

**GAO**

Report to the Chairman, Subcommittee on  
Commerce, Consumer, and Monetary  
Affairs, Committee on Government  
Operations, House of Representatives

July 1988

# CUSTOMS SERVICE

## Penalty Assessment and Collection Process Is Improving



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General Government Division

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July 21, 1988

The Honorable Doug Barnard, Jr.  
Chairman, Subcommittee on Commerce,  
Consumer, and Monetary Affairs  
Committee on Government Operations  
House of Representatives

Dear Mr. Chairman:

Assessing and collecting penalties is one important enforcement tool used by the U.S. Customs Service to deal with trade law violations. Although many trade law violations are discovered and settled immediately by Customs inspectors at ports of entry during cargo or passenger processing, others, usually involving larger sums of money, are referred to fines, penalties, and forfeiture (FP&F) offices at Customs district offices for processing and collection.

The Subcommittee asked us to review Customs' FP&F operations. Because Customs recognized that there were serious problems in its fines and penalties area and had corrective action underway, we agreed with the Subcommittee to limit our work to providing a status report on Customs' assessment, processing, and collection procedures at FP&F offices, and to providing observations on four FP&F offices—Laredo, Texas; Los Angeles, California; New York, New York; and Seattle, Washington. This report also discusses Customs' efforts to improve its operations. The appendix describes our objectives, scope, and methodology.

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## Results in Brief

Processing backlogs, inadequate internal controls, and personnel turnover at FP&F offices have been the subject of several Customs and GAO reports over the past 10 years. Our work at four FP&F offices in 1987 indicated that problems identified in these earlier reports still exist. Recognizing these long-standing problems, Customs has begun actions to improve the operations of its FP&F offices and as a first step has established a headquarters office to oversee field offices. Case processing has been automated and additional training is being provided. Customs plans further improvements including standardizing case processing, improving internal controls, and addressing personnel issues such as position grades and career ladders. The implementation of these planned initiatives is crucial to improving the penalty assessment and collection process.

## Background

Customs is responsible for collecting revenue on imports and for preventing the improper entry of goods into the United States. This responsibility includes assessing, collecting, and protecting revenue accruing to the United States from duties, taxes, and fees. One important enforcement function which is administered by Customs' FP&F offices is assessing and collecting penalties for law violations. The types of penalties are

- fines (monetary penalties for violations other than a breach of Customs bonds),
- forfeiture (loss of the merchandise), and
- liquidated damages (monetary penalties for breach of Customs bonds used to guarantee compliance with laws and regulations).

The penalty amount is prescribed by law or regulation. Customs' regulations also specify time frames within which alleged violators must respond to notices that penalties have been assessed or pay the penalties. They also provide guidance for Customs' processing and collection activities.

Alleged violations are referred to FP&F offices in Customs' 45 district offices for processing. Once notified in writing of an alleged violation, the party has 60 days (recently reduced to 30 days) to pay the penalty or to petition Customs for cancellation or reduction of the penalty.

Customs' FP&F offices collect large amounts of penalties and process a substantial amount of paperwork. In fiscal year 1987, FP&F offices collected about \$67 million. According to the program manager, the number of liquidated damage, penalty, and seizure cases in fiscal year 1987 was not developed, but the fiscal year 1985/1986 average was about 117,500 cases.

## Prior Reports on FP&F Offices

We have issued reports in the past dealing with case backlogs and internal controls for processing penalty cases, and recording, accounting for, and safeguarding cash collections at Customs' FP&F offices.<sup>1</sup> The reports concluded generally that improvements were needed.

<sup>1</sup>Customs' Penalty Assessment and Mitigation Procedures—Changes Would Help Both the Government and Importers (GGD-78-5, Mar. 13, 1978); Import Duties and Taxes: Improved Collection, Accounting, and Cash Management Needed (FGMSD-78-50, Aug. 21, 1978); and Internal Control Weaknesses at the U.S. Customs Service (GAO/AFMD-84-23, May 23, 1984).

