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Testimony

Statement
of
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Department of Defense
before the
Subcommittee on National Security, Emerging
Threats and International Relations
House Committee on Government Reform
on
"Emerging Threats: Assessing DoD
Controls of Critical Chemical and
Biological Equipment and Material"

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Department of Defense
Office of the Inspector General

Quality

Integrity

Accountability

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before your Committee today and address your questions regarding controls over disposal of DoD surplus equipment and controls over select biological agents. I share your concerns that terrorists or extremist groups might use surplus DoD biological equipment and agents to produce weapons of mass destruction against United States citizens. Today I want to present the results of an “Interagency Summary Report on Security Controls Over Biological Agents” (Report No. D-2003-126).

The August 27, 2003, report consolidates issues identified in 27 reports published by the Offices of the Inspectors General of the Departments of Agriculture, Army, Defense, Energy, Health and Human Services, and Veterans Affairs. The summary report identified nine systemic problems: physical security, personnel access controls, inventory accountability and controls, contingency plans, registration with the Centers for Disease Control and Prevention (CDC), import and export of agents, safety and security training, management oversight, and policies and procedures. We are pleased to report that corrective actions, as recommended in the 27 reports, were initiated by those agencies.

I will also discuss the problems that we, the Office of the Inspector General, Department of Defense, like the General Accounting Office, have identified with controls over the disposal of DoD surplus equipment.

Interagency Summary Report

Deficiencies in security controls have serious implications for the health of United States’ citizens, should those controls be breached and biological agents removed from the facility. Subsequent misuse of the biological agents could have serious health consequences and disrupt the country’s agriculture, commerce, economy and, industry.

Biological Agents

Biological agents are micro-organisms, or their toxins, that cause or may cause human, animal, or plant diseases. Such disease-causing biological agents are termed pathogens. Select agents are pathogenic biological agents specifically described as having the potential to pose a severe threat to public or agricultural health and safety. For instance, anthrax (*Bacillus anthracis*¹), smallpox (*Variola major*), and the Ebola viruses are considered select agents by the CDC, while foot-and-mouth disease virus and classical swine fever virus are considered select agents by the Department of Agriculture. The CDC has identified 36 biological agents as select agents due to their potentially devastating effect on human populations. Correspondingly, the Department of Agriculture has identified an additional

¹Spore-forming bacterium that causes anthrax.

33 biological agents as posing a threat to U.S. agricultural livestock or crop commodities. Because various Federal agencies, contractors, and universities maintain laboratories with biological agents to support biological defense programs, medical research, and clinical diagnostic testing, the CDC—in conjunction with the National Institutes of Health—provides guidelines for categorizing laboratory safety risks into four biosafety levels (BSLs), with BSL-4 being the highest risk. As of March 2002, there were more than 275 facilities registered with the CDC to transfer or receive biological select agents.

Physical Security

Of the 27 reports, 24 addressed the adequacy of physical security controls over biological agents, 23 of which cited one or more weaknesses in the controls. Physical security controls include the use of physical barriers; the use of video camera surveillance, intrusion detection systems, and security guards; and controlling physical access to facilities and laboratories where agents are used or stored. For example, 17 of the 23 reports cited the lack of adequate controls over freezers or units used to store biological select agents, and 14 reports identified that facilities where laboratories were located either did not have intrusion detection systems or had physical barriers that were easily bypassed. In addition, several reports cited facility entry systems that could potentially allowed unauthorized personnel to enter by simply following behind authorized personnel.

Figure 1 shows an open and accessible biological agent storage room located in a hallway outside the laboratory.

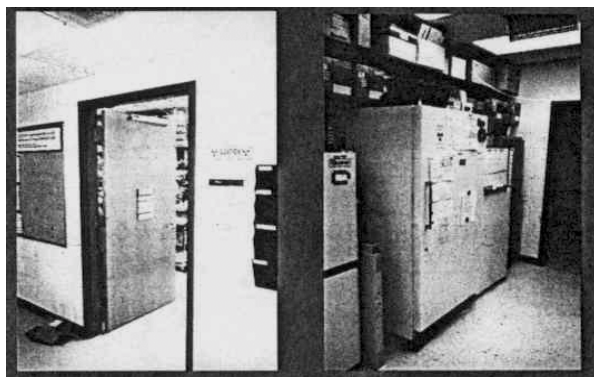


Figure 1. Open and Accessible Biological Agent Storage Room

Figure 2 shows a BSL-3 laboratory inside an aging trailer that is equipped with a hitch and wheels, but not with adequate security devices.



Figure 2. BSL-3 Research Laboratory Housed in Mobile Trailer

Figure 3 shows open access to two different research facilities.

