

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MARK NUNEZ, *et al.*,

Plaintiffs,

v.

THE CITY OF NEW YORK, *et al.*,

Defendants.

No. 11 Civ. 5845 (LTS)(JCF)

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

THE CITY OF NEW YORK and NEW YORK CITY
DEPARTMENT OF CORRECTION,

Defendants.

**BRIEF OF AMICI CURIAE NEW YORK CITY BAR ASSOCIATION
AND VERA INSTITUTE OF JUSTICE
IN SUPPORT OF APPOINTMENT OF AN INDEPENDENT RECEIVER**

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INTERESTS OF AMICI

The New York City Bar Association and the Vera Institute of Justice (together, “Amici”) are not-for-profit institutions based in New York City (the “City”) that advocate for improvements to our justice systems.¹ Amici have long supported the closure of the Rikers Island jail complex (“Rikers Island” or “Rikers”).²

The New York City Bar Association (“City Bar”) is a voluntary association of approximately 23,000 lawyers and law students in New York City. Its mission is to promote reform of the law and uphold the rule of law and access to justice in support of a fair society and the public interest.³ To achieve this mission, the City Bar engages in social issues via policy initiatives, involvement in access-to-justice initiatives, and pro bono representation in many areas, including immigration, homelessness, and criminal justice. Multiple City Bar committees and task forces composed of experienced practitioners study and advocate for criminal justice reform.

Since 1961, the Vera Institute of Justice (“Vera”) has worked to end the overcriminalization and mass incarceration of people of color, immigrants, and people experiencing poverty. Vera’s president and other leaders played key roles on the Independent Commission on New York City Criminal Justice and Incarceration Reform, also known as the Lippman Commission. Vera continues to work with other advocates and policymakers to realize

¹ No party’s counsel authored any portion of this brief. No party or party’s counsel contributed money intended to fund this brief’s preparation or submission. No person other than Amici, their members, or their counsel contributed money that was intended to fund this brief’s preparation or submission.

² See, e.g., Press Release, N.Y.C. Bar Ass’n, Statement in Support of Closing Rikers Island (Oct. 15, 2019), <https://www.nycbar.org/media-listing/media/detail/closing-rikers-island-support-for-borough-based-jail-plan>; Insha Rahman, *Politics, Ambition, and the Hard Work of Making the Closure of Rikers Island a Reality*, Vera Inst. of Just. (July 13, 2017), <https://www.vera.org/news/politics-ambition-and-the-hard-work-of-making-the-closure-of-rikers-island-a-reality>.

³ See N.Y.C. Bar Ass’n, *About Us*, <https://www.nycbar.org/about-us/> (last visited Jan. 24, 2025).

the City’s commitment to closing Rikers Island and moving closer to a City that delivers both justice and safety for all its residents.⁴

SUMMARY

Amici respectfully submit this brief in support of the plaintiffs’ and the United States’ position concerning the parameters of receivership to emphasize the importance of appointing an independent receiver: someone who is free from political pressures, union influence, and any other outside interests that might impede progress toward implementation of the Court’s orders. The nearly ten-year history of the monitorship has shown that even New York City Department of Correction (“DOC”) Commissioners who expressed support for reform have been unable to reform the system under entrenched political, social, and legal constraints. Receivership is necessary, but it is a drastic, last-ditch measure, and maximizing its likelihood of success—along with minimizing its duration—requires that the receiver be singularly focused and loyal only to the rule of law.

ARGUMENT

Nearly ten years after the Consent Judgment,⁵ conditions at Rikers remain as dangerous and inhumane as ever. Though a recent report of the Court-appointed monitoring team (“Monitoring Team”) states that “some signs of progress exist,” it notes that the “[DOC] remains mired in dysfunction” and that reform efforts are advancing “at a glacial pace” and are “nowhere near what the urgency of the situation demands.”⁶ In its Contempt Order, the Court wrote that “the concrete evidence before the Court demonstrates that . . . Defendants made only half-hearted,

⁴ Amici previously filed one amicus brief in this proceeding to present their position that appointing a federal receiver is necessary to preserve the rule of law, and to emphasize that a receiver’s work must be done in parallel with the Defendants’ legal obligation to close Rikers Island. *See* Brief of Amici Curiae New York City Bar Association and Vera Institute of Justice at 2, ECF No. 646.

