




 <p>DEPARTMENT OF HOMELAND SECURITY Immigration and Customs Enforcement</p> <p>REPORT OF INVESTIGATION HB 4200-01 (37), Special Agent Handbook</p>		<p>1. CASE NUMBER 201309101</p> <p>PREPARED BY [REDACTED]</p> <p>2. REPORT NUMBER 002</p>
<p>3. TITLE Mendez-Hernandez, Federico/Unknown/0109 Detainee/Alien - Death (Known Cause -Terminal Illness)/KINGSVILLE, KLEBERG, TX</p>		
<p>4. FINAL RESOLUTION</p>		
<p>5. STATUS Closing Report</p>	<p>6. TYPE OF REPORT Detainee Death Review</p>	<p>7. RELATED CASES</p>
<p>8. TOPIC Review of the death of detainee Federico MENDEZ-Hernandez.</p>		
<p>9. SYNOPSIS On June 11, 2013, the Joint Intake Center , Washington, DC, received notification of the death of United States Immigration and Customs Enforcement (ICE) detainee Federico MENDEZ Hernandez (Alien Number [REDACTED]). MENDEZ-Hernandez, a citizen of Guatemala born on April 1, 1985, died at age 28 on June 11, 2013, at Christus Spohn Memorial Hospital, located at 2606 Hospital Boulevard, Corpus Christi, Texas. The Centers for Disease Control and Prevention confirmed that MENDEZ-Hernandez had a rabies virus infection.</p> <p>The ICE Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO) has completed a Detainee Death Review (DDR) of the death of MENDEZ-Hernandez. This report documents the findings of the review.</p>		
<p>10. CASE OFFICER (Print Name & Title) [REDACTED] - ICE-OPR Special Agent</p>	<p>11. COMPLETION DATE 06-JAN-2014</p>	<p>14. ORIGIN OFFICE ICE OPR Office of Detention Oversight (ODO)-Houston</p>
<p>12. APPROVED BY(Print Name & Title) [REDACTED] - ICE-OPR Special Agent Supervisor</p>	<p>13. APPROVED DATE 07-JAN-2014</p>	<p>15. TELEPHONE NUMBER No Phone Number</p>
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 <p>DEPARTMENT OF HOMELAND SECURITY</p> <p>REPORT OF INVESTIGATION CONTINUATION</p> <p>HB 4200-01 (37), Special Agent Handbook</p>	<p>1. CASE NUMBER</p> <p>201309101</p> <p>PREPARED BY</p> <p>██████████ ██████████ ██████████</p> <p>2. REPORT NUMBER</p> <p>002</p>
<p>10. NARRATIVE</p> <p>On June 11, 2013, the Joint Intake Center (JIC), Washington, DC, received notification of the death of ICE detainee Federico MENDEZ-Hernandez (Alien Number ██████████ MENDEZ Hernandez, a citizen of Guatemala born on April 1, 1985, died on June 11, 2013, at the Christus Spohn Memorial Hospital, 2606 Hospital Boulevard, Corpus Christi, Texas. The Centers for Disease Control and Prevention (CDC) confirmed that MENDEZ-Hernandez had a rabies virus infection.</p> <p>At the time of his death, MENDEZ-Hernandez was in ICE custody at the Brooks County Detention Center (BCDC), Falfurrias, Texas. BCDC holds detainees under an Intergovernmental Service Agreement (IGSA) between ICE and the city of Falfurrias, TX, signed on March 12, 2013. LCS Corrections Services, Incorporated (LCS) operates the facility including providing medical care. BCDC is accredited by the Texas Commission on Jail Standards.</p> <p>BCDC houses security classification level one (lowest threat) adult male and female detainees for periods in excess of 72 hours. BCDC has a detainee capacity of 585. The emergency detainee capacity is 652. The average length of stay per detainee is four days.</p> <p>The ICE Field Office Director (FOD), Enforcement and Removal Operations (ERO), San Antonio, Texas (ERO San Antonio), is responsible for ensuring compliance with the ICE National Detention Standards (NDS) at BCDC. An Assistant Field Office Director located at the ICE Port Isabel Detention Center, Los Fresno, Texas, has direct oversight of ICE operations at BCDC.</p> <p>From September 9 to 10, 2013, Special Agent ██████████ and Special Agent ██████████ assigned to ODO, Houston, Texas, visited BCDC as part of the Detainee Death Review regarding the death of MENDEZ-Hernandez. ODO was assisted by Registered Nurse (RN) ██████████ a subject matter expert (SME) in correctional healthcare employed by Creative Corrections, LLC, a national management and consulting firm contracted by ICE to provide expertise in detention healthcare and detention management. As part of the review, ODO interviewed employees of BCDC, employees of LCS, and ERO staff; and examined BCDC policies, medical records, and immigration and detention files pertaining to MENDEZ Hernandez.</p> <p>ODO determined the following timeline of events regarding MENDEZ-Hernandez, from the time of his apprehension through his detention at BCDC.</p> <p>Over a year before his death, on April 29, 2012, MENDEZ-Hernandez was apprehended by the United States Border Patrol (USBP) in Falfurrias, Texas (Exhibit 1) and charged with violation of the Immigration and Nationality Act (INA) section 212(a)(7)(A)(i)(I). MENDEZ-Hernandez was</p>	

