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CHAPTER 70 LABORATORY OPERATIONS

7001 PROVIDING SCIENTIFIC AND TECHNICAL SERVICES.

The Office of Forensic Sciences (SF) oversees the operation of the Drug Enforcement Administration's (DEA) laboratories. DEA laboratories provide advisory, scientific and technical services to DEA, federal law enforcement, intelligence operations, and the criminal justice system at large. Each laboratory serves geographic area defined by SF (Exhibit 1/7001). Policy statements within the Laboratory Operations Manual (LOM) are mandatory requirements. The word 'should' within a statement signifies a best-practice, or recommendation. The word 'may' in a statement provides permission that does not require additional authorization. The phrase 'may not' and the word 'cannot' are prohibitive language intended to clarify that an action is impermissible. Unless expressly prohibited elsewhere in the LOM, the Laboratory Director (LD) may request exemptions to policies and procedures from SF.

NOTE: Exhibit 2/7001 lists acronyms used in this subchapter.

SF laboratories:

A. Perform evidence analysis in three forensic disciplines:

1. Drug chemistry.
2. Digital evidence.
3. Latent prints.

B. Offer a wide range of forensic services, to include:

1. Assisting with crime scene investigations.
2. Assisting with clandestine laboratory investigations.
3. Providing expert witness testimony.
4. Providing scientific advice.
5. Providing intelligence support.

NOTE: The terms "analysis" and "examination" are used interchangeably when referring to laboratory services.

C. Drug evidence analysis includes weighing, sampling, identifying, and quantitating exhibits. The Analysis of Drugs Manual (ADM) provides guidance, requirements, and procedures for drug analysis.

D. Digital evidence examination includes handling, recovering, imaging, archiving, and examining digital devices. REDACTED.

E. Latent print examination includes developing latent prints on evidence, examining developed friction ridges, digital imaging, and Automated Fingerprint Identification System (AFIS) searches. The Latent Print Examination Manual (LPEM) provides guidance, requirements, and procedures for latent print examination.

F. The laboratories serve as the primary custodians of drug evidence for DEA.

G. The laboratories may assist state and local governmental agencies in technical matters, provided such assistance does not conflict or interfere with laboratory service to DEA or other federal agencies.

H. LDs summarize scientific and technical services provided in the monthly report by the close of business on the 7th day of each month, or on the next business day if the 7th falls on a non-work day.

7002 SUPPORTING LAW ENFORCEMENT.

7002.1 Providing Laboratory Services.

DEA laboratories analyze drug, latent print, and digital evidence, for federal, state, county, and municipal law enforcement agencies. This service supplements, but does not replace, service provided by state, county, or municipal laboratories.

NOTE: Exhibit 1/7002 lists acronyms used in this subchapter.

DEA laboratories:

A. Provide services to agencies officially investigating criminal matters.

B. Store drug evidence submitted by DEA enforcement offices.

C. Destroy drug evidence submitted by DEA enforcement offices, in accordance with DEA policies and procedures.

D. Return DEA non-drug evidence and non-DEA evidence to the customer.

E. May train other technical, enforcement, legal, and other DEA personnel upon request.

F. Will not permanently store evidence for other agencies.

7002.11 Restrictions on Testing.

DEA laboratories will not routinely accept cases from other forensic laboratories, or jurisdictions, which have the capability of conducting a requested examination.

The LD:

A. May approve specialized forensic examinations not available in other non-DEA laboratories (e.g., quantitative analysis, salt form determination, etc.).

B. May permit analysis of evidence previously-tested by another laboratory upon request. For these circumstances, a copy of the original laboratory report is required.

C. May approve evidence re-analyses under extenuating circumstances (e.g., original examiner no longer available).

7002.12 Requesting Examinations.

The LD:

A. Accepts requests for examinations on a DEA-7, DEA-7a, or DEA-7b.

B. If a DEA-7 is not accessible, must require a written request addressed to the LD to include, at a minimum, the following information:

1. Name of subject (if known), and requesting agency case and exhibit number.
2. Nature of the violation, including:
    a. Date collected.
    b. How collected (e.g., seized, purchased, internal body carry, etc.).
    c. Purchase cost, if applicable.

3. Type of examination(s) desired.

4. Type of drugs suspected, gross weight, and net weight (if applicable).
5. Facts in the case pertinent to the laboratory examination (e.g., safety hazards).
6. Reference to previous correspondence on the case, if applicable.

7002.2 Operational Support.

The LD ensures availability of laboratory personnel to provide operational support to Special Agents and investigators. Section 7005 of this manual addresses policies regarding support to foreign forensic scientists.

