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

Plaintiffs in Nunez v. City of New York File Motion to Appoint a Receiver Over NYC Jails and Hold NYC in Contempt

Motion Comes in Response to City's Failure to Rein in Brutality in the Jails, Amid Collapse of Basic Jail Functions, Deaths in Custody, and Widespread Suffering Experienced by Incarcerated New Yorkers

(NEW YORK, NY) – The Legal Aid Society and Emery Celli Brinckerhoff Abady Ward & Maazel LLP, counsel for plaintiffs in *Nunez v. City of New York*, [filed a contempt motion and application to secure the appointment of an independent receiver over New York City's jail system.](#)

Despite eight years of oversight by the court and the Federal Monitor, and successive court interventions and remedial orders, the New York City Department of Correction's (DOC) pattern and practice of unconstitutional use of force persists. The risk of harm currently facing incarcerated New Yorkers is even higher than it was in 2015, when the court entered a consent judgment to remedy the longstanding unconstitutional conditions in the jails. As a result, thousands of people incarcerated in DOC facilities have suffered extreme and intolerable levels of violence and remain in imminent risk of further harm on a daily basis.

At the current rate, there will be over 6,500 use of force incidents in 2023, as compared to almost two thousand fewer incidents in 2016. There have been more deaths of people in DOC custody than in over a decade — in 2022, nineteen people died in DOC custody or shortly thereafter, and so far for 2023, nine people have died.

Additionally, the severity and frequency of excessive or unnecessary use of force has not abated entry of the Consent Judgment. DOC staff still use head strikes with alarming frequency and, of the almost 60 suspensions of DOC staff related to use of force incidents, staff used prohibited techniques such as chokeholds, body slamming incarcerated people, and inflicting force on people in restraints.

DOC leadership has also failed to undertake the reforms needed for compliance with the consent judgment. They defer and delay difficult decisions that would be opposed by the correctional unions, such as external hiring, curbing sick leave abuses, and reducing awarded posts. DOC does not consult and cooperate with the Monitor or resists transparency with the court and other stakeholders. DOC has too often refused the Monitor's requests for

information, and when the Department finally yields, it provides inconsistent, inaccurate, and misleading information.

Just last week, after a Wednesday [letter](#) from the Monitor detailing yet another incident where DOC [implemented a new plan](#) (opening the Arson Reduction Housing Unit) without first consulting with the Monitor, the court [ordered](#) the City to demonstrate why it shouldn't be held in contempt for its "failure to communicate transparently, proactively, and accurately with the Monitoring Team." The City's deadline to respond to court's order is November 28, 2023.

Due to DOC's unwillingness and inability to comply with the many orders designed to remedy the long-standing deplorable and unconstitutional conditions in the jails, the court must appoint an independent receiver to take the necessary steps to ensure DOC's compliance with the consent decree and multiple remedial orders.

DOC's noncompliance is further demonstrated by its own records, including its internal reviews and audits, its own investigative findings, its long history of failed plans and initiatives, and its own data reflecting an alarming level of violence, harm, and disorder in the jail.

"The levels of violence and brutality in the City jails that exist today were unimaginable when the Consent Judgment was entered in 2015, and the City has demonstrated through eight years of recalcitrance and defiance of court orders that it cannot and will not reform its unconstitutional practices," said **Mary Lynne Werlwas, director of the Prisoners' Rights Project at The Legal Aid Society**. "A receiver with the authority and mandate to make the difficult decisions the City will not is needed to secure the progress that two administrations and multiple Correction commissioners have all failed to achieve, and protect the constitutional rights of all people incarcerated in New York City jails."

"Our clients have faced unimaginable and unending brutality while detained in the City jails, all while the City fails to implement the reforms it agreed to," said **Debbie Greenberger, a partner at Emery Celli Brinckerhoff Abady Ward & Maazel LLP**. "It is far past time for a receiver answerable directly to the federal judge to break through this deep-seated dysfunction."

BACKGROUND:

In [September 2012](#), The Legal Aid Society and Emery Celli Brinckerhoff & Abady LLP filed *Núñez v. City of New York et al.*, a class action lawsuit challenging systemic brutality by staff against people incarcerated in New York City jails. The litigation resulted in a landmark [consent decree](#) in 2015 mandating significant reforms in the use of force practices in the City jails.

Following the settlement, the court appointed a federal monitor to oversee the reforms. The monitor filed 50 reports detailing DOC's actions to comply with the Court's orders, finding that violence and chaos have remained shockingly high and concluding that DOC lacks the institutional capacity to reform.

Full docket in *Nunez v. City of New York*: <https://tinyurl.com/yay5dt3k>.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For 145 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. www.legalaidsoc.org