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<p>10. NARRATIVE</p> <p>processed for expedited removal (Exhibit 1); the order included a five-year bar on entry into the United States. On June 7, 2012, MENDEZ-Hernandez was deported to Guatemala, his country of citizenship (Exhibit 1).</p> <p>On or about May 9, 2013, MENDEZ-Hernandez illegally re-entered the United States at Hidalgo, Texas (Exhibit 2). On May 11, 2013, MENDEZ-Hernandez was apprehended by the USBP in Hidalgo, Texas, and transported to the USBP Station in Weslaco, Texas, where he was placed in a holding cell until his transfer to BCDC for processing (Exhibit 3). The previous Order of Deportation entered against MENDEZ-Hernandez was reinstated per INA section 241(a)(5).</p> <p>On May 12, 2013, at 11:30 p.m., the USBP, Hidalgo, Texas, transported MENDEZ-Hernandez to BCDC (Exhibit 3).</p> <p>On May 13, 2013, at 1:34 a.m., MENDEZ-Hernandez arrived at BCDC (Exhibit 3).</p> <p>A BCDC booking report reflects Booking Officer ██████████ ██████████ processed MENDEZ Hernandez into the facility on May 13, 2013, at 1:40 a.m. (Exhibit 4). An additional form completed at the same time confirms that MENDEZ-Hernandez was screened for suicidal tendencies, and medical or mental impairments, and notes no issues (Exhibit 5). ODO confirmed MENDEZ-Hernandez was assessed in compliance with the ICE NDS and classified at the lowest security threat level (Exhibit 6).</p> <p>After completing the booking process, MENDEZ-Hernandez was provided an intake medical screening by Licensed Vocational Nurse (LVN) ██████████ ██████████ MENDEZ-Hernandez provided a negative response to all health history questions, and all vital signs were within normal limits. Behavior and mood were recorded as appropriate and normal. No chronic care issues were identified. MENDEZ-Hernandez stated he was not taking any medication. A purified protein derivative (PPD) skin test was used to screen for tuberculosis (Exhibit 7).</p> <p>The Medical Summary of Federal Prisoner/Alien in Transit (Exhibit 7) reflects MENDEZ Hernandez was cleared for tuberculosis on May 14, 2013, which is fewer than 48 hours after MENDEZ-Hernandez was in-processed at BCDC on May 13, 2013. CDC guidelines specifies that the skin test reaction should be read between 48 and 72 hours after administration, which is the time required for the body to recognize and develop an immune response to the injected test solution. CDC guidelines also state "a patient who does not return within 72 hours will need to be rescheduled for another skin test." (www.cdc.gov/tb/publications/factsheets/testing/skintesting.htm).</p>	