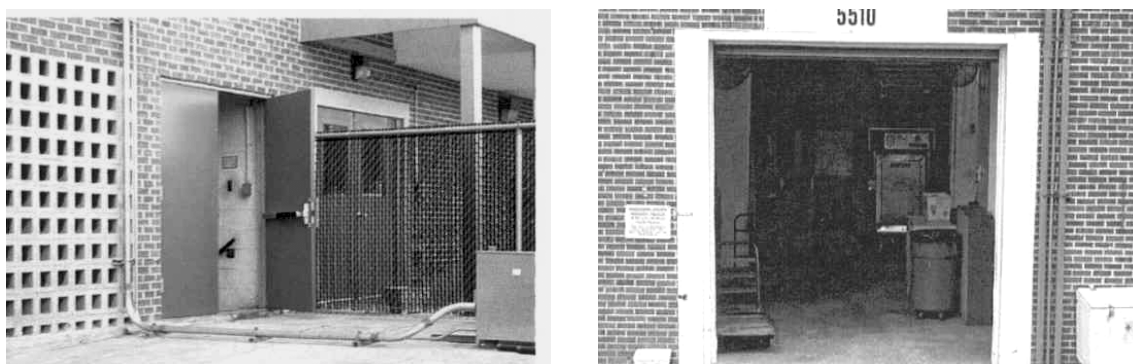


Figure 3. Open Access to Research Facilities

Personnel Access Controls

Personnel access controls were addressed in 25 of the 27 reports, 23 of which identified weaknesses in the controls. Personnel access controls include the use of identification badges, keys, logbooks, and background investigations. Personnel access controls are necessary to preclude unauthorized personnel, including restricted persons identified in the USA PATRIOT Act,² from obtaining access to or possession of biological select agents. Access weaknesses found included lack of access restrictions for maintenance and repair personnel and foreign nationals (researchers and students).

²Restricted persons include felons or those indicted for felonies, unlawful users of a controlled substance, those dishonorably discharged from the U.S. Armed Forces, individuals adjudicated as mentally defective, illegal aliens, and non-resident foreign nationals of countries supporting international terrorism. As of May 21, 2002, the Secretary of State had designated the governments of seven countries as state sponsors of international terrorism: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

Some laboratories gave employees access to biological agents pending the results of background investigations, and other laboratories allowed access by personnel with no background investigation at all.

Inventory Accountability and Controls

Of the 27 reports, 24 addressed inventory accountability and controls, with 23 of the reports identifying weaknesses in the inventory controls. Inventory controls include storage, transfer, record keeping, and destruction of biological agents. The most frequent inventory control weaknesses were poor record keeping and the lack of inventory control systems. For example, an agency report stated that of 62 locations required to keep inventories of chemical and biological agents, only 39 did, and only 22 updated their inventories annually. As a result, one laboratory unknowingly continued to maintain *Salmonella*, and an inaccurate inventory at another location resulted in the Secretary of the agency misreporting to the Department of Homeland Security that the location was not using BSL-3 agents, when in fact it was storing and experimenting with Bluetongue virus and Vesicular stomatitis virus, both classified as BSL-3 agents by the Department of Agriculture.

Another agency's inventories were not reliable because of the various ways researchers introduced biological agents into facilities, including the purchase of biological agents from private vendors over the telephone using personal or Government credit cards. Vendors generally sent the agents directly to the individual researcher. In addition, researchers could independently reproduce cultures, and records showing such culture increases did not always exist. The report also stated that it was a common practice to informally share specimens with colleagues at other facilities and that such exchanges were not always documented. For example, at one facility, a researcher purchased 17 containers of virulent anthrax in 1993 from a private vendor, then later gave the anthrax to a colleague at another facility because his own project was canceled. He and his colleague decided not to register the purchase or the transfer with CDC because they held academic appointments at affiliated universities.

Contingency Plans

Of the 27 reports, 9 reviewed and addressed weaknesses in contingency plans that relate to security controls over biological agents and the facilities that house the agents. Contingency plans document rapid responses and special procedures to ensure the safety and readiness of personnel, equipment, and facilities in response to major emergencies caused by natural disasters, terrorists, or subversives. The following are some examples of the problems cited in the reports.

One agency could not perform a vulnerability assessment because the agency lacked a consolidated database to track the types and locations of agents stored and used.

Several reports cited the lack of up-to-date contingency plans, contingency plans for missing agents, or contingency plans for power disruptions. For example, a laboratory experienced regular power outages and critical system problems, including swipe card access disruptions. Thus, during power disruptions, the doors would remain unsecured until power was restored, resulting in the security of the facility being compromised.

CDC Registration

Nine of the 27 reports addressed CDC registration, of which five identified weaknesses. Facilities that ship or receive biological select agents are required to register with the CDC, in accordance with the Code of Federal Regulations (C.F.R.), Title 42, Section 72.6. The purpose of the registration process is to ensure that biological agents are shipped only to facilities with laboratories designed to handle the select agents and with a legitimate reason for possessing the agents. Problems with CDC registration included laboratories that did not know which agents, such as non-virulent agents, required CDC registration, and one laboratory did not comply with CDC transfer requirements because it was unaware of the existence of biological select agents in its facility. In December 2002, 42 C.F.R. Section 72.6 was augmented by 42 C.F.R. Part 73, "Possession, Use, and Transfer of Select Agents and Toxins." Part 73 adds the requirement that facilities that already possess biological select agents but have never registered with the CDC to do so.

