



May 23, 2022

The Honorable Chief Judge Laura Taylor Swain
U.S. District Court for the Southern District of NY
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Nunez, et al. v. City of New York, et al.* 11-cv-5845 (LTS-JCF)

Dear Chief Judge Swain,

We write with a sense of urgency to request that the U.S. District Court for the Southern District of New York appoint a Receiver to oversee the jails at Rikers Island and address the deepening humanitarian crisis. It is clear that a new approach is needed to yield systemic change, improve conditions for incarcerated individuals and staff alike, and to save lives.

As you well know, conditions on Rikers have deteriorated over the past year. In 2021, 16 people died while being held on Rikers.¹ Five people have already died this year.² The most recent report by the *Nunez* Independent Monitor, Steve Martin, notes that conditions “remain unstable and unsafe” for incarcerated individuals and staff. According to Mr. Martin, violence is routine — there were 66 stabbings and slashings in March.³ A recent court ruling in a separate case determined that the New York City Department of Corrections (DOC) has failed to provide incarcerated individuals with timely medical care.⁴ Filings in that case document more than a thousand missed medical appointments in December 2021 alone, and delayed access to care for chronic and acute conditions.⁵

Many of these problems are related to the ongoing staffing crisis. Despite improvements documented by Mr. Martin, an average of 1,100 officers still call out sick each day.⁶ According to a report by the Board of Correction, at least three of the deaths this year were related to staffing shortages. In one case, Herman

¹ Michael Wilson and Chelsea Rose Marcus. “16 Men Died in New York City Jails Last Year. Who Were They?” The New York Times, January 28, 2022.

<https://www.nytimes.com/2022/01/28/nyregion/rikers-island-prisoner-deaths.html>

² Gabrielle Fonrouge, Craig McCarthy, and Larry Celona. “NYC jails record fifth inmate death this year.” The New York Post, May 18, 2022. <https://nypost.com/2022/05/18/nyc-jails-record-fifth-inmate-death-this-year/>

³ Status Report of the Nunez Independent Monitor. Filed April 20, 2022.

⁴ Jan Ransom. “Judge Faults Medical Care for Detainees in Latest Sign of Rikers Crisis.” New York Times, May 17, 2022. <https://www.nytimes.com/2022/05/17/nyregion/nyc-correction-department-rikers.html>

⁵ Jonah E. Bromwich. “Medical Care at Rikers Is Delayed for Thousands, Records Show.” New York Times, February 1, 2022. <https://www.nytimes.com/2022/02/01/nyregion/rikers-island-medical-care.html>

⁶ Letter to Court and Action Plan from Nunez Independent Monitor. Filed May 17, 2022.

Diaz died after choking on an orange. There were no staff members assigned to Mr. Diaz's housing unit who were able to provide immediate medical assistance.⁷ Unfortunately conditions at Rikers have not substantially improved for incarcerated individuals or staff despite the efforts of DOC.

Mr. Martin's reports have detailed an "entrenched culture of dysfunction" within the DOC, describing "deficiencies in core foundational practices have been normalized and embedded in every facet of the Department's work."⁸ Indeed, he wrote in March that DOC is at an "impasse." It is unable to comply with the requirements set forth by the court because the "basic foundation needed to improve practice simply does not exist." We must agree with Mr. Martin's assessment. DOC is ill equipped to resolve the structural problems that have led to the mismanagement of Rikers and caused the ongoing humanitarian crisis. While we understand that DOC has submitted a plan intended to improve conditions, we do not have confidence that DOC is positioned to effectively implement these changes. Nor do we have confidence that these changes will sufficiently alter the conditions at Rikers for the individuals incarcerated there.

As noted numerous times by Mr. Martin, DOC has foundational flaws and must overcome structural barriers in order to effectively reform Rikers. DOC has had ample opportunity — and has made repeated efforts — to improve conditions. Unfortunately, their efforts have had limited success due to the very structural challenges Mr. Martin has described. Accordingly, we believe a court appointed Receiver will be best positioned to improve conditions, especially in resolving staffing shortages. A Receiver may be empowered to make personnel decisions and set their own budget. Moreover, they are not constrained by bureaucratic limitations.

The problems at Rikers are complicated and will best be solved by closing the facility. In the interim, we believe the court should appoint a Receiver. While Mr. Martin may want to give DOC another opportunity, the risk to incarcerated individuals is too great if current conditions at Rikers persist. 21 lives have already been lost since the beginning of 2021 — we cannot afford to wait any longer.

Thank you for your consideration.

Sincerely,



Alessandra Biaggi
New York State Senator, District 34



Julia Salazar
New York State Senator, District 18
Chair, Crime Victims, Crime & Correction Committee

⁷ Board of Corrections. "February & March 2022 Deaths in DOC Custody Report and Recommendations." May 9, 2022.

<https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/deaths-report-and-chs-response-202202-2023.pdf>

⁸ Status Report of the Nunez Independent Monitor. Filed March 16, 2022.



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