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Report to the Attorney General

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SEIZED DRUGS AND WEAPONS

DEA Needs to Improve Certain Physical Safeguards and Strengthen Accountability

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Contents

Abbreviations

AAPC	Accounting and Auditing Policy Committee
ATF	Bureau of Alcohol, Tobacco, and Firearms
DEA	Drug Enforcement Administration
DOJ	Department of Justice
FASAB	Federal Accounting Standards Advisory Board
FBI	Federal Bureau of Investigation
JFMIP	Joint Financial Management Improvement Program
NEDS	Non-Drug Evidence System
OIG	Office of Inspector General
SFFAS	Statement of Federal Financial Accounting Standard
STRIDE	System to Retrieve Information from Drug Evidence

United States General Accounting Office
Washington, D.C. 20548

Accounting and Information
Management Division

B-283521

November 30, 1999

The Honorable Janet Reno
The Attorney General

Dear Madam Attorney General:

Since 1990, we have periodically reported on government operations that we have identified as "high risk" because of their greater vulnerabilities to waste, fraud, abuse, and mismanagement. One of these operations is the asset forfeiture program operated by the Department of Justice (DOJ). As we reported in January 1999, although some improvements have been made to the program since we first designated it as a high-risk program in 1990, significant problems remain and continued oversight is necessary to ensure that policies and procedures are followed and that adequate safeguards are in place.[1]

Related to asset forfeiture, DOJ operations often involve the seizure, custody, and disposition of evidence that is used by federal prosecutors. A critical support function is controlling evidence to help ensure that federal cases are not compromised or weakened by challenges made by the defense about the existence, completeness, or handling of evidence, or its ties to defendants. Seized property, including items such as drugs and weapons, are subject to forfeiture and typically remain in the custody of the seizing agency until they are approved for final disposition. In fiscal year 1998, DOJ's Drug Enforcement Administration (DEA) reported that its agents seized over 275,000 kilograms[2] of illegal drugs.

This report focuses on DEA's controls over seized drugs and weapons. There is an inherent risk of theft, misuse, and loss of drugs and weapons due to the fact that such evidence typically has a market or "street" value. In addition, evidence can remain in DEA custody for significant amounts of time due to long-term investigations. Another factor increasing the risk is changes in the custody of the evidence as DEA often conducts its

[1] *Major Management Challenges and Program Risks: Department of Justice* (GAO/OCG-99-10, January 1999).

[2] One kilogram equals 1,000 grams and is the equivalent of approximately 2.2 pounds. About 453.6 grams is the equivalent of 1 pound.

operations with other law enforcement agencies, which can result in evidence being transferred from one agency to another.

Given this inherent risk, our audit objectives were to determine whether DEA (1) put in place physical safeguards to control access to and use of drug and weapon evidence and (2) maintained adequate accountability over such evidence. To accomplish these objectives, we interviewed officials from DEA headquarters and selected division offices and laboratories concerning various aspects of the seizure, storage, and disposal of seized drugs and weapons. We reviewed DEA's *Laboratory Operations Manual* and *Agents Manual* for policies and procedures pertaining to the processes used to seize, account for, safeguard, and dispose of drugs and weapons. Based on documentation provided by DEA headquarters, we selected four division offices and corresponding laboratories with large volumes of drug seizure activity–Dallas, Texas (South Central Laboratory); Miami, Florida (Southeast Laboratory); New York, New York (Northeast Laboratory); and San Diego, California (Southwest Laboratory)–to perform testing of these policies and procedures.

To determine if issues we identified at the four selected division offices and laboratories are indicative of more systemic concerns, we (1) reviewed reports issued by DOJ's Office of Inspector General (OIG) related to laboratory operations[3] and (2) requested and reviewed a copy of the sections of the most recent DEA internal inspection reports for 20 of DEA's 21 division offices[4] and for the 8 laboratories that cover procedures and internal controls related to seized drugs and weapons. These inspections were performed from March 1996 through August 1998. Because we received the sections of the internal inspection reports near the end of our fieldwork, we did not follow-up with the division offices or laboratories to determine the extent to which noted deficiencies had been corrected. According to DEA officials, the reported deficiencies have been addressed; however, as noted throughout this report, we identified instances where weaknesses similar to those included in the internal inspection reports existed at the locations we visited.

[3]*Drug Enforcement Administration's Laboratory Operations* (DOJ OIG, 95-18, May 1995) and *Retention of Drug Evidence in Drug Enforcement Administration Laboratories* (DOJ OIG, I-96-02, February 1996).

[4]The El Paso Division Office was established after the completion of our fieldwork.

We performed our work in accordance with generally accepted government auditing standards from August 1998 through August 1999. See appendix I for a more detailed discussion of our scope and methodology. We requested written comments on a draft of this report from the Attorney General or her designee. The Acting DEA Administrator provided written comments which are discussed in the "Agency Comments and Our Evaluation" section of this report and reprinted in appendix II. DEA also provided technical suggestions or supplemental information that we took into consideration while finalizing our report.

Results in Brief

Physical safeguards over drug and weapon evidence, which include adequate storage facilities and control procedures, are essential for guarding against theft, misuse, and loss of such evidence and securing it for federal prosecutors. Each of the four laboratories and division offices we visited had physical safeguards in place, that, if operated effectively, would help control access to and use of drug and weapon evidence. However, we found instances of inadequate packaging of drug and weapon evidence and overcrowded drug vaults that could increase the potential for theft, misuse, and loss. Further, we found that certain requirements, such as chemists returning drug evidence to the vault within 5 working days after analysis and laboratories destroying drugs within 90 days of receiving authorization to destroy, were not always met. Similar issues were reported in the internal inspection reports provided to us by DEA that covered DEA inspections performed from March 1996 through August 1998.

Drug and weapon evidence must also be accounted for completely, accurately, and promptly to help ensure that such evidence is not compromised for federal prosecution purposes and is protected against the risk of theft, misuse, or loss. Based on our visits to four selected DEA laboratories and division offices, we found weaknesses related to DEA's accountability over drug and weapon evidence. The weaknesses included (1) incomplete and missing drug evidence documentation, including chain of custody documentation, (2) inaccurate recordkeeping of drug and weapon evidence, and (3) improper accounting for drug weights, including unverified and unexplained weight differences in drug exhibits. For example, DEA policy requires that chemists verify the weight of drug evidence against the weight reported by the submitting agent upon receipt of the evidence and obtain a witness' verification if a difference above a certain threshold exists. For 28 of the 86 drug exhibits we reviewed that had weight discrepancies above the threshold set forth in DEA's policy,

chemists did not obtain the appropriate verification before opening and analyzing the evidence.

DEA's internal inspection teams also reported instances of missing documentation and improper recordkeeping in their reports covering inspections performed from March 1996 through August 1998. Notwithstanding these problems, DEA officials at the four laboratories and division offices we visited were able to locate each item selected for our testing that was in storage in evidence vaults or warehouses, and for those items not in storage, they provided documentation supporting the current location or the status of the item. We are making recommendations to address the above issues.

In commenting on this report, DEA concurred that the accountability and safeguarding of evidence is of critical importance and said it will take the appropriate steps to reinforce its adherence to existing policies or to implement new policies relating to 11 of our 12 recommendations. However, DEA stated that issues identified in the report do not appear to be systemic weaknesses and were found in areas where redundant controls are in place to ensure the integrity of evidence is maintained at all time. We disagree with DEA and, as discussed in this report, identified several issues which we consider to be of a more severe nature at all, or almost all, of the locations that we visited and for which redundant controls did not exist to compensate for the deficiencies. In addition, DEA officials indicated that the reported deficiencies identified by their internal inspections performed prior to our review had been addressed. However, as noted throughout this report, we identified weaknesses that were the same or similar to ones identified during DEA's internal inspections.

Further, in several comments related to the significance of certain discrepancies, DEA stated that all exhibits of drug evidence examined by GAO were found to be in a sealed condition. However, certain conditions identified by us during our testing and included in this report diminish the effectiveness of DEA's sealing of evidence procedures.

Background

DEA plays a leading role in combating the production and distribution of illegal drugs. Under DOJ, DEA's mission is to enforce controlled substance laws and bring individuals and organizations that violate these laws into the justice system. To carry out its mission, DEA operates 21 domestic division offices and 77 foreign offices in 56 different countries. DEA also has eight laboratories located throughout the country, that conduct drug analyses for

DEA and other law enforcement agencies and maintain thousands of exhibits from investigations.

In fiscal year 1998, DEA reported that its agents seized over 275,000 kilograms of drugs, including marijuana, cocaine, and heroin (see table 1) and approximately 280,000 kilograms were maintained at DEA facilities as of September 30, 1998.[5] When drug evidence is seized, the agent maintains custody of the drugs until sending them either via mail or hand delivery to the laboratory for testing. Agents seal, label, and weigh the drug evidence, as well as assign consecutive exhibit numbers to such evidence acquired under a given case number. All drug evidence seized in DEA-controlled investigations must be submitted to a DEA laboratory for safekeeping and analysis. If the seizure involves over 10 kilograms of marijuana, only a sample amount is sent to the laboratory, with the remainder being stored in a secured area by the division offices. For large "bulk" narcotics seizures, DEA informs the appropriate U.S. Attorney's Office in writing within 5 days that amounts above a certain threshold will be destroyed after 60 days from the date notice is provided of the seizure, unless a written request not to destroy the excess is received.[6]

[5]DEA employees are drug tested before they are hired and are subject to additional random drug testing during employment at DEA.

[6]Drug seizures over certain threshold amounts are considered "bulk" seizures. Bulk seizure thresholds vary depending on the type of drug. For example, the threshold amount for heroin is 2 kilograms, while the threshold for cocaine is 10 kilograms. The U.S. Attorney's Office may request keeping amounts in excess of the threshold if it believes possession of the drugs may affect the legal proceedings.

Table 1: Seized Drug Activity for the Year Ended September 30, 1998

(in kilograms)

Drug type	Beginning balance	Additions	Deletions	Ending balance
Marijuana	29,536	239,515	195,288	73,763
Cocaine	196,722	31,649	38,704	189,667
Heroin	1,989	364	687	1,666
Methamphetamine	3,857	1,217	771	4,303
Other	10,991	3,377	4,630	9,738
Total	**243,095**	**276,122**	**240,080**	**279,137**

Source: Aggregate figures for bulk and nonbulk drugs from DEA's *Annual Financial Statement Fiscal Year 1998*.