⁵ Consent Judgment, ECF No. 249 (entered on October 2, 2015).

⁶ Nov. 22, 2024 Status Report by the *Nunez* Independent Monitor at 2, 3, ECF No. 802 [hereinafter “Monitor’s Nov. 22, 2024 Rep.”].

inconsistent efforts to comply with Court orders designed to remedy consistently unconstitutional levels of violence and disorder in the jails.”⁷ The Court found DOC in contempt of court and instructed the parties to provide briefing on the appropriate framework for a receivership.⁸

The identity of any receiver is just as critical as the scope of receivership. As the Court observed in the Contempt Order, the history of the monitorship to date “leave[s] no doubt that continued insistence on compliance with the Court’s orders by persons answerable principally to political authorities would lead only to confrontation and delay.”⁹ Therefore, the receiver must be someone free of any existing attachments to the power structures—city government and leaders, as well as labor unions—whose influence is always present and whose interests may conflict, at times, with the fundamental purpose of receivership:¹⁰ bringing DOC into compliance with the Court’s orders by keeping everyone at DOC’s facilities safe. Prior Commissioners, even when

⁷ Opinion and Order on Motion for Contempt at 50, ECF No. 803 [hereinafter “Contempt Order”].

⁸ *Id.* at 58.

⁹ *Id.* at 55. This Court further observed that “the current management structure and staffing are *insufficient to turn the tide* within a reasonable period; that Defendants have consistently fallen short of the requisite compliance with Court orders for years, at times under *circumstances that suggest bad faith*; and that enormous resources—that the City devotes to a system that is at the same time overstaffed and underserved—are not being deployed effectively.” Contempt Order at 55-56, ECF No. 803 (emphasis added).

¹⁰ *See, e.g.*, Amici Curiae Brief of Former New York City Officials with Oversight for New York City’s Jails in Support of Appointment of a Receiver at 7-14, ECF No. 642 [hereinafter “Oversight Officials Brief”]; *see also* Jan Ransom, *Jail Unions Gain a Powerful Supporter: The New Mayor*, N.Y. Times (Jan. 14, 2022), <https://www.nytimes.com/2022/01/14/nyregion/rikers-jail-unions-eric-adams.html>; Reuven Blau, *Correction Officers’ Union Donated to Council Members Who Oppose Rikers Receivership*, The City (Aug. 9, 2023), <https://www.thecity.nyc/2023/08/09/correction-union-donations-rikers-receiver>; Chris Glorioso & Kristina Pavlovic, *Documents Show NYC Correction Officers Skipped Work for 4-8 Months At a Time*, NBC N.Y. (Feb. 18, 2022), <https://www.nbcnewyork.com/investigations/i-team-jail-documents-show-nyc-correction-officers-skipped-work-for-4-8-months-at-a-time/3560214/> (discussing firing of Deputy Commissioner Sarena Townsend, who was praised—including by the Monitor—for her handling of disciplinary matters, but was criticized by correction officers’ unions); Michael Schwirtz & Michael Winerip, *At Rikers Island, Union Chief’s Clout Is a Roadblock to Reform*, N.Y. Times (Dec. 14, 2014), <https://www.nytimes.com/2014/12/15/nyregion/at-rikers-a-roadblock-to-reform.html>.

acting in good faith, have proven unable to provide constitutionally-required safety to those incarcerated. Indeed, since the Monitoring Team began its work, the City has appointed five different DOC Commissioners. Each time, the Monitor expressed optimism, but by the end of each Commissioner's tenure, progress was insufficient or nonexistent.¹¹

Only an independent receiver, free from conflicting interests, pressures, and the instability that inevitably arises from changing administrations¹² will be able to bring the DOC into compliance with the rule of law.

