

SYNOPSIS

On April 7, 2016, Rafael BARCENAS-Padilla (BARCENAS), who was a fifty-one year old citizen and national of Mexico, died while in the custody of U.S. Immigration and Customs Enforcement (ICE) at Del Sol Medical Center (DSMC), El Paso, Texas. The State of Texas Certificate of Death documents BARCENAS' immediate cause of death as diffuse alveolar damage¹ due to bronchopneumonia² due to an unknown infectious agent.

BARCENAS was detained at the Otero County Processing Center (OCPC) in New Mexico, at the time of his death. OCPC is operated by the Management and Training Corporation (MTC), under an Inter-Governmental Service Agreement (IGSA), which requires the facility to comply with the ICE Performance-Based National Detention Standards (PBNDS) 2011. At the time of BARCENAS' death, OCPC housed approximately 494 detainees for periods in excess of 72 hours. Medical care at OCPC is provided by MTC.

DETAILS OF REVIEW

From April 26 to 27, 2016, the ICE Office of Professional Responsibility, Office of Detention Oversight (ODO) staff visited OCPC and, with the assistance of contract subject matter experts (SME) in both correctional healthcare and security, reviewed the circumstances surrounding BARCENAS' death. ODO's contract SMEs are employed by Creative Corrections, a national management and consulting firm contracted by ICE to provide subject matter expertise in detention management and compliance with detention standards, including healthcare and security. As part of its review, ODO reviewed immigration, medical, and detention records pertaining to BARCENAS, in addition to conducting in-person interviews of individuals employed by OCPC, as well as ICE Enforcement and Removal Operations (ERO) staff.

During the review, the ODO review team took note of any deficiencies observed in the detention standards as they relate to the care and custody of the deceased detainee and documented those deficiencies herein for informational purposes only. Their inclusion in the report should not be construed in any way as indicating the deficiency contributed to the death of the detainee. ODO determined the following timeline of events, from the time of BARCENAS' apprehension by ICE, through his detention at OCPC, and eventual death at the DSMC.

IMMIGRATION AND DETENTION HISTORY

On March 1, 2016, BARCENAS was encountered by the United States Border Patrol and taken to the Border Patrol station in Santa Teresa, New Mexico.³ BARCENAS was processed for expedited removal and placed at OCPC pending removal. BARCENAS was previously encountered in 1998 and was granted a voluntary return to Mexico.⁴

¹ Diffuse alveolar damage refers to scattered damage of the alveoli (air sacs of the lungs).

² Bronchopneumonia refers to inflammation of the lungs, arising in the bronchioles. Within the lungs, the main airways (bronchi) branch off into progressively smaller passageways, the smallest of which are bronchioles.

³ See Form I-1867A, Record of Sworn Statement in Proceedings, dated March 1, 2016.

⁴ See Form I-213, Record of Deportable/Inadmissible Alien, dated March 1, 2016.

CRIMINAL HISTORY

BARCENAS' criminal history consists of arrests for Petty Theft (1996), Driving under the Influence (2000), and Possession of Narcotic Controlled Substance (2009).⁵

NARRATIVE SUMMARY OF EVENTS

On March 2, 2016, at 5:35 p.m., BARCENAS was booked into OCPC. During his admission processing, an officer (name unknown) used the ICE Custody Classification Worksheet to assess BARCENAS' security level and accurately rated the detainee as low custody.⁶ The classification was approved by a supervisor on March 7, 2016. BARCENAS' property was also inventoried, and a Mexican identification card was confiscated and placed in his stored property.⁷

Following booking, BARCENAS received his medical intake screening by MTC Registered Nurse (RN) [REDACTED].⁸ BARCENAS denied any current medical, mental health, or dental problems needing attention at the time, denied any family history of medical problems, and indicated he was taking no medications.⁹ BARCENAS was alert and oriented and was able to voice his needs and communicate without difficulty.¹⁰ BARCENAS acknowledged smoking one pack of cigarettes daily.¹¹

Following the intake screening, RN [REDACTED] conducted BARCENAS' health appraisal and physical examination.¹² BARCENAS' vital signs were all within normal limits, his weight was documented as 160 pounds, and his tuberculosis (TB) test was negative.¹³ BARCENAS refused a Rapid Plasma Reagin (RPR) blood test to determine the presence of syphilis.¹⁴ BARCENAS signed an English version of the General Consent for Treatment Form. ODO learned during staff interviews that although BARCENAS' primary language was Spanish, he was able to communicate in English. Based on his unremarkable findings during the health appraisal and physical examination, BARCENAS was cleared for general population and housed in Dorm A.

⁵ See *Id.*

⁶ See ICE Custody Classification Worksheet, dated March 2, 2016. BARCENAS was rated low custody because he had no supervision history, security threat group membership, or disciplinary infractions involving violence, and was never arrested or convicted of a violent offense.

⁷ See Exhibit 1: Detainee Personal Property Record, dated March 2, 2016. OCPC staff interviewed by ODO stated it is common practice to store non-U.S. identity documents in a detainee's property.

⁸ See Exhibit 2: MTC Medical Intake Screening Form by RN [REDACTED] dated March 2, 2016.

⁹ See *Id.*

¹⁰ A telephonic interpreter was not needed as RN [REDACTED] is fluent in Spanish.

