

Travis County Sheriff's Office  
Pharmaceuticals Audit

#16-02



Travis County Auditor's Office  
Risk Evaluation & Consulting Division  
August 23, 2016

TRAVIS COUNTY  
AUDITOR'S OFFICE

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To: Greg Hamilton  
Travis County Sheriff

From: Nicki Riley, CPA  
Travis County Auditor

Date: August 23, 2016

Subject: Pharmaceutical Review

The Risk Evaluation and Consulting (REC) Division of the Travis County Auditor's Office has completed a review of the inmate pharmacy function of the Travis County Sheriff's Office (TCSO). We conducted our review in accordance with the applicable statutes governing the County Auditor's Office and those relating to County financial and accounting protocols. As a result of our review, we are providing this report on our findings and recommendations.

## **BACKGROUND**

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The TCSO pharmacy is responsible for ordering pharmaceuticals and filling prescriptions for the Travis County Correctional Complex (TCCC) in Del Valle, the Travis County Jail downtown, and the Juvenile Detention Center. The pharmacy is located in Building 12 of the TCCC at 3614 Bill Price Road, Del Valle, Texas. There are four dedicated staff on hand at the pharmacy: a full-time, licensed pharmacist; two full-time, licensed pharmacy technicians; and one licensed, contract pharmacy technician.

## **OBJECTIVE AND SCOPE OF REVIEW**

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The primary objective of this review was to assess the adequacy and effectiveness of the overall system of internal controls in place for the TCSO pharmacy (the pharmacy), including financial

processes. The scope of this review included an examination of the controls over handling and accounting for ordering, dispensing, and disposing of pharmaceuticals.

## **REVIEW METHODOLOGY**

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Our work was based on applying sampling procedures to office records and on verbal and written representations from the TCSO. Sampling relates to examining, on a test basis, evidence supporting the amounts and disclosures in the financial records and statements. The use of sampling techniques would not necessarily disclose all matters related to the pharmacy that might be material weaknesses or misstatements. In regards to the written and verbal representations made by the TCSO, unless otherwise noted in this report, office management maintains that the assertions we relied upon in the review were correct to the best of their knowledge.

## **SUMMARY OF AREAS OF CONCERN AND RECOMMENDATIONS**

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Based upon our review, we noted two internal control concerns related to the disposal of expired medications and the inventory of pharmaceuticals. We also had concerns regarding the current contract for pharmaceutical procurement. These items are detailed in the Areas of Concern section starting on page 13.

## **EXAMINATION TEAM**

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Amanda Muehlberg, Lead Auditor

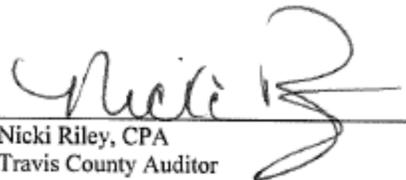
## **CLOSING**

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This report is intended solely for the information and use of your office and the Commissioners Court. We greatly appreciate the cooperation and assistance received from the management and staff of the Travis County Sheriff's Office during this examination. Please contact us if you have any questions or concerns regarding this report.

  
David Jungerman, CIA  
Chief Assistant County Auditor I - REC  
Division

  
Patti Smith, CPA  
First Assistant County Auditor

  
Nicki Riley, CPA  
Travis County Auditor

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Managers, Travis County Auditor's Office  
Examination File

## Background

The largest portion of the Travis County jail population is housed in the Travis County Correctional Complex (TCCC) located in Del Valle. The TCCC is made up of 12 buildings that house more than 2,500 inmates. Building 12, the newest TCCC building, opened in October 2009; it is the largest single facility within the TCSO. At 257,000 square feet, Building 12 has 301 assigned employees, of which 193 are corrections officers.

The pharmacy, located in Building 12, is currently staffed by a licensed pharmacist and three nationally and state-certified pharmacy technicians. The pharmacist and two technicians are TCSO employees, while the third technician is a contract employee provided by Clinical Staff Support Inc. The pharmacy fills prescriptions for inmates at both the Del Valle Correctional Complex and the downtown jail, as well as for juveniles at the Gardner-Betts Juvenile Justice Center.