I. Independence From Existing Stakeholders Will Be The Hallmark Of A Successful Receivership.

The “pattern” of DOC Commissioners’ failures to date, together with press reporting around a purported effort by City political officials to have the current Commissioner appointed as the receiver (reportedly dubbed “Operation Lynelle”),¹³ demonstrate that “sustainable progress in achieving the transformative change necessary to bring [the DOC] into compliance with court orders”¹⁴ is currently stymied by DOC insiders’ allegiances and internal pressure from DOC stakeholders. The Monitor has observed improvements in DOC leadership’s “transparency and

¹¹ Cf. Memorandum of Law in Reply to Defendants’ Opposition to Plaintiffs’ Motion for Contempt and Application for Appointment of a Receiver at 9-10, ECF No. 716 (describing purported reforms touted by Defendants that in fact have not come to pass).

¹² New York City will hold a mayoral election this year. As the Court has previously observed, “[r]estarting the clock on reform because a new administration has taken office . . . can’t be the answer.” Apr. 26, 2022 Status Conference Tr. at 8:14-16, ECF No. 456.

¹³ See, e.g., Graham Rayman, *As federal takeover of Rikers looms, NYC scrambling to keep current leadership in charge*, N.Y. Daily News (Dec. 11, 2024), <https://www.nydailynews.com/2024/12/11/as-federal-takeover-of-rikers-looms-nyc-scrambling-to-keep-current-leadership-in-charge>; N.Y. Daily News Ed. Bd., *Rikers needs new leadership: Keeping current commissioner as federal receiver defeats the purpose*, N.Y. Daily News (Dec. 13, 2024), <https://www.nydailynews.com/2024/12/13/rikers-needs-new-leadership-keeping-current-commissioner-as-federal-receiver-defeats-the-purpose>. In its January 24 submission, the City in fact proposed retaining the present Commissioner in both her current role and a new role as “Compliance Director.” Defendants’ Memorandum In Support Of Their Proposal To Establish A Court-Appointed Compliance Director at 8, ECF No. 811-12.

¹⁴ Contempt Order at 42, ECF No. 803.

initiative” under new DOC Commissioner Lynelle Maginley-Liddie.¹⁵ However, as this Court has recognized, “prior DOC Commissioners earned similar praise from the Monitoring Team early in their tenures but ultimately did not succeed in effecting improvements in compliance with the court orders.”¹⁶ Unfortunately, even a truly well-intentioned leader cannot force change if they are beholden to interests that may be opposed to that change.¹⁷ Independent decision making, free from the influence of the DOC and City political power, is therefore critical for the receiver’s success.¹⁸

For example, the Monitoring Team has stated that “staffing is the essential element to reform.”¹⁹ DOC employs more correction officers than the number of people it incarcerates, yet still suffers from a lack of coverage.²⁰ Nevertheless, and notwithstanding other improvements under Commissioner Maginley-Liddie’s leadership, the Contempt Order makes clear that DOC has remained unable to correct these chronic staffing issues—and in fact has failed to “compl[y] with any of the staffing provisions of the Action Plan.”²¹ Therefore, any meaningful attempt to bring the chaos at DOC into order will require tackling this problem head-on, including disregarding longstanding staffing practices that prioritize favoritism and seniority over sound

¹⁵ Monitor’s Nov. 22, 2024 Rep. at 49, ECF No. 802.

¹⁶ Contempt Order at 42, ECF No. 803.

¹⁷ *Cf.* Status Report by the *Nunez* Independent Monitor at 17, ECF No. 811 (observing that the receiver will need to make decisions that “may be unpopular with various stakeholders, including political actors such as those in City Hall or the legislature, as well as staff, the unions that represent them, advocates, and others,” and therefore “must be prepared to make difficult decisions despite strong, and perhaps persistent, opposition or pressure from various stakeholders.”).

¹⁸ *See* July 10, 2023 Special Report by the *Nunez* Independent Monitor at 143, ECF No. 557 [hereinafter “Monitor’s July 10, 2023 Rep.”] (noting that the pace of reform cannot accelerate to the appropriate level “within the confines of current structures”).

¹⁹ Apr. 18, 2024 Status Report by the *Nunez* Independent Monitor at 17, ECF No. 706 (emphasis in original).

²⁰ Contempt Order at 31, ECF No. 803.