¹¹ The Medical Intake Screening Form does not include a question regarding duration of tobacco use, and the duration of his tobacco use was not documented.

¹² See Exhibit 3: MTC Medical Physical/Health Assessment Form by RN [REDACTED] dated March 2, 2016.

¹³ BARCENAS was screened for TB via chest x-ray which was read by DIANA Associates Teleradiology. See DIANA Associates Teleradiology X-Ray TB Screening Report by University of Maryland Radiology, dated March 2, 2016. According to IISA [REDACTED] DIANA Associates is contractually only obligated to report on the absence or presence of TB, but regularly reports on other lung abnormalities when they are identified. BARCENAS was ultimately diagnosed with Chronic Obstructive Pulmonary Disease (COPD), a medical condition in which air sacs in the lungs are destroyed as a result of damaging exposure to environmental factors like cigarette smoke causing emphysema. As noted by Creative Corrections, while emphysema is a contributing factor to COPD, it would only be seen in a chest x-ray when the disease is advanced; the chest x-ray would not have been expected to have identified BARCENAS' condition.

¹⁴ See MTC Medical Treatment Refusal Form, dated March 2, 2016.

On March 7, 2016, BARCENAS submitted two sick call requests complaining of symptoms including fever, sore throat, sneezing, runny nose, and flu.¹⁵ Sick call requests are triaged by OCPC medical staff upon receipt, and unless the nature of the complaint is serious, detainees are scheduled for sick call the next day.¹⁶

On March 8, 2016, BARCENAS was seen by RN [redacted] at 8:58 a.m. in response to his first sick call request. He complained of body aches, headache, runny nose, sneezing, and sore throat. BARCENAS' vital signs were within normal limits, except for an elevated temperature of 99.4 degrees.¹⁷ BARCENAS was prescribed Tylenol and Chlor-Trimeton¹⁸ and was instructed to return to sick call if he experienced any of the following symptoms: fever, shortness of breath, chest congestion or wheezing, severe or productive cough, severe headache, swollen or severe sore throat, swollen neck glands, or colored nasal drainage/sputum.¹⁹

On March 10, 2016, BARCENAS was seen by MTC RN [redacted] in response to the second sick call request that he had submitted March 7, 2016.²⁰ BARCENAS told the RN that he was ok and had already been seen. RN [redacted] documented that BARCENAS appeared stable and did not show signs of distress.²¹ RN [redacted] did not take BARCENAS' vital signs during the encounter. During her interview with ODO, RN [redacted] stated that she ordinarily takes detainee vital signs for every sick call encounter but did not take BARCENAS' when he stated he did not need to be seen.²² ODO notes she did not have him sign a refusal of treatment form.

On March 13, 2016, BARCENAS submitted a sick call request, written in Spanish, in which he complained that six days had passed and his symptoms had not improved. MTC RN [redacted] [redacted] triaged²³ the request at 8:00 a.m. but did not document a disposition or referral.²⁴ During her interview with ODO, RN [redacted] stated that because BARCENAS' sick call request did not reference any complaints related to airway, breathing, or circulation, she determined there was no urgency and scheduled him to be seen during sick call the following day. RN [redacted] stated she speaks minimal Spanish but is confident in her ability to identify commonly used Spanish terms and expressions in sick call requests. She stated she comprehended the nature of BARCENAS' complaint but would have asked for the assistance of a Spanish-speaking co-worker if she was uncertain.²⁵

At 7:50 p.m., an LPN who encountered BARCENAS during evening medication distribution informed MTC RN [redacted] that BARCENAS looked ill and appeared to have a fever. RN [redacted] asked that BARCENAS be escorted to the medical clinic immediately for evaluation.²⁶

¹⁵ See MTC Health Services Request Form by RN [redacted] dated March 7, 2016.

¹⁶ ODO Interview with RN [redacted] April 26, 2016.

¹⁷ A normal temperature is considered to be 98.6 degrees.

¹⁸ Chlor-Trimeton is an antihistamine.

¹⁹ See MTC Upper Respiratory/Sinus nursing protocol by RN [redacted] dated March 8, 2016.

²⁰ RN [redacted] documented that she triaged the second March 7, 2016 sick call request on March 9, 2016, after her first sick call encounter with BARCENAS.

²¹ See Exhibit 4: MTC Medical Progress Note by RN [redacted] dated March 10, 2016.

²² ODO interview with RN [redacted] April 26, 2016.

²³ Triage consists of an initial review during sick call to determine if a condition is in need of immediate care.

²⁴ See MTC Sick Call Request by RN [redacted], dated March 13, 2016.

²⁵ ODO Interview with RN [redacted] dated April 26, 2016.

²⁶ See Exhibit 5: MTC Upper Respiratory/Sinus nursing protocol by RN [redacted] dated March 13, 2016.

During the evaluation, RN [] documented BARCENAS was weak, flushed, and diaphoretic,²⁷ but was in no acute distress. He also took the detainee's vital signs and documented that BARCENAS' temperature was significantly elevated at 104 degrees, pulse and respirations were moderately elevated, oxygen saturation²⁸ was diminished, and blood pressure was within normal limits.²⁹ RN [] noted BARCENAS weight was 155 pounds, five pounds lighter than his weight at intake, and that the detainee reported having little appetite. RN [] observed that BARCENAS had red, enlarged tonsils, reddened/inflamed nasal mucosa, tender, swollen neck glands, and diminished lung sounds. RN [] also documented that BARCENAS stated he was a smoker since the age of 13.