The pharmacy is licensed as a Class C pharmacy in accordance with Texas Occupations Code Section 560.051(d)(1) which states the following:

*A Class C pharmacy license or institutional pharmacy license may be issued to a pharmacy located in:*

*(1) an inpatient facility, including a hospital, licensed under Chapter 241 or 577, Health and Safety Code*

While most Class C pharmacies are subject to the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) standards, the TCSO pharmacy is not; likewise, it is not subject to JCAHO inspections. Instead, it is regulated by the Texas State Board of Pharmacy (TSBP) and the Texas Commission on Jail Standards. The TSBP performs unannounced visits of the facility to ensure compliance with the standards in Texas Occupations Code Section 556.051, which follows:

*a) The board or a representative of the board may enter and inspect a facility relative to the following:*

*(1) drug storage and security;*

*(2) equipment;*

*(3) components used in compounding, finished and unfinished products, containers, and labeling of any item;*

*(4) sanitary conditions;*

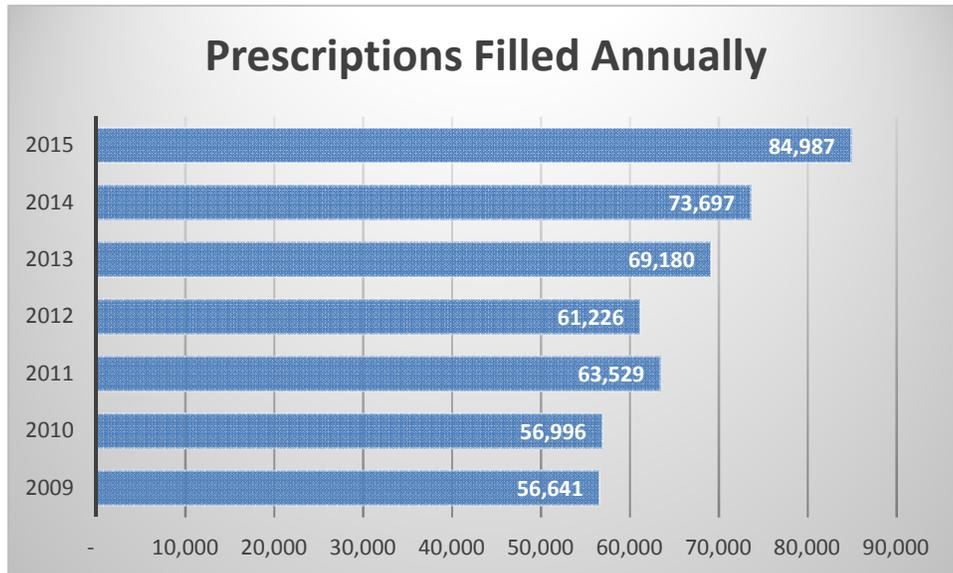
*(5) records, reports, or other documents required to be kept or made under this subtitle, Chapter 481 or 483, Health and Safety Code, or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.) or rules adopted under one of those laws; or*

*(6) subject to Subsection (b), financial records relating to the operation of the facility.*

*b) The board or a representative of the board may inspect financial records under Subsection (a) only in the course of the investigation of a specific complaint. The*

