



CITY OF OAKLAND  
Office of the City Auditor

## INVESTIGATION

**DATE:** February 26, 2020

**TO:** Mayor Schaaf, President Kaplan, Members of the City Council, City Administrator Landreth, City Attorney Parker, and Oakland Residents

**FROM:** City Auditor Courtney Ruby, CPA, CFE

**SUBJECT:** **Oakland Fire Department's Medical Services Division: Controlled Substances Investigation**

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### Background

#### Oakland Fire Department's Medical Services Division

The Oakland Fire Department's (OFD) Medical Services Division (Medical Services) prepares and manages OFD's medical responses. In this role, Medical Services is the steward of the following two controlled substances<sup>1</sup> used by OFD:

1. Fentanyl is a prescription pain reliever that is high-risk for addiction. The illicit sale and widespread abuse of Fentanyl, including in the Bay Area, is well-documented. The U.S. Drug Enforcement Agency (DEA) has designated Fentanyl a "Schedule II" substance.<sup>2</sup>

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<sup>1</sup> A controlled substance is a drug which has been declared by federal or state law to be illegal for sale or use but may be dispensed under a physician's prescription. The basis for control and regulation is the danger of addiction, abuse, physical, and mental harm.

<sup>2</sup> The U.S. Drug Enforcement Administration conducts scheduling of drugs, substances, and certain chemicals used to make drugs. Scheduling entails classifying drugs into five distinct categories depending on the drug's acceptable medical use and the drug's abuse or dependency potential. The abuse rate is a determinate factor in the scheduling of the drug. Schedule I drugs have a high potential for abuse and the potential to create severe psychological and/or physical dependence. As the drug schedule changes – Schedule II, Schedule III, etc. – so does the abuse potential. Schedule V drugs represent the lowest potential for abuse.

2. Midazolam is a prescription sedative used during minor surgeries. The DEA has designated Midazolam a “Schedule IV” substance.

## Investigation History

In July 2019, the City Auditor’s Office received a whistleblower report alleging that Medical Services’ management of controlled substances was inadequate. The report also identified potential incidents arising from the alleged lax environment, including not performing drug counts.

A preliminary review of the July 2019 allegation produced enough evidence to proceed with a full investigation.

## Investigation Objectives

The objectives of this investigation were to determine whether:

- 1) Medical Services’ management of OFD’s controlled substances is adequate, and
- 2) Medical Services staff did not perform drug counts and diverted drugs.

To meet these objectives, we completed work summarized in the “Methodology” section of this report on page 11.

## Investigation Conclusions

The investigation substantiated the whistleblower's report. Medical Services' management of controlled substances is inadequate, and Medical Services needs to immediately exhibit more due diligence and attentiveness in managing OFD's controlled substances. Specifically, we found:

- ✓ Drug tracking procedures are inadequate and have not been consistently followed
- ✓ The central drug vault is vulnerable to tampering and lacks important security features
- ✓ Medical Services has not installed video surveillance near the drug vault
- ✓ Medical Services has failed to perform essential work to improve the management of controlled substances
- ✓ Continued reliance on one Medical Services staff member reveals questionable professional judgement

Overall, Medical Services' oversight is unacceptable given the risks involved, prior incidents, and lack of proper safeguards.

### **Medical Services' management of controlled substances is not adequate.**

While this investigation did not substantiate misuse of controlled substances, given the pervasive and substantial control weaknesses we observed during our investigation, we determined that Medical Services' management of controlled substances is not adequate to prevent loss and misuse from occurring.

### **Medical Services lacks the necessary oversight and safeguards to secure controlled substances.**

This investigation also substantiated that prior to this investigation, Medical Services lost control of eight vials of drugs. Medical Services was unaware it had lost the drugs until the unsecured vials were found in February 2019. According to Medical Services' investigation of this incident, the drugs were lost in September 2018, meaning they were unaccounted for and unsecured for several months. This investigation found that the environment allowing this incident to occur, persists in Medical Services.

### **The management of controlled substances requires OFD's urgent attention.**

Due to the severe health impact to individuals and the immense risks facing the City if the control weaknesses are exploited, we believe the management of controlled substances requires OFD's urgent attention.

## Investigation Findings

### Drug tracking procedures are inadequate and have not been consistently followed

Medical Services' drug handling procedures do not facilitate timely tracking of drugs. Furthermore, staff do not always adhere to the procedures, which increases the risk of drug losses and abuse. We found:

- Some completed controlled substance usage cards went missing, which precluded Medical Services' central staff from following its own reconciliation processes.
- Medical Services' reconciliation of drug use in the field occurs up to a month after the drugs are used. Failure to reconcile drug use in a timely manner renders this control ineffective.
- Packing slips from a drug delivery included the signature of only one Medical Services staff member. Two signatures are required by Medical Services policy.
- Distribution sheets did not identify the Medical Services staff member(s) who released controlled substances to station personnel.
- Distribution sheets did not identify station personnel who received controlled substances.
- Medical Services sends its expired substances to a third-party vendor for destruction. Despite having a requirement that two staff members verify the distribution of the expired controlled substances and log the distribution, records showed that only one Medical Services staff member performed this duty.
- Despite a requirement that a certificate of destruction be compared to the number of vials sent to the destruction facility, we found that Medical Services does not reconcile records of what is sent to the vendor against the vendor's confirmation. Staff simply file the vendor's receipts when it arrives without comparing against their records.
- During our investigation, a Medical Services staff member reported vials of drugs that expired in 2017 were found in a station storage box. This would not be possible if departmental procedures were followed. Furthermore, the fact that Medical Services staff were not alerted to these vials languishing in the storage box beyond their expiration date, reveals ineffective tracking.

