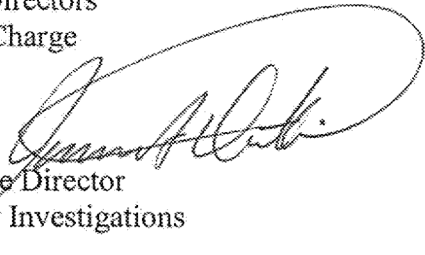




Homeland Security

JAN 28 2011

MEMORANDUM FOR: Assistant Directors
Deputy Assistant Directors
Special Agents in Charge
Attachés

FROM: James A. Dinkins 
Executive Associate Director
Homeland Security Investigations

SUBJECT: Updates to IOPN 00-22 – Accountability Requirements for
Lost/Stolen, Evidence, Drugs, Currency, and Escaped Prisoners

Issue:

On May 12, 2000, Internal Operating Procedures Notification (IOPN) 00-22 "Accountability Requirements for Lost/Stolen Evidence, Drugs, Currency, and Escaped Prisoners" established reporting requirements for field offices to follow when cooperating defendants, evidence, drugs, weapons, currency, or other merchandise were lost during their transport or delivery during any enforcement operation. This memorandum serves to supersede IOPN 00-22, only as it relates to the accountability requirements and timelines for lost/stolen evidence, drugs, weapons, and currency and to formalize the creation of a Lost Load Committee. The accountability requirements for prisoners/cooperating defendants will be addressed under a separate document and IOPN 00-22 remains current for these areas.

Background:

The use of the controlled delivery as an investigative technique is an invaluable tool for Homeland Security Investigations (HSI) to employ in order to identify higher levels of an organization and to enhance its investigations of organized crime. The vast majority of controlled deliveries conducted by HSI involve narcotics. While the number of reported lost loads during enforcement operations is relatively small in comparison to the number of controlled deliveries conducted by HSI, the agency is always seeking ways to work more efficiently as an organization and to rectify any gaps in policies or outdated procedures.

Discussion:

Effective immediately, this memorandum will serve to supersede IOPN 00-22, only as it relates to the accountability requirements and timelines for lost/stolen evidence, drugs, weapons, and currency.

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Changes to IOPN 00-22:

The changes to IOPN 00-22 apply to the following scenarios:

1. In all enforcement operations (overt or undercover) in which HSI personnel are the lead agency. This is also applicable if HSI turns over the operations to a federal, foreign, state, tribal, county, or local law enforcement agency to utilize them as a “wall”.
2. In all instances when funds (either government or violator/trafficker) are lost or stolen during undercover operations. This includes losses/thefts of funds intended to be laundered in "pick up," money laundering sting operations, or other money laundering operations. It also includes losses/thefts of funds intended for use as "flash rolls," "buy money," or "transportation fees" in narcotics operations or operations in any other case category. The case agent and first-line supervisor will employ all reasonable accountability controls to safeguard against the loss of funds during a money laundering operation. These should include prior asset identification and background checks, consensual telephonic and non-telephonic recording(s) between the undercover operative and the suspect or violator, as well as pursuit of criminal charges and/or civil forfeiture against any violator involved in the loss or theft.

Procedures:

If evidence, drugs, weapons, currency, or contraband are lost/stolen during an enforcement operation, the HSI office where the incident took place must:

1. Immediately notify the local or servicing ICE Office of Professional Responsibility (OPR) office or OPR Intake at 1-877-2INTAKE by telephone during business hours. After hours, notify the duty officer in the local or servicing OPR office by telephone.
2. Immediately initiate telephone/e-mail notification to the HSI chain of command (i.e. Group Supervisor to Special Agent in Charge (SAC)) to HSI Executive Associate Director (EAD) through HSI HQ Operations.
 - a. HSI HQ Operations may request more information/periodic updates from the SAC or his/her designee on the circumstances surrounding the theft of evidence or the lost load of drugs, weapons, currency, or contraband, as well as the plan to recover the items should HSI, the ICE Director's office, and/or the Department requires the information.
 - b. The SAC or his/her designee and HSI HQ Operations should ensure consistency in the information reported for accuracy in the final Accountability Control Memorandum.
3. Immediately notify the case Assistant U.S. Attorney (AUSA).

