

## **Immigrant's Death in Detention Prompts New Criticism**

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### **Body**

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The **death** of a Dominican man last month at a **detention** center in lower Manhattan has **prompted** advocates for immigrants to raise questions once again about the conditions in which immigrants are held in the **New** York region and elsewhere in the country.

After a month of tests, the authorities revealed last week that Miguel A. Valoy-Nunez, a seemingly healthy 40-year-old awaiting deportation, died of pneumonia and a viral infection two days after he first complained of chest pain and a consistent cough. Nurses at the immigration **detention** center on Varick Street treated him as if he had a cold and he was never checked by a doctor, Federal health officials have said.

The fact that Mr. Valoy-Nunez's **death** -- the first at an immigration **detention** center -- was from a treatable disease **prompted** advocates to renew their complaints against not only the way the Immigration and Naturalization Service treats detainees but also the practice of **detention** itself.

Lawyers and advocates for immigrants have been particularly concerned with **detention** issues since a Federal law that mandates the **detention** of all noncitizens who commit deportable crimes went into effect last fall. Since then, jails and **detention** centers have been filled to capacity and, sometimes, beyond capacity.

Overcrowding has become such an issue for the I.N.S. that immigration officials said last week that some of the immigrants who were convicted of less serious crimes were likely to be released soon to free up bed space.

Those who are released will await deportation at home, but some may flee, immigration officials acknowledged. Although the releases are contrary to the law, the agency's hands are tied, said Russell A. Bergeron, an I.N.S. spokesman in Washington.

"We are only mandated to do what we can do with the resources we have," he said. "We simply don't have the space to **detain** all the criminal immigrants we encounter."

Nationwide, 93 percent of the beds the I.N.S. uses for the **detention** of immigrants are occupied. In the Eastern region, which includes **New** York and **New** Jersey, 100 percent of the beds are occupied, Mr. Bergeron said.

Overcrowding has resulted in a host of problems for the I.N.S. In the past few months alone, well over 100 detainees at various immigration centers in the **New** York region have staged hunger strikes, several have attempted suicide, and a few have had confrontations with guards.

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In October, a group of detainees at the Wackenhut detention center in Jamaica, Queens, went on a hunger strike that lasted for about two weeks. During the strike, three detainees, all people seeking political asylum, tried to kill themselves. The protest in Queens came five days after 94 detainees went on a hunger strike at the detention center in Elizabeth, N.J.

In November, 80 detainees on Varick Street protested because they were sleeping on mattresses on the floor in a dormitory meant to house only 42. That same month, a detainee from Jordan tried to kill himself at the detention center in Elizabeth. And last week, in the same center, a man from Italy also attempted suicide, immigration officials said.

The increasing number of detainees has not led the authorities to assign more medical personnel to detention centers in the New York region, said Ada Rivera, medical director for the United States Public Health Service's division of immigration health service, which cares for immigrants in detention.

The center on Varick Street is staffed with registered nurses around the clock, plus a doctor, a physician's assistant and a pharmacist during office hours. After office hours and on the weekends, doctors are on call and at least one nurse remains in the clinic per shift. That number of employees is adequate for up to 450 detainees, Dr. Rivera said. The Varick center's maximum average daily population in the last three years has never topped 195; last week there were 155 detainees, 10 more than its capacity.

This is not the first time that concerns have been raised about the Varick Street center. A 1992 study of the facility by the American Civil Liberties Union in New York found medical care there deficient.

"The question is, what kind of system is there in place to avoid this sort of thing from happening again?" said Judy Rabinovitz, a lawyer with the A.C.L.U. "Does someone have to die for us to see some kind of reaction?"

Mr. Valoy-Nunez, a legal resident of the United States since 1980, arrived at Varick Street on Dec. 28 after serving seven months on Rikers Island on a misdemeanor drug conviction. In September 1997, the police found a tiny amount of heroin in his home, according to his lawyer, Sanford Talk. Mr. Valoy-Nunez's crime rendered him deportable under new federal laws that make the possession of drugs, except for a small amount of marijuana, a deportable crime for noncitizens.

Five days after arriving at the detention center, Mr. Valoy-Nunez developed a fever and a severe cough. Two days later he was dead. His widow, Anna Valoy-Nunez, blames neglect. Had her husband of 15 years been taken to a hospital, as the couple had repeatedly asked his jailers to do, he would be alive today, she said.

"He didn't get the right treatment, that's all," Mrs. Valoy-Nunez, 41, said, drying her tears while sitting in the dining room of her apartment in Borough Park, Brooklyn. "He belonged in a hospital and they refused to listen."

Health officials deny that Mr. Valoy-Nunez's death was caused by lack of medical care. The Public Health Service is investigating the case, and has found no wrongdoing so far, according to Gene Migliaccio, director of the division of immigration health services. His death, Dr. Migliaccio said, has baffled the staff.

On the weekend before his death, Mr. Valoy-Nunez was checked 10 times during 36 hours by nurses who gave him over-the-counter cold medicines. On Monday, Jan. 4, during regular clinic hours, a physician's assistant thought he heard an unusual noise in Mr. Valoy-Nunez's lungs and ordered blood work and an X-ray. But it was too late; Mr. Valoy-Nunez died shortly afterward.

Doctors at the Public Health Service say they do not know whether Mr. Valoy-Nunez's life could have been saved if a doctor had actually checked him when he first complained of feeling ill.

"Hindsight is 20-20," Dr. Rivera said. "Could he be alive today if a doctor had seen him? That's an impossible question."

But that is the question that keeps Mrs. Valoy-Nunez awake at night, staring at the urn where she keeps the ashes of her husband next to her bed.

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A month after his death, his Christmas gifts remain unopened in a closet in the couple's bedroom. Christmas ornaments, which were hung in anticipation of his release from Rikers Island, are still on the walls. His son, Steven, 14, said he wishes his father were home to help him with his basketball game; his daughter, Doris, 15, wishes she could talk to him one more time.

Because deportation to the Dominican Republic seemed inevitable before Mr. Valoy-Nunez's death, the family had already made plans to move there.

"We dreamed of a house in the capital and opening a business, a hair salon," she said. "We would have followed him."

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## Graphic

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Photos: Anna Valoy-Nunez blames detention center neglect for her husband's death. "He belonged in a hospital and they refused to listen," she said. (Frances Roberts for The New York Times); Miguel A. Valoy-Nunez died in an I.N.S. detention center last month.

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