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<p>10. NARRATIVE</p> <p>ODO notes that there was no evidence that MENDEZ-Hernandez signed a consent form authorizing medical treatment at any time while was detained at BCDC.</p> <p>On May 13, 2013, at 11:03 a.m., MENDEZ-Hernandez was placed in the P4A dormitory at BCDC (Exhibit 8).</p> <p>On May 17, 2013, at approximately 2:15 a.m., Correctional Officer (CO) ██████████ ██████████ observed MENDEZ-Hernandez to be unconscious on the dormitory floor via a video feed to the control room from a security camera in the dormitory. CO ██████████ stated he went to the dormitory and then radioed LVN ██████████ ██████████. There is no documentation of the time of this radio call. A dormitory log reflects that CO ██████████ and LVN ██████████ ("██████████" arrived at the dormitory at 2:15 a.m., and with assistance from an RN and another CO, escorted MENDEZ-Hernandez from the dormitory to the medical unit (Exhibit 9). CO ██████████ stated LVN ██████████ sprinkled water on the face of MENDEZ-Hernandez, who regained consciousness. MENDEZ-Hernandez walked under escort to the medical unit for observation (Exhibit 10). During ODO's investigation, BCDC staff could not locate CO ██████████ written report in reference to the incident.</p> <p>On May 17, 2013, at 2:31 a.m., MENDEZ-Hernandez was moved from the dormitory to the medical unit (Exhibit 8).</p> <p>Notes by LVN ██████████ dated May 17, 2013 (Exhibit 11) reflect that MENDEZ-Hernandez was found lying on the dormitory floor, but do not specify whether MENDEZ-Hernandez was conscious or unconscious when contact was made. The notes further reflect that LVN ██████████ "threw a mist of water" on the face of MENDEZ-Hernandez, and MENDEZ-Hernandez responded by sitting up. MENDEZ-Hernandez was then escorted to the medical unit with complaints of anxiety and difficulty breathing. Vital signs were recorded as respirations 12, pulse 82, blood pressure 126/78, and oxygen 97 percent.</p> <p>A subsequent nursing note by RN ██████████ ██████████ dated June 13, 2013, reflected the note from LVN ██████████ dated May 17, 2013, was actually written by LVN ██████████ on June 12, 2013 (Exhibit 11). RN ██████████ stated in an interview that she received the nursing note from LVN ██████████ on June 13, 2013. RN ██████████ stated she called IHSC and requested guidance on how to proceed with the backdated entry. RN ██████████ stated her subsequent note was written in accordance with the instructions received from Commander ██████████ ██████████ IHSC Field Medical Officer, San Antonio, Texas (Exhibit 27).</p>	

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<p>10. NARRATIVE</p> <p>During an interview, LVN ██████████ stated it is common to write nursing notes at a later time due to other pressing responsibilities. LVN ██████████ stated he consistently completes and files his notes at a later date. LVN ██████████ stated he recalled the clinical encounter with MENDEZ-Hernandez on May 17, 2013, but did not remember when he wrote the note. LVN ██████████ acknowledged writing separate notes for events and maintaining them in a drawer until the opportunity to make an entry in the medical record presented. LVN ██████████ stated vital signs are recorded from memory, after the fact, without documentation generated during the encounter.</p> <p>LVN ██████████ stated he did not recall the complaint of breathing difficulty, which is documented in his nursing note. The BCDC nursing protocol for difficulty breathing (Exhibit 12) requires subjective information gathering related to the complaint, a comprehensive physical assessment to include lung sounds, a full set of vital signs, and selection of one of four treatment plans based on subjective and objective assessment findings. LVN ██████████ did not take a body temperature or assess lung sounds. Per the protocol, abnormal findings require notification of a physician. LVN ██████████ stated he believed MENDEZ-Hernandez was suffering only from anxiety, and it was not necessary to complete the full medical assessment called for in the nursing protocol. ODO confirmed the nursing protocol for anxiety includes an extensive medical assessment, which LVN ██████████ did not complete (Exhibit 13).</p> <p>During interviews, RN ██████████ and LVN ██████████ both stated that on May 17, 2013, LVN ██████████ had placed MENDEZ-Hernandez under medical observation. RN ██████████ stated she discontinued the medical observation on the same day, and MENDEZ-Hernandez was escorted back to his housing unit.</p> <p>On May 17, 2013, at 11:18 a.m., MENDEZ-Hernandez was escorted from the medical unit to the dormitory (Exhibit 8).</p> <p>ODO was unable to locate written documentation confirming that LVN ██████████ placed MENDEZ-Hernandez in medical observation, or that RN ██████████ evaluated and discontinued medical observation. Additionally, if MENDEZ-Hernandez was placed in medical observation by LVN ██████████ in the morning on May 17, 2013, there is no documentation of required status checks.</p> <p>On May 17, 2013, time not documented on nurse's notes, LVN ██████████ reflect that MENDEZ-Hernandez was escorted back to the medical unit with complaints of pain in his throat and difficulty breathing. Vital signs were recorded as pulse 88 and blood pressure 138/82. According to the notes, MENDEZ-Hernandez was again placed in medical observation. In her notes, LVN ██████████ described MENDEZ-Hernandez as "restless and breathing short rapid</p>	