## The central drug vault is vulnerable to tampering and lacks important security features

The drug vault is a critically important aspect of Medical Services' physical controls over the Department's controlled substances. All controlled substances used by OFD are stored in Medical Services' drug vault. At any given time, the vault contains: 1) ordered drugs that were received but have not yet been distributed to stations, 2) partially used vials, and 3) drugs that are expired/expiring. Although Medical Services' drug vault contains a changeable combination lock, we found it lacks important security features. Medical Services' physical controls over the Department's high-risk drugs are completely inadequate and place the City at risk. We found:

- Medical Services' vault fails to meet DEA guidelines for the storage of Schedule I and II controlled substances. The vault is not alarmed, nor does it alert law enforcement when breached.
- Medical Services' procedures require the use of plastic seals and hand-written log-ins when opening the safe. This system is insufficient, and there is no way to track when the vault has been opened or who opened it for legitimate purposes, much less an attempted breach. We found that on multiple occasions, the plastic seal number recorded in the controlled substance activity log was scratched out with pen and a new number was written in, which undermines the intended function of the plastic seal system (see Exhibit 1).
- The combination for the drug vault was not changed after one OFD staff member stopped working at Medical Services' central office and no longer had a business need for access to the drug vault.
- As of mid-February 2020, OFD's drug vault contained 1,113 vials of drugs. Of these, 633 were expired vials that had been in the vault since September 2019. Medical Services' policy is that expired drugs should be disposed of monthly through a licensed vendor.

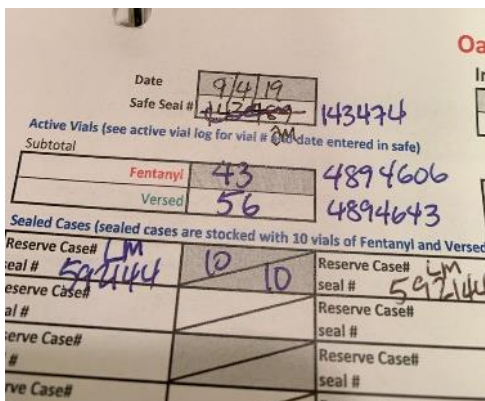
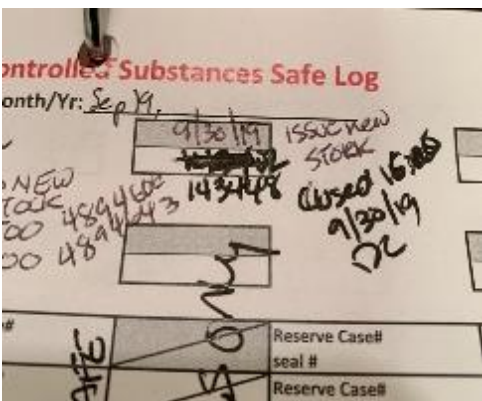
Exhibit 1: Photos of Medical Services' Drug Vault and Controlled Substances Log



Above: Medical Services' drug vault with the controlled substances log stored on top.



Above: Uniquely numbered plastic seals used on the drug vault



Above: Examples of hand-written plastic seal numbers being crossed out and replaced in Medical Services' controlled substance activity log.

Source: Auditor photos at Medical Services headquarters

## **Medical Services has not installed video surveillance near the drug vault**

In March 2019, after a whistleblower reported that OFD lost control of eight vials of drugs, the Medical Services Director reported to the City Auditor that video surveillance had been put into place to record the area around the drug vault. We found:

- Despite the Medical Services Director's claim, we found Medical Services has not installed video surveillance near the central drug vault. As of the date of this report, Medical Services has produced no plans for video surveillance around the area of the drug vault.
- When Medical Services was headquartered at 47 Clay Street, the drug vault was in a high traffic area. In February 2019, the drug vault was found unlocked with controlled substances inside. Because the drug vault lacks key security features, and no surveillance of the area around the vault, Medical Services was and continues to be unable to explain why the vault was unlocked, and who was responsible for it being unlocked.
- Medical Services did not investigate the incident in which the drug vault door was found unlocked.

