

# DETAINEE DEATH REVIEW – Marcos NAVARRETTE-Quintana JICMS Case #201507441

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## SYNOPSIS

Thirty-seven year-old ICE detainee Marcos NAVARRETTE-Quintana,<sup>1</sup> a citizen and national of Mexico, died on June 18, 2015, at the University of Colorado Memorial Hospital in Colorado Springs, Colorado. The State of Colorado Certificate of Death documented NAVARRETTE's cause of death as hepatic encephalopathy due to or as a consequence of cirrhosis, due to or as a consequence of alcoholism. An autopsy was not performed.

## DETAILS OF REVIEW

NAVARRETTE was in U.S. Immigration and Customs Enforcement (ICE) custody at the El Paso County Criminal Justice Center (EPCCJC), Colorado Springs, Colorado, at the time of his death. EPCCJC is owned and operated by the El Paso County Sheriff's Office. EPCCJC is contracted for use by ICE through an Intergovernmental Service Agreement with the county of El Paso. It was first used by ICE in December 1990. EPCCJC houses ICE detainees of all classification levels for periods exceeding 72 hours. EPCCJC is accredited by the American Correctional Association (2013) and the National Commission on Correctional Health Care (2011). Medical care is provided by medical contractor Correct Care Solutions (CCS) based in Nashville, Tennessee. EPCCJC is required to comply with the ICE National Detention Standards (NDS).

From August 4 to 6, 2015, Supervisory Inspections and Compliance Specialist [REDACTED], Operations Research Analyst [REDACTED], and Inspections and Compliance Specialist [REDACTED], assigned to the ICE Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO), visited EPCCJC to review the circumstances of NAVARRETTE's death. Registered Nurse (RN) [REDACTED] a subject matter expert (SME) in correctional healthcare, assisted ODO with the death review. RN [REDACTED] is 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 health care. ODO interviewed individuals employed by the El Paso County Sheriff's Office, as well as employees of CCS and the ICE Office of Enforcement and Removal Operations (ERO). ODO also reviewed immigration, medical, and detention records pertaining to NAVARRETTE.

During this review, ODO found one deficiency in EPCCJC's compliance with the ICE National Detention Standards with respect to the care and custody of NAVARRETTE. ODO identified five areas of interest and documented those areas herein for information purposes only. The deficiency and areas of interest should not be construed as having contributed to the death of the detainee.

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<sup>1</sup> ODO found NAVARRETTE's last name spelled in various ways in his immigration and detention records. For purposes of this report, ODO uses the variation found on the most recent ICE Record of Deportable/Inadmissible Alien (Form I-213), June 10, 2015.

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ODO determined the following timeline of events, from the time of NAVARRETTE's apprehension, through his detention at EPCCJC and death at the University of Colorado Memorial Hospital (UCMH).

## NARRATIVE SUMMARY OF EVENTS

Marcos NAVARRETTE-Quintana unlawfully entered the United States by foot at or near Douglas, Arizona, on or about November of 2000.<sup>2</sup> He was arrested pursuant to a warrant issued by the El Paso County Sheriff's Office on January 24, 2013, for driving under the influence and associated motor vehicle violations and was booked into EPCCJC. An immigration detainer was placed on NAVARRETTE on January 24, 2013. On February 26, 2013, NAVARRETTE was convicted of driving under the influence in the El Paso County court. He was sentenced to 30 days in jail with credit for time served. He was then transferred to ICE custody and charged as inadmissible pursuant to § 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA) as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.<sup>3</sup>

NAVARRETTE was issued a Notice to Appear (I-862) and was released from ICE custody on his own recognizance on February 27, 2013.<sup>4</sup> The Record of Deportable/Inadmissible Alien (I-213) from the same day recorded he appeared to be in good health. On December 17, 2013, NAVARRETTE failed to appear for his scheduled court date, and an Executive Office for Immigration Review (EOIR) Immigration Judge in Denver, Colorado, ordered (in absentia) NAVARRETTE to be removed to Mexico.<sup>5</sup>

At 7:49 p.m. on June 7, 2015, the Colorado Springs Police Department arrested NAVARRETTE for driving under the influence<sup>6</sup> and transported him to EPCCJC.

Because NAVARRETTE was initially admitted and processed as a county inmate, EPCCJC was not required to comply with the ICE NDS with respect to his detention until he was administratively transferred to ICE custody on June 9, 2015. Accordingly, ODO makes no deficiency findings for any actions occurring prior to that date. However, to provide comprehensive background and context, the narrative of this report covers the entirety of NAVARRETTE's time at EPCCJC, from admission until his death.

On June 7, 2015, at 8:24 p.m., NAVARRETTE entered the pre-admission area of EPCCJC.<sup>7</sup> Deputy [REDACTED], an Intake and Release Specialist, collected and logged NAVARRETTE's

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<sup>2</sup> Record of Deportable/Inadmissible Alien (I-213), February 27, 2013.

<sup>3</sup> Notice to Appear (I-862), February 27, 2013.

<sup>4</sup> Order of Release on Recognizance (I-220A), February 27, 2013.

<sup>5</sup> Record of Deportable/Inadmissible Alien (I-213), June 10, 2015.

<sup>6</sup> Colorado Springs Police Department Arrest Report, June 7, 2015.