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<p>10. NARRATIVE</p> <p>breaths" (Exhibit 14).</p> <p>On May 17, 2013, at 5:30 p.m., a nursing note by RN ██████████ (Exhibit 15) documents MENDEZ Hernandez was escorted back to the medical unit with complaints of difficulty breathing and swallowing, and notes MENDEZ-Hernandez was observed spitting into a trashcan in the lobby of the medical unit. Vital signs were recorded as pulse 86, respirations 20, blood pressure 126/74, and oxygen 97 percent. An examination found no swelling or abnormality of the throat. MENDEZ Hernandez was escorted from the medical unit to the housing unit with instructions to return to the medical unit if symptoms recurred.</p> <p>BCDC Inmate Cell History/Movement Report does not reflect that MENDEZ-Hernandez visited the medical unit on May 17, 2013, at 5:30 p.m. (Exhibit 8). It does reflect that at 9:00 p.m. on May 17, 2013, MENDEZ-Hernandez was moved from the dormitory to the medical unit (Exhibit 8).</p> <p>During an interview, RN ██████████ stated she did not obtain a body temperature, which is required by nursing protocol for sore throat (Exhibit 16). In fact, the body temperature of MENDEZ Hernandez was not taken again after intake at BCDC until immediately prior to the decision to call 911 regarding MENDEZ-Hernandez. Thus, no determination of whether to notify a physician was made, because the nursing protocol for fever (Exhibit 18) was not followed. RN ██████████ stated she did not obtain a full subjective history, listen for breath sounds, or assess suicide risk, per the nursing protocol. Nursing staff reported they believe demanding work schedules and the heavy workload contributed to the abbreviated clinical assessments and inadequate documentation in the medical record of MENDEZ-Hernandez.</p> <p>From 10:00 p.m. on May 17, 2013, through 2:03 p.m. on May 18, 2013, BCDC officers documented 15- and 30-minute status checks on MENDEZ-Hernandez (Exhibit 17).</p> <p>On May 18, 2013, at 7:00 a.m., a nursing note by LVN ██████████ (Exhibit 14) documents MENDEZ-Hernandez was observed standing against the wall near the shower in his cell. At that time, MENDEZ-Hernandez stated the air from the air conditioner was bothering him. Vital signs were recorded as pulse 100, respirations 24, blood pressure 128/76, and oxygen 98 percent.</p> <p>On May 18, 2013, at 9:00 a.m., a nursing note by LVN ██████████ (Exhibit 14) documents MENDEZ-Hernandez was observed frequently spitting on the floor, forcefully clearing his throat, and attempting to induce vomiting. The note also reflects that MENDEZ-Hernandez reported feeling discomfort in his throat.</p>	

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10. NARRATIVE

On May 18, 2013, at 9:30 a.m., a nursing note by LVN (Exhibit 14) documents MENDEZ-Hernandez was observed spitting on the floor in the medical unit. The note also documents that MENDEZ-Hernandez stated to LVN that MENDEZ-Hernandez was fearful for the safety of his family, because MENDEZ-Hernandez owed a smuggler \$20,000. LVN did not perform a mental health assessment to gauge anxiety or risk of self harm, which would have been appropriate. ODO confirmed BCDC has no mental health professionals on staff.

