



Detainee Death Review Report

Kesley VIAL

Date of Death: August 24, 2022

Alien File Number: 240899412

Joint Integrity Case Management System (JICMS) Number: 202212516

December 8, 2022

U.S. Immigration and Customs Enforcement
Office of Professional Responsibility

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DETAILS OF REVIEW

From September 13 to 15, 2022, U.S. Immigration and Customs Enforcement (ICE), Office of Professional Responsibility (OPR), External Reviews and Analysis Unit (ERAU) staff reviewed the facts and circumstances surrounding Kesley Vial's (VIAL) detention and death. ERAU was assisted in its review by contract subject-matter experts in correctional healthcare and security who are employed by Creative Corrections, a national management consulting firm. As part of its review, ERAU reviewed immigration, medical, and detention records pertaining to VIAL's time in custody, in addition to conducting interviews of individuals employed by the Tarrant County Detention Facility (TCDF) in Estancia, New Mexico (NM), and ICE Enforcement and Removal Operations (ERO) staff from the El Paso Field Office.

VIAL, a 23-year-old Brazilian male, was detained at TCDF from July 27, 2022, to August 17, 2022. On August 17, 2022, TCDF transferred VIAL to the University of New Mexico Health (UNMH) hospital after the incident, where he remained until his death on August 24, 2022. The Office of Medical Examiner documented VIAL's cause of death as suicide by hanging.¹

FACILITY PROFILE

TCDF is owned and operated by CoreCivic. The local ICE Office of Enforcement and Removal Operations (ERO) in El Paso, Texas (ERO El Paso) oversees the management of TCDF. ICE houses male detainees for periods longer than 72 hours at TCDF, pursuant to an Inter-governmental Service Agreement requiring the facility maintain compliance with the ICE Performance Based National Detention Standards 2011 (as revised in 2016).² CoreCivic personnel provide security and medical care services at TCDF. Around the time of VIAL's death, the ICE detainee average daily population was 162, and TCDF housed 131 detainees.³

IMMIGRATION AND CRIMINAL HISTORY⁴

On April 22, 2022, the U.S. Customs and Border Protection (CBP) detained VIAL in El Paso, Texas (TX), upon his illegal entry into the United States and transferred him to the El Paso Central Processing Center in El Paso, TX, for further processing.⁵

On April 26, 2022, CBP transferred VIAL into ICE's custody, and ICE assigned him to the ERO El Paso Service Processing Center (EPSPC) in El Paso, TX.⁶ ICE served VIAL with a Notice and Order of Expedited Removal (Form I-860), after ICE determined VIAL was inadmissible to the

¹ See **Exhibit 1**: Office of the Medical Investigator Postmortem Examination, dated August 29, 2022.

² See ERO Facility List Report, dated August 15, 2022.

³ *Id.*

⁴ Immigration and criminal history detained in this section is limited to the last encounter with law enforcement that led to ICE detaining VIAL.

⁵ See Federal Bureau of Investigation Final Disposition Report (Form R-84), dated April 26, 2022.

⁶ See Order to Detain or Release Alien, dated April 26, 2022.

United States under section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA).⁷ At that time, VIAL submitted a credible fear claim.⁸ On April 29, 2022, ICE ERO transferred VIAL to TCDF.⁹

On June 6, 2022, U.S. Citizenship and Immigration Services (USCIS) interviewed VIAL, via telephone, in connection with his credible fear claim.¹⁰ Two days later, USCIS determined VIAL did not establish a credible fear. VIAL accepted an opportunity to have an Immigration Judge (IJ) review USCIS' decision.¹¹ On June 13, 2022, the IJ affirmed the credible fear decision and returned it to DHS to facilitate VIAL's removal.¹²

On July 18, 2022, ICE ERO transferred VIAL to EPSPC for removal.¹³ The following day, ICE ERO transferred VIAL to the Florence Staging Facility in Florence, Arizona (AZ); however, VIAL's removal did not occur as scheduled.¹⁴

On July 25, 2022, ICE ERO transferred VIAL to the Florence Service Processing Center in Florence, AZ.¹⁵ On July 26, 2022, ICE ERO transferred VIAL to EPSPC, and then to TCDF the following day, where he remained until transferred to the hospital.

CHRONOLOGY OF EVENTS¹⁶

July 27, 2022

At 11:04 p.m., Detention Officer (b)(6),(b)(7)(C) booked VIAL into TCDF.¹⁷ (b)(6),(b)(7)(C) completed all required intake processing forms.¹⁸ (b)(6),(b)(7)(C) documented English was VIAL's preferred language. During interviews, staff reported VIAL's primary language was Portuguese, and he spoke some English. As noted below, healthcare personnel used interpretation assistance during most encounters with VIAL.

⁷ See Form I-860, dated April 26, 2022; *see also* Record of Deportable / Inadmissible Alien (Form I-213), dated April 26, 2022. Section 212(a)(7)(A)(i)(I) of the INA states immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by INA.

⁸ See Form I-213, dated April 26, 2022. Record of Deportable / Inadmissible Alien.

⁹ See ENFORCE Alien Removal Module (EARM), Detention History, dated April 29, 2022.

¹⁰ See Credible Fear Interview, dated June 6, 2022.

¹¹ See Record of Negative Credible Fear Finding and Request for Review by Immigration Judge Form I-869, dated June 8, 2022.

¹² See Order of the Immigration Judge, dated June 13, 2022.

¹³ See EARM, Detention History, dated July 18, 2022.

¹⁴ See EARM, Detention History, dated July 19, 2022.

¹⁵ See EARM, Detention History, dated July 25 – 27, 2022.

¹⁶ ERAU notes the events detailed within this section are restricted to VIAL's last detention period (21 days) at TCDF.

¹⁷ See Torrance County Detention Center (TCDC) Inmate/Detainee Commitment Summary, dated July 27, 2022.

¹⁸ See TCDC Admission Documents, dated July 27, 2022.

July 28, 2022

At 12:20 a.m., (b)(6),(b)(7)(C) licensed practical nurse (LPN), completed VIAL's initial medical and mental health intake screening, noting the following:¹⁹

- VIAL spoke Portuguese, and she used interpretation assistance.
- VIAL's vital signs were within normal limits, except for an elevated blood pressure of 129/72.²⁰ His height was 65.25 inches, and he weighed 131.5 pounds.
- VIAL reported no history of alcohol, tobacco, or drug use.
- VIAL reported he had no medical concerns, but stated he had special health care needs for anxiety²¹ and major depressive disorder.²² He reported he was treated for his mental health conditions during his prior detention at TCDF.²³
- VIAL stated he was taking mirtazapine²⁴ (15 milligrams [mg]) at night and sertraline²⁵ (200 mg) daily; also, that he had not received the medications in 3 days.²⁶
- VIAL reported he was currently experiencing serious problems he wanted to discuss with mental health staff.