<sup>7</sup> See Exhibit 1: Pre-admission Surveillance Camera Recording, June 7, 2015.

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property<sup>8</sup> and conducted a pre-admission screening.<sup>9</sup> Spanish language interpretation assistance was provided by another Deputy.<sup>10</sup> Deputy ██████ stated during her interview she observed NAVARRETTE's skin color was yellow and learned from the officer who brought NAVARRETTE to EPCCJC that the detainee was recently hospitalized. The EPCCJC Booking Checklist Report completed by Deputy ██████ documents NAVARRETTE reported he had severe cirrhosis<sup>11</sup> caused by alcoholism, and was taking several medications, none of which were received with him.<sup>12</sup> Deputy ██████ stated NAVARRETTE was offered and declined the opportunity to see a nurse during pre-admission. Because she was concerned about his appearance, Deputy ██████ contacted Licensed Practical Nurse (LPN) ██████ the intake nurse on duty, to report her observations of NAVARRETTE and the information he reported regarding his health. Deputy ██████ stated she does not remember if LPN ██████ came to see NAVARRETTE in the pre-admission area or if she and LPN ██████ only spoke on the phone. Deputy ██████ remembered LPN ██████ stating NAVARRETTE was fine and she would follow up with him during his intake medical screening.<sup>13</sup> When ODO questioned LPN ██████ about this encounter, she did not recall Deputy ██████ calling her to request she see NAVARRETTE in the pre-admission area.<sup>14</sup> ODO viewed surveillance video of the pre-admission area but could not confirm whether or not LPN ██████ was contacted by Deputy ██████ during NAVARRETTE's pre-admission. Medical staff interviewed by ODO stated they have discretion to refuse admission of an inmate or detainee with "special medical needs" into EPCCJC and may require the inmate or detainee be evaluated and cleared by an outside physician prior to being admitted to EPCCJC. Both Director of Nursing (DON) ██████, Registered Nurse (RN),<sup>15</sup> and Charge Nurse ██████, RN,<sup>16</sup> stated during their interviews that given his appearance and medical history, they would have required medical clearance by an outside medical provider before accepting NAVARRETTE into EPCCJC.

At 9:16 p.m., NAVARRETTE can be seen on video leaving the pre-admission area and entering the intake and release area<sup>17</sup> where he was booked into EPCCJC by Officer ██████.<sup>18</sup> It is noted the EPCCJC Housing Movement Log documents that NAVARRETTE entered the

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<sup>8</sup> Personal Property Inventory form, June 7, 2015.

<sup>9</sup> See Exhibit 2: El Paso County Sheriff's Office Booking Checklist Report, June 7, 2015.

<sup>10</sup> ODO was unable to determine the second Deputy's identity.

<sup>11</sup> Late stage scarring of the liver which can be caused by chronic alcohol abuse. Creative Corrections Compliance Review.

<sup>12</sup> See Exhibit 2: El Paso County Sheriff's Office Booking Checklist Report, June 7, 2015.

<sup>13</sup> ODO interview with Deputy ██████, August 4, 2015.

<sup>14</sup> ODO interview with LPN ██████, August 5, 2015.

<sup>15</sup> ODO interview with DON ██████, August 4, 2015.

<sup>16</sup> ODO interview with RN ██████, August 5, 2015.

<sup>17</sup> See Exhibit 3: Intake Surveillance Camera Recording, June 7, 2015. Time refers to timestamp on video, which may differ slightly from timestamps on other documents.

<sup>18</sup> El Paso County Sheriff's Office Booking Report, June 7, 2015.

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intake and release area at 9:09 p.m.<sup>19</sup> Booking procedures included performing a patdown search, reviewing charging documents, ensuring proper authorization to detain NAVARRETTE, verifying his personal information, and completing an intake medical questionnaire<sup>20</sup> (hereinafter referred to as “intake questionnaire”) which is completed prior to the medical intake screening conducted by medical staff. Booking Officer [REDACTED] stated during his interview he observed NAVARRETTE had an over-sized and bloated abdomen.<sup>21</sup>

Surveillance video shows NAVARRETTE remained in the intake and release area until at least 2:00 a.m. on June 8, 2015, the time at which the recording ends.<sup>22</sup> Although NAVARRETTE’s medical file documents he received an intake medical screening at 1:50 a.m. on June 8, 2015,<sup>23</sup> the surveillance video does not show NAVARRETTE meeting with the nurse at this time. CCS maintains all inmate and detainee medical records electronically in their Electronic Record Management Application (ERMA) system. The CCS Receiving Screening form in NAVARRETTE’s ERMA record documents LPN [REDACTED] completed the medical intake screening at 2:56 a.m. on June 8, 2015.<sup>24</sup> Translation assistance was provided through a telephonic interpretation service.<sup>25</sup> NAVARRETTE’s medical intake screening form documented the following:

- NAVARRETTE indicated receiving past or current treatment for asthma, diabetes, seizure disorder, thyroid disorder, heart condition, high blood pressure, bleeding disorder and/or kidney disease. Specific information regarding any of those conditions or the time of treatment was not documented.<sup>26</sup>
- NAVARRETTE denied current treatment for any illness or health problems and denied taking any medications.

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<sup>19</sup> See [Exhibit 6](#): Housing Movement Log.