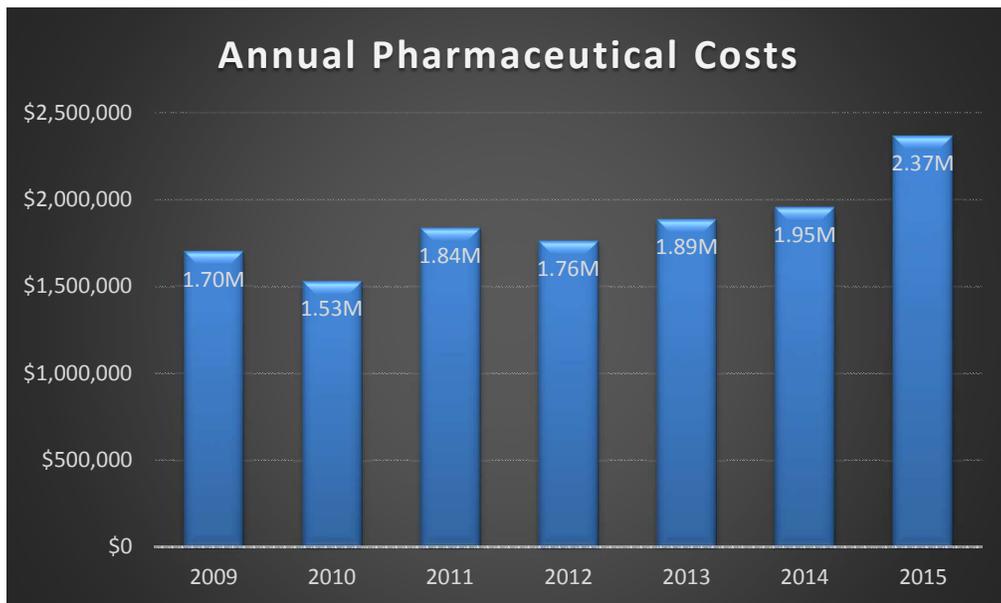
*board or representative may inspect only records related to the specific complaint. The inspection is subject to Section 565.055.*

Due to a variety of factors, there has been a significant increase in the number of prescriptions filled each year, detailed below:



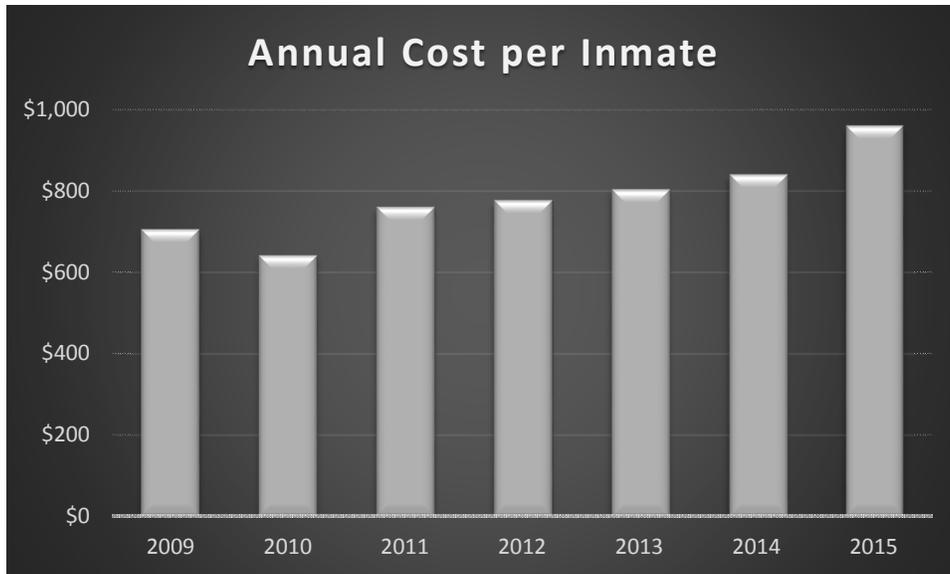
Data provided by TCSO pharmacy

The increase in prescriptions, as well as the increase in pharmaceutical prices, has directly affected pharmacy costs as follows:



Data provided by TCSO pharmacy

The average annual cost per inmate has increased approximately \$250 since 2009, as detailed on the following page:



Data provided by TCSO Finance and TCSO Pharmacy

HIV and psychiatric pharmaceuticals comprise the majority of costs incurred by the pharmacy, as detailed below:



Data provided by TCSO pharmacy

In 2011, the pharmacy joined the AIDS Drug Assistance Program (ADAP), a state program that subsidizes the cost of HIV pharmaceuticals. This program helped the pharmacy save an average of \$100,000 annually from 2011 to 2014. However, the Texas Department of State Health Services determined that jail pharmacies could no longer participate in this program, and the TCSO pharmacy was no longer able to participate in ADAP starting in 2015. Further hindering cost reduction efforts, the pharmacy is unable to obtain reimbursements from private insurance companies, Medicare, and Medicaid.