LPN (b)(6),(b)(7)(C) documented VIAL appeared anxious and unable to sit still, but he was cooperative. VIAL stated he was not in a good place and commented he left the facility 10 days prior and was put on a plane, then he was pulled from the plane and arrested again. VIAL stated he did not want to hurt himself; rather, he just wanted to see the doctor. LPN (b)(7)(E) medically cleared VIAL for placement in general population but, based on her screening findings, referred VIAL to mental health on an urgent basis.²⁷

In addition, LPN (b)(6),(b)(7)(C) completed the following intake processes:

- Tuberculosis (TB) and MRSA²⁸ symptom screening, with negative results, and planted a TB skin test;²⁹

¹⁹ See TCDC Initial Health Screening form, dated July 28, 2022.

²⁰ According to the American Heart Association, this reading falls within the parameters for an elevated blood pressure, which is defined as a systolic (upper number) reading of 129 mm Hg or higher or a diastolic (lower number) reading of 80 mm Hg or lower.

²¹ Anxiety is the intense, excessive, and persistent worry and fear about everyday situations.

²² Major depressive disorder is a mental health disorder characterized by persistently depressed mood or loss of interest in activities, causing significant impairment in daily life.

²³ A brief review of records related to his earlier detention at TCDF confirms VIAL was treated for these conditions.

²⁴ Mirtazapine is an antidepressant and is used to treat major depressive disorder in adults. It is thought to positively affect communication between nerve cells in the central nervous system and/or restore chemical balance in the brain.

²⁵ Sertraline is an antidepressant that belongs to a group of drugs called selective serotonin reuptake inhibitors. It is used to treat major depressive disorder, obsessive-compulsive disorder, panic disorder, social anxiety disorder, and post-traumatic stress disorder.

²⁶ Based on available information to ERAU, no medications arrived with VIAL, nor did TCDF receive a medical transfer summary.

²⁷ Per the Initial Health Screening form, urgent referrals require a face-to-face assessment by a mental health professional by the end of the next business day.

²⁸ See TCDC Intake and Annual Symptom Screening form, dated July 28, 2022.

²⁹ See TCDC Initial Intake Screening form, dated July 28, 2022.

- Test for COVID-19, with negative result;³⁰
- Obtained VIAL's general consent for health services³¹ and authorization for tele-health services,³² and acknowledgement of receipt of health services orientation and access to care;³³
- Medically cleared VIAL for work in food service.³⁴

Following intake, VIAL was assigned to housing unit 3-A,³⁵ a housing unit designated to cohort detainees without proof of COVID-19 vaccination pending completion of a ten-day quarantine.³⁶

At 9:11 a.m., (b)(6),(b)(7)(C) licensed professional clinical counselor (LPCC), completed VIAL's mental health evaluation using interpretation assistance, documenting the following:³⁷

- VIAL reported a history of prescribed psychotropic medication.
- VIAL reported unrecalled, long ago, history of suicide attempts or suicidal ideation.
- VIAL reported a history of victimization due to criminal violence while in Brazil.
- VIAL had increased anxiety and sadness.
- VIAL acknowledged violent/homicidal ideation, although he did not offer a description of his ideation.
- VIAL denied auditory, visual, or other hallucinations but stated auditory hallucinations were restarting due to the absence of medication for 3 days.

LPCC (b)(6),(b)(7)(C) noted VIAL's judgement and insight were impaired and noted detention was a stressor. She assigned VIAL to care level II³⁸ and referred him to psychiatry.

At 10:57 a.m., (b)(6),(b)(7)(C) MD, psychiatrist, conducted a tele-health evaluation of VIAL pursuant to LPCC (b)(6),(b)(7)(C) referral, with interpretation assistance.³⁹ Dr. (b)(6),(b)(7)(C) noted the following:

- VIAL reported being frustrated, sad, and anxious. He stated he had not been told any information regarding his legal case and did not know when he would go back to court.
- VIAL reported not being able to sleep much in the last 3 nights.

³⁰ See TCDC laboratory result, collected and resulted, dated July 28, 2022.

³¹ See TCDC Health Care Services-General Consent (Form 13-50D), dated July 28, 2022.

³² See TCDC Autorizacion Informada-Servicios De Tele-Health, dated July 28, 2022.

³³ See TCDC Centro De Detencion Del Condado Torrance, dated July 28, 2022.

³⁴ See TCDC Medical Evaluation for Food Service Work, dated July 28, 2022.

³⁵ See TCDC Inmate Housing History Report, dated July 27 – August 18, 2022.

³⁶ ERAU interview of Cambria Madrill, Health Services Administrator, dated September 13, 2022.

³⁷ See TCDC, Comprehensive Mental Health Evaluation, dated July 28, 2022.

³⁸ See TCDF Policy 13-61, *Mental Health Services*, dated February 5, 2021. Care level II is classified as: "i. Inmate/detainee patient is able to function in general population with outpatient mental health treatment; ii. Such persons usually have a diagnosis of mental illness but are stable with the support of medication and/or mental health counseling. They often have a history of outpatient and/or inpatient mental health treatment; iii. The scope of treatment provided may include psychotropic medication and individual or group counseling."

³⁹ See TCDC CCC Mental Health Initial or Follow Up 13-06D, dated July 28, 2022.

- VIAL reported being upset as he lost a job in Brazil that would have allowed him to pay his debts.⁴⁰
- VIAL reported his appetite and energy levels were low.
- VIAL denied suicidal ideation, intent, or plan.
- VIAL's appearance was neat and appropriate; his behavior was restless and cooperative; his mood was anxious.
- VIAL requested to restart sertraline (100 mg) and expressed the desire to eventually increase the dosage to 150 mg or 200 mg.
- VIAL stated he preferred not to re-start mirtazapine (15 mg).

Dr. (b)(6),(b)(7)(C) prescribed sertraline (100 mg) daily and hydroxyzine⁴¹ (50 mg) at bedtime. VIAL signed a consent for sertraline and hydroxyzine.⁴² Dr. (b)(6),(b)(7)(C) counseled VIAL on medication effects, side effects, compliance, and toxicity; and scheduled an appointment for follow up in 2 to 3 weeks. The medication administration record (MAR) showed full administration and medication compliance for hydroxyzine, and compliance for sertraline with the following exceptions: on August 4 and 5, 2022, nurses made no entries to the MAR; and on August 7 and 13, 2022, nurses documented he did not report to pill line.⁴³ Furthermore, on August 18, 2022, a nurse documented administration of a dose of sertraline, although VIAL was no longer in the facility.