Drug evidence may change hands several times from seizure to disposition, particularly if another agency is involved or if the evidence is presented in court. Upon receipt at the laboratory, an evidence technician takes custody of the drugs, verifies that the seals are intact, assigns each exhibit a laboratory identification number, and stores it in a vault for safekeeping. The evidence technician also enters the receipt of the drug evidence into DEA's Laboratory Evidence Management System, which produces a bar code to be used for inventory purposes. Within 3 days of receipt, information about the evidence is also required to be entered into DEA's drug database, the System to Retrieve Information from Drug Evidence (STRIDE). STRIDE is used to track evidence submitted to the laboratories from receipt to destruction and for statistical purposes. Supervisors assign the exhibits to specific chemists for analysis. Chemists then check out the drugs from the vault, verify that the seals are intact, weigh and analyze the drug evidence, and then return it to the vault. The results of the analysis are required to be documented on a forensic chemist worksheet (DEA 86). DEA policy states that evidence should normally be returned to the vault within 5 working days after the analysis report is prepared. After analysis, STRIDE is updated to reflect the test results.

Evidence received from other agencies, such as the U.S. Customs Service (Customs) or the Federal Bureau of Investigation (FBI), is returned to that agency after DEA has completed its analysis. DEA drug evidence remains stored in the laboratory's vault until the laboratory director receives approval from the division office for destruction. Upon receiving approval

for destruction, DEA policy requires that the drugs be disposed of within 90 days. Drugs are disposed of periodically at a commercial incinerator.

Agents also seize weapons, including rifles, handguns, knives, and ammunition and maintain them in vaults within division and field offices. An evidence technician takes custody of the weapons from the seizing agent and enters the receipt into DEA's Non-Drug Evidence System (NEDS), which produces a bar code for inventory purposes. Weapons are maintained in a vault until destroyed, forfeited, transferred to another agency, or returned to the owner.[7]

To help ensure that policies and procedures are followed and that evidence is properly safeguarded and accounted for, the DEA Office of Inspections and the Office of Forensic Sciences performs internal inspections at each laboratory and division office approximately every 24 months. These inspections include a review of field operations including those pertaining to safeguarding and accounting for drug and weapon evidence. After the completion of the inspection, a report detailing the findings and recommendations is issued to division or laboratory management, which must then submit a memorandum to the Chief Inspector within 90 days of issuance, noting any corrective actions completed or planned. The reports remain open until all corrective actions are completed.

DEA Needs to Improve Safeguarding of Drug and Weapon Evidence

Physical safeguards, which include adequate storage facilities and procedures, are needed to reduce the risk of theft, misuse, or loss of drug and weapon evidence and help ensure that evidence is not compromised for prosecution purposes. In addition, physical safeguards can promote a safe working environment for DEA personnel. The four laboratories and division offices included in our review have physical safeguards in place that if operating properly help control access to and use of drug and weapon evidence. However, we identified some weaknesses, including storage problems, which could affect DEA's ability to properly safeguard drug and weapon evidence. In addition, we found that certain required procedures involving drug evidence were not met. DEA's internal inspection reports noted similar weaknesses in the safeguarding of drug evidence.

[7]Return of a firearm to the owner can take place only if the party receiving the firearm may legally own a firearm and ownership of such type of firearm is not prohibited by law.

Physical Safeguards

DEA's evidence vaults and other designated secure areas used to store drug and nondrug evidence must meet certain requirements as established by DEA, DOJ, and the General Services Administration. The requirements include construction specifications and standards for locks, locking devices, and access control systems. At each of the four laboratories and division offices, we observed the location and condition of evidence vaults and other designated secure areas and noted that drug and nondrug evidence was segregated in separate areas as required by DEA policy. We also observed physical safeguards, including cameras, motion detectors, and combination locks that are in place to control and monitor access to and use of drug and weapon evidence. However, due to the sensitive nature of the evidence, we did not perform any comprehensive tests to verify the operation of the specific physical safeguards because we did not want to risk compromising any of the evidence that may be needed for prosecution purposes. For example, while we observed employees entering keypad access codes to obtain entry, we did not attempt to obtain unauthorized entry into controlled areas.

Based on our visits to the four selected locations and our review of DEA's internal inspection reports, we noted some weaknesses with DEA's physical safeguards. Specifically, at the South Central Laboratory in Dallas, we were informed that two cameras inside the drug evidence vault, which monitor vault activity, were not operational. In addition, DEA's policy allows for short-term storage of bulk seizures in detention cells; however, we noted that the Dallas Division Office was using a detention cell for long-term storage for bulk marijuana. In one example, three boxes of marijuana were stored in the detention cell from May 1996 until January 1998. Also, the internal inspection report for the Northeast Laboratory in New York indicated that a vault alarm system had not functioned properly for several years. An official at DEA headquarters indicated that the inspection report did not clearly state the problem and that the alarm was working properly but was not connected to the division office alarm system as required. The official indicated that the alarm was subsequently fixed. To confirm this, we asked for the more recent inspection report for this laboratory, but as of the completion of our fieldwork, it had not been provided to us.

Storage of Drugs and Weapons

During our visits to drug and weapon evidence vaults at the laboratories and division offices, we noted instances of improperly stored evidence. For example, at the laboratories, we noted evidence packaging that was deteriorating and overcrowded evidence vaults. At the division offices, we

also noted improperly sealed weapons. Weaknesses such as these have previously been reported by the DOJ OIG and by DEA's inspection teams.

Unsealed and damaged evidence packaging and overcrowded evidence vaults increase the potential for theft, misuse, and loss of evidence and that such evidence could be compromised for federal prosecution purposes. Due to space constraints in the drug evidence vaults at two of the four laboratories we visited, we observed boxes that had been stacked on the floor such that the lower boxes were being crushed. As the DOJ OIG reported in 1996, the storage of exhibits on vault floor space is not recommended because "cluttered vault aisles can be hazardous and make retrieving and accounting for exhibits more cumbersome and time-consuming." In 1995, the DOJ OIG also reported that the vault storage space was insufficient at the same two laboratories where we noted overcrowding.

We also observed exhibits where the packaging or the tape used to seal boxes was deteriorating or had already deteriorated to the point that the box was open, increasing the potential for access to the contents. For example, at one location, we observed a punctured evidence bag containing approximately 2 kilograms of heroin. At another location, we observed a cocaine exhibit for which the gross weight after analysis was unknown (i.e., not recorded on the box, in the file, or in STRIDE), being stored in a box that was in poor condition. Officials agreed that such items should be repackaged. At the bulk marijuana warehouse maintained by the New York Division Office, we observed that several bags of a 9,000-pound seizure were worn, increasing the potential for access to the contents.

An internal inspection report for one laboratory, not included in our review, also identified improperly stored drugs. Specifically, the internal inspection found that the laboratory had stored drug and nondrug evidence within the same vault, which is not in compliance with DEA policy. Also, the inspection teams identified one resident office, a smaller office within a division office, that did not have an overnight drop safe to store seized drugs, as required by DEA policy.

For safety purposes, DEA policy requires that firearms be carefully unloaded by the agent most familiar with the weapon and sealed in an evidence bag. While conducting our inventory testing of 78 weapons, we observed two handguns that had not been sealed in evidence bags as required. We also observed one seizure of knives that had not been sealed properly. Specifically, the knives were stored within a zipper bag that could

be easily opened. Weapons that are not sealed properly can create unsafe conditions for DEA personnel, as well as for others who may require access to the evidence.

We noted that, while not required by DEA policy, but similar to a Bureau of Alcohol, Tobacco, and Firearms (ATF) policy, many of the handguns we observed had a plastic strip inserted through the chamber, further rendering the firearm safe.[8] In addition, unlike FBI policy, DEA's policy does not require written certification from a firearm instructor ensuring that the firearm has been rendered safe.[9] Although DEA agents are not required to take these additional steps, formalizing such requirements would provide further safeguards that firearms are rendered safe.

Timeliness of the Performance of Certain Required Actions

The DOJ OIG reported in 1995 that chemists took an average of 15 days to return exhibits to the vault after analysis and indicated that even taking 7 days appeared to be excessive. Based on an OIG recommendation, DEA policy was revised to require that drug evidence normally be returned to the vault within 5 working days after analysis. During our visits to four selected laboratories, we found that for 20 of the 216 laboratory items we selected, where the chemists had completed their analysis and prepared the related report, the chemists had retained evidence for an average of 10 working days. Seventeen of the 20 cases occurred at the South Central Laboratory in Dallas, and in one instance, the chemist maintained an exhibit for 34 working days. A laboratory official could not explain why this exhibit was not returned promptly. Promptly returning evidence to the vault ensures that the chemists do not maintain evidence for excessive amounts of time in an area more accessible than the vault.

DEA policy also requires that drug evidence be destroyed within 90 days of receiving approval to do so from the division office. We found that 1 of 16 exhibits we tested, which were being maintained by the laboratory and had been approved for destruction, had not been destroyed within the 90 days required by DEA policy. This exhibit had been authorized for destruction but was not destroyed until over 5 months after approval was obtained. Timely destruction of drugs authorized to be destroyed conserves limited

[8]ATF requires plastic tie wraps to be inserted through the chamber prior to storage of all firearms, including handguns and rifles.

[9]FBI policy requires that a firearm instructor certify in writing that seized firearms are rendered safe prior to transferring custody to an evidence custodian.

vault space, allows agents to close the related case files promptly, and eliminates the additional inherent risk of theft of these drugs that are no longer needed as evidence.

According to DEA policy, DEA has 5 days in which to notify the U.S. Attorney's Office that amounts above certain thresholds for bulk seizures will be destroyed after 60 days from the notification date unless a letter requesting DEA to maintain the drugs is received from the U.S. Attorney's Office. The letters notifying the U.S. Attorney's Office of DEA's intent to destroy the amounts above certain thresholds and the response letters from the U.S. Attorney's Office with justification for not destroying these amounts were not provided for two of the five exhibits we tested in which letters should have been included in the file. In another instance, the U.S. Attorney's Office had been notified; however, the 60-day deadline passed in February 1998 and the evidence had not yet been destroyed as of our visit in October 1998. Ensuring that U.S. Attorney's Offices are promptly notified and that responses are received from them for not destroying evidence needed for prosecution purposes allows DEA to quickly destroy unneeded evidence and conserve limited vault space.