²¹ *Id.* at 32 (emphasis added).

correctional practices. Ultimately, this means the receiver will doubtless face confrontation with labor unions and other stakeholders who favor the old, less safe, and less effective ways of staffing the jails that only an independent receiver will be able to effectively resolve.²²

Among other things, the Action Plan requires DOC to limit the use of awarded posts “so that [such posts] are primarily utilized for those positions in which a particular skill set is required,”²³ in no small part because awarded posts currently appear to be used as perks allowing experienced staff to take less-challenging roles—thus placing “less experienced personnel in the more volatile settings.”²⁴ Yet DOC apparently has not reduced the number of awarded posts *at all*, and the Commissioner vaguely stated in a sworn declaration that this was because “awarded posts have benefit[s]” and claimed “the requirement to reduce them ‘may warrant modification.’”²⁵ In a development perhaps not unrelated to the City’s position on this topic, the powerful Correction Officers Benevolent Association has made securing awarded posts a priority.²⁶

Additionally, and in spite of the Court’s orders, DOC has apparently made no meaningful effort to change the “4 by 2” work schedule (four days on the job followed by two days off) contemplated by the union’s collective bargaining agreements.²⁷ As the Monitor has recognized,

²² See Oversight Officials Brief at 11, ECF No. 642 (describing City as “either unwilling or unable to accomplish” negotiations with the unions that would allow compliance with the Monitor’s orders).

²³ Order: Action Plan at 10, ECF No. 465.

²⁴ Contempt Order at 32, ECF No. 803.

²⁵ *Id.* (quoting Decl. of Lynelle Maginley-Liddie ¶ 62, ECF No. 689-1).

²⁶ May 24, 2024 Update by the *Nunez* Independent Monitor at 26, ECF No. 712 (noting that COBA had publicly claimed that its newly negotiated contract—which had been kept from the Monitor—would include “guaranteed and contractually protected post awards” . . . for the first time in COBA’s history.”).

²⁷ Aug. 7, 2023 Special Report by the *Nunez* Independent Monitor at 16-17, ECF No. 561; Memorandum of Law in Support of Plaintiffs’ Motion for Contempt and Application for Appointment of a Receiver at 41-42, ECF No. 603; Monitor’s Nov. 22, 2024 Rep. at 20-21, ECF No. 802; Contempt Order at 33 & n.32, ECF No. 803.

these labor agreements “contribute to [DOC’s] continued inability to properly staff its facilities,”²⁸ and DOC leaders are severely hobbled in their efforts to right the ship.²⁹ And as the Court has noted, it does not appear that DOC has discussed the changes needed to the union agreements, nor has DOC “sought a waiver of relevant legal requirements” necessary to effect the scheduling change.³⁰ While the Commissioner declared in March 2024 that she was “likely to exercise” her ability to seek such waivers to effect the necessary changes, this never came to pass.³¹ The technical ability to effect a policy change does not equate to practical willingness to do so.

History has shown that non-independent leadership has struggled and will inevitably continue to struggle to bring DOC into compliance with constitutional standards and this Court’s orders.³² The receiver must be independent from DOC and City political power.

II. An Independent Receiver Can Ensure Adherence To Local Laws, Rules, And Regulations Governing Jail Operations And Conditions Of Confinement.

Consistency in authority is also necessary to bring DOC into adherence with local laws, rules, and regulations which City officials have passed in an effort to stem violence at Rikers. As this Court has recognized, the “glacial” pace of reform to date can be explained in part by the revolving door of DOC leadership, which has changed materially a number of times over the life of the Court’s orders.³³ This has resulted in initiatives being created, changed or abandoned, and

²⁸ Aug. 7, 2023 Special Report by the Nunez Independent Monitor at 17, ECF No. 561; *see also* Sara Norman et al., *Can A Receiver Bring Enduring Change for the Better?*, Vital City (Oct. 16, 2024), <https://www.vitalcitynyc.org/articles/can-a-receiver-bring-enduring-change-for-the-better> (opinion of Zachary Carter).

²⁹ *See e.g.*, Monitor’s July 10, 2023 Rep. at 144-45, ECF No. 557; July 30, 2024 Proposed Findings of Fact in Support of Plaintiffs’ Motion for Contempt and Appointment of a Receiver ¶¶ 1057-80, ECF No. 762-2 (describing a list of failed, never-instituted, or ineffective DOC initiatives over the various monitoring periods).

³⁰ Contempt Order, ECF No. 803 at 33 n. 32.