July 28, 2022

At 5:45 p.m., VIAL submitted a request stating, "Hello, I would like to know how my process is." (b)(6),(b)(7)(C) IERO Deportation Officer, responded the next day informing VIAL he was scheduled to be deported in two weeks.⁴⁴

July 30, 2022

At 12:30 p.m., security personnel changed VIAL's housing assignment to a single cell in medical pending completion of the COVID-19 quarantine period because he was the only detainee in housing unit 3-A.⁴⁵ Because he was not in the cell by order of a healthcare provider, medical observation requirements did not apply. When asked about the presence of Confinement Watch

⁴⁰ During interview with ERAU on September 14, 2022, (b)(6),(b)(7)(C) clarified that VIAL stated he lined up a job in anticipation of being deported, a job lost because he was removed from the flight.

⁴¹ Hydroxyzine is an antihistamine that also reduces activity in the central nervous system, sometimes used as a sedative to treat anxiety and tension.

⁴² See TCDC *Cosentimiento De CoreCivic Para El Uso De Varios Medicamentos*, sertraline and hydroxyzine, dated July 28, 2022.

⁴³ See MAR FLOW, print date September 6, 2022. ERAU notes per CoreCivic policy 13-70, *Pharmaceuticals*, "b. If an inmate/detainee patient does not pick up the above medications for three consecutive medication doses or a pattern of "missed doses" (e.g., every a.m. dose or every p.m. dose for three days), it is identified and documented in the medical record. Once identified, the inmate/detainee patient should be referred to a Licensed Nurse or [Licensed Independent Provider] LIP for discussion on non-compliance to address urgent incidents of missing medications... d. Any inmate/detainee patient stating their intent to refuse their prescribed medication shall sign a 13-49B Refusal to Accept Medical Treatment form. The signed 13-49B will be included in the inmate/detainee patient's medical record." VIAL did not meet these criteria.

⁴⁴ See Staff Detainee Communication, Request #192398082, dated July 28 – 29, 2022.

⁴⁵ See TCDC Inmate Housing History Report, dated July 27 – August 18, 2022. This information was also corroborated by Health Services Administrator (HSA) (b)(6),(b)(7)(C) during her interview, dated September 13, 2022.

Logs for August 1 and 2, 2022, included in medical record,⁴⁶ HSA (b)(6),(b)(7)(C) stated security generates and maintains the forms for detainees placed on medical observation status. Since VIAL was not on medical observation, she could not explain why the watch logs were completed for 2 days, nor why they were in the medical record.

July 31, 2022

At 8:39 a.m., (b)(6),(b)(7)(C) LPCC, assessed VIAL for risk of self-harm/suicide following statements by officers he would harm himself if he did not get to stay in his current cell.⁴⁷ LPCC

(b)(6),(b)(7)(C) documented the following:

- VIAL's past and recent risk factors included diagnosis associated with suicidal behavior; family history of suicide attempts or Axis I⁴⁸ diagnosis requiring hospitalization; anxiety, agitation, and fearfulness; and abnormal response to incarceration.
- VIAL denied suicidal ideation or thoughts of dying and denied self-harm plan and intent.
- VIAL's protective factors included supportive spouse; children at home; future orientation; supportive family/friends; religious/spiritual/cultural support; willingness to discuss/address problems; psychotropic medication; medication compliant, therapeutic alliance; and absence of symptoms of psychosis.
- VIAL affirmed a history of self-harm by cutting his wrists 9 years earlier, with no incidents since that time.
- VIAL reported difficulty falling asleep with medication dosages making little difference in his mood.

VIAL told LPCC (b)(6),(b)(7)(C) he believed that by threatening to harm himself if moved, he would be allowed to stay in his current cell in medical.⁴⁹ LPCC (b)(6),(b)(7)(C) recommended follow-up with psychiatry and released VIAL to assigned housing. LPCC (b)(6),(b)(7)(C) also stated VIAL believed ICE was psychologically torturing him by taking him off the plane and not returning him to Brazil. He opined VIAL was not suicidal, although he was having a difficult time coping.

August 4, 2022

At 12:42 p.m., LPCC (b)(6),(b)(7)(C) conducted a follow-up mental health evaluation using interpretation assistance.⁵⁰ VIAL reported feeling much calmer but said his medication did not help. In addition, he reported his sleep was interrupted with waking several times per night. He believed he would be released and returned to Brazil on August 18, 2022. LPCC (b)(6),(b)(7)(C) noted VIAL was cooperative, alert, and oriented; he denied any suicidal ideation, intent, desire, or plan; and his

⁴⁶ See TCDC Confinement Watch Log, dated August 1, 2022.

⁴⁷ See TCDC Self-Harm/Suicide Assessment, dated July 31, 2022. Although the housing change was entered on July 30, 2022, VIAL appears to have not been moved until after LPCC (b)(6),(b)(7)(C) assessment. LPCC (b)(6),(b)(7)(C) documented use of interpretation services during the assessment.

⁴⁸ Axis I diagnoses includes mood, bipolar, and psychotic disorders.

⁴⁹ See TCDC Self-Harm/Suicide Assessment, dated July 31, 2022. This information was also corroborated during ERAU's interview with LPCC (b)(6),(b)(7)(C) dated September 13, 2022.

⁵⁰ See TCDC Mental Health Note VTI, dated August 4, 2022.

mood was euthymic⁵¹ with congruent affect.⁵² She informed VIAL he would be meeting with psychiatry to discuss medication issues and encouraged him to take medications as prescribed. She scheduled a follow-up visit in 2 weeks.

The same day,⁵³ (b)(6),(b)(7)(C) conducted a follow-up mental health evaluation via tele-health, noting the following:⁵⁴

- VIAL's chief complaints were anxiety and sleeplessness. He reported sleeping poorly, tiredness, and fair appetite.
- VIAL reported his mood was fine, but he remained anxious about returning to Brazil.
- VIAL reported he was hypervigilant and did not trust anyone.
- VIAL reported thinking he was being watched and that his wife might be cheating.
- VIAL reported thinking he was paranoid, and someone might harm him, but stated he knows it is not the case.
- VIAL did not acknowledge having suicidal ideation, intent, or plan.
- VIAL's appearance was neat and appropriate; his behavior was calm and cooperative.
- VIAL's mood was anxious and euthymic.

(b)(6),(b)(7)(C) ordered increases in sertraline to 150 mg daily and hydroxyzine to 100 mg at bedtime. In addition, he added aripiprazole⁵⁵ (2 mg) daily to the current treatment per VIAL's request for antipsychotic medication for chronic paranoia.⁵⁶ VIAL signed a consent to receive the new medication.⁵⁷ (b)(6),(b)(7)(C) scheduled a follow up appointment in 2 weeks.

The MAR documents medication administration and compliance for aripiprazole except on August 7, 12 and 13.⁵⁸ On those dates, nurses documented VIAL failed to report to pill line. On August 16, 2022, the MAR reflected the medication was out of stock.