Due to the increasing cost of pharmaceuticals, TCSO pursues the following avenues in an effort to keep costs manageable:

1. Travis County has an agreement with Premier, a Group Purchasing Organization (GPO). This agreement helps ensure that pharmaceuticals are available at competitive prices and provides Travis County with better buying power. The GPO negotiates discounts from pharmaceutical manufacturers based on volume orders by GPO members. The GPO then contracts with pharmaceutical wholesalers (e.g., AmerisourceBergen) to provide pharmaceuticals at the discounted price to the GPO members. This agreement comes at no cost to the County; rather, the pharmaceutical manufacturers pay the GPO. In addition, the GPO verifies that the appropriate discounted prices are being received by Travis County.
2. Pharmaceutical manufacturers offer free pharmaceuticals to patients that meet set criteria under Patient Assistance Programs (PAPs). The Sheriff's Office has assigned an office specialist to research available PAPs and determine patient eligibility. Participation in PAPs has created an average annual savings of \$300k since 2012; however, the manufacturers are making eligibility for these programs more difficult.
3. Pharmaceutical samples are accepted from manufacturers.
4. Donations of pharmaceuticals (usually those close to expiring) are accepted.

**Contract:**

Currently, the pharmacy utilizes an interlocal agreement with San Diego County in California to contract with AmerisourceBergen to fulfill Travis County's pharmaceutical needs. The interlocal agreement automatically renews each year on October 1 for a term of one year, unless terminated sooner. Each party may terminate the agreement, in whole or in part, on 30 days notice. Utilizing an interlocal agreement with a larger county has allowed Travis County to benefit from volume discounts available due to the high volume of pharmaceuticals ordered by San Diego County. Currently, the pharmacy pays cost plus two percent on all pharmaceuticals.

**Pharmacy Management Software and Operations:**

The pharmacy currently uses Framework software as its pharmacy management system. The system can generate various reports including, but not limited to, the following:

- Prescribing profiles of individual physicians
- Patient profiles and histories
- Pharmaceutical dispensing (including what is dispensed, to whom, and how much)
- Current inventory levels
- Real time information on availability and monthly usage

The system has an automatic renewal program for prescriptions; however, this feature has been deactivated, since inmates may be released without advanced notice. Instead, pharmaceuticals are ordered based on historical need versus the stock on hand. AmerisourceBergen makes deliveries

daily, which allows the pharmacy to operate a near just-in-time inventory system. The ability to keep minimum quantities on hand decreases the likelihood that pharmaceuticals will either expire before being dispensed or be misappropriated.

#### Ordering and Returning Pharmaceuticals:

The lead pharmacy technician has access to order pharmaceuticals through the AmerisourceBergen website. It is the pharmacy's policy to select the cheapest drug option available, regardless of manufacturer. If a specific item is not available, AmerisourceBergen substitutes the cheapest available option. In addition, AmerisourceBergen automatically sends generic pharmaceuticals in place of name brands when the generic becomes available.

Pharmaceuticals may be returned within 60 days of the delivery date for full credit, provided the packaging has not been damaged. Partially used pharmaceuticals cannot be sent back. Return paperwork is completed online and pharmaceuticals are returned in a sealed tote. Once received by AmerisourceBergen, they issue a credit memo to the pharmacy's account for the returned item.

#### Filling Prescriptions:

The TCCC employs physicians and nurses to provide medical care to all inmates. The medical staff utilize NextGen, an electronic health record software, to manage inmate health information, including diagnoses, treatment plans, and prescriptions. NextGen interfaces with Framework to communicate pharmaceutical needs between medical and pharmacy staff. When TCSO medical staff enter prescriptions into NextGen, pharmacy staff are alerted through a queueing system in Framework. Pharmacy staff then fill orders based on the scripts received in Framework. All pharmaceutical staff have access to the Framework system and its prescription queue, allowing them to process prescription orders. Each staff member has a unique login and password, and an audit trail exists in the system that allows the pharmacist to view technician activity in each stage of the prescription process.

