

For Immigrants Who Died in U.S. Custody, Few Details Provided

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Word spread quickly inside the windowless walls of the Elizabeth Detention Center, an immigration jail in New Jersey: A detainee had fallen, injured his head and become incoherent. Guards had put him in solitary confinement, and late that night, an ambulance had taken him away more dead than alive.

But outside, for five days, no official notified the family of the detainee, Boubacar Bah, a 52-year-old tailor from Guinea who had overstayed a tourist visa. When frantic relatives located him at University Hospital in Newark on Feb. 5, 2007, he was in a coma after emergency surgery for a skull fracture and multiple brain hemorrhages. He died there four months later without ever waking up, leaving family members on two continents trying to find out why.

Mr. Bah's name is one of 66 on a government list of deaths that occurred in immigration custody from January 2004 to November 2007, when nearly a million people passed through.

The list, compiled by Immigration and Customs Enforcement after Congress demanded the information, and obtained by The New York Times under the Freedom of Information Act, is the fullest accounting to date of deaths in immigration detention, a patchwork of federal centers, county jails and privately run prisons that has become the nation's fastest-growing form of incarceration.

The list has few details, and they are often unreliable, but it serves as a rough road map to previously unreported cases like Mr. Bah's. And it reflects a reality that haunts grieving families like his: the difficulty of getting information about the fate of people taken into immigration custody, even when they die.

Mr. Bah's relatives never saw the internal records labeled "proprietary information — not for distribution" by the Corrections Corporation of America, which runs the New Jersey

detention center for the federal government. The documents detail how he was treated by guards and government employees: shackled and pinned to the floor of the medical unit as he moaned and vomited, then left in a disciplinary cell for more than 13 hours, despite repeated notations that he was unresponsive and intermittently foaming at the mouth.

Mr. Bah had lived in New York for a decade, surrounded by a large circle of friends and relatives. The extravagant gowns he sewed to support his wife and children in West Africa were on display in a Manhattan boutique.

But he died in a sequestered system where questions about what had happened to him, or even his whereabouts, were met with silence.

As the country debates stricter enforcement of immigration laws, thousands of people who are not American citizens are being locked up for days, months or years while the government decides whether to deport them. Some have no valid visa; some are legal residents, but have past criminal convictions; others are seeking asylum from persecution.

Death is a reality in any jail, and the medical neglect of inmates is a perennial issue. But far more than in the criminal justice system, immigration detainees and their families lack basic ways to get answers when things go wrong.

No government body is required to keep track of deaths and publicly report them. No independent inquiry is mandated. And often relatives who try to investigate the treatment of those who died say they are stymied by fear of immigration authorities, lack of access to lawyers, or sheer distance.

Federal officials say deaths are reviewed internally by Immigration and Customs Enforcement, which reports them to its inspector general and decides which ones warrant investigation. Officials say they notify the detainee's next of kin or consulate, and report the deaths to local medical authorities, who may conduct autopsies. In Mr. Bah's case, a review before his death found no evidence of foul play, an immigration spokesman said, though after later inquiries from The Times, he said a full review of the death was under way.

But critics, including many in Congress, say this piecemeal process leaves too much to the agency's discretion, allowing some deaths to be swept under the rug while potential

witnesses are transferred or deported. They say it also obscures underlying complaints about medical care, abusive conditions or inadequate suicide prevention.

In January, the House passed a bill that would require states that receive certain federal money to report deaths in custody to their attorneys general. But the bill is stalled in the Senate, and it does not cover federal facilities.

The only tangible result of Congressional concern has been the list of 66 deaths, which names Mr. Bah and many other detainees for the first time, but raises as many questions as it answers.

For Mr. Bah's survivors, the mystery of his death is hard to bear. In Guinea, his first wife, Dalanda, wept as she spoke about the contradictory accounts that had reached her and her two teenage sons through other detainees, including some who speculated that Mr. Bah had been beaten.

In New York, a cousin who is an American citizen, Khadidiatou Bah, 38, said she was unable to bring a lawsuit, in part because other relatives were afraid of antagonizing the authorities.

"They don't want to push the case, or maybe they will be sent home," she said. "This guy was killed, and we don't know what happened."

Lingering Questions

The list of deaths where Mr. Bah's name surfaced is often cryptic. Along with 13 deaths cited as suicides and 14 as the result of cardiac ailments, it offers such causes as "undetermined" and "unwitnessed arrest, epilepsy." No one's nationality is given, some places of detention are omitted, and some names and birth dates seem garbled. As a result, many families could not be tracked down for this article.

But when they could be, they posed more disturbing questions.