August 5, 2022

At 9:24 a.m. (b)(6),(b)(7)(C) nurse practitioner (NP), completed VIAL's initial health appraisal, documenting the following:⁵⁹

⁵¹ Euthymic refers to a normal, tranquil mental state or mood.

⁵² Congruent affect refers to an appropriate emotion response to a situation.

⁵³ ERAU notes (b)(6),(b)(7)(C) electronically signed his encounter note at 10:29 a.m., prior to LPCC (b)(6),(b)(7)(C) signature time reflected in her mental health assessment. Because LPCC (b)(6),(b)(7)(C) noted VIAL would be seen by psychiatry to discuss medications, ERAU concluded her assessment occurred prior to (b)(6),(b)(7)(C), and as such documented the assessments in this order versus relying on the documented timestamps alone.

⁵⁴ See TCDC CCC Mental Health Initial or Follow Up 13-06D, dated August 4, 2022. (b)(6),(b)(7)(C) documented use of interpretation services during his assessment.

⁵⁵ Aripiprazole is an antipsychotic medicine that is used to treat schizophrenia in adults and children at least 13 years old.

⁵⁶ Paranoia is a thought process that causes one to have an irrational suspicion or mistrust of others.

⁵⁷ See TCDC Cosentimiento De CoreCivic Para El Uso De Medicamentos Antipsicoticos Atipicos, signed August 4, 2022.

⁵⁸ See MAR FLOW, print date September 6, 2022.

⁵⁹ See TCDC Inmate Resident Health Appraisal, dated August 5, 2022.

- VIAL's vital signs were all within normal limits.
- VIAL reported groin and abdominal pain for the past 3 days and rated pain as level 4 on scale of 10.⁶⁰ He reported a history of kidney stones and urinary issues/symptoms for 1 to 2 years.
- VIAL reported a history of anxiety, depression, and an unknown surgery at one year of age.
- VIAL reported a history of alcohol, tobacco, and illicit drug use.
- VIAL reported his paternal grandfather died from complications related to diabetes.
- VIAL reported no known drug allergies.
- VIAL's physical examination was within normal limits, except for impaired vision, right eye 20/70 and left 20/100. NP (b)(6),(b)(7)(C) ordered a request for an off-site optometry, which was submitted and approved.⁶¹

Based on the examination, NP (b)(6),(b)(7)(C) ordered laboratory and diagnostic tests⁶² for VIAL's report of groin and abdominal pain, and Tylenol⁶³ (500 mg oral tablet, two tablets twice daily as needed). In addition, she ordered a COVID-19 booster, which VIAL declined.⁶⁴ NP (b)(6),(b)(7)(C) provided patient education and recommended VIAL return in 2 weeks for follow-up and lab review.

August 8, 2022

VIAL completed the 10-day quarantine period and was moved out of the medical cell.⁶⁵ According to Clinical Nurse Supervisor (b)(6),(b)(7)(C) registered nurse (RN), the designated infectious disease nurse, or another RN clears patients from quarantine, notifying security of the clearance by email.⁶⁶

Upon VIAL's release from quarantine, unit management staff directed his assignment to Unit 8-A, cell 108 (lower level), lower bunk.⁶⁷ VIAL remained in the unit until his suicide attempt on August 17, 2022, although as discussed below, he changed cells twice. Unit 8 is a general population unit with 4 pods, each with 2 tiers containing 10 cells on each tier. Pod 8-A (b)(7)(E) (b)(7)(E) monitored by the housing unit control officer, who also operates the doors. The housing unit control officer also has vision into each of the pods, although ERAU observed view of Pod 8-A is limited.⁶⁸ (b)(7)(E) (b)(7)(E) detention officer, also referred to as a floor officer, assigned to supervise all four of Unit 8's pods. The officer makes rounds throughout each pod on an irregular basis (b)(7)(E) documenting the rounds on a Random Unit Check form.

⁶⁰ Pain scale 0 to 10, with 0 being no pain and 10 being worst pain.

⁶¹ See ICE Health Service Corps Treatment, Authorization & Consultation Form, dated August 9, 2022.

⁶² The lab specimens ordered by NP (b)(6),(b)(7)(C) were obtained on August 8, 2022.

⁶³ Tylenol is a drug used to treat mild to moderate pain (from headaches, menstrual periods, toothaches, backaches, osteoarthritis, or cold/flu aches and pains) and to reduce fever.

⁶⁴ See TCDC Negacion A Aceptar Tratamiento Medico Form 13-49B, dated August 8, 2022.

⁶⁵ See TCDC Inmate Housing History Report, dated July 27 – August 18, 2022.

⁶⁶ ERAU interview with RN (b)(6),(b)(7)(C) dated September 14, 2022. The facility did not provide ERAU with the email documenting clearance from quarantine.

⁶⁷ See TCDC Inmate Housing History Report, dated July 27 – August 18, 2022.

⁶⁸ ERAU tour on September 13, 2022. The limited line of sight observation is inclusive of both the view from the Housing Unit Control Center and the camera located above the unit entrance door.

August 10, 2022

At 8:55 a.m., LPCC (b)(6),(b)(7)(C) conducted a mental health follow-up evaluation using interpretation assistance.⁶⁹ VIAL reported he was doing well but had not heard when he was leaving. VIAL denied medication side effects but said he had difficulty falling asleep. LPCC (b)(6),(b)(7)(C) noted VIAL was oriented, anxious, and showed no evidence of psychosis. VIAL denied any suicidal ideation, self-injurious behavior, or homicidal ideation. LPCC (b)(6),(b)(7)(C) recommended a follow-up visit in 30 days and encouraged medication compliance.

August 14, 2022

At 2:04 a.m., security personnel entered a change to VIAL's cell assignment from Unit 8-A Cell 108 to Unit 8-A Cell 210.⁷⁰

August 15, 2022 – August 16, 2022

At unknown time, (b)(6),(b)(7)(C) RN, completed a COVID-19 checklist, documenting VIAL's negative symptom screening, and a medical transfer summary, noting a departure date of August 15, 2022.⁷¹ The next day, (b)(6),(b)(7)(C) RN, completed a second Prisoner in Transit Medical Summary, duplicating the information.⁷²

August 17, 2022 – Day of Suicide Attempt

The information below depicts the events leading to and following VIAL's suicide attempt, discovered at 3:18 p.m. In addition to summarizing the events as documented and reported during interviews, ERAU analyzed documentation of security rounds and ancillary entry to the pod by staff (b)(7)(E) starting at 12 p.m. (b)(7)(E) officer made security rounds approximately (b)(7)(E) as documented on the Random Unit Check Log.⁷³

At 4:37 a.m., VIAL sent a request to ICE stating, "(b)(6),(b)(7)(C) had told me that the day before yesterday he would be leaving for deportation, I took the covid test at dawn on Tuesday. But, I am still here, could you let me know what happened please? Grateful!"⁷⁴ At 6:52 a.m., (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) ERO Deportation Officer, responded, "I don't know why you got taken off the flight, but they reschedule it to 01/09/2022 and you'll be in it, sorry for the inconvenience." Records indicate that VIAL's removal was in fact rescheduled to September 1, 2022.⁷⁵

⁶⁹ See TCDC Mental Health Note v11, dated August 10, 2022.