On May 18, 2013, at 10:00 a.m., a nursing note by LVN (Exhibit 14) documents MENDEZ-Hernandez vomited a small amount of yellow bile, and complained about discomfort in his throat. LVN documented she found no evidence of a foreign object, no redness, and no enlargement of the tonsils. Vital signs were recorded as pulse 108, respirations 20, blood pressure 138/70, and oxygen 97 percent.

There is no evidence LVN contacted a physician to report the vomiting by MENDEZ Hernandez, which is required by the nursing protocol for miscellaneous complaints (Exhibit 19). ODO found no evidence of a follow-up physical assessment.

On May 18, 2013, at 10:30 a.m., LVN noted MENDEZ-Hernandez reported feeling better (Exhibit 14), but remained under medical observation.

On May 18, 2013, at 12:15 p.m., LVN documented MENDEZ-Hernandez was observed sitting on his bunk in medical observation. LVN asked MENDEZ Hernandez if he was okay; MENDEZ-Hernandez displayed "thumbs-up" (Exhibit 14). There is no documentation of a follow-up physical assessment, or that vital signs were obtained.

On May 18, 2013, at 1:30 p.m., LVN documented MENDEZ-Hernandez was breathing rapidly, and stated he felt discomfort in his throat. Vital signs were recorded as temperature 99.8, pulse 184, respirations 24, blood pressure 150/90, and oxygen 97 percent. The vital signs for MENDEZ-Hernandez indicated elevations in body temperature, pulse rate, respirations, and blood pressure (Exhibit 14). The recorded pulse rate of 184 reflects an increase of 59 percent from the previous pulse rate taken at 10:00 a.m. In addition, this was the first body temperature taken since the intake screening, and was elevated from a normal body temperature of 98.6.

On May 18, 2013, at 1:44 p.m., LVN documented a 911 call for an ambulance to transport MENDEZ-Hernandez to the Emergency Department of the Christus Spohn Kleberg Hospital, Kingsville, Texas (Exhibit 14).

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10. NARRATIVE

On May 18, 2013, at 1:46 p.m., LVN [REDACTED] documented MENDEZ-Hernandez vomited a small amount of yellow bile (Exhibit 14).

On May 18, 2013, at 1:46 p.m., BCDC notified the local emergency medical service provider, Gemini Ambulance Service (GAS), of the medical emergency regarding MENDEZ-Hernandez.


On May 18, 2013, at 1:55 p.m., LVN [REDACTED] documented the arrival of the ambulance to transport MENDEZ-Hernandez to the hospital emergency room. MENDEZ-Hernandez was noted to be alert and oriented at the time of transfer (Exhibit 14). At 1:55 p.m., GAS First Responders [REDACTED] and [REDACTED] arrived at BCDC. GAS documented the incident in a report (Exhibit 20), which reflects the GAS First Responders intervened and administered medical therapy to MENDEZ-Hernandez. According to the report, at 2:10 p.m., MENDEZ Hernandez was transported by GAS from BCDC to Christus Spohn Kleberg Hospital, Kingsville, Texas, where MENDEZ-Hernandez arrived at 2:40 p.m.


During an interview, BCDC Correction Officer (CO) Lieutenant [REDACTED] stated that on May 18, 2013, he responded to a call from the medical unit. Lieutenant [REDACTED] stated he observed MENDEZ-Hernandez in the medical unit coughing and foaming at the mouth. Lieutenant [REDACTED] stated MENDEZ-Hernandez told Lieutenant [REDACTED] that MENDEZ-Hernandez did not want to die. Lieutenant [REDACTED] stated he and Sergeant [REDACTED] a BCDC shift supervisor, remained with MENDEZ-Hernandez until an ambulance arrived.

During an interview, BCDC CO Sergeant [REDACTED] stated on May 18, 2013, he responded to a call from the medical unit. Sergeant [REDACTED] stated he saw MENDEZ-Hernandez spitting and foaming at the mouth. Sergeant [REDACTED] stated MENDEZ-Hernandez complained he could not swallow. Sergeant [REDACTED] stated he accompanied MENDEZ-Hernandez in an ambulance to the hospital. En route, Sergeant [REDACTED] stated he observed EMS personnel providing continuous medical service to MENDEZ-Hernandez.

