifically:

- the value of the conveyances decreases dramatically before they are sold;
- the time it takes for the Government to acquire title is lengthy;
- agencies have little incentive to properly care for the conveyances; and
- the Congress has insufficient oversight of the agencies' seizure operations and use of forfeited conveyances.

In the remainder of my statement I will briefly touch on each of these areas.

#### CONVEYANCES DEVALUE DURING THE FORFEITURE PROCESS

Our first point is that seized conveyances devalue substantially from aging, lack of care, inadequate storage, and other factors while awaiting forfeiture. Frequently, engines freeze, batteries die, seals shrink and leak oil, boats sink, salt air and water corrode metal surfaces, barnacles accumulate on boat hulls, and windows crack from heat. Also, on occasion, vandals steal or seriously damage conveyances.

The average difference between value at the time of seizure and sales price for conveyances sold in fiscal year 1981 for the four regions that we reviewed was \$800 for vehicles, \$37,800 for

boats, and \$42,700 for aircraft. These differences might be partly attributable to other factors, such as changing market conditions. However, we believe the poor condition of the conveyances at the time of sale compared to their condition at seizure, and ineffective sales practices such as selling conveyances that need repairing, cleaning, or minor maintenance, are the major contributors to this large disparity. The net proceeds from these sales are further diminished because the Government pays storage costs for long periods.

THE FORFEITURE PROCESS SHOULD  
BE ENHANCED

Our second point deals with the time-consuming forfeiture process. Currently, the courts must forfeit all conveyances valued over \$10,000, while some law enforcement agencies can administratively forfeit conveyances valued at \$10,000 or less. Almost half of the forfeiture cases involving conveyances valued over \$10,000 are not contested by the owners in courts. The process for uncontested judicial forfeitures averages 18 months compared to an average of 8 months for administrative forfeitures. If the \$10,000 limit on administrative forfeitures was raised or removed, agencies could forfeit higher valued seized conveyances more quickly. Consequently, depreciation and storage costs would be less and the workload of the courts and U.S. attorneys would be reduced.

Revising or removing the \$10,000 limit would require the Congress to revise existing legislation. Justice and Treasury officials believe, and GAO agrees, that the current \$10,000 limit can be raised or removed without harming the owners'

rights, as long as the owners have relatively easy access to the courts. At present, the only barrier for contesting a forfeiture in court is to post a \$250 bond. Furthermore, this requirement must be waived for individuals who cannot afford it. As long as a reasonable bond is set, the owners' rights to contest the forfeiture and obtain judicial review are protected.

IMPROVING THE FUNDING PROCESS FOR  
CARE AND PROTECTION OF CONVEYANCES

Our third point deals with the process of funding the cost of caring for and protecting seized conveyances. Seized property should be properly preserved not only to maximize sales proceeds to the Government, but also in the event conveyances are returned to the owners. For example, a seized conveyance might have been stolen or loaned to another party without the owner's knowledge that it would be used to transport contraband. Yet, the current funding process for the care and protection of seized conveyances is difficult to administer and encourages agency personnel to spend the least amount possible even though better care is often cost-effective.

Under current procedures, agencies must pay storage and maintenance costs with appropriated funds in advance of receiving reimbursement from sales proceeds. If sales proceeds exceed storage and maintenance costs, the excess amount must be deposited in the Treasury. A problem arises when sales proceeds do not cover costs. Another problem arises when expenses cover more than 1 fiscal year because only the expenses for the fiscal year in which the conveyance is sold can be recouped. Again, in these cases, the remaining sales proceeds are sent to the

Treasury. Presently, costs and reimbursements are accounted for on an item-by-item basis which means that sales proceeds from a forfeited conveyance can cover only those expenses applicable to that conveyance.