³¹ Declaration of Lynelle Maginley-Liddie ¶ 65, ECF No. 689-1.

³² *See* Contempt Order at 55, ECF No. 803.

³³ *Id.* at 43.

then reimagined as ‘new’ ideas by later leadership.³⁴ As noted by the Monitoring Team, this “[p]erpetual[] restarting [of] the clock is antithetical to advancing reform and accelerating progress.”³⁵ An independent receiver will have the power to institute and enforce the consistent policies necessary to effectuate meaningful reform.

A. An Independent Receiver Is Necessary To Ensure The Closure Of Rikers, A Step That Is Both Required By Law And Critical To Changing The Present Culture Of Violence And Dysfunction.

As Amici previously argued to the Court, it is both within the Court’s inherent power and consistent with the Prison Litigation Reform Act for this Court to craft an order instructing the receiver to act consistently with the City’s obligation to close Rikers by August 31, 2027.³⁶ Doing so will help address the unconstitutionally violent conditions that prevail at Rikers today, while also protecting the rights of future incarcerated people and respecting elected officials’ determination to bring the City’s jails into compliance with constitutional requirements over the long term.

There is a real danger that a receiver beholden to DOC officials, city political leaders, or labor unions, will have conflicting interests in moving that process forward. For example, correction officers’ unions have expressed opposition to closing Rikers (perhaps because fewer

³⁴ *Id.* at 47.

³⁵ Monitor’s July 10, 2023 Rep. at 144, ECF No. 557.

³⁶ Brief of Amici Curiae New York City Bar Association and the Vera Institute of Justice at 11-12, ECF No. 646. Given the City’s lack of urgency over the past years in taking the necessary preliminary actions to allow for Rikers to close, it may now be practically unrealistic to stop using the facility as a jail altogether by August 2027 in accordance with City law. But the difficulty of meeting that deadline serves only to emphasize that the receiver’s mandate must include the transition out of Rikers Island.

officers may be needed to staff the future borough-based jails),³⁷ and political figures may feel powerful pressure to avoid conflict with those unions.

A receiver who is beholden to the City’s power structures may in fact be unable to protect the interests of the full class—specifically, the future DOC detainees who are part of the class—because closing Rikers (and opening new borough-based jails, which are designed to reduce violence³⁸) is an important step toward preventing future constitutional violations. If the receiver’s actions were to in any way substantially delay or undercut the closure of Rikers, future detainees’ interests and rights could be substantially harmed, and current detainees would continue to suffer.

B. Independence Will Afford The Receiver A Realistic Opportunity To Bring DOC Into Compliance With Other Laws And Regulations.

The unwillingness of certain executive-branch City stakeholders to advance the timely closure of Rikers is only one example of political intransigence placing DOC out of compliance with legal requirements aimed at reducing violence and human suffering. An independent receiver can overcome that intransigence and implement long-needed and legally-mandated reforms.

For example, DOC was required by City law to largely stop all use of solitary confinement as of July 28, 2024.³⁹ The City Council enacted this legislation upon finding that solitary confinement resulted in “inhumane” risks of mental and physical harm, increased violence, and death.⁴⁰ However, the present mayoral administration has expressed opposition to this legislation

³⁷ See, e.g., Michael Gartland, *Rikers Island closure a ‘land grab’ for developers: union head*, N.Y. Post (Jan. 14, 2018), <https://nypost.com/2018/01/14/rikers-island-closure-a-land-grab-for-developers-union-head/>.

³⁸ See *Closing Rikers: What is the NYC Borough-Based Jail System?*, NYC: A Roadmap to Closing Rikers, <https://rikers.cityofnewyork.us/what-is-the-borough-based-jail-system/>.

³⁹ N.Y.C. Admin. Code § 9-167.

⁴⁰ Press Release, N.Y.C. Council, *New York City Council Votes to Ban Solitary Confinement in City Jails* (Dec. 20, 2023), <https://council.nyc.gov/press/2023/12/20/2532/>; Meg Anderson, *New York City Council votes to ban most instances of solitary confinement*, NPR (Dec. 20, 2023), <https://www.npr.org/2023/12/20/1220789824/new-york-city-council-votes-to-ban-most-instances-of-solitary-confinement>.