Because the detainee's temperature was above the threshold of 100.9, as dictated by OCPC's Upper Respiratory/Sinus nursing protocol, RN [] called MTC Physician [] who directed that BARCENAS be admitted to the facility's Medical Special Housing Unit (MSHU).³⁰ Dr. [] also issued orders for several medications to treat fever related to an upper respiratory infection of bacterial origin, including Albuterol³¹ nebulizer treatment to be taken every four hours, or as needed,³² and for BARCENAS to "keep on person,"³³ and oxygen therapy consisting of oxygen at two liters³⁴ delivered by nasal cannula.³⁵ An administrative segregation order for the detainee's placement in the MSHU was completed and signed by both RN [] and Lieutenant []

RN [] documented he was unable to conduct an initial Albuterol nebulizer treatment on BARCENAS because he was unable to locate the tubing and mask required for the treatment. RN [] telephoned MTC Health Services Administrator (HSA) [] to inform him of the missing equipment, and HSA [] stated he would locate supplies the following morning. During his interview with ODO, HSA [] indicated that prior to BARCENAS' death, medical supplies were ordered on a recurring basis, every two months, whether or not the existing supply was depleted.³⁷ HSA [] stated that following the death, the pharmacy instituted a new process by which supplies are regularly inventoried and replacements ordered as needed, to ensure a constant supply. RN [] documented that

²⁷ Diaphoretic refers to perspiring.

²⁸ Oxygen saturation generally refers to the amount of oxygen in the blood.

²⁹ See Exhibit 5. Oxygen saturation levels between 95-100 percent are considered normal. BARCENAS' was 78 percent during this evaluation.

³⁰ ODO interview with RN [] April 26, 2016. The MSHU consists of two, two-man wards, two medical observation cells, six negative air pressure cells, a suicide watch cell, and a cell designated for psychiatric observation purposes.

³¹ Albuterol nebulizer treatment is a medication which opens the airways in the lungs and is delivered via inhaler. The nebulizer is used to change liquid medication to mist so that it can be inhaled.

³² See MTC Medical Segregation Report by RN [] dated March 13, 2016.

³³ "Keep on person" refers to the practice of allowing detainees to keep a quantity of medications with them, and self-administer according to the directions provided.

³⁴ "Oxygen at two liters" refers to the percent of oxygen being delivered.

³⁵ A nasal cannula is a device used to deliver supplemental oxygen or increased airflow to a person.

³⁶ See Administrative Segregation Order, dated March 13, 2016.

³⁷ ODO interview with HSA [] April 27, 2016. Creative Corrections notes that RN [] did not document BARCENAS' weight loss or indicate that the detainee's food intake should be monitored.

BARCENAS received all ordered medications with the exception of the Albuterol nebulizer treatment.³⁸

At 9:48 p.m., BARCENAS was placed on medical observation status in the MSHU per Dr. [redacted] order. BARCENAS' vital signs were taken at this time and were within normal limits, with the exception of slightly elevated respirations and diminished oxygen saturation levels.³⁹

BARCENAS remained in the MSHU until 8:44 p.m. on March 16, 2016, approximately 71 hours in total, and a daily activity log was kept for the duration of his stay.⁴⁰ Per OCPC policy, rounds in the MSHU are conducted every 30 minutes,⁴¹ and given BARCENAS' length of stay in the MSHU, approximately 142 rounds should have been completed. ODO reviewed the logged rounds and determined seven were made outside the 30 minute requirement: one at 31 minutes, three at 33 minutes, one at 36 minutes, one at 40 minutes, and one at 41 minutes.⁴²

On March 14, 2016, BARCENAS was observed multiple times by medical staff in accordance with the administrative segregation order:

- **At 2:00 a.m.,** RN [redacted] documented BARCENAS was sleeping quietly, was diaphoretic, and had a nasal cannula placed for oxygen therapy.⁴³ RN [redacted] woke BARCENAS to take his vital signs, and they were all within normal limits, with the exception of an oxygen saturation of 80 percent.⁴⁴ BARCENAS stated he was feeling much better.⁴⁵
- **At 4:30 a.m.,** RN [redacted] documented BARCENAS was sleeping quietly and was in no acute distress.⁴⁶ When he awoke, BARCENAS again stated that he was feeling better. His vital signs were within normal limits, with the exception of his oxygen saturation, which was 83 percent. Although higher than the previous reading, the level remained below normal. RN [redacted] did not document whether oxygen therapy was administered at this time.

³⁸ ODO interview with RN [redacted] April 26, 2016.

³⁹ See MTC Medical Segregation Report by RN [redacted] dated March 13, 2016. ODO notes BARCENAS' temperature was documented as 97.2.

⁴⁰ See MTC Medical Observation Log, dated March 13-16, 2016.

⁴¹ OCPC utilizes a "pipe system" which electronically records rounds by officers' insertion of a pipe into a sensor attached outside each cell. The sensors are positioned next to the window beside each cell door to best ensure officers view detainees when making rounds.

⁴² See MTC Medical Observation Log, dated March 13-16, 2016.

⁴³ See MTC Medical Segregation Report by RN [redacted] dated March 14, 2016.