Pharmaceuticals for inmates at Del Valle are placed on a cart and delivered to the medical staff located in the infirmary for distribution. Pharmaceuticals for the Juvenile Justice Center and the TCSO downtown jail are placed in sealed totes for pick up and transport by a TCSO deputy to the appropriate facility. Juvenile Probation is charged a \$7.50 dispensing fee plus the purchase cost of the medication for all of their filled prescriptions.

At times, inmates are allowed to keep pharmaceuticals on their persons, to take as prescribed. This typically occurs with medications for high blood pressure or diabetes. Controlled substances, including psychiatric and narcotic pharmaceuticals, are dispensed by medical staff and are never allowed to be kept on an inmate's person.

#### Guaranteed Returns Pharmaceutical Disposal:

Guaranteed Returns is a processing company that handles the disposal of expired pharmaceuticals in the pharmacy stock. When pharmaceuticals reach their expiration date, pharmacy staff complete the applicable paperwork, which is remitted to Guaranteed Returns, notifying them to take possession of the expired items.

Guaranteed Returns picks up deliveries directly from the pharmacy. Once Guaranteed Returns processes the pharmaceuticals, they remit a list to the pharmacy of all items processed. The pharmacist then reconciles this list to the pharmacy's expired items list to ensure there are no discrepancies. Some manufacturers provide credits for expired pharmaceuticals. When this occurs, the pharmacy is issued a credit from the manufacturer via Guaranteed Returns. For providing this service, Guaranteed Returns charges the pharmacy 6.4% of the Estimated Return Value (ERV) of the disposed items. This amount is directly withheld from the credit they issue to the pharmacy.

#### TCSO Pharmaceutical Incineration:

Any pharmaceuticals that have been held personally by an inmate cannot be remitted to Guaranteed Returns. If an inmate does not finish their full prescription, the remaining pharmaceuticals are returned to the pharmacy. Pharmacy staff complete an incineration form detailing patient name, prescription number, date dispensed, and quantity remaining. These items are packaged by pharmacy staff in paper or cardboard containers, sealed, and initialed. The items are picked up by a TCSO deputy and are delivered to the TCSO Evidence Facility located in the James Collier Building at 7811 Burseson-Manor Road, Manor, Texas.

Pharmaceutical incinerations take place at Sharps Environmental Services, Inc. located in Carthage, Texas. This entity provides environmental services for the destruction of non-illicit pharmaceuticals. TCSO deputies transport all packages marked for incineration to this location and are present during the incineration process. Standard operating procedures require incinerations be witnessed by two TCSO staff who confirm that the seal remains unbroken, weigh the package, and sign an incineration form verifying they observed the items being incinerated.

#### **Security:**

The pharmacy has no outside signage and is secured with keycard access and key locks. There are security cameras located both inside the pharmacy and in the hallway leading to the pharmacy. These videos are typically kept for just under a month. In addition, pharmacy policy does not allow anyone other than pharmacy staff to be inside the facility. Controlled substances are secured through the use of triple locks and the pharmacist is the only one with access to the controlled substances.

#### **Inventory:**

Each June, the pharmacist and pharmacy technicians estimate the current inventory of non-controlled pharmaceuticals, updating the AmerisourceBergen inventory site with these estimates. An individual pill count is not performed or estimated; rather, the estimate is created based on the approximate amount remaining in the bottle (e.g., a quarter or half of a bottle). The Framework system has inventory control capabilities, including automatic reduction in inventory levels when prescriptions are filled, but this function is not being utilized at this time.

A perpetual inventory is maintained for all controlled substances. Each controlled substance has an individual log that indicates the exact amount on hand at any given time. The balance is updated each time an order for floor stock is filled, and the correct quantity remaining is verified at that

time. Medical staff maintain a separate inventory log on the medical cart for these items, which is updated as each unit dose is dispensed.

The controlled substance count is verified prior to all staff changes and any discrepancies are investigated immediately. Because controlled substances are dispensed based on daily need, there should be no leftover doses at the end of the day. If a dose does need to be destroyed (e.g., a dose is dropped on the floor), two nurses' signatures are required on the inventory log.