On May 18, 2013, MENDEZ-Hernandez was transferred from the Christus Spohn Kleberg Hospital, Kingsville, Texas, to the Christus Spohn Memorial Hospital, Corpus Christi, Texas. ERO consented to the transfer. MENDEZ-Hernandez arrived at Christus Spohn Memorial Hospital at 9:30 p.m. (Exhibit 21).

BCDC medical personnel documented updates from the medical staff at Christus Spohn Memorial Hospital regarding the condition of MENDEZ-Hernandez (Exhibit 22). The first note is undated; subsequent notes begin on May 29, 2013.

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<p>10. NARRATIVE</p> <p>On June 2, 2013, Christus Spohn Memorial Hospital sent a serum rabies antibody to the laboratory and it resulted positive. The hospital notified CDC of a tentative diagnosis of rabies encephalitis (Exhibit 23).</p> <p>On June 11, 2013, due to MENDEZ-Hernandez' lack of any reflexes, positive apnea test, and flat EEG, Christus Spohn Memorial Hospital declared brain death and proceeded with withdrawal of life sustaining treatments and withdrew tubes at 5:00 p.m. MENDEZ-Hernandez was pronounced dead at 5:08 p.m. (Exhibit 23).</p> <p>Following the death of MENDEZ Hernandez, notification was made to the DHS Office of Inspector General, the JIC, and the Guatemalan Consulate. An ERO "Notification and Reporting of Detainee Deaths Action Checklist" contained in MENDEZ-Hernandez' A-File reflects the spouse of MENDEZ-Hernandez was provided death notification by consular officials (Exhibit 24).</p> <p>On June 11, 2013, the IHSC produced a Report of Findings that listed the presumptive cause of death as rabies while awaiting an official death certificate (Exhibit 28). The report states MENDEZ-Hernandez did not receive an appropriate level of medical care in compliance with the ICE NDS while housed at BCDC; however, the IHSC report concludes the care MENDEZ-Hernandez received at BCDC did not precipitate, exacerbate, or affect the medical outcome caused by this rare disease.</p> <p>On July 18, 2013, the CDC Infectious Diseases Pathology Branch produced a pathology report (Exhibit 25) which documented the analysis of tissues and body fluid obtained from MENDEZ Hernandez. CDC determined that MENDEZ-Hernandez had the rabies virus in the numerous areas of his body.</p> <p>IMMIGRATION AND DETENTION HISTORY</p> <p>On April 29, 2012, MENDEZ-Hernandez was apprehended by the USBP in Falfurrias, Texas (Exhibit 1).</p> <p>On May 2, 2012, the USBP transferred MENDEZ-Hernandez to the custody of ERO San Antonio. On that same date, MENDEZ-Hernandez was placed at STDC, Pearsall, Texas (Exhibit 1).</p> <p>On May 17, 2012, ERO San Antonio transferred MENDEZ-Hernandez to SLDC, Basile, Louisiana, pending immigration removal proceedings. While at SLDC, MENDEZ-Hernandez was processed for expedited removal under INA Section 212(a)(7)(A)(i)(I) (Exhibit 1).</p>	