⁴⁴ RN [redacted] did not document whether the oxygen saturation level was taken while BARCENAS was still breathing room air, or after he started oxygen treatment. ODO notes BARCENAS' oxygen saturation was not checked again until 4:30 a.m. According to Creative Corrections, the *Clinical Use of Pulse Oximeters Pocket Reference 2010*, compiled by the International COPD Coalition and World Organization of Family Doctors, directs that oxygen saturation should be measured regularly, which is defined as every five to 30 minutes, after the initiation of oxygen therapy. Throughout BARCENAS' time in the MSIIU, RNs failed to check his oxygen saturation at five to 30 minute intervals. See Areas of Note.

⁴⁵ BARCENAS' oxygen saturation was not taken again until 4:30 a.m., approximately two and a half hours later. Creative Corrections notes that per standard clinical practice, once oxygen therapy is initiated, oxygen saturation levels should be measured every five to 30 minutes. Creative Corrections notes this practice is not addressed in OCPC's nursing protocols.

⁴⁶ See MTC Medical Segregation Report by RN [redacted] dated March 14, 2016.

- **At 7:00 a.m., 10:00 a.m., and 2:00 p.m.,** RN [] observed BARCENAS but did not document an oxygen saturation level during any of the encounters. During her interview with ODO, RN [] stated she was certain that she had taken oxygen saturation readings during the encounters, but did not record them because the Medical Segregation Report form lacks a space to do so.⁴⁷ HSA [] informed ODO that following BARCENAS' death, the form was revised to include a place to record oxygen saturation.⁴⁸ RN [] documented BARCENAS' vital signs were within normal limits except for his temperature, which was slightly lower than normal at 96.9, 96.8, and 97 degrees, respectively. RN [] noted BARCENAS' breathing was normal during each of the three encounters, and that during the 10:00 a.m. encounter, the detainee stated he felt better.⁴⁹
- **At 5:40 p.m.,** RN [] documented BARCENAS' oxygen saturation was 84 percent, and that the detainee stated he used his inhaler an hour and a half earlier.⁵⁰ RN [] placed the detainee on oxygen.⁵¹
- **At 8:00 p.m.,** RN [] documented BARCENAS' oxygen saturation was at 90 percent and that he was stable and in no distress. BARCENAS' temperature was 97, and all other vital signs were within normal limits.⁵²
- **At 8:30 p.m.,** BARCENAS was examined by Dr. [] Dr. [] stated during his interview that BARCENAS exhibited symptoms of pneumonia, and his medical history indicated he had Chronic Obstructive Pulmonary Disease (COPD).⁵³ Dr. [] documented that at the time of the assessment BARCENAS had no fever, and his symptoms were greatly improved. Dr. [] documented BARCENAS had a lower respiratory infection and that if his vital signs remained stable and his oxygen saturation remained greater than 85 percent without the oxygen therapy, he could return to general population the next morning.⁵⁴ Dr. [] documented overall assessment was that BARCENAS was improving.⁵⁵
- **At 10:30 p.m.,** Dr. [] called the MSHU RN and discontinued a prior order to alternate Ibuprofen with Tylenol for BARCENAS, and to only give the detainee Ibuprofen. ODO notes this order for discontinuation was never signed by Dr. []

⁴⁷ ODO Interview with RN [] April 26, 2016.

⁴⁸ ODO Interview with HSA [] April 26, 2016.

⁴⁹ See MTC Medical Segregation Report by RN [] dated March 14, 2016.

⁵⁰ See *Id.*

⁵¹ ODO Interview with RN [] April 26, 2016.

⁵² See MTC Medical Segregation Report by RN [] dated March 14, 2016.

⁵³ ODO Interview with Dr. [] April 26, 2016. Specifically, Dr. Borrego stated BARCENAS history of smoking, and his symptoms of fever, congestion, and a lower respiratory infection are classic indicators of COPD. COPD is an umbrella term used to describe progressive lung diseases.

⁵⁴ BARCENAS' oxygen saturation was 90 percent at the time of the examination.

⁵⁵ See MTC Medical Progress Note by Dr. [] dated March 14, 2016.

⁵⁶ See MTC Medical Segregation Report by RN [] dated March 14, 2016.

On March 15, 2016, BARCENAS was observed multiple times by medical staff in accordance with the administrative segregation order:

- At 4:00 a.m., RN [] documented on the Medical Segregation Report that BARCENAS slept all night with no distress and denied any discomfort. His oxygen saturation was documented as 89 percent.⁵⁷
- At 6:05 a.m., RN [] documented BARCENAS was resting, had no signs or symptoms of distress, and his respirations were even and unlabored. BARCENAS' vital signs were taken and were within normal limits, although his oxygen saturation was not documented.⁵⁸

At 11:30 a.m., RN [] documented BARCENAS sat on his bed and had no signs or symptoms of distress. She took the detainee's vital signs, which -- except for an oxygen saturation of 82 percent -- were within normal limits. In light of the oxygen saturation levels, she gave him two liters of oxygen.⁵⁹

- At 3:00 p.m., RN [] documented that BARCENAS reported difficulty swallowing which made eating difficult. She also noted that his oxygen saturation level remained at 82 percent⁶⁰ and that he requested to see the doctor. During her interview, RN [] stated she did not contact Dr [] at this time but could not explain her rationale for not contacting him.
- At 6:30 p.m., RN [] documented BARCENAS showed no signs or symptoms of distress and had no new complaints. BARCENAS' vital signs were within normal limits except for an oxygen saturation of 80 percent. RN [] documented that she continued to monitor BARCENAS and notified Dr. [] the detainee wanted to speak with him.⁶¹