Projecting the amount of appropriations needed to operate under this process is difficult. The agencies must predict storage and maintenance costs for future seizures and must estimate sales proceeds from conveyances, some of which have not yet been seized, in order to calculate the amount needed to cover storage and maintenance costs. The Congress could improve the current funding process by changing the current "item-by-item" arrangement to a "group" basis by creating a special fund, or funds, from the sales proceeds of all forfeited conveyances which could be used to cover the storage and maintenance costs of all seized conveyances. Such funds would simplify the appropriations process since the agencies would not have to estimate the annual differential between expenditures and reimbursements from sales proceeds. Rather, a pool of money would be available for the care and protection of seized conveyances and agencies would not have to divert resources from law enforcement activities for these purposes.

MORE CONGRESSIONAL OVERSIGHT  
NEEDED OVER AGENCIES' ACTIVITIES

In fiscal year 1981, Federal agencies acquired 473 forfeited conveyances, valued at \$6.2 million, for their own use. These assets are attractive to the agencies because they can acquire the conveyances by paying only the storage and maintenance costs--generally a small fraction of the conveyances' value.

However, in many cases the seized conveyances do not precisely meet the agencies' needs. Nevertheless, they are often "forcefitted" into service. Also, these conveyances often require high restoration and continual repair costs. Rather than "forcefit" forfeited conveyances into its fleet, the Customs Service uses an exchange/sale program. Under this program, Customs trades forfeited conveyances for new conveyances or buys new conveyances from the sales proceeds of forfeited conveyances. However, the program is often difficult to administer because of its many restrictions.

In addition, the Congress has little control over agencies' use of forfeited conveyances or new acquisitions, such as those made through Customs' program because they are outside the congressional authorization and appropriation processes. Use of the proposed special fund, or funds, to purchase needed conveyances, subject to congressional approval, would eliminate the need to forcefit forfeited conveyances and would provide the Congress control over the number and types of conveyances purchased through the fund.

BETTER MANAGEMENT INFORMATION  
IS NEEDED

Mr. Chairman, one last point pertains to the need for better information on agencies' seizure activities. Because most agencies maintain files on seizures only in the region or district field office where a seizure occurs, the total number of conveyances seized and stored, the aggregate storage costs, the number of conveyances disposed of every year, the amount of sales proceeds, and the extent to which property devalues while

in storage are unknown. Most agencies rely on manual records and do not have the capability to consolidate the data from these records. We believe that comprehensive information on seizures is vital if the agencies are to improve their management of seized conveyances.

#### RECOMMENDATIONS

We made several recommendations to Treasury and Justice to improve their management of seized conveyances. They agreed with our recommendations and have advised us that they will be implemented.

However, we also believe that legislation is needed to alleviate the basic causes of the major problems with seized conveyances. We recommended in our report that Congress raise or remove the administrative forfeiture limit to shorten the forfeiture time, and thus reduce the storage expenses and depreciation for seized conveyances. To improve the funding mechanism for better storage and maintenance and for the purchase of needed conveyances, we recommended the creation of special funds from the sales proceeds of forfeited conveyances. We also recommended that the agencies report to the Congress the number and value of forfeited conveyances that they utilize so these acquisitions can be easily monitored by the Congress.

The proposed bills, H.R. 3299 and H.R. 3725, which you are considering, are generally consistent with the recommendations in our report. However, some differences exist. For example, H.R. 3725 would include the proceeds from INS forfeitures in the

special fund for Justice but H.R. 3299 does not. INS seizes and stores a large share of conveyances seized by Justice agencies. Also, neither bill would allow the agencies to use the special funds to purchase new conveyances.

We believe that proceeds from INS forfeitures should be included in a special fund. Further, we believe that the proceeds in all the special funds should be available, in the manner specifically provided for in annual appropriation acts, for the acquisition of new conveyances by law enforcement agencies. Allowing the agencies to acquire new conveyances would discourage the continued use of less efficient and often luxurious conveyances in favor of more efficient and often less expensive ones.

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Mr. Chairman, that concludes my statement. We will be pleased to respond to questions at this time.