### **Accounts Payable:**

Invoices are approved and initialed by the pharmacist upon receipt of the pharmaceuticals. Then these invoices are delivered to the Finance Division each Tuesday. For each batch of invoices, the Finance Division prepares a Pharmaceuticals Certification Form, which requires two approval signatures – one from the Medical Services Director and one from the Lead Financial Analyst. The batch is then uploaded into SAP and emailed to the Accounts Payable division of the Auditor's Office for processing.

### **Compliance:**

The pharmacy and all staff are required to comply with several statutes, regulations, and guidelines, primarily the following:

1. Texas Pharmacy Act: Texas Occupations Code; Title 3. Health Professions; Subtitle J. Pharmacy and Pharmacists; Chapters 551-569
2. Texas Administrative Code: Part 15 Texas State Board of Pharmacy
3. Texas Commission on Jail Standards
4. Texas Health and Safety Code:
  - a. Chapter 431 – Texas Food, Drug, and Cosmetic Act
  - b. Chapter 481 – Simulated Controlled Substances
  - c. Chapter 483 – Texas Dangerous Drug Act
  - d. Chapter 485 – Abusable Volatile Chemicals
  - e. Chapter 786 – Over-the-Counter Sales of Ephedrine, Pseudoephedrine, and Norpseudoephedrine
5. Texas Controlled Substances Rule
6. Federal Food, Drug, and Cosmetic Act
7. Poison Prevention Packaging: A Guide for Healthcare Professionals
8. DEA Pharmacist's Manual
9. The Health Insurance Portability and Accountability Act of 1996 (HIPAA)
10. The Health Information Technology for Economic and Clinical Health Act (HITECH)
11. Board Policy Statements and Guidelines

# Areas of Concern

## **1. Inventory tracking (Internal control issue)**

The pharmacy does not currently utilize an inventory tracking system or listing for pharmaceuticals not classified as controlled substances; instead, the pharmacy uses estimates of inventory on hand. These non-controlled pharmaceuticals account for a substantial portion of the pharmaceuticals maintained on-site. Without an inventory listing of non-controlled pharmaceuticals, we were unable to determine if non-controlled pharmaceuticals are being properly safeguarded.

### Significance:

Utilization of inventory estimates is not considered compliant with industry best practices, nor is it a sufficient internal control. In addition, an accurate inventory of non-controlled pharmaceuticals would allow pharmacy staff to properly track and account for the pharmaceuticals on hand and help them determine if these items have been lost or misappropriated.

### Recommendations:

We recommend that TCSO maintain a perpetual inventory of all pharmaceuticals on-site through the utilization of an inventory system. The system inventory count should be reconciled periodically (at least annually) to a physical inventory count. Variances noted should be reviewed, documented, and corrected in the system. We also recommend that TCSO obtain additional resources as needed to assist in the initial inventory setup process.

### Management Response:

AmerisourceBergen (ABC) is the drug wholesaler currently used by TCSO. ABC offers an inventory software package (at no charge) with their ordering system. However, TCSO pharmacy staff will need to receive training on how to use this system. ABC does offer training via a webinar system and has offered to send a person to do preliminary on-site training at no charge. However, in order to implement any inventory system, a full inventory count will need to occur first. This will be a timely process and thus should occur when TCSO pharmacy staff conducts their full annual physical inventory count (June 1<sup>st</sup>) so as to eliminate redundant work.

In addition to this time and labor constraint, given the uncertainty surrounding the future ability of TCSO to piggyback off of the San Diego County contract (see Comment #3 on page 14), TCSO is not certain that ABC will remain its drug wholesaler in the future. Accordingly, until this matter is settled, it would make no sense to implement and train on the ABC inventory system if this system could go away as a result of a change in TCSO's drug wholesaler.

## **2. Disposal process (Internal control issue)**

Any unused pharmaceuticals held by inmates must be incinerated upon inmate release or a change in their drug therapy plan. Pharmacy staff package these pharmaceuticals in burnable packaging, sealing it with tape, and initialing both the seal and the package. Packages for disposal are picked up and signed for by a TCSO deputy and are transported to the TCSO Evidence Facility James Collier Building at 7811 Burlison-Manor Road, Manor, TX where they are stored until they can be incinerated.

