



HON. SYLVIA O. HINDS-RADIX  
*Corporation Counsel*

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

KIMBERLY M. JOYCE  
(212) 356-2650  
FAX: (212) 356-0809  
[kjoyce@law.nyc.gov](mailto:kjoyce@law.nyc.gov)

June 10, 2022

**VIA ECF**

The Honorable Laura Taylor Swain  
Chief United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, N.Y. 10007

Re: Nunez, et. al. v. City of New York, et. al., 11 CV 5845 (LTS)

Your Honor:

This letter is respectfully presented on behalf of defendants the City of New York (“City”) and the Department of Correction (“DOC” or “the Department”) in support of the Final Action Plan (the “Plan”) submitted by the Monitoring Team today, June 10, 2022, and to provide an update on the Department’s progress since the last court conference on May 24, 2022.

The City is fully committed to taking all of the actions detailed in the Plan, and has already started implementation in many areas. Defendants respectfully request that the Court approve the Plan and give the City and the Department the opportunity to continue to achieve meaningful reform at Rikers. The Plan is a road map to sustainable reform and to the stabilization of the Department. It is a plan that will ensure the safety of all those who live and work at Rikers. The City and the Department have worked diligently and collaboratively with the Monitoring Team, with input from the parties, to create a plan that we firmly believe will achieve our collective goal of safe and humane jails.

Moreover, defendants submit that the Plan is entirely within the power of the Commissioner, and more broadly the Mayor, to execute. However, if there comes a time in the future when the City encounters an unforeseen legal barrier to implementing the Plan, the City is fully committed to promptly seeking appropriate relief from the Court, provided that the legal standards for seeking

such relief have been met. To that end, the City proposed the below language to the Monitoring Team and the parties, and, while it was ultimately not agreed to, the City submits that this meaningful language demonstrates our commitment to doing what is necessary, when it is necessary, to reach our shared goals:

*The Commissioner shall make all reasonable efforts to exercise his powers, as described in this Order, in a manner consistent with New York state laws, regulations, and contracts. To the extent the City, in consultation with the Monitor, determines that any state or local law, regulation, or contractual provision prevents the Department or the City from effectively implementing the relief set forth in this Order, and the requirements under 18 U.S.C. § 3626(a)(1)(B) are met, the City shall advise the Parties within five business days of identifying such issue. After consultation with the Monitor and the Parties, the City shall promptly make an application to the Court seeking appropriate relief.*

The City supports the Court approving such language for inclusion as a provision in the Plan. Nonetheless, should the Court determine that the inclusion of such language is not necessary, the City will not waver in its commitment to seeking appropriate relief as described above.

#### Updates on the Department's Progress since May 24, 2022<sup>1</sup>

While there is much work to be done to affect systemic change, there continues to be clear evidence that the Department is making demonstrable progress in the right direction. Some areas of recent progress are highlighted herein. In May 2022, there were a total of 23 slashings and stabbings in the jails, down from a high of 66 in March 2022 when the Monitor filed his special report. At RNDC, the young adult facility, since April 2022, when the emergency RNDC plan was implemented, there has been a 55% reduction in slashings; as of this writing, in June, RNDC has had zero slashings. Year-to-date slashings are down 44% across all of the jails. The Department continues the use of tactical searches, reinstated by Commissioner Molina, to remove items from the jails that could be used in slashing and stabbing incidents.

The Department also continues to take an aggressive stance with respect to staff absenteeism and abuse of Department sick leave policies. In addition to the recent promulgation of updated home visit and suspension policies, the Department continues to act swiftly when staff abuse those policies. Over Memorial Day weekend, the Department suspended 24 employees, 21 of whom were reported to be AWOL (absent without approved leave). Since May 1<sup>st</sup>, the Department has suspended 53 employees (52 correction officers, and 1 captain) following home visits conducted pursuant to the newly promulgated home visit policy. Overall there has been a 40% drop in staff absenteeism since the height of last summer, and for the first time in months the daily average number of uniformed staff calling out sick has fallen below 1,000, to approximately 980.

---

<sup>1</sup> The City outlined the steps the Department and City took prior to May 24, 2022 in its April 25, 2022 letter submission to the Court (Dkt. Ent. 450) and at the April 26 and May 24, 2022 conferences in the City and the Commissioner's opening remarks.

This month Commissioner Molina began the process of transferring Captains back to facility assignments. To date, six Captains have been reassigned to facilities and another nine Captains have transfers pending; these pending transfers will be completed by the end of June 2022.

At the last court conference, the City discussed the Mayor's Rikers Interagency Task Force, which was established to cut through bureaucracy and red tape to ensure that the needs of the Nunez Monitorship and the Department are being addressed. The task force continues to meet weekly to address issues raised by the Department and the Law Department. Since the last conference, among other things, the Task Force has:

- Obtained the commitment from each City District Attorney to work with the Mayor's Office of Criminal Justice and the Office of Court Administration to prioritize trial readiness for the cases of those incarcerated individuals who have been in Rikers custody for more than a year; and
- Obtained a directive from the Commissioner of the Department of Citywide Administrative Services waiving the residency requirement for many positions, to assist with the Department's efforts to recruit staff, including for its trials division.

Finally, on June 2, 2022 the Bronx District Attorney indicted seven Rikers inmates for the assault and robbery of two correction officers in an April 10, 2022 incident. It is the City's hope that this indictment will serve as a further deterrent to future violent acts in our jails.

In conclusion, I reiterate the City's full commitment to continued reform at Rikers, and I thank the Court for its time and consideration of the City's Final Action Plan.

Respectfully submitted,

*Kimberly Joyce /s/*

Kimberly Joyce