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Customs' Office of Internal Audit has also reached similar conclusions in its numerous reports about FP&F office operations and the growing backlog of unprocessed cases. A related report<sup>2</sup> on Customs' seized property program prepared for Customs in 1987 by a private contractor found that staff attrition at the lower grade levels in FP&F offices is reducing productivity because employees lack the requisite job experience. These jobs are relatively low in grade, the report stated, but they require coping with large work backlogs and frustrated importers. The report also recognized that many Customs districts had vacancies and substantial work backlogs.

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## Observations at Selected FP&F Offices

We visited four Customs districts to determine if there were indications that weaknesses identified in prior reports persist. Generally, we found that weaknesses continue in varying degrees.

Our review of 10 closed case files and discussions with district officials in each district visited enabled us to identify some of the factors that contribute to delays in case processing and penalty collection.

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## Delays in Case Processing and Penalty Collection

In three of the four districts we visited, some liable parties in the closed cases that we reviewed had not responded to Customs penalty notices within the required 60 days, thus contributing to delays in processing. Our review of 40 cases indicated that in 18, Customs had neither received payment of the fine nor received a petition for relief within the prescribed 60-day time limit. The response time after the 60-day period had elapsed ranged from 13 to 687 days (a median of 143 days) for the 18 cases.

Another reason for case processing delays is that FP&F offices do not always respond promptly when they receive petitions for cancellation or mitigation of violations. In 34 of the 40 cases we reviewed, liable parties responded to notices of violations by filing petitions with Customs. FP&F offices took from 3 to 1,434 days (a median of 99 days) to respond to these petitions.

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<sup>2</sup>A Comprehensive Evaluation of the U.S. Customs' Seized Property Program, (Executive Resource Associates, Inc., Arlington, Va.: June 19, 1987).

## Penalty Cases Resulting From Late Filing of Entry Documents

Many penalties assessed by the Customs FP&F offices we visited were for violations involving failure to file or promptly file import documentation and pay duties. As a percent of the liquidated damages/penalties cases opened in fiscal year 1986, such cases totaled 66 percent at the New York Seaport, 27 percent in Laredo, 27 percent in Los Angeles and about 2 percent in Seattle.

Many of the violators were repeat violators. Customs can take action against a repeat violator by requiring a deposit of the estimated duties when filing the entry. Customs FP&F officials in the districts we visited told us, however, that they do not consider repeat violations in assessing penalties for entry documentation violations. As a result, the penalties imposed may not provide as much deterrence as possible to repeat violators who do not promptly file entry documents and pay estimated duties.

Customs demands payment of an amount equal to the value of the merchandise for an entry documentation violation. We observed and FP&F officials confirmed, however, that a penalty equal to the value of the merchandise is rarely, if ever, collected. This is because penalties are usually mitigated as allowed by Customs regulations.

## Internal Controls for Penalty Case Processing

We were told that most offices used logbooks, reminder cards, and/or status reports as controls to assist FP&F officials in ensuring that case processing is done in a timely manner. However, we observed that these systems were not regularly reviewed and updated to reflect the current status of the cases. Customs acknowledged in its November 1987 report on its compliance with the Federal Managers' Financial Integrity Act<sup>3</sup> that improvements were needed. Specifically, "Varying field procedures and backlogs reduce Customs effectiveness in assessing and collecting fines and penalties."

Laredo District FP&F officials told us that because of their work load, they did not attempt to monitor the current status of penalty cases. The Laredo FP&F office reviewed its case files before computerizing file information and recommended in April 1987 that 57 penalty cases totaling about \$930,000 in claims, where the statute of limitations had expired due to case processing delays, be written off as uncollectible.

<sup>3</sup>The act requires heads of agencies to annually evaluate their internal control systems and to report to the President and Congress as to whether the systems fully comply with the Comptroller General's Standards For Internal Controls in the Federal Government.

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The statute of limitations on these cases had expired as early as October 1982 and as recently as April 1987. The amounts of the claims in the various cases ranged from about \$29 to \$160,000.