In California, relatives of Walter Rodriguez-Castro, 28, said they were rebuffed when they tried to find out why his calls had stopped coming from the Kern County Jail in Bakersfield in April 2006. Then in June, his wife went to his scheduled hearing in San Francisco's immigration court and learned that he had been dead for many weeks, his body unclaimed in the county morgue.

The coroner found that Mr. Rodriguez-Castro, a mover from El Salvador in the country illegally, had died of undiagnosed meningitis and H.I.V., after days complaining of fever, stiff neck and vomiting. The cause of death on the government's list: "unresponsive."

Immigration authorities said on Friday that the case was now under review, but would not answer questions about it or other deaths on the list. Sgt. Ed Komin, a spokesman for the jail, said the death had been promptly reported to immigration officials, who were responsible for notifying families.

Four sons in another family, in Sacramento, described trying for days to get medical care for their father, Maya Nand, a 56-year-old legal immigrant from Fiji, at a detention center run by the Corrections Corporation in Eloy, Ariz. Mr. Nand, an architectural draftsman, had been ailing when he was taken into custody on Jan. 13, 2005, apparently because his application for citizenship had been rejected, based on an earlier conviction for misdemeanor domestic violence. In collect calls, the sons said, he told them that despite his chest pains and breathing problems, doctors at the detention center did not take his condition seriously.

The Corrections Corporation said he had been seen and treated "multiple times." But a letter to the family from an immigration official said his treatment was for a respiratory infection. The letter said that Mr. Nand was taken to an emergency room on Jan. 25, where congestive heart failure was diagnosed, and that he "suffered an apparent heart attack while at the hospital." He died on Feb. 2, 2005, shackled to a hospital bed in Tucson.

Boubacar Bah had more going for him than many detainees. He had a lawyer and many friends and relatives in the United States, and his detention center in New Jersey was one of the few frequented by immigrant advocates.

But three days after he suffered a head injury in detention last year, no one in his New York circle knew that he was lying comatose in a Newark hospital, where he had already been identified as a possible organ donor.

“Thank you for the referral,” an organ-sharing network wrote on Feb. 3, 2007, according to hospital records. “This patient is a potential candidate for organ donation once brain death criteria is met.”

Four days after the fall, tipped off by a detainee who called Mr. Bah’s roommate in Brooklyn, relatives rushed to the detention center to ask Corrections Corporation employees where he was.

“They wouldn’t give us any information,” said Lamine Dieng, an American citizen who teaches physics at Bronx Community College and is married to Mr. Bah’s cousin Khadidiatou.

On the fifth day, they said, a detention official called them with the name of the hospital. There they found Mr. Bah on life support, still in custody, with a detention guard around the clock.

“There was one guard who knew Boubacar,” Ms. Bah said. “He told me on the down-low: ‘This guy, you have to fight for him. This guy was neglected.’ ”

Within the week, word of the case reached a reporter at The Times, through an immigration lawyer who had received separate calls from two detainees; they were upset about a badly injured man — named “something like Aboubakar” — left in an isolation cell and later found near death.

But advocacy groups said they were unaware of the case. And Michael Gilhooly, the spokesman for Immigration and Customs Enforcement, said that without the man’s full name and eight-digit alien registration number, he could not check the information.

For those who knew Mr. Bah, it was hard to understand how such a man could lie dying without explanations.

“Everybody liked Boubacar,” said Sadio Diallo, 48, who has a tailor shop in Flatbush, Brooklyn, where he and Mr. Bah had shared an apartment with fellow immigrants since arriving in 1998. “He’s a very, very, very good man.”

For six years, Mr. Bah had worked for L'Impasse, a clothing store in the West Village, sewing dresses that sold for up to \$2,000 with what a former manager, Abdul Sall, called his "magic hands." Mr. Bah often spent Sundays at the Bronx townhouse his cousins had inherited from the family's first American citizen, a seaman who arrived in 1943.

In Africa, Mr. Bah's earnings not only supported his first wife, sons and ailing mother, but in Guinean tradition, allowed him to wed a second wife, long distance. It was his longing to see them all again after eight years that landed him in detention. When he returned from a three-month visit to Guinea in May 2006, immigration authorities at Kennedy Airport told him that his green card application had been denied while he was away, automatically revoking his permission to re-enter the United States. An immigration lawyer hired by his friends was unable to reopen the application while Mr. Bah waited for nine months in detention, records showed.

Mr. Bah died on May 30, 2007, after four months in a coma. His lawyer, Theodore Vialet, requested detention reports and hospital records under the Freedom of Information Act. But by the time the records arrived last autumn, the idea of a lawsuit had been dropped.

So Mr. Vialet just filed the records away — until a reporter's call about a name on the list of dead detainees prompted him to dig them out.