Internal inspection reports identified similar deficiencies at 3 of the 8 laboratories, which include the Southeast and Northeast Laboratories, and at 4 of the 20 division offices, which include the Dallas and New York Division Offices. For example, one laboratory, not included in our review, was not always destroying evidence within the required 90 days after notification that the seized item was approved for destruction. Other examples included chemists not returning exhibits to the vault within the 5 working day time frame, and seized drugs being stored in a temporary overnight storage location for over 1 year.

Accountability Over Drug and Weapon Evidence Needs Strengthening

We identified weaknesses over the accountability of drug and weapon evidence that could increase the potential for theft, misuse, or loss of such evidence, and that such evidence could be compromised for federal prosecution purposes. Although the division offices and laboratories had policies and procedures designed to ensure accountability over drug evidence, they did not always follow them. During our visits, we noted (1) incomplete and missing documentation over drug evidence, including chain of custody documentation, (2) weaknesses in recordkeeping of drug and weapon evidence, and (3) weaknesses in accounting for drug weights, including unverified and unexplained weight differences in drug exhibits. Notwithstanding these problems, evidence control personnel at the four

laboratories and division offices we visited were able to locate each item selected for our testing that was in storage in evidence vaults or other secure areas, and for those items not in storage, they provided documentation supporting the current location or status of the item. For example, if the exhibit had previously been destroyed, we were provided a copy of the DEA form authorizing the destruction and showing signatures of the DEA personnel who witnessed the destruction.

Maintaining Documentation

During our testing, we identified laboratory and evidence custodian files that were missing documentation, including chain of custody documentation, or contained incomplete documentation. We also identified evidence labels that were missing witness signatures. DEA policy requires that complete and accurate documentation, such as the Report of Drug Property Collected, Purchased, or Seized (DEA 7), forensic chemist worksheets (DEA 86), and forms (DEA 12) used to transfer evidence to other parties (e.g., court, another federal agency), be maintained in the seizure files. These forms, along with evidence accountability records (DEA 307) maintained in a separate area within the vault, are used to document transfers of evidence and provide a chain of custody for the evidence. For bulk seizures, the laboratory files must also contain photographs of bulk seizures submitted to the laboratory. Photographs provide visible proof of the evidence in the event that drugs over certain threshold amounts are destroyed. In addition, DEA policy requires that two agents be involved in the seizure and sealing of evidence and that they both sign an evidence label. Having a witness to the seizure and the sealing of critical evidence is important to prevent any one individual from having uncontrolled access to evidence.

Upon receipt of evidence at the laboratory, the evidence custodian is required to sign the DEA 7, which is prepared by the submitting agent, accepting receipt of the evidence. The evidence custodian is not required to reweigh the evidence, but must examine the seals and check a box on the form indicating whether the evidence seals are intact. We found substantial compliance with the policy, but noted a few exceptions. For example, 3 of the 236 DEA 7s we reviewed were missing the checkmark indicating whether the seals were intact and one was missing the evidence custodian's signature. The internal inspection report for one division office, which was

not included in our review, stated that numerous deficiencies were noted in documenting the chain of custody on the DEA 7 form.[10]

DEA 86s are used by chemists to record all raw data, observations, and calculations regarding their analysis of drug evidence. They are also used to document which chemist received the evidence, whom the evidence is physically received from, and gross weights before and after analysis, among other items. After the form is prepared, a supervisory chemist is required to review the form. Our review of the DEA 86s noted a few exceptions. Specifically, the worksheets were missing from 2 of 216 analyzed exhibits in our sample and 3 of the worksheets were missing the reviewer's initials. Four of the eight DEA laboratory internal inspection reports, including the Southwest Laboratory, also identified instances in which there were errors in the completion of this form. Not being able to locate these forms or incorrectly completed forms could require a chemist to break the original chemist's seal and reanalyze evidence—perhaps years after the initial analysis. In addition, certain information reported only on the form, such as the gross weights before and after analysis, would be unknown.

DEA 12s are required to be maintained in the laboratory case files if drug evidence is transferred to individuals outside of the laboratory. The individual receiving custody of the evidence is required to sign the form and return it to DEA for inclusion in the laboratory file. According to DEA policy, the signature of a witness must be obtained when the evidence is transferred to a non-DEA official, such as a Customs or FBI agent. We found that the files for 10 of the 77 exhibits in our laboratory sample that had been transferred to an individual outside the laboratory were missing a transfer form. In addition, the laboratories were inconsistent in obtaining witness signatures on these forms. At the Southwest Laboratory, officials told us that they did not require Customs agents to provide a witness signature due to the large volume of exhibits they analyze for Customs (i.e., over 300 exhibits could be picked up on a given day). Additionally, an internal inspection report for one of the laboratories, not included in our review, also found examples of missing DEA 12s. Having the recipient's acknowledgement of receipt is critical for documenting the transfer of custody and the recipient's acceptance of responsibility for the evidence.

[10]No additional explanation of these chain of custody issues was given in the document we were provided.

DEA policy also requires that photographs of bulk seizures be maintained in laboratory files. Photographs provide visible evidence of drugs that may be destroyed prior to the trial of a case and may be used in lieu of transporting drugs to court. Two of the four bulk seizure laboratory files we reviewed were missing the required photographs. The drugs for one of these seizure cases had already been destroyed. In another example, photographs were missing for a 50-kilogram seizure because it had been split into five exhibits, so that no one exhibit was considered bulk. In addition, DEA internal inspection reports for three laboratories, including the Southeast and Southwest Laboratories and the San Diego Division Office, indicated that 11 of 43 bulk seizure cases reviewed were missing the required photographs. Ensuring that photographs are taken and maintained in the file can reduce unnecessary transporting of drug evidence to court and could allow for earlier destruction of bulk evidence.

DEA policy requires that two agents be involved in the seizure and sealing of evidence and that they both sign an evidence label. During our testing, we noted instances where the required witness signature was missing from the evidence label. Specifically, 4 of the 142 drug exhibits we weighed, as well as 8 out of 72 weapons we selected for testing and observed, were missing the required witness signatures on the evidence labels. Officials were unable to explain why the required signatures were missing. Having a witness to the seizure and the sealing of critical evidence is important to prevent any one individual from having uncontrolled access to evidence.

Recordkeeping

DEA uses various information systems and logbooks to account for drug and weapon evidence. During our testing, we noted errors and inaccuracies in certain data in the systems used to account for both drug and weapon evidence and the logbook used to account for bulk marijuana. DEA's internal inspection teams reported similar weaknesses with the recordkeeping of drug evidence. Maintaining complete and accurate records is essential for ensuring that evidence is properly accounted for and reported on.

Federal financial accounting standards and related supplemental guidance have highlighted the importance of accurately accounting for nonvalued seized and forfeited property, including seized drugs. Specifically, the Statement of Federal Financial Accounting Standard (SFFAS) No. 3, *Accounting for Inventory and Related Property*, issued in October 1993, requires the disclosure of all material forfeited property, including those items with no financial value. One such disclosure is an analysis of changes

in seized property that would include the amount of seized property, including drugs (1) on hand at the beginning of the year, (2) acquired during the year, (3) disposed of during the year, and (4) on hand at the end of the year.[11]

Recently issued supplemental guidance for SFFAS No. 3 states that amounts for certain drugs, including cocaine and heroin, should be based on weight.[12] For example, the standard unit of measurement for such illegal drugs should be kilograms. In addition, according to the guidance, material amounts of other seized drugs should be separately reported by liquid weight, dry weight, number of tablets, or other appropriate measures.

The evidence system used to track nondrug evidence, including weapons, contained inaccurate data even though annual inventories were being performed with no outstanding exceptions being documented. DEA policy requires annual inventories of all nondrug evidence; however, we identified 6 of 78 sampled items at three of the four division offices we visited where weapons were included on the inventory listing but DEA officials were unable to locate them in the evidence vault. Only after DEA personnel conducted research were they eventually able to explain all of the discrepancies and provide us with supporting documentation. In some cases the weapon had already been destroyed; in others, the weapon had been transferred. For example, at the Miami Division Office, two of the weapons were destroyed in July 1995, while another was transferred to the U.S. Marshals Service in 1993. These weapons still appeared on the office's inventory listing as of October 1998 even after the division office officials indicated that annual inventories had been conducted.

In another instance at the Miami Division Office, we were unable to physically observe a firearm because the evidence custodian was unable to

[11]The Joint Financial Management Improvement Program (JFMIP) has recently issued an exposure draft, *Seized Property and Forfeited Assets Systems Requirements* (JFMIP-SR-99-7, June 1999), that covers systems requirements for seized property and forfeited assets. According to the exposure draft, a system component that covers the custody of seized and forfeited property must have the capability to provide information to allow the independent verification that each item of seized property is in the physical or constructive custody of the government and that the recorded quantity is accurate.

[12]*Reporting on Non-Valued Seized and Forfeited Property, Federal Financial Accounting and Auditing Technical Release Number 4*, July 31, 1999, issued by the Accounting and Auditing Policy Committee (AAPC), which is a permanent committee sponsored by the Federal Accounting Standards Advisory Board (FASAB).

locate the firearm at the time of our visit. The custodian subsequently informed us that the firearm had been packaged for transfer to another DEA office and provided us with photographs that DEA represented was of the firearm. Additional documentation was provided supporting the transfer and receipt of the firearm; however, we noted that the contents of the package, listed as "3 guns, money, and jewelry" was recorded on a copy of the Federal Express packaging slip, which was attached to the outside of the package. According to DEA policy, the nature of the contents should not have been specified on the packaging slip.

We also noted errors in the logbooks used to account for evidence maintained in the bulk marijuana storage facilities at two division offices. For 3 of the 15 bulk storage items selected for testing at the San Diego Division Office, inaccurate case numbers were recorded in the logbook when the drugs were initially brought into the storage area and then the proper case number was recorded when the drugs were removed. This inconsistent recording makes it more difficult to track the amount of drugs that should be in the facility at any given time and to link the drugs to the case number they are associated with. The responsible division office official could not explain why the agents were using incorrect case numbers and stated that she would take action to address this issue. At the Dallas Division Office, a logbook entry was taped over and not marked through and initialed as required by DEA policy. Properly marking through and initialing the entry allows others to determine who made the change and whether the original entry was no longer appropriate.