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## Internal Controls for Collections

Customs FP&F offices collect large amounts of money in penalties each year; therefore, it is especially important that the money collected is properly accounted for and promptly deposited. Our guidance<sup>4</sup> to agencies for establishing and maintaining systems of internal controls states that critical functions should be divided among individuals. In three of the four districts we reviewed, the officials processing the penalties were the same officials who collected the penalties. For example, one FP&F official in Seattle was responsible for preparing and mailing penalty notices. This official also received the collections, prepared cash receipts, and transported the collections to the cashier's office.

The Department of the Treasury requires collections of \$1,000 or more to be deposited the day received. Smaller collections may be accumulated and deposited when the total reaches \$1,000; however, all deposits must be made by each Friday regardless of the amount accumulated. The collections at the locations we visited appeared to be deposited promptly, except for the Laredo FP&F office.

We reviewed the Laredo office's collection receipts on June 23, 1987, and found 67 undeposited checks totaling about \$21,000. Of the 67, 61 checks totaling about \$14,000 had been received up to 1 week before June 23. Twelve of the 61 checks amounting to about \$2,200 had been received more than 30 days before June 23. Laredo FP&F officials said four checks had not been deposited because they could not find the appropriate penalty case folders, and the remaining 63 checks had not been deposited because of the staff's work load.

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## Increasing Work Loads

FP&F officers in the four districts we visited said that more emphasis should be given to the FP&F program because of the important role of the FP&F offices in assessing, processing, and collecting penalties. These officials expressed concern about the increasing work load on their staff resulting from Customs' increased enforcement actions. In the course of our review, we noted that there had been a substantial increase in FP&F work loads. We compared work load data for a 5-year period, 1982 to

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<sup>4</sup>U.S. General Accounting Office, Standards For Internal Controls in the Federal Government (Washington, D.C.: 1983).

1987, and found that the work loads for the Laredo and New York Districts, measured in terms of cases received, increased 62 and 59 percent, respectively, while FP&F office staffing remained constant. We could not calculate the increases for the Los Angeles and Seattle Districts because they did not have work load statistics for 1982. Three of the FP&F offices had either been working overtime or temporarily assigning staff to the offices to process the increasing number of cases.

According to a Customs internal survey in February 1987, the number of backlogged, liquidated damage/penalty cases with petitions filed but needing decisions was about 10,600 nationwide. For the districts we visited, the survey identified 1,990 cases in Los Angeles, 799 cases in Laredo, 1,000 cases in New York, and 194 cases in Seattle.

In three of these districts, excluding Laredo, officials said that their large work loads have caused considerable personnel turnover at all levels. They noted that FP&F officers had been in their positions for less than 2 years. In the Los Angeles District, there had been 10 FP&F officers in the past 12 years.

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## Current Efforts—A Positive Step

Recognizing long-standing problems, Customs initiated a number of actions to improve its FP&F offices. In August 1986 Customs established a headquarters office to oversee FP&F field operations and to provide operational and administrative support for FP&F field offices. This office's responsibilities also include defining field functions and responsibilities, monitoring and evaluating internal controls, and ensuring that the program is being consistently implemented.

In January 1987, Customs' FP&F Oversight Committee (a task force formed to improve FP&F operations) recommended a work plan that would improve and simplify FP&F operations. As part of this simplification project, Customs held a training seminar for all FP&F officers in June 1987. According to Customs this was the first time all FP&F officers were given formalized training. Customs has conducted several courses for FP&F staff since June 1987 and is developing additional courses to be provided on a routine basis.

The FP&F headquarters office planned to address internal controls and personnel issues in fiscal year 1987, but subsequently slipped the target dates to its fiscal year 1988 work plan. Customs plans to establish an organizational plan for FP&F field offices, a uniform grade structure with an established career ladder, standard position descriptions, and an

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allocation model for assigning staff. Other 1988 goals include developing work load measurement capabilities, reviewing selected field offices for adherence to policy directives, and additional training courses. Other plans for which feasibility studies are underway include lockbox collections, credit card payments, importer prepayments in anticipation of an FP&F case, and fully automated case initiation for some violations.

In late 1987 Customs announced "Project 6000," aimed at collecting about 15,000 unpaid fines and penalties totaling over \$500 million. These debts were incurred by liable parties whose time limit for requesting relief from these claims had expired.