On March 16, 2016, BARCENAS was observed multiple times by medical staff in accordance with the administrative segregation order:

- At 12:00 a.m., MTC RN [] documented BARCENAS was sleeping.⁶²
- At 5:00 a.m., RN [] documented BARCENAS was asleep, with no signs or symptoms of respiratory distress, and his condition was stable.⁶³
- At 6:05 a.m., RN [] documented BARCENAS was resting and showed no signs or symptoms of distress. His vital signs were within normal limits except for a below

⁵⁷ See MTC Medical Segregation Report by RN [] dated March 15, 2016.

⁵⁸ See MTC Medical Segregation Report by RN [] dated March 15, 2016.

⁵⁹ See *Id.*

⁶⁰ See MTC Medical Segregation Report by RN [] dated March 15, 2016.

⁶¹ See MTC Medical Segregation Report by MTC RN [], e, dated March 15, 2016.

⁶² See MTC Medical Segregation Report by RN [] dated March 16, 2016.

⁶³ See *Id.*

normal temperature of 96.9, and an oxygen saturation of 80 percent. RN [redacted] also noted BARCENAS reported having nausea.⁶⁴

- **At 12:11 p.m.**, an officer (name unknown) documented that BARCENAS did not eat anything for lunch or breakfast and said he could not swallow because his throat was swollen. The officer noted he notified RN [redacted] that BARCENAS was unable to eat due to his swollen throat.⁶⁵
- **At 4:00 p.m.**, RN [redacted] documented BARCENAS continued having difficulty eating due to a swollen throat, and that his oxygen saturation was 80 percent.⁶⁶
- **At 5:00 p.m.**, RN [redacted] documented BARCENAS was lying on his bed, his eye was irritated, and he was having difficulty eating. She noted BARCENAS again requested to see a doctor and that his oxygen saturation level was at 80 percent.⁶⁷
- **At 5:05 p.m.**, RN [redacted] documented BARCENAS was still lying on his bed and appeared to have difficulty breathing. She noted that she raised the detainee's oxygen delivery flow from two to four liters, and that Dr. [redacted] was notified.⁶⁸ ODO notes that BARCENAS' medical record does not contain a provider order to raise the rate of oxygen flow from two to four liters; Creative Corrections advises that by increasing the oxygen without an order from the provider, RN [redacted] acted outside her scope of practice.⁶⁹
- **At 8:20 p.m.**, BARCENAS was evaluated by Dr. [redacted] who documented that the detainee had an upper respiratory infection and a history of COPD related to tobacco use. He also documented that BARCENAS was deteriorating, not tolerating anything by mouth, dehydrated, and weak. Although BARCENAS had no fever, his other vital signs were unstable, including an oxygen saturation level of 78 percent. Dr. [redacted] noted chest sounds in BARCENAS' lower left chest were decreased and that a chest x-ray taken during the encounter showed lower left infiltrate.⁷⁰ Dr. [redacted] determined that BARCENAS had developed pneumonia and decided to transport the detainee to the emergency room for evaluation.⁷¹
- **At 8:44 p.m.**, the medical officer documented that BARCENAS waited in a wheelchair in the medical clinic for transportation to the DSMC⁷² Emergency Room.⁷³ MTC Officers [redacted] were assigned to the transportation detail.⁷⁴

⁶⁴ See MTC Medical Segregation Report by [redacted] dated March 16, 2016.

⁶⁵ See MTC Medical Observation Logbook, dated March 16, 2016.

⁶⁶ See Exhibit 6: MTC Medical Segregation Report by [redacted] dated March 16, 2016.

⁶⁷ See *Id.*

⁶⁸ See *Id.*

⁶⁹ See *Id.*

⁷⁰ Infiltrate refers to fluid or pus accumulation.

⁷¹ See MTC Medical Segregation Report by Dr. [redacted] dated March 16, 2016.

⁷² DSMC is approximately 26 miles away from OCPC.

⁷³ See MTC Medical Observation Logbook, dated March 16, 2016.

- **At 10:15 p.m.**, BARCENAS and the officers departed for DSMC.⁷⁵ During his interview with ODO, Officer [] stated BARCENAS was placed in leg restraints prior to transport and needed assistance entering the van, as the leg restraints impeded his mobility. Officer [] who was also interviewed by ODO, stated that during the approximately 30 minute drive to the hospital, BARCENAS coughed, complained of difficulty breathing, and stated his chest hurt. Both officers stated BARCENAS conversed with them in both English and Spanish during the ride.⁷⁶
- **At 10:46 p.m.**,⁷⁷ BARCENAS arrived at DSMC where hospital staff met him at the van with a wheelchair and immediately took him to the emergency room (ER). Officers [] both stated hospital staff began working on BARCENAS immediately once he was in the ER.⁷⁸ As documented in the DSMC record, BARCENAS presented with symptoms of an upper respiratory infection for at least ten days.⁷⁹ BARCENAS also reported having throat pain, back pain, visual disturbance, and vomiting. The hospital record documents that BARCENAS' smoking history was unknown at the time of his evaluation in the ER; ODO notes medical documentation from OCPC does not reflect whether BARCENAS' smoking history was relayed to the hospital upon his transfer. The hospital record shows BARCENAS' preliminary diagnosis was bilateral pneumonia,⁸⁰ for which he was prescribed antibiotics and two bronchodilators.⁸¹