⁷⁰ See TCDC Inmate Housing History Report, dated July 27 – August 18, 2022.

⁷¹ See ICE COVID-19 Checklist, dated August 15, 2022; *see also* Prisoner in Transit Medical Summary, dated August 15, 2022.

⁷² See Prisoner in Transit Medical Summary, dated August 16, 2022. ERAU does not know why a second transfer summary was prepared.

⁷³ (b)(7)(E) Unit 8-A, dated August 17, 2022; *see also* Random Unit Checks log, 8-A, dated August 17, 2022.

⁷⁴ See Staff Detainee Communication, Request #196055522, dated August 17, 2022.

⁷⁵ See EARM, Comments, dated August 16, 2022.

At 8:15 a.m., (b)(6),(b)(7)(C) Detention Officer, escorted VIAL to the food service department⁷⁶ for his work detail.⁷⁷ VIAL fell by the gate and reported he was dizzy; therefore, Officer (b)(6),(b)(7)(C) sent him to the medical department.

At 8:38 a.m., (b)(6),(b)(7)(C) RN, evaluated VIAL.⁷⁸ VIAL reported he felt fine and was just a little dizzy, stating he had not eaten breakfast. His vital signs and examination findings were normal. RN (b)(6),(b)(7)(C) encouraged him to eat breakfast and increase water intake and released him from the medical department. VIAL returned to food service approximately 10 to 15 minutes later stating he just needed to eat.⁷⁹

Following VIAL's return to the housing unit from his work assignment (time unknown), he approached (b)(6),(b)(7)(C) Detention Counselor, while (b)(6),(b)(7)(C) was issuing razors to detainees.⁸⁰ VIAL requested a razor, but Counselor (b)(6),(b)(7)(C) became concerned during their conversation as VIAL indicated he was not doing well; Counselor (b)(6),(b)(7)(C) subsequently referred VIAL to medical.

(b)(6),(b)(7)(C) RN, stated Counselor (b)(6),(b)(7)(C) approached her and said VIAL was upset and had declined a razor until he saw medical.⁸¹ She agreed to see VIAL, who then moved directly to the satellite medical office near Unit 8-A.⁸² VIAL was visibly upset and agitated.⁸³ RN (b)(6),(b)(7)(C) documented that he said, "I want to talk to my psychologist about my deportation. This is the second time they cancelled, but I don't think what they are doing to me is right." VIAL denied suicidal or homicidal ideation but asked to be placed in a separate cell, such as medical, for the night. RN (b)(6),(b)(7)(C) contacted LPCC (b)(6),(b)(7)(C) who was unavailable, then contacted LPCC (b)(6),(b)(7)(C) who agreed to see VIAL. Asked about this encounter, RN (b)(6),(b)(7)(C) stated to ERAU that VIAL repeatedly denied wanting to harm himself and that he said his request for a separate cell was because he wanted to be alone.⁸⁴ She explained to VIAL that placement in alternative housing would be at the discretion of the mental health provider. RN (b)(6),(b)(7)(C) could not recall if she relayed VIAL's request for housing in a separate cell to LPCC (b)(6),(b)(7)(C).

At 10:44 a.m., VIAL responded to DO (b)(6),(b)(7)(C) 6:52 a.m. reply to his earlier request regarding his expected deportation the day before.⁸⁵ VIAL stated, "Wow. It's the second time... My family has already been told that I would go, for God's sake (b)(6),(b)(7)(C) I have a problem with [*sic*]." DO (b)(6),(b)(7)(C) responded at 2:47 p.m., notifying VIAL his seat on the flight in September has been confirmed. Given events described below, ERAU concludes VIAL did not see the response.

⁷⁶ Although cleared to work in food service (see medical intake), there was no record provided to ERAU of when VIAL's work assignment started.

⁷⁷ ERAU interview with Officer (b)(6),(b)(7)(C) dated September 15, 2022.

⁷⁸ See TCDC Progress Note v11, dated August 17, 2022.

⁷⁹ ERAU interview with Officer (b)(6),(b)(7)(C) dated September 15, 2022.

⁸⁰ ERAU interview with Counselor (b)(6),(b)(7)(C) dated September 14, 2022.

⁸¹ ERAU interview with RN (b)(6),(b)(7)(C) dated September 14, 2022.

⁸² ERAU interview with Counselor (b)(6),(b)(7)(C) dated September 14, 2022.

⁸³ See TCDC Mental Health Note v11, dated August 17, 2022.

⁸⁴ ERAU interview with RN (b)(6),(b)(7)(C) dated September 14, 2022.

⁸⁵ See Staff Detainee Communication, Request #196110072, dated August 17, 2022. ERAU notes there is a section to document "Details of Request," with a subsection titled, "Nature of Request." Within this subsection, VIAL documented, "Anxiety and depression, it's been 4 months since I've been in prison, I can't stand it more, I beg you, leave me on this flight or buy the ticket."

At 1:47 p.m., VIAL enters Unit 8-A and proceeds to his cell.⁸⁶ A minute later, VIAL exited his Cell 210, with bags of his property and placed the property in Cell 206. There is no documentation or video evidence that VIAL requested authorization from the officer to change cells; therefore, ERAU sought clarification of the facility's procedures for approving and making cell changes from facility staff and one detainee. According to (b)(6),(b)(7)(C) Chief of Unit Management, detainees are not permitted to change cells without authorization; rather, they can request a cell change through the unit counselor. If approved, the counselor informs the housing unit control officer by paper or electronically, and the housing unit control officer enters the change in the computer system.⁸⁷ (b)(6),(b)(7)(C) Chief of Security, confirmed the unit management team is responsible for overseeing requests for cell changes.⁸⁸ He also stated the shift supervisor enters cell changes after notification by the officer performing the (b)(7)(E) face-to-photo count that a detainee is in a different cell than that assigned. Chief of Security (b)(6),(b)(7)(C) was confident VIAL had physically moved before count because detainees are secured in their cells at that point, but he could not address approval for the cell change. (b)(6),(b)(7)(C) an officer and counselor on temporary duty assignment from the Stewart Detention Center in Georgia, stated detainees change cells when and where they want at TCDF.⁸⁹ Detainee (b)(6),(b)(7)(C) who was housed in Unit 8-A with VIAL, independently substantiated Officer (b)(6),(b)(7)(C) observation, stating through an interpreter, "If you want to move to a space and its open, you can go there. They don't control that."⁹⁰

At approximately 1:55 p.m., Officer (b)(6),(b)(7)(C) who was relieving Unit 8 (b)(6),(b)(7)(C) observed VIAL in front of Cell 206, crying.⁹¹ Officer (b)(6),(b)(7)(C) stated to ERAU that VIAL was upset because his deportation had been cancelled again. Officer (b)(6),(b)(7)(C) commented that VIAL's emotional behavior was very uncharacteristic of him, stating VIAL was typically jovial and liked to joke and dance around. Other staff shared the same observations.⁹² As a result, (b)(6),(b)(7)(C) decided VIAL should see mental health staff.