<sup>20</sup> See [Exhibit 4](#): “Intake Medical Questions in Spanish.”

<sup>21</sup> ODO interview with Booking Officer [REDACTED], August 5, 2015.

<sup>22</sup> Although repeatedly requested by ODO, EPCJC did not provide useable footage of the intake and release area from 2:00 to 7:00 a.m. on June 8, 2015.

<sup>23</sup> The Patient Profile Summary in NAVARRETTE’S medical file shows medical vital signs were recorded at 1:50 a.m. on June 8, 2015.

<sup>24</sup> See [Exhibit 5](#): CCS Receiving Screening form, June 8, 2015.

<sup>25</sup> LPN [REDACTED] stated during her interview that she remembered the telephonic interpreter had difficulty providing a clear interpretation of NAVARRETTE’s answers to the screening questions. Although speculative, it is possible the numerous inconsistencies between the intake questionnaire, which NAVARRETTE completed himself in Spanish, and the medical intake screening, which was completed with the assistance of the telephonic interpreter, may have resulted from the communication difficulties LPN [REDACTED] experienced with that interpreter, and not a lack of honesty or candor on the part of NAVARRETTE.

<sup>26</sup> The ERMA form has a drop-down feature allowing entry of additional information, but ODO’s review of staff training records found no evidence staff are trained in use of the ERMA and thus may not be aware of the function.

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It is noted these denials were inconsistent with information NAVARRETTE documented on the intake questionnaire.<sup>27</sup> LPN [REDACTED] stated during her interview that NAVARRETTE did in fact disclose he used prescription medication but did not know the name of the medication. She explained that at the time of NAVARRETTE's intake, if the "current medications" field was selected on the ERMA form, the system did not allow her to progress with the screening questions until she selected at least one medication from an extensive dropdown list. She explained that "unknown medications" was not one of the options on that list. As a result, she had to select "no medications" in order to complete the screening. According to DON [REDACTED], ERMA has since been modified to allow the user to enter "unknown" in the section addressing current medications.

Additionally, although LPN [REDACTED] generated a Medication Verification/Medical Release form<sup>28</sup> to pursue verification of NAVARRETTE's medications by the pharmacy he named (Walmart), the record contains no documentation of follow up on the verification form by any medical staff person during NAVARRETTE's detention. Further, the record contains no documentation to evidence that a provider was notified for the purpose of evaluating NAVARRETTE for continuation of medications. Medical Director, Joseph Wright, Medical Doctor (MD), confirmed he was never contacted to assess the detainee or prescribe medications.<sup>29</sup>

- NAVARRETTE had shortness of breath, and he stated his breathing became "agitated" and "fast" when lying down. He also reported underdoing paracentesis<sup>30</sup> at UCMH two weeks prior. It is noted NAVARRETTE's record contains no documentation an authorization for release of records from UCMH was obtained.
- NAVARRETTE denied current use of drugs or alcohol, as well as ever experiencing alcohol or drug related withdrawal or seizures.<sup>31</sup> NAVARRETTE also denied using alcohol for the previous three months. ODO notes NAVARRETTE reported conflicting information on his intake questionnaire.<sup>32</sup> Although LPN [REDACTED] had access to the intake questionnaire, NAVARRETTE's record contains no indication she made an attempt to reconcile the answers NAVARRETTE provided on the intake questionnaire with those he provided to her during his intake medical screening. Further, she did not elicit additional

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<sup>27</sup> See [Exhibit 4](#): "Intake Medical Questions in Spanish."

<sup>28</sup> This form was e-signed by LPN [REDACTED] at 3:00 a.m. on June 8, 2015.

<sup>29</sup> ODO interview with Dr. Wright, August 4, 2015.

<sup>30</sup> Paracentesis is a procedure to remove accumulated fluid from abdominal cavity which is often necessary for cirrhosis patients. Creative Corrections Compliance Review.

<sup>31</sup> See [Exhibit 5](#): CCS Receiving Screening form, June 8, 2015.

<sup>32</sup> ODO was unable to confirm the identity of the Officer who physically provided the intake questionnaire, only that it occurred during the booking process in the intake and release area of EPCCJC.

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information including type of alcohol used, mode of use, amounts used, frequency used, or date and time of last use.

- NAVARRETTE was normal in his appearance and his movement was not restricted.

ODO notes Officer [REDACTED], who booked NAVARRETTE into EPCCJC, stated during his interview he remembered NAVARRETTE having a clearly observable oversized abdomen.<sup>33</sup> The surveillance video of NAVARRETTE's admission into EPCCJC also clearly shows the detainee had an obvious and unnaturally large abdomen. Deputy [REDACTED], who was posted to NAVARRETTE's housing unit, stated during his interview with ODO that he remembered NAVARRETTE appeared to have a difficult time walking around due to severe swelling in his legs and feet.<sup>34</sup>

- NAVARRETTE reported feeling cold, itchy and shaky at the time of the screening, and had observable full body jaundice<sup>35</sup> of both the skin and eyes. Creative Corrections notes that shakiness can be a symptom of alcohol withdrawal.<sup>36</sup>
- NAVARRETTE reported experiencing a seizure two and a half years prior.
- NAVARRETTE's vital signs were within normal limits with the exception of a lower than normal temperature of 96.5 (normal is 98.7), and a slightly elevated blood pressure of 128/91 (normal is 120/80).
- NAVARRETTE's suicide potential screening had normal findings. Although he denied any current psychotropic medications, or recent hospitalizations or outpatient mental health treatment, he did report a "psychiatric history." No further details were documented.

