

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARK NUNEZ, et al.,

Plaintiff,

-v-

No. 11-CV-5845-LTS-RWL

CITY OF NEW YORK et al.,

Defendants.

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ORDER TO SHOW CAUSE

The Court has received and reviewed the letter filed by the Nunez Independent Monitor filed on November 15, 2023. (Docket Entry no. 599 (the “Letter”).) The Letter details a significant series of actions, undertaken by the Department of Correction (the “Department”), that both violate a number of recent Court orders and are exemplars of the ways in which the current Department management practices contribute to the unacceptable level of danger posed to individuals in custody and employees at Rikers Island. Indeed, this pattern of dysfunction has been well-documented by recent Status Reports from the Monitoring Team. (See, e.g., docket entry nos. 533, 557, 561, 581, 595.) In light of these reports, the Court has entered a series of orders requiring the Department to undertake specific steps to improve their cooperation and transparency with the Monitoring Team. (See docket entry no. 550 at § I, ¶ 5; docket entry no. 582 at 2.) These orders go directly to the fundamentals of safety for staff and individuals in custody at Rikers. The Monitoring Team has brought, and continues to bring, vital expertise to the essential task of bringing the Department into compliance with the Consent Judgment. The Court is disturbed that the conditions of the jails at Rikers—which were already notoriously dangerous—continue to deteriorate, and that effective administrative reform remains elusive, despite the clear requirements detailed in the Consent Judgment and recent Court orders.

The information in the Letter—particularly in light of the current Commissioner’s recent announcement of his intent to resign—raises profound questions that demand answers about the management of the Department. The Department is hereby directed to provide the Court with specific information regarding:

- The identity of the individual(s) who (i) made the decision to open the Arson Reduction Housing Unit (“ARHU”) on November 13, 2023, (ii) authorized the operationalization of the ARHU, and (iii) directed the closing of the ARHU on November 14, 2023;
- The identity of the individual(s) responsible for informing the Monitoring Team of plans for the ARHU and for complying with Nunez Court orders in connection with the opening of the ARHU;
- The names of the individuals who are currently functioning as Commissioner and Senior Deputy Commissioner of the Department, as well as when—and what—changes in those personnel are contemplated;
- The current duties of the Commissioner and the Senior Deputy Commissioner with respect to compliance with the Consent Judgment and orders entered in this case, and how those duties will be covered during the leadership transition; and
- Why Defendants should not be held in contempt for violating the provisions of the Court orders identified in the Letter in connection with (i) the opening of the ARHU without prior notification of the Monitoring Team, and (ii) the broader, consistent failure of the Department to communicate transparently, proactively, and accurately with the Monitoring Team.

The Department’s answers to the Court’s requests for information shall be filed in the form of one or more declarations, from persons with knowledge of the relevant facts, by **November 28, 2023**. Any responses by other parties shall be filed by **December 5, 2023**, and any further submissions from the Department shall be filed by **December 12, 2023**.

SO ORDERED.

Dated: November 16, 2023
New York, New York

/s/ Laura Taylor Swain
Laura Taylor Swain
Chief United States District Judge