While (b)(6),(b)(7)(C) was escorting VIAL to the mental health department, (b)(6),(b)(7)(C) (b)(7)(E) encountered them and observed VIAL was "crying his eyes out."⁹³ VIAL hit the wall with his hand and sat on the ground, continuing to cry. (b)(6),(b)(7)(C) did not place VIAL in handcuffs because he believed the act was an emotional reaction to his situation. (b)(6),(b)(7)(C) took over escort to the mental health department. Per request of (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) RN, reported to the mental health department to evaluate VIAL for injury to his hand.⁹⁴ RN (b)(6),(b)(7)(C) documented VIAL confirmed he hit the wall after receiving bad news, and that he had bruising, discoloration, swelling, and difficulty making a fist with his right hand.⁹⁵ VIAL reported intermittent throbbing pain and rated his pain level six. RN (b)(6),(b)(7)(C) noted her

⁸⁶ (b)(7)(E) Unit 8-A, dated August 17, 2022.

⁸⁷ ERAU interview with Chief of Unit Management (b)(6),(b)(7)(C) dated September 15, 2022.

⁸⁸ ERAU interview with Chief of Security (b)(6),(b)(7)(C) dated September 15, 2022.

⁸⁹ ERAU interview with Detention Officer (b)(6),(b)(7)(C) dated September 14, 2022.

⁹⁰ ERAU interview with (b)(6),(b)(7)(C) dated September 15, 2022.

⁹¹ ERAU interview with Officer (b)(6),(b)(7)(C) dated September 15, 2022.

⁹² ERAU interviews with Officer (b)(6),(b)(7)(C) counselor (b)(6),(b)(7)(C) and RN (b)(6),(b)(7)(C) all dated September 14, 2022.

⁹³ ERAU interview with Captain (b)(6),(b)(7)(C) dated September 15, 2022.

⁹⁴ ERAU interview with RN (b)(6),(b)(7)(C) dated September 15, 2022.

⁹⁵ See TCDC Facility Emergency Anatomical Form-USM, dated August 17, 2022; see also TCDC Orthopedic Injuries 13-71A24, dated August 17, 2022.

assessment was brief to allow for completion of the mental health assessment. She recommended over-the-counter Tylenol, Motrin, comfort measures and VIAL's return to medical for a full assessment.

LPCC (b)(6),(b)(7)(C) evaluated VIAL following the injury assessment.⁹⁶ LPCC (b)(6),(b)(7)(C) documented nursing staff had informed her VIAL was very upset after meeting with ICE regarding his deportation. VIAL confirmed the information, stating to LPCC (b)(6),(b)(7)(C) that ICE notified him his deportation flight was cancelled and that he would be placed on another flight in the near future. VIAL was shaking, crying, and very upset, stating he would never get out of TCDF. He expressed frustration over his ongoing detention and said he wanted to go home. VIAL calmed down during the visit and denied any suicidal ideation, self-injurious behavior, or homicidal ideation, desire, or plan. LPCC (b)(6),(b)(7)(C) documented (b)(6),(b)(7)(C) contacted the ICE agents and asked that they speak with VIAL again. During interview, LPCC (b)(6),(b)(7)(C) stated that after a long wait for the agents to come to the mental health office, (b)(6),(b)(7)(C) left to find them.⁹⁷ LPCC (b)(6),(b)(7)(C) concluded the encounter after a further wait, documenting the treatment plan was for VIAL to be followed up by mental health and psychiatry the next day.⁹⁸ Asked whether she considered placing VIAL on suicide watch, LPCC (b)(6),(b)(7)(C) stated she did initially but ultimately did not order watch because he seemed to relax and show some insight, talking about a job in Brazil, paying his debt, and places he liked to visit.⁹⁹ She stated she felt good about her interaction with VIAL and that he had made a thumbs-up gesture when he left her office. LPCC (b)(6),(b)(7)(C) also said she was not aware of VIAL's earlier request to be housed alone.

At approximately 2:30 p.m., (b)(6),(b)(7)(C) encountered (b)(6),(b)(7)(C) Detention Officer, while she was escorting VIAL back to the housing unit from the mental health office.¹⁰⁰ (b)(6),(b)(7)(C) took custody of VIAL as ICE Deportation Officers (DO) (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) approached. During interview with ERAU and in a written memorandum, DO (b)(6),(b)(7)(C) stated he observed VIAL was very upset and his eyes were watery.¹⁰¹ VIAL said ICE lied to him and that he wanted to be deported immediately. The DOs repeatedly told him to calm down and assured him he was scheduled for departure in the following days. VIAL grew increasingly agitated and started to cry, rubbing his face. He talked over the DOs and said he wanted the death penalty if not allowed to leave. The DOs twice offered VIAL a phone call to Brazil or elsewhere, which VIAL declined. Before parting, they again implored VIAL to calm down and have patience, and repeated that he would be leaving soon. Also, having been informed that VIAL had hit the wall earlier, they told him that was not appropriate. According to (b)(6),(b)(7)(C) they recommended that he write a disciplinary report.¹⁰²

⁹⁶ See TCDC Mental Health Note v11, dated August 17, 2022.

⁹⁷ ERAU interview with LPCC (b)(6),(b)(7)(C) dated September 13, 2022. During an interview with ERAU on September 15, 2022, (b)(6),(b)(7)(C) confirmed he left the mental health office to find the ERO officers.

⁹⁸ See TCDC Mental Health Note v11, dated August 17, 2022.

⁹⁹ ERAU interview with LPCC (b)(6),(b)(7)(C) dated September 13, 2022.

¹⁰⁰ ERAU interview with Office (b)(6),(b)(7)(C) dated September 13, 2022.

¹⁰¹ ERAU interview with DO (b)(6),(b)(7)(C) dated September 15, 2022; see also memorandum for (b)(6),(b)(7)(C) Supervisory Detention and Deportation Officer, undated.

¹⁰² ERAU interview with (b)(6),(b)(7)(C), dated September 13, 2022.