Other discrepancies were found with the data in the laboratories' STRIDE system. This system is used to provide statistical and other program information related to drug seizures. Data from the DEA 7, as prepared by agents, is required to be entered into STRIDE within 3 working days of receipt of the evidence. In most cases, the information was not entered within 3 working days. DEA officials attributed this to staffing shortages and other priorities. Once the analysis is completed by a chemist, STRIDE is required to be updated to record the results of the analysis and again when the evidence is transferred or destroyed. Out of the 236 laboratory files we reviewed, we found 15 instances where the data in STRIDE did not agree with the supporting documentation. In 6 of the 15 instances, STRIDE was not updated to reflect correct weight information. Ensuring that data are promptly and correctly entered into STRIDE provides program managers with more accurate and useful information.

DEA's internal inspection reports also highlighted recordkeeping problems at 2 of the 8 laboratories, the Northeast and Southeast Laboratories, and 3 of the 20 division offices, all of which were not included in our review. For example, the Northeast Laboratory, after conducting an inventory of its vault, experienced "a large number of discrepancies" when reconciling its STRIDE inventory report to the DEA 307s. The inspection report relating to this laboratory also stated that, "[a]s a result of the noted deficiencies, which involved numerous items of evidence not accounted for, a PR [Office of Professional Responsibility] investigation was initiated." Because we received the sections from the internal inspection reports near the end of our fieldwork, we did not follow-up with the laboratory to determine the results of this investigation.

DEA's internal inspection reports also noted problems at two division offices not included in our review involving the logbook used to account for items in the bulk storage facility. At one location, it was reported that the individual responsible for the drug evidence was "not maintaining his record keeping and tracking system in compliance with DEA policies as delineated in the DEA Agents Manual, Section 6662. Although several log books were present, IN [Office of Inspections] determined that all drug evidence was tracked in one bound ledger, which contained gaps in time exceeding seven years." At another division office, the report stated that "there were inaccurate entries in the drug logbooks. Both drug logbooks contained inconsistent descriptions of the drug exhibits seized and submitted, which coupled with a lack of case numbers and submitted weights, created the appearance that drug exhibits may have been lost." According to a DEA official, corrective actions have been taken to address these issues.

Accounting for Weights of Drug Exhibits

According to DEA policy, for control purposes and because of mandatory minimum sentencing laws, all weights for drug exhibits should be determined as precisely as possible. Properly documenting the weights at different stages (i.e., upon receipt or after analysis) and resolving discrepancies is critical if the exhibit is used as evidence in court and for decreasing the potential for theft. We found weaknesses with the recorded weights of drug exhibits, from the initial seizure by the agent through destruction by the laboratory. Specifically, we found instances where (1) agents improperly recorded weights on the DEA 7, (2) chemists did not obtain a witness' verification for weight differences, (3) DEA did not always require that weights be recorded on the forms used to transfer

drugs for safekeeping, (4) chemists improperly recorded weights on the DEA 86 after analysis, and (5) unexplained weight differences occurred.

DEA policy requires agents to be properly trained in the use of scales and to weigh drug evidence after sealing and prior to submission to the laboratory. The gross weight of the exhibit is recorded on the DEA 7 to the nearest tenth of a gram if under 1 kilogram and to the nearest gram if over 1 kilogram. We found instances where agents inappropriately rounded or recorded the number of packages seized instead of the weight. In one example, an agent recorded that 6 "kilos" or bricks of cocaine had been seized and submitted to the laboratory, not the actual weight (7.75 kilograms as recorded by the chemist). In another example, the agent recorded that 25 kilograms of hashish oil was seized and submitted to the laboratory, instead of recording the weight to the nearest gram as required by DEA policy. Since the agent did not record the weight to the nearest gram, a significant difference could exist and not be detected. For example, the weight recorded to the nearest gram for this exhibit could range from 24,500 grams to 25,499 grams. Inaccurate recording of drug weights decreases DEA's accountability over such evidence.

During our testing we noted that drug evidence is not required to be weighed by the laboratory upon receipt, but just prior to analysis by a chemist. The evidence may remain in the vault for several months before it is analyzed. Prior to breaking the seals, chemists are required by DEA policy to verify that the weight of drug evidence agrees with the agent's submitted weight for the drug evidence. If there is a difference of more than 2 grams or 0.2 percent from the agent's submitted weight, whichever is greater, the chemist is required to obtain verification of the weight difference from a supervisor or another chemist who must then initial next to the chemist's recorded weight designating that the verification was performed.

In 1995, DEA's Administrator disagreed with an OIG recommendation that exhibits be weighed immediately upon receipt at the laboratory. The Administrator stated that the laboratory should ensure that the evidence is properly sealed and that "policy and procedure permit any discrepancy in gross weight to be addressed administratively at any time prior to breaking the seal." However, of the 216 analyzed exhibits in our sample, the chemist did not obtain the required written verification for 28 of the 86 drug exhibits that met the criteria for verification. The differences ranged from just over 2 grams to 1.75 kilograms (about one-fifth of the exhibit's total weight). Obtaining independent verification when differences exist ensures

that possible arguments over such differences by the defense or the submitting agent are mitigated. It also decreases the potential that the difference could be subjected to theft and not be detected. For the 28 exhibits we reviewed with differences and no witness verification, the time frames for receipt of evidence by the laboratory to when the chemist weighed the exhibit ranged from 1 week to over 5 months.

During our testing, we also noted instances where the weights of drug exhibits were not recorded on the forms used to document the transfer of drugs to a division office or to a laboratory. DEA policy requires the gross weight of bulk marijuana to be thoroughly documented, but does not specifically require that this information be provided to the evidence custodian upon transfer to bulk storage facilities at the division offices. In a bulk marijuana exhibit we selected for testing, we were only able to verify that the quantity (12 boxes and 1 container) agreed to the quantity recorded on the form used to transfer the evidence. There was no weight recorded in the file maintained by the evidence custodian or in the logbook. Also, at the laboratories we visited, we noted that weights were not always recorded on the forms used by several non-DEA agencies when submitting exhibits to a DEA laboratory for analysis. The agencies included local police departments, ATF, and Customs. DEA policy does not require non-DEA agencies to record weights on the forms used to transfer exhibits, therefore chemists are unable to determine if there is a difference between the submitted weight and the new weight that would require a witness verification. Further, the policy does not require that chemists obtain a witness' verification if the weight is not recorded on the transfer form. Not documenting weights on the forms used to transfer drugs for safekeeping and/or requiring that chemists obtain a witness' verification for exhibits that do not contain a recorded weight on the transfer form decreases DEA's accountability over such evidence.

Once the chemist performs the analysis on the exhibit, DEA policy requires the chemist to record the gross weight of the exhibit after it is resealed to the nearest tenth of a gram if the weight is between 10 and 1,000 grams, and to four significant figures if greater than 1,000 grams (e.g., 2,013 grams, 327.0 kilograms). However, the weights for 8 of the 142 exhibits we physically observed were inappropriately rounded by the chemist (7 of the

8 occurred at the Southeast Laboratory).[13] In one example, the chemist recorded the gross weight after analysis as 7.1 kilograms, instead of recording the weight to 4 significant figures. Not recording the weight more precisely could result in undetected theft of the difference due to rounding. There was one instance in which we could not compare our observed weight for a particular exhibit to the recorded gross weight after analysis because the chemist recorded the combined weight of four exhibits together and not for each exhibit. DEA officials agreed that the weights should have been recorded for each exhibit, particularly since one exhibit could be destroyed before the others. As noted above, inaccurate recording of drug weights decreases DEA's accountability over such evidence.

We also noted instances where DEA officials were unable to account for or explain differences between recorded weights and our observed weights. These differences ranged from a few grams to over 11.35 kilograms (about 25 pounds). Of the 142 items we reweighed at the laboratories, our observed weight for 40 of the items was more than 5 grams over or under the chemist's recorded gross weight after analysis.

DEA officials told us that scientific research has been performed and documented as to why certain drugs are susceptible to weight changes. For instance, weight gains are typically due to moisture absorption by certain drugs, such as cocaine and heroin. They stated that losses for certain other drugs, such as marijuana and cocaine base, are usually the result of the drugs losing moisture as they dry. However, 7 of the 40 items with weight differences did not follow the above trends and 2 of these items occurred on exhibits that had been authorized for destruction. Specifically, at the Northeast Laboratory, we weighed one cocaine exhibit that was no longer needed as evidence and was about to be destroyed, and determined that it was about 50 grams[14] less than the gross weight recorded by the chemist a few weeks before our visit. At the Southeast Laboratory, one cocaine exhibit had been analyzed 3 years prior to our testing and the weight for this exhibit had decreased by 6 percent, approximately 300 grams. In another example at the same laboratory, the gross weight after

[13]According to DEA officials, having chemists record the gross weight after analysis on the DEA 86 has always been a recommended procedure that became a requirement in January 1998. We were unable to compare our observed weight for 16 exhibits that were analyzed prior to when the requirement to record the gross weights after analysis became effective.

[14]Fifty grams of cocaine have an approximate "street" value of up to $5,000 based on DEA estimates as of February 1998.

analysis of a cocaine exhibit decreased by over 200 grams, even though additional materials, three plastic bottles and bubble wrap, were added to the exhibit prior to resealing. Laboratory officials at both sites were unable to specifically explain the lower weights for these three exhibits, but indicated that other factors, such as humidity or temperature changes within the vault, could result in weight differences that did not follow the above trends.

The largest difference was noted at the bulk storage facility maintained by the Miami Division Office, where a marijuana exhibit weighed about 25 pounds less than (or about half) the weight recorded when the drug was received at the site. Although both the agent and the evidence custodian had verified and initialed the receiving weight in this case, DEA officials agreed that the decrease in weight seemed excessive, but were unable to provide a specific explanation for the difference.

Conclusion

DEA has established numerous policies and procedures to control and safeguard drug and weapon evidence in its custody. However, based on our work at four division offices and laboratories and the results of DEA's internal inspections performed from March 1996 through August 1998, specific actions are needed to strengthen accountability over and safeguarding of drug and weapon evidence. Such actions will help reduce the potential for theft, misuse, or loss of drug and weapon evidence and the risk of evidence being compromised for federal prosecution purposes while in DEA custody.