In July 1988, all 45 districts will have implemented the automated case processing system, according to the program manager. This system is intended to give Customs more control by enabling it to monitor cases and to assess the performance and work loads of the FP&F offices. It will also enable Customs to identify repeat violators so that stiffer measures can be taken against them. The Assistant Commissioner, Office of Commercial Operations, said the speed of implementing these changes and their success will depend on the amount of staffing and money Customs makes available to the FP&F offices. Customs obtained funding in February 1988 for 25 of the 88 requested positions for its FP&F program, according to the program manager.

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## Conclusions

We believe Customs has taken a significant step toward improving its FP&F program by establishing a headquarters office to oversee FP&F field operations. This office can provide the oversight, coordination, continuity, and visibility necessary to set the tone for all FP&F operations. Placing more emphasis on training and other personnel-related activities, work load measurement criteria, and technology advances should further enhance the FP&F program. Automating case processing was long overdue, in our opinion, and offers the most potential for Customs management if fully utilized. Customs' success, however, depends on its ability to complete and implement initiatives underway in a timely manner.

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Customs officials generally agreed with the facts as presented but pointed out that recent Customs' initiatives should take care of most of the problems identified in prior reports and those discussed in this report.

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As arranged with the Subcommittee, unless you publicly release its contents earlier, we plan no further distribution until 7 days after the date of this report. At that time, we will send copies to the Secretary of the Treasury, Commissioner of the U.S. Customs Service, and other interested parties.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Arnold P. Jones". The signature is written in a cursive style with a large initial "A".

Arnold P. Jones  
Senior Associate Director

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# Objectives, Scope, and Methodology

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In a letter dated December 18, 1986, from the Chairman, Subcommittee on Commerce, Consumer, and Monetary Affairs, House Committee on Government Operations, and in subsequent meetings with the Subcommittee, we were asked to review Customs' fines, penalties, and forfeitures program to determine whether improvements are needed in Customs' procedures and practices for assessing, processing, and collecting penalties for violations of U.S. trade laws and regulations, and in its internal controls for the process. Because Customs recognized problems with the program and had initiated actions to correct it, we agreed to limit our work to providing a status report and to reviewing the FP&F program at four district offices.

Assessing and collecting penalties and the management of that effort have been the subject of several Customs and GAO reports. We reviewed these prior reports and other agency documents dealing with this subject and then selected four district offices for review to determine if weaknesses identified in earlier reports still exist and the reasons for any existing problems. The four district offices—Laredo, Texas; Los Angeles, California; New York, New York; and Seattle, Washington—represent a cross section of Customs districts in terms of their geographical location, size, and work loads.

In order to obtain information on Customs' procedures, practices, and internal controls for assessing, processing, and collecting penalties, we discussed the penalty assessment and collection process with the FP&F program manager at Customs headquarters and with FP&F officers and staff at the four districts we visited. We reviewed Customs' written procedures for assessing and collecting penalties, and other documents relating to the assessment process in the four FP&F offices.

We also judgmentally selected and reviewed 10 recently closed penalty cases in each of the four districts to obtain information on the factors contributing to processing and collection delays. The cases selected included a mixture of liquidated damage, seizure, and penalty cases which comprise the basic work load in FP&F offices. The number of cases selected was not large enough to allow us to make projections about existing conditions at the districts visited or nationally.

In determining the adequacy of Customs' internal controls, we used standards established for the federal government by the Comptroller

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General.<sup>1</sup> These standards establish the essential elements of an internal control system to provide reasonable assurances that program objectives are accomplished and funds, property, and other assets are safeguarded against waste, loss, and unauthorized use or misappropriation. The Federal Managers' Financial Integrity Act of 1982 (PL-97-255) requires agency heads to establish internal control systems which comply with these standards. Our review was done in accordance with generally accepted government auditing standards. Field work was done from March through November 1987.

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<sup>1</sup>U.S. General Accounting Office, Standards for Internal Controls in the Federal Government (Washington, D.C.: 1983).







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