After their discussion with VIAL, DOs (b)(6),(b)(7)(C) proceeded directly to LPCC (b)(6),(b)(7)(C) office to verify he was cleared and would continue to receive services.¹⁰³ They also inquired about VIAL's job assignment in the kitchen because, as explained during the interview, they were concerned about his access to knives and equipment.¹⁰⁴ LPCC (b)(6),(b)(7)(C) said VIAL was cleared and appeared to be stable and was consequently cleared; she also indicated that continued work in the kitchen would be fine and that she would see him the next day.¹⁰⁵

LPCC (b)(6),(b)(7)(C) confirmed the DOs came to her office.¹⁰⁶ She said they told her VIAL was on standby and would be deported by the end of the month, and that they had explained that to him. LPCC (b)(6),(b)(7)(C) thought that was great and confirmed she told the DOs she would see VIAL the next day. Asked whether the DOs had expressed any concerns as to VIAL's well-being, she stated no. LPCC (b)(6),(b)(7)(C) also added that she was confident (b)(6),(b)(7)(C) would have returned VIAL to her if there were any continuing concerns following VIAL's meeting with DOs, but acknowledged the captain is not a mental health professional.

At 2:45 p.m., VIAL entered Unit 8-A, proceeded to Cell 206, and sat down in front of the cell.¹⁰⁷ Other detainees were moving about the unit; however, they did not interact with VIAL. About 2 minutes later, VIAL stood up, entered Cell 206, and closed the door. Another detainee then entered the cell and closed the door. At 2:48 p.m., the cell door opened and both VIAL and the other detainee exited the cell.

At 2:49 p.m., VIAL spoke with Officer (b)(6),(b)(7)(C) near his former Cell, 210.¹⁰⁸ Officer (b)(6),(b)(7)(C) opened the door and VIAL entered, then exited with a sheet and proceeded to Cell 206, closing the door behind him. One minute later, Officer (b)(6),(b)(7)(C) looked in Cell 206.

Between 2:54 p.m. and 3:00 p.m., movement within Cell 206 (b)(7)(E) Detainee (b)(6),(b)(7)(C) who was cleaning cell door windows, stated during an interview he did not clean the window as he passed by the cell, but he did see VIAL laying on the lower bunk, which was further confirmed through (b)(7)(E) be at 3:04 p.m.¹¹⁰ The blanket and sheet were on the floor.

At 3:18 p.m., Officers (b)(6),(b)(7)(C) entered Unit 8-A for count; Officer (b)(6),(b)(7)(C) proceeded to Cell 101 and Officer (b)(6),(b)(7)(C) proceeded to Cell 201.¹¹¹ Within a minute, Officer (b)(6),(b)(7)(C) looked in Cell 206 and saw VIAL hanging from a shelf in his room with a sheet tied around his neck.¹¹² Officer (b)(6),(b)(7)(C) then used his radio to call a medical emergency and

¹⁰³ See memorandum for SDDO (b)(6),(b)(7)(C) undated.

¹⁰⁴ ERAU interview with DO (b)(6),(b)(7)(C) dated September 15, 2022.

¹⁰⁵ See memorandum for SDDO (b)(6),(b)(7)(C) undated.

¹⁰⁶ ERAU interview with LPCC (b)(6),(b)(7)(C) dated September 13, 2022.

¹⁰⁷ (b)(7)(E) Unit 8-A, dated August 17, 2022.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*; see also ERAU interview with (b)(6),(b)(7)(C), dated September 15, 2022.

¹¹¹ (b)(7)(E) Unit 8-A, dated August 17, 2022.

¹¹² See Officer (b)(6),(b)(7)(C) Incident Statement (5-1C), dated August 17, 2022.

verbally called for Officer (b)(6),(b)(7)(C) to come quickly.¹¹³ Three detainee workers in the common area looked up toward Officer (b)(6),(b)(7)(C) as Officer (b)(6),(b)(7)(C) ran up the stairs.¹¹⁴

At 3:19 p.m., Officer (b)(6),(b)(7)(C) and Officer (b)(6),(b)(7)(C) entered Cell 206. Seconds later, the detainees from the common area entered Cell 206. Officer (b)(6),(b)(7)(C) and the detainees lifted VIAL upward while Officer (b)(6),(b)(7)(C) removed the sheet from around VIAL's neck, then they lowered VIAL to the floor.¹¹⁵ The three detainees exited Cell 206 and were visibly upset.¹¹⁶ Officer (b)(6),(b)(7)(C) started cardiopulmonary resuscitation (CPR)¹¹⁷ as other staff started arriving on scene, the first approximately one minute after the emergency call.¹¹⁸ Among the first was Captain (b)(6),(b)(7)(C) who stated he directed Central Control to call emergency medical services (EMS)¹¹⁹ and took over chest compressions.¹²⁰ Security personnel rotated performance of chest compressions between themselves and nurses,¹²¹ who during the response, brought an automated external defibrillator (AED), an ambu bag,¹²² and supplemental oxygen to the scene.¹²³ Nurses noted VIAL was diaphoretic,¹²⁴ pale, and in asystole¹²⁵ with no spontaneous respiratory activity when they arrived. RN (b)(6),(b)(7)(C) applied the AED, CPR with rescue breaths continued, and oxygen was administered.¹²⁶ One shock was advised by the AED during the response.

At 3:42 a.m., EMS arrived at TCDF and was at VIAL's side 5 minutes later.¹²⁷ The EMS responders assumed care of VIAL, supported by TCDF nursing staff. EMS placed an IV, administered medication, and intubated VIAL. EMS detected VIAL's pulse at 4:08 p.m. At 4:10 p.m., staff removed VIAL from Cell 206 on a backboard and placed him on a gurney at the bottom of the stairs.¹²⁸ Three minutes later, EMS removed VIAL from the unit, and at 4:21 p.m., departed the facility with VIAL. (b)(6),(b)(7)(C) Detention Officer, and RN (b)(6),(b)(7)(C) accompanied VIAL in the ambulance.¹²⁹ (b)(6),(b)(7)(C) Senior Detention Officer, escorted the ambulance in a chase vehicle.¹³⁰

¹¹³ ERAU interview with Officer (b)(6),(b)(7)(C) dated September 14, 2022.

¹¹⁴ (b)(7)(E) Unit 8-A, dated August 17, 2022.

¹¹⁵ ERAU interviews with Officer (b)(6),(b)(7)(C), dated September 13 and 14, 2022, respectively.

¹¹⁶ (b)(7)(E) Unit 8-A, dated August 17, 2022.

¹¹⁷ See Officer (b)(6),(b)(7)(C) Incident Statement (5-1C), dated, August 17, 2022.

¹¹⁸ (b)(7)(E) Unit 8-A, dated August 17, 2022.