After the Fall

There are 57 pages of documents, some neatly typed by medics, some scrawled by guards. Some quote detainees who said Mr. Bah was ailing for two days before his fall on Feb. 1, and asked in vain to see a doctor.

The records leave unclear exactly when or how Mr. Bah was injured in detention. But they leave no doubt that guards, supervisors, government medical employees and federal immigration officers played a role in leaving him untreated, hour after hour, as he lapsed into a stupor.

It began about 8 a.m., according to the earliest report. Guards called a medical emergency after a detainee saw Mr. Bah collapse near a toilet, hitting the back of his head on the floor.

When he regained consciousness, Mr. Bah was taken to the medical unit, which is run by the federal Public Health Service. He became incoherent and agitated, reports said, pulling away from the doctor and grabbing at the unit staff. Physicians consulted later by The Times called this a textbook symptom of intracranial bleeding, but apparently no one recognized that at the time.

He was handcuffed and placed in leg restraints on the floor with medical approval, “to prevent injury,” a guard reported. “While on the floor the detainee began to yell in a foreign language and turn from side to side,” the guard wrote, and the medical staff deemed that “the screaming and resisting is behavior problems.”

Mr. Bah was ordered to calm down. Instead, he kept crying out, then “began to regurgitate on the floor of medical,” the report said. So Mr. Bah was written up for disobeying orders. And with the approval of a physician assistant, Michael Chuley, who wrote that Mr. Bah’s fall was unwitnessed and “questionable,” the tailor was taken in shackles to a solitary confinement cell with instructions that he be monitored.

Under detention protocols, an officer videotaped Mr. Bah as he lay vomiting in the medical unit, but the camera’s battery failed, guards wrote, when they tried to tape his trip to cell No. 7.

Inside the cell, a supervisor removed Mr. Bah’s restraints. He was unresponsive to questions asked by the Public Health Service officer on duty, a report said, adding: “The detainee set up in his bed and moan and he fell to his left side and hit his head on the bed rail.”

About 9 a.m., with the approval of the health officer and a federal immigration agent, the cell was locked.

The watching began. As guards checked hourly, Mr. Bah appeared to be asleep on the concrete floor, snoring. But he could not be roused to eat lunch or dinner, and at 7:10 p.m., “he began to breathe heavily and started foaming slightly at the mouth,” a guard wrote. “I notified medical at this time.”

However, the nurse on duty rejected the guard’s request to come check, according to reports. And at 8 p.m., when the warden went to the medical unit to describe Mr. Bah’s condition, the nurse, Raymund Dela Pena, was not alarmed. “Detainee is likely exhibiting

the same behavior as earlier in the day,” he wrote, adding that Mr. Bah would get a mental health exam in the morning.

About 10:30 p.m., more than 14 hours after Mr. Bah’s fall, the same nurse, on rounds, recognized the gravity of his condition: “unresponsive on the floor incontinent with foamy brown vomitus noted around mouth.” Smelling salts were tried. Mr. Bah was carried back to the medical unit on a stretcher.

Just before 11, someone at the jail called 911.

When an ambulance left Mr. Bah at the hospital, brain scans showed he had a fractured skull and hemorrhages at all sides of his swelling brain. He was rushed to surgery, and the detention center was informed of the findings.

But in a report to their supervisors the next day, immigration officials at the center described Mr. Bah’s ailment as “brain aneurysms” — a diagnosis they corrected a week later to “hemorrhages,” without mentioning the skull fracture. After Mr. Bah’s death, they wrote that his hospitalization was “subsequent to a fall in the shower.”

The nurse, Mr. Dela Pena, and the physician assistant, Mr. Chuley, said that only their superiors could discuss the case. The Public Health Service did not respond to questions, and the Corrections Corporation said medical decisions were the responsibility of the Public Health Service.

Mr. Bah’s cousins demanded an autopsy, but the Union County medical examiner’s confidential report was not completed until Dec. 6. It was sent to the county prosecutor’s office only as a matter of routine, because the matter had been classified as an “unattended accident resulting in death.”

Prosecutors said they did not investigate. “According to the report, Bah suffered a fall in the shower,” Eileen Walsh, a spokeswoman for the prosecutors, said in an e-mail message. “We are not privy to any other bits of information.”

In the home movies Mr. Bah made of his last journey home, he is only a fleeting presence: a slim man with a shy smile. But without his support, relatives in Africa say they have little money for food and none for his sons’ schooling.

His body went back to Guinea in a sealed coffin.

“I stayed here seven years, waiting for him,” his second wife, Mariama, said in French, recalling their long separation and the brief reunion that led to the birth of their son, now a toddler, while Mr. Bah was in detention.

“I wanted them to open the casket,” she added, “to know if it was him inside. Until today, I cry for him.”

Margot Williams contributed reporting.