(which the City Council passed by a wide margin over the Mayor’s veto).⁴¹ Obviously, eliminating the use of solitary confinement would require practical adjustments and the implementation of policies and practices that could replace this punitive and inhumane measure.⁴² But in an echo of the administration’s slow-walking of steps required to timely close Rikers,⁴³ DOC declined outright to implement policies and practices necessary to comply with the law ahead of the deadline.⁴⁴ And on July 27, 2024—just before the ban was to take effect—the Mayor issued an “Emergency Executive Order” purporting to indefinitely suspend the ban, effectively re-vetoing

⁴¹ Press Release, N.Y.C. Council, *New York City Council Overrides Mayor’s Vetoes on Legislation to Support Police Transparency and Ban Solitary Confinement* (Jan. 30, 2024), <https://council.nyc.gov/press/2024/01/30/2554/>.

⁴² In correspondence to the Mayor’s office, the Monitor expressed some concern that certain parts of the relevant legislation could too abruptly limit the DOC’s ability to appropriately supervise certain incarcerated individuals “with a demonstrated propensity for serious violence,” particularly as DOC works “to address the current dangerous conditions” in its facilities. Monitor’s January 12, 2024 Communication to DOC Commissioner, ECF No. 802 at 272-73 (attached as Appendix F to Monitor’s Nov. 22, 2024 Rep.). In particular, the Monitor voiced concern that immediate compliance with aspects of the law would be difficult because “the Department does not have the necessary foundation to support the *basic* reforms required by the *Nunez* Court Orders.” Monitor’s July 17, 2024 Letter re: LL42 at 309, ECF No. 802 (attached as Appendix G to Monitor’s Nov. 22, 2024 Rep.). The Monitor’s letters did *not* indicate opposition to banning solitary confinement—in fact, the Monitor explicitly acknowledged that this was a “necessary and important” step, *id.* at 268, and “an important expression of the value the City places on all of its residents,” *id.* at 277—or general opposition to the legislation, which the Monitor acknowledged contained “important requirements” *id.* at 271. However, current political leadership appears to have taken the Monitor’s letter as warrant to ignore the legislation outright and continue the use of solitary confinement without so much as a gesture at abatement.

⁴³ See generally Michael Rempel, *Despite undeniable obstacles, Rikers Island can still be closed*, City & State New York (Jan. 14, 2025), <https://www.cityandstateny.com/opinion/2025/01/opinion-despite-undeniable-obstacles-rikers-island-can-still-be-closed/402160/> (“New York City law mandates closing Rikers by Aug. 31, 2027. Yet the Adams administration has failed to schedule the opening of needed replacement jails in the Bronx, Brooklyn, and Queens until 2031, and it still has not finalized a contract for building the fourth jail slated for Manhattan.”).

⁴⁴ See, e.g., Reuven Blau & Katie Honan, *Rikers Officials Never Took Basic Steps to Comply With Solitary Ban*, The City (July 29, 2024), <https://www.thecity.nyc/2024/07/29/rikers-solitary-confinement-ban-adams-executive-order/>.

the bill in defiance of the City Council's override.⁴⁵ A receiver beholden to the present administration would be under immense pressure to maintain that administration's policy favoring solitary confinement at the expense of the rule of law. An independent receiver, however, can set aside City politics and work toward the implementation of the ban on solitary confinement in its current form, or, if the receiver believes adjustments are needed, in an amended form worked out with the City Council.

An independent receiver will also be able to restore required programming that has been slashed by DOC. City law requires DOC to provide every person "incarcerated for more than 10 days a minimum of five hours per day of incarcerated individual programming or education."⁴⁶ Compliance with this City law is not only required to uphold the rule of law but also represents a common-sense step to minimize violence at Rikers, as such programming can significantly reduce violence in carceral settings.⁴⁷ DOC, however, has consistently failed to put in place sufficient programming to comply with the law.⁴⁸ Not only that, in 2023 DOC terminated its contracts with the nonprofits that were providing the limited programming DOC previously *did* make available,⁴⁹

⁴⁵ N.Y.C. Office of the Mayor, Emergency Executive Order No. 625 (July 27, 2024), <https://www.nyc.gov/office-of-the-mayor/news/625-003/emergency-executive-order-625>.