## **Medical Services has failed to perform essential work to improve the management of controlled substances**

The investigation revealed that Medical Services has failed to perform essential work to improve the management of controlled substances. Specifically, we found:

- Medical Services has not provided training to the staff member recently assigned to manage the controlled substance program. For example, as of the date of this report, that staff member had not been trained on the drug tracking system, even though this employee had been assigned to manage the controlled substance program for over six months.
- Medical Services allowed the contract extension for its contracted physician serving as OFD's Medical Director to expire. The contract extension expired September 30, 2019, and as of the date of this report, the Medical Director has been working without a current contract. According to the Fire Department's 2018 memo that requested extending the contract with the Medical Director, "the incumbent contractor... allows OFD to meet the Federal State and County requirements for physician oversight of Emergency Medical Services (EMS) and controlled substances programs that concern paramedic drug inventories." The Medical Director is responsible for approving the purchase of drugs before they can be ordered; overseeing controlled substances and paramedic training; and providing follow up to emergency treatment.

- Despite his critical role, the Medical Director works on average, about 10 hours per month for the Department. As identified in this report, the controlled substance program needs constant and demonstrable oversight, which we found was significantly lacking.
- Emergency Medical Services Coordinators are assigned the role of managing OFD's controlled substance program. However, the job specifications outline a training development role, and does not consider that people in this classification would be responsible for the stewardship of high-risk drugs. According to City job specifications, an Emergency Medical Services Coordinator "administers medical training programs and curricula for Fire Department sworn personnel. Incumbents coordinate and conduct educational activities related to the provision of Medical Services at the Basic and Advanced Life Support levels; research, plan, develop, modify, and administer medical training programs; and perform related duties as assigned."
- In 2018, the City Auditor's Office identified deficiencies at Medical Services and made recommendations on how to correct the deficiencies. At that time, management agreed with the audit's recommendations. However, our investigation found those previously documented deficiencies persist. These deficiencies include not securing controlled substances at delivery, not independently verifying drug inventory, not providing sufficient staff training, and not changing the drug vault's passcode periodically and when staffing changes occur.
- In response to the February 2019 incident during which Medical Services discovered it had temporarily lost control of eight vials of drugs, the Medical Services Director advised the City Auditor in a memo that he was removing the Medical Services staff member responsible for the incident from controlled substance-related duties. In addition, the Medical Services Director reported the implementation of additional security enhancements. Our investigation found that Medical Services had not yet removed the employee and had not implemented additional security enhancements including video surveillance near the drug vault.



## Continued reliance on one Medical Services staff member reveals questionable professional judgement

We observed dubious decision-making related to the continued trust of the aforementioned employee who was determined to be responsible for the aforementioned loss of eight vials of drugs. We found:

- The employee in question continued to handle drugs for at least five months after that employee was found to have deviated from the department's policy on controlled substances.
- In August 2019, six months after the employee was determined to be responsible for the lost vials of controlled substance, we asked the Medical Services Director about the employee's access to the drug vault. The Medical Services Director reported that the employee's access to controlled substances had been removed. This was not true. We later learned that the Medical Services Director revoked the employee's access only after we questioned the Medical Services Director about the employee still having access.
- Even though this same employee's access to the drug vault was removed, the employee retained access to the controlled substance tracking system, including rights to edit data entries. As of mid-February, the employee continued to have access to the tracking system.
- Medical Services relies heavily on the experience of this one staff member. For example, this employee continues to be a vital resource for facilitating the narcotic exchange and is identified as the person on staff most knowledgeable about the department's drug tracking system.

## Recommendations

1. Update policies and procedures related to controlled substances and train employees accordingly.
2. Automate drug tracking, such as adopting a computerized system in which staff can scan barcodes and can transmit use data in “real time” to Medical Services’ controlled substance inventory system.
3. Procure and install a new drug vault that meets DEA storage standards and provide greater assurance that access to controlled substances are limited to authorized personnel.
4. Install video surveillance directed at the drug vault and high-risk areas where diversion might occur. Review and monitor the footage regularly.
5. Identify the correct staff position(s) to manage the controlled substance program. Ensure the job specifications are appropriately aligned with the position’s responsibilities.
6. Provide adequate training and supervision to the position(s) assigned to manage OFD’s controlled substances, including managing the controlled substances inventory system.
7. Re-evaluate all the roles and responsibilities of staff members and contractors involved in managing OFD’s controlled substances.

## Methodology

The Office performed a preliminary review of the whistleblower report to confirm understanding of the reported allegations, and determine if all the following four investigation criteria were met:

1. The alleged incident(s) involved City of Oakland property, infrastructure, employees, officials, or otherwise falls within the City's jurisdiction.
2. If true, the concern meets the definition of "fraud," "waste," OR "abuse."
3. The alleged incident(s) occurred within 12 months of being reported.
4. The alleged incident(s) are not known to be the subject of current litigation.

After completing the preliminary review, the Office conducted an investigation to arrive at the findings and conclusions in this report. This investigation included:

- Reviewing City and departmental administrative procedures
- Reviewing operations in the field
- Reviewing controlled substance inventory
- Reviewing past reviews of controls within Medical Services
- Reviewing job specifications
- Reviewing council reports, contracts, etc.
- Interviewing City staff members
- Reviewing U.S. Drug Enforcement Agency (DEA)
- Reviewing leading practices pertaining to controlled substance management



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CONTACT MICHAEL HOUSTON, WHISTLEBLOWER PROGRAM MANAGER  
MHouston@OaklandCa.gov/ (510) 238-3114

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