LPN [REDACTED] completed NAVARRETTE's patient profile summary<sup>37</sup> and listed the following self-reported medical problems: acute chronic liver disease and cirrhosis, an acute kidney stone (pending diagnosis), and possible chronic seizures. LPN [REDACTED] stated during her interview NAVARRETTE did not present with any urgent medical concerns. She stated although

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<sup>33</sup> ODO interview with Booking Officer [REDACTED], August 5, 2015.

<sup>34</sup> See [Exhibit 6](#): Housing Movement Log; ODO Interview with Deputy [REDACTED], August 6, 2015.

<sup>35</sup> The yellow color of the skin and whites of the eyes caused by excess bilirubin, a substance that carries oxygen in red blood cells, in the blood. Jaundice is a common side effect of cirrhosis. Creative Corrections Compliance Review.

<sup>36</sup> See [Exhibit 9](#): Creative Corrections Compliance Review.

<sup>37</sup> CCS Patient Profile – Summary.

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NAVARRETTE appeared to be jaundiced, she did not notice any abdominal distension,<sup>38</sup> and he did not appear to be in any distress or critically unstable at the time of his screening. Despite his appearance and medical history, LPN [REDACTED] did not notify the charge nurse of a need for further assessment. It is noted, per facility policy,<sup>39</sup> identification of any condition as acute, including kidney stones, liver disease, and cirrhosis, requires notification to the charge nurse. The charge nurse then assesses and treats the detainee if necessary, and determines if he or she should be referred immediately to a provider or transferred to a hospital.<sup>40</sup> It is further noted that according to the Colorado Nurse Practice Act,<sup>41</sup> “The practical nursing student is taught to identify normal from abnormal in each of the body systems and to identify changes in the patient's condition, which are then reported to the RN or MD for further or ‘full’ assessment.” Dr. Wright acknowledged during his interview that NAVARRETTE should have been seen the same day he was admitted in light of his recent paracentesis and current symptoms. DON [REDACTED] stated during his interview that as a result of NAVARRETTE’s death and subsequent mortality review performed by CCS and EPCCJC, the medical intake screening practice has been changed so that only RNs now perform intake screenings. Additionally, the charge nurse now provides an additional level of oversight by reviewing the screening RN’s general assessment and coordinating any referrals for additional care.

LPN [REDACTED] documented she medically cleared NAVARRETTE for housing in a general population housing unit. RN [REDACTED] reviewed and approved NAVARRETTE’s intake screening, including the housing recommendation, at 2:09 p.m. RN [REDACTED] stated during her interview that she did not specifically remember signing NAVARRETTE’s intake screening, but after reviewing the details of his screening, she believed he should have been referred to a provider for prompt follow up due to the jaundice and breathing issues.<sup>42</sup>

At 3:02 a.m. on June 8, 2015, NAVARRETTE was moved from the EPCCJC intake area to general population housing unit 1B3.<sup>43</sup>

At 8:30 a.m. that morning, Inmate Classification Counselor [REDACTED] interviewed NAVARRETTE in his housing unit.<sup>44</sup> She documented the detainee reported thoughts of suicide two days prior but denied having current suicidal thoughts.<sup>45</sup> As a result, Inmate Classification Counselor [REDACTED] initiated his placement on suicide watch status, pending evaluation by mental health staff. It is noted suicidal thoughts from two days prior were not reported or documented

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<sup>38</sup> Swelling of the abdomen. Creative Corrections Compliance Review.

<sup>39</sup> CCS Standard Operating Procedures 4.27: Chronic Care, effective March 4, 2015.

<sup>40</sup> CCS medical policy and ODO interview with LPN [REDACTED] and RN [REDACTED].

<sup>41</sup> Colorado Revised Statutes (Nurse Practice Act), (Title) 12-(Article) 38-10 CRS.

<sup>42</sup> ODO interview with RN [REDACTED] August 5, 2015.

<sup>43</sup> See [Exhibit 6](#): Housing Movement Log.

<sup>44</sup> ODO interview with Inmate Classification Counselor [REDACTED] August 5, 2015.

<sup>45</sup> El Paso County Sheriff’s Office Point Based Classification Report, June 8, 2015.

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during LPN [REDACTED] intake screening. It is also noted that Inmate Classification Counselor [REDACTED] documented that in response to a question she asked NAVARRETTE regarding whether he had any physical handicaps or restricted mobility, the detainee replied he had numerous issues of which medical was aware. Inmate Classification Counselor [REDACTED] stated during her interview she remembered NAVARRETTE appeared sickly with yellow-tinged, bulging eyes.<sup>46</sup> She also stated his abdomen appeared swollen and she recalled he had a problem with his left leg. It is noted Inmate Classification Counselor [REDACTED] interaction with NAVARRETTE occurred approximately five hours following his intake medical screening. With the exception of the Deputy who performed the pre-booking screening and LPN [REDACTED] all personnel interviewed by the review team reported observing that NAVARRETTE's stomach was distended.

