



October 23, 2020

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*****FOR IMMEDIATE RELEASE*****

Legal Aid Statement on Latest Nunez Independent Federal Monitor Report on Abuse in New York City Jails

(NEW YORK, NY) - The Legal Aid Society responded to a [report](#) issued today from Steve J. Martin, the independent monitor appointed in the *Nunez v. City of New York et. al.* - litigation concerning misuse of force in New York City jails, which found the City non-compliant with the most important parts of the federal court order. The facts reported by the monitor show that the Department of Correction is in a downward spiral of incompetence and abuse, turning a historically low jail census into historically high use of force rates, while inexplicably turning a blind eye to staff misconduct and basic security failures.

The report details several incidents that can only be attributed to poor correctional management, including:

- "One evening at about 7:30pm, residents of a housing unit were in the day room engaged in leisure activities, watching TV. They were ordered to lock-in but refused, complaining about the heat in their cells and that on the day prior, they had been allowed to stay in the common space later into the evening. Further, they claimed that lock-in was occurring earlier than scheduled on that day. The Probe Team entered the housing unit and immediately forced a confrontation with the otherwise passive residents of the housing

unit. During an attempted restraint, a chase ensued with Staff chasing one of the residents in a chaotic attempt to catch him. The other residents remained passive, sitting on or at the tables, watching the chase. Ultimately, all of the residents were gathered, unrestrained, into the vestibule, where a bevy of officers proceeded to secure them, but with too few flex cuffs available for the task. Instead, OC spray was deployed, and physical intervention was used to secure the residents." The Department determined the incident was "unavoidable."

- "During an institutional search, residents of a housing unit passively refused, stating they had just been searched the day prior. The Probe Team was present...[residents] were rear-cuffed and escorted to the front of the housing unit. Throughout this incident, Staff and residents complained about the excessive heat... Staff encouraged Supervisors to make a decision about moving the residents from the area. The heat, coupled with an extended delay... increased the level of agitation among the residents. As they became disruptive, an Assistant Deputy Warden escalated the situation by pushing one of the residents, which set off a chain reaction of multiple uses of force and people being taken to the floor. Multiple staff were observed using prohibited holds and aggressive tactics. [...] Neither the ADW nor Captain properly supervised or controlled the scene. As residents were escorted from the unit, Staff excessively bent and twisted residents' wrists and elevated residents' arms, causing them to resist escort. When several residents passively dropped to the floor, staff unsafely carried them by their arms from gurneys to Intake cells. One Probe Team Officer raised and slammed a resident to the floor, while another dragged a person in restraints across the floor as a Captain sprayed him at point blank range in the face with an MK-9."
- "Probe Team members demonstrate an inability to establish a constructive dialogue with the people involved and fail to identify or address the primary issue underlying the discontent. Probe Team Captains often appear unable to control the events or to provide constructive supervision to their team members. A large number of incidents involve Probe Teams deploying OC on incarcerated individuals who remained passive, aggressively applying restraints, bending/twisting arms during escort, and aggressively taking incarcerated individuals to the floor."

This persists because DOC leadership cannot or, will not enforce basic correctional practice through supervision and discipline. "The most richly staffed jail in the country is effectively unmanaged, because neither rank and file staff nor managers are held accountable for their misconduct," said **Mary Lynne Werlwas, Director of the Legal Aid Society Prisoners' Rights Project, counsel for the plaintiffs in the *Nunez* action.**

For example, *no* formal discipline was imposed for any misconduct that occurred during the monitoring period. When discipline does occur, it is too delayed to be meaningful: 88% of the formal discipline cases resolved since the Court order took at least a *year* to resolve, and half of them took two years or more. All of this is on top of more than

2000 potential use of force cases that the Department killed by failing to investigate until after the time period for discipline had passed.

The Department reinforces this message of impunity with promotions. Of the 10 Assistant Deputy Wardens that the Department hired during this Monitoring Period, three had recent discipline that raised concerns about their fitness for promotion. That the Department could not even find 10 captains with clean records to promote speaks volumes of how little progress the Department has made in the last five years.

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