Import and Export of Agents

Of the 27 reports, 3 reviewed and addressed concerns with the import and export of pathogens and select agents. Imported plants, plant products, and animals are regulated through U.S. Department of Agriculture permits to protect the Nation's population and food supply. Concerns about the import of pathogens was addressed by one agency, which stated in its report that its components lacked a system to track the number of shipments entering the country under any individual import permit or to ensure that any incoming shipment is actually associated with a valid import permit.

Certain biological agents and related technology are export-controlled in support of U.S. foreign policy opposing the proliferation and illegal use of biological weapons. The Department of Commerce maintains a listing of export-controlled biological agents and export licensing requirements in its Export Administration Regulations. Concerns about the export of biological select agents included shipping biological agents without determining whether an export license was required and inadequate documentation and reporting of biological agent shipments, as required by the Export Administration Regulations.

Safety and Security Training

Of the 27 reports, 9 reviewed and identified training weaknesses. Training is essential not only to remind employees of routine day-to-day preventative measures they can take,

but also to reinforce management emphasis on security. For example, personnel controlling access to one facility had received no security response training. At another location, security personnel were not aware that biological agent material was being stored at the facility. Personnel at other facilities were not trained on which biological agents were export-controlled.

Management Oversight

Of the 27 reports, 14 addressed the adequacy of management oversight, 13 of which identified management oversight as a contributing factor to the inadequate controls over biological agents. Management oversight is key to ensuring that employees are aware of and are taking responsibility for the security of biological agents and the facilities that use, store, maintain, or transfer the agents. The areas of management oversight weaknesses identified included accountability, biosecurity, and development of contingency plans. For example, at one laboratory, management emphasis and oversight focused on *bio-safety* for laboratory personnel rather than on *bio-security*. At another location, senior safety, security, and management officials were unaware that experiments with biological agents were conducted at their laboratories.

Policies and Procedures

The major contributing factor for inadequate controls, according to 25 of the 27 reports, was the lack of or need for improved policies and procedures in the areas of physical security, personnel access, inventory management and training. The most-mentioned deficiency related to the need to improve policies and procedures to control personnel access and to preclude access by restricted persons.

Management Corrective Actions Initiated

Senior management at each of the six agencies have initiated corrective actions to improve security controls over biological agents in response to the individual agency reports. For example, the Secretary of one agency initiated a task force to develop policies and procedures addressing four key controls: physical security, personnel security, inventory control, and biosecurity incident response. In another agency, senior officials assigned a full-time staff officer to establish a biological agent security program and issued interim guidance on safeguarding select agents and on export controls over biological agents. Another agency established an informational Web site, which includes standardized procedures; another initiated followup actions to determine the status of actions taken on the agency's report recommendations.

Controls Over Disposal of Surplus Equipment

Like the General Accounting Office has reported, we, the Inspector General of the Department of Defense, have identified problems with controls over the disposal of DoD surplus equipment.

Report No. D-2003-101, "Law Enforcement Support Office Excess Property Program," June 2003, states that the Defense Reutilization and Marketing Service (DRMS) was distributing DoD excess property to law enforcement agencies without the accountability necessary to ensure that the property was properly and appropriately transferred. We reviewed 148 DRMS excess property transactions related to the Law Enforcement Support Office Excess Property Program and found that 45 percent (66 transactions) had undocumented differences between the quantities of property approved for release and the quantities issued to the law enforcement agency by DRMS; 21 percent (31 transactions) had missing approval records; and 8 percent (12 transactions) had data entry errors in the approval records. For example, office furniture issued by a DRMS office located in New Mexico to a law enforcement agency had an acquisition value of \$5,400. The approved request was for office furniture valued at \$600. There was no documentation available to support the reason for the increased quantity. Both the Law Enforcement Support Office and DRMS have ongoing initiatives to improve visibility and accountability of DoD excess property. The Law Enforcement Support Office, working with DRMS, planned to fully implement an automated requisition, approval, and issuance process by October 2003. DRMS was in the process of developing digital storage of source documentation to improve visibility and accountability of property transfers.

Summary

Federal agencies, contractors, and universities, as holders of biological agents, have a responsibility to ensure the security of biological agents. We recognize that implementing security controls over biological agents will impact the open nature of the research community and careful consideration is necessary before any such controls are implemented. However, appropriate security controls over biological agents are imperative in today's environment. Without security controls and sufficient emphasis on security, biological agents at Federal, contractor, and university laboratories are vulnerable to theft or misuse. Senior officials at each agency have taken actions to improve security controls over biological agents in response to the published reports, but continued vigilance is needed.

Thank you for considering the views of the various Inspectors General on these critical issues. This concludes my testimony.