Per Inmate Classification Counselor [REDACTED] recommendation, NAVARRETTE was placed on suicide watch status at 8:56 a.m. on June 8, 2015 and was moved to housing unit 1B2.<sup>47</sup>

At 5:45 a.m. on June 9, 2015, NAVARRETTE was removed from housing unit 1B2 and placed in an intake holding cell in preparation for transport to court for adjudication of his local charges.<sup>48</sup> ODO was unable to verify the exact time of transport from EPCCJC to court because movement of Deputies outside of the facility are called into and recorded by an El Paso County Sheriff's Office dispatcher, located outside of the facility. ODO confirmed NAVARRETTE's court time was scheduled for 9:00 a.m. on June 9, 2015.<sup>49</sup>

Updates to EPCCJC's electronic system, as well as email communication, found in the detention file documents NAVARRETTE was sentenced to three days with three days credit for time served. ERO faxed an Order to Detain to EPCCJC at 10:06 a.m. stating the "subject has a Final Order of Removal and should be held... upon completion of local charges."<sup>50</sup> NAVARRETTE was removable pursuant to § 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA) as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.<sup>51</sup> NAVARRETTE was returned to EPCCJC at 11:20 a.m. and administratively transferred into ICE custody later that day.

During interviews with medical staff, ODO learned medical was not notified of NAVARRETTE's status change from county inmate to ICE detainee. Medical staff stated that even if they had received this notification, his intake medical screening would not have been repeated. It is noted NAVARETTE's June 8, 2015 intake screening did not include testing for

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<sup>46</sup> ODO interview with Inmate Classification Counselor [REDACTED] August 5, 2015.

<sup>47</sup> See Exhibit 6: Housing Movement Log; ODO interview with Inmate Classification Counselor [REDACTED], August 5, 2015.

<sup>48</sup> See Exhibit 6: Housing Movement Log; ODO interview with Deputy [REDACTED] August 4, 2015.

<sup>49</sup> El Paso county Sheriff's Office Inmate Court Dates by Division report, June 9, 2015.

<sup>50</sup> I-203, June 9, 2015.

<sup>51</sup> Notice to Appear (I-862), June 10, 2015.



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tuberculosis (TB). Both facility policy<sup>52</sup> and the NDS, require TB testing upon arrival of ICE detainees; however, county inmates are not tested until their initial 14-day health appraisal. Because NAVARRETTE was admitted as an inmate and did not remain at the facility long enough to receive his 14-day health appraisal, and because medical was not apprised of his transfer to ICE custody on June 9, 2015, he never received a TB test. DON ██████ acknowledged during his interview that medical staff should be notified when an inmate is converted to ICE detainee status and stated the facility was undertaking procedures to ensure such notification happens in the future.

At 1:40 a.m. on June 10, 2015, Deputy ██████ documented in the EPCCJC Jail Management System (JMS) that NAVARRETTE had swollen feet and ankles and had difficulty walking up and down stairs.<sup>53</sup> As a result, NAVARRETTE was moved from an upper level bed to a lower level bed in the same housing unit (1B2).

At approximately 7:30 a.m. on June 10, 2015, NAVARRETTE was escorted to the intake and release area of EPCCJC to be interviewed by ICE Immigration Enforcement Agent (IEA) ██████. IEA ██████ stated during his interview when he saw NAVARRETTE, he was immediately struck by the detainee's sickly appearance and described him as having extremely yellow skin and eyes.<sup>54</sup> IEA ██████ documented on Form I-213, Record of Deportable/Inadmissible Alien,<sup>55</sup> "Subject appeared before processing agent with yellowing of the eyes and skin, obvious swelling to the abdomen and lower extremities and was immediately referred to the El Paso County Criminal Justice Center's Medical Unit." IEA ██████ stated he also noticed the detainee was wearing a green suicide smock, which surprised him because placing a detainee on suicide watch requires immediate notification to ICE by the facility, and he was unaware of any notification.<sup>56</sup> IEA ██████ stated he communicated with NAVARRETTE in Spanish. NAVARRETTE told IEA ██████ he had stomach pain and medical issues and showed him a large mass on his abdomen. IEA ██████ also observed NAVARRETTE's feet were swollen. According to IEA ██████ another ICE agent (ODO was unable to confirm his identity) immediately retrieved LPN ██████, an intake nurse, to observe the detainee's condition. LPN ██████ stated during his interview that upon seeing NAVARRETTE's condition he immediately called the on-duty charge nurse, RN ██████, to assess the detainee.<sup>57</sup> RN ██████ stated during her interview when she saw NAVARRETTE, she immediately

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<sup>52</sup> CCS Policy E-04, Initial Health Assessment; El Paso County Sheriff's Office SOP 4.29, Communicable Disease and Infection Control Program.

<sup>53</sup> See Exhibit 6: Housing Movement Log.

<sup>54</sup> ODO interview with IEA ██████, August 4, 2015.

<sup>55</sup> Record of Deportable/Inadmissible Alien (I-213), June 10, 2015.

<sup>56</sup> The initial placement on suicide watch occurred while NAVARRETTE was an inmate, not an ICE detainee. NAVARRETTE's record contains no documentation ICE was notified the detainee was on suicide watch after he was transferred to ICE custody.

