

# THE LEGAL AID SOCIETY

Justice in Every Borough.

January 26, 2023

Contact:

Redmond Haskins  
Director of Media Relations  
The Legal Aid Society  
(929) 441-2384  
[rhaskins@legal-aid.org](mailto:rhaskins@legal-aid.org)

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

## ***Legal Aid Files Contempt Motion Against DOC for Continued Failure to Ensure Incarcerated New Yorkers are Reliably Processed Through Rikers Intake, In Violation of a Remedial Order***

(NEW YORK, NY) – The Legal Aid Society, with co-counsel at Emery Celli Brinckerhoff Abady Ward & Maazel, LLP (ECBAWM), [filed](#) a [contempt](#) motion in [Nunez v. City of New York](#) - litigation concerning brutality and excessive force in New York City jails - in response to the [failure](#) of the New York City Department of Correction (DOC) to comply with a November 15, 2021 federal court order to reliably track and process people out of intake within 24-hours after entering DOC custody.

Since that time, Legal Aid and ECBAWM, along with the Federal Monitor, have raised serious concerns about the reliability of the DOC systems that track time in intake. For 14 months, the City failed to comply with its obligations under the order. Legal Aid and ECBAWM now seek additional accountability measures, some of which include:

1. live access to the dashboard system for new admissions;
2. weekly reports from DOC to be provided directly to counsel for Plaintiffs;
3. regular updates on the Department's progress to meet its promise of a reliable intra-facility tracking system by March 15, 2023.

“DOC has simply failed to comply with a court order to track and process incarcerated New Yorkers out of intake - an area with no access to beds, medical care or other necessities - within 24-hours,” said **Kayla Simpson, staff attorney with the Prisoners’ Rights Project at The Legal Aid Society**. “To date, the City does not have basic information about how long our clients are forced to languish in intake, risking harm to the human beings warehoused in the truly inhumane conditions there. This is one of many interventions we will seek to ensure that court orders matter in the face of the City’s ongoing failure to correct the humanitarian crisis in the jails.”

“DOC has ignored the clear language of the Court’s order for more than a year,” said **Debbie Greenberger, a partner at Emery Celli Brinckerhoff Abady Ward & Maazel, LLP**. “We are asking the Court to hold the City accountable for these failures, to protect the many people suffering in City jails.”

## Background

Intake units are short-term holding areas, [primarily used](#) for admission and discharge to facilities. They are not fit for long-term stays: basic services such as food and medical attention are significantly delayed or not provided; and conditions are frequently overcrowded and unsanitary, with overflowing toilets and individuals forced to sleep on the floor. The Monitor has [described](#) conditions in the intake units as “concerning and inhumane,” and has long noted the high levels of use of force that occur there.

In October 2020, the Monitor specifically [expressed concern](#) about “the number of suicide attempts occurring in Facility Intake units, particularly those with an attachment point in the ceiling.”

In recognition of the need to limit intake stays, the [Court’s Second Remedial Order](#) of September 29, 2021 required the Department to process “all incarcerated individuals, including but not limited to new admissions and intra-facility transfers and place them in an assigned housing unit within 24 hours[.]”

This same provision [required](#) DOC to implement by November 15, 2021, “a reliable system to track and record the amount of time any incarcerated individual is held in Intake and any instance when an individual remains in Intake for more than 24 hours.”

In a November 17, 2021 [status report](#), the Monitor determined that an existing DOC program called the Inmate Tracking System (ITS) was “in place and capable of tracking movement [of intra-facility transfers], [but] it is not consistently utilized by staff as data is not promptly entered and/or the incarcerated individual’s bracelets are not scanned.” The Monitor concluded: “Therefore, the data developed by this system is not reliable.”

Subsequently, DOC admitted that it had not addressed the problems with its tracking system, [conceding](#) on December 15, 2021 that the Monitor’s reports of the unreliability of Intra-Facility Transfer tracking were true.

The Monitor issued reports in [March](#) and [June](#) of 2022 which detailed continued dire conditions in intake pens and numerous overstays. Following these reports, the Court again ordered the City to implement the requirements set forth in the [Second Remedial Order](#).

In October 2022, Legal Aid [released documents](#) obtained via a Freedom of Information Law (FOIL) request that [revealed](#) that in a sample of days in June 2022, DOC appeared to alter admissions data in the tracking system used to demonstrate compliance with a September 2021 federal court order in *Nunez v. City of New York*. That order required DOC to limit stays in DOC’s intake to 24 hours.

During the last court conference in late November, DOC Commissioner Molina admitted to the Court that intake tracking for new admissions and intra-facility transfers remained unreliable, with DOC failing to meaningfully implement systems designed to monitor intake and overstays.

###