



NYSACDL
NEW YORK STATE ASSOCIATION
OF CRIMINAL DEFENSE LAWYERS

September 29, 2022

Jumaane D. Williams
NYC Public Advocate
1 Centre Street
New York, NY 10007

Gale A. Brewer, Chair
Committee on Oversight and Investigations
New York City Council
250 Broadway, Ste. 1875
New York, NY 10007

Nantasha M. Williams, Chair
Committee on Civil and Human Rights
New York City Council
250 Broadway, Ste. 1810
New York, NY 10007

Carlina Rivera, Chair
Committee on Criminal Justice
250 Broadway, Suite 1820
New York, NY 10007

Dear Mr. Williams, Ms. Brewer, Ms. Williams, and Ms. Rivera:

The New York State Association of Criminal Defense Lawyers (NYSACDL), representing nearly 1,000 private attorneys and public defenders, is affiliated with the National Association of Criminal Defense Lawyers (NACDL) – the largest criminal bar association in the United States, with nearly 600 members in New York and 10,000 nationwide.

Our members tell us that conditions at NYC Department of Corrections detention facilities have deteriorated to the point of near collapse. News coverage, the NYC Board of Corrections report issued September 12, 2022¹, and the latest report from the Monitor² appointed by SDNY Chief Judge Laura Taylor Swain show a terrible toll of preventable pain, suffering, and death.

Most people detained in the City's jails await a trial; the law presumes these people are innocent. People accused of crimes are legally and morally entitled to humane confinement conditions as are even those who have been convicted. Jail is expected to be unpleasant, but jailors cannot lawfully inflict suffering on them. New detainees remain penned up in unsanitary and crowded holding cells for days. Once assigned to a housing unit, many experience bullying and violence, lack access to necessary medical and mental health care visits, and are denied counsel visits and court appearances. Immeasurable human rights violations occur daily, yet Rikers Island remains in chaos despite its failings. Disorganized and ineffective supervision has contributed to a persistent pattern of misconduct by corrections officers in an entrenched culture of apathy. Enough is enough; it's time to correct the Corrections Department.

The federal court appointed a Monitor in the civil rights case against the City, captioned *Nunez v. City of New York*, 11 Civ. 5845 (LTS)(JCF). The Mayor and Correction Commissioner assured Chief Judge Swain and the public that their so-called "action plan" for addressing problems at Rikers Island would solve the variety of problems festering there. Months after this plan was supposed to be implemented, the City's efforts have proven woefully inadequate.

The City is failing to meet our clients' basic needs and rights for secure housing, sanitation, and medical care. The City is thwarting our clients' Sixth Amendment right to confer with counsel. So far this year, 16³ detainees have died in New York City Department of Corrections custody. The Monitor's reports have shown the DOC is dysfunctional. We understand that public defender offices have been pleading with the City to respect their clients' needs and rights. The continuing

¹ <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2021-suicides-and-drug-related-deaths-report-and-chs-response.pdf>

² <https://www1.nyc.gov/assets/doc/downloads/pdf/Status-Report-06-30-22-As-Filed.pdf>

³ <https://www.nytimes.com/article/rikers-deaths-jail.html>

abuse of our clients and the lack of basic services and health care are alarming and unjust.

Current City rules and collective bargaining agreements present obstacles to reform. Despite this, the City has asserted, without evidence and contrary to reason, that “the plan is entirely within the power of the Commissioner, and more broadly the Mayor, to execute (SDNY Dkt. 463).” The Mayor and the Commissioner cannot overcome these obstacles. However, there is a solution. The federal court has the power to appoint a Receiver and to impose contrary rules.

Mayor Adams has strongly opposed the appointment of a Receiver, but the City Council and the Public Advocate should call for the Court to appoint one over his objection. Chief Judge Swain should hear from the people of the City of New York through their City Council and Public Advocate that enough is enough. We urge you to call for the appointment of a Receiver because the Mayor and his Commissioner are not addressing, and will not address, the systemic problems at Rikers Island.

Sincerely,

Nellie L. King
President, National Association of Criminal Defense Lawyers

Brian M. Melber
President, New York State Association of Criminal Defense Lawyers