7002.21 Diversion Investigations.

Forensic analysts assist in conducting diversion investigations and familiarize themselves with manufacturing processes or other pertinent information regarding the investigations.

7002.22 Crime Scene Investigations.

DEA Laboratories provide technical support at crime scenes to include operational support at clandestine laboratory seizures, trace evidence collection, and on-site support for the collection of latent print and digital evidence.

A. Clandestine laboratories.

1. Clandestine laboratory-certified forensic analysts assist with investigations of illicit manufacturing operations.
2. Upon request from a federal agency, a clandestine laboratory-certified DEA forensic chemist will be present at clandestine laboratory seizures.
3. After the seizure and examination of exhibits, the forensic chemist will prepare a written report, in accordance with the ADM.

B. Forensic chemists assist with collecting trace evidence, in accordance with the ADM.

REDACTED.

D. Fingerprint specialists provide on-site examination support in cases where the subject material cannot be transported to the laboratory, in accordance with the LPEM.

REDACTED.

REDACTED.

REDACTED.

REDACTED.

7002.5 Supplying Drug Reference Materials.

A. SFL1:

1. Supplies DEA laboratories with drug reference materials needed to perform analytical casework.
2. If the regional laboratory cannot fulfill a request, supplies state and local laboratories with non-commercially available drug reference materials.
3. May supply foreign forensic laboratories with non-commercially available drug reference materials needed to perform analytical casework.

NOTE: The SFL1 LD may supply commercially available drug reference materials to foreign forensic laboratories on a case-by-case basis.

4. Establishes procedures for authenticating drug reference materials. The ADM outlines additional policies and procedures for verification.
5. Processes orders for controlled substances from non-law enforcement organizations within the United States originating from joint research projects or other cooperative efforts.
6. Maintains records for all customer orders, including a DEA-222 and DEA-223, for each order.

B. Regional laboratories:

1. May supply state and local laboratories within their jurisdiction with non-commercially available drug reference materials needed to perform analytical casework.

NOTE: The LD may supply commercially available drug reference materials on a case-by-case basis.

2. Refers requests to SFL1 when unable to supply state and local laboratories with non-commercially available drug reference materials.

7002.51 Internal Orders.

Internal orders originate from a DEA laboratory. Regional DEA laboratories request drug reference materials via email to SFL1.

7002.52 External Orders.

LDs process orders originating within their service area and forward others to the appropriate laboratory. SFL1 processes foreign orders. See PRO-7002.52, Processing External Requests for Drug Reference Materials.

A. LD:

1. Distributes Schedule I and II controlled substances in accordance with 21 C.F.R. § 1305.03.
2. Amounts of drug reference materials furnished should not exceed 10-20 milligrams.

NOTE: The LD may authorize in writing the release of greater amounts in rare instances.

B. SFL1 LD:

1. Processes orders for drug reference materials from regional laboratories that cannot furnish the request.
2. If the drug reference material is not in SFL1's inventory, seeks the drug reference material from other laboratories. If unavailable, may manufacture or purchase the drug reference material.

7003 SUPPORTING THE COURTS.

NOTE: Exhibit 1/7003 lists acronyms used in this subchapter.

7003.1 Maintaining Curricula Vitae.

Laboratory employees who may testify as an expert witness must each maintain a curriculum vitae (CV) and update the CV at least annually and when significant changes occur. See PRO-7003.1, Maintaining Curriculum Vitae.

7003.2 Disclosing Case-Related Information.

NOTE: For purposes of this section, “approved recipients” is defined as prosecuting attorneys and law enforcement officers directly involved in the case.

See PRO-7003.2, Disclosing Case-Related Information.

A. Laboratory personnel provide the following documents upon receiving a request from an approved recipient pursuant to Federal Rule of Criminal Procedure 16 (or equivalent state rule) without needing SF approval:

1. Analyst’s notes (e.g. DEA-86, DEA-466, digital evidence examination notes, Case Details Report, Latent Print Details Report, etc.).
2. Supporting examination documentation (e.g., instrument files, latent print images, copy of the archive, photographs, etc.), unless:
   a. Dissemination is otherwise prohibited by law, such as digital evidence containing images of child pornography.
   b. The material is maintained within an internal laboratory system document (e.g., study, accreditation document, etc.).
3. Chain of custody documentation (e.g., DEA-12s, Chain of Custody report, etc.).
4. Summary of Expert Testimony of the analyst.
5. Curriculum Vitae of the analyst.

