

Opening Statement of the Honorable Tim Murphy
Subcommittee on Oversight and Investigations
Hearing on “Continuing Concerns with the Federal Select Agent Program: Department of
Defense Shipments of Live Anthrax”
July 28, 2015

(As Prepared for Delivery)

The Subcommittee today examines continuing concerns over the Federal Select Agent Program. This time our focus is on shipments of live anthrax from a Department of Defense laboratory at the Dugway Proving Grounds that occurred over a nearly 10-year period.

As Yogi Berra said, it's like déjà vu all over again.

Last year, we held a similar hearing—on a CDC anthrax incident that potentially exposed dozens of CDC researchers to live anthrax, due to the fact that established safety procedures were not followed. During the hearing CDC Director Frieden testified, “we will take every step possible to prevent any future incident that could put our laboratory scientists . . . and the public at risk.” Yet here we are again today. We also examined CDC’s mistaken shipment of highly pathogenic avian flu and the FDA’s discovery of vials of smallpox in an NIH building. Months after our hearing, and after a White House-ordered safety stand-down and laboratory sweep of all federal labs, the CDC revealed there had been a transfer of Ebola from a CDC Level 4 lab to a CDC Level 2 lab. This is deeply troubling.

And despite the growing number of red flags, these incidents keep happening.

Now, we have learned that the Dugway Proving Grounds, an Army lab in Utah, has “inadvertently” shipped live anthrax to facilities across the globe. At last count, at least 192 labs have received shipments of live anthrax. Apparently, Dugway’s process to inactivate anthrax spores was not fully effective. And the sterility testing—used to validate and ensure that the anthrax spores were inactivated—failed to detect the live anthrax spores. What’s most troubling, however, is that Dugway used this potentially deadly process for years.

As I said at last year’s hearing, this is completely unacceptable. These dangerous safety lapses at our high-containment labs are threatening our nation’s security and public health. The Committee hopes to learn today what is being done this time to prevent future safety lapses. Will this time be different? Last week, the Department of Defense released a report following its internal review of the circumstances surrounding the live shipments of anthrax. According to its report, the DoD was unable to definitively determine the root cause for how and why Dugway shipped live anthrax. Yet, in the report, the Department acknowledged that all its labs “routinely operate outside validated experimental data for kill curves.” So in other words, it seems that Defense Department labs have been irradiating larger numbers of spores than recommended. And the labs should have known that they could not guarantee inactivation of all the anthrax spores at those numbers, especially at the dosage of radiation given.

This revelation begs a lot of questions, beginning with why? And why for so long? Who is responsible for making the decisions about which inactivation process to use, including how many spores and at what levels of radiation? Are these decisions evaluated, and then, ever re-evaluated? And what is CDC’s role in developing and evaluating these processes?

According to a recent and all-too familiar headline, CDC has also announced that it will be conducting yet another comprehensive review of how it regulates safety and security at bioterror labs. I think it is important to review current regulations to improve processes and procedures. But past reviews have not brought about the change necessary to truly improve safety and standardize processes and procedures. Maybe this review will actually bring about different results.

As I said a year ago, what we have here is a pattern of recurring issues, of complacency, and a lax culture of safety. Last year, CDC Director Frieden stated that this was a “wake-up” call. However, it appears that critical government agencies have hit the snooze button. What is going to change this time? And when? None of us want to be here again a year from now, discussing another set of safety lapses, that may have actually caused loss of life.

The U.S Government Accountability Office has conducted comprehensive work on the oversight of high-containment labs. In fact, GAO has been issuing recommendations for years calling for a government-wide strategy for the requirements for high-containment labs and the need for national standards for designing, constructing, commissioning, and maintaining such labs. Yet, these recommendations have not been implemented, which is one of the reasons we are here again today discussing another safety lapse that threatens national security and the public health.

I would like to thank the witnesses for testifying here today and I look forward to hearing your testimony about what needs to be done to improve the safety, and procedures in our bioterrorism labs. This Subcommittee will not relent in its oversight of Federal laboratories’ compliance with select agent regulations, and will further explore the possibility of an independent agency to oversee these labs.

###