<sup>57</sup> ODO interview with LPN ██████ August 5, 2015.

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noticed the detainee's skin was yellow in color and called Dr. [REDACTED] EPCCJC's Medical Director at the time,<sup>58</sup> to notify him NAVARRETTE needed to be assessed right away.<sup>59</sup> IEA [REDACTED] and the other ICE Agent then escorted NAVARRETTE to the trauma room of EPCCJC's medical unit.<sup>60</sup> Once NAVARRETTE was escorted to the medical unit, IEA [REDACTED] immediately notified his supervisor, Supervisory Detention and Deportation Officer (SDDO) [REDACTED], of the detainee's condition.<sup>61</sup>

NAVARRETTE was quickly evaluated by Dr. [REDACTED] and Dr. [REDACTED].<sup>62</sup> Dr. [REDACTED] stated during his interview that NAVARRETTE appeared extremely yellow in color, and he and Dr. Jones agreed the detainee needed to go to the hospital.<sup>63</sup> Dr. [REDACTED] stated because the detainee insisted he was stable enough to be transported by EPCCJC deputies in a facility vehicle, and because Dr. [REDACTED] and Dr. [REDACTED] agreed, an ambulance was not called.<sup>64</sup> At 8:45 a.m., a CCS Emergency Room/Inpatient Referral Request was completed<sup>65</sup> by [REDACTED] directing NAVARRETTE be transported to UCMH noting the detainee had jaundice, pitting edema,<sup>66</sup> ascites,<sup>67</sup> and yellowing of the whites of his eyes. NAVARRETTE's vital signs were taken prior to his transport to UCMH, and with the exception of a low temperature, were all within normal limits.<sup>66</sup> In a late entry to the medical record, former HSA [REDACTED] documented she notified Commander (CDR) [REDACTED], IHSC Field Medical Coordinator, that NAVARRETTE was transported to UCMH.<sup>68</sup> The entry also documented NAVARRETTE was extremely jaundiced, had yellowing of the whites of both eyes, had ascites and bilateral lower leg swelling, and was sent to UCMH "emergently." ODO was unable to verify the time NAVARRETTE departed EPCCJC or when he arrived at UCMH.

After NAVARRETTE left EPCCJC for UCMH, his medical records were requested by EPCCJC for his prior hospitalizations and were received by fax at 9:49 a.m. on June 10, 2015.<sup>69</sup> The

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<sup>58</sup> ODO learned during interviews with medical staff that June 10, 2015, was one of Dr. [REDACTED] last days on the job at EPCCJC. Dr. [REDACTED], who replaced him, was onsite on June 10, 2015, training with Dr. [REDACTED].

<sup>59</sup> ODO interview with RN [REDACTED], August 5, 2015.

<sup>60</sup> ODO interview with IEA [REDACTED] August 4, 2015. ODO notes IEA [REDACTED] stated during his interview that LPN [REDACTED] and RN [REDACTED] seemed reluctant to immediately send NAVARRETTE to medical until IEA [REDACTED] insisted they do so.

<sup>61</sup> E-mail, June 10, 2015 at 9:13 a.m.

<sup>62</sup> ODO interviews with LPN [REDACTED] RN [REDACTED] and IEA [REDACTED]

<sup>63</sup> ODO interview with Dr. [REDACTED] t, August 4, 2015.

<sup>64</sup> ODO attempted to obtain transportation logs, but EPCCJC stated they maintained no transportation logs because all transport is dispatched through the county Sheriff's Office, and they do not have access to these records.

<sup>65</sup> See [Exhibit 7](#): CCS Emergency Room/Inpatient Referral Request, June 10, 2015.

<sup>66</sup> Observable swelling of body tissues due to fluid accumulation. Creative Corrections Compliance Review.

<sup>67</sup> Accumulation of fluid in a particular internal area of the abdomen. Creative Corrections Compliance Review.

<sup>68</sup> CCS Progress Note added June 14, 2015 at 12:48 p.m.

<sup>69</sup> EPCCJC's Medical Record for NAVARRETTE.

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records reflect two admissions to UCMH, the first from April 19 to 23, 2015; the second from May 8 to 18, 2015.

During the first hospitalization, NAVARRETTE was diagnosed with alcoholic liver failure but was medically stable upon discharge. NAVARRETTE and his wife were advised by the physician that his condition appeared to be very serious with evidence of cirrhosis of the liver, and his condition could deteriorate rapidly with continued alcohol use. NAVARRETTE was discharged with instructions to discontinue all alcohol use, take prescribed medications, and follow up with his primary care provider in one to two months.

The admission note for NAVARRETTE's May 8, 2015 hospitalization reflects his primary care physician referred him to the emergency room due to a significant decrease in renal function. The note shows because NAVARRETTE was not a liver transplant candidate and traditional outpatient treatments would not be viable, a palliative<sup>70</sup> consult was recommended. NAVARRETTE was discharged on May 18, 2015. His diagnosis included alcoholic cirrhosis of the liver and acute kidney injury, jaundice, and a number of other related afflictions and complications. Per the Discharge Summary, NAVARRETTE was considered medically stable and discharged with 11 medications.

The EPCCJC medical record includes no additional entries on June 10, 2015, following NAVARRETTE's transfer to the hospital, or entries reflecting any updates on June 11 and 12, 2015.