On March 17, 2016, at 12:42 a.m., RN [] documented that BARCENAS was admitted to the overflow DSMC Ambulatory Surgery Unit and was in stable condition.⁸² She noted his pulse oxygen was 92 percent and that he was on supplemental oxygen at six liters. A later update by RN [] documented BARCENAS temperature was 102 degrees, his pulse oxygen was 95 percent, and he was still receiving supplemental oxygen at six liters.⁸³

On March 19, 2016, RN [] documented that BARCENAS was moved to the Intensive Care Unit (ICU) and placed on a Bilevel Positive Airway Pressure (BiPAP) machine to assist his breathing and oxygen saturation.⁸⁴

⁷⁴ See MTC Central Control Log, dated March 16, 2016.

⁷⁵ See MTC Central Control Log, dated March 16, 2016.

⁷⁶ ODO interviews with Officer [] and Officer [] April 27, 2016.

⁷⁷ The time of arrival was noted by Officer [] in the hospital logbook. ODO notes the Central Control log documents the time of arrival as 11:10 p.m. ODO was unable to resolve the discrepancy in time but reviewed the logbook and determined it was appropriately maintained and all pertinent information was entered throughout BARCENAS' time at DSMC.

⁷⁸ ODO interviews with Officer [] and MTC Office [] April 26, 2016.

⁷⁹ DSMC Emergency Room Record, dated March 16, 2016.

⁸⁰ Pneumonia is a lung infection caused by bacteria or viruses; bilateral pneumonia exists when at least one lobe in both lungs has the infection.

⁸¹ A bronchodilator is an inhaler used to open airways in the lungs.

⁸² See MTC Hospital Daily Report by RN [] dated March 17, 2016.

⁸³ See MTC Hospital Daily Report by RN [] dated March 17, 2016.

⁸⁴ See MTC Hospital Daily Report by RN [] dated March 19, 2016.

On March 20, 2016, RN [] documented that BARCENAS was stable on his BiPAP machine and his pulse oxygen was 94 percent.⁸⁵

On March 21, 2016, RN [] documented BARCENAS was treated for anxiety with Ativan, an anti-anxiety medication, but had an adverse reaction to medication which caused him to experience hallucinations, so the medication was discontinued. RN [] documented BARCENAS was otherwise stable.⁸⁶

On March 22, 2016, at 8:12 a.m., an officer (name unknown), assigned to BARCENAS at the hospital, documented that a DSMC physician, [] stated BARCENAS needed to be intubated.⁸⁷

At 8:47 a.m., RN [] documented that BARCENAS was intubated due to his low oxygen saturation levels which were dropping even with the assistance of the BiPAP.⁸⁸ The hospital record shows BARCENAS was sedated while on the ventilator⁸⁹ and was stable.⁹⁰

ERO notified the Mexican consulate of the detainee's hospitalization, and at 11:10 a.m., a representative from the consulate arrived onsite.⁹¹ BARCENAS' family was notified of his hospitalization by the Mexican consulate, and a family member contacted the hospital at 4:20 p.m. and was provided information on his status.⁹²

On March 23, 2016, RN [] documented BARCENAS was in critical but stable condition and was receiving three types of IV antibiotics for pneumonia.⁹³

Between March 24, and April 6, 2016, BARCENAS' condition remained relatively unchanged. Several updates on his status were documented during this period:

- **On March 24, 2016**, a catheter⁹⁴ was placed in BARCENAS' upper right arm.⁹⁵ BARCENAS was also receiving tube feedings.⁹⁶
- **On March 25, 2016**, RN [] documented BARCENAS was newly diagnosed with Acute Respiratory Distress Syndrome (ARDS)⁹⁷ in addition to the previously diagnosed

⁸⁵ See MTC Hospital Daily Report by RN [] dated March 20, 2016.

⁸⁶ See MTC Hospital Daily Report by RN [] dated March 21, 2016.

⁸⁷ Intubation is the process of inserting a tube through the mouth and into the airway, and is done so that a patient can be placed on a ventilator to assist with breathing.

⁸⁸ See MTC Hospital Daily Report by RN [] dated March 22, 2016.

⁸⁹ A ventilator is a machine that supports breathing.

⁹⁰ See MTC Medical Hospital Update Report by RN [] dated March 22, 2016.

⁹¹ See MTC Hospital Logbook, dated March 22, 2016.

⁹² See MTC Hospital Logbook, dated March 22, 2016.

⁹³ See MTC Hospital Daily Report by RN [] dated March 23, 2016.

⁹⁴ A catheter is a long, thin, flexible tube inserted through the skin into a large vein and used for the delivery of intravenous medications over time.

⁹⁵ See MTC Medical Hospital Update Report by RN [] dated March 24, 2016.

⁹⁶ Tube feedings refer to liquid supplemental nutrition provided by way of a tube inserted into the abdomen.