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4. Immediately appoint a non-involved and impartial manager (preferably an ASAC, but in no case lower than a GS-1811-14) to begin preparing the Accountability Control Memorandum (for the SAC's signature) in the format described below once the SAC or his/her designee determines that the drugs, currency, weapons, or contraband is lost . The Accountability Control Memorandum must include an answer for each of the below items, at least to the extent of indicating "not applicable" if appropriate. The memorandum will include the following:
 - a. Reporting Office;
 - b. Notifications (OPR, HSI Field/HQ, and AUSA);
 - c. Case Number;
 - d. Case/Operational Name;
 - e. Seizure Date/Time/Location;
 - f. Point of Entry;
 - g. Estimate of Commodity Lost/Stolen;
 - h. Contraband Substitution;
 - i. Delivery/Operation Type;
 - j. Informant/Source/Cooperating Defendant Participation;
 - k. Electronic Devices Used;
 - l. Initiating/Receiving SAC offices;
 - m. Date/Time/Location of Loss/Theft;
 - n. Statement of Facts Surrounding the Loss/Theft Including Descriptions of Any Irregularities or Unusual Circumstances;
 - o. HSI Personnel Involved;
 - p. Other Agency Personnel Involvement (identify Lead Agency);
 - q. Brief Description of Efforts to Safeguard against Loss;
 - r. Description of Efforts to Locate Lost Narcotics, Contraband, Weapons, Currency, or Other Commodity;
 - s. Judicial District(s) Involved (Originating, Receiving, Prosecuting) and Name of AUSA Notified;
 - t. Name, Title, Office of Manager who prepared this Accountability Control Memorandum for the SAC's Signature.

5. The Accountability Control Memorandum should include the following:
 - Accurate time-line and sequence of events;
 - Undercover or informant debrief information;
 - Information gleaned from any Title III wire intercepts, informant/undercover conversations with suspects, or information from other law enforcement agencies pertaining to the lost drugs, weapons, currency or contraband;
 - Field personnel observations contained in surveillance notes;
 - Assessments from any air or marine assets;
 - Observations/information from state, local, county partners, including “wall teams.”

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6. Once the SAC or his/her designee determines that the drugs, currency, weapons, or contraband is lost, the Accountability Control Memorandum will be submitted to HSI HQ Operations, with a copy to the Unit Chief of the Narcotics and Contraband Smuggling Unit (NCSU), no later than:
 - a. 72 Hours for the loss or theft of drugs, currency (government or violator/trafficker), or contraband (precursor chemicals, pharmaceuticals, counterfeit merchandise)
 - b. 24 Hours for the loss or theft of weapons, munitions, or ammunition.

Lost Load Committee:

In addition to changes in the timeframe for submitting the Accountability Control Memorandum for lost loads of drugs, currency, or contraband, HSI Headquarters will establish a Lost Load Committee as a permanent body to review Accountability Control Memorandums. The Lost Load Committee would not review every lost load memo, but would convene at the direction of the HSI EAD or his/her designee, to evaluate events surrounding the specific lost load(s) in order to promote an efficient review of the events. In addition, the Lost Load Committee will be used as a venue to begin the process of changing policies related to controlled delivery's, cold convoys or pass throughs should systematic circumstances surrounding lost loads continue across the agency. The Lost Load Committee will be chaired by the Unit Chief of the NCSU and be comprised of GS-15 level representatives of Division 4, HSI HQ Operations, and OPR. Unit Chief representation from other ICE HQ Units (Counter-Proliferations Investigations, National IPR Center, Illicit Finance and Proceeds of Crime Unit, etc.) will also participate should the enforcement action involve their programmatic area. If a load is lost during an international controlled delivery, a GS-15 level representative from HSI International Affairs will also be in attendance. In addition, the Lost Load Committee will have Assistant Special Agent Charge level representation from both the originating (transit if applicable) and destination SACs, either via video teleconferencing or in-person, to provide answers to questions which may not be included in the Accountability Control Memorandum, as well as provide field level insight into operations and relationships with outside agencies in their areas of operation. At the conclusion of the Lost Load Committee meeting, NCSU will provide a written summary of the meeting for review by the EAD or his/her designee for any action deemed appropriate.

Any questions concerning this memorandum or its contents can be directed to NCSU Unit Chief

(b)(6),(b)(7)(C) t 202-732 (b)(6),(b)(7)(C) @dhs.gov.