B. Under no circumstance will laboratory personnel release any material not specifically listed in subparagraph A to approved recipients without obtaining SF approval. Refer to PRO-7003.2, Disclosing Case-Related Information.

7003.3 Complying with the Giglio Disclosure Policy.

In accordance with the Department of Justice Policy Regarding the Disclosure to Prosecutors of Potential Impeachment Information Concerning Law Enforcement Agency Witnesses (“Giglio Policy”), DEA will disclose potential impeachment information regarding witnesses who testify on behalf of the Government. DEA must notify authorized requesters of potential impeachment information consistent with the Giglio Policy.

REDACTED.

7003.4 Monitoring Court Commitments.

Employees must give priority to subpoenas issued by Federal courts over subpoenas issued by all other courts. If the employee receives more than one subpoena for the same date(s), the employee must advise the appropriate prosecuting attorneys of the conflict. Absent another arrangement between United States Attorney’s offices, the employee will respond to the first federal court subpoena received.

Laboratory personnel must monitor court commitments, resolve schedule conflicts, and notify their supervisor when the status or disposition of a case has changed.

7003.5 Providing Testimony.

The authorities permitting DEA laboratory personnel to testify based upon DEA information are found at 28 C.F.R. § 0.103, 28 C.F.R. § 16.21 *et seq*., and 5 C.F.R. § 2635.805. As expert witnesses, forensic analysts may express reasons for conclusions and offer opinions. Under no circumstances may forensic analysts provide expert opinions outside the scope of their specific expertise.

An employee may serve as an expert witness on behalf of the United States, and generally on behalf of a State or Local Government. However, an employee is prohibited from testifying as an expert witness on

behalf of a private individual unless otherwise authorized. In such cases, the employee must consult with the Office of Chief Counsel, Ethics and Standards of Conduct Unit (CCE) and Domestic Criminal Law (CCM) sections to provide such expert testimony (see 5 C.F.R. § 2635.805).

A. An employee provides testimony in response to a subpoena or demand issued by the prosecution in federal, state, or local criminal cases involving controlled substances (see C.F.R. § 0.103(a)(3)).

B. An SF Forensic Chemist will not provide testimony regarding whether or not a compound meets the scientific criteria of the Controlled Substances Analogue Enforcement Act of 1986, without consultation with the Office of Chief Counsel, Criminal Law Policy and Division Counsel Program (CCO).

NOTE: Requests for testimony regarding 7003.5.B may be referred to the Diversion Control Division, Drug and Chemical Evaluation Section (DRE).

C. Requests for expert testimony unrelated to the analysis of evidence will be considered on a case-by-case basis in consultation with SF and CC.

D. An employee may provide testimony on direct examination regarding the following topics:

1. Position, qualifications, and experience.
2. Actions and opinion(s) concerning the analysis, testing, or handling of evidence that the employee analyzed, tested or handled.
3. Opinions regarding the manufacturing or synthetic routes of chemical substances.
4. General information concerning DEA procedures that the employee used in the case.

E. An employee must not disclose, unless authorized by SF, in consultation with CCO:

1. Information about other cases or investigations.
2. Investigative techniques, policies, or procedures outside the employee's area of expertise.
3. Documents (e.g., manuals, protocols, accreditation documents, log books, calibration records, reports, charts, etc.) that have not been provided to the defense through normal discovery procedures and in accordance with DEA policies and procedures. These documents may or may not be available to the defense from the prosecuting attorney through normal discovery procedures.
4. Any other information that has not been previously authorized in accordance with 7003.5A or C above.

F. If during testimony, an employee is asked to disclose information that has not been previously authorized in accordance with 7003.5A or C above, the employee:

1. Must inform the court that they are prohibited from disclosing the information demanded (see 28 C.F.R. §16.21 *et seq.*).

NOTE: The employee may request an opportunity or brief recess to consult with the appropriate Department of Justice (DOJ) official, SF, and CCO, to obtain the necessary authorization.

EXCEPTION: An appropriate DOJ official (e.g., the United States Attorney in the applicable district), in consultation with CCO and SF, may authorize disclosure.

2. If the court refuses to allow the employee to consult with the appropriate DOJ official, SF, and CCO, the employee will request that the court stay the demand, pending receipt of authorization from the appropriate DOJ official, SF, and CCO.
3. The employee will immediately contact the CCO Section Chief for assistance. If outside of duty hours, the laboratory employee will contact the Command Center to reach CCO.