⁴⁶ N.Y.C. Admin. Code § 9-110.

⁴⁷ See Amanda Pompoco et. al., *Reducing Inmate Misconduct and Prison Returns with Facility Education Programs*, 16 *Criminology & Pub. Pol'y* 515, 534-38 (May 22, 2017), <https://doi.org/10.1111/1745-9133.12290>.

⁴⁸ See, Jacob Kaye, *Jail programming suffers a year after DOC cut nonprofit contract*, *Queens Daily Eagle* (May 20, 2024), <https://queenseagle.com/all/2024/5/20/jail-programming-suffers-a-year-after-doc-cut-nonprofit-contract>.

⁴⁹ See Sam Mellins, *Rikers Programs Suffer After Cuts, Despite Mayor's Promises*, *N.Y. Focus* (Sept. 28, 2023), <https://nysfocus.com/2023/09/28/rikers-eric-adams-budget-cuts-courses>; Matt Katz, *Mayor Adams cuts classes and re-entry services at Rikers to save \$17 million in NYC budget*, *Gothamist* (May 16, 2023), <https://gothamist.com/news/mayor-adams-cuts-classes-and-re-entry-services-at-rikers-to-save-17-million-in-nyc-budget>.

leaving those incarcerated at Rikers “isolated and idle” and risking further increases in violence.⁵⁰

While the administration later announced that it would restore a portion of the funding previously dedicated to programming,⁵¹ the City remains far from compliant with its clear-cut legal obligation to provide at least five hours of programming to every detainee. An independent receiver will be empowered to direct DOC’s resources toward this critical programming.⁵²

These two examples are emblematic of a City administration whose actions and inaction necessitate the appointment of a receiver. An independent receiver will, as part of its efforts to bring DOC into compliance with this Court’s orders, have the power to enforce laws passed by the City Council that serve the same ends.

CONCLUSION

Amici respectfully submit that any receiver appointed to manage DOC must be fully independent of City power structures, including DOC officials, City government, leaders, and

⁵⁰ See Jessie Edwards, *Rikers detainees are isolated and idle after programming budget cuts, advocates tell NYC Council*, Gothamist (Oct. 4, 2023), <https://gothamist.com/news/rikers-detainees-are-isolated-and-idle-after-programming-budget-cuts-advocates-tell-nyc-council>; see Jacob Kaye, *Jail programming suffers a year after DOC cut nonprofit contract*, Queens Daily Eagle (May 20, 2024), <https://queenseagle.com/all/2024/5/20/jail-programming-suffers-a-year-after-doc-cut-nonprofit-contract>.

⁵¹ Press Release, N.Y.C. Office of the Mayor, *Mayor Adams Announces Progress to Improve Care and Services for People in Custody, Advances Plans for Future Uses of Rikers Island* (Mar. 4, 2024), <https://www.nyc.gov/office-of-the-mayor/news/164-24/mayor-adams-progress-improve-care-services-people-custody-advances-plans>; Graham Rayman, *NYC poised to restore Rikers, jails counseling funding slashed in 2023*, N.Y. Daily News (Mar. 7, 2024), <https://www.nydailynews.com/2024/03/07/nyc-poised-to-restore-rikers-jails-counseling-funding-slashed-in-2023/>.

⁵² See, e.g., Lois M. David et al., Rand Corp., *Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide Education to Incarcerated Adults* xviii-xix (2013), https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/RAND_Correctional-Education-Meta-Analysis.pdf; Sheila A. French & Paul Gendreau, *Reducing Prison Misconduct: What Works!*, 33 *Crim. Just. & Behavior* 185, 200, 208 (2006); Wendy Erisman & Jeanne Bayer Contardo, Inst. for Higher Ed. Pol’y, *Learning to Reduce Recidivism: A 50-State Analysis of Postsecondary Correctional Education Policy* v-vii (Nov. 2005), <http://www.ihep.org/sites/default/files/uploads/docs/pubs/learningreducerecidivism.pdf>.

labor unions. Any lesser step would risk a failure to transcend the dysfunction and retrenchment that have characterized defendants' response to this Court's orders.

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