Recommendations

We recommend that the Attorney General require that the DEA Administrator take the appropriate steps to reinforce DEA's adherence to existing DEA policies regarding

- properly storing bulk marijuana evidence in designated approved areas and sealing weapons in evidence bags;
- destroying drugs promptly to alleviate overcrowded drug evidence vaults and reduce the additional risk of theft since these drugs are no longer needed as evidence;
- chemists returning drug evidence to the evidence vault promptly after analysis so that the evidence is not maintained for excessive amounts of time in a more accessible area than that of the vault;

- requiring that two signatures be recorded on evidence labels prior to acceptance by laboratory and division office evidence custodians;
- maintaining complete and properly reviewed documentation in the laboratory seizure files and promptly entering accurate information into STRIDE;
- identifying any discrepancies–between evidence maintained in the vault and the location of evidence per the Non-Drug Evidence System–during annual inventories and promptly researching the discrepancies and updating the appropriate records;
- not specifying the contents on packaging slips when using commercial carriers;
- maintaining complete and accurate information in bulk marijuana logbooks; and
- chemists and agents recording weights in accordance with DEA policy and chemists obtaining an independent written verification if weight differences, over the DEA established threshold, exist between the weight of drug evidence reported by the agent and that weighed by the chemist.

Further, we recommend that the Attorney General require that the DEA Administrator modify existing DEA policy to include guidance for

- agents to obtain a written certification from an independent party experienced in handling firearms that firearms and other weapons being submitted for storage in the vault are rendered safe prior to being stored;
- requiring that if a DEA 12 is used to transfer bulk marijuana (1) the weight be recorded on the DEA 12 or (2) a copy of the DEA 7 be provided to the evidence custodian; and
- requiring that weights be recorded on the forms used to transfer non-DEA exhibits to a laboratory prior to acceptance by the evidence custodian and/or requiring that chemists obtain a witness verification if no weight is recorded on the transfer form.

Agency Comments and Our Evaluation

In commenting on a draft of this report, DEA concurred that the accountability and safeguarding of evidence is of critical importance and that we are right to point out the inherent risk involved in monitoring the integrity and accountability of evidence. DEA indicated that it will take the appropriate steps to reinforce its adherence to existing policies or to implement new policies relating to 11 of our 12 recommendations. DEA disagreed with our recommendation to modify existing DEA policy to

require that weights be recorded on the forms used to transfer bulk marijuana exhibits prior to acceptance by the evidence custodian because they believe that this policy already exists. While we recognize that a DEA policy exists that requires that weights be documented on the DEA 7, several of our sample items involved transfers of bulk marijuana to an evidence custodian using a DEA 12 and the weights were not recorded on the DEA 12. Although a description of the evidence is required to be recorded on the DEA 12, recording the weight on the form is not specifically required. We therefore clarified our recommendation to state that DEA modify their existing policy to require that if a DEA 12 is used to transfer evidence (1) the weight be recorded on the DEA 12 or (2) a copy of the DEA 7 be provided to the evidence custodian.

In addition to responding to our recommendations, DEA provided us with additional comments on our draft report and requested that we consider them before finalizing the report for publication. DEA stated that issues identified in the report do not appear to be systemic weaknesses and, for the most part, were found in areas where redundant controls are in place to ensure that the integrity of the evidence is maintained at all times. We disagree. Several of the issues discussed in this report, which we consider to be of a more severe nature, involved discrepancies at all, or almost all, of the locations that we visited and redundant controls did not exist to compensate for the deficiencies. In addition, while DEA officials indicated that the reported deficiencies in their inspection reports had been addressed, as noted throughout this report, we identified weaknesses that were the same or similar to ones identified during internal inspections performed prior to our review including some at the locations we visited.

For example, DEA policy requires that if drug evidence is transferred to an individual outside of the laboratory, the individual receiving custody must sign the DEA 12 (transfer form) and return it to DEA. We found 10 of 77 drug exhibits that had been transferred to an individual outside the laboratory that were missing the DEA 12. Having the recipient's acknowledgment of receipt is critical for documenting the transfer of custody and the recipient's acceptance of responsibility for the evidence. The controls mentioned by DEA (i.e., recording the transfer on a DEA 307, DEA 12, and in a database) may be redundant in documenting the transfer of custody, but these do not in any way annotate or document the recipient's actual acceptance of responsibility for the transferred evidence. We identified this problem at each of the four laboratories we visited.

In another example, for 28 of the 86 drug exhibits we reviewed that had weight discrepancies above the threshold set forth in DEA's policy, chemists did not obtain the appropriate verification required by DEA policy before opening and analyzing the evidence. Obtaining independent verification when differences exist ensures that possible arguments over such differences by the defense or the submitting agent are mitigated and decreases the potential that the difference could be subjected to theft and not detected. Three of the 4 laboratories that we visited contributed to the 28 discrepancies in this area, and we did not identify a compensating control that would specifically reduce the risk of this type of deficiency. According to a DEA official, the inspection teams did not test for this verification, but will do so in future inspections.

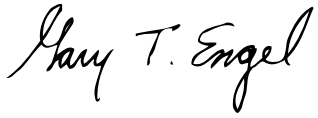
In several comments related to the significance of certain discrepancies, DEA stated that all exhibits of drug evidence examined by GAO were found to be in a sealed condition. We agree that adequately established and implemented sealing of evidence procedures can reduce the risk of theft, misuse, or loss of drug evidence. However, certain conditions identified by us during our testing and included in this report diminish the effectiveness of DEA's sealing of evidence procedures. For example, a witness signature was not present on the evidence label used to seal evidence by the seizing agent for 4 of 142 drug exhibits we reweighed. Having a witness signature at the time of sealing the evidence is important to prevent any one individual from having uncontrolled access to evidence. In addition, we observed exhibits for which the packaging or the tape used to seal boxes was deteriorating, or had already deteriorated to the point that the box was open, increasing the potential for access to the contents. At one location, we observed a punctured evidence bag containing approximately 2 kilograms of heroin. Further, at a bulk marijuana warehouse, we observed that several bags of a 9,000 pound seizure were worn, increasing the potential for access to the contents.

This report contains recommendations to you. The head of a federal agency is required by 31 U.S.C. 720 to submit a written statement on actions taken on these recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Reform within 60 days of the date of this report. You must also send a written statement to the House and Senate Committees on Appropriations with the agency's first request for appropriations made over 60 days after the date of this report.

We are sending copies of this report to Senator Fred Thompson, Senator Joseph Lieberman, Representative Dan Burton, Representative Henry A. Waxman, Representative Stephen Horn, and Representative Jim Turner in their capacities as Chair or Ranking Minority Member of Senate or House Committees and Subcommittees. We are also sending copies of this report to Donnie R. Marshall, the Administrator of DEA; Robert L. Ashbaugh, Acting Inspector General, Department of Justice; and the Honorable Jacob J. Lew, Director, Office of Management and Budget. Copies will be made available to others upon request.

If you have any questions regarding this report, please contact me at (202) 512-3406. Key contributors to this assignment were Larry Malenich, Casey Keplinger, and Jeffrey Knott.

Sincerely yours,



Gary T. Engel
Associate Director
Governmentwide Accounting and
Financial Management Issues

Scope and Methodology

To accomplish our objectives, we interviewed officials from DEA headquarters and selected division offices and laboratories concerning various aspects of the seizure, storage, and disposal of seized drugs and weapons. We reviewed DEA's *Laboratory Operations Manual* and *Agents Manual* for policies and procedures pertaining to the processes used to seize, account for, safeguard, and dispose of drugs and weapons. Based on documentation provided by DEA headquarters, we selected four division offices and corresponding laboratories with a large volume of drug seizure activity–Dallas, Texas (South Central Laboratory); Miami, Florida (Southeast Laboratory); New York, New York (Northeast Laboratory); and San Diego, California (Southwest Laboratory)–to perform our testing.

From DEA headquarters, we obtained a STRIDE listing for drug exhibits submitted to the laboratories from October 1997 through August 1998. A random sample of 59 drug exhibits from the listing was statistically selected for each of the four laboratories. These exhibits included DEA cases, as well as cases from other agencies, such as FBI and Customs. For each item selected, we requested the laboratory seizure file and other related documentation to test certain controls, mostly related to ensuring that proper chain of custody documentation existed. We judgmentally selected and weighed 10 of the 59 items at each selected site to verify the recorded weight in the file against our observed weight.[1] At each of the selected laboratories, we also obtained current inventory listings of cocaine seizures over 3 kilograms and heroin seizures over 500 grams, and selected 10 seizures from the listings, observed their existence, and weighed the item.[2] From the evidence maintained in the vault at each of the four selected laboratories, we judgmentally selected 15 items, weighed each item, and traced each one to a current inventory listing provided by the laboratory. Items were selected based on length of time the exhibit had been in storage, condition of packaging, type of drug, and/or whether the exhibit had been authorized for destruction. In total, we weighed 142 items.

[1]At two of the laboratories, we were unable to select 10 items to reweigh because many of the exhibits in our sample of 59 had been transferred to another agency, destroyed, or were of insignificant amounts. In these instances, replacement items were selected.

[2]At two of the laboratories, we selected seven items from the listings and 3 items from alternative sources. At one laboratory, 3 of the 10 items had been authorized for destruction. At another laboratory, 3 of the 10 items selected were exhibits received by the laboratory, but not yet analyzed.

At each selected division office, we reviewed the logbooks maintained by the facility to track bulk marijuana and physically inspected the bulk storage facilities. We judgmentally selected a total of 20 exhibits from the logbooks and 18 exhibits from those maintained in the storage facilities. We reviewed the related files maintained by the evidence custodian and weighed 14 of the exhibits. The specific number of cases selected for review and weighed varied at each location due to a limited number of bulk drug exhibits being maintained or because we were unable to reasonably reweigh the exhibit. For those cases not reweighed, we verified the quantity. At each selected division office, we also obtained current inventory listings from NEDS to randomly select 10 weapons to verify their existence in the vault. In addition, from weapons maintained in the vault, we judgmentally selected 10 items based on length of time each weapon had been in storage, type of weapon, or condition of packaging. Each selected item was traced to the current inventory listing.[3] We observed 72 of the total 78 items selected. Six of the items selected from the listing were no longer being stored in the division office's evidence vaults. For these six cases, we reviewed the related disposition documents.

At each of the four laboratories and division offices, we observed the location and condition of storage facilities and other physical safeguards including cameras, motion detectors, and combination locks that are in place to control access to and use of drug and weapon evidence. We also made inquiries of DEA's personnel about the operation of the physical safeguards. However, due to the sensitive nature of the evidence, we did not perform any comprehensive tests to verify the operation of the specific physical safeguards because we did not want to risk compromising any of the evidence that may be needed for prosecution purposes.