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<p>10. NARRATIVE</p> <p>On June 7, 2012, MENDEZ-Hernandez was deported to Guatemala, his country of citizenship (Exhibit 1).</p> <p>On or about May 9, 2013, MENDEZ-Hernandez illegally re-entered the United States (Exhibit 2).</p> <p>On May 11, 2013, time not documented, MENDEZ-Hernandez was apprehended by the USBP in Hidalgo, Texas, and transported to the USBP Station in Weslaco, Texas, where MENDEZ-Hernandez was placed in a holding cell until his transfer to BCDC for processing. On that same date, the previous Order of Deportation entered against MENDEZ-Hernandez was reinstated per INA Section 241(a) (5). USBP records do not reflect that MENDEZ-Hernandez was in need of medical attention at the time of apprehension (Exhibit 2).</p> <p>On May 12, 2013, at approximately 11:30 p.m., the USBP, Hidalgo, Texas, transported MENDEZ-Hernandez to BCDC (Exhibit 3).</p> <p>On May 13, 2013, at 1:34 a.m., BCDC staff accepted custody of MENDEZ-Hernandez (Exhibit 3).</p> <p>On May 13, 2013, at 1:40 a.m., MENDEZ-Hernandez was processed into BCDC (Exhibit 3).</p> <p>ODO reviewed the detention file of MENDEZ-Hernandez and documentation from BCDC to identify any grievances or requests filed by MENDEZ-Hernandez. After a review of records and consultation with BCDC Grievance Coordinator Lieutenant ██████████ ██████████ ODO confirmed MENDEZ-Hernandez had not filed any grievances or requests while detained at BCDC (Exhibit 26).</p> <p>CRIMINAL HISTORY</p> <p>On November 19, 2005, MENDEZ-Hernandez was arrested by the Lynn Police Department, Lynn, Massachusetts, and charged with unlicensed operation of a motor vehicle. There is no disposition on the case.</p> <p>On January 20, 2008, MENDEZ-Hernandez was arrested by the Saugus Police Department, Saugus, Massachusetts, and charged with operating a motor vehicle without a license. There is no disposition on the case.</p> <p>INVESTIGATIVE FINDINGS</p>	



DEPARTMENT OF HOMELAND SECURITY

**REPORT OF INVESTIGATION
CONTINUATION**

HB 4200-01 (37), Special Agent Handbook

1. CASE NUMBER

201309101

PREPARED BY

██████████ ██████████ ██████████

2. REPORT NUMBER

002

10. NARRATIVE

Creative Corrections, a national management and consultant firm, contracted by ICE to provide subject matter expertise in detention management including health care, reviewed the medical care of MENDEZ-Hernandez while he was housed at BCDC. Creative Corrections SME ██████████ found BCDC was not fully compliant with the Medical Care ICE NDS. The report from Creative Corrections is attached (Exhibit 27).

The ICE NDS standard for Medical Care requires all detainees have access to medical services that promote detainee health and general well-being. During the course of the review, ODO determined BCDC failed to fully comply with the NDS standard for Medical Care. Deficiencies were identified in multiple components of the Medical Care NDS.


1. ICE NDS, Medical Care, section (III)(A), states "Every facility will provide its detainee population with initial medical screening, cost-effective primary medical care, and emergency care. The OIC will also arrange for specialized health care, mental health care, and hospitalization within the local community."

ODO identified multiple occasions where BCDC nursing staff failed to provide adequate and complete physical assessments for complaints of difficulty breathing, sore throat, anxiety, rapid pulse rate, and vomiting. At no point was a physician contacted, though consultation was indicated.

Nursing protocols were not current or dated, and care plans did not fall within the scope of nursing practice. The practice of sprinkling water on the face of an unconscious detainee is an inappropriate nursing practice.

MENDEZ-Hernandez was noted on different occasions to be fearful and anxious, but was not assessed for risk of self-harm or suicide. Mental health services are not available at BCDC, and though reportedly available in the community, a referral was not made.

2. ICE NDS, Medical Care, section (III)(A), states "All facilities will employ, at a minimum, a medical staff large enough to perform basic exams and treatments for all detainees. The OIC, with the cooperation of the Clinical Director, will negotiate and keep current arrangements with nearby medical facilities or health care providers to provide required health care not available within the facility. These arrangements will include securing appropriate custodial officers to transport and remain with the detainee for the duration of any off-site treatment or hospital admission."