Incinerations take place at a contract location in Carthage, Texas; TCSO deputies transport packages and are present during the incineration process. All burns must be witnessed by two TCSO staff who, prior to the incineration process, confirm that the seal remains unbroken and sign a form verifying they witnessed the items being incinerated. They also weigh the package. However, because the packages are not weighed when they arrive at the Evidence Facility, the weight of the package prior to incineration cannot be verified against a control weight.

Significance:

Although the seal helps ensure a package has not been tampered with, the packages should be weighed when they arrive at the Evidence Facility. This control weight should be compared to the pre-incineration weight to further verify that no items have been removed from the packages.

Recommendations:

We recommend that TCSO weigh packages when they arrive at the Evidence Facility so that the pre-incineration weight can be confirmed against a control weight.

Management Response:

As it relates to “Keep On Person” (KOP) medications returned to the TCSO pharmacy (this statement only refers to RX and OTC medications and not controlled drugs which have their own strict regulations), TCSO pharmacy staff will document all KOP medications returned on the Prescription Drug Inventory Form supplied by the Texas Pharmaceutical Association. Data collected on this document includes: the date dispensed; the Rx number; pharmacy name; name of drug and its strength quantity. The Prescription Drug Inventory Form requires the signature of the pharmacist, Director of Nursing, and the Peace officer who picked up the medications.

Pharmacy staff will de-blister all **KOP** medications (capsules and tablets only) and package them in a sealed paper bag. The seal will contain the pharmacist’s signature and date. A TCSO Peace Officer will pick up the medications on a quarterly basis. He/she will bring a scale and weigh the package(s) before transport to TCSO Evidence where these KOP drugs will be stored until disposal.

A cover sheet will be attached to the KOP inventory with a statement indicating the number of inventory pages. It will also include the date of destruction and method of destruction. Upon destruction, the cover sheet will be emailed to the TCSO pharmacist. The TCSO Pharmacy will maintain a copy of the cover sheet and inventory form/log.

**3. Potential contract concerns (Potential cost savings/process improvement)**

The pharmacy utilizes an interlocal agreement with San Diego County in California to obtain pharmaceuticals from AmerisourceBergen, with whom San Diego County has a contract. This agreement has been in place since 2007 and automatically renews each year on October 1 for a term of one year, unless terminated sooner. Each party may terminate the agreement, in whole or in part, on 30 days notice. We have the following two areas of concern regarding this contract:

1. San Diego County recently submitted a Request for Proposal (RFP) for pharmacy services. Should San Diego County choose a different supplier, a new interlocal agreement with San

Diego County would presumably be required, since TCSO's interlocal agreement with San Diego County is contingent upon San Diego's contract with AmerisourceBergen. There could be a disruption in pharmaceutical services for TCSO while this agreement is being prepared. In addition, under a new supplier, TCSO's pharmaceutical costs could change materially, as could supplier-provided services and support.

2. AmerisourceBergen offers rebates on all purchases of generic pharmaceuticals. However, the TCSO pharmacy is not able to take advantage of these rebates because TCSO does not have a direct contract with AmerisourceBergen. Based on 2013 purchases, AmerisourceBergen estimates that TCSO would have received \$7,000 per quarter from generic drug rebate programs if we were able to participate in them.

Recommendations:

We recommend that TCSO work with the Purchasing Office on a contingency plan to respond to significant changes to or the termination of the San Diego County pharmaceutical contract.

Regardless of the outcome of that process, TCSO should consider the available options for obtaining inmate pharmaceuticals and determine if their current agreement provides the best combination of services and cost savings.

Management Response:

TCSO attempted to conduct an RFP about its pharmaceutical contract in 2014 but failed to receive any response(s) from any vendor(s). TCSO attributes this to the relatively small size of our pharmaceutical operation (about \$2 million in annual spending).

The TCSO Pharmacy is currently looking for another government entity (hopefully Texas-based), from which a new agreement could be signed, in which TCSO would become a partner under a fully vetted pharmaceutical contract arrangement.