To determine if issues we identified at the four selected division offices and laboratories are indicative of more systemic concerns, we (1) reviewed reports[4] issued by DOJ's Office of Inspector General (OIG) related to

[3]At one division office, we used a manually prepared listing provided by the evidence custodian. At another division office, we were only able to identify and select six weapons from the vault since this division office seizes a limited number of weapons and does not maintain a separate area just for weapons. We selected and observed an additional two items from the listing. Therefore, the total number of weapons selected at the 4 offices was 78.

[4]*Drug Enforcement Administration's Laboratory Operations* (DOJ OIG, 95-18, May 1995) and *Retention of Drug Evidence in Drug Enforcement Administration Laboratories* (DOJ OIG, I-96-02, February 1996).

laboratory operations and (2) requested and reviewed a copy of the sections of the most recent DEA internal inspection reports for 20 of DEA's 21 division offices[5] and for the 8 laboratories that cover procedures and internal controls related to seized drugs and weapons. These inspections were performed between March 1996 and August 1998. Because we received the sections of the internal inspection reports near the end of our fieldwork, we did not follow-up with the division offices or laboratories to determine the extent to which noted deficiencies had been corrected. We performed our work in accordance with generally accepted government auditing standards from August 1998 through August 1999.

We requested written comments on a draft of this report from the Attorney General or her designee. The Acting DEA Administrator provided written comments, which are discussed in the "Agency Comments and Our Evaluation" section and are reprinted in appendix II. DEA also provided five enclosures with technical suggestions or supplemental information that we took into consideration while finalizing our report.

[5]The El Paso Division Office was established after the completion of our fieldwork.

Comments From the Drug Enforcement Administration

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

U. S. Department of Justice

Drug Enforcement Administration

OCT 21 1999

Jeffrey C. Steinhoff
Acting Assistant Comptroller General
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Steinhoff:

This is in response to your request on September 21, 1999, to Attorney General Janet Reno to review and comment on the General Accounting Office (GAO) report titled, ***SEIZED DRUGS AND WEAPONS: DEA Needs to Improve Certain Physical Safeguards and Strengthen Accountability***. The Department of Justice (DOJ) has directed that the Drug Enforcement Administration (DEA) prepare the final response to this report and all comments and corrections to the report are included.

Overall, the GAO report notes that DEA has instituted appropriate policies and procedures to address the critical area of safeguarding and accountability of its drug and weapon evidence. The GAO review found, and its recommendations note, that there are areas where DEA should reaffirm and reemphasize adherence to these policies and procedures and to improve the monitoring of compliance. As GAO indicated, all of the evidence that was the subject of their review was present or accounted for.

See comment 1.

Of related significance, DEA would like to make note that in June 1999, subsequent to GAO's review, the DEA laboratory system was inspected by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB), one of the leading crime laboratory accrediting bodies in the world. A large part of their inspection dealt with a detailed examination of evidence accountability procedures. Not one issue that related to the accountability or integrity of evidence was raised by the ASCLD/LAB inspection teams at any of the eight DEA laboratories inspected. On September 10, 1999, the ASCLD/LAB formally voted to grant accreditation to the DEA laboratory system. (Letter of Accreditation-Enclosure 1) This marked the second time that all eight DEA laboratories were approved for accreditation by ASCLD/LAB. Accreditation signifies that laboratory operating procedures are in place, being followed, and functioning according to the standards set by ASCLD/LAB and the DEA Office of Forensic Sciences (SF). These standards have been determined to be essential to the effective operation of a crime laboratory.

In reviewing this draft report, DEA would like to acknowledge the changes that GAO made based on the discussions of certain issues in the exit conference, and the subsequent meeting. DEA asks that GAO consider these comments in finalizing the report for publication. Additional technical and language corrections that DEA suggests for accuracy and clarity have been enclosed (Enclosure 2).

Report Issues

DEA concurs that the accountability and safeguarding of evidence is of critical importance and that GAO is right to point out the inherent risk involved in monitoring the integrity and accountability of evidence. However, DEA believes that the report should more strongly emphasize the significant actions that DEA has taken to ensure that its policies and procedures are followed. DEA believes that the report should highlight the significant GAO finding that they "[were] able to locate [account for] each item selected for our testing."

See comment 2.

Furthermore, all exhibits of drug evidence examined by GAO were found to be in a sealed condition, i.e., seals intact. Locating every piece of drug evidence with the seals intact is a strong indication of DEA's ability to account for evidence and its integrity. This is especially significant considering that the DEA laboratory system has approximately 120,000 pieces of drug evidence in its inventory. The report should emphasize that all drug evidence was found in a sealed condition.

See comment 3.

GAO notes that DEA continues to monitor compliance in these areas through its inspection process. DEA requests that GAO clarify the dates of the inspections in the report. Because of its two-year inspection cycle, the reports GAO used for its review were dated from 1996 to 1998, and represent historical, not contemporary problems. All of the problems identified in these inspection reports were corrected during these inspections, or were subsequently resolved. None are outstanding. DEA believes that GAO should note that these problems were resolved in its report.

See comment 2.

See comment 4.

The issues identified by GAO as weaknesses in physical safeguards and accountability relate to instances where GAO's random sampling showed that compliance with certain DEA policies and procedures was not always 100 percent. GAO bases its claims regarding accountability in large part on the fact that not all forms required by the various DEA internal manuals were completed. While isolated incidents were discovered, the percentage of instances where these problems occurred were minor and the individual problems identified insignificant. [See page 19: 3 of 236 DEA-7s, 1.27%, "were missing the check mark indicating whether the seals were intact;" 1 of 236, 0.4%, "was missing the evidence custodian's signature;" DEA-86s not present in 2 of 216 cases, 0.9%; 3 DEA-86s of 216, 1.38%, "lacked reviewer's initials;" page 21: 4 of 142 drug exhibits, 2.81%, lacked witness signatures on evidence labels.]

Now on pp. 14 & 15.

Now on p. 16.

See comment 2.

The issues identified in the report do not appear to be systemic weaknesses and, for the most part, were found in areas where redundant controls are in place to ensure that the integrity of the evidence is maintained at all times. For example, when evidence is transferred, the information is recorded in many different ways, on a DEA-307 form, a DEA-12 form, and it is also entered in the Laboratory Evidence Management System (LEMS) database. Having these redundancies ensures that shortcomings in one control will not result in an accountability problem. The GAO report should reflect the fact that DEA has instituted these significant redundant controls.

See comment 5.

Several references are made to the procedures used by DEA laboratories to receive and process evidence. On pages seven and eight, there are explanations of the procedures used by evidence

technicians to receive evidence from agents and the procedures used by forensic chemists to receive evidence from the vault for analysis. However, the report did not acknowledge that evidence technicians, as well as the chemists, verify that the seals on the evidence are intact and that the evidence matches what is described in the DEA-7. This is one of the many redundant controls which DEA has instituted to ensure the integrity of the evidence.

See comment 6.

Now on p. 10.

GAO identified instances of problems with security equipment related to DEA physical safeguards, specifically at the South Central and Northeast Laboratories. On page 11, GAO indicates that they "observed physical safeguards including cameras, motion detectors, and combination locks ..." GAO reports that they were informed of two non-operational cameras inside the evidence vault at the South Central Laboratory. However, this laboratory does not have cameras inside of its evidence vault, and they are not required as part of its security system. As discussed with GAO, DEA believes that this was an apparent misunderstanding. GAO also reports that the vault alarm system at the Northeast Laboratory had not functioned properly for several years. At the time of GAO's visit to this laboratory, the alarm was, and had been, functioning properly for nearly a year. Information was provided to GAO to demonstrate that the alarm issue had been resolved. Enclosed is a copy of a Self-Inspection Status Report showing this issue was closed (Enclosure 3).

See comment 7.

See comment 8.

DEA regards the physical security of its facilities including its drug and nondrug evidence as of critical importance. DEA's physical security is based on redundancy of security systems which allow the complete failure of as many as two complete systems without jeopardizing the security of personnel or DEA property including evidence. All DEA laboratories have either experienced a comprehensive physical security survey or a formal courtesy visit by a competent security professional to apprise the laboratory director of any serious faults which might exist in the laboratory security within the last twelve months. Upgrades have been recommended because of the age of current equipment or changes in security technology. None has been required because of existing inadequate security.

See comment 9.

Now on pp. 10-11.

See comment 2.

On page 12, GAO indicates that instances of improperly stored evidence were noted. "Overcrowded evidence vaults" is provided as an example of improper storage of evidence. However, overcrowded evidence vaults do not constitute improper storage of evidence. The fact that the evidence may be stored in stacks on the floor is a result of space constraints, but does not increase the potential for theft, misuse, and loss of evidence as indicated in the report. Furthermore, it does not violate any DEA protocols. All of the evidence examined by GAO was stored inside of the vaults and was in a sealed, secure condition.

DEA recognizes that the evidence vaults at some locations are overcrowded and need to be enlarged. DEA is addressing this issue through the pending construction of five new laboratory facilities with larger evidence vaults. With the exception of the Northeast Laboratory, all of the laboratories included in this report are slated for new facilities. It is anticipated that construction of the new laboratories will be completed within two and one-half years. Additionally, DEA SF has been proactive in getting old evidence destroyed to create more vault space. As a result of this effort, the amount of evidence on hand at the end of fiscal year 1999 was nine percent less than at the end of fiscal year 1998.

See comment 10.

Moreover, GAO did not recognize the process by which DEA handles bulk evidence, which helps to explain why "deteriorating" packaging that is "overcrowding" the evidence vault may be held. The

DOJ bulk evidence destruction regulations, as codified at 28 C.F.R. § 50.21 (1998), provides the mechanism for DEA to timely destroy bulk drug exhibits, a practice which has received the imprimatur of the federal courts. *(See California v. Trombetta*, 467 U.S. 479, 104 S. Ct. 2528, 81 L. Ed. 2d 413 (1984); *Arizona v. Youngblood*, 488 U.S. 51, 109 S. Ct. 333, 102 L. Ed. 2d 281 (1988)) (destruction of contraband pursuant to valid regulation does not violate due process, or the right of confrontation); *United States v. Sherrod*, 964 F.2d 1501, 1507 (5th Cir. 1992) (Defense claim that destruction of methamphetamine mixture and containers violated due process and confrontation rejected) ("We hold that the destruction of the methamphetamine mixtures (other than the retained samples) and their containers did not deprive the defendants of their constitutional rights."). But DEA is not the only party to the destruction of evidence. Many times evidence is held either at the behest of a U.S. Attorney's Office, by court order, or pending destruction.

See comment 2.
Now on p. 11.