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<p>10. NARRATIVE</p> <p>At the time of the review, BCDC had a total inmate and detainee population of 652, which included 63 chronic care patients. The detainee population in fiscal year 2013 has averaged 208, with detainee admissions numbering in excess of 25,000. Despite the population volume, the only physician at BCDC is present at the facility for only two hours each week. There are no physician assistants, nurse practitioners, or mental health staff at BCDC. Most medical care is provided by low level medical professionals such as LVNs and certified medical assistants. Oversight and clinical supervision of onsite medical staff is limited to services which can be provided by the physician and the Health Service Administrator, who is an RN. Nursing staff reported they believe demanding work schedules and the heavy workload contributed to the abbreviated clinical assessments and inadequate documentation in the medical record of MENDEZ-Hernandez.</p> <p>3. ICE NDS, Medical Care, section (III)(B), states "Medical records will be kept separate from detainee records and stored in a securely locked area within the medical unit."</p> <p>Practices at BCDC do not assure the integrity of medical records. Nursing notes were recorded out of sequence, and some notes were documented as re-created. LVN ██████████ nurse's note dated May 17, 2013, was not documented as re-created; however, the recorded time of the event appeared to be inconsistent with previous and subsequent entries which were documented sequentially. LVN ██████████ acknowledged writing separate notes for events and maintaining them in a drawer until the opportunity to make an entry in the medical record presented. LVN ██████████ stated vital signs are recorded from memory, after the fact, without documentation generated during the encounter.</p> <p>4. ICE NDS, Medical Care, section (III)(D), states "All new arrivals shall receive TB screening by PPD (mantoux method) or chest x-ray. The PPD shall be the primary screening method unless this diagnostic test is contraindicated; then a chest x-ray is obtained."</p> <p>The PPD skin test for MENDEZ-Hernandez was read prematurely, which invalidated the results.</p> <p>5. ICE NDS, Medical Care, section (III)(L), states "As a rule, medical treatment will not be administered against the detainee's will. The facility health care provider will obtain signed and dated consent forms from all detainees before any medical examination or treatment, except in emergency circumstances. If a detainee refuses treatment, the INS will be consulted in determining whether forced treatment will be administered, unless the situation is an emergency. In emergency situations, the INS shall be notified as soon as possible."</p> <p>The medical record for MENDEZ-Hernandez did not contain a consent form.</p>	

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6. ICE NDS, Medical Care, section (III)(H)(2) states "Detention staff will be trained to respond to health-related emergencies within a 4-minute response time. This training will be provided by a responsible medical authority in cooperation with the OIC and will include the following:

The administration of first aid and cardiopulmonary resuscitation (CPR)

Four of seven medical training files reviewed showed no evidence of CPR training and certification. This did not affect the care provided to MENDEZ-Hernandez.

 <p style="text-align: center;">DEPARTMENT OF HOMELAND SECURITY</p> <p style="text-align: center;">REPORT OF INVESTIGATION Exhibit List</p> <p style="text-align: center;">HB 4200-01 (37), Special Agent Handbook</p>	<p>1. CASE NUMBER</p> <p>201309101</p>
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<ol style="list-style-type: none"> 1. Notice and Order of Expedited Removal/Detention History. 2. Notice of Intent/Decision to Reinstate Prior Order. 3. Record of Persons and Property Transferred. 4. Booking Report. 5. Screening Form for Suicide and Medical and Mental Impairments. 6. Classification Worksheets. 7. Initial Medical Intake Screening. 8. Inmate Cell History/Movement Report. 9. Dormitory Log. 10. Memo from CO ██████████ 11. Notes from LVN ██████████ and RN ██████████ 12. Nurse Protocol for Difficulty Breathing. 13. Nurse Protocol for Anxiety. 14. Notes from LVN ██████████ and LVN ██████████ 15. Note from RN ██████████ 16. Nurse Protocol for Sore Throat. 17. Observation Log. 18. Nurse Protocol for Fever. 19. Nurse Protocol for Miscellaneous. 	

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- 20. Gemini Ambulance Service Record.
- 21. Christus Spohn Health System Memorandum of Transfer or Transport.
- 22. Nursing Notes.
- 23. Christus Spohn Health System Discharge Summary.
- 24. Notification and Reporting of Detainee Deaths – Action Checklist.
- 25. CDC Pathology Report.
- 26. Email from Grievance Coordinator Lieutenant ██████████ ██████████
- 27. Creative Corrections Medical Compliance Review.
- 28. IHSC Report of Findings.