⁹⁷ Acute respiratory distress syndrome (ARDS) occurs when fluid builds up in the tiny, elastic air sacs (alveoli) in the lungs. More fluid in the lungs means less oxygen can reach the bloodstream, which deprives organs of the oxygen they need to function.

pneumonia. She noted that although BARCENAS was sedated and intubated, his physical and neurological reflexes remained intact.⁹⁸

- **From March 26 to 30, 2016**, OCPC RNs documented that BARCENAS' condition remained critical and unchanged.
- **On April 1, 2016**, RN [] documented that although DSMC made continued efforts to stabilize BARCENAS' respiration, his condition remained the same. RN [] noted that BARCENAS remained on the ventilator, and that a chest x-ray showed he had emphysema⁹⁹ and lingering pneumonia.¹⁰⁰
- **From April 2 to 5, 2016**, OCPC RNs documented BARCENAS' respiratory status declined.¹⁰¹

On April 6, 2016, an officer (name unknown) assigned to BARCENAS at the hospital, documented that a doctor was in contact with the detainee's family, and they planned to visit him in the hospital.¹⁰²

On April 7, 2016, at 1:00 p.m., RN [] documented BARCENAS' condition remained the same with no changes to his condition or medical treatment.¹⁰³

At 8:56 p.m., the officers assigned to BARCENAS [] notified their supervisor, Lieutenant [], via telephone, that BARCENAS was in critical condition.¹⁰⁴ During their interviews, both officers stated that after informing their Lieutenant, a Captain called them to check on BARCENAS' status and to provide them with information regarding employee assistance, should they need it.

The officers documented that a Code Blue¹⁰⁵ was called at 10:20 p.m., that cardiopulmonary resuscitation (CPR) was initiated by hospital staff, and that a shot of epinephrine¹⁰⁶ was administered at 10:25 p.m.¹⁰⁷ The officers documented that a second shot of epinephrine was administered at 10:29 p.m., and at 10:31 p.m. a third shot was given.¹⁰⁸ At 10:33 p.m., Dr. [] (first name unknown) pronounced BARCENAS dead.¹⁰⁹

At 10:35 p.m., Officers [] notified Lieutenant [] that BARCENAS expired, and Lieutenant [] instructed the officers to gather their equipment and return to the

⁹⁸ See MTC Medical Hospital Update Report by RN [] dated March 25, 2016.

⁹⁹ Emphysema damages the inner walls of the lungs' air sacs (alveoli), causing them to eventually rupture.

¹⁰⁰ See MTC Medical Hospital Update Report by RN [] dated April 1, 2016.

¹⁰¹ See MTC Medical Hospital Update Report by RN [] dated April 3, 2016.

¹⁰² See MTC Hospital Logbook, dated April 6, 2016.

¹⁰³ See MTC Medical Hospital Update Report by RN [] dated April 7, 2016.

¹⁰⁴ See MTC Hospital Logbook, dated April 7, 2016.

¹⁰⁵ Code Blue is a hospital code used to indicate a patient requires resuscitation or is in need of immediate medical attention.

¹⁰⁶ Epinephrine is used during medical emergencies to quickly improve breathing, stimulate the heart, and raise a dropping blood pressure.

¹⁰⁷ See MTC Hospital Logbook, dated April 7, 2016.

¹⁰⁸ See MTC Medical Observation Logbook, dated April 7, 2016.

¹⁰⁹ See MTC Medical Hospital Update Report by RN [] dated April 7, 2016.

facility.¹¹⁰ At 10:55 p.m., Lieutenant [redacted] called the officers, who were still at the hospital, to ensure that BARCENAS had no personal belongings on him, such as a wedding ring. The officers confirmed the detainee did not have any personal property. After confirming that they were authorized to leave the hospital,¹¹¹ the officers gathered their equipment and supplies and departed at 11:10 p.m.¹¹² Lieutenant [redacted] stated during his interview that although no protocol existed at the time of BARCENAS' death,¹¹³ subsequent to the death, Warden Hassel discussed and approved the officers' departure from the hospital before the body was taken by the coroner.¹¹⁴

At approximately 11:00 p.m., ICE ERO notified the Consulate of Mexico of BARCENAS' passing.¹¹⁵

Post-Death

On April 13, 2016, the El Paso County Office of the Medical Examiner performed an autopsy on the body of BARCENAS.¹¹⁶ The autopsy report, completed July 11, 2016, documents that BARCENAS died of diffuse alveolar damage due to bronchopneumonia due to an unknown infectious agent, and that his manner of death was natural. The autopsy report also noted that BARCENAS had heavy and hardened lungs, coronary atherosclerosis,¹¹⁷ and a fatty liver.¹¹⁸

MEDICAL CARE AND SECURITY REVIEW

Creative Corrections, a national management and consultant firm contracted by ICE to provide subject matter expertise in detention management, including medical care and security, reviewed the medical care that OCPC provided BARCENAS, as well as his safety and security while detained at the facility. Creative Corrections found deficiencies in OCPC's compliance with the following standards in the ICE PBNDS 2011: Medical Care, and Custody Classification System.¹¹⁹

CONCLUSIONS

ODO found OCPC deficient in the following areas of the ICE PBNDS 2011:

1. ICE PBNDS 2011, *Medical Care, Section (V)(B), Designation of Authority*, which states, "Healthcare personnel perform duties within their scope of practice for which they are

¹¹⁰ See MTC Medical Observation Logbook, dated April 7, 2016.