GAO reports on page 13 that the tape used to seal boxes was deteriorating. In meetings with GAO, it was explained that during annual evidence inventories, every piece of evidence is examined and retaped or repackaged, if warranted. In addition, any time a package is discovered with failing or deteriorating packaging, it is immediately repackaged or resealed. Although GAO noted instances of deteriorating tape used to seal packages, it did not report any instances of unsealed evidence packages.

See comment 11.
Now on p. 12.

In addition, many of the issues identified by GAO were timeliness or performance issues which do not affect the accountability or integrity of evidence. On page 15, GAO reports that chemists had retained evidence after analysis for an average of 10 working days. Although DEA strives to accomplish the self-imposed five-day turnaround time, in some cases this cannot be achieved due to conflicting factors encountered by the chemists. After analysis, the chemists may retain the evidence until the supervisor reviews the worksheet, usually a day or two later. If, during this period, the chemist is needed away from the laboratory, the evidence remains secure in the in-process vault until the chemist returns. All analyzed evidence in the chemist's possession is maintained in a locked container in the in-process vault. Only the chemist has access to his/her individual locked container stored in the limited access in-process vaults. Although this policy will continue to be reinforced, situations beyond management's control occasionally preclude chemists from adhering to this standard. At the South Central Laboratory, specific procedures have been instituted to correct the problem identified by GAO.

See comment 12.

The destruction of evidence within 90 days of receipt of the DEA-48 is another timeliness issue that does not affect the accountability of the evidence. Evidence that is awaiting destruction is properly numbered, identified, sealed, and held in the vault until the day of destruction. Upon removal from the vault, the seals on each numbered container are checked for integrity and each container inventoried. Prior to destruction, each container is again inventoried and seals reinspected. This detailed process ensures the integrity and accountability of evidence.

Several factors outside of the laboratories' control many times prevent exhibits from being destroyed within the 90 days, i.e., problems with the incinerator, incomplete DEA-48s, evidence in court, etc. Nevertheless, DEA has and will continue to devote resources to ensure the timely destruction of evidence. GAO's finding of only one case being destroyed after 90 days of receipt of the DEA-48 is a strong indication of DEA efforts in this area.

See comment 10.
Now on p. 13.

On page 16, two of five bulk exhibits tested by GAO did not have the DEA Letter of Intent to Destroy notification included in the laboratory file. Letters of Intent to Destroy are prepared and sent to the Assistant U.S. Attorney (AUSA) by the field divisions. The copy that is given to the laboratory to be included in the laboratory case file is a courtesy copy provided by the case agent. The official copy is retained by the case agent in the investigative file. As a result, the fact that a laboratory case file may not have a letter does not indicate that a letter was not sent to the AUSA. In addition, if evidence submitted to the laboratory is accompanied by a DEA-48, the Letter of Intent to Destroy at that point has no meaning and a copy would not be needed in the laboratory case file. This issue is a peripheral performance issue which does not affect the accountability of evidence.

See comment 4.
Now on p. 14.

On page 19, GAO reports that 3 of the 236 DEA-7s reviewed were missing the check mark indicating whether the seals were intact, and 1 was missing the evidence custodian's signature. This represents less than two percent frequency of error and is attributable to administrative oversight. As stated earlier, several redundant systems are used to ensure that the integrity and accountability of the evidence is maintained at all times. When evidence is received in the laboratory, four separate accountability systems are used to document the receipt of the evidence. When an administrative oversight occurs in one of the systems, the remaining systems ensure that accountability is maintained.

See comment 4.

The errors identified by GAO with regard to the DEA-86 are administrative or performance issues and have no effect on the accountability of the evidence. The missing worksheets in two of the exhibits were a result of an administrative filing error. One of the worksheets in question has subsequently been found and placed in the case file. The three worksheets missing the reviewer's initials were a result of administrative oversight and do not affect the accountability of the evidence. During self–inspections, a thorough examination of the worksheets is conducted to ensure that the DEA-86 is completed according to policy. In addition, each laboratory has a peer review committee that periodically examines worksheets from an administrative as well as technical perspective. These two quality control systems have been instituted to ensure that issues such as those identified by GAO are kept to a minimum. GAO's finding of less than two percent of the worksheets containing an administrative error is indicative of the success of these programs.

See comment 13.
Now on p. 15.

On page 20, GAO reports that 10 of the 77 exhibits examined, where evidence had been transferred outside the laboratory, were missing DEA-12s. All laboratories have tracking systems in place to alert management when DEA-12s have not been signed and returned after evidence has been sent out of the laboratory. In cases where the laboratory determines that a DEA-12 has not been returned, the agent is notified and it is verified that the evidence reached its destination.

See comment 14.

The missing DEA-12s cited by GAO in one DEA internal inspection report related to special programs exhibits and not exhibits that were transferred outside the laboratory for court or other enforcement purpose. The DEA-12s in these instances were not missing. They were being filed in one central file for all special program mailings and not in the individual corresponding case file. This issue has since been corrected and copies of the DEA-12s for special program exhibits are being placed in their respective case files.

See comment 15. Now on p. 16.

GAO reports on page 21 that two of four bulk seizure files reviewed were missing the required photographs. One of the bulk seizures in question fell below the bulk threshold of 10 kilograms and thus pictures were not required. It should be noted that photos taken by the laboratory of bulk seizures are in addition to the pictures taken by the case agent. For court purposes, the agents' photos are generally used to show the extent of the seizure.

See comment 16. Now on p. 18.

All of the STRIDE issues identified on pages 25 and 26 are timeliness and performance issues that do not relate to accountability of evidence. Nonetheless, each of the laboratories performs a monthly STRIDE Quality Control check to ensure the accuracy of the data entered in STRIDE. In addition, during the annual inspection cycle of each laboratory, a more thorough quality control check is conducted on a much larger sample of records. By using these quality control systems, errors in STRIDE are detected and corrected.

See comment 17. Now on pp. 19-20.

On page 28, GAO reports that inaccurate recording of weight decreases DEA accountability over such evidence. In most cases, the imprecise recording of weights on DEA-7s are for evidence which is received in the mail. For cases submitted to the laboratory in person, the agent is usually asked to reweigh the evidence if the weight is inappropriately recorded. For cases received in the mail, it is standard procedure to accept the evidence with a slightly imprecise weight recorded, as long as the evidence is sealed and properly marked. It is DEA's opinion that the delay and risk in mailing the evidence back to the agent outweighs the significance of a minor weight difference due to rounding or exactness in reporting. It should also be noted that the description of the evidence on the DEA-7 must match the physical evidence before the laboratory will accept it.

For other agency submissions, a similar scenario occurs to that described above. Many other agency exhibits are submitted to the laboratory using a variety of different forms. Most of these forms do not require that a gross weight of the exhibit be recorded. If the evidence is mailed to the laboratory, rather than return the evidence, the laboratory will accept it if no other problems exist.

See comment 18. Now on pp. 22-23.

The unexplained weight difference reported by GAO on pages 31 and 32 could be a result of a number of factors; however, it should be noted that all of the exhibits examined by GAO were in a sealed condition when reweighed. To amplify on this subject, nearly all illicit drugs are manufactured/ processed using various methods, conditions, and chemicals. For example, most cocaine HCl is processed in jungles where the methods and chemicals used can vary considerably. Opium, which is used to synthesize heroin, is cultivated, harvested, and processed in a number of different regions in the world using a variety of methods. Crack cocaine is cooked and mixed with several different ingredients. As a result of these differences, determining the exact cause of weight changes in drugs is extremely difficult. In addition, the drug packaging and the conditions in which the drugs are stored will also have an affect on the weight over time.

The two studies cited by GAO regarding weight changes in drugs were conducted in controlled environments using drugs of known origin and composition. Notwithstanding these two studies, our scientific observations over 30 years of handling illicit drug evidence clearly show that weight changes result from a variety of uncontrollable environmental factors.

GAO Recommendations

GAO recommends that the Attorney General require that the DEA Administrator take the appropriate steps to reinforce DEA's adherence to existing policies regarding:

- properly storing bulk marijuana evidence in designated approved areas and sealing weapons in evidence bags;

Response: As recommended by GAO, DEA is preparing a cable to remind the field divisions of the importance of adhering to these DEA policies and procedures.

- destroying drugs in a timely manner to alleviate overcrowded drug evidence vaults and reduce the additional risk of theft since these drugs are no longer needed as evidence;

See comments 9 and 10.

Response: While DEA does not agree with GAO's correlation between timely destructions and risk of theft, DEA will remind all laboratories and field divisions to more closely monitor compliance with the requirement for the timely destruction of evidence.

- chemists returning drug evidence to the evidence vault in a timely manner after analysis so that evidence is not maintained for excessive amounts of time in a more accessible area than that of the vault;

Response: DEA SF will instruct all laboratories to more closely monitor compliance with the requirement to return evidence to the vault five days after being analyzed. Additionally, DEA SF will monitor compliance through inspections, internal laboratory peer reviews, and performance evaluations.

- requiring that two signatures be recorded on evidence labels prior to acceptance by laboratory and division office evidence custodians;

See comment 19.

Response: DEA will continue to reinforce compliance with this policy. However, in cases where the evidence is mailed to the laboratory and only one signature is recorded on the label, we are reluctant to return evidence due to the added risk and delay in mailing the evidence back.

- maintaining complete and properly reviewed documentation in the laboratory seizure files and promptly entering accurate information into STRIDE;

Response: DEA SF will instruct all laboratories to more closely monitor compliance with the requirement to have complete and accurate case files. DEA SF will also instruct all laboratories to more closely monitor compliance with entering data into STRIDE promptly and accurately. Additionally, DEA SF will monitor compliance through inspections and annual STRIDE Quality Control checks.

- identifying any discrepancies--between evidence maintained in the vault and the location of evidence per the Nondrug Evidence System--during annual inventories and promptly researching the discrepancies and updating the appropriate records;

Response: DEA will continue to highlight the importance of its annual inventories and proper reconciliation of all discrepancies and the proper updating of its inventories. DEA will continue to monitor this during its on-site inspections of nondrug evidence.

- not specifying the contents on packaging slips when using commercial carriers;

See comment 20.

DEA believes that the one case cited by GAO is an aberration and that this has not been an issue; nonetheless, DEA is considering whether it should institute a written policy regarding this matter.

- maintaining complete and accurate information in bulk marijuana logbooks;

Response: Enclosed is a cable issued on March 16, 1999, to DEA's field offices regarding the maintenance of this information (Enclosure 4).