¹¹⁹ ERAU interview with Captain (b)(6),(b)(7)(C) dated September 13, 2022. Documentation of the call is not reflected in records provided to ERAU; however, according to the- EMS report, an ambulance was dispatched at 3:26 p.m. See Superior Ambulance Service, Prehospital Care Report, revised date September 1, 2022.

¹²⁰ See Captain (b)(6),(b)(7)(C) Incident Statement (5-1C), dated August 17, 2022.

¹²¹ See Senior Detention Officer (b)(6),(b)(7)(C) Incident Statement (5-1C), dated August 17, 2022.

¹²² An ambu bag is a hand-held device commonly used to provide positive pressure ventilation to patients who are not breathing or not breathing adequately.

¹²³ See RN (b)(6),(b)(7)(C) Incident Statement (51-C), dated August 17, 2022; see also TCDC Facility Emergency Flow Sheet Form 13-34A1, dated August 17, 2022; and Emergency Record Form 13-34C, dated August 17, 2022.

¹²⁴ Diaphoretic is used to describe a person with excessive sweating.

¹²⁵ Asystole is the cessation or absence of electrical and mechanical activity of the heart.

¹²⁶ See RN (b)(6),(b)(7)(C) Incident Statement (51-C), dated August 17, 2022.

¹²⁷ See Superior Ambulance Service, Prehospital Care Report, revised date September 1, 2022.

¹²⁸ (b)(7)(E) Unit 8-A, dated August 17, 2022.

¹²⁹ See Detention Officer (b)(6),(b)(7)(C) Incident Statement (5-1C), dated, August 17, 2022.

¹³⁰ See Senior Detention Officer (b)(6),(b)(7)(C) Incident Statement (5-1C), dated, August 17, 2022.

At 4:55 p.m., EMS arrived with VIAL at Presbyterian Kaseman Hospital in Albuquerque, NM;¹³¹ the same day, VIAL was transferred to UNMH hospital for a higher level of care.¹³² VIAL was admitted into the intensive care unit for management of multisystem organ failure and further assessment of neurologic status. Intracranial imaging showed anoxic brain injury¹³³ and brain testing was performed on August 24, 2022. At 10:34 a.m. on August 24, 2022,¹³⁴ a UNMH hospital physician pronounced VIAL dead by neurologic status. The UNMH hospital physician documented disposition to the Office of the Medical Investigator pending donor services. VIAL's body remained at UNMH hospital until organ harvest was completed on August 28, 2022.

Post-Death Events

During the same shift as the incident, supervisors collected Incident Statements from all staff involved in the emergency response and three detainees who were present.¹³⁵ Staff involved in the emergency response stated they were offered supportive counseling through the Employee Assistance Program.¹³⁶ The detainees who were present during the incident response were offered mental health services.¹³⁷

On August 22, 2022, (b)(6),(b)(7)(C) CoreCivic Investigator, completed an internal investigation.¹³⁸

On August 25, 2022, at approximately 4:09 p.m., SDDO (b)(6),(b)(7)(C) notified the Consulate of Brazil in Houston, Texas by phone of VIAL's death.¹³⁹

On August 29, 2022, Office of The Medical Investigator issued an autopsy report documenting the cause death as hanging by suicide.¹⁴⁰

On October 5, 2022, SDDO (b)(6),(b)(7)(C) mailed VIAL's property to his next of kin.¹⁴¹

FINDINGS

ERAU reviewed the medical care TCDCF provided VIAL, as well as their efforts to ensure he was safe and secure while detained at the facility. ERAU found TCDF failed to comply with two

¹³¹ See Superior Ambulance Service, Prehospital Care Report, revised date September 1, 2022.

¹³² See UNMH Hospital Health Record, fax date August 30, 2022. During VIAL's hospitalization, officers assigned to provide security coverage made required and appropriate documentation to the hospital logbook.

¹³³ Anoxic brain injuries are caused by a complete lack of oxygen to the brain, which results in the death of brain cells after approximately 4 minutes of oxygen deprivation.

¹³⁴ See **Exhibit 1**: Office of the Medical Investigator Postmortem Examination, dated August 29, 2022.

¹³⁵ See Incident Statements (5-1C), dated August 17, 2022.

¹³⁶ ERAU interviews on September 13-15, 2022.

¹³⁷ ERAU interview with detainee (b)(6),(b)(7)(C) dated September 15, 2022; see also LPC (b)(6),(b)(7)(C) Incident Statement (51-C), dated August 18, 2022.

¹³⁸ See Incident Investigation Report, dated August 22, 2022.

¹³⁹ See ERO Records Request, dated August 31, 2022. On August 31, 2022, ERO Acting Field Office Director (b)(6),(b)(7)(C) also notified the Brazilian Consulate of VIAL's death via memorandum. See memorandum for the Brazilian Consulate, dated August 31, 2022.

¹⁴⁰ See **Exhibit 1**: Office of the Medical Investigator Postmortem Examination, dated August 29, 2022. At the time of report publication, there was no death certificate available to ERAU.

¹⁴¹ See SDDO (b)(6),(b)(7)(C) email, "Re: Personal Belongings of Kesley Vial," dated October 5, 2022.

requirements of the ICE Performance-Based National Detention Standards 2011. In this report, ERAU has included two other areas of concern that are not covered by the ICE PBNDS 2011. These deficiencies and areas of concern are noted for informational purposes only and should not be construed as contributory to the detainee's death.

1. *Medical Care*, Section (V)(U), which states, "Distribution of medication (including over the counter) shall be performed in accordance with specific instructions and procedures established by the HSA in consultation with the CMA. Written records of all prescribed medication given to or refused by detainees shall be maintained."
 - On August 4 and 5, 2022, the medication administration record did not document administration or attempted administration of prescribed medication.
 - On August 18, 2022, the medication administration record indicated a dose of sertraline was administered to VIAL; however, he was admitted to UNMH hospital the previous day, August 17, 2022.
2. *Significant Self-harm and Suicide Prevention and Intervention*, Section (V)(A), which states, "All facility staff members who interact with and/or are responsible for detainees shall be trained, during orientation and at least annually."
 - The training records of eight staff members did not include documentation of training in the 2021 training year.

AREAS OF CONCERN

Although not deficiencies in the facility's compliance with the ICE PBNDS 2011, ERAU notes the following concerns regarding VIAL's medical care, safety, and security.

- VIAL arrived at TCDF on July 27, 2022, without a transfer summary or prescribed antipsychotic medication, and had not received medication for three days.
- Although TCDF security management indicated there were procedures in place to monitor and approve detainee cell changes, ERAU did not find written guidance to support this procedure; additionally, interviews with staff and detainees indicated these procedures are neither known nor enforced.

EXHIBITS

1. Office of the Medical Investigator Postmortem Examination, dated August 29, 2022.