



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

November 16, 2022

Honorable Laura T. Swain
Judge of the District Court for the Southern District of New York
500 Pearl Street
Re: Compliance with Nunez Consent Judgment

Dear Judge Swain:

I am writing today to register my serious concerns with the lack of progress made by the Department of Correction (DOC) to comply with the Nunez consent judgment to address the violence afflicting New York City jails and create a functional system that keeps both those in custody and the staff charged with their care safe. To address the immediate crisis – which is rooted largely in long-standing mismanagement of staff and union leadership recalcitrance – I believe that a receiver should be appointed at Rikers Island.

As Comptroller of New York City, my office provides transparency and reliable information about New York City government and expenditures to identify opportunities for improvement and responsible stewardship of city resources. In Fiscal Year 2021 alone, our office settled and adjusted over \$28 million in Rikers-related claims, a snapshot of the fiscal risks to the City posed by mismanagement of our jail system.

In August 2022, we launched a dashboard which is updated monthly to provide regular information to the public on key agency metrics, including staff absenteeism, rates of violence, and missed medical appointments among other data. Unfortunately, the data have consistently shown how little has been done to ameliorate the growing death and violence that plagues our New York City jails. According to our office's latest dashboard update:

- the share of uniformed staff on sick leave has stubbornly remained at 12% for the fourth consecutive month (double the pre-pandemic level and far above other uniformed agencies);
- use of force remains high at over 34 incidents per 100 persons in custody for the last quarter, 80% higher than the pre-pandemic average,
- assaults on staff and stabbing incidents have increased from the prior month, stabbings are 4.5 times more frequent than the 2019 average.

DOC's use of lockdowns with increased frequency and for longer durations has resulted in significant delays in DOC's provision of Minimum Standards-mandated services such as medical and mental health care. This is especially troubling given that individuals with mental illness comprise 18% of the overall jail population. During my visit to Rikers this past August, I was

assured by DOC staff that there were no issues with suicide watch observation units. It became clear just a day later just how untrue this was when we learned that Michael Nieves had attempted suicide while Correction officers watched and failed to intervene just a few days earlier, and was dying while we there. With insufficient staff protocols and mental health care services, it is tragic but not surprising that about 28% of the deaths this year have been confirmed or suspected suicides.

There are many DOC staff at Rikers Island working in good faith to improve conditions for the people in their custody — I met many of them on that same visit. However, these repeated failures raise serious questions about the ability of any Commissioner to bring about the changes, and culture shift, that is necessary to keep everyone safe. The Federal Monitoring team in its update on October 28th, asserted that “decades of mismanagement have created a deep-seated culture that is steeped in poor practices, illogical procedures, and little accountability for the humane treatment of people in custody.” In the report, it was mentioned that all-encompassing change would be needed and yet there remains a “continued high risk of harm to staff and incarcerated individuals.” By the Monitoring team’s own admission, “certain legal and/or regulatory barriers...may need consideration and intervention by the Court.”

DOC has not demonstrated the ability to end the violence on Rikers Island, which the data shows continuing at an alarming rate. I urge you to appoint a Federal Receiver empowered to make decisions that the City has failed to adequately contend with for many years, whether by lack of will or through inability due to legal, regulatory or other barriers. A receiver will not be able to magically fix what has been broken at Rikers for decades, and I will continue to work aggressively for its closure by the 2027 deadline. However, I believe that a receiver would be able to execute the robust changes needed to confront the immediate humanitarian crisis in New York City’s jails.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander", written in a cursive style.

Comptroller Brad Lander