- chemists and agents recording weights in accordance with DEA policy and chemist obtaining an independent written verification if weight differences, over the DEA established threshold, exist between the weight of the drug evidence reported by the agent and that weighed by the chemist;

Response: DEA SF will instruct all laboratories to more closely monitor compliance with requirements regarding reporting and verification of weights. Additionally, DEA SF will monitor compliance through inspections and internal laboratory peer reviews.

Further, we [GAO] recommend that the Attorney General require that DEA modify existing DEA policy to include guidance for:

- agents to obtain written certification from an independent party experienced in handling firearms, that firearms and other weapons being submitted for storage in the vault are rendered safe prior to being stored;

See comment 21.

Response: DEA has requested the policy guidance used by the FBI and is reviewing its policy regarding written independent certification. DEA believes it is important to note that GAO found all of its weapons rendered in a safe condition.

- requiring that weights be recorded on the forms used to transfer bulk marijuana exhibits prior to acceptance by evidence custodians;

See comment 2.

Response: DEA requires that the weights be recorded on the forms used to transfer bulk marijuana exhibits. Enclosed are the appropriate cites from the DEA Agents Manual (Enclosure 5).

- requiring that weights be recorded on the forms used to transfer non-DEA exhibits to a laboratory prior to acceptance by the evidence custodian and/or require chemists obtain a witness verification if no weight is recorded on the transfer form;

Response: DEA SF will develop policy requiring chemists to obtain a witness verification for non-DEA exhibits submitted to the laboratory without a gross weight.

Thank you for the opportunity to present DEA's concerns and corrections regarding GAO's draft report. We believe that GAO's review, while emphasizing the risk factors of accounting for evidence, should emphasize that no DEA evidence has, in fact, been compromised. As recommended, DEA will continue its diligence in the monitoring of its weapon and drug evidence.

See comment 22.

Sincerely,

Donnie R. Marshall
Acting Administrator

Enclosures

The following are GAO's comments on the Drug Enforcement Administration's letter dated October 21, 1999.

GAO Comments

1. This review occurred in June 1999 with accreditation being granted in September 1999, subsequent to our review. The review covered DEA's 8 laboratories, but none of the division offices.

2. See "Agency Comments and Our Evaluation" section.

3. We did note in our report that we requested and reviewed a copy of the sections of the most recent DEA internal inspection reports for the division offices and laboratories in existence at the time of our fieldwork that cover procedures and internal controls related to seized drugs and weapons. In addition, in several places in this report, we noted the period of time covered by these inspections. As we reported, because we received the sections of the internal inspection reports near the end of our fieldwork, we did not follow-up with the division offices or laboratories to determine the extent to which noted deficiencies had been corrected.

4. In order to provide balance to the report, we also reported instances where we only found a few discrepancies. For the cases cited here by DEA where we noted three or fewer discrepancies, we used language such as, we "found substantial compliance with the policy, but noted a few exceptions." As noted throughout the report, we identified numerous discrepancies in other key areas.

5. The report was clarified to include that chemists also document that they have verified that the seals are intact by checking the appropriate box on the DEA 86.

6. As noted in our report, at the South Central Laboratory, we were informed that there were cameras that monitor vault activity that were not operational. In addition, at our exit conference with DEA, agency officials provided documentation indicating that after our visit the two cameras in question had subsequently been fixed.

7. We reported that an official indicated that the vault alarm system at the Northeast Laboratory in New York had been fixed. We also noted that to confirm this, we had asked for the more recent inspection report for this laboratory, but as of the completion of our fieldwork, it had not been provided to us. After our exit conference with DEA, we were provided

further documentation relating to this issue. However, the documentation did not clearly demonstrate that the alarm had been fixed. In addition, along with the comments on our draft report, DEA provided a Self-Inspection Status Report (instead of the requested internal inspection report). However, this report did not specifically indicate that the work was performed and whether the problem was resolved.

8. We reported that we observed physical safeguards that are in place to control and monitor access to and use of drug and weapon evidence. However, due to the sensitive nature of the evidence, we did not perform any comprehensive tests to verify the operation of the specific physical safeguards because we did not want to risk compromising any of the evidence that may be needed for prosecution purposes. The specific physical safeguard issues listed in this report are weaknesses we identified through observation or inquiry of officials, or were reported in DEA's internal inspection reports. Since we were not previously informed of the physical security surveys or formal courtesy visits referred to in DEA's comments and have not been provided any documentation showing the scope of such reviews, we cannot determine whether the reviews addressed the control areas we reported on.

9. We reported that due to space constraints in the drug evidence vaults at two of the four laboratories we visited, we observed boxes that had been stacked on the floor such that the lower boxes were being crushed, increasing the potential for access to the contents and therefore increasing the potential for theft, misuse, or loss. DEA stated that it recognizes that the evidence vaults at some locations are overcrowded and need to be enlarged and has plans to construct several new laboratory facilities with larger evidence vaults to address this issue.

10. Our report does describe the process by which DEA handles bulk evidence, including the recognition that other parties influence how bulk evidence is handled and when it is destroyed. We did not take issue to there being circumstances for which bulk evidence may need to be held for extended periods of time, but requested that documentation supporting the extension be provided. Specifically, for bulk exhibits tested, we requested that DEA provide either a (1) DEA 48, authorizing the destruction or (2) Letter of Intent to Destroy, which is sent to the U.S. Attorney's Office, along with the U.S. Attorney's response authorizing DEA to retain bulk amounts. For two of the five bulk exhibits tested, the letters authorizing DEA to maintain amounts above certain thresholds or the forms authorizing the destruction were not provided. In addition, 1 of 16 exhibits

that had been authorized for destruction had not been destroyed within the 90 days as required by DEA policy. This exhibit had been authorized for destruction but was not destroyed until over 5 months after approval was obtained.

11. We recognize that situations beyond management's control can occasionally preclude chemists from adhering to the requirement that drug evidence normally be returned to the vault within 5 working days after the chemist's analysis. However, returning evidence to the vault promptly ensures that chemists do not maintain evidence for excessive amounts of time in a more accessible area than that of the vault. In addition, 17 of the 20 reported instances occurred at the South Central Laboratory, indicating a more significant problem at this particular laboratory. DEA acknowledged that it would continue to reinforce the 5 working day policy and that specific procedures have been instituted to correct the problem at the South Central Laboratory.

12. The timeliness issues addressed in this report primarily affect the controls over the safeguarding of evidence. Destroying evidence within 90 days of receiving approval as required by DEA policy conserves limited vault space and eliminates the additional inherent risk of theft of drugs that are no longer needed as evidence. DEA indicated that it will continue to devote resources to ensure the timely destruction of evidence.

13. During our testing at each DEA location visited, we met with agency officials and discussed our findings and provided them opportunities to respond to our findings and to provide documentation that could resolve the discrepancies. We requested, but were not provided, DEA 12s for 10 of the 77 exhibits selected for our review that had been transferred to an individual outside the laboratory. In addition, we were not provided with any other documentation acknowledging receipt of the transferred items by the recipient.

14. At our exit conference with DEA, agency officials indicated that the issue in the internal inspection reports had been corrected, but did not indicate that the DEA 12s in question related to special program exhibits and were being filed in one central file, not in the individual corresponding case files. DEA states that this issue has since been corrected and copies of the DEA 12s for special program exhibits are being placed in their respective case files.

15. As noted in comment 13, during our testing at each DEA location visited, we met with agency officials and discussed our findings and provided them opportunities to respond to such findings and to provide documentation that could resolve the discrepancies. We requested, but were not provided the required photographs for two of the four bulk seizure files we reviewed, both of which exceeded the 10 kilogram threshold.

16. Ensuring that data are promptly and correctly entered into STRIDE provides program managers with more accurate and useful information. However, as we reported, we found 15 instances where the data in STRIDE did not agree with supporting documentation and therefore diminished DEA's accountability over the related evidence.

17. The two reported examples relate to exhibits that were submitted to the laboratory in person and not mailed. Regardless of the method of delivery, it is important that the chemist, as required by DEA policy, obtain a witness' verification when differences above the established threshold exist to ensure that possible arguments over such differences by the defense or submitting agent are mitigated.

18. We recognize that certain uncontrollable environmental factors may cause weight differences that do not follow trends. However, DEA could not specifically explain the weight decreases for several differences we identified, including differences relating to two exhibits that had been authorized for destruction and were therefore no longer needed as evidence. For example, the weight for one cocaine exhibit that had been analyzed 3 years prior to our testing had decreased by 6 percent or approximately 300 grams. According to DEA officials, cocaine typically absorbs moisture and gains weight. In another example, a marijuana exhibit weighed about 25 pounds less than (or about half) the weight recorded when the drug was received at the division office. DEA officials agreed that the decrease in weight seemed excessive, but were unable to provide a specific explanation for the difference. Further, as noted in our agency comments and evaluation section of this report, we identified certain conditions that diminish the effectiveness of DEA's sealing of evidence procedures.

19. DEA concurred with our recommendation to reinforce its policy that requires two signatures be recorded on evidence labels prior to acceptance by laboratory or division office evidence custodians. DEA stated that it will reinforce the policy, but it is reluctant to return evidence that is mailed to

the laboratory with only one signature due to the added risk and delay of mailing evidence back. We agree that mailing evidence back to obtain a second signature may not be appropriate, however, the occurrence of this situation should decrease if stronger adherence to the policy is achieved.

20. A Miami Division Office official provided us with a copy of a packaging slip showing that one of the firearms in our sample had been transferred from Miami to another DEA office. We reported that the contents of the package, listed as "3 guns, money, and jewelry," was recorded on the packaging slip which was attached to the outside of the package. We recommended that DEA adhere to a previously existing policy in its *Agents Manual*, Section 6663.43, which states that the procedures set forth for the domestic delivery of drug evidence shall also apply to nondrug property. The procedures for mailing drug evidence specifically state that the outer wrapping should bear no indication as to the nature of the contents.

21. Our primary objective in testing the controls over the safeguarding of weapons was to determine whether control procedures existed and were being followed. As we reported, we found two handguns that had not been sealed in evidence bags as required by DEA policy and knives that were stored in a zipper bag that could be easily opened. The scope of our testing did not include determining if the weapons themselves were rendered safe.

22. The scope of our review was designed to determine whether weaknesses in controls existed that increase the risk that evidence could be compromised for federal prosecution purposes. It was not our intent to specifically determine whether the evidence had in fact been compromised.

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