7003.51 State and Local Proceedings.

A. State and local prosecution subpoenas or demands for testimony or documents that are not authorized by 7003.5A and defense subpoenas and demands for testimony or documents must comply with 28 C.F.R. § 16.21 *et seq*. (herein after referred to as the *"Touhy"* regulations).

NOTE: The *"Touhy"* regulations require that the requestor provide to the appropriate Department of Justice (DOJ) official (normally the United States Attorney in the applicable district) a declaration in writing indicating what testimony and/or documents are being requested. The requestor must state how the testimony and/or documents are relevant to the proceeding.

1. An employee who receives a subpoena or a demand must forward the subpoena or demand to the LD, who will consult with Chief CCO and SF.
2. Upon receipt, the appropriate DOJ official, SF and CCO will consult and determine whether the testimony and/or documents being sought should be authorized.
3. CCO will notify the employee whether all or any portion of the request for testimony and/or documents is authorized. If authorized, CCO will provide the employee with instructions regarding how to proceed.

B. If a specific state rule requires a prosecution witness to submit to a defense deposition, CCO must authorize the employee to testify as a prosecution witness. When subpoenaed by the defense to testify at a deposition, the LD (or designee) will notify the prosecuting attorney and CCO.

C. DEA policy requires that the state prosecuting attorney attend the deposition. If the prosecutor declines or otherwise fails to attend the deposition, the employee will immediately contact the LD, who will notify CCO.

7003.52 Defense Subpoenas.

A. The LD must notify the prosecutor, SF, CCM, and CCE of any subpoena or demand for testimony requested by the defense.

B. In certain states, the defense is authorized to take depositions of the state's witnesses. In those instances, an employee responding to a defense deposition subpoena may testify regarding:
1. Position, qualifications, and experience.
2. Actions, including opinions, concerning the analysis of evidence.
3. Opinions regarding the manufacturing of chemical substances.
4. General information concerning DEA procedures that were used in the case.

REDACTED.

REDACTED.

REDACTED.

REDACTED.

REDACTED.

REDACTED.

REDACTED.

REDACTED.

REDACTED**.**

REDACTED.

REDACTED**.**

REDACTED.

7005 LIAISING WITH AND SUPPORTING FOREIGN FORENSIC SCIENTISTS.

SF encourages liaison between forensic analysts and their foreign counterparts through publications, seminars, and interactions at meetings.

The LD of DEA laboratories must provide a synopsis of each meeting to SF and the Country Attaché, or the foreign field office having jurisdiction, if a representative was not already present.

NOTE 1: Office of Chief's Counsel's International Law Section (CCI) may be consulted for guidance regarding foreign or DEA Country Office requests for information or assistance outlined in this section.

NOTE 2: Exhibit 1/7005 lists acronyms used in this subchapter.

7005.1 Providing Technical Information and Publications to Foreign Forensic Scientists.

A. Regional laboratories will forward requests from foreign nationals to provide technical information and publications to foreign forensic scientists (except those regarding scientific papers published in open literature by laboratory staff) to SF for reply. SF will forward correspondence to the foreign office.

B. SFL1 will respond directly to foreign requests with copies provided to SF and the foreign office.

7005.2 Meeting With International Participants.

SF may request that LDs provide an attendee for meetings with international participants. An LD may also initiate the request for international participation in meetings.

7005.3 Supporting Foreign Law Enforcement.

7005.31 Providing Laboratory Services.

A. SFL1 provides laboratory services to foreign DEA offices and foreign law enforcement agencies, except those specifically assigned to other regional laboratories.

B. Follow REDACTED for procedures to document importing small amounts of controlled substances from foreign offices for laboratory analysis.

REDACTED.

REDACTED:

REDACTED

REDACTED

REDACTED.

7006 PROVIDING ADVISORY SERVICES.

NOTE: Exhibit 1/7006 lists acronyms used in this subchapter.

7006.1 Other Government Agencies.

The LD or SF Section Chief supplies scientific information requested by other government agencies within the scope of laboratory activity and specialization. DEA sensitive information will not be released without SF approval.

7006.2 Industry.

The LD may provide information regarding technical matters within the area of the laboratory's functions to representatives of business or industry, only if it is determined to be in the interest of DEA, and approved by SF.

7007 COLLABORATING WITH PROFESSIONAL ORGANIZATIONS AND INSTITUTIONS.

Laboratory personnel may collaborate with professional organizations and educational institutions, where results may be beneficial to the government, and when the collaboration is approved by SF. For additional information, refer to 7204.3 and 7601.

NOTE: Exhibit 1/7007 lists acronyms used in this subchapter.