On June 13, 2015, a UCMH nurse reported to EPCCJC that NAVARRETTE was transferred to the intensive care unit (ICU) due to end stage liver failure with decreased kidney function. The nurse also reported he was only minimally responsive and was unable to track with his eyes.<sup>71</sup> CDR ██████ notified ICE via email on June 13, 2015.<sup>72</sup>

On June 14, 2015, HSA ██████ documented NAVARRETTE was in a diminished state of consciousness with rectal bleeding and worsening kidney function.<sup>73</sup> CDR ██████ notified ERO Field Office Director (FOD) John Longshore and Assistant Field Office Director (AFOD) ██████ via email of NAVARRETTE's worsening condition.<sup>74</sup> On June 14, 2015, AFOD ██████ instructed Sergeant ██████ of EPCCJC, to immediately stop hospital guard duty for NAVARRETTE as the detainee was on full life support and security was no longer necessary.<sup>75</sup>

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<sup>70</sup> Specialized medical care for patients with serious illnesses focusing on relief of symptoms and improvement of quality of life only. Creative Corrections Compliance Review.

<sup>71</sup> CCS "late entry" progress note for June 13, 2015, made by former HSA ██████ on June 14, 2015.

<sup>72</sup> Email from CDR ██████ sent on June 13, 2015 at 1:19 p.m.

<sup>73</sup> CCS progress note, June 14, 2015 at 9:15 a.m.

<sup>74</sup> Email from CDR ██████ sent on June 14, 2015 at 11:23 a.m.

<sup>75</sup> Email from AFOD ██████ sent on June 14, 2015 at 1:40 p.m.

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A June 15, 2015 progress note by HSA [REDACTED] documents a social worker from UCMH reported the detainee was on full life support.<sup>76</sup>

NAVARRETTE's EPCCJC medical record contains no further progress notes after June 15, 2015. Per a June 17, 2015 UCMH note,<sup>77</sup> NAVARRETTE's Model for Endstage Liver Disease (MELD) score<sup>78</sup> was "extremely high." The note further indicates NAVARRETTE's condition was terminal, and he should be given comfort care until his expiration. The Palliative Medicine Consultation report for treatment and symptomatic management for end of life management indicated NAVARRETTE was unresponsive due to end stage liver disease and was placed on "comfort measures" to include primarily fever and pain control.<sup>79</sup> NAVARRETTE was ordered not to be resuscitated and his family was notified of his prognosis.

At 9:03 a.m. on June 18, 2015, UCMH medical staff documented comfort measures were in place for NAVARRETTE, his brother was at his bedside, and the detainee was in the last hours of his life.<sup>80</sup>

At 4:09 p.m. on June 18, 2015, [REDACTED] MD, pronounced NAVARRETTE dead. At 5:08 p.m. on June 18, 2015, CDR [REDACTED] notified AFOD [REDACTED] of NAVARRETTE's death.<sup>81</sup> AFOD [REDACTED] notified the Mexican consulate of NAVARRETTE's death at 5:45 p.m.<sup>82</sup>

### Post-Death Events

An autopsy was not performed on NAVARRETTE. A Certificate of Death was issued for NAVARRETTE on June 26, 2015.<sup>83</sup> [REDACTED] MD, of UCMH, signed the Certificate of Death on June 22, 2015. [REDACTED] recorded NAVARRETTE's primary cause of death was hepatic encephalopathy<sup>84</sup> due to or as a consequence of cirrhosis due to or as a consequence of alcoholism. Hepatorenal syndrome<sup>85</sup> was cited as another significant condition contributing to death but not related to the primary cause.

On July 17, 2015, an after-action review was conducted at EPCCJC and was attended by [REDACTED] EPCCJC Fiscal and Compliance Service Manager, Dr. [REDACTED], the CCS

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<sup>76</sup> CCS progress note, June 15, 2015.

<sup>77</sup> UCMH progress note, June 17, 2015.

<sup>78</sup> The MELD score assesses the severity of chronic liver disease based on lab values. Creative Corrections Compliance Review.

<sup>79</sup> UCMH Palliative Medicine Consultation Note, June 17, 2015.

<sup>80</sup> UCMH progress note, June 18, 2015.

<sup>81</sup> Email from CDR [REDACTED] sent June 18, 2015 at 5:08 p.m.

<sup>82</sup> Email from AFOD [REDACTED] sent June 18, 2015 at 5:45 p.m.

<sup>83</sup> See [Exhibit 8](#): Certificate of Death.

<sup>84</sup> A syndrome of neuropsychiatric abnormalities, characterized by personality changes, intellectual impairment, and a depressed level of consciousness. Creative Corrections Compliance Review.

<sup>85</sup> Rapid deterioration in kidney function. Creative Corrections Compliance Review.

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Regional Medical Director, HSA [REDACTED], and DON [REDACTED].<sup>86</sup> The group discussed the circumstances surrounding NAVARRETTE's death and agreed upon a number of operational improvements including filling all RN vacancies to increase RN availability to assess patients with potentially serious illnesses, requiring that an RN conduct all intake screenings, implementing an automatic process for the requisition of an inmate or detainee's prior hospital records, and creating a trigger in the jail management system to notify medical when custody status changes from inmate to detainee.