¹¹¹ MTC Officer [redacted] stated during the interview that she thought it was odd to leave the body there, so she asked MTC Officer [redacted] to call MTC Lieutenant [redacted] back and ensure they were permitted to leave.

¹¹² See MTC Medical Observation Logbook, dated April 7, 2016.

¹¹³ See Exhibit 7: OCPC Policy 6.5.1, Terminal Illness, Advance Directive, and Death.

¹¹⁴ ODO interview with Lieutenant [redacted] April 26, 2016.

¹¹⁵ See E-mail confirmation of notification to Consulate of Mexico by Supervisory Deportation and Detention Officer (SDDO) [redacted] dated April 14, 2016.

¹¹⁶ See Exhibit 8: Autopsy Report Case 2016-0194, Rafael Barcenás Padilla, completed July 11, 2016.

¹¹⁷ Coronary atherosclerosis refers to hardening of the coronary arteries. Smoking increases the risk of this condition.

¹¹⁸ Fatty liver refers to the buildup of fat in the liver. Left untreated, it can hinder the liver's ability to process food and liquids consumed, and to filter harmful substances from the blood.

¹¹⁹ See Exhibit 9: Creative Corrections Security and Medical Compliance Analysis.

credentialed by training, licensure, certification, job descriptions, and/or written standing or direct orders by personnel authorized by law to give such orders.”

- There was no documented provider order to raise BARCENAS’ oxygen therapy from two to four liters on March 16, 2016.
2. ICE PBNDS 2011, *Medical Care, Section (V)(X)(9), Informed Consent and Involuntary Treatment*, which states, “Medical staff shall explain the medical risks if treatment is declined and shall document their treatment efforts and refusal of treatment in the detainee’s medical record. Detainees will be asked to sign a translated form that indicates that they have refused treatment.”
 - On March 10, 2016, RN [] failed to have BARCENAS sign a refusal form when he declined to have his vital signs taken and be evaluated after submitting a sick call request.
 3. ICE PBNDS 2011, *Medical Care, Section (V)(S)(4), Delivery of Medication*, which states, “All prescribed medications and medically necessary treatments shall be provided to detainees on schedule and without interruption, absent exigent circumstances.”
 - On March 13, 2016, RN [] was unable to give BARCENAS a nebulizer treatment due to lack of available tubing and mask.
 4. ICE PBNDS 2011, *Admission and Release, section (V)(A), Overview of Admission, Orientation and Release*, which states, “Each detainee’s identification documents shall be secured and given to ICE/ERO.”
 - BARCENAS’ Mexican ID was confiscated from him upon intake and placed in his stored property.
 5. ICE PBNDS 2011, *Special Management Units, section (V)(L), Close Supervision*, which states, “Detainees in SMU shall be personally observed and logged at least every 30 minutes on an irregular schedule.”
 - The electronic logs from March 13-16, 2016, show that on seven occasions, rounds in the Medical Special Housing Unit exceeded 30 minutes.
 6. ICE PBNDS 2011, *Terminal Illness, Advance Directives and Death, section (I)(5), Autopsies*, which states, “Each facility shall have written policies and procedures to implement the provisions detailed below in this section... Transporting the body to the coroner or medical examiner’s office.”
 - OCPC Policy 6.5.1, “Terminal Illness, Advance Directive, and Death” does not address responsibility for the transportation of the body following a detainee death, or the circumstances under which facility staff may leave the body.

AREAS OF NOTE

Although not specifically required within the ICE PBNDS 2011, ODO notes several additional concerns related to medical documentation and evidence of patient encounters in BARCENAS’ case:

- The MTC intake screening form includes questions relating to the use of tobacco, type, how much, and how often. RN [] recorded the detainee smoked one pack of cigarettes daily. However, because the form does not prompt inquiry as to duration of tobacco use, RN [] did not identify BARCENAS' approximate 37-year history of smoking during the intake screening. The extent of the detainee's smoking habit was relevant to subsequent evaluation of upper respiratory complaints.
- Dr [] did not sign the telephone order given to RN [] on March 14, 2016.
- RNs did not notify Dr [] of low oxygen saturation readings, including consecutive readings below the threshold he set for possible return to general population after he examined BARCENAS.
- On four occasions, RN [] did not document that she checked BARCENAS' oxygen saturation. She stated she did not record the readings because the medical form did not include a space to do so.
- When BARCENAS' oxygen saturation was below normal, RNs did not consistently document assessment findings on which they based their conclusion that Dr [] did not need to be called.
- The medical file lacks documentation showing RNs monitored BARCENAS' oxygen saturation following the administration of oxygen therapy.

EXHIBITS:

1. Detainee Personal Property Record dated March 2, 2016
2. MTC Medical Intake Screening Form by RN [REDACTED] dated March 2, 2016
3. MTC Medical Physical/Health Assessment Form by RN [REDACTED], dated March 2, 2016
4. MTC Medical Progress Note by RN [REDACTED] dated March 10, 2016
5. MTC Upper Respiratory/Sinus nursing protocol by RN [REDACTED] dated March 13, 2016
6. MTC Medical Segregation Report by MTC RN [REDACTED] dated March 16, 2016
7. OCPC Policy 6.5.1, Terminal Illness, Advance Directive, and Death
8. Autopsy Report, dated July 11, 2016
9. Creative Corrections Security and Medical Compliance Analysis