### HEALTHCARE REVIEW

Creative Corrections, a national management and consultant firm contracted by ICE to provide subject matter expertise in correctional healthcare, reviewed the medical care NAVARRETTE received while housed at EPCCJC. Creative Corrections found EPCCJC did not fully comply with the ICE NDS for Medical Care. The Creative Corrections Medical Compliance Review is included as an Exhibit to this report.<sup>87</sup>

### IMMIGRATION AND DETENTION HISTORY

On or about November 2000, NAVARRETTE unlawfully entered the United States at or near Douglas, Arizona.

NAVARRETTE was arrested by the El Paso County Sheriff's Office on January 24, 2013, and booked into EPCCJC. An immigration detainer was placed on NAVARRETTE that same day.

On February 26, 2013, NAVARRETTE was convicted in the El Paso County court. That same day, he was transferred to ICE custody and charged as inadmissible pursuant to § 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA) as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

NAVARRETTE was issued a Notice to Appear and was released from ICE custody on his own recognizance on February 27, 2013.

On December 17, 2013, NAVARRETTE failed to appear for his scheduled court date, and an Executive Office for Immigration Review (EOIR) Immigration Judge in Denver, Colorado ordered (in absentia) NAVARRETTE to be removed to Mexico. Because he failed to appear, NAVARRETTE became an ICE fugitive.

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<sup>86</sup> Interview with DON [REDACTED], August 4, 2015; CCS Mortality Review Meeting Attendee list, July 17, 2015.

<sup>87</sup> See [Exhibit 9](#): Creative Corrections Medical Compliance Analysis.

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On June 7, 2015, NAVARRETTE was arrested and booked into EPCCJC as an El Paso County inmate. On June 9, 2015, he was administratively transferred to ICE custody and remained housed at EPCCJC.

### CRIMINAL HISTORY

On January 24, 2013, NAVARRETTE was arrested pursuant to a warrant for driving under the influence, driving without insurance on a public roadway, driving without a license, and changing lanes when unsafe. He was convicted on February 26, 2013, and sentenced to 30 days with credit for time served.

On June 7, 2015, NAVARRETTE was arrested for driving under the influence. He was convicted on June 9, 2015 and sentenced to three days with three days credit for time served.

### FINDINGS AND CONCLUSIONS

ODO found one deficiency in EPCCJC's compliance with the ICE NDS with respect to the care and custody of NAVARRETTE.

1. **ICE NDS 2000, 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."

NAVARRETTE's medical record contains no documentation a TB screening by PPD or chest x-ray was completed.

### AREAS OF INTEREST

1. Because NAVARRETTE was a county inmate when admitted to EPCCJC, ODO cannot cite a deficiency related to his intake medical screening. However, because the facility accepts ICE detainees as new arrivals, the adequacy and outcome of the intake screening remains a concern. Despite her abnormal findings, LPN [REDACTED] did not request a full assessment by the charge nurse or a provider, as required by facility policy. LPN [REDACTED] also failed to notify a provider that NAVARRETTE stated he took several medications. Further, LPN [REDACTED] did not ask NAVARRETTE the requisite questions to determine the need to initiate clinical protocols for alcohol withdrawal and did not properly complete the electronic screening form to reflect NAVARRETTE's degree of alcohol use or the date and time of his last use. Finally, although RN [REDACTED] reviewed and signed NAVARRETTE's screening form, she took no follow-up action to ensure the detainee was assessed and his medications were reviewed.

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2. A review of the training program for new LPNs found it includes basic orientation and reading of all medical policies and procedures. However, it does not specifically cover the intake screening process and does not include training in ERMA. At the time of ODO's visit, the facility had already identified and was working to implement a number of corrective actions to improve the intake screening process. ODO recommends inclusion of the intake screening process in the on-site monitoring component of the facility's performance improvement program, with findings incorporated into education and training activities.
3. As discussed in the narrative, at the time of NAVARRETTE's detention, EPCCJC had no mechanism in place to alert medical staff when custody status was changed from inmate to detainee. Security and medical staff informed ODO this issue was being addressed by the facility to ensure TB testing is completed on future individuals when their status changes. In addition to medical staff notification of status change, ODO recommends classification personnel also be notified, so that review of classification level and housing may also take place. It is noted reclassification was not an issue in NAVARRETTE's case.
4. NAVARRETTE's medical record did not document his admission to the hospital on June 10, 2015, nor did it document contact with hospital personnel to obtain updates on his status on June 11, June 12, and June 16 until his death on June 18, 2015. ODO recommends daily updates be sought and documented in the medical records of detainees who are hospitalized.
5. EPCCJC's policy of delaying TB testing for inmates until the 14-day health appraisal places detainees, staff and the community at risk of possible exposure.

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**EXHIBITS**

1. Pre-admission Surveillance Camera Recording, June 7, 2015
2. El Paso County Sheriff's Office Booking Checklist Report, June 7, 2015
3. Intake Surveillance Camera Recording, June 7, 2015
4. Intake Medical Questions in Spanish
5. CCS Receiving Screening form, June 8, 2015
6. Housing Movement Log
7. CCS Emergency Room/Inpatient Referral Request, June 10, 2015
8. Certificate of Death
9. Creative Corrections Medical Compliance Analysis